



FLORIDA...

The Story Continues

CHAPTER 7, The Judicial Branch

PEOPLE

1957: LeRoy Collins. Florida Governor LeRoy Collins was a vocal opponent of the resolution passed by the Florida State Legislature. The resolution opposed the 1957 U.S. Supreme Court decision in *Brown v. Board of Education*. The *Brown* decision ended legal segregation in public schools. Collins personally disagreed with the decision. However, he believed the legislature did not have the legal right to declare the Court's ruling "null and void."

EVENTS

1963: *Gideon v. Wainwright*. The Supreme Court's historic decision in the *Gideon v. Wainwright* (1963) case began with a burglary in a Panama City poolroom. The accused, Clarence Earl Gideon, acted as his own attorney because he could not afford to hire one. He was found guilty and sentenced to five years in prison. The Florida state court case ended in the U.S. Supreme Court. There, it established the right of defendants to be represented by a court-appointed attorney if they are unable to afford their own.

EVENTS

2005: Terri Schiavo case. Floridian Terri Schiavo spent nearly 15 years in a vegetative state. Her husband Michael clashed with Schiavo's parents over the removal of her feeding tube. He cited her wish not to be kept alive artificially. The Schiavo case involved numerous motions, petitions, hearings, and suits in Florida courts, federal court, and the Florida Supreme Court. Five separate times, the U.S. Supreme Court refused to hear arguments in the case. The feeding tube was ultimately removed. Terri Schiavo died in March 2005.

PEOPLE

1821: Florida's judicial circuit riders. The circuit court system in Florida has its roots in medieval England. Then King Henry II ordered his judges to ride around the countryside to hear cases. This way, subjects did not need to travel to London for justice. Also, every small town did not need its own judiciary. This system led to the birth of the term *circuit court*. When Florida became a U.S. territory in 1821, there were two circuits: west and east. Justices and lawyers rode horseback along a pre-determined route—or circuit—to take justice to the people. These people were called *circuit riders*.

EVENTS

1964: *McLaughlin et al. v. Florida* changes marriage laws. In 1964, it was illegal under Florida law for interracial couples to live together. But a case brought before the U.S. Supreme Court helped to change that. In *McLaughlin et al. v. Florida*, the justices struck down the Florida law that banned

unmarried couples of different races from living together. Three years later, the U.S. Supreme Court justices used *McLaughlin* to help them decide another case. In *Loving v. Virginia*, the Court ruled that laws banning interracial marriage were unconstitutional.

EVENTS

2006: *Engle v. Liggett Group*. In this high-profile case, the Florida Supreme Court dismantled a class action suit brought by 700,000 Florida smokers. The plaintiffs alleged fraud on the part of tobacco companies to conceal the damaging effects of smoking. This case opened the way for individual suits against tobacco companies.



Unpacking the Florida Standards <...

Read the following to learn what this standard says and what it means. See FL8-FL20 to unpack all the other standards related to this chapter.

Benchmark SS.7.C.3.12 Analyze the significance and outcomes of landmark Supreme Court cases including, but not limited to, *Marbury v. Madison*, *Plessy v. Ferguson*, *Brown v. Board of Education*, *Gideon v. Wainwright*, *Miranda v. Arizona*, *in re Gault*, *Tinker v. Des Moines*, *Hazelwood v. Kuhlmeier*, *United States v. Nixon*, and *Bush v. Gore*.

What does it mean?

Assess the importance of the Supreme Court cases relating to the power of the government and the rights of Americans, such as *Marbury v. Madison*, *Plessy v. Ferguson*, *Brown v. Board of Education*, *Gideon v. Wainwright*, *Miranda v. Arizona*, *in re Gault*, *Tinker v. Des Moines*, *Hazelwood v. Kuhlmeier*, *United States v. Nixon*, and *Bush v. Gore*. Go to Chapter 7, The Judicial Branch, and the Supreme Court Decisions in the Reference Section for help.

CHAPTER 7

THE JUDICIAL BRANCH

Essential Question What structures, functions, and processes shape the judicial branch?



Florida Next Generation Sunshine State Standards

SS.7.C.1.9 Define the rule of law and recognize its influence on the development of the

American legal, political, and governmental systems.

SS.7.C.2.11 Analyze media and political communications (bias, symbolism, propaganda). **SS.7.C.3.8** Analyze the

structure, functions, and processes of the legislative, executive, and judicial branches. **SS.7.C.3.10** Identify

sources and types (civil, criminal, constitutional, military) of law. **SS.7.C.3.11** Diagram the levels,

functions, and powers of courts at the state and federal levels. **SS.7.C.3.12** Analyze the significance and

outcomes of landmark Supreme Court cases including, but not limited to, *Marbury v. Madison*, *Plessy v. Ferguson*, *Brown v. Board of Education*, *Gideon v. Wainwright*,

Miranda v. Arizona, *in re Gault*, *Tinker v. Des Moines*, *Hazelwood v. Kuhlmeier*, *United States v. Nixon*, and *Bush v. Gore*. **LA.7.1.6.1** The student will use new vocabulary

that is introduced and taught directly. **LA.7.1.6.2** The

student will listen to, read, and discuss familiar and

conceptually challenging text. **LA.7.1.7.1** The student will use background knowledge of subject and related content areas, prereading strategies, graphic representations, and knowledge of text structure to make and confirm complex predictions of content, purpose, and organization of a reading selection.



Thurgood Marshall:
Justice for All

hmhsocialstudies.com VIDEO

WHY CIVICS Matters

The actions of the U.S. government and its citizens are governed by laws. The government relies on a special set of officials to interpret these laws and to punish lawbreakers. These functions are the responsibility of the judicial branch of the federal government.

PROJECT **Citizen**



STUDENTS TAKE ACTION

ENCOURAGING SAFE EXERCISE Riding a bike in Mexico, Missouri, has become safer thanks to a group of students who worked with their city to have bike trails and bike lanes built. What can you do in your community to promote safe exercise?

FOCUS ON SPEAKING

A RADIO NEWS BROADCAST All of the cases that the Supreme Court hears start in the lower courts. As you read this chapter, take notes on the process a court case takes from the original trial all the way to the Supreme Court. Then you will prepare a radio news story following a case through the judicial system.

Reading Skills

In this chapter you will read about the judicial branch of the federal government, which is guided by the ideal of equal justice for all. You will learn about the four kinds of law and how the U.S. court system uses them to settle disputes.

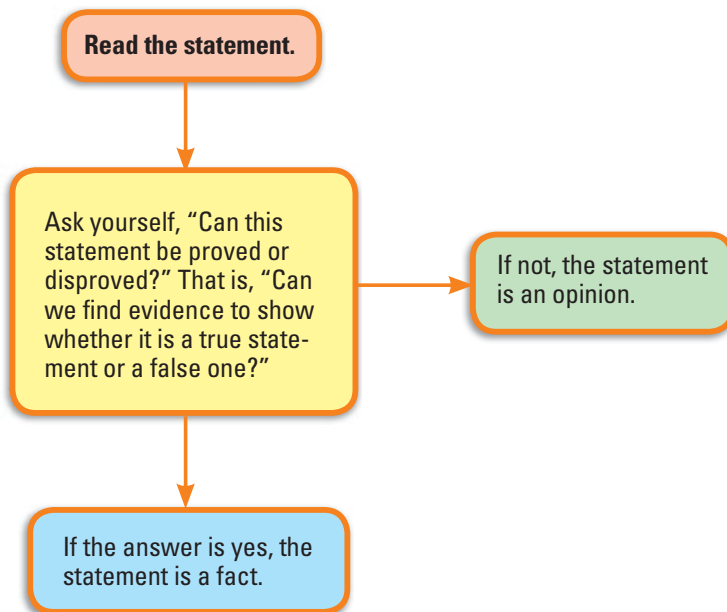
You will also read about the three main levels of federal courts. Finally, you will learn about the U.S. Supreme Court. You will learn how justices are appointed and how the other branches of government check the powers of the Court.

