

The Judicial Branch

★ CITIZENSHIP AND YOU ★

The American judicial system is one of the nation's most important institutions. It is up to the courts that make up the judicial branch to see that our nation's laws are justly applied. It is also up to the courts to interpret the laws and to preserve and protect the rights the Constitution guarantees. Find out the location of the nearest federal district court and court of appeals and the names of the judges in these courts. Prepare an informational directory.



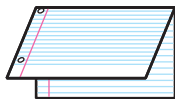
To learn more about the judicial branch, view the **Democracy in Action** video lesson 11: The Federal Court System at Work.

FOLDABLES™

Study Organizer

Compare and Contrast Study Foldable Make this foldable to help you determine similarities and differences between the federal courts and the Supreme Court of the United States.

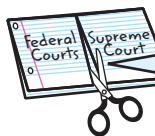
Step 1 Fold one sheet of paper in half from top to bottom.



Step 2 Fold it in half again, from side to side.



Step 3 Unfold the paper once, label it, and cut up the fold of the top flap only.



This cut will make two tabs.

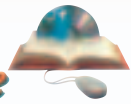
Reading and Writing

As you read, write information under each appropriate tab to help you compare and contrast the purpose and organization of these courts.

The Supreme Court building in Washington, D.C. ▶



CIVICS
Online



Chapter Overview Visit the *Civics Today* Web site at civ.glencoe.com and click on **Chapter Overviews—Chapter 8** to preview chapter information.





SECTION

1

The Federal Court System

GUIDE TO READING

Main Idea

Three levels of federal courts try to ensure that everyone in the United States receives equal justice under the law.

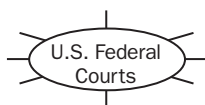
Key Terms

jurisdiction, exclusive jurisdiction, concurrent jurisdiction

Reading Strategy

Organizing Information

As you read, complete a web diagram similar to the one below by listing the eight kinds of cases for which federal courts have exclusive jurisdiction.



Read to Learn

- How did the federal court system originate?
- What kinds of cases are handled in federal courts?



Americans in Action

In 1942 the government dismissed Mitsuye Endo from her civil service job in California and ordered her to a relocation center. Although Endo was a U.S. citizen with a brother serving in the U.S. Army, she and other Japanese Americans were forced into relocation camps during World War II because the government questioned their loyalty. Endo took the matter to the Supreme Court and won her case. The Court ruled that Endo “should be given her liberty.” Justice William O. Douglas proclaimed that “loyalty is a matter of the heart and mind, not of race, creed or color . . .”



Japanese Americans were locked up in internment camps during World War II.

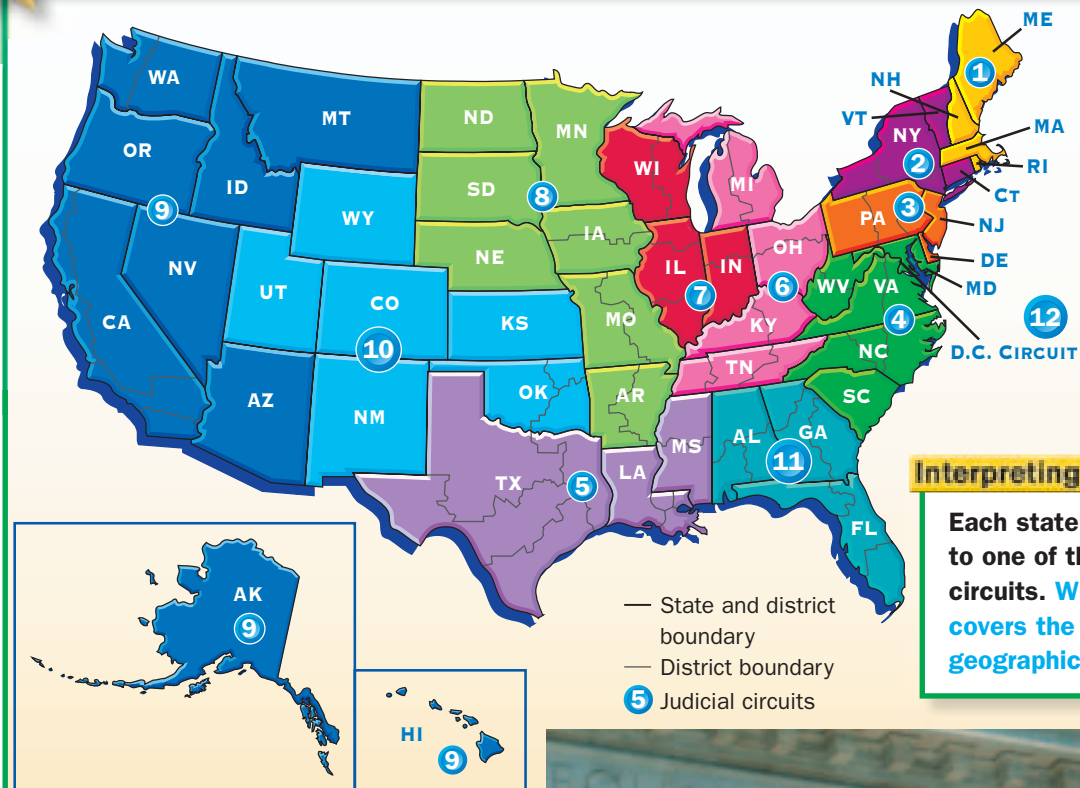
Equal Justice for All

In the 1940s, the Supreme Court upheld an act of Congress that allowed the relocation of thousands of Japanese Americans to internment camps. The Supreme Court claimed such camps were constitutional. Later the United States government would acknowledge the injustice of the 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.

