
Cases that Shaped the Federal Courts

Crowell v. Benson

1932



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Central Question

WHAT STANDARD SHOULD COURTS APPLY WHEN REVIEWING THE
DECISIONS OF EXECUTIVE AGENCIES?

Historical Context

Crowell v. Benson (1932) was one of the most important cases dealing with the emergence of administrative agencies in the first half of the twentieth century. Most administrative agencies are executive-branch bodies designed to make rules enforcing the broader mandates of statutes and to resolve disputes that may arise under those laws. Modern examples include the Occupational Safety and Health Review Commission, which resolves disputes involving workplace safety, and the Social Security Administration's Office of Hearing Administration, which determines whether people qualify for certain government programs like disability benefits.

Executive agencies became an increasingly powerful part of local, state, and federal governance during the late nineteenth and early twentieth centuries. As American society became more urbanized and the economy more complex, many reformers believed that the government needed to develop more flexible and efficient ways of resolving problems and determining individuals' rights. Because administrative agencies did not use the complicated and formal rules of procedure and evidence employed by courts, some believed agencies were better at deciding certain questions than the courts.

Legal Debates Before *Crowell*

The use of agencies to uncover facts and decide legal questions was controversial in some quarters. Some critics claimed that the use of agencies to decide disputes between private parties that would previously have been decided by courts infringed on the judicial power granted to courts by Article III of the Constitution. Some complained that the use of administrators as fact finders would impair the Seventh Amendment's guarantee of a right to a jury trial in many civil cases. Others worried that agency determinations could be arbitrary and thus violate the Due Process Clauses of the Fifth and Fourteenth Amendments.

Parties unhappy with agency decisions often attempted to have courts overturn the results. Yet it was not clear what, if any, deference courts should give to agency decisions in such cases. Although the scope of judicial review of agency decisions may seem like a narrow, technical question, it had important ramifications. Reviewing most agency decisions as if they had never happened, for example, could damage agencies' efficiency and undermine confidence in the reliability of their rulings. On the other hand, if judges simply deferred to every agency decision, then the right to appeal to the courts would be almost meaningless.

Unsurprisingly, then, most proponents of administrative adjudication advocated a deferential review under which courts would only overturn arbitrary decisions or glaring errors. Skeptics of the new agencies argued that courts had to do more. Since agencies did not have the political independence of courts, they argued, administrative decisions could be prone to bias; since agencies lacked formal judicial procedures, they might be more prone to lax decision making than courts. Thus, these critics argued, the courts had to exercise a *de novo* (new) review of agency decision making to ensure fairness. Under the *de novo* standard, a court would give no deference to agency proceedings and would hear the case as if the agency proceedings had not occurred.

The Case

Crowell began on July 4, 1927, when Joe Knudsen, a Norwegian-born laborer, was injured while working on a barge on the Mobile River in Alabama. Shortly before the accident, Charles Benson, the barge's owner, had fired Knudsen for improperly cutting an expensive steel cable. At the urging of a third man who was then using the barge, Knudsen had returned to make amends by splicing the cable back together. While Knudsen was doing this, a piece of equipment fell on him, severely injuring his leg.

The primary question in the case was whether Knudsen was Benson's employee at the time of his injury. A federal workers' compensation law permitted maritime workers injured on the job to recover a fixed sum for their injuries. If Knudsen was no longer deemed an employee, however, he would not be entitled to payment under the law.

Knudsen's employment status was not a simple question because working relations in the Alabama boat industry were fluid and informal. Letus Crowell, a deputy commissioner of the Employees Compensation Commission, an administrative agency charged with determining workers' claims under the compensation law, heard most of the testimony in the case. On the basis of this evidence, some of which would not have been admissible in court, Crowell determined that Knudsen was Benson's employee at the time of the injury and awarded him compensation.

Benson challenged Crowell's ruling in the U.S. District Court for the Southern District of Alabama. District Judge Robert Ervin decided that he should review the case *de novo*. Judge Ervin reasoned that if he interpreted the compensation law to prohibit him from going "into the real facts," it would "deprive the employer of labor of the right to a fair judicial hearing" and thus violate the Constitution. After rehearing the case, Judge Ervin determined that Knudsen was not an employee and denied him compensation. The Court of Appeals for the Fifth Circuit affirmed Judge Ervin's decision, and Knudsen appealed to the Supreme Court of the United States.

