

Structure of the Constitution:

- Article I: Legislative Branch
- Article II: Executive Branch
- Article III: Judicial Branch
 - Section 2 = the appellate juris of the SC = which is vague and short, and gray
 - The original juris oc the S.C. can't be expanded or shrunk; it's determined
- Article IV: States
- Article V: Amendment Process
- Article VI: Supremacy of the Conarronstitution
- Article VII: Amendment Ratification Process

Judicial Power & Justiciability

Authority for Judicial Review & Justiciability Limits

- Marbury v. Madison
 - **Rules:** (1) “When a commission has been signed by the president, the appointment is made; and that the commission is complete when the seal of the United States has been affixed to it by the secretary of state”; (2) “When an individual right depends upon the performance of a duty of an official of the executive branch...official’s action is related to a political question”; (3) Congress can’t expand the original jurisdiction of the S.C.; (3) Congress cannot limit or expand the Supreme Court’s original jurisdiction in any way.
 - **Reasoning:** There are actions so tied to the political decisions of the executive that they should not be reviewed by the other branches of gov., but this doesn’t apply to instances when individual rights depended upon performance of duty

Congressional Limitations on the SC

- Cohens v. Virginia:
 - **Rule:** SC will review state law when it conflicts with federal law or provision of the Constitution
- Ex Parte McCardle:
 - **Rules:** (1) The right to habeas corpus isn’t assigned in the constitution; it’s just stated; (2) Appellate courts don’t have jurisdiction over habeas corpus b/c Article II, sec. 2 of Cons. allows Congress to set up the jurisdiction of the appellate courts and remove and extend the jurisdiction of the appellate courts
 - **Rules:** (1) Congress can limit the S.C.’s appellate juris so long as it does not completely remove the enumerated right; (2) Congress’ cannot dictate the outcome of future or pending legislation
- United States v. Klein:
 - **Rules:** (1) Congress can’t retroactively change or dictate the outcome a final decision of a case; (2) Congress can’t change the outcome of a case; (3) Congress can’t limit the president’s pardon powers
- Robertson v. Seattle Audubon Society:
 - **Rule:** Congress can alter underlying law even if the change affects ongoing litigation
- Plaut v. Spendthrift Farm, Inc.:
 - **Rules:** (1) Congress can’t retroactively change the outcome a final decision of a case; once a final decision has been made, it can’t be changed; (2) Congress cannot compel the ct. to hear cases where a final judgment has already

- Hayburn's Case:
 - **Rule: S.C. can't give advisory opinions**
 - Advisory opinion = where Congress of the Prez go to the S.C. and say "here's what i wanna do--is that okay? Is that constitutional?"
 - ****Must have a contrived in order for S.C. to give an advisory opinion****
 - Contrived case ex = the evolution S.C. case from Tennessee; Brown v. Board;
 - Must have someone in fear of harm or in prison for it to NOT be an advisory opinion
- Nashville v. Wallace:
 - It's okay for the court to issue adjunctions; if you filed for the wrong relief, it's okay for the court to issue the one you actually wanted
- *****Justiciability Doctrine*****
 - **(1) prohibition against advisory opinions**
 - Don't want
 - **(2) Standing**
 - Want
 - **Standing Requirements**
 - **(1) Injury--**the P must allege that they have suffered or imminently will suffer an injury
 - For imminently will suffer an injury, looking for initial steps to prove foreseeability
 - Lyons v. Defenders of Wildlife:
 - Does P have standing?
 - No--can't prove injury or that injury is imminent
 - **(2) Causation--**the P must allege that the injury is fairly traceable to the D's conduct
 - *****goes back to contrived cases, b/c do you even have the right P?*****
 - Allen v. Wright:
 - **Rules: (1) Causation--can't directly trace that these private schools have status w/ tax; (2) Must have state action to claim discrimination; don't have private action, unless it's through an act passed by Congress**
 - Massachusetts v. Environmental Protection Agency:
 - Higher injury standard but lower causation standard.
 - **Rule: W/ States, don't have to show the exact standing requirements--standing requirements relaxed for the states.**
 - **(3) Redressability (Same case in controversy)--**the P must allege that a favorable fed. Court decision is likely to redress the injury
 - Lyons v. Defenders of Wildlife:
 - Does P **have standing?**
 - **No & No redressability--**even if granted injunction, it's a foreign gov doing it so we can't grant it
 - Linda R.S. v. Richard D.:
 - Redressability: she wants money, and even if court forces baby daddy to act it can't happen so **no redressability**
 - **(3) Ripeness**
 - Want
 - Poe v. Ullman:

