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Miss Cummings ~ Regents Supreme Court Cases Review

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| **Court Case** | **Topic** | **Circumstances / Historical Background** | **Constitutional Questions** | **Opinion of the Court** |
| **The Marshall Court (1801-1835)** |
| Marbury v. Madison (1803) | Separation of Powers / Checks & BalancesJudicial Review | The case began on March 2, 1801, when an obscure Federalist, William Marbury, was designated as a justice of the peace in the District of Columbia. Marbury and several others were appointed to government posts created by Congress in the last days of John Adams's presidency, but these last-minute appointments were never fully finalized. The disgruntled appointees invoked an act of Congress and sued for their jobs in the Supreme Court. (Justices William Cushing and Alfred Moore did not participate.) | • Is Marbury entitled to his appointment? • Is his lawsuit the correct way to get it? • And, is the Supreme Court the place for Marbury to get the relief he requests? | The Court decided in a 4-0 decision that:• Yes Marbury was entitled to the appointment; • Yes, his lawsuit was the correct way to get it ; • And on the 3rd point that was brought up, it depends. The justices held, through Marshall's forceful argument, that on the last issue the Constitution was "the fundamental and paramount law of the nation" and that "an act of the legislature repugnant to the constitution is void." In other words, when the Constitution--the nation's highest law--conflicts with an act of the legislature, that act is invalid. This case establishes the Supreme Court's power of judicial review.\*\*This case established the Supreme Court’s role as the arbiter of the Constitutionality of federal laws, the principle is known as judicial review (see also Federalist Papers, 78). |
| Fletcher v. Peck (1810) | FederalismJudicial Review | In 1795, the Georgia state legislature passed a land grant awarding territory to four companies. The following year, however, the legislature voided the law and declared all rights and claims under it to be invalid. In 1800, John Peck acquired land that was part of the original legislative grant. He then sold the land to Robert Fletcher three years later, claiming that past sales of the land had been legitimate. Fletcher argued that since the original sale of the land had been declared invalid, Peck had no legal right to sell the land and thus committed a breach of contract. | • Could the contract between Fletcher and Peck be invalidated by an act of the Georgia legislature? | In a unanimous opinion (5-0), the Court held that since the estate had been legally "passed into the hands of a purchaser for a valuable consideration," the Georgia legislature could not take away the land or invalidate the contract. Noting that the Constitution did not permit bills of attainder or ex post facto laws, the Court held that laws annulling contracts or grants made by previous legislative acts were constitutionally impermissible. The decision stems from the Yazoo land cases, 1803, and upholds the sanctity of contracts. |
| McCulloch v. Maryland (1819)  | -Federalism-Property Rights-Implied PowersThe case centered on Article IV's National Supremacy Clause and the Necessary and Proper Clause, Article I, Section 8. | Throughout the early years of the Republic, the power of the Federal Government had continued to grow. By the late 1810s, financial stability had become an issue of major national concern. Among the States unhappy with the establishment of the Second Bank of the United States was Maryland. In those days, before the establishment of a single form of paper currency, local banks not only made loans but issued their own bank notes to serve as daily-use currency, instead of gold and silver coins. These banks enjoyed the lack of federal regulation and often pursued speculative policies. The Second Bank of the United States was authorized to regulate the issuance of currency by local banks, and followed a more cautious fiscal policy. Local banks thus looked to their State legislatures to restrict the Bank of the United States' operation.The Maryland legislature responded to this action by levying a tax on all branches of banks “not chartered by the legislature”—a move aimed at destroying the Baltimore branch of the Bank of the United States. When called upon to pay the $15,000 annual tax, James McCulloch, cashier of the Baltimore branch, refused. McCulloch was convicted by a Maryland court and fined $2,500. He appealed the decision to the Maryland Court of Appeals, and, failing there, to the U.S. Supreme Court. | • Was the Bank of the United States a “necessary and proper” exercise of powers granted by the Constitution or was the bank unconstitutional? • Did the National Supremacy Clause prohibit State taxes on federal activities or was the Maryland tax law constitutional? • Was the Maryland tax on only federally chartered banks a discriminatory action, antagonistic to the federal system? | Speaking for a unanimous (7-0) Court, Chief Justice Marshall rejected the Maryland argument that vested by its people with all authority to regulate business and to tax institutions inside its borders.The decision centered on Maryland's claim that because the Constitution was ratified by State conventions, the States were sovereign. Marshall refuted this claim, saying that the Constitution was the instrument of the people, not the States. Therefore, the Court asserted the supremacy of the Federal Constitution over the States. The Court also emphasized the importance of national supremacy. Marshall stated that “…the Government of the Union, though limited in its powers, is supreme within its sphere of action….”The Court also rejected Maryland's argument that the Constitution did not explicitly allow for a national bank. Marshall's argument rested on this simple point: “…we must never forget that it is a constitution we are expounding.” In other words, the Constitution was meant to be an outline of basic ideas, easily understood by the general public, and open to interpretation. Marshall went on to argue that while the powers of government are limited, the “necessary and proper” clause was meant to enlarge the ability of Congress to carry out its enumerated powers. He wrote: “Let the end be legitimate, let it be within the scope of the constitution, and all means which are appropriate, which are plainly adapted to that end, which are not prohibited, but consist with the letter and spirit of the constitution, are constitutional…”The Court ruled that states cannot tax the federal government, i.e. the Bank of the United States; the phrase “the power to tax is the power to destroy”; confirmed the constitutionality of the Bank of the United States. |
| Gibbons v. Ogden (1824) |  | A New York state law gave to individuals the exclusive right to operate steamboats on waters within state jurisdiction. Laws like this one were duplicated elsewhere which led to friction as some states would require foreign (out-of-state) boats to pay substantial fees for navigation privileges. In this case Thomas Gibbons -- a steamboat owner who did business between New York and New Jersey under a federal coastal license -- challenged the monopoly license granted by New York to Aaron Ogden. New York courts consistently upheld the state monopoly. | • Did the State of New York exercise authority in a realm reserved exclusively to Congress, namely, the regulation of interstate commerce? | The unanimous Court found that New York's licensing requirement for out-of-state operators was inconsistent with a congressional act regulating the coasting trade. The New York law was invalid by virtue of the Supremacy Clause. In his opinion, Chief Justice John Marshall developed a clear definition of the word commerce, which included navigation on interstate waterways. He also gave meaning to the phrase "among the several states" in the Commerce Clause. Marshall's was one of the earliest and most influential opinions concerning this important clause. He concluded that regulation of navigation by steamboat operators and others for purposes of conducting interstate commerce was a power reserved to and exercised by the Congress.In a concurring opinion, Justice William Johnson argued a much stronger position: that the national government had exclusive power over interstate commerce, negating state laws interfering with the exercise of that power.US Const. Art 1, Section 8, Clause 3; Act of February 1793, Section 1, Clause 8  |
