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FREE SPEECH

While it would be inappropriate for The Rutherford Institute to provide you with legal advice at this time and under these circumstances, we are pleased to provide you with the following information which may be useful to you.

I. Introduction

At its most basic level the First Amendment encompasses the right to advocate ideas, to speak freely, to associate with whomever one chooses, and to petition the government for redress of grievances.[1] Such activities are protected against blanket prohibitions and from restrictions which are based upon government opposition to the content of the idea being expressed.[2]

The right to free speech serves not only to protect the rights of the speaker, but also to uphold the general public interest in having access to information within a free flowing market-place of ideas.[3] The Supreme Court has stressed the importance of this fact noting, ". . . that falsehoods may be exposed through the process of education and discussion is essential to free government. Those who won our independence had confidence in the power of free and fearless reasoning and communication of ideas to discover and spread political and economic truth."[4] Free speech has, then, as one of its functions to protect society from the errors in judgment which occur when only one side of an issue is considered. Despite the important interests served by free speech and the rather broad protection afforded by the First Amendment, free speech has never been viewed as an absolute right under the Constitution.[5]

II. General Principles

A. Prior Restraint

Courts have drawn a distinction between statutes which merely punish certain types of expressive conduct after they have occurred, and licensing or permit provisions which require official permission in advance of a public address, march, solicitation campaign or other expressive activity. One of the reasons courts look on these requirements with particular disfavor is because they can, if enforced, prevent expression from ever taking place. Therefore, prior restraints are subject to a "heavy presumption against . . . constitutional validity."[6]

B. Forum Analysis

Forum analysis is one of the factors which courts use to determine whether a governmental regulation violates the First Amendment. Speech and expression may be made subject to certain time,

place, and manner restrictions. The extent to which such limits may be imposed is dependent upon the forum in which the speech takes place. In order to determine what types of government regulation are valid, courts divide public property into three categories: traditional public fora, public fora by designation and non-public fora. The purpose of this categorization is to ". . . strike a balance between the interest in free speech and the countervailing interest in the efficient operation of government."[7]

1. Traditional Public Forum

Traditional public fora consist of areas which have historically been dedicated to assembly and debate, such as sidewalks, parks, and public streets.[8] Speech occurring in this forum can only be regulated in narrow ways which the government must show to be necessary to serve compelling governmental interests, and may not be regulated merely to preserve tranquility. Additionally, the availability of alternative channels for the communication is not alone sufficient to render a regulation valid.

2. Limited Public Forum (Forum by Designation)

Limited or designated fora "consist of public property which the State has opened for use by the public as a place for expressive activity."[9] They may be created for use by certain groups or for the discussion of certain subjects.[10] Examples include such areas as university meeting halls and municipal theaters which are not created by the government primarily for the purpose of furthering expression, but are nonetheless closely linked to the purpose of fostering assembly and debate. As in traditional public fora, reasonable time, place, and manner restrictions are permissible and content-based prohibitions must be narrowly drawn to effectuate a compelling state interest.[11] Speech occurring in this forum is subject to somewhat more regulation than in the traditional public forum, however, speech may be regulated to preserve the tranquility which the forum's basic purposes require.

3. Non-public Forum

Non-public fora are property which are not by tradition or designation fora for public communication.[12] They include places like prisons and military bases where freedom of expression is contrary to the purpose of the institution. While no one may be denied the right to free speech because of unpopular views, government regulations in non-public fora are valid as long as they are reasonable in light of the purpose served by the fora.

4. Content-Neutrality

If governmental regulation of expression occurs because the government objects to the communicative impact of the message, the regulation is presumptively invalid. This holds true unless the expression falls into one of the pre-defined "unprotected" categories, such as defamation, obscenity or fighting words, or if it falls within a class of speech that is deemed to be of lesser social value, such as offensive or indecent expression.[13]

5. Viewpoint Discrimination

Where regulations appear to be facially content-neutral, government may not regulate speech in a manner that discriminates between differing viewpoints on a particular subject. However, in a non-public forum, the requirement of viewpoint neutrality does not encompass subject neutrality. In other words, ". . . a speaker may be excluded from a nonpublic forum if he wishes to address a topic not encompassed within the purpose of the forum . . . or if he is not a member of the class of speakers for whose especial

benefit the forum was created . . . [but] the government violates the First Amendment when it denies access to a speaker solely to suppress the point of view he espouses on an otherwise includable subject."[14]

