

Which **type of court** can (and does) exercise **judicial review**?

- A. U.S. Supreme Court
- B. U.S. Court of Appeals
- C. U.S. District Court
- D. All of the above

Which **level of courts** can (and does) exercise **judicial review**?

- A. Federal courts
- B. State courts
- C. Both

Two approaches to **judicial review**

- **Deferential approach**
 - Judges should defer to elected branches in most cases
- **Activist approach**
 - Judges should be the “guardians of the constitution” and protect individual rights from invidious abridgement or denial

4

Which **type of judge or justice** is often **deferential** to the elected branches?

- A. Conservatives
- B. Liberals
- C. Both

Which **type of judge or justice** is often an **activist** who will strike down actions of elected branches?

- A. Conservatives
- B. Liberals
- C. Both

Relationship of **judicial philosophy** to **political ideology**

When the government action	Political ideology	
	Liberal	Conservative
threatens core values	activist approach	activist approach
supports core values	deferential approach	deferential approach

7

Who is more likely to exercise judicial review to protect us from **discrimination** that violates equal rights?

- A. **Conservative judges**
- B. **Liberal judges**
- C. Both
- D. Neither

Who is more likely to exercise judicial review to protect us from **disorder** that threatens our person or property?

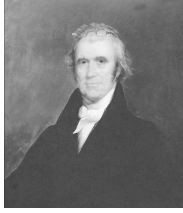
- A. **Conservative judges**
- B. **Liberal judges**
- C. Both
- D. Neither

Landmark Cases

- Federalism: *McCulloch v. Maryland* (1819)
- Slavery: *Dred Scott v. Sandford* (1857)
- Government and the economy: *Civil Rights Cases* (1883)
- Discrimination based on race: *Brown v. Bd. of Ed.* (1954)
- Abortion: *Roe v. Wade* (1973) & *Planned Parenthood v. Casey* (1992)
- Criminal Justice: *Gideon v. Wainwright* (1963) & *Miranda v. Arizona* (1966) & *Gregg v. Georgia* (1976)

10

John Marshall, chief justice of the United States, 1801-1835



- Set precedent for the power of judicial review.
- Expanded the powers of the federal government.
- Was a Federalist conservative (appointed by John Adams, who favored national supremacy).

11

Roger B. Taney, chief justice of the United States, 1836-1864



- Used judicial review to contract the powers of the federal government.
- Expand states' rights.
- Was a Democratic liberal appointed by Andrew Jackson (who favored states' rights).

12

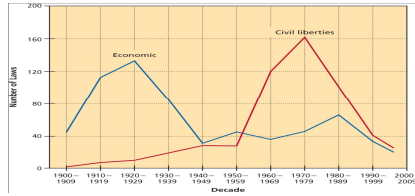
Which is an important check on judicial power?

- A. Presidential nominations
- B. Senate confirmations
- C. Congressional impeachment/removal
- D. All of the above

Which is an important Congressional check on judicial power?

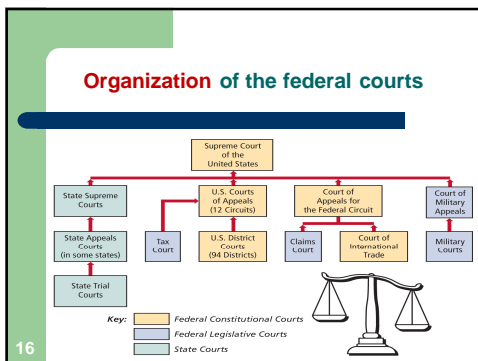
- A. Define jurisdiction of federal courts
- B. Set the number of justices on the U.S. Supreme Court
- C. Set the number of U.S. Courts of Appeal
- D. All of the above

Economic and civil liberty restrictions overturned by the U.S. Supreme Court (by decade, 1900-2006)



15

Note: Laws include federal, state, and local.
Source: Harold W. Stanley and Richard G. Niemi, *Vital Statistics on American Politics 2007-2008*, 5th ed., p. 302 (Washington, D.C.: Congressional Quarterly Press, 2008).



Jurisdiction of the federal courts

- Federal-question cases – concern the Constitution, federal laws, or treaties
- Diversity cases – involve citizens of different states who can bring suit in federal courts
- *Writ of certiorari* cases – An order by a higher court directing a lower court to send up a case for review.

17

The Supreme Court in Action

- Briefs
 - Amicus curiae briefs
- Opinions
 - Majority
 - Concurring
 - Dissenting
 - (*per curiam*)

18