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THE DEVELOPMENT OF THE RIGHT OF ASSEMBLY— A CURRENT SOCIO-LEGAL INVESTIGATION

GEORGE P SMITH, II*

Aciores autem morsus sunt intermissae libertatis quam retentae.

Freedom suppressed and again regained bites with keener fangs
than freedom never endangered.

Cicero, *De Officiis*, ii. 7.24.

From the bushlands of Africa to the southlands of the United States, the cry for "Freedom" is oftentimes heard in a harsh, resounding manner. For the most part, the individuals who join in the chant have no clear conception of the ultimate meaning of the word, Freedom. Instead, led by "pied pipers," seemingly endowed with charismatic qualities, they follow blindly the paths marked by their leaders, oblivious to the attendant responsibilities of possessing Freedom of any nature.

Freedom to live like other individuals under a democratic form of government, freedom to be fully accepted into the social order, freedom to speak, freedom to publish and to be informed on all matters of current news interest, freedom to practice any form of religion desired, freedom to associate with individuals and groups of personal choice and freedom to assemble in peaceable fashion to discuss matters of every nature are the chief value-oriented goals which serve as the bulwark of the present "Freedom Movement."

It will be the purpose of this article to but assay the historical evolution of one freedom—the freedom or right of assembly—noting first its development in England and later in America and finally its current position in the twentieth century. Even though the rights of free speech, association, and religion are inescapably drawn into case discussions of freedom of assembly, effort will be made to confine the consideration to the pertinent assembly problems. In addition to considering the fundamental legal propositions embodied in this right, as well as its *raison d'être*, thought and discussion will be given to the sociological interpretations of the basic need for its recognition. But, before any of this may be undertaken, an attempt to define in more exacting philosophical terms what is meant by the word, "Freedom," must be made.

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THE CONCEPT OF "FREEDOM"

"Freedom" and "liberty" are two words used interchangeably in modern thought and communication and, since the fourteenth century, have been accepted as being substantially identical in their meaning.¹ Although the English speaking world has tended in the past to treat *liberty* as "something French, foolish and frivolous," and *freedom* as "English, solid and sensible," it would appear, however, that there is no ground for this thin distinction.²

Both negative, as well as positive, connotations have always been, and will necessarily continue to be, associated with the concepts of freedom and liberty—for, on one side is the acknowledged and guaranteed protection against the arbitrary exercise of powers by governmental bodies and individuals, and on the other side is the basic enjoyment of fundamental rights which belong to all human beings. To lose sight of either the negative or the positive connotation is to miss the substance and the power of freedom.³

Freedom, said Alfred North Whitehead, means that within each type of social character found in a state, co-ordination of aims should be sought by that social unit in order that the general ends of the whole community may be similarly attained without destruction of one or the other.⁴ So, the very essence of freedom may be thought of as being practicability of purpose.⁵ Bertrand Russell defines freedom, simply as being, "the absence of obstacles to the realization of desires."⁶ "Complete freedom is thus only possible for omnipotence; practicable freedom is a matter of degree, dependent both upon external circumstances and upon the nature of our desires."⁷

This whole problem of freedom, then, should be viewed within the context of *culture*.⁸ Innumerable factors are constantly interacting within the phenomena which we commonly refer to as culture—the chief factors being law and politics, industry and commerce, science and

1. Beard, *Freedom in Political Thought*, FREEDOM—ITS MEANING 288 (Anshen ed. 1942).

2. *Id.*

3. *Id.* at 289. See generally BERLIN, TWO CONCEPTS OF LIBERTY (1958).

4. Whitehead, *Aspects of Freedom*, FREEDOM—ITS MEANING 67 (Anshen ed. 1942).

5. *Id.* at 65.

6. Russell, *Freedom and Government*, FREEDOM—ITS MEANING 251 (Anshen ed. 1942).

7. *Id.*

8. Dewey, *The Problem of Freedom*, FREEDOM—ITS MEANING 374 (Anshen ed. 1942).

technology, modes of communication, morals, and man's basic social philosophy for justifying and criticizing conditions under which he lives. Here again, the isolation of any one of these factors from the total cultural context is fatal to achieving an understanding of the entire complex itself.⁹

RIGHT OF ASSEMBLY IN ENGLAND

The right of assembly has, from an historical point of view, always been closely connected with the right of free speech and the right of petition.¹⁰ As early as 1215, with the signing of the Magna Charta, this right of petition has been effectively recognized and used as a tool for enabling individuals to seek redress for real or imagined wrongs committed against them.¹¹ But, Dicey, seeking to rigidly distinguish between the right to petition and the right to assemble, has stated in very definite terms that the English Constitution contains no such specific right of public meeting or assembly. The right of assembly, then, is little more than the end result of a judicial attitude which the courts have taken regarding the individual's fundamental liberty of speech. There is, furthermore, no special law of any kind which allows, *A, B* and *C* to meet in the open air or elsewhere for a lawful purpose.¹² Dr. Dicey

9. *Id.*

See BERLIN, TWO CONCEPTS OF LIBERTY 57 (1958) where it is stated:

"The ideal of freedom to live as one wishes—and the pluralism of values connected with it—is only the late fruit of our declining capitalist civilization: an ideal which remote ages and primitive societies have not known, and one which posterity will regard with curiosity, even sympathy, but with little comprehension."

10. FELLMAN, THE CONSTITUTIONAL RIGHT OF ASSOCIATION 3 (1963).

11. Chapter 61 of the Magna Charta reads, in part:

"That if, we, our justiciary, our bailiffs, or any of our officers, shall in any circumstances have failed in the performance of them toward any person, or shall have broken through any of these articles of peace and security, and the offence be notified to four barons chosen out of the five-and-twenty before mentioned, the said four barons shall repair to us, our justiciary, if we are out of the realm, and laying open the grievance, shall petition to have it redressed without delay."

See generally McKECHNIE, THE MAGNA CHARTA 465-77, (1958).

12. DICEY, INTRODUCTION TO THE STUDY OF THE LAW OF THE CONSTITUTION 267 (1926); Jarrett & Mund, *The Right of Assembly*, 9. N.Y.U.L.Q. 1, 2, 9, 10 (1931).

