

# *Using the 100 Documents in the Classroom*

## **Three Sample Lessons**

### **Lesson One:**

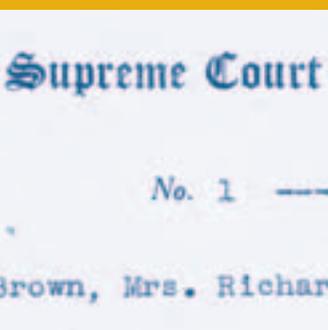
*Thomas Jefferson and  
the Louisiana Purchase*

### **Lesson Two:**

*Patents:  
Alexander Graham Bell  
and Thomas Edison*

### **Lesson Three:**

*Brown v Board of Education  
of Topeka Kansas*



## Lesson One:

# Thomas Jefferson and the Louisiana Purchase

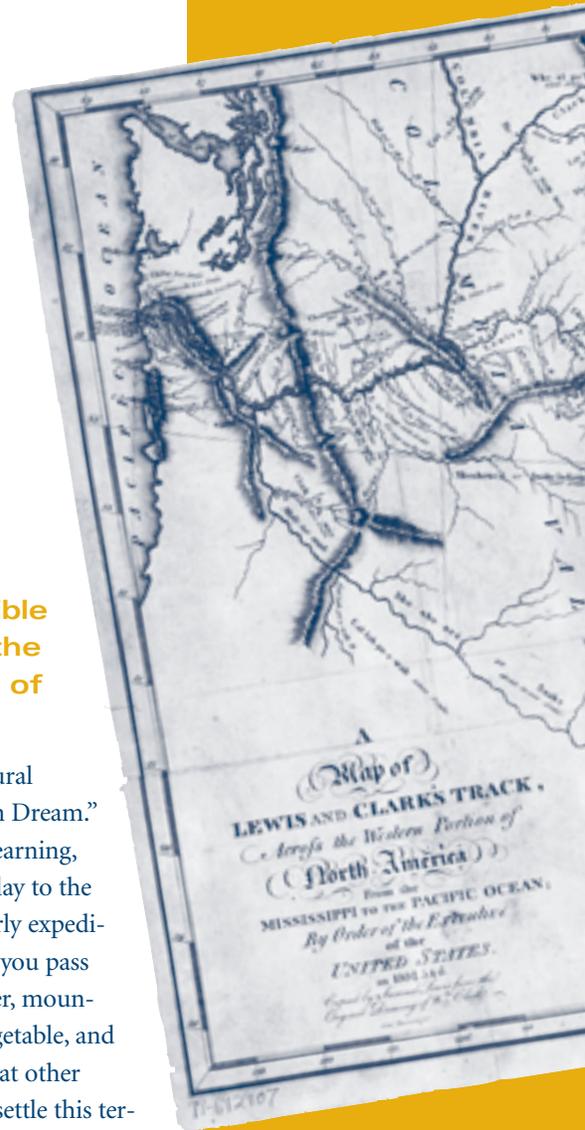
*Reprinted courtesy  
of the White House  
Historical Association*

## Background

**When Thomas Jefferson became president in 1801, the United States thrived in almost incomprehensible isolation from the rest of the world. The population of the nation was a little more than 5 million, with 90 percent of the people living east of the Appalachian Mountains.**

Many were timid and fearful regarding the course of action the young government should take. A less visionary president might have kept the country carefully confined to the eastern seaboard. Yet through the vigorous action of this president, the will of the nation to expand westward was greatly strengthened. Jefferson led by planning the Lewis and Clark Expedition as a means of finding a water route that would link the two coasts and by purchasing the Louisiana Territory from France. His motivations were as multifaceted as his intellect. Expansion westward matched his vision of America as a “vast domain of liberty.” Unlike Europe, with its poverty-stricken landless hordes, Jefferson’s America would be built by small-property owners who would find sustenance on their “little portion of land.” Beyond

the Appalachians stretched a natural spillover for Jefferson’s “American Dream.” A man with a lifelong thirst for learning, Jefferson was fascinated by what lay to the west. He told one leader of an early expedition: “Take notice of the country you pass through, its general face, soil, river, mountains, its productions, animal, vegetable, and mineral.” Finally, Jefferson saw that other European countries would soon settle this territory if the United States did not—the Spanish, the French, and the British all saw great opportunity there. But Jefferson saw it, too, and acted swiftly to purchase Louisiana at a moment Napoleon’s European troubles made it necessary. The president’s energy and commitment to these two endeavors shaped the course of America from “sea to shining sea.”

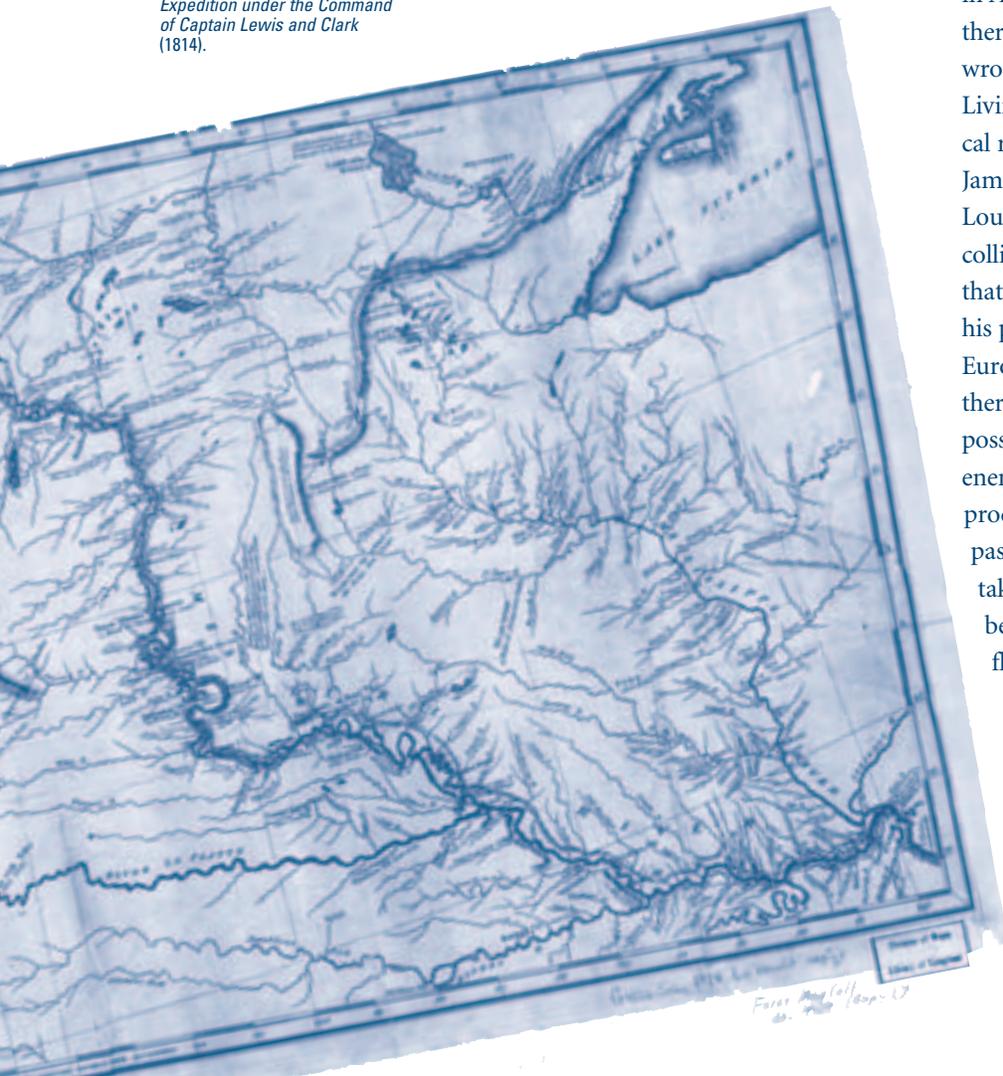


## Thomas Jefferson and the Louisiana Territory

No measure of Thomas Jefferson's presidential administration captured the public imagination, and no policy approach so significantly affected the character of the nation, as did the acquiring of the Louisiana Territory.<sup>1</sup> Yet long before his presidency, Jefferson was keenly interested in the land to the west of the Mississippi River.

