

Supreme Court Glossary

Agostini v. Felton (1997)

Decision: The Court decided that it was appropriate to reconsider *Aguilar v. Felton* as subsequent cases had undermined several of the assumptions, for example that public employees placed at parochial schools would “inevitably inculcate religion,” upon which the decision was based. The Court then found that New York City’s Title I Program did not violate any of the criteria used “to evaluate whether government aid has the effect of advancing religion: it does not result in governmental indoctrination; define its recipients by reference to religion; or create an excessive entanglement.” As a result, the Court concluded that “a federally funded program providing supplemental, remedial instruction to disadvantaged children on a neutral basis is not invalid under the Establishment Clause when such instruction is given on the premises of sectarian schools by government employees pursuant to a program containing safeguards” against excessive entanglement between government and religion.

Ashcroft v. ACLU (2002)

Decision: Reliance on “community standards” in the Child Online Protection Act (COPA) to decide whether material “is harmful to minors” does not make the statute overbroad under the 1st Amendment. Obscene speech is not entitled to 1st Amendment protection, though the courts must be careful not to infringe on legitimate literary, scientific, artistic or political expression. COPA is narrowly written in order to limit the amount of material covered by the statute. “Community standards” have previously been accepted as a basis for deciding whether materials are obscene, and the government should be allowed the opportunity to apply these standards to actual Internet cases before the Court assesses their constitutionality. The Court did not rule on whether COPA is overbroad in other respects or whether it is unconstitutionally vague, preferring instead to let the Third Circuit consider these issues first.

Baker v. Carr (1962)

Decision: The Supreme Court held that the federal courts do have jurisdiction and authority to review the constitutionality of a State’s electoral apportionment. The voters are entitled to a trial on their allegation that the Tennessee apportionment violated the United States Constitution by diluting their votes and denying them equal protection of the law. The federal courts may impose remedies if the voters can show that their votes do not count for substantially the same amount as votes of others in the State.

Bethel School District #403 v. Fraser (1986)

(1st Amendment, freedom of speech) A high school student gave a sexually suggestive political speech at a high school assembly to elect student officers. The school administration strongly disciplined the student, Fraser, who argued that school rules unfairly limited his freedom of political speech. Fraser’s view was upheld in State court. Washington appealed to the Supreme Court, which found that “it does not follow. . . that simply because the use of an offensive form of expression may not be prohibited to adults making

what the speaker considers a political point, the same latitude must be permitted to children in a public school.”

Board of Estimate of City of New York v. Morris (1989)

Decision: The reapportionment requirement of “one-person, one-vote” applies to the Board of Estimate. The Board has sufficient legislative functions that its composition must fairly represent city voters on an approximately equal basis. The fact that some members are elected citywide is one factor to be considered in evaluating the fairness of the electoral structure, but it is not determinative. The City’s expressed interests—that the Board be effective and that it accommodate natural and political boundaries as well as local interests—does not justify the size of the deviation from the “one-person, one-vote” ideal. The City could structure the Board in other ways that would further these interests while minimizing the discrimination in voting power.

Bob Jones University v. United States (1983)

(14th Amendment in conflict with 1st Amendment) Bob Jones University, a private school, denied admission to applicants in an interracial marriage or who “espouse” interracial marriage or dating. The Internal Revenue Service then denied tax exempt status to the school because of racial discrimination. The university appealed, claiming their policy was based on the Bible. The Court upheld the IRS ruling, stating that “. . . Government has a fundamental overriding interest in eradicating racial discrimination in education.”

Brown v. Board of Education of Topeka (1954)

(14th Amendment, Equal Protection Clause) Probably no twentieth century Supreme Court decision so deeply stirred and changed life in the United States as *Brown*. A 10-year-old Topeka girl, Linda Brown, was not permitted to attend her neighborhood school because she was an African American. The Court heard arguments about whether segregation itself was a violation of the Equal Protection Clause and found that it was, commenting that “in the field of public education the doctrine of ‘separate but equal’ has no place. . . Segregation is a denial of the equal protection of the laws.” The decision overturned *Plessy v. Ferguson*, 1896.

The Civil Rights Cases (1883)

(14th Amendment, Equal Protection Clause) The Civil Rights Act of 1875 included punishments of businesses that practiced discrimination. The Court ruled on a number of cases involving the Acts in 1883, finding that the Constitution, “while prohibiting discrimination by governments, made no provisions . . . for acts of racial discrimination by private individuals.” The decision limited the impact of the Equal Protection Clause, giving tacit approval for segregation in the private sector.

***Cruzan v. Missouri* (1990)**

(14th Amendment, Due Process Clause) After Nancy Beth Cruzan was left in a “persistent vegetative state” by a car accident, Missouri officials refused to comply with her parents’ request that the hospital terminate life-support. The Court upheld the State policy under which officials refused to withdraw treatment, rejecting the argument that the Due Process Clause of the 14th Amendment gave the parents the right to refuse treatment on their daughter’s behalf. Although individuals have the right to refuse medical treatment, “incompetent” persons are not able to exercise this right; without “clear and convincing” evidence that Cruzan desired the withdrawal of treatment, the State could legally act to preserve her life.

