

The Pullman Strike of 1894

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Introduction

In 1893 an economic depression called the Panic of 1893 hit the United States and caused significant economic problems. Because of the severe economic downturn, the Pullman Palace Car Company, which made luxury rail cars, cut wages to its employees by about 25 percent but refused to lower the rent it charged employees who lived in the town it built. The rent was already 20 to 25 percent higher than surrounding areas. Pullman also laid off many workers. On May 11, 1894, about 3,000 employees of the Pullman Palace Car Company went on strike. Many of the strikers were members of the American Railway Union (ARU) led by Eugene V. Debs. Later the ARU voted to support the strike by launching a boycott in which ARU union members refused to run trains with Pullman cars. The boycott started on June 26, 1894 and within four days about 125,000 railroad workers from twenty-nine railroads had quit work rather than handle Pullman cars. The refusal to handle Pullman cars disrupted the delivery of mail. Although it began peacefully, eventually the strike resulted in a great deal of violence and arson, leading to twelve deaths and hundreds of thousands of dollars worth of property damage or destroyed. The ARU and its leaders were served with an overly broad federal court injunction that was essentially impossible to comply with without stopping all union strike activities.

The strike was eventually broken up by a combination of local, state and federal forces that totaled over 14,000. The forces consisted of 1,936 United States Army troops sent to Chicago to protect the mail and federal buildings, 4,000 state militia members, 5,000 extra deputy marshals, 250 extra deputy sheriffs, and 3,000 Chicago police. Debs and other ARU leaders were charged with conspiracy to obstruct the U.S. mail and contempt of court for disobeying the court injunction. Clarence Darrow quit his job as the general counsel for the Chicago and North Western Railway to work with several other lawyers to defend Debs and other union leaders. A federal court held the defendants in civil contempt and they received jail sentences ranging from three to six months. In 1895, Darrow and his co-counsel, including Stephen S. Gregory, defended Debs and the other defendants on criminal charges for conspiracy to obstruct the U.S. mail. Gregory, known as "S.S." Gregory, was a very prominent attorney and at one time the president of the American Bar Association. Darrow and the defense team mounted an aggressive defense that made the prosecution's case seem weak. When a juror became sick, Darrow, who sensed that the defense would prevail, offered to proceed with eleven jurors, but the judge declared a mistrial. In March 1885, Darrow and his co-counsel argued a habeas corpus

petition on the defendants' behalf before the United States Supreme Court, but the Court unanimously upheld the contempt citation. The Pullman Strike has been described as "perhaps the most extraordinary in the history of the relations between labour and capital"¹ These were the most important trials in Darrow's career up to this point.

Clarence Darrow and Labor

Clarence Darrow's legacy as one of the greatest lawyers in the history of the United States largely began with his work supporting the cause of labor. Throughout the 1800s there were many clashes between workers and owners of industries. These disputes became increasingly more protracted and violent. Many of the social, economic, and political issues caused by the animosity between labor and industry came to the fore in 1894 when Eugene Victor Debs led his American Railway Union in a sympathy boycott against George Pullman and his Pullman Railroad Car Company.

In 1891 Clarence Darrow accepted a part-time position in the legal department of the Chicago and North Western Railway Company. In 1894, Darrow would be asked to defend Debs. He would accept, leaving behind his comfortable position in the corporate law department of a major railroad company. This would be the first major case of Darrow's career and his name would be mentioned in newspapers across the country. It would also propel Darrow on a journey that would place him in the middle of some of the most notorious and important labor disputes over the next 20 years.

Eugene Victor Debs

Eugene Debs was born in Terre Haute, Indiana on November 5, 1855 to Alsatian immigrants who earned a living as retail grocers. Debs attended Terre Haute public schools until age 14, when he left school to work as a paint scraper in the Terre Haute railroad yards.² He worked his way up through the ranks and in 1870 became a locomotive fireman. Debs was laid off during the depression of 1873 and he eventually found work as a grocery clerk. He never worked on a railroad again for the rest of his life. However, he remained interested in railroads and the welfare of railroad workers. When the Brotherhood of Locomotive Firemen (BLF) organized a local lodge in Terre Haute in 1875, Debs signed up as a charter member and was elected recording secretary.

The Great Railroad Strike of 1877 was the first truly national strike in the history of the United States. It began after northern railroads, which were economically hurt by the Panic of 1873, began cutting salaries and wages. This led to strikes and labor violence. The Great Railroad Strike began on July 14, 1877 in Martinsburg, West Virginia and lasted about 45 days until it was broken up by local and state militias. The strike caused conflict within the BLF. After the strike, a 22-year-old Debs gave a speech at the Brotherhood's annual convention which was enthusiastically received. Debs defended the BLF union from charges that it encouraged strikes or violence. Debs was the only local

¹ William H. Dunbar, *Government by Injunction*, 13 L.Q. REV. 347, 352 (1897).

² Some sources say Debs dropped out of school at age 16.

BLF officer in the Terre Haute lodge to be re-elected after the strike. In 1878 he was named associate editor of *Locomotive Fireman's Magazine*.

Debs also delved into politics and in 1879 he was elected as a Democrat to the first of two terms as City Clerk of Terre Haute. In 1880 Debs was named the National Grand Secretary-Treasurer of the BLF and Editor-in-Chief of its magazine. In 1881 Debs was reelected as City Clerk and he served one term in the Indiana State Assembly in 1884.

In 1885 Debs married Katherine Metzel, the daughter of German immigrants who owned a local drugstore. Debs and his wife never had children. In his spare time, he went to night classes at a local business college. In 1891 Debs announced his retirement as National Grand Secretary-Treasurer of the BLF. But in 1892, the BLF persuaded him to retain editorship of its magazine.

George Mortimer Pullman

George Pullman was born on March 3, 1831 in Brocton, New York. Later his family moved to Albion, New York. Pullman eventually became a building mover. In 1859 he moved to Chicago when he was 28 years old. A few years earlier the city of Chicago had begun to install a new sewer system that would drain into the river. But the new pipes were laid above ground, and new streets and fixtures were built up to this new grade which in some areas was up to 10 feet above ground. This left some existing buildings below street level and stairs were needed to access the streets - or the buildings themselves had to be raised. Pullman, who had dropped out of school at age 14, saw a tremendous opportunity. An entrepreneur, Pullman developed a system of raising buildings by employing up to 600 men, each of whom was assigned to one of 10 jacks. The men were trained so each turned his jack a quarter turn on Pullman's signal. As the building was carefully and slowly raised, the men would shore up the foundation. It was said that Pullman could raise a building and shore up its foundation so smoothly that people inside could continue working as the building was raised. Pullman became famous in Chicago and he earned a lot of money.

The Pullman Palace Car Company

Pullman used the money he earned from raising buildings in Chicago to start a new business manufacturing luxury railroad cars. Trains had become a primary form of transportation, but it was an uncomfortable way to travel. Pullman created rail cars with sleepers, restaurants and covered accordion-like connectors between cars to keep out noise and the winter and summer weather. The company became very successful. In fact, when President Abraham Lincoln died, a Pullman car returned his body to Illinois.

