

# 8.3 Freedom of Speech and Press

*Government and Politics*

Essential question for this unit

*How much power should the government have?*

# Review Freedom of Religion

2 guarantees - prohibit establishment and protect free exercise

Separation of Church and State  
Religion and education

# The Right of Free Expression

Fundamental important purposes guaranteed  
by 1st/14th Amendments

give people the right to have their say AND  
the right to hear what others have to say.

intended to protect the expression of unpopular views  
some forms of expression *are not* protected by the  
Constitution

# The Right of Free Expression

Intended to protect the expression of unpopular views

Ex. 2011 *Snyder vs. Phelps*

Some forms of expression are not protected by the  
Constitution

**libel - false and malicious use of printed words**

**slander - false and malicious use of spoken words**

obscenities

fighting words and offensive speech

commercial speech

# Seditious Speech

**Sedition is the crime of attempting to overthrow the government by force or to disrupt its lawful activities by violent acts.**

Seditious speech is the advocating, or urging, of such conduct. It is not protected by the 1st Amendment.

Ex. Alien and Sedition Acts of 1789

# 1st Amendment and Symbolic Speech

People also communicate ideas by their conduct, by the way they do a particular thing.

**Symbolic speech - conduct that expresses an idea**

A person can “say” something with a facial expression or a shrug of the shoulders, or by carrying a sign or wearing an armband.

# 1st Amendment and Symbolic Speech

“Bong Hits for Jesus” Court case

<https://www.youtube.com/watch?v=6x5hL0d-vUU>

*Morse v. Frederick* (2007)

Student Free Speech

Court held 5-4 that the First Amendment does not prevent educators from suppressing, at a school-supervised event, student speech that is reasonably viewed as promoting illegal drug use is not allowed.



# 1st Amendment and Symbolic Speech

Examples of symbolic speech

picketing

burning draft cards to protest the war in

Vietnam

acts of dissent

campaign contributions

flag burning

# Supreme Court and Symbolic Speech

clear and present danger - limits on free speech if it presents clear and present danger to the public or leads to illegal actions

# Prior Restraint on Expression

While the Constitution allows government to punish some expression *after* they are made, with almost no exceptions government cannot curb ideas *before* they are expressed.

**prior restraint - government cannot stop ideas before they are expressed**

# Prior Restraint on Expression

Prior restraint examples

publications - free press does not allow a prior restraint on publication

Pentagon Papers - Court protected the newspaper right to publish classified documents

Supreme Court has approved a few prior restraints

prohibit distribution of political literature on military bases

CIA agents must never publish anything about the agency

# The Media in a Free Society

The 1st Amendment stands as a monument to the central importance of the media in a free society.

That raises the question: To what extent can the media be regulated by government?

# The Media in a Free Society

***Confidentiality:*** Can news reporters be forced to testify before a grand jury in court or before a legislative committee?

Can those government bodies require journalists to name their sources and reveal confidential information






Shield laws give reporters some protection against disclosing sources or other confidential information

# The Media in a Free Society

***Motion pictures:*** The Court declared that “the exhibition of moving pictures is a business and not part of the press of the country”. 1915

With that decision nearly every State set up movie review programs. People now rely on the film industry’s own rating system.

## Movie Review Board Rating Scale

RATING	IMAGE	DESCRIPTION
<b>G</b> General audiences		Contains nothing that would offend parents whose younger children view the motion picture.
<b>PG</b> Parental guidance		Parents may consider some material unsuitable for their children.
<b>PG-13</b> Parents strongly cautioned		Parents are more sternly warned that some material might not be appropriate for children under 13.
<b>R</b> Restricted		Contains adult themes; children under 17 required accompanying parent or adult guardian.
<b>NC-17</b> No one 17 and under		Content is appropriate only for an adult audience; no one under 17 is admitted.

SOURCE: Motion Picture Association of America

The Motion Picture Association of America issues its own rating scale. How does this system provide freedom of speech to this media while still protecting the public?



# The Media in a Free Society

***Radio and Television:*** both radio and television broadcasting are subject to extensive federal regulation

Broadcasting has the most limited 1st Amendment protections

Most regulation is based on the Federal Communications Act of 1934

Cable television has broader freedoms than traditional network television.

# The Media in a Free Society

***Commercial speech:*** speech for business purpose - advertising - not all is protected  
Government can prohibit false and misleading advertisements, and advertising of illegal goods and services.

1970 - Congress banned cigarette ads on radio and television (now includes chewing tobacco)

# Internet and Free Speech

At this time the Internet has generated only a handful of Supreme Court cases - each of them involving regulations to pornographic material.



# Review/Reflection

Review freedom of speech and press