



Marbury v. Madison and Judicial Review

Robert Lowry Clinton

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Few Supreme Court decisions are as well known or loom as large in our nation's history as *Marbury v. Madison*. The 1803 decision is widely viewed as having established the doctrine of judicial review, which permits the Court to overturn acts of Congress that violate the Constitution; moreover, such judicial decisions are final, not subject to further appeal.

Robert Clinton contends that few decisions have been more misunderstood, or misused, in the debates over judicial review. He argues that the accepted view of *Marbury* is ahistorical and emerges from nearly a century of misinterpretation both by historians and by legal scholars.

"This book is without doubt one of the half dozen recent works that will be central to the scholarly dispute about judicial review."—*Political Science Quarterly*.

"Clinton offers a resounding correction of the prevailing orthodoxy on the *Marbury* case that has dominated scholarship in law, history, and political science for roughly the last century. . . . If he contended only 'that *Marbury* was not a political decision but was based on sound constitutional doctrine and existing legal precedent', this book would still make a quite valuable contribution to the literature. . . . But there is more: the constitutional doctrine and legal precedents Clinton has rediscovered, in which the *Marbury* ruling is firmly grounded, reveal judicial review to be . . . of profoundly narrower scope than is admitted today by right or left, by originalists or nonoriginalists. . . . Clinton has done [much] to blow away a good deal of fog surrounding Marshall, *Marbury*, and the scope of judicial power."—*Review of Politics*.

"Every student of judicial review should read this book. Even those who disagree with its main thesis will find it very stimulating."—Christopher Wolfe, author of *The Rise of Modern Judicial Review: From Constitutional Interpretation to Judge-Made Law*.

"An important book. Clinton's new and unorthodox look at *Marbury v. Madison* is interesting, provocative, and controversial. He presents clearly, forcefully, and persuasively a great amount of evidence to support his thesis."—*Social Science Quarterly*.

"Clinton's reconstruction of the legal academicians' wrangling over *Marbury* makes delightful reading. . . . He is witty, subtle, and makes points with great deftness."—*William and Mary Quarterly*.

"A coherent, provocative, and welcome challenge to the liberal-Progressive interpretation of judicial review."—*Journal of American History*.

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