

Week 4

Marbury v. Madison

INSTRUCTIONS: Use the *Marbury v. Madison* reading to answer the questions that follow.



A Federalist Stronghold: John Marshall's Supreme Court

The Democratic-Republican victory in the 1800 election began a long run of Republican political success. In spite of Federalists' departure from most elective offices, they remained a powerful force in American life especially through their leading position among federal judges. In the final months of Adams' administration he enlarged the federal judiciary and appointed many new judges.

In the view of **GOVERNEUR MORRIS**, a Federalist senator from New York, this created an independent judiciary necessary "to save the people from their most dangerous enemy, themselves."

In sharp contrast, Democratic-Republicans were appalled by the "**MIDNIGHT APPOINTMENTS**" that tried to continue Federalist influence despite their

election loss. In Jefferson's view, the Federalists "retired into the judiciary as a stronghold . . . and from that battery all the works of Republicanism are to be beaten down and destroyed." As in so many areas, the two political parties fundamentally disagreed.

The most influential of Adams' final judicial appointments in 1801 was naming John Marshall as Chief Justice of the Supreme Court. He held that position until his death in 1835 and shaped the court's decisions and dramatically raised its stature. He also defined the basic relationship of the judiciary to the rest of the federal government. His forceful actions as Chief Justice set the Supreme Court on a course it has continued to follow for the next two centuries. Marshall was guided by a strong commitment to judicial power and by a belief in the supremacy of national over state legislatures. His judicial vision was very much in keeping

with the Federalist political program.

John Marshall's earliest landmark decision as Chief Justice came in **MARBURY V. MADISON** (1803) and demonstrates his sophisticated leadership of the Court. The issue at stake was the validity of the Federalists' last-minute **EXPANSION OF THE JUDICIARY IN 1801**, but Marshall used the case to make a much broader statement about the relationship between the distinct branches of the federal government.

When James Madison, Jefferson's secretary of state, refused to deliver several commissions for new justices, they petitioned the Supreme Court to compel the executive to act. Marshall's written decision on behalf of the unanimous Court found that the petitioners were entitled to their commissions, but refused to take the legal action that they wanted. Rather, the court declared that the **JUDICIARY ACT OF 1789**, which



Marbury v. Madison was one of the most important decisions in U.S. judicial history, because it legitimized the ability of the Supreme Court to judge the constitutionality of acts of the president or Congress.



William Marbury: the plaintiff in the landmark *Marbury v. Madison* case.

had given the court such power, was inconsistent with the Constitution and therefore invalid.

This was a complex decision. In the specific matter before the Court, the decision limited judicial power. However, the more fundamental issue that it decided was to insist on the court's authority to declare an act of Congress void if found to be in conflict with the Constitution. As Marshall explained, "it is emphatically the province and duty of the judicial department to say what the law is." Since *Marbury v. Madison* the Supreme Court has been the final decision maker regarding the Constitutionality of Congressional legislation.



This 1808 engraving of John Marshall, one of the most powerful men in the history of the U.S. judicial system, was done 7 years into his nearly 35-year term as Chief Justice of the Supreme Court.

The **MARSHALL COURT**, and this decision in particular, established the principle of "judicial review" whereby Congressional laws and executive actions may be judged by the Supreme Court to be within the bounds of the Constitution. In keeping with John Marshall's Federalist views, he generally favored strong government action and especially supported the supremacy of the federal government over state authorities.

Marbury v. Madison

Directions: Use the reading above to answer the questions. Write your answers in the space provided.

