

Marbury v. Madison (1803)

S
Situation

- Congress passed the Judiciary Act of 1789, which allowed SCOTUS to issue writs of mandamus (commands by a superior court to a public official or lower court to perform a special duty).
- At the end of his presidency, Federalist John Adams appointed many last-minute judges; 17 of these judges didn't receive their commissions before Democratic-Republican Thomas Jefferson took office. Jefferson ordered his Secretary of State, James Madison, to not deliver these remaining appointments.
- William Marbury sued James Madison for not delivering his appointment, asking SCOTUS to force the delivery of his commission via a writ of mandamus.

C
Constitutional
Question

1. Does Marbury have a right to his commission, and can he sue the federal government for it?
2. Does the Supreme Court have the authority to order the delivery of the commission?

O
Opinion

The Court ruled unanimously that:

1. Yes, Marbury has the right to his commission and can sue the federal government for it...BUT...
2. No, the Supreme Court didn't have the authority to require Madison to deliver the commission via a writ of mandamus. The Judiciary Act of 1789 that gave this authority to the Supreme Court was ruled unconstitutional, since it gave the Court more power than the Constitution provided in Article III.

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Time

1803

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U.S.

Article III of the Constitution

S
Constitution
Significance



This case established the principle of judicial review, which is the power of the federal courts to determine the constitutionality of laws passed by the legislative and orders issued by the executive. It established the Constitution as the supreme law of the land and SCOTUS as the final authority for interpreting it.

McCulloch v. Maryland (1819)

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Situation

- In 1791, the First Bank of the U.S. was created. In 1816, the Second Bank of the U.S. was rechartered.
- The Constitution did not expressly grant Congress the power to charter a national bank, but the power to do so was implied by the Elastic Clause. Individuals worried these implied powers would drastically diminish the power of the states.
- Maryland tried to close the Baltimore branch of the Second Bank of the U.S. by taxing it. James McCulloch, the head of the Baltimore branch, refused to pay the tax.

C
Constitutional
Question

3. Did Congress have the authority under the constitution to commission a national bank?
4. Did the state of Maryland have the power to tax the national bank operating within its borders?

O
Opinion

The Court ruled unanimously for McCulloch because

3. The Elastic Clause gives Congress the authority “to make all laws which shall be necessary and proper” and the national bank was deemed “necessary and proper”.
4. The state of Maryland could not tax the Bank of the U.S. because “the constitution and the laws made in pursuance thereof are supreme”.

T
Time

1819

U
U.S.
Constitution

- Elastic Clause (Congress can make any law that is necessary and proper; gives flexibility in lawmaking)
- Supremacy Clause (The Constitution and federal laws are superior to state constitutions and laws)
- 10th Amendment (any power not delegated to the national government by the Constitution is reserved to the states)

S
Significance

**Don't you try to tell ME
what I can and cannot do!**



This case established the power dynamic between the states and federal government in favor of the national government. Further, the case opened the door to the expansion of federal power through the implied powers of the Elastic Clause.

Schenck v. U.S. (1919)

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Situation

- Constitutional rights, including the freedom of speech, have limits. Time of war and national security concerns permit the government to place restrictions on speech.
- During World War I, Congress passed the Espionage Act of 1917, which made it a crime to obstruct military recruitment.
- Charles Schenck, a member of the Socialist Party, was convicted of violating the Espionage Act because he printed and mailed thousands of fliers encouraging men to evade the draft.



C
Constitutional
Question

Did Schenck's conviction under the Espionage Act for criticizing the draft violate his 1st Amendment free speech rights?

O
Opinion

The Court ruled unanimously for U.S. that, no, Schenck's free speech rights were not violated. In the context of World War I, the Espionage Act's criminalization of speech dangerous to the operation of the military was not a violation of the 1st Amendment.

