

Plessy v. Ferguson (1896)

Document Based Question for Advanced Placement U.S. History Classes

LEARNING OBJECTIVES:

1 Students apply the following constitutional principles to analyze the legal controversies surrounding the case of *Plessy v. Ferguson* (1896).

- Federalism: a system of dual sovereignty in which the people delegate certain powers to the national government, while the states retain other powers; and the people, who authorize the states and national government, retain all freedoms not delegated to the governing bodies.
- Due Process: government must interact with all citizens according to the duly-enacted laws, applying these rules equally among all citizens.
- Liberty: Except where authorized by citizens through the Constitution, government does not have the authority to limit freedom.

2 Students evaluate the degree to which each of the following informed the ruling in *Plessy v. Ferguson*: custom, precedent, and understanding of federalism.

Advanced Placement U.S. History Themes/Learning Objectives:

- Politics and Power 5: Analyze how arguments over the meaning and interpretation of the Constitution have affected U.S. politics since 1787.
- Identity 2: Understand the impact of various historical events on popular beliefs about progress and national destiny.

ACTIVITIES:

1 Provide each student with pages 41 – 52 of the attached lesson. For homework, have students read the following from the attached lesson:

- Case Background, p. 41
- Document J: Final Judgment, p. 48
- Document K: Majority Opinion, p. 49
- Document L: Dissent, p. 50

2 Clarify the following points regarding the historical context of *Plessy v. Ferguson*:

- In 1888, New Orleans was described as the most integrated city in the South.
- This was a deliberate test case meant to challenge Louisiana's Separate Car Law. This 1890 law required railroad companies to provide separate accommodations for white and black passengers. Railroad companies opposed the law because it imposed extra expenses on them. Not only did it require them to run additional cars on trains, but it also placed a burden on conductors to determine the race of each passenger. The Citizens' Committee of New Orleans recruited Homer Plessy, who had participated in several civil rights initiatives in New Orleans, to challenge the law. He was considered a sympathetic plaintiff because of his light skin. The Citizens' Committee had alerted the railroad company in advance, and had hired a private detective to arrest Plessy when he admitted that he was 1/8th black and refused to move to another rail car.

PLESSY v. FERGUSON ACTIVITIES CONTINUED

3 Depending on your students' level of experience in working with document-based questions, you may wish to help them analyze the prompt.

- What do we mean by custom? Precedent? Federalism? (Custom refers to tradition—not laws. Precedent means formal documents or official laws and procedures. Federalism is the constitutional principle of division of power between national and state levels of government.)
- Students are to determine how each of these elements was related to the issues of equal protection and due process in Homer Plessy's case.

4 Have students work in small groups, and assign each group the specific documents as shown. Their task is to place each document in the appropriate place in a graphic organizer similar to the one below:

Group 1: Documents A, C, D

Group 2: Documents B, E

Group 3: Documents F, G

Group 4: Documents H, I

	Favors Plessy	Favors Ferguson
Custom (tradition)		
Precedent (formal document or official procedure)		
Federalism (division of power between national & state levels)		

5 After all groups have completed this analysis, have each group report its results so that all students can fill in the table for all documents. Encourage students to share why they placed each document as they did, and to discuss any challenges or questions that arise. It is this step that most effectively gives students the tools to truly analyze the documents and understand how they relate to the prompt.

6 Walk students through the remaining documents in whole-class review/summary.

- Document J: Final Judgment
- Document K: Majority Opinion
- Document L: Dissent
- Document M: "At the Bus Station"

7 Students should now be equipped to write a response to the essay prompt: "Evaluate the degree to which each of the following informed the ruling in *Plessy v. Ferguson*: custom, precedent, and understanding of federalism." You may have students complete this as an individual task or a group task.

8 Be sure students are familiar with your class procedures related to thesis statements and essay expectations. Tips are provided on pages 236 – 239 of the Teacher Toolbox.

9 After students have written their essays, you may have them exchange papers anonymously and apply your class grading rubric.

PLESSY v. FERGUSON (1896)

DIRECTIONS

Read the Case Background and the Key Question. Then analyze Documents A-M. Finally, answer the Key Question in a well-organized essay that incorporates your interpretations of Documents A-M, as well as your own knowledge of history.

Case Background

Although the Declaration of Independence affirmed that “all men are created equal,” and had inalienable rights including liberty, African Americans were systematically denied their liberty with the institution of slavery. Even after the Civil War and the passage of the Thirteenth, Fourteenth, and Fifteenth Amendments, segregation was a fact of life in the United States. Throughout the country, the races remained separated by both custom and law.

With the end of Reconstruction, every southern state, as well as some northern ones, passed what came to be termed Jim Crow laws. These policies required segregation in public places. African Americans were denied equal access to public facilities like transportation, education, and the voting booth. In 1878, the Supreme Court held that states could not require integration on interstate common carriers. In 1890, the Court held that Mississippi could require segregation on modes of interstate transportation.

