

Learn More – Teach More

Lesson Title

***Marbury v. Madison*: Context and Consequences**

Era 3: Revolution and the New Nation (1754-1820s)

Grade Level

8th

Estimated Time Required

Number of Days: two days (one class session and one homework assignment).

Number of Half-Hour Segments per Day: This lesson is designed to be completed in two half-hour segments in class and one half-hour segment at home. Depending on the schedule structure at the teacher's school, the bulk of the in-class work could be completed at an accelerated pace in just forty-five minutes, or at a more relaxed pace in sixty minutes. Regardless of the amount of time spent on the lesson in class, the homework essay should be completed in about thirty minutes. For teachers who have ninety minute classes, the homework essay can be completed in-class and turned in at the end of the period.

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Brief Description of the Lesson

This lesson provides students with a front row seat to the creation of the concept of judicial review. Students will examine the major concepts and the complexities of the *Marbury v. Madison* case, first by taking part in a role-playing activity (in which the case before the Supreme Court is reenacted) and second by reading as a class the text of Marshall's opinion in the *Marbury* case. As a capstone activity, students will complete a homework essay which asks them to reflect upon the historic significance of the case.

Lesson Plan Objectives

Content Objectives: At the end of the lesson, students will be able to:

1. Understand the historical context surrounding the *Marbury v. Madison* case
2. Analyze the different beliefs about the role of the judiciary to interpret law
3. Assess the political consequences of the court decision, especially as it applies to checks and balances.

Skill Objectives: At the end of the lesson, students will be able to:

1. Read for literal meaning (Skill Competency Goal 1.01)
2. Summarize to select main ideas (Skill Competency Goal 1.02)
3. Recognize and use social studies terms in written and oral reports (Skill Competency Goal 1.03)
4. Use context clues and appropriate sources such as glossaries, texts, and dictionaries to gain meaning (Skill Competency Goal 1.08)
5. Explore print and non-print materials (Skill Competency Goal 2.02)
6. Create written, oral, musical, visual, and theatrical presentations of social studies information (Skill Competency Goal 2.06)
7. Examine, understand, and evaluate conflicting viewpoints (Skill Competency Goal 4.02)
8. Use word processing to create, format, and produce classroom assignments/projects (Skill Competency Goal 5.01)

North Carolina Social Studies Curriculum Alignment

COMPETENCY GOAL 1: The New Nation (1789-1820) - The learner will identify, investigate, and assess the effectiveness of the institutions of the emerging republic.

Objectives

1.01 Identify the major domestic issues and conflicts experienced by the nation during the Federalist Period.

Print and Non-print Materials

Print Materials

Students will need to read relevant sections of the textbook dealing with the Election of 1800, the Midnight Appointments, and the *Marbury v. Madison* case itself. For instance, in the Garraty and Carnes text *The American Nation*, 11th edition, required reading would be pages 171-177. Students might also wish to consider a comprehensive overview of the case found online at: <http://usinfo.state.gov/usa/infousa/facts/democrac/9.htm>.

In addition, students will need to examine the text of the Marshall decision:

Excerpted: <http://www.landmarkcases.org/marbury/majority.html>

Full Text: http://supreme.lp.findlaw.com/supreme_court/landmark/marbury.html

Supplemental Print Materials to aid in role-playing activity:

Federalist 78, Anti-Federalist 78: <http://www.landmarkcases.org/marbury/judicialpower.html>

Jeffersonian Reaction: <http://www.landmarkcases.org/marbury/jefferson.html>

Non-print Materials (videos, images, etc.)

No non-print materials are required, but the names Marbury, Madison, and Marshall are so steeped in legend that students sometimes forget that these historical characters were actual people, inhabiting real space. For this reason, should teachers have the time and ability, they might want to consider obtaining portraits of the three gentlemen in question, as well as pictures of Washington, D.C. in or around 1803. These pictures could be displayed or passed around with the goal of “humanizing” the subject. Add-ons such as these are purely optional.

