

Marbury v. Madison



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We take for granted today the tremendous power of the Supreme Court to interpret our laws and overrule any found in conflict with the Constitution. Yet our nation was a quarter-century old before that power of "judicial review" was fully articulated by the Court itself in *Marbury v. Madison* (1803). William Nelson's concise study of that landmark case provides an insightful and readable guide for students and general readers alike.

On the surface, the case itself seems a minor one at best. William Marbury, a last-minute judicial appointee of outgoing Federalist president John Adams, demanded redress from the Supreme Court in 1801 when his commission was not delivered. But Chief Justice John Marshall could clearly see the danger his demand posed for a weak court filled with Federalist judges. Wary of the Court's standing with the new Republican administration of Thomas Jefferson, Marshall hit upon a solution that was both principled and pragmatic. He determined that while Marbury was justified in his suit, the law on which his claim was based was in conflict with the Constitution. It was the first time that the Court struck down an act of Congress as unconstitutional, thus establishing the doctrine of judicial review, which designates the Court as chief interpreter of the Constitution.

Nelson relates the story behind Marbury and explains why it is a foundational case for understanding the Supreme Court. He reveals how Marshall deftly avoided a dangerous political confrontation between the executive and judicial branches by upholding the rule of law. He also shows how by asserting that the task of courts was one of discovering rather than making law, Marshall managed to shore up the Court's prestige and power rather than have it serve partisan political agendas.

Nelson clarifies how the Marshall court sought to preserve what was best in eighteenth-century constitutionalism while accommodating nineteenth-century political realities, and also traces the gradual transformation of Marbury-style judicial review since Marshall's time.

Although the Supreme Court did not assert its power of judicial review for another fifty-four years after Marbury, it has since then invalidated numerous acts of Congress. From Marshall's modest bid for consensus to what some consider the modern Court's "activist" excesses, judicial review has been a cornerstone in the edifice of the federal judiciary. Nelson's analysis helps us better understand how this fundamental principle emerged and why it still matters.

This book is part of the Landmark Law Cases and American Society series.

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