Five years later, Homer Plessy, a resident of Louisiana, decided to challenge a Louisiana law requiring segregation on railcars by purchasing a train ticket and sitting in a “whites only” car. Because Plessy was an “octoroon” (1/8th black), he was subject to the black codes of Louisiana. When he was questioned as to his status, he admitted to being an octoroon, and was arrested when he refused to leave the car. He appealed his case to the Supreme Court of Louisiana and eventually the United States Supreme Court, claiming that the Louisiana law violated the Fourteenth Amendment.

KEY QUESTION

Evaluate the degree to which each of the following informed the ruling in *Plessy v. Ferguson*: custom, precedent, and understanding of federalism.

Documents you will examine:

- A The Declaration of Independence, 1776
- B Thomas Jefferson, *Notes on the State of Virginia*, 1787
- C The Constitution of the United States, 1789
- D The Tenth Amendment, 1791
- E Thomas Jefferson to Henri Gregoire, 1809
- F Argument of John Quincy Adams, *Amistad* Case, 1841
- G “The American Declaration of Independence Illustrated,” 1861
- H Section of The Fourteenth Amendment, 1868
- I *Civil Rights Cases*, 1883
- J Final Judgment, *Plessy v. Ferguson*, 1896
- K Majority Opinion (6-1), *Plessy v. Ferguson*, 1896
- L Dissenting Opinion, *Plessy v. Ferguson*, 1896
- M “At the Bus Station,” 1940

DOCUMENT A

The Declaration of Independence, 1776

We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness....

- ▶ **In what manner does the Declaration of Independence understand all people to be equal?**

DOCUMENT B

Thomas Jefferson, *Notes on the State of Virginia*, 1787

Comparing [Negros] by their faculties of memory, reason, and imagination, it appears to me, that in memory they are equal to the whites; in reason much inferior, as I think one could scarcely be found capable of tracing and comprehending the investigations of Euclid; and that in imagination they are dull, tasteless, and anomalous.... This unfortunate difference of colour, and perhaps of faculty, is a powerful obstacle to the emancipation of these people.

- ▶ **Contrast Jefferson's views on racial equality with the assertion of the Declaration of Independence (Document A).**

DOCUMENT C

The Constitution of the United States, 1789

Article 1, Section 2, Paragraph 3: Representatives and direct Taxes shall be apportioned among the several States which may be included within this Union, according to their respective Numbers, which shall be determined by adding to the whole Number of free Persons, including those bound to Service for a Term of Years, and excluding Indians not taxed, three fifths of all other Persons.

- ▶ **Who are the “all other Persons” referred to in this document?**
- ▶ **How were these “all other persons” counted for the purpose of apportioning a state's representatives and direct taxes?**

DOCUMENT D

The Tenth Amendment, 1791

The powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people.

- ▶ **Restate the Tenth Amendment in your own words.**

DOCUMENT E

Thomas Jefferson to Henri Gregoire, 1809

Be assured that no person living wishes more sincerely than I do, to see a complete refutation of the doubts I have myself entertained and expressed on the grade of understanding allotted to them [Negroes] by nature, and to find that in this respect they are on a par with ourselves. My doubts were the result of personal observation on the limited sphere of my own State, where the opportunities for the development of their genius were not favorable, and those of exercising it still less so. I expressed them therefore with great hesitation; but whatever be their degree of talent it is no measure of their rights. Because Sir Isaac Newton was superior to others in understanding, he was not therefore lord of the person or property of others. On this subject they are gaining daily in the opinions of nations, and hopeful advances are making towards their re-establishment on an equal footing with the other colors of the human family.

- ▶ **How does Jefferson clarify his beliefs on the racial inferiority of blacks (Document B)?**

DOCUMENT F

Argument of John Quincy Adams, *Amistad* Case, 1841

Note: In 1839, Africans aboard the schooner Amistad revolted and demanded to be returned home. The captain instead brought them to New York, and the captives were to be sold as slaves. A legal battle followed over the question of the status of the captive Africans.

