

## Required Supreme Court Cases

### 最高法院必审案例

This course requires you to thoroughly understand 15 Supreme Court cases. Each case represents an important principle of law.

本课程要求你透彻理解15个最高法院案例。每个案例都代表了一项重要的法律原则。

#### I. 我。 THE COURT 法院

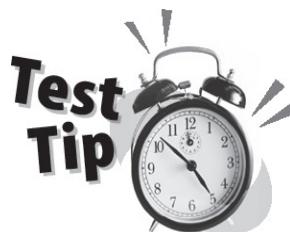
1. Supreme Court cases make law. The law established by Court rulings (precedent) must be followed in subsequent cases that present the same legal question. This is the principle of *stare decisis*. Precedent must be followed in subsequent cases unless there is a compelling reason to break with previous case law.  
1. 最高法院的判例具有法律效力。法院裁决所确立的法律（先例）必须在后续涉及相同法律问题的案件中得到遵循。这就是遵循先例原则。除非有充分的理由打破先前的判例，否则后续案件必须遵循先例。
2. Additionally, remember the following important terms relating to court cases.  
2. 此外，请记住以下与法庭案件相关的重要术语。
  - *Judicial review* is the power of the courts to determine if any law or action of government is inconsistent with the Constitution and, if so, to invalidate that law or action.  
► 司法审查是法院的权力，可以确定任何法律或政府行为是否与宪法相抵触，如果相抵触，则可以宣布该法律或行为无效。
  - *Writ of certiorari* is an order from an appellate court requiring that a lower court provide the record of a case for review. When the Supreme Court “grants cert,” it agrees to take an appeal.  
调 卷令是上诉法院签发的命令，要求下级法院提供案件卷宗以供审查。最高法院“准予调卷令”则表示同意受理上诉案件。
  - *Civil liberties* are personal rights and freedoms held by individuals with which the government may not interfere.  
► 公民自由是个人享有的权利和自由，政府不得干涉。

- *Civil rights* are those rights that the government must enforce, to be free from discrimination or unequal treatment based on membership in a minority group or class under the Equal Protection Clause of the Fourteenth Amendment.
- 公民权利是指政府必须强制执行的权利，即根据第十四修正案的平等保护条款，公民有权免受基于少数群体或阶级成员身份的歧视或不平等待遇。
- *Selective incorporation* is the piecemeal application of the civil liberties in the Bill of Rights to the states based on the Due Process Clause of the Fourteenth Amendment.
- 选择性纳入是指根据第十四修正案的正当程序条款，将权利法案中的公民自由分阶段地应用于各州。
- *Majority opinion* is the written document containing the decision or ruling of the Court.
- 多数意见是包含法院决定或裁决的书面文件。

**3. Each case may be understood in terms of four elements:**

**3. 每个案例都可以从四个要素来理解：**

- facts of the case (What happened?)
- 案件事实（发生了什么？）
- constitutional issue presented (What is the legal question that must be answered?)
- 提出的宪法问题（需要解答的法律问题是什么？）
- holding (How did the Court answer the legal question?)
- 裁决（法院如何回答这个法律问题？）
- reasoning (What logic and law did the Court follow in drawing its conclusion?)
- 推理（法院在得出结论时遵循了哪些逻辑和法律？）



**The AP® U.S. Government and Politics exam requires students to analyze a real-world scenario based on a Supreme Court decision, or compare a non-required case to one of the required cases.**

**AP® 美国政府与政治考试要求学生根据最高法院的判决分析现实世界的案例，或者将一个非必考案例与一个必考案例进行比较。**

**Note:** Each of the required cases is explained at length in the relevant chapter of this book, which is indicated next to the case name in the list below.

**注：**本书相关章节对每个必要案例均有详细解释，该章节已在下方的案例名称旁边标明。

## 1. Judicial Review

### 1. 司法审查

An early question that had to be answered was whether the Court had the power to apply the Constitution to invalidate the actions of the other branches of government.

