THE ANDREW MELLON CASE

Lesson Plan for Grades 11-12

Lesson Plan: The Andrew Mellon Case (1934-1937)
Grade Levels: 11-12 Grade
Duration: 45-60 minutes

Overview: This lesson will examine the legal and historical significance of the tax case against Andrew Mellon, prosecuted by Robert H. Jackson. It explores the intersection of economic policy, law, and justice during the Great Depression. The emphasis is on the role of government oversight and ethical governance.

Learning Goals

- Analyze the background and legal arguments in the Andrew Mellon tax case
- Understand Robert H. Jackson's role and perspective in the prosecution
- Evaluate the broader implications of the case, including government accountability and ethical considerations
- Explore Mellon's contributions to the National Gallery of Art and how philanthropy intersects with legal scrutiny

Learning Standards

- New York State
  - Social Studies: 1.1, 1.2, 1.3, 1.4, and 5.4
  - ELA: Reading Standards for Literacy in History/Social Studies: RH2, RH3, RH4, RH7, and RH9
- Pennsylvania
  - History: 8.1.12, 8.2.12, and 8.3.12
  - Civics and Government: 5.3.12
  - Reading in History and Social Studies: 8.5.11-12
  - Writing in History and Social Studies: 8.6.11-12

Materials Needed

- Liberty Under Law: The Robert H. Jackson Story (DVD or Digital Video) – Segment 11:38 to 13:04
- Article: Andrew Mellon: Made it, bought it, ran it, gave it' (The Economist, 2006)
- Article: Playing the IRS card: Six presidents who used the IRS to bash political foes (The CSM, 2013)
- National Gallery of Art Website (www.nga.gov)
- Internet access for students to research
- Teacher Resource: Background for Robert H. Jackson
- Teacher Resource: Background for Mellon Case

Lesson Flow

1. Introduction (5-10 minutes)
    a. Brief overview of Robert H Jackson's arrival in Washington and role in Federal Bureau of Revenue
    b. Brief overview of President Franklin D. Roosevelt's view of Mellon and other industrialists
    c. Brief overview of what tax fraud means and what tax evasion means
2. The Andrew Mellon Case (10 minutes)
    a. Show video segment
    b. Discussion:
        i. What were the reasons for the case?
        ii. How did Jackson approach the prosecution?
        iii. What was the outcome and its significance?
3. The National Gallery of Art (5-10 minutes)
    a. Explain Mellon's decision to donate his art collection to help create the National Gallery of Art
    b. Use NGA website to explore the impact of his donation
4. Connections to Broader Issues (10-15 minutes)
    a. Discuss historical examples of presidents using the IRS to target political opponents: See CSM article
    b. Discussion:
        i. Should philanthropy influence legal outcomes?
5. Concluding Essay (10-15 minutes)
    a. Students can begin working on essay assignment:
        i. Respond to the following prompt: What are enduring lessons of the Andrew Mellon case? What guidance would Robert H. Jackson give modern lawmakers regarding ethics and conflicts of interest?

Assessment/Evaluation

- Participation in class discussions
- Essay: Demonstrates critical thinking and understanding of legal and ethical implications – See Grading Rubric.

The Economist: Andrew Mellon: Made it, Bought It, Ran It, Gave It
October 26th, 2006

OF ALL America's great men, Andrew Mellon is arguably the least-known and most under-appreciated. Yet the life of this banking tycoon, politician and philanthropist was remarkable, and its impact on his country wider and far more beneficial than those who know of him generally believe. And it is a life that deserves to be studied more than ever, since so much of it raised issues that are relevant today.

"It was a different time from ours. Or was it?" asks David Cannadine nearly half way through his superb biography of a man whose story prompts that question many times over. Mellon was one of America's richest men during the roaring 1920s, that gilded age to which today's increasingly unequal society is often compared. The debate that raged during his lifetime over the relationship between inequality and wealth-creation, and the responsibility of the rich winners to poorer folk, still rages today, though America now offers some mechanisms for redistribution and a social safety-net of kinds, both strongly opposed by Mellon.

His business empire, which combined huge industrial enterprises such as Gulf Oil and the aluminium giant, Alcoa, with a powerful bank, Union Trust, was privately held. It resembled, in a purer and family-owned form, today's increasingly powerful private-equity firms, such as Kohlberg Kravis Roberts and the Blackstone Group. But Mellon was more than a mere shareholder in blue-chip businesses or a supplier of loans to them. He was the leading, risk-taking, venture capitalist in Pittsburgh, the Silicon Valley of its day.

