

lications in advance with the judge.⁴²⁸ Liberty of the press to scrutinize closely the conduct of public affairs was essential, said Chief Justice Hughes for the Court. “[T]he administration of government has become more complex, the opportunities for malfeasance and corruption have multiplied, crime has grown to most serious proportions, and the danger of its protection by unfaithful officials and of the impairment of the fundamental security of life and property by criminal alliances and official neglect, emphasizes the primary need of a vigilant and courageous press, especially in great cities. The fact that the liberty of the press may be abused by miscreant purveyors of scandal does not make any the less necessary the immunity of the press from previous restraint in dealing with official misconduct. Subsequent punishment for such abuses as may exist is the appropriate remedy, consistent with constitutional privilege.”⁴²⁹ The Court did not explore the kinds of restrictions to which the term “prior restraint” would apply, nor do more than assert that only in “exceptional cases” would prior restraint be permissible.⁴³⁰

Nor did subsequent cases substantially illuminate the murky interior of the doctrine. The doctrine of prior restraint was called upon by the Court as it struck down restrictions on First Amendment rights, including a series of loosely drawn statutes and ordinances requiring licenses to hold meetings and parades and to distribute literature, with uncontrolled discretion in the licensor whether or not to issue them.⁴³¹ The doctrine that generally emerged was that permit systems and prior licensing are constitutionally valid

⁴²⁸ 283 U.S. at 713.

⁴²⁹ 283 U.S. at 719–20.

⁴³⁰ 283 U.S. at 716.

⁴³¹ *E.g.*, *Lovell v. Griffin*, 303 U.S. 444 (1938); *Cantwell v. Connecticut*, 310 U.S. 296 (1940); *Kunz v. New York*, 340 U.S. 290 (1951); *Niemotko v. Maryland*, 340 U.S. 268 (1951); *Staub v. City of Baxley*, 355 U.S. 313 (1958). For other applications, *see Grosjean v. American Press Co.*, 297 U.S. 233 (1936); *Murdock v. Pennsylvania*, 319 U.S. 105 (1943); *Follett v. McCormick*, 321 U.S. 573 (1944).