| Johnson v. McIntosh (1823) |  | In 1775, Thomas Johnson and other British citizens purchased land in the Northwest Territory, then in the colony of Virginia, from members of the Piankeshaw Indian tribes. This purchase was arranged under a 1763 proclamation by the King of England. Thomas Johnson left this land to his heirs. In 1818, William McIntosh purchased from Congress, 11,000 acres of the land originally purchased by Johnson. Upon realizing the competing claims on the land, Johnson's heirs sued M'Intosh in the United States District Court for the District of Illinois to recover the land. The District Court ruled for M'Intosh, reasoning that M'Intosh's title was valid since it was granted by Congress. Johnson's heirs appealed to the Supreme Court | • Was McIntosh's claim to the disputed land superior to Johnson's claim because McIntosh's claim was the result of Congressional action? | Yes. In a unanimous decision, the Court held M'Intosh's claim superior to Johnson's, affirming the District Court. In an opinion authored by Chief Justice John Marshall, the Court established that the federal government had "the sole right" of negotiation with the Native American nations. Through the Revolutionary War and the treaties that followed, the United States earned the "exclusive right…to extinguish [the Indians'] title, and to grant the soil." The Indians themselves did not have the right to sell property to individuals. M'Intosh's claim, which was derived from Congress, was superior to Johnson's claim, which was derived from the non- existent right of Indians to sell their land. |
| Cherokee Nation v. Georgia (1831) |  | The Cherokee Nation asked for an injunction, claiming that Georgia's state legislation had created laws that "go directly to annihilate the Cherokees as a political society." Georgia pushed hard to bring evidence that the Cherokee Nation couldn’t sue as a “foreign” nation due to the fact that they did not have a constitution or a strong central government. Wirt argued that "the Cherokee Nation [was] a foreign nation in the sense of our constitution and law" and was not subject to Georgia's jurisdiction. Wirt asked the Supreme Court to void all Georgia laws extended over Cherokee lands on the grounds that they violated the U.S. Constitution, United States-Cherokee treaties, and United States intercourse laws. |  | The Court did hear the case but declined to rule on the merits. The Court determined that the framers of the Constitution did not really consider the Indian Tribes as foreign nations but more as "domestic dependent nation[s]" and consequently the Cherokee Nation lacked the standing to sue as a "foreign" nation. “The conditions of the Indians in relation to the United States is perhaps unlike that of any two people in existence,” Chief Justice John Marshall wrote, “their relation to the United States resembles that of a ward to his guardian. . .(they were a) domestic dependent nation.” Established a “trust relationship” with the tribes directly under Federal authority. |
| **Court Case** | **Topic** | **Circumstances / Historical Background** | **Constitutional Questions** | **Opinion of the Court** |
| Worcester v. Georgia (1832, Marshall) |  | In September 1831, Samuel A. Worcester and others, all non-Native Americans, were indicted in the supreme court for the county of Gwinnett in the state of Georgia for "residing within the limits of the Cherokee nation without a license" and "without having taken the oath to support and defend the constitution and laws of the state of Georgia." They were indicted under an 1830 act of the Georgia legislature entitled "an act to prevent the exercise of assumed and arbitrary power by all persons, under pretext of authority from the Cherokee Indians." Among other things, Worcester argued that the state could not maintain the prosecution because the statute violated the Constitution, treaties between the United States and the Cherokee nation, and an act of Congress entitled "an act to regulate trade and intercourse with the Indian tribes." Worcester was convicted and sentenced to "hard labor in the penitentiary for four years." The U.S. Supreme Court received the case on a writ of error. | • Does the state of Georgia have the authority to regulate the intercourse between citizens of its state and members of the Cherokee Nation? | No. In an opinion delivered by Chief Justice John Marshall, the Court held that the Georgia act, under which Worcester was prosecuted, violated the Constitution, treaties, and laws of the United States. Noting that the "treaties and laws of the United States contemplate the Indian territory as completely separated from that of the states; and provide that all intercourse with them shall be carried on exclusively by the government of the union,"Established tribal autonomy within their boundaries, i.e. the tribes were “distinct political communities, having territorial boundaries within which their authority is exclusive.” |
| **The Taney Court (1835-1864)**John Marshall, in his time the single most influential advocate for strong National Government, had died in 1835. President Andrew Jackson appointed Roger B. Taney (pronounced Tawney). During his tenure as Chief Justice, Taney upheld strong national power, but with some modifications. Taney endorsed what is known as “dual sovereignty,” which implies that State and federal governments are “foreign” to each other; each is sovereign in its own right. By 1857, Taney presided over a Court that had expanded to nine justices and was divided—four Northerners and five Southerners, including Taney, sat on the bench. |
| Charles River Bridge v. Warren Bridge (1837, Taney). |  | In1785, the Massachusetts legislature incorporated the Charles River Bridge Company to construct a bridge and collect tolls. In 1828, the legislature established the Warren Bridge Company to build a free bridge nearby. Unsurprisingly, the new bridge deprived the old one of traffic and tolls. The Charles River Bridge Company filed suit, claiming the legislature had defaulted on its initial contract. | • Did the legislature enter into an economic contract with the Charles River Bridge Company that was impaired by the second charter in violation of Article I Section 10 of the Constitution? | The interests of the community are more important than the interests of business; the supremacy of society's interest over private interest. |
| Commonwealth v. Hunt (1842). |  | Massachusetts Supreme Court ruled that the common-law doctrine of criminal conspiracy did not apply to labor unions. Until then, workers’ attempts to establish closed shops had been subject to prosecution. Chief Justice Lemuel Shaw asserted, however, that trade unions were legal and that they had the right to strike or take other steps of peaceful coercion to raise wages and ban nonunion workers. | • Are unions legal? | Declared that labor unions were lawful organizations and that the strike was a lawful weapon. |
| Dred Scott v. Sanford (1857) | -Slavery-Federal Power-Property Right | By the mid-1850s, sectional conflict over the extension of slavery into the Western territories threatened to tear the nation apart. The Kansas-Nebraska Act of 1854 destroyed the tenuous balance struck 34 years before between “free States” and “slave States” in the Missouri Compromise. With Congress sharply divided, reflecting the divisions in the nation, the Supreme Court took the unusual step of hearing the case of a fugitive slave suing for his freedom. Intended to be the definitive ruling that would settle the controversy threatening the Union for good, the case instead produced a divisive decision that pushed the nation one step closer toward the precipice of civil war.Dred Scott was a Missouri slave. Sold to Army surgeon John Emerson in Saint Louis around 1833, Scott was taken to Illinois, a free State, and on to the free Wisconsin Territory before returning to Missouri. When Emerson died in 1843, Scott sued Emerson's widow for his freedom in the Missouri supreme court, claiming that his residence in the “free soil” of Illinois made him a free man. After defeat in State courts, Scott brought suit in a local federal court. Eleven years after Scott's initial suit, the case came before the U.S. Supreme Court. | • Did a slave become free upon entering a free State? • Could a slave—or a black person—actually be entitled to sue in federal courts?• Was the transportation of slaves subject to federal regulation? Could the Federal Government deny a citizen the right to property (interstate transportation of slaves/property) without due process of law? • Could an item of property (a slave) be taken from the owner without just compensation?• And finally, was the Missouri Compromise a valid and constitutional action of the National Government? • Could Congress prohibit slavery in a territory or delegate that power to a territory's legislature? | The Court decided 7-2 in favor of the slave owner. Every justice submitted an individual opinion justifying his position, with Chief Justice Taney's being the most influential.According to Taney, African Americans, be they slave or free, were not citizens. As a slave, moreover, Scott was property and had no right to bring suit in federal courts. “In regard to the issue of Scott's becoming free when he moved to the free State of Illinois,” Taney wrote, “the laws of the State in which the petitioner was currently resident, namely the slave State of Missouri, should apply.”Of far more serious consequence, the Court also struck down the Missouri Compromise as unconstitutional, because it deprived property owners (slave owners) of the right to take their property anywhere in the United States, thus “depriving them of life, liberty and property under the 5th Amendment.” Any line, or law, that limited the right of slave owners to utilize their property was unconstitutional. Taney then ruled that the Congress could not extend to any territorial governments powers that it did not possess (in this case, the power to limit slavery). By declaring the Missouri Compromise unconstitutional, Taney not only destroyed one of the delicate compromises that had kept the union together for nearly four decades but also rejected the principle of popular sovereignty.\*\*A major landmark on the road to the Civil War, the Dred Scott decision was overturned with the adoption of the 13th and 14th amendments to the Constitution in 1865 and 1868. These amendments ended slavery and established firmly the citizenship of all persons, regardless of race, creed, or previous condition of servitude. As for Dred Scott, two months after the Supreme Court's decision, Emerson's widow sold Scott and his family to the Blow family, who freed them in May of 1857. |
