

CHAPTER

3

SECTION 1

LANDMARK DECISIONS OF THE SUPREME COURT

Marbury v. Madison, 1803

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What Is the Role of the Supreme Court?

SNAPSHOT OF THE TIME

The 1790s was a decade of political strife in America, pitting Federalists—who favored northern merchants and financiers—against Republicans, who drew support from farmers, planters, artisans, and immigrants. The Federalists' passage of three laws designed to silence their political opponents—the Naturalization, Alien, and Sedition Acts—increased the bitterness between the parties.

The election of Republican Thomas Jefferson as President in 1800 ushered in more than 20 years of Republican rule and brought an end to the Federalist era. In his last days in office, however, outgoing President John Adams appointed hundreds of individuals (mostly Federalists) to judicial positions with the approval of the Federalist-controlled Congress. Individuals could not take their offices until they received commission documents for their positions, however.

When Jefferson took office, some of the commissions had not yet been delivered. Jefferson ordered Secretary of State James Madison not to deliver them. One of the commissions was to go to William Marbury. To force the delivery of his commission, Marbury took his case directly to the Supreme Court, asserting that the Court had such jurisdiction under the Judiciary Act of 1789.

CONSTITUTIONAL ISSUES

Could a higher court order a lower court or department of government to carry out its duties? Does Article III of the Constitution allow Congress to give the Supreme Court this jurisdiction? Or does the Court have jurisdiction only as prescribed in Article III? What happens when an act of Congress conflicts with the Constitution? On what basis should courts make their decisions?

DECISION AND RATIONALE

Writing for a unanimous Court, Chief Justice John Marshall found that Marbury had a right to the commission once it was signed by the President and sealed by the Secretary of State. The justices stated that the commission went into effect as soon as the President signed it.

"It is emphatically the province and duty of the Judicial Department to say what the law is."

—*Marbury v. Madison*, 1803

Why do you think this quote from *Marbury v. Madison* is inscribed on the wall of the Supreme Court Building?

The Court further found that a legal remedy was required for a legal wrong. Because Marbury had a legal right to his commission, the law must afford him a remedy. Marshall asserted that it was the particular responsibility of the courts to protect the rights of individuals—even against the President of the United States: "The government of the United States," he stated, "has been emphatically termed a government of laws and not of men. It will certainly cease to deserve this high appellation, if the laws furnish no remedy for the violation of a vested legal right."

However, the Court held that Marbury's request was not the *correct* legal remedy. The Judiciary Act of 1789, passed by Congress, authorized original actions in the

LANDMARK DECISIONS OF THE SUPREME COURT (continued)**Marbury v. Madison, 1803****3, 4**

Supreme Court for writs of mandamus to officers of the United States—such as the action involved in this case. But according to Article III of the Constitution, the power to bring cases *directly* to the Supreme Court applied only to cases “affecting ambassadors, other public ministers and consuls” and to cases “in which the State shall be party.” Anything not specified in Article III must come to the Court through an appeal from a lower court. Therefore, according to Marshall, the Judiciary Act was unconstitutional and could not be enforced.

By extending the Court’s original jurisdiction to include cases like *Marbury*’s, Congress had exceeded its authority. And when an act of Congress conflicts with the Constitution, Marshall said, the Court must uphold the Constitution because it is the “supreme law of the land.” The Court’s decision in *Marbury v. Madison* thus set out three principles of judicial review: (1) The Constitution is the supreme law. (2) The Constitution must be followed when there is a conflict between it and any other law. (3) The judicial branch has a duty to uphold the Constitution and to nullify (cancel) unconstitutional laws.

LASTING IMPACT

Marbury v. Madison established that the courts can decide what is and is not constitutional—the power of judicial review. Since 1803, the Supreme Court has cited *Marbury* over 250 times. It has been used to support decisions in cases involving the power of the President, *Clinton v. Jones*, 1997; the death penalty, *Furman v. Georgia*, 1972; relations between State and federal government, *Baker v. Carr*, 1962; and civil rights, *Cooper v. Aaron*, 1958.

Critical Thinking

1. What did Marshall mean when he said that American government “has been emphatically a government of laws, and not of men”?

