tence, as specious as any that can be alleged on this occasion, will never be wanting on any future occasion. Those acts of the state, which have hitherto been considered as the sure anchors of privilege and of property, will become the sport of every varying gust of politicks, and will float wildly backwards and forwards on the irregular and impetuous tides of party and faction."[2000]

Furthermore, in its first important constitutional case, *Chisholm v. Georgia*,[2001] the Court ruled that its original jurisdiction extended to an action in assumpsit brought by a citizen of South Carolina against the State of Georgia. This construction of the federal judicial power was, to be sure, promptly repealed by the Eleventh Amendment, but without affecting the implication that the contracts protected by the Constitution included public contracts.

One important source of this diversity of opinion is to be found in that ever welling spring of constitutional doctrine in early days, the prevalence of natural law notions and the resulting vague significance of the term "law." In *Sturges v. Crowninshield*, Chief Justice Marshall defined the obligation of contract as the law that binds a party "to perform his undertaking."[2002] Whence, however, comes this law? If it comes from the state alone, which Marshall was later to deny even as to private contracts,[2003] then it is hardly possible to hold that the states' own contracts are covered by the clause, which manifestly does not create an obligation for contracts but only protects such obligation as already exists. But, if, on the other hand, the law furnishing the obligation of contracts comprises natural law and kindred principles, as well as law that springs from state authority, then, as the state itself is presumably bound by such principles, the state's own obligations, so far as harmonious with them, are covered by the clause.

Fletcher v. Peck[2004] has the double claim to fame that it was the first case in which the Supreme Court held a state enactment to be in conflict with the Constitution, and also the first case to hold that the Contract Clause protected public grants. By an act passed on January 7, 1795, the Georgia Legislature directed the sale to four land companies of public lands comprising most of what are now the States of Alabama and Mississippi. As soon became known, the passage of the measure had been secured by open and whole-

---

[2000] 2 THE WORKS OF JAMES WILSON 834 (R. McCloskey ed., 1967).
[2001] 2 U.S. (2 Dall.) 419 (1793).
[2002] 17 U.S. (4 Wheat.) 122, 197 (1819).
[2003] Ogden v. Saunders, 25 U.S. (12 Wheat.) 213, 338 (1827).
[2004] 10 U.S. (6 Cr.) 87 (1810).