| Ex Parte Milligan1866 | -Presidential Power -Denied Powers -Civil Liberties | Lambden P. Milligan was sentenced to death by a military commission in Indiana during the Civil War; he had engaged in acts of disloyalty. Milligan sought release through habeas corpus from a federal court. | • Does a civil court have jurisdiction over a military tribunal? | Held that suspension of the Writ of Habeas Corpus and of the right to due process during the Civil War were unconstitutional Established that the Writ of Habeas Corpus and of the right to due process cannot be suspended as long as civilian courts are functioning |
| **The Waite Court (1874-1888)** |
| Civil Rights Cases of 1883 | 14th AmendmentEqual Protection  Clause |  |  | (A single decision on a group of cases with similar legal problems). Legalized segregation with regard to private property. |
| Wabash, St. Louis, and Pacific Railway Co. v. Illinois (1886) |  | A statute of Illinois enacts that if any railroad company shall, within that state, charge or receive for transporting passengers or freight of the same class, the same or a greater sum for any distance than it does for a longer distance; it shall be liable to a penalty for unjust discrimination. The defendant in this case made such discrimination in regard to goods transported over the same road or roads from Peoria in Illinois and from Gilman in Illinois to New York, charging more for the same class of goods carried from Gilman than from Peoria, the former being eighty-six miles nearer to New York than the latter, this difference being in the length of the line within the State of Illinois. | • Do states have the power to regulate Railroads in regards to interstate commerce? | Declared state-passed Granger laws that regulated interstate commerce unconstitutional.The decision prohibited states from regulating the railroads because the Constitution grants Congress the power to regulate interstate commerce. As a result, reformers turned their attention to the federal government, which now held sole power to regulate the railroad industry. |
| **The Fuller Court (1888-1910)** |
| Chicago, Milwaukee and St. Paul Railroad Co. v. Minnesota (1890) | -Due Process | A Minnesota law made its railroad commission the final judge of the reasonableness of railroad rates. The railroad maintained that "it is always a judicial question as to whether a statute is repugnant to provisions of the constitution." | • Does the Minnesota law violate the due process clause of the 14th Amendment? | Yes. The statute did not provide procedural due process: railroads received no hearing or other chance to defend their rates before the commission. Moreover, a rate's reasonableness "is eminently a question for judicial investigation, requiring due process of law for its determination." A company denied the authority to charge a reasonable rate and unable to turn to a judicial mechanism for review would be deprived of the "lawful use of its property, and, thus, in substance, and effect, of the property without due process of law." |
| Pollock v. The Farmers­ Loan and Trust Co. (1895) | Constitutionality | The Constitution gave the states the power to impose direct taxation. The federal government could impose direct taxes as well, but only if those taxes were apportioned among the states in proportion to their representation in Congress. In this case the Court examined a national income tax passed by Congress in 1894. This case was decided together with Hyde v. Continental Trust Company of the City of New York. | • Was the income tax a direct tax in violation of the Constitution (Article I, Section 9)? | Yes. The Court held that the act violated the Constitution since it imposed taxes on personal income derived from real estate investments and personal property such as stocks and bonds; this was a direct taxation scheme, not apportioned properly among the states. The decision was negated by the adoption of the Sixteenth Amendment in 1913. |
| **Court Case** | **Topic** | **Circumstances / Historical Background** | **Constitutional Questions** | **Opinion of the Court** |
| U. S. v. E. C. Knight Co. (1895) |  | The Congress passed the Sherman Anti-Trust Act in 1890 as a response to the public concern in the growth of giant combinations controlling transportation, industry, and commerce. The Act aimed to stop the concentration of wealth and economic power in the hands of the few. It outlawed "every contract, combination...or conspiracy, in restraint of trade" or interstate commerce, and it declared every attempt to monopolize any part of trade or commerce to be illegal. The E.C. Knight Company was such a combination controlling over 98 percent of the sugar-refining business in the United States. | • Did Congress exceed its constitutional authority under the Commerce Clause when it enacted the Sherman Anti-Trust Act? | Due to a narrow interpretation of the Sherman Anti-Trust Act, the Court undermined the authority of the federal government to act against monopolies. |
| Plessy v. Ferguson (1896) |  -Minority Rights -SegregationThe 14th Amendment and the Equal Protection Clause  | In the aftermath of Reconstruction, the Southern State governments again became—as they remained in the North—“white man's governments.” The new State legislatures enacted Jim Crow laws to legally segregate the races and impose second-class citizenship upon African Americans. Enforced by criminal penalties, these laws created separate schools, parks, waiting rooms, and other segregated public accommodations. In 1890, the Louisiana legislature passed a law requiring railroads to separate passengers on the basis of race. Trains that had two or more passenger cars were required to have designated seating for different races. If there was only one passenger car in a train, these cars were to be divided by a curtain or some other form of partition. A State fine of $25 or up to 20 days in jail was the penalty for sitting in the wrong compartment.Homer Adolph Plessy was a successful Louisiana businessman living in Baton Rouge. Comfortable in the society of both racial groups, Plessy had had one African-American grandparent. Although he did not consider himself African American, Louisiana law defined him as “octaroon”—one-eighth African American.Plessy, acting on behalf of a committee that had been formed to challenge Jim Crow laws, intentionally broke the law in order to initiate a case. Returning by rail from New Orleans to Baton Rouge, Plessy was asked by railroad officials to sit in the segregated area of the train. He refused. Arrested and charged, Plessy petitioned the Louisiana Supreme Court for a writ against Ferguson, the trial court judge, to stop the proceedings against him for criminal violation of the State law. But the Louisiana State Supreme Court refused. Convicted and fined, Plessy then appealed to the Supreme Court of the United States. | • Did the Louisiana law requiring segregated seating violate Plessy's “equal protection” under the law? • Was a State law requiring separate accommodations on a public conveyance for whites and African Americans a violation of equal protection? • Should the State law be ruled unconstitutional and Plessy's conviction overturned? Or would “separate but equal” facilities meet the standard of the 14th Amendment? | Justice Henry B. Brown of Michigan delivered the 7-1 decision of the Court that upheld the Louisiana law requiring segregation. Brown noted that the law did not violate either the 13th or 14th Amendments. He stated that the 13th Amendment applied only to slavery, and the 14th amendment was not intended to give African Americans social equality but only political and civil equality with white people.Using a line of reasoning that would echo across the next 60 years of political debate and Court opinion, Brown wrote that “Legislation is powerless to eradicate racial instincts or to abolish distinctions based upon physical differences….” In other words, legislation cannot change public attitudes, “and the attempt to do so can only result in accentuating the difficulties of the present situation,” Brown wrote. Reflecting the common bias of the majority of the country at the time, Brown argued that “If the civil and political rights of both races be equal, one cannot be inferior to the other civilly or politically. If one race be inferior to the other socially, the Constitution of the United States cannot put them upon the same plane.” The Court declared the Louisiana law a reasonable exercise of the State's “police power,” enacted for the promotion of the public good.In the key passage of the opinion, the Court stated that segregation was legal and constitutional as long as “facilities were equal.” Thus the “separate but equal doctrine” that would keep America divided along racial lines for over half a century longer came into being.\*\*The decision solidified the idea of "separate but equal" for more than half a century, when it was overturned in 1954 by Brown v. the Board of Education. |