***Dennis v. United States* (1951)**

(1st Amendment, freedom of speech) The Smith Act of 1940 made it a crime for any person to work for the violent overthrow of the United States in peacetime or war. Eleven Communist party leaders, including Dennis, had been convicted of violating the Smith Act, and they appealed. The Court upheld the Act.

***Dred Scott v. Sandford* (1857)**

(5th Amendment, individual rights) This decision upheld property rights over human rights by saying that Dred Scott, a slave, could not become a free man just because he had traveled in “free soil” States with his master. A badly divided nation was further fragmented by the decision. “Free soil” federal laws and the Missouri Compromise line of 1820 were held unconstitutional because they deprived a slave owner of the right to his “property” without just compensation. This narrow reading of the Constitution, a landmark case of the Court, was most clearly stated by Chief Justice Roger B. Taney, a States’ rights advocate.

***Engel v. Vitale* (1962)**

(1st Amendment, Establishment Clause) The State Board of Regents of New York required the recitation of a 22-word nonsectarian prayer at the beginning of each school day. A group of parents filed suit against the required prayer, claiming it violated their 1st Amendment rights. The Court found New York’s action to be unconstitutional, observing, “There can be no doubt that. . . religious beliefs [are] embodied in the Regent’s prayer.”

***Edwards v. South Carolina* (1963)**

(1st Amendment, freedom of speech and assembly) A group of mostly African American civil rights activists held a rally at the South Carolina State Capitol, protesting segregation. A hostile crowd gathered and the rally leaders were arrested and convicted for “breach of the peace.” The Court overturned the convictions, saying, “The Fourteenth Amendment does not permit a State to make criminal the peaceful expression of unpopular views.”

***Escobedo v. Illinois* (1964)**

(6th Amendment, right to counsel) In a case involving a murder confession by a person known to Chicago-area police who was not afforded counsel while under interrogation, the Court extended the “exclusionary rule” to illegal confessions in State court proceedings. Carefully defining

an “Escobedo Rule,” the Court said, “where. . . the investigation is no longer a general inquiry . . . but has begun to focus on a particular suspect . . . (and where) the suspect has been taken into custody . . . the suspect has requested . . . his lawyer, and the police have not . . . warned him of his right to remain silent, the accused has been denied . . . counsel in violation of the Sixth Amendment.”

***Ex parte Milligan* (1866)**

(Article II, executive powers) An Indiana man was arrested, treated as a prisoner of war, and imprisoned by a military court during the Civil War under presidential order. He claimed that his rights to a fair trial were interfered with and that military courts had no authority outside of “conquered territory.” He was released because, “the Constitution . . . is a law for rulers and people, equally in war and peace, and covers . . . all . . . men, at all times, and under all circumstances.” The Court held that presidential powers to suspend the writ of *habeas corpus* in time of war did not extend to creating another court system run by the military.

***Flast v. Cohen* (1968)**

Decision: The Supreme Court concluded that the rule announced in *Frothingham v. Mellon* expressed a practical policy of judicial self-restraint rather than an absolute constitutional limitation on the power of federal courts to hear taxpayer suits. While mere status as a federal taxpayer ordinarily will not give sufficient “standing” to allow a person to challenge the constitutionality of a federal law, there may be times when taxpayers are appropriate plaintiffs. *Flast v. Cohen*, in which plaintiffs argued that the First Amendment specifically prohibited taxing them in order to support religious activities, was one in which their role as taxpayers was well suited to the challenge they sought to assert. The Court ruled that they had standing to sue, and allowed them to proceed with their case.

***Furman v. Georgia* (1972)**

(8th Amendment, capital punishment) Three different death penalty cases, including *Furman*, raised the question of racial imbalances in the use of death sentences by State courts. Furman had been convicted and sentenced to death in Georgia. In deciding to overturn existing State death-penalty laws, the Court noted that there was an “apparent arbitrariness of the use of the sentence. . . .” Many States rewrote their death-penalty statutes and these were generally upheld in *Gregg v. Georgia*, 1976.

***Gibbons v. Ogden* (1824)**

(Supremacy Clause) This decision involved a careful examination of the power of Congress to “regulate interstate commerce.” Aaron Ogden’s exclusive New York ferry license gave him the right to operate steamboats to and from New York. He said that Thomas Gibbons’s federal “coasting license” did not include “landing rights” in New York City. The Court invalidated the New York licensing regulations, holding that federal regulations should take precedence under the Supremacy Clause. The decision strengthened the power of the United States to regulate any interstate business relationship. Federal regulation of the broadcasting industry, oil pipelines, and banking are all based on *Gibbons*.

