

SCHENCK v. UNITED STATES (1919)

DIRECTIONS

Read the Case Background and Key Question. Then analyze Documents A-I. Finally, answer the Key Question in a well-organized essay that incorporates your interpretations of Documents A-I, as well as your own knowledge of history.

Case Background

The United States instituted a military draft during World War I. More than 24 million men registered for the draft, and over 2.5 million men were actually drafted into the military. Socialist Party member Charles Schenck opposed the war as well as the military draft.

Schenck distributed leaflets urging recently drafted men to resist the draft. He exhorted draftees to resist the draft because the Thirteenth Amendment prohibited “involuntary servitude” in the United States. He condemned the federal government, the war and the draft with very strong language, but he advocated only peaceful resistance. Schenck was charged with violating the Espionage Act of 1917, which made it a crime to, among other things, “obstruct the recruiting or enlistment service.”

Schenck challenged his conviction on First Amendment grounds. His case went to the Supreme Court, which had to consider if freedom of speech is an absolute right and, if not, under what circumstances it may be limited in wartime.