

The Injunction: The Sword of the Court—A Primary Sources Activity

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For use in conjunction with “The Debs Case: Labor, Capital, and the Federal Courts of the 1890s,” by David Ray Papke, available at <http://www.fjc.gov/history/home.nsf>. A unit in the Teaching Judicial History Project, developed by the Federal Judicial Center in partnership with the American Bar Association’s Division for Public Education.

Activity Objectives

By examining the writ of injunction issued against union leaders, and documents related to legal challenges and defenses of the writ, students will be able to:

- describe the events leading to the Pullman strike of 1894 and the resulting boycott by the American Railway Union;
- explain the government’s legal strategy to deal with the Pullman strike and the secondary boycott by the American Railway Union;
- analyze conflicting arguments over the use of an injunction to break the Pullman strike; and
- critically assess primary documents that reflect conflicting perspectives.

Essential Questions

- What was the government’s strategy in federal courts to halt the Pullman strike?
- Did the federal courts have the authority to issue an injunction to restrain the leadership of the American Railway Union?
- Did the leadership of the American Railway Union violate the court injunction?
- Did the American Railway Union leadership urge workers to engage in violence and intimidation?
- Was the American Railway Union and its leadership involved in a criminal conspiracy to disrupt the delivery of U.S. mail?
- Did the U.S. circuit court have the authority to hold Debs and other officers of the American Railway Union in contempt and to impose jail sentences?
- Was Debs deprived of his right to a trial by jury?

Legal Issues Raised by the *Debs* Case

There are a number of legal questions in this lesson focusing on the use of an injunction to bring an end to the American Railway Union’s boycott in support of striking Pullman workers. The essential legal question stems from the constitu-

tional authority of the government to protect the general welfare. Was the government's decision to seek redress through the use of an injunction an appropriate exercise of this constitutional authority? Or was it an overt act to prevent a trial by jury in a criminal court?

Estimated Time Frame

Three to four days.

Recommended Prep Work

Students should have an understanding of conflicts between management and labor in the latter part of the nineteenth century. Teachers should review “The *Debs* Case: Labor, Capital, and the Federal Courts of the 1890s,” by David Ray Papke, available online at <http://www.fjc.gov/history/home.nsf>.

Ask students to come up with a definition of an injunction and give an example of using an injunction either from history or in contemporary society.

Have students read and briefly discuss the following paragraph:

Injunctions were orders of courts exercising a long-standing type of jurisdiction called equity. Equity jurisdiction, which had originated in medieval England and was recognized in the U.S. Constitution, differed from jurisdiction based on statute or common-law traditions. Equity jurisdiction was based on established rules of fairness rather than specific laws and allowed judges to order or prohibit certain actions, often to prevent irreparable harm to private property. Equity has not been a separate area of jurisdiction in the federal courts since 1937, but this complicated area of the law was the subject of public debate in the late-nineteenth century because federal courts increasingly relied on it to prohibit strikes and to punish people who had not been found guilty by a jury.

Source: David Ray Papke, *The Debs Case: Labor, Capital, and the Federal Courts of the 1890s*, p. 5.

Prepare copies of the following documents and handouts:

1. Student Handout 1, “The *Debs* Case: A Short Narrative” (excerpt) (pp. 1–4)
2. Student Worksheet 1, “Pullman Strike and Boycott”
3. Document 1, “Writ of Injunction” (edited version) (pp. 40–42)
4. Document 2, “Oral argument of Hon. Richard Olney, Attorney General, in the Supreme Court of the United States” (pp. 52–53)
5. Document 3, “Union’s Petition for a Writ of Habeas Corpus to the Supreme Court” (pp. 49–50)
6. Document 4, “Lyman Trumbull’s Brief before the Supreme Court” (p. 50)

7. Student Worksheet 2, “Different Perspectives”

(*Note:* Documents and page numbers are from the PDF version of “The Debs Case: Labor, Capital, and the Federal Courts of the 1890s,” by David Ray Papke, available online at <http://www.fjc.gov/history/home.nsf>.)

Description of the Activity

Step 1 (1 day)

Begin the lesson by inviting a judge to speak to the class on the issuance and enforcement of injunctions in history and in contemporary society. Ask the speaker to explain cases in which courts can impose jail sentences without a jury trial.

For homework, have students read “The Debs Case: A Short Narrative” and complete Student Worksheet 1, “Pullman Strike and Boycott.”

Step 2 (1 day)

Follow-up on the previous day’s presentation by answering any lingering questions from the judge’s presentation. Have students consider questions such as:

- What are the legal steps in obtaining an injunction?
- What recourse does one have when faced with an injunction?
- How effective is an injunction in settling disputes?

