

## **Marbury v. Madison, 5 U.S. (1 Cranch) 137 (1803)**

<https://lawcasesummaries.com/knowledge-base/marbury-v-madison-5-u-s-1-cranch-137-1803/>

### **Facts**

- This decision arose out of the intense rivalry between Presidents John Adams and Thomas Jefferson.
- Prior to Jefferson's inauguration, Adams nominated approximately 60 Federalist supporters to circuit judge and justice of the peace positions which the Federalist-controlled Congress had created under the Judiciary Act 1801. Most of the judges were appointed, but some had not had their appointments delivered by the time of Jefferson's inauguration.
- Jefferson was sworn into office on 4 March 1801. Jefferson instructed his Secretary of State, James Madison, to withhold undelivered appointments.
- Jefferson maintained that the appointments void due to not being delivered in time. William Marbury was one of the prospective judges who had not had their appointment delivered on time. Madison refused to hand it to Marbury.

### **Issues**

- Did Marbury have a right to his appointment?
- If so, did Marbury have a legal remedy or relief for him to reclaim it?
- If so, could the US Supreme Court legally issue that remedy to Marbury?

### **Held**

- The US Supreme Court (led by Chief Justice John Marshall) held that Marbury did have a right to his appointment as it had been signed and sealed. The delivery of the appointments were a formality and custom, rather than part of the legal process.
- As a result, Marbury clearly had a legal right to relief - the Court held that a writ of mandamus was the appropriate remedy.
- Marshall went on to declare that the Court had no power to issue a writ of mandamus to Marbury because the relevant provision of the Judiciary Act 1801 was unconstitutional.
- Section 13 of the Act was inconsistent with Article III, Section 2 of the US Constitution, which stated (in part) that “the supreme Court shall have original Jurisdiction” in “all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be Party,” and that “in all the other Cases before mentioned, the supreme Court shall have appellate Jurisdiction.”
- In doing so, Marshall had read into the law the Court's power of "judicial review".

### **Significance**

- *Marbury v. Madison* was the first decision where the US Supreme Court struck down legislation as unconstitutional.
- Marshall's judgment had granted the Supreme Court the power of judicial review.
- It is arguably the most important decision in respect of American constitutional law, and is an interesting comparative decision with Australian constitutional case law.
- The right of judicial review has gone on to be accepted by the American people as part of the role of the Court - to enforce the constitutionality of laws made by Congress.
- Even though *Marbury v. Madison* established the right to strike down unconstitutional laws, this right has only been rarely utilised. Another famous example of a legislative strike out was the decision of *Dredd Scott v. Sandford*.

## Quotes

"The very essence of civil liberty certainly consists in the right of every individual to claim the protection of the laws whenever he receives an injury."

(Marshall CJ, at page 162)

"It is emphatically the province and duty of the Judicial Department to say what the law is

(Marshall CJ at page 177)

## Full Text

The full text is available here:

<http://cdn.loc.gov/service/ll/usrep/usrep005/usrep005137/usrep005137.pdf>

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