

# 24.150 Liberalism, Toleration, and Freedom of Speech, Fall 2023

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these issues are nothing new!

Los Angeles Times

9 arrested as protesters gather at UC Berkeley for talk by conservative speaker Ben Shapiro



1/8 Protesters rally at Satherback Hall. (David Butler / For The Times)

BY JAVIER PANZAR, ALENE TCHKEMEDYAN | SAN DIEGO UNION TRIBUNE  
SEPT. 15, 2017 1:35 AM PT

The Student Uprising That Ushered In the Radical Sixties: The Berkeley Free Speech Movement



Panzar, Javier, and Alene Tchekmedyan. From "9 Arrested as Protesters Gather at UC Berkeley for Talk by Conservative Speaker Ben Shapiro." Los Angeles Times, September 15, 2017. © Los Angeles Times. All rights reserved. This content is excluded from our Creative Commons license. For more information, see <https://ocw.mit.edu/help/faq-fair-use/>.

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## United States Court of Appeals for the Fifth Circuit

United States Court of Appeals  
Fifth Circuit  
**FILED**  
September 8, 2023  
Lyle W. Cayce  
Clerk

No. 23-30445

STATE OF MISSOURI; STATE OF LOUISIANA; AARON KHERIATY;  
MARTIN KULLDORFF; JIM HOFT; JAYANTA BHATTACHARYA;  
JILL HINES,

*Plaintiffs—Appellees,*

JOSEPH R. BIDEN, JR.; VIVEK H. MURTHY; XAVIER BECERRA;  
DEPARTMENT OF HEALTH & HUMAN SERVICES; ANTHONY  
FAUCI; ET AL.,

*Defendants—Appellants.*

A group of social-media users and two states allege that numerous federal officials coerced social-media platforms into censoring certain social-media content, in violation of the First Amendment. We agree, but only as to some of those officials. So, we AFFIRM in part, REVERSE in part, VACATE the injunction in part, and MODIFY the injunction in part.



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**1989: Ayatollah sentences author to death**  
Iranian Muslim leader Ayatollah Khomeini has issued a death threat against British author Salman Rushdie and his publishers over the book *Satanic Verses*.

Scotland Yard is providing the author with specialist protection and advice and all 11,000 staff at publishers Viking have received internal memos about the potential danger.

Security has been increased at offices, bookshops and distribution depots.

Mr Rushdie's editorial director has said a promotional tour of America may have to be cancelled.

It is not true this book is a blasphemy against Islam  
Salman Rushdie

The Ayatollah - as Imam, or chief spiritual guide, of Shia Muslims across the world - broadcast a fatwa (edict) on Tehran Radio to eliminate the writer and declared the rest of the day should be one of mourning.

His message said: "I inform the proud Muslim people of the world that the author of the *Satanic Verses* book, which is against Islam, the Prophet and the Koran, and all those involved in its publication who are aware of its content are sentenced to death."



Public demonstrations highlight Islamic anger

Protests against the *Satanic Verses* took place across the world and several individuals were assaulted in connection with it.

Salman Rushdie spent the next nine years living in 30 secret locations across the UK.

He denied reports that police protection cost up to £11m a year.

In September 1989, the new Iranian President Mohammed Khatami publicly declared the state would not support the fatwa.

Mr Rushdie was able to make more public appearances, including a cameo in the film *Bridget Jones' Diary*.

However Islamic hardliners

From "On This Day 1950-2005, 14 February: 1989: Ayatollah Sentences Author to Death." © BBC. All rights reserved. This content is excluded from our Creative Commons license. For more information, see <https://ocw.mit.edu/help/faq-fair-use/>.

biographical tidbit

Rushdie's father, Khwaja Muhammad Din Khaliqi Dehlavi, took the name 'Rushdie' because he admired Ibn Rushd, 12th century Spanish-Arab Islamic philosopher

**Averroes  
Ibn Rushd**  
ابن رشد



Statue of Ibn Rushd in Córdoba, Spain

<b>Born</b>	14 April 1126 Córdoba, Al-Andalus, Almoravid Empire
<b>Died</b>	11 December 1198 (aged 72) Marrakesh, Almohad Caliphate
<b>Other names</b>	Abū l-Walīd Muḥammad ibn Aḥmad ibn Ruṣṣd The Commentator
<b>Era</b>	Medieval, Islamic Golden Age
<b>Region</b>	Islamic philosophy
<b>School</b>	Aristotelianism

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THE NEW YORK TIMES, SUNDAY, MARCH 5, 1989

## Rushdie's Book Is an Insult

By Jimmy Carter

**The cultural wound is difficult to heal.**

At the same time, we should be sensitive to the concern and anger that prevails even among the more moderate Moslems.

