

Savannah, Georgia  
October 31, 1777

The Executive Council of Georgia says Georgia's state government could buy clothing, cotton, linens, and blankets from Robert Farquhar for the American soldiers stationed in Savannah. Notably, Farquhar wasn't from Georgia. He was from South Carolina. At this point, the American War of Independence had been raging for a year and a half, and the soldiers there were desperate for supplies. Due to the war, Georgia's government was a bit strapped for cash, though, and they promised to pay Farquhar for the goods at a later time, presumably when the war ended. They ended up owing him \$169,613.33, or several million dollars in today's money.

The war ended in 1783 with a United States victory, but by the time Farquhar died a year later, Georgia still hadn't paid him a dime. After Farquhar's death, a dude named Alexander Chisholm took over his estate. Chisholm patiently waited for Georgia to pay him, but they never did. Not only that, when he finally filed a claim for the debt with the Georgia legislature in 1789, they basically said that they weren't going to pay him. Well that's kinda messed up. Chisholm had had enough. He sued Georgia in the U.S. Circuit Court for the District of Georgia, and it agreed to hear the case in October 1791.

However, Georgia argued that the circuit court lacked jurisdiction. Georgia governor Edward Telfair said Georgia was a "free, sovereign and independent State...[and] cannot be drawn or compelled...to answer, against the will of the said State of Georgia, before any Justices of the federal Circuit Court for the District of Georgia or before any Justices of any Court of Law or Equity whatsoever." Dang, Telfair. Nathaniel Pendelton and James Iredell, who also was a Supreme Court justice, heard the case. Both agreed that they lacked jurisdiction to rule in this case based on the Judiciary Act of 1789. However, Iredell said that perhaps the Supreme Court could hear the case, writing "The Constitution...seems to provide, that in the cases where a state is a party, the Supreme Court shall have original jurisdiction."

Chisholm was obviously disappointed that the Circuit Court dismissed his lawsuit, but simultaneously hopeful after hearing Iredell's suggestion that the Supreme Court could possibly hear the case. In 1792, he filed a new suit before the Supreme Court, and they indeed agreed to hear the case in August. However, Georgia didn't even send a representative for their side, viewing the whole ordeal as illegitimate. Chisholm's lawyers, which included Founding Father Dude and the Attorney General of the United States Edmund Randolph, decided to give Georgia some more time and push back the arguments to February 1793, but come February, Georgia still didn't show up. Despite Georgia sending none of their own lawyers, the Supreme Court proceeded to hear Randolph's arguments for Chisholm anyway on February 5, 1793. Georgia did send a letter, though, stating that it had "sovereign immunity," which means a government is immune from lawsuits.

In this case, the Supreme Court had two big questions to consider.

- 1) Can a citizen sue a state government in a federal court?

2) Does the Constitution give power to the federal courts to hear cases involving citizens and states?

The Court announced their decision on February 18, 1793. In a 4-1 decision, they sided with Chisholm. Ironically, it was only Iredell who dissented. Speaking for the majority, justice and another Founding Father Dude named James Wilson took a jab at the entire idea of “state sovereignty.” Wilson argued that, because the federal union of states was based on popular consent for all, a state couldn’t just claim it had immunity just to get out of something.<sup>1</sup> Chief Justice John Jay went further, arguing that state sovereignty maybe even wasn’t a real thing. He said the CITIZENS had sovereignty, writing “Sovereignty is the right to govern...here it rests with the people.”<sup>2</sup> The Court made it clear that yes, the Constitution gave the federal courts the power to hear cases involving citizens and states, not just lawsuits within states.

In Iredell’s dissent, he argued states did have independent sovereignties, basing it on the English common law tradition carried over from when each state used to be a British colony. Iredell said the Constitution simply didn’t say that the Court could step in on this case, and he had a good point. Most state governments generally condemned the Court’s decision and agreed with Iredell. In fact, Iredell’s dissent ultimately led to the passing of the 11th Amendment to the Constitution two years later, which prevents a state from being sued in federal court without that state’s consent. It was the first of only two notable times in American history in which the states agreed to change the Constitution based on a Supreme Court decision.

Chisholm v. Georgia is the first historically significant Supreme Court case...the first one that truly had big implications. Now, even though the 11th Amendment squashed this Supreme Court decision, Chisholm continued fighting to get his estate reimbursed for the rest of his life. After he died in 1810, Farquhar’s son-in-law Peter Trezevant kept the case alive on behalf of the estate. Finally, in November 1847, the Georgia General Assembly passed a bill to pay back the money owed to Farquhar’s estate. By that time, Trezevant was 79 years old and the family had been fighting to get their owed money for 58 years.<sup>3</sup>

I’ll see you for the next Supreme Court case, jury!

So there you have it, the first Supreme Court case that mattered. And it’s one of the 100 most important Supreme Court cases in American history that I wrote about in my new book, *The Power of Our Supreme Court*, now available in most places that sell books. The book also features basically everything you need to know about the Supreme Court, including strange facts like (pg. 19) every year there’s a 2.6% chance a Supreme Court justice will die while serving on the bench. Eh? Check the links in the description and pinned comment for ways to buy this sucker. Thanks for considering getting it, and thanks for watching this video!

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<sup>1</sup> <https://www.nps.gov/articles/000/chisholm-v-georgia.htm>

<sup>2</sup> <https://founders.archives.gov/documents/Jay/01-05-02-0251>

<sup>3</sup>

<https://www.trezevantfamilyproject.com/generation-4/peter-trezevant-1768-1854elizabeth-willoughby-farquhar-1772-1845/>

Check out cool primary sources here:

<https://www.oyez.org/cases/1789-1850/2us419>

Other sources used:

<https://supreme.justia.com/cases/federal/us/2/419/>

<https://www.nps.gov/articles/000/chisholm-v-georgia.htm>