

Supreme Court Case Summaries

The following case summaries explain the significance of all Supreme Court cases mentioned in the text narrative, except those featured in Supreme Court Cases to Debate.



Abington School District v. Schempp and ***Murray v. Curlett***

(1963) struck down a Pennsylvania statute requiring public schools in the state to begin each school day with Bible readings and recitation of the Lord's Prayer. Once again the Supreme Court ruled that the business of government is not to craft and then mandate religious exercises. It held that the establishment clause leaves religious beliefs and religious practices to each individual's choice and expressly commands that government not intrude into this decision-making process.

Adarand Constructors, Inc. v. Peña (1995) announced a major shift in the way the Supreme Court viewed federal affirmative-action programs. Before this case, courts did not give the same level of scrutiny to federal affirmative-actions programs as was given to state and local programs. After this case, all government affirmative-action programs are held to the same standard—they must be justified by a compelling interest.

Adderly v. Florida (1966) again applied the time-place-and-manner rationale. The Supreme Court held that demonstrators could be barred from demonstrating on public grounds near a jail. In so holding, the Court also pointed out that these grounds were not ordinarily open to the public.

Allegheny County v. ACLU (1989) held that a crèche (a Nativity scene) accompanied by a banner reading "Glory to God in the Highest" and centrally displayed in a city/county building violated the establishment clause because it endorsed a particular religious viewpoint.

Arizona v. Fulminante (1991) held that a confession given by one prison inmate, Oreste Fulminante, to another inmate, Anthony Sarivola, in exchange for Sarivola's promise of protection, a confession that Sarivola

passed on to police, was involuntary and so could not be used as evidence at Fulminante's later trial for murder.

Arkansas v. Sanders (1979) held that a warrant was required to search luggage taken from a lawfully stopped automobile. The Supreme Court explained that a law enforcement emergency was necessary to dispense with the Fourth Amendment's warrant requirement. Because the search was unlawful, the evidence seized was inadmissible under the exclusionary rule (see *Mapp v. Ohio* discussed below).

Baker v. Carr (1962) established that federal courts can hear suits seeking to force state authorities to redraw electoral districts. In this case, the plaintiffs wanted the population of each district to be roughly equal to the population in all other districts. The plaintiffs claimed that the votes of voters in the least populous districts counted as much or more than the votes of voters in the most populous districts and that such an imbalance denied them equal protection of the laws. Before this case, it was thought that federal courts had no authority under the Constitution to decide issues of malapportionment.

Barron v. Baltimore (1833) held that the Fifth Amendment's provision—government must pay if it takes private property for public use—did not apply to the states, but only to the federal government. At the time, the decision supported the view that the Bill of Rights as a whole applied only to the federal government. However, the Supreme Court in subsequent decisions firmly established that most of the rights contained in the Bill of Rights apply to all levels of government—states, counties, cities and towns, as well as to government agencies such as local school boards. In other words, this case has been effectively overruled by cases which apply Fourteenth Amendment protections to the Bill of Rights.

Bethel School District v. Fraser (1986) retreated from the expansive view of the First Amendment rights of public school students found in *Tinker* (see below). Here the Supreme Court held that a public high school student did not have a First Amendment right to give a sexually suggestive speech at a school-sponsored assembly, and upheld the three-day suspension of the student who made the speech. In deciding the case, the Court made it clear that students have only a limited right of free speech. According to the Court, a school does not have to tolerate student speech that is inconsistent with its educational mission, even if the same speech would be protected elsewhere.

Betts v. Brady (1942) refused to extend the holding of *Powell v. Alabama* (see below) to noncapital, i.e., non-death penalty, cases. In this case, the Supreme Court held that poor defendants in noncapital cases are not entitled to an attorney at government expense.

Bigelow v. Virginia (1975) established for the first time that commercial speech—speech that proposes a commercial or business transaction—is protected by the First Amendment. The Court held that the Virginia courts had erred because “pure speech” rather than conduct was involved in the advertising.

Board of Education v. Allen (1968) upheld a state program that lent state-approved, secular textbooks to religious schools against an establishment clause (U.S. Const. amend. I, cl. 1) challenge. The Supreme Court reasoned that the law had a valid secular purpose—teaching the state’s secular curriculum—and that the primary effect of the program neither advanced nor inhibited religion.

Brandenburg v. Ohio (1969) overruled *Whitney v. California* (see below). In this case, the Supreme Court held that laws that punish people for advocating social change through violence violate the First Amendment. The Court explained that advocacy of an idea, even an idea of violence, is protected by the First Amendment. What is not protected is inciting people to engage in immediate lawless conduct. The Court then reversed the conviction of a member of the Ku Klux Klan for holding a rally and making strong derogatory statements against African Americans and Jews.

Branzburg v. Hayes (1972) established that the press may be required to give information in their possession to law enforcement authorities. In this case the Supreme Court upheld findings of contempt against three journalists who refused to testify before grand juries investigating criminal activity. The Court recog-

nized that an effective press must be able to keep the identity of news sources confidential but concluded that news-source confidentiality must yield to the needs of law enforcement.

Braswell v. United States (1988) held that the Fifth Amendment’s protection against self-incrimination does not extend to an individual who is compelled by court order to surrender a corporation’s records. First, the Supreme Court explained that the self-incrimination protection belongs only to an individual. Because a corporation is not an individual, it does not qualify for the protection. Second, the Court pointed out that the self-incrimination protection applies only to testimony, not to books and records.

Brown v. Board of Education (1954) overruled *Plessy v. Ferguson* (1896) (see below) and abandoned the separate-but-equal doctrine in the context of public schools. In deciding this case, the Supreme Court rejected the idea that truly equivalent but separate schools for African American and white students would be constitutional. The Court explained that the Fourteenth Amendment’s command that all persons be accorded the equal protection of the law (U.S. Const. amend. XIV, § 1) is not satisfied simply by ensuring that African American and white schools “have been equalized, or are being equalized, with respect to buildings, curricula, qualifications and salaries, and other tangible factors.”

The Court then held that racial segregation in public schools violates the equal protection clause because it is inherently unequal. In other words, nothing can make racially segregated public schools equal under the Constitution because the very fact of separation marks the separated race as inferior. In practical terms, the Court’s holding in this case has been extended beyond public education to virtually all public accommodations and activities.

Buckley v. Valeo (1976) clarified the meaning of the appointments clause (U.S. Const. art. II, § 2, ¶ 2). The clause specifies how principal and inferior officers are to be appointed. The president names such officers, and the Senate either accepts or rejects the persons named. Also, Congress can allow the president, department heads, or the courts acting alone to appoint inferior officers. In this case the Court ruled that members of the Federal Election Commission were not appointed properly because four of the six commissioners were appointed by an officeholder not mentioned in the appointments clause.

Burstyn v. Wilson (1952) extended the protection of the First Amendment to motion pictures, overruling a 1915 case that held that motion pictures were unprotected. The Supreme Court went on to hold that a state may not ban a film on the ground that it is “sacrilegious,” i.e., that it treats one, some, or all religions “with contempt, mockery, scorn and ridicule.”

