

Government

December 1- December 5th VQ Work

Day 1

Read 12-1 pgs. 331-335

Complete 12-1 Study Guide Handout

Complete pg. 335, questions 1-5

Day 2

Read 12-2 pgs. 336-341

Complete 12-2 Study Guide Handout

Complete pg. 341, questions 1-5

Day 3

Read 12-3 pgs. 343-348

Complete 12-3 Study Guide Handout

Complete pg. 348, questions 1-5

Day 4

Complete pg. 350-351

Reviewing Key Terms 1-8

Recalling Facts 1-5

Day 5

Complete pg. 350-351

Understanding Concepts 1 & 2

Critical Thinking 1 & 2

Analyzing Primary Sources 1 & 2

STUDY GUIDE Chapter 12, Section 1

For use with textbook pages 331–335.

THE SUPREME COURT AT WORK

KEY TERMS

writ of certiorari (SUHR•shee•uh•RAR•ee) An order from the Supreme Court to a lower court to send up the records on a case for review (page 332)

per curiam opinion (puhr KYUR•ee•AHM) A brief, unsigned statement of a Supreme Court decision (page 333)

brief A written statement setting forth the legal arguments, relevant facts, and precedents supporting one side of a case (page 333)

amicus curiae (uh•mee•kuhs KYUR•ee•EYE) Latin for “friend of the court”; a written brief from an individual or group claiming to have information useful to a court’s consideration of a case (page 333)

majority opinion The Court’s decision expressing the views of the majority of justices (page 334)

dissenting opinion The opinion expressed by a minority of justices in a court case (page 334)

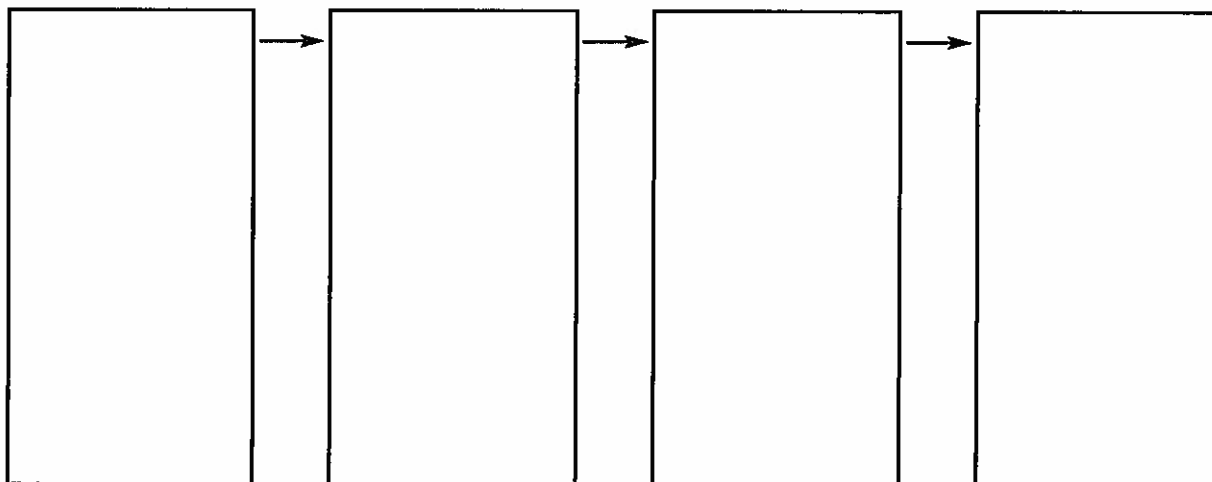
DRAWING FROM EXPERIENCE

Are you swayed by other people’s opinions? If you are like many people, the opinions of powerful and respected people influence you most. The opinions of the Supreme Court are so influential that they help shape policy for the whole nation.

This section focuses on how the Supreme Court works.

ORGANIZING YOUR THOUGHTS

Use the graphic organizer below to help you take notes as you read the summaries that follow. Think about the steps that the Supreme Court uses to decide major cases.



