Why Dirty Words Are Dirty Essay, Research Paper

How George Carlin’s “Filthy Words” Gave the Government the Power to

Regulate

What We Hear on the Radio

The FCC v. Pacifica Foundation:

GOVERNMENT REGULATIONS ON RADIO BROADCASTING

In 1978 a radio station owned by Pacifica Foundation Broadcasting out of

New

York City was doing a program on contemporary attitudes toward the use of

language. This broadcast occurred on a mid-afternoon weekday. Immediately

before the broadcast the station announced a disclaimer telling listeners

that the program would include “sensitive language which might be regarded

as

offensive to some.”(Gunther, 1991) As a part of the program the station

decided to air a 12 minute monologue called “Filthy Words” by comedian

George

Carlin. The introduction of Carlin’s “routine” consisted of, according to

Carlin, “words you couldn’t say on the public air waves.”(Carlin, 1977) The

introduction to Carlin’s monologue listed those words and repeated them in

a

variety of colloquialisms:

I was thinking about the curse words and the swear words, the cuss words

and

the words that you can’t say, that you’re not supposed to say all the time.

I was thinking one night about the words you couldn’t say on the public,

ah,

airwaves, um, the ones you definitely wouldn’t say, ever. Bastard you can

say, and hell and damn so I have to figure out which ones you couldn’t and

ever and it came down to seven but the list is open to amendment, and in

fact, has been changed, uh, by now. The original seven words were \*censored\*,

piss, \*censored\*, cunt, cocksucker, mother\*censored\*er, and tits. Those are the ones

that will curve your spine, grow hair on your hands and maybe, even bring

us,

God help us, peace without honor, and a bourbon. (Carlin, 1977)

A man driving with his young son heard this broadcast and reported it to

the

Federal Communications Commission [FCC]. This broadcast of Carlin’s “Filthy

Words” monologue caused one of the greatest and most controversial cases in

the history of broadcasting. The case of the FCC v. Pacifica Foundation.

The outcome of this case has had a lasting effect on what we hear on the

radio.

This landmark case gave the FCC the “power to regulate radio broadcasts

that

are indecent but not obscene.” (Gunther, 1991) What does that mean,

exactly?

According to the government it means that the FCC can only regulate

broadcasts. They can not censor broadcasts, that is determine what is

offensive in the matters of speech.

Before this case occurred there were certain laws already in place that

prohibited obscenity over radio. One of these laws was the “law of

nuisance”. This law “generally speaks to channeling behavior more than

actually prohibiting it.”(Simones, 1995) The law in essence meant that

certain words depicting a sexual nature were limited to certain times of

the

day when children would not likely be exposed. Broadcasters were trusted to

regulate themselves and what they broadcast over the airwaves. There were

no

specific laws or surveillance by regulatory groups to assure that indecent

and obscene material would not be broadcast. Therefore, when the case of

the

FCC vs. Pacifica made its way to the Supreme Court it was a dangerous

decision for the Supreme Court to make. Could the government regulate the

freedom of speech? That was the ultimate question.

Carlin’s monologue was speech according to the first amendment.(Simones,

1995) Because of this Pacifica argued that “the first amendment prohibits

all governmental regulation that depends on the content of

speech.”(Gunther,

1991) “However there is no such absolute rule mandated by the

constitution,”

according to the Supreme Court.(Gunther, 1991) Therefore the question is

“whether a broadcast of patently offensive words dealing with sex and

excretion may be regulated because of its content. The fact that society

may

find speech offensive is not a sufficient reason for suppressing

it.”(Gunther, 1991) The Supreme Court deemed that these words offend for

the

same reasons that obscenity offends. They also state that “these words,

even

though they had no literary meaning or value, were still protected by the

first amendment.”(Gunther, 1991) So what does this mean to the American

public? This decision gave government the power to regulate, whereas it did

not before.

Broadcasting, out of all forms of communication, has received the most

limited protection of the first amendment. There are two main reasons why.

