

## *Introduction*

Just as historians use the last name of a president to describe an administration (e.g., the Bush Administration, 2001–2009), court-watchers use the last name of the chief justice to describe his or her court. Although more than forty Americans have served as President of the United States, on September 29, 2005, fifty-year-old John G. Roberts, Jr. became only the seventeenth person in the nation’s history to serve as Chief Justice of the Supreme Court of the United States. Four months later, Chief Justice Roberts swore in Samuel Anthony Alito, Jr., as an Associate Justice to fill the seat vacated by the resignation of Justice Sandra Day O’Connor, the first woman to serve on the nation’s High Court. Like the dramatic conclusion to the first act of a play, on the last day of its first term, the Roberts Court announced its most anticipated decision of the year.

At issue in *Parents Involved in Community Schools v. Seattle School District/Meredith v. Jefferson County Schools*, 551 U.S. \_\_\_\_ (2007) was whether public school systems, without violating the equal protection clause of the Fourteenth Amendment, could create racial balance and reduce racial isolation by assigning students to schools using explicit, race-based classifications. Putting aside for the time being how the justices answered this question, it is important to note how remarkable it was that the nation expected the Supreme Court to settle an issue that had such momentous public policy implications. Although there would be winners and losers in the case, it was clear to all the participants that the Supreme Court was the final arbiter of the meaning of the U.S. Constitution.

The Roberts Court had become the new protagonist in the ongoing national conversation about race in America. Moreover, Chief Justice Roberts and Justice Alito had replaced justices who had offered strikingly different answers to questions about government using racial classifications. Former Chief Justice William H. Rehnquist had, for instance, opposed affirmative action programs, while Justice O’Connor had provided the decisive fifth vote on the Rehnquist Court to sustain their use. The Roberts Court, as it delivered its opinion on June 28, 2007, stood in the national limelight.

The Supreme Court, which held its first session on February 2, 1790, in the Royal Exchange Building in New York City, did not begin its career on center stage. Many of its early justices doubted that the Court had much of a future. John Jay, the first chief justice, resigned to become governor of New York. Several other justices also resigned, and President George Washington had difficulty finding people willing to replace them, both because the court lacked prestige and because they found riding circuit—hearing cases in several of the states—grueling and unrewarding.

The *Encyclopedia of the Supreme Court of the United States*, through its historical essays on all seventeen chief justices and their respective courts, shows how the High Court developed into a commanding presence in American law, politics, and culture. Thematic essays on the major issues of the day, such as Slavery in the Territories, the Civil War, Progressive Era Business Regulation, World War II and the Growth of Individual Rights, Watergate and the Constitution, Violence Against Women, and the Global War on Terror, all provide in-depth analyses of how the Court responded to controversial circumstances.

The Supreme Court, which Alexander Hamilton famously described in *Federalist* No. 78 as possessing the power of neither the sword nor the purse, instead relies on its published decisions to shape the American experience. The court issues written opinions, which explain not only the court's final judgment in the case, but more importantly the legal reasoning used to reach the result. More than five hundred essays in this encyclopedia contextualize specific cases and analyze their legal reasoning and holdings. Building on these case studies are sweeping thematic essays that guide the reader through the evolution of case law on specific issues, such as Bankruptcy and Insolvency, Intimacy, Parental Rights, and Water Pollution and Wetlands.

To make the legal process accessible to lay readers, the encyclopedia includes essays on essential legal concepts and procedures such as Jurisdiction, Case or Controversy, Dicta, Holding, Overrulings, Stare Decisis, and the Writ of Certiorari. Separate essays on theories of law and interpretation, such as Judicial Pragmatism, Originalism, and Sociological Jurisprudence, introduce the reader to different approaches that the Court has used in its work.

The encyclopedia also reveals the Supreme Court's inner workings, including providing entries on its members and Staff, and specific practices, such as the Discuss List, the Rule of Four, and the Conferences of the Justices. Essays on lawyers practicing before the Court as well as articles on famous journalists, such as Anthony Lewis and Linda Greenhouse, provide additional perspectives on the Court's operations, its members, and its relationship to popular culture.

Used properly, the *Encyclopedia of the Supreme Court of the United States*, which presents its 1,100 entries in alphabetical order, can help students and lay readers become sophisticated court-watchers. For example, suppose that a reader wanted to know how the Roberts Court answered the constitutional question presented by *Parents Involved in Community Schools v. Seattle School District/Meredith v. Jefferson County Schools*, 551 U.S. \_\_\_ (2007). The reader should first read the entry on the case, written by Professor Ashutosh A. Bhagwat of the University of California, Hastings College of Law. Professor Bhagwat explains that this case resulted in a five-to-four decision, in which the Court declared that the school districts' policies violated the Constitution. His clear legal analysis of the separate opinions in the case elucidates why Justice Anthony Kennedy's concurrence, not Chief Justice Roberts's majority opinion, serves as the controlling opinion and guide for schools districts seeking to implement constitutionally acceptable policies to create racial balance or reduce racial isolation.

