Chapter 11 The Federal Court System

What would the United States be without a judicial system or a way of enforcing laws? (Code of Hammurabi)

* The federal judiciary is the least clearly defined branch of government in the Constitution. Article III merely states that there will be a Supreme Court and inferior courts as Congress establishes. So, one of the first acts of the First Congress was the *Judiciary Act of 1789*, which outlined the makeup of the Supreme Court and established lower federal courts.
* The Supreme Court played only a minor role in the U.S. until 1801. What happened that year? Chief Justice John Marshall was appointed and he was a major figure in the growing power of the Court. (Remember *Marbury v. Madison*?)
* Today the judiciary is well-established as a branch equal to the legislative and executive branches.
* Each of the 50 states has its own system of courts who get their power from the state constitutions and state laws. The federal court system consists of the Supreme Court and lower federal courts established by Congress. These federal courts get their power from the Constitution and federal laws.
* *Jurisdiction* is the authority of the court to hear certain cases. The state courts have jurisdiction over cases involving state laws. Federal courts have jurisdiction over cases involving federal laws. There are times when the state and federal courts’ jurisdiction overlaps.
* Federal court jurisdiction includes:
	+ Cases involving US law
	+ Treaties with foreign nations
	+ Interpretations of the Constitution
	+ Cases involving ambassadors and other representatives of foreign governments
	+ Cases involving 2 or more state governments
	+ Cases involving citizens who are residents of more than one state
	+ Cases involving citizens who are residents of the same state but claim land grants in other states
* There are some instances where both state and federal courts have jurisdiction. This is a situation known as **concurrent jurisdiction**. This would exist, for example, in cases involving citizens of different states in a dispute concerning more than $75,000. In such a case, a person may sue in either federal or state court.
* The **trial court** is the court in which a case is originally tried. A trial court has **original jurisdiction** because they were the first court to hear the case.
* **Appellate jurisdiction** is the power of a court to hear a case that is appealed from a lower court. When people lose a case in a trial court, they may appeal the decision to a court with appellate jurisdiction. The federal court system provides courts of appeals. If a person loses their case in the court of appeals they may appeal it to the Supreme Court, which has original jurisdiction for some types of cases and appellate jurisdiction for others.
* Neither the Supreme Court nor any federal court can initiate actions. They cannot seek out issues or ask people to bring issues to the court. The court must wait for **litigants**, or people engaged in a lawsuit, to come before them.
* Federal courts only decide cases involving actual conflicts between two or more people. They do not answer general legal questions, regardless of how significant the issue or who asks the question. (Pres Washington sought the Court’s advice during American neutrality during the war between France and England and the Court refused.)
* Several landmark Supreme Court cases helped shape the Court’s role today:
	+ 1. ***Marbury v. Madison* (1803)-**This case established the power of **judicial review**, the power to determine whether a law or government action is constitutional.
			- Just before President John Adams’s term expired in 1801, Congress passed a bill enabling him to appoint 42 justices of the peace. The Senate quickly confirmed his appointees. The secretary of state, Madison, delivered all but four of the commissions by the day Thomas Jefferson took office. Jefferson stopped the delivery of the remaining commissions. William Marbury, one of those who did not receive his commission, filed a suit in the Supreme Court under a provision in the Judiciary Act of 1789.
			- Chief Justice John Marshall believed in a strong national government and so he used his reign to establish precedents. In this case he agreed that Marbury’s appointment was legal but that he could not sue because the law he used to bring the suit, the Judiciary Act of 1789, was unconstitutional. *This decision established the power of judicial review and gave the Court the authority to review laws and decide whether they are constitutional. This expanded the principle of limited government and said the courts should serve as a check on the legislature.*