| Northern Securities Co. v. U. S. (1904) |  | The Northern Securities Company was a trust formed in 1902 by E. H. Harriman, James Hill, J. P. Morgan, and John D. Rockefeller, that owned and operated several of the major railways in the United States. Before this company was created, Hill, who was in control of the Great Northern Railway, and Harriman, who owned the Northern Pacific Railway, battled to gain control of the Burlington line that would allow each of their rails access to Chicago, Illinois. Hill and Harriman waged a war to buy out the most shares of the Burlington Railroad's stock and, as a result, ended up significantly increasing the purchase price of railroad stock.As a means to resolve the conflict, the men formed the Northern Securities Company as a monopoly that controlled the Great Northern Railway, the Northern Pacific Railway, the Burlington Railroad, and several others. Once the public became aware of the monopoly, a plan by President Roosevelt followed quickly to file suit against the Northern Securities Company. | • Was this in violation of the Sherman Anti-Trust Act? | The Supreme Court held that the Northern Securities Company was operating as a monopoly and ruled to dissolve it. This decision strengthened the power of the Sherman Anti-Trust Act and broadened the interpretation of the Constitution's Commerce Clause. The purpose of the Sherman Act is to limit the use of monopolies, which hinder competition between companies.Re-established the authority of the federal government to fight monopolies under the Sherman Anti-Trust Act. |
| Lochner v. New York (1905) | 14th Amendment | The state of New York enacted a statute forbidding bakers to work more than 60 hours a week or 10 hours a day | • Does the New York law violate the liberty protected by due process of the Fourteenth Amendment? | Declared unconstitutional a New York act limiting the working hours of bakers due to a denial of the 14th Amendment rights.The Court maintained that the statute interfered with the freedom of contract, and thus the 14th Amendment's right to liberty afforded to employer and employee. The Court viewed the statute as a labor law; the state had no reasonable ground for interfering with liberty by determining the hours of labor. |
| Muller v. Oregon (1908) | 14th Amendment 1st Amendment | Oregon enacted a law that limited women to ten hours of work in factories and laundries. | • Does the Oregon law violate a woman's freedom of contract implicit in the liberty protected by due process of the Fourteenth Amendment? | There was no constitutional violation. The factory and laundry owners claimed that there was no reasonable connection between the law and public health, safety, or welfare. In a famous brief in defense of the Oregon law, attorney Louis Brandeis elaborately detailed expert reports on the harmful physical, economic and social effects of long working hours on women. Brewer's opinion was based on the proposition that physical and social differences between the sexes warranted a different rule respecting labor contracts. Theretofore, gender was not a basis for such distinctions. Brewer's opinion conveyed the accepted wisdom of the day: that women were unequal and inferior to men. |
| **The White Court (1910-1921)** |
| Hammer v. Dagenhart (1918) | 10th Amendment 5th Amendment | The Keating-Owen Child Labor Act prohibited the interstate shipment of goods produced by child labor. Reuben Dagenhart's father had sued on behalf of his freedom to allow his fourteen year old son to work in a textile mill. | • Does the congressional act violate the Commerce Clause, the 10th Amendment, or the 5th Amendment? | Two grounds to invalidate the law: Production was not commerce, and thus outside the power of Congress to regulate. And the regulation of production was reserved by the Tenth Amendment to the states.Declared the Keating-Owen Act (a child labor act) unconstitutional on the grounds that it was an invasion of state authority. |
| Schenck v. U. S. (1919) | 1st Amendment | harles Schenck was the general secretary of the Socialist Party of America. Socialists believed that the war had been caused by and would benefit only the rich, while causing suffering and death for the thousands of poor and working-class soldiers who would do the actual fighting in Europe. Party officials not only opposed the war, they urged American workers to oppose the war as well.Schenck participated in many antiwar activities in violation of the Espionage Act, including the mailing of about 15,000 leaflets urging draftees and soldiers to resist the draft. He was arrested and charged with “causing and attempting to cause insubordination in the military and naval forces of the United States” and with disturbing the draft. He was arrested, tried, convicted, and sentenced to prison for violating the Espionage Act of 1917, and he appealed his case to the Supreme Court. | • Were Schenck's political statements protected by the free speech section of the 1st Amendment? • What was the meaning of the 1st Amendment's statement that “Congress shall make no law…abridging the freedom of speech”?• Were there different standards for protected political speech during peacetime and in war? • Was the Espionage Act constitutional or did it violate the 1st Amendment? • Should Schenck remain in prison? | The Court's unanimous (9-0) decision was written by Justice Oliver Wendell Holmes. In it, the Court upheld Schenck's conviction, declaring the Espionage Act a reasonable and acceptable limitation on speech in time of war.Holmes stated that that the 1st Amendment right to freedom of speech was not absolute; free speech could be limited if its exercise presented a “clear and present danger.”The Schenck case stands as the first significant exploration of the limits of 1st Amendment free speech provisions by the Supreme Court. Its clarifications on the meaning of free speech have been modified, rewritten, and extended over the years. Flowing directly from this case, two schools of legal thought on the protections of the Bill of Rights emerged. One “absolutist” group felt that the Constitution meant to tolerate no interference by government with the people's freedoms, “absolutely none.” More widely held was the “balancing doctrine,” which suggested that the right of the people to be left alone by a government had to be “balanced” against “compelling public necessity.”  |
| **Court Case** | **Topic** | **Circumstances / Historical Background** | **Constitutional Questions** | **Opinion of the Court** |
| **The Taft Court (1921-1930)** |
| Adkins v. Children’s Hospital (1923) |  | In 1918, Congress enacted a law which guaranteed a minimum wage to women and children employed in the District of Columbia. This case was decided together with Children's Hospital v. Lyons | • Did the law interfere with the ability of employers and employees to enter into contracts with each other without assuring due process of law, a freedom guaranteed by the Fifth Amendment? | The Court found that upholding the statute would dangerously extend the police power of the state and, thus, found it unconstitutional.Declared unconstitutional a minimum wage law for women on the grounds that it denied women freedom of contract. |
| **The Hughes Court (1930-1941)** |
| Schechter v. U. S. (1936) | Executive Powers | Section 3 of the National Industrial Recovery Act empowered the President to implement industrial codes to regulate weekly employment hours, wages, and minimum ages of employees. The codes had standing as penal statutes. | • Did Congress unconstitutionally delegate legislative power to the President? | Sometimes called “the sick chicken case.” Unanimously declared the National Industrial Recovery Act (NIRA) unconstitutional on three grounds: that the act delegated legislative power to the executive; that there was a lack of constitutional authority for such legislation; and that it sought to regulate businesses that were wholly intrastate in character. |
| Korematsu v. U. S. (1941) | 5th AmendmentPresidential  Power Rights of  Minorities Equal Protection | During World War II, Presidential Executive Order 9066 and congressional statutes gave the military authority to exclude citizens of Japanese ancestry from areas deemed critical to national defense and potentially vulnerable to espionage. Korematsu remained in San Leandro, California and violated Civilian Exclusion Order No. 34 of the U.S. Army. | • Did the President and Congress go beyond their war powers by implementing exclusion and restricting the rights of Americans of Japanese descent? | The Court upheld the Constitutionality of Detention Camps for Japanese-Americans during WW2 |
| **The Stone Court (1941-1946)** |
