FIRST AMENDMENT TO THE U.S. CONSTITUTION

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.
I am very pleased to introduce the CUNY/New York Times in Education 2014 calendar and website, “Supreme Decisions,” chronicling the history of the United States Supreme Court and how its interpretations of the Constitution have reflected our politics, culture, and society. Published in the wake of landmark decisions on marriage equality and voting rights, it is a timely and welcome contribution to the history of this powerful, unelected branch of our government.

As often as not, decisions of the Supreme Court have reflected public sentiment. This is evident in two of its most famous decisions: *Plessy v. Ferguson* (1896), which affirmed Jim Crow segregation, and *Brown v. Board of Education* (1954), which overturned *Plessy* and ruled that separate school systems for blacks and whites were inherently unequal.

Between 1898 and 1954, Constitutional amendments and Supreme Court decisions did not change the *Plessy* ruling. What had changed for many Americans and a unanimous Supreme Court was the meaning of racial equality. *Brown* was the culmination of a 20-year strategy by the NAACP Legal Defense Fund, led by Charles Houston and Thurgood Marshall, to broaden the meaning of the Constitution, and in particular the Fourteenth Amendment, to include racial equality and equal rights before the law.

This is but one example of the calendar’s approach to the history of the Supreme Court. In other months, which feature subjects ranging from the right to privacy to worker’s rights, the calendar documents how and why the court’s interpretations have changed over time, often transforming the nation.

“Supreme Decisions” is the 10th calendar/website developed in a partnership between The City University of New York and The New York Times in Education with the support of JPMorganChase, and produced by the LaGuardia and Wagner Archives at LaGuardia Community College. It is emblematic of CUNY’s educational mission and commitment to public service. The University takes great pride in this project and the partnerships that bring history to life.

— William P. Kelly
Interim Chancellor

Cover: Ben Shahn, “The First Amendment,” mural in the Woodhaven Branch Post Office, Queens, New York, 1940-41. Shahn’s mural for the Federal Arts Project depicts the First Amendment’s Four Freedoms—speech, religion, peaceful assembly and citizen’s right to petition. The torch of freedom of the Statue of Liberty commands the center of the mural. To the right is a courthouse on whose pediment is written “equal justice under law” and a printing press. To the left is President Franklin Roosevelt delivering the Four Freedoms, a church and a synagogue that exhibits the Ten Commandments, and workers assembling in protest.
Milestones for the Supreme Court and the Constitution

1700s

**September 17, 1787** Thirty-nine delegates to Philadelphia Convention sign the U.S. Constitution, in which Article III invests judicial authority in “one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish.”

**September 24, 1789** The Federal Judiciary Act establishes a federal court system, including the Supreme Court.

**February 2, 1790** The first Supreme Court meets in New York City.

**December 15, 1791** Bill of Rights (first ten amendments to the Constitution) is ratified by three-fourths of the states.

**February 7, 1795** The Federalist Congress passes the Alien and Sedition Acts, which permit the arrest, imprisonment and deportation of aliens during wartime. The Sedition Act makes it a crime for American citizens to “print, utter or publish . . . any false, scandalous, and malicious writing” about the government.

**July 6, 1798** The Federalist Congress passes the Alien and Sedition Acts, which permit the arrest, imprisonment and deportation of aliens during wartime. The Sedition Act makes it a crime for American citizens to “print, utter or publish . . . any false, scandalous, and malicious writing” about the government.

1800s

**March 2, 1801** Chief Justice John Marshall takes office and strengthens the authority of the Supreme Court by urging fellow justices to support a single majority opinion in all cases and by establishing that the Constitution is a set of laws that the Court may interpret.

**July 1, 1803** In Marbury v. Madison the Court rules a law passed by Congress unconstitutional, solidifying the power of judicial review and giving federal courts the authority to declare laws invalid.

**March 16, 1810** In Fletcher v. Peck, the Court rules unconstitutional a state law that repealed another state law that had authorized the selling of once Native lands, reaffirming a right to contract and minimizing Native title.

**February 2, 1819** Dartmouth College v. Woodward applies the Contract Clause of the Constitution to protect the charter granted to Dartmouth from intrusions by a state legislature.

**July 1, 1819** The Court in McCulloch v. Maryland recognizes Congressional power, relying on the necessary and proper clause, for the constitutional authority to charter a national bank.

**March 2, 1824** The Court in Gibbons v. Ogden relies upon the Commerce Clause of Article 1 of the Constitution to recognize Congressional power to pass statutes regarding commerce among the states, including on navigable waters.

**March 18, 1831** In Cherokee Nation v. the United States, the Court declines to hear the Cherokee case against the state of Georgia which sought to assert its jurisdiction over Cherokee lands within the state. Chief Justice Marshall defines the Cherokee as a “domestic dependent nation” rather than a sovereign nation.

**March 3, 1832** In Worcester v. Georgia, the Court rules that the state of Georgia has no jurisdiction in Cherokee territory and that the Cherokee represent independent political communities. President Andrew Jackson refuses to enforce the decision, setting the stage for the Trail of Tears, the forced removal of the Cherokee by federal troops.

**July 10, 1832** President Andrew Jackson vetoes legislation to recharter the Second Bank of the United States, claiming executive right to interpret the Constitution independently of the other branches of government.

**February 16, 1833** In Barron v. Baltimore the Court rules against its earlier strong nationalist opinions and argues that the Bill of Rights applies only to the federal government and that the states could protect individual rights in their own constitutions.

**March 28, 1836** Roger B. Taney takes the oath as chief justice of the Supreme Court of the United States.
1800s

March 1, 1842 In Dred Scott v. Sandford, the Court rules that blacks, including free blacks, were not citizens under the Constitution. Scott is prevented from being a citizen of the United States despite having lived in states that forbade slavery. In so doing, the Court rules the Missouri Compromise of 1820 (already repealed by Congress) unconstitutional. The Court also denies Congress the right to regulate interstate and international commerce according to the Commerce Clause.

January 29, 1850 The Compromise of 1850 determines the outcome of the recently acquired western lands following the Mexican War, by admitting California as a free state and strengthening the Fugitive Slave Act.

May 30, 1854 The Kansas-Nebraska Act divides the land west of Missouri into two territories, Kansas and Nebraska, allowing for popular sovereignty to deter the existence of slavery.

March 2, 1852 In Cooley v. Board of Wardens of the Port of Philadelphia, the Court rules that a Pennsylvania law did not conflict with Congress’s authority to regulate interstate and international commerce according to the Commerce Clause of the Constitution.

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1860s

May 20, 1862 The wartime Congress approves the Homestead Act, providing 160 acres of surveyed government land to settlers at little or no cost.

July 2, 1862 The Morrill Act marks the first federal aid to higher education, granting government land to states, whose sole would then finance institutions for training in agriculture and the mechanic arts.

January 1, 1863 President Abraham Lincoln issues the Emancipation Proclamation, declaring “all persons held as slaves” within rebellious areas “are and henceforth shall be free.”

December 6, 1865 The Thirteenth Amendment, abolishing slavery, is ratified.

April 3, 1866 In Ex parte Milligan, the Court acts on the federal government’s emergency powers during a time of war, ruling that President Lincoln has violated the Constitution by suspending the writ of habeas corpus and authorizing military tribunals.

July 9, 1868 The Fourteenth Amendment declares that all people born or naturalized in the United States are citizens of the country, thereby negating the decision in Scott v. Sandford. Section 1 prohibits states from depriving any person of due process of law or equal protection of the laws.

February 3, 1870 The Fifteenth Amendment states that the right to vote cannot be denied on the grounds of race, color or previous condition of servitude.

April 14, 1873 In the Slaughterhouse Cases the Court distinguishes between state and federal citizenship and declares that states are not required to provide their citizens with the same “privileges and immunities” they enjoy as national citizens.

April 15, 1873 In Bradwell v. Illinois, the Court upholds an Illinois Supreme Court decision barring women from being lawyers in court. The Court does not use the Fourteenth Amendment to overturn sex discrimination laws until 100 years later. Justice Joseph P. Bradley writes: “The paramount destiny and mission of woman is to fulfill the noble and benign offices of wife and mother. This is the law of the Creator.”

March 9, 1875 Minor v. Happersett holds that a state can deny a woman citizen the right to vote as the Court did not consider this right to be a privilege of national citizenship.

March 1, 1877 In Munn v. Illinois, the Court rules that a state can regulate a private business that affects a public interest.

May 6, 1882 Congress rejects the country’s “open-door” policy on immigration by passing the Chinese Exclusion Act, which prohibits Chinese laborers and miners from entering the United States.

