

**SUPREME COURT CASES 2**

Use with Chapter 3. ✓

**MARBURY V. MADISON (1803)****\* BACKGROUND OF THE CASE \***

In 1800, Thomas Jefferson was elected President, putting the Democratic-Republican Party into power for the first time. Before President John Adams left office, however, he made a number of last-minute appointments to give his Federalist supporters positions in government. One of these was the appointment of William Marbury as justice of the peace for the District of Columbia. The papers commissioning him were signed and sealed — but not delivered.

When Jefferson took office, he told his secretary of state, James Madison, not to deliver the papers. Marbury then asked the Supreme Court to issue a writ of mandamus (an order from a court that some action be performed) that would require Madison to hand over the papers. The Judiciary Act of 1789 gave the Court the power to issue such an order.

**\* CONSTITUTIONAL ISSUES \***

In 1803, Chief Justice John Marshall reviewed the case on the basis of three questions:

- (1) Did Marbury have a right to the commission?
- (2) If so, was he entitled to some remedy under U.S. law?
- (3) Was that remedy a writ from the Supreme Court?

**\* THE COURT'S DECISION \***

Justice Marshall decided the first question by ruling that an appointment is effective once a commission has been signed and the U.S. seal affixed. Therefore, Marbury had been legally appointed, and Madison's refusal to deliver the papers violated Marbury's right to the appointment.

Marshall answered the second question by holding that Marbury was entitled to some remedy under U.S. law. A long-established legal principle states that where a right exists, a corresponding remedy for any violation of that right must exist as well.

The third question was more complicated. Since Marbury had no other course of legal action open to him, and since Madison could properly be served with a writ to comply with the law, Marshall ruled that Marbury did indeed have a right to ask for a writ. But then Marshall raised a new question: Did the Supreme Court have the power to issue the writ? Marshall pointed out that Article 3 of the Constitution gave the Supreme Court original jurisdiction in only two cases: those involving foreign diplomats and

those involving a state. In all other instances, the Court can hear cases only on appeal. So, the Court did not have the authority to hear the Marbury case.

Nevertheless, Congress had passed a law (the Judiciary Act) that gave the Court the authority to issue orders in such a case. Should the Court use this power? Marshall said no. The Constitution does not give Congress the right to extend the jurisdiction of the Supreme Court by legislation.

This brought Marshall to another important point. If a law passed by Congress conflicts with the Constitution, the Supreme Court has the responsibility to declare the law unconstitutional. It is, said Marshall, "*the duty of the judicial department to say what the law is. . . . If two laws conflict with each other, the courts must decide on the operation of each.*" In other words, the Supreme Court was the final judge of constitutionality.

Marshall's decision marked the first time that the Court had declared an act of Congress unconstitutional. It established the principle of judicial review.

## SUPREME COURT CASES 2

### \*\*\* THINKING ABOUT THE CASE \*\*\*

1. What legal principle gave Marbury a right to some remedy under law?

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2. What reason did Justice Marshall give for refusing to hear the Marbury case?

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3. Why is *Marbury v. Madison* of particular importance to the role of the Supreme Court?

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4. What effect did *Marbury* have on the system of checks and balances?

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