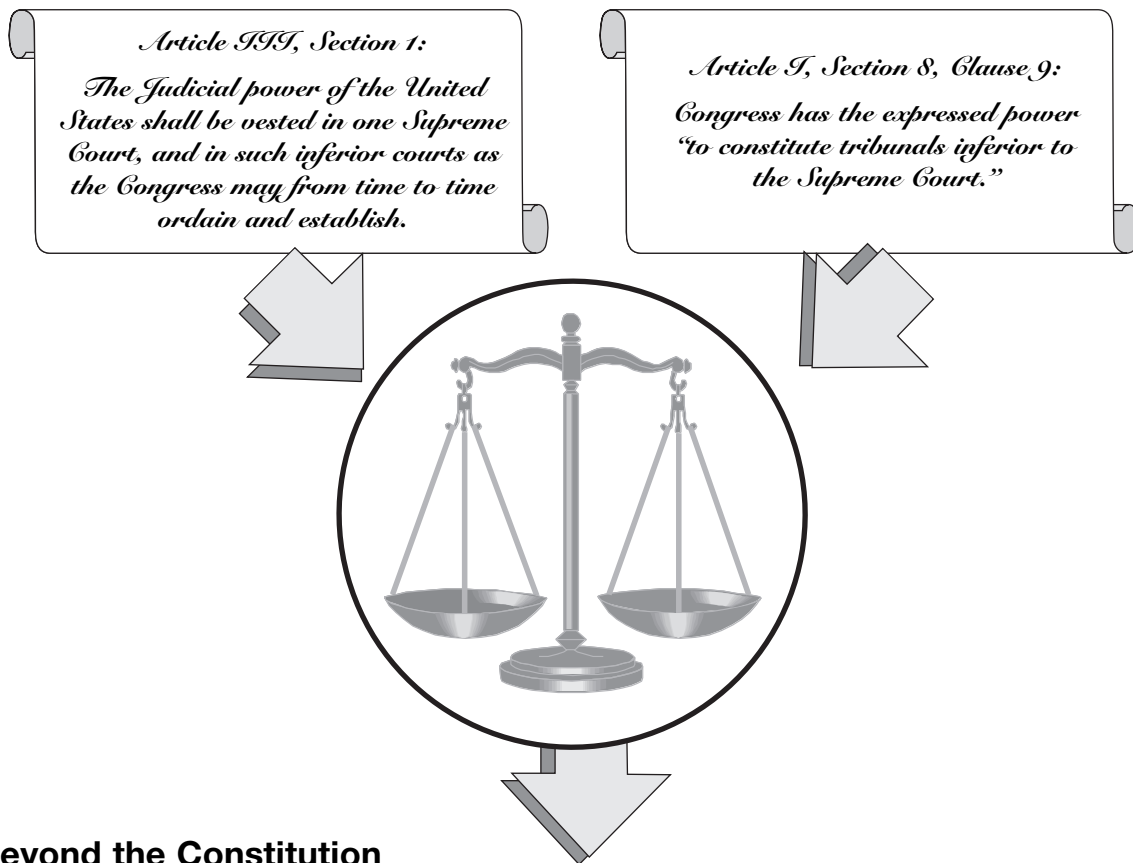


Judicial Power and Function

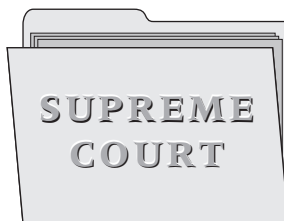
Overview: The Judicial Branch of the U.S. government is responsible for interpreting the laws of the United States. The federal courts of the judiciary, along with state and local courts, form the backbone of the U.S. legal system. The laws are made by the legislature, but they are tested and interpreted by the judiciary.

Source of Power

The Constitution is the original source of power for the judicial branch of the U. S. government:



John Marshall was appointed as chief justice of the Supreme Court in 1801 and served for the rest of his life—34 years. He is often considered to be the greatest of all chief justices. Chief Justice John Marshall's ruling in *Marbury v. Madison* in 1803 established the Supreme Court's predominant authority in testing the validity of all laws against the supreme law of the Constitution. This function is known as "judicial review."



