

in Chapter 10, the government decided to license radio and television stations and place more restrictions upon them because of the scarcity of bandwidth. There simply were more persons who wanted to broadcast than there were frequencies to allocate. This scarcity led to the creation of the Federal Communications Commission (FCC) and imposition of such regulations as the fairness doctrine, which required broadcasters to discuss both sides of controversial public issues.

Special Rights

The Supreme Court has generally not looked favorably on the media's assertion of special rights such as not disclosing the names of sources, gaining access to jailed inmates, and accompanying the police when they are executing a search or arrest warrant. The media historically have argued for special legal rights to allow them to perform the important function of gathering and reporting the news but in most instances, the U.S. Supreme Court has looked unfavorably on these claims for special rights. It has not allowed reporters to maintain the confidentiality of their sources if the government can show compelling reasons for requesting their names, such as to advance a criminal investigation.⁶⁵ In 2005, the Court refused to review a lower court's decision to imprison *New York Times* reporter Judith Miller for failing to cooperate with a federal investigation. Miller, who wrote an article leaking the name of a CIA operative, refused to tell federal prosecutor Patrick Fitzgerald the name of the person who gave her that information. Miller spent eighty-five days in jail until her source released her from the promise of confidentiality.

Although the media frequently assert a special right of access, the Court has placed a variety of limits on reporters' ability to gather the news. It has found that reporters enjoy no access to county jail inmates that is denied to other individuals.⁶⁶ They also have no right to enter a home when police are executing a warrant.⁶⁷ The justices also failed to recognize a First Amendment right of the media to attend a closed pretrial hearing in a highly publicized case.⁶⁸ The Court ruled differently, however, with respect to a judge's attempt to close a trial to the media and the public. It held in *Richmond Newspapers v. Virginia* (1980) that the media's right to attend trials is implicit in the freedom of the press guarantee.

FREEDOM OF ASSEMBLY AND ASSOCIATION

The First Amendment freedom of assembly is one of the cornerstones of American democracy, granting citizens the right to gather and engage in politics. It is the basis for the formation of interest groups and political parties that attempt to forge public policy and determine

Did You Know?



That Benjamin Franklin warned in 1755, at a time when his colony (Pennsylvania) faced invasion by the French and their Indian allies and proposals were in the air to curtail civil liberties during the emergency, that "Those who would give up essential Liberty, to purchase a little temporary Safety, deserve neither Liberty nor Safety"?

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