

## MARSHALL v. BALTIMORE &amp; OHIO R.R. CO.

## UNITED STATES SUPREME COURT

57 U.S. 314 (1853)

THIS case was brought up, by writ of error, from the Circuit Court of the United States for the District of Maryland.

Marshall, a citizen of Virginia, sued the Railroad Company, to recover the sum of fifty thousand dollars, which he alleged that they owed him under a special contract, for his services in obtaining a law from the Legislature of Virginia, granting to the company a right of way through Virginia to the Ohio River.

Mr. Justice GRIER delivered the opinion of the court.

The plaintiff in error, who was also plaintiff below, avers in his declaration that he is a citizen of Virginia, and that 'The Baltimore and Ohio Railroad Company, the defendant, is a body corporate by an act of the General Assembly of Maryland.' It has been objected, that this averment is insufficient to show jurisdiction in the courts of the United States over the 'suit' or 'controversy....'

By the Constitution, the jurisdiction of the courts of the United States is declared to extend, inter alia, to 'controversies between citizens of different States.' The Judiciary Act confers on the circuit courts jurisdiction 'in suits between a citizen of the State where the suit is brought and a citizen of another State....'

Now, if this be a right, or privilege guaranteed by the Constitution to citizens of one State in their controversies with citizens of another, it is plain that it cannot be taken away from the plaintiff by any legislation of the State in which the defendant resides. If A, B, and C, with other dormant or secret partners, be empowered to act by their representatives, to sue or to be sued in a collective or corporate name, their enjoyment of these privileges, granted by State authority, cannot nullify this important right conferred on those who contract with them. . . .

Let us now examine the reasons which are considered so conclusive and imperative, that they should compel the court to give a construction to this clause of the Constitution, practically destructive of the privilege so clearly intended to be conferred by it.

‘A corporation, it is said, is an artificial person, a mere legal entity, invisible and intangible.’

This is no doubt metaphysically true in a certain sense. The inference, also, that such an artificial entity ‘cannot be a citizen’ is a logical conclusion from the premises which cannot be denied.

But a citizen who has made a contract, and has a ‘controversy’ with a corporation, may also say, with equal truth, that he did not deal with a mere metaphysical abstraction, but with natural persons; that his writ has not been served on an imaginary entity, but on men and citizens; and that his contract was made with them as the legal representatives of numerous unknown associates, or secret and dormant partners.

The necessities and conveniences of trade and business require that such numerous associates and stockholders should act by representation, and have the faculty of contracting, suing, and being sued in a factitious or collective name. But these important faculties, conferred on them by State legislation, for their own convenience, cannot be wielded to deprive others of acknowledged rights. It is not reasonable that those who deal with such persons should be deprived of a valuable privilege by a syllogism, or rather sophism, which deals subtly with words and names, without regard to the things or persons they are used to represent....

In courts of law, an act of incorporation and a corporate name are necessary to enable the representatives of a numerous association to sue and be sued.... The persons who act under these faculties, and use this corporate name, may be justly presumed to be resident in the State which is the necessary habitat of the corporation, and where alone they can be made subject to suit; and should be estopped in equity from averring a different domicile as against those who are compelled to seek them there, and can find them there and nowhere else. If it were otherwise it would be in the power of every corporation, by electing a single director residing in a different State, to deprive citizens of other States with whom they have controversies, of this constitutional privilege, and compel them to resort to State tribunals in cases in which, of all others, such privilege may be considered most valuable....

The presumption arising from the habitat of a corporation in the place of its creation being conclusive as to the residence or citizenship of those who use the corporate name and exercise the faculties conferred by it, the allegation that the 'defendants are a

body corporate by the act of the General Assembly of Maryland,' is a sufficient averment that the real defendants are citizens of that State. This form of averment has been used for many years. ... The right of choosing an impartial tribunal is a privilege of no small practical importance, and more especially in cases where a distant plaintiff has to contend with the power and influence of great numbers and the combined wealth wielded by corporations in almost every State. It is of importance also to corporations themselves that they should enjoy the same privileges, in other States, where local prejudices or jealousy might injuriously affect them....

The judgment of the Circuit Court is therefore affirmed, with costs.