

Title: Gaines v. Canada Mock Trial

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Course: US History

Time Frame: Two 50 minute class periods

Subjects:

Civil Rights, African-American History

Grade Levels:

11, 12

Classroom/Homework Activity to be performed:

In a cooperative learning project, students will participate in a mock trial, arguing the facts and constitutional ramifications of the 1938 Supreme Court case Gaines v. Canada [Univ. of Missouri].

Rationale:

So many students (and educators for that matter) merely traverse the same material over commonly known subjects in US History and the Civil Rights movement may be the best example of this phenomenon. It is my hope to share with students new information that illustrates that the civil rights movement did not merely begin and end with Martin Luther King, Jackie Robinson or Selma, Alabama.

Lesson objectives - the student will:

- Research the background and make constitutional arguments for all participating parties involved in the Supreme Court case
- Evaluate and judge the constitutionality of the arguments presented and create a decision based on constitutional law
- Compare and contrast how the student's conclusion in the court case matches the actual Supreme Court decision

District, state, or national performance and knowledge standards/goals/skills met:

Missouri DESE Social Studies Standards:

1. principles expressed in the documents shaping constitutional democracy in the United States
2. continuity and change in the history of Missouri, the United States and the world
3. principles and processes of governance systems
6. relationships of the individual and groups to institutions and cultural traditions

Kansas Standards

Benchmark 3: The student uses a working knowledge and understanding of individuals, groups, ideas, developments, and turning points in the era of the Cold War (1945-1990).

7.(K) examines the struggle for racial and gender equality and for the extension of civil rights (e.g., Brown vs. Board of Education of Topeka, Little Rock Nine, Martin Luther King, Jr., Montgomery Bus Boycott, Voting Rights Act of

1965, Betty Friedan, NOW, ERA, Title IX).

Benchmark 2: The student understands the shared ideals and diversity of American society and political culture.

1. (K) recognizes that a nation's values are embodied in the Constitution, statutes, and important court cases (e.g., Dred Scott vs. Sanford, Plessy vs. Ferguson, Brown vs. Board of Education of Topeka).

Secondary materials (book, article, video documentary, etc.) needed:

- For a great template on how to conduct mock trials in secondary classrooms, visit the University of Minnesota's law school partnership page at: [Civilly Speaking: Mock Appellate Argument](#) & [Civilly Speaking: SCT Conference](#)
- Background of the Lloyd Gaines' case can be found at: [Charles Houston Essay](#)

Primary materials (book, article, video documentary, etc.) needed:

None Needed

Technology Required:

Internet Access

Full description of activity or assignment:

- Students will read the background narrative of Lloyd Gaines's life and the legal leadup to the circuit court trial in 1936.
- Following the instructions set forth in the [Civilly Speaking](#) manual, divide the class and conduct the mock trial complete with oral arguments, deliberations and the construction of majority and minority opinions
- Students representing both Gaines and the University of Missouri will create individually a written brief explaining what legal arguments they would make before the court
- Students playing the role of Supreme Court justices will individually write their own opinion of the case

Full explanation of the assessment method and/or scoring guide:

- Assessment will be based on each student's written presentation (either the legal brief to the Supreme Court or the majority/dissenting opinion).
- Scoring guide for written element attached in student handout.

Lloyd Gaines Background

In June 1935, the Registrar at the University of Missouri, Silas Woodson Canada, received a request for a catalog from a prospective student living at 1000 Moreau Drive in Jefferson City. S. W. Canada responded as he had to hundreds of similar requests. Within a week, a form letter and a catalog were on their way to Lloyd L. Gaines.

Although neither Canada nor anyone else at the University of Missouri knew it at the time, Lloyd L. Gaines was

black. Born in Mississippi in 1911, Lloyd at age fifteen moved with his family to St. Louis. Gaines proved himself to be a superior student. The tall, rangy, thin-faced youth graduated in three years from Vashon High School as the senior class president and valedictorian in a class of fifty. His entry in an essay competition, "U. S. Inspection of Meat," won first place and earned him a \$250 scholarship. Gaines used the scholarship to study for a year at Stowe Teachers College in St. Louis, then transferred to Lincoln University, Missouri's all-black college, after it awarded him a another scholarship in 1933. At Lincoln as in high school, Gaines combined solid academic performance and an impressive schedule of activities. He joined the Negro social fraternity, attended the American Negro Economic Conference at Wilberforce University as Lincoln's campus representative, and served at president of the 1935 class. He graduated in August 1935 with a major in History and minors in English and Education.