Dicey's whole general argument here, is severely criticized by fellow legal historians. First of all, they note that while there is no particular statute granting English subjects the right to assemble, this very concept of free assembly is a part of the unwritten Constitution of England and, as such, a fundamental part of the law of the land. Secondly, the pages of the history books all reveal that since time was recorded, men have assembled and considered their act to be of inherent right. Dr. Stimson goes so far as to state that "the right of assembly and petition is rather the original than a

does go on to note, however, that since *A* may go where he pleases, so long as he commits no trespass, say what he wishes to *B* provided his talk is not of a libelous or seditious nature; and, since *B*, *C*, etc., have the same equal rights as *A*, both *A*, *B*, *C* and all others may assemble together in any place where otherwise they each have the right to be for a lawful purpose and in a lawful manner.¹³

In 1619, Lambard stated the basic common law attitude as regards the act of assembly in England.¹⁴ "An unlawful assembly is of the companie of three or more persons, disorderly coming together, forcibly to commit an unlawful act, as to beat a man or to enter upon his possession or the like."¹⁵ In passing on a question of assembly, the jurists usually found it necessary to consider both the intent and purpose of those assembled and whether their behavior was such that it terrorized the other people in the area who were not participating in the assembly.¹⁶

derivation from freedom of speech." Thirdly, the courts—during the common law period—recognized and dealt with the right of assembly as a distinct right, and not as a hybrid. Finally, any cursory analysis of the English statutory law leads one to the inescapable conclusion that the right of assembly was definitely recognized and made the basis for many statutes which restricted and regulated its use. All things considered equal, then, the legal historians conclude that the right of assembly is to be regarded as a distinct, separate and independent right. Goodhart, *Public Meetings and Processions*, 6 CAMB. L. J. 161 (1937).

13. *Id.*; *Beatty v. Gillbanks*, 9 Q.B.D. 308 (1882).

At 501 of DICEY, *INTRODUCTION TO THE STUDY OF THE CONSTITUTION*, he presents the current English position in re the components of an unlawful assembly and notes that they are today substantially as they were in 1619.

"... any meeting of three or more persons who:

"(i) Assemble to commit, or, when assembled do commit, breach of the peace; or

"(ii) Assemble with intent to commit a crime by open force; or

"(iii) Assemble for any common purpose, whether lawful or unlawful, in such a manner as to give firm and courageous persons in the neighborhood of the assembly reasonable cause to fear, a breach of the peace, in consequence of the assembly . . ."

14. LAMBARD, *EIRENARCHA, OR THE OFFICE OF THE JUSTICES OF PEACE* 175, 176 (1619).

15. *Id.*

Lambard goes on to note that, "A Rout is a disorderly assembly of three or more persons moving forward to commit by force an unlawful act. For it is a Rout, whether they put their purpose in execution or no, if so be that they doe goe, ride, or moove forward after their first meeting. And thus (upon the whole reckoning) an *unlawful assembly* is the first degree or beginning; a *Rout*, the next step or proceeding; and a riot the full effect and consumation of such a disordered and forbidden action."

16. Dicey's attitude, to recapitulate as well as to reiterate this point—see note 13 *supra*—would follow Lambard's position for the most part, and conclude that the finding of an unlawful assembly would depend largely upon *both* the tenor of the times as well as the number, manner, and place of meeting. The very *ultimate* test of the character of an assembly, then, would seemingly be whether "the meeting does or does

As early as 1361, the Justices of the Peace were allowed to order individuals to enter into recognizances to keep the peace or simply to be of good behavior.¹⁷ The very first English statute dealing exclusively with unlawful assemblies, however, was that of 13 Henry IV, 1412,¹⁸ later re-enforced by an Act of 2 Henry V, 1414.¹⁹ During George I's reign,²⁰ a statute was passed entitled, "Act for preventing Tumults and riotous Assemblies, and for the more speedy and effectual punishing [of] the rioters."²¹ In essence, the Act provided that if twelve or more persons were unlawfully assembled they were to disperse within an hour after the reading of a Proclamation,²² or else be held guilty of a felony.

Whether it was lawful in England to hold a meeting—regardless of

not contemplate the use of unlawful force, or does or does not inspire others with reasonable fear that unlawful force will be used—i.e. that the King's peace will be broken." DICEY, *supra* note 12 at 501.

See note *infra*, and note the similarity of the American position with the English position above as stated by Dicey.

17. Justices of the Peace Act, 34 Edw. 3, c. 1 (1361).

18. 13 Hen. IV c. 7, § 1 (1412).

The statute stated that: "If any riot, assembly, or rout of people, against the law be made, the justices, three or two of them at the least, and the sheriff or the undersheriff, shall come with the power of the county if need be. And if the offenders be departed before the coming of the said justices, and sheriff or undersheriff, the same justices, three or two of them, shall diligently enquire within a month after such riot, assembly or rout of people so made, and thereof shall hear and determine according to the law of the land."

19. 2 Hen. V c. 8, § 2 (1414).

Perhaps the first comprehensive regulation of unlawful assemblies was accomplished by the statutes of 1 Mary c. 12, (1553) and 1 Eliz. c. 16, (1558). These two statutes enabled justices of the peace to disperse a group assembly if in *their opinion* it was, or could well lead to an unlawful gathering.

20. 1714-727.

21. 1 Geo. I, c. 5 § 2 (1715).

22. The Proclamation read:

"The King our Sovereign Lord Chargeth and commandeth all persons being assembled, immediately to disperse themselves, and peaceable to depart to their habitations, or to their lawful business, upon the paines conteyned in the act lately made against unlawful and rebellious assemblies. And God save the King." *Id.*

It is interesting to note that from this Act and Proclamation, we have acquired the phrase, "reading the Riot Act."

Lord Coke was quick to note that: "... the King cannot create any offense by his prohibition or proclamation which was not an offense before, for that was to change the law, and to make an offense which was not; for *ubi non est lex, ibi non est transgressio*; ergo, that which cannot be punished without proclamation cannot be punished with it. . . . For all indictments conclude *contra legem et consuetudinem Angliae, or contra leges et statuta*, etc. But never was seen any indictment to conclude *contra regiam proclamationem*." *Proclamations*, 12 Co. 74, 77 Eng. Rep. 1352 (1727).

its orderly nature—on the public streets, remained to be decided by the courts on a case by case basis.²³ Under the Highway Act of 1835, it was settled that obstructions of the highways were unlawful;²⁴ therefore, every street assembly would constitute at least a technical obstruction.²⁵ But, there are no modern English decisions which hold clearly that it is either *prima facie* lawful or unlawful to hold a meeting in the streets.²⁶

A distinction should be made between public meetings or assemblies and public processions.²⁷ In the latter case, the public right of passage is being exercised, with the number of people in the procession being held immaterial so long as it avoids becoming a public nuisance, an unlawful assembly, a riot or general disorder in breach of the peace.²⁸ But, as alluded to earlier, the use of a highway for purposes other than travel—as for example a public meeting—for which there is no specific grant of statutory authority, is a legal wrong.²⁹

Although a meeting held on a highway may be a trespass, so far as the members of the local community are concerned the meeting or assembly is an actionable offense only if it is a nuisance.³⁰ The test of whether there has been such a nuisance hinges on the degree of obstruction created on the highway.³¹ It is no defense if there is sufficient alternative passage space on the highway for the passers-by.³² In fact, the mere placing of obstructions on either a public highway or street in such a manner *calculated* to create an obstruction—even though no person or automobile is actually prevented from free access—is an of-

23. DICEY, *supra* note 12 at 266-279.

24. 5 & 6 Will. 4, c. 50, § 72.