T
Time

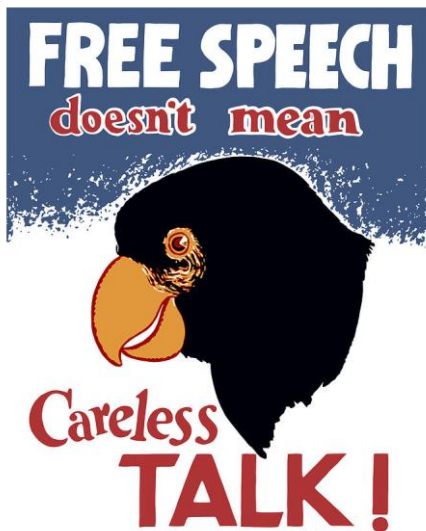
1919

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U.S.

1st Amendment (Free Speech)

Constitution

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Significance



This case established the “clear and present danger” test, which states that the Constitution does not protect speech that incites violence or chaos (ex: yelling fire in a crowded movie theatre). Under this test, the government typically won, and speakers usually lost until the Court abandoned this test in favor of rulings more protective of free speech rights.

Brown v. Board of Education (1954)

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Situation

- 14th Amendment adopted post-Civil war requiring states to give people equal protection in front of the law.
- Plessy v. Ferguson (1896) ruled that segregation of the races was constitutional so long as the accommodations were “separate but equal”.
- Linda Brown, a black student, was denied admission to a neighborhood school because it was designated for white children only.



C
Constitutional
Question

Does segregation of public schools by race violate the Equal Protection clause of the 14th Amendment?

O
Opinion

The Court ruled unanimously for Brown that, yes, segregation in public schools violated the Equal Protection clause by setting up the social stigmatization of black children as inferior to white children (it did not matter to the Court that the buildings, curriculum, and teacher pay—the tangible factors—were “equal”). The Court ruled that “separate educational facilities are inherently unequal”.
1954

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Time

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U.S.

14th Amendment (Equal Protection clause)

Constitution

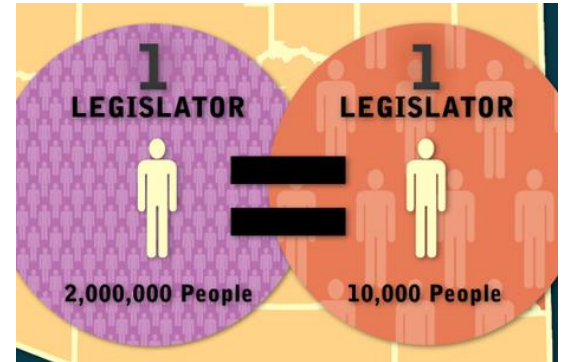
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Significance

This decision overturned the Plessy “separate but equal” doctrine and began the process of dismantling segregation in the U.S. In Brown v. Board of Education II (1955), the Court charged local school authorities with the responsibility to desegregate schools “with all deliberate speed”. While Brown was critical in beginning the process to end segregation, it was just the first step to a longer process carried throughout the 1960s and 1970s with the Civil Rights Movement.

Baker v. Carr (1962)

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Situation

- Each state is responsible for determining its legislative districts. By the 1950s and 1960s questions arose about whether the states' division of voting districts was fair.
- Political questions are matters avoided by the courts and left to the executive and legislative branches to decide. Legislative districting fell under this concept.
- In the late 1950s, Tennessee had been using the same electoral districts since 1900, even though population had increased and shifted geographically from the rural to urban areas.
- Charles Baker, an urban citizen, sued on the grounds he was denied equal protection under the out of date electoral map.



C
Constitutional
Question
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Opinion

Do federal courts have the power to decide cases about the apportionment of population into state legislative districts?

In a 6-2 decision for Baker, the Court ruled that federal courts have the authority to enforce the equal protection requirement against states if the legislative districts the state creates are so disproportionately weighted to deny residents equal treatment dependent on where they live.

Dissenting justices argued that the Constitution did not require states to draw districts in a particular manner, so there was no basis for the federal courts to intervene or rule on the issue.

