The Judicial Branch

Unit 5
AP Government

Do you know the current Supreme Court Justices??
Do you know which president appointed them?

1. ?
2. ?
3. ?
4. ?
5. ?
6. ?
7. ?
8. ?
9. ?

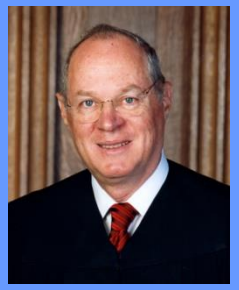
The Current Supreme Court

Chief Justice John Roberts

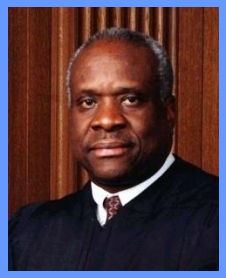
Appointed by George W. Bush

Antonin Scalia- deceased

Anthony Kennedy- Reagan

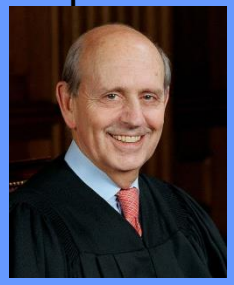


Clarence Thomas- GHW Bush



Ruth Bader Ginsburg- Clinton

Stephen Breyer- Clinton



Samuel Alito- GW Bush

Sonia Sotomayor- Obama

Elena Kagan- Obama

The Creation of the Federal Judicial System

- According to **Article III**, Congress can make new federal courts OR take away current federal courts but may not change the US Supreme Court
- Federal judges and Supreme Court Justices serve for life (*or good behavior*)
- Article III
  - **Section 1.** ***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.***

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The Dual Court System

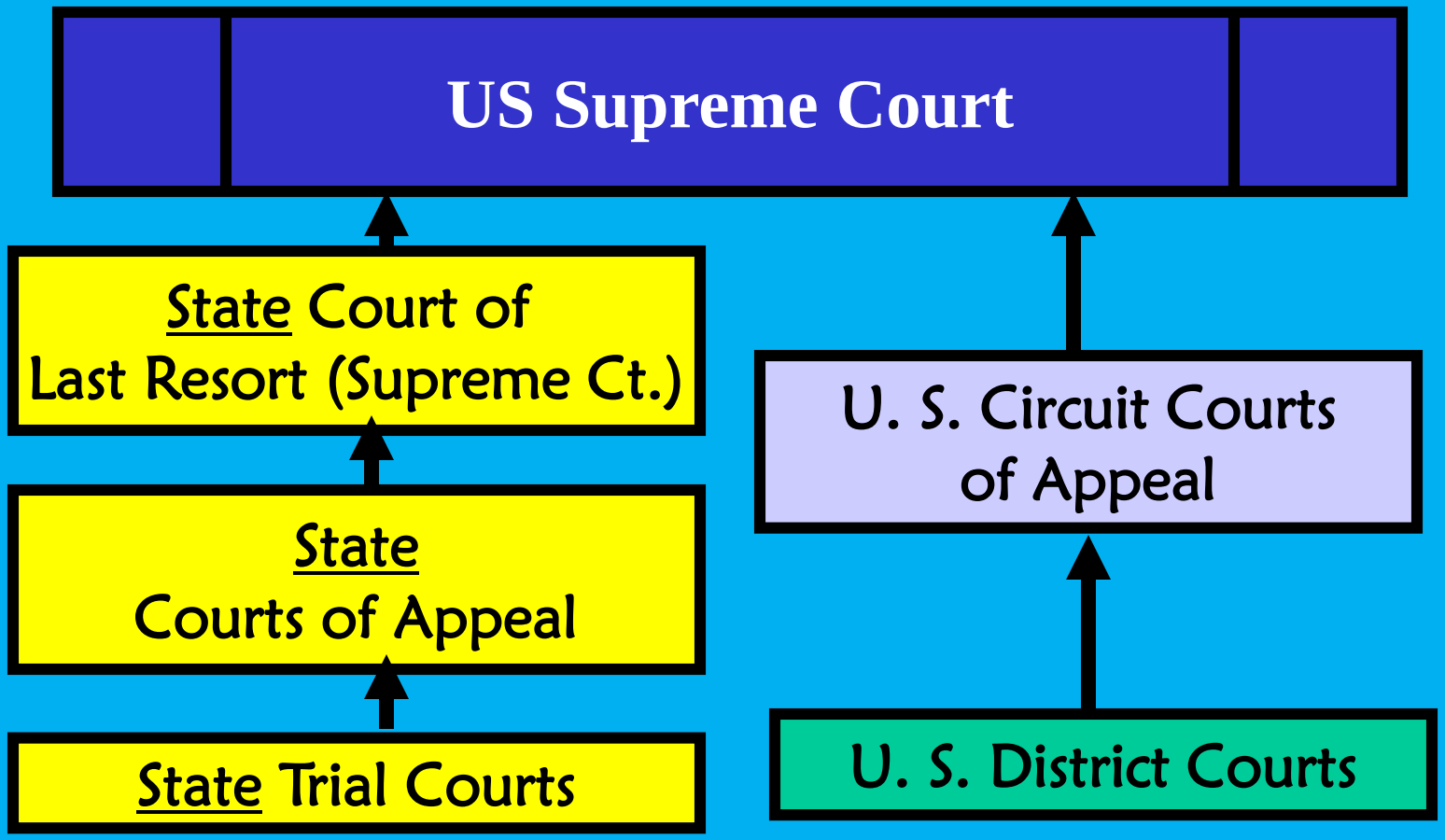
- This term refers to the Federal and State Court systems and how they function
- Refers to the separate state court systems and federal court systems
  - It's a somewhat outdated way to describe the two systems

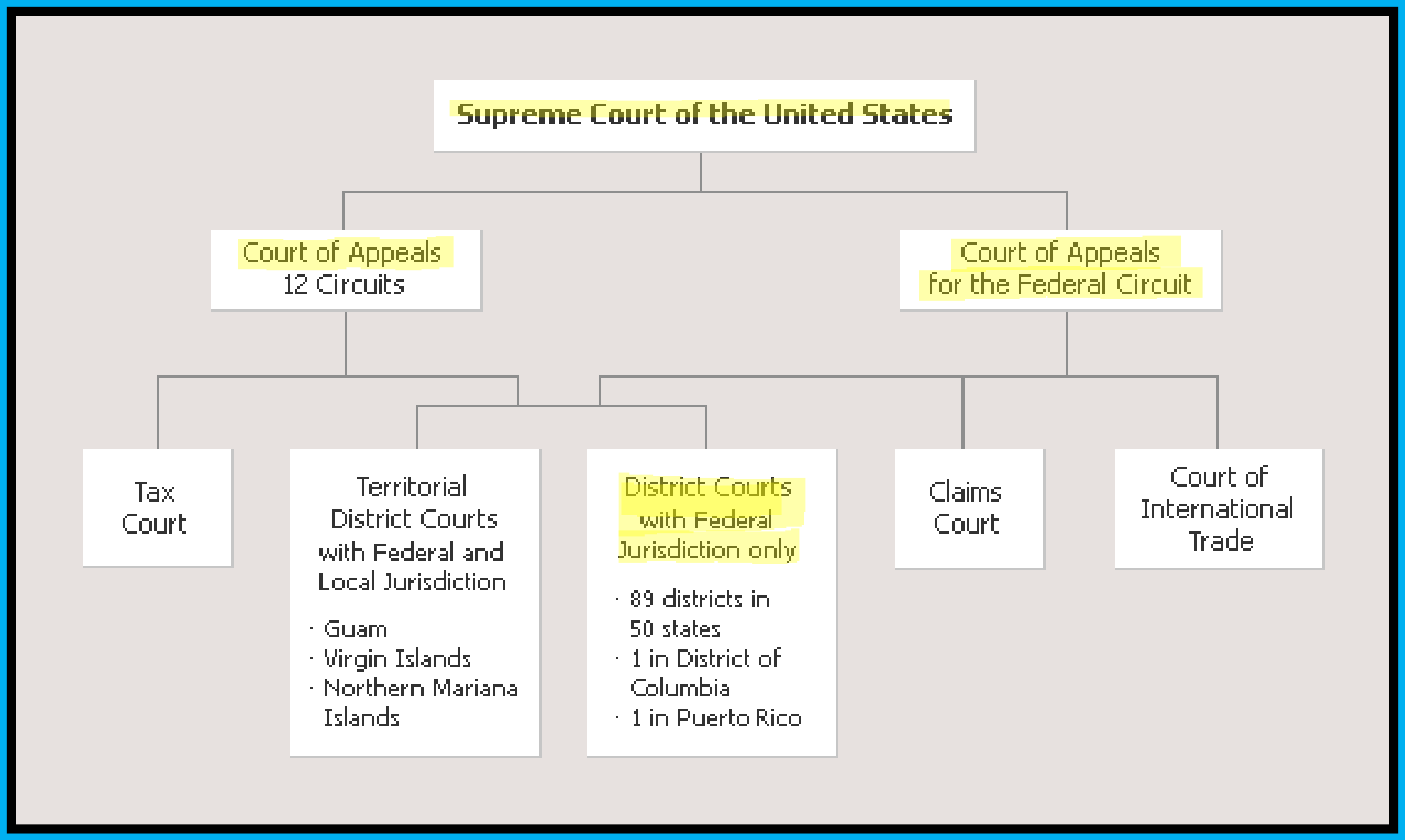
THE DUAL COURT SYSTEM

	STATE COURTS	FEDERAL COURTS
Courts of Last Resort	State court of last resort (e.g., State Supreme Court)	The U.S. Supreme Court
Intermediate Appellate Level	State intermediate courts of appeals	U.S. courts of appeals (Circuit Courts)
Trial Level (original jurisdiction)	Courts of general jurisdiction (law and equity) + Special or limited trial courts (e.g., probate court)	United States district courts + Specialty courts of limited jurisdiction (e.g., Tax Court)

The United States Court System

This one is more modern!



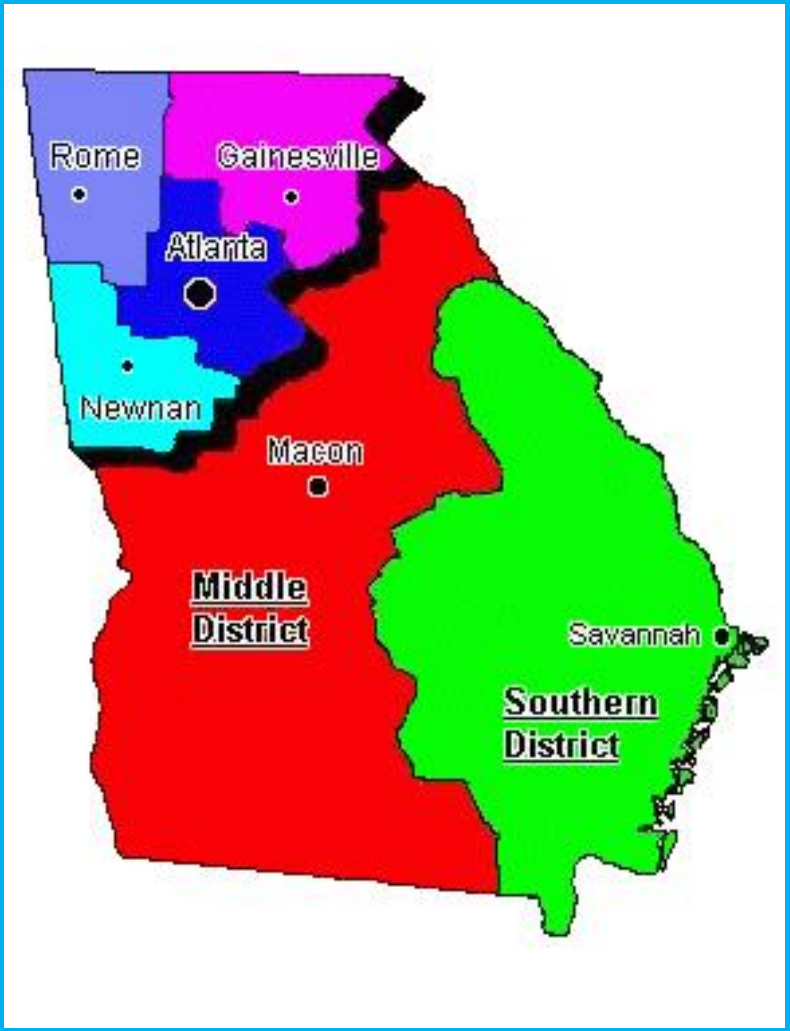

Supreme Court of the United States
Court of Appeals
12 Circuits
Court of Appeals
for the Federal Circuit
Tax
Court
Territorial
District Courts
with Federal and
Local Jurisdiction
· Guam
· Virgin Islands
· Northern Mariana
Islands
District Courts
with Federal
Jurisdiction only
· 89 districts in
50 states
· 1 in District of
Columbia
· 1 in Puerto Rico
Claims
Court
Court of
International
Trade

