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U.S. Supreme Court convened for first time 223 years ago this month

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." This directive, set forth in Article 3, Section 1 of the U.S. Constitution, established the third branch of our government: A federal judiciary headed by a Supreme Court.

The Constitution, however, provided only this bare framework, without specifying the composition of, or procedures for, the tribunals. It was left to a brand-new Congress to fill in the details and create a functioning system. During its first session, Congress accomplished this task by passing the Judiciary Act of 1789. Under this act, the Supreme Court was to be comprised of six members — one chief justice and five associate justices. In fact, the size of the court fluctuated over its early years with Congress increasing and decreasing the number of its members until 1869, when it settled on the current number of nine. The Judiciary Act also created 13 district courts in principal cities and three circuit courts to cover the other areas of the eastern, middle and southern United States.

The court convened for the first time 223 years ago this month, on Feb. 2, 1790. It did so at the Merchants Exchange Building in New York City. At that time, New York was the nation's temporary capital. The court's inaugural term — which was presided over by Chief Justice John Jay — began with a courtroom filled with spectators and an empty docket. As it waited for cases to percolate from the lower tribunals, the court's primary function in its first few years was to admit lawyers to the bar.

After holding a second session in New York in August 1790, the court joined the rest of the federal government in Philadelphia, when that city became the new national capital. In February 1791, the court reconvened in Independence Hall and in August of that year it met in Philadelphia's Old City Hall, which remained its home for the next decade.

Van Staphorst v. Maryland (1791) took the honor of being the court's first docketed case. The Van Staphorst brothers had lent money to the state of Maryland during the Revolutionary War. Maryland, however, refused to pay back the loan according to the terms the brothers demanded. After the threat of litigation in the Supreme Court, the parties settled prior to oral argument.

The first case heard by the court was *West v. Barnes* (1791). Although the court had the opportunity to overturn a Rhode Island statute allowing repayment of a debt to be made in paper currency, rather than in the then-customary gold or silver, it instead decided the case on procedural grounds. The court dismissed the case because West improperly had a lower court — rather than the Supreme Court — issue the writ of error.

In response to this ruling, Congress changed this procedure and allowed lower courts to issue these writs. At the time this decision was rendered, no official court report was yet published. Instead, newspapers ran the opinions issued by the justices, which largely relied upon English law, as the court had no precedent of its own upon which to rely.

Perhaps the most notable of the Supreme Court's early decisions was *Chisholm v. Georgia* (1793). Two citizens of South Carolina brought suit against Georgia to recover British-owned property which had been confiscated by Georgia during the Revolutionary War. State officials refused to appear in federal court, arguing that it had no jurisdiction over this matter.

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The court disagreed and held that the federal judiciary could hear lawsuits against states. The court's decision was widely criticized and soon thereafter the 11th Amendment was proposed which granted states immunity from certain types of actions in federal court. That amendment was ratified in 1795.

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Although the court met for only a short time each February and August, the justices remained busy in the interim. In addition to creating the federal court system, the Judiciary Act of 1789 also mandated that the justices of the Supreme Court preside twice a year over circuit courts located throughout the country. Travel was difficult at that time with the justices riding in stagecoaches for months over rustic and rutted roads, staying in all manner of Spartan shelters along the way.

Often, the justices arrived at their destinations too late or too ill to hold court. Although Congress had crafted this requirement with the belief that it would benefit both the justices and the citizens to have them interact in this manner, the realities of this exhausting practice prompted Congress to revisit this mandate in 1793 and reduce the requirement to one journey per year. However, it was not until 1891, almost a century later, that Congress abolished this requirement altogether.

Our nation's capital was moved permanently to Washington, D.C., in 1800. However, no provision was made for housing the Supreme Court, despite the fact that it heads the third, co-equal branch of our government. The court had no permanent location until 1810, when Congress allowed it to use space in the Capitol.

The court moved into the Old North Wing, meeting in various rooms from February 1810 to December 1860. In 1861, the court was housed in what is now known as the restored Old Senate Chamber. It heard cases there until 1935, when it was finally given a building of its own.