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

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.

Federal Judicial Circuits and Districts



Interpreting Maps

Each state is assigned to one of the 12 judicial circuits. Which circuit covers the largest geographical area?

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 considered 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.

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.

Reading Check **Defining** What is the goal of the U.S. court system?

The Federal Court System

The Founders created the federal court system in Article III of the Constitution. This article 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. Thus, the federal court system has three levels—the district courts at the bottom, the appeals courts in the middle, and the Supreme Court at the top.

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.

Cases Heard in Federal Courts

Jurisdiction is a court's authority to hear and decide cases. Article III of the Constitution gives the federal courts jurisdiction over eight kinds of cases.

Cases Involving the Constitution If the law in question applies to the U.S. Constitution, the case must be heard in a federal court. 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.

A Federal Crime This U.S. Secret Service agent displays counterfeited federal bonds. More than \$2 trillion worth of fake bonds were seized in the Philippines in this incident in 2001. **What type of court—federal or state—would try this case?**



Violations of Federal Laws If the government accuses a person of a federal crime—for example, kidnapping, tax evasion, or counterfeiting—a federal court has jurisdiction. Disputes regarding the issues over which the Constitution gives the federal government control, such as patent rights or bankruptcy, also go to a federal court.

Controversies 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.

Disputes Between Parties 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.

Suits Involving the Federal Government

The U.S. government may sue someone. For example, the Defense Department might sue a company that contracted to build missile parts but did not complete the work on time. The suit would be heard in a federal court. Also, private parties can sue the government. For instance, if a mail truck hit you, you could sue the U.S. Postal Service for damages; or if the Department of Agriculture failed to pay your company for equipment it ordered, you could sue for your money.

Cases Involving Foreign Governments and Treaties

Any dispute between a foreign government and either the U.S. government or an American private party is heard in a federal court. A treaty case might involve a dispute over the way the State Department interpreted a trade agreement.



Economics and You

Bankruptcy

Bankruptcy is a legal proceeding in which people or companies can be released from all or most of their debts. Because the Constitution gives Congress the right to establish bankruptcy laws, cases cannot be heard in state courts. Jurisdiction belongs exclusively to special federal bankruptcy courts. Invite a loan officer from a local bank to class to discuss the pros and cons of declaring bankruptcy.

Cases Based on Admiralty and Maritime Laws

These laws concern accidents or crimes on the high seas. One recent case involved a dispute over the rights to millions of dollars in sunken treasure recovered from a shipwreck 160 miles off the coast of South Carolina.

Cases Involving 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.

Relation to State Courts

For most of the areas just described, federal courts have **exclusive jurisdiction**, which means that only these courts may hear and decide such cases. State courts have jurisdiction over all other matters. Most U.S. court cases involve state law and are tried in state courts.

In a few circumstances, however, a case can be heard in either a state or a federal court. In these instances, the state and federal courts have **concurrent jurisdiction**, meaning that they share 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.

Reading Check Identifying Which article of the Constitution lists the jurisdiction of federal courts?

SECTION 1 ASSESSMENT



Study Central™ To review this section, go to civ.glencoe.com and click on **Study Central™**.

Checking for Understanding

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

Reviewing Main Ideas

- 2. List** Name the three levels of federal courts. What is the relationship between the federal district court system and the state court system?
- 3. Explain** Define what is meant by the words that are inscribed on the United States Supreme Court building: "Equal Justice Under Law."

Critical Thinking

- 4. Making Inferences** Why do you think Congress established federal appeals courts in 1891?
- 5. Organizing Information** On a chart like the one below, write the eight kinds of cases for which federal courts have jurisdiction and give an example of each kind of case.

Kinds of Cases									
Examples									

Analyzing Visuals

6. Identify Study the map of federal judicial circuits and districts on page 193. Which judicial circuit is your state in?

★ BE AN ACTIVE CITIZEN ★

7. Research Find 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, which kind does the case you found fall under?



SECTION

2

How Federal Courts Are Organized

GUIDE TO READING

Main Idea

Three levels of federal courts—district courts, appeals courts, and the Supreme Court—handle a wide array of cases every year.

Key Terms

district courts, original jurisdiction, appeals courts, appellate jurisdiction, circuit, remand, opinion, precedent

Reading Strategy

Analyzing Information As you read, take notes on a graphic organizer like the one below. Why is a pyramid chart appropriate for the federal court system?



Read to Learn

- How do the three levels of federal courts differ?
- How are federal judges selected?



Americans in Action

Mary M. Schroeder used to be a judge for the Arizona Court of Appeals in Phoenix. Now she's the chief judge of the United States Court of Appeals for the Ninth Circuit. She is the first woman to serve in this post in the Ninth Circuit. This, the largest circuit, comprises the seven westernmost continental states, plus Alaska, Hawaii, and the islands of Guam and the Northern Marianas. Schroeder has come a long way from the days in the 1960s, when she was one of just six women in her law school class. Her role, and that of other female judges, says Schroeder, is "not to feminize the courts but to humanize them."



The Ninth U.S. Circuit Court of Appeals

U.S. District Courts

Judge Schroeder serves in a U.S. district court, which is part of the federal court system. The federal court system can be illustrated as a pyramid. The Supreme Court sits alone above a number of appeals courts, and has a broad base of district courts.

Most federal cases are handled in the 94 U.S. district courts. **District courts** are the federal courts where trials are held and lawsuits are begun. Every state has at least one district court, and some states have two, three, or four. 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.

Reading Check Explaining What is the purpose of federal district courts?