2. What is the most important legacy of *Marbury v. Madison*? Explain.

3. Research the use of judicial review in one of the following cases: *Dred Scott v. Sandford*, 1857; *Brown v. Board of Education*, 1954; or *Bush v. Gore*, 2000. On a separate sheet of paper, write two paragraphs summarizing how the Court asserted the power of judicial review in this case.

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3

SECTION 1

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2

What Is the Role of the Supreme Court?

SUMMARY OF THE CASE

The election of Democratic-Republican Thomas Jefferson as President in 1800 brought an end to the Federalist era. Outgoing President John Adams appointed hundreds of judges (mostly Federalists) before he left office. The Federalist-controlled Congress approved the appointments. Individuals could not take their offices until they received their commission documents.

When President Jefferson took office, some of the commissions had not yet been delivered. He ordered Secretary of State James Madison not to deliver them. One of the commissions was to go to William Marbury. Marbury took his case directly to the Supreme Court. He said that through the Judiciary Act of 1789, the Court could hear the case without an appeal from a lower court.

Chief Justice John Marshall found that Marbury had a right to his commission. The commission had gone into effect as soon as President Adams signed it. It was the responsibility of the courts to protect the rights of individuals. However, Marshall said that Marbury's request was not the *correct* legal remedy.

The Judiciary Act of 1789, passed by Congress, authorized the Supreme Court to act in a case like Marbury's. But Marshall said the Judiciary Act violated Article III of the Constitution. Therefore, the Judiciary Act was unconstitutional and could not be enforced.

Congress exceeded its authority when it passed the Judiciary Act of 1789. When an act of Congress conflicts with the Constitution, Marshall said, the Court must uphold the Constitution. The Court's decision is set out in three principles of judicial review: (1) The Constitution is the supreme law. (2) The Constitution must be followed when there is a conflict between it and any other law. (3) The judicial branch has a duty to uphold the Constitution and to nullify (cancel) unconstitutional laws.

LASTING IMPACT

Marbury v. Madison established that the courts can decide what is and is not constitutional. This is the power of judicial review. Since 1803, the Supreme Court has cited *Marbury* more than 250 times.

LANDMARK DECISIONS OF THE SUPREME COURT (continued)**Marbury v. Madison, 1803****2****TIMELINE OF THE CASE**

Directions: On a sheet of paper, write the answers to the questions.

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| Election of 1800 | The Federalists were defeated by the Democratic-Republicans.
1. How did the change of political parties affect <i>Marbury v. Madison</i> ? |
| March 3, 1801 | President Adams filled many new judgeships with Federalists, including a post for William Marbury. The Senate confirmed the appointments.
2. What did Adams expect to gain from granting the new judgeships to Federalists? |
| March 4, 1801 | President Jefferson took office. He told secretary of state James Madison not to deliver the remaining commissions.
3. Why did Jefferson order Madison not to deliver the commissions? |
| December 1801 | Marbury asked the Supreme Court to force James Madison to deliver his commission. He said the Court should do this under the Judiciary Act of 1789.
4. Did the Court believe that Marbury had a right to his commission? Explain. |
| February 1803 | The Court refused Marbury's request stating that the Judiciary Act of 1789 conflicted with the Constitution.
5. Why couldn't the Court rule in Marbury's favor? |

Reflection Questions

Directions: On a sheet of paper, write your responses to each question below. Use complete sentences.

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| 6. In his decision, Chief Justice Marshall stated, "The government of the United States has been . . . termed a government of laws and not of men." What did Marshall mean? | 8. In 1954, the Supreme Court struck down laws allowing separate public schools for white and African American students. Write a paragraph explaining how the Court was using its power of judicial review when it did so. |
| 7. What was the most important impact of <i>Marbury v. Madison</i> ? Explain. | |