Years passed, and Thomas Jefferson did not actively work toward another expedition to the West. In the interim, as the result of a constitutional election quirk, he had become vice president to the Federalist John Adams. Despite that position, as the leader of the Republicans Jefferson was fully occupied opposing various Federalist policies, especially those having to do with postrevolutionary France and the hated Alien and Sedition Acts. Even when he won the

**Lewis and Clark Track Map**  
Based on a map kept by William Clark, this engraved copy accompanied Nicholas Biddle's *History of the Expedition under the Command of Captain Lewis and Clark* (1814).



presidency in 1800, he was in no hurry to rush expansion westward. After all, Spain, now a weak power in Europe, held the Louisiana Territory. It was only a matter of time before Spain would release its grip on a huge area of land increasingly hard to defend, and then the natural spillover of the East would create American farms and villages in the West. For the time being, farmers from the Ohio Valley had permission from the Spanish to deposit their goods at the port at New Orleans for shipment abroad. The vision could wait.

## Incidents and Opportunities

Then came some news that foretold changes in the status quo. First was the revelation that in late 1800 Napoleon Bonaparte had secretly negotiated a treaty transferring Louisiana from Spain to France, a retrocession. By the time President Jefferson heard this news, in April 1802, he understood immediately that there had been an important power shift. He wrote the U.S. Minister to France, Robert Livingston, "It completely reverses all the political relations of the U.S."<sup>2</sup> Secretary of State James Madison cautioned Jefferson that Louisiana in French hands would "cause daily collisions." Alarmed, Jefferson feared for a time that Napoleon might force him to reconsider his position of "no entangling alliances" with European nations. He told Livingston that there was "on the globe one single spot, the possessor of which is our natural and habitual enemy. It is New Orleans, through which the produce of three-eighths of our territory must pass to market," adding that, "the day France takes possession of New Orleans . . . [we will be forced to] marry ourselves to the British fleet and nation."<sup>3</sup>

The second disturbing change came with a proclamation by the Spanish administrator at New Orleans in October 1802 that the right of deposit at the port of New Orleans was to be suspended, though the privilege was guaranteed in the Pinckney

Treaty of 1795. Without that right, the lower Mississippi would be virtually closed to American shippers, a situation not to be tolerated. As James Madison had said, “The Mississippi is to them [Americans west of the Appalachians] everything. It is the Hudson, the Delaware, the Potomac, and all the navigable rivers of the Atlantic states, formed into one stream.”<sup>4</sup> Indeed, Westerners were upset and clamored for a solution, even if it meant war with France.

## Napoleonic Headaches

Jefferson understood perfectly that action must be taken, but he was in a dilemma. Though he had threatened it, the president really did not want to form an alliance with Great Britain; neither did he want to go to war with France, a nation whose revolution he had vigorously supported. Jefferson acted decisively but carefully. He asked and received funds from Congress for an expansion of the army and the construction of a river fleet. It left the distinct impression that American forces just might, under the right circumstances, descend the Mississippi to New Orleans. At the same time, he tried peaceful negotiations. In March 1803 he commissioned James Monroe as envoy extraordinary to France, with a set of instructions for himself and the regular minister, Robert Livingston, in Paris. They were to offer up to \$10 million for the purchase of New Orleans and part of the Floridas. If France refused, they would offer to buy the city of New Orleans alone. Finally, if Monroe and Livingston could not work out a satisfactory arrangement, they were to cross the English Channel and begin discussions with the British. What amazed Monroe when he arrived in Paris was that Napoleon’s finance minister, Barbé-Marbois, had already approached Livingston to ask what the Americans would pay for the *whole* of Louisiana! When Livingston relayed the news to Monroe, he could hardly believe it. They both realized that purchasing all of

Louisiana was certainly outside their bargaining instructions. Yet, thinking it wasn’t a good time to quibble over the instructions, they signed the treaty on April 30, 1803.<sup>5</sup>

That the leader of France was considering ridding himself of Louisiana wasn’t as surprising as it seemed at the outset. Napoleon had suffered some setbacks in *his* vision to re-establish a French empire in North America, with Louisiana as its centerpiece. There had been a slave revolt in the French-held island of Santo Domingo. Crack French troops—5,000 in all—had been sent to quell the revolt, but tropical mosquitoes had brought yellow fever and death to thousands of them. Perhaps the French could hold the island, but at a huge cost. The troubles there had prompted Napoleon to exclaim, “Damn sugar, damn coffee, damn colonies!” That wasn’t all. France was about to resume war against England; Napoleon needed a war chest. Moreover, considering the power of the English navy, the British might well prevent the French from taking possession of such a significant portion of land in North America, and President Jefferson had flatly declared that if the French attempted to land troops in Louisiana, there could be war. If Napoleon Bonaparte couldn’t defend the land he owned, why not be rid of it, and in the process re-establish an alliance with the United States?

## Thinking Beyond the Edge

So it was that the United States acquired the whole of the Mississippi River and its western tributaries, about 828,000 square miles of territory, rich areas of farmland, and fantastic natural resources. The cost was \$15 million.<sup>6</sup> For the United States, the acquisition of Louisiana came as a windfall of Napoleon’s European and colonial troubles. That the treaty was quickly ratified, before the French leader could change his mind, had a lot to do with Jefferson’s flexible thinking and vision. As the leader of the Republicans, the president



### Lesson One:

### Thomas Jefferson and the Louisiana Purchase

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had always presented himself as a strict constructionist of the Constitution. In his way of thinking, the power of a national government was always potentially dangerous. One way to limit that power, especially that of the president, was to apply a strict interpretation to the language of the Constitution. Based on that philosophy, Jefferson had big problems with two aspects of the acquisition. He did not believe that the president had the right to increase the national domain by a treaty of purchase—a real estate deal. Another problem: The treaty stated that the United States was to incorporate the residents of Louisiana into the Union and grant them the same rights and privileges as other citizens. The implication was that sections of Louisiana would become states. Jefferson wondered if he

and the Congress had the power to bring into the nation whole groups of people who were outside its original limits?

President Jefferson believed both of these actions required amendments to the Constitution, yet he realized that the process was painfully slow. As his advisors

had warned, by the time they were added, Napoleon might have changed his mind and withdrawn the offer. Jefferson understood the importance of Louisiana to the future of the country, and adjusted his thinking accordingly. His would not allow his constitutional fervor to endanger the speedy ratification of the treaty by the Senate. By the time he called the Congress into session three weeks early, Jefferson told James Madison: “I infer that the less we say about constitutional difficulties respecting Louisiana the better, and that what is necessary for surmounting them must be done.” While continuing to voice his scruples

privately, putting himself on record “as recognizing the dangers of construction against which [in the future] we must ever be on guard,” he pressed for the Senate’s approval.<sup>7</sup>

Certain Federalists argued vehemently that there was no constitutional permission for the Louisiana transfer and that it cost too much at a time when the Republicans were supposedly pledged to a small federal budget. Yet reflecting the positive sentiments of the people regarding Jefferson’s move, the Senate ratified the treaty in just four days. Perhaps Jefferson was explaining his actions when, shortly after his retirement to Monticello, he wrote, “A strict observance of the written laws is doubtless *one* of the highest duties of a good citizen, but it is not *the highest*. The laws of necessity, of self preservation, of saving the country when in danger are of higher obligation.”<sup>8</sup> Jefferson believed that a French Louisiana to the west could be dangerous to the United States. To him it interfered with a clear view he had of America’s destiny. An opportunity had presented itself, with implications for the nation’s future that were profound; thus, the president behaved in ways that were different from his reaction to “normal events.” He was willing to accept the judgment of the people as to his choice, noting: “The line of discrimination between cases is most difficult; but the good officer is bound to draw it at his peril; and throw himself on the justice of his own country.”<sup>9</sup> Most believed that, in this case, he had made a good decision.

The United States acquired the Louisiana Territory in part because France was experiencing difficulties with its colonies and with Britain. On other occasions since then, the United States has acquired land as a result of another country’s political, social, or military difficulties.

Despite constitutional questions, President Thomas Jefferson supported the purchase of Louisiana from the French. Since that time there have been other occasions when the United States acquired land through purchase.



**Louisiana Purchase Treaty, 1803**  
Robert Livingston and James Monroe closed on the sweetest real estate deal of the millennium when they signed the Louisiana Purchase Treaty in Paris on April 30, 1803.