U.S. Courts of Appeals

A large percentage of people who lose their cases in a district court appeal to the next highest level—a U.S. court 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 think the judge in their case applied the law incorrectly, used the wrong procedures, or if new evidence turns up. Appeals courts may also review federal regulatory agency rulings, if the people or groups involved believe the agency acted unfairly.

There are 12 United States courts of appeals. Each one covers a particular geographic area called a **circuit**. 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.

Making a Decision

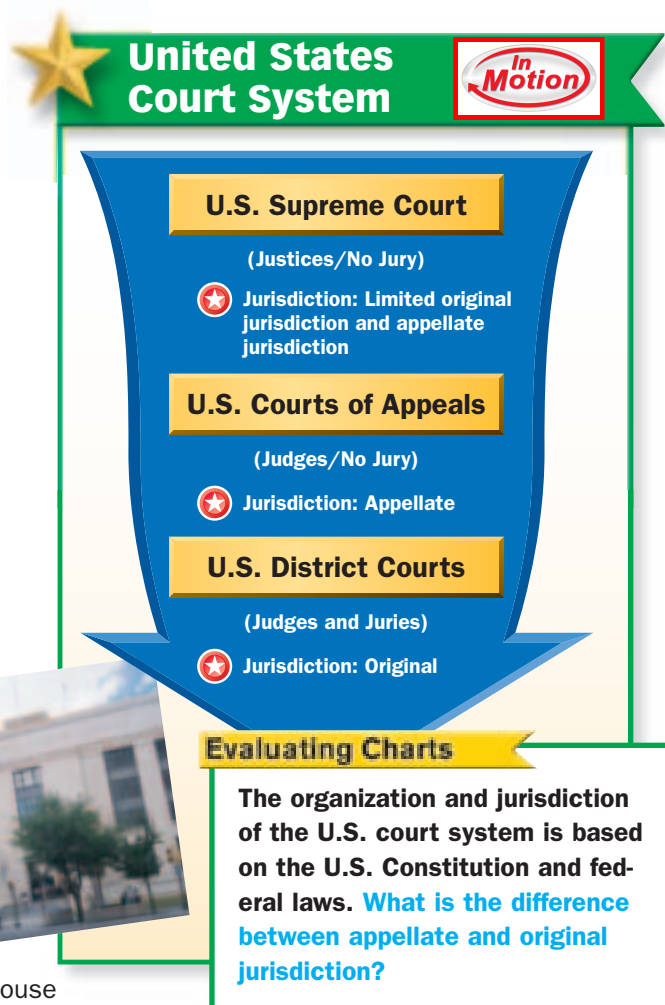
Appeals courts do not hold trials. Instead, these courts may decide an appeal in one of three ways: uphold the original decision, reverse that decision, or **remand** the case, that is, send the case back to the lower court to be tried again. A panel of three or more judges reviews the record of the case being appealed and listens to arguments from lawyers for each side. 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 only on whether the defendant's rights have been protected and on whether he or she received a fair trial. In the majority of cases, the decision of the appeals court is final. In some cases, however, lawyers may appeal the decision to the U.S. Supreme Court.

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



U.S. courthouse in Texas



Alberto R. Gonzales Sworn into office on February 3, 2005, Alberto Gonzales became the 80th attorney general of the United States. He represents the United States in legal matters and is a member of the President's cabinet.

What executive department does Gonzales lead? What court officials report to him?

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.

Reading Check **Describing** What does it mean if the judge remands a case?

Federal Judges

The chief decision makers in the judicial branch are the federal judges. There are more than 550 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 27 judges. The Supreme Court has 9 justices.

Selection and Tenure of Judges

According to the U.S. Constitution, the president appoints judges, with the approval of the Senate. The Constitution sets forth no particular qualifications for federal judges. Presidents want to appoint judges

who share their ideas about politics and justice. Thus, they usually choose people who belong to their political party. Because judges are appointed for life, presidents view their judicial appointments as an opportunity to affect the country after they have left the White House.

When naming judges, presidents usually follow a practice called senatorial courtesy. Under this system, a president submits the name of a candidate for judicial appointment to the senators from the candidate's state before formally submitting it to the entire Senate for approval. If either or both senators object to the candidate, the president will usually withdraw the name and nominate 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.

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. Federal judges know that their jobs are safe even if they make unpopular decisions.

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

Each district court has magistrate judges. These officials take care of much of a judge's routine work. They issue court orders, like 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 who have been arrested should be held



Enforcing Laws A U.S. marshal in the West in the 1800s was often the only law enforcement officer in territories that had not yet become states. Today, marshals make sure the federal judiciary runs smoothly. **What are the duties of U.S. marshals today?**



in jail or released on bail. Magistrates may also hear minor cases.

Every federal judicial district also has a United States attorney and one or more deputies. The 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 United States 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. They report to the attorney general of the United States, who is the head of the Justice Department.

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. Marshals work for the Department of Justice. The president appoints U.S. marshals with Senate approval.

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

SECTION 2 ASSESSMENT



Study Central™ To review this section, go to civ.glencoe.com and click on **Study Central™**.

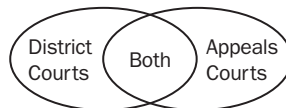
Checking for Understanding

- Key Terms** Use the following terms in sentences: **district courts, original jurisdiction, appeals courts, appellate jurisdiction.**
- Describe** What takes place in federal district courts that does not happen in federal appeals courts or in the Supreme Court?
- Identify** Explain the three rulings that are possible in a U.S. court of appeals case.

Reviewing Main Ideas

Critical Thinking

- Making Judgments** Do you agree with the practice of appointing federal judges for life? Explain your answer.
- Making Comparisons** On a Venn diagram like the one below, compare U.S. district courts to U.S. courts of appeals.



