

Amendments & Court Cases

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First Amendment

- Freedom of religion, speech, press, and assembly.
- Protects civil liberties of individuals in the US.
- People can freely express their opinions, their religion, and have the right to assemble peacefully. They can petition the government for a redress of grievances.

Court Cases

Schenck v. US

- Schneck encouraged young men to resist the draft and was convicted of violating the Espionage Act of 1917.
- Argued the 1st amendment protected his actions.
- The decision: He was guilty because he created a clear and present danger to armed forces/recruitment during war time.

Gitlow v. US

- Gitlow was a founding member of the communist party and published "left wing manifesto."
- Convicted for advocating the illegal overthrow of gov. through violence/force.
- The decision: Court ruled that the situation presented a clear and present danger and advocated the violent overthrow of the government.

NY Times co. v. US

- NY Times and Washington Post got ahold of Pentagon papers that showed that Johnson lied about the Vietnam War.
- NY Times published the papers and Federal District Court issued an injunction saying it was a threat to national security.
- The decision: the court overturned the injunction because the papers were not a large enough threat to the national security.

Buckley v. Valeo

- James L. Buckley claimed the Federal Election Campaign Act (FECA) had provisions that were unconstitutional and limited political contributions to candidates by individuals or groups.
- Francis R. Vale, secretary of the Senate, defended this case
- The decision: Corporations can set up as many PACs as they wish and donating money to political candidates is constitutionally protected free speech

Engel v. Vitale

- In New York schools, a prayer with the words "Almighty God.." was being recited.
- 10 parents complained saying it was in violation of the 1st Amendment and freedom of religion
- The decision: Supreme Court ruled in favor of the parents saying the government cannot favor one religion over any other (it was also in violation of the Establishment Clause)

Second Amendment

- Protects an individual's right to possess a firearm unconnected with militia service and to use the weapon for self-defense or other legal purposes
- Applies to federal and state governments as well as municipalities

Court Cases

DC v. Heller

- Verified individual right to gun ownership not related to military service
- Supreme Court decided that Framers counted right to keep and bear arms among fundamental rights
- Meant to be used for self-defense in the home

McDonald v. Chicago

- Invalidated Chicago's handgun ban
- 2nd Amendment applies to the states

Lewis v. US

- Convicted felons are forbidden to possess firearms due to Omnibus Crime Control and Safe Streets Act of 1968
- Upheld conviction of Lewis

US v. Miller

- Upheld 1934 National Firearms Act (regulated and taxed certain types of firearms)
- 2nd Amendment does not necessarily guarantee the right to keep a weapon that could be used for something other than self-defense
- 2nd Amendment renders militia effective

US v Cruikshank

- KKK members kept blacks from exercising 1st and 2nd Amendment right
- Rights existed before the Constitution
- Places limit on the Federal government
- States must protect fundamental rights of citizens when they are taken away by other citizens

Fourth Amendment

- Prohibits unreasonable search and seizure.
- Requires search warrants supported by a probable cause.
- Adopted as a response to the writ of assistance(used to enforce an order for the possession of lands) in the American Revolution.
- Exclusionary rule: Evidence obtained through a violation of the 4th Amendment is not admissible during trial.

Court Cases

Katz v. United States

- Katz conversation in a telephone booth was wiretapped by the government.
- The decision: Supreme Court ruled that Katz was innocent because an illegal search occurs when:
 - (a) person expects privacy
 - (b) society believes their expectation is reasonable
- Katz said his conversation in the telephone booth was private & society thinks that that expectation is reasonable.

