

Index

- Abrams, Floyd, 59
 abuse provision, 99
 Adams, John, 18
 advisor theory, 41
 AI. *See* Artificial Intelligence
 Alexa, 59–60, 66
 algorithms, 33–35, 66
 Alien and Sedition Acts (1798), 18–19
Amusing Ourselves to Death (Postman), 22
 antidevice statutes, 81
 anti-Federalist paper, 18–19
 anti-regulatory tools, 140
Areopagitica (Milton), 4–5, 64–66
 Aristotle, 112
 artificial creations, 122
 Artificial Intelligence (AI), 27, 66–67, 111–112
 concerns about, 136–137
 constitutional protections of, 80
 domestic services with, 30
 First Order Robotics and, 28
 free speech and, 49
 intentional speakers in, 101
 law profession using, 135
 types of, 27–28
 artificial technology, 6–7
 artwork, 29–30
Ashcroft v. ACLU, 52
 attorneys, virtual, 29–30
 audience, mass, 14–15
Aurora (anti-Federalist paper), 18–19
 autonomy theories, 34, 39, 101, 133–134
 auto-pilot system, 28

 Bache, Benjamin, 17–19
 Bacon, Francis, 13–14, 119

 Bambauer, Jane, 40, 75, 92, 118–119
 advanced thinking from computers and, 72–73
 information access and, 41–42
 washing machine comments of, 120–121
 Benjamin, Stuart Minor, 35–36, 71, 92
 Berman, Harold, 9
 Berners-Lee, Tim, 23, 66, 121
 Berns, Walter, 53
Bigelow v. Virginia, 144
 Bill of Rights, 18
 Black, Hugo, 53
 Blackman, Josh, 35
 Blackmun, Harry, 43
 Blackstone, William, 15–17, 129
Bland v. Roberts, 89
The Boke of Magna Carta (Redman), 15
 book production, 16, 22
 Bracha, Oren, 33–34
 Brandeis, Louis, 118
Brandenburg v. Ohio, 117
 Brennan, William, 51
 Broadcast Decency Enforcement Act (2005),
 24–25
Brown v. Entertainment Merchants Association,
 43–44
 Burger, Warren, 51, 116–117
 Burrow, James, 15

 call-blocking tools, 64
 Calo, Ryan, 71, 111–112
 Camden, Charles Pratt, 16
 Canterbury (archbishop of), 10–11
 Cardozo, Benjamin, 119
 Catholic Church, 19
 cell phones, driving and, 56–57

- censorship, 16–17
 art of, 12
 First Amendment and, 118, 151
 free speech influencing, 49
 morality and, 24–25
 norms of, 49–50
 press regulations and, 17
 printed word and press, 17
 regulation and, 107
 typography relationship with, 19
 written word, 12–13
- Charles IX (king), 16
- Child Online Protection Act (COPA 1998), 25, 52
- Children's Internet Protection Act (2000), 143
- chirographic writings, 13
- Citizens United v. Federal Election Commission*, 104
- City of Cincinnati v. Discovery Network, Inc.*, 43
- civil society, 49–50
- Clanchy, M. T., 8, 124–125
- clear and present danger, 98
- Clor, Harry, 53
- Clyburn, Mignon, 64
- Cohen v. California*, 87
- Coke, Edward, 15
- Colbert, Jean Baptiste, 17
- Collins, Ronald, 72–74, 83–84, 88–93
 The Death of Discourse by, 52, 111, 116, 118
 Commentaries on the Laws of England (Blackstone), 15, 17, 129
- commercial speech, 43–44, 104, 144, 154–155
- communications
 with Alexa, 60
 delegation dependent, 66–67
 digital, 23
 electricity influencing, 20–26
 electronic, 64
 electronic speech in, 26
 evolution of, 4
 face-to-face, 3
 First Amendment and, 37, 67, 75
 free speech theory, 101–102
 Grimmelmann and meaning of, 72
 innovations, 119
 Internet technology for, 23
 meaning-making, 78
 messages in, 120–121
 in primitive societies, 7–8
 private mass, 58
 reader-response criticism and reception of, 76
 robotic, 4–5, 66, 121, 154
 robotic expression and process of, 54
 strict liability for, 98
 technologies relationship with, 4, 6, 67
- Communications Decency Act (1996), 25, 57
- communicative meaning, 72, 92–93
- computerized data, 41
- computers. *See also* Internet
 data regulations and, 41
 First Amendment rights and, 140
 information processing value of, 81
 programs for, 27
 regulation of, 41, 140
 thinking advanced by, 72–73, 76–77
- Connick v. Myers*, 95–96
- constitution, 56, 80, 154
- Cooper, Martin, 121
- COPA. *See* Child Online Protection Act
- corporate speech rights, 106–107
- coverage-protection dichotomy, 114
- Cranch, Mary, 18–19
- creative energy, 9
- criminal conduct, 79, 151
- critical spirit, 20
- culture
 Greek, 123–124
 oral, 124, 127
 print, 25
 television, 22–23
- d'Alembert, Jean, 14
- data, 41
- de Machlinia, W., 15
- The Death of Discourse* (Collins and Skover), 52, 111, 116, 118
- debt collection, 61
- deep learning, 132–133
- defamation, 57, 95
- delegation principle, 66–67
- Devil's Device, 13
- dialogic engagement, 111
- Dialogues between a Doctor of Divinity and a Student of the Common Law* (St. Germain), 15
- Dickens, A. G., 13–14
- Diderot, Denis, 14, 24, 26
- digital communications, 23
- Do Not Call Registry, 61–62
- domestic services, 30
- Domitian (emperor), 12
- do-not-disturb technology, 63
- DoNotPay, 135
- dooms, 9
- Douglas, William O., 53
- draft cards, 82
- driving, and cell phones, 56–57
- drones, 32–33, 138