Analyzing Visuals

- Identify** Review the organization of U.S. courts on page 197. What type of jurisdiction do U.S. Courts of Appeals have? Explain what this means.

★ BE AN ACTIVE CITIZEN ★

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



SECTION

3

The United States Supreme Court

GUIDE TO READING

Main Idea

The Supreme Court's decisions have wide-ranging effects because court justices interpret the meaning of the U.S. Constitution.

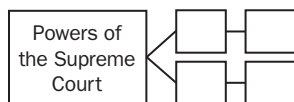
Key Terms

constitutional, judicial review

Reading Strategy

Summarizing Information

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



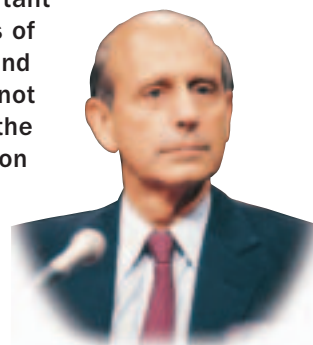
Read to Learn

- Who serves as Supreme Court justices?
- What are the powers of the Supreme Court?



Americans in Action

Stephen G. Breyer received President Bill Clinton's Supreme Court nomination on May 14, 1994. The Senate confirmed Breyer with an 87–9 vote. Breyer has summarized his view of the Court's role in the following way: "It is important that the public, trying to cope with the problems of the nation, state, and local community, understand that the Constitution does not resolve, and was not intended to resolve, society's problems. Rather, the Constitution provides a framework for the creation of democratically determined solutions, which protect each individual's basic liberties . . . , while securing a democratic form of government. We judges cannot insist that Americans participate in that government, but we can make clear that our Constitution depends upon it."



Justice Breyer

The Supreme Court Justices

As Justice Breyer implied, the Supreme Court exerts its influence all across the United States. The Court stands above all other courts. Its main job is to decide whether laws are allowable under the U.S. Constitution.

The Supreme Court has original jurisdiction in only two instances. It can preside over trials in cases that involve diplomats from foreign countries and in disputes between states. In all other instances, the Supreme Court hears cases that have come on appeal from lower district courts or from federal regulatory agencies. The Supreme Court is not required to hear all the cases presented to it. It carefully 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 review a case, the decision of the lower court remains unchanged.

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.

Selection of 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 to the post of chief justice, following the death of Chief Justice William Rehnquist. He also selected a justice to replace Sandra Day O'Connor, who resigned. Presidents are careful to choose nominees that 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 a fairly free hand in appointing new justices, but the Senate has historically rejected many nominees based on doubts about the qualifications or the legal philosophy of the persons nominated.

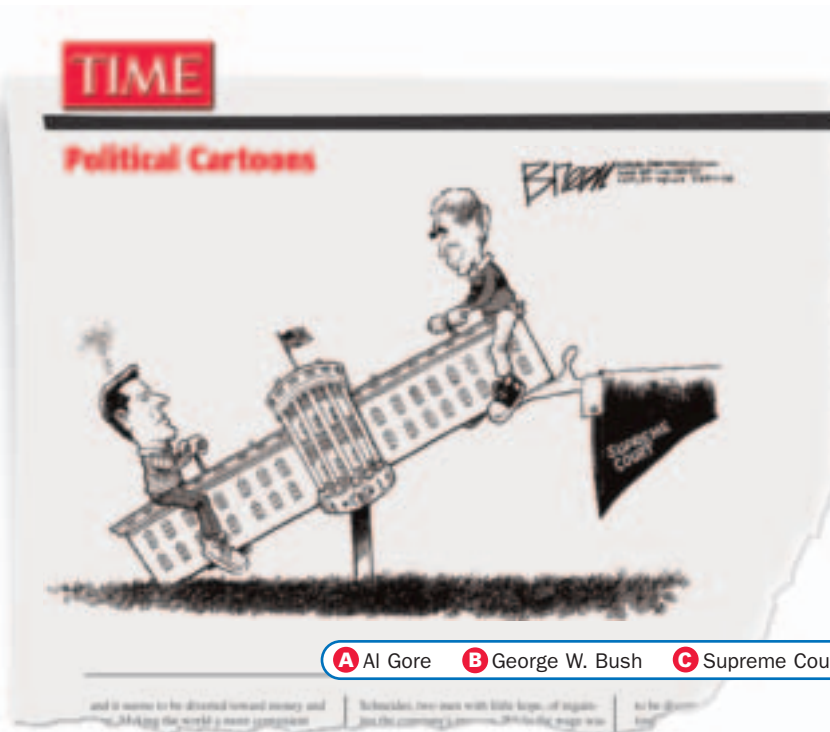
Background of the Justices

Supreme Court justices are always lawyers. They have had successful careers practicing or teaching law, serving as judges in lower courts, or holding other public positions prior to appointment.

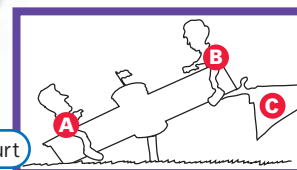
Political support and agreement with the president's ideas are important factors in who gets appointed. Of course, once appointed, a justice may make rulings that the president does not like.

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

Reading Check Identifying Who makes up the Supreme Court?




Analyzing Visuals In 2000 Americans voted for the president on November 7, but because of an unprecedented dispute over the counting of ballots, the winner of the election was not declared until December 13. Why do you think the cartoonist picked these figures to depict in the cartoon? What does the seesaw represent?