Gaines left Lincoln in the Depression year of 1935 with three impressive recommendations from his college teachers. His Education professor, S. F. Collins, wrote that Gaines "is conscientious, painstaking and is desirous of growing in the teaching field." Cecil Blue of the English Department described Gaines as "an earnest young man who wants to get somewhere." Sherman Savage, Gaines' major supervisor from the History Department, believed "his resourcefulness and ingenuity will make him an excellent teacher." Savage added that "his poise and temperment" should be "an asset in any community where he happens to work." Despite the glowing praise from his professors, Gaines failed to find work as a teacher.

While Lloyd Gaines was looking for work, Charles Houston analyzed the prospects for a successful suit against the University of Missouri based on its policy of segregation. In July, Houston contracted with a black St. Louis attorney, Sidney R. Redmond, to prepare a "preliminary investigation and written report concerning the exclusion of Negroes from the University of Missouri." Houston's memorandum to Redmond requested him to investigate and compare rates of faculty compensation, course offerings, and budgets of the University of Missouri and its all-black counterpart, Lincoln University. Houston had more specific requests as well: "On the visit to Columbia, take camera along and take pictures of the buildings at the University which house departments for which there is no equivalent Negro education in the state." Thinking ahead to the possible lawsuit, Houston asked Redmond to "obtain application for admission blanks." But Houston warned Redmond to be careful: "These must not be obtained under subterfuge, because we want our hands to be absolutely clean. Best way here is to let the prospective student or some of his friends obtain the blank in his or her own way." For his efforts, Redmond received fifty dollars plus expenses.

Within a few weeks of Houston's memo to Redmond, in August 1935, Lloyd Gaines filled out an application for the University of Missouri Law School. At the same time, Gaines wrote to the president of Lincoln University informing him of his plans: "I am applying for admission to the Missouri University School of Law with no other hope than this initial move will ultimately rebound to increase the opportunities for intellectual advancement of the Negro youth." Gaines also requested that the Registrar at Lincoln forward his transcript to the University of Missouri in Columbia. University lawyers later suspected Gaines to be a mere pawn of the NAACP with no serious desire to attend law school—a charge which Gaines and the NAACP publicly denied. It remains a mystery whether Gaines made his application on his own initiative or at the suggestion of the NAACP, although the timing of Houston's memo and the application gives some credence to the University lawyers' charge.

Application forms in 1935 did not ask applicants to identify their race. Only when the University of Missouri received Gaines's transcript from Lincoln did officials realize that Gaines was black. Registrar S. W. Canada sent Gaines a telegram indicating that his application no longer was considered a routine matter: REGARDING YOUR ADMISSION TO LAW SCHOOL PRESIDENT FLORENCE AND MEMBER BOARD LINCOLN UNIVERSITY WILL CONFER THIS AFTERNON IN JEFFERSON CITY ABOUT MATTER SUGGEST YOU COMMUNICATE WITH PRESIDENT FLORENCE REGARDING POSSIBLE ARRANGEMENTS AND FURTHER ADVICE. The same day

that Gaines received the telegram, September 18, 1935, he wrote President Florence of Lincoln University. He asked Florence to let him know, by return mail, "just what are the POSSIBLE ARRANGEMENTS and FURTHER ADVICE." President Florence responded five days later with the advice that Gaines take advantage of the Missouri law that made him eligible for a scholarship to attend law school at a neighboring state school that admitted blacks.

Gaines wrote instead directly to the President Frederick Middlebush of the University of Missouri. "I am a student of limited means but commendable scholastic standing," Gaines wrote. "May I depend upon you to see that I am admitted to Missouri University, where I am sure of getting what I want at a cost that is most reasonable? An immediate reply would be highly appreciated." President Middlebush never replied. Nor did the university formally admit or reject the application of Gaines. It merely sat there on a desk, a pile of one.

Houston initially believed that the Murray decision in Maryland might convince the University of Missouri not to contest Gaines' admission. Houston seemed to be more concerned in early 1936 about making Gaines' entry into the all-white student body as smooth as possible than in forcing his admission through a lawsuit. Houston knew Columbia's history of racism. On July 28, 1923, a mob in Columbia—including University of Missouri students—lynched a black named James Scott. Scott also was a victim of inaction. Although the Governor learned of the impending lynching hours before it occurred, he chose not to call out the militia. With a view to this history, Houston wrote: "It is up to the Association, the citizens of Missouri, and the people of the United States to convince the Governor of Missouri, the President and Board of Curators of the University, and the student body, that regardless of what happened in 1923, there must be no violence when Lloyd Gaines arrives at the School of Law in 1936 or 1937. A broad sympathetic appeal for fair play must be made to the students of the University. Perhaps when students realize that Lloyd Gaines' presence will not interfere with their ordinary routine and when they understand some of the hardships and handicaps which Negro boys and girls have had to face in order to get an education, the spirit of fair play will prevail."