Federal U. S. District Courts

- There are 94 federal district courts, which handle criminal and civil cases involving:
  - Federal statutes/laws
  - *The U.S. Constitution*
  - Civil cases between citizens from different states and the amount of money at stake is more than $75,000 (This is the most common type of case in the U.S. District Court.)
- Appeals from here go to the U.S. Circuit Court of Appeals

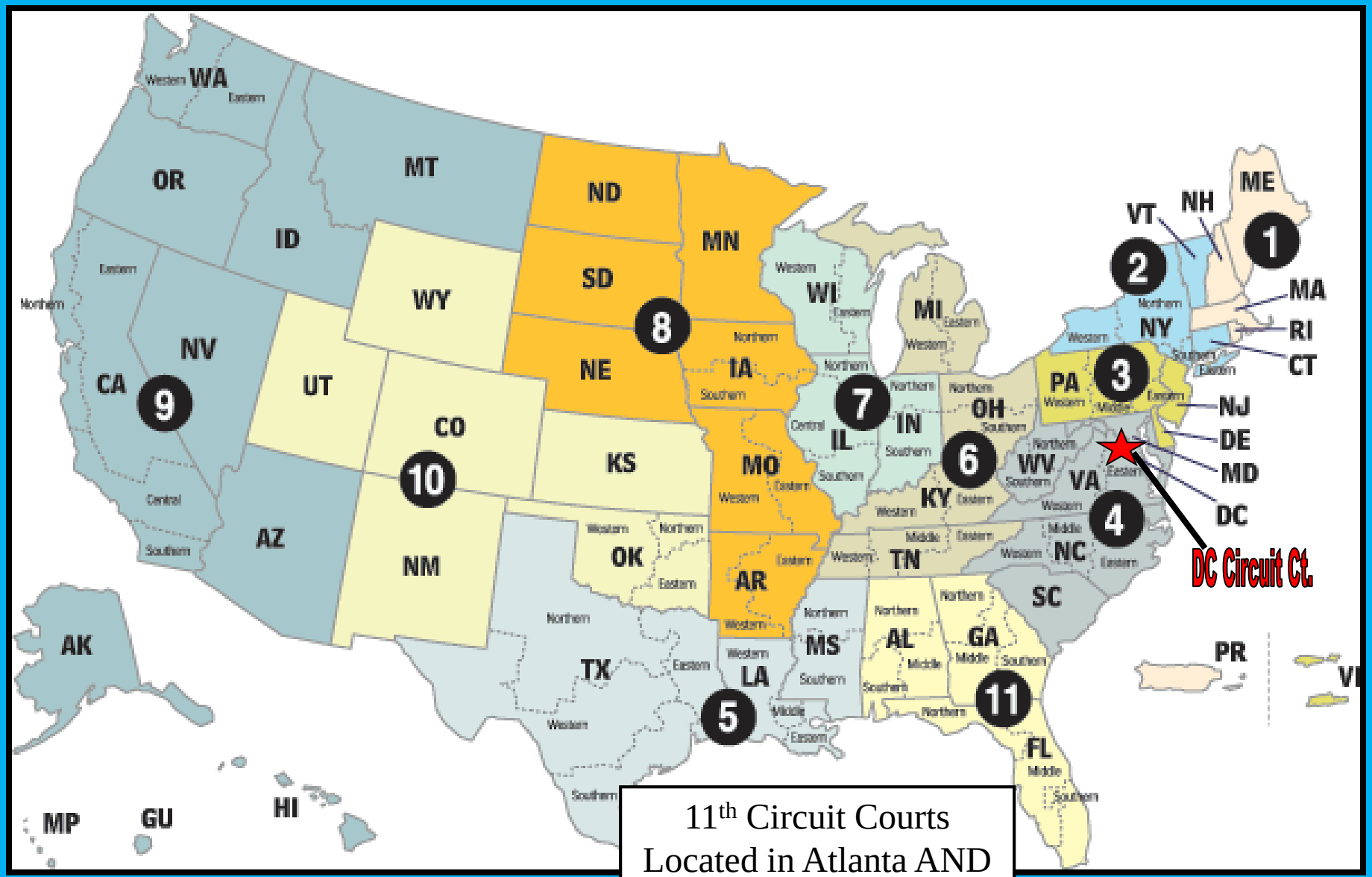
Georgia Federal Courts

- Georgia is divided into three federal districts
  - Northern
    - Subdivided into four separate divisions
  - Middle
  - Southern



U. S. Circuit Courts of Appeal

- There are 12 of these courts.
  - Each state is part of the 11 Circuit Courts.
  - The Federal D.C Circuit Court is located in Washington, DC.
- Each court reviews cases from the U. S. District Courts in its Circuit.
- Appeals go to the U.S. Supreme Court.



11th Circuit Courts Located in Atlanta AND Miami

US Supreme Court

- **Route to the Supreme Court**
  - Most cases start in federal district courts and the federal circuit or appeals court
    - These are called appellate cases **which means they have been appealed.**
  - At least four Justices must agree to hear a case in the Supreme Court
  - Around 100 a year are accepted
  - Most cases are turned down

Original Jurisdiction

- The Court must hear certain rare mandatory appeals and cases within its original jurisdiction as specified by the Constitution.
  - These include cases involving foreign countries or involving two states.
- Two fairly recent examples include *Louisiana v Mississippi* and *Nebraska v Wyoming* (1995)

US Supreme Court

- The U. S. Supreme Court is free to accept or reject the appellate cases it will hear.
- Most Supreme Court cases deal with:
  - Significant federal or constitutional issues
  - Conflicting decisions by circuit courts
  - Controversial constitutional interpretation by circuit courts about state or local law

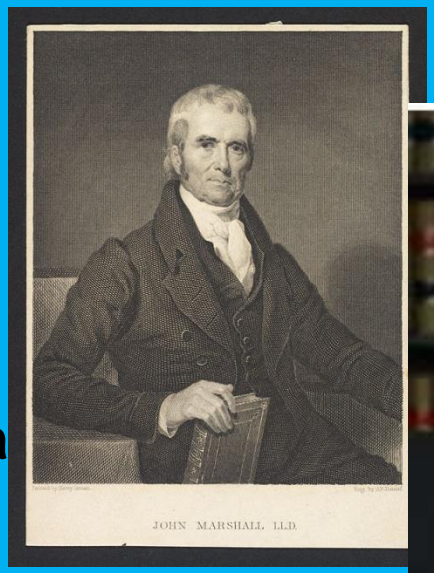
BREYER ON THE CONSTITUTION AND DEMOCRACY

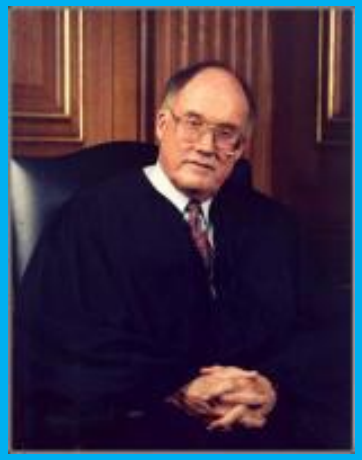
The Development of the Court

- Founders-up to 1789
- 1789-1861
- 1861-1936
- Present Age

Chief Justices

- 1789–95 John Jay
- 1795 John Rutledge
- 1796–1800 Oliver Ellsworth
- 1801–35 John Marshall*
- 1836–64 Roger B. Taney
- 1864–73 Salmon P. Chase
- 1874–88 Morrison R. Waite
- 1888–1910 Melville Fuller
- 1910–21 Edward D. White





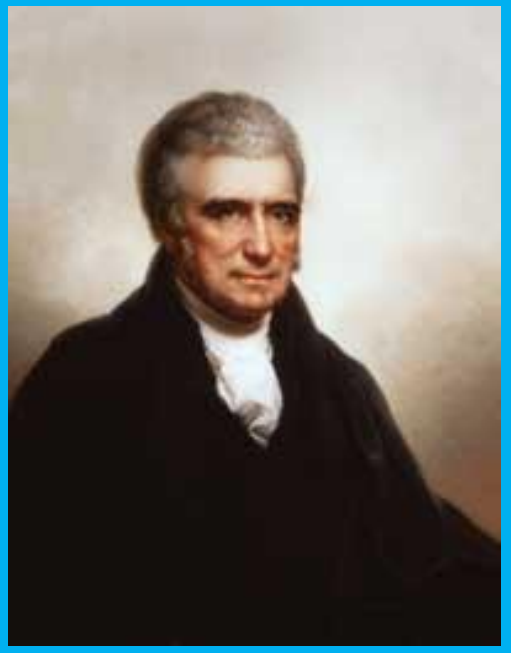
- 1921–30 William H. Taft
- 1930–41 Charles E. Hughes
- 1941–46 Harlan F. Stone
- 1946–53 Fred M. Vinson
- 1953–69 Earl Warren*
- 1969–86 Warren E. Burger
- 1986–2005 William Rehnquist*
- 2005-present John Roberts

The Framer's Era

-Up to 1789-1800

- Framer's did not anticipate that the Courts would become so powerful
  - Expected judicial review but did not expect the court would play such a large role in making public policy
- Hamilton's view of Court
  - Was "*least dangerous branch*"
  - Should not have power over the other branches especially the Executive Branch

The Marshall Era
1801-1860



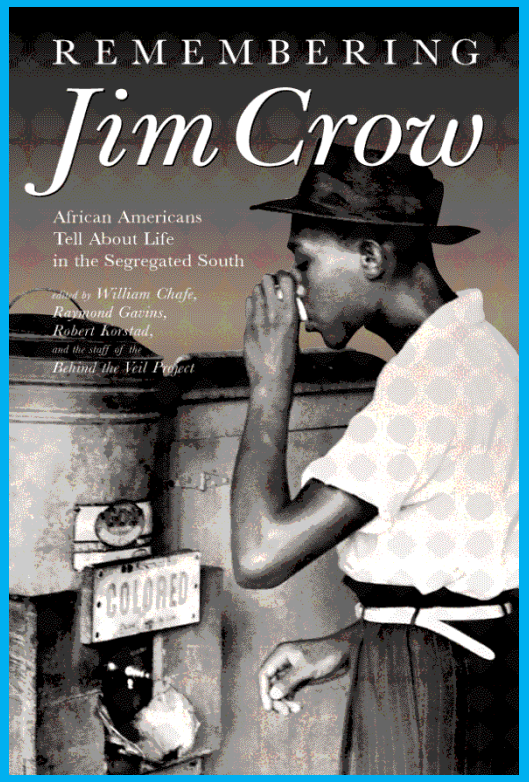
Major Issues

- **National Supremacy**
  - The Marshall Court till 1835
    - *Marbury v Madison*
    - *McCulloch v Maryland*
  - Interstate commerce clause is placed under federal control
  - **Slavery also an issue**
    - The Taney Court
    - *Dred Scott v Sanford*

The Late 19th- Early 20th Century
1861-1936

Major Issues

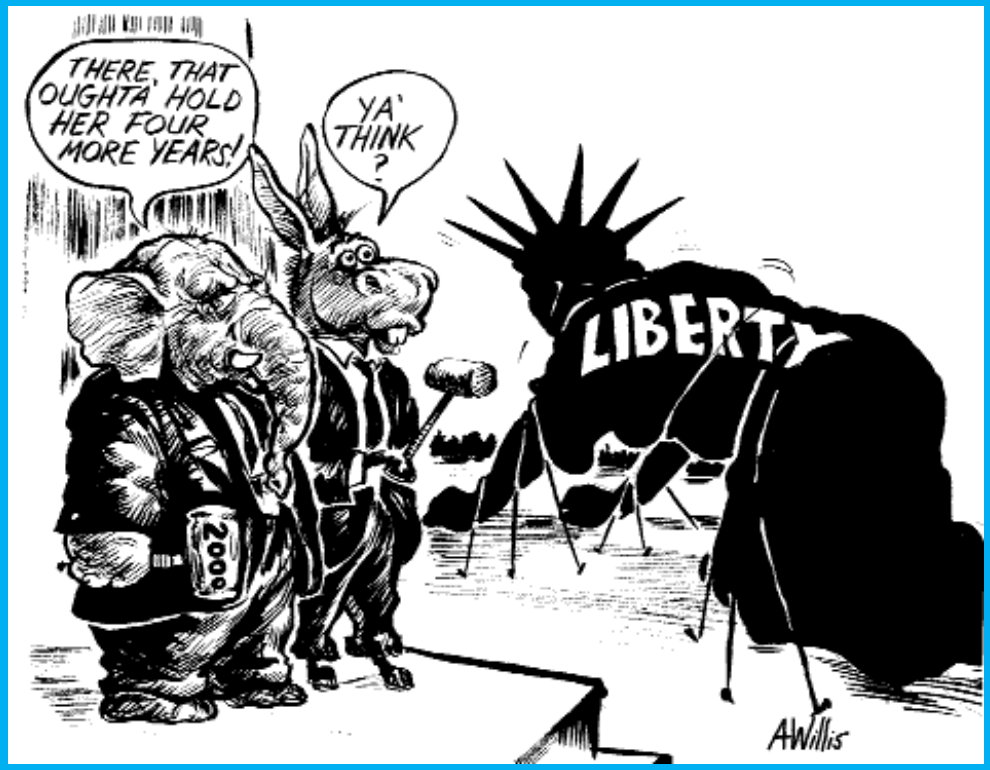
- <u>The Government and the Economy</u>
  - Under what circumstances should the state governments regulate the economy?
  - Under what circumstances should the federal government regulate the economy?
  - Supportive of private property in most cases
- <u>Jim Crow laws</u>
- The Courts interpreted the 14th Amendment (citizenship) and 15th Amendment (voting rights) very narrowly and allowed "Jim Crow" laws to exist
  - The opposite "broadly interpreted" would not have allowed these laws and/or codes to exist