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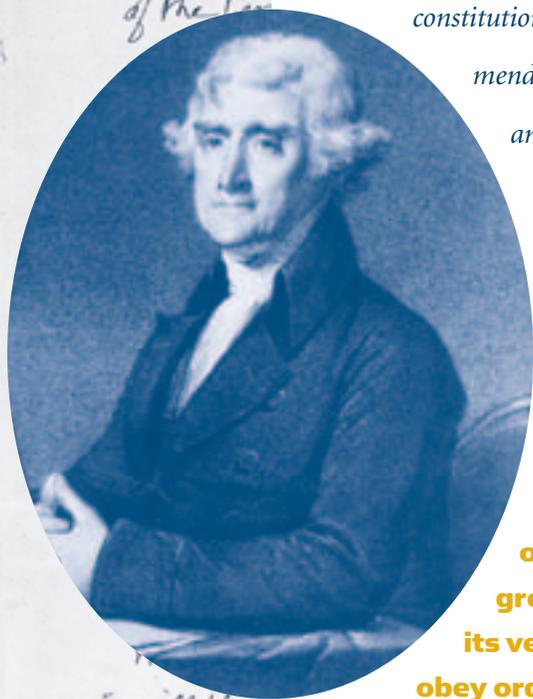
## The Constitutional Construction Debate

Though the Louisiana Purchase, supported by President Jefferson, seemed like one sweet deal, not everyone was impressed. President Jefferson wasn't sure it was constitutional to purchase land by treaty. He also had a question about whether communities of people living in the Louisiana Territory could be organized into states and its citizens brought into the country on an equal footing with other U.S. citizens. Despite his worries about whether constitutional amendments should be added to grant this permission, he recommended that the Senate ratify the terms of the treaty without further talk of amendments. He later defended his decision on these grounds:

**“A strict observance of the written laws is doubtless one of the highest duties of a good citizen, but it is not the highest. The laws of necessity, of self-preservation, of saving the country when in danger are of higher obligation. To lose our country by a scrupulous adherence to written laws, would be to lose the law itself . . . thus absurdly sacrificing the end to the means. . . . It is incumbent on [the duty of] those only who accept great charges, to risk themselves on great occasions, when the safety of the nation, or some of its very high interests are at stake. An officer is bound to obey orders; yet he would be a bad one who should do it in cases for which they were not intended, and which involve the most important consequences. The line of discrimination between cases may be difficult; but the good officer is bound to draw it at his peril; and throw himself on the justice of his own country, and the [rightness] of his own motives.”<sup>10</sup>**

### Thomas Jefferson

In January 18, 1803, President Thomas Jefferson asked Congress for \$2,500 to explore the West, part of the letter is shown next to Jefferson's picture.



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## Activity:

Review the U.S. Constitution, Article I, section 8, last paragraph; Article II, section 1; and Article IV. Then write a two-minute **Sound Off** choosing either one of the statements below as inspiration for your remarks. Pick an “honorable opponent” and have a **Sound Off Stand Off**, drawing lots to determine who speaks first. Each of you has exactly two minutes to make your arguments. Ask your classmates to choose a winner by applauding wildly the speaker with the best arguments. Then bask in your triumph, or admit defeat!

**Position 1:** *Who is President Jefferson kidding? This argument is nothing but an effort on his part to circumvent the Constitution. What it means is that if he doesn't want to be hemmed in by the Constitution, he and the Congress can simply choose not to obey it. This time it's “crucial” because of a worthless expanse of grass and woods? What next? Why, it's an absolute recipe for tyranny!*

**Position 2:** *This is a fine example of President Jefferson having the good sense not to lose a wonderful opportunity! We're going to have the French off our backs, and someone wants to protest his taking a few liberties with the language of the Constitution? The Constitution is supposed to be a flexible document. Besides why wouldn't we assume that the president and the Senate could make a treaty to buy some land? I don't see any rule against it. What's the big deal?*

## Lesson One:

### Thomas Jefferson and the Louisiana Purchase

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## Endnotes

1. Robert M. Johnstone, Jr. *Jefferson and the Presidency: Leadership in the Young Republic*. (Ithaca, NY: Cornell University Press, 1978) 67.

2. Richard N. Current, et al., *American History, A Survey* (New York: Alfred A. Knopf, 1987), 205.

3. John M. Blum, et al., *The National Experience, A History of the United States* (New York: Harcourt Brace Jovanovich, Inc., 1981), 173.

4. Blum, et al., *National Experience*, 172.

5. Blum, et al., *National Experience*, 173.

6. Blum, et al., *National Experience*, 173.

7. Johnstone, *Jefferson and the Presidency*, 72.

8. Johnstone, *Jefferson and the Presidency*, 73.

9. Johnstone, *Jefferson and the Presidency*, 73.

10. Johnstone, *Jefferson and the Presidency*, 74.

## Lesson Two:

# Alexander Graham Bell's Patent for the Telephone and Thomas Edison's Patent for the Electric Lamp

—Reprinted courtesy of  
the National Archives and  
Records Administration



**1876 Centennial Exhibition**  
Exhibition Buildings from  
*The Illustrated History of the  
Centennial Exhibition*, by  
James D. McCabe, published  
in Philadelphia, 1876.

## Background

In 1876 Americans held a Centennial Exhibition in Philadelphia to celebrate the nation's birth 100 years earlier. It was the first world's fair to be held in the United States, and it announced for all to see that the nation had come of age as an industrial power. More than 8 million Americans attended, many traveling the railways that now spanned the continent. Of all the exhibition buildings, Machinery Hall drew the most admiration and wonder. Its displays were powered by the world's largest steam engine. Inside, inventions by two of America's greatest inventors were on display. Alexander Graham Bell exhibited the first telephone, and Thomas Alva Edison presented the automatic telegraph, one of more than 1,000 inventions he would patent in his lifetime. Together their inventions changed American life in ways that still affect us today.

## Alexander Graham Bell

**A**lexander Graham Bell (1847-1922) was born in Scotland and moved to Boston in 1872 to open a school for teachers of the deaf. He became a U.S. citizen in 1882. His early experiments included ways to improve and use telegraphy. The telegraph conveyed messages through a system of electrical sounds that, when decoded, could be translated into words. It was dependent on skilled technicians and never became a home appliance. Rather,



it required you to go to a telegraph office to send or receive a message, or perhaps a messenger did this for you. Bell sought something revolutionary: to transmit not only the sound of the human voice, but audible words. With the telephone, Bell wrote in 1878, "It is possible to connect every man's house, office or factory with a central station, so as to give him direct communication with his neighbors."

## Thomas Edison

**T**homas Edison (1847-1931) was born in Ohio and grew up in Michigan. His formal education lasted at most four years, in part because his teachers complained that he asked too many questions. By age 12 he was a newsboy and candy seller on the railways. Working as a telegraph operator gave him some of his early lessons in the uses of electricity. Among Edison's many patents were ones for totally new inventions as well as those that dramatically improved the inventions of others. These included patents for the electric motor, motion picture projector, storage battery, Dictaphone, duplicating machine, typewriter, and phonograph (his most original). But his most far-reaching achievement was his patent for improving the incandescent lightbulb.



Before the invention of the electric lightbulb, homes were lit by candle, kerosene-oil lamp, or gaslight. All flickered, were fire hazards, and emitted smoke and heat. Other inventors of the day were experimenting with a glass globe that, if emptied of air, could contain a light that would not burn out. But no one could find a suitable filament, or wire. The filament creates light when an electric current passes through it, but it must neither burn out quickly nor melt. Edison solved this problem by using carbonized cotton.

**Lesson Two:**  
*Alexander  
Graham  
Bell's  
Patent for  
the Telephone  
and  
Thomas  
Edison's  
Patent for  
the Electric  
Lamp*

of Patents:  
*A. Edison  
of New Jersey*



To the Honorable Commissioner of Patents:

Your Petitioner

Thomas A. Edison

of Menlo Park, in the State of New Jersey

prays that **LETTERS PATENT** may be granted to him

for the invention of an Improvement in Electric Lamps  
and in the method of manufacturing the same  
(Case n<sup>o</sup> 186.)  
set forth in the annexed specification.

And further prays that you will recognize LEMUEL W. SERRELL, of  
the City of New York, N. Y., as his Attorney, with full power  
of substitution and revocation, to prosecute this application, to make altera-  
tions and amendments therein, to receive the Patent, and to transact all  
business in the Patent Office connected therewith.

