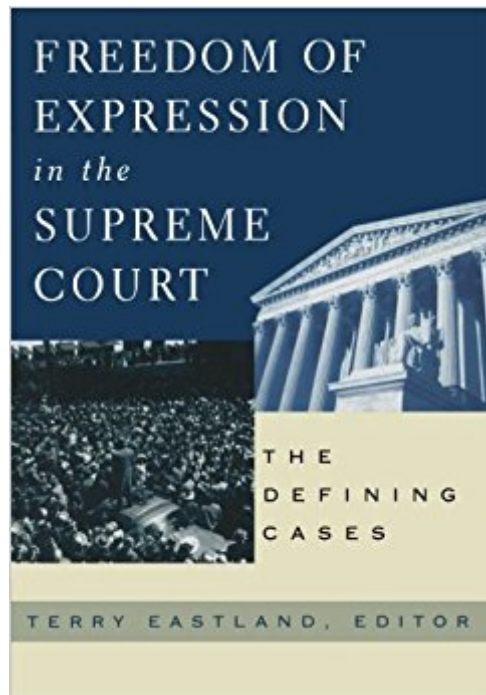




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# Freedom Of Expression In The Supreme Court



## Synopsis

In *Freedom of Expression in the Supreme Court*, Terry Eastland brings together the Court's leading First Amendment cases, some 60 in all, starting with *Schenck v. United States* (1919) and ending with *Reno v. American Civil Liberties Union* (1998). Complete with a comprehensive introduction, pertinent indices and a useful bibliography, *Freedom of Expression in the Supreme Court* offers the general and specialized reader alike a thorough treatment of the Court's understanding on the First Amendment's speech, press, assembly, and petition clauses.

## Book Information

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## Customer Reviews

*Freedom of Expression in the Supreme Court* is a valuable contribution to the literature on modern constitutional law. While fully attentive to legal doctrines and styles of judicial decision making, Eastland provides a clear, critical, and refreshingly nontechnical documentary account of succeeding waves of civil libertarianism that have redefined the relationship between American citizens and the federal government in the twentieth century. Substantial selections from leading judicial opinions, combined with contemporary journalistic commentary, give this sourcebook a richly contextualized historical character. (Herman Belz, University of Maryland, College Park)  
*Freedom of Expression in the Supreme Court* renders a significant contribution to our First Amendment literature. The 60 defining 20th century freedom of speech, press, and assembly cases, from *Schenck* (1919) through *Finley* (1998), represent a splendid compendium of the subject, both for the public at large and as a teaching tool. The author deserves warm plaudits for a handsomely produced and expertly edited work. (Henry J. Abraham, University of Virginia)  
This book should be in

the classrooms – not just the libraries – of our school. (Nat Hentoff USA Today) Eastland has assembled an excellent collection of landmark U.S. Supreme Court cases and provides commentary dealing with free expression in a masterly introductory essay. Each of the 60 cases covered includes an informative statement of the facts, an explanation of the doctrine or test used in reaching the decision, and an account of how the Court later treated the precedent set by the case. Excerpts from Court opinions and major concurrences and dissents are carefully selected. 'Responses,' editorial comments from national newspapers and magazines, or statements from organizations affected by the rulings follow most cases. This unique feature provides thoughtful material for evaluating the cases. This book would be a splendid text for courses in constitutional law, political science, or journalism. Recommended for undergraduate, graduate, research, and professional collections. (CHOICE) A splendid textbook for any free speech class, or for that matter for any reader interested in free speech. The contemporaneous reactions from leading newspapers are an especially valuable and unusual feature. (Eugene Volokh, UCLA School of Law)

Terry Eastland has written for numerous publications on a wide variety of political and legal issues. His books include *Energy in the Executive: The Case for the Strong Presidency*; *Ending Affirmative Action: The Case for Colorblind Justice*; and *Religious Liberty in the Supreme Court: The Cases That Define the Debate Over Church and State*.

Terry Eastland did a good job of editing the book titled *FREEDOM OF EXPRESSION IN THE SUPREME COURT*. Prior to the 20th century, civil liberties were not emphasized in federal courts including the United States Supreme Court. Most cases that dealt with freedom of expression were heard in state courts and did not get the national attention that such cases have received during the 20th century. Eastland gives the reader a brief but informative introduction on the development and ratification of the Bill of Rights (December 15, 1791). An interesting comment is Eastland's citing of James Madison's attempt to insert legal rights (due process) and rights of expression in Article I, Sections 9 and 10 of the body of the U.S. Constitution. These clauses were never inserted in the Constitution for no clear reason. This reviewer argues that the assumption may have been due to the assumption that state constitutions already had a bills of rights. This may also be the reason that the Bill of Rights only applied to restrictions of the U.S. Government. Eastland then gives a concise background regarding oppressive federal and state laws that were inflicted on American citizens during and after World War I. Eastland informs readers of the some early U.S. Supreme Court cases title *Schenck vs. the U.S.* (1919) and *Abrams vs the U.S.* (1919) which upheld federal law that

was passed in 1917 and 1918. These two decisions were not the end of the matter. The Supreme Court justices heard appeals regarding oppressive state laws. Eastland should have included the Supreme Court case titled *Meyer vs. the State of Nebraska* (1923) and *Pierce vs. the Society of Sisters of the Holy Names of Jesus and Mary* (1925). These cases involved freedom of religion and rights of parents and which are part of fundamental individual rights. However, the cases that Eastland does cite are well researched and informative. Eastland gives the historical background to these cases, and this gives the reader a more accurate view of these cases. One case that should be noted is titled *Gitlow vs. New York* (1925) whereby Gitlow was convicted of violating a New York law which criminalized writing of Syndicalist and Communist literature. Even Gitlow lost his appeal, Eastland explains why this case was important to civil libertarians. Chief Justice Sanford stated in his majority opinion that The Bill of Rights apply to the states via the first paragraph of the Fourteenth Amendment. This was the first time in the history of the United States Supreme Court that the justices recognized that the first paragraph of the Fourteenth Amendment applied the Bill of Rights to the states. In other words, civil libertarians could more effectively challenge unreasonable, oppressive state laws with this decision. As readers may know, this became the Incorporation Doctrine. Another, important case cited in Eastland's book is titled the *West Virginia State Board of Education vs. Barnette* (1943). This case involved saluting flags and recitation of the Pledge of Allegiance. To the surprise of many, the Supreme Court Justices ruled 7 to 2 that to compel one to say the Pledge and salute the Flag was unconstitutional. The ruling stated that one cannot be compelled to utter oaths which are not part of the conscience. In other words, conscience cannot be compelled. Readers should read Justice Jackson's well written, spirited opinion which is one of the best this reviewer has ever read. Eastland reviews other cases involving the right to display political symbols, flags, banners, etc. He gives the background to such issues of peaceful public demonstrations, rights of political association, and certain limits to these rights. One should note that many rights that are taken for granted were almost non-existent in the early 20th century. Eastland has edited a good book in spite of the criticisms mentioned in the third paragraph of this review. His treatment of the case titled *The New York Times Co. vs. United States* is useful in that it helps embellish Eastland's other work in this book. Readers should note that Eastland's book invites readers to read further on the status of civil liberties.

I'm using this for my Communications Law class, and it is very helpful. The only problem is that the cases end at 2000 (I think the teacher said this was because of the author's death). It has sections for the facts, opinion summary, and usually has a news article or two on the case. It really helps

interpret the legalese in Supreme Court decisions

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