Cases that Shaped the Federal Courts

Fletcher v. Peck

1810

Chief Justice John Marshall

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Central Question

Could federal courts strike down state laws that violated the Constitution?

Historical Context

In the early twentieth century, Supreme Court Justice Oliver Wendell Holmes, Jr., asserted that, while the judiciary's power to strike down acts of Congress was not essential to the national government, "the Union would be imperiled if we could not make that declaration as to the laws of the several states." *Fletcher v. Peck* (1810) was the first time the Supreme Court asserted that important power, striking down a statute passed by the Georgia legislature. In holding that the state law violated the Contracts Clause of the Constitution, the Court also embraced a broad interpretation of that provision, protecting business interests from some forms of state interference.

Legal Debates Before *Fletcher*

While the Constitution contemplated that the courts might hear cases "arising under" its provisions, it did not explicitly mention whether federal judges had the power to invalidate state statutes. During the Constitution's ratification, some prominent figures argued that it implicitly required courts to strike down unconstitutional legislation. In *Federalist* no. 78, for example, Alexander Hamilton asserted that "[n]o legislative act … contrary to the constitution can be valid" and defended "the right of the courts to pronounce legislative acts void." In 1788, future Chief Justice Oliver Ellsworth assured delegates at Connecticut's ratifying convention (a body formed to debate the adoption of the Constitution) that "upright, independent judges" would guard the Constitution by striking down laws violating its protections. Future Chief Justice John Marshall, who would later write the Court's opinion in *Fletcher*, made similar statements to the Virginia convention. Some critics of the new Constitution also suggested that judges would invalidate state and federal legislation, though they saw this as a flaw in the document's design. The Anti-Federalist "Brutus," for example, referred to this authority as an "uncontroulable power."

In *Marbury v. Madison* (1803), the Supreme Court invalidated part of a federal law for the first time. While it may seem to follow logically from that result that the federal courts had the power to strike down state legislation, this was not entirely clear at the time. Most of the constitutional restrictions on government power only applied to the federal government, in part because many worried about the potential for the centralized federal government to impinge on the powers of the states, many of whose governments were older and more democratic than the federal system.

The Case

Fletcher arose from a complex and corrupt land deal. The state of Georgia claimed sovereignty over a massive area of land in modern-day Alabama and Mississippi known as "Yazoo." Although native tribes also claimed sovereignty over much of the land, and had settled parts of it before Georgia's statehood, property speculators wanted to invest in the land and sell it to European-American settlers and businesses. In 1795, the state legislature sold 35 million acres of land in the region to private speculators at a very low price.

Shortly after the state sold the lands, it was discovered that most of the legislators voting for the land-grant law had been bribed or owned stakes in the businesses purchasing the property. After several lawmakers were voted out of office in response to these revelations of corruption, the legislature declared the earlier grants void. This declaration was different from most legislative acts because it did not merely repeal the earlier sales; it declared that they had—at least in legal terms—never happened. Indeed, the new legislators ordered the original law publicly burned to emphasize this point. However, this second law arguably implicated one of the few constitutional restrictions on state power prior to the Civil War, as the Contracts Clause of Article I, section 10 prohibited states from passing any "law impairing the obligation of contracts."

Several years after the legislature revoked the land grants, John Peck, a speculator from Massachusetts, purchased some of the land in question and subsequently sold it to Robert Fletcher, a colleague from New Hampshire. Fletcher sued Peck for breach of contract, alleging that Peck had falsely represented that he had good title to the land. Peck defended the suit by arguing that the Georgia legislature had violated the Contracts Clause by improperly interfering with the original land grant contract. Since the law was invalid, he claimed, he had held good title to the land and had every right to sell it to Fletcher. In fact, both parties likely wanted the titles ruled valid so they could profit from the transaction and, perhaps, defeat other native claims to Yazoo lands.

The parties voluntarily postponed their case in the U.S. Circuit Court for the District of Massachusetts for several years while Congress debated a plan to compensate speculators whose land grants had been revoked. After nothing came of this proposal, however, they resumed the suit, which the court decided in Peck's favor, ruling that the Georgia legislature's attempt to void the original land sales violated the Contracts Clause. Although this was the result for which Fletcher had likely hoped, he appealed, apparently believing that a Supreme Court decision on the matter would carry more weight and apply to claims on the Yazoo lands made by speculators nationwide (much of the property originally included in the corrupt land grants had been sold to out-of-state speculators).

