The Espionage Act and the Repression of Debate:

Defining the Limits of Free Speech

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Senior Division

Historical Paper

2500 Words

PROCESS PAPER

Choosing My Topic

I've always been interested in the world wars, not necessarily by the military conflicts but their social effects. I have done my previous projects on World War II but this year I was interested in World War I, and wanted to research a topic I previously knew little about. When I looked into the United States' role in World War I, I came upon the Espionage Act and was immediately intrigued by its effects on civil rights. It fit well with the debate theme and I was especially interested in its repression of dissent.

Conducting Research

After getting a general idea of the topic online, I bought and borrowed as many books (including a compilation of Eugene Debs' letters) as I could find regarding World War I America or the history of free speech. While many were helpful, my favorite sources were not the books, but the primary sources. I read autobiographies, letters, and especially speeches from Helen Keller, Robert La Follette, Eugene Debs, and Emma Goldman. I enjoyed reading their addresses and arguments in court cases. Surprisingly, it was initially difficult to find Schecnk's Supreme Court defense so it was very rewarding when I did acquire it. I also looked through Schenck and Baer's incriminating anti-conscription pamphlet. For all cases, I looked at the defendant's argument as well as the court's decisions.

For further research, I talked to professors, organizations, archivists, and writers. I contacted the labor union IWW who was hugely affected by the Espionage Act during World War I and the IWW provided me with lots of helpful sources. I had an interview with UC Davis professor Kathryn Olmstead, a prolific author and PhD historian specializing in the 20th century United States. I also contacted Glenn Longacre, an archivist and historian who wrote a detailed article on Eugene Debs; he kindly provided me with a lengthy criminal case file for Debs as well as other valuable sources.

Choosing the Category

My topic is not particularly picture or audio heavy, so I thought a paper would be a good choice to represent it. I also have the most experience with essays because I did it in past years as well. I think that the given 2500 words (which no other category is allowed) allows the unique freedom to express the topic in both eloquence and fine detail.

Relating to the Theme

The Espionage Act was spurred on by international conflicts and led to repression of debate. While a big part of diplomacy is indeed international relations, it's also defined by Oxford Languages as "the art of dealing with people in a sensitive and effective way." The Espionage Act, at its core, was a tool used to deal with people in the most effective way the 1917 United States government knew how. The landmark cases brought on by the Espionage Act demonstrates not only the debate sparked by the Act but also defined free speech, sparking the beginning of the American people's fight for civil rights.

"If the American people are to carry on this great war, if public opinion is to be enlightened and intelligent, there must be free discussion."[1] –Robert La Follette

In 1917, President Woodrow Wilson passed the Espionage Act following the United States' entry into the Great War. The statute outlawed the ability to speak with the intent to interfere with "military success," and its series of amendments a year later threatened dire consequences for any language deemed disloyal to the United States government.[2]

The Espionage Act of 1917 invoked the resistance of powerful dissenters who set a new precedent for the battle of civil rights and sparked the United States Courts' first real attempts at defining the limits of free speech. As one of the most controversial laws passed in American history, the Espionage Act's repression of wartime dissent demonstrates the importance of debate and opposing viewpoints in times of diplomatic strife.

United States Reaction to War Entry

In 1916, Woodrow Wilson campaigned for a second term of presidency with the slogan "He Kept Us Out of War," advocating American neutrality in the ongoing war overseas.[3] His address "Peace Without Victory" which argued that victory would mean "peace forced upon the loser," highlighted his reluctance in entering the war, and Wilson's sentiment helped him gain the support of the predominantly war-indifferent American people.[4] But after Germany's resumption of unrestricted submarine warfare and the infamous Zimmerman Telegram, President Wilson had

[1] La Follette, Robert M. "Free Speech In Wartime" Senate, 6 October 1917. Address to Congress. www.senate.gov/artandhistory/history/resources/pdf/FreeSpeechWartime.pdf. Accessed Dec. 2021
[2] United States, Congress, House. Public Law 65-24, 40 Stat. 217 *The Espionage Act*, 1917, www.digitalhistory.uh.edu/disp_textbook.cfm?smtid=3&psid=3904. Accessed Dec. 2021
[3] See Appendix A
[4] Wilson, Woodrow. G.P.O., *A League for Peace; Address of the President of the United States*, 1917, www.digitalhistory.uh.edu/disp_textbook.cfm?smtID=3&psid=3898. Accessed Dec. 2021.

a seemingly total reversal in stance months later; with mounting diplomatic tensions, Wilson called for a declaration of war, and in April 1917 the US entered World War I.

The decision was met with backlash. Months before April, disability rights advocate and political activist Helen Keller delivered the criticism of US entry "Strike against War", which encouraged the people to "strike against preparedness that means death and misery to millions."[5] In June, political activist Emma Goldman argued in a fiery speech to a New York crowd that the president had promised peace but when placed in power, gave "hell."[6] Asserting that President Wilson "told the people that he would keep them out of war" she contended that the war was "imposed upon the people" without their consent–an opinion that would later contribute to Goldman's indictment under the Espionage Act.[7]

US Senator Robert La Follette was one of the few congressmen who adamantly voted against entry. In his Congress address "It Has No Popular Support," La Follette outlined the American anti-war sentiment with polls from various areas appearing to vastly favor opposition to war entry. Senator La Follette concluded that the "espionage bills, the conscription bills, and other forcible military measures" were "complete proof that those responsible for this war fear that it has no popular support."[8] The conscription bills La Follette referenced eventually developed into the controversial Selective Service Act, a law requiring almost all American males to register for military service. Three million men failed to register.[9]

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[5] Keller, Helen. "Strike Against War" Women's Peace Party and the Labor Forum, 5 January 1916, Carnegie Hall, New York City. www.afb.org/about-afb/history/helen-keller/books-essays-speeches/war/strike-against-war-delivered-womens-peace. Accessed Dec. 2021.
[6] Ibid.
[7] Ibid.
[8] La Follette, Robert M. "It Has No Popular Support" Congress, 4 April 1917. Address to Congress. historymatters.gmu.edu/d/5017/. Accessed Dec. 2021
[9] Kazin, Michael. War Against War: The American Fight for Peace, 1914-1918. Simon & Schuster Paperbacks, 2018. Pg. 208

Wilson was unsympathetic to dissent; referring to pacifism as "stupidity,"[10] he announced that disloyalty would "be dealt with a firm hand of stern repression."[11] Soon Congress passed Wilson's Espionage Act of 1917, stating it a crime to convey false statements with intent to interfere with US military or naval forces.[12] Wilson and Congress then passed the Sedition Acts, a series of amendments designed to strengthen the Espionage Act. The laws threatened harsh consequences for "disloyal, profane, scurrilous, or abusive language" about the US government, constitution, or armed forces.[13] The punishments ranged from five to twenty years in prison and a potential $10,000 fine.[14] The Espionage Act of 1917 was, at its core, an attempt at a diplomatic tool between the people and the government. A similar situation had not been seen since the Sedition Act of 1798 banning "false, scandalous, or malicious writing" against the United States government; the Act ceased effect over a century prior to 1917.[15]