1962

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Time
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U.S.
Constitution
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Significance

- Article III of the Constitution
- 14th Amendment (Equal Protection clause)

This case established the precedent that would allow federal courts to rule on the constitutionality of legislative redistricting. It set up the idea of “one man, one vote”; no singular vote should be weighted heavier than another in a democracy. This was a change from the Court’s deference to the states on the issue in the past.

Engel v. Vitale (1962)

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Situation

- The U.S. has a long history of infusing religion into political practices (ex: opening Congress and SCOTUS with a prayer, religious invocation).
- In New York, everyday students and teachers voluntarily recited a school-provided prayer drafted by the state education agency, the New York Regents.
- A group of parents and community members sued the school board for requiring time in the school day to recite the prayer.



C
Constitutional
Question

Does the recitation of a prayer in public schools violate the Establishment Clause of the 1st Amendment?

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Opinion

In a 6-1 decision in favor of Engel (the parents), the Court ruled on the grounds that the school-sponsored prayer was an unconstitutional violation of the Establishment Clause since it was a religious activity composed by government officials and used as part of a government program to advance religious beliefs. The majority argued that preventing government from sponsoring prayer does not indicate hostility toward religion.

Dissenting, one justice emphasized that the prayer was voluntary and that students were free to choose not to say it. He argued the Establishment Clause meant to keep the government from forming a state-sponsored church, not prohibit types of government involvement with religion.

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Time

1962

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U.S.

1st Amendment (Establishment Clause)

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Constitution
Significance



This case was significant in further defining the legal limits to government involvement with religion by setting up a precedent that the Establishment Clause referred to broad government activity regarding religion not just official establishment of a state-sponsored church.

Gideon v. Wainwright (1963)

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Situation

- In 1938, SCOTUS ruled that the government must pay for a lawyer for defendants who cannot afford one themselves in federal criminal courts.
- This case challenged whether or not that right must also be extended to defendants charged with crimes in state courts.
- In 1961, Clarence Earl Gideon is arrested for burglary of a local pool hall. Since he could not afford an attorney, he requested one arguing that the 6th Amendment entitles everyone to a lawyer. The judge denied his request, as Florida state law only required the government to provide lawyers in death penalty cases.

C
Constitutional
Question

Does the 6th Amendment's right to counsel in criminal cases extend to defendants in state courts, even in cases in which the death penalty is not at issue?



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Opinion

In a unanimous decision for Gideon, the Court determined that the 6th Amendment's right to counsel in felony criminal cases is a fundamental right essential to a fair trial. They also agreed that the protection was so important that it would apply to state courts as well as federal courts.

1963

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Time
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Constitution
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Significance

- 6th Amendment (Right to Counsel)
- 14th Amendment (Due Process Clause)

This case overturned the precedent set by *Betts v. Brady* (1942), which ruled that the 14th Amendment did not require states to provide counsel to the poor in non-death penalty cases. The opinion of this case expanded the right to an attorney for the poor beyond capital cases. A later case, *Argersinger v. Hamlin* (1972) will further extend the right to an attorney to misdemeanor cases that involve imprisonment.

Tinker v. Des Moines Independent School District (1969)

S Situation

- In 1966, a handful of students in Des Moines, Iowa decided to show opposition to the Vietnam War by wearing black armbands as a form of symbolic speech.
- The school district announced a policy that banned the wearing of black armbands, setting up a punishment of suspension for students that wore them and refused to take them off.
- Mary Beth Tinker, her brother John Tinker, and another friend Christopher Eckardt wore the black armbands to school and were suspended. Their parents sued the school district on the grounds that their children's 1st Amendment speech rights were violated.



C Constitutional Question

Does a prohibition against the wearing of armbands in public school, as a form of symbolic speech, violate the students' freedom of speech protections guaranteed by the 1st Amendment?

