

Questions to Consider

1. If the Supreme Court of the United States had issued the writ of *mandamus*, how could it have forced Madison to comply with the order?

The Supreme Court could not have enforced the order.

What might have happened if he had ignored it?

The Court would have appeared weak and it might make people start ignoring all sorts of laws or rules, thinking that they won't be enforced.

2. In the Court's opinion, is Marbury entitled to his appointment?

Yes.

3. According to the decision, does the Supreme Court of the United States have the authority to issue a writ of *mandamus* to force Madison to deliver the commission?

Explain.

No because they did not have original jurisdiction in the case.

Is there any way to reverse the Court's decision?

No because that would completely throw off the checks and balances, making the judicial branch much weaker.

4. In this case, Chief Justice John Marshall and the Court "gave up some power in order to get more." Explain.

What power did they give up?

They gave up the power to issue a writ of *mandamus* when there is no original jurisdiction.

What power did they gain?

They gained the power of judicial review or the power to strike down laws deemed unconstitutional.

Why did the Court do this?

The Court made this decision to support the government's checks and balances. Also to preserve their image.

5. Why does the judicial branch, as opposed to the executive or legislative branch, have the power of judicial review?

The legislative branch drafts laws, the executive branch has the power to veto. The judicial branch needs a way to check the other branches, so it has the power of judicial review.