Senator La Follette, in his address to Congress, criticized the preparations for war as excuses for "destroying free speech."[16] The Espionage Act went on to become one of the most controversial[17] laws passed in US history, resulting in the arrest and prosecution of over 2,000 citizens.[18] In terms of free speech, historian Michael Kazin calls it the most repressive period in

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[10] Newton-Matza, Mitchell. The Espionage and Sedition Acts: World War I and the Image of Civil Liberties. NY, 2017. Pg. 29
[11] Wilson, Woodrow. G.P.O., "The World Must Be Safe For Democracy", 2 April 1917, www.digitalhistory.uh.edu/disp_textbook.cfm?smtID=3&psid=3899. Accessed Dec. 2021.
[12] United States, Congress, House. Public Law 65-24, 40 Stat. 217 *The Espionage Act*, 1917, www.digitalhistory.uh.edu/disp_textbook.cfm?smtid=3&psid=3904. Accessed Dec. 2021
[13] United States, Congress, House. Public Law 65-150, 40 Stat. 553 *The Sedition Act*, 1918, www.digitalhistory.uh.edu/disp_textbook.cfm?smtID=3&psid=3903. Accessed Dec. 2021
[14] Ibid.
[15] United States, Fifth Congress. Public Law *Alien and Sedition Acts: An Act for the Punishment of Certain Crimes Against the United States*, July 6, 1798, www.archives.gov/milestone-documents/alien-and-sedition-acts. Accessed April 2022
[16] La Follette, Robert M. "Free Speech In Wartime" Senate, 6 October 1917. Address to Congress. www.senate.gov/artandhistory/history/resources/pdf/FreeSpeechWartime.pdf. Accessed Dec. 2021
[17] See Appendix B
[18] Roos, Dave. "The Sedition and Espionage Acts Were Designed to Quash Dissent During WWI." *History.com*, A&E Television Networks, 21 Sept. 2020, www.history.com/news/sedition-espionage-acts-woodrow-wilson-wwi.

American history.[19] La Follette was in the extreme minority of senators who did not hesitate to oppose the president regarding what La Follette called violations against the "right of free speech" and the "right of the people to peaceably assemble for public discussion."[20] Nonetheless, many American citizens shared his sentiment, and took it upon themselves to speak up for their right to dissent.

Emma Goldman: *"Shall free speech and free assemblage, shall criticism and opinion… be destroyed? …Or shall [it] continue to be the heritage of the American people?"*[21]

The largest targets of the Espionage Act were groups that could challenge the government such as socialists, pacifists, or anarchists. One of the most notable anarchist cases was Emma Goldman, a prominent political activist and speaker who, among others, stood for anarchism, women's rights, freedom of sexuality.[22] Goldman strongly opposed war conscription, which she viewed as a denial of "every human right."[23] In a speech she cited her experience with drafts from her Russian childhood, where she had seen needless sacrifice of young men with what she called lifetimes of opportunity.[24] Goldman asserted that war enlistment was unfairly forced upon an unsupportive American people. In her self-founded anti-conscription meeting,[25] Goldman reasoned that if the people wanted war, there would be none of the present need to forcibly conscript soldiers. "If you want to sacrifice [the people's] sons upon the altar of militarism," she

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[19] Klein, Christopher. "Should the U.S. Have Entered World War I?" *History.com*, A&E Television Networks, 5 Apr. 2017, www.history.com/news/history-faceoff-should-the-u-s-have-entered-world-war-i.
[20] La Follette, Robert M. "Free Speech In Wartime" Senate, 6 October 1917. Address to Congress. www.senate.gov/artandhistory/history/resources/pdf/FreeSpeechWartime.pdf. Accessed Dec. 2021
[21] Goldman, Emma. "Address to the Jury" Goldman V. United States, U.S. Supreme Court, 9 July 1917, New York City, New York. Jury Address. www.lib.berkeley.edu/goldman/pdfs/Speeches-AddresstotheJury.pdf. Accessed Dec. 2021
[22] "Emma Goldman." *Jewish Women's Archive*, jwa.org/womenofvalor/goldman.
[23] Goldman, Emma. Living My Life: Emma Goldman. Duckworth, 1932.
[24] Goldman, Emma. Meeting of No-Conscription League, 4 June 1917, Hunts Point Palace, New York. www.lib.berkeley.edu/goldman/pdfs/Speeches-MeetingofNo-ConscriptionLeague.pdf. Accessed Dec. 2020
[25] See Appendix C

argued, "why not give the people a chance to decide?"[26] Within weeks of her speeches, Goldman was arrested under the Espionage Act. In July 1917, she made a powerful address to the jury arguing about the viewpoint of the conscientious objector as well as free discussion.[27] Goldman asked the jury if free speech and criticism should be destroyed or instead continue as a right of the American people.[28] Her case was one of the earliest arguments against the Espionage Act.

Ultimately she was sentenced to two years in jail[29] with the court calling her counterarguments "absolutely devoid of merit,"[30] but nonetheless Goldman's address powerfully demonstrated the opposition of the Act in its early months, and her case was even cited in later major cases such as the landmark *Schenck v. United States* regarding the Espionage Act.[31] Goldman's legacy lasts for decades as a powerful figure who fought for the right to debate. Her radical political ideology was a large factor leading to her eventual incarceration; however, anarchists were nowhere near the only political faction at risk from the Espionage Act.

Eugene Debs: *"I would rather a thousand times be a free soul in jail than to be a sycophant and coward in the streets."*[32]

Socialists were deeply affected by Wilson and the Acts. Historian Michael Kazin calls the period repressive and "chilling" for dissenters.[33] The Industrial Workers of the World (IWW), or the "Wobblies," is a labor union which included socialists, marxists, and anarchists. The

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[26] Goldman, Emma. Meeting of No-Conscription League, 4 June 1917, Hunts Point Palace, New York. www.lib.berkeley.edu/goldman/pdfs/Speeches-MeetingofNo-ConscriptionLeague.pdf. Accessed Dec. 2020
[27] Goldman, Emma. "Address to the Jury" *Goldman V. United States*, U.S. Supreme Court, 9 July 1917, New York City, New York. Jury Address. www.lib.berkeley.edu/goldman/pdfs/Speeches-AddresstotheJury.pdf. Accessed Dec. 2021
[28] Ibid.
[29] See Appendix D
[30] Supreme Court. *Goldman v. United States*. 1918. Justia. supreme.justia.com/cases/federal/us/245/474/. Accessed Dec. 2021
[31] Supreme Court. *Schenck v. United States*. supreme.justia.com/cases/federal/us/249/47/. Accessed Dec. 2021.
[32] Debs, Eugene, The Canton, Ohio Anti-War Speech. June 16, 1918. Accessed Dec. 2021
[33] Klein, Christopher. "Should the U.S. Have Entered World War I?" *History.com*, A&E Television Networks, 5 Apr. 2017, www.history.com/news/history-faceoff-should-the-u-s-have-entered-world-war-i.