O Opinion

In a 7-2 decision for Tinker, the Court ruled that the prohibition of wearing the arm bands violated the students' free speech rights. The majority argued that students retain their constitutional right to freedom of speech while in public schools, that "it can hardly be argued that either students or teachers shed their constitutional rights to freedom of speech or expression at the schoolhouse gate". The Court further reasoned that while students do have free speech at school, it is not absolute. The school may limit student speech that would cause a "material and substantial disruption" to the disciplinary and educational function of a school. In this particular case, wearing a black armband would not substantially disrupt these functions of the school.

Dissenting, two justices argued that the 1st Amendment does not give people the right to express any opinion at any time. The armbands did cause a disturbance by distracting students from their classwork and diverting their attentions to the "highly emotional subject of the Vietnam War".

T Time

1969

U U.S. Constitution

- 1st Amendment (Free Speech)

S Significance

This case was important in extending free speech rights to students in public schools, with the primary limitation being that said speech could not impede the learning environment.

New York Times v. U.S. (1971)

S
Situation

- The Espionage Act of 1917 made it a crime for anyone to obtain information relating to America’s national defense with the intent to use it to the injury of the U.S. or the advantage of a foreign nation.
- Daniel Ellsberg, a former military analyst, illegally copied over 7,000 pages of classified reports, which eventually became known as the Pentagon Papers. These documents were then leaked to the New York Times and Washington Post, which printed them.
- President Nixon directed the attorney general to order the newspapers to stop further publication of the Pentagon Papers (prior restraint), claiming the publication would cause “irreparable injury to the defense interests of the United States.”
- When the newspapers continued printing the Papers, the government sued. Trial courts ruled for the newspapers; the federal appeals courts were divided.



C
Constitutional
Question

Did the government’s efforts to prevent two newspapers from publishing classified information given to them by a government leaker violate the 1st Amendment protection of freedom of the press?

O
Opinion

In a 6-3 decision for the New York Times, the Court ruled via a per curiam opinion that “any system of prior restraint comes to this Court bearing a heavy presumption against its constitutional validity” with the government required to “show justification for such restraint”, which “the Government had not met”.

In multiple concurring opinions, justices reasoned that a court can never allow the prior restraint of the press, since the freedom of the press is absolute. One justice argued that “the press was to serve the governed, not the governors” and that the government cannot evade this absolute command by invoking national security concerns. Another justice recognized that there is only a “single, extremely narrow” exception to the freedom of the press in an imminent threat situation, which did not apply in this case. Lastly, the justices noted that government could punish leakers, but could not prevent publication by the press of the information.

In the dissents, the justices complained that the Court had rushed its decision in this case without hearing out the full story and that the freedom of the press was not absolute. They also pointed out that the judicial branch did not have the right to second-guess the executive branch on matters of national security due to the separation of powers laid out in the Constitution.

1971

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Time

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U.S.
Constitution

- 1st Amendment (Freedom of the Press)
- Article II of the Constitution (Executive Branch)

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Significance

This case further extended the freedom of the press by limiting the ability of the executive branch to claim national security as cause to hide information from the public.

Wisconsin v. Yoder (1972)

S Situation

- While the government cannot outlaw any religious beliefs, it can regulate conduct related to those beliefs.
- The Amish and Mennonite sects of Christianity view individualism, competition, and self-promotion as sinful. They believe that their small, rural communities should be self-sufficient without support from those outside the community. These beliefs led to the stoppage of formal education after the age of 14 for community children.
- Wisconsin convicted three members of the Amish and Mennonite communities for violating the state's compulsory education law that required school attendance until the age of 16.
- The parents appealed their convictions for allowing their children to become truant. The parents, led by Yoder, argued that the community provides alternative education that prepares their children for adult life and to be law abiding, self-sufficient citizens. The Wisconsin Supreme Court ruled in favor of Yoder, reversing the convictions in favor of the parents. The state of Wisconsin appealed to SCOTUS.



C Constitutional Question O Opinion

Under what conditions does the state's interest in promoting compulsory education override parents' 1st Amendment right to free exercise of religion?