The Supreme Court's Ruling

At the Supreme Court, Knudsen was joined by Solicitor General Thomas Thacher. Defending the workers' compensation system set up by Congress, Thacher argued that the Court would disrupt the balance of governmental administration if it chose to ignore the commissioner's findings in *Crowell*. While Thacher conceded that courts could determine whether administrators had exceeded their authority, he argued that the question of whether Knudsen was an employee was no different from any other factual determination that "may constitutionally be left to administrative determination." Benson's attorneys, however, argued that the question whether Knudsen was Benson's employee was a fundamental one: if he was not an employee, the commissioner would have no jurisdiction and could not legally order Benson to pay Knudsen for his injuries. Since the agency's power to hear the case depended on this issue, Benson's attorneys argued that he was entitled to a fresh judicial hearing on that point.

In an opinion by Chief Justice Charles Evans Hughes, the Supreme Court affirmed the decision against Knudsen. Hughes had served as Governor of New York prior to his appointment as Chief Justice. As Governor, he had been a proponent of the use of agency adjudication in the interests of efficiency. His opinion attempted to reach a balance between those interests and the concern that judges had to have a broad power to review agency decisions to ensure fairness. In most instances, Hughes reasoned, it was appropriate for courts to defer to agency decisions. Courts had a duty to review determinations of "fundamental" or "jurisdictional" questions closely, however. In this instance, Hughes characterized those questions as ones that determined the constitutional power of Congress to regulate the subject matter of the dispute. In *Crowell*, there were two such questions, both related to Congress's power to regulate interstate commerce: (1) Whether the accident took place on a navigable waterway; and (2) Whether Knudsen was an employee.

Justice Louis Brandeis, joined by two other justices, dissented from Hughes's opinion. Brandeis argued that the Court's definition of jurisdictional facts potentially allowed federal judges to second-guess too many decisions that should have been committed to agencies.

Aftermath and Legacy

Progressive advocates of agency adjudication criticized the Court's opinion in *Crowell*. They worried that the definition of fundamental facts was too broad and would leave too many agency decisions open to second-guessing by the courts. Nevertheless, the number and power of federal agencies increased rapidly in the years following *Crowell* as Franklin Roosevelt's "New Deal" agenda employed a host of new agencies to deal with problems caused by the Great Depression. In 1946, Congress passed the Administrative Procedure

Act. Hailed by some as a “bill of rights” for administrative decision making, the Act adopted a form of judicial review that reflected a similar balance between efficiency and access to judicial review as the Court’s decision in *Crowell*.

Discussion Questions

- Why does it matter whether a court or an agency decides a particular issue? Are there some questions courts should always resolve? Are there issues that agencies would be better at deciding than the courts?
- Chief Justice Hughes’s opinion for the Court in *Crowell* distinguished between cases that involve the “private” rights of parties and those that involve “public” rights, such as the entitlement to a claim from the government. Why is this distinction important? Is it more important for the courts, rather than agencies, to hear one set of cases over the other?
- Federal agencies tend to deal with cases involving a single area of the law, such as immigration or employment, whereas U.S. district courts hear a much wider range of cases. What might be the advantages of specialization and generalization?

Documents

Supreme Court of the United States, Opinion in *Crowell v. Benson*, February 23, 1932

The following excerpts from the majority and dissenting opinions in Crowell focus on the degree to which litigants were entitled to a judicial review of administrative agency decisions. Most internal citations have been removed.