The Modern Era

1936 to the Present

- Major Issues
  - Balance:
    - Government and Political Liberties
    - More attention on civil liberties
  - Balance:
    - Government and economic regulations
    - Power struggle between states and federal government

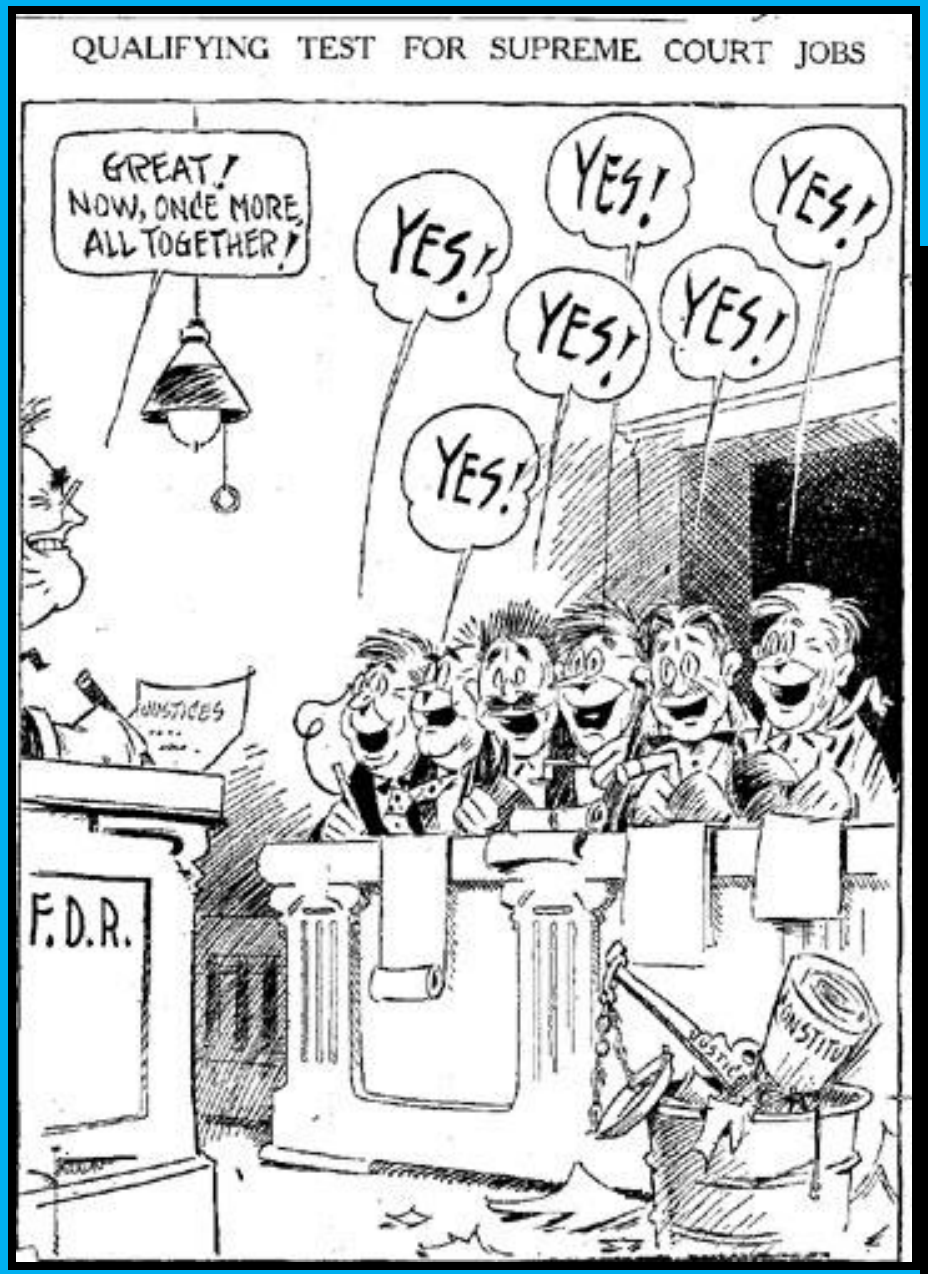


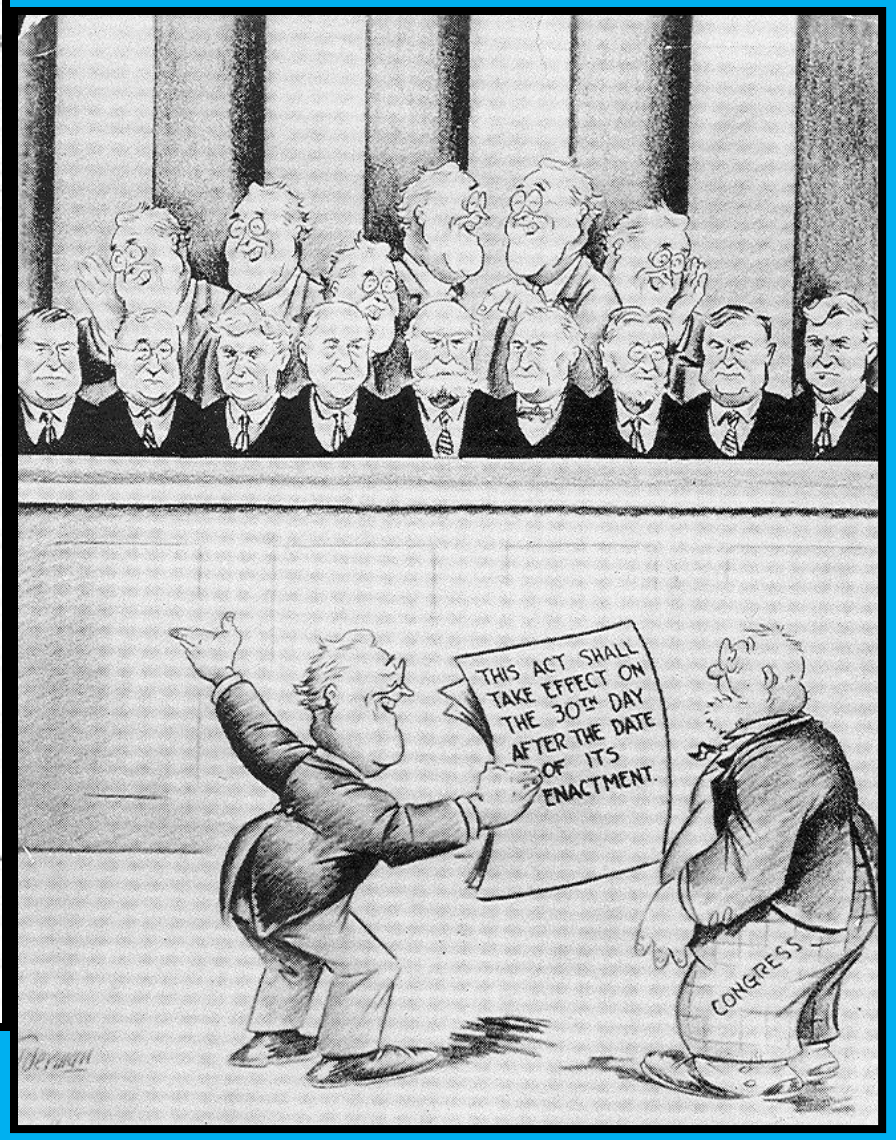
Also Important in Modern Era

- The FDR "court packing scheme"
- Three Modern Courts
  - The Warren Court- Civil Rights and Civil Liberties
  - The Rehnquist Court- A revival of state rights in some cases
  - The Roberts Court-Seems to follow the Rehnquist model of states rights but also not afraid to use federal power in some cases

FDR's Court Packing Scheme

- Early in 1937, FDR tried to pass a court reform bill designed to allow the president to appoint an additional Supreme Court justice for each current justice over the age of 70, up to a maximum of six appointments.
- Though he claimed that the measure was offered in concern for the workload of the older justices, most observers saw the proposal as an obvious attempt to dilute the power of the older, conservative justices.
  - The Senate voted against the proposal on July 22, 1937.
- Many claim that the proposed bill resulted in a loss of credibility for FDR that helped to slow the New Deal to a standstill.


QUALIFYING TEST FOR SUPREME COURT JOBS
GREAT! NOW, ONCE MORE, ALL TOGETHER!
YES!
YES!
YES!
YES!
YES!
JUSTICES
F.D.R.


THIS ACT SHALL TAKE EFFECT ON THE 30TH DAY AFTER THE DATE OF ITS ENACTMENT.
CONGRESS

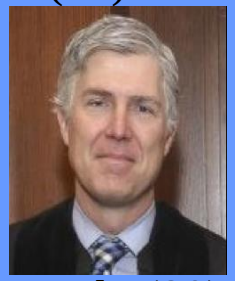

HAROLD, I MAY WANT TO DO THIS. HOW ABOUT A PWA GRANT?
FDR
FDR
NEW DEAL PLAN FOR ENLARGED SUPREME COURT
IDEA
ICKES

The Current Supreme Court

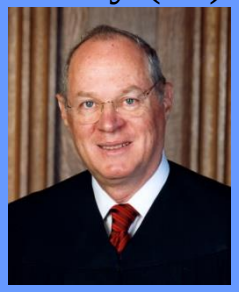
Chief Justice John Roberts (62)

Appointed by George W. Bush

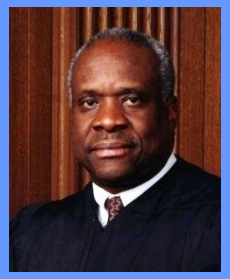
Neil Gorsuch (49) - Trump



Anthony Kennedy (80)- Reagan

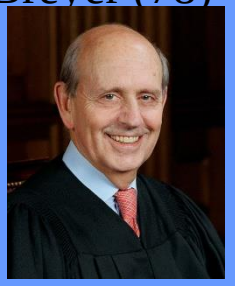


Clarence Thomas (68)- GHW Bush



Ruth Bader Ginsburg (84)- Clinton

Stephen Breyer (78)- Clinton



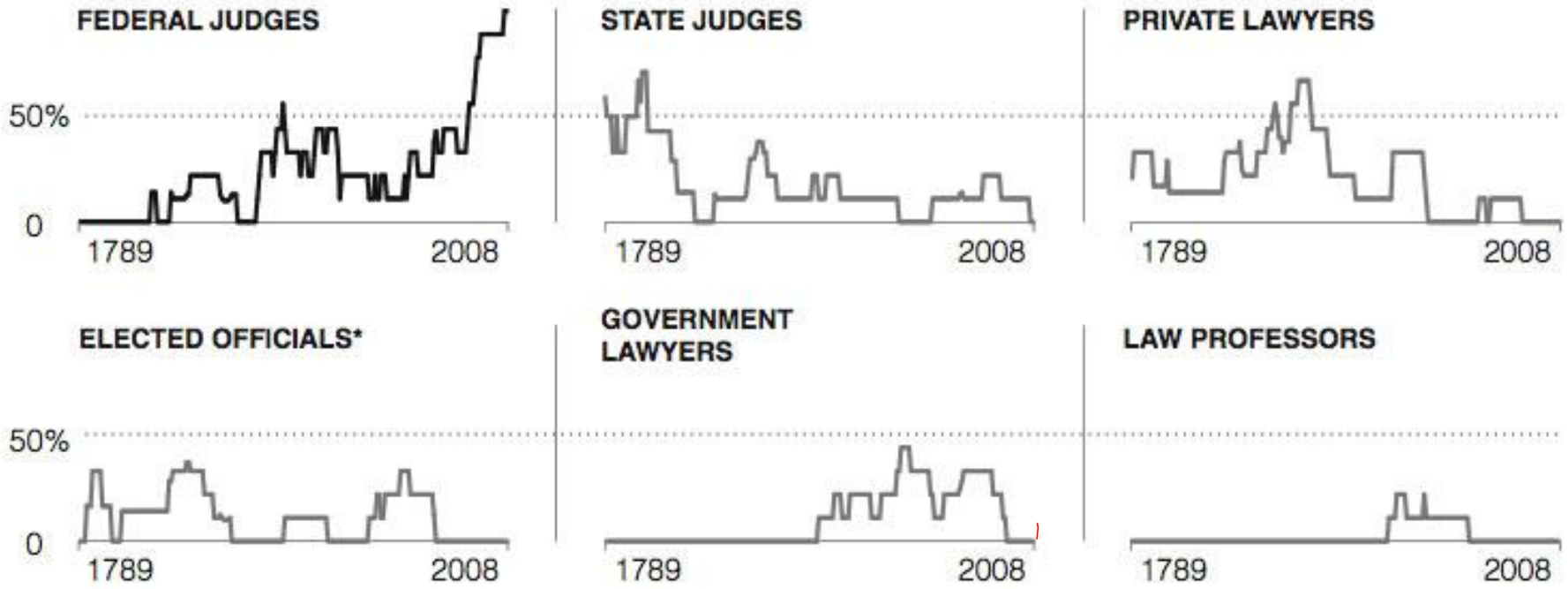
Samuel Alito (67)- GW Bush

Sonia Sotomayor (62)- Obama

Elena Kagan (56)- Obama

In the Supreme Court, Less Variety in Experience

In recent years, the proportion of Supreme Court justices who came from federal courts has reached 100 percent.



