

AP Gov Unit 2 Study Guide (Part 2)

THE JUDICIAL BRANCH

Essential Question: How do the nation's courts compete and cooperate with the other branches to settle legal controversies and to shape public policy?

Foundational Documents/Court Cases:

-Article III of the US Constitution:

- Establishes the supreme court as judicial power of US
- Says Congress can "ordain and establish" other inferior courts

-Federalist #78

- Argues how and for how long justices will be appointed and what kind of power the judicial branch should have
- Hamilton says all appointed judges shall hold offices during good behavior (life)
 - Lifetime appointments necessary to keep judicial branch as independent as possible
- Federal judges should have judicial review; everything unconstitutional is void
 - Does not make judicial branch more powerful than legislative; the power of the people is superior
 - Balances and checks legislative branch

-Marbury v. Madison (1803)

- Background: President Adams in his last days packed the federal judiciary w/ federalist judges who would frustrate incoming Jefferson
 - Some commissions were not delivered—> upset William Marbury

- Marbury (judge who did not receive his commission) sued Madison and the supreme court to get his commission via a writ of mandamus (court order for an official to do what they're legally required to do) for Madison to deliver the commission
- Constitutional Principle: the jurisdiction (scope of power court exercises over different kinds of cases) clauses in Article III of the Constitution
- Decision: Marbury had the legal right to his commission, and the writ of mandamus is the correct way to get it, but the court DOES NOT have the authority to grant the writ of mandamus
 - Article III does not say anything ab the court issuing writ of mandamus
- Article 13 of Judiciary act conflicted with Article III of Constitution—> article 13 is unconstitutional and therefore null and void
- Importance: Marshall invested Supreme Court with power of judicial review; they are the final interpreter of the Constitution

Key Principles/Concepts:

-Interactions with the Executive Branch

- Executive can check judicial through legislative appointments
- Has the ability to not enforce the decision of the court

-Interactions with the Legislative Branch

- Legislators can pass laws that modify the impact of prior decisions
- Congress can check judicial through Constitutional amendments

Discovery 2 Study Guide Answers

**Laura Weiss Roberts, Alan K.
Louie, Matthew L. Edwards**



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