

The Judicial Branch



CP Political Systems



Essential Question

How does the judicial system operate, interpreting laws, and operating as a branch of government that is equal in power to the other branches

Standards



- Content Standard 4: The student will examine the United States Constitution by comparing the legislative, executive, and judicial branches of government as they form and transform American society.
- 1. Cite specific textual and visual evidence to explain the purposes expressed in the Preamble and how the United States Constitution preserves those core principles of American society.
- 2. Examine the makeup, organization, functions, and authority exercised by the executive, legislative, and judicial branches of government.
- A. Identify constitutional qualifications for holding public office, the terms of office, and the expressed powers delegated to each branch of the national government including the numbers of members comprising the United States Congress and United States Supreme Court.
- B. Evaluate the extent to which each branch of government reflects the people's sovereignty including current issues concerning representation such as term limitations and legislative redistricting.
- C. Describe the process in which public policy is formulated into law including both the constitutional and operational procedures utilized in the modern legislative process.
- D. Explain why certain provisions of the United States Constitution result in tensions among the three branches, and evaluate how the functions of the national government have changed over time through executive actions and judicial interpretation of the necessary and proper clause.
- E. Compare and contrast the structure of the national branches of government to Oklahoma's state government.
- F. Apply the principles of limited government, federalism, checks and balances, and separation of powers to the workings of the three branches of government in real world situations including current issues and events.
- Content Standard 5: Students will be able to evaluate the significance of civic participation in order to insure the preservation of constitutional government.
- 3. Evaluate historic and contemporary examples of American citizens who have attempted to make the values and principles of the United States Constitution a reality.
- A. Analyze the rights and liberties guaranteed to all citizens in and protected by the Bill of Rights, how they are applied and protected within the states through the 14th Amendment, and sustained through the actions of individual citizens.
- B. Explain the impact on American politics, both historically and presently, of the racial, religious, socioeconomic, and ethnic diversity of American society including the importance of adhering to constitutional values in managing conflicts over diversity.

Introduction to the Judicial Branch

- **No judicial branch under **Articles of Confederation****
 - State courts had sole authority over all cases – major weakness of Articles
- **Judicial Branch created in Article III of the U.S. Constitution**
 - Only 1 federal court created – **The U.S. Supreme Court**
 - Gives power to **Congress** to create any lower federal courts

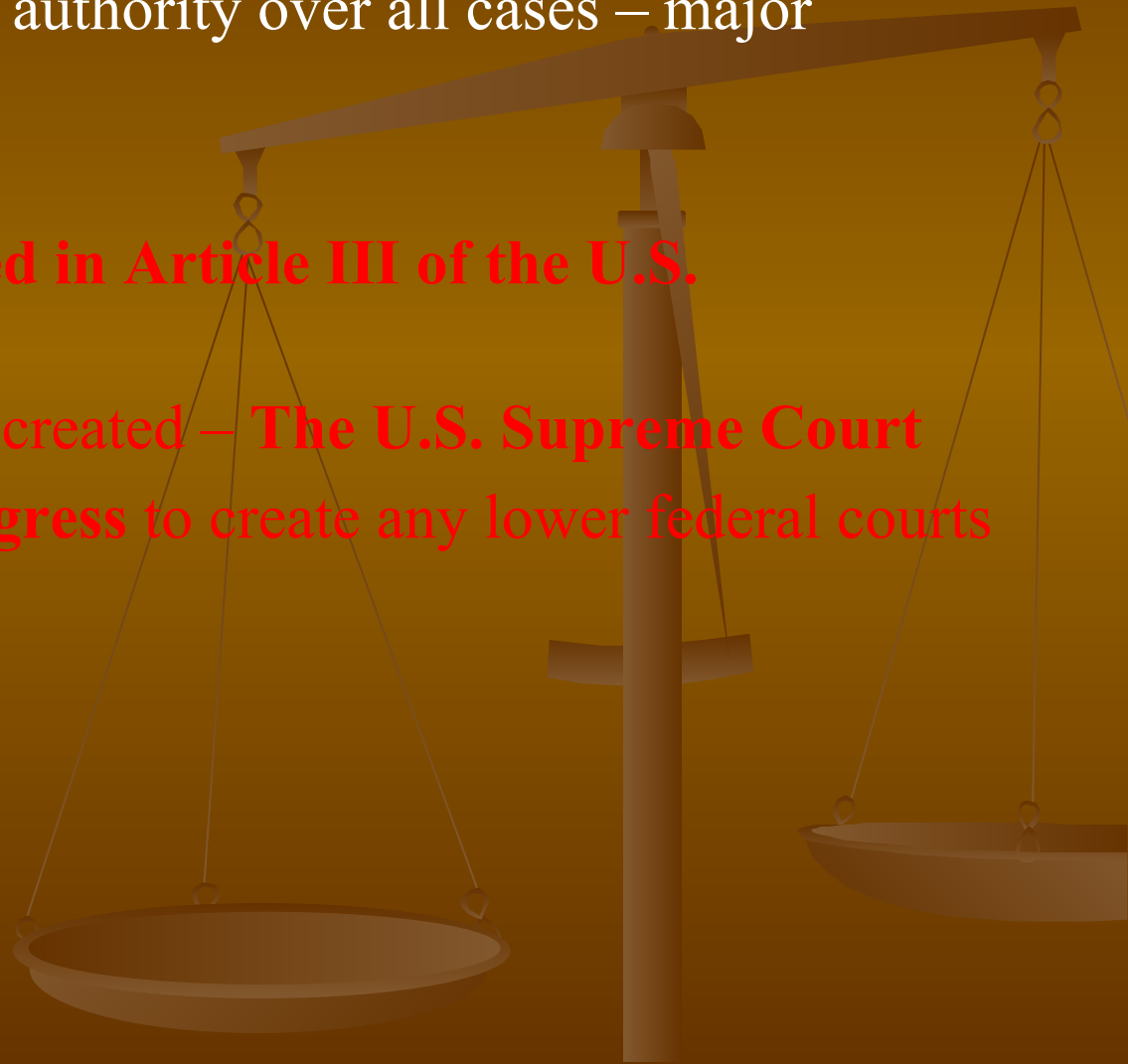
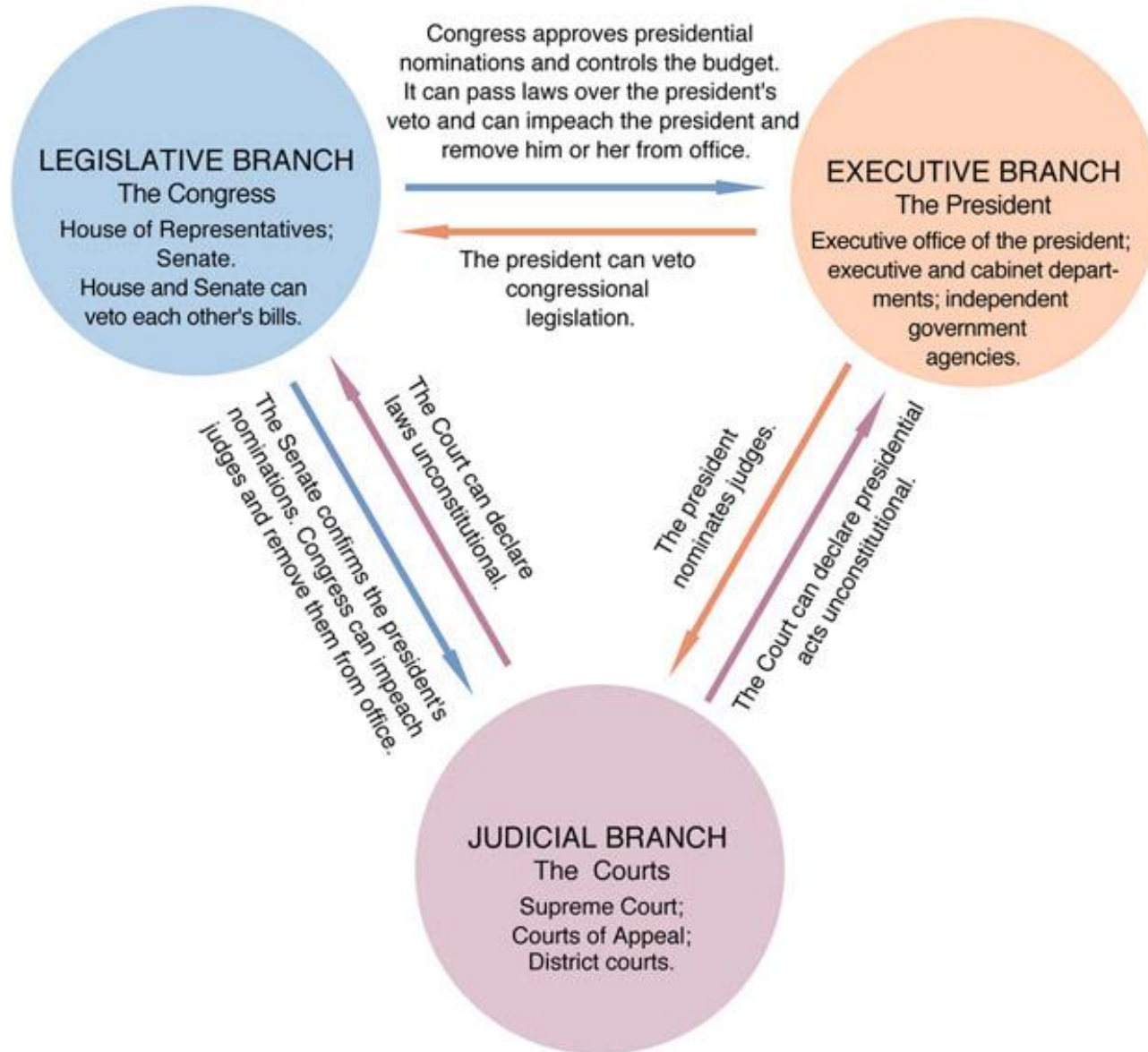