In deciding whether the Congress, in enacting the statute under review, has exceeded the limits of its authority to prescribe procedure in cases of injury upon navigable waters, regard must be had, as in other cases where constitutional limits are invoked, not to mere matters of form but to the substance of what is required. The statute has a limited application, being confined to the relation of master and servant, and the method of determining the questions of fact, which arise in the routine of making compensation awards to employees under the Act, is necessary to its effective enforcement. The Act itself, where it applies, establishes the measure of the employer's liability, thus leaving open for determination the questions of fact as to the circumstances, nature, extent and consequences of the injuries sustained by the employee for which compensation is to be made in accordance with the prescribed standards. Findings of fact by the deputy commissioner upon such questions are closely analogous to the findings of the amount of damages that are made, according to familiar practice, by commissioners or assessors; and the reservation of full authority to the court to deal with matters of law provides for the appropriate exercise of the judicial function in this class of cases. For the purposes stated, we are unable to find any constitutional obstacle to the action of the Congress in availing itself of a method shown by experience to be essential in order to apply its standards to the thousands of cases involved, thus relieving the courts of a most serious burden while preserving their complete authority to insure the proper application of the law...

What has been said thus far relates to the determination of claims of employees within the purview of the Act. A different question is presented where the determinations of fact are fundamental or 'jurisdictional,' in the sense that their existence is a condition precedent to the operation of the statutory scheme. These fundamental requirements are that the injury occur upon the navigable waters of the United States and that the relation of master and servant exist. These conditions are indispensable to the application of the statute, not only because the Congress has so provided explicitly, but also because the power of the Congress to enact the legislation turns upon the existence of these conditions...

The recognition of the utility and convenience of administrative agencies for the investigation and finding of facts within their proper province, and the support of their

authorized action, does not require the conclusion that there is no limitation of their use, and that the Congress could completely oust the courts of all determinations of fact by vesting the authority to make them with finality in its own instrumentalities or in the Executive Department. That would be to sap the judicial power as it exists under the Federal Constitution, and to establish a government of a bureaucratic character alien to our system, wherever fundamental rights depend, as not infrequently they do depend, upon the facts, and finality as to facts becomes in effect finality in law...

In cases brought to enforce constitutional rights, the judicial power of the United States necessarily extends to the independent determination of all questions, both of fact and law, necessary to the performance of that supreme function...

In the present instance, the argument that the Congress has constituted the deputy commissioner a fact-finding tribunal is unavailing, as the contention makes the untenable assumption that the constitutional courts may be deprived in all cases of the determination of facts upon evidence even though a constitutional right may be involved. . . . But when fundamental rights are in question, this Court has repeatedly emphasized "the difference in security of judicial over administrative action." Even where issues of fact are tried by juries in the Federal courts, such trials are under the constant superintendence of the trial judge...

When the validity of an act of the Congress is drawn in question, and even if a serious doubt of constitutionality is raised, it is a cardinal principle that this Court will first ascertain whether a construction of the statute is fairly possible by which the question may be avoided. We are of the opinion that such a construction is permissible and should be adopted in the instant case... In the absence of any provision as to the finality of the determination by the deputy commissioner of the jurisdictional fact of employment, the statute is open to the construction that the court in determining whether a compensation order is in accordance with law may determine the fact of employment which underlies the operation of the statute. And, to remove the question as to validity, we think that the statute should be so construed...

If the court finds that the facts existed which gave the deputy commissioner jurisdiction to pass upon the claim for compensation, the injunction will be denied in so far as these fundamental questions are concerned; if, on the contrary, the court is satisfied that the deputy commissioner had no jurisdiction of the proceedings before him, that determination will deprive them of their effectiveness for any purpose. We think that the essential independence of the exercise of the judicial power of the United States in the enforcement of constitutional rights requires that the Federal court should determine such an issue upon its own record and the facts elicited before it...

It cannot be regarded as an impairment of the intended efficiency of an administrative agency that it is confined to its proper sphere, but it may be observed that the instances which permit of a challenge to the application of the statute, upon the grounds we have stated, appear to be few. Out of the many thousands of cases which have been brought before the deputy commissioners throughout the country, a review by the courts has been sought in only a small number, and an inconsiderable proportion of these appear to have involved the question whether the injury occurred within the maritime jurisdiction or whether the relation of employment existed. . . .

Document Source: *Crowell v. Benson*, 285 U.S. 22, 53–55, 56–57, 60–61, 62–64 (1932) (citations omitted).

