Marbury v. Madison

Marbury v. Madison, 5 U.S. 137 (1803), was a landmark United States Supreme Court case in which the Court formed the basis for the exercise of judicial review in the United States under Article III of the Constitution. The landmark decision helped define the boundary between the constitutionally separate executive and judicial branches of the American form of government.

The case resulted from a petition to the Supreme Court by William Marbury, who had been appointed Justice of the Peace in the District of Columbia by President John Adams but whose commission was not subsequently delivered. Marbury petitioned the Supreme Court to force the new Secretary of State, James Madison, to deliver the documents. The Court, with John Marshall as Chief Justice, found firstly that Madison's refusal to deliver the commission was both illegal and correctible. Nonetheless, the Court stopped short of ordering Madison (by writ of *mandamus*) to hand over Marbury's commission, instead holding that the provision of the Judiciary Act of 1789 that enabled Marbury to bring his claim to the Supreme Court was itself unconstitutional, since it purported to extend the Court's original jurisdiction beyond that which Article III established. The petition was therefore denied.

William Marbury

1 Background of the case

In the presidential election of 1800, Democratic-Republican Thomas Jefferson defeated Federalist John Adams, becoming the third President of the United States. Although the election was decided on February 17, 1801, Jefferson did not take office until March 4, 1801. Until that time, outgoing president Adams and the Federalist-controlled 6th Congress were still in power. During this lame-duck session, Congress passed the Judiciary Act of 1801. This Act modified the Judiciary Act of 1789 in establishing ten new district courts, expanding the number of circuit courts from three to six, and adding additional judges to each circuit, giving the President the authority to appoint Federal judges and justices of the peace. The act also reduced the number of Supreme Court justices from six to five, effective upon the next vacancy in the Court.[1][2]

On March 3, just before his term was to end, Adams, in an attempt to stymie the incoming Democratic-Republican Congress and administration, appointed 16 Federalist circuit judges and 42 Federalist justices of the peace to offices created by the Judiciary Act of 1801. These appointees, the infamous "Midnight Judges", included William Marbury, a prosperous financier in Maryland. An ardent Federalist, Marbury was active in Maryland politics and a vigorous supporter of the Adams presidency.[3] He had been appointed to the position of justice of the peace in the District of Columbia. The term for a justice of the peace was five years, and they were "authorized to hold courts and cognizance of personal demands of the value of 20 dollars."[4]

On the following day, the appointments were approved *en masse* by the Senate; however, to go into effect, the commissions had to be delivered to those appointed. This task fell to John Marshall, who, even though recently appointed Chief Justice of the United States, continued as the acting Secretary of State at President Adams's personal request.[5]

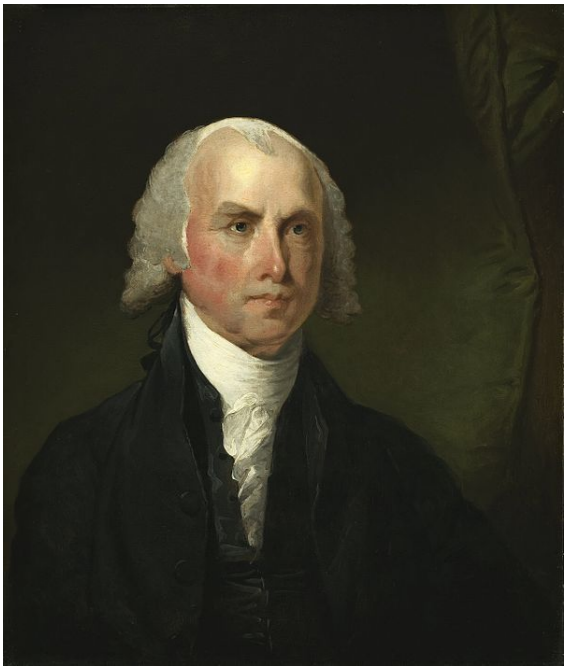
While a majority of the commissions were delivered, it proved impossible for all of them to be delivered before Adams's term as president expired. As these appointments were routine in nature, Marshall assumed the new Secretary of State James Madison would see they were delivered, since "they had been properly submitted and approved, and were, therefore, legally valid

