

ARE THERE ANY
GOOD BOOKS
on
CIVIL LIBERTIES?

A Reader's Guide

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By

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THE PURPOSE OF THIS GUIDE

Civil liberties is an important, fascinating and extremely complex subject. There are many, many books and articles on each and every topic: free speech, lesbian and gay rights, the war on terror, and so on. The abundance of material poses a serious problem for the person who is just learning about civil liberties, or who wants to read something on a topic where he or she has no background. Where to begin?

This Guide is designed to provide an introduction to the best books on civil liberties issues. For each issue it begins by identifying a “Best First Book.” For each book there is a short discussion of how it approaches the topic and why it is such a good book. The books have been selected because they are well-written and will be of interest to the reader with no background on the topic.

The Guide then suggests one or more other books for “Further Reading” and for readers interested in “Digging Deeper.” Most of these are longer more scholarly books.

Let’s say you are interested in the Scopes Monkey trial. The Guide recommends Ray Ginger’s Six Days or Forever as the Best First Book and then Edward Larson’s longer more analytical books as Further Reading.

To supplement the books, the Guide includes a “Film Fun” section recommending movies or video documentaries on the topic. For the Scopes case it recommends the Hollywood film Inherit the Wind, with a discussion of the ways it presents both a very accurate picture of parts of the trial and distorts the history of the case.

Finally, there is a “Travel Advisory” feature for some issues. On the Japanese-American internment, for example, it recommends a visit to the Manzanar internment camp which is now a historic site run by the National Park Service.

For a full reference book on civil liberties, with an extensive bibliography, see Samuel Walker, Civil Liberties in America: A Reference Handbook (Santa Barbara: ABC-CLIO, 2004).

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I. GETTING STARTED

Best First Book

Ira Glasser. Visions of Liberty: The Bill of Rights for All Americans.
New York: Arcade Books, 1991.

Visions of Liberty is an excellent first book on civil liberties, combining text and photographs to bring to life the history of the Bill of Rights and the civil liberties issues that have provoked so much controversy in our society. The text is written by Ira Glasser, long-time Executive Director of the ACLU (1978-2001) and a forceful advocate for civil liberties. An initial chapter on the creation of the Bill of Rights is followed by chapters on the major civil liberties issues, such as freedom of religion and freedom of expression. Chapter Three on Freedom of Expression provides a quick trip through the old English concept of seditious libel, which made it a crime to criticize the government, the suppression of free speech in this country during World War I, and down to the current controversy over First Amendment protection of the right to burn the American flag.

Accompanying the text are photographs by the noted documentary photographer Bob Adelman. He was on the scene, capturing the drama of many important moments of the civil rights movement in the 1960s. One special highlight is a photograph of the day room at the Willowbrook State (NY) School for retarded children. An ACLU suit in the 1970s challenging the appalling conditions in this hospital was an important chapter in the creative use of the Bill of Rights to improve the treatment of people confined in institutions. Adelman's photographs are supplemented by many historical photographs illustrating civil rights and civil liberties events. There is a great 1910 photo of a feminist dressed all in white and carrying the American flag, marching for women's suffrage. Visions of Liberty provides a sweeping overview of the battles for individual rights in America and provides an excellent introduction to the history of civil liberties.

People Who Stood up for Their Rights

Peter Irons, The Courage of their Convictions. New York: The Free Press, 1988.

In order for the Supreme Court to rule on an issue there has to be a case, and that requires someone with the courage to stand up and fight for his or her rights -- usually at great personal risk. The Court's decisions are written in the technical language of constitutional law, however, and we usually do not hear the voices of the people who suffered a violation of their rights in the first place.

The Courage of their Convictions allows us to hear the voices of the people who fought for their rights. Peter Irons has interviewed the key plaintiff in sixteen major cases in the history of civil liberties. As a result, we get to hear Mary Beth Tinker's own story about how she wore an armband to school in Des Moines in December, 1965 to protest the Vietnam War. We also hear Michael Hardwick's story of how the police entered his bedroom while he was with another man and arrested him for sodomy. Their cases -- *Tinker v. De Moines* (1969) and *Bowers v. Hardwick* (1986) -- are recognized landmark civil liberties decisions. Irons introduces each of the personal accounts with an essay describing the legal context of the case and the significance of the Court's decision. The Courage of Their Convictions is an excellent introduction to landmark Supreme Court decisions on civil liberties.

II. SCOPES: THE MOST FAMOUS CIVIL LIBERTIES CASE IN AMERICAN HISTORY

Best First Book

Ray Ginger, Six Days or Forever? Tennessee v. John Thomas Scopes. New York: Oxford, 1974.

The Scopes Monkey Trial is one of the most famous events in American history, mentioned in virtually every American history text book. The case began in 1925 when Tennessee passed a law making it a crime to teach about evolution in the public

schools. Ray Ginger's Six Days or Forever is over fifty years old, but it is still a wonderful account of the case. Written in a brisk style, it vividly evokes the drama in the Dayton, Tennessee, courtroom that hot summer in 1925. Ginger directly quotes much of the trial testimony, notably the dramatic cross-examination of William Jennings Bryan by Clarence Darrow. Edward Larson's two books (see below) offer more recent and detailed scholarly accounts of the Scopes case, but Ginger's highly readable account has never been challenged on its presentation of the facts and is the best place to start.

Film Fun

Inherit the Wind (1960).

Jerome Lawrence and Robert E. Lee wrote a stage play based on the Scopes trial in 1955, and Hollywood turned it into a movie in 1960. With Spencer Tracy as Clarence Darrow and Frederick March as William Jennings Bryan, the movie is highly entertaining but plays pretty loose with some of the facts. It goes overboard in portraying Darrow as a kindly saint (it is a great performance by Tracy) while demonizing Bryan as a complete fool. It also adds a love story and other events that stack the deck in favor of the civil libertarian side. This is a shame, because the civil libertarian side stands up very well on its own merits, even with the warts left in.

The best part of the movie is Darrow's devastating cross-examination of Bryan. You might think some clever Hollywood screen writer made this up, but in fact much of the dialogue is taken directly from the trial transcript. The most entertaining moment is when actually Bryan says, "I don't think about things I do not think about." And the dramatic turning point in the trial is when Darrow gets Bryan to concede that the "days" in the Book of Genesis story are not necessarily "days of twenty-four hours." People in the court room, almost all his supporters, audibly gasped as they realized that he had just undermined his own case for the literal interpretation of the Genesis story. Check out the film on video; it is great entertainment, but read one of the books on the case to get a factually accurate account.

Further Reading

Edward Larson,

Summer for the Gods: The Scopes Trial and America's Continuing Debate Over Science and Religion.

New York: Basic Books, 1997.

Trial and Error: The American Controversy over Creation and Evolution. New York: Oxford University Press, 1985.

The Scopes case has never ended. The issues fought out in the Dayton, Tennessee court room in July, 1925 continue to rouse bitter controversy in American society. Edward Larson's two books are the most thorough scholarly accounts of the case and its aftermath. Summer for the Gods won the Pulitzer Prize for History in 1998 and is a thorough account of the trial. One of the fascinating aspects of the book is the author's discussion of the image of the case in American memory and the extent to which it has achieved almost mythic status.

Trial and Error, meanwhile, places the Scopes case in the larger context of the struggle over the teaching of evolution in public schools. Particularly interesting is the author's analysis of the long-term aftermath of the case and its impact on the teaching of biology and the issue of evolution in America. He brings the story down to the present and the current controversies over "balanced treatment" of evolution and the idea of "creation science."

III. FREEDOM FOR THE THOUGHT WE HATE

Best First Book

Aryeh Neier, Defending My Enemy: American Nazis, the Skokie Case, and the Risks of Freedom. New York: E. P. Dutton, 1979.

