

Chapter 19: Civil Liberties: First
Amendment Freedoms

Section 1

Lecture Notes

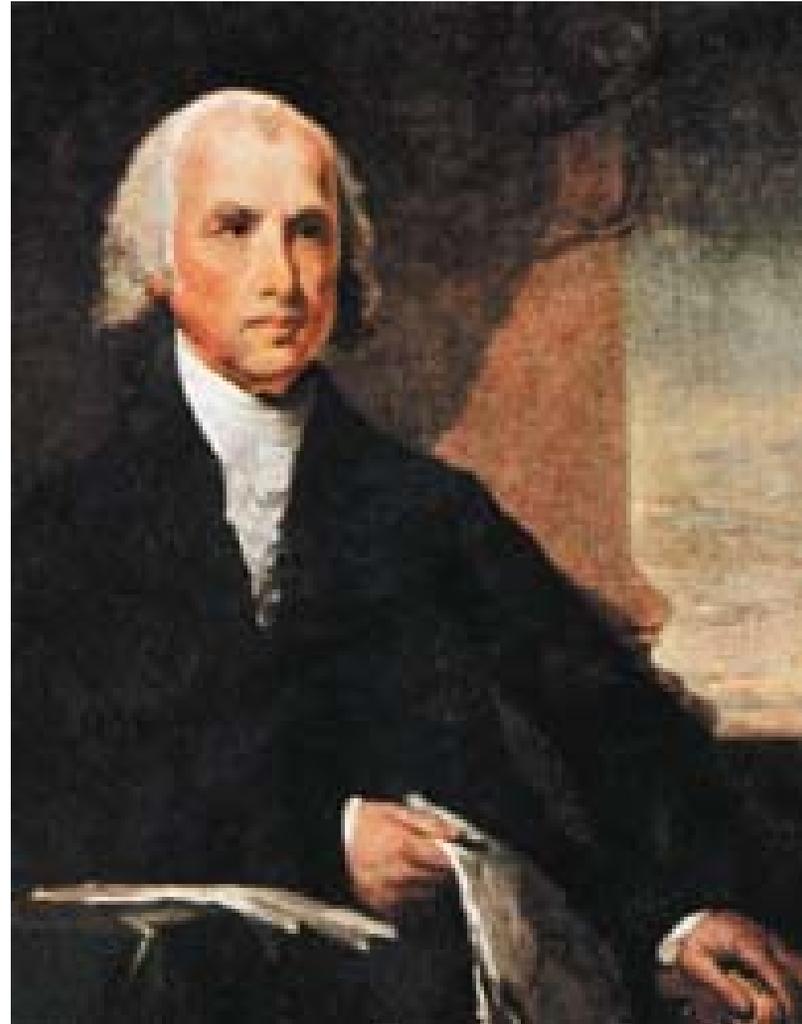
The title 'AMERICAN GOVERNMENT' is centered on the page. 'AMERICAN' is written in a white, serif font with a slight shadow. 'GOVERNMENT' is written in a large, bold, yellow, sans-serif font with a black outline. The text is set against a background of a stylized American flag with blue stars and red and white stripes.

AMERICAN
GOVERNMENT

PEARSON

▶ The Bill of Rights

- There was no general listing of the rights of the people in the Constitution until the Bill of Rights was ratified in 1791. Now the Bill of Rights is an essential part of the Constitution.
 - James Madison (right) authored the Bill of Rights.



▶ Civil Rights and Liberties

- **Civil liberties** can be thought of as freedoms *protected from* possible government abuse.
- **Civil rights** can be thought of as freedoms *defended by* the government.

▶ Relative Rights

- U.S. citizens may exercise their own rights as long as they do not infringe upon the rights of others.
- Rights can come into conflict with each other. When this happens, the courts must then decide the issue.



▶ Whose Rights?

- Most constitutional rights extend to all people in the United States, including aliens, or non-citizens.
- However, certain rights of aliens, such as freedom of travel, can be restricted.
 - During wartime these restrictions may increase.
 - For example, in World War II people of Japanese descent were forced to relocate to internment camps.

▶ The 14th Amendment

- The 14th Amendment includes a Due Process Clause. The Supreme Court has ruled that this clause means no state can deny any person their basic rights and liberties.

