

Document D: *Schenck v. United States* (Modified)

The excerpt below comes from the Supreme Court's unanimous opinion in Schenck v. United States, 1919.

OPINION BY JUSTICE OLIVER WENDELL HOLMES, JR.

The character of every act depends upon the circumstances in which it is done. The most stringent protection of free speech would not protect a man in falsely shouting "Fire!" in a theatre and causing a panic. . . .

The question in every case is whether the words used are used in such circumstances and are of such a nature as to create a clear and present danger that they will bring about the substantive evils that Congress has a right to prevent. . . .

When a nation is at war many things that might be said in time of peace are such a hindrance to its effort that their utterance will not be endured so long as men fight and that no Court could regard them as protected by any constitutional right.

Source: *Supreme Court opinion by Justice Oliver Wendell Holmes, Jr., March 3, 1919.*