appointments."[6] On March 4, 1801, Thomas Jefferson was sworn in as President. As soon as he was able, President Jefferson ordered Levi Lincoln, who was the new administration's Attorney General and acting Secretary of State until the arrival of James Madison, not to deliver the remaining appointments. Without the commissions, the appointees were unable to assume the offices and duties to which they had been appointed. In Jefferson's opinion, the undelivered commissions, not having been delivered on time, were void.[7]

The newly sworn-in Democratic-Republican 7th Congress immediately set about voiding the Judiciary Act of 1801 with their own Judiciary Act of 1802 which reversed the act of 1801 so that the Judicial branch once again operated under the dictates of the original Judiciary Act of 1789. In addition, it replaced the Court's two annual sessions with one session to begin on the first Monday in February, and "canceled the Supreme Court term scheduled for June of that year [1802] ... seeking to delay a ruling on the constitutionality of the repeal act until months after the new judicial system was in operation."[8][9]

Sir Edward Coke

1.1 Status of the judicial power before *Marbury*



Secretary of State Madison was ordered by President Jefferson to withhold the commissions made at the last minute by outgoing President Adams.

Main article: Judicial review in the United States

Although the power of judicial review is sometimes said to have originated with *Marbury*, the concept of judicial review has older roots in the United States, and possibly in England as well. The idea is often attributed to the English jurist Edward Coke and his opinion in *Dr. Bonham's Case*, 8 Co. Rep. 107a (1610), although this attribution has been called "one of the most enduring myths of American constitutional law and theory, to say nothing of history".[10] *Bonham's Case* was not mentioned in *Marbury v. Madison*, and the Court later stated that *Bonham's Case* did not make common law supreme over statutory law:

> [N]otwithstanding what was attributed to Lord COKE in Bonham's Case, 8 Reporter, 115, 118a, the omnipotence of parliament over the common law was absolute, even against common right and reason. The actual and practical security for English liberty against legislative tyranny was the power of a free public opinion represented by the commons.[11]

Coke's meaning has been disputed over the years, for example by scholars who contend that Coke only meant to construe a statute without challenging Parliamentary sovereignty.[12] His remarks that seem suggestive of judicial review are sometimes considered obiter dicta, rather than part of the rationale of the case.[13]

Any notion that courts could declare statutes void was defeated in England with the Glorious Revolution of 1688, when King James II was removed and the elected Parliament declared itself supreme. However, it continued to be known in the American colonies and at the bars of young states, where Coke's books were very influential. The doctrine was specifically enshrined in some state constitutions, and by 1803 it had been employed in both State and Federal courts in actions dealing with state

statutes, but only insofar as the statutes conflicted with the language of state constitutions.[14][15]

A number of legal scholars argue that the power of judicial review in the United States predated *Marbury*, and that *Marbury* was merely the first Supreme Court case to exercise a power that already existed and was acknowledged. These scholars point to statements about judicial review made in the Constitutional Convention and the state ratifying conventions, statements about judicial review in publications debating ratification, and court cases before *Marbury* that involved judicial review.[16]

At the Constitutional Convention in 1787, there were a number of references to judicial review. Fifteen delegates made statements about the power of the federal courts to review the constitutionality of laws, with all but two of them supporting the idea.[17]

Likewise, at the state ratifying conventions, over two dozen delegates in at least seven states indicated that under the Constitution, the federal courts would have the power to declare statutes unconstitutional.[18] Professors Saikrishna Prakash and John Yoo point out, with respect to the ratification of the Constitution, that "no scholar to date has identified even *one* participant in the ratification fight who argued that the Constitution did not authorize judicial review of Federal statutes. This silence in the face of the numerous comments on the other side is revealing."[19]