C. Overbreadth

A statute is overbroad if, in addition to proscribing activities which may constitutionally be forbidden, it also prohibits expression or conduct that is protected by other clauses in the First Amendment. The significance of this doctrine on constitutional litigation is two-fold:

1. Standing

Generally, a litigant who is attempting to have a statute ruled unconstitutional must show that it violates the Constitution as applied to him. However, if the litigant argues that the statute is overbroad, he need only prove that possible hypothetical applications of the statutory terms to third parties would violate the rights of persons not before the court. The significance of this argument rises from the fact that litigants are normally prohibited from asserting the constitutional rights of others in addition to their own. Therefore, the doctrine of overbreadth allows litigants to argue for the integrity of constitutional rights for us all.

2. Statute Void on its Face

Normally, when a court rules a statute to be unconstitutional in its application to a specific litigant, the court simply limits the statute by excising its unconstitutional applications. However, if a statute is held to be overbroad, the court strikes down the statute as void on its face. Thus, rather than curtailing statutory application, the court completely nullifies the entire statute.

D. Vagueness

The doctrine of vagueness differs from overbreadth in that vagueness refers to a lack of clarity rather than the scope of application. Therefore, a statute is void for vagueness if persons of ordinary intelligence would be forced to guess at its meaning and would differ in their opinions as to statutory application.

1. Constitutional Basis in Due Process

The constitutional basis for the doctrine of vagueness rises from the Due Process Clause requirement that a statute give potential violators fair notice of the nature of conduct being prohibited. Without fair notice, a violator cannot justly be held responsible for an infraction against a statute that an ordinary person would not understand.

2. Curbing Discretion

Additionally, the doctrine of vagueness serves to curtail the discretion of law enforcement officers and administrative officials. When statutorily allowed discretion is inappropriately broad, it invites abuses such as discriminatory application. Thus, the doctrine of vagueness is also an important means by which litigants can protect general civil liberties.

III. <u>Restricted Speech</u>

A. Subversive Speech

Certain speech may be restricted, and some forms of speech such as defamation, obscenity, and fighting words receive no protection under the First Amendment.[15] Subversive speech and speech intended to illicit illegal behavior may be limited. For example, the Court has found that, particularly in time of war, speech which creates a "clear and present danger" to a legitimate national security interest may be restricted.[16]

Speech regarding illegal actions may be prohibited when it takes a form likely to produce an imminent lawless act.[17] Courts very rarely find such circumstances to exist. As noted in Texas v. Johnson, "We have not permitted the government to assume that every expression of a provocative idea will incite a riot, but have instead required careful consideration of the actual circumstances surrounding such expression."[18]

B. Fighting Words

In a similar vein, the government may ban the use of fighting words, "those personally abusive epithets which, when addressed to an ordinary citizen are, as a matter of common knowledge, inherently likely to provoke violent reaction."[19] This very narrow exception to free speech prohibits direct personal insult, and is not applicable to more general provocative behavior such as flag burning.

Also of interest is a line of cases dealing with statutes and ordinances that place restrictions on so called "hate speech." Such speech tends to be defined as any form of expression that insults or provokes violence based on race, color, creed, religion, or gender. Advocates of such restrictions often argue that the fighting words doctrine justifies limits on "hate speech."

For example, in R.A.V. v. City of St. Paul, the Court struck down an ordinance that prohibited expression "one knows or has reason to know arouses anger, alarm or resentment in others on the basis of race, color, creed, religion or gender."[20] This ordinance was found to violate the basic principle of viewpoint discrimination, which asserts that the government may not proscribe speech or expression simply because it disapproves of the idea expressed. While an ordinance prohibiting all fighting words may be valid, one that singles out particular types of speech falls outside the traditional fighting words exception.[21]

Fighting words may not be prohibited simply because they communicate a particular idea, but rather because they represent an unacceptable mode of expression. Government limits on the content of speech must be justified by a showing of reasonable necessity to achieve a compelling state interest.[22] For example, in 1993 the Seventh Circuit upheld the conviction of a defendant for cross burning under a federal statute which prohibits acts of racial intimidation that interfere with the rights of individuals to freely associate with persons, regardless of race, in their own homes. This case was distinguished from R.A.V. v. City of St. Paul, because: 1) the statute's aim is to prohibit harmful conduct, not to curtail particular types of speech, so that any impact on speech is incidental, 2) the statute serves the important Thirteenth Amendment interest in eradicating all badges of slavery, and the more general government interest in protecting the right of individuals to occupy homes without threat of intimidation, and 3) the statute is narrowly tailored to uphold these interests.[23]

