



Lesson Plan: Impartiality; An Honest Court

Context of the Unit:

This unit is designed to focus on eighth grade standards in Social Science. These include: student learning, analysis, and understanding the basic political principles of the United States Constitution. Students also, begin to develop the ability to assess primary and secondary sources and draw sound conclusions from them

Context of the lesson within the unit:

- This lesson is one that should follow units on the Declaration of Independence, the Revolutionary War and Articles of Confederation. It takes place during the instruction of Article III of the Constitution.
- Students will understand that how judges acquire their offices and then maintain those positions may affect their ability to be impartial in their judicial decisions. Specifically, students will read and evaluate court cases and the impact the decisions rendered, have had in shaping public opinion against an independent judiciary.

Standards Addressed: History Social Science

8.2 Students analyze the political principles underlying the U.S. Constitution and compare the enumerated and implied powers of the federal government.

8.2.7 Describe the ways in which the American ideal of constitutionalism preserves individual rights.

8.3 Students understand the foundation of the American political system and the ways in which citizens participate in it.

8.3.6 Describe how the Constitution provides numerous opportunities for citizens to participate in the political process.



Common Core State Standards for ENGLISH LANGUAGE ARTS & and Literacy in History/Social Studies, Science, and Technical Subjects
College and Career Readiness Anchor Standards for Reading Grades 6-12

Key Ideas and Details

1. Read closely to determine what the text says explicitly and to make logical inferences from it; cite specific textual evidence when writing or speaking to support conclusions drawn from the text.
2. Determine central ideas or themes of a text and analyze their development; summarize the key supporting details and ideas.
3. Analyze how and why individuals, events, and ideas develop and interact over the course of a text.

Integration of Knowledge and Ideas

8. Delineate and evaluate the argument and specific claims in a text, including the validity of the reasoning as well as the relevance and sufficiency of the evidence.

Range of Reading and Level of Text Complexity

10. Read and comprehend complex literary and informational texts independently and proficiently.

Objective(s):

Students will deepen their understanding of the judicial branch of government through the examination and evaluation of past court cases and the effects of public opinion on judicial decisions.

Students will use secondary source materials to create a persuasive editorial detailing the facts of their case, the differences between the terms of office between Federal and State justices, and suggestions on how to protect judicial impartiality.



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Big Idea(s):

- **The political process involves participation; *understanding* requires student engagement.** (*Integration and application of new learning in multiple learning modalities helps students deepen understanding*).
- **The strength of a democracy is equal to the strength of its citizens.** (*We must understand, participate in, and further develop our system of government to ensure democracy*).
- **E Pluribus Unum: out of many, one.** (*From a variety of sources and experiences, we have developed a successful government and legal system*).

Essential Questions/Issues:

1. Should judges be elected into office?
2. What should a judge consider before rendering a decision?
3. Should public opinion direct judicial decisions?

Higher Order Thinking Questions:

1. Why is an independent judiciary critical to a constitutional government? (Analysis)
2. To what extent should public opinion play in a judge's decision? (Evaluation)



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Assessment: Students will be evaluated through informal checks for understanding, teacher observation, self-reflections, and performing an authentic task (GRASP) evaluated by a rubric. (See rubric and GRASP)

GRASPS:

| | GRASP: Your Mission |
|--------------------|---|
| GOAL | Through the examination of secondary materials, you will be able to summarize the importance of maintaining an independent judiciary that is free from public opinion and political pressures. |
| Role | You are a newspaper reporter. |
| Audience | Group of peers, teacher, readers of school newspaper. |
| Situation | You will read, evaluate, and answer questions about a past California court decision. You will then provide a summarization of the decision and resulting political fallout to the class and answer any questions they may have. You will also create an editorial showing the differences between Federal and State justices and how judicial impartiality can be preserved. |
| Performance | Your performance will be evaluated using the scoring rubric/guide listed below for your editorial. |



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Quality Criteria:

| Level of Understanding demonstrated | 4- Advanced | 3- Proficient | 2- Basic | 1- Below Basic |
|-------------------------------------|---|--|---|---|
| Student court case | Offers in-depth analysis and interpretation of the assigned case. Distinguishes between fact and opinion | Offers accurate analysis of the court case. | Demonstrates only a minimal understanding of the court case | Gives one or two facts from the court case, but does not include any analysis or interpretation of the case |
| Student Editorial | Editorial analyzes the federal and state judicial systems using specific examples to illustrate the differences between the two and includes only the information relevant to the comparing the two systems Student provides persuasive argument as to which system is better in protecting judicial impartiality and provides practical suggestions for improving the other judicial system | The analysis of the federal and state judicial systems uses only general information. The editorial includes only information relevant to the comparing of the two systems. Student provides persuasive argument as to which system is better in protecting judicial impartiality but does not provide practical suggestions. | The analysis of the federal and state judicial systems is incomplete, only providing information from one judicial system. May include information that is not relevant to the topic. Student provides opinions on how to fix the system in an informational manner only | The editorial does not analyze but instead gives personal opinion. There is no supporting information or the information is incomplete or off topic. Student has not provided information relating to the topic. |