T. A. E.

## The Growth of the Corporation

A vision such as Bell's could not become a reality without enormous sources of capital (money) to mass-produce telephones, lay cables, and establish switchboards. Likewise the incandescent light was of little use until houses could be linked by electric wires to powerful generators.

Until the Industrial Revolution, a shop owner did not need to raise great sums of money to invest in expensive machinery. He probably made his goods by hand and sold them directly to the customer. He therefore did not need to advertise his goods far and wide. A business was usually the responsibility of one person, a proprietor, who hired others and accepted total financial responsibility if the venture went under. Partnerships were able to raise greater capital because two or more people pooled their money. But if their partnership failed, all the partners were personally liable; any assets they owned could be seized to pay their debts.

The Civil War gave impetus to many new industries on a scale never before seen in America. What was needed was a new way to fund them. The corporation solved the problem. Corporations are legal entities chartered by state governments. To establish a corporation, money is raised from many investors. Each investor then owns shares of the company, represented by the stock certificates the corporation issues to its shareholders. If the company earns a profit, the corporation will divide its profit with its investors and pay dividends. (The greater the number of shares you own, the greater your dividend.) The value of the corporation's stock will go up. But if the corporation fails, each investor will only lose what he or she invested.

**Patent for Electric Lamp**  
Thomas Edison's Electric Lamp Patent Drawing and Claim [Incandescent Light Bulb].  
For the full document go to [www.ourdocuments.gov](http://www.ourdocuments.gov)

When the U.S. government granted Edison and Bell their patents, it put them at a distinct advantage over their competitors. They and they alone were given the right to profit from their inventions for a specified time period (today it is 20 years). While both men were primarily inventors, not entrepreneurs, neither wasted time before either founding companies or granting their patent rights to others for manufacture.

## Resources

- Mackay, James. *Alexander Graham Bell: A Life*. New York: John Wiley & Sons, Inc., 1997. An up-to-date and scholarly account.
- Silverberg, Robert. *Light for the World: Edison and the Power Industry*. Princeton, NJ: D. Van Nostrand Co., 1967. Especially good for the connection between invention and industry.
- Twain, Mark. *The Autobiography of Mark Twain*. Edited by Charles Neider, New York: Harperperennial Library, 1959 (still in paper). See Chapter 45, which has a hilarious account of Twain's attempt to be an investor in new inventions, including the telephone.
- Vries, Leonard de. *Victorian Inventions*. New York: American Heritage Press, 1971. A delightful pictorial account, including many fanciful ideas that were never marketed.
- *The Sound and the Silence*. An excellent two-part video about the life of Alexander Graham Bell. Available from Turner Home Entertainment #6295.

## Lesson Two: Alexander Graham Bell's Patent for the Telephone and Thomas Edison's Patent for the Electric Lamp

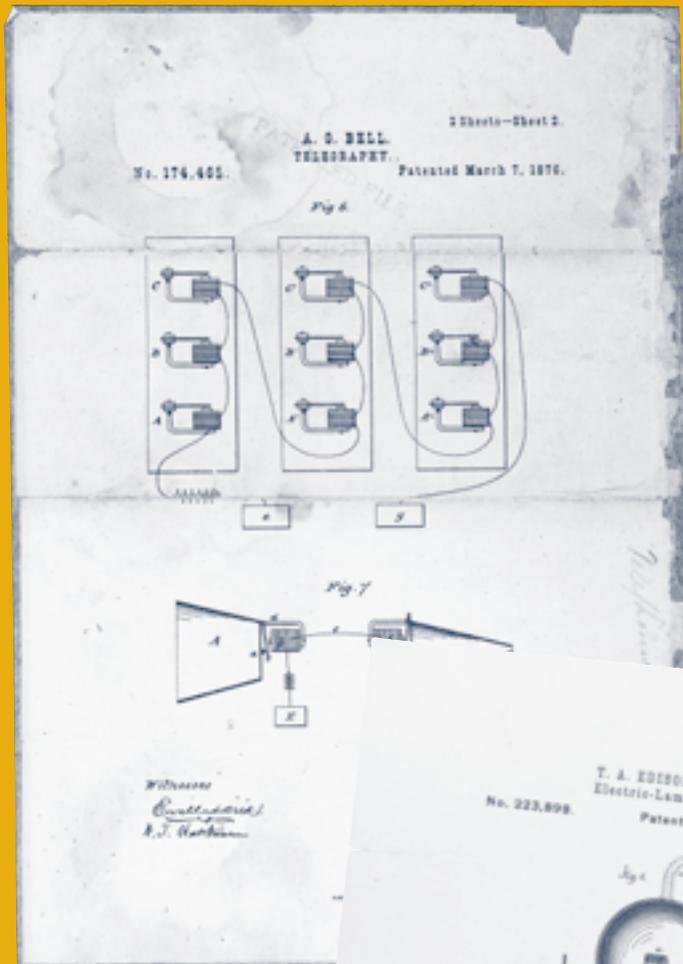
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## The Documents

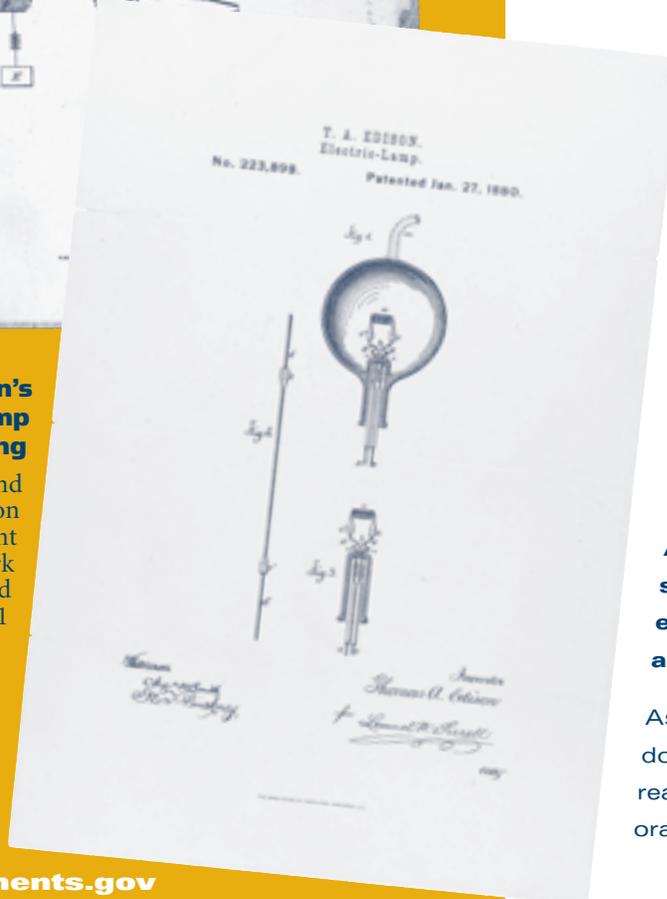
### Alexander Graham Bell's Telephone Patent Drawing

National Archives and Records Administration Records of the Patent and Trademark Office Record Group 241



### Thomas Edison's Electric Lamp Patent Drawing

National Archives and Records Administration Records of the Patent and Trademark Office Record Group 241



These documents also available at [www.ourdocuments.gov](http://www.ourdocuments.gov)

## Teaching Activities

### Constitutional Connection

This lesson relates to the power of Congress to pass laws related to the granting of patents (Article I, Section 8, Clause 8).

### Cross-curricular Connections

Share this exercise with your colleagues in history, government, language arts, and science.

### Analyzing the Document

1. Provide each student with a photocopy of each of the featured documents, and make a transparency with the following questions: **What types of documents are these? What are the dates of the documents? Who wrote the documents? What is the purpose of the documents? What information in the documents helps you understand why they were written? What can you deduce about the process of applying for a patent from these two documents? What makes them legal documents as opposed to merely personal requests? Why was a drawing a necessary part of the application process? Are the drawings done to scale? Why are parts of each invention numbered and lettered?**

Ask one student to read the documents aloud as the others read silently. Lead the class in oral responses to the questions.

**2.** Direct students to study Bell’s patent drawing and determine what part of the telephone apparatus each letter in Bell’s Figure 7 represents. Challenge students to do the research to find out whether they were correct.

### Research and Compare

**3.** Bell and Edison led fascinating lives in tandem. At different points in time they even made improvements to each others’ inventions! Divide students into pairs.