| Ex parte Endo (1944) |  |  |  | The court forbade the internment of Japanese-Americans born in the U. S.  |
| **The Warren Court (1953-1969)** |
| Brown v. Board of Education of Topeka, Kansas (1954) | 14th Amendment | !4 yr old girl not permitted to go to her neighborhood school because she was African American |  | Unanimous decision declaring “separate but equal” unconstitutional.\*\*Overturns *Plessy* |
| Mapp V. Ohio (1961) |  4th Amendment14th Amendment | The Warren Court left an unprecedented legacy of judicial activism in the area of civil rights law as well as in the area of civil liberties—specifically, the rights of the accused as addressed in Amendments 4 through 8. In the period from 1961 to 1969, the Warren Court examined almost every aspect of the criminal justice system in the United States, using the 14th Amendment to extend constitutional protections to all courts in every State. This process became known as the “nationalization” of the Bill of Rights. During those years, cases concerning the right to legal counsel, confessions, searches, and the treatment of juvenile criminals all appeared on the Court's docke | The question before the Court involved 4th Amendment protection against “unreasonable searches and seizures” and the “nationalization” of the Bill of Rights under the 14th Amendment. • Was the search of Mapp's home legal and the evidence admissible under State law and criminal procedure? • If the State criminal procedure code did not exclude the evidence as having been illegally gained, did Ohio law fail to provide Mapp her 4th Amendment protection against “unreasonable searches and seizures”? • Weeks v. United States, 1914, established the exclusionary rule barring the admission of illegally obtained evidence in federal courts. Should that rule be extended, making evidence gained by an illegal search inadmissible in State courts as well? | In a 6-3 decision, the Court overturned the conviction, and five justices found that the States were bound to exclude evidence seized in violation of the 4th Amendment. In the majority opinion, Justice Tom Clark declared: “We hold that all evidence obtained by searches and seizures in violation of the Constitution [is] inadmissible in a state court…. Were it otherwise…the assurance against unreasonable…searches and seizures would be [meaningless].” |
| Gideon v. Wainwright (1963) | 14th Amendment | Gideon Charged with breaking into a poolroom. He could not afford a lawyer, and Florida refused to provide him with one.  | Was the due-process clause of the 14th Amendment applied to the 6th Amendment’s guarantee of counsel? | No. The ruling now extends to the defendant the right of counsel in all state and federal criminal trials regardless of their ability to pay.  |
| Escobedo v. Illinois (1964) | 14th Amendment |  |  | Ruled that a defendant must be allowed access to a lawyer before questioning by police. |
| Griswold v. Connecticut (1965) | 11th AmendmentDue Process | Griswold was the Executive Director of the Planned Parenthood League of Connecticut. Both she and the Medical Director for the League gave information, instruction, and other medical advice to married couples concerning birth control. Griswold and her colleague were convicted under a Connecticut law which criminalized the provision of counselling, and other medical treatment, to married persons for purposes of preventing conception | Does the Constitution protect the right of marital privacy against state restrictions on a couple's ability to be counseled in the use of contraceptives? | The U.S. Supreme Court established a right to privacy in striking down a Connecticut ban on the sale of contraceptives. The Court, through Justice William O. Douglas, found a "zone of privacy" created by several amendments to the U.S. Constitution guaranteeing against governmental intrusion into the homes and lives of citizens. \*\*The Griswold decision was important in later cases, such as Roe v. Wade. In Griswold, the Court decided that there was a “right of privacy” implied by the Bill of Rights. It ruled that the 1st, 3rd, 4th, 5th, 9th, and 14th Amendments together create a right of “marital privacy.” |
| Miranda v. Arizona (1966) |  5th Amendment 6th Amendment14th Amendment | A kidnapping and sexual assault occurred in Phoenix, Arizona, in March 1963. On March 13 Ernesto Miranda, 23, was arrested in his home, taken to the police station, identified by the victim, and taken into an interrogation room. Miranda was not told of his rights to counsel prior to questioning. Two hours later, investigators emerged from the room with a written confession signed by Miranda. It included a typed disclaimer, also signed by Miranda, stating that he had “full knowledge of my legal rights, understanding any statement I make may be used against me,” and that he had knowingly waived those rights.Two weeks later at a preliminary hearing, Miranda again was denied counsel. At his trial he did have a lawyer, whose objections to the use of Miranda's signed confession as evidence were overruled. Miranda was convicted of kidnapping and rape, and received a 20-year sentence. | • Was a confession an admissible document in a court of law if it was obtained without warnings against self-incrimination and without legal counsel—rights guaranteed to all persons by the 5th and 6th amendments?• With whom does the burden of proof rest for determining whether a defendant has legally “waived” his or her rights? • What is the standard for judging whether “voluntary confessions” should be deemed admissible? • When should an attorney be appointed for a person if he or she cannot afford one? | By a 5-4 margin, the Court voted to overturn Miranda's conviction. Writing for the majority, Chief Justice Warren declared that the burden is upon the State to demonstrate that “procedural safeguards effective to secure the privilege against self-incrimination” are followed. “The current practice of 'incommunicado' [unable to communicate with the world] interrogation is at odds with one of our Nation's most cherished principles—that the individual may not be compelled to incriminate himself.”Warren then spelled out the rights of the accused and the responsibilities of the police. Police must warn a suspect “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 the presence of an attorney, and that if he cannot afford an attorney one will be appointed for him prior to any questioning if he so desires.” |
| Tinker v. Des Moines School District (1969) |  1st AmendmentFreedom of Speech | In 1965, John Tinker, his sister Mary Beth, and a friend were sent home from school for wearing black armbands to protest the Vietnam War. The school had established a policy permitting students to wear several political symbols, but had excluded the wearing of armbands protesting the Vietnam War. Their fathers sued, but the District Court ruled that the school had not violated the Constitution. The Court of Appeals agreed with the lower court, and the Tinkers appealed to the Supreme Court. | • Was the students’ freedom of speech censored? | In a 7-2 decision, the Supreme Court ruled that the students had the right to wear armbands to school to protest the Vietnam War. Justice Abe Fortas wrote for the majority. He first emphasized that students have First Amendment rights: “It can hardly be argued that either students or teachers shed their constitutional rights to freedom of speech or expression at the schoolhouse gate.” While schools certainly have the right to establish rules relating to “the length of skirts or the type of clothing, to hair style,…[or] aggressive, disruptive action or even group demonstrations,” this case does not involve any of those issues. “The school officials banned and sought to punish petitioners for a silent, passive expression of opinion, unaccompanied by any disorder or disturbance on the part of petitioners. There is here no evidence whatever of petitioners' interference, …with the schools' work or of collision with the rights of other students to be secure and to be let alone. Accordingly, this case does not concern speech or action that intrudes upon the work of the schools or the rights of other students.”**\*\***Justice Hugo Black dissented. He pointed out that the case involved a small number of students who refused to obey the instructions of school officials, and argued that allowing this behavior would have a negative effect on schools and on the country as a whole. |
