

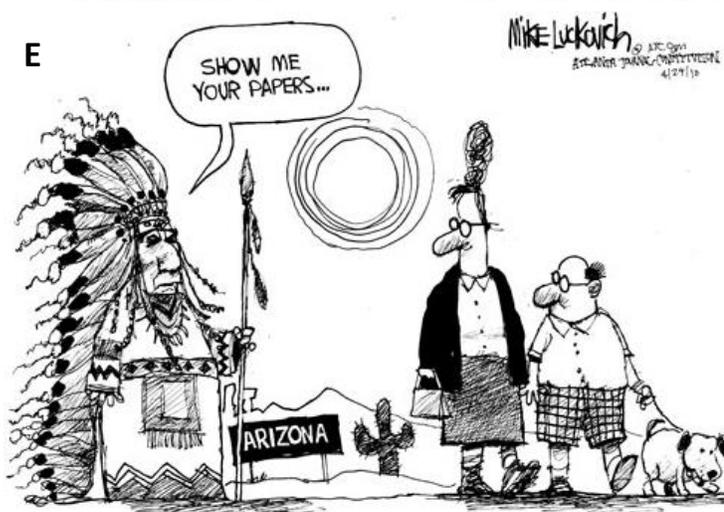
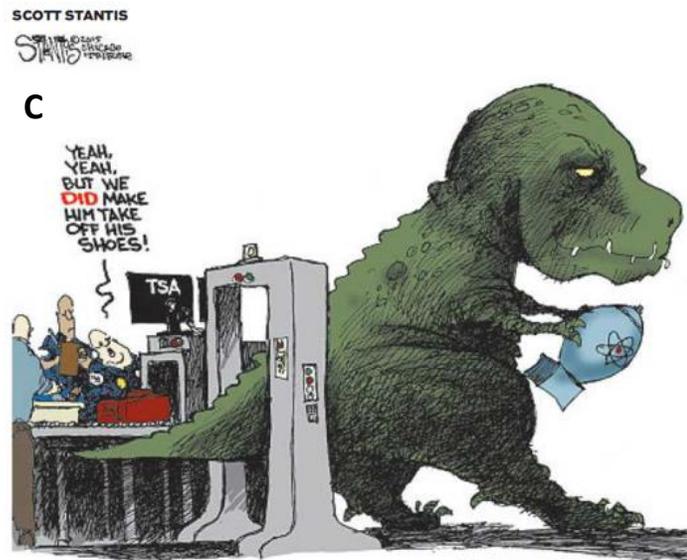
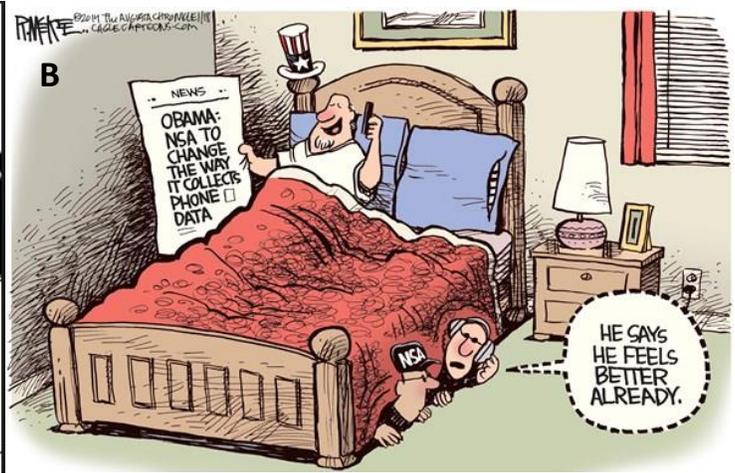
UNIT I: FOUNDATIONS & RIGHTS

Metea Valley High School Government

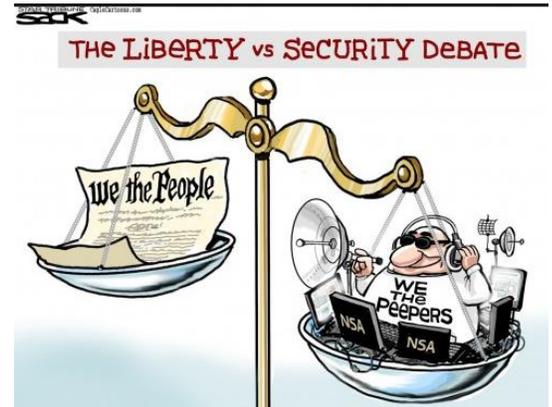
Name _____

What do we value more in our democracy: Liberty or Security?

1. Pick two of the following cartoons to analyze. Describe what you see. What is the most important image in the cartoon?
2. What do you think is the cartoonist's opinion on this issue?
3. Do the cartoons that you picked, have the same opinion? Explain your answer.



Unit I: Foundations and Rights



Essential Course Understandings:

1. Students will understand the role of liberty and security in our society.
2. Students will understand the responsibility of people to the government and the government to the people.
3. Students will understand the principles of a democracy by analyzing the U.S. Constitution.
4. Students will understand the theory and practice of the Bill of Rights.
5. Students will understand that the courts are a means to settle disputes by interpretation of the law.

Essential Unit I Questions:

1. Describe the role of government in citizens' lives.
2. Explain why citizenship is important for an enduring democracy.
3. Identify and describe how the U.S. Constitution balances individual liberties and order.
4. Describe how the abuse of power is prevented within the U.S. Constitution.
5. Explain how power is divided between state and federal governments.
6. Identify and describe how rights are protected by the 1st, 2nd, 4th, 5th, 6th and 8th amendments in the Bill of Rights.