The Court ruled unanimously (7-0) for Yoder. The Court held that the Free Exercise clause of the 1st Amendment prevented the state of Wisconsin from forcing the Amish and Mennonite parents to send their children to formal secondary school beyond the age of 14. An additional two years of high school (to the required age of 16) would not have provided substantial enough educational benefits that could constitute a "compelling government interest". The justices also noted that nothing in the decision of this case disallowed states from setting compulsory attendance laws for non-Amish people or reasonable standards for church-sponsored schools.

In a minor dissent, one justice pointed out that it may have been of interest to see whether or not the children wanted to attend school past the 8th grade, considering the case only ruled on the free exercise rights of their parents.

1972

T Time U U.S. Constitution S Significance

- 1st Amendment (Free Exercise Clause)
- 14th Amendment (Due Process Clause)

This case incorporated the free exercise clause to the state governments. This required state governments to provide a compelling state interest (reasonable cause) in limiting the religious practices of their citizens.

Roe v. Wade (1973)

S Situation

- The Constitution does not explicitly guarantee a right to privacy (the word is not anywhere in the original text or amendments). During the 21st century, the Court began interpreting the Due Process clause of the 14th Amendment as providing a broad right to privacy protecting people as well as places.
- In 1969, an unmarried and pregnant resident of Texas (known by the pseudonym Jane Roe) wanted to terminate her pregnancy. Texas law made it a felony to abort a fetus unless “on medical advice for the purpose of saving the life of the mother”.
- A federal district court ruled the Texas abortion law unconstitutional under the 9th Amendment, concluding that “the fundamental right of single women and married persons to choose whether or not to have children is protected” by the unenumerated rights guaranteed by this amendment.



C Constitutional Question

Does the U.S. Constitution protect the right of a woman to obtain an abortion?

O Opinion

The Court ruled in a 7-2 decision for Roe. According to the majority, the “liberty” protected by the 14th Amendment due process clause includes a fundamental right to privacy. Further, the 9th Amendment’s reservation of rights is broad enough to include abortion. The word “person” in the 14th Amendment does not include the unborn, which will set up a framework laying out constitutional state regulations on abortions. In the first trimester, abortion cannot be prohibited, as the woman’s right to privacy outweighs the state’s interest in regulating the decision. In the second and third trimesters, regulations should focus on protecting the health of the mother, although the closer to term, a state may prohibit abortions unless necessary to preserve the life and health of the mother.

In the dissents, the justices argued that “nothing in the language or history of the Constitution” declares a right to an abortion. Abortion does not fit under the purview of privacy rights established by the Court, making this decision “more of judicial legislation than...a determination of the intent of the drafters” of the 14th Amendment.

1973

T Time U U.S. Constitution

- 4th Amendment (right to privacy)
- 9th Amendment (unenumerated rights are still protected)
- 14th Amendment (due process clause)

S Significance

This case protected the right of women to secure abortion nationally up to the first trimester of pregnancy. This decision is highly contested. On one hand, it can be seen as a victory for the women’s rights movement, which fought for the reproductive rights of women, seeing them as fundamental to female empowerment and independence. On the other hand, pro-life groups see the decision as overextending the power of the courts with the result of endangering the lives of the unborn.

Shaw v. Reno (1993)

S Situation

- Institutionalized black codes and Jim Crow laws prevented African Americans from voting for many years after the Civil War (i.e.: poll taxes, literacy tests, felon disenfranchisement, etc.). The Voting Rights Act of 1965 prohibited voting rules that discriminated on the basis of race.
- In a precedent case, *Thornburg v. Gingles* (1986), the Court ruled that if a minority group is large and compact enough to make the majority in a voting district, the Voting Rights Act requires the district to be drawn as a majority-minority district so that minority voters have “the opportunity to elect their candidate of choice”.
- After the 1990 Census, North Carolina gained a seat in the House of Reps. The attorney general rejected the state’s first redistricting map on the grounds that it only produced one majority-minority (black) congressional district. The state legislature redrew the map making a second black district that was strange in shape.
- Five white voters alleged racial discrimination against the new map, arguing it was drawn for the sole purpose of electing black congressional representatives.



