**Marbury v. Madison (1803)**

This case is probably the most important case in the history of the Supreme Court. With this case the Supreme Court claimed the power of "judicial review." This is the power to declare laws made by Congress unconstitutional. This power was not given to the Supreme Court by the Constitution.

Legal scholars consider *Marbury v. Madison* (1803) a central text for understanding the role of the Courts to interpret law in light of the Constitution, known as judicial review. It is the centerpiece of many constitutional law classes.

As judicial review was seldom exercised prior to the 20th century, the case was cited exclusively for its discussion of the particular issues of the case for the first century after it was handed down. Beginning in the early 20th Century, however, the Court began striking down federal laws more frequently. Proponents of judicial review pointed to Chief Justice John Marshall’s decision in Marbury as a source supporting the view that the Supreme Court has the final say on what the Constitution means.

The case of *Marbury v. Madison* (1803) was the first time the U.S. Supreme Court declared an act of Congress to be unconstitutional. (The case concerned a section of the Judiciary Act of 1789.) In his opinion, Chief Justice John Marshall relied almost exclusively on the specific language of the Constitution, saying that it was the “paramount law of the nation” and that it constrained the actions of all three branches of the national government. The whole point of a written Constitution, Marshall asserted, was to ensure that government stayed within its prescribed limits: “The powers of the Legislature are defined and limited; and [so] that those limits may not be mistaken or forgotten, the Constitution is written” In cases where a law conflicted with the Constitution, Marshall wrote, then “the very essence of judicial duty” was to follow the Constitution.

Marshall also asserted that the courts had the responsibility to understand and articulate what the Constitution means: “It is emphatically the province and duty of the judicial department to say what the law is.” The decision concluded “a law repugnant to the Constitution is void, and courts, as well as other departments, are bound by that instrument.”

The Supreme Court did not declare another act of Congress unconstitutional until it struck down the Missouri Compromise in *Dred Scott v. Sanford* (1857). The power of judicial review was used sparingly for the next several decades. Beginning in the early 20th Century, however, the Court began striking down federal laws more often than ever before. Proponents of judicial review pointed to Chief Justice John Marshall’s decision in Marbury as a source supporting the view that the Supreme Court has the final say on what the Constitution means.

Since then, as the powers of the national government have expanded and as more and more state laws became subject to federal review (as a result of the Fourteenth Amendment and the incorporation of the protections of the Bill of Rights against the states), the Supreme Court has had frequent opportunities to exercise its power of judicial review.

## **Dred Scott v. Sanford (1854)**

The period between the ratification of the Constitution and the Civil War was marked by increased efforts for the abolition of slavery. As the country grew, free states began to outnumber slave states in number and population, and abolitionists gained political strength. The Northwest Ordinance and the Missouri Compromise created vast new territories which Congress declared must be free states upon admission to the Union. However, slave states remained steadfast in their claim that slavery was a state issue.

Southern states successfully pushed for two new federal fugitive slave laws, gaining national recognition of their legal rights against abolitionists who helped slaves escape. Federal law now required the return of the slaves to their owners.

Into the midst of this turmoil, Dred Scott, a slave, filed a case in Federal Circuit Court in St. Louis, Missouri. Scott claimed that because he had lived for ten years in both a free state (Illinois) and a free territory (Wisconsin), he had been made a free man. His owner did not deny that Scott and his family had resided in Wisconsin and Illinois, but claimed Scott lacked standing to sue, as he was not a citizen of the United States.

The Court looked at the case in the broadest possible terms, using it as a platform to decide, firs, whether Scott had standing to sue; second, whether blacks were entitled to rights as citizens; and finally, whether Congress could restrict the rights of states to decide for themselves if they would enter the union as a slave or free state.

This ruling said that all African Americans, both slaves and free, were not legal citizens of the United States. This meant that they could not sue in federal court. It came about when a slave named Dred Scott tried to sue for his freedom when his owner moved him to a free state and then back to a slave state. The Fourteenth Amendment turned this decision around. Today, *Dred Scott v. Sandford* is considered by many to be one of the worst rulings in the history of the Supreme Court.

**Plessy v. Ferguson (1896)**

Another case that is now infamous for how bad it was, is *Plessy v. Ferguson*. This case ruled that segregation based on race was legal. It is famous for using the ruling of "separate but equal" by saying that railway cars could be separated between black people and white people. The ruling was later turned down by the case of *Brown v. Board of Education*.

Although the Declaration of Independence affirmed that “all men are created equal,” and had inalienable rights, including liberty, African Americans were systematically denied their liberty through the institution of slavery. Even after the Civil War and the passage of the Thirteenth, Fourteenth, and Fifteenth Amendments, segregation was a fact of life in the United States. Throughout the country, the races remained separated by both custom and law.

