

Schenck v. United States / Background •—

Answer Key

By 1916, World War I had been going in Europe for two years. There was much debate about whether the United States should join the war. Many Americans did not want to be involved. Some political groups at the time openly opposed the war. In the same year, Woodrow Wilson was reelected president, winning reelection with the campaign slogan, “He kept us out of war.”

After a series of German attacks on U.S. ships, President Wilson reversed his position on the war. The United States formally declared war against Germany and entered World War I on April 2, 1917. Congress then passed the Selective Service Act of 1917, authorizing the first **military draft** since the Civil War.

The case of *Schenck v. United States* is important to understanding the right to free speech. The case involves the **Espionage Act** passed by Congress in June 1917. The Espionage Act made it a crime to organize any efforts to prevent the war from happening. It also gave the national government the authority to **censor** some speech by refusing to deliver mail that violated the act. The Espionage Act was directed toward people trying to resist the draft and disrupt **war mobilization**. People spied on and reported neighbors for violating the act. In total more than 2,000 people were put on trial and 900 sent to jail for violating the Espionage Act.

Charles T. Schenck was a leader of the Philadelphia **Socialist Party**. He printed and mailed out 15,000 leaflets to young men who could be drafted. One side of the flier read “Long Live the Constitution of the United States,” and argued that the draft was a form of “**involuntary servitude**.” Schenck’s flier also urged its recipients write to their Congressmen and tell them to repeal the draft law. Recipients were told to use their rights of **free speech**, assembly, and petition in order to express their complaints to the government. Schenck urged his audience to “do [their] share to maintain, support and uphold the rights of the people of this country.”

Schenck believed he had the right to send out these fliers under the First Amendment. The First Amendment says “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.”

Schenck believed he was encouraging people to legally express their opinion to their federal government. The First Amendment to the U.S. Constitution protects the freedom of speech. However, this right is not absolute. The government can place some limits on protected rights. How much the government can limit free speech depends on the context. Generally, the

government cannot control the content of someone's speech. However, the government argued that national security concerns or times of war allows it to place greater limits on speech.

The U.S. government did not agree with Schenck and arrested him for violating the Espionage Act. The government argued Schenck's actions to disrupt the military draft actually endangered the country. Schenck asked the U.S. Supreme Court to hear his case, and the Court agreed.

Questions to Consider

1. What was Charles T. Schenck encouraging young men to do in his leaflets?
Schenck was encouraging young men to write to their Congressman and tell them to repeal (take back) the law. He wanted them to exercise their rights of free speech, peaceful assemblage, and petitioning the government for a redress of grievances.
2. What rights are protected in the First Amendment?
The right to free speech, press, assembly, religion, and petition.
3. Why did Schenck believe he had a right to send the pamphlets?
Schenck believed the First Amendment protected his rights because he was encouraging people to legally express their opinion to their federal government.
4. Why did the U.S. government argue it had the authority to stop Schenck from sending the pamphlets?
The government argued Schenck's actions to disrupt the military draft endangered the national security of the country.