Supplies

No extra supplies are required. However, it is probably best to arrange the desks into a design that resembles a mock courtroom for the role-playing activity. Also, to make the role-playing activity more authentic, teachers might wish to consider constructing paper nameplates or name-cards for the role players. It might also be fun (or disastrous) to let the student playing John Marshall wield a gavel to keep order.

Technology Needs

In order to complete the research for this activity (and the homework essay at the conclusion of the activity), students will need to have access to the Internet (or, if that is unavailable, printouts of the websites listed below) and access to the following sites:

Case Overview:

<http://usinfo.state.gov/usa/infousa/facts/democrac/9.htm>

Text of the Marshall decision:

Excerpted: <http://www.landmarkcases.org/marbury/majority.html>

Full Text: http://supreme.lp.findlaw.com/supreme_court/landmark/marbury.html

Supplemental Print Materials to aid in role-playing activity:

Federalist 78, Anti-Federalist 78: <http://www.landmarkcases.org/marbury/judicialpower.html>

Jeffersonian Reaction: <http://www.landmarkcases.org/marbury/jefferson.html>

The role-playing activity itself will not require any technology, but students will most likely need to have access to a word processor in order to complete the homework essay.

Pre-Lesson Expectations

Prior to the lesson, students will need to have picked up a great deal of background information. Students must understand the basic elements of the Constitution, especially the separation of powers and checks and balances. Students should also have an understanding of the political history of the United States from 1776-1801, especially the arguments of the Federalists and Anti-Federalists, the presidencies of George Washington and John Adams, the circumstances surrounding the Alien and Sedition Acts and the Kentucky and Virginia Resolves, the contested election of 1800, and the Midnight Appointments of 1801.

Activities

There are three main parts of the lesson (four including the pre-lesson research). The time allotted for each part of the activity may vary from school to school, schedule to schedule, and teacher to teacher, but should follow the following basic format:

Background Research: Students should work independently (either in class or as a pre-lesson expectation) to familiarize themselves with the facts of the case. Students should use their

resources to gather information on Marbury (especially his basis for petition), Madison (especially his argument against Marbury's petition) and Marshall (especially his views about the power of the judiciary). Students should come to class ready to play one of three roles: Marbury (and his lawyers), Madison (and his lawyers), and Marshall (and his fellow justices).

Role-Playing Activity: The room should be set up with desks arranged in three groups facing each other. Prior to class, the teacher should determine the makeup of the groups and then, as students walk into class, they should be told which role they will be portraying and instructed to sit with the appropriate group. The teacher should outline the timetable for the day and then allow each group about five minutes to organize their presentations. It will be the responsibility of Marbury and Madison's groups to work as a team to present a clear explanation of their side, and it will be the job of the justices to keep order and ask tough questions to the two groups. Arguments and questions may vary, but a fair timetable for each might be: 5 minutes for Marbury, 5 minutes for Madison, 5 minutes for questions from the Court, and 5-10 minutes of open debate. During the proceedings, it is the responsibility of Marshall and the Supreme Court to keep order and maintain the schedule. At the end of the debate session, the Court will adjourn.

Decision and Discussion: After the Court adjourns, there is time for the teacher to offer brief observations about the relative strengths and weaknesses of arguments, and the course of the proceedings. Then, the teacher should have Justice Marshall read an excerpt of his majority decision. It might be wise to distribute copies of the excerpt to students so that they might read along. Following the reading, the teacher should direct a discussion of the decision, including an examination of the specific language of the text. The discussion might include such questions as: "So what does this decision mean?" "What are the ramifications for the Judiciary Act of 1789?" "What is judicial review and was it anticipated by the Founding Fathers?" "How might this ruling be enforced?"

