

Charles H. Wright African American Museum
Underground Railroad /Library of Congress: Slavery in the United States
Defining United States Supreme Court Case
Ableman v. Booth (1859) and United States v. Booth (1859)

**Raymond W. Walker – MCHE and Grosse Ile Township Public Schools-
High School**



Often escaped slaves would set up group homes to support and aid one another in finding their way North and finding new homes.

. Courtesy of the Library of Congress

Lesson Title:

Supreme Court Case of Ableman v. Booth, 62 US 506 (1859)
Supreme Court Case United States v Booth (1859)

Lesson Overview:

- Narrative:

The lesson is designed for students to analyze and explore some of the issues, events, legislation, and court decision preceding the Civil War. The Wisconsin Supreme Court case and the following appeal to the US Supreme Court raised the questions over the right of habeas corpus, states' rights, the Supremacy Clause, writ of error, and the constitutionality of the fugitive slave laws. The learners will compare and contrast the two different court rulings.

The lesson also demonstrates why it is important to us primary sources in the classroom. Primary sources help students relate in a personal way to events

of the past and promote a deeper understanding of history as a series of human events. Primary sources are snippets that encourage students to seek additional evidence through research. Teachers who use primary sources are using critical thinking skills required by state standards. These resources allow students to draw on prior knowledge, wrestle with contradictions and compare multiple sources that represent differing points of view. Finally, these types of resources will allow students to construct content knowledge and deepen understanding while researching topics.

Finally, this lesson plan uses differentiated instruction for classrooms where there are multiple levels of learners. The lesson plan uses the best teaching practices for general and special educators. The following books may be helpful resources: William N. Bender *Differentiated Instruction for Students with Learning Disabilities: Best Teaching Practices for General and Special Educators*; Amy Benjamin *Differentiated Instruction: A Guide for Middle and High School Teachers*, Amy Benjamin *Writing in the Content Areas*; and Robert J. Marzano *Classroom Instruction that Works*.

- Objectives:

The lesson will provide students with opportunities to:

1. Explore the powers of the US Constitution in relation to state powers.
2. Understand the appeals system.
3. Examine the Supreme Court's role in interpreting the Constitution.
4. Explore the opinions and rationale of Supreme Court Justices.
5. Demonstrate technological skills, critical thinking, writing, and speaking skills.

- Time Required:

This lesson will take approximately 3 to 4 class periods – a class period being a 55 minutes in length.

- Grade Level:

High School (9-12) – American History or Government courses. (This lesson plan can be adopted for middle school American History).

- Topic or Era: Pre Civil War America from 1789 to 1859 – Constitutional Law – American Judicial System.

**Michigan Content Expectations:
High School Course Expectations (HSCE)**

Civics

**C2 ORIGINS AND FOUNDATIONS OF GOVERNMENT
OF THE UNITED STATES OF AMERICA;**

2.2.1 Identify and explain the fundamental values of America's constitutional republic

2.2.3 Use past and present policies to analyze conflicts that arise in society due to competing constitutional principles or fundamental values (e.g., liberty and authority, justice and equality, individual rights,

**C3 STRUCTURE AND FUNCTIONS OF GOVERNMENT IN THE
UNITED STATES OF AMERICA**

3.2.2 Powers and Limits on Powers

3.3.1 Describe limits the U.S. Constitution places on powers of the states

3.4.1 Explain why the rule of law has a central place in American society (e.g., Supreme Court cases

C5 Structure and Functions of State and Local Governments

5.3.3 Rights of Citizenship

C 6.1 Civic Inquiries and Public Discourse

Economics

1.4.2 **Government and Consumers** – Analyze the role of government in protecting consumers and enforcing contracts, (including property rights),

English Language Arts

Reading Standards for Informational Text 6-12

Key Ideas and Details:

Anchor Standard One: **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.**

Anchor Standard Six: **Use technology, including the internet, to produce and publish writing and to interact and collaborate with others.**

Research to Build and Present Knowledge

Anchor Standard Seven: **Conduct short as well as more sustained research projects based on focused questions, demonstrating understanding of the subject under investigation.**

Supplemental Middle School Content Standards

F1.3 Describe the consequences of the American Revolution by analyzing the

U3 USHG ERA 3 – Revolution and the New Nation

U3.3 Creating New Government(s) and a New Constitution

The Institution of Slavery – Explain the ideology of the institution of slavery, its policies, and consequences.

