

American Government & Politics: A Christian Worldview.
Shouting “Fire!” and Speaking Truth (25–30 Minutes)

TEACHER INSTRUCTIONS

Goal

Students test Holmes’s “shouting fire” analogy against the biblical standard for government, then decide whether the analogy fairly applies to someone like Charles Schenck.

Instructions

1. Put students in groups of 2–4.
2. Read the instructions together.
3. Students complete the handout. (Allow 15–20 minutes.)
4. Discuss as a class via volunteers for each group.

Suggested Key

Scenario 1 – Draft Critic (Schenck)

Holmes: Likely punishable – dissent could hinder war effort, creating “danger” to government goals.

Biblical: Not punishable – no direct violence, damage, or theft. Persuasion is not harm.

Analogy fit: Weak – no panic, no imminent danger, no false statement of fact.

Scenario 2 – Crowd Inciter

Holmes: Clearly punishable (immediate danger of riot and injury).

Biblical: Clearly punishable (causes violence and property damage through false incitement).

Analogy fit: Strong (false statement causing immediate panic and harm).

Scenario 3 – Whistleblower

Holmes: Unclear (no panic, but government might claim “danger” to war effort if factory supplies weapons, which is a stretch).

Biblical: Not punishable (truth is not “falseness”; no violence or theft).

Analogy fit: Very weak (truthful speech is the opposite of the false fire shout).

Debrief/Wrap-Up Questions

Ask the class:

- Does the ‘shouting fire in a theater’ analogy fairly apply to Charles Schenck’s case? Why or why not?
- Which scenario made the strongest case for punishing speech? Which made the weakest?
- Does Holmes’s “clear and present danger” test give the government too much power? Why or why not?
- The reading argues that the biblical standard would have protected Schenck. Do you agree?

Journalism students, when instructed on the First Amendment, are often given vague, general statements like “You can’t shout ‘Fire!’ in a crowded theater” to justify government intervention into free speech.

It’s important to not just repeat slogans, but to (a) apply the Biblical standard to government actions, and (b) think critically and reason about questions such as these.

What are the verses we memorized, one more time, about the legitimate functions of government? (Let students answer.) How should these apply to speech?

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Shouting “Fire!” and Speaking Truth

You are a panel of judges. Your job is to test Justice Holmes’s famous “shouting fire” analogy against two different standards and decide whether the analogy fairly applies to a real case.

Part 1: The Two Standards (3 minutes). Read both standards. Discuss with your group: Which standard would allow more speech to be punished? Which standard would better protect someone like Charles Schenck?

Standard A – Justice Holmes (from the *Schenck* case, 1919): “The most stringent protection of free speech would not protect a man in falsely shouting ‘Fire!’ in a theater and causing a panic....The question is whether the words create a clear and present danger that they will bring about evils that Congress has a right to prevent.”

Standard B – Biblical Standard (Ezekiel 45:9): Government’s job is to “remove violence, damage, falseness, and spoil [theft/robbery], and execute judgment and justice.” Speech should only be punished if it directly causes violence, damage, or theft (including false statements that ruin someone’s reputation or livelihood).

Part 2: Three Scenarios (10 minutes). For each scenario below, discuss the two questions as a group. Write your answers in the space below.

Scenario 1 – The Draft Critic (Charles Schenck): A man prints flyers saying, “Young men, do not submit to the draft. It is unconstitutional slavery.” He distributes them on a street corner. No one riots. Some men hide from the draft.

Under Holmes’s “clear and present danger” test, could this speech be punished? Why?

Under the biblical standard (violence/damage/theft), could this speech be punished? Why?

Is criticizing the draft really like shouting “Fire!” in a theater? Explain.

Scenario 2 – The Crowd Inciter: A man at a protest yells, “The police are attacking! Fight back!” There are no police attacking. The crowd panics and riots. Several people are injured.

Does this speech create a “clear and present danger”? If so, what is the danger?

Does this speech cause violence, damage, or theft? Which one?

Is this more like shouting “Fire!” than Scenario 1? Why?

Scenario 3 – The Whistleblower: A woman posts online, “The factory owner is dumping chemicals in the river.” An investigation confirms this claim, the factory loses business, has to pay for the damage it causes, and the owner is angry.

Under Holmes’s standard, is there a “clear and present danger”? Explain.

Under the biblical standard, is there violence, damage, or theft?

Should the government punish her for speaking the truth? Would Holmes say yes?