

Handout E: Assembly and Petition Cases Answer Key

***De Jonge v. Oregon* (1937) unanimous opinion written by Hughes**

1. De Jonge talked to Communist Party members about jail conditions and strikes. He was arrested for calling for a political revolution, but he claimed he had just gone to the meeting and discussed current events. The Supreme Court found that De Jonge did not call for immediate violent actions and his speech and the meeting were protected by the First Amendment.
2. Did the Oregon law under which DeJonge was arrested for “presid[ing] at, conduct[ing], and assist[ing] ...the Communist Party...” violate the Fourteenth Amendment’s due process clause?
3. Accept reasoned answers.
4. Peaceful civil discourse is protected by the First Amendment’s rights of freedom of assembly and freedom of speech whether or not the government agrees with the message.

***Cox v. Louisiana* (1965) unanimous written by Goldberg**

1. Cox led students in an anti-discrimination march and demanded service at nearby segregated restaurants. The police pushed the protestors away with tear gas and arrested Cox. The Supreme Court stated that Cox’s arrest was unconstitutional because the march did not result in a breach of the peace, and freedom of assembly cannot be denied because the government disagrees with the message.
2. Does a statutory “disturbance of the peace” conviction, for a peaceable demonstration that contains speech that may potentially incite violence, infringe on a demonstrator’s First Amendment rights to freedom of speech and assembly?
3. Accept reasoned answers.
4. Peaceful civil discourse is protected by the First Amendment’s rights of freedom of assembly and freedom of speech whether or not the government agrees with the message.

***Gregory v. City of Chicago* (1969) Unanimous opinion written by Earl Warren**

1. Demonstrators marched to the mayor’s house to ask for school desegregation. The marchers were peaceful, but the police worried about the chance of violence and told any the protestors to leave by 9:30 P.M. or be arrested. When they did not leave, the protestors were arrested for disorderly conduct. The Supreme Court stated that the demonstration was peaceful and was within the group’s First Amendment rights.
2. Did Chicago police violate the due process rights of Dick Gregory and other protesters?

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3. Accept reasoned answers.
4. Peaceful civil discourse is protected by the First Amendment's rights of freedom of assembly and freedom of speech even if there is the possibility of violence.

***Edwards v. South Carolina* (1963) 8-1 decision written by Stewart**

1. Protestors marched peacefully on the South Carolina State House, but police officers ordered them to leave. When the marchers did not leave, they were arrested and charged with breach of the peace. The Supreme Court ruled that the marchers were exercising their First Amendment rights to freedom of speech and assembly, and that South Carolina could not arrest people for expressing themselves peacefully even if their views are unpopular.
2. Did the arrests and convictions of the marchers violate their freedom of speech, assembly, and petition for redress of their grievances as protected by the First and Fourteenth Amendments?
3. Accept reasoned answers.
4. Peaceful civil discourse is protected by the First Amendment's rights of freedom of assembly and freedom of speech whether or not the views expressed are considered unpopular.

***Lloyd v. Tanner* (1972) 5-4 decision written by Powell**

1. Students passed out materials protesting the Vietnam War in a privately-owned mall. After a shopper complained, police officers order the group to stop handing out leaflets and move to the public sidewalk, or they would be charged with trespassing. The students believed that even though the mall was private, it served as a public business district, and they should be able to hand out the materials. The Supreme Court ruled that protestors do not have a right to assemble on private property, and that the rights of free speech and assembly are protected against state, not private, action.
2. Were Tanner and the other protestors' First Amendment right to free speech violated by Lloyd's refusal to allow them to distribute handbills on mall property?
3. Civil discourse, even if done peacefully, is not protected by the First Amendment if conducted on private property. First Amendment rights only limit state, not private, actions.