

Freedom of the Press

David A. Hughes, Ph.D.

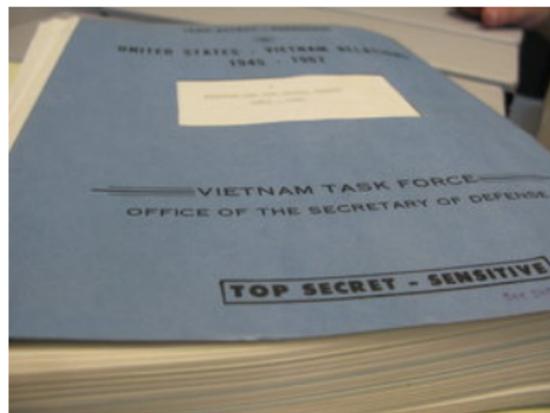
Auburn University at Montgomery

david.hughes@aum.edu

October 3, 2019

Prior Restraints

- *Near v. Minnesota* (1931)
- *New York Times v. United States* (1971)
- *Hazelwood School District v. Kuhlmeier* (1988)



Pentagon Papers

“Special Rights” of Reporters

- Prosecution of John Nugent (1848)
- *Branzburg v. Hayes* (1972)
- *Zurcher v. Stanford Daily* (1978)
- *Houchins v. KQED* (1978)
- *Richmond Newspapers v. Virginia* (1980)



Paul Branzburg

Defamation Liability in Light of Press Rights

- *New York Times v. Sullivan* (1964)
- *Curtis Publishing Co. v. Butts* (1967)
- *Associated Press v. Walker* (1967)
- *Time, Inc. v. Hill* (1967)
- *Rosenbloom v. Metromedia* (1971)



L. B. Sullivan

Pursuing the *NYT* Standard in Defamation Suits

- *Gertz v. Welsh* (1974)
- *Time, Inc. v. Firestone* (1976)
- *But. . . Hustler Magazine v. Falwell* (1988)

Jerry Falwell talks about his first time.



INTERVIEWER: But your mom? Isn't that a bit odd?

FALWELL: I don't think so. Locks don't mean that much to me in a woman.

INTERVIEWER: Go on.

FALWELL: Well, we were drunk off our God-fearing asses on Campari, ginger ale and soda—that's called a Fire and Brimstone—at the time. And Mom looked better than a Baptist whore with a \$100 donation.

INTERVIEWER: Campari in the crapper with Mom . . . how interesting. Well, how was it?

FALWELL: The Campari was great, but Mom passed out before I could come.

INTERVIEWER: I see. You must tell me all about it.

FALWELL: I never really expected to make it with Mom, but then after she showed all the other guys in town such a good time, I figured, "What the hell!"

INTERVIEWER: Did you ever try it again?

FALWELL: Sure . . .

lots of times. But not in the outhouse. Between Mom and the shi, the flies were too much to bear.

INTERVIEWER: We miss! the Campari.

FALWELL: Oh, yeah. I always get sloshed before I go out to the pulpit. You don't think I could lay down all that bullshit sober, do you?

A 100% PURELY NATURAL FLAVOR. 100% PURELY NATURAL FLAVOR. 100% PURELY NATURAL FLAVOR.



CAMPARI You'll never forget your first time.

© 1988 BARDON - GUY TO BE TAKEN SERIOUSLY

What is Obscenity?

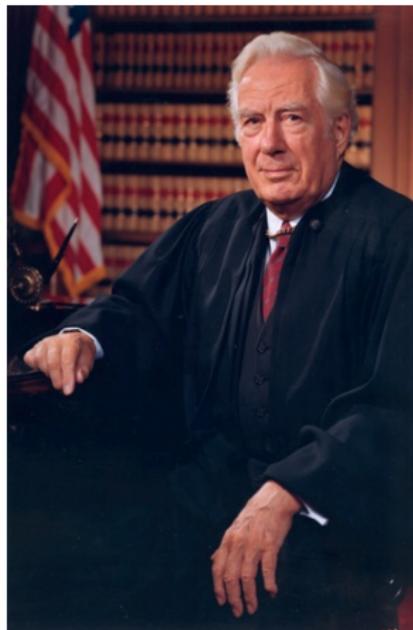
- *Regina v. Hicklin* (1868)
- *Ex parte Jackson* (1878)
- *Butler v. Michigan* (1957)
- *Roth v. United States* (1957)
- *Jacobellis v. Ohio* (1964)
- *Memoirs v. Massachusetts* (1966)



William O. Douglas (1898–1980)

Obscenity into the Modern Era

- *Miller v. California* (1973)
- *Adult Theatre I v. Slaton* (1973)
- *New York v. Ferber* (1982)



Warren E. Burger (1907–1995)

Speech and Expression Rights in New Media

- SCOTUS hesitant to permit regulation of print media.
 - *Cox Broadcasting Corp. v. Cohn* (1975)
 - *Miami Herald v. Tornillo* (1974)
- But other kinds of media?
 - *Red Lion Broadcasting v. FCC* (1969)
 - *FCC v. Pacifica Foundation* (1978)
 - *FCC v. Fox Television Stations* (2009)



- The Internet
 - *Reno v. ACLU* (1997)
 - *Ashcroft v. ACLU* (2004)
 - *Ashcroft v. Free Speech Coalition* (2002)
 - *United States v. Williams* (2008)
- Video Games
 - *Brown v. Entertainment Merchants Association* (2011)



John Ashcroft, AG (2001–2005)