TOPIC: FREE SPEECH IN AMERICA (HIST382)
Tuesdays, 3.30-6 PM
Location ICC 204A

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The freedom of speech and the press occupies an ambiguous position in the firmament of U.S. culture, politics, and law. On the one hand, the right to express one’s thoughts and opinions is enshrined not just in the First Amendment of the United States Constitution but in the constitutions of all fifty states and the Commonwealth of Puerto Rico. Politicians, journalists, and other commentators of every political and ideological stripe write and speak routinely about the importance of the freedom of speech and the press to U.S. society and politics. On the other hand, Americans have frequently tolerated, sometimes demanded, the introduction and enforcement of restrictions on ideas, texts, or even entire categories of speech that they find offensive or dangerous. This seminar will afford you the opportunity to examine how people in the United States have understood the freedom of speech and the press at key points in their history, including the Colonial and Founding Eras, the Civil War, World War I, and the Civil Rights Movement. Class meetings will revolve around the discussion of a mixture of primary and secondary sources that for the most part addresses the legal evolution of speech and press rights in the United States. You will also conduct a semester-long research project that will culminate with a 20- to 25-page paper that explores how the freedom of speech and the press shaped the lives of ordinary American men and women.
This course is a Doyle Seminar, part of the Doyle Engaging Difference Program, a new campus-wide curricular initiative, and gives faculty the opportunity to enhance the student research component of upper-level seminars that address questions of national, social, cultural, religious, moral, and other forms of difference. The Doyle seminars are intended to deepen student learning about diversity and difference through enhanced research opportunities, interaction with thought leaders, and dialogue with the Georgetown University community and beyond.

**Learning and Course Goals**

The learning goals for this course are consistent with those of the Georgetown University History Department. This semester, you will work to improve your ability to use evidence to develop analytical questions, craft original, well-balanced arguments, and participate in conversations inside the classroom and beyond. You will also have the chance to view the world from perspectives other than your own and learn about the distinctiveness of the past. In so doing, you will discover that, rather than a succession of names, dates, locations, and other “facts,” history consists of the study of human experiences, interactions, and relationships as they change over time. You will see that all historical work requires the organization, interpretation, and presentation of evidence, including primary and secondary sources. Lastly, you will learn to recognize, compare, and assess different interpretations of the past.

In terms of the content of this course, our focus will be on five major themes in the history of the freedom of speech and the press in the United States. By the end of the semester, you will be able to comment in depth on (1) the interplay between legal and popular understandings of the freedom of speech and the press, (2) the changing treatment of political protest, libel, obscenity, and other categories of speech in U.S. culture, politics, and law, (3) the relationship between free speech and other civil liberties such as the right to due process in criminal proceedings, (4) the intersection between the evolution of U.S. speech law and controversies over the powers of the federal government, and (5) the emergence of the Supreme Court as the principal guardian of speech and press rights in the United States.

**Course Readings**

This course has no textbook. Nearly all of the readings for this course will be available online through Canvas. You can access them by clicking on links embedded below. You will need to acquire the following two books from the University Bookstore or your preferred online bookseller:


Course Requirements

The course requirements consist of participation in class discussions and activities (including two “moot-court days”) and a semester-long research project that delves into the social history of the freedom of speech and the press in the United States. Your research project will consist of a 5-page primary source analysis, a 5-page proposal that outlines your research question and the sources that you will examine for your final paper, a brief oral presentation in which you will share your major findings with your classmates, and the rough and final drafts of a 20- to 25-page research paper that addresses some aspect of the history of free speech in the United States. In the calculation of your final grade, each of these assignments will be weighted as follows:

- Participation in class discussions 20%
- “Moot-Court Days” 10%
- 5-page primary source analysis 15%
- 5-page research proposal 15%
- Rough draft 10%
- Short oral presentation 5%
- Final draft 25%

Letter grades in this course will have the following numerical equivalents: A (94-100); A- (90-93); B+ (87-89); B (84-86); B- (80-83); C+ (77-79); C (74-76); C- (70-73); D+ (67-69); D (64-66); D- (60-63); and F (59 and below). Late assignments will be penalized one-third of a letter grade for every day that they are late. Failure to complete at least 90 percent of the assignments will result in an “F” for the course.

Class Participation. Your participation grade will be based on your contribution to classroom discussion and activities. Considering that we will meet just fourteen times during the semester, it is imperative that you attend every class meeting. You may miss one class meeting before it begins to affect your grade (see below for more information on my policy regarding unexcused and excused absences). Decent attendance and friendly silence during class will earn you a “B-.” To earn a better grade requires careful listening and thoughtful verbal contributions that leave room for others to participate as well.

