



LAW WISE

PUBLISHED BY THE



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SEPTEMBER 2014 • ISSUE 1

Greetings from the Kansas Bar Association (KBA).

Welcome to this edition of *Law Wise* and the first edition of the 2014-2015 school year.

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CONSTITUTION DAY

Topeka judges really know how to celebrate Constitution Day! For the last few years, several judges from the Kansas Court of Appeals and Shawnee County District Court have visited schools in the Topeka area to facilitate a variety of entertaining and educational Constitution Day activities. Some classes had students role play as judges. Other classes presented short skits or had students debate whether certain factual scenarios violate the Bill of Rights. Last year, these judges worked with teachers Susan Sittenauer and Deb Stewart to coordinate presentations in every school in the Seaman School District – to over 2,000 students. Way to go!

If you would like an attorney or a judge to visit your classroom for Constitution Day, please call your local bar association and ask about their speakers' bureau. Materials to assist lawyers and others in making Constitution Day presentations are available from Anne Woods, the Public Services Manager for the Kansas Bar Association. Just request a free copy of the Constitution Day speakers' materials at awoods@ksbar.org.

In Kansas, we celebrate Constitution Day as part of "celebrate freedom week." Last year, as you may recall, the Kansas legislature designated the week of September 17 as "celebrate freedom week" in K-8 public schools, and required each board of education to promote it annually. The legislature chose that date because our United States Constitution was signed on September 17, 1787. The goal of this week is to educate students about the values on which the USA was founded, and the sacrifices made for freedom during the founding of our country.

So what is to be taught? The law requires the following:

- Teaching the original intent, meaning, and importance of the Declaration of Independence and the United States Constitution (including its Bill of Rights) in their historical contexts;
- Not censoring the religious references in the writings of the founding fathers, when presented as part of this instruction; and
- Showing the relationship of the ideas expressed in the Declaration of Independence to subsequent American history, including:
 - o the rich diversity of our people as a nation of immigrants,
 - o the American revolution,
 - o the formulation of the United States Constitution, and the abolitionist movement, which led to the Emancipation Proclamation and the women's suffrage movement. ■

CALENDAR OF EVENTS

September 17, 2014	Constitution Day
February 28, 2015	Regional High School Mock Trial Tournament
March 27-28, 2015	State High School Mock Trial Tournament
May 1, 2015	Law Day
May 14-16, 2015	National High School Mock Trial Tournament, Raleigh, North Carolina



LESSON PLAN

CONSTITUTION DAY "BILL OF RIGHTS"

Grade(s): 6–7

Our lesson plan this month was adapted from one used by our own Kansas Court of Appeals Judge, Hon. Karen Arnold-Burger, while making Constitution Day presentations in the Topeka area. Thank you, Judge Arnold-Burger, Judge Pierron, and all others who have participated in Constitution Day presentations throughout the years!

The Bill of Rights: An Overview (10-15 minutes)

Read the Bill of Rights aloud and generally explain the various protections present in the Bill of Rights.

Instructions on the debate (5-7 minutes)

Read the instructions on the debates (below), splitting the students into groups to put together their arguments, explaining the role of the "court."

Debate planning (10 minutes)

The students spend about 10 minutes developing their ideas as to the constitutionality of the actions in their "case" (this will make more sense in conjunction with the scenarios on the next page).

The Court hears arguments & rules (10 minutes)

A representative from each group explains their side to the "court" group and the "court" group rules on the outcome.

Real outcomes (5 minutes)

Explain how a real court would rule.

Constitution Day Debate Scenarios & Directions

Directions: Attached are five "case scenarios." The class will need to be split into eleven groups for all this: ten debate groups and one court group. (If you do not have enough students for so many groups, omit one or two of the case scenarios and reduce groups accordingly).

The role of the debate groups: each group will get a half-sheet of paper that has the scenario on it and states either you must argue that this is allowed or you must argue that this is not allowed. This determines the debate group's issue and stance on the matter. Their goal is to argue their side to the court group and win.

The role of the court group: the court group will receive all the scenarios so they know the facts in advance. Their job is to hear the arguments and decide the outcome. (This group should be an odd number to ensure there are no ties).

Each debate group will have 10 minutes to discuss their scenario and come up with their argument. At the end of 10 minutes, each group will present its case to the court group, which votes on the winner.

Scenario 1: The Search

A fifteen-year-old high school student is waiting in line outside the high school before school starts for the day. He has

his backpack on the ground next to him. There are police officers outside the school who keep the school secure. One of them has a police dog with him. As the officer walks by with the dog, the dog starts barking at the student's backpack. The officer knows the dog only barks like that when it can smell something illegal. He takes the student's backpack to search it.

Is this legal?

You must argue that this is allowed/legal.