Pullman incorporated his company and obtained a charter from the Illinois Legislature for the creation of the Pullman Palace Car Company on February 22, 1867. Pullman's company quickly expanded, acquired competitors and waged very tough competition

with others. So successful was Pullman's company that by 1894 its cars ran on "three-fourths of the railway mileage of the United States."³

The Town of Pullman

Besides the Pullman Car Company, George Pullman also created his own town outside of Chicago to house employees at a cost of eight million dollars. In 1880, Pullman purchased 500 acres of land and on 300 of the acres built the Pullman Palace Car plant and created a complete town. But this was not a philanthropic endeavor. The housing was not a free perk because the employees paid rent to live there. Significantly, the rent was 20 to 25% higher than surrounding housing and thus many workers could not afford to live there. However, the company made all repairs and did not charge tenants for these repairs.

The housing consisted of very quality construction. While the size and rental costs of houses varied, they were all "clean and livable" and all had:

[G]as, water, and excellent sewage facilities and designed so as to have an abundance of fresh air and sunlight A typical cottage consisted of a two-story structure of five rooms furnished with a sink, water tap, toilet facilities, and ample closet space and pantry space The company sodded the front lawn, inclosed the backyard with a high fence, and . . . toward the rear . . . built a coal and wood shed. . . . Neat and attractive were the Pullman homes, giving the model town the appearance of a snug village inhabited by a contented people.⁴

Most Perfect Town in the World

The town's attractiveness was enhanced with parks and playgrounds. But the town was not just pleasing in appearance. Its sewage and sanitation system was so well planned and constructed that Pullman town was one of the most disease-free areas in the world:

Health conditions were so excellent in Pullman that few communities could boast of a smaller death rate or show a better record in the matter of epidemics. Although the town was highly industrialized, the average death rate from 1881 to 1895 ranged from 7 to 15 per thousand, as contrasted with a much higher rate for American cities, which in 1894 averaged 22.5 per thousand. A report to the state of Illinois in 1885 disclosed that in the history of the town there had been no cases of cholera, no yellow fever or typhoid, only two cases of smallpox, and a few of diphtheria and scarlatina."⁵

³ ALMONT LINDSEY, *THE PULLMAN STRIKE: THE STORY OF A UNIQUE EXPERIMENT AND OF A GREAT LABOR UPHEAVAL* 23 (1st ed. 1942) [hereinafter LINDSEY, *THE PULLMAN STRIKE*].

⁴ *Id.* at 47.

⁵ *Id.* at 49.

Pullman's town was so successful at achieving hygiene and health benefits that in 1896 the town was unanimously chosen as the most perfect in the world by a jury of the International Hygienic and Pharmaceutical Exposition which met in Prague, Bohemia.⁶

Pullman's town was not only physically healthier but also morally cleansed: "Every precaution was taken to eliminate all debasing influences. Saloons and brothels were strictly prohibited. The small bar permitted at the Florence Hotel was for guests only, and, by charging exorbitant prices, it effectively excluded all laborers."⁷

Despite these precautions, beer wagons from Hyde Park made frequent deliveries to the town and neighboring towns had saloons so the laborers had access to alcohol. Even so, there appears to have been little public drunkenness.

In Pullman's town every child "was assured of an eighth-grade education, the only condition for admission being vaccination for smallpox."⁸ There was a free kindergarten for children between four and six years old and later high school studies were implemented when demand rose. Pullman also built an impressive library. The library charged three dollars per year but only about 250 residents out of about 4,000 to 5,000 employees and residents paid the fee.

The company provided a doctor and a surgeon to treat injured employees. However, an injured employee was expected to provide the doctor with a written statement about the cause of the injury and the doctor also urged the employee to accept any settlement that was offered. If a lawsuit was filed, the doctor usually testified for the company. After the strike, the United States Strike Commission was set up to investigate the causes of the strike and what occurred during the strike, and to make a report. The Strike Commission stated that there was no evidence that the doctor ever "abused his confidential relation toward the injured employees; but the system is admirably conceived from a business standpoint to secure speedy settlement of claims for damages upon terms offered by the company and to protect the company from litigation and its results."⁹

Pullman town was a complete town in many respects. It had the Arcade Theatre for entertainment, a Pullman Military Band, an annual employee picnic and by 1893 "at least forty lodges, clubs and other social organizations."¹⁰ It had very good athletic fields and a Pullman Athletic Association. It had a church, but it was supposed to accommodate all religions and Pullman did not allow other churches to be built.

The town drew world-wide interest and attracted thousands of visitors during the World's Fair Columbian Exposition in Chicago in 1893.

⁶ *Id.* at 48.

⁷ *Id.* at 49.

⁸ *Id.* at 50.

⁹ REPORT ON THE CHICAGO STRIKE OF JUNE-JULY, 1894 BY THE UNITED STATES STRIKE COMMISSION XXII (1895) [hereinafter REPORT ON THE CHICAGO STRIKE].

¹⁰ LINDSEY, THE PULLMAN STRIKE, *supra* note 3, at 56.

Discontent in the Town of Pullman

Undeniably, the town of Pullman had many positive attributes but there was also a great deal of tension under the surface. While the town provided Pullman's employees with many benefits, it was run on market-based economic principles and the Pullman company "aim[ed] to secure 6 per cent upon the cost of its tenements."¹¹ This meant that the cost of renting housing in Pullman town was very expensive:

Excluding sanitary and aesthetic features, Pullman rents averaged 20-25 per cent higher than rents in Chicago or surrounding communities. Rentals for the eighteen hundred dwellings of Pullman ranged from \$4.00 monthly for a two-room tenement in a second-story flat to \$77.25 per month for the most exclusive house. The majority of tenements averaged in rent \$10.00 per month.¹²

Pullman's expected rate of return was never realized and for several years the return was 4.5%, while it was down to 3.82% during 1892 and 1893.

In addition to the very expensive rent, there was a pervasive sense that the employees were living under a very paternalistic overseer:

Paternalism—the very basis of the Pullman experiment—was a source of constant annoyance to the inhabitants. The lack of freedom, the persistent surveillance of the Pullman officials, and the numerous restrictions imposed upon the tenants served to develop a feeling of antagonism toward the Pullman Company. The absence of democracy in almost every phase of the experiment could not have been welcomed by the Pullman employees . . . there had developed among the Pullman inhabitants by 1894 a feeling that the town was anachronistic and represented some form of medieval barony.¹³

A widely repeated quote from a Pullman employee was: "We are born in a Pullman house, fed from the Pullman shops, taught in the Pullman school, catechized in the Pullman Church, and when we die we shall go to the Pullman Hell."

There were several major causes of the discontent in the town of Pullman. One was the company's refusal to allow the tenants to own property. Another was the cost to rent a dwelling in the model town.

Of course, the sanitary and aesthetic qualities of the town lost much of their importance when wages were reduced so low or were entirely lost.

Panic of 1893

¹¹ REPORT ON THE CHICAGO STRIKE, *supra* note 9, at XXXV.

¹² LINDSEY, THE PULLMAN STRIKE, *supra* note 3, at 68.

¹³ *Id.* at 90.

As with many important labor struggles, a severe economic downturn was a key factor in turning a difficult situation into an impossible one and leading workers to go on strike. The Panic of 1893 was a serious economic depression in the United States that in some respects resembled the Great Depression. The economic panic greatly affected many businesses, including the Pullman Palace Car Company. By the fall of 1893, Pullman closed his Detroit operation that employed about 800 workers. The railroads had a surplus of Pullman cars because the economic problems greatly reduced the number of riders and so pending orders for new cars dropped sharply. Eventually the Pullman Company reduced its workforce of 5,500 down to just 1,100 employees.