Ayatollah Khomeini's offer of paradise to Rushdie's assassin has caused writers and public officials in Western nations to become almost exclusively preoccupied with the author's rights.

While Rushdie's First Amendment freedoms are important, we have tended to promote him and his book with little acknowledgment that it is a direct insult to those millions of Moslems whose sacred beliefs have been violated and are suffering in restrained silence the added embarrassment of the Ayatollah's irresponsibility.

This is the kind of intercultural wound that is difficult to heal. Western leaders should make it clear that in protecting Rushdie's life and civil rights, there is no endorsement of an insult to the sacred beliefs of our Moslem friends.

To sever diplomatic relations with Iran over this altercation is an overreaction that could be quite costly in future years. Tactful public statements and private discussions could still defuse this explosive situation.

We must remember that Iranian and other fundamentalists are not the only Moslems involved. Around the world there are millions of others who are waiting for a thoughtful and constructive response to their concerns.

At the same time, we should be sensitive to the concern and anger that prevails even among the more moderate Moslems.

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Carter, Jimmy. From "Rushdie's Book Is an Insult," *New York Times*, March 5, 1989. © The New York Times Company. All rights reserved. This content is excluded from our Creative Commons license. For more information, see <https://ocw.mit.edu/help/faq-fair-use/>.

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## THE CHARLIE HEBDO AFFAIR: LAUGHING AT BLASPHEMY

By Emily Greenhouse  
September 28, 2012

A week ago today, France shuttered its embassies, consulates, cultural centers, and schools in twenty countries. The reason given was that a satirical newsweekly called *Charlie Hebdo* had published cartoons satirizing two very different films: "The Intouchables," just selected as France's Academy Awards entry in the foreign-language film category; and "Innocence of Muslims," a film less foreign to those who follow the news than it has any right to be.



Greenhouse, Emily. From "The Charlie Hebdo Affair: Laughing at Blasphemy," *New Yorker*, September 28, 2012. © Condé Nast. All rights reserved. This content is excluded from our Creative Commons license. For more information, see <https://ocw.mit.edu/help/faq-fair-use/>.

From *Charlie Hebdo*, September 19, 2012. © Charlie Hebdo. All rights reserved. This content is excluded from our Creative Commons license. For more information, see <https://ocw.mit.edu/help/faq-fair-use/>.

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## THE CHARLIE HEBDO AFFAIR: LAUGHING AT BLASPHEMY

By Emily Greenhouse  
September 28, 2012

As Salman Rushdie recently told the *New York Times*'s Charles McGrath, on the release of his memoir, "Joseph Anton"—which describes the ten years he lived in hiding in response to an Iranian fatwa over his novel "The Satanic Verses"—the debate over blasphemy is not purely static. McGrath asked Rushdie whether he thinks what happened to him changed anything.

Rushdie replied, "Some of the British Muslims now say, 'We think we were wrong.' Some of them for tactical reasons, but others are actually using the free-speech argument: 'If we want to say what we want, he has to be allowed to say what he wants.' So I think some little bit of learning has happened."

Greenhouse, Emily. From "The Charlie Hebdo Affair: Laughing at Blasphemy," *New Yorker*, September 28, 2012. © Condé Nast. All rights reserved. This content is excluded from our Creative Commons license. For more information, see <https://ocw.mit.edu/help/faq-fair-use/>.

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## Terrorists Strike Charlie Hebdo Newspaper in Paris, Leaving 12 Dead

By Dan Bilefsky and Maia de la Baume  
Jan. 7, 2015

PARIS — The police organized an enormous manhunt across the Paris region on Wednesday for three suspects they said were involved in a brazen and methodical midday slaughter at a satirical newspaper that had lampooned Islam.

The terrorist attack by masked gunmen on the newspaper, *Charlie Hebdo*, left 12 people dead — including the top editor, prominent cartoonists and police officers — and was among the deadliest in postwar France. The killers escaped, traumatizing the city and sending shock waves through Europe and beyond.

