"What is a threat must be distinguished from what is constitutionally protected speech."

WATTS v. UNITED STATES

394 U.S. 705, 89 S.Ct. 1399, 22 L.Ed.2d 664 (1969).

In 1966, as a political rally near the Washington Monument was breaking up, Robert Watts, an 18-year-old, got into a discussion with a small group. One of the other participants suggested that Watts should get some more education before expressing his views. Watts allegedly responded:

> They holler at us to get an education. And now I have already received my draft classification as 1A and I have got to report for my physical this Monday coming. I am not going. If they ever make me carry a rifle the first man I want to get my sights on is L[yndon]. B. J[ohnson] .... They are not going to make me kill any of my black brothers.

Watts was arrested, tried, and convicted for violating the federal statute forbidding the making of

> any threat to take the life of or to inflict bodily harm upon the President of the United States, the President-elect, the Vice President, or other officer next in the order of success to the office of President of the United States, or the Vice President-elect ....

The court of appeals affirmed and Watts petitioned for certiorari.

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 ....

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 ....

Mr. Justice **STEWART** would deny the petition for certiorari.

Mr. Justice **WHITE** dissents.

Mr. Justice **DOUGLAS** concurring ....

Mr. Justice **FORTAS,** with whom Mr. 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 ....

Editors' Note

For an analysis of this statute, see the annotation "Validity and Construction of Federal Statute (18 U.S.C. § 871) Punishing Threats Against the President," 22 L.Ed.2d 988 (1970).