

Stark County Teaching American History Grant

Stark County Educational Service Center
2100 38th Street NW
Canton, Ohio 44709

Individual Rights vs National Security During WW I



US History: Grades 10-12

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Duration: 2-3 Days

Overview:

This 2-3 day lesson allows students to evaluate the delicate balance between individual liberty and national security during World War I. The lesson analyzes the passage of the Espionage and Sedition Acts- which were passed in order to promote national unity; however, it resulted in people's freedom of expression being violated through their enforcement. The students will analyze a series of primary source documents to help them understand how freedom of expression was limited during WW I as a result of various Supreme Court decisions.

The students will process the meaning of freedom in wartime through individual and homogenous small group activities. The activities will allow students to understand the first amendment- especially speech and expression. The students will be able to explain that speech is communicated in verbal and visual manners. Finally, the students will also be able to analyze the significance of some important landmark Supreme Court decisions.

Note for teachers: There are some expectations for prior knowledge. The students should already be familiar with the causes and results of WW I- as well as- changes in the home front in order to aid the war effort in the U.S.

New Ohio Content Standards

Topic: *Historical Thinking and Skills*

Content Statement:

4. Historians analyze cause, effect, sequence and correlation in historical events, including multiple causation and long- and short-term causal relations.

Topic: *Foreign Affairs from Imperialism to Post-World War I (1898-1930)*

Content Statements:

15. As a result of overseas expansion, the Spanish-American War and World War I, the United States emerged as a world power.

Historical Background

When the Constitutional Fathers adopted the United States Constitution they had flexibility in mind. They included the ability to change through the amendment process. For this reason the United States Constitution can be called a “living document.” Over time Supreme Court decisions have also shaped the evolution of this incredible document. The Constitution can be “changed” by judicial review. When the Supreme Court reviews a case, their decision has the potential to reinterpret the Constitution. Since the days of *Marbury vs. Madison*, the Supreme Court has shaped the meaning of freedom in peacetime as well as during wartime. The focus of this lesson will be cases that were reviewed with respect to the First World War.

In 1914 the major European powers hurried themselves into what would be known as the Great War (WW I). As war raged and the casualties mounted on the Western and Eastern fronts, the United States managed to stay neutral. Various special interest groups within the country were able to pressure the government to remain isolationist. Woodrow Wilson even used the slogan “he keep us out of war” to garner victory in the Election of 1916. Unfortunately America was not able to remain pacifist. Several events turned the tide and sent the Yanks “Over There”. The audacity of Kaiser Wilhelm II; The Zimmerman Note; and finally, unrestricted submarine warfare gave America seemingly no choice but to declare war on Germany- much to the chagrin of progressives and pacifists within the U.S. (many socialists felt that big business wanted war just to make money as well).

America finally did declare war on Germany and Austria-Hungary in the spring of 1917; and Congress passed an act on May 18, 1917, that established a military draft. To ensure the nation would support the war effort, Congress also passed, on June 15, 1917, the Espionage (spying on the U.S. government in order to aid the enemy) Act. Furthermore, the Sedition Act of 1918, enacted May 16, 1918 was an Act of the United States Congress that stretched the Espionage Act of 1917 to cover an even broader range of free expression criticisms.

Washington- especially the War Department- feared certain groups could become a serious threat to a united war effort. In actuality many people were arrested, some rightly so. Some German villages/towns throughout the United States even tried to “De-Germanize” their communities in some extreme cases- and many people “Americanized” the spelling of their last names.

The cost of living rose significantly during the war years. Labor strikes upset the country. When the boys came home from the war, and government controls ended, and labor unrest became problematic. The unions fought back against private industry and were in some cases linked to the “Reds” or Russian communists. At the height of the work stoppages almost 4 million workers were involved; and a fear of communism or a “Red Scare” swept the nation. The government crackdown on freedom of expression, coupled with labor unrest, created a highly charged atmosphere throughout the country. Attorney General A. Mitchell Palmer (the “Palmer Raids”) and a very conservative press condoned the raiding of property directed at many suspected communists, revolutionaries, and radicals throughout the country in the Roaring Twenties. Most suspects were eventually released because the government could not find any evidence against them.

