



## Themed Collection: JUDICIAL REVIEW

***Marbury v. Madison, 1803***

*Marbury v. Madison* is one of the most important cases in the history of American constitutional law. The Supreme Court case involved a judicial appointment made by President John Adams shortly before he left office. After Thomas Jefferson became President, he ordered his Secretary of State, James Madison, not to deliver the papers confirming Adams' appointment of William Marbury as a justice of the peace. Marbury sued Madison under the Judiciary Act of 1789, which said the Supreme Court could issue orders to a federal official. In a decision written by Chief Justice John Marshall, the Court ruled against Marbury, on the grounds that the Judiciary Act was unconstitutional. The Court's decision established the doctrine of judicial review.

**T**he powers of the legislature are defined and limited; and that those limits may not be mistaken, or forgotten, the constitution is written. To what purpose are powers limited, and to what purpose is that limitation committed to writing, if these limits may, at any time, be passed by those intended to be restrained? The distinction between a government with limited and unlimited powers is abolished, if those limits do not confine the persons on whom they are imposed, and if acts prohibited and acts allowed, are of equal obligation....

The constitution is either a superior paramount law, unchangeable by ordinary means, or it is on a level with ordinary legislative acts, and, like other acts, is alterable when the legislature shall please to alter it....

Certainly all those who have framed written constitutions contemplate them as forming the fundamental and paramount law of the nation, and, consequently, the theory of every such government must be, that an act of the legislature, repugnant to the constitution, is void.

This theory is essentially attached to a written constitution, and, is consequently, to be considered, by this court, as one of the fundamental principles of our society....



*President John Adams*

It is emphatically the province and duty of the judicial department to say what the law is. Those who apply the rule to particular cases, must of necessity expound and interpret that rule. If two laws conflict with each other, the courts must decide on the operation of each. ...

If, then, the courts are to regard the constitution, and the constitution is superior to any ordinary act of legislature, the constitution, and not such an ordinary act, must govern the case to which they both apply....

### Questions for Discussion

1. Does Marshall state that the legislature has limited or unlimited powers?
2. Which does Marshall claim is superior—the Constitution or a law of the legislature?
3. Why was the establishment of judicial review such an important decision?