A Al Gore **B** George W. Bush **C** Supreme Court



American Biographies




**John Marshall
(1755–1835)**

John Adams once said that his greatest act as president was “the gift of John Marshall to the people.” Marshall, the fourth chief justice of the United States, hardly looked like the head of the judiciary. He often wore mismatched clothes and an old floppy hat. He rejected the gold-braided robes worn by justices at the time in favor of the simple black robes worn by justices today.

Marshall, the oldest of 15 children, grew up along the Virginia frontier. He never forgot the principles for which he fought during the American Revolution. As a soldier, he once sewed the words “Liberty or Death” onto his shirt before heading into battle. He upheld both the national government and the new Constitution.

During his 34 years as chief justice, Marshall put the judicial branch on an equal footing with the other two branches of government. He made sure the Court had the final say in all cases involving the Constitution. By overseeing more than 1,000 decisions, Marshall proved once and for all that the Constitution was the “supreme law of the land.”



Powers of the Court


The powers of the Supreme Court have developed since its creation. Today the Supreme Court enjoys a great deal of power and prestige. The legislative and executive branches of government must follow the rulings of the Supreme Court. Because the Supreme Court is removed from politics and from the influences of special-interest

groups, it is more likely that the parties involved in a case before the Court will get a fair hearing. The Court exercises political influence in several ways. The most important is through the use of judicial review.

Judicial Review

A significant job of the Supreme Court is to decide whether laws or actions by government officials are allowed by the Constitution, or are **constitutional**. It does this through a process called **judicial review**. This is the power to say whether any federal, state, or local law or government action goes against the Constitution. If the Court decides a law is unconstitutional, it has the power to nullify, or cancel, that law or action. Former Chief Justice Charles Evans Hughes described the great power of judicial review when he said,

“We are under a constitution, but the Constitution is what the Supreme Court says it is.”

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 judicial review on the federal level.  See **Landmark Supreme Court Case Studies** on page 211.

On his last night as president, John Adams signed an order making William Marbury a justice of the peace. When Thomas Jefferson took office the next day, he told Secretary of State James Madison to cancel the order.

William Marbury took his case directly to the Supreme Court, under the provisions of the Judiciary Act of 1789. John Marshall, the chief justice, wrote an opinion stating



that Marbury’s claim was valid according to the Judiciary Act. However, Marshall also ruled that one part of the act gave the Court powers that it should not have and was therefore unconstitutional.

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 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, or cancel, unconstitutional laws.

Marbury v. Madison helped make the judicial branch equal in power to the executive and legislative branches. The power of judicial review is an important part of the system of checks and balances of the national government. By declaring acts of Congress or executive orders unconstitutional, the Supreme Court can check the actions of the legislative and executive branches of government. The final interpretation of the United States Constitution is reserved to the Supreme Court.

Interpreting Laws

The Court also exercises power when it interprets laws. Congress often uses very general language when it writes laws. For example, Congress passed a law that imposed a five-year prison sentence for anyone convicted of a violent crime in which he or she “uses” a gun. What does “uses” mean? What if a robber has a gun in his pocket but does not actually show it during the crime? In 1995 the Court ruled that “uses” means the person must show, fire, or at least say he has a gun.

Because a Supreme Court decision is the law of the land, a ruling like this affects police departments and courts all across the United States. Over the years the Court has interpreted many major laws.

Reading Check Explaining What important power did the *Marbury* case establish?

Limits on the Courts’ Power

In the American 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,



The Justices Since 1869 there have been nine justices on the Supreme Court. They include (from left to right) Antonin Scalia, Ruth Bader Ginsburg, John Paul Stevens, David Souter, Former Chief Justice William Rehnquist (died in 2005), Clarence Thomas, Sandra Day O’Connor (resigned in 2005), Stephen Breyer, and Anthony Kennedy. **What factors might a president consider when selecting a justice?**



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.

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. The system of checks and balances also includes the president’s power to appoint justices and Congress’s power to approve judicial appointments or to impeach and remove justices.

As a check on the Court, and under its rarely-used “exceptions clause,” Congress can vote to remove the Court’s jurisdiction over particular types of cases—thus keeping

it from even hearing the cases.

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.

CIVICS Online 

Student Web Activity Visit civ.glencoe.com and click on **Student Web Activities—Chapter 8** to learn more about Supreme Court decisions.

Reading Check **Inferring** How can the president check the power of the Supreme Court?

SECTION 3 ASSESSMENT

CIVICS Online **Study Central™** To review this section, go to civ.glencoe.com and click on **Study Central™**.

Checking for Understanding

1. Key Terms Write a true statement *and* a false statement for the terms below. Beside each false statement explain why it is false.

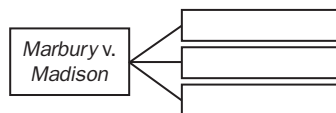
constitutional, judicial review

Reviewing Main Ideas

- 2. Infer** The Supreme Court refuses to hear many more cases than it accepts. What happens in a case when the Supreme Court refuses to hear it?
- 3. Describe** Explain how a person becomes a Supreme Court justice.

Critical Thinking

- 4. Drawing Conclusions** Do you think the Supreme Court should have a police force with the power to enforce its decisions? Explain your answer.
- 5. Organizing Information** On a graphic organizer like the one below, summarize the effects of the ruling in *Marbury v. Madison* on the judicial branch.



Analyzing Visuals

6. Infer Review the political cartoon on page 201. Explain the action the Supreme Court is taking in the cartoon. What does this mean?

★ BE AN ACTIVE CITIZEN ★

7. Research Log on to the Supreme Court Web site (www.supremecourtus.gov). Read the brief biographical sketches of the justices. Select one justice to read more about and write a report about the justice.

