The Required 15 Supreme Court Cases

**Federalism**

**McCulloch v. Maryland (1819)**
One of the most important Supreme Court cases regarding federal power. In a unanimous decision, the Court established that Congress had implied constitutional power to create a national bank and that individual states could not tax a federally chartered bank. The Court stated Congress was authorized to pass laws "necessary and proper" in order to carry out its duties.

Controversy still lingered about how strong the national government should be, even after the Constitution was ratified. Alexander Hamilton, the nation's first treasury secretary, argued a national bank was necessary to fund national infrastructure projects. In 1791, President George Washington obliged and created the first Bank of the United States, headquartered in Philadelphia.

In 1816, the second Bank of the United States was created and had branches in a number of cities, including Baltimore. In 1818, Maryland's legislature passed a bill taxing out-of-state banks operating in the state. The law specifically targeted the Bank of the United States, since it was the only such bank operating in Maryland. James W. McCulloch, the head cashier at branch in Baltimore, refused to pay $15,000 in owed taxes, claiming Maryland's government didn't have the right to tax a federally chartered bank. Maryland's leaders sued and the state's courts sided with the legislators. Unhappy, McCulloch's lawyers appealed the case to the Supreme Court, where the Justices ruled in favor of Congress. Chief Justice John Marshall wrote that Congress had the right to establish a bank under the Constitution's necessary and proper clause, and that states lacked the authority to tax a federally chartered institution.

High school senior Alfonso Lopez walked into his San Antonio high school carrying a concealed weapon. He was charged with violating a Texas law that banned firearms in schools. The next day, the state charges against him were dismissed after he was charged with violating a federal law: the Gun Free School Zones Act. This Act made it a federal offense “for any individual knowingly to possess a firearm [in] a school zone.” Lopez was indicted by a grand jury and later found guilty. He was sentenced to six months in prison followed by two years probation.

Lopez challenged his conviction, arguing that the Gun Free School Zones Act was an unconstitutional exercise of Congress’s power. Schools were controlled by state and local governments and were not under the authority of the federal government. The federal government claimed that it had the authority to ban guns in schools under its
commerce power. The Commerce Clause of the Constitution gives Congress the power to “regulate commerce with foreign nations, and among the several states, and with the Indian tribes.”

The government asserted that the law was related to interstate commerce because guns in school led to gun violence. People would then be reluctant to travel through the areas where the violence occurred. The government also argued that the disruptions to the learning environment created by guns in schools result in a less educated citizenry, negatively affecting commerce.

The Supreme Court rejected the government’s claim, holding that the law was not substantially related to commerce. The Court held, “Under the theories that the Government presents...it is difficult to perceive any limitation on federal power, even in areas...where States historically have been sovereign. Thus, if we were to accept the Government’s arguments, we are hard-pressed to posit any activity by an individual that Congress is without power to regulate....” The Supreme Court also cited the Founders’ speeches and writings on the balance between state and federal power, and in particular their belief in limited government: the federal government did not have any powers except those delegated to it in the Constitution.

U.S. v. Lopez is a particularly significant case because it marked the first time in half a century that the Court held Congress had overstepped its power under the Commerce Clause.

Civil Liberties / Civil Rights

Engle v. Vitale (1962)

“Almighty God, we acknowledge our dependence upon Thee, and we beg Thy blessings upon us, our parents, our teachers and our Country.” If a public school student were to say this non-denominational prayer quietly to him or herself, there would be no constitutional conflict. If a group of students were to assemble before school and say this prayer aloud, there would be no constitutional conflict. But what if all public schools in a state began the day with a formal recitation of this prayer? Known as the “Regents Prayer” this invocation was used to open the school day in New York public schools for much of our nation’s history. Students who did not wish to say it could choose to remain silent or stand outside the room, and face no penalty. This practice was challenged in the landmark Supreme Court case Engel v. Vitale. (1962).

The First Amendment says, “Congress shall make no law respecting an establishment of religion.” This was originally added to the Constitution to keep the federal government from establishing a national religion, and to stop it from interfering with establishments of religion in the states. Today, the amendment is often used to keep religion out of government spaces such as public schools, libraries, and courtrooms. Challenges to religion in schools grew in the Twentieth Century for two reasons: The growth of public
schools in the twentieth century, combined with the Supreme Court’s use of the Fourteenth Amendment to apply First Amendment limitations to the states. In *Engel v. Vitale*, the Court ruled that for public schools to hold official recitation of prayers violated the Establishment Clause.

