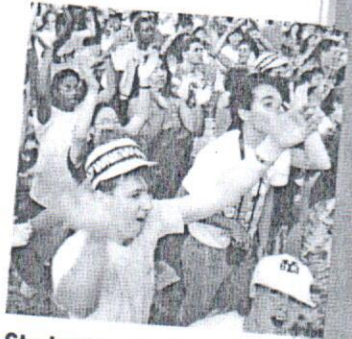


Supreme Court CASES TO DEBATE

Ward v. Rock Against Racism, 1989

The Constitution limits the power of government to restrict



Students enjoying a Central Park concert

free speech. At the same time, a legitimate purpose of government is to maintain public order, including protecting citizens from unwelcome and excessive noise. Does the First Amendment allow a city to regulate the sound level at rock concerts held in a public park? The case of Ward v. Rock Against Racism addressed this question.

Background of the Case

Rock concerts are regularly held in New York City's Central Park. Area residents had complained of too much noise at some events. At other events audiences said the sound was not loud enough. In 1986 the city passed a regulation requiring groups performing in the park to use a sound system provided and operated by the city.

Rock Against Racism, an anti-racist rock group, had sponsored annual concerts in Central Park and had always provided their own sound equipment and sound technician. Rock Against Racism charged that the city regulation violated their rights to free speech under the First Amendment. The group won a lower federal court case. The Supreme Court agreed to hear the case in 1989.

The Constitutional Issue

Music has long been considered a form of protected speech under the First Amendment. However,

the courts do allow governments to make regulations that may incidentally limit speech in an effort to accomplish a legitimate purpose of government. Thus, in several cases the Supreme Court had said that the governments can limit the time, place, and manner of speech if the aim is not to censor the content of the speech but to help further such interests as health and safety. To be constitutional, however, such regulations must not be directed at the content of the speech.

Rock Against Racism argued that the regulation violated the First Amendment by giving city officials artistic control over performers in the park. The group claimed the regulation was not narrowly focused and gave city officials the chance to select poor equipment or to modify the sound if they did not like the message. The city responded that it had a legitimate purpose in protecting citizens from excessive noise and that its guidelines were focused on controlling noise levels in a way that was fair to the audience, the performers, and citizens living nearby.

Debating the Case

Questions to Consider

1. Was the regulation a proper exercise of the government's power to maintain order, or was it a violation of the First Amendment?
2. If officials did not like the message in the music, could they use the regulation to control the content?

You Be the Judge

The courts have established that governments may enforce regulations that incidentally limit speech if the regulation serves a legitimate government interest. What was the city's goal in drawing up the regulation? Was there another, less intrusive way the city could have handled this issue?