Bush v. Gore (2000) found that a manual recount of disputed presidential ballots in Florida lacked a uniform standard of judging a voter’s intent, thus violating the equal protection clause of the Constitution. The court also ruled that there was not enough time to conduct a new manual recount that would pass constitutional standards. The case arose when Republican candidate George W. Bush asked the Court to stop a hand recount. This decision ensured that Bush would receive Florida’s electoral votes and win the election.

Bush v. Palm Beach Canvassing Board (2000) was the first time the Supreme Court agreed to hear a case involving a presidential election. The Court reviewed a decision by the Florida Supreme Court to extend the deadline for recounting votes and returned the case to the Florida court for a better explanation of its reasoning.

California v. Acevedo (1991) held that the Fourth Amendment’s prohibition of unreasonable searches and seizures does not require a warrant to search inside an automobile as long as police have probable cause to believe that the object to be searched contains contraband.

California v. Greenwood (1988) held that the Fourth Amendment’s protection against unreasonable searches and seizures does not extend to the search of a person’s garbage after that garbage has been placed for pick up. The Supreme Court explained that an individual does not have a reasonable expectation of privacy in refuse that the owner intends to dispose of.

Chaplinsky v. New Hampshire (1942) announced the “fighting words” doctrine. The defendant, a Jehovah’s Witness, was convicted under a state law making it a crime to address any person in public in an “offensive manner”; the offensive manner in this case was using profanity and name-calling in describing the town marshal. In upholding the conviction, the Supreme Court explained that the free speech clause does not protect fighting words—words that have a direct tendency to provoke the person to whom the words are addressed.

Chisholm v. Georgia (1793) stripped the immunity of the states to lawsuits in federal court. The Supreme Court held that a citizen of one state could sue another

state in federal court without that state consenting to the suit. The Court’s decision created a furor and led to the adoption of the Eleventh Amendment, which protected states from federal court suits by citizens of other states. In 1890 in *Hans v. Louisiana*, the Court extended this immunity; unless a state agreed, it could not be sued in federal court by its own citizens.

City of Boerne, Texas v. Flores (1997) struck down the Religious Freedom Restoration Act as an unconstitutional attempt by Congress to expand the Court’s reading of the free exercise clause (U.S. Const. amend. I, cl. 1). The Court then held that Congress could not pass legislation that would allow individuals and groups to disobey neutral laws of general application just because the laws might have the indirect effect of making religious practices more difficult.

Clinton v. City of New York (1998) consolidated two challenges to line-item vetoes President Clinton issued in 1997. The Court ruled 6 to 3 in favor of New York City hospitals and Idaho’s Snake River Potato Growers, who challenged separate vetoes. Justice Stevens said Congress could not endow the president with power to alter laws without amending the Constitution.

Committee for Public Education v. Regan (1980) held that the establishment clause (U.S. Const. amend. I, cl. 1) is not violated by a program that reimburses religious schools for routine record-keeping and testing services performed by the schools but required by state law.

Cox v. Louisiana (1965) upheld the constitutionality of a statute that prohibited parades near a courthouse. Acknowledging that the First Amendment generally protects marching or picketing, the Supreme Court explained that the special nature of courthouses—specifically, their central role in the administration of justice—justified the statute. The underlying principle justifying the statute is that while government may not be able to prohibit certain speech or speechlike conduct, it can control its time, place, and manner.

Cox v. New Hampshire (1941) upheld the convictions of 68 Jehovah’s Witnesses for marching on a public sidewalk without a permit. The Court stressed that the defendants were not being punished for distributing religious leaflets or inviting passersby to a meeting of the religious group. The Court explained that local government officials have the authority to establish time, place, and manner restrictions on the use of public property for expressive purposes and that requiring a permit is a reasonable way for local officials to ensure that marching is not disruptive.

Dartmouth College v. Woodward (1819) held that the state of New Hampshire acted unconstitutionally when it attempted to transfer control of Dartmouth College from the trustees, the governing body of the college, to the state. When the college was created by a charter in 1769, the trustees were given all rights necessary to run the college. The charter, explained the Supreme Court, was a contract protected by the impairments of contracts clause (U.S. Const. art. I, § 10, ¶ 1) from state interference. The Court then held that the trustees' contractual rights were violated when the state removed the trustees and replaced them with the governor and his appointees.

Debs v. United States (1919) followed the decision in *Schenck v. United States* (see below). The Supreme Court upheld labor leader Eugene V. Debs's convictions for violating the Federal Espionage Act and obstructing the draft. The basis of the convictions was a speech opposing war in general and World War I in particular. The Court held that Debs's speech was not protected by the free speech clause because it posed a clear and present danger to the nation's war effort.

DeJonge v. Oregon (1937) reinforced earlier Supreme Court holdings that the First Amendment's protection of peaceable assembly and association must be honored by the states. In this case, Dirk DeJonge, a member of the Communist Party, was convicted and sentenced to a seven-year prison term for speaking at a public meeting of the party. In reversing the conviction, the Court held that merely speaking at a meeting of the Communist Party was protected by the First Amendment.

Dennis v. United States (1951) upheld convictions of several Communist Party members for advocating the violent overthrow of the United States government in violation of the federal Smith Act. The Supreme Court applied the clear-and-present-danger test announced in *Schenck* (see below) and once again rejected the claim that the free speech clause protects antigovernment speech and publications.

Dickerson v. United States (2000) overruled a federal law which stated that the admissibility of statements into evidence depended only on whether they were made voluntarily. In doing, the Court upheld the standard set by the *Miranda*

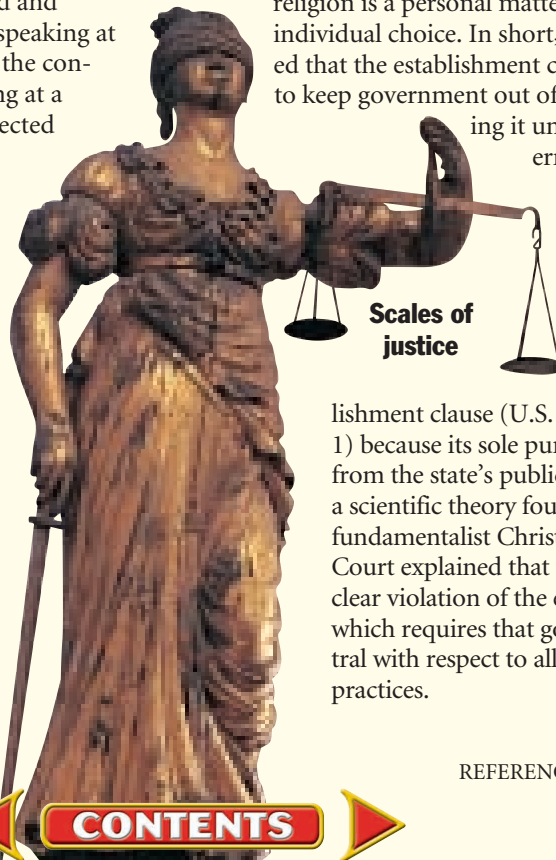
decision—statements were admissible only if the suspect had received *Miranda* warnings before being interrogated.

Dred Scott v. Sandford (1857) was decided before the Fourteenth Amendment was added to the Constitution. (The Fourteenth Amendment provides that anyone born or naturalized in the United States is a citizen of the nation and of his or her state of residence.) In this case the Supreme Court held that a slave was property, not a citizen, and thus had no rights under the Constitution. The Court's decision was met with outrage in the North and was a prime factor precipitating the Civil War.