Distinguishing between Fact and Opinion

FOCUS ON READING

People have many opinions about our government and political issues. To become an informed citizen, however, you need to be able to tell the difference between fact and opinion.

Identifying Facts and Opinions Something is a fact if there is a way to prove it or disprove it. For example, research can prove or disprove the following statement: “There are nine justices on the Supreme Court.” But research cannot prove the following because it is one person’s opinion or belief: “John Marshall was the greatest chief justice.” Use the process below to decide whether a statement is fact or opinion.



Helpful Hints for Distinguishing between Fact and Opinion

1. Phrases such as “I believe,” “I think,” or “I feel” indicate an opinion.
2. Telling readers what *should* be done is another clue that an opinion is being given.
3. Judgment words such as **best**, **worst**, and **greatest** are often used in opinions.
4. Facts often include numbers, measurements, or other things that can be proved.



You Try It!

The following passage tells about the influence of John Marshall on the Supreme Court. All the statements in this passage are facts. What makes them facts and not opinions?

The Power of Judicial Review

From Chapter 7,
p.190

The Constitution does not explicitly give the judicial branch the power of judicial review. John Marshall established the power when he served as chief justice of the Supreme Court from 1801 to 1835. Marshall promoted the idea of judicial review for the first time in 1803 in the case of *Marbury v. Madison*.

... However, Chief Justice Marshall ruled that the act gave the Supreme Court powers that it had not been granted by the Constitution. Because the Constitution is the supreme law of the land, the Judiciary Act passed by Congress was declared unconstitutional. This was the first time the Supreme Court had declared an act of Congress unconstitutional and thus established the concept of judicial review.

Identify each of the following statements as a fact or an opinion, and then explain your choice.

1. John Marshall expanded the power of the Supreme Court by establishing the power of judicial review.
2. John Marshall served for 34 years as chief justice.
3. John Marshall served too long as chief justice.
4. Scholars believe the *Marbury v. Madison* case changed the Supreme Court for the better.

KEY TERMS

CHAPTER 7

Section 1

crime (p. 181)
criminal law (p. 181)
civil law (p. 181)
common law (p. 182)
precedent (p. 182)
constitutional law (p. 183)
appeal (p. 183)

Section 2

jurisdiction (p. 185)
district courts (p.186)
original jurisdiction (p. 186)
courts of appeals (p. 187)
appellate jurisdiction (p. 187)
justices (p. 188)

Section 3

judicial review (p. 189)
remand (p. 190)
opinion (p. 190)
concurring opinion (p. 190)
dissenting opinion (p. 191)

Academic Vocabulary

Success in school is related to knowing academic vocabulary—the words that are frequently used in school assignments and discussions. In this chapter you will learn the following academic words:

affect (p. 182)
authority (p. 185)
explicitly (p. 190)

As you read Chapter 7, look closely at statements about the judicial branch. Are they facts or opinions?

LA.7.1.6.2 The student will listen to, read, and discuss familiar and conceptually challenging text.

SECTION 1



SS.7.C.3.8; SS.7.C.3.10; SS.7.C.3.12; LA.7.1.6.1; LA.7.1.7.1; SS.7.C.1.9

Equal Justice under the Law

BEFORE YOU READ

The Main Idea

The rights of all U.S. citizens are protected by laws and the courts.

Reading Focus

1. In what ways is the United States a nation of laws?
2. What are the five sources of law in the United States?
3. What roles do the courts play in the United States?

Key Terms

crime, *p. 181*
criminal law, *p. 181*
civil law, *p. 181*
common law, *p. 182*
precedent, *p. 183*
constitutional law, *p. 183*
appeal, *p. 183*



Use the graphic organizer online to take notes on the types and sources of law.



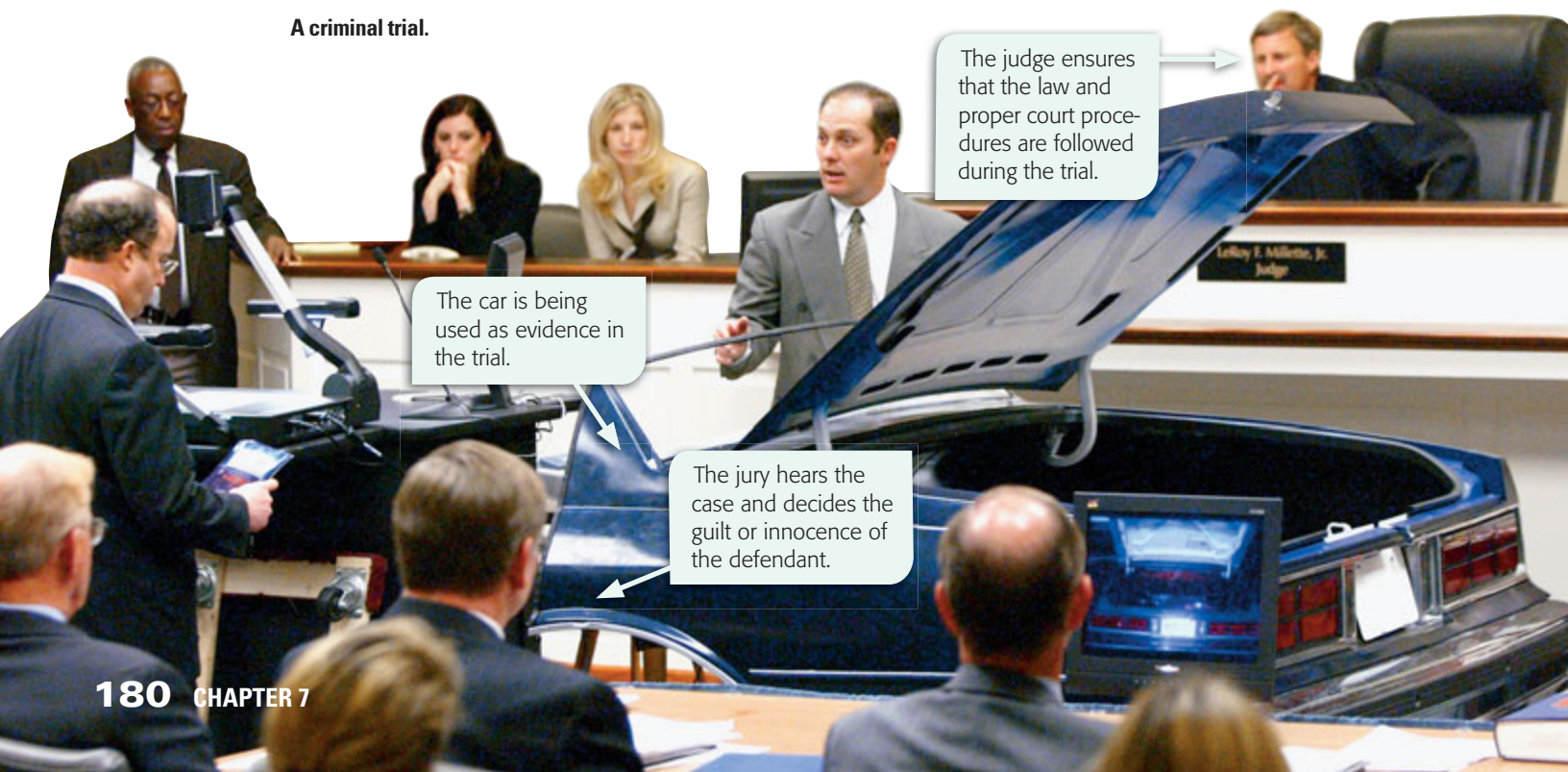
SS.7.C.1.9 Define the rule of law and recognize its influence on the development of the American legal, political, and governmental systems.