Homework Essay: After students have completed the above activities, they should have a fairly solid understanding of the different sides of the *Marbury v. Madison* case and the implications of the decision. An appropriate capstone for this lesson is an essay. The essay, which should be typed and written in formal language, can be an evaluative essay (sample prompt: "To what extent did the Marbury decision alter the power structure in American government?") or a more fun interpretive essay (sample prompt: "You are a newspaper editor of a Federalist or Republican newspaper covering the Supreme Court decision. Write a newspaper account of the decision and its implications for the country as you see it."). The student should cite all sources in the essay and turn in any notes taken along with the final draft.

Assessment

A multi-part lesson such as this can be assessed in a number of different ways, but any assessment should measure the student's achievement with regard to the goals set forth, especially regarding research, participation, and formal writing. Along a sample 100 point scale in which an A is a 93 or above, a possible grading rubric might be presented to students as follows:

15 Use of Classtime: To what extent is the student on task and productive during the preparation time and class activity?

13-15 Excellent: the student is on task at all times, demonstrates productivity and effort during preparation time; the student is also an alert and actively focused participant during the class activity

11-12 Competent: the student is on task at most times and demonstrates an acceptable level of productivity and effort during preparation time; the student is alert and actively focused for most of the class activity

0-10 Unsatisfactory: the student lacks focus, is often off task or disruptive; the levels of productivity and effort are unacceptable, and the student is frequently neither alert nor actively engaged during the class activity

15 Quality of Research--Oral: To what extent do the observations made by the student in the class activity have their basis in fact and strong research?

13-15 Excellent: the observations made by the student during the class activity are perceptive, well-researched and well-supported, and make positive contributions to the class activity

11-12 Competent: the observations made by the student during the class activity reflect a basic understanding of the material and the character's role in the case, but often the contributions made are overly general or vague

0-10 Unsatisfactory: the student is either withdrawn or unable to adequately represent the character being portrayed; the student gets facts wrong or makes little effort to contribute to class learning

15 Quality of Research--Written: To what extent do the findings made by the student in the pre-lesson research activity have their basis in fact and strong research?

13-15 Excellent: the written work is clear and complete, with plenty of specific information and details; the work reflects a solid understanding of the material and an exceptional level of effort

11-12 Competent: the written work is basically complete, although the content is rather general in nature and lacks specifics; the work reflects a basic understanding of the material and an average level of effort

0-10 Unsatisfactory: the written work lacks important details, is overly general, and reflects little time and effort

20 Individual Participation: To what extent was the student an active and contributing participant in the class activity? How valuable was the participant to the team?

- 19-20 Excellent: the student consistently made outstanding contributions to the group presentation and the following discussion; the student was always on task and helped to provide the class with important information, speaking clearly and helping expand the class' understanding
- 14-18 Competent: the student made several fine contributions to the group presentation and the following discussion, although was not a leader; the student was usually on task and spoke clearly, if generally, about the topic
- 0-13 Unsatisfactory: the student was withdrawn from the presentation and following discussion or was disruptive; contributions reflected little understanding and little effort

35 Homework Essay: To what extent did the student successfully respond to the prompt, using proper spelling, style and grammar, logical essay organization, and a strong and easily defended argument?

- 25 Content: To what extent has the student used his/her research and listening skills to fashion a strong response?
- 5 Organization: To what extent has the student created an essay that flows naturally and is organized logically?
- 5 Grammar/Spelling: To what extent has the student followed appropriate rules of formal writing?

Supplemental Information for Teachers

Teachers wishing additional background information to supplement their own understanding of the subject might wish to consult one of sites listed below or read one of the numerous legal history texts in their local library. An especially strong, and relevant, text for this topic is *Major Problems in Constitutional History*, Kermit Hall, ed. And the *Oxford Companion to the Supreme Court*, Kermit Hall, ed. Depending upon the amount of time available, teachers might wish to review or use the Supreme Court origins online lecture at the Learn More Teach More site: <http://www.dlt.ncssm.edu/lmtm/docs/SupremeCourt.htm>

Related Internet Resources

Teachers may find access to additional background information by examining any of the numerous legal websites found on the Internet, including www.landmarkcases.org, www.oyez.org, and www.findlaw.org.

Attachments

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