Wobblies vehemently opposed entry to WWI, and over one hundred IWW leaders were indicted under the Espionage Act.[34] Emma Goldman was horrified when a Wobbly was killed by a vigilante group.[35] "Rather than narrowly targeting possible German spies," historian Kathryn Olmsted says, "[Wilson] used the Espionage Act to effectively destroy radical groups, especially the IWW."[36] Furthermore, the postmaster general denied second-class mailing privileges in 1917, an action hugely detrimental to the socialist press.[37] While Goldman was nearing her second year in jail, the prominent labor leader Eugene Debs (previously a founder of the IWW) made a pivotal speech in Canton, Ohio.[38]

As a socialist, Debs had been critical of the war from the start and fueled debate by denouncing "Prussian militarism" and the US government, encouraging resistance to the Selective Service Act.[39] In his Ohio speech, he argued that the working class "who had made the sacrifices, who shed the blood, have never yet had a voice in declaring war."[40] Debs was still very aware of the present situation regarding government restriction on dissent from the war. During his speech, Debs emphasized his need to be exceedingly careful with the content and delivery of his talk due to the "certain limitations placed upon the right of free speech."[41] Despite this, he refused to be silenced by the law–"I may not be able to say all I think," Debs said, "but I am not going to say anything that I do not think."[42] His evident caution, however, proved

[34] Dubofsky, Melvyn, and Joseph Anthony McCartin. We Shall Be All: A History of the Industrial Workers of the World. University of Illinois Press, 2000.
[35] "Emma Goldman and Free Speech." *The Emma Goldman Papers*, UC Berkeley Library, www.lib.berkeley.edu/goldman/MeetEmmaGoldman/emmagoldmanandfreespeech.html.
[36] Olmsted, Katheryn. Personal interview. 24 Jan. 2022.
[37] Ibid.
[38] See Appendix E
[39] Debs, Eugene, The Canton, Ohio Anti-War Speech. June 16, 1918.
[40] Ibid.
[41] Ibid.
[42] Ibid.

insufficient. Debs was arrested two weeks later under the Espionage Act and charged with 10 counts.[43]

The situation did not look promising. In a letter to his friend, Debs wrote that under law so "flagrantly unconstitutional" and "framed especially for the suppression of free speech," his conviction was almost certain.[44] Additionally, the courts were influenced heavily by the "bad tendency test" which was a principle that swayed the court to rule in the government's favor in almost all seditious cases in WWI.[45] Debs' trial began in September 1918 and notably, Debs called no defense witnesses. Similarly to Goldman, he addressed the jury himself, mainly taking advantage of the platform to speak about socialist cause and free discussion.[46] Additionally Debs refused to retract anything from his Ohio speech, announcing he would "stand by it to the end."[47]

As Debs predicted, the court ruled the speech unlawful because of its "purpose to oppose the war and obstruct recruiting."[48] Debs was sentenced to ten years in prison and lost voting privileges but incredibly, even behind bars, he ran for president[49] in the 1920 election and gained nearly one million votes.[50] Debs continues to be one of the most famous individuals imprisoned under the Espionage Act and is remembered as an influential figure who fought for working class rights and free speech, his case demonstrating the debate sparked by the Espionage Act among major politicians.

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[43] Newton-Matza, Mitchell. *The Espionage and Sedition Acts: World War I and the Image of Civil Liberties*. NY, 2017. Pg. 57
[44] Debs, Eugene V. and James Robert Constantine. Gentle Rebel: Letters of Eugene V. Debs. Univ. of Illinois Press, 1995.
[45] Gibson, Tobias T. *Bad Tendency Test*, www.mtsu.edu/first-amendment/article/893/bad-tendency-test.
[46] "Free Speech on Trial." *National Archives and Records Administration*, National Archives and Records Administration, www.archives.gov/publications/prologue/2017/winter/debs-canton.
[47] Ibid.
[48] Supreme Court. *Debs v. United States*. 1919. Justia. supreme.justia.com/cases/federal/us/249/211/. Accessed Dec. 2021
[49] See Appendix F
[50] Supreme Court. *Debs v. United States*. 1919. Justia. supreme.justia.com/cases/federal/us/249/211/. Accessed Dec. 2021

Schenck v. United States: *"How can the citizens find out whether a war is just or unjust unless there is free and full discussion!"*[51]

Eugene Debs was far from the only socialist involved in debate with the Espionage Act. Occurring largely during the same time as Debs' case, socialists Charles Schenck and Elizabeth Baer's 1919 battle regarding the Espionage Act is arguably one of the most important cases setting the precedent for civil rights and free speech fights in the US. Somewhat similarly to Goldman and Debs, Schenck and Baer opposed wartime conscription and cited the Thirteenth Amendment banning involuntary service and slavery.[52] The pair wrote a pamphlet titled "Long Live The Constitution Of The United States...Your Liberties Are in Danger!"[53] It encouraged peaceful resistance to the Selective Service Act, referred to as an "insidious conspiracy."[54] Fifteen thousand copies of the leaflet were distributed resulting in the arrest of Schenck and Baer, and they were sentenced to six months in prison under the Espionage Act.[55] The two appealed their convictions to the Supreme Court in one of the most pivotal cases concerning free speech.

In court, Schenck's case argued that the Espionage Act violated the First Amendment, "dissuading and outlawing protected speech about the war effort."[56] Schenck questioned the Constitutional validity of the Espionage Act, and particularly whether it constituted an

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[51] Supreme Court. *Schenck v. United States*. supreme.justia.com/cases/federal/us/249/47/. Accessed Dec. 2021.
[52] Newton-Matza, Mitchell. *The Espionage and Sedition Acts: World War I and the Image of Civil Liberties*. NY, 2017. Pg. 55
[53] Waimberg, Joshua. "Schenck v. United States: Defining the Limits of Free Speech." *National Constitution Center – Constitutioncenter.org*, 2 Nov. 2015, constitutioncenter.org/blog/schenck-v-united-states-defining-the-limits-of-free-speech/.
[54] Schenck, Charles T., and Elizabeth Baer. *Assert Your Rights*, 1917. www.trinityhistory.org/AH/pdfs/Schenck%20Case.pdf Accessed Dec. 2021
[55] Waimberg, Joshua. "Schenck v. United States: Defining the Limits of Free Speech." *National Constitution Center – Constitutioncenter.org*, 2 Nov. 2015, constitutioncenter.org/blog/schenck-v-united-states-defining-the-limits-of-free-speech/.
[56] Supreme Court. *Schenck v. United States*. Jan. 1919. *fair-use.org/supreme-court/1917/schenck-v-united-states/brief-of-plaintiffs-in-error.php*. Accessed Dec. 2021

abridgement of freedom of speech.[57] Schenck criticized the suppression of war opponents and "free rein" given to war advocates.[58] How could, Schenck argued, anyone be free to discuss the actions of the government "if twenty years in prison stares him in the face?" The severe punishments stopped political discussion and debate "as effectively as censorship."[59]

Schenck's argument was fruitless. In the famous delivery of the Supreme Court opinion from Justice Holmes, the Court upheld Schenck's conviction in a unanimous vote. Holmes admitted that in "ordinary times," the pamphlets would have been perfectly lawful; however, the wartime circumstances allowed for greater restriction on free speech.[60] Holmes famously compared the situation to a man in a theater "falsely shouting fire" and causing panic, creating a "clear and present danger."[61] The same words were used in Debs' case months later.[62]