需要解答的一个早期问题是，法院是否有权适用宪法来宣布政府其他部门的行为无效。

***Marbury v. Madison (1803)*** (see [chapter 8](#))

**马伯里诉麦迪逊案（1803年）**（参见[第8章](#)）

*The Supreme Court claims the power of judicial review.*

最高法院声称拥有司法审查权。

- In *Marbury*, the Supreme Court established its power of judicial review (the power to nullify acts of the legislative or executive branches or state governments as unconstitutional), which greatly strengthened the federal judicial branch.
- 在马伯里案中，最高法院确立了司法审查权（即宣布立法或行政部门或州政府的行为违宪的权力），这极大地加强了联邦司法部门。
- The Constitution does not explicitly grant the courts the power of judicial review, but Alexander Hamilton's essay "Federalist No. 78" indicates that this was the Framers' intention.
- 宪法没有明确赋予法院司法审查权，但亚历山大·汉密尔顿的论文《联邦党人文集》第78篇表明，这正是制宪者的意图。
- In *Marbury*, Chief Justice John Marshall famously struck down a federal statute for the first time—the Judiciary Act of 1789—that had given the Court the power to hear a case under original jurisdiction (which means to hear a case for the first time).
- 在马伯里案中，首席大法官约翰·马歇尔首次推翻了一项联邦法令——1789年的《司法法》——该法令赋予最高法院以初审管辖权（即首次审理案件）审理案件的权力。
- The Court held that the Judiciary Act was unconstitutional because Congress could not give the Court original jurisdiction beyond that granted by the Constitution.
- 法院认为，《司法法》违宪，因为国会不能赋予法院超出宪法规定的管辖权的初审管辖权。
- Because Chief Justice John Marshall effectively sided with Jefferson, the new president, the executive branch did not challenge the Court's proclamation that it held the power of judicial review.
- 由于首席大法官约翰·马歇尔实际上站在了新总统杰斐逊一边，行政部门没有对最高法院关于其拥有司法审查权的声明提出质疑。

## 2. Federalism

### 2. 联邦制

The division of powers created by the Constitution has led to an ongoing tension between the states and the federal government.

宪法规定的权力划分导致了各州与联邦政府之间持续不断的紧张关系。

### ***McCulloch v. Maryland (1819)* (see chapter 4)**

#### **麦卡洛克诉马里兰州案（1819年）（参见第4章）**

*The Necessary and Proper Clause is elastic, and the Federal Government is supreme.*

必要且适当条款具有弹性，联邦政府拥有至高无上的权力。

- The state of Maryland imposed a tax on a branch of the Second Bank of the United States that operated in that state.
- 马里兰州对在该州运营的美国第二银行的一个分行征税。
- The Supreme Court held that, although the Constitution does not specifically grant Congress the power to establish a bank, that power is implied by the Necessary and Proper Clause of Article 1. In other words, *Congress has implied powers.*

最高法院裁定，虽然宪法没有明确赋予国会设立银行的权力，但第一条的必要且适当条款隐含了这种权力。换句话说，国会拥有隐含权力。

- Under the Supremacy Clause, federal laws are more powerful than state laws. Federal law and the U.S. Constitution are supreme over state law
- 根据联邦法律最高条款，联邦法律比州法律更具效力。联邦法律和美国宪法高于州法律。 .

### ***United States v. Lopez (1995)* (see chapter 4)**

#### **美国诉洛佩兹案（1995年）（参见第4章）**

*The Court limits the power of Congress.*

法院限制国会的权力。

- Before *Lopez*, the Court had greatly expanded Congress' s implied powers based on the Commerce Clause.
- 在洛佩兹案之前，最高法院已经大大扩大了国会根据商业条款所拥有的隐含权力。
- In *Lopez*, a student was charged with carrying a gun into a school in violation of federal law.
- 在洛佩兹，一名学生因违反联邦法律携带枪支进入学校而被起诉。
- The Court held that Congress may not use the commerce power to criminalize carrying a gun in a school, because the federal government could not show that there was any connection between this behavior and interstate commerce.
- 法院认为，国会不得利用商业权力将携带枪支进入学校定为犯罪行为，因为联邦政府无法证明这种行为与州际贸易有任何联系。
- *Lopez* reversed a long trend of Supreme Court rulings expansively interpreting the Commerce Clause to enhance federal power.
- 洛佩兹推翻了最高法院长期以来对商业条款进行广泛解释以增强联邦权力的裁决趋势。

## **3. Civil Liberties**

### **3. 公民自由**

Civil liberties are personal freedoms with which the government may not interfere (except in limited circumstances).

