

# The Judicial Branch

## Why It Matters

What would our country be without a judicial system or a way of enforcing our laws? The courts see to it that our nation's laws are justly applied. They also interpret the laws that protect the rights the Constitution guarantees. As you read this chapter, think about how the federal court system developed.



# BIG Ideas

## Section 1: The Federal Courts

**Under our federal system, the executive, legislative, and judicial branches share the responsibility of governing the nation.** Three levels of federal courts try to ensure that everyone in the United States receives equal justice under the law.

## Section 2: How Federal Courts Are Organized

**Under our federal system, the executive, legislative, and judicial branches share the responsibility of governing the nation.** The different levels of federal courts each deal with a different caseload, ensuring all citizens receive a speedy trial or day in court.

## Section 3: The Supreme Court

**The judicial branch is charged with interpreting the law.** The Supreme Court's decisions have wide-ranging effects because court justices interpret the meaning of the U.S. Constitution.

## Section 4: The Supreme Court at Work

**The judicial branch is charged with interpreting the law.** Supreme Court justices weigh many factors and go through several complex steps before making a decision.

◀ Chief Justice John Roberts, Jr., and his son on the steps of the U.S. Supreme Court

### FOLDABLES™ Study Organizer

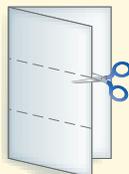
**Sequencing Information Study Foldable** Make the following Foldable to help you analyze and sequence key influences and responsibilities of the judicial branch of government.

**Step 1** Fold a sheet of paper in half from the long way with edges evenly together.



**Step 2** Turn the paper and fold it into thirds.

**Step 3** Unfold and cut along the two folds on the front flap to make three tabs.



**Step 4** Label as shown, including arrows.



### Reading and Writing

As you read the chapter, compare and note the details of the responsibilities of each level of the court system from least influence to greatest influence.

# Section 1



Section Audio



Spotlight Video

## Guide to Reading

### Big Idea

Under our federal system, the executive, legislative, and judicial branches share the responsibility of governing the nation.

### Content Vocabulary

- circuit (p. 240)
- jurisdiction (p. 240)
- exclusive jurisdiction (p. 242)
- concurrent jurisdiction (p. 242)

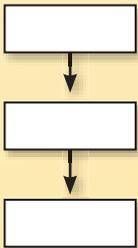
### Academic Vocabulary

- acknowledge (p. 239)
- circumstance (p. 242)

### Reading Strategy

**Organizing** As you read, complete a graphic organizer like the one below to identify the three levels of courts in the U.S. justice system.

U.S. Courts



# The Federal Courts

***Real World Civics*** Can you imagine being forced to live in a strange place simply because of your nationality? That is exactly what happened to these young boys during World War II. During the United States war with Japan, President Roosevelt ordered Japanese Americans to be sent to internment camps so that they could not spy on America. More than half of those interned in the “camps” were naturalized American citizens. By the 1980s the U.S. admitted it had acted too harshly, apologized to those who had been wrongly interned, and paid them damages.

▼ **Young Japanese children interned at Manzanar War Relocation Center in California during World War II**





**Right to Trial** The judicial system provides fair trials to all accused, even if the crimes involve attacks against the United States, as in the case of accused al-Qaeda conspirator Zacarias Moussaoui. **Predicting** What difficulties might arise in finding a fair jury to judge a crime such as terrorism?

## Equal Justice for All

**Main Idea** The courts that make up the judicial branch try to ensure that our nation's laws are justly enforced.

**Civics & You** Do you think a society could exist without a court system that determines in a fair manner if laws have been broken? Read about the powers of the courts as established in the Constitution.

**A** native-born citizen, Mitsuye Endo was fired from a California state job in 1942 and sent to a relocation center like the boys discussed on the previous page. Her lawyer challenged the War Relocation Board's right to intern a loyal American citizen.

Endo took the matter to the Supreme Court and won her case. In 1944, the Court ruled that Endo "should be given her liberty." Justice William O. Douglas proclaimed that

*"A citizen who is concededly loyal presents no problem of espionage or sabotage. Loyalty is a matter of the heart and mind not of race, creed, or color."*

—*Ex parte Endo*, 1944

Later the United States government would **acknowledge**, or admit to, the injustice of the internment camps and apologize. Shortly after the Court made its decision in the *Ex parte Endo* case, many detained Japanese Americans were released and returned home.

## Role of the Courts

Federal courts, such as the Supreme Court, make up the third branch of the U.S. government. Courts use the law to settle civil disputes and to decide the guilt or innocence of people accused of crimes.

**D** Whether a civil dispute is between two private parties (people, companies, or organizations), between a private party and the government, or between the United States and a state or local government, both sides come before a court. Each side presents its position. The court then applies the law to the facts that have been presented and makes a decision in favor of one or the other. The courts also hold criminal trials in which witnesses present evidence and a jury or a judge delivers a verdict.

## Equal Treatment

The United States Supreme Court is at the top of the federal court system. If you visit the Court, you will see the words “Equal Justice Under Law” on the face of its marble building. Our legal system is based on this important ideal. The goal of the legal system is to treat every person the same. Under the Constitution, every person accused of breaking the law has the right to have a public trial and a lawyer. If an accused person cannot afford a lawyer, the court will appoint and pay for one. Each person is presumed innocent until proven guilty and has the right to ask for a review of his or her case if, in that person’s view, the courts have made a mistake.

**C** The ideal of equal justice is difficult to achieve. Judges and juries are not free from personal prejudices or the prejudices of their communities. Poor people do not have the money to spend on the best available legal help, unlike wealthy citizens and large companies. Nonetheless, American courts try to uphold the ideal of equal justice.

**Essential Question** **Describing** Under the Constitution, what rights does every accused person have?

## Federal Courts

**Main Idea** The Constitution gives the federal courts the authority to hear and decide certain types of cases.

**Civics & You** Do you know anyone who has had to go to court or has served on a jury? Read to learn about what kinds of cases are heard in federal courts.

**F**rom 1781 to 1789, when the United States was governed by the Articles of Confederation, there was no national court system. Each state had its own laws and its own courts. There was no way to guarantee that people would receive equal justice in all the states.

To deal with this problem, the writers of the Constitution provided for a federal judiciary. Article III of the Constitution established a national Supreme Court. It also gave Congress the power to establish lower federal courts.

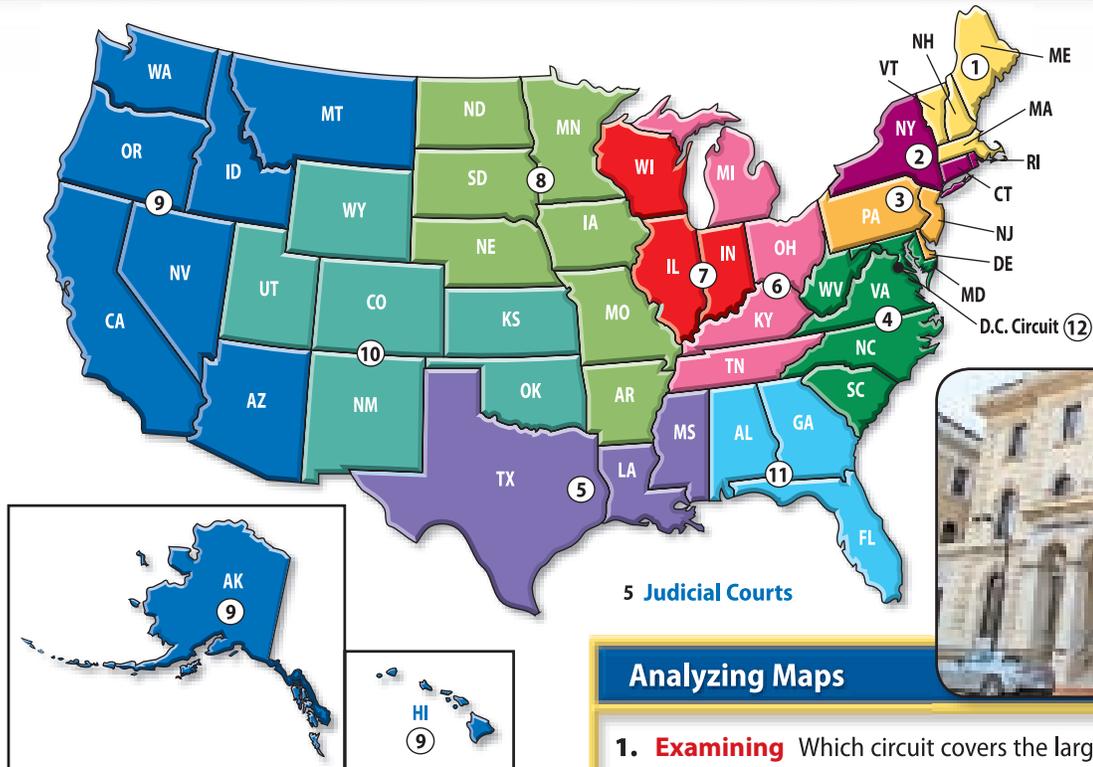
Over the years, Congress has created two kinds of lower courts. In 1789 it passed the Judiciary Act, which established federal district courts and circuit courts of appeals. Much later, in 1891, Congress created a system of federal appeals courts and the **circuits** or districts they serve. Thus, the federal court system has three levels—the district courts at the lower level, the appeals courts in the middle, and the Supreme Court at the top.

