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Class

## CHAPTER SUMMARY\*



### **Supreme Court Decision Making**

#### THE SUPREME COURT AT WORK

When in session the Supreme Court sits for two consecutive weeks each month. The justices listen to arguments from opposing lawyers and discuss cases in conference. After each sitting the Court recesses and the justices:

- consider the arguments in cases they have heard;
- work on opinions—written statements that explain the legal principles and reasoning underlying Court decisions;
- study petitions from individuals asking that a case be heard.

Thousands of suits are appealed to the Supreme Court each year. A few more start there under original jurisdiction. Only 100 or so receive full hearings. Most cases that reach the Supreme Court on peal fall into one of two categories:

- a lower federal court or the highest court in a state has found a law unconstitutional or has upheld a state law against a claim that it violates federal law or the Constitution
- a petitioner argues that a lower court made a legal error in a case or raises a serious constitutional issue.

The main route to the Court is by a writ of certiorari, a document ordering that the records on a case be sent up for review. The Court must grant certiorari in cases involving the constitutionality of a law. In other cases the justices may deny a petition because they think the issue is insignificant or they do not want to address it.

The selection of cases involves considerable discussion. Many of the cases accepted are simply sent back for reconsideration or decided by a per curiam opinion, a short, unsigned Court ruling. Major cases receive full consideration:

- Lawyers for each side submit briefs, written statements with the legal arguments, relevant facts, and precedents supporting their positions.
- Individuals, interest groups, and government agencies may submit amicus curiae, "friend of the court," briefs supporting one side or the other.
- Lawyers for each side present oral arguments, 30-minute summaries of the key points in the case, and answer questions from the justices.
- The justices debate the case's merits and vote.

### The Court Issues Four Kinds of Opinions

- a unanimous opinion on which all justices agree;
- a majority opinion expressing legal views with which the majority of justices agree;
- a concurring opinion in which one or more justices agree with the conclusion, but for different reasons than those of the majority;
- a dissenting opinion in which one or more justices disagree with the majority's decision.

### SHAPING PUBLIC POLICY

The Supreme Court uses three tools to influence national policy:

- Through judicial review the Court validates or cancels the laws and actions of government institutions at the local, state, and national levels. It has used this tool to overturn about 150 provisions of federal law and more than
- 1,000 local and state laws.
- Through its **interpretation of laws** the Court determines how policy will be carried out on a daily basis in all parts of the nation.
- By overturning earlier decisions the Court adapts the law to changing circumstances and social values. It uses this tool with discretion

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#### **CHAPTER 12 SUMMARY CONTINUED**

#### SHAPING PUBLIC POLICY (continued)

because laws must be consistent if people are to know what is expected of them. Stare decisis, Latin for "let the decision stand" is a basic legal principle illustrating this point. In practice it means that earlier Court rulings serve as precedents, or models, on which to base decisions in similar cases. The system places several limits on the Supreme Court's influence:

- Limits on Types of Issues: The Court does not give equal attention to all areas of national policy. For example, it plays only a minor role in shaping foreign policy.
- Limits on Types of Cases: The Court considers only cases in which its decision will make a difference. It will not hear a case unless someone has suffered real harm such as denial of civil liberties or economic loss. It accepts only cases that involve a substantial federal question.
- Limited Control over Agenda: The Court may not initiate legal action. It can only decide on cases that are brought before it.
- Lack of Enforcement Power: The Court must rely on other government institutions to enforce its rulings.
- Checks and Balances: The other branches of government influence and check the Court's power.

