

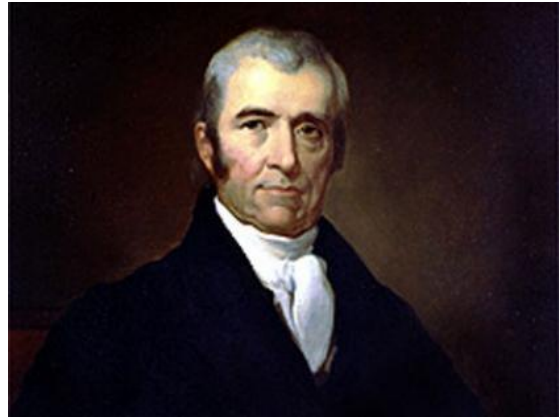
Article III: The Judiciary

Aim: How are the powers of the Judicial Branch established in Article III of the Constitution?

Do Now: read the quote below then answer the following questions.

“It is emphatically the province and duty of the judicial department to say what the law is If two laws conflict with each other, the courts must decide on the operation of each...This is of the very essence of judicial duty.” --- John Marshall

1. In the First 2 lines on the quote, what is the duty of the judicial department?
2. In lines 3 and 4, what does John Marshall state is “the very essence of judicial duty”?



Assignment: Read the following and answer the questions that follow.

Marbury v. Madison

The greatest case in Supreme Court history is the case in which the Court first asserted its right to declare a law of Congress unconstitutional. The events leading to the case began the night before President John Adams left office. The President was bitter. He had just lost the election to Thomas Jefferson. As one of his tasks in office, Adams appointed some of his federalist supporters to be judges. The Judiciary Act of 1789 gave him the power to do this. The commissions for these offices, including one for William Marbury, were put on the Secretary of State's desk to be sealed and then delivered the next day. The Secretary of State, John Marshall, neglected to have them delivered.

When Jefferson took office, his new Secretary of State, James Madison, refused to deliver the commissions. William Marbury asked the Court to issue an order requiring Madison to hand over his commission. At this time, John Marshall was Chief justice of the Supreme Court. Marshall wrote the decision in 1803.

Chief Justice Marshall was indeed justified in ordering Madison to deliver the commission to Marbury. Suppose, though, that Madison ignored the order, with President Jefferson's approval. The Supreme Court would be seriously weakened. Future Presidents might also ignore its decisions.

Marshall looked to the Constitution and his Federalist principles for guidance. According to Article III, the Supreme Court had original jurisdiction only in “all cases affecting ambassadors, other public ministers and consuls, and those in which a state shall be a party.” In all other cases, the Court had only appellate jurisdiction.

Since Marbury was not an ambassador, a public minister, or consul, and since a state was not a party to the dispute, Chief Justice Marshall concluded that the section of the Judiciary Act of 1789 that gave Marbury the right to go to the Supreme Court first to demand the delivery of his commission was unconstitutional. The Judiciary Act was adding to the original jurisdiction of the Court by giving it permission to issue orders.

Chief Justice Marshall's decision cleverly avoided making a ruling the court could not enforce. The real issue was not whether Marbury got his job as justice of the peace but whether the Supreme Court had the power to declare a law unconstitutional. With this decision, the Supreme Court established itself as a check on the legislative and executive branches. The Court would strike down any law that contradicted the Constitution.

Marbury never got his commission. His loss was the country's gain – the new concept of judicial review.

1. Who appointed William Marbury Justice of the peace?
2. Who was Chief Justice of the Supreme Court?
3. Why did John Marshall not order Madison to deliver Marbury's commission?
4. How did the decision of the case impact the future of the United States?

Directions: Use the link: [The Constitution](#) to complete the guided notes

Article III: The Judiciary

A. Federal Courts and Judges

- Judicial power of the US shall be vested in one _____ and inferior courts that Congress establish
- Terms of service: serves for _____, must receive compensation

B. The Court's Authority

- General Authority: Judicial power extends to all cases affecting ambassadors, public ministers, all cases of admiralty and Maritime, when the US is a party, between two or more states, and between citizens of different states
- Supreme Court: Jurisdiction – Ability to hear a case – two types
_____ – ability to hear a case for the first time – cases affecting ambassadors or when states are a party
_____ – review of previous courts' decision of other cases – most cases that the Supreme Court hears
- Trial by Jury: a Trial shall take place in the state where the crime had taken place

C. _____

- Defined as levying war against the US, giving aid, or comfort to enemies of the US
- Two witnesses are needed to convict a person of treason
- Punishment for treason – Congress defines the punishment – cannot pass a punishment for _____

***** Key Power of the judicial branch is judicial review, established in the Supreme Court

Case _____ Judicial review - _____
