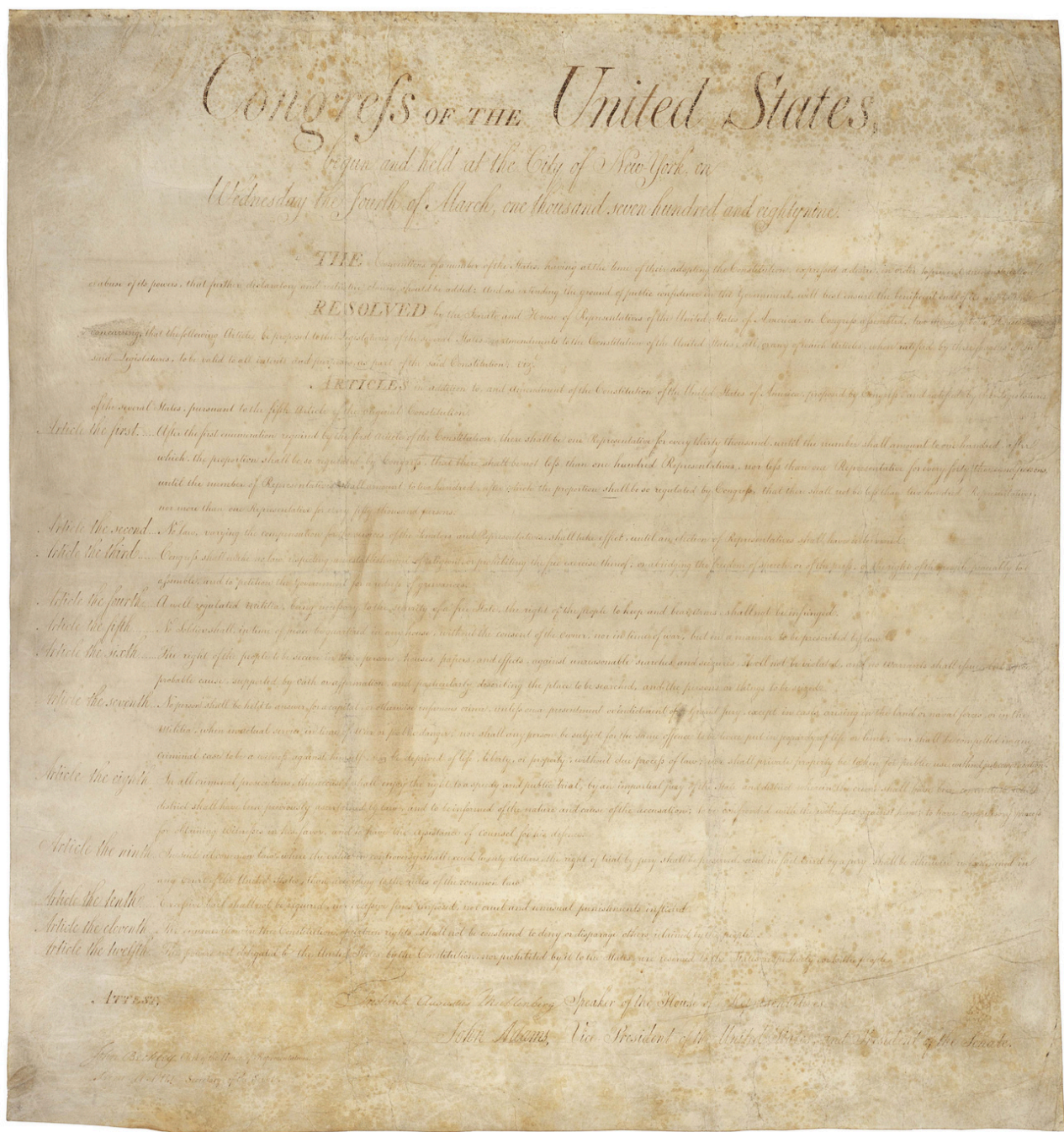


The First Amendment



The Bill of Rights passed by Congress on September 25, 1789
National Archives

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

—First Amendment of the United States Constitution

**SO
WHAT?**

The First Amendment protects your right to religion, speech, press, assembly, and petition!

LIMITATIONS:

- The First Amendment only applies to the federal and state governments
- The government can only limit your speech in very specific circumstances

WHAT CAN BE PROHIBITED?

- obscenity
- fighting words
- incitement to imminent lawless action
- defamation and fraud

PRECEDENTS

A precedent is a similar, already-decided case, that shows how judges have dealt with related issues in the past. Two important precedents for the *Hess v. Indiana* case are:

Cohen v. California (1971)

Paul Robert Cohen was arrested for wearing a jacket with profanity disparaging the draft for the Vietnam War. He was charged with **disturbing the peace**. The Supreme Court held that while his speech was vulgar, it was not likely to provoke imminent criminal action (by the **Brandenburg Test**), and therefore was not illegal.

Brandenburg v. Ohio (1969)

Clarence Brandenburg, a Ku Klux Klan leader, planned for a hateful rally to be televised live. The government of Gary, IN, wanted to stop the rally because they believed it would draw angry, violent crowds. Brandenburg was arrested for **criminal syndicalism**. The Supreme Court held that his arrest infringed upon his free speech, and Brandenburg was released. This case created the **Brandenburg Test**, which defined speech that may be prohibited:

BRANDENBURG TEST:

1. Is the speech **directed** at **inciting imminent** lawless action?
2. Is the speech **likely** to produce **imminent** lawless action?

CREATED BY THE 2024 “SUPREME COURT AND MY HOMETOWN” STUDENTS

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