During this atmosphere, protests against the abuses of free expression were heard in the Supreme Court. The Supreme Court rendered 3 important decisions at the end of the war dealing with the rights of individuals in a time of war and this lesson deals with: Schenck v. The United States; Debs v. The United States; and Abrams v. The United States. The decisions certainly reflected the times of the Alien and Sedition Acts. In reality most Americans supported the government restriction of free speech/expression in the days of the First World War. Eventually, however, the Red Scare did go away.

Freedom within the First Amendment has long been restricted during a time of war. It is a delicate balancing act that the Supreme Court had wrestled with during World War I. Some would argue that the balance was clearly in favor of what public opinion would call the “common good,” and that the rights of individuals were severely compromised. But it just might be that the decisions reflected the times of the Alien and Sedition Acts. You make the call with this lesson.

Enduring Understanding:

1. Democracies must balance the need to establish and maintain order with the need to maintain and protect freedom of the individual.

Essential Question:

1. **To what extent do governments limit free speech during time of war in order to maintain state security?**

Instructional Strategies:

***Note to teachers:** The first 2 activities (individual drawings- activity 1) and (group brainstorming activity- activity 2) are designed to get students to think about all rights in the 1st amendment- “the big picture”, **but especially freedom of speech/expression.**

1. (Approximately 20-30 minutes)

The purpose of this activity is an introduction to the rights protected by the 1st

Amendment: Pass out copies of the 1st Amendment. (Appendix 1) Ask students to draw 5 pictures that each, individually; depict the 5 parts of the 1st Amendment.

Random/volunteer students will be asked to share their drawings/explanation of their creations with the rest of the class. Collect the assignment from students.

2. (approximately 15-20 minutes)

- a. **Pair up students** and ask them to think of a product or service that they like or use.
- b. Then, on a piece of paper, tell them to come up with a slogan and/or symbol that could be used as an advertising tool on a billboard, a shirt, or in a newspaper, etc. In other words, ask students to convey their ideas to the public in a visual manner. **(have colored pencils available)**
- c. When the students have finished ask them to share their creations with the class.
- d. After students have briefly presented, make it a point to explain to the class that:

1. We have many, many ways of making our viewpoints known- it does not have to be just speech in a verbal sense; speech can be a form of expression visually.

2. **The students should be able to explain that the First Amendment takes in to account various forms of expression...not just spoken speech.**

***Note:** Teachers be sure to connect this brainstorming activity back to the 5 picture assignment. (See above activity #1) (See appendix 1)

3. (Approximately 10 minutes):

Have students briefly read the Espionage and Sedition Acts (pass out Appendix 2) and/or project on board. A very short class discussion should follow making it clear that the purpose of the acts were to promote national unity during World War I. **(note: teachers may want to ask students if there were/are any past or present examples of the infringement of civil liberties during wartime. Examples: Lincoln and Habeas Corpus; Bush and the Patriot Act).** Explain, then, to students, that this lesson focuses on 3 Supreme Court cases that dealt directly with possible violations of the Espionage and Sedition Acts during WW I; or infringement of an individual citizen's freedom of expression guaranteed under the 1st Amendment.

***Note: The teacher should refer back to the enduring understanding and the essential question at this point.**

4. (Approximately 30-40 minutes):

- A. Have the students in small groups, preferably 3 students, complete this activity. Assign one student to be the scribe:**
- B. Hand out copies of the Court Case Packet to each student (appendix 3).
- C. Pass out worksheet (appendix 4), one per student.
- D. Students will use Court Case Packet to answer questions to: understand what the court decided; understand what the dissent said; what Debs said in his speech (did he violate the Espionage and Sedition Acts as written).
- E. As groups finish worksheet (appendix 4) they report directly to teacher for: checking for accuracy and/or brief small group instruction.

5. (Approximately 10 minutes):

- A. Hand out the actual sentences for each case (appendix 5) and allow for further discussion. Students may be prompted to consider the merits of the decisions. Teacher should lead students to tie cases back to the war effort at home; focus on the enduring understanding and the essential question (democracy and civil rights during wartime). Ask: Was the court justified in making the decisions? (This will lead directly into the assessment.)