October 15, 1883 In the Civil Rights Cases, the Court declares unconstitutional sections of the Civil Rights Act of 1875 that had prohibited racial discrimination in inns, public conveyances and places of public amusement. This narrow interpretation effectively withdraws the federal government from civil rights enforcement.
1800s

December 8, 1884 In <i>Chew Heong v. United States</i>, the Court determines that Heong, a Chinese laborer who had resided in the U.S. in 1880, but left in 1881, was entitled to reentry in 1884.

May 10, 1886 The Court in <i>Yick Wo v. Hopkins</i> decides that although a law may be racially neutral, it may be administered in such a racially discriminatory manner that it may violate the equal protection of persons — including noncitizens — under the Fourteenth Amendment.

February 4, 1887 Congress passes the Interstate Commerce Act, making the railroads the first industry under federal regulation.

February 8, 1887 Congress passes the Dawes Act, which aims to break up reservations and grant land allotments to individual Native Americans.

October 8, 1888 McVeigh Fuller takes the oath as chief justice of the Supreme Court of the United States.

March 3, 1890 The United States Supreme Court decides <i>Hans v. Louisiana</i>, interpreting the Eleventh Amendment to prohibit not only federal court lawsuits by citizens of a state against another state, but federal lawsuits by citizens of a state interpreting the Eleventh Amendment to prohibit not only federal court lawsuits by citizens of a state to enforce state laws against noncitizens.

July 2, 1890 President Benjamin Harrison signs the Sherman Anti-Trust Act, which aims to prohibit trusts that had come to dominate major industries and destroy competition.

March 3, 1891 The Judiciary Act of 1891 creates nine federal courts of appeal and effectively removes Supreme Court justices from the burden of “circuit riding.”

January 21, 1895 United States v. E.C. Knight Co. demonstrates the Court’s unwillingness to limit the power of monopolistic businesses; in this case the American Sugar Refining Company is allowed to acquire all the stock of its leading competitors and conduct a monopoly of manufacturing.

May 18, 1896 In <i>Plessy v. Ferguson</i>, the Court upholds a Louisiana statute that has established “separate but equal [railroad] accommodations for the white and colored races.”

April 25, 1898 <i>Williams v. Mississippi</i> asserts that a Mississippi law requiring citizens to pass a literacy test before being allowed to vote is valid; this law and similar ones passed by southern states effectively disenfranchises southern blacks.

1900s

April 17, 1905 In <i>Lochner v. New York</i>, the Court invalidates a New York State law that limited the working hours in bakeries to ten per day or sixty per week, as an infringement of the “liberty of contract” that was contained in the Fourteenth Amendment. This decision limits the ability of states to enact regulatory legislation.

February 24, 1908 <i>Muller v. Oregon</i> gives states the power to limit the maximum working hours of women based largely on the copious research of future Justice Louis Brandeis, which “proved” that long hours are harmful to a woman’s health, safety and morals. In the 1960s and 1970s future Justice Ruth Bader Ginsburg would lead efforts to overturn laws similar to this because they treated women differently than men.

February 3, 1913 The Sixteenth Amendment allows Congress to impose a federal income tax. Although some states do not have an income tax, all residents are subject to the federal income tax.

August 18, 1920 The Nineteenth Amendment is ratified, declaring that “the right of citizens of the United States to vote shall not be denied or abridged by the U.S. or by any State on account of sex.” This amendment nullifies all state laws that had previously failed to grant women the vote.

June 2, 1924 Congress grants citizenship to all Native Americans born in the United States.

June 16, 1933 President Franklin D. Roosevelt signs the National Industrial Recovery Act, designed to aid the nation’s economic recovery during the Great Depression. The Act suspends antitrust laws and orders companies to write industry-wide “codes of fair competition” that fixes wages and prices and establishes production quotas.

Native Americans received citizenship and the right to vote in 1924. Here President Calvin Coolidge poses with members of the Choctaw Nation at the White House, 1925.
1900s

July 6, 1935 The National Labor Relations (Wagner) Act guarantees employees the right to self-organization, to form, join, or assist labor organizations, [and] to bargain collectively.

August 15, 1935 The Social Security Act establishes a national old-age insurance system and provides funds to aid children, the blind and the unemployed.

April 12, 1937 In National Labor Relations Board v. Jones and Laughlin Steel Co. the Court upholds the National Labor Relations Act (Wagner Act) that authorizes Congress to intervene in activities affecting national commerce, including employer/union relations.

May 24, 1937 The United States Supreme Court holds the Social Security Act constitutional in Steward Machine Company v. Davis and in Helvering v. Davis.

April 25, 1938 In a case upholding the constitutionality of a federal law prohibiting “filled” milk from being distributed in interstate commerce, the United States Supreme Court renders its decision in United States v. Carolene Products Co., including the most famous footnote in constitutional history outlining the basis for strict scrutiny of suspect classifications.

June 3, 1940 In Minersville School District v. Gobitis, the Court upholds the constitutionality of expelling a Jehovah’s Witness’s child from school for refusing to salute the American flag in a daily ceremony.

February 19, 1942 President Franklin D. Roosevelt signs Executive Order 9066, compelling involuntary removal and detention of West Coast residents of Japanese ancestry.

June 1, 1942 Betts v. Brady rules that Betts is not entitled to legal defense in a non-capital case. This decision is later overturned in Gideon v. Wainwright (1962).

June 14, 1943 In West Virginia State of Education v. Barret the Court reverses its ruling in Minersville School District by applying the Free Speech Clause of the First Amendment rather than the Religion Clause and declares the flag salute to be a matter of speech.

April 3, 1944 Smith v. Allwright outlaws the “whites only” primary election declaring that a state cannot “permit a private organization to practice racial discrimination” in elections.

December 18, 1944 Korematsu v. United States rules Japanese Americans, regardless of their citizenship, can be interned based on Executive Order 9066.

May 3, 1948 In Shelley v. Kraemer, the Court invalidates enforcement of racial covenants in housing.

July 26, 1948 President Harry Truman issues Executive Order 9981, calling for the desegregation of the U.S. armed services.

December 20, 1948 In Gossuep v. Cleary, the Court upholds a Michigan law forbidding women from working in bars in cities with a population greater than 50,000 unless they are the wife or daughter of the owner. The Court repudiates this ruling in Craig v. Boren (1976), announcing that sex-based classifications are subject to “stricter scrutiny” under the Equal Protection Clause of the Fourteenth Amendment.


February 27, 1951 The Twenty-Second Amendment limits presidents to two elected terms.

June 2, 1952 The Court decides “The Steel Seizure Case,” Youngstown Sheet & Tube Co. v. Sawyer, holding unconstitutional President Harry Truman’s attempt to invoke his executive powers to resolve a labor dispute during the Korean War.

May 4, 1953 Terry v. Adams invalidates “self-governing, voluntary clubs” designed to disenfranchise blacks through a whites-only primary.

October 5, 1953 Earl Warren takes the oath as Chief Justice of the Supreme Court of the United States.

May 17, 1954 In Brown v. Board of Education the Court orders the desegregation of public schools, declaring that separate school systems for blacks and whites are inherently unequal.

May 3, 1954 The Court rules in Hernandez v. Texas that Mexican-American and all racial groups have equal protection under the Fourteenth Amendment.

June 17, 1957 In Yates v. U.S. the Court overturns the convictions of 14 Communist Party leaders convicted under the conspiracy provisions of the Smith Act, distinguishing between advocacy of an abstract doctrine and advocacy of action.


1900s

June 24, 1957 Roth v. United States defines obscenity as material whose “dominant theme taken as a whole appeals to the prurient interest” to the “average person, applying contemporary community standards.” Obscenity is not protected by the First Amendment.

September 24, 1957 President Dwight Eisenhower signs Executive Order 10730, placing the Arkansas National Guard under federal control. The Order sends 1,000 U.S. Army paratroopers to Little Rock to ensure the safe desegregation of Central High School.

September 12, 1958 The day after hearing argument, the United States Supreme Court renders its unanimous opinion in Cooper v. Aaron holding that the Arkansas officials were bound by federal court orders to desegregate the schools.

November 14, 1960 Gomillion v. Lightfoot rules that an Alabama law changing the city boundaries of the city of Tuskegee to eliminate almost all African-Americans was unconstitutional because it discriminates against African-American residents by denying them the vote in municipal elections.

December 5, 1960 In Boynton v. Virginia, the Court mandates desegregation of a bus station restaurant under the provisions of the Interstate Commerce Act. The Congress of Racial Equality (CORE) tested enforcement of this ruling by staging a Freedom Ride through the deep South in 1961.

