

The Bill of Rights and **FREEDOMS OF THE PRESS, ASSEMBLY, AND PETITION**

First Amendment freedoms like press, assembly, and petition are essential to self-government. The Founders saw these freedoms as a bulwark of free, republican government and a means of assuring justice in government.

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; of 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.

—FIRST AMENDMENT

The Bill of Rights and FREEDOMS OF THE PRESS, ASSEMBLY, AND PETITION

The entire American Founding era showed how important the freedoms of press, petition, and assembly were to self-government. The Founders believed these freedoms were infringed upon by the British government leading to the writing of the Declaration of Independence and the American Revolution. Freedom of the press was especially important for revolutionary leaders to get the word out to citizens about these infringements, and to gain support for the separation from England.

The Founders knew that the power of an individual's voice is amplified when he can freely come together with citizens of like mind and they can speak as one. Individuals in the United States have organized, demonstrated, petitioned, and protested in a variety of ways and on a variety of topics since our very beginnings. These rights, however, are not unlimited and must find balance with the equal rights of others.

UNIT OBJECTIVES

Students will:

- Understand that a free press empowers citizens to seek out multiple points of view on issues and make informed choices.
- Understand that a free press empowers citizens to make informed decisions about candidates for public office.
- Understand that a free press is essential for self-government.
- Understand the history and tradition of the rights of petition and assembly.
- Identify ways in which Americans petition the government, past and present.

SYNOPSIS OF LESSONS

Lesson 1: Why Does a Free Press Matter?

Students examine the history of press freedom and, by seeking out information on constitutional issues from multiple sources, begin to understand ways a free press makes self-government possible.

Lesson 2: Why Are the Rights to Assembly and Petition Important to Liberty?

Students explore these rights and their importance to self-government.



CONSTITUTIONAL PRINCIPLES

- Civil Discourse
- Individual Responsibility
- Liberty



FOUNDERS' QUOTES

"The basis of our governments being the opinion of the people, the very first object should be to keep that right; and were it left to me to decide whether we should have a government without newspapers or newspapers without a government, I should not hesitate a moment to prefer the latter."

—THOMAS JEFFERSON, 1787



KEY TERMS

Libel

Sedition Act of 1798

Why Does a Free Press Matter?

LESSON OVERVIEW

Students examine the history and importance of press freedom and, by seeking out information on constitutional issues from multiple sources, begin to understand ways a free press makes self-government possible.

LESSON OBJECTIVES

Students will understand:

- A free press is essential for self-government.
- A free press empowers citizens to seek out multiple points of view on issues and make informed choices.
- A free press empowers citizens to make informed decisions about candidates for public office.

CONSTITUTIONAL PRINCIPLES

- Civil Discourse
- Individual Responsibility
- Liberty

MATERIALS

- Handout A: Background Essay - Why Does a Free Press Matter?
- Handout B: A Free Press and the Candidates
- Handout C: Letter from a Friend

RECOMMENDED TIME

Two 50-minute class periods.

STANDARDS

- NCHS (5-12): Era III, Standards 1A,1B, 3A, 3B
- CCE (9-12): IIA1, IID1, VB1, VD1
- NCSS: Strands 2, 6, and 10
- Common Core (9-12): RI.8, RI.9

LESSON PLAN

Background/Homework

20 minutes the day before

Have students read the **Handout A: Background Essay - Why Does a Free Press Matter?** and answer the critical thinking questions.

Warm-Up

10 minutes

- A. Brainstorm key issues in a current or upcoming national election. Keep a list on the board as ideas are generated.
- B. For each issue, write at least one question about candidates to determine their approach to the issue. Encourage students to focus their questions on the constitutional role (Senator, House Member, President, etc). If needed, review the Constitution. For example:
 1. What is [candidate's] approach to policy-making?
 2. What would be the criteria [candidate] would use to appoint or approve Supreme Court justices (Senate/President)?
 3. What does [candidate] believe should be the federal government's approach to the economy?
 4. How did [candidate] conduct himself when he or she was a in a different role in government?
 5. Decide on the best questions, and have students write them down in the left-hand column of **Handout B: A Free Press and the Candidates**.
- C. Note: For this part of the activity, students should all work with the same set of questions.