Carved in marble over the entrance of the Supreme Court building in Washington, D.C., is the motto "Equal Justice under Law." What does this motto mean to you? It means that you and all other citizens are considered equal and are protected by the rule of law. Laws define individual rights and freedoms. But where does your freedom end and another person's freedom begin? The judicial branch of the government—the court system—helps find the answer.

A Nation of Laws

Every society needs rules. Without rules, people might feel like they could do anything to anybody anytime they wanted. That is one reason why societies have laws. Laws are society's rules. Laws promote the common good. Laws protect you. Laws, such as traffic laws and laws against rape and murder, are aimed at protecting your personal and physical safety.

A criminal trial.



PRIMARY SOURCE

HISTORIC DOCUMENT

Hammurabi's Code

The Babylonian ruler Hammurabi is credited with putting together the earliest known written collection of laws. Written around 1780 BC, Hammurabi's Code was a collection of 282 laws that set down rules for both criminal and civil law, and informed citizens what was expected of them. There were laws on everything from trade, loans, and theft to marriage, injury, and murder. It contained some ideas that are still found in laws today. Specific crimes brought specific penalties.

- 196. If a man put out the eye of another man, his eye shall be put out.
- 197. If he break another man's bone, his bone shall be broken.
- 198. If he put out the eye of a freed man, or break the bone of a freed man, he shall pay one gold mina.
- 199. If a man put out the eye of a man's slave, or break the bone of a man's slave, he shall pay one-half of its value.
- 221. If a physician heal the broken bone or diseased soft part of a man, the patient shall pay the physician five shekels in money.
- 222. If he were a freed man he shall pay three shekels.
- 223. If he were a slave his owner shall pay the physician two shekels.

— Hammurabi, from the *Code of Hammurabi*, translated by L. W. King

ANALYSIS SKILL

ANALYZING PRIMARY SOURCES

Why was it important that Hammurabi's code was written down?

Other laws protect your property, your freedom to speak and practice your religion, and your health. Laws set boundaries or limits on behavior. So while you may have the right to practice playing your electric guitar, that right is limited somewhat by your neighbor's right to the peaceful enjoyment of his or her property.

Criminal Law

There are two basic types of laws, criminal law and civil law. When people talk about "breaking the law," they are usually referring to a crime. A **crime** is any behavior that is illegal because society, through its government, considers the behavior harmful to society. **Criminal law** refers to the group of laws that define what acts are crimes. Criminal law also describes how a person accused of a crime should be tried in court and how crimes should be punished.

Criminal laws are intended to protect society as a whole. For example, laws against assault, murder, and rape help protect you and other people from being harmed. Laws against stealing help protect your property

and other people's property as well. You might think that a crime against another person does not affect you, but that is not true. If someone who breaks into your neighbor's house and steals something is not caught and punished, the criminal may steal again. The criminal might even break into your house next. And if criminals are not caught and punished, people may begin to think that it is okay to steal.

Civil Law

The other basic category of laws is civil law. **Civil law** is the group of laws that refer to disputes between people. If you have a dispute with someone and you cannot solve it privately, you may go to court to settle the matter. In court, the judge and maybe a jury will listen to the facts of the case. The judge will then apply the civil law and make a decision. Civil laws are used to settle a wide range of personal issues, such as contract disputes, divorce proceedings, and property boundaries.

SS.7.C.3.10 Identify sources and types (civil, criminal, constitutional, military) of law.

READING CHECK

Finding the Main Idea How do laws protect freedom?

Sources of Law

There are many other types of U.S. laws. Each has its own source. These types include statutory law, common law, administrative law, military law, and constitutional law.

Statutory Law

Laws that are passed by lawmaking bodies are known as statutes, or statutory laws. Congress and state and local governments pass these laws. Most criminal laws are statutory laws. Many civil laws are also statutes. For example, a state law that requires all public buildings to contain fire exits is a statutory law. Statutory laws usually represent what the majority of citizens believe to be right or wrong. If citizens later change their position on an issue, the law can adapt to the country's needs.

Common Law

No matter how hard the legislature tries, statutes cannot cover every type of wrongdoing. Judges and courts must often make decisions based on customs, traditions, and cases that have been decided before. This type of law is called common law. **Common law** is a type

of law that comes from judges' decisions that rely on common sense and previous cases.

For example, before automobiles became a major form of transportation, there were no laws about driving them. So if an automobile ran into a horse and wagon, the driver of the automobile might argue that the case should be dismissed. Would the case be dismissed? Probably not. The judge might reply that there is an established principle that people cannot use their property to injure others. The judge would apply tradition and common sense in such a case.

In the previous example, the judge's decision might be remembered by another judge hearing a similar case. Eventually, most judges might follow the same **precedent**, or earlier decision, when considering such cases. Over time, this rule would become a part of the country's customary, or common, law.

Administrative Law

Many of the laws that **affect** our daily lives are created by government agencies. These laws are known as administrative laws. They cover many areas of daily life, such

ACADEMIC VOCABULARY

affect: to change or influence

American Civil Liberties

Serving on a Jury

Someday after you turn 18, you will probably receive a letter calling you to jury service. Performing this civic duty might be your only involvement with the judicial system. However, it is a duty that carries great responsibility. In a criminal case, the jury decides if the defendant is guilty of the crime charged by the government. In a civil case, the jury decides if the defendant is liable, or responsible, for the damages named in the case. If so, it decides how much money to award.

As stated by the Sixth Amendment, the parties in a case are entitled to a

jury selected from a fair cross-section of the community. Lawyers cannot exclude potential jurors on the basis of their gender or identifiable racial or ethnic group. There have been many cases that were appealed because of alleged discrimination during jury selection.

1. How could discrimination in jury selection affect a defendant in a criminal case?
2. Why would it matter to citizens if they were not called for jury duty because of their gender, race, or ethnicity?



as health, safety, education, and banking. For example, the Consumer Product Safety Commission (CPSC) uses administrative law when it rules that a toy is unsafe and must be taken off the market.

Military Law

Military law governs the behavior of men and women in all branches of the U.S. armed forces. The backbone of military law is the *Uniform Code of Military Justice*. This code includes laws that are similar to civilian law. It also includes laws specific to military issues, such as desertion, the treatment of prisoners, and the military trial process.

Constitutional Law

The Constitution is the supreme law of the United States. **Constitutional law** is based on the Constitution and on Supreme Court decisions interpreting the Constitution. For example, the Sixth Amendment guarantees that a defendant in a criminal case has the right to the “assistance of counsel” for his or her defense. Because of the Supreme Court ruling in 1963 in the case of *Gideon v. Wainwright*, states are required to provide free legal aid to those defendants who cannot afford to pay for legal representation.

READING CHECK **Summarizing** List and describe the sources of law that exist in the United States.

The Roles of the Courts

Courts use the law to settle disputes. Disputes may take different forms. Some disputes are between people. Others are between people and the government. Still others are between governments. In a criminal case, the dispute is between society and an individual. Society is represented by an attorney for the government. In a civil dispute, both sides have attorneys or may represent themselves.

In criminal cases, the person accused of the crime has certain rights. These include the right to an attorney, the right to confront the accuser, and the right to a jury trial.

The accused is also always presumed to be innocent. It is up to the person bringing the charges to prove “beyond a reasonable doubt” that the accused is guilty of a crime. Finally, if a person is convicted of a crime, he or she has the right to appeal the decision. An **appeal** is the process by which the person asks a higher court to review the result of the trial. A higher court may find that the lower court has applied the law unfairly or inaccurately. A review of a decision helps to ensure that cases are decided fairly.

READING CHECK **Evaluating** Why do you think the accused is considered innocent until proven guilty?

SECTION 1 ASSESSMENT

 hmhsocialstudies.com
ONLINE QUIZ

Reviewing Ideas and Terms

- Define** Write a brief definition for each of the following terms: **crime**, **criminal law**, and **civil law**.
 - Elaborate** How does being a nation of laws both protect and limit freedom?
- Define** Write a brief definition for each of the following terms: **common law**, **precedent**, and **constitutional law**.
 - Support a Point of View** Do you think common law is more just or less just than administrative law? Explain your answer.
- Define** Write a brief definition for the term **appeal**.
 - Explain** What roles do courts play in society?