June 19, 1961 Mapp v. Ohio overrules the decision in Wolf v. Colorado (1949) and extends the reach of the Fourth Amendment’s protection by prohibiting the use of evidence seized in illegal searches in state criminal trials.

March 18, 1963 Gideon v. Wainright guarantees the right to an attorney for defendants in criminal trials for serious offenses, even if they cannot afford one.

May 27, 1963 In Watson v. City of Memphis the Court orders the desegregation of city parks without undue delay.

January 23, 1964 The Twenty-Fourth Amendment forbids states and the federal government from imposing a “poll tax” in order to vote in a national election.

July 2, 1964 Congress passes the Civil Rights Act that forbids discrimination on the basis of sex as well as race and religion in hiring, promoting and firing. Title VII of the Act establishes the Equal Employment Opportunity Commission.

December 7, 1964 McLaughlin v. Florida invalidates a state ban on interracial cohabitation.

December 14, 1964 In Heart of Atlanta Motel v. United States the Court unanimously upholds Congressional ability to prohibit racial discrimination in a major test of the public accommodations provisions of the Civil Rights Act of 1964.

June 7, 1965 Griswold v. Connecticut reverses a state prohibition against the prescription, sale or use of contraceptives, even for married couples and articulates a constitutional right to privacy.

August 6, 1965 The Voting Rights Act of 1965 takes effect, enforcing the Fifteenth Amendment. “No voting qualification or prerequisite to voting . . . shall be imposed by any State or political subdivision to deny or abridge the right of any citizen of the U.S. to vote on account of race or color.”

June 13, 1966 In Miranda v. Arizona, Chief Justice Warren writes for the Court: “the person in custody must, prior to interrogation, be clearly informed that he has the right to remain silent, and that anything he says will be used against him in court; he must be clearly informed that he has the right to consult with a lawyer and to have the lawyer with him during interrogation, and that, if he is indigent, a lawyer will be appointed to represent him.”

June 12, 1967 The Court in Loving v. Virginia declares unconstitutional a state miscegenation law, criminalizing interracial marriages, as violating the equal protection clause.

February 24, 1969 In Tinker v. Des Moines Independent Community School District, the Court rules that the First Amendment rights of school students includes wearing black armbands as an anti-war protest.

June 23, 1969 Warren Burger takes the oath as Chief Justice of the Supreme Court of the United States.

June 7, 1971 A closely divided Court in Cohen v. California declares that there was a First Amendment right to wear a jacket with an expletive directed at military conscription, saying “one man’s vulgarity is another man’s lyric.”
1900s


November 22, 1971 In Reed v. Reed the Court denies unconstitutional a state law giving a preference to men over women regarding probate of the estates of deceased persons as violating the equal protection clause.

March 22, 1972 In Eisenstadt v. Baird, the Supreme Court declares unconstitutional a Massachusetts law limiting the distribution of contraceptives to married couples, establishing the right of unmarried individuals to obtain contraceptives.

June 29, 1972 The Court in Furman v. Georgia holds that the death penalty as it was being administered violated the Eighth Amendment’s prohibition of cruel and unusual punishment.

January 22, 1973 Roe v. Wade involves a challenge to a Texas law prohibiting all but lifesaving abortions. The Court rules that the Constitution’s right of privacy, grounded in the Fourteenth Amendment’s due process clause, includes abortion, evaluated by a trimester scheme during pregnancy.

March 21, 1973 The Court’s ruling in San Antonio Independent School District v. Rodriguez upholds a school-funding scheme, rejecting claims that education is a fundamental right and that differences in school funding violate equal protection.

June 21, 1973 In Miller v. California the United States Supreme Court articulates the standard, still operative, for declaring a work obscene and thus not protected by the First Amendment.

July 24, 1974 United States v. Nixon rules against the president’s use of executive power in commanding President Nixon to release tape recordings relevant to the criminal proceedings in the Watergate case.

June 16, 1975 The Court recognizes that commercial speech, including advertising, is protected by the First Amendment, in Bigelow v. Commonwealth of Virginia.

January 30, 1976 In Buckley v. Valeo, the Court construes money to be a form of speech protected by the First Amendment in the context of political campaigns. The Court makes a distinction between restrictions on individual contributions to political campaigns and candidates as constitutional, but restrictions on candidate expenditures as unconstitutional.

July 2, 1976 In five consolidated cases, generally known as Gregg v. Georgia, the United States Supreme Court upholds the death penalty schemes of some states, while declaring others unconstitutional. The Court declares that a capital punishment scheme must have objective criteria and appellate review, while allowing consideration of each individual defendant.

December 20, 1976 In Craig v. Boren, the Court settles on “intermediate” scrutiny under the Equal Protection Clause of the Fourteenth Amendment for sex-based classifications: less than racial classifications but more than ordinary scrutiny under the Equal Protection Clause of the Fourteenth Amendment.

June 28, 1978 In the first major test of affirmative action, Regents of the University of California v. Bakke rejects the use of racial quotas in admissions to state supported schools.

January 15, 1985 New Jersey v. T.L.O. rules that the Fourth Amendment’s prohibition on unreasonable searches and seizures applies to searches of students conducted by public school officials.

June 19, 1986 The first sexual harassment case heard by the Court, Meritor Savings Bank v. Vinson, determines that sexual harassment is a form of sexual discrimination under Title VII of the Civil Rights Act of 1964.

September 26, 1986 William H. Rehnquist takes the oath as Chief Justice of the Supreme Court of the United States.

June 19, 1987 Edwards v. Aguillard rules that a Louisiana law requiring that creation science be taught in public schools is unconstitutional.

June 21, 1989 Texas v. Johnson declares that burning the United States flag in protest is a protected form of symbolic speech under the First Amendment.

April 17, 1990 Employment Division, Department of Human Resources of Oregon v. Smith the Court rules that a state can deny unemployment benefits to an employee who was fired for using a banned substance, even though the use of that substance (peyote) is part of a religious ritual among Native Americans.

June 29, 1992 Casey v. Planned Parenthood upholds Roe v. Wade, but allows states to place greater restrictions on abortion rights, including parental notification and a 24-hour waiting period.

April 26, 1995 In United States v. Lopez, the Court rules for the first time in more than half a century that Congress did not have power to legislate under the Commerce Clause. In a 5-4 decision, the Court holds unconstitutional the Gun Free School Zones Act.

May 20, 1996 In Romer v. Evans, the Court rules unconstitutional Colorado’s Amendment 2, passed by voter initiative, that prohibited any policy protecting gays, lesbians, and bisexuals from discrimination.
1900s

June 26, 1996 In United States v. Virginia, the Court declares unconstitutional the male-only admission policy at the state-run Virginia Military Institute in a majority decision written by Justice Ruth Bader Ginsburg.

May 15, 2000 United States v. Morrison rules that parts of the Violence Against Women Act (1994) exceed congressional power under the Commerce Clause and under section 5 of the 14th Amendment to the Constitution.

2000s

December 12, 2000 The Court essentially decides the outcome of the presidential election in Bush v. Gore, ruling that the recount of Florida ballots cannot continue because it would deprive some voters of equal protection.

June 23, 2003 The Court in Grutter v. Bollinger upholds the University of Michigan Law School’s affirmative action plan, recognizing diversity in higher education as a compelling state interest.

June 26, 2003 Lawrence v. Texas strikes down a Texas statute making it a crime for persons of the same sex to engage in intimate sexual conduct as violating substantive due process.

June 28, 2004 In Hamdi v. Rumsfeld, the United States Supreme Court decides that “enemy combatants” being held at Guantanamo Bay who were United States citizens had a due process right to challenge their status.

June 27, 2005 In Van Orden v. Perry, the Court approves the constitutionality of placing a monument containing the Ten Commandments on the grounds of the state capitol in Austin, Texas, as not violating the Establishment Clause of the First Amendment.

September 29, 2005 John Roberts takes the oath as Chief Justice of the Supreme Court of the United States.

April 18, 2007 In Gonzales v. Carhart the Court reverses its course on abortion in a 5-4 decision, upholding the federal “Partial-Birth Abortion Act” that prohibited a procedure doctors use to perform abortions after approximately 12 weeks.

June 26, 2000 District of Columbia v. Heller rules that the Second Amendment protect an individual’s right to possess a firearm and use that weapon for traditionally lawful purposes, such as self-defense within the home.

January 21, 2010 In Citizens United v. Federal Election Commission, the Court rules 5-4 that under the First Amendment “corporate persons” enjoy the same rights as individuals to contribute to political campaigns.

