

Eleventh Amendment

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(1795)

WHAT IT SAYS

The Judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by Citizens of another State, or by Citizens or Subjects of any Foreign State.

BY COMPARISON: THE PREAMBLE TO THE DECLARATION OF INDEPENDENCE

During the Revolutionary War, the British took Gideon Olmstead and four other American seamen prisoner. While onboard a British ship carrying a cargo of arms, Olmstead and the others seized their British captors and gained control of the ship. Later, stopped by a ship belonging to the Commonwealth of Pennsylvania, Olmstead and the British ship were brought to Philadelphia. Both Olmstead and Pennsylvania claimed they should get the British ship and its cargo. These conflicting claims sparked a dispute over which court—a state admiralty court or a federal appeals court—should decide the case.

A state admiralty court, after a jury trial, awarded the cargo to Pennsylvania. But a federal appeals court ordered that the cargo be sold and the money given to Olmstead. The state admiralty judge then ordered that the cargo be sold, but refused to give the money to Olmstead. Instead, the judge gave some of the money to David Rittenhouse, as treasurer of the state of Pennsylvania, who pledged to repay the money to the state court if ordered to do so when the dispute was settled.

After Rittenhouse died, Olmstead sued his estate. In a federal admiralty court, Judge Richard Peters found in favor of Olmstead. But then the state of Pennsylvania passed a law that claimed the money for itself and declared the federal ruling invalid. The state argued that the federal court could not rule on the case as the state was immune from suit under the Eleventh Amendment. Olmstead then sought a court order to carry out Judge Peters's ruling. In the case of *United States v. Peters*, the Supreme Court disagreed. Writing for the Court, Chief Justice John Marshall (above right) held that a state statute could not override the federal order. He ruled that the federal lawsuit, between Olmstead and Rittenhouse's heirs, did not involve the state and that the Eleventh Amendment did not bar the result.

But Marshall's decision did not end the matter. The ruling sparked an armed confrontation between Pennsylvania and the federal government. Pennsylvania governor Simon Snyder ordered the Pennsylvania militia to protect the Rittenhouse heirs and prevent the federal marshals from enforcing the Supreme Court's order to seize the money. When the federal marshal saw the guards in front of the heirs' home (known locally as Fort Rittenhouse) he climbed a back fence, entered the house from the rear, and seized the money. The general of the Pennsylvania militia was later indicted and convicted of obstructing justice (though President James Madison soon pardoned him) and Olmstead, at long last, received his money.

WHAT IT MEANS

After the U.S. Supreme Court ruled in 1793 that two South Carolina men could sue and collect debts from the state of Georgia, states'-rights advocates in Congress proposed what became the Eleventh Amendment. This amendment specifically prohibits federal courts from hearing cases in which a state is sued by individuals from another state or country. Protecting states from certain types of legal liability is known as "sovereign immunity."

As initially interpreted, the Eleventh Amendment did not bar suits against the states when a matter of federal law was at issue, nor did it prevent suits against a state by its own citizens. Over time, the Supreme Court has expanded its interpretation of the amendment to reflect a broader view that states were immune from all suits in federal courts without their agreement, which seemed unlikely.

The Eleventh Amendment refers to suits "in law or equity." In those cases where neither party in the suit has broken the law they can seek resolution through equity, by which the courts measure the fairness and justice of their claims.

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"The sooner the limits which separate the two governments [federal and state] are marked by those authorities [the courts], which can define and establish them, the less danger there will be of serious, if not fatal collisions hereafter."

— Justice Bushrod Washington,
Golden v. Prince (1814)

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Eleventh Amendment

Federal courts have jurisdiction where state and federal laws conflict

→ 1821

Two brothers from Norfolk, Virginia, sell tickets in their hometown for a lottery in Washington, D.C. Congress had set up the lottery only for people in Washington, and Virginia had a law banning some gaming. The Virginia Supreme Court rules that the Cohen brothers violated Virginia law by selling the tickets. When the brothers appeal and the case goes before the U.S. Supreme Court, Virginia argues that the federal courts have no power to review the conviction. The high court disagrees on the grounds that state laws or actions can violate federal laws or U.S. constitutional provisions and therefore can be reviewed in federal courts, but rules that the Virginia court decision was correct.