Source: Lee Epstein, Northwestern University School of Law

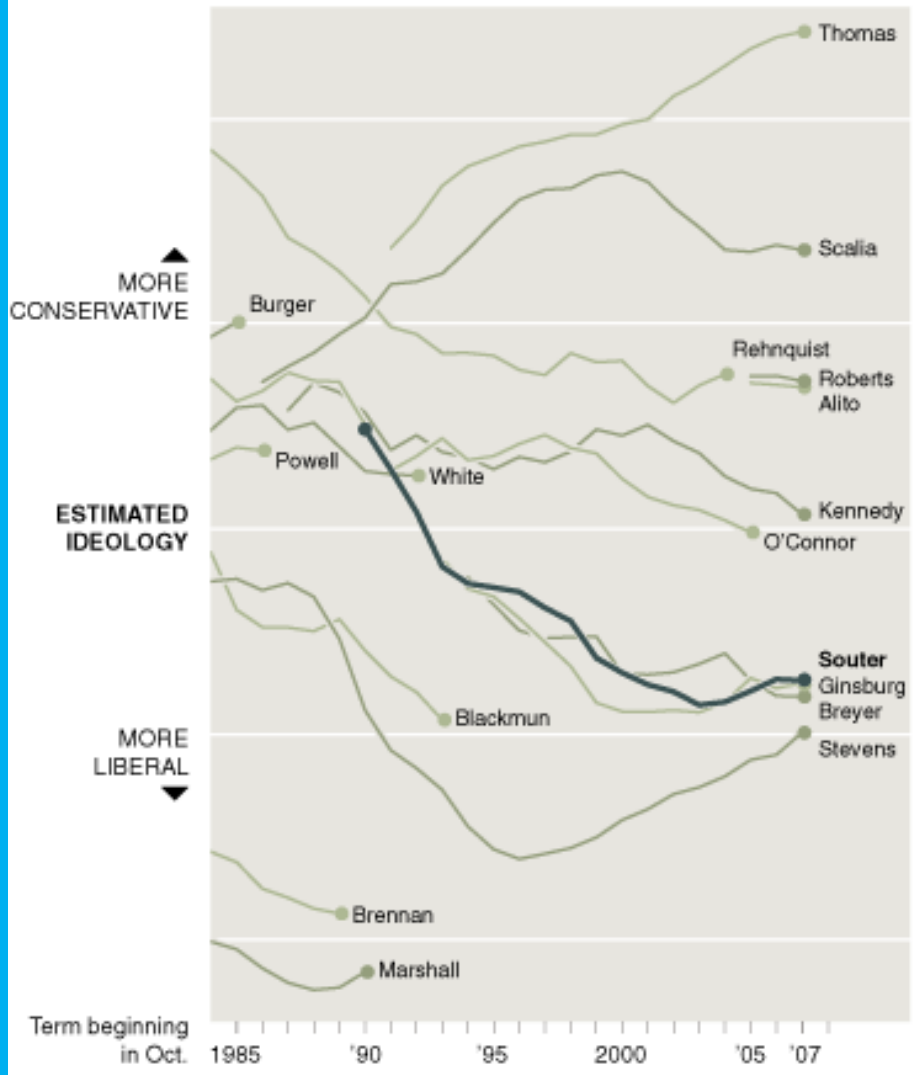
*Includes legislators and executive offices like governors and mayors.

THE NEW YORK TIMES

http://www.nytimes.com/interactive/2010/07/25/us/scotus-quiz.html

Placing Justices on an Ideological Line

Professors at Washington University in St. Louis and Harvard have used the voting behavior of Supreme Court justices to understand the differences among them and how they change over time. Their research shows Justice David H. Souter, who was appointed by President George Bush in 1990, moving toward the liberal side of the court around 1992, when he disappointed conservatives in a 5-to-4 decision that reaffirmed the constitutional right to abortion.



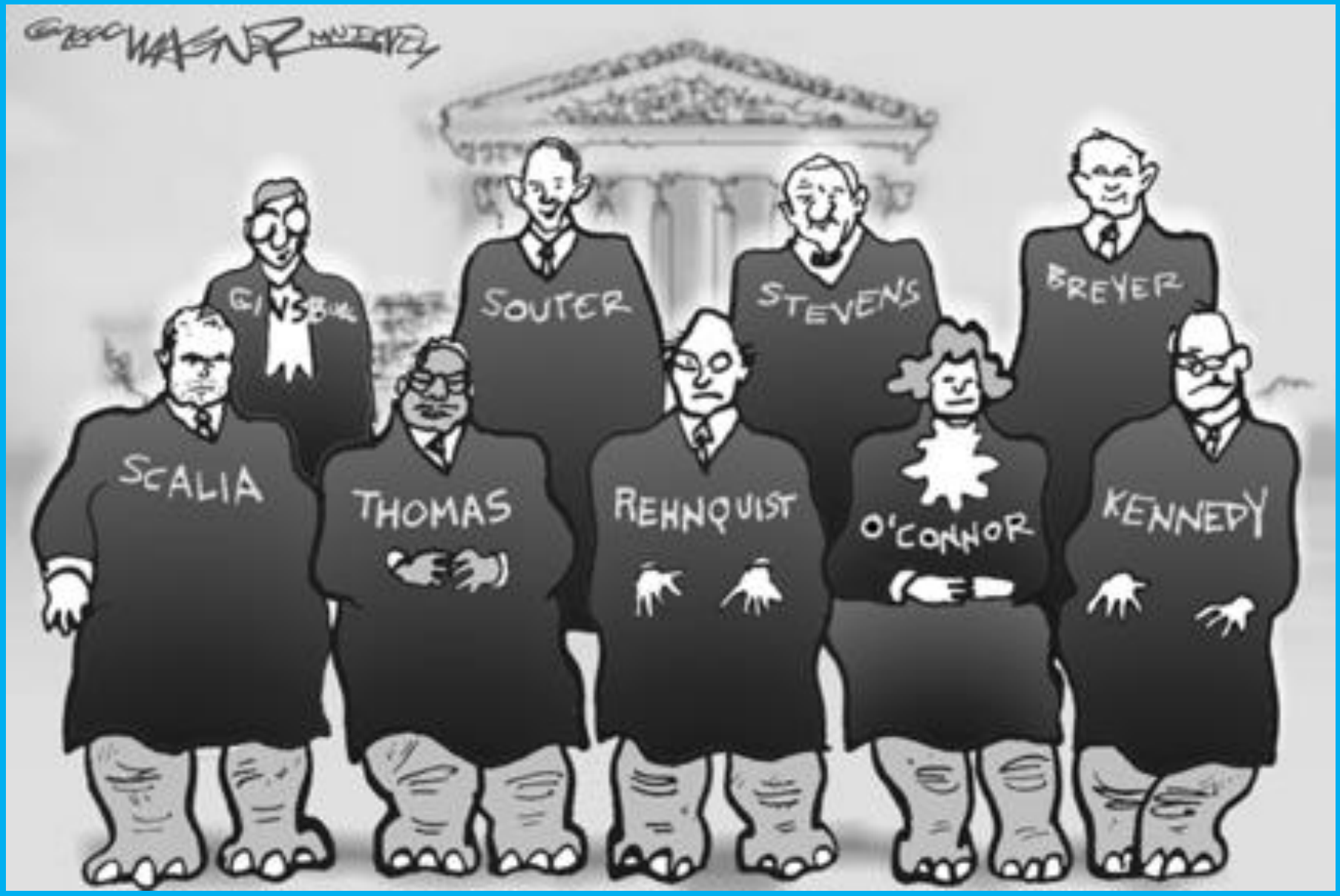
Source: Andrew D. Martin, Washington University in St. Louis and Kevin M. Quinn, Harvard (http://mqscores.wustl.edu)

THE NEW YORK TIMES

TRUE! by Daryl Cagle

Source: *Harpers Index* quoting *Luntz Research Co.* ©Daryl Cagle

Three times as many Americans can name all **Three Stooges** *as can name any three Supreme Court justices.*


SCALIA
GINSBURG
THOMAS
SOUTER
REHNQUIST
STEVENS
O'CONNOR
BREYER
KENNEDY

The Bush Dream Supreme Court

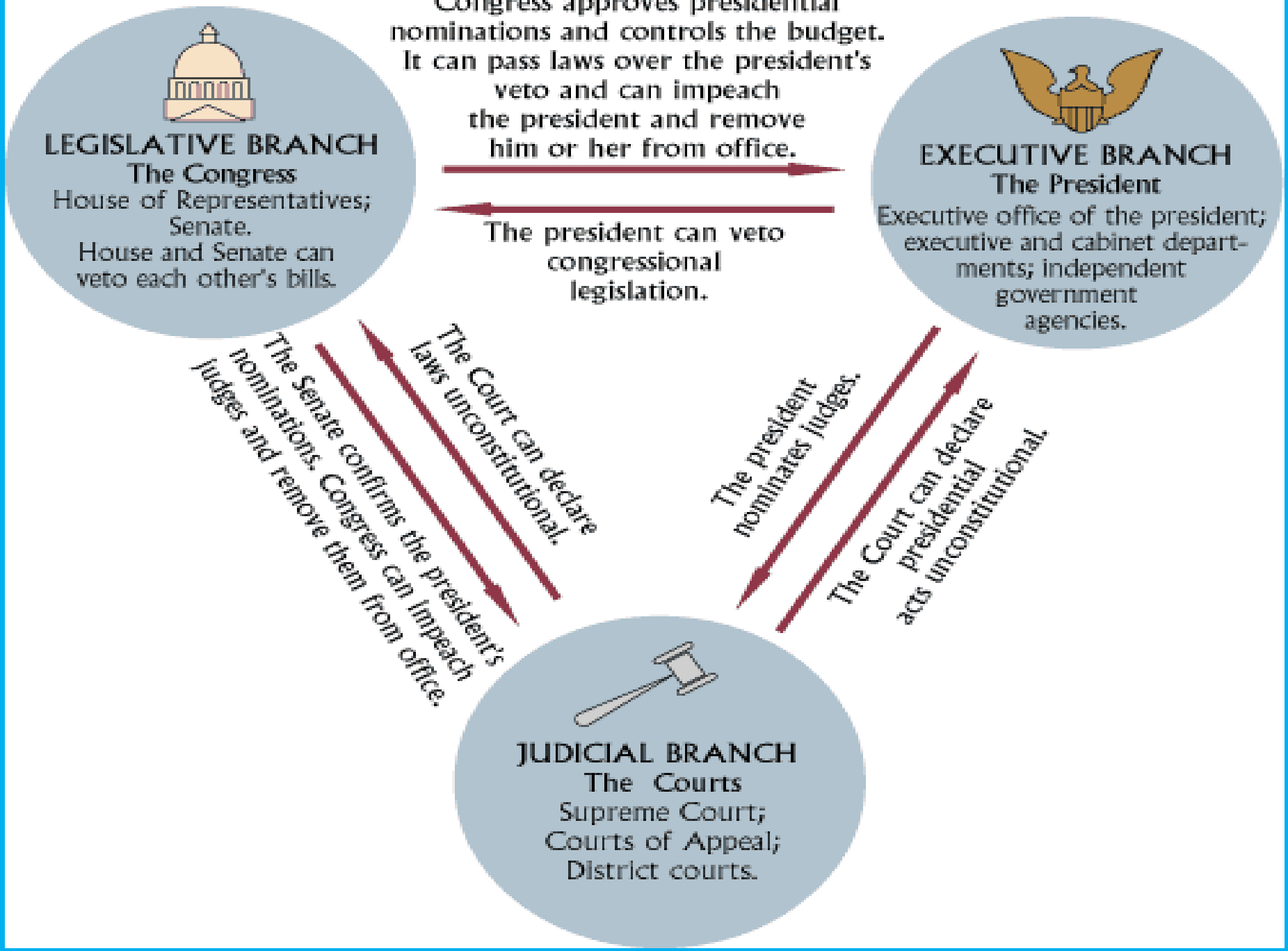
Left to right (standing) Thomas, Scalia, Scalia, Thomas
(seated) Thomas, Scalia, Scalia,Thomas, Scalia

Factors Affecting Judicial Selection

- Senatorial Courtesy
  - Does not carry as much weight as other appointments
- Senate Judiciary Committee
- Age
  - Parties want a younger pick…doesn't always work
- Ideology

Checks on the Court

- The President
  - Appoints justices and federal court judges
  - Lack of enforcement of judicial rulings
- Congress
  - Confirmation of Presidential appointees
  - Impeachment/removal of judges.
  - Can change the number of district courts


Congress approves presidential nominations and controls the budget. It can pass laws over the president's veto and can impeach the president and remove him or her from office.
The president can veto congressional legislation.
LEGISLATIVE BRANCH
The Congress
House of Representatives; Senate.
House and Senate can veto each other's bills.
EXECUTIVE BRANCH
The President
Executive office of the president; executive and cabinet departments; independent government agencies.
The Court can declare laws unconstitutional.
The Senate confirms the president's nominations. Congress can impeach judges and remove them from office.
The president nominates judges.
The Court can declare presidential acts unconstitutional.
JUDICIAL BRANCH
The Courts
Supreme Court; Courts of Appeal; District courts.