Justice Hugo Black wrote: “*We think that by using its public school system to encourage recitation of the Regents’ prayer, the State of New York has adopted a practice wholly inconsistent with the Establishment Clause...It is no part of the business of government to compose official prayers for any group of the American people to recite as a part of a religious program carried on by government.*” Some people wrongly believe this decision outlawed all prayer in public schools. It did not. The ruling did prohibit schools from writing or choosing a specific prayer and requiring all students to say it.

**Wisconsin v. Yoder (1972)**
The Court examined whether the state of Wisconsin’s requirement that all parents send their children to school at least until age 16 violated the First Amendment by criminalizing the conduct of parents who refused to send their children to school for religious reasons. In their decision, the Court ruled that Amish adolescents could be exempt from the state law requiring school attendance for all 14 to 16-year-olds, because their free exercise of religion required living apart from the world and worldly influence. The state’s interest in having students attend 2 additional years of school did not outweigh the individual’s right to free exercise of religious belief.

**Tinker v. Des Moines (1969)**
John and Mary Beth Tinker attended public school in Des Moines, Iowa. In December of 1965 a community group in Des Moines decided to protest American involvement in the Vietnam War by wearing black armbands. The Tinkers agreed to wear their black armbands to school. However, principals in the school district, aware of the students' plans created a rule that any student wearing an armband to school would be suspended unless the student removed the armband. Although the Tinkers knew about this rule, they decided to come to school wearing armbands anyway. After refusing to take the armbands off, John and Mary Beth Tinker were sent home by the principal. Their suspension lasted until they agreed to come back to school without the armbands.

The Tinkers filed a suit in the U.S. District Court to stop the school principals from enforcing the rule in the future. Although the District Court said that this type of protest was a form of expression protected under the First Amendment's freedom of speech clause, the Court sided with the school officials, saying that the rule was needed to "prevent the disturbance of school activities." The Tinkers appealed their case to the U.S. Eighth Circuit Court of Appeals, but they lost. The Tinkers decided to appeal the case to the Supreme Court of the United States.

The fundamental question of the case came down to this: Does the First Amendment's promise of free speech extend to the symbolic speech of public school students? And, if so, in what circumstances is that symbolic speech protected? The First Amendment to
the Constitution says, "Congress shall make no law . . . abridging the freedom of speech." The Fourteenth Amendment extends this rule to state government as well, of which schools are a part. However, the First Amendment does not say which kinds of speech are protected. It also does not specify what types of expressive actions should be considered as speech.

The question of what kind of speech or action is protected under the First Amendment has been considered many times by the Supreme Court of the United States. Generally, the Court has held that the First Amendment protects adult symbolic speech that does not harm or threaten to harm. However, at the time of *Tinker*, it was unclear whether students' rights in this area were different.

In 1968 the Supreme Court of the United States agreed to hear the Tinker's case and consider whether the Des Moines public schools ban on armbands was an unconstitutional violation of the students' right to free speech. The Court's decision in *Tinker v. Des Moines* was handed down in 1969, and the Supreme Court ruled that the students' symbolic speech was protected under the First Amendment.


Daniel Ellsberg copied more than 7000 pages of documents that revealed the history of the government’s actions in the Vietnam War. They exposed government knowledge that the war would cost more lives than the public was being told, and that the war was being escalated even as the President had said it was close to ending. They would become known as the “Pentagon Papers.”

Ellsberg believed that Americans needed to know what was in the reports, and decided to make the Pentagon Papers public. To achieve his goal, he broke several laws. He gave copies to the *New York Times*, which began printing excerpts from the documents on June 13, 1971. The government immediately obtained a court order preventing the *Times* from printing more of the documents, arguing that publishing the material threatened national security. This was the first time in American history that the government had successfully ordered a prior restraint (an order that news be censored ahead of publication) on national security grounds. Historically, prior restraint has been considered the most serious form of censorship.

In response, Ellsberg released the Pentagon Papers to the *Washington Post*, which began printing excerpts as well. The government then sought another injunction, but this time was refused. The government appealed its case, and in less than two weeks the case—combined with the *New York Times* appeal—was before the Supreme Court. The Court ruled 6-3 in *New York Times v. United States* that the prior restraint was unconstitutional. Though the majority justices disagreed on some important issues, they agreed that “Only a free and unrestrained press can effectively expose deception in government...In revealing the workings of government that led to the Vietnam War, the newspapers nobly did that which the Founders hoped and trusted they would do.” Dismissing the claimed threat to national security, the Court continued, “The word
‘security’ is a broad, vague generality whose contours should not be invoked to abrogate the fundamental law embodied in the First Amendment.” New York Times v. United States remains one of the most important freedom of the press cases in American history.