- Dun & Bradstreet, Inc. v. Greenmoss Builders, Inc.*, 95–97
 Dworkin, Andrea, 53
 Dyer, James, 15
- editorial judgment, 36
 Edward I (king), 10
 electricity, 20–26
 electrified media, 21–22
 electronic communications, 64
 electronic speech, 26
 Elizabeth I (queen), 16
 Ellsberg, Daniel, 59
Encyclopedie ou Dictionnaire Raisonné des Sciences, des Arts, et des Métiers (Diderot and d'Alembert), 14
 “End Robocalls” campaign, 63
 enframing, 126
 England, 15–16
 English law, 128
 English Statute of Frauds, 15
 Enlightenment, 21–22
 entertainment, 22–23
 Equality Principle, 51
Erie v. Pap's A.M., 87
 expressive activities, 29–30, 87
 expressive meaning, 42
- FAA. *See* Federal Aviation Administration
 Facebook, 89
 face-to-face communications, 3
 fake-news botnet, 96, 105, 117–118
 Falk, Donald M., 36–37
 FCC. *See* Federal Communications Commission
 Febvre, Lucien, 16
 Federal Aviation Administration (FAA), 138
 Federal Communications Commission (FCC), 61–63
 Federal Trade Commission (FTC), 33, 61–62
 Fenno, John, 18
 Ferrara, Emilio, 96
 First Amendment, 18, 72
 boundaries of, 139–140
 censorship and, 118, 151
 Children's Internet Protection Act and, 143
 commercial speech tests of, 154–155
 communication and, 37, 67, 75
 communicative meaning of, 92–93
 computerized data and, 41
 editorial judgment protected by, 36
 electronic communications and, 64
 expressive meaning protected in, 42
 free speech and, 33–34, 38, 82, 142–143
 Free Speech Clause of, 46
 freedom of thought and, 78–79
 Google computers rights of, 140
 human-robotic interface and, 35
 IFS recognized in, 40, 94
 informations utility and, 46
 Joseph Burstyn, Inc. v. Wilson and, 24
 journalism and, 32–33
 knowledge creation and, 40
 listener rights and, 88
 listener utility and, 107
 Meiklejohn's philosophy on, 48
 negative liberty secured by, 117–118
 obscenity protections of, 25, 53, 117
 positive free speech theories and, 103
 privacy invasions and, 143
 protection analysis and, 112–113
 public concern and, 115
 rights-in-conflict in, 116–117
 robotic expression and, 39, 41–42, 60–61, 96–97, 113–114
 robotic speech and, 142
 robotic technologies and, 112
 search engine speech and, 34
 societal harm and, 63
 Supreme Court and, 55–56
 technology and, 32
 unprotected speech under, 57
 utility and, 72–73, 93, 107
 washing machines and, 80–81
 “The First Amendment in an Age of Paratroopers,” 112
 First Order Robotics, 27–28, 45
 France, censorship in, 16–17
 Franklin, Benjamin, 21–22, 26
 free press clause, 137–138
 free speech
 abuse provision and, 99
 AI and, 49
 antidevice statutes and, 81
 censorship influenced by, 49
 First Amendment and, 33–34, 38, 82, 142–143
 freedom of thought and, 78
 generally applicable laws and, 80
 human self-expression in, 42–43
 positive and negative, 101, 103
 robotic expression and, 32–33, 53–54, 116
 robots protection of, 75
 technological advancement and, 51
 utility of, 48, 50, 83
 Free Speech Clause, 46
 Free Speech Principle, 91–92

