Marbury vs. Madison 1803

**The Election of 1800**

The Election of 1800 pitted Federalist \_\_\_\_\_\_\_\_\_\_\_\_ vs. Democratic-Republican \_\_\_\_\_\_\_\_\_\_\_\_. 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 \_\_\_\_\_\_\_. This election set the very important precedent of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

**Midnight Judges**

The Federalist-controlled Congress & Adams created the Judiciary Act of 1801, which created more \_\_\_\_\_\_\_\_\_\_\_\_, which they filled with Federalist \_\_\_\_\_\_. Federal judges are appointed for \_\_\_\_\_\_\_. Congress Jefferson and the DRs were furious about this because \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

**Lead up to Marbury vs. Madison**

Adam’s 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 James Madison, trying to force the delivery of the commission.

**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: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_?

1. If he has a remedy, is it an order by this Court (writ of mandamus) granting him his commission?

**The Ruling**

The new Chief Justice of the Supreme Court, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, delivered the ruling. Yes, it’s the same Marshall who did not deliver the letter in the first place.

Marshall ruled that \_\_\_\_\_\_\_\_\_\_\_\_ should be given his commission, but Marshall could do nothing about it because the Supreme Court did not have original \_\_\_\_\_\_\_\_\_\_\_\_\_\_. 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 sued under a section of the Judiciary Act of 1789. Marshall ruled that section violated Article \_\_\_\_ of the Constitution. So, what do we do when a law is in conflict with the Constitution? Marshall ruled that if that happens, the \_\_\_\_\_\_\_\_\_\_\_\_\_ wins. It was the first time this had ever happened.

This ruling created the precedentknown 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 an \_\_\_\_\_\_\_\_\_ branch of government. Others have said that it has allowed the court to become too \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

**"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: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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