

0. Marbury vs Madison - Story Preface

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Portrait of John Marshall, Chief Justice of the United States, by Henry Inman in 1831. Image online, courtesy Wikimedia Commons.

*[A]n act of the legislature,
repugnant to the constitution,
is void.*

Chief Justice John Marshall
Marbury v Madison

When the U.S. Supreme Court issues opinions declaring laws unconstitutional, few today question the court's right to do so. Judicial review - testing legal statutes against the Constitution - is what nine unelected justices do for a living. Most of those who get the job do it for a really long time.

But consider this: Nowhere in the American Constitution do "We the People" expressly give the Supreme Court the right to declare a law unconstitutional. Nowhere in the founding document of American government is the high court explicitly vested with the power to overturn laws passed by the people's representatives.

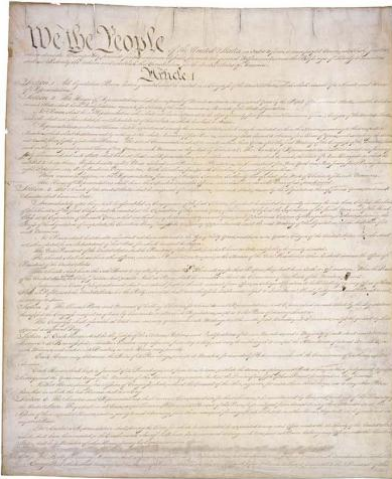
That significant power was formally created by the court itself in 1803. What the public takes for granted today was officially birthed when John Marshall became the country's fourth Chief Justice.

Who was John Marshall? What was the case he used to profoundly shape the high court's destiny? What is his legacy? What would he make of today's judicial activism?

To get a sense of the environment in which John Marshall lived, and to understand what may have caused him to issue the opinion many scholars believe is the Supreme Court's most important, we need to step back in time. Let's virtually visit late 18th/early 19th century America.

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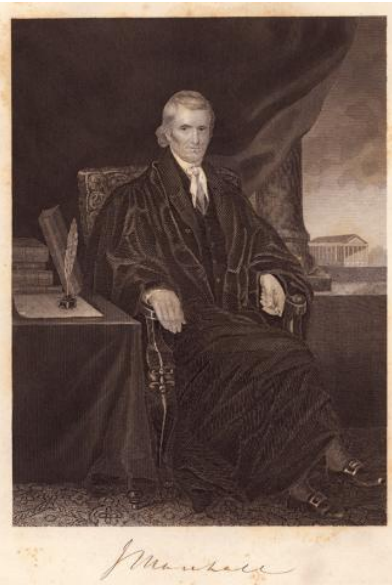
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U.S. Constitution

Image online, courtesy U.S. National Archives.

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Chief Justice John Marshall

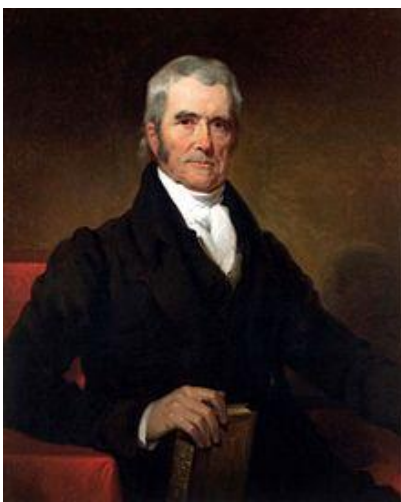
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Marbury vs Madison

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