

## THE BIRTH OF JUDICIAL REVIEW: CASE COMMENT ON MARBURY V MADISON

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### INTRODUCTION

In the history of the U.S. Supreme Court, Marbury vs. Madison<sup>1</sup> was an important case. It was the first time that the Court of Justice had declared an act adopted by Congress unconstitutional. In doing so, it has created the doctrine of legal review, which means that when a law passed by Congress is found to be inconsistent with the U.S. Constitution, that law may be repealed by the General Court. The Supreme Court of Justice is not empowered in the Constitution to review cases. It was only when the Court of Justice declared itself empowered in Marbury v Madison that it began. That is why the Court of Justice's opinion in this case, delivered by Chief Justice John Marshall, has been regarded as one of the basic principles of US Constitutional law.<sup>2</sup>

The case began when William Marbury, a Federalist who had been appointed by President John Adams to the position of Justice of the Peace in the District of Columbia before his departure, filed a petition with the Supreme Court demanding that James Madison, the newly appointed Secretary of State, produce his commission. The Supreme Court decided in 1803, presided over by Chief Justice John Marshall, that Marbury was entitled to his commission but that the statute in effect at the time was unconstitutional.

### FACTS OF THE CASE

A Presidential Election was held in the year 1800 in the United States in which Thomas Jefferson won the election and defeated John Adams. However, Jefferson had to take a position on 4 March 1801, but before he could take the position, Adams and the Congress passed the Act of Judiciary, 1801. Under the Act, new courts were created, judges were added and this act gave President the more control over the appointment of judges in the United States. This Act was an effort by Adams and Congress to halt Jefferson from taking control of the office. After

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<sup>1</sup> 5 U.S. ( 1 Cranch) 137 (1803)

<sup>2</sup> 'Marbury v. Madison | Key Facts- Britannica' (*Britannica*) <<https://www.britannica.com/summary/Marbury-v-Madison-Key-Facts>> accessed 12 July 2024

passing the law, Adams appoints many judges which includes 16 additional circuit judges and 42 justices of the peace.

William Marbury, a Federalist party leader was appointed as a Justice of the Peace in the District of Columbia but his commission was not delivered to him before Jefferson became President. Jefferson's order was to withhold the Marbury Commission from the Secretary of State. So, to force James Madison, the new Secretary of State, to give him the appointment letter, Marbury filed a writ of Mandamus before the Supreme Court of the United States. To obtain their appointment letter, which was not delivered to them by the Secretary, Marbury and the other individuals concerned requested the court to issue the abovementioned legal order.<sup>3</sup>

## ISSUES

In the case of Marbury v Madison, many issues have emerged. The main issues raised in the case are-

1. Does Marbury have a right to the commission that he demands?
2. Does Marbury have a legal entitlement to use the writ of mandamus for the violation of his legal rights?
3. Whether the Supreme Court has the jurisdiction to issue the writ of Mandamus.

## ARGUMENTS BY THE PETITIONER

Former Attorney General Charles Lee, who represented Marbury, contended that the transaction was finalized upon signing and sealing the commission, and that delivery was merely a formality. Nevertheless, Marbury was unable to perform his official duties in the absence of the real piece of parchment, formality.<sup>4</sup>

Marbury raised the contention that having been duly appointed and his commission having been sealed, he had a legal right to the office and the commission. He contended that in the American legal system, every right must have a remedy. If he had been wrongfully denied his commission, the law must provide him with a remedy. He claimed that the appropriate remedy for his situation was a writ of mandamus, an order from the court directing a government

<sup>3</sup> Law Wire Team, 'Marbury v. Madison Case Analysis' (*Law Wire*, 11 July 2023) <<https://lawwire.in/marbury-v-madison-case-analysis/?noamp=available#:~:text=Introduction-Marbury%20v.,the%20doctrine%20of%20judicial%20review>> accessed 13 July 2014

<sup>4</sup> 'Marbury v. Madison | Key Facts- Britannica' (*Britannica*) <<https://www.britannica.com/summary/Marbury-v-Madison-Key-Facts>> accessed 13 July 2024

official to properly fulfill their official duties or correct an abuse of discretion. He argued that the Supreme Court had the authority to issue a writ of mandamus to compel Madison to deliver the commission.

### **ARGUMENTS BY THE RESPONDENT**

Madison argued that the provision of the Judiciary Act that allowed the Supreme Court to issue writs of mandamus in such cases exceeded the powers granted to the Court by the Constitution. He contended that the Constitution did not give the Supreme Court the authority to issue such a writ in this particular circumstance, and therefore, the law that attempted to grant this power was invalid.

### **JUDGEMENT**

The Court held that Madison's actions withholding Marbury's commissions were unlawful. However, the court didn't order Madison to release Marbury's commission. Rather, the court determined that the section of the Judiciary Act of 1789 that allowed Marbury to bring his case to the Supreme Court was itself unconstitutional because it attempted to expand the Court's jurisdiction beyond what Article III; Section 2 permitted.