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Activity Steps:

This lesson should be divided into 1 or 2 class periods per teacher discretion and student need. Group-work roles and expectations should have already been discussed, set and used prior to this activity.

| Purpose | Teacher | Students |
|--|---|---|
| <p>Hook Engage students</p> <p>7 minutes</p> | <p>Taking a Stand on Key Questions</p> <p>Leads discussion, checks for understanding and encourages individual participation.</p> | <p>View evaluate the following questions:</p> <ol style="list-style-type: none"> 1. Should judges consider more than just what the law states when making a decision? 2. Should judges be elected into office? 3. Should public opinion influence a judge’s decision? <p>Students choose a corner of the classroom and take a stand; agree, disagree, strongly agree, and strongly disagree, then verbally support their decision.</p> |
| <p>Into</p> <p>Standards, definitions, and goals</p> <p>14 minutes</p> | <p>Teacher explains the daily objective</p> <p>Definitions of judicial and impartiality are given</p> <p>Students write a definition of judicial impartiality</p> <p>Explains differences between Federal and State judges, gives worksheet and explains student partner work</p> | <p>Student’s copy standards, definitions, and answer prompt into notebook.</p> <p>Student’s view movies clip and discuss teacher lead questions.</p> <p>Students respond to teacher’s questions.</p> |



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| <p>Through</p> <p>6 minutes</p> <p>15 minutes</p> <p>13 minutes</p> | <p><u>Miracle on 34th Street</u> movie clip and answer question in notebook.</p> <p>Teacher explains court cases and worksheet assignment with partner</p> <p>Teacher leads student reporting to the class about their court case and its ramifications to an independent judiciary.</p> | <p>Students view movie clip and respond to two questions.</p> <p>Students read and complete worksheet</p> <p>Students summarize their case to the class and share key questions</p> |
| <p>Beyond</p> <p>5 Minutes</p> | <p>Teacher will give instructions for student essay concerning an independent judiciary</p> | <p>Students will review their case and notes and begin essay</p> |

Special Needs of students are considered in this lesson:

Students are put into flexible partnerships that will benefit learning for all types of learners and special needs. Hands-on learning with plenty of visuals, opportunities for movement, verbal, written, and nonverbal expression, and multiple learning modalities are available within the context of this lesson. The opportunity for student choice creates an embedded differentiation opportunity as well as student ownership of learning.

Extension Ideas:

- Students could comment on current issues such as the Prop 8 decision of the court.
- Students may debate the pros and cons of an independent judiciary.
- Students find news articles, of similar issues.
- Students discuss what part fairness plays in the rule of law.
- Students discuss the advantages and disadvantages of no tolerance laws.



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Materials and Resources Needed:

- Screen
- Laptop
- PP projector
- External speakers
- Daily note page
- Case worksheets
- PowerPoint presentation

References:

- Creating America: A History of the United States. McDougal Littell. Evanston. IL. 2006.
- <http://dictionary.reference.com/browse/judicial>
- <http://dictionary.reference.com/browse/impartiality>
- Constitutional Rights Foundation, <http://www.crf-usa.org/bill-of-rights-in-action/bria-14-2-b.html>



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Student Handouts:

Rose Bird and the Death Penalty

In 1977, Democratic Governor Jerry Brown appointed Rose Bird as chief justice of California. Bird was the first woman chief justice and, in fact, the first woman ever appointed to the court. Bird had no judicial experience. She had worked as a public defender and had impressed Brown as head of California's Department of Agriculture. Although he considered her highly qualified, she barely squeaked by her retention election in 1978, gaining just 51.7 percent of the vote.

That same year, voters overwhelmingly passed a death-penalty initiative. In subsequent years, 59 defendants sentenced under this death-penalty law appealed their cases to the Supreme Court. In each case, Bird voted to overturn the sentence. A majority of the court sided with Bird in all but three of these cases. These decisions drew heavy criticism. Many accused the court of thwarting the will of the people. In 1986, six justices of the Supreme Court, including Bird, faced a retention election. Supporters of the death penalty campaigned to remove three justices—Bird, Joseph Grodin (a former professor of labor law), and Cruz Reynoso (the first Latino on the court). All three had been appointed by Brown. Grodin and Reynoso had only voted to uphold death sentences in three cases.

