

General Discussion

DODGE v. WOOLSEY, 59 U.S. 331 (1855)

Dodge v Woolsey, 59 U.S. 331 (1855) (hereafter Dodge) is significant in that for the first time the Supreme Court explicitly stated Congress was mandated to call an Article V Convention if the states applied in sufficient numbers to meet the two-thirds requirement of Article V. In 1855 when John Moore Wayne, (Associate Justice 1835-67, member of Congress 1829-35), delivered the Court's opinion, the states had not submitted enough applications to satisfy the requirement. Yet the Court had no issue regarding interpreting the Article V requirement.



Wayne

As with McCulloch, only a portion of Dodge related to the people's sovereignty and the obligation of Congress to call a convention is presented. Along with this portion is the Court's ruling regarding obligation of oath of office and obedience to the Constitution by members of Congress. As noted by the Court, these conclusions are not reached "by way or argument or inference, but in the words of the constitution, the particulars in which it is declared to be supreme..."

The Court goes on to say, "[The Constitution is supreme] to the extent of its delegated powers, over all who made themselves parties to it; States as well as person, within whose concessions of sovereign powers yielded by the people of the States, when they accepted the constitution in their conventions."

It is clear the Court's discussion about the convention was not intended to be dicta, but instead was part of the ratio decidendi, in that it laid for the foundation of all that followed in the ruling by establishing the Constitution was supreme over the people, the departments of government and the states.