

2 Read the following text and answer the questions that follow: (hint: complete the flow chart in step 3 while you read to help guide your reading)

Thomas Jefferson, a member of the Republican Party, won the election of 1800. The outgoing President, John Adams, proceeded to rapidly appoint 58 members of his own party to fill government posts created by Congress.

It was the responsibility of the Secretary of State, John Marshall, to "deliver the commissions," finish the paperwork, and give it to each of the newly appointed judges. Although Marshall signed and sealed all of the commissions, he failed to deliver 17 of them to the respective appointees. Marshall assumed that his successor would finish the job, but when Jefferson became President, he told his new Secretary of State, James Madison, not to deliver some of the commissions, because he did not want members of the opposing political party to take office. Those individuals couldn't take office until they actually had their commissions in hand.

William Marbury, whom Adams had appointed as justice of the peace of the District of Columbia, was one of these last-minute appointees who did not receive his commission. Marbury sued James Madison and asked the Supreme Court of the United States to issue a *writ of mandamus*, a court order that requires an official to perform or refrain from performing a certain duty. In this case, the writ would have ordered Madison to deliver the commission. Marbury argued that he was entitled to his commission and that the Judiciary Act of 1789 gave the Supreme Court of the United States original jurisdiction to issue a *writ of mandamus*. Madison disagreed. When the case came before the Court, John Marshall — the person who had failed to deliver the commission in the first place — was the new Chief Justice. If this situation were to arise today, Marshall would likely disqualify himself because of a conflict of interest.

1. Who was Marshall likely to side with, Marbury or Madison? Why?

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2. If the Court decided that Marbury was entitled to the commission, how could it be sure that the executive branch would deliver it? Does the Court have the power to force compliance? What would happen if the Court issued the writ, but the executive branch refused to comply?

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3. According to Article 3, Section 2 of the Constitution, in what types of cases does the Supreme Court of the United States have original jurisdiction? Does the Congress have the authority to alter the Court's jurisdiction?

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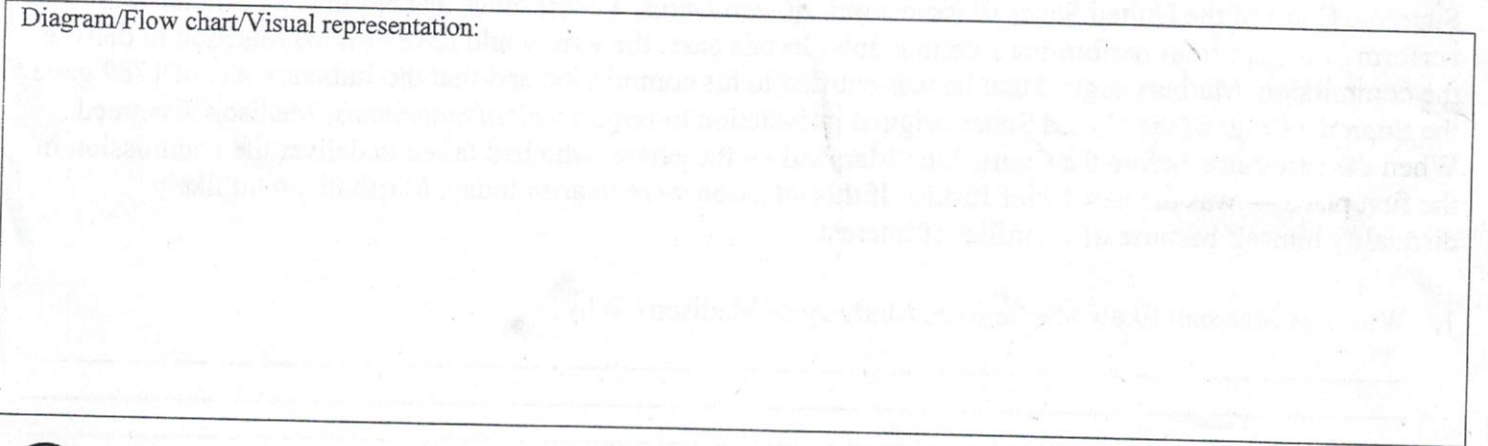


3

Read the Supreme Court's decision below and make a visual representation (flow chart, drawing, etc) of Marbury v. Madison. Start with the commissions and end with the Supreme Court decision.

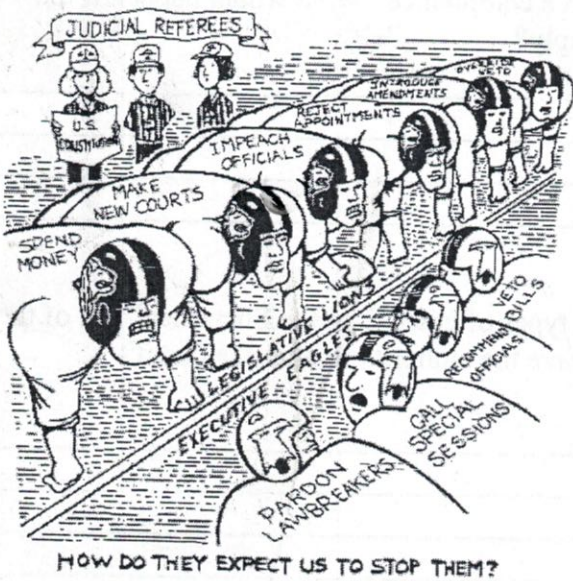
The Court unanimously decided not to require Madison to deliver the commission to Marbury. Chief Justice Marshall understood the danger that this case posed to the power of the Supreme Court. Because Madison was President Jefferson's secretary of state and Jefferson was head of the Democratic Party while Chief Justice Marshall and Marbury were Federalists, President Jefferson was almost certain to direct Madison to refuse to deliver the commission to Marbury. If the Court required Madison to deliver the commission and Madison refused, the Court had no power to force him to comply, and, therefore the Court would look weak. If the Court did not act, it would look like the justices made their decision out of the fear that Madison would not obey their decision. Through this decision, Chief Justice Marshall established the judicial branch as an equal partner with the executive and legislative branches within the developing system of government. By refusing to require Madison and Jefferson to deliver the commission to Marbury, he did not give Madison the opportunity to disobey the Court, making it look weak. And, by declaring the Court's power through the principle of judicial review, he made it clear that the justices did not make their decision out of fear. Instead, he announced that the Constitution is the supreme law of the land, and established the Supreme Court as the final authority for interpreting it.

Diagram/Flow chart/Visual representation:



4

Study the political cartoon below and answer the questions that follow:



- 1) What do you see in the cartoon? (make a list of objects, people, and exaggerated characteristics)
 

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- 2) What is happening in the cartoon?
 

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- 3) What is the cartoonist's message?
 

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- 4) Do you agree or disagree with the message? Explain your answer.
 

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