Similarly, in Wisconsin v. Mitchell, the Supreme Court upheld a state statute that imposed increased sentences for persons convicted of crimes in which the victim was intentionally selected because of race. In justifying this decision, the court noted that unlike R.A.V. v. City of St. Paul, where the ordinance was directed at limiting expression, the statute in question merely punishes criminal acts which are not protected by the First Amendment.[24] In other words, the Wisconsin statute is valid because it punishes specific types of action based on their form, while the St. Paul ordinance is unconstitutional because it restricts the expression of certain ideas.

C. Time, Place, and Manner Restrictions

In traditional and designated public fora, time, place, and manner restrictions may be valid as long as they are justified without reference to the content of the regulated speech, and serve a significant government interest while leaving open ample alternative channels for communication. Such regulations need not be the least restrictive means available to serve the government interest, but must be narrowly tailored to effect only speech that truly impacts the state interest.[25]

For example, in Frisby v. Schultz, the Supreme Court rejected a facial challenge to a city ordinance that completely banned picketing in front of any residence. This "place" restriction was valid despite the fact that residential streets are traditional public fora because the ordinance served a legitimate government purpose in protecting residential property. Additionally, the ordinance was narrowly tailored and prohibited only demonstrations in front of particular residences without limiting more general protest marches through residential streets.[26]

Ordinances restricting the placement of signs on public property have also been held valid. The Supreme Court upheld such an ordinance which served to further a city zoning code by prohibiting signs in order to prevent traffic hazards and to advance aesthetic values.[27] While it is generally true that broad bans on particular forms of expression are invalid, sign ordinances such as this are permissible because "the manner of speech forbidden necessarily produces the very evil the government seeks to eradicate."[28] In other words, since the presence of any sign works against the state interests being protected then even a general ban on all signs is sufficiently narrow. Recall, however, that as noted above such limits on expression in a public forum must be content neutral, must serve a substantial government interest and must have an incidental impact on free speech no greater than required to uphold that interest.[29]

The legitimacy of imposing time, place, and manner restrictions on expression occurring on private property, however, is a subject of dispute. In 1991 the Supreme Court allowed a "manner" restriction on private property where a state law restricted nude dancing.[30] Justifying this application the Supreme Court indicated, "The time, place, or manner test was developed for evaluating restrictions taking place on public property . . . although we have on at least one occasion applied it to conduct occurring on private property."[31]

That one prior case involved a city zoning ordinance prohibiting adult theaters in certain locations. Despite the fact that the ordinance imposed a "place" restriction on private property, the Court found it to be "properly analyzed as a form of time, place and manner restriction."[32] Note that in each of these cases the expression being restricted was to occur in places generally open to the public. This would seem to

leave open the question of time, place and manner restrictions on such activity as placement of signs in private yards.

The Eighth Circuit struck down an ordinance that banned most signs on private property, while providing an exception for certain commercial signs.[33] In overturning this ordinance the court did not reach the question of whether the fact that the sign was on private property should preclude the imposition of a "place" restriction. Instead, the court used the same analysis as is applied to public property sign ordinances. In doing so, the court found that this ordinance, by preferring commercial over non-commercial speech, represented a content-based restriction that could only be upheld if narrowly drawn to protect a compelling state interest. Here, the city's interest in aesthetic preservation and public safety were not sufficient to justify a content-based restriction on speech. The case was appealed to the Supreme Court, where the petitioner's attempted justification of the statute as enforcing reasonable time, place, and manner restrictions failed due to insufficient access to alternative channels.[34]

D. Private Rights of Action Under Nuisance Law

Where no statute exists limiting adult theaters or other such establishments it may be possible to restrict their operation through a private right of action, claiming such businesses represent a private nuisance. In such a case a property owner must show some interference with the use or enjoyment of his land caused by the activities of the business in question. The plaintiff here must show a specific injury based on an unreasonable action by the defendant.[35] Such a showing may entitle the injured party to money damages or injunctive relief.