C Constitutional Question

Did the North Carolina residents’ claim that the 1990 redistricting plan discriminated on the basis of race raise a valid constitutional issue under the 14th Amendment Equal Protection clause?

O Opinion

The Court ruled in a 5-4 decision for Shaw (the white voters). The justices said that any classifications based on race were “undesirable to a free society”. Drawing districts to advance the perceived interests of one racial group may lead elected officials to see their obligation as representing only members of that group, rather than their full constituency. If a redistricting map cannot be rationally understood as anything other than an effort to divide voters based on their race, voters may challenge such a district under the Equal Protection Clause.

In their dissents, multiple justices argued that consideration of race in redistricting is inevitable and does not violate the Constitution unless there is clear proof that the district was drawn in a way to deprive a racial group of an equal opportunity to participate in the political process. This case did not meet that threshold.

T Time

1993

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U.S.

Constitution

- 14th Amendment (Equal Protection clause)
- 15th Amendment (right to vote cannot be abridged due to race)

S Significance

This case extended the Equal Protection clause interpretation to cover majority groups similarly to that of groups that had been historically discriminated against in an attempt to make the Constitution “color-blind”. This approach to the 14th Amendment has also been the grounds for challenging affirmative action programs in other sectors of society (i.e.: workplace and schools).

U.S. v. Lopez (1995)

S
Situation

- The U.S. Constitution sets up a federal structure of government where the national and state governments share power. The powers of the national government are limited and described in the Constitution. According to the 10th Amendment, any power not delegated to the federal government is reserved to the states.
- In 1990, Congress passed the Gun Free School Zones Act, which prohibited people from knowingly carrying a gun in a school zone. Alfonso Lopez was convicted of possessing a gun at a Texas school in violation of this federal law.



C
Constitutional
Question
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Opinion

Did Congress have the power to pass the Gun Free School Zones Act?

The Court ruled in favor of Lopez in a 5-4 decision. The majority argued that the Gun Free School Zones Act exceeds Congress's authority under the Commerce Clause because carrying a gun in a school zone is not an economic activity. The Constitution created a national government with only limited, delegated powers. To claim that any kind of activity is commerce means that the power of Congress would be unlimited.

In their dissent, multiple justices argued that the Commerce Clause includes the right to regulate local activity so long as the activity significantly impacts interstate commerce. The Court's role is not to determine if an activity like possession of a gun was commerce but instead if Congress had a "rational bias" for doing so. Further, one justice dissented that the national interest in safeguarding the education system would benefit the overall economy.

1995

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Time
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U.S.
Constitution

- Article I, Section 8 (Commerce Clause)
- Article I, Section 8 (Elastic Clause)
- 10th Amendment (reserved powers)

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Significance

This case dramatically decreased the power of Congress to regulate state behaviors through the Commerce Clause. Up to this case, the federal government relied on the broad interpretation of interstate commerce activity to mandate state compliance with national regulations, such as civil rights legislation. This case was a win for states rights' advocates.

Citizens United v. FEC (2010)

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Situation

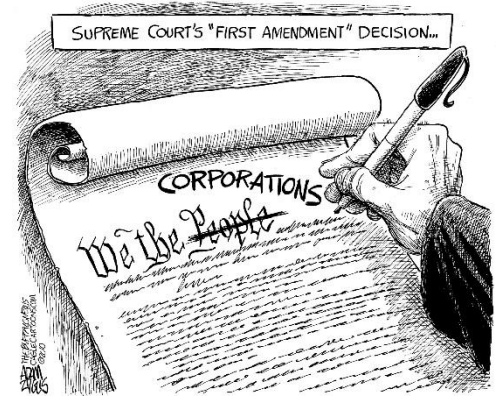
- Americans disagree about spending on election campaigns. Some feel like regulations are needed to prevent politicians from “owing” big donors that help get them elected. Others argue that money in elections is critical to spread information and is a protected form of free speech
- The Supreme Court has decided that donating and spending money on elections in a form of free speech. Laws that restrict how much individuals and groups can donate directly to candidates are allowed, because that spending is slightly removed from core political speech.
- The Bipartisan Campaign Reform Act (BCRA), a.k.a. McCain-Feingold Act, of 2002 prohibited corporations and unions from directly paying for ads that supported or denounced a specific candidate within 30 days of a primary election and 60 days of a general election. Citizens United, a non-profit organization funded in part by corporations, produced *Hillary: The Movie* in 2008 to persuade voters to not vote for Hillary Clinton in the Democratic primaries. The Federal Election Commission (FEC) argued that the movie was meant to influence voters, and, therefore, the BCRA ban applied.

