A Court Takes Shape

How a dispute over a commission defined judicial power

SS24.US1.3c "Explain the establishment of a national judiciary and its power, including the institution of judicial review in Marbury v. Madison (1803)."

NAME _____ DATE _____

1 READ AND MARK

Read it twice

YOUR JOB Underline what Congress did to build the federal courts, circle the conflict the Supreme Court faced, and number the steps in the Court's reasoning to show how judicial review emerged.

An Undelivered Commission

1. When the United States adopted the Constitution, it did not create a complete network of federal courts. Article III established one Supreme Court and allowed Congress to create lower federal courts. It gave federal judges secure tenure during good behavior, helping them decide cases without fear of losing their jobs for unpopular rulings. In 1789, Congress passed the Judiciary Act, which organized the Supreme Court and created district and circuit courts. These courts could hear disputes involving federal law, while the Supreme Court could review many decisions on appeal. Together, these choices turned a constitutional outline into a working national judiciary.

2. The judiciary soon faced a test that began with an undelivered piece of paper. Near the end of his presidency, John Adams appointed William Marbury a justice of the peace in the District of Columbia. Marbury's commission was signed and sealed, but it was not delivered before Thomas Jefferson took office. Jefferson's secretary of state, James Madison, withheld it. Marbury asked the Supreme Court to order Madison to deliver the commission. Chief Justice John Marshall wrote the Court's opinion in Marbury v. Madison (1803). The Court said Marbury had a legal right to the commission and that the law could offer a remedy.

3. But the Court did not order Madison to act. Marbury had asked it to issue an order in an original case, one that begins in the Supreme Court rather than arriving on appeal. The Court read a provision of the Judiciary Act as allowing this request. Yet Article III limits the Court's original jurisdiction to cases involving diplomats or consuls, or cases in which a state is a party. Congress cannot expand that list through an ordinary law. The Court held that the provision conflicted with the Constitution and refused to apply it. This ruling established judicial review as a major power: courts can decline to enforce unconstitutional laws.

2 ANSWER WITH EVIDENCE

Use the passage

1. How did Article III and the Judiciary Act of 1789 work together to establish a national judiciary?

2. Why did Marbury seek a court order, and why did the Supreme Court say he had a legal claim?

3. Why did it matter that Marbury brought his request to the Supreme Court as an original case rather than on appeal?

4. How did the Court's decision about the Judiciary Act establish a power of the national judiciary?

3 YOUR TURN

Your own words

Imagine Congress passes a law requiring the Supreme Court to hear a federal shipping-tax dispute between two merchants as an original case. In four or five sentences, explain whether the Court could apply that requirement, using Article III and the reasoning in Marbury v. Madison.

ANSWER KEY

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GRADE 10 · SS24.US1.3c

PART 1 · READ AND MARK

Underline what Congress did to build the federal courts, circle the conflict the Supreme Court faced, and number the steps in the Court's reasoning to show how judicial review emerged. Accept any marking that follows this job and points at the right text.

PART 2 · ANSWERS

#	QUESTION	ANSWER
1	How did Article III and the Judiciary Act of 1789 work together to establish a national judiciary?	**Article III established the Supreme Court and allowed Congress to create lower courts. The Judiciary Act organized the Supreme Court and created district and circuit courts.**
2	Why did Marbury seek a court order, and why did the Supreme Court say he had a legal claim?	**Madison withheld Marbury's signed and sealed commission. The Court said Marbury had a legal right to it and that the law could offer a remedy.**
3	Why did it matter that Marbury brought his request to the Supreme Court as an original case rather than on appeal?	**Article III limits which cases may begin in the Supreme Court. Marbury's request did not fit those categories, so Congress could not authorize the Court to hear it as an original case.**
4	How did the Court's decision about the Judiciary Act establish a power of the national judiciary?	**The Court found that a provision of the act conflicted with the Constitution and refused to apply it, establishing judicial review as a major power.**

PART 3 · YOUR TURN (SAMPLE ANSWER)

Congress can create lower federal courts, but it cannot expand the Supreme Court's original jurisdiction through an ordinary law. A shipping-tax dispute between two merchants does not involve diplomats, consuls, or a state as a party. Under the reasoning in Marbury v. Madison, the Court would refuse to apply the requirement because it conflicts with Article III. The dispute could begin in a court with authority to hear it, and the Supreme Court might later review a decision on appeal.

Accept responses that distinguish Congress's power to create lower courts from its inability to expand the Supreme Court's original jurisdiction by statute. Students should explain that judicial review allows a court to decline to apply a conflicting law.