The Supreme Court's Ruling

The parties were represented before the Supreme Court by two of the great lawyers of the early republic. Fletcher's attorney was Luther Martin, who had been one of the leading Anti-Federalists during ratification debates over the Constitution. Despite his reputation as a talented lawyer and political speaker, however, Martin had succumbed to alcoholism by the time he argued the case. Indeed, Chief Justice Marshall had to postpone proceedings at one point to allow Martin to sober up. Peck was represented by Joseph Story, the brilliant young lawyer from Massachusetts who would soon become the youngest Supreme Court justice in history and is now widely regarded as one of the primary shapers of constitutional law before the Civil War.

Although Marshall initially expressed some reluctance to hear what appeared to be a "feigned" case, he wrote an opinion for the Court that ultimately delivered the result for which the speculators had likely hoped. The initial land grants, Marshall reasoned, were contracts between the state and the purchasers and the legislature could not invalidate those contracts without impairing their obligations in a manner that violated the Contracts Clause. While he acknowledged the concern that the original legislative process had been infected by bribery, Marshall reasoned that courts should be wary of interpreting the motives of lawmakers. Moreover, he suggested that it would be unfair to punish innocent purchasers of the land for the corruption of legislators. Marshall also reasoned that "general principles" of law prohibited legislatures from passing retroactive laws. Though he did not fully explain the sources of these principles, many scholars assume that Marshall referred to "natural law," a body of inherent moral principles. He compared the Georgia statute to an ex post facto law, which retroactively punishes someone for an act that was not a crime when he committed it. Such laws, he reasoned, led to governmental instability and were unfair to citizens, who could not rely on the law as it stands.

Justice William Johnson, Jr., wrote a separate concurring opinion that, while reaching the same result as Marshall, argued that the Georgia legislature had not violated the Contracts Clause. Nevertheless, he reasoned that the law voiding the land grants had violated the general principles of law Marshall had laid out. Johnson also lamented the apparently collusive nature of the lawsuit, but determined (based on Martin's and Story's eminent reputations) that the suit had not been brought for illegitimate purposes.

Aftermath and Legacy

Although the Court's decision rendered Georgia's attempt to void the initial land grants unconstitutional, it did not resolve the complex issues of disputed ownership or set the appropriate level of compensation for dispossessed landowners in Yazoo. Indeed, those issues were not truly resolved until Congress passed legislation compensating speculators in

1814. Nevertheless, two of the central legal principles the Court established in *Fletcher v. Peck* remain important to this day. The federal courts have used the power to strike down unconstitutional state legislation on several occasions. The Court's desegregation ruling in *Brown v. Board of Education* (1954) and its decision protecting a woman's right to end her pregnancy in *Roe v. Wade* (1973) are prominent examples. Similarly, the Court's broad interpretation of the Contracts Clause played an important part in the development of its corporate jurisprudence. In *Dartmouth College v. Woodward* (1819), for example, the Court determined that corporate charters are a form of contract with the state and that states could not alter the terms of the charter at will.

Discussion Questions

- The modern federal courts have largely disavowed the notion that they can strike down laws for violating natural law or general principles of law and instead only do so if the law in question violates some specific part of a superseding statute or constitution. Why might this be? Are there special dangers in relying on something other than the text of a statute or constitution to invalidate a law?
- In his opinion for the Court (below), Chief justice Marshall reasoned that the courts should avoid inquiring into legislators' motivations. Why? Might there be times when it is necessary for a court to delve beyond the language of a law to determine why it was passed?

Documents

Supreme Court of the United States, Opinion in *Fletcher v. Peck*, March 16, 1810

These excerpts from Chief Justice Marshall's opinion for the Court and Associate Justice Johnson's opinion concurring in part focus on the issue of the legislature's power to void the original land sales.