Unit I: Foundations and Rights Learning Targets

Essential Unit Terms	I can define it and/or give an example of....	I've seen it but do not know the exact definition...	I have no idea what this term means...	Definitions and/or notes for the test:
Articles of Confederation				
Preamble				
US Constitution				
Social Contract				
Republic				
Concepts of Democracy <i>(There are four!)</i>				
Popular Sovereignty				
Checks and Balances				

Essential Unit Terms	I can define it and/or give an example of....	I've seen it but do not know the exact definition...	I have no idea what this term means...	Definitions and/or notes for the test:
Separation of Powers				
Judicial Review				
Federalism				
Flexibility				
Expressed Powers				
Concurrent Powers				
Reserved Powers				
Bill of Rights				

Essential Unit Terms	I can define it and/or give an example of....	I've seen it but do not know the exact definition...	I have no idea what this term means...	Definitions and/or notes for the test:
1 st Amendment				
2nd Amendment				
4 th Amendment				
Exclusionary Rule				
5 th Amendment				
6 th Amendment				
8 th Amendment				
Tinker v. DesMoines				

Essential Unit Terms	I can define it and/or give an example of....	I've seen it but do not know the exact definition...	I have no idea what this term means...	Definitions and/or notes for the test:
WI v. Yoder				
New Jersey v. TLO				
Hazelwood v. Kuhlmeier				
Free Exercise Clause				
Establishment Clause				
Miranda v. Arizona				



24 Hours of Government

Directions: Using you own experiences, describe how government is involved in your life. Identity examples of government in the following places.

School:

Home:

On the job:

In sports/recreational activities (movies, TV, etc.):

Health & Personal Welfare:

Could *You* Pass the Citizenship Test?

For those of us who weren't born here, it's never been easy to become a citizen. As of October 1, 2009 in addition to passing a reading and writing test of English proficiency, all immigrants going through the naturalization process must pass a new civics exam that some say is much harder than the test it replaced.

Immigrant officials say the new test is an attempt to put more emphasis on basic concepts of American history, government and democracy, and that some people may find it easier.

The civics test is oral, with an examiner asking the applicant 10 questions from a list of 100. All questions are available online. Applicants must answer 6 of the 10 questions correctly, and are given two chances to pass; those who fail twice can reapply for naturalization immediately.

Some immigrant-advocacy groups have said the new test is more abstract, and therefore tougher. But Alfonso Aguilar of Citizenship and Immigration Services (part of the federal Department of Homeland Security) says that in a test of the new exam, 92 percent of participants passed on their first try.

"We try—in 100 questions and answers—to summarize the basic concepts of American democracy," says Aguilar.

Now it's your turn. Try answering the following 30 questions from the new test, and see if you have what it takes to earn American citizenship.



American Government

1. WHAT IS THE SUPREME LAW OF THE LAND?
2. THE IDEA OF SELF-GOVERNMENT IS IN THE FIRST THREE WORDS OF THE CONSTITUTION. WHAT ARE THESE WORDS?
3. WHAT DO WE CALL THE FIRST 10 AMENDMENTS TO THE CONSTITUTION?
4. WHO IS ONE OF YOUR STATE'S U.S. SENATORS?
5. WHAT IS THE ECONOMIC SYSTEM IN THE UNITED STATES?
6. NAME ONE BRANCH OR PART OF THE GOVERNMENT.
7. HOW MANY JUSTICES ARE ON THE SUPREME COURT?
8. WHAT IS THE NAME OF THE VICE PRESIDENT OF THE UNITED STATES?
9. HOW OLD DO CITIZENS HAVE TO BE TO VOTE FOR PRESIDENT?
10. NAME TWO CABINET-LEVEL POSITIONS?



American History

11. WHAT IS ONE REASON COLONISTS CAME TO AMERICA?
12. WHO LIVED IN AMERICA BEFORE EUROPEANS ARRIVED?
13. WHO WROTE THE DECLARATION OF INDEPENDENCE?
14. WHEN WAS THE DECLARATION OF INDEPENDENCE ADOPTED?





15. THERE WERE 13 ORIGINAL STATES. NAME THREE.
16. WHAT DID SUSAN B ANTHONY DO?
17. NAME ONE WAR FOUGHT BY THE UNITED STATES IN THE 1800s.
18. WHAT DID MARTIN LUTHER KING JR. DO?
19. WHO WAS PRESIDENT DURING THE GREAT DEPRESSION AND WORLD WAR II?
20. DURING THE COLD WAR, WHAT WAS THE MAIN CONCERN OF THE UNITED STATES?
21. NAME ONE AMERICAN INDIAN TRIBE IN THE UNITED STATES.