**Schenck v. United States (1919)**
This case helped define the limits of the First Amendment right to free speech, particularly during wartime. It created the “clear and present danger” standard, which explains when the consequences of speech allow the government to limit it. In this case, the Court chose to unanimously uphold activist Charles Schenck’s conviction after he distributed leaflets urging young men to resist the draft during World War I.

As general secretary of the Socialist Party in Philadelphia, Schenck prepared leaflets that urged young men to “assert your rights” in the face of conscription. In the midst of the First World War, the U.S. government regarded calls for draft resistance as dangerous to national security. Charles Schenck was arrested under the Espionage Act of 1917, which prohibited “disloyal” acts. He was convicted and appealed to the Supreme Court, arguing that his actions were protected as part of his First Amendment freedom of speech. A wartime Court felt differently and ruled to uphold the Act. Justice Oliver Wendell Holmes, Jr., in this famous opinion, compared Schenck’s actions to “falsely shouting fire in the theatre and causing a panic.” This expression is still widely used as an example of the limits of free speech.

**14th Amendment’s Due Process Clause**

**Gideon v. Wainwright (1963)**
Between midnight and 8:00 am on June 3, 1961, a burglary occurred at the Bay Harbor Pool Room in Panama City, Florida. Someone broke a window, smashed the cigarette machine and jukebox, and stole money from both. Later that day, a witness reported that he had seen Clarence Earl Gideon in the poolroom at around 5:30 that morning. When

Gideon was found nearby with a pint of wine and some change in his pockets, the police arrested him and charged him with breaking and entering.

Gideon was a semi-literate drifter who could not afford a lawyer, so at the trial, he asked the judge to appoint one for him. Gideon argued that the Court should do so because the Sixth Amendment says that everyone is entitled to a lawyer. The judge denied his request, ruling that the state did not have to pay a poor person’s legal defense unless he was charged with a capital crime or "special circumstances" existed. Gideon was left to represent himself.

As might be expected, Gideon did a poor job of defending himself. He had done no preparation work before his trial; his choice of witnesses was unusual—for instance, he called police officers who arrested him to testify on his behalf, not having any reason to believe they would help his case. He had no experience in cross-examining a witness in
order to impeach that person's credibility, so his line of questioning was not as productive as a lawyer's would have been.

Gideon was found guilty of breaking and entering and petty larceny, which was a felony. He was sentenced to five years in a Florida state prison, partly because of his prior criminal record. While in prison, he began studying law in the prison library, believing that his Sixth Amendment rights had been violated when he was denied a defense lawyer paid for by the State. His study of the law led him to file a petition for habeas corpus with the Supreme Court of Florida, which asked that he be freed because he had been imprisoned illegally. After the Supreme Court of Florida rejected his petition, he handwrote a petition for a writ of certiorari to the Supreme Court of the United States, asking that it hear his case. The Court allowed him to file it in forma pauperis, which meant that the Court would waive the fees generally associated with such a petition. Generally, the Court dismisses most of these petitions; Gideon's was among those that it did not dismiss.

In state criminal trials, are indigent (poor) defendants entitled to a lawyer, even in noncapital cases? That was the question the Court agreed to decide when they accepted Gideon's petition. It was not merely a question of whether Gideon had been treated fairly; the Court's ruling would affect many other people who faced similar circumstances. In a previous decision, Betts v. Brady (1942), the Court had held that in state criminal trials, an indigent defendant must be supplied with an attorney only in special circumstances, which included complex charges and incompetence or illiteracy on the part of the defendant. Since Gideon had not claimed special circumstances, the Court would have to overturn Betts in order to rule in Gideon's favor. (Florida's state law provided indigent defendants with lawyers only in capital cases; many other states had laws providing lawyers to most or all indigent defendants.) The Court ruled in favor of Gideon, and stated that the sixth amendment required that he receive an attorney in a felony case when he could not afford one.

**Roe v. Wade (1973)**

In the latter part of the nineteenth century and the first half of the twentieth century, most states adopted laws strictly regulating the availability of abortions. Many states outlawed abortion except in cases where the mother’s life was in jeopardy. Illegal abortions were widespread and often dangerous for women who undertook them because they were performed in unsanitary conditions.