Marshall, Ch. J. delivered the opinion of the court as follows:…

The importance and the difficulty of the questions, presented by these pleadings, are deeply felt by the court.

The lands in controversy vested absolutely in … the original grantees … by the conveyance of the governor, made in pursuance of an act of assembly to which the legislature was fully competent. Being thus in full possession of the legal estate, they, for a valuable consideration, conveyed portions of the land to those who were willing to purchase. If the original transaction was infected with fraud, these purchasers did not participate in it, and had no notice of it. They were innocent. Yet the legislature of Georgia has involved them in the fate of the first parties to the transaction, and, if the act be valid, has annihilated their rights also.

The legislature of Georgia was a party to this transaction; and for a party to pronounce its own deed invalid, whatever cause may be assigned for its invalidity, must be considered as a mere act of power which must find its vindication in a train of reasoning not often heard in courts of justice.

But the real party, it is said, are the people, and when their agents are unfaithful, the acts of those agents cease to be obligatory.

It is, however, to be recollected that the people can act only by these agents, and that, while within the powers conferred on them, their acts must be considered as the acts of the people. If the agents be corrupt, others may be chosen, and, if their contracts be examinable, the common sentiment, as well as common usage of mankind, points out a mode by which this examination may be made, and their validity determined.

If the legislature of Georgia was not bound to submit its pretensions to those tribunals which are established for the security of property, and to decide on human rights, if it might claim to itself the power of judging in its own case, yet there are certain great principles of justice, whose authority is universally acknowledged, that ought not to be entirely disregarded.

If the legislature be its own judge in its own case, it would seem equitable that its decision should be regulated by those rules which would have regulated the decision of a

judicial tribunal. The question was, in its nature, a question of title, and the tribunal which decided it was either acting in the character of a court of justice, and performing a duty usually assigned to a court, or it was exerting a mere act of power in which it was controlled only by its own will.

If a suit be brought to set aside a conveyance obtained by fraud, and the fraud be clearly proved, the conveyance will be set aside, as between the parties; but the rights of third persons, who are purchasers without notice, for a valuable consideration, cannot be disregarded.…

A court of chancery, therefore, had a bill been brought to set aside the conveyance … as being obtained by improper practices with the legislature, whatever might have been its decision as respected the original grantees, would have been bound, by its own rules, and by the clearest principles of equity, to leave unmolested those who were purchasers, without notice, for a valuable consideration.…

The principle asserted is, that one legislature is competent to repeal any act which a former legislature was competent to pass; and that one legislature cannot abridge the powers of a succeeding legislature.

The correctness of this principle, so far as respects general legislation, can never be controverted. But, if an act be done under a law, a succeeding legislature cannot undo it. The past cannot be recalled by the most absolute power. Conveyances have been made, those conveyances have vested legal estates, and, if those estates may be seized by the sovereign authority, still, that they originally vested is a fact, and cannot cease to be a fact.

When, then, a law is in its nature a contract, when absolute rights have vested under that contract, a repeal of the law cannot devest those rights; and the act of annulling them, if legitimate, is rendered so by a power applicable to the case of every individual in the community.

It may well be doubted whether the nature of society and of government does not prescribe some limits to the legislative power; and, if any be prescribed, where are they to be found, if the property of an individual, fairly and honestly acquired, may be seized without compensation.…

It is the peculiar province of the legislature to prescribe general rules for the government of society; the application of those rules to individuals in society would seem to be the duty of other departments. How far the power of giving the law may involve every other power, in cases where the constitution is silent, never has been, and perhaps never can be, definitely stated.

The validity of this rescinding act, then, might well be doubted, were Georgia a single sovereign power. But Georgia cannot be viewed as a single, unconnected, sovereign power, on whose legislature no other restrictions are imposed than may be found in its own

constitution. She is a part of a large empire; she is a member of the American union; and that union has a constitution the supremacy of which all acknowledge, and which imposes limits to the legislatures of the several states, which none claim a right to pass. The constitution of the United States declares that no state shall pass any bill of attainder, ex post facto law, or law impairing the obligation of contracts.

Does the case now under consideration come within this prohibitory section of the constitution?

In considering this very interesting question, we immediately ask ourselves what is a contract? Is a grant a contract?

