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# Common Ground: How the First Amendment and Intellectual Freedom Provide Room for Diverse Voices

By Heather Smith

Master's Project, December 2021

Readers: Dr. Stacy Creel, Dr. Jennifer Steele

## INTRODUCTION

The First Amendment stated, "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" ("Bill of Rights: A transcription," 2021). Due to past injustices endured, the authors of the Bill of Rights felt it imperative to abolish the opportunity for the U.S. government to interfere with personal religious beliefs. The same was true of the freedoms of speech, press, and peaceful assembly. Although many situations unbecoming of a democratic republic have arisen since America's birth, the First Amendment has remained a solemn sentry reminding the country of its identity.

In the 20<sup>th</sup> century, the spirit of this amendment was captured in the term *intellectual freedom* (IF), which became the guiding focal point in the Library and Information Science (LIS) community's mission (ALA, 2019). Although this phrase had been used often in different capacities (not directly tied to the First Amendment) before its rebirth as a library core value, the concept garnered a new urgency in America's sociopolitical atmosphere and renewed the cause of those foundational rights. Unfortunately, as the fervor has grown, so too has a disconcerting rift within the LIS community. Due to the controversial content of some items in library collections, librarians and support staff from both conservative and liberal perspectives have sometimes struggled with providing personally offensive materials for their patrons. Stark differences of opinion have divided colleagues; however, United States history has demonstrated that First Amendment rights (a.k.a. IF) can have the power to unite even those most staunchly opposed—they may not have the same political beliefs but they can agree on the importance of the First Amendment and Intellectual Freedom.

## *Purpose Statement*

This study examined the legal history and evolution of the LIS core value of intellectual freedom in the United States of America, explained how the convictions of both conservative and liberal ideations are rooted in this common national foundation, and, thereby, endeavored to reconcile perceived enemies and dispel misconceptions and prejudices within the world of information science.

## *Research Questions*

R1. What is intellectual freedom's place in the history of the United States and how does it support diverse perspectives?

R2. How has the American concept of intellectual freedom evolved since the First Amendment's establishment?

R3. What are some documented examples of the varied ideologies that have been expressed by members of the LIS professional community in the last twenty years?

R4. How does the first amendment (the foundation of intellectual freedom) allow adherence to such fundamentally different ideological viewpoints?

## *Definitions:*

*Conservative:* *n.* one who adheres to traditional methods or views; *adj.* tending or disposed to maintain existing views, conditions, or institutions: traditional ("Definition of conservative," n.d.).

*Documentary Analysis:* a form of qualitative research that uses a systematic procedure to analyze documentary evidence and answer specific research questions (Frey, 2018).

*Intellectual Freedom:* *idiom.* freedom that allows people to think about or study what they want ("Definition of intellectual freedom," n.d.).

*Liberal*: *n.* one who is open-minded or not strict in the observance of orthodox, traditional, or established forms or ways; *adj.* broad-minded; not bound by authoritarianism, orthodoxy, or traditional forms ("Definition of liberal," n.d.).

### ***Delimitations***

Primary documentation such as transcripts of original historical documents, digitized court case files, and legitimately documented interview questions were utilized for this historical study. All journal articles referenced were scholarly and peer-reviewed. Articles and documents published in languages other than English were excluded. Additionally, abstracts and book reviews were excluded. The following databases found through the EBSCO Host research platform were used: Legal Collection and Library and Information Science Source. JSTOR and DeGruyter open access databases were also used to access scholarly articles; the ProQuest database U.S. Newsstream was used to locate newspaper sources; and the HeinOnline Academic database was used to find legal resources. The following reputable websites were also used: FindLaw, ALA, National Archives, Library of Congress, and The Free Speech Center. The period covered in this historical analysis was 1776 to 2020.

### ***Assumptions***

First, the accuracy and completeness of the information contained within the databases accessed via EBSCO Host and ProQuest were assumed; so too was the JSTOR database expected to be accurate and complete. Secondly, the accuracy and completeness of the indices for these databases were also assumed, which assured the most efficient retrieval of information relating to the research subject. Thirdly, the accuracy and completeness of the FindLaw, ALA, National Archives, Library of Congress, and The First Amendment Encyclopedia websites were also assumed as they are all regulated by trustworthy institutions.

### ***Importance of Study***

This study addressed the concept's evolution through legal history and connecting conservative and liberal perspectives and emphasized common values that may be appreciated equally within the LIS community.

## **LITERATURE REVIEW**

As the most prominent core value of modern library ethics, intellectual freedom (IF) has suffered no lack of discussion in the LIS community. Scores of articles (scholarly, peer-reviewed, and otherwise) were found on the topic. None that followed its evolution through legal history or specifically focused on its ability to provide common ground for both conservative and liberal library staff perspectives were discovered. There were several articles with contents that applied to the discussion in various ways. Each one was either similar to this study in methodology or fell into one of three categories concerning intellectual freedom and librarianship: history, theory and practice, and ideological perspectives.