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| 1. What did John Adams do in the final months of his administration? | |
| 2. How did Jefferson and the Democratic-Republicans feel about Adams appointing so many Federalist judges? | |
| 3. Who was Adams' most influential judicial appointment? To what position was he appointed? | |

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| <p>4. Which political party held a great deal of power even though they were defeated in the election of 1800?</p> | |
| <p>5. Did Chief Justice John Marshall believe that state legislatures or the national government had the most power?</p> | |
| <p>6. What is the name of the case that demonstrated John Marshall's leadership of the Court?</p> | |
| <p>7. What was the main issue at stake in the Supreme Court case Marbury v. Madison?</p> | |
| <p>8. What did James Madison refuse to deliver to the new justices? What did they do in response?</p> | |
| <p>9. Why did the Supreme Court refuse to take legal action on behalf of the justices?</p> | |
| <p>10. What did the Supreme Court limit in their ruling?</p> | |

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| <p>11. What was the fundamental issue that the court decided?</p> | |
| <p>12. Which branch of government has been the final decision maker regarding the Constitutionality of Congressional legislation since Marbury v. Madison?</p> | |
| <p>13. What principle did the Marbury case establish?</p> | |
| <p>14. How could the Marbury ruling affect future laws passed by Congress?</p> | |
| <p>15. How did the Marbury ruling affect the power of each branch of government?</p> | |

Week 5

Tinker v. Des Moines

INSTRUCTIONS: Use the *Tinker v. Des Moines* reading to answer the questions below. This assignment is broken into 3 Parts.



Tinker v. Des Moines (1969)

Students frequently get disciplined for things they do or say at school, but do students have free speech rights? What are the limits on those rights?

John Tinker (15) and his younger sister, Mary Beth (13), along with a friend, Chris Eckhardt (16), were living in Des Moines, Iowa in the mid-1960s. In 1965, as the events of the Vietnam Conflict began to unfold, the three of them made the decision to wear black armbands as a symbol of protest against the war.



In response, the Des Moines school district adopted a policy which stated that students could not wear black armbands. According to this new policy, any student who wore such an armband would be suspended. All three students chose to wear the armbands, defying the school's policy, and were suspended for their actions. Upon returning to school in January of 1966, all three students ceased to wear the armbands, but instead wore all black clothing to continue their protest.

The parents of the students filed a lawsuit claiming that the suspension had infringed upon their children's 1st Amendment rights to free speech. The students and their families set out on a four-year court battle that resulted in the landmark Supreme Court decision known as Tinker v. Des Moines.

In February of 1969, the Supreme Court ruled 7-2 in favor of the students. The ruling stated that because the armbands were not in any way disruptive to the learning environment, the students should have been allowed to wear them and their free speech rights were indeed violated.

In his majority opinion, Justice Abe Fortas famously stated, "It can hardly be argued that either students or teachers shed their constitutional rights to freedom of speech or expression at the schoolhouse gate."

Justice Hugo Black did not agree with the Court's decision. He argued that allowing students to defy school officials would usher in a new era of permissiveness. He felt that student free speech rights should be very narrow, for the sake of discipline and the educating of students.

Students and faculty at the high school and college level interpreted the decision in Tinker v. Des Moines to mean that school administrators could not censor student expression. Tinker v. Des Moines went on to be, and still remains, one of the most frequently cited cases in relation to this issue.

Even though more recent cases, such as Hazelwood School District v. Kuhlmeier, have ruled in favor of stricter school policies, there have still been more than 125 cases decided in favor of the free expression of students.

PART 1

MULTIPLE CHOICE

- 1. Why were John Tinker, Mary Beth Tinker, and Chris Eckhardt suspended?**
- a. They were standing in front of the school with picket signs.
 - b. They wrote a subversive article in the school newspaper.
 - c. They were wearing black armbands to school.
 - d. They delivered an offensive speech in front of the student body.
- 2. Referring to the previous question, why were the students engaged in this behavior?**
- a. They were protesting a new school dress code policy which disallowed jeans.
 - b. They were protesting to display their disapproval of the Vietnam Conflict.
 - c. They were upset that a friend of theirs had been suspended for praying in school.
 - d. They were protesting because an article in the school newspaper had been censored.
- 3. Which of these best describes why the Court ruled in favor of the students in Tinker v. Des Moines?**
- a. The armbands did not disrupt the learning environment, therefore should have been allowed.
 - b. The Court determined that voluntary prayer in school was not a violation of the Establishment Clause of the 1st Amendment.
 - c. The school's dress code was found to be too excessive, and student apparel was deemed to be part of the right to free expression.
 - d. The Court did not rule in favor of the students. The district reserved the right to censor the content of the school newspaper and was not violating free speech rights.
- 4. Which of these most accurately describes what Justice Abe Fortas said regarding the Tinker v. Des Moines case?**
- a. Student free speech represents a clear and present danger to the safety of the nation.
 - b. Allowing students to defy school officials will usher in a new era of permissiveness.
 - c. Students do not shed their constitutional right to free speech at the schoolhouse gate.
 - d. A clear wall of separation between Church and State should be maintained at all times.
- 5. How did students and faculty of schools interpret the Tinker v. Des Moines decision?**
- a. They interpreted it to mean that all school newspapers were required to shut down.
 - b. They interpreted it to mean that all Bible clubs were required to disband.
 - c. They interpreted it to mean that all school dress codes were now null and void.
 - d. They interpreted it to mean that school administrators could not censor free expression.