If, then, the Courts are to regard the Constitution, and the Constitution is superior to any ordinary act of the Legislature, the Constitution, and not such ordinary act, must govern the case to which they both apply.

Those, then, who controvert the principle that the Constitution is to be considered in court as a paramount law are reduced to the necessity of maintaining that courts must close their eyes on the Constitution, and see only the law.

Chief Justice John Marshall, *Marbury v. Madison*, 1803

Judicial Power and Bodies of Law

Courts encounter two different bodies of law in carrying out their judicial functions. They are:

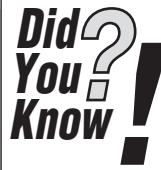
Statutory Law

Laws passed by legislative bodies. This includes the Constitution.

Statutory laws are passed by elected officials, and then approved and enforced by authorized executives and interpreted by the courts.

Statutory laws also include laws passed by citizens directly in either referendums or initiatives.

Statutory laws also include all rules of conduct passed at the city, county, state, or federal level.



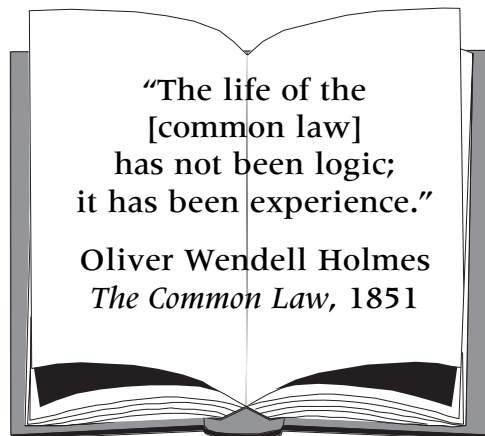
Approximately 150,000 new laws are passed every year, at all levels of government.

Common Law

Common law is the traditional Anglo-American body of law.

It derives from 12th century England when judges traveled around the countryside settling disputes by the application of the norms and rules common to that area.

Judges followed earlier decisions or precedents. The rule of "stare decisis" or "let the decision stand" was applied. Occasionally, as circumstances changed radically, judges would depart from standard norms and rules. This made common law dynamic and constantly evolving.