**R** Our federal court system exists alongside 50 separate state court systems. Each state has its own laws and courts. The state courts get their powers from state constitutions and laws. You will read more about state courts in Chapter 12.

## Federal Court Jurisdiction

Article III of the Constitution gives federal courts **jurisdiction**—the authority to hear and decide a case—only in cases that involve one of the following:

## Federal Judicial Circuits



5 Judicial Courts

### Analyzing Maps

- Examining** Which circuit covers the largest geographic area?
- Analyzing** District 3 is smaller than District 10. Why do you think this is so?

Source: [www.uscourts.gov](http://www.uscourts.gov)

**The Constitution** For example, if a person believes a constitutional right, such as freedom of speech, has been violated, that person has a right to be heard in a federal court.

**Federal Laws** Federal courts try people accused of federal crimes such as kidnapping, tax evasion, and counterfeiting. Federal courts also hear civil cases that involve federal laws.

**Disputes Between States** Disagreements between state governments are resolved in federal courts. If Colorado and California, for example, disagree over rights to water in the Colorado River, it is a federal case.

**Citizens from Different States** Lawsuits between citizens of different states also come under the federal courts. For example, Ms.

Jones of Maine may bring suit in a federal court against Mr. Smith of Iowa for not fulfilling his part of a business agreement.

**The Federal Government** The U.S. government, for example, could take a company to court for failing to live up to a contract to deliver supplies to a government department. Individuals or companies can also take the government to court. For instance, if a United States Army van struck your car or the Department of the Interior failed to pay your company for equipment, you could sue the government.

**Foreign Governments and Treaties** In any dispute between a foreign government and the United States government, an American company, or an American citizen, the case will be heard in a federal court.

**Admiralty and Maritime Laws** These laws concern crimes and accidents outside territorial waters. For example, a case involving disagreement over the rights of property recovered from a shipwreck would be tried in federal court.

**U.S. Diplomats** If, for example, an American diplomat working in the U.S. embassy in France is accused of breaking an American law, the case would go to a federal court.

## Types of Jurisdiction

**D** For most of the areas just described, federal courts have **exclusive jurisdiction**, which means that only the federal courts may hear and decide cases. In the dual court system, federal courts have jurisdiction over cases involving federal laws, while state courts

have jurisdiction over cases involving state laws. Most U.S. court cases involve state law and are tried in state courts.

Under some **circumstances**, or instances, however, both federal and state courts have jurisdiction, a situation known as **concurrent jurisdiction**. Either court may try crimes that violate both state and federal law. Concurrent jurisdiction also applies when citizens of different states are involved in a dispute concerning at least \$50,000. In such a case, a person may sue in either a federal court or a state court. If the person being sued insists, however, the case must be tried in a federal court. Such appeals might eventually reach the United States Supreme Court.

 **Identifying** Which article of the Constitution lists the jurisdiction of federal courts?

# Section Review

## Vocabulary

1. **Define** *jurisdiction*. Then explain the difference between *exclusive* and *concurrent jurisdiction*.

## Main Ideas

- Explaining** What is meant by the words that are inscribed on the United States Supreme Court building: "Equal Justice Under Law."
- Describing** Why do you think federal courts rule on disputes between states? What would be an example of such a case?

## Critical Thinking

- Describing** How did the federal court system develop?
- BIG Idea** On a chart like the one below, write four kinds of cases for which federal courts have jurisdiction and give an example of each kind of case.

Kinds of Cases	Examples
Cases involving the Constitution	Person believes First Amendment right is violated

- Analyzing Visuals** Study the map of federal judicial circuits and districts on page 241. In which judicial circuit is your state?

## CITIZENSHIP Activity

- Expository Writing** Do research on the United States Supreme Court in the library or online. Select a famous case decided by the Supreme Court. Of the eight kinds of cases for which federal courts have jurisdiction, under which kind does your case fall? Write a paragraph explaining your choice.



**Study Central™** To review this section, go to [glencoe.com](http://glencoe.com).



## Section

## 2

## Guide to Reading

**Big Idea**

Under our federal system, the executive, legislative, and judicial branches share the responsibility of governing the nation.

**Content Vocabulary**

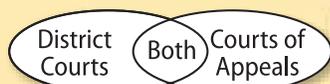
- district court (p. 244)
- original jurisdiction (p. 244)
- appeals court (p. 244)
- appellate jurisdiction (p. 244)
- remand (p. 245)
- opinion (p. 245)
- precedent (p. 245)

**Academic Vocabulary**

- affect (p. 244)
- submit (p. 246)

**Reading Strategy**

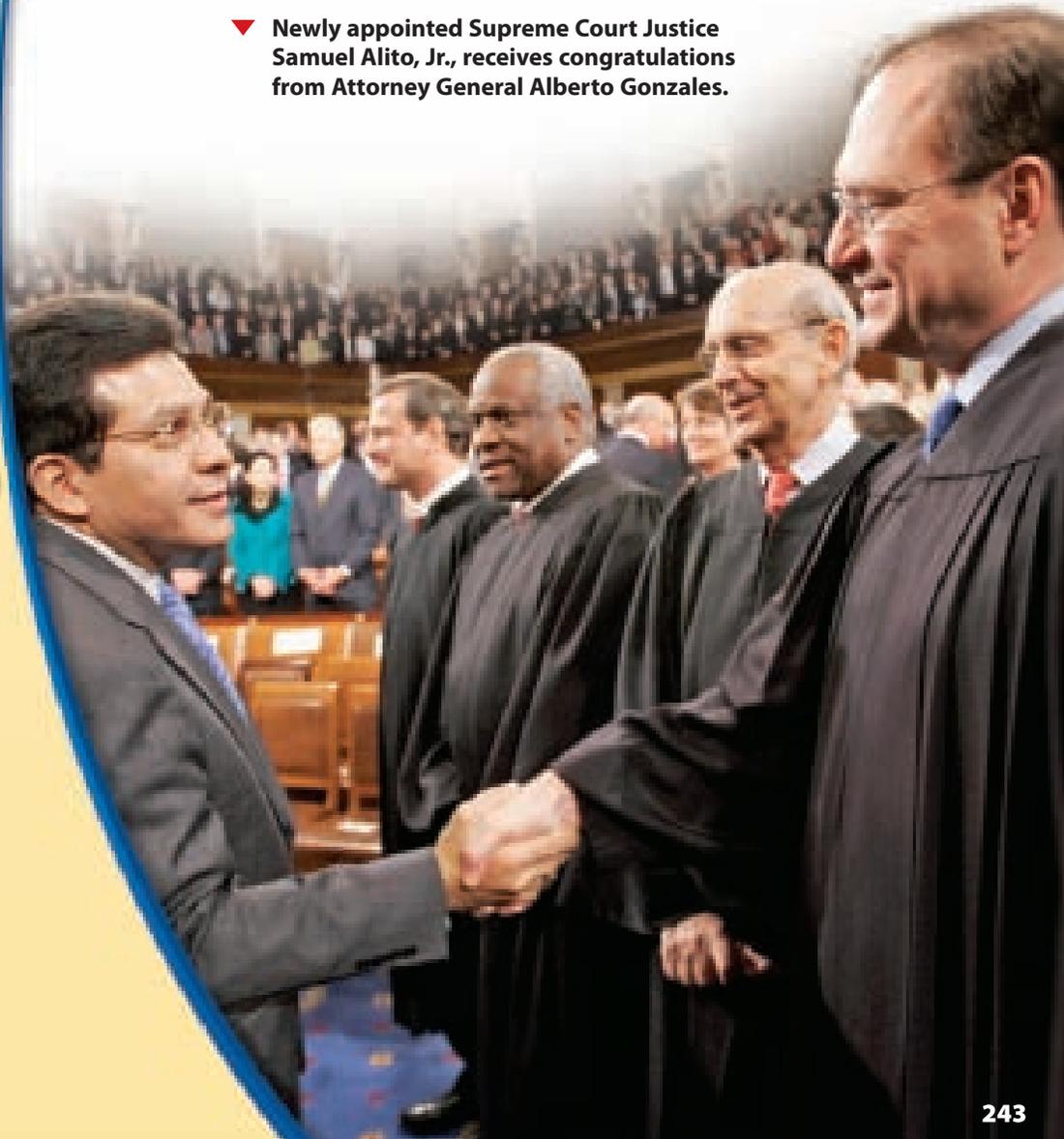
**Analyzing** As you read, take notes on a Venn diagram like the one below to compare the similarities and differences between two branches of the courts.