A contract is a compact between two or more parties, and is either executory or executed. An executory contract is one in which a party binds himself to do, or not to do, a particular thing; such was the law under which the conveyance was made by the governor. A contract executed is one in which the object of contract is performed; and this, says Blackstone, differs in nothing from a grant. The contract between Georgia and the purchasers was executed by the grant. A contract executed, as well as one which is executory, contains obligations binding on the parties. A grant, in its own nature, amounts to an extinguishment of the right of the grantor, and implies a contract not to reassert that right. A party is, therefore, always estopped by his own grant.…

If, under a fair construction the constitution, grants are comprehended under the term contracts, is a grant from the state excluded from the operation of the provision? Is the clause to be considered as inhibiting the state from impairing the obligation of contracts between two individuals, but as excluding from that inhibition contracts made with itself?

The words themselves contain no such distinction. They are general, and are applicable to contracts of every description. If contracts made with the state are to be exempted from their operation, the exception must arise from the character of the contracting party, not from the words which are employed.

Whatever respect might have been felt for the state sovereignties, it is not to be disguised that the framers of the constitution viewed, with some apprehension, the violent acts which might grow out of the feelings of the moment; and that the people of the United States, in adopting that instrument, have manifested a determination to shield themselves and their property from the effects of those sudden and strong passions to which men are exposed. The restrictions on the legislative power of the states are obviously founded in this sentiment; and the constitution of the United States contains what may be deemed a bill of rights for the people of each state.….

It is, then, the unanimous opinion of the court, that, in this case, the estate having passed into the hands of a purchaser for a valuable consideration, without notice, the

state of Georgia was restrained, either by general principles which are common to our free institutions, or by the particular provisions of the constitution of the United States, from passing a law whereby the estate of the plaintiff in the premises so purchased could be constitutionally and legally impaired and rendered null and void.…

Document Source: *Fletcher v. Peck*, 10 U.S. 87, 132–33, 134, 135, 136–38, 139 (1810).

Justice William Johnson, Jr., Concurring Opinion in *Fletcher v. Peck*, March 16, 1810

Johnson, J.

In this case I entertain, on two points, an opinion different from that which has been delivered by the court.

I do not hesitate to declare that a state does not possess the power of revoking its own grants. But I do it on a general principle, on the reason and nature of things: a principle which will impose laws even on the deity.…

When the legislature have once conveyed their interest or property in any subject to the individual, they have lost all control over it; have nothing to act upon; it has passed from them; is vested in the individual; becomes intimately blended with his existence, as essentially so as the blood that circulates through his system. The government may indeed demand of him the one or the other, not because they are not his, but because whatever is his is his country's.…

I have thrown out these ideas that I may have it distinctly understood that my opinion on this point is not founded on the provision in the constitution of the United States, relative to laws impairing the obligation of contracts. It is much to be regretted that words of less equivocal signification, had not been adopted in that article of the constitution.…

To give it the general effect of a restriction of the state powers in favour of private rights, is certainly going very far beyond the obvious and necessary import of the words, and would operate to restrict the states in the exercise of that right which every community must exercise, of possessing itself of the property of the individual, when necessary for public uses; a right which a magnanimous and just government will never exercise without amply indemnifying the individual, and which perhaps amounts to nothing more than a power to oblige him to sell and convey, when the public necessities require it.…

I have been very unwilling to proceed to the decision of this cause at all. It appears to me to bear strong evidence, upon the face of it, of being a mere feigned case. It is our duty to decide on the rights, but not on the speculations of parties. My confidence, however, in the respectable gentlemen who have been engaged for the parties, has induced me to

abandon my scruples, in the belief that they would never consent to impose a mere feigned case upon this court.

Document Source: *Fletcher v. Peck*, 10 U.S. 87, 143, 144, 145, 147–48 (1810).