Activity 1

70 minutes – including time for independent research

- A. Assign half the class to one major candidate and the other half to the other major candidate for a specific race.
- B. Within each half, have students work in pairs to research answers to the questions using only one type of source. For example, one pair would work to answer the questions using **ONLY** the candidates' websites. Another pair would answer them using **ONLY** blogs, and so on. *Variation: assign left-of center blogs to one pair, and right-of center blogs to another pair.*
- C. After students have had time to do adequate research, reconvene the class. Read the first question aloud, and have one pair of students who used only the candidate's website share what they learned.
- D. Ask the remaining students if anyone learned anything else or anything different by using any of the other news media sources. Have additional pairs share what they learned until all questions and sources have been covered.

- E. *Alternate activity: Have students work individually or in pairs to research answers to a single question from all of the sources. For example, have a pair find out the answer to “Where do you stand on the use of drone surveillance of American citizens?” using the candidate’s website, a mainstream media source, a left- and right-of center blog, and by calling or writing to the candidate’s office. Then have them answer the question, “How would you summarize the differences in the information you received from these various sources?”*

Wrap-Up

20 minutes

- A. As a class, discuss the following questions as a large group.
1. What does it mean for a candidate to be “vetted” before an election?
 2. What is the role of a free press in vetting candidates?
 3. Who else participates in vetting candidates?
 4. Why is it important to seek out multiple points of view on candidates for public office?
 5. How would our lives be different if the only information citizens could access from candidates came from the candidates’ campaigns?
- B. Point out to students how an election is just one event, and that American citizenship requires that they remain informed on political issues. It is critical that citizens are free to publish their ideas and read the ideas of others in order for self-government to succeed. Discuss the following questions as a large group.
1. How would our lives be different if the only information citizens could access from candidates – and other matters of public concern – came from official, state-run media?
 2. How would our lives be different if the only available information about government came from state-run media?
 3. Can people govern themselves without press freedom?

Homework/Extensions

- A. Have students imagine they are explaining press freedom to a friend living in another country where independent news is censored and only state-run media is allowed to exist. They should complete the activity on **Handout B: Letter from a Friend**.
- B. Have students do research to understand what political life is like in nations which do not have a free press. Students may begin their research at *Reporters Without Borders* or *Freedom House*. Questions students should consider:
1. What are some differences between a free press and state-run media?
 2. Should journalists be exempt from having to testify about the identity of their sources in criminal cases where information is illegally leaked?
 3. There is a fundamental right to speak freely and publish one’s sentiments. Is there a corresponding right to receive information? How, if at all, are these concepts different?

A

Why Does A Free Press Matter?

BACKGROUND ESSAY

First Amendment freedoms such as press, petition, and assembly are rights essential to self-government. The Founders saw press freedom as a bulwark of free, republican government and a means of assuring justice in government.

What Is The History of Press Freedom?

Press freedom is a traditional right, though its practical definition has changed over time. William Blackstone noted in *Commentaries on English Law* (1765-70): "The liberty of the press is indeed essential to the nature of a free state; but this consists in laying no previous restraints upon publication." Others, like the Enlightenment philosophers of the early 1700s, saw the printed word as a way to fight the abuse of power by making offenses known to a wide audience.

Nearly all of the American colonies protected the freedom of the press. At the time, freedom of the press was understood to mean that government could not censor the publication of material in advance, known as "prior restraint." Governments could, and did, punish people for what they wrote after the fact. The *Virginia Declaration of Rights* 1776 states, "the freedom of

the press is one of the great bulwarks of liberty, and can never be restrained but by despotic governments."

James Madison echoed the *Virginia Declaration* during the debate over the Bill of Rights in the House of Representatives, saying, "The people shall not be deprived of their right to speak, or write, or to publish their sentiments; and the freedom of the press, as one of the great bulwarks of liberty, shall be inviolable."

