

# Foreword

The American Civil Liberties Union (ACLU) is unique among organizations. It exists solely to protect civil liberties and civil rights. It has done this brilliantly for a century. It has done so at the national level and the state and local levels. It has done so in the legislative and political processes and in the courts. Not surprisingly, many of these judicial battles have ended in the U.S. Supreme Court and led to crucial decisions that affect all of us, often in the most important and intimate aspects of our lives.

Surprisingly, though, no one has systematically chronicled the ACLU's history in the U.S. Supreme Court. That is the contribution of Steven Markoff and his history of the ACLU, the U.S. Constitution, and the U.S. Supreme Court. His focus is on the ACLU's involvement in the U.S. Supreme Court in the past century, from 1920 to 2020.

I must disclose that I am not an impartial observer of all of this. I have been an ACLU member my entire adult life. I served on the Board of Directors of the ACLU of Southern California for almost 15 years and on the Board of Directors of the ACLU of North Carolina for several years when I lived there. I have been directly or tangentially involved in many ACLU cases, including in the U.S. Supreme Court. I have spoken to the ACLU lawyers at their conferences for more than 30 years. One of my proudest awards (and one of the few plaques in my office) is the one naming me an honorary ACLU lawyer.

At the same time, I must confess that I do not always agree with the ACLU. I strongly disagree with its position on campaign finance and its view that spending money in election campaigns is speech. Unlike the ACLU, I regard *Citizens United v. Federal Election Commission*, which held that corporations can spend unlimited amounts of money in election campaigns, as terribly misguided.

But whether one agrees or disagrees with the ACLU in particular areas, there is no denying the importance of the ACLU as a force in the U.S. Supreme Court and in American law. Thanks to Steven Markoff's efforts, there now is a comprehensive listing of all of the U.S. Supreme Court cases in the last century with ACLU involvement. He provides clear and concise descriptions of the cases.

I especially liked the presentation of each justice's votes and how often each sided with the ACLU. It was interesting to see that Justice Louis Brandeis voted in favor of the ACLU position 87.5% of the time, while the arch-conservative Justice James McReynolds did so only 18.18% of the time. Justice William Douglas participated in 347 ACLU cases and was with the ACLU 87.9% of the time. By contrast, Associate Justice and then Chief Justice William Rehnquist participated in 718 ACLU cases, but voted in favor of the ACLU position only 25.91% of the time.

These are just some examples of the wealth of information to be learned from Steven Markoff's terrific work. I hope that he or someone else will continually update his work. It is a wonderful wealth of information about an enormously important organization. I have found that I frequently use it as a reference tool and can see how invaluable it is in countless ways.

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