Classroom Materials:

1. Teachers need to make copies of all sections of the Appendices as needed.
2. Each student receives a copy of all 6 appendices.
3. Students need colored pencils.

Resources:

U.S. Congress, *An Act to Punish Acts of Interference with the Foreign Relations, the Neutrality, and the Foreign Commerce of the United States, to Punish Espionage, and Better Enforce the Criminal Laws of the United States and for Other Purposes* [Espionage Act], Pub. L. No. 24, Ch. 30, 40 Stat. 217 (1917), in *Civil Liberties in Wartime: Legislative Histories of the Espionage Act of 1917 and the Sedition Act of 1918*. William H. Manz, ed. (St John's University School of Law, 2007) p.217-231.

U.S. Congress, *Act to Amend Section Three, Title One of the Act Entitled an Act to Punish Acts of Interference with the Foreign Relations, the Neutrality, and the Foreign Commerce of the United States, to Punish Espionage, and Better Enforce the Criminal Laws of the United States and for Other Purposes Approved June Fifteenth, Nineteen Hundred and Seventeen, and for Other Purposes*[Sedition Act], Pub. L. No. 150, Ch. 75, 40 Stat. 553 (1917) in *Civil Liberties in Wartime: Legislative Histories of the Espionage Act of 1917 and the Sedition Act of 1918*. William H. Manz, ed. (St John's University School of Law, 2007). p.553-554.

"The Espionage Act of 1917," Mintz, S., & McNeil, S. (2013), *Digital History*. Retrieved from http://www.digitalhistory.uh.edu/disp_textbook.cfm?smtID=3&psid=3904 (accessed March 29, 2013).

"Lesson Plans for Teaching the First Amendment," Freedom Forum, Education for Freedom, <http://www.freedomforum.org/packages/first/curricula/educationforfreedom/L01main.htm> (accessed March 29, 2013).

Melaine Harden. "Restrictions on Speech During Wartime." ca.2010. Polk County Florida Public Schools, Teaching American History Grant, *Our Heritage: Our Future*, <http://www.polk-fl.net/staff/teachers/tah/tpahlessons.htm> (accessed March 29, 2013).

U.S. Legal Websites:

Cornell University Law School, Legal Information Institute, <http://www.law.cornell.edu/> (accessed March 29, 2013)

FindLaw, <http://caselaw.lp.findlaw.com/> (accessed March 29, 2013)

IIT Chicago-Kent College of Law, The Oyez Project, <http://www.oyez.org/> (accessed March 29, 2013).

Justia US Supreme Court Center, <http://www.justia.com/> (accessed March 29, 2013)

Supreme Court Cases:

Abrams v. U.S.

"ABRAMS v. UNITED STATES," IIT Chicago-Kent College of Law, The Oyez Project, http://www.oyez.org/cases/1901-1939/1919/1919_316. (accessed February 9, 2013).

"Abrams v. United States (No. 316)," Cornell University Law School, Legal Information Institute, http://www.law.cornell.edu/supct/html/historics/USSC_CR_0250_0616_ZD.html (accessed March 29, 2013).

Debs v. U.S.

"DEBS v. UNITED STATES," IIT Chicago-Kent College of Law, The Oyez Project http://www.oyez.org/cases/1901-1939/1918/1918_714. (accessed February 6, 2013).

"Debs v. United States - 249 U.S. 211 (1919)," Justia US Supreme Court Center, US Law, US Case Law, US Supreme Court, Volume 249. <http://supreme.justia.com/cases/federal/us/249/211/case.html> (accessed March 29, 2013).

"Eugene V. Debs *The Canton, Ohio, Speech* (June 16, 1918)," Hanover College History Department, Hanover Historical Texts Collection, <http://history.hanover.edu/courses/excerpts/111debs.html> (accessed March 29, 2013)

"Eugene V. Debs, *Speech Given by Eugene V. Debs in Canton, Ohio, June 16, 1918.*" National Archives, <http://research.archives.gov/description/2641497>

Schenck v. U.S.

"SCHENCK v. UNITED STATES," IIT Chicago-Kent College of Law, The Oyez Project, http://www.oyez.org/cases/1901-1939/1918/1918_437. (accessed February 9, 2013)

"SCHENCK v. U.S. , 249 U.S. 47 (1919)," FindLaw, <http://laws.findlaw.com/us/249/47.html> (accessed March 29, 2013).