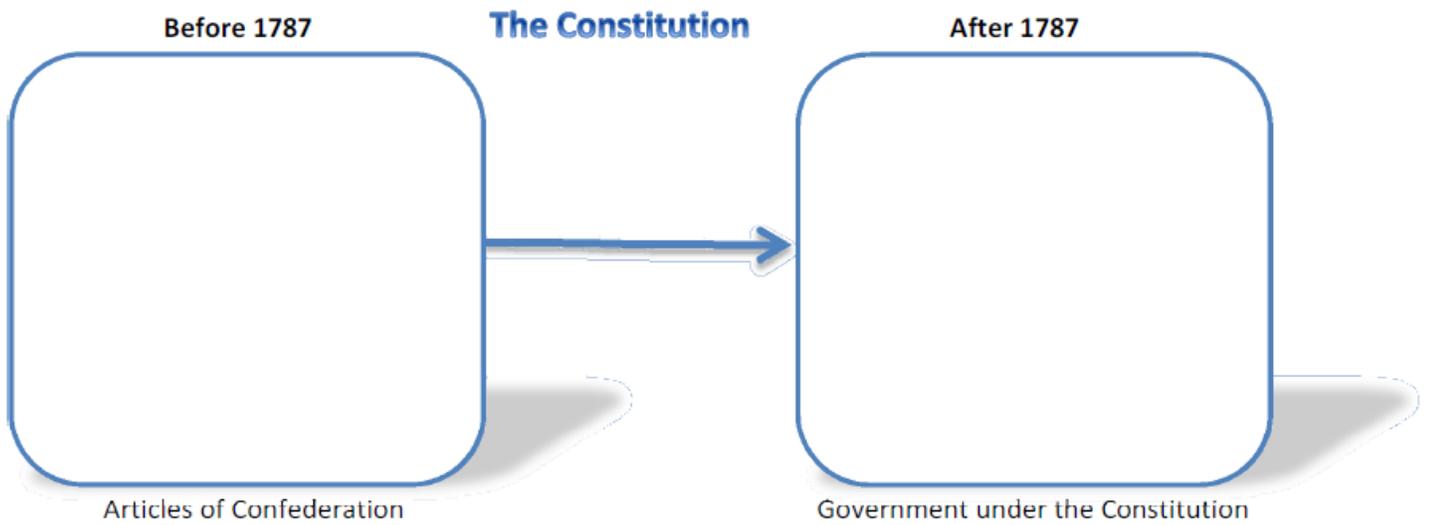
Civics and Geography

22. NAME ONE OF THE TWO LONGEST RIVERS IN THE UNITED STATES.
23. WHAT OCEAN IS ON THE EAST COAST OF THE UNITED STATES?
24. NAME ONE U.S. TERRITORY.
25. NAME ONE STATE THAT BORDERS CANADA.
26. NAME ONE STATE THAT BORDERS MEXICO.
27. WHERE IS THE STATUE OF LIBERTY?
28. WHY DOES THE FLAG HAVE 13 STRIPES?
29. WHY DOES THE FLAG HAVE 50 STARS?
30. NAME TWO NATIONAL HOLIDAYS.



4. In your own words, describe the goal of the Convention.

5. Identify **THREE** characteristics of our national government before and after the Constitution.



6. Let's head to the birthplace of federalism. Our trip takes us to which city in 1787?

7. Define the "necessary and proper clause."

8. Do you agree with the idea that states are "laboratories of democracy?"

Identify THREE good ideas that have come from the states.
1.
2.
3.

9. What was the New Deal?

What are TWO positive outcomes of the New Deal?	Why do some people believe there were negative outcomes?

10. What federal branch ruled that segregation in public education was illegal? _____

11. What is your opinion on the issues below—who should have the final word, the state governments or the federal government? Discuss with your partner why you believe this.

Issues	State	Federal
Marijuana		
Guns		
Toilets (Energy Conservation)		
Coal Plants for Energy (Air Quality)		
Marriage and Divorce Laws		
High School Graduation Requirements		

12. Final questions to consider:

What is the advantage of the state government making laws for the people?

What is the role of the federal government in dealing with state law?

Why might it be better for laws to be made by local government? Give a specific example.



In some social groups, power is divided

Decisions Parents or Guardians Might Make	Decisions Parents and Teens Might Make Together	Decisions Teens Might Make Alone

In democracies, power is **divided** to prevent abuse of power.

Powers of the National Government	Shared Powers of the State and National Government	Powers of the State Governments
Expressed Powers	Concurrent Powers	Reserved Powers

In democracies, power not given to the government is
reserved for the people!

FEDERALISM CLASSIFICATION ACTIVITY

Federalism: a system in which power is divided between local, state, and national governments.

Directions: Classify the following powers in the chart. Take the time to consider which category would be the most appropriate fit based on the description.

- declare and engage in war
- conduct elections
- print and coin money
- govern marriage laws
- maintain an army, navy, and air force
- regulate interstate and foreign commerce
- regulate intrastate commerce
- punish lawbreakers
- levy and collect taxes
- protect the rights of citizens
- set traffic standards
- maintain the state militia (National Guard)
- admit new states
- provide for public safety
- borrow money
- establish and maintain schools
- negotiate treaties with foreign countries
- protect public health
- determine the qualifications of voters
- set up a post office
- set rules for immigration

WHY A BILL OF RIGHTS?

The Constitution of the United States was written during the summer of 1787. That September it was sent to the states for ratification. Nine of the thirteen states would have to ratify it for the Constitution to become effective for those ratifying states. The future was not certain at all—a debate began among the states over ratification. Those who argued that the Constitution should be approved were called Federalists; those who argued against it were called Anti-Federalists.

One of the many points of contention between these two groups was the Constitution's lack of a bill of rights. A bill of rights would place specific limits on government power. Federalists argued that the Constitution did not need a bill of rights, because the people and the states kept any powers not given to the federal government.



Many of the state conventions ratified the Constitution, but called for amendments specifically protecting individual rights from abridgement by the federal government.

Anti-Federalists held that a bill of rights was necessary to safeguard individual liberty.

Many of the state conventions ratified the Constitution, but called for amendments specifically protecting individual rights from abridgement by the federal government. The debate raged for months. By June of 1788, nine states had ratified the Constitution, ensuring it would go into effect for those nine states. However, key states including Virginia and New York had not ratified. James Madison, the principal author of the Constitution, knew that grave doubts would be cast on the Constitution if those states (the home states of several of its chief architects, including Madison himself) did not adopt it.

During the ratification debate in Virginia, James Madison promised that a bill of rights would be added after ratification. His promise reassured the convention and the Constitution was approved in that state by the narrowest margin. New York soon followed, but submitted proposed amendments. Two states, Rhode Island and North Carolina, refused to ratify without a bill of rights.

Though the Federalists enjoyed a majority in Congress, it was clear that the people wanted a bill of rights. A year later in June of 1789, James Madison proposed a series of amendments to be debated in the first Congress.

Madison, then a member of the US House of Representatives, went through the Constitution itself, making changes where he thought most appropriate. But several Representatives, led by Roger

Sherman, objected that Congress had no authority to change the wording of the Constitution itself. Therefore, Madison's changes were presented as a list of amendments that would follow Article VII.

The House approved seventeen amendments. Of these seventeen, the Senate approved twelve. Those twelve were sent to the states for approval in August of 1789. Of those twelve, ten were quickly approved (or, ratified). Virginia's legislature became the last to ratify the amendments on December 15, 1791.

The Bill of Rights is a list of limits on government power. For example, what the Founders saw as the natural right of individuals to speak and worship freely was protected by the First Amendment's prohibitions on Congress from making laws

WHY A BILL OF RIGHTS? (Continued)

establishing a religion or abridging freedom of speech. For another example, the natural right to be free from unreasonable government intrusion in one's home was safeguarded by the Fourth Amendment's warrant requirements.

The Ninth Amendment protects all natural rights that are not listed in the Bill of Rights. Since it was impossible to list every right, the Ninth Amendment makes it clear that individual's rights are not confined to those in the first eight amendments. The Tenth Amendment reinforces the limited nature of the federal government, spelling out the fact that the powers not given to the federal government are kept by the states and the people (except for those powers the Constitution explicitly says states do not have).