One of the most celebrated civil liberties cases of the 1970s involved the attempt of a rag tag group of American Nazis to hold a demonstration in the heavily

Jewish community of Skokie, Illinois. The case forced Americans to confront the question of the scope of the First Amendment. Does it protect the most hateful speech? Does it protect even the rights of groups that advocate genocide and who would abolish freedom of speech if they actually gained power?

Aryeh Neier's first-hand account of the case is particularly compelling for two reasons. First, he was Executive Director of the ACLU at the time and had to deal directly with the criticisms of the ACLU for taking the case. Second, Neier is himself Jewish and his parents fled Nazi Germany in the 1930s. He relates his personal experience and feelings as a Jew to his principled defense of the free speech rights of Nazis. This is a gripping first-hand account of a major civil liberties controversy by the person who as ACLU director was in the hot seat in the defense of free speech.

Digging Deeper

Phillipa Strum, When the Nazis Came to Skokie: Freedom for the Speech We Hate. Lawrence: University of Kansas Press, 1999.

When the Illinois ACLU initially agreed to take the Skokie case they thought it was a routine First Amendment case, no different from the many others that arise every year. They were wrong. A national controversy arose involving basic First Amendment issues. While Neier's book is a deeply personal account, Philippa Strum's book is a full history of the affair, written with the benefit of historical perspective. It has an excellent discussion of the First Amendment issues involved in the case and an account of the aftermath of the controversy over the next twenty years. Strum is both a prominent ACLU member, a distinguished political scientist, and a prolific writer who has written on a number of civil liberties issues, including women's rights (Women in the Barracks: The VMI Case and Equal Rights [2002], and a biography of Supreme Court Justice Louis Brandeis.

The TV Version

Skokie (1981).

ABC Television broadcast this docudrama on the Skokie free speech case in

1981. It is a little dry, but by focusing on the personal dilemma faced by a fictionalized character, it adds some personal drama to the hate speech controversy.

Digging Even Deeper

Lee Bollinger, The Tolerant Society. New York: Oxford University Press, 1986.

Cass Sunstein, Democracy and the Problem of Free Speech. New York: Free Press, 1993.

The Skokie controversy has stimulated a number of books because it raises such basic question about the role of the First Amendment in a free society. If it protects advocates of genocide, are there any limits to free speech? What are the positive benefits to society of unrestricted free speech?

These questions are addressed in two books by noted legal scholars. In The Tolerant Society, Lee Bollinger makes a powerful argument about the role of the First Amendment in promoting the value of tolerance. In short, we should defend hate speech not because we have to but because doing so enhances values that are essential to a free and democratic society. Cass Sunstein takes a somewhat more limited view of free speech in Democracy and the Problem of Free Speech. Adopting James Madison's original view of the First Amendment, he argues that its principal function is to promote the democratic process and the discussion of public issues. Since genocide and some other forms of offensive speech do not contribute to this process, he argues that they should not necessarily enjoy full First Amendment protection. Both of these books are highly readable and are intended for a general audience and not just law professors.

IV. AMERICA'S CONCENTRATION CAMPS: THE JAPANESE-AMERICAN INTERNMENT

A Personal Account

Jeanne Wakatsuki Houston and James D. Houston, Farewell to Manzanar. New York: Bantam, 1974.

The internment of the Japanese-Americans during World War II is widely regarded as the greatest single violations of civil liberties in all of American history. Over 110,000 people, most of whom were American citizens, were evacuated from the west coast and confined in concentration camps. Most lost all of their property and possessions in the process.

Farewell to Manzanar is a moving memoir by Jeanne Wakatsuki Houston who was seven years old when she and her family were removed from Los Angeles and sent to the Relocation Center in Manzanar, California. There are many books on the Japanese-American internment, but this book brings the story alive as a human tragedy: the shock of losing one's home, the indignities of living in a barracks that cannot keep out the blowing sand, and a young girl watching the devastating psychological effect of the internment on her father.

Travel Advisory

The Manzanar internment camp is now a National Historic Site maintained by the National Park Service. You can take a 3.2 mile automobile tour or a walking tour, or both. Check the NPS web site for details: www.nps.gov.

Digging Deeper

Peter Irons, Justice at War. New York: Oxford University Press, 1983.

Not only did the federal government evacuate and hold over 110,000 people in concentration camps, but they lied about why they were doing it. Justice at War is

the most thorough history of this great tragedy, with a special focus on the court cases. In the course of his research Peter Irons found evidence of government misconduct in which federal officials withheld from the courts material that undercut their own argument that the Japanese-Americans were a threat to national security.

Peter Irons is a remarkable scholar/activist. In addition to being a highly respected political scientist and historian, he is a lawyer who played a leading role in reopening the World War II cases and winning redress for the victims of the evacuation and internment. His book The Courage of Their Convictions (above, p. 2) includes a chapter with a personal memoir by Gordon Hirabayashi, the plaintiff in the first important Japanese-American case to reach the Supreme Court.

Film Fun: The Way it Wasn't

Come See the Paradise (1990).

Warning: As he did with Mississippi Burning (below, p. 16) director Alan Parker takes an important chapter in the history of American racism and tells it through the eyes of a white person. The story of the Japanese-American internment is almost lost as the film attempts also to be a love story and a labor union organizing story. Critics generally found the movie to be very disjointed, but concede that it improves when the story of the Japanese-American internment finally moves to the fore in the second half. See it and judge for yourself.

A much better film is Bad Day at Black Rock from 1955. Although it deals only indirectly with the internment itself, it is a powerful indictment of anti-Japanese American prejudice in a small California town. It has an all-star cast with Spencer Tracy as the hero and chilling performances by Lee Marvin and Ernest Borgnine as the bad guys. Despite a few Hollywood liberal pieties, it is great entertainment and a dramatic treatment of racial prejudice. Finally, there are several documentaries on the internment, including Children of the Camps (1999) which tells the story of six people who were interned as children.

V. WARNING ! DANGEROUS POEM !!!

Allen Ginsburg, Howl (1956).

It is hard to believe that a poem would be so threatening to authorities that they would arrest the publisher, but it happened – and in San Francisco, no less! Allen Ginsburg's Howl is generally recognized as one of the great American poems. It is also one of the seminal statements of the Beat Generation and the emerging counter-culture. The opening line is as powerful and evocative today as it was nearly a half a century ago when it was written: "I saw the best minds of my generation destroyed by madness, starving hysterical naked," San Francisco authorities arrested and prosecuted the poem's publisher Lawrence Ferlinghetti for obscenity. Ferlinghetti owned both the City Lights Book Store and City Lights Books which published Howl. With representation by ACLU attorneys, Ferlinghetti was acquitted at trial.

Readings of Howl are available on CD, including one version by Ginsberg himself. The transcript of the trial and the judge's decision are in a book by ACLU attorney Jake Ehrlich, Howl of the Censor (1956). Copies can be found on the internet-based used book stores.

Travel advisory

When in San Francisco be sure to visit the famous City Lights Books Store (261 Columbus Ave., just around the corner from Chinatown), founded by Ferlinghetti in 1953 as the first all-paperback book store and a focal point for the Beat generation. It is now a recognized cultural landmark. Buy a copy of Howl and some good books on civil liberties.

VI. PROTECT THE WOMEN AND CHILDREN !

Best First Book

Marjorie Heins, Not in Front of the Children: "Indecency," Censorship and the Innocence of Youth. New York: Hill and Wang, 2001.

Many censorship campaigns over the years are intended to "protect" children and women from the alleged harm of "indecent" material. They include efforts to remove certain books from public schools to restrict access to sex education materials. The most important recent Supreme Court case in this area involved the federal Communications Decency Act (CDA) which tried to (ACLU v. Reno). A 2003 Supreme Court decision did hold that public libraries could place filters on their computers to block access to web sites with allegedly indecent materials. Marjorie Heins's Not in Front of the Children provides a good overview of these efforts and examines the underlying assumptions about children and the alleged "harms" they seek to prevent.

