

because four judges Marshall, Paterson, Chase and Washington voted for the decision. Cushing and Moore took no part in the consideration or decision of the case.

### Analysis of the Case

Marshall's masterful verdict has received praises in the United States. In the face of attacks on the judicial arm of government launched by Jefferson and his followers, Marshall needed to make an outstanding statement to maintain the status of the Supreme Court as the head of a coequal branch of government. By asserting power to declare acts of Congress unconstitutional (which the court would not exercise again for more than half a century), Marshall played a fundamental role in interpreting the constitution. The court established American judge's power to determine the constitutionality of legislative acts of the Congress. And even today, the Supreme Courts power to review the constitutionality of the laws of the country at both the federal and state level is generally rested upon the decision of this case.

Marbury also established that the authority of the judicial review covers actions by the executive arm of the government. However, the country's courts power of judicial review over executive branch actions only extend to matters in which the executive has legal duty act or refuse to act and does not extend to matters only within the president's discretion, such as whether to veto a bill or who to appoint to office. This power has formed a basis of many other Supreme Court decisions in the country's history such as the 1974 case of U.S. v. Nixon, in which the court held that President Richard Nixon had to comply with a subpoena to give the tapes of his conversations to be used in a criminal trial case related to the Watergate scandal, and which led to Richard Nixon's resignation.

Marbury v. Madison

### Case Citation

Van Alstyne, W. W. (1969). Critical Guide to Marbury v. Madison. *A. Duke Lj.* 1.

### Statement of the Facts

Towards the end of his presidency, John Adams appointed William Marbury as justice of the Peace for the District of Columbia. After going to office, President Thomas Jefferson ordered James Madison not to finalize Marbury's appointment. Under section 13 of the Judiciary Act of 1789, Marbury brought an action against Madison in the United States Supreme Court requesting the court to issue a writ of mandamus to force delivery of the appointment.

### Facts of the case

William Marbury, a Maryland businessman and an end of term appointee of President John Adams to the justice of the peace position brought a lawsuit against James Madison who was President Thomas Jefferson's Secretary of state. Marbury was seeking delivery of his commission. This case originated from the rivalry between President Adams and the incoming president Jefferson. Adams was from the Federalist Party which promoted pro-business and pro-national government ideals while Jefferson was from the Democratic - Republican Party which promoted agriculture and decentralization. Thomas Jefferson was elected as the third president of United States of America defeating Adams in the elections which was held in 1800. After losing the election, two days before his term as president ended, President Adams attempted to secure Federalist control of the judiciary by creating new judgeships and filling them with federalist appointees. This was Adams move to frustrate incoming President Jefferson.

The appointments were made on March 2, 1801 and were approved by Federalist controlled Congress the following day. Among the appointees was William Marbury who was a huge supporter of President Adams. Marbury did not receive his commission because his name was among the last on the list. When Jefferson was inaugurated to be the President, he directed his secretary of state, James Madison to withhold Marbury's commission. In Jefferson's opinion, the commissions were void because they had not been delivered in time. This led to Marbury petitioning the Supreme Court to issue a writ of mandamus to compel Madison to deliver the commission. Marbury and his lawyer argued to the Court that signing and sealing of the commission by President Adam before his term ended was warrant enough to validate the commission. He further argued that delivery of the commission was a practice directed by convenience but not by law.

### Decision and reasoning

The chief justice recognized the dilemma that the case filed before the court would pose. If the court issued the writ of mandamus, Jefferson could simply ignore it, because the court had no jurisdiction to enforce it. If, on the contrary, the court refused to issue the writ, it would appear that the judiciary had bowed down before the executive, and that's what chief justice Marshall would not allow. The solution that he chose has properly been termed a tour de force. In one stroke, Marshall managed to establish the power of the court as the ultimate interpreter of the Constitution, to chastise the Jefferson administration for its failure to obey the law, and to avoid having the courts authority challenged by the administration.

Marshall, adopting a style that would mark all his major opinions, reduced the case to a few basic issues. He asked three main questions:

1. Did Marbury have the right to the commissions?
2. If he did, and his right had been violated, did the law provide him with a remedy?
3. If it did, would the proper remedy be a writ of mandamus from the Supreme Court?

The final question, which proved a crucial question to the case, dealt with the jurisdiction of the court, and in normal circumstances it would have been answered first, since a negative response would have obviated the need to decide the other issues. But that would have denied Marshall the opportunity to criticize Jefferson for what the chief justice saw as the presidents flouting of the law. Following Marbury's counsel on the first two questions, Marshall held that the validity of a commission existed once a president signed it and transmitted it to the secretary of state to affix the seal. Presidential discretion ended there, for the political decision had been made, and the secretary of state had only a ministerial task to perform-delivering the commission. In that the law bound him, like anyone else to obey.

Marshall drew a careful and lengthy distinction between the political acts of the president and the secretary, in which the courts had no business interfering, and the simple administrative execution that, governed by law, the judiciary could review. Having decided that Marbury had the right to the commission, Marshall next turned to the question of remedy, and once again found in the plaintiffs favor, holding that having this legal title to the office, has a consequent right to the commission, a refusal to deliver which is a plain violation of the right, for which the laws of his country afford him a remedy.

#### Case opinion

A six judge bench was listening to the Marbury v. Madison case. The judges were Marshall, Paterson, Cushing, Moore, Chase and Washington. It was a unanimous decision

References

Van Alstyne, W. W. (1969). Critical Guide to Marbury v. Madison, *A. Duke Lj.* 1.

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