

Becoming an American

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VII THE JUDICIARY

IN THIS LETTER I shall write of the Judiciary of our Government, that is, of our courts of justice and their functions.

In order that I may explain why we have such institutions I must go back many thousands of years to their beginnings. Courts became necessary when rules of conduct or laws were first made. Some savage chief, long ages ago, announced an order or rule for the government of his people. However, there were without doubt those in the tribe who were unwilling to obey the rule and broke it whenever they dared. There have always been, there are today, persons who dislike law and who must be governed by force. Such lawbreakers this savage ruler brought before him and sentenced to be punished. This was the first court and this chief was the first judge. For long ages law was enforced and crime punished in a similar way. Often, tho, this great power was used arbitrarily and unjustly. Hence there arose revolts against this form of autocracy and the demanding of changes. These, however, came very gradually through many centuries, but finally there resulted the type of courts we have today which provide for legally trained judges, responsible directly to the people, and, in certain types of cases, for trials by juries of the peers or equals of the indicted persons. Courts of such character existed in the colonies before the adoption of our Constitution. There were, however, no national courts, a condition which was one of the greatest weaknesses growing out of the Articles of Confederation. Hence there was no means of settling disputes between citizens of different colonies and of punishing breaches of national law. To remedy this condition federal courts were provided for when the Constitution was adopted in 1787.

Highest of these courts is the United States Supreme Court. It is composed of a chief justice and eight associates who are appointed by the President and the Senate and who hold their offices until death or resignation. It meets in Washington and is in session from October to May of every year. The consent of a majority of these judges is required for a decision and at least six must be present whenever a case is heard.

Next below the Supreme Court are the Circuit Courts of Appeals of which there are nine, one in each of nine districts into which the country is divided. For each of these courts there is one of the supreme court justices, two or more circuit judges appointed for the purpose and a number of federal district judges. All cases heard in these courts come by appeal from the District Courts. Three judges usually hear these cases and, like the Supreme Court, there are no juries.

Below the Circuit Courts are the District Courts, of which there are at present eighty-one. There is but one such court in Oregon, altho thickly populated states like Illinois have several. At least one judge is appointed for every district altho two or more are selected if needed.

As was said above, these courts have to do only with offenses against national law and with disputes

between the citizens of different states. A trial is conducted and witnesses are heard, however, only in the lowest court; the others are courts of appeal.

There are in addition a number of federal courts of less importance which have to do only with certain types of problems, such as claims against the government.

The greatest function of the United States Supreme Court is that of passing on the constitutionality of laws. The fact that the Constitution is the supreme law of the land and that all other laws must be in harmony with it, is what gives the Supreme Court this power. Now and then the question of the constitutionality of some law passed by Congress or a State Legislature is submitted to the Court. Over thirty laws so enacted have by this process been found to be unconstitutional. Many political attacks have been directed at this power. Politicians have even tried to get into the presidency by promising that they would take steps to change the National Constitution in such manner as to lessen the power of the Supreme Court. Every fair-minded, reasonable citizen, tho, realizes that there must be some agency of government to interpret the Constitution and to decide in case state and district courts disagree in their decisions. Our Supreme Court has always shown itself independent of political pressure, of monetary power and of personal influence. Hence its decisions have almost invariably been the sort of conclusions fair-minded, capable judges, learned in the law, have been able to arrive at when uninfluenced and unbiased, and it has gained a world wide reputation for fairness and firmness. No institution of our Government is more favorably regarded by foreign students of government.

In each state there is a supreme court composed, in Oregon, of seven members who serve for six years. Next below this court are the circuit courts, each composed of one or more counties. There are at present seventeen of these courts in this state. Then there are the local courts, presided over by justices of the peace. All these courts have to do with offenses against the state law and with disputes between citizens over property or about some civil right.

Other courts are city courts, in which offenses against the law are tried, juvenile courts which deal with delinquent and homeless children, and courts of domestic relations which have to do with difficulties between husbands and wives.

We can not overestimate the importance of the courts. Upon the fairness and certainty with which law is enforced and crime punished depends the safety of our property and our lives. Disregard law, and we break government. Scoff at law, and we strike at the foundations of our country. Without law and order we cannot accumulate property, build homes, enjoy physical safety, educate our children and leave to our families such means as will insure them against poverty. We ourselves must learn, and we must teach our children, to respect the law and to honor the court. We must, as citizens, use great care to elect to the honorable positions as judges only those who are worthy in knowledge of the law, in disposition to be just, and in courage to do only the right.