Edwards v. Aguillard (1987) struck down a Louisiana statute requiring public schools to teach "creation science" if they taught evolution. The Supreme Court explained that the effect of the statute was a clear violation of the establishment clause (U.S. Const. amend. I, cl. 1), which is to keep government out of religion and religion out of government.

Engel v. Vitale (1962) held that the establishment clause (U.S. Const. amend. I, cl. 1) was violated by a public school district's practice of starting each school day with a prayer which began: "Almighty God, we acknowledge our dependence upon Thee." The Supreme Court explained that under the establishment clause religion is a personal matter to be guided by individual choice. In short, the Court concluded that the establishment clause was intended to keep government out of religion, thus making it unacceptable for government to compose prayers for anyone to recite.

Epperson v. Arkansas (1968) held that the state's antievolution law violated the establishment clause (U.S. Const. amend I, cl. 1) because its sole purpose was to remove from the state's public school curriculum a scientific theory found objectionable by fundamentalist Christians. The Supreme Court explained that the law amounts to a clear violation of the establishment clause, which requires that government be neutral with respect to all religious views and practices.



Scales of justice

Escobedo v. Illinois (1964) was the forerunner of *Miranda v. Arizona* (see below). In this case, the Supreme Court reversed the murder conviction of Danny Escobedo, who gave damaging statements to police during questioning. Throughout the questioning, Escobedo repeatedly but unsuccessfully asked to see his attorney. In holding that Escobedo's Sixth Amendment right to counsel had been violated, the Court explained that an attorney could have assisted Escobedo in invoking his Fifth Amendment privilege against self-incrimination. In other words, an attorney could have told Escobedo when to keep quiet.

Everson v. Board of Education (1947) concluded that a New Jersey township had not violated the establishment clause when it reimbursed parents for the cost of sending their children to school on public transportation. The reimbursement was made to all parents even if their children attended religious schools. The Supreme Court explained that the practice served the public purpose of getting children to school safely; was neutrally administered, neither favoring nor disfavoring anyone on the basis of their religious views; and was not intended to advance religion.

Ex parte Endo (1944) arose out of the detainment of Japanese Americans living on the West Coast during World War II when the nation of Japan was an enemy of the United States. The case began when a citizen of Japanese descent, whose loyalty to the United States was never in doubt, asked to be released from a relocation camp. In this case the Supreme Court held that the federal government has no constitutional basis to detain a loyal citizen.

Ex parte Milligan (1866) established the primacy of the judicial branch in the absence of a bona fide national emergency. The case concerned the military trial of Lambdin Milligan, who was accused by the Army of conspiring to liberate Confederate prisoners from Union prisons during the Civil War. The Supreme Court held that the Constitution prohibits the federal government from trying a civilian in a military court as long as civilian courts are open and available.

Feiner v. New York (1951) upheld the disorderly conduct conviction of Irving Feiner. Feiner was arrested as he was giving a speech on a street corner in a predominantly African American section of a city. Among other things, Feiner said that African Americans "don't have equal rights and they should rise up in arms and fight for them." The Supreme Court said that the First Amendment protected free speech but

not the right to use speech to incite a riot.

Fletcher v. Peck (1810) established the principle that a state could not interfere with or impair the value of lawful contract rights. In this case, the Georgia legislature enacted legislation that deprived a purchaser of land of the property. The Supreme Court held that the legislative action violated the impairment of contract clause (U.S. Const. art. I, § 10, ¶ 1) and declared the Georgia statute null and void.

Florida v. J.L. (2000) established that an anonymous tip that a person is carrying a gun fails to justify a stop and frisk of the person by a police officer. Under the Fourth Amendment, such a search is unconstitutional.

Frisby v. Schultz (1988) upheld a so-called focused picketing ordinance that prohibited protesters (anti-abortion protesters, in this case) from picketing a single residence (the house of a physician who performed abortions). However, the ordinance did not prohibit picketing in the general area of the physician's house. The Supreme Court explained that the ordinance was designed to preserve the privacy individuals expect at home. In addition, the ordinance was content-neutral and did not apply more broadly than necessary to protect residential privacy.

Furman v. Georgia (1972) invalidated imposition of the death penalty under state laws then in place. The Supreme Court explained that existing death penalty statutes did not give juries enough guidance in deciding whether or not to impose the death penalty; the result was that the death penalty in many cases was imposed arbitrarily, i.e., without a reasonable basis in the facts and circumstances of the offender or the crime.

Gannett Company, Inc. v. DePasquale (1979) established that neither the press nor the public have a First Amendment right to attend pretrial proceedings, such as a motion to suppress (i.e., keep out) evidence in a criminal case.

Gibbons v. Ogden (1824) made it clear that the authority of Congress to regulate interstate commerce (U.S. Const. art. I, § 8, cl. 3) includes the authority to regulate intrastate commercial activity that bears on, or relates to, interstate commerce. Before this decision, it was thought that the Constitution would permit a state to close its borders to interstate commercial activity—which, in effect, would stop such activity in its tracks. This case says that only Congress can regulate commercial activity that has both intrastate and interstate dimensions.

Gideon v. Wainwright (1963) overruled *Betts v. Brady* (see above) and held for the first time that poor defendants in criminal cases have the right to a state-paid attorney under the Sixth Amendment. This rule has been refined to apply when the defendant, if convicted, can be sentenced to more than six months in jail.

Gitlow v. New York (1925) upheld a conviction for publishing articles that advocated the violent overthrow of democratic governments in general and the government of the United States in particular. In upholding the defendant's conviction under New York's so-called criminal anarchy law, the Court again rejected a free-speech defense while, at the same time, recognizing that the right of free speech is fundamental. According to the Court, a state legislature is entitled to take steps to prevent public disorder.

Grayned v. City of Rockford (1972) upheld the convictions of several hundred demonstrators charged with violating a city ordinance that prohibited demonstrations on or near schools while classes were being held. Once again the Court applied the time-place-and-manner doctrine (see *Cox v. Louisiana* discussed above): the First Amendment permits persons to demonstrate, but the government can regulate when, where, and how demonstrations are held.

Gregg v. Georgia (1976) specifically held that the death penalty is not necessarily unconstitutional. The Supreme Court went on to uphold, Georgia death penalty statute, explaining that the law provided sufficient safeguards to ensure that the penalty was imposed only as a rational response to the facts of the crime and the circumstances of the offender.

Gregory v. City of Chicago (1969) struck down the convictions of several protesters who marched from city hall to the mayor's home to demand that the city's schools be desegregated. The Court held that peaceful protest is protected by the First Amendment.

Hazelwood School District v. Kuhlmeier (1988) held that public school officials are in control of the editorial content of a student newspaper published as part of the school's journalism curriculum. Students' First Amendment rights do not include deciding what will and will not be published in a student newspaper that is tied to the school's curriculum.

Heart of Atlanta Motel, Inc. v. United States (1964) upheld the Civil Rights Act of 1964, which prohibits racial discrimination by those who provide goods, services, and facilities to the public. The Georgia motel in the case drew its business from other states but refused to rent rooms to African Americans. The Supreme Court explained that Congress had the authority to such discrimination under both the equal protection clause (U.S. Const. amend. XIV, § 1) and the commerce clause (art. I, § 8, cl. 3). With respect to the commerce clause, the Court explained that Congress had ample evidence to conclude that racial discrimination by hotels and motels impedes interstate commerce.