25. Smith, J. in *Homer v. Cadman*, 54 L.T.R.(n.s.) 421, 422 (Q.B. 1886).

26. *Burden v. Rigler* [1911] 1 K.B. 337, 340; *Aldred v. Miller* [1924] Sess. Cas. 117 (Ct. of Justiciary).

27. Goodhart, *supra* note 12 at 161. See also DICEY, *supra* note 22, appendix s. 2 (1), E.C.S. Wade.

28. Goodhart, *supra* note 12 at 169.

29. *McLean v. Crown Tailoring Co.*, [1913] 29 Ont. L.R. 455; *Harrison v. Duke of Rutland*, [1893] 1 Q.B. 142, 154; *Ex parte Lewis*, [1888] 21 Q.B.D. 191, 197.

There may be an illegal obstruction of a highway although no person is actually obstructed—*Gill v. Cardon and Nield*, [1917] 2 K.B. 674, *Biggar v. Crowland*, [1906] 13 Ont. L.R. 164—and even though the whole street is not obstructed. *Greig v. Merritt*, [1913] 24 N.L.R. 328 (B.C.); *Rex v. Fitzgerald*, [1876] 39 U.C.Q.B. 297.

See Note, *Riots, Routs and Unlawful Assemblies*, 3 AM. L. MAG. 350 (1844); Stewart, *Public Speech and Public Order in Britain and the United States*, 13 VAND. L. REV. 625 (1960); Hitchner, *Freedom of Public Meetings in England since 1914*, 36 AM. POL. SC. REV. 516 (1942).

30. *Burden v. Rigler* [1911] 1 K.B. 337.

31. Goodhart, *supra* note 12 at 169.

32. *Id.*

fense.³³ So it is, then, that *any* use whatsoever of a public highway, however reasonable and convenient to the general public it may be, is a nuisance if it interferes with the basic right of passage.³⁴

Since there are no English cases which have considered the legality of processions in depth, the English courts usually rely on the noted Irish case of *Lowdens v. Keaveney*³⁵ for their authority. While marching down a street in Belfast, Ireland, Lowdens—who was a member of a local band—played partisan tunes which attracted a crowd of over four hundred people who in turn blocked both foot and vehicle traffic on the street. The police authorities ordered the band to stop its march but upon its refusal to comply, Lowdens was arrested and charged with wilfully preventing and interrupting the free passage of persons as well as carriages on a public street. The local Magistrate Court found that Lowdens did in fact cause a material obstruction. On appeal, however, the Divisional Court held since the essential question whether the procession was a *reasonable* one had not been considered, the conviction by the lower court would be quashed.³⁶ Consequently, it is seen, then, that the right to hold a procession is not an absolute right, but instead one which can only be exercised in a reasonable manner and for a lawful purpose.

As regards public meetings, it is now generally accepted that such meetings or assemblies, if you will, can be safely held only with permission of the police authorities.³⁷ Any reasonable apprehension on the part of the policeman that obstructions to the free flow of traffic or breaches of the peace will arise as a result of actual or anticipated meetings is the decisive factor in determining whether or not the meeting will be allowed.³⁸

The public meeting or assembly is almost the sole method of expression of opinion for minority groups and others who are without the

33. *Gill v. Carson and Nield*, [1917] 2 K.B. 674.

34. *Regina v. Train*, [1862] 2 B. & S. 640.

See *Homer v. Cadman*, [1888] 16 Cox Clim. Cas. 51 where defendant who addressed a crowd from a chair placed in the highway was convicted of wilfully obstructing the free passage of the highway; *De Morgan v. Metropolitan Board of Works*, [1880] 5 Q.B.D. 155, 157 where it was held that the general public had no right to gather in assemblies and hold meetings on a common; and *Bailey v. Williamson*, [1873] L.R. 8 Q.B. 118, where the court rejected the contention that there was a common law right to hold public meetings in Hyde Park.

35. [1903] 2 I.R. 82.

36. *Id.* at 88.

37. *Hancock, Public Meetings—Police Powers*, 18 CAN. B. REV. 649 (1940).

38. *Duncan v. Jones* [1936], 1 K.B. 218; *Thomas v. Sawkins* [1935], 2 K.B. 249.

means of controlling or acquiring access to the press, the radio, and the other medias of communication. When one considers the situation in England today and the ill-defined standards of law enforcement to govern the local police authorities, it is an inescapable conclusion that earnest consideration should be given to a remedy which will clearly define the police powers in this area and similarly lend stability to the general framework of the laws.³⁹ The criminal sediton laws provide adequate protection for the state with respect to occurrences at public meetings. Anticipatory control of public speech by police authorities⁴⁰ is, therefore, a most regrettable and unfortunate limitation on the fundamental right of free assembly.

RIGHT OF ASSEMBLY IN THE UNITED STATES

While the right of assembly was formerly thought of in America as being a by-product of the right of petition, it is now regarded as, "cognate to those of free speech and free press and is equally fundamental. . . ." ⁴¹ The broad concept of a right of association, however, developed largely out of the right of assembly and in part out of due process concepts.⁴² But, the American law regarding unlawful assemblies is, basically, but a modification of the English common law and statute law.⁴³

On October 14, 1774, the First Continental Congress adopted what was termed a "Declaration and Resolves." One of the basic propositions asserted was that Americans "have a right peaceably to assemble, consider their grievances and petition the King; and that all prosecutions, prohibitory proclamations and commitments for the same are illegal." ⁴⁴ The completed document drafted by the Federal Constitutional Convention of 1787 did not include a Bill of Rights. Instead, it remained for the First Congress meeting under the new Constitution in New York on March 4, 1789, to consider and transmit to the states twelve amend-

39. See Hitchner, *supra* note 29 at 516 for a thorough consideration of the problems of free assembly during the war years.

40. *United States v. Cruikshank*, 92 U.S. 542, 552 (1876).

41. *De Jonge v. Oregon*, 288 U.S. 364-65 (1937).

42. FELLMAN, *THE CONSTITUTIONAL RIGHT OF ASSOCIATION* 3 (1963). See generally 2 EMERSON & HABER, *POLITICAL AND CIVIL RIGHTS IN THE UNITED STATES* 759-805 (2d ed. 1958).

43. ABERNATHY, *THE RIGHT OF ASSEMBLY AND ASSOCIATION* 20 (1961). For a detailed comparative study of the Right of Assembly in England and the United States see Stewart, *supra* note 29 at 625. See generally KONVITZ, *FUNDAMENTAL LIBERTIES OF A FREE PEOPLE* (1957); and KONVITZ, *THE CONSTITUTION AND CIVIL RIGHTS* (1947).

