A Court Says No

How one case established a check on Congress

SS24.6.17b "Explain the significance of Marbury v. Madison (1803) in establishing judicial review by the Supreme Court."

NAME _____ DATE _____

1 READ AND MARK

Read it twice

YOUR JOB Underline the sentence that explains why the Court rejected part of a law. Circle what happened to Marbury's request, and number the sentence that explains why the decision matters.

Marbury's Missing Commission

1. In 1801, William Marbury waited for a paper that would let him serve as a justice of the peace in Washington, D.C. President John Adams had appointed him, and the appointment had been signed and sealed. But the paper, called a commission, was not delivered before Thomas Jefferson became president. Jefferson's secretary of state, James Madison, refused to deliver it. Marbury went straight to the U.S. Supreme Court. He asked the justices for an order telling Madison to hand over the commission.

2. Chief Justice John Marshall wrote the Court's decision in 1803. He said Marbury had a right to the commission and that the law should offer a way to protect that right. Yet the Court did not order Madison to deliver it. Marbury had asked the Supreme Court to issue an order called a writ of mandamus. A part of a federal law, the Judiciary Act of 1789, seemed to give the Court power to issue that order in this kind of case.

3. Marshall compared that part of the law with Article III of the Constitution, which sets the types of cases the Supreme Court can hear first. He concluded that Congress could not add Marbury's kind of case to that list. Because the law conflicted with the Constitution, the Court would not use it to grant Marbury's request. This decision established **judicial review** as a power of the Supreme Court: in a case, it can decide whether a law violates the Constitution and refuse to apply that law. Congress is limited by the Constitution.

2 ANSWER WITH EVIDENCE

Use the passage

1. Marbury had a right to his commission. Why did the Court still refuse his request?

2. What limit did Article III place on the power Congress tried to give the Supreme Court?

3. How did the Court's response to the conflict show judicial review in action?

4. Why does this decision matter for laws Congress passes?

3 YOUR TURN

Your own words

Imagine Congress passes a law that makes it illegal to criticize the president in a newspaper. The First Amendment protects freedom of speech and the press. Write three sentences explaining how the Supreme Court could use judicial review in a case about this law and why that power matters.

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PART 1 · READ AND MARK

Underline the sentence that explains why the Court rejected part of a law. Circle what happened to Marbury's request, and number the sentence that explains why the decision matters. Accept any marking that follows this job and points at the right text.

PART 2 · ANSWERS

#	QUESTION	ANSWER
1	Marbury had a right to his commission. Why did the Court still refuse his request?	**The Court concluded that the part of the federal law that seemed to allow it to grant his request conflicted with the Constitution.**
2	What limit did Article III place on the power Congress tried to give the Supreme Court?	**Congress could not add Marbury's kind of case to the types of cases the Supreme Court could hear first.**
3	How did the Court's response to the conflict show judicial review in action?	**The Court compared a federal law with the Constitution, found a conflict, and refused to apply that part of the law.**
4	Why does this decision matter for laws Congress passes?	**It established that the Supreme Court can decide whether a law violates the Constitution and refuse to apply an unconstitutional law in a case.**

PART 3 · YOUR TURN (SAMPLE ANSWER)

If a case about this law reached the Supreme Court, the justices could compare the law with the First Amendment. Because the law bans criticism in newspapers, they could find that it violates freedom of speech and the press and refuse to apply it. Judicial review matters because it helps stop laws that conflict with the Constitution from being applied.

Accept answers that connect the Court's refusal to grant Marbury's request with the conflict between the federal law and Article III. For Your Turn, look for a comparison with the First Amendment, a possible refusal to apply the law, and an explanation of why that check matters.