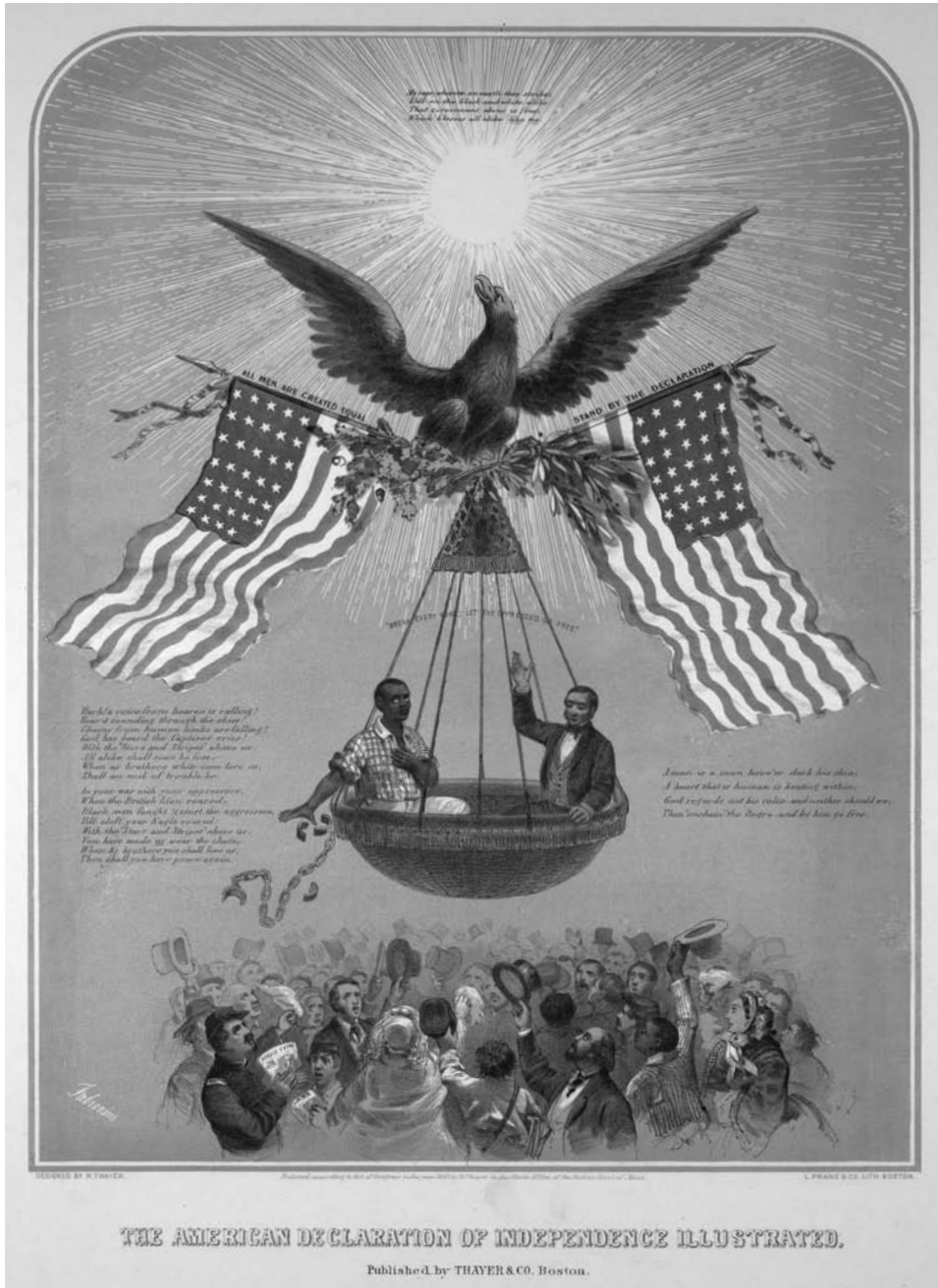
The Constitution of the United States recognizes the slaves, held within some of the States of the Union, only in their capacity of persons. ...The Constitution nowhere recognizes them as property. The words slave and slavery are studiously excluded from the Constitution. Circumlocutions are the fig-leaves under which these parts of the body politic are decently concealed. Slaves, therefore, in the Constitution of the United States are recognized only as persons, enjoying rights and held to the performance of duties.

That Declaration [of Independence] says that every man is “endowed by his Creator with certain inalienable rights,” and that “among these are life, liberty, and the pursuit of happiness.” ...The moment you come, to the Declaration of Independence, that every man has a right to life and liberty, an inalienable right, this case is decided. I ask nothing more in behalf of these unfortunate men, than this Declaration.

- ▶ **What does Adams argue about the Constitution’s recognition of slaves?**
- ▶ **Why does Adams reference the Declaration of Independence?**

DOCUMENT G

“The American Declaration of Independence Illustrated,” 1861



- ▶ What does the artist believe is the promise of the Declaration of Independence?

DOCUMENT H

Section of The Fourteenth Amendment, 1868

Section. 1. All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws....

Section. 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

- ▶ **What does the Fourteenth Amendment guarantee to residents of every state?**
- ▶ **Does Section 5 of this document change the meaning of the Tenth Amendment (Document D)?**