Hill v. Colorado (2000) upheld a Colorado law designed to prevent anti-abortion protestors from harrassing people who entered health care facilities. The Court stated that the law made valid restrictions on the time, place, and manner in which protestors could exercise their First Amendment right to free speech.

Hudson v. United States (1997) held 5 to 4 that the federal criminal charges in cases of regulatory wrongdoing could follow civil fines, if the fines were not punitive. The Supreme Court had ruled in *United States v. Halper* (see below) that civil and criminal penalties could not be imposed for the same act. The Court said *Halper* supported too broad a reading of the double jeopardy clause.

Hughes v. Superior Court (1950) upheld the contempt convictions of several individuals for picketing a grocery store in violation of a court order prohibiting the picketing. The picketers wanted the store to hire African Americans in proportion to the percentage of the store's African American customers. While recognizing that labor picketing is protected by the free speech clause (see *Thornhill v. Alabama* discussed below), the Supreme Court explained that it does not enjoy the same protection as pure speech. The Court then held that the free speech clause does not bar a state from prohibiting labor picketing aimed at forcing an employer to adopt a hiring quota.

Hustler Magazine v. Falwell (1988) held that public officials or public figures subject to parody by the press cannot recover damages (i.e., money) for the emotional distress caused by the parody unless they can prove that the parody was false or was published in reckless disregard of the truth or falsity of its content.



Supreme Court gavel

Hutchinson v. Proxmire (1979) articulated the limits of the speech and debate clause (U.S. Const. art. I, § 6), which provides that members of Congress cannot be held criminally or civilly liable for statements made in either house. In this case, however, the Supreme Court held that the clause did not protect Wisconsin senator William Proxmire from being sued for libel. In a press release, at a news conference, and on television news programs, Proxmire claimed that federal funds were wasted in paying for a study of aggressive behavior in animals. Had the senator limited his remarks to a speech on the Senate floor, the speech and debate clause would have protected him from the libel suit; he lost the protection of the clause by making his remarks outside of Congress.

INS v. Chadha (1983) held that legislative action by Congress must comply with the Constitution. In this case, the Supreme Court concluded that the Constitution did not permit one house, acting unilaterally, to override the decision of the attorney general allowing an alien, Chadha, to remain in the United States. The Court said that the attorney general's decision could be set aside only by legislation passed by both houses and signed into law by the president, or passed a second time by a two-thirds vote of both houses in the event of a presidential veto.

International Brotherhood of Teamsters, Local 695 v. Vogt (1950) upheld a state court order prohibiting labor picketing aimed at nonunion employees and seeking to encourage them to join the picketers' union. The Supreme Court explained that a state cannot prohibit any and all labor picketing (see *Thornhill v. Alabama*). But, said the Court, a state can prohibit labor picketing in order to preserve the right of each nonunion employee to decide for himself or herself whether or not to join a union.

Jacobson v. Massachusetts (1905) upheld a state law requiring smallpox vaccinations against an individual's claim that submitting to a vaccination would violate his religious beliefs. The law was another example of a neutral law of general application intended to prevent the spread of a communicable disease that could kill. (See *Reynolds v. United States* discussed below.) The Supreme Court explained that the state's health and welfare interest took precedence over the individual's free exercise rights.

Jaffee v. Redmond (1996) held for the first time that federal rules of evidence recognize a psychotherapist-patient privilege, which protects confidential commu-

nications in that context from compelled disclosure at a criminal trial or in a civil trial. The Supreme Court, however, cautioned that the privilege is not absolute and might be required to yield if, for example, a therapist's disclosure is required to avert serious harm to the patient or another.

Johnson v. Transportation Agency of Santa Clara, California (1987) held that Title VII of the Civil Rights Act of 1964 allows an employer to take gender into account in awarding promotions. The Supreme Court explained that this type of affirmative action is permissible as long as the employer is using the action to remedy the effects of past discrimination against women.

Katz v. United States (1967) overruled *Olmstead v. United States* (see below). In this case, the Supreme Court announced that the Fourth Amendment's protection against unreasonable searches and seizures applies to people, not places. In particular, the Court held that the Fourth Amendment applies to telephone wiretaps, and this means, as a general rule, that police must have a court order to place a wiretap.

Kiryas Joel Village School District v. Grumet (1994) struck down as a violation of the establishment clause (U.S. Const. amend. I, cl. 1) a New York statute creating a public school district limited to a single Jewish village and controlled entirely by the leaders of an ultra-Orthodox Jewish sect. The Supreme Court explained that the statute gave the secular authority to educate to a specific religion. Also, because no other religious group had ever received such treatment, the Court said that the establishment clause was violated because the state had singled out the sect for favorable treatment.

Korematsu v. United States (1944) upheld the federal government's authority to exclude Japanese Americans, many of whom were citizens, from designated military areas that included almost the entire West Coast. The government defended the so-called exclusion orders as a necessary response to Japan's attack on Pearl Harbor, which widened World War II from a war against Germany to one against Japan as well. However, in upholding the exclusion orders, the Supreme Court established that courts will subject government actions that discriminate on the basis of race to the most exacting scrutiny, often referred to as strict scrutiny.

Lau v. Nichols (1974) held that the Civil Rights Act of 1964 was violated when San Francisco's public school district refused to instruct children of Chinese ancestry

in English. The Supreme Court explained that the Chinese students in the case were not receiving the same education as non-Chinese students as required by the Civil Rights Act, which the school district had agreed to abide by in exchange for receiving federal funds.

Lee v. Weisman (1992) held that having clergy offer prayers as part of an official public school graduation ceremony is forbidden by the establishment clause of the First Amendment.

Lemon v. Kurtzman (1971) established a three-part test for determining if a particular government action violates the establishment clause (U.S. Const. amend. I, cl. 1). First, the test asks if the government action has a primary *purpose* of advancing religion; second, if the action has a primary *effect* of advancing religion; and third, if the action risks entangling government in religious affairs or vice versa. The establishment clause is violated if the action fails any one of these tests.

Levitt v. Committee for Public Education (1973) struck down a New York law under which the state would reimburse religious schools for drafting, grading, and reporting the results of student achievement tests. Because teachers in religious schools prepared the tests, the tests could be used to advance the religious views of the school, a result prohibited by the establishment clause (U.S. Const. amend. I, cl. 1).

Lloyd Corp. v. Tanner (1972) upheld a shopping center's refusal to allow anti-Vietnam War protesters to distribute flyers on its property. It is elemental that the First Amendment protects only against government action, not private action. The Court concluded that the First Amendment did not apply.

Lynch v. Donnelly (1984) held that a city-owned crèche (a Nativity scene) included in a Christmas display that also included reindeer, a Santa Claus, and a Christmas tree did not endorse a particular religious viewpoint and thus did not violate the establishment clause (U.S. Const. amend. I, cl. 1). In the Supreme Court's view, the display was a secular holiday display.

Mapp v. Ohio (1961) extended the exclusionary rule announced in *Weeks v. United States* (see below) to state and local law-enforcement officers. After this case, evidence seized in violation of the Fourth Amendment could not be used by the prosecution as evidence of a defendant's guilt in any court—federal, state, or local.