During the burst of industrialisation between the 1860s and 1920s that transformed America into the world's leading economic power, Pittsburgh led the way. It was the home of Andrew Carnegie, Henry Frick, George Westinghouse and Henry John Heinz, as well as Mellon. The "Mellon system" involved identifying new industries, often by backing research that led to scientific breakthroughs, and then vertically integrating these businesses under a dominant company. As Mr Cannadine notes, although a believer in the market, Mellon, like many businessmen of the time, also "rather liked monopolies". Mr Cannadine finds no evidence to support the widely believed story that Mellon turned down the chance to back the young Henry Ford. But he might have done so, had the opportunity arisen: he had an eye for an invention.

Mellon's belief in free enterprise, self-reliance and the virtues of inequality owed much to the combination of his strict Presbyterian Ulster heritage and his powerful father, Thomas "the Judge" Mellon. This helped him succeed in business, but let him down in both his personal and his public life. According to Paul Mellon, in his memoir "Reflections in a Silver Spoon", his father Andrew entered adulthood as a "thin-voiced, thin-bodied, shy and uncommunicative man". According to one contemporary, he was so closed that, had he got religion, he would not have "told it to God". He broke off an engagement, on his father's orders, after discovering that his fiancée was dying of consumption. When he did marry, it was in his 40s to a wholly unsuitable girl from England, "his one open rebellion against his father and his family". The marriage, which Mr Cannadine likens to that of Prince Charles and Lady Diana Spencer, soon ended in scandalous divorce—not surprisingly, as Mellon treated his needy young wife "like a client at the bank, seeking a loan to finance an ill-conceived venture". His relations with his children were also blighted.

Mellon's beliefs may also account for the disastrous end to his career as treasury secretary, a post now held again by one of the country's richest bankers. Mellon took the job reluctantly aged 65, and pioneered the supply-side reforms still favoured by some today. He wrote a best-selling book, "Taxation: The People's Business", which argued that cutting tax rates for the rich would increase their revenue (familiar?), and that many more people should be entirely exempted from paying federal income tax. When his reforms were (mostly) implemented, in 1926, he was vindicated: a man earning $3,000 a year paid no income tax, compared with $40 in 1920, and yet the rich did indeed pay more overall.

As treasury secretary, Mellon secretly continued to run his business empire with his brother Dick, despite publicly stating that he had severed all links with it, a conflict of interest beside which any relationship between Dick Cheney and Halliburton seems trivial. Despite this, and despite persistent allegations that his failure to enforce Prohibition effectively may have owed something to his past ownership of a distillery, by 1929 Mellon was regarded with a degree of admiration nowadays reserved for people like Alan Greenspan at his zenith as chairman of the Fed.

Yet when boom led to crash and then the Depression, the same instincts that had made Mellon a fierce opponent of trade unionism made him unsympathetic to the plight of the millions of unemployed workers. Instead of helping, he preferred to weather the economic storm confident that before long things would improve, as they always had in the past. He soon became a hate figure, and was shipped off as ambassador to Britain, where he devoted his time to increasing his collection of great art and successfully lobbying the British to sign over their oil rights in the Middle East to Gulf Oil.

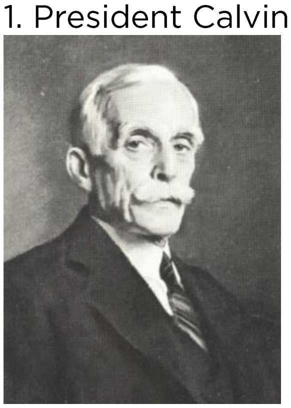
As soon as Franklin Roosevelt became president, he set out to make Mellon a prime example of the "great promoter or the financial Titan" whose day he intended to ensure was past. Mellon was accused of tax fraud, and in his early 80s had to endure a humiliating trial, which exonerated him only after his death. In fact, during his life Mellon paid far more in tax than he needed to, says Mr Cannadine, who also finds not a "shred of evidence" that the gift of his art collection to the nation was part of a secret deal connected with the tax trial. Mellon had, it is now clear, been planning to create the National Gallery of Art since his time as treasury secretary, when he was also overseeing the design and construction of Washington's magnificent neo-classical Federal Triangle.

