

# CONSTITUTIONAL LAW

CASES AND MATERIALS

ELEVENTH EDITION

WILLIAM COHEN  
JONATHAN D. VARAT

UNIVERSITY CASEBOOK SERIES

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# CONSTITUTIONAL LAW

ELEVENTH EDITION

*by*

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For Nancy, Barbara, Becky, and Margaret  
WC

For Barbara, Adam, Diana, and Jennifer  
JDV

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## PREFACE

Since 1977 it has been our custom to publish a new edition in each Presidential Inaugural year, taking into account decisions in the previous four terms of the Supreme Court. The eleventh edition continues that tradition.

We have, however, broken with some traditions. In the past, despite our best efforts, the book has grown gradually from edition to edition—from 1225 pages in the first edition to 1732 pages in the tenth. While we have not been able to turn back the clock more than four decades, we have been able to prepare an edition that is slightly smaller than its predecessor—despite the necessity to include the substance of 431 pages of the last supplement.

It also has been our custom to cut off each new edition with the Supreme Court term that preceded it. The eleventh edition also includes one case from the Supreme Court's current term—the December 12, 2000 decision in *Bush v. Gore*. The editors have strong, and perhaps not impartial, views about that decision. We have not seen the book as a stage for those views. We continue to provide “the raw materials—cases, constitutional provisions and statutes—allowing teachers maximum freedom to pursue their own teaching strategies and requiring students to create their own generalizations from the materials.”

There has been one significant change in organization. The current Supreme Court has been predictably and consistently divided five to four on issues concerning the scope of federal power. That issue has surfaced not only in cases arguing about “strict” or “broad” construction of Congress’ legislative powers over private actors, but also in controversies over the scope of State immunity from Federal regulation, and over interpretation of the Eleventh Amendment. We have combined the last two topics in a new Chapter 5 on “State Sovereignty and Federal Regulation,” which follows the discussion of “The Scope of National Power” in Chapter 4. The book’s organization, however, still allows users to “structure their own courses in their own ways.”

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February 2001

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## TABLE OF CASES

Principal cases are in bold type. Non-principal cases are in roman type. References are to Pages.

- Abington School District v. Schempp, 374 U.S. 203, 83 S.Ct. 1560, 10 L.Ed.2d 844 (1963), 42, 91
- Abrams v. Johnson, 521 U.S. 74, 117 S.Ct. 1925, 138 L.Ed.2d 285 (1997), 883, 977
- Abrams v. United States, 250 U.S. 616, 40 S.Ct. 17, 63 L.Ed. 1173 (1919), 1216, 1217, 1218, 1227, 1244, 1256
- Adair v. United States, 208 U.S. 161, 28 S.Ct. 277, 52 L.Ed. 436 (1908), 507
- Adamson v. People of State of California, 332 U.S. 46, 67 S.Ct. 1672, 91 L.Ed. 1903 (1947), 479, 484
- Adarand Constructors, Inc. v. Pena**, 515 U.S. 200, 115 S.Ct. 2097, 132 L.Ed.2d 158 (1995), 674, **864**
- Adderley v. State of Fla.**, 385 U.S. 39, 87 S.Ct. 242, 17 L.Ed.2d 149 (1966), **1381**, 1383
- Adickes v. S.H. Kress & Co., 398 U.S. 144, 90 S.Ct. 1598, 26 L.Ed.2d 142 (1970), 1173
- Adkins v. Children's Hospital of the District of Columbia, 261 U.S. 525, 43 S.Ct. 394, 67 L.Ed. 785 (1923), 508, 511
- Adler v. Board of Education of City of New York, 342 U.S. 485, 72 S.Ct. 380, 96 L.Ed. 517 (1952), 92, 94
- Afroyim v. Rusk, 387 U.S. 253, 87 S.Ct. 1660, 18 L.Ed.2d 757 (1967), 475
- Agostini v. Felton**, 521 U.S. 203, 117 S.Ct. 1997, 138 L.Ed.2d 391 (1997), **1628**
- Alden v. Maine, 527 U.S. 706, 119 S.Ct. 2240, 144 L.Ed.2d 636 (1999), 264
- Alexander v. Louisiana, 405 U.S. 625, 92 S.Ct. 1221, 31 L.Ed.2d 536 (1972), 496
- Allegheny, County of v. American Civil Liberties Union Greater Pittsburgh Chapter**, 492 U.S. 573, 109 S.Ct. 3086, 106 L.Ed.2d 472 (1989), **1607**
- Allen v. Wright, 468 U.S. 737, 104 S.Ct. 3315, 82 L.Ed.2d 556 (1984), 72
- Allgeyer v. State of La., 165 U.S. 578, 17 S.Ct. 427, 41 L.Ed. 832 (1897), 501
- Allied Structural Steel Co. v. Spannaus**, 438 U.S. 234, 98 S.Ct. 2716, 57 L.Ed.2d 727 (1978), 455, **527**
- Amalgamated Food Emp. Union Local 590 v. Logan Valley Plaza, Inc., 391 U.S. 308, 88 S.Ct. 1601, 20 L.Ed.2d 603, 45 O.O.2d 181 (1968), 1122, 1124
- Amerada Hess Corp. v. Director, Div. of Taxation, New Jersey Dept. of Treasury, 490 U.S. 66, 109 S.Ct. 1617, 104 L.Ed.2d 58 (1989), 268
- American Booksellers Ass'n, Inc. v. Hudson**, 771 F.2d 323 (7th Cir.1985), **1297**
- American Mfrs. Mut. Ins. Co. v. Sullivan, 526 U.S. 40, 119 S.Ct. 977, 143 L.Ed.2d 130 (1999), 1086
- Apodaca v. Oregon, 406 U.S. 404, 92 S.Ct. 1628, 32 L.Ed.2d 184 (1972), 493
- Application of (see name of party)**
- Apprendi v. New Jersey, 530 U.S. 466, 120 S.Ct. 2348, 147 L.Ed.2d 435 (2000), 494
- Arizona Governing Committee for Tax Deferred Annuity and Deferred Compensation Plans v. Norris, 463 U.S. 1073, 103 S.Ct. 3492, 77 L.Ed.2d 1236 (1983), 755
- Arkansas Educ. Television Com'n v. Forbes**, 523 U.S. 666, 118 S.Ct. 1633, 140 L.Ed.2d 875 (1998), **1392**, 1583
- Arkansas Writers' Project, Inc. v. Ragland, 481 U.S. 221, 107 S.Ct. 1722, 95 L.Ed.2d 209 (1987), 1542
- Arlington Heights, Village of v. Metropolitan Housing Development Corp., 429 U.S. 252, 97 S.Ct. 555, 50 L.Ed.2d 450 (1977), 69, 793
- Arnett v. Kennedy, 416 U.S. 134, 94 S.Ct. 1633, 40 L.Ed.2d 15 (1974), 1088, 1089, 1090
- Ashe v. Swenson, 397 U.S. 436, 90 S.Ct. 1189, 25 L.Ed.2d 469 (1970), 496
- Ashwander v. Tennessee Valley Authority, 297 U.S. 288, 56 S.Ct. 466, 80 L.Ed. 688 (1936), 60
- Associated General Contractors of America v. City of Jacksonville, Fla., 508 U.S. 656, 113 S.Ct. 2297, 124 L.Ed.2d 586 (1993), 72
- Atascadero State Hosp. v. Scanlon, 473 U.S. 234, 105 S.Ct. 3142, 87 L.Ed.2d 171 (1985), 258
- Atlantic Coast Line R. Co. v. Brotherhood of Locomotive Engineers, 398 U.S. 281, 90 S.Ct. 1739, 26 L.Ed.2d 234 (1970), 55
- Attorney General of New York v. Soto-Lopez**, 476 U.S. 898, 106 S.Ct. 2317, 90 L.Ed.2d 899 (1986), **1013**
- Austin v. Michigan Chamber of Commerce**, 494 U.S. 652, 110 S.Ct. 1391, 108 L.Ed.2d 652 (1990), **1496**
- Austin v. New Hampshire, 420 U.S. 656, 95 S.Ct. 1191, 43 L.Ed.2d 530 (1975), 472