Joseph M. Lynch, *Seton Hall Law Review*, 1982–83

In this piece, Joseph Lynch, a professor at Seton Hall University School of Law, argued that the Supreme Court reached the wrong result in Fletcher*, but that the case nonetheless established an important set of precedents on the scope of judicial power and the Contracts Clause.*

One suspects that Marshall knew exactly what he was doing when he prepared the ground for his construction of the contract clause with his saturating discussion of the principles of justice and equity. Having first been convinced that the Georgia cause was unjust in result, we would readily consent to his rendition of the Constitution. We had made up our minds. The case had already lost its interest and in our distraction he had construed the Constitution in such a way as to accomplish the desired result. And we let him. As long as we feel the Court is doing equity, we very pragmatic Americans do not inquire too closely how it is done.

Marshall and the Court understood the rules of the game. The Constitution cannot be populated with shades of "reason and nature," like so many ghosts. It is the visible world of text which must exist, not some vague and obscure invisible construct. In the case of constitutional litigation, it is and must be the words of the written Constitution which alone are pertinent and controlling. While invoking "reason and nature," Marshall purported to construe the text. It was after all a Constitution he was expounding. Yet the invisible casts its shadow over the visible. To protect innocent parties, "contract" would include "grant," which would include "an obligation," whose limits were held to be "impaired."

Yet, after all this, *Fletcher* is a landmark case in constitutional law. For while *Marbury v. Madison* established as the basis for judicial review the constitutional purpose that power be kept within its written limits, *Fletcher* disclosed how the constitutional writing comes to be construed and how the limits come to be defined.… The case is a landmark precisely because the outposts of the past did not lead to its placement. They lead to a place infinitely short of it. The rules and rationale of precedent cannot get you there. What is needed is a new creation, a numinous principle that breaks the bonds of past precedent and present provision, elevates the law and moving it by transcendental force places it on the other side. Once accomplished, there is no return. The past is effaced. The future will start from that point. That is what a landmark is. The law has been renewed. Thus, in

Fletcher the contract clause was construed, broadened in construction, and state power was substantially limited.…

Whether the Framers would have approved is doubtful. The contract clause originated late in the Convention in a motion to add to the restrictions on state action already proposed, the prohibition against state interference with private contracts, as provided in the Northwest Ordinance. In pertinent part, the Ordinance had prohibited any law interfering with or affecting "private contracts or any agreements, bona fide and without fraud, previously formed." The proposal was opposed as "going too far," and was eventually superseded in favor of the more general language found in the Constitution. Even in the broadest terms of the original proposal, however, the prohibition would not have extended to the situation in *Fletcher*. For if *Fletcher* involved a contract at all, it involved a public contract, not a private one. Moreover, the contract, if there were one, had been entered into mala fide and with fraud, not bona fide and without fraud. From that we know then, the framers had not the intent to proscribe the kind of legislation Georgia had enacted. Nor is it at all clear that had they considered it, they would have prohibited it.…

To get the result then, the Court, acting like a court of equity, had broadened the scope of the contract clause. In so doing it broadened its own power of review over state legislative action and embarked upon its long career of broad judicial invalidation of state action. *Fletcher v. Peck*, though wrong, is a landmark case.

Not only is it the first case in which the Court invalidated state legislation as in conflict with the contract clause, it is the first case in which in the name of the constitutional text the Court exercised its prerogative to recognize and thereby create a fundamental constitutional right.

Document Source: Joseph M. Lynch, "*Fletcher v. Peck*: The Nature of the Contract Clause," *Seton Hall Law Review* 13, no. 1 (1982–83): 17–19 (footnotes omitted).

Gerald Leonard, *U.C. Davis Law Review*, 2014

In this piece, Boston University law professor Gerald Leonard analyzes the aftermath of the Fletcher *case, arguing that, despite the Court's strong conception of its role in defining the Constitution, other government actors played an important part in defining the case's constitutional legacy.*

The Yazooists' resounding judicial victory … did not put money in their pockets. Various obstacles remained to their claiming and reselling land that was in a distant location and that, in many cases, already had settlers on it. So they returned to Congress once

again. There, the Court's opinion no doubt had some influence, but no one considered actually implementing the logical remedy implied by the court—recognition of the full title of the claimants to the vast area that would soon constitute most of Alabama and Mississippi. Rather, while Radical Republican orthodoxy continued to impede the progress of a compensation bill, the imperative of facilitating settlement finally overcame the lingering congressional doubts about the "'strict legality' of claimants' title." In 1814, Congress at last enacted a compensation law, appropriating the long-reserved 5 million acres for the purpose of settling the claims. The Yazooists, for their part, unhesitatingly accepted this roughly one-eighth compensation for the "titles" that the Court had impotently recognized.