The concept of judicial review was discussed in *The Federalist* Papers. Alexander Hamilton asserted in Federalist No. 78 that under the Constitution, the federal courts would have not just the power, but the duty, to examine the constitutionality of statutes:

> [T]he courts were designed to be an intermediate body between the people and the legislature, in order, among other things, to keep the latter within the limits assigned to their authority. The interpretation of the laws is the proper and peculiar province of the courts. A constitution is, in fact, and must be regarded by the judges as, a fundamental law. It, therefore, belongs to them to ascertain its meaning, as well as the meaning of any particular act proceeding from the legislative body. If there should happen to be an irreconcilable variance between the two, that which has the superior obligation and validity ought, of course, to be preferred; or, in other words, the Constitution ought to be preferred to the statute, the intention of the people to the intention of their agents.[20]

The opponents to ratification, known as Anti-federalists, agreed that the federal courts would have the power to declare statutes unconstitutional, but were concerned that this would give the federal courts too much power. Robert Yates argued: "The supreme court then have a right, independent of the legislature, to give a construction to the constitution and every part of it, and there is no power provided in this system to correct their construction or do it away. If, therefore, the legislature pass any laws, inconsistent with the sense the judges put upon the constitution, they will declare it void."[21]

A number of courts engaged in judicial review before *Marbury* was decided. At the time of the Constitutional Convention, there had been cases in the state courts of at least seven states involving judicial review of state statutes.[22] Between the ratification of the Constitution in 1788 and the Supreme Court's decision in *Marbury* in 1803, judicial review was used a number of times in both state and federal courts. One scholar counted thirty-one cases during this period in which courts found statutes unconstitutional, concluding: "The sheer number of these decisions not only belies the notion that the institution of judicial review was created by Chief Justice Marshall in *Marbury*, it also reflects widespread acceptance and application of the doctrine."[23]

Scholars have pointed out the Supreme Court itself already had engaged in judicial review before *Marbury*, although it had not struck down the statute in question because it concluded that the statute was constitutional. In *Hylton v. United States*, 3 U.S. (3 Dall.) 171 (1796), the Court upheld a federal tax on carriages against a claim that the tax violated the "direct tax" provision of the Constitution.[24] Therefore, the concept of judicial review was familiar before *Marbury*.

However, it is important to note that nothing in the text of the Constitution explicitly authorized the power of judicial review, despite persistent fears voiced by Anti-federalists over the power of the new Federal court system:

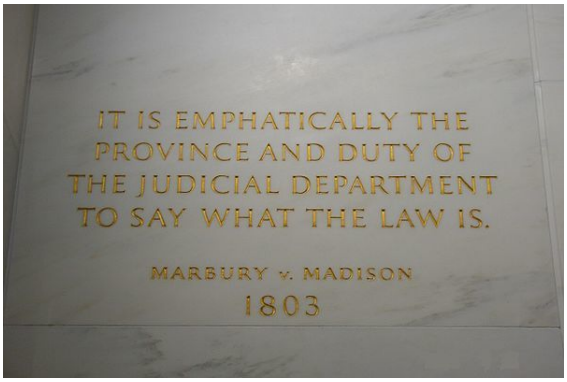
> The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority; to all Cases affecting Ambassadors, other public Ministers and Consuls; to all Cases of admiralty and maritime Jurisdiction; to Controversies to which the United States shall be a Party; to Controversies between two or more States; between a State and Citizens of another State, between Citizens of different States, between Citizens of the same State claiming Lands under Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects.
> — U.S. Constitution, Article III, Section 2, Clause 1

2 Relevant law

> In all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be a Party, the supreme Court shall have original Jurisdiction. In all the other Cases before mentioned [within the judicial power of the United States], the supreme Court shall have appellate Jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make.
> — U.S. Constitution, Article III, Section 2, Clause 2

> The Supreme Court shall also have appellate jurisdiction from the circuit courts and courts of the several states, in the cases herein after provided for; and shall have power to issue writs of prohibition to the district courts [...] and writs of mandamus [...] to any courts appointed, or persons holding office, under the authority of the United States.
> — Judiciary Act of 1789, § 13

