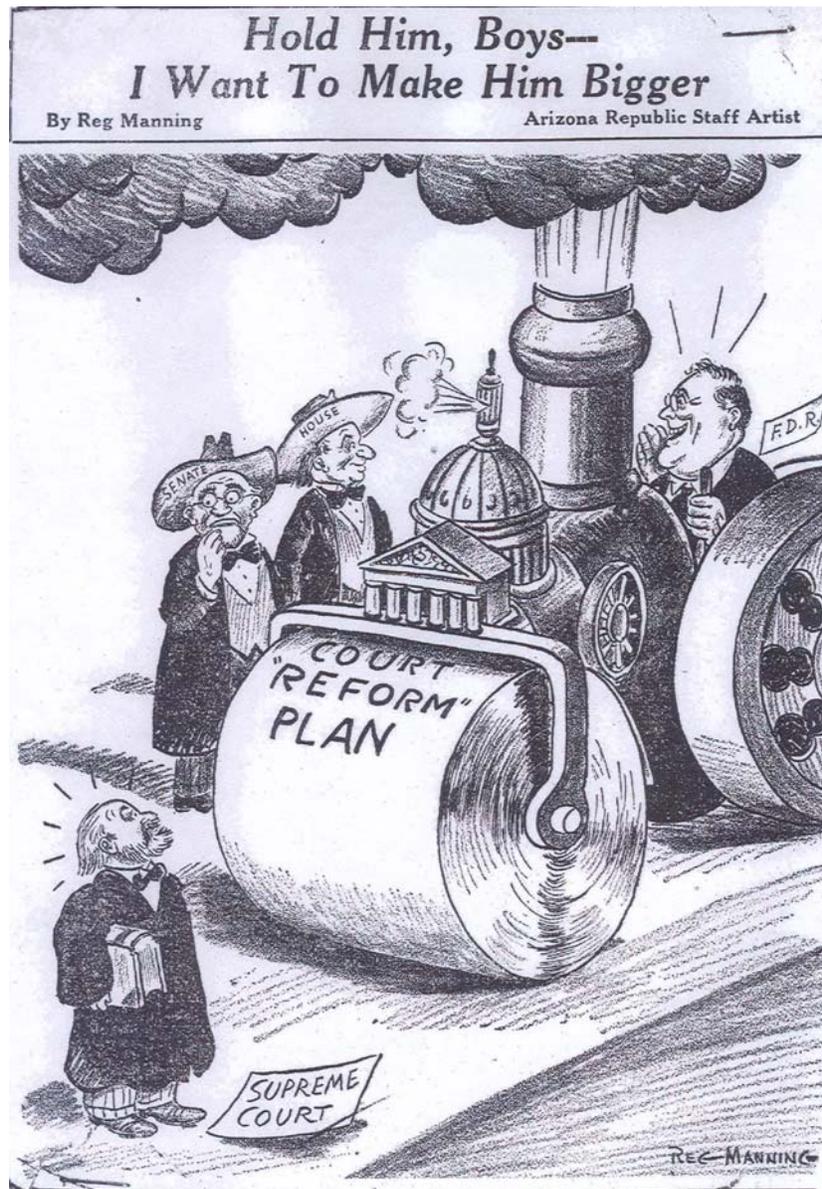




Curriculum Guide

The Presidency and the Supreme Court

Franklin D. Roosevelt Presidential Library and Museum



The Presidency and the Supreme Court

Teaching Activities and Assignments



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The Presidency and the Supreme Court

Teaching Activities and Assignments

1) **Judging a Justice:** Ask your students to pretend that they are either a Democrat or Republican President of the United States and they must fill a vacancy that has just occurred on the Supreme Court. Have them consider the following traits and prepare a two or three sentence description of the type of person they are seeking to nominate as the next Justice.

- Race
- Gender
- Age
- Religion
- Competence
- Experience
- Ideological Leanings
- Policy Preferences
- Personal or political connection to the President
- Appeal to a Political or Interest Group

Given the present political climate, how might such a nominee fare in their Senate confirmation hearings?

2) **Holding Court:** After explaining the purpose and function of the Supreme Court, randomly divide your class into a series of Student Supreme Courts consisting of groups of nine (or less) students. Present them with the following constitutional issues and allow them about 10 to 15 minutes to present and review arguments for both sides. When the time is up, let them deliberate and then render a decision. Allow for concurring, dissenting, and plurality opinions. Ask the students to explain the logic and reasoning that went into the decisions. Then compare the decisions between the various "Courts". Ask them to be sure to identify which part of the Constitution their particular issue concerns.

- a) Does a person have a right to burn the American flag as a form of free expression?
- b) Does the use of the death penalty constitute cruel and unusual punishment?
- c) Does a school have a right to search a student's locker without a warrant?
- d) Does the government have a right to withhold a portion of your income to be used for the general welfare?

3) **Deciding to Decide:** Explain to your students that thousands of cases are brought to the Supreme Court each year, but that often less than a hundred are selected for consideration. Of these cases the vast majority come from the Court of Appeals. The Supreme Court is charged with the responsibility of determining points of law, not guilt or innocence. In other words, the case must involve a question of interpretation of federal constitutional law or federal statute or treaty. Ask your students to consider each of the cases below and determine a) if there is a constitutional question at stake and b) if so, what it is? The following examples are based on actual and hypothetical cases.

Cupp v. Murphy

Daniel Murphy's wife was killed in her home in Portland. He was living apart from her at the time but was suspected of the murder. He was brought in for questioning but was not arrested. While there, police noticed what appeared to be dried blood on his hands. They



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asked Murphy if they could take a sample of the material but he refused. The police forcibly took the sample without acquiring a warrant. The samples contained traces of skin, blood, and fabric from the victim's nightgown.