44. Fellman, *supra* note 42 at 5, 6.

ments for their approval or rejection. Ten of these amendments were subsequently accepted by the states. The first amendment stated, "Congress shall make no law . . . abridging . . . the right of the people peaceably to assemble, and to petition the government for a redress of grievances." So it was, then, that the right of assembly was first expressly recognized by the federal government with the passage and adoption of the first ten amendments to the Constitution.⁴⁵

The landmark United States Supreme Court decision dealing with freedom of assembly is *United States v. Cruikshank*.⁴⁶ Here, Cruikshank and others were charged with a conspiracy, in violation of the Enforcement Act of 1870, to prevent certain persons from assembling in a peaceable manner. In holding the Act applicable only to deprivation of national rights and *not* state rights, a majority of the court decided that the general right to hold a lawful meeting was in the latter category, however, and by way of dismissing the indictment, stated further that if the people wished to protect their enjoyment of this right, they should look to the states for this purpose. The First Amendment was not intended to limit the action of state governments in respect to their own citizens, but to operate upon the federal government alone and prohibit Congress from abridging the right to assemble and petition.⁴⁷ Today, a clause guaranteeing the rights of assembly and petition are found in all fifty state constitutions or their equivalent.⁴⁸

The case of *Davis v. Massachusetts*⁴⁹ was, in all probability, the first to reach the Supreme Court concerning the use of a public place for speech making purposes. Here, an ordinance was held valid even though it required the issuance of a permit by the Mayor of Boston before a person could address a public assembly upon public property. The High Court, however, reasoned that a municipality, acting under a valid grant of power from the state legislature, could—by its local law making procedures—prohibit the use of its parks to public speakers unless a proper permit was secured. "The right to absolutely exclude all rights to use [public places] necessarily includes the authority [in the Mayor] to determine under what circumstances such use may be availed of, as the greater power contains the lesser."⁵⁰ The scope of the *Davis*

45. *Id.* at 6, 9. Jarrett & Mund, *The Right of Assembly*, 9 N.Y.U.L.Q. 10-12, (1931).

46. 92 U.S. 542 (1876).

47. *Id.*

48. A complete survey of the various provisions made in the fifty State Constitutions regarding freedom of assembly may be found in the Appendix to this article.

49. 167 U.S. 43 (1897).

50. *Id.* at 48.

case, has been, as of 1938, greatly restricted in its application with *Lovell v. City of Griffin*⁵¹ and *Hague v. C. I. O.*⁵² being the principal restricting influences.⁵³

The *Hague* case,⁵⁴ involved the application of a city ordinance which provided that no parades or public assemblies could be conducted "in or upon the public streets, public parks or public buildings" of New Jersey without a permit from the Director of Public Safety. The ordinance provided further that permits would be refused only for purposes of preventing riots, disturbances, or disorderly assemblages. The petitioners asserted that they had been denied permits upon the purported grounds that they were communists and, as such, would create a disorderly assembly. The truth of the matter was that they were only concerned with the organization of unorganized workers into labor unions for the purpose of achieving better working conditions as spelled out in the National Labor Relations Act. The Court held that the Fourteenth Amendment—and particularly the due process clause—did not create rights in the citizen of the United States but merely secured existing rights against state abridgement. Regardless of this, the Court went on to hold that the right to assemble and discuss topics and to communicate respecting them, whether it be by word of mouth or by pen, was a *privilege* inherent in the citizenship of the United States.⁵⁵

51. 303 U.S. 444 (1938).

52. 307 U.S. 496 (1939).

53. While restricting the scope of governmental power in this area, the Court has never failed to recognize the power of the local authorities to exercise a *reasonable* measure of control over the use to which its public places may be put. *Lovell v. Griffin*, 303 U.S. 444 (1938). What is reasonable depends upon a case by case analysis of the problem.

ABERNATHY, *supra* note 43 at 54 states that the Davis Rule has been reversed in substance, if not in name, however.

54. 307 U.S. 496 (1939).

55. There was a major difference of opinion by the Court in this case. Chief Justice Hughes and Justices Black and Roberts concluded that the right to discuss the National Labor Relations Act was a *privilege* of federal citizenship. Justice Stone explicitly noted, however, that freedom of speech and of assembly did not fall within the protection of the privileges and immunities clause and that the record did not show that a discussion of the N.L.R.B. Act was involved. He felt that the Civil Rights Act of 1871 permitted the suit because it challenged the very validity of the Jersey City ordinance on Due Process grounds. *Id.* at 519, 525.

See *Douglas v. Jeannette*, 319 U.S. 157 (1943), where an action was brought by members of the Jehovah Witnesses to restrain enforcement of a municipal ordinance which required the payment of a license tax for the privilege of distributing circulars on the public streets and soliciting funds at the same time. The High Court expanded the

In *Cox v. New Hampshire*,⁵⁶ the Supreme Court unanimously sustained a city ordinance which on its face granted even broader discretion to administrative authorities than the New Jersey ordinance did in the *Hague* case.⁵⁷ In this case, no parade, procession or assembly upon a public street could be held unless a license was first obtained from the town selectmen. The selectmen, then, had the absolute power to *investigate* and *decide* the question of granting licenses. In sustaining the validity of the ordinance Chief Justice Hughes stated the constitutional guidelines to be applied in interpreting local ordinances of the type which were before the court presently:

If a municipality has authority to control the use of its public streets for parades or processions, as it undoubtedly has, it cannot be denied authority to give consideration, without unfair discrimination, to time, place and manner in relation to the other proper uses of the streets. We find it impossible to say that the limited authority conferred by the licensing provisions of the statute in question as thus construed by the state court contravened any constitutional right.⁵⁸

The decisions in *Kunz v. New York*⁵⁹ and *Niemotko v. Maryland*⁶⁰ state the general law as being that any arbitrary, *unreasonable* and *discriminatory* power in a public officer to censor another's right to speak and assemble in public places before the actual speech has begun,

Hague case, and seemed to follow Justice Stone's opinion in that case. For here, it was held that the suit had been properly brought under the Civil Rights Act of 1871 on the ground that the right to free speech was secured against state action by the Due Process Clause of the Fourteenth Amendment.

Sellers v. Johnson, 69 F. Supp. 778 (S.D. Iowa 1946); 163 F. 2d 877 (8th Cir. 1947), *cert. denied*, 322 U.S. 851 (1948) is a most interesting case involving issues of free speech and assembly raised by a group of Jehovah Witnesses. This case involved the attempt to peaceably transmit *ideas* of a controversial nature and is thus distinguishable from those cases which turn upon an abuse or misuse of free speech and assembly. See Note, 24 IND. L. J. 78 (1948).

In *Thomas v. Collins*, 307 U.S. 496 (1945) it was held that the right of unions to hold public meetings was protected against improper state interference by the Due Process Clause of the Fourteenth Amendment.

As to legal problems arising in the labor area, see Nelles, *The First American Labor Cases*, 41 YALE L. J. 165 (1931) and Affeldt, *The Right of Association and Labor Law*, 7 VILL. L. REV. 27 (1961).

56. 312 U.S. 569 (1944).

57. 307 U.S. 496 (1939).

58. 312 U.S. 569, 571 (1944).

59. 340 U.S. 290 (1951).

