

# Freedom of the Press

Journalism 1002

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# This lecture will cover...

- The First Amendment to the Constitution, specifically freedom of the press. Ratified in 1791.
- Nine examples of challenges to freedom of the press that went to the Supreme Court from 1919 to 2012.
- How to post to the freedom of the press Discussion Forum.

# Thomas Jefferson in 1787

- “Were it left to me to decide whether we should have a government without newspapers, or newspapers without a government, I should not hesitate a moment to prefer the latter.”

# The First Amendment to the Constitution

- Passed by Congress September 25, 1789.
- Ratified December 15, 1791.
- “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: (The first 10 amendments form the Bill of Rights.)

# LONG LIVE THE CONSTITUTION OF THE UNITED STATES

Wake Up, America! Your Liberties Are in Danger!

The 13th Amendment, Section 1, of the Constitution of the United States says: "Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction."

The Constitution of the United States is one of the greatest bulwarks of political liberty. It was born after a long, stubborn battle between king-rule and democracy. (We see little or no difference between arbitrary power under the name of a king and under a few misnamed "representatives.") In this battle the people of the United States established the principle that freedom of the individual and personal liberty are the most sacred things in life. Without them we become slaves.

For this principle the fathers fought and died. The establishment of this principle they sealed with their own blood. Do you want to see this principle abolished? Do you want to see despotism substituted in its stead? Shall we prove degenerate sons of illustrious sires?

The Thirteenth Amendment to the Constitution of the United States, quoted above, embodies this sacred idea. The Socialist Party says that this idea is violated by the Conscription Act. When you conscript a man and compel him to go abroad to fight against his will, you violate the most sacred right of personal liberty, and substitute for it what Daniel Webster called "despotism in its worst form."

A conscript is little better than a convict. He is deprived of his liberty and of his right to think and act as a free man. A conscripted citizen is forced to surrender his right as a citizen and become a subject. He is forced into involuntary servitude. He is deprived of the protection given him by the Constitution of the United States. He is deprived of all freedom of conscience in being forced to kill against his will.

Are you one who is opposed to war, and were you misled by the venal capitalist newspapers, or intimidated or deceived by gang politicians and registrars into believing that you would not be allowed to register your objection to conscription? Do you know that many citizens of Philadelphia insisted on their right to answer the famous question twelve, and went on record with their honest opinion of opposition to war, notwithstanding the deceitful efforts of our rulers and the newspaper press to prevent them from doing so? Shall it be said that the citizens of Philadelphia, the cradle of American liberty, are so lost to a sense of right and justice that they will let such monstrous wrongs against humanity go unchallenged?

In a democratic country each man must have the right to say whether he is willing to join the army. Only in countries where uncontrolled power rules can a despot force his subjects to fight. Such a man or men have no place in a democratic republic. This is tyrannical power in its worst form. It gives control over the life and death of the individual to a few men. There is no man good enough to be given such power.

Conscription laws belong to a bygone age. Even the people of Germany, long suffering under the yoke of military rule, are beginning to demand the abolition of conscription. Do you think it has a place in the United States? Do you want to see unlimited power handed over to Wall Street's chosen few in America? If you do not, join the Socialist Party in its campaign for the repeal of the Conscription Act. Write to your congressman and tell him you want the law repealed. Do not submit to intimidation. You have a right to demand the repeal of any law. Exercise your rights of free speech, peaceful assemblage and petitioning the government for a redress of grievances. Come to the headquarters of the Socialist Party, 1326 Arch street, and sign a petition to congress for the repeal of the Conscription Act. Help us wipe out this stain upon the Constitution!

Help us re-establish democracy in America.

Remember, "eternal vigilance is the price of liberty."

Down with autocracy!

Long live the Constitution of the United States!—Long live the Republic!

