In distinguishing between unprotected "employee speech" and protected "citizen speech," the existence of a legal obligation to speak which is external to one's job responsibilities appears to place such speech firmly in the "citizen speech" category. In *Lane v. Franks*,[812] the director of a state government program for underprivileged youth was called to testify regarding the alleged fraudulent activities of a state legislator that occurred during the legislator's employment in the government program. Although the director's testimony was based on information learned during the course of his employment, the Court held that testimony under oath by a public employee outside the scope of his ordinary job duties is to be treated, for First Amendment purposes, as speech by a citizen.[813] Although the person testifying may bear separate obligations to his employer during such testimony, such as the obligation to act in a professional manner, the independent legal obligation to testify truthfully renders such testimony into a quintessential example of citizen speech.

In sum, although a public employer may not muzzle its employees or penalize them for their expressions and associations to the same extent that a private employer can,[814] the public employer nonetheless has broad leeway in restricting employee speech. If the employee speech does not relate to a matter of "public concern," then *Connick* applies and the employer is largely free of constitutional restraint.[815] If the speech does relate to a matter of public concern,

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Umbehr, 518 U.S. 668, 673 (1996). *See also* O'Hare Truck Service, Inc. v. City of Northlake, 518 U.S. 712, 715 (1996) (government may not "retaliate[ ] against a contractor, or a regular provider of services, for the exercise of rights of political association or the expression of political allegiance").

[812] 573 U.S. ___, No. 13–483, slip op. (2014).

[813] 573 U.S. ___, No. 13–483, slip op.at 9 (2014).

[814] *See*, *e.g.*, Elrod v. Burns, 427 U.S. 347 (1976), and Branti v. Finkel, 445 U.S. 507 (1980) (political patronage systems impermissibly infringe protected belief and associational rights of employees); Madison School Dist. v. WERC, 429 U.S. 167 (1977) (school teacher may not be prevented from speaking at a public meeting in opposition to position advanced by union with exclusive representation rights). The public employer may, as may private employers, permit collective bargaining and confer on representatives of its employees the right of exclusive representation, Abood v. Detroit Bd. of Educ., 431 U.S. 209, 223–32 (1977), but the fact that its employees may speak does not compel government to listen to them. *See* Smith v. Arkansas State Highway Employees, 441 U.S. 463 (1979) (employees have right to associate to present their positions to their employer but employer not constitutionally required to engage in collective bargaining). *See also* Minnesota State Bd. for Community Colleges v. Knight, 465 U.S. 271 (1984) (public employees not members of union have no First Amendment right to meet separately with public employers compelled by state law to "meet and confer" with exclusive bargaining representative). Government may also inquire into the fitness of its employees and potential employees, but it must do so in a manner that does not needlessly endanger the expression and associational rights of those persons. *See*, *e.g.*, Shelton v. Tucker, 364 U.S. 479 (1969).

[815] In *Connick*, the Court noted that it did not suggest "that Myers' speech, even if not touching upon a matter of public concern, is totally beyond the protection of the First Amendment." Rather, it was beyond First Amendment protection "absent