

# Constitution

When the Framers crafted the Constitution, they intended to create three separate and distinct branches of government - the executive, the legislative and the judicial - all acting as checks on the power of the others. In the first 10 years of the new government, however, the judicial branch was clearly the weakest of the three, as it struggled to define its role in American life and to gain the confidence of the people.

A glance at today's headlines, which are dominated by news from the Supreme Court, makes it hard to believe that the judiciary was ever a weak, underappreciated branch of government. Although Article III of the Constitution and the Judiciary Act of 1789 outlined the jurisdiction and organization of the federal courts, including establishing the Supreme Court as the nation's highest court, they said very little about how the courts were to wield their power.

Court asserted that the First Amendment's freedom of speech clause applied not just to the federal government, but also to the states. This began the process of "incorporation," in which most of the Constitution was gradually ruled to apply to state and local governments.

## **Brown v. Board of Education of Topeka (1954)**

The Court ruled unanimously that racial segregation in public schools was unconstitutional. That ruling invalidated the court's decision in the 1896 case *Plessy v. Ferguson*, which had asserted that "separate but equal" facilities for whites and African-Americans were constitutional. With "separate but equal" schools deemed unconstitutional in 1954, other racially segregated public facilities, such as swimming pools and bus stations, soon became desegregated. Thurgood Marshall, the attorney

## Supreme Court History

by Eric M. David

The story of how the judicial branch, and the Supreme Court in particular, came to be so powerful a force in American life is best told by tracing some of the Supreme Court's key cases since 1789.

### **Marbury v. Madison (1803)**

Legendary Chief Justice John Marshall's opinion in this case, which involved President Thomas Jefferson's refusal to follow through on several of President John Adams last-minute appointments, contains what is surely the most important sentence in the history of the Supreme Court. He wrote, "It is emphatically the province and duty of the judicial department to say what the law is," thus establishing the Supreme Court's right of judicial review, the right to decide if the laws and actions of the other two branches of government are constitutional.

### **McCulloch v. Maryland (1819)**

This ruling gave Congress the authority to set up a national bank, even though that power was not outlined in the Constitution. Writing again for the majority, Chief Justice John Marshall advocated the doctrine of implied powers - powers not strictly contained in the Constitution - saying that the decision reflected "the letter and the spirit" of the document.

### **Gitlow v. New York (1925)**

While ruling that a state law prohibiting speech that advocated anarchy did not violate the First Amendment, the Court fundamentally altered the relationship between states and the Constitution. In *Gitlow*, the

who successfully argued *Brown* on behalf of the National Association for the Advancement of Colored People, would go on to become the first African-American Supreme Court justice.

### **Gideon v. Wainwright (1963)**

The Court overturned the conviction of Clarence Earl Gideon, who had been forced to defend himself in court when Florida officials denied his request for free counsel. The Court ruled that the Fourteenth Amendment's due process clause required the state to provide a defendant with a court-appointed attorney if he could not afford one of his own. Gideon handwrote his appeal to the Supreme Court from his prison cell.

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