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 | Additions  Questions |
| Power of Judicial Branch to declare laws unconstitutional not in the Constitution  p. 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 |  |
| Packing the Courts / Midnight Judges - Federalists Grab the Judicial Branch to hang onto Power  p.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 |