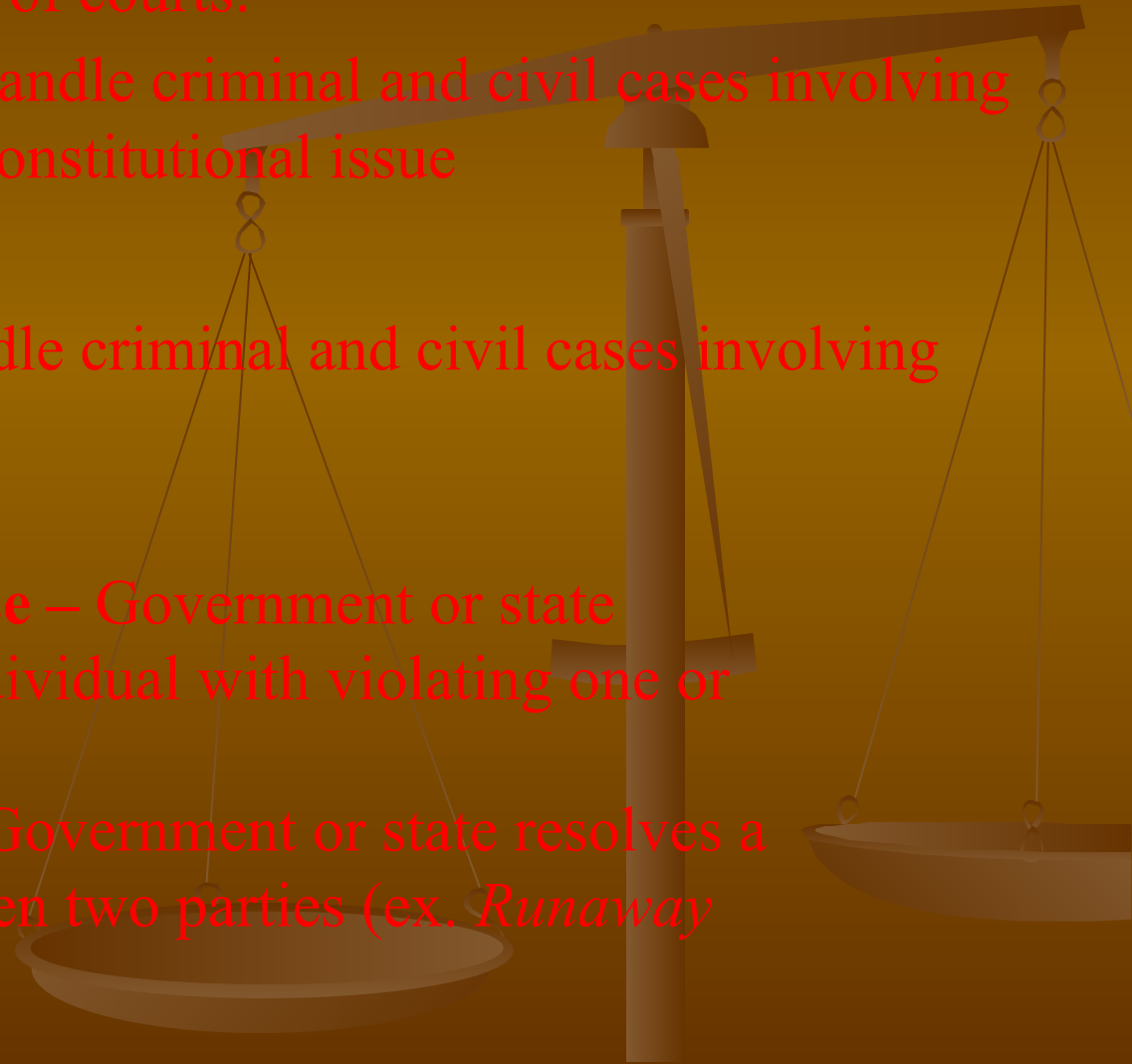
Figure 2.3
Separation of Powers and Checks and Balances in the Constitution



Introduction to the Judicial Branch

U.S. Court System Today

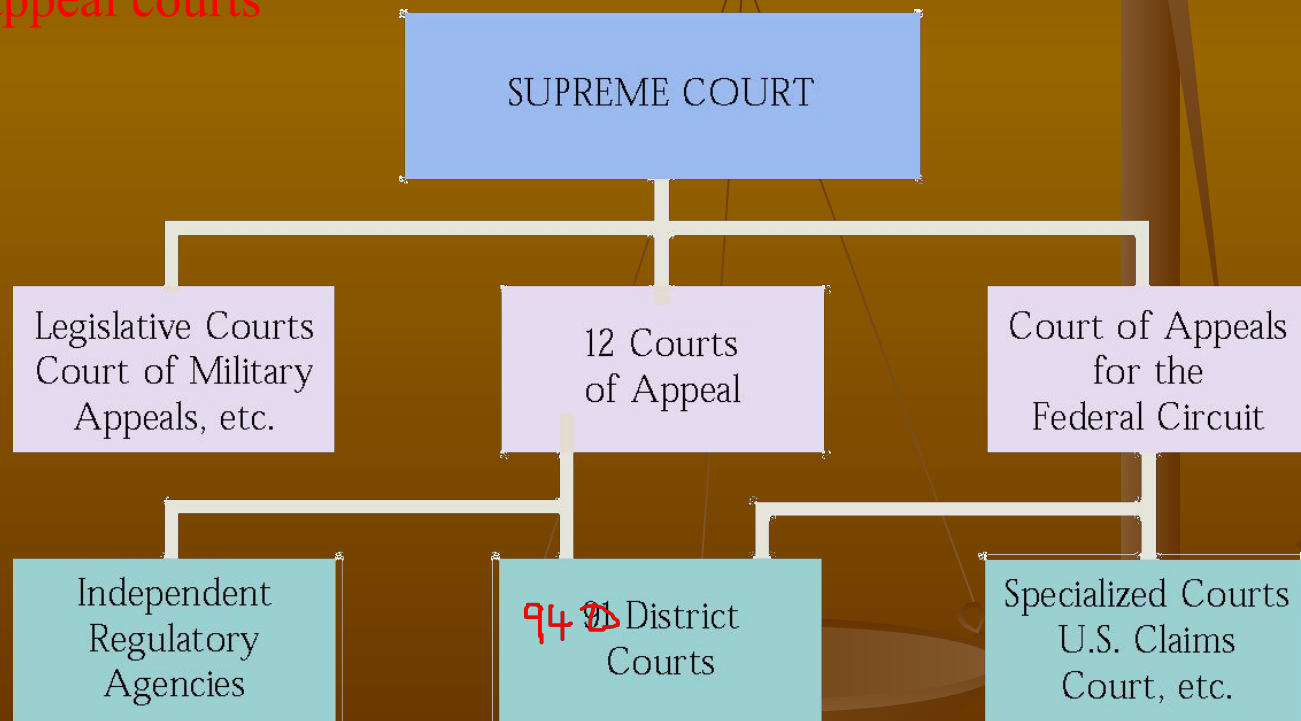
- U.S. has a **dual** system of courts:
 - **Federal Courts** – handle criminal and civil cases involving federal law or any constitutional issue
 - **State Courts** – handle criminal and civil cases involving state law
 - ✓ **Criminal Case** – Government or state charges an individual with violating one or more laws
 - ✓ **Civil Case** – Government or state resolves a dispute between two parties (ex. *Runaway Jury*)



Introduction to the Judicial Branch

■ Federal Court Structure

- **Supreme Court** – Created by the Constitution
- **Federal District Courts** – Created by Congress through the **Judiciary Act of 1789** - act as federal trial courts
- **U.S. Court of Appeals** – Created by Congress in **1891** – act as federal appeal courts



What is a Federal Crime?