Bilefsky, Dan, and Maia de la Baume. "Terrorists Strike Charlie Hebdo Newspaper in Paris, Leaving 12 Dead." *New York Times*, January 7, 2015. © The New York Times Company. All rights reserved. This content is excluded from our Creative Commons license. For more information, see <https://ocw.mit.edu/help/faq-fair-use/>.

## Salman Rushdie on Ventilator Hours After Being Stabbed in Western New York

"The news is not good," the author's agent, Andrew Wylie, said in an emailed update Friday evening. He said Mr. Rushdie might lose an eye and his liver had been damaged. The celebrated author, who has long faced death threats, was stabbed by a 24-year old New Jersey man. Police said the motive was unclear.

Published Aug. 12, 2022 Updated Aug. 15, 2022

From "Salman Rushdie on Ventilator Hours After Being Stabbed in Western New York," *New York Times*, August 12, 2022. © The New York Times Company. All rights reserved. This content is excluded from our Creative

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## We Ignored Salman Rushdie's Warning

Words are not violence. Violence is violence.

Bari Weiss  
Aug 13  
2,165 813

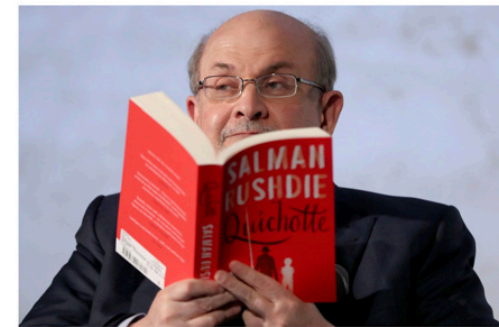


Marchers scream out anti-Rushdie chants in Derby, England, on March 15, 1989. (Mirrorpix/Getty Images)

Weiss, Bari. From "We Ignored Salman Rushdie's Warning," *The Free Press for Free People*, August 13, 2022. © The Free Press. All rights reserved. This content is excluded from our Creative Commons license. For more information, see <https://ocw.mit.edu/help/faq-fair-use/>.

## Cancel Culture Did Not Stab Salman Rushdie

Bari Weiss and other self-anointed defenders of free speech used the author's stabbing to accuse the left of rhetorical excess—and ignored the very relevant scourge of book-banning by the American right.



Salman Rushdie at a reading in Berlin, Germany, in 2019.

Hanlon, Aaron R. From "Cancel Culture Did Not Stab Salman Rushdie." *New Republic*, August 16, 2022. © *The New Republic*. All rights reserved. This content is excluded from our Creative Commons license. For more information, see <https://ocw.mit.edu/help/faq-fair-use/>.

Today

why Areopagitica?

selections from:

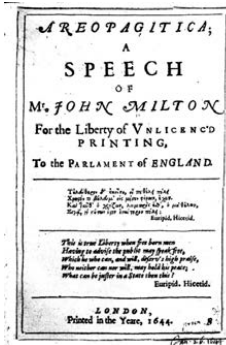
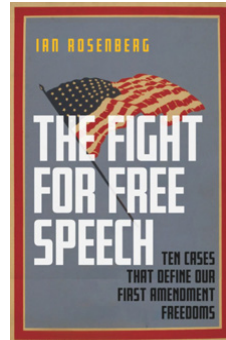


Image courtesy of the US Library of Congress Rare Book and Special Collections Division. This image is in the public domain. Source: [Wikimedia Commons](https://commons.wikimedia.org/wiki/File:Title_page_of_Areopagitica.jpg).



Rosenberg, Ian. *The Fight for Free Speech: Ten Cases That Define Our First Amendment Freedoms*. NYU Press, 2021. © NYU Press. All rights reserved. This content is excluded from our Creative Commons license. For more information, see <https://ocw.mit.edu/help/faq-fair-use/>.

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## Areopagus

From Wikipedia, the free encyclopedia

For other uses, see *Areopagus (disambiguation)*.

The **Areopagus** (/æriˈɒpəɡɪs/) is a prominent rock **outcropping** located northwest of the **Acropolis** in **Athens, Greece**. Its English name is the Late Latin composite form of the Greek name **Areios Pagos**, translated "Hill of **Ares**" (**Ancient Greek**: Ἄρειος Πάγος). The name *Areopagus* also referred, in classical times, to the Athenian governing council, later restricted to the Athenian judicial council or court that tried cases of deliberate homicide, wounding and religious matters, as well as cases involving arson of olive trees, because they convened in this location.<sup>[1][2]</sup> The war god Ares was supposed to have been tried by the other **gods** on the Areopagus for the murder of **Poseidon's** son **Halirrhothius** (a typical example of an **aetiological myth**).