Digging Deeper

Nadine Strossen, Defending Pornography: Free Speech, Sex, and the Fight for Women's Rights. New York: Scribners, 1995.

Censorship of sexually oriented materials has been one of the major themes in the history of the fight for freedom of speech and press. In recent years, this issue has become more complicated as some feminists want to censor pornography on the grounds that it violates the rights of women. Thus, the recent battles over censorship in this area have involved conflicts between different groups of rights advocates.

Nadine Strossen, President of the ACLU, has written a vigorous defense of freedom of expression with respect to sexually oriented materials. In clear and forcefully written prose, she argues that censorship has always been a weapon of those who would deny women full equality. The particular value of Defending Pornography is that it moves far beyond narrow legal issues to discuss the role of women, the complex meaning of sexuality in modern society, and the significance of

the First Amendment.

More to Come

More books and videos on the question of First Amendment protection for “dirty words” are discussed in Sections XV and XVI, below.

VII. THE COLD WAR: ASSAULT ON UNPOPULAR IDEAS

Two Personal Accounts

Ring Lardner, Jr., I'd Hate Myself in the Morning: A Memoir. New York: Thunder's Mouth Press, 2000.

John Henry Faulk, Fear on Trial. New York: Simon and Schuster, 1964.

Ring Lardner, Jr. spent a year in prison because of his political beliefs. In the 1940s he was a highly successful Hollywood screen writer and had won an Academy Award for the script of Woman of the Year (1942). In 1947 he was called before the House Un-American Activities Committee (HUAC) which was investigating alleged Communist influence in Hollywood. Along with several others, Lardner refused to answer the committee's questions, was cited for contempt, and went to prison.

His memoir is an engaging account of his Hollywood career, his confrontation with HUAC, going to prison, and then being blacklisted. The most amazing moment: while in Danbury federal prison he was joined by J. Parnell Thomas, the former Chair of HUAC who was now in prison for fraud. Lardner did not speak to his former tormentor and new prison colleague. Lardner eventually overcame the blacklist, resumed his screen writing career, and won a second Oscar for the film version of M*A*S*H.

John Henry Faulk, meanwhile, was a popular radio entertainer who lost his job through blacklisting. His memoir, Fear on Trial, is his first-hand account of the experience, and how after many years of struggle he managed to defeat the blacklist and regain a career.

A Modern Classic

Victor Navasky, Naming Names. New York: Viking Press, 1980.

One of the most insidious aspects of the Cold War was the demand that people called to testify before the House Un-American Activities Committee name other people as Communists. Victor Navasky's Naming Names focuses on this one part of the Cold War and dramatizes the insidious process of informing on others and the resulting personal tragedies. It is especially valuable in describing the small industry of informers, lawyers and "fixers" that arose to facilitate the process of being "cleared" by HUAC for naming names. Navasky highlights a number of prominent motion picture and theater artists, some of whom were and still are regarded as the best in their fields. This book is gripping and very disturbing reading. And see the film debate over naming names in Section X, below (p. 19).

Film Fun

The Front (1976).

The Front is an entertaining film version about how some blacklisted film and television writers survived by submitting their work in other peoples's names ("fronts"). Woody Allen stars in but does not direct this film, which is entertaining but perhaps a little too much so. The tragedies of ruined lives are leavened by Allen's comedy that seems a little inappropriate at times. In the final scene he tells off the Un-American Activities Committee: "Fellows, I don't recognize the right of this committee to ask me these kind of questions. And furthermore, you can all go fuck yourselves." This is a funny scene, but a little too cute and ending, considering the seriousness of the issues.

One interesting angle is that the movie involves many people who were in fact blacklisted earlier in their careers, including director Martin Ritt, actor Zero Mostel, and screenwriter Walter Bernstein.

High Noon (1952).

One of the all-time best American films and a classic Western, High Noon is also an excellent dramatization of the issues raised by the Cold War. Gary Cooper gives a commanding performance as the town Marshall who is left to stand all alone against a threat to the community. All the “good” people of the community stand by paralyzed by fear, offering many of the same arguments that people used during the Cold War to rationalize their refusal to challenge McCarthyism. One of the most interesting aspects of the film is that screen writer Carl Foreman was called before HUAC while the film was in production, and knowing that he would be blacklisted revised the script to heighten the issue of a community’s response to hysteria.

Scary Video: McCarthyism In Action

Point of Order (1964).

If you ever wondered where the term “McCarthyism” came from, see this video. Here is Senator Joe McCarthy himself in documentary footage of Senate hearings he conducted. You will easily see why his name has become synonymous with reckless anti-Communist attacks on people because of their political beliefs. The highlight of the documentary is the famous scene where attorney Joseph Nye rebukes McCarthy, a confrontation that helped to start the Senator’s downfall.

There are also several books and video documentaries on Edward R. Murrow, the CBS journalist whose 1954 program on Senator McCarthy was a major turning point in the Cold War. (Check out the Arts and Entertainment library at www.aetv.com).

Really Weird Film Stuff

By the late 1950s and early 1960s, blacklisted writers and actors were able to resume their careers. In the original Planet of the Apes film (1968) screenwriter Michael Wilson, who had been blacklisted, included a scene that mocks HUAC-style interrogations. When the human being (get it?), played by Charlton Heston, asks to

know the nature of the charges against him, he is gagged. The apes who dare to defend him are warned that this could “endanger their careers.” A few parts of the hearing also refer to evolution, in obvious reference to the Scopes trial. This is fascinating stuff.

VIII. THE STRUGGLE FOR RACIAL EQUALITY

Best First Books

Taylor Branch,

Parting the Waters: America in the King Years, 1954-63.
New York : Simon and Schuster, 1988.

Pillar of Fire: America in the King Years, 1963-65. New York:
Simon and Schuster, 1998.

No books do a better job of bringing to life the incredible drama of America during the years of the civil rights movement than Taylor Branch’s two-part biography of Martin Luther King. Among the many books on the civil rights movement, these two clearly stand out from the rest. As the author explains, these books are not just about Dr. King. They are about America in the “King Years,” from the mid-1950s through the late 1960s when the civil rights movement transformed American society. Branch does a great job, for example, of connecting the events of the civil rights movement to the escalating Vietnam War, presidential politics, and other important issues. A veteran journalist, Branch has unearthed many fascinating details, particularly about some of the less well-known figures who also played important roles in civil rights controversies.

Further Reading

Dan T. Carter, Scottsboro: A Tragedy of the American South. New York: Oxford University Press, 1971.

The Scottsboro case in the 1930s was the first great national civil rights cause, and marked the beginnings of the modern civil rights movement. Eight young African American men were convicted of raping two white women in Alabama and sentenced to death. Civil rights activists around the country rallied to their defense. Eventually two Scottsboro cases reached the U.S. Supreme Court and resulted in early landmark decisions protecting civil liberties. Dan T. Carter's thorough history of the case is lively reading, and it vividly brings back the early history of the civil rights movement when there were no laws or court decisions upholding racial equality.

There are also four video documentaries on the case, including Scottsboro: An American Tragedy (2000).

Video History of the Civil Rights Movement

Eyes on the Prize, Six Parts (1987).

This six-volume documentary on the civil rights movement includes all of the famous dramatic moments of the struggle: the massive 1963 demonstrations in Birmingham, Alabama and the 1965 Selma March that spurred passage of the Voting Rights Act. It also includes rarely seen material on the murder of Emmitt Till in Mississippi in 1955, images that brings back the terrorist atmosphere of the deep south in those years. These videos can be supplemented by the book, Eyes on the Prize, with many pictures and text by the noted journalist Juan Williams.

A second set of eight videos, Eyes on the Prize II: America at the Racial Crossroads (1990) covers the less dramatic but equally important story of American race relations from 1965 to 1985.

Film Fun: The Way it Wasn't

Mississippi Burning (1988).