# How Federal Courts Are Organized

***Real World Civics*** For more than one hundred years, the Supreme Court justices have carried on the tradition of the “conference handshake.” When they gather before taking the bench, each justice shakes hands with each of the other eight. Chief Justice Melvin Fuller instituted this practice in the late 1800s. It serves as a reminder that their differences of opinion do not prevent the justices from working harmoniously toward a common purpose.

- ▼ **Newly appointed Supreme Court Justice Samuel Alito, Jr., receives congratulations from Attorney General Alberto Gonzales.**



# The Lower Federal Courts

**Main Idea** There are three types of federal courts: district courts, courts of appeals, and the Supreme Court.

**Civics & You** What makes the U.S. court system effective? Read to learn how the federal court system is organized.

**A**t the top of the federal court system is the Supreme Court. Below the Supreme Court are two lower courts—the district courts and the appeals courts.

**Media Coverage** The media often film trials as they happen. Federal court buildings are located in each state and trials must be held in the state where the crime was committed. **Analyzing In what way can extensive media coverage help ensure a fair trial?**



## U.S. District Courts

**District courts** are the federal courts in which trials are held and lawsuits are begun. There are 94 district courts in all. Every state has at least one district court, and some states have more. All federal cases must begin in a district court, because district courts have **original jurisdiction**, the authority to hear cases for the first time. District courts are responsible for determining the facts of a case; they are the trial courts for both criminal and civil federal cases. Thus, in a criminal case, a district court will decide if a person is guilty or innocent based on the evidence presented. District courts are the only federal courts in which witnesses testify and juries hear cases and reach verdicts.

## R U.S. Courts of Appeals

Above the district courts in the federal court system are the United States courts of appeals. These courts are also referred to as federal appeals courts, circuit courts of appeals, or appellate courts. The job of the **appeals courts** is to review decisions made in lower district courts. This is referred to as **appellate jurisdiction**, or the authority of a court to hear a case appealed from a lower court.

Lawyers usually appeal when they feel that the district court judge in their case followed the wrong procedure or did not apply the law. Some appeals may be based on new evidence that could **affect**, or impact, the verdict. Appeals courts may also review federal regulatory agency rulings if those involved believe the agency acted unfairly.

**Organization** Today, each of the 12 United States courts of appeals has jurisdiction over a circuit, or particular geographic area. In addition, a thirteenth appeals court, the Court of Appeals for the Federal Circuit, has nationwide jurisdiction to hear special cases, such as those involving patent law or international trade. This court's headquarters is in Washington, D.C., but it can hear cases in other parts of the country.

## United States Court System

### U.S. SUPREME COURT

(Judges/No Jury)

- ★ Jurisdiction: Limited original jurisdiction and appellate jurisdiction

### U.S. COURTS OF APPEALS

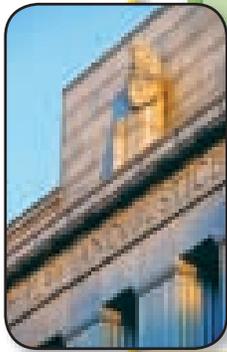
(Judges/No Jury)

- ★ Jurisdiction: Appellate

### U.S. DISTRICT COURTS

(Judges and Juries)

- ★ Jurisdiction: Original



### Analyzing Charts

1. **Explaining** Who provides the decision in the courts of appeals?
2. **Analyzing** What is the difference between appellate and original jurisdiction?

## Making a Decision

Appeals courts do not hold trials. Instead, these courts may decide an appeal in one of three ways: by upholding the original decision, by reversing that decision, or by **remanding** the case, that is, by sending the case back to the lower court to be tried again. A panel of three or more judges reviews the record of the case being appealed and listens to arguments. The judges then meet and make a decision by majority vote.

The judges do not decide the guilt or innocence of a defendant in a criminal case or which side should win in a civil lawsuit. They rule on only whether the defendant's rights have been protected and on whether he or

she received a fair trial. Unless appealed to the Supreme Court, decisions of the courts of appeals are final.

## Announcing the Decision

When an appeals court makes a decision, one judge writes an opinion for the court. The **opinion** offers a detailed explanation of the legal thinking behind the court's decision. The opinion sets a precedent for all courts and agencies within the district.

A **precedent** gives guidance to other judges by offering a model upon which to base their own decisions on similar cases. A precedent does not have the force of law, but it is a very powerful argument to use in court. Judges and courts follow precedents in nearly all cases.

## Early Precedents

Certain judicial principles were established early in the nation's history. Neither any federal court nor the Supreme Court may initiate action. A judge or justice may not seek out an issue and ask both sides to bring it to court. The courts must wait for litigants, or people engaged in a lawsuit, to come before them.

Judicial precedents derive their force from a common law principle. This principle states that the decisions of the highest court in the jurisdiction are binding on all lower courts in the jurisdiction. Thus, all courts in the United States are bound by precedent to follow the decisions of the United States Supreme Court. Furthermore, each panel of judges on the courts of appeals for a circuit is bound to follow the prior appellate decisions of the same circuit. You will read more about this precedent in Section 4.

C

**Reading Check** **Explaining** Why are precedents important to the enforcement of laws?



**Student Web Activity** Visit [glencoe.com](http://glencoe.com) and complete the Chapter 8 Web Activity.

## Clayton G. Lillard

Clayton G. Lillard, 17, from San Antonio, Texas, decided to do something good for kids who had a parent in prison. So he started Clayton's Backyard Crew.



**QUESTION:** What does your group do?

**ANSWER:** Clayton's Backyard Crew is made up of volunteers, usually teenagers. Each year we solicit donations for gently used bicycles and cash donations for new bikes and parts. We refurbish the used bikes and distribute them to children whose parents are in prison.

**Q:** When do you hand out the bikes?

**A:** Each year I deliver the bikes on my birthday, December 23. I get to play Santa—it's amazing!

**Q:** How did the group start?

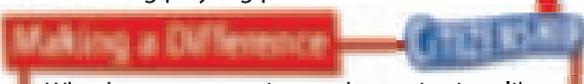
**A:** In 1999, my mom and I saw two bikes in the trash. I thought I'd fix them up and give them to needy children. Then we set a goal of giving out 25 bikes. I contacted the radio stations and they put out the word. The response from the community was overwhelming. We ended up getting 100 bikes the first year.

**Q:** How many bikes have you given away?

**A:** About 800 bikes. Parents in prison really miss their children at Christmas, and the children are really sad with their parents gone during the holidays. On one occasion, we delivered bikes to two brothers. We told them the bikes were from their father in prison. One boy jumped up and down with joy. He kept shouting, "I knew he wouldn't forget me, I just knew he wouldn't forget me!" It brought tears to everyone's eyes.

For more info, check out [www.claytonsbayardcrew.com](http://www.claytonsbayardcrew.com).

**ACTION FACT:** Music is Lillard's passion—water polo and swimming play big parts in his life as well.



Why does a community need organizations like Clayton's Backyard Crew?

## Federal Judges

**Main Idea** Federal judges interpret the laws and protect the rights the Constitution guarantees.

**Civics & You** What qualifications do you think are important in selecting a person for a position of responsibility? Read on to find out about how federal judges are selected.

The chief decision makers in the judicial branch are the federal judges. There are more than 650 judges who preside over the district courts. Each district court has at least two judges. Some district courts in high-population areas have more judges because there are more cases to hear. Each appeals court has from 6 to 28 judges. The Supreme Court has nine justices.

### Selection of Federal Judges

Article II, Section 2, of the Constitution provides that the president, with the advice and consent of the Senate, will appoint all federal judges. The Constitution, however, sets no particular qualifications for federal judges. In general, presidents want to appoint judges who share their ideas about politics and justice. Thus, presidents usually choose people who belong to their political parties.

When naming judges, presidents usually follow a practice called senatorial courtesy. Under this system, a president **submits**, or presents, the name of a candidate to the senators from the candidate's state before submitting it to the entire Senate for approval. If either or both senators object to the candidate, the president usually withdraws the name and nominates another candidate. The practice of senatorial courtesy usually applies only to the selection of judges to the district courts and other trial courts, not to the selection of judges to courts of appeals or the Supreme Court.

**Tenure** Once appointed, federal judges may have their jobs for life. A judge can be removed from office only through the process of impeachment. The writers of the Constitution gave federal judges this sort of job security because they wanted judges to be able to decide cases free from public or political pressures.