No justice in California had ever lost a retention election, but this campaign caught fire. A crime victims organization enlisted people across the state to ring doorbells. The California District Attorneys Association opposed the justices. Anti-Bird literature flooded voters' mailboxes. The campaign gained the support of many in the business community who did not like the justices because of what they considered a pro-consumer bias. Republican Governor George Deukmejian, running for re-election, constantly attacked Bird and the two other justices as "liberals" lacking "impartiality and objectivity." His Democratic opponent, Tom Bradley, refused to take sides. Bird aired a series of commercials, but refrained from getting involved in a discussion about the death penalty. Her commercials focused on the importance of an independent judiciary. She stated: "Judges with a backbone are a California tradition worth keeping." Although the three justices had support within the legal community, anti-Bird forces vastly



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outspent their supporters. All three justices lost, and the newly re-elected Governor Deukmejian appointed three justices in their place.

Questions:

1. What was the key issue concerning Rose Bird?
2. What was the result of the anti-Bird campaign?
3. What is your personal opinion of this situation as it is presented?
4. How does this situation fit into our topic of an impartial judiciary?



Nancy Wieben Stock and the O.J. Custody Case

In 1995, celebrity O.J. Simpson, a former football star, went on trial for murdering his former wife and her friend. The trial drew incredible media attention. Opinion polls showed the public deeply split along racial lines over Simpson's guilt. Whites overwhelmingly believed Simpson, a black man, guilty. A majority of blacks believed him not guilty. When the jury acquitted Simpson, many members of the public were outraged.

During the trial, Simpson was held in jail. His two young children lived with his ex-wife's parents. Following Simpson's release, he sued for custody of his children. In December 1996, Judge Nancy Wieben Stock granted Simpson custody. This decision drew tremendous criticism.

A civil lawsuit was pending, charging Simpson with wrongful death. In February 1997, a jury found Simpson liable for the deaths and awarded millions of dollars in damages to the families of Simpson's former wife and friend. Many people thought Wieben Stock should have waited for this civil case to end before awarding custody. Others, however, pointed out that the civil case would probably not end for years due to the appeals process.

Tammy Bruce of Women's Progress Alliance, a women's and children's rights organization, led a recall movement against the judge. She said that Judge Wieben Stock overlooked domestic violence in the Simpson case and another case where Wieben Stock awarded joint custody to a woman who later killed her two children. "The recall process is a way of bringing people back to the system," Bruce said. "We're going to use Nancy Wieben Stock as an example. I've heard her supporters say she's a courageous judge, but when do two dead children add up to courage?"

The legal community widely praised Wieben Stock as a judge who applied the law fairly. The president of the California Judges' Association, William McDonald, stated: "We don't conduct cases by hearing the evidence in the news media and then say, 'Let's conduct a poll'. . . . We hear the facts and apply the law to the facts. And usually, half the people end up unhappy." McDonald recommended that instead of recalling a judge, people work to change laws they don't like.



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Bruce's group failed to get the required signatures for a recall. But Bruce has formed a group called Judge Watch. She said her group will eventually monitor judges throughout the country. She warned that her group will go after judges who make the wrong decisions in child-custody and domestic-abuse cases.

Questions:

1. What was the key issue that separated Ms. Bruce and Mr. McDonald?
2. What would Ms. Bruce consider a proper way to reach a judgment? What would Mr. McDonald consider a proper way to reach a judgment?



Joyce Karlin and the Controversial Sentence

Trial court judges have also come under attack for making controversial decisions. In California, the governor appoints most trial judges. Since 1979, the governor must first submit the names of all judicial candidates to the Commission on Judicial Nominees Evaluation. This commission, made up of lawyers and members of the public, evaluates whether the candidates are qualified. Once appointed, judges stand for election every six years and other people can enter their names as candidates.

In 1991, newly appointed Los Angeles Superior Court Judge Joyce Karlin handed down a sentence in a highly charged trial. Defendant Soon Ja Du, a Korean-immigrant grocer, had been convicted of voluntary manslaughter for killing Latasha Harlins, a 15-year-old African-American girl. A store video camera had recorded the two women struggling over a bottle of orange juice. As Harlins started to leave, Du shot her dead.

Karlin, a former prosecutor, could have imposed a 16-year prison term. Instead, she sentenced Du to five years probation and 400 hours of community service. Karlin stated that Du had no criminal record, had acted out of fear, and posed no threat to the community. This sentence outraged many in the African-American community. They saw it as another example of racism in the criminal justice system.

Just two weeks before, another videotape had showed Los Angeles police beating Rodney King, a black motorist pulled over after a high-speed chase. When a jury failed to convict the police officers in late April 1992, Los Angeles erupted in rioting.