It is important to note that private nuisance claims are distinct from attempts to limit adult theaters through public nuisance laws aimed at prohibiting obscene or lewd behavior. Such public nuisance laws may be valid if the restricted activity meets the legal definition of obscenity, or if the law constitutes a reasonable time, place, or manner restriction under the standards discussed above.

E. Obscenity

As previously mentioned, obscenity may be restricted without violating the First Amendment. In Miller v. California, the Supreme Court said, "This much has been settled by the Court, that obscene material is unprotected by the First Amendment."[36] While obscenity has proven difficult to define, the Court has settled on a three-part-test; 1) whether the average person applying contemporary community standards would find the speech or expression, taken as a whole, appeals to prurient interest, 2) whether it depicts or describes in a patently offensive way, sexual conduct specifically defined by an applicable state law, and 3) whether taken as a whole it lacks serious literary, artistic, political, or scientific value.[37]

While this definition may appear rather broad it has been applied quite narrowly. In particular, courts have been careful to distinguish between obscenity and indecency, and have found that "sexual expression which is indecent but not obscene is protected by the First Amendment."[38] Speech which is merely indecent may only be limited by a statute narrowly tailored to promote an important state interest.

In Barnes v. Glen Theater, the Supreme Court found that nude dancing is expressive conduct protected by the First Amendment.[39] Yet the Court went on to uphold an Indiana public indecency law placing some limits on such activity because the statute furthered a substantial state interest in public health and safety, which was unrelated to the suppression of free expression.

Generally applicable zoning regulations and statutes designed to protect the health and welfare of children may also be used to limit indecent expression generally protected by the Constitution. For example the court has allowed laws shielding minors from "the influence of literature that is not obscene by adult standards," as long as such regulations are tightly drawn to actually protect children.[40]

However, in Reno v. ACLU, the Supreme Court enjoined enforcement of that portion of the Communications Decency Act, which prohibited the knowledgeable transmission of "obscene or indecent" messages to a recipient under 18 years of age, and which prohibited "indecent transmission" and "patently offensive display" as an abridgement of the Free Speech Clause.

F. Commercial Speech

Also subject to regulation is commercial speech which relates only to the economic interest of the speaker and audience. Such speech is afforded less protection than other forms of speech and expression. To determine the amount of protection owed to a particular instance of commercial speech a four-part analysis is employed; 1) to be protected at all the speech must concern lawful activity and must not be misleading, 2) the importance of the government interest justifying the restriction must be weighed, 3) if the speech is lawful, and not misleading, and the government interest is substantial, then the regulation must directly advance the asserted interest, and 4) the regulation must be no more severe than necessary to serve that interest.[41]

IV. Religious Liberty Claims

The current trend in religious liberty claims reflects their absorption into the Free Speech Clause. Although this new development effectively restores strict scrutiny review to religious expression in cases where exclusion of speech occurs in a public forum and is determined not to be content or viewpoint neutral, it is inadequate to protect individual religious conduct which is exercised for the purpose of enhancing religious devotion rather than expression or communication. This allows religious citizens equality with their non-religious counterparts in the political arena, but denies them the historical protection of accommodation in the form of exemption from compliance with federal law that unduly infringes on religious practice. Thus, the Free Speech trend in religious liberty claims is ultimately inadequate to fully protect the constitutional right of religious citizenry to the free exercise of religion under the Religion Clauses.

A. The Demise of Strict Scrutiny Under the Free Exercise Clause

Generally, legislation passed by Congress must pass the "rational basis" standard of review if challenged constitutionally. This standard is quite easy to meet, and simply requires that legislative means are rationally related to furthering a legitimate government interest. However, until recently, the Supreme Court's stated standard of review for religious liberty claims was "strict scrutiny," which

required that legislation must be in furtherance of a "compelling state interest" and be "narrowly tailored" to meet that end to justify an infringement on religious liberty. This framework allowed for religious exemptions from statutes unless the legislative purpose was proven extremely important, and also painstakingly precise in its terms and application (see II. C. Overbreadth). However, two recent Supreme Court decisions decisively removed strict scrutiny judicial review from free exercise claims, which forced litigants contending for religious freedom to submit "hybrid" claims combining free exercise and free speech violations in order to get relief.