Books on Socialism for Sale at

SOCIALIST PARTY BOOK STORE AND HEADQUARTERS

1326 ARCH ST. Phone, Filbert 3121

(OVER)

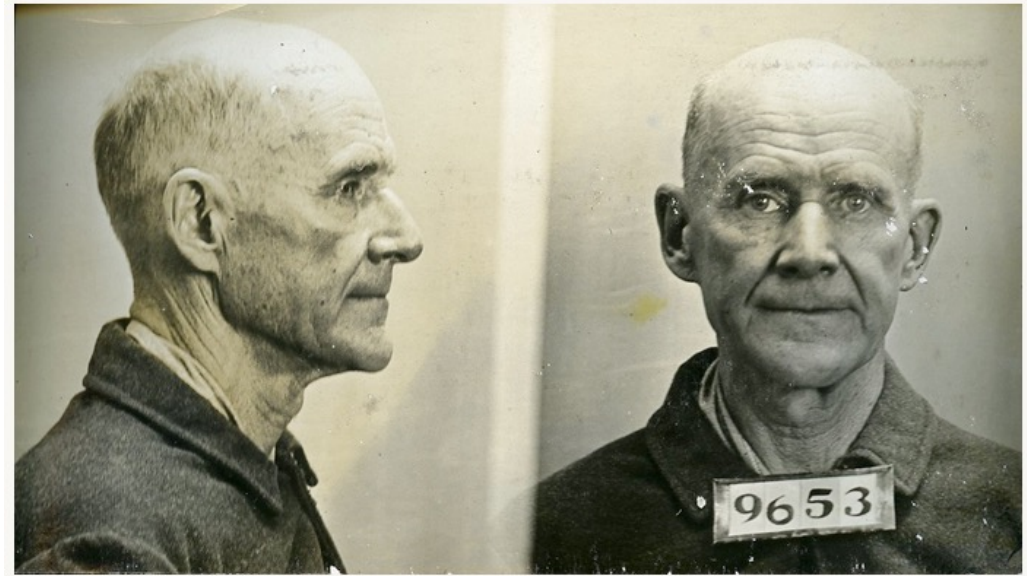
## Schenck v. United States 1919

- Charles Schenck and Elizabeth Baer, who were socialists, had given out leaflets (see the photo)... claiming the military draft violated the 13<sup>th</sup> amendment to the Constitution. (The one that mentions involuntary servitude.)
- Supreme Court ruled against him, saying freedom of speech isn't absolute but at times like war can be restricted.

# Debs v. United States 1919

Under the Schenck standard, the Socialist leader Eugene V. Debs could be jailed for giving an anti-war speech in wartime.

- The court found that what Debs said in his speech was not important... what mattered was that he was going against the Espionage Act when he advocated people should not serve in World War I.



Eugene Debs became Convict No. 9653 at the U.S. Penitentiary, Atlanta, where he was sentenced to 10 years for sedition. (National Archives at Atlanta, RG 129)

"The growing movement of peaceful mass demonstrations by Negroes is something new in the South, something understandable. . . . Let Congress heed their rising voices, for they will be heard."

—New York Times editorial  
Saturday, March 19, 1960

# Heed Their Rising Voices

AS the whole world knows by now, thousands of Southern Negro students are engaged in widespread non-violent demonstrations in positive affirmation of the right to live in human dignity as guaranteed by the U. S. Constitution and the Bill of Rights. In their efforts to uphold these guarantees, they are being met by an unprecedented wave of terror by those who would deny and negate that document which the whole world looks upon as setting the pattern for modern freedom. . . .

In Orangeburg, South Carolina, when 400 students peacefully sought to buy doughnuts and coffee at lunch counters in the business district, they were forcibly ejected, tear-gassed, soaked to the skin in freezing weather with fire hoses, arrested en masse and herded into an open barbed-wire stockade to stand for hours in the bitter cold.

In Montgomery, Alabama, after students sang "My Country, 'Tis of Thee" on the State Capitol steps, their leaders were expelled from school, and truckloads of police armed with shotguns and tear-gas ringed the Alabama State College Campus. When the entire student body protested to state authorities by refusing to re-register, their dining hall was padlocked in an attempt to starve them into submission.