Justice Louis Brandeis, Dissenting Opinion in *Crowell v. Benson*, February 23, 1932

The primary question for consideration is not whether Congress provided, or validly could provide, that determinations of fact by the deputy commissioner should be conclusive upon the district court. The question is: Upon what record shall the district court's review of the order of the deputy commissioner be based? The courts below held that the respondent was entitled to a trial *de novo*; that all the evidence introduced before the deputy commissioner should go for naught; and that respondent should have the privilege of presenting new, and even entirely different, evidence in the district court. Unless that holding was correct the judgment below obviously cannot be affirmed. . . .

The lower federal courts, except in the case at bar, have uniformly construed the Act as denying a trial *de novo* of any issue determined by the deputy commissioner; have held that, in respect to those issues, the review afforded must be upon the record made before the deputy commissioner; and that the deputy commissioner's findings of fact must be accepted as conclusive if supported by evidence, unless there was some irregularity in the proceeding before him. Nearly all the state courts have construed the state workmen's compensation laws, as limiting the judicial review to matters of law. Provisions in other federal statutes, similar to those here in question, creating various administrative tribunals, have likewise been treated as not conferring the right to a judicial trial *de novo*. . . .

Congress expressly declared its intention to put, for purposes of review, all the issues of fact on the same basis, by conferring upon the deputy commissioner "full power to hear and determine all questions in respect of such claim," subject only to the power of the court to set aside his order "if not in accordance with law." . . .

It is said that the provision for a trial *de novo* of the existence of the employer-employee relation should be read into the Act in order to avoid a serious constitutional doubt. It is

true that where a statute is equally susceptible of two constructions, under one of which it is clearly valid and under the other of which it may be unconstitutional, the court will adopt the former construction. But this Act is not equally susceptible to two constructions. The court may not, in order to avoid holding a statute unconstitutional, engraft upon it an exception or other provision. Neither may it do so to avoid having to resolve a constitutional doubt. To hold that Congress conferred the right to a trial *de novo* on the issue of the employer-employee relation seems to me a remaking of the statute and not a construction of it....

Trial *de novo* of the issue of the existence of the employer-employee relation is not required by the due process clause. That clause ordinarily does not even require that parties shall be permitted to have a judicial tribunal pass upon the weight of the evidence introduced before the administrative body. The findings of fact of the deputy commissioner, the Court now decides, are conclusive as to most issues, if supported by evidence. Yet as to the issue of employment the Court holds not only that such findings may not be declared final, but that it would create a serious constitutional doubt to construe the Act as committing to the deputy commissioner the simple function of collecting the evidence upon which the court will ultimately decide the issue....

Trial *de novo* of the existence of the employer-employee relation is not required by the Judiciary Article of the Constitution. The mere fact that the Act deals only with injuries arising on navigable waters, and that independently of legislation such injuries can be redressed only in courts of admiralty, obviously does not preclude Congress from denying a trial *de novo*. For the Court holds that it is compatible with the grant of power under Article III to deny a trial *de novo* as to most of the facts upon which rest the allowance of a claim and the amount of compensation....

The "judicial power" of Article III of the Constitution is the power of the federal government, and not of any inferior tribunal. There is in that Article nothing which requires any controversy to be determined as of first instance in the federal district courts. The jurisdiction of those courts is subject to the control of Congress. Matters which may be placed within their jurisdiction may instead be committed to the state courts. If there be any controversy to which the judicial power extends that may not be subjected to the conclusive determination of administrative bodies or federal legislative courts, it is not because of any prohibition against the diminution of the jurisdiction of the federal district courts as such, but because, under certain circumstances, the constitutional requirement of due process is a requirement of judicial process. An accumulation of precedents ... has established that in civil proceedings involving property rights determination of facts may constitutionally be made otherwise than judicially; and necessarily that evidence as to such facts may be taken outside of a court. I do not conceive that Article III has properly any bearing upon the question presented in this case....

Whatever may be the propriety of a rule permitting special reexamination in a trial court of so-called “jurisdictional facts” passed upon by administrative bodies having otherwise final jurisdiction over matters properly committed to them, I find no warrant for extending the doctrine to other and different administrative tribunals whose very function is to hear evidence and make initial determinations concerning those matters which it is sought to reexamine. Such a doctrine has never been applied to tribunals properly analogous to the deputy commissioners, such as the Interstate Commerce Commission, the Federal Trade Commission, the Secretary of Agriculture acting under the Packers and Stockyards Act, and the like. Logically applied it would seriously impair the entire administrative process....