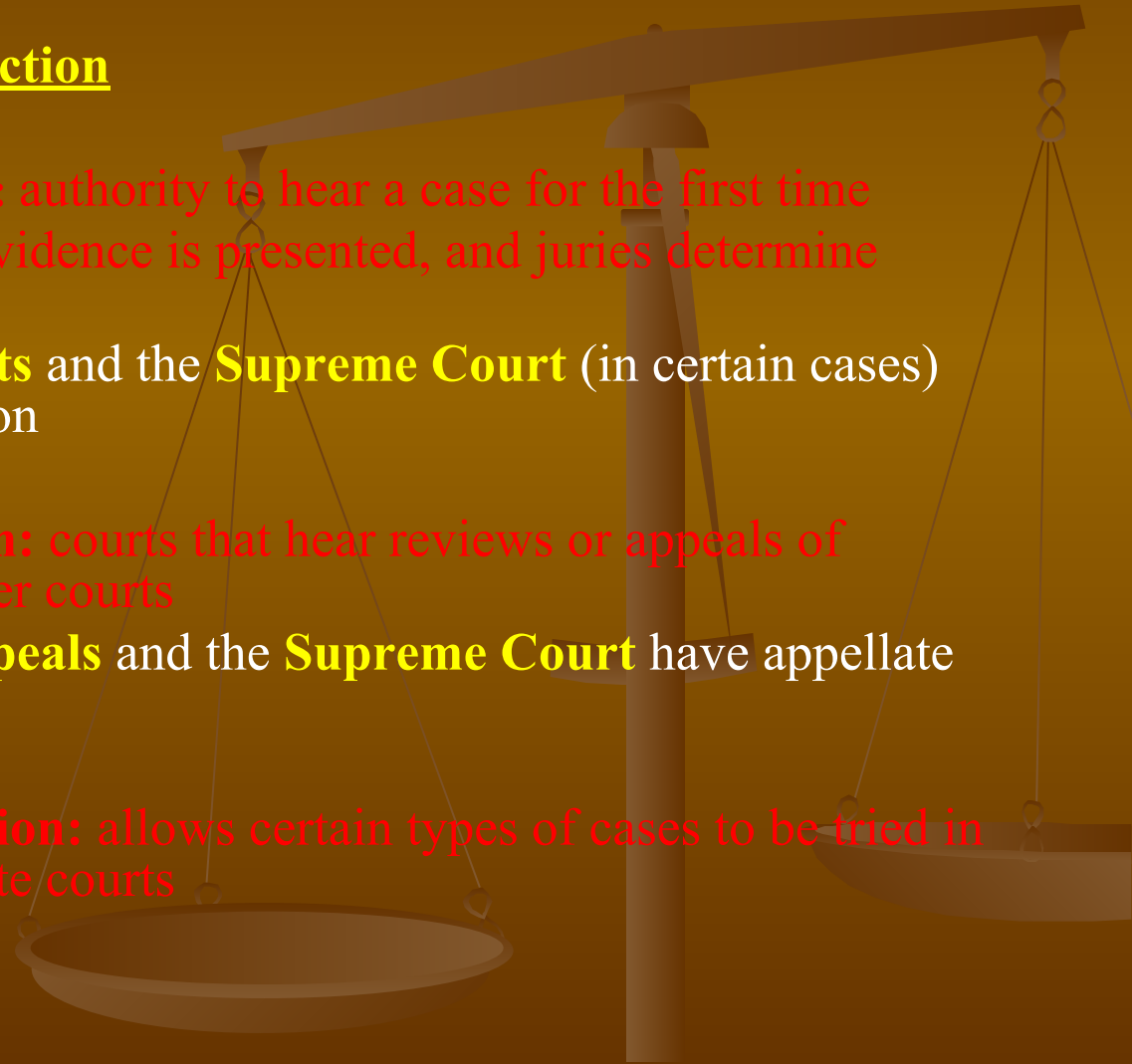
- **Federal Crime: a crime that is either made illegal by U.S. federal legislation or a crime that occurs on U.S. federal property.**
 - Murder during a hostage-taking
 - Murder with the intent of preventing testimony by a witness, victim, or informant
 - Mailing of injurious articles with intent to kill or resulting in death
 - Murder for hire
 - Bank-robbery-related murder or kidnapping
 - Murder by the use of a weapon of mass destruction
 - Trafficking in large quantities of drugs
 - Treason
 - Murder related to the smuggling of illegal immigrants
 - Murder committed during a drug-related drive-by shooting
 - Murder committed at an airport serving international civil aviation
 - Civil rights offenses resulting in death
 - Murder of a member of Congress, an important executive official, or a Supreme Court Justice
 - Murder committed by the use of a firearm during a crime of violence or a drug trafficking crime
 - Murder of a U.S. national in a foreign country
 - Murder during a kidnapping
 - Murder involving torture
 - Espionage
 - Hijacking of airplane
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Federal Court Jurisdiction

- **What is Jurisdiction?**
 - **The authority of the courts to hear certain cases**

Types of Federal Jurisdiction

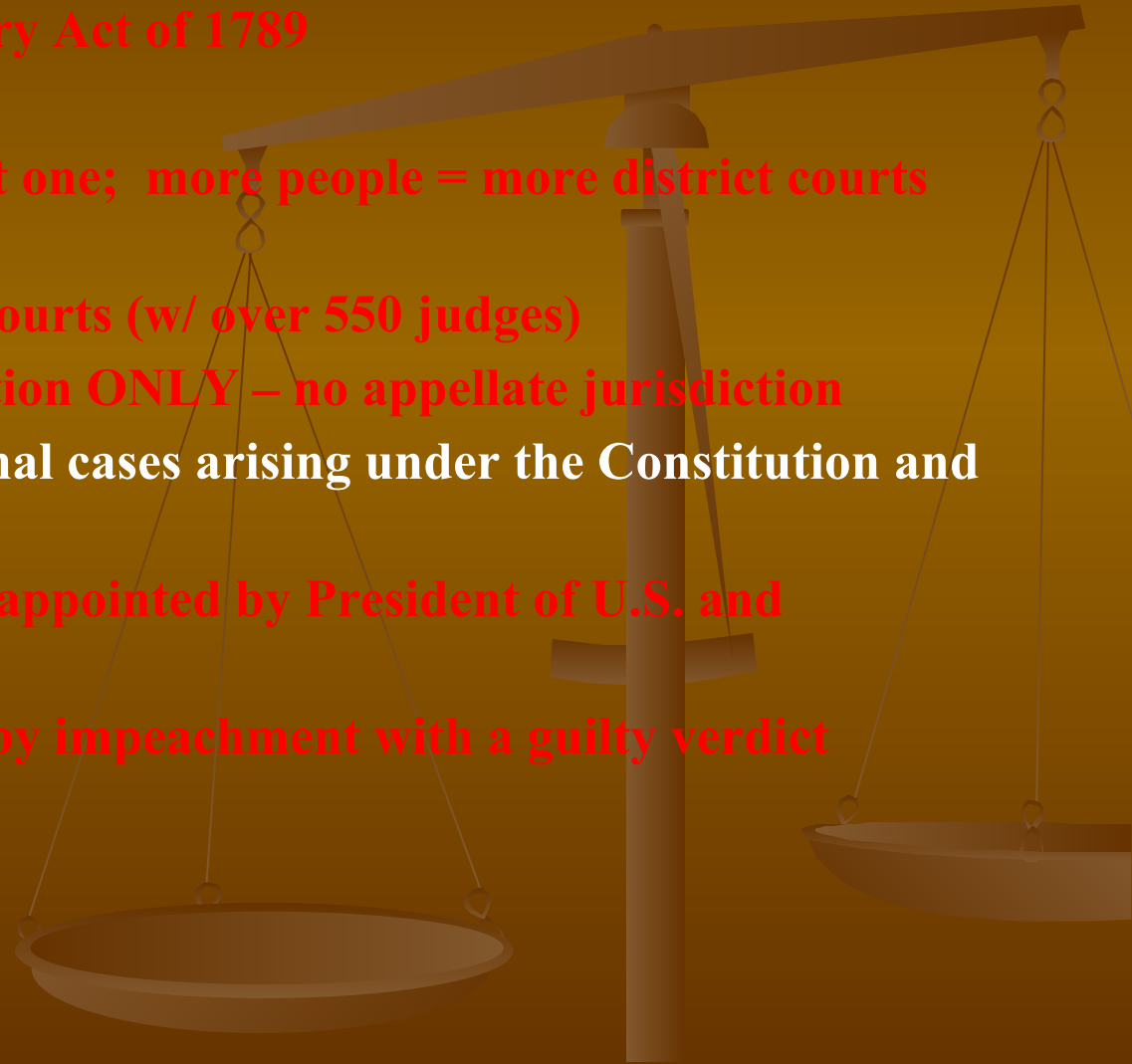
- 1.) Original Jurisdiction:** authority to hear a case for the first time
 - Trials are conducted, evidence is presented, and juries determine outcome of case
 - **Federal District Courts** and the **Supreme Court** (in certain cases) have original jurisdiction
- 2.) Appellate Jurisdiction:** courts that hear reviews or appeals of decisions from the lower courts
 - **Federal Courts of Appeals** and the **Supreme Court** have appellate jurisdiction
- 3.) Concurrent Jurisdiction:** allows certain types of cases to be tried in either the federal or state courts



