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## Schenck v. United States

*Schenck v. United States*, a 1919 legal case, marked the first time the Supreme Court of the United States ruled on the right to free speech as protected by the First Amendment to the U.S. Constitution. The court decided that government can restrict free speech if the speech presents a “clear and present danger” to the nation.

In 1917, Charles T. Schenck, a Socialist, was arrested for distributing leaflets that urged citizens to avoid the military draft. A Pennsylvania court found Schenck guilty of violating the Espionage Act of 1917, which made it illegal to "obstruct the recruiting or enlistment services of the United States." Schenck appealed the conviction, claiming that the Espionage Act was unconstitutional. But the Supreme Court upheld the ruling. In the decision, Justice Oliver Wendell Holmes, Jr., wrote that the government can restrict speech if it poses a “clear and present danger” of an evil that the government has a right to prevent. Holmes noted that the speech would have been protected during peacetime. However, because of World War I (1914-1918), the government had a heightened interest in maintaining compliance with the law.

Holmes’s “clear and present danger” test was used as a standard for free speech cases through much of the 1900’s. However, in *Brandenburg v. Ohio* (1969), the court modified the test so that speech can be restricted only if it incites "imminent lawless action."

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