

Civil Liberties in Wartime **TIMELINE**

Alien and Sedition Acts Become Law

1798

The U.S. is on the brink of war with France. The Federalists believe criticism of their policies is disloyal and fear that immigrants are sympathetic to the French. As a result, the Federalist-controlled Congress passes laws that raise the residency requirement for citizenship from 5 to 14 years, authorize the president to deport aliens, and permit their arrest, imprisonment, and deportation during wartime. The Sedition Act makes it a crime for citizens to “print, utter, or publish . . . any false, scandalous, and malicious writing” about the government.



Portrait of Abraham Lincoln

Photo: Wikimedia Commons

Lincoln Suspends Writ of Habeas Corpus

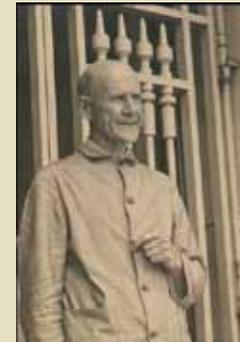
1861

Citing the threat posed by Confederate spies, President Abraham Lincoln suspends the writ of habeas corpus in Maryland, which allows suspected spies to be held indefinitely. (Habeas corpus is the right to challenge a prisoner’s detention.) Supreme Court Chief Justice Roger Taney condemns the suspension as unconstitutional, but the next year, Lincoln suspends habeas corpus for all states. The Supreme Court later rules the Constitution permits only Congress to suspend habeas corpus (Article 1, Section 9), but Lincoln ignores it.

Hundreds Convicted Under Espionage and Sedition Acts

1917

After U.S. entry into World War I, the Espionage Act targets those who refuse to serve in the military during a draft, cause others to refuse their service, or reveal information about the national defense. Penalties include a jail term of up to 20 years and fines up to \$10,000. A year later, the Sedition Act imposes severe criminal penalties on all forms of expression critical of the government or its war mobilization. About 900 people are convicted, and hundreds of noncitizens are deported without a trial. When Socialist Party leader Eugene V. Debs gives a speech criticizing the draft and praising efforts to obstruct war recruitment, he is convicted and sentenced to 10 years in prison.



Eugene Debs while in prison at the Atlanta Federal Penitentiary for opposing WWI.

Photo: Wikimedia Commons

‘Clear and Present Danger’ Exception in Wartime

1919

In *Schenck v. United States*, the Supreme Court upholds the conviction of Socialist Charles Schenk for conspiracy to violate the Espionage Act by attempting to distribute antiwar leaflets to U.S. servicemen. While acknowledging that the First Amendment normally might protect Schenk’s activities, the court holds that in special circumstances, such as wartime, speech that poses a “clear and present danger” can be restricted.

Palmer Raids Result in ACLU Creation

1920

After World War I ends, labor unrest makes the nation uneasy. The Russian Revolution in 1917 sparked fears of a worker revolution, and a “Red Scare” sweeps the nation. Dozens of mail bombs are sent to political leaders, and an anarchist blows himself up outside the home of Attorney General A. Mitchell Palmer. Fearing a communist takeover, Palmer creates the General Intelligence Division and recruits J. Edgar Hoover as its leader. Over two months, Palmer arrests thousands of suspected communists, Socialists and other radicals in raids. Many are held without trial; others are deported. In response, the American Civil Liberties Union is founded and publishes a report critical of the raids and similar government activities.

‘A Date Which Will Live in Infamy’

Dec. 7, 1941

Japanese planes attack the U.S. military base at Pearl Harbor, Hawaii, killing more than 2,000 Americans. The next day, President Franklin D. Roosevelt delivers a speech to Congress seeking a declaration of war. Soon after, the federal government initiates curfews for Japanese, German and Italian Americans, and hundreds of Japanese nationals are arrested.



Three battleships hit from the air during the Japanese attack on Pearl Harbor

Photo: Wikimedia Commons

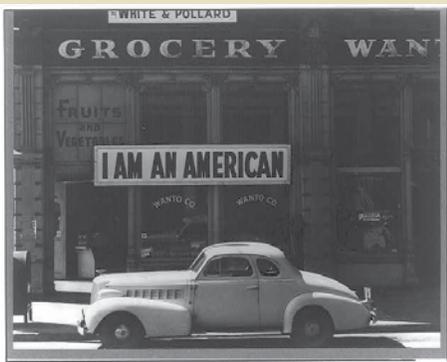
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Japanese Internment Camps Authorized

1942

Citing national security, President Franklin D. Roosevelt issues two executive orders (quickly passed into law by Congress) that authorize the internment of people of Japanese descent, including many U.S. citizens. One order designates “military areas” across eight states from the Canadian to the Mexican borders in which they are not allowed to live. The other order authorizes their relocation to internment camps. More than 120,000 are forced to give up their homes and businesses.