Mapp v. Ohio

- Police forcefully searched Mapp's house even after a warrant was requested.
- The police thought there was a suspect from a bomb case at Mapp's house but found pornographic material instead. He was found guilty on that charge.
- The decision: Exclusionary rules apply so Mapp's conviction was overturned

Fifth Amendment

Rachael

- Rights of Accused Persons
- Says one can formally charge a person with committing a crime, if there is enough evidence to bring the accused person to trial
- Double jeopardy: may not be tried more than once for the same crime
- Guarantees that accused persons may refuse to answer questions on the ground that the answers might tend to incriminate them

Court Cases

Miranda v. Arizona

- Ernesto Miranda was arrested for kidnapping and sexual assault.
- He was given a 20 year sentence when he confessed he was guilty
- His conviction was overturned in a 5 to 4 victory favoring Miranda
- Reasoning: Convictions without proper procedure informing the accused may be overturned

Webster v. Reproductive Health Services

- Missouri passed restrictions on abortion
- Law prohibited drs. from aborting fetus believed to be viable, and prohibited use of public employees and facilities for abortions unless a mother's life was in danger
- District Court ruled this unconstitutional
- Decision: Upheld the Missouri law and said viability test requirements were constitutional because the state's interest in protecting potential life could occur before the point of viability

Sixth Amendment

- Adopted as part of Bill of Rights in 1791
- In criminal prosecutions, the convicted has the right to a fair and quick trial
- The accused has the right to a counsel
- One cannot be made to sit in prison for years before they're given a trial
- The convicted must be given an unprejudiced jury for their trial
- The convicted has the right to obtain witnesses in his favor
- The trial must be held in public, in the area where the crime was committed

Court Cases

Gideon v. Wainwright (1963)

- Clarence Earl Gideon was convicted of breaking and entering in Florida
- Courts would not hire an attorney for him per his request, saying that it was only mandatory to hire attorneys (appointed counsel) for poor defendants
- Decision: 6th Amendment's assurance of an appointed counsel was a fundamental right; through Due Process Clause (14th Amendment), states must follow 6th Amendment.
- Gideon had the right to a court-appointed counsel
- overruled *Betts v. Brady* (1942), which ruled that 6th Amendment only prevented state from intruding in convict's request for a counsel

Miranda v. Arizona (1966)

- 5th and 6th Amendment
- Ernesto Miranda, arrested for kidnapping and sexual assault, signed confession before being told his protection against self-incrimination, as well as his right to counsel
- Found guilty, due to confession, and given 20 year sentence
- Decision: Overturned 5 to 4 (5 in favor, 4 against); Chief Justice Earl Warren- "fundamentals of fairness" said that cases may be overturned if accused are not informed of their rights.
- The Miranda Warning, created from this case: "You have the right to remain silent. Anything you say can and will be used against you in a court of law. You have the right to speak to an attorney, and to have an attorney present during any questioning. If you cannot afford a lawyer, one will be provided for you at a government expense."

Eighth Amendment

Zach

- The CRUEL AND UNUSUAL PUNISHMENTS CLAUSE restricts the severity of punishments that state and federal governments can place on people who have been convicted of a criminal offense.
- The Excessive Fines Clause limits the amount that state and federal governments can fine a person for a particular crime.
- The Excessive Bail Clause restricts judicial power in setting bail for the release of people accused of a criminal activity during the period after the arrest but before the trial.

Court Cases

Hope v. Pelzer

- An imprisoned man was tied to a hitching post and tortured by prison guards for misbehaving while on a chain gang
- Sued for violation of 8th Amendment
- Guards entitled to qualified immunity and were given benefit of doubt that they did not think their actions violated the cruel and unusual punishment clause

Hudson v. McMillian

- Inmate beaten by prison guards
- Appeals court found that "significant injury" must be demonstrated to prove a violation of the 8th Amendment
- SC overturned, saying that motives behind use of force were more important than physical injury

Ingraham v. Wright

- Questioned use of corporal punishment in Florida public schools
- Punishments were not found to violate the 8th Amendment because the Founders meant for the Amendment to be used in the criminal justice context

Ninth Amendment

Sienna

- Protects the peoples rights not stated in the constitution.
- Along with a bill of rights, Anti-Federalists wanted to make sure that the peoples other rights wouldn't be abused.
- Generally regarded to courts as denying the expansion of the government.