3 Issue



Inscription on the wall of the Supreme Court Building from Marbury v. Madison*, in which Chief Justice John Marshall outlined the concept of judicial review.*

There are three ways a case can be heard in the Supreme Court: (1) filing directly in the Supreme Court; (2) filing in a lower federal court, such as a district court, and appealing all the way up to the Supreme Court; (3) filing in a state court, appealing all the way up through the state's highest courts, and then appealing to the Supreme Court on an issue of federal law. The first is an exercise of the Court's original jurisdiction; the second and third are exercises of the Supreme Court's appellate jurisdiction.

Because Marbury filed his petition for the writ of mandamus directly in the Supreme Court, the Court needed to be able to exercise original jurisdiction over the case in order to have the power to hear it.

Marbury's argument is that in the Judiciary Act of 1789, Congress granted the Supreme Court original jurisdiction over petitions for writs of mandamus. This raises several issues that the Supreme Court had to address:

- Does Article III of the Constitution create a floor for original jurisdiction, which Congress can add to, or does it create an exhaustive list that Congress can't modify at all?
- If Article III's original jurisdiction is an exhaustive list, but Congress tries to modify it anyway, who wins that conflict, Congress or the Constitution?
- And, more importantly, who is supposed to decide who wins?

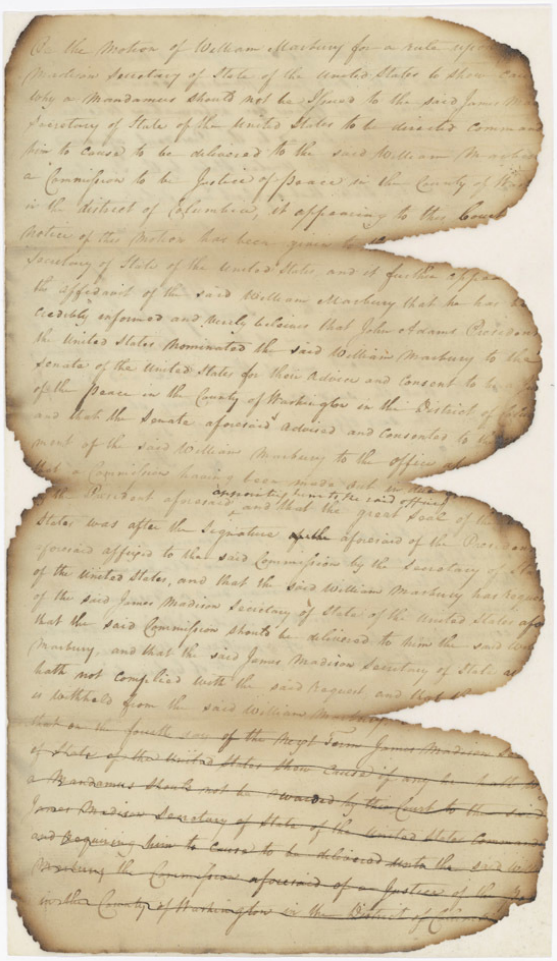
In its answer to this last question, the Supreme Court formalizes the notion of judicial review. In short, the constitutional issue on which *Marbury v. Madison* was decided was whether Congress could expand the original jurisdiction of the Supreme Court.[25]