		2. ***Fletcher v. Peck* (1810)**-Under Marshall the Court held that a Georgia state law violated the Constitution’s protection of contracts. *This case established the Court’s power to review state laws.*
		3. ***Dartmouth College v. Woodward* (1819)**-the Court applied the protection of contracts to corporate charters as well.
		4. ***McCulloch v***. ***Maryland* (1819)**-the Court established that the federal government was “supreme in its sphere of action.”
			- The state of Maryland had tried to tax the Bank of the United States, but Marshall said that the power to tax was the power to destroy.
			- *A state should not be able to interfere with federal actions that were “necessary and proper” to carrying out its constitutional powers.* Creating a national bank was “necessary and proper” because Congress had the power to borrow money, collect taxes and raise an army.
		5. ***Gibbons v***. ***Ogden* (1824)**-the Court used the Constitution’s commerce clause to broaden the definition of interstate commerce in a way that again increased the power of the federal government.
			- The case involved a steamboat monopoly that New York had granted to Robert Fulton. Fulton licensed Aaron Ogden to carry passengers between NYC and New Jersey. Meanwhile, Thomas Gibbons, owner of a competing steamboat company, wanted to carry passengers between New Jersey and Manhattan. Gibbons challenged New York’s right to control river travel.
			- The Court agreed with Gibbons because otherwise no real commerce could develop.
		6. ***Dred Scott v. Sandford* (1857)-**(John Marshall died in 1835 and Roger Taney was now Chief Justice of the Court.)
			- Dred Scott was a slave owned by Army surgeon Dr. John Emerson. Emerson moved around the U.S. with Scott taking him to several free territories. During his time with the army, Dr. Emerson would leave Scott in the free state of Missouri and rent him out. This act was essentially bringing slavery to a free state which is a violation of a federal law. Scott remained loyal to Dr. Emerson and after his death Scott attempted to purchase freedom for himself, his wife and his daughter. Dr. Emerson’s wife refused, which is what lead Scott to take legal action.
			- The Court declared that African Americans (slave or free) could not be citizens (and therefore could not be protected by the Constitution) and that the Missouri Compromise was unconstitutional, in other words, the Court made Congress helpless is controlling the spread of slavery. This case directly tied the issue of states’ rights to slavery.
* The 14th amendment granted citizenship to all persons born or naturalized in the U.S. and banned states from denying any person life, liberty or property without *due process of law*. The concept of due process was not strongly applied during this ear of the Court.
* The earliest significant ruling on due process was in **1873** in the **Slaughterhouse cases**. Louisiana had granted a monopoly in the slaughtering business to one company. Competing butchers challenged this grant, arguing that it denied them the right to practice their trade. They claimed the 14th amendment guaranteed privileges and immunities of U.S. citizenship, equal protection of laws and due process. The Court ruled in favor of the state of Louisiana, saying that the 14th amendment only extended protection to rights, privileges, and immunities that had their source in ***federal citizenship, not state citizenship****.*
* ***Plessy v. Ferguson*** **(1896)-**In this case the Court upheld a Louisiana law requiring railroads in the state to provide separate cars for white and black passengers. The Court said this was a reasonable exercise of state police power to preserve peace and order. This case established the **“Separate but equal” doctrine**, which held that if facilities for both races were equal then they could be separate.
* During this era of the Court we see that they refuse to broaden federal powers to enforce individual rights. We see the Court continue to make decisions that strengthen the federal government and weaken individual liberty.
* The role of the Court defending civil liberties did not begin until **Earl Warren** became Chief Justice (1953-1969). During the Warren Era we see many rulings that extend protections in voting rights, people accused of crimes and other civil liberties. The most famous and the most impactful of these is ***Brown v. Board of Education of Topeka* (1954)** where the Court outlawed segregation in public schools. What former landmark case ruling did this overturn? (*Plessy v. Ferguson*-separate but equal)
* Since the Warren Era, we have not seen the Court be as active in the area of civil liberties but it also has not made any major changes to the decisions of the Warren Court.