Additionally, the court was still heavily influenced by the aforementioned bad tendency test. The judges operated in a "feverish atmosphere" and in the midst of "wartime hysteria," leading the Court to interpret the First Amendment less literally.[63] The controversial ruling in *Schenck v. US* became a major landmark case for the fight for civil rights. "Clear and present danger" set a standard for free speech that courts followed for half a century, but ironically less than a year after Schenck's case, Justice Holmes reversed his position in another Espionage Act case; in *Abrams v. United States*, Holmes questioned "the government's ability to limit free

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[57] Ibid.
[58] Ibid.
[59] Ibid.
[60] Supreme Court. *Schenck v. United States*. Jan. 1919.
[61] Ibid.
[62] National Archives at Chicago, Record Group 21, Records of District Courts of the United States, Northern District of Ohio, Eastern Division, U.S. District Court, Cleveland, Criminal Case Files, 1912–1987, Case 4057, 16 June 1918. Accessed Dec. 2021.
[63] Stone, Geoffrey R. *Perilous Times: Free Speech in Wartime from the Sedition Act of 1798 to the War on Terrorism*. W.W. Norton & Co., 2005. Pg. 170

speech."[64] Holmes believed the Court wasn't applying the clear and present danger test appropriately, calling for a stricter standard.[65]

Legacy

Although the Sedition Act amendments were repealed two years after its passage, the Espionage Act remains in effect today. Before the statutes were passed, free speech had hardly been dealt with in the Supreme Court except for the Sedition Act of 1798. Senator La Follette, Goldman, Debs, and Schenck were among the most prominent war dissenters, with their arguments and court cases defining the limits of the First Amendment as we know it. The "clear and present danger" test was finally changed in the 1969 case *Brandenburg v. Ohio* with the court replacing the standard with the "imminent lawless action" test, but the influence that Justice Holmes' words had had for the good part of the 20th century is impossible to ignore; his test was used in a dozen cases between 1940-1951 alone.[66] Though it was originally established for WWI, the Espionage Act has been used in many famous cases today.

In 2013 Edward Snowden, Intelligence Community officer, leaked vital documents to the public in the "biggest intelligence leak in the NSA's history" uncovering and publishing the National Security Agency (NSA) data.[67] Snowden was widely deemed a "whistleblower" by the American public, but charged under the Espionage Act. Activists, lawyers, and journalists

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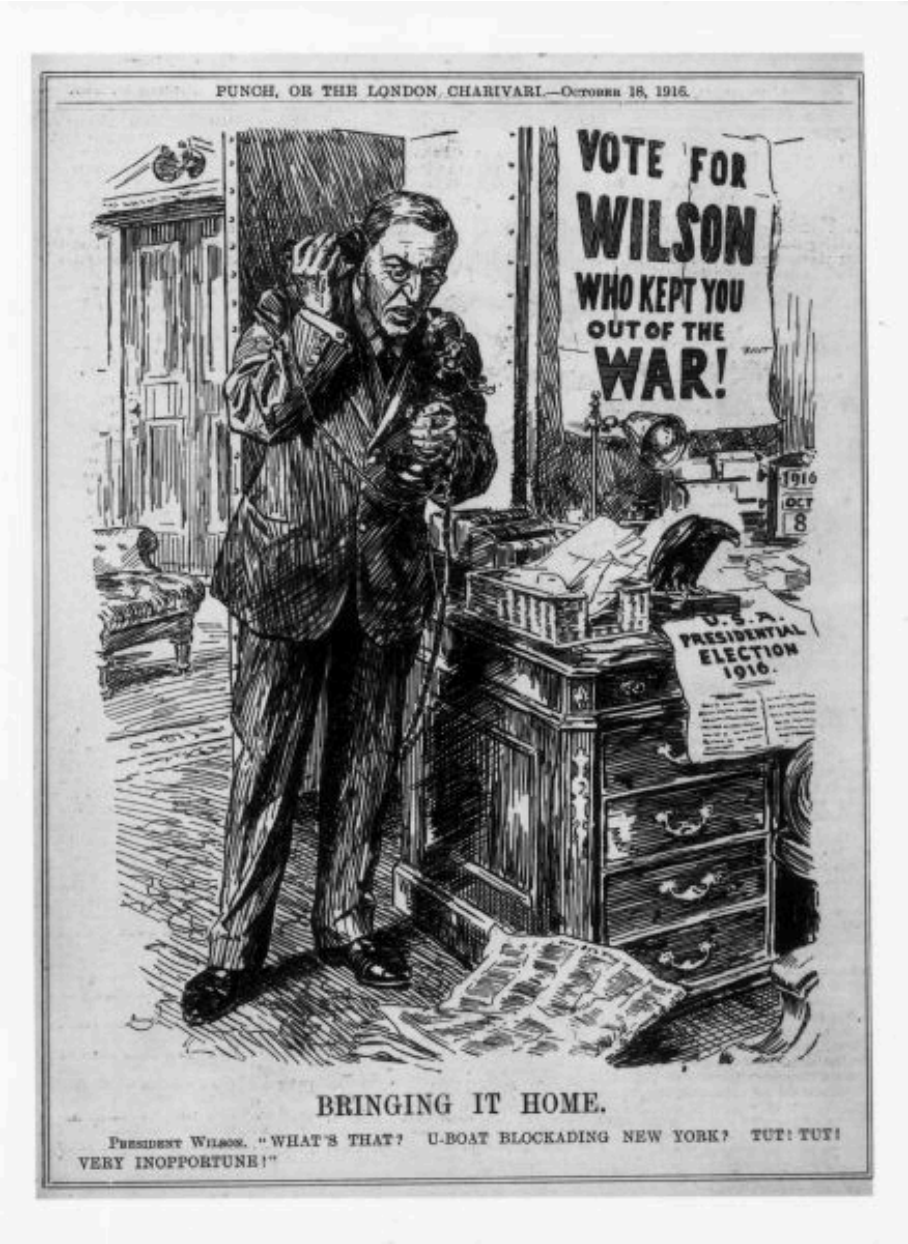
[64] Waimberg, Joshua. "Schenck v. United States: Defining the Limits of Free Speech." *National Constitution Center – Constitutioncenter.org*, 2 Nov. 2015, constitutioncenter.org/blog/schenck-v-united-states-defining-the-limits-of-free-speech/.
[65] Ibid.
[66] Parker, Richard. *Clear and Present Danger Test*, www.mtsu.edu/first-amendment/article/898/clear-and-present-danger-test.
[67] "Edward Snowden: The Whistleblower behind the NSA Surveillance Revelations." *The Guardian*, Guardian News and Media, 11 June 2013, www.theguardian.com/world/2013/jun/09/edward-snowden-nsa-whistleblower-surveillance.

described the Espionage Act as "aggressive, broad and suppressive" and "chilling of free speech."[68]

The impact of the Espionage Act throughout United States history is indisputable, with landmark cases such as *Schenck v. United States* defining the extent of the First Amendment. The battle of free speech prompted by the Act opened doors, with historians calling the period the "true beginning of the modern idea of civil rights."[69] Ultimately, the opposition of the Espionage Act illustrates the tenacity of the American people when it comes to the fight for constitutional rights during times of diplomatic strife. In Senator La Follette's words, free speech in America–won by "incalculable sacrifice"–is a right needed during wartime "even more than in time[s] of peace."[70] The Espionage Act asks us where the line of government restriction can be drawn in a world full of debate and disagreement–or whether a line should be drawn at all.