This version of the civil rights movement in Mississippi has been criticized by civil rights activists, historians and film critics. It was directed by Alan Parker who also directed the highly criticized Come See the Paradise (above, p. 8). The role of local African Americans in the Mississippi civil rights movement disappears as this movie focuses on two whites. Worse, the movie portrays the FBI as a great defender of civil rights, when in fact it stood by and failed to protect endangered civil rights workers. (See the next section on the FBI and Martin Luther King.)

A bibliography of criticism and comment on the movie is available at the University of California - Berkeley library: www.lib.berkeley.edu/MRC/missburning.html. Files on the FBI's spying on the Mississippi civil rights movement are at www.foia.fbi.gov (Look for the "Mibum" files.)

IX. FBI SPYING ON AMERICANS

Best First Book

Curtis Gentry, J. Edgar Hoover: The Man and the Secrets. New York: Norton, 1991.

The closest the United States ever came to having a genuine "police state" was the FBI under the direction of J. Edgar Hoover. From 1924 until his death in 1972, the Federal Bureau of Investigation conducted a massive program of spying on Americans. Hoover used the information to destroy peoples's lives (for example, by telling employers that someone was a "communist") and blackmailing members of Congress on the basis of unflattering information about them or family members.

Curtis Gentry's biography of Hoover is an excellent history of the Bureau and is far and away the best account of its illegal spying program. Particularly fascinating is his description of how Hoover kept secret the worst of his spying activities with a "do

not file" file. This is a long book but it is well-written and provides a frightening account of the abuse of government power.

Spying on Dr. Martin Luther King

David Garrow, The FBI and Martin Luther King, Jr. New York: Norton, 1981.

One of the FBI's most vicious spying efforts was directed against civil rights leader Martin Luther King. This account clearly demonstrates how the FBI tried to discredit Dr. King and the civil rights movement by accusing them of Communist associations. This was Cold War-style "guilt by association" in its purest form. In the most notorious action, the FBI created a tape recording of his alleged sexual affairs and sent copies to the news media and even a copy to Dr. King's wife.

If you want to see how FBI spying worked, a collection of original FBI memos and reports based on their surveillance of Dr. King is in Michael Friedly and David Gallen, eds., Martin Luther King, Jr. : The FBI File. (New York: Carroll & Graf Publishers, Incorporated, 1993). Here are the files in their raw form.

Web Surf Advisory

The Freedom of Information Act (1966) allows Americans to obtain copies of government files. FOIA has been an extremely valuable tool for exposing FBI spying and other misdeeds. Copies of files that are released under FOIA are placed in the Reading Room at FBI Headquarters in Washington, DC. Many of these files have now been placed on the web in their Electronic Reading Room. Check it out. You can find all or parts of the FBI files on the ACLU, Latino civil rights pioneer Cesar Chavez (1,923 pages), Clarence Darrow (who argued the Scopes case), civil rights leader and Supreme Court Justice Thurgood Marshall (1,394 pages), and even the Beatles (141 pages). Find out why the FBI was spying on the Beatles. All of this and more is available at www.foia.fbi.gov. Or, if you are in Washington, you can visit the FBI Reading Room and read the actual documents.

X. THE ORIGINAL SALEM WITCH HUNT, 1692.

A Classic

Arthur Miller, The Crucible (1954)

The term “witch hunt” has entered the American language as a short hand for the hysterical pursuit of imagined enemies in the community. The Cold War attack on alleged “subversives” and Communist party members is often characterized as a witch hunt.

The original witch hunt in American history occurred in Salem, Massachusetts, in 1692. A total of 25 people were put to death as suspected witches. The story of this tragedy has been told in many books and it continues to fascinate Americans. In the 1990s, a new book on the Salem trials was published every year.

At the height of the Cold War, the great American playwright Arthur Miller (his play Death of a Salesman is a recognized classic) was called to testify before HUAC about his political associations. In response he wrote The Crucible about the original Salem witch hunt. The Crucible is a great play and it effectively dramatizes the issues surrounding two major crises in American history.

There are several web sites that include original documents and other materials related to the Salem Witch Trials. One of the best is at the University of Virginia Law School: <http://etext.lib.virginia.edu/salem/witchcraft/texts/>

Travel Advisory

Visit the Salem Witch Museum in Salem, Massachusetts. (about 30 minutes from Boston). For information, go to www.salemwitchmuseum.com.

Film Fun

The Crucible (1996), Starring Wynona Ryder.

Historians have offered many different interpretations of the famous Salem witch trials. The film version starring Wynona Ryder, emphasizes the sexuality of the

young girls involved and vividly portrays the escalating hysteria and presumption of guilt surrounding the crusade against alleged “evil.”

More Film Fun: Arguing About Naming Names

In response to Miller’s The Crucible, stage and film director Elia Kazan directed the film On the Waterfront, which endorses the idea of naming names. The movie “debate” between Miller and Kazan had both a political and a bitter personal dimension. They had been close friends and professional partners. Kazan directed Miller’s great play, Death of a Salesman in 1948. Both were called before HUAC where Kazan, notoriously, named names and Miller refused.

Putting the Cold War issues aside, On the Waterfront is one of the all-time great American movies, and contains one of the greatest single scenes in film history: the taxi cab scene where Marlon Brando confronts his brother about forcing him to lose a big boxing match. Enjoy the movie for the tremendous acting and a great story, but see The Crucible (either on stage or on video) as well, and keep the Cold War issues in mind.

XI. A FREE PRESS, A FREE PEOPLE

Best First Book

Fred Friendly, Minnesota Rag: The Dramatic Story of the Landmark Supreme Court Case That Gave New Meaning to Freedom of the Press. New York: Vintage Books, 1982.

Many landmark Supreme Court decisions on civil liberties involve cases where the “hero” is a thoroughly unsavory person or group. Nothing better illustrates this than the case of *Near v. Minnesota* establishing freedom of the press from prior restraint. Jay Near was a scurrilous gossip and anti-Semite. This is a colorful story, told by a veteran journalist in a style that is a joy to read. The 1931 decision in *Near* represented the beginning of modern law protecting freedom of the press. The book is particularly valuable in illustrating the behind the scenes machinations of a landmark U.S. Supreme Court decision.

The Vietnam War and Freedom of the Press

Sanford J. Ungar, The Papers & the Papers: An Account of the Legal and Political Battle Over the **Pentagon** Papers. New York, Dutton, 1972.

June of 1971 was a time of high political and legal drama. With the Vietnam War still raging, The New York Times began publishing the so-called Pentagon Papers, a secret history of American involvement in Vietnam reaching back to the 1950s. Daniel Ellsberg, a former Defense Department employee who had become an opponent of the war, leaked a copy of the classified report to the Times. Very quickly, the Washington Post and other papers obtained and published parts of the report.

In one of the most dramatic legal confrontations over freedom of the press, the Nixon Administration obtained an injunction stopping the Times from publishing any more of the Papers. In a swiftly decided decision, the U.S. Supreme Court overturned the injunction and ruled in favor of the Times. This book is a vivid account of a major civil liberties crisis. It recaptures the drama of the Vietnam War years, the personalities involved in the case, and the First Amendment issues that it raised.

The original Pentagon Papers are readily available in a paperback edition. A set of original documents and other materials about the Papers and the Supreme Court case are available at the National Security Archive at George Washington University (www.gwu.edu).

Web Surf Advisory

A lot of excellent material on freedom of the press is available on the web site of the Reporters Committee for Freedom of the Press: www.rcfp.org. Particularly valuable is the First Amendment Handbook.

XII. THE MEANING OF RELIGIOUS LIBERTY

Best First Book

Barbara Grizzuti Harrison, Visions of Glory. New York: Simon and Schuster, 1978.

