

COVERING AMERICA

A Narrative History of a Nation's Journalism



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Major Legal Issues in American Journalism:

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- 1735 **The trial of John Peter Zenger**
Charged with seditious libel, New York printer John Peter Zenger is acquitted by a jury on the grounds that the criticism of the governor he published was true.
- 1798 ***United States v. Benjamin Bache***
Ben Franklin's grandson is charged with sedition and dies while awaiting trial.
- 1861 **Executive Order**
Citing the wartime emergency, President Lincoln authorizes the suppression of opposition newspapers during the Civil War.
- 1919 ***Schenck v. United States*** (249 U.S. 47)
Freedom of speech is not absolute and must be considered in context; in wartime, that can mean restrictions on speech that poses a "clear and present danger."
- 1919 ***Debs v. United States*** (249 U.S. 211)
Under the Schenck standard, the Socialist leader Eugene V. Debs could be jailed for giving an anti-war speech in wartime.
- 1919 ***Abrams v. United States*** (250 U.S. 616)
Under the Schenck standard, a group of Russian anarchists could be prevented from urging American munitions workers to stop making bullets intended to be

- used against the Russian Revolution, prompting Justice Holmes to dissent and endorse a “free trade in ideas.”
- 1925 ***Gitlow v. New York*** (268 U.S. 652)
The First Amendment applies to the states.
- 1931 ***Near v. Minnesota*** (283 U.S. 697)
Limited the power of a state to criminalize publication by treating provocative writing as a “nuisance.”
- 1937 ***Associated Press v. NLRB*** (301 U.S. 103)
The First Amendment does not prevent reporters from joining labor unions.
- 1943 ***NBC v. United States***
Supported FCC power to regulate broadcasting so as to prevent the formation of a monopoly by NBC and its affiliates. One result was the creation of ABC.
- 1945 ***Associated Press v. United States*** (326 U.S. 1)
The by-laws of the AP constituted a restraint of trade, and the news cooperative must be open to all comers.
- 1951 ***Dennis v. United States*** (341 U.S. 494)
In a case against Communists, the court upheld the power of Congress to make it a crime to advocate the overthrow of the U.S. government.
- 1964 ***Times v. Sullivan*** (376 U.S. 254)
Landmark case applying a First Amendment test for libel suits.
- 1969 ***Red Lion Broadcasting v. FCC*** (395 U.S. 367)
The “fairness doctrine” requiring political balance in broadcasting is upheld.
- 1974 ***Gertz v. Robert Welch Inc.*** (418 U.S. 323)
Applied the Sullivan standard to “public figures.”
- 1971 ***New York Times Co. v. United States*** (403 U.S. 713)
The “Pentagon Papers” case, limiting prior restraint.
- 1972 ***Branzburg v. Hayes*** (408 U.S. 665)
By one vote, Court denied reporters the right to “shield” their confidential sources from public disclosure.
- 1976 ***Nebraska Press Assn v. Stuart*** (427 U.S. 539)
Judges who seek to protect fair trials by imposing “gag orders” have to meet a high standard.
- 1978 ***FCC v. Pacifica*** (438 U.S. 726)
Ruling on the “Seven Dirty Words” skit by comedian George Carlin, the Court upheld the FCC’s power to regulate speech that is broadcast over public airwaves.
- 1980 ***Richmond Newspapers Inc. v. Virginia*** (448 U.S. 555)

The right of the public to attend criminal trials is guaranteed by the First Amendment and the Fourteenth Amendment.

- 1991 ***Masson v New Yorker Magazine*** (501 U.S. 496)
Under the First Amendment, journalists enjoy a certain amount of leeway in the accuracy of quoted materials, and the court declined to step in as an ultimate editor.
- 1997 ***Reno v. ACLU*** (No. 96-511)
The Communications Decency Act, which attempted to protect minors from harmful material on the Internet, was struck down as a violation of the First Amendment.
- 2005 **Judith Miller** contempt of court and jailing.
New York Times reporter Judith Miller is jailed for refusing to divulge the name of a source.
- 2012 ***United States v. Bradley Manning***
The court martial of the alleged leaker in the Wikileaks case. TBD.