*Ask students to explain the* ***significance*** *of each Court case discussed.*

Page 311 *U.S. v. Virginia* (1996) #1-2 and YBTJ

Section 2

* The Constitution created the Supreme Court but Congress set up the lower courts using the Judiciary Act of 1789. They created 2 types of lower courts:

1. **Constitutional federal courts**-courts established by Congress under provisions of Article III of the Constitution.

* *These courts include:*

A. **Federal district courts**-these were created by Congress to serve as trial courts. As populations and the number of cases grew, Congress divided some states into more than one district. Today the U.S. has 94 districts with each state having at least one district court.

* U.S. district courts are the trial courts for both criminal and civil federal cases. *District courts use 2 types of juries in criminal cases:*

a. **Grand jury**-hears charges against a person suspected of having committed a crime. If the grand jury believes there is enough evidence to bring a person to trial then it issues an indictment, a formal accusation charging a person with a crime. If the grand jury believes there is not enough evidence then the charges are dropped.

b. **Petit jury**-a trial jury. Its function is to weigh the evidence presented at a trial in a criminal or civil case. In a criminal case, a petit jury renders a verdict of guilty or not guilty. In a civil case, the jury decides in favor of the plaintiff (the person bringing the suit) or the defendant (the person against whom the suit is brought).

* U.S. district courts handle 80% of all federal cases. District courts have jurisdiction to hear cases involving federal questions such as issues over a federal law.
* Each district has:
* A U.S. attorney to represent the U.S. in all civil suits brought against the government and to prosecute people charged with federal crimes.
* A U.S. magistrate judge who issues arrest warrants and helps decide whether the arrested person should be held for a grand jury hearing.
* A bankruptcy judge handles bankruptcy cases for each district.
* A U.S. marshal makes arrests, secures jurors, and keeps order in the courtroom.

 B. **Federal Court of Appeals**-created by Congress to ease the appeals caseload of the Supreme Court. The appellate level includes 13 U.S. courts of appeals. The U.S. is divided into 12 **judicial circuits**, or regions, with 1 appellate court in each circuit.

* The courts of appeals have only appellate jurisdiction.
* The appellate courts can decide an appeal in one of 3 ways:

 a. Uphold the original decision

 b. Reverse the original decision

 c. Send the case back to the lower court to be tried again

* Unless appealed to the Supreme Court, decisions of the courts of appeals are final.
* There is a special 13th appellate court set up by Congress in 1982 called the **United States Circuit Court of Appeals for the Federal Circuit**. This court hears cases from a federal claims court, the Court of International Trade, the United States Patent Office and other executive agencies.

C. **The Court of International Trade**-formerly known as the United States Customs Court, this court has jurisdiction over cases dealing with tariffs. Most of the cases heard in this court are brought by citizens who believe that tariffs are too high.

2. **Legislative federal courts**-as spelled out in Article I of the Constitution, the legislative courts help Congress exercise its powers.

 *These courts include:*

A. **Federal Claims Court**-(AKA U.S. Court of Federal Claims) this is a court of original jurisdiction that handles claims against the U.S. for money damages. A person who believes that the government has not paid a bill for goods or services may sue here.

 B. **The Tax Court** -this court hears cases from citizens who disagree with the Internal Revenue Service or other Treasury Department agencies about their federal taxes.

C. **U.S. Court of Appeals for the Armed Forces**-this is the armed forces’ highest appeals court. It hears appeals cases of members of the armed forces convicted of breaking military law. Sometimes called the “GI Supreme Court.”

D. **Territorial Courts**-this is the court system for the Virgin Islands, Guam, Northern Marinara Islands and Puerto Rico. These courts are roughly similar to district courts in their operation. They handle civil, criminal and constitutional cases.

E. **Courts of the District of Columbia**-because Washington DC is a federal district, Congress has created a court system for the nation’s capital.

F. **The Court of Appeals for Veterans**-this court hears appeals from the Board of Veterans’ Appeals in the Department of Veterans Affairs. This court handles cases arising from unsettled claims for benefits and other veterans’ problems.

G. **Foreign Intelligence Surveillance Court**-this court operates in secret. It consists of a panel of federal judges who govern the process of eavesdropping on citizens and foreigners inside the U.S. in national security cases. This court was created under the Foreign Intelligence Surveillance Act, which required intelligence services like the FBI and CIA to get a warrant from the FISA Court within 72 hours after wiretapping began.

* Article II, Section 2 of the Constitution gives the president the power to appoint all federal judges. Judges in the constitutional courts serve for life, which grants judges freedom from public or political pressure when deciding cases. *There are several factors that emphasize the political nature of court appointments:*

 1. **Party affiliation**-president favor judges who belong to their own political party.

 2. **Judicial philosophy**-because judges are appointed for life, presidents view judicial appointments as a way of perpetuating their political views even after they have left office.

 3. **Senatorial courtesy**-when appointing judges presidents generally follow the practice of senatorial courtesy. Under this system, the president submits the name of a judicial candidate to the senators from the candidate’s state before submitting it for formal Senate approval. If either or both senators oppose the nominee, the president usually withdraws the name and nominates another person. This practice applies only to the appointment of judges for district courts and other trial courts. It is not used for appointment to the court of appeals or the Supreme Court because those appointments are for judicial positions with a much wider area of responsibility than just one state.

 4. **Background of federal judges**-almost all federal judges have had legal training and have held a variety of positions in law or government. Until very recently, few women and African Americans were appointed as federal judges. President Johnson appointed Thurgood Marshall, the first African American justice to the Supreme Court and President Reagan appointed Sandra Day O’Connor, the first female justice to the Supreme Court.