Eleventh Amendment does not protect state officials

→ 1824

The state of Ohio passes a law that taxes the Bank of the United States when it does business within the state, but the U.S. Supreme Court finds that the tax is unconstitutional and orders that it cannot be enforced. A persistent state auditor, Ralph Osborn, goes ahead and collects the tax by seizing \$100,000 from the federal bank. In *Osborn v. Bank of the United States*, the U.S. Supreme Court holds that Osborn can be ordered to return the money to the federal bank and that public officials acting on behalf of the state who knowingly committing an illegal act do not have the same constitutional protection enjoyed by states under the Eleventh Amendment.

Federal court cannot decide ownership of seized slaves

→ 1828

A Spanish slave vessel, the *Isabelita*, owned by Juan Madrazo, is captured by a pirate ship and carried to Amelia Island off the Georgia coast. William Bowen buys the slaves and intends to take them to East Florida, then a province of Spain. But Georgia officials seize the slaves on the grounds that the law prohibits the importation of slaves. The governor of Georgia asks the federal district court for permission to sell the slaves, but the court of appeals rules against Georgia. Before the Supreme Court, Georgia argues that the federal court cannot award the money and slaves to Madrazo because the Eleventh Amendment bars the federal court from deciding a case in which a state is a party. The Supreme Court agrees and Georgia keeps the money and slaves and Madrazo keeps his ship.

A foreign country cannot sue a state in federal courts

→ 1934

In the early 1830s, a number of Mississippi citizens purchase bonds from their home state. The heirs of the original bondholders, who are unable to collect on the bonds, give them, as a gift, to the Principality of Monaco. Although worthless to the Mississippi residents, they think that Monaco, as a foreign country, might be able to go to federal court to collect on the long overdue debt. Mississippi refuses to pay and argues that under the Eleventh Amendment the federal courts have no jurisdiction to hear the case. In *Principality of Monaco v. Mississippi*, the Court finds that the doctrine of sovereign immunity protects Mississippi from suits by foreign countries unless the state specifically consents to such a suit. No such consent is given.

States retain sovereign immunity when participating in welfare programs

→ 1974

A group of people eligible for a welfare program administered by both the federal and state governments ask a federal court to order Illinois to comply with federal time limits in handing out grants. The lower courts ordered Illinois to comply with the federal time limits and to pay out grants that have been wrongfully withheld from recipients. Illinois appeals, claiming that its sovereign immunity under the Eleventh Amendment means that the federal courts cannot order it to pay the grants. In *Edelman v. Jordan*, the Supreme Court agrees that the state has not waived its immunity by participating in the joint federal-state welfare program.

State officials are ordered to turn over sunken treasure

→ 1982

In 1622 the *Nuestra Senora de Atocha* sank forty nautical miles west of Key West, Florida. When a salvage company locates the wreck in the spring of 1971, Florida claims that the ship belongs to the state under Florida law. The U.S. Supreme Court rules that the boundary of Florida does not extend as far as the state asserts, and the federal government claims ownership of the salvaged property. The state argues that it cannot be sued for it due to the Eleventh Amendment. In *Florida Department of State v. Treasure Salvors*, the U.S. Supreme Court disagrees that the Eleventh Amendment prevents a direct action against the state, because the suit is directed only at state officials, who have no rightful ownership of the salvaged property.

TIMELINE

Citizens cannot take cases against their own states to federal court

→ 1890 →

When the United States refuses to pay tribute to the North African Barbary pirates, who have been raiding its ships in the Mediterranean, the pasha of Tripoli declares war on the United States. President Thomas Jefferson exerts his powers as commander in chief to set a naval blockade of Tripoli that results in a peace treaty in 1805.

The Supreme Court can resolve cases involving the federal government

→ 1892 →

When the United States refuses to pay tribute to the North African Barbary pirates, who have been raiding its ships in the Mediterranean, the pasha of Tripoli declares war on the United States. President Thomas Jefferson exerts his powers as commander in chief to set a naval blockade of Tripoli that results in a peace treaty in 1805.

States can be sued in federal courts over constitutional principles

→ 1908 →

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Residents may not sue their own state unless the state agrees to be sued

→ 1987 →

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States are immune from charges filed with federal administrative agencies

→ 2002 →

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