

**Bethel School District v. Fraser**

478 U.S. 675

Decided July 7, 1986

**FACTS:** Fraser gave a speech at a school assembly promoting a fellow student for an elected office but used what school officials thought was sexually inappropriate language while doing so. Bethel suspended Fraser for two days following the incident.

**ISSUE:** Does the school have the right to punish a student for using sexual language in school without violating his First Amendment rights?

**DECISION:** Yes. A school has the right to prohibit lewd or obscene speech used by students.

**REASON:** Tinker was protected because it dealt with political speech. Fraser was not because his speech at the assembly could foreseeably disrupt the fundamental goal of the school: education.

**DISSENT:** One said the speech was not really inappropriate. Another said it didn't actually disrupt the system.

**Near v. Minnesota**

283 U.S. 697

Decided June 1, 1931

**FACTS:** Near published articles in his newspaper that claimed local police officers were ignoring certain crimes, among other questionable behavior/conduct. Minnesota created a statute that prohibited such articles from being published because they were seen as scandalous, malicious, and a public nuisance.

**ISSUE:** Did this statute violate Near's First Amendment right to freedom of print?

**DECISION:** Yes. This statute effectively suppressed the articles, publication, and author himself.

**REASON:** Minnesota's statute was not made to punish people who published lies but to silence people and publications that the state didn't like.

**DISSENT:** A state should have the power to stop publication of things that could threaten the peace and order of local cities etc.

**Gitlow v. New York City**

268 U.S. 652

Decided June 8, 1925

**FACTS:** Gitlow was charged with criminal anarchy by publishing and distributing a socialist manifesto calling for reform of the U.S. government. The state was worried violent action would be brought about by those who received this manifesto; Gitlow said he should not have been charged because A. no violent action occurred and B. the state was violating his First Amendment rights to freedom of speech and press.

**ISSUE:** Did the state statute that prohibited Gitlow's actions wrongly violate his Constitutional rights?

**DECISION:** No. A state may regulate speech and print in order to prevent crime and keep the peace.

**REASON:** Freedom of speech and print still holds the person responsible for the results of what they have said or printed. The state can prohibit speech or print that will endanger the welfare of its citizens.

**DISSENT:** A state may only regulate speech and print when the threat of violence is clear and immediate.

**New York Times v. U.S.**

403 U.S. 713

Decided June 30, 1971

**FACTS:** The government wanted to stop the New York Times and Washington Post from printing articles about the country's/military's activities in Vietnam (based on classified studies now called the Pentagon Papers) because they thought it would be a danger to national security.

**ISSUE:** Was this attempted prior restraint a violation of the First Amendment right to print?

**DECISION:** Yes. Because printing these articles would not present an immediate threat to the U.S. or its military, there was no reason for the government to prohibit them.

**REASON:** Prior restraint allows another person/group to read an article and tell the author what they can or cannot print. This is unconstitutional, and could not be allowed because the government could not provide enough solid, vivid evidence that these articles were an immediate threat.

**DISSENT:** Because this information was supposed to be classified, and not revealed to the public via newspaper, it should not be protected by the First Amendment right to print.

**U.S. v. Schwimmer**

279 U.S. 644

Decided May 27, 1929

**FACTS:** A Hungarian woman (Schwimmer) travelled to the U.S. to give a lecture and decided that she wanted to become a U.S. citizen. Her application was denied when she refused to agree to the part of the oath that said she would take up arms to defend the country if needed because she was a pacifist. Her application/citizenship was denied.

**ISSUE:** Was this court decision infringing on Schwimmer's rights of free thought and freedom of religion?

**DECISION:** No. The government has the right to call its citizens to arms when needed regardless of their personal beliefs.

**REASON:** The government believed that Schwimmer's pacifism would damage the patriotism/nationalism of the country. Also, because she was not yet a U.S. citizen, she didn't really possess First Amendment rights.

**DISSENT:** Freedom of thought/religion applies to everyone, even if we do not agree with them.