

In re Debs—Suggestions for Judges

Judges can make an important contribution to students' understanding of the cases included in the Federal Judicial Center's Teaching Judicial History project. When meeting with students who are studying the cases, judges may wish to draw on these suggested discussion topics.

Overview

Eugene Debs and the other leaders of the American Railway Union faced multiple legal challenges to their support of the strike against the Pullman Palace Car Company in the summer of 1894. A special U.S. attorney, appointed by the Attorney General, devised a combination of civil and criminal actions to disrupt the union's boycott of railroads that used Pullman cars. An injunction from the U.S. circuit court in Chicago barred Debs and his fellow union officers from almost any activity that might promote the boycott, and the court ordered Debs and the officers jailed on contempt charges for alleged violation of the sweeping injunction. Soon after the injunction was issued, a grand jury in the U.S. district court in Chicago indicted the same officers for criminal conspiracy to disrupt interstate commerce and interfere with the transportation of the mails. The U.S. attorney acknowledged that it might be impossible to convict the union leaders of the criminal charge, and the district judge dismissed the jury before it reached a verdict. After a judge in the U.S. circuit court upheld the jail sentence of the union officers for violation of the injunction, the union leaders appealed to the Supreme Court for a writ of habeas corpus.

Debs' attorneys argued that the union officers could not be jailed after a proceeding with no jury, but the Supreme Court determined that the constitutional authority to protect the general welfare gave the courts the power to jail strikers who violated an injunction that protected public interests. The injunction became a favored weapon against labor actions for nearly 40 years, until Congress in 1932 restricted the use of restraining orders against strikers.

Understanding the court procedures and legal questions

In studying historic cases, students find it helpful to understand the differences between historical and current procedures in the federal courts. They also want to learn how the current courts handle similar cases. The questions below highlight features of the *Debs* proceedings that can frame conversations between judges and

students.

1. Attorneys for Debs and for the union leaders challenged the authority of the federal courts to issue an injunction against the union and to punish the union leaders for criminal contempt of the injunction. How did Judge Woods in the circuit court and Justice Brewer in the Supreme Court justify the injunction and the contempt? What are the criteria for an injunction today? What authority do courts have to punish violations of an injunction?
2. Debs and his attorneys argued that the jail sentences for contempt of the injunction violated the right to a jury trial in criminal prosecutions. When can federal courts impose jail sentences without a jury trial?
3. The special U.S. attorney in Chicago acknowledged that he initiated a criminal prosecution of the labor leaders as a means of restraining their strike activity, even though he did not expect a conviction. What safeguards would protect defendants from this kind of harassment today?
4. What are the contempt powers of federal courts today? What rules govern the use of contempt authority?

Focus on Documents

These excerpted documents can be the basis of a classroom discussion with students who have read about the *Debs* case and reviewed these selections in advance of a judge's visit.

1. Justice David Brewer opinion, Supreme Court, *In re Debs*

Justice Brewer asserted a broad judicial authority to protect the general welfare of the country and "public rights." How might Brewer have defined the general welfare? Does the courts' enforcement authority conflict with the courts' role in settling disputes?

So, in the case before us, the right to use force does not exclude the right of appeal to the courts for a judicial determination, and for the exercise of all their powers of prevention. Indeed, it is more to the praise than to the blame of the government, that, instead of determining for itself questions of right and wrong on the part of these petitioners and their associates, and enforcing that determination by the club of the policeman and the bayonet of the soldier, it submitted all those questions to the peaceful determination of judicial tribunals, and invoked their consideration and judgment as to the measure of its rights and powers, and the correlative obligations of those against whom it made complaint. And it is equally to the credit of the latter that the judgment of those tribunals was

by the great body of them respected, and the troubles which threatened so much disaster terminated.

Neither can it be doubted that the government has such an interest in the subject matter as enables it to appear as party plaintiff in this suit. It is said that equity only interferes for the protection of property, and that the government has no property interest. A sufficient reply is that the United States have a property in the mails, the protection of which was one of the purposes of this bill. . . .

We do not care to place our decision on this ground alone. Every government, instructed by the very terms of its being with powers and duties to be exercised and discharged for the general welfare, has a right to apply to its own courts for any proper assistance in the exercise of the one and the discharge of the other, and it is no sufficient answer to its appeal to one of those courts that it has no pecuniary interest in the matter. The obligations which it is under to promote the interest of all and to prevent the wrongdoing of one, resulting in injury to the general welfare, is often of itself sufficient to give it a standing in court. . . .

2. Eugene V. Debs on the role of the courts

Debs saw the injunction as an unconstitutional attempt to criminalize union activity and bypass the constitutional requirement for a trial by jury. The union leader believed that moneyed interests and industrial leaders had co-opted the courts, as they had the elected branches of government. What was the basis of Debs' belief that the courts were biased against labor? How do the courts and the judicial process maintain public confidence today?

Now what is an injunction? It has all of the force and vital effect of a law, but it is not a law in and by the representatives of the people; it is not a law signed by a President or by a governor. It is simply the wish and will of the judge. A judge issues an injunction; serves it upon his intended victim. The next day he is arrested. He is brought into the presence of the same judge. Sentence is pronounced upon him by the same judge, who constitutes the judge and court and jury and he goes to jail and he has no right of appeal. Under this injunctive process the plain provisions of the Constitution have been disregarded. The right of trial by jury has been abrogated, and this is at the behest of the money power of the country.

What is the effect upon the workingmen and especially railway employees to bind them to their task? The government goes into partnership with a corporation. The workingmen are intimidated; if there is a reduction of wages they submit; if unjust conditions are imposed they are silent. And what is the tendency? To demoralize, to degrade workingmen until they have reached the very deadline of degradation.

And how does it happen and why does it happen that corporations are never restrained? Are they absolutely law-abiding? Are they always right? Do they never transgress the law or is it because the federal judges are their creatures? Certain it is that the united voice of labor in this country would be insufficient to name a federal judge. If all the common people united and asked for the appointment of a federal judge their voice would not be heeded any more than if it were the chirp of a cricket. Money talks. Yes, money talks. . . .

There is something wrong in this country; the judicial nets are so adjusted as to catch the minnows and let the whales slip through and the federal judge is as far removed from the common people as if he inhabited another planet.

3. Recommendations of the United States Strike Commission

The Strike Commission appointed by President Grover Cleveland offered policy recommendations based on its belief that labor could be an equal partner with industrial corporations. How might the role of the federal courts in the *Pullman* proceedings have affected the Commission report? What would be the role of the courts in the kind of industrial–labor relations envisioned by the Commission?

However men may differ about the propriety and legality of labor unions, we must all recognize the fact that we have them with us to stay and to grow more numerous and powerful. Is it not wise to fully recognize them by law; to admit their necessity as labor guides and protectors, to conserve their usefulness, increase their responsibility, and to prevent their follies and aggressions by conferring upon them the privileges enjoyed by corporations, with like proper restrictions and regulations? The growth of corporate powers and wealth has been the marvel of the past fifty years. Corporations have undoubtedly benefited the country and brought its resources to our doors. It will not be surprising if the marvel of the next fifty years be the advancement of labor to a position of like power and responsibility. We have heretofore encouraged the one and comparatively neglected the other. Does not wisdom demand that each be encouraged to prosper legitimately and to grow into harmonious relations of equal standing and responsibility before the law? This involves nothing hostile to the true interests and rights of either.