Types of Federal Courts

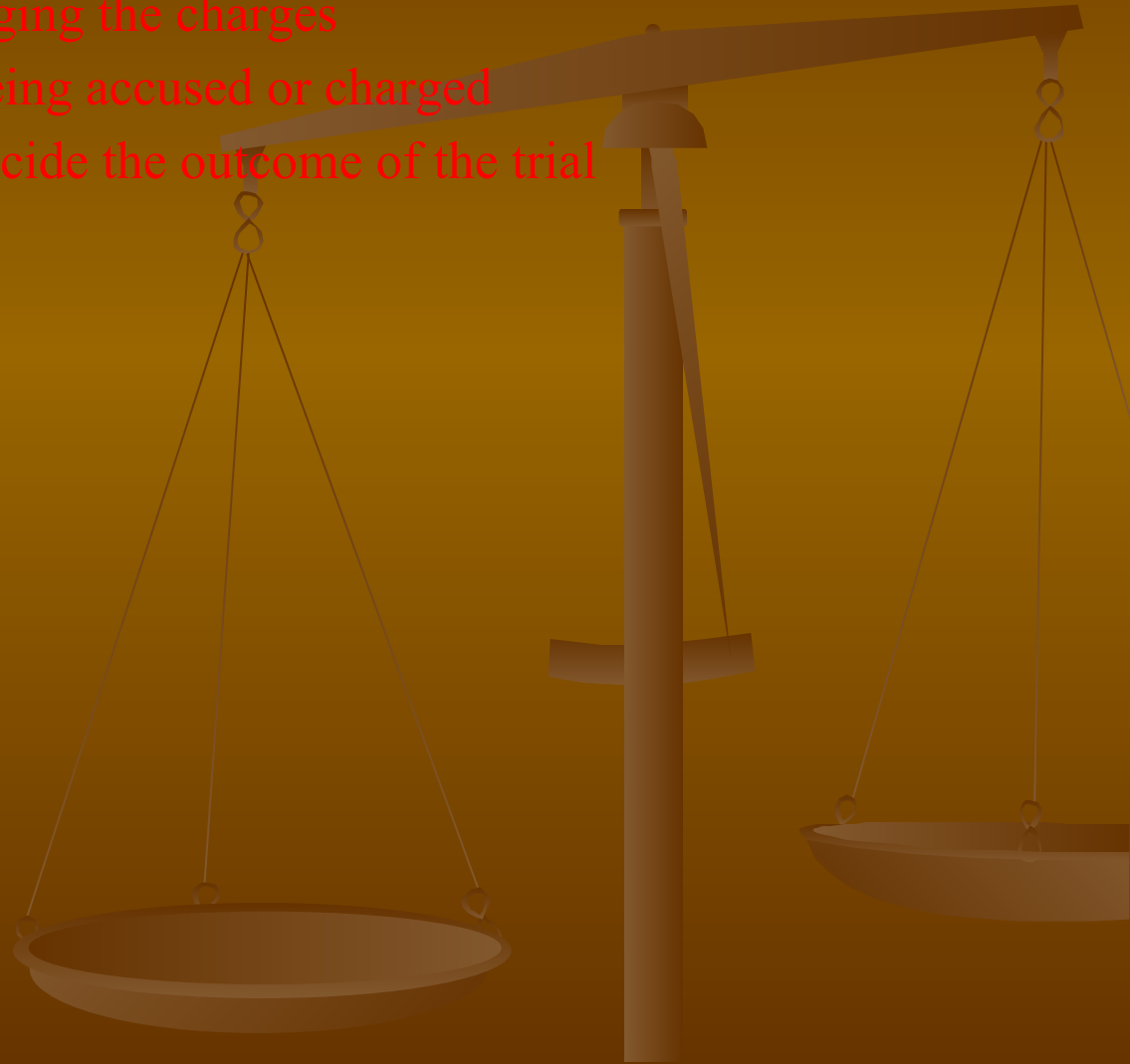
1.) District Courts

- created by the Judiciary Act of 1789
- Federal trial courts
- Every state has at least one; more people = more district courts (GA has 3)
- Currently 94 district courts (w/ over 550 judges)
- Have original jurisdiction ONLY – no appellate jurisdiction
- Decide civil and criminal cases arising under the Constitution and federal laws
- Judges serve for life – appointed by President of U.S. and confirmed by Senate
- Can only be removed by impeachment with a guilty verdict



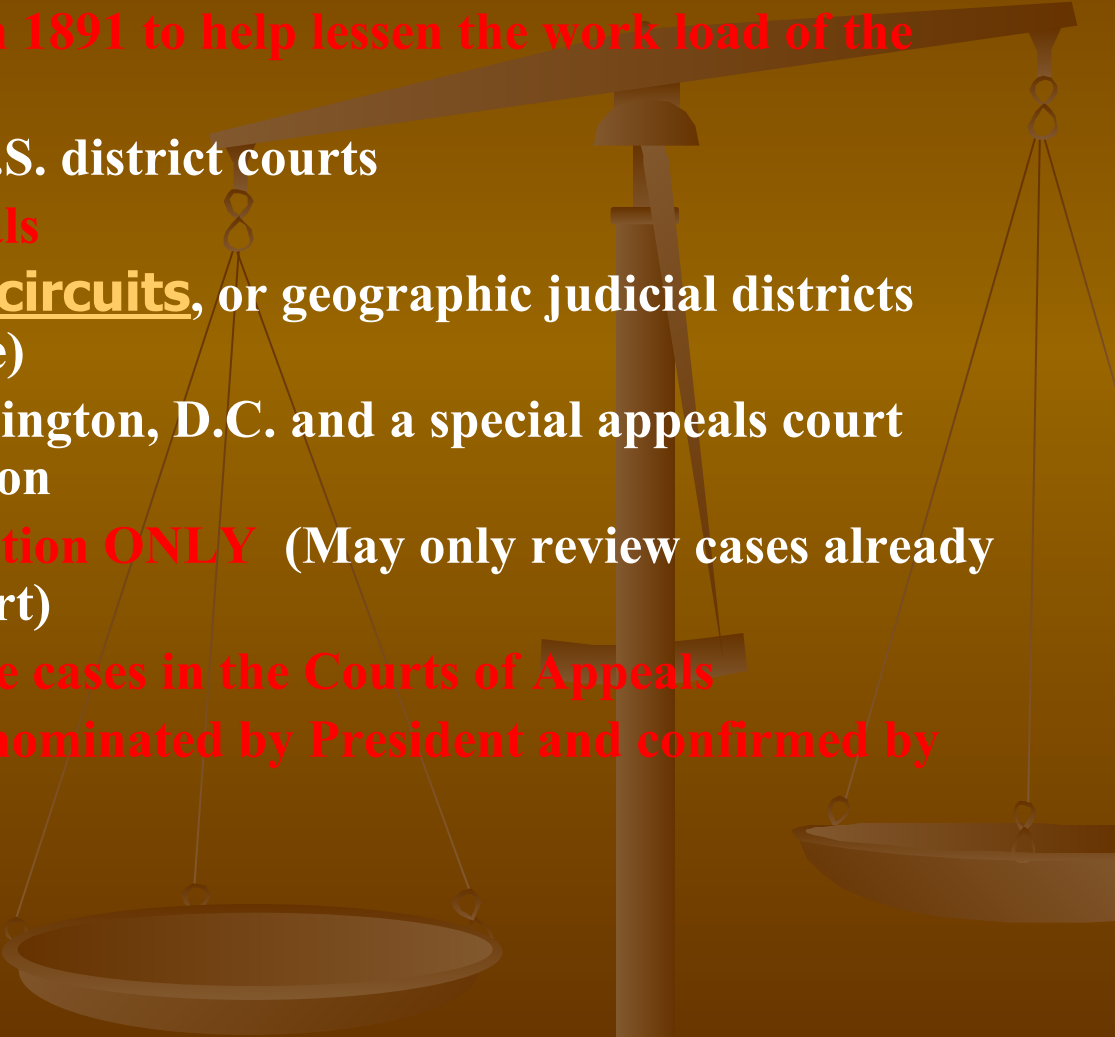
Participants in the Judicial System

- Called **Litigants**
 - **Plaintiff:** the party bringing the charges
 - **Defendant:** the party being accused or charged
 - **Jury:** 12 people who decide the outcome of the trial

