

Marbury v. Madison (1803)

Using Documents to Decide the Outcome:
The Constitution and the Judiciary Act of 1789

In deciding the outcome of Marbury v. Madison, the members of the Supreme Court of the United States had to examine the relevant documents. Since our government is based on the Constitution, they started with that document. In this case, the relevant section was Article III. They also examined the Judiciary Act of 1789, a law passed by Congress, that Marbury used in his argument.

The Constitution of the United States
Article III.

Section 1.

The judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish. The Judges, both of the supreme and inferior Courts, shall hold their Offices during good Behaviour, and shall, at stated Times, receive for their Services, a Compensation, which shall not be diminished during their Continuance in Office.

Section 2.

The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority;- to all Cases affecting Ambassadors, other public ministers and Consuls;- to all Cases of admiralty and maritime Jurisdiction;- to Controversies to which the United States shall be a Party;- to Controversies between two or more States;- between a State and Citizens of another State;- between Citizens of different States;- between Citizens of the same State claiming Land under Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects.

In all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be Party, the supreme Court shall have original Jurisdiction. In all the other Cases before mentioned, the supreme Court shall have appellate Jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make.

The Trial of all Crimes, except in Cases of Impeachment, shall be by Jury; and such Trial shall be held in the State where the said Crimes shall have been committed; but when not committed within any State, the Trial shall be at such Place or Places as the Congress may by Law have directed.

The Judiciary Act of 1789
An Act to establish the Judicial Courts of the United States

Sec. 1.

Be it enacted... That the supreme court of the United States shall consist of a chief justice and five associate justices. . . .

Sec. 13.

And be it further enacted that the Supreme Court shall have exclusive jurisdiction of all controversies of a civil nature, where a state is a party, except between a state and its citizens; and except also between a state and citizens of other states, or aliens, in which latter case it shall have original but not exclusive jurisdiction. And shall have exclusively all such jurisdiction of suits or proceedings against ambassadors, or other public ministers, or their domestics, or domestic servants, as a court of law can have or exercise consistently with the law of nations; and original, but not exclusive jurisdiction of all suits brought by ambassadors or other public ministers, or in which a consul, or vice-consul, shall be a party. And the trial of issues in fact in the Supreme Court, in all actions at law against citizens of the United States, shall be by jury. The Supreme Court shall also have appellate jurisdiction from the circuit courts and courts of the several states, in the cases herein after specially provided for; and shall have power to issue writs of prohibition to the district courts, when proceeding as courts of admiralty and maritime jurisdiction, and writs of mandamus, in cases warranted by the principle and usages of law, to any courts appointed, or persons holding office, under the authority of the United States. . . .

Questions to Consider:

According to the Constitution, who has the authority to establish courts?

In Section 13 of the Judiciary Act of 1789, Congress extends the jurisdiction of the Supreme Court. What powers does it give to the Supreme Court that are NOT already provided in the Constitution?

According to Article III, Section 2, does the Congress have the authority to change the jurisdiction of the Supreme Court, as it has done in the Judiciary Act of 1789?

If the Constitution and an Act of Congress contradict one another, as they do in this case, which one should people obey? Why?

Based on your answers to the above questions, does the Supreme Court have the power to issue a writ of mandamus? What did this mean for Marbury?

In addition to determining whether or not the Court had the authority to issue a writ of mandamus, this case set an important precedent. When one branch of government, such as the Congress, does something that seems to go against the Constitution, how is the conflict resolved?