John Marshall's Legacy

John Marshall is often referred to as "The Great Chief Justice". This title is well earned and deserved. During his time as Chief Justice, the rulings the Supreme Court made forever shaped the destiny of America.

One of Marshall's most important contributions was the establishment of judicial review in *Marbury vs. Madison*. Judicial review gave the Supreme Court the power to invalidate the actions of the executive and legislative branches of the government. Judicial review is still practiced today in the United States and other constitutional democracies all around the world. It is usually used to determine if laws are in agreement with the constitution and to see if regulation set by government agencies stay within the bounds of legislation. When used correctly, judicial review is a powerful tool that ensures that a nation's laws and constitution are upheld.

Another important ruling by Marshall was that Congress had implied powers not stated in the Constitution in *McCulloch vs. Maryland*. This ruling was especially important to the growth of the United States. It allowed Congress to create and pass laws to serve the changing needs of the nation over time.

Overall, John Marshall's major contribution to American History was the strengthening of the federal government. Through cases such as *McCulloch vs. Maryland* and *Gibbons vs. Ogden*, Marshall made the power of the federal government greater than that of the state government. In *McCulloch vs. Maryland* and *Marbury vs. Madison*, the power of Congress and the Supreme Court were also increased, increased the strength of central government even further. With these rulings John Marshall helped to fortify the federal government and make America the great country she is today.
Life & Legacy

Early Life
Born in Fauquier County, Virginia, on September 24, 1755, John Marshall became one of the most influential leaders of his time – the era of the American Revolution and the founding of the United States of America. As a young boy, Marshall was influenced and encouraged by his father's friend, George Washington. Marshall served in the Continental Army, first as a lieutenant and then as captain. Enduring the hardships of the winter at Valley Forge (1777-1778), Marshall's admiration of Washington grew as did his resolve to help shape what was to become the new nation.

Law, Love, and Revolution
Marshall briefly studied law with George Wythe at the College of William and Mary before being admitted to the bar in 1780. It was during this time that he met Mary Willis Ambler (known as “Polly”) who would become his beloved wife. Soon after meeting Polly, Marshall moved from Fauquier to Richmond where he served in the Virginia House of Delegates for several sessions from 1782-1797. It was not long until John Marshall was known for his fairness, his belief in a strong federal government, and his acute intellect. These characteristics made him a leading member of the legal community in Richmond and prompted Federalist John Adams to call on Marshall to serve his country.

Congressman & Secretary Of State
In 1797, President John Adams convinced John Marshall to serve as an envoy to France, where he became involved in the difficult so-called XYZ Affair. Upon returning, Adams offered him a seat on the Supreme Court. Marshall declined the offer and chose instead to run for and was elected to the U.S. House of Representatives (1799). On May 12, 1800, Adams nominated Marshall to the post of Secretary of State. He was confirmed unanimously by the Senate the next day.
Great Chief Justice

On January 20, 1801, Adams nominated Marshall to be Chief Justice of the United States, and the Senate confirmed the nomination unanimously on January 27. John Marshall was sworn in on February 4, 1801.

Marshall served as Chief Justice for thirty-four years. The influence of his landmark decisions did much to strengthen the judicial branch of government and to define the tripartite arrangement that is so basic to the American system of government. Many scholars hold that Marshall was the founder of constitutional law and the expounder of the doctrine of judicial review. His decision in Marbury vs. Madison in 1803 declared the power of the Supreme Court to invalidate an act of Congress if that act was in conflict with the Constitution.

In two cases, McCulloch vs. the State of Maryland, and Gibbons vs. Ogden, the rulings of the Supreme Court declared the principle of judicial power to set aside state legislative acts if they were in conflict with the federal Constitution. The Supreme Court, under the guidance of Marshall, also ruled that the federal judiciary could reverse a decision of a state court. All of these decisions are still reflected in the work of the US Supreme Court today.

Marshall's readings of the Constitution brought him into conflict with the Republican-Democrat opponents of the Federalists. Chief among them was President Thomas Jefferson. Although the two men were cousins, Marshall and Jefferson were continually in conflict. Marshall believed that a strong
federal government was necessary to ensure that the government would meet the needs of all the people. Jefferson, on the other hand, believed that the power of government should remain largely in the hands of the states. Marshall and Jefferson also took opposing positions at the trial of former Vice President Aaron Burr in (1807).
Marbury v. Madison (1803)

"But the President Said I Could Be a Judge!"

In 1800, President John Adams ran to be re-elected as president, but he lost to Thomas Jefferson. During his last weeks in office, Adams appointed a bunch of men to be justices of the peace in the District of Columbia. Each man would receive a paper commission that was signed and sealed. The commissions were prepared, but they were not sent before Adams left office. When President Jefferson took over, he refused to send them.

One man, William Marbury, was upset. He wanted to be a judge! So he asked the United States Supreme Court to issue a legal order called a writ of mandamus (man-DAY-mus). In this case, the writ would have required Marbury's commission to be delivered.