- Babbitt v. United Farm Workers Nat. Union, 442 U.S. 289, 99 S.Ct. 2301, 60 L.Ed.2d 895 (1979), 1255
- Bacchus Imports, Ltd. v. Dias**, 468 U.S. 263, 104 S.Ct. 3049, 82 L.Ed.2d 200 (1984), 376
- Baggett v. Bullitt, 377 U.S. 360, 84 S.Ct. 1316, 12 L.Ed.2d 377 (1964), 1254
- Baker v. Carr, 369 U.S. 186, 82 S.Ct. 691, 7 L.Ed.2d 663 (1962), 103
- Baldwin v. G.A.F. Seelig, Inc., 294 U.S. 511, 55 S.Ct. 497, 79 L.Ed. 1032 (1935), 296, 362, 1200
- Baldwin v. Hale, 68 U.S. 223, 17 L.Ed. 531 (1863), 473
- Ball v. James, 451 U.S. 355, 101 S.Ct. 1811, 68 L.Ed.2d 150 (1981), 942, 943
- Ballew v. Georgia, 435 U.S. 223, 98 S.Ct. 1029, 55 L.Ed.2d 234 (1978), 493
- Baltimore Radio Show v. State, 193 Md. 300, 67 A.2d 497 (Md.1949), 1244
- Bankers' Trust Co., United States v., 294 U.S. 240, 55 S.Ct. 407, 79 L.Ed. 885 (1935), 212
- Bank of Augusta v. Earle, 38 U.S. 519, 13 Pet. 519, 10 L.Ed. 274 (1839), 364
- Barbier v. Connolly, 113 U.S. 27, 5 S.Ct. 357, 28 L.Ed. 923 (1884), 669, 670
- Barenblatt v. United States, 360 U.S. 109, 79 S.Ct. 1081, 3 L.Ed.2d 1115 (1959), 1245
- Barnard v. Thorstenn, 489 U.S. 546, 109 S.Ct. 1294, 103 L.Ed.2d 559 (1989), 375
- Barron v. City of Baltimore**, 32 U.S. 243, 7 Pet. 243, 8 L.Ed. 672 (1833), 20, 457, 459, 484
- Barrows v. Jackson, 346 U.S. 249, 73 S.Ct. 1031, 97 L.Ed. 1586 (1953), 60, 1135
- Bates v. State Bar of Arizona, 433 U.S. 350, 51 Ohio Misc. 1, 97 S.Ct. 2691, 53 L.Ed.2d 810 (1977), 1335, 1337
- Batson v. Kentucky, 476 U.S. 79, 106 S.Ct. 1712, 90 L.Ed.2d 69 (1986), 764
- Bazemore v. Friday, 478 U.S. 385, 106 S.Ct. 3000, 92 L.Ed.2d 315 (1986), 738
- Beauharnais v. People of State of Ill., 343 U.S. 250, 72 S.Ct. 725, 96 L.Ed. 919 (1952), 1263
- Bell v. State of Md., 378 U.S. 226, 84 S.Ct. 1814, 12 L.Ed.2d 822 (1964), 1136
- Belmont, United States v., 301 U.S. 324, 57 S.Ct. 758, 81 L.Ed. 1134 (1937), 207, 209, 406
- Bendix Autolite Corp. v. Midwesco Enterprises, Inc., 486 U.S. 888, 108 S.Ct. 2218, 100 L.Ed.2d 896 (1988), 275, 360
- Benton v. Maryland, 395 U.S. 784, 89 S.Ct. 2056, 23 L.Ed.2d 707 (1969), 496
- Berman v. Parker, 348 U.S. 26, 75 S.Ct. 98, 99 L.Ed. 27 (1954), 536
- Bernal v. Fainter**, 467 U.S. 216, 104 S.Ct. 2312, 81 L.Ed.2d 175 (1984), 885
- Bethel School Dist. No. 403 v. Fraser**, 478 U.S. 675, 106 S.Ct. 3159, 92 L.Ed.2d 549 (1986), 1412
- Bibb v. Navajo Freight Lines, Inc., 359 U.S. 520, 79 S.Ct. 962, 3 L.Ed.2d 1003 (1959), 283
- Bishop v. Wood, 426 U.S. 341, 96 S.Ct. 2074, 48 L.Ed.2d 684 (1976), 1088
- Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics, 403 U.S. 388, 91 S.Ct. 1999, 29 L.Ed.2d 619 (1971), 57
- Blum v. Yaretsky, 457 U.S. 991, 102 S.Ct. 2777, 73 L.Ed.2d 534 (1982), 1143
- Board of Airport Com'rs of City of Los Angeles v. Jews for Jesus, Inc., 482 U.S. 569, 107 S.Ct. 2568, 96 L.Ed.2d 500 (1987), 1383
- Board of Directors of Rotary Intern. v. Rotary Club of Duarte, 481 U.S. 537, 107 S.Ct. 1940, 95 L.Ed.2d 474 (1987), 1456
- Board of Ed. of Central School Dist. No. 1 v. Allen, 392 U.S. 236, 88 S.Ct. 1923, 20 L.Ed.2d 1060 (1968), 1627
- Board of Educ., Island Trees Union Free School Dist. No. 26 v. Pico**, 457 U.S. 853, 102 S.Ct. 2799, 73 L.Ed.2d 435 (1982), 1415
- Board of Educ. of Oklahoma City Public Schools, Independent School Dist. No. 89, Oklahoma County, Okl. v. Dowell, 498 U.S. 237, 111 S.Ct. 630, 112 L.Ed.2d 715 (1991), 723
- Board of Educ. of Westside Community Schools v. Mergens By and Through Mergens, 496 U.S. 226, 110 S.Ct. 2356, 110 L.Ed.2d 191 (1990), 1618
- Board of Estimate of City of New York v. Morris, 489 U.S. 688, 109 S.Ct. 1433, 103 L.Ed.2d 717 (1989), 943
- Board of Regents of State Colleges v. Roth**, 408 U.S. 564, 92 S.Ct. 2701, 33 L.Ed.2d 548 (1972), 1082, 1087
- Board of Regents of University of Wisconsin System v. Southworth, 529 U.S. 217, 120 S.Ct. 1346, 146 L.Ed.2d 193 (2000), 1469
- Board of Trustees of State University of New York v. Fox, 492 U.S. 469, 109 S.Ct. 3028, 106 L.Ed.2d 388 (1989), 1343
- Boddie v. Connecticut, 401 U.S. 371, 91 S.Ct. 780, 28 L.Ed.2d 113 (1971), 1041, 1042, 1043
- Boerne, City of v. Flores**, 521 U.S. 507, 117 S.Ct. 2157, 138 L.Ed.2d 624 (1997), 1186, 1678
- Bolger v. Youngs Drug Products Corp., 463 U.S. 60, 103 S.Ct. 2875, 77 L.Ed.2d 469 (1983), 1343
- Bolling v. Sharpe**, 347 U.S. 497, 74 S.Ct. 693, 98 L.Ed. 884 (1954), 673, 708
- Borden's Farm Products Co. v. Ten Eyck, 297 U.S. 251, 56 S.Ct. 453, 80 L.Ed. 669 (1936), 675
- Bouie v. City of Columbia, 378 U.S. 347, 84 S.Ct. 1697, 12 L.Ed.2d 894 (1964), 1135
- Bounds v. Smith, 430 U.S. 817, 97 S.Ct. 1491, 52 L.Ed.2d 72 (1977), 1040
- Bowen v. Kendrick, 487 U.S. 589, 108 S.Ct. 2562, 101 L.Ed.2d 520 (1988), 75
- Bowers v. Hardwick**, 478 U.S. 186, 106 S.Ct. 2841, 92 L.Ed.2d 140 (1986), 645, 654

- Boy Scouts of America v. Dale**, 530 U.S. 640, 120 S.Ct. 2446, 147 L.Ed.2d 554 (2000), **1457**
- Bradley v. Public Utilities Commission of Ohio**, 289 U.S. 92, 53 S.Ct. 577, 77 L.Ed. 1053 (1933), 278
- Brandenburg v. Ohio**, 395 U.S. 444, 89 S.Ct. 1827, 23 L.Ed.2d 430, 48 O.O.2d 320 (1969), **1239**, 1242
- Branzburg v. Hayes**, 408 U.S. 665, 92 S.Ct. 2646, 33 L.Ed.2d 626 (1972), **1556**
- Bray v. Alexandria Women's Health Clinic**, 506 U.S. 263, 113 S.Ct. 753, 122 L.Ed.2d 34 (1993), 1168
- Bridges v. State of Cal.**, 314 U.S. 252, 62 S.Ct. 190, 86 L.Ed. 192 (1941), 1244, 1551
- Broadrick v. Oklahoma**, 413 U.S. 601, 93 S.Ct. 2908, 37 L.Ed.2d 830 (1973), 1251
- Brockett v. Spokane Arcades, Inc.**, 472 U.S. 491, 105 S.Ct. 2794, 86 L.Ed.2d 394 (1985), 1252
- Brotherhood of R.R. Trainmen v. Virginia ex rel. Va. State Bar**, 377 U.S. 1, 84 S.Ct. 1113, 12 L.Ed.2d 89 (1964), 1452
- Brown v. Board of Ed. of Topeka, Shawnee County, Kan.**, 347 U.S. 483, 74 S.Ct. 686, 98 L.Ed. 873 (1954), 35, 142, 673, **705**, 709, 710, 712, 725, 727, 798
- Brown v. Board of Educ. of Topeka, Kan.**, 349 U.S. 294, 75 S.Ct. 753, 99 L.Ed. 1083 (1955), **710**
- Brown v. Socialist Workers '74 Campaign Committee (Ohio)**, 459 U.S. 87, 103 S.Ct. 416, 74 L.Ed.2d 250 (1982), 1508
- Brown v. State of Maryland**, 25 U.S. 419, 6 L.Ed. 678 (1827), 61, 266
- Brown v. Thomson**, 462 U.S. 835, 103 S.Ct. 2690, 77 L.Ed.2d 214 (1983), 938
- Brown-Forman Distillers Corp. v. New York State Liquor Authority**, 476 U.S. 573, 106 S.Ct. 2080, 90 L.Ed.2d 552 (1986), 265, 379
- Browning-Ferris Industries of Vermont, Inc. v. Kelco Disposal, Inc.**, 492 U.S. 257, 109 S.Ct. 2909, 106 L.Ed.2d 219 (1989), 494, 498
- Buck v. Kuykendall**, 267 U.S. 307, 45 S.Ct. 324, 69 L.Ed. 623 (1925), 276, 277, 278
- Buckley v. American Constitutional Law Foundation, Inc.**, 525 U.S. 182, 119 S.Ct. 636, 142 L.Ed.2d 599 (1999), 1513
- Buckley v. Valeo**, 424 U.S. 1, 96 S.Ct. 612, 46 L.Ed.2d 659 (1976), 199, 1408, **1486**, **1504**
- Bullock v. Carter**, 405 U.S. 134, 92 S.Ct. 849, 31 L.Ed.2d 92 (1972), 995
- Bunting v. State of Oregon**, 243 U.S. 426, 37 S.Ct. 435, 61 L.Ed. 830 (1917), 507
- Burch v. Louisiana**, 441 U.S. 130, 99 S.Ct. 1623, 60 L.Ed.2d 96 (1979), 493
- Burton v. Wilmington Parking Authority**, 365 U.S. 715, 81 S.Ct. 856, 6 L.Ed.2d 45 (1961), **1139**, 1141, 1156
- Bush v. Gore**, — U.S. —, 121 S.Ct. 525, 148 L.Ed.2d 388 (2000), 988
- Bush v. Vera**, 517 U.S. 952, 116 S.Ct. 1941, 135 L.Ed.2d 248 (1996), 970, 973, 974, 975
- Butler v. McKellar**, 494 U.S. 407, 110 S.Ct. 1212, 108 L.Ed.2d 347 (1990), 37
- Butler, United States v.**, 297 U.S. 1, 56 S.Ct. 312, 80 L.Ed. 477 (1936), 194
- Caban v. Mohammed**, 441 U.S. 380, 99 S.Ct. 1760, 60 L.Ed.2d 297 (1979), 900, 901
- C & A Carbone, Inc. v. Town of Clarkstown, N.Y.**, 511 U.S. 383, 114 S.Ct. 1677, 128 L.Ed.2d 399 (1994), **312**
- Calder v. Bull**, 3 U.S. 386, 3 Dall. 386, 1 L.Ed. 648 (1798), 453
- Califano v. Goldfarb**, 430 U.S. 199, 97 S.Ct. 1021, 51 L.Ed.2d 270 (1977), 785
- Califano v. Webster**, 430 U.S. 313, 97 S.Ct. 1192, 51 L.Ed.2d 360 (1977), 813
- California v. Byers**, 402 U.S. 424, 91 S.Ct. 1535, 29 L.Ed.2d 9 (1971), 497
- California Democratic Party v. Jones**, 530 U.S. 567, 120 S.Ct. 2402, 147 L.Ed.2d 502 (2000), **1480**
- California Med. Ass'n v. Federal Elec. Com'n**, 453 U.S. 182, 101 S.Ct. 2712, 69 L.Ed.2d 567 (1981), 1491
- California, State of, United States v.**, 297 U.S. 175, 56 S.Ct. 421, 80 L.Ed. 567 (1936), 217
- California, State of v. Taylor**, 353 U.S. 553, 77 S.Ct. 1037, 1 L.Ed.2d 1034 (1957), 217
- Camps Newfound/Owatonna, Inc. v. Town of Harrison, Me.**, 520 U.S. 564, 117 S.Ct. 1590, 137 L.Ed.2d 852 (1997), 334, 348
- Cantwell v. State of Connecticut**, 310 U.S. 296, 60 S.Ct. 900, 84 L.Ed. 1213 (1940), 1309
- Capital Cities Cable, Inc. v. Crisp**, 467 U.S. 691, 104 S.Ct. 2694, 81 L.Ed.2d 580 (1984), **380**
- Capitol Square Review and Advisory Bd. v. Pinette**, 515 U.S. 753, 115 S.Ct. 2440, 132 L.Ed.2d 650 (1995), 1364, **1619**
- Carey v. Brown**, 447 U.S. 455, 100 S.Ct. 2286, 65 L.Ed.2d 263 (1980), 584, 1256
- Carey v. Population Services, Intern.**, 431 U.S. 678, 97 S.Ct. 2010, 52 L.Ed.2d 675 (1977), 570, 644
- Carolene Products Co., United States v.**, 304 U.S. 144, 58 S.Ct. 778, 82 L.Ed. 1234 (1938), **512**
- Carroll v. President and Com'rs of Princess Anne**, 393 U.S. 175, 89 S.Ct. 347, 21 L.Ed.2d 325 (1968), 1260, 1262
- Carter v. Carter Coal Co.**, 298 U.S. 238, 56 S.Ct. 855, 80 L.Ed. 1160 (1936), 168
- Case v. Bowles**, 327 U.S. 92, 66 S.Ct. 438, 90 L.Ed. 552 (1946), 217
- Castaneda v. Partida**, 430 U.S. 482, 97 S.Ct. 1272, 51 L.Ed.2d 498 (1977), 798
- Causby, United States v.**, 328 U.S. 256, 66 S.Ct. 1062, 90 L.Ed. 1206 (1946), 61
- CBS, Inc. v. F.C.C.**, 453 U.S. 367, 101 S.Ct. 2813, 69 L.Ed.2d 706 (1981), 1574
- Central Hudson Gas & Elec. Corp. v. Public Service Commission of New York**, 447 U.S. 557, 100 S.Ct. 2343, 65 L.Ed.2d 341 (1980), **1337**