The Founders also valued newspapers themselves, because they helped support an informed citizenry. Thomas Jefferson wrote in 1787, "The basis of our governments being the opinion of the people, the very first object should be to keep that right; and were it left to me to decide whether we should have a government without newspapers or newspapers without a government, I should not hesitate a moment to prefer the latter." Newspapers were a means of informing the public in a society dedicated to self-government. The First Amendment, protecting the press from interference from Congress, was ratified in 1791.

The meaning of the First Amendment would become contested when the Federalist Congress passed the Sedition Act of 1798. The Act stated: "If any person shall write, print, utter or publish

... with intent to defame [the President or any member of Congress] ... into contempt or disrepute ... [he] shall be punished by a fine not exceeding two thousand dollars, and by imprisonment not exceeding two years." President John Adams, also a Federalist, claimed the law was not politically-motivated and was needed to avoid war with France. However, all 25 people arrested for breaking the law were members of the opposing political party. Madison and Jefferson each authored criticisms of Congress for passing the law (the Virginia and Kentucky Resolutions, respectively) charging that it violated the First Amendment.

Though some states supported the law, public opposition to the Sedition Acts was so great that many Federalists, including President Adams, were turned out of office, and Thomas Jefferson, head of the Republicans, was elected president in 1800. The Republican-controlled Congress allowed the law to expire. The Supreme Court was never asked to rule on its constitutionality. If it had, a primary defense of the Sedition Act would likely have been that it was not a prior restraint. Citizens were free to publish their thoughts. They were not, however, protected from criminal punishment after the fact. This traditional understanding of press freedom—no prior restraints—may explain the fact that some of the same officials who voted in Congress to approve the First Amendment also voted to approve the Sedition Act.

A Free Press and State Governments

The First Amendment served to protect the press from federal government censorship. State governments, however, routinely censored newspapers. For example, some Southern states censored abolitionist newspapers, and pro-slavery newspapers were censored in some Northern ones (as well as by President Lincoln) before and during the Civil War. Regulation of the press by state governments continued until 1931 when the Supreme Court applied the First Amendment's protection of press freedom to the states.



Press freedom is a traditional right, though its practical definition has changed over time.

The case of *Near v. Minnesota* (1931) involved a state policy that required newspapers to get official approval before publication. Publishers had to show “good motives and justifiable ends” for what they were about to print. If they could not, the paper would be censored. The Court held that this kind of prior restraint on the publication was “the essence of censorship” and the heart of what the First Amendment was designed to prevent. The Court also held that except in very narrow circumstances neither federal nor state governments could stop the publication of materials in advance.

The narrow requirements to justify prior restraints mean that broad claims of national security are not enough for government to stop publication in advance. In the case of *New York Times v. U.S.* (1971), the federal government attempted to prevent *The New York Times* and *The Washington Post* from publishing excerpts from the Pentagon Papers. The Pentagon Papers were illegally-leaked, classified documents that revealed U.S. government misconduct during the Vietnam War. The Nixon Administration claimed that making them public would be dangerous to national security.

The Supreme Court found the prior restraint unconstitutional: “The word ‘security’ is a broad, vague generality whose contours should not be invoked to abrogate the fundamental law embodied in the First Amendment... In the First Amendment the Founding Fathers gave the free press the

protection it must have to fulfill its essential role in our democracy. The press was to serve the governed, not the governors. Only a free and unrestrained press can effectively expose deception in government. In revealing the workings of government that led to the Vietnam War, the newspapers nobly did precisely that which the Founders hoped and trusted they would do.”

In this case, the Supreme Court emphasized that a key reason for the First Amendment was to ensure citizens could keep government accountable to the people. Since there was no specific threat to national security, the government failed to meet the “heavy burden of showing justification for the enforcement of such a [prior] restraint.”

What About Libel?

Like all individual rights, freedom of the press has limits defined by the equal rights of others. One example is libel – written or printed speech that is false and harms someone’s reputation. The legal definition of libel has changed over time, as has the broader definition of press freedom.

Truth was not a defense for libel. In the case of *People v. Croswell* (1804), Harry Croswell was convicted of libel for printing a story critical of President Thomas Jefferson in his newspaper. Alexander Hamilton represented Croswell on appeal and argued that truth should be a defense for libel. Croswell’s conviction was upheld, but the case led New York

to change its law to permit truth as a defense. Though not decided by the Supreme Court, *People v. Croswell* was a landmark case because Hamilton's arguments led New York to break from English tradition and the Sedition Act of 1798 in the definition of libel, resulting in greater press freedom for individuals.

