

Lesson 40: Jurisdiction of Federal Courts

(Less. Time 33:57)

[for Sunday, December 13, 2015]

Reading: *The Making of America*, pages 611-626

(Chapter 25) Appellate Powers, Jury, Treason

Pre-lesson questions for homework study and review: [*Supplemental* notes are bracketed]
[287 Constitution Provisions “principles” in text.]

1. WHAT WAS THE FOUNDERS' INTENT IN GIVING CONGRESS THE AUTHORITY TO LIMIT THE APPELLATE JURISDICTION OF THE SUPREME COURT? (PAGES 612-14)

Provision 182 – SC has appellate jurisdiction

- o Over 5000 cases appealed each year from lower federal courts
- o SC accepts less than 200 each year
- o Congress may limit appeals [almost never happened-but to prevent courts overloading]

2. FOR WHAT KINDS OF CRIMES DOES THE CONSTITUTION GUARANTEE A JURY TRIAL? (614)

183 – Jury for all federal criminal cases [safety et envisioned by founders]

o Common Law Juries

- determine the facts [quoting p. 816]
- determine the law [have the right to decide if that law applies in this case]
- Chief Justice John Jay quote [above]
- Could not repeal the law
- Safety net against government abuse
- Changed in 1895 in the Sparf case to “do what the judge says”

3. DESCRIBE THE ORIGINAL AMERICAN COMMON-LAW JURY SYSTEM.

Jury System Unique in US

- o Under British, many nations had
- o Nearly all have abandoned
- o US has 90% of jury trials
 - 120,000 jury trials annually

HOW WAS IT A "SAFETY NET" FOR THE PEOPLE? (614-16)

What is a jury?

- o Jury of peers
- o Peers are neighbors (quote)
- o Expected to know offender and conditions [now jury choice denies this altogether, jurors chosen *intended NOT to know you!*]
- o Designed for local justice, small counties

4. HOW HAVE AMERICANS GRADUALLY LOST THE PROTECTION OF THE COMMON-LAW JURY? (616-17) [The judges have been instructed to explain what the law is and that Jurors cannot change it thereafter.]

5. WHY CAN WE SAY THAT THE JURY SYSTEM IS UNIQUE TO THE UNITED STATES? (617)
[It is only mostly practiced here in the USA only]

6. WHO SHOULD SERVE AS JURORS? [peers, or ‘neighbors’] HOW ARE THEY TO BE CHOSEN? [by

individual state requirements]CAN A JUROR BE CHALLENGED? [not originally, Madison, p 619](617-19)

7. WHY DIDN'T THE ORIGINAL CONSTITUTION PROVIDE FOR JURY TRIALS IN CIVIL CASES? (619-20) [there was too much variation among states, no federal jurisdiction]

8. WHERE ARE FEDERAL CRIMINAL TRIALS TO BE HELD? (620-21)

184 – trials to be in the state of where act was committed

- o Witnesses can be found easier

185 – Congress shall indicate place if outside a state

9. WHAT IS TREASON?

186 – Treason

- o Only crime defined in the Constitution

- [>] - Levying war against United States

- Giving aid and comfort to the enemy

WHY DID THE FOUNDERS DEFINE TREASON IN THE CONSTITUTION? (621-23)

- o King George had 17 offenses under treason [he easily found you guilty in colonial America]

- [^]

- o Supreme Court ruled no *enemy* if no declared war!

- o No treason in Korea and Vietnam when Americans helped enemy [fallacious SC ruling]

10. WHAT IS NECESSARY TO GAIN A CONVICTION OF TREASON? (624)

187 – No treason unless two witnesses or open confession

11. WHO SETS THE PUNISHMENT FOR TREASON?

188 – Congress to set punishment for treason

- o Punishment is death or imprisonment and fine

WHAT IS IT TODAY?

[Still Death in severe cases, otherwise incarceration and/or \$10,000 fine.]

DOES THE CONSTITUTION IMPOSE ANY LIMITATIONS ON SUCH PUNISHMENT? (624-26)

189 – No attainder of treason

- o Penalty for treason cannot extend past the life of the accused

- o Property returned to heirs after death of Confederate “rebels”

Notes: [An Exceptional case.]

- o Julius and Ethel Rosenberg

- sold atomic secrets to Russians [how to detonate the atomic bomb- advanced by 10 years for Russians attempts to secure]

- [- executed in 1953, Judge Irving Robert Kaufman, “It is not in my power...to forgive you. Only the Lord can find mercy for what you have done. ... You are here by sentenced to death.”]

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QUIZ - LESSON 40

1. NOT ONLY DOES THE SUPREME COURT HAVE ORIGINAL JURISDICTION IN SEVERAL CASES BUT IT HAS _____ JURISDICTION IN MANY CASES IT RECEIVES ON APPEAL.
2. ALL FEDERAL CRIMINAL TRIALS ARE REQUIRED TO HAVE A _____.
3. TODAY, JURIES ARE USUALLY ONLY INSTRUCTED TO DECIDE THE _____.
4. THE FOUNDERS INTENDED JURIES TO DECIDE BOTH THE _____ AND THE _____.
5. THESE JURIES ARE CALLED _____.
6. JUDGES HAVE ASSUMED MORE POWER IN THE COURTROOM AND JURIES HAVE BEEN REDUCED IN THEIR EFFECTIVENESS IN DECIDING THE LAW SINCE THE _____ CASE IN _____ (YEAR).
7. ALL TRIALS ARE REQUIRED TO BE HELD IN THE _____ WHERE THE CRIME OCCURRED. IF IT HAPPENED OUTSIDE ANY STATE, _____ IS TO DECIDE WHERE THE TRIAL SHOULD BE.
8. KING GEORGE III HAD _____ DIFFERENT OFFENSES FOR WHICH HE CHARGED TREASON.
9. THE FOUNDERS LIMITED THE DEFINITION OF TREASON TO TWO OFFENSES. NAME THEM.

10. NO PERSON CAN BE CONVICTED OF TREASON UNLESS THERE ARE _____ WITNESSES, OR UNLESS HE _____ IN OPEN COURT.
11. WHO DECLARES WHAT THE PUNISHMENT FOR TREASON SHOULD BE? _____.
12. WHO WERE CONVICTED FOR TREASON IN SELLING ATOMIC SECRETS TO THE RUSSIANS, CAUSING THE DEATH AND BONDAGE OF MILLIONS OF PEOPLE?

13. THE CONSTITUTION PROHIBITS "ATTAINDER OF TREASON". WHAT DOES THIS MEAN?