Ask student A in each pair to read a short biographical account about Bell and student B about Edison. Ask each pair to exchange information and determine what qualities these inventors shared. Ask students if they think all inventors share these qualities.

### Analyze Effects

**4.** Ask students to name all appliances in their homes that operate by electricity. Ask them to imagine one week in their lives without a telephone. Then, ask students to imagine how life was conducted differently in the early 19th century.

Next, using the following list of categories, lead a class discussion in which students brainstorm how the telephone and electric light changed life in the United States. Ask in what ways did each invention affect the following sectors:

- |                                     |                                     |
|-------------------------------------|-------------------------------------|
| a. Environment                      | h. Urban life and growth of cities  |
| b. Workplace                        | i. Rural life and farms             |
| c. Home life                        | j. Leisure time and entertainment   |
| d. A previously existing industry   | k. Safety and health                |
| e. Creation of a new industry       | l. Etiquette and social interaction |
| f. Women                            | m. Warfare                          |
| g. Social classes from poor to rich |                                     |

### A Timeline of U.S. Inventions

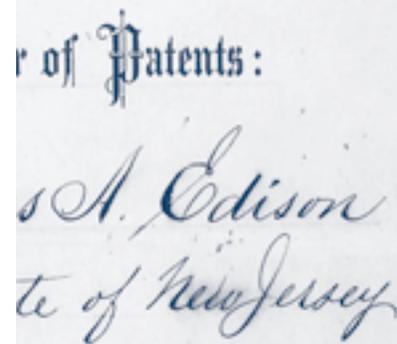
**5.** Post on your classroom wall a timeline dated from 1800 to the present. Set up groups of students to research the significant inventions patented during a specific time frame — for example, assign a decade or quarter-century to groups of three. Students should be encouraged to use their school library resources as well as on-line resources. Ask each group to draw each invention it finds on one index card, and to write a description of its impact on another. All information can be tacked onto the timeline.

When the timeline is complete, ask the entire class to pick one invention in every quarter century that they think made the greatest overall impact. This should generate some lively debate.

## Lesson Two:

*Alexander  
Graham  
Bell’s  
Patent for  
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and  
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Patent for  
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Lamp*

CONTINUED



of Patents:  
A. Edison  
te of New Jersey

## Create a Corporation

- 6.** Conduct a simulation to help students experience the steps necessary to create a corporation.

First, discuss with students the differences between a proprietorship, a partnership, and a corporation.

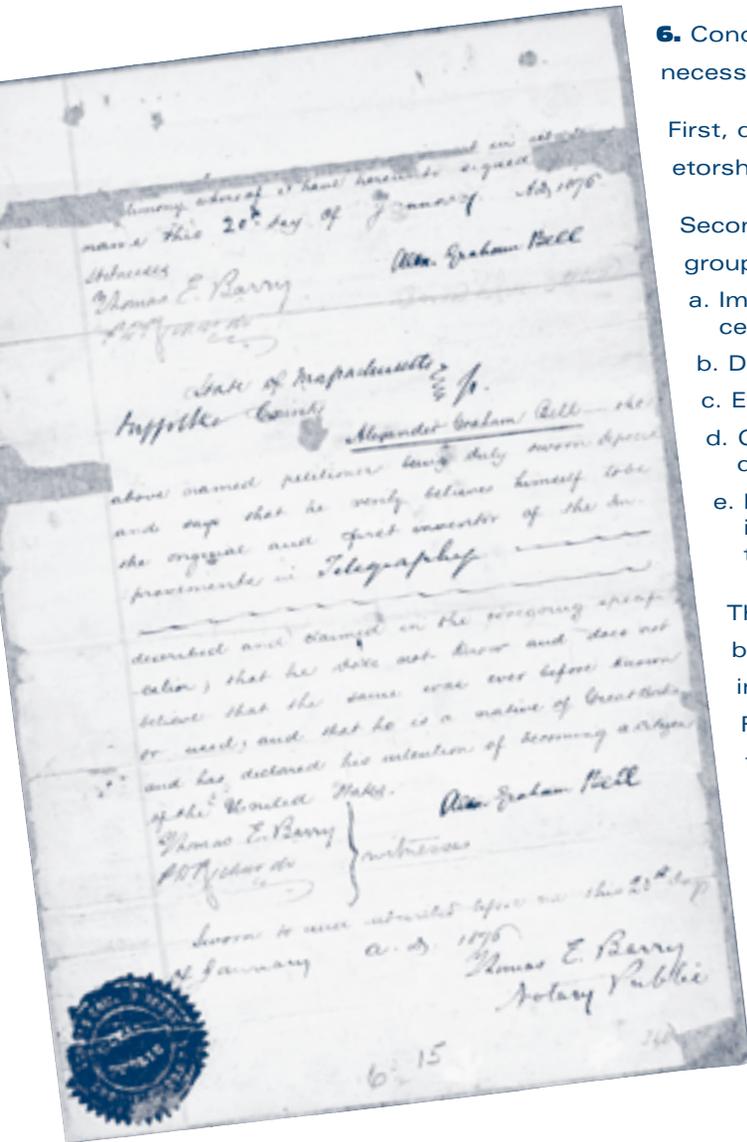
Second, divide the class into six small groups and ask each group to complete the following tasks:

- Imagine an invention that will change our lives in the 21st century.
- Draw it and write the specifications for it.
- Explain how it will be manufactured and distributed.
- Create an advertisement for it explaining its uses and desirability.
- Decorate a box to be filled with investments by students in the other groups who wish to invest in the company that will manufacture your invention.

Third, give \$500 of play money to each student (10 \$50 bills). Tell them that they will be able to invest this money in any corporation except the one they have founded.

Fourth, ask a representative from each corporation-group to present their product and plans to the class (the prospective investors). Fifth, set up a sale time where class members can invest their money. Direct students to “invest” by inserting the money they wish to invest into the appropriate box.

Sixth, when the time to invest is done, count up the money collected in each box and report the amounts to the students. Finally, discuss with students why they invested where they did.



### Alexander Graham Bell's Telephone Patent Drawing and Oath

Bell's telephone was the first apparatus to transmit human speech via machine. His work culminated in one of the most profitable and contested of all 19th-century patents. For the full document go to [www.ourdocuments.gov](http://www.ourdocuments.gov).

Adapted from an article written by Joan Brodsky Schur, a teacher at Village Community School in New York, New York.

## Research and Compare

- 7.** Ask students to compare the breakup of AT&T in 1982 to the litigation for the late 1990s against Microsoft. Identify the sections of the Constitution and acts of Congress under which the suits were initiated. Ask students to evaluate the benefits of competition over universal and standardized service. When buying out its competitors for long-distance service, Bell Telephone claimed that the nation was better served by “one policy, one system, universal service.” Ask students what claims Microsoft is now making in its defense?

- 8.** Ask students to compare the management of public utilities in the United States and in a country whose government, rather than the private sector, is responsible for those services. Ask students to determine the advantages and disadvantages of each system.

## Lesson Three:

# *Brown v Board of Education of Topeka, Kansas*

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the National Archives and Records  
Administration

## Background

On May 17, 1954, U.S. Supreme Court Chief Justice Earl Warren delivered the unanimous ruling in the landmark civil rights case *Brown v Board of Education of Topeka, Kansas*. State-sanctioned segregation of public schools was a violation of the 14th Amendment and was therefore unconstitutional. This historic decision marked the end of the “separate but equal” precedent set by the Supreme Court almost 60 years earlier and served as a catalyst for the expanding civil rights movement during the decade of the 1950s.

While the 13th Amendment to the United States Constitution outlawed slavery, it wasn’t until three years later, in 1868, that the 14th Amendment guaranteed the rights of citizenship to all persons born or naturalized in the United States, including due process and equal protection of the laws. These two amendments, as well as the 15th Amendment protecting voting rights, were intended to eliminate the last remnants of slavery and to protect the citizenship of black Americans. In 1875, Congress also passed the first Civil Rights Act, which held the “equality of all men before the law” and called for fines and penalties for anyone found denying patronage of public places, such as theaters and inns, on the basis of race. However, the Supreme Court reasoned that this act was beyond the scope of the 13th and 14th amendments, as these amendments only concerned the actions of the government, not those of private citizens. With this ruling, the Supreme Court narrowed the field of legislation that could be supported by the Constitution and at the same time turned the tide against the civil rights movement.

