

REQUIRED CASES

1. MCCULLOGH V. MD

2 holdings: (a) Supremacy Clause (article V) and (b) Implied powers (elastic/necessary and proper clause of Article I)

In a conflict between the state and federal government, the federal government wins. Also, Congress has the implied power to create a national bank

2. U.S. V. LOPEZ

INTERstate commerce clause case. This was the first case to restrict Congress' use of Interstate Commerce. The Gun Free School Zones Act was an overreach - there was insufficient nexus to interstate commerce.

CIVIL LIBERTIES CASES

3. ENGEL V. VITALE

1st Amendment - ESTABLISHMENT CLAUSE. School prayer (even if not compulsory) is a violation of the establishment clause. Key facts - *coercive* nature of an elementary school classroom

4. WISCONSIN V. YODER



1st Amendment - FREE EXERCISE CLAUSE. This is about how you practice your religion. The Amish were allowed to stop schooling at @14 years of age because the Amish were deemed not to be burdens on society. So, because they don't take welfare and are self-sufficient, they can stop schooling at that age.

5. TINKER V. DES MOINES

1st Amendment - free speech - more specifically - symbolic speech is protected. The reason Mary Tinker won is because her black armband protesting the Vietnam War was considered not to obstruct the learning process. REMEMBER - with speech - content is generally not allowed to be restricted (except obscenity and defamation) but Time, place and manner restrictions are Allowed... Another important symbolic speech case is TEXAS v. JOHNSON - flag burning is protected.

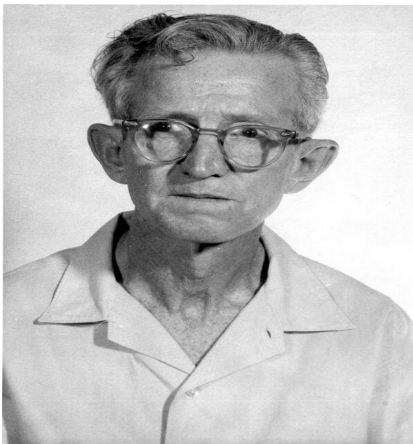
6. NY TIMES V. U.S.

1st Amendment - Freedom of the Press. Prior Restraint is not allowed. This was the Pentagon Papers case.

7. SCHENCK V. U.S.

1st Amendment - speech. This was the first case to restrict speech (Remember - of all the rights in the Bill of Rights - speech holds a preferred position). Restriction (at that time) - clear and present danger. (not the standard anymore - now imminent threat under Brandenburg v. Ohio).

8. GIDEON V. WAINWRIGHT



6th Amendment - Right to Counsel (Procedural Due Process)
- All people charged with felonies get lawyers. This is a selective incorporation case!!!!

9. ROE V. WADE

Right to privacy (established in Griswold v. CT) exists in the penumbra of the B/R. It is tied to 4th, 5th, 6th and 9th Amendments. It extends to a woman's right to choose. Remember the right is NOT absolute - and is based on trimesters. Also, more recently in PLANNED PARENTHOOD v. CASEY, SCOTUS allowed restrictions that were not unduly burdensome.

10. MCDONALD V. CHICAGO

2d Amendment right to bear arms. Ownership of handguns is absolute. Tied to self-defense and the Civil rights laws of the post-Civil War era.

CIVIL RIGHTS

11. BROWN V. BOARD OF EDUCATION

Equal Protection Clause of the 14th A. telling a child they cannot be part of a group b/c of his/her race is prejudicial. This class rejects *stare decisis* and overturns PLESSY V. FERGUSON. Now, separate is NOT equal. Be aware - SWANN - school segregation that is de facto is OK - but if it is De Jure (by law) - it is not OK.

CAMPAIGN FINANCE

12. CITIZENS UNITED

Corporations and unions have 1st amendment speech rights. Their election activities must be allowed. Led to Super Pacs

REDISTRICTING/GERRYMANDERING

This is federalism at its core! Step 1 - Census. Step 2 - Reapportionment of 435 seats by the House. Step 3 - Redistricting by state legislatures.

13. BAKER V. CARR

Redistricting is tied to one/person - one/vote - equal protection. Tennessee had not done redistricting in around 50 years. The Tennessee population had become more urban during that time and rural areas were overrepresented.

14. SHAW V. RENO

Redistricting cannot be based SOLELY on race. This was the Interstate district case. Remember this ties to the Voting Rights Act of 1965 - which required Justice Department preclearance of any state action which would impact minority voting rights in a state with a history of illegal segregation. Be aware that a recent case (SHELBY v. HOLDER) ended that portion of the Voting Rights Act.

JUDICIAL REVIEW/EXECUTIVE PRIVILEGE

15. MARBURY V. MADISON

SCOTUS established itself as the 3d co-equal branch and established the principle of judicial review (the power of the courts to declare acts of Congress and/or the executive to be unconstitutional). Remember - SCOTUS has neither the power of the purse nor the sword.

Second ruling - executive privilege - the President doesn't have to explain himself - exception - US v. NIXON - criminal activity not protected by executive privilege

FOUNDATIONAL DOCUMENTS

1. Federalist 10

Madison gets busy with factions (a group of like-minded people whose common interest is opposite of another group or the group as a whole). To deal with the "mischief of faction" we needed a big, all-inclusive republic so everyone can be heard.

2. Brutus 1

Jefferson's anti-federalist paper. Against the powerful central government. Afraid of the taxing power, the implied powers clause and the supremacy clause. His argument in favor of states' rights over federal power

3. Declaration of Independence

This is the enlightenment in the USA. Establishes the social contract. Government by consent of the governed.

4. Articles of Confederation

State power - sovereignty in the states. The parts are greater than the sum. Only successes were the Northwest Land Ordinances. Unanimity required to amend. 9/13 to pass a law. No real executive or judicial branch. No judicial review. No taxing.. Shay's Rebellion demonstrated the weaknesses.

5. Constitution and all amendments

FILL IN YOUR NOTES HERE.

6. **Federalist 51**

Checks and balances/separation of powers.

7. **Letters from a Birmingham Jail**

King's letter to the clergy of the South urging them to be instruments of change (thermostats) rather than just discussing it (Thermometers). This document should be used in any discussion of Civil Rights.

8. **Federalist 70**

Strong executive is required. Accountability! One president not a team so that there is accountability and for efficiency.

9. **Federalist 78**

Power of the Court. Judicial review. Remember that the Court has not power of the purse or the sword.