As a class, discuss the assigned homework reading and worksheet questions. Ask students to consider alternative actions that might have been taken by: (1) Pullman workers; (2) Eugene Debs and the American Railway Union leadership; (3) the General Management Association; and (4) state and federal government leaders.

Step 3 (1–2 days)

Divide the class into groups of four and distribute Documents 1–4 to each group. Provide class time for reading and group discussion of the four documents. Following discussion, distribute Student Worksheet 2, to be completed by the group. In a general class discussion, explain the different views revealed in the documents, and pose the following questions:

- What were the most important arguments presented in each reading?
- What was the logic behind the government’s decision to seek an injunction?
- On what grounds did the attorneys arguing for a writ of habeas corpus base their case?
- How effective were these arguments?

Assessment

Evaluate student worksheets for completeness and accuracy.

Have students write an editorial for a Chicago newspaper (ca. July 1896) based on the information garnered in this lesson in response to the following segment from the Democratic Party Platform, adopted at the national convention in Chicago on July 9, 1896:

We denounce the arbitrary interference by Federal authorities in local affairs as a violation of the Constitution of the United States and a crime against free institutions, and we especially object to government by injunction as a new and highly dangerous form of oppression by which Federal judges in contempt of the laws of the States and rights of citizens, become at once legislators, judges, and executioners . . .

The op-ed article should refer to arguments presented in at least two of the documents in the lesson and may either favor or oppose the statement in the Democratic platform on the “arbitrary interference by Federal authorities.”

Alternative Modalities and Enrichment Activities

Research the 1902 strike of United Hatters of North America against D.E. Loewe, owner of a nonunion hat manufacturing company in Danbury, Connecticut. In *Loewe v. Lawlor*, 208 U.S. 274 (1908), the Supreme Court rendered a unanimous decision finding in favor of Loewe and ordering the union to pay damages. Explain the issues in the case, the Court’s ruling that the union was in violation of the Sherman Anti-Trust Act, and the impact of the decision on organized labor. Explain the similarities and differences in *Loewe v. Lawlor* and the earlier *In re Debs* case (1895).

In lieu of group reading of the four assigned documents (Step 3), divide the class into four groups and give each group a different document. After providing time for a discussion of the document within the group, inform the class that they are to relate the information in their reading to the class through a dramatization of a court hearing. Each group should include short quotes from the reading to emphasize important legal issues presented by the author(s).

Conclude by discussing the conflicting viewpoints presented in the government’s case and those supporting Debs and the leadership of the American Railway Union.

Alternative Content Areas

This unit may be used in law-related education classes in which students explore concepts underlying equity law, and in specialized courses in the development of

industrial America focusing on the clashes between management and labor in the post-Civil War era.

Involving a Judge

Invite a judge to speak to the class before beginning the lesson. Ask the judge to speak on the use of injunctions and instances where courts can impose jail sentences without a jury trial.

Standards Addressed¹

U.S. History Standards (Grades 5–12)

Era 6—The Development of the Industrial United States (1870–1900)

Standard 3B: The student understands the rise of national labor unions and the role of state and federal governments in labor conflicts.

Standards in Historical Thinking

Standard 2: Historical Comprehension

B. Reconstruct the literal meaning of a historical passage by identifying who was involved, what happened, where it happened, what events led to these developments, and what consequences or outcomes followed.

Standard 4: Historical Research Capabilities

- A. Formulate historical questions from encounters with the historical documents.
- C. Interrogate historical data by uncovering the social and political context in which it was created; testing the data source for its credibility and detecting and evaluating bias, distortion, and propaganda by omission, suppression, or invention of facts.
- F. Support interpretations with historical evidence in order to construct closely reasoned arguments rather than facile opinions.

Standard 5: Historical Issues-Analysis and Decision-Making

F. Evaluate the implementation of a decision by analyzing the interests it served; estimating the position, power, and priority of each player involved; assessing the ethical dimensions of the decision; and evaluating its costs and benefits from a variety of perspectives.

1. National Standards for History, National Center for History in the Schools, University of California Los Angeles, 1996. Available online at <http://nchs.ucla.edu/standards/>.

Specialized Concerns

Students reading below grade level will need special help in reading and comprehending the arguments presented in the four primary source readings.

Glossary

boycott	joining together to refuse to have any dealings with a company or organization
indictment	a formal charge or accusation by a grand jury that there is a valid cause for charging one or more persons with the commission of a crime
interstate	between or among states
severally	separately, distinctly
writ	legal document ordering or forbidding some action

Student Worksheet 1

Pullman Strike and Boycott

1. What are your impressions of what the residents thought life was like in Pullman?
2. Why did Pullman consider his town a model community?
3. What options would you have if your wages were reduced but your rent remained the same?
4. As a member of the American Railway Union, would you agree to a boycott in support of the Pullman strikers? Explain your reasons.
5. What steps should management have taken to end the strike and boycott?
6. What role did Illinois governor John Altgeld take during the strike?
7. Why did President Grover Cleveland order troops to Chicago?
8. What steps did Attorney General Richard Olney recommend to break the strike and boycott?