Marbury v. Madison (1803) established one of the most significant principles of American constitutional law.

In this case, the Supreme Court held that it is the Court itself that has the final say on what the Constitution means. It is also the Supreme Court that has the final say in whether or not an act of government—legislative or executive at the federal, state, or local level—violates the Constitution.

Marsh v. Chambers (1983) held that the establishment clause (U.S. Const. amend. I, cl. 1) was not violated by the practice of the Nebraska legislature to begin its sessions with a prayer. The Supreme Court first noted that the practice had a long history in America, observing that the first Congresses had chaplains. The Court also explained that such a practice when directed to adults is not likely to be perceived as advancing a particular religion or religion in general.

McCollum v. Board of Education (1948) held that the establishment clause was violated by a public school district's practice of allowing privately paid teachers to hold weekly religion classes in public schools. The Supreme Court explained that the practice used public funds to disseminate religious doctrine, a result flatly at odds with the purpose of the establishment clause.

McCulloch v. Maryland (1819) established the foundation for the expansive authority of Congress. The Supreme Court held that the necessary and proper clause (U.S. Const. art. I, § 8, cl. 18) allows Congress to do more than the Constitution expressly authorizes it to do. This case says that Congress can enact nearly any law that will help achieve any of the ends set forth in Article I, Section 8. For example, Congress has the express authority to regulate interstate commerce; the necessary and proper clause permits Congress to do so in ways not specified in the Constitution.

Miller v. California (1973) established the test for determining if a book, movie, television program, etc. is obscene and thus unprotected by the First Amendment. A work is obscene if: 1) the average person would find that the work taken as a whole appeals to prurient interests; 2) the work defines or depicts sexual conduct in a "patently offensive way" as determined by state law; and 3) the work taken as a whole "lacks serious literary, artistic, political, or scientific value."

Minersville School District v. Gobitis (1940) had held that a state could require public school students to salute the American flag. The Supreme Court explained that a general law (the flag-salute law in this case), not intended to restrict or promote religious views, must be obeyed. This decision didn't last long; it was overruled

three years later by *West Virginia State Board of Education v. Barnette*, discussed below.

***Miranda v. Arizona* (1966)** held that a person in police custody cannot be questioned unless told that he or she has: 1) the right to remain silent, 2) the right to an attorney (at government expense if the person is unable to pay), and 3) that anything the person says after acknowledging that he or she understands these rights can be used as evidence of guilt at trial. These advisements constitute the well-known *Miranda* warnings and operate to ensure that a person in custody will not give up unknowingly the Fifth Amendment's protection against self-incrimination.

The Supreme Court explained that a person alone in police custody may not understand, even if told, that he or she can remain silent and thus might be misled into believing that questions must be answered. The presence of an attorney is essential.

***Mitchell v. Helms* (2000)** holds that Chapter 2 of the Education Consolidation and Improvement Act of 1981 does not violate the establishment clause of the First Amendment when it provides funds for religiously affiliated schools. The act distributes money to buy equipment and materials for public and private schools.

***Mueller v. Allen* (1983)** upheld a Minnesota law that allowed parents of private school students, whether in sectarian or nonsectarian schools, to deduct educational expenses in computing their state income tax. The Supreme Court explained that the benefit flowed to parents and students and only indirectly, if at all, to religious schools. In addition, the benefit was neutral because it did not depend on the type of private school a student attended. In deciding this case, the Court applied the three-prong *Lemon* test (see above) and concluded that the deduction had a neutral purpose, did not involve government in religious affairs, and, as noted, was neutral and so did not have the effect of advancing religion.

***Munn v. Illinois* (1876)** held that the commerce clause (U.S. Const. art. I, § 8, cl. 3) was not violated by an Illinois law that fixed the maximum prices grain elevators could charge farmers for the short-term storage of grain before it was shipped to processors. The Supreme Court explained that the operation of grain elevators was primarily an intrastate commercial enterprise. In addition, the Court noted that Congress had not acted with respect to interstate commerce in grain and so the Illinois law could not be said to inter-

fere with Congress's authority to regulate interstate commerce.

***Near v. Minnesota* (1931)** established the prior restraint doctrine. The doctrine protects the press (broadly defined to include newspapers, television and radio, filmmakers and distributors, etc.) from government attempts to block publication. Except in extraordinary circumstances, the press must be allowed to publish. If what is published turns out to be unprotected by the First Amendment, the government can take appropriate action. However, to act before publication is to engage in a kind of censorship which the First Amendment does not permit.

***Nebraska Press Association v. Stuart* (1976)** struck down a judge's order that the press covering a mass murder case could not report any facts that "strongly implicated" the defendant. The Supreme Court held that the press cannot be prohibited from reporting what transpires in a courtroom and that, in this case, there were no facts suggesting that press coverage would infringe the defendant's Sixth Amendment right to a fair trial.

***New Jersey v. T.L.O.* (1985)** held that public school officials can search a student's property (a purse) for evidence of wrongdoing (violating the school's no-smoking policy) without having probable cause to believe that the student did anything wrong. It is enough, said the Supreme Court, if school officials have reason to believe that the student violated a rule and that the search will confirm or dispel that suspicion. The Court agreed, however, that the Fourth Amendment protects public school students from unreasonable searches and seizures but not to the degree that adults are protected.

***New York Times Co. v. Sullivan* (1964)** extended the protections afforded to the press by the free press clause (U.S. Const. amend. I). In this case, the Supreme Court held that a public official or public figure suing a publisher for libel (i.e., defamation) must prove that the publisher published a story that he or she knew was false or published the story in "reckless disregard of its truth or falsity," which means that the publisher did not take professionally adequate steps to determine the story's truth or falsity.

***New York Times Co. v. United States (The Pentagon Papers Case)* (1971)** reaffirmed the prior restraint doctrine established in *Near v. Minnesota* (see above). In this case, the Supreme Court refused to halt publication of the Pentagon Papers, which gave a detailed critical

account of the United States's involvement in the Vietnam War. There was, however, considerable disagreement on the Court with four dissenting justices voting to halt publication temporarily to allow the president to show that the documents jeopardized the war effort.

Nix v. Williams (1984) announced the “inevitable-discovery rule,” another example of a situation in which evidence that is otherwise inadmissible becomes admissible. Here the defendant told police where to find the body of a murder victim. The police, however, obtained this information by talking to the defendant without his attorney being present, in violation of the defendant's Sixth Amendment right to counsel. The Supreme Court excused the violation and allowed the information to be used as evidence of the defendant's guilt because the police would have inevitably discovered the body by other lawful means.

Olmstead v. United States (1928) held that the Fourth Amendment's prohibition against unreasonable searches and seizures applied only to searches and seizures of tangible property like a person's home or a person's briefcase. In this case, the Supreme Court held that the protection did not apply to telephone calls placed from public telephones; these calls could be intercepted by police at will and used as evidence without violating the Fourth Amendment. This case was overruled some 40 years later by *Katz v. United States* (see above).

Oregon v. Elstad (1985) held that a defendant's voluntary but incriminating statement given before being told of his *Miranda* rights does not taint, i.e., ruin and make inadmissible, the same defendant's later confession given after receiving a full recitation of his *Miranda* rights. (The first statement was never used against the defendant.)

