

# Segment Two

# 2

## Segment Two: The Role of The Courts and The *Mary Jones* case

### PREVIEW OF MAIN IDEA

By analyzing the case of Mary Jones (which is derived from an actual Connecticut Supreme Court case), students will gain an understanding of the separate roles of the three independent branches of government and how they interrelate in a free, democratic society.

Students should also come away with the knowledge that judges are required to apply the law to a particular set of facts in an unbiased and even-handed manner. Judges may not take into consideration the public's opinions pertaining to particular issues related to the case. Rather, they are charged with upholding the law, interpreting constitutional questions and establishing the law when none exists.

In contrast, students will become aware of the importance of public opinion to the Legislative and Executive Branches of government. Members of the General Assembly and the Governor must be cognizant of the public's view on important issues since they are elected by the citizens of the state.

---

### TIME ALLOTMENT

Three (3), forty (40) minute time segments.

### QUESTIONS ADDRESSED

1. What are the responsibilities of the courts?
2. What is the difference between civil and criminal law?
3. What are the three branches of government and what do they do?
4. Are the executive and legislative branches of government influenced by what people in the community think and want (i.e. by public opinion)?
5. Should the courts be influenced by what people in the community think and want?

### MATERIALS

1. Multiple copies of *The Case of Mary Jones*;
2. Multiple copies of The Judge's Think Sheet;
3. Multiple copies of the summary of the judge's ruling in *Starr v. Department of Environmental Protection*, the actual case from which *The Case of Mary Jones* is derived;

4. Multiple copies of the Connecticut legislation that resulted from *Starr v. Department of Environmental Protection*;
5. Multiple copies of *Griswold v. Connecticut*;
6. Multiple copies of newspaper articles pertaining to the case of *Packer v. Board of Education of the Town of Thomaston*.

## OBJECTIVES

Students should be able to:

- *Explain* how the courts resolve disputes;
- *Illustrate* how the courts interpret the law;
- *Explain* the different roles of the three branches of government;
- *Understand* how the two branches of government interrelate with the courts.

---

## TERMS FOR SEGMENT TWO

---

**Civil Law**: the branch of the law dealing with private rights of individuals, groups or businesses such as contracts, personal injury and dissolution of marriage.

**Courts**: institutions that (a) determine whether a person accused of breaking the law is guilty or not guilty; (b) resolve disputes involving civil or personal rights; (c) interpret provisions of laws enacted by the legislature; (d) decide what is to be the law when none exists for certain situations; and (e) determine whether a law violates the Constitution of the state or of the United States.

**Criminal Law**: the branch of the law dealing with crimes and their punishment.

**Public Opinion**: Cluster of views and attitudes held by a number of people on a significant issue.

---

**OPENING THE SEGMENT**

---

Begin the segment by explaining to the students that they will be studying the role and responsibilities of the courts by analyzing The Case of Mary Jones. Students will be asked to form a consensus in small groups and render a decision in the case. The basic question to be determined by the case is: should the landholder, Mary Jones, be held responsible for the costs associated with the clean-up of environmental contamination that occurred before she inherited the land?

---

**PROCEDURE**

---

***Day One***

- I. Conduct a class discussion on the following questions: \*\*\*
  - A. What are the responsibilities of the courts?
  - B. What is the difference between civil and criminal law?
  - C. What are the three branches of government and what do they do?
  - D. Are the Executive and Legislative Branches of government influenced by what people in the community think and want (i.e. by public opinion)?
  - E. Should the courts be influenced by what people in the community think and want?

\*\*\*The answers to these questions follow.

---

**SUGGESTED ANSWERS for use by teachers**

---

## A. What are the responsibilities of the courts?

*The courts serve a vital role in our society. They are charged with upholding the law, interpreting constitutional questions, and establishing the law when none exists. Men and women who are appointed judges carry out these functions. Every day, judges are called upon to make difficult decisions. These decisions often affect one's liberty, property, children, spousal relationships, and business relationships. In all, judges across this state make thousands of decisions each year affecting the citizens of Connecticut.*

## B. What is the difference between civil and criminal law?

Civil Cases

*Cases involving the private rights of individuals, groups or businesses, including contracts, personal injury cases or dissolution of marriages, are civil cases. In a civil case, the plaintiff (the party bringing the action) sues the defendant seeking monetary damage and/or an injunction (a court order prohibiting someone from doing some specified act or commanding someone to undo some wrong or injury) for violation of a duty or obligation. If the plaintiff can establish by the preponderance of the evidence (more than 50% certainty) that the defendant has breached his or her duty, the plaintiff will prevail.*