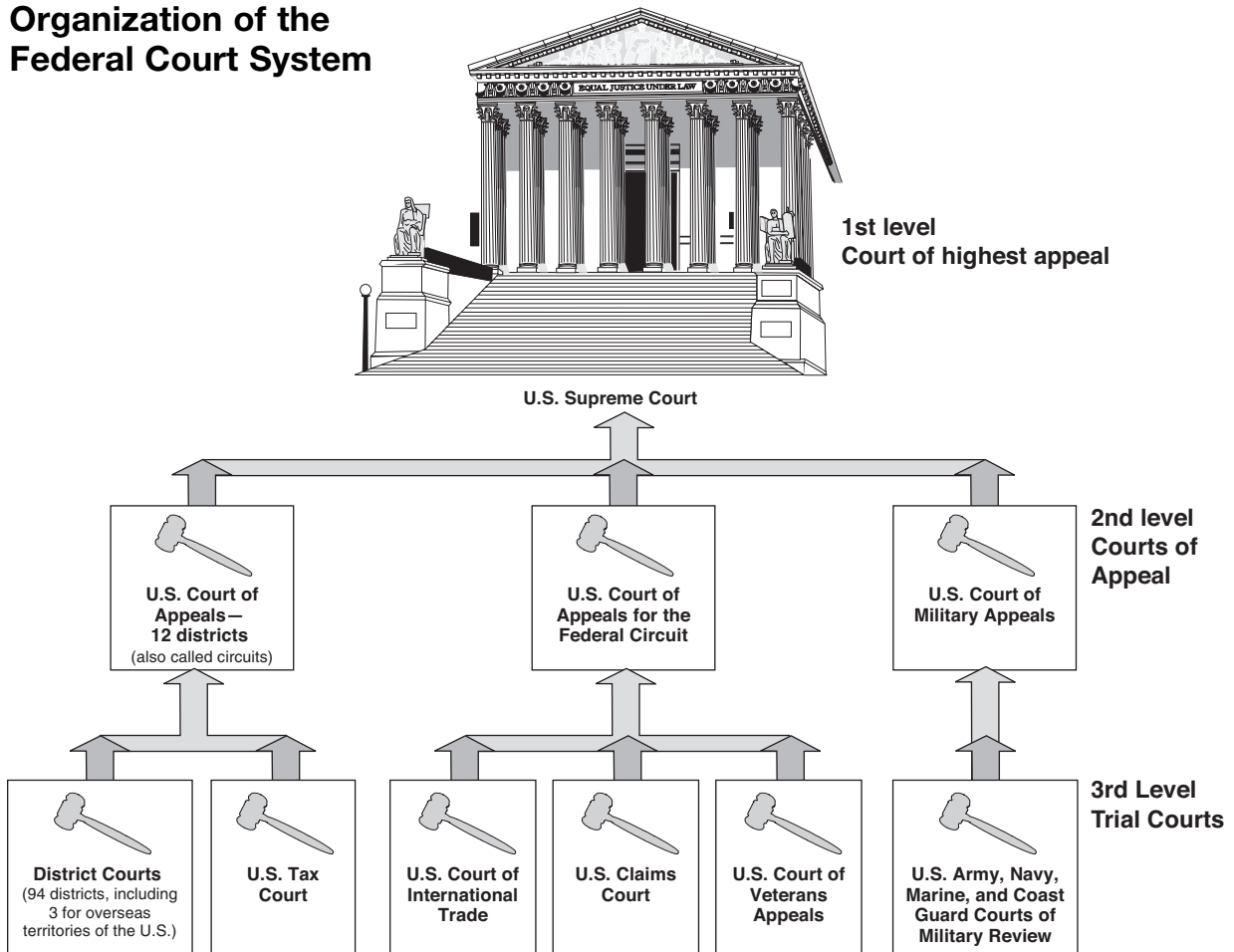
Equities or injunctions supplement common law. They are direct actions ordered by a court to overcome injuries or losses when payment of damages does not satisfy the need of the injured party. Example: a court order to stop pouring industrial runoff into a local river.



Originally, the judgments made under common law were recorded only sporadically. Not until the 19th century did courts in Great Britain and the U.S. begin to officially publish records of their decisions.

Federal Courts: Organization, Authority, and Jurisdiction

Organization of the Federal Court System



This pyramid-like structure, where cases can flow upward for two stages of appeal, allows for:

1. The Court of Appeals to correct mistakes made in the trial courts
2. The Supreme Court to correct mistakes in the Court of Appeals and trial courts

Authority and Jurisdiction of Federal Courts

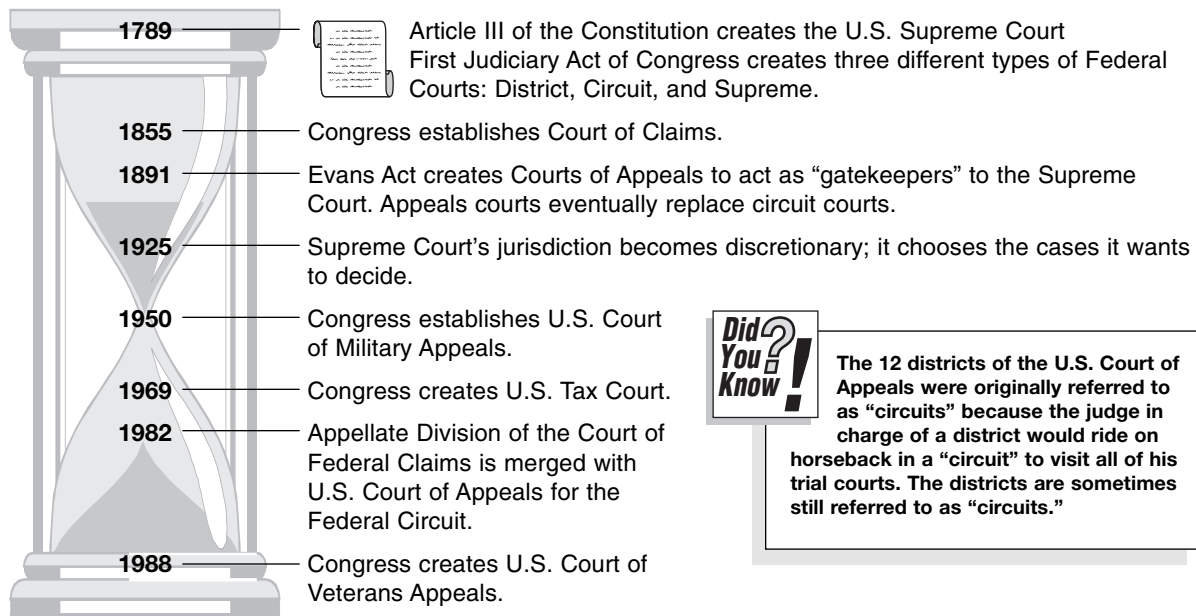
Federal courts handle cases involving these subject areas