## Other Court Officials

Judges do not work alone. They have help from clerks, secretaries, court reporters, probation officers, and other workers.

**Magistrates** Each district court has magistrate judges. These officials take care of much of a judge's routine work. They issue court orders, such as search and arrest warrants, in federal cases. They hear preliminary evidence in a case to determine whether the case should be brought to trial. They also decide whether people under arrest should be held in jail or released on bail. Magistrates may also hear minor cases.

**U.S. Attorneys** Each judicial district has a United States attorney and one or more deputies. U.S. attorneys are government lawyers who prosecute people accused of breaking federal laws. They look into complaints of crime, prepare formal charges, and then present evidence in court. It is the U.S. attorney's job to represent the nation in civil cases in which the government is involved. U.S. attorneys are appointed to four-year terms by the president, with consent of the Senate.

**U.S. Marshals** Each federal judicial district also has a United States marshal. Marshals and their staffs make arrests, collect fines, and take convicted persons to prison. They protect jurors, keep order in federal courts, and serve legal papers, including subpoenas. A subpoena is a court order requiring someone to appear in court.

**Reading Check** **Defining** What is senatorial courtesy?

## Section Review

### Vocabulary

- Write** sentences using each of the following key terms: *district court, original jurisdiction, appeals court, appellate jurisdiction, remand, opinion, precedent.*

### Main Ideas

- Describing** What are the responsibilities of judges in district courts?
- Explaining** Why do federal judges serve for life? Who appoints them to these terms?

### Critical Thinking

- Analyzing** A judge who shares a president's views when first appointed may rule differently on cases later. Why?
- BIG Idea** On a graphic organizer like the one below, identify the people who help federal court judges with their duties.



- Analyzing Visuals** Review the organization of the U.S. courts system on page 245. What type of jurisdiction do U.S. Courts of Appeals have? Explain what this means.

### CITIZENSHIP Activity

- Creative Writing** Write a job description for a federal district judge. Include the qualifications you believe federal judges should have.



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# Section 3



Section Audio



Spotlight Video

## Guide to Reading

### Big Idea

The judicial branch is charged with interpreting the law.

### Content Vocabulary

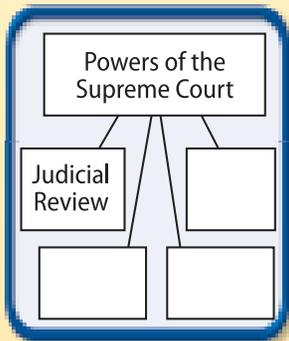
- judicial review (p. 252)
- constitutional (p. 252)

### Academic Vocabulary

- philosophy (p. 250)
- conflict (p. 252)

### Reading Strategy

**Summarizing** On a graphic organizer similar to the one below, describe the powers of the Supreme Court and give an example of each.



# The Supreme Court

## *Real World Civics*

How many people are appointed to a job for life? U.S. Supreme Court justices are. William O. Douglas served on the Court for 36 years, longer than any other justice. John Marshall served longest as chief justice, 34 years. Since justices can serve a lifetime, many different groups want a say in their confirmation. When Justice Sandra Day O'Connor announced she was stepping down in 2005, the White House saw its chance to select a judge who supports President Bush's views. Samuel Alito, Jr., was confirmed and sworn in following a tough confirmation battle in the Senate.

▼ Justices Souter, Thomas, and Ginsburg attending the swearing in of Justice Alito



# Jurisdiction and Powers

**Main Idea** The Supreme Court is composed of nine justices: the chief justice of the United States and eight associate justices.

**Civics & You** What qualities do you think a judge should have? Read on to find out how the justices of the Supreme Court are selected.

**C**hief Justice of the Supreme Court John G. Roberts, Jr., summarized his view of the Court's role in the following way:

*“What Daniel Webster termed, ‘the miracle of our Constitution’ is not something that happens in every generation. But every generation in its turn must accept the responsibility of supporting and defending the Constitution, and bearing true faith and allegiance to it.”*

—Chief Justice John G. Roberts, Jr.

As Justice Roberts noted, all Americans are called upon to support the Constitution. It stands above all other courts. The Supreme Court's main job is to decide whether laws are allowable under the U.S. Constitution.

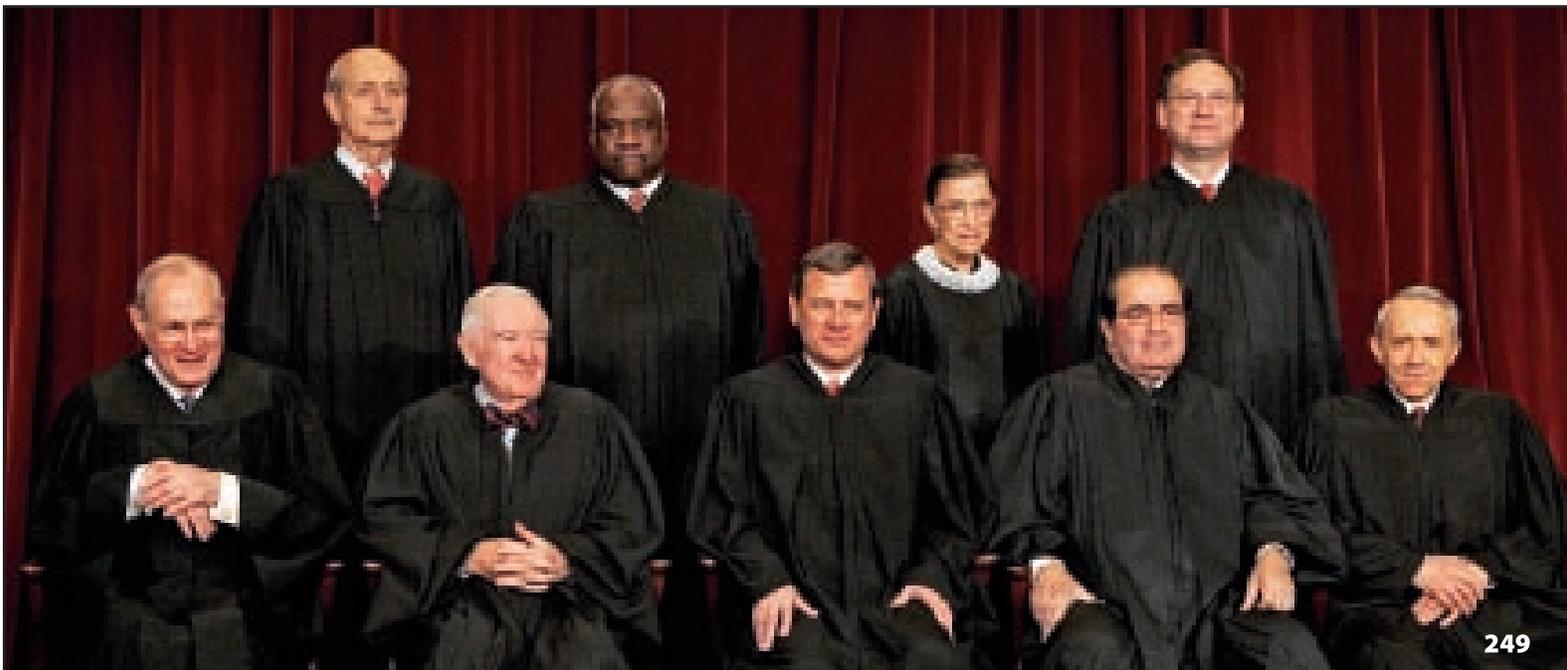
## Jurisdiction

Like the federal government, the power of the Supreme Court is limited. Article III of the U.S. Constitution established the boundaries of federal judicial power.

The Supreme Court has original jurisdiction in only two instances. It can preside over cases that involve diplomats from foreign countries and in disputes between states. In all other instances, the Supreme Court hears cases that have been appealed from lower district courts or federal regulatory agencies.

The Supreme Court does not hear all the cases it receives. It chooses the cases it hears. It has final authority in any case involving the Constitution, acts of Congress, and treaties with other nations. The decisions of the Court are binding on all lower courts. When the Court refuses to hear a case, the decision of the lower court stands.

**The Supreme Court** Seated left to right: Anthony Kennedy, John Paul Stevens, Chief Justice John G. Roberts, Jr., Antonin Scalia, David Souter. Standing left to right: Stephen Breyer, Clarence Thomas, Ruth Bader Ginsburg, Samuel Alito, Jr. **Describing** Why do you think Congress keeps the number of justices an uneven number?



# American Biography

## Sandra Day O'Connor (1930– )

When a Supreme Court vacancy opened up in 1981, President Ronald Reagan decided to fulfill his campaign promise to name the first woman justice. He chose **Sandra Day O'Connor**, an Arizona appeals court judge.



