

The Great White Rabbit Goes To School

In this Bill of Rights lesson, the teacher or presenter leads the class narratively through a scenario that attempts to raise questions about all of the areas protected by the First Amendment.

Begin the lesson by reviewing the language of the First Amendment, engaging the students in a discussion of what is meant by each of the areas:

“Congress shall make no law 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.”

Also explore the pivotal concept of the tension between government control versus private liberty. On the one side is the school’s legal responsibility as an extension of government *in loco parentis* to provide 1) safety, 2) order, and 3) an effective learning environment. Of course, while safety is rather straightforward (unless you play football), the degree and value of order and especially an effective learning environment are increasingly open to debate. On the other side are the protected freedoms enumerated in the Bill of Rights, in this particular case the First Amendment. Briefly explore how this tension may surface in a variety of ways in

school (student religious groups, behavior and dress codes, the school newspaper, student protests, etc.). Also share with students the following quote:

“Government is not reason; it is not eloquence; it is force. Like fire, it is a dangerous servant and a fearful master.”
(- George Washington, though it may provoke good discussion not to cite it as such at first)

Then ask students to analyze the following scenario with two tasks in mind:

1. To identify each area of First Amendment protection as it arises
2. To evaluate the conflict between government control and private liberty, seeking to decide what student expression or action is protected and what not protected under the First Amendment. They do this by voting with their feet: that is, for each issue, students step to one side of the room if they view the school’s response to a student action or expression as CONSTITUTIONAL – i.e., it *does not* violate the student’s First Amendment protections—or to the other side if the school’s action is deemed UNCONSTITUTIONAL – it *does* violate. Assuming that students have discussed and argued each instance, these takings of sides constitute the class’s court rulings, with the outcome determined by the simple majority. Explain that, even if one is unsure of his or

her judgment, a choice must be made, although it can be changed at any point during consideration of the scenario. This both makes clear each student's fundamental view when speaking, and allows the entire class to witness any changing of minds that may occur. Explain that where you stand at the beginning is less important than where you end up standing at the end of each discussion. These changes of mind may be compared to how often the Supreme Court itself, which students may perceive as the ultimate solution to legal controversies, actually reverses itself, as on slavery, women's right to vote, New Deal legislation, abortion, et al. And of course many of its landmark decisions are split, often as close as five to four, such that one justice's vote has determined the law of the land for millions of citizens.

The teacher's role is to narrate the scenario scene by scene, all the time asking students to address the above two tasks. The teacher may also introduce new information or make hypothetical changes in a situation ("What if ...?") in order to lead the students to refine their judgments.

Court opinions may also be shared where they offer insights. Among those relevant to this scenario are:

- *Tinker v. Des Moines* (1969) - established that students' rights are not shed "at the schoolhouse gate"
- *Hazelwood School District v. Kuhlmeier* (1988) - distinguished between individual student expression and

and student expression, as in a schoolpaper, that could be perceived as representing the school

- *Lamb's Chapel v. Center Moriches Union Free School District* (1993) – dealt with student religious groups meeting on school grounds
- *Good News Club v. Milford Central School* (2001) – dealt with student religious groups meeting on school grounds

For details visit <https://www.law.cornell.edu/supct/topiclist.html> or <http://www.findlaw.com/casecode/supreme.html>

The Scenario

The Place: Eagle River High School

The Time: Spring

One day as Easter is approaching, two students offer little chocolate rabbits to several classmates at one of the school cafeteria tables. Biting into the hollow bunnies, the classmates discover rolled up inside them tiny texts proclaiming Leporism, a religion in which the Creator is a Great White Rabbit. Appropriately, the tiny texts list two of the chief beliefs of Leporism: the virtues of peacemaking and the power of an idea as it spreads through society.

As the days pass, the two students continue distributing the chocolate rabbits with the religious texts inside. While their

real names are Charles Brickney and Elizabeth Simpson, they keep referring to themselves by the assumed names of Charles Hare and Elizabeth Hare. In conversation, they don't attempt to persuade their classmates to convert to Leporism, but soon the little texts are beginning to be talked about around school.

One day Charles and Elizabeth sit down at lunch next to Timothy and Thomas Cross, twins from a family of deeply religious Christian fundamentalists. The Cross twins have not yet heard of the Leporists in the school. The chocolate rabbits are offered, bitten into, and the texts discovered. A tense religious discussion follows, interrupted only by the bell for sixth period. Timothy and Thomas leave the chocolate bunnies uneaten, but take the texts home.

The next day, the principal, Mr. Goshawk, receives a visit from the Cross twins' parents, objecting to what they claim is religious recruiting of their sons by the Leporists, Charles and Elizabeth. They point out that this is taking place on school grounds during school hours. Citing the First Amendment protection against any government-established religion, they call on the principal to forbid Charles and Elizabeth from continuing to distribute their religious materials during school. Mr. Goshawk calls the Leporists into his office and says that they must cease distributing the text-laden rabbits or face suspension.

Does Mr. Goshawk's threat of suspension violate Charles and Elizabeth's right to exercise their religion? Conversely, are the Leporists violating the twins' First Amendment right to be free of government-established religion?

Within a short period of time, a small group of new adherents to Leporism forms, what Charles and Elizabeth call a "warren." The members eat lunch together at the same table every day, and begin to refer to themselves as "the Great White Rabbit's spiritual robots." They accord Charles and Elizabeth, as the sect's founders, the status of Youth Rabbis, and look to them to preach the peace-loving ways of Leporism. When asked the source of this new religion, Charles and Elizabeth explain that it has its origins in Rabat, Morocco (*extra credit for any student picking up on the three puns above*).

