

CHAPTER 13 SUMMARY CONTINUED

FREEDOM OF SPEECH *(continued)*

Expressive conduct that endangers public safety, trespasses, or unnecessarily blocks traffic is not protected. In addition, the Court has ruled that government can regulate or forbid expressive conduct in unusual, narrowly defined circumstances.

The Court also has developed three doctrines that it applies when deciding whether speech has gone beyond the limits of First Amendment guarantees:

- **Clear and present danger** Speech that clearly presents an immediate danger is not protected.
- **Bad tendency doctrine** Speech that has a tendency to lead to illegal action is not protected.
- **Preferred position doctrine** Any law that limits First Amendment freedoms should be presumed unconstitutional unless the government can show that it is absolutely necessary.

Furthermore the Court has ruled that the First Amendment does not protect the following categories of speech:

- **Seditious speech** Speech intended to advocate immediate, concrete acts of violence against the government is not protected.
- **Defamatory speech** False speech that damages a person's character, or reputation is not protected.
- **Fighting words** Words so insulting that they provoke an immediate violent reaction from the listener are not protected.

The Court also has upheld the right of school officials to regulate lewd or indecent speech at school events as well as student speech in school-sponsored activities.

★ FREEDOM OF THE PRESS

On freedom of the press issues, the Supreme Court has ruled that:

- government may exercise prior restraint, censorship of information before it is published, only if it can show that publication would endanger the national security;
- pretrial and courtroom publicity can interfere with the right to a fair trial. Consequently it has permitted judges to bar the press from pretrial hearings if warranted. The Court also allows protective measures such as moving the location of a trial

and sequestering the jury, or holding it in custody, until the trial ends;

- reporters cannot refuse to testify or surrender evidence. However, thirty states have passed shield laws designed to give reporters some means of protection against being forced to disclose "confidential information or sources";
- government can require radio and television stations to observe certain standards and can punish stations that broadcast obscene language.

★ FREEDOM OF ASSEMBLY

The Constitution defines freedom of assembly as "the right of the people peaceably to assemble, and to petition the Government for a redress of grievances." The Court has interpreted this right in the following ways:

- In the interest of public order and safety, government can require demonstrators to obtain advance permission.
- Authorities may halt a demonstration to preserve order. However, they may not arrest peaceful demonstrators if the audience is the cause of the disorder.

- Protesters cannot enter facilities such as prisons without permission or hold demonstrations intended to disrupt educational instruction.
- Protesters cannot convert private property (such as malls) to their own use.
- Government may ban or limit picketing by labor unions under certain circumstances.
- The state can restrict "freedom of association"—the right to join an organization—but only if it can show that the group is making actual preparations for the use of force against the government.

CHAPTER SUMMARY Activity ★ ★ ★ ★ ★ ★ ★ ★ ★ ★

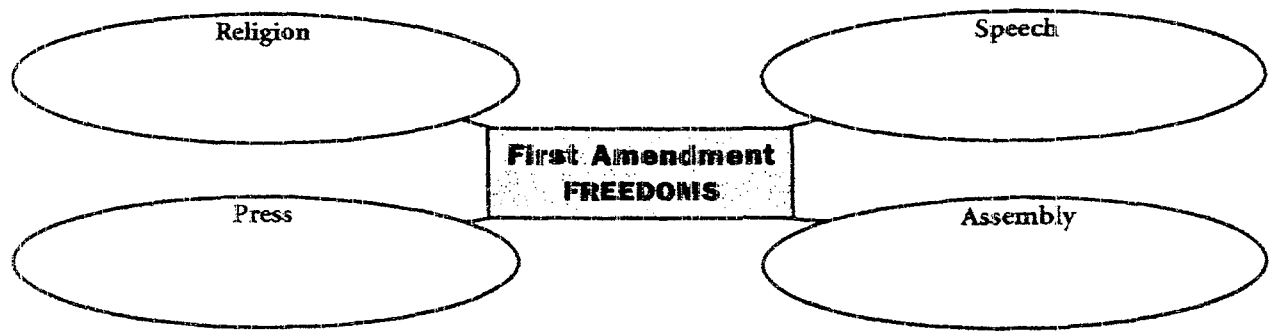


Constitutional Freedoms

★ DIRECTIONS In the space provided, write the word or phrase that best completes each of the following sentences.

1. The Constitution guarantees _____, or fundamental freedoms.
2. The Fourteenth Amendment applies the guarantees in the Bill of Rights to _____ and _____ governments.
3. The _____ clause of the First Amendment prohibits the government from unduly interfering with religious practices.
4. Symbolic speech is the use of _____ and symbols to express opinions.
5. _____ speech is intended to advocate immediate, concrete acts of violence against the government.
6. The term _____ refers to censorship of information before it is published.
7. _____ orders are court orders barring pretrial publication of certain types of information.
8. Government can punish television and radio stations that broadcast _____ language.
9. In the interest of public order and safety, government can require demonstrators to obtain _____.

Organizing Information Examine the following diagram and consider the list of phrases describing concepts and issues that are related to First Amendment freedoms. Write each item under the appropriate heading on the map.



- shield laws
- the establishment clause
- union picketing
- clear and present danger
- the bad tendency doctrine
- pretrial publicity
- freedom of association
- school prayer

Critical Thinking Answer the following question on a separate sheet of paper.

10. What three questions would the Supreme Court consider when deciding if a state can pay for a science textbook to be used in a parochial school?

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