

There are many court cases in the Supreme court's history that really helped shape it into what it is today. One court case that really was a mile stone for the Supreme Court was the Marbury v. Madison case from the 1800's. In this court case, Chief Justice John Marshall and the members of court made their decision based on three questions.

The first question that Marshall answered was if "Marbury [had] a legal right on the commission he demands?"¹ The answer that Marshall came up with was yes. "Marshall answered that Marbury was indeed entitled to the commission since the positions had been legally created by the Congress and Marbury had been nominated by the President and confirmed by the Senate in accordance with the law."² Chief Justice Marshall went on to say that without a doubt Marbury did have a legal right to the commission.

The second question that Marshall answered was "if Marbury has a legal right to the commission and if that right has been violated, does the law afford him a legal remedy."³ Marshall again said yes, because he said that a legal right would be useless if it is without a legal remedy. "Marshall proceeded to discuss the writ of mandamus and concluded that the delivery of a judicial commission was not a discretionary power of the secretary of state; that is, the secretary had no authority to refuse to perform what is essentially a ministerial or clerical task."⁴ Therefore, with that in mind Marshall deemed that the writ of mandamus was the correct legal remedy to use in this court case.

The third question that Marshall answered was "if the law afforded Marbury a legal remedy, is it a mandamus issuing from the Supreme Court?"⁵ To this question, Marshall answered that the Supreme Court did not have the jurisdiction to hear this court case. In other words, Marshall threw out this case based on a technicality. However, did not "Section 13 of the judiciary Act of 1789 specifically authorize the Supreme Court to issue writs of mandamus to persons holding office under the authority of the United States?"⁶ The answer to this was "yes, Marshall conceded, but Section 13 was unconstitutional and therefore invalid."⁷ Marshall went

1 Calvi, James V., and Susan Coleman. American Law and Legal Systems. New Jersey: Prentice Hall, 2004.

2 Id.

3 Id.

4 Id.

5 Id.

6 Id.

7 Id.

onto say that “according to the Constitution, the Supreme Court has only two types of jurisdiction: original and appellate.”⁸ In order for the Supreme Court to be able to hear a case, Marshall reasoned that any case that is brought before the Supreme Court had to be brought by either its original or appellate jurisdiction.

Now, why is this court case so significant to the Supreme Court? This court case gave the “Supreme Court (and all courts) the power of judicial review.”⁹ The power for judicial review is not stated anywhere in the Constitution. In other words, Marshall “used a logical reasoning process first to deduce that the power to invalidate unconstitutional legislation actually exists, and second to conclude that the power to decide when and if legislation actually exists, and second to conclude that the power to decide when and if legislation conflicts with the Constitution belongs to the judiciary.”¹⁰ By deciding the court case in this way, Marshall was able to say “that a written constitution must be considered to be superior to ordinary legislative acts; otherwise, having a written constitution would be senseless.”¹¹ “Next, he argued that the Constitution implicitly recognizes that Congress could inadvertently pass a law that conflicts with the Constitution.”¹² “Article VI declares that the Constitution and the laws of the United States made in pursuance of the Constitution are the supreme law of the land.”¹³ “Marshall argued that laws not made in pursuance of the Constitution were not the supreme law of the land.”¹⁴ Marshall then went on to say “someone or some group, then, must determine which laws are made and which laws are not made in pursuance of the Constitution.”¹⁵

Why was this so significant then to the Supreme Court? “Having established the fact that laws passed in violation of the Constitution were invalid, Marshall next appropriated the power to determine their invalidity for the judiciary.”¹⁶ Therefore, the most important thing that Marshall gained by ruling in this way in this court case was the right for the court to do judicial review.

By ruling this way, Marshall was able to show everyone in politics that the Supreme Court was “above

8 Id.

9 Id.

10 Id.

11 Id.

12 Id.

13 Id.

14 Id.

15 Id.

16 Id.

politics.”¹⁷ Also, “Marshall, in answering the first two questions he posed, scolded the president for refusing to deliver to Marbury that which was legally his.”¹⁸ The most important thing that Marshall was able to accomplish in this court case was that he “secured for his Court and future courts the power of judicial review.”¹⁹

Throughout history, usually one thing really helps shape an institution. In the Supreme Court's history, they have dealt with a couple of cases that helped shape the way that the Supreme Court works. One court case that gave the right to judicial review was one of the biggest cases that the Supreme Court has ever dealt with. Although this court case was heard back in the 1800's, *Marbury v. Madison* was the one case that gave the Supreme Court the most power.

¹⁷ Id.

¹⁸ Id.

¹⁹ Id.

Works Cited

Calvi, James V., and Susan Coleman. American Law and Legal Systems. New Jersey: Prentice Hall, 2004.