Possible reasons: The officer had reason to believe drugs were in the student's bag. The school has a right to protect its students from drugs. This was not unreasonable. If a student is going to bring a backpack into the school, police or administrators can search to protect the other students if they believe there is something illegal in the backpack. The dog sniffing gave them that reason.

Scenario 1: The Search

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Is this legal?

You must argue that this is NOT allowed/legal.

Possible reasons: The 4th Amendment of the constitution prohibits unreasonable searches and seizures. The searches also have to be based on probable cause. This student has a right to privacy in his backpack and the officers had no reason to send the dog over to sniff his back pack.

Scenario 2: The Rights of the Government

The city of Topeka has designed a new road. The road is necessary to get people from one part of the city to a newly developed area. The only place the road can go is right through Mr. and Mrs. Farmer's land. The City tells Mr. and Mrs. Farmer that they must sell the land for the road to the City. Mr. and Mrs. Farmer do not want to sell their land, even though the city is going to pay them a fair market price.

Can the city make them sell their land?

You must argue that this is allowed/legal.

Possible reasons: The 5th amendment to the constitution says that a person's property cannot be taken for public use without just compensation. The City is taking it for a public purpose, a road that will benefit many, and they are giving a fair price, so Mr. and Mrs. Farmer must sell.

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Mr. and Mrs. Farmer's land. The City tells Mr. and Mrs. Farmer that they must sell the land for the road to the City. Mr. and Mrs. Farmer do not want to sell their land, even though the city is going to pay them a fair market price.

Can the city make them sell their land?

You must argue that this is NOT allowed/legal.

Possible reasons: Mr. and Mrs. Farmer own the land. They cannot be forced to sell it. They get their income from the land by farming it. By taking the land they will no longer have that income. They cannot find another place as nice as this to live with the money they get. The land has been owned by Mr. Farmer's family for over 200 years. This isn't fair. The City allowed the new development to go in, they should find a way to get people to the property without going through Mr. and Mrs. Farmer's land.

Scenario 3: The Protest

A group of people who really love the dog park is upset because the city wants to tear down the dog park and build a parking garage there. They decide to get together on Saturday afternoon to protest the new parking garage. They make signs, buy bullhorns, and come up with songs about how much they love the dog park. But on Saturday afternoon, the police show up and tell them to stop their protest because they are being loud. When they won't stop, the police arrest everybody and their dogs.

Is this legal under the 1st Amendment, which promises the freedom of speech?

You must argue that this is allowed/legal.

Possible reasons: The police (the executive branch) has a right to protect the public peace and these protesters may be disturbing others that live around the park by being too loud. They can protest, but they have to act right and in a way not to disturb others.

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Is this legal under the 1st Amendment, which promises the freedom of speech?

You must argue that this is NOT allowed/legal.

Possible reasons: The first amendment of the constitution gives us all the right of free speech, to tell the government that we think they are wrong and to assemble peaceably. So the protestors have a right to be there. They can be loud, but if the police thought they were too loud they needed to ask them first to quiet down and then maybe arrest the people that were too loud, but they can't stop the whole protest. It is our constitutional right to protest government action.

Scenario 4: The Trial

A person is charged with murder. After a long trial, the jury finds the person not guilty. Several months after the trial is

over, additional evidence comes to light that proves the person really did commit the crime. Based on this new evidence the prosecutor charges the person with murder again.

Is this legal under our constitution?

You must argue that this is allowed/legal.

Possible reasons: A person should not be able to get away with murder. This evidence wasn't available at the time. The victim and the victim's family deserve to see the murderer convicted and punished.

Scenario 4: The Trial

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Is this legal under our constitution?

You must argue that this is NOT allowed/legal.

Possible reasons: The Fifth Amendment to our Constitution says that no person shall be twice put in jeopardy for the same crime. The murderer was already found not guilty of the same crime, so that ends it. It may not seem right, but otherwise people could be charged again and again with the same crime until the prosecutor gets a jury that will convict the person. That's not right either.

Scenario 5: The Punishment

A man is caught stealing a loaf of bread from a local store. He is arrested and convicted of the crime. The judge sentenced him to 30 days in jail and ordered that his right hand be cut off.

Should the sentence be struck down under the constitution?

You must argue that this is allowed/legal.

Possible reasons: The constitution says that the legislature gets to decide the laws and the punishments. The people in a democracy vote for their elected representatives and those representatives decided that cutting one's hand off was the appropriate punishment, just like they decided that you should get life in prison or the death sentence if you kill someone. The judicial branch can't overrule something the legislative branch says because we have separation of powers.

Scenario 5: The Punishment

A man is caught stealing a loaf of bread from a local store. He is arrested and convicted of the crime. The judge sentenced him to 30 days in jail and ordered that his right hand be cut off.

Should the sentence be struck down under the constitution?

You must argue that this NOT allowed.