With the end of Reconstruction, every Southern state, as well as some Northern ones, passed what came to be termed Jim Crow laws. These policies required segregation in public places. African Americans were denied equal access to public facilities like transportation, education, and the voting booth. In 1878, the Supreme Court held that states could not require integration on interstate common carriers. In 1890, the Court held that Mississippi could require segregation on modes of interstate transportation.

Five years later, Homer Plessy, a resident of Louisiana, decided to challenge a Louisiana law requiring segregation on railcars by purchasing a train ticket and sitting in a “whites only” car. Because Plessy was an “octoroon” (1/8th black), he was subject to the black codes of Louisiana. When he was questioned as to his status, he admitted to being an octoroon, and was arrested when he refused to leave the car. He appealed his case to the Supreme Court of Louisiana and eventually the United States Supreme Court, claiming that the Louisiana law violated the Fourteenth Amendment.

On May 18, 1896, the [Supreme Court](https://www.history.com/topics/supreme-court-facts) delivered its verdict in Plessy v. Ferguson. In declaring separate-but-equal facilities constitutional on intrastate railroads, the Court ruled that the protections of 14th Amendment applied only to political and civil rights (like voting and jury service), not “social rights” (sitting in the railroad car of your choice).

In its ruling, the Court denied that segregated railroad cars for blacks were necessarily inferior. “We consider the underlying fallacy of [Plessy’s] argument,” Justice Henry Brown wrote, “to consist in the assumption that the enforced separation of the two races stamps the colored race with a badge of inferiority. If this be so, it is not by reason of anything found in the act, but solely because the colored race chooses to put that construction upon it.”

**Brown v. Board of Education (1954)**

In this case, the court ruled that having separate public schools for black students and white students was unconstitutional. This made segregation in public schools illegal and paved the way to end racial segregation in general. Future Supreme Court justice Thurgood Marshall was the lead lawyer for the NAACP who argued the case before the court.

As a condition of re-joining the Union after the Civil War, former Confederate states had to ratify what have become known as the “Civil War” Amendments. The Thirteenth Amendment ended slavery; the Fourteenth Amendment granted citizenship to and protected the civil rights of former slaves; and the Fifteenth gave adult black men the right to vote. Unfortunately, the amendments alone proved insufficient to protect African Americans’ rights.

Beginning in 1877, laws curbing the civil rights of Blacks began sweeping through Southern state legislatures. These laws became known as “Jim Crow” laws after a black minstrel character. Segregation became a legal requirement and not merely a cultural norm in every Southern state as well as some Northern ones. In 1896, Homer A. Plessy challenged a Louisiana statue necessitating separate rail cars for black and white passengers. Plessy claimed the law violated the Fourteenth Amendment’s Equal Protection clause, which requires that a state must not “deny to any person within its jurisdiction the equal protection of the laws.”

The Supreme Court disagreed with Plessy’s argument and instead upheld the Louisiana law. In the process, the Court established the doctrine of “separate but equal.” Though the Plessy v. Ferguson (1896) decision never actually used that famous phrase, the ruling upheld the constitutionality of racially separate public accommodations as long as those accommodations were otherwise equal. The lone dissenting Justice in Plessy,John Harlan, objected to the majority’s decision: “[I]n view of the Constitution, in the eye of the law, there is in this country no superior, dominant, ruling class of citizens. There is no caste here. Our constitution is color-blind, and neither knows nor tolerates classes among citizens. In respect of civil rights, all citizens are equal before the law.”

Public schools were able to remain segregated under the Plessy ruling. As public education became more common in the Twentieth Century, the Supreme Court’s “separate but equal” doctrine began to have more of an effect on children. Black schools and white schools often received disproportionate funding from state and local governments. In Washington DC, lack of new construction caused overcrowding in black schools, while nearby white schools were under-used. In the Twentieth Century, community-based groups paired with the NAACP to conduct targeted legal challenges to the “separate but equal” doctrine. Their goal was to overturn the “separate but equal” doctrine by building a case that would force the Supreme Court to declare that even if accommodations were “equal” in other ways, segregation itself was unconstitutional. One of the most promising fronts was in the arena of public education.

Topeka, Kansas’ school system provided the perfect case because the school buildings, textbooks, materials and teacher salaries were virtually equal in black and white schools. Topeka’s Board of Education operated under an 1879 law, “Schools in Unorganized Counties,” that permitted, but did not require, segregation. In 1951, thirteen parents sued on behalf of their twenty children. Oliver Brown, father of third-grader Linda Brown, became the named plaintiff. After making its way through the District Courts, the Brown case went to the Supreme Court.

