

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.

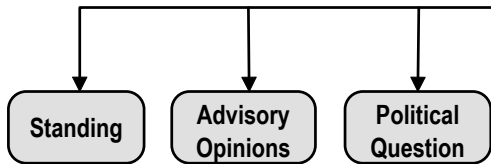
The Judges ... shall hold their Offices during good behaviour

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

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

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

Original Jdx in these cases reflects the comity afforded other sovereigns

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

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.