Confirmation of Federal Judges

- All federal judges must be appointed by the president and confirmed by the Senate… **not** just the 9 Supreme Court Justices
- These appointments are for life
  - *(*AKA… *"good behaviour"*)

The Power of the Court

- **Judicial Review**
  - Only around 150 laws and presidential acts and agreements have been declared unconstitutional (as of the 2000's)
  - These came from the Legislative Branch and/or the Executive Branch
- **Appellate Power**
  - Only 260 cases overturned since 1810
  - This means the Court does not always follow *stare decisis*
    - a legal term meaning *"Let the decision stand"*

Unconstitutional and Preempted Laws 1789-2002

According to the GPO *(Government Printing Office Database):*

- 1789-2002 Acts of Congress Held as Unconstitutional- 158
- 1789-2002 State Constitutional and Municipal Ordinances held Unconstitutional or Preempted by Federal Law-224
- 1789-2002 Total Laws Overturned-382

The most current information includes only US Supreme Court decisions made between 1789 and 2002. The data shown does not include either state or federal laws overturned from 2003-present because statistics have yet to be compiled for that period.

Can Federal Court Decisions be Undone??

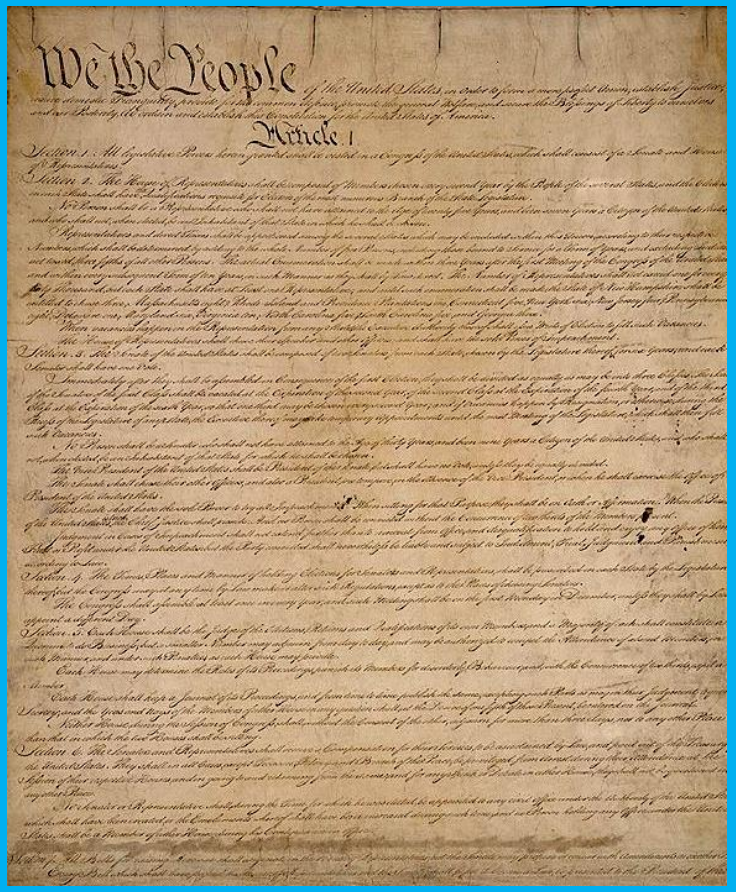
- No, not officially, but yes in these ways
  - By changing the number of judges and/or justices
    - FDR and court packing
  - By revising legislation in Congress at a later date
    - When there are new members on Court
  - By amending the Constitution
    - This would supersede all rulings by Court on subject
  - By altering the jurisdiction of the Court
    - Congress may do this but only in lower federal courts, not Supreme Court
    - Causes difficulties in checks and balances
  - By restricting the remedies of the Court
    - Executive branch refuses to enforce the ruling
      - Jackson and Indian Removal Act
    - Causes difficulties in checks and balance

Politics and the Federal Courts

- The Judicial Branch was designed to be above politics but politics still plays a major role in many judicial decisions
- Appointments by Executive Branch
- Confirmation hearings by Senate
- Political beliefs of judges and justices
  - What should be considered when cases are being decided?
  - Should the Constitution be the only thing considered upon deciding a case?
  - How much power should federal judges have?
  - What should they use when deciding a case?
    - Judicial restraint or strict constructionism
    - Judicial activism

Judicial Restraint

- The view that the justices and judges **should not** read the their own philosophies or policy preferences into the Constitution and laws
- Judges should whenever reasonably possible construe the law so as to avoid second guessing the policy decisions made by other governmental institutions such as Congress, the President and state governments within their constitutional spheres of authority.



Strict Constructionism

- Very closely related to judicial restraint
- A strict constructionist would ask:
  - *What did the Framers MEAN when they wrote that section and/or clause??*
- Most constructionist judges consider '**original intent**' when deciding on cases
  - In other words, what did the Framers INTEND by that article, section, or clause??

Judicial Activism

- The opposite of judicial restraint
- The view that the Supreme Court justices (and lower court judges) **can and should** creatively reinterpret the texts of the Constitution and the laws
  - The judges will considered the vital needs of society when the other two branches and/or the various state governments seem to them to be failing to meet these needs.
- It is often argued that judicial activism is used to further a judge's political agenda

The Great Debate

- If a judge rules contrary to popular opinion (think Terri Schiavo) is that judicial activism??
- OR if a judge rules contrary to YOUR opinion is that judicial activism??
  - Liberals charge that the decision in *US v Lopez* was motivated by pro-gun sentiments on the Court
  - Conservatives charge that *Roe v Wade* and *Planned Parenthood v Casey* were motivated by pro-choice sentiments on the Court.

The Great Debate

- Arguments Against Judicial Activism
  - Judges are creating a new LAWS by "*legislating from the bench*"
  - *Roe v Wade*
- Arguments for Judicial Activism
  - Necessary when the majority does not respect the rights and/or needs of the minority
  - *Brown v Board*

SCALIA/BREYER VIDEO ON ORIGINAL INTENT VS ACTIVISM

Court Terms to Know

- *Writ of certiorari* - A decision to hear an appeal from a lower court. Approximately 100 cases per year granted a *writ of certiorari* by the Supreme Court.
- *Stare decisis* a legal term meaning *"Let the decision stand*". This occurs when judges/justices do not overturn a lower court's decision.
- *In forma pauperis-* When the costs of a court case are paid by government and thus no cost to the defendant
- Standing- who is allowed to bring a case; the right to file a lawsuit or file a petition
- Class action cases- A law suit brought on behalf of all similarly situated persons;
- *Amicus curiae* are legal briefs written by supporters- "friends of the court"- often interest groups that want a decision in their favor

Cases for This Test!

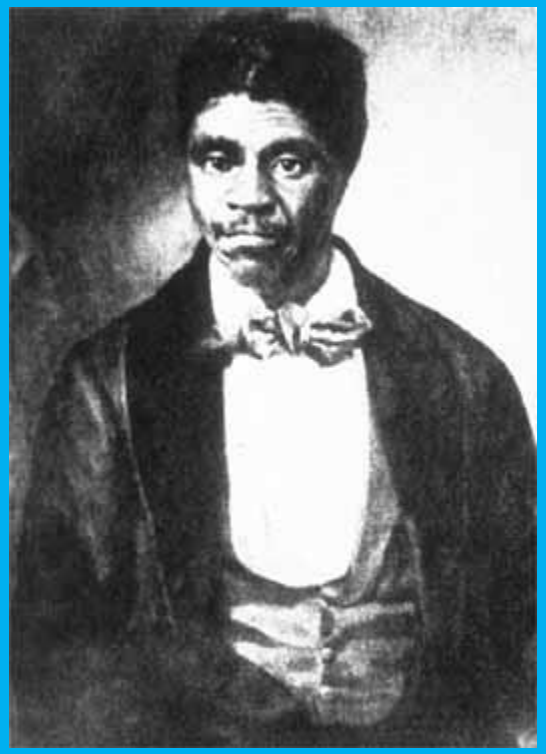
* New Cases for Case File

- *Marbury v Madison 1803*
- *McCulloch v Maryland 1819*
- *Gibbons v Ogden 1824*
- *Barron v Baltimore 1833*
- *Gitlow v NY 1925*

- *Dred Scott v Sandford 1857*
- *Munn v Illinois 1876**
- *Plessey v. Ferguson 1889**
- *Brown v Board* 1954*
- Brown v Board II 1955*
- *Gideon v Wainwright* 1963*
- *Escobedo v Illinois* 1964*
- *Miranda v Arizona* 1966*
- *Roe v Wade* 1973*

Dred Scott v. Sandford (1856)

- **Facts of the Case**
  - Dred Scott was a slave in Missouri. From 1833 to 1843, he resided in Illinois (a free state) and in an area of the Louisiana Territory, where slavery was forbidden by the Missouri Compromise of 1820.
  - After returning to Missouri, Scott sued unsuccessfully in the Missouri courts for his freedom, claiming that his residence in free territory made him a free man.
  - Scott then brought a new suit in federal court. Scott's master maintained that no pure-blooded Negro of African descent and the descendant of slaves could be a citizen in the sense of Article III of the Constitution.
- **Question Presented**
  - Was Dred Scott free or slave?



Chief Justice Roger B. Taney

Conclusion

- The Court ruled that Dred Scott was a slave and according to the Court **no one but a citizen of the United States could be a citizen of a state,** and that only Congress could confer national citizenship.
- The conclusion upheld the idea that no person descended from an American slave had ever been a citizen
- The Court then **declared that the Missouri Compromise unconstitutional**, hoping to end the slavery question once and for all.

Munn v. Illinois (1877)

- **Facts of the Case**
  - The state of Illinois regulated grain warehouse and elevator rates and establishing maximum rates for their use. The owners sued claiming they should be able to decide how much they should charge for their services
- **Questions Presented**
  - Did the state-imposed rates deny the warehouse and elevator owners <u>equal protection and due process</u> under the 14th Amendment?

Munn v. Illinois (1877)

- **Conclusion**
  - No on both counts. The states may regulate the use of private property "*when such regulation becomes necessary for the public good.*" When property has a public interest, it ceases to be private only.
  - This ruling upholds the right of state governments to regulate private industries within their borders

Plessy v. Ferguson (1896)

- **Facts of the Case**
- The state of Louisiana enacted a law that required separate railway cars for blacks and whites. In 1892, Homer Adolph Plessey--who was seven-eighths Caucasian--took a seat in a "whites only" car of a Louisiana train.
  - He refused to move to the car reserved for blacks and was arrested.

Plessy v. Ferguson (1896)

- **Question of Law**
- Is Louisiana's law mandating racial segregation on its trains an unconstitutional infringement on both the privileges and immunities and the equal protection clauses of the Fourteenth Amendment?