[68] Walden, Shelley. PEN American Center, 2015, pg. 19, *Secret Sources: Whistleblowers, National Security, and Free Expression*.
[69] Newton-Matza, Mitchell. *The Espionage and Sedition Acts: World War I and the Image of Civil Liberties*. NY, 2017. Pg. 10
[70] La Follette, Robert M. "Free Speech In Wartime" Senate, 6 October 1917. Address to Congress. www.senate.gov/artandhistory/history/resources/pdf/FreeSpeechWartime.pdf. Accessed Dec. 2021

Appendix A



Political cartoon of Woodrow Wilson during the 1916 election. Wilson's winning slogan "He Kept You Out Of War" reflected Americans' anti-war sentiment at the time.

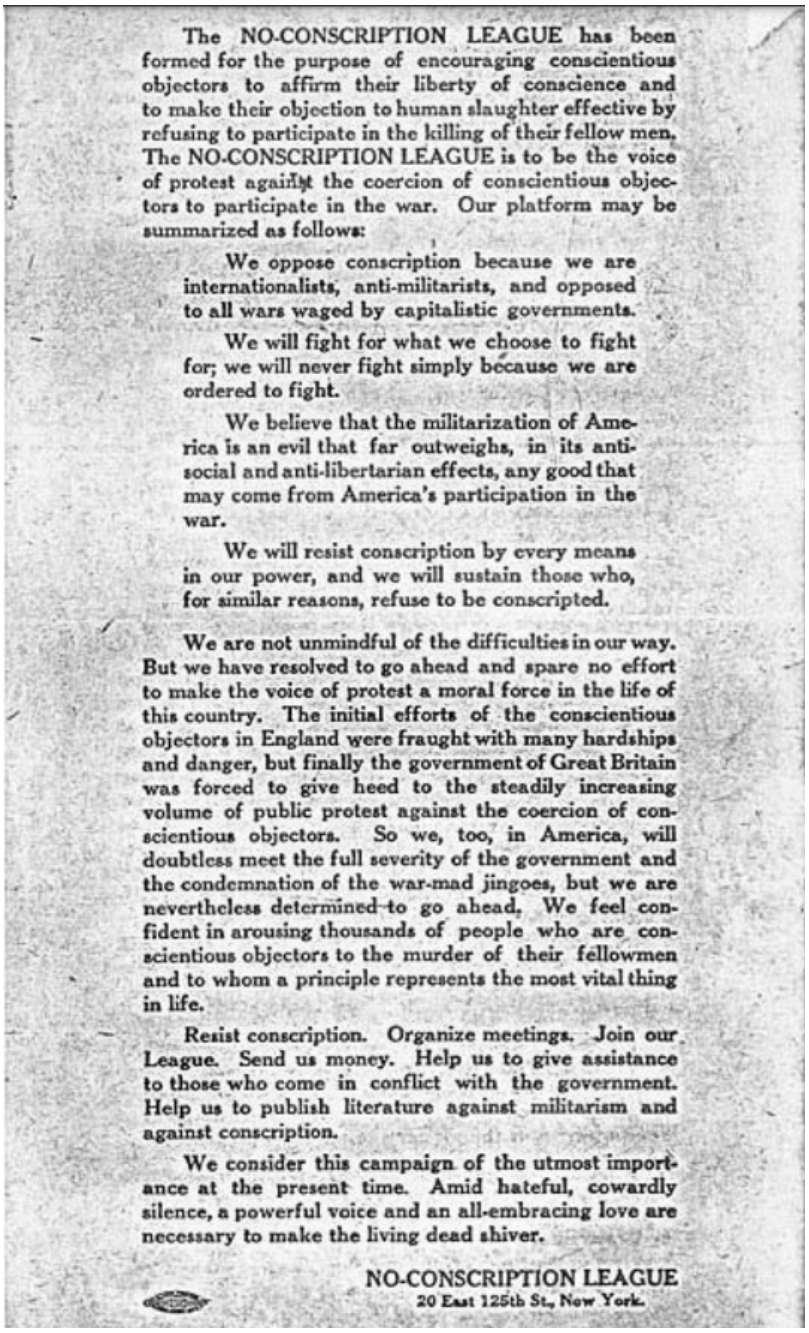
The Miriam and Ira D. Wallach Division of Art, Prints and Photographs: Print Collection, The New York Public Library. "Bringing it home. President Wilson. "What's that? U-boat blockading New York? Tut! Tut! Very inopportune!"" The New York Public Library Digital Collections. 1916-10-18. digitalcollections.nypl.org/items/0a186860-ca5f-0132-93eb-58d385a7b928

Appendix B

Protestors stand outside the White House in 1918 dressed as pilgrims with signs criticizing the repression of free speech. Their protest reflects the public animosity towards the Espionage Act and the feeling of suppression faced by dissenters.

People dressed as pilgrims carrying three signs for amnesty for political prisoners standing in front of the White House. Photograph. Retrieved from the Library of Congress, <www.loc.gov/item/92513845/>.

Appendix C



The NO-CONSCRIPTION LEAGUE has been formed for the purpose of encouraging conscientious objectors to affirm their liberty of conscience and to make their objection to human slaughter effective by refusing to participate in the killing of their fellow men. The NO-CONSCRIPTION LEAGUE is to be the voice of protest against the coercion of conscientious objectors to participate in the war. Our platform may be summarized as follows:

We oppose conscription because we are internationalists, anti-militarists, and opposed to all wars waged by capitalistic governments.

We will fight for what we choose to fight for; we will never fight simply because we are ordered to fight.

We believe that the militarization of America is an evil that far outweighs, in its anti-social and anti-libertarian effects, any good that may come from America's participation in the war.

We will resist conscription by every means in our power, and we will sustain those who, for similar reasons, refuse to be conscripted.

We are not unmindful of the difficulties in our way. But we have resolved to go ahead and spare no effort to make the voice of protest a moral force in the life of this country. The initial efforts of the conscientious objectors in England were fraught with many hardships and danger, but finally the government of Great Britain was forced to give heed to the steadily increasing volume of public protest against the coercion of conscientious objectors. So we, too, in America, will doubtless meet the full severity of the government and the condemnation of the war-mad jingoes, but we are nevertheless determined to go ahead. We feel confident in arousing thousands of people who are conscientious objectors to the murder of their fellowmen and to whom a principle represents the most vital thing in life.

Resist conscription. Organize meetings. Join our League. Send us money. Help us to give assistance to those who come in conflict with the government. Help us to publish literature against militarism and against conscription.

