

And Justice for All: Indiana's Federal Courts



Teacher's Guide

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The Historical Society of the United States District Court for the Southern District of Indiana, Inc.

Indiana Historical Society

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Chib Gratz—costumes
Donna Jacobi—costumes
Sandy Jones—costumes
Linda Rowand—costumes

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Knox County Court House, Vincennes
Raintree House, Indiana University,
Bloomington
U.S. District Court for the Southern
District of Indiana
Vincennes State Historic Site (Richard
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U.S. Courthouse

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Ken Farrell—Judge David McDonald

William Goveia—Bailiff
Gerard Pauwels—Attorney Joseph P.
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Raintree House

Jeff Stone—Lambdin P. Milligan

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Thomas King
Mike McGregor
Darrell Ann Stone
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Re-enactors: Indianapolis Dynamite

Conspiracy

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Josh Coomer—Defense Attorney: William
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Paul Nicely—Prosecutor: Charles W. Miller
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David Emmert
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Tom Harrison
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Steve Rose
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Bill White

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Walter Davis
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Josiah Fields
Dave Helt
Dakota Jones
Tom McQueen
Thomas Miller
Jason Page

Spectators

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Sara Castillo
Summer Hammond
Michael Henderson
Spencer King
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Kayla Lee
Elizabeth Lynch
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Dorenda Turner
Cindy Urich
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Topher Chambers—Former IPS
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Robert Davie—Prosecutor: John Moss
David Emmert—Defense Attorney: Richard
Wagner
Raymond Graham—Defense Attorney:
William Schreckengast
Craig Lemons—Prosecutor: Samuel
Flanagan
Daniel A. Martin—Prosecutor: John Ward
Darrin Murrell—Witness: Charles Whistler
Robert Neal—Prosecutor: John Leshy
James Robinson, Jr.—Prosecuting Attorney
Beverly Roche—U.S. Federal Court
Reporter
Steven Rose—Witness: Theron Johnson
Joseph Seufert—Defense Attorney
Thomas Thompson—Judge S. Hugh Dillin
Cornelius Wright—Witness: Arthur Boon

Spectators

Topher Chambers
Rissi Crum
Robert Davie
Jordan Davison
Carry Denny
Rev. James Melton
Tara Melton
Leslie Root
Tera Smith
Cindy Urich
Jordan Leigh Wheatley
Cornelius Wright
Jolene Wright

And Justice for All: Indiana’s Federal Courts

Introduction

The instructional kit for *And Justice for All: Indiana’s Federal Courts* is designed primarily for students in grades eight and eleven engaged in the study of U.S. History. The kit includes a one-hour video that tells the story of the U.S. District Court for the District of Indiana from its inception in 1817 until the present day. Special attention is given to the U.S. District Court for the Southern District of Indiana. The program features three major cases that impacted both Indiana and U.S. history. This teacher’s guide is designed to be used in association with the video.

Curriculum Connection

The video and teacher’s guide materials tie closely to the Indiana Department of Education Social Studies Standards and to the applicable Core Standards for grades eight and eleven.

The Indiana Social Studies Standards specifically related to the video are listed below.

Grade 8 History Standards

The Civil War and Reconstruction Period: 1850 to 1877

8.1.24 Analyze the causes and effects of events leading to the Civil War, and evaluate the impact issues such as states’ rights and slavery had in developing America’s sectional conflict.

8.1.25 Identify the factors and individuals which influenced the outcome of the Civil War and explain the significance of each.

8.1.27 Describe causes and lasting effects of the Civil War and Reconstruction as well as the political controversies surrounding this time such as Andrew Johnson’s impeachment, the Black Codes, and the Compromise of 1877. (Government, Economics)

Grade 8 Chronological Thinking, Historical Comprehension, Analysis and Interpretation, Research, and Issues-Analysis and Decision-Making

8.1.28 Recognize historical perspective and evaluate alternative courses of action by describing the historical context in which events unfolded.

8.1.29 Differentiate between facts and historical interpretations of events, recognizing that the historian’s narrative reflects his or her judgment about the significance of particular facts.

8.1.30 Using primary and secondary sources, analyze an issue confronting the United States from colonial times through the Reconstruction period.

Grade 11 U.S. History

USH.1.3 Identify and tell the significance of controversies pertaining to slavery, abolitionism, and social reform movements. (Government, Economics)

USH. 1.4 Describe causes and lasting effects of the Civil War and Reconstruction as well as the political controversies surrounding this time such as Andrew Johnson’s impeachment, the Black Codes, and the Compromise of 1877. (Government, Economics)

USH.2.6 Describe the growth of unions and the labor movement and evaluate various approaches and methods used by different labor leaders and organizations. (Government, Economics)

USH.7.1 Explain the civil rights movement of the 1960s and 1970s by describing the ideas and actions of federal and state leaders, grassroots movements, and central organizations that were active in the movement. (Government; Economics; Individuals, Society and Culture)

USH.7.3 Identify and explain the significance of federal programs, policies and legal rulings designed to improve the lives of Americans during the 1960s. (Government, Economics)

USH.7.6 Identify the problems confronting different minorities during this period of economic and social change and describe the solutions to these problems. (Economics; Individuals, Society and Culture)

USH.7.7 Identify areas of social tension from this time period and explain how social attitudes shifted as a result.

USH.8.1 Explain the significance of social, economic and political issues during the period 1980 to the present and how these issues affected individuals and organizations.

Historical Thinking Students conduct historical research that incorporates information literacy skills such as forming appropriate research questions; evaluating information by determining its accuracy, relevance and comprehensiveness; interpreting a variety of primary and secondary sources; and presenting their findings with documentation.

USH.9.1 Identify patterns of historical succession and duration in which historical events have unfolded and apply them to explain continuity and change.

USH.9.2 Locate and analyze primary sources and secondary sources related to an event or issue of the past; discover possible limitations in various kinds of historical evidence and differing secondary opinions.

USH.9.3 Analyze multiple, unexpected, and complex causes and effects of events in the past.

USH.9.4 Explain issues and problems of the past by analyzing the interests and viewpoints of those involved.

USH.9.5 Formulate and present a position or course of action on an issue by examining the underlying factors contributing to that issue.

Objectives

After viewing the video and participating in the accompanying activities, students will be able to

- describe the impact of the cases examined in the program on the lives of Hoosiers and all Americans
- explain the significance of the U.S. District Court for the Southern District of Indiana
- relate the significance of key documents and individuals to Indiana's development from a territory to a state.

Video Program Summary

Early Court History

The program opens by examining the early judicial history of Indiana, beginning when it was part of the Northwest Territory. The Northwest Ordinance of 1787 established the judicial power of the United States and provided for a federal Territorial Court in Vincennes, the territorial capital.

When Indiana became a state in 1816, the capital was moved to Corydon. The first United States District Court for Indiana was established in 1817 and was housed in the state capital building in Corydon for the next eight years.

When the state capital moved to Indianapolis in 1825, the U.S. District Court also moved to Indianapolis, and conducted its business in the Marion County Courthouse and later at the Indiana Supreme Court until 1860, when Indiana's first U.S. Court House and Post Office was built in downtown Indianapolis.

Ex parte Milligan: Civil Rights During the Civil War, 1865

The first court case featured in the program focuses on the Civil War era. At that time, there were many people in the North, including Indiana, who were

sympathetic to the idea that the South had the constitutional power to separate from the Union. One of those people was Lambdin P. Milligan, a lawyer living the Huntington, in northern Indiana.

At the start of the Civil War, President Lincoln was concerned that Southern sympathizers in the North would undermine the war effort. In 1862, he declared martial law and suspended habeas corpus to keep control over dissent. The suspension of this right meant that the army could arrest anyone who it felt was disloyal.

Milligan was arrested by the military in 1864, tried, found guilty of inciting insurrection and of giving aid to the enemy and sentenced to hang. Milligan's lawyer petitioned for a writ of habeas corpus from the federal court in Indianapolis. Milligan claimed that since he was a civilian, his conviction by a military court was unconstitutional.



His case was heard by the federal court in Indianapolis. The hearing was to decide whether he was tried in the proper court. The two judges involved decided to disagree on a decision, thus sending the case to the U.S. Supreme Court. This segment of the case is reenacted in the video.

The U.S. Supreme Court ruled that suspending the writ of habeas corpus and trying civilians in a military court, when civilian courts were open and operating, violated the Constitution. So Milligan was freed from prison.

The opinion of the U.S. Supreme Court in *Ex parte Milligan* reinforced a principle of America's constitutional government. It affirmed the supremacy of civilian authorities over the military, even in times of great national security crises. In particular, it established an enduring precedent in constitutional law. Issues of an individual's constitutional rights to due process of law must be adjudicated in civilian courts, not military tribunals, so long as relevant civil government courts are open, functional, and accessible. This precedent remains intact today, more than 150 years after the court's decision in the case of Milligan, a landmark in the constitutional history of Indiana and the United States of America.



Court History Continued

In the 1870s and 80s, federal buildings were constructed in Evansville, New Albany, and Fort Wayne. There were now courtrooms and staffs in these locations.

In 1891, Congress created a new series of Courts, the United States Courts of Appeals. Appeals from federal district courts in Indiana, Illinois, and Wisconsin were heard in the United States Court of Appeals for the Seventh Circuit headquartered in Chicago.

By the beginning of the 20th century the United States Court House and Post office building in Indianapolis was too small to serve either as a court or a post office. A new building, which is still in use, opened in downtown Indianapolis, one block north of Monument Circle, in 1905.

United States v. Frank Ryan, et al.: The Dynamite Conspiracy Case, 1912

At the turn of the 20th century, unions were attempting to be recognized by employers and to improve working conditions of laborers. One of these unions was the International Association of Bridge and Structural Iron Workers, or simply the Iron Workers, headquartered in Indianapolis.

Employers worked hard to undermine the efforts of unions to organize for better working conditions, wages, and work hours. They paid strike breakers, hired non-union workers, and bribed union officials. Union members sabotaged tools,



equipment, and construction projects. Strikes were called to cripple construction jobs.

The Iron Workers went so far as to bomb work sites, not to kill or injure people, but to damage or destroy work done by non-union workers. This bombing campaign began in 1906 and continued for five years. No one was arrested.

In 1910, the offices of the *Los Angeles Times* were bombed, using dynamite, nitroglycerin, and an alarm clock. The bomb was set to go off at 4:00 AM, but exploded at 1:00 AM, killing 21 newspaper workers. Three members of the Iron Workers union were arrested and tried in Los Angeles. One of them was Ortie McManigle. In exchange for immunity, he testified against the other two union members, who decided to plead guilty and were sent to prison.

The federal government wanted to make an example of the rest of the Iron Workers' union leadership. A federal grand jury in Indianapolis brought criminal charges against the union leadership. The indictment was not for murder or dynamiting buildings, but for conspiracy to commit a crime against the United States by transporting explosives on passenger trains across state lines. The jury trial, in the new U.S. Court building, began in October 1912, and lasted for three months. Major segments of the trial are re-enacted in the video.

Forty defendants were tried, and all but two were Iron Worker officials. Many of the defendants' wives and children watched from the spectator section of the courtroom. Ortie McManigle was the primary witness.

On December 28, 1912, the jury returned its verdict on each defendant. Thirty-eight men were found guilty and two were acquitted. Given the outcome, the defense filed an appeal with the U.S. Circuit Court of Appeals. Most of the convictions were affirmed.

The dynamite conspiracy case highlighted the position workers were in at the time and the pressures they were under to make their voices heard. The case reflected the class warfare going on at the time between employers and labor unions.

Court History Continued

In 1925, a second judge was added to the U.S. District Court in Indiana. Then in 1928, President Coolidge signed a law that divided the District of Indiana into separate Northern and Southern Districts.

Eventually, five judges were appointed to the Southern District of Indiana. One of these was S. Hugh Dillin, appointed in 1961 by President John F. Kennedy. Judge Dillin plays a major role in the third case considered in this program.

United States v. Board of School Commissioners of the City of Indianapolis: The Indianapolis School Desegregation Case, 1968–2016

In the 1896 case of *Plessy v. Ferguson*, the U.S. Supreme Court ruled that public facilities, including schools, could be separate for blacks and whites, if they were equal. Thus, began the doctrine of “separate but equal,” which existed in Indiana and across the United States.



In 1954, the U.S. Supreme Court held, in the case of *Brown v. the Board of Education* of Topeka, Kansas, that “separate but equal” had no place in schools, and was, in fact, a violation of the Equal Protection Clause of the 14th Amendment.

At the time, Indianapolis Public Schools were still segregated. In 1964, the Civil Rights Act was passed. Parents of children in segregated schools could complain to the Justice Department that their children were being deprived of equal protection of the law. In 1967 an Indianapolis family, the Buckleys, did just that, and so began a several-decade legal process to desegregate the Indianapolis Public School system.

The initial trial associated with the Buckley suit took place in July, 1971, and is partially re-enacted in this program. The judge in the case, S. Hugh Dillin, after extensive testimony, issued his decision in August of 1971. He stated that, “The Indianapolis Public Schools operates a segregated school system wherein segregation was imposed and enforced by operation of laws.” He understood that simply busing black students to white schools, within IPS, to achieve integration would not work. Thus began Judge Dillin’s search for a solution that would work.

A critical act passed the Indiana State Legislature in 1970 that would have a major impact on Judge Dillin’s decision to remedy the situation described in his 1971 decision. It was called Unigov, and it called for the complete consolidation of the governments of Indianapolis and the surrounding townships of Marion County, except for schools. In 1975, he held evidentiary hearings to determine whether or not this feature of Unigov would justify busing to the township schools in Marion County. These hearings are reenacted, in part, in the program.

