

Garden State CLE presents:

Woody Guthrie in the 21st
Century



"This Land is made for you and me"

Lesson Plan

Table of Contents

Introduction

Part I - The Garden

Part II - Defiance

Part III – The Children

Part IV – The Protest Song

Introduction

Woodrow Wilson (Woody) Guthrie 1912 – 1967

Education: 4th grade

American icon

Political/Progressive activist

Prolific songwriter/performer

National radio star

Artist

He was the author of hundreds of works, including short stories, novels, satires, an autobiography, and newspaper columns.

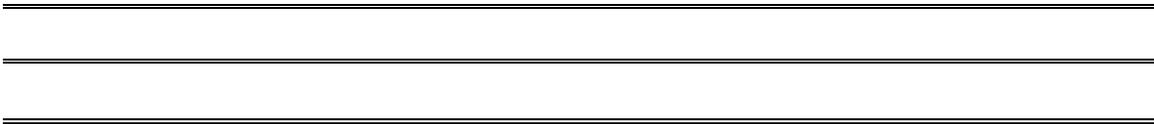
His music was able to shine a light on the pressing social issues of his day, influencing many changes to our nation's laws by way of federal legislation and decisions by the Supreme Court.

As we will see, the message in his music still resonates in American society to this day.

Part I - The Garden

History of mass human migrations begins thousand of years before recorded history: major causes include survival challenges related to weather, food supply, as well as economics, religious freedom and politics.

Drought and the dust storms of the 1930's in the southwest began American's first mortgage foreclosure crisis and triggered the great mass migration to California.



[Anticipation – *The Grapes of Wrath* – 1940]

[Arrival – *Bound of Glory* – 1976]

[Woody Guthrie's music – Gordon Ward]



Travel between States in America

This right is not explicitly mentioned in the Constitution

The “right to travel” as discussed by the Supreme Court embraces at least three different components.

- 1. It protects the right of a citizen of one State to enter and to leave another state under the Interstate Commerce Clause (Edwards v. California, 314 US 160 (1941));**
- 2. The right to be treated as a welcome visitor rather than an unfriendly alien when temporarily present in the second state. This right is expressly protected by the text of the Constitution. (The first sentence of Article IV, § 2, provides: “The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States.”) (Saenz v. Roe, 526 US 489 (1999));**
- 3. And for those travelers who elect to become permanent residents, the right to be treated like other citizens of that state. (Slaughter-House Cases, 21 L. Ed. 394 (1872)).**

The situation that confronted Woody Guthrie in California became the subject of the United States Supreme Court decision in *Edwards v. California*, 314 US 160, 174-175 (1941).

The grave and perplexing social and economic dislocation which this statute reflects is a matter of common knowledge and concern. We are not unmindful of it. We appreciate that the spectacle of large segments of our population constantly on the move has given rise to urgent demands upon the ingenuity of government. Both the brief of the Attorney General of California and that of the Chairman of the Select Committee of the House of Representatives of the United States as amicus curiae have sharpened this appreciation. The State asserts that the huge influx of migrants into California in recent years has resulted in problems of health, morals, and especially finance, the proportions of which are staggering. It is not for us to say that this is not true. We have repeatedly and recently affirmed, and we now reaffirm, that we do not conceive it our function to pass upon 'the wisdom, need, or appropriateness' of the legislative efforts of the States to solve such difficulties.

But this does not mean that there are no boundaries to the permissible area of State legislative activity. There are. And none is more certain than the prohibition against attempts on the part of any single State to isolate itself from difficulties common to all of them by restraining the transportation of persons and property across its borders. It is frequently the case that a State might gain a momentary respite from the pressure of events by the simple expedient of shutting its gates to the outside world. But, in the words of Mr. Justice Cardozo: ‘The Constitution was framed under the dominion of a political philosophy less parochial in range. It was framed upon the theory that the peoples of the several states must sink or swim together, and that in the long run prosperity and salvation are in union and not division.’

It is difficult to conceive of a statute more squarely in conflict with this theory than the Section challenged here. Its express purpose and inevitable effect is to prohibit the transportation of indigent persons across the California border. The burden upon interstate commerce is intended and immediate; it is the plain and sole function of the statute. Moreover, the indigent non-residents who are the real victims of the statute are deprived of the opportunity to exert political pressure upon the California legislature in order to obtain a change in policy. We think this statute must fail under any known test of the validity of State interference with interstate commerce.

Part II – Defiance

The flood of ten of thousands of unskilled workers and their families into California during the 1930's created an enormous unbalance in the laws of supply and demand. Wages for agricultural workers dropped to a mere pittance as the newly arrived unemployed desperately attempted to avoid starvation. Without the protection of labor unions or effective state law, they were easy victims for the unscrupulous, the greedy and the purely evil. Moreover, attempts among the workers to organize into unions and fight for better pay and conditions were often met with intimidation, violence and death.

Woody Guthrie joined this battle for workers and was a frequent combatant in brawls and deadly riots intended to suppress union activity.

[The Recruiter – *The Grapes of Wrath* – 1940]

[Union – *Bound of Glory* – 1976]

[No work today – *Bound of Glory* – 1976]

[Woody Guthrie's music – Gordon Ward]

The Period of the 1930's saw the beginning of a large number of statutes aimed at protecting workers' right to organize, bargain collectively and strike. Foremost among them is:

The National Labor Relations Act of 1935, [29 U.S.C. § 151–169](#) is also known as the Wagner Act. It is a foundational statute of which guarantees basic rights of private sector employees to organize, engage in [collective bargaining](#) for better terms and conditions at work, and [strike](#) if necessary. The act also created the [National Labor Relations Board](#) which [conducts elections](#) which, if voted in favor of representation, awards [labor unions](#) with a requirement for the employer to engage in collective bargaining with this union.