In 1960, the Civil Rights Movement was gaining strength. Civil rights leaders ran a full-page ad in the *New York Times* to raise funds to help civil rights leaders, including Martin Luther King, Jr. Sixty well-known Americans signed it. The ad described what it called "an unprecedented wave of terror" of police brutality against peaceful demonstrators in Montgomery, Alabama. What it described was mostly accurate, but some of the charges in the ad were not true. For example, the ad said that police "ringed" a college campus where protestors were, but this charge was exaggerated. The ad also contained the false statement: "When the entire student body protested to state authorities by refusing to reregister, their dining hall was padlocked in an attempt to starve them into submission."

L.B. Sullivan was one of three people in charge of police in Montgomery. He sued the *New York Times* for libel. The ad did not mention Sullivan's name, but Sullivan claimed that the ad implied his responsibility for the actions of the police and that the ad damaged his reputation in the community. In the Alabama court, Sullivan won his case

and the *New York Times* was ordered to pay \$500,000 in damages.

The *Times* appealed the decision to the U.S. Supreme Court in *Sullivan v. New York Times* (1963). The newspaper argued that it had no intention of hurting L.B. Sullivan. The newspaper had no reason to believe that the advertisement included false statements, so it did not check their accuracy. The *Times* argued that if a newspaper had to check the accuracy of every criticism of every public official a free press would be severely limited.

In a unanimous decision, the Supreme Court ruled in favor of the *New York Times*. In order to prove libel, a "public official" must know that the newspaper acted with "'actual malice' – that is, with knowledge that it was false or with reckless disregard" for the truth. The Court asserted America's "profound national commitment to the principle that debate on public issues should be uninhibited, robust, and wide-open." Free and open debate about the conduct of public officials, the Court reasoned, was more important than occasional, honest factual errors that might hurt or damage officials' reputations.

The result of the Sullivan decision is that, generally speaking, it is very difficult for public officials to win in court if they accuse a publisher of libel. The Court ruled in 1987 that public officials cannot sue for emotional distress in libel cases unless the publication contained a false statement made with "actual malice."

Press Freedom Today

The information age and the rise of the security state have ushered in an expansion of press freedom, as well as new threats to it. On the one hand, the Internet has enabled citizens to publish their ideas and share them with a wide audience in ways that were never possible before. Prior restraints are much harder for government to impose when news can be posted online. Video sites like YouTube enable citizens to report on government action instantaneously. On the other hand, there have been numerous incidents where citizens recording police action

have had their cameras confiscated and faced prosecution for disturbing the peace or aiding the escape of a prisoner. American companies such as Google must also decide whether to disable certain search terms or otherwise assist oppressive governments in censoring the information people in their countries can access online.

In a time when anyone with a keyboard, a camera, and an internet connection can be a journalist, it is all the more critical that citizens are aware of the importance of press freedom, and their own role in keeping government within its constitutional limits.



Critical Thinking Questions

1. Historically, how has press freedom been understood?
2. The Sedition Act of 1798 seems blatantly unconstitutional to modern readers. What arguments might have been made in favor of its constitutionality in 1798?
3. Summarize the Court's ruling in *New York Times v. U.S.* Do you agree with the Court's reasoning?
4. What trade-offs does the Court identify in its ruling in *New York Times v. Sullivan*? Would you have come to the same conclusion if you had been deciding the case?
5. What do you think is the greatest threat to press freedom today? What can citizens do to ensure our free press endures?

B

A Free Press and the Candidates

Directions: Find out the answer to each question in the left column using the different sources listed. Write what you learn in the appropriate box.

QUESTION ABOUT PRESIDENTIAL CANDIDATE	INFORMATION FROM THE CANDIDATE'S WEBSITE	INFORMATION FROM A MAINSTREAM MEDIA OUTLET	INFORMATION FROM A BLOGGER	INFORMATION FROM SPEAKING/ WRITING DIRECTLY TO A CANDIDATE

Why Are the Rights to Petition and Assembly Important to Liberty?