Court Cases

Griswold v. Connecticut

- Connecticut prohibited the use of contraceptives.
- Decision: SC invalidated the law because it violated the ninth amendment - the first time they decided the Constitution includes a right to privacy like marital privacy.

Tenth Amendment

Rachael

- Powers reserved to the states
- Powers that are not delegated to the U.S. by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people
- Protects the people from an all-powerful federal government
- Provides that the states or the people retain all powers except those denied them or specifically granted to the federal gov.

Court Cases

Wickard v. Filburn

- Ruled COngress could regulate wheat production on a family farm that was for personal consumption
- Reasoning: Congress mandated production quotas on wheat farmers to regulate the price and keep it steady
- Under the commerce clause, it was able to regulate interstate trade

Printz v. U.S.

- SC ruled Congress could not force the States to conduct criminal background checks on gun purchasers
- Would have forced the States to use its own resources to accomplish the Federal mandate

FDR and his "New Deal" programs

- Helped Congress to create many new programs designed to get the economy rolling again
- A lot of people became employees of the federal government through this

Twelfth Amendment

- Describes the procedure to elect the vice president and president separately using the electoral college
- If no candidate wins a majority of the electoral votes, the House, with one vote per state, chooses the president and the Senate chooses the VP
- Election of 1800- Electors only had 2 maximum votes, one for a president and one for a VP
- Changed after that election in the 12th Amendment to give electors 2 votes for each office
- Election of 1824- House of Representatives chose the president after there was no majority in the electoral college

Court Cases

Jones v. Bush

- Although not a SC case, suit had to deal with electors not being allowed to vote for a presidential candidate and a VP candidate both from the same state as the elector
- The case was rejected because there was no specific and individualized injury from the alleged violation of the Twelfth Amendment and it was not proved that Cheney was actually a citizen of Texas

Thirteenth Amendment

Emily

- Forbids "involuntary servitude"- A person working for someone against their will
- Bans slavery in the United States and its territories
- Allows slavery "as punishment for crime"
- Adopted on December 6, 1865
- One of the Civil War (Reconstruction) Amendments (Changes to the Constitution following the Civil War; Thirteenth, Fourteenth, and Fifteenth Amendments)

Court Cases

Plessy v. Ferguson (1896)

- "Separate but equal" / Separate Car Act
- 1890- Louisiana law requires separate railroad cars for colored people and white people
- 1892- Homer Plessy sits in "white" car instead of "colored" car; taken to police when he refused to give up his seat
- Plessy said Separate Car Act violated 13th and 14th Amendments
- Decision: Guilty. Judge John Ferguson said the Separate Car Act was unconstitutional for interstate trains, and Plessy's train traveled only in Louisiana
- SC Decision: Guilty. Case had nothing to do with 13th Amendment, which deals with abolishing slavery
- SC said segregation was constitutional--initiated "separate but equal" facilities (overturned in Brown v. Board of Education)

Bailey v. Alabama (1911)

- Alonzo Bailey, an African American from Alabama, worked as a farm hand at The Riverside Company, but stopped after a month, breaking his contract and refusing to refund his earnings
- According to Alabama law, it was "intent to defraud"
- Supreme Court ruled that peonage ("debt servitude") laws violated the 13th Amendment's ban on indentured servitude

Fourteenth Amendment

Sienna

- Citizenship Clause: a broad definition of citizenship that discludes black Americans as citizens.
- Due Process Clause: Makes the Bill of Rights applicable to state and local governments not just at a federal level.
- Equal Protection Clause: requires each state to provide equal protection to all people.

Court Cases

Gitlow v. New York

- Gitlow, as a member of the communist party, was accused of wanting to overthrow the government.
- He said New York was violating his 1st amendment rights via the 14th amendment.
- Decision: Found guilty although the court specifically states that due to the Due Process Clause of the 14th, the Bill of Rights applies to all levels of gov.

