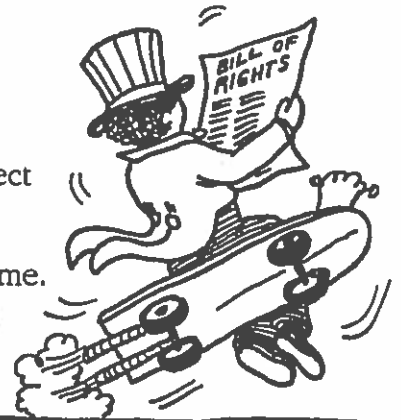


10 BOLD STATEMENTS

The **Bill of Rights** is made up of the first 10 Amendments to the U.S. Constitution. They were written because the citizens of the United States insisted on it! After the Constitution was written and the states began to give their approval, citizens demanded that statements be added to protect their rights. As a result, these amendments (or changes) were added.

Sam has come across some interesting situations in his travels through time. Use the Bill of Rights to help him find answers to his questions.



— Amendment 1 —

**Freedom of Religion,
Speech, Press,
Assembly, and Petition**

Sam hears a bus driver criticizing the mayor of the city. The bus driver is very loud and angry about the mayor's decisions. Can he be arrested for badmouthing a city official?

— Amendment 2 —

**Right to Keep
and Bear Arms**

A family that Sam visits in Philadelphia has a collection of 37 antique rifles, 5 shotguns, and 2 handguns. Their next-door neighbor is afraid of guns and has reported them to the police several times. Is it legal for this family to have guns?

— Amendment 3 —

**Right to Refuse
Quartering of Soldiers**

Another family Sam meets lives down the road from an Army base. There is a fire in one of the barracks on the base. An Army captain bangs on their door and tells Mrs. Marshall to give him and his soldiers supper and a place to sleep. Does she have to do this?

— Amendment 4 —

**Unreasonable Searches
and Seizures**

A police officer stops Sam for riding his skateboard in a "No Boards" zone. As the officer is writing a warning, he notices Sam's backpack and begins searching through it. During the search, the officer discovers Sam's box of allergy pills and arrests Sam on suspicion of illegal drug possession. Is this legal?

— Amendment 5 —

Rights of Accused Persons

Sam is having bad luck in this town. In a local shop, a shopkeeper sees that Sam is wearing a great watch—the kind he sells in his store for \$100. He calls the police, who take the watch from Sam and send him to jail. They say he must stay there for three months. Have his rights been violated?

— Amendment 6 —

Right to a Fair, Speedy, and Public Trial

The shopkeeper insists that Sam stole the watch! Sam doesn't have much money with him on his Time Travel Trip. He is told he will have to wait one year for a trial and that he must get a lawyer for himself. Will Sam be forced to wait this long for a trial? Will he have to appear in court without a lawyer if he can't afford one?

— Amendment 7 —

Trial by Jury in Civil Cases

If Sam's case goes to trial, can he insist on a jury trial?

— Amendment 8 —

Limits of Bails, Fines, and Punishments

Sam has finally convinced everyone that the watch belonged to him. On his next stop, however, he sees two boys stealing doughnuts from a bakery. As they are running away, two police officers catch them. At their hearing, the judge states, "I'm going to teach you boys a lesson, even though this is your first offense!" He sets their bail at \$500,000 each. Can the judge do this?

— Amendment 9 —

Rights of the People

At another stop, Sam meets a family who has just moved onto a large piece of property. They have started to raise goats and chickens. The children play loud music all day and night. They have bright outdoor lights that they burn all night while they work on their noisy motorcycles. Can the neighbors do anything about this?

— Amendment 10 —

Powers of the States and People

In a fast-growing city, a group of parents in a neighborhood have written to Washington, D.C., asking the federal government to build a school for their neighborhood. Education is not mentioned in the Constitution. Is it the job of the federal government to build the school?

Who decides what the Constitution means?

Purpose of Lesson

Even in our nation's earliest years, people such as Hamilton and Jefferson disagreed about exactly what the Constitution meant. Who should decide which interpretation of the Constitution is correct? For example, who should be able to say whether establishing a national bank was allowed under the necessary and proper clause?