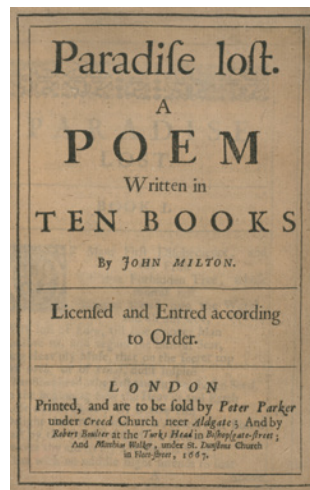
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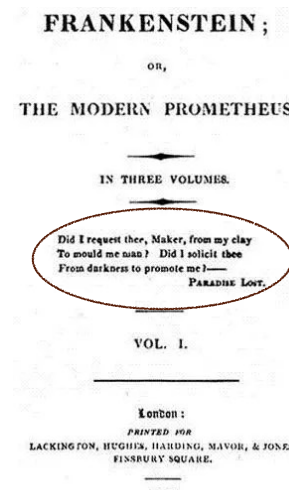
Portrait of John Milton by Mary Beale or Peter Lely. This image is in the public domain. Source: [Wikimedia Commons](https://commons.wikimedia.org/wiki/File:John_Milton.jpg).

John Milton, 1608-1674



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This image is in the public domain. Source: [Wikimedia Commons](https://commons.wikimedia.org/wiki/File:Title_page_of_Frankenstein.jpg).



Mary Wollstonecraft Shelley (1840) by Richard Rothwell. This image is in the public domain. Source: [Wikimedia Commons](https://commons.wikimedia.org/wiki/File:Mary_Shelley.jpg).

Mary Shelley, 1797-1851

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## English Civil War (1641-51)

the parliamentarians ('Roundheads') vs the royalists ('Cavaliers')

the King, Charles I, was beheaded in 1649, guilty of attempting to 'uphold in himself an unlimited and tyrannical power to rule according to his will, and to overthrow the rights and liberties of the people'

Milton wrote *The Tenure of Kings and Magistrates* (1649), 'proving that it is lawful, and hath been held so through the ages, for any, who has the Power, to call to account a Tyrant, or wicked King, and after due conviction, to depose, and put him to death'

From *The Tenure of Kings and Magistrates*, edited with Introduction and Notes by William Talbot Allison (New York: Henry Holt and Co., 1911). The text is in the public domain.



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## June 1643: An Ordinance for the Regulating of Printing

It is therefore Ordered by the Lords and Commons in Parliament, That no order or Declaration of both, or either House of Parliament shall be printed by any, but by order of one or both the said Houses: Nor other Book, Pamphlet, paper, nor part of any such Book, Pamphlet, or paper shall from henceforth be printed, bound, stitched or put to sale by any person or persons whatsoever, unless the same be first approved of and licensed under the hands of such person or persons as both, or either of the said Houses shall appoint for the licensing of the same, and entred in the Register Book of the Company of Stationers, according to ancient custom, and the Printer thereof to put his name thereto.

Milton, John. "Order Of The Long Parliament For The Regulating Of Printing, 14 June, 1643." From Modern History Sourcebook: John Milton (1608-1674): *Areopagitica*, 1643. © Paul Halsall. All rights reserved. This content is excluded from our Creative Commons license. For more information, see <https://ocw.mit.edu/help/faq-fair-use/>.

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1. Milton held that the 'order of licensing [requiring government permission before a book may be published] conduces nothing to the end for which it was framed.' What is that end? Why does it 'conduce' nothing to it?

From *Areopagitica, with a Commentary by Sir Richard C. Jebb and with Supplementary Material* (Cambridge at the University Press, 1918). The text is in the public domain.

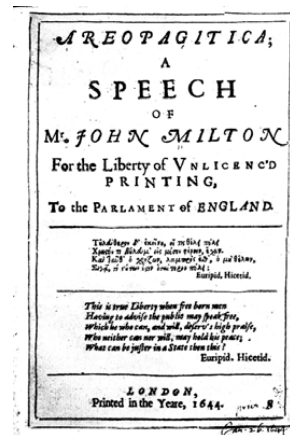


Image courtesy of the US Library of Congress Rare Book and Special Collections Division. This image is in the public domain. Source: [Wikimedia Commons](#).