STUDY GUIDE (continued)**Chapter 12, Section 1****READ TO LEARN****Introduction** (page 331)

Traditionally, the Supreme Court met for about nine months each year. Each term began the first Monday in October and ran as long as the business before the Court required. Since 1979, however, the Court has been in continuous session throughout the year, taking periodic recesses.

The Court's Procedures (page 331)

During the term, the Court sits for two weeks each month. The justices hear arguments from lawyers on cases before them from Monday through Wednesday. On Wednesday and Friday the justices meet in secret conferences to decide cases. After the two-week sitting, the Court recesses, or takes a break. The justices work on paperwork, consider arguments they have heard, study petitions from plaintiffs who want the Court to hear their cases, and work on opinions. These are written statements on cases they have already decided. In the opinions, the Court sets out general principles that apply to the nation as well as to the parties in the case.

1. Why are the opinions of the Supreme Court important?

How Cases Reach the Court (page 332)

The main route to the Supreme Court is through a *writ of certiorari*. This is an order from the Court to a lower court to send the records on a case for a review. The party seeking review petitions the Court for certiorari. More than 90 percent of the requests for certiorari are rejected. When the Court rejects the request, the decision of the lower court stands.

Certain cases reach the Court on appeal, meaning that the decision of a lower federal or state court has been requested to be reviewed. In most cases, a lower court has ruled a law unconstitutional, or dismissed the claim that a state law violates federal law or the Constitution. When the Court dismisses these cases, the decision of the lower court becomes final.

When a case before the Supreme Court involves the federal government, the solicitor general is appointed by the president to represent the government. Thus, the solicitor general serves as a link between the executive and judicial branches. The solicitor general also plays a key role in setting the Court's agenda by determining whether the federal government should appeal a case to the Supreme Court.

The Supreme Court justices or their clerks identify important cases, and the chief justice puts them on the "discuss list." At the Court's Friday conferences, the chief justice reviews the "discuss list" and the other justices give their views. If four of the nine justices agree to accept a case, the Court will do so. The justices decide whether to ask for more information on a case or to rule quickly on the basis of written materials they already have. If the Court rules without new information, the ruling may be announced with a *per curiam opinion*. This is a brief, unsigned statement of the Court's decision.

2. In what two ways do cases come to the Supreme Court?

STUDY GUIDE (continued) Chapter 12, Section 1

☐ Steps in Deciding Major Cases (page 333)

In hearing important cases, the Supreme Court follows these steps:

Submitting Briefs Lawyers on each side submit *briefs*. These are written statements setting forth the legal arguments, relevant facts, and precedents supporting one side of a case. Parties not directly involved in a case may also submit *amicus curiae* briefs. These are mostly useful for indicating which interest groups are on either side of an issue.

Oral Arguments A lawyer for each side is asked to present an oral argument before the Court. Justices often challenge a statement or ask for further information during a lawyer's argument.

The Conference On Wednesdays and Fridays the justices meet in secret conference to discuss the cases they have heard. Each decision gets about 30 minutes of discussion. Then the justices vote. A majority of justices must be in agreement to decide a case. At least six justices must be present to make a decision. If a tie occurs, the lower court's decision is left standing.

Writing the Opinion The Court's opinion states the facts of the case, announces the Court's ruling, and explains its reasoning in reaching the decision. The Court issues the following kinds of opinions:

- A. In a unanimous opinion, all justices vote the same.
- B. A *majority opinion* expresses the views of the majority of the justices on a case.
- C. A concurring opinion is written by justices who agree with the majority's conclusions about a case, but do so for different reasons.
- D. A *dissenting opinion* is the opinion of the justices on the losing side in a case.

If the chief justice has voted with the majority on a case, he or she assigns someone in the majority to write the opinion. When the chief justice is in the minority, the most senior associate justice among the majority assigns one of the justices on that side of the case to write the majority opinion. When the justices do not accept the first draft of a majority opinion, a bargaining process begins. Justices try to influence or satisfy one another as new versions of the opinion are written. Weeks or months may go by as the justices bargain and rewrite their opinions. Finally, the case is settled and the decision is announced during a sitting. Meanwhile, the Court selects and hears new cases.