Gideon v. Wainwright (1963)

(6th Amendment, right to counsel) In 1961 a Florida court found Clarence Earl Gideon guilty of breaking and entering and sentenced him to five years in prison. Gideon appealed his case to the Supreme Court on the basis that he had been unconstitutionally denied counsel during his trial due to Florida's policy of only providing appointed counsel in capital cases. The Court granted Gideon a new trial, and he was found not guilty with the help of a court-appointed attorney. The "Gideon Rule" upheld the 6th Amendment's guarantee of counsel of all poor persons facing a felony charge, a further incorporation of Bill of Rights guarantees into State constitutions.

Gitlow v. New York (1925)

(1st Amendment, freedom of speech) A New York socialist, Gitlow, was convicted under a State law on "criminal anarchy" for distributing copies of a "left-wing manifesto." For the first time, the Court considered whether the 1st Amendment applied to State laws. The case helped to establish what came to be known as the "incorporation" doctrine, under which, it was argued, the provisions of the 1st Amendment were "incorporated" by the 14th Amendment, thus applying to State as well as federal laws. Although New York law was not overruled in this case, the decision clearly indicated that the Supreme Court could make such a ruling. Another important incorporation case is *Powell v. Alabama*, 1932.

Goss v. Lopez (1975)

(14th Amendment, Due Process Clause) Ten Ohio students were suspended from their schools without hearings. The students challenged the suspensions, claiming that the absence of a preliminary hearing violated their 14th Amendment right to due process. The Court agreed with the students, holding that "having chosen to extend the right to an education... Ohio may not withdraw that right on grounds of misconduct, absent fundamentally fair procedures to determine whether the misconduct has occurred, and must recognize a student's legitimate entitlement to a public education as a property interest that is protected by the Due Process Clause."

Gregg v. Georgia (1976)

(8th Amendment, cruel and unusual punishment) A Georgia jury sentenced Troy Gregg to death after finding him guilty on two counts each of murder and armed robbery. Gregg appealed the sentence, claiming that it violated the "cruel and unusual punishment" clause of the 8th Amendment and citing *Furman v. Georgia*, 1972, in which the court held that Georgia's application of the death penalty was unfair and arbitrary. However, the Court upheld Gregg's sentence, stating for the first time that "punishment of death does not invariably violate the Constitution."

Griswold v. Connecticut (1965)

(14th Amendment, Due Process Clause) A Connecticut law forbade the use of "any drug, medicinal article, or instrument for the purpose of preventing conception." Griswold, director of Planned Parenthood in New Haven, was arrested for counseling married persons and, after conviction, appealed. The Court overturned the Connecticut law, saying that "various guarantees (of the Constitution) create

zones of privacy... and questioning, "...would we allow the police to search the sacred precincts of marital bedrooms...?" The decision is significant for raising for more careful inspection the concept of "unenumerated rights" in the 9th Amendment, later central to *Roe v. Wade*, 1973.

Hazelwood School District v. Kuhlmeier (1988)

(1st Amendment, freedom of speech) In 1983, the principal of Hazelwood East High School in Missouri removed two articles from the upcoming issue of the student newspaper, deeming their content "inappropriate, personal, sensitive, and unsuitable for student readers." Several students sued the school district, claiming that their 1st Amendment right to freedom of expression had been violated. The Court upheld the principal's action, stating that "a school need not tolerate student speech that is inconsistent with its basic educational mission, even though the government could not censor similar speech outside the school." School officials had full control over school-sponsored activities "so long as their actions are reasonably related to legitimate pedagogical concerns...."

Heart of Atlanta Motel, Inc. v. United States (1964)

Decision: The Court ruled that Congress could outlaw racial segregation of private facilities that are engaged in interstate commerce. The Court's decision stated, "If it is interstate commerce that feels the pinch, it does not matter how 'local' the operation which applies the squeeze.... The power of Congress to promote interstate commerce also includes the power to regulate the local incidents thereof, including local activities... which have a substantial and harmful effect upon that commerce."

Hutchinson v. Proxmire (1979)

Decision: The Court held that the Speech or Debate Clause gives members of Congress immunity from suit for defamatory statements made within the legislative chambers, but the privilege does not extend to comments made in other locations, even if they merely repeat what was said in Congress. The newsletters and press release were not within the deliberative process nor were they essential to the deliberation of the Senate. They also were not part of the "informing function" of members of Congress, since they were not a part of legislative function or of the deliberations that make up the legislative process. The comments were merely designed to convey information on the Senator's individual positions and beliefs. Finally, although Hutchinson had received extensive attention in the media as a result of his receipt of the Golden Fleece Award, he was not a public figure prior to that controversy and thus is entitled to the greater protection against defamation that is extended to non-public figures. The fact that the public may have an interest in governmental expenditures does not make Hutchinson himself a public figure.