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The end/aim: 'the suppressing of scandalous, seditious, and libellous books.' (p. 11)

From *Areopagitica, with a Commentary by Sir Richard C. Jebb and with Supplementary Material* (Cambridge at the University Press, 1918). The text is in the public domain.

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'conduces nothing':

(a) 'that infection which is from books of controversy in religion is more doubtful and dangerous to the learned than to the ignorant; and yet those books must be permitted untouched by the licenser.'

'those books...which are likeliest to taint both life and doctrine, cannot be suppressed without the fall of learning and of all ability in disputation.'

From *Areopagitica, with a Commentary by Sir Richard C. Jebb and with Supplementary Material* (Cambridge at the University Press, 1918). The text is in the public domain.

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(b) these books of controversy which must be permitted are 'most and soonest catching to the learned, from whom to the common people whatever is heretical or dissolute may quickly be conveyed.'

(c) 'evil manners are as perfectly learnt without books a thousand other ways which cannot be stopped' (p. 26)

From *Areopagitica, with a Commentary by Sir Richard C. Jebb and with Supplementary Material* (Cambridge at the University Press, 1918). The text is in the public domain.

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From *Areopagitica, with a Commentary by Sir Richard C. Jebb and with Supplementary Material* (Cambridge at the University Press, 1918). The text is in the public domain.

Licensing compared to 'the exploit of that gallant man who thought to pound up the crows by shutting his park gate.'



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2. Milton wrote: 'The scanning of error [is necessary to] the confirmation of truth.' And: 'scouting the regions of... falsity' is done most 'safely and with less danger' by 'reading all manner of tractates and hearing all manner of reason.' Later, famously: 'though all the winds of doctrine were let loose to play upon the earth, so Truth be in the field, we do injuriously...to misdoubt her strength. **Let her and Falsehood grapple; who ever knew Truth put to the worse, in a free and open encounter?**'

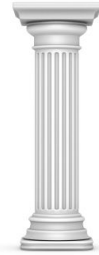
From *Areopagitica, with a Commentary by Sir Richard C. Jebb and with Supplementary Material* (Cambridge at the University Press, 1918). The text is in the public domain.

These are his premises in his argument against licensing. Are they true? Would they make for a good argument, not just against prior restraint, but also against punishment for speech after-the-fact?

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If we think to regulate printing, thereby to rectify manners, we must regulate all recreations and pastimes, all that is delightful to man. No music must be heard, no song be set or sung, but what is grave and Doric [simplest kind of ancient Greek architecture].

From *Areopagitica*, with a Commentary by Sir Richard C. Jebb and with Supplementary Material (Cambridge at the University Press, 1918). The text is in the public domain.



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## The Pentagon Papers

Internal Defense Dept history of US involvement in Vietnam, covers events going back to 1945. Completed in 1968.

Suggests that the war was unwinnable, and that winning (that is, establishing an independent South Vietnam) was not the government's goal.



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## The Whistleblower

Daniel Ellsberg had access to the papers as a Defense Dept analyst working at the RAND Corporation.

Secretly 'xeroxes' them at night, leaks them to the *NY Times* and the *Washington Post*.

Spends 13 days in hiding in Cambridge, MA before surrendering; expected to spend his life in prison.



Image courtesy of the Bernard Gotfryd collection at the Library of Congress. Source: [Wikimedia Commons](https://commons.wikimedia.org/wiki/File:Daniel_Ellsberg.jpg).



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RAND building, Santa Monica

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RECORD OF Ellsberg, Daniel CLASS 1952 HARVARD COLLEGE CAMBRIDGE 38, MASSACHUSETTS

RECEIVED A.B. degree Summa cum Laude ON June 19, 1952

HOME ADDRESS 344 Western Street, Detroit 2, Mich. (S/2) 600 Piquette St., Detroit 3, Mich.

DATE OF BIRTH June 17, 1929

PLACE OF BIRTH Bloomfield, Mich.

