Chaplinksy was convicted under a law in New Hampshire that was upheld by the Supereme Court. The N. H. law states “No person shall address any offensive, derisive or annoying word to any other person who is lawfully in any street or other public place, nor call him by any offensive or derisive name, nor make any noise or exclamation in his presence and hearing with intent to deride, offend or annoy him, or to prevent him from pursuing his lawful business or occupation” (Chaplinsky). Chaplinsky uttered the words "You are a God damned racketeer" and "a damned Fascist and the whole government of Rochester are Fascists or agents of Fascists," (Chaplinsky). Chaplinsky argued that he was protected by Freedom of Speech under the 1st amendment and protected from the N.H. law under the 14th amendment. Is the statute of N.H. constitutional, and were Chaplinsky’s words part of Free Speech? Ultimately the Supreme Court held that the N.H. law did not infringe upon Chaplinsky’s freedom of speech as Chaplinsky’s words did not fall under free speech.

Chaplinsky simply asserts that what he said, openly and publicly, is protected regardless of its quality or context. In the opinion given by Justice Murphy the argument that, “the right of free speech is not absolute at all times and under all circumstances” (Chaplinsky) is made. Murphy reasons that fighting words, words with intent to injure or breech the peace, are not protected by freedom of speech. A further distinction is made: offensive words; the test being words that would make a person hearing the words initiate a fight. Words such as “fascist” and “racketeer” are found to be offensive by the court and thus are fighting words not protected by freedom of speech.

Chaplinsky’s defense makes a claim to vagueness on the basis that the N.H. law fails the to meet the rule of law; to give fair warning and be reasonably clear. Murphy’s opinion narrows the purview of the N.H. statute, stating that the statute prohibits, “the face-to-face words plainly likely to cause a breach of the peace” (Chaplinsky). Under this limitation the court declares the N.H. law to be constitutional and also comprehendible enough as to dismiss Chaplinsky’s claim to vagueness of the law.

Chaplinsky believed himself to be protected by freedom of speech; however the Court’s findings give rather sound logic as to what speech is protected with good reason. Do I believe Chaplinksy was in the wrong, no, do I believe the N.H. statute is constitutional, yes; it does not seek to limit what a person can say but rather targets behavior and motives of a more unlawful nature. The distinctions of speech made by the court are certainly interesting, indeed there is speech of little to no value that communicates less if nothing at all, however this categorization of speech seems to overstep the courts’ powers a bit. Do court cases now determine what type of speech people talk in? Who or what determines the value of speech, what test is there? Is the value determined by the type of speech and does one type of speech outweigh another?

However it is not the value of speech that is the means for making distinctions of speech in this case, it are the results of the speech uttered that is the determining factor here. Offensive speech, speech that would cause the addressee to retaliate thus breaching the peace, is of low enough value to be outweighed by the need to maintain public order. Now with a definition a means of identifying possible fighting words is had by the courts. Should these words be given a lesser value than other words? No. Placing inherent values on words is of incredible ridiculousness. A chilling effect, worries or threats that inhibit or deny the expression of certain speech, of sorts would be the result if a list of potential fighting words were produced, which would be counter to the spirit of the 1st amendment guarantees. Instead we must look at the context in which the words are used.

The opinion makes the distinction that face-to-face verbal exchange of offensive words is what the N.H. statute means to regulate. What exactly constitutes face-to-face? Eye contact, the view of one’s face, one’s presence, and do both parties in a verbal exchange have to be aware of the other’s presence? Does distinction of the N.H. statute suppose that I can shout offensive words in the streets of N.H. and be free of consequence so long as I don’t look at anyone’s face? Such an argument is of interest but alas does no good for Chaplinsky as his exchange of offensive words meets the court’s punishable criteria.

The protections provided by the 1st amendment are far reaching, but they should not be used to construe a means of protection from behavior with unlawful intentions. The N.H. law seeks to protect people from nasty instigative behavior, and so I find the court’s decision to be within good reason.