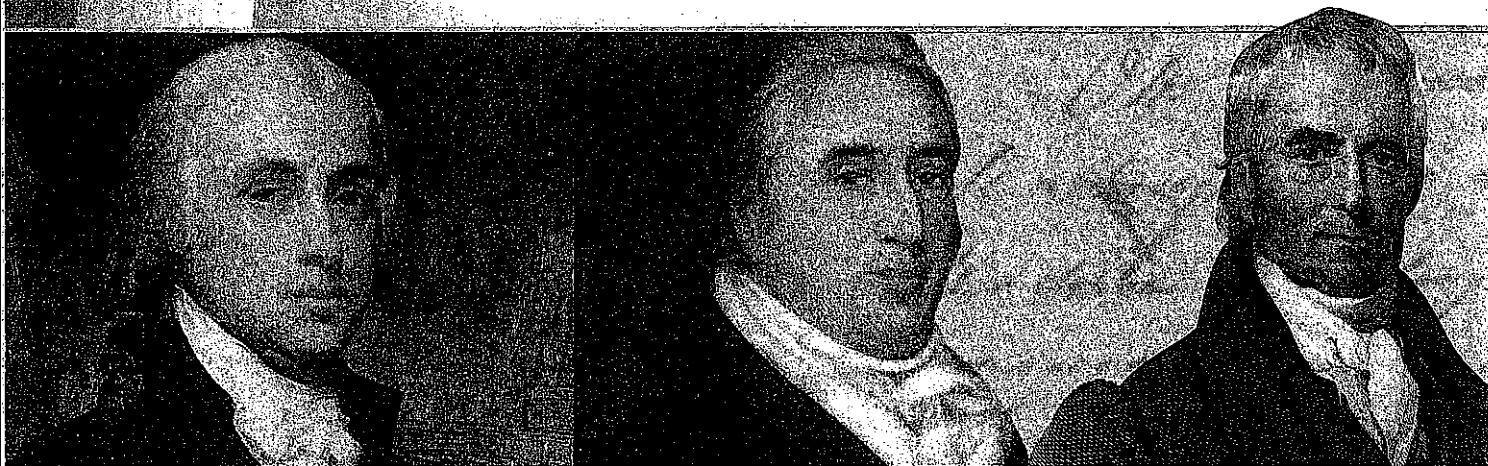
What is judicial review?

“It is emphatically the province and duty of the Judicial Department to say what the law is.”

Those words, penned by Chief Justice John Marshall, lie at the heart of the Supreme Court’s decision in *Marbury v. Madison* in 1803—the landmark case in which the High Court established the principle of judicial review. The Constitution does not, in so many words, grant that power to the courts. Yet its exercise has long since become a major feature of the American system of constitutional government.

Marbury arose in the aftermath of the contentious elections of 1800, in which Thomas Jefferson and his Democratic-Republicans captured both the presidency and control of Congress. The Federalists, stung by defeat, tried to pack the federal courts with loyal party members. The outgoing Congress created dozens of new judgeships, and President John Adams promptly filled those posts with tried-and-true Federalists.

William Marbury had been named a justice of the peace for the District of Columbia, and the Senate had confirmed that appointment. President Adams signed his and several other commissions of office late the night of March 3, 1801. Jefferson became President at noon the following day, and he found that Marbury’s and the other commissions had not yet been delivered. Angered by the Federalists’ court-packing scheme, he directed the new secretary of state, James Madison, not to deliver those documents to the “midnight justices.”



Secretary of State James Madison refused to deliver William Marbury’s commission of office.

Marbury asked the Supreme Court to order Madison to make delivery of Marbury’s commission.

Refusing Marbury’s request, Chief Justice John Marshall established power of judicial review.



To learn more about the relevance of the case today, go to PearsonSchool.com/phgovt

Angered in turn, Marbury went to the Supreme Court, seeking a writ of mandamus—a court order directing an officer of government to perform a lawfully required duty. Congress had authorized such suits in the Judiciary Act of 1789. A section of that law gave the Supreme Court the power to hear them in its original jurisdiction—that is, directly, not on appeal from a lower court.