May 24, 2010 In Lewis v. City of Chicago, the Court holds unanimously that a group of African-American applicants for firefighter had filed a timely charge of race discrimination against Chicago and that the city had violated Title VII of the Civil Rights Act of 1964.

June 28, 2010 In an extension of District of Columbia v. Heller (2008), the Court determines in McDonald v. Chicago that the Second Amendment’s right to bear arms for self-defense applies to the states.

June 28, 2012 The Supreme Court upholds the Affordable Care Act, in National Federation of Independent Businesses v. Sebelius, asserting that the requirement for most Americans to either obtain health insurance or pay a penalty was authorized by Congressional power, either under the Commerce Clause or the Taxing Clause.

June 17, 2013 Arizona v. Inter Tribal Council of Arizona, Inc. finds the National Voter Registration Act precludes states from requiring additional information from voting applicants beyond what is required in the federal form used to register voters for federal elections.

June 20, 2013 In American Express Co. v. Italian Colors Restaurant, the Court rules that the Federal Arbitration Act’s mandate favoring arbitration holds even when arbitrating a federal antitrust claim on an individual basis would be prohibitively expensive. This decision will likely enable courts to dismiss many future antitrust class actions.

June 25, 2013 Shelby County v. Holder interprets Section 4b of the Voting Rights Act of 1965 and ends the preclearance requirement for states and municipalities with a history of discrimination. Chief Justice Roberts writes that Congress cannot subject a state to preclearance because of discrimination forty years ago.

June 25, 2013 In Adoptive Couple v. Baby Girl, the Court rules that the Indian Child Welfare Act does not provide a non-custodial father custody rights, enabling a couple to adopt the child.

June 26, 2013 In United States v. Windsor the Court holds that Section 3 of Defense of Marriage Act (DOMA), limiting the federal interpretation of “marriage” and “spouse” to apply only to heterosexual unions, regardless of state laws, is unconstitutional. In a companion case decided the same day, Hollingsworth v. Perry, the Court decides that the parties before it do not have constitutional standing to raise the issue of same-sex marriage in California.

August 31, 2013 Justice Ruth Bader Ginsburg officiates at a same-sex marriage at a same-sex marriage in Washington, D.C.
Twelve of the 112 justices of the Supreme Court of the United States have had important ties to the City of New York. Three justices have strong ties to The City University of New York—Felix Frankfurter graduated from City College (1902), Antonin Scalia’s father was a professor of romance languages at Brooklyn College, and Sonia Sotomayor’s mother is a graduate of Hostos Community College, while her brother Juan graduated from City College. Elena Kagan graduated from Hunter College High School, where her mother Gloria taught and a brother Irving teaches.
The Court assumes that time will not permit an orderly judicial review of any disputed matters that might arise. But no one has doubted the good faith and diligence with which Florida election officials, attorneys for all sides of this controversy, and the courts of law have performed their duties. Notably, the Florida Supreme Court has produced two substantial opinions within 29 hours of oral argument. In sum, the Court’s conclusion that a constitutionally adequate recount is impracticable is a prophecy the Court’s own judgment will not allow to be tested. Such an untested prophecy should not decide the Presidency of the United States.

It is beyond dispute that children will often feel bound to submit to police questioning when an adult in the same circumstances would feel free to leave. Seeing no reason for police officers or courts to blind themselves to that commonsense reality, we hold that a child’s age properly informs the Miranda warnings. (See December 2014 for more on the Three Branches of Government.)

The states are at liberty, upon obtaining the consent of Congress, to make agreements with one another. . . . We find no room for doubt that they may do the like with Congress if the essence of their statehood is maintained without impairment.

It is one thing to impose a tax dependent upon the conduct of the taxpayers, or of the state in which they live, where the conduct to be stimulated or discouraged is unrelated to the fiscal need subserved by the tax in its normal operation, or to any other end legitimately national . . . It is quite another thing to say that a tax will be abated upon the doing of an act that will satisfy the fiscal need, the tax and the alternative being approximate equivalents. In such circumstances, if in no others, inducement or persuasion does not go beyond the bounds of power.

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The First Amendment’s core purpose is to foster a healthy, vibrant political system full of robust discussion and debate. . . . Campaign finance reform over the last century has focused on one key question: how to prevent massive pools of private money from corrupting our political system. If an officeholder owes his election to wealthy contributors, he may act for their benefit alone, rather than on behalf of all the people.

If the First Amendment means anything, it means that a State has no business telling a man, sitting alone in his own house, what books he may read or what films he may watch. Our whole constitutional heritage rebels at the thought of giving government the power to control men’s minds.

To pursue the concept of racial entitlement— even for the most admirable and benign of purposes—is to reinforce and preserve for future mischief the way of thinking that produced race slavery, race privilege and race hatred. In the eyes of government, we are just one race here. It is American.

For today, no less than before, we may seriously question the retributive value of executing a person who has no comprehension of why he has been singled out and stripped of his fundamental right to life. Similarly, the natural abhorrence civilized societies feel at killing one who has no capacity to come to grips with his own conscience or deity is still vivid today. And the intuition that such an execution simply offends humanity is evidently shared across this Nation.
For the past two centuries, the Supreme Court has adjudicated competing interpretations of the broadly worded U.S. Constitution. Unlike most courts, the Supreme Court has wide discretion regarding the cases it will decide. Thus, the cases heard often reflect current social values and opinion. When written in 1787, the Constitution elucidated the structure of our tripartite federal government, whose system of checks and balances allocated power between the different branches, and between the federal and the state governments. The hope was to divide power between branches and levels of government with the ultimate goal of protecting citizens against the threat of tyranny.

In the early years of the republic, the Supreme Court was not the powerful institution it is today. In 1803, Chief Justice John Marshall writing for the Court in Marbury v. Madison declared the power of the Court to consider and overturn any act of Congress the Court considered inconsistent with the Constitution.

The Constitution originally endorsed slavery and the withholding of political rights to women. Yet, over the past two centuries, the Supreme Court has heard many cases involving those marginalized due to race, religion, class, gender or political ideology and this interplay between the judicial system, the Constitution, and politics has helped shaped the Constitution’s meaning. Over time, the Court has reflected quite different political and judicial ideologies. Justices have brought their own legal philosophies, morals and values, derived in part from their social background as principally prosperous white male Christians. They have interpreted the Constitution differently from various minority communities who see the Constitution and its Amendments—especially the post-Civil War Amendments—as securing equal protection under the law and individual liberty for all. Indeed, in the 20th century, the Court endorsed a major expansion of civil and political rights.

Throughout its history, the Court has also made far-reaching decisions by broadening the issues initially raised by the parties to a case. For example, in Citizens United v. Federal Election Commission (2010), the Court extended a narrow question of whether “pay-per-view” movies made by not-for-profits were bound by the electronic communications provision of the McCain-Feingold Act dealing with federal campaign financing into a ruling that corporations have the same First Amendment rights as ordinary Americans to spend money to influence elections.

"[N]either the doctrine of separation of powers, nor the need for confidentiality of high level communications, without more, can sustain an absolute, unqualified Presidential privilege of immunity from judicial powers under all circumstances." — Chief Justice Warren J. Burger on Presidential privilege in U.S. v. Nixon (1974)
### January

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- **January 1863**: President Abraham Lincoln issues the Emancipation Proclamation, declaring “all persons held as slaves” within rebellious areas “are and henceforward shall be free.”
- **February 1873**: Roe v. Wade involves a challenge to a Texas law prohibiting all but lifesaving abortions. The Court rules that the Constitution’s right of privacy, grounded in the Fourteenth Amendment’s due process clause, includes abortion, evaluated by a trimester scheme during pregnancy.
- **February 1850**: The Compromise of 1850 determines the outcome of the recently acquired western lands following the Mexican War, by admitting California as a free state and strengthening the Fugitive Slave Act.
Although the Declaration of Independence famously provided that all men are created equal, the Constitution itself did not have a provision mentioning equality until after the Civil War. The Supreme Court’s *Dred Scott v. Sandford* decision in 1857, decided on the eve of the Civil War, stated that African-Americans “had no rights which the white man was bound to respect; and that the negro might justly and lawfully be reduced to slavery. . . .”

After the war ended, the Reconstruction Amendments established birthright citizenship and equal protection of the law, but the nation’s commitment to equality waned in the 1870s. The Court ruled that the 14th Amendment covered only states, not private enterprises, removing the federal government’s requirement to enforce civil rights legislation. In 1896 the Court again turned its back on racial equality in *Plessy v. Ferguson* when it ruled that segregation was legal on the basis of “equal but separate accommodations for the white and colored races.” *Plessy* affirmed Jim Crow segregation laws that provided decidedly inferior services to African-Americans and became the norm in the South and in some parts of the North and West until the 1960s. Perhaps more damaging than unequal facilities was the message that was sent to all by racial segregation laws that whites and blacks were incompatible and unequal.