- Central State University v. American Ass'n of University Professors, Central State University Chapter, 526 U.S. 124, 119 S.Ct. 1162, 143 L.Ed.2d 227 (1999), 686
- Chaplinsky v. State of New Hampshire, 315 U.S. 568, 62 S.Ct. 766, 86 L.Ed. 1031 (1942), 1263, 1310
- Charles C. Steward Mach. Co. v. Davis, 301 U.S. 548, 57 S.Ct. 883, 81 L.Ed. 1279 (1937), 169, 196
- Chemical Waste Management, Inc. v. Hunt, 504 U.S. 334, 112 S.Ct. 2009, 119 L.Ed.2d 121 (1992), 325
- Chicago, B. & Q.R. Co. v. City of Chicago, 166 U.S. 226, 17 S.Ct. 581, 41 L.Ed. 979 (1897), 497
- Chicago & G.T. Ry. Co. v. Wellman, 143 U.S. 339, 12 S.Ct. 400, 36 L.Ed. 176 (1892), 60
- Chicago, M. & St. P. Ry. Co. v. State of Minn. ex rel. R.R. & Warehouse Com'n, 134 U.S. 418, 10 S.Ct. 462, 33 L.Ed. 970 (1890), 501
- Chinese Exclusion Cases, 130 U.S. 581, 9 S.Ct. 623, 32 L.Ed. 1068 (1889), 204
- Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah, 508 U.S. 520, 113 S.Ct. 2217, 124 L.Ed.2d 472 (1993), 1676
- Cincinnati, City of v. Discovery Network, Inc., 507 U.S. 410, 113 S.Ct. 1505, 123 L.Ed.2d 99 (1993), 1344
- City of (see name of city)**
- Civil Rights Cases**, 109 U.S. 3, 3 S.Ct. 18, 27 L.Ed. 835 (1883), 1115
- Clark v. Jeter, 486 U.S. 456, 108 S.Ct. 1910, 100 L.Ed.2d 465 (1988), 899
- Clark Distilling Co. v. Western Maryland R. Co., 242 U.S. 311, 37 S.Ct. 180, 61 L.Ed. 326 (1917), 162
- Classic, United States v., 313 U.S. 299, 61 S.Ct. 1031, 85 L.Ed. 1368 (1941), 1171
- Cleburne, Tex., City of v. Cleburne Living Center**, 473 U.S. 432, 105 S.Ct. 3249, 87 L.Ed.2d 313 (1985), 683, 685, 690, 903
- Clements v. Fashing, 457 U.S. 957, 102 S.Ct. 2836, 73 L.Ed.2d 508 (1982), 996
- Cleveland Bd. of Educ. v. LaFleur**, 414 U.S. 632, 94 S.Ct. 791, 39 L.Ed.2d 52, 67 O.O.2d 126 (1974), 1107
- Cleveland Bd. of Educ. v. Loudermill, 470 U.S. 532, 105 S.Ct. 1487, 84 L.Ed.2d 494 (1985), 1088, 1091
- Clinton v. City of New York**, 524 U.S. 417, 118 S.Ct. 2091, 141 L.Ed.2d 393 (1998), 88, 411
- Clinton v. Jones**, 520 U.S. 681, 117 S.Ct. 1636, 137 L.Ed.2d 945 (1997), 443
- Coates v. City of Cincinnati**, 402 U.S. 611, 91 S.Ct. 1686, 29 L.Ed.2d 214 (1971), 1248, 1253, 1254
- Codd v. Velger, 429 U.S. 624, 97 S.Ct. 882, 51 L.Ed.2d 92 (1977), 1091
- Coe v. Town of Errol, 116 U.S. 517, 6 S.Ct. 475, 29 L.Ed. 715 (1886), 160
- Cohen v. California**, 403 U.S. 15, 91 S.Ct. 1780, 29 L.Ed.2d 284 (1971), 1245, 1246, 1310
- Cole v. State of Ark., 333 U.S. 196, 68 S.Ct. 514, 92 L.Ed. 644 (1948), 497
- Coleman v. Miller, 307 U.S. 433, 59 S.Ct. 972, 83 L.Ed. 1385 (1939), 122, 123
- Colgate v. Harvey, 296 U.S. 404, 56 S.Ct. 252, 80 L.Ed. 299 (1935), 472
- Colgrove v. Battin, 413 U.S. 149, 93 S.Ct. 2448, 37 L.Ed.2d 522 (1973), 492
- College Sav. Bank v. Florida Prepaid Postsecondary Educ. Expense Bd., 527 U.S. 666, 119 S.Ct. 2219, 144 L.Ed.2d 605 (1999), 264
- Collins v. Hardyman, 341 U.S. 651, 71 S.Ct. 937, 95 L.Ed. 1253 (1951), 1168
- Colorado Republican Federal Campaign Committee v. Federal Election Com'n, 518 U.S. 604, 116 S.Ct. 2309, 135 L.Ed.2d 795 (1996), 1504
- Columbia Broadcasting System, Inc. v. Democratic Nat. Committee**, 412 U.S. 94, 93 S.Ct. 2080, 36 L.Ed.2d 772 (1973), 1409, 1410, 1567
- Columbus Bd. of Ed. v. Penick, 443 U.S. 449, 99 S.Ct. 2941, 61 L.Ed.2d 666 (1979), 727, 798
- Committee For Public Ed. and Religious Liberty v. Nyquist, 413 U.S. 756, 93 S.Ct. 2955, 37 L.Ed.2d 948 (1973), 1627, 1628
- Commonwealth v. — (see opposing party)**
- Commonwealth of (see name of Commonwealth)**
- Commonwealth of Pennsylvania v. State of West Virginia, 262 U.S. 553, 43 S.Ct. 658, 67 L.Ed. 1117 (1923), 319
- Complete Auto Transit, Inc. v. Brady, 430 U.S. 274, 97 S.Ct. 1076, 51 L.Ed.2d 326 (1977), 267, 268, 270
- Connick v. Myers**, 461 U.S. 138, 103 S.Ct. 1684, 75 L.Ed.2d 708 (1983), 1514
- Consolidated Edison Co. of New York, Inc. v. Public Service Commission of New York**, 447 U.S. 530, 100 S.Ct. 2326, 65 L.Ed.2d 319 (1980), 1405
- Cooley v. Board of Wardens of Port of Philadelphia, to Use of Soc for Relief of Distressed Pilots, Their Widows and Children**, 53 U.S. 299, 12 How. 299, 13 L.Ed. 996 (1851), 134, 155, 158, 159, 161, 265
- Cooper v. Aaron, 358 U.S. 1, 78 S.Ct. 1401, 3 L.Ed.2d 5, 3 L.Ed.2d 19 (1958), 35, 142
- Coppage v. State of Kansas, 236 U.S. 1, 35 S.Ct. 240, 59 L.Ed. 441 (1915), 507
- Corfield v. Coryell, 6 F.Cas. 546 (C.C.E.D.Pa. 1823), 363, 364, 455
- Cornelius v. NAACP Legal Defense and Educational Fund, Inc., 473 U.S. 788, 105 S.Ct. 3439, 87 L.Ed.2d 567 (1985), 1383
- County of (see name of county)**
- Cousins v. Wigoda, 419 U.S. 477, 95 S.Ct. 541, 42 L.Ed.2d 595 (1975), 1476
- Cox v. State of New Hampshire, 312 U.S. 569, 61 S.Ct. 762, 85 L.Ed. 1049 (1941), 1261, 1262
- Cox Broadcasting Corp. v. Cohn, 420 U.S. 469, 95 S.Ct. 1029, 43 L.Ed.2d 328 (1975), 48
- Craig v. Boren**, 429 U.S. 190, 97 S.Ct. 451, 50 L.Ed.2d 397 (1976), 73, 747, 753