PART 2

TRUE OR FALSE

1. Mary Beth Tinker was thirteen years old when she and her brother decided to wear the black armbands to school.
2. Their parents filed a lawsuit claiming that the students' 2nd Amendment rights were being violated.
3. In Tinker v. Des Moines, the Supreme Court reached a 5-4 decision.
4. The Court decided that the armbands should have been allowed because they were not disruptive to the learning environment.
5. There have been more than 500 court cases that ruled in favor of student free expression.

PART 3

VOCABULARY CHECK

1. In the first paragraph, the word restrict implies
 - To keep or confine within limits.
 - To liberate.
 - A division of an area, as for administrative purposes.
 - To assemble, prepare, or put into operation.
2. "In May of 1983, the newspaper staff submitted two articles which were censored by the principal." In the previous sentence, the word censored means
 - To prepare an edition for publication.
 - To examine books, films, or other materials to remove or suppress what is considered objectionable
 - To assemble the components of.
 - To insert material or an idea during the course of editing.
3. In the eighth paragraph, the word tolerate implies
 - To establish or apply as compulsory.
 - To offer or circulate fraudulently; pass off.
 - To allow without prohibiting or opposing; permit.
 - To have the effect of preventing; preclude.

4. In the second to last paragraph, the word displayed implies

- a. To spread out; unfurl.
- b. Being at hand or in attendance.
- c. Alert to circumstances; attentive.
- d. To express, as by words, gestures, or bodily posture.

5. "Since the mid-1980s, school districts have reasserted their authority over student newspapers and other issues related to student free speech." In the previous sentence, reasserted means

- a. Showing patience and humility; gentle.
- b. To fix or determine the amount of.
- c. To boldly or forcefully maintain control.
- d. To give out or announce as a task

Week 6

Hazelwood v. Kuhlmeier

INSTRUCTIONS: Use the *Hazelwood v. Kuhlmeier* reading to answer the questions below. This assignment is broken into 3 Parts.



Hazelwood v. Kuhlmeier (1988)

Many schools across the country have student newspapers. Do principals and other administrators have the right to restrict the content of these student publications?

In the early 1980s, Hazelwood East High School in St. Louis, Missouri had a student newspaper known as the Spectrum. The Spectrum was written and edited by students who participated a journalism class at the school.

Before each publication, the newspaper staff was required to submit their articles to the principal to ensure that the material was acceptable on the basis of school policies and other criteria. In May of 1983, the newspaper staff submitted two articles which were censored by the principal.



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The first article was about teen pregnancy and included interviews with female students who had been pregnant. The article also referenced birth control and other issues that the principal deemed to be inappropriate for high school-aged students.

The other article the principal rejected was about divorce. It featured interviews from students whose parents had been through recent divorces, including some comments regarding problems in the household. In this case, the principal felt that the other members of the family should have had the opportunity to respond.

After the articles were rejected, the newspaper staff published a four page version of the Spectrum, rather than its usual six pages. The newspaper editor, Cathy Kuhlmeier, as well as two of her classmates, filed a suit in January of 1984, claiming that their 1st Amendment rights to freedom of speech and freedom of the press had been violated.

