

# Article III

## Section 1



### WHAT IT SAYS

The judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish. The Judges, both of the supreme and inferior Courts, shall hold their Offices during good Behaviour, and shall, at stated Times, receive for their Services a Compensation which shall not be diminished during their Continuance in Office.

### THE FEDERAL JUDICIARY ACT

*Among its many significant achievements, the First Congress passed the Federal Judiciary Act of 1789, which established a judiciary. However, the Constitution left the details largely undefined. The act set the number of justices on the Supreme Court (originally only six, now nine) and created thirteen district courts, along with a number of circuit courts to which Supreme Court justices and district court judges would travel. Today, there are ninety-one district courts in the fifty states, the District of Columbia, and the Commonwealth of Puerto Rico, and twelve circuit courts of appeal. Connecticut senator Oliver Ellsworth, who had been a delegate to the Constitutional Convention and who would later become chief justice of the United States, was the act's principal author.*

Section 1. Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That the Supreme court of the United States shall consist of a chief justice and five associate justices, any four of whom shall be a quorum, and shall hold annually at the seat of government two sessions, the one commencing the first Monday of February, and the other the first Monday of August. That the associate justices shall have precedence according to the date of their commissions, or when the commissions of two or more of them bear date on the same day, according to their respective ages.

## WHAT IT MEANS

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Article III establishes the federal court system. The first section creates the U.S. Supreme Court as the federal system’s highest court. The Supreme Court has the final say on matters of federal law that come before it. The Constitution specifies that judges will serve “during good Behaviour,” meaning for life—so long as they do not violate their oath of office by taking an impeachable action—and that their salaries cannot be cut as a means of controlling or punishing them. This assures an independent judiciary. The Supreme Court today has nine members, who are appointed by the President with the consent of a majority of the Senate. Congress has the power to create and organize the lower federal courts, which operate in every state. A case is filed and tried in the federal district courts or in some specialty courts, such as admiralty or bankruptcy courts. The trial courts look at the facts of the case and decide guilt or innocence, or which side is right in a dispute. If the losing side appeals the outcome, the appellate courts determine whether the trial was fair and followed the rules, and whether the law was correctly applied. A case may be appealed as far as the Supreme Court, although the Supreme Court hears only a small number of cases.

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*“The complete independence of the courts of justice is peculiarly essential in a limited constitution”*

—Alexander Hamilton,  
*The Federalist*, No. 78,  
May 28, 1788

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## Article III Section 2



### Clauses 1-3

#### WHAT IT SAYS

[1] The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority;—to all Cases affecting Ambassadors, other public ministers and Consuls;—to all Cases of admiralty and maritime Jurisdiction;—to Controversies to which the United States shall be a Party;—to Controversies between two or more States— between a State and Citizens of another State;—between Citizens of different States;—between Citizens of the same State claiming Lands under Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects.

[2] In all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be Party, the supreme Court shall have original Jurisdiction. In all the other Cases before mentioned, the supreme Court shall have appellate Jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make.

[3] The trial of all Crimes, except in Cases of Impeachment, shall be by Jury; and such Trial shall be held in the State where the said Crimes shall have been committed; but when not committed within any State, the Trial shall be at such Place or Places as the Congress may by Law have directed.

### THE SUPREME COURT REJECTS PRESIDENT TRUMAN'S SEIZURE OF THE STEEL MILLS

Judicial power was dramatically demonstrated in 1952 when the U.S. Supreme Court stopped the President of the United States from seizing a vital defense industry to prevent a strike that could damage the national interest. U.S. combat troops were fighting in Korea when federal labor mediation broke down between the unions and the steel industry, and the unions called a nationwide steel strike. President Harry S. Truman ordered his secretary of commerce to seize and operate the nation's steel mills. No law existed that authorized the President to take such an action, but President Truman asserted that responding to a wartime emergency was an "inherent power" of the Presidency necessary to promote the general welfare, as well as his responsibility as commander in chief of the armed forces. The steel companies sued the government on the ground that the President lacked the authority to take over their industry. The Supreme Court surprised the President with its ruling in *Youngstown Sheet & Tool Company v. Sawyer* (1952), when it concluded that the President could not seize the steel mills. By acting without congressional authority, Truman had violated the separation of powers, regardless of the emergency. Moreover, the Court ruled that a President's war powers could not be applied to domestic policies. Although he disagreed with the ruling—and always insisted that a President must act in a national emergency— President Truman complied with the Court's ruling. The steel seizure case confirmed that judicial power extended even to war powers, and even during a war.