Although few people realize it today, the Jehovah's Witnesses were once the most hated group in America. From the late 1930s until the early 1950s they were hounded by laws and vigilante groups all across the country. Believing they were the only true religion, they swarmed into communities, going door to door to spread their message. Because that message included vicious attacks on the Catholic Church, they provoked intense hostility. Some cities tried to outlaw leafleting and door-to-door canvassing to suppress them. These conflicts led to over fifty Supreme Court cases, many of which established important civil liberties protections related to freedom of speech and the free exercise of religion. Civil libertarians owe a great debt to the courage of the Jehovah's Witnesses.

Barbara Grizzuti Harrison was the child in a Jehovah's Witness family. Her autobiography is valuable in several respects. It brings to life the social and legal conflicts surrounding the Witnesses in the 1940s, and is also the story of her personal struggle to escape the repressive atmosphere of the Jehovah's Witnesses in the 1950s. In this respect it is a moving account of an early feminist.

Digging Deeper

Marvin E. Frankel, Faith and Freedom: Religious Liberty in America. New York: Hill and Wang, 1994.

This short book does an outstanding job of explaining complex church-state issues in a clear fashion that illuminates the underlying core values. Frankel avoids all the technical legalistic analysis and discusses the place of religion in a diverse and free society. For readers who are looking for a good introduction to an enormously complicated and often emotional subject, this book is absolutely the place to start.

Travel Advisory

Statue of Mary Dyer, Massachusetts State Capitol, Boston.

Despite the myth that America was founded on the principle of religious freedom, the early colonists were themselves extremely intolerant of different religious views. There is no better reminder of this than the statue memorializing Mary Dyer at the state capitol building in Boston, Massachusetts. She was executed by Massachusetts authorities on June 1, 1660 simply for being a Quaker. The colony had banished all Quakers, and when she and others returned to the area they were arrested and hanged to death. In 1959 Massachusetts placed this statue in her memory. A similar statue is on the campus of Earlham College, Richmond, Indiana.

XIII. COPS, COURTS, AND PRISONS

Best First Book

Anthony Lewis, Gideon's Trumpet. New York: Random House, 1964.

Anthony Lewis's short book is a genuine classic. It is probably the best book on a single landmark Supreme Court case. Clarence Gideon was an impoverished drifter who was convicted of breaking and entering with the intent to commit larceny and sent to prison in the state of Florida. Gideon never had the benefit of a lawyer. His appeal led to the Supreme Court decision, *Gideon v. Wainwright* (1963), holding that all criminal defendants charged with a felony had a constitutional right to an attorney. Lewis's account of the case does a great job of relating Gideon's personal saga to both the process by which a case reaches the Supreme Court and the implications of the Court's decision.

There is a made-for TV film version of Gideon's Trumpet (1980) starring Henry Fonda. You can listen to the oral arguments in the *Gideon* case on the web site of the Supreme Court Historical Society (www.supremecourthistory.org). Go to their "Learning Center" and then the "Landmark Cases" page. In addition to the oral

arguments, you can find the Court's opinion in the case, discussions of the case's impact, and an analysis of cartoons sparked by the case.

Racial Profiling

David Harris, Profiles in Injustice: Why Racial Profiling Won't Work. New York: The New Press, 2002.

Racial profiling emerged as a major civil rights issue in the late 1990s. Racial or ethnic profiling involves police officers making traffic stops based on the color of the driver's skin rather than on bona fide violations of the law. Law professor David Harris played a major role in bringing this issue to public attention through his writings and advocacy. This is not a dry law text book; it is written for a general audience and brings the issue of racial profiling to life through the stories of ordinary people who have been the victims of profiling. Harris also discusses the impact of reforms designed to control police traffic enforcement activity and eliminate racial profiling.

The Attica Prison Tragedy

Tom Wicker, A Time To Die. New York: Quadrangle, 1975.

On September 9, 1971 over 1300 inmates in the New York state penitentiary at Attica revolted, taking 40 guards hostage and occupying major parts of the prison. They issued twenty-eight demands related to prisoners' rights and minimum standards of decent treatment. The demands included "adequate food, water and shelter for all inmates;" an end to censorship of mail and reading material; "true religious freedom" (this primarily involved an end to restrictions on Muslim practices); a "modernized" education system, a Spanish language library, and an "effective narcotics treatment program." After four days, Governor Nelson Rockefeller sent in the state police in an assault that resulted in 43 deaths, including 10 hostages.

From the standpoint of civil liberties, the value of Tom Wicker's book is in dramatizing the ghastly conditions that prevailed in Attica prior to the riot. By today's

standards, the prisoners' demands in 1971 seem almost unbelievable. In the years since the riot, the prisoners' rights movement has challenged these and other conditions in court and has succeeded in eliminating many of the worst abuses.

There are a number of sites on the web with materials about the Attica revolt. The film, The Ghosts of Attica (2001) looks back on the tragedy thirty years later.

XIV. THE SIXTIES:

THE FREE SPEECH MOVEMENT AND ALL THAT

David Goines, The Free Speech Movement: Coming of Age in the 1960's. Berkeley, CA: Ten Speed Press, 1993.

The 1964 Free Speech Movement (FSM) on the Berkeley campus of the University of California was one of the pivotal events of the 1960s. It marked the beginning of mass student protest on college campuses and set the stage for protests against the Vietnam War just a few months later. David Goines was one of the leaders of the FSM and his account vividly recreates the passions of the moment while providing historical perspective on the entire episode. Many readers will be astonished to learn of the restrictions placed on college students --over both their personal and their political lives --in the early 1960s, prior to the student revolt. Several of the FSM leaders had been active in the civil rights movement, and this book does an excellent job of establishing the influence of the African American struggle for civil rights on white college students.

The archives of the FSM are available at <http://bancroft.berkeley.edu/fsm>. It contains original documents, a bibliography, chronology of events, and more.

Film Fun: The Way it Wasn't

The Big Chill (1983).

If you want to know what the Sixties were all about, don't bother with this movie. Sure, it's entertaining, with a great cast, clever jokes and a dynamite sound

track. But if you watch closely, you will notice that these people never really did anything when they were in college (except date each other). Their friend who they have gathered to bury seems to have been a political activist, but you can't really tell what he did. The movie is classic Hollywood trivialization.

As an alternative, there are a number of documentaries on the political and social activism of the Sixties. These include The War at Home (1979), Berkeley in the Sixties (1990), and Making Sense of the Sixties (1991).

XV: DIRTY WORDS

Best First Book

Ronald K.L. Collins and David M. Skover, The Trials of Lenny Bruce: The Fall and Rise of an American Icon. Naperville, Ill. : Sourcebooks MediaFusion, 2002.

Without Lenny Bruce, modern stand-up comedy would not exist. There would be no Richard Pryor, no Chris Rock, and almost none of today's irreverent, sexually explicit comedians. Lenny Bruce was the pioneer of in the early 1960s who made it possible for today's comedians. His routines were wickedly irreverent and offensive, with a strong social and political edge. Most of all he hated hypocrisy, especially the hypocrisy of racism in a society allegedly committed to equality and the hypocrisy of organized religion.

Inevitably, Bruce's provocative routines got him in trouble with the law. He was arrested and prosecuted for obscenity and other charges in New York, Chicago, and other cities. Many people believe that the arrests were really provoked more by his mockery of organized religion, and the Catholic Church in particular, than his use of dirty words. This book vividly recaptures the drama of this period in American life when the rules of strict censorship were first being challenged.

The book is accompanied by a CD that includes many of Bruce's original routines, and you can hear for yourself what all the controversy was about. The CD also includes interviews with other figures from the period, and narration by the noted civil libertarian Nat Hentoff who places particular events in their historical context.

A very entertaining biography of Bruce, with all of the less savory aspects of his life, is Albert Goldman, Ladies and Gentlemen, Lenny Bruce (1974). Lenny Bruce's FBI file is available on the web (although not on the FBI Reading Room site).

In December, 2003 the Governor of New York pardoned Bruce for an obscenity conviction based on a 1964 arrest in New York City.