U5 USHG ERA 5 – Civil War and Reconstruction (1850-1877)

Preparation:

- **Introduction to Using Primary Resource Materials**
Using Primary Sources, Why Use Primary Sources/ Citing Primary Sources/ Copyright and Primary Sources/ Finding Primary Sources/ Teacher's Guides and Analysis Tool
<http://www.loc.gov/teachers/usingprimarysources/>
- **Textbook and Professional Resources:**
Textbooks –
We the People: The Citizen and the Constitution, Center for Civic Education.
Magruder's American Government, Prentice Hall Publication
Government, McDougal-Littell.
Historic Supreme Court Case Decision, McDougal-Littell.
The Supreme Court and Individual Rights, 2nd edition, Elder Witt, Congressional Quarterly
Professional Sources-
Writing in the Content Areas, 2nd edition by Amy Benjamin
Differentiated Instruction for Students with Learning Disabilities: Best Teaching Practices for General and Special Educators by William N. Bender
Differentiated Instruction: A Guide for Middle and High School Teachers, by Amy Benjamin
Classroom Instruction that Work by Robert J Marzano
Edupress Quick Flip Questions for Critical Thinking – Bloom's Taxonomy

School media center or computer lab.

Rubistar link: <http://rubistar.4teachers.org/index.php>

Backline Masters - All Purpose Writing Rubric – see *the end of lesson*

Primary Document Resources-

LOC homepage – topics – government, politics, & law

<http://www.loc.gov/topics/government.php>

Famous cases of the Wisconsin Supreme Court

<http://www.wicourts.gov/courts/supreme/docs/famouscases01.pdf>

Cornell University Law School. Legal Information Institute. Ableman v Booth Court case.

http://www.law.cornell.edu/supct/html/historics/USSC_CR_0062_05_06_ZS.html

Ableman v Booth Court and Booth v United States court cases:

<http://www.enotes.com/ableman-v-booth-united-states-v-booth-reference/ableman-v-booth>

Ableman v Booth

<http://supreme.justia.com/cases/federal/us/62/506/>

United States Constitution – Library of Congress

<http://www.loc.gov/law/help/usconlaw/index.php>

McDougall-Littell teacher assistance for core democratic VALUES AND CONSTITUTIONAL PRINCIPLES

http://holtmcdougal.hmhco.com/hm/state/page.htm?state=MI&discipline=soc&resource=02&html=state_mi_ss_meap_home.html&menu=state_mis_meap_menu.html

Procedures Day One:

Step 1) the instructor has the students make lists of core democratic values and constitutional principles. The class discusses their meanings. The links below can be displayed on the smart board for more detailed definitions. The students record the definitions in their notes, or the students can perform the extension activity explained below.

A list of core democratic values (CDV) or fundamental beliefs and Constitutional Principles can be found at: <http://www.classroomhelp.com/lessons/cdv/> and / or

***McDougall-Littell teacher assistance for core democratic values and constitutional principles (*A great resource because it will link you to numerous additional resources*) http://holtmcdougal.hmhco.com/hm/state/page.htm?state=MI&discipline=soc&resource=02&html=state_mi_ss_meap_home.html&menu=state_mi_ss_meap_menu.html

Note to for Instructor Extension Activity : *Teacher may want to have the students draw circle with a happy face for each CDV. In the center of the 'happy face circle' (or a ginger bread type man) the student draws a "heart" and writes the definition of the CDV. The students then provide an example of the CDV – sentence form or as a picture. The students will write what other CDV(s) may be connected to the main/heart CDV – supporting values. On the outside of the circle/figure the learners write down the attacking philosophies, ideas, people, or historical events that are against the CDV. The*

student explains what CDV is given up in return for another CDV – example, individual rights v. common good.

The completed definitions and drawings may be displayed in the room.

The instructor can differentiate this part of the lesson by having the students create a song or poem using the vocabulary, CDVs, and constitutional principles listed above in Step One.

Note: This differentiated activity could be performed with small cooperative groups or individually.

Step 2) the instructor is to make the students aware of the following material listed below. This information is necessary for the students to understand how the Supreme Court viewed the issue of slavery and the rationale behind their decision-making.

Mini- Lecture by the Instructor

Teachers background material and slavery in the US Supreme Court:

The issue of slavery came to the US Supreme Court in its early years as a question of international or commercial law or of states' rights and federal power. The issue of John Locke's' natural rights, human rights, or basic right of equality was not an issue. It is not until the Civil War Amendments that blacks become a question of individual rights rather than property rights.

John Marshall stated that the "the record of the Framers' debates on the slave question is especially clear: the Southern states acceded to the demands of the New England states for giving Congress broad power to regulate commerce, in exchange for the right to continue the slave trade."(Thurgood Marshall, Speech at the Annual Seminar of the San Francisco Patent and Trademark Law Association, May 6, 1987.