LESSON OVERVIEW

Have you ever walked through a busy part of your city or town and seen a small group of citizens gathering signatures on a petition, or assembled in protest? Has a petition to change a school policy ever circulated through your school's hallways? If so, you've witnessed the power of the First Amendment in action. The Founders knew that an individual's voice is at its most powerful when he can freely come together with citizens of like mind and speak as one. People in the United States have organized, demonstrated, petitioned and protested in a variety of ways and on a variety of topics, many controversial, since our very beginnings. These rights, however, are not unlimited and must find balance with the rights and safety of others.

LESSON OBJECTIVES

Students will understand:

- Understand the history and tradition of the rights to petition and assembly.
- Identify ways in which Americans petition the government, past and present.
- Understand limitations on the right to petition and assembly.
- Create a petition pertaining to a social or political issue they care about.
- Appreciate the importance of the protections of assembly and petition to a free society.

CONSTITUTIONAL PRINCIPLES

- Civil Discourse
- Individual Responsibility
- Liberty
- Natural Rights

MATERIALS

- Handout A: Background Essay—Where Did the Rights to Petition and Assembly Come From, and How Do Americans Exercise Them?
- Handout B: Assembly and Petition True/False Challenge.
- Handout C: A Petition.
- Cut-Out: Assembly and Petition True/False Challenge

RECOMMENDED TIME

One 50-minute class period.

STANDARDS

- NCHS (5-12): Era III, Standard 3C
- CCE (9-12): IIA2, IIC1
- NCSS: Strands 1, 4, and 10
- Common Core: RI.4, RI.9, SL.1, SL.2, SL.4, SL.5, RH.7

LESSON PLAN

Background/Homework

15 minutes the day before

- A. Have students read **Handout A: Background Essay - Where Did the Rights to Petition and Assembly Come From, and How Do Americans Exercise Them?**
- B. After reading, students should answer the questions at the end of **Handout A**.

Warm-Up

5 minutes

Conduct a large group discussion on the following questions:

1. What does it mean to “assemble”? What is a “petition”?
2. What happens in a society when individuals cannot meet to discuss political ideas, or express their views to society and government leaders?
3. What types of petition and assembly have you seen in your school? Community?

Activity I

15-20 Minutes

- A. Prior to the start of class, cut out the numbered cards of **Cut Out: Assembly and Petition True/False Challenge**, and create 10 stations around your classroom.
- B. Distribute **Handout B: Assembly and Petition True/False Challenge**. Explain to students that they will travel from station-to-station in small groups, determining whether each station’s numbered statement, corresponding to the numbered statements on their handout, is either true or false. Instruct them to only complete the true/false line on their handout at each station during this portion of the activity.
- C. Position groups of 2-3 students at each station, having students bring **Handout B** and a pen/pencil with them. Start station rotation, giving 30 seconds for students to determine whether the first station’s statement is true or false. Continue rotation at 30 second intervals until all 10 stations have been visited by all groups.
- D. Return students to their desks. With both **Handout B** and the Answer Key in front of you, review statement 1, asking for a show of hands as to whether students believe it is a true or false statement. Then, read the answer for statement 1 from the Answer Key. Have students complete the “Reason, if applicable” portion of **Handout B** for statement 1, briefly summarizing the answer after you’ve read it.
- E. Continue process for statements 2-10, clarifying and discussing any questions or commentary regarding the answers as you go through them. Emphasize, where applicable, that the First Amendment limits only the government’s ability to regulate assembly and petition, and that individuals and private businesses do not have to let people assemble or petition on their property.
- F. Wrap-up by asking students if any of the answers surprised them.

Activity II

20 minutes

- A. Divide the class into groups of 4. Distribute **Handout C: A Petition**.
- B. Tell students that their group will create a petition on a social or political issue that matters to them. Read the directions of **Handout C** aloud, clarifying expectations and questions. Then, have students begin their group assignment, completing **Handout C**. Tell students they will only have 10-15 minutes for this portion of the activity.
- C. After 10-15 minutes, call the class together, but keep students in their groups. Have a member of each group read their completed **Handout C** to the whole class. As each group presents, write the topic of their petition on the board.
- D. After all groups have presented, review the petition topics you've written on the board. Tell students they're going to choose a class petition. Have students vote, narrowing it down to one petition that garners the most support amongst the class.