U.S. laws
Interpretation of the Constitution
Treaties with foreign nations
Admiralty or maritime law (ships and crews)
Bankruptcy

And these parties

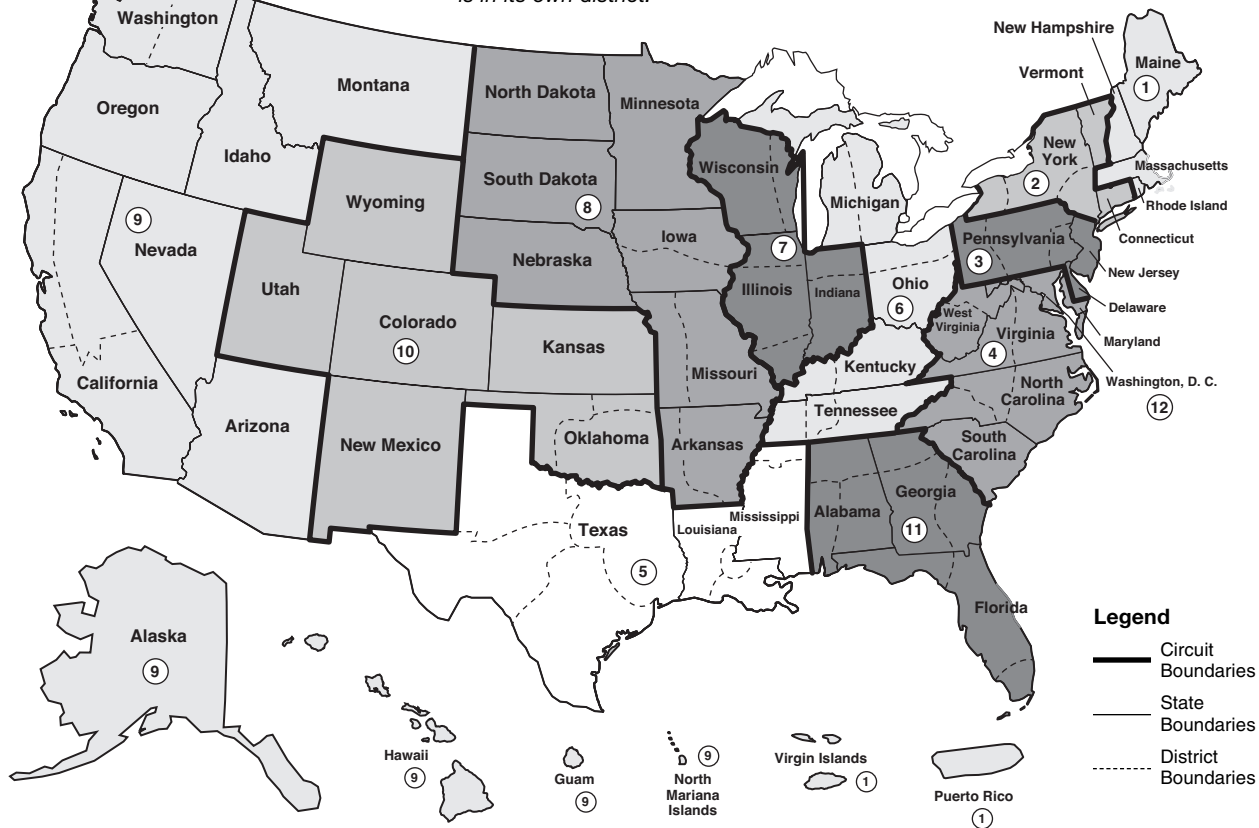
Ambassadors and other representatives of foreign nations
Disputes between two or more state governments
Disputes between citizens of different states
The U.S. government or one of its offices and agencies

