Unit Topic: Civil Rights and Liberties

Lesson: Philosophical Chairs

Grades: 11 & 12

Rationale for the Lesson: This lesson will provide students with a basic understanding of civil rights and liberties as they work to distinguish between the two. This will provide them with practice in analyzing the Constitution and applying it to real-life cases. This lesson is aimed to help students learn about the importance of civil rights and liberties in the own lives.

Standards:
- NJ Standards
  - 6.3.12.D.1: Analyze current laws involving individual rights and national security, and evaluate how the laws might be applied to a current case study that cites a violation of an individual’s constitutional rights.
- Common Core Standards
  - CCSS.ELA-Literacy.RH.11-12.8: Evaluate an author’s premises, claims, and evidence by corroborating or challenging them with other information.
- NCSS Themes
  - Authority, Governance and Power

Essential Question/Guiding Question:
- How does government action impact individual citizens?

Objectives:
- Students will understand Supreme Court decisions and government actions to determine the importance of civil rights and civil liberties and the ways they impact the lives of individuals.

Lesson Opener/Anticipatory Set/Lead-In/Do Now:
- Do Now:
  - What is the difference between a right and a liberty? A civil right and liberty?

Step-By-Step Procedures:

<table>
<thead>
<tr>
<th>Time</th>
<th>Teacher Procedure</th>
<th>Student Procedure</th>
</tr>
</thead>
<tbody>
<tr>
<td>5:00</td>
<td>Take attendance and take care of any housekeeping issues, if necessary.</td>
<td>Answer the Do Now in their notebooks.</td>
</tr>
<tr>
<td>5:00</td>
<td>Facilitate class discussion about Do Now responses.</td>
<td>Participate in Do Now discussion.</td>
</tr>
<tr>
<td>5:00</td>
<td>Explain, with use of a PowerPoint presentation, the actual definitions of</td>
<td>Copy definitions into notes and compare their definitions from the Do Now.</td>
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</table>
Melissa McHugh
AP Government and Politics Lesson Plan

civil rights and liberties.

<table>
<thead>
<tr>
<th>Time</th>
<th>Activity</th>
<th>Details</th>
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<tbody>
<tr>
<td>5:00</td>
<td>Meet</td>
<td>Meet with their group to review the cases they had to read for homework.</td>
</tr>
<tr>
<td>5:00</td>
<td>Set up</td>
<td>Set up philosophical chair activity.</td>
</tr>
<tr>
<td>10:00</td>
<td>Monitor and ask probing questions</td>
<td>Engage in philosophical chair discussion/debate about the issue they were assigned (First Amendment/Religion)</td>
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<tr>
<td>10:00</td>
<td>Monitor and ask probing questions</td>
<td>Engage in philosophical chair discussion/debate about the issue they were assigned (Search and Seizure)</td>
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<tr>
<td>10:00</td>
<td>Monitor and ask probing questions</td>
<td>Engage in philosophical chair discussion/debate about the issue they were assigned (Affirmative Action)</td>
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<tr>
<td>5:00</td>
<td>Discussion</td>
<td>Discussion</td>
</tr>
<tr>
<td>5:00</td>
<td>Explain exit ticket question.</td>
<td>Complete exit ticket.</td>
</tr>
<tr>
<td>59:00</td>
<td>Total</td>
<td></td>
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</tbody>
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Lesson Closure
- Exit Ticket
  - Choose 1 of the 3 topics we have debated today and explain your personal position on the statement.

Materials and Equipment Needed:
- Worksheet
- Documents for each group
- Smart Board for display of PowerPoint and Graphic Organizer
- PowerPoint

Assessment: (how will I evaluate student learning?)
- Exit Ticket
- Worksheet
- Class discussion and participation

Modifications for diverse learners:
- A graphic organizer worksheet will be used to ensure all students are able to take notes in a guided and organized fashion.
- Groups will be pre-assigned in order to ensure students of all ability levels will be working together in mixed groups.
Philosophical Chairs Activity Guidelines

• You will be debating the statement that corresponds to the cases you read for homework.