Illinois v. Wardlow (2000)

Decision: The Supreme Court refused to say that flight from the police will always justify a stop or that it will never do so. Instead, the Court ruled that flight can be an important factor in determining whether police have "reasonable

suspicion” to stop a suspect. The trial court will have to determine in each case whether the information available to the police officers, including the fact of a suspect’s flight, was sufficient to support the stop.

In Re Gault (1966)

(14th Amendment, Due Process Clause) Prior to the Gault case, proceedings against juvenile offenders were generally handled as “family law,” not “criminal law” and provided few due process guarantees. Gerald Gault was assigned to six years in a State juvenile detention facility for an alleged obscene phone call. He was not provided counsel and not permitted to confront or cross-examine the principal witness. The Court overturned the juvenile proceedings and required that States provide juveniles “some of the due process guarantees of adults,” including a right to a phone call, to counsel, to cross-examine, to confront their accuser, and to be advised of their right to silence.

Ingraham v. Wright (1977)

Decision: The Court concluded that the 8th Amendment historically protected people convicted of crimes, and does not apply to public school students. If authorized by local law or custom, public schools have the right to administer reasonable discipline, and students do not have a due process right to notice or a hearing before punishment administered in accordance with law or custom.

Johnson v. Santa Clara Transportation Agency (1987)

(Discrimination) Under their affirmative action plan, the Transportation Agency in Santa Clara, California, was authorized to “consider as one factor the sex of a qualified applicant” in an effort to combat the significant underrepresentation of women in certain job classifications. When the Agency promoted Diane Joyce, a qualified woman, over Paul Johnson, a qualified man, for the job of road dispatcher, Johnson sued, claiming that the Agency’s consideration of the sex of the applicants violated Title VII of the Civil Rights Act of 1964. The Court upheld the Agency’s promotion policy, arguing that the affirmative action plan created no “absolute bar” to the advancement of men but rather represented “a moderate, flexible, case-by-case approach to effecting a gradual improvement in the representation of minorities and women . . . in the Agency’s work force, and [was] fully consistent with Title VII.”

Korematsu v. United States (1944)

Decision: The Court upheld the military order in light of the circumstances presented by World War II. “Pressing public necessity may sometimes justify the existence of restrictions which curtail the civil rights of a single racial group.” The Court noted, however, that racial antagonism itself could never form a legitimate basis for the restrictions.

Lemon v. Kurtzman (1971)

(1st Amendment, Establishment Clause) In overturning State laws regarding aid to church-supported schools in this and a similar Rhode Island case, the Court created the *Lemon* test limiting “. . . excessive government entanglement with religion.” The Court noted that any State law about aid to religion must meet three criteria: (1) purpose of the aid must be clearly secular, (2) its primary effect must

neither advance nor inhibit religion, and (3) it must avoid “excessive entanglement of government with religion.”

Mapp v. Ohio (1962)

(4th and 14th Amendments, illegal evidence and Due Process Clause) Admitting evidence gained by illegal searches was permitted by some States before *Mapp*. Cleveland police raided Dollree Mapp’s home without a warrant and found obscene materials. She appealed her conviction, saying that the 4th and 14th Amendments protected her against improper police behavior. The Court agreed, extending “exclusionary rule” protections to citizens in State courts, saying that the prohibition against unreasonable searches would be “meaningless” unless evidence gained in such searches was “excluded.” *Mapp* developed the concept of “incorporation” begun in *Gitlow v. New York*, 1925.

Marbury v. Madison (1803)

(Article III, judicial powers) After defeat in the 1800 election, President Adams appointed many Federalists to the federal courts, but James Madison, the new secretary of state, refused to deliver the commissions. William Marbury, one of the appointees, asked the Supreme Court to enforce the delivery of his commission based on a provision of the Judiciary Act of 1789 that allowed the Court to hear such cases on original jurisdiction. The Court refused Marbury’s request, finding that the relevant portion of the Judiciary Act was in conflict with the Constitution. This decision, written by Chief Justice Marshall, established the evaluation of federal laws’ constitutionality, or “judicial review,” as a power of the Supreme Court.

McCulloch v. Maryland (1819)

(Article I, Section 8, Necessary and Proper Clause) Called the “Bank of the United States” case. A Maryland law required federally chartered banks to use only a special paper to print paper money, which amounted to a tax. James McCulloch, the cashier of the Baltimore branch of the bank, refused to use the paper, claiming that States could not tax the Federal Government. The Court declared the Maryland law unconstitutional, commenting “. . . the power to tax implies the power to destroy.”

Miranda v. Arizona (1966)

(5th, 6th, and 14th Amendments, rights of the accused) Arrested for kidnapping and sexual assault, Ernesto Miranda signed a confession including a statement that he had “full knowledge of [his] legal rights. . . .” After conviction, he appealed, claiming that without counsel and without warnings, the confession was illegally gained. The Court agreed with Miranda that “he must be warned prior to any questioning that he has the right to remain silent, that anything he says can be used against him in a court of law, that he has the right to . . . an attorney and that if he cannot afford an attorney one will be appointed for him. . . .” Although later modified by *Nix v. Williams*, 1984, and other cases, *Miranda* firmly upheld citizen rights to fair trials in State courts.