- Craig v. Harney, 331 U.S. 367, 67 S.Ct. 1249, 91 L.Ed. 1546 (1947), 1244, 1551
- Crandall v. State of Nevada, 73 U.S. 35, 18 L.Ed. 745 (1867), 361
- Crawford v. Board of Educ. of City of Los Angeles, 458 U.S. 527, 102 S.Ct. 3211, 73 L.Ed.2d 948 (1982), 1158
- Crosby v. National Foreign Trade Council, 530 U.S. 363, 120 S.Ct. 2288, 147 L.Ed.2d 352 (2000), 396
- Cruikshank, United States v., 92 U.S. 542, 2 Otto 542, 23 L.Ed. 588 (1875), 1160, 1171
- Crutcher v. Commonwealth, 141 U.S. 47, 11 S.Ct. 851, 35 L.Ed. 649 (1891), 275, 276
- Cruzan by Cruzan v. Director, Missouri Dept. of Health, 497 U.S. 261, 110 S.Ct. 2841, 111 L.Ed.2d 224 (1990), 660
- CTS Corp. v. Dynamics Corp. of America**, 481 U.S. 69, 107 S.Ct. 1637, 95 L.Ed.2d 67 (1987), 355
- Curtiss-Wright Export Corporation, United States v., 299 U.S. 304, 57 S.Ct. 216, 81 L.Ed. 255 (1936), 200, 405
- Dames & Moore v. Regan, 453 U.S. 654, 101 S.Ct. 2972, 69 L.Ed.2d 918 (1981), 406
- Dandridge v. Williams**, 397 U.S. 471, 90 S.Ct. 1153, 25 L.Ed.2d 491 (1970), 1045
- Daniel v. Family Sec. Life Ins. Co., 336 U.S. 220, 69 S.Ct. 550, 93 L.Ed. 632 (1949), 515
- Daniels v. Williams**, 474 U.S. 327, 106 S.Ct. 662, 88 L.Ed.2d 662 (1986), 1100, 1102, 1103
- Darby, United States v., 312 U.S. 100, 312 U.S. 657, 61 S.Ct. 451, 85 L.Ed. 609 (1941), 169, 170, 217, 514
- Davidson v. Cannon, 474 U.S. 344, 106 S.Ct. 668, 88 L.Ed.2d 677 (1986), 1102
- Davidson v. City of New Orleans, 96 U.S. 97, 6 Otto 97, 24 L.Ed. 616 (1877), 500
- Davis v. Bandemer**, 478 U.S. 109, 106 S.Ct. 2797, 92 L.Ed.2d 85 (1986), 945
- Davis, Commonwealth v., 162 Mass. 510, 39 N.E. 113 (Mass.1895), 1360
- Davis, Helvering v., 301 U.S. 619, 301 U.S. 672, 57 S.Ct. 904, 81 L.Ed. 1307 (1937), 198
- Davis v. Wechsler, 263 U.S. 22, 44 S.Ct. 13, 68 L.Ed. 143 (1923), 49
- Day-Brite Lighting Inc. v. State of Mo., 342 U.S. 421, 72 S.Ct. 405, 96 L.Ed. 469 (1952), 520
- Dayton Bd. of Ed. v. Brinkman, 443 U.S. 526, 99 S.Ct. 2971, 61 L.Ed.2d 720 (1979), 727
- Dean Milk Co. v. City of Madison, Wis.**, 340 U.S. 349, 71 S.Ct. 295, 95 L.Ed. 329 (1951), 297
- Debs v. United States, 249 U.S. 211, 39 S.Ct. 252, 63 L.Ed. 566 (1919), 1216
- DeCanas v. Bica, 424 U.S. 351, 96 S.Ct. 933, 47 L.Ed.2d 43 (1976), 386
- DeFunis v. Odegaard, 84 Wash.2d 617, 529 P.2d 438 (Wash.1974), 92
- DeFunis v. Odegaard**, 416 U.S. 312, 94 S.Ct. 1704, 40 L.Ed.2d 164 (1974), 88, 90, 91, 92
- De Jonge v. State of Oregon, 299 U.S. 353, 57 S.Ct. 255, 81 L.Ed. 278 (1937), 1225, 1247
- Delaware v. Prouse, 440 U.S. 648, 99 S.Ct. 1391, 59 L.Ed.2d 660 (1979), 50
- Democratic Party of United States v. Wisconsin ex rel. LaFollette, 450 U.S. 107, 101 S.Ct. 1010, 67 L.Ed.2d 82 (1981), 1477
- Dennis v. United States, 341 U.S. 494, 71 S.Ct. 857, 95 L.Ed. 1137 (1951), 1227, 1238, 1243, 1244, 1245
- Department of Revenue of State of Wash. v. Association of Washington Stevedoring Companies, 435 U.S. 734, 98 S.Ct. 1388, 55 L.Ed.2d 682 (1978), 270
- Deposit Guaranty Nat. Bank, Jackson, Miss. v. Roper, 445 U.S. 326, 100 S.Ct. 1166, 63 L.Ed.2d 427 (1980), 91
- Desist v. United States, 394 U.S. 244, 89 S.Ct. 1030, 22 L.Ed.2d 248 (1969), 36
- Detroit Bank v. United States, 317 U.S. 329, 63 S.Ct. 297, 87 L.Ed. 304 (1943), 673
- Detroit Trust Co. v. Barlum S.S. Co., 293 U.S. 21, 55 S.Ct. 31, 79 L.Ed. 176 (1934), 215
- Dickerson v. United States**, 530 U.S. 428, 120 S.Ct. 2326, 147 L.Ed.2d 405 (2000), 1195
- Dillon v. Gloss, 256 U.S. 368, 41 S.Ct. 510, 65 L.Ed. 994 (1921), 122, 123
- Doe v. Bolton, 410 U.S. 179, 93 S.Ct. 739, 35 L.Ed.2d 201 (1973), 611, 612, 613
- Doe v. Commonwealth's Attorney for City of Richmond, 425 U.S. 901, 96 S.Ct. 1489, 47 L.Ed.2d 751 (1976), 645
- Dolan v. City of Tigard**, 512 U.S. 374, 114 S.Ct. 2309, 129 L.Ed.2d 304 (1994), 551
- Dombrowski v. Pfister, 380 U.S. 479, 85 S.Ct. 1116, 14 L.Ed.2d 22 (1965), 1254, 1255
- Doran v. Salem Inn, Inc., 422 U.S. 922, 95 S.Ct. 2561, 45 L.Ed.2d 648 (1975), 1255
- Doremus v. Board of Ed. of Borough of Hawthorne, 342 U.S. 429, 72 S.Ct. 394, 96 L.Ed. 475 (1952), 91, 92
- Douglas v. People of State of Cal., 372 U.S. 353, 83 S.Ct. 814, 9 L.Ed.2d 811 (1963), 1039
- Draper v. State of Wash., 372 U.S. 487, 83 S.Ct. 774, 9 L.Ed.2d 899 (1963), 1039
- Dred Scott v. Sandford, 60 U.S. 393, 19 How. 393, 15 L.Ed. 691 (1856), 460, 474, 484, 499
- Dugan v. Rank, 372 U.S. 609, 83 S.Ct. 999, 10 L.Ed.2d 15 (1963), 258
- Duke Power Co. v. Carolina Environmental Study Group, Inc., 438 U.S. 59, 98 S.Ct. 2620, 57 L.Ed.2d 595 (1978), 70
- Dun & Bradstreet, Inc. v. Greenmoss Builders, Inc.**, 472 U.S. 749, 105 S.Ct. 2939, 86 L.Ed.2d 593 (1985), 1275, 1343
- Duncan v. State of La.**, 391 U.S. 145, 88 S.Ct. 1444, 20 L.Ed.2d 491 (1968), 485, 492, 497
- Dunn v. Blumstein, 405 U.S. 330, 92 S.Ct. 995, 31 L.Ed.2d 274 (1972), 90, 984, 986, 1002, 1003, 1007
- Eakin v. Raub, 1825 WL 1913 (Pa.1825), 33

- Edelman v. Jordan, 415 U.S. 651, 94 S.Ct. 1347, 39 L.Ed.2d 662 (1974), 258
- Edenfield v. Fane, 507 U.S. 761, 113 S.Ct. 1792, 123 L.Ed.2d 543 (1993), 1336
- Edgar v. MITE Corp., 457 U.S. 624, 102 S.Ct. 2629, 73 L.Ed.2d 269 (1982), 353, 1200
- Edmonson v. Leesville Concrete Co., Inc., 500 U.S. 614, 111 S.Ct. 2077, 114 L.Ed.2d 660 (1991), 1139
- Edwards v. Aguillard**, 482 U.S. 578, 107 S.Ct. 2573, 96 L.Ed.2d 510 (1987), **1602**
- Edwards v. People of State of California, 314 U.S. 160, 62 S.Ct. 164, 86 L.Ed. 119 (1941), 362
- Edwards v. South Carolina, 372 U.S. 229, 83 S.Ct. 680, 9 L.Ed.2d 697 (1963), 496
- E.E.O.C. v. Wyoming, 460 U.S. 226, 103 S.Ct. 1054, 75 L.Ed.2d 18 (1983), 218
- Eichman, United States v., 496 U.S. 310, 110 S.Ct. 2404, 110 L.Ed.2d 287 (1990), 1444
- Eisenstadt v. Baird, 405 U.S. 438, 92 S.Ct. 1029, 31 L.Ed.2d 349 (1972), 602
- Elfrbrandt v. Russell, 384 U.S. 11, 86 S.Ct. 1238, 16 L.Ed.2d 321 (1966), 1242
- Employment Div., Dept. of Human Resources of Oregon v. Smith**, 494 U.S. 872, 110 S.Ct. 1595, 108 L.Ed.2d 876 (1990), **1666**, 1677
- Energy Reserves Group, Inc. v. Kansas Power and Light Co., 459 U.S. 400, 103 S.Ct. 697, 74 L.Ed.2d 569 (1983), 533
- Engel v. Vitale, 370 U.S. 421, 82 S.Ct. 1261, 8 L.Ed.2d 601, 20 O.O.2d 328 (1962), 42
- Erb v. Morasch, 177 U.S. 584, 20 S.Ct. 819, 44 L.Ed. 897 (1900), 265, 277
- Erie, City of v. Pap's A.M.**, 529 U.S. 277, 120 S.Ct. 1382, 146 L.Ed.2d 265 (2000), **1444**
- Estes v. State of Tex., 381 U.S. 532, 85 S.Ct. 1628, 14 L.Ed.2d 543 (1965), 497
- Evans v. Abney, 396 U.S. 435, 90 S.Ct. 628, 24 L.Ed.2d 634 (1970), 1122, 1138, 1141
- Evans v. Newton, 382 U.S. 296, 86 S.Ct. 486, 15 L.Ed.2d 373 (1966), 1122, 1124, 1137, 1141, 1156
- Everson v. Board of Ed. of Ewing Tp.**, 330 U.S. 1, 67 S.Ct. 504, 91 L.Ed. 711 (1947), 496, **1584**, 1588, 1627
- Ex parte (see name of party)**
- Exxon Corp. v. Eagerton, 462 U.S. 176, 103 S.Ct. 2296, 76 L.Ed.2d 497 (1983), 536
- Exxon Corp. v. Governor of Maryland, 437 U.S. 117, 98 S.Ct. 2207, 57 L.Ed.2d 91 (1978), 519
- Fairchild v. Hughes, 258 U.S. 126, 42 S.Ct. 274, 66 L.Ed. 499 (1922), 60
- Fairfax's Devisee v. Hunter's Lessee, 11 U.S. 603, 3 L.Ed. 453 (1812), 44
- Fay v. Noia, 372 U.S. 391, 83 S.Ct. 822, 9 L.Ed.2d 837, 24 O.O.2d 12 (1963), 61
- F.C.C. v. Beach Communications, Inc.**, 508 U.S. 307, 113 S.Ct. 2096, 124 L.Ed.2d 211 (1993), **679**, 683
- Federal Election Com'n v. Akins, 524 U.S. 11, 118 S.Ct. 1777, 141 L.Ed.2d 10 (1998), 86
- Federal Election Com'n v. National Conservative Political Action Committee, 470 U.S. 480, 105 S.Ct. 1459, 84 L.Ed.2d 455 (1985), 1491
- Federal Election Com'n v. National Right to Work Committee, 459 U.S. 197, 103 S.Ct. 552, 74 L.Ed.2d 364 (1982), 1496
- Ferguson v. Skrupa**, 372 U.S. 726, 83 S.Ct. 1028, 10 L.Ed.2d 93 (1963), **517**, 519
- First English Evangelical Lutheran Church of Glendale v. Los Angeles County, Cal., 482 U.S. 304, 107 S.Ct. 2378, 96 L.Ed.2d 250 (1987), 561
- First Nat. Bank of Boston v. Bellotti**, 435 U.S. 765, 98 S.Ct. 1407, 55 L.Ed.2d 707 (1978), **1491**, 1496, 1537
- Flagg Bros., Inc. v. Brooks**, 436 U.S. 149, 98 S.Ct. 1729, 56 L.Ed.2d 185 (1978), **1125**
- Flast v. Cohen, 392 U.S. 83, 88 S.Ct. 1942, 20 L.Ed.2d 947 (1968), 59, 70, 75
- Fletcher v. Peck, 10 U.S. 87, 3 L.Ed. 162 (1810), 455
- Florida Bar v. Went for It, Inc., 515 U.S. 618, 115 S.Ct. 2371, 132 L.Ed.2d 541 (1995), 1336
- Florida Prepaid Postsecondary Educ. Expense Bd. v. College Sav. Bank, 527 U.S. 627, 119 S.Ct. 2199, 144 L.Ed.2d 575 (1999), 264
- Fordice, United States v., 505 U.S. 717, 112 S.Ct. 2727, 120 L.Ed.2d 575 (1992), 737
- Forsyth County, Ga. v. Nationalist Movement, 505 U.S. 123, 112 S.Ct. 2395, 120 L.Ed.2d 101 (1992), 1261
- Fort Gratiot Sanitary Landfill, Inc. v. Michigan Dept. of Natural Resources, 504 U.S. 353, 112 S.Ct. 2019, 119 L.Ed.2d 139 (1992), 326
- Fort Wayne Books, Inc. v. Indiana, 489 U.S. 46, 109 S.Ct. 916, 103 L.Ed.2d 34 (1989), 1260
- 44 Liquormart, Inc. v. Rhode Island**, 517 U.S. 484, 116 S.Ct. 1495, 134 L.Ed.2d 711 (1996), **1344**
- Foster-Fountain Packing Co. v. Haydel, 278 U.S. 1, 49 S.Ct. 1, 73 L.Ed. 147 (1928), 311
- Freedman v. State of Md., 380 U.S. 51, 85 S.Ct. 734, 13 L.Ed.2d 649 (1965), 1257, 1262
- Freeman v. Hewit, 329 U.S. 249, 67 S.Ct. 274, 91 L.Ed. 265 (1946), 267
- Freeman v. Pitts, 503 U.S. 467, 112 S.Ct. 1430, 118 L.Ed.2d 108 (1992), 725
- Frisby v. Schultz**, 487 U.S. 474, 108 S.Ct. 2495, 101 L.Ed.2d 420 (1988), **1360**
- Frontiero v. Richardson**, 411 U.S. 677, 93 S.Ct. 1764, 36 L.Ed.2d 583 (1973), **743**, 753, 754, 785
- Frothingham v. Mellon, 262 U.S. 447, 43 S.Ct. 597, 67 L.Ed. 1078 (1923), 60, 74, 75
- Fruehauf, United States v., 365 U.S. 146, 81 S.Ct. 547, 5 L.Ed.2d 476 (1961), 60
- Fry v. United States, 421 U.S. 542, 95 S.Ct. 1792, 44 L.Ed.2d 363 (1975), 217, 218
- Fuentes v. Shevin, 407 U.S. 67, 92 S.Ct. 1983, 32 L.Ed.2d 556 (1972), 1090