Criminal Cases

*Criminal cases deal with crimes and their punishment. Criminal cases are cases brought by the state against an individual for an alleged violation of its criminal code. Therefore, even though there is often a victim of the crime, the legal action is not between the victim and the accused (or defendant) but is between the state and the accused. Criminal cases are readily identifiable by their case names which include the state and the accused, such as "State of Connecticut v. Smith" or "The People of California v. Jones."*

Crimes

*Crimes are defined in laws enacted by the legislature. The state, through a prosecuting attorney, seeks to punish the accused for committing a crime. In order to prove his or her case, the prosecuting attorney must show that a crime has been committed, and that the defendant committed the crime. If the prosecution can prove the case beyond a reasonable doubt, the defendant is found guilty. If guilty, the defendant will receive a sentence for the crime committed. Sentencing is a formal pronouncement of judgment by the court or judge on the defendant after conviction in a criminal proceeding, imposing the punishment to be imposed. This punishment is also established by the law enacted by the legislature. It can include probation, incarceration or, in extreme cases, death.*

C. What are the three branches of government and what do they do?

Three Branches within Federal Government

*The framers of the United States Constitution created three distinct branches of government: the legislative branch, the executive branch and the judicial branch. Each branch was given a distinct and specific role in the new government.*

*The Legislative Branch was created in Article I of the Constitution. Section I of this article created the Congress of the United States, which consists of the Senate and the House of Representatives. The citizens of each state elect members to Congress. Two senators are elected from each state, while the number of representatives varies depending upon the population of the state.*

*Congress' power is specifically enumerated in the Constitution. Examples of the powers given to Congress include the ability to create laws. New laws are created when a bill passes both the Senate and the House and is subsequently signed by the President. Other powers of Congress include the right to lay and collect taxes, the right to regulate commerce with foreign nations and the right to declare war.*

*The Executive Branch was created in Article II of the Constitution. Section I of Article II established the office of the President. The entire citizenry of the nation elects the President for a term of four years. The President's power is vast; while checks exist to ensure that the President does not assume the powers assigned to Congress or the Courts, it is his or her responsibility to sign legislation into law, serve as the Commander in Chief of the Army and Navy, make treaties, and nominate federal judges and ambassadors.*

*The Judicial Branch was created in Article III of the Constitution. Section I of Article III defined one Supreme Court and other lower courts as the Congress may from time to time establish. The role of the court is to interpret laws passed by the Congress and the President and to ensure that they are constitutionally sound.*

Three Branches within State Government

*Each state also has three branches of government.*

*In Connecticut, the Legislative Branch consists of the General Assembly. The General Assembly is a bicameral legislature (two houses) consisting of the House of Representatives and the Senate. The role of the General Assembly is similar to that of the Congress of the United States. It is their responsibility to make laws applicable to the citizens of the state.*

*The Governor heads the Executive Branch of Connecticut. He or she is responsible for approving and signing newly enacted legislation into law. A bill will become law if (1) the Governor signs the bill, (2) during the legislative session, the Governor does not sign it within five days after it is received, or (3) after adjournment of the session, the Governor does not sign it within 15 days after receipt.*

*The Governor may veto a bill, (a) during the legislative session, by returning it to the house in which it originated with a statement of objections or (b) after adjournment, by returning it to the Secretary of the State. The General Assembly then will reconvene to consider whether to override his veto by passing it by a two-thirds vote in each house.*

*The Governor is also responsible for the operation of various state agencies designed to serve the citizenry. Examples include the Department of Consumer Protection, the Department of Children and Families and the Department of Motor Vehicles.*

- D. Are the Executive and Legislative branches of government influenced by what people in the community think and want (i.e. by public opinion)?

*What people in the community think and want increasingly influence actions taken by the Executive and Legislative Branches of government. The formation of public policy is often dictated by public opinion. Indeed, a new phrase has been coined to mark this transformation: “governing by poll.” “Governing by poll” refers to the practice of elected officials consulting the daily opinion poll before forming an opinion on a particular issue. This practice has come under fire from those who believe that leaders should lead, not follow. On the other hand, “governing by poll” is hailed by others who believe it is appropriate for our leaders to gauge the opinion of the American people before acting.*

*An example of “governing by poll” can be seen when a political leader contemplating a new idea, a tax cut, for instance, sends out a “trial balloon” to see if the public will be receptive. Polling is then conducted on behalf of the politician. Following the polling, the politician will analyze the numbers and decide whether or not to go forward with his or her new plan.*

*Regardless of whether or not one believes that this practice is beneficial, the underlying fact remains that the wishes of the American people are generally taken into account when important decisions are to be made.*

- E. Should the courts be influenced by what people in the community think and want?