Possible reasons: The 8th amendment to the constitution prohibits cruel and unusual punishment. The judicial branch interprets laws to determine if they violate the constitution. Some laws written by the legislature might be unconstitutional, and it's a judge's job to say so. That doesn't violate the separation of powers because it's what a judge is supposed to do. ■

THE BILL OF RIGHTS

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 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 times 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 probably 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 Militias, when in actual services in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb, nor shall be compelled in any criminal case to be witness against himself,

nor be deprived of life, liberty, or property be taken for public use without just compensation.

Amendment VI

In all criminal prosecutions, the accused shall enjoy the right to a speedy 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; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defence.

Amendment VII

In suits at common law, where the value in controversy shall exceed twenty dollars, the right by jury shall be preserved, and no fact tried by jury shall be otherwise re-examined 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. ■

TIMELINE RADIO SHOW ABOUT LOCAL AND AREA HISTORY

KLWN Radio, 1320 AM
Monday, September 15, 2014
9:05 – 10 a.m.

Listen online: <http://www.klwn.com>
Call in to participate: (785) 843-1321

Judge G. Joseph Pierron, Kansas Court of Appeals, will be appearing on the Timeline Radio Show to discuss Celebrate Freedom Week, Constitution Day and iCivics.

The Kansas Bar Foundation, with Interest on Lawyers' Trust Accounts funding, provides support for this publication. *Law Wise* provides general information about law-related matters of interest to teachers, students, and the public in Kansas, but does not provide any legal advice, so readers should consult their own lawyers for legal advice. For further information about any projects or articles, contact Kathryn Gardner, Topeka, (785) 338-5366; or Anne Woods, public services manager, (785) 234-5696. *Law Wise* is published by the Kansas Bar Association, 1200 SW Harrison St., Topeka, KS 66612-1806, during the school year.

BUZZING IN!

Welcome back to a new school year! Nearly every headline and newscast yields several opportunities for great research and discussion. So the Law Wise choice to focus upon the U. S. Constitution, and also the Celebrate Freedom Week this month, is certainly appropriate. Here at the Emporia State University, Teachers College Resource Center, Law-Related Collection, we can help you provide excellent resources and opportunities for your learners. Following are some of the many great extensions for learning available:

- A DVD “History of the U. S. Constitution”, a four volume resource for upper grade learners
- DVD Symbols of America Series, “Uncle Sam,” an overview of the history and the meaning of United States symbols, grades K-12 learners
- DVD set of “Liberty’s Kids,” the complete TV series of the our country’s beginnings, for grades 4-8 learners
- Several scripts for Mock Trials, perfectly inter-active learning
- Numerous teacher resources that offer background information and ideas
- A set of materials, Life, Liberty, and Law, with lessons created at each of grades 1-6

The resources listed above are but a few of the fabulous materials purchased by the Kansas Bar Association for use in our schools. This group has also arranged for these items to be shipped **free** to you, and returned at that same rate! Begin your online search at emporiastate.worldcat.org and choose “Resource Center” from the Drop Box. If you would like to call to check out items, our number is 620-341-5292, and our hours are 9-6 on Monday through Thursday, and 9-5 on Fridays. You may also e-mail me to check items out, janice.romeiser@usd253.net or jromeise@emporia.edu.

Please let us help you design stellar lessons! ■

TERRIFIC TECHNOLOGY FOR TEACHERS

Celebrate Constitution Day with iCivics. This site includes games and a lesson plan providing a great overview of the Constitution.

<https://www.icivics.org/news/celebrate-constitution-day-icivics>

The Library of Congress site contains Constitution Day resources for teachers, including lesson plans, a memory timeline, a word search related to the founding documents of the United States, and interactive materials on creating the United States Constitution and the Bill of Rights.

<http://loc.gov/teachers/constitutionday.html>

Check out the Library of Congress Repositories for Constitutional documents.

The Continental Congress Broadside Collection (256 titles) and the Constitutional Convention Broadside Collection (21 titles) contain documents relating to the work of Congress and the drafting and ratification of the Constitution. Items include extracts of the journals of Congress, resolutions, proclamations, committee reports, treaties, and early printed versions of the United States Constitution and the Declaration of Independence.

<http://memory.loc.gov/ammem/collections/continental/>

At the National Archives “Charters of Freedom” website you can meet America’s founding fathers, download high-resolution images of the charters, and learn about the making and the impact of the Declaration of Independence, the Constitution of the United States, and the Bill of Rights.

<http://www.archives.gov/exhibits/charters/charters.html>

Here’s the official site of the organization that lobbied for Constitution Day to be made a national holiday. Included are short biographies of each of the founding fathers, including that of Rufus King from Massachusetts. Remember him?

<http://www.constitutionday.com>

Explore these lesson plans, activities, and resources to help celebrate Constitution Day and develop habits of citizenship in a new generation of Americans, presented by the National Constitution Center.

<http://constitutioncenter.org/constitution-day/constitution-day-resources>