



## Constitutional Change Through Supreme Court Rulings

*“We are under a Constitution, but the Constitution is what the judges say it is.”*

--**Charles Evans Hughes** (Speech, Elmira, New York, May 3, 1907)

*“The proper role of the judiciary is one of interpreting and applying the law, not making it...”*

--**Sandra Day O'Connor** (Confirmation hearing, February 23, 1984)

*Chisholm v. Georgia* (1793)—states can be sued without consent (leads to 11<sup>th</sup> Amendment)  
*Ware v. Hylton* (1796)—national supremacy over state laws delineated  
*Hylton v. United States* (1796)—direct tax defined  
*Calder v. Bull* (1798)—ex post facto laws defined  
*Marbury v. Madison* (1803)—judicial review set forth  
*Fletcher v. Peck* (1810)—states must honor contracts  
*Martin v. Hunter’s Lessee* (1816)— federal jurisdiction over state laws expanded  
*McCulloch v. Maryland* (1819)—implied powers established, intergovernmental tax immunity set forth  
*Dartmouth College v. Woodward* (1819)—private contracts protected against state actions  
*Cohens v. Virginia* (1821)—federal appellate jurisdiction clarified  
*Gibbons v. Ogden* (1824)—commerce defined, federal regulation of interstate commerce  
*Johnson v. MacIntosh* (1825)—Native American status defined and limited  
*Cherokee Nation v. Georgia* (1831)—Native American denied right to bring litigation  
*Barron v. Baltimore* (1833)—Bill of Rights protection limited to federal governmental actions  
*Charles River Bridge v. Warren Bridge* (1837)—state police powers expanded  
*Permol v. First Municipality* (1844)—free exercise restricted  
*Prigg v. Pennsylvania* (1844)—fugitive slave laws upheld  
*Luther v. Borden* (1849)—refusal to hear political questions  
*Dred Scott v. Sanford* (1857)—citizenship restricted/judicial review imposed  
*Ex parte Merryman* (1861)—habeas corpus showdown  
*The Prize Cases* (1863)—presidential emergency powers tested  
*Ex parte Milligan* (1866)—scope of habeas corpus  
*Ex parte Garland* (1867)—ruling on test oaths, bills of attainder, presidential pardon  
*Texas v. White* (1869)—nature of the union declared, no right of secession  
*Legal Tender Cases* (1870s)—financial powers clarified  
*Slaughterhouse Cases* (1873)—privileges and immunities limited  
*Bradwell v. Illinois* (1873)—women’s occupational rights restricted  
*Minor v. Happersett* (1875)—voting not a national right  
*Reynolds v. U.S.* (1879)—free exercise rights does not protect bigamy  
*Strauder v. West Virginia* (1880)—racial discrimination in jury selection restricted  
*Civil Rights Cases* (1883)—private discrimination protected  
*Hurtado v. California* (1884)—grand jury protections do not extend to states  
*Yick Wo v. Hopkins* (1886)—persons, not just citizens, are guaranteed 14<sup>th</sup> Amendment protections  
*Plessy v. Ferguson* (1896)—separate but equal doctrine given imprimatur  
*Munn v. Illinois* (1879)—state regulation of private property upheld  
*Santa Clara County v. SPRR* (1886)—corporations ruled legal persons  
*U.S. v. E.C. Knight Co.* (1895)—manufacturing/monopolies challenged  
*Pollock v. Farmers Loan and Trust* (1895)—federal income tax struck  
*Insular Cases* (1901)—civil rights beyond U.S. boundaries  
*Lockner v. New York* (1905)—state employment law limited  
*Muller v. Oregon* (1908)—state protective legislation  
*Weeks v. U.S.* (1914)—federal exclusionary rule established