Unlike most Supreme Court justices, O'Connor also had broad political experience. After earning a law degree in 1952, she found that most law firms would not hire a woman—except as a legal secretary. She went into public service, had three sons, and practiced law privately. Appointed to a state senatorial vacancy in 1969, she successfully ran for the position and

became its first woman majority leader in 1972. O'Connor won the election for superior court judge in 1974 and was later appointed to the appeals court.

Her nomination to the Supreme Court had strong support, but was opposed by some because she had supported the Equal Rights Amendment (ERA) and refused to back an antiabortion amendment. Others, however, praised her legal judgment.

O'Connor's years on the Court marked her as a conservative jurist; however, she often occupied the Court's "middle ground," by casting the deciding vote on many controversial issues.

### Making a Difference



Justice O'Connor once said, "The power I exert on the Court depends on the power of my arguments, not on my gender." **Explain What is the meaning of this statement?**

## Organization and Duties

The Supreme Court is made of eight associate justices led by a chief justice. Congress sets this number and has the power to change it. The justices are important political decision makers. Their rulings often affect citizens as much as do presidential or congressional decisions.

The main duty of justices is to hear and rule on cases. They choose which cases to hear from among the thousands appealed to the Court each year, then decide the case itself and issue a written explanation for the decision, called the Court's opinion.

## Selecting the Justices

The president appoints Supreme Court justices, with the approval of the Senate. Vacancies in the Court open up due to the

resignation or death of a justice. In 2005, for example, President Bush appointed John G. Roberts, Jr., as chief justice, following the death of Chief Justice William Rehnquist. He also selected Samuel Alito, Jr., to replace Sandra Day O'Connor, who resigned.

Presidents are careful to choose nominees who are likely to be approved by the Senate. The president's decision is often influenced by the attorney general and other Justice Department officials, other Supreme Court justices, the American Bar Association, and interest groups, such as labor and civil rights groups.

Senators typically give the president advice in appointing new justices, which he is free to accept or ignore. The Senate also has rejected nominees based on doubts about the qualifications or the legal **philosophy** (system of beliefs) of the persons nominated.

## Background of the Justices

Supreme Court justices are always lawyers, although there is no legal requirement that they must be lawyers. They have had careers practicing or teaching law, serving as judges in lower courts, or holding other public positions prior to appointment.

Political support and agreement with the president's ideas are important factors in who gets appointed. Of course, once appointed, a justice may make rulings with which the president does not agree.

The first African American justice, Thurgood Marshall, joined the Court in 1967. The first female justice, Sandra Day O'Connor, was appointed in 1981.

**Identifying** Who makes up the Supreme Court?

## Powers of the Court

**Main Idea** The Supreme Court is the final court to which anyone can appeal a legal decision.

**Civics & You** How do you feel when someone makes a decision that you feel is against the law? Read to find out about the Supreme Court and the constitutionality of the law.

The Supreme Court enjoys a great deal of power and prestige. The legislative and executive branches of government must follow the Supreme Court's rulings. The fact that the Supreme Court is removed from politics and from the influences of special-interest groups makes it more likely that the parties involved in a case will get a fair hearing.

**Special Rulings** The Supreme Court ruled on whether these residents of Washington, D.C., burning their federal tax statements could vote in federal elections. **Identifying Which branches of the federal government must follow Supreme Court rulings?**



## Judicial Review

One of the most important powers of the Supreme Court is the power of judicial review. **Judicial review** means that the Court can review any federal, state, or local law or action to see if it is **constitutional**, or allowed by the Constitution. If the Court decides a law is unconstitutional, it has the power to nullify, or cancel, that law or action. Chief Justice John Marshall described the great power of judicial review when he said,

**R** “It is emphatically the province and duty of the judicial department to say what the law is. Those who apply the rule to particular cases, must of necessity expound and interpret that rule. If two laws conflict with each other, the courts must decide on the operation of each.”

—Chief Justice John Marshall

**C** **Marbury v. Madison** The Constitution does not give the Supreme Court the power of judicial review. A provision of the Judiciary Act of 1789 gave the Court the power of judicial review for acts of state governments. In 1803 the case of *Marbury v. Madison* established that the Supreme Court had the power to decide whether laws passed by Congress were constitutional.

( See Landmark Supreme Court Case Studies on page 260 for information about this case.)

John Marshall’s opinion set forth three principles of judicial review:

- The Constitution is the supreme law of the land.
- If there is a **conflict**, or a disagreement, between the Constitution and any other law, the Constitution rules.
- The judicial branch has a duty to uphold the Constitution. Thus, it must be able to determine when a law conflicts with the Constitution and to nullify unconstitutional laws.

TIME

### Political Cartoons



“Do you ever have one of those days when everything seems un-Constitutional?”

Joseph Mirachi/The Cartoon Bank

In this drawing, cartoonist Joseph Mirachi is making a statement about the U.S. Supreme Court.

1. What is the setting for this cartoon, and what figures are depicted?
2. What is the Supreme Court’s role in determining the constitutionality of a law?
3. What happens if the Supreme Court rules that a law is unconstitutional?

The power of judicial review is an important check on the legislative and executive branches of government. It prevents them from straying too far from the Constitution when they make and carry out laws.

**W**

Congress can get around a Court ruling by passing a new law or changing a law ruled unconstitutional by the Court. Congress and state legislatures can also try to undo Court rulings by adopting a new amendment to the Constitution.

## Limits on the Supreme Court

Under the system of checks and balances, there are limits on the power of the federal courts, including the Supreme Court. The Court depends on the executive branch as well as state and local officials, such as governors or police officers, to enforce its decisions.

The executive branch usually follows Court rulings, but there have been exceptions. President Andrew Jackson refused to obey a Court ruling in the case of *Worcester v. Georgia*, in which Chief Justice John Marshall ordered the state of Georgia to stop violating federal land treaties with the Cherokee Nation in 1832. Because most citizens agreed with President Jackson, there was no public pressure to force him to uphold the Court's decision.

Another limit is the fact that the Court can only hear and make rulings on the cases that come to it. All cases submitted to the Court must be actual legal disputes. A person cannot simply ask the Court to decide whether a law is constitutional. The Court will not rule on a law or action that has not been challenged on appeal. The Court also accepts only cases that involve a federal question.

Traditionally, the Court has refused to deal with political questions because it believes that these are issues the executive or legislative branch of the government should resolve. However, in the 2000 presidential election, the Supreme Court for the first time heard two cases involving the recounting of votes in the state of Florida.

**Reading Check** **Explaining** How does the Supreme Court receive the cases it considers?

## Section Review 3

### Vocabulary

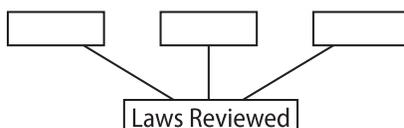
- Write** a true statement *and* a false statement for the terms: *judicial review*, *constitutional*. Beside each false statement explain why it is false.

### Main Ideas

- Describe** the selection process for Supreme Court justices.
- Analyzing** What is the significance of the case of *Marbury v. Madison* and how it relates to Congress?

### Critical Thinking

- Interpreting** Former Chief Justice Charles Evans Hughes once said, "The Constitution is what the judges say it is." Explain the meaning of this statement.
- BIG Idea** On a graphic organizer like the one below, list the kinds of laws that can be reviewed in judicial review and what they are reviewed for.



### CITIZENSHIP Activity

- Expository Writing** Select one Supreme Court Justice, either past or current. Research more about and write a report on the justice.



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## Guide to Reading

### Big Idea

The judicial branch is charged with interpreting the law.

### Content Vocabulary

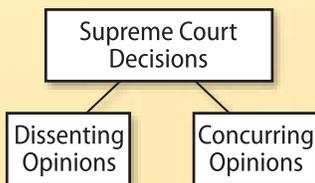
- docket (p. 255)
- brief (p. 256)
- majority opinion (p. 256)
- unanimous opinion (p. 256)
- concurring opinion (p. 256)
- dissenting opinion (p. 256)
- stare decisis (p. 257)

### Academic Vocabulary

- communicate (p. 256)
- attitude (p. 257)

### Reading Strategy

**Contrasting** As you read, use a graphic organizer similar to the one below to take notes on the differences between dissenting opinions and concurring opinions.



# The Supreme Court at Work

***Real World Civics*** At times, the Supreme Court has changed its mind due to changing social conditions. In the 1890s, the Supreme Court ruled that segregation in America was legal. But in the 1950s, nine African American students won a lower court case to desegregate Central High School in Little Rock, Arkansas. In 1958, Thurgood Marshall, a lawyer for the National Association for the Advancement of Colored People (NAACP), helped convince the Supreme Court that Little Rock had to proceed with integration.

