

## Foundations

**Marbury v. Madison** (1803), The Court found that Madison's refusal to deliver the commission was illegal, but did not order Madison to hand over Marbury's commission via writ of mandamus. Instead, the Court held that the provision of the Judiciary Act of 1789 enabling Marbury to bring his claim to the Supreme Court was itself unconstitutional, since it purported to extend the Court's original jurisdiction beyond that which Article III, Section 2, established.

Marshall expanded that a writ of mandamus was the proper way to seek a remedy, but concluded the Court could not issue it. Marshall reasoned that the Judiciary Act of 1789 conflicted with the Constitution. Congress did not have power to modify the Constitution through regular legislation because Supremacy Clause places the Constitution before the laws.

In so holding, Marshall established the principle of judicial review, i.e., the power to declare a law unconstitutional.

**McCulloch v. Maryland** (1819), the Court held that Congress had the power to incorporate the bank and that Maryland could not tax instruments of the national government employed in the execution of constitutional powers.

Pursuant to the Necessary and Proper Clause (Art. I, Section 8), Chief Justice Marshall noted that Congress possessed powers not explicitly outlined in the U.S. Constitution. Marshall redefined "necessary" to mean "appropriate and legitimate," covering all methods for furthering objectives covered by the enumerated powers. Marshall also held that while the states retained the power of taxation, the Constitution and the laws made in pursuance thereof are supreme and cannot be controlled by the states.

## First Amendment

**Engel v. Vitale** (1962), which declared school sponsorship of religious activities violates the establishment clause

**Wisconsin v. Yoder** (1972), which held that compelling Amish students to attend school past the eighth grade violates the free exercise clause

**Tinker v. Des Moines Independent Community School District** (1969), in which the court ruled that public school students could wear black armbands in school to protest the Vietnam War.

**Schenck v. United States** (1919) Speech which creates a "clear and present danger" can be limited.

**New York Times Co. v. United States** (1971), the Supreme Court bolstered the freedom of the press, establishing a "heavy presumption against prior restraint" even in cases involving national security.

## Due Process

**Miranda v. Arizona** (1966)

The Miranda rule involves the interpretation and application of accused persons' due process rights as protected by the Fifth and Sixth Amendments, yet the Court has sanctioned a "public safety" exception that allows unwarned interrogation to stand as direct evidence in court.

**McDonald v. Chicago** (2010), which ruled the Second Amendment's right to keep and bear arms for self-defense in one's home is applicable to the states through the Fourteenth Amendment.

**Gideon v. Wainwright** (1963), which guaranteed the right to an attorney for the poor or indigent

**Brown v. Board of Education** (1954), which declared that race-based school segregation violates the Fourteenth Amendment's equal protection clause

**Obergefell v. Hodges** (2015), the Due Process Clause of the Fourteenth Amendment guarantees the right to marry as one of the fundamental liberties it protects, and that analysis applies to same-sex couples in the same manner as it does to opposite-sex couples.

Right to Privacy

**Roe v. Wade** (1973), which extended the right of privacy to a woman's decision to have an abortion while recognizing compelling state interests in potential life and maternal health

**Griswold v Connecticut** (1965), was a challenge to a state law to prevent agencies like Planned Parenthood from counseling couples in the use of contraceptives. The Court ruled there are various guarantees within the Bill of Rights that create penumbras, or zones, that establish a right to privacy. Together, the First, Third, Fourth, and Ninth Amendments, create a new constitutional right, the right to privacy in marital relations.

Right to privacy is not stated in the Constitution but is inferred from the 3rd Amendment (home is protected), 5th Amendment (don't have to reveal things about yourself that will incriminate you), 9th Amendment (the Constitution does not enumerate all rights belonging to people—there are unstated rights as yet to be defined).

Amendments 4, 5, 6, 7, 8

**Weeks v US** (1914), was the first application of what eventually became known as the "exclusionary rule," as applied to warrantless searches. To allow private documents to be seized and then held as evidence against citizens without a warrant would have meant that the protection of the Fourth Amendment declaring the right to be secure against such searches and seizures would be of no value whatsoever.

**Mapp v Ohio** (1961), placed the requirement of excluding illegally obtained evidence from court at all levels of the government, applying the Federal exclusionary rule (Weeks) to state and local governments.

**Gideon v Wainwright** (1963), the Sixth Amendment's guarantee of counsel was a fundamental right, essential to a fair trial, which should be made applicable to the states through the Due Process Clause of the Fourteenth Amendment.

**California v Greenwold** (1988), garbage placed at the curbside is unprotected by the Fourth Amendment. The Court argued that there was no reasonable expectation of privacy for trash on public streets "readily accessible to animals, children, scavengers, snoops, and other members of the public."

Civil Rights

**Baker v Carr** (1962), legislative apportionment and other 14<sup>th</sup> amendment equal protection questions within a state (e.g. gerrymandering) is a justiciable issue.

**International Union, UAW v Johnson Controls** (1991), the Court noted that even well-intentioned proposals are forbidden if they result in discrimination. Johnson's fetal-protection plan discriminated against women by not requiring their male counterparts to demonstrate proof of medical sterility, despite the fact that lead exposure has also proved hazardous to male reproductive systems.

**NOW v Scheidler** (1994), the Court held that organizations without an economic motive can detrimentally "affect interstate or foreign commerce," satisfying the RICO definition of a racketeering enterprise. An "enterprise" does not have to be an economic organization or a principally criminal organization to trigger the RICO act.

**Regents of the University of California v Bakke** (1978), Justice Powell cast the deciding affirmative vote that Bakke, a 35 year old white male, was discriminated against on the basis of his (white) race, when minority candidates were admitted and he was not. Powell argued that the rigid use of racial quotas as employed at the school violated the Equal Protection Clause of the Fourteenth Amendment. The remaining four justices held that the use of race as a criterion in admissions decisions in higher education was constitutionally permissible. Powell joined that opinion as well, contending that the use of race was permissible as one of several admission criteria. So, the Court managed to minimize white opposition to the goal of equality (by finding for Bakke) while extending gains for racial minorities through affirmative action.