The first of these cases was the landmark decision in Employment Division, Department of Human Resources of Oregon v. Smith,[42] which held that the State is permitted to prohibit the sacramental use of peyote and to deny Smith's unemployment benefits by refusing to follow precedent and apply strict scrutiny review to the narcotics statute. In response, Congress enacted the Religious Freedom Restoration Act (RFRA) of 1993,[43] which attempted to restore strict scrutiny review of Free Exercise claims. The second landmark decision came in response to a challenge of this statute in City of Boerne v. Flores,[44] which held that RFRA exceeds Congress' legislative power and violates the separation of powers doctrine and the principle of federalism. These doctrinal developments have effectively solidified the "hybrid" approach of combined Free Exercise and Free Speech claims when a litigant's activities can constitute expression as a means to achieve heightened judicial review.

B. "Hybrid" Claims Under the Free Speech Clause

With the invocation of the Free Speech Clause, plaintiffs must prove their activities and speech are in the proper forum for First Amendment protection. Forum Analysis is therefore used to "strike a balance between the interest in free speech and the countervailing interest in the efficient operation of government."[45] In the two following examples, note that when given both claims, courts tend to hold based entirely on the Free Speech claim without mentioning the Free Exercise Claim which theoretically provides additional protection.

1. Rosenberger v. Rectors and Visitors of the University of Virginia[46]

Facts: A University of Virginia student group published a magazine containing articles written from a Christian perspective. The University had a general policy which allowed student groups to receive funding for printing costs from the Student Activities Fund (SAF). The University refused to cover the group's printing costs because the magazine primarily promoted or manifested "a particular belief in or about a deity or an ultimate reality," as prohibited by SAF guidelines.[47]

Holding: The Supreme Court reversed, ruling that the University's refusal constituted viewpoint discrimination because the SAF did not exclude religion as a subject matter, yet selected student journalistic efforts with religious editorial viewpoints for disfavored treatment.[48]

2. Hsu v. Rosyln Union Free School District No. 3[49]

Facts: Two high school students attempted to start an extracurricular Christian student club which would meet after school in one of the classrooms. Their request for official recognition was denied based on the ground that the club's constitution required its officers to be professing Christians. The school board construed this provision to be in violation of its anti-discrimination policies.

Holding: The Second Circuit Court of Appeals ruled that the student's rights were protected under the Free Speech Clause. Additionally, the opinion stated, ". . . when a sectarian religious club discriminates on the basis of religion for the purpose of assuring the sectarian religious character of its meetings, a school must allow it to do so unless that club's specific form of discrimination would be invidious . . . or would otherwise disrupt or impair the school's educational mission."[50]

C. The Rights of Pro-life Protesters

1. The Speech Plus Conduct Distinction

A statute which absolutely prohibits picketing must meet the same standard of strict scrutiny required for speech under the First Amendment. However, the Supreme Court does make a distinction between "pure" speech and "speech plus conduct." In upholding governmental restrictions as valid time, place and manner restrictions, the Court reasons that the object of regulation is conduct rather than speech. However, virtually all speech is combined with some form of action. Therefore, this distinction has been inconsistently applied and is often overlooked when the Court uses its discretion to allow a particular expressive activity. Examples include the wearing of an armband in Tinker v. Des Moines School District,[51] and refusing to comply with a compulsory flag salute in West Virginia State Board of Education v. Barnette.[52]

2. RICO

Another area of concern is the applicability of racketeering laws to pro-life protesters. While the Supreme Court's January 1994 decision in National Organization for Women v. Scheidler[53] upheld the use of such laws against pro-lifers, the Seventh Circuit Court of Appeals clarified this ruling by indicating that the full range of First Amendment protections must be afforded to persons sued under the federal racketeering statute.

D. Summary

Consequently, cases which have traditionally fallen under the Free Exercise Clause are now being argued in conjunction with the Free Speech Clause. The future of this trend will most likely continue as Free Exercise cases will continue to be reviewed according to the analysis adopted in Smith. However, this "hybrid" form of litigation has proven inadequate to fully protect religious liberty as courts have tended to address the Free Speech claim without mentioning the Free Exercise issue. This leaves religious conduct largely unprotected. It is ironic to note that this evisceration of the Free Exercise Clause, and of thus religious liberty, has resulted in the retreat of Free Exercise into the Free Speech Clause, with whom it once enjoyed heightened scrutiny. In the process, what was once a textually equal clause has been largely transformed into a subset of Free Speech.

