

Significant Events in Press Law History

1735

Libel trial of New York publisher John Peter Zenger for published criticism of the Royal Governor of New York. Zenger is defended by Andrew Hamilton and acquitted. His trial establishes the principle that **truth is a defense to libel** and that a jury may determine whether a publication is defamatory or seditious.

1791

On December 15, Virginia becomes the 11th state to approve the first 10 amendments to the Constitution, the Bill of Rights. **This ratifies the Bill of Rights, including the First Amendment.**

1919

In *Schenck v. U.S.*, U.S. Supreme Court Justice Holmes sets forth his clear-and-present-danger test: "whether the words used are used in such circumstances and are of such a nature as to create a ***clear and present danger*** that they will bring about the substantive evils that Congress has the right to prevent." Schenck and others had been accused of urging draftees to oppose the draft and "not submit to intimidation." Justice Holmes also writes that **not all speech is protected by the First Amendment, citing the now-famous example of falsely crying "fire" in a crowded theater.**

1931

In *Near v. Minnesota*, the U.S. Supreme Court invalidates a permanent injunction against the publisher of *The Saturday Press*. The Court rules that the Minnesota statute granting state judges the power to enjoin as a nuisance any "malicious, scandalous and defamatory newspaper, magazine or other periodical" is "the essence of censorship." The Court concluded that **the primary aim of the First Amendment was to prevent prior restraints of the press.**

1939

Georgia, Massachusetts and Connecticut finally ratify the Bill of Rights. **These are the last states to ratify the First Amendment, nearly 148 years after it became law.**

1964

In *New York Times v. Sullivan*, the U.S. Supreme Court overturns a libel judgment against *The New York Times*. The Court rules that **public officials** may not recover damages for a defamatory falsehood relating to their conduct unless they prove the statement was made with **actual malice**. The Court defines **actual malice as "with knowledge that it was false or with reckless disregard of whether it was false or not."**

1967

In *Dickey v. Alabama State Board of Education*, the editor of the Troy State University student paper, printed "censored" in place of an editorial criticizing the state legislature and governor, which had been censored by the advisor and president. The president suspended him from the university for "insubordination." A U.S. District Court ordered him reinstated as a student and declared that the rule against criticism of state officials was "unreasonable" and **the First Amendment forbids almost all censorship of student-edited publications by college administrators.**

1969

The rights of public school students suspended for wearing black armbands to school in protest of the Vietnam War are vindicated by the U.S. Supreme Court. In *Tinker v. Des Moines Independent School District*, the U.S. Supreme Court rules that the prohibition violates the students' First Amendment rights. Justice Abe Fortas writes that **students do not "shed their constitutional rights to freedom of speech or expression at the schoolhouse gate."**

1988

In *Hazelwood School District v. Kuhlmeier*, the U.S. Supreme Court rules that **school officials may exercise editorial control over content of school-sponsored student publications if they do so in a way that is reasonably related to legitimate educational concerns.**