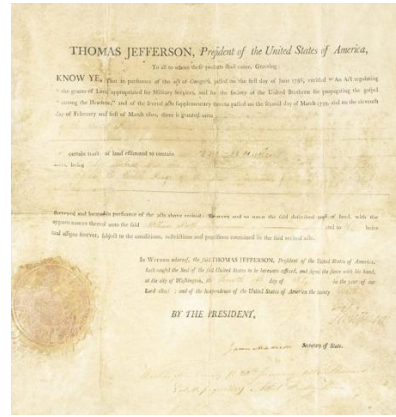




0. JEFFERSON SAYS NO - Story Preface
1. A BACKGROUND OF WAR
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The "Madison," in *Marbury v Madison*, is James Madison (who was President Jefferson's Secretary of State in 1801). He is the same James Madison who presented a plan of government to the Continental Congress, was a principal drafter of America's Bill of Rights and later became the country's 4th President. This image depicts a land-grant signed by both Jefferson and Madison in 1801. Click on the image for a clearer view.

Reaching out to political opponents in his inaugural address (see the sixth and seventh lines of this link to his [handwritten draft](#)), Jefferson said:

*We are all republicans:
we are all federalists.*

Practically with the same breath, however, Jefferson ordered his new Secretary of State - James Madison - NOT to deliver the outstanding judicial commissions to the "Midnight Judges." When Jefferson made his own justice-of-the-peace appointments, some of the Adams' nominees received commissions; others (including Marbury) did not.

Forcing the issue later in the year, Marbury (and two others in his same position) sued Madison (in December of 1801), requesting the court to issue a Writ of Mandamus which (if granted) would compel Marshall to deliver the commissions.

There was an ironic twist to this whole situation. Although the Constitution (in Article III) gives the United States Supreme Court original jurisdiction in very few matters (since its main focus is to decide appellate cases), Congress gave the Supreme Court additional authority to hear certain types of cases when it passed the Judiciary Act of 1789.

Section 13 of that Act gave Marbury the right to file his lawsuit (seeking a *Writ of Mandamus* against James Madison) in the Supreme Court. Marbury's lawyer would therefore argue the merits of his case to the very person who had failed to order delivery of his commission in the first place. It is reasonable to ask: Doesn't that present a conflict of interest?

Clearly, the Chief Justice faced a sticky situation. If the commissions were legal - keep in mind the nominations had been approved by the Senate - why hadn't *Marshall* delivered them in the first place? Would he, as Chief Justice (and a Federalist), now have to order the Democratic-Republican President (through the Secretary of State, James Madison) to deliver the commissions?

Marshall knew full well Jefferson did not want those appointed “Midnight Judges” - all Federalists - to get the jobs. But applying the law, what choice did he have?

To understand how John Marshall resolved the case, we have to know something about the man. As it happens ... there's a lot to know.

See Alignments to State and Common Core standards for this story online at:

<http://www.awesomestories.com/asset/AcademicAlignment/IEFFERSON-SAYS-NO-Marbury-vs-Madison>

See Learning Tasks for this story online at:

<http://www.awesomestories.com/asset/AcademicActivities/IEFFERSON-SAYS-NO-Marbury-vs-Madison>



William Marbury - Case Led to Judicial Review

Image online, courtesy the archives of James Madison University.

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View this asset at:

<http://www.awesomestories.com/asset/view/William-Marbury-Case-Led-to-Judicial-Review>