

Assessing with Primary Sources

Grade Level: High School (Grades 9-10)

Standards or Objectives: CCSS.ELA-Literacy.RI.9-10.3

Analyze how the author unfolds an analysis or series of ideas or events, including the order in which the points are made, how they are introduced and developed, and the connections that are drawn between them.

CCSS.ELA-Literacy.RI.9-10.4

Determine the meaning of words and phrases as they are used in a text, including figurative, connotative, and technical meanings; analyze the cumulative impact of specific word choices on meaning and tone (e.g., how the language of a court opinion differs from that of a newspaper).

Library of Congress Resources:



Evolution of Thought in U.S. Supreme Court: Infiltration of Advanced Ideas Shown in Oregon Law Governing Employment of Women in Industries

New-York Tribune, July 14, 1918, page 4

<http://chroniclingamerica.loc.gov/lccn/sn83030214/1918-07-14/ed-1/seq-24/>

Topic Background:

U.S. Supreme Court case of *Muller v. Oregon* (208 U.S. 412, 1908); *Regulation of the Workplace*

In 1903, Oregon passed a law that said that women could work no more than 10 hours a day in factories and laundries. A woman at Muller's laundry was required to work more than 10 hours. Muller was convicted of violating the law. His appeal eventually was heard to the U.S. Supreme Court. Oregon's attorney general agreed that Louis D. Brandeis should defend the law before the Court. Brandeis was a lawyer who supported reforms that protected workers. He filed a brief (legal argument) in the case that discussed previous legal cases for only two pages. Brandeis then presented much evidence showing a direct link between long hours of work and women's health. In his brief, Brandeis tried to show the Court that Oregon's law was a valid use of its power to protect the health of women. By a 9-0 vote, the justices upheld the Oregon law. Brandeis's strategy succeeded. *Muller vs. Oregon* was a precedent that enabled the Court to approve some state reforms. It also showed that making the justices aware of social and economic conditions could help win their approval. Lawyers in *Brown v. Board of Education* and many other cases followed the path Brandeis created. Brandeis later served on the U.S. Supreme Court from 1916 to 1939.

Excerpted from:

http://www.americanbar.org/groups/public_education/initiatives_awards/students_in_action/muller.html

Source(s) Used:

The source used for this assessment is a newspaper article appearing in a 1918 issue of the New York Tribune, entitled *Evolution of Thought in U.S. Supreme Court*. The author gives a detailed history of supreme court cases involving employment and labor laws, with a section of the article focusing on Oregon law involving the employment of women in industrial jobs. The author also gives a detailed background history of the current Justices, including Louis Brandeis.

Multiple Choice Answer Key:

Question 1 – B

Question 2 – C



Evolution of Thought in U.S. Supreme Court By Ralph Block

Infiltration of Advanced Ideas Shown in Oregon Law Governing Employment of Women in Industries

...before he [Supreme Court Justice Brandeis] became a member of the highest court he argued several cases before it, involving phases of modern industrial problems, and presented to the court in just such a manner as to bear out his agreement with the view of the functions of the law enunciated by Justice Holmes. His first of the cases in this special class, and singularly important because it laid the groundwork for a similar argument to be made many years later, just previous to the time Mr. Brandeis went on the bench, was a defense of the Oregon law restricting the labor of women in factories and laundries to ten hours a day. The law was contested, and the case under the name of Muller, in error, vs. Oregon went to the United States Supreme Court, where it was argued by Mr. Brandeis.

The argument of this case was more or less astounding in fashions of legal argument. It upset a good many precedents. The argument itself did not cover much space, but the proof did. What the attorney for the State of Oregon had done was to put into practice some of the theories then in the air about the law founding itself on actual forces, and to practically disclose to the Supreme Court the scientific method as it would be worked out in the law.

The attorney for the state presented a brief containing extracts from ninety different reports from states and communities in the United States and Europe, showing that long hours of labor were dangerous to women. It was actually a compendium of all known information on the subject and as a survey of actual conditions was unparalleled. ...

Questions:

1. Which of the following details from the article supports the author's justification for his use of the underlined analogy referencing the scientific method? (CCSS.ELA.RI.9-10.3)
 - a. "...important because it laid the groundwork for a similar argument..."
 - b. "...ninety different reports ... showing that long hours of labor were dangerous..."
 - c. "...astounding in fashions of legal argument. It upset a good many precedents."
 - d. "...as a survey of actual conditions was unparalleled..."
2. Which of the following is closest to the meaning of the underlined word compendium? (CCSS.ELA.RI.9-10.4)
 - a. An uncondensed collection.
 - b. A complete copy.
 - c. A brief summary.
 - d. An unaltered replication.