The Strike Commission found that “[p]rior to June, 1893, all went well and as designed; the corporation was very prosperous, paid ample and satisfactory wages, as a rule, and charged rents which caused no complaint.”¹⁴

Evidence presented to the Strike Commission by the Pullman Loan and Savings Bank showed that “prior to July 1, 1893, the wages paid enabled prudent employees to lay by considerable savings. Upon these the bank has paid, uniformly and without any recent reduction, 4 per cent per annum.”¹⁵ The bank also showed that out of 2,425 employee accounts, the average amount of deposit in July 1893 was \$240. In August 1894 there were 1,212 employee accounts with an average amount of \$250. This is equal to about \$6,000 in 2009.

Palace Car Company and Pullman Town are Totally Separate Businesses

Pullman viewed his town and his Palace Car Company as two totally separate enterprises, each set up to make a profit. The economic downturn forced stringent measures at the car company because of the lack of demand for Pullman cars. The company cut wages an average of about 25% and laid off many employees. But Pullman refused to see that there needed to be a corresponding reduction in rent. Later the Strike Commission found:

The company had a legal right to take this position, but as between man and man the demand for some rent reduction was fair and reasonable under all the circumstances. Some slight concession in this regard would probably have averted the strike, provided the promise not to discharge men who served upon the committee had been more strictly regarded.¹⁶

While Pullman’s employees were free to live anywhere they wanted, there was a strong factor that compelled some to pay the much higher rent charged in Pullman’s town:

The company’s claim that the workmen need not hire its tenements and can live elsewhere if they choose is not entirely tenable. The fear of losing work keeps them in Pullman as long as there are tenements unoccupied, because the company is supposed, as a matter of business, to give a preference to its tenants when work

¹⁴ REPORT ON THE CHICAGO STRIKE, *supra* note 9, at XXII.

¹⁵ *Id.*

¹⁶ *Id.* at XXXVII-XXXVIII.

is slack. The employees, believing that a tenant at Pullman has this advantage, naturally feel some compulsion to rent at Pullman, and thus to stand well with management.¹⁷

Understandably, this feeling was stronger with less skilled employees. More skilled and thus higher-paid employees felt freer to rent housing outside of Pullman.

Significantly, despite the bad reputation Pullman acquired because of the strike, when the strike was over, there was about \$70,000 of unpaid rent and “[i]t is fair to say that this accumulation of unpaid rent was due to leniency on the part of the company toward those who could not pay the rent and support their families. Neither have any actual evictions taken place.”¹⁸

But the commission also stated: “The aesthetic features are admired by visitors, but have little money value to employees, especially when they lack bread.”¹⁹

General Managers’ Association

The General Managers’ Association (GMA) was formed in 1886 as a voluntary, unincorporated association representing the Pullman Company and 24 railroads with terminals entering or terminating in Chicago. The association served several functions, including standardizing local switching, loading and weighing cars, and proposing rates. In 1892 it created a pay scale for railroad switchmen in Chicago and proposed a comprehensive wage scale for the railroad companies to use throughout their operations.

The GMA represented some of the largest railroad companies in the country and together constituted a very significant part of the railroad industry in the United States. These railroads had a combined capitalization of over \$818 million, more than 52,000 stockholders, over 40,000 miles of track, and more than 221,000 employees.²⁰ According to Carroll D. Wright, the United States Commissioner of Labor during the strike, the railroads under the GMA employed more than one-fourth of all the railroad workers in the United States.²¹ In the year ending in June of 1894, the railroads of the GMA had net earnings of \$102,710,917.

American Railway Union (ARU)

The American Railway Union (ARU), with about 150,000 railroad employees as members, was organized in Chicago on June 20, 1893. Eugene Debs was the founder and leader of the American Railway Union, which was the largest union of its time, and one of the first industrial unions in the United States. The ARU, in contrast to other trade

¹⁷ REPORT ON THE CHICAGO STRIKE, *supra* note 9, at XXXV.

¹⁸ *Id.* at XXXVI.

¹⁹ *Id.* at XXXV.

²⁰ *Id.* at XXVIII.

²¹ Carroll D. Wright, *The Chicago Strike* (Paper read at the Seventh Annual Meeting of the American Economic Association, December 27, 1894).

unions, sought to unionize all railway workers instead of limiting members to a particular craft or service. The Strike Commission Report described the goal of the ARU:

The theory underlying this movement is that the organization of different classes of railroad employees (to the number of about 140,000) upon the trade-union idea has ceased to be useful or adequate; that pride of organization, petty jealousies, and the conflict of views into which men are trained in separate organizations under different leaders, tend to defeat the common object of all, and enable railroads to use such organizations against each other in contentions over wages etc.; that the rapid concentration of railroad capital and management demands a like union of their employees for the purpose of mutual protection; that the interests of each of the 850,000 and over railroad employees of the United States as to wages, treatment, hours of labor, legislation, insurance, mutual aid, etc., are common to all, and hence all ought to belong to one organization that shall assert its united strength in the protection of the rights of every member.²²

American Railway Union - Only Open to White People

Eugene Debs is idolized as a social reformer and a leader for social justice. But nearly all accounts about him ignore or deliberately fail to mention the fact that the ARU was a racist organization. The American Railway Union was organized “for the purpose of including railway employees born of white parents in one great brotherhood.”²³

The ARU consisted of a general union and local unions. The general union was formed by representatives of the local unions and the local unions elected a board of nine directors. The board had the power to issue orders and adopt measures as needed. Any “ten white persons” employed in railway service, except superintendents, . . . can organize a local union.²⁴

Victory Against Great Northern Railroad

Within a year after its formation, the ARU won a significant victory. In the spring of 1894 the ARU threatened the Great Northern Railroad with a strike because the company had cut wages three times within a year. The ARU warned Great Northern that if it did not restore the wages, its workers would go out on strike. Great Northern ignored the threat and its employees went on strike, leaving the trains idle for 18 days. Great Northern then gave in to nearly all of the workers’ demands to get them back on the job. This victory would embolden the ARU. But it also gave the ARU an exaggerated belief in its strength that would work to its detriment later in 1894.

Pullman Employees Join the American Railway Union

²² REPORT ON THE CHICAGO STRIKE, *supra* note 9, at XXIII.

²³ *Id.*

²⁴ *Id.* at XXIII-XXIV.

The employees of the Pullman Palace Car Company became increasingly dissatisfied with working for Pullman and living in the town of Pullman. This led the employees to take an important step: “In March, 1894, the employees of Pullman’s Palace Car Company, being dissatisfied with their wages, rents, and shop treatment for the first time in the history of the town, sought organization, and joined the American Railway Union in large numbers.”²⁵

In early May a committee of 46 Pullman employees from all departments urged management to restore the wages paid in June of 1893. The company flatly rejected this demand because of business conditions. The company also insisted that the price of rent in the town of Pullman was a totally separate issue and had nothing to do with wages.

One day after this meeting, three employees on this ad hoc committee were laid off. The company later denied this was done by higher management and said it was the independent act of a foreman. But this was not explained to the employees at the time. The employees naturally saw the layoffs as retaliation by Pullman management.

Strike Against Pullman

On the evening of May 10, the local unions met and voted to immediately go on strike against the Pullman Company. The strike began on May 11. When the strike started, the Pullman Company immediately laid off the 600 employees who did not go on strike. It kept its shops closed until August 2.

