**Chapter 4 The Judicial Branch— Component I of Madisonian Democracy (Continued)**

**Chapter Objectives**

While studying this chapter, the student will learn to:

1. Identify the powers of the judicial branch.

2. Examine the power of judicial review.

3. Understand how the Supreme Court does its work.

4. Grasp the doctrines that limit access to the courts.

Constitutional Connector

Chapters 2 and 3 explained how the Supreme Court decided cases involving the powers of Con-gress and the president in relation to the doctrine of separation of powers. This chapter continues the coverage of component I of Madisonian democracy and discusses the powers given to the judi-cial branch. The focus is on how the Supreme Court accomplishes its constitutional duties under Ar-ticle III through the use of judicial review.

**CHAPTER OUTLINE**

Powers of the Judicial Branch

Judicial Review—Marbury v. Madison

How the Supreme Court Does Its Work

Selection of Cases

The Process of Deciding Cases

Methods of Constitutional Interpretation

Federal Review of State Court Judgments

Doctrines That Limit Access to the Courts—Justiciability

Standing

Ripeness and Mootness

Advisory Opinions

Political Questions

Supreme Court Opinions

Cooper v. Aaron

Nixon v. United States

**STUDY TIPS**

1. Be sure you understand the principle of judicial review.

2. See the discussion of judicial review in the text in the context of the famous case of Marbury v. Madison.

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3. Note that judicial review is not written anywhere in the Constitution, but was established in Marbury v. Madison.

4. Remember that through judicial review, the Supreme Court has the power to declare that acts passed by Congress are unconstitutional if they are in conflict with the Constitution.

5. Note also that the Supreme Court can declare acts of the president and laws of the states to be unconstitutional.

6. Judicial review is the exception rather than the rule, and the vast majority of laws are constitutional.

7. As powerful as the Supreme Court is, the Court must wait until a case is brought before it. The Court cannot just reach out and declare that a given law is unconstitutional, but must wait until a case is brought that deals with that law. See Exhibit 4-4 to visualize how a case gets to the Supreme Court.

8. Note that the Supreme Court and the lower federal courts are independent from the president and Congress. The president nominates all of the federal judges and the Senate must approve. Once on the Court, all federal judges serve for life and can only be removed by impeachment in the House and removal through the Senate, with a two-thirds vote needed for removal. Review Exhibits 4-1 and 4-2 to see the federal court system.

9. Examine the doctrines that limit access to the courts as set out in Exhibit 4-5. The term justiciability includes the concepts of the limiting doctrines of standing, ripeness, mootness, political question, and advisory opinions.

EXERCISES

1. Diagram the three levels of the federal court system.

2. Diagram the court system in your state.

3. Trace a case from the time that it is filed until it reaches the United States Supreme Court.

**INTERNET EXERCISES**

1. Go to http://thomas.loc.gov/home/thomas2.html.

a. Scroll down to “Presidential Nominations.”

b. Select “100th Congress.”

c. The search term is “Robert Bork.”

d. Bork was nominated by President Reagan to be an associate justice of the Supreme Court.

e. What happened to the nomination?

2. Go to http://thomas.loc.gov/home/thomas2.html.

a. Do same as step 1a above.

b. Search for “Anthony Kennedy.”

c. What happened to the nomination?

**QUIZ**

**TRUE OR FALSE**

1. Article III created the judicial branch.

2. The Supreme Court can hear and decide any case.

3. The principle of judicial review is stated in Article III of the Constitution.

4. Federal question cases are the only kinds of cases that can be brought into federal court.

5. The case of Marbury v. Madison established the principle of judicial review.

6. The Supreme Court advises the president on which laws are constitutional.

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7. Supreme Court justices serve for life and can only be removed through the impeachment process.

8. It takes five justices to agree for a case to be heard by the Supreme Court.

9. A majority opinion by the Supreme Court establishes a precedent.

10. A party must establish standing in order for a court to decide the case.

**ANSWER KEY**

1. True

2. False

3. False

4. False

5. True

6. False

7. True

8. False

9. True

10. True