

FEDERAL JUDICIARY 101



February 9, 2025

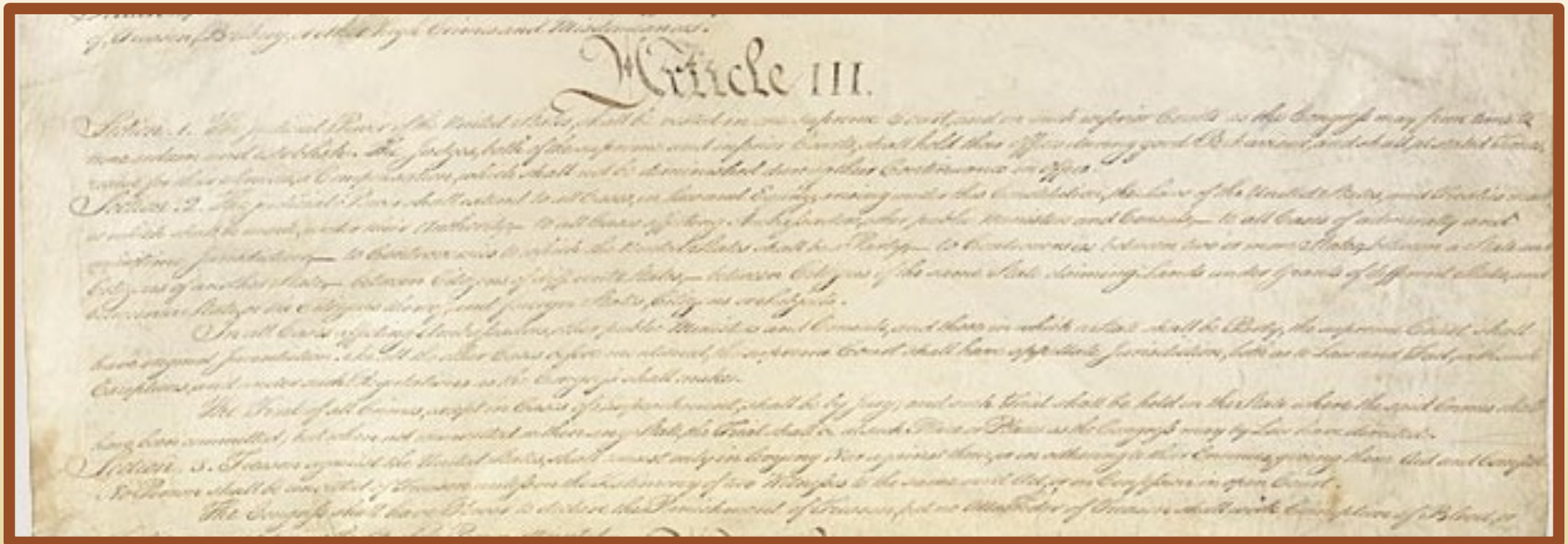
1:00 – 2:30 p.m.

Maplewood Public Library

Karen Schaffer, LWVRA

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Judicial branch of U.S. government established in U.S. Constitution Article III



Article III “Who”

- One Supreme Court
- Inferior courts established by Congress
- Hold office during good behavior
- Judges shall be paid
- No decrease in compensation

U.S. Supreme Court

1 Court

U.S. Courts of Appeals

13 Circuits (12 Regional and 1 for the Federal Circuit)

U.S. District Courts

94 Districts, each with a Bankruptcy Court
Plus

U.S. Court of International Trade
U.S. Court of Federal Claims

Article III “What”

- Exercise judicial power
- Cases arising under the Constitution
- Cases arising under federal laws
- Cases arising under treaties
- Admiralty and maritime cases
- Cases where the U.S. is a party
- Controversies between States
- Controversies between citizens of different States

Article II “What”

- Original jurisdiction (ambassadors or where a State is a party)
- Appellate jurisdiction





Relationship between Judicial Branch and Executive Branch **Article II**

- Executive nominates, appoints federal judges
- With the advice and consent of the Senate

Relationship between Judicial Branch and Legislative Branch

Article I

- Congress may establish inferior courts
- Senate gives advice and consent for judges
- Congress sets federal budget (example: Supreme Court building not built until 1926-1936)
- House may impeach
- Senates tries impeachment cases
- Congress makes all laws necessary to carry out its powers

Judiciary Act of 1789

- Supreme Court (6)
- Circuit Courts (3)(North, Middle, South)
(no judges of their own until 1891)
- District Courts (15)
- Original jurisdiction as in Article III
- Appellate jurisdiction over Circuit Courts and some state court cases



Federal Judiciary of Today

- Supreme Court (9 justices)
- Circuit Courts of Appeal (12 regional circuits + Court of Appeals for the Federal Circuit)
- 94 district courts (@677 judges) (includes bankruptcy judges)
 - a. One or more in each of the 50 states + District of Columbia
 - b. Virgin Islands, Puerto Rico, Guam, Northern Marianas
 - c. 2 special federal trial courts (Court of Int'l Trade and Court of Federal Claims)