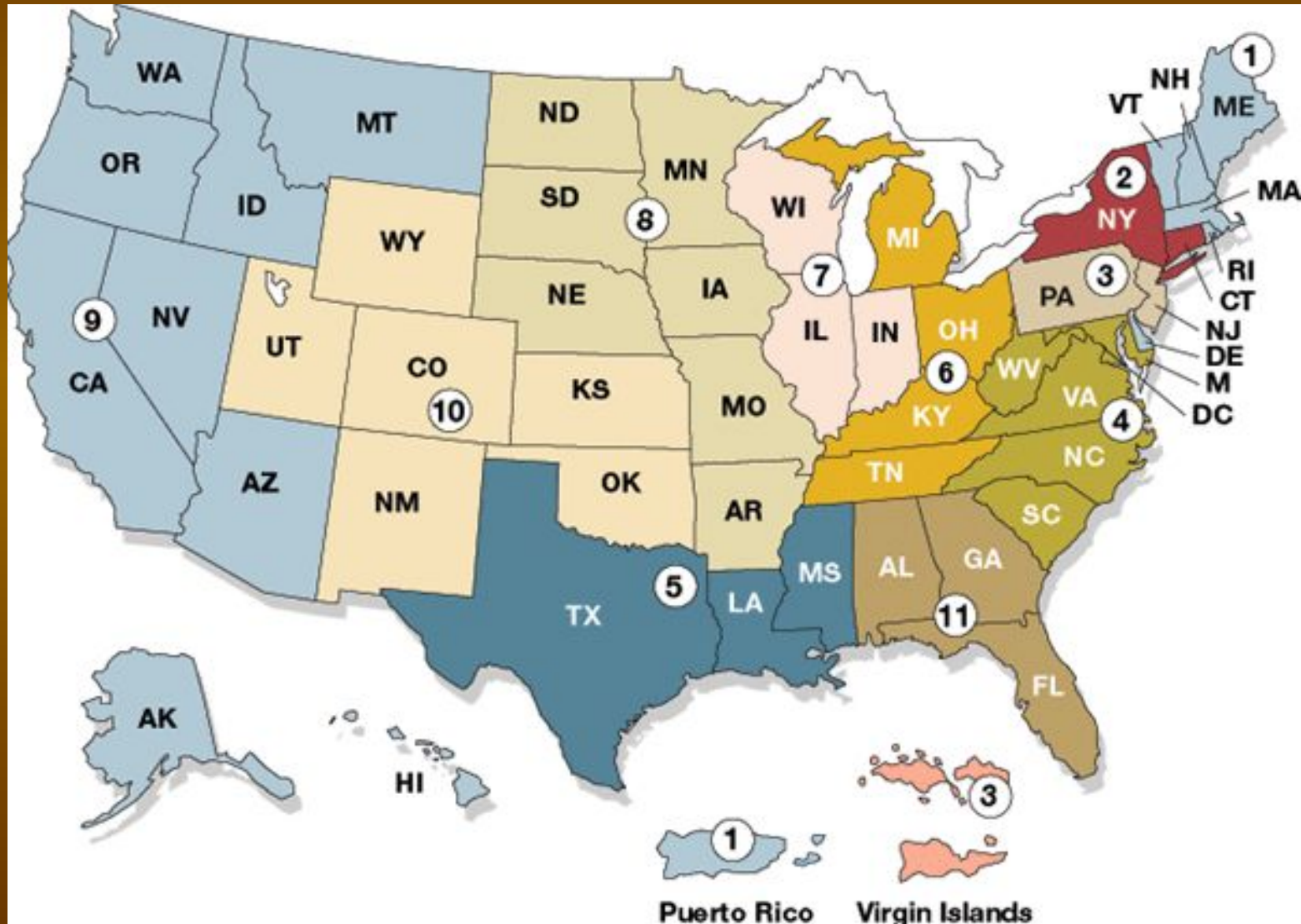


Types of Federal Courts

2.) U.S. Courts of Appeal

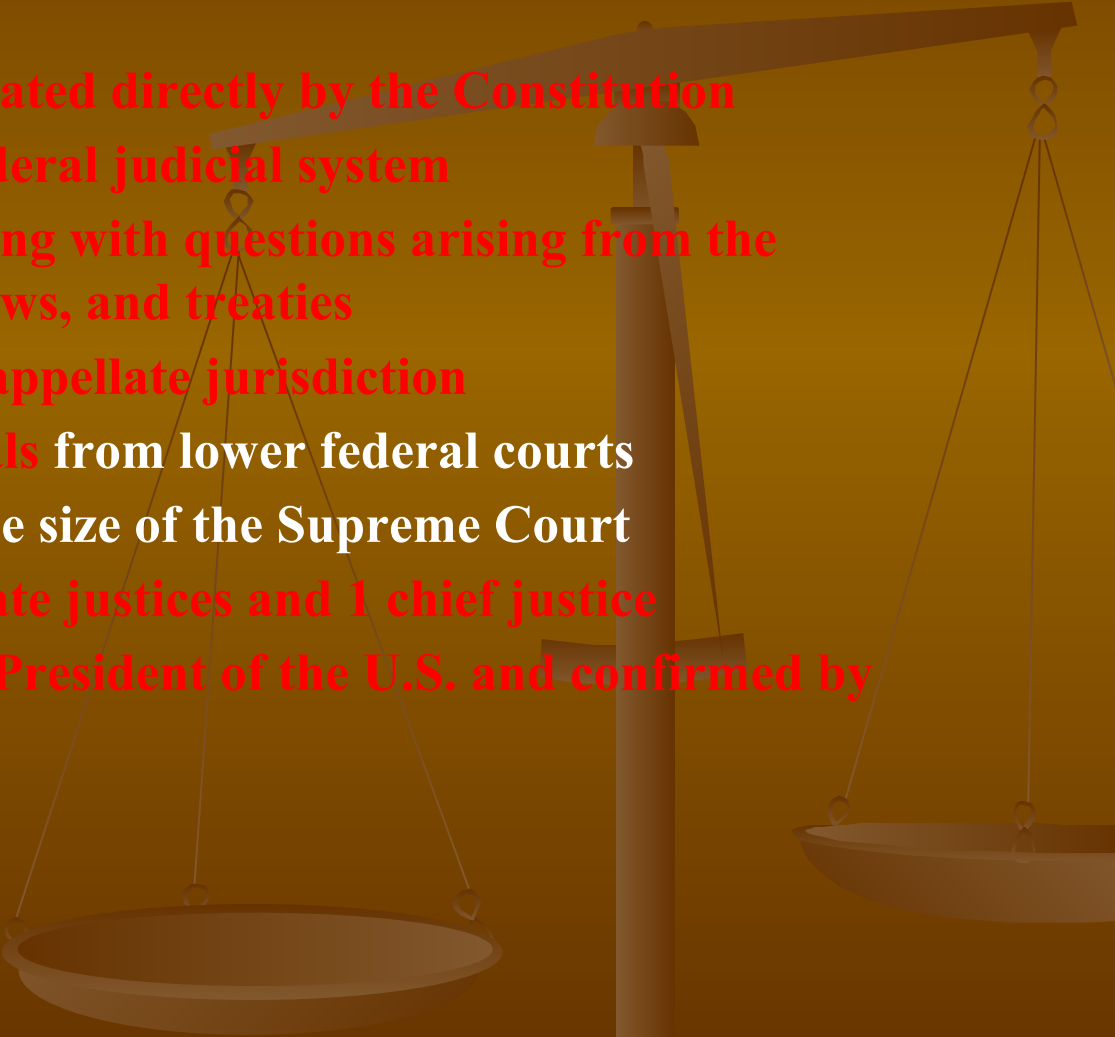
- Created by Congress in 1891 to help lessen the work load of the Supreme Court
 - Decide appeals from U.S. district courts
 - 12 U.S. Court of Appeals
 - States are divided into circuits, or geographic judicial districts (not every state has one)
 - Also a circuit for Washington, D.C. and a special appeals court with national jurisdiction
 - Have appellate jurisdiction ONLY (May only review cases already decided by a lower court)
 - Panel of 3 judges decide cases in the Courts of Appeals
 - Judges serve for life – nominated by President and confirmed by Senate
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U.S. Courts of Appeal Circuits



