

Constitutional Basis

The right of association is not mentioned in the First Amendment.

Rights of free speech, assembly, and petition are furthered through right to associate with others to exchange ideas.

Whitney v. California (1927)

Whitney was member of Communist Labor Party and convicted of sedition, but claimed that she and the other organizers did not intend, that the party become an instrument of violence.

The Court did not recognize a right to association that would bar such a prosecution based solely on membership.

United States v. Robel (1967)

The Court upheld an overbreadth challenge to the provision of the statute that prohibited any member of the Communist Party from being employed in ANY defense plant.

Congress must specify that CP members could only be barred from holding sensitive positions – restriction must be narrowly tailored.

NAACP v. Alabama (195

- **Does forced disclosure of membership lists violate First Amendment?**
- **Would this apply in a state with a lesser history of racial intimidation?**

Gibson v. Florida Legislative Investigation Committee (1963)

The Committee ordered the President of the Miami branch of the NAACP to appear before it, answer questions, and bring membership records, purportedly to examine Communist infiltration of the organization. The Court emphasized that the inquiry infringed on the right of association and reasons stated were insufficient.

***Eu v. San Francisco County
Democratic Central Committee (1989)***

**Supreme Court invalidated sections of
the California Election Code that
prohibited parties from endorsing
candidates in primary elections.**

Roberts v. Jaycees (1984)

Minnesota Human Rights Act (Act): makes it

"an unfair discriminatory practice . . . [t]o deny any person the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of a place of public accommodation because of race, color, creed, religion, disability, national origin or sex."

***New York State Club Association Inc v.
City of New York (1988)***

Supreme Court upholds NY law that:

any "institution, club or place of accommodation," other than a benevolent order or a religious corporation, "shall not be considered in its nature distinctly private" if it "has more than four hundred members, provides regular meal service and regularly receives payment . . . directly or indirectly from or on behalf of non-members for the furtherance of trade or business."

Hurley v. Irish American Gay, Lesbian, and Bisexual Group of Boston (1995)

**South Boston Allied War Veterans Council
had held only parade permit for **St.
Patrick's Day** and Evacuation Day since
1947**

**Irish American Gay etc. applies for permit
to march alongside regular parade –
denied by South Boston etc**

Hurley v. Irish American Gay, Lesbian, and Bisexual Group of Boston (1995)

Massachusetts law that forbade

"discrimination or restriction on account of... sexual orientation... relative to the admission of any person to, or treatment in any place of public accommodation, resort or amusement."

Hurley v. Irish American Gay, Lesbian, and Bisexual Group of Boston (1995)

Supreme Court decides 9-0 that:

The right to speak includes the right to deter-mine "what not to say." Those observing the parade could rationally believe that those involved in the parade were all part of an overriding message the South Boston Allied War Veterans Council was seeking to provide.

Boy Scouts v. Dale (2000)

NJ Statute:

"All persons shall have the opportunity to obtain employment, and to obtain all the accommodations, advantages, facilities, and privileges of any place of public accommodation, without discrimination because of race, creed, color, national origin, ancestry, age, marital status, affectional or sexual orientation, familial status, or sex, subject only to conditions and limitations applicable alike to all persons."