Oregon v. Smith (1990), officially known as *Employment Division, Department of Human Services of Oregon v. Smith*, held that a state may deny unemployment benefits to a person who was fired for the religious use of an illegal drug, peyote. In reaching its decision, the Supreme Court followed the reasoning of an 1879 case, *Reynolds v. United States* (see below), and held that a person's free exercise rights are not violated by a neutral law of general application even though the law, as in this case, may penalize a person in the practice of his or her religion.

Payton v. New York (1980) invalidated a New York statute which authorized police to make warrantless entries into homes to make routine, nonemergency

felony arrests. The Supreme Court held that the Fourth Amendment requires a warrant for such routine arrests. The Court's holding means that any evidence seized during the arrest and any statements made by the person arrested could not be used as evidence of guilt at any later criminal trial.

Pierce v. Society of Sisters (1925) held that parents have a right under the due process clause (U.S. Const. amend. XIV, § 1) to send their children to religious schools as long as the schools meet the secular educational requirements established by state law. The Court also made it clear that while parents have the right to use religious schools, the Constitution forbids states from segregating public school students on the basis of religious affiliation.

Plessy v. Ferguson (1896) upheld the separate-but-equal doctrine used by Southern states to perpetuate segregation after the Civil War officially ended *de jure*, or law-mandated, segregation. At issue in the case was a Louisiana law requiring passenger trains to have “equal but separated accommodations for the white and colored races.” The Supreme Court held that the Fourteenth Amendment's equal protection clause required only equal public facilities for the two races, not equal access to the same facilities. This case was overruled by *Brown v. Board of Education* (1954) discussed above.

Police Department of Chicago v. Mosley (1972) struck down a Chicago, Illinois, ordinance that allowed peaceful labor demonstrations at or near public schools while classes were in session but prohibited all other demonstrations. The Court held that the ordinance was a content-based restriction; it allowed labor demonstrations but not Mosley's single-person demonstration in which he carried a sign alleging that a particular school practiced racial discrimination. Content-based restrictions, the Court explained, almost always violate the First Amendment; while time-place-and-manner restrictions generally are accepted as placing reasonable limits on otherwise protected conduct.

Powell v. Alabama (1932) established that the due process clause (U.S. Const. amend. XIV, § 1) guarantees the defendant in any death penalty case the right to an attorney. Accordingly, states, not just the federal government, are required, at government expense, to provide an attorney to poor defendants who face the death penalty if convicted.

Red Lion Broadcasting Co. v. FCC (1969) is one of a number of Supreme Court cases that make it clear that First Amendment rights of broadcasts are not as broad as the rights of the print media. In this case, the Court upheld two FCC regulations requiring broadcasters to give free reply-time to 1) persons criticized in political editorials and 2) persons who are attacked by others as the latter express their views on a controversial subject.

Reed v. Reed (1971) was the first Supreme Court case to hold that discrimination on the basis of sex violates the equal protection clause (U.S. Const. amend. XIV, § 1). At issue in the case was a state law that preferred males to females as the administrators of estates, even though both might be equally qualified to serve as administrators. The Court held that such a mandatory preference serves no purpose but to discriminate—a basic violation of the equal protection clause.

Regents of the University of California v. Bakke (1978) was the first Supreme Court decision to suggest that an affirmative action program could be justified on the basis of diversity. The Supreme Court explained that racial quotas were not permissible under the equal protection clause (U.S. Const. amend. XIV, § 1), but that the diversity rationale was a legitimate interest that would allow a state medical school to consider an applicant's race in evaluating his or her application for admission. (Several more recent Supreme Court cases suggest that the diversity rationale is no longer enough to defend an affirmative action program.)

Reno v. American Civil Liberties Union (1997) tested the Communications Decency Act that made it a crime to distribute "indecent" material over computer online networks. The Court said that protecting children from pornography did not supersede the right to freedom of expression, adding that the act was unenforceable with the current technology.

Reno v. Condon (2000) upheld The Driver's Privacy Protection Act of 1994. The law restricts the ability of a state to disclose a driver's personal information without the driver's consent. According to the Court, the law does not violate states' rights guaranteed in the Tenth Amendment or the Eleventh Amendment provision that suits against a state be tried in a state court.

Reynolds v. Sims (1964) extended the one-person, one-vote doctrine announced in *Wesberry v. Sanders* to state legislative elections. The Court held that the inequality of representation in the Alabama legislature violated the equal protection clause of the Fourteenth Amendment.

Reynolds v. United States (1879) was the first major Supreme Court case to consider the impact of neutral laws of general application on religious practices. (A neutral law of general application is one that is intended to protect the public health and safety and applies to everyone regardless of religious belief or affiliation. Such a law is not intended to affect adversely any religious belief or practice but may have indirect adverse effects.) The case presented a free exercise challenge by a Mormon to a federal law making it unlawful to practice polygamy, i.e., marriage in which a person has more than one spouse. The Mormon religion permitted a male to have more than one wife. The Court upheld the statute, saying that Congress did not have the authority to legislate with respect to religious beliefs but did have the authority to legislate with respect to actions that "subvert good order."

Rhodes v. Chapman (1981) held that the Eighth Amendment's prohibition against cruel and unusual punishment is not violated when prison authorities house two inmates in a cell built for only one inmate.

Richmond Newspapers, Inc. v. Virginia (1980) established that both the public and the press have a First Amendment right to attend trials. The Supreme Court observed that the importance of a trial is the fundamental fact that the defendant's guilt or innocence is being determined and then explained that the fairness of the guilt/innocence determination is dependent, in part, on the openness of the proceeding.

Richmond v. J.A. Croson Co. (1989) held that state and local governments must have a compelling interest, i.e., an exceedingly important interest, in order to implement affirmative-action programs. One such interest is remedying discrimination against racial minorities. However, the Supreme Court struck down a Richmond, Virginia, program that gave at least 30 percent of the city's construction contracts to minority-owned businesses. The Court said there was no proof of racial discrimination, so nothing would be remedied by the program.

Roe v. Wade (1973) held that females have a constitutional right under various provisions of the Constitution—most notably, the due process clause (amend. XIV, § 1)—to decide whether or not to terminate a pregnancy. The Supreme Court's decision in this case was the most significant in a long line of decisions over a period of 50 years that recognized a constitutional right of privacy, even though the word *privacy* is not found in the Constitution.

***Santa Fe School District v. Doe* (2000)** ruled that the Santa Fe School District violated the establishment clause of the First Amendment when it allowed a student council member to deliver a prayer over the intercom before varsity football games.

***Santobello v. New York* (1971)** put the Supreme Court's stamp of approval on plea bargaining. The Supreme Court explained that plea bargaining "is an essential component in the administration of justice." The Court's decision established that a prosecutor must live up to the terms of a plea agreement, although the Court also made it clear that a defendant does not have an absolute right to have the trial judge accept either a guilty plea or a plea agreement.

***Schechter Poultry Corporation v. United States* (1935)** overturned the conviction of the employers, who were charged with violating wage and hour limitations of a law adopted under the authority of the National Industrial Recovery Act. The Court held that because the defendants did not sell poultry in interstate commerce, they were not subject to federal regulations on wages and hours.