Judge Dillin’s decision was announced in August 1975. He stated “When the General Assembly expressly eliminated the schools from consolidation under Unigov, it signaled its lack of concern with the whole problem and thus inhibited desegregation. The establishment of the Unigov boundaries...warrants a limited inter-district remedy (busing) within all of Marion County.”

After several years of appeals, busing began in 1981. In 1997, IPS requested that Judge Dillin lift the busing order. The phasing out of busing began in 1998 and ended in 2016.

Recent Court History

It was not until 1984 that the first female judge, Sarah Evans Barker, was appointed to the United States District Court for the Southern District of Indiana. The first African-American judge, Tanya Walton Pratt was appointed by President Obama in 2010. The court is an important part of Indiana life. It’s power, impartiality, and independence promote the core American values of freedom, equality, and justice.

Vocabulary Words

Brown v. Board of Education of Topeka, Kansas—a U.S. legal case that resulted in an opinion by the U.S. Supreme Court in 1954, which said that black students should be allowed to attend the same schools and universities as white students. This ended legal segregation in the U.S. education system.

Closed Shop—a place of work where membership in a union is a condition for being hired and for continued employment.

Constitution—the system of fundamental laws and principles of a government.

De facto segregation—racial segregation, especially in public schools, that happens “by fact” rather than by legal requirement. For example, often the concentration of African-Americans in certain neighborhoods produces neighborhood schools that are predominantly black, or segregated in fact.

De jure segregation—means “of the law” and is discrimination enacted through law by the government.

Ex Parte—when the Latin phrase *ex parte* (meaning “from the part of”) is used in the title of a court case, it means that the action is taken on behalf of the person named in the title of the case. It does not require the notification of or participation by an opposing party.

Grand Jury—normally made up of twenty-three jurors, selected to determine whether evidence exists to charge someone with a crime.

Nullification—the doctrine that states can set aside federal laws.

Open Shop—a place of work where employees are not required to join a labor union.

Strikebreaker—(sometimes derogatorily called a scab, blackleg, or knobstick)—a person who works despite an ongoing strike. Strikebreakers are usually individuals who are not employed by the company prior to the trade union dispute, but rather hired after or during the strike to keep the organization running.

Trial Jury—also known as a petit jury, decides whether the defendant committed the crime as charged in a criminal case, or whether the defendant injured the plaintiff in a civil case. Consists of 6–12 people. Trials are generally public, but jury deliberations are private.

Writ of habeas corpus—orders an official who has a person in custody to bring the prisoner to court and explain why he is detaining the person. This basic civil liberty prevents arbitrary arrest and imprisonment.

Before Showing the Video

Use the following activity to stimulate students' curiosity about the video they are about to see.

Note: You might want to do Activity One in the Follow-up Activities section (Pages 15–17) of this guide, before showing the feature video. Activity One will give your students an overview of the federal court system.

1. Divide the class into groups of three or four.
2. Distribute a copy of the **KWL chart** to each group. A blackline master of the chart appears on page 32. (The KWL strategy helps students approach a complex topic in a systematic manner. The K column is used to show what students already know about a topic, the W column is intended to show what students want to learn about the topic, and the L column shows what they learned from an investigation of the topic.) Explain to students that a KWL chart is used to help organize information that they gather from various sources.
3. Indicate to students that they are going to see a video program about the development of the U.S. District Court for Indiana from 1817 to 2017.
4. Have the members of each group work together to establish what they already know about federal courts in Indiana. Ask them to enter what they already know in the K (know) column of their KWL charts.
5. Finally, have the group members write at least five historical questions that they would like to ask about federal court in Indiana between 1817 and 2017. For example, they might ask questions such as: What kinds of cases does the federal court in Indiana handle? How do the cases that the court handles affect the lives of Hoosiers? Do cases handled by the federal court in Indiana affect people living in other parts of the U.S.? Have them record their questions in the W (want to know) column of their KWL chart.

Showing the Video

The video is about 60 minutes long. You can show the entire program to give students a sense of the whole. However, it is recommended that students view the program segment by segment. After completing each segment, you can ask post-viewing questions associated with each segment. These questions appear below. Also, ask students to look for answers to the questions posed in their KWL charts as they watch each segment.

The Early Years (1:57 minutes)

After showing the first segment of the video, give students an opportunity to comment on what they have seen, express opinions, or ask questions about what they saw. Then continue, using questions such as the following to structure the discussion. You may need to replay the chapter for students.

Note: The questions posed related to this segment of the video are recall questions. The answers, however, will be useful if you decide to have your students complete the timeline activity that appears in the Follow Up Activities that appear below.

1. Which future states were part of the Northwest Territory established in 1787?
2. The Northwest Ordinance called for the establishment of a federal territorial court. Where was that court located?
3. Does the building in which the court was located still exist?
4. When was the Indiana Territory founded by the U.S. Congress?
5. In what year was the Territorial Court moved from Vincennes to Corydon?
6. Why was the Territorial Court dismissed or closed in 1816?
7. In what year did the U.S. Congress establish the first U.S. District Court?
8. Who was the first federal court judge for the U.S. District Court in Indiana?
9. When did the U.S. District Court for Indiana first meet?
10. Where did the U.S. District Court first meet? Why there?
11. Why did the U.S. District Court move to Indianapolis? What year was that?
12. Where did the U.S. District Court conduct its business when it first came to Indianapolis?
13. When did the U.S. District Court and Post Office get its own building in Indianapolis?

The Case of *Ex parte Milligan*: Civil Rights During the Civil War, 1865 (11:23 minutes)

After showing the next segment of the video, give students an opportunity to comment on what they have seen, express opinions, or ask questions about what they saw. Then continue, using questions such as the following to structure the discussion. You may need to replay the chapter for students.

1. What does a writ of habeas corpus mean? Why do you think President Lincoln suspended the writ of habeas corpus in 1862?

2. What power did suspending the writ of habeas corpus give to the U.S. Army?
3. Why do you think Governor Morton of Indiana supported Lincoln's suspension of the writ of habeas corpus?
4. What were some of the ideas expressed by Milligan about the Constitution, the war and the Confederacy?
5. What did the military do with Milligan, once spies identified him as one of Indiana's leading conspirators?
6. When Milligan's lawyer petitioned for a writ of habeas corpus, why was the case brought before the federal court in Indianapolis, rather than the state court?
7. What was the purpose of the hearing held in the federal court?
8. Why did the two judges decide that Milligan's case should be brought before the U.S. Supreme Court, rather than being decided at the circuit court level?
9. What did the Supreme Court decide? What was the basis for their decision?
10. What do you think is the significance of this case?

The late 1800s (1:14 minutes)

After showing this segment of the video, give students an opportunity to comment on what they have seen, express opinions, or ask questions about what they saw. Then continue, using questions such as the following to structure the discussion. You may need to replay the chapter for students.

Note: The questions posed related to this segment of the video are recall questions. The answers, however, will be useful if you decide to have your students complete the timeline activity that appears in the Follow Up Activities that appear below.

1. What portion of the state was the federal court in Indianapolis responsible for in the 1860s?
2. When were federal buildings, including courtrooms and offices constructed in Evansville, New Albany, and Fort Wayne?
3. Was there a federal judge at each of these locations at that time?
4. When did Congress create the U.S. Courts of Appeals?
5. What was the purpose of these courts?
6. Where was the U.S. Court of Appeals that included Illinois, Wisconsin, and Indiana headquartered?
7. When did the new U.S. Courthouse open in Indianapolis?

United States v. Frank Ryan, et al.: The Dynamite Conspiracy Case, 1912
(17:18 minutes)

After showing this segment of the video, give students an opportunity to comment on what they have seen, express opinions, or ask questions about what they saw. Then continue, using questions such as the following to structure the discussion. You may need to replay the chapter for students.

1. According to Lisa Philips, what conditions and rights were unions fighting for at the beginning of the 20th Century?
2. What is the difference between an “open shop” favored by employers and a “closed shop” favored by unions?
3. There was a great deal of anti-union activity at the beginning of the 20th Century. What was the nature of this activity? What was its purpose?
4. Why do you think the iron worker union turned to bombing, beginning in 1906?
5. What role did Detective William Burns play in the conflict between the iron workers and the National Erector’s Association?
6. Why did the iron workers target the *Los Angeles Times* building? What happened as a result of bombing of the *Times* building?
7. What is the function of a Grand Jury? Why did the federal grand jury indict the iron workers for conspiracy to commit a crime against the United States and not murder?
8. Why was the trial of the iron workers held in Indianapolis? Why was the jury housed in the court house for the entire trial?
9. Why do you think that Ortie McManagal was willing to testify against other members of the union? Do you think that his testimony was convincing in proving the guilt of the union officials? Why or why not?
10. Did you find the letters written by union officials to be convincing in proving their guilt? Why or why not?
11. What did the defense’s case attempt to do? Why didn’t the defense introduce evidence of employer mistreatment or of the possible reasons for the actions of union members?
12. What did you think of the closing arguments offered by the defense and prosecution? Why?
13. If you were a member of the jury would you have considered the defendants guilty or innocent? Why?
14. According to Lisa Phillips, what did the dynamite conspiracy say about the history of unions in the United States in the early 20th century?

The Court in the 20th Century (1:12 minutes)

After showing this segment of the video, give students an opportunity to comment on what they have seen, express opinions, or ask questions about what they saw. Then continue, using questions such as the following to structure the discussion. You may need to replay the chapter for students.

Note: The questions posed related to this segment of the video are recall questions. The answers, however, will be useful if you decide to have your students complete the timeline activity that appears in the Follow Up Activities that appear below.

1. When was a second district judgeship approved for the federal court in Indiana?
2. When was the federal court in Indiana divided into the Northern and Southern districts?
3. When were four more judges added to the Southern District?

***United States v. Board of School Commissioners of the City of Indianapolis: The Indianapolis School Desegregation Case, 1968–2016* (24:28 minutes)**

After showing this segment of the video, give students an opportunity to comment on what they have seen, express opinions, or ask questions about what they saw. Then continue, using questions such as the following to structure the discussion. You may need to replay the chapter for students.

1. What does the concept of “separate but equal” mean, when applied to public facilities, such as schools?
2. What was the basis for the decision by the U.S. Supreme Court that “separate but equal” had no place in schools, in the 1954 *Brown v Board of Education* case?
3. How did the Civil Rights Act of 1964 “put teeth into” the *Brown* decision of 1954?
4. What was some of the evidence that Judge Dillin used to argue that the Indianapolis Public Schools were segregated in his 1971 decision?
5. How would you have reacted to the situation Tanya Hardy Brown faced in 1971, when she was first bused to a high school different than the one she expected and hoped to attend?
6. Why didn’t Judge Dillin think that busing students within IPS would solve the problem of segregation?

7. In the 1975 hearings, Judge Dillin concluded that the implementation of Unigov justified busing students from IPS to suburban school districts. What was the basis for his argument?
8. What is the difference between discriminatory impact and discriminatory intent?
9. How was Judge Dillin's 1975 decision affected by the U.S. Supreme Court *Arlington Heights* decision?
10. Court-ordered busing began in 1981. In 1998 Judge Dillin concluded that busing could be phased out.
11. What was the basis for Judge Dillin's 1998 decision?

The Current Court (1:23 minutes)

After showing this segment of the video, give students an opportunity to comment on what they have seen, express opinions, or ask questions about what they saw. Then continue, using questions such as the following to structure the discussion. You may need to replay the chapter for students.

Note: The questions posed related to this segment of the video are recall questions. The answers, however, will be useful if you decide to have your students complete the timeline activity that appears in the Follow Up Activities that appear below.

1. When was the first female judge, Sarah Evans Barker, appointed to the United States District Court for the Southern District of Indiana?
2. When was the first African-American judge appointed?
3. What kinds of cases does the current court address?

After Showing the Video

To conclude this portion of the lesson, ask students to determine whether the questions they identified in their KWL charts were answered by the video. Have them take a few minutes to record their answers in the L column. Then ask what further questions were raised in their minds about federal court history in Indiana. Have them add these questions to the W column on their KWL charts. Indicate that they might be able to find answers to these questions in the follow-up activities.

Follow-Up Activities

Each of the following activities, related to the themes developed in the video, will probably take at least one class period to complete. Some involve out of class work. Preview the activities and decide which ones would work for your students.

Activity One: Introduction to the Federal Judiciary (Video)

This video program, *Introduction to the Federal Judiciary* is about 6 minutes in length. It can be accessed by going to the United States District Court, Southern District of Indiana website and clicking on Educational Resources, under Programs and Services.

Before Showing the Video

Use the following activity to stimulate students' curiosity about the video they are about to see.

1. You might begin by defining the federal judiciary for students: the branch of the federal government charged with the interpretation of laws and administration of justice.
2. Have the class brainstorm about what they already know about the federal judiciary. Record what they generate for later reference.
3. Indicate to students that they are going to see a video that introduces the federal judiciary.
4. Encourage students to look for evidence in the video to confirm or deny the information generated by the brainstorming session and to look for other information about the federal judiciary, as they watch the video.

After Showing the Video

After showing the video, give students an opportunity to comment on what they have seen, express opinions or ask questions about what they saw.

Then continue, using questions such as the following, to structure a discussion of the video. You may need to replay the video or portions of the video for students.

1. What were the three branches of the federal government established by the U.S. Constitution?
2. What is the purpose of the judicial branch of the federal government?
3. What does "a government of checks and balances" mean?
4. What role does the President and the Congress play in the federal judiciary?
5. How did the U.S. Constitution assure that the federal courts operated independently?
6. What is the difference between a grand jury and a trial jury?
7. How are jurors selected to serve on federal juries? Why is it important for citizens to participate on juries?

8. Over what sorts of matters do the federal courts have jurisdiction?
9. Within the federal courts system, what are the three levels of case activity?
10. Why do you think that the administration of justice is an important component of a democratic system of government?

