

Civil Liberties

- **Definition**—Constitutional and legal protections against government infringement on a host of personal freedoms, most of which are mentioned in the Bill of Rights.

The Bill of Rights

- Origins: colonists' fear of a tyrannical government; Constitution did not explicitly guarantee rights.
- Federalists agreed to amend the Constitution to include a Bill of Rights after ratification, placing limitations on the government, and thus protecting citizens' civil liberties.

Bill of Rights

1. Freedom of religion, press, and assembly	6. Speedy trial, impartial jury, lawyer
2. Right to bear arms	7. Trial by jury
3. No quartering of troops in private homes	8. No excessive bail; no cruel and unusual punishment
4. Unreasonable searches and seizures prohibited	9. Enumerated rights do not preclude other rights
5. No double jeopardy, due process, private property	10. Powers reserved for states

The Bill of Rights and State Governments

- While the Bill of Rights protected the people from the national government it *did not protect the people from state governments.*
- In 1868 the Fourteenth Amendment became a part of the Constitution, imposing step-by-step, most of the Constitutional protections of civil liberties upon state governments.

First Amendment

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

Freedom of Speech

- **Political Speech**
 - the freedom to criticize the government's actions and policies, written or spoken
- **Symbolic Speech**
 - Speech that takes the form of actions or symbols instead of words, such as flag-burning or making campaign contributions.
- **Hate Speech**
 - speech designed to anger or alarm on the basis of race, color, creed, religion, or gender
- **Obscenity and pornography**

Restrictions on Speech

- **“clear and present danger”**: government repression of dissent is “a question of proximity and degree”
- An idea has to be dangerous and not just disliked to pose a threat to society
- Speech has to incite “imminent lawless action” in order for government to have the ability to suppress it Libel and Slander

**As Introduced
126th General Assembly
Regular Session
2005-2006**

S. B. No. 24

Senators Mumper, Jordan, Cates, Wachtmann

A BILL

To enact sections 3345.80 and 3345.81 of the Revised Code to establish the academic bill of rights for higher education.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 3345.80 and 3345.81 of the Revised Code be enacted to read as follows:

Sec. 3345.80. The board of trustees of each state institution of higher education, as defined in section 3345.011 of the Revised Code, and the board of trustees or other governing authority of each private institution of higher education that holds a certificate of authorization issued under section 1713.02 of the Revised Code shall adopt a policy recognizing that the students, faculty, and instructors of the institution have the following rights:

(A) The institution shall provide its students with a learning environment in which the students have access to a broad range of serious scholarly opinion pertaining to the subjects they study. In the humanities, the social sciences, and the arts, the fostering of a plurality of serious scholarly methodologies and perspectives shall be a significant institutional purpose. In addition, curricula and reading lists in the humanities and social studies shall respect all human knowledge in these areas and provide students with dissenting sources and viewpoints.

(B) Students shall be graded solely on the basis of their reasoned answers and appropriate knowledge of the subjects and disciplines they study and shall not be discriminated against on the basis of their political, ideological, or religious beliefs. **Faculty and instructors shall not use their courses or their positions for the purpose of political, ideological, religious, or antireligious indoctrination.**

(C) **Faculty and instructors shall not infringe the academic freedom and quality of education of their students by persistently introducing controversial matter into the classroom or coursework that has no relation to their subject of study and that serves no legitimate pedagogical purpose.**

(D) University administrators, student government organizations, and institutional policies, rules, or procedures shall not infringe the freedom of speech, freedom of expression, freedom of assembly, and freedom of conscience of students and student organizations.



Larry Mumper
Republican
Ohio State Senate
Marion, OH
Elected, 1997



- "If the system were fair," says Larry Mumper, sponsor of the Ohio bill, "Rush Limbaugh and Sean Hannity would be tenured professors somewhere."
- "Why should we as fairly moderate to conservative legislators continue to support universities that turn out students who rail against the very policies that their parents votes us in for?" (*Columbus Dispatch*, January 30, 2005)

Freedom of the Press

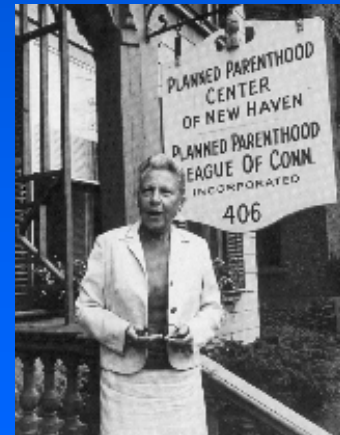
- No prior restraint: Censorship of the news by government officials before it is printed or broadcast has been rejected by the Court on several occasions.
 - *Near v. Minnesota* (1931)
 - *New York Times v. United States* (1971)

Religion

- Display of Ten Commandments
 - *McCreary County, Ky., v. American Civil Liberties Union of Kentucky* , and *Van Orden v. Perry* (June 2005)
- Pledge of Allegiance—”one nation under God”
 - *Elk Grove Unified School District v. Michael A. Newdow* (2004)
 - *Newdow v U.S. Congress* (September 14, 2005, Eastern District of California)

Privacy

- *Griswold v Connecticut* (1965)
- Connecticut state law:
 - "Any person who uses any drug, medicinal article or instrument for the purpose of preventing conception shall be fined not less than fifty dollars or imprisoned not less than sixty days nor more than one year or be both fined and imprisoned."
 - Any person who assists, abets, counsels, causes, hires or commands another to commit any offense may be prosecuted and punished as if he were the principal offender."
 - State law challenged by Estelle Griswold



Privacy (cont.)

- Supreme Court struck down Connecticut statute on grounds that married couples are guaranteed a “zone of privacy” by the Bill of Rights and previous judicial decisions.
- **Amendment IX**
 - “The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.”
- *Roe v Wade* (1973)