Fitzgerald

Unit - Establishing the New Nation Started by the Constitution

***Topics - Establishing the Power of the Judicial Branch and Maintaining the Federalist Policy of Powerful National Government***

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| Heading and Questions | Paragraph Main Idea and Details | AdditionsQuestions |
| Power of Judicial Branch to declare laws unconstitutional not in the Constitutionp. 300 * States’ Rights – Paragraphs 1 and 2

p.236* Notes words in Article III.1 that suggest this power
 | States’ Rights Theory developed by Jefferson to Fight Alien and Sedition Acts* Democratic-Republicans denounce Alien and Sedition Acts
	+ violates Constitution – Bill of Rights – First Amendment’s free speech
* Problem fighting these laws

Can’t stop in Supreme Court* + Supreme Court judges all appointed by Federalists and confirmed by Federalist Senate

Can’t stop in Congress* + Majority of the members of the House and the Senate are Federalists

Will rely on state legislatures* Madison and Jefferson, both leader in Virginia
	+ Proclaim state legislatures can declare laws unconstitutional and refuse to enforce them
	+ Virginia and Kentucky pass resolutions
* No other states support Virginia and Kentucky
	+ resolutions have little effect
	+ (two laws expire when Jefferson president and are not renewed)
* HUGE LONG TERM IMPACT!!! Establish two ideas
	+ ***Nullification – states can refuse to enforce federal laws***
	+ ***“States’ Rights” – Union is a union of states, so states can refuse to enforce federal law***
	+ Southern states will use these ideas to fight federal laws trying to limit slavery
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| Packing the Courts / Midnight Judges - Federalists Grab the Judicial Branch to hang onto Powerp.236 words in Article III.1 that * Allow the Federalists to create new courts
* Say how long a judge will serve
* suggest the power to declare laws unconstitutional

Reading on back of this sheet* A Federalist Stronghold: John Marshall’s Supreme Court
 | Constitution III.1* ***The Judicial Power of the United States shall be vested in one Supreme Court*** -
	+ The Judicial Branch gets its power from the Constitution
* ***and in such inferior courts as Congress shall from time to time create -***
	+ Congress can create new courts
* ***The judges . . . shall hold their offices during good behavior***
	+ Judges rule for life
	+ so the federalists judges who are newly appointed will be around for a long time

Constitution III.2.1* ***The judicial power shall extend to all cases in law or equity arising under this Constitution . . . .***

**A Federalist Stronghold: John Marshall’s Supreme Court**Federalists hang onto power despite D-R victory* As soon as Jefferson won in November Election,

Adam's' administration * + creates new courts and
	+ appoints Federalist judges
* Now have power to declare acts of the president or Congress.- unconstitutional
	+ *Marbury v. Madison* - most important decisions in U.S. judicial history

Two political parties disagree over why did this* Federalists claim - saving the people from themselves
* Democratic-Republicans - call them the "Midnight Judges"
	+ Jefferson says due to Federalist control of courts
		- " . . . all the works of Republicanism are to be beaten down and destroyed."

Most Important Appointment - John Marshall as Chief Justice of the Supreme Court* held position for 34 years - until death in 1835
* shaped decisions of court and made it equal to other branches
* held Federalist views -
* supremacy of national legislature of state legislatures
* believed judicial power

Marshall’s in conflict with Democratic-Republicans and **President Thomas Jefferson*** (two men were cousins)
* essential difference - how to best meet needs of people
	+ Marshall - strong national government
	+ Jefferson - strong states governments
 |  |
| Establishing the Power of Judicial Review – *Marbury v. Madison (1803)*p.312* The Supreme Court and Judicial Review
 | Adams and Federalists tried to hang onto power* Created new courts and appointed Federalist judges after lost election and before leaving office
	+ Marbury was one of these judges
* Called the “Midnight Judges

Jefferson ordered Madison (Secretary of State) to stop working on appointments.* Marbury sued Madison citing the Judiciary Act of 1789
* The Judiciary Act of 1789
	+ passed by Congress
	+ gave the Supreme Court the power to review cases brought against a federal official

Chief Justice John Marshall ruled * Judiciary Act of 1789 unconstitutional
* Reason - the court’s powers came from the Constitution not Congress
	+ Congress did not have the right to give the SC power

 Precedent - first use of judicial review ever!* Judicial Review = the authority of the Supreme Court to strike down unconstitutional laws
* Marshall used this case used to establish the S.C. power
	+ Decision not important because of Marbury at all
 | Judicial Review = the authority of the Supreme Court to strike down unconstitutional laws  |
| Marshall establishes the power of the federal government using Judicial Review – Three Famous Cases* + *McCulloch v. Maryland* (1819)
	+ *Dartmouth v. Woodward* (1819)
	+ *Gibbons v. Ogden* (1824)

p. 343-4* Three Important Supreme Court Rulings
 | Supreme Court promotes - power of national government and national economic growth* Led by Chief Justice Marshall - a Federalist
* Issues three important rulings 1819-1824

*McCulloch v. Maryland* - Protected the National Bank* State of Maryland tries to tax the branch of the National Bank that was in Maryland
* Bank refuses to pay

Rule establishes National Power* States have no power to interfere with federal institutions
* A tax is an interference - can destroy a business
* A state can't pass any law that violates a federal law

*Dartmouth v. Woodward* - court protects capitalism* Capitalism - the economic system in which business owners compete for consumers in a free market
* Protects contracts from interference of state governments

Gibbons v. Ogden - only national government can regulate interstate commerce* Interstate commerce is trade that goes between two or ore states
* Facts of case - Two steamboat companies competing on Hudson Rover between New York and New jersey
	+ New York gives company based in New York exclusive rights
	+ New Jersey gives company based in New Jersey exclusive rights
	+ This case brought against New York - But ruling applies to both
	+ Only national/federal government can rule on these rights

  | Maryland taxed all banks in the state |