In Tallahassee, Atlanta, Nashville, Savannah, Greensboro, Memphis, Richmond, Charlotte, and a host of other cities in the South, young American teenagers, in face of the entire weight of official state apparatus and police power, have boldly stepped forth as

protagonists of democracy. Their courage and amazing restraint have inspired millions and given a new dignity to the cause of freedom.

Small wonder that the Southern violators of the Constitution fear this new, non-violent brand of freedom fighter . . . even as they fear the upswelling right-to-vote movement. Small wonder that they are determined to destroy the one man who, more than any other, symbolizes the new spirit now sweeping the South—the Rev. Dr. Martin Luther King, Jr., world-famous leader of the Montgomery Bus Protest. For it is his doctrine of non-violence which has inspired and guided the students in their widening wave of sit-ins; and it is this same Dr. King who founded and is president of the Southern Christian Leadership Conference—the organization which is spearheading the surging right-to-vote movement. Under Dr. King's direction the Leadership Conference conducts Student Workshops and Seminars in the philosophy and technique of non-violent resistance.

Again and again the Southern violators have answered Dr. King's peaceful protests with intimidation and violence. They have bombed his home almost killing his wife and child. They have assaulted his person. They have arrested him seven times—for "speeding," "loitering" and similar "offenses." And now they have charged him with "perjury"—a felony under which they could imprison him for ten years. Obviously, their real purpose is to remove him physically as the leader to whom the students and millions

of others—look for guidance and support, and thereby to intimidate all leaders who may rise in the South. Their strategy is to hobnob this affirmative movement, and thus to demoralize Negro Americans and weaken their will to struggle. The defense of Martin Luther King, spiritual leader of the student sit-in movement, clearly, therefore, is an integral part of the total struggle for freedom in the South.

Decent-minded Americans cannot help but applaud the creative daring of the students and the quiet heroism of Dr. King. But this is one of those moments in the stormy history of Freedom when men and women of good will must do more than applaud the rising-to-glory of others. The America whose good name hangs in the balance before a watchful world, the America whose heritage of Liberty these Southern Upholders of the Constitution are defending, is our America as well as theirs. . . .

We must heed their rising voices—yes—but we must add our own.

We must extend ourselves above and beyond moral support and render the material help so urgently needed by those who are taking the risks, facing jail, and even death in a glorious re-affirmation of our Constitution and its Bill of Rights.

We urge you to join hands with our fellow Americans in the South by supporting, with your dollars, this Combined Appeal for all three needs—the defense of Martin Luther King—the support of the embattled students—and the struggle for the right-to-vote.

## Your Help Is Urgently Needed . . . NOW !!

Stella Adler  
Raymond Frank Alexander  
Henry Van Andale  
Harry Belafonte  
Julia Belafonte  
Dr. Alphonse Black  
Mae Blittain  
William Branch  
Marion Bonds  
Mrs. Ralph Branch  
Dianne Cantel

Dr. Alan Knight Chaires  
Richard Cox  
Nat King Cole  
Cheryl Crawford  
Dorothy Dandridge  
Ouis Davis  
Senny Davis, Jr.  
Ruby Dee  
Dr. Philip Elliott  
Dr. Harry Emerson Fosdick

Anthony Francisco  
Lorraine Hansbury  
Rev. Donald Harrington  
Nat Hentoff  
James Hicks  
Mary Helman  
Van Heflin  
Langston Hughes  
Morris Isidorwitz  
Mabelle Jackson  
Mandacai Johnson

John Kilers  
Earlie Kiri  
Rabbi Edward Klein  
Hope Lange  
John Lewis  
Yancey Lindfors  
Carl Murphy  
Dor Munry  
John Murray  
A. J. Rhotie  
Frederick O'Neal

L. Joseph Overton  
Clarence Fickitt  
Shed Polier  
Sidney Poitier  
A. Philip Randolph  
John Raitt  
Elmer Rice  
Jackie Robinson  
Mrs. Eleanor Roosevelt  
Bayard Rustin  
Robert Ryan