DOCUMENT I

Civil Rights Cases, 1883

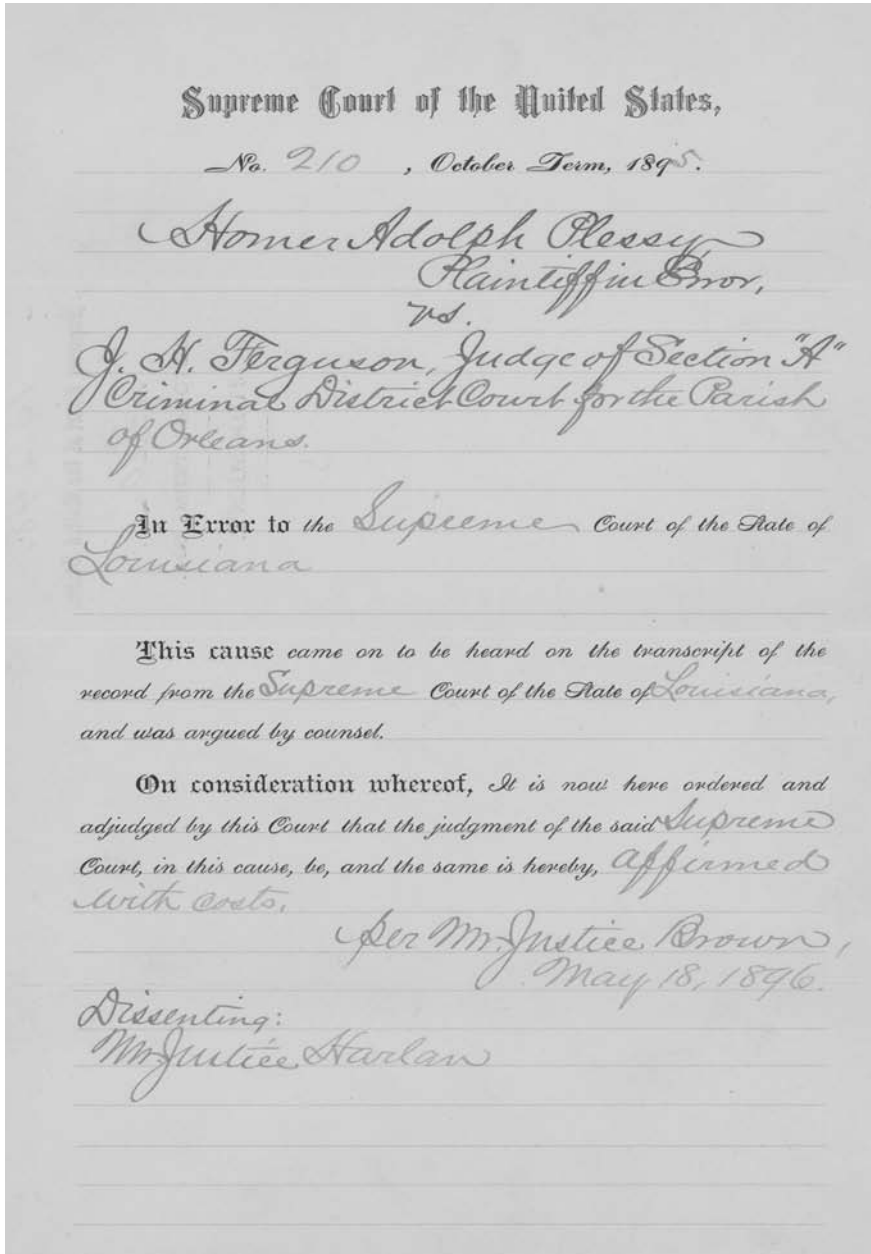
[Federal civil rights] legislation cannot properly cover the whole domain of rights appertaining to life, liberty, and property, defining them and providing for their vindication. That would ... make congress take the place of the state legislatures and to supersede them.

It is absurd to affirm that, because the rights of life, liberty, and property ... are by the [Fourteenth] Amendment sought to be protected against invasion on the part of the state without due process of law, Congress may, therefore, provide due process of law for their vindication in every case; and that, because the denial by a state to any persons of the equal protection of the laws is prohibited by the amendment, therefore congress may establish laws for their equal protection.

- ▶ **Which level of government does this opinion imply has the power to correct state violations of rights to life, liberty and property?**

DOCUMENT J

Final Judgment, *Plessy v. Ferguson*, 1896



Courtesy National Archives. *Plessy v. Ferguson*, 163, #15248; Records of the Supreme Court of the United States; Record Group 267.

- ▶ What was Ferguson's title?
- ▶ Did the United States Supreme Court affirm or overturn the decision of the Louisiana court?

**Majority Opinion (6-1), *Plessy v. Ferguson*, 1896**

The object of the [Fourteenth] Amendment was undoubtedly to enforce the absolute equality of the two races before the law, but, in the nature of things, it could not have been intended to abolish distinctions based upon color, or to enforce social, as distinguished from political, equality, or a commingling of the two races upon terms unsatisfactory to either. Laws permitting, and even requiring, their separation, in places where they are liable to be brought into contact, do not necessarily imply the inferiority of either race to the other, and have been generally, if not universally, recognized as within the competency of the state legislatures in the exercise of their police power....

We consider the underlying fallacy of [Plessy's] argument to consist in the assumption that the enforced separation of the two races stamps the colored race with a badge of inferiority. If this be so, it is not by reason of anything found in the act, but solely because the colored race chooses to put that construction upon it....

The argument also assumes that social prejudices may be overcome by legislation, and that equal rights cannot be secured to the negro except by an enforced commingling of the two races. We cannot accept this proposition. If the two races are to meet upon terms of social equality, it must be the result of natural affinities, a mutual appreciation of each other's merits, and a voluntary consent of individuals....