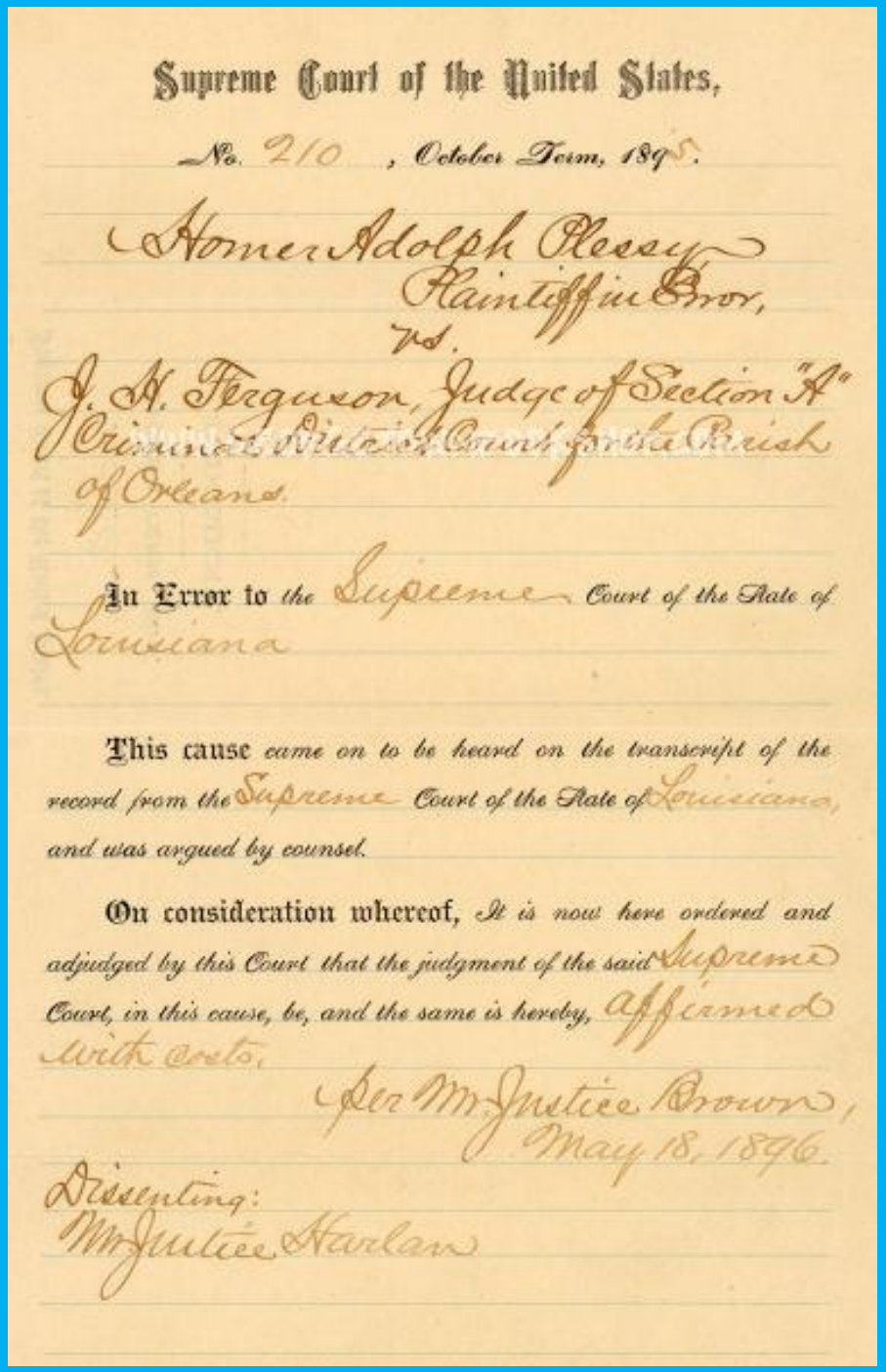
Conclusion

- No, the state law is within constitutional boundaries and state-imposed racial segregation upheld by the Court.
- The justices based their decision on the separate-but-equal doctrine, that separate facilities for blacks and whites satisfied the Fourteenth Amendment so long as they were equal.
  - In short, segregation does not in itself constitute unlawful discrimination

The Fuller Court- circa 1898

(Melville Fuller center)

Actual Court Decision



Supreme Court of the United States,

No. 210, October Term, 1895.

Homer Adolph Plessy
Plaintiff in Error,
vs.
J. H. Ferguson, Judge of Section "A"
Criminal District Court for the Parish
of Orleans.

In Error to the Supreme Court of the State of Louisiana

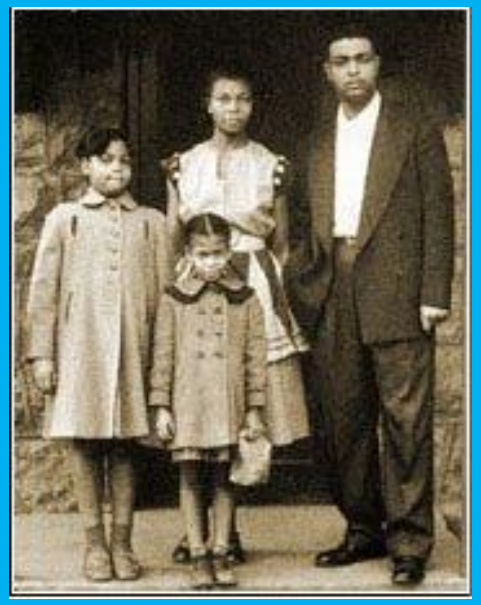
This cause came on to be heard on the transcript of the record from the Supreme Court of the State of Louisiana, and was argued by counsel.

On consideration whereof, It is now here ordered and adjudged by this Court that the judgment of the said Supreme Court, in this cause, be, and the same is hereby, affirmed with costs.

Per Mr. Justice Brown,
May 18, 1896.

Dissenting:
Mr. Justice Harlan

Brown v. Board of Education of Topeka (1954)

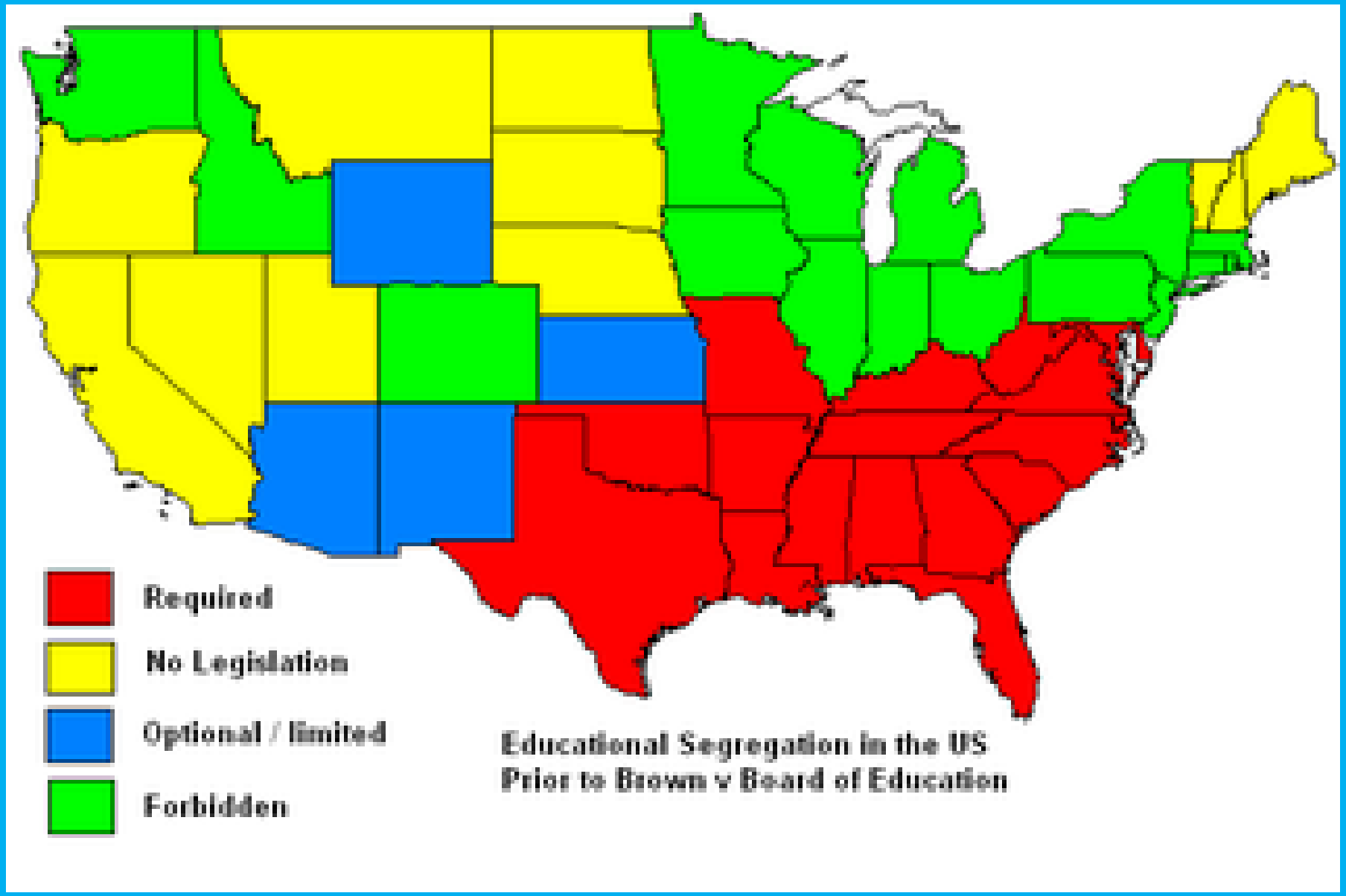


- **Facts of the Case**
  - Black children were denied admission to public schools attended by white children under laws requiring or permitting segregation according to the races. The white and black schools approached equality in terms of buildings, curricula, qualifications, and teacher salaries.
- **Question Presented**
  - Does the segregation of children in public schools solely on the basis of race deprive the minority children of the equal protection of the laws guaranteed by the 14th Amendment? (See *Plessy v Ferguson*- separate BUT equal)

Chief Justice Earl Warren

Conclusion

- The Court said "Yes!"
- Racial segregation in public education has a detrimental effect on minority children because it is interpreted as a sign of inferiority.
- The long-held doctrine that separate facilities were permissible provided they were equal was rejected. Separate but equal is inherently unequal in the context of public education.
- The unanimous opinion sounded the death-knell for all forms of state-maintained racial separation


Required
No Legislation
Optional / limited
Forbidden
Educational Segregation in the US
Prior to Brown v Board of Education

Brown v Board II 1955

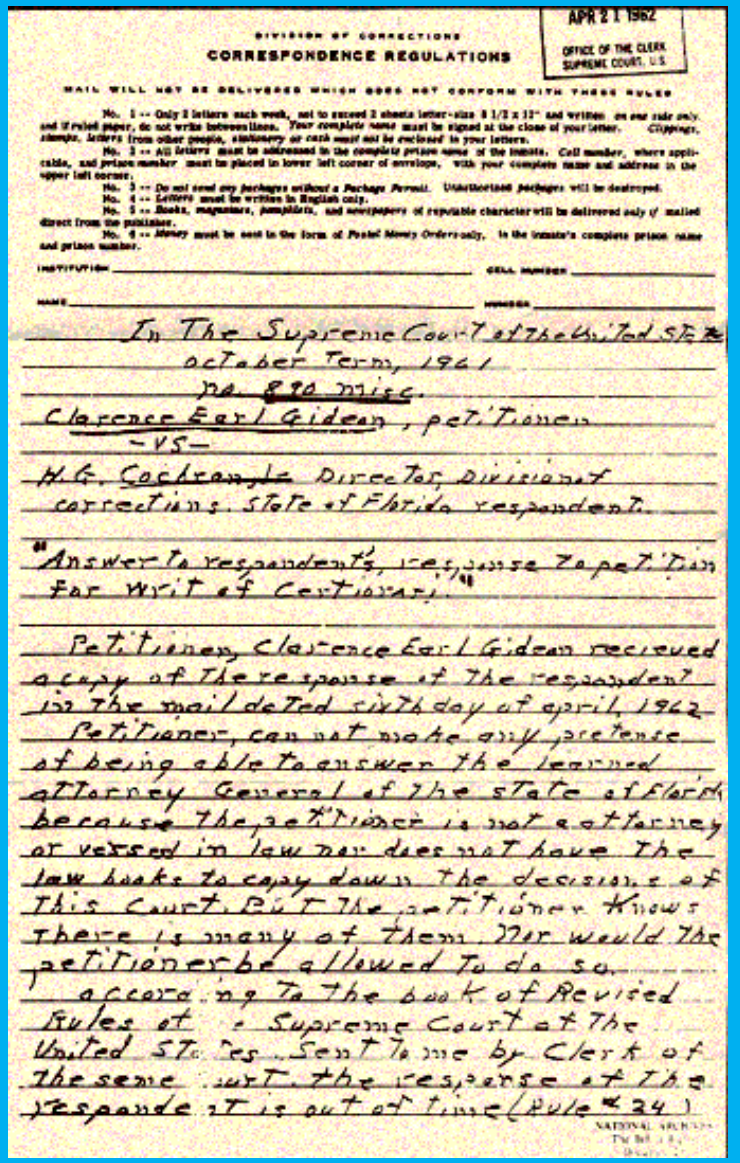
- **Facts of the Case**
- After its decision in Brown I which declared racial discrimination in public education unconstitutional, the Court **convened to issue the directives which would help to implement its newly announced Constitutional principle.** Given the embedded nature of racial discrimination in public schools and the diverse circumstances under which it had been practiced, the Court requested further argument on the issue of relief.
- **Question**
- What means should be used to implement the principles announced in Brown I?

Importance

- The Court held that the problems identified in Brown I required varied local solutions. Chief Justice Warren conferred much responsibility on local school authorities and the courts which originally heard school segregation cases. They were to implement the principles which the Supreme Court embraced in its first Brown decision.
- Warren urged localities to act on the new principles promptly and to move toward full compliance with them **"with all deliberate speed."**

Gideon v Wainwright (1963)

- **Facts of the Case**
  - Gideon was charged in a Florida state court with a felony for breaking and entering a pool hall. He lacked funds and was unable to hire a lawyer to prepare his defense. When he requested the court to appoint an attorney for him, the court refused, stating that it was only obligated to appoint counsel to indigent defendants in capital cases.
  - Gideon defended himself in the trial; he was convicted by a jury and the court sentenced him to five years in a state prison.



DIVISION OF CORRECTIONS

CORRESPONDENCE REGULATIONS

APR 2 1 1962
OFFICE OF THE CLERK
SUPREME COURT, U.S.