Constitutional Standing? Yes, under the Forth Amendment.

Briggs v. Pet World

Adam Briggs bought a goldfish at Pet World in his neighborhood mall. The store had a sign that said the fish were guaranteed to live for one week from the date of purchase. Adam brought the fish home and six days later it died. He returned it to the store but was denied a refund because the store claimed that the "one week" indicated on the sign meant a "work week" not a calendar week. Adam then brought legal action against Pet World.

Constitutional Standing? No. This is Contract Law.

Feiner v. People of the State of New York

In March of 1949 in Syracuse New York, a man named Feiner was speaking to a crowd of people on a street corner. Feiner was making derogatory remarks about President Truman, as well as the mayor of Syracuse. He also urged blacks to take up arms and fight for equal rights. The police were called and asked Feiner to stop speaking. He refused and was subsequently arrested and prosecuted for disorderly conduct.

Constitutional Standing? Yes, under the First Amendment.

4) **The President Makes his Pitch:** Share with your students President Roosevelt's March 9, 1937 Fireside Chat during which he outlines his plan for Judicial Reorganization. Ask them to identify the key elements of the plan and the key reasons the President gives for putting forth such a plan. Are they able to detect any ulterior motives or do they believe the President's motives are pure? What holes are they able to find in his argument? Have them write a reaction letter to the president explaining why they approve or disapprove of his proposal. Now ask them to examine the letters sent in by ordinary citizens shortly after the president's address. In what ways do they differ? In what ways are they the same?

5) **The Courts in Cartoons:** Share with your students the political cartoons included with this guide. Have them select three of the cartoons and ask them to prepare a short analysis. Their analysis should address each of the following questions:

- Which era and presidential administration is the cartoon from?
- What is the main issue the cartoon is addressing?
- Is the tone of the cartoon favorable or unfavorable to the president?
- How well does the President seem to be handling the issue?
- Does the issue seem to be unique to that particular president or have others faced the same or similar issues?

Now ask a few of the students to select one cartoon and present their findings to the class. What do the other class members make of the cartoon? Have them discuss the various reactions.

6) **Letter of the Law v. Spirit of the Law:** Using the analogy of the difference between the 'letter of the law' and the 'spirit of the law' explain to your students the concepts of judicial activism and judicial restraint. Present them with the time honored dilemma of a mother or father needing food for



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their hungry child but not having the money to buy it. If the parent stole the food and was caught, ask your students if they would apply the judicial activist approach or judicial restraint if they were the judges presiding over the case. By what criteria does one distinguish which approach is best? Ask them to apply the principles to a real life situation they have encountered or to a Supreme Court case from the past.

7) **A Justice Speaks:** Share with your students retired Justice Sandra Day O'Connor's keynote address. What is the theme of her remarks? What key points does she make to support her theme? Does she give any clues to the forces or influences that shaped her career? Does she give any clues to the forces or influences that shaped her decisions while she served on the Supreme Court? Ask the students to write a "dissenting opinion" or "plurality opinion" of her remarks drawing from their knowledge and experiences.



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Cartoon Analysis Worksheet

Visual Clues

1. List the objects or people you see in the cartoon.
2. Which of the objects on your list are symbols?
3. What do these symbols represent?

Word Clues

1. Identify the cartoon caption and/or title.
2. Locate three words or phrases used by the cartoonist to identify objects or people within the cartoon.
3. Record any important dates or numbers that appear in the cartoon.
4. Which words or phrases in the cartoon appear to be the most significant? Why do you think so?
5. List adjectives that describe the emotions portrayed in the cartoon.

Cartoon Interpretation

1. What is the main issue or concern being addressed in the cartoon?
2. Who are the major players?
3. What side of the issue do the major players appear to be on?
4. Do you agree or disagree? Why or why not?



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Written Document Analysis Worksheet

1. **Type of Document** (check one):

- | | | |
|-------------------------------------|--|---|
| <input type="checkbox"/> Newspaper | <input type="checkbox"/> Map | <input type="checkbox"/> Advertisement |
| <input type="checkbox"/> Letter | <input type="checkbox"/> Telegram | <input type="checkbox"/> Congressional Report |
| <input type="checkbox"/> Patent | <input type="checkbox"/> Press Release | <input type="checkbox"/> Census Report |
| <input type="checkbox"/> Memorandum | <input type="checkbox"/> Report | <input type="checkbox"/> Other |

2. **Unique Physical Qualities of the Document** (Check one or more):

- | | |
|---|---|
| <input type="checkbox"/> Interesting letterhead | <input type="checkbox"/> Notations |
| <input type="checkbox"/> Handwritten | <input type="checkbox"/> "RECEIVED" stamp |
| <input type="checkbox"/> Typed | <input type="checkbox"/> Other |
| <input type="checkbox"/> Seals | |

3. **Dates of Document:** _____

4. **Author (or creator) of the Document:** _____
Position (title): _____

5. **For what audience was the document written?**

6. **How credible (or reliable) is this source?** (check one)

- Very Reasonably Questionable Not at all

7. **Document Information:**

A. List three things the author said that you think are important:

1. _____
2. _____
3. _____

B. Why do you think this document was written? What purpose does it serve?

C. What evidence in the document helps you know why it was written? Quote from the document.

D. List two things the document tells you about life in the United States at the time it was written.

1. _____
2. _____

E. Write a question to the author that is left unanswered by the document.



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