From May 11 until July 4, when soldiers were brought in, about 300 striking workers stayed around the Pullman Company property. The union claimed this was to protect the company. The company claimed it was to intimidate strike breakers or non-union replacements. But no violence took place at Pullman. The Strike Commission found:

Such dignified, manly, and conservative conduct in the midst of excitement and threatened starvation is worthy of the highest type of American citizenship, and with like prudence in all other directions will result in due time in the lawful and orderly redress of labor wrongs. To deny this is to forswear patriotism and to declare this Government and its people a failure.²⁶

The Chicago Civic Federation was a civic reform group concerned about social problems and government waste and ineffectiveness. The Chicago Civic Federation twice urged the company and the union to negotiate and submit the issues to arbitration. But the company refused to arbitrate. The company also informed the Civic Federation that wages and rents in the town of Pullman were totally separate issues and reiterated this position to a committee of employees. On June 15 and again on June 22, the company refused to accept any communications from the American Railway Union. Arbitration requests came in from others such as Mayor Pingree of Detroit, who claimed to have telegrams

²⁵ *Id.* at XXV.

²⁶ *Id.* at XXXVIII.

from the mayors of over 50 cities urging the two sides to enter into arbitration. But the company refused to arbitrate the issues.

Boycott

The American Railway Union met at its regular convention in Chicago from June 9 to June 26. This convention represented about 465 local unions and 150,000 union members. The Pullman strike was a central focus of discussion. A boycott of Pullman cars was proposed but the delegates decided to exhaust less drastic means first. On June 15, a committee of delegates tried to discuss the matter with Thomas H. Wickes, the second vice president of the Pullman Car Company, but he refused to deal with the ARU. He also refused any arbitration. On June 21 the delegates voted unanimously that its members should stop handling Pullman cars beginning June 26 unless the Pullman Company agreed to arbitration. Debs and some others urged caution.

General Managers' Association Resolves

On June 22 at a meeting between the GMA and an officer of the Pullman Company the GMA resolved:

That we hereby declare it to be the lawful right and duty of said railway companies to protest against said proposed boycott; to resist the same in the interest of their existing contracts, and for the benefit of the traveling public, and that we will act unitedly to that end.²⁷

From June 22 until “the practical end of the strike the General Managers’ Association directed and controlled the contest on the part of the railroads, using the combined resources of all the roads to support the contentions and insure the protection of each.”²⁸

The GMA decided that railroad employees who were willing to perform their work, except for handling Pullman cars, would be discharged.

Boycott Ordered

Despite Debs’ reservations about a boycott, he ordered the following: “‘June 26, 1894, 1:30 p.m. Boycott against Pullman cars in effect at noon to-day. By order of convention. E. V. Debs[.]’” Later the same day the ARU sent the following telegram to the general officers of labor organizations throughout the country:

“A boycott against the Pullman Company, to take effect at noon to-day, has been declared by the American Railway Union. We earnestly request your aid and co-operation in the fight of organized labor against a powerful and oppressive monopoly. Please advise if you can meet with us in conference, and, if not, if you

²⁷ *Id.* at XLII.

²⁸ *Id.*

will authorize some one to represent you in this matter. Address 421 Ashland Block.

Eugene V. Debs, President.”

A critical factor in the boycott would be the actions of the switchmen who had joined the ARU in very large numbers. During the convention Debs had predicted how a boycott would turn out:

[L]oyal switchmen would refuse both to add Pullman cars to trains and to remove them. They would simply not handle them. The railroads would then dismiss the switchmen and try to replace them, which would lead fellow union members to walk out in solidarity with the switchmen. This would bring still more trains to a halt.²⁹

Debs’ predictions were remarkably accurate. The day after the deadline given to the Pullman Company, 5,000 men walked off the job leaving 15 railroads tied up. Just one day later, 40,000 walked off leaving nearly every rail line west of Chicago affected. By the end of June, there were nearly 150,000 men involved in the boycott and 19 or 20 railroad companies were greatly affected.

By 1894, Chicago was likely the most important railroad center in the country. Within two days, the problems between the Pullman Company and its employees and the ARU reverberated out to other parts of the United States.

General Managers’ Association Works to Break Strike

The General Managers’ Association took several actions to break the strike. They began recruiting workers from large cities in the East including New York, Baltimore and Pittsburg to fill the positions of the striking workers. Some of the men hired from New York saw this as payback because they believed that many of the striking workers had taken their jobs during an earlier strike.³⁰ The GMA was able to recruit hundreds of men per day and nearly 2,500 strikebreakers had been sent to Chicago before the dispute ended. After the strike began, anyone wanting to come back to work for Pullman had to first withdraw from the ARU.

Mail Trains

In its efforts to break the strike, the GMA also sought to antagonize the public against the strikers. The railroads attached Pullman cars to freight trains, suburban carriers and most importantly to mail trains, knowing that the workers would not move trains with Pullman

²⁹ DAVID RAY PAPKE, *THE PULLMAN CASE: THE CLASH OF LABOR AND CAPITAL IN INDUSTRIAL AMERICA* 26 (1999) [hereinafter *THE PULLMAN CASE*].

³⁰ *Id.* at 28.

cars attached. The railroads also disrupted their train schedules in an intentional move to anger the public and make the strikers look bad.³¹

George W. Howard, the Vice President of the ARU, was asked by Commissioner Wright when testifying before the Commission, “Did the action extend to mail trains that Pullman cars attached?” Howard answered:

Yes, sir; we refused to handle the Pullman cars. The switchmen would not put them on to the trains; the engineers would not pull them; the firemen would not fire a train that had a Pullman car on it, even though it were a mail train. They said they would go with the mail train at any time if they would leave the Pullman cars off, and insisted on it, too, but they would not have it that way.³²

At first the strike and boycott were free from violence, but this changed as things progressed:

With Debs trying desperately to direct 150,000 American Railway Union members, other unions joining the cause, and wildcat strikes breaking out against individual lines, it would have been impossible to prevent violence. With the General Managers’ Association sending out spies, hiring strikebreakers, and rerouting their trains to irritate the public, severe social disorder was certain.³³

Debs found that circumstances were getting out of his control and “he seemed stunned by the anger the boycott had flushed out.”³⁴ Debs sent numerous telegrams to local union lodges reiterating that there should be no violence and that the boycott was only aimed at Pullman cars and not against all railroads. The Knights of Labor offered to call a general strike in Chicago, which Debs declined.

Richard Olney

President Grover Cleveland appointed Richard Olney to be Attorney General in 1893. Prior to 1893, Olney had worked as a director or legal counsel to several railroads, including some of those that were part of the GMA. While Olney earned an annual salary of \$8,000 as Attorney General, he was still being paid more than \$10,000 as a legal advisor to the Chicago, Burlington, and Quincy railroads. This created a clear conflict of interest when the Pullman strike began. Before he accepted the position of Attorney General, Olney asked for and was given assurances that he could continue as legal advisor to these railroads. The close working relationship between Olney, government personnel who reported to him, federal judges and the General Managers’ Association would be severely criticized both during and after the Pullman strike.

³¹ *Id.* at 28.

³² REPORT ON THE CHICAGO STRIKE, *supra* note 9, at 19.

³³ THE PULLMAN CASE, *supra* note 29, at 29.