Summative Assessment:

ASSESSMENT: The students must respond to this question: In your opinion, on a scale of 1-10 (one being very little, and 10 being a lot), to what extent was the US Government justified in limiting free expression during WW I? The students should write a one page essay. The students must address all categories of the rubric in their response. The student's written response should include: 1. a strong position/thesis statement 2. supporting evidence from all three cases 3. proper grammar and spelling.

Assessment Rubric:

CATEGORY	4 - Above Standards	3- Meets Standards	2- Approaching Standards	1- Below Standards
Position Statement	The position statement provides a clear, strong statement of the author's position on the historical question.	The position statement provides a clear statement of the author's position on the topic.	A position statement is present, but does not make the author's position clear.	There is no position statement.
Support for Position (X 2)	Includes 3 or more pieces of evidence, from all 3 cases(facts, using the documents) that support the historical question.	Includes 3 or more pieces of evidence from 2 cases, (facts, using the documents) that support the position statement.	Includes 2 pieces of evidence from 1 or 2 cases (facts, using the documents) that support the position statement.	Includes 1 pieces of evidence (facts, using the documents).
Grammar & Spelling	Author makes no errors in grammar or spelling that distracts the reader from the content.	Author makes 1-2 errors in grammar or spelling that distract the reader from the content.	Author makes 3-4 errors in grammar or spelling that distract the reader from the content.	Author makes more than 4 errors in grammar or spelling that distracts the reader from the content.

Appendices:

1. Appendix 1: The 1st Amendment to the US Constitution
2. Appendix 2: Espionage and Sedition Act
3. Appendix 3: Court Case Packet
4. Appendix 4: Worksheet with Questions
5. Appendix 5: Supreme Court Decisions/Sentences
6. Appendix 6: Essay Rubric

Appendix #1: The 1st Amendment:

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

Appendix #2: (Espionage and Sedition Act)

(Put these descriptions of the Espionage Act & Sedition Act on the smart board or in a handout, have students read; answer any questions.)

1. The Espionage Act of 1917 is a United States federal law passed on June 15, 1917, shortly after the U.S. entry into World War I:
 - It originally prohibited any attempt to interfere with military operations, to support U.S. enemies during wartime, to promote insubordination in the military, or to interfere with military recruitment.
 - The Espionage Act, passed in 1917, made it a crime to obstruct military recruitment and it authorized the Postmaster General to deny mailing privileges to any material he considered treasonous or harmful to the war effort.

2. The 1918 amendment to the Espionage, also called the Sedition Act, went further. The act made it illegal to do the following:
 - "To make or convey false reports, or false statements, or say or do anything except by way of bona fide and not disloyal advice to an investor ... with intent to obstruct the sale by the United States of bonds ... or the making of loans by or to the United States, or whoever, when the United States is at war";
 - To "cause ... or incite ... insubordination, disloyalty, mutiny, or refusal of duty, in the military or naval forces of the United States";
 - To "utter, print, write, or publish any disloyal, profane, scurrilous, or abusive language about the form of government of the United States, or the Constitution of the United States, or the military or naval forces of the United States, or the flag ... or the uniform of the Army or Navy of the United States, or any language intended to bring the form of government ... or the Constitution ... or the military or naval forces ... or the flag ... of the United States into contempt, scorn, contumely, or disrepute";
 - To "willfully display the flag of a foreign enemy";
 - To "urge, incite, or advocate any curtailment of production in this country of anything or things ... necessary or essential to the prosecution of the war.

Appendix 3: Court Case Packet:

Case overview and excerpts of opinions courtesy of Oyez Project. Oyez.org

Schenck Case:

Facts of the case:

During World War I, Schenck mailed circulars to draftees. The circulars suggested that the draft was a monstrous wrong motivated by the capitalist system. The circulars urged "Do not submit to intimidation" but advised only peaceful action such as petitioning to repeal the Conscription Act. Schenck was charged with conspiracy to violate the Espionage Act by attempting to cause insubordination in the military and to obstruct recruitment. The prosecution argued that this interfered with the government's right to raise an army in time of war.

