

## **Ogden v. Witherspoon (Blackledge)** <sup>[1]</sup>

### ***Ogden v. Witherspoon (Blackledge)***

by Peter Graham Fish, 2006



Judge Henry Potter. Image from the Wikimedia Commons.

<sup>[2]</sup>*Ogden v. Witherspoon (Blackledge)* was heard before circuit justice John Marshall and resident district judge Henry Potter <sup>[3]</sup> in 1802. The judges sharply disagreed about the meaning of several eighteenth-century statutes affecting creditors' rights asserted in this case by British citizens seeking payment of debts contracted by North Carolinians prior to the American Revolution <sup>[4]</sup>. Potter, in an opaque opinion, interpreted the ambiguous statutes as favorable to the local debtors, whereas Marshall construed them in light of the 1783 peace treaty <sup>[5]</sup> with Great Britain barring impediments to debt recovery by British creditors. He denied that the statute of limitations had taken effect and concluded that the state had retrospectively impaired vested property rights protected by Article I, section 10, of the U.S. Constitution. The judges' disagreement resulted in certification of the case to the U.S. Supreme Court, the first case of its kind argued in that forum. The Supreme Court affirmed Marshall's decision, but on statutory grounds alone.

#### **Reference:**

John P. Roche and Stanley B. Bernstein, eds., *John Marshall: Major Opinions and Other Writings* (1967).

#### **Additional Resources:**

Cranch, William. "Ogden, administrator of Cornell v. Blackledge, executer of Salter." *Reports of Cases Argued and Adjudged in the Supreme Court of the United States in February Term 1804 and February Term 1805* II. Third edition. Albany, N.Y.: Banks Brothers. 1882. p. 271-278. <http://books.google.com/books?id=GHQ-AAAAYAAJ&pg=PA162#v=onepage&q&f=false> <sup>[6]</sup> (accessed December 4, 2012).

Corwin, Edward Samuel. *The doctrine of judicial review, its legal and historical basis, and other essays* Princeton, [N.J.] : Princeton University Press. 1914. p. 53. <https://archive.org/details/cu31924065504254> <sup>[7]</sup> (accessed December 4, 2012).

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Fayetteville Presbyterian Church. "Image of Henry Potter, longest-serving active United States federal judge." *History of First Presbyterian Church, Fayetteville, North Carolina* (1889), p. 37. Wikimedia Commons. [http://commons.wikimedia.org/wiki/File:Judge\\_Henry\\_Potter.JPG](http://commons.wikimedia.org/wiki/File:Judge_Henry_Potter.JPG) <sup>[2]</sup>

#### **Subjects:**

Court cases <sup>[8]</sup>

Early Statehood (1789-1820) <sup>[9]</sup>

Law and legal history <sup>[10]</sup>

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Encyclopedia of North Carolina, University of North Carolina Press. <sup>[12]</sup>

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