Concluding the Activity

To conclude, return to the information that students generated in the brainstorming session at the beginning of the activity. Ask students to determine which of the statements they generated were confirmed and denied by the information contained in the video. Finally, ask them what further information they would add to their understanding of the federal judiciary system, based on the video. Add this information to the list. Post the list so that students can refer to it, as they proceed through the other activities in this package.

Activity Two: U.S. District Court in Indiana Timeline

The purpose of this activity is to enable students to sequence events and to tie together the growth of the U.S. District Court in Indiana.

1. Indicate to students that they are going to create a timeline of the major events in the development of the U.S. District Court in Indiana, especially the U.S. District Court for the Southern District of Indiana, portrayed in the video program. A time line is a graph that is used to arrange events in the order in which they happened. Show students examples of timelines from textbooks and other sources.
2. Ask students to work individually or with a partner.
3. Have students draw a horizontal line or bar on a large piece of paper. Then have them divide the line into equal parts, each representing a five-year period of Indiana history beginning in 1780 at the left end and 2020 at the right end of the timeline. Have them label the parts: 1780, 1790, 1800 and so on.
4. Show the video program again. Have students select specific dates and events from the video program for inclusion on their timelines.
5. Encourage students to add the answers generated by the questions about court history, that they answered while watching the video, to their timelines.
6. Have students create a symbol—using a computer, markers, or pictures from magazines or the Internet (see website mentioned in Step 7 below)—to represent each event that will be placed on their timelines (for example, a small building when the court was located in Corydon).

7. Ask students to arrange each date, event, and associated symbol in the appropriate time-period on their timelines.
8. Have students use information on court history from United States District Court/Southern District of Indiana website at www.insd.uscourts.gov/ to enhance their timelines. Have them click on “Court Information” and then “Court History.”
9. Have students display their timelines around the room. Give students an opportunity to discuss and explain their work.
10. To extend the activity, ask students to identify events in Indiana and U.S. history that happened in the same time-period and that may have had an impact on the operation of the court. Have them create symbols for these events and add them to their timelines. Have students explain how each of the added events affected the U.S. Court in Indiana

Activity Three: U.S. Court Profiles

In this activity, students research, write, and share profiles about individuals who played important roles in the history the U.S. District Court for the Southern District of Indiana. These people appeared or were mentioned in the video.

1. Remind students that several individuals played roles in the story of the U.S. District Court for the Southern District of Indiana.
2. Indicate that in this activity, they will be doing research on some of these people, to get to know them better.
3. Indicate that students can work independently or in pairs.
4. Give each student a copy of **U.S. District Court Profiles** handout. A blackline master of the document appears on page 33.
5. Have students read the Introduction and then choose a person to research and write about.
6. Once they have chosen a person to study, give them access to the internet and other sources to pursue their research. When they complete their research, encourage students to write up their findings, following the guidelines in the **U.S. District Court Profiles** handout. You can decide on length limits for the papers.
7. Ask volunteers to share their completed profiles with the class. Encourage students to ask questions to presenters.

Activity Four: An Interview with Stephen Towne

Stephen Towne was featured in *And Justice for All: Indiana's Federal Courts*, during the *Ex parte Milligan* segment. He is the Associate University Archivist at Indiana University–Purdue University, Indianapolis. He has been doing research on the American Civil War for about 20 years, ever since he worked at the Indiana State Archives. He has primarily been interested in what was going on in the Midwest during the Civil War—all the political shenanigans, the conflicts between civil governments and the military, the development of military intelligence during the war, the existence of organized opposition to the war effort, and secret opposition to the war effort. He is the author of several books and articles related to the Civil War, including *Surveillance and Spies in the Civil War: Exposing Confederate Conspiracies in America's Heartland*, published in 2015.

1. Indicate to students that they are going to examine the transcript of an interview with Stephen Towne, who appears in the video. He is an expert on the Civil War era in Indiana. Their goal is to use the information presented in the interview to gain a better understanding of the historical context or setting in which the *Ex parte Milligan* case took place.
2. Ask students to work independently or with a partner.
3. Give each student a copy of the **Interview with Stephen Towne** and the **Dissecting History 1** handouts. Blackline masters of these documents appear on pages 34 and 38. The blackline of the interview contains a shortened version of the original interview.
4. Have students read through the interview and analyze it by answering the questions on the **Dissecting History 1** handout.
5. Finally, ask volunteers to present their answers to these questions to the class. Allow other students to comment on what is shared.

Activity Five: *Ex parte Milligan*

Description

In this activity, students analyze the *Ex parte Milligan* U.S. Supreme Court case involving a man from Indiana and the writ of habeas corpus, and then consider, as an optional activity, the long-term implications of the case. Here is a suggested procedure for conducting this activity:

Opening the Activity

Remind students that, as the video *And Justice for All: Indiana's Federal Courts* indicated, when the Civil War began, Lincoln wanted to control Southern

sympathizers in the North. One action he took to accomplish this goal was to suspend the writ of habeas corpus.

Indicate to students that in this activity they will have an opportunity to analyze a U.S. Supreme Court case, *Ex parte Milligan*, that involved Lambdin P. Milligan, a man from Indiana who was an accused Southern sympathizer. The case involved the writ of habeas corpus.

Divide the class into groups of three or four.

Distribute a copy of the *Ex parte Milligan*, the **Primary Source**, and the **Analysis** handouts to each student. Blackline masters of the handouts appear on pages 39–47.

Developing the Activity

As a class, examine the background section of *Ex parte Milligan*. Ask for volunteers to describe the background of the case in their own words to the class.

Ask students to carefully examine the transcript of the U.S. Supreme Court decision in the case. Answer any questions they might have about the meaning of the words.

Ask group members to work individually or in pairs to answer the Primary Source and Analysis questions that follow the transcript of the court decision. Point out that each paragraph is numbered. The numbers were added to help in finding answers to the Analysis questions. Encourage students to use evidence from the court decision to support their answers.

Ask for volunteers to share their group's answers with the class. Encourage students to comment on and discuss one another's work

Concluding the Activity

Summarize the court decision for students. The Supreme Court ruled against the government in this case. It ruled that suspending the right of habeas corpus, and then denying the accused person a civilian trial by jury and due process of the law in a state where civilian courts were still operating, violated the Constitution. The Court noted that civilian courts had been open in Indiana and that the state was far from the battle zone. The Court found it important that Milligan was a citizen not connected with military service, who lived in Indiana, was arrested there, and had not been a resident of any of the states in the rebellion or a prisoner of war. Milligan had not been captured while participating in hostile activities against the government, or for an offense against the United States. The Court ruled that neither the President nor Congress could legally deny to an accused person, in this situation, a trial by jury and due process of the

law. Therefore, the Court granted Milligan’s request for discharge from unlawful imprisonment during the Civil War.

Optional: Have students work in their groups to answer the following questions: Based on what you learned, what would you say is the significance of *Ex parte Milligan*? How does it apply to events since the Civil War? For example, the internment of Japanese Americans during World War II, or the military trials of non–U.S. citizens accused of terrorist acts in the United States or abroad today.

Ask for volunteers to share their answers with the class. Encourage students to comment on one another’s answers.

Activity Six: A Story Worth Telling

This activity guides students in the creation of stories related to their families. The term “family” is defined in the broadest possible sense—for example, students might focus on their own families or on community members.

Part 1 of the activity focuses on a video about Joe Van Bibber, who tells the story of his great-grandfather, Allen Spaulding, who served on the Dynamite Conspiracy Case jury in 1912, featured in *And Justice for All: Indiana’s Federal Courts*. The Van Bibber Interview video is available on the Vimeo site for this project. Mr. Van Bibber played a role as one of the jurors for the reenactment of the case that is included in *And Justice for All: Indiana’s Federal Courts*.

Part 2 of the activity focuses on telling the story of a “family” member. The two tasks can be done separately or as part of one assignment.

Part 1

1. Indicate to students that they are going to see a video about Joe Van Bibber, whose great-grandfather, Allen Spaulding, was on the jury of the Indianapolis Dynamite Conspiracy Case. Mr. Van Bidder appeared in the reenactment of the case in *And Justice for All: Indiana’s Federal Court*.
2. In the video, they are about to see, Mr. Van Bibber tells the story of his great-grandfather.
3. As they watch the video, ask students to identify the kinds of sources of information that Mr. Van Bibber used to learn about his great-grandfather, how his great-grandfather’s life affected him, and the advice he gives to others interested in telling their family’s story.
4. After showing the video, give students an opportunity to comment on what they have seen, express opinions, or ask questions about what they saw. Then continue, using questions such as the following to structure the discussion. You may need to replay the video for students.

- How did Mr. Van Bibber begin his journey to find out more about his great-grandfather's story?
 - What are some of the sources of information that Mr. Van Bibber used?
 - How did being on a jury affect Mr. Spaulding?
 - What kinds of questions would Mr. Van Bibber have liked to ask his great-grandfather about?
 - How did being on a jury affect Mr. Van Bibber? What is his advice to those called for jury duty?
 - What advice does Mr. Van Bibber to others interested in learning more about family history?
5. To conclude this activity, ask students to identify strategies that Mr. Van Bibber used to learn about his great-grandfather that they could use to help develop a story about their families.

Part 2

In this part of the activity, students will create a biographical sketch of a member of their family or community. They will conduct an interview of that person as part of the task. They should be encouraged to record or videotape the interview to gather information. Have each student select a family or community member to interview. Encourage students to select a person who is at least one generation older than them.

1. Distribute the **Possible Interview Questions** handout to each student. A blackline master of the handout appears on page 48. Have students work as a class to generate additional questions to ask in their interviews. Have students choose questions from the lists provided and generated (modified as desired) and add other questions they generate themselves that they want to ask.
2. Give each student feedback on their questions before they start their interviews. Also, you might want to provide students with an opportunity to practice interviewing each other and recording the results.
3. Give students time to conduct their interviews. Encourage them to use some of the strategies that Mr. Van Bibber used in gathering information about his great-grandfather's story (for example, pictures, newspapers, the Internet) as well as family albums, scrapbooks, and old letters to supplement the information collected in the interview.
4. Once the interviews are completed, have students examine, summarize, and report on the evidence they collected. They might do this by using a map to plot the places where the interviewee lived at various times, by creating

a photo essay, or by presenting the biography in story form. Let students decide how they will present their biographical sketches.

5. As part of the examination they make of their featured person, have students consider the following question: “How has the person interviewed affected my life and the life of the community?”
6. Because of the personal nature of the student product, have only those who volunteer share their work with the class. Have everyone share his or her work with you.

Activity Seven: Labor Unions in the Early 20th Century

In this activity, students will compare two different views of labor unions in the early 20th Century, using a Venn Diagram.

1. Indicate to students that in this activity, they are going to get a sense of the attitudes towards labor unions at the beginning of the 20th century, at about the time of the Indianapolis Dynamite Conspiracy Case.
2. Have students work in pairs.
3. Distribute a copy of the **Labor Unions in the Early 20th Century** handout to each student. A blackline master of the handout appears on page 49. The handout contains excerpts from two speeches given in 1903.
4. Have students read the Introduction. You might want to review the main ideas raised in this section as a class.
5. Have student pairs follow the directions contained in the handout and complete the Venn Diagram activity.
6. When students have had a chance to complete their Venn Diagrams, ask volunteers to share their work with the class. Encourage other students to comment and expand on what they hear.
7. To conclude the activity, have students focus on the intersecting portion of the Venn Diagram. Ask: given how many sentiments appear in the intersecting portion of the Venn Diagram (very few), how did the unions and employers relate at this time? How is this reflected in the video you saw?

Activity Eight: History of School Segregation in Indiana to 1949

In this activity, students analyze a portion of Judge S. Hugh Dillin’s 1971 opinion in the Indianapolis school desegregation case—to get a sense of the school situation that existed in Indiana and Indianapolis prior to the case shown in the video.

1. Indicate to students that in this activity they will be examining a primary source that sketches the history of school segregation in Indiana through 1949.
2. Divide the students into groups of three or four.
3. Give each group member a copy of the **History of School Policies to 1949** handout. A blackline master of the document appears on pages 54–55. The blackline contains a portion of Judge’s Dillin’s opinion.
4. Have the groups read the document, and, as a class discuss its meaning.
5. When the discussion is complete, ask each group to analyze the document by answering the questions on the **Dissecting History 2** handout. A blackline master of the handout appears on page 56.
6. Finally, ask volunteers to present their group’s answers to the class.

Activity Nine: School Desegregation and Busing in Indianapolis

Opening the Activity

1. Indicate to students that in this activity, they will be further investigating desegregation and busing in Indianapolis.
2. Begin by having students share what they already know about desegregation and busing in Indianapolis.

Developing the Activity

1. Divide the students into groups of four or five (one group for each of the articles used in the activity—see Step 4.) Provide each group with copies of its assigned article. Indicate that each group’s task is to become experts on the information contained in the article it was assigned.
2. Each expert group examines a different article. Here are some possible articles. They are accessible on the Internet using Google.
 - Indianapolis Pupils Bused to Suburbs, *New York Times*, August 18, 1981
www.nytimes.com/1981/08/18/us/indianapolis-pupils-bused-to-suburbs.html
 - Inequality Remade: Residential Segregation, Indianapolis Public Schools, and Forced Busing, Indiana Historical Bureau, February 16, 2017
<https://blog.history.in.gov/?p=1958>
 - School Segregation—The Busing Debate, JRank Articles
<http://law.jrank.org/pages/10024/School-Desegregation-BUSING-DEBATE.html>

- How Racial Bias Helped Turn Indianapolis into One City with 11 School Districts, *Chalkbeat*, August 3, 2016

<http://chalkbeat.org/posts/in/3016/08/03/how-racial-bias-helped-turn-indianapolis-into-one-city-with-11-school-districts>

- The End of Busing in Indianapolis. *The Atlantic*, July 6, 2016

www.theatlantic.com/education/archive/2016/07/the-end-of-busing-in-indianapolis/489962/

3. Give each group about 45 minutes to read the assigned article and to develop expertise about the information on desegregation and busing in Indianapolis contained in the article, and to share their findings within their expert group.
4. After the allotted time, form new groups, so that there is at least one person who is an expert on each of the articles in each of the new groups.
5. Have the members share the expertise about their articles within these new groups. Encourage other group members to ask questions as each article is shared.