The amendments in the Bill of Rights do not "give" anyone anything. On the other hand, Bill of Rights protections do stop the government from doing

certain things. This kind of limited government is the essence of liberty: the freedom to act without unauthorized restraint. Citizens have the right to pursue happiness, but as Benjamin Franklin is believed to have said, they have to "catch" it themselves.

The amendments appear in a certain order because of Madison's original changes to the Constitution. The rights in the First Amendment—Congress has no power to infringe on free religion, speech, press, assembly, and petition—were originally written by Madison as changes to Article I of the Constitution. The First Amendment was originally the third amendment, but the first two amendments were not ratified by the states in the 18th century, and so it became the First. (One of Madison's original amendments regulating the pay of Congressmen was eventually ratified in 1992 and became the Twenty-Seventh Amendment.)

CRITICAL THINKING QUESTIONS

1. Summarize the Federalist position on the Constitution in 1787? How was the Federalist's position different from the Anti-Federalist position?
2. Why was Madison concerned when Virginia and New York had not ratified the Constitution?
3. How did Madison first introduce amendments in Congress?
4. The Bill of Rights is a list of limits on government power. Discuss what this reveals about the concept of liberty?

FUNDAMENTAL RIGHTS

Directions: *Delegates to a convention charged with creating a document for the protection of individual rights in the newly created nation, "Liberty," are stumped. Your committee must recommend to the general convention a listing of seven to ten rights that you believe are "fundamental," requiring protection from government action. You must be able to defend each of your recommendations to your fellow delegates.*

A right that must be protected is...

Because...

1.

2.

3.

4.

5.

6.

7.

8.

9.

10.

THE UNITED STATES BILL OF RIGHTS

Directions: *Read the United States Bill of Rights and underline rights that are similar to the ones your group listed on **Handout A***

Amendment I

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

Amendment II

A well-regulated militia, being necessary to the security of a free state, the right of the people to keep and bear arms, shall not be infringed.

Amendment III

No soldier shall, in time of peace be quartered in any house, without the consent of the owner, nor in time of war, but in a manner to be prescribed by law.

Amendment IV

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Amendment V

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

Amendment VI

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

Amendment VII

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise reexamined in any court of the United States, than according to the rules of the common law.

Amendment VIII

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

Amendment IX

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

Amendment X

The powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people.

CASE FILE

Tinker v. Des Moines (1969)

Student Speech, Symbolic Speech

Background summary & questions (••)



John and Mary Beth Tinker attended public school in Des Moines, Iowa. In December of 1965 a community group in Des Moines decided to protest American involvement in the Vietnam War by wearing black armbands. The Tinkers agreed to wear their black armbands to school. However, principals in the school district, aware of the students' plans created a rule that any student wearing an armband to school would be suspended unless the student removed the armband. Although the Tinkers knew about this rule, they decided to come to school wearing armbands anyway. After refusing to take the armbands off, John and Mary Beth Tinker were sent home by the principal. Their suspension lasted until they agreed to come back to school without the armbands.

The Tinkers filed a suit in the U.S. District Court to stop the school principals from enforcing the rule in the future. Although the District Court said that this type of protest was a form of expression protected under the First Amendment's freedom of speech clause, the Court sided with the school officials, saying that the rule was needed to "prevent the disturbance of school activities." The Tinkers appealed their case to the U.S. Eighth Circuit Court of Appeals, but they lost. The Tinkers decided to appeal the case to the Supreme Court of the United States.

The fundamental question of the case came down to this: Does the First Amendment's promise of free speech extend to the symbolic speech of public school students? And, if so, in what circumstances is that symbolic speech protected? The First Amendment to the Constitution says, "Congress shall make no law . . . abridging the freedom of speech." The Fourteenth Amendment extends this rule to state government as well, of which schools are a part. However, the First Amendment does not say which kinds of speech are protected. It also does not specify what types of expressive actions should be considered as speech.

The question of what kind of speech or action is protected under the First Amendment has been considered many times by the Supreme Court of the United States. Generally, the Court has held that the First Amendment protects adult symbolic speech that does not harm or threaten to harm. However, at the time of *Tinker*, it was unclear whether students' rights in this area were different.

In 1968 the Supreme Court of the United States agreed to hear the Tinker's case and consider whether the Des Moines public schools ban on armbands was an unconstitutional violation of the students' right to free speech. The Court's decision in *Tinker v. Des Moines* was handed down in 1969.

QUESTIONS TO CONSIDER

1. Do you think that the school policy banning armbands was fair? Why or why not?
2. The students knew they would be suspended if they wore armbands to school and chose to do so anyway. Why do you think they ignored the rule?
3. The First Amendment says "Congress shall make no law . . . abridging the freedom of speech." Why do you think the Supreme Court of the United States has ruled that certain actions should have the same protection as verbal speech? Are these reasons valid?
4. Pretend that students in your school wanted to protest the school-wide ban on smoking. Should they be allowed to protest by wearing T-shirts that read "Up with 'Butts!'"? Why or why not?

Judge: Anti-gay shirts worn by Neuqua Valley students OK

Last Modified: Apr 3, 2011 12:28AM

Neuqua Valley High School students would be allowed to wear “Be Happy, Not Gay” T-shirts under a ruling Tuesday by the 7th U.S. Circuit Court of Appeals.

The court had rejected Indian Prairie School District 204’s argument that school officials could prohibit students from wearing the shirts to prevent some students from having their feelings hurt.

In its opinion, the court said a “school that permits advocacy of the rights of homosexual students cannot be allowed to stifle criticism of homosexuality.”

“The school argued (and still argues) that banning ‘Be Happy, Not Gay’ was just a matter of protecting the ‘rights’ of the students against whom derogatory comments are directed,” the court said. “But people in our society do not have a legal right to prevent criticism of their beliefs or even their way of life.”

Nate Kellum, senior counsel for the Alliance Defense Fund, a legal alliance of Christian attorneys who represented the students in the suit, responded: “In an environment that freely allows speech that promotes homosexual behavior, the school simply cannot shut out the opposing viewpoint.”

