

Case Descriptions

***Marbury v. Madison* (1803)**

At the end of his term, Federalist President John Adams appointed William Marbury as justice of the peace for the District of Columbia. The Secretary of State, John Marshall (yes - the same person who later became Chief Justice) failed to deliver the commission to Marbury and left that task to the new Secretary of State, James Madison. Upon his inauguration, Thomas Jefferson told Madison not to deliver the commissions. Marbury filed suit and asked the Supreme Court to issue a *writ of mandamus*, or a court order which would require Madison to deliver the commission.

In his opinion, Chief Justice Marshall said that while Marbury was entitled to the commission, the Supreme Court did not have the power to issue the *writ of mandamus*. This was because the Judiciary Act of 1789, the act written by Congress which authorized the Supreme Court the to issue such *writs*, was unconstitutional. Thus, the Court gave up the power to issue *writs*, but affirmed their power of judicial review, saying that if a law written by the legislature conflicts with the Constitution, the law is "null and void."

***McCulloch v. Maryland* (1819)**

Many state banks did not like the competition and the conservative practices of the Bank of the United States. As a way to restrict the Bank's operations, the state of Maryland imposed a tax on it. After the Bank refused to pay the tax, the case went to court. Maryland argued that the federal government did not have the authority to establish a bank, because that power was not delegated to them in the Constitution.

The Supreme Court reached a unanimous decision that upheld the authority of Congress to establish a national bank. In the opinion, Chief Justice John Marshall conceded that the Constitution does not explicitly grant Congress the right to establish a national bank, but noted that the "necessary and proper" clause of the Constitution gives Congress the authority to do that which is required to exercise its enumerated powers. Thus, the Court affirmed the existence of implied powers.

On the issue of the authority of Maryland to tax the national bank, the Court also ruled in the Bank's favor. The Court found that "the power to tax involves the power to destroy . . . If the states may tax one instrument [of the Federal Government] they may tax any and every other instrument . . . the mail . . . the mint . . . patent rights . . . judicial process? This was not intended by the American people. They did not design to make their government dependent on the States." Furthermore, he said, "The Constitution and the laws made in pursuance thereof are supreme; they control the Constitution and laws of the respective states and cannot be controlled by them."

1. What were Marshall's beliefs regarding the power of the federal government? In your answer, cite evidence from the cases.
2. What were Marshall's beliefs regarding the power of the judicial branch? In your answer, cite evidence from the cases.
3. What is Marshall's legacy? In other words, what long-term impact did his decisions have on future cases and on the United States as a whole?