3. What are the main steps in deciding important cases?

STUDY GUIDE Chapter 12, Section 2

For use with textbook pages 336–341.

HAPING PUBLIC POLICY

KEY TERMS

judicial review The power of the Supreme Court to declare laws and actions of local, state, or national governments unconstitutional (page 336)

impound Refuse to spend money (page 337)

stare decisis (STEh•ee dih•SY•suhs) A Latin term meaning “let the decision stand”; the principle that once the Court rules on a case, its decision serves as a precedent on which to base other decisions (page 338)

precedent A model on which to base later decisions or actions (page 338)

advisory opinion A ruling on a law or action that has not been challenged (page 340)

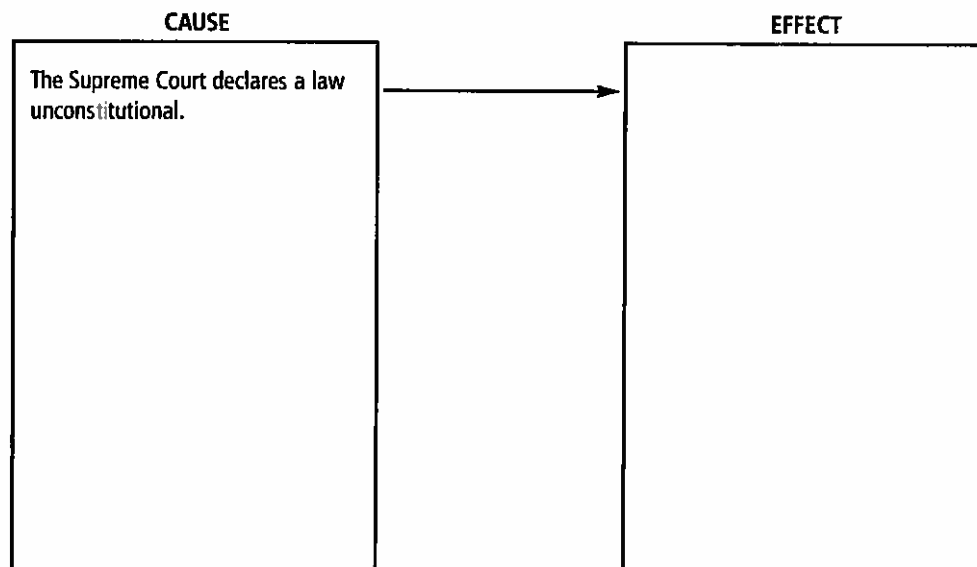
DRAWING FROM EXPERIENCE

Have you ever worked with clay? Fingers, paperclips, and rolling pins are some tools you might have used to shape the clay. The Supreme Court also uses tools to shape public policy.

This section focuses on the Supreme Court’s powers and limits in shaping public policy.

ORGANIZING YOUR THOUGHTS

Use the graphic organizer below to help you take notes as you read the summaries that follow. Think about how a Supreme Court ruling affects future laws.



STUDY GUIDE (continued)

Chapter 12, Section 2

READ TO LEARN

Introduction (page 336)

The Supreme Court is a legal institution because it settles disputes and interprets the meanings of laws. It is also a political institution because it determines national policy when it applies the law to specific cases.

Tools for Shaping Policy (page 336)

The Supreme Court determines policy in the following ways:

Judicial Review The Supreme Court's power to examine the laws and actions of local, state, and national governments and to cancel them if they violate the Constitution is called **judicial review**. The Supreme Court established this power in the 1803 case of *Marbury v. Madison*. Since then, the Court has invalidated about 150 provisions of federal laws. These decisions discourage the passage of similar laws.

Some rulings have even taken the country in a particular direction. For example, the decision in the *Dred Scott* case created tension that led to the Civil War.

The Supreme Court also reviews presidential policies. For example, in the case of *Train v. City of New York* (1974), the Court limited the president's power to **impound**, or refuse to spend, money that Congress had appropriated. The Supreme Court exercises judicial review most frequently at the state and local levels. In recent years, the Court has used judicial review to influence public policy at the state level in the areas of racial segregation, reapportionment of state legislatures, and police procedures. For example, the Court's decision in *Miranda v. Arizona* (1966) brought major changes in law enforcement across the nation.