4 Decision

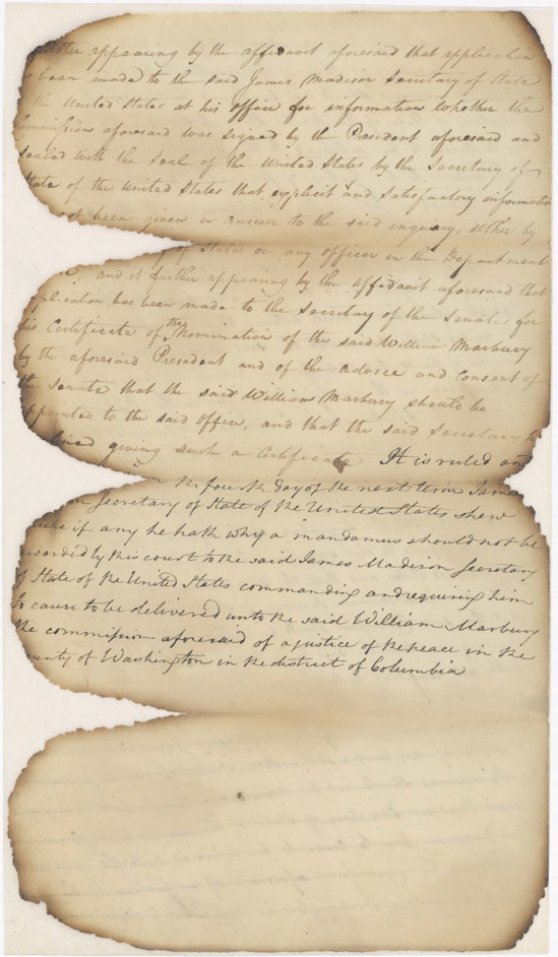
An engraving of Justice Marshall made by Charles-Balthazar-Julien Fevret de Saint-Mémin in 1808.

On February 24, 1803, the Court rendered a unanimous (4–0) decision,[26] that Marbury had the right to his commission but the court did not have the power to force Madison to deliver the commission. Chief Justice Marshall wrote the opinion of the court. Marshall presented the case as raising three distinct questions:

- Did Marbury have a right to the commission?



Draft of Motion Rule for Marbury v. Madison



Draft of Motion Rule for Marbury v. Madison, Page 2

- Do the laws of the country give Marbury a legal remedy?
- Is asking the Supreme Court for a writ of mandamus the correct legal remedy?[27]

Marshall quickly answered the first two questions affirmatively. He found that the failure to deliver the commission was "violative of a vested legal right."

In deciding whether Marbury had a remedy, Marshall stated: "The Government of the United States 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." One of the key legal principles on which *Marbury* relies is the notion that for every violation of a vested legal right, there must be a legal remedy. Marshall next described two distinct types of Executive actions: political actions, where the official can exercise discretion, and purely ministerial functions, where the official is legally required to do something. Marshall found that delivering the appointment to Marbury was a purely ministerial function required by law, and therefore the law provided him a remedy.

A federal court has a "special obligation to 'satisfy itself not only of its own jurisdiction, but also that of the lower courts in a cause under review.'"[28] If a court does not have the power to hear a case, it will not issue dicta. Consequently, with exceptions not applicable here, a federal court must decide whether it has jurisdiction before discussing the merits of the case.[29] Chief Justice Marshall, however, did not address jurisdictional issues until addressing the first two questions presented above. Because of the canon of constitutional avoidance (i.e., where a statute can fairly be interpreted so as to avoid a constitutional issue, it should be so interpreted), courts generally deal with the constitutional issues only if necessary. In this case, the jurisdictional issue was a constitutional one.[30]

In analyzing the third question, Marshall divided the question further, asking if a writ of mandamus was the correct means by which to restore Marbury to his right, and if so, whether the writ Marbury sought could issue from the Supreme Court. Concluding quickly that since a writ of mandamus, by definition, was the correct judicial means to order an official of the United States (in this case, the Secretary of State) to do something required of him (in this case, deliver a commission), Marshall de-

votes the remainder of his inquiry at the second part of the question: "Whether it [the writ] can issue from this court."

Marshall first examined the Judiciary Act of 1789 and determined that the Act purported to give the Supreme Court original jurisdiction over writs of mandamus. Marshall then looked to Article III of the Constitution, which defines the Supreme Court's original and appellate jurisdictions (see Relevant Law above). Marbury had argued that the Constitution was only intended to set a floor for original jurisdiction that Congress could add to. Marshall disagreed and held that Congress does not have the power to modify the Supreme Court's original jurisdiction. Consequently, Marshall found that the Constitution and the Judiciary Act conflict.

