rests and searches and seizures are often disreputable persons toward whom juries are unsympathetic, or they are indigent and unable to sue. The result, therefore, is that the Court has emphasized exclusion of unconstitutionally seized evidence in subsequent criminal trials as the only effective enforcement method.

Development of the Exclusionary Rule.—Exclusion of evidence as a remedy for Fourth Amendment violations found its beginning in *Boyd v. United States*,[421] which, as noted above, involved not a search and seizure but a compulsory production of business papers, which the Court likened to a search and seizure. Further, the Court analogized the Fifth Amendment's self-incrimination provision to the Fourth Amendment's protections to derive a rule that required exclusion of the compelled evidence because the defendant had been compelled to incriminate himself by producing it.[422] *Boyd* was closely limited to its facts and an exclusionary rule based on Fourth Amendment violations was rejected by the Court a few years later, with the Justices adhering to the common-law rule that evidence was admissible however acquired.[423]

Nevertheless, ten years later the common-law view was itself rejected and an exclusionary rule propounded in *Weeks v. United*

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understanding as to her authority to shoot a suspect attempting to flee in a vehicle was not unreasonable); Malley v. Briggs, 475 U.S. 335, 345 (1986) (qualified immunity protects police officers who applied for a warrant unless "a reasonably well-trained officer in [the same] position would have known that his affidavit failed to establish probable cause and that he should not have applied for a warrant").

[421] 116 U.S. 616 (1886).

[422] "We have already noticed the intimate relation between the two Amendments. They throw great light on each other. For the 'unreasonable searches and seizures' condemned in the Fourth Amendment are almost always made for the purpose of compelling a man to give evidence against himself, which in criminal cases is condemned in the Fifth Amendment; and compelling a man in a criminal case to be a witness against himself, which is condemned in the Fifth Amendment, throws light on the question as to what is an 'unreasonable search and seizure' within the meaning of the Fourth Amendment. And we have been unable to perceive that the seizure of a man's private books and papers to be used in evidence against him is substantially different from compelling him to be a witness against himself. We think it is within the clear intent and meaning of those terms." 116 U.S. at 633. It was this use of the Fifth Amendment's clearly required exclusionary rule, rather than one implied from the Fourth, on which Justice Black relied, and, absent a Fifth Amendment self-incrimination violation, he did not apply such a rule. Mapp v. Ohio, 367 U.S. 643, 661 (1961) (concurring opinion); Coolidge v. New Hampshire, 403 U.S. 443, 493, 496–500 (1971) (dissenting opinion). The theory of a "convergence" of the two Amendments has now been disavowed by the Court. *See* discussion, *supra*, under "Property Subject to Seizure."

[423] Adams v. New York, 192 U.S. 585 (1904). Since the case arose from a state court and concerned a search by state officers, it could have been decided simply by holding that the Fourth Amendment was inapplicable. *See* National Safe Deposit Co. v. Stead, 232 U.S. 58, 71 (1914).