“Moot-Court Days”. The moot-court days on October 10 and November 14 will afford you an opportunity to demonstrate your grasp of the content of the course, practice historical empathy, and improve your oral communication skills. As a class, we will roleplay two court cases that had a significant effect on the evolution of speech law in the United States. The first will be the 1879 prosecution of freethinker and publisher DeRobigne Mortimer Bennett under the Comstock Act for sending E.H. Heywood’s pamphlet Cupid’s Yokes through the mail. Second, we will roleplay the 1964 oral arguments before the U.S. Supreme Court regarding the libel suit of L.B. Sullivan, a commissioner for the city of Montgomery, Alabama, against The New York Times.

The readings for both moot-court days consist of primary and secondary sources that will outline the relevant statutes and case law and orient you to the major arguments or points of controversy in each case. I will inform each student whether they will be an attorney, a witness, a juror, or a Supreme Court justice the week before (I will be playing the judge on October 10 and the
bailiff/court reporter in November 14). I will also circulate a detailed playbook that contains more specific information about your assigned role. Those of you who are asked to play jurors in October 10 or Supreme Court justices in November 14 will decide each case based on the week’s readings and your classmates’ arguments. We will take the final 30 minutes of class to discuss how your decision in the case in question compared to that of your historical counterparts.

**Research Project.** The purpose of the research project is to provide you with a guided experience in the creation of an academic paper, which relies on a combination of primary and secondary sources to make an original, well-balanced argument about the history of the freedom of speech and the press in the United States. First, sometime before Friday, September 22, you will select one of the following fifteen sources as the starting point for your research project:

- Georgetown University, *Speech and Expression Policy.* 1989; rev. 2014. [N.B. – This document is available on the [Division of Student Affairs website](http://studentsaffairs.georgetown.edu).]
- The Motion Picture Production Code [1930]. [N.B. – You can access a copy of this document [here](http://www.mpaa.org).]
- Turner-Baker Papers, Entry 179, Record Group 94, Records of the Adjutant-General’s Office, National Archives and Records Administration, Washington, DC. [N.B. – This collection is available online from the [Lincoln Library](http://www.digital lc.gov).]
This list contains an assortment of memoirs, audio recordings, banned books, court records, government reports, digitized archival records, and other primary sources that address different aspects of the history of the freedom of speech and the press in the United States. Most—though not all—touch on incidents, such as the Civil War or the mid-twentieth-century battle over the legal definition of “obscenity,” which we will discuss in depth. Unless indicated otherwise, they can all be obtained at Lauinger Library, through the Washington Area Libraries Consortium, or from an online repository such as Internet Archive, Google Books, or HathiTrust.

I encourage you to browse a couple of sources before you decide which you want to adopt as the starting point for your research project. Beginning with just one primary source, you can go in a variety of directions as you work to develop an original argument that engages with the themes of the course. You may decide to write about the creation of the document itself or to delve into the life of its author. You can investigate the response to your source by academics, reporters, government officials, or other individuals at the time. You can also focus on a person, an event, or an idea to which your document refers only in passing. If none of the fifteen primary sources on the list captures your interest, you are welcome to select one that does not appear here. However, I must approve any source that is not listed above. You can change your mind until Friday, September 22, when you will submit the first part of the research project—the 5-page primary source analysis—in which you will examine the source that you have chosen. I will supply you with a more detailed instructions regarding each phase of your research project two weeks before its due date.

**Attendance and Instructional Continuity**

Attendance is mandatory for all class meetings. You are entitled to one unexcused absence during the semester. Of course, circumstances can arise that will prevent you from attending class. I am willing to work with students who have to miss additional class meetings for a variety of reasons. Student-athletes should provide me with a letter from their coach that outlines potential absences during the first two week of classes. If you know at the beginning of the semester that you will miss additional classes because of religious observances, you should contact me in person and by email as soon as possible. Lastly, if you cannot attend class because of prolonged illness, you should seek medical care and contact the Dean’s Office, which will provide me with documentation of your condition. In the event of an excused absence, you remain responsible for all assigned work. You will have the chance, however, to make up any work that you might have missed without penalty.

In the event that we cannot meet at our regularly-scheduled time because Georgetown University has cancelled classes, I will contact you with instructions about what we will do to limit the impact on our schedule. Our options in such a scenario include using the “Chat” function on Canvas to discuss the assigned readings remotely, writing an additional 1- to 2-page response paper on the week’s readings, or even scheduling a make-up class meeting later in the semester.

**Accommodations**
Students with documented physical, psychological, or learning disabilities should register with the Academic Resource Center (ARC) to arrange for reasonable accommodations under Georgetown University policies and the Americans with Disabilities Act. Within the first two weeks of the semester, you should present me with a letter that describes the accommodations that you have arranged with the ARC. Those who are not registered with the ARC or who do not comply with its procedures are not entitled to accommodations. Any student with a chronic condition that affects their performance in class should contact the ARC about possible accommodations on future coursework.