Critical Thinking SKILLBUILDER

Reading a Bar Graph

Why Learn This Skill?

Reviewing long lists of statistics can involve a great deal of work. You would probably prefer to read a graph. A graph is a visual device that condenses a large body of data into a small space. You can use it to cite individual statistics quickly. You can also use it to make comparisons and spot overall trends. A commonly used type of graph is a bar graph.

Learning the Skill

To read a bar graph, follow these steps:

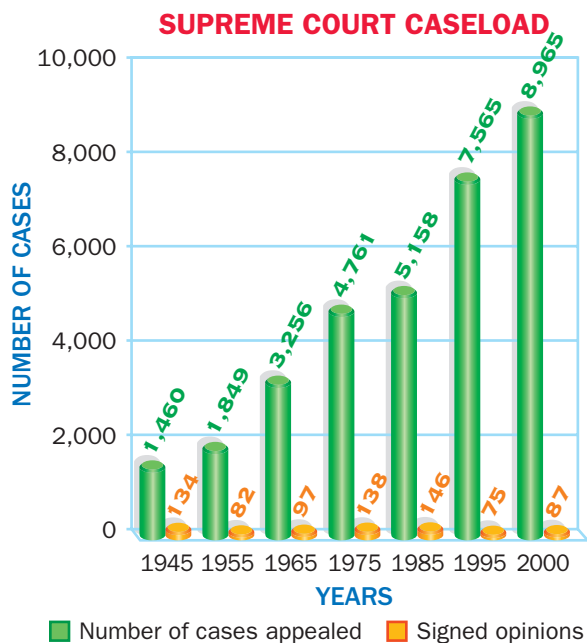
- Read the title of the graph. This will tell you the kind of information shown.
- Study the vertical and horizontal axes. The vertical axis runs from top to bottom along

the left side of the graph. Read the names, numbers, or other labels along the vertical axis. This will identify the type of data sectioned off along the vertical axis. Do the same with the horizontal axis, which runs along the bottom of the graph.

- Study the key. Identify the meaning of colors or other symbols used in the graph.
- Note the length of individual bars to cite specific facts.
- Look at and compare the length of all the bars to identify trends or to draw conclusions.

Practicing the Skill

On a separate sheet of paper, answer the following questions about the graph on this page.



Source: www.supremecourtus.gov

- 1 What information does this graph show?
- 2 What do the numbers on the vertical axis indicate?
- 3 What time period does the graph cover?
- 4 In which year did the Supreme Court issue the fewest opinions?
- 5 What change has occurred in the caseload of the Supreme Court?
- 6 In general, how does the number of cases appealed to the Supreme Court compare with the number it hears and decides?

Applying the Skill

Find a bar graph in a recent newsmagazine. Cite two facts and one comparison you draw from the graph.



Practice key skills with Glencoe's
Skillbuilder Interactive Workbook
CD-ROM, Level 1.



SECTION

4

Deciding Cases at the Supreme Court

GUIDE TO READING

Main Idea

Supreme Court justices weigh many factors and go through several complex steps before making a decision.

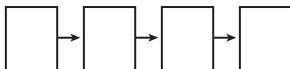
Key Terms

docket, brief, majority opinion, dissenting opinion, concurring opinion, stare decisis

Reading Strategy

Sequencing Events As you read, on a graphic organizer similar to the one below, take notes on the steps involved in reaching a Supreme Court decision.

Steps in Court Decision



Read to Learn

- What are the steps in the Supreme Court's decision-making process?
- What factors influence Supreme Court decisions?



Americans in Action

Most Supreme Court justices are—or will be—remembered for certain issues about which they felt particularly strongly. Justice Louis Brandeis worked for social justice and democracy throughout his life, including during his 23 years of service (from 1916 until 1939) on the Supreme Court. He recognized the value of debate and dissent, as revealed by these words: “In the frank expression of conflicting opinions lies the greatest promise of wisdom in governmental action.”



The scales of justice

How Cases Reach the Court

The Supreme Court decides the issues that affect all Americans. It conducts its business each year from October until the following June or July. Each month during this time, the justices spend two weeks listening to oral arguments on cases and then two weeks in recess. During recess the justices write opinions and study new cases. During the summer break they study applications for review, write opinions, and catch up on other legal work.

The Supreme Court is both a trial court and an appeals court. Two kinds of disputes have their original trials there: cases involving representatives of foreign governments and certain cases in which a state is a party.

Most cases, however, are appeals from a lower federal court or a state court. A person can ask the Court to review a lower court's decision. In addition, a lower court may sometimes ask the Court to make a ruling because it is not sure how to apply the law to a case.

Acceptance

From the many cases submitted to them, the justices make a list of cases they want to discuss more carefully. Once a week they meet to pick from this list the cases the Court will actually review. 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.



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 "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 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
- ★ **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

Evaluating Charts

These decisions helped determine the rights of citizens. **What earlier decision did *Brown v. Board of Education* overturn?**

Official seal of the Supreme Court



Each year the Court gets more than 7,000 applications. Of these, it selects fewer than 200 cases to hear. The Court can review just about any kind of case. Usually the justices take cases that involve important constitutional issues, such as freedom of speech, equal protection of the laws, or civil liberties. They also tend to select cases that involve legal, rather than political, issues, as well as those

that affect the entire country rather than just the individuals or groups directly involved.

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**. This 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 very important. They set a precedent for lower courts to follow in future cases, and they also communicate the Court's view to Congress, the president, interest groups, and the public. This is also an important step because there is still time for justices to change their minds. An opinion may influence a justice to change his or her vote.