³⁴ *Id.* at 27.

Attorney General Olney's first important step to end the strike was to appoint Edwin A. Walker a special U.S. attorney to act as a strike adviser to Thomas E. Milchrist, the U.S. District Attorney for the Northern District of Illinois. But the appointment of Walker compounded the conflict of interest that already existed because Walker was also the general counsel for the Chicago, Milwaukee and St. Paul Railroad. More importantly, Walker had just recently been appointed legal counsel for the General Managers' Association. Despite what would appear to be a clear ethical responsibility to resign from his railroad and GMA duties, Walker continued to serve in both capacities while also working as a special U.S. attorney. During the strike, Walker regularly met with GMA representatives to discuss and plan legal actions against the ARU and the strikers. Government lawyers consulted with and got advice from George Peck, chair of the GMA's legal committee, and these government lawyers filed motions and requested rulings favorable to the GMA.

Darrow Saw Clear Conflict of Interest

Darrow wrote in his autobiography that "Mr. Walker was a clever and very astute lawyer."³⁵ But Darrow was critical of Walker's multiple roles in the Debs case:

The injunction cases were commenced by the United States Government. Mr. Edwin Walker was regularly appointed special attorney for the government in the prosecution of these cases. So, in this matter, Mr. Walker was general counsel for the Chicago, Milwaukee and St. Paul Railway Company, for the General Managers' Association, and a special attorney for the United States. I did not regard this as fair. The government might with as good grace have appointed the attorney for the American Railway Union to represent the United States.³⁶

At one point during the conflict, Clarence Darrow obtained and released records of meetings of the GMA which showed the obvious conflicts of interest between the GMA and government officials. This material showed that the GMA wanted to go beyond dealing with the boycott and wanted to destroy the American Railway Union.

Interestingly, Walker's actions did not violate any rules of professional conflict at that time, although most legal experts would conclude it should have been considered unethical.³⁷

Federal Writ of Injunction

Olney needed a legal hook to invoke federal intervention and he found it with the need to prevent interference with delivery of the mail and interstate commerce. On June 28,

³⁵ CLARENCE DARROW, *THE STORY OF MY LIFE* 61 (Charles Scribner's Sons 1932) [hereinafter *STORY OF MY LIFE*].

³⁶ *Id.*

³⁷ Daniel Novak, "The Pullman Strike Cases: Debs, Darrow, and the Labor Injunction" in *AMERICAN POLITICAL TRIALS* 125 (Michal R. Belknap ed., 2d ed. 1994) [hereinafter *The Pullman Strike Cases*].

Olney instructed Walker and the U.S. attorney in Chicago, Thomas Milchrist, to seek a federal writ of injunction against the ARU based on violations of the Interstate Commerce Clause, the Sherman Anti-Trust Act and common law. Federal government intervention was needed so that “passage of regular train carrying U.S. mails in the usual and ordinary way” would not be obstructed.

On July 2, Judge William A. Woods of the U.S. Circuit Court of Appeals for the Seventh Circuit and Judge Peter L. Grosscup of the U.S. District Court of the Northern District of Illinois issued the injunction requested by Olney. Judge Grosscup later served as the part-time dean of Northwestern University School of Law from 1898 to 1901 and on the U.S. Circuit Court of Appeals for the Seventh Circuit.. The writ of injunction would soon become notorious because of its extraordinary breadth. The injunction directed:

[W]hereby the defendants, and all persons combining and conspiring with them, and all persons whosoever, were commanded and enjoined “to desist and refrain”-

(1) From in any way or manner interfering with, hindering, obstructing, or stopping any of the business of any of the following named railroads: Atchison, Topeka & Santa Fe Railroad; Baltimore & Ohio Railroad; Chicago & Alton Railroad; Chicago & Eastern Illinois Railroad; Chicago & Erie Railroad; Chicago & Grand Trunk Railway; Chicago & Northwestern Railway; Chicago & Western Indiana Railroad; Chicago, Burlington & Quincy Railroad; Chicago Great Western Railway; Chicago, Milwaukee & St. Paul Railway; Chicago, Rock Island & Pacific Railway; Cleveland, Cincinnati, Chicago & St. Louis Railway; Illinois Central Railroad; Lake Shore & Michigan Southern Railway; Louisville, New Albany & Chicago Railway; Michigan Central Railroad; New York, Chicago & St. Louis Railroad; Pennsylvania Company; Wisconsin Central lines; Wabash Railroad; Union Stock-Yard & Transit Company,- as common carriers of passengers and freight between or among any states of the United States;

(2) “From in any way 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;

(3) From in any manner interfering with, hindering, or stopping any trains carrying the mail, and from in any manner interfering with, hindering, obstructing, or stopping any engines, cars, or rolling stock of any of said companies engaged in interstate commerce, or in connection with the carriage of passengers or freight between or among the states;

(4) From in any manner interfering with, injuring, or destroying any of the property of any of said railroads engaged in or for the purpose of, or in connection with, interstate commerce, or the carriage of the mails of the United States, or the transportation of passengers or freight between or among the states;

(5) From entering upon 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, or in the transportation of passengers or freight between or among the states, or for the purpose of interfering with, injuring, or destroying any of said property so engaged in or used in connection with interstate commerce, or the transportation of passengers or property between or among the states;

(6) From injuring or destroying any part of the tracks, roadbed, or road, or permanent structures of said railroads, and from injuring, destroying, or in any way interfering with any of the signals or switches of any of said railroads, and from displacing or extinguishing any of the signals of any of said railroads, and from spiking, locking, or in any manner fastening any of the switches of any of said railroads, and from uncoupling or in any way hampering or obstructing the control by any of said railroads of any of the cars, engines, or parts of trains of any of said railroads engaged in interstate commerce, or in the transportation of passengers or freight between or among the states, or engaged in carrying any of the mails of the United States;

(7) From compelling or inducing, 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, or the transportation of passengers or property between or among the states;

(8) From compelling or inducing, or attempting to compel or induce, by threats, intimidation, force, or violence, any of the employees of any of said railroads who are employed by such railroad and engaged in its service in the conduct of interstate business, or in the operation of any of its trains carrying the mail of the United States, or doing interstate business, or the transportation of passengers and freight between and among the states, to leave the service of such railroads;

(9) From preventing any persons whatever, by threats, intimidation, force, or violence, from entering the service of any of said railroads, and doing the work thereof, in the carrying of the mails of the United States, or the transportation of passengers and freight between or among the states;

(10) From doing any act whatever in furtherance of any conspiracy or combination to restrain either of said railroad companies or receivers in the free and unhindered control and handling of interstate commerce over the lines of said railroads, and of transportation of persons and freight between and among the states; and

(11) From ordering, directing, aiding, assisting, or abetting, in any manner whatever, any person or persons to commit any or either of the acts aforesaid.”³⁸

“Gatling Gun on Paper”

The injunction was so broad that the *New York Times* reported “[t]he General Managers profess to believe that the extraordinary injunction issued today by Judges Woods and Grosscup will prove to be worthy of the terse yet epigrammatical designation given it by the members of the Federal judiciary first named, ‘A Gatling gun on paper.’”³⁹ The injunction prohibited so much activity that if the ARU complied, it would no longer be able function as a union.