Film Fun

The movie, Lenny (1974), starring Dustin Hoffman, is entertaining but tends to portray Bruce as a saint. The video Lenny Bruce: Swear to Tell the Truth (1998) is a good documentary focusing primarily on his court cases.

Audio Fun: The Seven Dirty Words You Can't Say on the Radio

George Carlin, Operation Foole (CD).

More than thirty years after he first presented it, comedian George Carlin's "Dirty Words" routine is still hilariously funny. He runs through the seven dirty words that were officially banned by the FCC from being broadcast over the radio. The court case is *Pacifica v. FCC*. In case you were wondering, the seven words are "shit," fuck," "piss," " cunt," "cocksucker," "motherfucker," and "tits." (There; that didn't hurt, did it?) It is still great fun to hear him run through the common uses of these words (as in, "Oh shit," and "'I'm really shit-faced."). This is more than just a comedy routine, it is a cultural tour of how we live and talk. The routine originally appeared on a 1973 LP and is now readily available on CD.

Do a web search for "seven dirty words" and you can find the text of Carlin's original monologue along with a lot of other interesting material. The written text really doesn't work, however,. You need to hear the live version with the audience reaction to fully appreciate the comedy (and now legal) landmark.

XVI. BEWARE ! DIRTY BOOK !!!

James Joyce, Ulysses . New York: Vintage Books, 1990.

James Joyce's Ulysses is generally recognized as the greatest novel in the English language. But for the first eleven years you could not legally obtain a copy in the United States. Originally published in Paris in 1922, it was banned by the U.S. Customs Bureau, along with many other publications with sexually oriented themes. Smuggling a copy of one of these "dirty books" was a highlight of many American's trip to Europe in the 1920s. Finally, in a landmark 1933 case, a federal district court ruled that Ulysses was not obscene and allowed it to be published in this country. In addition to its fabulous word play, the greatness of the book lies in Joyce's weaving of ancient myths into the lives of some ordinary people in Dublin, Ireland, as they go about their daily lives. Of course, sexuality is a part of their lives, and that is what aroused the censors. If you want to see what much the controversy was about, go directly to the last chapter, "Penelope," which represents Molly Bloom's stream of consciousness. Look for a copy of the original edition that includes an "Introduction" by Morris L. Ernst, the attorney who fought and won the case.

Another Famous Dirty Book:

Henry Miller, Tropic of Cancer. New York: Grove Press, 1961.

Henry Miller's Tropic of Cancer also holds an important place in the history of censorship. Originally published in Paris in 1934, it too was banned by U.S. Customs and regularly smuggled into this country. In 1961 it was finally published in this country, and the resulting obscenity trials (there were several, in different cities) played a major role in ending censorship of literary works.

Web Surf Advisory

The American Library Association's Office of Intellectual Freedom has a large web site devoted to censorship, including lists of banned books and many other resources. The site is: www.ala.org/oif.

XVII. THE RIGHTS OF LATINO / HISPANIC AMERICANS

Cesar Chavez: Civil Rights Leader

Richard Griswold del Castillo and Richard A. Garcia, Cesar Chavez: A Triumph of Spirit. Norman: University of Oklahoma Press, 1995.

Cesar Chavez, organizer of the United Farm Workers is one of the great civil rights leaders in American history. In 1962 he moved to Delano, California, and began organizing a union of farm workers, virtually all of whom were Latino / Hispanic people. This epic struggle was not just a union organizing campaign, but also a civil rights movement, the first militant expression of the demand for Latino rights. Three years later, the union launched a strike that lasted for five years and was one of the great struggles of the 1960s. The strike ended in 1970 when several of the major growers signed contracts with the union, which had become the National Farm Workers Organizing Committee (NFWOC). The FBI spied on Chavez and his file is available at www.foia.fbi.gov.

Digging Deeper

Ian F. Haney Lopez, Racism on Trial: The Chicano Fight for Justice. Cambridge: Harvard University Press, 2003.

The story of Cesar Chavez and the farm workers is only one chapter in the larger history of the fight for the rights of Latino / Hispanic people in the United States. This scholarly account provides a broader overview of this struggle.

Video Documentary

Zoot Suit Riots (2002).

One of the famous events in the history of Latino / Hispanic Americans in the U.S. was the so-called “Zoot-Suit Riots” in 1943 in Los Angeles. The disturbances involved conflict between the growing Latino population, U.S. military personnel on leave during WW II, and the police. Most historians now believe that young Latino men were made the scapegoats for events caused by a larger pattern of discrimination in Los Angeles. The label, “zoot-suit riots,” was derived from the hip style of suits favored by young men at the time. This PBS video documentary examines the discrimination against the Latino youth who were arrested and convicted, and were made scapegoats for the riots.

XVIII. THE WAR ON TERRORISM

Best First Book

Nat Hentoff, The War on the Bill of Rights and the Gathering Resistance.
New York: Seven Stories Press, 2003.

The war on terrorism, and the resulting assaults on civil liberties, is unfolding at this moment. The full dimensions of the violations of constitutional rights are still not clear; nor is it clear how this crisis will end. Because there are so many different threats to civil liberties – expanded search warrant authority under the Patriot Act, profiling of people of Arab background, military tribunals, and more – it is difficult to get a full picture of the crisis.

Nat Hentoff’s book provides the best introduction. It is a collection of short essays, originally written as newspaper columns. While some of the specific facts may be out of date because of subsequent events, Hentoff clearly identifies the core civil liberties issue at stake and always manages to put a specific issue in the broad context of individual rights in a free society.

Digging Deeper

Keeping up all the different aspects of the war on terrorism is a major challenge. The best way to keep up is to check the ACLU web site: www.aclu.org. Particularly valuable are the ACLU reports, Freedom Under Fire: Dissent in Post-9/11 America, Insatiable Appetite: The Government's Demand for New and Unnecessary Powers After September 11, Bigger Monster, Weaker Chains: The Growth of an American Surveillance Society, and others. For the federal government's official statements about what they are doing, go to www.usdoj.gov.

XIX. THE SUPPRESSION OF FREE SPEECH DURING WORLD WAR I

Richard Polenberg, Fighting Faiths: The Abrams Case, The Supreme Court, and Free Speech. New York: Viking, 1987.

During World War I the federal government suppressed virtually all opposition to our involvement in the war. This massive attack on free speech gave birth to the ACLU and the first organized effort to defend civil liberties in this country. The government's actions also forced the Supreme Court to address First Amendment protection of unpopular political ideas. Fighting Faiths is about the second of the two most important cases decided by the Court in 1919. The *Abrams* case is important because the dissenting opinion by Justice Oliver Wendell Holmes, joined by Louis Brandeis, is one of the classic statements of the role of free speech in a democratic society, and it influenced the subsequent development of First Amendment law. Richard Polenberg's scholarly account brings alive the turbulent events of the World War I years, the suppression of free speech, and the facts of the *Abrams* case.

Film Fun

Reds (1981).

Reds is both a great love story and an epic account the political upheavals in

the United States and Russia during the World War I years. On one level it is the story of the tumultuous relationship between John Reed (played by Warren Beatty) and his lover/ wife/ fellow radical and journalist Louise Bryant (played by Diane Keaton).

On another level it is a tremendously exciting account of American radicals and their opposition to American involvement in World War I. There are a number of vivid scenes of the suppression of civil liberties during the period: vigilantes breaking up a labor union meeting, the police arresting people for speaking against the war, federal agents spying on Reed and Bryant, and Bryant being interrogated about her political views by a Senate investigating committee. And in one of the final scenes, Beatty as Reed gives a great speech to the new Soviet authorities about the need for dissent in a truly socialist society.

A special feature of the movie is the interviews with many of the "witnesses," the still-living participants of the era. Here is a rare opportunity to see Roger Baldwin, founder of the ACLU, recall those early years. Also appearing are George Seldes, an important figure in the history of freedom of the press and Scott Nearing, who lost his teaching job because of his opposition to the war. Maddeningly, however, the various witnesses are not identified, and you need to do some homework (checking old photographs in advance, for example) to figure out who is who.