- Fujii v. State, 38 Cal.2d 718, 242 P.2d 617 (Cal.1952), 209
- Fujii v. State, 217 P.2d 481 (Cal.App. 2 Dist. 1950), 209
- Furman v. Georgia, 408 U.S. 238, 92 S.Ct. 2726, 33 L.Ed.2d 346 (1972), 498
- Gade v. National Solid Wastes Management Ass'n**, 505 U.S. 88, 112 S.Ct. 2374, 120 L.Ed.2d 73 (1992), **386**, 396
- Gaffney v. Cummings, 412 U.S. 735, 93 S.Ct. 2321, 37 L.Ed.2d 298 (1973), 929
- Gannett Co., Inc. v. DePasquale, 443 U.S. 368, 99 S.Ct. 2898, 61 L.Ed.2d 608 (1979), 1561
- Gara v. United States, 178 F.2d 38 (6th Cir. 1949), 1218
- Garcia v. San Antonio Metropolitan Transit Authority**, 469 U.S. 528, 105 S.Ct. 1005, 83 L.Ed.2d 1016 (1985), **219**
- Garnett, Ex parte, 141 U.S. 1, 11 S.Ct. 840, 35 L.Ed. 631 (1891), 215
- Gault, Application of, 387 U.S. 1, 87 S.Ct. 1428, 18 L.Ed.2d 527 (1967), 497
- Gayle v. Browder, 352 U.S. 903, 77 S.Ct. 145, 1 L.Ed.2d 114 (1956), 710
- Geduldig v. Aiello, 417 U.S. 484, 94 S.Ct. 2485, 41 L.Ed.2d 256 (1974), 753, 754, 755
- Geier v. American Honda Motor Co., Inc., 529 U.S. 861, 120 S.Ct. 1913, 146 L.Ed.2d 914 (2000), 397
- General Elec. Co. v. Gilbert, 429 U.S. 125, 97 S.Ct. 401, 50 L.Ed.2d 343 (1976), 754, 755
- Georgia v. McCollum, 505 U.S. 42, 112 S.Ct. 2348, 120 L.Ed.2d 33 (1992), 1139
- Gertz v. Robert Welch, Inc.**, 418 U.S. 323, 94 S.Ct. 2997, 41 L.Ed.2d 789 (1974), **1269**
- Gibbons v. Ogden**, 22 U.S. 1, 6 L.Ed. 23 (1824), 60, 134, **145**, 153, 154, 162, 385
- Giboney v. Empire Storage & Ice Co., 336 U.S. 490, 69 S.Ct. 684, 93 L.Ed. 834 (1949), 1246
- Gideon v. Wainwright, 372 U.S. 335, 83 S.Ct. 792, 9 L.Ed.2d 799 (1963), 497
- Gilmore v. City of Montgomery, Ala., 417 U.S. 556, 94 S.Ct. 2416, 41 L.Ed.2d 304 (1974), 1141
- Girard College Trusteeship, In re, 391 Pa. 434, 138 A.2d 844 (Pa.1958), 1137, 1138
- Gitlow v. People of State of New York**, 268 U.S. 652, 45 S.Ct. 625, 69 L.Ed. 1138 (1925), 476, **1218**, 1227, 1230, 1231, 1243, 1247
- Glickman v. Wileman Bros. & Elliott, Inc.**, 521 U.S. 457, 117 S.Ct. 2130, 138 L.Ed.2d 585 (1997), **1465**
- Glidden Co. v. Zdanok, 370 U.S. 530, 82 S.Ct. 1459, 8 L.Ed.2d 671 (1962), 41
- Globe Newspaper Co. v. Superior Court for Norfolk County, 457 U.S. 596, 102 S.Ct. 2613, 73 L.Ed.2d 248 (1982), 1567
- Goldberg v. Sweet, 488 U.S. 252, 109 S.Ct. 582, 102 L.Ed.2d 607 (1989), 268
- Goldwater v. Carter**, 444 U.S. 996, 100 S.Ct. 533, 62 L.Ed.2d 428 (1979), **113**
- Gomez v. Perez, 409 U.S. 535, 93 S.Ct. 872, 35 L.Ed.2d 56 (1973), 893
- Gordon v. Lance, 403 U.S. 1, 91 S.Ct. 1889, 29 L.Ed.2d 273 (1971), 943
- Graham v. Collins, 506 U.S. 461, 113 S.Ct. 892, 122 L.Ed.2d 260 (1993), 37
- Graham v. Richardson**, 403 U.S. 365, 91 S.Ct. 1848, 29 L.Ed.2d 534 (1971), 675, **883**
- Greater New Orleans Broadcasting Ass'n, Inc. v. United States**, 527 U.S. 173, 119 S.Ct. 1923, 144 L.Ed.2d 161 (1999), **1353**, 1583
- Green v. County School Bd. of New Kent County, Va., 391 U.S. 430, 88 S.Ct. 1689, 20 L.Ed.2d 716 (1968), 726
- Greer v. Spock, 424 U.S. 828, 96 S.Ct. 1211, 47 L.Ed.2d 505 (1976), 1383
- Gregory v. Ashcroft, 501 U.S. 452, 111 S.Ct. 2395, 115 L.Ed.2d 410 (1991), 126
- Griffin v. Breckenridge, 403 U.S. 88, 91 S.Ct. 1790, 29 L.Ed.2d 338 (1971), 1168, 1172
- Griffin v. California, 380 U.S. 609, 5 Ohio Misc. 127, 85 S.Ct. 1229, 14 L.Ed.2d 106 (1965), 497
- Griffin v. Illinois, 351 U.S. 12, 76 S.Ct. 585, 100 L.Ed. 891 (1956), 1039
- Griffin v. State of Md., 378 U.S. 130, 84 S.Ct. 1770, 12 L.Ed.2d 754 (1964), 1135, 1136
- Griffith v. Kentucky, 479 U.S. 314, 107 S.Ct. 708, 93 L.Ed.2d 649 (1987), 37
- Griswold v. Connecticut**, 381 U.S. 479, 85 S.Ct. 1678, 14 L.Ed.2d 510 (1965), 564, **565**, 570, 602, 616, 1437
- Grove City College v. Bell, 465 U.S. 555, 104 S.Ct. 1211, 79 L.Ed.2d 516 (1984), 1162
- Grovey v. Townsend, 295 U.S. 45, 55 S.Ct. 622, 79 L.Ed. 1292 (1935), 1123
- Guest, United States v., 383 U.S. 745, 86 S.Ct. 1170, 16 L.Ed.2d 239 (1966), 1171, 1172, 1173, 1174
- Guillory v. Administrators of Tulane University of La., 212 F.Supp. 674 (E.D.La.1962), 1138
- Guinn v. United States, 238 U.S. 347, 35 S.Ct. 926, 59 L.Ed. 1340 (1915), 701, 991, 993
- Gulf, C. & S.F. Ry. Co. v. Ellis, 165 U.S. 150, 17 S.Ct. 255, 41 L.Ed. 666 (1897), 670
- Hadley v. Junior College Dist. of Metropolitan Kansas City, Mo., 397 U.S. 50, 90 S.Ct. 791, 25 L.Ed.2d 45 (1970), 938, 941
- Hagar v. Reclamation Dist. No. 108, 111 U.S. 701, 4 S.Ct. 663, 28 L.Ed. 569 (1884), 473
- Hague v. Committee for Indus. Organization, 307 U.S. 496, 59 S.Ct. 954, 83 L.Ed. 1423 (1939), 1360
- Hamm v. City of Rock Hill, 379 U.S. 306, 85 S.Ct. 384, 13 L.Ed.2d 300 (1964), 1136
- Hammer v. Dagenhart, 247 U.S. 251, 38 S.Ct. 529, 62 L.Ed. 1101 (1918), 169
- Hampton v. Mow Sun Wong, 426 U.S. 88, 96 S.Ct. 1895, 48 L.Ed.2d 495 (1976), 673, 1200