The injunction was served on the ARU and several of its leaders over the course of June 3 - 4. Debs was served on June 4 “about twenty minutes before eight a.m. before he had risen from his bed.”⁴⁰ In addition to personal service, the injunction or a synopsis of it was published in several Chicago newspapers.

Labor Injunctions

The legal underpinning for labor injunctions actually begins with the 1868 English case of *Springhead Spinning Co. v. Riley*.⁴¹ In *Springhead*, two officers of the Cotton Spinners union were accused of injuring an employer's property by publishing and posting placards around the neighborhood appealing to potential striker replacements. The placards stated: “Wanted all well-wishers to the Operative Cotton Spinners, &c. Association not to trouble or cause any annoyance to the Springhead Spinning Company, Lees, by knocking at the door of their office until the dispute between them and the self-actor minders is finally terminated. By special order.”⁴²

The defendants also published similar notices in the *Manchester Guardian* and other newspapers. The plaintiff sought an injunction to restrain the issuing of the placards and advertisements, alleging that the defendants had intimidated workmen and prevented them from agreeing to work for the plaintiffs, which detrimentally impacted the plaintiff's business and materially diminished the value of its property. A vice-chancellor granted an interim injunction and this was appealed. On appeal the court stated, “The relief sought by this bill is of an entirely novel character, and there is no case in which such an injunction has ever been granted.” But the court held that the alleged acts of the defendants amounted to a crime, and that the Court would interfere by injunction to restrain such acts, inasmuch as they also tended to the destruction or deterioration of property.

³⁸ United States v. Debs, 64 F. 724, 726-27 (C.C.N.D. Ill. 1894).

³⁹ *Cars Must Not Be Stopped*, N.Y. TIMES, July 3, 1894, at 1.

⁴⁰ Proceedings on Information for Attachment for Contempt at 3, United States v. Debs, 64 F. 724 (C.C.N.D. Ill. 1894).

⁴¹ *Springhead Spinning Co. v. Riley*, (1868) L.R. 6 Eq. 551 (L.R.Ch.).

⁴² *Id.* at 552.

One of the judges explained the Court’s jurisdiction was “to protect property, and it will interfere by injunction to stay any proceedings, whether connected with crime or not, which go to the immediate, or tend to the ultimate, destruction of property, or to make it less valuable or comfortable for use or occupation.”

Labor Injunctions in the United States

Although the labor injunction started in England, it was American courts and not English courts that took the *Springhead* ruling and extended it. The 1888 case of *Sherry v. Perkins*⁴³ decided by the Supreme Judicial Court of Massachusetts, the highest court in the state, has been identified as “a leading case on the subject”⁴⁴ and the case involving “the first American labor injunction.”⁴⁵ The *Sherry* court stated: “The case of *Spinning Co. v. Riley* . . . is almost precisely parallel to the present case, except that in the present case the placards are paraded in a manner which makes them more distinctly a nuisance than if they were merely posted up.”⁴⁶

Some of the judges in *Sherry* disagreed about the precedential value of *Springhead Spinning*, with one judge stating it was “not a precedent that establishe[d] the injunctive jurisdiction” and that it had been “expressly overruled,”⁴⁷ while another judge found that “[s]ome of the language in *Spinning Co. v. Riley* ha[d] been criticized, but the decision ha[d] not been overruled.”⁴⁸

The prosecution would later cite *Sherry v. Perkins* when Debs and other ARU leaders were facing contempt charges for violating the injunction.

Federal Military Intervention

The strike up to now had been relatively peaceful and none of the local authorities in Chicago or the state authorities in Illinois had requested federal intervention. Neither Attorney General Olney nor the GMA called on local authorities or the Illinois state militia to break the strike because they wanted strong federal involvement. Olney wanted federal military intervention to end the strike and also to help break the American Railway Union. Several in President Cleveland’s cabinet were against sending federal troops because it would create an embarrassing situation for Chicago Mayor Hopkins and Illinois Governor Altgeld, both of whom were Democrats. But there was also a degree of distrust of Governor Altgeld and Mayor Hopkins, who were seen as far too sympathetic to Debs, the American Railway Union and the Pullman workers. Altgeld was also suspect because just a year before, on June 26, 1893, he had pardoned the remaining Haymarket anarchists, an act from which his political career never recovered.

⁴³ *Sherry v. Perkins*, 17 N.E. 307 (Mass. 1888).

⁴⁴ *Government by Injunction*, supra note 1, at 348.

⁴⁵ Michael H. LeRoy & John H. Johnson IV, *Death by Lethal Injunction: National Emergency Strikes Under the Taft-Hartley Act and the Moribund Right to Strike*, 43 ARIZ. L. REV. 63, 78 (2001).

⁴⁶ *Sherry*, 17 N.E. at 308.

⁴⁷ *Id.* at 309.

⁴⁸ *Id.* at 310.

Legal Basis for Federal Military Intervention

Under the United States Constitution, the federal government can be requested to intervene militarily to protect one of the states under Article IV, Section 4, which provides: “The United States shall guarantee to every state in this Union a republican form of government, and shall protect each of them against invasion; and on application of the legislature, or of the executive (when the legislature can not be convened), against domestic violence.” But neither of these two situations applied in Illinois during the strike because the legislature was not in session and Governor Altgeld did not want federal military help.

Olney was eventually able to convince President Cleveland to send military troops under Sections 5298 and 5299 of the Revised Statutes of the United States. Section 5298 provides:

Whenever, by reason of unlawful obstructions, combinations, or assemblages of persons, or rebellion against the authority of the Government of the United States, it shall become impracticable, in the judgment of the President, to enforce, by the ordinary course of judicial proceedings, the laws of the United States within any State or Territory, it shall be lawful for the President to call forth the militia of an or all the States, and to employ such parts of the land and naval forces of the United States as he may deem necessary to enforce the faithful execution of the laws of the United States, or to suppress such rebellion, in whatever State or Territory thereof the laws of the United States may be forcibly opposed, or the execution thereof forcibly obstructed.

On July 3, Olney instructed Edwin Walker to send a request for troops that had been signed jointly by Judge Grosscup and U.S. Attorney Milchrist. Olney then used this request to convince President Cleveland to send federal troops. Later on July 3, President Cleveland ordered the federal troops stationed at Fort Sheridan, just outside of Chicago, to move into Chicago. Cleveland reportedly declared, “If it takes the entire army and navy of the United States to deliver a post card in Chicago, that card will be delivered.” Governor Altgeld was not advised of this serious escalation and was justifiably outraged.

Governor Altgeld Strongly Protests Use of Federal Troops

On July 5, Governor Altgeld sent a telegram to President Cleveland strongly protesting the use of federal military troops. He stated that the President had been misled because there was no need for federal troops. He assured the President that Illinois state troops were more than adequate for the task. He explained that he had not ordered troops out because they had not been requested. He assured the President that if local officials called for help, the state of Illinois “stood ready to furnish 100 men for every man required, and stood ready to do so at a moment’s notice.” He denounced those who had misinformed the President and said “the Federal Government has been applied to by men who had political and selfish motives for wanting to ignore the State government.” Altgeld also asserted that while some railroads were paralyzed, it was not due to violence but because

those railroads did not have enough workers to run the trains. Altgeld dismissed the accounts of violence as being caused by a “very small percent” of men and said the newspapers had engaged in “pure fabrications” and “wild exaggeration.”