Professor Bhagwat's brief essay serves as superb introduction to this decision, but the *Encyclopedia of the Supreme Court of the United States* offers much more. The biographical essays on all nine justices of the Roberts Court, coupled with the long entry on the court itself, provide additional insight. Thematic essays on Affirmative Action, Education and the Constitution, Rights of Students, School Desegregation, and Resegregation, for example, further elucidate the history of race, education, and the Supreme Court. And, if the reader wants to learn more about the technical aspects of the decision, he or she should refer to our cogent essays on Plurality Opinions and Strict Scrutiny. In addition, several complete opinions and excerpts from other notable decisions, including this case, are included in the back matter. The reader may also consult the Supreme Court's homepage, <http://www.supremecourtus.gov/>, to access recent opinions as well as links to past ones. To locate essential, digitized primary sources on the Court's history, the reader should

access *U.S. Supreme Court Records and Briefs, 1832–1978* and *Making of Modern American Law: A Mirror on Society*. The first collection contains more than 100,000 cases, including the legal briefs filed; the second is a comprehensive and searchable database of 22,000 British and American legal treatises from 1800 to 1926.

The reader who uses this encyclopedia to research *Parents Involved in Community Schools* will also be directed to *Brown v. Board of Education*, 347 U.S. 483 (1954). In this landmark decision, Chief Justice Earl Warren famously declared, “We conclude that, in the field of public education, the doctrine of ‘separate but equal’ has no place.” Just as the justices of the Roberts Court, in *Parents Involved in Community Schools v. Seattle School District/Meredith v. Jefferson County Schools* debated the meaning and legacy of *Brown*, this encyclopedia provides multiple perspectives on this historic case. For example, Professor Michael Klarman of Harvard Law School provides the comprehensive overview of the road to *Brown*; Professor Alfred Brophy of the University of North Carolina School of Law analyzes African-American understandings of law and justice in the years leading up to *Brown*; Professor Kara Miles Turner, Associate Dean of the College of Liberal Arts, Morgan State writes on the case itself; Professor Lucas A. “Scot” Powe of the University of Texas at Austin School of Law examines the subsequent decision in *Brown v. Board of Education (Brown II)*, 349 U.S. 294 (1955), which provided the remedy for the constitutional wrong announced in *Brown I*; Emeritus Professor Kenneth L. Karst of the UCLA School of Law analyzes the Court’s use of the intentionally vague phrase “all deliberate speed” in *Brown II*; and Professor Kathleen Bergin of South Texas Law School examines critiques of *Brown* that have emerged in recent years. These essays, in turn, introduce the readers to fundamental questions about the proper role of the Court, how justices decide cases, and the impact of judicial decisions, including the public reaction to them. See also references at the end of each entry, plus a detailed Thematic Outline in the front matter, guide readers to related essays in the encyclopedia.

Thus, beginning with one case, the drama unfolds. And, as the Marshal of the Court chants at the beginning of every public session: “The Honorable Chief Justice and the Associate Justices of the Supreme Court of the United States. Oyez! Oyez! Oyez! All persons having business before the Honorable Supreme Court of the United States are admonished to draw near and give their attention, for the Court is now sitting. God save the United States and this Honorable Court!” As you draw near and give this encyclopedia your attention, we hope that it will meet your—and our—expectations.

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## Thematic Outline

*This outline provides a general overview of topics covered in the encyclopedia, listing the titles of each entry. Because the section headings are not mutually exclusive, certain entries in the encyclopedia may be listed in more than one section.*

### ADMINISTRATIVE LAW

Administrative Agencies  
Administrative Procedure Act  
Chevron U.S.A. v. Natural Resources Defense Council, 467 U.S. 837 (1984)  
Gonzales v. Oregon, 546 U.S. 243 (2006)  
Industrial Union Department, AFL-CIO v. American Petroleum Institute, 448 U.S. 607 (1980)  
Interstate Commerce Commission  
Judicial Review of Administrative Action  
Judicial Review of Statutory Interpretation by Agencies  
Motor Vehicles Manufacturers Association v. State Farm Mutual Automobile Insurance Co., 463 U.S. 29 (1983)  
New Deal and Workers  
New Deal Lawyers  
Norton v. Southern Utah Wilderness Alliance, 542 U.S. 55 (2004)  
United States v. Mead Corporation, 533 U.S. 218 (2001)  
Vermont Yankee Nuclear Power Corp. v. Natural Resources Defense Council, 435 U.S. 519 (1978)