XX. THE RIGHTS OF LESBIAN AND GAY PEOPLE

Best First Book

Martin Duberman. Stonewall. New York: Dutton, 1993.

The police raid on the gay bar Stonewall on June 27, 1969 is generally regarded as the event that sparked the militant lesbian and gay rights movement. This book is a brilliant history of the event by the distinguished historian and gay activist Martin Duberman. He tells the story through the lives of six individuals, examining their personal histories and the impact of the Stonewall event on them. As a historian, Duberman is able to present these personal stories in the context of an important historical event.

Travel Advisory

In 1999 the National Park Service placed the Stonewall Inn on the National Register of Historic Places. The original Stonewall Inn was located at 57 Christopher Street in Greenwich Village.

Digging Deeper

Randy Shilts, Conduct Unbecoming: Gays and Lesbians in the U.S. Military. New York: St. Martins, 1993.

The question of whether or not gay and lesbian people should be allowed to serve in the U.S. military became a major issue under President Bill Clinton. It was the first major policy question he had to face when he became President in early 1991. Clinton backed away from his campaign promises to the gay and lesbian community and the result was the current “don’t ask, don’t tell” policy. The great value of Randy Shilts’ book is that it provides a richly detailed account of how discrimination against gays and lesbians plays out in the context of a specific institution – in this case, the military. Shilts previously wrote an excellent book on the AIDS crisis in America, And the Band Played On (1988), which is also highly recommended.

XXI. BAN THAT MOVIE !

Best First Book

Leff, Leonard J. and Jerold L. Simmons. The Dame in the Kimono: Hollywood, Censorship, and the Production Code. Lexington: University Press of Kentucky, 2001.

Film lovers will find this an extremely entertaining book. Based on the official records of the motion picture industry, the authors examine in detail how Hollywood leaders censored the movies between the 1930s and the early 1960s. Young readers

who have grown up in the era following the collapse of censorship will be particularly astonished to discover what could not be shown in the movies during these years. The book does an excellent job of showing how the threat of government censorship encouraged the film industry to engage in private self-censorship. The [Dame in the Kimono](#) brings back an almost forgotten period in American life and in the history of the movies and the history of censorship in America.

Film Fun

[The Lovers](#) (1960).

This film by the great director Louis Malle was censored in Cleveland, and the case led to the important Supreme Court decision, *Jacobellis v. Ohio* (1964). By today's standards, it is almost laughable that this movie, with only a shadowy love scene where you can't see anything, was censored. But that tells you something about how heavy-handed film censorship was in those years. The *Jacobellis* decision is famous for Justice Potter Stewart's comment that he could not define hard-core pornography, "But I know it when I see it."

A good video documentary on censorship of the movies is [Hollywood Censored: Movies, Morality & the Production Code](#) (2000), which is part of the "Culture Shock" series produced by WGBH/PBS.

XXII. THE HISTORY OF CIVIL LIBERTIES

Best First Book

Nat Hentoff, [The First Freedom: The Tumultuous History of Free Speech in America](#). New York: Delacorte, 1980.

As the title indicates, Nat Hentoff's book dramatizes the stormy history of freedom of speech. It provides a sweeping history of the historical background to the First Amendment, reaching back before the adoption of the Bill of Rights.

Demolishing one common misunderstanding, Hentoff shows that the framers of the Constitution and the Bill of Rights did not believe in unfettered free speech as we know it today. Freedom of speech is something that had to be fought for, and the important chapters in that struggle are the subject of Hentoff's crisply written account. A veteran journalist who writes a column on civil liberties issues, Hentoff offers the most readable introduction to the history of free speech.

Web Surf Advisory

The landmark documents in the history of the growth of civil liberties –beginning with the Magna Carta (1215)– are conveniently available on the web at the Avalon Project of Yale Law School: www.yale.edu/lawweb/avalon/avalon.htm. Digital copies of the Declaration of Independence, the Constitution, and the Bill of Rights are available on the National Archives web site: www.archives.gov.

Digging Deeper

Samuel Walker, In Defense of American Liberties: A History of the ACLU. 2nd ed. Carbondale: Southern Illinois University Press, 1999.

Ok, I admit that I'm biased: I wrote this one. A history of the American Civil Liberties Union (ACLU), this book provides the best single overview of the origins and development of civil liberties in twentieth century America. It covers all of the major civil liberties crises in the last 100 years –the suppression of free speech during World War I, the Cold War assault on civil liberties, and the eruption of the "rights revolution" in the 1960s, for example– and places them in the larger context of their times. The book highlights the critical role of the ACLU as the principal advocate of civil liberties and describes how the ACLU itself has changed over the years.

Material on the history of the ACLU can be found on the ACLU's web site: www.aclu.org. In particular, click on "The ACLU's 100 Greatest Hits," which provides a brief description of the 100 most important court cases the ACLU has been involved in since 1920. The ACLU's archives are housed in the Mudd Library at Princeton University. An Index of these vast materials (but not the original documents), is available at www.princeton.edu/~mudd/.

XXIII. THE RIGHTS OF WOMEN

Best First Book

Susan Brownmiller. In Our Time: Memoir of a Revolution. New York: Dial Press, 1999.

Susan Brownmiller, a noted writer and activist, opens her book by declaring that she was not present at the creation of the women's movement. This disclaimer is laudably modest but in fact she has been deeply involved in many of the most important struggles of the modern women's rights movement. This is a vivid and compelling narrative, part history and part memoir, of such important events as the founding of the National Organization for Women (NOW), the early years of the abortion rights movement, and the feminist anti-pornography effort, of which Brownmiller was a leader.

You should read her account of the feminist anti-pornography movement together with Nadine Strossen's powerful defense of First Amendment protection for sexually oriented material in Defending Pornography (recommended above, p. 10). Strossen rebuts Brownmiller's view by arguing censorship only harms the interests of women. The two books form a useful debate over an important civil liberties issue.

The Classic Book

Betty Friedan, The Feminine Mystique [1963]. New York: W.W. Norton, 2001.

Originally published in 1963, Betty Friedan's The Feminine Mystique is generally regarded as the book that launched the modern women's rights movement. It is a classic statement and still relevant today. In particular, it serves to recapture the repressive culture of the 1950s and early 1960s that gave birth today's feminist movement. The 2001 edition has an introduction by journalist Anna Quindlan that places the book in historical context.

Web Surf Advisory

A valuable collection of material on the history of the women's rights movement is on the web site of the National Women's History Project: www.nwhp.org. Go to "The Learning Place," and look for "Women's Rights Movement."

XXIV. THE BILL OF RIGHTS, DAY TO DAY

Best First Book

Caroline Kennedy and Ellen Alderman, In Our Defense: The Bill of Rights in Action. New York: Morrow, 1991.

To illustrate how the Bill of Rights affects ordinary people on a day to day basis, Ellen Alderman and Caroline Kennedy have selected cases to illustrate each of the ten amendments in the Bill of Rights. Four cases involve First Amendment issues, while other amendments are illustrated by just a single case. One of the virtues of their book is that it covers the often-neglected Ninth and Tenth Amendments. The cases selected by Alderman and Kennedy are not the recognized landmark cases covered in Peter Irons's The Courage of Their Convictions (above, p. 2), but the issues are important nonetheless. Brief and highly readable, the stories in this book are an excellent introduction to how civil liberties affect the lives of Americans in many ways.

Further Reading

Nat Hentoff, Living the Bill of Rights: How to be an Authentic American. New York: Harper Collins, 1998.

Like In Our Defense and The Courage of Their Convictions (above, p. 2), Nat Hentoff's Living the Bill of Rights tells the stories of some ordinary Americans who

fought for their rights, often at great personal sacrifice. These accounts are supplemented with several chapters on a few notable Supreme Court justices – including William O. Douglas and William Brennan, two of the most important civil libertarians ever to serve on the Court.