Governor Altgeld concluded:

As governor of the State of Illinois, I protest against this, and ask the immediate withdrawal of the Federal troops from active duty in this State. Should the situation at any time get so serious that we cannot control it with the State forces, we will promptly and freely ask for Federal assistance, but until such time I protest with all due deference against this uncalled for reflection upon our people, and again ask [for] the immediate withdrawal of these troops.

President Cleveland responded the same day:

Federal troops were sent to Chicago in strict accordance with the Constitution and laws of the United States, upon the demand of the Post Office Department that obstruction of the mails should be removed, and upon the representations of the judicial officers of the United States that the process of the Federal Courts could not be executed through the ordinary means, and upon competent proof that conspiracies existed against the commerce between the States. To meet these conditions, which are clearly within the province of Federal authority, the presence of Federal troops in the city of Chicago was deemed not only proper, but necessary, and there has been no intention of thereby interfering with the plain duty of the local authorities to preserve the peace of the city.

Presence of Troops Triggers Violence

The federal troops set up camp near Pullman’s factory and the commander, General Nelson A. Miles, made his headquarters in the Pullman building. This only fueled the perception that the federal troops were not a neutral force, but one that would take the side of Pullman and the railroad companies against the strikers and their supporters.

The military commanders made a tactical mistake when instead of keeping the military units intact, they split them up into small detachments that dispersed and attached themselves to local law enforcement. This lessened their ability to intimidate and it enraged the strikers and their supporters, who saw the federal troops as simply protecting Pullman and his property.

Worst Day of Rioting

Instead of dissipating the relatively low level of violence that had occurred, the presence of federal troops triggered violence. On July 5, a mob burned six large buildings on the site of Chicago’s World Columbian Exposition in Jackson Park. The confrontations escalated on July 6, when an agent of the Illinois Central Railroad shot two rioters. This prompted a mob of about 6,000 to go on a rampage during which it burned nearly 7,000

railroad cards in the 50th Street Panhandle Yards, and in the process caused an estimated \$340,000 in damages. Damage estimates for previous days averaged about \$4,000.⁴⁹ This was the worst day of rioting in terms of property damage. It would not be the worst day in terms of harm to human life. The situation was clearly out of control:

It was now obvious to all, especially to Debs and other union leaders, that what had started as an orderly and relatively peaceful attempt by the union to aid the Pullman strikers had now become a wild, uncontrolled spree involving thousands of strikers and Chicago's unemployed, a spree that even federal troops were finding difficult to quell.⁵⁰

Deadliest Day

When it appeared that the federal troops were unable to assert the necessary control, Chicago Mayor Hopkins requested Governor Altgeld send in state troops. On July 6, Altgeld ordered 4,000 troops from the Illinois National Guard into Chicago. But Mayor Hopkins made the same mistake as was made with federal troops and he had the Illinois troops break up into small units to try and clear the tracks and protect railroad property. But this was counterproductive:

[It] encouraged confrontations between militiamen and the mob with tragic results. On the afternoon of 7 July, while furnishing protection to a utility train on the Grand Trunk line at 49th and Loomis streets, Company H of the 2d Regiment of the Illinois National Guard became involved in the bloodiest encounter of the strike. As the train stopped to raise an overturned car, the crowd cursed and threw stones at escorting guardsmen. The junior officer commanding the company ordered the mob to disperse and his men to load their rifles. The mob thinned out as many women and children left. Reduced to its most militant members, the mob grew more threatening and continued throwing rocks. The officer then ordered a bayonet charge that wounded several people. When the crowd retaliated by throwing more rocks, one struck the officer on the head. Fearing for the safety of his men and despairing of receiving reinforcements, he then ordered his command to fire at will and make every shot count. After firing 100 rounds in several volleys that killed or wounded a minimum of twenty people, the mob began to mill about in confusion until the Chicago police arrived, and using revolvers and clubs, made a series of charges that finally dispersed the crowd.⁵¹

Darrow followed the strike and violence closely and grew increasingly worried. Possibly on the night of July 6, when 7,000 railroad cars were set on fire, Darrow went to a railroad yard in Chicago and observed the destruction. He wrote in his autobiography: "One night I went to one of the railroad yards and saw many cars in flames. Crowds of

⁴⁹ CLAYTON DAVID LAURIE & RONALD H. COLE, *THE ROLE OF FEDERAL MILITARY FORCES IN DOMESTIC DISORDERS, 1877-1945*, 143 (1997).

⁵⁰ *Id.* at 143.

⁵¹ *Id.* at 144-45.

people were gathered around to see the destruction; most of them were boys and young men.”⁵²

Darrow was always deeply affected by violence and always tried to understand the underlying causes instead of assigning blame:

Industrial contests take on all the attitudes and psychology of war, and both parties do many things that they should never dream of doing in times of peace. Whatever may be said, the fact is that all strikes and all resistance to strikes take on the psychology of warfare, and all parties in interest must be judged from that standpoint. As I stood on the prairie watching the burning cars I had no feeling of enmity toward either side. I was only sad to realize how little pressure man could stand before he reverted to the primitive. This I have thought many times since that eventful night.⁵³

Proclamation

The use of federal troops under section 5298 must be preceded by a proclamation that is required under Section 5300, which provides: “Whenever in the judgment of the President it becomes necessary to use the military forces under this title the President shall forthwith, by proclamation, command the insurgents to disperse and retire peaceably to their respective abodes within a limited time.”

Federal troops had been dispatched to Chicago six days before Olney realized that a presidential proclamation, required by section 5300, had not been made. So belatedly, President Cleveland issued a proclamation on July 8:

Whereas, by reason of unlawful obstructions, combinations and assemblages of persons, it has become impracticable in the judgment of the President to enforce by the ordinary course of judicial proceedings, the laws of the United States within the State of Illinois and especially in the city of Chicago within the State . .

The proclamation went on to inform the public that to protect the United States mails the President had sent in military forces. The proclamation then warned those engaging in violence and blocking the mail:

Now, therefore, I, Grover Cleveland, President of the United States, do hereby admonish all good citizens and all persons who may be or may come within the city and State aforesaid, against aiding, countenancing, encouraging, or taking any part in such unlawful obstructions, combinations and assemblages; and I hereby warn all persons engaged in or in any way connected with such unlawful obstructions . . . to disperse and retire peaceably to their respective abodes on or before twelve o’clock noon on the ninth day of July instant. Those who disregard this warning and persist in taking part with a riotous mob in forcibly resisting and

⁵² STORY OF MY LIFE, *supra* note 35, at 59.

⁵³ *Id.* at 60.

obstructing the execution of the laws of the United States . . . can not be regarded otherwise than as public enemies.

The proclamation stated that the military troops would act with:

moderation and forbearance . . . but the stern necessities that confront them will not with certainty permit discrimination between guilty participants and those who are mingled with them from curiosity and without criminal intent. The only safe course therefore for those not actually unlawfully participating is to abide at their homes, or at least not to be found in the neighborhood of riotous assemblages.