With the continuing addition of new members, the warren is soon too large to gather around a single cafeteria lunch table. They ask Ms. Peregrine, an English teacher, if they may meet in her empty classroom next door to the cafeteria during lunch period. An obliging soul, Ms. Peregrine consents, and even offers to stay in the room—this is her free period—to provide a faculty presence. Several days later, a group of students approaches Mr. Goshawk to complain about preferential treatment of the Leporists: they are allowed to eat outside the cafeteria while the rest of the students are not. The Leporists claim they are now a group officially sanctioned by a faculty

member. Word of the dispute travels quickly, and Mr. Goshawk receives a phone call from a local civil libertarian objecting to the school's sponsoring a religious group. Mr. Goshawk tells the Leporists that they can no longer meet on school grounds.

In banning the Leporists from meeting on school grounds, is Mr. Goshawk depriving the Leporists of their First Amendment right to exercise their religion? Does Ms. Peregrine's offer of a faculty presence for the warren constitute school sponsorship of a religious group? If so, is this a First Amendment violation of the principle of separation of church and state? Is the warren actually part of a real religion? What in fact constitutes a religion? Are the other students justified in claiming the warren is receiving preferential treatment? How is their group meeting different from, say, the Chess Club or the Outing Club?

The warren responds to the principal's banning of their meetings at school with a renewed wave of chocolate bunnies with Leporist texts inside. The warren no longer meets at school, but its presence is now felt even more strongly in the form of hundreds of chocolate rabbits—each bearing its text—which seem to be multiplying out of control. Leporists begin wearing t-shirts with rabbits on them which they have ordered from a Wilderness Store catalogue. As the focus of increased attention, Leporists, acting singly or in pairs, seize every

opportunity to promote their peace-loving beliefs. A few cafeteria table discussions with non-adherents to Leporism escalate into loud arguments. Finally, a group of jocks comes to school one day, each wearing a t-shirt with the school mascot, the Screaming Eagle. A shouting match ensues, and is broken up by faculty only after one of the jocks, taunting the Leporists as “funny bunnies,” advocates “a rabbit extermination program.” Charles and Elizabeth, together with Leporists Wendy Hare, Ian Hare, Molly Hare, Stephanie Hare and Joseph Hare, ask to meet with Mr. Goshawk. They demand that he restrain what they describe as the “hate speech” and death threats of the jocks.

If Mr. Goshawk seeks to restrain the jocks, is he violating their First Amendment right to free speech? Are the waves of chocolate rabbits and the rabbit t-shirts—permitted or at least not forbidden—violations of the establishment clause of the First? How are they different, if at all, from the jocks’ wearing Screaming Eagle t-shirts? If the difference is that one belongs to a religious group and the other an athletic group, where exactly is the dividing line between the two kinds of groups? Do the jocks, like the Leporists, hold collective beliefs and share common values? Are the jocks guilty of violating Maine’s Civil Rights Act prohibition against hate speech and hate crimes (which gives the Attorney General the authority to seek a restraining order and a civil penalty up to \$5,000 for each violation against persons who commit violence

damage property, or trespass, motivated by racial, ethnic, religious, gender, physical disability, mental disability or sexual orientation bias)? Do the jocks' taunts and veiled extermination threats rise to the level of "hate speech"?

Last year's varsity track team won the state championship, so the school schedules a pep rally to start the spring season. For several days before the evening rally, which is to include a bonfire, students are hard at work in the school's art room painting banners that say things like "GO EAGLES - SEIZE YOUR PREY!!" and "VICTORY IS IN OUR TALONS!!" On the night of the rally, the Leporists show up with their own banners proclaiming "EAGLES LOVE TO KILL; RABBITS LOVE PEACE" and "EAGLES ARE AN ENDANGERED SPECIES." In no time the rally turns into a confrontation. Jocks grab the Leporists' banners and throw them into the bonfire. A shoving match breaks out and several Leporists are thrown to the ground. The co-captains of the track team and their coach, Mr. Harrier, try to calm everyone down, but things have already gotten out of control. Only the presence of two off-duty police officers prevents the rally from turning into a riot.

The school's student newspaper, *The Flaming Eagle*, is set to come out a week later. There are pictures and a story from the rally, plus an editorial that questions the value of school mascots, at least when they seem to lead to such conflict within the school community. Ms. Peregrine, who is also the faculty advisor to the paper, submits a draft of the newspaper

to Mr. Goshawk for his approval, as called for by school board policy. Mr. Goshawk rules that neither the pictures of the melee at the rally nor the editorial will be permitted to be printed. He says they are both destructive to order in the school, and likely to provoke further incidents among students. He invokes his responsibility to maintaining student safety at all times. The same local civil libertarian who before objected to Leporism seeming to receive school sponsorship now writes a letter to the local newspaper challenging the right of the school to—in his view—suppress the editorial challenging violent mascots. His letter now seems to endorse the rights of Leporists.

Is Mr. Goshawk’s censorship of the photographs of the rally a violation of the students’ freedom of the press? Is his censorship of the student editorial questioning the value of school mascots a similar violation? What, if any, are the differences between the two instances of censorship? How can the civil libertarian argue both against (when Leporists were meeting in Ms. Peregrine’s room) and now for the rights of Leporists?

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