Federal Court System: Milestones in Its Development and Its Current Shape



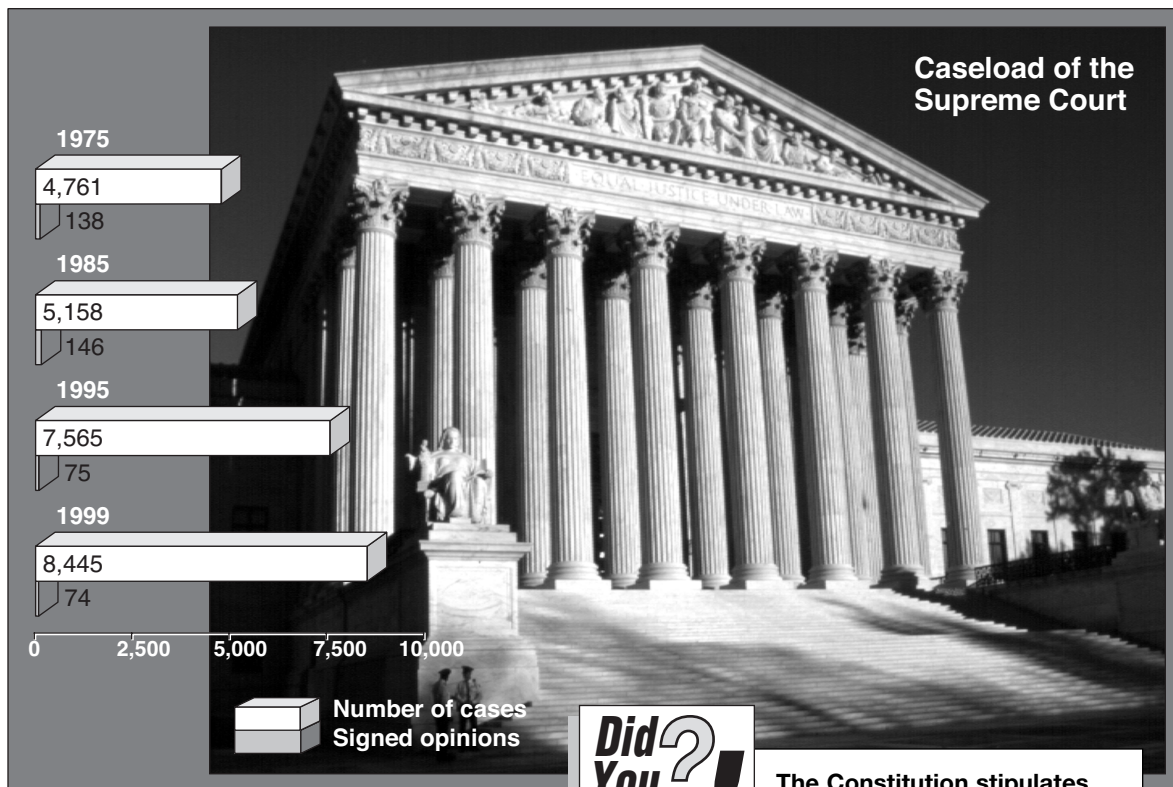
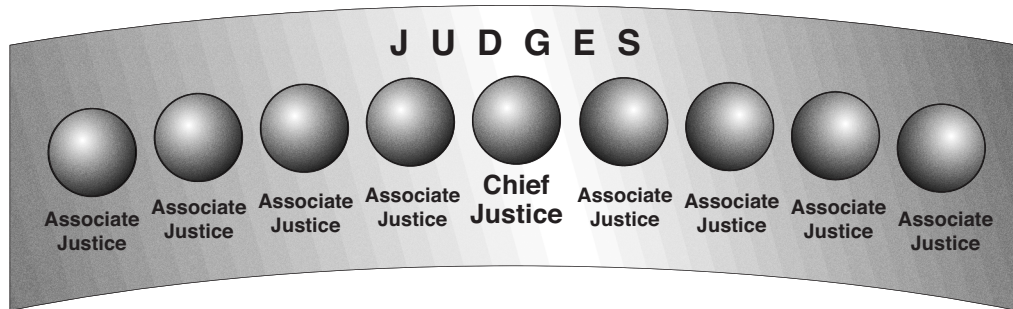
Circuits of the U.S. Courts of Appeals and Districts of the Federal Courts in 1996