The sexual revolution that began in the second half of the twentieth century resulted in public pressure to ease abortion laws. As some states began to relax abortion restrictions, some women found it relatively easy to travel to a state where the laws were less restrictive or where a doctor was willing to certify medical necessity.

However, poor women often could not travel outside their state to receive treatment, raising questions of equality. Statutes were often vague, so that doctors did not really know whether they were committing a felony by providing an abortion. In addition,
government interference in sexual matters was beginning to be called into question by a changing conception of privacy.

There is no right to privacy explicitly guaranteed in the Constitution. However, the Supreme Court has long acknowledged some right to privacy. In earlier rulings about privacy, the Supreme Court seemed to connect the right to privacy to location, with a particular emphasis on a person’s home. This association stemmed from notions of property rights and centered on people’s personal property.

However, in the second half of the last century, the Court’s position on privacy came to be seen as a right connected to a person, not to a location. The change in conceptions of privacy can be seen clearly in the landmark decision of Griswold v. Connecticut (1965). The Supreme Court ruled that a Connecticut statute outlawing access to contraception violated the U.S. Constitution because it invaded the privacy of married couples to make decisions about their families. In that ruling, the Court identified privacy as a transcendent value, fundamental to the American way of life, and to the other basic rights outlined in the Bill of Rights. Though the decision focused on the fundamental nature of privacy associated with marriage, the case set the stage for the Court to proceed further in its protection. Seven years later, the Court decided a case that extended access to contraception to unmarried persons, as well.

While the word privacy does not appear in the Constitution, the argument for protecting privacy is based on the Due Process Clause of the 14th Amendment. That clause has been found to protect certain fundamental rights against government action.

Jane Roe, a pseudonym used to protect her identity, was an unmarried and pregnant Texas resident in 1970. She wanted to have an abortion, but Texas abortion law made it a felony to abort a fetus unless “on medical advice for the purpose of saving the life of the mother.” Roe filed suit against Wade, the district attorney of Dallas County, Texas to challenge the statute outlawing abortion.

Roe contested the statute on the grounds that it violated the Fourteenth Amendment mandating equal protection of the laws and the guarantee of personal liberty, and a mother’s right to privacy implicitly guaranteed in the First, Fourth, Fifth, Ninth, and Fourteenth Amendments. The state argued that “the right to life of the unborn child is superior to the right to privacy of the mother.” The state also argued that in previous decisions where the Court protected individual or marital privacy that right was not absolute. The state argued that this is a policy matter best left to the legislature to decide. A three-judge federal district court ruled the Texas abortion law unconstitutional, and the case was then appealed directly to the U.S. Supreme Court. The Supreme Court ruled in favor of Roe: states cannot prevent women from obtaining an abortion due to the implied right to privacy.

**McDonald v. Chicago (2010)**

When the Bill of Rights was ratified in 1791, it applied only at the national level. States did not have to abide by the limits it placed on the federal government. When the
Fourteenth Amendment was ratified in 1868, it placed limits on the kinds of laws states could pass. Originally meant to protect the civil rights of newly freed slaves, the Fourteenth Amendment says that states cannot deprive people of “life, liberty, or property, without due process of law.” In the late 19th century, the Supreme Court began interpreting the word “liberty” in the Fourteenth Amendment to include some of the rights protected in the Bill of Rights. By the mid-20th century, state and local governments were required to protect most rights in the Bill of Rights, such as freedom of religion, freedom of the press, and others.

This application of parts of the Bill of Rights to state and local governments through the Fourteenth Amendment is called the doctrine of selective incorporation. In general, the Court would apply a right to the states if it determined that the right was “fundamental to ordered liberty,” or it if was “deeply rooted in this Nation’s history and tradition.”

By the 21st century, the Second Amendment was one of the few remaining rights that had not been applied to the states by the Court. The Second Amendment reads, “A well regulated militia, being necessary to the security of a free state, the right of the people to keep and bear arms, shall not be infringed.” In the 2008 case of District of Columbia v. Heller, the Supreme Court heard its first Second Amendment case in more than 60 years. The Court ruled (5-4) that the Second Amendment protected the individual right to keep handguns at home for self-defense. Since the case involved the District of Columbia (which is under the authority of Congress), the Second Amendment remained unincorporated.