The 14th Amendment's Due Process Clause

Incorporation of Rights

- Provisions of the **Bill of Rights INCORPORATED** into the 14th Amendment's Due Process Clause

1st AMENDMENT

- Freedom of speech
- Freedom of press
- Freedom of assembly, petition
- Free Exercise Clause
- Establishment Clause

4th AMENDMENT

- No unreasonable searches, seizures

5th AMENDMENT

- No self-incrimination
- No double jeopardy

6th AMENDMENT

- Right to counsel
- Right to confront and obtain witnesses
- Speedy trial
- Trial by jury in criminal cases

8th AMENDMENT

- No cruel, unusual punishments

- Provisions of the **Bill of Rights NOT INCORPORATED** into the 14th Amendment's Due Process Clause

2nd AMENDMENT

- Right to keep, bear arms

3rd AMENDMENT

- No quartering of troops

5th AMENDMENT

- Grand jury

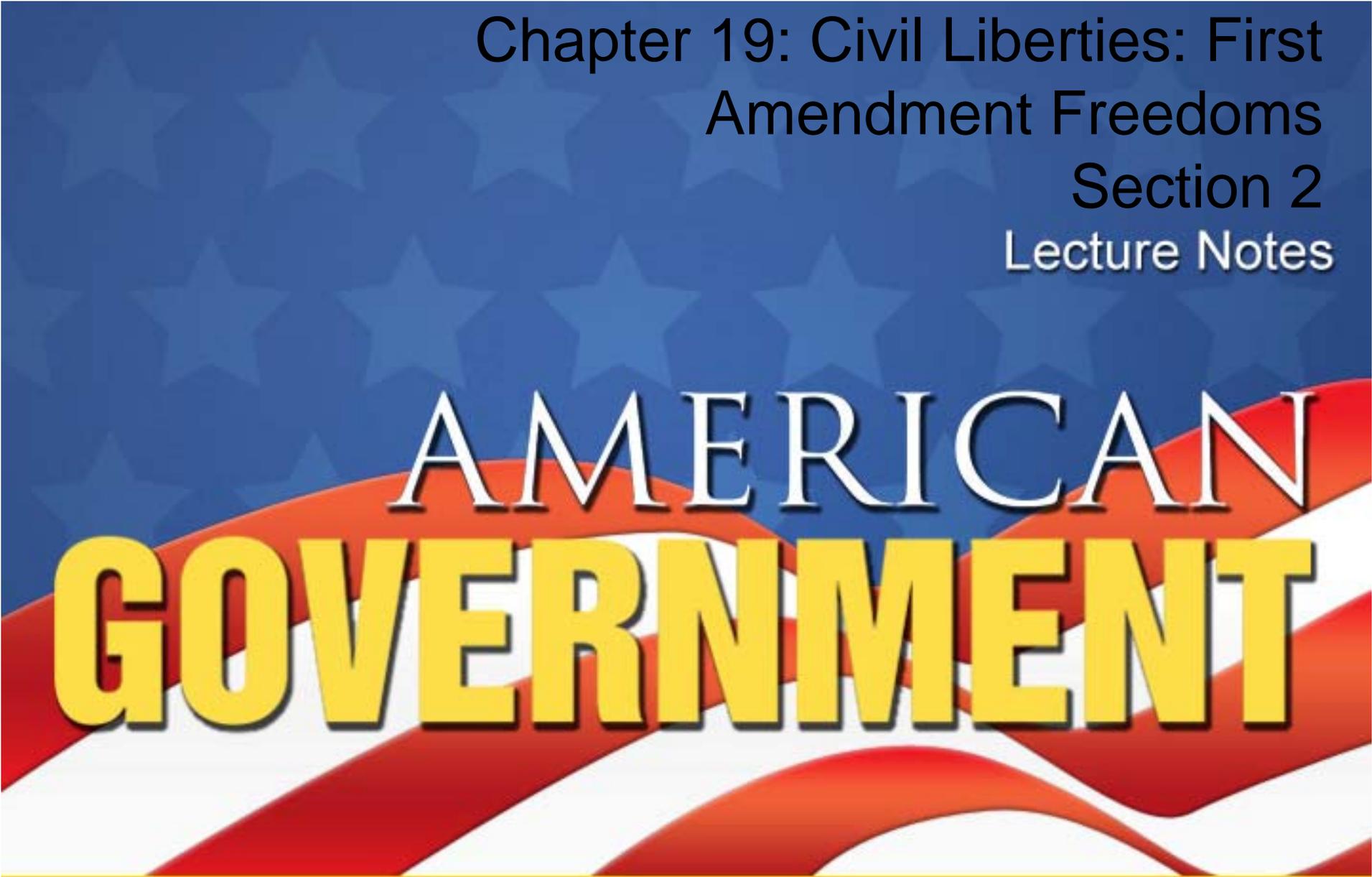
7th AMENDMENT

- Trial by jury in civil cases

Chapter 19: Civil Liberties: First
Amendment Freedoms

Section 2

Lecture Notes

The title 'AMERICAN GOVERNMENT' is centered on a background of a stylized American flag. The top half features a blue field with white stars, and the bottom half features red and white stripes. The text 'AMERICAN' is in white, serif, all-caps font with a slight drop shadow. The text 'GOVERNMENT' is in a larger, bold, yellow, sans-serif, all-caps font with a black outline and a slight drop shadow.

AMERICAN
GOVERNMENT

PEARSON

Religious Freedom

- Support for religious freedom was partly a rejection of colonial government-sponsored churches.



Establishment Clause

- The federal government does not support a specific religion, but does encourage religion in general.

Religion and Public Schools

- Most Supreme Court rulings on the Establishment Clause have involved religion and education.

School Prayer

- The Court has found in seven major cases that the 1st Amendment requires the government to neither aid nor oppose religion.
- This means schools cannot sponsor religious exercises such as prayer.

School Prayer, cont.

- The Court has banned mandatory prayers to start school, posting of the Ten Commandments in classrooms, and *school-sponsored* prayers at graduations and football games.
 - Students can pray as individuals in school and at school events.



Other School Issues

- The Equal Access Act of 1984 requires public high schools to let student religious groups meet at school.
 - The Supreme Court has ruled that this law applies to grade schools as well.
- The Supreme Court has ruled that states cannot ban the teaching of evolution in public schools or require the teaching of creation science.

Public Displays

- The Supreme Court has given different rulings on displays, depending upon how they promote religion.



The Ten Commandments

Pubic Displays, cont.

- The Court has ruled that “government may celebrate Christmas in some manner and form, but not in a way that endorses Christian doctrine.”



