Who Gets Heard?

Four Supreme Court decisions on freedom of expression

USG.C.6.6 "Explain how freedom of expression is an essential element of a constitutional republic by examining historic landmark Supreme Court decisions which have addressed and clarified individual rights under the First Amendment (e.g., Gitlow v..."

NAME _____ DATE _____

1 READ AND MARK

Read it twice

YOUR JOB Underline what each Court decision said governments could or could not do, then circle a phrase that shows why protecting expression helps people govern themselves.

Expression and the People's Voice

1 In a constitutional republic, voters must be able to hear ideas, challenge leaders, and debate laws before they choose representatives. The First Amendment protects expression, but courts must decide what those protections mean when governments try to restrict it. In Gitlow v. New York (1925), a man was convicted under a state law for publishing a call for revolution. The Supreme Court upheld his conviction, yet it treated freedom of speech and press as protections against state governments through the Fourteenth Amendment. That move mattered: state officials, not just federal officials, would face constitutional limits when they punished expression.

2 Decades later, Ohio punished a Ku Klux Klan leader for a speech at a rally. In Brandenburg v. Ohio (1969), the Court reversed his conviction. It held that advocacy of illegal action can be punished only if it is intended and likely to produce imminent lawless action. This rule protects fierce political debate while allowing limits on immediate threats. In New York Times Co. v. United States (1971), the federal government tried to stop newspapers from publishing classified documents about the Vietnam War. The Court refused this prior restraint, or censorship before publication, because the government had not met its heavy burden to justify it.

3 Expression can also be an act, not just a speech or newspaper article. During a political protest, Gregory Lee Johnson burned an American flag and was convicted under a Texas law. In Texas v. Johnson (1989), the Supreme Court ruled that his flag burning was protected expressive conduct. The government could not ban that political message just because many people found it offensive. Taken together, these decisions show why expression matters in a constitutional republic: people can criticize government, share evidence, and protest without officials deciding which views are acceptable. Protection does not mean every act or every call to violence is immune from limits.

2 ANSWER WITH EVIDENCE

Use the passage

1. How did Gitlow v. New York change which governments had to respect speech and press rights? Why would that matter when people debate laws?

2. How does the rule in Brandenburg v. Ohio protect political debate while still allowing a limit on speech tied to violence?

3. Why did the result in New York Times Co. v. United States matter for the public's ability to examine government actions?

4. How does Texas v. Johnson protect political dissent when many people object to its message?

3 YOUR TURN

Your own words

A city fines people for wearing pins that say "Vote Out the Mayor" at a public town meeting because officials call the message disrespectful. Write four or five sentences advising the city council. Use two different cases from the passage to explain your advice, and identify one limit that can still apply to expression.

ANSWER KEY

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HIGH SCHOOL · USG.C.6.6

PART 1 · READ AND MARK

Underline what each Court decision said governments could or could not do, then circle a phrase that shows why protecting expression helps people govern themselves. Accept any marking that follows this job and points at the right text.

PART 2 · ANSWERS

#	QUESTION	ANSWER
1	How did Gitlow v. New York change which governments had to respect speech and press rights? Why would that matter when people debate laws?	**The Court treated speech and press rights as protections against state governments as well as the federal government. State officials therefore faced constitutional limits when punishing people who expressed views about laws.**
2	How does the rule in Brandenburg v. Ohio protect political debate while still allowing a limit on speech tied to violence?	**The rule protects advocacy of illegal action unless it is intended and likely to produce imminent lawless action. It allows a limit on an immediate threat without letting officials punish unpopular views simply for sounding dangerous.**
3	Why did the result in New York Times Co. v. United States matter for the public's ability to examine government actions?	**The government failed to justify stopping publication of documents about the Vietnam War before they appeared. Allowing publication helped the public learn about and scrutinize government actions.**
4	How does Texas v. Johnson protect political dissent when many people object to its message?	**The Court protected flag burning as expressive conduct. Officials could not ban Johnson's political message just because people found it offensive.**

PART 3 · YOUR TURN (SAMPLE ANSWER)

The city should end the fine because a pin criticizing the mayor is political expression. In Texas v. Johnson, the Court protected an offensive political protest, so officials cannot ban a message merely because people dislike it. Gitlow v. New York shows that speech rights place constitutional limits on state governments, a principle that also applies to cities. Brandenburg v. Ohio allows punishment of advocacy intended and likely to produce imminent lawless action, but this pin does not call for violence.

Accept explanations that connect a case's ruling to the public's ability to debate, investigate, or criticize government. Do not accept a claim that Gitlow overturned the conviction or that the First Amendment protects every form of expression without limits.