Maurice Stapleton  
Frank Stevens  
Hope Stevens  
George Takei  
Rev. Gardner C. Taylor  
Norman Thomas  
Kenneth Tynan  
Charles White  
Shelley Winegar  
Max Youngblood

We in the south who are struggling daily for dignity and freedom warmly endorse this appeal

Rev. Ralph D. Abernethy  
(Montgomery, Ala.)  
Rev. Fred L. Shuttlesworth  
(Birmingham, Ala.)  
Rev. Kelley Miller Smith  
(Nashville, Tenn.)  
Rev. W. A. Derrin  
(Chattanooga, Tenn.)  
Rev. C. K. Steele  
(Tallahassee, Fla.)

Rev. Matthew D. McCallum  
(Orangeburg, S. C.)  
Rev. William Holmes  
Boden  
(Atlanta, Ga.)  
Rev. Douglas Moore  
(Durham, N. C.)  
Rev. Wyatt Tee Walker  
(Petersburg, Va.)

Rev. Walter L. Hamilton  
(Norfolk, Va.)  
I. S. Levy  
(Charleston, S. C.)  
Rev. Martin Luther King, Sr.  
(Atlanta, Ga.)  
Rev. Henry C. Burson  
(Memphis, Tenn.)  
Rev. S. S. Seay, Sr.  
(Montgomery, Ala.)  
Rev. Samuel W. Williams  
(Atlanta, Ga.)

Rev. A. L. Davis  
(New Orleans, La.)  
Mrs. Katie E. Whiddam  
(New Orleans, La.)  
Rev. W. H. Hall  
(Hattiesburg, Miss.)  
Rev. J. E. Lovary  
(Mobile, Ala.)  
Rev. T. J. Jenkins  
(Baton Rouge, La.)

Please mail this coupon TODAY!

Committee To Defend Martin Luther King and  
The Struggle For Freedom In The South  
312 West 125th Street, New York 27, N. Y.  
UNiversity 6-1700

I am enclosing my contribution of \$ \_\_\_\_\_  
for the work of the Committee.

Name \_\_\_\_\_ (PLEASE PRINT)  
Address \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_

I want to help  Please send further information

Please make checks payable to:  
Committee To Defend Martin Luther King

# New York Times v. Sullivan, 1964

First Amendment tested in the courts

COMMITTEE TO DEFEND MARTIN LUTHER KING AND THE STRUGGLE FOR FREEDOM IN THE SOUTH  
312 West 125th Street, New York 27, N. Y. UNiversity 6-1700

Chairmen: A. Philip Randolph, Dr. Gardner C. Taylor; Chairmen of Cultural Division: Harry Belafonte, Sidney Poitier; Treasurer: Nat King Cole; Executive Director: Bayard Rustin; Chairmen of Church Division: Father George B. Ford, Rev. Harry Emerson Fosdick, Rev. Thomas Kilgore, Jr., Rabbi Edward E. Klein; Chairmen of Labor Division: Martin Luther King, Jr.,

# Richmond Newspapers v. Virginia

## 1980

- The newspaper company sued the state of Virginia because a trial judge had not allowed any news reporters into courtrooms to hear proceedings in a murder case.
- The Supreme Court ruled 7-1 that a lower court had no right to close a murder trial to the press.
- The Supreme Court held that the First Amendment covers not just talking freely but also the freedom to listen and to receive information and ideas. (oyez.org)



# Masson v. New Yorker magazine, 1991

- Prompted by the lawsuit of a psychiatrist, Jeffrey Masson, against journalist Janet Malcolm (shown here during the court proceedings), claiming she had misquoted him.
- She actually *had* misquoted him, but not maliciously. The court ruled that journalists have some leeway in how they quote people.
- To me, this is kind of an astonishing outcome, but it did put a stop to any idea that judges would become like editors.
- Many journalists criticized Malcolm for her belief that it's OK to join together and clean up quotations before you print them.



