The Unalienable Rights
Freedom of Religion
Freedom of Speech and Press
Freedom of Assembly and Petition
Bill of Rights

• The listing of the general rights of the people can be found in the first TEN amendments in the Constitution — Bill of Rights

• The 13th and 14th amendments have also added to the Constitution’s guarantees of personal freedom.
What’s the problem?

• End Women’s Suffrage!!!!

• Most Americans don’t know or understand their rights

• In fact-about 70% of Americans don’t know anything about their rights
  – 38% of Americans fail the citizenship test
  – 29% don’t know who the Vice President is
  – 6% don’t know when Independence day is
13th Amendment

- The 13th Amendment officially abolished slavery
  - It continues to prohibit slavery as involuntary servitude, except as punishment for a crime.

Amendment XIII -

1. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

2. Congress shall have power to enforce this article by appropriate legislation.
14th Amendment

- The 14th Amendment’s Due Process Clause provides that no State can:
  - “deprive any person of life, liberty or property, without due process of law...”.

- However, to include rights under that heading, the Supreme Court had to define the rights on a case by case basis, called the process of incorporation.
The Great Wall of Los Angles

How does the artist convey the conditions and feelings of the Japanese internees?
The 9th Amendment

- The Ninth Amendment states:
  - That the American people possess rights that are not set out explicitly in the Constitution.

- This has been used to protect rights
  - The rights of the accused
  - A woman’s right to abortion without undue interference by government.
Restricting Government Power

- The most famous of the Constitution’s guarantees apply only to the National Government – not the government of the States.
- The Supreme Court held that the Bill of Rights only restricts the National Government in – Barron v. Baltimore, in 1833.
Civil Liberties

• In general, civil liberties are protections against government.
• They are guarantees of the safety of persons, opinions, and property from arbitrary acts of government.
Limited Government

- Throughout the Constitution, the extent of governmental authority is strictly limited.
- The rights that the Constitution guarantees to citizens are also limited.
  - You are free to do as you please as long as you do not infringe upon the rights of others.
- Sometimes, different rights conflict with one another, such as the freedom of the press and the right to a fair trial.
Aliens

• Not all rights are guaranteed to aliens
  – Are foreign-born residents or non-citizens.
  – For instance, their right to travel is often restricted.
Two guarantees of religious freedom:

**Establishment Clause**
- Guards against establishing a mandated religion.
- In effect, freedom from religion

**Free Exercise Clause**
- Guards against the government interfering in the exercise of any religion.
- In effect, freedom for religion.
Separation of Church and State

Wall of Separation

- Church and government are constitutionally separated from one another.
- However, the government supports churches and religion in a variety of ways, including tax exemption.
Religion and Education

• The Supreme Court has had to consider many Establishment Clause cases that involve religion and education.
Religion and Education

**Released Time**—students can be released during school hours to attend religious classes, as long as the classes do not take place in a public facility.

**Prayers and the Bible**—the use of prayer and the Bible in a religious way is not allowed in school or at school functions.

**Student Religious Groups**—are allowed to meet in the school on the same basis as other student organizations.

**Evolution**—a doctrine can not be preferred or prohibited according to its relation to a religious theory.

**Aid to Parochial Schools**—the Supreme Court uses the *Lemon* test to determine what public funding of church-related schools is acceptable.
The Lemon Test

• The Lemon Test is based on Lemon v. Kurtzman, 1971.

• Pennsylvania's 1968 Nonpublic Elementary and Secondary Education Act:
  – Allowed the state Superintendent of Public Instruction to reimburse nonpublic schools (most of which were Catholic) for the salaries of teachers who taught secular material in these nonpublic schools, secular textbooks and secular instructional material

• Violated the Establishment Clause of the First Amendment.
Lemon Test Ruling

- The purpose of the governmental aid must be nonreligious.
- The governmental aid can neither advance nor inhibit religion.
- Aid must not excessively entangle the government with religion.
Which criterion do you think the courts would find most difficult to apply?

