

Marbury v. Madison

[Library of Congress: Marbury v. Madison](#)

The U.S. Supreme Court case *Marbury v. Madison* (1803) established the principle of judicial review—the power of the federal courts to declare legislative and executive acts unconstitutional. The unanimous opinion was written by Chief Justice John Marshall.

President John Adams named William Marbury as one of forty-two justices of the peace on March 2, 1801. The Senate confirmed the nominations the following day, March 3, which was Adams's last full day in office. However, acting Secretary of State John Marshall failed to deliver four of the commissions, including Marbury's. When Thomas Jefferson took office on March 4, he ordered that the four remaining commissions be withheld. Marbury sued the new secretary of state, James Madison, in order to obtain his commission. The Supreme Court issued its opinion on February 24, 1803.

[The Establishment of Judicial Review](#)

Although it was first asserted in *Marbury v. Madison* to strike down an act of Congress as inconsistent with the Constitution, judicial review did not spring full-blown from the brain of Chief Justice Marshall. The concept had been long known, having been utilized in a much more limited form by Privy Council review of colonial legislation and its validity under the colonial charters, and there were several instances known to the Framers of state court invalidation of state legislation as inconsistent with state constitutions.

Courtesy of Library of Congress, "*Marbury v. Madison*," *Primary Documents of American History*
Courtesy of Constitution Annotated, "ArtIII.S1.1.1.1 Judicial Vesting Clause: Doctrine and Practice"

DECEMBER, 1801. 137

it shall have been paid to the creditor. The sheriff may certainly make such payment out of court, if no circumstance occurs which legally obstructs or opposes it, such as an injunction from the court of chancery, in which case, by the law of Virginia, the money must be returned; or an execution against the goods and chattels of the person to whom the money in his hands shall be payable. In the latter case it seems to the court still to be the duty of the sheriff to obey the order of the writ and to bring the money into court, there to be disposed of as the court may direct. This was done in the case of *Armistead v. Philpot*, and in that case the court directed the money to be paid in satisfaction of the second execution. This ought to be done whenever the legal and equitable right to the money is in the person whose goods and chattels are liable to such execution.

TURNER
v.
FENDALL.

In the case of Turner and Fendall, the sheriff not having brought the money into court, but having levied an execution on it while in his hands, has not sufficiently justified the non-payment of it to the creditor; and therefore the court committed no error in rendering judgment against him on the motion of that creditor. If the payment of the damages should be against equity, that was not a subject for the consideration of the court of law which rendered the judgment.

Judgment affirmed.

WILLIAM MARBURY
v.
JAMES MADISON, SECRETARY OF STATE
OF THE UNITED STATES.

FEBRUARY, 1803.

AT the last term, viz. December term, 1801, MARBURY
William Marbury, Dennis Ramfay, Robert Townsend
Hooe, and William Harper, by their counsel, Charles
Lee, esq. late attorney general of the United States, MADISON.

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