



Riding the Circuit

The rather challenging additional responsibility held by Supreme Court Justices until the early 1900s.

At the turn of the 19th century, Supreme Court Justices not only heard cases during the Court's six to eight week Term, they traveled to assigned regions of the country to serve as circuit court judges for four to six months in a practice known as **circuit riding**. As representatives of the United States government under the newly ratified Constitution, these men not only had the responsibility of interpreting the laws, but were also expected to educate the public on the roles and responsibilities of the government, especially the Judicial Branch.

Passed by Congress 15 months after the ratification of the United States Constitution, the **Judiciary Act of 1789** was signed into law on September 24, 1789 by President Washington. The "Act to Establish the Judicial Courts of the United States" created the structure of the federal judicial system. Five associate justices and a chief justice were appointed and met twice a year in February and August to hear cases important to the young nation. Congress also established district and circuit courts. U.S. district courts heard maritime and admiralty cases, as well as some minor criminal and civil matters. The U.S. circuit courts heard most major civil and criminal trials and some appeals from the district courts. Initially, Congress did not create separate judgeships for the circuit courts, so the Supreme Court justices had the additional responsibility of hearing cases in the 3 newly created regional judicial circuits. Two justices were assigned to each circuit, splitting the region. They sat on the bench with a local district judge. Though attempts were made to assign each Justice to the region which included his home state, that was not always possible. For example, when Virginians Chief Justice John Marshall and Associate Justice Bushrod Washington were both on the Supreme Court, Chief Justice Marshall was assigned the half of the middle circuit with Virginia; Justice Washington traveled to Pennsylvania and New Jersey to preside over the northern half of the middle circuit.

The practice of riding the circuit was seen as beneficial for a number of reasons. First, the Supreme Court justices could interact with everyday Americans, learning about their lives and communities. Circuit-riding also helped each region feel connected to the government by establishing a sense of federal judicial power. The justices were able to explain the Constitution and the role of the federal government directly to people serving on juries, or watching and reading about local and regional court proceedings. This interaction earned people's recognition of the legal authority of the Supreme Court. The economic benefit to circuit riding was important for a young country with a large national debt. Employing experienced justices as judges to listen to local cases helped keep the judicial branch's budget low by not having to pay salaries for circuit judges. Additionally, some members of Congress feared that if Justices were confined to the capital, they could be overly influenced by politics, which could affect their opinions and rulings. Lastly, they wanted the Justices

to keep up with how the law was being interpreted at the regional level. Thus, circuit riding remained a responsibility of Supreme Court justices throughout the 19th century.

According to accounts from Supreme Court Justices, however, the hardships of circuit riding far outweighed the benefits. Their assignments forced them to travel far from home and, with primitive **infrastructure** around the newly formed country, Justices endured treacherous travel conditions. Battling harsh weather and unreliable transportation, Justices struggled to arrive at court on time. For example, Justice William Cushing wrote to President Washington of his journey to serve: “... *the probability at present seems against my being able to reach Philadelphia by the time court is to sit...the traveling is difficult this season: I left Boston (13th January) in which I made out to reach Middleton [Delaware] as the snow on the 18th began, which fell so deep there as to obliged me to take a sleigh, and now again wheels seem necessary...*”

Justice Samuel Chase narrowly escaped drowning when crossing a near frozen river in Pennsylvania while traveling back to the capital. Many Justices resented being away from their families for so long. They often wrote to the President asking to be relieved of the burden. Additionally, they were not permitted to accept lodging from family or friends but were required to stay in public accommodations which made for less comfortable and sometimes crowded experiences. Traveling to courts was arduous and time consuming, which also took a toll on the physical and mental health of the men. In a letter from Associate Justice James Iredell to his wife, “*I arrived here the day before yesterday, after a very agreeable passage from Newport of about 51 hours...at least 4 judges must be on the circuit this fall, and I hear with great concern that Judge Blair was so sick in South Carolina that he was not able to do any business there...how distressing is this situation?*”

Justice Iredell and his enslaved servant, Hannibal, spent months together traveling on the southern circuit. They once had to cancel a court session in Savannah, Georgia, because the swampy conditions were deemed too dangerous for travel. Local papers chastised Iredell for not showing up, but did not realize the potential danger he and his enslaved servant faced.

As more settlers migrated westward, and the population of the country grew, Congress amended the Judiciary Act of 1789 and restructured the circuits. In 1807, with the admission of new states to the Union, Congress created a seventh circuit comprising Tennessee, Kentucky, and Ohio. Until 1866, the creation of each new circuit also meant adding a new Supreme Court justiceship. Presidents appointing the new justices often nominated men from each circuit. For example, when the seventh circuit was created, President Thomas Jefferson consulted congressional representatives from the region before nominating longtime Kentuckian Thomas Todd to the new seat. While Justice Todd was able to ride circuit in his region, he missed numerous Court terms in Washington due to poor travel conditions between Kentucky and Washington. Congress continued to amend the structure of the federal judiciary throughout the 1800s and, by 1863, there were a total of nine judicial circuits in the United States.

As the population in the United States grew, so did the caseload of the Court. In 1869, Congress created dedicated judgeships for the circuit courts to help ease the Supreme Court justices' workload and reduce the backlog of cases. Congress also set the number of Supreme Court Justices at 9: 1 Chief Justice and 8 Associate Justices. Then, the Evarts Act of 1891 created a new type of federal court, the U.S. courts of appeals. These new courts were designed in part to expedite appellate review in a broad range of cases. The courts of appeals were staffed by circuit court judges and primarily heard appeals from the lower federal trial courts—district and the hybrid circuit courts. The act was immediately successful in cutting the number of cases sent to the Supreme Court from 632 to 275 in one year, providing the Justices a more manageable caseload leading to more timely resolutions of cases.

In 1911, Congress eliminated the hybrid circuit courts. From that point on, the **district courts** served as the primary trial courts in the federal system, with the **courts of appeals** hearing most appeals from district courts in their geographical circuits. Thanks to the increase in federal judgeships, after 122 years, circuit riding for the Supreme Court Justices also came to an end. A remnant of the practice services, however: the Chief Justice assigns each Justice to oversee and administer one or two of the thirteen judicial circuits.

Vocabulary

- **Circuit riding:** the process of justices visiting towns in their assigned district, initially via horseback or carriage, to preside over local courts.
- **Judiciary Act of 1789:** a law that established the structure and jurisdiction of the federal court system.
- **Appellate jurisdiction:** the power of a higher court to review cases from a lower court.
- **Circuit courts:** a court with the authority to review disputes brought up in a previous trial.
- **Infrastructure:** the basic transportation and communication systems for a country or region.
- **District Courts:** a court that conducts trials of cases.
- **Court of Appeals:** a court that reviews the procedures and the decisions from a trial court to ensure that the proceedings were fair and the law was properly applied.

Discussion Questions

1. How was the federal court system created?
2. Why did Congress establish the circuit court system?
3. Why was the system of “riding the circuit” beneficial to both Supreme Court Justices and Congress?
4. Describe the conditions the Justices faced while riding circuit. How did this affect the perception of the job of a Supreme Court justice?
5. How did the circuit court system evolve overtime?

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