C.L.A.S.S. Compass Life Adult Sunday School

Pastor Pete

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**“Wartime Decisions”**

**I. Ex parte Merryman (1861) “The Civil War”**

President Abraham Lincoln was concerned that the Union cause could be undermined by \_\_\_\_\_\_\_\_\_\_\_\_\_ sympathizers in the north. This threat was strong in Maryland, a slave state that bordered Confederate Virginia and surrounded Washington, D.C. on \_\_\_\_\_\_\_\_\_\_. In 1861, Lincoln authorized the suspension of the writ of habeas corpus anywhere between Philadelphia and Washington, D.C. and empowered military officers to arrest and detain suspected Confederate sympathizers without charging them. On May 25, 1861, Union soldiers arrested John Merryman, a wealthy farmer believed to hold secessionist views, and held him at Fort McHenry near Baltimore. Merryman’s attorney petitioned Chief Justice Roger Taney, who served as the \_\_\_\_\_\_\_\_\_\_ for the U.S. Circuit Court for the District of Maryland, for a writ of habeas corpus. The day after Merryman’s arrest, Taney ordered General George Cadwalader, the officer holding Merryman in custody, to appear before him. Cadwalader refused and requested a delay so he could receive further instructions from the \_\_\_\_\_\_\_\_\_\_\_. Taney then issued a writ commanding Cadwalader to appear and explain why he should not be held in contempt of court, but soldiers at the Fort \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ the writ. On May 28th, Taney held a session of the Circuit Court without Cadwalader or Merryman \_\_\_\_\_\_ and ruled that the President did not have the power to suspend the writ and could not usurp the role of the judiciary. Believing the military would simply ignore any ruling he made, Taney did not order Merryman’s release, but instead sent a copy of the opinion to Lincoln. Taney’s opinion, which was reprinted in newspapers around the country, issued a sharp rebuke to the President and a defense of the judiciary’s independence from the other branches of government. In his zeal to suppress a northern rebellion, Taney argued, Lincoln had effectively assumed the powers of all \_\_\_\_\_\_\_\_\_\_\_\_ of government. Lincoln continued to insist that he had the power, as President and commander in chief during a time of national emergency, to suspend the writ. Congress \_\_\_\_\_\_\_\_\_\_\_\_\_ this position in 1863 by passing a law explicitly granting him that authority. In the interim, however, Merryman was indicted in the circuit court for attempting to levy war against the United States and sabotaging railroads in Maryland. He was released on bail, but \_\_\_\_\_\_\_\_\_\_\_ trial.

**II. Plessy v Ferguson (1896) “From Slavery to Segregation”**

The law in Louisiana stipulated that all passenger railways had to provide \_\_\_\_\_\_\_\_ cars for whites and blacks and should be equal in facilities. Homer Adolph Plessy, agreed to be the plaintiff in the case aimed at \_\_\_\_\_\_ the law’s constitutionality. On June 7, 1892, Plessy bought a ticket on a train in New Orleans and took a vacant seat in a whites-only car. After refusing to leave the car he was arrested and jailed. \_\_\_\_\_\_\_\_\_\_\_\_\_ by a New Orleans court of violating the 1890 law, Plessy filed a petition against the presiding judge, John H. Ferguson, claiming the law violated the Equal Protection Clause of the 14th Amendment. On May 18, 1896, the Supreme Court delivered its verdict in Plessy v. Ferguson. In declaring separate-but-equal facilities constitutional on intrastate railroads, the Court ruled that the protections of 14th Amendment does not apply. In its ruling, the Court denied that segregated railroad cars for blacks were necessarily \_\_\_\_\_\_\_\_. “We consider the underlying fallacy of [Plessy’s] argument,” Justice Henry Brown wrote, “to consist in the assumption that the enforced separation of the two races stamps the colored race with a badge of inferiority. If this be so, it is not by reason of anything found in the act, but solely because the colored race \_\_\_\_\_\_\_\_\_\_\_ to put that construction upon it.” Alone in the minority was Justice John Marshall Harlan, he argued in his dissent that segregation ran counter to the constitutional principle of equality under the law: “The arbitrary separation of citizens on the basis of race while they are on a public highway is a badge of servitude wholly inconsistent with the civil freedom and the equality before the law established by the Constitution,” he wrote. “It cannot be justified upon any legal grounds.” The Plessy v. Ferguson verdict enshrined the doctrine of “separate but equal” as a constitutional justification for segregation, ensuring the survival of the \_\_\_\_\_\_\_\_\_\_\_\_ South for the next half-century.

