

Main Idea

The Supreme Court is the highest court in the nation and the most important component of the judicial branch. It serves as the final word on questions of federal law and the Constitution.

Reading Focus

1. What are some of the highlights of Supreme Court history?
2. How are Supreme Court justices chosen?
3. What are the typical procedures of the Supreme Court?

Key Terms

writ of certiorari
 docket
 majority opinion
 concurring opinions
 dissenting opinions

Highlights of Supreme Court History (pp. 234–236)

The Supreme Court was not as powerful in the nation’s early history as it is today. It gained importance over time and politically shifted as society’s views changed. These changes continue today.

Early Visions The Framers included few details about the Supreme Court. Much of what constitutional scholars know today about the Supreme Court comes from Alexander Hamilton’s writings in *The Federalist* No. 78–83. Hamilton believed the judiciary to be the weakest of the three branches but he also described the importance of judicial review.

The Marshall Court John Marshall was appointed chief justice of the Supreme Court in 1801. During Marshall’s 34 years on the Court, the judiciary became an equal partner in the system of checks and balances. Marshall’s opinion in *Marbury v. Madison* established the Court’s power of judicial review. Other key Marshall Court decisions helped shape the basic structure of the federal government and the economy. *McCulloch v. Maryland* (1819) made the

necessary and proper clause a powerful tool to expand the implied powers of Congress. *Gibbons v. Ogden* (1824) upheld the federal government’s power to regulate interstate commerce.

Dred Scott Democrats controlled the presidency and the Senate for much of the first half of the 1800s. The Court’s decisions under Chief Justice Roger Taney reflected that party’s concern for states’ rights and the protection of slavery.

The Court’s most famous decision came in *Dred Scott v. Sandford* (1857). Scott, an enslaved African American, sued for his freedom. He said that because his slaveholder had taken him and his wife to live in parts of the United States that were free, they were free. The Court disagreed, saying Scott was still a slave, that African Americans were never intended to be citizens, and that Congress could not outlaw slavery in any areas. The ruling contributed to the growing conflict over slavery.

From Reconstruction to Plessy After the Civil War, Republicans were the leading party for the next 60 years. Civil rights for newly freed African Americans and

economic regulation were two important issues of the period.

During this time, Congress passed and the states ratified the Thirteenth, Fourteenth, and Fifteenth amendments. The amendments outlawed slavery, gave citizenship and equal protection of the law to African Americans, and gave voting rights to African American men. The Court, however, narrowly interpreted these amendments as they related to civil rights. It struck down the Civil Rights Act of 1875, which gave blacks federal protection from discrimination. It also ruled in *Plessy v. Ferguson* that separation of the races in public transportation and other places did not imply inequality. This ruling allowed segregation, or legal separation, of the races in public places to continue for many years.

The Court also interpreted the Civil War amendments in a way that made much regulation of the economy unconstitutional. In one case, for example, it ruled that federal regulations of a business violated the property rights of business owners.

The Court and the New Deal The belief that regulation violated property rights continued for many years. From 1899 to 1937 the court struck down many state laws involving economic regulation.

In the 1930s the Court clashed with President Franklin Roosevelt over his New Deal programs to help fight the Great Depression. Roosevelt then proposed a law that would let him add six new justices to the Court, hoping to increase support for his programs. Roosevelt was criticized for his actions, but the Court did move toward giving state legislatures more freedom to decide on economic regulation. Roosevelt finally withdrew his plan, but the Court had already begun to deny challenges to his programs.

From the 1950s to the Present

Because Roosevelt was in office for many years, he was eventually able to appoint more liberal justices. The liberal era on the Court reached its height under Chief Justice Earl Warren, appointed by President Dwight D. Eisenhower in 1953.

In 1954 the Warren Court ruled in *Brown v. Board of Education of Topeka, Kansas*, that public schools must be desegregated. In *Gideon v. Wainwright* (1963) and *Miranda v. Arizona* (1966), the Court expanded the rights of people accused of crimes. In *Tinker v. Ohio* (1969), the Court held that schools could not prevent students from protesting the Vietnam War. The Court also ruled against prayer in public schools. Some critics accused the Court of too much judicial activism.