Limits on Exercise of Religion

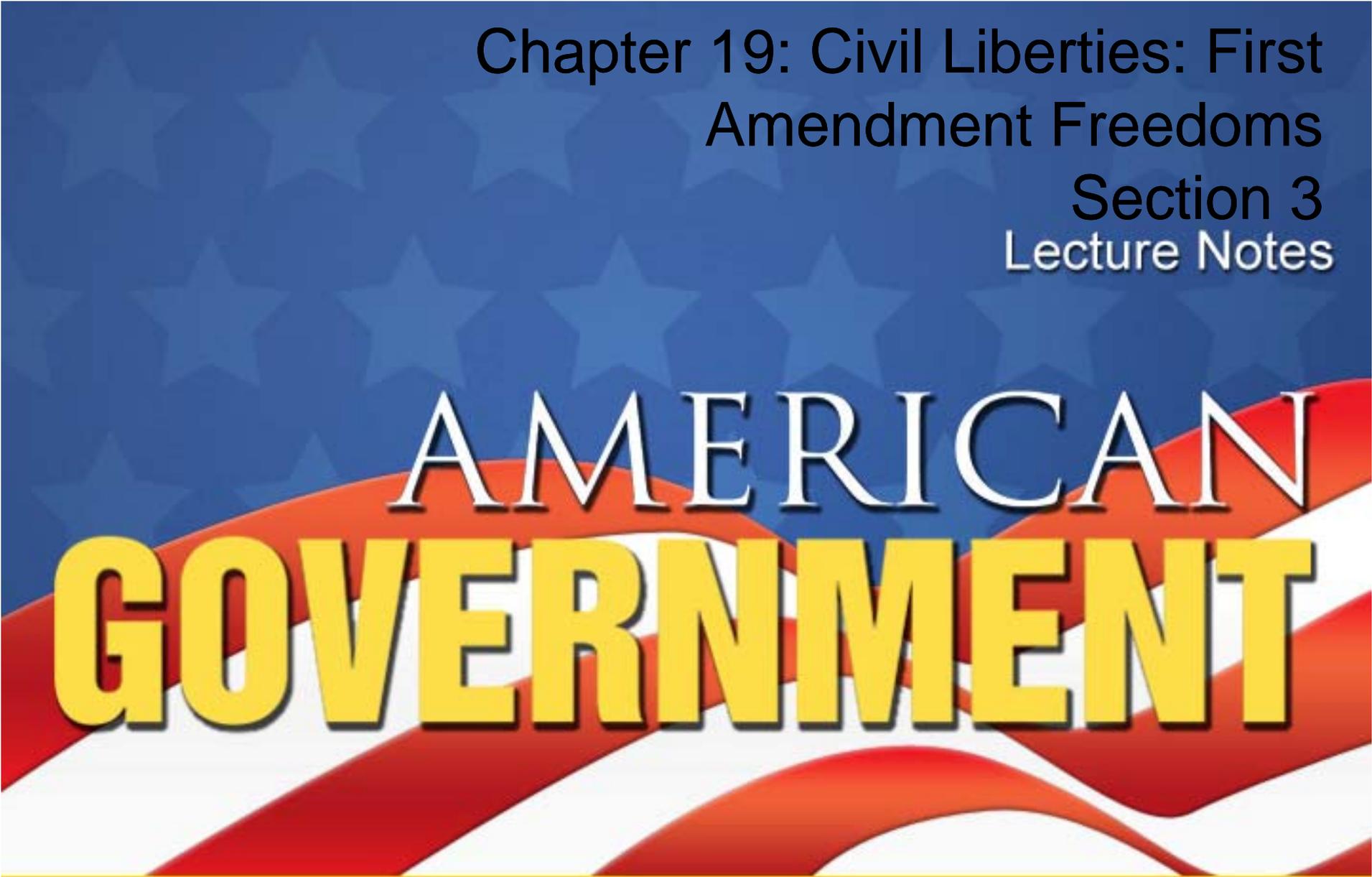
- No government law or action can deny a person the right to hold any religious beliefs that they wish.
- However, no one has the right to break criminal laws, offend public morals, or threaten public safety while practicing their religion.

Protections

- The Supreme Court has often ruled that the Free Exercise Clause only applies to beliefs rooted in religion.
- The Court has struck down laws requiring a license to raise money for religious causes.
- The Court has ruled that Amish children do not have to attend school past the 8th grade and that Jehovah's Witnesses do not have to salute the American flag due to the beliefs of each religious group.

Chapter 19: Civil Liberties: First
Amendment Freedoms

Section 3
Lecture Notes

The title 'AMERICAN GOVERNMENT' is centered on a background of a stylized American flag. The top half features a blue field with white stars, and the bottom half features red and white stripes. The text 'AMERICAN' is in white, serif font, and 'GOVERNMENT' is in a larger, bold, yellow, sans-serif font with a black outline.

AMERICAN
GOVERNMENT

PEARSON

Free Expression

- The 1st amendment guarantees each person the right of free expression by speech, writing, and all other means of communication.
- Everyone has the right to hear what others have to say on public issues.

Seditious Speech

- Congress has passed several laws banning seditious speech.
 - The Alien and Sedition Acts of 1798
 - The Espionage Act of 1917
 - The Smith Act of 1940



Obscenity

- It is illegal under federal and state law to distribute obscene material.
- The Supreme Court created a three-part test to determine if something is obscene.
- Material is obscene if it:
 - Incites lust according to local community standards
 - Deals with sexual conduct banned in an anti-obscenity law
 - Lacks serious literary, artistic, political, or scientific value

Prior Restraint

- Government censorship is usually illegal.
- Censorship may be allowed if published material could endanger national security.



Except in the most extreme situations, government cannot place any prior restraint on newspapers and other print media.