Wrap-Up

10 minutes

Choose one of the following options:

- A. Conduct a whole-class discussion on the following questions: Do you find it easier or more difficult to communicate your ideas by yourself, or together with others? Why was it important to allow everyone's petition an equal voice in class? What does this tell you about the importance of assembly and petition to both liberty and self-government?
- B. Use a teacher-created, free account on <http://www.gopetition.com/> or <http://www.ipetitions.com/>. Post the selected class petition online, checking on it over the next few days to see if it's received any outside support. You should create this account prior to the lesson.
 1. After posting it, browse through a few petitions that have been posted on the website by other citizens (if choosing this option, you should preview and select a few petitions ahead of time, controlling for appropriate content).
 2. After reviewing a few other petitions, ask students the following questions: In what ways are the website and its petitions similar to what the Founders envisioned when they protected the right to petition in the First Amendment? In what ways is it different? How does this website, and the petitions on it, give citizens a voice in government?

Homework and Extension Options

- A. Have students reflect on the class petition activity with a 2-3 paragraph response. Students should consider the following questions:
 1. If you supported the petition chosen by the class, what about it appealed to you? Were students who did not agree with you required to sign it? What does this tell you about liberty and self-government, for both those who opposed it and those who supported it?

If you did not support the petition, why not? Are you free to begin a petition of your own in opposition to it? What does this tell you about liberty and self-government, for both those

who opposed it and those who supported it?

2. Assume for a moment you support the class petition (even if you did not). What methods would you use to gather citizen support for it? Would you assemble with others? If so, what would that look like? If not, what would you do to convince government to listen to you and your ideas?
 3. Why are the rights to petition and assembly important to maintaining a free society?
- B. Using local media (your city's major newspaper/its website, local news stations/their websites), have students find a story or news article about a recent assembly or protest in your state capitol, or other prominent government building.

Have students write a short summary and opinion of the protest that includes the following information:

1. When/where/why the assembly or protest took place.
 2. The message of the protestors, and the ways in which they communicated their message.
 3. A brief explanation of why the assembly is protected by the First Amendment. Conversely, if the assembly was broken up by police, a brief explanation of why it might have been broken up, or otherwise not protected by the First Amendment.
- C. Have students research the guidelines for petitioning their school board. Facilitate the class's selection of an issue of importance to them (or, if the class petition that was chosen in Activity II pertains to an issue in your school/district, help the class refine it for use). Then, guide students through the process of initiating the petition with the school board, gathering signatures, and filing the petition.
- D. Divide students into groups of 2-4, and assign ONE of the following cases to each group (there will be overlap): *DeJonge v. Oregon* (1937), *Edwards v. South Carolina* (1963), *Cox v. Louisiana* (1965), *Gregory v. City of Chicago* (1969), *Coates v. Cincinnati* (1971), *Lloyd v. Tanner* (1972), *Snyder v. Phelps* (2011).
1. Have each group prepare a PowerPoint or Prezi presentation summarizing the facts of the case they were assigned, the ruling of the Supreme Court with regard to the First Amendment, and an explanation of why/how the case and ruling is important to us today. (Students can utilize <http://www.oyez.org> as an accurate research tool.) Students can either simply turn in their presentations to you, or present to the class.

A

Where Did the Rights to Petition and Assembly Come From, and How Do Americans Exercise Them?

BACKGROUND ESSAY

What is the History of the Rights to Petition and Assemble?

Have you ever walked through a busy part of your city or town and seen a small group of citizens gathering signatures on a petition, or assembled in protest? Has a petition to change a school policy ever circulated through your school's hallways? If so, you've witnessed the power of the First Amendment in action.