By the late 1800s, segregation laws became almost universal in the South where previous legislation and amendments were, for all practical purposes, ignored. The races were separated in schools, in restaurants, in restrooms, on public transportation, and even in voting and holding office. In 1896 the Supreme Court upheld the lower courts’ decision in the case of *Plessy v Ferguson*. Homer Plessy, a black man from Louisiana, challenged the constitutionality of segregated railroad coaches, first in the state courts and then in the U. S. Supreme Court. The high court upheld the lower courts, noting that since the separate cars provided equal services, the equal protection clause of the 14th Amendment was not violated. Thus, the “separate but equal” doctrine became the constitutional basis for segregation. One dissenter on the Court, Justice John Marshall Harlan, declared the Constitution “color blind” and accurately predicted that this decision would become as baneful as the infamous Dred Scott decision of 1857.

**Lesson Three:**  
*Brown v Board of Education of Topeka, Kansas*

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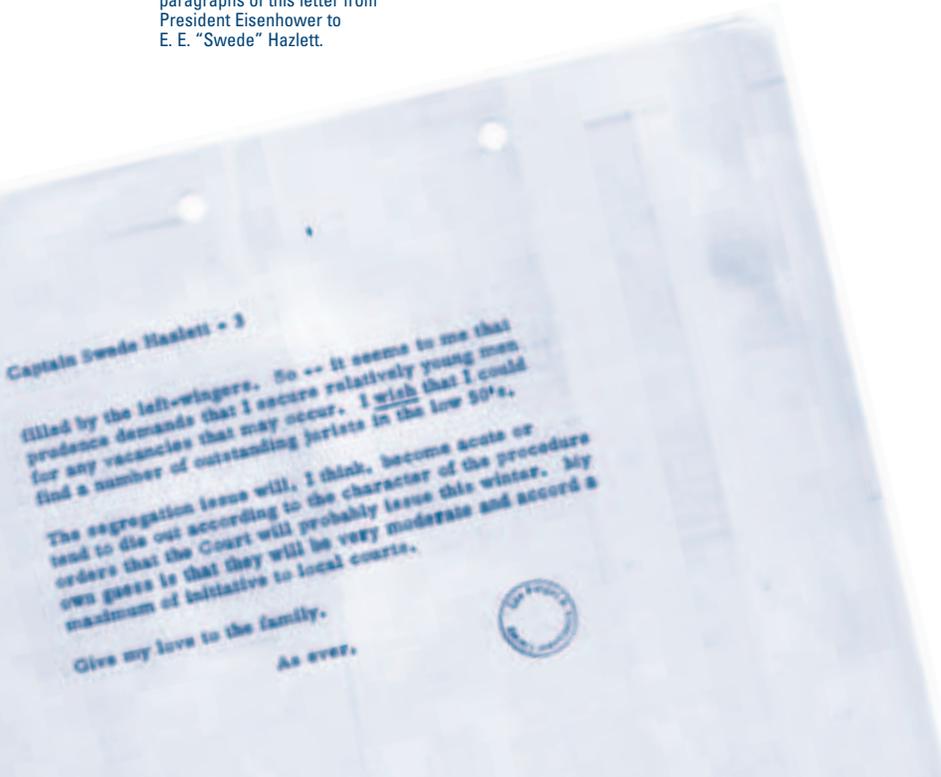
In 1909 the National Association for the Advancement of Colored People was officially formed to champion the modern black civil rights movement. In its early years its primary goals were to eliminate lynching and to obtain fair trials for blacks. By the 1930s, however, the activities of the NAACP began focusing on the complete integration of American society. One of their strategies was to force admission of blacks into universities at the graduate level where establishing separate but equal facilities would be difficult and expensive for the states. At the forefront of this movement was Thurgood Marshall, a young black lawyer who, in 1938, became general counsel for the NAACP's Legal Defense and Education Fund. Their significant victories at this level included *Gaines v University of Missouri* in 1938, *Sipuel v Board of Regents of University of Oklahoma* in 1948, and *Sweatt v Painter* in 1950. In each of these cases, the goal of the NAACP defense team was to attack the "equal" standard so that the "separate" standard would in turn become susceptible.

**Letter from President Eisenhower to E. E. "Swede" Hazlett**

In September 1953, President Eisenhower appointed Earl Warren, governor of California, the new Supreme Court chief justice. Eisenhower believed Warren would follow a moderate course of action toward desegregation; his feelings regarding the appointment are detailed in the closing paragraphs of this letter from President Eisenhower to E. E. "Swede" Hazlett.

*Jr., et al. v R.W. Elliott, et al.; Dorothy E. Davis et al. v County School Board of Prince Edward County, Virginia, et al.; Spottswood Thomas Bolling et al. v C. Melvin Sharpe et al.; Francis B. Gebhart et al. v Ethel Louise Belton et al.* While each case had its unique elements, all were brought on behalf of elementary school children, and all involved black schools that were inferior to white schools. Most important, rather than just challenging the inferiority of the separate schools, each case claimed that the "separate but equal" ruling violated the equal protection clause of the 14th Amendment. The lower courts ruled against the plaintiffs in each case, noting the *Plessy v Ferguson* ruling of the United States Supreme Court as precedent. In the case of *Brown v Board of Education*, the federal district court even cited the injurious effects of segregation on black children, but held that "separate but equal" was still not a violation of the Constitution. It was clear to those involved that the only effective route to terminating segregation in public schools was going to be through the United States Supreme Court.

In 1952 the Supreme Court agreed to hear all five cases collectively. This grouping was significant because it represented school segregation as a national issue, not just a southern one. Thurgood Marshall, one of the lead attorneys for the plaintiffs (he argued the Briggs case), and his fellow lawyers provided testimony from more than 30 social scientists affirming the deleterious effects of segregation on blacks and whites. These arguments were similar to those alluded to on pages 18 and 19 in the first featured document, the Dissenting Opinion of Judge Waites Waring in *Harry Briggs, Jr., et al. v R. W. Elliott, Chairman, et al.* The lawyers for the school boards based their defense primarily on precedent, such as the *Plessy v Ferguson* ruling, as well as on the importance of states' rights in matters relating to education. Realizing the significance of their decision and being divided among themselves, the Supreme Court took until June 1953 to decide they would rehear arguments for all five cases. The



arguments were scheduled for the following term, at which time the Court wanted to hear both sides' opinions of what Congress had in mind regarding school segregation when the 14th Amendment was originally passed.

In September 1953, President Eisenhower appointed Earl Warren, governor of California, the new Supreme Court chief justice. Eisenhower believed Warren would follow a moderate course of action toward desegregation; his feelings regarding the appointment are detailed in the closing paragraphs of the second featured document, Letter from President Eisenhower to E. E. "Swede" Hazlett. In his brief to the Warren Court that December, Thurgood Marshall described the separate but equal ruling as erroneous and called for an immediate reversal under the 14th Amendment. He argued that it allowed the government to prohibit any state action based on race, including segregation in public schools. The defense countered this interpretation pointing to several states that were practicing segregation at the time they ratified the 14th Amendment. Surely they would not have done so if they had believed the 14th Amendment applied to segregation laws. The U.S. Department of Justice also filed a brief; it was in favor of desegregation but asked for a gradual changeover.

Over the next few months, the new chief justice worked to bring the splintered Court together. He knew that clear guidelines and gradual implementation were going to be important considerations, as the largest concern remaining among the justices was the racial unrest that would doubtless follow their ruling. Finally, on May 17, 1954, Chief Justice Earl Warren read the unanimous opinion; school segregation by law was unconstitutional. Arguments were to be heard during the next term to determine just how the ruling would be imposed. A little more than one year later, on May 31, 1955, Warren read the Court's unanimous decision, now referred to as *Brown II*, instructing the states to begin desegregation

plans "with all deliberate speed." The third featured document, Judgment, *Brown v Board of Education*, shows the careful wording Warren employed in order to ensure backing of the full Court.

Despite two unanimous decisions and careful, if not vague, wording, there was considerable resistance to the Supreme Court's ruling in *Brown v Board of Education*. In addition to the obvious disapproving segregationists were some constitutional scholars who felt that the decision went against legal tradition by relying heavily on data supplied by social scientists rather than precedent or established law. However, minority groups and members of the civil rights movement were buoyed by the *Brown* decision even without specific directions for implementation.

