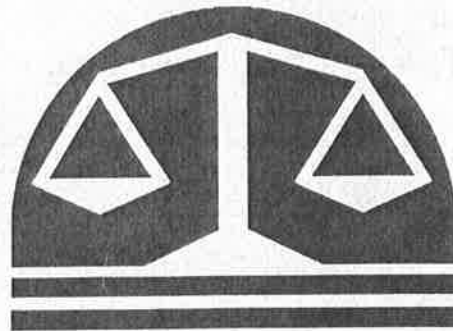


NEW YORK TIMES V. SULLIVAN



KANSAS BAR FOUNDATION

LAW RELATED EDUCATION

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The judicial Power of the United States...

LANDMARK DECISIONS OF THE SUPREME COURT OF THE UNITED STATES

Since shortly after the beginnings of our nation over 200 years ago, the Supreme Court of the United States has been a pivotal part of our self-government. The U. S. Supreme Court is the most powerful judicial body in the world. It is in that unique position by design. Our revolutionary system of checks and balances and separation of powers, including a separate and equal judiciary with powers of judicial review, has proven to be a successful, if not always smooth way to solve an enormous problem confronted by the founders. That challenge was how to have a government strong enough to protect us and encourage prosperity and happiness, while keeping that same government under control so it could not become tyrannical.

During the 20th century there were many landmark U. S. Supreme Court decisions that greatly influenced the direction our society has taken. These materials include edited recreations of oral arguments presented to the Court on three landmark cases and supplemental written materials. The Kansas Bar Association and many lawyers and judges have worked together to create this collection of videos and written materials to help students and others better understand these important decisions.

The cases we present are *Brown v. The Topeka Board of Education* (1954), *New York Times Co. v. Sullivan* (1964) and *Miranda v. Arizona* (1966). These cases have had a great impact on race relations, freedom of speech, and the rights of persons accused of crimes, respectively, in America.

The actual oral arguments made to the Supreme Court were much longer than our edited versions. We believe the important elements of the arguments have been preserved and are more easily understood in the form used. We hope the written materials we have included will help the classroom teacher explain the important issues involved. We will add other landmark case arguments and materials in the future if this approach proves to be a valuable and useful tool for teachers.

SUMMARY OF NEW YORK TIMES V. SULLIVAN (1964)

During the debates over whether the proposed constitution for the United States should be adopted, many pointed out that there were no specific protections for many of the freedoms that those who had fought for independence considered essential. Proponents of the proposed constitution assured those who had these concerns that specific protections could be adopted by the new government once it came to power. James Madison, often called “The Father of the Constitution,” led the efforts to draft and obtain passage of a “Bill of Rights” soon after the constitution was adopted and the government took office.

Originally, 12 amendments were submitted to the people and 10 were adopted at that time. (Interestingly, one of the two amendments that was rejected was adopted over 200 years later as the 27th Amendment.) All ten amendments dealt with particular issues and concerns of the people at that time. The First Amendment may well contain the most important freedoms of any of those in the Bill of Rights. The Amendment 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.”

Freedom of the press was recognized as a critical freedom from the beginning of our nation. The press had been a major way that the ideas which led to and allowed our revolution for independence to succeed were made known. While the Bill of Rights was originally intended to apply only to the federal government, after the adoption of the Fourteenth Amendment after the Civil War many of those rights began to be applied to the states through what became known as the “incorporation doctrine.”

New York Times v. Sullivan arose out of the fight for black civil rights in the South. A paid advertisement which appeared in the March 19, 1960 New York Times, which was signed by many prominent persons, urged support for civil rights activists in Montgomery, Alabama. The ad discussed demonstrations and the reaction to these demonstrations by the officials in Montgomery. Although he was not mentioned by name or title, L. B. Sullivan, one of the City Commissioners of Montgomery, claimed the ad libeled him and sued the New York Times in Alabama for damages. Although he actually proved no damages, or that he was even mentioned in the article, a very friendly jury awarded him \$500,000, which was a very large verdict for that time.

