**Midnight Judges**

 Presidents throughout history have sought to influence law through their judicial appointments. However, the skirmish involving the midnight judges had a much broader significance: it belonged to a fight that had begun shortly after the War of Independence between the leaders of the new nation. The argument pitted the Federalists (led by John Adams) against the Republicans (led by Thomas Jefferson) over a fundamental problem: how much power should be given to the federal government and, in particular, the federal judiciary? The answer would influence the course of U.S. law for generations to come.

**The Election of 1800**

 When Adams lost the 1800 election, the nation was only twenty-four years old. The Constitution, ratified in 1789, was even younger. For more than two decades, the Federalists and the Republicans had argued over their competing visions of strong federal government versus states’ rights. The 1800 election crystallized these opposing philosophies.

 Adams and the Federalists accused the Republicans of intending to plunder property and undermine civilized society. On the other side, Jefferson and the Republicans attacked the Federalists for trying to subvert the guarantees of the Bill of Rights. The election tipped the balance of power. With the Republicans capturing the White House and Congress, it appeared that Jefferson's party would at last have the upper hand.

**Federalists attempt to hang onto power**

 The Federalists intended to preserve their power. Just before time ran out on the Adams administration, they enacted the Judiciary Act of 1801. This sweeping law struck at a key point of contention: the jurisdiction of the federal courts. The Republicans wanted the federal courts to be constrained, but the new law gave these courts increased jurisdiction over land and bankruptcy cases. The federal courts now had greater authority at the expense of the states. The act added six new federal circuits with sixteen new judges. As a final measure, they also added dozens of new justices of the peace to the District of Columbia. Between December 12 and March 4, President Adams, with the approval of the Senate, busily stacked the courts with his own people. If the Federalists could not control Washington through elected office, they would at least dictate the composition of the judiciary.

**Republican Reaction**

 The Republicans could not tolerate this bold maneuver. Enraged, Jefferson declared that "the Federalists have retired into the judiciary as a stronghold" where his own party's efforts would be "beaten down and erased." Once in power the Republicans quickly repealed the 1801 act, thus restoring the original jurisdictional authority of the federal courts. But removing the midnight judges presented a difficult constitutional question. The Constitution provided that federal judges were to hold office as long as they demonstrated good behavior—in effect, for life. The Republicans' plan was therefore to abolish the new circuit courts. The Federalists called this an unconstitutional attack on the independence of the judiciary and predicted that the Supreme Court—which was dominated by Federalists—would not allow it. The Republican-controlled Congress stalled a decision on their actions by eliminating the 1802 term of the Court.

 The action only delayed an inevitable ruling. Fortunately for the Republicans, Adams had to leave office before he could secure commitments from his appointees, and several declined to serve. Those who accepted did not manage to challenge their removal. But one appointment of a midnight judge had gone largely unnoticed, and it proved to be one of the most important appointments in U.S. history. This was the nomination of JOHN MARSHALL as chief justice of the Supreme Court. Marshall, who was an ardent Federalist, viewed President Jefferson as nothing less than an "absolute terrorist."

 **MIDNIGHT JUDGES**

1.  What was the main argument behind the appointment of the midnight judges
2. What accusation did the Federalist make against the Republicans (anti-Federalists)?
3. What accusation did the Republicans make against the Federalists?
4. What did the Judiciary Act of 1801 do?
5. How many new courts were added under this law?
6. What fear did Jefferson have about this new law?
7. Under what circumstances could a Federal judge be removed?
8. What did the 1802 Congress do?
9. Who was John Marshall?