MR. JUSTICE HOLMES delivered the opinion of the court. (Majority Opinion):

"We admit that in many places and in ordinary times the defendants in saying all that was said in the circular would have been within their constitutional rights. But the character of every act depends upon the circumstances in which it is done.... The most stringent protection of free speech would not protect a man in falsely shouting fire in a theatre and causing a panic. It does not even protect a man from an injunction against uttering words that may have all the effect of force.... The question in every case is whether the words used are used in such circumstances and are of such a nature as to create a clear and present danger that they will bring about the substantive evils that Congress has a right to prevent. It is a question of proximity and degree. When a nation is at war many things that might be said in time of peace are such a hindrance to its effort that their utterance will not be endured so long as men fight and that no Court could regard them as protected by any constitutional right. It seems to be admitted that if an actual obstruction of the recruiting service were proved, liability for words that produced that effect might be enforced. The statute of 1917 in section 4 ... punishes conspiracies to obstruct as well as actual obstruction. If the act (speaking, or circulating a paper), its tendency, and the intent with which it is done are the same, we perceive no ground for saying that success alone warrants making the act a crime." This is an indictment in three counts.

Abrams Case:

Facts of the case:

The defendants were convicted on the basis of two leaflets they printed and threw from windows of a building. One leaflet signed "revolutionists" denounced the sending of American troops to Russia. The second leaflet, written in Yiddish, denounced the war and US efforts to impede the Russian Revolution. The defendants were charged and convicted for inciting resistance to the war effort and for urging curtailment of production of essential war material.

Justice John H. Clarke's majority decision in *Abrams* closely followed Holmes's reasoning. The leaflets created a clear and present danger, Clarke said, because they had been distributed "at the supreme crisis of the war" and amounted to "an attempt to defeat the war plans of the Government". Moreover, he continued, even if the anarchists' primary purpose and intent had been to aid the Russian Revolution, the general strike they advocated would have necessarily hampered prosecution of the war with Germany.

MR. JUSTICE CLARKE delivered the opinion of the court (Majority Opinion):

Four of them testified as witnesses in their own behalf and, of these, three frankly avowed that they were "rebels," "revolutionists," "anarchists," that they did not believe in government in any form, and they declared that they had no interest whatever in the Government of the United States. The fourth defendant testified that he was a "socialist," and believed in "a proper kind of government, not capitalistic," but, in his classification, the Government of the United States was "capitalistic."

It was admitted on the trial that the defendants had united to print and distribute the described circulars, and that five thousand of them had been printed and distributed about the 22nd day of August, 1918. The group had a meeting place in New York City, in rooms rented by defendant Abrams under an assumed name, and there the subject of printing the circulars was discussed about two weeks before the defendants were arrested. The defendant Abrams, although not a printer, on July 27, 1918, purchased the printing outfit with which the circulars were printed, and installed it in a basement room where the work was done at night. The circulars were distributed, some by throwing them from a window of a building where one of the defendants was employed and others secretly, in New York City.

Thus, the conspiracy and the doing of the overt acts charged were largely admitted, and were fully established.

...for the language of these circulars was obviously intended to provoke and to encourage resistance to the United States in the war, as the third count runs, and the defendants, in terms, plainly urged and advocated a resort to a general strike of workers in ammunition factories for

the purpose of curtailing the production of ordnance and munitions necessary and essential to the prosecution of the war as is charged in the fourth count. Thus, it is clear not only that some evidence, but that much persuasive evidence, was before the jury tending to prove that the defendants were guilty as charged... the judgment of the District Court must be: *Affirmed*.

Supreme Court Justice Holmes (Dissenting Opinion):

“This indictment is founded wholly upon the publication of two leaflets which I shall describe in a moment. The first count charges a conspiracy pending the war with Germany to publish abusive language about the form of government of the United States, laying the preparation and publishing of the first leaflet as overt acts. The second count charges a conspiracy pending the war to publish language intended to bring the form of government into contempt, laying the preparation and publishing of the two leaflets as overt acts. The third count alleges a conspiracy to encourage resistance to the United States in the same war, and to attempt to effectuate the purpose by publishing the same leaflets. The fourth count lays a conspiracy...”