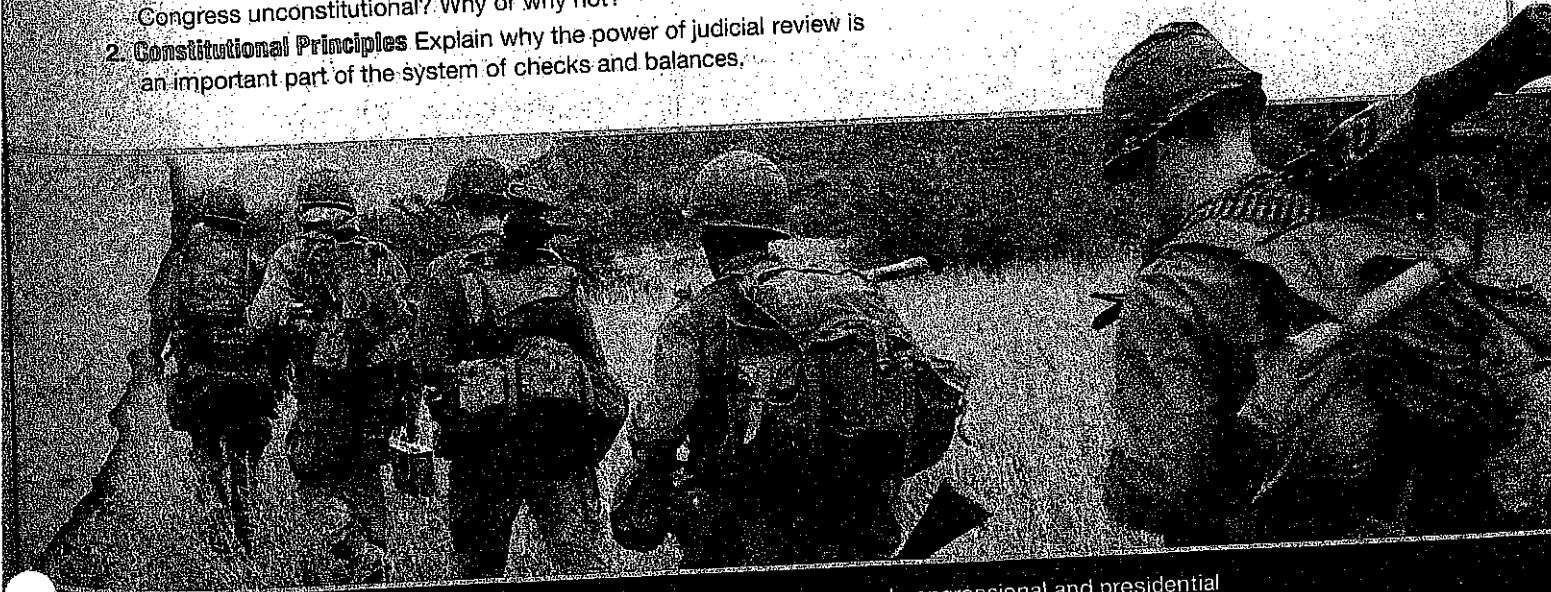
Marbury's suit put Chief Justice Marshall in a most difficult position. His Court had yet to become the coequal of the President and Congress in the still quite new Federal Government. If it granted the writ, the President would almost certainly ignore the action. The Court had no power with which it could enforce its decision, and its place in the system of separation of powers would surely suffer. On the other hand, to deny the writ meant that Marbury would not receive the commission to which he was clearly entitled.

Finally, after sitting on the case for nearly two years, Marshall hit upon a shrewd—indeed, a brilliant and calculatingly farsighted—solution. Unanimously, the Court rejected Marbury's plea. It found that the section of the Judiciary Act on which Marbury depended was in conflict with a provision of the Constitution and was, therefore, invalid. Said the Court: "A law repugnant [completely unacceptable] to the Constitution is void; and the courts, as well as the other departments, are bound by that instrument."

With this ruling, the Court established its power to determine the constitutionality of governmental actions. In doing so, it had in effect upheld President Jefferson's refusal to deliver Marbury's commission. However, that short-term success pales in the light of John Marshall's triumph: the Supreme Court had acquired the power of judicial review.

Think Critically

1. Should the Supreme Court have the power to declare an act of Congress unconstitutional? Why or why not?
2. **Constitutional Principles** Explain why the power of judicial review is an important part of the system of checks and balances.



Exercising its power of judicial review, the High Court has found several congressional and presidential actions unconstitutional. Thus, in *New York Times v. United States*, 1971, the Court held that the government could not bar the publication of secret documents relating to the war in Vietnam.