Mellon's philanthropy has echoes today. It is not so much that giving by the rich is fashionable again; rather it is that at least some acts of generosity are carried out without much self-aggrandisement. Mellon did not insist on his name adorning the National Gallery, an act of self-effacement that was not surpassed by any philanthropist until this year, when Warren Buffett chose to give most of his fortune to the Bill & Melinda Gates Foundation rather than create one of his own.

The Christian Science Monitor: Playing the IRS Card: Six Presidents Who Used the IRS to Bash Political Foes
May 17, 2013 – By Gail Russell Chaddock
The Obama administration isn't the first to face criticism of using the Internal Revenue Service as a political hit squad. Since the advent of the federal income tax about a century ago, several presidents – or their zealous underlings – have directed the IRS to turn its formidable police powers on political rivals.
As President Coolidge's Treasury secretary, Andrew Mellon ordered an IRS audit of a rival, only to find the Franklin Roosevelt administration, later, doing the same to him. President Nixon was caught on tape ordering IRS field audits of dozens of people deemed to be his political enemies. In other cases, a direct line of accountability to the president is not so clear. But whether directly ordered by a president or not, the IRS field audit has long been an option that gives new meaning to the term "bully pulpit."
Here's how six administrations played the IRS card.

Manuel Balce Ceneta/AP/File
The Internal Revenue Service headquarters is located in the Washington, D.C., Federal Triangle complex. The IRS in under investigation by the FBI following revelations that it singled out conservative political groups for special tax scrutiny. Several presidents have used the IRS to harass political opponents.

1. President Calvin Coolidge (R)



Public Domain
Andrew Mellon, Treasury secretary under President Coolidge, used the tax code to target a political rival: Sen. James Couzens (R) of Michigan. The tactic

eventually backfired on Mellon, but it set a precedent for future administrations to use the IRS to attack political adversaries.

There's no evidence that President Coolidge personally directed the IRS to punish political enemies. But his Treasury secretary – banker and industrialist Andrew Mellon – had no such scruples. Secretary Mellon's target was Sen. James Couzens (R) of Michigan, a former general manager of the Ford Motor Co. and a fellow millionaire who launched a congressional probe of tax rebates given to Mellon companies during World War I. The investigation revealed that Mellon had misrepresented the extent to which he was still involved in the management of his own companies, such as Alcoa, prompting calls for his resignation on the eve of the 1924 presidential vote.
After Coolidge was reelected, the Treasury under Mellon reopened the senator's 1919 tax return and ordered Couzens to pay $11 million in back taxes. But that wasn't the end of it. An appeals board eventually reversed that outcome and concluded that, in fact, Couzens was entitled to a refund. "This decision was the greatest humiliation Mellon had yet suffered at the Treasury," wrote biographer David Cannadine.
However, the incident set a template for future administrations for using the tax code to attack political opponents – a weapon that would be turned against Mellon himself in the Roosevelt administration.

2. President Franklin Roosevelt (D)

AP/File
President Franklin Roosevelt, pictured giving a radio address in 1933, used the IRS to investigate the financial records of former Treasury Secretary Andrew Mellon. Roosevelt called Mellon 'the master mind among the malefactors of great wealth.'

President Roosevelt used the IRS against a host of political rivals and business opponents, ranging from populist Sen. Huey Long (D) of Louisiana, United Mine Workers leader John Lewis, Rep. Hamilton Fish (R) of New York, Chicago Tribune publisher Robert "Colonel" McCormick, Philadelphia Inquirer publisher Moses Annenberg (a fierce opponent of the New Deal), and, most famously, former Treasury Secretary Andrew Mellon.
The Roosevelt administration focused the IRS and an army of tax inspectors and prosecutors on Mellon's financial records, especially whether deductions

for his vast philanthropic activities amounted to tax evasion. Even after IRS agents found nothing irregular, the Justice Department pursued the investigation. Historians have found no documents explaining the Roosevelt administration's focus on Mellon, but a comment Roosevelt made about him in 1926 may offer a clue: Roosevelt dubbed him "the master mind among the malefactors of great wealth."