There are currently 94 Federal District Courts located in the 12 Federal Appeals Courts districts. Washington, D.C. is in its own district.



The Supreme Court: Structure

When the Supreme Court is in session, the eight associate justices enter the courtroom in order of seniority and are seated on the bench in order of seniority. The chief justice sits in the middle, the senior associate justice sits to his right, the next senior member to his left and so on.

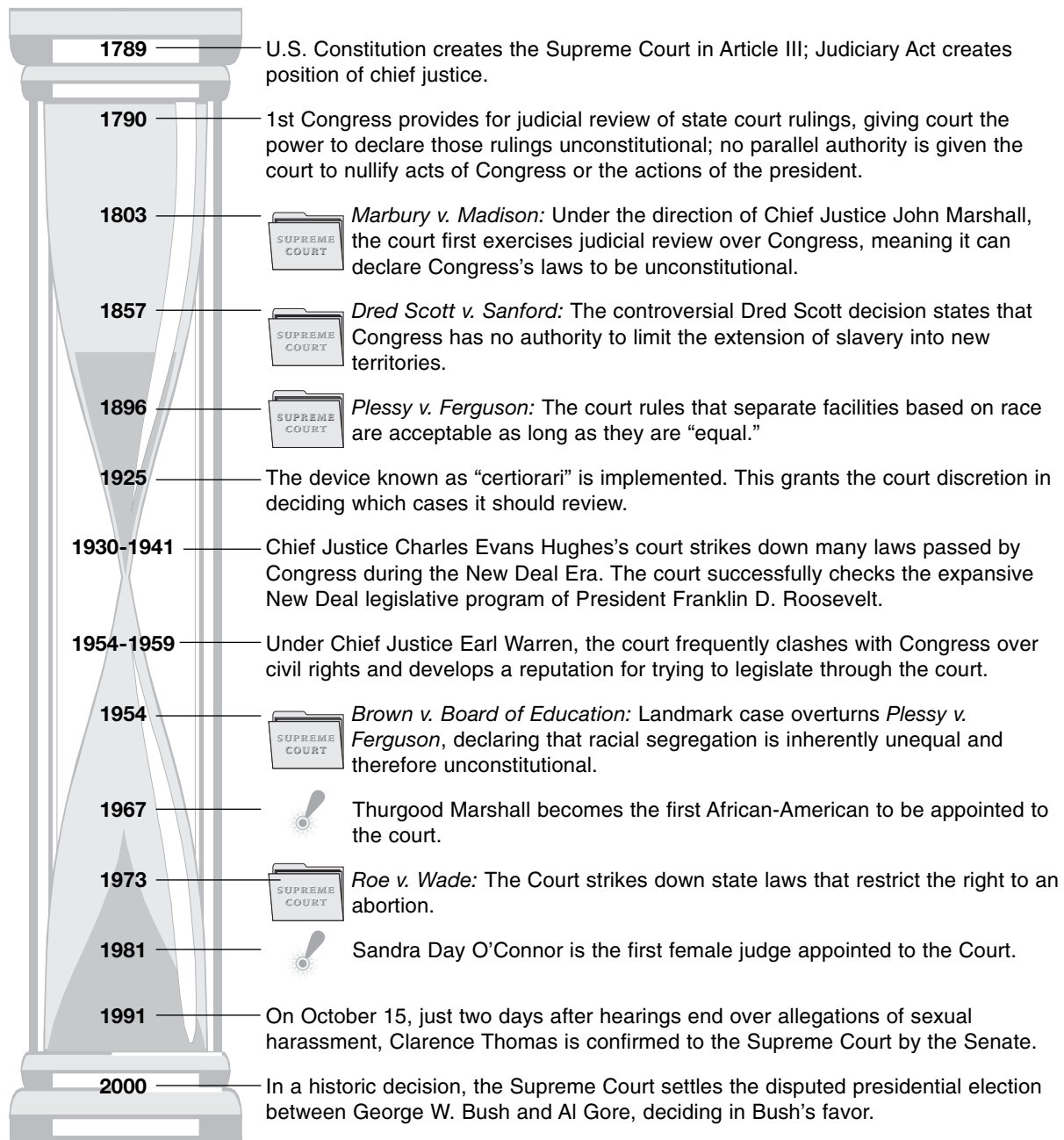
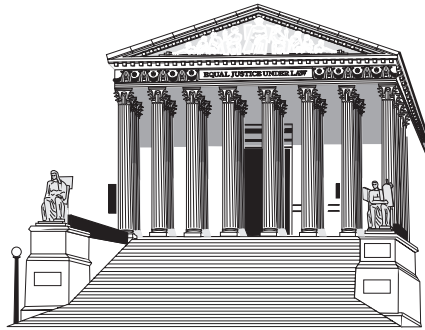