MAIL WILL NOT BE DELIVERED WHICH DOES NOT CONFORM WITH THESE RULES

No. 1 -- Only 2 letters each week, not to exceed 2 sheets letter-size 8 1/2 x 11" and written on one side only and if ruled paper, do not write between lines. Your complete name must be signed at the close of your letter. Clippings, stamps, letters from other people, stationery or cash must not be enclosed in your letters.

No. 2 -- All letters must be addressed to the complete prison name of the inmate. Cell number, where applicable, and prison number must be placed in lower left corner of envelope, with your complete name and address in the upper left corner.

No. 3 -- Do not send any packages without a Package Permit. Unauthorized packages will be destroyed.

No. 4 -- Letters must be written in English only.

No. 5 -- Books, magazines, pamphlets, and newspapers of reputable character will be delivered only if mailed direct from the publisher.

No. 6 -- Money must be sent in the form of Postal Money Orders only. In the inmate's complete prison name and prison number.

INSTITUTION _____ CELL NUMBER _____

NAME _____ NUMBER _____

In The Supreme Court of the United States
October Term, 1961
No. 890 Misc.
Clarence Earl Gideon, petitioner
-vs-
H.G. Cochran Jr. Director, Division of
corrections. State of Florida respondent.

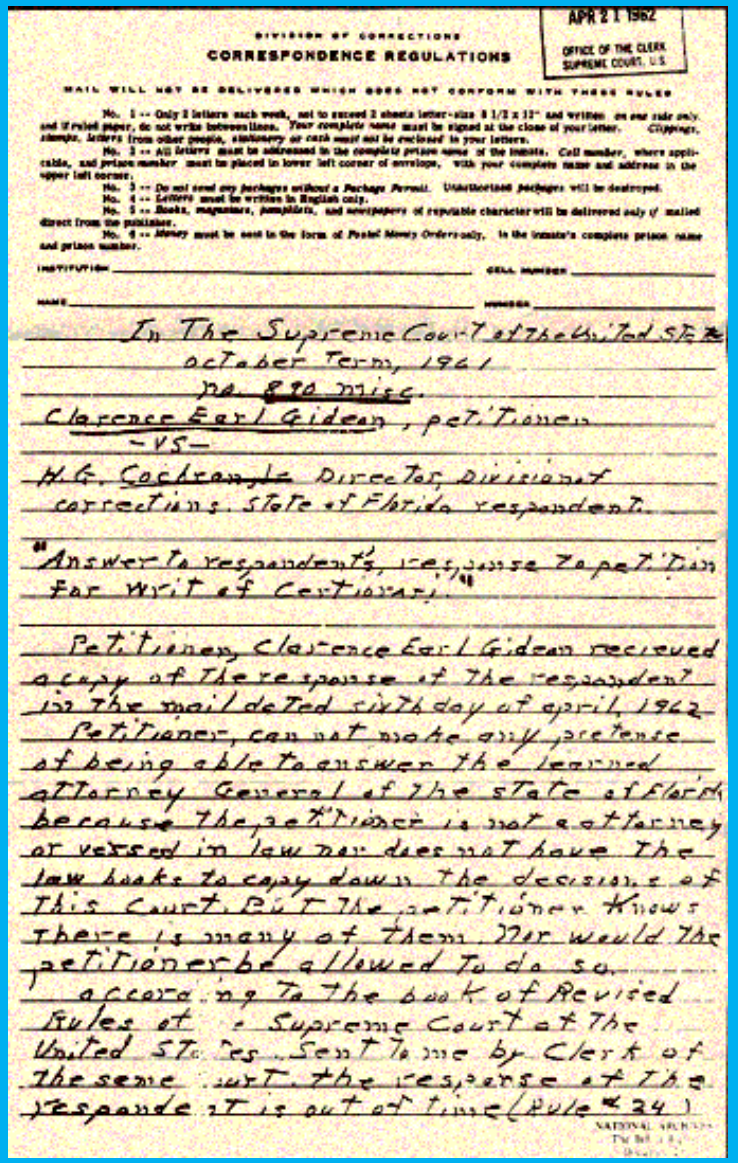
"Answer to respondent's, response to petition
for writ of Certiorari."

Petitioner, Clarence Earl Gideon recieved
a copy of the response of the respondent
in the mail dated sixth day of april, 1962
Petitioner, can not make any pretense
of being able to answer the learned
attorney General of the state of Florida
because the petitioner is not a attorney
or versed in law nor does not have the
law books to copy down the decisions of
this Court. But the petitioner knows
there is many of them. Nor would the
petitioner be allowed to do so.
according to the book of Revised
Rules of the Supreme Court of the
United States. Sent to me by Clerk of
the same court. the response of the
respondent it is out of time (Rule # 34)

NATIONAL ARCHIVES

Gideon v Wainwright (1963)

- **Question Presented**
  - Did the state court's failure to appoint counsel for Gideon violate his right to a fair trial and due process of law as protected by the Sixth and Fourteenth Amendments?



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because the petitioner is not a attorney
or versed in law nor does not have the
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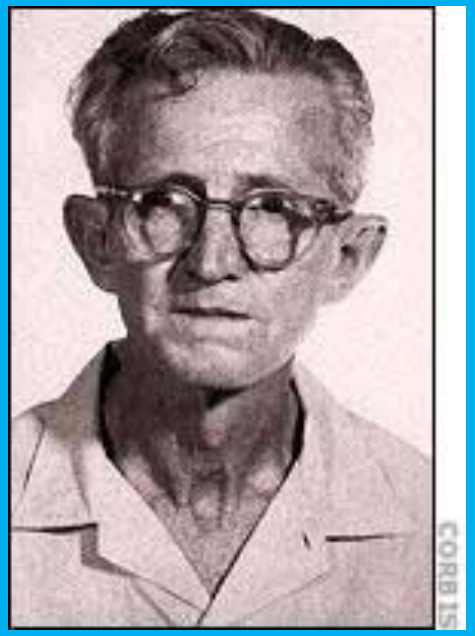
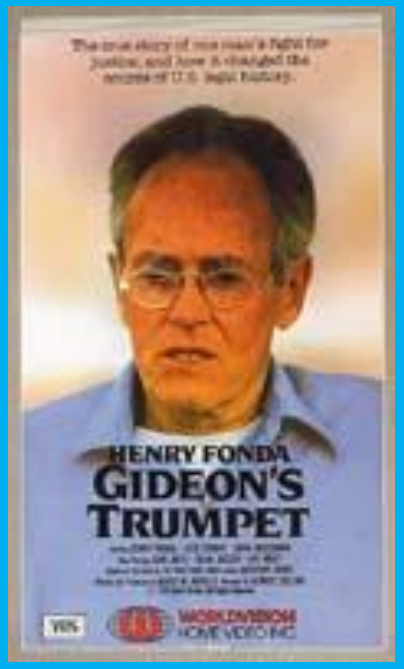
this Court. But the petitioner knows
there is many of them. Nor would the
petitioner be allowed to do so
according to the book of Revised
Rules of the Supreme Court of the
United States. Sent to me by Clerk of
the same court. the response of the
respondent it is out of time (Rule # 24)

NATIONAL ARCHIVES

Conclusion

- In a unanimous opinion, the Court ruled that Gideon had a right to be represented by a court-appointed attorney.
- In this case the Court found that the Sixth Amendment's guarantee of counsel was a fundamental right, essential to a fair trial, which should be made applicable to the states through the Due Process Clause of the Fourteenth Amendment.
  - Justice Black called it an "obvious truth" that a fair trial for a poor defendant could not be guaranteed without the assistance of counsel.





"You have the right to legal representation, if you can't afford a lawyer, an inexperienced, second rate one will be appointed to you. "

Escobedo v. Illinois (1964)

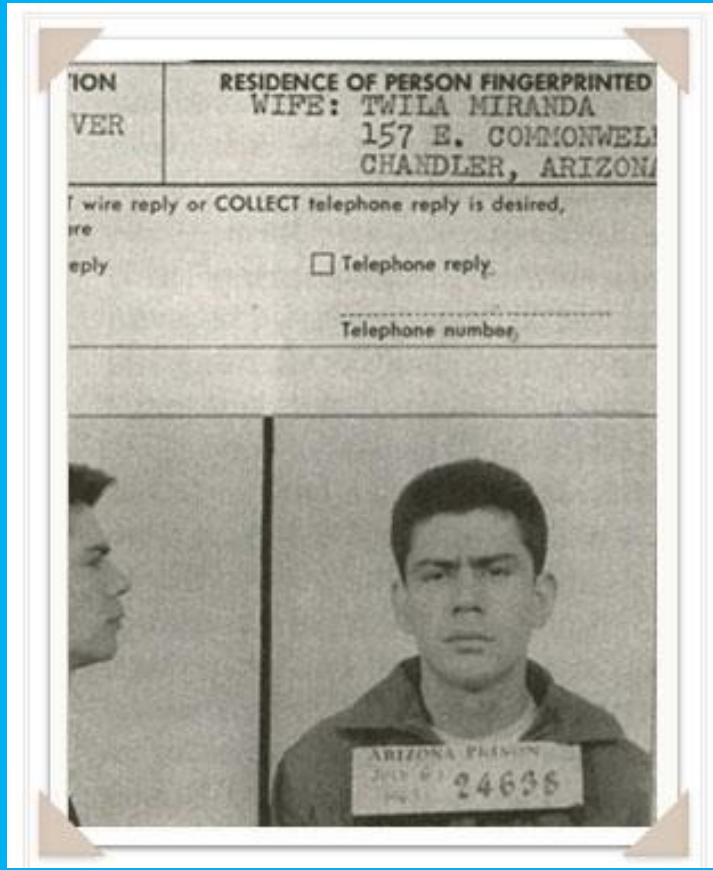
- **Facts of the Case**
  - Danny Escobedo was arrested and taken to a police station for questioning. Over several hours, the police refused his repeated requests to see his lawyer.
  - Escobedo's lawyer sought unsuccessfully to consult with his client.
    - Escobedo subsequently confessed to murder.
- **Question Presented**
  - Was Escobedo denied the right to counsel as guaranteed by the Sixth Amendment?

Conclusion

- Yes…the Court agreed with Escobedo
- The majority opinion, spoke for the first time of "an absolute right to remain silent."
- Escobedo had not been adequately informed of his constitutional right to remain silent rather than to be forced to incriminate himself.

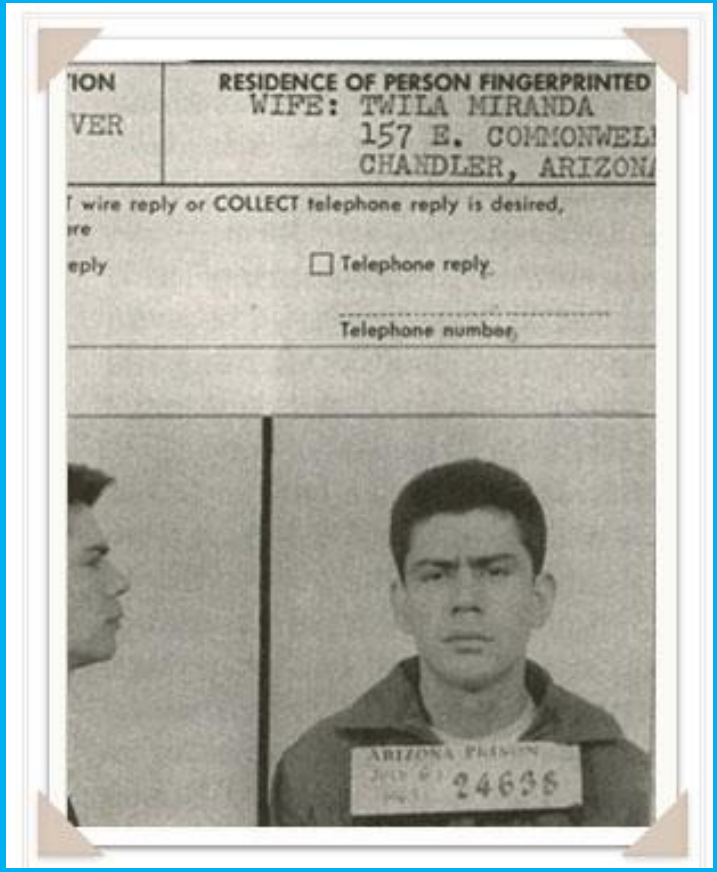
Miranda v. Arizona (1966)

- **Facts of the Case**
  - Ernesto Miranda an Arizona native with only an elementary school education, was arrested for robbery, kidnapping, and rape.
  - He was interrogated by police and confessed without knowing he could ask for a lawyer.
  - At trial, prosecutors offered only his confession as evidence. Miranda was convicted of rape and kidnapping and sentenced to 20 to 30 years on both charges.