# Article III

## Section 3



### Clauses 1-2

#### WHAT IT SAYS

[1] Treason against the United States, shall consist only in levying War against them, or in adhering to their Enemies, giving them Aid and Comfort. No Person shall be convicted of Treason unless on the Testimony of two Witnesses to the same overt Act, or on Confession in open Court.

[2] The Congress shall have Power to declare the Punishment of Treason, but no Attainder of Treason shall work Corruption of Blood, or Forfeiture except during the Life of the Person attainted.

#### A VICE PRESIDENT CHARGED WITH TREASON

The nation's most controversial Vice President, Aaron Burr, always played by his own rules. He began his term in 1800 by receiving a tie vote in the Electoral College with his running mate, Thomas Jefferson, and ended his term by shooting former secretary of the treasury Alexander Hamilton in a duel. Dropped by his party from their national ticket in 1804, Burr headed west. Soon the federal government began receiving reports that Burr was involved in a scheme by which the western states and territories would secede to form a new nation, which he would lead. Burr was arrested in 1807 and brought to Richmond, Virginia, to stand trial for treason. The chief justice of the United States, John Marshall, presided reminding federal prosecutors that the Constitution required either a confession or the testimony of at least two witnesses who had seen Burr commit an act of treason. Lacking either a confession or credible witnesses, the federal case collapsed and the jury found him innocent. The disgraced former Vice President then left the country to live in exile in Europe.

## WHAT IT MEANS

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Treason is the only crime specifically defined in the Constitution. Individuals may be found guilty of treason if they go to war against the United States or give “aid or comfort” to its enemies. They do not have to physically pick up a weapon and fight in combat against U.S. troops. Actively helping the enemy by passing along classified information or supplying weapons can lead to the charge of treason. Vocal opposition to a U.S. war effort through protest and demonstration, however, is protected by the free speech clause in the First Amendment. A conviction of treason must be based either on an admission of guilt or on the testimony of two witnesses. Congress may set a punishment, but it must be directed only at the guilty persons and not against their friends or family, if they were not involved in the crime. The Constitution’s strange reference to corrupt blood or forfeiture was intended to negate the English common law that prevented blood relatives of person convicted of treason from inheriting that person’s property. This became an issue when the government was dealing with the property of Confederates after the Civil War

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*“When our forefathers took up the task of forming an independent political organization for New World society . . . they were far more awake to powerful enemies with designs on this continent than some of the intervening generations have been.”*

— Justice Robert H. Jackson,  
*Cramer v. United States* (1945)

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# The Federal Judiciary

## Congress passes the Judiciary Act

1798

Congress responds to its constitutional authority to establish the lower federal courts by passing the Judiciary Act. Senator Oliver Ellsworth, who was a delegate to the Constitutional Convention, takes the lead in drafting the legislation that provides for six justices on the Supreme Court, thirteen district courts in the major cities, and three circuit courts to cover other areas. Initially, the Supreme Court serves as the only court of appeals.

## The Senate rejects John Rutledge as Chief Justice

1795

President George Washington nominates John Rutledge to be chief justice of the United States. Rutledge, who previously served as an associate justice on the Supreme Court, has resigned to become chief justice of the South Carolina Supreme Court. Rutledge, however, has just given a speech denouncing the Jay Treaty, which the Senate has just approved. The outraged senators then vote 14 to 10 against his nomination, making him the first chief justice to be rejected.

## The Supreme Court asserts the right of judicial review

1803

Outgoing President John Adams signs the commission for William Marbury to become a justice of the peace in Washington, D.C., but the incoming Secretary of State James Madison refuses to deliver the commission. Marbury files a writ directly with the Supreme Court, as the law permits, demanding his commission. Chief Justice John Marshall in his opinion in *Marbury v. Madison* declares the law that permitted Marbury to appeal to the Supreme Court to be unconstitutional. This marks the first instance in which the Supreme Court claims the right of judicial review over acts of Congress.