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<th>ISSUE</th>
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<td>Does the Supreme Court have the power to hear more types of cases than just those the Constitution says it can hear?</td>
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<th>DECISION</th>
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<td>No. The Supreme Court only has the power to do what the Constitution says.</td>
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The Argument

Did you notice that Marbury didn't start in a regular, local court? He started at the Supreme Court. Normally, that would be backwards. But in 1789, Congress had passed a law saying people could start at the Supreme Court if all they wanted was a writ of mandamus. Marbury argued that he was entitled to the writ because his commission had already been created. He also argued that the Supreme Court had the power to issue the writ.

The Decision

The Supreme Court agreed that Marbury had a right to receive his commission, but disagreed that the Court had the power to issue the writ. Why? Because the Supreme Court gets its power directly from the Constitution, and the Constitution says only certain kinds of cases can start at the Supreme Court. That meant the 1789 law passed by Congress was unconstitutional. Congress did not have the power to allow more kinds of cases to start at the Supreme Court. Therefore, the Supreme Court said it could not help Marbury get his commission.

So What?

Believe it or not, this is considered one of the most important cases the Supreme Court has ever decided. That's because it was the first time the Supreme Court struck down an act of Congress for being unconstitutional. The idea that the Supreme Court has the final say about what is constitutional is called judicial review. Judicial review lets the judicial branch do two things: 1) interpret the Constitution and decide what it means, and 2) stop the executive and legislative branches from doing things that go against the Constitution.

The decision in Marbury v. Madison helped cement the judicial branch as equal with the other two branches of government by giving it equal power.
McCulloch v. Maryland

Power Play: State vs. Nation

What if someone gave you the power to read stories to a first grade class in the library—but gave the first graders the power to decide whether you’re allowed to use any books? Or imagine you have the power to decide which TV shows your family will watch on Friday nights, but your kid sister has the power to decide whether anyone is allowed to turn the TV on. Who’s really in control? In 1816, the state of Maryland tried to make a play against the United States government that would have worked just like this.

A New Government = Big Questions

In order to understand the tension between Maryland and the federal government, you have to imagine what it was like when the United States was first born. Our Founding Fathers had created a brand new government. There had never been another government exactly like it. Even though the Constitution described how it was supposed to work, the Constitution could not describe every detail. There were lots of questions—especially about how much power the federal government had.

**POOL POWER**

You have a summer job as a lifeguard at the community pool. Your boss gives you the power to make the rules about food and drinks at the pool. You decide that people can bring their own beverages, but they shouldn’t bring their own snacks. In order to carry out this rule, you make arrangements to have a snack bar built on the pool patio so customers can buy the snacks there. Would your boss give you that kind of power??

**Constitutional Powers**

The U.S. Constitution created three branches of government and gave each branch certain powers. The legislative branch is made up of Congress, which is made up of the Senate and the House of Representatives. Article I of the Constitution gives Congress a long list of powers. It also says Congress can “make all Laws which shall be necessary and proper” for carrying out these powers. But what does that mean? (Is a building a snack bar “necessary and proper” for making rules about food and drinks at the pool?) In 1816, Congress made a decision that tested out the “necessary and proper” question in a big way.

**Congress Creates a Bank**

All nations need money to carry out their business, and the United States was no different. To make it easier for the government to do business, in 1816 Congress passed a law creating a national bank. The Bank of the United States was just like any other bank, except it was where the federal government did its banking business. In those days, state banks issued bank notes that functioned like money. The Bank of the U.S. was also allowed to issue bank notes. In exchange for this special treatment, it agreed to loan money to the U.S. government.

**Maryland Passes a Tax**

Once the bank was established, it opened branches in different states. One branch was located in Baltimore, Maryland. The U.S. government didn’t ask Maryland for permission—it just opened the branch and started doing business. Maryland’s state banks weren’t very happy about having a new competitor in town where people could do their banking. And they didn’t

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McCulloch v. Maryland

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like that the Bank of the U.S. had a privileged relationship with the U.S. government. In response, Maryland’s government passed a law of its own: Any bank that had not been chartered, or organized, in the state of Maryland had to pay a special tax. The Bank of the U.S. refused to pay, so the state of Maryland sued the bank in state court.

Who Has the Power?

The Maryland courts sided with Maryland. So in 1819, the bank appealed to the United States Supreme Court. There were two main questions that needed to be answered: Did the Constitution allow Congress to start a bank? And if so, was a state allowed to tax a bank that was part of the federal government?

As always, the Supreme Court decided the case by looking at what the Constitution says. The Constitution gives Congress the power “to regulate Commerce . . . among the several States.” Regulate means to make rules about something. Commerce is another word for business or trade. The Constitution also gives Congress the power to borrow money and collect taxes. But the Constitution does not say Congress has the power to start a bank. Could Congress start one anyway?

If It’s Necessary and Proper, It’s Okay

In a unanimous decision, the Supreme Court said yes. First, a bank is “necessary and proper” for carrying out the powers related to commerce, borrowing, and taxes. But even without the power to do what is “necessary and proper,” Congress would still be able to start a bank. Why? Because sometimes in order to be able to do one thing, you have to be able to do something else. For example, the Court pointed out that the Constitution gives Congress the power to maintain a navy but says nothing about steam ships. Even so, “no one doubts the power of Congress to use them.” In the same way, the Court said, “A bank is a proper and suitable instrument to assist the operations of the government.”