The case was first heard in a district court in 1985, with the court deciding in favor of the school district. However, this decision was appealed to a higher court, which reversed the decision, claiming that the Spectrum should not be censored. The case was once again appealed, this time to the Supreme Court.

In deciding Hazelwood School District v. Kuhlmeier, the Supreme Court reached a 5-3 decision (Justice Anthony Kennedy did not participate in the decision), deciding in favor of Hazelwood School District. They determined that the school did have the right to censor the school newspaper. According to the majority opinion, a school does not have to tolerate student speech which is "inconsistent with the school's basic educational mission."

Not all of the justices agreed, however. In his dissenting opinion, Associate Justice William Brennan wrote that the school principal had displayed "unthinking contempt for individual rights." The decision made in Hazelwood School District v. Kuhlmeier was largely in contrast to the precedent which had been established in Tinker v. Des Moines, and thus established a new precedent for the courts (and schools) to follow. Since the mid-1980s, school districts have reasserted their authority over student newspapers and other issues related to student free speech.

PART 1

MULTIPLE CHOICE

1. Which of these most accurately describes why Cathy Kuhlmeier and her classmates brought a lawsuit against their school?

- a. They were required to study subjects in science that violated their religious beliefs.
- b. The school principal censored two of their articles from the school newspaper.
- c. The school principal forbade the performance of a play which he deemed obscene.
- d. They were told that they were not allowed to pray in the cafeteria before lunch.

2. Which of the following best describes why the principal took the action he did (as mentioned in the previous question)?

- a. He felt that the subjects being taught in science were in the best interest of the students.
- b. He believed that the articles in question were inappropriate for high school students.
- c. A group of local townspeople had spoken to him about the play and threatened to boycott all school functions if the school performed it.
- d. He felt that lunchtime prayers would be offensive to other students.

3. Which rights did Cathy Kuhlmeier and her classmates feel were being violated?

- a. The Establishment Clause of the 1st Amendment.
- b. Freedom from cruel and unusual punishment which is protected by the 8th Amendment.
- c. 1st Amendment rights to freedom of speech and freedom of the press.
- d. The Due Process Clause of the 5th Amendment.

4. Which of these best describes the Supreme Court's decision in Hazelwood School District v. Kuhlmeier?

- a. The school district does have the authority to teach any subject that it feels is necessary.
- b. The students should be permitted to perform any play they desire, on the basis of 1st Amendment free speech rights.
- c. Lunchtime prayers were not disruptive to any other students, therefore should be allowed.
- d. The school district does have the right to censor student publications.

5. The decision made in Hazelwood School District v. Kuhlmeier established a new precedent because it contrasted greatly with which previous Court decision?

- a. Tinker v. Des Moines
- b. Gitlow v. New York

- c. Lemon v. Kurtzman
- d. Plessy v. Ferguson

PART 2

TRUE OR FALSE

1. The Spectrum was written and edited by teachers who worked at Hazelwood East High School.
2. The case was first heard in a district court in 1985.
3. Justice William Rehnquist did not participate in the decision.
4. The Supreme Court ruled in favor of Cathy Kuhlmeier.
5. Hazelwood School District v. Kuhlmeier helped to establish a new precedent for courts and schools to follow.

PART 3

GUIDED READING

1. Hazelwood East High School in St. Louis, Missouri had a student newspaper known as .
2. Before each publication, the newspaper staff was required to submit their articles to the .
3. One article which was rejected was about teen pregnancy and other topics the principal felt were for high school students.
4. The second article rejected by the principal was about .
5. Newspaper editor , as well as two of her classmates, filed a suit in January of 1984.
6. Cathy Kuhlmeier and her classmates claimed that their 1st Amendment rights to freedom of speech and freedom of the had been violated.
7. The district court, which heard the case in 1985, ruled in favor of the .

8. The Supreme Court determined that the school did have the right to _____ the newspaper.

9. Justice William Brennan wrote that the school principal had displayed “unthinking _____ for individual rights.”

10. Since the mid-1980s, school districts have reasserted their _____ over student newspapers and other issues related to student free speech.