This conflict raised the important question of what happens when an Act of Congress conflicts with the Constitution. Marshall answered that Acts of Congress that conflict with the Constitution are not law and the Courts are bound instead to follow the Constitution, affirming the principle of judicial review. In support of this position Marshall looked to the nature of the written Constitution—there would be no point of having a written Constitution if the courts could just ignore it. "To what purpose are powers limited, and to what purpose is that limitation committed to writing, if these limits may, at any time, be passed by those intended to be restrained?"[31] Marshall also argued that the very nature of the judicial function requires courts to make this determination. Since it is a court's duty to decide cases, courts have to be able to decide what law applies to each case. Therefore, if two laws conflict with each other, a court must decide which law applies.[32] Finally, Marshall pointed to the judge's oath requiring them to uphold the Constitution, and to the Supremacy Clause of the Constitution, which lists the "Constitution" before the "laws of the United States." Part of the core of this reasoning is found in the following statements from the decision:

> It is emphatically the province and duty of the Judicial Department [the judicial branch] to say what the law is. Those who apply the rule to particular cases must, of necessity, expound and interpret that rule. If two laws conflict with each other, the Courts must decide on the operation of each.
>
> So, if a law [e.g., a statute or treaty] be in opposition to the Constitution, if both the law and the Constitution apply to a particular case, so that the Court must either decide that case conformably to the law, disregarding the Constitution, or conformably to the Constitution, disregarding the law, the Court must determine which of these conflicting rules governs the case. This is of the very essence of judicial duty. If, then, the Courts are to regard the Constitution, and the Constitution is superior to any ordinary act of the Legislature, the Constitution, and not such ordinary act, must govern the case to which they both apply.
>
> Those, then, who controvert the principle that the Constitution is to be considered in court as a paramount law are reduced to the necessity of maintaining that courts must close their eyes on the Constitution, and see only the law [e.g., the statute or treaty].
>
> This doctrine would subvert the very foundation of all written constitutions.[33]

"In denying his request, the Court held that it lacked jurisdiction because Section 13 of the Judiciary Act passed by Congress in 1789, which authorized the Court to issue such a writ, was unconstitutional and thus invalid."[34]

5 Subsequent developments

Marbury never became a Justice of the Peace in the District of Columbia.[35] His case marked the point at which the Supreme Court adopted a monitoring role over government actions.[36]

5.1 Criticism

Jefferson disagreed with Marshall's reasoning in this case:

> You seem to consider the judges as the ultimate arbiters of all constitutional questions; a very dangerous doctrine indeed, and one which would place us under the despotism of an oligarchy. Our judges are as honest as other men, and not more so. They have, with others, the same passions for party, for power, and the privilege of their corps.... Their power [is] the more dangerous as they are in office for life, and not responsible, as the other functionaries are, to the elective control. The Constitution has erected no such single tribunal, knowing that to whatever hands confided, with the corruptions of time and party, its members would become despots. It has more wisely made all the departments co-equal and co-sovereign within themselves.[37][38][39]

Some legal scholars have questioned the legal reasoning of Marshall's opinion. They argue that Marshall selectively quoted the Judiciary Act of 1789, interpreting it to grant the Supreme Court the power to hear writs of mandamus on original jurisdiction.[40] These scholars argue that there is little connection between the notion of original jurisdiction and the Supreme Court, and note that the Act seems to affirm the Court's power to exercise only appellate jurisdiction.[41] Furthermore, it has been

argued that the Supreme Court should have been able to issue the writ on original jurisdiction based on the fact that Article III of the Constitution granted it the right to review on original jurisdiction "all cases affecting ... public ministers and consuls," and that James Madison, Secretary of State at the time and defendant of the suit, should have fallen into that category of a "public minister [or] consul."[42]

Questions have also frequently been raised about the logic of Marshall's argument for judicial review, for example by Alexander Bickel in his book *The Least Dangerous Branch*.[43]

