

UNITED STATES: LAW AND POLITICS

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First Amendment

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or **abridging the freedom of speech**, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

Free speech

Freedom of speech may be exercised in a direct (words) or a symbolic (actions) way.

It allows individuals to express themselves without government interference or regulation.

Categories of speech

- Protected: speech is generally protected under the First Amendment unless it falls within one of the narrow categories of unprotected speech.
 - political, social, economic, educational, religious, and cultural.
 - Commercial.
- Unprotected: obscenity, defamation, fraud, incitement, fighting words, true threats, speech integral to criminal conduct, and child pornography.

Free speech. Tests.

- Tests depend on the category of speech as well as the character and context of the speech.
- The Supreme Court considers political and ideological speech to be at the core of the First Amendment, , including speech concerning politics, nationalism, religion, or other matters of opinion.
- Government regulation that implicates political or ideological speech generally receives strict scrutiny in the courts, whereby the government must show **that the law is narrowly tailored to achieve a compelling government interest.**
- Commercial speech has historically **received less First Amendment protection than political speech. Laws that restrict commercial speech are constitutional only if they directly advance a substantial government interest and are not broader than necessary to serve that interest.**
- Unprotected speech: A less stringent test is applied.

The US and the Founding Myth

- Myths are designed to explain how governments/those with power want us to see ourselves. Myths establish the national character.
- All cultures are based on myths: “What these myths have given has been inspiration for aspiration.” “When these strings are touched, we feel the vibrations deep down. And we know that myths are not the same as lies.”
- Most of the American myths are based on historical fact.
- The American mythos was created by the generation writing in the early 1800s. Writers embellished facts to educate and inspire a new generation.
- The creation of these stories coincided with the birth of public education in America.

Myths

- Washington was made the embodiment of a nation of contentious states. He symbolized the United States. Washington was the unifying force that made the Constitution possible.
- Making myths takes places also in the private sphere. Making myths is an industry in Hollywood.

Manifest Destiny

The idea that the United States is destined by God to expand its dominion and spread democracy and capitalism across the entire North American continent.

This led to the continued territorial expansion of the boundaries of the US westward to the Pacific and beyond.

Elements:

- The special virtues of the American people and their institutions.
- The mission of the United States to redeem and remake the west in the image of the agrarian East.
- An irresistible destiny to accomplish this duty.

Manifest Destiny

- Used to validate continental acquisitions in the Oregon Country, Texas, New Mexico, and California, Alaska.
- The Mexican-American War, waged between the United States and Mexico from 1846 to 1848, helped to fulfill America's "manifest destiny" to expand its territory across the entire North American continent.
- The Treaty of Guadalupe Hidalgo, which ended the war in 1848, added an additional 525,000 square miles of U.S. territory, including all or parts of what is now California, Arizona, Colorado, New Mexico, Nevada, Utah and Wyoming.
- Native American wars. Dislocation and brutal mistreatment of Native American, Hispanic and other non-European occupants of the territories now being occupied by the US.
- U.S foreign policy in the 1890s, when the country went to war with Spain annexed Hawaii, and laid plans for an isthmian canal across Panama.



Impeachment

- The entire process aimed to remove a public officer, beginning with the House's impeachment inquiry.
- The process roughly resembles a grand jury inquest, conducted by the House, followed by a full-blown trial, conducted by the Senate with the Chief Justice presiding.
- Impeachment is not directed exclusively at Presidents. The Constitutional language, "all civil officers," includes such positions as Federal judgeships.
- The legislature provides a more streamlined process for lower offices by delegating much of it to committees.
- Presidential impeachments involve the full, public participation of both branches of Congress.

Impeachment process. House of Representatives

- The House Judiciary Committee deliberates over whether to initiate an impeachment inquiry.
- The Judiciary Committee adopts a resolution seeking authority from the entire House of Representatives to conduct an inquiry. Before voting, the House debates and considers the resolution. Approval requires a majority vote.
- The Judiciary Committee conducts an impeachment inquiry, possibly through public hearings. At the conclusion of the inquiry, **articles of impeachment** are prepared. They must be approved by a majority of the Committee.
- The House of Representatives considers and debates the articles of impeachment. A majority vote of the entire House is required to pass each article. Once an article is approved, the President is, technically speaking, "impeached" -- that is subject to trial in the Senate.

Impeachment process. Senate

- The Senate holds trial on the articles of impeachment approved by the House. The Senate sits as a jury while the Chief Justice of the Supreme Court presides over the trial.
- At the conclusion of the trial, the Senate votes on whether to remove the President from office. A two-thirds vote by the Members present in the Senate is required for removal.
- If the President is removed, the Vice-President assumes the Presidency under the chain of succession established by Amendment XXV.

US Constitution. Functions

- Separation of power.
- Division of Federal and State Power
- Protection of personal liberty.



US Constitution. Separation of power

- The Constitution creates a national government consisting of a legislative, an executive, and a judicial branch, with a system of checks and balances among the three branches.

System of checks and balances

- Congress passes laws, but the President can veto them. The executive branch prosecutes persons for criminal violations, but they must be tried by the courts. The President appoints federal judges, but their appointment must be confirmed by the Senate.



US Constitution. Division of Federal and State Power

The federal government is very strong, with much power over the states, but at the same time, it is limited to the powers enumerated in the Constitution. Powers not delegated to the federal government, nor prohibited to the states are reserved to the states or to the people. Although the powers of the federal government are limited to those enumerated in the Constitution, those enumerated powers have been interpreted very broadly. And under the supremacy clause of the Constitution, federal law is supreme over state law. State or local laws that conflict with the Constitution or federal statutory law are preempted.

US Constitution. Protection of personal liberty.

- Most Constitutional protections for individual rights are contained in the Bill of Rights, which constitute the first ten amendments to the Constitution.
- The protections of these amendments were originally interpreted to apply only against the federal government, but the Supreme Court has since ruled that most of them were made applicable to the states by passage of the Fourteenth Amendment due process clause after the Civil War.
- The Fourteenth Amendment also contains the equal protection clause, which protects citizens from discrimination by the states on the basis of race, sex and other characteristics.