Legislation is powerless to eradicate racial instincts, or to abolish distinctions based upon physical differences, and the attempt to do so can only result in accentuating the difficulties of the present situation. If the civil and political rights of both races be equal, one cannot be inferior to the other civilly or politically. If one race be inferior to the other socially, the constitution of the United States cannot put them upon the same plane.

- ▶ **What kinds of laws does the Court say that state legislatures have the rightful power to pass?**
- ▶ **What does the Court say is the basic flaw in Plessy's argument?**
- ▶ **What does the Court argue about laws that try to abolish racial prejudices?**
- ▶ **Why is this decision said to have affirmed the doctrine of "separate but equal"?**

DOCUMENT L

Dissenting Opinion, *Plessy v. Ferguson*, 1896

The white race deems itself to be the dominant race in this country. And so it is, in prestige, in achievements, in education, in wealth, and in power. So, I doubt not, it will continue to be for all time, if it remains true to its great heritage, and holds fast to the principles of constitutional liberty. But in view of the constitution, in the eye of the law, there is in this country no superior, dominant, ruling class of citizens. There is no caste here. Our constitution is color-blind, and neither knows nor tolerates classes among citizens. In respect of civil rights, all citizens are equal before the law. The humblest is the peer of the most powerful....

Sixty millions of whites are in no danger from the presence here of eight millions of blacks. The destinies of the two races, in this country, are indissolubly linked together, and the interests of both require that the common government of all shall not permit the seeds of race hate to be planted under the sanction of law. What can more certainly arouse race hate, what more certainly create and perpetuate a feeling of distrust between these races, than state enactments which, in fact, proceed on the ground that colored citizens are so inferior and degraded that they cannot be allowed to sit in public coaches occupied by white citizens? That, as all will admit, is the real meaning of such legislation as was enacted in Louisiana.

- ▶ **What does the dissenting opinion mean by “Our constitution is color-blind”?**
- ▶ **What does the dissenting opinion claim is the “real meaning” of the Louisiana segregation law?**

DOCUMENT M

“At the Bus Station,” 1940



- ▶ How does this photograph from 1940 reveal the legacy of the *Plessy* decision?

DIRECTIONS

Answer the Key Question in a well-organized essay that incorporates your interpretations of Documents A-M, as well as your own knowledge of history.

KEY QUESTION

Evaluate the degree to which each of the following informed the ruling in *Plessy v. Ferguson*: custom, precedent, and understanding of federalism.

THE ISSUE ENDURES

Brown v. Board of Education (1954)

The doctrine of “separate but equal” did not make its appearance in this Court until 1896 in the case of *Plessy v. Ferguson*....

Negro and white schools involved have been equalized, or are being equalized, with respect to buildings, curricula, qualifications and salaries of teachers, and other “tangible” factors. Our decision, therefore, cannot turn on merely a comparison of these tangible factors in the Negro and white schools involved in each of the cases. We must look instead to the effect of segregation itself on public education. ...Only in this way can it be determined if segregation in public schools deprives these plaintiffs of the equal protection of the laws.

- ▶ **The Court acknowledges the growing “equality” of schools for blacks and whites. Why, then, will the Court overturn *Plessy*?**

APPENDIX

TEACHER TOOLBOX

Classroom Applications

Case Briefing Sheet

Constitutional Issue Evidence Form

Documents Summary

Attorney Document Analysis

Moot Court Procedures

Tips for Thesis Statements and Essays

Rubric for Evaluating a DBQ Essay on a 9-Point Scale

Key Question Scoring Guidelines for All Essays

CLASSROOM APPLICATIONS

Scaffolding questions are provided as an option. Teachers of AP or honors classes may choose not to have students write answers to these.

Context/Background information for some documents is provided as an option to brief students on historical/legal context and significance.

DBQ Strategies:

- Write the Key Question on the board and give each student a copy of one document. Ask this question: Does this document help you to answer this question? If so, how? If not, what additional information might you need? Allow students 3-4 minutes to answer these questions. Then, have students pair up, sharing their documents and answering the same questions. Have each pair join another and repeat the process. Finally, bring the entire class together and answer the Key Question as a group.
- Write the Key Question on the board and spend one class period having students analyze documents and answer the scaffolding questions, followed by one class period writing their answers to the key question.
- Divide students into pairs or trios and assign one or more documents per group. Then ask groups to report on their documents to the class, being sure that they explain how their specific documents can help to answer the Key Question.
- Go over DBQs as a large group, using scaffolding questions and key questions as discussion prompts.
- Give students the documents from a case and have them craft a key question.
- Have students complete a Case Briefing Sheet (see p. 231) to reinforce key concepts.
- Have students determine for each document which side would be more likely to use it in oral argument of the case. (See graphic organizers, p. 232.)
- Conduct a Moot Court presentation (see p. 235 for directions).
- Lightning Round Moot Court: This strategy might be especially helpful to provide a quick review of a number of cases. Assign two students to each case—one to present the petitioner’s position and one to present the respondent’s. Each student has two minutes to present his/her position to the entire class, which then must vote on this question: Is the law in question a valid exercise of government power under the relevant constitutional principles?
- Have students conduct research to discover more details about the people involved in a case, and then report to the class.
- Develop an illustrated timeline to depict changes and trends in interpretation of a given constitutional principle.
- Develop political cartoons to highlight the important issues in a case.