Brown v. Board of Education

- Brown's daughter had to walk an extra mile to her colored school everyday.
- Brown fought that she should be able to go to the white school based on the Equal Protection Clause.
- Decision: said it was unconstitutional to segregate public schools under the 14th Equal Protection Clause because "segregation is always unequal."

Baker v. Carr

- Tennessee said that their rights were being deprived by the gov. by not re-apportioning districts based on the population growth.
- They stated they were denied Equal Representation under the 14th.
- Decision: SC ruled that it was not a political question because the case was justiciable (involved a constitutional issue.)

Roe v. Wade

- Single pregnant mother wants an abortion but in Texas abortion is illegal.
- She said that this law violated her right to personal privacy under the 14th amendment.
- Decision: SC ruled in favor of the woman (Roe) because of her right to privacy stated in the 14th.
- The laws of 46 states were affected.

UC Regents v. Bakke

- Bakke was rejected twice from UC Davis medical program because of race - they wanted diversity.
- He said that it violated the Equal Protection Clause.
- Decision: SC ruled that racial quotas and Affirmative Actions violate the 14th Equal Protection Clause.

Lawrence v. Texas

- Two men were arrested under the Homosexual Conduct Law of Texas for having consensual intercourse in their home.
- Decision: SC ruled that states cannot prohibit consensual intercourse. Under the Due Process Clause in the 14th, all Americans have a right to privacy in their own homes.
- Ended up declaring 13 other states homosexual laws unconstitutional as well.

Fifteenth Amendment

Rachael

- The right to vote
- "The right of citizens to vote shall not be denied on account of race, color, or previous condition of servitude"
- The right to vote not left to the state
- Congress was given the power to enforce this amendment and in the 1950's and 1960's, it passed stronger laws to end racial discrimination in voting rights

Court Cases

Guinn v. U.S.

- Dealt with the provisions of state constitutions that set qualifications for voters
- Struck down the "grandfather clause" in Oklahoma because it discriminated against blacks and went against the 15th Amendment
- SC affirmed the convictions and said the Oklahoma law was "a bald attempt to disfranchise blacks"

Sixteenth Amendment

Emily

- Gives Congress the power to establish an income tax
- Originally started out as a flat rate tax but was later changed to be a graduated system based on income

Court Cases

Brushaber v. Union Pacific Railroad

- Upheld the the Revenue Act of 1913 which imposed income taxes that were not apportioned among the states according to each state's population
- The Revenue Act does not violate due process or the uniformity clause
- Noted in the case that Congress had the ability to tax incomes before the 16th Amendment

Stanton v. Baltic Mining Company

- Stanton argued that the income tax was a direct tax on the mine's capital because of a depletion of ore
- The Supreme Court rejected all claims by Stanton and upheld the constitutionality of the income tax under the 1913 Revenue Act

Peck and Co. v. Lowe

- The Sixteenth Amendment does not extend a new power of taxation, but removes occasion for apportioning taxes on income among the states
- Net income of a corporation derived from exporting goods from the states and selling them abroad is subject to be taxed under the Income Tax Law

Nineteenth Amendment

Emily

- Drafted by Susan B. Anthony and Elizabeth Cady Stanton in 1878
- Adopted on August 18, 1920
- United States citizens are allowed to vote in any state regardless of their sex
- Culmination of women's suffrage movement
- The last and most influential amendments of the Progressive Era
- almost 150 years after Thomas Jefferson wrote "all men are created equal," women gain equal citizenship!

Court Cases

Leser v. Garnett

- Oscar Leser tries to stop 2 registered women in Baltimore, Maryland, claiming that Maryland did not adopt the 19th Amendment
- SC claims that the amendment was a federal function, and not subject to limitations by states
- Decision: the 2 women were allowed to be registered to vote in the state of Maryland

Minor v. Happersett

- Virginia Minor attempted to vote in Missouri in 1872, but was refused because she was a woman
- Minor brought charges against Reese Happersett, the registrar who had rejected her registration, claiming that it violated the 14th Amendment
- Missouri Supreme Court ruled that Constitution didn't give women the right to vote, it gave citizenship to former slaves
- United States Supreme Court upheld state court decisions in Missouri, saying that the Constitution did not grant nor forbade women's right to vote