**III. Schenck v United States (1919) “World War I”**

After the United States entered into World War I, Congress passed the \_\_\_\_\_\_\_\_\_\_\_\_\_ of 1917. It was passed with the goals of prohibiting interference with military operations or recruitment, preventing insubordination in the military, and preventing the support of hostile enemies during wartime. Charles Schenck was the general secretary of the \_\_\_\_\_\_\_\_\_ Party of America in Philadelphia, and was opposed to the United States’ entry into the war. Schenck organized the distribution of \_\_\_\_\_\_\_\_\_\_\_\_ to prospective military draftees encouraging them to resist the draft. Schenck was arrested, and, among other charges, was indicted for “conspiring to violate the Espionage Act, by causing and attempting to cause insubordination and to obstruct the recruiting and enlistment service of the United States.” Schenck and Elizabeth Baer, another member of the Socialist Party who was also charged, were both \_\_\_\_\_\_\_\_ following a jury trial and sentenced to six months in prison. Schenck and Baer appealed their convictions to the Supreme Court. They argued that their convictions violated the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. In a unanimous decision written by Justice Oliver Wendell Holmes, the Supreme Court upheld Schenck’s conviction. The Court determined that Schenck had, in fact, intended to undermine the draft, as the leaflets instructed recruits to resist the draft. Additionally, even though the Act only applied to successful efforts to obstruct the draft, the Court found that attempts made by speech or writing could be punished just like other attempted crimes. The Court said that, while “in many places and in ordinary times” the leaflet would have been \_\_\_\_\_\_\_\_\_\_\_, the circumstances of a nation at war allowed for greater restrictions on free speech. Justice Holmes wrote, “When a nation is at war, many things that might be said in a 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.” Holmes famously analogized the United States’ position in wartime to that of a crowded theater: The most stringent protection of free speech would not protect a man in falsely shouting \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ and causing a panic. The question in every case is whether the words are used in such circumstances and are of such a nature as to create a \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ danger that they will bring about the substantive evils that Congress has a right to prevent. The “clear and present danger” standard encouraged the use of a balancing test to question the state’s limitations on free speech on a case-by-case basis. If the Court found that there was a “clear and present danger” then the state would be justified in limiting that speech.

**IV. Korematsu v. United States (1944) “World War II”**

About 10 weeks after the U.S. entered World War II, President Franklin D. Roosevelt on February 19, 1942 signed Executive Order 9066. The order authorized the Secretary of War and the armed forces to \_\_\_\_\_\_\_\_\_\_ people of Japanese ancestry from what they designated as military areas and surrounding communities in the United States. These areas were legally off limits to Japanese aliens and Japanese-American citizens. The order set in motion the mass transportation and relocation of more than \_\_\_\_\_\_\_\_\_\_ Japanese people to sites the government called \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ that were set up and occupied in about 14 weeks. Most of the people who were relocated lived on the West Coast and \_\_\_\_\_\_\_\_\_\_\_\_ were American citizens. The military transported them to some 26 sites in seven western states, including \_\_\_\_\_\_\_\_ locations in Washington, Idaho, Utah, and Arizona. Fred Korematsu, 23, was a Japanese-American citizen who did not comply with the order to leave his home and job, despite the fact that his parents had abandoned their home and their flower-nursery business in preparation for reporting to a camp.  Korematsu planned to stay behind.  He had \_\_\_\_\_\_\_\_\_\_\_\_\_ on his eyes to alter his appearance; changed his name to Clyde Sarah; and claimed that he was of Spanish and Hawaiian descent. On May 30, 1942, about six months after the Japanese attack on Pearl Harbor, the \_\_\_\_\_\_ arrested Korematsu for failure to report to a relocation center.  After his arrest, while waiting in jail, he decided to allow the American Civil Liberties Union to represent him and make his case a test case to challenge the constitutionality of the government’s order. Korematsu was tried in federal court in San Francisco, convicted of violating military orders issued under Executive Order 9066, given five years on probation, and sent to an Assembly Center in San Bruno, CA. Korematsu’s attorneys appealed the trial court’s decision to the U.S. Court of Appeals, which agreed with the trial court that he had violated \_\_\_\_\_\_\_\_ orders.  Korematsu appealed to the Supreme Court. On December 18, 1944, a divided Supreme Court ruled, in a 6-3 decision, that the detention was a “military necessity” not based on race.

**2/23 “The Early Decisions Regarding Religion”**