公民自由是政府不得干涉的个人自由（在有限的情况下除外）。

- In the Bill of Rights, the Due Process Clause of the Fifth Amendment prohibited the federal government from infringing on individual liberties. The states were not restrained by the Fifth Amendment.
- 在《权利法案》中，第五修正案的正当程序条款禁止联邦政府侵犯个人自由。各州不受第五修正案的约束。
- The Due Process Clause of the Fourteenth Amendment, added to the Constitution in 1868, has been held by the Supreme Court to make most of the Bill of Rights applicable to state governments.
- 1868 年添加到宪法中的第十四修正案的正当程序条款，经最高法院裁定，使得权利法案的大部分内容适用于州政府。
- The Court did not find all civil liberties to be protected from state action at once, but piecemeal, or one at a time. The Supreme Court's pattern of applying civil liberties protections against state governments one-by-one is called *selective incorporation*.
- 法院并未一次性认定所有公民自由都应受到保护免受州政府行为侵害，而是分阶段、逐一地予以认定。最高法院逐一适用公民自由保护条款来对抗州政府的这种模式被称为选择性适用。
- Most, but not all, of the civil liberties protected in the Bill of Rights, have been applied to the states.
- 《权利法案》中保护的大部分公民自由，但并非全部，都已适用于各州。

**Note:** The required civil liberties cases follow. Some, but not all, are cases that incorporated a right against the states for the first time.

**注：**以下列出必要的公民自由案例。其中一些案例（但并非全部）是首次确立公民权利对抗各州的案例。

### ***Engel v. Vitale (1962)* (see [chapter 9](#))**

#### ***Engel 诉 Vitale 案 (1962 年) (见第 9 章)***

*School prayer in public schools violates the Establishment Clause.*

公立学校的祈祷活动违反了宪法第一修正案的政教分离条款。

- The Establishment Clause of the First Amendment prohibits government sponsorship of or affiliation with religion.
- 美国宪法第一修正案的政教分离条款禁止政府赞助或隶属于任何宗教。
- Public schools may not sponsor prayers, even if the prayer is nondenominational and non-compulsory.
- 公立学校不得组织祈祷活动，即使该祈祷活动不涉及任何教派，也不强制要求。
- *Engel* is understood as prohibiting any school-sponsored/ sanctioned religious activity in public schools.
- 据理解，恩格尔禁止公立学校开展任何学校赞助/认可的宗教活动。

**Wisconsin v. Yoder (1972)** (see [chapter 9](#))

**威斯康星州诉约德案 (1972 年)** (参见[第 9 章](#))

*Compulsory school attendance laws violate the Free Exercise Clause.*

强制入学法违反了宪法第一修正案中的宗教自由条款。

- The Free Exercise Clause of the First Amendment protects the right of individuals to engage in their religious rituals and practices.
- 美国宪法第一修正案中的宗教自由条款保护个人进行宗教仪式和活动的权利。
- In *Yoder*, the Court held that compulsory secondary education violated the religious practice of the Amish, which prohibits education past the eighth grade.
- 在 *Yoder* 案中，法院裁定，义务中学教育违反了阿米什人的宗教习俗，该习俗禁止八年级以上的教育。
- The government may not enforce laws against individuals when such enforcement interferes with the free exercise of an individual's religious practices.
- 政府不得对个人强制执行法律，如果强制执行会妨碍个人自由行使宗教信仰的权利。

**Tinker v. Des Moines Independent Community School District (1969)** (see [chapter 9](#))

**Tinker 诉得梅因独立社区学区案 (1969 年)** (见[第 9 章](#))

*The First Amendment protects students' free speech in schools, including symbolic speech.*

美国宪法第一修正案保护学生在学校的言论自由，包括象征性言论。

- Students wore black armbands to school in protest of the Vietnam War.
- 学生们佩戴黑色臂章到学校，以抗议越南战争。
- The protest was purely symbolic; the students did not speak or disrupt the school.
- 这次抗议纯粹是象征性的；学生们没有发言，也没有扰乱学校秩序。
- The Court held that students' First Amendment right to free speech is protected in schools, so long as the speech does not interfere with discipline or the operation of the school.
- 法院裁定，只要言论不干扰学校纪律或正常运作，学生的第一修正案言论自由权在学校就受到保护。
- Wearing black armbands is a form of symbolic speech protected by the First Amendment.
- 佩戴黑臂章是一种受美国宪法第一修正案保护的象征性言论形式。

