

# Module 5: The Judiciary

## Topic 1 Content: Judiciary Act of 1789

### Introduction

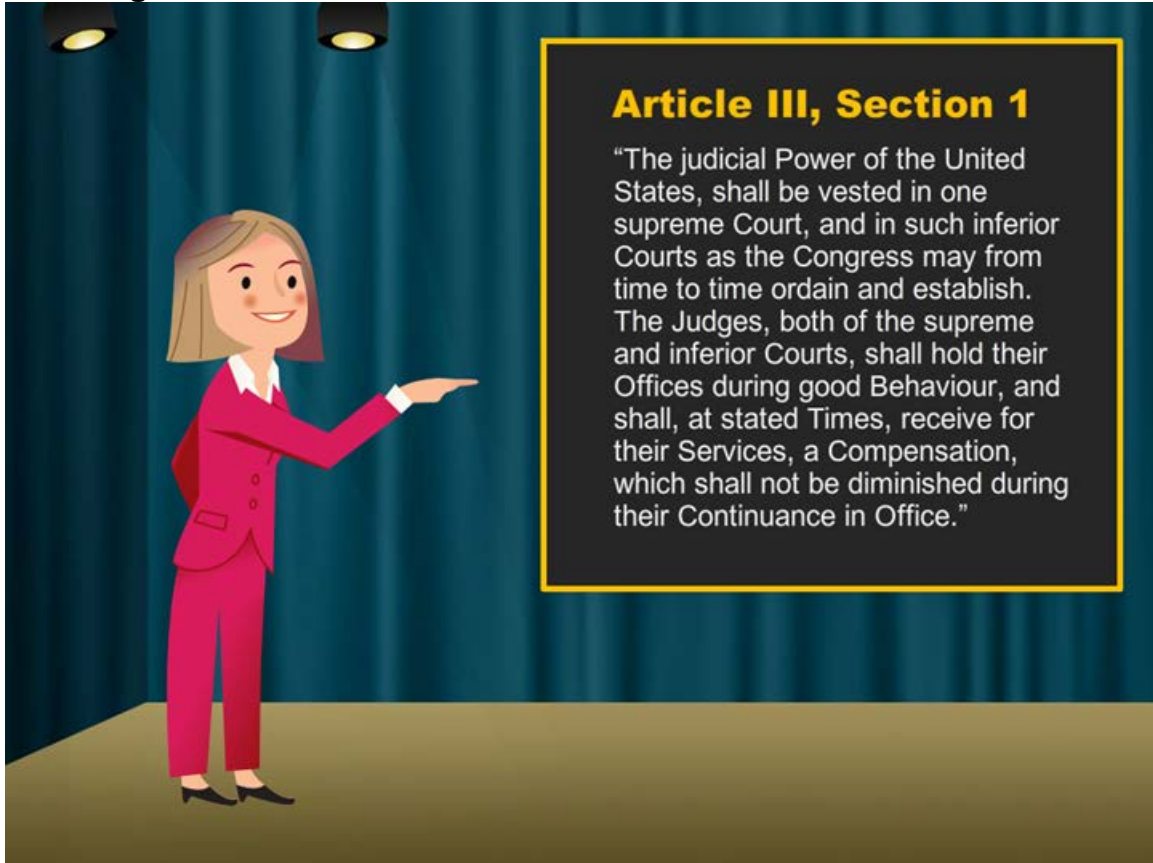


**Demi Tracy:** Welcome to the program. Jeanne Marcel joins us live in the studio to explain the Judiciary Act of 1789, which is an important piece of legislation concerning the judicial branch of American government.

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#### The Judgment Zone



**Jeanne Marcel:** Let's take another look at Article III, Section 1, of the Constitution:

"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."

Something that is notably missing from this passage is an outline for the organization of the federal judiciary. The Constitution basically left this responsibility to Congress. Congress assumed this responsibility almost immediately, at the first session of the First United States Congress, when it passed the Judiciary Act of 1789. Let's take a look at this important piece of legislation.

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### The Judiciary Act of 1789

Organized Federal Judiciary

Organized Supreme Court


Granted Appellate Jurisdiction

Established Judicial Offices

Writ of Mandamus

Make a Selection Above

Judiciary Act of 1789



**Jeanne Marcel:** There are many reasons that the Judiciary Act of 1789 is considered a landmark statute. This statute outlined the structure for the federal judiciary. Some of the key provisions of this act include the following.