• There are 7 people in each group:
  o 3 pro
  o 3 con
  o 1 moderator

• The moderator is there to push the debate along and make sure everyone speaks. He or she will ultimately decide who wins the debate.

• **Everyone** on your team **must** speak before you speak again.

• **Everyone** will fill out a worksheet for the 2 debates that they did not participate in.

• **Be respectful of all contributions to the debate.**
**Affirmative Action is a form of reverse-racism.**

**University of California Regents v. Bakke (1978)**

The Supreme Court Case, the University of California v. Bakke, serves a landmark trial that forever changed the legal landscape in America. The case began when Allan Bakke applied to the University of California Davis school of Medicine on two separate occasions. The applications were delivered to the school in 1973 and 1974.

On the application, Bakke stated that he was a Caucasian male. Bakke was ultimately rejected both times. After conducting his own research, Bakke discovered that other applicants, who were accepted to the school, had lower scores than he did. Bakke believed that these individuals were accepted because they stated “minority status” on their respective applications. Bakke also discovered that students who were poorer than he was had a better chance of getting accepted even when his grades were better.

Bakke was very upset that he was rejected when students with worse scores were accepted. He was so upset, in fact, that he filed a lawsuit against the University of California. He filed the suit because he felt that the school was unfairly accepting students based on their race and poverty level. He claimed that the School had violated his 14th Amendment rights, which are awarded to all American citizens.

He also claimed that the school was violating Title VI of the Civil Rights Act of 1964, which states that no ethnic or racial advantages should be granted to a particular group by any academic institution or program that receives government money. Bakke claimed that he was being discriminated against because he kept getting rejected.

**Regents of the University of California v. Bakke: The Case Profile**

The Regents of the University of California v. Bakke case took place on October 8, 1977. Bakke filed the suit, claiming the University was guilty of unfairly treating him because of his race. The Regents of the University of California v. Bakke was heard by the Supreme Court of the United States and decided on June 28th of 1978.

**The Regents of the University of California v. Bakke: The Verdict**

The United States Supreme Court in the Regents of the University of California v. Bakke case ruled in favor of Bakke. The Court found that the University of California was guilty of violating both the 14th Amendment and Title VI of the Civil Rights Act of 1964.

Barbara Grutter was a woman living in Michigan. The case of Grutter v. Bollinger stems from Mrs. Grutter’s application the law school at the University of Michigan. Mrs. Grutter filed an injunction against the massive university in 2007.

The injunction filed against the school was in response to Mrs. Grutter’s application being rejected. The woman claimed that the admissions office favored minority candidates; Mrs. Grutter claimed minority candidates, who possessed worse academic records and qualifications, were accepted because of their race or ethnicity.

The case of Grutter v. Bollinger was not the first to question acceptances of minority candidates for academic institutions or employment opportunities. For example, in a 1978 case called California vs. Bakke, Bakke cited unfair acceptance practices undertaken by the University of California. Bakke claimed that applicants who were less fortunate or poor who possessed lower scores were accepted over him. Bakke claimed that the university violated his 14th Amendment rights.

In addition to the 14th Amendment to the United States constitution, unfair admissions policies may also be in violation of Title VI of the Civil Rights act of 1964. This law states that no ethnic or racial preference should be granted to a particular group of people by any academic institution or business organization that receives federal funding. Therefore, any program that receives money from the government may not favor any applicant based on their race or ethnicity.

Grutter v. Bollinger: The Case Profile

The case of Grutter v. Bollinger took place on April 1st of 2003. The case was filed because Barbara Grutter thought her rejection from the University of Michigan’s law school was unfair. She thought the school accepted minority candidates over her even if those individuals had worse grades than her. Similar to the case of Bakke v. California, Grutter claimed that the University of Michigan violated her 14th Amendment rights. Grutter v. Bollinger was heard in the United States Supreme Court. The case of Grutter v. Bollinger was decided on June 23rd of 2003.

