

CLAIM CARDS: EXTEND

Case #1: Schenck v. United States

Argued: January 9-10, 1919

Decided: March 3, 1919

Facts:

During World War I, Charles Schenck and Elizabeth Baer distributed a brochure to recently recruited soldiers encouraging them to refuse to give in to the draft as it was a form of servitude.

Issue:

Considering the political climate, were the actions of the defendant protected under the First Amendment of the United States Constitution?

Conclusion:

Justice Holmes ruled that under normal circumstances the leaflet would have been constitutionally protected, but the writing depends upon the circumstances under which it is written. Therefore, the words did create clear and present danger as men might decide not to serve.

Case #2: Bond v. Floyd

Argued: November 10, 1966

Decided: December 5, 1966

Facts:

Julian Bond endorsed a press release from the Student Nonviolent Coordinating Committee (SNCC), a civil rights group, criticizing the United States involvement in the Vietnam War and the draft law. He had recently been elected to the Georgia House of Representative and was denied being able to take his oath of office due to his public endorsement.

Issue:

Are legislators' rights to freedom of speech in violation of the legislatures' oath to support the Constitution?

Conclusion:

The Supreme Court ruled in favor of Bond. The Court ruled that a legislators' oath does not limit their ability to discuss political views or the freedom to express their views over those issues.

Case #3: Shaffer v. United States

Argued: Oct 21-22, 1919

Decided: Nov. 10, 1919

Facts:

Mr. Shaffer, with the help of his wife, used the USPS to mail a book titled “The Finished Mystery”. In this book he criticized patriotism and the war with Germany. He referred to the delusion of patriotism as murder and that war was a crime.

Issue:

Were the books mailed a “non mailable” matter under the Espionage Act, which makes it a crime to speak or publish with intent to hinder the United States in a war?
Was there enough evidence to show that the plaintiff committed the act willfully and intentionally?

Conclusion:

Mr. Shaffer was convicted of violating the 1917 Espionage Act by committing treasonable and disloyal acts. The writing, publishing, and distribution of the book may have led to the obstruction of recruitment by attacking the just causes for the war.

Case #4: Yates v. United States

Argued: Oct 8-9, 1956

Decided: June 17, 1957

Facts:

Fourteen Communist Party leaders were charged under the Smith Act for advocating, teaching, and organizing a society that advocated for overthrowing the government by force and violence.

Issue:

Does the Smith Act violate the First Amendment?

Conclusion:

The Court ruled in favor of Yates. The Smith Act covered organizing a “new” group and the fact that the Communist Party had been organized three years prior excused it from the application of the act.

Case #5: Brandenburg v. Ohio

Argued: Feb. 27, 1969

Decided: June 9, 1969

Facts:

Clarence Brandenburg was recorded by the media giving a speech to a small group of the Ku Klux Klan. In the speech he made antisemitic and anti-black statements alluding to the possibility of revenge.

Issue:

Was Brandenburg's right to free speech violated by Ohio's law, that outlawed encouraging violent overthrow of the government?

Conclusion:

The Court ruled that the Ohio law did violate Brandenburg's right to free speech. As his speech was not directly inciting lawless actions. This also created the Brandenburg test to evaluate speeches. Does the speech directly incite lawless action or is it likely to incite lawless action?

Resources:

<https://www.lexisnexis.com/community/casebrief/p/casebrief-schenck-v-united-states>

<https://www.mtsu.edu/first-amendment/article/193/schenck-v-united-states>

<https://www.mtsu.edu/first-amendment/article/182/bond-v-floyd>

<https://constitutioncenter.org/the-constitution/supreme-court-case-library/abrams-v-united-states>

[https://www.mtsu.edu/first-amendment/article/328/abrams-v-united-states#:~:text=Congress%2C%20public%20domain\),,In%20Abrams%20v.,Justice%20Oliver%20Wendell%20Holmes%20Jr.](https://www.mtsu.edu/first-amendment/article/328/abrams-v-united-states#:~:text=Congress%2C%20public%20domain),,In%20Abrams%20v.,Justice%20Oliver%20Wendell%20Holmes%20Jr.)

<https://www.oyez.org/cases/1900-1940/250us616>

<https://www.lexisnexis.com/community/casebrief/p/casebrief-shaffer-v-united-states>

<https://cite.case.law/f/255/886/>

<https://www.oyez.org/cases/1900-1940/274us357>

<https://www.mtsu.edu/first-amendment/article/263/whitney-v-california>

<https://www.oyez.org/cases/1956/6>

<https://www.lexisnexis.com/community/casebrief/p/casebrief-yates-v-united-states-722674872>

<https://www.mtsu.edu/first-amendment/article/189/brandenburg-v-ohio>

<https://www.oyez.org/cases/1968/492>