*Coppage v. Kansas* (1915)—yellow dog contracts upheld  
*Hammer v. Dagenhart* (1918)—child labor law struck  
*Schenck v. United States* (1919)—“clear and present danger” doctrine articulated  
*Missouri v. Holland* (1920)—treaty power trumps state law  
*Adkins v. Children’s Hospital* (1923)—minimum wage struck  
*Carroll v. U.S.* (1925)—warrantless searches/seizures of automobiles sustained  
*Ex parte Grossman* (1925)—presidential pardoning power expanded  
*Gitlow v. New York* (1925)—free speech protection expanded to states  
*Myers v. U.S.* (1926)—president’s removal power legitimated  
*Buck v. Bell* (1927)—compulsory sterilization upheld  
*Olmstead v. U.S.* (1928)—warrantless wiretapping upheld  
*J. W. Hampton Company v. U.S.* (1928)—Congress may delegate limited powers to the President  
*Schechter Poultry Co. v. U.S.* (1935)—NIRA unconstitutional  
*U.S. v. Butler* (1935)—AAA ruled unconstitutional  
*Carter v. Carter Coal Co.* (1936)—restrictions on federal regulation of commerce  
*U.S. v. Curtis-Wright Corp.* (1936)—President’s inherent powers expounded  
*U.S. v. Belmont* (1937)—executive agreements legitimated  
*Palko v. Connecticut* (1937)—double jeopardy restricted  
*NLRB v. Jones Laughlin Steel* (1938)—manufacturing constitutes commerce  
*Powell v. Alabama* (1932)—right to counsel in state capital cases guaranteed  
*Missouri ex rel. Gaines v. Canada* (1938)—separate but equal law schools required  
*Cantwell v. Connecticut* (1940)—free exercise rights expanded to states  
*Near v. Minnesota* (1941)—free press protection extended to state governmental actions  
*U.S. v. Darby Lumber Company* (1941)—upheld federal minimum wage law  
*Chaplinski v. New Hampshire* (1942)—fighting words not protected  
*Wickard v. Filburn* (1942)—agricultural set aside program upheld  
*Korematsu v. United States* (1942)—President’s authority to order Japanese internment upheld  
*West Virginia v. Barnett* (1943)—compulsory flag salute law violates free exercise of religion  
*Smith v. Allwright* (1944)—white primaries ruled unconstitutional  
*Everson v. Board of Education* (1947)—establishment clause defined  
*Adamson v. California* (1947)—self-incrimination restricted  
*McCullum v. Board of Education* (1948)—release time program  
*Shelley v. Kraemer* (1948)—racially discriminatory restrictive covenants ruled unenforceable  
*Sweatt v. Painter* (1950)—separate but not equal law schools challenged  
*Brown v. Board of Education* (1954, 1955)—segregated public schools violate equal protection  
*Bolling v. Sharpe* (1954)—federal analogue to Brown decided  
*N.A.A.C. P. v. Alabama* (1958)—association rights established  
*Gomillion v. Lightfoot* (1960)—racial gerrymandering barred  
*Mapp v. Ohio* (1961)—4<sup>th</sup> Amendment/exclusionary rule applied to states  
*Baker v. Carr* (1962)—reapportionment ruled a justiciable issue  
*Gideon v. Wainwright* (1963)—right to counsel expanded  
*Sherbert v. Verner* (1963)—free exercise protected in employment compensation  
*Edwards v. South Carolina* (1963)—freedom of assembly expanded  
*Engle v. Vitale* (1963)—school prayers restricted  
*Malloy v. Hogan* (1964)—self-incrimination rights expanded to states  
*New York Times v. Sullivan* (1964)—defamation and public officials afforded limited protection  
*Heart of Atlanta Motel v. U.S.* (1964)—Civil Rights Act of 1964 upheld  
*Griswold v. Connecticut* (1965)—privacy rights recognized  
*Harper v. Virginia Board of Elections* (1966)—state poll taxes eliminated  
*Miranda v. Arizona* (1966)—right to counsel expanded  
*Loving v. Virginia* (1967)—interracial marriage ruled a fundamental right