### MINFLUENCING COURT DECISIONS

Five factors shape Supreme Court decisions:

- Basing Decisions on the Law: Justices must base their decisions on legal principles, not on their personal feelings. If the meaning of a statute or a constitutional provision is not clear, the justices must determine what it means and apply the meaning to the circumstances of the case. They do this by relating their interpretations to the Constitution, to other laws that are relevant, and to legal precedent.
- Views of the Justices: Most justices take consistent positions on certain kinds of issues. In recent years one group of justices has tended toward liberal positions on civil rights and economic issues. Another bloc has leaned toward conservative views on the same issues. At times like these a justice with less rigid views may become the swing, or deciding vote. When new justices with different views are appointed, the direction that Court interpretations take may change.
- Relations Among the Justices: Justices who work easily with one another are more likely to find mutually acceptable solutions even when their legal philosophies differ. Conversely, severe personal conflicts can cause divisiveness on the Court. The chief justice can influence the direction of the Court when presiding over oral arguments and conferences, shaping the list of cases to be heard, and deciding who will write specific opinions.
- Social Forces and Public Attitudes: Supreme Court decisions more often than not reflect contemporary social values and beliefs.
- The President and the Congress: Presidents exercise control over the Supreme Court through their power of appointment and by the aggressiveness or indifference with which the executive branch enforces decisions. Congress exercises control by passing new laws or reshaping nullified ones, by proposing constitutional amendments, by exercising its power to set justices' salaries and the number of justices on the Court, and through the Senate's confirmation power.

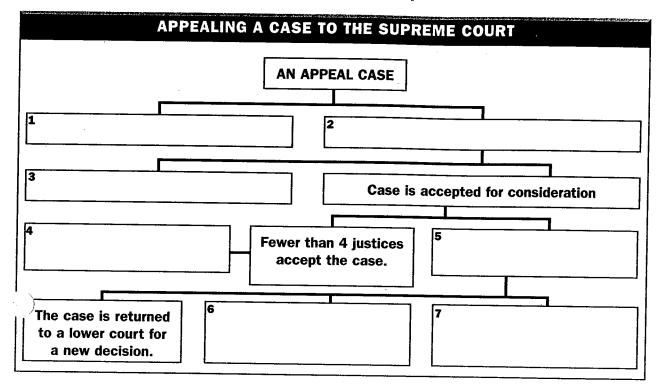


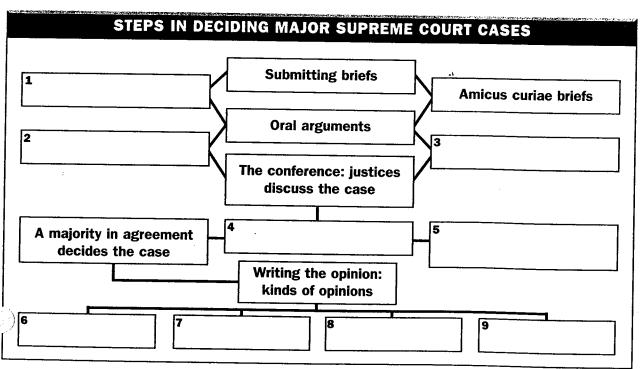
# **Guided Reading Activity 12-1**



### The Supreme Court at Work

★ DIRECTIONS Use the information in your textbook to complete these flow charts.





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### **Shaping Public Policy**

**DIRECTIONS** Use the information in your textbook to complete this chart. List the Court's three "tools" in each top section, and give an example of how each is used in the sections below.

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**DIRECTIONS** Use the information in your textbook to list the limits on the power of the Supreme Court.

- 1. Types of issues the Court can accept:
- 2. Types of cases the Court can accept:
- 3. How the Court's agenda is limited:
- 4. Why the Court cannot enforce its decisions:

# **Guided Reading Activity 12-3**



# **Influencing Court Decisions**

ne Law:		
e Justices:	 	
ciety:	 	

**DIRECTIONS** Use the information in your textbook to complete this table by explaining how the president and members of Congress influence the Supreme Court.