## Resources

- Dudley, M. E. *Brown v. Board of Education* (1954). New York: Twenty-First Century Books, 1994.
- Forman, J. A. *Law and Disorder*. New York: Thomas Nelson, Inc., 1972.
- Goode, S. *The Controversial Court, Supreme Court Influences on American Life*. New York: Julian Messner, 1982.
- Koch, Kenneth. *Wishes, Lies, and Dreams: Teaching Children to Write Poetry*. New York: Vintage, 1970.
- Lawson, D. *The Changing Face of the Constitution*. New York: Franklin Watts, 1979.

### Lesson Three: *Brown v Board of Education of Topeka, Kansas*

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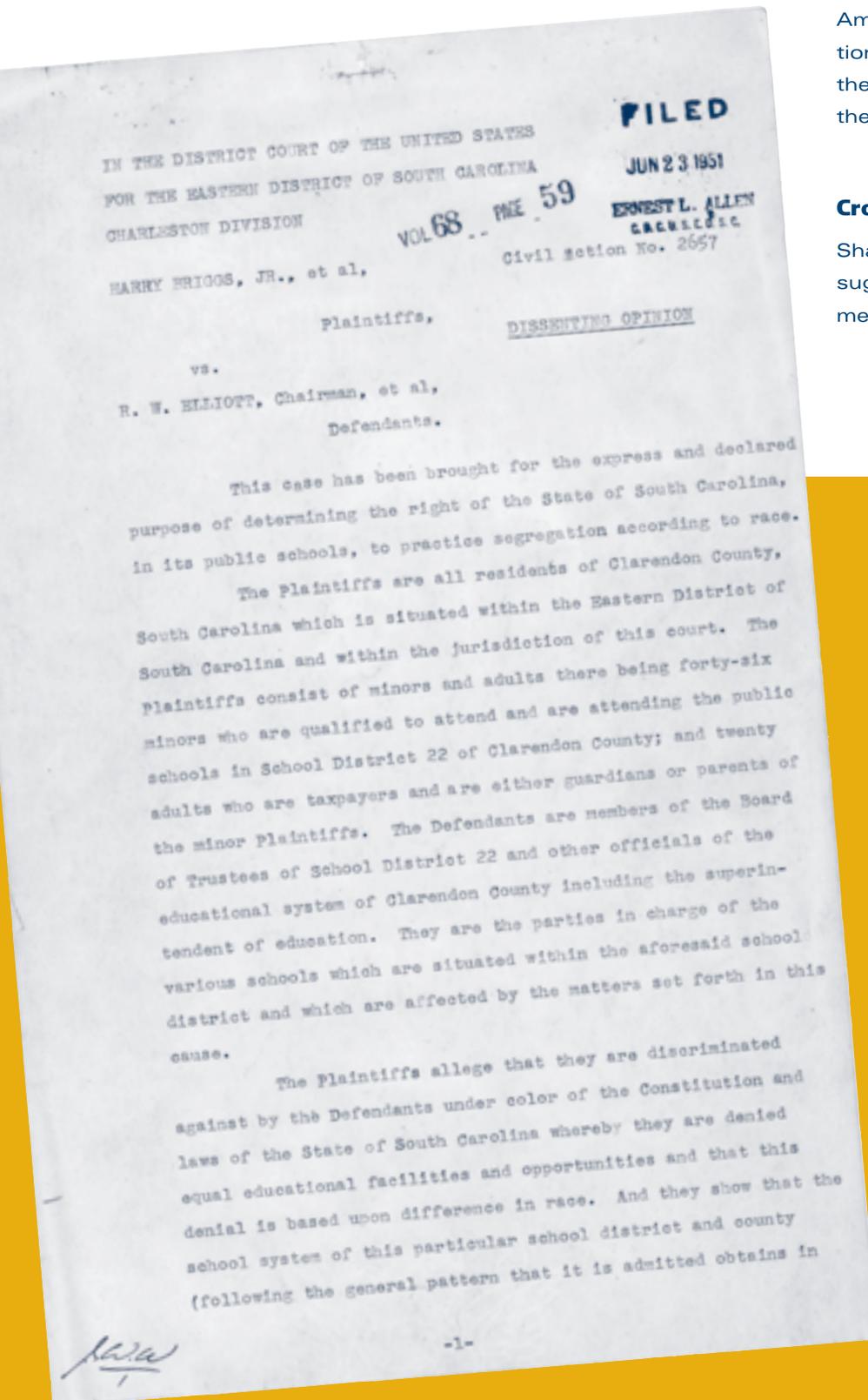
## Teaching Activities

### Constitutional Connection

This lesson relates to the 14th Amendment, primarily the equal protection clause, as well as to the powers of the Supreme Court under Article III of the U.S. Constitution.

### Cross-curricular Connections

Share these documents and teaching suggestions with your history, government, and language arts colleagues.



### DOCUMENT 1:

#### **Dissenting Opinion of Judge Waites Waring in *Harry Briggs, Jr., et al. v R. W. Elliott, Chairman, et al.***

National Archives and Records Administration  
Records of the United States District Court  
Eastern District of South Carolina Record Group 21

For full document and text, go to [www.ourdocuments.gov](http://www.ourdocuments.gov)

## Tapping into Prior Knowledge

Explain to students that this lesson focuses on a Supreme Court decision made in 1955, one that was written by Chief Justice Earl Warren. Further explain that in the following lessons, they will learn about this landmark decision, including the opposition to it, from original court documents and presidential correspondence. Begin by directing students in a brainstorming activity to assess the extent of their prior knowledge concerning the United States Supreme Court. Instruct students to

record everything they think they know about the United States Supreme Court in list form or another appropriate graphic organizer. Lead a class discussion about what they included without making any corrections or clarifications. Collect the brainstorming sheets for later use.

Depending upon the depth of their prior knowledge, lead an introduction or a review of how the Supreme Court works, being sure to examine how the Court decides what cases it will hear.

## Analyzing the Documents

### DOCUMENT 1:

The Dissenting Opinion of Judge Waites Waring in *Harry Briggs, Jr., et al. v R. W. Elliott, Chairman, et al.* is 20 pages in length, but for purposes of this lesson, the focus is on the final 3 pages. The Briggs case originated in Clarendon County, S.C., and was argued by Thurgood Marshall, counsel for the NAACP. Pages 18-20 of the dissenting opinion describe some of the social scientists' testimony later used by the Supreme Court in the Brown decision. Before reading pages 18-20 together as a class, provide students with background information about the policy of "separate but equal," specifically the *Plessy v Ferguson* decision, which *Brown v Board of Education* helped to make obsolete.

Prompt a class discussion of the document with the following questions:

Upon what evidence did the witnesses base their testimony? What was the judge's conclusion about the acquisition

of racial prejudice? What was his opinion? If time permits, a more complete understanding of the opinion may be gleaned by dividing the remainder of the document among small groups of students. Direct each group to read and summarize the main point of its assigned section and share its findings with the class. The following page breakdowns are suggested:

- pages 1-5 background information
- pages 5-7 rationale for hearing the case
- pages 7-8 slavery and the Constitution
- pages 8-9 13th, 14th, 15th Amendments
- pages 9-10 South Carolina laws
- pages 10-12 litigation in other areas
- pages 12-13 litigation in higher education
- pages 13-14 *Plessy v Ferguson*
- pages 14-16 higher education decisions
- pages 16-18 defendants' two witnesses

### Lesson Three:

## *Brown v Board of Education of Topeka, Kansas*

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## DOCUMENT 2:

The Letter from President Eisenhower to E. E. "Swede" Hazlett touches on several significant topics of the Eisenhower presidency, from the election campaign to Indo-China to the appointment of Supreme Court Chief Justice Earl Warren. Instruct students to read the letter and, while doing so, to compose a list of the various topics Eisenhower responded to in each of the 10 paragraphs. Focus students on the last topic, the appointment of Earl Warren, by asking the following questions. Lead a class discussion of their findings. What seemed to be "Swede's" implication about the appointment of Earl Warren?

What was Eisenhower's response? What factors did Eisenhower consider important when making his nomination decision? Why was age a significant determinant? How did Eisenhower characterize the segregation issue? What were his expectations of the Court? Of Warren? Do you think they were met? To extend the lesson, refer to the list of additional topics compiled earlier in the activity. Challenge students to research the context of one of the subjects and to fashion a paragraph out of "Swede's" original correspondence that might have prompted Eisenhower's reply.