Critical Thinking

- Categorizing** Copy the graphic organizer. Use it and your notes to explain the five sources of law that govern Americans. Describe each type.



FOCUS ON WRITING

- Problem Solving** Write a descriptive paragraph about life in a country in which there is no rule of law. How might life be improved by establishing a permanent legal system?

Analyzing a News Article

Learn

One way to learn about events that are taking place in the world is to read a news article. You can find articles in newspapers, magazines, or on the Internet. News articles provide us with easy access to information on current events or issues.

Ideally, news articles should present balanced information about a subject. Reporters should focus on the important facts related to the story. However, news stories are reported from the perspective of the journalist writing the story. Because much of our knowledge of current events comes from news articles, it is important to be able to analyze them critically. Use the steps below to learn how to analyze a news article.

Practice

- 1 Determine how the story is framed.** Read or listen to the news story carefully. Identify the subject of the article, then identify the who, what, when, where, why, and how of the issue.
- 2 Analyze the facts.** Articles should include evidence, such as statistics and quotes from people related to the issue, to back up the main idea.

Carefully analyze the information in the article to determine if it is fact or opinion.

- 3 Identify the sources.** On what does the author base his or her information? Does the article cite reliable or anonymous sources? Questionable sources might make the information the author presents unreliable.
- 4 Identify points of view.** News reporters, though they may try to be balanced, have a point of view. Ask yourself if the article presents more than one point of view. If not, the article may not be balanced.

Apply

Carefully examine the news article below, then answer the questions that follow.

- 1.** What is this news article about? What facts does the author provide?
- 2.** On what sources does the author base his or her information? What evidence do you find that the sources are either reliable or unreliable?
- 3.** Do you think this article is balanced? What elements are someone's opinion?

July 20, 2005

BUSH NOMINATES ROBERTS TO SUPREME COURT

Republicans praise nominee as Dems vow thorough review

WASHINGTON (CNN) -- President Bush on Tuesday chose as his first Supreme Court nominee U.S. Circuit Judge John Roberts Jr., a conservative whose selection pleased Republicans and prompted Democrats to vow a thorough review in the Senate.

If confirmed by the Senate, Roberts would replace retiring Justice Sandra Day O'Connor, who gained a reputation as a moderate swing voter in her 24 terms on the nation's highest court.

Bush called the selection of a nominee to the high court "one of the most consequential decisions a president makes."

Bush's announcement, televised nationally in prime time Tuesday from the White House, ended nearly three weeks of fervent speculation about who would take O'Connor's pivotal place on the court.

A senior administration official told CNN that Bush interviewed Roberts Friday at the White House and made his final decision Tuesday morning. He called Roberts about 12:30 p.m. to offer him the appointment.

With Roberts standing at his side, Bush said the nominee "has devoted his entire professional life to the cause of justice and is widely admired for his intellect, his sound judgment and personal decency."

In a brief statement, Roberts said, "It is both an honor and very humbling to be nominated to serve on the Supreme Court."

Source: CNN.com

SECTION 2



SS.7.C.3.8; SS.7.C.3.11; LA.7.1.6.1; LA.7.1.7.1

The Federal Court System

SS.7.C.3.8 Analyze the structure, functions, and processes of the legislative, executive, and judicial branches.

BEFORE YOU READ

The Main Idea

The federal court system consists of three levels of courts, each of which has specific duties.

Reading Focus

1. What is the purpose of the U.S. district courts?
2. How are the U.S. courts of appeals different from the district courts?
3. What is the role of the U.S. Supreme Court?

Key Terms

jurisdiction, *p. 185*
district courts, *p. 186*
original jurisdiction, *p. 186*
courts of appeals, *p. 187*
appellate jurisdiction, *p. 187*
justices, *p. 188*



Use the graphic organizer online to take notes on the federal court system.



Bernie Ebbers, founder and former chief executive of WorldCom, exits a New York City court in July 2005 after being sentenced to 25 years in prison for his role in the company's accounting fraud case. Cases such as these are tried in the federal court system.

ACADEMIC VOCABULARY

authority:
power, right to rule



Let's say that your favorite actor is arrested during a protest. She might agree to pay a fine, but she might also decide to take her case to court.

Depending on the events surrounding the arrest, her lawyers might argue that her First Amendment right, her right to free speech, has been violated. If so, her case would be tried in a federal court.

U.S. District Courts

The U.S. Constitution, in Article III, Section 1, provides that "the judicial power of the United States shall be vested in one Supreme Court, and in such inferior [lower] courts as the Congress may from time to time ... establish." The First Congress used this constitutional power to set up a system of federal courts. There are three levels of federal courts.

Each level of the federal court system is given jurisdiction in several different kinds of cases. The **jurisdiction** of a court is the extent or scope of **authority** that court has to hear and decide a case that has properly been brought before it. There are two types of jurisdiction: original and appellate.

U.S. Federal Districts

The lowest level of federal courts is the U.S. district courts. **District courts** are the trial courts, and they are courts of original jurisdiction. **Original jurisdiction** is the authority of a court to hear and decide a case for the first time. The district court is the only federal court in which jury trials are held. District courts cannot hear appeals from other courts.

Federal district courts are the “local” courts in the federal court system. There is at least one district court in each of the 50 states and in the District of Columbia. Some states are divided into as many as four federal court districts. There are 94 federal district courts in the United States.

U.S. District Judges

Judges, including federal judges, do not make law. That is the job of the legislature. Judges apply the relevant law to the case before them. In the federal court system, there may be one judge in a district court,

or there may be as many as 28 judges, depending on the caseload of the court.

Federal district judges are trial judges. They conduct both civil and criminal trials, with and without juries. They also rule on court procedures and apply the relevant law to the facts of the case. If there is no jury, the judge also decides which side wins and sets the remedy for the winner. In a criminal case, the judge also decides the punishment.

All federal judges, except those in U.S. territories, are appointed for life by the president and must be approved by the Senate. Federal judges can be removed from office only by impeachment by Congress. Neither Congress nor the president can lower a judge’s salary during his or her time in office. These guarantees were written into the Constitution to ensure that judges are not punished for their decisions in cases.

FOCUS ON

Florida has three federal district courts, one each for Southern Florida, Middle Florida, and Northern Florida.