### AFRICAN AMERICANS

Amendments, Post-Civil War  
Brown v. Board of Education, 347 U.S. 483 (1954)  
Brown v. Board of Education (Brown II), 349 U.S. 294 (1955)  
Brown v. Board of Education, Critiques  
City of Richmond v. J.A. Croson Co., 488 U.S. 469 (1989)  
Fifteenth Amendment  
Great Constitutional Dream Book  
Houston, Charles Hamilton  
King, Martin Luther, Jr.  
Marshall, Thurgood  
McCleskey v. Kemp, 481 U.S. 279 (1987)  
Nabrit, James  
Plessy v. Ferguson, 163 U.S. 537 (1896)  
Thirteenth Amendment  
Thomas, Clarence  
Washington v. Davis, 426 U.S. 229 (1976)  
World War II and the Growth of Civil Rights

### CHILDREN

Bellotti v. Baird, 443 U.S. 622 (1979)  
Bender v. Williamsport Area School District, 475 U.S. 534 (1986)  
Bethel School District No. 403 v. Fraser, 478 U.S. 675 (1986)  
Board of Education of Island Trees School District No. 26 v. Pico, 457 U.S. 853 (1982)

Board of Education v. Rowley, 458 U.S. 176 (1982)  
Children and the Constitution  
Children and the First Amendment  
Davis v. Monroe County Board of Education, 526 U.S. 629 (1999)  
DeShaney v. Winnebago County Dept. of Social Services, 489 U.S. 189 (1989)  
Education for All Handicapped Children Act of 1975 (EAHCA)  
Elementary and Secondary Education Act of 1965 (Title I)  
Franklin v. Gwinnett County Public Schools, 503 U.S. 60 (1992)  
Goss v. Lopez, 419 U.S. 565 (1975)  
Hazelwood School District v. Kuhlmeier, 484 U.S. 260 (1988)  
Ingraham v. Wright, 430 U.S. 651 (1977)  
In re Gault, 387 U.S. 1 (1967)  
Juvenile Justice  
Lau v. Nichols, 414 U.S. 563 (1974)  
Michael M. v. Superior Court of Sonoma, 450 U.S. 464 (1981)  
Morse v. Frederick, 551 U.S. \_\_\_\_ (2007)  
New Jersey v. T.L.O., 469 U.S. 325 (1985)  
Nguyen v. Immigration and Naturalization Service, 533 U.S. 53 (2001)  
Quilloin v. Walcott, 434 U.S. 246 (1978)  
Rights of Students  
Tinker v. Des Moines School District, 393 U.S. 503 (1969)