A federal grand jury declined to indict Mellon for tax fraud in 1934. But the IRS was still pursuing claims against Mellon for at least $3 million in back taxes. Mellon's storied "tax trial" before the Board of Tax Appeals in Pittsburgh and Washington lasted 14 months. At a private meeting with Roosevelt during the trial in 1936, Mellon offered to build the National Gallery and endow it with his own collection. Roosevelt accepted the offer, but instructed federal prosecutors to make "no change whatsoever" in the government's position on the Mellon tax case, according to Mellon biographer David Cannadine. Mellon died the next year, and the suits, including any against his estate, died with him.

"Although Richard Nixon was notorious for treating the I.R.S. as though it were his private domain, the records show that Franklin Delano Roosevelt may have set the stage for the use of the tax agency for political purposes by most subsequent Presidents," writes former New York Times reporter David Burnham, author of "A Law Unto Itself: Power, Politics, and the IRS."

3. President John Kennedy (D)

AP/File

President John Kennedy (r.) confers with his brother and Attorney General Robert Kennedy at the White House in 1962. The Kennedys used the IRS to attack criminal racketeers as well as political enemies including 'right-wing extremist groups.'

When Robert Kennedy, as chief counsel of the Senate Select Committee on Improper Activities in Labor and Management, went after Teamsters leader Jimmy Hoffa in the late 1950s, he called 1,500 witnesses and generated 20,000 pages of testimony, but failed to produce a conviction. As attorney general in the Kennedy administration, he immediately established an elite "Get Hoffa" squad in the Justice Department, including tapping the IRS to add tax evasion to the arsenal against Mr. Hoffa.

IRS investigators were directed to give top priority to the tax affairs of major racketeers, who would be "subjected to the 'saturation type' investigation," according to Kennedy biographer Arthur Schlesinger Jr., including wiretapping by the IRS. This higher profile for the IRS in targeted criminal investigations raised questions at the time from legal experts who said that the purpose of tax laws was to "collect revenue, not criminals," and that audits should be random.

Moreover, the use of the IRS to target criminals soon expanded to include political enemies, as well. In November 1961, President Kennedy turned to the IRS to challenge the tax-exempt status of "right-wing extremist groups," as well as fundamentalist Christian ministers who had been critical of a Roman Catholic running for the presidency. "I don't think that the Federal Government can interfere or should interfere with the right of any individual to take any position he wants," Kennedy said a press briefing. "The only thing we should be concerned about is that it does not represent a diversion of funds which might be taxable.... I am sure the Internal Revenue system examines that."

In a move not made public at the time, the Kennedy administration established an "Ideological Organizations Audit project" within the IRS, which targeted conservative groups, such as the John Birch Society. In November, the IRS launched audits of 22 "extremist organizations," several of which lost their tax-exempt status, jeopardizing their fundraising.

4. President Richard Nixon (R)

AP/File

President Richard Nixon hands a pen to a staff member after signing a bill in 1971. He used tax audits to target antiwar groups, civil rights groups, reporters, and Democratic politicians.

President Nixon took the Kennedy-era IRS political strike force and redirected it to target left-wing groups. But Nixon appears to have targeted a wider range of "enemy" groups for tax audits, including antiwar groups (and the churches and other nonprofits that sheltered them), civil rights groups, reporters, and prominent Democrats.

Moreover, as a result of Watergate investigation (1973-4) and, especially, the disclosure of White House tapes, many of these activities became public. The

tapes provided a direct line of accountability from the IRS to the Oval Office that was often missing in previous administrations.
Nixon is unambiguous: He directs aides to use the IRS to get back at political enemies. In a taped conversation on Sept. 8, 1971, Nixon tells his chief domestic policy adviser, John Ehrlichman, to direct the IRS to audit potential Democratic rivals, including Sens. Hubert Humphrey of Minnesota, Edward Kennedy of Massachusetts, and Edmund Muskie of Maine.
"Are we going after their tax returns? I … you know what I mean? There's a lot of gold in them thar hills," Nixon said.
The House Judiciary Committee noted Nixon's abuse of the IRS in its Articles of Impeachment, charging that Nixon "acting personally and through his subordinates and agents, endeavoured to obtain from the Internal Revenue Service, in violation of the constitutional rights of citizens, confidential information contained in income tax returns for purposes not authorized by law, and to cause, in violation of the constitutional rights of citizens, income tax audits or other income tax investigations to be initiated or conducted in a discriminatory manner."

