

Marbury vs. Madison

Author(s)

Supreme Court Chief Justice John Marshall, along with Justices William Paterson, Samuel Chase, and Bushrod Washington

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- Case decided February 24, 1803

Content summary

Today most Americans take for granted the notion that the Supreme Court has the authority to rule on the constitutionality of U.S. law—this power is one of the “checks and balances” considered to be a vital part of our government. However, this power is not explicitly stated in Article III of the Constitution, the portion of this document that applies to the Supreme Court. Many historical and legal scholars consider *Marbury vs. Madison* (and Chief Justice Marshall) as the force establishing Judicial Review as an unquestionable component of our government. Research into the Federalist Papers and legal opinions prior to the case will show that the idea of judicial review had been around for many years.

The case was fairly simple. In the waning days of his presidency, John Adams appointed 58 new judges and justices of the peace. In order for these appointments to become official, the men selected needed to receive their legal commissions—paperwork showing that they were now judges. Most were delivered. When Thomas Jefferson became president, he instructed his Secretary of State not to deliver the remaining commissions. William Marbury was one of the new justices of the peace who had not received his paperwork, and he sued the Secretary of State, James Madison.

Marbury wanted the Supreme Court to issue a writ of mandamus—a command—ordering James Madison to deliver Marbury’s commission. The power to issue such writs had been granted to the Supreme Court by Congress’s Judiciary Act of 1789. In the unanimous decision, Chief Marshall agreed with most of Marbury’s claim: Marbury had a right to the commission, there was a legal remedy for the situation, and a writ of mandamus was a suitable remedy. However, Marshall asserted that the Supreme Court had no right to issue such a writ, because the power to do so had been inappropriately granted by Congress. In other words, Congress had passed an unconstitutional law—the Judiciary Act of 1789.

Ironically, this landmark case, which firmly established judicial review as a cornerstone power of the Supreme Court, centered on the fact that Congress had granted the Supreme Court *too much* power. In ruling that his court did not have the power to grant a writ of mandamus, Chief Justice Marshall had taken on for the Court the tremendously greater power of judicial review.

Teacher’s Activities

The following are some activities or questions that might be helpful in teaching *Marbury vs. Madison*.

1. When your students feel they've been dealt with too harshly, or do not agree with a decision that has been made about them, how do they "appeal" these decisions? To whom or what do they go to redress "wrongs" that have been done against them?
2. What are some other laws that the Supreme Court has found to be unconstitutional?
3. What constitutional cases is the Supreme Court due to hear this year?

