MARSHALL’S QUESTIONS

1. Does Marbury have a right to the commission? Y
2. Do the laws give him a remedy? Y
3. Is the remedy a writ of mandamus from U.S. Supreme Court? N

**Why Not?**

MINOR QUESTION

Does Section 13 of the Judiciary Act of 1789, which empowers the Supreme Court to issue writs of mandamus, conform to the jurisdictional rules of Article III, Section 2? N

**OR**

Does Section 13 of the Judiciary Act of 1789 violate Article III, Section 2? Y

**Why or Why Not?**

III.2 specifies all cases where the Supreme Court has original jurisdiction. In all other matters, the Court has appellate jurisdiction only. Therefore, a statute adding to the Court’s original jurisdiction is unconstitutional.

**Why does the Court get to decide that?**

MAJOR QUESTION

Does the Constitution give the federal courts the power to invalidate Acts of Congress (a/k/a judicial review)? Y

1. The Constitution is superior to an ordinary statute. “The Constitution controls any law repugnant to it.”

2. “It is emphatically the province and duty of the judicial department to say what the law is.”

**Why?**

You figure it out!