Many more cases are presented and given initial review by the Supreme Court than are actually argued and decided upon by a signed opinion of the court.

Did You Know?

The Constitution stipulates no formal qualifications for justices. The term is stated as "during good behavior"—in other words, for life.

Highlights in the History of the Supreme Court



The Job of Supreme Court Justices

Washington Chronicle

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Associate Justice

U.S. Supreme Court

Duties

- ☆ Decide which cases the court will hear
- ☆ Hear and rule on cases
- ☆ Provide explanations of the court's decision in an opinion
- ☆ Preside over sessions and conferences for cases
- ☆ Provide leadership in the court's judicial work
- ☆ Be assigned as a judge for at least one circuit

Salary

\$190,100 non-negotiable

Chief Justice

U.S. Supreme Court

Duties

- ☆ All of the duties of an associate justice
- ☆ Administer the federal court system
- ☆ Preside over the court's public and private hearings; control the flow of proceedings
- ☆ Manage the courtroom and handle public relations duties
- ☆ Chair conferences on case reviews and thus influence the court's agenda
- ☆ If in the majority on a case's opinion, assign the task of writing the opinion
- ☆ Occasionally take on a special duty (such as when Chief Justice Earl Warren headed a special commission investigating President Kennedy's assassination)

Salary

\$198,600 non-negotiable

Benefits For Both Positions

Pension is full salary if you retire at age 70 or older and have served for 10 years, or if you retire at 65 and have served for 15 years.



The Constitution does not stipulate that Supreme Court justices must be born in the U.S. Despite this, only six Supreme Court justices have been born outside of the United States. The first three non-native-born justices were appointed between 1789 and 1793, when many qualified persons were born abroad.