5. President Bill Clinton (D)

Andy Nelson/The Christian Science Monitor/File
President Bill Clinton denied using the IRS to attack his political enemies, including those involved in the Whitewater investigation. But some critics say that there was a pattern of tax audits being used as political retaliation during his administration.

President Clinton, himself the target of one of the most costly and lengthy investigations in US history, denied using the IRS against political enemies, especially those involved in the Whitewater probe.
''We may do some dumb things from time to time, but we are not certifiably insane,'' said his White House press spokesman, Mike McCurry. ''The IRS and the IRS solely is the one that makes decisions about the enforcement of tax laws.''
Still, the list of Clinton accusers who faced tax audits – some immediately after going public with their accusations – suggests a pattern of political retaliation, even if not personally directed by the president, critics say.
These included many figures involved in the Whitewater investigation, as well as women who accused the president of sexual harassment or rape (Paula

Jones and Juanita Broaddrick) or who alleged sexual affairs (Gennifer Flowers and Liz Ward Gracen). They included Billy Dale, whose firing as director of the White House travel office set off a firestorm of congressional criticism; FOX News analyst Bill O'Reilly, a critic who complained of being audited three times during the Clinton presidency; and the watchdog group Judicial Watch, which filed more than 50 lawsuits against the Clinton administration. Investigators never found evidence akin to the Nixon tapes to prove the audits were tied to the Clinton White House. But conservative critics highlight a memo on Mr. Dale in which White House Associate Counsel William Kennedy is quoted saying that the IRS is "on top of it."

"The fact is, the White House in this case misused the IRS and the FBI in an incredible abuse of power," said Rep. John Mica (R) of Florida in a floor speech in 1996.

In a 2002 complaint against the IRS, Judicial Watch quotes an IRS agent, in effect, confirming that the motive for the Judicial Watch audit was political retaliation. "What do you expect when you sue the president?" the IRS agent reportedly told Judicial Watch officials, in a meeting on Jan. 12, 1999.

The Clinton-era IRS, like several before it, audited a wide range of organizations viewed as hostile to the White House agenda. These included leading conservative publications, think tanks, and interest groups, among them The American Spectator, the National Review, the Heritage Foundation, the National Rifle Association, the National Center for Public Policy Research, the American Policy Center, American Cause, Citizens for Honest Government, Citizens Against Government Waste, Progress and Freedom Foundation, and Concerned Women for America.

6. President George W. Bush (R)

Andy Nelson/The Christian Science Monitor/File

Then Gov. George W. Bush waved to delegates at the NAACP convention during the 2000 presidential campaign, standing with NAACP Chairman Julian Bond. Bond said the NAACP came under IRS scrutiny after he criticized Bush at a 2004 convention.

Two cases stand out amid claims that the Bush administration, too, used the IRS as a political hit squad.

In a throwback to the Nixon era, the Bush administration appears to have targeted the All Saints Episcopal Church in Pasadena, Calif., for criticism of President Bush on the eve of the 2004 election. In a case that drew congressional attention, the IRS threatened to revoke the church's tax-exempt status after the Rev. George Regas, the rector at the time, told the congregation that Jesus would have called the Bush doctrine of preemptive war "a failed doctrine."

Rep. Adam Schiff (D) of California called for an investigation of the IRS's intervention. "As you can well appreciate, the actions of the IRS in this matter will have a potentially chilling impact on protected First Amendment rights," he said. After two years, the IRS closed its audit, but without changing the church's nonprofit status.

The Bush IRS also went after the NAACP in 2004, after then-chairman Julian Bond criticized Mr. Bush for being the first president to fail to address the group's annual convention and called for his ouster. In its audit notice, the IRA said those statements constituted "improper political activity" for a group claiming nonprofit status. In a rare move, the NAACP went public with its complaints that the audit was politically motivated. After a two-year battle, the IRS dropped its case, and the NAACP kept its status.

Teacher Resource: Background on Robert H. Jackson

Overview: Robert H. Jackson (1892-1954) was a distinguished lawyer, Supreme Court Justice, and Chief Prosecutor for the United States at Nuremberg. Before his tenure on the Supreme Court, he served in multiple roles within President Franklin D. Roosvelt's administration, including as Solicitor General and Attorney General.