Concluding the Activity

1. Have students work individually or in pairs to write an essay reflecting what they now know about desegregation and busing in Indianapolis, based on the five articles. Distribute a copy of the **Essay Rubric** to each student, before they begin writing. (You may prefer to use your own rubric.) A blackline master of the rubric appears on page 57. Encourage them to use the rubric as a guide when writing.
2. When students complete their essays, have volunteers share their work with the class. Collect all essays for evaluation using the rubric as a guide.

Activity Ten: Political Cartoons

In this activity, students analyze some political cartoons from the Indianapolis school desegregation era, focusing on Judge S. Hugh Dillin.

1. Indicate to students that in the *And Justice for All: Indiana's Federal Courts* video they saw some political cartoons focusing on Judge S. Hugh Dillin during the Indianapolis school desegregation era. Political cartoons make a point about a political issue or event. They appear on the editorial pages of newspapers, in news magazines, and on political websites. The main purpose of political cartoons is not to amuse you, but to persuade you. A good political cartoon makes you think about a current event. It also tries to sway you toward the cartoonist's point of view.*

2. Indicate to students that in this activity they will analyze three political cartoons related to the desegregation case, two of which appeared in the video.
3. Encourage students to work individually or in pairs.
4. Distribute a copy of the **Analyzing Political Cartoons** handout to each student to use to answer questions about the three cartoons. A blackline master appears on pages 58–60.
5. When students have completed their analysis of each cartoon, ask for volunteers to share their thinking with the class. Encourage students to ask for clarification and to expand on the answers given.
6. To conclude the activity, ask students to respond to this question: How do you think the political cartoons you saw in this activity affected people’s image of Judge Dillin and thoughts about busing and integration? Ask for volunteers to share their thinking with the class.

*The Library of Congress, “It’s no Laughing Matter.”

Activity 11: Reactions to School Desegregation and Busing

Tanya Hardy Brown was featured in *And Justice for All: Indiana’s Federal Courts*, during the school desegregation segment. She is the Judicial Assistant to Chief Judge Jane E. Magnus-Stinson and to District Judge Tanya Walton Pratt, at the U.S. District Court for the Southern District of Indiana, in Indianapolis. In the summer of 1971, Ms. Brown was preparing to be a freshman at Shortridge High School, a few blocks from her home in Indianapolis. Two weeks before school was to start, her parents received a notice from the Indianapolis Public Schools (IPS) stating that she had been transferred, along with the other black and white children in her neighborhood, to Broad Ripple High School, a 40-minute bus ride away. This action was part of IPS’s efforts to respond to Judge Dillin’s August 18, 1971 decision. In that decision, he ordered IPS to make several changes designed to stabilize the racial balance in the IPS schools and to prevent further segregation during the formulation of his final remedy.

In 2012, Ms. Brown wrote a script focusing on a fictional public hearing held by Judge S. Hugh Dillin, in which citizens were given a chance to express their feelings about busing and desegregation. While the script is fictional, all statements by witnesses are based on comments that appeared in newspapers, in books, and on television news programs in Indianapolis during the 1970s.

1. Indicate to students that they are going to participate in a reenactment of a fictional hearing held by Judge S. Hugh Dillin, written by Tanya Hardy Brown, who appears in the video. She was bused to a distant high school

in the early 1970s as part of the Indianapolis Public Schools efforts to desegregate *city* high schools.

2. While the hearing is fictional, all statements by witnesses are based on actual comments taken from newspapers, books, and television news programs during the 1970s.
3. The goal of the activity is to use the reenactment to gain a better understanding of the setting in which desegregation of the schools in Indianapolis took place during this period of American history.
4. Assign individual students to play the eleven roles in the reenactment. Give each actor a copy of the **Reactions to School Desegregation and Busing Script**. A blackline master of the script appears on pages 61 to 67. All other students are to play the roles of spectators and should be encouraged to react (verbally) to what is said by the witnesses, as they see fit.
5. Give the student actors some time to become familiar with their parts—encourage each actor to review the profile of the person they are playing, as part of their preparation. These profiles appear in the script. Then have the actors perform their parts, following the order outlined in the script.
6. When the reenactment is completed, distribute a copy of **Dissecting History 3** to each student. A blackline master appears on page 68. Have students explore their reactions to the reenactment they just witnessed by answering the questions on the **Dissecting History 3** handout.
7. Finally, ask for volunteers to present their answers to those questions to the class. Allow other students to comment on what was shared.

Further Resources

United States District Court for the Southern District of Indiana

Birch Bay Federal Building & U.S. Courthouse

46 East Ohio Street

Indianapolis, IN 46204

www.insd.uscourts.gov

The United States District Court for the Southern District of Indiana offers a variety of services for educators and students. These include videos, tours of the federal courthouse, on-site educational programs, lesson plans, and fact sheets about the federal courts. Information can be accessed by going to the court website, shown above, and clicking on “Programs and Services.”

Indiana Historical Society

Eugene and Marilyn Glick Indiana History Center

450 West Ohio Street Indianapolis, Indiana 46202-3269

www.indianahistory.org

The Indiana Historical Society is dedicated to promoting public awareness and appreciation of Indiana history. It collects, preserves, and disseminates documentary and visual evidence and supports scholarly research. The IHS fosters excellence and leadership, historical inquiry, and informal exchanges, believing that an understanding of the past illuminates the present and gives vision for the future.

The IHS maintains a website that features resources, lesson plans, and activities for educators and students. In addition the IHS offers a variety of tours and programs, designed especially for Indiana students.

Indiana Historical Bureau

140 North Senate Avenue, Room 130

Indianapolis, Indiana 46204-2296

(317) 232-2535

www.in.gov/history/

The Indiana Historical Bureau edits and publishes documentary and other material related to the history of the state of Indiana, promotes the study of Indiana history, and works with others engaged in such pursuits. The Bureau provides books, educational resources, and programs for students and teachers.

Attucks: The School That Opened a City, 2016. This video tells the story of Crispus Attucks High School in Indianapolis. A 3-minute version is available on the WFYI website, at www.wfyi.org/program/attucks. A DVD of the full-length program can be purchased at the same site.

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www.geocities.ws/ironworkers373/iwhistory

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The Real Stuff: Using Primary Sources in the Classroom. Indianapolis: The Indiana Historical Society, 2001.

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Wilson, Jeffrey. *Indiana in Maps—Geographic Perspectives of the Hoosier State*. Indianapolis: Geography Educators’ Network of Indiana, 2003.

Web Sites

Vincennes State Historic Sites

www.spiritofvincennes.org/rendezvous/historic/

Corydon State Historic Site

www.indianamuseum.org/sites/cory.html

Indiana State Archives

www.in.gov/icpr/2358.htm

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KWL Chart

K What I Know	W What I want to know	L What I learned

U.S. District Court Profiles

Introduction

The U.S. Court video features several individuals who played key roles in the operation of and cases associated with the court. Some of these individuals are listed below. Your task in this activity is to:

1. Choose one individual to focus on. You can choose from the list below, or someone else that interests you.
2. Use the internet and other sources recommended by your teacher to do research on that person's life.
3. Write a paper about that person's life. Your teacher will tell you how long the paper should be.
4. Follow the guidelines below when writing your paper.
5. Be prepared to share your work with the class.

Guidelines for Writing Papers

Here are some guidelines for writing your paper. While you should include these points in your paper, you do not need to limit your work to them.

1. Indicate where he/she was born and how and when they came to Indiana.
2. Tell about that person's family and what he/she did for a living, while in Indiana.
3. Describe the role he/she played in the history of the U.S. Court.
4. Include something that surprised you about his/her life.
5. Include a visual of the person you are writing about, if possible.

You can choose one of these individuals to research and write about, or someone else involved in the history of the U.S. District Court in Indiana.

- Lambdin P. Milligan, defendant, *Ex parte Milligan*
- David Davis, U.S. Supreme Court Justice, *Ex parte Milligan*
- Ortie McManigal (McManigle), bomber, witness, Dynamite Conspiracy
- Judge Albert Barnes Anderson, Dynamite Conspiracy
- Judge S. Hugh Dillin, Desegregation Case
- John Preston Ward, attorney for the plaintiff, Desegregation Case
- John O. Moss, attorney for the plaintiff, Desegregation Case
- Richard Lugar, Mayor of Indianapolis, Desegregation Case
- Judge Sarah Evans Barker, first female appointed to U.S. District Court, Southern District of Indiana

Interview with Stephen Towne

Associate University Archivist
Indiana University–Purdue University
Indianapolis, IN

Q: Why were some people in the North opposed to the Civil War?

A. Opposition to the Civil War was widespread in Indiana and the neighboring states and indeed across the whole North. There were people who opposed going to war to coerce the rebel government and the rebel states back into the union. And they believed that for a variety of reasons. Primarily, they thought that real power resided in the states, not in the federal government. The federal government existed only to serve the individual sovereign states, and not vice versa. So, from April 1861 on, indeed well before that during secession crisis in the 1850s, people were talking about state's rights, state sovereignty and the supremacy of the states over the federal government.

Q. Were there other factors that affected people's attitudes to the Civil War?

A. Those voices against the war got tremendous backing after Abraham Lincoln's preliminary Emancipation Proclamation of September 1862, which explicitly said that freeing slaves and abolishing slavery in the slave states under Union occupation in the South, was going to be part of U.S. policy, part of military policy. That got many Northerners' goats. They didn't want to have anything to do with the war effort after that. Many people were in favor of an effort to reunify the United States and suppress rebellion and bring the southern states back into the union, but they weren't interested in freeing the slaves. They thought that that was not part of the bargain.

Q. How did some people response to conscription during the Civil War?

A. Starting in March 1863, you have a new law—the Enrollment Act establishing national conscription, forcing men who might otherwise have opposed the war into acting in support of the war effort as soldiers, forcing men to serve as soldiers. If it wasn't the last straw it was close to it. So, you had lots of opposition in northern communities, lots of draft resistance. You have people encouraging men who are being drafted not to respond and to actually go AWOL, run away from the draft.

Q. How did Milligan respond to all of this?

A. Milligan was a dyed-in-the wool believer in state sovereignty. From his earliest adulthood, probably from his teenage years, he had come to support the nullification movement that started in South Carolina. You might remember the nullification crisis when South Carolinians opposed the federal government's efforts to impose federal law on them. They thought that they had the power as a sovereign state to nullify any federal law that they didn't like. The conflict between the federal government and the South Carolinians almost led to a Civil War in the early 1830s.

One of the chief figures behind this was the South Carolinian statesman politician John C. Calhoun. Calhoun had originally been a nationalist in his politics, but gradually became the chief spokesman for the concept of nullification and state sovereignty. Lambdin P. Milligan, growing up into manhood in his hometown of St. Clairsville,

Ohio in the early 1830s, adopted this nullification idea and became a supporter of the ideas of John C. Calhoun.

So in my research, I found evidence that Lambdin Milligan was a supporter of the idea of nullification and state sovereignty. Many others in the North were as well. Milligan became a lawyer in 1835, and practiced law in South eastern Ohio for the next 10 years. In 1845 he moved to Huntington County, Indiana, and started a new life there, not initially as a practicing lawyer. But he goes back to practicing law in the early 1850s and becomes a prominent lawyer in his community and in that part of North eastern Indiana. When the Civil War comes around, he is actively backing the idea that the federal government had no right to coerce a sovereign state back into the Union. And that the sovereign states have the power under the U.S. Constitution to secede at any time that they wish. So, he was advocating this in public speeches and he had supporters in Huntington and elsewhere, who followed him and believed the same thing.

Many people in the North were sympathetic ideologically to what the Southerners were asking for, which was separation and secession. They thought that the U.S. Constitution afforded them that right, that power to separate from the Union at their will. Lambdin P. Milligan was one of those persons. And he became a leader in Indiana in the beginning of the war in advocating this idea. As the war ground on, 1861 & 1862, and the Union effort was not succeeding very well, his voice, and voices like his, grew louder and more prevalent and more powerful and gained more supporters

Q What was Milligan's view of the draft?

A. Milligan didn't tell people not to report when they were drafted. However, in the summer of 1863, he was giving speeches to armed men who would parade through Huntington defying the federal government when the federal government wanted to exert its authority in enforcing the draft and in arresting deserters. So, his fiery speeches suggested that Milligan was supportive of people resisting the federal government at this time. It's at this time also that we start to see evidence that Milligan was involved in secret organizations that aimed to subvert the federal government's ability to organize the war effort. These organizations were involved in helping deserters to desert, hiding them, arming them and then protecting them when people came to try to arrest them. Same thing with draft dodgers, and so on. We have evidence from the fall of 1863 that Milligan was involved in this. Then the U.S. Army got evidence from spies and informers who were reporting on Milligan in Huntington and the surrounding area, that he was involved in this. They started targeting Milligan as one of the leaders of these organized conspiracies and to amass evidence about his activities as a leader in these organized conspiracies.