- Hannibal & St. J.R. Co. v. Husen, 95 U.S. 465, 5 Otto 459, 24 L.Ed. 527 (1877), 159, 295
- Harisiades v. Shaughnessy, 342 U.S. 580, 72 S.Ct. 512, 96 L.Ed. 586 (1952), 474
- Harper v. Virginia Dept. of Taxation, 509 U.S. 86, 113 S.Ct. 2510, 125 L.Ed.2d 74 (1993), 37
- Harper v. Virginia State Bd. of Elections**, 383 U.S. 663, 86 S.Ct. 1079, 16 L.Ed.2d 169 (1966), 920, **982**, 996
- Harris v. McRae**, 448 U.S. 297, 100 S.Ct. 2671, 65 L.Ed.2d 784 (1980), 920, **1048**
- Harris, United States v., 106 U.S. 629, 16 Otto 629, 1 S.Ct. 601, 27 L.Ed. 290 (1883), 1161, 1171
- Hartzel v. United States, 322 U.S. 680, 64 S.Ct. 1233, 88 L.Ed. 1534 (1944), 1217
- Hauenstein v. Lynham, 100 U.S. 483, 10 Otto 483, 25 L.Ed. 628 (1879), 204
- Hawaii Housing Authority v. Midkiff, 467 U.S. 229, 104 S.Ct. 2321, 81 L.Ed.2d 186 (1984), 536
- Hawke v. Smith, 253 U.S. 221, 40 S.Ct. 495, 64 L.Ed. 871 (1920), 122
- Hays, United States v., 515 U.S. 737, 115 S.Ct. 2431, 132 L.Ed.2d 635 (1995), 72, 973
- Hazelwood School Dist. v. Kuhlmeier**, 484 U.S. 260, 108 S.Ct. 562, 98 L.Ed.2d 592 (1988), **1422**
- Heart of Atlanta Motel, Inc. v. United States**, 379 U.S. 241, 85 S.Ct. 348, 13 L.Ed.2d 258 (1964), **171**, 1170
- Heffron v. International Soc. for Krishna Consciousness, Inc., 452 U.S. 640, 101 S.Ct. 2559, 69 L.Ed.2d 298 (1981), 1383
- Heimgaertner v. Benjamin Elec. Mfg. Co., 6 Ill.2d 152, 128 N.E.2d 691 (Ill.1955), 520
- Heller v. Doe by Doe, 509 U.S. 312, 113 S.Ct. 2637, 125 L.Ed.2d 257 (1993), 683, 911
- Helvering v. ——— (see opposing party)**
- Henry v. State of Miss., 379 U.S. 443, 85 S.Ct. 564, 13 L.Ed.2d 408 (1965), 49
- Herb v. Pitcairn, 324 U.S. 117, 65 S.Ct. 459, 89 L.Ed. 789 (1945), 49
- Herbert v. Lando, 441 U.S. 153, 99 S.Ct. 1635, 60 L.Ed.2d 115 (1979), 1560
- Hernandez v. State of Tex., 347 U.S. 475, 74 S.Ct. 667, 98 L.Ed. 866 (1954), 701
- Herndon v. Lowry, 301 U.S. 242, 57 S.Ct. 732, 81 L.Ed. 1066 (1937), 1247, 1248, 1254
- Hess v. Indiana, 414 U.S. 105, 94 S.Ct. 326, 38 L.Ed.2d 303 (1973), 1242
- Hewitt v. Helms, 459 U.S. 460, 103 S.Ct. 864, 74 L.Ed.2d 675 (1983), 1092
- Hicks v. Miranda, 422 U.S. 332, 95 S.Ct. 2281, 45 L.Ed.2d 223 (1975), 1255, 1256
- Hill v. Colorado**, 530 U.S. 703, 120 S.Ct. 2480, 147 L.Ed.2d 597 (2000), **1372**
- Hill v. Stone, 421 U.S. 289, 95 S.Ct. 1637, 44 L.Ed.2d 172 (1975), 986
- Hirabayashi v. United States, 828 F.2d 591 (9th Cir.1987), 700
- Hirabayashi v. United States, 320 U.S. 81, 63 S.Ct. 1375, 87 L.Ed. 1774 (1943), 698
- Hodel v. Irving, 481 U.S. 704, 107 S.Ct. 2076, 95 L.Ed.2d 668 (1987), 550
- Hodel v. Virginia Surface Min. and Reclamation Ass'n, Inc., 452 U.S. 264, 101 S.Ct. 2352, 69 L.Ed.2d 1 (1981), 218
- Hodges v. United States, 203 U.S. 1, 27 S.Ct. 6, 51 L.Ed. 65 (1906), 1161
- Hollingsworth v. State of Virginia, 3 U.S. 378, 3 Dall. 378, 1 L.Ed. 644 (1798), 122
- Holmes v. City of Atlanta, 350 U.S. 879, 76 S.Ct. 141, 100 L.Ed. 776 (1955), 710
- Honda Motor Co., Ltd. v. Oberg, 512 U.S. 415, 114 S.Ct. 2331, 129 L.Ed.2d 336 (1994), 495
- Houchins v. KQED, Inc., 438 U.S. 1, 98 S.Ct. 2588, 57 L.Ed.2d 553 (1978), 1561
- Houston, Tex., City of v. Hill**, 482 U.S. 451, 107 S.Ct. 2502, 96 L.Ed.2d 398 (1987), **1313**
- Hoyt v. State of Fla., 368 U.S. 57, 82 S.Ct. 159, 7 L.Ed.2d 118 (1961), 764
- H.P. Hood & Sons, Inc. v. Du Mond**, 336 U.S. 525, 69 S.Ct. 657, 93 L.Ed. 865 (1949), **319**
- Hudgens v. N.L.R.B., 424 U.S. 507, 96 S.Ct. 1029, 47 L.Ed.2d 196 (1976), 1124
- Hudson v. Palmer, 468 U.S. 517, 104 S.Ct. 3194, 82 L.Ed.2d 393 (1984), 1103, 1104
- Hudson, United States v., 11 U.S. 32, 3 L.Ed. 259 (1812), 1210
- Hughes v. Oklahoma**, 441 U.S. 322, 99 S.Ct. 1727, 60 L.Ed.2d 250 (1979), **326**
- Hunt v. Cromartie, 526 U.S. 541, 119 S.Ct. 1545, 143 L.Ed.2d 731 (1999), 883, 980
- Hunt v. McNair, 413 U.S. 734, 93 S.Ct. 2868, 37 L.Ed.2d 923 (1973), 1643
- Hunter v. Erickson, 393 U.S. 385, 89 S.Ct. 557, 21 L.Ed.2d 616 (1969), 1157
- Hunter v. Underwood, 471 U.S. 222, 105 S.Ct. 1916, 85 L.Ed.2d 222 (1985), 809
- Hurtado v. People of State of Cal., 110 U.S. 516, 4 S.Ct. 111, 28 L.Ed. 232 (1884), 473, 496
- Ibanez v. Florida Dept. of Business and Professional Regulation, Bd. of Accountancy, 512 U.S. 136, 114 S.Ct. 2084, 129 L.Ed.2d 118 (1994), 1336
- In re (see name of party)**
- I.N.S. v. Chadha**, 462 U.S. 919, 103 S.Ct. 2764, 77 L.Ed.2d 317 (1983), **421**
- International Soc. for Krishna Consciousness, Inc. v. Lee**, 505 U.S. 672, 112 S.Ct. 2701, 120 L.Ed.2d 541 (1992), **1384**
- Ives v. South Buffalo Ry. Co., 201 N.Y. 271, 94 N.E. 431 (N.Y.1911), 50
- Jackson v. Metropolitan Edison Co.**, 419 U.S. 345, 95 S.Ct. 449, 42 L.Ed.2d 477 (1974), **1148**
- Jacobs v. Barr, 959 F.2d 313, 294 U.S.App. D.C. 367 (D.C.Cir.1992), 700
- James v. Valtierra, 402 U.S. 137, 91 S.Ct. 1331, 28 L.Ed.2d 678 (1971), 1157

