**WHAT HAPPENED? WHAT IS THE STORY BEHIND THE CASE?**

* **Charles Schenck was an anti-war activist and printed 15,000 copies of an anti=war and anti-draft leaflet.**
* **Felt the draft violated the 13th amendment and was a form of involuntary servitude and that the war was driven by capitalist interests of big business.**
* **Some leaflets were maied to men who had been drafted, others were distributed near a draft center**
* **Arrested for violation of the Espionage Act, conspiring to print and circulate documents intended to cause insubordination within the military and avoid the draft, obstructing the enlistment of soldiers and using the mail illegally.**
* **Convicted and appealed arguing the 1st amendment gave him the right to print and distribute the leaflets.**

**HOW DID THE SUPREME COURT RULE IN THE CASE?**

* Court unanimously upheld the conviction but not for a violation of the Espionage Act, but for conspiracy to violate it
* Court found the First Amendment didn’t apply in this and that Schenck’s speech was not constitutionally protected because it posed a “Clear and present danger” to the security of the US
* We were in WWI and his speech was counterproductive to the national war effort
* Reasoned that certain speech could be curtailed using the example of yelling fire in a crowded theater.

**NAME OF CASE**

Schenck v. United States

**YEAR OF CASE**

**1919**

**INVOLVED (ex. people, states, amendments, laws)**

Charles Scheck, Party of the United States, First Amendment, Congressional War Powers, Espionage Act, the Selective Service Act

**WHAT IS THE CONSTITUTIONAL ISSUE IN THIS CASE?**

Does the Espionage Act violate the 1st Amendment with respect to Schenck’s freedom of speech