New Jersey v. T.L.O. (1985)

(4th and 14th Amendments) After T.L.O., a New Jersey high school student, denied an accusation that she had been smoking in the school lavatory, a vice-principal

searched her purse and found cigarettes, marijuana, and evidence that T.L.O. had been involved in marijuana dealing at the school. T.L.O. was then sentenced to probation by a juvenile court, but appealed on the grounds that the evidence against her had been obtained by an "unreasonable" search. The Court rejected T.L.O.'s arguments, stating that the school had a "legitimate need to maintain an environment in which learning can take place," and that to do this "requires some easing of the restrictions to which searches by public authorities are ordinarily subject. . ." The Court thus created a "reasonable suspicion" rule for school searches, a change from the "probable cause" requirement in the wider society.

New York Times v. United States (1971)

(1st Amendment, freedom of the press) In 1971 *The New York Times* obtained copies of classified Defense Department documents, later known as the "Pentagon Papers," which revealed instances in which the Johnson Administration had deceived Congress and the American people regarding U.S. policies during the Vietnam War. A U.S. district court issued an injunction against the publication of the documents, claiming that it might endanger national security. On appeal, the Supreme Court cited the 1st Amendment guarantee of a free press and refused to uphold the injunction against publication, observing that it is the obligation of the government to prove that actual harm to the nation's security would be caused by the publication. The decision limited "prior restraint" of the press.

Nixon v. Fitzgerald (1982)

Decision: The Court ruled that a President or former President is entitled to absolute immunity from liability based on his official acts. The President must be able to act forcefully and independently, without fear of liability. Diverting the President's energies with concerns about private lawsuits could impair the effective functioning of government. The President's absolute immunity extends to all acts within the "outer perimeter" of his duties of office, since otherwise he would be required to litigate over the nature of the acts and the scope of his duties in each case. The remedy of impeachment, the vigilant scrutiny of the press, the Congress, and the public, and presidential desire to earn reelection and concern with historical legacy all protect against presidential wrongdoing.

Nixon v. Shrink Missouri Government PAC (2000)

Decision: In *Buckley v. Valeo*, 1976, the Supreme Court had upheld a \$1000 limit on contributions by individuals to candidates for federal office. In *Nixon v. Shrink Missouri Government PAC*, the Court concluded that large contributions will sometimes create actual corruption, and that voters will be suspicious of the fairness of a political process that allows wealthy donors to contribute large amounts. The Court concluded that the Missouri contribution limits were appropriate to correct this problem and did not impair the ability of candidates to communicate their messages to the voters and to mount an effective campaign.

Olmstead v. United States (1928)

(4th Amendment, electronic surveillance) Olmstead was engaged in the illegal sale of alcohol. Much of the evidence

against him was gained through a wiretap made without a warrant. Olmstead argued that he had "a reasonable expectation of privacy," and that the *Weeks v. United States* decision of 1914 should be applied to exclude the evidence gained by the wiretap. The Court disagreed, saying that Olmstead intended "to project his voice to those quite outside . . . and that . . . nothing tangible was taken." Reversed by subsequent decisions, this case contains the first usage of the concept of "reasonable expectation of privacy" that would mark later 4th Amendment decisions.

Oregon v. Mitchell (1970)

Decision: The Supreme Court was unable to issue a single opinion of the Court supported by a majority of the justices. However, in a series of separate opinions, differing majority groups agreed that (1) the 18-year-old minimum-age requirement of the Voting Rights Act Amendments is valid for national elections but not for State and local elections; (2) the literacy test provision is valid in order to remedy discrimination against minorities; and (3) the residency and absentee balloting provisions are a valid Congressional regulation of presidential elections.

Plessy v. Ferguson (1896)

(14th Amendment, Equal Protection Clause) A Louisiana law required separate seating for white and African American citizens on public railroads, a form of segregation. Herman Plessy argued that his right to "equal protection of the laws" was violated. The Court held that segregation was permitted if facilities were equal. The Court interpreted the 14th Amendment as "not intended to give Negroes social equality but only political and civil equality. . ." The Louisiana law was seen as a "reasonable exercise of (State) police power. . ." Segregated public facilities were permitted until *Plessy* was overturned by the *Brown v. Board of Education* case of 1954.

Powell v. Alabama (1932)

(6th Amendment, right to counsel) The case involved the "Scottsboro boys," seven African American men accused of sexual assault. This case was a landmark in the development of a "fundamentals of fairness" doctrine of the Court over the next 40 years. The Scottsboro boys were quickly prosecuted without the benefit of counsel and sentenced to death. The Court overturned the decision, stating that poor people facing the death penalty in State courts must be provided counsel, and commenting, ". . . there are certain principles of Justice which adhere to the very idea of free government, which no [State] may disregard." The case was another step toward incorporation of the Bill of Rights into State constitutions.