XXV. THE RIGHTS OF NATIVE AMERICANS

Best First Book

Carolyn N. Long, Religious Freedom and Indian Rights: The Case of Oregon v. Smith. Lawrence: University of Kansas Press, 2000.

Nothing better illustrates the incredibly complex legal status of Native Americans than the clash between traditional religious practices and United States law. This conflict came to a head in a case where the state of Oregon fired two employees for using peyote as part of a traditional religious ceremony. When the Supreme Court upheld the firings, Congress reacted by passing the Religious Freedom Restoration Act (RFRA), designed to guarantee the free exercise of religion. But the Supreme Court then held this law unconstitutional.

Carolyn Long's book provides an excellent overview of this on-going controversy. It illuminates a central issue related to the rights of Native Americans and also the broader issue of the free exercise of religion. An important part of the story is the strong commitment to protecting religious freedom in the Congress and in state legislatures which have also enacted RFRA laws. The book also highlights the tension between the Supreme Court and the power of Congress to legislate on civil liberties issues.

Digging Deeper

John R. Wunder, "Retained by the People:" A History of American Indians and the Bill of Rights. New York Oxford University Press, 1994.

The legal status of Native Americans is incredibly complex. Indians tribes are semi-sovereign nations which are partly governed by United States law and partly governed by their own laws. This situation poses a number of complicated issues related to civil liberties. Is an individual Native American protected by the Bill of Rights or can tribal law limit those rights? Congress tried to clarify this situation by passing the Indian Bill of Rights in 1969, but many issues remain unclear. Historian John Wunder's book provides a clear history of this incredibly complex subject.

XXVI. YES, YOU CAN BURN THE AMERICA FLAG

Best First Book

Robert Justin Goldstein, Burning the Flag: The Great 1989-1990 Flag Desecration Controversy. Kent, OH: Kent State University Press, 1996.

Yes, the First Amendment does protect the right to burn the American flag as a form of political expression. The Supreme Court upheld this right in two extremely controversial decisions in 1989 and 1990. After the Court first overturned a conviction for burning the flag in violation of a Texas law (*Texas v. Johnson*, 1989), Congress immediately passed the Flag Protection Act. The Supreme Court then declared this law unconstitutional in *United States v. Eichman* (1990).

Robert Justin Goldstein is the foremost authority on this subject and has written three books on it. This book provides a clear explanation of the two Court cases and the reaction in Congress. His earlier book, Saving Old Glory: The History of the Flag Desecration Controversy (1995) provides a fascinating history of this subject, particularly in the years before it became a major civil liberties issue.

XXVII. TEACH YOUR CHILDREN WELL

It is never too early to introduce your children to civil liberties principles. Fortunately, there are a number of good books, both fiction and non-fiction, written

for children.

Best First Book

Nat Hentoff, The Day They Came to Arrest the Book. New York: Delacorte Press, 1982.

In this novel, a controversy arises when Mark Twain's classic novel Huckleberry Finn is assigned reading in a high school. Some people object because it includes the word "nigger," among other things. The resulting controversy embroils the entire community in a discussion of censorship, academic freedom and race. Huckleberry Finn has been one of the most frequently censored books in American history, for the same reasons as in this novel. The author, Nat Hentoff, is a one of the leading writers on civil liberties, with several other books cited in this guide.

There is also a video documentary, Born to Trouble (2000) on the censorship controversies surrounding Huckleberry Finn, with a focus on one incident in Cherry Hill, New Jersey. It is part of a four-part series on censorship controversies produced by WGBH/PBS. And, of course, you might want to read Huckleberry Finn itself. It's one of the great American novels, and you can see what all the fuss is about.

Best Guide

The best guide to children's literature is an annotated bibliography, "Discovering the Bill of Rights through Children's Fiction," by Barbara Elleman, published in Book Links (December 15, 1990), pp. 824-830. It is organized by civil liberties issue and provides a brief description of many books. The reference librarian at your local library should be able to help you find a copy. There is also the more recent "Discovering the Bill of Rights Through Fiction," (Elleman, Tilltoston and Warrell) in Book Links (Feb./Mar 2001).

XXVIII. FREE SPEECH AND PRIVACY ON THE WEB

Getting Started

The digital revolution is here, and it has brought a host of new free speech and privacy issues. It is extremely difficult to keep up with the rapid changes in both technology and the law. The best way to get started is to go to the web sites of the leading civil liberties and technology organizations and read their most recent reports. Check out the ACLU (www.aclu.org), the Center for Democracy and Technology (www.cdt.org), the Electronic Privacy Information Center (www.epic.org), and The Electronic Frontier Foundation (www.eff.org).

Digging Deeper

Perhaps the best scholarly overview is Jeremy Lipschultz, Free Expression on the Age of the Internet (Boulder: Westview Press, 2000), which puts the controversy over the federal Communications Decency Act, which the Supreme Court declared unconstitutional, in a larger historical and legal context. Also very valuable is Marjorie Heins, Not In Front of the Children, recommended earlier in this Guide (p. 10).

XXIX. UNDERSTANDING THE SUPREME COURT

Best First Book

David M. O'Brien, Storm Center: The Supreme Court in American Politics. 6th ed. New York: Norton, 2003.

The Supreme Court is the ultimate authority on the meaning of the Constitution and the Bill of Rights. Many Americans find the ways of the Court rather mysterious. David O'Brien's Storm Center explains how the Court operates and the impact of its decisions better than any other book. The title indicates what this book

offers: the Court has been the “storm center” of political controversy, very often because of its decisions in defense of civil liberties. The fact that this book is now in its 6th edition indicates that many readers find it clearly written and a valuable guide to this important subject.

Further Reading

Three books already cited in this Guide provide excellent accounts of how the Supreme Court works. Both Gideon’s Trumpet (p.22) and Minnesota Rag (p. 19) focus on landmark cases, and in the process explain how cases begin with often ordinary or disreputable people and eventually reach the Court. Religious Freedom and Indian Rights (p. 37), meanwhile, covers a controversy that has been to the Supreme Court twice in an on-going struggle between the Court and Congress.

Web Surf Advisory

The Supreme Court Historical Society web site (www.supremecourthistory.org) has a wealth of information about how the Court operates. Go to the “Learning Center” and then click on “Landmark Cases.” There is helpful information on how cases reach the Court, opinions, discussion points, and other materials. For recent cases you can listen to the oral arguments. There are also special pages devoted to students’s rights and women’s rights. The Supreme Court’s own web site (www.supremecourtus.gov), also has a lot of information, including its own rules.

XXX. THE CLASSIC STATEMENT ON INDIVIDUAL LIBERTY

John Stewart Mill, On Liberty [1869] (Many editions available).

John Stewart Mill’s On Liberty is the classic statement on individual liberty that has influenced Anglo-American thinking since it was first published. Many of his thoughts have become basic principles, such as his argument that “The only purpose for which power can be rightfully exercised over any member of a civilized

community, against his will, is to prevent harm to others." Everyone concerned about civil liberties should be familiar with this classic work.

And the Nightmare Vision of a World With No Liberty

George Orwell, 1984 (many editions available).

George Orwell's 1984 is one of the genuine classics of 20th century literature. It portrays a totalitarian society where all individual liberties have been suppressed. The novel has been so influential that many of its key terms and concepts have become parts of our everyday language: "Big Brother is Watching You," "thought crimes," "sex crimes," "newspeak," "the memory hole," and of course the basic concept of "1984." Other parts of the book, which was published in 1949, are frighteningly prophetic: the division of the world into a few superpowers, the almost instantaneous change of enemies into allies, and vice-versa, and the debasement of political discourse where "war is peace." No one concerned about individual liberty in today's society should fail to read this classic. As you read it, ask yourself: how much of Orwell's prophecy has come true? To what extent have legal guarantees of civil liberties prevented it from happening? Debate it among your friends.