First, “the broadcast media have established a uniquely pervasive presence

in the lives of all Americans.”(Gunther, 1991) Airwaves not only confront

the public but also the citizen. They can come into our homes uninvited or,

you never know what to expect when they are invited in. In this case the

Court decided that “because the broadcast audience is constantly tuning in

and out, prior warnings cannot completely protect the listener or viewer

from

unexpected program content.”(Gunther, 1991) So here’s the simple solution,

turn off the radio. How hard can that be? It’s not too difficult but the

Supreme Court decided “to say that one may avoid further offense by turning

off the radio…is like saying that the remedy for assault is run away

after

the first blow.”(Gunther, 1991)

The second reason why broadcasting has received limited first amendment

protection is because “broadcasting is uniquely accessible to children,

even

those too young to read.”(Gunther, 1991) Even though children at a young

age

can’t read obscene messages, the Carlin broadcast could have enlarged a

child’s vocabulary in a matter of seconds. These two important factors of

broadcasting gave the Supreme Court the push they needed for regulation.

The

Court decides that “the ease with which children may obtain access to

broadcast material, coupled with the concerns recognized, amply justify

special treatment of indecent broadcasting.”(Gunther, 1991) But does that

mean that adults have to listen to what is fit for children’s ears? Must

adults now go out and purchase George Carlin’s album for entertainment?

This

decision might not seem a fair one to most who agree with Carlin’s message,

but according to the Supreme Court it “does not violate anyones first

amendment rights.”(Gunther, 1991)

If the government could allow this type of speech to be regulated then they

must also take into account that regulating indecent speech would effect

many

other integral parts of broadcasting. For instance, “these rationales could

justify the banning from radio a myriad of literary works…they could

support the suppression of a good deal of political speech, such as the

Nixon

tapes; and they could even provide the basis for imposing sanctions for the

broadcast of certain portions of the bible.”(Gunther, 1991) Carlin’s

monologue was speech, there is no doubt about that, and it does present a

point of view. Carlin tried to show that “the words it uses are “harmless”

and that our attitudes toward them are essentially silly.”(Gunther, 1991)

They did not object to this point of view but did object to the way in

which

it is expressed.

Many people in the United States do not deem these words as offensive. In

fact many people use these words daily and as a part of conversation. “In

this context the Court’s decision could be seen as another of the dominant

culture’s inevitable efforts to force those groups who do not share its

mores

to conform to it’s way of thinking, acting, and speaking.”(Gunther, 1991)

Therefore, the Supreme Court looked upon Carlin’s monologue as indecent but

not obscene.

The FCC was given the power to regulate the airwaves and prohibit

broadcasters from promoting “indecent” material over the radio. After the

Pacifica case the FCC has also extended the ban of indecent as well as

obscene materials to 24 hours per day. Because of the 24 hour ban the

previous “law of nuisance” allowing for indecent material to be “channeled”

at certain times of the day was abolished. To promote strong regulation

against indecent material the FCC has the authority to issue fines on

broadcasters, whether it be fines in the terms of money or suspension of

air

time. The FCC, or the government, was given the ultimate power. The power

to

regulate what we hear.

Recently the FCC’s authority to regulate broadcasts had been challenged

once

again. Howard Stern, self proclaimed “king of all media” and morning show

“loudmouth” has given the FCC plenty of headaches. In 1987, the FCC

introduced a new regulation to broadcasters. The regulation stated that

“broadcasters could not say anything patently indecent or offensive to your

community.”(Stern, 1994) Before this broadcasters only had to worry about

the “seven dirty words”. This new rule seemed to lack a specific meaning.

The broadcasting of indecent material was clearly stated and understood

since the Pacifica case. To say broadcasters could not say anything

“offensive to your community” just reinforced the idea that the government

want’s to conform people to their way of thinking, acting and speaking.

As most of us are aware, many communities are dissimilar and comprised of

many people who might have different outlooks on what indecent material

would

consist of. This new regulation sparked much protest against Howard Stern

from many communities and individuals because the FCC essentially made the

“citizen” the watchdog. If one person in a community heard Howard Stern, or

any broadcaster, say something that was offensive to them and reported it

to

the FCC, the FCC was required to take action and administer penalties.

