

Essay on marbury vs madison 1803 and mcculloch vs maryland

[Sociology](#), [Communication](#)



Introduction

The two cases are celebrated for the framework they laid in terms of tackling issues dealing with the constitutionality of laws. The case laws provide fine and tenuous precedents that effectively and predictably provided the justices of the Supreme Court to give direction on the interpretation of the law. The first case, Marbury vs. Madison essentially shows the central role of judicial review in light of exercise of power by the executive as vested by the constitution and other written laws. On the other hand, McCulloch vs. Maryland lays the foundation that would be applied in interpretation of the application of federal power compared against state power. Both cases, therefore, examine fundamental constitutional matters that ought to be taken note by any serious legal mind. It should be appreciated that the precedents set by either cases was good law that has found application up to date .

Marbury vs. Madison summary

William Marbury had been appointed to the bench as Justice of the Peace in the District of Columbia. In accordance to the laws of the land, the appointee could only assume office after the delivery of commissions by the Secretary of States. In this case, the incumbent Secretary of State, James Madison declined to deliver the commissions. Consequently, Marbury was unable to excise his duties and assume office. He moved to the Supreme Court petitioning for the Court to use its original jurisdiction and issue orders of mandamus. This would essentially compel the Secretary of State to deliver the commissions. Marbury argued that, under the Judiciary Act of 1789,

Congress had vested the Supreme Court the jurisdictions over original petitions for writs of mandamus. However, the matter at hand was whether a decision by the Supreme Court to issue the writs would be within the provisions of Article III of the constitution. The crux of the matter was that judicial review had to be consistent and in consonance with the constitution. It would, therefore, be essential for the Supreme Court to exercise their powers and roles within the constitutional provisions .

Indeed the judges found that Marbury rights had been essentially violated. It observed that, under the laws, Marbury deserved to get the commission delivered by Madison. The justices also observed that the delivery of commissions by the Secretary of State was singularly ministerial in nature. As such, Madison did not have the discretion to refuse as he had purported. Finally, the justices observed that indeed Marbury deserved remedial action. However, the justices observed the constitutional provisions under Article III and compared the same to the Judiciary Act of 1789. They observed that the two pieces of law differed as the act purported to grant the Supreme Court the ability to expand their original jurisdiction, while Article III of the constitution did not. In light of the supremacy of the constitution, the justices obtained that they did not have the power and legal authority to grant the writ of mandamus that would compel Madison do issue the commissions.

Constitutional concepts

The constitutional concept in Marbury vs. Madison resonated around judicial review. The question before the Supreme Court was whether Congress had acted ultra vires in its donation to the Court of powers to exercise original

jurisdiction on the constitutional matter of issuing writs of mandamus. The Supreme Court clarified on the constitutionality of the law through its identification of Congress's mistake. It outlined the supremacy of the constitution and decided to uphold the provisions in Article III and suspended the provisions of the Judiciary Act .

Summary of McCulloch vs. Maryland

In this case, the State of Maryland was sued for its imposition of taxes on the notes of banks that operated in Maryland but were chartered outside the state. According to the State of Maryland, it had the jurisdiction and constitutional mandate to levy such taxes on the bank. The taxation was considered discriminative and inconsistent with the constitutional provisions. It essentially negated on the powers and functions of Congress as the bank had been permitted to operate by Congress under federal law. The main issue, therefore, was the contest between Congress and the state of Maryland in as far as legislation on banking was concerned. The Supreme Court concurred with Congress, with the former arguing that the latter had the legitimacy and legal mandate to create the bank. Marshal in giving the verdict concluded that Congress had acted within the law using four main arguments backing the judgement. The crux of the matter, however, lay in the justice's interpretation of the Necessary and Proper clause. He rejected the narrow interpretation of by the State of Maryland of the Necessary and Proper clause. Maryland had purported that the clause essentially meant that Congress could only legislate on laws that were essential for the execution of its roles. The justice declined to accept this interpretation and upheld the

constitutionality of Congress's creation of the bank. It consequently voided the tax law which it had found discriminative .

Constitutional concepts

The main constitutional issue was the concept of federal power compared to the state power. The line of separation and demarcation in terms of the legislative roles of Congress in federal systems against the state powers ought to have been clearly outlined. Maryland had attempted to opportunistically interpret the constitution so as to avail the legislative powers to them. Such occurrence is common especially within the context of federal systems of government that essentially embraces a two tier system of government. The Supreme Court addressed the issue of the power structure giving Congress the green light to establish essential legislation that the latter considered relevant. The argument that the State of Maryland purported was going to set a bad precedent as it would limit the legislative authority of Congress to matters directly incidental to it. Overall, the holding clearly showed the hierarchy in terms of legislative authority in federal systems. It gave the Congress superior status over state laws .

Conclusion

The two cases form a body of precedent that essentially give the constitutional basis of reasoning. The case laws also illustrate the role of the judiciary in terms of interpretation of the laws. The role of interpreting the laws has over a long time been a preserve of the judiciary. However, the judiciary must interpret the laws without fear or favour. The two cases express the assertive nature of the judiciary and their enviable ability to give

direction even in cases where constitutional dilemmas do exist. Ultimately, the role of the Supreme Court in matter constitutional is the defence and protection of the constitution acknowledging the supremacy of the constitution .

Works Cited

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