

## Daily Lecture Notes

Lesson

12-1

### Did you know?

For more than a month, Chief Justice John Marshall served as both chief justice of the United States and secretary of state. President John Adams appointed Marshall chief justice on January 31, 1801. Marshall, then secretary of state, held both positions until March 4, 1801.

### Outline

#### I. The Court's Procedures (page 331)

- A. During two-week sessions, justices hear oral arguments on cases and then meet in secret to make decisions.
- B. The justices consider arguments in cases they have heard and petitions from plaintiffs, and then write opinions for cases they have decided.
- C. Justices' written opinions interpret the law and help shape public policy.

#### Discussion Question

The Supreme Court reviews about one percent of the cases referred to it. Does this statistic concern you? Explain. (See text page 331 regarding the Court's workload.)

#### II. How Cases Reach the Court (pages 332–333)

- A. The majority of referred Court cases concern appeals from lower courts.
- B. Most appeals concern cases in which a lower state or federal court has ruled laws unconstitutional. Cases the Court chooses not to hear are dismissed, and the ruling of the lower court becomes final.
- C. Most cases reach the Court by writ of certiorari, in which either side petitions that a lower court's decision involved an error raising a serious constitutional issue.
- D. The solicitor general is appointed by the president and represents the federal government before the Supreme Court.
- E. The chief justice puts worthy certiorari cases on a list for discussion; two-thirds of all certiorari cases never make the list. If four of the nine justices agree, a case is accepted.



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### II. How Cases Reach the Court (pages 332–333, *continued*)

- F.** Some cases are decided by a brief, unsigned per curiam opinion; the rest are given the Court's full consideration.

#### Discussion Question

**Why does the Supreme Court select a very small percentage of cases to review?**  
(The Court selects only very significant cases because of its limited time.)

### III. Steps in Deciding Major Cases (pages 333–335)

- A.** Each side submits a brief detailing legal arguments, facts, and precedents. Parties not directly involved but with an interest in the case may submit amicus curiae briefs.
- B.** Lawyers for each side make oral arguments during which justices may ask questions.
- C.** On Wednesdays and Fridays the chief justice presides over a secret conference, in which each single case is summarized and recommendations for handling it are made.
- D.** The justices spend about 30 minutes debating each case. Each justice has one vote; a majority vote is needed to decide a case.
- E.** The justices may issue four kinds of opinions: a unanimous opinion, a majority opinion, a concurring opinion, or a dissenting opinion.
- F.** If the chief justice votes with the majority, he or she assigns a justice in the majority to write the Court's opinion. If not, the most senior justice with the majority assigns a justice to write the opinion.

#### Discussion Question

**In what way has a Supreme Court decision affected you, your family, or your community directly?** (Answers will vary. Students may refer to decisions affecting schools, free speech, etc.)

end



## Daily Lecture Notes

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### Did you know?

The Constitution sets no basic requirements for Supreme Court justices, not even age limits or citizenship. Neither a law degree nor prior experience as a judge is mandatory.

### Outline

- I. Tools for Shaping Policy (pages 336–339)
  - A. The Court determines policy in three ways:
    1. using judicial review;
    2. interpreting laws;
    3. overruling or reversing its previous decisions.
  - B. Using judicial review, the Court may examine laws and actions at all levels of government and cancel them if they violate the Constitution.
  - C. The Court uses judicial review most often at the state and local levels, but decisions may have as much significance as those at the federal level, as in the *Brown* (1954) and *Miranda* (1966) cases.
  - D. The Court's interpretation of the very general language of laws allows it to decide how the law applies to specific situations.
  - E. The Court's rulings become precedents on which to base other, similar decisions; however, since times change, the Court may overturn or reverse its earlier decisions.

### Discussion Question

**Some Supreme Court decisions have resulted in great social upheaval. Should the Court consider public reaction in making its decisions? Explain.** (Answers will vary. Students should support their views.)



