

JUDICIAL DEPARTMENT

ARTICLE III

SECTION 1. 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. The Judges, both of the supreme and inferior Courts, shall hold their Offices during good Behaviour, and shall, at stated Times, receive for their Services, a Compensation, which shall not be diminished during their Continuance in Office.

ORGANIZATION OF COURTS, TENURE, AND COMPENSATION OF JUDGES

The Constitution is almost completely silent concerning the organization of the federal judiciary. “That there should be a national judiciary was readily accepted by all.”¹ But whether it was to consist of one high court at the apex of a federal judicial system or a high court exercising appellate jurisdiction over state courts that would initially hear all but a minor fraction of cases raising national issues was a matter of considerable controversy.² The Virginia Plan provided for a “National judiciary [to] be established to consist of one or more supreme tribunals, and of inferior tribunals to be chosen by the National Legislature”³ In the Committee of the Whole, the proposition “that a national judiciary be established” was unanimously adopted,⁴ but the clause “to consist of One supreme tribunal, and of one or more inferior tribunals”⁵ was first agreed to, then reconsidered. The provision for inferior tribunals was ultimately stricken out, it being argued that state courts could adequately adjudicate all necessary matters while the supreme tribunal would protect the national interest and assure uniformity.⁶ Wil-

¹ M. FARRAND, *THE FRAMING OF THE CONSTITUTION OF THE UNITED STATES* 79 (1913).

² The most complete account of the Convention’s consideration of the judiciary is J. GOEBEL, *ANTECEDENTS AND BEGINNINGS TO 1801, HISTORY OF THE SUPREME COURT OF THE UNITED STATES*, VOL. 1 ch. 5 (1971).

³ 1 M. Farrand, *supra* at 21–22. It is possible that this version may not be an accurate copy, *see* 3 *id.* at 593–94.

⁴ 1 *id.* at 95, 104.

⁵ *Id.* at 95, 105. The words “One or more” were deleted the following day without recorded debate. *Id.* at 116, 119.

⁶ *Id.* at 124–25.