

Lesson 9: The Supreme Court and the Bill of Rights

Answer Key

Background Essay Questions

1. What was the original Founding understanding of the Bill of Rights? How does this connect to the Founding Principle of federalism?

The Bill of Rights was meant to limit the ability of the federal government to violate the rights of the people. The Bill of Rights did not apply to the state governments because they had their own bills of rights. This reflected the Founding Principle of federalism.

2. How has incorporation led to controversy in the twentieth century?

Incorporation, or applying the Bill of Rights to the states, has led the Supreme Court to issue decisions that reflect many of the cultural, social, and moral debates ongoing throughout the United States (for instance, right to privacy, abortion, gay rights).

3. What rights has the Supreme Court protected, starting with the Warren Court?

The Court has protected students' rights, the rights of the accused, and the right to privacy.

4. In your opinion, is the Supreme Court the branch of government best suited to protect civil liberties? Explain your reasoning.

Accept reasoned answers.

Supreme Court Case Scenarios: How Would You Decide?

Scenario 1: *Tinker v. Des Moines* (1969)

Summary: Three students wore black armbands to their public school to protest the Vietnam War. The school had issued a warning not to engage in the protest because of fears that it would disrupt the school day and learning. The three students defied the warning and wore the armbands, and school officials asked them to remove them or be suspended. The students refused and were suspended from school.

What happened in 10 words or less:

Three students protested Vietnam War at school, got in trouble

**Constitutional amendment that applies to the case: First
BECAUSE . . .**

Students were expressing their opinion at school (free speech).

How would you decide the case if you were a member of the Supreme Court? WHY?

Students should be allowed to protest because they weren't hurting anyone or disrupting anyone, just wearing black armbands.

What the Court said:

Students should be allowed to protest because they weren't hurting anyone or disrupting anyone, just wearing black armbands.

Scenario 2: *Gideon v. Wainwright* (1963)

Summary: Clarence Earl Gideon was accused of breaking in to a pool hall in the middle of the night and stealing some alcohol and money from a cash register. He was arrested and charged with petty larceny. He was too poor to hire an attorney and represented himself. He was convicted and sent to jail. He filed a case with the court and stated that his rights were being violated.

What happened in 10 words or less:	Gideon accused of crime, couldn't afford lawyer, against the rules
Constitutional amendment that applies to the case: <u>Sixth</u> BECAUSE . . .	It entitles the accused to defense counsel.
How would you decide the case if you were a member of the Supreme Court? WHY?	Answers will vary.
What the Court said:	9–0 in favor of Gideon, guaranteeing right to legal counsel for criminal defendants in federal and state courts

Scenario 3: *New York Times Company v. United States* (1971)

Summary: In 1969, Pentagon worker Daniel Ellsberg was shocked when he read a classified government report on the events leading to American intervention in the Vietnam War. He copied the documents and gave a journalist access to them. The reporter brought them to the *New York Times* to print. When the newspaper began publishing the top-secret documents, the Nixon Administration tried to stop their publication.

What happened in 10 words or less:	Classified information published in papers; government tried to stop it
Constitutional amendment that applies to the case: <u>First</u> BECAUSE . . .	It addresses the freedom of the press.
How would you decide the case if you were a member of the Supreme Court? WHY?	Answers will vary.
What the Court said:	6–3 in favor of the <i>New York Times</i> . “Only a free and unrestrained press can effectively expose deception in the government.”

Scenario 4: <i>Miranda v. Arizona</i> (1966)	
Summary: Ernesto Miranda was arrested for suspected kidnapping and rape. He was brought to the police station and identified by the alleged victim. He was alone in the interrogation room with two police officers for two hours. He offered a written confession admitting that he had committed the crimes. He was brought to trial, found guilty, and sentenced to 20–30 years in prison.	
What happened in 10 words or less:	Miranda was arrested and confessed without a lawyer, incriminating himself.
Constitutional amendment that applies to the case: <u>Fifth</u> BECAUSE . . .	It protects against self-incrimination.
How would you decide the case if you were a member of the Supreme Court? WHY?	Answers will vary.
What the Court said:	5–4 in favor of Miranda. The Fifth Amendment allows a person to consult with a lawyer before and during questioning by the police.