ONLINE RESOURCES

Consult any of the following websites for additional resources to learn more about the Supreme Court and landmark cases.

<http://billofrightsinstitute.org/resources/educator-resources/landmark-cases/>
www.oyez.org
<http://www.streetlaw.org/en/landmark.aspx>
<http://www.supremecourt.gov/>
<http://www.law.cornell.edu/supct/cases/name.htm>
<http://www.scotusblog.com/>

CASE BRIEFING SHEET

Case Name and Year: _____

Facts of the Case: _____

What is the constitutional question that the Supreme Court must answer?
(This is a yes/no question and spells out the specific part of the Constitution at issue.)

What constitutional principles are indicated in the case? _____

Summary of one side's arguments:

Summary of the other side's arguments:

How would you decide the case and why? _____

How did the Supreme Court majority decide the case and why? _____

What were the main points raised in any dissenting opinions? _____

What other Supreme Court cases are related in important ways? _____

CONSTITUTIONAL ISSUE EVIDENCE FORM

How would you use the documents provided to answer the constitutional question?

Case Name and Year:

Constitutional Issue:

Yes (Source/Evidence)		No (Source/Evidence)	

DOCUMENTS SUMMARY

Use this form to develop an overview of the evidence available.

Document name & date	Author	Answer to scaffolding question	How each side might use this document to answer the Key Question —OR— What is the main idea of this document?

ATTORNEY DOCUMENT ANALYSIS

Use this form to show which attorney would probably use each document provided, and why.

Petitioner	Both sides	Respondent
Additional notes: How did majority/dissenting opinions align with each attorney's position?		

MOOT COURT PROCEDURES

Preparation

- Encourage students to use the background knowledge they have developed. Attorneys and Justices of the U.S. Supreme Court apply a great deal of background and historical knowledge.
- Caution students that “gotcha” questions within the classroom context are not productive. “Justices” should not ask questions that, based on their background and class activities, would not be fair game.
- Decide whether students will be allowed to use online resources via their smartphones during the exercise—there are good arguments both for using and for not using them.
- Recommendation—do not allow “Justices” to interrupt the attorneys in the first time or two that you run moot courts. They can ask their questions at the end of each attorney’s oral arguments.
- Encourage teamwork among “attorneys” in their presentations. Each team should have a lead attorney, but others will help fill in as needed.

Divide class into 3 groups: 9 Justices, advocates for the petitioner, and advocates for the respondent (A fourth group could be journalists.)

- Give time for planning: Justices decide what questions they want answered in oral arguments; advocates for each side plan their oral arguments.
- Allow equal time for presentation of each side, including interruptions from Justices (or not—your choice). In the U.S. Supreme Court, each side has 30 minutes, and the Justices interrupt continuously.
- Justices deliberate and announce decision. Deliberation is actually done in strict privacy in the U.S. Supreme Court conference, but you decide for your class.

At the beginning of each session of the Supreme Court, the Marshal of the Court (Court Crier) announces:

“Oyez! Oyez! Oyez! All persons having business before the Honorable, the 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!”

The Chief Justice will begin the oral argument phase by saying, “Petitioner, you may begin.”

The petitioner’s attorney says, “Mr. Chief Justice, and may it please the Court...”

Debrief: Discuss both the content of the case (Constitutional principle and its application) and the processes employed. Consider thinking and planning process, civil discourse process, and the application of these skills outside the classroom.

TIPS FOR THESIS STATEMENTS AND ESSAYS

Thesis Statement: The thesis statement condenses your arguments to a nutshell and appears in the opening paragraph, but it is not written until AFTER you have planned your overall response. (Planning process shown in table below.)

A good thesis statement—

- Fully addresses all parts of the prompt, while acknowledging the complexity of the issue.
- Clearly takes a side—makes a declarative statement that one thing was more important, more persuasive, etc. than another. Since the verb in the prompt is often something like “assess” or “evaluate,” the thesis statement should show which side the writer takes.
- Suggests a “table of contents ”or road map for the essay—shows what elements enter into consideration.
- Begins an essay that is proven by abundant and persuasive facts and evidence.

In a DBQ essay, the student writes a well-organized response to target a specific prompt, analyzing pertinent documents in order to support his/her thesis. The steps described here will guide the process of handling the documents. (For Advanced Placement US History the response must include BOTH outside information AND information from the documents. On US History AP exams, one of the essays that must be written under timed conditions is the DBQ.)

DBQ Do and Don't

Steps	Do	Don't
1. Analyze the prompt and divide it into its components. A graphic organizer helps with this step.	Fully address the prompt. It is better to address all parts of the prompt, even if you must do some in a way that is less complete, than to spend all your time on just one of two parts or 3 of 4 parts.	Neglect part of the prompt because you spent too much time on the part you know more about.
2. Plan to prove your point. It is best to begin by planning the overall structure BEFORE even looking at the documents.	Organize your thoughts before writing the thesis statement. What are the logical points your essay needs to include?	Write a “laundry list” that simply summarizes each document.