free speech theory, 39, 103
 communication technologies in, 101–102
 duplicity of, 101
 legal risk and, 79
 norm of utility in, 102
 robotic expression and, 112
 speaker autonomy in, 101
 freedom of expression, 4–5, 41
 freedom of speech, 17, 32, 34
 freedom of thought, 40, 78–79, 119
 French Declaration of the Rights of Man and of
 Citizens, 99
 Froomkin, Michael, 71
 FTC. *See* Federal Trade Commission
 future predictions, 132–133

Garrison v. Louisiana, 95–96, 115
 Gates, Bill, 30–31
Gazette of the United States, 18
 Goody, Jack, 125, 127
 Google, 33–35, 66, 139–140
 government regulation, 91, 148–149
The Great Boke of Statutes (Redman), 15
 Great Charter of Liberty, 10
 Greek culture, 123–124
 Grimmelmann, James, 40, 85, 113–114
 advisor theory from, 41
 communications meaning from, 72
 search engine ratings and, 40
 washing machine comments of, 120
 Gutenberg, Johannes, 13–14, 16, 66, 121
Gutenberg Bible, 13
 Gutenberg Revolution, 13–14

Havelock, Eric, 123–124
 Hawking, Stephen, 30–31
 Heidegger, Martin, 126
 Hillis, Danny, 86
 Holmes, Oliver Wendell, 98
 human behavior, 127
 human interactions, 10
 human knowledge, 118
 human self-expression, 42–43
 humanoid robots, 136
 human-robotic interface, 35

IFS. *See* intentionless free speech
 illiterate societies, 124–125
 The Index Librorum Prohibitorum (“List of
 Prohibited Books”), 12–13
 information
 Bambauer and access to, 41–42
 computers processing of, 81
 data, 41

fiduciaries, 99
 First Amendment and utility of, 46
 prescriber-identifying, 81–82
 privacy and, 60
 robo-trader transmitting, 90–91
 robots conveying meaningful, 46, 113
 Innocent VIII (pope), 49–50
Institutes (Coke), 15
 Institutional Review Boards (IRBs), 79
 intelligence, 29–31, 122, 136–137
 intent, 79, 90, 97–98
 intentional speakers, 101
 intentionless free speech (IFS)
 First Amendment recognizing, 40, 94
 human intent in, 90
 listener-oriented theory and, 90–91
 meaningful speech and, 88
 recognition of, 42–45
 robotic expression and, 112–113, 142
 strict liability and, 98
 intentionless meaning, 141–142
 interactive computer services, 57
 Internet
 communications technology and, 23
 growth of, 51
 porn sites on, 24
 robotic communications on, 154
 interrobotic exchange, 113–114
 IRBs. *See* Institutional Review Boards

 Jansen, Sue Curry, 12
 Jefferson, Thomas, 19
 Johnson, Bruce, 73, 94
Joseph Burstyn, Inc v. Wilson, 24
 journalism, 29–30, 32–33
 just society, 155

 Kaminski, Margot, 49, 100
 Katsh, M. E., 125
 Kendrick, Leslie, 38–39
 Kennedy, Anthony, 46
 Kittlaus, Dag, 132
 knowledge, 40
 Kolber, Adam, 81

 language, 7–8, 48
 law, 30–31
 AI and profession of, 135
 dissemination of, 138
 England printing, 15–16
 free speech and generally applicable, 80
 freedom of thought and, 79
 just society and, 155
 robocalls and state, 62–63

