

This question requires you to compare a Supreme Court case you studied in class with one you have not studied in class. A summary of the Supreme Court case you did not study in class is presented below and provides all of the information you need to know about this case to answer the prompts.

Cohen v. California (1971)

3. In 1968 Paul Cohen wore a jacket displaying an obscene anti-war statement while entering a Los Angeles courthouse. Cohen was arrested and charged under a California statute that prohibited “maliciously and willfully disturb[ing] the peace and quiet of any neighborhood or person [by] offensive conduct.” Cohen asserted that he wore the jacket in protest of the Vietnam War. Cohen was convicted in a Los Angeles court and sentenced to 30 days in jail.

In the subsequent case *Cohen v. California* (1971), the Court ruled in a 5–4 decision in favor of Cohen, overturning his conviction. In the majority opinion, Justice John Marshall Harlan rejected the argument that the state could restrict the words on Cohen’s jacket as offensive conduct. Harlan reasoned that “[O]ne man’s vulgarity is another’s lyric,” warning that “government might soon seize upon the censorship of particular words as a convenient guise for banning the expression of unpopular views.”

- A. Identify the civil liberty that is common to both *Schenck v. United States* (1919) and *Cohen v. California* (1971).
- B. Explain how the facts in *Schenck v. United States* and *Cohen v. California* resulted in different holdings.
- C. Explain how the decision in *Cohen v. California* reflects the democratic ideal of limited government.

Begin your response to this question at the top of a new page in the separate Free Response booklet and fill in the appropriate circle at the top of each page to indicate the question number.

4. Both interest groups and social movements provide avenues for political participation. Develop an argument as to whether interest groups or social movements better reflect the participatory model of democracy.

Use at least one piece of evidence from one of the following foundational documents:

- *Federalist No. 10*
- The First Amendment of the United States Constitution
- “Letter from a Birmingham Jail”

In your response, you should do the following:

- ✓ Respond to the prompt with a defensible claim or thesis that establishes a line of reasoning.
- ✓ Support your claim with at least TWO pieces of specific and relevant evidence.
 - One piece of evidence must come from one of the foundational documents listed above.
 - A second piece of evidence can come from any other foundational document not used as your first piece of evidence or it may be from your knowledge of course concepts.
- ✓ Use reasoning to explain why your evidence supports your claim or thesis.
- ✓ Respond to an opposing or alternate perspective using refutation, concession, or rebuttal.

Begin your response to this question at the top of a new page in the separate Free Response booklet and fill in the appropriate circle at the top of each page to indicate the question number.

Question 3: SCOTUS Comparison**4 points**

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- A.** Identify the civil liberty that is common to both *Schenck v. United States* (1919) and *Cohen v. California* (1971). **1 point**

- Freedom of speech

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- B.** Explain how the facts in *Schenck v. United States* and *Cohen v. California* resulted in different holdings. **1 point**

Acceptable responses include:

One point for **describing** relevant information (facts or holding) about the required Supreme Court case.

- Schenck was found guilty of violating the Espionage Act.
- In *Schenck v. United States*, a man was arrested for distributing anti-war pamphlets that called for people to disobey the draft.
- The Supreme Court held that Congress has the power to prevent dangerous speech.
- When ruling in favor of the government, the Supreme Court held that the First Amendment does not protect speech that presents a clear and present danger to public welfare.

OR

Two points for correctly **explaining** how the facts of both cases resulted in different holdings.

OR
2 points

- The speech in *Schenck* was a threat, so the Court held that it was not protected, while the Court held that the speech in *Cohen* was protected because, while it was offensive to some, it did not pose a security threat.
- Both cases involved speech in protest of a war, but the Court held in *Cohen v. California* that the government could not limit offensive speech whereas in *Schenck v. United States* it held that speech that presents a clear and present danger can be limited by the government.
- While both cases involve speech, *Schenck* encouraged citizens to act against the government, which the Court held was not protected by the First Amendment, while *Cohen* was simply expressing his opinion, which the Court held was protected by the First Amendment.

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- C.** Explain how the decision in *Cohen v. California* reflects the democratic ideal of limited government. **1 point**

Acceptable explanations include the following:

- The decision in *Cohen* protects an individual's right to wear a jacket with offensive speech, which constrains the government's power to censor speech.
- The decision in *Cohen* upheld civil liberties meant to protect against government overreach.

Total for question 3 4 points