# Reno v. American Civil Liberties Union, 1997

Most of the Communications Decency Act, which had attempted to protect minors from harmful material on the Internet, was struck down as a violation of the First Amendment.

Only remaining provision was **Section 230**, one protecting reposters of material, saying anyone reposting is not the publisher.

# U.S. v. Manning, 2012

- In a court martial, Army Pvt. Bradley Manning, later Chelsea Manning, was found guilty of espionage for leaking a vast trove of classified material to WikiLeaks.
- The documents were about civilian deaths in Iraq and Afghanistan.
- Manning was sentenced to 35 years in prison. President Barack Obama commuted all but four months of the sentence in 2017.



# Hazelwood v. Kuhlmeier, 1988

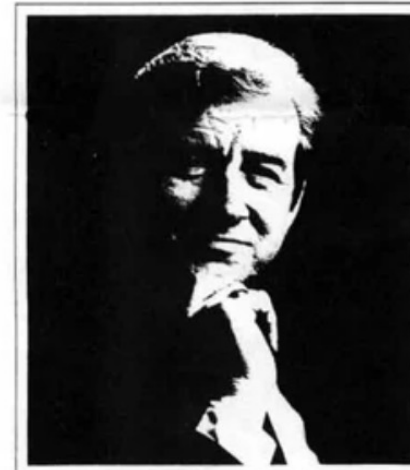
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- Students in the Journalism II class at Hazelwood East High School in St. Louis, Missouri wrote stories about their peers' experiences with teen pregnancy and the impact of divorce.
- The principal deleted the pages from the school newspaper before publication without telling the student editors.
- The students sued in a U.S. District Court claiming the principal had violated their First Amendment rights. The trial court said the principal could censor work written in a public school class.
- The students appealed to the U.S. Court of Appeals for the Eighth Circuit, which reversed the lower court, finding that the paper was a "public forum."
- The school appealed to the U.S. Supreme Court.
- In a 5-3 ruling, the U.S. Supreme Court held that the principal's actions did not violate the students' free speech rights. It said the school had sponsored the paper so could do what it wanted. It said the school paper was *not* a public forum.

# Jerry Falwell talks about his first time.\*

## Hustler Magazine v. Jerry Falwell 1983

- The pornographic magazine parodied the Rev. Jerry Falwell in a crass liquor ad.
- Falwell sued. He won in a lower court, but the Supreme Court defended Hustler's right to satirize Falwell because he was a public figure.



*INTERVIEWER: But your mom? Isn't that a bit odd?*

*FALWELL: I don't think so. Looks don't mean that much to me in a woman.*

*INTERVIEWER: Go on.*

*FALWELL: Well, we were drunk off our God-fearing asses on Campari, ginger ale and soda—that's called a Fire and Brimstone—at the time. And Mom looked better than a Baptist whore with a*

lots of times. But outhouse. Between the shit, the flies much to bear.

*INTERVIEWER: We Campari.*

*FALWELL: Oh, yeah. I always get sloshed before I go out to the pulpit. You don't think I could lay down all that bullshit sober, do you?*

© 1983—Imported by Campari U.S.A. New York, NY 48° proof Spirit Aperitif (Liqueur)

*FALWELL: My first time was in an outhouse outside Lynchburg, Virginia.*

*INTERVIEWER: Wasn't it a little cramped?*

*FALWELL: Not after I kicked the goat out.*

*INTERVIEWER: I see. You must tell me all about it.*

*FALWELL: I never really expected to make it with Mom, but then after she showed all the other guys in town such a good time, I figured, "What the hell!"*

\$100 donation.