Grutter v. Bollinger: The Verdict

The United States Supreme Court ruled in favor of the University of Michigan. Because of this ruling, the court also required that the verdict in the case of Bakke v. California be overturned as well. The verdict in Grutter v. Bollinger was reached because the Law School admission process involved other facets outside of simply grades. Because of this, there was no way to prove that the school accepted or preferred candidates based on their race or ethnicity.

The University of Michigan used a 150-point scale to rank applicants, with 100 points needed to guarantee admission. The University gave underrepresented ethnic groups, including African-Americans, Hispanics, and Native Americans, an automatic 20-point bonus towards their score, while a perfect SAT score was worth 12 points.

The petitioner, Jennifer Gratz and Patrick Hamacher, both white residents of Michigan, applied for admission to the University of Michigan's College of Literature, Science, and the Arts (LSA). Gratz applied for admission in the fall of 1995 and Hamacher in the fall of 1997. Both were subsequently denied admission to the university. Gratz and Hamacher were contacted by the Center for Individual Rights, which filed a lawsuit on their behalf in October 1997. The case was filed in the United States District Court for the Eastern District of Michigan against the University of Michigan, the LSA, James Duderstadt, and Lee Bollinger. Duderstadt was president of the university while Gratz's application was under consideration, and Bollinger while Hamacher's was under consideration. Their class-action lawsuit alleged "violations and threatened violations of the rights of the plaintiffs and the class they represent to equal protection of the laws under the Fourteenth Amendment... and for racial discrimination."

Issues of Standing

It has been argued by some that Jennifer Gratz lacked legal standing to bring this action. Gratz applied in 1995, three years before the University of Michigan adopted its points system. Gratz could not claim injury as a result of the points system, and thus, under traditional legal rules, Gratz lacked standing. Gratz chose not to attend the University of Michigan by declining the university's offer to be placed on a waiting list. Every Michigan student who agreed to go onto the waiting list in the spring of 1995 was admitted to the University of Michigan for the Fall 1995 semester.[citation needed] However, Gratz argues that she did fill out the paperwork for said waiting list, but the University claims it got lost.

Opinion

The Court's majority found that Gratz and co-plaintiff Hamacher had standing to seek declaratory and injunctive relief, relying on Northeastern Fla. Chapter, Associated Gen. Contractors of America v. Jacksonville, 508 U.S. 656 (1993). Here the "injury in fact" necessary to establish standing in the case was the denial of equal treatment resulting from the imposition of the barrier, and not in the ultimate inability to obtain the benefit.
No Government body at ANY level should be allowed to open with a prayer.

Engel v. Vitale, 370 U.S. 421 (1962)

Facts:
The parents of ten pupils in New York schools challenged the constitutionality of a New York state law requiring public schools to begin each day with a state authorized prayer drafted by the State Board of Regents. These parents argued that state-sponsored prayers in public schools violate the Establishment Clause.

Issue:
Whether state legislation can require principals, teachers and students to begin the day with prayers that are sponsored and written by the state.

Holding:
In a 6-1 decision (two justices did not participate), the Court held that school officials may not require devotional religious exercises during the school day, as this practice unconstitutionally entangles the state in religious activities and establishes religion.

Reasoning:
Appealing to history, the Court explained that the First Amendment protects religious liberty by keeping government from determining when and how people should pray or worship. Early Americans knew, "some of them from bitter personal experience, that one of the greatest dangers to the freedom of the individual to worship in his own way lay in the Government's placing its official stamp of approval upon one particular kind of prayer or one particular form of religious services." The Court found that the Establishment Clause prohibits the government from involving itself in devotional religious exercises. It further explained that such separation of church and state protects both government from religious domination, and religion from government tyranny and abuse.

