those considerations of public policy back of the rule are regarded as absent in the case of the foreign sovereign.[1147]

Indian Tribes.—Within the terms of Article III, an Indian tribe is not a foreign state and hence cannot sue in the courts of the United States. This rule was applied in *Cherokee Nation v. Georgia*,[1148] where Chief Justice Marshall conceded that the Cherokee Nation was a state, but not a foreign state, being a part of the United States and dependent upon it. Other passages of the opinion specify the elements essential of a foreign state for purposes of jurisdiction, such as sovereignty and independence.

Narrow Construction of the Jurisdiction.—As in cases of diversity jurisdiction, suits brought to the federal courts under this category must clearly state in the record the nature of the parties. As early as 1809, the Supreme Court ruled that a federal court could not take jurisdiction of a cause where the defendants were described in the record as "late of the district of Maryland," but were not designated as citizens of Maryland, and plaintiffs were described as aliens and subjects of the United Kingdom.[1149] The meticulous care manifested in this case appeared twenty years later when the Court narrowly construed § 11 of the Judiciary Act of 1789, vesting the federal courts with jurisdiction when an alien was a party, in order to keep it within the limits of this clause. The judicial power was further held not to extend to private suits in which an alien is a party, unless a citizen is the adverse party.[1150] This interpretation was extended in 1870 by a holding that if there is more than one plaintiff or defendant, each plaintiff or defendant must be competent to sue or liable to suit.[1151] These rules, however, do not preclude a suit between citizens of the same state if the plaintiffs are merely nominal parties and are suing on behalf of an alien.[1152]

Clause 2. In all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be a Party, the Supreme Court shall have original Jurisdiction. In all

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[1147] Guaranty Trust Co. v. United States, 304 U.S. 126, 135, 137 (1938), citing precedents to the effect that a sovereign plaintiff "should be put in the same position as a body corporate."

[1148] 30 U.S. (5 Pet.) 1, 16–20 (1831).

[1149] Hodgson & Thompson v. Bowerbank, 9 U.S. (5 Cr.) 303 (1809).

[1150] Jackson v. Twentyman, 27 U.S. (2 Pet.) 136 (1829); Romero v. International Terminal Operating Co., 358 U.S. 354 (1959).

[1151] Coal Co. v. Blatchford, 78 U.S. (11 Wall.) 172 (1871). *See*, however,Lacassagne v. Chapuis, 144 U.S. 119 (1892), which held that a lower federal court had jurisdiction over a proceeding to impeach its former decree, although the parties were new and were both aliens.

[1152] Browne v. Strode, 9 U.S. (5 Cr.) 303 (1809).