Q. How did the federal government respond to all this opposition?

A. Well, the federal government, under Abraham Lincoln, took what can only be termed draconian steps to combat opposition to his administration in the North during the Civil War. These included using the Army to suppress newspapers and arrest opposition speakers—politicians and newspaper editors, for example—who might have spoken out against the Lincoln Administration or the Lincoln

Administration's policies. They are using the power of the U.S. Army to suppress speech. They used the Army to arrest civilians. Many civilians were arrested by the Army and thrown into military prisons and so on, and held in those military prisons without charge. This is the essence of the concept of the privilege of habeas corpus. Under habeas corpus one is supposed to learn what the charges are against you. Lincoln was very concerned that the Southern rebellion would win and he wanted to make sure that the Union effort succeeded. So he did not hesitate to use those kinds of tools at his disposal.

Q. What role did Governor Morton of Indiana play, at this time?

A. Lincoln was using the powers of the federal government at his disposal, including the fact that the U.S. Army started developing a spy apparatus to keep tabs on people in the Midwestern states and elsewhere to find out where people were opposing the government and obstructing government efforts. Oliver P. Morton, as governor of Indiana, was strongly in favor of the Union effort. He was probably the most important Northern governor in supporting the war effort in his ideas, his energy, and his policies. He greatly influenced the war effort of the North. Very early on, he had evidence presented to him showing that there were groups in Indiana and in neighboring states who were opposing the war effort and doing so surreptitiously and doing so illegally. And he wanted to combat them. He didn't have the power. Morton didn't have at his disposal the tools that the Lincoln Administration had. Didn't have an army, didn't have law enforcement officials that could combat secret conspiracy. So, he had to rely on the Army and rely on

civilian federal law enforcement officials to try to combat conspiracy in Indiana and the Midwest. And he became a very adamant voice for doing something and convincing the Lincoln Administration to act decisively in the Midwest.

In the summer of 1864 Lincoln wasn't paying much attention to the conditions prevailing in the Midwest. Lincoln, for the most part, dismissed the idea that there was widespread opposition and secret conspiracies in the Midwest. Morton, on the other hand, and others governors in the Midwest, had the evidence and were convinced by that evidence that there were secret conspiracies in their states and they needed to combat it, and they needed the power of the federal government to work with them to combat and arrest these conspirators. They had to convince the Lincoln Administration to act. Finally, they were able, in August 1864, to convince Lincoln that they had to act decisively against the conspirators. What they wanted to do, the governors and the Army officers in the Midwest, was to arrest some of the leaders of these Midwestern conspiracies. They wanted then to use military trials to try them. And, finally, they got support from the Lincoln Administration to do this. Lincoln's war department gave the go-ahead to military commanders in the Midwest to use military commissions to try conspirators who would be arrested and to try them for conspiracy against the federal government.

Q. How did the military respond to Milligan?

A. In early October of 1864, the Army sent squads of troops around Indiana and arrested several of the leading conspirators, one of whom was Lambdin P. Milligan. He was brought by troops from Huntington

to Indianapolis and thrown into a military prison in Indianapolis. And then he and the other new arrestees were put on trial for conspiracy against the federal government by this military commission. The military commission trial continued through the fall of 1864, through the state elections of October of 1864, and through the presidential election of November 1864. In essence, the military commission trial in Indianapolis was a show trial. Its purpose was to show to the voting public that there were conspirators in the North. These individuals, including Milligan, for the most part, were convicted of conspiracy against the federal government and they were sentenced, most of them, to death.

Q. What was the evidence against Milligan?

The evidence against Milligan during the military commission trial came mostly from testimony of informers and Army spies, people who had volunteered information to the Army about what was going on in Huntington County and Northeastern Indiana and Milligan's role in that. There was for instance, a soldier who had posed as a deserter, and so he went back to Huntington County and the neighboring county and said "I need help, will you help me?" and they said "Sure." That way he was able to get on the inside of the conspiracy and get information and he reported that Milligan was the leader of the conspiracy in that part of Indiana. Then there was a Markel, Indiana physician who became aware of the secret organization and he volunteered information to the military commanders in Indiana. And they put him on the payroll and he supplied

information about the secret conspiracy in that part of Indiana, and specifically about Milligan. And he testified in the military commission trial in Indianapolis in the fall.

Q. One final question: What happened to Milligan after the Supreme Court decision?

Milligan was released from prison in April 1866 and he was a bitter man. Two years later he filed in local Huntington court, a civil suit against everyone who had anything to do with the military trial. There were about 25 people that he named in the suits. And this was sent to the federal court in Indianapolis. Milligan was represented by former U.S. Senator Thomas A. Hendrix. He asked for \$500,000 in damages. The Army officers, and other persons, were represented by several lawyers, led by Benjamin Harrison, later to become U.S. President. Milligan proved that he had been tried in the wrong court. But the defendants proved the existence of a conspiracy and that Indiana was a war zone during the Civil War and that these conspirators, including Milligan, acted against the federal government. Milligan ended up receiving damages amounting to five dollars.

Another thing. Back in 1866, after Milligan had been released from prison after *Ex parte Milligan* decision, the U.S. attorney in Indiana had the option to file a federal civil case or criminal case against him in a federal court, but he opted not to do it. I think the reason for that is because they didn't want to go through this whole process in 1866 again. The war was over and they wanted that to end.

Ex parte Milligan

Background*

In a letter written to Albert Hodges in 1864, President Lincoln indicated that, for him, the preservation of the Union was far more important than maintaining the principles of the U.S. Constitution. Lincoln wrote, "I felt that measures, otherwise unconstitutional, might become lawful, by becoming indispensable [crucial] to the preservation of the Constitution, through the preservation of the nation."

Early in the Civil War, Lincoln had placed some sections of the country under military rule and replaced civilian courts with military courts to try individuals accused of rebellion. He also suspended the writ of habeas corpus in such situations. A writ of habeas corpus orders an official who has a person in custody to bring that prisoner to court and explain why he is detaining the person. This basic civil liberty prevents arbitrary arrest and imprisonment.

Article 1, Section 9, of the Constitution says, "The privilege of the writ of habeas corpus shall not be suspended, unless when in cases of rebellion or invasion the public safety may require it." Lincoln believed that his order, later confirmed by Congress, to suspend the writ of habeas corpus was indispensable to the preservation of the Union.

In 1864 the Civil War still raged in parts of the country. In that year, the general in command of the military district of Indiana, Alvin P. Hovey, arrested Lambdin P. Milligan. Federal agents alleged that they

had evidence of a conspiracy by Milligan and others to release and arm rebel prisoners of war in Indiana, Illinois, and Ohio. The released prisoners would create terror and march against Union troops in Missouri and Kentucky, where Confederate forces would be ready to assist them.

The army brought Milligan before a special military court in Indianapolis instead of the regular civil courts that were still operating in the state. The military court convicted Milligan of conspiracy against the U.S. government, affording aid and comfort to rebels against authority of the United States, inciting insurrection, disloyal practices, and violation of the law of war. The military court sentenced him to death. Lincoln delayed his execution. After Lincoln's assassination, the new president, Andrew Johnson, commuted Milligan's sentence to life imprisonment.

Milligan applied to a civilian court in Indiana for a writ of habeas corpus. He claimed that his conviction was unconstitutional and asked for his right to a trial by jury in a civilian court. The federal circuit court in Indiana could not come to any conclusions. In 1866, a year after the Civil War ended, the issue came before the Supreme Court. Few of the government's actions were examined by the courts during the war. Once the Union had achieved victory, however, the Supreme Court proved willing to hear some cases arising out of the conflict. The Milligan case was one of them.

The issue before the Supreme Court did not involve the question of Milligan's guilt or innocence. Rather, it was the issue of

*Based on John J. Patrick, "Ex parte Milligan," in *The Supreme Court of the United States: A Student Companion*, New York: Oxford University Press, 2001, pages 124–125

whether the government had the power, in an area free from invasion or rebellion, and not an area of military operations—an area where the civil courts were in full operation—to suspend the constitutional protections of a citizen and consign him to a military commission for arrest, trial, and sentence.

When the Latin phrase *Ex parte* is used in the title of a court case, it means that the action was taken on behalf of the person named in the title of the case. *Ex parte Milligan* was the legal action taken by the U.S. Supreme Court on behalf of Lambdin P. Milligan by his attorney.

*Ex parte Milligan***

4 Wallace (71 U.S.) 2 (1866)

The following is the Supreme Court's opinion (decision) in *Ex parte Milligan*, as delivered by Justice Davis.

- 1 On the 10th day of May, 1865, Lambden P. Milligan presented a petition to the Circuit Court of the United States for the District of Indiana, to be discharged from an alleged unlawful imprisonment.
- 2 Milligan insists that said military commission had no jurisdiction to try him upon the charges preferred, or upon any charges whatever; because he was a citizen of the United States and the State of Indiana, and had not been, since the commencement of the late Rebellion, a resident of any of the States whose citizens were arrayed against the government, and that the right of trial by jury was guaranteed to him by the Constitution of the United States.
- 3 The importance of the main question presented by this record cannot be overstated; for it involves the very framework of the government and the fundamental principles of American liberty.
- 4 During the late wicked Rebellion, the temper of the times did not allow that calmness in deliberation and discussion so necessary to a correct conclusion of a purely judicial question. Then, considerations of safety were mingled with the exercise of power; and feelings and interests prevailed which are happily terminated. Now that the public safety is assured, this question, as well as all others, can be discussed and decided without passion or the admixture of any element not required to form a legal judgment. We approach the investigation of this case, fully sensible of the magnitude of the inquiry and the necessity of full and cautious deliberation.
- 5 The controlling question in the case is this: Upon the facts stated in Milligan's petition, and the exhibits filed, had the military commission mentioned in it jurisdiction, legally, to try and sentence him? Milligan, not a resident of one of the rebellious states, or a prisoner of war, but a citizen of Indiana for twenty years past and never in the military or naval service, is, while at his home, arrested by the military power of the United States, imprisoned, and, on certain criminal charges preferred against him, tried, convicted, and sentenced to be hanged by a military commission, organized under the direction of the military commander of the military district of Indiana. Had this tribunal the legal power and authority to try and punish this man?
- 6 No graver question was ever considered by this court, nor one which more nearly concerns the rights of the whole people; for it is the birthright of every American citizen when charged with crime, to be tried and punished according to law. The power of punishment is, alone through the means which the laws have provided for that purpose, and if they are ineffectual, there is an immunity

**Basic Readings in U.S. Democracy at <http://usinfo.state.gov/usa/infousa/facts/democrac/26.htm>.

from punishment, no matter how great an offender the individual may be, or how much his crimes may have shocked the sense of justice of the country, or endangered its safety. By the protection of the law human rights are secured; withdraw that protection, and they are at the mercy of wicked rulers, or the clamor of an excited people. If there was law to justify this military trial, it is not our province to interfere; if there was not, it is our duty to declare the nullity of the whole proceedings. The decision of this question does not depend on argument or judicial precedents, numerous and highly illustrative as they are. These precedents inform us of the extent of the struggle to preserve liberty and to relieve those in civil life from military trials. The founders of our government were familiar with the history of that struggle; and secured in a written constitution every right which the people had wrested from power during a contest of ages. By that Constitution and the laws authorized by it this question must be determined. The provisions of that instrument on the administration of criminal justice are too plain and direct, to leave room for misconstruction or doubt of their true meaning. Those applicable to this case are found in that clause of the original Constitution which says, "That the trial of all crimes, except in case of impeachment, shall be by jury"; and in the fourth, fifth, and sixth articles of the amendments.

- 7 Have any of the rights guaranteed by the Constitution been violated in the case of Milligan? And if so, what are they?
- 8 Every trial involves the exercise of judicial power; and from what source

did the military commission that tried him derive their authority? Certainly no part of the judicial power of the country was conferred on them; because the Constitution expressly vests it "in one supreme court and such inferior courts as the Congress may from time to time ordain and establish," and it is not pretended that the commission was a court ordained and established by Congress. They cannot justify on the mandate of the President; because he is controlled by law, and has his appropriate sphere of duty, which is to execute, not to make, the laws; and there is "no unwritten criminal code to which resort can be had as a source of jurisdiction."

- 9 But it is said that the jurisdiction is complete under the "laws and usages of war." It can serve no useful purpose to inquire what those laws and usages are, whence they originated, where found, and on whom they operate; they can never be applied to citizens in states which have upheld the authority of the government, and where the courts are open and their process unobstructed. This court has judicial knowledge that in Indiana the Federal authority was always unopposed, and its courts always open to hear criminal accusations and redress grievances; and no usage of war could sanction a military trial there for any offence whatever of a citizen in civil life, in nowise [no way] connected with the military service. Congress could grant no such power; and to the honor of our national legislature be it said, it has never been provoked by the state of the country even to attempt its exercise. One of the plainest constitutional provisions

was, therefore, infringed when Milligan was tried by a court not ordained and established by Congress, and not composed of judges appointed during good behavior.

- 10** It is claimed that martial law covers with its broad mantle the proceedings of this military commission. The proposition is this: that in a time of war the commander of an armed force (if in his opinion the exigencies of the country demand it, and of which he is to judge), has the power, within the lines of his military district, to suspend all civil rights and their remedies, and subject citizens as well as soldiers to the rule of his will; and in the exercise of his lawful authority cannot be restrained, except by his superior officer or the President of the United States
- 11** If this position is sound to the extent claimed, then when war exists, foreign or domestic, and the country is subdivided into military departments for mere convenience, the commander of one of them can, if he chooses, within his limits, on the plea of necessity, with the approval of the Executive, substitute military force for and to the exclusion of the laws, and punish all persons, as he thinks right and proper, without fixed or certain rules
- 12** The statement of this proposition shows its importance; for, if true, republican government is a failure, and there is an end of liberty regulated by law. Martial law, established on such a basis, destroys every guarantee of the Constitution, and effectually renders the “military independent of and superior to the civil power”—the attempt to do which by the King of Great Britain was deemed

by our fathers such an offence, that they assigned it to the world as one of the causes which impelled them to declare their independence. Civil liberty and this kind of martial law cannot endure together; the antagonism is irreconcilable; and, in the conflict, one or the other must perish.