Marbury has also been criticized on the grounds that it was improper for the Court to consider any issues beyond jurisdiction. After concluding that the Court lacked jurisdiction in the case, the further review regarding the substantive issues presented was arguably improper.[44] Also, it has been argued that Justice Marshall should have recused himself on the grounds that he was still acting Secretary of State at the time the commissions were to be delivered and it was his brother, James Marshall, who was charged with delivering a number of the commissions.[45]

Because the Constitution lacks a clear statement authorizing the Federal courts to nullify the acts of coequal branches, critics contend that the argument for judicial review must rely on a significant gloss on the Constitution's terms. Despite such criticisms of *Marbury v. Madison,* judicial review has been accepted in the American legal community.

On the other hand, the Constitution, unlike the Articles of Confederation, created an independent judiciary, and gave it power to resolve matters arising under the Constitution, controversies between two states, and disputes between the federal government and a state, suggesting that the Framers of the Constitution intended the court to act as, in effect, an arbitrator, to whose decisions the parties appearing before it would be bound.

6 See also

- *Australian Communist Party v Commonwealth*
- Judicial review in the United States
- List of United States Supreme Court cases, volume 5
- *Hylton v. United States*
- *Calder v. Bull*
- *Stuart v. Laird* (1803)
- *United States v. More* (1805)

7 Notes and references

[1] Federal Judicial History, *The Judiciary Act of 1801 — Historical Note* 2 Stat.89

[2] Judiciary Act of 1801

[3] Mark Carlton Miller (2009). *The View of the Courts from the Hill: Interactions Between Congress and the Federal Judiciary*. University of Virginia Press. p. 44.

[4] *Ch.4, Sec. 4*, Judiciary Act of 1801

[5] Smith, Jean Edward (1996). *John Marshall: Definer of a Nation*. New York: Henry Holt & Company; New York. p. 524. ISBN 978-0-8050-1389-4.

[6] Sec. 3d, *Marbury v. Madison*,AMDOCS: www.vlib.us.

[7] Pohlman, H. L. (2005). *Constitutional Debate in Action: Governmental Powers*. Lanham: Rowman & Littlefield. p. 21. ISBN 0-7425-3593-2.

[8] Federal Judicial History, *The Judiciary Act of 1802 — Historical Note*2 Stat. 156

[9] The Supreme Court in United States history, Volume 1. By Charles Warren. Little, Brown, 1922. p 222

[10] McDowell, Gary L. (1993). "Coke, Corwin and the Constitution: The 'Higher Law Background' Reconsidered". *The Review of Politics*. Cambridge University Press. **55** (3): 393. doi:10.1017/s0034670500017605. ISSN 0034-6705.

[11] *Hurtado v. California*, 110 U.S. 516 (1884)

[12] Edlin, Douglas (2008). *Judges and unjust laws: common law constitutionalism and the foundations of judicial review*. University of Michigan Press. p. 7. ISBN 0-472-11662-2.

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[14] (See, e.g., *Bayard v. Singleton*, 1 NC (Martin) 5 (1787); *Whittington v. Polk*, 1 H. & J. 236 (Md.Gen. 1802) (Samuel Chase, J.); *State v. Parkhurst*, 9 N.J.L. 427 (N.J. 1802); *Respublica v. Duquet*, 2 Yeates 493 (Pa. 1799); *Williams Lindsay v. East Bay Street Com'rs*, 2 Bay (S.C.L.) 38 S.C.Const.App. 1796)(Thomas Waties, J.).; *Ware v. Hylton*, 3 Dallas (3 U.S.) 199 (1796); *Calder v. Bull*, 3 Dallas (3 U.S.) 386 (1798); *Cooper v. Telfair*, 4 Dallas (4 U.S.) 14 (1800); *Vanhorne's Lessee v. Dorrance*, 28 F. Cas. 1012, 2 Dallas (2 U.S.) 304; 1 L. Ed. 391; C. Pa. 1795).)

[15] Fletcher, George P.; Sheppard, Steve (2004). *American Law in Global Perspective: The Basics*. Oxford University Press. pp. 132–134. ISBN 0-19-516723-6.