Printz v. United States (1997)

Decision: The Court ruled that the Brady Act's interim provision requiring certain State or local law enforcement agents to perform background checks on prospective handgun purchasers was unconstitutional. Although no provision of the Constitution deals explicitly with federal authority to compel State officials to execute federal law, a review of the Constitution's structure and of prior Supreme Court decisions leads to the conclusion that Congress does not have this power.

Regents of the University of California v. Bakke (1978)

Decision: The Supreme Court issued a narrow ruling that invalidated the medical school's special admission program and directed the regents to admit Bakke but that did not overturn all affirmative action programs. Although the University of California's policy was unacceptable, "the goal of achieving a diverse student body is sufficiently compelling to justify consideration of race in admissions decisions under some circumstances." The Court indicated that it would consider discrimination and affirmative action questions on a case-by-case basis.

Reno v. Condon (2000)

Decision: The Court upheld the federal law that forbids States from selling addresses, telephone numbers, and other information that drivers put on license applications. They agreed with the Federal Government that information, including motor vehicle license information, is an "article of commerce" in the interstate stream of business and therefore is subject to regulation by Congress. The Court emphasized that the statute did not impose on the States any obligation to pass particular laws or policies and thus did not interfere with the States' sovereign functions.

Republican Party of Minnesota v. White (2002)

Decision: The Supreme Court decided that the State prohibition on "announcing" a judicial candidate's views violates the 1st Amendment. It unduly restricts the candidates' rights of free speech without adequately furthering the expressed goal of improving judicial impartiality and the appearance of impartiality. The government may not restrict speech based on its content, as this rule does. In addition, the government may not restrict speech about candidates' qualifications for office, which the rule also does. In addition, the rule is not well designed to preserve impartiality, since it has no effect on the candidate's beliefs. Finally, the lack of any longstanding tradition of such a rule shows there is no historical presumption of constitutionality.

Roe v. Wade (1973)

(9th Amendment, right to privacy) A Texas woman challenged a State law forbidding the artificial termination of a pregnancy, saying that she "had a fundamental right to privacy." The Court upheld a woman's right to choose in this case, noting that the State's "important and legitimate interest in protecting the potentiality of human life" became "compelling" at the end of the first trimester, and that before then, "... the attending physician, in consultation with his patient, is free to determine, without regulation by the State, that ... the patient's pregnancy should be terminated." The decision struck down the State regulation of abortion in the first three months of pregnancy and was modified by *Planned Parenthood of Southeastern PA v. Casey*, 1992.

Rostker v. Goldberg (1981)

Decision: The Court ruled that women did not have to be included in the draft registration. The purpose of having draft registration was to prepare for the actual draft of

combat troops if they should be needed. Since Congress and the President had both consistently decided not to use women in combat positions, it was not necessary for women to register either. The Court also noted that the role of women in the armed services had been debated extensively in the Congress, and concluded that the legislature had reached a thoughtful, reasoned conclusion on this issue.

Roth v. United States (1951)

(1st Amendment, freedom of the press) A New York man named Roth operated a business that used the mail to invite people to buy materials considered obscene by postal inspectors. The Court, in its first consideration of censorship of obscenity, created the "prevailing community standards" rule, which required a consideration of the work as a whole. In its decision, the Court defined as obscene that which offended "the average person, applying contemporary community standards." In a case decided the same day, the Court applied the same "test" to State obscenity laws.

Rush Prudential HMO, Inc. v. Moran (2002)

Decision: The Supreme Court decided that ERISA does not preempt the Illinois medical-review statute. The statute regulates insurance, which is one of the functions HMOs perform. Although HMOs provide healthcare as well as insurance, the statute does not require choosing a single or primary function of an HMO. Congress has long recognized that HMOs are risk-bearing organizations subject to state regulation. Finally, allowing States to regulate the insurance aspects of HMOs will not interfere with the desire of Congress for uniform national standards under ERISA.

Schenck v. United States (1919)

(1st Amendment, freedom of speech) Charles Schenck was an officer of an antiwar political group who was arrested for alleged violations of the Espionage Act of 1917, which made active opposition to the war a crime. He had urged thousands of young men called to service by the draft act to resist and to avoid induction. The Court limited free speech in time of war, stating that Schenck's words, under the circumstances, presented a "clear and present danger. . . ." Although later decisions modified the decision, the Schenck case created a precedent that 1st Amendment guarantees were not absolute.

School District of Abington Township, Pennsylvania v. Schempp (1963)

(1st Amendment, Establishment Clause) A Pennsylvania State law required reading from the Bible each day at school as an all-school activity. Some parents objected and sought legal remedy. When the case reached the Court, it agreed with the parents, saying that the Establishment Clause and Free Exercise Clause both forbade States from engaging in religious activity. The Court created a rule holding that if the purpose and effect of a law "is the advancement or inhibition of religion," it "exceeds the scope of legal power."