Jackson's Career Steps in Washington:

- In 1934, Jackson joined the administration serving as the Assistant General Counsel of the United States Treasury Department's Bureau of Internal Revenue (the predecessor to the IRS) where he was in charge of 300 lawyers who tried cases before the Board of Tax Appeals
- In 1936, Jackson became the Assistant Attorney General in charge of the Tax Division of the Department of Justice
- In 1937, he became the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice
- In 1938, Roosevelt appointed Jackson to the position of United States Solicitor General
    - Jackson argued 44 cases before the Court on behalf of the government and lost only 6
    - Justice Louis Brandeis once said that Jackson ought to be Solicitor General for life
- In 1940, Roosevelt promoted Jackson to United States Attorney General
- In 1941, Jackson was appointed to the United States Supreme Court

Jackson's Role in the Andrew Mellon Case:

- During his position in the Treasury Department's Bureau of Internal Revenue, Jackson was tasked with prosecuting tax-related cases, including the high-profile case against Andrew Mellon, former Secretary of the Treasury
- The Roosevelt administration believed that Andrew Mellon and other wealthy individuals used tax loopholes to avoid their fair share of taxation, contributing the Great Depression
- Jackson felt the case was better suited to a tax evasion charge rather than a tax fraud charge, but he was told to pursue both
- Jackson's work in the case helped solidify his reputation as a strong prosecutor and legal mind
- It also demonstrated his commitment to rule of law and fairness in prosecution

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Teacher Resource: Background on the Mellon Case

Who was Andrew Mellon:
- Andrew Mellon (1855-1937) was a banker, industrialist, philanthropist, and former Secretary of the Treasury (1921-1932)
- He played a key role in shaping U.S. economic policy in the 1920s
    - He advocated for tax cuts for businesses and wealthy individuals
- Mellon amassed great wealth and was accused of using legal loopholes that he helped to create to minimize tax payments

The Case Against Mellon:
- The Roosevelt administration wanted to crack down on tax avoidance by the wealthy, and Mellon became a primary target
    - The Great Depression had a big influence on this, Roosevelt needed a public win
- The government wanted to charge Mellon with tax fraud and tax evasion
    - Tax Fraud: deliberate deception
    - Tax Evasion: failure to pay legally owed taxes
- In 1937, Mellon was found guilty of tax evasion and ordered to pay over $600,000 in back taxes
    - Jackson was right, the tax fraud was too hard to prove

Mellon's National Gallery of Art Donation:
- During the trial, Mellon offered to fund and endow the National Gallery of Art in Washington, D.C., donating his vast personal art collection
- President Roosevelt accepted the offer but stated that it would not and could not influence the legal proceedings
- The National Gallery of Art remains one of Mellon's lasting legacies

Discussion Points:
- Was Mellon's prosecution motivated by justice, politics, or both?
- How do government officials balance enforcement of tax law with potential political motivations?
- What lessons can be learned about wealth, power, and legal accountability?

Essay Grading Rubric: Total Points 20

Criteria	Excellent (4 points)	Proficient (3 points)	Developing (2 points)	Needs Improvement (1 point)
Thesis and Argument	Clearly states a strong thesis and effectively answers the prompt with a well-reasoned argument	Thesis is clear but could be more developed; argument is mostly logical	Theis is unclear or weak; argument lacks depth	No clear thesis, argument is unfocused or missing
Use of Evidence	Uses specific, well-chosen examples from the lesson or from research to support claims	Uses relevant examples, but they could be stronger or more thoroughly explained	Includes some evidence, but it is weak, unclear, or not fully connected to the argument	Minimal or no evidence used to support claims
Analysis and Critical Thinking	Thoughtful analysis demonstrating deep understanding of legal and ethical implications	Analysis is present but could be deeper or more nuanced	Limited analysis; relies too much on summary rather than interpretation	Lacks analysis; little critical engagement with the topic
Organization and Clarity	Essay is well structured, with clear paragraphs and logical flow of ideas	Organization is mostly strong, but some transitions or sections could be clearer	Some structure, but ideas may be jumbled or hard to follow	No clear organization; difficult to follow
Grammar and Mechanics	Few or no errors in spelling, grammar, or punctuation	Some minor errors, but they do not distract from meaning	Noticeable errors that sometimes interfere with understanding	Frequent errors that make the essay difficult to read

Total Score: ________/ 20