Perhaps nowhere was segregation more sharply felt than in education, the key to a person’s chances for success in life, to paraphrase the Supreme Court. In 1954, *Brown v. Board of Education* capped more than a decade of challenges by the NAACP Legal Defense Fund to “separate but equal” in education. In *Brown*, the Court found that racially segregated schools are inherently unequal, thereby overturning the legalized inequality upheld in *Plessy v. Ferguson* (1896). Although *Brown* eventually ended *de jure* segregation (segregation carried out and sanctioned by law), *de facto* segregation (segregation that happens in fact, and not because it is required by law) remains and is intensifying today.

Today, equality in education centers on such issues as school funding and affirmative action. The Court has particularly struggled with the issue of affirmative action in education and whether governments can take race into consideration as a means of achieving diversity. Most recently, in *Fisher v. University of Texas at Austin* (2013) the Court decided that any consideration of race by a university in its application process had to be “narrowly tailored” to the interests in diversity, including an examination of “race-neutral” means.
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**February 2014**

**February 2, 1790** The first Supreme Court meets in New York City.

**February 3, 1870** The Fifteenth Amendment states that the right to vote cannot be denied on the grounds of race, color or previous condition of servitude.

**February 4, 1942** President Franklin D. Roosevelt signs Executive Order 9066, compelling involuntary removal and detention of West Coast residents of Japanese ancestry.

**February 9, 1908** Muller v. Oregon gives states the power to limit the maximum working hours of women based largely on the copious research of future Justice Louis Brandeis, which “proved” that long hours are harmful to a woman’s health, safety and morals.

**February 12, 1919** Lincoln’s Birthday

**February 14, 1870** The Fifteenth Amendment states that the right to vote cannot be denied on the grounds of race, color or previous condition of servitude.

**February 15, 1942** President Franklin D. Roosevelt signs Executive Order 9066, compelling involuntary removal and detention of West Coast residents of Japanese ancestry.

**February 16, 1908** Muller v. Oregon gives states the power to limit the maximum working hours of women based largely on the copious research of future Justice Louis Brandeis, which “proved” that long hours are harmful to a woman’s health, safety and morals.

**February 17, 1908** Muller v. Oregon gives states the power to limit the maximum working hours of women based largely on the copious research of future Justice Louis Brandeis, which “proved” that long hours are harmful to a woman’s health, safety and morals.

**February 18, 1908** Muller v. Oregon gives states the power to limit the maximum working hours of women based largely on the copious research of future Justice Louis Brandeis, which “proved” that long hours are harmful to a woman’s health, safety and morals.

**February 19, 1908** Muller v. Oregon gives states the power to limit the maximum working hours of women based largely on the copious research of future Justice Louis Brandeis, which “proved” that long hours are harmful to a woman’s health, safety and morals.

**February 20, 1908** Muller v. Oregon gives states the power to limit the maximum working hours of women based largely on the copious research of future Justice Louis Brandeis, which “proved” that long hours are harmful to a woman’s health, safety and morals.

**February 21, 1908** Muller v. Oregon gives states the power to limit the maximum working hours of women based largely on the copious research of future Justice Louis Brandeis, which “proved” that long hours are harmful to a woman’s health, safety and morals.

**February 22, 1908** Muller v. Oregon gives states the power to limit the maximum working hours of women based largely on the copious research of future Justice Louis Brandeis, which “proved” that long hours are harmful to a woman’s health, safety and morals.

**February 23, 1908** Muller v. Oregon gives states the power to limit the maximum working hours of women based largely on the copious research of future Justice Louis Brandeis, which “proved” that long hours are harmful to a woman’s health, safety and morals.

**February 24, 1908** Muller v. Oregon gives states the power to limit the maximum working hours of women based largely on the copious research of future Justice Louis Brandeis, which “proved” that long hours are harmful to a woman’s health, safety and morals.

**February 25, 1908** Muller v. Oregon gives states the power to limit the maximum working hours of women based largely on the copious research of future Justice Louis Brandeis, which “proved” that long hours are harmful to a woman’s health, safety and morals.

**February 26, 1908** Muller v. Oregon gives states the power to limit the maximum working hours of women based largely on the copious research of future Justice Louis Brandeis, which “proved” that long hours are harmful to a woman’s health, safety and morals.

**February 27, 1908** Muller v. Oregon gives states the power to limit the maximum working hours of women based largely on the copious research of future Justice Louis Brandeis, which “proved” that long hours are harmful to a woman’s health, safety and morals.
Right
to
Privacy

Privacy” is mentioned nowhere in the Constitutional text, but in the 20th century, Supreme Court justices have applied the First, Third, Fourth, Fifth and Ninth Amendments to create a constitutional right to privacy. Today, privacy is firmly grounded in the 14th Amendment’s due process clause.

Although Justice Brandeis argued for a right to privacy in telephone wiretapping, privacy has often involved issues of reproductive rights. The Comstock Act (1873) banned the distribution of contraceptives through the mail. In the early 20th century, Margaret Sanger challenged New York’s Comstock law by opening a birth control clinic in Brooklyn.

By the 1960s, changing ideas on sexuality and a rising feminist movement had transformed attitudes on abortion rights and women’s reproductive rights. *Griswold v. Connecticut* (1965) overturned a law banning the distribution and use of contraceptives by married couples, with Justice Douglas arguing, “Would we allow the police to search the sacred precincts of the marital bedrooms for telltale signs of the use of contraceptives?” Five years later in *Eisenstadt v. Baird*, the Court overturned birth control restrictions for unmarried individuals.

State court decisions that had legalized abortion served as prequels for *Roe v. Wade* (1973), the most controversial decision of the 20th century. Justice Blackmun’s majority opinion tried to balance a woman’s right to an abortion with protecting prenatal life. Since 1973, the Court has allowed states to further restrict abortion, including ending federal Medicaid funding, requiring parental consent and requiring 24-hour waiting periods, but the Court has continued to uphold the core of the *Roe v. Wade* decision. Nonetheless, abortion remains one of the nation’s most divisive issues and many states seek to restrict abortion access and close abortion clinics.

The makers of our Constitution . . . conferred, as against the government, the right to be let alone—the most comprehensive of rights and the right most valued by civilized men.

— Louis Brandeis, dissent in *Olmstead v. United States* (1928)
1832 In Worcester v. Georgia, the Court rules that the state of Georgia has no jurisdiction in Cherokee territory and that the Cherokees represent independent political communities. President Andrew Jackson refuses to enforce the decision, setting the stage for the Trail of Tears, the forced removal of the Cherokees by federal troops.

1857 In Dred Scott v. Sandford, the Court rules that blacks, including free blacks, were not citizens under the Constitution. Scott is prevented from being a citizen of the United States despite having lived in states that forbade slavery. This decision plays a significant role in hardening antagonisms between the north and south.

1963 Gideon v. Wainwright guarantees the right to an attorney for defendants in criminal trials for serious offenses, even if they cannot afford one.
Religion in Public Life

The First Amendment’s religion clauses prevent the government from establishing a religion or prohibiting the free exercise of religion. The Establishment Clause means that there cannot be a national religion, as is the case with the Church of England. The Free Exercise Clause, sometimes referred to as the “other side of the coin,” means that the government cannot interfere with individuals’ exercise of whatever religion they choose. However, the application of these principles is unclear in many circumstances, including religion in public schools, in the public square, and even at work.

The degree to which the government can accommodate religion in public life has been debated in numerous Supreme Court decisions. Justice Hugo Black argued that the “wall of separation” must be kept “high and impregnable,” although in Everson v. Board of Education (1947), the Court lowered the wall somewhat, stating that tax dollars can be levied to reimburse parents for bus transportation to and from parochial schools.

Subsequent Court rulings point to the malleability of the “wall of separation.” In McCollum v. Board of Education (1948), the Court decided religious instruction could not be offered in public schools and in Engel v. Vitale (1962) rejected optional school-sponsored prayer. However, in Zelman v. Simmons-Harris (2002), the Court upheld tax-funded school “vouchers” being used to pay tuition at parochial schools.