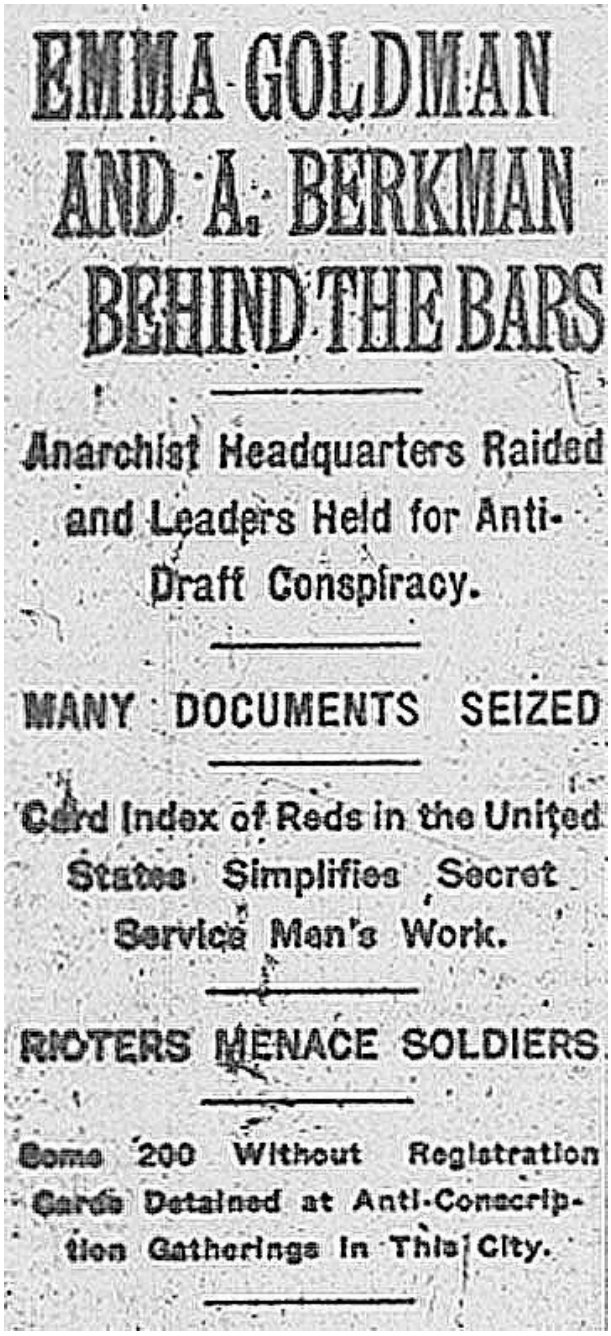
We consider this campaign of the utmost importance at the present time. Amid hateful, cowardly silence, a powerful voice and an all-embracing love are necessary to make the living dead shiver.

NO-CONSCRIPTION LEAGUE
20 East 125th St., New York.

Emma Goldman and Alexander Berkman founded and delivered speeches at the No-Conscription League. This is a pamphlet encouraging readers to join the No-Conscription league

No Conscription! No-Conscription League. June 1916, www.lib.berkeley.edu/goldman/pdfs/eph1.pdf. Pamphlet.

Appendix D



EMMA GOLDMAN AND A. BERKMAN BEHIND THE BARS

Anarchist Headquarters Raided and Leaders Held for Anti-Draft Conspiracy.

MANY DOCUMENTS SEIZED

Card Index of Reds in the United States Simplifies Secret Service Man's Work.

RIOTERS MENACE SOLDIERS.

Some 200 Without Registration Cards Detained at Anti-Conscription Gatherings in This City.

News article from the New York Times about the imprisonment of Emma Goldman and her partner.

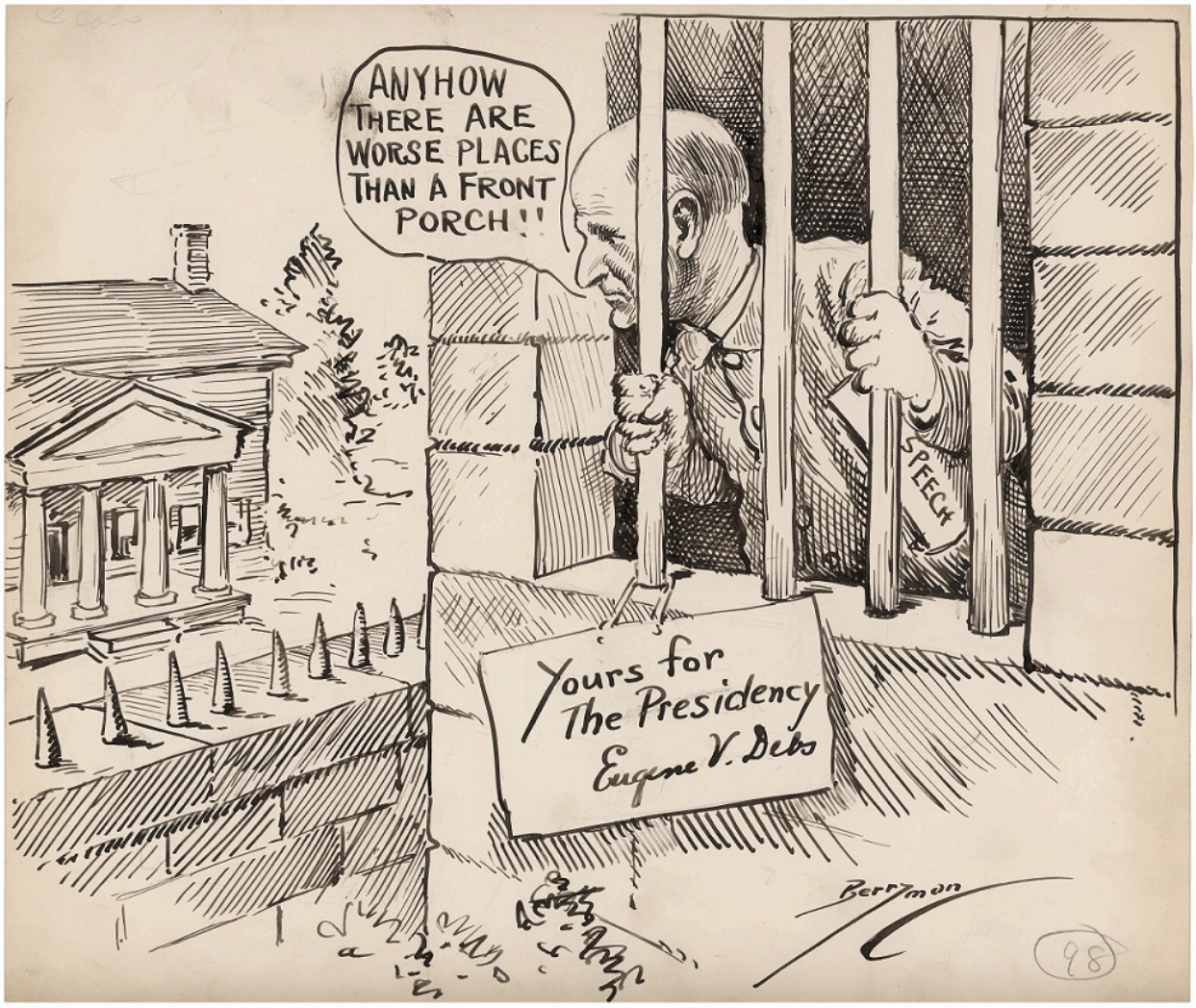
"Emma Goldman and A. Berkman Behind the Bars." *New York Times*, June 16, 1917

Appendix E

Eugene Debs giving the Canton, Ohio anti-war speech to a large crowd made up of socialists, interested onlookers, and–unfortunately for Debs–U.S. Department of Justice agents. This photograph was used in the prosecution.

National Archives at Chicago, Record Group 21, Records of District Courts of the United States, Northern District of Ohio, Eastern Division, U.S. District Court, Cleveland, Criminal Case Files, 1912–1987, Case 4057, 16 June 1918. Accessed Dec. 2021.