Besides the majority opinion, the Court may issue four other types of opinions. In a unanimous opinion, all the justices vote the same way. A justice who disagrees with the majority's decision may write a **dissenting opinion**. Sometimes two, three, or even four justices write their own dissenting opinions. A justice who votes with the majority, but for different reasons, may write a **concurring opinion**.

Announcement

When the opinion writing is completed, the Court announces its decision. Printed copies of the opinion go to waiting news reporters, and the opinion is placed on the Court's Web site. The Supreme Court and other courts around the country use the written opinions to guide their decisions regarding new cases.

Reading Check **Concluding** Why must the Supreme Court print its opinions?

Reasons for Court Decisions

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

? **Fact Fiction Folklore**

Do Supreme Court justices always get along?

In 1924 Justice James McReynolds refused to appear in the official Supreme Court photo with Justice Louis D. Brandeis. McReynolds disliked Brandeis so much that he would leave the room when Brandeis spoke! Chief Justice William Howard Taft considered McReynolds "a continual grouch."



Impact of the *Brown* Decision Segregated facilities, such as separate entrances at a movie theater in Belzoni, Mississippi, were declared unconstitutional in 1954.

Why must the Supreme Court react to changes in American values?

Thurgood Marshall argued the *Brown* case before the Court.



The Law

The law is supposed to be the most important influence on a justice's decisions. A guiding principle for all judges is called **stare decisis**, a Latin term, which 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 conditions, public attitudes, 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.

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.

In the 1890s, many restaurants, schools, and trains were marked for whites and African Americans. In Louisiana, Homer Plessy, an African American, decided to sit in a section of a train marked "For Whites Only." Plessy was convicted of violating Louisiana's segregation law. The Supreme Court upheld the Louisiana law as constitutional in *Plessy v. Ferguson*. The Court ruled that the equal protection clause of the Fourteenth Amendment permitted "separate but equal" facilities for whites and African Americans.

However, by the 1950s, society's views on racial segregation were beginning to change. In 1954, in the case of *Brown v. Board of Education of Topeka, Kansas*, the Court overturned the precedent of "separate but equal." The justices ruled that racially separate schools are unequal simply because



TIME

Political Cartoons



and it seems to be directed toward every and every. Making the world a state government. (Schwartz, 2000, p. 100)

Analyzing Visuals Fast-moving national and state governments often make decisions and policies that “bump up” against the slower-moving Supreme Court. What does the figure on the motorcycle represent? What is the overall message of the cartoon?

they are separate. The unanimous opinion of the Court found that segregation was a violation of the equal protection clause of the Fourteenth Amendment. See the **Supreme Court Case Summaries** in the Appendix.

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.

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.”

Reading Check **Summarizing** Why are precedents important in Supreme Court decision making?

SECTION 4 ASSESSMENT



Study Central™ To review this section, go to civ.glencoe.com and click on **Study Central™**.

Checking for Understanding

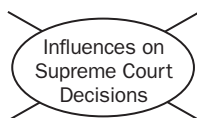
- 1. Key Terms** Define the following terms and use them in sentences that relate to the Supreme Court: **docket, brief, majority opinion, dissenting opinion, concurring opinion, stare decisis.**

Reviewing Main Ideas

- 2. Identify** Describe the steps that every Supreme Court case must follow.
- 3. Recall** Most of the cases that reach the Supreme Court are what kinds of cases?

Critical Thinking

- 4. Drawing Conclusions** Of all the factors that influence justices when they make a decision, which do you think is the most significant? Explain your answer.
- 5. Categorizing Information** On a web diagram like the one below, categorize the factors that influence Supreme Court justices when making decisions.



Analyzing Visuals

- 6. Infer** Review the chart on page 207. Which ruling guarantees you the right to be informed of your rights if you are arrested?

★ BE AN ACTIVE CITIZEN ★

- 7. Interview** Read more about *Brown v. Board of Education of Topeka, Kansas*. Summarize the facts in the case. Interview someone who was an adult in 1954 about how they think the *Brown* decision changed American society.

Landmark Supreme Court Case Studies

Marbury v. Madison



President Adams spent his last night in office signing commissions.

Background of the Case

Democratic-Republican Thomas Jefferson won the presidential election of 1800. During the months before Jefferson was sworn into office, congressional supporters of outgoing Federalist president John Adams approved 58 new appointees to the federal courts. President Adams signed the commissions—official papers allowing the new judges to assume their positions—on his last night in office.

It was the duty of John Marshall, Adams’s secretary of state, to deliver the 58 commissions, but he failed to deliver all of them. William Marbury and three other appointees who had not received their commissions petitioned the new secretary of state, James Madison, to deliver them. President Jefferson, who wanted to repeal all of Adams’s last-minute judgeships, told Madison not to deliver the papers. The four waiting appointees then asked the Supreme Court to order Madison to deliver their commissions.

The Decision

If the Court agreed with Marbury, Jefferson would likely ignore the order. If the Court ruled for Madison, it would appear frightened of the

By the early 1800s, the role of the judiciary branch was unclear and its influence small. How did the Supreme Court achieve equal footing with the legislative and executive branches?

executive branch. Either choice would further weaken the judiciary. Chief Justice John Marshall issued the decision on February 24, 1803.

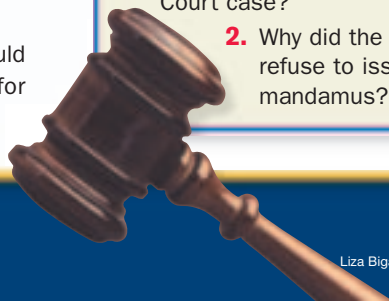
Marshall agreed that Marbury’s rights had been violated and that he should receive his commission. For Marbury to receive his commission, a writ of mandamus, or a court order to perform a certain action, had to be issued. Although Congress gave the Court such authority in Section 13 of the Judiciary Act of 1789, Marshall wrote that the Court’s “authority to issue writs of mandamus to public officers appears not to be warranted by the Constitution.” He further asserted that it was the duty of the judicial branch “to say what the law is.”