EDUCATION: High School, Bloomfield, Mich. (1947); Harvard College, Cambridge, Mass. (1952)

GRADUATION: Summa cum Laude (1952)

STUDENT BODY LEADER: Phi Beta Kappa (1952)

GRADUATION	GRADE	DATE	MARK	REMARKS
1948-49	English 201	A		
1948-49	Mathematics 1a1	A		
1948-49	Mathematics 1a2	A		
1948-49	Mathematics 1a3	A		
1948-49	Mathematics 1a4	A		
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1948-49	Mathematics 1a100	A		

Harvard College (1780-). Harvard College transcript of Daniel Ellsberg, June 19, 1952. Daniel Ellsberg Papers (MS 1093). Special Collections and University Archives, University of Massachusetts Amherst Libraries. © University of Massachusetts Amherst. All rights reserved. This content is excluded from our Creative Commons license. For more information, see <https://ocw.mit.edu/help/faq-fair-use/>.



Daniel Ellsberg shaking hands with Lyndon Baines Johnson, ca. 1964. Daniel Ellsberg Papers (MS 1093). Special Collections and University Archives, University of Massachusetts Amherst Libraries. © University of Massachusetts Amherst. All rights reserved. This content is excluded from our Creative Commons license. For more information, see <https://ocw.mit.edu/help/faq-fair-use/>.

Ellsworth and President Lyndon Johnson, 1964

### May Day protests, 1971



Ellsworth was in Vietnam, 1965-7, and became an assistant to the US Ambassador

Daniel Ellsberg holding a rifle in front of bunker, ca. 1965. Daniel Ellsberg Papers (MS 1093). Special Collections and University Archives, University of Massachusetts Amherst Libraries. © University of Massachusetts Amherst. All rights reserved. This content is excluded from our Creative Commons license. For more information, see <https://ocw.mit.edu/help/faq-fair-use/>.



Daniel Ellsberg, Howard Zinn, Noam Chomsky, Cindy Fredericks, and Marilyn Young at Mayday protests, May 3, 1971. Daniel Ellsberg Papers (MS 1093). Special Collections and University Archives, University of Massachusetts Amherst Libraries. © University of Massachusetts Amherst. All rights reserved. This content is excluded from our Creative Commons license. For more information, see <https://ocw.mit.edu/help/faq-fair-use/>.

Ellsberg (left), Noam Chomsky (middle)





NY Times, June 13, 1971. © The New York Times Company. All rights reserved. This content is excluded from our Creative Commons license. For more information, see <https://ocw.mit.edu/help/faq-fair-use/>.



(Bk16)CAMBRIDGE, MASS., JUNE 17--ELLSBERG RESIDENCE--Daniel Ellsberg, 40, alleged to have provided to the New York Times the top secret Pentagon report resided in an apartment on the top floor (top three windows) of this home at 10 Hilliard St., in Cambridge. Sidney Zion, a former Times reporter, identified Ellsberg as the source of the secret documents on a local radio interview in New York. Ellsberg was one of the "whiz kids" in the Defense Department under former Secretary Robert S. McNamara. (AP/WIDEWORLD)(jck51925ARM)71

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### after surrendering, June 1971



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### Nixon and the Plumbers



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damaged filing cabinet of Ellsberg's therapist (September 1971)



day after resignation, August 9, 1974

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Watergate complex, site of the the Plumbers' break-in to the DNC headquarters (1972)

## The First Amendment

'Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, **or of the press**; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.'

Note: now interpreted to mean **no government agent** (President as well as Congress; state and local as well as federal) may act so as to 'abridge the freedom' etc.

summary of 1A cases for next time

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## Abrams v US (1919)

During World War I, Jacob Abrams and four other Russian immigrants living in New York City had printed and distributed two leaflets condemning U.S. intervention in the Russian civil war involving the Bolsheviks (communists). The leaflets did not concern the war with Germany. In the course of an appeal to the 'workers of America,' one leaflet advocated a general strike and a resort to arms if the United States intervened in Russia.

O'Neill, Timothy J. From "*Abrams v. United States* (1919)." Free Speech Center at Middle Tennessee State University. January 1, 2009. © Middle Tennessee State University. All rights reserved. This content is excluded from our Creative Commons license. For more information, see <https://ocw.mit.edu/help/faq-fair-use/>.