*INTERVIEWER: Campari in the crapper with Mom... how interesting. Well, how was it?*

*FALWELL: The Campari was great, but Mom passed out before I could come.*

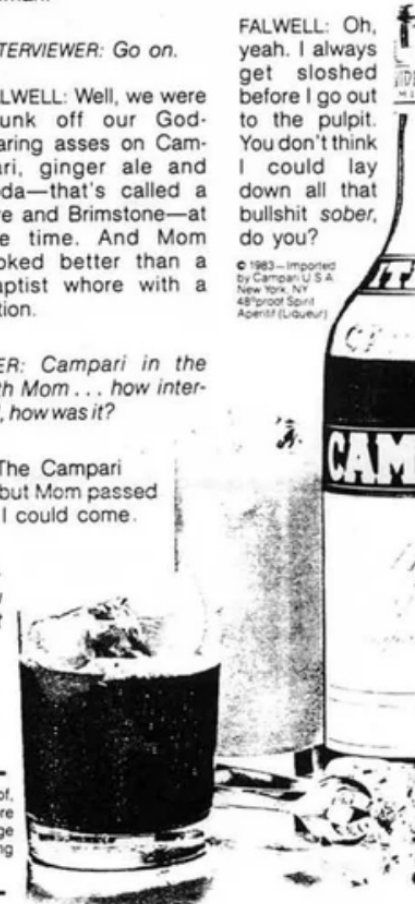
*INTERVIEWER: Did you ever try it again?*

*FALWELL: Sure...*

Campari, like all liquor, was made to mix you up. It's a light, 48-proof, refreshing spirit, just mild enough to make you drink too much before you know you're schnockered. For your first time, mix it with orange juice. Or maybe some white wine. Then you won't remember anything the next morning. **Campari. The mixable that smarts.**


**CAMPARI** You'll never forget your first

\*AD PARODY—NOT TO BE TAKEN SERIOUSLY





How famous? Here's Falwell advising President Ronald Reagan



# Hustler Magazine vs. Falwell, cont.

- Although Hustler's parody was judged to be in poor taste, the court nevertheless held that it fell within the First Amendment's protection of freedom of speech and the press.
- Falwell, who died in 2007, was a well-known religious conservative and founder of the Moral Majority, a political advocacy group.





### Thread: What's good about freedom of speech, and what's bad?

Select: [All](#) [None](#)

1 Post(s) in this Thread 0 Unread 0 Unread Replies to Me

Message Actions Expand All Collapse All



**Christine Woodside**

2 minutes ago

#### What's good about freedom of speech, and what's bad?

The First Amendment to the U.S. Constitution states:

"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."

In a brief reflection, post your thoughts about:

- \* **What is good** about freedom of speech and the press, AND
- \* an example of how sometimes along with the good of free speech comes the **not-so-good**.

For example: In America, citizens are protected from being arrested for expressing what they believe. That also means that someone who wants to express a controversial or odious opinion or perform a related action is free to do so. Someone who burns or desecrates an American flag in public is protected from arrest (as decided in Texas v. Johnson, a Supreme Court case in 1989). The justices wrote: "If there is a bedrock principle underlying the First Amendment, it is that the government may not prohibit the expression of an idea simply because society finds the idea itself offensive or disagreeable."

Hit "reply," and give the class an example of what's good about freedom of speech and what's not so good. Write at least 150 words for this first post. **First post is on time if posted by 11:59 p.m. Thursday, Oct. 6**

Your second post is on time if posted by 11:59 p.m. **on Tuesday, Oct. 11.**

Reply Quote Edit Delete

- JOUR-1002-SECH71.W31-1228
- Announcements
- Syllabus and Schedule
- Discussion Board
- Slides and reading links posted here
- Ida B. Wells blog
- JOIN CLASS HERE on Blackboard Collaborate!
- Journalist profile videos Media Gallery
- Syllabus Quiz
- Purchase Course Material
- My Grades
- Unit Test 1, September 27
- Your groups
- Course Management
- Control Panel
- Content Collection

# How to get into your freedom of the press forum

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- Go to HuskyCT
- Click on Your Groups
- Click on Freedom of the Press Discussion Forum
- Click on Group Discussion Board at the bottom of the page
- Click on Freedom of the Press Discussion Boards
- Post in one big thread