Marbury v. Madison and Judicial Review

John Marshall was Secretary of State under John Adams in 1800, and in 1801 was appointed by Adams to be Chief Justice of the Supreme Court, a position he served until his death in 1835.

Judicial review is the concept of the courts ruling on the constitutionality of actions and laws by the President and Congress. This power was enshrined in the Marbury v. Madison case.

The Judiciary Act of 1789 gave the Supreme Court the power to issue the writ of mandamus, which is an order to the executive office by the judicial branch.

Having lost the elections of 1800, the lame-duck Federalist congress, in February 1801 (weeks before Adams was leaving office), created many new federal courts, to be staffed of course by Federalist judges. At least four commissions (for these judicial positions) were not able to be delivered, including one to William Marbury (a staunch Federalist). Upon being inaugurated in March 1801, Jefferson ordered that those commissions be not delivered. In order to force Madison's hand, Marbury filed suit in the Supreme Court, to get the Court to issue a writ of mandamus, to make Madison deliver the commissions.

Upholding the doctrine of judicial review, the Supreme Court declared that it didn't have the constitutional authority to issue the writ, because that section of the Judiciary Act of 1789 exceeded the powers given to the Supreme Court by the Constitution, and so, that section was unconstitutional.

The interpretation of the laws is the proper and peculiar province of the courts. A constitution, is, in fact, and must be regarded by the judges, as a fundamental law. If there should happen to be an irreconcilable variance between [the Constitution and laws passed by Congress], that which has the superior obligation and validity ought, of course, to be preferred; or, in other words, the constitution ought to be preferred to the statute, the intention of the people to the intention of their agents.
---Chief Justice John Marshall, *Marbury v. Madison* decision

Nor does this conclusion by any means suppose a superiority of the judicial to the legislative power. It only supposes that the power of the people is superior to both; and that where the will of the legislature declared in its statues, stands in opposition to that of the people declared in the constitution, the judges ought to be governed by the latter, rather than the former. They ought to regulate their decisions by the fundamental laws, rather than those which are not fundamental.
---Alexander Hamilton, Federalist 78