AMERICAN CONSTITUTIONALISM

VOLUME II: RIGHTS AND LIBERTIES

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Supplementary Material

Chapter 9: Liberalism Divided – Democratic Rights/Free Speech

**Watts v. United States, 394 U.S. 705** (1969)

*A federal law from 1917 makes it a crime to “knowingly and willfully . . ,. [make] any threat to take the life of or to inflect bodily harm upon the President of the United States.” In 1966, eighteen-year-old Robert Watts attended a public rally at the Washington Monument, as did an investigator for the Army Counter Intelligence Corps and a detective for the park police. During the rally, Watts noted that he had just received a notice to report for a physical for the military draft during the Vietnam War. He announced, “I am not going. If they ever make me carry a rifle the first man I want to get in my sights is L.B.J.” His statement was met with laughter and applause. The next day he was arrested by the Secret Service and charged with making a threat on the life of the president.*

*At trial, Watts moved to have the indictment dismissed on the grounds that his words did not constitute a threat. The motion was dismissed, and he was convicted by a jury and received a suspended sentence. He appealed, and a divided circuit court (with future Chief Justice Warren Burger writing for the majority) affirmed his conviction. In an unsigned opinion and without hearing arguments, the Supreme Court reversed, holding that the statute could constitutionally be applied only to true threats and not mere violent political rhetoric.*

PER CURIAM.

. . . .

Certainly the statute under which petitioner was convicted is constitutional on its face. The Nation undoubtedly has a valid, even an overwhelming, interest in protecting the safety of its Chief Executive and in allowing him to perform his duties without interference from threats of physical violence. Nevertheless, a statute such as this one, which makes criminal a form of pure speech, must be interpreted with the commands of the First Amendment clearly in mind. What is a threat must be distinguished from what is constitutionally protected speech.

. . . . [T]he statute . . . requires the Government to prove a true "threat." We do not believe that the kind of political hyperbole indulged in by petitioner fits within that statutory term. For we must interpret the language Congress chose "against the background of a profound national commitment to the principle that debate on public issues should be uninhibited, robust, and wide-open, and that it may well include vehement, caustic, and sometimes unpleasantly sharp attacks on government and public officials." *New York Times Co.* v. *Sullivan* (1964). The language of the political arena, like the language used in labor disputes, see *Linn* v. *United Plant Guard Workers of America* (1966), is often vituperative, abusive, and inexact. We agree with petitioner that his only offense here was "a kind of very crude offensive method of stating a political opposition to the President." Taken in context, and regarding the expressly conditional nature of the statement and the reaction of the listeners, we do not see how it could be interpreted otherwise.

*Reversed*.

JUSTICE STEWART would deny the petition for certiorari.

JUSTICE WHITE dissents.

JUSTICE DOUGLAS, concurring.

. . . .

While our Alien and Sedition Laws were in force, John Adams, President of the United States, en route from Philadelphia, Pennsylvania, to Quincy, Massachusetts, stopped in Newark, New Jersey, where he was greeted by a crowd and by a committee that saluted him by firing a cannon.

A bystander said, "There goes the President and they are firing at his ass." Luther Baldwin was indicted for replying that he did not care "if they fired through his ass." He was convicted in the federal court for speaking "seditious words tending to defame the President and Government of the United States" and fined, assessed court costs and expenses, and committed to jail until the fine and fees were paid.

The Alien and Sedition Laws constituted one of our sorriest chapters; and I had thought we had done with them forever.

. . . . Convictions under 18 U. S. C. § 871 have been sustained for displaying posters urging passersby to "hang [President] Roosevelt," for declaring that "President Wilson ought to be killed. It is a wonder some one has not done it already. If I had an opportunity, I would do it myself,” for declaring that "Wilson is a wooden-headed son of a bitch. I wish Wilson was in hell, and if I had the power I would put him there." . . .

Suppression of speech as an effective police measure is an old, old device, outlawed by our Constitution.

JUSTICE FORTAS, with whom JUSTICE HARLAN joins, dissenting.

The Court holds, without hearing, that this statute is constitutional and that it is here wrongly applied. Neither of these rulings should be made without hearing, even if we assume that they are correct.

. . . .