**Schenck v. United States (1919)** (see [chapter 9](#))

**申克诉美国案 (1919 年)** (参见[第 9 章](#))

*The "Clear and Present Danger" test is established for speech protection.*

“明显且迫在眉睫的危险” 测试是为保护言论自由而设立的。

- During World War I, the defendants in *Schenck* distributed literature urging young men to defy the draft and were charged with violating the Espionage Act of 1917.

- 第一次世界大战期间，申克案的被告散发传单，敦促年轻人拒绝服兵役，并被指控违反了1917年的《间谍法》。
- The defendants argued that the charges violated their First Amendment right to free speech.
- 被告辩称，这些指控侵犯了他们受宪法第一修正案保护的言论自由权。
- The Court held that the First Amendment does not protect speech that presents a “clear and present danger” of causing serious harm that Congress has a right to prevent.
- 法院认为，第一修正案不保护那些构成“明显且迫在眉睫的危险”的言论，因为国会有权阻止这种危险造成严重伤害。

**New York Times Co. v. United States (1971)** (see [chapter 9](#))

**纽约时报诉美国案（1971年）**（参见[第9章](#)）

*No prior restraint of the press is allowed to the government.*

政府不得对新闻自由进行任何事先限制。

- The Nixon administration obtained a restraining order preventing *The New York Times* and *The Washington Post* from publishing classified information (the Pentagon Papers) relating to the war in Vietnam that had been leaked to the press.
- 尼克松政府获得了一项限制令，禁止《纽约时报》和《华盛顿邮报》刊登泄露给媒体的有关越南战争的机密信息（五角大楼文件）。
- The Pentagon Papers contained information that might be embarrassing to the government, but not harmful to military operations.
- 五角大楼文件包含一些可能令政府难堪的信息，但不会损害军事行动。
- The Court held that, under the First Amendment, the government could not restrain the press from publishing information unless the government could meet a very high burden, which the Court did not clearly define.
- 法院认为，根据第一修正案，除非政府能够满足非常高的负担，否则政府不能限制新闻界发布信息，而法院并没有明确定义这个负担。

**McDonald v. Chicago (2010)** (see [chapter 9](#))

**麦克唐纳诉芝加哥案（2010年）**（参见[第9章](#)）

*The right to keep and bear arms applies to states.*

持有和携带武器的权利适用于各州。

- A Chicago ordinance prohibited the possession of handguns. Otis McDonald, a city resident who lived in a dangerous neighborhood, argued that the Second Amendment guarantees an individual the right to keep and bear arms.
- 芝加哥一项法令禁止持有手枪。居住在治安较差社区的芝加哥居民奥蒂斯·麦克唐纳辩称，美国宪法第二修正案保障个人持有和携带武器的权利。
- The Supreme Court incorporated the Second Amendment against the states and struck down the Chicago handgun ordinance.
- 最高法院援引第二修正案反对各州，并废除了芝加哥的手枪法令。

**Gideon v. Wainwright (1963) (see chapter 9)**

**吉迪恩诉温赖特案（1963年）（参见第9章）**

*The right to counsel 获得律师协助的权利*

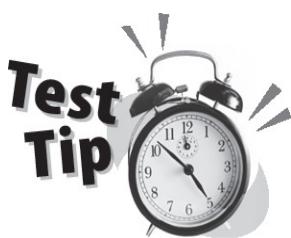
- Clarence Earl Gideon was charged with breaking into a pool hall and stealing cash, a felony.
- 克拉伦斯·厄尔·吉迪恩被控闯入台球厅盗窃现金，这是一项重罪。
- Although Gideon was indigent (too poor to pay for an attorney), he was not entitled to a public defender under Florida law because he was not charged with a capital (death penalty) crime.
- 虽然吉迪恩很穷（穷到请不起律师），但根据佛罗里达州法律，他没有资格获得公设辩护人，因为他没有被指控犯有死刑罪。
- The Supreme Court incorporated the Sixth Amendment's right to counsel, holding that all felony defendants are entitled to an attorney paid by the state if they fall below a minimum financial threshold.
- 最高法院采纳了第六修正案中关于获得律师的权利，裁定所有重罪被告如果经济状况低于最低门槛，则有权获得由州政府支付的律师费。

