

**ARTICLE III and JUDICIAL REVIEW**



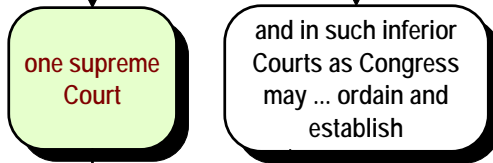
*Existence of co-equal branches implies Separation of Powers*

**Section 1**

**The judicial Power**

*includes customary powers (e.g., deciding cases, making common law). But does it include the power of "judicial review" (to invalidate legislative and executive acts)?*

*is established in*



*Constitutional existence of Supreme Court suggests its central role in enforcing Const. (that cannot be abridged by Congress)*

*Congressional control over inferior courts (& their jurisdiction) reflects both SoP and federalism concerns.*

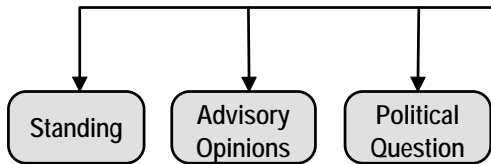
**The Judges ... shall hold their Offices during good behaviour**

*This clause provides (nominal) independence from political control*

**Section 2**

**The judicial Power shall extend to all Cases [and] Controversies**

*This clause limits the power of federal courts; they do not have a roving commission to police the constitution*



**The Justiciability Doctrines**

*This limitation on jurisdiction [commensurate with the limited power of the other branches] is a manifestation of federalism*

**arising under this Constitution, the laws of the US, [diversity and 7 other areas]**

**In all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be Party, the Supreme Court shall have original Jurisdiction**

*Original Jdx in these cases reflects the comity afforded other sovereigns*

**In all the other Cases ... the supreme Court shall have appellate jdx ... with such exceptions, and ... Regulations as the Congress shall make**

*Note cong'l control over appellate, but not over original jurisdiction.*

*Eleventh Amendment*

**The Judicial power of the United States shall not be construed to extend to any suit .. commenced or prosecuted against one of the United States**

*This significant limitation on the power of federal courts also reflects federalism.*