## Congress creates the U.S. Courts of Appeals

1891

Since the Judiciary Act of 1789, Supreme Court justices had “ridden circuit,” serving as trial judges for the circuit courts. In 1891, Congress creates the U.S. Courts of Appeals, but allows the circuit courts to continue for twenty additional years. In 1911, the circuit courts are abolished and their jurisdictions are transferred to the district courts. In the early twenty-first century, there are ninety-four U.S. judicial districts organized into twelve regional circuits, each one having a U.S. Court of Appeals.

## Uniformity of Federal Court procedures is sought

1922

The growth of the federal courts in the twentieth century forces Congress to develop a means to improve their administration and operations. In 1922, Congress establishes the Conference of Senior Circuit Judges, which in 1948 is renamed the Judicial Conference of the United States to “serve as the principal policy making body concerned with the administration of the United States Courts.” The Judicial Conference keeps track of the business of the federal courts, and makes suggestions for promoting uniformity of procedures and conduct of court business.

## FDR tries to “pack” the Supreme Court

1937

After the Supreme Court strikes down the National Industrial Recovery Act, Agricultural Adjustment Act, and other New Deal legislation as unconstitutional, President Franklin D. Roosevelt complains that the Court is still operating in the “horse and buggy” era, out of step with the times. Unable to appoint any justices during his first term, he follows his landslide reelection with a proposal to expand the Court by adding one new justice for every sitting justice over the age of seventy. This “Court packing” plan bitterly divides congressional Democrats and is never adopted. Yet, in his next three terms as President, Roosevelt is able to appoint all the members of Supreme Court, and the new justices are more sympathetic to expanded federal regulation of the economy.

# TIMELINE

## The House impeaches a Supreme Court Justice

1804

In 1804, the Jeffersonian Republicans in the House of Representatives vote to impeach Justice Samuel Chase, a Federalist who has served on the Supreme Court since 1796. He is accused of behaving in an “arbitrary, oppressive, and unjust” manner on the bench. The Senate conducts a trial in 1805, in which Justice Chase defends himself by declaring that he is being prosecuted for his political convictions rather than having committed any “high crimes or misdemeanors,” as the Constitution specifies. Six Republicans join with nine Federalist senators to acquit Chase on all counts. He remains on the Supreme Court until he dies in 1811.

## Congress creates a Court of Claims

1855

To relieve itself of petitions for financial claims, Congress in 1855 establishes the Court of Claims, giving it jurisdiction to decide the validity of all monetary claims based upon the laws, regulations, or contracts with the U.S. government. The three judges on the Court of Claims are nominated by the President and confirmed by the Senate for lifetime appointments. In 1882, Congress abolishes the Court of Claims and divides its jurisdiction between the new U.S. Court of Appeals for the Federal Circuit and the U.S. Court of Federal Claims.

## The size of the Supreme Court fluctuates

1863-1867

In 1863 the new Republican majorities in Congress expand the Supreme Court to ten, allowing President Abraham Lincoln to make an appointment to the Court. After Lincoln dies, however, Congress strongly disagrees with his successor, Andrew Johnson, over Reconstruction policies. To prevent Johnson from appointing any justices, Congress reduces the number of justices to eight in 1867. After Johnson’s term ends in 1869, Congress returns the Supreme Court to nine justices.

## The District of Columbia gets a Court of Appeals

1970

The District of Columbia is not a state but instead is operated by Congress as the seat of government. In 1970, Congress establishes a court of appeals as the highest court for the District of Columbia, the equivalent of a state supreme court.

## Congress creates the U.S. Court of International Trade

1980

To reduce some of the workload of the U.S. district courts, Congress establishes a Board of General Appraisers in 1890 to decide disputes involving imports, exports, and tariffs. The board operates within the Treasury Department. In 1909, Congress creates a Court of Customs Appeals to hear all challenges to the board’s decisions. By 1980, in recognition that the work has become more judicial than administrative, Congress reorganizes these bodies into the U.S. Court of International Trade.

## Three Federal judges are impeached and removed from the bench

1986-1989

Although rarely used, impeachment remains the only way that Congress can consider removing a federal judge with a lifetime appointment. Between 1986 and 1989, the House of Representatives impeaches three federal judges on charges ranging from income tax evasion to accepting a bribe. The Senate designates a committee to hear the evidence and then votes to remove judges Harry Claiborne, Alcee Hastings, and Walter Nixon.