Fletcher had thus failed to control the question of the Yazoo claims, proving the Court just one of several important sources of legal and constitutional meaning. But it illuminated the range of constitutionalisms available in the generation after the ratification of the Constitution. For heirs of the most radical Antifederalists, the events in Georgia enacted the true meaning of popular sovereignty. Moderate Republicans, however, embraced a pragmatic legalism, defending all at once the forms of law, states' rights, and pragmatic political compromise. For moderates, unorthodox manifestations of "popular sovereignty" were not the way to go, but neither was unthinking deference to the courts. Rather, Congress had its own important role in giving operative meaning to the Constitution, just as the Court had its role. In the Yazoo case, for example, Congress attended to lawerly considerations, both to doubt the "strict legality" of the original sale and at the same time to respect the grounds on which the Court defended the equitable claims of innocent purchasers. But that did not mean that Congress would simply defer to a judicial perspective on the claims. Rather, it sought to settle the legal and constitutional claims in the political arena, recognizing but compromising both the legal claims of the Yazooists and the claims to sovereignty of Georgia and the American people more generally.

On the Supreme Court and among the Federalists, common-law legalism reigned. The court deemed itself the only legitimate and reliable source of legal interpretation. And it used its special status to sanctify those rights of property and contract that it thought the foundation of civilization as well as the core values of the Constitution itself. To Marshall, *Fletcher's* importance lay not in its pioneering invalidation of a state law but in its vindication of a legalist, common-law Constitution.

In sum, the original Constitution had indeed represented an important victory for the conservative forces in 1787–1788, but the story of the Yazoo scandal and *Fletcher v. Peck* demonstrates that that victory carried only so far. While Marshall, the Federalists, and the Supreme Court did all in their power to vindicate the common-law Constitution of contract and property rights along with judicial supremacy, they could not control the

meaning of the Constitution in practice. The radical heirs of the Antifederalists gained office in large numbers, ultimately driving the ascendancy of the Jacksonian Democratic Party and the marginalization of the Court. And, as the Yazoo events illustrated, they insisted on a populist Constitution that empowered the people to override the doings of their legislatures and their courts alike, determining for themselves when their agents had strayed from their delegated tasks and reserving to themselves the final authority to say what the law was and to dispose of legal claims. Meanwhile, the moderate, legalist Republicans insisted on a Constitution that neither resorted to direct popular control of legal claims nor erased popular will in deference to judicial claims of special expertise. Rather, consistent with Jefferson's famously departmentalist approach to constitutional interpretation, all branches of government and the people themselves had rightful claims to interpret the constitution when acting within their legitimate spheres. The people of Georgia might instruct their legislature to disregard an act they disapproved. Marshall and the Court would necessarily interpret the law and the Constitution when resolving Fletcher's claim against Peck, however feigned. But none of that prevented Congress too from stepping in to take the larger, national view of the controversy and interpose a statutory settlement of all claims. That settlement became final not because the courts or the people were constitutionally required to accede to Congress's will but because, by 1814, the nation was finally ready to accept that settlement. Future constitutional controversies, similarly, might be settled by popular movements, by state action, by congressional action, or by the courts, as circumstances dictated. But no dogma of constitutional authority—including Marshall's insistence that the Constitution had granted supremacy to the Supreme Court—would ever grasp final victory.

Document Source: Gerald Leonard, "*Fletcher v. Peck* and Constitutional Development in the Early United States," *U.C. Davis Law Review* 47 no. 5 (June 2014): 1855–57 (footnotes omitted).

Cases that Shaped the Federal Courts

This series includes case summaries, discussion questions, and excerpted documents related to cases that had a major institutional impact on the federal courts. The cases address a range of political and legal issues including the types of controversies federal courts could hear, judicial independence, the scope and meaning of "the judicial power," remedies, judicial review, the relationship between federal judicial power and states' rights, and the ability of federal judges to perform work outside of the courtroom.