*Katz v. U.S.* (1967)—privacy rights expanded/warrant required  
*Duncan v. Louisiana* (1968)—jury trial expanded to states  
*Terry v. Ohio* (1968)—stop and frisk procedures permitted  
*Chimel v. California* (1969)—search incident to arrest procedures limited  
*Brandenburg v. Ohio* (1969)—clear and imminent danger doctrine set forth  
*Benton v. Maryland* (1969)—double jeopardy protections extended to states  
*Reed v. Reed* (1971)—gender discrimination violates equal protection  
*Phillips v. Martin Marietta Corp.* (1971)—gender discrimination under Title VII  
*Griggs v. Duke Power Co.* (1971)—racially biased tests struck  
*Lemon v. Kurtzman* (1971)—guidelines for church-state aid set forth  
*Cohen v. California* (1971)—symbolic expression protected  
*Wisconsin v. Yoder* (1972)—acceptable secular practices set forth  
*Eisenstadt v. Baird* (1972)—unmarried couples’ equal protection rights expanded  
*Furman v. Georgia* (1972)—death penalty restricted under 8<sup>th</sup> Amendment  
*Gregg v. Georgia* (1972)—death penalty restored/bifurcated trial  
*Roe v. Wade* (1973)—abortion rights expanded  
*Miller v. California* (1973)—obscenity definition offered  
*Mass. Board of Retirement v. Murgia* (1976)—some age discrimination justified  
*Dothard v. Rawlinson* (1977)—sexual harassment standards set forth  
*Bakke v. UC-Davis* (1978)—affirmative action in higher education challenged  
*Delaware v. Prouse* (1979)—warrantless automobile stops restricted  
*Widmar v. Vincent* (1981)—equal access for religious expression on college campuses required  
*Marsh v. Chambers* (1983)—legislative prayers held constitutional  
*U.S. v. Leon* (1984)—good faith exception to Miranda permitted  
*Nix v. Williams* (1985)—inevitable discovery rule set forth  
*T.L.O. v. New Jersey* (1985)—limited student searches upheld  
*Bowers v. Hardwick* (1986)—sexual privacy rights challenged  
*Rotary v. Rotary International* (1987)—gender discrimination in public service clubs struck  
*U.S. v. Sokolow* (1989)—limited criminal profiling permitted  
*Allegheny County v. ACLU* (1989)—permissible sectarian/secular displays on public places clarified  
*Cruzan v. Dir., Missouri Dept. of Health* (1990)—right to die challenged, living wills recommended  
*Employment Division (OR) v. Smith* (1990)—free exercise does not prohibit valid state drug laws  
*Shaw v. Reno* (1993)—racial redistricting restricted  
*U.S. v. Lopez* (1995)—federal law exceeds commerce power  
*Adarand Construction v. Peña* (1995)—affirmative action in employment challenged  
*City of Boerne v. Flores* (1997)—Religious Freedom Restoration Act violates federal principle  
*Printz v. United States* (1997)—federal unfunded mandate struck  
*Saenz v. Roe* (1999)—unreasonable state residency requirements violate privileges and immunities  
*Boy Scouts of America v. Dale* (2000)—associational rights challenged  
*Troxell v. Granville* (2000)—grandparents’ visitation rights challenged  
*Illinois v. Wardlow* (2000)—headlong flight justifies warrantless police stop  
*Hunsaker v. Oregon* (2000)—rights of adopted children upheld  
*Dickerson v. U.S.* (2001)—Miranda rights upheld  
*Kyllo v. United States* (2001)—warrantless surveillance using sophisticated technology limited  
*PGA v. Martin* (2001)—Americans with disabilities rights expanded  
*Zelman v. Simmon-Harris* (2002)—school vouchers for parochial schools permissible  
*Grutter/Gratz v. Bollinger* (2003)—guidelines established for affirmative action in college admissions  
*Lawrence v. Texas* (2003)—sexual privacy expanded  
*Kello v. New London* (2005)—states permitted use of eminent domain to promote public interest  
*Hamdan v. Rumsfeld* (2006)—rights of detainees challenged  
*Gonzales v. Oregon* (2006)—state’s physician-assisted suicide law upheld