The Rutherford Institute hopes that this information has been helpful to you in your fight for religious freedom. If you desire additional information on this or other issues of religious liberty, or if you need personal legal assistance in any area regarding religious freedoms, then please feel free to write to us at The Rutherford Institute, P.O. Box 7482, Charlottesville, Virginia 22906-7482.

ENDNOTES

1. Smith v. Arkansas State Highway Employees Local 1315, 441 U.S. 463, 464 (1979).
2. Id.
3. Pacific Gas and Elec. Co. v. Public Utilities Comm'n of Cal., 475 U.S. 1, 8 (1986).
4. Thornhill v. Alabama, 310 U.S. 88, 95 (1940).
5. Schafer v. United States, 251 U.S. 466, 474 (1920).
6. Bantam Books, Inc. v. Sullivan, 372 U.S. 58, 70 (1963).
7. May v. Evansville-Vanderburgh Sch. Corp., 787 F.2d 1105, 1114 (7th Cir. 1986).
8. Perry Educ. Ass'n v. Perry Local Educators' Ass'n, 460 U.S. 37, 45 (1983).
9. Id.
10. Id. at 46 n. 7.
11. Id. at 46.
12. Id.
13. New York v. Ferber, 458 U.S. 747 (1982).
14. Cornelius v. NAACP Legal Defense and Educ. Fund, Inc., 473 U.S. 788, 806 (1985).
15. See R.A.V. v. City of St. Paul, 505 U.S. 377, 383 (1992).
16. Schenck v. United States, 249 U.S. 47, 52 (1919).
17. Brandenburg v. Ohio, 395 U.S. 444, 447 (1969).
18. Texas v. Johnson, 491 U.S. 397, 409 (1989).
19. Cohen v. California, 403 U.S. 15, 20 (1971).
20. R.A.V. v. City of St. Paul, 505 U.S. 377, 380 (1992).
21. Id. at 381.
22. Id.
23. United States v. Hayward, 6 F.3d 1241, 1250 - 51 (7th Cir. 1993).

24. Wisconsin v. Mitchell, 508 U.S. 476, 487-88 (1993).

25. Ward v. Rock Against Racism, 491 U.S. 781, 798-99 (1989).

26. Frisby v. Shultz, 487 U.S. 474, 480, 482 (1988).

27. City Council of Los Angeles v. Taxpayers for Vincent, 466 U.S. 789 (1984).

28. Frisby, 487 U.S. at 493 (Brennan, J. dissenting).

29. Taxpayers for Vincent, 466 U.S. at 805.

30. Barnes v. Glen Theater Inc., 501 U.S. 560, 566 (1991).

31. Id.

32. Renton v. Playtime Theaters Inc., 475 U.S. 41, 46 (1986).

33. Gilleo v. City of Ladue, 986 F.2d 1180, 1183-84 (8th Cir. 1993), rev'd, 512 U.S. 43 (1994).

34. City of Ladue v. Gilleo, 512 U.S. 43 (1994).

35. See Pratt v. Hercules Inc., 570 F. Supp. 773 (D. Utah 1982).

36. Miller v. California, 413 U.S. 15, 23 (1973).

37. Id. at 24.

38. Sable Communications of Cal., Inc. v. FCC, 492 U.S. 115, 126 (1989).

39. Barnes, 501 U.S. at 567.

40. Sable, 492 U.S. at 126.

41. Central Hudson Gas and Elec. Corp. v. Public Serv. Comm'n, 447 U.S. 557, 563-64 (1980).

42. 494 U.S. 872 (1990).

43. 42 U.S.C. ? 2000bb(2)(a) and (b) (1994).

44. 521 U.S. 507 (1997).

45. May, 787 F.2d at 1114.

46. Rosenberger v. Rector & Visitors of Univ. of Va., 515 U.S. 819 (1995).

47. Id. at 2515.

48. Id. at 2517.

49. 85 F.3d 839 (2nd Cir. 1996), cert. denied, 519 U.S. 1040, (1996).

50. Id. at 872-873.

51. 393 U.S. 503 (1969).

52. 319 U.S. 624 (1943).

53. 508 U.S. 971 (1993).