Document 1

Writ of Injunction, U.S. Circuit Court for the Northern District of Illinois, July 2, 1894

U.S. Attorney Thomas Milchrist, with the approval of the U.S. Attorney General and the advice of Special U.S. Attorney Edwin Walker, submitted a complaint asking the U.S. circuit court in Chicago to issue an injunction restraining the American Railway Union officers in their support of the Pullman strike and the boycott of Pullman cars. Injunctions had been issued by English and American courts for centuries to protect private property from immediate and irreparable harm, but federal injunctions against labor strikes dated only to 1877, when the courts had issued injunctions against railroad workers striking against companies that were under federal bankruptcy protection. More recently federal courts had issued injunctions under the authority of the Interstate Commerce Act, and in 1893, a federal court approved the use of a labor injunction against striking workers under the authority of the Sherman Anti-Trust Act of 1890, which authorized injunctions against any company or group that obstructed interstate commerce. The U.S. circuit court agreed to issue a broad injunction that prohibited almost any participation in the Pullman strike by the union officers.

And now on this day, this cause coming on to be heard on the motion of complainant, for a preliminary restraining order or injunction, . . . it is ordered, that a writ of injunction issue out of and under the seal of this court, commanding the said defendants, Eugene V. Debs, George W. Howard and L.W. Rogers, and the American Railway Union, Sylvester Keliher, Lloyd Hodtchkins, A. Pazybok, H. Elfine, James Hannon, John Masterbrook, William Smith, Edward O'Neil, Charles Nailer, John Duffy, William McMullen, E. Shelly, Fred Kitchum, John W. Doyle, and all other persons combining and conspiring with them, and all other persons whomsoever, absolutely to desist and refrain from in any way or manner interfering with, hindering, obstructing or stopping any of the business of any of the following named railroads, to wit: [list of twenty-two railroad companies]; as common carriers of passengers and freight between or among any states of the United States; and from in any way or manner interfering with, hindering, obstructing or stopping any mail trains, express trains, or other trains, whether freight or passenger, engaged in interstate commerce, or carrying passengers, or freight between or among the states; . . . and from in any manner interfering with, injuring, or destroying any of the property of any of said railroads; . . . and from entering the grounds or premises of any of said railroads for the purpose of interfering with, hindering, obstructing, or stopping any of said mail trains, passenger or freight trains engaged in interstate commerce; . . . and from compelling or in-

ducing or attempting to compel or induce by threats, intimidation, persuasion force or violence, any of the employees of any of said railroads to refuse or fail to perform any of their duties as employees of any of said railroads in connection with the interstate business or commerce of said railroads or the carriage of the United States mail by such railroads . . .

And it is further ordered that the aforesaid injunction and writ of injunction shall be in force and binding upon such of said defendants as are named in said bill . . . and upon all other persons whatsoever who are not named herein from and after the time when they shall severally have knowledge of the entry of such order and the existence of said injunction.

[Document Source: Writ of Injunction, filed 2 July 1894; Civil Case File 23421, *United States of America vs. Eugene V. Debs, George W. Howard, L.W. Rodgers [sic], Sylvester Keliher, The American Railway Union, and others*; Civil Case Files, 1871–1911; Records of the U.S. Circuit Court, Northern District of Illinois, Eastern Division at Chicago; Record Group 21, National Archives and Records Administration—Great Lakes Region, Chicago. Missing text supplemented from *United States v. Debs et al.*, 64 Fed. Rep. 724 (1894).]

Student Worksheet 2

Different Perspectives

According to Document 1:

1. Why did the U.S. attorney seek an injunction against Debs and the leadership of the American Railway Union?
2. What acts were prohibited by the injunction?

According to Document 2:

3. Why was the case against Debs brought in a court of equity?
4. On what grounds did Olney argue that the U.S. government had a direct property interest in the case?

According to Document 3:

5. What right do circuit courts have to enforce penal statutes?
6. Was Debs denied rights guaranteed by the Fifth and Sixth Amendments?

7. Why is it unconscionable to consider that unions were in violation of the Sherman Anti-Trust Act, an act that was originally enacted to protect trade and commerce against unlawful restraints and monopolies?

According to Document 4:

8. On what grounds did Lyman Trumbull argue that it was improper to have Debs sentenced under equity jurisdiction?
9. Why does a court of equity not have the power to punish a crime?