<https://mtsu.edu/first-amendment/article/328/abrams-v-united-states>

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Justice John Clarke, writing for a seven-member majority of the Supreme Court, upheld the immigrants' sentence of 20 years in prison for violating a 1918 amendment to the 1917 Espionage Act. The law made it a crime willfully to speak or publish 'disloyal' language about the American political system or to incite or advocate 'any curtailment of production...necessary or essential to the prosecution of the war...with intent...to curtail or hinder the United States in the prosecution of the war.'

O'Neill, Timothy J. From "*Abrams v. United States* (1919)." Free Speech Center at Middle Tennessee State University. January 1, 2009. © Middle Tennessee State University. All rights reserved. This content is excluded from our Creative Commons license. For more information, see <https://ocw.mit.edu/help/faq-fair-use/>.

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## Gitlow v NY (1925)

Benjamin Gitlow, a socialist leader, was convicted under New York's criminal anarchy law for publishing 16,000 copies of the Left-Wing Manifesto, which advocated 'the proletariat revolution and the Communist reconstruction of society' through strikes and 'revolutionary mass action.'

The Supreme Court voted 7-2 to uphold the constitutionality of New York's Criminal Anarchy Statute of 1902 [under which Gitlow had been convicted], which prohibited advocating violent overthrow of the government.

Beaumont, Elizabeth. From "*Gitlow v. New York* (1925)." Free Speech Center at Middle Tennessee State University. January 1, 2009. © Middle Tennessee State University. All rights reserved. This content is excluded from our Creative Commons license. For more information, see <https://ocw.mit.edu/help/faq-fair-use/>.

<https://mtsu.edu/first-amendment/article/80/gitlow-v-new-york>

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## Whitney v CA (1927)

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Charlotte Anita Whitney...joined prohibitionist and suffragette organizations and the Socialist Party. In 1919 she attended the national convention of the Socialist Party in Chicago, where she was part of a radical group that split...and formed the Communist Labor Party (CLP) of America. Subsequently, she became an officer in the CLP of California, which was devoted to the enhancement of the political power and economic strength of the working class.

Belpedio, James R. From "*Whitney v. California* (1927)." Free Speech Center at Middle Tennessee State University. January 1, 2009. © Middle Tennessee State University. All rights reserved. This content is excluded from our Creative Commons license. For more information, see <https://ocw.mit.edu/help/faq-fair-use/>.

<https://mtsu.edu/first-amendment/article/263/whitney-v-california>

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Whitney was arrested and convicted of violating the California Criminal Syndicalism Act of 1919 for her role in helping to establish the CLP. California alleged that the CLP advocated the violent overthrow of the United States government. The mere act of assisting in the formation of the CLP, becoming a member, or assembling with others to teach syndicalism constituted an illegal act, a felony, under the law.

Whitney appealed to the Supreme Court, contending that it was neither her intent nor the intent of the other organizers that the party should become an advocate of any sort of violence.

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## US v Schwimmer (1929)

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Justice Edward T. Sanford ruled for a unanimous court that Whitney was a willing participant in the CLP and that...the goals of the CLP abused free speech by uttering words that were 'inimical to the public welfare, tending to incite crime, disturb the peace or endanger the foundations of organized government and threaten its overthrow.'

Belpedio, James R. From "*Whitney v. California* (1927)." Free Speech Center at Middle Tennessee State University. January 1, 2009. © Middle Tennessee State University. All rights reserved. This content is excluded from our Creative Commons license. For more information, see <https://ocw.mit.edu/help/faq-fair-use/>.

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Rosika Schwimmer, a Hungarian citizen, supported progressive, feminist, and pacifist causes, particularly during World War I...

In 1921 she fled political persecution in Hungary and moved permanently to the United States... In September 1926, she applied for naturalization. Statutes at the time required that applicants be 'attached to the principles of the Constitution' and take an oath to defend the United States 'against all enemies, foreign and domestic.'

Capozzola, Christopher. From "*United States v. Schwimmer* (1929)." Free Speech Center at Middle Tennessee State University. January 1, 2009. © Middle Tennessee State University. All rights reserved. This content is excluded from our Creative Commons license. For more information, see <https://ocw.mit.edu/help/faq-fair-use/>.

<https://mtsu.edu/first-amendment/article/455/united-states-v-schwimmer>

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Asked on a form if she were 'willing to take up arms in defense of this country,' Schwimmer replied that 'I would not take up arms personally.' Federal officials...denied her naturalization petition.

Writing for the majority, Justice Pierce Butler insisted that Schwimmer's refusal to take up arms disqualified her for citizenship.

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