Federal Courts in Minnesota

- One judicial district (3 courthouses)
- Part of 8th Circuit Court of Appeals (ND, SD, NE, MN, IA, MO and AR)



Judiciary Act of 1925 (“the Judges’ Bill”)

- Before 1925: Supreme Court had to hear all appeals to it, i.e., 100’s of cases/year
- After 1925: Supreme Court has power to choose which appeals it will hear

“...justices were transformed from passive recipients to active participants in the making of the law” (Bann)

Merit Docket and Shadow Docket

- Merit docket – cases briefed to and heard by Supreme Court with written opinion (October 5, 2020 through October 3, 2021 there were 56 signed decisions)
- Shadow docket – unsigned procedural orders, decisions to not take an appeal, decisions to uphold a stay, applications for emergency relief (in the same period 5,307 petitions for review +66 applications for emergency relief)

Judicial Ethics: “How” federal judges do their work

- Code of Conduct for United States Judges
- Set of ethical guidelines on issues of integrity, independence, diligence, impartiality, extra-judicial activity, avoidance of impropriety and the appearance of impropriety
- Adopted by the Judicial Conference of the United States
- Administrative and policymaking body for federal court system



Judicial Ethics: “How” federal judges do their work

(Cont.)

- Chief Justice, Chief of each Circuit, 1 district court judge from each Circuit
- Established by Congress in 1922 (28 USC Section 331)
- Guidelines by their terms do not apply to Supreme Court Justices
- Guidelines are aspirational and there is no enforcement mechanism



Code of Conduct for United States Judges

- Uphold integrity, independence of judiciary
- Avoid impropriety and the appearance of impropriety in all activities
- Be fair, impartial, diligent
- Extra-judicial activities to be consistent with judicial obligations
- Refrain from political activity



Supreme Court Code of Conduct



- Adopted by Supreme Court on November 13, 2023
- Contains 5 ethical canons (similar to Code of Conduct for other federal judges)
- Includes “duty to sit”
- No enforcement mechanism

Judicial Conduct and Disability Act of 1980

- Mechanism where persons can file complaints against federal judges (not Supreme Court)
- Sanctions that do not rise to the level of impeachment
- Violations of Code of Conduct are relevant when deciding on a complaint



Disqualification of Justice, Judge or Magistrate Judge

- Law passed by Congress requiring judges to disqualify themselves in any proceeding where their impartiality might reasonably be questioned (recusal)
- List of specific situations where recusal is required:
 - a. Personal knowledge
 - b. Financial interest
 - c. Past involvement
- On its face seems to apply to Supreme Court



Ethics in Government Act of 1978

- Financial reporting statute (outside income/employment, gifts)
- Applies to high-level government officials, including justices and judges
- “personal hospitality” exception
- Justices comply but there is no case law that explicitly requires them to do so

Forum Shopping (Venue Shopping)

- Practice of choosing where to file a lawsuit based on which court or judge is more likely to rule favorably
- Used by liberal and conservative groups
- March 2024 Judicial Conference new rules to limit the use of forum shopping in cases where a state of federal law was being challenged (these cases should be assigned randomly throughout a district)
- Because the rule is so new, there are many questions about how it is to be applied

Judicial Representation

“...a sense that all groups of sufficient size should see one of their own on the Court.”
(Banner)



Judicial Diversity over the Years

FEDERAL JUDICIARY 101

- Regional (until 1972)
- Religious (e.g., 1916-1969 “Jewish Seat”) (today, no Protestants)
- Racial (1967-2022 always one black Justice)
(2009 1st Hispanic Justice)
- Gender
 - a. 1981 O’Connor
 - b. 1993 Ginsburg
 - c. 2009 Sotomayor
 - d. 2010 Kagan
 - e. 2020 Barrett
 - f. 2022 Jackson
- Sexual Orientation (Justice Frank Murphy)



Potential Structural Changes for the Supreme Court

- Declining job approval rating (measured by Gallup Poll) of Supreme Court
- Has led to proposals for changing the Supreme Court:
 - a. Congressional action to increase the size of the Supreme Court
 - b. Congressional action to enact term limits for Justices and Judges
 - c. Amend the Constitution to establish term limits for Justices and Judges
 - d. Congressional action to create an additional layer of appellate courts (e.g., Intercircuit Tribunal)
 - e. Congress could change the Supreme Court's appellate jurisdiction
 - f. Congress could challenge Supreme Court's authority to regulate itself with respect to ethics rules, financial disclosure requirements

Thank you for your participation.

Attention LWV members!

Please watch for future information regarding voting on forthcoming questions for this LWV Federal Judiciary Study. Voting will take place via a scheduled Zoom meeting.

Only LWV members may vote. You are always welcome to join League of Women Voters! For membership information, check website at lwvrosevillearea.org



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