In Reynolds v. United States (1878), the Court interpreted the Free Exercise Clause as safeguarding religious beliefs rather than religious practices such as polygamy that conflict with criminal laws. Displaying the Ten Commandments on government property recently sparked controversy in Texas and Kentucky. In Van Orden v. Perry (2005) the Court ruled the display could remain as the Ten Commandments had historical as well as religious significance, but in McCreary County v. ACLU of Kentucky (2005), decided the same day, the Court held the Ten Commandments display was religiously motivated and not constitutional. The Court is scheduled to decide whether a prayer before a town meeting, in Greece, New York, violates the Establishment Clause.

“It is true that many Americans find the Commandments in accord with their personal beliefs. But we do not count heads before enforcing the First Amendment.”

In the Slaughterhouse Cases, the Court distinguishes between state and federal citizenship and declares that states are not required to provide their citizens with the same "privileges and immunities" they enjoy as national citizens.

In *Lochner v. New York*, the Court invalidates a New York State law that limited the working hours in bakeries to ten per day or sixty per week, as an infringement of the "liberty of contract" that was contained in the Fourteenth Amendment. This decision limits the ability of states to enact regulatory legislation.

In *National Labor Relations Board v. Jones and McLaughlin Steel Co.*, the Court upholds the National Labor Relations Act (Wagner Act) that authorizes Congress to intervene in activities affecting national commerce, including employer/union relations.

In a case upholding the constitutionality of a federal law prohibiting "filled" milk from being distributed in interstate commerce, the United States Supreme Court renders its decision in *United States v. Carolene Products Co.*, including the most famous footnote in constitutional history, outlining the basis for strict scrutiny of suspect classifications.

Professor Ramzi Kassem leads CLEAR, addressing legal needs of NYC's Muslim, Arab, and South Asian communities.
The centrality of work in creating the American identity makes the Supreme Court’s decisions regarding workers’ rights particularly significant. Yet, the Court has generally equated workers’ rights with business transactions rather than individual rights. At various times, the Court has applied the 14th Amendment’s liberty provisions to limit government attempts to regulate working conditions such as setting maximum hours in *Lochner v. New York* (1904). The Court has also used the Commerce Clause to say that labor disputes are part of commerce and therefore upheld federal injunctions against strikes in *In re Debs* (1895), but during the New Deal it used the Commerce Clause to uphold certain rights of workers. The Court has applied Congressional statutes such as the Civil Rights Act of 1964 and the Fair Labor Standards Act (1938) on behalf of the cause of achieving workplace equality and equity.

Many of the Court’s opinions have revolved around the right to unionize. Supporting President Franklin D. Roosevelt’s New Deal, Chief Justice Hughes in *West Coast Hotel v. Parrish* (1937) found that it was in the state’s interest to protect workers from the “exploitation” of “unconscionable employers.” The Court upheld the constitutionality of the National Labor Relations Act (1935) in *NLRB v. Jones & Laughlin* (1937), which established a federal administrative agency as the arbiter of private sector employer-employee relations and required employers to recognize the right of workers to organize and bargain collectively.

Concerns other than union organizing have appeared on the Court’s docket. For instance, the Court in *Slochower v. Board of Higher Education of New York City* (1956) found unconstitutional a tenured faculty member’s dismissal from Brooklyn College because he was denied a hearing after invoking his self-incriminating privilege. In *Maryland v. Wirtz* (1968), the Court construed the Fair Labor Standards Act (FLSA) to cover minimum wage and overtime for employees in state-operated schools, hospitals, and related institutions. However, the Court has also declared that Congress does not have the power to require states (and the state’s subdivisions) to be governed by FLSA in *Alden v. Maine* (1999).

Women have sought employment equality from the United States Supreme Court. By the 1970s, an organized women’s movement took their objections to the judicial system, citing the Civil Rights Act of 1964 as grounds for equality. The relevant cases fell into three categories: challenges to government benefit eligibility, pay scales, and promotions; pregnancy and maternity-related issues in the workplace; and, gender-related exclusions from employment and schools.

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1896 In Plessy v. Ferguson, the Court upholds a Louisiana statute that has established “separate but equal [railroad] accommodations for the white and colored races.”

1954 In Brown v. Board of Education the Court orders desegregation of public schools, declaring that separate school systems for blacks and whites are inherently unequal.

2010 In Lewis v. City of Chicago, the Court holds unanimously that a group of African-American applicants for firefighter had filed a timely charge of race discrimination against Chicago and that the city had violated Title VII of the Civil Rights Act of 1964.

1854 The Kansas-Nebraska Act divides the land west of Missouri into two territories, Kansas and Nebraska, allowing for popular sovereignty to determine the existence of slavery.

Go to your App Store to download our free This Date in History App.
In 1879, the Supreme Court articulated the view of monogamous marriage and rejected polygamy in *Reynolds v. United States*. Reynolds had argued that religious duty compelled him to practice polygamy, but in a unanimous decision the Court ruled that polygamy was an offense against society not worthy of religious protection according to the First Amendment. National sentiment believed that the family helped maintain social order and that Mormon polygamy threatened the traditional family. Interestingly, the Court found that polygamy was “patriarchal” although just six years earlier, in *Bradwell v. Illinois*, the Court had rejected the idea that a woman who was married could practice law.

The issue of miscegenation attracted the Court’s attention in *Pace v. Alabama* (1883), when the Court upheld an Alabama anti-miscegenation law that resulted in an Alabama interracial couple being sentenced to two years in jail for “living in a state of fornicating or adultery.” The Supreme Court refused to hear the miscegenation case of *Naim v. Naim* (1956), in part because of the racial tensions created by the groundbreaking *Brown v. Board of Education* decision two years earlier. But, in 1967 the Court, in *Loving v. Virginia* (1967) affirmed marriage as a fundamental right and invalidated a state ban on interracial marriage on 14th Amendment equal protection grounds. The Court also invalidated bans on marriage by prisoners and by persons who owed child support.

Following Massachusetts’s recognition of same-sex marriage by state court opinion, 15 other states and the District of Columbia have followed suit, even as 34 states continue to ban same-sex marriage. New Mexico has no law banning nor legalizing same-sex marriage. The national trend is to leave the determination of the right of marriage to the states. In the 2013 term, the Court decided *United States v. Windsor* and ruled unconstitutional section 3 of the federal Defense of Marriage Act (1996), which had prohibited federal marriage recognition of same-sex marriages. In the companion case of *Perry v. Hollingworth*, the Court declined to consider whether there was a constitutional right to same-sex marriage, with the effect that individual states choose whether to recognize marriage between two men or two women. By June 2013, if one’s marriage is legally recognized by one’s state, so too would the federal government recognize it, but another state may not recognize it.
## June

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**1965** Griewold v. Connecticut reverses a state prohibition against the prescription, sale or use of contraceptives, even for married couples and articulates a constitutional right to privacy.

**1978** In the first major test of affirmative action, Regents of the University of California v. Bakke rejects the use of racial quotas in admissions to state supported schools.

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**1961** The Court in Loving v. Virginia declares unconstitutional a state miscegenation law, criminalizing interracial marriages, as violating the equal protection clause.

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**1971** In The New York Times v. United States the Court permits The Times to publish the "Pentagon Papers," rejecting the government's argument of prior restraint.

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**1966** In Miranda v. Arizona, Chief Justice Warren writes: "the person in custody must, prior to interrogation, be clearly informed that he has the right to remain silent, and that anything he says will be used against him in court;... if he is indigent, a lawyer will be appointed to represent him."

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In the United States, citizenship entails privileges and responsibilities, primarily the right to vote, the ability to live and prosper without fear of deportation, and the duty to pay taxes and serve on juries. Citizenship also provides a sense of belonging to a society and a chance to be seen as equal.

Prior to the adoption of the 14th Amendment in 1868, the Constitution left the definition of “citizenship” to the states, which often excluded African-Americans from the benefits of citizenship. The Supreme Court itself defined citizenship in Dred Scott v. Sandford (1857), ruling that persons of African descent, whether free or enslaved, could not be citizens of the United States. In denying the legality of black citizenship, the Court hastened the nation’s march toward the Civil War.

The Civil War’s conclusion prompted Congress to pass three constitutional amendments that abolished slavery, redefined citizenship by creating a national citizenship that would trump state citizenship, and protected the right to vote for African-Americans. In stating that, “All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside,” the 14th Amendment overturned the Court’s Dred Scott decision.

After Dred Scott, the Supreme Court’s most disturbing decision regarding the parameters of citizenship was Korematsu v. United States (1944), which upheld President Franklin D. Roosevelt’s Executive Order 9066 (1942) issued during World War II. This order forced the relocation of persons of Japanese descent, whether citizen or resident alien, from the West Coast to relocation camps. Not until 1988 would Congress pass legislation that apologized for the internment and provided limited reparations.

