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Human Rights Heroes: The Challengers of Free Speech

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Human Rights Heroes: The Challengers of Free Speech

By Stephen J. Wermiel

The U.S. Supreme Court's jurisprudence on freedom of speech and press spans little more than 100 years, during which justices from Oliver Wendell Holmes to John Roberts have weighed in on the development of the law. But perhaps more than in some other areas of constitutional law, the evolution and growth of free speech have required the courage, sacrifice, determination, and commitment of hundreds, maybe thousands, of litigants over the years who have waged heroic struggles for their rights.

Many have sacrificed much to protect the free exchange of ideas and criticism in our society, even predating the Constitution and the Supreme Court's grappling with the meaning of free speech and free press.

In 1733, well before the writing of the Constitution, a New York jury sending a message about the importance of liberty

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.

THE FIRST AMENDMENT
TO THE U.S. CONSTITUTION
15 DECEMBER 1791

This stone plaque guards the "First
Amendment Area" in Independence
National Historic Park.

found printer and newspaper publisher John Peter Zenger not guilty of libeling the local governor, although the fact of publication was enough to render him guilty under the law at the time.

In 1798, Matthew Lyon, a Republican congressman from Vermont, became the first of more than two dozen individuals convicted of seditious libel under the Sedition Act of 1798. His sentence of four months in prison and a \$1,000 fine were based largely on his sharp criticism of the administration of President John Adams.

In the period 1835–1837, anti-slavery abolitionist speech became a target not only of state laws barring it in some southern states but of angry mobs suppressing it in the North and South. A mob seized and burned abolitionist literature in the Charleston, South Carolina, post office in 1835. That same year, a mob in Boston seized abolitionist publisher William Lloyd Garrison and dragged him by rope toward the Boston Common before he was arrested for his own protection.

When the Supreme Court turned its attention to the First Amendment in 1919, just after the end of World War I, the justices began to develop a vision of free speech in a series of cases; but in each of the cases, the criminal conviction of the speaker or pamphleteer was upheld. This included socialist and labor leader and frequent presidential candidate Eugene Debs (*Debs v. U.S.* 249 U.S. 211 (1919)). In the last of five runs for the White House, Debs was in prison serving a sentence for opposition to U.S. involvement in World War I.

As the twentieth and twenty-first centuries progressed, free speech cases became numerous in the Supreme Court, and the sacrifice of individuals impossible to catalog or quantify. The Jehovah's Witnesses initially lost and then in 1943 won a landmark free speech case, *West Virginia State Board of Education v. Barnette* (319 U.S. 624 (1943)), holding that government could not compel recitation of the Pledge of Allegiance over individual objections. They would be involved in a handful of other important free speech rulings as well.

The civil rights movement of the 1960s saw important free speech and free press advances as the editors of the *New York Times* and some civil rights leaders won heightened protection

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