C
Constitutional
Question

Does a law that limits the ability of corporations and labor unions to spend their own money to advocate the election or defeat of a candidate violate the First Amendment’s guarantee of free speech?

O
Opinion

The Court ruled in favor of Citizens United in a 5-4 decision, arguing that the 1st Amendment prohibits limits on corporate funding of independent broadcasts in candidate elections. The government’s rationale for the limits of corporate spending—to prevent corruption—was not persuasive enough to restrict political speech. Corporations have free speech rights and their political speech cannot be restricted any more than that of individuals. The Court did not, however, strike down parts of the BCRA that require disclosures about who is responsible for the ad and whether it was authorized by a candidate.



In dissent, the justices argued that the 1st Amendment was meant to protect people, not corporations. Without limits on electioneering, corporations’ wealth could give them an unfair influence in the electoral process that individual citizens could not rival.

2010

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Time
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Constitution
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Significance

- 1st Amendment (Free Speech)

This case was instrumental in the growth of independent expenditures in elections. As long as ads are unaffiliated directly with a campaign, independent groups can funnel unlimited amounts of money into influencing voters. This has led to elections, even at the local and state levels, becoming more and more expensive.

McDonald v. Chicago (2010)

S
Situation

- The 2nd Amendment protects “the right of the people to keep and bear Arms”, but there has been an ongoing national debate about what exactly that phrase means.
- In 2008, the Court struck down a handgun ban in the District of Columbia in the case *District of Columbia v. Heller*. Since the case was based out of D.C. (which is under the jurisdiction of the federal government), the *Heller* decision left open the question whether the 2nd Amendment applies to the state and local governments.
- In 1982, Chicago, Illinois adopted a handgun ban to combat crime and minimize handgun related deaths and injuries. In practice, the law essentially banned most Chicago residents from possessing handguns. Otis McDonald and other Chicagoans sued the city for violating the Constitution, arguing that the handgun ban violated their 2nd Amendment rights, which should apply to state and local governments via the 14th Amendment.



C
Constitutional
Question

Does the 2nd Amendment right to keep and bear arms apply to state and local governments through the 14th Amendment and thus limit Chicago’s ability to regulate guns?

O
Opinion

The Court ruled 5-4 in favor of McDonald, arguing that the 2nd Amendment right to keep and bear arms for the purpose of self-defense is fully applicable to the states under the 14th Amendment. Four of the five majority judges attempted to apply the 2nd Amendment against state and local governments in a way that “does not imperil every law regulating firearms”. Since not all five majority justices signed off on this portion of the opinion (Clarence Thomas dissented), however, it does not become part of active case law.

In their dissents, multiple justices argued that the 2nd Amendment was adopted to protect the states from federal encroachment and that, therefore, it made no sense to apply that provision against state and local governments. One justice asserted that nothing in the 2nd Amendment’s text, history, or underlying rationale made it “fundamental” and protective of the keeping and bearing of arms for private self-defense.

T
Time

2010

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U.S.
Constitution

- 2nd Amendment (right to bear arms)
- 14th Amendment (due process clause)

S
Significance

This case incorporated the 2nd Amendment right to bear arms to the states. This means that state governments cannot severely limit or infringe on private citizens’ right to own firearms through local and state legislation. This case opens the door to more cases dismantling gun control legislation across the nation.