Appendix F



A political cartoon depicting Eugene Debs in his 1920 campaign as he ran from jail, the “front porch” referring to his political opponent. Debs received the highest number of popular votes ever recorded for a socialist at the time.

Berryman, Clifford. “Anyhow There Are Worse Places Than a Front Porch!!" Yours for the Presidency - Eugene V. Debs.” National Archives, catalog.archives.gov/id/6011637. Accessed 20 Feb. 2022.

Annotated Bibliography

Primary Sources

INTERVIEW

Industrial Workers of the World. Interview. Mar 11, 2022.

I contacted the IWW, a labor union greatly affected by the Espionage Act during World War I due to their radical anti-war stance. I talked to several members about the IWW's involvement, and they gave me lots of helpful sources for further research.

SPEECHES

Debs, Eugene, The Canton, Ohio Anti-War Speech. June 16, 1918. Accessed Dec. 2021

This was Eugene Debs' Ohio anti-war speech that led to his arrest weeks later. In it, he denounced the war and praised people incarcerated because of limitations on free speech and this source gave me firsthand insight on why he was arrested.

Goldman, Emma. "Address to the Jury" Goldman V. United States, U.S. Supreme Court, 9 July 1917, New York City, New York. Jury Address. www.lib.berkeley.edu/goldman/pdfs/Speeches-AddresstotheJury.pdf. Accessed Dec. 2021

This was Emma Goldman's address to the jury where she argued against her conviction. I pulled several quotes from this source.

Goldman, Emma. Meeting of No-Conscription League, 4 June 1917, Hunts Point Palace, New York. www.lib.berkeley.edu/goldman/pdfs/Speeches-MeetingofNo-ConscriptionLeague.pdf. Accessed Dec. 2021

This is a transcript of a No-Conscription League that Goldman was a part of, and has a section where she speaks out against conscription. Not only did I use a quote from it, but it also gave me a good idea of her beliefs and what she was fighting for.

Goldman, Emma. Speech Against Conscription and War, 14 June 1917, Forward Hall, New York City. www.lib.berkeley.edu/goldman/pdfs/Speeches-SpeechAgainstConscriptionandWar.pdf. Accessed Dec. 2021

Similarly to her No-Conscription League speech, Goldman gave this speech to denounce conscription in front of a New York crowd. It gave me more insight on how powerful her speaking was.

Keller, Helen. “Strike Against War” Women's Peace Party and the Labor Forum, 5 January 1916, Carnegie Hall, New York City. www.afb.org/about-afb/history/helen-keller/books-essays-speeches/war/strike-against-war-delivered-womens-peace. Accessed Dec. 2021.

Helen Keller was a famous disability rights activist who was also against America’s involvement in the war. Her speech demonstrates the wide array of famous figures who didn’t support war entry.

La Follette, Robert M. “Free Speech In Wartime” Senate, 6 October 1917. Address to Congress. www.senate.gov/artandhistory/history/resources/pdf/FreeSpeechWartime.pdf. Accessed Dec. 2021

La Follette was one of the most outspoken anti-war senators of the time. In this long and detailed address directed at the president, he denounced the limitations Wilson had been putting on free speech and the unfair attacks on war dissenters like La Follette; he also argued powerfully for unlimited discussion for the American people.

La Follette, Robert M. “It Has No Popular Support” Congress, 4 April 1917. Address to Congress. historymatters.gmu.edu/d/5017/. Accessed Dec. 2021

This was another address to Congress by La Follette. In it, he used votes from various areas to demonstrate the American desire to stay out of war.

Wilson, Woodrow. G.P.O., *A League for Peace; Address of the President of the United States*, January 22, 1917, www.digitalhistory.uh.edu/disp_textbook.cfm?smtID=3&psid=3898. Accessed Dec. 2021.

This was President Wilson's anti-war address to the Senate where he appealed for "peace without victory." Ironically, it was delivered around two months before he called for a declaration of war.

Wilson, Woodrow. G.P.O., "The World Must Be Safe For Democracy", 2 April 1917, www.digitalhistory.uh.edu/disp_textbook.cfm?smtID=3&psid=3899. Accessed Dec. 2021.

This is President Wilson's address where he requested a declaration of war against Germany. The US entered the war four days later.

COURT CASES

National Archives at Chicago, Record Group 21, Records of District Courts of the United States, Northern District of Ohio, Eastern Division, U.S. District Court, Cleveland, Criminal Case Files, 1912–1987, Case 4057, 16 June 1918. Accessed Dec. 2021.

This was the criminal case file directly provided to me from archivist Glenn Longacre from the National Archives at Chicago (related to U.S. National Archives and Records Administration). It was an excellent and extensive primary source of the many original files from the court case, many of which are not currently online.

Supreme Court. *Debs v. United States.* 1919. Justia. supreme.justia.com/cases/federal/us/249/211/. Accessed Dec. 2021

This was the *Debs v United States* Supreme Court case. Reading through it gave me a good idea of the arguments presented, but it's clear that Debs used this opportunity more as a platform for socialist cause.

Supreme Court. *Goldman v. United States.* 1918. Justia. supreme.justia.com/cases/federal/us/245/474/. Accessed Dec. 2021

This was Emma Goldman's Supreme Court case. Once again, she displays her powerful speaking skill as she addresses the jury in her argument against conviction.

Supreme Court. *Schenck v. United States*. Jan. 1919. fair-use.org/supreme-court/1917/schenck-v-united-states/brief-of-plaintiffs-in-error.php. Accessed Dec. 2021

This was Schenck's court case but this particular document is Schenck's court argument, spoken by Henry Gibbons, and Henry John Nelson. It was very demonstrative of what Schenck was fighting for.

Supreme Court. *Schenck v. United States*. 1919. supreme.justia.com/cases/federal/us/249/47/. Accessed Dec. 2021.

This is Schenck's famous court case. It only has the court's statement, however, and it shows the court's argument for Schenck's conviction; it includes famous lines like "fire in a crowded theater" and "clear and present danger."

PERIODICALS

"Emma Goldman and A. Berkman Behind the Bars." New York Times, June 16, 1917

This is a New York Times newspaper acquired from the Emma Goldman Papers project from UC Berkeley.

PAMPHLETS

No Conscription! No-Conscription League. June 1916, www.lib.berkeley.edu/goldman/pdfs/eph1.pdf. Pamphlet.

This was the frontside of the pamphlet that led to Schenck and Baer's indictment under the Espionage Act.

Schenck, Charles T., and Elizabeth Baer. *Assert Your Rights*, 1917. www.trinityhistory.org/AH/pdfs/Schenck%20Case.pdf Accessed Dec. 2021

This was the backside of the pamphlet that led to the arrest of Schenck and Baer. It argued against conscription and encouraged readers to "assert their rights."

FEDERAL STATUTES

United States, Congress, House. Public Law 65-24, 40 Stat. 217 *The Espionage Act*, 1917, www.digitalhistory.uh.edu/disp_textbook.cfm?smtid=3&psid=3904. Accessed Dec. 2021

This is the Espionage Act itself, made to target immigrants, potential spies, and eventually, war dissenters.