In the fall of 1992, Judge Karlin was on the ballot. Three opponents challenged her. The black community rallied behind her opponents. The Los Angeles County Bar Association rated two of her opponents as “unqualified” and rated Karlin and another opponent as “qualified.” (No one in the race received the bar’s highest rating.) The *Los Angeles Times* in an editorial endorsed Karlin’s opponent who received the “qualified” rating. The *Times* explained that Karlin’s “stunningly inapt sentence of . . . Du . . . reflects a lack of fairness impairing her ability to sit as an impartial judge.”

In a letter to the editor, Karlin responded: “If judges have to look over their shoulders as they decide a case; if they have to test the political winds in order to arrive at a politically correct verdict—then the judicial system and the freedoms it guarantees will be destroyed.”



Karlin barely won the election with just 50.7 percent of the vote. But community groups kept the pressure on Karlin. Two recall attempts failed to get enough signatures to qualify. Karlin asked to move from criminal court to juvenile court, and she retired before her first term expired.

Questions:

1. What was the key issue concerning Joyce Karlin?
2. What factors magnified the outrage over Karlin's decision?
3. What is your personal opinion of this situation as it is presented?
4. How does this situation fit into our topic of an impartial judiciary?



Ron George and Abortion

With a whole new make-up of justices, the California Supreme Court reconsidered and reversed several rulings that the Bird court had made. Over the years, it upheld death penalty sentences and made numerous pro-business rulings. Just as critics of Bird said her court was too predictably liberal, critics of the new court said it was too predictably conservative.

In 1991, Republican Governor Pete Wilson appointed to the Supreme Court Ron George, a well-respected judge with almost 20 years of judicial experience. In 1996, Wilson named George chief justice. In his brief tenure, George has led the court to more moderate positions on criminal justice and business issues. Then in 1997, the court in a 4–3 vote struck down a state law requiring minors to get parental consent before they get an abortion. The opinion of the court, written by George, stated that the law violated the right to privacy guaranteed by the California Constitution.

The decision provoked great controversy. The previous year the court had upheld the law. But when two justices left the court, the court decided to rehear the case. Republican state Senator Ray Haynes denounced the new decision. He said, “You shouldn’t be playing a political game with a court decision.”

George and Ming Chin, a justice who voted with George, have retention elections in November 1998. A pro-life group is mounting a campaign against both judges. Several Republicans have joined the campaign. Republican gubernatorial candidate Dan Lungren has declined to take sides, but has said he favors a constitutional amendment to overturn the court’s abortion decision.

In February at the state Republican convention, Republicans set up a committee headed by Senator Haynes to decide whether to endorse or oppose the two justices in the traditionally non-partisan election. The committee has said it would wait until the court decided two cases on whether the Boy Scouts could ban gays and atheists from joining. GOP Chairman Michael Shroeder said that these cases would “be an important factor in the [endorsement] decision.” In March, the Supreme Court in unanimous decisions held that the scouts did not have to admit gays or atheists. The lawsuits were based on an antidiscrimination statute that applied only to businesses, and the court ruled that the scouts were not a business. The Republican committee has not yet made its recommendation on George and Ming.



The *Los Angeles Times* has condemned the anti-George campaign: “What’s at issue here, as it was with Bird, is judicial independence. You don’t have to like a decision to support the principle that judges should not be ousted because they dared to make a decision that is not universally supported.”

Questions:

1. What was the key issue Justice George ruled upon?
2. What was the result the ruling?
3. What is your personal opinion of this situation as it is presented?
4. How does this situation fit into our topic of an impartial judiciary?

Notebook Quick Write

- You are going to the mall to purchase a new pair of basketball shoes.
 - What are the different factors that go into your purchase?
 - How will you decide which pair of shoes to buy?

Gift Giving

- Why did you select the specific person who received your “gift?”

Objective

- I shall be able to describe the importance of impartiality in decisions rendered by judges, and the factors/influences that threaten that impartiality.

Definitions

■ Judicial

- adjective pertaining to judgment in courts of justice

■ Impartiality

- –adjective not partial or biased; fair; just: an impartial judge

Judicial Impartiality

- Write down what you think judicial impartiality means.

Miracle on 34th Street Clip

- As you watch this clip think of the following questions:
 - What does this clip demonstrate about judicial impartiality?

Constitution Flashback

- What is the term of office for a United States Supreme Court Justice?
- What are the three ways a justice can stop being a United States Supreme Court Justice?
- Why do these men and women receive a life term?

Conflict for State Judges

- State judges are not appointed for life.
 - Must be confirmed every few years.
 - How does this affect judges?

Source review

- You will be given a document recounting a past court case from the State of California.
- Read through the case with your partner(s) and answer the questions on your worksheet.