- 13** This nation, as experience has proved, cannot always remain at peace, and has no right to expect that it will always have wise and humane rulers, sincerely attached to the principles of the Constitution. Wicked men, ambitious of power, with hatred of liberty and contempt of law, may fill the place once occupied by Washington and Lincoln; and if this right is conceded, and the calamities of war again befall us, the dangers to human liberty are frightful to contemplate. If our fathers had failed to provide for just such a contingency, they would have been false to the trust reposed in them. They knew—the history of the world told them—the nation they were founding, be its existence short or long, would be involved in war; how often or how long continued, human foresight could not tell; and that unlimited power, wherever lodged at such a time, was especially hazardous to freemen. For this, and other equally weighty reasons, they secured the inheritance they had fought to maintain, by incorporating in a written constitution the safeguards which time had proved were essential to its preservation. Not one of these safeguards can the President, or Congress, or the Judiciary disturb, except the one concerning the writ of habeas corpus.

14 It is essential to the safety of every government that, in a great crisis, like the one we have just passed through, there should be a power somewhere of suspending the writ of habeas corpus. In every war, there are men of previously good character, wicked enough to counsel their fellow-citizens to resist the measures deemed necessary by a good government to sustain its just authority and overthrow its enemies; and their influence may lead to dangerous combinations. In the emergency of the times, an immediate public investigation according to law may not be possible; and yet, the peril to the country may be too imminent to suffer such persons to go at large. Unquestionably, there is then an exigency which demands that the government, if it should see fit in the exercise of a proper discretion to make arrests, should not be required to produce the persons arrested in answer to a writ of habeas corpus. The Constitution goes no further. It does not say after a writ of habeas corpus is denied a citizen, that he shall be tried otherwise than by the course of the common law; if it had intended this result, it was easy by the use of direct words to have accomplished it. The illustrious men who framed that instrument were guarding the foundations of civil liberty against the abuses of unlimited power; they were full of wisdom, and the lessons of history informed them that a trial by an established court, assisted by an impartial jury, was the only sure way of protecting the citizen against oppression and wrong. Knowing this, they limited the suspension to one great right, and left the rest to remain forever inviolable. But,

it is insisted that the safety of the country in time of war demands that this broad claim for martial law shall be sustained. If this were true, it could be well said that a country, preserved at the sacrifice of all the cardinal principles of liberty, is not worth the cost of preservation. Happily, it is not so.

15 It will be borne in mind that this is not a question of the power to proclaim martial law, when war exists in a community and the courts and civil authorities are overthrown. Nor is it a question what rule a military commander, at the head of his army, can impose on states in rebellion to cripple their resources and quell the insurrection. The jurisdiction claimed is much more extensive. The necessities of the service, during the late Rebellion, required that the loyal states should be placed within the limits of certain military districts and commanders appointed in them; and, it is urged, that this, in a military sense, constituted them the theatre of military operations; and, as in this case, Indiana had been and was again threatened with invasion by the enemy, the occasion was furnished to establish martial law. The conclusion does not follow from the premises. If armies were collected in Indiana, they were to be employed in another locality, where the laws were obstructed and the national authority disputed. On her soil there was no hostile foot; if once invaded, that invasion was at an end, and with it all pretext for martial law. Martial law cannot arise from a threatened invasion. The necessity must be actual and present; the invasion real,

such as effectually closes the courts and deposes the civil administration.

16 It is difficult to see how the safety of the country required martial law in Indiana. If any of her citizens were plotting treason, the power of arrest could secure them, until the government was prepared for their trial, when the courts were open and ready to try them. It was as easy to protect witnesses before a civil as a military tribunal; and as there could be no wish to convict, except on sufficient legal evidence, surely an ordained and established court was better able to judge of this than a military tribunal composed of gentlemen not trained to the profession of the law.

17 It follows, from what has been said on this subject, that there are occasions when martial rule can be properly applied. If, in foreign invasion or civil war, the courts are actually closed, and it is impossible to administer criminal justice according to law, then, on the theatre of active military operations, where war really prevails, there is a necessity to furnish a substitute for the civil authority, thus overthrown, to preserve the safety of the army and society; and as no power is left but the military, it is allowed to govern by martial rule until the laws can have their free course. As necessity creates the rule, so it limits its duration; for, if this government is continued after the courts are reinstated, it is a gross usurpation of power. Martial rule can never exist where the courts are open, and in the proper and unobstructed exercise of their jurisdiction. It is also confined to the locality of actual war.

Primary Source Questions

1. What is the year of the *Ex parte Milligan* opinion?
2. Who delivered the court opinion?
3. What audience was the court opinion directed toward?
4. Why was the court opinion written?
5. List three things the opinion says that you think are important.
6. List two items mentioned in the opinion pertaining to the family, the state, the nation, or the world.
7. List three things that the opinion tells you about life during the time period in which it was written.
8. What events were happening in the nation at the time this court opinion was written?
9. Does the information in opinion support or contradict information that you have read about the time period or subject? Explain.
10. What questions were left unanswered? Where might you look to answer these questions?

Analysis Questions

1. (Paragraph 2) Why did Milligan think that the military had no right to try his case?
2. (Paragraphs 5 and 6) What was the central question asked in this case? Why did the court consider this to be such an important question?
3. (Paragraphs 7 to 10) According to the court, what rights guaranteed by the Constitution were violated in the case of Milligan? What evidence is offered to support the court's position?
4. (Paragraphs 11 and 12) Why did the court feel that civil liberty and the kind of martial law established by the federal government could not exist together?
5. (Paragraphs 13 and 14) Did the Supreme Court question denying Milligan a writ of habeas corpus? Why or why not? What did the court object to in the procedure used to try Milligan's case? Why did the court object?
6. (Paragraphs 15 to 17) According to the court, under what conditions would imposing martial (military) law be appropriate? Did those conditions exist in Indiana when Milligan was arrested?

Possible Interview Questions

1. Where did you live as a child, and what was your hometown like back then? Can you describe your home for me? What do you miss most about it?
2. Is there a story that was told to you as a child that you would like to tell me? What was it?
3. Can you tell me what life was like when you were very young and growing up? What are some of your earliest memories?
4. Who influenced your life when you were young, and in what way?
5. Have you ever served on a jury? If so, how would you describe your experience serving on the jury? What advice would you give me, if I get called to serve on a jury?
6. If you were to give general advice to me, what would it be? What have you learned from life? What has been the biggest surprise?

Questions in part, from Bill Zimmerman, *How to Tape Instant Oral Biographies* (Cincinnati: Betterway Books, 1999).

Labor Unions in the Early 20th Century

Introduction

The National Association of Manufacturers, a sister organization of the National Erectors Association (featured in *And Justice for All: Indiana's Federal Courts*), funded a large campaign to distribute pamphlets reflecting the ideas of anti-union, open shop supporters. Millions of copies were distributed to colleges, churches, and libraries. These anti-union sentiments were picked up by the media. It was in this environment that the Iron Workers and other unions operated in the early 20th century.*

Appearing below are excerpts from two presentations, expressing very different viewpoints on labor unions, given in August 1903 at the Chautauqua Conference on the Mob Spirit, in Chautauqua, New York. The first was given by Daniel M. Parry, of Indianapolis, president of the National Association of Manufacturers and Employers. This presentation was the basis for one of the anti-union pamphlets mentioned above. The second presentation was given by Thomas I. Kidd, a vice-president of the American Federation of Labor, and secretary of the International Woodworkers Union.

Directions

1. Begin by reading the two presentations and sharing with your partner what major ideas were expressed in the two presentations.
2. Using the Venn Diagram, label one of the circles Anti-Union Sentiments and the other Pro-Labor Sentiments.
3. Identify anti-labor sentiments that were included in the “Mob Spirit of Organized Labor” presentation. Record these statements in the Anti-Labor circle of the Venn Diagram. Identify pro-labor sentiments that were included in the “Labor Unions and the Mob Spirit” presentation. Record these statements in the Pro-Labor circle of the Venn Diagram. Finally, identify ways in which sentiments expressed in the two presentations were similar. Record this information in the intersecting section of the Venn Diagram.
4. When you complete the Venn Diagram, be prepared to share your work with the class.

*Adapted from a presentation by Doria Lynch.

Mob Spirit in Organized Labor

D.M. Parry, of Indianapolis, President,
National Association of Manufacturers and
Employers

Organized labor might be aptly termed a standing mob to distinguish it from the mob that is a thing of a night. It is fairly well organized, with an elaborate system of government. But it would be a blessing if it were not so well organized, for, as it is, it stands ready at all times to commit those overt acts of outrage and destruction which are the outward sign of the mob spirit. Under its present leadership, it is a great revolutionary force seeking to impress its will upon the country, threatening with starvation the toilers who do not join its ranks, frightening public men by its spectral vote, defying the authorities and coercing newspapers and business men with visions of ruinous boycotts.

Did you ever attend a meeting of a labor union? If you have you will appreciate the force of what I have to say. There you will find the salaried agitator in his element, preaching the gospel of hate, of destruction, of law defiance, planning reprisals upon men held in high esteem by the community, denouncing town officials and the courts and working their dupes up to the pitch of seeking private vengeance on the employers who balk at their nagging demands. This is the place where it is supposed that "brotherly love" is taught, but in reality, it is the breeding pen for anarchists. It is here that the blessed gospel is proclaimed that the man who hires another man is a robber and that he should be made to disgorge, not by due process of law but by private means. It is here that the men are taught to work as little as possible for their pay; that

the less one man does, the more there is for another man to do; that wages do not depend upon what a man does in return for them but upon the power of the union to force the employer to pay what it demands. It is here that the idea is inculcated that the police and the courts in enforcing the rights of free labor and free contract are but doing the bidding of the capitalistic class; that the militia is another hated instrument of the forces arrayed against the working man, and that no man who joins it can be considered in any other light than that of an enemy. It is here also that the hatred for the scab is inspired, that poor contemptible individual who dares to assert that he is a free agent, that he is a self-determining entity, that he is not an automaton to be bullyragged by agitators and bled for their support. Here is where the militant spirit is fostered and where the love for excitement is fed by the business agent, who must show that he is earning his pay. It is not wonder that when the men are sufficiently imbued with the notion that they are engaged in a might struggle with the "tyrant capital" they throw up their jobs and go on the war path, leaving the women and children either to suffer or perhaps to eke out an existence for their manly husbands and themselves over the wash tub.

Do the workmen of this country imagine that they can escape their share of the losses arising from such wholesale idleness? The man who has something to fall back upon is going to spend his capital rather than suffer great inconvenience but the fellow who has nothing but his daily wage is in an altogether different situation. The anthracite strike cost this country 25,000,000 tons of

hard coal worth \$5 a ton, or \$125,000,000. Did the poor people escape paying their share of this loss? They did not. The natural result of a shortage in the supply is to force a decrease in the demand; and this is done by advancing prices. Finally, in this process a price is reached at which the demand equals the supply. The price of both hard and soft coal due to the strike compelled thousands to skimp their fuel supply, at the same time compelling them to pay double prices for the coal they were successful in getting. Every strike has to some degree the same result, and the people, which includes the working classes, must foot the bill of losses by putting up with less of the necessities and comforts of life than they might have compelled to do. And yet workmen continue to invest millions of dollars in salaries for

trouble makers and industry disturbers. They are making a mighty poor investment.

To sum up, organized labor as it is conducted today is, to my mind, a retrogressive and mob-inspiring force. It is continually seeking to establish its power by making war on industry in flagrant disregard for law. The economic ideas that it teaches are fallacious and pernicious, appealing to the ignorant and indolent, arousing class hatred and tending to anarchy. It should receive the earnest condemnation of all who appreciate the institutions and traditions of the country, to the end that a more wholesome tone may be engendered in the public mind, thus minimizing the possibility of mob demonstrations and the defiance of the law by citizen organizations.