The Times appealed to the U. S. Supreme Court, stating that their actions in printing the ad were protected by the First Amendment. The court agreed and set out rules by which public officials who were criticized by the press for their official actions would be allowed to sue the press for damages. By restricting the right to bring libel actions by public officials the court indicated the importance of a free press in watching over and reporting on the actions of our officials.

QUESTIONS AND ANSWERS TO ACCOMPANY N.Y. TIMES V. SULLIVAN

Q. What Bill of Rights amendment did the New York Times claim protected it from being sued by the Alabama official for criticism of him for his official acts ?

A. The First Amendment.

Q. What rights are protected by the First Amendment ?

A. The freedoms of religion, press, speech, peaceable assembly and the freedom to petition the Government for a redress of grievances.

Q. Why was freedom of the press recognized as an important right ?

A. Before and during the American Revolution the press was a very important way to discuss the critical issues of government.

Q. Since the Bill of Rights was originally intended to apply only to the federal government, how did it become applicable against state governments ?

A. The 14th Amendment was passed after the Civil War. After its passage the U. S. Supreme Court began using it to apply the rights listed in the Bill of Rights to state governments. This became known as the “incorporation doctrine.”

Q. Did the decision in New York Times v. Sullivan abolish the right of public officials to sue the press if they believed they had been libeled by criticism of their official acts ?

A. The decision still allowed suits for libel by public officials for criticism of their public acts, but it required the official to show that the press had knowingly and maliciously published clearly defamatory and untrue criticism.

Q. Why did the court place heavy restrictions on the ability of public officials to sue for libel for criticism of their official acts ?

A. The court believed that public officials had many ways to answer untrue criticism of their acts. They also believed that it was very important that there be free, open and robust debate about how our government was being run. It was believed that this could not happen if the press could be continually sued for every difference of opinion and minor mistake in reporting facts.

GLOSSARY

The Bill of Rights--The first ten amendments to the constitution of the United States which were submitted to the American people for consideration and became effective in 1791. The Bill of Rights specifically enumerate rights of the people that could not be violated by the American federal government.

Black Letter Law--The majority rule. The general consensus on a legal issue.

Case or controversy--The phrase which indicates that there is an actual legal dispute over which the court called upon to rule can exercise jurisdiction. Courts are to only decide real cases and not give mere advisory opinions on legal questions.

Checks and Balances--A theory in American government that different branches of government in the United States, besides performing certain tasks, also help keep the other branches from exceeding their rightful authority.

Concurrence--A decision by a judge which agrees with the outcome of a case but which suggests another basis for the decision.

Constitution--The system of fundamental principles according to which a nation, state, or other body is governed.

De facto racial segregation—Racial segregation that occurs due to things such as housing patterns and not because segregation is required by law.

De jure racial segregation—Racial segregation that occurs because it is required by law.

Defamation, defamatory--Synonymous with libel, slander, and injurious to reputation.

Words which produce a perceptible injury to the reputation of another. Defamation per se refers to words which by their nature and without proof of damage are held to injure the reputation of a person if believed.

Directed verdict--A full or partial verdict in a case entered by the judge because the evidence presented can legally support only the verdict directed by the judge.

Dissent—A disagreement by one or more of the judges of a court with the decision arrived at by the majority of the judges on a case.

Exclusionary rule—A rule whereby evidence that is gained in violation of law by the state may be excluded from evidence in prosecution of the person whose rights were violated.

Fifteenth Amendment—One of the “Civil War Amendments” (See also the Thirteenth and Fourteenth Amendments) which were passed to protect the rights of newly freed black slaves. The Fifteenth Amendment dealt with the right to vote.

Fifth Amendment—A provision of our Bill of Rights which deals with a number of rights we have concerning criminal prosecutions and other government attempts to deprive persons of life, liberty or property.

First Amendment--The first amendment to the United States Constitution in the Bill of Rights. It deals with freedom of religion, speech, press, assembly and the right to peaceably assemble and petition the government for a redress of grievance (receive satisfaction for an injury sustained).