This lesson explains how the Supreme Court established its power to make such decisions. This is called the power of judi-

cial review. When you have completed this lesson, you should be able to explain what is meant by judicial review. You should also be able to discuss how the Supreme Court established its power of judicial review in one of the most important cases in our nation's history.

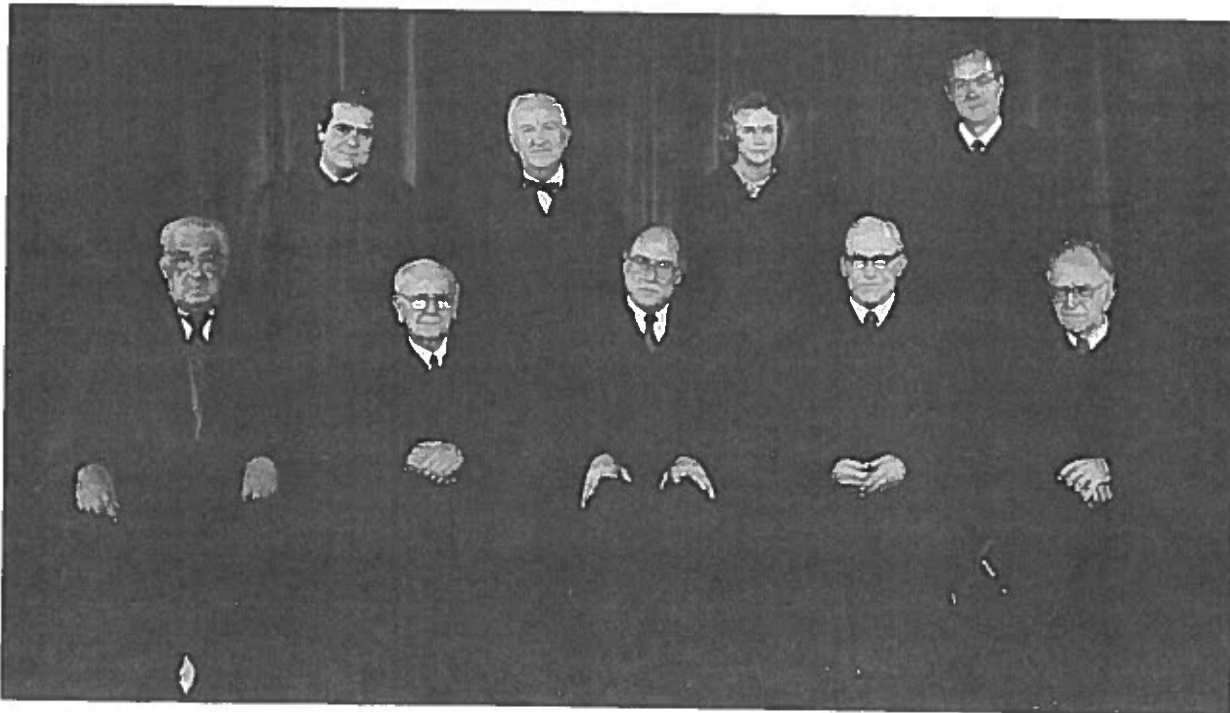
Terms to know

judicial review

null and void

opinion

Marbury v. Madison



How does the Supreme Court reach a decision?

Judicial review

Judicial review is the power of the courts to decide whether laws and actions of the government are allowed under the Constitution. When a court decides they are not allowed, it orders that the law or action be considered **null and void**. A law that is null and void may not be enforced.

Judicial review over state governments

The Framers wanted to be sure the states had to obey the laws of the federal government. That is why they wrote in Article VI that the Constitution and the federal laws are the "supreme law of the land." If state laws conflict with those of the federal government, the Supreme Court can order that the state laws not be enforced.

The Supreme Court first used its power of judicial review over state governments in 1796. After the Revolution, the United States had signed a peace treaty with Great Britain. This treaty said that Americans would pay all debts they owed to British citizens. However, Virginia passed a law that cancelled all debts owed by its citizens to the British. Since this law violated the peace treaty, the Supreme Court ruled that the law could not be enforced. Citizens of Virginia would have to pay their debts.

Judicial review over acts of Congress

The Framers clearly meant that the Supreme Court should have the power of judicial review over acts of state governments. However, the Constitution does not clearly say whether the Supreme Court has the power of judicial review over the legis-

lative and executive branches of the federal government.

