Lame-Duck Presidents and Supreme Court Appointees

DEMETRIOS JAMES CARALEY

NO MORE OF A LAME-DUCK PRESIDENT can be found than President John Adams in January of 1801, after being defeated in a 1800 reelection campaign by Thomas Jefferson. Adam’s term would end on March 4, 1801.

On January 20, 1801, the sitting Chief Justice, Oliver Elsworth, resigned because of illness, creating a vacancy. Adams immediately appointed John Marshall, who was confirmed by the Senate the same day. Marshall had been serving as Adams's Secretary of State and did not officially take the office of Chief Justice until February 4, 1801. Marshall served for 34 years.

The 1800 presidential campaign was a bitter one, as Jefferson hated both Adams and Marshall and disagreed with their Federalist policies. But there was no attempt by Jefferson to in any way block the filling of the Chief Justice vacancy.

These men, together with George Washington, were in at the creation of the government of 1781 and therefore knew what the new Constitution intended: that even lame-duck presidents retained the power to appoint until the very end of their terms.