Types of Federal Courts

3.) U.S. Supreme Court

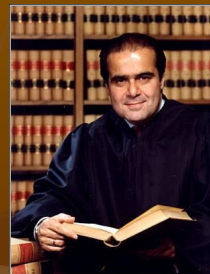
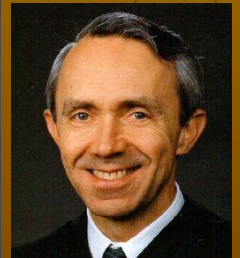
- Only court actually created directly by the Constitution
 - Highest court in the federal judicial system
 - Final authority in dealing with questions arising from the Constitution, federal laws, and treaties
 - Has both original and appellate jurisdiction
 - 90% of cases are appeals from lower federal courts
 - Congress establishes the size of the Supreme Court
 - Current size – 8 associate justices and 1 chief justice
 - Justices nominated by President of the U.S. and confirmed by Senate
 - Serve for “life”
- 

U.S. Supreme Court Today

- **Chief Justice John Roberts, Jr.**

- **Associate Justices:**

- ANTONIN SCALIA
- ANTHONY M. KENNEDY
- CLARENCE THOMAS
- RUTH BADER GINSBURG
- STEPHEN G. BREYER
- SAMUEL A. ALITO, JR.
- SONIA SOTOMAYOR
- ELENA KAGAN



Judicial Selection



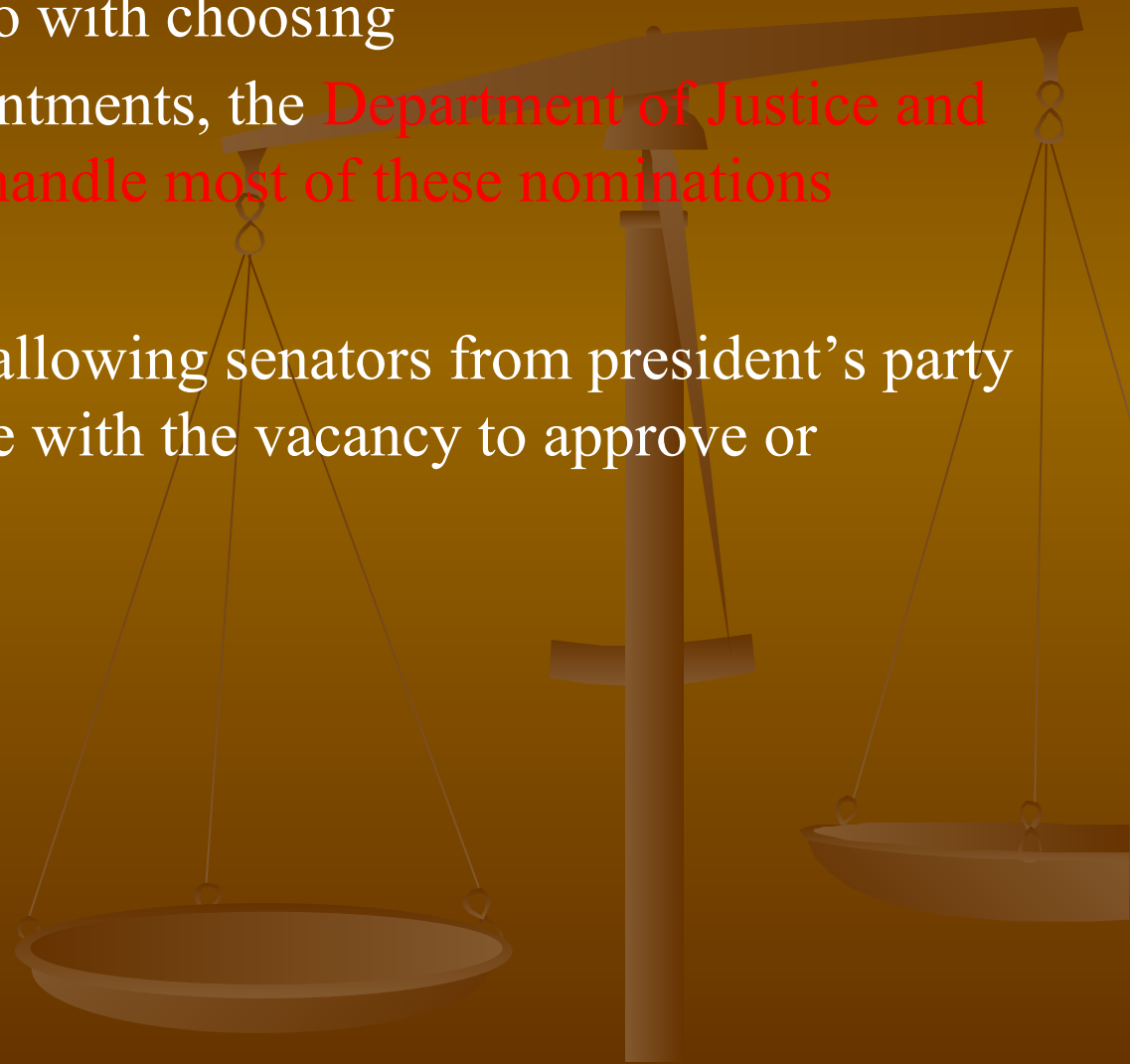
Judicial Selection



- **No formal qualifications for federal judges**
- Federal judges serve **“during good behavior”**, which generally means for life
 - **Why? – allows judges to be free from political pressures when deciding cases (don’t have to worry about being re-elected)**
- May be removed from office through **impeachment** and conviction
 - **12 federal judges impeached – 7 found guilty and removed**

Judicial Selection: Lower Courts

- President has little to do with choosing
- Due to large # of appointments, the **Department of Justice and the White House staff handle most of these nominations**
- **Senatorial Courtesy:** allowing senators from president's party who represents the state with the vacancy to approve or disapprove nominees



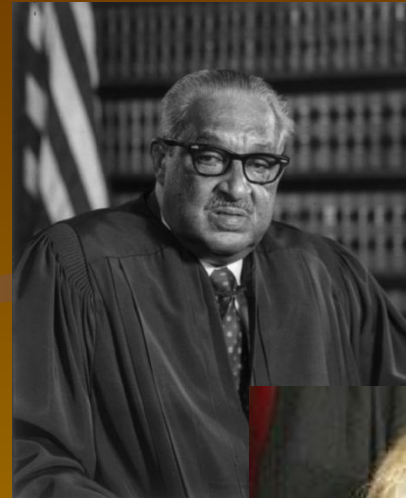
Judicial Selection: Supreme Court



- **President gives more attention to nominations to Supreme Court (higher visibility and importance)**
- **When making appointments, presidents often consider:**
 - **Party affiliation** – chooses judges from their pol.party
 - **Judicial philosophy** – chooses judges who share their political ideology
 - **Race, gender, religion, region**
 - **Judicial experience** – previous experience as judge or attorney
 - **“litmus test”** – chooses a judge based on their view on 1 single issue (ex. Abortion)
 - **Acceptability** – chooses a judge who is non-controversial and will be easily confirmed by the Senate

Background of Supreme Court Judges

- **Almost all federal judges have**
 - **Had legal training**
 - **Held positions in government**
 - **Served as lawyers for leading law firms**
 - **Served as federal district attorney**
 - **Served as law school professors**
- **Few African-Americans, Hispanics, or Women**
- **President Lyndon B. Johnson appointed first African American Supreme Court Justice, Thurgood Marshall**
- **President Ronald Reagan appointed the first female Supreme Court Justice, Sandra Day O'Connor**