Interpretation of Laws Congress often writes its laws in very general language. Disputes over the meaning of the language often end up in federal court. For example, the Civil Rights Act of 1964 forbids discrimination on the grounds of "race, color, or national origin." In the case of *Lau v. Nichols* (1974), the Court interpreted the law to require schools to instruct immigrant students in English. Because a Supreme Court decision is the law of the land, judges across the nation took the ruling to mean that classes must be taught in Spanish for Hispanic students who did not speak English. Many major acts of Congress have come before the Court repeatedly for interpretation. These include the:

- A. Interstate Commerce Act
- B. Sherman Antitrust Act
- C. National Labor Relations Act

Overturing Earlier Decisions One of the basic principles in making judicial decisions is **stare decisis**. This means "let the decision stand." Under this principle, once the Court rules on a case, the decision serves as a **precedent**, or model. It is used as a basis for other decisions in similar cases. This principle is important because it makes the law predictable. On the other hand, the law needs to adapt to changing times, social values and attitudes, and circumstances. The law is flexible because justices change. They not only change their minds but also retire or die. New appointees bring different legal views that can shift the Court's position on issues. For example, in *Olmstead v. United States* (1928), the Court ruled that wiretaps were legal. However, in *Katz v. United States* (1967), the Court overturned the *Olmstead* decision.

STUDY GUIDE (continued) Chapter 12, Section 2

1. What laws have come before the Supreme Court repeatedly for interpretation?

■ Limits on the Supreme Court (page 339)

The Supreme Court deals with limited issues. Most Supreme Court decisions have dealt with civil liberties, economic issues, federal legislation and regulations, due process of law, and suits against government officials. Civil liberty cases make up the largest part of the Court's cases. For example, appeals from prisoners to challenge their convictions make up about one-fourth of the Court's decisions. The Court also decides cases involving disputes between the national government and the states and disagreements between the states themselves.

Rules and customs limit the Court's power to form policy. The Court will hear only cases in which:

- A. the decision will make a difference. For example, it refused to decide whether Idaho could take back its approval of the Equal Rights Amendment because, even with Idaho, the amendment did not have enough support to pass. Furthermore, the Supreme Court will not give *advisory opinions*. These are rulings on laws or actions that have not been challenged.
- B. the person or group bringing the case must have suffered real harm, such as denial of civil liberties or economic loss.
- C. an important federal question is involved. The issue in the case must affect many people or the operation of the political system itself.
- D. the question involved cannot be resolved by the executive or legislative branches.

With few exceptions, the Supreme Court can decide only cases that come from elsewhere in the legal system. However, the Court signals its interest in an issue by taking on a specific case. For example, the court showed its interest in legislative reapportionment by agreeing to hear *Baker v. Carr* (1962). In this case, the court reversed its 1946 position that drawing state legislative districts was a political decision.

A fourth factor limiting the Court's power to shape public policy is the Court's limited ability to enforce its rulings. The president may refuse to carry out a Court ruling. Or lower court judges may simply ignore a Supreme Court decision. However, most Court decisions are accepted and generally enforced.

The legislative and executive branches have ways to check and balance the power of the Court. These include the president's power to appoint justices, the Senate's power to approve appointments, and Congress's power to impeach and remove judges.

2. To which issues are most Supreme Court cases limited?

STUDY GUIDE Chapter 12, Section 3

For use with textbook pages 343–348.

I NFLUENCING COURT DECISIONS

KEY TERMS

bloc A coalition that promotes a common interest (page 344)

swing vote The deciding vote (page 344)

DRAWING FROM EXPERIENCE

Suppose students have a rally scheduled for a Tuesday evening. Can they provide reasons that will persuade their teacher to postpone the deadline for an assignment due on Wednesday? Like the students in this example, individuals and groups try to influence the decisions of the Supreme Court. This section focuses on the forces that shape Supreme Court decisions.