- lawless principles, 18–19
- learning, 28, 30, 132–135
- LeBlanc, Travis, 61–62
- legal risk, 79
- legislation, 148–149
- Leo X (pope), 13–14
- liability, strict, 98
- Liberty Principle, 51
- Licensing Order of 1643, 65
- light bulbs, 86, 89, 91
- Liquormart, Inc. v. Rhode Island*, 43–44
- List of Prohibited Books (The Index Librorum Prohibitorum), 12–13
- listener-oriented theory, 90–91
- listening, 76
 - assessment, 105, 107
 - rights, 88, 106–107
- Llewellyn, Karl, 51
- Louis XIV (king), 17
- luminance, 135
- Luther, Martin, 13–14
- Lutheranism, 14
- machine learning, 28, 132–133, 135
- machine speech, 71
- machine thinkers, 78, 119
- MacKinnon, Catharine, 53
- Madison, James, 18, 65
- Magna Carta, 10–11
- Mapplethorpe, Robert, 53
- Marshall, Thurgood, 143–144
- Martin, Henri-Jean, 16
- Martin v. Struthers*, 42
- Mason, Stevens Thompson, 19
- mass audience, 14–15
- mass media, 54
- Massaro, Toni, 49, 100
- McLuhan, Marshall, 121
- McNealy, Scott, 58
- meaning making, 88
 - communications, 78
 - communicative, 72, 92–93
 - expressive, 42
 - intentionless, 141–142
 - robo-trader objective of, 89–90
 - robots conveying information for, 46, 113
- media, 21–22, 54
- Meiklejohn, Alexander, 48–49, 51, 115
- memory, 9–10
- mental state, 79
- messages, 4, 36–37, 87, 120–121
- Mill, John Stuart, 50
- Miller v. California*, 25, 42–43, 51–52
- Milton, John, 4–5, 64–66
- modernity, 121
- morality, censorship and, 24–25
- More, Thomas, 15
- Morrison, Alan, 104
- Muehlegger, Erich, 56
- music, 29–30
- national security, 24
- Nebraska Press Association v. Stuart*, 116–117
- negative free speech, 101
- negative liberty, 117–118
- New Hampshire Town Library, 22
- New York Times, Inc. v. Sullivan*, 51, 59, 95–96, 98
- news stories, 29–30
- non-obscene pornographic speech, 43–44
- norms of utility, 50, 90, 92–93, 102, 115–117
- Norton, Helen, 49, 72–73, 100
- nude dancing, 87
- obscenity, 24, 51
 - First Amendment protection of, 25, 53, 117
 - pornography and, 42–44, 83
 - privacy and, 78
 - societal harms from, 57
 - Supreme Court cases of, 143–144
- O'Connor, Sandra Day, 61
- Ohm, Paul, 71
- On Dissent: Its Meaning in America* (Collins and Skover), 111
- On Liberty* (Mill), 50
- O'Neil, Catherine, 77
- Ong, Walter, 14–15
- oral culture, 124, 127
- oral history, 6–7, 9–10
- oral solemnities, 8
- oral traditions
 - creative energy in, 9
 - human interactions in, 10
 - print culture and, 25
 - recalled and repeated, 9
- orality
 - face-to-face communications in, 3
 - overcoming, 7–10
 - primary, 7–8
 - romantic quality of, 10
- Paleolithic paintings, 4
- pandemonium, 65–66
- Pasquale, Frank, 33–34
- Paul IV (pope), 12–13
- Pentagon Papers, 59
- Pepper (humanoid robot), 30, 135
- Persilly, Nathaniel, 105

- Phaedrus* (Plato), 6–8, 25
 Phillips, Whitney, 105
 philosophy of technology, 122
 Pinker, Steven, 76–77
 Pirker, Raphael, 32–33
 Plato, 6–8, 25
 Plowden, Edmund, 15
 Plucknett, Theodore F. T., 128
 political false speech, 154
 porn sites, 24
 pornography, 42–44, 83
 Pomutopia, 25, 52
 positive free speech, 101, 103
 Posner, Richard, 44
 Post, Robert, 34, 90, 114
 Postman, Neil, 22
 preliterate societies, 125
 prescriber-identifying information, 81–82
 presidential elections, 61, 96, 118
 Press Clause, 155
 press regulations, 17
 primary orality, 7–8
 primitive societies, 7–8
 print culture, 25
 printed word, 13–20
 printing press, 65
 danger of, 19
 defense of, 65–66
 Reformation influenced by, 14, 20
 prior restraint doctrine, 58
 privacy, 58
 First Amendment and invasion of, 143
 information and, 60
 liability, 95
 obscenity and, 78
 regulations, 77
 rights, 58
 robocalls invasion of, 61
 private mass communications, 58
 private-rights structure, 88
 protected speech, 89, 113
 protection analysis, 112–113
 public concern
 constitutional protections of, 154
 First Amendment and, 115
 reader-response criticism and, 153
 of robocalls, 103
 of robotic speech, 99
 speech and, 95–96
 public libraries, 22, 24
 public mass media, 54
 Pynson, Richard, 15

