

Chapter 6 Notes – The Federal Judiciary

Key Terms

Supreme Court Judiciary Act of 1789 Civil Law Precedent Dissenting Opinion Judicial Activism	Original Jurisdiction Judicial Review District Courts Stare Decisis Concurring Opinion	Appellate Jurisdiction Criminal Law Court of Appeals Majority Opinion Judicial Restraint
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SCOTUS Cases to know:

- *Marbury v. Madison* (1803)
- *United States v. Nixon* (1974)

Focus Questions: Be able to answer the following questions with examples from the text as necessary to demonstrate knowledge and understanding of the concepts.

1. If the Judicial system is so large, why is the amount of room dedicated to the Judiciary (Article III) so short? What does this mean for the pliability of the courts?
2. What political barriers exist for nominees to the Federal Court System?
3. How did John Marshall and the SCOTUS navigate politics in the case of *Marbury v. Madison*? What power “trade” did Marshall establish in the case?
4. How does the SCOTUS end up connecting all courts in the land?
5. SCOTUS is the only court within common federal law that serves both original and appellate jurisdiction. What types of cases fall within the SCOTUS purview of original jurisdiction?
6. When precedents are established, the SCOTUS may want to lean on the principle of stare decisis. What value does SCOTUS get when stare decisis is generally respected?
7. In what ways do majority, concurring, and dissenting opinions all serve important roles in the analysis of a case?
8. Judicial restraint is often associated with conservatism, while judicial activism is associated with liberalism. Why is this common thought actually incorrect?
9. The Judicial branch, including the SCOTUS, finds itself with limitations on power – as do the two other branches of government. What are some ways that the courts have found limitations on their rulings?

Chapter 8 Notes – Civil Liberties

Key Terms

Civil Liberties Selective Incorporation Clear and Present Danger Test	Civil Rights Establishment Clause Prior Restraint	Due Process Clause Free Exercise Clause Libel
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Slander Writ of Habeas Corpus Exclusionary Rule Miranda Rights	Ex Post Facto Laws Warrant Grand Jury	Bills of Attainder Probable Cause Double Jeopardy
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SCOTUS Cases to know:

- *Engel v. Vitale* (1962)
- *Gitlow v. New York* (1925)
- *Lemon v. Kurtzman* (1971)
- *Wisconsin v. Yoder* (1972)
- *Employment Division v. Smith* (1990)
- *Schenck v. United States* (1919)
- *New York Times Co. v. United States* (1971)
- *Tinker v. Des Moines* (1969)
- *New York Times v. Sullivan* (1964)
- *Roth v. United States* (1957)
- *Miller v. California* (1973)
- *DeJonge v. Oregon* (1937)
- *McDonald v. Chicago* (2010)
- *Mapp v. Ohio* (1961)
- *Miranda v. Arizona* (1966)
- *Gideon v. Wainwright* (1963)
- *Griswold v. Connecticut* (1965)
- *Lawrence v. Texas* (2003)
- *Roe v. Wade* (1973)
- *Dobbs v. Jackson Women's Health Organization* (2022)

Focus Questions: Be able to answer the following questions with examples from the text as necessary to demonstrate knowledge and understanding of the concepts.

1. How do the first eight amendments serve to protect the citizens of the United States from the actions of the government?
2. Justices like Hugo Black argued for “total incorporation” which supported the complete application of the Bill of Rights at the ratification of the 14th Amendment. What has won out is the idea of selective incorporation. How has the process of selective incorporation played out, and why are not all of the elements of liberties and rights in the Bill of Rights not yet incorporated?
3. Regarding freedom of religion, there are two clauses – establishment and free exercise. How do these differ?
4. How did the so-called “Lemon Test” try to establish boundaries on government involvement in religious institutions?

5. The freedom of speech is not absolute. How do cases like Schenck and Brandenburg treat political speech?
6. How have the courts dealt with the idea of “symbolic” speech?
7. What restrictions has the court put on speech in the areas of defamation, discriminatory speech, hate speech, and obscenity?
8. Why might it be difficult to determine when a search is legitimate?
9. How does the 5th Amendment protect citizens from potential abuses of the Judicial system?
10. How does the concept of privacy work itself into the law without explicitly being mentioned in the “Bill of Rights?”