

CHAPTER

3

SECTION 1

LANDMARK DECISIONS OF THE SUPREME COURT

Marbury v. Madison, 1803**3, 4**

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.