▼ **Thurgood Marshall with Little Rock students on the steps of the Supreme Court building in Washington, D.C., in 1958**



# Court Procedures

**Main Idea** The Supreme Court is not required to hear all cases presented before it and carefully chooses the cases it will consider.

**Civics & You** In a dispute, why might it be helpful to have an impartial third party decide who is right and who is wrong? Read to find out the process the Supreme Court uses to make an unbiased decision.

The Supreme Court meets for about nine months each year. Each term begins the first Monday in October and runs as long as the business before the Court requires. A term is named after the year in which it begins. The 2009 term, for example, began in October 2009 and ended in July 2010. Special sessions may be called to deal with urgent matters that cannot wait until the next term. Between terms the justices study new cases and catch up on other Court work.

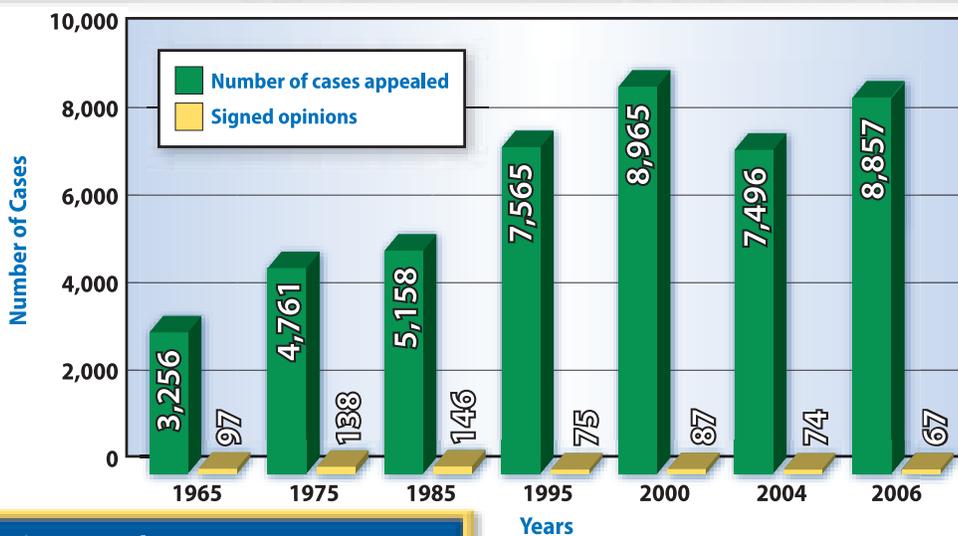
## How Cases Reach the Court

An important task of Supreme Court justices is to decide whether to hear a case. The justices review a list of possible cases and consider their merits. The Court will accept a case if four of the nine justices agree to do so. Accepted cases go on the Court **docket**, or calendar.

**Caseload** The number of cases handled in a given period is called the caseload. Thousands of cases are filed with the Supreme Court each year. Nearly 8,900 cases were appealed to the Supreme Court in 2006. The Court may decide several hundred cases, but, for example, it gave full hearings and written opinions in only 67 cases in 2006.

In the opinions that accompany this small number of cases, the Court sets out general principles that apply to the nation as well as to the specific parties in the case. It is mainly through these cases that the Court interprets the law and shapes public policy.

### Supreme Court Caseload



#### Analyzing Graphs

- Identifying** In which year were the most cases appealed?
- Computing** How many more cases were appealed in 2006 than in 1985?

Source: [www.supremecourtus.gov](http://www.supremecourtus.gov)

## Selecting Cases

Supreme Court justices decide to hear only certain kinds of cases. They usually decide to hear a case if it involves a significant constitutional question. In most instances, such questions center around the Bill of Rights and other amendments and deal with issues such as freedom of speech, equal protection of the laws, and fair trial.

**R** The justices always choose cases that involve a real dispute between two adversaries, or opposing sides. In other words, the cases must deal with real people and events.

Supreme Court justices also tend to select cases that involve legal, rather than political issues, as well as those that affect the entire country rather than isolated individuals or groups.

You have already learned that nearly all cases come to the Supreme Court on appeal from a lower court. Most of the appeals reach the Court by a request for a writ of certiorari (Latin for “to make more certain”).

**Writ of Certiorari** A writ of certiorari directs a lower court to send its records on a case to the Supreme Court for review. This happens if one of the parties involved in a case claims that the lower court made an error in the case. Sometimes a lower court will ask the Supreme Court to make a ruling in a case because it is not sure how to apply the law to the case.

## Steps in Decision Making

Every case the Supreme Court accepts goes through a series of steps: written arguments, oral arguments, conference, opinion writing, and announcement.

**Written Arguments** Once the Court takes a case, the lawyers for each side prepare a brief. A **brief** is a written document that explains one side’s position on the case. The justices then study the briefs.

**Oral Arguments** Next, lawyers for each side present oral arguments. Each side gets only 30 minutes to summarize its case. The justices often ask the lawyers very tough questions about the case.

**Conference** On Fridays the justices get together to make their first decisions about the cases they have been studying. These meetings take place in secret; no audience is present and no meeting minutes are kept. The chief justice presides over the discussion of the case. A majority—at least five votes when all nine justices are participating—decides a case. At least six justices must be present for a decision.

**Opinion Writing** Once the Court has reached a decision on a case, one justice gets the job of writing the majority opinion. A **majority opinion** presents the views of the majority of the justices on a case. The opinion states the facts of the case, announces the ruling, and explains the Court’s reasoning in reaching the decision. Written opinions are important. They set a precedent for lower courts to follow, and they also **communicate**, or announce, the Court’s view to Congress, to the president, to interest groups, and to the public. The justice who agrees with the majority decision but has different reasons writes a **concurring opinion**. Justices who oppose the majority decision issue a **dissenting opinion**. The Court may also issue a **unanimous opinion** in which all the justices vote the same way.

**C** **Announcement** When the opinion writing is completed, the Court announces its decision. The Supreme Court and other courts around the country use the written opinions to guide their decisions regarding new cases.

 **Explaining** Why are the Court’s written opinions important?

# Reasons for Decisions

**Main Idea** The law, social conditions, and legal and personal views are among the factors that influence the decisions of the Supreme Court.

**Civics & You** The Supreme Court hears cases appealed to it by everyone from prisoners in jail to presidents. What influences the justices' decisions?

**M**any factors, such as precedents, the social atmosphere in the country, and the justices' own legal and personal views, influence justices when they decide a case that comes before the Court.

**The Law** Law is the foundation for deciding cases that come before the Supreme Court. A guiding principle for all judges is called **stare decisis**, a Latin term that means "let the decision stand." By following precedent, courts make the law predictable.

At the same time, the law needs to be flexible to adapt to changing times. Social condi-

tions, public ideas and **attitudes**, or feelings, and technology change over the years. As the highest court in the land, the Supreme Court is in a position to overrule outdated precedents.

The Supreme Court sometimes reviews a case to clarify the meaning of the Constitution for an important issue. This happened with disputes over manually recounting the Florida ballots in the presidential election of 2000. The dispute led the Court to address a question involving the Fourteenth Amendment: did all recounted votes have to be treated equally? In *Bush v. Gore* (2000), the Court ordered the recount to stop. This decision ensured that George W. Bush would receive Florida's electoral votes and win the election.

**Changing Social Conditions** Although the Supreme Court is somewhat protected from public and political pressures, the social situation can also influence Court decisions. When social conditions change, the Court may make new interpretations of the law.

**Constitutional Question** Demonstrators gathered outside the Supreme Court building in Washington, D.C., while justices considered the recount question of the 2000 presidential election.  
**Analyzing** Why did the Supreme Court rule on the issue rather than a state court?



## Landmark Decisions of the Supreme Court

### FEDERAL POWER

- ★ **Marbury v. Madison (1803)** established the Supreme Court's power of judicial review
- ★ **McCulloch v. Maryland (1819)** ruled that in a conflict between national and state power, the national government is supreme
- ★ **Gibbons v. Ogden (1824)** established that Congress has sole authority to regulate interstate commerce

### CIVIL LIBERTIES

- ★ **Brown v. Board of Education (1954)** overturned **Plessy v. Ferguson (1896)**, which said African Americans could be provided with "separate but equal" public facilities; began school integration
- ★ **Reed v. Reed (1971)** held that a state law that discriminated against women was unconstitutional
- ★ **Roe v. Wade (1973)** legalized a woman's right to an abortion under certain circumstances
- ★ **Bush v. Gore (2000)** ruled that Florida recount of presidential votes violated Fourteenth Amendment; recount stopped and Bush became president

### FIRST AMENDMENT RIGHTS

- ★ **Brandenburg v. Ohio (1969)** expanded the protection of political speech unless it is linked to immediate lawless behavior
- ★ **Near v. Minnesota (1931)** ruled against censorship of information, defining "prior restraint" of written material as unconstitutional
- ★ **DeJonge v. Oregon (1937)** reinforced peaceable assembly and association protection of the First Amendment
- ★ **Engel v. Vitale (1962)** held that a public school district's practice of starting the day with prayer violates the establishment clause
- ★ **United States v. Eichman (1990)** struck down Federal Flag Protection Act; held that flag burning is expressive speech

### RIGHTS OF THE ACCUSED

- ★ **Gideon v. Wainwright (1963)** declared that a person accused of a major crime had the right to legal counsel during a trial
- ★ **Miranda v. Arizona (1966)** ruled that at the time of arrest suspects cannot be questioned until informed of their rights
- ★ **Hamdan v. Rumsfeld (2006)** ruled that special military courts for foreign prisoners violated U.S. military law and international laws

### Analyzing Charts

1. **Analyzing** What earlier decision did *Brown v. Board of Education* overturn?
2. **Concluding** Why do you think these decisions are called "landmark" decisions?