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#### II. Limits on the Supreme Court (pages 339–341)

- A.** Generally, the Court's decisions have dealt largely with civil liberties, economic issues, federal laws and regulations, due process, and suits against government officials.
- B.** The Court plays only a minor role in the area of foreign policy.
- C.** Civil liberties cases make up the largest number of Court cases; appeals from prisoners comprise about one-fourth of its cases.
- D.** By its rules and customs, the Court hears only cases where its decision will make a difference, not merely those which decide a point of law. Plaintiffs must have suffered real harm, or cases must involve a federal question.  
The Court avoids political issues.
- E.** Since the Court can decide only those cases that come to it from elsewhere in the legal system, events beyond the Court's control shape its agenda.  
The Court may signal its interest in a subject by taking on a specific case.
- F.** The Court's power to shape public policy also is limited by its own limited ability to enforce its decisions. Noncompliance by other courts also is difficult to monitor.

#### Discussion Question

Although there are clear limits on the Supreme Court's powers, some critics claim that the Court sometimes exceeds its constitutional power by changing public policy in controversial areas such as abortion and minority rights. Do you agree? Explain. (Answers will vary. Note that the Court sets policy only when a case is presented to it.)

end



## Daily Lecture Notes

### Lesson

# 12-3

### Did you know?

William O. Douglas served longer (36 years) than any other Supreme Court justice and was the only justice ever to write both the majority and minority opinions for the same case (*Meyer et al. v. United States*). Douglas wrote the minority opinion and then made a few "notes" to help out with the majority opinion. Douglas's brilliant notes were submitted as the majority opinion.

## Outline

### I. Basing Decisions on the Law (page 343)

- A. Justices must base their opinions on the law, not on personal opinions.
- B. The Court must interpret laws and relate their interpretations to the Constitution itself, relevant statutes, and legal precedents.

### Discussion Question

**Do you think it is good that justices must relate their decisions to relevant statutes and legal precedents? Explain.** (Yes, personal opinions alone are not a basis of good law.)

### II. Views of the Justices (page 344)

- A. Justices monitor important issues; some become identified with them.
- B. As justices retire, the majority voting blocs on certain issues may change.

### Discussion Question

**Should justices allow their views on issues to affect their decisions about the constitutionality of laws?** (Answers will vary. See text page 344.)

### III. Relations Among the Justices (pages 344–345)

- A. Modern justices meet for discussion, but most communicate in writing.
- B. Personal relations among justices may influence the Court's decisions.
- C. The chief justice's skillful leadership can help promote harmony.



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## Discussion Question

Is it better for the justices to share similar opinions and philosophies or does some degree of conflict among the justices produce better decisions? Explain. (Answers will vary. Generally, the adversarial system assumes disagreement.)

## IV. The Court and Society (pages 345–347)

- A.** Although insulated from public opinion and political pressures, the Court needs public support; its authority depends in part on public acceptance.
- B.** Justices are influenced by the values and beliefs of society; their decisions usually reflect important societal changes.

## Discussion Question

**How important is public opinion in shaping the Court's decisions? Explain.**

(The Court is insulated from opinion; however, justices are affected by the same social forces as the public.)

## V. Balancing the Court's Power (pages 347–348)

- A.** The power of presidents to fill vacancies on the Court, as has every full-term president but Carter, gives them influence over the Court.
- B.** As head of the executive branch, the president is responsible for enforcing the Court's decisions but may do so vigorously or with little enthusiasm.
- C.** Congress has the power to limit the Court's ability to hear certain cases; may propose a constitutional amendment to overturn a decision; may set, but not reduce, the justices' salaries; uses its confirmation power to shape the Court's position on social issues.

## Discussion Question

Since most presidents appoint at least one Supreme Court justice during their terms in office, how important is it to consider candidates' views on social and legal issues before voting in a presidential election? Explain. (Answers will vary. Accept reasonable responses.)

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