***Schenck v. Pro-Choice Network of Western New York* (1997)** upheld parts of an injunction aimed at anti-abortion protesters and regulating the manner in which they could conduct their protests. The Supreme Court upheld the creation of a fixed 15-foot buffer zone separating protesters from clinic patrons and employees; the Court also upheld a cease-and-desist order under which a protester must move away from any person who indicates that he or she does not want to hear the protester's message. But the Court struck down the "floating buffer zone" that had allowed protesters who maintained a 15-foot distance to move along with patrons and employees.

***Schenck v. United States* (1919)** upheld convictions under the Federal Espionage Act. The defendants were charged with distributing leaflets aimed at inciting draft resistance during World War I; their defense was that their antidraft speech was protected by the free speech clause (U.S. Const. amend. I, cl. 2).

The Supreme Court explained that whether or not speech is protected depends on the context in which it occurs. Here, said the Court, the context was the nation's war effort. Because the defendants' antidraft rhetoric created a "clear and present danger" to the success of the war effort, it was not protected speech.

***Sheppard v. Maxwell* (1966)** made it clear that a criminal defendant's Sixth Amendment right to a fair trial

can justify restrictions on the press's First Amendment rights. The Supreme Court, however, was careful to explain that any restrictions on the press must be no broader than necessary to ensure that the defendant is tried in court and not in the press.

***The Slaughterhouse Cases* (1873)** upheld Louisiana statutes regulating the butcher trade and, specifically, moving butchers out of densely populated sections of New Orleans. The Supreme Court explained that the privileges and immunities clause (U.S. Const. amend. XIV, § 1) only prohibits states from doing something that would impair the general rights of United States citizens, but that there was no right of citizenship that would prohibit a state from regulating businesses in order to protect public health and safety.

This decision was rendered shortly after the Civil War ended and narrowly interpreted the privileges and immunities clause, as well as the due process and equal protection clauses (U.S. Const. amend. XIV, § 1). To the Court, these provisions were meant to secure the rights of the newly freed enslaved persons, not to protect ordinary contract rights of businesspeople.

***Teitel Film Corp. v. Cusack* (1968)** struck down a Chicago ordinance under which a police permit was required before any motion picture could be shown. Under the ordinance, it could take between 50 and 57 days to secure a response. Judicial review of a permit denial could take 10 days or more. The Supreme Court explained that the ordinance did not provide for sufficiently prompt action on a permit application and, thus, violated rights of speech and expression protected by the First Amendment.

***Texas v. Johnson* (1989)** held that burning an American flag is expressive conduct protected by the First Amendment. Expressive conduct, the Supreme Court explained, is conduct that is intended by the actor to convey a message, and the message that the actor intends to convey is one that observers likely would understand. The Court applied the *O'Brien* test (see *United States v. O'Brien*) under which the government can punish a person for conduct that might have an expressive component as long as the punishment advances an important government interest that is unrelated to the content of speech. The Court then reversed the conviction of Gregory Johnson for "desecrating a venerated object"—burning an American flag at the 1984 Republican National Convention to protest the policies of the Reagan administration. The Court explained that Johnson was convicted solely because of the content of his speech.

Thornhill v. Alabama (1940) reversed the conviction of the president of a local union for violating an Alabama statute that prohibited only labor picketing. Thornhill was peaceably picketing his employer during an authorized strike when he was arrested and charged. In reaching its decision, the Supreme Court expressly held that the free speech clause protects speech about the facts and circumstances of a labor dispute.

Tinker v. Des Moines School District (1969) extended First Amendment protection to public school students in the now-famous statement that “it can hardly be argued that either students or teachers shed their constitutional rights of freedom of speech or expression at the schoolhouse gate.” The Supreme Court then held that a public school could not suspend students who wore black armbands to school to symbolize their opposition to the Vietnam War. In so holding, the Court likened the students’ conduct to pure speech and decided it on that basis.

Train v. City of New York (1975) held that if Congress directs the executive branch to spend funds that Congress has appropriated, the executive branch must do so. In this case, Congress, over a presidential veto, appropriated federal funds for state and local sewer projects. The president directed the head of the Environmental Protection Agency to distribute only some of the appropriated funds. The Supreme Court held that the president must comply with Congress’s spending directives.

Turner Broadcasting System, Inc. v. FCC (1997) upheld the must-carry provisions of the Cable Television Consumer Protection and Competition Act against a challenge by cable television operators that the provisions violated their free speech rights. The must-carry provisions require a cable operator with 12 or more channels to set aside one-third of its capacity for use by broadcast television stations (e.g., CBS) at no cost. The provisions did not violate the First Amendment because they served several important government interests and did not restrict any more speech than necessary to achieve those interests.

United States v. E.C. Knight Co. (1895) gave a very narrow reading to the term *commerce* in deciding if a manufacturing monopoly violated the Sherman Antitrust Act. (Congress used its authority to regulate interstate commerce—U.S. Const. art. I, § 8, cl. 3—to enact the Antitrust Act.) The Supreme Court held that commerce meant only the dollars and cents marketing of goods, not the production of goods that ultimately

would be marketed. Note, however, that the Court’s decision has been eroded over the years and is no longer valid.

United States v. Eichman (1990) struck down the Federal Flag Protection Act because it punishes the content of expressive speech. The Court concluded: “The Government may not prohibit the expression of an idea simply because society finds the idea itself offensive or disagreeable.”

United States v. Halper (1989) held that the double jeopardy clause (U.S. Const. amend. V, cl. 2), which prohibits multiple punishments for the same offense, can be violated by imposing both a criminal and a civil penalty on an individual for the same conduct. In this case, the conduct was submitting false bills to the federal government. First the defendant received a criminal sanction (imprisonment) after a criminal trial; that penalty was followed by a civil sanction (a large fine) after a civil trial. The Court explained that the fine (\$130,000) was punishment under the double jeopardy clause because it was grossly disproportionate to the total amount of the false bills (\$585).

United States v. Leon (1984) created the good-faith exception to the exclusionary rule. In this case, a magistrate issued an arrest warrant that appeared valid but was later determined to be deficient because the facts on which it was based did not amount to probable cause. However, officers served the warrant and, in the process, uncovered evidence used at Leon’s trial. The Supreme Court explained that neither the officers nor the criminal justice system should be penalized for the magistrate’s mistake. The good-faith exception transforms evidence otherwise inadmissible under the Fourth Amendment into admissible evidence.

United States v. Nixon (1974) made it clear that the president is not above the law. In the early 1970s, President Nixon was named as an unindicted coconspirator in the criminal investigation that arose in the aftermath of a break-in at the offices of the Democratic Party in Washington, D.C. A federal judge had ordered President Nixon to turn over tapes of conversations he had had with his advisers; Nixon resisted the order, claiming that the conversations were entitled to absolute confidentiality by Article II of the Constitution. The Supreme Court disagreed and held that only those presidential conversations and communications that relate to performing the duties of the office of president are confidential and protected from a judicial order of disclosure.

United States v. O'Brien (1968) upheld the conviction of David Paul O'Brien for burning his draft card to dramatize his opposition to the Vietnam War, in violation of a regulation requiring a draft registrant to keep his card in his possession at all times. The Court held that symbolic speech was not a defense to a draft-card burning charge because the regulation: 1) served a valid government interest unrelated to the suppression of speech; 2) was narrowly drawn to serve the identified government interest; and 3) left open alternative channels of sending the same message.

