self-made—his father's eighth child, who graduated from Harvard in 1798 with "a high rank . . . for scholarship."[48] (Harvard stopped ranking its graduates by family social standing in 1773.)

Even before he joined the Court, Story had highlighted the significance of life tenure for his own life and life choices. Fittingly, his most notable judicial opinion likewise highlighted the themes of life tenure, nondiminishable salary, and judicial independence.

The case of *Martin v. Hunter's Lessee* came to the Court in 1816. The suit involved a large land dispute in Virginia. Because the Marshall family claimed some of the land in dispute and other similarly situated property, the chief justice recused himself—thus enabling Story to take the lead in crafting and announcing the Court's ruling. Marshall drafted various pleadings himself, and Story surely recognized his mentor's handwriting and expositional style. Case-related conversations between Marshall and Story may well have occurred in the boardinghouse before the case reached the Court or even as the case was pending. Story proudly told a friend that his opinion "contains a full survey of the Judicial powers of the General Government and Chief Justice Marshall concurred in every word of it." Story's son also took note of the similarities of tone and theme between his father's masterpiece and the greatest opinions of his father's mentor. The *Martin* opinion, declared William Wetmore Story, with filial pride, was "one of the most prominent constitutional opinions ever delivered by the Court" and had "all the peculiar merits of the best judgments of Marshall—compactness of fibre and closeness of logic."[49]

The biggest Article III issue in the case was in fact laughably easy, but arose in a complicated context. Virginia was trying to manipulate state law to cheat Revolution-era British loyalist landowners, in violation of the letter and spirit of America's 1783 peace treaty with Britain. In 1813, the Supreme Court, per Justice Story, rejected the Virginia ruse and sent the case back to Virginia's state court system for proper proceedings. Indignant, Virginia's highest court, led by Spencer Roane, denied that the United States Supreme Court had any appellate authority over state courts. Roane

was a son-in-law of Patrick Henry, a close confidant of Thomas Jefferson, and an archrival of John Marshall.

Roane's claim was preposterous. No significant scholar in the past century has ever endorsed it, nor has any Supreme Court justice in history. The Constitution explicitly confers appellate jurisdiction on the Supreme Court "in all Cases, in Law and Equity, arising under this Constitution, the Law of the United States, and Treaties made, or which shall be made, under their Authority." Roane claimed that this meant appellate jurisdiction only over inferior federal courts, not over wholly independent state courts. But when the Constitution was drafted and ratified, there was no guarantee that any lower federal courts would exist. The Article III text spoke of "such inferior courts as the Congress *may* from time to time ordain and establish" (emphasis added). Had the first Congress opted not to create lower federal courts, state courts would have been the only trial courts in America outside the very strictly limited (per *Marbury*) original jurisdiction of the United States Supreme Court itself. In this scenario—the scenario many early Anti-Federalists in fact favored back in 1788–1789—the *only* courts over which the Supreme Court's appellate jurisdiction would have operated would have been state courts.

Anyone who paid even the slightest attention in 1788 understood that the Supreme Court would have appellate authority over state courts. The Philadelphia plan sought to prevent states from defying the Constitution in the same way that they had routinely ignored the Articles of Confederation. In particular, the system aimed to ensure that no state could flout a federal treaty in ways that might be popular locally but would ire a foreign government that might then wreak revenge on the United States as a whole—precisely the facts of *Martin* itself.

The Federalists made all this emphatically clear when urging the American people to say "yes, We do," in the ratification process. Hamilton/Publius addressed the issue at length in *The Federalist* No. 82:

> What relation would subsist between the national and State courts . . . ? I answer, that an appeal would certainly lie from the latter, to