

JANANI EDUCATIONAL INSTITUTE

TYPE TEST FOR INDEPENDENCE DAY 2015

“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 that free speech and assembly should be guaranteed. 12 Fear of serious injury cannot alone justify suppression of free speech and assembly. Men feared witches and burnt women. It is the function of speech to free men from the bondage of irrational fears.

To justify suppression of free speech there must be reasonable ground to fear that serious evil will result if free speech is practiced. There must be reasonable ground to believe that the danger apprehended is imminent. There must be reasonable ground to believe that the evil to be prevented is a serious one. Every denunciation of existing law tends in some measure to increase the probability that there will be violation of it. Condonation of a breach enhances the probability. Expressions of approval add to the probability. Propagation of the criminal state of mind by teaching syndicalism increases it.

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STENO TEST FOR INDEPENDENCE DAY 2015

In Article 19(2) (as it originally stood) this sub-head was conspicuously absent. Because of its absence, challenges made to an order made under Section 7 of the Punjab Maintenance of Public Order Act and to an order made under Section 9 (1)(a) of the Madras Maintenance of Public Order Act were allowed in two early judgments by this Court. Thus in *Romesh Thappar v. State of Madras*, [1950] S.C.R. 594, this Court held that an order made under Section 9(1)(a) of //80// the Madras Maintenance of Public Order Act (XXIII of 1949) was unconstitutional and void in that it could not be justified as a measure connected with security of the State. While dealing with the expression “public order”, this Court held that “public order” is an expression which signifies a state of tranquility which prevails amongst the members of a political society as a result of the internal regulations enforced by the Government which they have established. Similarly, in *Brij Bhushan & Anr. v. State of Delhi*, [1950] S.C.R. 605, // 160// an order made under Section 7 of the East Punjab Public Safety Act, 1949, was held to be unconstitutional and void for the self-same reason. As an aftermath of these judgments, the Constitution First Amendment added the words “public order” to Article 19(2). In *Superintendent, Central Prison, Fatehgarh v. Ram Manohar Lohia*, [1960] 2 S.C.R. 821, this Court held that public order is synonymous with public safety and tranquility; it is the absence of disorder involving breaches of local significance //240// in contradistinction to national upheavals, such as revolution, civil strife, war, affecting the security of the State. This definition was further refined in *Dr. Ram Manohar Lohia v. State of Bihar & Ors.*, [1966] 1 S.C.R. 709, where this Court held: “It will thus appear that just as “public order” in the rulings of this Court (earlier cited) was said to comprehend disorders of less gravity than those 36 affecting “security of State”, “law and order” also comprehends disorders // 320// of less gravity than those affecting “public order”. One has to imagine three concentric circles. Law and order represents the largest circle within which is the next circle representing public order and the smallest circle represents security of State. It is then easy to see that an act may affect law and order but not public order just as an act may affect public order but no security of the State.”