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### Organized Federal Judiciary

The graphic is titled "Organized Federal Judiciary" in a yellow header. On the left, a dark grey sidebar contains five yellow-bordered buttons: "Organized Federal Judiciary" (highlighted), "Organized Supreme Court", "Granted Appellate Jurisdiction", "Established Judicial Offices", and "Writ of Mandamus". Below these buttons is the text "Make a Selection Above". On the right, a larger panel features a background image of a historical document with the heading "Congress of the United States". A bullet point states: "Created a three-level structure for the federal courts". Below this is a pyramid diagram with three levels: the top level is labeled "Supreme Court", the middle level is "Circuit Courts", and the bottom level is "District Courts".

**Jeanne Marcel:** A three-level structure for the federal courts was created. At the bottom are the federal district courts, which were responsible for the newly created federal judicial districts. One level up from the district courts is the circuit courts for appeals. The top level is the United States Supreme Court.

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### Organized Supreme Court

**Organized Supreme Court**

- Organized Federal Judiciary
- Organized Supreme Court
- Granted Appellate Jurisdiction
- Established Judicial Offices
- Writ of Mandamus

Make a Selection Above

**Organized Supreme Court**

- Established the number of Supreme Court Justices
- Set the original number of Justices at six
- Currently nine Supreme Court Justices

**Jeanne Marcel:** It established the actual number of Justices on the Supreme Court. The Constitution itself makes no reference as to the size of the court. With this act, Congress set the number of Supreme Court justices at six, a number which would change many times over the years. Currently there are nine Supreme Court Justices.

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#### Granted Appellate Jurisdiction

Organized Federal Judiciary

Organized Supreme Court

Granted Appellate Jurisdiction

Established Judicial Offices

Writ of Mandamus

Make a Selection Above

#### Granted Appellate Jurisdiction

*Congress of the United States,*  
have and holdeth the City of New York, in  
Witness whereof, their said Members have hereunto set their hands  
and seals, this 24th day of September, in the first Year of the said  
Constitution.

- Gave the Supreme Court the power to reverse state constitutions and laws that were in conflict with the U.S. Constitution and federal laws
- Ensured the Supreme Court had appellate jurisdiction over every court in the U.S.

**Jeanne Marcel:** The Supreme Court was given the power to reverse state constitutions and state laws whenever they were clearly in conflict with the U.S. Constitution, federal laws, or treaties. This ensured that the Supreme Court had appellate jurisdiction over every federal court and state court in the United States.

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#### Established Judicial Offices

Organized Federal Judiciary

Organized Supreme Court

Granted Appellate Jurisdiction

Established Judicial Offices

Writ of Mandamus

Make a Selection Above

#### Established Judicial Offices

- Created several offices of the judicial branch
- Created the office of the Attorney General
- Attorney General represented the United States before the Supreme Court
- Created a U.S. Attorney and a U.S. Marshal position for each judicial district

**Jeanne Marcel:** It created several offices of the judicial branch. In addition to all of the new federal judge positions, the Act created the office of the Attorney General. The Attorney General would eventually chair the Department of Justice when it was created in 1870, but at this time, the primary responsibility of this position was representing the United States before the Supreme Court. This act also created a United States Attorney and a United States Marshal position for each judicial district.

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#### Writ of Mandamus

Organized Federal Judiciary

Organized Supreme Court

Granted Appellate Jurisdiction

Established Judicial Offices

Writ of Mandamus

Next

### Writ of Mandamus

*Congress of the United States*

- Gave the Supreme Court the power to issue writs of mandamus
- **writ of mandamus**: legal motion ordering a public official to do something
- Later ruled inconsistent with the Constitution by John Marshall in *Marbury v. Madison* (1803)

**Jeanne Marcel:** The Judiciary Act of 1789 also gave the Supreme Court the power to issue writs of mandamus. These are legal motions ordering a public official to do something. This power was later ruled inconsistent with the Constitution by John Marshall in the famous decision in *Marbury v. Madison* (1803). This decision solidified the power of judicial review, but that is another discussion for another episode.



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Ending of Episode



**Demi Tracy:** Thank you, Jeanne. We appreciate you stopping by for this episode of WUSG News. See you next time!