2. Federal Courts, Civil Liberties, and Civil Rights
2.1 Structure and Processes of the Judicial System

2.2 The Development of Civil Rights and Civil Liberties by Judicial Implementation
2.3 The Bill of Rights
2.4 Incorporation of the Bill of Rights
2.5 Equal Protection and Due Process
2.1. Structure and Processes of the Judicial System
2.1.1 The Supreme Court

2.1.2 Judicial Implementation and the Lower Federal Courts
2.1.1. The Supreme Court
The Marshall Court

*Marbury v. Madison*

*Fletcher v. Peck*

*Dartmouth College v. Woodward*
THREE CENTS

N.R.A.

IN A COMMON DETERMINATION

3¢
Both Conservatives and the public like the idea of an independent judiciary.

The number of Supreme Court Justices has become part of the informal Constitution.
Plaintiff

Defendants

Original jurisdiction

Appellate jurisdiction
Writ of Certiorari

4/9 Justices must agree to hear the case

= rule of four
Types of Decisions:

Unanimous

Majority

Concurring

Dissenting
2.1.2. Judicial Implementation and the Lower Federal Courts
Chief Justice of the Supreme Court

• Manages Supreme Court

• Presides over federal court system

• Judicial Conference = sets agenda
Appellate Courts

• United States Court of Appeals

• 13 federal = U.S. Circuit Court of Appeals

• No evidence

• Recourse = Supreme Court
George Orwell

nineteen eighty-four
2.2. The Development of Civil Rights and Civil Liberties by Judicial Implementation
RIGHTS
Brown v. Board of Education of Topeka, Kansas ...  

- a landmark case that overturned 

Plessy v. Ferguson
“One person one vote”

Baker v. Carr

Reynolds v. Sims

Evenwel v. Abbott
Civil liberties = Negative rights
Right to privacy
Griswold v. Connecticut
More right to privacy decisions:

*Bowers v. Hardwick*

*Lawrence v. Texas*

*Obergefell v. Hodges*
Judicial activism

Judicial restraint
2.3. The Bill of Rights
Bill of Rights

Congress of the United States,

December 15, 1791

Published in the United States Federal Register, Vol. 54, No. 21, February 8, 1999

Attest:

[Signatures of Congressmen]
Whereas it is known that the King is by the Constitution of diverse civil and ecclesiastical jurisdictions and municipalities, by him the utmost power and jurisdiction in the Protestant religion and the laws and statutes of this Kingdom. By attaining and exercising a power of disallowing and suspending of laws and the execution thereof without consent of parliament. By remitting and preferring diverse matters...
Congress of the United States, begun and held at the City of New York, on Wednesday the fourth of March, one thousand seven hundred and eighty-nine.

The

RESOLVED, That the Congress shall assemble at the City of New York on the Wednesday next preceding the first day of August, and shall proceed to business on the first Monday after its meeting.

In all cases whatsoever where the Congress shall be convened by the President of the United States, a majority of the whole number of the Senators and Representatives shall constitute a quorum to do business, but a smaller number may adjourn from day to day, and may be authorized to transact any business which might have been transacted at the original meeting, if called for that purpose.

The Congress shall have the power to legislate on all subjects relative to the Federal Union, as well as the power to regulate all commerce with foreign nations, and among the several States, and with the Indian Tribes.

The Congress shall have the power to declare war, raise and support armies, and provide and maintain a navy.

The Congress shall have the power to establish a system of currency and coinage, and to regulate the value of money.

The Congress shall have the power to establish post-offices and post-roads.

The Congress shall have the power to make all Laws which shall be necessary and proper for carrying into effect the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.
Bill of Rights ratified in December 1791

2 Amendments not ratified

Bill of Rights applies to the Federal Government but does not bind the state governments
2.4. Incorporation of the Bill of Rights
Congress of the United States

Washington, D.C. 20510

Office of the Resident Commissioner of Puerto Rico

February 15, 2023

Mr. Speaker, Members of the House of Representatives:

Yesterday, during the course of an important hearing, a Member of Congress made a statement that was widely deemed offensive and unprofessional. As a result, I hereby request an immediate investigation into the incident to determine the appropriate course of action.

Sincerely,

[Signature]

Representative John Doe

District Representative for Puerto Rico

[Letterhead]
1st Amendment
Freedom of Religion
Lemon v. Kurtzman
Lynch v. Donnelly
Agnostini v. Felton
Zelman v. Simmons-Harris
1st Amendment

Freedom of Expression

Schenk v. U.S.
1st Amendment
Freedom of Speech
*Brandenburg v. Ohio*
Freedom of the Press
Right of the People to keep and bear Arms shall not be infringed
2.5. Equal Protection and Due Process
4th-8th Amendments:

Limit police power of states

&

Guarantee right to fair legal & judicial proceedings
Supreme Court affirms rights inherent in 4th-8th Amendments:

*Mapp v. Ohio* = exclusionary rule

*Gideon V. Wainwright*

*Escobedo v. Illinois*

*Miranda v. Arizona*
6th Amendment = right to criminal trial
7th Amendment = right to civil trial
8th Amendment = no excessive bail, no unusual punishments
Equal protection

4th-8th Amendments:
Amounts to equal protection
But equal protection
Not explicit until 14th Amendment
“Due Process”

5th

14th
9th Amendment:

just because some rights are listed, doesn’t mean others are denied
10th Amendment:

Powers not delegated to the federal government states

(where the federal government does not exercise power, the states may do so)