ORGANIZING YOUR THOUGHTS

Use the graphic organizer below to help you take notes as you read the summaries that follow. Think about the forces inside and outside the Court that influence its decisions.

Influences Inside the Court	Influences Outside the Court

READ TO LEARN

Introduction (page 343)

The decisions that the Court makes are shaped by the following forces:

- Existing laws
- Personal views of the justices
- Justices' interactions with one another
- Social forces and public attitudes
- Congress and the president

STUDY GUIDE (continued) Chapter 12, Section 3

■ Basing Decisions on the Law (page 343)

Justices must base their decisions on principles of law. Laws and the Constitution are not always clear in their meaning. Where the meaning of a law or section of the Constitution is not clear, the justices of the Court must:

- A. Interpret the language
- B. Determine what it means
- C. Apply it to the circumstances of the case

In interpreting a law logically, the justices must relate their interpretations:

- A. To the Constitution itself
- B. To laws that are relevant to the case
- C. To legal precedents

1. What three things must justices do when the language of a law is unclear?

■ Views of the Justices (page 344)

Most justices take the same position again and again in areas of personal concern. So voting *blocs*, or groups of justices with similar views, exist on certain kinds of issues. Generally, one bloc of justices tends to be liberal and another tends to be conservative. The size and power of each bloc changes as justices retire and new appointees take their place. When the Court is badly split on an issue, a justice whose views are neither liberal nor conservative may represent a *swing vote*. This means a deciding vote.

2. How could a majority voting bloc on the Supreme Court become a minority voting bloc?

■ Relations Among the Justices (page 344)

Relations among the justices influence the Court's decision making. Justices who can work easily with one another are more likely to find common solutions to problems. Justices try to avoid conflict even when they are at odds. However, at times personal conflicts have seriously divided the Court.

The chief justice can influence the Court's decisions in the following ways:

- A. By directing decisions and framing alternatives while presiding over the Court during oral arguments and in conference
- B. By making up the discuss list and assigning the writing of opinions to the justices

3. How can the chief justice influence the Court's decisions?

STUDY GUIDE (continued)**Chapter 12, Section 3****■ The Court and Society** (page 345)

The justices are interested in keeping as much public support as possible. They realize that the Court's authority and power depend on public acceptance of its decisions. They know that when the Court moves too far ahead of or lags too far behind public opinion, it risks losing valuable public support and may weaken its own authority.

The values and beliefs of society influence Supreme Court justices. As society changes, attitudes and practices that were acceptable in one period may become unacceptable in another. For example, in *Plessy v. Ferguson* (1896), the Court upheld a law that required African Americans to "have equal but separate accommodations." It ruled that any facility, although separate, was equal to those available to whites. However, in *Brown v. Board of Education of Topeka* (1952), the Court overturned its "separate but equal" ruling. Chief Justice Warren declared that separate was always unequal and that it violated the equal protection clause of the Fourteenth Amendment.

4. Why did the Warren Court overturn the *Plessy* decision of 1896?

■ Balancing the Court's Power (page 347)

Presidents influence the Court in the following ways:

- A. Using the power to appoint justices to bring the Court closer to their own point of view
- B. The way they enforce Court decisions. Presidents may enforce Court decisions vigorously or with little enthusiasm, depending on their views of the issues.

Congress has tried to control the court's appellate jurisdiction by:

- A. limiting the Court's ability to hear certain cases;
- B. passing laws to limit the Court's choices of solutions to problems;
- C. reenacting a law the Court has rejected in a different form, hoping that the justices will change their minds;
- D. proposing a constitutional amendment to overturn a Court ruling. This method has been used successfully several times. For example, in 1895 the Court ruled that a tax on incomes was unconstitutional. However, in 1913 the Sixteenth Amendment passed and allowed Congress to levy an income tax.

Congress also tries to influence the Court by exercising its power to set the justices' salaries and to set the number of justices on the Court. Finally, Congress uses its confirmation power to shape the Court's position. For example, the Senate questioned two of President Bush's appointees on sensitive social issues in Senate confirmation hearings.

5. What occasions do both presidents and Congress use to help shape the Court's position?