Of all of the protections contained in the First Amendment, the rights to petition and assemble are perhaps the oldest. In early English history, it was common for citizens to be punished for criticizing the government, as the King had absolute power. The Magna Carta (1215) began the process of placing limitations on his power and became the foundation for certain rights that would develop over time. One of the clauses contained in the Magna Carta allowed for groups of twenty-five barons to meet for the purpose of petitioning the king on behalf of their particular county. This right, however, was not absolute. Anyone signing a petition containing more than twenty names could be found guilty of "tumultuous petitioning," or creating widespread unrest among the people. The English Bill of Rights (1689) would finally expand this protection to all

people, and lifted the centuries old ban on "tumultuous petitioning." It reads: "[It is the right of the subjects to petition the king, and all...prosecutions for such petitioning are illegal."

As Englishmen, the people of revolutionary-era America could exercise these rights as well, and they did. When Parliament began taxing nearly all materials printed in America with the Stamp Act (1765), Americans were outraged. Colonies assembled in the Stamp Act Congress that same year, sending petitions and protests to the king and Parliament. The long tradition of protest continued as British treatment of colonial America worsened, culminating with the Olive Branch Petition of 1775. This last attempt to convince the king to address American complaints was met by a sharp response. King George declared the American colonies in rebellion. The Declaration of Independence (1776) charged the king with ignoring those petitions: "In every stage of these Oppressions We have Petitioned for Redress in the most humble terms: Our repeated Petitions have been answered only by repeated injury."

The Declaration of Independence reinforced the importance of petition and assembly to liberty and self-

government. As the Founders built a republic that sought to preserve our tradition of freedom, these two rights would come to be enshrined among the five protections of the First Amendment.

How Have Americans Petitioned the Government, and in What Ways Does Government Respond?

Americans have vigorously exercised their right to petition the government since the earliest days of the republic, petitioning on wide range of subjects.

When the American Anti-Slavery Society began a petition drive in 1834, Americans responded with more than 130,000 petitions to Congress in one year alone. Congress reacted by implementing a “gag rule”, automatically ignoring all slavery-related petitions. While the gag-rule remained in place for eight years, Americans pressed on, calling for Congress to end the terrible institution.

In the early twentieth century, citizen petitions were important in prompting states and Congress to address the abuses of child labor. Petitions even helped to convince Congress to enact prohibition, through the efforts of the Women’s Christian Temperance Union. Civil Rights activists such as Martin Luther King, Jr. continued this tradition. In 1963, King called for a March on Washington, and over 200,000 Americans responded, flooding the National Mall. Their form of petition, a show of force demanding that Congress act to expand civil and political rights for all, pressured the government

to pass the Civil Rights Act just 11 months later.

Americans today petition the government in all sorts of ways. We write letters, organize petition drives, sign online petitions and send emails. We can even petition through Facebook and Twitter. Indeed, technology makes petitioning the government easier than ever. Commercials calling on citizens to “contact your Member of Congress and Senators” or “contact the White House” can sometimes result in millions of phone calls and emails flooding switchboards and servers.

So, is government required to respond to our petitions? No, but in many ways, it does. The judicial branch accepts a form of petition that uses the legal process to right a wrong. Congress can address citizen grievances expressed through petition by changing a bad law, and the executive branch can do the same by directing government agencies to change the ways they enforce our many laws. Finally, many state constitutions allow citizens, through petition, to bypass the legislature by putting an issue on the ballot so that the public can decide on the issue.

What Does the Right to Assembly Protect, and What Are its Limits?

The right to assemble is integral to the rights of both speech and petition. The Founders knew the power of assembly to provide strength in numbers for the expression of citizen viewpoints ultimately bolstered self-government.



In 1963, hundreds of thousands of people participated in the March on Washington asserting their right to peaceably assemble.

The right to assemble, however, is not unlimited. Citizens may not, for example, assemble on private property without the permission of the property owner. The Supreme Court has also consistently ruled that all levels of government may pass reasonable laws regarding the time, place and manner of assemblies. Such laws always pose interesting questions regarding the protections of the First Amendment.

In 1977, the American Nazi Party announced its intention to march through the Village of Skokie, Illinois, a largely Jewish community in suburban Chicago. Two weeks after the Nazis applied for a permit to march, the Skokie Board of Commissioners passed an ordinance requiring marchers to post a \$350,000 insurance bond.