Prior Restraint, cont.

- Public schools have a broad power to censor “school-sponsored expressive activities,” including school newspapers and plays.
- School officials must show that their censorship is in the educational interest of the school.

Symbolic Speech

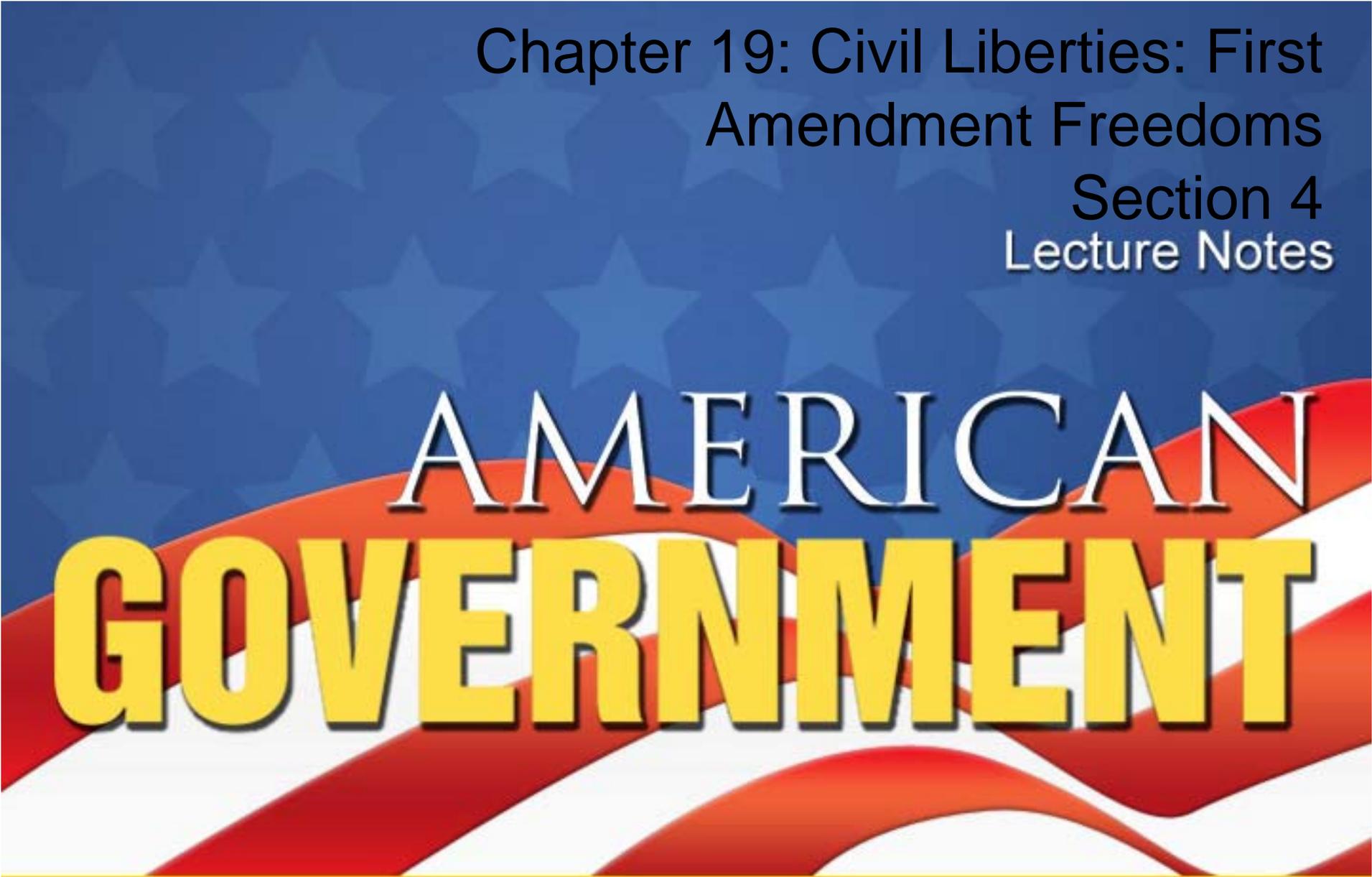
- Symbolic speech is the expression of ideas by a person's conduct and is often meant as an act of dissent.
 - An example is picketing a workplace while on strike to draw public attention to a controversy. Peaceful picketing is protected speech.
 - Burning the American flag or a cross as a political protest is also protected speech according to the Supreme Court.

