*Marbury vs. Madison*

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 Considering the era, the Trump Administration has defined key differences to how our leadership works in regard to media, governmental procedure, and the dissemination of information, whether true or not. The current administration in the White House, whether citizens are in support of them or not, has shown that there is a necessary need for the United State’s use of checks and balances, and an active use of them by other branches. For that reason, it is important to now revisit landmark cases that the Supreme Court had brought before them, including, arguably, one of the most notable cases of its ilk: *Marbury vs. Madison* (1803).

As Chief Justice Carl Evans Hughes observed, “the Supreme Court is distinctly American in concept and structure.” The US Supreme Court is unique for its constitutional power, the amount of power it has over the rest of the courts in the land, and its longevity. The Constitution gives it the power to check, if necessary, the actions of the President and Congress. It can tell a President that his actions are not allowed by the Constitution. It can tell Congress that a law it passed violated the U.S. Constitution and is, therefore, no longer a law. It can also tell the government of a state that one of its laws breaks a rule in the Constitution. The Supreme Court is the final judge in all cases involving laws of Congress, and the highest law of all — the Constitution[[1]](#footnote-1). The Supreme Court, however, is far from all-powerful. Its power is limited by the other two branches of government: the President nominates justices to the court, the Senate must vote its approval of the nominations, and finally, the whole of Congress has great power over the lower courts in the federal system. District and appeals courts are created by acts of Congress, yet these courts may be abolished if Congress wishes it.

The system was created in an effort to check the leadership we had with a balance of power, so the United States would never mimic a government like the monarchy of countries like Britain and France. One of the first instances of seeing checks and balances in action were the events that led up and to *Marbury vs. Madison* in 1803. Article III of the Constitution provides the Supreme Court its power, yet it is written so that it can be left open for interpretation. The vaguely written nature of Article III led to a political battle regarding the Supreme Court. As a member of the Federalist Party, John Adams attempted to appoint as many of his fellow Federalists to the cabinet of the President of the United States, including William Marbury as a Justice of the Peace, before he left office as President because Thomas Jefferson, a Republican, would be assuming office[[2]](#footnote-2). However, Jefferson and his Secretary of State, James Madison, stopped Marbury’s, and a few others’, appointment once in office. Given the political differences between the set parties and their leaders at the time, Jefferson’s refusal to appoint Marbury and other candidates wasn’t surprising.

Marbury took Madison to court for his position, suing him, and essentially, the government, in the Supreme Court itself, meaning there was never a lower court involved. The dilemma proposed was what would happen if the Supreme Court, supposedly the highest law in the land, ordered Madison to make the appointments and Madison refused[[3]](#footnote-3). In *Marbury v. Madison* (1803), Chief Justice John Marshall said that William Marbury was entitled to the position that was granted by John Adams, but the final decision ultimately belonged to the new President, Thomas Jefferson. Chief Justice Marshall's ruling interpreted the Constitution to mean that the Supreme Court had the power of judicial review[[4]](#footnote-4). That is, the Court had the right to review acts of Congress and, by extension, actions of the President. If the Court found that a law was unconstitutional, it could overrule the law. It was the first case of its kind. With this decision, the Supreme Court set a precedent for reinforcing its authority, while simultaneously marking the Supreme Court impotent in special situations that may be politically motivated[[5]](#footnote-5). In ruling a federal law as unconstitutional and in favor of Madison, the order setup for the authority of the Supreme Court would not be disrupted.

The decision following *Marbury v. Madison* (1803) had a number of ramifications that still affect us 215 years later. Of course, the most notable is the establishment of judicial review as mentioned earlier. Judicial review allows the Supreme Court to interpret the constitution and determine the validity of actions taken by the legislative and executive branches[[6]](#footnote-6). And with this decree, the Supreme court has had the power to deliver some landmark decisions that have shaped our society. To name a few, in *Brown v. Board of Education of Topeka* (1954), the Supreme court found that state laws establishing separate schools for white and black children unconstitutional; *Row v. Wade* (1973) allowed for the Supreme Court to find that a state law that banned abortions was unconstitutional; and in *Obergefell v. Hodges* (2015) the Supreme Court ruled that all states must grant same-sex marriages and recognize those as lawful from other states[[7]](#footnote-7). The establishment of judicial review allows for our country to move in a non-partisan way. As it has for over 200 years, there’s hope that that can be continued, even in these divisive times.

1. Feinman, J. M. (2014). *Law 101.* New York: Oxford University Press. [↑](#footnote-ref-1)
2. Schotten, P. (2004). Marbury v. Madison, Rightly Understood. *Perspectives on Political Science, 33*(3). [↑](#footnote-ref-2)
3. Schotten, P. (2004). Marbury v. Madison, Rightly Understood. *Perspectives on Political Science, 33*(3). [↑](#footnote-ref-3)
4. Saffell, D. C. (2001). Marbury vs. Madison: The Origins and Legacy of Judicial Review. *Perspectives on Political Science, 30*(2). [↑](#footnote-ref-4)
5. Schotten, P. (2004). Marbury v. Madison, Rightly Understood. *Perspectives on Political Science, 33*(3). [↑](#footnote-ref-5)
6. Feinman, J. M. (2014). *Law 101.* New York: Oxford University Press. [↑](#footnote-ref-6)
7. Feinman, J. M. (2014). *Law 101.* New York: Oxford University Press. [↑](#footnote-ref-7)