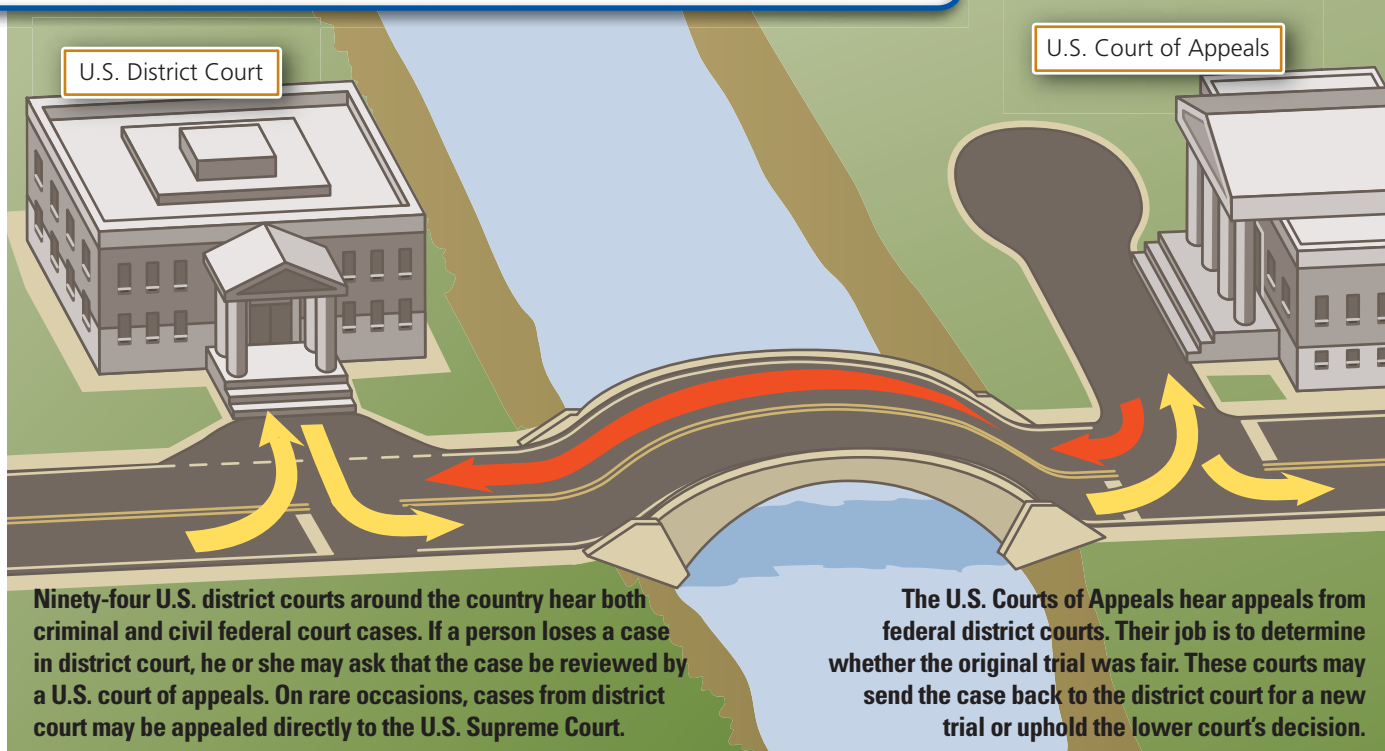
SS.7.C.3.11

Diagram the levels, functions, and powers of courts at the state and federal levels.

READING CHECK

Evaluating Why are federal judges appointed for life at a fixed salary?

The U.S. Supreme Court is the highest court in the federal court system. As such, it is the final stop for many cases on appeal. The illustration below shows the most common path that cases take to reach the Supreme Court—through the federal court system. However, cases do sometimes reach the Supreme Court through appeals from the state court systems.



U.S. Courts of Appeals

After a trial in a district court, the losing party may appeal to the next level of courts. The next level of courts in the federal court system consists of **courts of appeals**. These courts have what is called **appellate jurisdiction**. The term *appellate* means “relating to appeals,” so a court with appellate jurisdiction has the power to review decisions made by lower courts.

The federal court system, with its 94 district courts, is divided into 12 judicial circuits. Each circuit has its own court of appeals. For example, if you live in West Virginia, Virginia, North Carolina, or South Carolina, you live in the 4th Judicial Circuit. The 12th circuit is the District of Columbia. Each court of appeals has between 6 and 28 judges. The judge of each circuit who has served the longest and is under 65 years of age serves as the chief judge. Again, like other federal judges, appellate court judges are appointed for life.

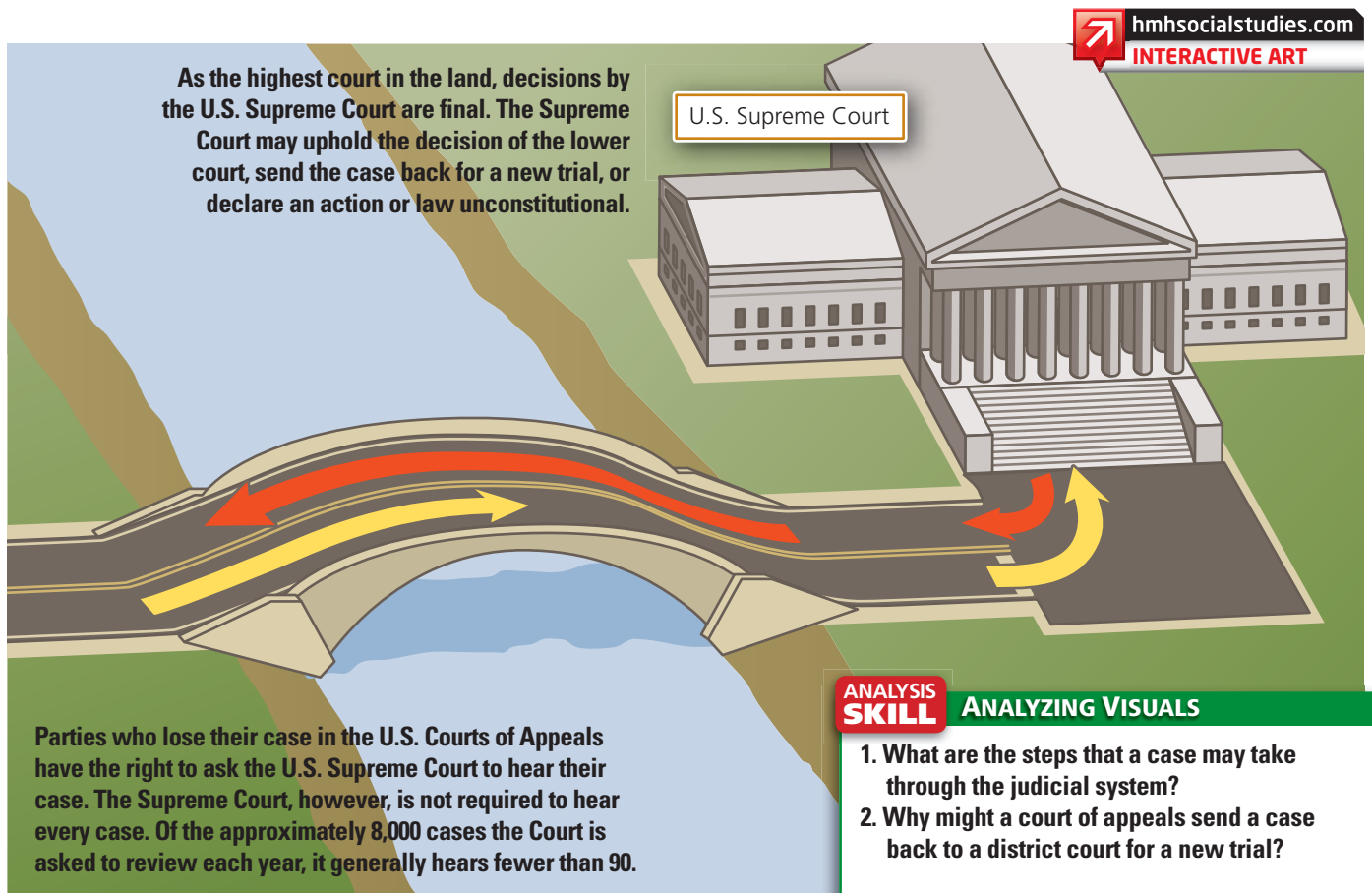
Courts of appeals do not hold trials. Instead, a panel of at least three judges makes a decision on the case. Appellate judges examine the records of the district court trial and hear arguments by the lawyers for both sides. The judges do not determine whether the accused person is guilty or innocent of the crime. Their job is to determine only whether the original trial was fair and if the law was interpreted correctly.

The judges reach their decision by majority vote. The court of appeals may send the case back to the district court for a new trial, or it may uphold the district court’s decision. In most cases, the decision of the court of appeals is final. Sometimes, however, yet another appeal is made to the U.S. Supreme Court.

READING CHECK

Identifying Cause and Effect

Why are cases sent to the court of appeals, and what are the possible results?



Makeup of the Supreme Court



The nine justices—a chief justice and eight associate justices—on the Supreme Court are appointed for life by the president, but the Senate must approve these appointments by majority vote.