The Board later passed an ordinance banning distribution of printed materials that promote hatred of groups of people, or marching in military style uniforms. The Nazi group argued that these three laws were unconstitutional violations of the First Amendment. The case eventually went to the Supreme Court, which ruled that the Nazi Party could not be prohibited from peacefully assembling and marching because of the content of their message (*National Socialist Party of America v. Village of Skokie*, 1977). In short, you cannot be prevented from assembling simply because others disagree with you or find your ideas offensive.

There are other times, however, when a time, place or manner law has

been found by the Supreme Court to be a perfectly reasonable restriction of assembly rights. In 1992, a Florida court allowed for a 36-foot “buffer zone” around abortion clinics, banning protest assemblies in that area. The purpose of the ban was to allow potential patients and staff to enter the building freely, and the clinic itself to operate free of interference. In *Madsen v. Women’s Health Center, Inc.* (1994), the Supreme Court agreed, upholding the buffer zone. The restriction did not prevent the assembly or its content, but rather placed a restriction on its location. In 2000, the Supreme Court further defined this type of time, place and manner restriction on assemblies. Ruling on a similar state law in *Hill v. Colorado*,

the Court said it “is not a regulation of speech...rather, it is a regulation of the places where some speech may occur. [It does not] place any restriction on the content of any message that anyone may wish to communicate to anyone else.”

The Founders wanted the citizens of the United States to be free to discuss and debate political actions because they understood that liberty fed a growing nation. The First Amendment protects your right to gather with others and speak your collective mind in places and in ways that you feel will be most effective for the communication of your message, no matter how controversial. Your right to assemble, however, must always be balanced with the rights and safety of others.



Comprehension Questions

1. How did early English documents, such as the Magna Carta and the English Bill of Rights, develop and expand the rights to petition and assembly, and how did these rights influence the Founders?
2. How have Americans throughout history exercised the freedom of petition? In what ways do Americans today petition the government?
3. How was the Supreme Court’s ruling in *National Socialist Party of America v. Village of Skokie* (1977) important to defining the protections of the First Amendment’s right to assembly?
4. What types of limitations on assembly are acceptable? Provide an example.
5. What does the following statement say to you regarding the importance of petition and assembly? (Answer in 2-3 sentences): “It was not by accident or coincidence that the right to freedom [of] speech... [was] coupled in a single guaranty with the rights of the people peaceably to assemble and to petition for redress of grievances. All these, though not identical, are inseparable.” (Supreme Court Justice Wiley B. Rutledge, 1944)

B

Assembly and Petition True/False Challenge

1. My right to meet with others to discuss political ideas is protected by the First Amendment.
2. I have a First Amendment right to write a letter expressing my views, gather signatures on it to show that others agree, and then send the letter to my government leaders.
3. I have the right to hold a protest in the food court of a mall, so long as no shoppers complain.
4. I have the right to hold a protest with a group of others on the sidewalk of a public street next to the mall, even if it annoys those passing by.
5. I can hold a protest at or near my school, even if my goal is to disrupt classes.
6. The government can stop people from demonstrating if others might find the ideas of the demonstration unpopular or offensive.
7. I can hold a protest at midnight in a residential neighborhood about the town's skateboarding policy.
8. If I'm protesting in a public park, I still must follow all of the rules of the park that apply to all who visit it (trash, noise, posted hours of operation, etc.).
9. If I support a ballot measure, or just want some extra money, I can go to work for a political action committee to circulate petitions in support of the measure.
10. The family of a fallen service member can sue me for pain and suffering caused by my offensive protest near the funeral of their loved one.

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A Petition

Directions: Together with your group, create a petition regarding a social or political issue that matters to you. Your issue can be something pertaining to your school, community, state, or the nation. First brainstorm topics that matter to the members of your group. Then, settle upon one issue, and form a group position statement. Finally, state what you'd like to see done about this issue (a law, a policy, etc.).

PETITION TITLE

Issue & Statement Of Purpose:

Our Position:

What We'd Like To See Done:

JOIN US BY SIGNING BELOW!

NAME: _____ SIGNATURE: _____

NAME: _____ SIGNATURE: _____

NAME: _____ SIGNATURE: _____