60. 340 U.S. 268 (1951). *Accord*, In re Gribben, 50 Okla. 379, 47 Pac. 1074 (1897).

will not be tolerated. If it reasonably appears, once the speaker begins his speech to the assembly, that if he is allowed to continue public disorder will result, the speaker and the meeting may both be dispersed.⁶¹

It appears that the type of assembly that has caused the most difficulty comes about usually on municipal streets. Mr. Justice Roberts in *Hague v. C. I. O.*⁶² stated that street meetings must be accorded a special kind of protection. "Wherever the title of streets and parks may rest, they have immemorially been held in trust for the use of the public and, time out of mind, have been used for purposes of assembly, communicating thoughts between citizens and discussing public questions."⁶³ So it is seen that in ruling on the legality of a particular street meetings, both time and place, as well as general circumstances, must all be weighed carefully. At best, the judiciary can only endeavor to decide on a case by case analysis, what is permissible or nonpermissible for the occasion.⁶⁴

The early cases of *In re Frazee*⁶⁵ and *Rich v. Naperville*⁶⁶ pointed out very well the feeling of the times regarding any restrictions on parades by use of local ordinance. ". . . Ever since the landing of the Pilgrims from the Mayflower, the right to parade in a peaceable manner and for a lawful purpose have been fostered and regarded as among the fundamental rights of a free people. The spirit of our free institutions allows great latitude in public parades and demonstrations whether religious or political. . . ." ⁶⁷ It is fairly well settled today, however, that licensing regulation of parades as well as processions by the local government is a valid exercise of control—with the only real question in each case being whether the "control is exerted so as not to deny or unwarrantedly abridge the right of assembly and the opportunities for

61. *Feiner v. New York*, 340 U.S. 315 (1951). Note the similarity here to that of the English position at note 38, *supra*.

62. 307 U.S. 496 (1939).

63. *Id.* at 515.

The American law follows the English Common Law in holding that any meeting which appreciably obstructs a highway constitutes a nuisance. *Thomas v. Casey*, 121 N.J.L. 185, 1 A. 2d 866 (1938).

64. The most pervasive discouragement to meetings held in streets lies, then, in the application of two basic types of municipal ordinances: those designed to prevent obstructions in the streets and those requiring a permit before street meetings. The former is used as a basis for dispersal, and the latter customarily to prevent the gathering of a crowd in the first place. ABERNATHY, *THE RIGHT OF ASSEMBLY AND ASSOCIATION* 60 (1961).

65. 63 Mich. 396. 30 N.W. 72 (1886).

66. 42 Ill. App. 222 (1891).

67. *Id.* at 224.

the communication of thought and the discussion of public questions immemorially associated with resort to public places.”⁶⁸

Two classic examples of the current position or status of the right of assembly in the United States may be seen by a consideration of *Rockwell v. Morris*⁶⁹ and *Edwards v. South Carolina*.⁷⁰

In *Rockwell*, the Commissioner of Parks of New York City denied George Lincoln Rockwell, the self-described Commander of the American Nazi Party, a permit to use Union Square Park for the purposes of holding a political meeting. The Commissioner sought to justify his denial of the permit by asserting that: the American Nazi Party was a subversive organization which advocated the overthrow of the United States government by force and violence; one of the recognized aims of the Party was the perpetration of racial genocide upon Jews; the purpose of the proposed meeting was to advocate the aims of the Party which would in turn, it was thought, ultimately result in general acts of disorder, endangering the city's property as well as the welfare of its residents; the applicant's prior course of conduct justified the *conclusion* that the applicant's deliberate intent was to provoke his listeners, whether friendly or otherwise, to acts of violence. While the trial court sustained the Commissioner's actions, the New York Appellate Court reversed the lower court decision, without opinion, and the United States Supreme Court denied certiorari.⁷¹

68. *Cox v. New Hampshire*, 312 U.S. 562, 574 (1941). See generally Abernathy, *supra* note 64 to 83-107.

In *People v. Edelson*, 169 Misc. 386, 7 N.Y.S.2d 323 (Sup. Ct. 1938), the defendants were engaged in peaceful *picketing* of the petitioner's business—with the petitioner being involved in a local labor dispute. The police action, in attempting to clear a path through the picket line for a company foreman as well as three private detectives, created a disturbance which lasted from two to six minutes and resulted in the foreman's automobile being damaged and the foreman and the policemen being injured. The court held the defendants were not guilty of riot since the brief disturbance occurred during the course of picketing which was *incidental* to a labor dispute and, further, because the governing statute did not apply to such actions of a mere incidental nature. See *Thornhill v. Alabama*, 310 U.S. 88 (1940).

It is interesting to observe that BURNS IND. ANN. STAT. § 10-3304 (1956 Rpl.), in defining a *mob* or *riotous assemblage* states: "Any collection of individuals five or more in number assembled for the unlawful purpose of offering violence to the person or property of anyone or for the purpose of exercising correctional powers or regulative powers over any person or persons by violence and without lawful authority shall be regarded and designated as a 'mob' or 'riotous assemblage.'"

69. 26 Misc. 2d. 229, 208 N.Y.S.2d 154 (1960); 211 N.Y.S.2d 25 (Sup. Ct. 1961); 10 N.Y.2d. 721, 177 N.E. 2d 48 (1961), *cert. denied*, 368 U.S. 913 (1961).

70. 372 U.S. 229 (1963).

71. See cases cited *supra* note 69.

It would seem that the appropriate objective of a licensing system with respect to public assemblies should be to specify suitable times and places and proscribe the manner under which the assemblies should be conducted rather than determining, by rather arbitrary standards, whether such assemblies are to be held at all.

In the 1963 case of *Edwards v. South Carolina*,⁷² one hundred and eighty-seven petitioners, having been convicted by the magistrate's court in Columbia, South Carolina, of the common law crime of breach of the peace and which conviction was affirmed by the South Carolina Supreme Court, sought to have the United States Supreme Court pass on the constitutional validity of their conviction.

72. 372 U.S. 229 (1963). *Accord*, *Fields v. South Carolina*, 375 U.S. 44 (1963). *See also* *Cox v. Louisiana*, 379 U.S. 536 (1965). There, the defendant—a civil rights leader—obtained official authorization to assemble and peacefully demonstrate opposite a courthouse for the express purpose of protesting local policies which were felt aimed at maintaining segregation. Upon a subsequent notification by the police that the demonstration had exceeded its time limits, and the protestors' failure to disperse, the defendant was arrested and later convicted by the lower court on charges of a breach of peace and an unlawful obstruction of public passages. The Supreme Court held that the conviction for breach of peace infringed upon defendant's right to assemble since his conduct was not of a nature which the state could rightfully prohibit. Uncertainty of the offense made the statute which created it, in turn, "unconstitutionally broad in scope." As to the conviction for unlawful obstruction of public passages, the Court found that—since the local authorities involved had complete discretion in permitting or for prohibiting street meetings—this conviction was an unwarranted infringement of the defendant's right to assemble.