| New York Times Co. v. United States (1971) | 1st AmendmentFreedom of Speech | The Pentagon Papers, officially known as “History of U.S. Decision-Making Process on Vietnam Policy,” were illegally copied and then leaked to the press. The newspaper had obtained a copy of documents known as “The Pentagon Papers”—an internal Defense Department report that detailed government deception with regard to the Vietnam War. The Pentagon Papers surfaced at a time when the American people were deeply divided on the question of United States involvement in the war. The New York Times and the Washington Post had obtained the documents. Acting at the Government's request, the United States district court in New York issued a temporary injunction—a court order—that directed the New York Times not to publish the documents. The Government claimed that the publication of the papers would endanger the security of the United States. The New York Times appealed the order to the United States Supreme Court, arguing that prior restraint—preventing publication—violated the 1st Amendment. | • Are the freedoms provided by the 1st Amendment absolute? • Did the threat to national security outweigh the freedom of press guaranteed by the 1st Amendment? • Did the publication of the Pentagon Papers in fact pose a threat to national security? | By a 6-3 decision, the Court ruled in favor of the New York Times. In the judgment, the Court cited a prevailing precedent, noting: “Any system of prior restraints of expression comes to this Court bearing a heavy presumption against its constitutional validity.” In other words, the Court would not be favorably disposed to stifling the press on the order of the government.Justices Hugo Black and William Douglas, members of the majority, held that the 1st Amendment is absolute. Justice Black called it “unfortunate” in his view “that some of my Brethren [fellow justices] are apparently willing to hold that the publication of news may sometimes be enjoined. Such a holding,” he wrote, “would make a shambles of the First Amendment.”Justice Byron White, joined by Justice Potter Stewart, believed that the New York Times had probably gone too far in publishing the Pentagon Papers, they found nothing in the law to prevent the newspaper from doing so.\*\*Chief Justice Warren Burger dissented. Given those vast responsibilities, Burger noted, the Executive also had to be given broader authority. “In these cases, the imperative of a free and unfettered press comes into collision with another imperative, the effective functioning of a complex modern government and specifically the effective exercise of certain constitutional powers of the Executive,” Burger wrote. “Only those who view the First Amendment as an absolute in all circumstances—a view I respect, but reject—can find such cases as these to be simple or easy.” |
| **The Burger Court (1969-1986)**  |
| Roe v. Wade (1973) | 9th Amendment | In Texas, State law prohibited the termination of a pregnancy by artificial means (surgery) except when the life of the mother was in danger. The statute was construed as a “nearly complete ban on abortion.” A Texas woman, claiming privacy as a “fundamental right,” challenged the Texas statute. In 1971 the case was argued before the Supreme Court. In 1972 it was argued again. Roe and a companion case from Georgia, Doe v. Bolton, were the first cases to test, in the Court, the newly recognized “right of privacy” against the “compelling interest” of the States to regulate abortions. | This case involved the right of privacy as implied by Amendments 1, 3, 4, 5, 9, and 14 versus the police power of the States.• Did States have a compelling and overriding interest in regulating the health, safety, and morals of the community?• Was there an area of personal, marital, familial, and sexual privacy protected by the Bill of Rights? • Was the Texas law an unreasonable invasion of privacy, or was it a reasonable exercise of the police power? • Were women permitted to terminate pregnancies “at will,” or were fetuses “persons” with rights to be protected by the State? | By a vote of 7-2, with Justices White and Rehnquist in dissent, the Court agreed with Roe and upheld her right to terminate a pregnancy in the first trimester (90 days). The Court observed that Section 1 of the 14th Amendment contained three references to “person.” In his majority opinion, Justice Blackmun noted that, for nearly all such references in the Constitution, “use of the word is such that it has application only postnatally. None indicates, with any assurance, that it has any possible prenatal application.”The Court legalized abortion by ruling that state laws could not restrict it during the first three months of pregnancy. Based on 4th Amendment rights of a person to be secure in their persons. |
| U. S. v. Richard Nixon (1974) |  | A grand jury returned indictments against seven of President Richard Nixon's closest aides in the Watergate affair. The special prosecutor appointed by Nixon and the defendants sought audio tapes of conversations recorded by Nixon in the Oval Office. Nixon asserted that he was immune from the subpoena claiming "executive privilege," which is the right to withhold information from other government branches to preserve confidential communications within the executive branch or to secure the national interest. Decided together with Nixon v. United States. | Is the President's right to safeguard certain information, using his "executive privilege" confidentiality power, entirely immune from judicial review? | In an 8-0 decision, the court rejected Richard Nixon’s claim to an absolutely unqualified privilege against any judicial process. |
| Bakke v. Regents of the University of California (1978) | Equal Protection | Allan Bakke, a thirty-five-year-old white man, had twice applied for admission to the University of California Medical School at Davis. He was rejected both times. The school reserved sixteen places in each entering class of one hundred for "qualified" minorities, as part of the university's affirmative action program, in an effort to redress longstanding, unfair minority exclusions from the medical profession. Bakke's qualifications (college GPA and test scores) exceeded those of any of the minority students admitted in the two years Bakke's applications were rejected. Bakke contended, first in the California courts, then in the Supreme Court, that he was excluded from admission solely on the basis of race | Did the University of California violate the Fourteenth Amendment's equal protection clause, and the Civil Rights Act of 1964, by practicing an affirmative action policy that resulted in the repeated rejection of Bakke's application for admission to its medical school? | Ambiguous ruling by a badly divided court that dealt with affirmative action programs that used race as a basis of selecting participants. The court general upheld affirmative action, but with a 4/4/1 split, it was a very weak decision. |
| Wallace v. Jaffree (1985) | 1st Amendment | An Alabama law authorized teachers to conduct regular religious prayer services and activities in school classrooms during the school day. Three of Jaffree's children attended public schools in Mobile. | Did Alabama law violate the First Amendment's Establishment Clause? | This court decision invalided an Alabama law providing a moment for silent prayer in public schools. Rehnquist dissented, contending that the belief that the founders intended to erect a "wall of separation" between church and state was misguided. |
| **The Rehnquist Court (1986-2005)**  |
| Texas v Johnson (1989) | 1st AmendmentFree Speech Clause:Flag Burning | In 1984, in front of the Dallas City Hall, Gregory Lee Johnson burned an American flag as a means of protest against Reagan administration policies. Johnson was tried and convicted under a Texas law outlawing flag desecration. He was sentenced to one year in jail and assessed a $2,000 fine. After the Texas Court of Criminal Appeals reversed the conviction, the case went to the Supreme Court. | Is the desecration of an American flag, by burning or otherwise, a form of speech that is protected under the First Amendment? | It was a 5-4 decision. This case found flag-burning to be a protected form of political speech under the First Amendment. Rehnquist wrote one of two dissents in this 5-4 decision, saying that the flag is "the visible symbol embodying our Nation" ... "not simply another 'idea' or 'point of view' competing in the marketplace of ideas." |
| Employment Division v Smith (1990) | Equal Protection:Free Exercise of Religion(Peyote Case) | Two Native Americans who worked as counselors for a private drug rehabilitation organization, ingested peyote -- a powerful hallucinogen -- as part of their religious ceremonies as members of the Native American Church. As a result of this conduct, the rehabilitation organization fired the counselors. The counselors filed a claim for unemployment compensation. The government denied them benefits because the reason for their dismissal was considered work-related "misconduct." The counselors lost their battle in state court. But the U.S. Supreme Court vacated the Oregon Supreme Court's judgment against the disgruntled employees, and returned the case to the Oregon courts to determine whether or not sacramental use of illegal drugs violated Oregon's state drug laws (485 U.S. 660 (1988)). On remand, the Oregon Supreme Court concluded that while Oregon drug law prohibited the consumption of illegal drugs for sacramental religious uses, this prohibition violated the free exercise clause. The case returned to the U.S. Supreme Court in this new posture | Can a state deny unemployment benefits to a worker fired for using illegal drugs for religious purposes? | The Court, on a 5 to 4 vote, overruled years of case-law on the meaning of the free exercise clause and held that the enforcement of a neutral and generally applicable criminal law did not violate free exercise rights, even if someone's religious exercise was substantially burdened by the law. In the three decades prior to this case, the Court had repeatedly said that the government must show a compelling state interest and narrowly tailored means when it substantially burdens religious exercise. The case involved the question of whether unemployment benefits could be denied to a Native American who lost his job because he used peyote as part of a religious service. Justice O'Connor concurred in the result, but disagreed that the Court should abandon its prior test. |