Fourteenth Amendment--One of the "Civil War Amendments," (See also the Thirteenth and Fifteenth Amendments) it was enacted in 1868 and, among other things, forbade the individual states from denying U.S. citizens basic rights, such as their privileges and immunities as citizens. It also specifically forbade any state depriving any person of life, liberty or property, without due process of law, or denying equal protection of the laws to any person within its jurisdiction.

Fourth Amendment—One of the provisions in our Bill of Rights which deals with the right of the people to be free of unreasonable searches and seizures.

Incorporation doctrine--The constitutional theory that the Fourteenth Amendment "incorporates" many, if not all, of the rights in the Bill of Rights so that they also apply to protection from actions of State governments.

Jurisdiction—The authority by which courts can hear and decide cases.

Libel--Written defamation. Seditious libel was defined in English law as words intended to cause "disaffection against the king or the government and constitution as by law established, or either house of parliament, or the administration of justice . . ." Laws against "seditious libel" were intended to discourage any criticism of the government.

James Madison--The fourth president of the United States who has been called the "Father of the United States Constitution" for his heavy involvement in drafting it and obtaining its ratification. He was similarly a main draftsman of the Bill of Rights and the Virginia Resolutions, which opposed the Sedition Act of 1798.

Magna Carta--"The great charter." Forced on King John of England by the English barons in 1215, it contained many provisions to secure rights in many important areas and is justly regarded as the foundation of English constitutional liberty.

Malice--The intentional doing of a wrongful act without just cause or excuse, with an intent to inflict some kind of injury, or under circumstances where the law will imply an evil intent.

Marbury v. Madison--An 1803 U.S. Supreme Court decision which established what we call "judicial review." In the decision, written by Chief Justice John Marshall, the principle was declared that the Supreme Court of the United States has the authority to interpret what the U.S. Constitution means, even if this interpretation differs from that held by the President, the Congress of the United States, or a state government.

Precedent--An adjudicated case or decision of a court that is believed to provide a basis for deciding an identical or similar question of law. (See, stare decisis.)

Qualified Privilege--Also known as a conditional privilege; not an absolute privilege. In libel and slander law a qualified privilege allows full freedom to speak or write, even if there are errors in what is presented, as long as certain conditions are met.

Sedition Act of 1798--A federal law passed in the United States which allowed for the punishment of newspaper editors and others who severely criticized the U.S. government and its officials. The Act expired in 1801 after a number of persons had been convicted under it. President Thomas Jefferson pardoned all who had been convicted under it. The act was probably unconstitutional.

Separate but equal--The phrase used in the decision of Plessy v. Ferguson (1897) where the Supreme Court of the United States said certain public facilities and services could be segregated by race as long as they were separate but equal. However, the separate facilities provided were usually not equal. This was struck down as it applied to schools by Brown v. Board of Education (1954).

Separation of Powers--Like checks and balances, a theory of American government that the executive, legislative, and judicial branches are "co-equal" branches of government, each with its own powers that cannot be breached by the other branches. Exactly what the separate powers are is sometimes not clear.

Sixth Amendment—A provision of our Bill of Rights which allows a person to have a number of rights when accused of a crime, including the right to have assistance of counsel.

Stare decisis—A Latin term meaning to abide by, or adhere to, decided cases. (See, precedent.)

Thirteenth Amendment—One of the “Civil War Amendments,” (See also the Fourteenth and Fifteenth Amendments) passed to protect the rights of newly freed black slaves. The Thirteenth Amendment abolished slavery.

The Virginia Resolutions--Formal arguments, largely drafted by James Madison, that challenged the Sedition Act of 1798 as being an unconstitutional violation of the First Amendment.

Writ of Certiorari--An order by which the Supreme Court of the United States directs that a case in a lower court be sent to the Supreme Court for consideration.

John Peter Zenger (1697-1749)--A New York newspaper publisher who was tried for seditious libel in 1735 for his criticism of the governor of New York who had been appointed the King. He was acquitted by a jury who refused to convict him although he

probably had violated a very strict British law which severely limited the criticism of royal authorities.