*Judges in the Judicial Branch, as opposed to members of the Legislative Branch and the leader of the Executive Branch, are not elected. The framers of the Constitution believed that representatives of the court should be isolated from the general populace so that their decisions would be rendered solely on the law and not on the emotions of the day. Our state court system is designed similarly. Judges are appointed to the bench and may not be removed solely because of an unpopular decision. Such a mechanism allows for consistency in the judiciary and gives the judges the protection they need to render at times unpopular – but legally correct – decisions.*

*Day Two*

- I. Distribute *The Case of Mary Jones* and the Judge’s Think Sheet handouts. (The reading of the case may be completed for homework prior to the class.)
- II. Discuss briefly whether this is a civil or criminal case. (*This is a civil case because it concerns the branch of law dealing with private rights of individuals.* See list of definitions.)
- III. Divide the class into groups of no more than four students each for the purpose of reaching a consensus ruling on the case. Suggested time for consensus segment: approximately **40 minutes**.
  - A. Have each team determine the facts of the case by answering the following questions from the Judge’s Think Sheet:
    1. When was the land contaminated? *Before Mary acquired the land.*
    2. Does Mary own the land according to Connecticut law? *Yes, by virtue of the laws of inheritance.*
    3. What is the law in this case? *The state statute.*
    4. Review the definition of “rule of law.” How does the rule of law apply in this case? *The rule of law requires that the court adhere to the particular law (state statute) that is applied in this case. The statute seems to indicate that Mary would be responsible for the cost of cleaning, as she is the legal owner of the land.*
    5. As a group, if you were deciding the case, is Mary responsible for paying the clean-up costs? Explain. *Remind students who say that Mary is not responsible that ultimately Mary legally owns the property, and the law makes owners responsible.*
    6. Take into consideration the following: Would your answer be different, if instead of Mary, the landowner were Micro Tec Company, a multi-billion dollar corporation? Why or why not? *No, the rule of law applies equally to all.*
    7. To what extent, if any, should you as the judge(s) be influenced in your decision by the obviously strong public opinion in support of Mary? *To no extent; judges cannot be influenced by public opinion but must adhere to the law. That is what we mean when we say that our society is governed by the rule of law and not by public opinion or public sympathy for one side or another.*

*Day Three*

- I. Have each group present its decision. (Suggested time for presentations: approximately **15 minutes**).
- II. Hand out copies of the synopsis of the actual decisions reached by the Connecticut Superior Court and the Connecticut Supreme Court for students to read. (Teachers of some classes may have to provide help with vocabulary and concepts.)
- III. Discuss the following questions with the class as a whole: (Suggested time: approximately **15 minutes**).

A. Is the law fair in this case?

*Answer One: The law is **fair** in this case, as it was designed to protect the health and welfare of the citizens of the state. It is not the obligation of taxpayers to pay for cleanup costs associated with private property. It is the responsibility of the individual landowner to pay these costs. In addition, the statute provides that the property owner may sue and recover the costs associated with cleaning up the property from any person or company that is proved to have caused the pollution.*

*Answer Two: The law in this case is **unfair**, as it makes Mary responsible for the costs of cleaning the polluted property, although she had no knowledge and no involvement in the pollution. In addition, in this particular case, the cleanup costs far exceed the value of the land which means that Mary is obligated to use her own funds to clean up the property. Unfortunately, she is unable to sue the company that caused the pollution, as the company no longer exists.*

- B. Can you think of a way that society, acting through one or more of the different branches of government, might resolve the conflict between what the statute provides and what the majority of people now seem to want? That is, can the conflict be resolved by (a) the Judicial Branch (you, the judge); (b) the Executive Branch (Department of Environmental Protection); or (c) the Legislative Branch (the state legislature)?

*Citizens could contact their local legislators to express their opposition to this statute and how it adversely affected Mary.*

*Legislators (Legislative Branch) could amend (modify) the existing law to limit the amount of money that innocent landowners would need to pay to fund the cleanup costs of the polluted property, to the value of the property.*

*The Governor (Executive Branch) could sign the bill and, if so, it would become the law. Judges, (Judicial Branch) then, would be required to apply the new statute in similar cases and the innocent landowners would not be excessively burdened with the costs of cleaning up polluted property.*

- IV. Hand out summaries of the legislation that followed the court case and discuss how in this case the role of the Legislative Branch of government interrelates with the Judicial Branch of government. Suggested time for this activity: approximately 10 minutes.