Although you may not be eligible for accommodations through the ARC, Georgetown possesses a number of resources for students who may experience life events or academic pressures that cause feelings of anxiety, confusion, depression, or lonelines. You can visit Counseling and Psychiatric Services (CAPS) in Darnall Hall. A free intake can be arranged by walk-in, or by calling 202-687-6985 during normal business hours or 202-444-PAGE (7243) for emergencies. You can also talk to your dean, who can connect you to the appropriate resources and help you work through your academic options. Lastly, you can communicate with me if anxiety or depression have disrupted class attendance and/or productivity.

Sexual Assault and Harassment

As an instructor and a member of the Georgetown University community, I am committed to supporting the survivors of relationship violence, sexual assault, sexual harassment, and other forms of sexual misconduct. University policy requires me nonetheless to communicate any disclosures about sexual misconduct to the Title IX Coordinator, who is responsible for coordinating the university’s response to sexual misconduct. Georgetown possesses a number of confidential professional resources that can provide support and assistance to survivors of sexual assault and other forms of sexual misconduct. These resources include:

Jen Schweer, MA, LPC
Associate Director of Health Education Services for Sexual Assault Response and Prevention
Phone: (202) 687-0323
Email: jls242@georgetown.edu

Jennifer Wiggins
Staff Clinician, Sexual Assault Specialist
Phone: (202) 687-8932
Email: sarp@georgetown.edu

For more information about campus resources and reporting sexual misconduct, please visit http://sexualassault.georgetown.edu/.

Honor Code

You are required as members of the Georgetown University community to respect the letter and spirit of the University Honor Code and uphold academic honesty in all aspects of this course. Different cultures and professions often have their own ideas about what constitutes
“plagiarism.” We will discuss how U.S.-based historians define and approach plagiarism in class. However, please understand that I have a responsibility as an instructor to uphold the Honor System and report all cases of academic dishonesty. If you have any questions about the university’s standards of conduct, you should consult the Honor Council website.

Course Schedule

Sept. 5  
**Introduction**
- The First Amendment of the United States Constitution (1791).
- Please complete the 10-question online survey that I have created to gauge your familiarity with the goals and methods of historians and the history of free speech in the United States. You can access this quiz through Canvas. You need to click on the tab labeled "Quizzes" that should be located on the left-hand side of your computer screen.

Add/Drop Period Ends on Friday, September 8.

Sept. 12  
**The Zenger Trial and the Freedom of Speech in Colonial America**

Sept. 19  
**Seditious Libel and the Freedom of Speech in the Early Republic**
- The Virginia Resolutions of 1798.
- The Kentucky Resolutions of 1798.
- “Trial of Thomas Cooper, for a Seditious Libel. In the Circuit Court of the United States for the Pennsylvania District. Philadelphia, 1800,” in Francis Wharton, State Trials of the United States during the Washington and Adams Administration. With References, Historical and Professional, and


5-page Primary Source Analysis Due on Canvas before 5 PM on Friday, September 22.

Sept. 26 The Abolitionists’ 1835 Postal Campaign and its Aftermath


Optional Trips to the Library of Congress and the National Archives TBD.

Oct. 3 Abraham Lincoln and the Consequences of Dissent in the Civil War


Mid-Semester Holiday on Monday, October 9.

Oct. 10 Moot-Court Day 1: The 1879 Obscenity Trial of D.M. Bennett

- The *Comstock Act of 1873*.
Oct. 17 World War I and the Supreme Court’s Rediscovery of the First Amendment
- *Title I of the Espionage Act of 1917*.

Oct. 24 The ACLU and the First Amendment in the Interwar Period

5-page Research Proposal Due on Canvas before 5 PM on Friday, October 27.

Oct. 31 The Smith Act and the U.S. Government’s Campaign against Communism
- *The Smith Act of 1940*.
- *United States v. Dennis et al.*, 183 F.2d 201 (2d Cir. 1950).

Last Day to Withdraw from the Course on Monday, November 6.

Nov. 7 Pornography and the Supreme Court’s Struggle to Define Obscenity


Nov. 21

Free Speech and State Secrecy in the 20th and 21st Centuries

• Executive Orders No. 10,290 and No. 10,501.

Thanksgiving Break from Wednesday, November 22, to Monday, November 27.

Nov. 28

Free Speech and Higher Education in the Early 21st Century

• Please browse the Internet and locate one editorial, story, or other article from a reputable news source (e.g., The Associated Press, The New York Times, The Atlantic, or ProPublica) that describes a recent incident or controversy related to the freedom of speech at a university campus in the United States.
• Please browse the online archives of The Hoya (see here for articles from 1959 to 1980 and here for articles from 1998 to the present) and The Georgetown Voice for an editorial, news story, or other article that touches on questions of free speech and expression within the Georgetown University community.
• You should post both of your articles on Canvas no later than 5 PM the night before class.

Rough Draft (12-page minimum) Due on Canvas before 5 PM on Friday, December 1.

Dec. 5

Oral Presentations and Reflections on the History of Free Speech in America

20- to 25-page Final Draft Due on Canvas before 5 PM on Wednesday, December 20.