Steps	Do	Don't
3. Check the documents to see how you can use them as tools.	Strive to use all the documents; but be sure you accurately understand their main ideas.	Take quotes or ideas out of context to use them in a manner other than the author intended.
4. Ask yourself when writing every paragraph: "How does this help to prove my thesis?"	Analyze to prove the position asserted in the thesis statement. Analysis is not the same thing as description or narrative. Merely making a series of true statements is not analysis. Key to analysis—is the essay answering the "So what?" question?	Use 1st-or 2 nd -person pronouns "I think the Supreme Court has the authority to use judicial review because..." "Have you ever wondered how the Supreme Court got the authority to overturn federal laws?"
5. Manage time wisely; writing long quotes will eat up thinking time.	Use relevant facts, evidence, proof. A well-chosen brief phrase in quotations and worked into your own sentence is powerful.	Use lengthy quotes. Pad the paper in an attempt to conceal a lack of analysis.
6. Give credit to sources.	Cite sources using the author's name and/or document title.	Write "According to Document B,..."
7. Think as you write!	Let logic and analysis drive the essay.	Let documents drive the essay.

RUBRIC FOR EVALUATING A DBQ ESSAY ON A 9-POINT SCALE

Adapted from AP US History guidelines

Score (Grade)	Thesis	Analysis (tends to be the most difficult component)	Entire Prompt	Documents	Outside Info (required for AP class)	Organization & Writing Skill	Errors
8-9 (95-100)	Contains a well-developed thesis which clearly addresses all aspects of the prompt and shows organizational roadmap	Effective analysis which shows & proves relationships; fully answers the “so what?” questions; more analytical than narrative.	Addresses all aspects of the prompt, though coverage may be slightly uneven	Effectively and appropriately uses all—(or almost all) documents “The angels are starting to sing!”	Supports thesis with substantial and relevant outside information.	Clearly organized & well-written—evident on first reading, but we’ll read it again just for pleasure. “Call the President; he needs to hear this essay!”	May contain minor errors. “Get this writer to proofread your next paper!”
5-6-7 (80-85-90)	Contains a thesis which addresses the prompt	Limited analysis; mostly descriptive; knowledge & comprehension level in use of facts	Slightens or neglects some parts of the prompt	Uses some documents effectively	Supports thesis with some outside information	Acceptable organization; language errors do not interfere with comprehension and do not indicate misunderstanding of the topic	May contain errors that do not seriously detract from quality of the essay
2-3-4 (65-70-75)	Presents a limited, confused and/or poorly developed thesis	Simplistic explanations that do not indicate mastery of the content; may list facts without analysis	Deals with one aspect of the prompt in a general way or with additional parts in a superficial way	Quotes or briefly cites some documents, but does not use them as tools to support thesis	Contains little outside information	Demonstrates weak organizational and/or writing skills which interfere with comprehension	May contain major errors
0-1 (60 & below)	Contains no thesis or a thesis which does not address the prompt	Shows inadequate or inaccurate understanding of the prompt	Ignores part of the question	Contains little or no understanding of the documents or ignores them completely	Includes inappropriate, off-target, or no outside information	Is so poorly organized or written that it is difficult to understand	Contains numerous errors, both major and minor
-	Response is completely off-target. Examples: “I didn’t have to pay for this exam and I’m not wasting my time on it”; “I know nothing about the prompt, but let me tell you about snow-boarding...”; “My former boyfriend is the world’s biggest jerk and here’s why...”						

KEY QUESTION SCORING GUIDELINES FOR ALL ESSAYS

The Good-Excellent Essay

- Asserts a strong, clear, and well-developed thesis in response to the key question.
- Supports the thesis with outstanding analysis of Founding documents, custom, legal precedent and contemporary views.
- Intelligently applies and/or critiques the Court's opinion(s).
- Effectively uses many documents and incorporates prior knowledge.
- Contains only minor errors; is clearly organized and exceptionally well-written.

The Average-Good Essay

- Asserts a thesis in response to the key question.
- Supports the thesis with some analysis of Founding documents, custom, legal precedent and/or contemporary views. Analysis of some aspects may be cursory or absent.
- Critiques and/or applies the Court's opinion(s), but may demonstrate less command of nuance than the Good-Excellent Essay.
- Effectively uses many documents and incorporates prior knowledge.
- Contains few significant errors; is acceptably organized and written.

The Below Average-Average Essay

- Asserts a limited thesis or does not fully address the key question.
- Analysis is largely incomplete, superficial, or incorrect; may merely paraphrase or quote documents.
- Contains simplistic or incorrect application/critique of the Court's opinion(s).
- Uses few documents and incorporates little prior knowledge.
- Contains some significant errors and is poorly organized and written.