In April 2006, Heidi Zamecnik, a student at Neuqua Valley High School in Naperville, wore the T-shirt to school after the school permitted other students the previous day to wear shirts showing support for homosexuals as part of the “Day of Silence.”

That event, promoted by the Gay, Lesbian, Straight Education Network, intended to draw attention to harassment of homosexuals.

The school’s dean demanded she remove it or be sent home for the day. After speaking with Zamecnik’s mother by phone, all agreed to change the shirt to read, “Be Happy, Be Straight.” However, the dean instead had a female counselor cross the words “Not Gay” off Zamecnik’s shirt so it simply read “Be Happy.”

Alex Nuxoll, another Neuqua Valley student, wanted to wear a similar shirt to class. He had twice filed for an injunction that would suspend the school’s policy that prevented him from wearing the T-shirt.

Twice the courts denied that request. But in April of 2008, the 7th Circuit Court reversed the lower courts’ rulings, saying the district court must order Neuqua to suspend its ban on the shirt while the civil rights lawsuit filed by Nuxoll and Zamecnik proceeded.

District 204 board President Curt Bradshaw said he could not yet comment on the ruling.

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You Decide: Is this a Legal Search?

DIRECTIONS

1. Read each situation. Use the information in the excerpt of the majority opinion to help you complete the chart.
2. Answer the question, "Is this a legal search?" by placing an "X" in the appropriate space.
3. Provide a brief explanation for your answer.

Situation	Is this a legal search?		Explanation
	Yes	No	
School administrators receive a report that a member of the cheerleading squad is selling drugs. They confront her and tell her they are going to check her locker. Then they do so.			
Concerned over recent school shootings, the school board installs metal detectors in all local high schools and requires that all students walk through them in order to enter the building.			
After one second grader complains of having lost the \$5.00 she got from the tooth fairy, teachers ask all of the students in her class to go into the locker room and remove their clothing so they may be strip-searched.			
Administrators receive a tip that members of two rival gangs plan to fight after school and that many of the members have brought knives and other weapons to school. The principal calls the police, who conduct a search of the suspicious students.			
Concerned about alcohol use at the school dance, school officials search the vehicles of all students who attend the prom.			
After receiving a report that a student has brought a gun to school, the principal and security guard bring the student to the office, frisk him, and ask to search his locker.			

FOR EXTENSION

At Boulder High School in Boulder, Colorado, \$60,000 worth of surveillance equipment is able to keep track of students on school grounds, in the halls, and in class. In fact, the principal is able to manipulate the cameras to zoom in on individuals or groups of students.

Is this constitutional? Explain your answer.

NEW JERSEY V. T.L.O. (1985)

YOU CAN'T SMOKE IN HERE!
YOU HAVE BROKEN A SCHOOL
RULE!

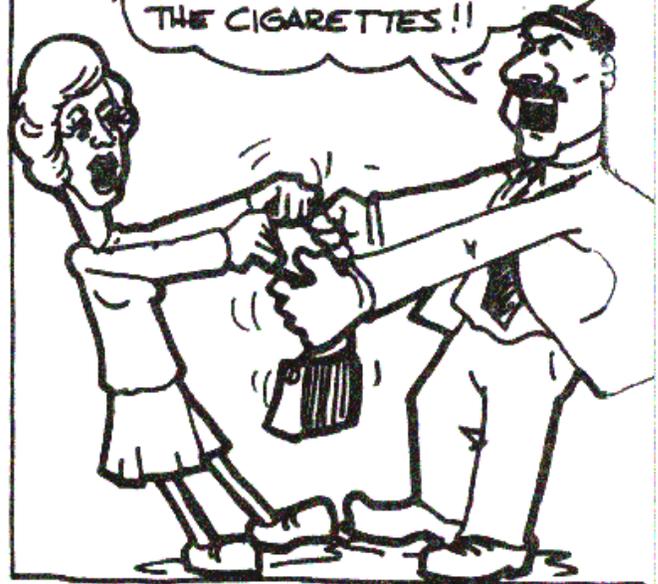


A TEACHER OBSERVES A STUDENT
SMOKING IN THE LAVATORY...

SHE TOLD THE VICE PRINCIPAL THAT SHE
WAS NOT SMOKING AND THAT SHE DID NOT
EVEN SMOKE. HE DEMANDED TO SEE HER PURSE

HEY! WHAT ARE YOU DOING?
YOU CAN'T LOOK IN MY PURSE!

HAND IT OVER! YOU'VE
BROKEN A RULE. I WANT
THE CIGARETTES!!



YOU HAVE MARIJUANA IN HERE!!

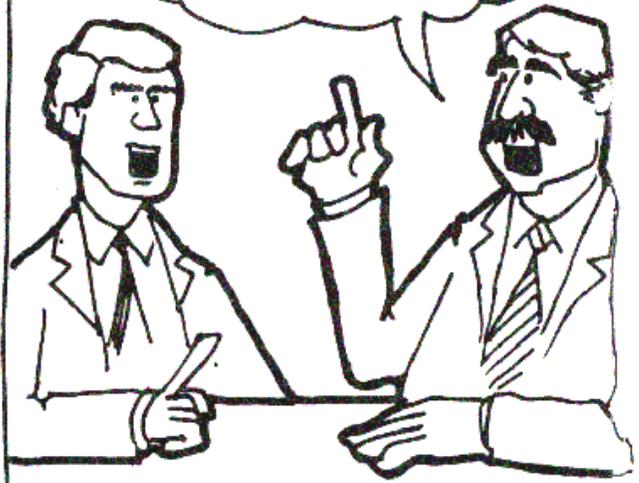
HEY MAN...
THAT'S ILLEGAL!!



HE LOOKS THROUGH THE ITEMS...

ARE NOT SCHOOL OFFICIALS
ACTING IN "LOCO PARENTIS"?
HOW CAN THEY BE BOUND BY
THE FOURTH AMENDMENT?

WERE NOT THIS STUDENT'S
RIGHTS VIOLATED? WHAT
REASONABLE BELIEF OF
ILLEGAL ACTIVITY LED
TO THIS SEARCH?