Twentieth Amendment

- "Lame-Duck" Amendment
- Shortens the time between the president and VP election and inauguration. Also ends "lame-duck" sessions of Congress.
- Says Congress assembles once every year on January 3rd.
- If the president dies before taking office, the VP becomes the president
- If a presidential candidate dies while an election is being decided in the House, Congress can pass legislation to deal with the situation

- "Lame-duck" period: the time between the new president's succession of office and when the old president has to leave
- During this period, one President is in the process of leaving office and is very inefficient. The other President coming into office also does not have the power to make decisions effective until he officially takes office. Therefore, the time of these two events can be a very hectic time for the White House and the government.

Twenty-Second Amendment

- Adopted on July 1, 1971
- No person running for president can be elected for more than 2 terms, with 4-year terms
- A vice president that serves less than 2 years of a president's term is allowed 2 terms of his own if elected
- Historians say that Washington's decision not to have a 3rd term was one of the first indications to the Founders that a 2-term limit was a good method of combatting monarchy, and that's why the amendment was adopted
- Franklin D. Roosevelt was the only president to have served more than 2 terms (served almost 4 terms)

Court Case

U.S. Term Limits v. Thornton (1995)

- In Arkansas, the 73rd Amendment ("Term Limitation Amendment") tried to limit the number of terms for a Congressperson, because incumbency decreases voter participation, and focuses incumbent attention on reelection rather than representation
- 3 terms for House of Representatives, 2 terms for U.S. Senate
- Bobbie Hill of the League of Women Voters sued, saying the amendment was unconstitutional
- Arkansas Supreme Court agreed with Hill, declaring the amendment unconstitutional

Twenty-Fourth Amendment

Sienna

- Prohibits the revocation of voting rights due to non-payment of poll taxes.
- Prohibits Congress and the states to make a poll tax in order to vote in federal elections.

(poll tax: intended to marginalize black Americans from politics.)

Court Cases

Harman v. Forssenius

- Virginia tried to dodge the outlaw of poll taxes by waiving the tax for voters who filed a certificate of residency but still maintaining the tax itself.
- Decision: SC ruled it unconstitutional under the 24th Amendment.

Twenty-Fifth Amendment

Zach

- Vice President becomes President if the current President dies, resigns or is removed from office
- If Vice Presidency becomes vacant, the President may choose a new Vice President, who must be voted and approved by Congress
- The president may temporarily make the Vice-President the Acting President with a written declaration
- Vice President and members of the Cabinet can declare the President unfit to carry out the duties of the Presidency

Court Cases

The 25th Amendment has never been the subject of a Supreme Court Decision. It has been cited twice by the SC. It was used to illustrate the importance of the president in *Clinton v. Jones* and as evidence of the meaning of the phrase "executive departments" in *Freytag v. Commissioner*.

Twenty-Sixth Amendment

- Adopted July 1, 1971
- Lowered voting age from 21 to 18
- Passed near the end of the Vietnam War
 - If the soldiers in the war are old enough to serve in the army, they are old enough to vote in local, state, and federal elections
- Revision to the 14th Amendment, which made the voting age 21

Court Case

Oregon v. Mitchell (1970)

- John Mitchell, U.S. Attorney General, responded to Oregon's claim that lowering the voting age to 18 was unconstitutional
- Supreme Court ruled that Congress did not have the power to set voting restrictions for state elections
- States would have to have 2 sets of voting registries if states decided their own voting ages for state elections
- The 26th Amendment was passed the next year, which lowered the voting age in all elections to 18

Advice and Consent Clause

- Article II, Section 2 of the Constitution
- The President, the Commander and Chief of the army and navy has the power to make treaties, but only given 2/3 vote of Senators
- With the advice and consent of Senate, the President can appoint ambassadors, Supreme Court judges, ministers & consuls, and all other officials of the United States