But see *Adderley v. Florida*, 385 U.S. 39 (1966) where the convictions of thirty-two college students were sustained by the High Court for trespass which grew out of a march to a local jail where they assembled on the driveway as well as other parts of the premises and—in a peaceful and orderly manner, yet blocking the flow of vehicular traffic—sang various songs to protest not only local segregation policies but previous arrests of other students. In holding as it did that the application of a rather narrow state trespass statute to civil right demonstrators did not unconstitutionally act to deprive them of their rights to assemble or to petition for a redress of grievances, the Court would appear to be taking what might be thought of as an "about face" in its posture regarding the First Amendment. To be remembered, however, is the fact that moments of lucidity for the Court pass quickly. A return to its previous unduly liberal position concerning the First Amendment may be shortly expected.

In all fairness to the Court, it should be noted, however, that in *Adderley*, it was considering a "workable" and tightly drawn statute. No arbitrary, capricious, or discriminating provisions were found. The means employed to effectuate the purpose of the statute, itself, were found to be reasonable. Thus, in situations where legislative draftsmen have drawn a statute with care so as not to infringe upon Constitutional guarantees, it is within the realm of possibility to hope a "moment of lucidity" will lengthen and the Court will continue to uphold the validity of statutes within this present area of concern and not be forced, because of vagueness of purpose as in *Cox*, to strike complete statutory enactments thereby widening an already expanding area of civil liberties.

On the morning of March 2, 1961, the petitioners—who were colored high school and college students—met at a church in Columbia and walked in separate groups of about fifteen to the South Carolina State House grounds arriving as such around noon. The purpose of the march was to register their protest of present state discriminatory policies against Negroes to the South Carolina legislature as well as to the white citizens of the community itself. They carried placards bearing such messages as, "I Am Proud To Be A Negro," and "Down With Segregation," and were informed by the law enforcement officers present on the grounds that their demonstration would be allowed so long as it remained of a peaceful nature. A crowd of between two and three hundred onlookers gathered in and around the State House grounds where the marching took place. The Chief of Police testified that he recognized certain "trouble-makers" in the crowd and was on his guard for outbursts of trouble at any time. There were no material obstructions of either pedestrian or vehicular traffic within or about the immediate grounds of the State House, however.

After the demonstration had lasted about an hour, the police authorities informed the marchers that if they did not disperse within fifteen minutes, they would be arrested. Upon learning of this ultimatum, the actions of the Negro group became "boisterous," "loud" and "flamboyant." A type of "religious harangue" was given by one of the Negro leaders—after which proceeded the singing of songs, the clapping of hands, and the stomping of feet. One of the typical songs sung was, "I Shall Not Be Moved." The general crowd increased to around five hundred, and within fifteen minutes police officers moved in and began to arrest the group participants. Convictions for violation of the statute⁷³ ranged from sentences of a ten dollar fine or five days in jail to a one hundred dollar fine or thirty days in jail.

The Supreme Court held that the determination made by the South

73. "In general terms, a breach of the peace is a violation of public order, a disturbance of the public tranquility, by any act or conduct inciting to violence . . . , it includes any violation of any law enacted to preserve peace and good order. It may consist of an act of violence or an act likely to produce violence. It is not necessary that the peace be actually broken to lay the foundation for a prosecution for this offense. If what is done is unjustifiable and unlawful, tending with sufficient directness to break the peace, no more is required. Nor is actual personal violence an essential element in the offense

"By 'peace,' as used in the law in this connection, it means the tranquility enjoyed by citizens of a municipality or community where good order reigns among its members, which is the natural right of all persons in political society." 372 U.S. 229, 236 (1963).

Carolina court regarding the petitioner's conduct as constituting a breach of peace under state law was binding upon it to that extent. But, however, upon an *independent examination* of the complete record, the High Court found that South Carolina's actions infringed "the petitioners constitutionally protected rights of free speech, free assembly, and freedom to petition for redress of their grievances."⁷⁴ Mr. Justice Stewart, speaking for the Court, noted that the Fourteenth Amendment did not allow a state to make criminal the peaceful expression of unpopular views. He went on to say that the opportunity for free political discussion in order to thereby insure that the government remain responsive to the will of the people was a fundamental principle of the United States Constitutional system.⁷⁵

Mr. Justice Clark, in the only dissent of the case,⁷⁶ stated first off his difficulty in understanding the Court's understatement of the facts of the case and its reversal of the conviction, especially in light of the very fact that the state court's finding regarding petitioners' conduct as constituting a breach of the peace was held as binding. He then proceeded to note that the City Manager of Columbia testified that "a dangerous situation was really building up," and that all the facts considered tended to indicate that a public disorder was in the making. He concluded by saying that when a case like the one presently before the court existed, the power of the state to prevent or punish for clear and present dangers of riot, disorder, or other immediate threats to public safety should always be recognized.⁷⁷

The *Edwards* case, thus, points up the fact that the present Supreme Court will go to great lengths in order to prevent any encroachment of the fundamental rights of free assembly and free speech made under the guise of a "lawful" exercise of state police powers.

SOCIOLOGICAL CONSIDERATIONS

Order, viewed from the standpoint of sociology, has its roots not in a universal law of nature, nor in the establishment of a form of recognized external authority; but instead, in the very *social experience* of the individual himself.⁷⁸ Society is orderly because men learn to live their lives in, and according to, an orderly process. This process re-

74. 372 U.S. 229, 236 (1963).

75. *Id.*

76. *Id.* at 239.

77. *Id.* at 243.

78. LANDIS, *SOCIAL CONTROL* 24-34 (1939). See generally Benoit-Smullyan, *Status, Status Types, and Status Interrelations*, 9 AM. SOC. REV. 151 (1944).

mains stable only so long as movements—whether of a social, political, economical or religious nature—do not arise.⁷⁹ Once such a movement does in fact arise, and throws the present social system out of gear, a new system evolves from the habit patterns of the individuals comprising the movement and thus forms a new society.⁸⁰ It appears, from the sociologist's view, that social order is built on the nature of man, and not on a legal framework of laws which man himself has effectuated.⁸¹

Maintenance of a proper balance between individual freedom and social control is, quite naturally, of great concern in any society. Too much discipline tends to suppress individuality and breed revolt, smother initiative and make for cultural stagnation. On the other hand, too much freedom foreshadows personal degeneration, hastens cultural decline and generally produces social chaos.⁸² Because of individual differences, no established system of regulation can be equally pleasing to all; for some, the best designed regulations will always appear coercive.⁸³

There are five main types of events which prompt assemblies of collective behavior: 1) The panic response; 2) The craze response, fashion cycle, the fad, financial boom, the bandwagon, and the religious revival; 3) The hostile outburst; 4) The norm oriented movement including the social reform movement; and 5) The value oriented movement including the political and religious revolution, the formation of sects, the nationalist movement, etc.⁸⁴

Collective behavior—that element so vitally necessary to energize an assembly—may be simply defined as a form of uninstitutionalized mobilization for action in order to modify one or more kinds of strains.⁸⁵ Strain or pressure, in some form or other, may be thought of as the prime mover for collective behavior which in turn ultimately culminates in an assembly or movement.