Labor Unions and the Mob Spirit

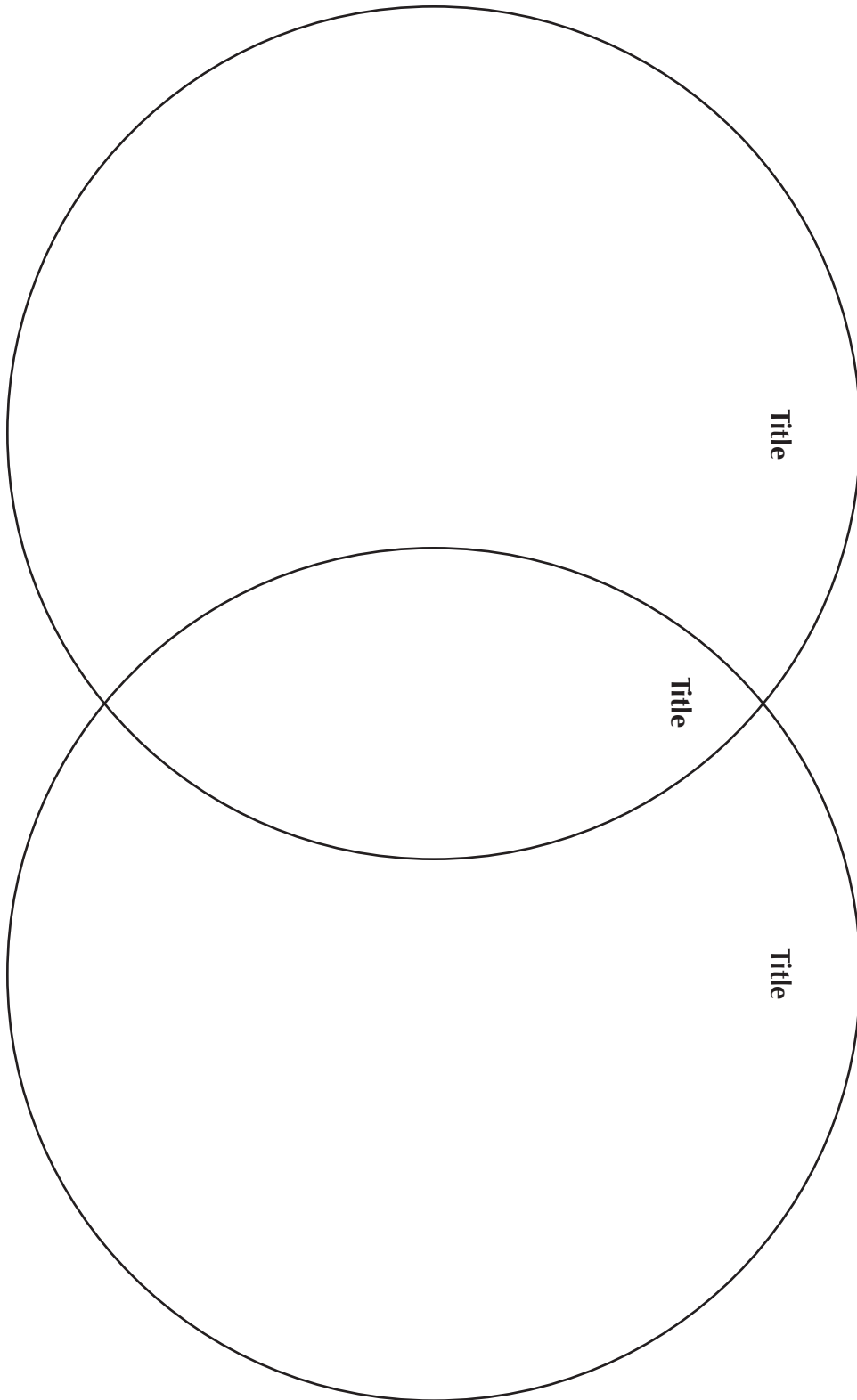
Thomas I. Kidd, of Chicago, a Vice-President of the American Federation of Labor, Secretary, International Woodworker's Union

We have been accused, unjustly it is true, but we have been accused of trying to conduct the business of our employers. We are willing that he should have the conduct of his business, and we shall claim the same right to conduct our business in our own way. That way does not lead through the path of violence, but through reason and toleration. We have a right to have a word to say as to what conditions we shall work under, and all we ask is that our employers recognize that right. We refuse, and we shall continue to refuse, to let our employer be the sole judge of the conditions under which we toil. Waive that right and we would cease to be free men, and become slaves. If because we insist on this right, we do not conduct our unions as they ought to be conducted in the eyes of our opponents, then we must open their eyes to a broader

view of the conditions, for we are not ready to convert our labor-unions into social organizations purely.

Who hire the Pinkertons (private police) or others to go into our meetings during strikes to incite violence so as to create an excuse for calling upon the authorities to break up the strikes? These selfsame men who are denouncing the unions. Who hired the coal and iron police during the anthracite coal strike – the comparatively few men who were guilty of more degradations than the 150,000 striking workers? The wealthy mine owners the presidents of the coal carrying roads. Who were guilty of whitecapping the miners of Idaho Springs, Colo.? The leading citizens of the place. Who instigated the recent riots at Danville, Ill., and Evansville, Ind.? Certainly not organized labor. Who are guilty of robbing and lynching in the Southern and sometimes in the Northern states? Usually those opposed to unionism.

Venn Diagram



Topic

History of School Policies to 1949

Introduction

In his 1971 opinion on segregation in Indianapolis, Judge S. Hugh Dillin provided a detailed history of segregated schools in Indiana, including Indianapolis. A portion of his historical sketch of segregation follows.

Excerpts from the 1971 Opinion

In early Indiana.....the Negro lacked many of the rights which are the ordinary attributes of citizenship. The plain fact is that, although entitled to certain rights under Indiana law, such as the right to own property and the right to personal liberty, Negroes were not considered to be citizens of the State until adoption of the Fourteenth Amendment to the Constitution of the United States (1868). For this reason, many of the rights conferred onto citizens by successive Indiana Constitutions were construed as not to applying to Negroes.

Thus, in an early case, it was held that Negro children could not attend school with white children over the protest of a white parent, even if they paid their own tuition. A statute in force in 1861 barred Negroes, mulattoes, and the children of mulattoes from admission to the common schools. After the adoption of the Fourteenth Amendment, the General Assembly, in 1869, enacted a law providing for the first time, for the education of Negro children, but providing also for them to be organized in separate schools.

The case of *Cory et al. v. Carter* (1874) was commenced by Carter, a Negro parent of school aged children, against the school officials of Lawrence Township, Marion County, to compel them to accept his children as pupils in the "white" district school, such officials having failed to

provide any school in that or any adjoining district near enough for his children to attend, whereby they were denied the right to attend any school at all. He secured an order of mandate from the Marion Superior Court, but the Supreme Court reversed, holding that under the 1869 Act Negro children were not entitled to admission in common schools provided for the education of white students. This holding was reaffirmed in subsequent cases.

In about 1868, Indianapolis erected a new school house and anticipating the 1869 legislation, assigned the old building on Market Street for the education of Negro children. A separate elementary school was opened there in the fall of 1869. Thus, at the very inception of public education for the Indianapolis Negro child, he was segregated by virtue of State law. As will be demonstrated later, *de jure* segregation in the elementary schools continued virtually without change until this action was filed, one hundred years later.

Indianapolis's first high school was Shortridge, followed by Emmerich Manual Training and Arsenal Technical. For more than fifty years no separate high school for Negro students was established, and after 1877 school children of both races were permitted to select the high school of their choice, attending on an integrated basis. However, with impetus provided by the Indianapolis Chamber of Commerce, the School Board on December 22, 1922, adopted a resolution authorizing the construction of a "Colored High School." When such a school, Crispus Attucks, was opened in September, 1927, all Negro high school students were forthwith compelled

to attend it, regardless of their place of residence in the city. In 1935, Chapter 16 of the Acts of 1860 was further amended to require the Board to provide transportation for Negro students required to travel more than a certain distance by reason of its segregation policies. Thus, was instituted the policy of tax-paid transportation of school children (busing).

Another Act of the 1935 General Assembly is instructive. A law enacted in 1907 had directed township trustees to abandon all schools under their charge at which the average daily attendance had been twelve or fewer pupils. The 1935 act added the following proviso: "Provided, further that nothing in this act, or in the act to which it is amendatory, shall authorize the discontinuance of any school exclusively for colored pupils where such school is the only school for colored pupils in such school corporation and any such school heretofore

discontinued by the operation of such act shall be re-established." (In sum, trustees were ordered by the State to furnish a separate school building and teacher for the instruction of, for example, one Negro child attending primary school, rather than permit that child to attend a white school.)

In 1947, two bills were introduced in the General Assembly, each of which had as its purpose the elimination of segregation based on race, color, creed, etc., in the public-school system. In due time, a public hearing was held on one of the bills by the House Committee on Education at which time the then Superintendent of Schools of defendant Board (IPS), pursuant to its authorization, appeared and spoke in opposition. Neither bill passed. However, in 1949, an Act was passed which required desegregation, on a phased basis. Thus ended, at least for a time, the official State policy of segregation.

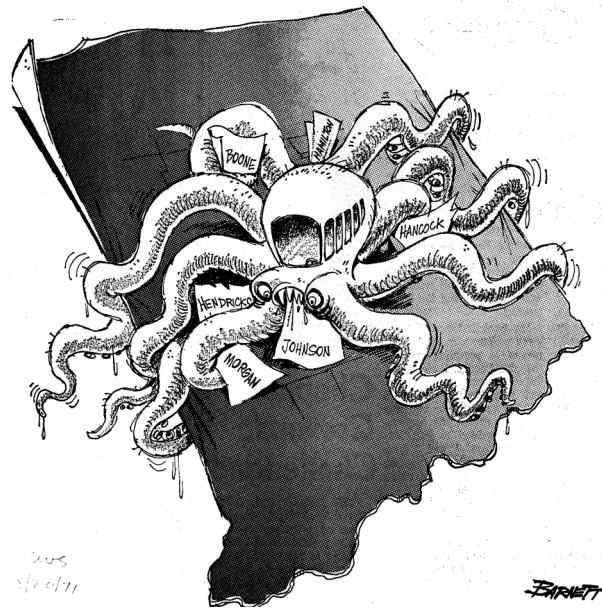
Essay Rubric

Directions: Your essay will be graded based on this rubric. Consequently, use this rubric as a guide when writing your essay and check it again before you submit your essay.

Traits	4	3	2	1
Focus & Details	There is one clear, well-focused topic. Main ideas are clear and are well supported by detailed and accurate information.	There is one clear, well-focused topic. Main ideas are clear but are not well supported by detailed information.	There is one topic. Main ideas are somewhat clear.	The topic and main ideas are not clear.
Organization	The introduction is inviting, states the main topic, and provides an overview of the paper. Information is relevant and presented in a logical order. The conclusion is strong.	The introduction states the main topic and provides an overview of the paper. A conclusion is included.	The introduction states the main topic. A conclusion is included.	There is no clear introduction, structure, or conclusion.
Voice	The author's purpose of writing is very clear, and there is strong evidence of attention to audience. The author's extensive knowledge and/or experience with the topic is/are evident.	The author's purpose of writing is somewhat clear, and there is some evidence of attention to audience. The author's knowledge and/or experience with the topic is/are evident.	The author's purpose of writing is somewhat clear, and there is evidence of attention to audience. The author's knowledge and/or experience with the topic is/are limited.	The author's purpose of writing is unclear.
Word Choice	The author uses vivid words and phrases. The choice and placement of words seems accurate, natural, and not forced.	The author uses vivid words and phrases. The choice and placement of words is inaccurate at times and/or seems overdone.	The author uses words that communicate clearly, but the writing lacks variety.	The writer uses a limited vocabulary. Jargon or clichés may be present and detract from the meaning.
Sentence Structure, Grammar, Mechanics, & Spelling	All sentences are well constructed and have varied structure and length. The author makes no errors in grammar, mechanics, and/or spelling.	Most sentences are well constructed and have varied structure and length. The author makes a few errors in grammar, mechanics, and/or spelling, but they do not interfere with understanding.	Most sentences are well constructed, but they have a similar structure and/or length. The author makes several errors in grammar, mechanics, and/or spelling that interfere with understanding.	Sentences sound awkward, are distractingly repetitive, or are difficult to understand. The author makes numerous errors in grammar, mechanics, and/or spelling that interfere with understanding.
Reviewer's Comments				

Analyzing Political Cartoons

Octobus



1. An **analogy** is a comparison between two unlike things that share some common characteristics. By comparing a complex issue or situation with a more familiar one, cartoonists can help their readers see it in a different way. What analogy does the cartoonist use in this cartoon?
2. Why do you think the cartoonist used this analogy?
3. What do the names "Hendrick, Morgan, Johnson, etc. refer to?"
4. When, during the ongoing trial, do you think this cartoon appeared in local newspapers? Why?

It's a Drag



1. Sometimes cartoonists overdo, or **exaggerate**, the physical characteristics of people or things in order to make a point. How does the cartoonist use exaggeration in this cartoon?
2. What point do you think the cartoonist is making here?
3. How does the point the cartoonist is making fit into what you have learned about desegregation at this time?
4. How are the spectators responding to what is happening in the cartoon?

Slow School Zone



1. Cartoonists often **label** objects or people to make it clear exactly what they stand for. What labels does the cartoonist use in this cartoon that make it clear what and who is involved?
2. What do you think the man tied to a pole with a bus in his mouth is intended to represent?
3. What is the cartoonist saying about how Judge Dillin has presented busing to the people of Indianapolis?
4. How would you react to this cartoon if you were living in Indianapolis in the 1970s? Why?

Reactions to School Desegregation and Busing

by
Tanya Hardy Brown

Players/Profiles:

Judge S. Hugh Dillin

Bailiff

Mrs. Simpson—Mrs. Simpson doesn't have children but she is a taxpayer and, as such, she is very much against desegregation because it's likely to cost too much, resulting in increased property taxes. She's closed-minded to racial change and believes 'separate but equal' works. Listen for her to use such hot-button phrases as "you people" and "those kids".

Mr. Brown—Mr. and Mrs. Brown are honest, hardworking parents; Mr. Brown has a high school education; Mrs. Brown is a teacher; they have more education than their parents and grandparents had. The Browns aren't sure about the advantages desegregation might have but they want their children to do better in life than they're doing.

Mr. Clark—Mr. Clark is the Black Panther militant type. He is outspoken and speaks his mind; he has a "fight the power!" philosophy and he has no interest in allowing his children to be used as guinea pigs and bused to a white school. He sees desegregation and busing as nothing more than a government plot to divide the Black community and prevent them from banning together to further their struggle for civil rights.

Ms. Thomas—Ms. Thomas is a single mother, working two jobs trying to survive; she's afraid of change and afraid of sending her only child to a school so far away from home and subjecting him to the hatred and racial indignities she witnessed in the 1950s and 60s.

Mia Moore—Mia just graduated from 8th grade and is about to transition from middle school to her freshman year in high school and doesn't want to be bused to a school outside of her neighborhood.

Mr. Franklin—Mr. Franklin is a practicing Indianapolis attorney who lives in one of the townships and whose own child attends a township school. He believes that Judge Dillin is only trying to further his own agenda and wants him impeached and removed from the bench.

