CONTROLLING LEGAL PRINCIPLES

Free Exercise Clause Decision – The "Contemplation of Justice"

Shelton v. Tucker, 364 U.S. 479 (1960)

Syllabus

(a) **There can be no doubt of the right of a State to investigate the competence and fitness of those whom it hires to teach in its schools.** P. 364 U. S. 485.

(b) To compel a teacher to disclose his every associational tie is to impair his right of free association, a right closely allied to freedom of speech and a right which, like free speech, lies at the foundation of a free society. Pp. 364 U. S. 485-487.

(c) The unlimited and indiscriminate sweep of the statute here involved and its comprehensive interference with associational freedom go far beyond what might be justified in the exercise of the State's legitimate inquiry into the fitness and competence of its teachers. Pp. 364 U. S. 487-490.

"A teacher works in a sensitive area in a school room. There he shapes the attitude of young minds towards the society in which they live. In this, the state has a vital concern."

Adler v. Board of Education, 342 U. S. 485, 342 U. S. 493. There is

"no requirement in the Federal Constitution that a teacher's classroom conduct be the sole basis for determining his fitness. Fitness for teaching depends on a broad range of factors."

Beilan v. Board of Education, 357 U. S. 399, 357 U. S. 406. [Footnote 4]

In

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Schneider v. State, 308 U. S. 147, the Court dealt with ordinances of four different municipalities which either banned or imposed prior restraints upon the distribution of handbills.

In holding the ordinances invalid, the Court noted that, where legislative abridgment of "fundamental personal rights and liberties" is asserted,

"the courts should be astute to examine the effect of the challenged legislation. Mere legislative preferences or beliefs respecting matters of public convenience may well support regulation directed at other personal activities, but be insufficient to justify such as diminishes the exercise of rights so vital to the maintenance of democratic institutions."

308 U.S. at 308 U. S. 161. In Cantwell v. Connecticut, 310 U. S. 296, the Court said that

"[c]onduct remains subject to regulation for the protection of society,' but pointed out that, in each case, 'the power to regulate must be so exercised as not, in attaining a permissible end, unduly to infringe the protected freedom."

310 U.S. at 310 U. S. 304. Illustrations of the same constitutional principle are to be found in many other decisions of the Court, among them Martin v. Struthers, 319 U. S. 141; Saia v. New York, 334 U. S. 558, and Kunz v. New York, 340 U. S. 290.

[Footnote 4]

The actual holdings in Adler and Beilan, involving the validity of teachers' discharges, are not relevant to the present case.