PRESIDENTIAL AND CONGRESSIONAL	INFLUENCES ON THE SUPREME COURT
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	•
	•
	•
	•
	•

Vocabulary Activity 12

# Supreme Court Decision Making

DIRECTIONS

Select the term that matches each definition below. Write the correct term in the space provided.

dissenting opinion majority opinion amicus curiae swing vote precedent

brief

impound writ of certiorari advisory opinion

per curiam opinion bloc

stare decisis

- 1. An order from the Court to a lower court to send up the records on a case for review
- 2. A short unsigned statement of the Court's decision in a case \_\_\_\_\_
- **3.** A written statement setting forth the legal arguments, relevant facts, and previous Court decision supporting one side of a case
- **4.** A friend of the court \_\_\_\_\_
- 5. An explanation of a Court decision expressing the views of most of the justices on a case
- 6. An explanation of a Court decision expressing the views of justices on the losing side of a case
- 7. A power, exercised by the president, to refuse to spend money Congress has appropriated
- 8. A Latin term that means "let the decision (of the Court) stand"
- 9. A model for courts on which to base other decisions in similar cases
- 10. A ruling on a law or action that has not been challenged
- 11. A coalition of justices that consistently vote a certain position
- 12. The deciding ballot cast on a specific issue

DIRECTIONS

Use each of the following terms correctly in complete sentences. Write the sentences on a separate sheet of paper.

judicial review

lobbying

# Reteaching Activity \* \* \* \* \*

## **Supreme Court Decision Making**

DIFECTION'S

Complete the diagram related to the decision-making powers of the United States Supreme Court. Write the correct letters on the line in each box.

Cases come to the Supreme Court mainly in these two ways:



The Court will hear a case if it meets this criteria.

The steps for deciding a major case follow this order:

1. \_\_\_\_ 2. \_\_\_ 3. \_\_\_ 4. \_\_\_ 5. \_\_\_



Decisions of the Court are influenced by these factors.

- **A.** the quality of the relationship of the justices
- **B.** Lawyers present oral arguments before the Court.
- **C.** presidential appointments to the Court
- **D.** A majority opinion may be debated and rewritten several times before the final decision is announced.
- **E.** A substantial federal question is in dispute.
- F. Lawyers submit written briefs.
- **G.** public acceptance and support
- **H.** The final decision will make a difference.
- I. on appeal
- **J.** A written opinion is issued that announces the Court's ruling and explains its reasoning.

- K. logical interpretation of the law
- L. The nine justices meet to debate each case, express views and conclusions, and vote on a decision.
- **M.** actions of Congress
- **N.** changes in the attitudes and practices of society
- **0.** the skillful leadership of the chief justice
- **P.** by writ of certiorari
- **Q.** Political questions are not involved.
- **R.** The plaintiff has suffered real harm.
- **S.** personal views and opinions of the justices

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# Supreme Court Decision Making

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DIRECTIONS

In the space provided, write the word or phrase that best completes each of the following sentences.

1. A \_\_\_\_\_\_\_ of certiorari orders the records on a case be sent up for review.

2. The Supreme Court must grant certiorari in cases involving the \_\_\_\_\_\_\_ of a law.

3. The Supreme Court decides many cases by a per curiam opinion—a \_\_\_\_\_\_\_, ruling.

4. A \_\_\_\_\_\_\_ sets forth the legal arguments, relevant facts, and precedents.

5. Individuals, interest groups, and government agencies may submit amicus curiae, or \_\_\_\_\_\_\_ of the court" briefs.

6. A \_\_\_\_\_\_\_ opinion agrees with the conclusion reached but for reasons other than those in the majority opinion.

7. One or more justices may write a \_\_\_\_\_\_\_ opinion, disagreeing with the majority.

8. Under the principle of stare decisis, earlier Court rulings serve as \_\_\_\_\_\_\_ question.

9. The Supreme Court accepts only cases that involve a substantial \_\_\_\_\_\_ question.

**Organizing Information** Write an explanation of how each factor helps shape Supreme Court decisions.

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Factor	How It Influences Supreme Court Decisions
Basing Decisions on the Law	
Views of the Justices	
Relations Among the Justices	
Social Forces and Public Attitudes	
The President and the Congress	

Critical Thinking Answer the following question on a separate sheet of paper.

**11.** How can a president use the power of appointment to influence the direction of Supreme Court decisions?