Two years later, a case challenging the handgun law in the cities of Chicago and Oak Park, Illinois, reached the Court (McDonald v. Chicago). The laws, similar to the D.C. law, effectively banned handgun possession by almost all private citizens. The Court faced the question of whether to incorporate the Second Amendment. In the ruling in McDonald, the Court asked if that right to keep arms for self-defense was fundamental or, deeply rooted in this Nation’s history and tradition. The Court held (5-4), “Heller points unmistakably to the answer. Self-defense is a basic right, recognized by many legal systems from ancient times to the present, and the Heller Court held that individual self-defense is ‘the central component’ of the Second Amendment right.” The Chicago and Oak Park handguns bans were unconstitutional.

14th Amendment’s Equal Protection Clause

Brown v. Board of Education (1954)

In the early 1950s, Linda Brown was a young African American student in the Topeka, Kansas school district. Every day she and her sister, Terry Lynn, had to walk through the Rock Island Railroad Switchyard to get to the bus stop for the ride to the all-black Monroe School. Linda Brown tried to gain admission to the Sumner School, which was closer to her house, but her application was denied by the Board of Education of Topeka because of her race. The Sumner School was for white children only.
Under the laws of the time, many public facilities were segregated by race. The precedent-setting *Plessy v. Ferguson* case, which was decided by the Supreme Court of the United States in 1896, allowed for such segregation. In that case, a black man, Homer Plessy, challenged a Louisiana law that required railroad companies to provide equal, but separate, accommodations for the white and African American races. He claimed that the Louisiana law violated the Fourteenth Amendment, which demands that states provide "equal protection of the laws." However, the Supreme Court of the United States held that as long as segregated facilities were qualitatively equal, segregation did not violate the Fourteenth Amendment. In doing so, the Court classified segregation as a matter of social equality, out of the control of the justice system concerned with maintaining legal equality. The Court stated, "If one race be inferior to the other socially, the constitution of the United States cannot put them on the same plane."

At the time of the Brown case, a Kansas statute permitted, but did not require, cities of more than 15,000 people to maintain separate school facilities for black and white students. On that basis, the Board of Education of Topeka elected to establish segregated elementary schools. Other public schools in the community were operated on a non-segregated, or unitary, basis.

The Browns felt that the decision of the Board violated the Constitution. They sued the Board of Education of Topeka, alleging that the segregated school system deprived Linda Brown of the equal protection of the laws required under the Fourteenth Amendment.

Thurgood Marshall, an attorney for the National Association for the Advancement of Colored People (NAACP), argued the Brown's case. Marshall would later become a Supreme Court justice.

The three-judge federal district court found that segregation in public education had a detrimental effect upon black children, but the court denied that there was any violation of Brown's rights because of the "separate but equal" doctrine established in the Supreme Court's 1896 *Plessy* decision. The court found that the schools were substantially equal with respect to buildings, transportation, curricula, and educational qualifications of teachers. The Browns appealed their case to the Supreme Court of the United States, claiming that the segregated schools were not equal and could never be made equal. The Court combined the case with several similar cases from South Carolina, Virginia, and Delaware. The ruling in the *Brown v. Board of Education* case came in 1954: segregation in public schools violated the equal protection clause of the 14th amendment.
A case involving Citizens United, a 501(c)(4) nonprofit organization, and whether the group’s film critical of a political candidate (Hillary) could be defined as an electioneering communication under the 2002 Bipartisan Campaign Reform Act, also known as the McCain-Feingold Act. Decided in 2010, in a 5-to-4 decision, the Supreme Court held that corporate funding of independent political broadcasts in candidate elections cannot be limited, because doing so would violate the First Amendment.

The Court's decision struck down a provision of the McCain-Feingold Act that banned for-profit and not-for-profit corporations and unions from broadcasting electioneering communications in the 30 days before a presidential primary and in the 60 days before the general elections. The decision overruled Austin v. Michigan Chamber of Commerce (1990) and partially overruled McConnell v. Federal Election Commission (2003). The decision upheld, however, the requirements for disclaimer and disclosure by sponsors of advertisements, and the ban on direct contributions from corporations or unions to candidates.

Legislative Branch

Baker v. Carr (1961)
Established the right of federal courts to review redistricting issues, which had previously been termed "political questions" outside the courts' jurisdiction. The Court’s willingness to address legislative reapportionment in this Tennessee case paved the way for the “one man, one vote” standard of American representative democracy.

