


**A.P. GOVERNMENT**

Unit 3  
The Judiciary, Civil Liberties and Civil Rights

“Civil Liberties”  
Mr. Ahlberg


**Notes #2**



**A.P. GOVERNMENT**

## Civil Liberties

- The rights and freedoms that are protected from abuse by the government
- These are explained in the Bill of Rights
  - 1<sup>st</sup> 10 Amendments to the Constitution
- The Court must weigh the rights of the individual against the needs of society at large
  - None of the “guaranteed” rights are absolute



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## Bill of Rights


1. Religion, Speech, Press, Assembly, Petition
2. Right to bear arms
3. Prohibits quartering soldiers
4. Restricts illegal search and seizures
5. Provides for GRAND JURY, self incrimination, DOUBLE JEOPARDY, guarantees DUE PROCESS, regulates EMINENT DOMAIN



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## Bill of Rights

6. Speedy and Public Trial, Impartial jury of peers, know charges, confront witnesses, help from a lawyer
7. Jury trial in CIVIL cases
8. Cruel and Unusual Punishments, excessive fines or BAIL
9. All other individual rights not previously mentioned
10. Reserved Powers for states




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## Selective Incorporation

Application of the Bill of Rights to the states on a case by case basis


- *Gitlow v. New York* (1925)
  - First case to apply the 1<sup>st</sup> Amendment to the states
  - State limits on speech and press cannot exceed the limits allowed by the federal government
- Some Amendments have not yet been incorporated
  - 3<sup>rd</sup>, 5<sup>th</sup>, 7<sup>th</sup>, and 8<sup>th</sup>
  - These can still be restricted by the states



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## 1<sup>st</sup> Amendment

- Freedom of Religion
  - Establishment Clause (separation of church and state)
    - Lemon Test (*Lemon v. Kurtzman*)
    - Set a guideline to determine if a law violates the Establishment Clause in future cases



A.P. GOVERNMENT **This is the Lemon Test**




A.P. GOVERNMENT **This is NOT the Lemon Test**



A.P. GOVERNMENT **1ST Amendment**

**Freedom of Religion**


- Free Exercise Clause (religious practices/worship)
  - Government can not deny a person the freedom to practice a religion, as long as the practice does not break a previous law
    - » Human Sacrifice
    - » Polygamy
    - » Denial of medical treatment or education to children



"We're hoping to appease the tax gods by offering a human sacrifice and your name came up."

A.P. GOVERNMENT **1st Amendment**

- Freedom of Speech
  - Since 1950, the Court's position on free speech has been that it is essential to liberty and should be limited under extreme conditions or imminent threats
  - Limitations created by court cases
    - Clear and Present Danger
      - Most famous (Can't yell "Fire!" in a crowded theater)
    - Slander/Libel (False statements)
    - Obscenity
      - *Miller v. California* helped define what is obscene using 3 ?'s
    - Seditious Speech
      - Speech intended to incite violence or unrest



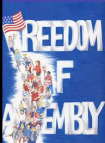
A.P. GOVERNMENT **1st Amendment**

- Freedom of Press
  - Fundamental struggle between the value of being informed versus national security
  - This Freedom has occasionally been controlled for security interests
  - PRIOR RESTRAINT
    - Censorship of news material before it is made public
  - Reporters and the Court
    - Not exempt from testifying in court and naming sources
  - SHEILD LAWS
    - Some states use them to protect reporters in state cases



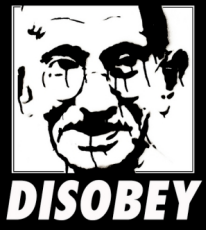

A.P. GOVERNMENT **1st Amendment**

- Freedom of Assembly
  - Does not extend to violent groups or demonstration that would incite violence
  - Reasonable restrictions can be placed on crowds or gatherings
    - Must be equally applied
    - Crowds can not disrupt day to day life
  - Freedom of Association
    - The Government cannot restrict the number or type of organizations people belong to unless they threaten public safety.




**A.P. GOVERNMENT** 1<sup>st</sup> Amendment

- Freedom to Petition the Government
  - People have the right to complain about the government to the government
  - Complaints must be submitted using proper and legal channels
- Civil Disobedience
  - Displaying the unfairness of a law by intentionally breaking the law

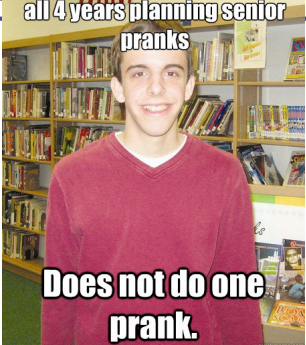


**A.P. GOVERNMENT** Is a School Prank Protected?



**A.P. GOVERNMENT** Most School Pranks

all 4 years planning senior pranks



Does not do one prank.

**A.P. GOVERNMENT** 2<sup>nd</sup> Amendment

- Right to own a gun
  - Most recent to be incorporated
  - Has been limited in the following ways
    - Types of guns
    - # of guns
    - Wait time to purchase a gun
    - Background checks



**A.P. GOVERNMENT** 3<sup>rd</sup> Amendments

- Protection from the Quartering of Soldiers
  - Only Amendment in the Bill of Rights to never have a case taken to the Supreme Court
  - US Military has always had separate areas to house soldiers