Marshall stated that a writ of mandamus was the appropriate way to seek a legal remedy, but the Court stated that they didn't have the authority to grant it. Marshall articulated that the Judiciary Act of 1789 was inconsistent with the Constitution. Congress did not have the power to modify the Constitution through regular legislation because the Supremacy Clause gives precedence to the Constitution over laws. Marshall created the idea of judicial review i.e., the authority to deem a statute unconstitutional.<sup>5</sup>

### **RATIO DECIDENDI**

The Court concluded that Marbury did indeed have a right to his commission and that when a right is violated, the law must provide a remedy. However, the Court determined that they were unable to grant Marbury's request for the writ of mandamus because Section 13 of the Judiciary Act of 1789, which had granted the Supreme Court the power to issue such writs to public

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<sup>5</sup> 'Marbury v. Madison' (Oyez) <<https://www.oyez.org/cases/1789-1850/5us137>> accessed 14 July 2024

officers, was itself unconstitutional. The Act attempted to expand the original jurisdiction of the Supreme Court beyond what was explicitly enumerated in Article III of the Constitution.

Thus, the court established the principle of judicial review, affirming the role of the Supreme Court in ensuring that no act of government is allowed to stand if it conflicts with the Constitution. This principle has since become a cornerstone of the United States legal system, shaping the balance of power among the branches of government.

## ANALYSIS

The Supreme Court regarding issue one which says whether Marbury has a right to commission pointed out that the validity of a commission shall be valid once it has been signed by the President and transmitted to the Secretary of State for affixing the seal. Here, the President's task had been completed and the Secretary of the State had a task to perform, i.e., delivery of the commission. The Supreme Court ruled in favor of Marbury and held that he had a right to the commission because the President had signed the commission and it was sealed by the Secretary of State. The appointment of the Marbury was irreversible because the law creating the office granted the officer the right to hold the position for five years without interference from the executive branch, but rather gave him legal rights that are guaranteed by national laws. The Court made this decision after reviewing the Judiciary Act of 1789 and the second article of the Constitution.<sup>6</sup>

After determining Marbury's entitlement to the commission, Marshall then focused on the issue of the solution, and once more ruled in favor of the plaintiff, stating that "possessing the legal right to the position, Marbury naturally has the right to commission, and failing to provide it is a clear infringement of that right, for which the laws of the land offer a remedy." The Court restated the Roman legal maxim, *Ubi Jus, Ibi Remedium*, which meant that "where there was a legal right, there was also a legal remedy for whenever that right was invaded". This was established in Anglo-American law; particularly, noted in and cited by Chief Justice Marshall from William Blackstone's Commentaries.<sup>7</sup>

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<sup>6</sup> Law Wire Team, 'Marbury v. Madison Case Analysis' (*Law Wire*, 11 July 2023) <<https://lawwire.in/marbury-v-madison-case-analysis/?noamp=available#:~:text=Introduction-Marbury%20v.,the%20doctrine%20of%20judicial%20review>> accessed 15 July 2024

<sup>7</sup> Moshuizzaman, 'Case Analysis: William Marbury v. James Madison, Secretary of State of the United States (1803)', (*Libertatem*, 19 June 2021) <<https://libertatem.in/law/judgement-william-marbury-v-james-madison-secretary-of-state-of-the-united-states-1803/>> accessed 15 July 2024

Marshall addressed the crucial third question. Despite the option of pursuing a writ of mandamus from the Supreme Court due to the Judiciary Act of 1789, which granted the court original jurisdiction for mandamus, he chose to assert that the court lacked the authority to issue the writ as the specific provision in the act was deemed unconstitutional. He contended that Section 13 of the act contradicted Article III, Section 2 of the Constitution by specifying the original and appellate jurisdiction of the Supreme Court. By relinquishing the authority granted by the 1789 law, Marshall secured a much more important power for the court i.e. Judicial review.<sup>8</sup>

Before *Marbury v. Madison*, the precise role of the Supreme Court in constitutional interpretation was ambiguous. Marshall's judgment clarified that it was within the Court's purview to determine whether laws passed by Congress and actions taken by the President adhered to constitutional principles. This solidified the Supreme Court's position as an equal branch capable of checking and balancing governmental powers. The decision completed the system of checks and balances envisioned by the framers of the Constitution. By granting the judiciary authority to review legislative and executive actions for constitutionality, Marshall ensured that no single branch could overstep its bounds or violate constitutional provisions without facing scrutiny from another branch. The case set a precedent for future decisions where courts could strike down laws incompatible with the Constitution, thereby safeguarding individual rights and upholding constitutional integrity.

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## CONCLUSION

The Court agreed that Marbury had a right to his commission, the right to a legal remedy for the wrong done to him and that a writ of Mandamus was the proper remedy. However, the Court concluded that it did not have the original jurisdiction to issue a writ of mandamus in this case due to the unconstitutionality of Section 13 of the Judiciary Act of 1789, which had given the Court this authority. The Court ruled that the Constitution does not authorize the Supreme Court to issue writs of mandamus in cases of original jurisdiction and power cannot be granted by an act of Congress.

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<sup>8</sup> 'Marbury v. Madison | Key Facts- Britannica' (*Britannica*) <<https://www.britannica.com/summary/Marbury-v-Madison-Key-Facts>> accessed 13 July 2024

This decision established the principle of judicial review, the power of the courts to declare a law unconstitutional, which has become a fundamental aspect of the United States legal system.