The Supreme Court: Support Staff

The Supreme Court's annual budget is less than \$15 million, and it employs fewer than 400 workers. The court's support personnel include:

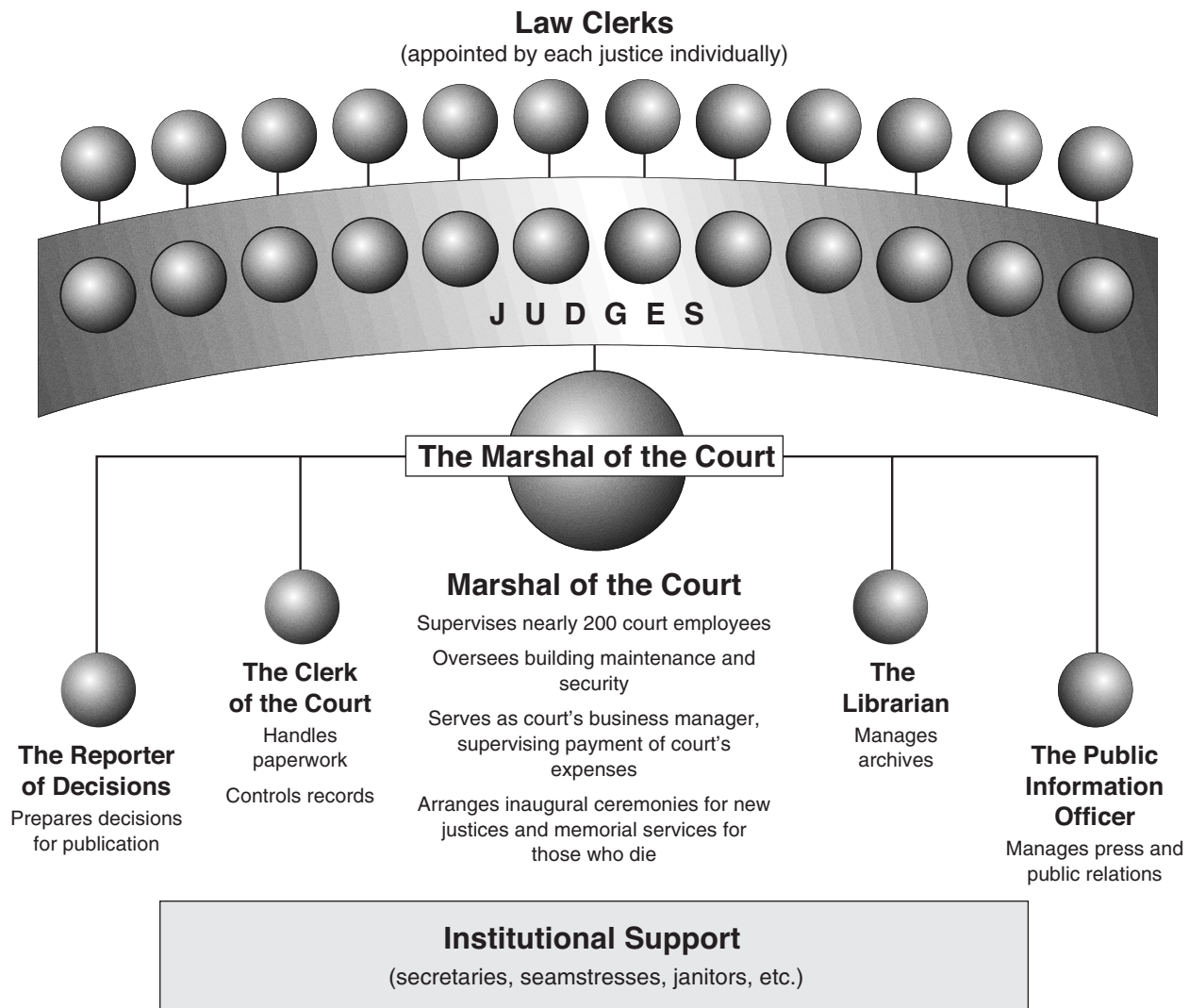
Law Clerk

Reads, analyzes, and prepares memoranda for justices on the thousands of cases that come to the court each year

Researches precedents, historical information, and legislative records

Assists justices in preparation of opinions

Performs many informal tasks, depending on the justice served—from playing tennis with the justice to serving cocktails



Current Associate Justice John Paul Stevens, on the relationship between a clerk and the justice he serves:



"An interesting loyalty develops between clerks and their justices. It is much like a lawyer-client relationship, close and confidential. Like a lawyer, a clerk can't tell his client, the justice, what to do. He can only suggest what can happen if he does or doesn't do something."