“As to the first leaflet: Congress certainly cannot forbid all efforts to change the minds of the people of the country. It is only the present danger of immediate evil or intent to bring about the evil that warrants Congress setting a limit on the expression of opinion where private rights are not concerned. It cannot be seriously believed that a leaflet from an unnamed person, alone, could present any immediate danger, or could hinder the success of the government in war, or have any appreciable tendency to do either.

As to the second leaflet: Justice Holmes did not see how one could infer the intent required in the statute from the words of Defendant. The only object of the second article is to help Russia with whom we are not at war and to stop American intervention in Russia – not to impede the United States in its efforts of war. “They did not have the requisite intent “to cripple or hinder the United States in the prosecution of the war.”

"Congress shall make no law . . . abridging the freedom of speech." Of course, I am speaking only of expressions of opinion and exhortations, which were all that were uttered here, but I regret that I cannot put into more impressive words my belief that, in their conviction upon this indictment, the defendants were deprived of their rights under the Constitution of the United States.”

Debs Case:

Facts of the case:

On June 16, 1918, Eugene V. Debs, a leader of the Socialist Party of America, gave a speech in Canton, Ohio protesting involvement in World War I. During the speech, he discussed the rise of socialism and specifically praised individuals who had refused to serve in the military and obstructed military recruiting. For his speech, Debs was arrested and charged with violating the Espionage Act. At trial, Debs argued the Espionage Act violated his right to free speech under the First Amendment.

MR. JUSTICE HOLMES delivered the opinion of the Court (Majority Opinion):

...The main theme of the speech was Socialism, its growth, and a prophecy of its ultimate success...(the speech) was to encourage those present to obstruct the recruiting service...

The speaker began by saying that he had just returned from a visit to the workhouse in the neighborhood where three of their most loyal comrades were paying the penalty for their devotion to the working class -- these being Wagenknecht, Baker, and Ruthenberg, who had been convicted of aiding and abetting another in failing to register for the draft. *Ruthenberg v. United States*. He said that he had to be prudent, and might not be able to say all that he thought, thus intimating to his hearers that they might infer that he meant more, but he did say that those persons were paying the penalty for standing erect and for seeking to pave the way to better conditions for all mankind. Later he added further eulogies, and said that he was proud of them (for not registering for the draft)...

The defendant spoke of other cases, and then, after dealing with Russia, said that the master class has always declared the war and the subject class has always fought the battles -- that the subject class has had nothing to gain and all to lose, including their lives; that the working class, who furnish the corpses, have never yet had a voice in declaring war and never yet had a voice in declaring peace. "You have your lives to lose; you certainly ought to have the right to declare war if you consider a war necessary."

...It alleged that the war of the United States against Germany could not "be justified even on the plea that it is a war in defense of American rights or American *honor*." *It said*: "We brand the declaration of war by our governments as a crime against the people of the United States and against the nations of the world. In all modern history there has been no war more unjustifiable than the war in which we are about to engage."

Its first recommendation was, "continuous, active, and public opposition to the war, through demonstrations, mass petitions, and all other means within our power." Evidence that the defendant accepted this view and this declaration of his duties at the time that he made his speech is evidence that, if in that speech he used words tending to obstruct the recruiting service, he meant that they should have that effect. *Judgment affirmed*.

Excerpt from Eugene V Debs; The Canton, Ohio, Speech, June 16, 1918:

“Wars throughout history have been waged for conquest and plunder. In the Middle Ages when the feudal lords who inhabited the castles whose towers may still be seen along the Rhine concluded to enlarge their domains, to increase their power, their prestige and their wealth they declared war upon one another. But they themselves did not go to war any more than the modern feudal lords, the barons of Wall Street go to war. The feudal barons of the Middle Ages, the economic predecessors of the capitalists of our day, declared all wars. And their miserable serfs fought all the battles. The poor, ignorant serfs had been taught to revere their masters; to believe that when their masters declared war upon one another, it was their patriotic duty to fall upon one another and to cut one another’s throats for the profit and glory of the lords and barons who held them in contempt. And that is war in a nutshell. The master class has always declared the wars; the subject class has always fought the battles. The master class has had all to gain and nothing to lose, while the subject class has had nothing to gain and all to lose—especially their lives.