How Does a School Identify "Disruptive Speech"?

In the case of *Tinker v. Des Moines*, the Supreme Court of the United States ruled that student "speech" (expression) could not be punished or stopped unless officials could prove the speech would or did cause a substantial interference with the discipline required for the operation of the school. However, at what level of disruption must the school step in?

DIRECTIONS:

Read each example below and determine whether you think the student expression described is potentially disruptive enough to be punished or stopped by the school administration. There may not be conclusive answers in terms of court precedent, but these instances should be used as a springboard for discussion of what the *Tinker* case means for students.

1. Maggie and Sally come to school wearing new khaki pants. On the back of the pants, where pockets usually are, the girls put patches of the American flag. Therefore, when the girls sat down, they sat on the flag.
 - How disruptive are these actions?
 - Would it be constitutional for the school administration to restrict this form of speech? Why or why not?
2. In order to protest the new cafeteria food offered at Valley High School, the student government organizes a protest. During both lunch periods, SGA officials plan to lead a walk-out from the cafeteria and a group march to the local McDonalds.
 - How disruptive are these actions?
 - Would it be constitutional for the school administration to restrict this form of speech? Why or why not?
3. Local gang members wear colored plastic bracelets on their wrists to declare their affiliation.
 - How disruptive are these actions?
 - Would it be constitutional for the school administration to restrict this form of speech? Why or why not?
4. During a pep rally, a student leader uses very obscene language in a speech.
 - How disruptive are these actions?
 - Would it be constitutional for the school administration to restrict this form of speech? Why or why not?
5. Atheists in your school decide they want to publicize and educate others about their beliefs. To make their point, they begin wearing T-shirts that portray Jesus as a monster with three heads.
 - How disruptive are these actions?
 - Would it be constitutional for the school administration to restrict this form of speech? Why or why not?

Hazelwood v. Kuhlmeier (1988)

Censorship, Student Press Rights



In May 1983, students in the Journalism II class at Hazelwood East High School in St. Louis, Missouri, created the final edition of the school paper, the Spectrum. Before publishing the paper, they submitted it to their advisor, Howard Emerson, so he could review it. Emerson was new to the job, so he followed the procedures of the previous advisor. Those guidelines required him to give Principal Robert Reynolds, the opportunity to review the paper before it was published.

When Principal Reynolds reviewed the paper, he found two articles that concerned him. The first dealt with the issue of teen pregnancy. It included comments from pregnant students at the school. To protect their privacy, names were not given. However, when Reynolds read the article, he realized that the details in the article would make it easy for other students to identify the pregnant teens. The second article addressed the issue of divorce. Like the first article, this one included personal articles. One student, whose parents were divorced, made negative comments about her father. She said that her father was always out with the guys and that her father didn't spend enough time with the family. Principal Reynolds was troubled by the fact that the father had not been given a chance to defend himself by responding to his daughter's comments. He also noticed that the article mentioned sex and birth control. He did not think that students in ninth grade should be reading about sex and birth control.

Reynolds wanted the journalism students to modify the articles. However, it was almost the end of the school year. If they took the time to revise, they would miss the deadline for publishing the newspaper. If that happened, the other students might never get to read the paper. He felt like he had to act quickly, so he told Emerson to delete the two pages with the offending articles and publish the rest of the Spectrum. He told his supervisors about this decision and they agreed with him.

The students had worked hard on the paper and felt that they had followed proper journalism procedures. If they had been approached about the problems, they may have been able to correct them. They were upset to find out instead that two pages, which included a number of nonoffensive articles, had been deleted. They felt that their First Amendment rights had been violated. They took the case to the U.S. District Court for the Eastern District of Missouri.

The Court did not agree with the students. In the ruling, the judges said that school officials may impose limits on students' speech in activities that are "an integral part of the school's educational function" as long as their decision "has a substantial and reasonable basis." In other words, the Court felt that if the school has a good reason to do so, it can place limits on curricular activities, such as the publication of the school newspaper.

Unhappy with the outcome, the students appealed their case to the Court of Appeals for the Eighth Circuit Court. This court reversed the decision of the lower court, saying that the students' First Amendment rights were violated. In the opinion, the Court explained that the newspaper was part of the school curriculum but was also a "public forum." As a public forum, the newspaper was "intended to be and operated as a conduit for student viewpoint". Because the paper was a forum for student discussion, the principal or other officials could censor it only when "necessary to avoid material and substantial interference with school work or discipline . . . or the rights of others."

The school appealed the decision of the Court of Appeals and the Supreme Court of the United States agreed to hear the case. In determining whether or not students' rights were violated, it would consider whether or not the student newspaper was a public forum and whether the First Amendment "requires a school affirmatively to promote particular student speech."

QUESTIONS TO CONSIDER

1. Why did the newspaper advisor give the paper to Principal Reynolds for review? Was that standard procedure?
2. What concerns did Principal Reynolds have regarding the two articles? Were these legitimate concerns? Were there other ways that the principal could have handled the situation?
3. Do you think Principal Reynolds was justified in deleting the two pages of the paper? Should a principal be able to censor student newspapers? If so, under what conditions?
4. What rights did the students believe had been violated?
5. Were there any steps the students could have taken other than filing a lawsuit?
6. Should a principal or other school authority be able to silence other forms of student speech? If so, under what conditions? How does speech by an individual student differ from speech by the school newspaper?

Hazelwood v. Kuhlmeier (1988) - Censorship, Student Press Rights

You Decide: Were Students' Rights Violated?

DIRECTIONS

1. Read each situation. Use information from the excerpt of the majority opinion to help you complete the chart.
2. Answer the question: "Were students' rights violated?" by placing an "X" in the appropriate space.
3. Provide a brief explanation for your answer.