Notes on International Law:

In 1825, the Court held that the slave trade was not illegal under international law. This was the Court case *The Antelope* - 23 U.S. 66 (1825). This case involved an American privateer in March 1820. The American ship captured Spanish and Portuguese ships carrying slaves. The US *Antelope*, a revenue cutter, seized the privateer and its cargo of slaves. The vessel and the Africans were claimed by Spanish and Portuguese vice-counsels on behalf of their citizens. Chief Justice John Marshall ruled that the African slave trade was not contrary to the laws of nations and that the American cutter had no right to search and seize the ships/cargo in peacetime. Marshall directed that the slaves be resolved to the foreigner in possession at the time of the capture (see the following link for more detailed information <http://supreme.justia.com/cases/federal/us/23/66/case.html>)

Notes on Commercial Law:

In 1829, the Court ruled that a slave who died in the failed rescued attempt after a steamboat fire was a passenger, not freight. The slave owner sued the steamboat company for his loss of property. John Marshall ruled, “A slave has volition, and has feelings which cannot be entirely disregarded... He (a slave) cannot be stowed away as a common package...the carrier has not, and cannot have, the same absolute control over him that he has over innate matter. In the nature of things, and in his character, he resembles a passenger, and a package of goods.” (see Booth v. Anderson, 2 pet. 150 at 154-155 (1829)).

Step 3) the instructor uses the LOC website Using Primary Sources – the students learn what are primary sources, how to analyze them, the importance of primary sources in historical investigation, and become familiar with LOC analysis sheets.

Using Primary Sources, Why Use Primary Sources/ Citing Primary Sources/ Copyright and Primary Sources/ Finding Primary Sources/ Teacher’s Guides and Analysis Tool
<http://www.loc.gov/teachers/usingprimarysources/>

Procedures Day Two

Step 4) the instructor will now have the students review the Wisconsin Supreme Court case of Ableman v Booth. The teacher writes the following terms on the board - habeas corpus, fugitive slave law, Supremacy Clause, nullification, Missouri Compromise, abolitionists, sovereignty, human rights, and constitutional principles the. The students are put into small groups and begin defining / explaining these terms. The class is brought back together and the teacher finds out what terms the students know. (The court cases teach the terms).

The instructor will need the use of a computer lab or media center.
The students may work in pairs to research the material. The instructor lists the following website:

Famous cases of the Wisconsin Supreme Court
<http://www.wicourts.gov/courts/supreme/docs/famouscases01.pdf>

The teacher may display the following essential questions on the smart board/black board or use the black line master at the end of the lesson:

- a) What are the issues before the Wisconsin Supreme Court – in relation to the fugitive slave act?
- b) What are the historical facts in the case – who is the plaintiff, the defendant, what is habeas corpus, and states’ rights?
- c) What historical events have preceded this case – such as Missouri Compromise, Dred Scott case, Kansas-Nebraska Act, demise of the Whig Party over slavery and forming of a new political the Republican Party, the sectionalism in the nation, and the compromises at the Constitutional Convention.
- d) What was the decision of the Wisconsin Supreme Court? What was the rationale behind it?

Note to Instructor: This research could also be assigned as homework.

Assessments:

A) The instructor reviews, discusses, and collects students' sheets for classroom grades. Or

B) Have the student write a fifty word brief of the case.

Note to Instructor: The instructor will find the following source helpful in having students write short, concise, meaningful 50-word essays. *Writing in the Content Areas, 2nd edition*, Chapter 2, Framing and Evaluating the Task, pages 19-50. Chapter 2 shows you how to frame a clear and meaningful writing task

Procedures Day Three:

Step 5) the instructor will need the use of a media center/computer lab for the analysis of the case United States v Booth – 59 U.S. 476 (1855)

The following websites provide sufficient information for the analysis of this case.

United States v. Booth – 59 US 476 (1855)

Cornell University Law School. Legal Information Institute. Ableman v Booth Court case.

http://www.law.cornell.edu/supct/html/historics/USSC_CR_0062_0506_ZS.html

United States Constitution – Library of Congress

<http://www.loc.gov/law/help/usconlaw/index.php>

The students will be assigned questions to guide their investigation. The following questions can be displayed on the smart board or the instructor can distribute the black line master found at the end of the lesson.

- a) State the issue(s) before the United States Supreme Court in this case. The response should be written in the form of a question(s).
- b) What are the facts presented to the Court? What is the historical background of the case? This requires several paragraphs.
- c) What is the Court's decision? – The actual vote of the justices.
- d) What was the rationale behind the majority decision? Were their dissenting justices – if so, what was their rationale?
- e) What was the effect of the decision on society?