Mrs. Robinson—Mrs. Robinson is a widow; she threatens to move her children to one of the nearby townships where it is safe and quiet ... and white; her children are all she has and they're afraid of what desegregation will bring, which angers Mrs. Robinson and she will do whatever she can to protect them, including removing them from the IPS school system.

Mr. Johnson—Mr. Johnson and his wife have four children in IPS; they think it's unfair that busing is a one-way proposition; listen for Judge Dillin to address that issue in his order; he regrets that it is cost prohibitive to bus black and white students so unfortunately, it will continue to be a one-way situation for its first several years.

Mrs. Lyons—Mrs. Lyons is the voice of reason; she is an educated, traveled woman but still refers to Blacks as Negroes. She sees desegregation as a good thing and can't understand why so many people are so against it and so resistant to change. She has a "can't we all just get along" attitude.

The Reenactment

Bailiff: All rise! Hear ye, hear ye, hear ye, the United States District Court for the Southern District of Indiana is now in session; the Honorable S. Hugh Dillin presiding.

Judge Dillin: You may be seated. Good morning. We are on the record this morning for the final hearing before judgment is rendered in the case of United States of America v. Board of School Commissioners of the City of Indianapolis on behalf of the Indianapolis Public Schools, et al., Case No. IP-68-C-225.

The purpose of today's hearing is to allow one final opportunity for members of the public to voice their concerns to the Court about desegregation of the public schools. This is an informal hearing. We are not using the benefit of a stenographer or court reporter so you may feel free to express yourselves. But let me caution you that I expect civility and courtesy be shown by all those given the opportunity to speak. Bailiff, please call our first witness.

Bailiff: Yes sir; the Court calls Mrs. Simpson.

Judge Dillin: Good morning, Mrs. Simpson.

Mrs. Simpson: Good morning, Your Honor. Your Honor—I am appalled that this case has gone on this long! This is a total waste of taxpayer money! We've all seen the riots in Detroit and Boston on the news! (*looking at the audience*) What is wrong with you people? Do you all want that to happen here too??!! And what about my taxes?! Ohmylawd! Are you going to order us to pay higher taxes to cover the cost of sending *those* kids to *our* schools? Our taxes are high enough as it is! We carry enough of the burden to educate *their* children! I don't know anything about desegregation; I'd never even heard the word before this case started, but if it causes riots and looting and higher taxes then I don't want any part of it!! Negroes and whites have always been separated, and (*sort of speaking 'confidentially' to the judge*) I think Negroes want it that way; (*now speaking to the audience again*) separate but equal works just fine, so if it isn't broken don't try to fix it!

Judge Dillin: Thank you, Mrs. Simpson; you may step down. Bailiff.

Bailiff: The Court calls Mr. Brown.

Judge Dillin: Good morning, Mr. Brown.

Mr. Brown: Good morning, Judge. Your Honor, my great-grandparents were slaves on a cotton plantation in South Carolina; they were forbidden to learn to read or write. My grandparents were farmers on a small plot of land in Kentucky given to them by the government. My father, he was a Pullman Porter; that is, he waited on passengers in sleeping railroad cars. He didn't have the benefit of a formal education. My mother, she was a domestic worker for a rich white family right here in Indianapolis. My parents worked long, hard hours and had little time to give us children. My father suffered insults and indignities, while my mother prepared meals for her employers' children. They had food that we could never even imagine being available to us. As for me and my wife, I'm an auto worker and she's a teacher. All that to say, my lineage has a lot to do with my position on this subject.

We're not sure we want desegregation but we do want better for our children. We want them to become doctors and lawyers and scientists. The only way they're gonna do that is by getting a good education—that is, the same education that white children get.

However, I do have some reservations, Your Honor. I'm very much afraid our children will be harmed, given the history of blacks and whites. And if we can use the attitudes exhibited by some here today (*looks out at audience*), I truly fear for our children's safety...I truly do.

Judge Dillin: Thank you, Mr. Brown; you may take your seat. Bailiff.

Bailiff: The Court calls Mr. Clark.

Judge Dillin: Good morning, Mr. Clark.

Mr. Clark: Yeah, good mornin', Yur Honor. Yeah, I think the government's in too much of our business already. We don't need nobody tellin' us how to educate our kids; we can do that ourselves. I have two kids; my wife and me, we bought our house 'cause it was close to the school where we wanted our kids to go. Y'all want parents to participate in their kids' activities—so how are we supposed to participate if they're forced to go to a school on the outskirts of town?! Or is that the plan, to keep Black parents from participating and from having a say-so in your white schools?! I don't want my kids to have to face white hatred every day; and I don't wanna havta worry 'bout my kids; when I send 'em to school I expect the school to keep 'em safe; white teachers aren't going to protect my kids! And white teachers aren't going to teach them about their history; white teachers are going to teach them white history! I want them in an environment with other kids like them where they're safe and won't lose their identity, and I want a say in what goes down in their school!

Judge Dillin: Thank you, Mr. Clark; you may take your seat.

*Mr. Clark stands to step down, then he says, pointing toward Mrs. Simpson—*And we're not Negroes anymore lady; we're Blacks!

Judge Dillin: Order! That's enough Mr. Clark; step down please. Bailiff.

(Mr. Clark does an abbreviated Black Power salute.)

Judge Dillin: (*forcefully*) E-nough Mr. Clark; take your seat! Mr. Bailiff, call our next witness.

Bailiff: Yes sir; the Court calls Ms. Thomas.

Judge Dillin: Good morning, Ms. Thomas.

Ms. Thomas: Good morning. Good morning. Sir, I'm just a single mother. I don't make no pretenses but I works two jobs to make sure my child has the best of what I can afford to give him. I listened to this woman talking about riots and that man talking about gov'ment in our business and that man over there talking about doctors and lawyers. Alls I know is that I'm afraid to send my baby to an all-white school; ya see, sir, he's my only child and I wants him to have a good education but I don't know what they'll do to him over there. It's my responsibility, as his mama, to protect him but I cain't protect him from angry parents like

y'all who tell their kids not to play with him or 'don't let him touch ya', or teachers who don't wanna teach him, or other kids who'll call him names and spit on him. I will not subject my child to that, Your Honor!! If I could afford it I'd put him in Catholic school. Ya see, things have always been this way, and they've worked just fine, pretty much, why change it now... *(reflectively)* why change it now?

Judge Dillin: Yes ma'am; thank you; step down please. Mr. Bailiff, if you please.

Bailiff: The Court calls Ms. Mia Moore.

Judge Dillin: Good morning Ms. Moore.

Mia Moore: Good morning, sir.

Judge Dillin: Ms. Moore, for the record, do you mind if I ask how old you are?

Mia Moore: No sir, I'm 15 sir.

Judge Dillin: Very good, thank you. And are your parents here with you today?

Mia Moore: No sir, I took the city bus and came down here on my own; they think I'm in school.

Judge Dillin: *(surprised)* You did? *(Mia nods affirmatively and is pretty proud of herself)*. Okay, then. You have something you'd like for me to know?

Mia Moore: Yes sir. Sir, I don't think it's fair that you're making me go to a school that I don't want to go to. Those kids don't want us there. Those teachers don't want us there. Why do you think it's okay to put a Black kid in a white school only for the sake of integration? You aren't putting any of the white kids in Black schools—that's not fair. I won't get to see my friends anymore; I won't have any friends there and I'll be all alone in some strange school. It'll be dark in the mornings when I'm waiting on the bus and dark in the evenings when I walk home from the bus stop. I play volleyball for my school; will I be able to play volleyball; how will I get home after practice; will my parents be able to come to my games? And honestly sir, I'm scared. As kids we learned about what happened to Ruby Bridges and the Little Rock Nine; will that happen to us too? They had the army to protect them; who will protect us?

Judge Dillin: Ms. Moore, I can't answer all of your questions, like the ones about volleyball, but I want to try to assure you that nothing like what happened in New Orleans or in Arkansas will happen here; you won't need the army to protect you; you won't have any reason to be afraid. Is there anything else you want me to know?

Mia Moore: No sir.

Judge Dillin: Alright then, thank you for talking with me; you may take your seat.

Mia Moore: Yes sir. *(Mia stands, pauses for a moment, then turns back to the Judge and says)* We're trusting you, me and my friends, to keep your word.

Judge Dillin: I know (*and nods in understanding; Mia steps down*). Mr. Bailiff, please call our next witness...and write an excuse for Ms. Moore to take back to school!

Bailiff: Yes sir. The Court calls Mr. Franklin.

Judge Dillin: Good morning Mr. Franklin.

Mr. Franklin: Good morning. As you know, I'm a local attorney here in Indianapolis, but more importantly, I'm a parent, and with all due respect, Your Honor, I think it's disgusting that you would push your own personal agenda on these hapless children!! How dare you be so high and mighty!!! I don't pay high taxes to send my child to some low-class school—I won't allow it!!!! I've done the research!! I know what the laws are!! The citizens of this State will not let you ram busing down our throats!!! (*slams fist on the stand*) We know what you're up to—you're trying to use these kids as stepping stones for your own political career!! Let it be known that I'm calling for your impeachment – your actions are unconstitutional, unlawful and dictatorial—you, sir, are dangerous and must be stopped!! And I will stop at nothing to see to it that you are run out of this town and that you never sit on the bench again!!

Judge Dillin: (*sternly but unrattled*) Mr. Franklin, though you are entitled to your opinion, you are not entitled to disrespect the bench and as a member of the bar I've no doubt you know that! Bailiff, escort Mr. Franklin from this courtroom please. (*Mr. Franklin as he's being removed: to Bailiff: Get your hands off me! To Judge: I'm a taxpayer; I will be heard!!*) The Judge waits until the Bailiff removes Mr. Franklin, then the Judge bangs his gavel to settle the crowd and speaks to the gallery—Let me take this moment to remind everyone that the Court will not tolerate any further impertinence!! This is a highly emotional issue and, as such, your opinion may differ from the Court's, and that's okay, but you may not be disrespectful in expressing your displeasure! Anyone else who displays such an error in judgment will be removed by the Bailiff. Mr. Bailiff, our next witness please.

Bailiff: The Court calls Mrs. Robinson.

Judge Dillin: Good morning, Mrs. Robinson

Mrs. Robinson: Your Honor, has anyone thought about what this will do to the children?! I'm a widow, Your Honor and just like this lady (*waving toward Ms. Thomas*) all I've got is my children!! All these lawyers and politicians and judges—no disrespect Your Honor—and reporters, people protesting up and down the streets downtown, my kids are scared! Have any of you thought about how this will affect them?!! My son doesn't want to go to school; my daughter cried when I told her; they're traumatized Your Honor, traumatized! They don't know what to expect!! They don't want to go to school with *them*, and quite frankly Your Honor, I don't want them going to school with *them*. I moved my kids to the suburbs so we wouldn't have to deal with this mess and now you want to desegregate the township schools too!!! Where do you get off telling us what to do with our kids?!! I'm the one who has to worry about what this will do to my children, not you!! I'm not a rich woman, Your Honor, but I swear...if I've got to work three jobs, I'll yank my kids outta IPS and put 'em in private school!!!

Judge Dillin: Thank you ma'am; you may step down. Bailiff...

Bailiff: The Court calls Mr. Johnson.

Judge Dillin: Good morning Mr. Johnson

Mr. Johnson: Good morning. Throughout this whole mess, I haven't heard anything said—not one word—about busing white kids to Black schools. Why is it that only *our* kids are being bused across town; only *our* kids are being subjected to all of this hatred; will it be like Arkansas in the 50s where our kids were pushed and shoved and called names they'd never even heard before?!? And they were EXPECTED to say nothing and to not defend themselves!!! Why does the government expect *our* kids to pay the price for society's iniquities? Is that fair to them? Are white kids too good to be bused to schools on the Black side of town?!?! If busing is so wonderful, why aren't white kids being bused too?!

Judge Dillin: Thank you sir; you may step down. Bailiff, we have time for one more testimonial.

Bailiff: Yes sir; the Court calls Mrs. Lyons.

Judge Dillin: Good morning, Mrs. Lyons.

Mrs. Lyons: Good morning, your Honor, and thank you for giving me this opportunity to speak today.

Quite frankly, your Honor, I do not understand why this issue is **SO DIFFICULT**.

Why shouldn't Negro children go to the same school as white children? If the schools in the inner city aren't as good and don't offer the same opportunities as the schools in the white neighborhoods, then why shouldn't Negro children attend the white schools?

Why shouldn't Negro children read from the same school books and receive the same level of attention and education as white children? People seem to be forgetting what the civil rights movement has been about—**EQUAL** opportunity, **EQUAL** treatment, liberty and justice **FOR ALL**...not just for the white people...but for **ALL** people.

Your Honor...busing will give **ALL** of our children a better education. It will teach them tolerance and how to appreciate our differences; it will broaden their horizons; and it will give them a better foundation for life in the real world. Isn't that what we all want for our children...**AAALLL** of our children?!?!?!?

(looking at the crowd)—So **WHY** are we so against public school busing?

Judge Dillin: Thank you Mrs. Lyons, you may step down.

Mrs. Lyons: Thank you, Your Honor.

Judge Dillin: And thank you all *(a deep sigh and a brief reflective pause; when he finally speaks, he measures his words and speaks slowly and with deliberation)*. The Court is aware that this is a highly publicized case, with emotions running high on both sides. There were

many issues and facets of issues that were balanced, and weighed, and heavily considered. There are good and bad points and pros and cons for every family that this case has touched. And the dynamics of this case, and the subsequent decision, will have long-reaching ramifications for generations to come (*another sigh*). That said, having heard testimony over the course of this case from expert witnesses, parents, politicians, and non-parent taxpayers, I am now prepared to render my decision. It is the decision of this Court that—

Judge Dillin: “Court is adjourned!”

Bailiff: All rise!! (*Bailiff bangs the gavel; Judge exits*)

