Unit 2 INTERACTIONS AMONG BRANCHES OF GOVERNMENT Room 2B HIVE

2.8 The Judicial Branch

ESSENTIALS

The foundation for powers of the judicial branch and how its independence checks the power of other institutions and state governments are set forth in:

- Article III of the Constitution
- Federalist 78
- Marbury v. Madison (1803)

Judicial review, the supremacy clause and the principle of legal standing demonstrate how the judiciary checks the power of other institutions and state governments.

1. What is the underlying idea of this cartoon? [Write your response as a thesis using a "because" statement]

2. Why is it important to have an *independent* judiciary? Should justice be blind? How can we confidently protect our courts from becoming overtly political?

Explain how each of the following empower the judicial branch of the United States

Article III of the US Constitution	Federalist 78	Marbury v. Madison (1803)

Explain how each of the following empower the courts to check the power of other institutions

Judicial review	The supremacy clause	Principle of legal standing

How often has the U.S. Supreme Court used its power of judicial review? [Check for data]

What does it mean to have an INDEPENDENT JUDICIARY? What evidence is there that the U.S. Supreme Court has maintained its "independence"?

INVESTIGATE: Find two (2) nations that have an independent judiciary. Find two (2) nations that DO NOT have an independent judiciary. *Compare and contrast*.

SCOTUS COMPARISON

Margaret Gilleo placed a 24-by-36-inch sign calling for peace in the Persian Gulf on her front lawn. The original sign disappeared and a subsequent sign was knocked down. She reported these incidents to the police who advised her that such signs were prohibited in Ladue. She sued the city and the District Court ordered a preliminary injunction. Ladue repealed the law and replaced it with a new one which also banned window signs. Gilleo then placed another anti-war sign in her second-story window and amended her complaint to challenge the new ordinance.

Justice Stevens delivered the opinion of the Court:

…While signs are a form of expression protected by the Free Speech Clause, they pose distinctive problems that are subject to municipalities' police powers. Unlike oral speech, signs take up space and may obstruct views, distract motorists…and pose other problems that legitimately call for regulation…However, because regulation of a medium inevitably affects communication itself, it is not surprising that we have had occasion to review the constitutionality of municipal ordinances prohibiting the display of certain outdoor signs…

Ladue has almost completely foreclosed a venerable means of communication that is both unique and important. It has totally foreclosed that medium to political, religious, or personal messages…

Our decision that Ladue's ban on almost all residential signs violates the First Amendment by no means leaves the City powerless to address the ills that may be associated with residential signs…

Excerpted from Oyez – from the case City of Ladue v. Gilleo (1994)

Based on the information above, respond to the following questions.

A. Identify a common constitutional principle used to make a ruling in both Marbury v. Madison (1803) and City of Ladue v. Gilleo (1994).
B. Explain how the facts of Marbury v. Madison (1803) and the facts of City of Ladue v. Gilleo (1994) led to a similar holding in both cases.
C. Explain how the ruling in City of Ladue v. Gilleo (1994) was affected by selective incorporation.