Page 315 of my book, critical thinking questions

Have students write a paragraph stating their position on life tenure for federal judges.

(Throughout the whole chapter, judicial activism v. judicial restraint from pgs 306, 314 and 325)

Section 3

* Article III of the Constitution created the Supreme Court as one of three coequal branches of the national government.
* The Supreme Court is the court of last resort in all questions of federal law. The Court is not required to hear all cases presented before it and it chooses very carefully the cases it will consider.
* The Supreme Court has final authority in any case involving the Constitution, acts of Congress and treaties with other countries. Most of the cases the Supreme Court hears are appeals from lower courts.
* The Supreme Court has both original and appellate jurisdiction. Article III, Section 2 of the Constitution sets the Court’s original jurisdiction. This article and section address 2 types of cases:

1. Cases involving representatives of foreign governments

2. Certain cases in which a state is a party

* Congress is not permitted to expand or curtail the Court’s original jurisdiction.
* Most original jurisdiction cases involve disputes between two states or a state and the federal government. These types of cases, original jurisdiction cases, make up a very small percent of the Supreme Court’s yearly workload; about 5 per year.
* Most of the cases the Supreme Court decides fall under the Court’s appellate jurisdiction. Under this appellate jurisdiction the Court hears cases from federal courts of appeals or it may hear cases from federal district courts where an act of Congress was held unconstitutional.
* The Court can hear cases appealed from the highest court of a state if claims under federal law or the Constitution are involved. However, in these cases, the Court can only rule on the federal issue involved, not on any issues of the state.
* The Supreme Court is comprised of 9 justices: the Chief Justice of the U.S. and 8 associate justices. Congress sets this number and has the power to change it.
* In 2008 the eight associate justices received an annual salary of $208,100 and the Chief Justice was paid a salary of $217,400. Congress sets the justices’ salaries and may not reduce them.
* Congress may remove Supreme Court justices through impeachment for and conviction of “treason, bribery or other high crimes and misdemeanors.” (Samuel Chase, 1804-impeached for his participation in partisan politics but was not convicted by the Senate.)
* The Constitution does not describe the duties of the justices. Instead, their duties have been shaped by laws, tradition and as the needs and circumstances of the nation have developed. The main duty of the justices is to hear and rule on cases. This duty involves them in 3 decision-making tasks:
	+ 1. Deciding which cases to hear from among the thousands appealed to the Court each year
		2. Deciding the case itself
		3. Determining an explanation for the decision, called the Court’s opinion
* The Chief Justice has several additional duties:
	+ 1. Preside over sessions and conferences at which the justices discuss cases
		2. Assigns the writing of the Court’s opinion to one of the justices who voted for the ruling
		3. Helps administer the federal court system (reference handbook)
* To maintain their objectivity on the bench, justices are careful not to become involved in any activities that might prevent them from dealing fairly with one side or another on a case. If justices have any personal or business connections with either of the parties in a case, they usually disqualify themselves from participating in that case.
* Over the years, 100 men and 2 women have served as Supreme Court justices. What sort of people become justices?
	+ They usually have a law degree and considerable legal experience
	+ Most have been a state or federal court judge or have held a court related position such as attorney general
	+ Most are in their 50s when appointed to the Court
	+ Most come from upper socioeconomic status
	+ Most are white, only 2 have been African American (Thurgood Marshall and Clarence Thomas)
	+ Most are male (only 4 women, Sandra Day O’Connor and Ruth Bader Ginsburg, and in the last few years Elena Kagan and Sonia Sotomayor)
	+ It is not a requirement but most are born in the U.S. (6 were born outside the country)
* Current Supreme Court Justices:
	+ Chief Justice John Roberts
	+ Samuel Alito
	+ Stephen Breyer
	+ Ruth Bader Ginsburg
	+ Elena Kagan
	+ Anthony Kennedy
	+ Antonin Scalia
	+ Sonia Sotomayor
	+ Clarence Thomas

Pg 321 Writing Support Organize the class into small groups and assign each group one of the most influential SC justices such as John Marshall, Earl Warren, Sandra Day O’Connor, Roger Taney, John Paul Stevens, Stephen Breyer, Ruth Bader Ginsburg, Sonia Sotomayor, John Roberts, and Thurgood Marshall. Have students prepare biographical info including birthplace, education, experience, ethnic origin, and famous opinions.