- Chief Justice John G. Roberts Jr., appointed in 2005 by President George W. Bush
- Antonin Scalia, appointed in 1986 by President Ronald Reagan
- Anthony Kennedy, appointed in 1988 by President Ronald Reagan
- Clarence Thomas, appointed in 1991 by President George H. W. Bush
- Ruth Bader Ginsberg, appointed in 1993 by President Bill Clinton
- Stephen G. Breyer, appointed in 1994 by President Bill Clinton
- Samuel A. Alito Jr., appointed in 2005 by President George W. Bush
- Sonia M. Sotomayor, appointed in 2009 by President Barack Obama
- Elena Kagan, appointed in 2010 by President Barack Obama

ANALYSIS SKILL

ANALYZING INFORMATION

Drawing Conclusions Why must the Senate approve the president's choices for the Supreme Court?

The U.S. Supreme Court

The highest court in the land is the U.S. Supreme Court, which meets in Washington, D.C. The Supreme Court is mainly an appeals court. It reviews cases that have been tried in lower federal courts and in state courts. The decisions of the Supreme Court's nine **justices**, or judges, cannot be appealed.

The Constitution does give the Supreme Court original jurisdiction in three types of cases. First, the Supreme Court tries cases involving diplomatic representatives of other countries. Second, the court has jurisdiction in cases between states. For example, the Supreme Court once settled a dispute between Arizona and California over the use of water from the Colorado River basin. The Court also hears cases involving a state and the federal government.

READING CHECK

Drawing Inferences and

Conclusions Why might the Supreme Court have been given original jurisdiction in the three areas mentioned above?

SECTION 2 ASSESSMENT



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ONLINE QUIZ

Reviewing Ideas and Terms

1. **a. Define** Write a brief definition for each of the following terms: **jurisdiction**, **district courts**, and **original jurisdiction**.
b. Elaborate What is the purpose of the U.S. district courts?
2. **a. Define** Write a brief definition for each of the following terms: **courts of appeals** and **appellate jurisdiction**.
b. Explain How are courts of appeals different from district courts?
c. Evaluate In a court of appeals, a three-judge panel usually hears and decides cases. Why do you think it is important for three judges to hear an appeal instead of just one?
3. **a.** Write a brief definition for the following term: **justices**.

- b. Recall** What role does the U.S. Supreme Court play in the U.S. court system?

Critical Thinking

4. **Summarizing** Copy the graphic organizer below. Use it and your notes to identify and describe the three levels of federal courts.



FOCUS ON WRITING

5. **Supporting a Point of View** Write a position statement supporting or opposing a constitutional amendment that would end the system of lifetime appointments for federal judges.

SECTION 3



SS.7.C.3.8; SS.7.C.3.12; LA.7.1.6.1; LA.7.1.7.1

The Supreme Court

BEFORE YOU READ

The Main Idea

The Supreme Court hears appeals, reviews laws, and strongly influences American society.

Reading Focus

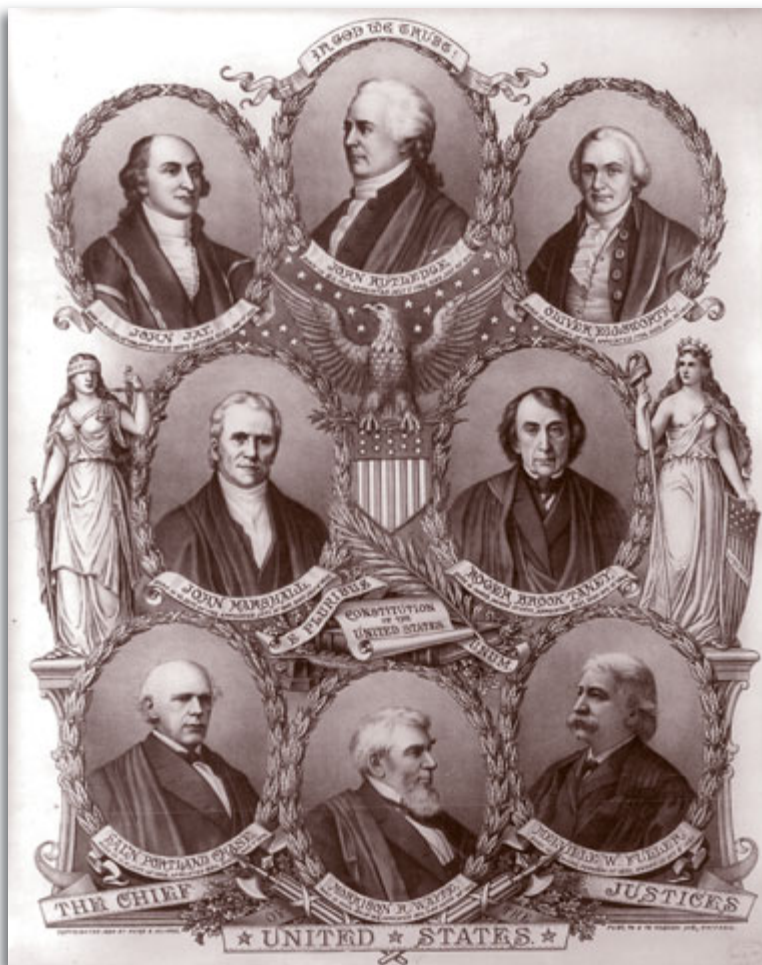
1. What is the power of judicial review?
2. What are the constitutional checks on the Supreme Court's powers?
3. How has the Supreme Court strengthened constitutional rights?

Key Terms

judicial review, p. 189
remand, p. 190
opinion, p. 190
concurring opinion, p. 190
dissenting opinion, p. 191



Use the graphic organizer online to take notes on the Supreme Court.



The first eight chief justices of the Supreme Court were John Jay, John Rutledge, Oliver Ellsworth, John Marshall, Roger B. Taney, Salmon P. Chase, Morrison R. Waite, and Melville W. Fuller.



What kinds of activities are protected by your right to free speech? What is cruel and unusual punishment? These are all constitutional questions, and many of them have been addressed by the courts. In fact, lower state and federal courts frequently deal with constitutional issues, but their rulings are not the final word. In our system of government, the Supreme Court has the final say about what is constitutional and what is not.

The Power of Judicial Review

Over the years, laws have been passed that have later been considered unconstitutional. Laws about segregation and discrimination are good examples. How can such laws be changed? The answers lie with a unique feature of the U.S. court system called the power of **judicial review**. This power allows courts to decide whether a law or a presidential action is in agreement with the Constitution. The Supreme Court holds the ultimate authority to make this decision. If a court decides that a law conflicts with the Constitution, that law is declared unconstitutional.

ACADEMIC VOCABULARY

explicitly:
fully revealed
without vagueness

The Constitution does not **explicitly** give the judicial branch the power of judicial review. John Marshall established the power when he served as chief justice of the Supreme Court from 1801 to 1835. Marshall promoted the idea of judicial review for the first time in 1803 in the case of *Marbury v. Madison*.

The case involved William Marbury. He had been promised an appointment as a justice of the peace by outgoing president John Adams. President Thomas Jefferson ordered the new secretary of state, James Madison, to deny Marbury's appointment. Marbury claimed that the Judiciary Act of 1789 gave the Supreme Court the power to order Madison to give him the promised appointment. However, Chief Justice Marshall ruled that the act gave the Supreme Court powers that it had not been granted by the Constitution. Because the Constitution is the supreme law of the land, the Judiciary Act passed by Congress was declared unconstitutional. This was the first time the Supreme Court had declared an act of Congress unconstitutional. It thus established the concept of judicial review.

Choosing Cases

More than 8,000 cases are filed with the Supreme Court each year. The Court may

decide, with or without a formal written opinion, only about 130 to 150 of those cases. It accepts only those cases that generally deal with important constitutional or national questions. At least four of the nine justices must vote to hear a case. If the Supreme Court refuses to review a case, the decision of the lower court remains in effect. The Court may also **remand**, or return, a case to a lower court for a new trial.