Majority:
"[W]e think that the constitutional prohibition against laws respecting an establishment of religion must at least mean that in this country it is no part of the business of government to compose official prayers for any group of the American people to recite as a part of a religious program carried on by government." (Justice Hugo Black)

Dissent:
"With all respect, I think the Court has misapplied a great constitutional principle. I cannot see how an 'official religion' is established by letting those who want to say a prayer say it. On the contrary, I think that to deny the wish of these school children to join in reciting this prayer is to deny them the opportunity of sharing in the spiritual heritage of our Nation." (Justice Potter Stewart)
**Everson v. Board of Education of Ewing Township, 330 U.S. 1 (1947)**

**Facts:**
A New Jersey statute authorized local school districts to make rules and contracts for the transportation of children to and from public and private schools. The Board of Education of Ewing Township authorized reimbursement to parents of money spent by them for the bus transportation of their children on regular buses operated by the public transportation system. A taxpayer brought suit claiming that reimbursement to the parents of parochial school students violated the Establishment Clause of the First Amendment.

**Issue:**
Whether reimbursing parents for their children’s transportation to and from religious schools violates the Establishment Clause when it is part of a general transportation reimbursement scheme.

**Holding:**
By a 5-4 vote, the Court held that the state does not violate the Establishment clause when it reimburses parents, as the money flows to the parents as part of a general secular policy designed to keep children safe while en route to and from school.

**Reasoning:**
The Court found that while the Establishment Clause requires that the state remain neutral among religions and between religion and non-religion, the New Jersey plan merely provided money to parents as part of a general government service that was not inherently religious in character, similar to providing sewer and police services to churches.

**Majority:**
"The ‘establishment of religion’ clause of the First Amendment means at least this: Neither a state nor the Federal Government can set up a church. Neither can pass laws which aid one religion, aid all religions, or prefer one religion over another. Neither can force nor influence a person to go to or to remain away from church against his will or force him to profess a belief or disbelief in any religion. No person can be punished for entertaining or professing religious beliefs or disbelief, for church attendance or non-attendance. No tax in any amount, large or small, can be levied to support any religious activities or institutions, whatever they may be called, or whatever form they may adopt to teach or practice religion. Neither a state nor the Federal Government can, openly or secretly, participate in the affairs of any religious organizations or groups and vice versa. In the words of Jefferson, the clause against establishment of religion by law was intended to erect ‘a wall of separation between church and State.’" (Justice Hugo Black)

**Dissent:**
Although the Court was unanimous in affirming the principle of "neutrality" by the government toward religion, four Justices disagreed with the majority’s view that allowing reimbursement for bus transportation to parents of students in parochial schools was not a breach of church-state separation. In a dissenting opinion, Justice Wiley B. Rutledge defined "no establishment" this way: "The prohibition broadly forbids state support, financial or other, of religion in any guise, form or degree. It outlaws all use of public funds for religious purposes."
Lemon v. Kurtzman, 403 U.S. 602 (1971)

Facts:
Pennsylvania and Rhode Island statutes provided state aid to church-related elementary and secondary schools. A group of individual taxpayers and religious liberty organizations filed suit, challenging the constitutionality of the program. They claimed that, since the program primarily aided parochial schools, it violated the Establishment Clause.

Issue:
Whether states can create programs that provide financial support to nonpublic elementary and secondary schools by way or reimbursement for the cost of teachers’ salaries, textbooks, and instructional materials in specified secular subjects (Pennsylvania) -- or pay a salary supplement directly to teachers of secular subjects in religious schools (Rhode Island).

Holding:
In a unanimous decision, the Court held that both programs violate the Establishment Clause because they create excessive entanglement between a religious entity and the state.

Reasoning:
The Court looked to three factors in determining the constitutionality of the contested programs, factors that would become known as the Lemon test. First, whether the legislature passed the statute based on a secular legislative purpose. The Court could find no evidence that the goal of the Pennsylvania or Rhode Island legislatures was to advance religion. Instead the Court relied on the stated purpose, that the bill was designed to improve "the quality of the secular education in all schools covered by the compulsory attendance laws." Second, the Court questioned whether the programs had the primary effect of advancing or inhibiting religion. It bypassed this prong by examining the third prong and finding a violation there, thus obviating the need for analysis of this point. The third factor, and the point at which the Court found the constitutional defect, was over the issue of excessive entanglement. Here, the Court held that the state’s oversight and auditing requirements and the propensity for political divisiveness generated by this kind of aid program would entangle the state and the religious entity in unconstitutional ways.