Only in 1924 did the U.S. grant citizenship to all Native Americans born in the U.S. (Snyder Act). Even then, some Native Americans could not vote because this right fell to individual states. New Mexico was the last state to enfranchise Native Americans in 1962.

The Immigration and Nationality Act of 1965 radically changed the immigration policy of the nation by welcoming people from Asia and South America. Today, some argue there is an economic and moral benefit in extending citizenship to the estimated 11 million undocumented persons living in the U.S., while those opposed argue it would be unfair to grant citizenship to those who entered the country illegally.
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Debate surrounding the Second Amendment centers on the original intent of the Constitution’s framers: does the right to buy and use firearms belong to individuals, or only to members of local, state, and federal governments’ military force? Debates over the scope of this amendment have also centered on to what extent the government can place any limits on guns and weapons including making illegal certain types of weapons and extending background checks to gun show sales.

Due to the increase of violence and organized crime in the Prohibition era, Congress passed the National Firearms Act of 1934. The act called for taxation and registration of automatic weapons and sawed-off shotguns and inspired a unanimous decision in *United States v. Miller* (1939). The defendant in Miller was charged with possession of an unregistered sawed-off shotgun. The Court decided the Second Amendment did not protect the right of citizens to own firearms that were not ordinary militia weapons, and a sawed-off shotgun did not qualify as such.

In 1993, twelve years after the assassination attempt on President Reagan, the Brady Handgun Violence Prevention Act was passed, named after Reagan’s press secretary James Brady who was also shot and seriously wounded. The law requires gun sellers to perform a background check on buyers (except for gun shows and private sales). In 1997, in a case about federalism and not squarely about the Second Amendment, the Supreme Court ruled in *Printz v. U.S.* that the national government cannot commandeer local officials to perform these “Brady Act” background checks. The Court did not directly revisit the meaning of the Second Amendment again until *District of Columbia v. Heller* (2008). In a closely divided 5-4 decision complete with historical discussion, the Court upheld the right of individuals to keep and bear arms for self-defense even if those individuals are not a part of a state sponsored “well regulated militia.” In another closely divided decision, the Court ruled in *McDonald v. Chicago* (2010) that the Second Amendment also applies to states.

Increasing attention to gun violence, including the tragic events at Sandy Hook Elementary School in Newtown, Connecticut in December 2012, means that debates about the Second Amendment continue. Current controversies focus on assault weapons, mandatory background checks at gun shows, databases of the mentally ill who would be barred from weapons purchases, and other restrictions on gun ownership and use. With an increase in firearm possession and calls for stricter federal gun laws, it remains to be seen how long it will be until the Court again enters the fray.

A well regulated Militia, being necessary to the security of a free state, the right of the people to keep and bear Arms, shall not be infringed.

The Social Security Act establishes a national old-age insurance system and provides funds to aid children, the blind and the unemployed.

The Voting Rights Act of 1965 takes effect, enforcing the Fifteenth Amendment. "No voting qualification or prerequisite to voting . . . shall be imposed by any State or political subdivision to deny or abridge the right of any citizen of the U.S. to vote on account of race or color."

The Nineteenth Amendment is ratified, declaring that "the right of citizens of the United States to vote shall not be denied or abridged by the U.S. or by any State on account of sex." This amendment nullifies all state laws that had previously failed to grant women the vote.

International Day for the Remembrance of the Slave Trade and its Abolition

Distinguished Professor Ruthann Robson is an expert on constitutional law and is the co-editor of the Constitutional Law Professors Blog.
The Commerce Clause of the U.S. Constitution, Article I, section 8, clause 3, gives Congress the power “to regulate commerce with foreign nations, and among the several states, and with the Indian tribes.” The meaning of “commerce” has been a constant source of controversy, as the Constitution does not explicitly define the word. Generally, in matters of interstate commerce, the national Congress asserts power; but in intrastate commerce, the states retain control.

Supreme Court interpretations of the Commerce Clause have enabled the national government to regulate issues that some argue are purely local. In 1933, amidst the Great Depression, the National Industrial Recovery Act (NIRA) established “codes of fair competition” that fixed prices and wages, and established production quotas in multiple industries. However, the Supreme Court struck down the NIRA in Schechter Poultry Corp. v. United States (1935) as an unconstitutional use of executive power over interstate commerce.

In 1937, President Roosevelt sought to save New Deal legislation and tilt the scales in his direction by increasing the number of justices on the Court. Although FDR’s “court packing” plan never came to pass, the Court’s view changed and in National Labor Relations Board v. Jones & Laughlin Steel Corp. (1937) it upheld the right of Congress to intervene in activities affecting national commerce including employer/union relations.

The Civil Rights Act of 1964 prohibited discrimination on the basis of race, sex, and religion, and subsequent Court opinions in Heart of Atlanta Motel v. United States (1964) and Katzenbach v. McClung (1964) interpreted the Commerce Clause to facilitate compliance with desegregation laws. In 2012, the United States Supreme Court upheld the constitutionality of the Patient Protection and Affordable Care Act (also known as “Obamacare”), with four Justices finding Congressional power under the Commerce Clause, and Chief Justice Roberts joining the majority, but finding Congressional power based on its taxing power.
### September

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**1787** Thirty-nine delegates to Philadelphia Convention sign the U.S. Constitution, in which Article III invests judicial authority in “one Supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish.”

**1957** President Dwight Eisenhower signs Executive Order 10730, placing the Arkansas National Guard under Federal Control. The Order sends 1,000 U.S. Army paratroopers to Little Rock to ensure the safe desegregation of Central High School.

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**Go to your App Store to download our free This Date in History App.**
From 1778 to 1871, the issue of Native sovereignty was largely defined by treaties, which compelled Indian tribes to relinquish millions of acres of their homelands to the United States and offered little in return. The first Supreme Court decision regarding Native sovereignty, *Johnson v. M'Intosh* (1823), ruled that Indian tribes required the federal government to approve any land sales to private parties. When the Indian Removal Act (1830) threatened the existence of southeastern tribes, Cherokee leaders petitioned the Supreme Court to compel the federal government and the states to honor the treaties that had guaranteed the Cherokee Nation the right to “lands that they did not voluntarily cede to the United States.” Georgia had long desired Cherokee land for settlement by whites, and in *Worcester v. Georgia* (1832), Chief Justice Marshall wrote that the federal government alone had the authority to sign treaties with or issue laws affecting Indian nations. Yet the Cherokee victory in this case proved hollow as President Andrew Jackson reputedly said: “John Marshall has made his decision, now let him enforce it.” Shortly thereafter the federal government forcibly removed the Cherokees from the southeastern U.S. to Oklahoma in contradiction of the Supreme Court ruling in what became known as the Trail of Tears (1838), along which hundreds died.

A desire to honor those Native Americans who served in World War I led Congress to pass the Snyder Act (1924), which granted citizenship to indigenous people born within the territorial limits of the United States. In the late 20th century, Indian gaming became a powerful economic force and the Court, in *California v. Cabazon Band of Mission Indians* (1987), overturned existing laws prohibiting gambling on Indian reservations. Congress then passed the Indian Gambling and Regulatory Act (1988), which expanded gambling on reservations, but enabled the states to regulate and issue licenses.

"Cherokee Trail of Tears" by Robert Lindneux (1942) depicts the forced deportation of the Cherokees in 1838 to present-day Oklahoma.

"[Indian] tribes possess a nationhood status and retain inherent powers of self-government." — Chief Justice John Marshall, 1832
### October

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**1883** In the Civil Rights Cases, the Court declares unconstitutional sections of the Civil Rights Act of 1875 that had prohibited racial discrimination in inns, public conveyances and places of public amusement.

**1953** Earl Warren takes the oath as Chief Justice of the Supreme Court of the United States.

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**1937** Tonya Gonnella Frichner ('87) is the president and founder of the American Indian Law Alliance.

**1991** Supreme Court Justice Clarence Thomas was appointed by President George H.W. Bush.

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**LEGAL NEWS**

The City University of New York
LaGuardia Community College
LaGuardia and Wagner Archives

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**EVENTS**

**12** COLUMBUS DAY

13 LAST DAY OF SUKKOT (HOSANAH RABBAY)

15 SHEMINI ATZERET (begins at sundown)

16 SIMCHAT TORAH (begins at sundown)

18 UNITED NATIONS DAY

25 MUHARRAM (ISLAMIC NEW YEAR)

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**HOLIDAYS**

**1883** In the Civil Rights Cases, the Court declares unconstitutional sections of the Civil Rights Act of 1875 that had prohibited racial discrimination in inns, public conveyances and places of public amusement.
Although the right to vote is a significant civic symbol and practice of a democratic society, the Founding Fathers did not explicitly state whether it is a right or a privilege, and voting registration and eligibility rules fell to the states. The two great controversies about voting have been about sex and race. Even ratification of the 15th Amendment in 1870, which provided for universal male suffrage and legalized the right of African-Americans to vote, did not prevent southern states from passing Jim Crow laws such as the poll tax and literacy tests, and using intimidation and physical violence to keep African-American men from voting. Nor did it grant women’s suffrage.

