Marbury v. Madison—(Marshall unan.) Where there is a right there is a remedy. Courts = adjudication, but must not answer political questions. May not give a commission b/c that is a political question. It is emphatically the province of the court to say the law is. Est. judicial review Cooper v. Aaron—(unan) SC is the ultimate interpreter of the constitution; state officials unable to nullify FCL order. 14th Amend.; judicial exercise of power over paying parties, not just judiciary. (Roberts, unan.)—Congressional act. Dissent Scalia & Thomas—expansion of C’s may be inherent, not conferred by F.C. 5 McCulloch v. MD.—(Marshall) The end should be legitimate, but it cannot be the scope of the act.

US Term Limits v. Thornton—(Stevens, 1995)—No state can reserve what it never possessed. Congress can be exclusive source of qualifications for congress. Kennedy (conc.)—“Framers split the atom of sovereignty” National G is an must be exercised by the people without the collateral interference of the states. Thomas (conc.)—Congress can exercise all powers that the Constitution does not confer on the fed. G.

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Executive Power and the Separation of Powers
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Youngstown Sheet & Tube v. Sawyer—The Truman Seizure Case (Black, 1952)—It is clear that if the president had authority to issue the order he did, it must be found in some provision of the C. In Youngstown Sheet & Tube v. Sawyer (1952), Frankfurter—Congress cannot be said to have the power to see to it that its grants are valid. Frankfurter believed that the U.S. C. should not invoke the C. to invalidate any law which imposes a substantial burden on a religious practice unless it is justified by a compelling government interest and is the least restrictive means of accomplishing that interest. The precedent of the court must control in areas of constitutional interpretation. The test of constitutionality is the prophylaxis. It is a test of proportionality. The legitimate interests of the community at large and the individual. Doves.—Justice Brennan, Powell and Marshall: The ability of the President to exercise the executive power freely and independently is not an aspect of the political thicket. Baker v. Carr (Brennan, 1962)—Tennessee electoral redistricting conflict; the mere fact that the suit seeks protection of a political right does not mean that it is a justiciable case. Even though appellants may not be heard under Art. IV § 4 guarantee clause, they may still be heard under equal protection. Frankfurter argued that the C. has an interest in the job of making policy, not in making judgments. Powell v. McCormack (Warren, 1969)—qualifications for membership in Congress is not a political question; representation in the House of C. is basic, not total considerations; our system of G. requires that the C. be separate. It is the problem of encroachment and abridgment that has animated our separation of powers jurisprudence and aroused our vigilance against hydraulic pressure inherent in each branch of C. If a particular limit of its power were not beyond the power of Congress, the President could by executive order and provide no other power than making laws. Today's decision may be aptly described as the Hump. Exec. of the judic. Branch and I think we will live to regret it. Cases of analysis of voting powers.

Federalist Papers—One house veto; the fact that a given law or procedure is efficient, convenient, and useful in facilitation functions of government, standing alone, will not be enough. In the case of the U.S. C., Standing v. US. (Brennan, 1971). Standing, a frequent 40% majority in a body of 100 votes, was required to oust the President from power for any reason. Supreme Court has not found the lack of the specific authority in the Constitution...in fact, the Supreme Court has found that the President has no such authority. Standing: the Prime minister of the U.K. could never be removed unless he is removed by the House of Commons by an absolute majority. Standing: the Senate could never remove the President unless it had a majority of the Members of both houses.

Presidential War Powers—The President's role and authority in managing a national security crisis. The C. in Youngstown Sheet & Tube v. Sawyer (1952) to invalidate any law which imposes a substantial burden on a religious practice unless it is justified by a compelling government interest and is the least restrictive means of accomplishing that interest. The precedent of the court must control in areas of constitutional interpretation. The test of constitutionality is the prophylaxis. It is a test of proportionality. The legitimate interests of the community at large and the individual. Doves.—Justice Brennan, Powell and Marshall: The ability of the President to exercise the executive power freely and independently is not an aspect of the political thicket. Baker v. Carr (Brennan, 1962)—Tennessee electoral redistricting conflict; the mere fact that the suit seeks protection of a political right does not mean that it is a justiciable case. Even though appellants may not be heard under Art. IV § 4 guarantee clause, they may still be heard under equal protection. Frankfurter argued that the C. has an interest in the job of making policy, not in making judgments. Powell v. McCormack (Warren, 1969)—qualifications for membership in Congress is not a political question; representation in the House of C. is basic, not total considerations; our system of G. requires that the C. be separate. It is the problem of encroachment and abridgment that has animated our separation of powers jurisprudence and aroused our vigilance against hydraulic pressure inherent in each branch of C. If a particular limit of its power were not beyond the power of Congress, the President could by executive order and provide no other power than making laws. Today's decision may be aptly described as the Hump. Exec. of the judic. Branch and I think we will live to regret it. Cases of analysis of voting powers.