



Viewing Guide: *Marbury v. Madison* (1803)

Part 1: (00:00-4:05)

The Election of 1800

The election of 1800 pitted Federalist _____, who was the incumbent president, against the Democratic-Republican challenger _____. One major difference between the two parties was that the Federalists believed in a strong _____, while the Democratic-Republicans believed in a loose confederation of _____. _____ won this election for President while _____ lost. This election set the very important precedent of _____.

Midnight Judges

The Federalist-controlled Congress created the Judiciary Act of 1801, which created more _____, which Adams filled with _____. Federal judges are appointed for _____. Jefferson and the Democrat-Republicans were furious about this because _____.

Part 2: Lead up to *Marbury v. Madison* (4:06-6:08)

Adams' Secretary of State, _____, was supposed to deliver letters (commissions) to each of these new judges officially granting them their new judicial position. He left a few of the letters to be delivered by the new Secretary of State, _____. The new President, _____, told _____ to hold the letters and not deliver them. _____ was one of those who did not receive his commission and he sued _____, trying to force the delivery of the commission.

Part 3: (6:09-End)

Three Big Questions

1. Does Marbury have a right to his _____?
2. If he has a right, does he have a remedy? Re-write this question in your own words: _____?
3. If he has a remedy, is that remedy a writ of mandamus by this Court granting him his commission?

The Ruling

The new Chief Justice of the Supreme Court, _____, delivered the ruling. This was the same Marshall who did not deliver Marbury's letter in the first place.

The Court ruled that _____ should be given his commission, but the Court could do nothing about it because the Supreme Court did not have _____. In other words, Marbury did not have the right to come straight to the Supreme Court. He should have gone through the lower courts first.

Marbury brought his case directly to the Supreme Court under a section of the _____. The Court ruled that section violated Article _____ of the Constitution. So,

what do we do when a law is in conflict with the Constitution? The Court ruled that if that happens, the _____ wins. It was the first time this had ever happened.

This ruling created the precedent known as _____.

Judicial Review is the power of the courts to rule that a law is _____. Many say that it was this ruling that made the judicial branch a _____ branch of government. Others have said that it has allowed the Supreme Court to become _____.

"It is emphatically the province and duty of the judicial department to say what the law is."
—Chief Justice John Marshall

Explain Marshall's words in your own words:

Discussion Questions:

1. Do you think judicial review gives too much or the right amount of power to the judicial branch? Explain your answer.

2. Can the judicial branch truly check the other branches without the power of judicial review? Explain your answer.

3. What might have happened if the Court had ordered Marbury's commission to be delivered and President Jefferson and Secretary of State Madison had refused?