CHAPTER 13

Courts, Judges, and the Law

CHAPTER OUTLINE
I. The Origins and Types of American Law
II. The Structure of the Court Systems
III. The Federal and State Court Systems
   A. Lower Courts
   B. The Supreme Court
   C. Specialized Courts
   D. State Court Systems
   E. Interactions Among Court Systems
IV. Recruiting and Removing Judges
   A. Federal Judges
   B. Who Becomes a Federal Judge?
   C. Removing Judges
V. The Supreme Court at Work
   A. Oral Argument
   B. Conference Work
   C. Writing and Announcing the Opinion
   D. Interpreting the Constitution
VI. The Implementation of Court Decisions
   A. Compliance by Other Courts
   B. Congress and the President
VII. Conclusion: The Courts Are Not What They Seem

CHAPTER SUMMARY

No part of American government is more shrouded in legend and myth than the Supreme Court. The pomp and ceremony surrounding the workings of that Court, and all our courts, add to the mysterious image of those institutions. Court decisions that seem to come down from on high stimulate public curiosity and add to the myth of court power. This chapter focuses on the role of courts, judges, and the law in American government in an effort to dispel the myths and clarify the reality of those important elements of our political system.

The first section of the chapter deals with the characteristics of American law, looking at the sources and variety of law. Next is a survey of the variety of courts in our country. With this terminology of law and courts in mind, you will be prepared to study the federal court system—U.S. district courts and courts of appeal, the Supreme Court, specialized federal courts—and its interaction with state court systems.

Given the relatively small number of federal judges and the tangible impact their decisions have on the American way of life, it is critical to understand the selection process for these positions. In this chapter, you will examine who the judges are and how they got their jobs. In the fourth section of the chapter, the authors discuss the recruitment of judges for the national courts and their removal from those courts.
The final sections of the chapter deal with the U.S. Supreme Court—the most powerful, most famous, and most misunderstood part of the federal court system. How does the Supreme Court reach its decisions? Where does the Court get its power? How are its decisions implemented? The answers to those questions will increase your understanding of the workings of the highest court in the American political system.

Misconceptions about the Court have led to the existence of two myths—the myth of the nonpolitical courts and the myth of finality. Because of these myths, Americans often think that courts act neutrally, above politics; that most of the action of the federal court system occurs in the Supreme Court; and that Supreme Court decisions express the last word on controversial political issues. The authors’ analysis of these myths provides a valuable perspective on the real significance of courts, judges, and the law in American government.

LEARNING OBJECTIVES
After carefully reading and studying the chapter, you should be able to:

1. Describe the myths of the nonpolitical courts, the finality of the Supreme Court, and the evidence that contradicts these ideas.
2. Identify the differences between civil and criminal law in the American legal system.
3. Describe the structure and functions of trial and appellate courts.
4. Explain the origins, growth, and structure of the federal court system.
5. Explain how cases reach the Supreme Court for consideration.
6. Describe state appellate and trial court systems in the United States and explain how they interact with the federal court system.
7. Explain how judges are selected for the federal and state court systems, contrasting different systems for different courts.
8. Describe what presidents look for in a Supreme Court nominee and the characteristics of those chosen.
9. Explain the means of removing federal court judges and discuss the effectiveness of those methods.
10. Describe the Supreme Court’s decision-making process.
11. Describe the procedures used by the Supreme Court to assign the writing of an opinion and define the terms concurring opinion and dissenting opinion.
12. Explain the origins of the power of judicial review and discuss the controversy over its use.
13. Identify the obstacles to Supreme Court authority in the implementation of its decisions.

READING TABLES AND GRAPHS
1. Which court of appeals circuit is Michigan in, according to Figure 13.2?
2. According to Figure 13.1, appeals from the U.S. Tax Court proceed to which court?
3. From Figure 13.2, which U.S. circuit court has the largest number of states in its jurisdiction.
4. How many members of the current Supreme Court were appointed by Democratic presidents?
PREPARING FOR AN EXAM

Essay Questions
1. Discuss the myth of the nonpolitical courts and give the evidence that contradicts it.
2. Discuss how trial courts differ from appellate courts.
3. Identify and describe the procedures of the Supreme Court for deciding cases.
4. What are the three major levels of federal courts? How do they differ from each other?
5. Are the decisions of the Supreme Court the final word on political issues in the United States? Discuss the finality of Court rulings in a description of the problems of implementing Court decisions.

ANSWER KEY

Reading Tables and Graphs
1. Sixth Circuit.
2. Courts of appeals.
3. The Ninth Circuit Court has the most states in its jurisdiction.
4. Two. Ruth Bader-Ginsberg and Stephen Breyer were both appointed by President Clinton.

Essay Questions
1. Explain the myth of a nonpolitical court and fully explain the points against such a conception.
   - Role in check-and-balance power struggle
   - Appointment process
   - Political decisions reached by the Court
2. Trial courts and appellate courts vary in their physical makeup, legal jurisdiction, and purpose.
   - Trial courts
   - Courts of original jurisdiction
   - Bench or jury trial
   - Single judge presiding
   - Plea-bargaining
     - Appellate courts
     - Appellate courts review the decisions of the trial courts
     - No juries—a review of written record
     - Panel of judges
3. The process of Supreme Court decision-making:
   - Oral argument
   - Conference work
   - Writing and announcing the decision

4. The three major levels are the district and circuit courts, and the Supreme Court.
   - District courts
   - General jurisdiction
   - Senatorial courtesy
   - Ninety-four courts
   - Single presiding judge
   - Circuit courts
   - Appeals
   - Multistate jurisdictions
   - Panels of judges
   - Twelve courts
   - Supreme Court
   - General jurisdiction and cases on appeal
   - One court
   - Nine justices
   - Oral arguments

5. The announcement ceremony adds to the myth of finality, but it seldom settles the issue. Court announcements are only the beginning of a long process leading to resolution of the matter because Court orders are not self-executing.
   - Compliance by other courts
   - Cooperation of Congress
   - Presidential enforcement