

Sec. 2—Judicial Power and Jurisdiction

Cl. 1—Cases and Controversies

The suit was begun in 1906, and a judgment was rendered against West Virginia in 1915. Finally, in 1917, Virginia filed a suit against West Virginia to show cause why, in default of payment of the judgment, an order should not be entered directing the West Virginia legislature to levy a tax for payment of the judgment.¹⁰²³ Starting with the rule that the judicial power essentially involves the right to enforce the results of its exertion,¹⁰²⁴ the Court proceeded to hold that it applied with the same force to states as to other litigants¹⁰²⁵ and to consider appropriate remedies for the enforcement of its authority. In this connection, Chief Justice White declared: “As the powers to render the judgment and to enforce it arise from the grant in the Constitution on that subject, looked at from a generic point of view, both are federal powers and, comprehensively considered, are sustained by every authority of the Federal Government, judicial, legislative, or executive, which may be appropriately exercised.”¹⁰²⁶ The Court, however, left open the question of its power to enforce the judgment under existing legislation and scheduled the case for reargument at the next term. Before that could occur, West Virginia accepted the Court’s judgment and entered into an agreement with Virginia to pay it.¹⁰²⁷

Controversies Between a State and Citizens of Another State

The decision in *Chisholm v. Georgia*¹⁰²⁸ that cases “between a state and citizens of another state” included those where a state was a party defendant provoked the proposal and ratification of the Eleventh Amendment, and since then controversies between a state and citizens of another state have included only those cases where the state has been a party plaintiff or has consented to be sued.¹⁰²⁹ As a party plaintiff, a state may bring actions against citizens of other states to protect its legal rights or in some instances as *parens patriae* to protect the health and welfare of its citizens. In general, the Court has tended to construe strictly this grant of judicial power, which simultaneously comes within its original jurisdiction, by perhaps an even more rigorous application of the concepts of cases and

¹⁰²³ The various decisions in *Virginia v. West Virginia* are found at 206 U.S. 290 (1907); 209 U.S. 514 (1908); 220 U.S. 1 (1911); 222 U.S. 17 (1911); 231 U.S. 89 (1913); 234 U.S. 117 (1914); 238 U.S. 202 (1915); 241 U.S. 531 (1916); 246 U.S. 565 (1918).

¹⁰²⁴ 246 U.S. at 591.

¹⁰²⁵ 246 U.S. at 600.

¹⁰²⁶ 246 U.S. at 601.

¹⁰²⁷ C. WARREN, *THE SUPREME COURT AND SOVEREIGN STATES* 78–79 (1924).

¹⁰²⁸ 2 U.S. (2 Dall.) 419 (1793).

¹⁰²⁹ See the discussion under the Eleventh Amendment.