

AutoCo is a privately owned corporation that manufactures automobiles. Ten years ago, AutoCo purchased a five-square-mile parcel of unincorporated land in a remote region of the state and built a large automobile assembly plant on the land. To attract workers to the remote location of the plant, AutoCo built apartment buildings and houses on the land and leased them to its employees. AutoCo owns and operates a commercial district with shops and streets open to the general public. AutoCo named the area Oakwood and provides security, fire protection, and sanitation services for Oakwood's residents. AutoCo also built, operates, and fully funds the only school in the region, which it makes available free of charge to the children of its employees.

A family recently moved to Oakwood. The father and mother work in AutoCo's plant, rent an apartment from AutoCo, and have enrolled their 10-year-old son in Oakwood's school. Every morning, the students are required to recite the Pledge of Allegiance while standing and saluting an American flag. With the approval of his parents, the son has politely but insistently refused to recite the Pledge and salute the flag at the school on the grounds that doing so violates his own political beliefs and the political beliefs of his family. As a result of his refusal to say the Pledge, the son has been expelled from the school.

To protest the school's actions, the father walked into the commercial district of Oakwood. While standing on a street corner, he handed out leaflets that contained a short essay critical of the school's Pledge of Allegiance policy. Some of the passersby who took the leaflets dropped them to the ground. An AutoCo security guard saw the litter, told the father that Oakwood's anti-litter rule prohibits leaflet distribution that results in littering, and directed him to cease distribution of the leaflets and leave the commercial district. When the father did not leave and continued to distribute the leaflets, the security guard called the state police, which sent officers who arrested the father for trespass.

1. Did the son's expulsion from the school violate the First Amendment as applied through the Fourteenth Amendment? Explain.
2. Did the father's arrest violate the First Amendment as applied through the Fourteenth Amendment? Explain.

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Question Presented

A private automaker owns and runs Oakwood, providing security, fire protection, sanitation, the streets, the shops, and the only school.

← performing traditional municipal functions → a company town

The commercial district's streets and shops are open to the general public.

← public-function theory → treated as a state actor

The school makes students recite the Pledge and salute the flag; the son refused on political grounds and was expelled.

← compelling a political pledge = compelled speech

The father handed out leaflets criticizing the policy on a street corner; some passersby dropped them on the ground.

← public-forum leafleting; the litter was caused by others

A guard invoked an anti-litter rule barring leafleting that causes littering and had the father arrested for trespass.

← can't ban his speech because third parties litter

1. Did the son's expulsion violate the First Amendment (through the Fourteenth)?

← → state action + compelled speech

2. Did the father's arrest violate the First Amendment?

← → public-forum leafleting

Threshold: State Action (Company Town)

Issue. Whether a private company running Oakwood is a state actor subject to the First Amendment.

Is there state action at all?

Rule. Constitutional rights bind only government actors. Under the public-function theory, a private entity that performs functions traditionally and exclusively reserved to government, such as running a full company town, is treated as a state actor.

Public-function exception: a private party doing government's job = a state actor.

Analysis. Here, the automaker supplies security, fire, sanitation, public streets and shops, and the only school, the full bundle of municipal services, and the district is open to the public. That is a

Runs the whole town, open to all → the classic company town.

company town, a municipality in private hands.

Conclusion. Therefore, Oakwood and its school are state actors bound by the First Amendment.

State action exists; the threshold is met.

Question 1: The Son's Expulsion (Compelled Speech)

Issue. Whether expelling the son for refusing to recite the Pledge violated the First Amendment.

Is this compelled speech?

Rule. Free speech includes the right not to speak. The government may not compel a student to recite a political pledge or salute the flag; forcing that participation is unconstitutional compelled expression.

The right to speak includes the right to stay silent.

Analysis. Here, the school, a state actor, required the Pledge and salute and expelled the son for his political refusal. Punishing that refusal compels political speech.

Expulsion punished protected silence.

Conclusion. Therefore, the expulsion violated the First Amendment.

Yes: a violation.

Question 2: The Father's Arrest (Anti-Litter Leafleting Ban)

Issue. Whether arresting the father for leafleting under the anti-litter rule violated the First Amendment.

Can a litter rule shut down his leafleting?

Rule. The company town's public commercial district is a public forum. A content-neutral time, place, and manner restriction must be narrowly tailored to a significant interest and leave open alternatives; a government may not punish a leaflet distributor because third parties who receive the leaflets litter.

Public forum; a litter interest cannot justify banning peaceful leafleting.

Analysis. Here, the father peacefully distributed leaflets in the public district, and the littering was done by passersby, not by him. Banning his speech to address others' littering is not narrowly tailored; the town could instead punish those who actually litter.

Punish the litterers, not the speaker; the ban sweeps in protected speech.

Conclusion. Therefore, the father's arrest violated the First Amendment.

Yes: a violation.

Step-by-Step: State Action, Compelled Speech & Public-Forum Leafleting

Clear the state-action threshold first; only then do the First Amendment merits reach a private actor.

1. State action? Is a private party performing a traditional, exclusive government function (a

company town)?

→ Yes → the actor is bound by the First Amendment. **Oakwood = state actor**



2. Compelled speech? Is the government forcing expression (a pledge or salute)?

→ Yes → the right not to speak is violated. **Q1: expulsion for refusing the Pledge → violation**



3. Public-forum leafleting restricted for littering by others?

→ A litter interest cannot justify banning peaceful leafleting; punish the litterers instead. **Q2: arrest → violation**