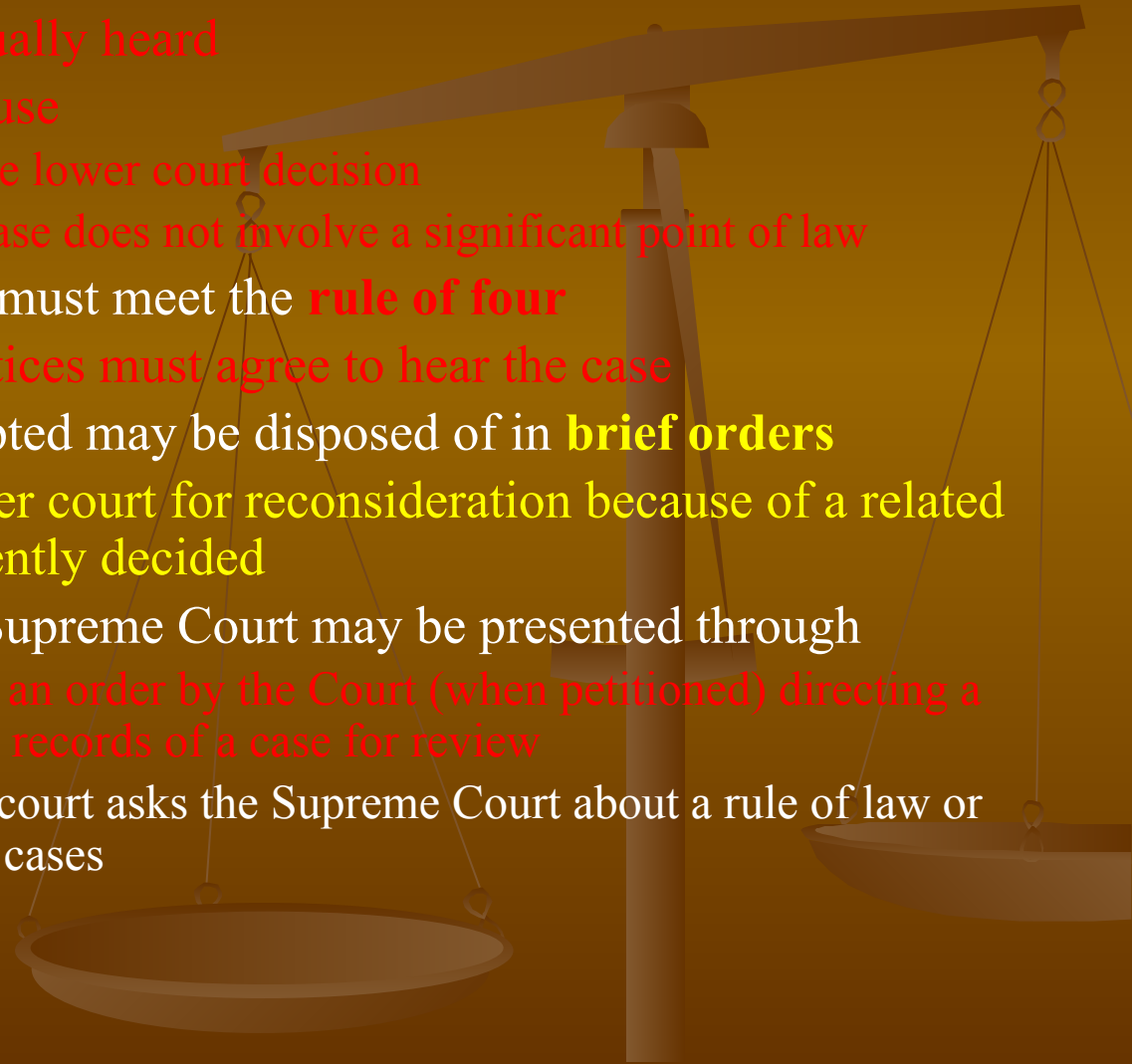
The Supreme Court At Work

- When is the Supreme Court in session?
 - Term of the Supreme Court begins on the **first Monday in Oct. and generally lasts until June or July of the following year**



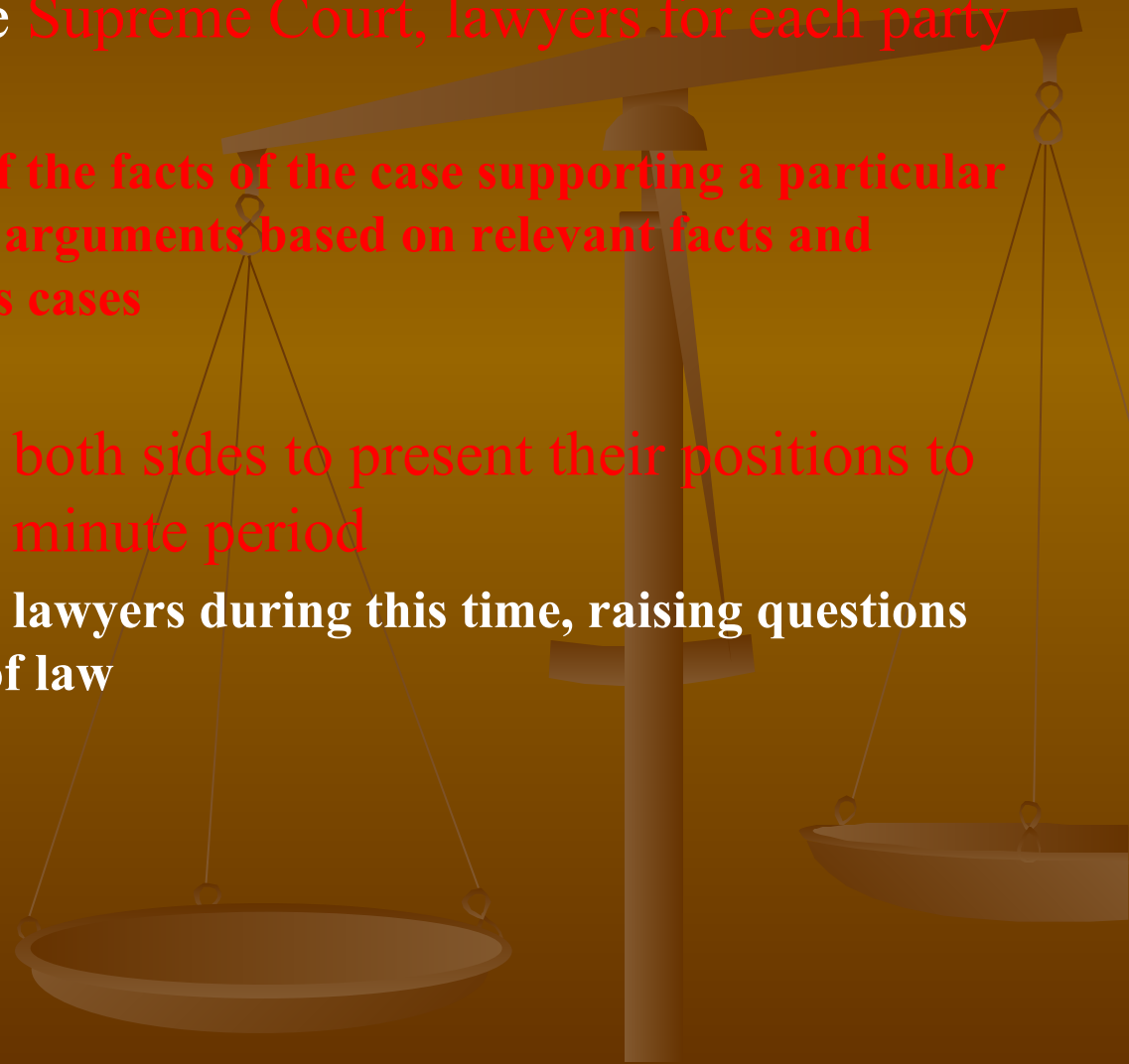
The Supreme Court At Work

- How does the Supreme Court accept a case to review?
 - Thousands of cases are appealed to the Supreme Court every year- only a few hundred are actually heard
 - Most cases denied because
 - 1.) Justices agree with the lower court decision
 - 2.) Justices believe the case does not involve a significant point of law
 - Cases that are accepted must meet the **rule of four**
 - Four of the nine justices must agree to hear the case
 - Many of the cases accepted may be disposed of in **brief orders**
 - Returned to the lower court for reconsideration because of a related case which was recently decided
 - Cases presented to the Supreme Court may be presented through
 - 1.) **Writ of Certiorari** – an order by the Court (when petitioned) directing a lower court to send up records of a case for review
 - 2.) **Certificate** – a lower court asks the Supreme Court about a rule of law or procedures in specific cases