In the 1890s, many restaurants, schools, and trains were separate for whites or for African Americans. In Louisiana, Homer Plessy, an African American, decided to sit in a section of a train marked "For Whites Only." When he refused to move, Plessy was arrested.

Plessy was convicted of violating Louisiana's segregation law. The Supreme Court upheld the Louisiana law as constitutional in *Plessy v. Ferguson*. "Legislation is powerless to eradi-

cate racial instincts or to abolish distinctions," the Court concluded. The Court ruled that the equal protection clause of the Fourteenth Amendment permitted "separate but equal" facilities for whites and for African Americans. The "separate but equal" doctrine was used to justify segregation in many areas of American life for the next 50 years.

**Reversing Plessy** However, by the 1950s, society’s views on racial segregation were beginning to change. World War II made it harder to support segregation openly because many African Americans had fought and died for American ideals. In addition, civil rights groups were demanding an end to racial discrimination. In 1954, in the case of *Brown v. Board of Education of Topeka, Kansas*, the Court overturned the precedent of “separate but equal.”

On May 17, 1954, Chief Justice Earl Warren read the decision of the unanimous Court:

*“We conclude that in the field of public education the doctrine of ‘separate but equal’ has no place. Separate educational facilities are inherently unequal.”*

The justices ruled that racially separate schools are unequal simply because they are separate. The Court found that segregation was a violation of the equal protection clause of the Fourteenth Amendment.

**Differing Legal Views** Justices have varying views of the law and the proper role of the courts in our society. Some justices, for example, believe that the Court should be very active and hear many different kinds of cases. Others believe that the Court should hesitate to use the power of judicial review to promote new ideas or policies. Political checks limit the extent to which courts can exercise judicial review.

**Personal Beliefs** Finally, justices are human beings. Each sees the world based on his or her own life experiences. Justice Benjamin Cardozo once said,

*“We may try to see things as objectively as we please. Nonetheless, we can never see them with any eyes except our own.”*

—Benjamin Cardozo,  
*The Nature of the Judicial Process* (1921)

**Reading Check** **Summarizing** Why do you think the Court relies on the concept of stare decisis?

## Section Review

### 4

#### Vocabulary

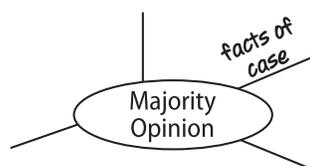
- Define** the following terms and use them in sentences that relate to the Supreme Court: *docket, brief, majority opinion, concurring opinion, dissenting opinion, unanimous opinion, stare decisis.*

#### Main Ideas

- Describing** What are the steps of a writ of certiorari?
- Explaining** Why does the Supreme Court sometimes reverse its earlier decisions?

#### Critical Thinking

- Concluding** Do you think it is a good idea that Supreme Court justices are appointed for life? Explain your answer.
- BIG Idea** On a web diagram like the one below, identify the factors that must be part of a majority decision made by the Supreme Court.



- Analyzing Visuals** Review the chart on page 258. Which ruling guarantees you the right to be informed of your rights if you are arrested?

#### CITIZENSHIP Activity

- Expository Writing** Read more about *Brown v. Board of Education of Topeka, Kansas*. Summarize the facts in the case.

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# LANDMARK SUPREME COURT CASE STUDIES

## Marbury v. Madison

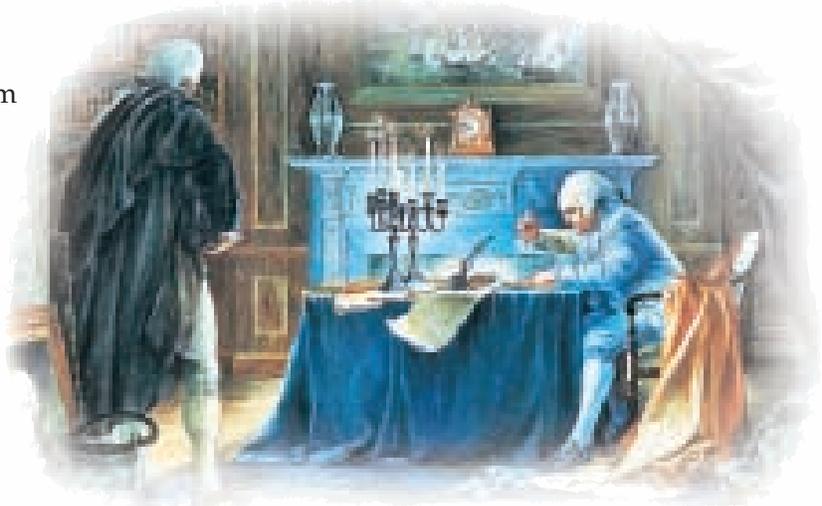
*By the early 1800s, the role of the judicial branch was unclear and its influence small. How did the Supreme Court establish its power of judicial review of Congress?*

### Background of the Case

As President John Adams' term expired in 1801, Congress passed a bill—the Judiciary Act of 1789—giving the president a chance to appoint 42 new justices of the peace in the District of Columbia. The Senate approved the new appointees, and the Secretary of State, James Madison, delivered the paperwork to all but four of the new judges before the next president—Thomas Jefferson—was sworn in. Because Jefferson wanted to stop any action by the previous officeholder, his first act as president was to stop delivery of those last four appointments. William Marbury was one of those who did not receive his appointment in time. He filed a suit in the Supreme Court under the Judiciary Act against the person who was to deliver the paperwork—James Madison. Marbury claimed he should have received his appointment as declared by Congress.

### The Decision

The Supreme Court heard the case in 1803. Chief Justice John Marshall announced the ruling. He stated that Marbury's rights had been violated under the Judiciary Act. The Court further ruled, however, that the act gave the Supreme Court rights it should not have, according to the Constitution. Thus, they ruled that the law itself—the one that gave Marbury his appointment—was unconstitutional. Even though Marbury was ruled the winner, the Court could not force the president to give him the appointment because the law allowing the whole appointment was constitutionally false.



President Adams spent his last night in office signing commissions.

Marshall wrote:

**“It is emphatically the province and duty of the judicial department to say what the law is. Those who apply the rule to particular cases, must of necessity expound and interpret the rule.”**

—Chief Justice John Marshall

### Why It Matters

The Supreme Court claimed its right to declare acts of the legislative and executive branches unconstitutional for the first time in *Marbury v. Madison*. It defined its role as the final authority on what the Constitution means. By doing so, it established a model of judicial independence.

### Analyzing the Court Decision

1. **Explaining** Why is *Marbury v. Madison* a landmark case?
2. **Describing** Why did the Supreme Court refuse to allow the appointment of the last judges?

## The Judicial Branch

- The Constitution provided for a Supreme Court of the United States as part of a court system that would balance the powers of the other two branches of government.
- The United States judiciary consists of parallel systems of federal and state courts.

## Federal Court System

- District Courts are the federal courts where trials are held and lawsuits are begun.
- Courts of Appeals review decisions made in lower district courts.
- Once appointed, federal judges may have their jobs for life.

Justice Samuel Alito, Jr., being sworn in



Chief Justice John Marshall

## The Supreme Court

- The Supreme Court is the final authority in the federal court system.
- Most of the Supreme Court cases come from appeals of lower court decisions.
- Judicial review gives the Supreme Court the authority to determine the constitutionality of government laws and actions.

- The Supreme Court is made up of eight associate justices and a chief justice.
- The Supreme Court does not have unlimited powers. The Constitution provides that the legislative and executive branches of the national government have several ways to check the Supreme Court's power.

## Decisions of the Court

- The Court's decisions are written in an opinion.
- When all justices unanimously agree on an opinion, it is written for the entire Court in a unanimous opinion.
- When there is not a unanimous opinion, a majority opinion is written.
- One or more dissenting opinions are usually written by those justices who do not agree with the majority.