Majority:
"First, the statute must have a secular legislative purpose; second, its principal or primary effect must be one that neither advances nor inhibits religion; finally, the statute must not foster 'excessive entanglement with religion.'" (Chief Justice Warren Burger)

**Facts:**
Pennsylvania state law required that "at least ten verses from the Holy Bible shall be read, without comment, at the opening of each public school on each school day." Two families sued, claiming this violated the Establishment Clause of the First Amendment.

**Issue:**
Whether an official reading at the beginning of each school day of Bible passages, without further comment, violates the Establishment Clause.

**Holding:**
By a vote of 8-1, the Court held that state-sponsored devotional Bible readings in public schools constitute an impermissible religious exercise by government.

**Reasoning:**
The Court found that state-sponsored devotional exercises violate the Establishment Clause. The Constitutional defects are not corrected by allowing an opt-out provision. The Establishment Clause constrains government from involving itself in religious matters. Therefore, government action that promotes or inhibits religion violates the Constitution. The state may not draft or conduct religious prayers in schools filled with captive audiences of children.

**Majority:**
"In addition, it might well be said that one’s education is not complete without a study of comparative religion or the history of religion and its relationship to the advancement of civilization. It certainly may be said that the Bible is worthy of study for its literary and historic qualities. Nothing we have said here indicates that such study of the Bible or of religion, when presented objectively as part of a secular program of education, may not be effected [sic] consistently with the First Amendment. But the exercises here do not fall into those categories. They are religious exercises, required by the States in violation of the command of the First Amendment that the Government maintain strict neutrality, neither aiding nor opposing religion."

(Justice Tom Clark)
The Exclusionary rule as applied allows criminals to get off on technicalities.

- The Exclusionary Rule is available to a Defendant in a criminal case as a remedy for illegal searches that violate the rights set forth in the Fourth Amendment. When applicable, the rule dictates that the evidence illegally obtained must be excluded as evidence under the Fourth Amendment.

Mapp v. Ohio (1961)

Historical Background
The Warren Court left an unprecedented legacy of judicial activism in the area of civil rights law as well as in the area of civil liberties—specifically, the rights of the accused as addressed in Amendments 4 through 8. In the period from 1961 to 1969, the Warren Court examined almost every aspect of the criminal justice system in the United States, using the 14th Amendment to extend constitutional protections to all courts in every State. This process became known as the “nationalization” of the Bill of Rights. During those years, cases concerning the right to legal counsel, confessions, searches, and the treatment of juvenile criminals all appeared on the Court's docket.

The Warren Court's revolution in the criminal justice system began with the case of Mapp v. Ohio, the first of several significant cases in which it re-evaluated the role of the 14th Amendment as it applied to State judicial systems.

Circumstances of the Case
On May 23, 1957, police officers in a Cleveland, Ohio suburb received information that a suspect in a bombing case, as well as some illegal betting equipment, might be found in the home of Dollree Mapp. Three officers went to the home and asked for permission to enter, but Mapp refused to admit them without a search warrant. Two officers left, and one remained. Three hours later, the two returned with several other officers. Brandishing a piece of paper, they broke in the door. Mapp asked to see the “warrant” and took it from an officer, putting it in her dress. The officers struggled with Mapp and took the piece of paper away from her. They handcuffed her for being “belligerent.”

Police found neither the bombing suspect nor the betting equipment during their search, but they did discover some pornographic material in a suitcase by Mapp's bed. Mapp said that she had loaned the suitcase to a boarder at one time and that the contents were not her property. She was arrested, prosecuted, found guilty, and sentenced for possession of pornographic material. No search warrant was introduced as evidence at her trial.

