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Where Did the Rights to Petition and Assembly Come From, and How Do Americans Exercise Them?

BACKGROUND ESSAY

What is the History of the Rights to Petition and Assemble?

Have you ever walked through a busy part of your city or town and seen a group of citizens gathering signatures on a petition, or assembled in protest? Has anyone ever petitioned to change a policy at your school? If so, you've witnessed the power of the First Amendment in action.

Of all of the protections contained in the First Amendment, the rights to petition and assemble might be the oldest. In early English history, it was common for citizens to be punished for criticizing the government, as the king had absolute power. The Magna Carta (1215) began to limit the king's power and became the basis for certain rights that would develop over time. Part of the Magna Carta allowed groups of barons to petition the king on behalf of their county. This right, however, was not absolute. Anyone signing a petition with more than twenty names could be found guilty of "tumultuous petitioning," or creating unrest among the people. The English Bill of Rights (1689) expanded this protection to all people and lifted the ban on "tumultuous petitioning." It said that all English people had the right to petition the king and that it was illegal

to prosecute people for petitioning.

As Englishmen, the American colonists could exercise these rights as well, and they did. When Parliament began taxing nearly all materials printed in America with the Stamp Act (1765), Americans were outraged. That year, representatives of the colonies assembled in the Stamp Act Congress and sent petitions and protests to the king and Parliament. These petitions of protest continued as British treatment of colonial America worsened, leading to the Olive Branch Petition of 1775 [an olive branch is a symbol of peace]. This petition was the last attempt to convince the king to address American complaints. In response, King George declared the American colonies in rebellion. The Declaration of Independence (1776) accused the king of ignoring their petitions, stating that though they petitioned him many times, the king responded with more violations of their rights.

The Declaration of Independence shows the importance of petition and assembly to liberty and self-government. When the Founders were building a republic to preserve the tradition of freedom, these rights would become two of the five protections of the First Amendment.

How Have Americans Petitioned the Government, and in What Ways Does Government Respond?

Americans have frequently used their right to petition the government since the earliest days of the republic, petitioning on wide range of subjects.

When the American Anti-Slavery Society began a petition drive in 1834, Americans responded with more than 130,000 petitions to Congress in one year alone. Congress reacted with a “gag rule,” automatically ignoring all slavery-related petitions. While the gag-rule remained in place for eight years, Americans continued calling for Congress to end the terrible institution.

In the early twentieth century, citizen petitions were important in making states and Congress outlaw child labor, which for centuries before the industrial revolution had been accepted as normal. Petitions also helped to convince Congress to ban alcohol for several years, a period of time known as Prohibition. Civil Rights activists like Martin Luther King, Jr. continued this tradition. In 1963, King called for a march on Washington, and over 200,000 Americans responded, assembling on the National Mall. Their form of petition, assembling a huge number of people demanding that Congress expand civil and political rights for all, pressured the government to pass the Civil Rights Act just 11 months later.

Americans today petition the government in all sorts of ways. We write letters, organize petition drives, sign online petitions and send emails.

We can even petition through Facebook and Twitter. Indeed, technology makes petitioning the government easier than ever. Commercials calling on citizens to “contact your Member of Congress and Senators” or “contact the White House” can sometimes result in millions of phone calls and emails to politicians.

So, is government required to respond to our petitions? No, but in many ways, it does. The judicial branch accepts a type of petition that uses the legal process to right a wrong. Congress can address citizens’ petitions by changing a bad law, and the executive branch can do the same by changing how government agencies enforce laws. Finally, many state constitutions allow citizens, through petition, to put an issue on the ballot so that the public can vote on the issue directly.

What Does the Right to Assembly Protect, and What Are its Limits?

The right to assemble is important to the rights both to speak and to petition. Assembly is powerful because there is “strength in numbers.” This means that groups of people can be stronger than individuals, like the way that many voices speaking together are louder than one person speaking alone. The Founders knew that the power of assembly provided the strength in numbers needed for citizens to express their views. They also knew that the expression of citizen viewpoints supports self-government.

The right to assemble, however, is not unlimited. Citizens may not, for example, assemble on private property



In 1963, hundreds of thousands of people participated in the March on Washington asserting their right to peaceably assemble.

without the permission of the property owner. The Supreme Court has also ruled that the government may pass reasonable laws about the time, place and manner of assemblies. Such laws always raise interesting questions regarding the protections of the First Amendment.

In 1977, the American Nazi Party said that it would march through the Village of Skokie, Illinois, a largely Jewish community in suburban Chicago. This was controversial because the Nazi party is known for its animosity towards Jewish people. Two weeks after the Nazis applied for a permit to march, the Village of Skokie made a rule forcing marchers to post a \$350,000 insurance bond.

The Village later banned marching in military style uniforms and the

distribution of printed materials that promote hatred of groups of people. The Nazi group argued that these three laws were violations of the First Amendment. The case eventually went to the Supreme Court, which ruled that the Nazi Party could not be stopped from peacefully assembling and marching because of the content of their message (*National Socialist Party of America v. Village of Skokie*, 1977). In short, you cannot be prevented from assembling simply because others disagree with you or find your ideas offensive.

There are other times when courts decided that a “time, place, or manner” rule, was a reasonable restriction of assembly rights. In 1992, a Florida court allowed a 36-foot “buffer zone” around abortion clinics, banning protest

assemblies in that area. The purpose of the ban was to allow potential patients and staff to enter the building freely and to allow the clinic to operate. In *Madsen v. Women's Health Center, Inc.* (1994), the Supreme Court agreed, upholding the buffer zone. The restriction did not prevent the assembly or its content, but rather restricted its location. Ruling on a similar state law in *Hill v. Colorado* (2000), the Court said it "is not a regulation of speech...rather, it is a regulation of the places where some speech may occur. [It does not] place any restriction on the content of any message that anyone may

wish to communicate to anyone else."

The Founders wanted the citizens of the United States to be free to discuss and debate political actions because they understood that the rights of petition and assembly are essential for self-government. The First Amendment protects your right to gather with others and speak your mind in places and in ways that you think will be most effective to communicate your message, no matter how controversial. Your right to assemble, however, must always be balanced with the rights and safety of others.



Comprehension and Critical Thinking Questions

1. How did early English documents form the basis for the rights to petition and assembly, and how did these rights influence the Founders?
2. How have Americans throughout history exercised the freedom of petition? In what ways do Americans today petition the government?
3. How was the Supreme Court's ruling in *National Socialist Party of America v. Village of Skokie* (1977), important to defining the protections of the First Amendment's right to assembly?
4. What types of limitations on assembly are constitutional? Provide an example.
5. The rights to petition and assembly are very important to freedom of speech. How do these rights support each other?