

First Amendment TIMELINE

Editors imprisoned under Alien and Sedition Acts

1798

A U.S. peace treaty with Great Britain angers France, which strikes back by seizing U.S. ships. On the verge of war, the Federalist majorities in Congress enact four bills collectively known as the Alien and Sedition Acts to silence pro-French sentiment in the United States. These acts make it a crime to criticize the federal government and its policies. Under this law, critical newspaper publishers are convicted and imprisoned. In 1800, the Democratic-Republicans win the Presidency and majorities in Congress. The new majority lets the Sedition Act expire, and President Thomas Jefferson pardons all those who had been convicted under it.

Efforts to stifle debate about slavery

1836

As abolitionists develop the tactic of submitting many antislavery petitions to Congress, pro-slavery members of the U.S. House of Representatives adopt “gag” rules that bar such petitions from being introduced and debated. In 1844, former President John Quincy Adams, then a representative from Massachusetts, leads the effort to repeal these rules.

The Sedition Act punishes critics of World War I

1918

After the United States enters World War I, the federal government imposes criminal penalties on all forms of expression that are critical of the war mobilization. Some nine hundred people are convicted under the law, and hundreds of noncitizens are deported without a trial. Congress repeals the Sedition Act in 1921.

Woodcut image used to illustrate 1837 broadside publication of John Greenleaf Whittier's antislavery poem, “Our Countrymen in Chains.”

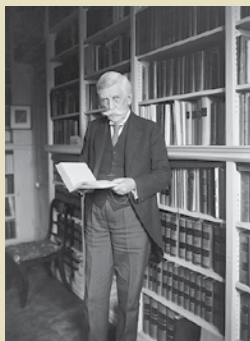
Photo: Library of Congress



Limits to First Amendment recognized in cases of “clear and present danger”

1919

Supreme Court justice Oliver Wendell Holmes, in his opinion in *Schenck v. United States*, upholds the conviction of Socialist Charles Schenck for distributing antiwar leaflets in violation of the Espionage Act. Although under normal circumstances the First Amendment would have protected such activities, the Court holds that, in wartime, speech that poses a “clear and present danger of inciting imminent, lawless action” can be restricted, comparing it to “falsely shouting fire in a theater and causing a panic.”



Supreme Court Justice Oliver Wendell Holmes

Photo: Library of Congress

No religious instruction in public schools

1948

The Supreme Court unanimously overturns its 1896 ruling in *Plessy v. Ferguson* that “separate but equal” is constitutional and rules that segregation violates the 14th Amendment’s equal protection clause. In *Brown v. Board of Education*, the court holds that racially segregated schools are inherently unequal. The court’s opinion, written by Chief Justice Earl Warren, says that to segregate students “solely because of their race generates a feeling of inferiority as to their status in the community that may affect their hearts and minds in a way unlikely ever to be undone.”

“Symbolic speech” is protected

1961

In *Garner v. Louisiana*, the U.S. Supreme Court overturns the convictions for disturbing the peace of five African Americans who protested segregation by staging a “sit-in” at an all-white restaurant. Justice John Harlan explains that a sit-in demonstration is “as much a part of the free trade of ideas as is verbal expression.” Similarly, in the case of *Tinker v. Des Moines Independent Community School District* (1969), the Supreme Court rules that the Des Moines, Iowa, School Board had been wrong to suspend three students who wore black armbands to school to protest the Vietnam War. The Court bases its decision on the grounds that the students’ passive protest posed no risk of disrupting school activities.

Sit-in protest at Walgreens drugstore in Nashville, Tennessee, 1960

Photo: Wikimedia Commons



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Prayer not allowed in public schools

1962

New York State's Board of Regents drafted a non-denominational prayer for students to recite voluntarily at the beginning of each school day: "Almighty God, we acknowledge our dependence upon Thee, and beg Thy blessings upon us, our teachers, and our country." Ruling in *Engel v. Vitale* (1962), the Supreme Court rejected the notion that the prayer's lack of reference to any specific religion exempted it from the First Amendment's prohibition against establishing a religion. Any state-sanctioned prayer, the court argued, was an unconstitutional recognition of religion.



School day opens with prayer, Pie Town, New Mexico, 1940. Photo: Library of Congress

Supreme Court places limits on libel

1964

L. B. Sullivan, a Montgomery, Alabama, city commissioner, sues the *New York Times* for libel after it publishes a full-page advertisement criticizing anti-civil rights activities in Montgomery. Although the Alabama Supreme Court rules against the newspaper, the Supreme Court reverses that judgment in *New York Times v. Sullivan*. The Supreme Court rules that public officials cannot sue for libel unless they prove that a statement was known to be false and made with "actual malice," meaning that it was made "with knowledge that it was false or with reckless disregard of whether it was false or not."

Freedom of Information Act Passes

1966

President Lyndon B. Johnson signs the Freedom of Information Act (FOIA), requiring that government records be made available to the public and press upon request. Exceptions are made for documents relating to national security, confidential financial data, and law enforcement. President Johnson notes "a democracy works best when the people have all the information that the security of the nation permits. No one should be able to pull curtains of secrecy around decisions which can be revealed without injury to the public interest."



Photo of U.S. war casualties at Dover Air Force Base released due to a Freedom of Information Act Request. Photo: Wikimedia Commons

Money spent in political campaigns is considered "speech"

1976

When Congress tries to limit expenditures in political campaigns, the U.S. Supreme Court, in *Buckley v. Valeo*, invalidates those provisions that restrict candidates ability to spend their own money on a campaign, limit campaign expenditures by an outside group, and limit total campaign spending. The Court compares restrictions on spending with restrictions on "political speech." The majority reasons that discussion of public issues and political candidates are integral to the American political system under the Constitution. In the Court's opinion, government-imposed limits on the amount of money a person or group can spend on political communication reduces "the quantity of expression by restricting the number of issues discussed, the depth of their exploration, and the size of the audience reached."

Restrictions on religious items displayed around government buildings

1989

The American Civil Liberties Union challenged a Christmas creche and a Hanukkah menorah displayed at the Allegheny County Courthouse in Pittsburgh, Pennsylvania. In *Allegheny County v. ACLU* (1989) the Supreme Court ruled that while not all religious celebrations on government property violated the First Amendment, anything that clearly expressed official endorsement was unconstitutional. The nativity scene inside the courthouse, with a banner reading "Gloria in Excelsis Deo" ("Glory to God in the Highest") failed the constitutional test, but the menorah erected outside the building to "celebrate the season" was allowed to remain.



Allegheny County Courthouse, Pittsburgh, PA

Photo: Ha'Eri/Wikimedia Commons