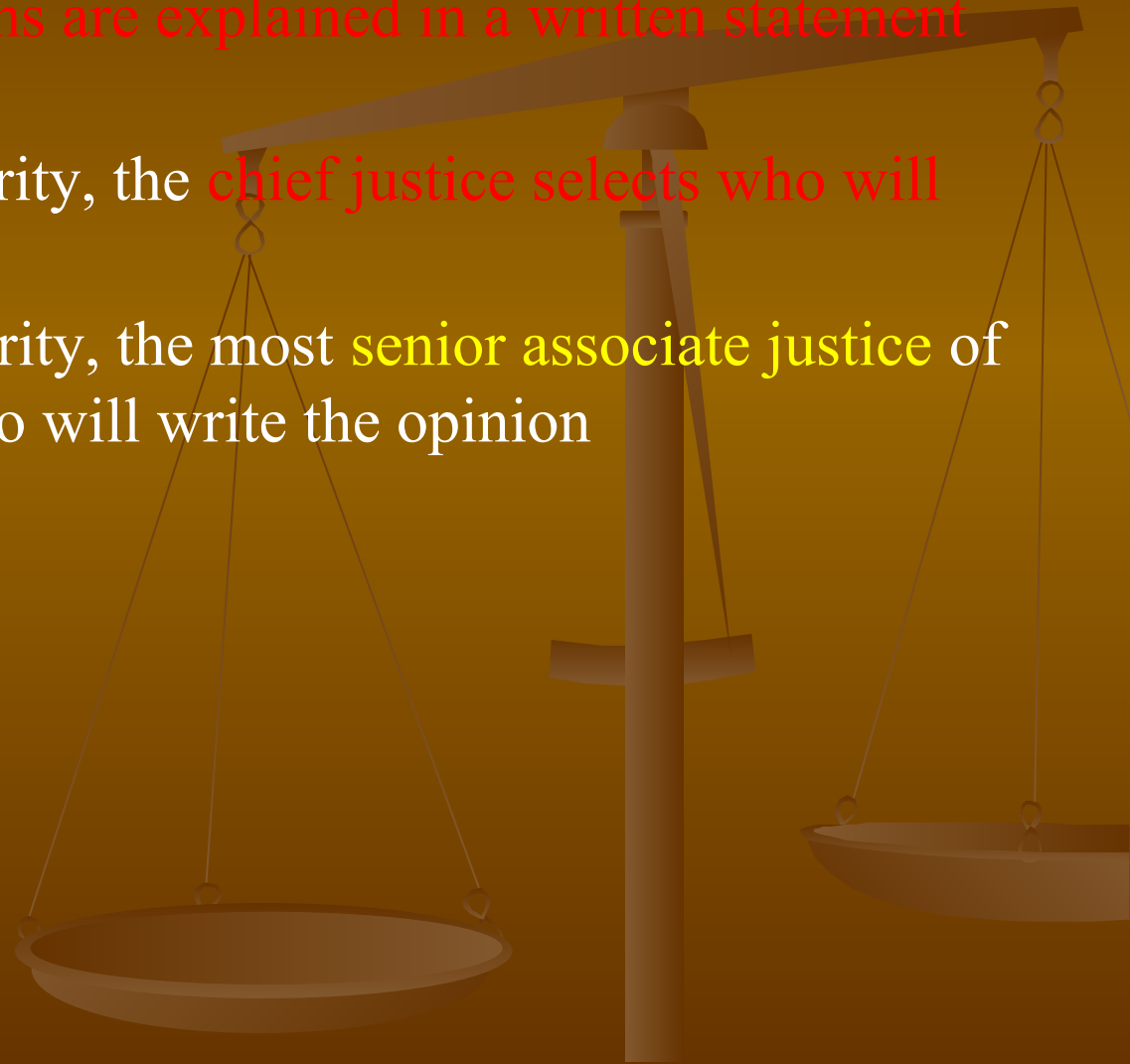
Briefs and Oral Arguments

- Once a case reaches the **Supreme Court**, lawyers for each party **file a written brief**
 - **A detailed statement of the facts of the case supporting a particular position by presenting arguments based on relevant facts and citations from previous cases**
- **Oral arguments** allow both sides to present their positions to the justices during a 30 minute period
 - **Justices may interrupt lawyers during this time, raising questions or challenging points of law**



Writing Opinions

- Supreme Court decisions are explained in a written statement called an **opinion**
- If voting with the majority, the **chief justice** selects who will **write the opinion**
- If voting with the minority, the most **senior associate justice** of the majority selects who will write the opinion



Writing Opinions



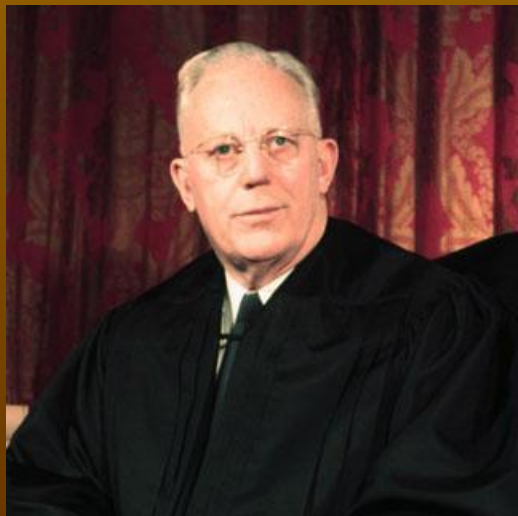
3 Types of Opinions:

- 1.) **Majority Opinion** – opinion agreed upon by a majority of the justices
 - 2.) **Concurring Opinion** – written by a justice or justices who agree with the majority opinion, but not with the reasoning behind the decision
 - 3.) **Dissenting Opinion** – written by a justice or justices who disagree with the majority opinion
- **Majority opinion become precedents**
 - Standards or guides to be followed in deciding similar cases in the future
 - Ex. *Roe v. Wade* (abortion), *Mapp v. Ohio* (exclusionary rule)

Supreme Courts Through History

Warren Court (1953-1969)

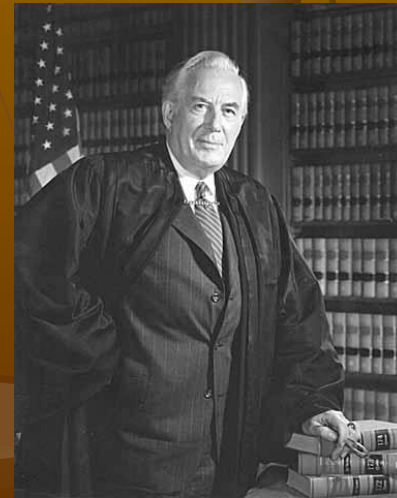
- Led by Chief Justice Earl Warren
- Often said to be the “most liberal court ever”
- Important cases decided
 - *Brown v. Board of Education* (1954) – ended segregation in public schools
 - *Gideon v. Wainwright* (1963) – states required to provide attorneys for those accused of a crime
 - *Miranda v. Arizona* (1966) – police have to inform anyone questioned of their rights in order to use the information in court



Supreme Courts Through History

Burger Court (1969-1986)

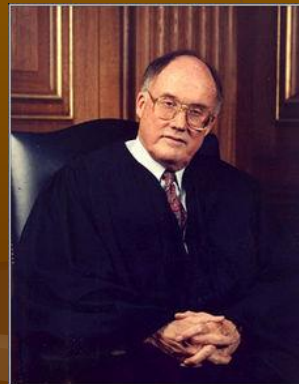
- Led by Chief Justice Warren Burger
- Returned the Supreme Court to a more conservative ideology
- Appointed by Richard Nixon
- Important cases decided:
 - *Roe v. Wade* (1973) – declared abortions legal with special time constraints
 - *U.S. v. Nixon* (1974) – ruled that President Nixon's private recordings were not protected under presidential privilege and ordered them be turned over to the house investigators



Supreme Courts Through History

Rehnquist Court (1986-2005)

- Led by Chief Justice William Rehnquist
- Conservative court that continued to limit, but not reverse, decisions of earlier more liberal courts in the areas of defendant's rights, abortion, and affirmative action
- Important cases decided
 - *Planned Parenthood v. Casey (1992)* – upheld and ruled constitutional a Pennsylvania law requiring a minor to wait 24 hours after receiving parental approval before getting an abortion – but ruled unconstitutional a provision that required a woman to obtain “informed spousal consent” before having an abortion
 - *Roper v. Simmons (2004)* – declared that the death penalty was unconstitutional for anyone under the age of 18



Judicial Philosophy

2 Types:

1.) Judicial Activism

- The court should play a more active role in creating national policies and answering questions of conflict in society

2.) Judicial Restraint

- The court should operate strictly within the limits of the Constitution and only answer questions if a clear violation of the Constitution is present. Policy making should be left up to the executive and legislative branches.