Scenario 5: <i>Engel v. Vitale</i> (1962)	
Summary: The state of New York had a law for its public schools that encouraged students to say the Pledge of Allegiance and recite a voluntary prayer. The prayer read, “Almighty God, we acknowledge our dependence upon Thee, and we beg Thy blessings upon us, our parents, our teachers and our country. Amen.” A group of families in a school district sued.	
What happened in 10 words or less:	Families protest New York law for voluntary prayer in school.
Constitutional amendment that applies to the case: <u>First</u> BECAUSE . . .	It deals with the establishment of religion.
How would you decide the case if you were a member of the Supreme Court? WHY?	Answers will vary.
What the Court said:	6–1 in favor of the families protesting the New York law

Scenario 6: *Citizens United v. Federal Election Commission* (2010)

Summary: In 2008, a nonprofit group, Citizens United, tried to show and advertise a film critical of Democratic candidate Hillary Clinton. The Federal Election Commission banned the ad for violating a campaign finance law preventing ads close to a state primary. Citizens United argued that its rights were being violated.

What happened in 10 words or less:	Can the “speech” of corporations be limited in an election?
Constitutional amendment that applies to the case: <u>First</u> BECAUSE . . .	It deals with freedom of speech/expression.
How would you decide the case if you were a member of the Supreme Court? WHY?	Answers will vary.
What the Court said:	5–4 in favor of Citizens United. Under the First Amendment, corporate funding of independent political broadcasts in candidate elections cannot be limited.

Scenario 7: *Schenck v. United States* (1919)

Summary: During World War I, Charles Schenck and Elizabeth Baer were socialists who passed out a pamphlet criticizing the military draft as slavery. They advocated that the public disobey the draft and not report for service. They were arrested and convicted for violating the Espionage Act of 1917 and obstructing the draft.

What happened in 10 words or less:	Pamphlets oppose the draft in WWI. Is this free speech?
Constitutional amendment that applies to the case: <u>First</u> BECAUSE . . .	It deals with freedom of the press/speech.
How would you decide the case if you were a member of the Supreme Court? WHY?	Answers will vary.
What the Court said:	9–0 in favor of United States. Freedom of speech can be restricted if words spoken or printed represent a “clear and present danger.”

Scenario 8: *Mapp v. Ohio* (1961)

Summary: In 1957, police learned from an informant that Dollree Mapp might be hiding a fugitive from justice allegedly connected to a bombing and illegal gambling. The police broke into Mapp's home and searched the home but did not find the fugitive. They did find obscene material, including pictures and books, and Mapp was arrested and convicted.

What happened in 10 words or less:	Police broke in, found evidence. OK to use in court?
Constitutional amendment that applies to the case: <u>Fourth</u> BECAUSE . . .	It deals with search and seizures.
How would you decide the case if you were a member of the Supreme Court? WHY?	Answers will vary.
What the Court said:	5–3 in favor of Mapp. Evidence seized unlawfully cannot be used in criminal prosecutions in state courts.

Scenario 9: *McDonald v. Chicago* (2010)

Summary: In 2008, the Supreme Court issued a decision in *District of Columbia v. Heller*, overturning Washington, DC, laws that made possession of an unregistered firearm illegal and also prevented anyone from registering a handgun. The day after, several people in Chicago filed suit against laws there that prevented possession or registration of most handguns, arguing that their rights were being violated.

What happened in 10 words or less:	Gun owners protest following Supreme Court ruling. Second Amendment applies?
Constitutional amendment that applies to the case: <u>Second</u> BECAUSE . . .	It guarantees a right to bear arms
How would you decide the case if you were a member of the Supreme Court? WHY?	Answers will vary.
What the Court said:	5–4 that the Second Amendment applies to state and local governments as well as to the federal government

Concluding Questions

1. Did any of the Supreme Court decisions surprise you? Explain.

Answers will vary.

2. Which case did you find to be the most relevant to your life? Explain.

Answers will vary.

3. How does the content in this activity illustrate the Founding Principle of checks and balances?

*The Supreme Court applies judicial review to presidential, congressional, and individuals' actions.
Lower courts do not always agree with the rulings of the Court.*