### ***History***

Since this study was built on historical analysis, it was prudent to look at historically based articles regarding IF. Joyce Latham delved into the infrequently mentioned connection between the modern rendering of IF and the Chicago Public Library. Latham began with the background behind the composition of the first known IF policy (Chicago Public Library's IF Policy released in 1936). She contended that it (rather than the Des Moines Public Library policy) should have been recognized as the predecessor of the American Library Association's (ALA) IF policies and then defined IF based on the principles and circumstances of that original policy (2009). Caitlin Ratcliffe also offered a fascinating spin on the historical analysis of intellectual freedom by suggesting that the 21<sup>st</sup> century definition of IF was rooted in the European Enlightenment. To illustrate this idea, Ratcliffe unfolded the development of the phrase "intellectual freedom" from the mid-18<sup>th</sup> century through the early 20<sup>th</sup> century using religious, political, and educational primary documents and posited that IF is a universal value based on its origin and evolution. Dr. Jennifer Steele presents a historical look at censorship in America that references several legal cases for documentation. She also defends IF as the foundational concept in the fight against censorship and discusses the importance of incorporating the LBR in library workplace ethics (2020). Also primarily using documented court cases, G. Edward White chronicled the evolution of commercial first amendment rights in America

beginning 60 years following the implementation of the Agricultural Marketing Agreement Act of 1937 (2014). Although written from slightly different perspectives from this study, each of these analyses richly complemented and supported the content.

### ***Theory and Practice***

An investigation of scholarly databases showed that most peer-reviewed articles focused on issues related to the theories and philosophies surrounding IF. Oltmann (2016a) zeroed in on three free speech theories that govern expression and access: “the marketplace of ideas, democratic ideals, and individual autonomy” (p.1). This article addressed the literary gap that significantly ignores IF theory and favors ethics. In 2017, Oltmann addressed the ethical principle of diversity in the library. Herein, she defined IF in the context of providing a platform for all individuals within the community served by a library and touted the library’s important communication role in the volatile political climate of today’s society. Contributing further perspective to the subject, Bossaller and Budd challenged the reader to consider whether IF should protect hate speech as it effectively drowns out the voice of another. Interestingly, they argued that the resulting imposition of fear and shame infringe upon the First Amendment right to freedom of speech (Bossaller & Budd, 2015). Burke added to that conversation when she explored the tolerance of racist literature in library collections based on age and community demographics. Burke concluded that librarians should diligently study reasons for collection challenges and proactively prepare to defend IF through well-developed collection policies as well as extensive knowledge of legal and ethical rights (2010). Dresang boldly addressed the ever-present paradoxes in the battle to preserve IF as well. In one article, she exposed exceptions practiced by LIS leaders and frankly discussed the inevitable confusion regarding IF defense exacerbated by a swiftly changing political climate (2006). These writings that illuminated the theoretical shades and nuances woven into the fabric of LIS clarified the professional complexities with which all librarians grapple daily.

### ***Ideological Perspectives***

The last three articles explored various perspectives within LIS and how they relate to the profession. Oltmann shared the interview results of 15 library directors regarding their approach toward IF and the Library Bill of Rights (LBR). This qualitative study involved public librarians in the state of Kentucky. It reflected their personal views of IF and how community climates gray some of the areas painted as black and white by the LBR (Oltmann, 2016b). Only one of the sampling of studies did not directly address IF. Instead, Kendrick and Damasco provided an insightful look into the experiences of "academic librarians who identify as socially or politically conservative" via a mixed interview group of 17 credentialed librarians and thereby questioned the neutral stance claimed by American libraries. The conclusion of the study clearly stated that multiple North American library associations regularly violate neutrality standards by actively promoting political agendas unrelated to LIS interests (Kendrick & Damasco, 2015, p. 2). James LaRue (a former ALA Office for Intellectual Freedom director) candidly shared wisdom gained from the seasons of life and how experiences deepened and matured his perspective of IF (2019). These widely varying viewpoints provided valuable context for this historical analysis conducted to encourage the LIS profession's unification (on at least one fundamental level).

### ***Similar Methodology***

Some articles were comparable to this analysis in either organizational structure or content support materials. Ratcliffe’s (2020) research was a stylistically close equivalent since it also chronicled the evolution of IF through primary documentation. The main subject and the process were similar, but the scope was international and categorically broader in perspective. With the obvious kinship between the subjects of IF and censorship, Steele’s historical analysis somewhat resembled this study in both content and approach. White’s study of the legal evolution of First Amendment rights specifically relating to the regulation of American commercial

speech bore notable similarities as well. Each of these academic journal articles shared useful insight and exemplified analytical expertise pertinent to this body of research.

### ***Literature Conclusion***

Each article within these respective informational areas served as support for the research in this historical analysis. Those within the historical category offered extensive background and contemporary knowledge for this study. The vast supply of theoretical and practical documentation and discourse provided in the second section magnified the complicated details embedded within librarianship (particularly relating to IF) that are often glossed over with idealistic rhetoric. These small revelations lent relevance to the ideas in this analysis. The three articles that share varying ideological perspectives within the realm of LIS offered evidence for this study's claims regarding the polarizations currently within librarianship. Finally, those studies possessing similar characteristics to this analysis supplied valuable examples for conduction and compilation of this kind of research. These authors provided a sturdy platform for this historical analysis and practical application of intellectual freedom.

### **METHODOLOGY**

This project was a legal historical analysis of intellectual freedom with a practical application (via documentary analysis) to related complex issues existent within the modern LIS profession.

#### ***Information Sources and Procedures***

Since this study endeavored to show the legal evolution of intellectual freedom from the Declaration of Independence to present circumstances, national government documents, documentation of court cases, government meeting proceedings, newspaper articles, and other primary documentation were utilized. Quoted answers in relevant interviews found in scholarly journal articles were used to demonstrate conflicting personal perspectives in librarianship. These were found by searching the Library and Information Science Source (LISS) database using the terms “conservative librarians,” “diverse voices,” and “intellectual freedom.” U.S. founding documents were accessed through the National Archives online

website. Applicable landmark court cases were first selected from subject-relevant lists provided by the First Amendment Encyclopedia, the American Bar Association (ABA) Journal, and the ALA website. Legal case descriptions and proceedings were then located on the FindLaw website, in the HeinOnline Academic database, or in the EBSCO Host Legal Collection database using the official titles of the cases. The ProQuest U.S. Newsstream database provided digital access to newspaper articles, and the LISS database also supplied academic journal articles with similar methodology and themes. The search terms employed were “intellectual freedom,” “First Amendment,” “history of intellectual freedom,” and “history of the First Amendment.” The databases mentioned were accessed via the University of Southern Mississippi Libraries’ online database portal, and the websites referenced were accessed via the Google Chrome internet search engine.

Notes were taken on the information provided by these sources and organized chronologically (for historical content) and by subject using coding techniques (for documentary analysis) within a Word document. All content was compiled in the following order: 1) founding documents along with corresponding meeting minutes, letters, and pamphlets 2) court case documentation separated by century and organized chronologically under that subheading 3) table with coded interview documentation.

#### ***Limitations***

Due to the brevity of time allowed for this research project and the extended time necessary to secure IRB approval for human subjects, it was necessary to conduct documentary analysis of interview transcripts and autobiographical testimony. Because of this necessity, results were limited to the interview questions, individuals, times, and places used for their respective studies. These restrictions render the findings ungeneralizable. Also, legal information was limited only to those cases available online through FindLaw or the Legal Collection and HeinOnline databases.

## RESULTS

### ***R1. What is intellectual freedom's place in the history of the United States and how does it support diverse perspectives?***

Inextricable ties to the First Amendment make IF a valuable part of America's historical narrative and an ally to diversity. When the Library Bill of Rights was adopted by the ALA Council in 1939, IF became the LIS embodiment of the First Amendment. The First Amendment secured the rights of free expression for the American people; the concept of IF clarified that dissemination of those uninhibited ideas is a natural byproduct of such freedom (ALA, 2019). Judith Haydel explained that the freedom of expression clause of the First Amendment "encompasses intellectual freedom, which includes an individual's right to receive information on a wide range of topics from a variety of viewpoints" (Haydel, 2009, para. 1). Therefore, as the identity of IF is essentially rooted within First Amendment rights, its history is also traceable to the conception of that fundamental American doctrine.

To understand IF's ability to support a myriad of diverse opinions, one must follow its connection to the roots of the First Amendment and the churning political atmosphere of that time. Prior to the ratification of the Constitution, the founding fathers were embroiled in a continuous debate that was proliferated through letters, pamphlets, and intense meetings. The Declaration of Independence boldly conveyed the colonies' willful severance from British governance in 1776, but the fledgling nation's difficult task of forging a strong government based on unshakeable principles had just begun. The Federalists and Anti-Federalists (two political parties that formed as a result of strong contentions) could not agree on the balance of power between the national and state governments or the level of representation each state should receive. Some states heralded religious tolerance while others fought to retain contracts that required government leaders to pledge allegiance to specific Christian denominations and creeds. Some decried the injustice of slavery while slaveholders defended their right to own slaves. The weak support provided by the Articles of Federation had afforded a modicum of order, but the need for a more substantial

foundation was apparent. The Constitution was drafted and initially ratified by 6 of the 13 states, but 9 states were required to activate the new document. Following a campaign encouraging states to ratify the Constitution and make amendments afterwards, the majority vote was secured (National Archives, 2019).

As promised to the reluctant ratifiers, the Bill of Rights was written shortly thereafter. Wisely, James Madison zeroed in on protecting the individual rights of American citizens rather than altering the government framework. The First Amendment of the Bill of Rights secured five freedoms for which citizens of this young democracy had been willing to die: freedom of religion, speech, press, assembly, and petition (National Archives, 2018). This single, legally empowering statement granted equal rights to the religious and the non-religious, politicians and their constituents on all sides of the issues, and to adherents of all ideations. As illuminated by Haydel, the more modern terminology of IF was essentially a rebranding of the spirit of these liberties which effectively released United States citizens to truly be a self-governing democratic-republic and essentially created a strong common foundation to support a diverse people (Haydel, 2009, para. 1). Without the First Amendment, the current understanding of IF would not exist, and such diversity would have no foundation upon which to stand and flourish.

### ***R2. How has the American concept of intellectual freedom evolved since the First Amendment's establishment?***

The First Amendment endowed American citizens with freedom of expression (aka., IF), but its interpretation and application have varied over time. That evolution may be captured via landmark court cases based on the First Amendment and the surrounding events. As is observable in available documentation, acclimation to these new freedoms was gradual. Consequently, there are not as many court cases utilizing the First Amendment in the late 1700s and all of the 1800s as are found in the twentieth century and beyond (MTSU, n.d.a).

#### *18<sup>th</sup> Century*

The late eighteenth century (Figure 1) witnessed the turbulent birth of the United States of America as a

democratic republic. The Declaration of Independence was drawn up and signed by America’s founding fathers in 1776, but the Constitution and Bill of Rights were not fully ratified until 1791. Less than ten years after that, Congress passed the Alien and Sedition Acts which greatly complicated the process of becoming an American citizen, granted the president power to deport any immigrant he deemed to be a threat, and declared it illegal to “write, print, utter or publish...any false, scandalous and malicious writing...with intent to defame the...government or to stir up sedition within the United States” (McNamara, 2009, para. 2). This prompted Thomas Jefferson and James Madison to covertly pen the Virginia and Kentucky Resolutions of 1798 to declare the Alien and Sedition Acts unconstitutional and condemn the violations of freedom of speech and freedom of the press (Dow, 2009, para. 1-2). These demonstrations of determined vigilance over these freedoms segued America into the nineteenth century which presented a whole new set of challenges.

*19th Century*

The nineteenth century (Figure 1) largely played out as a tug-of-war between First Amendment freedoms and the former rigid, micromanagement style of governance. Thomas Jefferson became president in 1801 and ended the battle initiated at the end of the previous century by pardoning all those affected by

the Sedition Act of 1798 (McNamara, 2009). In the 1804 case *People v. Crosswell*, Harry Crosswell was convicted of libel for using the press to allege that James Callendar was compensated by President Thomas Jefferson for defaming George Washington and John Adams. Although Crosswell was convicted, Supreme Court Judge James Kent set a new precedent by declaring that one accused of libel should be able to prove the truth of the claims. The lower court in this case had followed traditional procedures which did not allow such a defense (Vile, 2008a, para. 2). Freedom of the press necessitated this change.

In 1813, *People v. Phillips* became the first known case concerning priest-penitent privilege (the right of a priest not to share information heard during confession). Father Kohlmann was granted exemption from testifying about a theft, and a victory was won for religious freedom (Vile, 2008b, para. 2). In 1836, in direct contradiction to free speech principles, Congress enacted a gag order forbidding antislavery discussions due to the volatile atmosphere surrounding the subject. The order was reversed in 1844. Union Army General Ambrose Burnside ignored free press parameters in 1863 when he ordered the suspension of the Chicago Tribune newspaper in response to recurring comments critical of government policies and choices. President Lincoln nullified the suspension three days after its issuance.

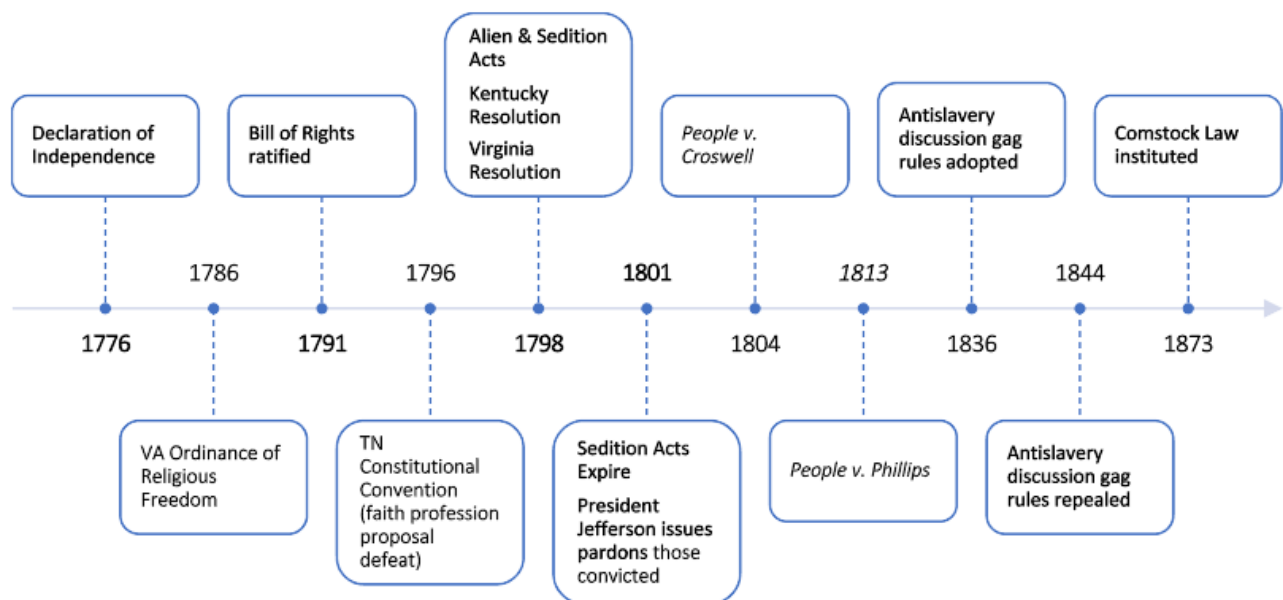


Figure 1: 1776-1899

Ironically, Lincoln ordered General John A. Dix to suppress the presses of the *New York World* and *New York Journal of Commerce* newspapers and arrest their executive editors in the following year. Both editors had published a forged presidential declaration ordering the draft of 400,000 more soldiers. Lincoln rescinded those orders just two days later (MTSU, n.d.b, paras. 23; 25-26).

Ratification of the 14<sup>th</sup> Amendment occurred in 1868. It declared that no state should “deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws” (National Archives, 2021). This was significant because many federal court judges considered the Bill of Rights inapplicable to state law prior to this amendment’s institution (MTSU, n.d.b, para. 21). In 1873, the Comstock Law became the first official federal legislation regarding obscenity. It stated that no materials deemed obscene (essentially anything of a sexual or reproductive nature) could legally be circulated by mail (MTSU, n.d.b, para. 28).

### 20<sup>th</sup> Century

The free speech and press claims dominated several First Amendment supreme court cases and important events in the early part of the twentieth century (Figure 2). This was likely due to the nature of the prominent issues (immigration, socialism, World War I, and other monumental concerns) of that time frame (MTSU, n.d.b, para. 29). *Patterson v. Colorado*, whose subject was a political cartoon and articles that poked fun at a state supreme court, was the first Supreme Court free press case since the First Amendment’s inception. Leaving application of the 14<sup>th</sup> Amendment to state law in question, the US Supreme Court claimed not to have jurisdiction of this matter and ruled that it must be decided by local law (Findlaw, n.d.14). In *Schneck v. US*, Justice Oliver Wendell Holmes upheld the guilty conviction based on the Espionage Act and instituted the “clear and present danger” test to determine whether speech would be considered a threat to national peace and, therefore, would be unprotected by First Amendment rights (Findlaw, n.d.18, paras. 11-12). In a seemingly

contradictory declaration of dissent in *Abrams v. US*, Holmes disagreed with this conviction based on the Espionage Act and under similar circumstances to *Schneck v. US* and emphasized that “the ultimate good desired is better reached by free trade in ideas” in a truly free society (Findlaw, n.d.2, para. 32). To protect the freedoms under attack due to fears generated by a world at war, the American Civil Liberties Union was established by Roger Baldwin in 1920 (MTSU, n.d.b, para. 37). *Stromberg v. California*, a case involving a young woman who used a red flag to demonstrate her defiance of the government of the United States, was referenced as the first case which recognized “that protected speech may be nonverbal, or a form of symbolic expression” (MTSU, n.d.b, para. 44). In 1939, the ALA adopted the Library Bill of Rights (LBR) which captured the essence of IF (and the First Amendment by extension) in words (ALA, 2013, para. 2); the Office for Intellectual Freedom was established almost 30 years later to defend the freedoms outlined in the LBR (ALA, 2021c, para. 1). The famous “fighting words” doctrine was introduced in the 1942 Supreme Court case *Chaplinsky v. NH* when potentially inflammatory language was denied free speech protection (Findlaw, n.d.7). Justice William O. Douglas tempered that denial in the *Terminiello v. Chicago* case when he stated that free speech was meant to “invite dispute” and that “it may indeed best serve its high purpose when it induces a condition of unrest, creates dissatisfaction with conditions as they are, or even stirs people to anger” (Findlaw, n.d.20, para. 6).

Five legal events (Figure 2 and Figure 3) of the 20<sup>th</sup> century pertained to the American flag: *Minersville School District v. Gobitis* (1940), *West Virginia State Board of Education v. Barnette* (1943), the passage of the Flag Protection Act (1989), *Texas v. Johnson* (1989), and *U.S. v. Eichman* (1990) [MTSU, n.d.b, paras. 55, 58, 113-115]. In the *Minersville School District v. Gobitis* case, the expulsion of two school students from a family who adhered to the tenets of the Jehovah’s Witness religion elicited a legal challenge based on First Amendment rights (Findlaw, n.d.12).



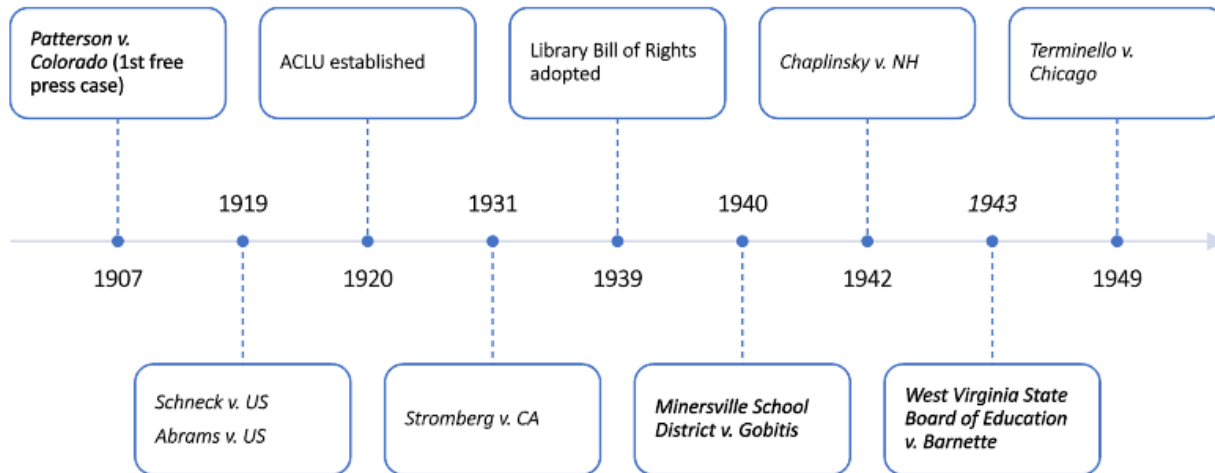


Figure 2: 1900-1949

The family lost the case, but the ruling was overturned three years later in *West Virginia State Board of Education v. Barnette* when the U.S. Supreme Court determined that forcing someone to salute the American flag is a clear violation of their free speech rights as an American citizen (Findlaw, n.d.25). 50 years later, the flag was again at the center of a legal controversy. The Flag Protection Act was validated by Congress. It declared that legal punishment would befall any American citizen who “knowingly mutilates, defaces, physically defiles, burns, maintains on the floor or ground, or tramples upon any U.S. flag” (Library of Congress, 1989). In the same year, the Supreme Court challenged that declaration in *Texas v. Johnson* by stating that the right to free speech includes destruction of the American flag (Findlaw, n.d.21). The Flag Protection Act was officially nullified in 1990 in *U.S. v. Eichman* (Findlaw, n.d.24). These incidents provide insight into the continuing struggle with defining the IF contained within the First Amendment.

As the harsh, literal landscape of the World Wars of the first half of the 20<sup>th</sup> century gave way to the second half’s (Figure 3) secretive, mistrustful backdrop of the Cold War and government agendas spun behind closed doors, the political mind games bred leaders desperate to control the narrative and a nervous populace willing to allow it. Censorship was on the rise, and the plethora of First Amendment court cases illustrated that fact. 1952 witnessed *Burstyn v.*

*Wilson*, the first case to recognize motion pictures as a form of free speech and press that should be protected. A New York ordinance that allowed movies categorized as “sacrilegious” to be banned was overturned on both First and 14th Amendment grounds (Findlaw, n.d.9, para. 7). In the 1957 case *Roth v. United States*, the Supreme Court ruled that obscenity should not be protected by First Amendment privileges. Like the Comstock Law of 1873, this case particularly applied to information circulated by mail; however, obscenity was more specifically defined as material considered licentious according to prevailing community standards. (Findlaw, n.d.16). Later, in the 1973 case *Miller v. California*, the Supreme Court provided the following guidelines to judge whether content should be deemed obscene: “whether the work depicts or describes, in a patently offensive way, sexual conduct specifically defined by the applicable state law; and whether the work, taken as a whole, lacks serious literary, artistic, political or scientific value” (Findlaw, n.d.11).

Four significant cases involving religious freedom occurred in 1962 and 1963 (Figure 3). *Engel v. Vitale* determined that state-composed prayers spoken in public schools, although nondenominational in nature with provision for students to decline participation, still violated the Establishment Clause (Findlaw, n.d.8). In both *Abington School District v. Schempp* and *Murray v. Curlett*, the practice of reading the Bible was ruled in violation of the First Amendment’s Establishment Clause (Findlaw, n.d.1). The fourth

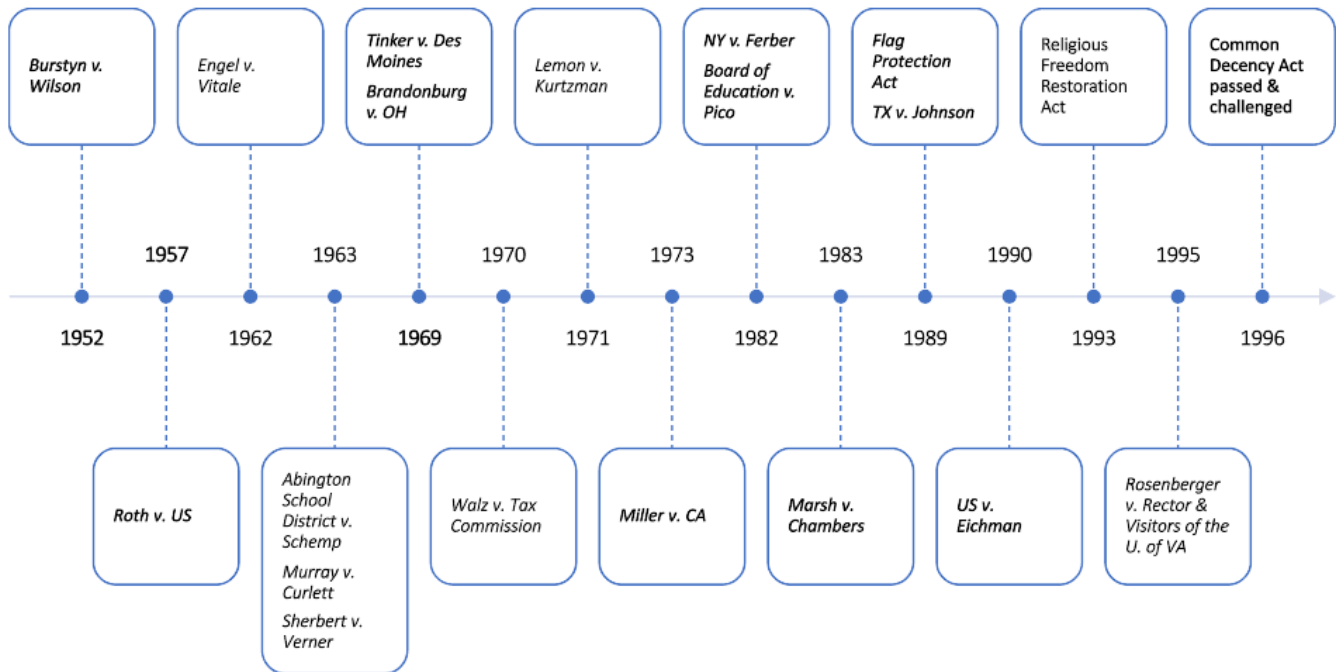


Figure 3: 1950-1999

religiously based case, *Sherbert v. Verner*, declared a company's decision to deny an employee's unemployment compensation based on her refusal to work on Saturday (her Sabbath as a Seventh Day Adventist) to be in violation of her freedom of religious expression (Findlaw n.d.19). The cases involving public schools set precedents that fundamentally altered the operation of public educational institutions going forward and clearly supported the individual's right to religious expression and, as that concept's overarching principle, IF.

The remainder of the 20<sup>th</sup> century (Figure 3) contained several cases that demonstrated the First Amendment's power to support the IF of American citizens (unless such citizens flagrantly use their freedom to inflict harm) in all areas of the ideological spectrum. In *Tinker v. Des Moines Independent School District*, the Supreme Court invoked the First Amendment to uphold the right of students to protest the political activities of the United States government (Findlaw, n.d.22). Conversely, a Ku Klux Klan leader was sent to prison in the 1969 *Brandenburg v. Ohio* case due to public speech unquestionably intended to incite violence (Findlaw, n.d.5). In 1982, the Supreme Court case *New York v. Ferber* firmly declared that

child pornography will not be protected by freedom of expression (Findlaw, n.d.13). Within the same year, the *Board of Education v. Pico* reinforced IF by denying the right of schools to remove controversial books from a school library (Findlaw, n.d.4). Denial of funds for a University of Virginia Christian student newspaper was ruled as discriminatory toward a particular viewpoint and, therefore, in violation of the First Amendment in *Rosenberger v. Rector and Visitors of the University of Virginia* (Findlaw, n.d.15). As illustrated by these cases and events, the 1900s witnessed the growing pains of IF encapsulated within the First Amendment.

With the exacerbation of societal tensions by volatile national events and the rapid growth of web-based technology, the first 20 years of the 21<sup>st</sup> century (Figure 4) have been characterized by some significant First Amendment cases. In the 2000 *Santa Fe Independent School District v. Doe* case, prayer initiated and led by students was judged to be in violation of the Establishment Clause (Findlaw, n.d.17). The Supreme Court upheld the Children's Internet Protection Act in *United States v. American Library Association, Inc.* and required (in exchange for federal funding) public schools and libraries to

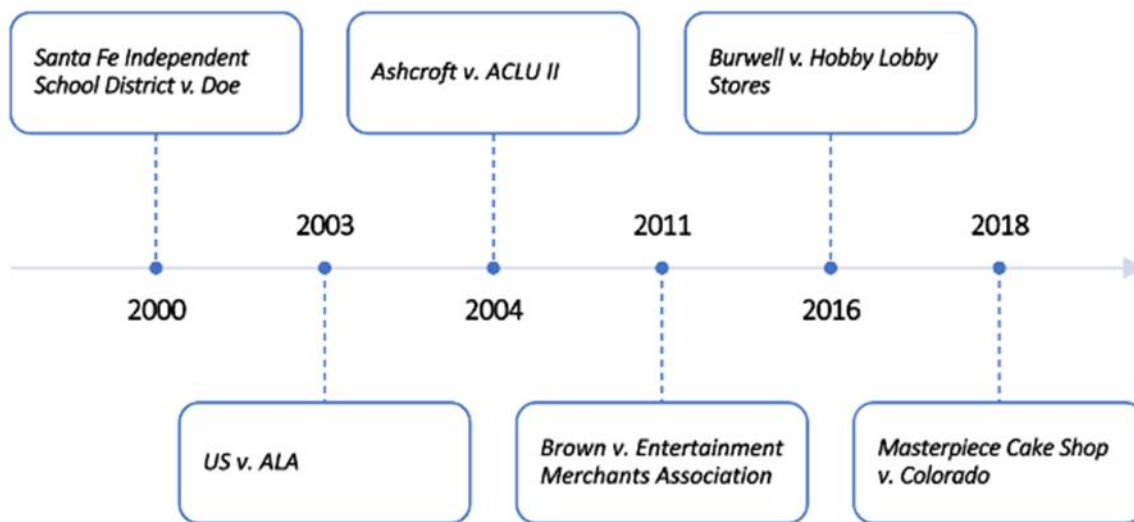


Figure 4: 2000-2020

purchase and install filtering software to protect juveniles from unnecessary exposure to objectionable online content (Findlaw, n.d.23). Further defining the internet safety parameters for children, in *Ashcroft v. ACLU II*, the Supreme Court surmised that internet filtering software affords fewer restrictions than those imposed by the Child Online Protection Act. As a result, enforcement of COPA was suspended (Findlaw, n.d.3). In the case of *Brown v. Entertainment Merchants Association*, video game content was ruled to be expression protected by the First Amendment; this ruling nullified a California law that prohibited selling or renting violent video games to juveniles (Findlaw, n.d.6). Cake decoration was ruled to be a form of artistic speech in *Masterpiece Cake Shop vs. Colorado*. As a form of the artist's free expression, it was judged to be protected by First Amendment rights. In this court case, the baker's right to refuse to make a wedding cake for a gay couple was safeguarded because his art reflected his religious convictions (Findlaw, n.d.10).

Although challenges have risen from a myriad of different angles, the principles of IF (freedom of expression in its varied forms) held within the First Amendment have proven stalwart for over 200 years. Under its umbrella, the voices of American citizens (though they may fiercely oppose one another) may

find shelter and significance. They may believe. They may speak. They may freely share those beliefs and opinions and listen to those of others. The evolution of these freedoms is evident in the court cases and other legal events chronicled in this study.

### **R3. What are some documented examples of the varied ideologies that have been expressed by members of the LIS professional community in the last twenty years?**

As humans are complex creatures, it was important to recognize the multidimensional nature of library science professionals when studying the convictions that drove their choices. The information gathered for this study from survey and interview documentation in peer-reviewed journal articles sometimes showed slight or significant differences between personal and professional ethics. These necessary disconnects were not intended to be hypocritical. Rather, such practices were adopted to unselfishly serve the community in which these librarians serve.

Much like the myriad of opinions and convictions present during the early years of America's establishment as a nation, a host of varied voices have been heard among American librarians, library administrations, and support staff. Unfortunately, an appreciation for those differences is not always

practiced, and some do not feel free to share thoughts that are not aligned with the opinions of the majority. Kaetrena Kendrick & Damasco organized a team of researchers to conduct phone interviews of multiple self-professing conservative librarians. Those interviewed were career librarians with anywhere from three to 35 years of experience who worked in various departments. One of the interview questions prompted the subjects to define conservatism (the category in which they placed themselves). Their answers varied but were generally based on political, religious, and family values. Many supported self-sufficiency rather than reliance on government, personally adhered to traditional familial roles (e.g. marriage between a man and a woman), and allegiance to Judeo-Christian moral principles. Interestingly, although these values were personal imperatives, IF and political neutrality were supported by many on a professional level. These personally conservative librarians generally concurred that personal convictions should not dictate collection development (Kendrick & Damasco, 2015, p. 138-139).

In 2018, James Larue (former director of ALA's Office for IF) candidly shared experiences from his lifetime in librarianship along with lessons that he learned with each one. He described himself as a bit of a hot-headed activist with a take-no-prisoners viewpoint while in college training to be a librarian. He vehemently opposed censorship in any form and wasted no sympathy on those who sought to conscientiously monitor material offered in libraries and schools. Although his fierce defense of IF and fight against any form of censorship have not changed, his perspective of others with opposing views has softened through his life experiences as a father and as a library director in a community greatly affected by a well-known conservative religious institution. Instead of mounting verbal attacks against would-be censors, he began to listen respectfully, attempted to understand the basis for their concerns, and then patiently explained why IF is important for all library-users. His autobiographical contribution to the LIS conversation lent balance to the extremes (LaRue, 2019).

Oltmann conducted in-person interviews with 15 directors of some of the largest libraries in the state of Kentucky. The inquiry subjects ranged from meeting room guidelines to the definition of IF. The group of interviewees was diverse in race, age, and professional experience. Since IF was a main focal point of this study, the answers to the IF questions in Oltmann's study were selected for content support. When asked to define IF, the library directors provided their answers from three different relational perspectives: personal, community, and professional (Oltmann, 2016b, p. 293-295). The professionally based answers echoed ALA's official explication which recognizes IF as "the right of every individual to both seek and receive information from all points of view without restriction" (American Library Association, 2017, para. 1). From a personal perspective, the participants' replies reflected their belief that the reading or viewing material they choose should be exactly that – their choice. Stanley (a pseudonym to protect identity) stated, "For me personally, intellectual freedom is about being able to explore any area that I want to, as far as researching or understanding anything ... without being judged for it" (Oltmann, 2016b, p. 296). Their community-based approaches to IF agreed that the library collection should be shaped to reflect the diverse needs and preferences of those who populate the surrounding area. The consensus was that the library should offer a variety of information options and loan such materials without censure (Oltmann, 2016b, p. 296). Although the individuals interviewed hailed from different backgrounds, creeds, and age groups, they found common ground in IF.

As is the case in most professions, librarians have personally espoused a diverse array of ideologies. This study's limited sampling of information gleaned from previously documented interviews glimpsed library professionals with conservative, middle-of-the-road, and liberal viewpoints, but nearly all believe IF to be imperative. They understood that even viewpoints that are starkly opposed find individual support in this doctrine anchored in the First Amendment. For all to have freedom of expression, respect for other perspectives has been recognized as vital.

#### **R4. How does the first amendment (the foundation of intellectual freedom) allow adherence to fundamentally different ideological viewpoints?**

First, the circumstances surrounding the writing and ratification of the First Amendment demonstrated its purpose as an equalizer in relationship to individual rights. Prior to its enforcement, controversy over freedoms of religion, speech, and press swirled around the nation struggling to emerge. Politicians argued over requiring those elected to office to swear an oath of allegiance to a particular Christian denomination; journalists were jailed for printing opinions critical of government policies, and orators risked incarceration for voicing dissenting ideas (MTSU, n.d., paras. 1-20). Because the First Amendment took intellectual enforcement away from the government and gave autonomy to individuals, it became the unifying bond of all American citizens regardless of personal ideologies.

Second, documented application of the First Amendment to the diverse array of legal cases tried since the ratification of the Constitution and the original Bill of Rights demonstrated its versatility. Freedoms of speech and press have supported expressions ranging from American flag burning to fair collegiate financial support of a Christian newspaper (Findlaw, n.d.21; Findlaw, n.d.15). Freedom of religion allowed all American citizens to either worship or not worship as they chose and forbade government or professional coercion to act in violation (e.g., working on one's Sabbath day or requiring allegiance to a particular faith as a prerequisite to holding a political office) of one's personal belief system (Findlaw n.d.19; National Archives, 2019). IF has defended these rights as they pertain to print and visual expression. Therefore, the First Amendment and IF have supported the democratic liberties of all lawful American citizens.

#### **DISCUSSION AND CONCLUSION**

This historical analysis explained IF's connection to the First Amendment and thereby expounded on the role of IF in United States history. It also used legal court case summaries and historical events

contemporary to those cases to show the evolution of the First Amendment from the Declaration of Independence in 1776 to relevant events and legal proceedings in the 21<sup>st</sup> century. For practical application of the findings, the diverse ideologies held by both early American citizens and those of modern library professionals (via interviews and autobiographical testimony documented within peer-reviewed journal articles) were discussed and compared to demonstrate the ability of the First Amendment (and, by extension, IF) to support a plethora of perspectives.

Although the research style was similar to some of the selections, none of the journal articles discussed in the literature review used legal cases to illustrate the evolution of the First Amendment and IF. Likewise, one of the selected articles discussed how the First Amendment provides support for diverse ideologies. This study may have contributed to the existing body of historical research relating to the First Amendment and IF. It also provided information potentially capable of encouraging appreciation of intellectual diversity within the scholarly world of LIS.

Further research of this topic could expand on the evolution of the First Amendment and IF and broaden the scope of ideologies represented within the LIS professional community. Accessing and discussing legal documentation and earlier historical events leading up to the ratification of the Bill of Rights would further illuminate how and why the First Amendment came into existence. Personal interviews of current library professionals would also lend a greater perspective of the diversity of LIS viewpoints. A larger window of time, a wider sampling of the LIS community, and IRB permission would all be necessary to accomplish this. As the topics of the First Amendment and IF will not lose relevance, an extension of this study could yield better defined results and applications.

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