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- Vernonia School District v. Acton, 515 U.S. 646 (1995)  
Wood v. Strickland, 420 U.S. 308 (1975)
- CITIZENSHIP**
- Citizenship  
Citizenship by Birth  
Fourteenth Amendment  
Mackenzie v. Hare, 239 U.S. 299 (1915)  
Miller v. Albright, 523 U.S. 420 (1998)  
Minor v. Happersett, 88 U.S. 162 (1875)  
Positive Rights  
Reconstruction Era Civil Rights Acts  
Saenz v. Roe, 526 U.S. 489 (1999)  
Shapiro v. Thompson, 394 U.S. 618 (1969)  
Slaughter-House Cases, 83 U.S. 36 (1873)
- CIVIL RIGHTS**
- ACLU Women's Rights Project  
Adarand Constructors, Inc. v. Peña, 515 U.S. 200 (1995)  
Adderley v. Florida, 385 U.S. 39 (1966)  
Alexander v. Holmes County Board of Education, 396 U.S. 19 (1969)  
All Deliberate Speed  
Amendments, Post-Civil War  
American Civil Liberties Union (ACLU)  
Bolling v. Sharpe, 347 U.S. 497 (1954)  
Bowers v. Hardwick, 478 U.S. 186 (1986)  
Bradwell v. Illinois, 83 U.S. 130 (1873)  
Brown v. Board of Education, 347 U.S. 483 (1954)  
Brown v. Board of Education (Brown II), 349 U.S. 294 (1955)  
Brown v. Board of Education, Road to  
Caban v. Mohammed, 441 U.S. 380 (1979)  
Children and the Constitution  
Citizenship  
Civil Rights Act of 1866  
Civil Rights Act of 1964  
Civil Rights Cases, 109 U.S. 3 (1883)  
Columbus Board of Education v. Penick, 443 U.S. 449 (1979)  
Daniels v. Williams, 474 U.S. 327 (1986)  
Davis v. Bandemer, 478 U.S. 109 (1986)  
Davis v. Monroe County Board of Education, 526 U.S. 629 (1999)  
Dayton Board of Education v. Brinkman (Dayton II), 443 U.S. 526 (1979)  
DeShaney v. Winnebago County Dept. of Social Services, 489 U.S. 189 (1989)  
Edwards v. California, 314 U.S. 160 (1941)  
Equal Pay Act  
Ex parte Endo, 323 U.S. 283 (1944)  
Ex parte McCordle, 74 U.S. 506 (1869)  
Faragher v. City of Boca Raton, 524 U.S. 775 (1998)  
Flagg Brothers, Inc. v. Brooks, 436 U.S. 149 (1978)  
Fourteenth Amendment  
Freedom of Contract  
Frontiero v. Richardson, 411 U.S. 677 (1973)  
Goss v. Lopez, 419 U.S. 565 (1975)  
Gray v. Sanders, 372 U.S. 368 (1963)  
Grutter v. Bollinger, 539 U.S. 306 (2003)/Gratz v. Bollinger, 539 U.S. 244 (2003)  
Harper v. Virginia Board of Elections, 383 U.S. 663 (1966)  
Harris v. Forklift Systems, 510 U.S. 17 (1993)  
Heart of Atlanta Motel v. United States, 379 U.S. 241 (1964)  
Hirabayashi v. United States, 320 U.S. 81 (1943)  
In re Gault, 387 U.S. 1 (1967)  
Japanese American Internment  
Jones v. North Carolina Prisoners' Labor Union, 433 U.S. 119 (1977)  
Juvenile Justice  
Katzenbach v. McClung, 379 U.S. 294 (1964)  
Katzenbach v. Morgan, 384 U.S. 641 (1966)  
Kennedy, Robert  
Keyishian v. Board of Regents, 385 U.S. 589 (1967)  
Korematsu, Fred  
Korematsu v. United States, 323 U.S. 214 (1944)  
Labine v. Vincent, 401 U.S. 532 (1971)  
Lau v. Nichols, 414 U.S. 563 (1974)  
Lawrence v. Texas, 539 U.S. 558 (2003)  
Massachusetts Board of Retirement v. Murgia, 427 U.S. 307 (1976)  
McLaurin v. Oklahoma State Regents, 339 U.S. 637 (1950)  
Meritor Savings Bank v. Vinson, 477 U.S. 57 (1986)  
Michael M. v. Superior Court of Sonoma, 450 U.S. 464 (1981)  
Mississippi Choctaw Indian Band v. Holyfield, 490 U.S. 30 (1989)  
Mississippi University for Women v. Hogan, 458 U.S. 718 (1982)  
Missouri ex rel Gaines v. Canada, 305 U.S. 337 (1938)  
Missouri v. Jenkins, 495 U.S. 33 (1990)  
Missouri v. Jenkins (Missouri III), 515 U.S. 70 (1995)  
Moose Lodge No. 107 v. Irvis, 407 U.S. 163 (1972)  
Morse v. Frederick, 551 U.S. \_\_\_\_ (2007)  
Morton v. Mancari, 417 U.S. 535 (1974)  
Myers v. Anderson, 238 U.S. 368 (1915)  
New Jersey v. T.L.O., 469 U.S. 325 (1985)  
Non-citizens and Civil Liberties  
Non-citizens and Equal Protection (Federal)  
Non-citizens and Equal Protection (State)  
Non-citizens and Federalism  
Oncale v. Sundowner Offshore Services, 523 U.S. 75 (1998)  
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Pittsburgh Press v. Pittsburgh Commission on Human Relations, 413 U.S. 376 (1973)  
Reconstruction Era Civil Rights Acts  
Right to Bear Arms  
Rights of Students  
Romer v. Evans, 517 U.S. 620 (1996)  
Sipuel v. Board of Regents of University of Oklahoma, 332 U.S. 631 (1948)  
Sosna v. Iowa, 419 U.S. 393 (1975)  
Swann v. Charlotte-Mecklenburg Board of Education, 402 U.S. 1 (1971)  
Sweatt v. Painter, 339 U.S. 629 (1950)  
Tennessee v. Lane, 541 U.S. 509 (2004)  
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Washington v. Davis, 426 U.S. 229 (1976)