San Francisco store closed when the Japanese-American owner was required to relocate to an internment camp. Photo: Wikimedia Commons

Restrictions on Japanese Americans Upheld

1943

In *Hirabayashi v. United States*, the Supreme Court says a federal law that requires Japanese Americans to live in restricted areas and obey curfews does not violate their Fifth Amendment right to due process. The court addresses only the curfew, which it calls a necessary “protective measure.” In *Korematsu v. United States*, the court says post-Pearl Harbor restrictive measures are justified in times of “emergency and peril.” Justice Frank Murphy, one of three dissenters, describes the internment order as the “legalization of racism.”

Hollywood Scrutinized for Communist Ties

1947

As the Cold War gets under way, the House Un-American Activities Committee investigates communist involvement in various professions. At hearings, ten witnesses who refuse to answer questions, citing the Fifth Amendment, are found guilty of contempt of Congress and sentenced to prison. In 1951-54, Sen. Joseph McCarthy leads a new round of hearings investigating the entertainment industry. Hundreds are subpoenaed and asked to “name names” of communist sympathizers. Those who refuse to testify are “blacklisted” and denied work. After unedited footage of the hearings becomes public, the committee comes under fire. In 1954, the Senate censures McCarthy for conduct unbecoming to a senator.



Senator Joseph McCarthy

Photo: Library of Congress

Limits Placed on Symbolic Speech Right

1965

In *United States v. O'Brien*, the Supreme Court lets stand the conviction of an activist who burned his draft card to protest the Vietnam War. While the court admits that the law against destroying a draft card does limit free speech, it says the law serves an important government interest (i.e., operation of the draft during wartime).



Vietnam War draft card

Photo: Wikimedia Commons

Newspapers Win Pentagon Papers Case

1971

The New York Times and the Washington Post obtain secret Defense Department documents that detail U.S. involvement in Vietnam in the years leading up to the war. Citing national security, the U.S. government gets temporary restraining orders to halt publication of the Pentagon Papers. But the Supreme Court finds that prior restraint on the documents' publication violates the First Amendment.

After Attack, 'War on Terror' Declared

Sept. 11, 2001

Terrorists associated with the al-Qaeda network hijack four airplanes, crashing one into the Pentagon and two into the World Trade Center in New York City. A fourth plane crashes in a field in central Pennsylvania. All told, more than 2,700 are killed. In the aftermath, President George W. Bush declares a “war on terror.” Federal agents detain more than 1,200 people, most of whom are held on visa or other immigration violations and are not charged on terrorism-related offenses.

The Pentagon on September 11, 2001

Photo: Library of Congress



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Broad Antiterrorism Bill Is Passed

→ **October 2001** →

Congress swiftly passes the U.S.A. Patriot Act “to enable capture of the individuals responsible for the 9/11 attacks, and to prevent future attacks.” Among its provisions is a dramatic expansion of the federal government’s authority to monitor suspected terrorists’ communications and to obtain online records, such as organization membership lists and individuals’ purchases.



George W. Bush signs the Patriot Act

Photo: Wikimedia Commons

Bush Approves Military Tribunals

→ **November 2001** →

President George W. Bush signs a military order that authorizes the government to detain noncitizens suspected of terrorism and to try them before military tribunals. The order states that as a result of the 9/11 attacks, an “extraordinary emergency exists for national defense purposes,” and that the detentions and tribunals are needed to protect the U.S. Civil liberties groups fear that the accused may be held indefinitely without a trial and that any trials could be held in secret.

Government Clash Over Detainees

→ **2004-2008** →

The Supreme Court rebuffs several Bush policies on suspected terrorists. In *Rasul v. Bush*, it decides that federal courts have jurisdiction to hear habeas corpus petitions filed by foreign detainees at Guantanamo Bay, Cuba. After Congress responds by passing the Military Commissions Act to remove jurisdiction, the court strikes down the act as unconstitutional. In *Hamdi v. Rumsfeld*, the court says suspects designated as “enemy combatants” by the executive branch cannot be denied their due process rights, such as access to a lawyer. In *Hamdan v. Rumsfeld* in 2006, the court invalidates military tribunals set up by the Bush administration to try detainees.



A detainee is escorted into a medium security facility at Guantanamo Bay, Cuba

Photo: Wikimedia Commons