- The purpose of the governmental aid must be nonreligious.
- The governmental aid can neither advance nor inhibit religion.
- Aid must not excessively entangle the government with religion.
Do seasonal displays violate the separation of church and state?
The Free Exercise Clause

• You are allowed to practice religion freely unless:
  – Actions that violate social duties or disrupt social order are not covered under the Free Exercise Clause.
    • Bigamy (entering another marriage while still married)
    • Using poisonous snakes during religious ceremonies
    • Schoolchildren who have not been vaccinated
Free Exercise Clause Upheld

• The Court has found many government actions to be counter to the Free Exercise Clause.
  – Amish children cannot be forced to go to school after grade 8
  – Ministers are allowed to hold elective office
  – Unemployment benefits cannot be denied to someone who quit their job because of religious beliefs
Freedom of Speech and Freedom of Press guarantees are meant to:

• Protect each person’s right of free expression
  – Spoken
  – Written
  – Communicated in any other way.

• Protect all persons’ right to a complete discussion of public affairs.
Freedom of Speech and Press do not protect:

• Libel
  – the false and malicious use of written words

• Slander
  – the false and malicious use spoken words

• Obscenity

• Words that incite others to commit crimes
Do we really have the freedom of speech?
Seditious Speech

• Sedition is the crime of:
  – attempting to overthrow the government by force
  – to disrupt its lawful activities by violent acts.

• Seditious speech is speech that urges such conduct.
How might careless conversation endanger ships during wartime?
The Sedition Act of 1917

- Made it a crime to encourage disloyalty or spread anti-government ideas during a time of crisis.
- Upheld by the Supreme Court in instances of “clear and present danger.”
The Smith Act of 1940

- Forbade advocating violent overthrow of the government
  - belonging to any group that does.

- The Supreme Court still upholds the constitutionality of the law
  - Over time has modified it so that it is difficult to enforce.
“You Lied!!!”

• Is it constitutionally right to criticize a public official?

Rep. John Wilson
Obscenity

• Obscenity Test laid out in Miller v. California, 1973
  – The average person finds that the work appeals to “prurient interests” judging from contemporary standards.
  – The work describes offensive sexual conduct that is specifically outlawed as obscene.
  – The work lacks serious value of any variety.
Prior Restraint

• In most cases, the government cannot curb ideas before they are expressed.
• It can punish ideas after they are expressed.
The Media

The Relationship between the Freedom of Speech and Press Amendments and the Media:

- **Confidentiality:** Since the Supreme Court found that the Constitution does not allow members of the news media to keep their sources confidential in a court of law, 30 states have passed **shield laws** to give reporters some protection against having to reveal their sources.

- **Motion Pictures:** In *Mutual Film Corporation v. Ohio*, 1915, the Supreme Court held that motion pictures were a business, not a form of expression, and so were not protected under the freedom of expression guarantees. The Court reversed this decision in *Burstyn v. Wilson*, 1952.

- **Both Radio and Television Media** are subject to more government regulation than other forms of expression because they are transmitted by “public airwaves.”
Does the First Amendment protect teenagers right to see whatever movie they wish?
Symbolic Speech

• Symbolic speech is expression by conduct.
• Picketing, the patrolling of a business site by workers on strike
  – A prevalent form of symbolic speech.
Was this demonstration protected by the First Amendment?
Commercial Speech

- Commercial Speech is speech for business purposes, usually advertising.
- For many years, it was believed that the 1st and 14th amendment guarantees did not protect advertising.
  - In a handful of decisions in the 1970s, the Court held that advertising was protected, but not without exceptions.
    - barring false
    - misleading advertisement
    - advertising illegal goods or services
    - the promotion of tobacco products on the radio or television.
Assembly

• The Constitution guarantees
  – “...the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.”

• The right to assemble, or gather with one another to express views.
• The right to bring views to the attention of public officials.
The government can make and enforce rules regarding the time, place, and manner of assemblies.
Restrictions

• An example of such a rule is that public areas near schools and courthouses are restricted.
• The government’s rules must be content neutral.
• They can place restrictions of the basis of:
  – time
  – place
  – manner of the assembly
  – but not on what the assembly is trying to say.
Public Property

Restrictions on the right to demonstrate:

*Cox v. New Hampshire, 1941*: the Supreme Court approved a State law requiring a license to hold a parade on a public street.

*Gregory v. Chicago, 1969*: so long as demonstrators act peacefully, they cannot be held accountable for disturbances that arise because of their demonstration.

Private Property

- The rights of assembly and petition do not give people a right to trespass on private property.
- States can interpret their constitutions to require owners of private property to allow people to petition on their property.
  - Such as shopping centers
Freedom of Association

• The guarantees of freedom of assembly and petition include a right of association—the right to associate with others to promote causes.
• State cannot force an organization to accept members when that association would contradict what the organization believes in.