United States, Congress, House. Public Law 65-150, 40 Stat. 553 *The Sedition Act*, 1918, www.digitalhistory.uh.edu/disp_textbook.cfm?smtID=3&psid=3903. Accessed Dec. 2021

The Sedition Act was a series of amendments that strengthened the Espionage Act. While the Espionage Act only outlawed interference with the military, the Sedition Act took it a step further and barred abusive language.

United States, Fifth Congress. Public Law *Alien and Sedition Acts: An Act for the Punishment of Certain Crimes Against the United States*, July 6, 1798, www.archives.gov/milestone-documents/alien-and-sedition-acts. Accessed April 2022

This is the Sedition Act of 1798, which was one of the first laws to suppress free speech. I found it important to mention because this was practically the only other instance in United States history where the government made efforts to suppress criticism, and interestingly its wartime situation bears striking resemblance to the circumstances of the Espionage Act.

LETTERS

Debs, Eugene V. and James Robert Constantine. *Gentle Rebel: Letters of Eugene V. Debs*. Univ. of Illinois Press, 1995.

This is a comprehensive compilation of letters to and from Eugene Debs, all throughout his life. It was collected and edited by James Constantine.

BOOKS

Goldman, Emma. *Living My Life: Emma Goldman*. Duckworth, 1932.

This is Emma Goldman's autobiography. It provided further insight to Goldman's values.

REMAINING APPENDIX GRAPHICS

Berryman, Clifford. "Anyhow There Are Worse Places Than a Front Porch!!" Yours for the Presidency - Eugene V. Debs." National Archives, catalog.archives.gov/id/6011637. Accessed 20 Feb. 2022.

This is a political cartoon used in the appendix which depicts Eugene Debs running for president from his jail cell. It is from the U.S. National Archives and Records Administration.

People dressed as pilgrims carrying three signs for amnesty for political prisoners standing in front of the White House. Photograph. Retrieved from the Library of Congress, <www.loc.gov/item/92513845/>.

I thought this picture was important to include to visually show some of the public's reaction to the Espionage Act.

The Miriam and Ira D. Wallach Division of Art, Prints and Photographs: Print Collection, The New York Public Library. "Bringing it home. President Wilson. "What's that? U-boat blockading New York? Tut! Tut! Very inopportune!"" The New York Public Library Digital Collections. 1916-10-18. digitalcollections.nypl.org/items/0a186860-ca5f-0132-93eb-58d385a7b928

I wanted to show a visual source of President Wilson's slogan "He Kept Us Out of War" which he used to run for his second term of presidency.

Secondary Sources

INTERVIEWS

Glenn V. Longacre. Interview. Mar 14, 2022.

I contacted and interviewed the archivist from the National Archives at Chicago who wrote "Free Speech on Trial" and he kindly provided documents with Eugene Debs' criminal case file. He also recommended other great sources about Eugene Debs.

Olmsted, Katheryn. Interview. 24 Jan. 2022.

I talked to Professor Katheryn Olmstead, a UC Davis history professor and author. She has deep expertise with the political history of the United States in the 20th century, especially relating to the World Wars and answered many of my questions regarding the Espionage Act.

BOOKS

Dubofsky, Melvyn, and Joseph Anthony McCartin. *We Shall Be All: A History of the Industrial Workers of the World*. University of Illinois Press, 2000.

This source gave me brief information about the IWW; I only used one piece of evidence from it but it gave me a good idea of the context of the organization.

Kazin, Michael. *War Against War: The American Fight for Peace, 1914-1918*. Simon & Schuster Paperbacks, 2018.

This book goes into great detail about the American fight against entering war itself during World War I. It gave great background knowledge of the sentiment at the time.

Newton-Matza, Mitchell. *The Espionage and Sedition Acts: World War I and the Image of Civil Liberties*. NY, 2017.

This book is a great overview of the major events that happened due to the Espionage and Sedition Acts. It contained important primary source documents that led me to further research outside the book.

"Edward Snowden: The Whistleblower behind the NSA Surveillance Revelations." *The Guardian*, Guardian News and Media, 11 June 2013, www.theguardian.com/world/2013/jun/09/edward-snowden-nsa-whistleblower-surveillance .

Edward Snowden the most recent famous cases that dealt with the Espionage Act, and his situation made waves with the media and news.

Stone, Geoffrey R. *Perilous Times: Free Speech in Wartime from the Sedition Act of 1798 to the War on Terrorism*. W.W. Norton & Co., 2005.

This book goes into great detail about the history of free speech with in depth analysis. I used its chapters on the Espionage Act cases in particular.

WEBSITES / ARTICLES

"Emma Goldman and Free Speech." *The Emma Goldman Papers*, UC Berkeley Library, www.lib.berkeley.edu/goldman/MeetEmmaGoldman/emmagoldmanandfreespeech.html.

The Emma Goldman Papers project is a comprehensive collection of primary and secondary sources about Emma Goldman and her legacy. It is affiliated with UC Berkeley and the archive-like site was extremely helpful in my research.

"Emma Goldman." *Jewish Women's Archive*, jwa.org/womenofvalor/goldman.

I used this source for general information on Emma Goldman's life and what she stood for. It gave me a good overarching idea of who she was as a person.

Gibson, Tobias T. *Bad Tendency Test*, www.mtsu.edu/first-amendment/article/893/bad-tendency-test.

This article was informative about the "bad tendency test" which was a principle

influencing court decisions.

Glenn V. Longacre “Free Speech on Trial.” *National Archives and Records Administration*, National Archives and Records Administration, www.archives.gov/publications/prologue/2017/winter/debs-canton.

This was a very informative article written by an archivist. It had valuable primary sources from archives and went into great depth about Eugene Debs.

Klein, Christopher. “Should the U.S. Have Entered World War I?” *History.com*, A&E Television Networks, 5 Apr. 2017, www.history.com/news/history-faceoff-should-the-u-s-have-entered-world-war-i.

In this article is an interview with Michael Kazin himself, the author of the aforementioned *War Against War*. Not only did it provide context of the controversial time period but Kazin also mentioned the restrictions of speech made particularly on socialists.

Parker, Richard. *Clear and Present Danger Test*, www.mtsu.edu/first-amendment/article/898/clear-and-present-danger-test.

This article goes into great detail about Justice Holmes’ “clear and present danger” test, especially with its distinction against the bad tendency test.

Roos, Dave. “The Sedition and Espionage Acts Were Designed to Quash Dissent During WWI.” *History.com*, A&E Television Networks, 21 Sept. 2020, www.history.com/news/sedition-espionage-acts-woodrow-wilson-wwi.

This article provides a detailed overview of the Espionage and Sedition Acts, their political and cultural context, and their legacy

Waimberg, Joshua. “Schenck v. United States: Defining the Limits of Free Speech.” *National Constitution Center – Constitutioncenter.org*, 2 Nov. 2015, constitutioncenter.org/blog/schenck-v-united-states-defining-the-limits-of-free-speech/.

This article was very helpful in learning more about the *Schenck v United States* case along with Schenck himself.

REPORTS

Walden, Shelley. PEN American Center, 2015, p. 19, *Secret Sources: Whistleblowers, National Security, and Free Expression*.

This report talks about whistleblowers, national security, and free expression and includes information on Edward Snowden. In particular, I used its interviews about people's thoughts on the Espionage Act