 Quilici, Alex, 60–61

 race-hate expression, 55
 Rastell, John, 15
 rational actor model, 104
 reader-response criticism, 37–38, 42
 communication reception in, 76
 public concern and, 153
 receiver's experience in, 94–95
 readers, 38
 reasonable person, 107
 receiver experiences, 94–95, 100
 reception theory, 94–95
 Redman, Robert, 15
Reed v. Town of Gilbert, 62–63
 Reformation, 14, 20
 regulations
 anti-regulatory tools and, 140
 censorship, 107
 computer, 41, 140
 data, 41
 government, 91, 148–149
 press, 17
 privacy, 77
 reinforcement learning, 132–133
 religious ceremony, 8
Reno v. ACLU, 51
 retail shopping, 29–30
Rickert v. State Pub. Disclosure Comm'n,
 154
 rights, 18, 58, 73, 88
 corporate speech, 106–107
 Google computers, 140
 listening, 88, 106–107
 rights-in-conflict, 116–117
 risk of harm, 106
 Robb, Roger, 59
 Robocall Strike Force, 63
 robocalls
 call-blocking tools for, 64
 fight against, 62
 inclusiveness and, 149
 legislation against, 148–149
 presidential elections with, 61
 privacy invasion by, 61
 public concern of, 103
 state laws against, 62–63
 technological fix for, 63
 ROBOCOP Act, 62
 robot law, 30–31
 robot trolls, 105, 117–118
 Robotalker, 147
 robotic communications, 4–5, 66, 121, 154
 robotic expression, 117
 communicative process from, 54
 computer programs for, 27

- costs and benefits of, 54–55
- First Amendment and, 39, 41–42, 60–61, 96–97, 113–114
- free speech and, 32–33, 53–54, 116
- free speech theory and, 112
- IFS and, 112–113, 142
- societal benefits of, 55
- societal harms from, 57
- utility of, 59
- robotic speech, 36, 38, 72, 85, 88
 - constitutional protection of, 56
 - First Amendment and, 142
 - human-robotic interface and, 35
 - public concerns of, 99
 - receiver experiences of, 100
 - rights of, 73
 - substantive messages from, 36–37
- robotic technologies, 112
- robo-trader, 45, 80–81, 89–91
- robots
 - categories of, 132
 - expressive activities of, 29–30
 - free speech protection for, 75
 - human interface with, 35
 - humanoid, 136
 - intelligence of, 29–31, 136–137
 - meaningful information from, 46, 113
 - Pepper as humanoid, 30, 135
 - speech intent and, 97–98
 - washing machines as, 120
 - what constitutes, 86
- Rorty, Richard, 142
- Roth v. United States*, 51–52, 143–144
- St. Germain, Christopher, 15, 129
- Scalia, Antonin, 44
- Schauer, Frederick, 53, 91, 139–140, 151
- scienter (intent), 39, 98
- scribal texts, 11–13
- search engines, 24, 33, 135
 - expression from, 37
 - First Amendment and speech of, 34
 - Grimmelmann and, 40
- Second Order Robotics, 29–30, 45
- sedition printer, 19
- self-driving cars, 81–82
- self-learning, 30, 133–134
- senses, five, 76
- sexual expression, 52
- Shanor, Amanda, 91
- Shoag, Daniel, 56
- Silverman, Brian, 86
- Siri, 27–28, 66, 88, 132
- Skover, David, 72–74, 83–84, 88–93
 - The Death of Discourse* by, 52, 111, 116, 118
- Slave Acts, 77
- smartphones, 23, 46
- social networks, 58
- society, 7–8, 124–125
 - benefits and harms to, 55, 57, 63
 - civil, 49–50
 - just, 155
- Socrates, 6–7, 25, 122
- Sorrell v. IMS Health Inc.*, 46, 82
- speaker autonomy, 101
- speaker-listener relationships, 106
- speakers'-intent approach, 87–89
- speech, 37, 39, 175.220. *See also* free speech; intentionless free speech; robotic speech
 - commercial, 43–44, 104, 144, 154–155
 - corporate rights of, 106–107
 - electronic, 26
 - freedom of, 17, 32, 34
 - IFS and meaningful, 88
 - light bulbs and, 86, 89, 91
 - machine, 71
 - message conveyed by, 87
 - non-obscene pornographic, 43–44
 - political false, 154
 - protected, 89, 113
 - public concern and, 95–96
 - search engine, 34
 - speakers'-intent approach and, 87–89
 - technologies, 76
 - unprotected, 57
 - utility and interest in, 103–104
 - violent video-game, 44
- speech-act theory, 92
- Speier, Jackie, 62
- Spence v. Washington*, 87
- spoken word, 7–8
- Stanley v. Georgia*, 78, 143–144
- Star Chamber's Decree, 17
- state laws, 62–63
- State of Arkansas v. James A. Bates*, 59
- state of war, 131
- Stephenson, Randall, 64
- Stevens, John Paul, 43–44, 51
- Stock, Brian, 127
- stock trades, 89–90
- Stone, Geoffrey, 18–19
- streaming services, 23
- strict liability, 98
- substantive messages, 36–37
- Sunstein, Cass, 53
- Supreme Court, 55–56, 143–144
- Surden, Harry, 28

