

Modified Excerpt of “Marbury v. Madison”

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Marbury v. Madison, legal case in which, on February 24, 1803, the U.S. Supreme Court first declared an act of Congress unconstitutional, thus establishing the doctrine of **judicial review**. The court's opinion, written by Chief Justice John Marshall, is considered one of the foundations of U.S. constitutional law.

History
Illustration



Background

In the weeks before Thomas Jefferson's inauguration as president in March 1801, the lame-duck¹ Federalist Congressmen created a number of new judgeships, which the previous president, John Adams, proceeded to fill with Federalists in an effort to preserve his party's control of the judiciary and to frustrate the legislative agenda of the newly elected Jefferson and his Democratic-Republican Party². William Marbury, a Federalist, was among the last of those appointments (the so-called “midnight appointments”), did not receive his commission before Jefferson became president. Once in office, Jefferson directed his Secretary of State, James Madison, to withhold the commission, and Marbury petitioned the Supreme Court to issue a *writ of mandamus*³ to force Madison to hand it over...

Whether or not Marbury got his job is not what makes *Marbury v. Madison* important. Chief Justice John Marshall recognized that he had a perfect case with which to establish a basic principle, **judicial review**, which would secure the Supreme Court's role in constitutional interpretation.

The Decision

The chief justice recognized the dilemma that the case posed to the court. If the court issued the *writ of mandamus*, Jefferson could simply ignore it, because the court had no power to enforce it. If, on the other hand, the court refused to issue the writ, it would appear that the judicial branch of government had backed down before the executive, and Marshall would not allow that. Marshall's solution was a stroke of genius. He managed to establish the power of the court as the

¹ Lame-duck, describing a politician or congress that is completing their term after losing an election.

² The Federalists and the Democratic-Republicans were the first two political parties in US History. Tensions between them were at their highest after the Republican Thomas Jefferson defeated Federalist John Adams in the 1800 Election.

³ *Writ of Mandamus*, an order, issued by the Supreme Court to force a public official to do something, as specified in the Judiciary Act of 1789.

ultimate arbiter⁴ of the Constitution, to chastise the Jefferson administration for its failure to obey the law, and to avoid having the court's authority challenged by the administration.

Although Marshall wrote that Marbury deserved his commission, he also wrote that the Supreme Court had no power to issue such a writ, because the Judiciary Act of 1789 was unconstitutional. The act, he argued, was inconsistent with Article III of the Constitution, which states in part that the jurisdiction⁵ in cases such as this belongs to the lower courts.

Marbury v. Madison established that Congress could not change the U.S. Constitution with regular legislation; thus, the court declared that the Act was invalid.

Impact

Marshall's masterful verdict has been widely hailed. In the face of attacks on the judiciary launched by Jefferson and his followers, Marshall needed to make a strong statement to maintain the status of the Supreme Court as the head of a coequal branch⁶ of government. By asserting the power to declare acts of Congress unconstitutional, Marshall established the court as the ultimate interpreter of the Constitution.



Post Reading Questions:

Respond in your notebook in complete sentences.

1. Who is Marbury? Who is Madison? Explain the dispute between the two.
2. Why didn't Jefferson want to give Marbury his commission?
3. What would Jefferson do if the Supreme Court sided with Marbury? How would this make the Court look?
4. How would the Supreme Court if they sided with Jefferson?
5. Explain the "third option" Marshall takes in his decision. What is **judicial review** and how does it relate to **checks and balances**?

⁴ Arbiter, authority or judge.

⁵ Jurisdiction, the authority of a court to hear different types of cases.

⁶ Coequal Branch, a branch of the government with equal power to the others.