- J.E.B. v. Alabama ex rel. T.B.*, 511 U.S. 127, 114 S.Ct. 1419, 128 L.Ed.2d 89 (1994), 764
- Jefferson v. Hackney*, 406 U.S. 535, 92 S.Ct. 1724, 32 L.Ed.2d 285 (1972), 676, 702
- Jenkins v. Georgia***, 418 U.S. 153, 94 S.Ct. 2750, 41 L.Ed.2d 642 (1974), **1295**
- Jimenez v. Weinberger*, 417 U.S. 628, 94 S.Ct. 2496, 41 L.Ed.2d 363 (1974), 893
- Johnson v. Eisentrager*, 339 U.S. 763, 70 S.Ct. 936, 94 L.Ed. 1255 (1950), 474
- Johnson v. State of Va.*, 373 U.S. 61, 83 S.Ct. 1053, 10 L.Ed.2d 195 (1963), 710
- Johnson v. Transportation Agency, Santa Clara County, Cal.*, 480 U.S. 616, 107 S.Ct. 1442, 94 L.Ed.2d 615 (1987), 820
- Jones v. Alfred H. Mayer Co.***, 392 U.S. 409, 88 S.Ct. 2186, 20 L.Ed.2d 1189 (1968), **1163**, 1167, 1168
- Jones v. Helms*, 452 U.S. 412, 101 S.Ct. 2434, 69 L.Ed.2d 118 (1981), 1007
- Kadrmas v. Dickinson Public Schools*, 487 U.S. 450, 108 S.Ct. 2481, 101 L.Ed.2d 399 (1988), 921, 1079
- Kahn v. Shevin***, 416 U.S. 351, 94 S.Ct. 1734, 40 L.Ed.2d 189 (1974), 753, **810**
- Kahriger, United States v.*, 345 U.S. 22, 73 S.Ct. 510, 97 L.Ed. 754 (1953), 61
- Kaiser Aetna v. United States*, 444 U.S. 164, 100 S.Ct. 383, 62 L.Ed.2d 332 (1979), 216, 550
- Karcher v. Daggett***, 462 U.S. 725, 103 S.Ct. 2653, 77 L.Ed.2d 133 (1983), **931**, 938
- Kassel v. Consolidated Freightways Corp. of Delaware***, 450 U.S. 662, 101 S.Ct. 1309, 67 L.Ed.2d 580 (1981), **284**
- Katzenbach v. McClung***, 379 U.S. 294, 85 S.Ct. 377, 13 L.Ed.2d 290 (1964), **174**, 1162, 1170
- Keller v. State Bar of California***, 496 U.S. 1, 110 S.Ct. 2228, 110 L.Ed.2d 1 (1990), **1463**
- Ker v. State of Cal.*, 374 U.S. 23, 83 S.Ct. 1623, 10 L.Ed.2d 726 (1963), 496
- Keyes v. School Dist. No. 1, Denver, Colo.*, 413 U.S. 189, 93 S.Ct. 2686, 37 L.Ed.2d 548 (1973), 719
- Keyishian v. Board of Regents of University of State of N. Y.*, 385 U.S. 589, 87 S.Ct. 675, 17 L.Ed.2d 629 (1967), 1242
- Kidd v. Pearson*, 128 U.S. 1, 9 S.Ct. 6, 32 L.Ed. 346 (1888), 160
- Kimel v. Florida Bd. of Regents*, 528 U.S. 62, 120 S.Ct. 631, 145 L.Ed.2d 522 (2000), 264, 1194
- Kimmish v. Ball*, 129 U.S. 217, 9 S.Ct. 277, 32 L.Ed. 695 (1889), 295
- Klein, United States v.*, 80 U.S. 128, 20 L.Ed. 519 (1871), 40
- Kleindienst v. Mandel*, 408 U.S. 753, 92 S.Ct. 2576, 33 L.Ed.2d 683 (1972), 214
- Kleppe v. New Mexico***, 426 U.S. 529, 96 S.Ct. 2285, 49 L.Ed.2d 34 (1976), **210**
- Klopfer v. State of N.C.*, 386 U.S. 213, 87 S.Ct. 988, 18 L.Ed.2d 1 (1967), 497
- Knauff, United States ex rel. v. Shaughnessy*, 338 U.S. 537, 70 S.Ct. 309, 94 L.Ed. 317 (1950), 474
- Kokinda, United States v.*, 497 U.S. 720, 110 S.Ct. 3115, 111 L.Ed.2d 571 (1990), 1383
- Konigsberg v. State Bar of Cal.*, 366 U.S. 36, 81 S.Ct. 997, 6 L.Ed.2d 105 (1961), 1245
- Korematsu v. United States*, 584 F.Supp. 1406 (N.D.Cal.1984), 700
- Korematsu v. United States*, 323 U.S. 214, 65 S.Ct. 193, 89 L.Ed. 194 (1944), 698, 699
- Kras, United States v.*, 409 U.S. 434, 93 S.Ct. 631, 34 L.Ed.2d 626 (1973), 1041, 1042
- Kunz v. People of State of New York*, 340 U.S. 290, 71 S.Ct. 312, 95 L.Ed. 280 (1951), 1261
- Kusper v. Pontikes*, 414 U.S. 51, 94 S.Ct. 303, 38 L.Ed.2d 260 (1973), 995
- Labine v. Vincent*, 401 U.S. 532, 91 S.Ct. 1017, 28 L.Ed.2d 288 (1971), 893
- Ladue, City of v. Gilleo***, 512 U.S. 43, 114 S.Ct. 2038, 129 L.Ed.2d 36 (1994), **1397**
- Lalli v. Lalli***, 439 U.S. 259, 99 S.Ct. 518, 58 L.Ed.2d 503 (1978), **894**
- Lamb's Chapel v. Center Moriches Union Free School Dist.*, 508 U.S. 384, 113 S.Ct. 2141, 124 L.Ed.2d 352 (1993), 1589, 1619
- Landmark Communications, Inc. v. Virginia*, 435 U.S. 829, 98 S.Ct. 1535, 56 L.Ed.2d 1 (1978), 1243
- Landon v. Plasencia*, 459 U.S. 21, 103 S.Ct. 321, 74 L.Ed.2d 21 (1982), 474
- Larson v. Domestic & Foreign Commerce Corp.*, 337 U.S. 682, 69 S.Ct. 1457, 93 L.Ed. 1628 (1949), 258
- Larson v. Valente*, 456 U.S. 228, 102 S.Ct. 1673, 72 L.Ed.2d 33 (1982), 1588
- Lassiter v. Department of Social Services of Durham County, N.C.*, 452 U.S. 18, 101 S.Ct. 2153, 68 L.Ed.2d 640 (1981), 1043
- Law Students Civil Rights Research Council, Inc. v. Wadmond*, 401 U.S. 154, 91 S.Ct. 720, 27 L.Ed.2d 749 (1971), 1242
- Lawyer v. Department of Justice*, 521 U.S. 567, 117 S.Ct. 2186, 138 L.Ed.2d 669 (1997), 883, 979
- Leathers v. Medlock*, 499 U.S. 439, 111 S.Ct. 1438, 113 L.Ed.2d 494 (1991), 1543
- Lee v. International Soc. for Krishna Consciousness, Inc.*, 505 U.S. 830, 112 S.Ct. 2709, 120 L.Ed.2d 669 (1992), 1391
- Lehman v. City of Shaker Heights*, 418 U.S. 298, 94 S.Ct. 2714, 41 L.Ed.2d 770 (1974), 1409
- Lehr v. Robertson*, 463 U.S. 248, 103 S.Ct. 2985, 77 L.Ed.2d 614 (1983), 901
- Leisy v. Hardin*, 135 U.S. 100, 10 S.Ct. 681, 34 L.Ed. 128 (1890), 161
- Lemon v. Kurtzman*, 403 U.S. 602, 91 S.Ct. 2105, 29 L.Ed.2d 745 (1971), 1589, 1619, 1627
- Leser v. Garnett*, 258 U.S. 130, 42 S.Ct. 217, 66 L.Ed. 505 (1922), 122
- Levy v. Louisiana*, 391 U.S. 68, 88 S.Ct. 1509, 20 L.Ed.2d 436 (1968), 892

- Lewis v. BT Inv. Managers, Inc.**, 447 U.S. 27, 100 S.Ct. 2009, 64 L.Ed.2d 702 (1980), **349**  
 License Cases, 46 U.S. 504, 5 How. 504, 12 L.Ed. 256 (1847), 154  
 Lincoln Federal Labor Union No. 19129, A.F. of L. v. Northwestern Iron & Metal Co., 335 U.S. 525, 69 S.Ct. 251, 93 L.Ed. 212 (1949), 514  
 Linda R.S. v. Richard D., 410 U.S. 614, 93 S.Ct. 1146, 35 L.Ed.2d 536 (1973), 71  
 Lindsley v. Natural Carbonic Gas Co., 220 U.S. 61, 31 S.Ct. 337, 55 L.Ed. 369 (1911), 674  
 Linkletter v. Walker, 381 U.S. 618, 5 Ohio Misc. 49, 85 S.Ct. 1731, 14 L.Ed.2d 601 (1965), 36  
 Little v. Streater, 452 U.S. 1, 101 S.Ct. 2202, 68 L.Ed.2d 627 (1981), 1043  
 Livingston v. Van Ingen, 1812 WL 1156 (N.Y. 1812), 146  
 Lloyd Corp., Limited v. Tanner, 407 U.S. 551, 92 S.Ct. 2219, 33 L.Ed.2d 131 (1972), 1122, 1124  
**Lochner v. New York**, 198 U.S. 45, 25 S.Ct. 539, 49 L.Ed. 937 (1905), **502**, 507, 564  
 Locke, United States v., 529 U.S. 89, 120 S.Ct. 1135, 146 L.Ed.2d 69 (2000), 395  
 Lockport, New York, Town of v. Citizens for Community Action at Local Level, Inc., 430 U.S. 259, 97 S.Ct. 1047, 51 L.Ed.2d 313 (1977), 940  
 Logan v. United States, 144 U.S. 263, 12 S.Ct. 617, 36 L.Ed. 429 (1892), 1171  
 Logan v. Zimmerman Brush Co., 455 U.S. 422, 102 S.Ct. 1148, 71 L.Ed.2d 265 (1982), 584, 1103  
 Lopez, United States v., 514 U.S. 549, 115 S.Ct. 1624, 131 L.Ed.2d 626 (1995), 163, 190  
 Loretto v. Teleprompter Manhattan CATV Corp., 458 U.S. 419, 102 S.Ct. 3164, 73 L.Ed.2d 868 (1982), 551  
**Los Angeles, City of v. Lyons**, 461 U.S. 95, 103 S.Ct. 1660, 75 L.Ed.2d 675 (1983), **95**  
 Los Angeles, Dept. of Water and Power, City of v. Manhart, 435 U.S. 702, 98 S.Ct. 1370, 55 L.Ed.2d 657 (1978), 755  
 Louisville & J. Ferry Co. v. Commonwealth of Kentucky, 188 U.S. 385, 23 S.Ct. 463, 47 L.Ed. 513 (1903), 473  
 Lovell v. City of Griffin, Ga., 303 U.S. 444, 58 S.Ct. 666, 82 L.Ed. 949 (1938), 1261  
**Loving v. Virginia**, 388 U.S. 1, 87 S.Ct. 1817, 18 L.Ed.2d 1010 (1967), **691**, 701  
 Lowe v. S.E.C., 472 U.S. 181, 105 S.Ct. 2557, 86 L.Ed.2d 130 (1985), 1343  
 Lubin v. Panish, 415 U.S. 709, 94 S.Ct. 1315, 39 L.Ed.2d 702 (1974), 996  
 Lucas v. Forty-Fourth General Assembly of State of Colo., 377 U.S. 713, 84 S.Ct. 1459, 12 L.Ed.2d 632 (1964), 927  
**Lucas v. South Carolina Coastal Council**, 505 U.S. 1003, 112 S.Ct. 2886, 120 L.Ed.2d 798 (1992), **537**  
 Lugar v. Edmondson Oil Co., Inc., 457 U.S. 922, 102 S.Ct. 2744, 73 L.Ed.2d 482 (1982), 1173  
**Lujan v. Defenders of Wildlife**, 504 U.S. 555, 112 S.Ct. 2130, 119 L.Ed.2d 351 (1992), 72, **75**  
 Lujan v. National Wildlife Federation, 497 U.S. 871, 110 S.Ct. 3177, 111 L.Ed.2d 695 (1990), 71  
 Lyng v. Castillo, 477 U.S. 635, 106 S.Ct. 2727, 91 L.Ed.2d 527 (1986), 1059  
 Madden v. Commonwealth of Kentucky, 309 U.S. 83, 60 S.Ct. 406, 84 L.Ed. 590 (1940), 472  
**Madsen v. Women's Health Center, Inc.**, 512 U.S. 753, 114 S.Ct. 2516, 129 L.Ed.2d 593 (1994), **1364**  
 Mahan v. Howell, 410 U.S. 315, 93 S.Ct. 979, 35 L.Ed.2d 320 (1973), 928  
 Maine v. Taylor, 477 U.S. 131, 106 S.Ct. 2440, 91 L.Ed.2d 110 (1986), 332  
 Malloy v. Hogan, 378 U.S. 1, 84 S.Ct. 1489, 12 L.Ed.2d 653 (1964), 497  
 Mapp v. Ohio, 367 U.S. 643, 81 S.Ct. 1684, 6 L.Ed.2d 1081 (1961), 36, 496  
**Marbury v. Madison**, 5 U.S. 137, 2 L.Ed. 60 (1803), **25**, 35, 36, 58, 93, 107  
 Marsh v. State of Ala., 326 U.S. 501, 66 S.Ct. 276, 90 L.Ed. 265 (1946), 1124  
 Marston v. Lewis, 410 U.S. 679, 93 S.Ct. 1211, 35 L.Ed.2d 627 (1973), 986  
**Martin v. Hunter's Lessee**, 14 U.S. 304, 4 L.Ed. 97 (1816), 37, **44**  
 Martinez v. Bynum, 461 U.S. 321, 103 S.Ct. 1838, 75 L.Ed.2d 879 (1983), 1008, 1078  
 Maryland v. Wirtz, 392 U.S. 183, 88 S.Ct. 2017, 20 L.Ed.2d 1020 (1968), 217, 218  
 Massachusetts v. Mellon, 262 U.S. 447, 43 S.Ct. 597, 67 L.Ed. 1078 (1923), 60, 74, 75  
 Masses Pub. Co. v. Patten, 244 F. 535 (S.D.N.Y.1917), 1213  
**Mathews v. Diaz**, 426 U.S. 67, 96 S.Ct. 1883, 48 L.Ed.2d 478 (1976), 780, **889**, 1200  
 Mathews v. Eldridge, 424 U.S. 319, 96 S.Ct. 893, 47 L.Ed.2d 18 (1976), 1104  
 Mathews v. Lucas, 427 U.S. 495, 96 S.Ct. 2755, 49 L.Ed.2d 651 (1976), 755, 893  
 Mayflower Farms v. Ten Eyck, 297 U.S. 266, 56 S.Ct. 457, 80 L.Ed. 675 (1936), 675  
 Mayor and City Council of Baltimore City v. Dawson, 350 U.S. 877, 76 S.Ct. 133, 100 L.Ed. 774 (1955), 710  
 Mayor, etc. of City of New York v. Miln, 34 U.S. 85, 9 Pet. 85, 9 L.Ed. 60 (1835), 362  
**McCardle, Ex parte**, 74 U.S. 506, 19 L.Ed. 264 (1868), **38**, 41  
 McCarthy v. Philadelphia Civil Service Commission, 424 U.S. 645, 96 S.Ct. 1154, 47 L.Ed.2d 366 (1976), 1007  
 McCready v. State of Virginia, 94 U.S. 391, 4 Otto 391, 24 L.Ed. 248 (1876), 364  
**McCulloch v. State**, 17 U.S. 316, 4 L.Ed. 579 (1819), 60, 134, **135**, 143, 144, 145  
 McDonald v. Santa Fe Trail Transp. Co., 427 U.S. 273, 96 S.Ct. 2574, 49 L.Ed.2d 493 (1976), 1168, 1170  
 McIntosh, United States v., 283 U.S. 605, 51 S.Ct. 570, 75 L.Ed. 1302 (1931), 214

