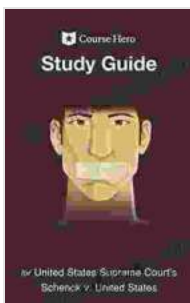


Study Guide for United States Supreme Court Case: Schenck v. United States— Understanding the Limits of Free Speech

The United States Supreme Court case of Schenck v. United States (1919) holds a significant place in the history of free speech jurisprudence. The case challenged the limits of free speech during wartime and established the "clear and present danger" test, a framework for determining whether speech may be lawfully restricted. This article provides a comprehensive study guide for Schenck v. United States, exploring its historical context, the legal principles involved, and the case's lasting legacy.

Historical Context

The United States entered World War I in 1917. The government, seeking to mobilize public support for the war effort, enacted the Espionage Act of 1917. This act prohibited any speech that would obstruct the recruiting or enlistment of soldiers or promote insubordination within the armed forces.



Study Guide for United States Supreme Court's

Schenck v. United States by Course Hero

★★★★☆ 4 out of 5

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In 1918, Charles Schenck, the secretary of the Socialist Party of America, was arrested for distributing leaflets opposing the draft. The leaflets claimed that the draft violated the Thirteenth Amendment, which prohibited slavery and involuntary servitude.

Legal Principles

The central legal issue in *Schenck v. United States* was the extent to which the Espionage Act could restrict free speech. Justice Holmes, writing for the majority, introduced the "clear and present danger" test. This test states that speech may only be restricted if it poses "a clear and present danger" to the security of the nation.

In applying the test to Schenck's leaflets, Justice Holmes found that the leaflets did pose a clear and present danger to the war effort. He argued that the leaflets could incite resistance to the draft and undermine the morale of the troops.

Impact and Legacy

Schenck v. United States established a balance between the First Amendment right to free speech and the government's interest in protecting national security. The "clear and present danger" test remains a pivotal standard in free speech law, guiding the courts in determining when speech may be restricted.

The case has been used both to uphold and limit free speech in a variety of contexts. For example, it has been cited to justify restrictions on speech

advocating for violence or overthrow of the government. However, it has also been used to protect speech critical of the government, such as political protests and whistleblower disclosures.

Study Guide Questions

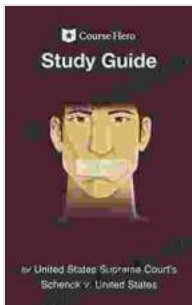
1. What were the historical circumstances surrounding *Schenck v. United States*?
2. Explain the "clear and present danger" test and how it was applied in *Schenck v. United States*.
3. Discuss the impact and legacy of *Schenck v. United States* on free speech jurisprudence.
4. How has the "clear and present danger" test been used and challenged in subsequent cases?
5. Consider the tension between national security and free speech. How does *Schenck v. United States* balance these interests?
6. Research other Supreme Court cases that have addressed the limits of free speech. How do these cases compare to *Schenck v. United States*?

Additional Resources

- [Schenck v. United States on Oyez](#)
- [Schenck v. United States on Wex Legal Dictionary](#)
- [Schenck v. United States on Free Speech Center](#)

Schenck v. United States is a landmark Supreme Court case that continues to shape the debate over free speech in the United States. The "clear and

present danger" test established in this case has become a crucial framework for balancing the First Amendment rights of individuals with the government's interest in protecting national security. Understanding Schenck v. United States is essential for anyone interested in the history of free speech, constitutional law, or the ongoing dialogue between security and liberty.



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