Situation	Were the students' rights violated?		Explanation
	Yes	No	
The school's TV station covers an article on the new policy that requires that students wear IDs. In the article, many of the students are critical of the policy. The advisor reviews the show and finds that there are many factual errors regarding the policy. He tells the students that if they want the article to air, they must revise it.			
The drama club wants to perform a play. Because it involves some sexually explicit scenes, they say they will perform it off-campus at a local recreation center. The principal says this is not allowed and they must select another play.			
A student works at home to create a Web site that contains comments that are critical of his teachers. The principal sends him to in-school suspension for two days and makes him write a letter of apology to each of his teachers.			
The art club plans a showcase night. One of the students has painted a picture of other students drinking alcohol at a school football game. The art teacher says this painting cannot be displayed at the school's showcase night because it seems to advocate the use of alcohol.			
The newspaper staff writes an editorial in support of legalizing marijuana. Their advisor tells them that if they want it to be printed, they must present both sides of the issue.			
Students on the newspaper staff create an online version of the school's newspaper. In it, they provide advice on where to get birth control. The principal tells the staff to delete the article because its contents are not appropriate for the younger students in the school.			
The Student Government Association wants to hold a rally in support of abortion rights in the school's auditorium. Their advisor tells them they cannot do this.			

CASE FILE

Wisconsin v. Yoder (1972)

Freedom of Religion

Historical Background

Some religious minorities choose to live apart from mainstream society. For example, the Old Order Amish live in cohesive communities where hard work and cooperation are virtues highly esteemed. The individualism so central to the modern American character finds no place among the Amish, where success is measured by how well one uses his or her talents to the benefit of the group. The Amish emphasize a "life of goodness" rather than a life of intellect. They shun modern technology, seeking the wisdom of the ages through hard work, unassisted by modern conveniences such as automobiles, tractors, or electricity.

The Amish raised no objection to a Wisconsin State law requiring that all children attend elementary schools. They believed that a basic education in the three R's was useful—it would help children learn to read the Bible, teach values of citizenship, and also familiarize the children with the "outside world." State requirements setting the age limit for compulsory attendance at 16, however, met with Amish resistance.

Circumstances of the Case

Jonas Yoder and Wallace Miller were members of the Old Order Amish church. Adin Yutzy was a member of the Conservative Amish Mennonites. All lived in Green County, Wisconsin. Their children Frieda Yoder (15), Barbara Miller (15), and Vernon Yutzy (14) had all graduated from a public elementary school in the Amish community. The Amish refused to comply with a State law requiring that their children attend school until age 16, which would have entailed sending their children to a public high school some miles away from the Amish community. The children did not attend any alternative school, but worked actively in the Amish community. When Wisconsin brought the parents to court in 1971 for failure to send the children to school, the parents were fined. On appeal, the Wisconsin State Supreme Court found in the parents' favor, overturning the fines. Wisconsin school officials then appealed that decision to the U.S. Supreme Court. The Amish were, instead, a people living in self-imposed isolation, seeking a simplicity of life which they believed helped them to



achieve a closeness to God that the pace and the distractions of modern life had rendered impossible, in their view. In view of the kind of life for which the Amish children were being trained and the unquestioned success of the Amish society, the State of Wisconsin did not have a sufficiently compelling interest in the additional years of schooling to warrant interfering with the free exercise of their religion. "The impact of the compulsory attendance law on (the Amish) practice of...religion is not only severe, but inescapable, for the Wisconsin law...compels them, under threat of criminal sanction, to perform actions undeniably at odds with the fundamental tenets of their religious beliefs," Burger wrote. "A way of life that is odd or even erratic but interferes with no rights or interests of others is not to be condemned because it is different."

Constitutional Issues

The "Amish case" centered on the 1st and 14th amendments, specifically on the incorporation of the Free Exercise Clause into State constitutions. Can a State law, enacted for the benefit and protection of children, override the deeply held religious beliefs of a traditional community? Does the Free Exercise Clause of the 1st Amendment—as applied to the States by the 14th Amendment—provide the Amish protection against a compulsory attendance law that subjects their children to influences they consider harmful?

Arguments

For Wisconsin: As Thomas Jefferson pointed out, some degree of education is necessary to prepare citizens to participate effectively and intelligently in our open political system. To accept the Amish position is to accept ignorance. It is the State's duty to protect children from ignorance. Additional years of compulsory high school education would aid any Amish child who chose to leave the community and enter the larger world.

For Yoder: If the Old Order Amish sent their children to the public school, "they would not only expose themselves to the danger of the censure of the church community, but...endanger their own salvation and that of their children." Forcing them to do so would clearly

violate their free exercise rights. The Wisconsin Supreme Court ruling should be allowed to stand.

"This case involves the fundamental interest of parents, as contrasted with that of the State, to guide the religious future and education of their children," Burger wrote. Western "history and culture," he wrote, "reflect a strong tradition of parental concern for the nurture and upbringing of their children" which the State should not ignore.

Justice Douglas dissented because he feared that the children of the Amish would suffer. "If [a child] is harnessed to the Amish way of life by those in authority over him, and if his education is truncated [cut off], his entire life may be stunted and deformed. The child,

therefore, should be given an opportunity to be heard before the State gives the exemption honored today."

Decision and Rationale

Only Justice Douglas, dissenting in part, voted against the 6–1 majority opinion written by Chief Justice Burger. The Court held "with the Supreme Court of Wisconsin, that the First and Fourteenth Amendments prevent the State from compelling [the Amish] to cause their children to attend formal high school to age 16." Burger's opinion stressed the broader protection of the 1st Amendment, noting: "[I]t cannot be overemphasized that we are not dealing with a way of life and mode of education by a group claiming to have recently discovered some 'progressive' or more enlightened process for rearing children for modern life."

QUESTIONS TO CONSIDER

1. Do you think the Court intended for every religious group to be able to decide if children should attend public school until age 16? What evidence is there that the Court was making a narrow exception for the Amish?
2. Would this case be argued differently if some of the Amish children asked to be permitted to attend public high school and were prevented by their parents? How would the dissent by Justice Douglas relate to this case?
3. How would you argue a case before the Court which involved a person who was fired from a job that required him or her to work regularly on religious holidays?

You Decide: Is there a violation?

DIRECTIONS

1. Read each situation.
2. Answer the question, "Is there a violation of the free exercise clause or the establishment clause?" by placing an "X" in the appropriate space.
3. Provide a brief explanation for your answer.

