

Origins of the Federal Judiciary

- Constitution
 - Article III
 - Constitution only creates the Supreme Court
 - Congress has power to create lower federal courts
- First Congress
 - Anti-Federalists – did not want lower courts
 - Federalists – wanted lower courts

Origins of the Federal Judiciary (continued)

- Broad Types of Courts
 - Constitutional Courts
 - District Courts
 - Appellate Courts
 - Legislative Courts
 - Specialty Courts (Tax courts)

Structure of the U.S. Court System

- U.S. District Courts
 - Principle trial courts
 - At least one district court in each state
 - 94 district courts
 - Single judges

Structure of the U.S. Court System (continued)

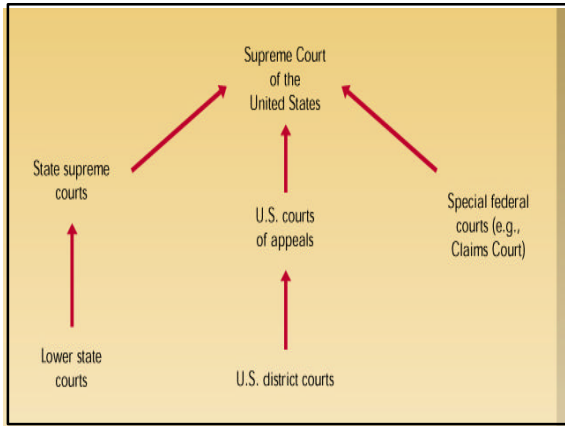
- U.S. Court of Appeals
 - Appeals from the District Courts
 - 11 Circuits, plus Washington, DC
 - 3 judge panel, Majority vote
 - **Opinions** – written by judges and explains why they voted a certain way

Structure of the U.S. Court System (continued)

- U.S. Court of Appeals
 - **Majority opinion** (*Opinion of the Court*) – Explains rationale for majority vote
 - **Minority opinion** (*dissenting opinion*) – Explains rationale for minority vote
 - **Concurring opinion** – An opinion that agrees with the majority, but for different reasons.

Supreme Court

- Court of last resort
- 9 members called justices
- Chief Justice – presiding officer
- Nominated by President, confirmed by Senate, (majority vote)
- Life tenure



How Cases get to the Supreme Court

- **Original Jurisdiction** - first time a case is heard is in the Supreme Court
 - Disputes between states
 - Disputes between a state and the federal government
- **Appellate Jurisdiction**
 - Hear cases come from lower courts

How the Supreme Court Selects Cases

- **Congressional Order**
 - Congress orders the court to hear a case
- **Discretionary Jurisdiction**
 - The court has sole discretion to select cases
 - Usually select cases to clarify a law
 - 4 justices must agree to hear a case before it can reach the Supreme Court

How the Supreme Court Operates

- Filing Briefs
 - Written legal arguments favoring one side of the case
 - **Friends of the Court** (amicus curiae) – groups or individuals filing briefs but not directly involved in the case
- Oral Arguments
 - Oral defense of your side

How the Supreme Court Operates (continued)

- Conference
 - Discuss the cases
- Voting
 - Justices sometimes vote opposite their beliefs to influence the opinion

How the Supreme Court Operates (continued)

- Opinions
 - If in the majority, Chief Justice assigns responsibility for writing majority opinion
 - If not, senior justice in the majority assigns responsibility
 - Chief Justice may switch from minority to majority to influence opinion

Judicial Decision Making

- Legal and Government Constraints
 - Jurisdiction
 - Does the court have the power to rule
- Values and Ideology
 - Bring personal belief to the decision
- Influence of Public Opinion and Interest Groups
 - Pressure from President and Congress
 - Pressure from Public

Judicial Policy Making

- **Judicial Activism** (Activist Approach)
 - Philosophy arguing that judges should interpret the Constitution to reflect current conditions and values. (Policy making)
- **Judicial Restraint** (Strict Constructionism)
 - Philosophy that judges should interpret the constitution based on the framers' intent.

Phases of Court Activism

- I. National Supremacy & Slavery (Nation v. State)
 - Supremacy of the Nation v. States
 - Resolved by the Civil War
- II. Government and the Economy
 - Conservative court over turned attempts to regulate the economy
- III. Government and Political Liberties
 - Civil Rights/Women's Rights

Judicial Selection

- Formalities
 - Nominated by President/confirmed by Senate majority
 - Life tenure
 - No minimum age
 - No professional requirements.
 - Do not have to be lawyers

Judicial Selection (continued)

- Criteria
 - Judicial Qualifications
 - Past judicial experience
 - Years practicing law
 - Political Party Affiliation
 - Same as President (traditionally)
 - Candidate's Policy Views on Controversial Issues
 - Abortion
 - Gun Control
 - Privacy

Judicial Selection (continued)

- Criteria
 - Representativeness – does the court reflect the make-up of the U.S.
 - Appointing minorities