The Supreme Court established its power of judicial review over the other branches of the federal government in one of the most famous cases in our history. This case, *Marbury v. Madison*, was decided in 1803. We will look at it in some detail and see how the Supreme Court declared an act of Congress unconstitutional.

Marbury v. Madison

During the last few weeks that John Adams was President, he appointed a number of Federalists to office. Among others, he appointed William Marbury to be a justice of the peace for the District of Columbia. However, some of the papers making these last-minute appointments were not actually delivered. Thomas Jefferson, a Republican, then became President. Jefferson ordered his Secretary of State, James Madison, not to deliver these remaining appointments.



Why did Marbury bring his case to the Supreme Court?

Marbury thought he had the right to the job he had been given by President Adams. He discovered that the Judiciary Act of 1789 gave the Supreme Court the power to order Madison to give him the job. So Marbury took his case directly to the Supreme Court as he had a right to do under the Judiciary Act.

Chief Justice John Marshall wrote the opinion for the Supreme Court. The Court ruled that Marbury did have a right to his job. However, the Court decided that the part of the Judiciary Act which gave Marbury the right to bring his case directly to the Supreme Court was unconstitutional. The Constitution clearly limits the cases which can go directly to the Supreme Court without having been heard first in a lower court. Marbury's case did not fit within these limits.

In the Judiciary Act, Congress had given Marbury the right to bring his case directly to the Supreme Court. By doing this, Congress had changed the Constitution. Congress does not have the right to change the Constitution. So, the Supreme court ruled that the part of the Judiciary Act which increased the Court's power was unconstitutional.

By declaring part of a law passed by Congress unconstitutional, the Supreme Court assumed the power of judicial review over the legislative and executive branches. Justice Marshall argued that the people of this nation had adopted the Constitution as the supreme law of the land and consented to be governed by its rules. These rules include important limitations upon the powers of Congress. When Congress violates those limitations, it has violated the will of the people.

Marshall said if the Supreme Court could not strike down such acts, there

would be no effective way to enforce the constitutional limits on the powers of Congress. Its powers would be unlimited, and we would no longer have a constitutional government. Since the decision of *Marbury v. Madison*, the Supreme Court has exercised the power of judicial review over the federal government.



What was the importance of Marshall's opinion in the *Marbury v. Madison* case?

Reviewing and using the lesson

1. What is judicial review?
2. If judicial review had not been established, how could disagreements over the meaning of the Constitution have been decided?
3. How does judicial review protect the rights of the minority?
4. Some people argue that judicial review allows the courts to overrule the will of the people as expressed through their legislatures. Do you agree? Why or why not?
5. If there were no power of judicial review, how could the people be sure members of government obeyed the limitations set upon their powers by the Constitution?

Six Principles of the U.S. Constitution Cartoons

Name: _____

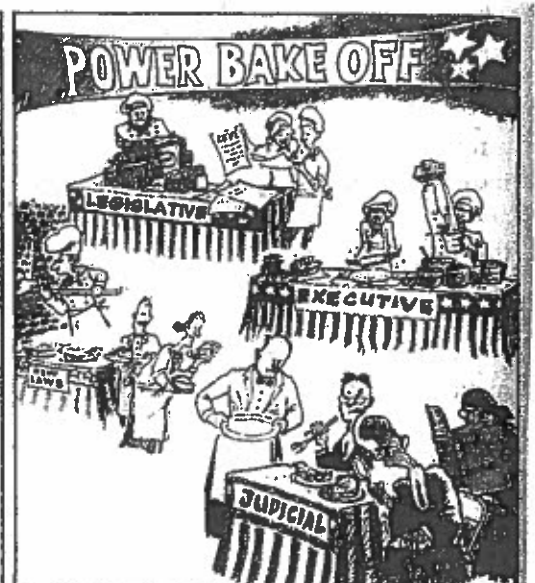
Directions: Analyze the political cartoons below portraying each of the six constitutional principles. In detail, explain how each political cartoon accurately represents the constitutional principal being addressed.



Popular Sovereignty



Limited Government



Separation of Powers



Checks and Balances



Judicial Review



Federalism