| Planned Parenthood v. Casey (1992) | Due ProcessRight to Privacy: Right to an Abortion | The Pennsylvania legislature amended its abortion control law in 1988 and 1989. Among the new provisions, the law required informed consent and a 24 hour waiting period prior to the procedure. A minor seeking an abortion required the consent of one parent (the law allows for a judicial bypass procedure). A married woman seeking an abortion had to indicate that she notified her husband of her intention to abort the fetus. These provisions were challenged by several abortion clinics and physicians. A federal appeals court upheld all the provisions except for the husband notification requirement | Can a state require women who want an abortion to obtain informed consent, wait 24 hours, and, if minors, obtain parental consent, without violating their right to abortions as guaranteed by Roe v. Wade? | Although he wrote one of two dissents in Roe v. Wade, in this Pennsylvania case he was not so alone, although the constitutional right to an abortion was upheld 5-4.  |
| United States v. Lopez (1995) | Commerce Clause | Alfonzo Lopez, a 12th grade high school student, carried a concealed weapon into his San Antonio, Texas high school. He was charged under Texas law with firearm possession on school premises. The next day, the state charges were dismissed after federal agents charged Lopez with violating a federal criminal statute, the Gun-Free School Zones Act of 1990. The act forbids "any individual knowingly to possess a firearm at a place that [he] knows...is a school zone." Lopez was found guilty following a bench trial and sentenced to six months' imprisonment and two years' supervised release. | s the 1990 Gun-Free School Zones Act, forbidding individuals from knowingly carrying a gun in a school zone, unconstitutional because it exceeds the power of Congress to legislate under the Commerce Clause? | Rehnquist wrote the majority opinion in this case, which declared unconstitional the Gun Free School Zones Act of 1990; the Act gave schools a 1,000-foot "gun-free" perimeter. Rehnquist's ruling states that Congress can only regulate commerce: its channels and instruments as well as substantive actions. His argument, that if the government could regulate guns in schools as though they were commerce, is errily like Sandra Day O'Connor's 2005 remarks on Kelo v. New London: "Nothing is to prevent the State from replacing any Motel 6 with a Ritz-Carlton, any home with a shopping mall, or any farm with a factory." |
| Gore v. Bush (2000) | Equal Protection:Vote Counting | Following the U.S. Supreme Court's decision in Bush v. Palm Beach County Canvassing Board, and concurrent with Vice President Al Gore's contest of the certification of Florida presidential election results, on December 8, 2000 the Florida Supreme Court ordered that the Circuit Court in Leon County tabulate by hand 9000 contested ballots from Miami-Dade County. It also ordered that every county in Florida must immediately begin manually recounting all "under-votes" (ballots which did not indicate a vote for president) because there were enough contested ballots to place the outcome of the election in doubt. Governor George Bush and his running mate, Richard Cheney, filed a request for review in the U.S. Supreme Court and sought an emergency petition for a stay of the Florida Supreme Court's decision. The U.S. Supreme Court granted review and issued the stay on December 9. It heard oral argument two days later. | Did the Florida Supreme Court violate Article II Section 1 Clause 2 of the U.S. Constitution by making new election law? Do standardless manual recounts violate the Equal Protection and Due Process Clauses of the Constitution? | The Court, on a 5 to 4 vote, decided to stop the recounting in 2000 presidential election in Florida, effectively giving Florida's electoral votes-- and with it, the election--to George W. Bush. Five members of the Court found that the Florida Supreme Court's recount order, recounting only certain types of ballots in only some of Florida's counties, violated the equal protection rights of Florida voters in other counties to have their "overvotes" and "undervotes" treated the same way. Two other justices, Breyer and Souter, also found the Florida Supreme Court's order to violate equal protection, but unlike the five justices in the majority, they would have allowed the recount to continue under new guidelines.Moreover, the Florida decision was fundamentally right; the Constitution requires that every vote be counted. |
| Boy Scouts of America v Dale (2000) | Freedom of Speech:State Ban on Discrimination Against Gays & Freedom Not to Associate | The Boy Scouts of America revoked former Eagle Scout and assistant scoutmaster James Dale's adult membership when the organization discovered that Dale was a homosexual and a gay rights activist. In 1992, Dale filed suit against the Boy Scouts, alleging that the Boy Scouts had violated the New Jersey statute prohibiting discrimination on the basis of sexual orientation in places of public accommodation. The Boy Scouts, a private, not-for-profit organization, asserted that homosexual conduct was inconsistent with the values it was attempting to instill in young people. The New Jersey Superior Court held that New Jersey's public accommodations law was inapplicable because the Boy Scouts was not a place of public accommodation. The court also concluded that the Boy Scouts' First Amendment freedom of expressive association prevented the government from forcing the Boy Scouts to accept Dale as an adult leader. | Does the application of New Jersey's public accommodations law violate the Boy Scouts' First Amendment right of expressive association to bar homosexuals from serving as troop leaders? | The Court, by a 5 to 4 vote, held that New Jersey violated the freedom of association rights (protected as an aspect of the free speech clause) of the Boy Scouts when it ordered the Boy Scouts to reinstate a scout leader the organization had dismissed because he was a homosexual. The Court found that the Boy Scouts had the right not to associate with persons who the organization believed would undermine its expressive values. |
| **Court Case** | **Topic** | **Circumstances / Historical Background** | **Constitutional Questions** | **Opinion of the Court** |
| Grutter v Bollinger (2003) | Equal Protection:Affirmative Action |  |  | The Court, by a 5 to 4 vote, upheld an affirmative action program used by the University of Michigan to determine admissions to its law school. The Court held that it was permissible to give some preference to racial minorities as part of a larger program to enhance diversity in the student body. The four dissenters believed that the program denied white applicants equal protection of the laws. |
| Hamdi v Rumsfield (2004) | Power of the President:Right of "Enemy Combatants" to Challenge Detention |  |  | The Court, by an 8 to 1 vote, held that persons classified as "enemy combatants" and held at Guantanamo after the 9-11 terrorist action had a constitutional right to challenge their classification despite a presidential order to the contrary. Justice Scalia contended that Hamdi had a right a criminal trial under the Sixth Amendment, while the other justices in the majority argued that the due process clause gave Hamdi a right to challenge his classification, but did not go so far as to hold that Hamdi had a right to a full-blown trial. |
| **The Roberts Court (2005-present)** |
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| Hamdan v Rumsfield (2006) | Power of the President:Military Commissions |  |  | The Court, by a vote of 5 to 3, ( C.J. Roberts recused himself) found that President Bush lacked the constitutional authority to authorize trial by military commission of prisoners held at Guantanamo. The Court ruled that in the absence of congressional authorization, the President had no implied authority under Article II to authorize trials using the process proposed. Three dissenters argued that Congress had "constitutionally eliminated jurisdiction over the case" and that therefore the case should be dismissed. Chief Justice Roberts, who participated in the decision below that the Court reviewed, recused himself.  |
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**U.S. Voting Rights**

When the Constitution was written, only white male property owners (about 10 to 16 percent of the nation's population) had the vote. Over the past two centuries, though, the term "government by the people" has become a reality. During the early 1800s, states gradually dropped property requirements for voting. Later, groups that had been excluded previously gained the right to vote. Other reforms made the process fairer and easier.

