

violation of Section 2(a) of the Lanham Act, the U.S. trademark law. The complaint suggested that the board could refuse to register trademarks that consisted of “scandalous matter” or that brought national symbols “in contempt, or disrepute.” Despite Harjo’s initial success before the board, the District of Columbia Circuit Court of Appeals later ruled in *Pro Football, Inc. v. Harjo* (D.C. Cir. 2005) that lower courts should consider whether Harjo’s initial claim was barred by the equitable doctrine of laches—that is, because of the delay in bringing up the matter, Harjo was no longer entitled to her claim.

In 2004 California adopted the Racial Mascots Act, which sought to ban use of the name “Redskins” for public school athletic teams. Although Gov. Arnold Schwarzenegger vetoed the law, at least one commentator believes the law may have been constitutional as applied to public schools, where pedagogical considerations might outweigh the desire of students for such names—if such sentiment existed (Brock 2005).

At the college level, in 2005 the National Collegiate Athletic Association ruled that teams at eighteen colleges and universities using Native American mascots would be ineligible to participate in NCAA postseason events. It later reversed its judgments for the Central Michigan University Chippewas, Florida State University Seminoles, Mississippi College Chocktaws, and University of Utah Utes, because they had received support from the tribes after whom they were named. Five other schools became eligible for postseason play after they changed their teams’ names. Officials at the University of Illinois at Urbana-Champaign won an appeal to the NCAA to keep using the names “Illini” and “Fighting Illini,” but in 2007 it dropped the use of its Chief Illiniwek mascot, whose “dance” was apparently not authentic to the tribe being depicted. In an earlier case involving the university, *Crue v. Aiken* (7th Cir. 2004), the Seventh Circuit Court of Appeals had upheld a decision holding as impermissible the university chancellor’s attempt to avoid NCAA sanctions by forbidding faculty members unhappy about what they viewed as the university’s use of racially demeaning stereotypes of Native Americans from communicating with prospective student athletes on the matter. The court found the chancellor’s actions to be an overly broad, content-based prior restraint.

Some observers believe the NCAA’s willingness to allow some Native American names while disapproving others could lead to challenges under the Constitution’s equal protection clause (Wolverton 2006). Alternatively, courts could

find that the NCAA did not follow designated processes or decide that NCAA actions were constitutional because they did not involve government action.

**See also** *Confederate Flag; Discrimination Laws; Political Correctness.*

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#### FURTHER READING

Blankenship, Justin G. “The Cancellation of Redskins as a Disparaging Trademark: Is Federal Trademark Law an Appropriate Solution for Words That Offend?” *University of Colorado Law Review* 72 (2001): 415–457.

Brock, Lauren. “A New Approach to an Old Problem: Could California’s Proposed Ban on ‘Redskins’ Mascots in Public Schools Have Withstood a Constitutional Challenge?” *Sports Law Journal* 12 (2005): 71–85.

Crowley, Brendan S. “Resolving the Chief Illiniwek Debate: Navigating the Gray Area between Courts of Law and the Court of Public Opinion.” *DePaul Journal of Sports Law and Contemporary Problems* 2 (2004): 28–69.

Wolverton, Brad. “Mascot Dispute Escalates.” *Chronicle of Higher Education*, May 12, 2006, A43–A44.

## Stamp Act of 1765

The Stamp Act of 1765 was ratified by the British parliament under King George III. It imposed a tax on all papers and official documents in the American colonies, though not in England. Included under the act were bonds, licenses, certificates, and other official documents as well as more mundane items such as plain parchment and playing cards. Parliament reasoned that the American colonies needed to offset the sums necessary for their maintenance. It intended to use the additional tax money to pay for war expenses incurred in Great Britain’s struggles with France and Spain.

The American colonists were angered by the Stamp Act and quickly acted to oppose it. Because of the colonies’ sheer distance from London, the epicenter of British politics, a direct appeal to Parliament was almost impossible. Instead, the colonists made clear their opposition by simply refusing to pay the tax. Prominent individuals such as Benjamin Franklin and members of the independence-minded group known as the Sons of Liberty argued that the British parliament did not have the authority to impose an internal tax. Public protest flared and the ensuing violence attracted broad attention. Tax commissioners were threatened and quit their jobs out of fear; others simply did not succeed in collecting any money. As Franklin wrote in 1766, the “Stamp Act would have to be imposed by force.” Unable to do so,

violent revolution. The First Amendment secures freedom of speech, the right to peacefully assemble, and the right to petition government. It also protects the freedom of the press.

**See also** *Constitutional Amending Process*; *Declaration of Independence*; *Franklin, Benjamin*; *Taxation of Newspapers*.

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#### FURTHER READING

Gibson, Lawrence H. *The Coming of the Revolution, 1763–1775*. New York: Harper and Row, 1954.

Morgan, Edmund S. *The Birth of the Republic, 1763–1789*. Chicago: University of Chicago Press, 1956.

### *Stanford v. Texas* (1965)

The Supreme Court decision in *Stanford v. Texas*, 379 U.S. 476 (1965), is important for tying together First and Fourth Amendment issues. It found that, pursuant to the Fourteenth Amendment, the Fourth Amendment regulations regarding using “general warrants” for search and seizure also applied to state governments, especially when items of expression, which are protected by the First Amendment, are among items to be searched or seized.

In December 1963, a local magistrate issued a search warrant in pursuit of any materials or documents related to the Communist Party of Texas in the private home of John William Stanford Jr. The organization had been declared unlawful by a state law known as the Suppression Act. The search resulted in the seizure of more than 2,000 books and pamphlets; however, none of the materials were related to the Communist Party of Texas. Accordingly, Stanford filed a motion with the magistrate, requesting annulment of the warrant and the return of his property. The lower court denied Stanford’s motion with no comment. According to statute, the local court was the final decision for this matter, which left the Supreme Court as the only avenue for appeal. The Court granted *certiorari* and found unanimously that the magistrate had issued a “general warrant,” or writ of assistance, which was prohibited by the Fourth Amendment.

Most of the Court’s opinion focused on the issue of warrants and the constitutional desire to prevent the issuance of warrants that are too broad. Justice Potter Stewart’s opinion for the Court observed that opposition to writs of assistance has largely grown out of the “history of conflict between the Crown and the press.” He wrote, “It was in enforcing the laws licensing the publication of literature and, later, in prosecutions for seditious libel that general warrants were sys-



This 1774 print shows Boston colonists pouring tea down the throat of a loyalist official whom they have tarred and feathered. Tax commissioners were commonly threatened with tarring and feathering when they tried to enforce the Stamp Act of 1765.

Parliament repealed the Stamp Act just one year later, on March 18, 1766.

The colonists may well have accepted the stamp tax had it been imposed by their own representatives and with their consent. However, the colonists’ emerging sense of independence—nurtured by the mother country and justified by their multiple interactions with other trading nations—heightened the colonists’ sense of indignation and feelings of injustice. Even had they submitted to it, there is little doubt that many would have been troubled by the negative impact of a tax on the free press. Scholars contend that the American separatist movement gained a great deal of influence as a result of its success in protesting the Stamp Act.

The act and the violence that erupted with its passage remained fresh in the young country’s memory. The crafters of the Constitution were careful to include safeguards against usurpations of freedom and the violence such acts could breed. Article 5 provides for a constitutional amending process, allowing for changes in the laws without resort to