



Teacher Notes: *Marbury v. Madison* (1803)

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

The Election of 1800

The election of 1800 pitted Federalist **John Adams**, who was the incumbent president, against the Democratic-Republican challenger **Thomas Jefferson**. One major difference between the two parties was that the Federalists believed in a strong **central government**, while the Democratic-Republicans believed in a loose confederation of **states**. **Thomas Jefferson** won the election for President while **John Adams** lost. This election set the very important precedent of **the peaceful transition of power from one political party to another**.

Midnight Judges

The Federalist-controlled Congress passed the Judiciary Act of 1801, which created more **federal judge positions**, which Adams filled with **Federalist** judges. Federal judges are appointed for **life**. Jefferson and the Democratic-Republicans were furious about this because **they felt the Federalists were unfairly giving themselves too much power in the judiciary**.

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

Adams' Secretary of State, **John Marshall**, 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, **James Madison**. The new President, **Thomas Jefferson**, told **Madison** to hold the letters and not deliver them. **William Marbury** was one of those who did not receive his commission and he sued **James Madison**, trying to force the delivery of the commission.

Part 3: (6:09-End)

Three Big Questions

1. Does Marbury have a right to his **commission**?
2. If he has a right, does he have a remedy? Re-write this question in your own words:
Example: If Marbury is supposed to get his commission, can the Supreme Court fix his problem?
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, **John Marshall**, delivered the ruling. This was the same Marshall who did not deliver Marbury's letter in the first place.

The Court ruled that **Marbury** should be given his commission, but the Court could do nothing about it because the Supreme Court did not have **original jurisdiction**. 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 **Judiciary Act of 1789**. The Court ruled that this section violated Article **III** 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 **Constitution** wins. It was the first time this had ever happened.

This ruling created the precedent known as **judicial review**.

Judicial Review is the power of the courts to rule that a law is **unconstitutional**. Many say that it was this ruling that made the judicial branch a **co-equal** branch of government. Others have said that it has allowed the Supreme Court to become **too powerful**.

"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:

Example: The job of the judicial branch is to define what laws really mean.

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?