Why It Matters

The Supreme Court claimed its right to declare executive orders and acts of Congress unconstitutional for the first time in *Marbury v. Madison*. By doing this, it defined its role as the final authority on what the Constitution means. Each year, the Supreme Court strikes down numerous state and local laws. It rarely strikes down congressional laws, though.

Analyzing the Court Decision

1. Why is *Marbury v. Madison* a landmark Court case?
2. Why did the Supreme Court refuse to issue writs of mandamus?



Assessment & Activities

Review to Learn

Section 1

- The Founders created the federal court system in Article III of the Constitution. This article establishes the Supreme Court.
- Over the years, Congress created the federal district courts and the appeals courts.



Section 2

- Most federal cases are held in U.S. district courts.
- People who lose in federal district courts may appeal to federal appeals courts.



Section 3

- The Supreme Court includes nine justices. All are appointed by presidents.
- An important job of the Supreme Court is to decide whether laws are permitted under the U.S. Constitution.

Section 4

- Every case the Supreme Court accepts goes through certain steps.

FOLDABLES™

Study Organizer

Using Your Foldables Study Organizer

Using your completed foldable, write at least five statements that compare or contrast the federal courts with the Supreme Court.

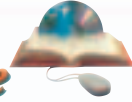
Reviewing Key Terms

Write the key term that matches each definition below.

1. an earlier model upon which judges may base decisions
2. the lowest level of courts of the federal judiciary
3. the power of the Supreme Court to say whether any federal, state, or local law is unconstitutional
4. a court's authority to hear and decide cases
5. the opinion written by a justice who votes with the majority but for different reasons
6. a Latin term, which means "let the decision stand"
7. a law that is allowed by the Constitution
8. the written document a lawyer who is arguing before the Supreme Court prepares
9. an order to send a case back to a lower court
10. the written opinion by a justice who disagrees with the majority's decision

Reviewing Main Ideas

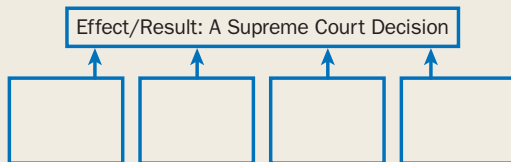
11. Describe how the current federal court system originated.
12. Name at least four kinds of cases over which federal courts have jurisdiction.
13. How do federal district courts and federal appeals courts differ?
14. What three rulings can result from a case in a federal appeals court?
15. How does someone become a Supreme Court justice?
16. What is the significance of the case of *Marbury v. Madison*?
17. What two kinds of disputes have their original trials in the Supreme Court?
18. Describe the steps in the Supreme Court's decision-making process.



Self-Check Quiz Visit the *Civics Today* Web site at civ.glencoe.com and click on **Self-Check Quizzes—Chapter 8** to prepare for the chapter test.

Critical Thinking

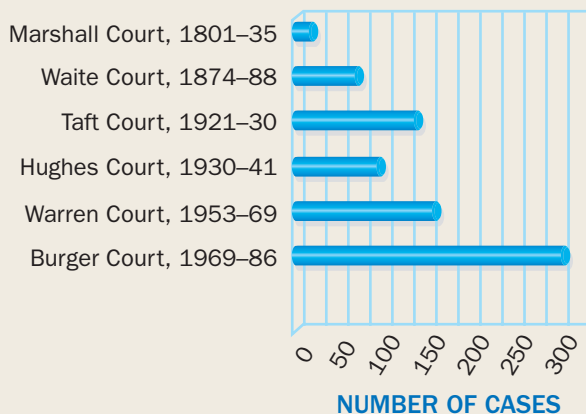
- 19. Analyzing Information** How is *Plessy v. Ferguson* related to *Brown v. Board of Education of Topeka, Kansas*?
- 20. Cause and Effect** On a chart like the one below, explain some of the factors that influence Supreme Court decisions.



Practicing Skills

- 21. Reading a Bar Graph** Look at the bar graph below. About how many laws did the Warren Court overturn? Which court overturned the most state and local laws?

STATE AND LOCAL LAWS OVERTURNED BY SELECTED SUPREME COURTS



Economics Activity

- 22.** In the library or online, research the case of *Gibbons v. Ogden* (1824). In what ways do Americans feel the economic effect of that decision today?

Analyzing Visuals

- 23.** Review the chart on page 207. Why was the *Brandenburg* case important?

★ CITIZENSHIP COOPERATIVE ACTIVITY ★

- 24.** Jury duty is a responsibility of United States citizenship. Working with about two other students, find two or three people who have served on juries and interview them. Ask them to recall their impressions of the experience.



Technology Activity

- 25.** Log on to the Internet and search for a Web site that has information about recent cases heard by the Supreme Court. Write a summary of the ruling. Do you agree with the ruling? Explain your opinion.

Standardized Test Practice

Directions: Choose the *best* answer to the following question.

Which court holds jurisdiction for the following court case?

The government of New York has sued a company in New Jersey for not following through on the terms and deadlines of a contract signed last year. The contract is worth more than \$50,000.

- F** the U.S. Supreme Court
- G** a U.S. court of appeals
- H** a U.S. district court
- J** a special federal court

Test-Taking Tip

Read the question carefully. Recall that jurisdiction is a court's authority to hear and decide cases.