CONTROLLING LEGAL PRINCIPLES

Free Exercise Clause Decision – The "Contemplation of Justice"

Griswold v. Connecticut, 381 U.S. 479 (1965)

In NAACP v. Alabama, 357 U. S. 449, 357 U. S. 462 we protected the **"freedom to associate and privacy in one's associations,"** noting that freedom of association was a peripheral First Amendment right. Disclosure of membership lists of a constitutionally valid association, we held, was invalid

"as entailing the likelihood of a substantial restraint upon the exercise by petitioner's members of their right to freedom of association."

Ibid. In other words, the First Amendment has a penumbra where privacy is protected from governmental intrusion. In like context, we have protected forms of "association" that are not political in the customary sense, but pertain to the social, legal, and economic benefit of the members. NAACP v. Button, 371 U. S. 415, 371 U. S. 430-431. In Schware v. Board of Bar Examiners, 353 U. S. 232, we held it not permissible to bar a lawyer from practice because he had once been a member of the Communist Party. The man's "association with that Party" was not shown to be "anything more than a political faith in a political party" (id. at 353 U. S. 244), and was not action of a kind proving bad moral character. Id. at 353 U. S. 245-246.

Those cases involved more than the "right of assembly" -- a right that extends to all, irrespective of their race or ideology. De Jonge v. Oregon, 299 U. S. 353. The right of "association," like the right of belief (Board of Education v. Barnette, 319 U. S. 624), is more than the right to attend a meeting; it includes the right to express one's attitudes or philosophies by membership in a group or by affiliation with it or by other lawful means. ***Association in that context is a form of expression of opinion, and, while it is not expressly included in the First Amendment, its existence is necessary in making the express guarantees fully meaningful.***

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