They have always taught and trained you to believe it to be your patriotic duty to go to war and to have yourselves slaughtered at their command. But in all the history of the world you, the people, have never had a voice in declaring war, and strange as it certainly appears, no war by any nation in any age has ever been declared by the people.

And here let me emphasize the fact—and it cannot be repeated too often—that the working class who fight all the battles, the working class who make the supreme sacrifices, the working class who freely shed their blood and furnish the corpses, have never yet had a voice in either declaring war or making peace. It is the ruling class that invariably does both. They alone declare war and they alone make peace

Appendix 4: Worksheet with questions:

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Case 2: Abrams v. United States:

1. What did the defendant's do in the Abrams case?
2. How did the accused violate the law according to the majority opinion?
3. What did Justice Holmes argue in his dissent in the Abrams case?
4. Do you think defendants were penalized? If yes, How?

Appendix 4: Worksheet with questions:

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Case 3: Debs v. United States:

1. What did Debs do?
2. How did the accused violate the law according to the majority opinion?
3. Do you think that Debs violated the law in his speech?
4. Do you think Debs was penalized? If yes, how?

Appendix 5: Supreme Court Decisions/Sentences:

Schenck v. United States:

Were Schenck's actions (words, expression) protected by the free speech clause of the First Amendment?

No. Holmes, speaking for a unanimous Court, concluded that Schenck is not protected in this situation. The character of every act depends on the circumstances. "The question in every case is whether the words used are used in such circumstances and are of such a nature as to create a clear and present danger that they will bring about the substantive evils that Congress has a right to prevent." During wartime, utterances tolerable in peacetime can be punished.

10 year sentence upheld by the Supreme Court

Abrams v. United States:

Did the amendments to the Espionage Act or the application of those amendments in this case violate the free speech clause of the First Amendment?

No and no. The act's amendments are constitutional and the defendants' convictions are affirmed. In Clarke's majority opinion, the leaflets are an appeal to violent revolution, a call for a general strike, and an attempt to curtail production of munitions. The leaflets had a tendency to encourage war resistance and to curtail war production. Holmes and Brandeis dissented on narrow ground: the necessary intent had not been shown. These views were to become a classic libertarian pronouncement.

They were all sentenced to 20 years upheld by the Supreme Court

Debs v. United States:

Did Debs' conviction under the Espionage Act of 1917 violate his First Amendment rights to freedom of speech?

No. In a unanimous opinion authored by Justice Oliver Wendell Holmes, the Court found that Debs' case was clearly similar to *Schenck v. United States* (1919). In *Schenck*, the Court had concluded that the arrest of an individual for distributing leaflets encouraging readers to oppose the draft was constitutional. The Court found Debs' sympathy for individuals convicted of opposing the draft and obstructing recruitment analogous to the situation in *Schenck*. Thus, Debs' conviction was upheld.

The 10 year sentence was upheld by the Supreme Court; however, the 10 year sentence was commuted by President Harding in 1921.

Appendix 6: Assessment Rubric:

CATEGORY	4 - Above Standards	3- Meets Standards	2- Approaching Standards	1- Below Standards
Position Statement	The position statement provides a clear, strong statement of the author\'s position on the historical question.	The position statement provides a clear statement of the author\'s position on the topic.	A position statement is present, but does not make the author\'s position clear.	There is no position statement.
Support for Position (X 2)	Includes 3 or more pieces of evidence, from all 3 cases (facts, using the documents) that support the historical question.	Includes 3 or more pieces of evidence from 2 cases, (facts, using the documents) that support the position statement.	Includes 2 pieces of evidence from 1 or 2 cases (facts, using the documents) that support the position statement.	Includes 1 pieces of evidence (facts, using the documents).
Grammar & Spelling	Author makes no errors in grammar or spelling that distracts the reader from the content.	Author makes 1-2 errors in grammar or spelling that distract the reader from the content.	Author makes 3-4 errors in grammar or spelling that distract the reader from the content.	Author makes more than 4 errors in grammar or spelling that distracts the reader from the content.

_____ Score