At the Seneca Falls convention of 1848, Elizabeth Cady Stanton remarked that the right to vote would make women “free as man is free.” Susan B. Anthony, Stanton’s contemporary, stated that to be free, a woman must have “a purse of her own.” In the early 20th century Alice Paul and Carrie Chapman Catt, among many others, started the first modern feminist movement in the U.S., which culminated in the passage of the 19th Amendment (1920), giving women the right to vote. However, Jim Crow racial segregation curtailed African-American men and women’s suffrage until the 1960s. Protests against voting discrimination during the Civil Rights era reached a pinnacle on March 7, 1965, when 500 activists led a peaceful march from Selma, Alabama, to the state capitol in Montgomery. Six blocks into the march, state and local law enforcement attacked the demonstrators with billy clubs and tear gas and drove them back into Selma. This “Bloody Sunday” impelled President Johnson to push for Congressional hearings that produced the Voting Rights Act of 1965. Since existing federal anti-discrimination laws had been infrequently enforced by Southern officials, this Act prohibited the denial or abridgment of the right to vote.

In 2013, the Supreme Court essentially ruled on the question, “Do we still need the federal protection of the Voting Rights Act?” The Court in Shelby County v. Holder invalidated Section 4 of the Act, the centerpiece of that legislation. Chief Justice Roberts wrote that “things have changed dramatically” since 1965. States and municipalities were now free to change their election laws to require voter identification without advance federal approval.

“No voting qualification or prerequisite to voting or standard practice, or procedure shall be imposed or applied by any state or political subdivision to deny or abridge the right of any citizen of the United States to vote on account of race or color.” — Voting Rights Act of 1965, Section 2
### November

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**DECEMBER**

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In rulings on criminal procedure, the Supreme Court has had a tough balancing act. Among the considerations is the need to balance the desire for public safety against the potential abuse of government power. Only after the 14th Amendment was the Court able to address state as well as federal abuses. The Court first addressed several instances of race discrimination in jury selection. During the interwar period, the Court overturned convictions in a broad range of cases, both within the Jim Crow south and beyond, covering coerced confessions in *Brown v. Mississippi* (1936), financially biased judges in *Tumey v. Ohio* (1927), mob-dominated trials in *Moore v. Dempsey* (1923), and right to counsel in *Powell v. Alabama* (1932). The last ruling overturned the convictions of seven of the nine “Scottsboro Boys” charged with rape in 1931. In *Norris v. Alabama* (1935), the Court overturned the guilty verdict of the lone retried defendant, Clarence Norris, because African-Americans had been purposefully excluded from grand jury service and therefore he had been denied equal protection of the law as guaranteed by the 14th Amendment.

The Court under Chief Justice Earl Warren expanded criminal procedure protections. In *Gideon v. Wainwright* (1963), the Court construed the Sixth Amendment, as applied through the Due Process Clause in the 14th Amendment to rule that any defendant, charged with a felony, was entitled to legal representation at public expense if he/she could not afford an attorney himself or herself. One of the most controversial cases in Supreme Court history, *Miranda v. Arizona* (1966), treated the right to counsel, the admissibility of confessions, and the privilege against self-incrimination. It ruled that Fifth Amendment protections against self-incrimination extended beyond the courtroom, and if arrested one has the right to remain silent. This ruling ensured that the police, detectives and prosecutors must tell a defendant that he or she has the right to remain silent and cannot question a defendant who is cut off from the outside world. Also, it provided that a defendant has the right to counsel before being interrogated.

In permitting police officers to stop-and-frisk someone based on a reasonable suspicion that the person has committed or is about to commit a crime or that the person may be armed and presently dangerous, the Supreme Court in *Terry v. Ohio* (1968) gave the police broad latitude in personal conduct. Expressing his concern over diminished civil liberties, Justice William Douglas dissented: “To give the police greater power than a magistrate is to take a long step down the totalitarian path.”

Following 4.4 million stop-and-frisk procedures conducted by the New York City Police Department between January 2004 and June 2012—over 80% were of blacks and Hispanics—Federal Judge Shira A. Sheindlin ruled in *Floyd v. City of New York* (2013) that “the idea of universal suspicion without individual evidence is what Americans find abhorrent and black men in America must constantly fight.” But the litigation in this case and others, in New York City and elsewhere, is ongoing, as is the struggle to balance individual rights and public safety.
### December

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Money and Democracy

In our capitalist economy, money and democracy are intimately entwined, particularly in campaign finance where it is important to protect the integrity of the electoral process against undue economic influence. The first federal effort to establish campaign finance reform was the Tillman Act (1907), which prevented corporations and national banks from subsidizing federal campaigns. Yet, the Tillman Act and later the Taft-Hartley Act of 1947, which prohibited corporations and labor unions from contributing financially to federal elections, were largely bypassed by the formation of political action committees (PAC), fundraising arms of interest groups.

The Federal Election Campaign Act (FECA) of 1971 required full reporting of campaign contributions and limited spending on media advertisements. Following the Watergate affair, Congress substantially broadened FECA to restrict financial contributions to candidates and established an independent regulatory body to enforce the statute. However, both Republican and Democratic senators promptly challenged the legislation in Buckley v. Valeo (1975), where the Court first ruled that money was speech protected by the First Amendment. The Court allowed limits on an individual’s contributions to political campaigns and candidates, but eliminated any limits on expenditures by candidates spending their own funds on their own election or re-election.

In the next 25 years, the Court decided 20 or so cases involving campaign finance, many of which were controversial. But the most controversial case occurred in 2010 when a sharply divided Supreme Court decided in Citizens United v. Federal Election Commission (2010) that corporations could spend without limit on candidate elections. In the view of Court majority, the First Amendment free-speech protections applied equally to persons and corporate “persons.” Dissenting, Supreme Court Justice John Paul Stevens took issue with the equating of a corporation with a human being when he wrote, “Under the majority’s view, I suppose it may be a First Amendment problem that corporations are not permitted to vote, given that voting is, among other things, a form of speech.” The Court’s decision continues to be contentious, as 16 states have called for a constitutional amendment to overturn the ruling.
**January 2015**

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<td><strong>1</strong> NEW YEAR’S DAY</td>
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<td><strong>27</strong> INTERNATIONAL DAY OF COMMORATION IN MEMORY OF THE VICTIMS OF THE HOLOCAUST</td>
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- **Faculty and staff of CUNY School of Law’s Economic Justice Project and Hunter College’s Welfare Rights Initiative. CUNY School of Law students help CUNY undergraduates fight to keep their public assistance benefits and to advance their right to pursue college education.**
- **Chief Justice John G. Roberts was appointed by President George W. Bush in 2005.**
- **1863** President Abraham Lincoln issues the Emancipation Proclamation, declaring “all persons held as slaves” within rebellious areas “are and henceforward shall be free.”
- **1865** In Citizens United v. Federal Election Commission, the Court rules 5-4 that “corporate persons” enjoy the same rights as individuals to contribute to political campaigns.
- **1873** Roe v. Wade involves a challenge to a Texas law prohibiting all but lifesaving abortions. The Court rules that the Constitution’s right of privacy, grounded in the Fourteenth Amendment’s due process clause, includes abortion, evaluated by a trimester scheme during pregnancy.
- **1850** The Compromise of 1850 determines the outcome of the recently acquired western lands following the Mexican War, by admitting California as a free state and strengthening the Fugitive Slave Act.

- **Go to your App Store to download our free this Date in history App.**
Supreme Decisions is dedicated to Mayor Edward I. Koch and his legacy of public service. A graduate of The City College of New York/CUNY, he brought hope to New York City in the wake of the fiscal crisis and brought it back from the brink of bankruptcy. As mayor, Ed Koch created independent screening panels for the appointment of criminal court judges to remove political patronage and favoritism from the appointment process. A man who embodied the spirit of New York, Mayor Koch and his unique voice will be missed.

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Irene Wainwright, New Orleans Public Library
Stan Wojcicki, Office of University Relations, CUNY

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