Hearing and Deciding Cases

The Supreme Court hears cases by oral argument. Lawyers for the parties in a case each have 30 minutes to present their arguments. Then the justices spend their time reading written arguments and considering what was said in court. When they are ready to decide a case, they hold a private meeting to vote. Each justice has one vote. Decisions are reached by a simple majority.

After deliberation and voting, the Court delivers its opinion. An **opinion** explains the reasoning that led to the decision. The Court's opinion is binding on all lower courts. Sometimes a justice agrees with the decision of the majority, but for different reasons. In that case, the justice may decide to write a **concurring opinion**.

Changing Court Opinions: Segregation

QUICK
FACTS

The Supreme Court has interpreted the Constitution differently at different times. For example, the Court ruled in *Scott v. Sandford* that African Americans were not considered U.S. citizens. Later, in *Plessy v. Ferguson*, the Court legalized "separate but equal" facilities for African Americans and whites. The Court put an end to legal segregation in 1954 in *Brown v. Board of Education*.

How were the rulings in Plessy v. Ferguson and Brown v. Board of Education different?



1857 *Scott v. Sandford*

Dred Scott's attempt to win his freedom was defeated when the Supreme Court ruled that slaves had no right to sue in federal courts because they were considered property, not citizens.

In many cases, one or more justices disagree with the majority opinion. These justices may file a dissenting opinion. The **dissenting opinion** explains why the justice believes the majority opinion is wrong. Although dissenting opinions have no effect on the law, they are still important. Many dissenting opinions have later become the law of the land when the beliefs of society and the opinions of the justices change. For example, in *Plessy v. Ferguson*, Justice John M. Harlan dissented, saying that the Constitution should not be interpreted in ways that recognize class or racial distinctions.

Supreme Court Justices

The size of the Supreme Court is determined by Congress. Since 1869, the number of justices has been set at nine. The Court has a chief justice, who is the principal judge, and eight associate justices. Supreme Court justices, like other federal judges, are appointed for life by the president and approved by the Senate. Justices can be removed only by impeachment. There are no special requirements to be a Supreme Court justice.

READING CHECK

Summarizing How can the power of judicial review have an effect on the laws that are passed by Congress?



1896 Plessy v. Ferguson

African American Homer Plessy was arrested for riding in a “whites-only” railcar in Louisiana. The Court justified segregation by ruling that separate facilities for different races were legal as long as those facilities were equal to one another.

Checking the Court's Power

How do the other branches of government check the powers of the judicial branch? The executive branch—the president—has the power to appoint all federal judges, including Supreme Court justices. Of course, the Senate must confirm all nominees for federal judgeships, including Supreme Court justices. If a nominee cannot win the support of a majority of the senators, the nomination may be rejected. Then the president would have to appoint someone else.

If the Court rules that a law is unconstitutional, Congress can try to write a better law. Congress may change the law enough so that the Supreme Court can uphold the new law. Another way for Congress to check the Court's power is to amend the Constitution. For example, in 1895 the Supreme Court declared that an income tax law passed by Congress was unconstitutional. So in 1913 the states ratified the Sixteenth Amendment. It gave Congress the power to tax a person's income. The income tax then became legal and constitutional.

READING CHECK

Finding the Main Idea What are two ways the legislative branch can check the power of the Supreme Court?

SS.7.C.3.12 Analyze the significance and outcomes of landmark Supreme Court cases including, but not limited to, *Marbury v. Madison*, *Plessy v. Ferguson*, *Brown v. Board of Education*, *Gideon v. Wainwright*, *Miranda v. Arizona*, *in re Gault*, *Tinker v. Des Moines*, *Hazelwood v. Kuhlmeier*, *United States v. Nixon*, and *Bush v. Gore*.



1954 Brown v. Board of Education

In a unanimous decision, the Supreme Court ruled that segregated schools were not equal and therefore violated the Fourteenth Amendment's guarantee of equal protection under the law.



FOCUS ON Thurgood Marshall

(1908–1993)

Thurgood Marshall was born in Baltimore, Maryland. He graduated first in his class from Howard Law School

in 1933. He soon became a key legal counsel for the National Association for the Advancement of Colored People (NAACP). He helped the NAACP win several important civil rights cases. Perhaps his most famous victory was *Brown v. Board of Education*, which outlawed segregation in public schools.

Marshall was appointed to a federal court of appeals in 1961. He became the first African American justice on the Supreme Court in 1967. He served for more than 20 years. Marshall retired from the court in 1991. He left behind a legacy of defending individual rights and demanding equal justice for all Americans.

Explain How did Marshall contribute to the U.S. legal system?

Strengthening Rights

Supreme Court decisions have allowed the Constitution to meet the demands of changing times. For example, in 1954 the Court decided in the case of *Brown v. Board of Education* that the segregation of public schools was unconstitutional. By doing this the Court reversed an earlier opinion. That one had said segregation was constitutional

as long as there were separate-but-equal facilities for whites and African Americans. In *Brown*, the Court ruled that segregated schools were inherently unequal and therefore violated the Fourteenth Amendment. The Court ruled that public schools be desegregated “with all deliberate speed.”

The 1954 *Brown* decision did not completely eliminate segregation. It took other cases and decisions to strike down other discriminatory laws.

Like the *Brown* decision, other Supreme Court opinions have made far-reaching changes in American life. For example, the Court has made several rulings on the rights of the accused and voting rights.

In the 1966 case of *Miranda v. Arizona*, the Court declared that the police must inform arrested suspects of their rights before questioning them.

The Court also made several decisions in the 1960s affecting voting rights and representation in Congress. These decisions were aimed at ensuring that each person’s vote counts the same as any other person’s vote.

READING CHECK

Analyzing Information How has the Supreme Court made sure that the Constitution applies to all Americans?

SECTION 3 ASSESSMENT



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ONLINE QUIZ

Reviewing Ideas and Terms

1. **a. Define** Write a brief definition for each of the following terms: **judicial review**, **remand**, **opinion**, **concurring opinion**, and **dissenting opinion**.
b. Compare and Contrast What are the differences between a concurring opinion and a dissenting opinion?
2. **a. Recall** What can Congress do to check the power of the Supreme Court?
b. Support a Point of View Does the Supreme Court have too much power? Why?
3. **a. Summarize** What are some issues Supreme Court cases have addressed?

- b. Elaborate** What might happen if people did not have the rights established in *Miranda v. Arizona*? Explain your answer.

Critical Thinking

4. **Sequencing** Copy the graphic organizer. Use it to identify the steps a case goes through in the Supreme Court.



FOCUS ON WRITING

5. **Identifying Points of View** You are a senator considering a presidential nominee for Supreme Court justice. Write a letter to your colleagues explaining how you intend to vote for the nominee.

STUDENTS TAKE ACTION

PROJECT Citizen



Encouraging Safe Exercise

When Mexico, Missouri, bicyclists ride safely between Fairground and Lakeview Parks or on the Lakeview trail, they will have a local Project Citizen class to thank. These students supported the Lakeview trail proposal. They wrote rules for the trail and planned a bike-lane route to connect the two parks.

Community Connection Students in Ms. Diana Henage's class were concerned that their city did not provide any areas designated for bicycle riding. There were no bike trails and no bicycle lanes on city streets. So the students conducted community surveys. They found there was overwhelming public support for the creation of such bicycle lanes and trails.

Taking Action The class created a "Pedal to the Metal" proposal. They wanted to create bicycle lanes connecting two public parks. They also wanted to establish rules for cyclists, walkers, and people in wheelchairs on trails. They began by interviewing city officials about a park bicycle trail that was already being considered, as well as their new proposal. With student support, the park trail was approved. The city council agreed to consider painting bike lanes. But the class did not stop there. The students gathered information on statewide bicycle programs. They then sent lists of rules and regulations to the city manager and the city parks director for final approval. The students look forward to seeing their rules posted at the entrance of the new Lakeview Park Trail!