Since 1953, Republican presidents have appointed 16 of the last 22 Supreme Court justices, leading to a more conservative Court. A case that reflected the divide on the Court was the ruling in *Bush v. Gore* (2000), which effectively determined that George W. Bush was the winner of the 2000 presidential election.

Reading Check Making

Generalizations How has the Supreme Court been shaped by politics?

Choosing Supreme Court Justices (pp. 238–239)

Because Supreme Court justices serve life terms, their decisions can affect a nation for many years. For this reason, choosing justices can become a political battle.

Choosing a Nominee All Supreme Court justices have had a background in law. Most have served as federal judges. When considering nominees, presidents generally choose someone of their own political party. In many cases, nominees must also hold certain views on specific issues that are

important to people active in the party. Presidents also try to choose justices who share their own judicial philosophy. Finally, presidents try to nominate candidates who are less likely to be subject to a lengthy confirmation battle in the Senate.

Confirmation Hearings Hearings begin in front of the Senate Judiciary Committee. Nominees face intense direct questioning by senators and a thorough examination of their background and record. Nominees generally say little about how they would rule on controversial issues. When the committee's work is complete, it votes on the nomination. Its vote nearly always determines the outcome of the vote in the full Senate. Most nominees are confirmed.

Reading Check Identifying Supporting Details Which congressional committees considers nominees for the Supreme Court?

Supreme Court Procedures (pp. 239–241)

The Supreme Court follows certain procedures to conduct business. These determine how and when cases will be heard and decided.

The Session Begins The Supreme Court begins its term each year on the first Monday in October. It remains in session until June or July. A session is divided into blocks of about two weeks. During the first block, the justices hear lawyers present their cases. In the second block, the justices make rulings, decide what cases to hear, and issue orders on minor cases. Clerks assist the justices in their work.

Selecting Cases The Court has original jurisdiction in cases involving foreign ambassadors or the U.S. government, disputes between states, and disputes between a state and citizens of another state or country. Most cases the Court hears are

appeals of cases from a federal court of appeals.

The party appealing a case asks the Court to issue a **writ of certiorari** (suh-r-shuh-RAR-ee), an order seeking review of the lower court case. If the Court grants certiorari, it will hear the case. If it denies certiorari, the ruling of the lower court stands. Cases may also come to the Court from the state courts if they involve questions of the Constitution or a federal law. Four justices have to vote in favor of hearing a case on appeal before it is placed on the Court's **docket**, or list of cases to be heard.

Briefs and Oral Arguments When hearing a case the Court first reads briefs—the written arguments prepared and submitted by each side. Justices may also consider *amicus*, or “friend of the court,” briefs prepared by outside parties that have an interest in the case. Then justices listen to 30-minute oral arguments by each side, during which the justices may ask questions.

Opinions After briefs and oral arguments, the justices meet to discuss the case in a conference led by the chief justice. The Court produces a formal, written opinion that thoroughly explains the reasons for the decision. A **majority opinion** is one that is signed by at least five of the nine members of the Court. It represents the Court's actual ruling in the case. **Concurring opinions** agree with the overall conclusion in the case but stress some different or additional legal reasoning. **Dissenting opinions** are those held by the minority of the justices who do not agree with the ruling in the case. They do not have a direct legal impact on the case but may influence future rulings.

Court Orders The Court's full review of cases, complete with briefs, oral arguments, and written decisions, is called plenary review. In addition to the cases the Court

gives full plenary review each year, it also issues brief, unsigned court orders in about 50 or 60 cases. For example, it might order a lower court to reconsider a case in light of a specific Court decision.

Reading Check Identifying Supporting Details What are the three main stages that cases before the Supreme Court typically must go through?

SECTION 3 ASSESSMENT

1. **Describe** Describe the significance of *Plessy v. Ferguson*.
2. **Identify** What are the main factors a president may look for in a Supreme Court nominee?
3. **Describe** What kinds of opinions does the Supreme Court issue, and which is considered the official ruling?