Shelley v. Kraemer (1948)

Decision: The Court ruled that "in granting judicial enforcement of the restrictive agreements . . . the States have denied petitioners the equal protection of the laws. . . ." No individual has the right under the Constitution to demand

that a State take action that would result in the denial of equal protection to other individuals. The Court rejected the respondents' argument that, since state courts would also enforce restrictive covenants against white owners, enforcement of covenants against black owners did not constitute a denial of equal protection. "Equal protection of the laws is not achieved through indiscriminate imposition of inequalities."

Sheppard v. Maxwell (1966)

(14th Amendment, Due Process Clause) Dr. Samuel Sheppard was convicted of murdering his wife in a trial widely covered by national news media. Sheppard appealed his conviction, claiming that the pretrial publicity had made it impossible to get a fair trial. The Court rejected the arguments about "press freedom," overturned his conviction, and ordered a new trial. As a result of the Sheppard decision, some judges have issued "gag" orders limiting pretrial publicity.

Tahoe-Sierra Preservation Council v. Tahoe Regional Planning Agency (2002)

Decision: The 32-month moratorium imposed by the Tahoe Regional Planning Agency on development in the Lake Tahoe Basin between Nevada and California is not a taking of property for which compensation is required. It is impossible in the abstract to say how long a restriction would be permissible. Although 32 months is a long moratorium, it is not unreasonable in this case and does not restrict the property owners' economic use of their property sufficiently to amount to a taking for which compensation must be paid.

Tennessee Valley Authority v. Hill (1978)

(Article I, Section 8, Necessary and Proper Clause) In 1975 the secretary of the interior found that the Tennessee Valley Authority's work on the Tellico Dam would destroy the endangered snail darter's habitat in violation of the Endangered Species Act of 1975. When the TVA refused to stop work on the project, local residents sued and won an injunction against completion of the dam from the federal court of appeals. The TVA appealed, arguing that the project should be completed since it had already been underway when the Endangered Species Act had passed and, with full knowledge of the circumstances of the endangered fish, Congress had continued to appropriate money for the dam in every year since the Act's passage. However, the Supreme Court found the injunction against the TVA's completion of the dam to be proper, stating "examination of the language, history, and structure of the legislation. . . indicates beyond doubt that Congress intended endangered species to be afforded the highest of priorities."

Tinker v. Des Moines School District (1969)

Decision: The Court upheld the students' First Amendment rights. Because students do not "shed their constitutional rights to freedom of speech or expression at the schoolhouse gate," schools must show a possibility of "substantial disruption" before free speech can be limited at school. Students may express personal opinions as long as they do not materially disrupt classwork, create substantial disorder, or interfere with the rights of others. In this case, the wearing of black armbands was a

"silent, passive expression of opinion" without these side effects and thus constitutionally could not be prohibited by the school.

United States v. Amistad (1841)

In 1839 two Spaniards purchased a group of kidnapped Africans and put them aboard the schooner *Amistad* for a journey from Cuba to Principe. The Africans overpowered the ship's crew, killing two men, and ordered the Spaniards to steer towards Africa. The crew steered instead toward the United States coast, where the U.S. brig *Washington* seized the ship, freeing the Spaniards and imprisoning the Africans. A series of petitions to the courts ensued, in which the Spaniards claimed the Africans as their property, and the Americans who had seized the ship claimed a share of the cargo, including the Africans, as their lawful salvage. The Court, however, declared that the Africans were not property and issued a decree that the unlawfully kidnapped Africans "be and are hereby declared to be free."

United States v. Eichman (1990)

Decision: The Court agreed with the trial courts' rulings that the Flag Protection Act violated the 1st Amendment. Flag-burning constitutes expressive conduct, and thus is entitled to constitutional protection. The Act prevents protesters from using the flag to express their opposition to governmental policies and activities. Although the protesters' ideas may be offensive or disagreeable to many people, the government may not prohibit them from expressing those ideas.

United States v. General Dynamics Corp. (1974)

A deep-mining coal producer, General Dynamics Corp., acquired control of a strip-mining coal producer, United Electric Coal Companies. The Government filed suit against the company, claiming that the acquisition violated the Clayton Act by limiting competition in coal sales and production through increasing the concentration of ownership among a small group of producers. The Court rejected the Government's argument, finding that, although the acquisition may have increased concentration of ownership, it did not threaten to substantially lessen competition and was therefore not in violation of the Clayton Act.

United States v. Leon (1984)

(4th Amendment, exclusionary rule) Police in Burbank, California, gathered evidence in a drug-trafficking investigation using a search warrant issued by a state court judge. Later a District Court found that the warrant had been improperly issued and granted a motion to suppress the evidence gathered under the warrant. The Government appealed the decision, claiming that the exclusionary rule should not apply in cases where law enforcement officers acted in good faith, believing the warrant to be valid. The Court agreed and established the "good-faith exception" to the exclusionary rule, finding that the rule should not be applied to bar evidence "obtained by officers acting in reasonable reliance on a search warrant issued by a detached and neutral magistrate but ultimately found to be invalid."

