

# ANSWER KEY

## UNIT ONE: The Federal Courts in History

### Marbury v. Madison

Document A: The Supreme Court, and not the people or their representatives, would be sovereign. Further, he argues that since judges are not elected and “subject to no controul,” they will use their power to override the will of the people simply at the “sense of the judges.”

Document B: It has “neither force nor will.”

Document C: No law that contradicts the Constitution is valid.

Document D: The Courts

Document E: 1. The power to judge the constitutionality of laws. 2. The Constitution.

Document F: To rule in cases that involve the Constitution and all federal laws and treaties. Congress can determine the “exceptions” to judicial power/interpretation.

Document G: Yes.

Document H: To issue writs of mandamus.

Document I: The states.

Document J: 1. Because it is the “province and duty of the judicial department to say what the law is,” and the Constitution is the fundamental law. 2. To declare void laws that conflict with the Constitution.

Document K: Hamilton describes a weak judiciary whereas Jefferson identifies one that has grown very strong.

### Dred Scott v. Sanford

Document A: To find a runaway slave. Thomas Jefferson.

Document B: To protect rights such as “life, liberty and the pursuit of happiness”

Document C: 1. Perpetuating slavery in the colonies. 2. Some will say that by using the word “men,” Jefferson equates slaves with free men, born with equal natural rights. Other students may say, however, that because Congress deleted the paragraph, it rejected this definition of “all men.”

Document D: Some students will say it refers to citizens; others will say voting citizens; others will say it refers to all people.

Document E: 1. Slaves 2. States have the power until 1808. Congress may have the power to regulate slavery thereafter.

Document F: Yes

Document G: 1. To regulate slavery 2. Individual states may have different views on slavery, while the Union may require a national policy. Not all states may be happy with a national policy on slavery.

Document H: Free states had to assist in the capture of runaway slaves.

Document I: 1. Through its provisions safeguarding the property rights slaveowners had in their property: slaves. 2. They were not part of the “political communities” that ratified the Constitution. Slaves were property, not persons.

Document J: 1. The fact that several states defined “free native-born inhabitants” as citizens with full voting rights. 2. The majority opinion in *Scott v. Sanford* focused on whether slaves were people or property; the dissenting opinion

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focused on whether or not they were citizens.

Document K: All the provisions that guarantee liberty.

Document L: Lincoln viewed the document as an eternal statement of the human rights held by all people. Taney focused on the contemporary circumstances under which it was written.

Document M: These 1860 presidential candidates (Clockwise from top right: Lincoln, Bell, Douglas, Breckenridge/Buchanan) felt compelled to react, but in different ways and for different reasons.

### United States v. Nixon

Document A: Powers are separated so that one branch does not become too powerful.

Document B: Giving it the power to govern, with enough limits so liberty is not lost.

Document C: 1. To protect from foreign attack, provide for a steady administration of laws, protect property and justice, and secure liberty from ambition, faction and anarchy. 2. Unlike the president, the king of England is not personally responsible for his actions and is unaccountable to the people. The king may exercise his powers alone, whereas the President's power is subject to checks and balances.

Document D: Jackson is acting like a king, exercising his powers in ways that trample the Constitution.

Document E: The House asked why the police commissioners of Baltimore were arrested; Lincoln refused.

Document F: 1. Not to allow defense employees to testify to Congress. 2. The right to keep information and advice secret if it goes against the public interest or the nation's safety.

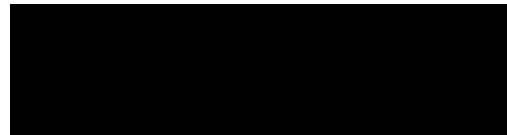
Document G: 1. Nixon is portrayed as a king. The top of the Capitol dome

is missing, indicating destruction of Congress's power to check the actions of the executive. Nixon is exercising a monarch's powers without regard to checks and balances, despite Hamilton's assurances. 2. It uses similar imagery and makes a similar argument.

Document H: 1. The need to protect confidentiality in communications between "high government officials and those who advise and assist them" and the doctrine of separation of powers. The Court held that it was too broad of a claim and executive privilege could not possibly be absolute. 2. If there were a need to protect "military, diplomatic, or sensitive national security secrets."

Document I: Nixon was deliberately leaving out incriminating evidence by hiding information he did not want others to hear and in fact, was a "crook."

Document J: The powers of government clash.



### Plessy v. Ferguson

Document A: All people are born with an equality of rights.

Document B: Blacks may be inferior to whites in their faculties. Jefferson does not say blacks do not have equal rights.

Document C: 1. Slaves. 2. Three-fifths of the total slave population was added to the total free population to determine the state population for purposes of representation and taxation.

Document D: Powers not given to the federal government remain with the states and the people.

Document E: Jefferson is open to being proved wrong. Nevertheless, even if