79. *Id.* See generally Anderson, *Sociological Elements in Economic Restrictionism*, 9 AM. SOC. REV. 345 (1944).

80. *Id.*

81. *Id.*

82. Landis, *supra* note 78 at 146.

83. *Id.*

84. SMELZER, *THEORY OF COLLECTIVE BEHAVIOR* 48 (1963). Dr. Clark Kerr, former Chancellor of the University of California at Berkeley observed that, "The sit-in will gradually join the coonskin coat as an interesting symbol of a student age retreating into history." N.Y. Times, April 2, 1967, Sec. E, at 5, cols. 6, 7.

For an in-depth consideration of student rights set within the college background see a symposium entitled, *Student Rights and Campus Rules*, 54 CALIF. L. REV. 1 (1966).

85. SMELZER, *supra* note 84 at 71.

That technological advancements are a recognized cause of social change is indicated by various expressions heard quite often—"gunpowder destroyed feudalism", "railroads created cities", "the steam engine increased divorce," "the automobile is moving the department store and the supermarket to suburbs," and "the airplane re-ranked the great military powers."⁸⁶ "Automation," that word which strikes immediate fear and gives rise to a sense of utter frustration in most of the minds of the unskilled labor divisions, is obviously a chief source of strain or pressure in the twentieth century.

The acceleration of *atomic* technologies and the precarious balance of power among the world powers has caused still another pressure to manifest itself in present daily life. Perhaps the dominant pressure of our day can be seen in the Negro's new-found, and for the most part totally unrealized, demand for "freedom." Not only is the Negro under much strain in his confused search for Civil Rights, but his white brethren are equally at odds with one another in trying to fathom the situation.

Automation, exploration of the atom, and the emerging concept of Civil Rights all find a form of permanency of expression in group movements which, of necessity, rely in large part on open assemblies for their full effectiveness. Sociology recognizes these occurrences of collective behavior as mere responses to the social needs of man and, as such, vital to his well being and stability. Discipline of some form must be exerted in the regulation of collective behavior. With the method of discipline employed must also go an awareness of the fact that its effect will be of secondary nature to the social interactions of the group itself.

CONCLUSION

A definite conclusion, as such, is indeed most difficult to set out. This is so, simply because the concept of Freedom of Assembly is still being developed and structured by the courts on a case to case basis. Since the purpose of this article was but to assay the development of the Right of Assembly, a general concluding statement may nonetheless be made.

In this, an age of turbulence and crisis, both on the domestic and foreign scene, it is vitally important that groups—and particularly minority groups—have a complete opportunity, within the scope of the laws, to assemble and present their views on current patterns of interest. Even though the Right of Assembly is recognized today in the United States

86. ALLEN, *TECHNOLOGY AND SOCIAL CHANGE* 12 (1957); 9 *AM. SOCIOLOGICAL SOC.* 11-28.

as a fundamental right, it nonetheless—of necessity—has certain restrictions placed upon its daily operation. The protection of the public peace must be carefully reconciled with the conflicting interests of allowing free expression of ideas in public places.⁸⁷ A reconciliation of these two interests, made *reasonably* and without arbitrary discrimination, is the norm which the courts try to effectuate.

APPENDIX

The following are the pertinent sections of the Constitutions of the fifty states concerning the Right of Assembly—

ALASKA: Art. I, § 6. The right of the people peaceably to assemble, and to petition the government shall never be abridged.

ALABAMA: Art. 1, § 25. That the citizens have a right, in a peaceable manner, to assemble together for the common good, and to apply to those invested with the power of government for redress or grievance or other purposes, by petition, address or remonstrance.

ARIZONA: H. D. 61st Cong., 3rd Sess., Art. 2, § 5. The right of petition, and of the people peaceably to assemble for the common good, shall never be abridged.

87. "Although the rights of free speech and assembly are fundamental, they are not in their nature absolute. Their exercise is subject to restriction, if the particular restriction proposed is required in order to protect the State from destruction or from injuries, political, economic or moral

Those who won our independence believed that the final end of the State was to make men free to develop their faculties; and that in its government the deliberative forces should prevail over the arbitrary. They valued liberty both as an end and as a means. They believed liberty to be the secret of happiness and courage to be the secret of liberty. They believed that freedom to think as you will and to speak as you think are means indispensable to the discovery and spread of political truth; that without free speech and assembly discussion would be futile; that with them, discussion affords ordinarily adequate protection against the dissemination of noxious doctrine; that the greatest menace to freedom is an inert people; that public discussion is a political duty; and that this should be a fundamental principle of the American Government. They recognized the risks to which all human institutions are subject. But they knew that order cannot be secured merely through fear of punishment for its infraction; that it is hazardous to discourage thought, hope and imagination; that fear breeds repression; that repression breeds hate; that hate menaces stable government; that the path of safety lies in the opportunity to discuss freely supposed grievances and proposed remedies; and that the fitting remedy for evil counsels is good ones. Believing in the power of reason as applied through public discussion, they eschewed silence coerced by law—the argument of force in its worst form. Recognizing the occasional tyrannies of governing majorities, they amended the Constitution so the free speech and assembly should be guaranteed." *Whitney v. California*, 274 U.S. 357, 373, 375 (1927) (Brandeis, J. concurring).

ARKANSAS: Art. 2, § 4. The right of the people peaceably to assemble, to consult for a common good, and to petition, by address or remonstrance, the government, or any department thereof, shall never be abridged.

CALIFORNIA: Art. 1, § 10. The people shall have the right to freely assemble together to consult for the common good, to instruct their representatives, and to petition the Legislature for redress of grievances.

COLORADO: Art. II, § 24. That the people have the right peaceably to assemble for the common good, and to apply to those invested with the powers of government for redress of grievances, by petition or remonstrance.

CONNECTICUT: Art. 1, § 16. The citizens have a right in a peaceable manner, to assemble for their common good, and to apply to those invested with the powers of government, for redress of grievances, or other purposes, by petition, address, or remonstrance.

DELAWARE: Art. 1, § 16 . . . the citizens have a right in an orderly manner to meet together, and to apply to persons intrusted with the powers of government, for redress of grievances or other proper purposes, by petition, remonstrance or address.

FLORIDA: Declaration of Rights, § 15. The people shall have the right to assemble together to consult for the common good, to instruct their representatives, and to petition the legislature for redress of grievances.

GEORGIA: Art. 1, Par. 14. The people have the right to assemble peaceably for their common good and to apply to those vested with the powers of government, for redress of grievances, by petition or remonstrance.

HAWAII: Art. 1, § 3. No law shall be enacted respecting an establishment of religion or prohibiting the free exercise thereof, or abridging the freedom of speech or of the press, or the right of the people peaceably to assemble and to petition the government for a redress of grievances.

IDAHO: Art. 1, § 10. The people shall have the right to assemble in a peaceable manner to consult for their common good; to instruct their representatives; and to petition the legislature for a redress of grievances.

