

**Miller Vs. Nicholls**

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**SooperKanoon Citation :** [sooperkanoon.com/78835](http://sooperkanoon.com/78835)

**Court :** US Supreme Court

**Decided On :** 1819

**Appeal No. :** 17 U.S. 311

**Appellant :** Miller

**Respondent :** Nicholls

**Judgement :**

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**Miller v. Nicholls**

**17 U.S. (4 Wheat.) 311**

*ERROR TO THE SUPREME*

*COURT OF PENNSYLVANIA*

## **SYLLABUS**

Where a cause is brought to this Court by writ of error or appeal from the highest court of law or equity of a state under the twenty-fifth section of the Judiciary Act of 1789, ch. 20, upon the ground that the validity of a statute of the United States

was drawn in questions and that the decision of the state court was against its validity &c.;, or that the validity of a statute of the state was drawn in question as repugnant to the Constitution of the United States and the decision was in favor of its validity, it must appear from the record that the act of Congress or the constitutionality of the state law was drawn into question.

But it is not required that the report should in terms state a misconstruction of the act of Congress or that it was drawn into question. It is sufficient to give this Court jurisdiction of the cause that the record should show that an act of Congress was applicable to the case.

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The case agreed in the court below stated that William Nicholls, collector, &c.;, being indebted to the United States of America, on 9 June, 1798, executed a mortgage to Henry Miller for the use of the United States in the sum of \$59,444, conditioned for the payment of \$29,271, payable \$9,757 on or before 1 January, 1799, \$9,757 on or before 9 June, 1799, and \$9,757 on or before 9 September, 1799. A *scire facias* was issued upon the said mortgage returnable to September term of the said Supreme Court of Pennsylvania in the year 1800, and judgment thereupon entered up, in the said supreme court, on 6 March, 1802, and thereupon a *levari facias* issued, and was levied upon the property of the said William Nicholls, and the same being sold to the highest bidder for the sum of \$14,530, the same was brought into court and is now deposited in the hands of the prothonotary of said court, subject to the orders of the same court. That on 22 December, 1797, the accounts of the said William Nicholls with the Commonwealth of Pennsylvania were settled by the comptroller and register-general of the commonwealth. (Prout account and settlement.) That an appeal from said settlement was filed in the office of

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the prothonotary of the said supreme court on 9 March, 1798, and judgment thereupon entered in favor of the commonwealth against the said William Nicholls

in the said supreme court, on 6 September, 1798, for the sum of \$9,987.15.

Upon the preceding statement, the following question is submitted to the consideration of the Court: whether the said settlement of the said public accounts of the said William Nicholls, as aforesaid, on 22 December, 1797, was and is a lien, from the date thereof upon the real estate of the said William Nicholls and which has since been sold as aforesaid.

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MR. CHIEF JUSTICE MARSHALL delivered the opinion of the Court.

The question decided in the Supreme Court for the State of Pennsylvania respected only the construction of a law of that state. It does not appear from the record that either the constitutionality of the law of Pennsylvania or any act of Congress was drawn into question.

It would not be required that the record should in terms state a misconstruction of an act of Congress or that an act of Congress was drawn into question. It would have been sufficient to give this Court jurisdiction of the cause that the record should show that an act of Congress was applicable to the case. That is not shown by this record. The act of Congress which is supposed to have been disregarded and which probably was disregarded by the state court is that which gives the United States priority in cases of insolvency. Had the fact of insolvency appeared upon the record, that would have enabled this Court to revise the judgment of the Supreme Court of Pennsylvania. But that fact does not appear. No other question is presented than the correctness of the decision of the state court according to the laws of Pennsylvania, and that is a question over which this Court can take no jurisdiction. The writ of error must be dismissed.

*Writ of error dismissed.*