[16] For a more detailed discussion of the status of judicial review before *Marbury*, see *Judicial review in the United States*.

[17] Prakash, Saikrishna, and Yoo, John, "The Origins of Judicial Review," 70 U. Chicago Law Review 887, 952 (2003).

[18] Prakash and Yoo (2003), p. 965.

[19] Prakash and Yoo (2003), p. 974.

[20] Full text of Federalist No. 78 from thomas.loc.gov

[21] Anti-Federalist No. 78

[22] Prakash and Yoo, "The Origins of Judicial Review," 70 U. Chicago Law Review at 933–39.

[23] See Treanor, William, "Judicial Review Before *Marbury*," 58 Stanford Law Review 455, 457–58 (2005).

[24] Professor Jack Rakove wrote: "*Hylton v. United States* was manifestly a case of judicial review of the constitutionality of legislation." See Rakove, Jack, "The Origins of Judicial Review: A Plea for New Contexts," 49 Stanford Law Review 1031, 1030–41 (1997).

[25] David P. Currie (1997). *The Constitution in Congress: The Federalist Period 1789–1801*. University of Chicago Press. p. 53.

[26] Due to illness, Justices William Cushing and Alfred Moore did not sit for oral argument or participate in the Court's decision.

[27] – Lecture: starting at time 16:16, these three questions are described by the teacher almost verbatim to this article, and this school video is in regards to judicial review.

[28] *Bender v. Williamsport Area Sch. Dist.*, 475 U.S. 534, 541 (1986) (quoting *Mitchell v. Maurer*, 293 U.S. 237, 244 (1934)); *accord Steel Co. v. Citizens for a Better Env't*, 523 U.S. 83, 94 (1998)

[29] See *Irving v. United States*, 162 F.3d 154, 160 (1st Cir. 1998) (en banc), admonishing that the federal courts "have an affirmative obligation to examine jurisdictional concerns on their own initiative" even if the parties have neglected them; *Berner v. Delahanty*, 129 F.3d 20, 23 (1st Cir. 1997), noting "that a court should first confirm the existence of rudiments such as jurisdiction . . . before tackling the merits of a controverted case").

[30] Supreme Court History: The Court and Democracy, Marbury v. Madison, pbs.org, retrieved 2/12/07

[31] 5 U.S. (1 Cranch) at 176.

[32] 5 U.S. (1 Cranch) at 177.

[33] 5 U.S. at 177–78.

[34] *Marbury v. Madison*. In Encyclopaedia Britannica.

[35] Henretta, James A.; David Brody; Lynn Dumenil (2007). *America's History: Volume 1: To 1877* (6th ed.). Boston: Bedford/St. Martin's. pp. 218–219. ISBN 978-0-312-45285-8.

[36] Laura Langer, *Judicial Review in State Supreme Courts: A Comparative Study* (Albany: State University of New York Press, 2002), p. 4

[37] Jefferson, Thomas. The Writings of Thomas Jefferson, Letter to William Jarvis (September 28, 1820).

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9 External links

- Text of *Marbury v. Madison*, 5 U.S. 137 (1803) is available from: Findlaw Justia LII
- Primary Documents in American History: *Marbury v. Madison* from the Library of Congress
- "John Marshall, *Marbury v. Madison*, and Judicial Review—How the Court Became Supreme" Lesson plan for grades 9–12 from National Endowment for the Humanities
- The 200th Anniversary of *Marbury v. Madison*: The Reasons We Should Still Care About the Decision, and The Lingering Questions It Left Behind
- The Establishment of Judicial Review
- The 200th Anniversary of *Marbury v. Madison*: The Supreme Court's First Great Case
- Case Brief for *Marbury v. Madison* at Lawnix.com
- The short film Marbury v. Madison *(1977)* is available for free download at the Internet Archive
- "Supreme Court Landmark Case *Marbury v. Madison*" from C-SPAN's *Landmark Cases: 12 Historic Supreme Court Decisions*

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10.1 Text

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