

U.S. Supreme Court

SB 761

Bond v. Floyd, 385 U.S. 116 (1966)

Sen Boquist

Bond v. Floyd

No. 87

Argued November 10, 1966

Decided December 5, 1966

385 U.S. 116

Syllabus

Several months after the election in June 1965 to the Georgia House of Representatives of appellant Bond, a Negro, a civil rights organization of which he was a staff member issued an anti-war statement against the Government's Vietnam policy and the operation of the Selective Service laws. Bond endorsed the statement in a news interview stating, among other things, that, as "a second class citizen," he was not required to support the war, as a pacifist, he was opposed to all war, and he saw nothing inconsistent with his statement and his taking the oath of office. House members, in petitions, challenged Bond's right to be seated, charging that his statements aided our enemies, violated the Selective Service laws, discredited the House, and were inconsistent with the legislator's mandatory oath to support the Constitution. Following the House clerk's refusal to seat him, Bond, manifesting willingness to take the oath, challenged the petitions as depriving him of his First Amendment rights and being racially motivated. At a House committee hearing, Bond amplified his views and denied having urged draft card burning or other law violations. Following the hearing, the committee concluded that Bond should not be seated, and the House thereafter refused to seat him. Bond brought this action in District Court for injunctive relief and declaratory judgment. The District Court, holding that it had jurisdiction to decide the constitutional issue, concluded that Bond had been accorded procedural due process through the hearing. It also held that the House had a rational basis for concluding that Bond's remarks exceeded criticism of national policy and that he could not in good faith take an oath to support the State and Federal Constitutions, and thus could not meet a qualification for membership which the House had the power to impose. While Bond's appeal to this Court under 28 U.S.C. § 1253 from that decision was pending, he was again elected as a Representative, in a special election. He was rejected by the House Rules Committee

[Page 385 U. S. 117](#)

when he declined to recant, and later was elected again, in the regular 1966 primary and general elections.

Held:

1. This Court has jurisdiction to determine whether a disqualification for the office of state legislator under color of a proper constitutional standard violates First Amendment rights. P. [385 U. S. 131](#).

2. In disqualifying Bond because of his statements, the State violated the First Amendment made applicable to the States by the Fourteenth. Pp. [385 U. S. 131-137](#).

(a) A majority of state legislators is not authorized to test the sincerity with which another duly elected legislator meets the requirement for holding office of swearing to support the Federal and State Constitutions. P. [385 U. S. 132](#).

(b) The State may not apply to a legislator a First Amendment standard stricter than that applicable to a private citizen. Pp. [385 U. S. 132-133](#).

(c) Bond's statements do not show an incitement to violate the Selective Service statute's prohibition of counseling against registration for military service. Pp. [385 U. S. 133-134](#).

(d) Though a State may impose all oath requirement on legislators, it cannot limit their capacity to express views on local or national policy. "[D]ebate on public issues should be uninhibited, robust, and wide-open." *New York Times v. Sullivan*, [376 U. S. 254](#), [376 U. S. 270](#). Pp. [385 U. S. 135-136](#).

251 F.Supp. 333, reversed.

Page [385 U. S. 118](#)