

Soon after the United States entered World War I, siding with the [Allies](#), the United States Congress passed the [Espionage Act](#). This act made it a crime to share information that could negatively impact U.S. national defense or interfere with the recruitment or enlistment of individuals into the U.S. military.

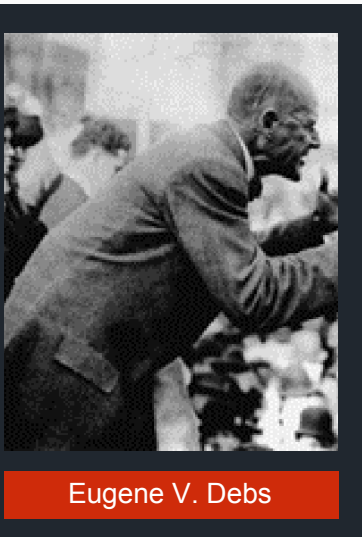
Passed to limit public opposition to the war, the Espionage Act was used against those who challenged U.S. war efforts. Perhaps the most famous conviction under this law was Socialist Party leader [Eugene V. Debs](#). Debs was a relatively popular politician and labor advocate, [having achieved 6% of the popular vote when he ran for president in](#)

[1912](#). An opponent of U.S. participation in World War I, he was convicted under the Espionage Act and its related [Sedition Act of 1918](#) for giving a public speech encouraging his audience to interfere with military recruitment. This conviction was upheld by the U.S. Supreme Court in [Debs v. United States](#) (1919) which ruled that his First Amendment rights were not violated by the Espionage Act or the Sedition Act. The Court similarly decided not long before in [Schenck v. United States](#) (1919). In that case, the Court upheld the Espionage Act even though the plaintiffs argued that their First Amendment rights were violated by the Act when they were prosecuted for distributing leaflets that encouraged people to peacefully disobey the draft.

Throughout the 20th century, this act underwent expansion and revision. It now includes a focus on the mishandling and/or distribution of classified information, treating these actions as felony offenses ([Section 793](#) and [Section 794](#) under the Act, respectively). One well known example occurred when the New York Times published what were known as the [Pentagon Papers](#). These papers presented a history of the American

political and military experience in Vietnam between 1945 and 1967, classified and not intended for public release. [Daniel Ellsberg](#) and Anthony Russo, researchers working for the RAND Corporation, provided the paper to the Times and were charged and tried for violations of the Espionage Act of 1917. Ultimately, their case was dismissed due to prosecutorial misconduct by the government. [The Supreme Court ruled](#) that the federal government could not prevent the publication of the Pentagon Papers despite the manner in which the New York Times obtained the documents.

The Espionage Act continues to play a role in our national security and in debates over the First Amendment and classified information more than a century after its passage. [The War on Terror](#) has seen multiple convictions of military, diplomatic, political, and law enforcement personnel for various violations of the Act. These offenses range from [leaking secret FBI guidelines](#) on the use of informants to support surveillance of minority communities to [sharing and publishing](#) hundreds of thousands of classified documents on the internet and the press.



Eugene V. Debs

To Think and To Do: The Espionage Act has been criticized for being overly broad in a way that limits First Amendment rights. How does the Espionage Act reflect government efforts to balance national security interests with individual rights? In your opinion, does the Act achieve that balance?

Learn MORE:

- [Everything You Could Want To Know About Classified Documents](#), from the National Archives
- [Leakers and Espionage Act](#), from National Public Radio
- [Increase in the Number of Classified Documents](#), from the New York Times



**Lou Frey
Institute**