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JUDICIAL
Review

Presentation Nr. 2





What is **JUDICIAL REVIEW?**

- *authority of courts to examine actions or decisions of the government*
- *determine whether they comply with the law*
- *Reason → to make sure, that public bodies act within their legal powers, follow proper procedures, and respect the limits set by the law*
- *if an action is unlawful: court can require it to be corrected or set aside*

British vs. US

JUDICIAL REVIEW

British:

- courts review actions and decisions of public authorities
- Courts cannot strike down Acts of Parliament

US:

- Courts review government actions and laws passed by Congress or state legislatures
- the court may strike down laws that conflict with the Constitution



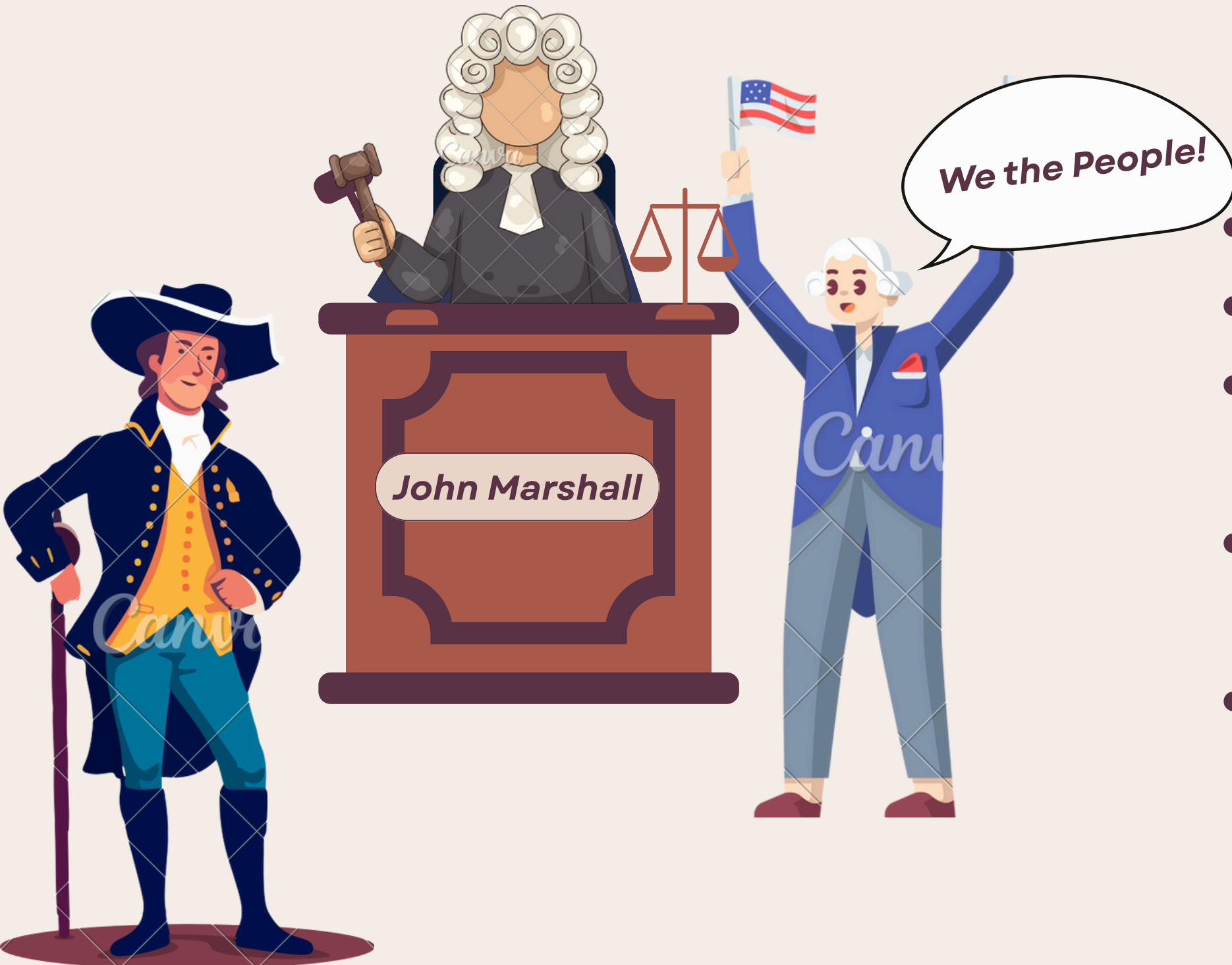
Marbury v. **MADISON**

A cartoon illustration of a man with white powdered hair, wearing a red coat and a white cravat. A speech bubble above him contains the text: "I WILL NOT DELIVER THESE COMMISSIONS IN HASTE."

**"I WILL NOT
DELIVER THESE
COMMISSIONS IN
HASTE."**

- Landmark case (1803)
- Established judicial review
- Supreme Court can strike down unconstitutional laws
- Marbury's appointment withheld by Madison
- Judiciary Act of 1789 partly unconstitutional

Origin of judicial review



Marbury v.

MADISON

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***"IT IS EMPHATICALLY THE
PROVINCE AND DUTY OF THE
JUDICIAL DEPARTMENT TO
SAY WHAT THE LAW IS"***



Dred Scott vs. **SANDFORD**



Issue:

- **pre-Civil War time (1857)**
- **the Congress had the constitutional power to prohibit slavery in free territories**
- **whether the Constitution gave African Americans the right to sue in federal court**

Result:

- **A Landmark US Supreme Court case**

judicial Review

POWER BALANCE, LIMITS, AND CONTROVERSIES



- **Risk of judicial activism: courts expanding rights by departing from precedent or original intent**
- **Limited accountability: Life tenure entrenches constitutional views**
- **Centralized authority: Supreme Court dominates constitutional meaning**
- **Doctrinal instability: Court composition changes drive major shifts (see *Dobbs v. Jackson Women's Health 2022*)**
- **Democratic Legitimacy: Judges are appointed by the President and confirmed by the Senate**

Thanks

FOR YOUR

ATTENTION