Court Cases

Myers v. United States (1926)

- Postmaster Frank S. Myers removed from office by President Woodrow Wilson
- Myers argued that this violated a federal law of 1876 that stated the President needed the advice and consent of the Senate to remove him
- Chief Justice William Howard Taft sees in the Constitutional Convention notes that the President does have the power to dismiss executive-branch staff
- Court ruled statute unconstitutional - violated separation of powers between branches
- Tenure of Office Act created

Humphrey's Executor v. United States

- President Roosevelt dismissed William Humphrey, a member of the Federal Trade Commission, based on political differences
- Federal Trade Commission Act said the President may only dismiss officials based on "neglect of duty"
- The FTC's members were considered "quasi-legislative," not executive officers, which meant that their dismissal must be approved by Congress
 - Humphrey's firing was ruled improper

Full Faith and Credit Clause

Emily

- Article IV, Section 1 of the Constitution
- If the laws of one state conflict with policies of another, federal courts have been reluctant to force a state to enforce another state's law
- All states must recognize legislative acts, public records, and judicial decisions of other states
- Has been applied to orders of protection (i. e. Violence Against Women Act, Defense of Marriage Act, and child support)

Establishment Clause

Sienna

Prohibits the establishment of a national religion or a preference of a religion by Congress.

Court Cases

Epperson v. Arkansas

- Arkansas made it illegal to teach evolution in public schools.
- A biology teacher claimed it violated the establishment clause.
- Decision: SC ruled in favor of Epperson saying that by prohibiting the teaching of evolution they were actually advancing particular religious beliefs.

Abington v. Schemmp

- PA required ten verses of the Bible be read in public schools. MD allowed daily Bible reading and recitation.
- Decision: Found both states' plans violated the establishment clause because they were placing one religions teaching over others.

Supremacy Clause

Establishes the Constitution, federal statutes, and treaties as "supreme law of the land."

Court Cases

McCulloch v. Maryland

- Congress created a second national bank which many states did not like. Maryland therefore created a tax on any bank that wasn't of its state.
- A cashier, McCulloch, refused to pay the tax so he went to the SC. Maryland believed they had the right to tax any business in MD.
- Decision: In favor of McCulloch unanimously due to the supremacy clause and the fact that the tax interfered with the execution of constitutional power.

Elastic Clause

- 1st enumerated power
- Gives Congress the right to make all laws "necessary and proper" to carry out the powers expressed in the other clauses of Article I.
- It lets Congress "stretch" its powers to meet situations Founders could not have anticipated

Court Cases

McCulloch v. Maryland

- 1791-Federal Gov. chartered a Second Bank of the U.S.
- Controversy over a national bank for ideas of corruption, competition, and gov. overstepping its power
- Maryland, two years later, passed a law that put an extra tax on any bank not directly chartered by the state congress

McCulloch v. Maryland(Cont.)

- McCulloch refused to pay the tax and was fined.
- The decision: SC ruled in favor of McCulloch because the action of creating a bank was "necessary and proper". By taxing it, it went against congressional powers.

Commerce Clause

- The federal government (Congress) has the power to regulate commerce with foreign nations, interstate commerce, and commerce with the Indian tribes.
- The definition of commerce has been contested- some say it is simply trade or exchange, while others claim that it describes commercial and social intercourse between citizens of different states

Court Cases

Gibbons v. Ogden

- The power to regulate interstate commerce encompassed the power to regulate interstate navigation

Swift and Company v. US

- Business done even at local level could become part of a continuous “current” of commerce that involved the interstate movement of goods and services and could be regulated by the federal government

Schechter Poultry Corp. v. US

- Found National Industry Recovery Act to be unconstitutional when speaking of a poultry seller who solely did business in New York

NLRB v. Jones and Laughlin Steel Corp.

- Recognized broader uses of Commerce Clause
- Activity could be considered commerce if it had a “substantial economic effect” on interstate commerce or if the “cumulative effect” of one act could have an effect on such commerce.