Symbolic Speech, cont.

- If the object of the protest is within the constitutional powers of the government
- If whatever restriction is placed on expression is no greater than necessary
- If the government's real intent is not to prevent dissent

Chapter 19: Civil Liberties: First
Amendment Freedoms

Section 4
Lecture Notes

The title 'AMERICAN GOVERNMENT' is centered on a background of a stylized American flag. The top half features a blue field with white stars, and the bottom half features red and white wavy stripes. The word 'AMERICAN' is in white serif font with a drop shadow, and 'GOVERNMENT' is in a larger, bold yellow sans-serif font with a black drop shadow.

AMERICAN
GOVERNMENT

PEARSON

Constitutional Guarantees

- The 1st Amendment guarantees the right to peaceful assembly and to petition the government.
- The 14th Amendment's Due Process Clause extends these rights to citizens of every state.
- The Constitution does *not* protect assemblies or petitions that endanger life, property, or public safety.

Examples

- Assemblies include public demonstrations as well as organizations such as political parties and interest groups.
- Petitions can include letters, lobbying, and advertisements.
- Peaceful marches and parades are protected forms of assembly.



Civil Disobedience

- Civil disobedience involves knowingly breaking the law in a nonviolent way to protest a law or public policy.
- The courts have held as a general rule that civil disobedience is *not* a constitutionally protected right.
 - Those who take part in civil disobedience must accept the legal consequences of their actions.

Limits on Assembly

- Governments can decide when, where, and how assemblies can take place in order to keep the public peace.
- Government rules must be specific and fairly administered.
- Government rules must also be content neutral. They cannot regulate gatherings based on what might be said.

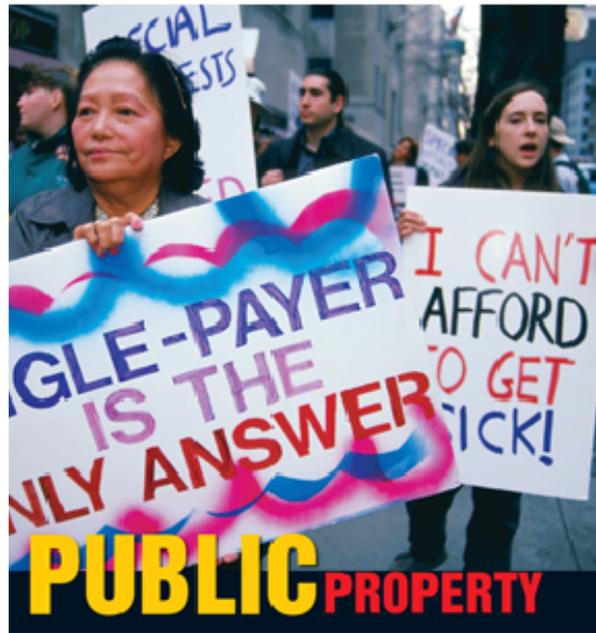
Public Demonstrations

- Demonstrations tend to take place in public places such as streets, sidewalks, parks, or public buildings.
- This can conflict with the normal use of these facilities or streets.
- The subject of a demonstration can also lead to public arguments.
- The Supreme Court thus allows governments to require advance notice and permits for demonstrations on public property.

Private Property

- People do not have the right to assemble or petition on private property without permission.
 - No one has the absolute constitutional right to hand out leaflets or ask for petition signatures in a shopping mall.
 - However, the courts can rule that shopping center owners should give permission for the reasonable exercise of the right to petition.

Private and Public Property



- The right to peacefully demonstrate on public property is constitutionally guaranteed, yet demonstrations on private property are not constitutionally guaranteed.

Freedom of Association

- The right to join with others to promote political, economic, and social causes.
- It has been upheld as a constitutional right by the Supreme Court. People cannot be fired for belonging to associations and do not have to reveal them to practice law.
- Associations do not have to accept members if doing so would contradict the beliefs of the association.