Constitutional Issues
The question before the Court involved 4th Amendment protection against “unreasonable searches and seizures” and the “nationalization” of the Bill of Rights under the 14th Amendment. Was the search of Mapp's home legal and the evidence admissible under State law and criminal procedure? If the State criminal procedure code did not exclude the evidence as having been illegally gained, did Ohio law fail to provide Mapp her 4th Amendment protection against “unreasonable searches and seizures”? Weeks v. United States, 1914, established the exclusionary
rule barring the admission of illegally obtained evidence in federal courts. Should that rule be extended, making evidence gained by an illegal search inadmissible in State courts as well?

Arguments

For Mapp: The police, who possessed no warrant to search Mapp's property, had acted improperly by doing so. Any incriminating evidence found during the search should, therefore, be thrown out of court and her conviction overturned. If the 4th Amendment did not limit the prerogatives of police on the local and State level, local law enforcement would have a mandate to search wherever, whenever, and whomever they pleased. The exclusionary rule that applied in federal courts should also be applied to State court proceedings.

For the State of Ohio: Even if the search was made without proper authority, the State was not prevented from using the evidence seized because “the Fourteenth Amendment does not forbid the admission of evidence obtained by an unreasonable search and seizure.” In other words, Ohio argued, the 14th Amendment does not guarantee 4th Amendment protections in the State courts. Furthermore, under the 10th Amendment, the States retain their right to operate a separate court system. The Bill of Rights only restricts and limits the actions of the National Government.

Decision and Rationale

In a 6-3 decision, the Court overturned the conviction, and five justices found that the States were bound to exclude evidence seized in violation of the 4th Amendment. In the majority opinion, Justice Tom Clark declared: “We hold that all evidence obtained by searches and seizures in violation of the Constitution [is] inadmissible in a state court…. Were it otherwise…the assurance against unreasonable…searches and seizures would be [meaningless].” Clark explained that “Only last year [Elkins v. United States, 1960] the Court…recognized that the purpose of the exclusionary rule ‘is to deter—to compel respect for the constitutional guarantee in the only effectively available way—by removing the incentive to disregard it.’” The Court thus ensured that “in either sphere [State or federal]…no man is to be convicted on unconstitutional evidence.” The 4th Amendment sets the standards for searches and seizures by law enforcement officials in the United States, the Court noted, and the 14th Amendment requires judges to uphold those standards in every State.

Evidence gained by an illegal search became inadmissible in State courts as a result of the decision. The 50-year development of the exclusionary rule for illegal evidence, begun in the Weeks case, 1914, and continued in Elkins, 1960, culminated with the decision reached in Mapp, 1961.

The “Mapp Rule” has since been modified by decisions of the Burger Court, including Nix v. Williams, 1984 (inevitable discovery rule), and U.S. v. Leon, 1984 (“good faith” exception), so the exclusionary rule is no longer as absolute as when first handed down in Mapp. Critics of the Warren Court charged that it “had gone too far in interfering with police work.”
Weeks v. United States, 1914

Historical Background

Much of the procedure used in our judicial system has its origins in the common law of England. In English courts, the means by which evidence was found had little to do with whether a judge would admit it into the record. Common law provided (1) that the evidence might be used and (2) that there would be prosecution and punishment of anyone who broke the law to gain the evidence.

Until the eve of World War I, the U.S. Supreme Court used the old common law rule and permitted States and federal courts to admit evidence gained by an illegal search to convict an accused offender. In the late 19th century, as the U.S. system matured, many lawyers began to argue that the 4th Amendment to the Constitution—providing protection against "unreasonable searches and seizures"—was meaningless unless it was interpreted as a prohibition against the use of evidence gained illegally.

It could be said that the 4th Amendment had been dormant and devoid of practical application. It provided little protection except in spirit, until the Weeks case. This landmark decision by the Court became the first modern interpretation of the meaning of the Bill of Rights.