The early 1900s saw both population increases and rapid urban migration in America. In Tennessee, while people flocked to cities like Memphis, the legislative districts stayed the same. Although more people were voting in urban areas, they still had the same amount of political representation as rural districts with significantly fewer residents. In 1960, roughly two-thirds of Tennessee’s representatives were being elected by one-third of the state’s population. A group of urban voters including Memphis resident Charles Baker sued Tennessee Secretary of State Joseph Carr for more equal representation. In a 6-2 decision, Justice William Brennan wrote for the majority that the Fourteenth Amendment’s Equal Protection Clause was valid grounds to bring a reapportionment lawsuit. This decision opened the floodgates for similar lawsuits that redrew election maps around the country.

Shaw v. Reno (1993)
North Carolina’s first redistricting plan following the 1990 Census was rejected because it had created only one minority-majority district, while in the judgment of the US Attorney General, there could have been two. This led to a new redistricting plan that
involved a heavily gerrymandered district that used interstate highways to connect high density minority areas. The plan was challenged by white voters who claimed that the plan was racially discriminatory, its only purpose being to elect a black representative.

The Supreme Court ruled that North Carolina’s plan was of such an unnatural shape that it went beyond what was reasonable in order to avoid racial imbalance and violated the 14th amendment’s equal protection clause.

**Judicial Branch**

**Marbury v. Madison (1803)**

The Court unanimously decided not to require Madison to deliver the commission to Marbury. Chief Justice Marshall understood the danger that this case posed to the power of the Supreme Court. Because Madison was President Jefferson’s secretary of state and Jefferson was head of the Democratic Party while Chief Justice Marshall and Marbury were Federalists, President Jefferson was almost certain to direct Madison to refuse to deliver the commission to Marbury. If the Court required Madison to deliver the commission and Madison refused, the Court had no power to force him to comply, and, therefore the Court would look weak. If the Court did not act, it would look like the justices made their decision out of the fear that Madison would not obey their decision.

The justices struck a middle ground between these alternatives in their opinion, written by Chief Justice Marshall. The Court ruled that Marbury was entitled to his commission, but that according to the Constitution, the Court did not have the authority to require Madison to deliver the commission to Marbury in this case. They found that the Judiciary Act of 1789 conflicted with the Constitution because it gave the Supreme Court more authority than it was given under the Constitution. The dispute centered around the difference between the Supreme Court’s original jurisdiction and its appellate jurisdiction. If the Court has original jurisdiction over a case, it means that the case can go directly to the Supreme Court and the justices are the first ones to decide the case. If the Court has appellate jurisdiction, however, the case must first be argued and decided by judges in the lower courts. Only then can it be appealed to the Supreme Court, where the justices decide whether the rulings of the lower courts were correct. Marbury brought his lawsuit under the Court’s original jurisdiction, but the justices ruled that it would be an improper exercise of the Court’s original jurisdiction to issue the writ of mandamus in this case.

The Judiciary Act of 1789 authorized the Supreme Court to “issue writs of mandamus ... to persons holding office under the authority of the United States.” A writ of mandamus is a command by a superior court to a public official or lower court to perform a special duty. The Court said this law attempted to give the Court the authority to issue a writ of mandamus, an exercise of its original jurisdiction, to Secretary of State Madison. However, Article III, section 2, clause 2 of the Constitution, as the Court read
it, authorizes the Supreme Court to exercise original jurisdiction only in cases involving “ambassadors, other public ministers and consuls, and those [cases] in which a state shall be a party. In all other cases, the Supreme Court shall have appellate jurisdiction.” The dispute between Marbury and Madison did not involve ambassadors, public ministers, consuls, or states. Therefore, according to the Constitution, the Supreme Court did not have the authority to exercise its original jurisdiction in this case. Thus the Judiciary Act of 1789 and the Constitution were in conflict with each other.

Declaring the Constitution “superior, paramount law,” the Supreme Court ruled that when ordinary laws conflict with the Constitution, they must be struck down. Furthermore, it is the job of judges, including the justices of the Supreme Court, to interpret laws and determine when they conflict with the Constitution. According to the Court, the Constitution gives the judicial branch the power to strike down laws passed by Congress, the legislative branch. This is the principle of judicial review. Thus, it has been recognized since this decision that it is “emphatically the province and duty of the judicial department to say what the law is.” Through this decision, Chief Justice Marshall established the judicial branch as an equal partner with the executive and legislative branches within the developing system of government. By refusing to require Madison and Jefferson to deliver the commission to Marbury, he did not give Madison the opportunity to disobey the Court, making it look weak. And, by declaring the Court’s power through the principle of judicial review, he made it clear that the justices did not make their decision out of fear. Instead, he announced that the Constitution is the supreme law of the land, and established the Supreme Court as the final authority for interpreting it.