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| **1790** | Only white male adult property-owners have the right to vote. |
| **1810** | Last religious prerequisite for voting is eliminated. |
| **1850** | Property ownership and tax requirements eliminated by 1850. Almost all adult white males could vote. |
| **1855** | Connecticut adopts the nation's first [literacy test](http://www.infoplease.com/id/A0518709) for voting. Massachusetts follows suit in 1857. The tests were implemented to discriminate against Irish-Catholic immigrants. |
| **1870** | The [15th Amendment](http://www.infoplease.com/id/A0438916) is passed. It gives former slaves the right to vote and protects the voting rights of adult male citizens of any race. |
| **1889** | Florida adopts a [poll tax](http://www.infoplease.com/id/A0839551). Ten other southern states will implement poll taxes. |
| **1890** | Mississippi adopts a literacy test to keep African Americans from voting. Numerous other states—not just in the south—also establish literacy tests. However, the tests also exclude many whites from voting. To get around this, states add [grandfather clauses](http://www.infoplease.com/id/A0461771) that allow those who could vote before 1870, or their descendants, to vote regardless of literacy or tax qualifications. |
| **1913** | The [17th Amendment](http://www.infoplease.com/id/A0647938) calls for members of the [U.S. Senate](http://www.infoplease.com/id/A0857527) to be elected directly by the people instead of State Legislatures. |
| **1915** | Oklahoma was the last state to append a grandfather clause to its literacy requirement (1910). In *Guinn* v. *United States* the [Supreme Court](http://www.infoplease.com/id/A0847276) rules that the clause is in conflict with the 15th Amendment, thereby outlawing literacy tests for federal elections. |
| **1920** | The 19th Amendment guarantees [women's suffrage](http://www.infoplease.com/id/A0861989). |
| **1924** | Indian Citizenship Act grants all [Native Americans](http://www.infoplease.com/spot/aihm1.html) the rights of citizenship, including the right to vote in federal elections. |
| **1944** | The Supreme Court outlaws "white primaries" in *Smith* v. *Allwright* (Texas). In Texas, and other states, [primaries](http://www.infoplease.com/id/A0840125) were conducted by private associations, which, by definion, could exclude whomever they chose. The Court declares the nomination process to be a public process bound by the terms of 15th Amendment. |
| **1957** | The first law to implement the 15th amendment, the Civil Rights Act, is passed. The Act set up the Civil Rights Commission—among its duties is to investigate voter discrimination. |
| **1960** | In *Gomillion* v. *Lightfoot* (Alabama) the Court outlaws "[gerrymandering](http://www.infoplease.com/id/A0820654)." |
| **1961** | The 23rd Amendment allows voters of the [District of Columbia](http://www.infoplease.com/id/A0815651) to participate in presidential elections. |
| **1964** | The 24th Amendment bans the poll tax as a requirement for voting in federal elections. |
| **1965** | [Dr. Martin Luther King, Jr.](http://www.infoplease.com/spot/mlkbiospot.html), mounts a [voter registration drive](http://www.infoplease.com/spot/civilrightstimeline1.html#1964) in Selma, Alabama, to draw national attention to African-American voting rights. |
| **1965** | The Voting Rights Act protects the rights of minority voters and eliminates voting barriers such as the literacy test. The Act is expanded and renewed in 1970, 1975, and 1982. |
| **1966** | The Supreme Court, in *Harper* v. *Virginia Board of Elections*, eliminates the poll tax as a qualification for voting in any election. A poll tax was still in use in Alabama, Mississippi, Texas, and Virginia. |
| **1966** | The Court upholds the Voting Rights Act in *South Carolina* v. *Katzenbach*. |
| **1970** | Literacy requirements are banned for five years by the 1970 renewal of the Voting Rights Act. At the time, eighteen states still have a literacy requirement in place. In *Oregon* v. *Mitchell*, the Court upholds the ban on literacy tests, which is made permanent in 1975. [Judge Hugo Black](http://www.infoplease.com/id/A0807740), writing the court's opinion, cited the "long history of the discriminatory use of literacy tests to disenfranchise voters on account of their race" as the reason for their decision. |
| **1971** | The 26th amendment sets the minimum voting age at 18. |
| **1972** | In *Dunn* v. *Blumstein*, the Supreme Court declares that lengthy [residence requirements](http://www.infoplease.com/id/A0781452) for voting in state and local elections is unconstitutional and suggests that 30 days is an ample period. |
| **1995** | The Federal "[Motor Voter Law](http://www.infoplease.com/id/A0544673)" takes effect, making it easier to register to vote. |
| **2003** | Federal Voting Standards and Procedures Act requires states to streamline registration, voting, and other election procedures. |
| **2013** | In *Shelby County v. Holder*, the Supreme Court strikes down Section 4 of the Voting Rights Act, which established a formula for Congress to use when determining if a state or voting jurisdiction requires prior approval before changing its voting laws. Under Section 5 of the act nine—mostly Southern—states with a history of discrimination must get clearance from Congress before changing voting rules to make sure racial minorities are not negatively affected. While the 5–4 decision did not invalidate Section 5, it made it toothless. Fallout from the ruling was swift, with several states quickly moving to change their voting laws. |