Circumstances of the Case

Weeks was arrested by a San Francisco policeman at his place of business. At the time of arrest, the officer conducted a search of Weeks's office without a warrant. The search revealed evidence about a suspected use of the U.S. mail to transmit lottery tickets, which was prohibited by federal law. The police then also searched Weeks's home, finding other papers that were irrelevant to the prosecution. Motivated by the results of the searches, the United States marshal, accompanied by local police and a federal postal inspector, returned to Weeks's home and searched his room in a third warrantless search, carrying away more letters and documents. Weeks filed suit to have the papers that were not relevant returned, and also petitioned to have the evidence excluded, or thrown out at the trial, because it was gained by an illegal search.

Constitutional Issues

The case raised an essential 4th Amendment question: What protection does the 4th Amendment provide to a citizen? What use can be made of evidence gained by an illegal search? What penalty can be brought against officers who gain evidence by an illegal search? Was the evidence gained by an illegal search "tainted"? Should courts use the evidence but punish law enforcement officers by some means other than excluding the evidence?

Arguments

For Weeks: The 4th Amendment is meaningless unless it provides some real protection. To state that people are safe from unreasonable searches and seizures has little value unless it is clear that evidence from such searches cannot be used in federal court. Federal officials should not be able to break the law in order to enforce the law.

For the United States: The Weeks prosecution proceeded logically: an arrest was made in connection with a search, and further searches produced further evidence of wrongdoing. At all times the officers were acting upon a growing body of evidence which suggested Weeks's involvement in illegal activity. He was guilty, he was in possession of evidence which was incriminating, and he should be punished.
Decision and Rationale

Justice Day delivered the Court's unanimous decision to overturn Weeks's conviction. The Court declared illegally gained evidence "fruit of the poison tree" and ordered that illegally gained evidence be excluded in the future from any federal court. Justice Day reasoned: "If letters and private documents can thus be seized and held and used as evidence against a citizen accused of an offence, the protection of the Fourth Amendment, declaring his right to be secure against such searches and seizures, is of no value, and…might as well be stricken from the Constitution." Drawing an important distinction between the ends and means of the criminal justice system, Day noted that the "efforts of the courts and their officials to bring the guilty to punishment, praiseworthy as they are, are not to be aided by the sacrifice of those great principles established by years of endeavor and suffering which have resulted in their embodiment in the fundamental law of the land. "In holding them [papers] and permitting their use upon the trial, we think prejudicial error was committed…." The Weeks ruling established that "evidence gained by an illegal search by a federal officer is inadmissible in federal courts." In cases where tainted evidence was essential to the conviction, the courts will order the release of a person who has been found guilty. Day wrote that the taking of papers by an official of the United States, "acting under the color of his office," was in violation of the constitutional rights of the defendant. The Court's ruling in this case established what has become known as the Exclusionary Rule, barring the admission of evidence illegally obtained. The rule applied only to federal law enforcement and federal courts, however, and cooperation between federal officers and other law enforcement officers created so-called "silver platter" arrangements between one and the other. Until Elkins v. United States, 1960, federal officers would frequently tip off local officers, not bound by Weeks, who would then secure evidence by means not permitted under the Exclusionary Rule and transfer it to their federal colleagues "on a silver platter." In defense of the Exclusionary Rule, Justice Louis B. Brandeis noted in 1928 that "Decency, security and liberty alike demand that government officials shall be subjected to the same rules of conduct that are commands to the citizen. In a government of laws, existence of the government will be imperiled if it fails to observe the law scrupulously. Our government is the potent, the omnipotent, teacher. For good or for ill it teaches the whole people by its example. Crime is contagious. If the government becomes a lawbreaker, it breeds contempt for the law; it invites every man to become a law unto himself; it invites anarchy."
Melissa McHugh
AP Government and Politics Lesson Plan

Name:
Date:
Block/Day:

Philosophical Chairs Debates

Topic: ______________________

Winner: ____________________

Why:


Topic: ______________________

Winner: ____________________

Why: