

# Bill of Rights in Action



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## TURNING POINTS IN PRESIDENTIAL CAMPAIGN ADVERTISING

Presidential campaign advertising began almost as soon as the United States was founded. While methods of political advertising have undergone major turning points over time, the goal has always been the same: Make your candidate look good and make your opponent look bad.

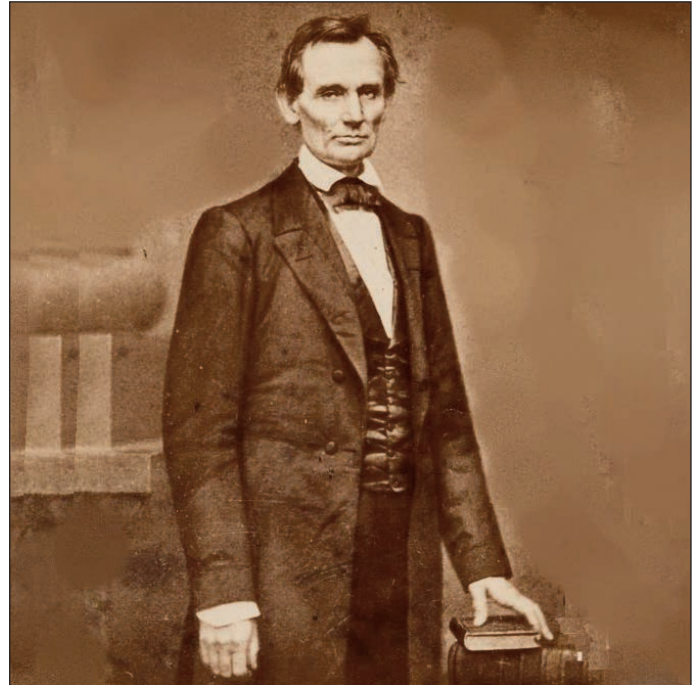
### Early Campaign Advertising

The Founding Fathers at the Constitutional Convention in 1787 assumed the election of the president would be a quiet affair. This was certainly the case when the voters (only white male property owners) and the Electoral College elected George Washington to his two terms as the first president of the United States. Washington did not believe in political parties. He also established the tradition that presidential candidates would not campaign or personally speak for their own election but leave that for supporters to do.

However, by the time Washington decided not to run for a third term, groups with strong political differences had begun to form around certain men like John Adams and Thomas Jefferson. When these two men faced off in the presidential election of 1796, campaign advertising also began.

In that election, advertising took the form of partisan (one-sided) newspapers, posters, and printed handbills distributed to voters. This advertising was often as extreme (and as negative!) as modern-day political attack ads. Jefferson's supporters attacked Adams for wanting to be a king. Adams's allies accused Jefferson of being an atheist, radical thinker, and enemy of the Constitution. Although many made speeches for and against each man, neither candidate himself campaigned in public.

Adams won in 1796, but the campaigning became even more vicious when they ran against each other again in 1800. One pro-Adams newspaper declared that



Library of Congress

This photograph of Abraham Lincoln was taken before he delivered a speech in 1860 at Cooper Union in New York City where he stated his opposition to the spread of slavery into U.S. territories. Lincoln then became the Republican presidential nominee, and the photo became part of his campaign.

if Jefferson was elected, "murder, robbery, rape, adultery and incest will be openly taught and practiced." Jefferson won anyway.

By the time Andrew Jackson won his first term in 1828, political advertising had taken other forms, including parades with images of "Old Hickory," and "booming rallies" with generous supplies of whiskey. More importantly, Jackson's supporters created America's first modern political organization, the Democratic Party, to raise money and persuade voters to join the party.

In 1840, the Whig Party's William Henry Harrison was the first presidential candidate to campaign personally for his own election. Slogans began to be popular. Harrison's was "Tippecanoe and Tyler Too," a reference to his 1811 military victory against the

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This and Some Future Issues of *Bill of Rights in Action* Will Only Be Available Electronically!

Starting in fall 2020, we plan to publish two issues of the quarterly *Bill of Rights in Action* in electronic format only and two issues in print and electronic format. To receive notification of when the electronic edition is available for download, sign up at [www.crf-usa.org/bill-of-rights-in-action](http://www.crf-usa.org/bill-of-rights-in-action).

**SPECIAL  
NOTICE**



The T.V. ad “Peace, little girl” (aka “Daisy”) only aired once on nighttime television in 1964 but had enormous impact on the election. Today, one presidential T.V. ad can air hundreds and even thousands of times.

Shawnee Chief Tecumseh at the Battle of Tippecanoe (in present-day Indiana), and to his vice-presidential running mate John Tyler.

During the 1860 presidential campaign, the opponents of Republican Abraham Lincoln laughed that he was “the ugliest man in the Union.” To counter these insults, Lincoln enlisted the help of photographer Mathew Brady. At that time, photography was still a new technology. Brady retouched his photograph of Lincoln to make Lincoln’s collar higher (to hide Lincoln’s long neck) and to make him look more statesmanlike. Lincoln made heavy use of the photograph in posters, and popular magazines published it, too. Lincoln partially credited Brady for his 1860 victory.

By the early 1900s, political parties found other innovative ways to attract voters, including many that they still use today. Woodrow Wilson was the first presidential candidate to use the mail for campaign advertising. And as railroads reached into even remote places of the United States, candidates launched “whistle stop tours” to make speeches across the country.

### The Radio Turning Point

By the 1920s, presidential candidates could speak on the radio to millions of voters at one time. At first, the candidates paid radio stations to broadcast their long speeches. But soon, candidates shortened their promotions to one-minute political ads. By the 1932 election, the campaigns of Herbert Hoover and Franklin D. Roosevelt spent \$5 million on radio ads.

### Television Turning Points

A revolutionary turning point in paid presidential advertising happened in the 1950s with the use of television in national politics. Short TV political ads, called “spots,” became the dominant and most expensive form of campaign advertising, and they still are.

The first paid TV presidential advertisements was a series of 40 spots broadcast in 1952 by Republican

Dwight Eisenhower’s campaign against Democrat Adlai Stevenson. In each 20-second spot, Eisenhower responded to a question from a voter. The producers added biographical material on “The General” or “Ike,” as he was called then, in the series the campaign called “Eisenhower Answers America.”

Another TV first happened during the 1960 presidential contest when Republican Richard Nixon, Eisenhower’s vice president, and John F. Kennedy, a Massachusetts Democratic U.S. senator faced off in the first-ever televised debate. In their first of four debates, Nixon looked like he needed a shave and appeared nervous as sweat dripped from his upper lip to his chin. Young, confident Kennedy, on the other hand, wore TV makeup and looked relaxed in front of the camera.

A poll after that first debate revealed that those who watched it on TV thought Kennedy had won; those who listened on radio thought Nixon had won. Media pundits concluded that, on TV, how candidates looked and acted was more important than what they said.

Democrat Lyndon Johnson’s 1964 “Daisy” campaign ad caused political shockwaves when it aired. Johnson was running against Arizona Senator Barry Goldwater, a conservative Republican who had suggested the U.S. fight the Vietnam War with low-yield “tactical” nuclear weapons that would destroy forests that gave cover to Vietnamese supply trails. The spot never mentioned Goldwater’s name, but clearly referred to his nuclear-weapons remarks: It began with the image of a little girl counting petals on a daisy and ended with a nuclear blast. This spot had a devastating emotional impact.

This TV spot was so controversial that the Johnson campaign aired it only once. But widespread TV news coverage of it effectively labeled Goldwater as “trigger happy” and weakened his campaign.

Though Richard Nixon had lost against John Kennedy in 1960 he ran again for president in 1968 and won against Minnesota Democratic U.S. Senator Hubert Humphrey. This time, the Nixon campaign pioneered a series of live TV forums, in which local reporters and residents asked Nixon questions. Well-prepared for TV by then, he handled himself well, confidently relying on his extensive knowledge of American and foreign policy. Called “The Nixon Answer,” this was an early version of the televised “town halls” used widely today.

### The PAC Turning Point

In the 1980s, a new phenomenon hit presidential campaign advertising on TV. Political action committees, or “PACs,” not officially connected to any candidates or party, began to air TV spots. In many cases, these spots unfairly criticized the opponent of the candidate whom the PAC preferred.

In the 1988 presidential campaign, a PAC that favored Republican George H.W. Bush, Reagan’s vice

president, financed the “Revolving Door” spot. This ad criticized Democrat Michael Dukakis, the governor of Massachusetts, for a state prison furlough program that allowed temporary short-term parole of prisoners.

The ad showed actors playing convicts going in and out of prison through a revolving gate. It gave the false impression that Governor Dukakis furloughed 268 first-degree murderers who then escaped and committed other horrendous crimes. In fact, during a ten-year pe-riod, four convicts escaped from the furlough program, and only one committed a serious crime. The ad’s message was that Dukakis was soft on crime.

During the 2004 campaign between President George W. Bush and U.S. Senator John Kerry, Swift Boat Veterans for Truth, another PAC, accused Kerry of lying about his Vietnam War record. Kerry was a Navy commander of small-armed boats called swift boats. He won a number of medals for his combat experience on Vietnamese rivers but later became a critic of the war. The PAC-funded TV ads alleged that Kerry lied to receive his medals. After the 2004 election, which Kerry lost, exhaustive fact-checking proved that he had earned the medals, and none of the charges in the spots were true.

### The Social Media Turning Points

Paid advertising on social media took off in the 2008 presidential election between Democrat Barack Obama and Republican John McCain. Video ads online became longer and featured entire speeches, live town hall meetings, and biographies. They were also much less expensive to show on the internet than as commercials on TV.

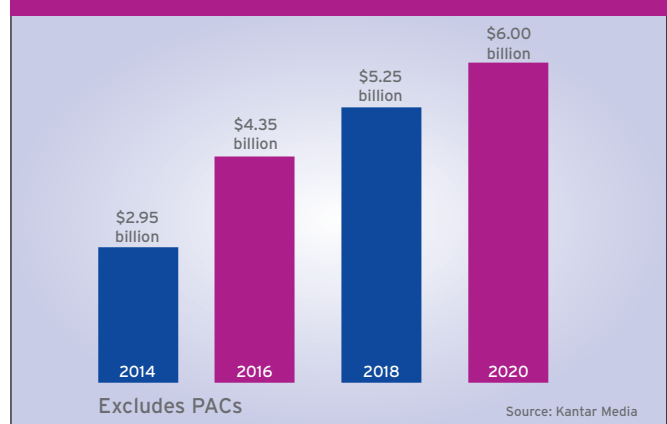
Campaigns encouraged young people to click on videos that had both political and entertainment content, like Obama’s “Yes, We Can,” shown on YouTube. This innovative video used entertainers to put Obama’s words to song and was viewed millions of times. The campaign used it to promote voter registration among young people and to raise money.

Campaigns made use of Facebook’s multimillion users to forward links to paid ads. Twitter, now called X and limited at the time to only 140 characters in any tweet, enabled candidates to bypass the traditional media and communicate directly with followers. However, campaigns discovered they no longer had complete control of their messages and agenda.

### Turning Points in the 2016 Election Campaign

Donald Trump had a background in marketing and entertainment. He mastered Twitter as a new way to campaign when running for president in 2016. He had daily conversations with supporters at virtually no cost. He frequently made claims backed by no evidence at all, such as saying that supporters of his Democratic opponent Hillary Clinton had firebombed one of his campaign offices. He dismissed fact-checking of his tweets by the press as “fake news.”

**U.S. Political Campaign Ad Spending 2014-2020**  
Presidential, Senate, and House of Representative Campaigns



Trump also took campaign rallies to a new level. His rally speeches highlighted the plight of factory workers whose jobs had gone to foreign countries. He blamed the trade agreements of previous presidents, as well as undocumented-immigrant workers, for taking the jobs that remained in the United States. His rallies swelled with enthusiastic supporters. They loved his “America First” approach, attacks on the media, and slogan: “Make America Great Again.”

Social media also enabled some troubling advertising during the 2016 election campaign. Russian operatives with ties to the Russian government in Moscow posed online as Americans to create thousands of accounts on Facebook and other social media. They then created online groups related to various political causes. They posted messages and paid for ads that included disinformation (falsehoods) about Hillary Clinton; support for Donald Trump; and the stoking of antagonism over immigration, race, and religion. The Russians’ goal seemed to be to provoke political and social conflict among U.S. voters.

After the election, special investigations by the U.S. Justice Department and U.S. Senate found evidence of Russian interference in the 2016 election, mainly through social media platforms. For example, Twitter identified over 3,800 accounts linked to the Russian operatives. Facebook estimated that 126 million Americans might have viewed posts by the Russian operatives between January 2015 and August 2017. But in a congressional hearing, Facebook’s general counsel (attorney) testified that only about 11 percent of the Russians’ ads were related to the election. He also testified that only 1 in 23,000 stories in Facebook’s News Feed were the work of suspected Russian accounts. That is 0.004 percent of News Feed stories. As former CIA director Michael Hayden noted in 2018, the impact of Russian social-media activity is “not just unknown, it’s unknowable.”

### Should Campaign Advertising Be Regulated?

Most scholars have concluded that campaign advertising generally is good for democratic elections. Positive ads provide information, although biased, about the candidate and his or her views on election issues.



Even negative ads that contrast the “right” views of one candidate versus the “wrong” views of an opponent might be valuable when candidates provide competing ads. Voters say they dislike negative political ads but tend to remember them more than positive ones. The impact of negative ads on voter decisions and turnout varies from little to significant in different elections.

But what about negative TV spots and social media posts that include disinformation, rumors, conspiracy theories, racist or sexist remarks, personal attacks, and outright lies? Any political advertising by foreign countries is already illegal, and U.S. government efforts are underway in the 2020 election to stop them. But should any campaign advertising by American PACs be regulated?

As early as 1927, Congress prohibited government censorship of political broadcasts on radio. In 1934, Congress created the Federal Communications Commission (FCC) to regulate radio and later television broadcasts. To protect Americans as consumers, the FCC made falsehoods in commercial TV ads unlawful. But the First Amendment’s freedom of speech allows lies in political ads to remain legal, as long as the lies are not defamatory, or untrue statements that harm someone’s reputation. And ever since a Supreme Court case in 1964, it is more difficult to prove defamation against a public figure, such as a political candidate, than it is to prove it against a private person, like most of us. Over time, Congress has left it up to television and social media companies to provide their own guidelines for unacceptable content.

After the 2016 election, Republicans complained that social media companies were unfairly censoring their political advertising. Democrats were dissatisfied that the companies were not enforcing their guidelines enough against advertising full of disinformation and lies.

In 2019, Twitter responded to the criticism about social media handling of political advertising by banning it entirely. Political campaigns, parties, and independent groups could no longer buy ad space that referred to a candidate, political party, government official, election, proposed law, government regulation, or a court deci-

sion. However, the ban did not stop false tweets by individual users. Early in 2020, Twitter implemented a new policy of fact-checking tweets. President Trump has an estimated 80 million Twitter followers. Recently, Twitter added fact-check links to a few of his tweets but did not remove the tweets. Twitter also labels or restricts tweets that are designed to interfere with election processes or to suppress votes.

Facebook has two billion users worldwide. As a private company, it can censor whatever it wants. But it has chosen not to censor political ads. In 2020, however, Facebook’s policy was not to allow new political ads on its platform a week before the election. After Twitter’s announcement of its fact-checking policy, Facebook’s chief executive Mark Zuckerberg declared that his company would not become the decider of truth or ban ads containing outright lies. While many civil-liberties advocates agreed with him, others charged that Facebook profited by allowing the spread of disinformation that misleads voters. Nonetheless, Facebook’s 2020 policy was to remove or attach labels to posts that intentionally misinform voters about lawful voting methods.

Google, the company that owns YouTube, bans ads that make obviously false claims. Some social media companies ban political ads aimed at specific groups or require disclosure of who is funding the ads. However, opponents of those policies argue it should be up to lawmakers in Congress, not private companies, to regulate the content of social media political advertising.

## WRITING & DISCUSSION

1. What do you think was the most important turning point in presidential campaign advertising? Why?
2. Current U.S. law allows the government to ban lies in commercial advertising but not in political advertising. Do you agree with this policy? Why or why not?
3. Who do you think should ban or regulate political advertising on social media companies like Twitter: Congress, or no one? Why?

## ACTIVITY: Twitter vs. Facebook

### Which has the better policy for political advertising?

1. Divide the class in two. Using evidence from the article, one side prepares arguments for X’s policy (formerly Twitter’s policy) on political ads and against Facebook’s policy; the other side does the same for Facebook and against X. Students can do this in one class session or as homework.
2. Once students have prepared, in the next class session hold a debate between the pro-X group and the pro-Facebook group on the following debate question:

### Should social media companies ban political ads?

3. Flip a coin to see which side will present first. The students from one side and then the other will take turns, one student speaking at a time and each speaking from 30 seconds up to one minute. The teacher moderates the debate.
4. Once all students have had an opportunity to speak, students discuss if there might be a middle ground, based on what they have heard in the debate.

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## Standards Addressed

### *Turning Points in Presidential Campaign Advertising*

**National U.S. History Standard 8:** Understands the institutions and practices of government created during the Revolution and how these elements were revised between 1787 and 1815 to create the foundation of the American political system based on the U.S. Constitution and the Bill of Rights. **Middle School Benchmark 4:** Understands the development and impact of the American party system (e.g., the election of 1800). **High School Benchmark 6:** Understands the factors that led to the development of the two-party system (e.g., the emergence of an organized opposition party led by Thomas Jefferson).

**National U.S. History Standard 27:** Understands how the Cold War and conflicts in Korea and Vietnam influenced domestic and international politics. **Middle School Benchmark 3:** Understands political and social characteristics of the Vietnam War (e.g., shifts of public opinion about the war). **High School Benchmark 3:** Understands the social issues that resulted from U.S. involvement in the Vietnam War (e.g., why the Vietnam War contributed to a generational conflict).

**National Civics Standard 20:** Understands the roles of political parties, campaigns, elections, and associations and groups in American politics. **High School Benchmark 6:** Understands the significance of campaigns and elections in the American political system and knows current criticisms of campaigns and proposals for their reform.

**California State HSS Standard 8.3:** Students understand the foundation of the American political system and the ways in which citizens participate in it. (6) Describe the basic law-making process and how the Constitution provides numerous opportunities for citizens to participate in the political process and to monitor and influence government (e.g., function of elections, political parties, interest groups).

**California State HSS Standard 12.6:** Students evaluate issues regarding campaigns for national, state, and local elective offices. (3) Evaluate the roles of polls, campaign advertising, and the controversies over campaign funding.

**California HSS Framework (2016), Chapter 12, Grade Eight:** “The conflicts between two views of how the newly independent country should move forward, articulated most vocally and explicitly by the ideological adversaries Alexander Hamilton and Thomas Jefferson, resulted in the emergence of a two-party system . . .” (p. 244).

**California HSS Framework (2016), Chapter 16, Grade Eleven:** Another way to address the question How did the Cold War affect ordinary Americans? is to have students consider how Cold War spending and ideology shaped people’s daily lives. . . .” (p. 411).

**Common Core State Standards:** SL 6-8/11-12.1, SL 6-8/11-12.3, RH 6-8/11-12.1, RH 6-8/11-12.2, RH 6-8/11-12.3, RH 6-8/11-12.4, RH 6-8/11-12.10, WHST 6-8/11-12.1, WHST 6-8/11-12.2, WHST 6-8/11-12.9, WHST 6-8/11-12.10

### *Workplace Equality for LGBT People: Bostock v. Clayton County*

**National Civics Standard 18:** Understands the role and importance of law in the American constitutional system and issues regarding the judicial protection of individual rights. **High School Benchmark 1:** Understands how the rule of law makes possible a system of ordered liberty that protects

the basic rights of citizens. **High School Benchmark 5:** Understands how the individual’s rights to life, liberty, and property are protected by the trial and appellate levels of the judicial process and by the principal varieties of law (e.g., constitutional, criminal, and civil law).

**National U.S. History Standard 31:** Understands economic, social, and cultural developments in the contemporary United States. **High School Benchmark 5:** Understands major contemporary social issues and the groups involved (e.g., the emergence of the Gay Liberation Movement and civil rights of gay Americans).

**California State HSS Standard 12.5:** Students summarize landmark U.S. Supreme Court interpretations of the Constitution and its amendments. (4) Explain the controversies that have resulted over changing interpretations of civil rights . . . .

**California HSS Framework (2016), Chapter 16, Grade Eleven:** “Students also examine the emergence of a movement for LGBT rights, starting in the 1950s . . . .” (p.421).

**California HSS Framework (2016), Chapter 17, Grade Twelve:** “Subsequent Court cases addressed the rights of . . . the lesbian, gay, bisexual, and transgender community . . . .” (p. 445).

**Common Core State Standards:** SL 11-12.1, SL 11-12.3, RH 11-12.1, RH 11-12.2, RH 11-12.3, RH 11-12.4, RH 11-12.10, WHST 11-12.1, WHST 11-12.2, WHST 11-12.9, WHST 11-12.10

### *Heian Japan and The Tale of Genji*

**National World History Standard 19:** Understands the maturation of an interregional system of communication, trade, and cultural exchange during a period of Chinese economic power and Islamic expansion. **Middle School Benchmark 2:** Understands different elements of Japanese feudal society (e.g., how the economic and social status of women and peasants changed in feudal Japanese society; how art and aesthetic values were cherished in the warrior culture in Japan and what this art reveals about Japanese values). **High School Benchmark 7:** Understands different social classes and gender roles in Japanese society (e.g., the role of social class, area, time, and age in determining women’s experiences).

**California HSS Standard 7.5:** Students analyze the geographic, political, economic, religious, and social structures of the civilizations of Medieval Japan. (5) Study the ninth and tenth centuries’ golden age of literature, art, and drama and its lasting effects on culture today, including Murasaki Shikibu’s *Tale of Genji*.

**Common Core State Standards:** SL.7.1, SL.7.3, RH.6-8.1, RH.6-8.2, RH.6-8.10, WHST.6-8.10, SL.9-10.1, SL.9-10.3, RH.9-10.1, RH.9-10.2, RH.9-10.10, WHST.9-10.10.

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## About Constitutional Rights Foundation

Constitutional Rights Foundation is a non-profit, non-partisan educational organization committed to helping our nation’s young people to become active citizens and to understand the rule of law, the legal process, and their constitutional heritage. Established in 1962, CRF is guided by a dedicated board of directors drawn from the worlds of law, business, government, education, and the media. CRF’s program areas include the California State Mock Trial, Expanding Horizons Internships, Civic Action Project, Cops & Kids, teacher professional development, and publications and curriculum materials. Learn more at [www.crf-usa.org](http://www.crf-usa.org).

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