- Technological Revolution, 20–21
 technology. *See also* computers
 artificial, 6–7
 call-blocking, 64
 censorship focus of, 16–17
 communications relationship with, 4, 6, 67
 do-not-disturb, 63
 First Amendment and, 32
 free speech and advancement of, 51
 in free speech theory, 101–102
 freedom of speech and, 32
 Internet, 23
 message permanence by, 4
 philosophy of, 122
 risk of harm exchange for, 106
 robocall fix from, 63
 speech, 76
 thinking, 76
 video game, 44
 Viv, 132
 voice amplified and transmitted by, 3
 television culture, 22–23
 temporal-spatial extension, 11
 terrorist activities, 131
Texas v. Johnson, 87
 Thamus (king), 6–7
 Theuth (king), 6–7
 thinker innovations, 118
 thinker-communicator divide, 119
 thinking technologies, 76
 Thomas, Clarence, 52, 148–149
 Tien, Lee, 92
 trinity of terror, 20
 true intelligence paradigm, 29, 136–137
 Typographic Man, 16
 typography, 14, 19

United States v. Alvarez, 97
United States v. O'Brien, 82–83
 unprotected speech, 57
 Unsolicited Communications Enforcement
 Network, 62

 utilitarianism, 50
 utility
 in commercial speech doctrine, 104
 coverage measurement of, 114
 derivative speech interest and, 103–104
 First Amendment and, 72–73, 93, 107
 of free speech, 48, 50, 83
 of information, 46
 listeners assessment and, 105, 107
 norm of, 90, 92–93, 102, 115–117
 of pornography, 83
 protected speech and, 113
 of robotic expression, 59

 video consumption, 23
 video games, 44
 violent video-game speech, 44
*Virginia State Board of Pharmacy v. Virginia
 Citizens Consumer Council*, 43
 virtual attorneys, 29–30
 Viv technology, 132
 voice, 3
 Volokh, Eugene, 35, 37, 137–138
 Voltaire, François, 14, 117
 voter polling, 61

 Waite, Matt, 33
 Warner, Mark, 96
 washing machines, 80–81, 120–121
 Watt, Ian, 125, 127
 wave poem, 38, 141–142
 We Robot conference, 71
Weapons of Math Destruction (O'Neil), 77
 Weiland, Morgan, 106–107
 Westboro Baptist Church, 95
 Wheeler, Tom, 63–64
 Wilson, Woodrow, 24, 131
 Winfield, Alan, 28
 World Wide Web. *See* Internet
 written word, 11–13
 Wu, Felix, 103
 Wu, Tim, 33–34, 71, 92