ILLINOIS: Art. II, § 17. The people have the right to assemble in a peaceful manner to consult for the common good, to make known their opinions to their representatives and to apply for redress of grievances.

INDIANA: Art. 1, § 31. No law shall restrain any of the inhabitants of the state from assembling together, in a peaceable manner, to consult

for their common good; nor from instructing their representatives; nor from applying to the General Assembly for redress of grievances.

IOWA: Art. 1, § 20. The people have the right to freely assemble together to counsel for the common good; and to make known their opinions to their representatives, and to petition for a redress of grievances.

KANSAS: Bill of Rights, § 3. The people have the right to assemble in a peaceful manner, to consult for their common good, to instruct their representatives, and to petition the government, or any department thereof, for the redress of grievances.

KENTUCKY: Bill of Rights, § 1. The rights of assembling together in a peaceful manner for the common good, and of applying to those invested with the power of government for redress of grievances or other proper purposes, by petition, address or remonstrance.

LOUISIANA: Bill of Rights, Art. 4. No laws shall be passed respecting . . . the right of the people peaceably to assemble and petition the government for a redress of grievances.

MAINE: Art. 1, § 15. The people have a right at all times in an orderly and peaceful manner to assemble to consult upon the common good, to give instructions to their representatives, and to request, of either department of the government by petition or remonstrance, redress of their wrongs and grievances.

MARYLAND: Declaration of Rights, Art. 13. That every man hath a right to petition the legislature for the redress of grievances in a peaceful and orderly manner.

MASSACHUSETTS: Declaration of Rights, Art. 19. The people have a right, in an orderly and peaceful manner, to assemble to consult upon the public good; give instructions to their representatives, and to request of the legislative body, by the way of addresses, petition, or remonstrances, redress of the wrongs done them, and of the grievances they suffer.

MICHIGAN: Art. 18, § 10. The people have the right peaceably to assemble together to consult for the common good, to instruct their representatives, and to petition the legislature for redress of grievances.

MINNESOTA: Art. 1, § 16. The enumeration of rights in this constitution shall not be construed to deny or impair others retained by and inherent in the people.

MISSISSIPPI: Art. 3, § 11. The right of the people peacefully to assemble and petition the government on any subject shall never be impaired.

MISSOURI: Art. 2, § 29. That the people have the right peaceably to assemble for their common good, and to apply to those invested with the powers of government for redress of grievances, by petition or remonstrance.

MONTANA: Art. III, § 26. The people shall have the right peacefully to assemble for the common good, and to apply to those invested with the powers of government for redress of grievances by petition or remonstrance.

NEBRASKA: Art. 1, § 19. The right of the people peacefully to assemble to consult for the common good and to petition the government or any department thereof shall never be abridged.

NEVADA: Art. 1, § 10. The people shall have the right freely to assemble together to consult for the common good, to instruct their representatives, and to petition the Legislature for redress of grievances.

NEW HAMPSHIRE: Art. 1, § 32. The people have a right, in an orderly and peaceable manner, to assemble and consult upon the common good, give instructions to their representatives, and to request of the legislative body, by way of petition or remonstrance, redress of the wrongs done them, and of the grievances they suffer.

NEW JERSEY: Art. 1, § 18. The people have the right freely to assemble together to consult for the common good, to make known their opinions to their representatives, and to petition for redress of grievances.

NEW MEXICO: H. D. 61st Cong., 3rd Sess., Art. 2, § 23. The enumeration in this constitution of certain rights shall not be construed to deny, impair or disparage others retained by the people.

NEW YORK: Art. 1, § 10. No law shall be passed, abridging the right of the people peacefully to assemble and to petition the government, or any department thereof.

NORTH CAROLINA: Art. 1, § 25. The people have a right to assemble together to consult for their common good, to instruct their representatives, and to apply to the Legislature for redress of grievances. But secret societies are dangerous to the liberties of a free people, and should not be tolerated.

NORTH DAKOTA: Art. 1, § 10. The citizens have a right, in a peaceable manner, to assemble together for the common good, and to apply to those invested with the powers of government for the redress of grievances, or for other proper purposes, by petition, address or remonstrance.

OHIO: Art. 1, § 3. The people have the right to assemble together,

in a peaceable manner, to consult for their common good; to instruct their representatives; and to petition the General Assembly for the redress of grievances.

OKLAHOMA: Art. 11, § 3. The people have the right peaceably to assemble for their own good, and to apply to those invested with the powers of government for redress of grievances by petition, address or remonstrance.

OREGON: Art. 1, § 27. No law shall be passed, restraining any of the inhabitants of the state from assembling together in a peaceful manner to consult for their common good, nor from instructing their representatives, nor from applying to the legislature for redress of grievances.

PENNSYLVANIA: Art. 1, § 20. The citizens have a right in a peaceable manner to assemble together for their common good and to apply to those invested with the powers of government for redress of grievances or other proper purposes, by petition, address, or remonstrance.

RHODE ISLAND: Art. 1, § 21. The citizens have a right in a peaceable manner to assemble for their common good, and to apply to those invested with the powers of government, for redress of grievances, or for other purposes, by petition, address, or remonstrance.

SOUTH CAROLINA: Art. 1, § 4. . . . or the right of the people peaceably to assemble and to petition the Government or any department thereof for a redress of grievances.

SOUTH DAKOTA: Art. VI, § 4. The right of petition, and of the people peaceably to assemble to consult for the common good and make known their opinions, shall never be abridged.

TENNESSEE: Art. 1, § 23. That the citizens have a right, in a peaceable manner, to assemble together for their common good, to instruct their representatives, and to apply to those invested with the powers of government for redress of grievances or other proper purposes, by addresses or remonstrances.

TEXAS: Art. 1, § 27. The citizens shall have the right, in a peaceable manner, to assemble together for their common good, and to apply to those invested with the power of government for redress of grievances or other purposes by petition, address or remonstrance.

UTAH: Art. 1, § 1. . . . to assemble peaceably, protest against their wrongs, and petition for redress of grievances . . .

VERMONT: c. 1, Art. 20. That the people have a right to assemble together to consult for their common good—to instruct their representatives—and to apply to the Legislature for redress of grievances, by address, petition or remonstrance.

VIRGINIA: Art. 1, § 17. The Rights enumerated in this Bill of Rights shall not be construed to limit other rights of the people not therein expressed.

WASHINGTON: Art. 1, § 4. The right of petition, and of the people peaceably to assemble for the common good shall never be abridged.

WEST VIRGINIA: Art. III, § 16. The right of the people to assemble in a peaceable manner, to consult for the common good, to instruct their representatives, or to apply for redress of grievances, shall be held inviolate.

WISCONSIN: Art. 1, § 4. The right of the people peaceably to assemble, to consult for the common good, and to petition the government or any department thereof, shall never be abridged.

WYOMING: Art. 1, § 21. The right of petition, and of the people peaceably to assemble to consult for the common good, and to make known their opinions, shall never be denied or abridged.