In 1954, sixty years after Plessy v. Ferguson, the Supreme Court ruled unanimously in Brown v. Board of Education that “separate but equal” was unconstitutional under the Equal Protection Clause of the Fourteenth Amendment. The Court cited a series of tests performed by two psychologists, Kenneth and Mamie Clark, demonstrating that segregation had a negative effect on the psyche of black children, instilling in them a sense of inferiority: “To separate [children] from others of similar age and qualifications solely because of their race generates a feeling of inferiority as to their status in the community that may affect their hearts and minds in a way unlikely ever to be undone.” Plessywas officially overturned, as separate accommodations were judges to be “inherently unequal.” Writing for the unanimous Court, Justice Earl Warren stated, “Segregation of children in public schools solely on the basis of race deprives children of the minority group of equal educational opportunities, even though the physical facilities and other ‘tangible’ factors may be equal. The ‘separate but equal’ doctrine adopted in Plessy v. Ferguson has no place in the field of public education.”

After the 1954 decision in Brown v. Board of Education declared state-mandated segregation in public schools unconstitutional, the case was re-argued to determine how to correct the violations. In a directive known as Brown II, the Supreme Court ordered District Courts to determine whether local governments were pursuing integration “with all deliberate speed.” Some states and localities began earnest efforts to integrate, while others used the “deliberate speed” provision to delay integration. In the case of Little Rock Arkansas, integration came only after the President mobilized the National Guard to enforce it.

### Dates of Trial: June 17-18, 1873

### Importance of United States v. Susan B. Anthony: The United States v. Susan B. Anthony is a milestone in women's history, a court case in 1873. Susan B. Anthony was tried in court for illegally voting. Her attorneys unsuccessfully claimed that citizenship of women gave to women the constitutional right to vote.

### Background to United States v. Susan B. Anthony

### When women were not included in the constitutional amendment, the 15th, to extend suffrage to black men, some of those in the suffrage movement formed the National Woman Suffrage Association (the rival American Woman Suffrage Association supported the Fifteenth Amendment).  These included [Susan B. Anthony](https://www.thoughtco.com/susan-b-anthony-biography-3528407) and [Elizabeth Cady Stanton](https://www.thoughtco.com/elizabeth-cady-stanton-biography-3530443).

Some years after the 15th Amendment passed, Stanton, Anthony and others developed a strategy of attempting to use the Fourteenth Amendment's equal protection clause to claim that voting was a fundamental right and thus could not be denied to women.  Their plan: to challenge limits on women voting by registering to vote and attempting to vote, sometimes with the support of the local poll officials.

Susan B. Anthony and Other Women Register and Vote

Women in 10 states voted in 1871 and 1872, in defiance of state laws prohibiting women from voting. Most were prevented from voting. Some did cast ballots.

In Rochester, New York, almost 50 women attempted to register to vote in 1872. Susan B. Anthony and fourteen other women were able, with the support of election inspectors, to register, but the others were turned back at that step.  These fifteen women then cast ballots in the presidential election on November 5, 1872, with the support of the local election officials in Rochester.

### Arrested and Charged With Illegal Voting

On November 28, the registrars and the fifteen women were arrested and charged with illegal voting. Only Anthony refused to pay bail; a judge released her anyway, and when another judge set new bail, the first judge paid the bail so that Anthony would not have to be jailed.

While she was awaiting trial, Anthony used the incident to speak around Monroe County in New York, advocating for the position that the Fourteenth Amendment gave women the right to vote.  She said, "We no longer petition legislature or Congress to give us the right to vote, but appeal to women everywhere to exercise their too long neglected 'citizen's right'."

### ****Outcome of United States v. Susan B. Anthony****

The trial was held in U.S. District Court.  The jury found Anthony guilty, and the court fined Anthony $100. She refused to pay the fine and the judge did not require her to be jailed.

A similar case made its way to the U.S. Supreme Court in 1875. In [Minor v. Happersett](https://www.thoughtco.com/minor-v-happersett-case-3530494), On October 15, 1872, [Virginia Minor](https://www.thoughtco.com/virginia-minor-biography-4054299) applied to register to vote in Missouri.  She was turned down by the registrar, and sued.  In this case, appeals took it to the Supreme Court, which ruled that the right of suffrage -- the right to vote -- is not a "necessary privilege and immunity" to which all citizens are entitled, and that the Fourteenth Amendment did not add voting to basic citizenship rights.

After this strategy failed, the National Woman Suffrage Association turned to promoting a national constitutional amendment to give women the vote.  This amendment did not pass until 1920, 14 years after Anthony's death and 18 years after Stanton's death.