Designated bike lanes and bike trails make bicycling safer.

SERVICE LEARNING

21ST CENTURY

1. How were the students inspired to promote safe exercise in their community?
2. How did the students work with local officials to gain support for their ideas?

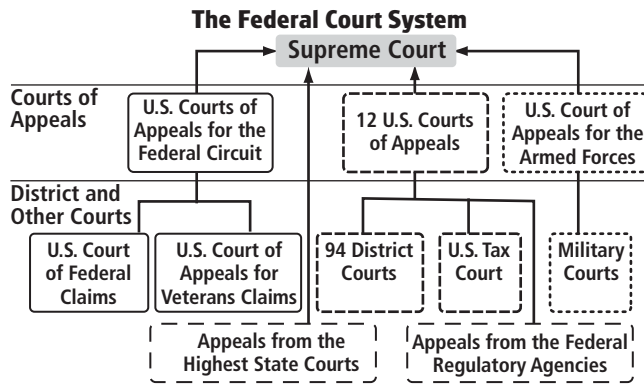
 hmhsocialstudies.com **ACTIVITY**

CHAPTER 7 REVIEW



FLORIDA CIVICS EOC PRACTICE

1. The chart below describes the organization of the federal court system.



Appeals from the U.S. Court of Appeals for Veterans Claims reach the Supreme Court through which of the following?

- A. one of the 94 U.S. Courts of Appeals
 - B. the Military Courts
 - C. one of the U.S. Courts of Appeals for the Federal Circuit
 - D. the U.S. Court of Appeals for the Armed Forces
2. What is one way that the rule of law has influenced the development of the American legal system?
- A. All people, including politicians and other leaders, must obey the law.
 - B. Defendants are guilty until proven innocent.
 - C. Penalties for violating civil laws are more severe than for violating criminal laws.
 - D. Elected officials must obey constitutional laws but not statutory laws.

Reviewing Key Terms

For each term below, write a sentence explaining its significance to the judicial branch.

1. crime
2. criminal law
3. civil law
4. common law
5. precedent
6. constitutional law
7. appeal
8. jurisdiction
9. district courts
10. original jurisdiction
11. courts of appeals
12. appellate jurisdiction
13. justices
14. judicial review
15. remand
16. opinion
17. concurring opinion
18. dissenting opinion

Comprehension and Critical Thinking

SECTION 1 (Pages 180–183)

19. **a. Describe** What are the types of laws that exist in the United States?
- b. Explain** What purposes do U.S. courts serve?

SECTION 2 (Pages 185–188)

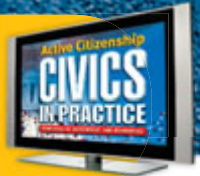
20. **a. Recall** What two kinds of cases are tried in district courts?
- b. Sequence** How is the federal court system organized?

SECTION 3 (Pages 189–192)

21. **a. Recall** How are appointments made to the Supreme Court, and how long do justices serve?
- b. Summarize** How did John Marshall increase the Supreme Court's power?
- c. Elaborate** How does the Supreme Court limit Congress's power?

Active Citizenship video program

Review the video to answer the closing question:
Why do Supreme Court decisions affect different groups of people all over the country?



Using the Internet



- 22. Visualizing the Judiciary** Understanding the judicial branch of the U.S. government can be challenging. Through your online textbook, research the levels, functions, and powers of courts in the federal court system. Then create a diagram on poster board that shows your information. Focus on the jurisdictions of various courts and the types of cases that each court handles.



Civics Skills



Analyzing a News Article Use the Civics Skills taught in this chapter to answer the question about the selection below.

July 20, 2005

BUSH NOMINATES ROBERTS TO SUPREME COURT

Republicans praise nominee as Dems vow thorough review

WASHINGTON (CNN) -- President Bush on Tuesday chose as his first Supreme Court nominee U.S. Circuit Judge John Roberts Jr., a conservative whose selection pleased Republicans and prompted Democrats to vow a thorough review in the Senate.

If confirmed by the Senate, Roberts would replace retiring Justice Sandra Day O'Connor, who gained a reputation as a moderate swing voter in her 24 terms on the nation's highest court.

Bush called the selection of a nominee to the high court "one of the most consequential decisions a president makes."

Bush's announcement, televised nationally in prime time Tuesday from the White House, ended nearly three weeks of fervent speculation about who would take O'Connor's pivotal place on the court.

A senior administration official told CNN that Bush interviewed Roberts Friday at the White House and made his final decision Tuesday morning. He called Roberts about 12:30 p.m. to offer him the appointment.

With Roberts standing at his side, Bush said the nominee "has devoted his entire professional life to the cause of justice and is widely admired for his intellect, his sound judgment and personal decency."

In a brief statement, Roberts said, "It is both an honor and very humbling to be nominated to serve on the Supreme Court."

Source: CNN.com

- 23.** Does this article seem to favor one side of the issue over another? Explain your answer.

Reading Skills



Distinguishing Between Fact and Opinion

Use the Reading Skill taught in this chapter to answer the question about the selection below.

The team created a "Pedal to the Metal" proposal. They wanted to create bicycle lanes connecting two public parks. They also wanted to establish rules for cyclists, walkers, and people in wheel-chairs on trails. They began by interviewing city officials about a park bicycle trail that was already being considered, as well as their new proposal. With student support, the park trail was approved and the city council agreed to consider painting bike lanes. But the team did not stop there. The students gathered information on statewide bicycle programs and then sent lists of rules and regulations to the city manager and the city parks director for final approval. The students look forward to seeing their rules posted at the entrance of the new Lakeview Park Trail! (p. 193)

- 24.** Which of the following statements from the passage is an opinion?

- a. With student support, the park trail was approved.
- b. The students look forward to seeing their rules posted at the entrance of the new Lakeview Park Trail!
- c. The students gathered information on statewide bicycle programs.
- d. The city council agreed to consider painting bike lanes.

FOCUS ON SPEAKING

- 25. Writing a Radio News Broadcast** Review your notes on the path a court case takes to reach the Supreme Court. Then, pick one of the Supreme Court cases discussed in your textbook. Using the library or an online resource, research the history of the case. Now write a radio news broadcast where you follow the case through the judicial system.

Judges for Life

Did the Supreme Court pull the plug on your music? In June 2005 the Supreme Court ruled that makers of file-sharing systems for the Internet could face criminal charges if people used their technology to illegally download copyrighted music. The technology involved in this case about copyrighted work had only been around for a few years. Some of the Supreme Court justices who decided the case were over age 70. Do you think age influenced the Court's decision?

Why it Matters

Justices of the U.S. Supreme Court are appointed for life, as are all other federal judges. These people play an important role in interpreting the laws that govern our country and our lives. For instance, think about how the Court's decision on file-sharing technology might affect you. Federal judges decide many other issues that affect our daily lives and our futures. The public often debates whether it is fair for these decisions to be made by people who may sometimes be far removed from the younger generations their decisions affect the most.

But Article 2, Section 1, of the U.S. Constitution states that Supreme Court justices should be appointed for life. The framers wanted justices to be able to make decisions freely, without political influence or concerns about how their decisions might affect their chances of re-election. The justices can serve until they die or they choose to retire. William O. Douglas, the longest-serving Supreme Court justice, held his position for 36 years before retiring. The oldest justice, Oliver Wendell Holmes, served until he was 90. Many justices have served into their 80s.

Some people believe that there should be a required retirement age for Supreme Court justices. Others point out that Americans are now living longer, healthier lives. If older justices are able to do their jobs well, their age should not matter. And, they argue, the experience the justices gain with age will benefit the Court.



The nine justices of the U.S. Supreme Court in 2010

ANALYSIS SKILL

EVALUATING THE LAW

1. Do you think the age of Supreme Court justices affects their views on issues? Explain.
2. How might the role of justices and their decisions change if they were elected for set periods of time?

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