This decision expanded the powers of the national government. It did this by saying the government could take any action that was appropriate for carrying out its powers—even if that action was not specifically mentioned in the Constitution, like starting a bank. Congress was only prohibited from doing things the Constitution specifically said it could not do.

State Interference? Not Okay.

As for Maryland’s bank tax, the Constitution says that laws of the United States “shall be the supreme law of the land” and states must follow them. The Court said that if Maryland were allowed to tax the Bank of the U.S., it would have the power to tax the bank so heavily that the bank would be forced to leave the state. The court said that states are not allowed to interfere with the business of the U.S. government. This decision affirmed that the national United States government is “supreme” over state governments, just like the Constitution says. Maryland could not try to force the bank out by making it pay taxes.
Gibbons v. Ogden (1824)

Take Your Boat and Go Home

In 1803, the State of New York passed a law giving two men, Livingston and Fulton, the right to be the only ones allowed to operate steamboats in New York waters. Later, these men transferred their right to a man named Ogden. This meant that under New York law, nobody could operate a steamboat in New York without a license from Ogden.

Gibbons was a New Jersey citizen who also had a steamboat. Gibbons had licensed his boat under a law passed by the United States Congress. Gibbons ran his steamboat between New Jersey and New York. In 1818, Ogden filed suit against Gibbons to stop him from operating his steamboat in New York. The New York court ordered Gibbons to stop.

ISSUE
Is it constitutional for both states and the federal government to regulate interstate commerce?

DECISION
No. The Constitution gives the federal government sole power over interstate commerce.

The Arguments
Gibbons took his case to the Supreme Court. He argued that New York’s law violated the Commerce Clause in the U.S. Constitution, which says “Congress shall have power to regulate commerce with foreign nations, and among the several States, and with Indian tribes.” Commerce means business activity. Gibbons said his business activity took place “among the several States” because it happened in both New Jersey and New York.

Ogden argued the words “among the several States” did not give Congress the power pass laws that affect business activity inside a state’s borders. He also argued that, in the same way both states and the federal government can tax citizens, they should both be able to license boats.

The Decision
The Supreme Court agreed with Gibbons. The Court said it would be impossible for Congress to regulate business activity “among” the states without regulating activity that took place inside a state’s borders. Further, licensing boats is not like taxes. Two parts of government cannot issue licenses for the same thing without interfering with each other. The Court pointed to the Supremacy Clause in the Constitution, which says the laws of the federal government are superior to state laws.

The Court said the Constitution gives Congress the sole power to regulate business activity that affects more than one state. A state may only regulate business activity that takes place entirely inside its own borders, where no part of that activity affects any other state.

So What?
In the years since the decision in Gibbons, the U.S. Congress has used its Commerce Clause power to pass many laws, for example:

- Set a national minimum wage and maximum worker hours, by saying goods produced in violation of this law could not cross state lines
- Limit the age of child laborers to kids 16 and over
- Prohibit racial discrimination in motels that served mostly travelers and in restaurants where the food served had crossed state lines
Gibbons v. Ogden

In a landmark opinion by Chief Justice John Marshall, the Supreme Court in *Gibbons v. Ogden* (1824) struck down a New York steamboat-monopoly law and gave a broad, but not unlimited, reading to Congress's power to regulate commerce.

Aaron Ogden operated a steam-driven ferry between Elizabethtown, New Jersey, and New York City in an uneasy partnership with Thomas Gibbons. Ogden had acquired a license from a firm that had been granted a monopoly by New York state law in 1798. Gibbons held a permit under the federal Coastal Licensing Act of 1793 for his two boats.

When Gibbons ran his boats to New York in defiance of the monopoly, Ogden sued for an injunction to block him. New York courts sided with Ogden, and Gibbons appealed to the Supreme Court.

For the Court, the case posed the legal question of whether the New York law interfered with Congress's power to "regulate Commerce ... among the several States" (Article I, section 8). (See COMMERCE POWER.) The dispute also pitted the nationalist beliefs of Federalists, including Marshall, against the states' rights views of Republicans, such as former president Thomas Jefferson.

Marshall's opinion for the Court declared that power over commerce, including navigation, "was one of the primary objects" in the formation of the federal government. Congress had "complete" power to regulate commerce between the states, he said, and any state law interfering with federal legislation in the area must fall. Marshall added, however, that the states retained the power to regulate "completely internal commerce" that "does not extend to or affect other states."

Marshall said that the New York law was invalid because it conflicted with the federal coastal licensing law. He added, however, that states could enact parallel regulations similar to those Congress adopted. The decision did not address the question of whether states could enact regulations in areas that Congress had not regulated.

The ruling was politically popular, as New York's steamboat monopoly had been under attack from several states. But Jefferson criticized the decision as "advancing towards the usurpation of all the rights reserved to the states." Slaveholders feared Congress might exercise the commerce power to take control of the slavery issue from the states. (See SLAVERY AND THE COURT.)