The Poor-Below Average Essay

- Lacks a thesis.
- Exhibits inadequate understanding of the question and the documents.
- Offers no application/critique of the Court's opinion(s).
- Uses very few documents and incorporates no prior knowledge.
- Contains numerous significant errors and is poorly organized and written.

focused on whether or not they were citizens.

Document K: All the provisions that guarantee liberty.

Document L: Lincoln viewed the document as an eternal statement of the human rights held by all people. Taney focused on the contemporary circumstances under which it was written.

Document M: These 1860 presidential candidates (Clockwise from top right: Lincoln, Bell, Douglas, Breckenridge/Buchanan) felt compelled to react, but in different ways and for different reasons.

United States v. Nixon

Document A: Powers are separated so that one branch does not become too powerful.

Document B: Giving it the power to govern, with enough limits so liberty is not lost.

Document C: 1. To protect from foreign attack, provide for a steady administration of laws, protect property and justice, and secure liberty from ambition, faction and anarchy. 2. Unlike the president, the king of England is not personally responsible for his actions and is unaccountable to the people. The king may exercise his powers alone, whereas the President's power is subject to checks and balances.

Document D: Jackson is acting like a king, exercising his powers in ways that trample the Constitution.

Document E: The House asked why the police commissioners of Baltimore were arrested; Lincoln refused.

Document F: 1. Not to allow defense employees to testify to Congress. 2. The right to keep information and advice secret if it goes against the public interest or the nation's safety.

Document G: 1. Nixon is portrayed as a king. The top of the Capitol dome

is missing, indicating destruction of Congress's power to check the actions of the executive. Nixon is exercising a monarch's powers without regard to checks and balances, despite Hamilton's assurances. 2. It uses similar imagery and makes a similar argument.

Document H: 1. The need to protect confidentiality in communications between "high government officials and those who advise and assist them" and the doctrine of separation of powers. The Court held that it was too broad of a claim and executive privilege could not possibly be absolute. 2. If there were a need to protect "military, diplomatic, or sensitive national security secrets."

Document I: Nixon was deliberately leaving out incriminating evidence by hiding information he did not want others to hear and in fact, was a "crook."

Document J: The powers of government clash.

UNIT TWO: Equal Protection and Affirmative Action

Plessy v. Ferguson

Document A: All people are born with an equality of rights.

Document B: Blacks may be inferior to whites in their faculties. Jefferson does not say blacks do not have equal rights.

Document C: 1. Slaves. 2. Three-fifths of the total slave population was added to the total free population to determine the state population for purposes of representation and taxation.

Document D: Powers not given to the federal government remain with the states and the people.

Document E: Jefferson is open to being proved wrong. Nevertheless, even if

blacks are inferior in understanding, they still have equal rights.

Document F: 1. They are recognized as persons, not property. 2. Slaves are people and have inalienable rights.

Document G: It would lift slaves from the chains of slavery.

Document H: 1. National citizenship, along with the privileges and immunities thereunto, due process, and equal protection of the laws. 2. Yes, as the federal government now had a check on state power.

Document I: State governments.

Document J: 1. Judge of Section "A" Criminal District Court for the Parish of Orleans. 2. Affirmed.

Document K: 1. Laws permitting or requiring separation of races. 2. Separate does not mean inferior. 3. They will not work. 4. Because it asserted that separate accommodations were not necessarily unequal.

Document L: 1. It does not reference race or class; it applies to all. 2. To keep blacks inferior in both feeling and fact.

Document M: Segregation was institutionalized for decades to come.

Brown v. Board of Education

Document A: It was against the law in some states to educate African Americans.

Document B: 1. It was passed after the Civil War to protect the rights of newly-freed slaves. 2. The states cannot deny citizens the privileges and immunities of citizenship, due process of law, and equal protection of the laws.

Document C: Separate was not inherently unequal. Segregation, therefore, did not violate the Constitution.

Document D: Both the opinions agreed that the Fourteenth Amendment was designed to guarantee legal equality

of the races. However, the majority asserted that segregation did not necessarily lead to inequality while the dissenter argued that it does.

Document E: Neat, orderly, full.

Document F: It looks very similar.

Document G: Crowded, cramped, full.

Document H: Many former slave states allowed or required segregation, which was declared to be constitutional in *Plessy v. Ferguson*.

Document I: 1. Segregation was declared unconstitutional. 2. Separation of the races was inherently unequal and violated the Fourteenth Amendment. Segregation creates a feeling of inferiority in black children that would impede their future success.

Document J: 1. To integrate schools with all deliberate speed. 2. The Court cannot write or enforce laws. It must rely on state and local executive and legislative bodies for enforcement of its decisions.

Document K: The white hands represent the Supreme Court. The black hands represent African Americans shackled by segregation. The Supreme Court, which in 1954 was comprised entirely of white justices, was the force demanding the shackles binding black Americans be broken. The Court was acting as the final force ending the social and legal bindings and effects of slavery on black Americans.

Regents of the University of California v. Bakke

Document A: To protect the rights of former slaves.

Document B: 1. Positive steps. 2. Paying no attention to.

Document C: Congress is being forced by the demands of African Americans to pass civil rights legislation.