



AMERICAN CONSTITUTIONALISM  
 VOLUME I: STRUCTURES OF GOVERNMENT  
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Supplementary Material

OXFORD  
 UNIVERSITY PRESS

Chapter 4: The Early National Era – Judicial Power and Constitutional Authority

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**Stuart v. Laird, 5 U.S. 299 (1803)**

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*John Laird successfully sued Hugh Stuart for breach of contract in the federal circuit court of Virginia established by the Judiciary Act of 1801. Before Laird could have that judgment executed, the Judiciary Act of 1801 was repealed, and new federal circuit courts were established by the Judiciary Act of 1802. Stuart claimed that his case could not be transferred to the new circuit courts. Former attorney general Charles Lee, who represented both Stuart and William Marbury in his politically charged case, asserted that the courts established by the Judiciary Act of 1802 were unconstitutional. The repeal act, he maintained, unconstitutionally deprived the justices appointed under the Judiciary Act of 1801 of their offices, and the Judiciary Act of 1802 unconstitutionally required Supreme Court justices to serve as circuit court justices. Other Federalist lawyers litigating in the federal courts during the fall of 1802 made similar arguments. These claims were typically withdrawn after private consultations with the Supreme Court justice riding the local circuit. John Marshall was the exception. Acting as a circuit court justice, Marshall decided and rejected Stuart's claim without issuing an opinion. Stuart then appealed to the Supreme Court.*

*The Supreme Court unanimously decided that Laird was entitled to judgment. Stuart holds that Congress may transfer cases from one federal court to another and that past practice established the constitutionality of Supreme Court justices riding circuit. The justices did not determine whether Congress could repeal the Judiciary Act of 1801. In an exchange of letters during the repeal act debates, Justice Chase was alone among the justices in thinking that they should refuse to return to circuit duty and publicly protest the repeal. By quietly returning to the task of riding circuit, the justices had already indicated that they were not going to take on the Jeffersonians over the repeal. In doing so, the Marshall Court avoided the most serious potential conflict that it could have had with the Republicans. The Marshall Court justices never publicly commented on whether the repeal act was constitutional.*

JUSTICE PATERSON delivered the opinion of the Court.

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Two reasons have been assigned by counsel for reversing the judgment on the forthcoming bond. 1. That as the bond was given for the delivery of property levied on by virtue of an execution issuing out of, and returnable to a court for the fourth circuit, no other court could legally proceed upon the said bond. This is true, if there be no statutable provision to direct and authorize such proceeding. Congress have constitutional authority to establish from time to time such inferior tribunals as they may think proper; and to transfer a cause from one such tribunal to another. In this last particular, there are no words in the constitution to prohibit or restrain the exercise of legislative power.

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2d. Another reason for reversal is, that the judges of the supreme court have no right to sit as judges, not being appointed as such, or in other words, that they ought to have distinct commissions for that purpose. To this objection, which is of recent date, it is sufficient to observe, that practice and acquiescence under it for a period of several years, commencing with the organization of the judicial system, affords an irresistible answer, and has indeed fixed the construction. It is a contemporary interpretation of the most forcible nature. This practical exposition is too strong and obstinate to be shaken or controlled. Of course, the question is a rest, and ought not now to be disturbed.