Miranda v. Arizona (1966)

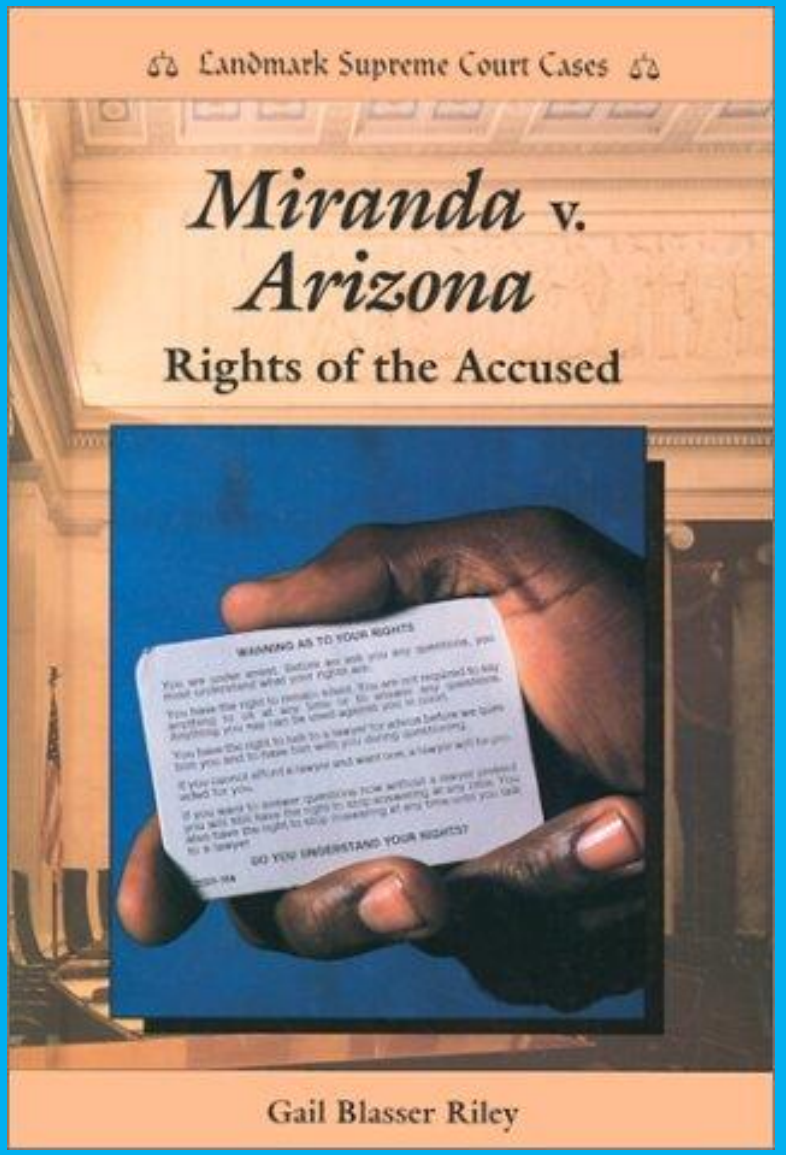
- **Question Presented**
  - Does the police practice of interrogating individuals without notifying them of their right to counsel and their protection against self-incrimination violate the Fifth Amendment?



Conclusion

- The Court ruled for Miranda
- It then specifically outlined police warnings suspects, including warnings of the right to remain silent and the right to have counsel present during interrogations.
  - AKA…The Miranda Warnings
    - This is a generic example…all states' Miranda warnings differ slightly

You have the right to remain silent. If you give up that right, anything you say can and will be used against you in a court of law. You have the right to an attorney and to have an attorney present during questioning. If you cannot afford an attorney, one will be provided to you at no cost. During any questioning, you may decide at any time to exercise these rights, not answer any questions, or make any statements.


Landmark Supreme Court Cases
Miranda v. Arizona
Rights of the Accused
WARNING AS TO YOUR RIGHTS
DO YOU UNDERSTAND YOUR RIGHTS?
Gail Blasser Riley

Stu's Views

Yes, you're in my "legal custody".
No, that doesn't entitle you to a
Miranda warning before I question
you about your report card.

Roe v. Wade (1973)

- **Facts of the Case**
  - Roe, a Texas resident, sought to terminate her pregnancy by abortion. Texas law prohibited abortions except to save the pregnant woman's life.
- **Question Presented**
  - Does the Constitution embrace a woman's right to terminate her pregnancy by abortion?

Jane Roe, who was no longer pregnant when the Supreme Court decided her challenge to Texas's abortion law. The SCOTUS originally argued the case in 1971 and reargued the case in 1972.

Conclusion

- The Court held that a woman's right to an abortion fell within the right to privacy (recognized in *Griswold v. Connecticut*) protected by the Fourteenth Amendment.
- The decision gave a woman total autonomy over the pregnancy during the first trimester and defined different levels of state interest for the second and third trimester.
- As a result, the laws of 46 states were affected by the Court's ruling.

"Jane Roe" switches sides

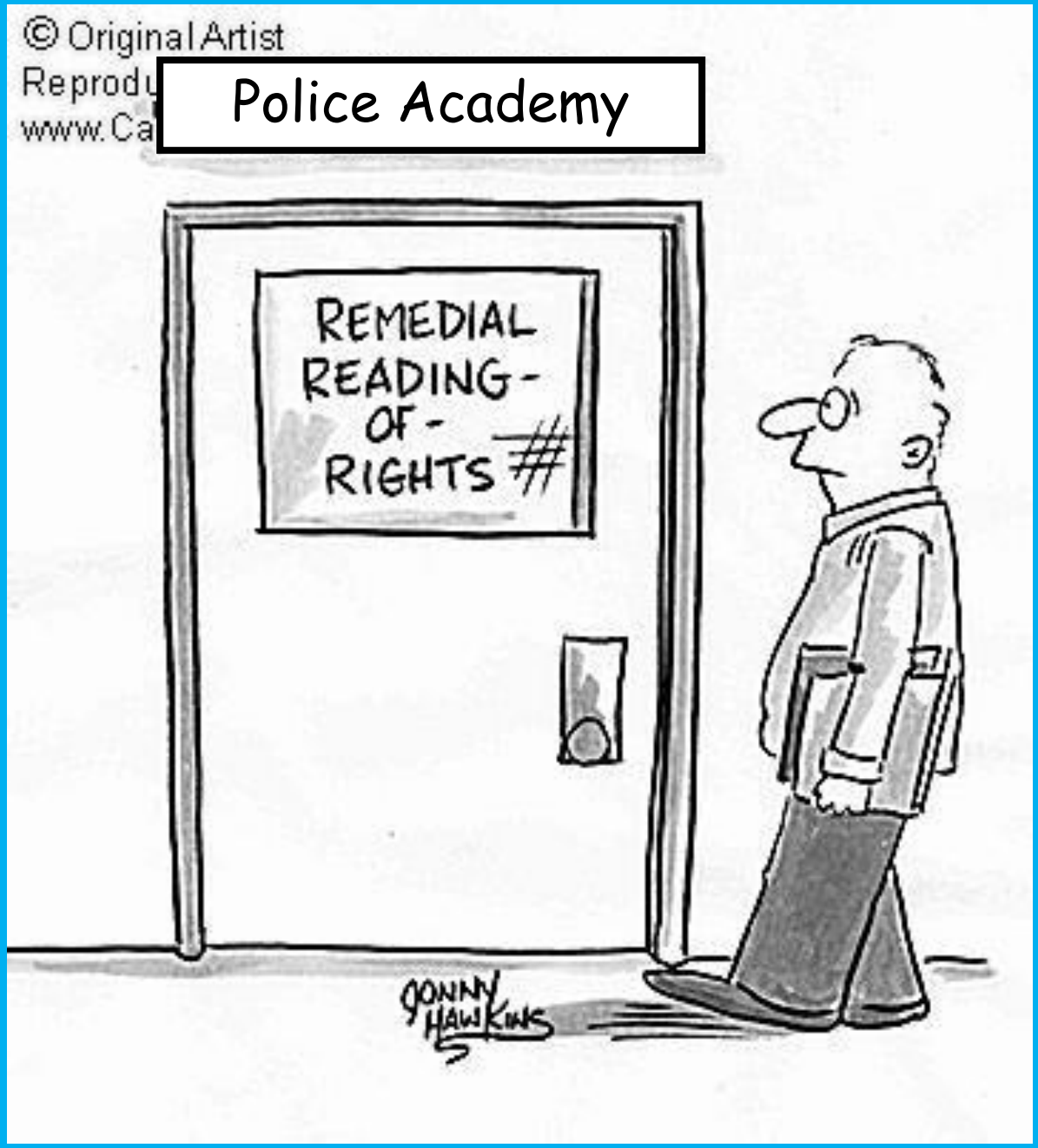
- In an interesting turn of events, "Jane Roe," whose real name is Norma McCorvey, became a member of the pro-life movement following her conversion to Christianity, and now fights to make abortion illegal.
- Using her prerogative as a party to the original litigation, she sought to reopen the case in a U.S. District Court in Texas and have it overturned.
- Her new stance is based on claims made since the decision, claiming evidence of emotional and other harm suffered by many women who have had abortions, and increased resources for the care of unwanted children.
- On June 19, 2003, the judge that the motion was not made within a "reasonable time." On February 22, 2005, the Supreme Court refused to grant a writ of certiorari, ending McCorvey's appeal.

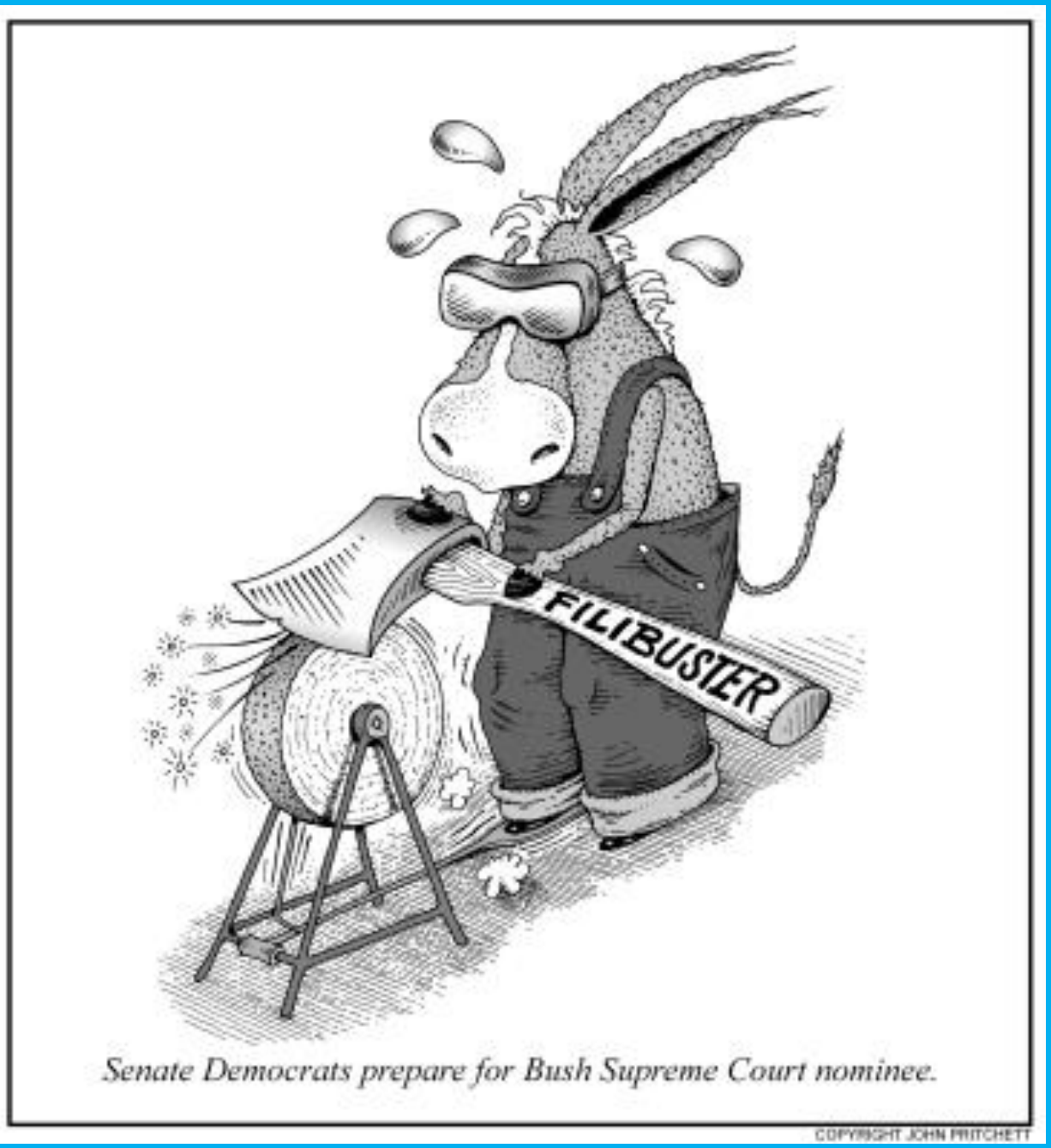
Norma McCorvey was the lead plaintiff in the Roe v. Wade case.

A Few More Cartoons…

" '...LOVE, HONOR, CHERISH TIL DEATH DO US PART'? WAIT... AREN'T WE ENTITLED TO OUR MIRANDA RIGHTS?"

Police Academy





Senate Democrats prepare for Bush Supreme Court nominee.

Study Your Cases and Notes!!