- *Hayburn's Case* (1792). Could Congress require the federal courts to perform non-judicial duties?
- *Chisholm v. Georgia* (1793). Could states be sued in federal court by individual citizens of another state?
- *Marbury v. Madison* (1803). Could federal courts invalidate laws made by Congress that violated the Constitution?
- *Fletcher v. Peck* (1810). Could federal courts strike down state laws that violated the U.S. Constitution?
- *United States v. Hudson and Goodwin* (1812). Did the federal courts have jurisdiction over crimes not defined by Congress?
- *Martin v. Hunter's Lessee* (1816). Were state courts bound to follow decisions issued by the Supreme Court of the United States?
- *Osborn v. Bank of the United States* (1824). Could Congress grant the Bank of the United States the right to sue and be sued in the federal courts?
- *American Insurance Co. v. Canter* (1828). Did the Constitution require Congress to give judges of territorial courts the same tenure and salary protections afforded to judges of federal courts located in the states?
- *Louisville, Cincinnati, and Charleston Rail-road Co. v. Letson* (1844). Should a corporation be considered a citizen of a state for purposes of federal jurisdiction?
- *Ableman v. Booth* (1859). Could state courts issue writs of habeas corpus against federal authorities?
- *Gordon v. United States* (1865). Could the Supreme Court hear an appeal from a federal court whose judgments were subject to revision by the executive branch?
- *Ex parte McCardle* (1869). Could Congress remove a pending appeal from the Supreme Court's jurisdiction?
- *Ex parte Young* (1908). Could a federal court stop a state official from enforcing an allegedly unconstitutional state law?
- *Moore v. Dempsey* (1923). How closely should federal courts review the fairness of state criminal trials on petitions for writs of habeas corpus?

- *Frothingham v. Mellon* (1923). Was being a taxpayer sufficient to give a plaintiff the right to challenge the constitutionality of a federal statute?
- *Crowell v. Benson* (1932). What standard should courts apply when reviewing the decisions of executive agencies?
- *Erie Railroad Co. v. Tompkins* (1938). What source of law were federal courts to use in cases where no statute applied and the parties were from different states?
- *Railroad Commission of Texas v. Pullman Co.* (1941). When should a federal court abstain from deciding a legal issue in order to allow a state court to resolve it?
- *Brown v. Allen* (1953). What procedures should federal courts use to evaluate the fairness of state trials in habeas corpus cases?
- *Monroe v. Pape* (1961). Did the Ku Klux Klan Act of 1871 permit lawsuits in federal court against police officers who violated the constitutional rights of suspects without authorization from the state?
- *Baker v. Carr* (1962). Could a federal court hear a constitutional challenge to a state's apportionment plan for the election of state legislators?
- *Glidden Co. v. Zdanok* (1962). Were the Court of Claims and the Court of Customs Appeals "constitutional courts" exercising judicial power, or "legislative courts" exercising powers of Congress?
- *United States v. Allocco* (1962). Were presidential recess appointments to the federal courts constitutional?
- *Walker v. City of Birmingham* (1967). Could civil rights protestors challenge the constitutionality of a state court injunction, having already been charged with contempt of court for violating the injunction?
- *Bivens v. Six Unknown Named Agents* (1971). Did the Fourth Amendment create an implied right to sue officials who conducted illegal searches and seizures?
- *Northern Pipeline Construction Co. v. Marathon Pipe Line Co.* (1982). Did the Bankruptcy Reform Act of 1978 violate the Constitution by granting too much judicial power to bankruptcy judges?
- *Morrison v. Olson* (1988). Could Congress empower federal judges to appoint independent counsel investigating executive branch officials?
- *Mistretta v. United States* (1989). Could Congress create an independent judicial agency to guide courts in setting criminal sentences?
- *Lujan v. Defenders of Wildlife* (1992). Could an environmental organization sue the federal government to challenge a regulation regarding protected species?
- *City of Boerne v. Flores* (1997). Could Congress reverse the Supreme Court's interpretation of the Constitution through a statute purportedly enforcing the Fourteenth Amendment?