- McIntyre v. Ohio Elections Com'n**, 514 U.S. 334, 115 S.Ct. 1511, 131 L.Ed.2d 426 (1995), **1508**
- Medina v. California**, 505 U.S. 437, 112 S.Ct. 2572, 120 L.Ed.2d 353 (1992), 495
- Members of City Council of City of Los Angeles v. Taxpayers for Vincent**, 466 U.S. 789, 104 S.Ct. 2118, 80 L.Ed.2d 772 (1984), 1383
- Memorial Hospital v. Maricopa County**, 415 U.S. 250, 94 S.Ct. 1076, 39 L.Ed.2d 306 (1974), 1003, 1007
- Memphis, City of v. Greene**, 451 U.S. 100, 101 S.Ct. 1584, 67 L.Ed.2d 769 (1981), 1168
- Metro Broadcasting, Inc. v. F.C.C.**, 497 U.S. 547, 110 S.Ct. 2997, 111 L.Ed.2d 445 (1990), 674
- Metropolitan Life Ins. Co. v. Ward**, 470 U.S. 869, 105 S.Ct. 1676, 84 L.Ed.2d 751 (1985), 691, **1031**, 1038, 1201
- Meyer v. Nebraska**, 262 U.S. 390, 43 S.Ct. 625, 67 L.Ed. 1042 (1923), 564
- Miami Herald Pub. Co. v. Tornillo**, 418 U.S. 241, 94 S.Ct. 2831, 41 L.Ed.2d 730 (1974), **1544**
- Michael H. v. Gerald D.**, 491 U.S. 110, 109 S.Ct. 2333, 105 L.Ed.2d 91 (1989), **584**, 901, 1091, 1114
- Michael M. v. Superior Court of Sonoma County**, 450 U.S. 464, 101 S.Ct. 1200, 67 L.Ed.2d 437 (1981), **755**, 764
- Michigan v. Long**, 463 U.S. 1032, 103 S.Ct. 3469, 77 L.Ed.2d 1201 (1983), **51**
- Miller v. Albright**, 523 U.S. 420, 118 S.Ct. 1428, 140 L.Ed.2d 575 (1998), 780, 892
- Miller v. California**, 413 U.S. 15, 93 S.Ct. 2607, 37 L.Ed.2d 419 (1973), **1292**
- Miller v. Johnson**, 515 U.S. 900, 115 S.Ct. 2475, 132 L.Ed.2d 762 (1995), 882, **956**, 967, 968, 970, 973, 976, 977
- Miller, United States v.**, 317 U.S. 369, 63 S.Ct. 276, 87 L.Ed. 336 (1943), 563
- Milliken v. Bradley (Milliken II)**, 433 U.S. 267, 97 S.Ct. 2749, 53 L.Ed.2d 745 (1977), 732
- Milliken v. Bradley (Milliken I)**, 418 U.S. 717, 94 S.Ct. 3112, 41 L.Ed.2d 1069 (1974), 728, 732, 736, 737
- Mills v. Habluetzel**, 456 U.S. 91, 102 S.Ct. 1549, 71 L.Ed.2d 770 (1982), 899
- Minersville School Dist. v. Gobitis**, 310 U.S. 586, 60 S.Ct. 1010, 84 L.Ed. 1375, 17 O.O. 417 (1940), 1450
- Minneapolis Star and Tribune Co. v. Minnesota Com'r of Revenue**, 460 U.S. 575, 103 S.Ct. 1365, 75 L.Ed.2d 295 (1983), **1538**
- Minnesota v. Clover Leaf Creamery Co.**, 449 U.S. 456, 101 S.Ct. 715, 66 L.Ed.2d 659 (1981), **300**
- Minnesota, State of v. Barber**, 136 U.S. 313, 10 S.Ct. 862, 34 L.Ed. 455 (1890), 310
- Minor v. Happersett**, 88 U.S. 162, 22 L.Ed. 627 (1874), 922
- Mintz v. Baldwin**, 289 U.S. 346, 53 S.Ct. 611, 77 L.Ed. 1245 (1933), 295
- Miranda v. Arizona**, 384 U.S. 436, 10 Ohio Misc. 9, 86 S.Ct. 1602, 16 L.Ed.2d 694 (1966), 42
- Mississippi University for Women v. Hogan**, 458 U.S. 718, 102 S.Ct. 3331, 73 L.Ed.2d 1090 (1982), 764, 775, **816**
- Missouri v. Jenkins (Jenkins III)**, 515 U.S. 70, 115 S.Ct. 2038, 132 L.Ed.2d 63 (1995), 735
- Missouri v. Jenkins (Jenkins II)**, 495 U.S. 33, 110 S.Ct. 1651, 109 L.Ed.2d 31 (1990), 733, 735
- Missouri Pac. Ry. Co. v. State of Nebraska**, 164 U.S. 403, 17 S.Ct. 130, 41 L.Ed. 489 (1896), 536
- Missouri, State of v. Holland**, 252 U.S. 416, 40 S.Ct. 382, 64 L.Ed. 641 (1920), **204**
- Mistretta v. United States**, 488 U.S. 361, 109 S.Ct. 647, 102 L.Ed.2d 714 (1989), 428
- Mitchell v. Helms**, 530 U.S. 793, 120 S.Ct. 2530, 147 L.Ed.2d 660 (2000), **1633**
- Mitsuye Endo, Ex parte**, 323 U.S. 283, 65 S.Ct. 208, 89 L.Ed. 243 (1944), 699
- M.L.B. v. S.L.J.**, 519 U.S. 102, 117 S.Ct. 555, 136 L.Ed.2d 473 (1996), 1043
- Mobile, Ala., City of v. Bolden**, 446 U.S. 55, 100 S.Ct. 1490, 64 L.Ed.2d 47 (1980), 808
- Monell v. Department of Social Services of City of New York**, 436 U.S. 658, 98 S.Ct. 2018, 56 L.Ed.2d 611 (1978), 1162
- Monroe v. Pape**, 365 U.S. 167, 81 S.Ct. 473, 5 L.Ed.2d 492 (1961), 1161, 1162, 1172
- Monterey, City of v. Del Monte Dunes at Monterey, Ltd.**, 526 U.S. 687, 119 S.Ct. 1624, 143 L.Ed.2d 882 (1999), 560
- Moore v. City of East Cleveland, Ohio**, 431 U.S. 494, 97 S.Ct. 1932, 52 L.Ed.2d 531 (1977), **571**
- Moose Lodge No. 107 v. Irvis**, 407 U.S. 163, 92 S.Ct. 1965, 32 L.Ed.2d 627 (1972), **1144**
- Mora v. McNamara**, 389 U.S. 934, 88 S.Ct. 282, 19 L.Ed.2d 287 (1967), **409**, 411
- Morehead v. People of State of New York ex rel. Tipaldo**, 298 U.S. 587, 56 S.Ct. 918, 80 L.Ed. 1347 (1936), 511
- Morey v. Doud**, 354 U.S. 457, 77 S.Ct. 1344, 1 L.Ed.2d 1485 (1957), 689, 690
- Morrison v. Olson**, 487 U.S. 654, 108 S.Ct. 2597, 101 L.Ed.2d 569 (1988), **429**
- Morrison, United States v.**, 529 U.S. 598, 120 S.Ct. 1740, 146 L.Ed.2d 658 (2000), **176**, 1174
- Morton v. Mancari**, 417 U.S. 535, 94 S.Ct. 2474, 41 L.Ed.2d 290 (1974), 992, 993
- Mt. Healthy City School Dist. Bd. of Educ. v. Doyle**, 429 U.S. 274, 97 S.Ct. 568, 50 L.Ed.2d 471 (1977), 258
- Mueller v. Allen**, 463 U.S. 388, 103 S.Ct. 3062, 77 L.Ed.2d 721 (1983), 1628
- Mugler v. Kansas**, 123 U.S. 623, 8 S.Ct. 273, 31 L.Ed. 205 (1887), 501
- Muller v. State of Oregon**, 208 U.S. 412, 28 S.Ct. 324, 52 L.Ed. 551 (1908), 507, 508
- Munn v. People of State of Illinois**, 94 U.S. 113, 4 Otto 113, 24 L.Ed. 77 (1876), 500

- Murdock v. City of Memphis, 87 U.S. 590, 22 L.Ed. 429 (1874), 48
- Murray v. Curlett, 374 U.S. 203, 83 S.Ct. 1560, 10 L.Ed.2d 844 (1963), 42
- Murray v. Giarratano, 492 U.S. 1, 109 S.Ct. 2765, 106 L.Ed.2d 1 (1989), 1040
- Murray's Lessee v. Hoboken Land & Imp. Co., 59 U.S. 272, 18 How. 272, 15 L.Ed. 372 (1855), 459, 473, 484, 499
- N.A.A.C.P. v. Claiborne Hardware Co.**, 458 U.S. 886, 102 S.Ct. 3409, 73 L.Ed.2d 1215 (1982), **1453**
- Naim v. Naim, 350 U.S. 891, 76 S.Ct. 151, 100 L.Ed. 784 (1955), 92
- Napier v. Atlantic Coast Line R. Co., 272 U.S. 605, 47 S.Ct. 207, 71 L.Ed. 432 (1926), 385
- Nashville Gas Co. v. Satty, 434 U.S. 136, 98 S.Ct. 347, 54 L.Ed.2d 356 (1977), 754
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- New Orleans, City of v. Dukes, 427 U.S. 297, 96 S.Ct. 2513, 49 L.Ed.2d 511 (1976), 690
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- Northeast Bancorp, Inc. v. Board of Governors of Federal Reserve System, 472 U.S. 159, 105 S.Ct. 2545, 86 L.Ed.2d 112 (1985), 1037, 1201
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