October 23, 1954

Dear Swede:

Your judgment on the spinning reel coincides exactly with mine. Since 1944 when I first encountered these gadgets in France, I have been the recipient of various types of spinners -- I should say one arrives about every sixty days. I leave them to those who like them. For my own fishing, I keep half a dozen fly rods ranging from about 1-1/2 ounces to 4-1/2, and I keep three favorite casting rods. I think this combination ought to see me through the fishing seasons left to me.

I skip over your comments on the election campaign. I have appeared before a number of audiences, but I strive to deal only with substantive matters -- with fact and logical deduction -- while staying out of political bickering.

When you mention Adlai, I again find myself in complete agreement with you, except that I doubt that he is a very dangerous opponent. However, if he should slip into a position of real responsibility, he would represent a great risk for the country.

As to "four-headed" foreign policy, the Democrats never succeeded in keeping people like McCarran from sounding off when they so chose. So if a Republican Senator lets go once in a while, I don't know what we can do about it, even though I deplore the misunderstandings they create.

So far as Dulles is concerned, he has never made a serious pronouncement, agreement or proposal without complete and exhaustive consultation with me in advance and, of course, my approval. If your friend Senator Ervin would take the trouble to look up the record, he would see that Nixon belonged in the same school, although he admittedly tries to put his pronouncements into more colorful language.

## DOCUMENT 2:

**Letter from President  
Dwight D. Eisenhower  
to E. E. "Swede" Hazlett  
Oct. 23, 1954**

Dwight D. Eisenhower Library

For full document and  
text, go to  
[www.ourdocuments.gov](http://www.ourdocuments.gov)

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## DOCUMENT 3:

Judgment, *Brown v Board of Education*, was issued on May 31, 1955, and has come to be known as Brown II. Using the Document Analysis Worksheet as a starting point, instruct students to study the document and to prepare answers to the following questions. Who was to be responsible for overseeing the decision? What guidelines, if any, were given? Why do you think the language was worded this way? Why would the Supreme Court direct a lower court to enforce its decision rather than handle it directly? Encourage students to share their answers with the class.

### Putting the Pieces Together

*Brown v Board of Education* is the collective title for five separate cases heard concurrently by the United States Supreme Court from 1952 to 1955.

- *Oliver Brown et al. v Board of Education of Topeka, Shawnee County, Kansas, et al.*
- *Harry Briggs, Jr., et al. v R.W. Elliott, et al.*
- *Dorothy E. Davis et al. v County School Board of Prince Edward County, Virginia, et al.*
- *Spottswood Thomas Bolling et al. v C. Melvin Sharpe et al.*
- *Francis B. Gebhart et al. v Ethel Louise Belton et al.*

While their goals were the same, each case had unique elements and followed separate paths prior to reaching the Supreme Court. Divide students into five groups. Assign each group one of the five cases and instruct them to independently research the facts for their assigned cases. After research is completed, regroup students so that each group includes at least one student from each of the five original groups. Direct each new group to compile a graphic representation of the main

points of the five cases highlighting their similarities and their unique characteristics, as well as their paths to the Supreme Court. Require that each group present its finished product to the class so that the various approaches and findings may be compared.

### Creating a Civil Rights Timeline

While *Brown v Board of Education* is considered a landmark case of the 20th century, it was not the first nor the last in a series of cases that addressed civil liberties and equal rights. Construct a classroom timeline of the Civil Rights movement after the Brown decision. Divide students into teams, assigning each team a specific decade (or some other appropriate breakdown depending upon class size). Instruct the teams to research the Supreme Court decisions from 1955 onward that impacted civil rights, the key players, as well as the events, and legislation that followed in the wake of these decisions. Direct them to creatively present their findings on poster boards, one board per team.

### Connecting with Poetry

Redistribute students' brainstorming lists collected after the first activity. Direct students to review what they thought they knew about the U.S. Supreme Court at the onset of this lesson and to make corrections or additions to their lists based on what they have learned. Write the following format on the board for students to copy:

I used to think...  
But now I know...  
I used to think...  
But now I know...

Instruct students first to reflect on what

## Lesson Three: *Brown v Board of Education of Topeka, Kansas*

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ideas they might have had about the Supreme Court that have now changed and then to write a poem following the format on the board. Encourage them to write as many pairs of statements as necessary to demonstrate how much their knowledge of the Supreme Court has grown.

### Writing an Editorial

Explain to students that the debate about judicial restraint versus judicial activism has existed since the days of Thomas Jefferson and John Marshall. In fact the Warren Court was condemned more than once for "making law" rather than just "interpreting it." Display the editorial pages of several newspapers on a bulletin board or wall and discuss the manner in which the press can address such issues as the powers of the Supreme Court. Divide the class into four sections. Assign students in section one

## Supreme Court of the United States

No. 1 -----, October Term, 1954

Oliver Brown, Mrs. Richard Lawton, Mrs. Sadie Emmanuel et al.,  
Appellants,

vs.

Board of Education of Topeka, Shawnee County, Kansas, et al.

Appeal from the United States District Court for the  
District of Kansas.

This cause came on to be heard on the transcript of the record from the United States  
District Court for the ----- District of Kansas, -----  
and was argued by counsel.

On consideration whereof, it is ordered and adjudged by this Court that the judgment  
of the said District ----- Court in this cause be, and the same is  
hereby, reversed with costs; and that this cause be, and the same  
is hereby, remanded to the said District Court to take such  
proceedings and enter such orders and decrees consistent with  
the opinions of this Court as are necessary and proper to admit  
to public schools on a racially nondiscriminatory basis with all  
deliberate speed the parties to this case.

Per Mr. Chief Justice Warren,

May 31, 1955.



### DOCUMENT 3:

#### Judgement *Brown v Board of Education*

National Archives and Records Administration  
Records of the Supreme Court  
Record Group 267

For full document and text, go to [www.ourdocuments.gov](http://www.ourdocuments.gov)

to write editorials supporting judicial restraint; students in section two should write editorials supporting judicial activism. (Encourage students to use examples of decisions made by the Warren Court in support of their positions.) Explain to the remaining groups that their eventual task will be to respond individually to one of the finished articles in the form of a letter-to-the-editor. Assign students in one of the remaining two sections to respond to the judicial restraint articles, while students in the last section reply to the judicial activism articles. (Another option would be to form a fifth group of students and direct them to create editorial cartoons depicting one or both points of view.) Display the letters alongside the articles.

### Designing a Book Jacket

The names Thurgood Marshall and Earl Warren will always be associated with the landmark *Brown v Board of Education* decision and the issue of school segregation. However, each man had a prominent career that spanned decades before and after the historic Brown ruling. Explain to students that a local publisher is compiling a new series of biographies of notable 20th-century Americans and is soliciting students' ideas for book jacket designs. Challenge students to work in pairs and design a book jacket for a biography of Thurgood Marshall or Earl Warren. The design should include the following elements:

- a. Series title
- b. Individual book title
- c. Front and back cover designs
- d. Summary for inside flap (front)
- e. Author information for inside flap (back)

### Nominating a New Chief Justice

In his October 1954 letter to E. E. "Swede" Hazlett, President Eisenhower expressed his beliefs about the important qualifications for a Supreme Court chief justice. Review Eisenhower's considerations as outlined in the letter with the class. Ask students to privately brainstorm the qualifications they would consider most important for a chief justice in the new millennium. Encourage volunteers to share their ideas and record them on the overhead projector. Lead a discussion of some possible issues before the Supreme Court in the near future. Next, direct students to pretend it is 2008 and to assume the role of president of the United States. An unexpected retirement has created an opening on the Supreme Court, and the Senate is awaiting a nomination from the president. Citing the second featured document as a model, instruct students to write a letter to a close friend outlining the qualifications they feel the nominee must possess.

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*The documents included in this project are from Record Group 267, Records of the Supreme Court; the Eisenhower Library; and the Records of the United States District Court, Eastern District of South Carolina.*

*Available online in the National Archives Digital Classroom at [www.archives.gov/digital\\_classroom](http://www.archives.gov/digital_classroom).*

*Adapted from an article written by Mary Frances Greene, a teacher at Marie Murphy School, Avoca District 37, Wilmette, IL.*

For full documents go to [www.ourdocuments.gov](http://www.ourdocuments.gov)

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