Section 7 ([29 U.S.C. § 157](#)) sets out the general principle that employees have the right to join a trade union and engage in collective bargaining.

Employees shall have the right to self-organization, to form, join, or assist [labor organizations](#), to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection, and shall also have the right to refrain from any or all of such activities except to the extent that such right may be affected by an agreement requiring membership in a labor organization as a condition of employment as authorized in section 8(a)(3).

Specific rules in support of collective bargaining are as follows.

- There can be only one exclusive bargaining representative for a unit of employees.
- Promotion of the practice and procedure of collective bargaining.
- Employers are compelled to bargain with the representative of its employees.
- Employees are allowed to discuss wages.

NLRB v. Jones & Laughlin Steel, 301 US 1, 24 (1937)

Public Policy

The denial by employers of the right of employees to organize and the refusal by employers to accept the procedure of collective bargaining lead to strikes and other forms of industrial strife or unrest, which have the intent or the necessary effect of burdening or obstructing commerce by (a) impairing the efficiency, safety, or operation of the instrumentalities of commerce; (b) occurring in the current of commerce; (c) materially affecting, restraining, or controlling the flow of raw materials or manufactured or processed goods from or into the channels of commerce, or the prices of such materials or goods in commerce; or (d) causing diminution of employment and wages in such volume as substantially to impair or disrupt the market for goods flowing from or into the channels of commerce.’ The inequality of bargaining power between employees who do not possess full freedom of association or actual liberty of contract, and employers who are organized in the corporate or other forms of ownership association substantially burdens and affects the flow of commerce, and tends to aggravate recurrent business depressions, by depressing wage rates and the purchasing power of wage earners in industry and by preventing the stabilization of competitive wage rates and working conditions within and between industries.’ Experience has proved that protection by law of the right of employees to organize and bargain collectively safeguards commerce from injury, impairment, or interruption, and promotes the flow of commerce by removing certain recognized sources of industrial strife and unrest, by encouraging practices fundamental to the friendly adjustment of industrial disputes arising out of differences as to wages, hours, or other working conditions, and by restoring equality of bargaining power between employers and employees. ‘It is hereby declared to be the policy of the United States to eliminate the causes of certain substantial obstructions to the free flow of commerce and to mitigate and eliminate these obstructions when they have occurred by encouraging the practice and procedure of collective bargaining and by protecting the exercise by workers of full freedom of association, self-organization, and designation of representatives of their own choosing, for the purpose of negotiating the terms and conditions of their employment or other mutual aid or protection.

Part III – The Children

The economic demand for migrant agricultural labor continues in America to this day. Only the nationality of the laborers has changed.

In his writings and music, Woody Guthrie constantly expressed his concerns and sadness for the plight of the children who were required to work the fields with their families lest they all starve.

[Work – *The Grapes of Wrath* – 1940]

[Field School – *Bound of Glory* – 1976]

[Woody Guthrie's music – Gordon Ward]

Modern-day equal protection doctrine recognizes the civil rights of foreign-born workers and their children, especially in the area of a free public education. See Plyler v. Doe, 457 US 202, 215 (1982).

Use of the phrase “within its jurisdiction” thus does not detract from, but rather confirms, the understanding that the protection of the Fourteenth Amendment extends to anyone, citizen or stranger, who *is* subject to the laws of a State, and reaches into every corner of a State's territory. That a person's initial entry into a State, or into the United States, was unlawful, and that he may for that reason be expelled, cannot negate the simple fact of his presence within the State's territorial perimeter. Given such presence, he is subject to the full range of obligations imposed by the State's civil and criminal laws. And until he leaves the jurisdiction—either voluntarily, or involuntarily in accordance with the Constitution and laws of the United States—he is entitled to the equal protection of the laws that a State may choose to establish.

Woody Guthrie's advocacy continued in his name through his writings and music many years after his death, culminating in the:

Migrant and Seasonal Agricultural Workers Protection Act of 1983, 29 U.S.C. §§ 1801-1872

This Act provides federal labor-related standards with respect to the transportation and housing of agricultural workers, sets specific requirements concerning payment of wages and conditions of employment, and deals with the relationship between agricultural workers, their employers and farm labor contractors. The Act requires certification of farm labor contractors through the federal Department of Labor.

Part IV – The Protest Song

In 2009, our own Judge Skillman, who has recently retired from the Appellate Division bench wrote the following in State v. Chepilko, 405 NJ Super. 446, 459 (App. Div. 2009):

The free speech guarantee of the First Amendment applies not only to the written or spoken word but also to expressive conduct. The expressive conduct protected by the First Amendment is not limited to conduct that communicates a political, social, philosophical or religious message; First Amendment protection also extends to artistic expression such as painting, music, poetry and literature. Moreover, First Amendment protection is not lost simply because compensation is paid for artistic expression.

The following song was written and performed in the finest traditions of American political and social protest music. It was composed in direct response to Irving Berlin’s God Bless America and Kate Smith rendition of same. It was originally entitled, “God Blessed America.” Today, we know it under another name and it has become our “unofficial national anthem.”

[Woody Guthrie’s music – Gordon Ward]