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**TEST-TAKING TIP**

When answering multiple-choice questions, your first answer is usually correct. Do not change an answer unless you are absolutely certain your first answer is wrong.

**Reviewing Vocabulary**

Directions: Choose the word(s) that best completes the sentence.

- A situation in which both federal and state courts have authority to hear a case is known as \_\_\_\_\_.
  - appellate jurisdiction
  - concurrent jurisdiction
  - original jurisdiction
  - exclusive jurisdiction
- A past decision on which judges base their decisions in similar cases is a(n) \_\_\_\_\_.
  - circuit
  - opinion
  - docket
  - precedent
- Judicial review gives the Supreme Court the power to \_\_\_\_\_.
  - declare a law unconstitutional
  - remand a case to a lower court
  - reject a brief
  - hear an appeal
- When all the justices vote the same way, the Supreme Court issues a(n) \_\_\_\_\_.
  - majority opinion
  - concurring opinion
  - dissenting opinion
  - unanimous opinion

**Reviewing Main Ideas**

Directions: Choose the best answer for each question.

**Section 1** (pp. 238–242)

- According to the Constitution, what does every accused person have a right to?
  - a lawyer
  - a civil trial
  - the best legal help
  - a Supreme Court hearing

- Which of the following cases would be tried in a federal court?
  - A state sues another state over water rights.
  - A Houstonian kills a person in Los Angeles.
  - An Illinois state worker is accused of forgery.
  - The U.S. ambassador to Russia breaks a Russian law.

**Section 2** (pp. 243–247)

- In which federal courts do juries try cases?
  - district courts
  - appellate courts
  - the Supreme Court
  - all levels of federal courts

**Section 3** (pp. 248–253)

- How might a president limit the powers of the Supreme Court?
  - submit an appeal to the Court
  - veto Court decisions
  - appoint federal judges
  - refuse to enforce a Supreme Court decision

**Section 4** (pp. 254–259)

- What kind of case does the Supreme Court usually decide to hear?
  - a case that concerns political issues
  - a case that involves the Bill of Rights
  - a case that poses hypothetical questions
  - a case that affects only a few individuals
- What major factor influenced the Court to overturn the “separate but equal” precedent?
  - stare decisis
  - conservatism
  - racial prejudice
  - societal changes

## Critical Thinking

Directions: Base your answers to questions 11 and 12 on the chart below and your knowledge of Chapter 8.

11. Which decision might lead you to infer that the Constitution protects your right to protest war by wearing a black armband?

- A *Engle v. Vitale*
- B *DeJonge v. Oregon*
- C *Brandenburg v. Ohio*
- D *United States v. Eichman*

### First Amendment Rights

**Brandenburg v. Ohio (1969)** expanded scope of political speech by protecting all political speech unless it is linked to immediate lawless behavior

**Near v. Minnesota (1931)** ruled against censorship of information, defining “prior restraint” of written material as unconstitutional

**DeJonge v. Oregon (1937)** reinforced peaceable assembly and association protection of the First Amendment

**Engle v. Vitale (1962)** held that a public school district’s practice of starting the day with prayer violates the establishment clause

**United States v. Eichman (1990)** struck down Federal Flag Protection Act; held that flag burning is expressive speech

12. What First Amendment freedom did *Near v. Minnesota* uphold?

- A freedom to petition
- B freedom of religion
- C freedom of the press
- D freedom to assemble

## Document Based Questions

Directions: Analyze the document and answer the short-answer questions that follow.

The following document is a summation of the Supreme Court’s decision in *Reed v. Reed* (1971).

### Facts of the Case

The Idaho Probate Code specified that “males must be preferred to females” in naming administrators of estates. After the death of their adopted son, both Sally and Cecil Reed sought to be named the administrator of their son’s estate. According to the Probate Code, Cecil was appointed administrator and Sally challenged the law in court.

### Question Presented

Did the Idaho Probate Code violate the Equal Protection Clause of the Fourteenth Amendment?

### Conclusion

In a unanimous decision, the Court held that the law’s dissimilar treatment of men and women was unconstitutional. The Court argued that “[t]o give a mandatory preference to members of either sex over members of the other . . . is to make the very kind of arbitrary legislative choice forbidden by the Equal Protection Clause of the Fourteenth Amendment. . . . [T]he choice in this context may not lawfully be mandated solely on the basis of sex.”

—Reed v. Reed

13. How many Supreme Court justices agreed with the decision in *Reed v. Reed*?
14. What is the main idea of the Court’s conclusion?

## Extended Response

15. Write a brief essay describing the procedure that Supreme Court justices follow in hearing important cases.

STOP

Civics ONLINE

For additional test practice, use Self-Check Quizzes—Chapter 8 on [glencoe.com](http://glencoe.com).

### Need Extra Help?

If you missed question. . .	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
Go to page. . .	242	245	252	256	240	241	244	253	256	259	258	258	256	256	256

# Analyzing Primary Sources

## The Federal Branch of Government

### Reading Focus

Each of the excerpts are from persons who have served in the legislative, executive, or judicial branches. Each excerpt provides a view on the workings of that particular branch.

### Read to Discover

As you read, think about

- how political and judicial leaders view their roles.
- what values and beliefs these leaders share.

### Reader's Dictionary

**character assassination:** the slandering of a person with the goal of destroying his or her public image

**exemplary:** showing or illustrating by example

**comity:** a friendly social atmosphere

**usurpation:** taking hold of by force and without right

**pervasive:** spread throughout

### The Role of Congress

Senator Margaret Chase Smith of Maine was a senator who believed in the idea of true Americanism—those who believe in the freedom of America. Robert Byrd, who has served longer than any other U.S. senator, argues that the American people need statespeople in Congress, not politicians.

Those of us who shout the loudest about Americanism in making **character assassinations** are all too frequently those who, by our own words and acts, ignore some of the basic principles of Americanism—

- The right to criticize
- The right to hold unpopular beliefs
- The right to protest
- The right of independent thought

The exercise of these rights should not cost one single American citizen his reputation or his right to a livelihood nor should he be in danger of losing his reputation or livelihood merely because he happens to know someone who holds unpopular beliefs. Who of us doesn't? Otherwise none of us could call our souls our own. Otherwise thought control would have set in.

—from "Declaration of Conscience" by Margaret Chase Smith, June 1, 1950

In the real world, **exemplary** personal conduct can sometimes achieve much more than any political agenda. **Comity**, courtesy, charitable treatment of even our political opposites, combined with a concerted effort to not just occupy our offices, but to bring honor to them, will do more to inspire our people and restore their faith in us, their leaders, than millions of dollars of 30-second spots or glitzy puff-pieces concocted by spinmeisters.

—Address by Robert C. Byrd, September 15, 1998

## The Role of the Executive Branch

Two presidents write about the power of the executive branch.

I have used every ounce of power there was in the office and I have not cared a rap for the criticisms of those who spoke of my ‘**usurpation** of power’; for I knew that the talk was all nonsense and that there was no usurpation . . . I have felt not merely that my action was right in itself, but that in showing the strength of, or in giving strength to, the executive, I was establishing a precedent of value.

—Theodore Roosevelt, letter to George Otto Trevelyan

[T]he government of the United States has become too big, too complex, and too **pervasive** in its influence on all our lives for one individual to pretend to direct the details of its important and critical programming. Competent assistants are mandatory; without them the Executive Branch would bog down.

—Dwight Eisenhower, letter to Henry Robinson Luce

## The Role of the Supreme Court

Two justices write about the role of the Court.

A dissent in a court of last resort is an appeal to the brooding spirit of the law, to the intelligence of a future day, when a later decision may possibly correct the error into which the dissenting judge believes to court to have been betrayed.

—Chief Justice Charles Evans Hughes

[The Supreme Court is] somewhat of an umpire. It considers what the Congress proposes, or what the executive proposes, or what some individual claims, and rules upon these laws . . . by comparing them with the law as laid down by the Constitution . . . and then calls the strikes and the balls.

—Associate Justice Tom Clark



### Photographs as Primary Sources

President Lyndon Johnson (right) discusses strategy with adviser Abe Fortas. What does this photograph tell you about Johnson’s leadership style? Do you think his style was effective or not?

## DBQ Document-Based Questions

- 1. Explaining** Do you think Smith’s stand was courageous? Explain.
- 2. Comparing and Contrasting** How are the views expressed by Roosevelt and Eisenhower alike and how are they different?
- 3. Explaining** What purpose does the dissenting opinion in a Supreme Court decision play?
- 4. Evaluate and Connect** Select one of the passages that expresses a view that you agree with and select one with which you disagree. Write two paragraphs explaining your position.