- Connecticut statute prohibiting use of contraceptives and giving info on contraceptives. No Ripeness b/c the State doesn't even enforce the law & just b/c the law exists doesn't mean that it will be enforced
- **Abbot Laboratories v. Gardner Test**
 - **(1) The fitness of the issue for judicial decision and**
 - **(2) The hardship to the parties of withholding court consideration.**
 - *****use this if it's a big burden****
- **United Public Workers v. Mitchell**
 - Lawsuit filed challenging the constitutionality of federal employees taking part in political campaigns or political management. No ripeness since a hypothetical threat isn't enough
- **International Longshoremen's v. Warehousemen's Union**
 - Resident aliens in who went to work in Alaska for the summer suing to make sure they can return to the U.S. mainland. No ripeness b/c the situation is hypothetical and too abstract; needs to be concrete
- ****Ripeness is usually when a new law has been promulgated OR when an old law has yet to be enforced****
- **(4) Mootness, &**
 - Don't want
 - **Controversy must remain live at all stages of federal court litigation (must have something to lose as well as it's ongoing)**
 - **If you have only one party then you need one repetition; if multiple parties then multiple repetitions.**
 - Ex's: Criminal defendant dies; Law is repealed or expires; Settlement agreement is reached
 - **Three Exceptions:**
 - (1) Will hear wrongs that are capable of repetition but evading review
 - (2) Voluntary cessation defendant voluntarily ceases the allegedly improper behavior but is free to resume to it at any time. Only if there is no reasonable chance that the defendant could resume the offending behavior is a case deemed moot on the basis of voluntary cessation.
 - (3) A properly certified or named class action suit may continue even if the named plaintiff's claims are rendered moot.
 - **Roe v. Wade:**
 - The abortion of Roe's 1970 pregnancy doesn't make her case moot
 - **Friends of the Earth v. Laidlaw Environ**
 - Friends of the Earth sued Laidlaw for violating provisions of the Clean Water Act; No mootness--a court can't hear a case on mootness grounds if the D has voluntarily stopped the offending activity the suit is about and there is no reasonable chance the D will resume the said activity later on
- **(5) Political question doctrine**
 - Don't want
 - **(1) A textually demonstrable constitutional commitment of the issue to a coordinate political department; or**
 - **(2) A lack of judicially discoverable and manageable standards for resolving it; or**
 - **(3) The impossibility of deciding without an initial policy determination of a kind clearly for non-judicial discretion; or**
 - **(4) The impossibility of deciding without an initial policy determination of a kind clearly for non-judicial discretion; or**

- (5) An unusual need for unquestioning adherence to a political decision already made; or
 - (6) The potentiality of embarrassment from multifarious pronouncements by various departments on one question.
 - **don't want you to bring up things that can be solved through regular political practices**
 - ***basically right client, right time, at the right place w/ the facts of the client; need to have something infringing on client's rights***
 - **Prudential standing limitations:**
 - **(1) a P generally may only assert their own rights and cannot raise the claims of 3rd parties**
 - ***can't assert the rights of others***
 - **(2) a P may not sue as a taxpayer who shares a grievance in common with all other taxpayers**
 - ***no taxpayer standing***
 - **always look for the specific facts about the P**
 - **Third Party Standing (Wulf) Test**
 - **(1) the closeness of the relationship between the litigant and the third party whose rights they seek to assert, AND**
 - **(2) the likelihood that the 3rd party can assert their own rights**
 - Singleton v. Wulf:
 - **Rule:** = 3rd party standing case b/c meets an exception b/c closeness of the relationship and the latter of the Wulf Test doctor can bring it for the P who was being denied an abortion
 - Barrows v. Jackson & Warth v. Seldin:
 - **Rule:** Allow standing w/ exception of landlord-tenant relationship
 - Warth v. Seldin: residents challenged constitutionality of zoning practices in NY; SC concluded P's had standing
 - Duke Power Co. v. Carolina Environmental Study Group, Inc.
 - SC found that P's had standing b/c the construction of the nuclear reactor subjected them to injuries, such as thermal pollution, fear of a nuclear accident, and radiation exposure
 - Craig v. Boren
 - Bartender brought suit for his customers. **Rule:** Seller has standing on behalf of customers b/c acting as advocates for the rights of their customers in their industry/market
 - Gilmore v. Utah
 - Mother brought suit for her adult child who was sentenced to death. **Rule:** Parent for adult child doesn't have standing b/c adult child waives rights
 - **Rule:** Parent & legal guardians have standing for their children who are *minors*
 - **Taxpayer Standing**
 - Only for challenges to congressional expenditures under the Establishment Clause of the 1st Amendment
 - **(1) Must establish a logical link between status as taxpayer and the type of legislative enactment attacked. (Establishment clause contradiction)**
 - **(2) Must not be an incidental expenditure in the admiration of an essentially regulatory statute.**
 - **(3) Must establish a nexus (within the region affected) between taxpayer states and precise nature of the constitutional infringement alleged.**

Executive Power