Assessment:

Students are put into small groups and compare their answers. The group then selects the best answer for each question. A group recorder then fills out a new black line

master and turns it in to the teacher. The instructor would then lead a class discussion reviewing the questions.

Procedures Day Four:

Step 6) the instructor now brings both cases together for comparison and contrasting and to extend the lesson. The instructor can use all or some of the following suggestions:

- A) Have the students write their own briefs role playing as both Wisconsin and US Supreme Court Justices.
- B) Have the students complete the KWL and explain what they learned.
- C) Have students construct a timeline of historical events from 1789 (Constitutional Convention) to 1859 (last decision on the case). Students are to include pictures in the timeline.
- D) Did the Supreme Court justices' background and personal opinions play a role in the decision? Explain

Note to Teacher: This final assessment will draw upon the short and concise style writing skills used in Day Two's assessment.

An Extension for this Lesson:

Step 7) - the instructor has the students research the U.S. Supreme Court Justices that were involved in this case using the following guided research sheet.

The students will select a justice that they want to research and will write a fifty word biography covering the justice's educational background, employment history, important cases and decisions, length of service, involvement in US politics, etc. The learners will also present an oral summary of their justice.

You can easily incorporate this type of lesson with the English Department for a cross-curricular activity. The students will then have two assessments (using different grading requirements) and expand the students' skills of research, critical thinking, writing, and speech. A guided research worksheet is supplied to aid the students' investigations.

(Biographies of Current Justices - Supreme Court of the United States

The link below provides an example of a biography).

www.supremecourt.gov/about/biographies.aspx

Black Line Master for Lesson Extension

Directions: Justices of the US Supreme Court: the students select one of the following justices to research.

Roger Brooke Taney , Samuel Nelson, Robert C Grier, Benjamin R. Curtes, John A Campbell, Nathan Clifford, John M McLean, James Wayne, John Carton, Peter V. Daniel

Student's Name _____ Date _____

Topic: Learning about a United State Supreme Court Justice

Directions: As you read the bibliography fill in the blanks using complete sentences.

Justice's name

_____.

Date and place of birth _____

_____.

Education _____

_____.

Political career, political party affiliation, offices held or sought, and which president appointed him-(was this president pro-slavery or anti-slavery?)

LOC Standard Assessment: Assess student participation in discussions and other classroom activities as well as products resulting from culminating activities according to criteria that you specify or develop in discussion with the class.

All-Purpose Writing Rubric (Scoring Guide)

Addressing	Excellent	Good	Satisfactory	Unsatisfactory
<p><u>The Task</u> Showing a clear and consistent understanding of what the directions are asking you to do.</p>				
<p><u>Development</u> Showing a clear main ideas and supportive information.</p>				
<p><u>Organization</u> Showing a strong structure, with introduction, well-developed paragraphs, conclusion, and transitions. Visual features of text assist the reader.</p>				
<p><u>Language</u> Showing understanding of and flexibility with the special language of the subject using proper academic diction</p>				

Supplemental Materials

{Black line Master for the court case}

Ableman v Booth (1855)
Wisconsin Supreme Court

Elements of the Case

Directions: Fill in the appropriate information for each of the following elements of this case. Students are required to use Standard English guidelines and rules in answering all questions.

1. What are the issues before the Wisconsin Supreme Court – in relation to the fugitive slave act?
2. What are the historical facts in the case – who is the plaintiff, the defendant, what is habeas corpus, and states' rights? (This will require writing several paragraphs)
3. What historical events have preceded this case – such as Missouri Compromise, Dred Scott case, Kansas-Nebraska Act, demise of the Whig Party over slavery and forming of a new political the Republican Party, the sectionalism in the nation, and the compromises at the Constitutional Convention.
4. What was the decision of the Wisconsin Supreme Court? What was the rationale behind it?

Evaluation of the Case

Directions: Use your own judgment and knowledge to evaluate the justices' decision and state your opinion of that decision.

- 5) If you were a Wisconsin Supreme Court justice, what would your decision have been in this case? Explain

(Black line master for the court case)

United States v. Booth (1855)
United States Supreme Court Case

- 1) State the issue(s) before the United States Supreme Court in this case. The response should be written in the form of a question(s).
- 2) What are the facts presented to the Court? What is the historical background of the case? This requires several paragraphs.
- 3) What is the Court's decision? – The actual vote of the justices.
- 4) What was the rationale behind the majority decision? Were there dissenting justices – if so, what was their rationale?
- 5) What was the effect of the decision on society?

Critical thinking and evaluation of the case.

- 6) What is your opinion on this case?
- 7) Read the parts of the Constitution that pertain to the slavery question. What do you think the framers of the Constitution actually did intend about the citizenship status of African Americans? Explain.