United States v. Lopez (1990)

(Article I, Section 8, Commerce Clause) Alfonzo Lopez, a Texas high school student, was convicted of carrying a weapon in a school zone under the Gun-Free School Zones Act of 1990. He appealed his conviction on the basis that the Act, which forbids "any individual knowingly to possess a firearm at a place that [he] knows. . . is a school zone," exceeded Congress's legislative power under the Commerce Clause. The Court agreed that the Act was unconstitutional, stating that to uphold the legislation would "bid fair to convert congressional Commerce Clause authority to a general police power of the sort held only by the States."

United States v. Nixon (1974)

(Separation of powers) During the investigation of the Watergate scandal, in which members of President Nixon's administration were accused of participating in various illegal activities, a special prosecutor subpoenaed tapes of conversations between Nixon and his advisors. Nixon refused to release the tapes but was overruled by the Court, which ordered him to surrender the tapes, rejecting his arguments that they were protected by "executive privilege." The President's "generalized interest in confidentiality" was subordinate to "the fundamental demands of due process of law in the fair administration of criminal justice."

Wallace v. Jaffree (1985)

(1st Amendment, Establishment Clause) An Alabama law authorized a one-minute period of silence in all public schools "for meditation or voluntary prayer." A group of parents, including Jaffree, challenged the constitutionality of the statute, claiming it violated the Establishment Clause of the 1st Amendment. The Court agreed with Jaffree and struck down the Alabama law, determining that "the State's endorsement. . . of prayer activities at the beginning of each schoolday is not consistent with the established principle that the government must pursue a course of complete neutrality toward religion."

Walz v. Tax Commission of the City of New York (1970)

(1st Amendment, Establishment Clause) State and local governments routinely exempt church property from taxes. Walz claimed that such exemptions were a "support of religion," a subsidy by government. The Court disagreed, noting that such exemptions were just an example of a "benevolent neutrality" between government and churches, not a support of religion. Governments must avoid taxing churches because taxation would give government a "control" over religion, prohibited by the "wall of separation of church and state" noted in *Everson v. Board of Education*, 1947.

Watchtower Bible & Tract Society v. Village of Stratton (2001)

Decision: The Court ruled the Village's ordinance requiring canvassers to get a permit to be unconstitutional. Although a municipality may have a legitimate interest in regulating door-to-door solicitation, there must be a balance between furthering that interest and restricting 1st Amendment

rights. The ordinance restricts religious or political speech, and thus needs strong justification to be valid. Because the ordinance is not restricted to commercial activities, it is broader than necessary to protect fraud. Residents have other ways to protect their privacy—they can post "no solicitation" signs or refuse to talk with unwelcome visitors. Finally, the 1st Amendment protects the right to anonymous expressions of religious or political belief.

Watkins v. United States (1957)

Decision: The Court held that Watkins was not given a fair opportunity to determine whether he was within his rights in refusing to answer the Committee's questions. Congress has no authority to expose the private affairs of individuals unless justified by a specific function of Congress. Congress's investigative powers are broad but not unlimited, and must not infringe on 1st Amendment rights of speech, political belief, or association. When witnesses are forced by subpoena to testify, the subject of Congressional inquiry must be articulated in the Committee's charter or explained at the time of testimony if 1st Amendment rights are in jeopardy.

West Virginia Board of Education v. Barnette (1943)

(1st Amendment, freedom of religion) During World War II the West Virginia Board of Education required all students to take part in a daily flag saluting ceremony or else face expulsion. Jehovah's Witnesses objected to the compulsory salute, which they felt would force them to break their religion's doctrine against the worship of any "graven image." The Court struck down the rule, agreeing that a compulsory flag salute violated the 1st Amendment's exercise of religion clause and stating "no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion. . . ."

Board of Education of Westside Community Schools v. Mergens (1990)

(1st Amendment, Establishment Clause) A request by Bridget Mergens to form a student Christian religious group at school was denied by an Omaha high school principal. Mergens took legal action, claiming that a 1984 federal law required "equal access" for student religious groups. The Court ordered the school to permit the club, stating, "a high school does not have to permit any extracurricular activities, but when it does, the school is bound by the . . . [Equal Access] Act of 1984. Allowing students to meet on campus and discuss religion is constitutional because it does not amount to 'State sponsorship of a religion.'"

Wisconsin v. Yoder (1972)

(1st Amendment, Free Exercise Clause) Members of the Amish religious sect in Wisconsin objected to sending their children to public schools after the eighth grade, claiming that such exposure of the children to another culture would endanger the group's self-sufficient agrarian lifestyle essential to their religious faith. The Court agreed with the Amish, while noting that the Court must move carefully to weigh the State's "legitimate social concern when faced with religious claim for exemption from generally applicable educational requirements."