Document Source: *Crowell v. Benson*, 285 U.S. 22, 66, 68–70, 73, 76–77, 80–81, 86–88, 92–93 (1932) (citations omitted).

John Dickinson, *University of Pennsylvania Law Review*, 1932

This article, written by a legal scholar shortly after the Court decided Crowell, critiques the outcome in the case and predicts practical difficulties in implementing the decision.

Crowell v. Benson ... holds that when statutory authority to decide depends on the actual existence of a fact, then the existence or non-existence of that fact must be independently decided in court in order to enable the court to determine whether or not as a matter of law the administrative decision is ultra vires and void. What the doctrine means in practice is that unless, on those facts which are held to be “jurisdictional”, the administrative tribunal reaches a finding corresponding to that which a court will later reach on different evidence, the administrative decision will be overthrown as in excess of jurisdiction....

Respect for administrative authority depends on its ability to get its decisions ... carried into effect with reasonable promptness. Where a party provided with sufficient funds can prolong the procedure by trial de novo and torpedo the administrative determination by withholding his most telling evidence until the hearing in court, the result is not merely to deprive administrative procedure of its supposed advantage of speed, but to bring the administrative body into disrepute as ineffectual.

An additional result is to clog and encumber the courts with a mass of new business by requiring them to duplicate fact-finding work the performance of which is the administrative tribunal’s reason for existence and which, paradoxically, the courts would not be asked to perform if the administrative tribunal did not exist. A principal reason for the

introduction of administrative procedure and the establishment of administrative tribunals with quasi-judicial power has been to make possible new types of supposedly desirable governmental activity which could not be carried on at all if the burden had to be borne by the already overcrowded courts. In view of the volume of this added business, the courts, to the extent that they are called on to retry on new evidence fact-issues previously decided by administrative tribunals, will inevitably have their dockets so clogged as to impede the performance not merely of the additional business, but of their own proper business of handling private litigation as well. This is particularly true in such as field as compensation awards under Workmen's Compensation Acts. Each year there are approximately 30,000 proceedings of this kind disposed of by administrative tribunals under the Longshoremen's Act alone. In a single state like New York the number of claims filed under the state statute runs to half a million annually. The principal object of the Workmen's Compensation system is to ensure through administrative procedure celerity of decision in a type of case where experience has led to the conclusion that delay and prolonged litigation are fraught with undesirable social consequences of a serious kind. It is, of course, possible to argue that the application of administrative rather than court procedure to the decision of cases of this character is, on ultimate balancing of the issues, unsound, and violative of the rights of the employer. If this view is taken, however, the proper course would clearly be the abandonment of the administrative procedure altogether and a return to the old method of personal injury litigation in the courts, rather than wasteful duplication of effort by administrative agencies and courts alike.

Document Source: John Dickinson, "Crowell v. Benson: Judicial Review of Administrative Determinations of Questions of 'Constitutional Fact'," *University of Pennsylvania Law Review* 80 (1932): 1059-60, 1062-63 (footnotes omitted).

Louis L. Jaffe, *Iowa Law Review*, 1933

This article by a noted legal scholar (and former law clerk to Justice Louis Brandeis) praises Brandeis's dissent in Crowell and criticizes the Court's majority for adopting a narrow view of Congress's power to create administrative agencies to resolve disputes and determine rights.

Of *Crowell v. Benson* and the breath-taking dissent of Mr. Justice Brandeis in that case, there has been much written The dissent is probably the greatest contribution of Mr. Justice Brandeis to the doctrinal side of administrative law. It is a lawyer's decision. With splendid architectonic skill a great number of legal materials, decisions and learned discussions, are marshalled, analyzed, and distinguished, built up into a treatise in little on

the law and theory of review. The majority decision in this and the Ben Avon Case threaten to rip wide open every administrative determination of fact... In *Crowell v. Benson* it was decided that if the power of Congress to legislate is restricted to certain fact situations, the existence of such facts must be left for the determination of the courts upon a *new record*. The reasoning seems to involve two propositions. First, that the application of a law beyond the power of Congress to pass is a denial of constitutional right to the individual affected; second, that the determination of a fact on which a constitutional right depends is a “judicial function” and by the Constitution the judicial power is lodged in the courts of the United States, and no part of it can be constitutionally taken away. But as Mr. Justice Brandeis points out none of these propositions make it clear why there must be a new record, rather than simply, as in the Ben Avon Case, an independent determination on the record made before the Commission. The most revealing sentence in the Brandeis opinion is this:

“The power of Congress to provide by legislation for liability under certain circumstances subsumes the power to provide for the determination of those circumstances. It does not depend upon the absolute existence in reality of any fact.”

I believe it will be some time before the courts really understand this last sentence. It seems to be an idea firmly planted in their breasts that a fact finding by a court is reality itself, whereas an administrative finding is but the shadow or pallid reflection of reality.

Document Source: Louis L. Jaffe, “Contributions of Mr. Justice Brandeis to Administrative Law,” *Iowa Law Review* 18 (1933): 224–25 (footnotes omitted).

Reuel E. Schiller, *Michigan Law Review*, 2007

In this piece, a legal historian argues that, contrary to the fears of progressive critics, Crowell had little practical impact in the years after the Supreme Court decided the case. Instead, the federal courts largely deferred to agency expertise.

The fate of *Crowell v. Benson* amidst ... odes to expert administration is surprisingly unclear. At no point was the case overruled with triumphant references to the expertise of agencies. Yet the parade of horrors that [John] Dickinson and like-minded reformers feared never came to pass. Instead, the federal courts treated *Crowell* as if it had never been decided, leading one commentator to title a 1940 article about jurisdictional facts *What Has Happened to Crowell v. Benson?* Indeed, even with respect to the specific statute it purported to interpret, the Longshoremen’s and Harbor Workers’ Compensation Act, the

decision became a nullity as the Supreme Court narrowed the definition of what a jurisdictional fact was under the Act out of existence.

More importantly, from the perspective of the proponents of prescriptive government, *Crowell* never extended its tentacles into the administrative regimes they cared the most about—those created during the New Deal. This was not for lack of trying. During the 1930s, litigants whose interests were opposed to those of an agency cited *Crowell* as a justification for intense judicial review or to call into question the constitutionality of the statute creating the agency. The National Labor Relations Act was the most frequent, though not the only, target of this sort of attack. Initially, litigants argued that the Act's failure to provide for de novo judicial review of jurisdictional facts was an infirmity that rendered the statute unconstitutional. Having failed with this argument (apparently the Court found the argument to be so meritless that it did not even address it in its opinion), litigants tried to deploy *Crowell* to require more stringent review of the Board's orders and to foreclose assertions that certain Board decisions were unreviewable. As with the constitutional challenge, the Court rejected these arguments by simply ignoring them. In two cases the Court did not even bother to cite *Crowell*. In a third, it relegated it to a footnote and bluntly distinguished it.

Thus, by the early 1940s, judicial review of administrative action had coalesced into a single doctrine. What was once a confusing and incoherent area of the law had been simplified through the application of a cardinal principal of prescriptive administrative law: courts were to defer to administrative agencies. Prescriptive notions of public policy dictated that agencies must be free to apply their expertise to the issues before them without officious intermeddling by the judiciary. By the early 1940s, this dictate had become law. Indeed, by the end of 1941, Roosevelt had appointed seven out of the nine members of the United States Supreme Court, as well as two-thirds of the judges sitting on the Federal Courts of Appeals, many of whom had worked at the highest levels of various federal administrative agencies prior to their appointments. By implementing doctrines that minimized judicial involvement in the administrative process, Roosevelt's judicial appointees furthered the goals of prescriptive government. The "practical judgment" of agencies had trumped the "sterile generalizations" of courts. Saint George had vanquished the dragon....

Document Source: Reuel E. Schiller, "The Era of Deference: Courts, Expertise, and the Emergence of New Deal Administrative Law," *Michigan Law Review* 106 (2007): 438–40 (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 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 McCordle* (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?