**Roe v. Wade (1973) (see chapter 9)**

**罗诉韦德案（1973年）（参见第9章）**

*The right to abortion 堕胎权*

- Norma McCorvey (pseudonym "Jane Roe") was denied an abortion in Texas and challenged the constitutionality of Texas' s restrictive abortion law.
- 诺玛·麦考维（化名“简·罗”）在德克萨斯州被拒绝堕胎，并对德克萨斯州限制性堕胎法的合宪性提出了质疑。
- The Supreme Court held that the right to privacy (not explicitly stated in the Constitution, but established in a previous case) protects a woman's right to access an abortion.
- 最高法院裁定，隐私权（宪法中没有明确规定，但在之前的案例中已确立）保护妇女获得堕胎的权利。



**Note that civil liberties cases always involve balancing the rights of the individual against the rights of others or society at large. The individual freedoms guaranteed in the Bill of Rights are not absolute. Civil liberties do not allow individuals to violate the rights of others. Keep in mind that one person's rights end where another's begin.**

请注意，公民自由案件始终涉及个人权利与他人或整个社会权利之间的平衡。《权利法案》保障的个人自由并非绝对。公民自由并不允许个人侵犯他人的权利。请记住，一个人的权利止于另一个人的权利开始之处。

## 4. Civil Rights

### 4. 公民权利

Civil rights claims are based on the Equal Protection Clause of the Fourteenth Amendment and require the government to protect members of certain minority groups against discrimination.

民权诉讼依据的是第十四修正案的平等保护条款，该条款要求政府保护某些少数群体成员免受歧视。

**Brown v. Board of Education of Topeka (1954)** (see [chapter 10](#))

**布朗诉托皮卡教育委员会案（1954年）**（参见[第10章](#)）

*Separate is not equal: No legal segregation of public education.*

隔离并不等于平等：公共教育中不存在合法的种族隔离。

- African American children were required under Kansas law to attend racially segregated schools.
- 根据堪萨斯州法律，非裔美国儿童必须就读种族隔离学校。
- The Court overturned the separate but equal doctrine, established in *Plessy v. Ferguson* (1896), which allowed segregation in public accommodations so long as the facilities offered to blacks and whites were roughly equal.
- 最高法院推翻了在普莱西诉弗格森案（1896年）中确立的“隔离但平等”原则，该原则允许在公共场所实行种族隔离，只要提供给黑人和白人的设施大致相等即可。
- In *Brown*, the Court held that separate is inherently unequal and unconstitutional under the Equal Protection Clause of the Fourteenth Amendment.
- 在布朗案中，法院裁定，隔离本质上是不平等的，违反了第十四修正案的平等保护条款，属于违宪。

## 5. Redistricting

### 5. 重新划分选区

Redistricting involves creating new district boundaries for legislative representation.

重新划分选区是指为立法代表权创建新的选区边界。

The Court has heard several cases related to creating both congressional districts and districts for state legislatures. The Court has ruled, over a series of cases, that, based on the Equal Protection Clause of the Fourteenth Amendment, legislative districts must be roughly equal in population or the “one person, one vote” principle.

法院审理过数起与国会选区和州议会选区划分相关的案件。在一系列案件中，法院裁定，根据第十四修正案的平等保护条款，立法选区的人口必须大致相等，即遵循“一人一票”原则。

In terms of legislative districts, the Court has ruled that districts must be drawn so that they are roughly equal in population, are contiguous and connected, and do not dilute minority voting strength. However, district lines cannot be drawn solely based upon race (*Shaw v. Reno*).