Soon, however, Missouri made it clear that it would not desegregate without a fight. Redmond's report on the suitability of Missouri as a test case described in detail discrimination in higher education in Missouri and recommended that the NAACP take the Gaines case. Houston and a team of black lawyers from Missouri, Tennessee, Maryland, and Washington D. C. examined Redmond's report. They considered the likelihood of successful litigation and compared it against other possible challenges from around the country. On January 24, 1936, the NAACP, on behalf of Lloyd Gaines, filed suit against the University of Missouri in Boone County Circuit Court in Columbia. The suit was in the form of a petition for a writ of mandamus asking the court to order Registrar S. W. Canada to either approve or reject Gaines's pending application. From the Hotel Booker in Washington, Houston sent a telegram to NAACP President Walter White informing him of the action: "LLOYD L. GAINES AGAINST S. W. CANADA REGISTRAR NO OTHER DEFENDANTS FILED TODAY PAPERS IN MAIL SUGGEST SCHULYER TRY HAND AT SPECIAL ARTICLE FOR NEGRO PRESS WHEN PAPERS ARRIVE MONDAY."

President Middlebush took the issue of Gaines's suit to the Board of Curators the next month. The Board, turning to its lawyer members, requested a report on possible responses as soon as possible. When the Board reconvened, it followed the recommendation of its lawyers by adopting a resolution concerning the admittance of Negro applicants to the University. The resolution contained three "whereas paragraphs" outlining the facts as the Board understood them: "Lloyd Gaines, Colored, has applied for admission to the School of Law," the "people of Missouri" have "forbidden the attendance of a colored person at the University of Missouri," and the Legislature has provided for "the payment, out of the public treasury, of the tuition, at universities in adjacent states, of colored students desiring to take any course of study not being taught at Lincoln University." A fourth paragraph concluded "any change in the state system of separate instruction would react to the detriment of both Lincoln University and the University of Missouri." Accordingly, the Board resolved "that the application of Lloyd L. Gaines be and it hereby is rejected."

The action of the Board rendered the NAACP's request for a writ of mandamus moot. A new petition filed by Charles Houston, Sidney Redmond, and Henry D. Espy contended that the rejection of Gaines "solely on the basis of color was a clear violation of the Fourteenth Amendment to the U. S. Constitution." Lawyers for the University responded by arguing that the fault lay with Lincoln University, which failed to provide a law program for Negroes, and not with their client. Gaines, the lawyers suggested, sued the wrong party. After both parties filed briefs with the Boone County court, Judge W. M. Dinwiddie set the matter for trial on July 10, 1936.

--From Linder, Douglas O. Before Brown: A Profile of Charles H. Houston and the Gaines Case. Available at: [Charles Houston essay](#)

PART I: Written Legal Briefs

If you are on the legal team for either Lloyd Gaines or the University of Missouri you will create a one page, typed legal report (brief) outlining what you believe to be the BEST legal argument to defend your client. Since this is a Supreme Court case, you must base your brief on some element of constitutional law. Be sure to back up your argument using past events to support your argument.

PART II: Supreme Court Opinions

After hearing the oral arguments of both sides and voting on the case, each Supreme Court justice will write a one page, typed opinion either agreeing with the majority (supporting opinion) or disagreeing with the majority (minority opinion). Regardless if you are in the majority or minority, you must back up your conclusions with some sort of constitutional argument. Be sure to also include points raised in the oral arguments to support your conclusion.

SCORING GUIDE

Preparation & Research

8-10 Brief/opinion is fully developed, completely consistent and factual with the historical record and accurately interprets the Constitution and previous case law. The brief/opinion also specifically mentions four or more specific elements of the case in proper historical context and is relatively free of grammar, spelling

and punctuation errors.

7-4 Brief/opinion is mostly to somewhat developed, largely consistent and factual with the historical record and interprets the Constitution and previous case law with some errors. The brief/opinion also specifically mentions two to three elements of the case in proper historical context and has some significant grammar, spelling and punctuation errors.

3-0 Brief/opinion is not developed along factual or legal lines and does not contain or completely misinterprets the Constitution and previous case law. The brief/opinion mentions only one, or omits completely, any specific elements of the case in proper historical context and has numerous grammar, spelling and punctuation errors.