### **Talking Points**

- The case of Mary Jones illustrates the inter-relation between the Legislative Branch of government and the Judicial Branch of government.
- The Judicial Branch was required to apply the law in the case of Mary Jones. This law required Mary to pay the clean up costs for the property, even though the costs far exceeded the value of the land and even though Mary had no knowledge of or participation in the contamination.
- The Legislature, believing that the application of the law to the facts in this case, produced an injustice, altered the law to provide that innocent landowners would not be required to pay the full clean-up costs, if, among other things, the owner had no knowledge of the contamination.
- The Judicial Branch was then required to apply the new statute to the facts of the Mary Jones case and to similar cases in the future.

---

### **NOTES**

---

**HOMEWORK ASSIGNMENT**

---

Students will analyze one of the two following Connecticut court cases not covered in class: (1) *Griswold v. Connecticut*; or (2) *Packer v. Board of Education of the Town of Thomaston*. (Teachers are encouraged to have students research additional court cases. For a readily available source for Connecticut court cases, see the website of the Connecticut Judicial Branch: [www.jud.state.ct.us](http://www.jud.state.ct.us) and click on the button that says “Advance Release Opinions”) Students should answer the following questions in writing:

1. What are the basic facts of the case?
2. What was the law in the case?
3. Was justice achieved? Explain.
4. If you were the judge, how would you have decided the case?

---

**SUGGESTED ANSWERS for use by teachers**

---

***Griswold v. Connecticut (1965)***

1. What are the basic facts of the case?
  - *Mrs. Estelle Griswold, executive director of the Planned Parenthood League in Connecticut, and Dr. C. Lee Buxton, chairman of the Yale Department of Gynecology and Obstetrics, were arrested, convicted and fined \$100 for dispensing contraceptives in violation of Connecticut law.*
  - *They appealed to the U. S. Supreme Court.*
  
2. What was the law in this case?
  - *Connecticut law prohibited the distribution of birth control information and devices.*
  - *Section 53-32 stated: “Any person who uses any drug, medicinal article or instrument for the purpose of preventing conception shall be fined not less than fifty dollars or imprisoned not less than sixty days nor more than one year or be both fined and imprisoned.”*
  - *Section 54-196 stated: “Any person who assists, abets, counsels, causes, hires or commands another to commit any offense may be prosecuted and punished as if he were the principal offender.*

- *The Supreme Court ruled that the Connecticut law unconstitutionally invaded the privacy of married couples and was therefore void.*

3. Was justice achieved?

**Answer One:**

- *Justice embodies the concept of fairness. Many citizens believe that women should be free to determine if they should bear children and therefore that women should have access to birth control. Therefore, justice was achieved in this case.*

**Answer Two:**

- *Other citizens believe that justice embodies the concept of moral rightness and that it is morally wrong to alter nature by using contraceptives. They may argue that individuals need to control their passion and that morally acceptable means of birth control are available such as the rhythm method, withdrawal and abstinence.*

4. If you were the judge, how would you have decided the case?

**Answer One:**

- *Some students may say that if they were the judge, they would have ruled similarly to Justices Stewart and Black that the law, while “unwise or even asinine” is a matter for the legislature – those individuals who are elected by the general public.*
- *The Connecticut General Assembly, whose members were elected by the voters in the state, enacted a law that regulated birth control devices and information about such items.*
- *These legislators believed that they were meeting a public policy objective, namely, to deter sexual intercourse outside of marriage and to promote morality.*
- *The U.S. Constitution does not explicitly include in the list of individual rights the right to privacy.*

**Answer Two:**

- *Other students may say that they would have ruled similarly to the majority opinion written by Justice William O. Douglas who created a new constitutional right to privacy.*

*The means by which this new right was created was by reviewing the rights afforded to individuals in the Constitution and determining that many of these individual rights*

*included an inherent right to privacy. For example, the First Amendment includes the right to free association, the Third Amendment includes a ban on the quartering of soldiers in homes, the Fourth Amendment protects individuals against unreasonable search and seizure, the Fifth Amendment bans compulsory self-incrimination and the Ninth Amendment reserves all these rights in the Bill of Rights to the people. Since all of these rights have penumbras, which create privacy, the Constitution contains a fundamental right to privacy.*