关于选区划分，法院裁定，选区划分必须保证人口大致相等、彼此相邻且相互连通，并且不削弱少数民族的投票权。但是，选区划分不能仅仅基于种族（*肖诉雷诺案*）。

### ***Baker v. Carr (1962)* (see chapter 5)**

#### ***Baker 诉 Carr 案 ( 1962 年 )* ( 见第 5 章 )**

*Courts have the power to evaluate the constitutionality of redistricting schemes.*

法院有权评估选区重划方案是否符合宪法。

- *Baker* is important because the Court held that redistricting may be a justiciable question (something the courts can decide) and not merely a political question (something for the legislature or executive). That is, courts have the authority to decide redistricting decisions. (Partisan gerrymandering claims are considered nonjusticiable under *Rucho v. Common Cause*, 2019.)
- *Baker* 案之所以重要，是因为最高法院裁定，选区重划可能是一个可诉问题（法院可以裁决的问题），而不仅仅是一个政治问题（立法机关或行政机关可以裁决的问题）。也就是说，法院有权对选区重划问题作出裁决。（根据 2019 年 *Rucho 诉 Common Cause* 案的判例，党派划分选区的诉讼被认为是不可诉的。）
- In a series of cases based on the *Baker* decision, the Court went on to establish the principle that legislative districts must be approximately equal in population, so that each citizen' s vote is equally weighted. (The “one person, one vote” principle.)
- 在一系列基于贝克案判决的案件中，最高法院进一步确立了立法选区人口必须大致相等的原则，以确保每位公民的选票权重相同。（“一人一票”原则。）

### ***Shaw v. Reno (1993)* (see chapter 5)**

#### ***Shaw 诉 Reno 案 ( 1993 年 )* ( 见第 5 章 )**

*Redistricting based on race is subject to strict scrutiny.*

基于种族划分选区的方案将受到严格审查。

- North Carolina created a congressional district map with two majority-minority districts, intended to increase the number of representatives from North Carolina representing African Americans. (*Majority-minority* districts are those in which a more than half of voters are members of a minority group.) The new map had been drawn so as to comply with minority voting rights under the Voting Rights Act of 1965.

北卡罗来纳州制定了一张包含两个少数族裔占多数选区的国会选区地图，旨在增加代表非裔美国人的北卡罗来纳州众议员人数。（少数族裔占多数选区是指超过半数选民为少数族裔的选区。）新地图的绘制符合 1965 年《投票权法案》规定的少数族裔投票权。

- The Court struck down the map, holding that although congressional district maps must comply with the Voting Rights Act of 1965, a district drawn based solely on race must pass strict scrutiny: it must be drawn with a compelling state interest in mind, be narrowly tailored to meet that need, and be the least restrictive means for achieving the goal.
- 法院驳回了该地图，认为虽然国会选区地图必须符合 1965 年《投票权法案》的规定，但仅基于种族划分的选区必须经过严格审查：必须以令人信服的州利益为出发点进行划分，必须经过严格调整以满足该需求，并且必须是实现该目标的限制性最小的手段。

## **6. Campaign Finance**

### **6. 竞选资金**

It has long been recognized that financing campaigns can result in the disproportionate influence of well-funded interests, as well as political corruption.

人们早已认识到，竞选资金的筹集会导致资金雄厚的利益集团拥有不成比例的影响力，以及政治腐败。

Various federal laws have attempted to limit the influence of money in political campaigns within the limitations of the Constitution.

多项联邦法律试图在宪法允许的范围内限制金钱对政治竞选的影响。

***Citizens United v. Federal Election Commission (2010)*** (see [chapter 13](#))

**公民联合诉联邦选举委员会案（2010年）**（参见[第13章](#)）

*Campaign spending is speech protected by the First Amendment.*

竞选支出属于受美国宪法第一修正案保护的言论自由。

- Citizens United, a conservative nonprofit organization, challenged restrictions placed by the Bipartisan Campaign Reform Act on advertising intended to influence elections by corporations and other organizations.
- 保守派非营利组织“公民联合会”对《两党竞选改革法案》中关于企业和其他组织旨在影响选举的广告的限制提出了质疑。
- The Court held that the First Amendment's free speech protections apply to corporations, labor unions, and other organizations, and that BCRA restrictions violated those rights.
- 法院认为，第一修正案的言论自由保护适用于公司、工会和其他组织，而《两党合作改革法案》的限制侵犯了这些权利。
- Spending by organizations to influence elections may not be limited so long as there is no coordination between the organization and the candidate or campaign.
- 只要组织与候选人或竞选活动之间没有协调，组织为影响选举而进行的支出可能不会受到限制。