Situation	Is this an example of a protected free exercise of religion?		Explanation
	Yes	No	
Persons under the age of 21 drinking wine as part of a religious ceremony.			
Sacrificing small cats as part of a religious ceremony.			
Walking door to door to pass out religious literature to private homes.			
Amish buggies without reflectors or license plates driving on a county road.			
Claiming "conscientious objector" status to avoid the draft during wartime.			
Students praying in the commons at school before a final exam.			
A Muslim prisoner refuses to shave his beard.			
Situation	Is there a violation of the Establishment Clause?		Explanation
	Yes	No	
Members of Congress opening their session with a prayer.			
During a high school graduation ceremony, a student reads part of a prayer during his speech.			
A student-led prayer before a high school football game over the loudspeaker.			
A decorated Christmas tree displayed outside of a publicly funded hospital.			
A courthouse displaying the Ten Commandments.			
The use of tax dollars to support a deaf interpreter at a parochial (religious) school.			
Religious songs performed at a choir concert.			

Juveniles and the Death Penalty- What's Your Ruling?

Read the following cases and determine if the death penalty for juveniles is constitutional?

Thompson v. Oklahoma (1988)

The sixth of eight children, Wayne Thompson grew up in Chickasha, Oklahoma, a small town about 30 miles southwest of Oklahoma City. He also grew up in the shadow of his brother-in-law Charles Keene's violent rages. He saw his sister Vicky beaten by Keene. Sniffing paint, Keene often grew violent and spared no one. He beat Wayne repeatedly. He struck Wayne's mother, other sisters and even his old brothers. Keene once even carried his infant son on top of his trailer and threatened to drop him off.

When Vicky finally divorced Keene, the family thought their long nightmare was over. But Keene kept returning, threatening and abusing Vicky. Finally, Wayne decided to put a stop to Keene's abuse once and for all. Together with his adult, older brother Tony and two of Tony's adult friends, 15-year-old Wayne Thompson set out to kill Keene. Before dawn on January 23, 1983, they found Keene at his home in Amber, Oklahoma. They kidnapped him, beat him, cut open his stomach, chest, and throat and shot him twice. Before heaving his body in a river, they chained it to a cement block.

Twenty-six days later, it surfaced. At the fitness hearing shortly after his arrest, Wayne was certified to stand trial as an adult. Charged with first-degree murder, he was found guilty. During the trial, the prosecution had introduced three color pictures of Keene's body. The prosecution introduced the same pictures at the sentencing hearing. The jury found the murder to have the aggravating circumstances of being "especially heinous, atrocious, or cruel." The jury returned a sentence of death for Wayne.

On appeal, Wayne's attorney argued that the pictures should not have been allowed into evidence at trial or at the sentencing hearing. Further, he argues that sentencing a 15-year-old boy to death violated the Eight Amendment's ban against cruel and unusual punishment. The Oklahoma Court of Criminal Appeals upheld the conviction. It did agree with the defense on one point: the pictures should not have been allowed in evidence at the trial. But the court said this error was not sufficient to overturn Wayne's conviction because of the overwhelming evidence of his guilt.

Otherwise the court sided with the prosecution. The sentencing judge did not err in admitting the picture because they helped prove the aggravating circumstances of the murder. The sentences did not violate the Eight Amendment. Wayne had been certified to be tried as an adult, so he should be sentenced as an adult. Wayne's lawyer appealed to the Supreme Court. Wayne waited on death row in a cell next to his brother. In separate trials, all three adults had also been found guilty of first-degree of first-degree murder and sentenced to death. One of the men was killed in a jail-yard fight shortly after his trial. Another's conviction was reversed on appeal because of trial court error, and at this second trial, he was found not guilty.

If you were a Justice, would you sentence 15-year old Wayne to death? Why?

Roper v Simmons (2005)

In September of 1993, Christopher Simmons broke into the suburban St. Louis home of Shirley Crook with the intention to rob and possibly kill her. Simmons and a friend tied the victim up with duct tape and drove her to a nearby state park. At the park, Simmons pushed the victim, who was still alive, off of the bridge and into the Meramec River where she drowned. Simmons was 17 years old at the time of the murder. Before the crime, he had told several of his friends the plan to burglarize a home and kill the occupants, noting that they could do it and “get away with it” (not get charged for it) because they were juveniles.

Simmons and his friends were arrested the following day, and Simmons confessed on videotape at the police station. He even agreed to re-enact the crime on videotape and returned to the park and demonstrated where Mrs. Crook had been pushed from the rail bridge. At trial the jury easily found his guilt. During the sentencing hearing the defense attorneys asked the jury to not give Simmons the death penalty. His attorney’s used Simmons’ age and the fact that he had no prior convictions as mitigating factors. However, the jury focused on the brutal and aggravated nature of the crime and sentence Simmons to death by lethal injection.

Simmons’ case was appealed, citing ineffective trial support. His age and thus impulsiveness, along with troubled background were brought up as issues. The appeal court upheld the jury’s death sentence. The Missouri Supreme Court upheld the conviction and the US Supreme Court denied review. Simmons’ attempt at legal relief from the federal courts was also denied.

However, in light of a 2003 US Supreme Court ruling in *Atkins v. Virginia* (2002) that overturned the death penalty for someone suffering from mental retardation, the Missouri Supreme Court reconsidered Simmons’ case. In an unusual move, the Missouri Supreme Court concluded that, “a national consensus has developed against the execution of juvenile offenders” and sentenced Simmons to life imprisonment without parole.

The State of Missouri appealed the decision to the US Supreme Court. On January 6, 2003 the US Supreme Court granted certiorari (agreed to hear the case) and ordered oral arguments in the case.

If you were a Justice, would you sentence Simmons to death? Why?



DELIBERATING *in a Democracy*

- ✓ Read the material carefully.
- ✓ Focus on the deliberation question.
- ✓ Listen carefully to what others are saying.
- ✓ Check for understanding.
- ✓ Analyze what others say.
- ✓ Speak and encourage others to speak.
- ✓ Refer to the reading to support your ideas.
- ✓ Use relevant background knowledge, including life experiences, in a logical way.
- ✓ Use your heart and mind to express ideas and opinions.
- ✓ Remain engaged and respectful when controversy arises.
- ✓ Focus on ideas, not personalities.