**Packer v. Board of Education of the Town of Thomaston**

1. What are the basic facts of the case?

- *On September 24, 1997, high school student, Kyle Packer, was pulled over by the Connecticut State Police in the town of Morris for operating a motor vehicle without a seatbelt.*
- *At the stop, the trooper observed a marijuana cigarette in the ashtray of the car.*
- *A subsequent search of the vehicle revealed approximately two ounces of marijuana hidden in the trunk.*
- *Mr. Packer was arrested.*
- *Mr. Packer's arrest was reported to the superintendent of the Thomaston school system.*
- *On October 8, 1997, school board officials determined that Mr. Packer's conduct off of school grounds seriously disrupted the educational process at Thomaston High School and expelled him for the remainder of the first semester of the school year.*
- *Superior Court Judge Walter M. Pickett issued a temporary injunction ordering Mr. Packer to return to school. He ruled that the expulsion law was unconstitutionally vague.*
- *The school board appealed the Superior Court's ruling.*

2. What was the law in this case?

*Section 10-233d (a) (1) provides: "Any local or regional board of education, at a meeting at which three or more members of such board are present, or the impartial hearing board established pursuant to subsection (b) of this section, may expel, subject to the provisions of this subsection, any pupil whose conduct on school grounds or at a school-sponsored activity is violative of a publicized policy of such board or is seriously disruptive of the educational process, provided a majority of the board members sitting in the expulsion hearing vote to expel and that at least three affirmative votes are cast."*

3. Was justice achieved?

- *The Connecticut Supreme Court ruled that the defendant (Board of Education of the Town of Thomaston) lacked the authority to expel Kyle Packer because he was not given constitutionally adequate notice that possession of two ounces of marijuana in the trunk of his car, off school grounds, without any connection to the high school, would subject him to expulsion.*

**Answer One:**

- *Justice requires that individuals be able to ascertain what is unlawful conduct. In that regard, justice was achieved in this particular case because Mr. Packer was not on notice that his actions off school grounds could lead to his expulsion. Therefore, justice was served.*

**Answer Two**

- *Justice was not achieved in this case because Packer should have known what constituted seriously disruptive behavior. The Thomaston student handbook makes it clear that students may be expelled for conduct that is seriously disruptive of the educational process, even if the conduct occurs off school property and during non-school hours. Thus, he was on notice that his behavior could result in expulsion. He had received a hearing before the school board on the issue of his expulsion and he was able to argue his case before a superior court judge and the Supreme Court.*

4. If you were the judge, how would you have decided the case?

**Answer One**

- *Kyle Packer's conduct in no way could be construed to be "seriously disruptive of the educational process." His actions occurred far from school, had no discernable impact on his classmates or teachers, nor was he aware of the school-based ramifications of his illegal conduct.*

**Answer Two**

- *It is in the best interest of society as a whole to discourage citizens, particularly young people, from engaging in illicit activity. Mr. Packer's conduct was clearly illegal and set a bad example for his fellow classmates. As Mr. Packer was over the age of 16, his arrest was public knowledge and readily known in his small town and high school. The school board – elected members of the community – are best able to determine what is "seriously disruptive of the educational process."*

---

**EXPANDED ACTIVITIES**

---

*Additional Question beyond Minimum Use of Segments for Research and Discussion*

1. John Locke was a late 17<sup>th</sup> Century English political theorist who analyzed the relationship between the individual, society and law. Examine John Locke's *Second Treatise on Government* (1690) and his discussion of the question, "What is the social contract between the citizenry and government?"

**Key Points To Be Considered in Expanded Activity Essay or Discussion:**On John Locke's *Second Treatise of Government*

Locke states that people are, by nature, able to make their own decisions and are not subject to the control or domination of others. People have the choice as to how to manage their possessions and their affairs, as long as they do not harm others.

*Of the State of Nature: "To understand political power right, and derive it from its original, we must consider, what state all men are naturally in, and that is, a state of perfect freedom to order their actions, and dispose of their possessions and persons, as they think fit, within the bounds of the law of nature, without asking leave, or depending upon the will of any other man." (Section 4)*

Locke maintains that all individuals are equal.

*"A state also of equality, wherein all the power and jurisdiction is reciprocal, no one having more than another." (Section 4)*

Locke states that individuals choose to submit themselves to rules to protect their lives, liberty and property.

*"If man in the state of nature be so free, as has been said, if he be absolute lord of his own person and possessions, equal to the greatest, and subject to no body, why will he part with his freedom? Why will he give up this empire, and subject himself to the dominion and control of any other power? To which it is obvious to answer, that though in the state of nature he hath such a right, yet the enjoyment of it is very uncertain, and constantly exposed to the invasion of others." (Section 123)*

The social contract is in agreement by free, equal and independent individuals to submit themselves to a rule of law created by the community to ensure the safe and peaceable enjoyment of life, liberty and property.

*"And thus every man, by consenting with others to make one body politic under one government, puts himself under an obligation, to every one of that society, to submit to the determination of the majority, and to be concluded by it." (Section 97)*