United States v. Playboy (2000) struck down Section 505 of the Telecommunications Act of 1996 because it violated the First Amendment. The act required cable television operators to fully block channels devoted to sexually oriented programs or limit their transmission to hours when children are unlikely to be viewing television. The Court claimed that the way the law addressed the problem was too restrictive.

Vernonia School District 47J v. Acton (1995) held that the Fourth Amendment's prohibition of unreasonable searches and seizures was not violated by a public school district's policy of conducting random, suspicionless drug tests of all students participating in interscholastic athletics. The Supreme Court explained that the district's interest in combating drug use outweighed the students' privacy interests.

Washington v. Davis (1976) held that the equal protection clause (U.S. Const. amend. XIV, § 1) is not violated by government actions that have a disproportionate negative impact on members of a particular race or ethnic group. At issue in the case was a test given to police applicants on which white applicants scored higher than African American applicants. The Supreme Court explained that the equal protection clause is violated only by actions taken for the purpose of discriminating against individuals on the basis of race, ethnicity, or other improper factors.

Watkins v. United States (1957) limited the authority of congressional committees to hold witnesses in contempt for refusing to answer questions. The Supreme Court explained that a witness can be required to answer questions posed by a committee of Congress, but only if the questions are relevant to the committee's purpose. The Court also held that a witness before a congressional committee can invoke the Fifth Amendment's privilege against self-incrimination.

Weeks v. United States (1914) created the exclusionary rule as the remedy for an unconstitutional search or

seizure (U.S. Const. amend. IV). Under the exclusionary rule, evidence seized as a result of an unconstitutional search or seizure cannot be used as evidence of guilt at a later criminal trial. The Supreme Court applied the rule only against federal officers because, at that time, the Bill of Rights was thought to apply only to the federal government.

Wesberry v. Sanders (1964) established the one-person, one-vote doctrine in elections for the United States House of Representatives. The doctrine ensures that the vote of each voter has the same weight as the vote of every other voter. This decision means that the voting population of each congressional district within a state must be as nearly equal as possible.

West Coast Hotel Co. v. Parrish (1937) upheld a Washington state statute that authorized a state commission to fix the minimum wages of women and minors. The statute was challenged as a violation of the right to contract. The Supreme Court explained that the right to contract, like most of the rights protected by the due process clause (U.S. Const. amend. XIV, § 1), is not absolute. The Court held that the right to contract was outweighed by the state's interest in protecting the health, safety, and security of vulnerable workers.

West Virginia State Board of Education v. Barnette (1943) made it clear that the free exercise clause (U.S. Const. amend. I) forbids the government from requiring a person to swear to a belief. The Supreme Court struck down a state law requiring public school students to salute the American flag and recite the Pledge of Allegiance. Parents and students of the Jehovah's Witness faith claimed that the law violated their free exercise rights because their religious precepts prohibited them from pledging allegiance to anything other than God. The Court agreed and held that the state had no interest compelling enough to justify the law.

Westside Community Schools v. Mergens (1990) upheld the Federal Equal Access Act, which provides that public schools which open their facilities to noncurricular student groups must make their facilities equally available to student religious groups.

Whitney v. California (1927) upheld the California Criminal Syndicalism Act against a claim that the statute violated First Amendment rights of speech and association. The statute made it a crime for anyone to become a member of any group known to espouse political change, particularly change that would effect the distribution of wealth in the country.

Whren v. United States (1996) held that the Fourth Amendment's prohibition against unreasonable searches and seizures was not violated when police stopped an automobile for minor traffic violations and discovered illegal drugs in the process. In deciding this case, the Supreme Court rejected the defendant's claim that the real reason the police stopped the vehicle was to search for drugs and that the traffic violations were a pretext. The traffic violations provided probable cause for the stop and that, said the Court, is all the Fourth Amendment requires.

Wisconsin v. Mitchell (1993) upheld a Wisconsin statute that increased the penalty imposed for certain crimes if the victim was selected on the basis of race. Here the victim of a severe beating was picked because he was African American. The Supreme Court explained that the enhanced penalty did not punish speech; Mitchell remained free to think or say what he pleased on matters of race. The Court also explained that penalties are enhanced in a variety of circumstances (e.g., when a murder victim is a police officer or under or over a certain age), and that the First Amendment is not violated when a murder sentence is enhanced from life imprisonment to death because race was a factor in the killing of the victim.

Wisconsin v. Yoder (1972) ruled that Wisconsin's compulsory education laws must yield to the concerns of Amish parents that sending their children to public school after the eighth grade exposed the children to influences that undermined their religious faith and religious practices.

Wolman v. Walter (1977) held that the establishment clause (U.S. Const. amend. I, cl. 1) was not violated by an Ohio law that provided textbooks, testing services, and diagnostic and therapeutic services at state expense to all children, including children attending religious schools. The Supreme Court explained that a general program undertaken to ensure the health and welfare of all children was not unconstitutional simply because the program might provide an indirect benefit to religious schools. However, the Court struck down a provision that reimbursed religious schools for the cost of field trips, because the religious schools determined the purpose and destination of the trips and thus could select such trips based on the support they would lend to the schools' religious precepts.

Woodson v. North Carolina (1976) held that a state may not make the death penalty mandatory upon conviction for a particular offense. The Supreme Court ex-

plained that the death penalty is a particularized punishment; it can be imposed only after a jury (or a judge, in some instances) looks at the offender as an individual and at the facts of the crime and at the offender's character and life history.

Yates v. United States (1957) reversed the Smith Act convictions of five Communist Party officials. In reaching its decision, the Supreme Court distinguished between teaching and advocating an idea—the violent overthrow of the United States government—and teaching and advocating various concrete violent acts intended to overthrow the government. Speech advocating a violent idea is protected by the free speech clause, while speech advocating violent action is not.

Youngstown Sheet & Tube Co. v. Sawyer (the Steel Seizure Case) (1952) arose when a nationwide strike of steelworkers threatened to shut down the industry at the height of the Korean War. (Steel production was essential to the war effort.) To avert the strike, President Truman ordered the secretary of commerce to take over the steel mills and keep them running. The Supreme Court held that the president must relinquish control of the mills because he had exceeded his constitutional authority. The Court specifically held that the president's authority as commander in chief did not justify his action. The Court explained that only Congress could "nationalize" an industry; if Congress did so, the president, who is constitutionally required to execute the law, would be authorized to seize and operate the mills.

Zemel v. Rusk (1965) placed a national-security limitation on a citizen's right to travel abroad. In this case, a citizen tried to get a visa to travel to Cuba, a Communist country with very tense relations with the United States in the early to mid-1960s. The State Department denied the visa request and the Supreme Court affirmed, citing the "weightiest considerations of national security" as illustrated by the Cuban missile crisis of 1962 that had the United States on the brink of war with the Soviet Union.

Zorach v. Clauson (1952) upheld a New York City program that allowed students to be released early from school to attend religious classes in church buildings, not in public schools as in *McCollum v. Board of Education* (see above). The Supreme Court explained that all costs of the program were borne by the participating religions and that no public money, no public facility, and no public employee had any involvement with the program.