With this new regulation many watchdog groups and campaigns formed with the

soul purpose to “remove the obscene and indecent Howard Stern from the

airwaves.”(Stern, 1995) One with great influence in particular was the

“Morality in America Campaign” headed by a minister from Mississippi named

Donald E. Wildmon. Mr. Wildmon, famous for these types of protests,

orchestrated a heavily promoted national letter writing campaign to the FCC

by sending out flyers to communities across the nation. Because of this

action the chairman of the FCC, Alfred Sikes, took a closer look at Howard

Stern and decided that his show was indecent and issued the corporation

that

represents Stern, Infinity Broadcasting, a warning. This warning brought

publicity to Infinity Broadcasting. Ratings soared and revenue was high.

Stern became such a center of attention that Infinity decided to keep The

Howard Stern Show running just as it was. Mr. Wildmon’s organization still

pr

essed on for “morality in America” and caused Howard Stern and Infinity

Broadcasting to receive more fines than anyone in the history of radio, 1.7

million dollars worth. After years of protest and behind the scenes

disputes

Infinity Broadcasting paid the 1.7 million dollars in fines to the FCC on

September 3, 1995. The FCC’s authority was boldly challenged by Howard

Stern and the fines sent a clear message to other broadcasters that the FCC

would not tolerate indecent material over the airwaves. Even though Stern’s

material was considered indecent by the FCC, they could not stop it. The

FCC can only regulate it. Howard Stern’s message might be indecent

,however,

it is still protected by the first amendment.

The outcome of the FCC v. Pacifica Foundation gave the FCC “the power to

regulate radio broadcasts that are indecent but not obscene.”(Gunther,

1991)

We could look at this power given to the FCC as an infringement of our

first

amendment rights. Should Americans let the government regulate what we here

or say on our public airways? Or should we place “the responsibility and

the

right to weed worthless and offensive communications from the public

airways

in a public free to choose those communications worthy of its attention

from

a marketplace unsullied by the censor’s hand.”(Gunther, 1991)

One could interpret this to mean the government might feel that we are not

responsible enough to do this for ourselves. But I believe ,however, that

if a certain amount of regulation is not applied things could very easily

get

out of control. If the “seven dirty words” were allowed to be said on the

airwaves at any time of the day then others might find reason for openness

in

many other regulated activities such as pornography, or nudity and open

language policies on television. A step in this direction for our society

is

the wrong step. We have had these regulations in place for a number of

years

now and it would be devastating in this day and age to allow this type of

openness, especially with the problems we are facing in our communities

with

violence and children. However, I also think that the “seven dirty words”

are just in fact what they are, words. “Carlin is not mouthing obscenities,

he is merely using words to satirize as harmless and essentially silly our

attitudes towards those words.”(Gunther, 1991) I do understand that words

that are common in one setting might be offensive in another. Because I

hear

these words often I do not take offense to them. Although, if I had

children

I would not want them to hear these words over public airways or repeat

them.

It is important though that the parents, not the government, have the right

to raise their children.

I believe that the government should have let the “law of nuisance” stand.

Channeling this type of material in hours where children are not exposed

would be the right decision. We have created an even stronger taboo

concerning these words by letting them be regulated and now we are stuck

with

that. Freedom of speech is an important thing and even the slightest bit of

regulation could have drastic results. People wanting to see morality in

America is fine, but what is this morality? Who set the standards for

morality? Our morality has changed over the years and is still changing

daily. I do not think these words have anything to do with morality. These

are just words that were assigned to bad intentions and bad thoughts. Is it

moral that we let our government decide what we hear or say. I believe

that’s the greatest immoral act of all.

Gunther, G. (1991). Constitutional Law. Twelfth Edition. New York: The

Foundation Press, Inc. pp. 1154-1161.

Carlin, G. (1977). Class Clown. “Filthy Words” monologue. Atlantic

Records, Inc.

Simones, A. (1995). Lecture on FCC v. Pacifica Foundation. October 27,

1995. Constitutional Law, Southwest Missouri State University.

Stern, H. (1994). Private Parts. New York: Simon & Schuster Inc.

Stern, H. (1995). Miss America. New York: Regan Books.