

- CHARLES BLACK "PLIGHT"
- HOWARD GOSSAGE

Charles L. Black, Jr., "He Cannot Choose But Hear: the Plight of the Captive Auditor," *Columbia Law Review*, 166, 1953.

**What's going on here? How does Cs. Black feel about it?**

**How did the Supreme Court rule?**

Against forced listening, which, according to Court, deprives passengers of liberty without due process.

**Why do advertisers love this?**

Can boast to the trade that they're delivering a guaranteed/captive audience.

1) He's asking: how can we claim to hold values like individualism, freedom high and yet force people to listen to advg?

2) Anytime look at individual ads they seem stupid and trivial.  
But the big picture far from trivial -- it symbolizes that the powers that be favor financial interests over respect for individuals' minds.

**3. Why does Black oppose radio broadcasts in buses?**

\* thinks it's unconstitutional,  
deprives people of liberty by forcing them to listen (p 46, 48)

3) Why freedom of speech important?

Two main functions of free speech:

a) for the group - diversity of ideas is good in itself; it facilitates choice; values criticism, robust public debate.

b) [ Black mentions only this one ] for the individual -- freedom of expression central to being a (hu)man; necessary for achieving self-actualization; respect for fellow humans necessary in democracy

**What if the majority people wanted the ads. Would it be okay then?**

What do you think Black would say?

He would say that whether the majority wants them or not is irrelevant

**Is radio broadcasting in buses the moral equivalent of people talking loudly to each other?**

No, radio's primary function is to steal your attention, whereas the annoyance in other cases is incidental

## **HOWARD GOSSAGE**

In recent years, outdoor advertising has come under fire from cities concerned about billboard blight. The outdoor advertising industry usually defends itself by arguing that advertising is a form of free speech--by this reasoning, laws regulating outdoor advertising are considered censorship.

What do you think of the arguments on each side? Should billboards be considered free speech? Why or why not?

--mentions blacksmith making sign for store. What's the difference between that form of outdoor advg and what we have today?

### **Criticisms of billboards**

--block the scenery and unsightly

--p18 bottom: " outdoor advertising is peddling a commodity it does not own and without the owners permission: your field of vision." .... and unlike other things, it is there solely for purpose of violating yr field of vision.

--p19: "what the industry has to sell doesn't belong to it—it belongs to you"

--"you can throw yr tv out the window but you can't throw US 40 out the window"

-- Billboard are unlike other media in that the audience doesn't get anything in return for its attention. With TV, newspapers, and other media, advertising is the "cost" one pays for being entertained.

### **Defenses of billboards**

--often billboards more appealing than what they conceal

--Should be allowed as free speech

\* Does owning property give you the right to do with that property whatever you want?

\* How do you think Gossage (or Black) would respond to the Phelps situation described in the homework assignment?