President Cleveland issued another proclamation the following day. This proclamation carried the same justifications and warnings but was meant for areas outside of Illinois that had experienced violence and obstruction of the mail, specifically “at certain points and places within the States of North Dakota, Montana, Idaho, Washington, Wyoming, Colorado, and California and the Territories of Utah and New Mexico”

Rioting and Violence Outside of Chicago

Violence and property destruction were not limited to Chicago. Hammond, Indiana, about 20 miles from Chicago, was the location for five main trunk lines leading from Chicago to New York. Rioters in Hammond attacked the telegraph office, cut wires, stopped trains from moving and overturned railroad cars in addition to other property damage. Federal troops were moved there and a confrontation with a mob estimated at 3,000 strong led to a shooting that left at least one person dead and several wounded - although the rioters carried away those who were shot so a definite casualty count was not made. Rioting, violence and destruction of property rippled out west into several states, including Missouri, New Mexico, Colorado, Utah, Nevada, California, Wyoming, Montana, Idaho, Oregon, and North Dakota.

Debs and ARU Officials Indicted

Eight days after the injunction was issued, Walker and Milchrist got the same judges, Judge Woods and Judge Grosscup, to issue indictments charging Debs and other ARU officials with obstructing the U.S. mail and conspiracy to interfere with interstate commerce. A special grand jury, which did not have any local residents, was then convened in the U.S. District Court for the Northern District of Illinois. Judge Grosscup, whose instructions to the grand jury used “the broadest possible definition of conspiracy, gave a virtual directive to indict.”⁵⁴ The majority of the evidence Walker and Milchrist presented was a selection of the thousands of telegrams that Debs had sent to local union branches. Although they selected the most inflammatory telegrams, even these did not show that Debs or the ARU supported or encouraged violence. One telegram in particular was used by the prosecution as evidence that Debs and the other leaders supported

⁵⁴ The Pullman Strike Cases, *supra* note 37, at 126.

violence. Debs denied sending it, but the telegram was damaging because it came from the ARU headquarters. It read:

To Courthead, South Butte, Mont.:

The G.M. are weakening. If strike not settled in forty-eight hours complete paralysis will follow. Potatoes and ice out of sight. Save your money and buy a gun.

E.V. Debs.

The ARU leaders explained that this was sent by a young clerk named Benedict to a friend, and the expression “buy a gun” was one they used between them and was not in reference to the strike.

Criminal Conspiracy

On July 10, 1894 the grand jury indicted Eugene V. Debs, George W. Howard, Sylvester Keliher, and Lewis Rogers for criminal conspiracy to interfere with the mail and interstate commerce. According to one source, after the prosecution was done presenting its evidence, events moved quickly: “within two hours, four indictments were voted; ten minutes later, arrest warrants were issued, and by that afternoon Debs was in custody. That evening, the ARU offices were raided and all documents on the premises were seized, including Debs’ unopened personal mail and private papers.”⁵⁵

Although Judge Grosscup, who was overseeing this phase of the legal proceedings, was clearly on the government’s side, the ransacking of the union offices and seizure of all paperwork, including personal mail, was too much even for him and he ordered the return of the personal mail.

Because of accusations and credible evidence that some of the train stoppages were deliberately done by the railroads, Judge Grosscup charged the grand jury to investigate these allegations. But no evidence was presented and Judge Grosscup did not pursue the matter with nearly the same effort he directed against the ARU. No subpoenas were issued to gather evidence from the GMA and the matter was eventually dropped.

Civil Contempt

Just two weeks after the injunction was issued, lawyers for the railroads and federal government asked Judge William Seaman, sitting in the U.S. Circuit Court for the Northern District of Illinois, to hold Debs and executive board members of the American Railway Union in contempt of court for violating the injunction. As proof, they introduced the same telegrams sent by Debs and other ARU leaders to union leaders in other parts of the country that were shown to the grand jury. The telegrams did not advocate violence but did encourage union leaders to get workers to get on strike. The

⁵⁵ *Id.*

lawyers for the railroad and government argued that this violated the injunction and interfered with interstate commerce. Ruling on July 17, the judge did not find Debs and the others in contempt but he did order that they be temporarily held pending another hearing. The judge allowed Debs and the other union leaders to post bail instead of waiting in jail. But Debs and the others surprised the government and GMA lawyers by waiving bail and going to jail. Debs explained, "The poor striker who is arrested would be thrown in jail. We are not better than he."

ARU Offers to End Strike

Alarmed at the widespread violence, the American Railway Union sent a message dated July 12 to the General Managers' Association offering to end the strike. The offer read in part:

"To the Railway Managers- Gentlemen: The existing troubles growing out of [the] Pullman strike having assumed continental proportions, and, there being no indication of relief from the wide-spread business demoralization and distress incident thereto, the railway employees, through the board of directors of the American Railway Union, respectfully make the following proposition as a basis of settlement:

They agree to return to work in a body at once, provided they shall be restored to their former positions without prejudice, except in cases, if any there be, where they have been convicted of crime."

But the GMA refused to receive any communications from the ARU.

At the request of the ARU, about 25 executive officers of national and international labor unions affiliated with the American Federation of Labor met in Chicago on July 12. Those at the meeting concluded that the strike was lost and that it was unwise and not in the best interest of organized labor to organize a sympathetic strike throughout the country. The conference issued a statement expressing sympathy with the purpose of the American Railway Union but advising striking workers to return to work and urging union members to work together to correct industrial problems through political elections.

Strike Ends

On July 18, just a day after Debs and the others went to jail, management posted a notice on the gates of Pullman shops: "These shops will be opened as soon as the number of operatives taken on is sufficient to make a working force in all departments." Two days later, federal troops moved out of Chicago. The strike was basically over at this point. The ARU announced an ad hoc convention held in Chicago on August 2 during which it recommended to its local members that the strike be called off.

Clarence Darrow - Corporate Counsel for Railroad Company

One of the railroads listed in the injunction against the ARU was the Chicago & Northwestern Railway. Virtually all accounts of Clarence Darrow's involvement in the Pullman strike state that during the strike Darrow worked as corporate counsel for this major railroad company. Darrow followed the strike and he had serious misgivings about representing the railroad against the striking workers whom he empathized with. His feelings grew stronger when he was appointed to the General Managers' Legal committee that represented all the railroads. The committee was set up to help manage the strike. Darrow immediately spoke with the general counsel and also with the president of the company, Marvin Hewitt, and got himself removed from the committee. They understood Darrow's predicament and they also liked and trusted him. Darrow thought about resigning but agreed to stay on. However, as the strike grew worse, Darrow's feelings about the situation intensified to the point that he felt he had to resign.

Darrow Reluctant to Take the Case

Darrow wrote this in his autobiography:

Soon after the injunctions were issued, Mr. Debs and a good many of my friends came to ask me to go into the case. I did not want to take it up, knowing about what would be involved. I knew that it would take all my time for a long period, with no compensation; but I was on their side, and when I saw poor men giving up their jobs for a cause, I could find no sufficient excuse, except my selfish interest, for refusing."⁵⁶

Darrow had to explain his decision to his employer:

So, again I went to the president of the company and told him that I felt that I should go into the case, although it would mean giving up my position; and I told him that I believed some one whose political views were more in keeping with their interests would be a much better man for the company. He was most cordial and attentive. He agreed that I must do whatever I considered right, but asked me to continue my connection with the road when I went into private practice and take such matters as we agreed upon, at about half the salary I had been receiving. This connection was thus kept up for a number of years. The president of the road was Mr. Marvin Hewitt. We remained the best of friends to the end of his life. He died about 1920, I believe.⁵⁷

This was a momentous decision by Darrow. It set him on the path towards becoming the most famous labor lawyer in the country, and labor would call on him in some of its biggest legal battles in the coming years.

Although Darrow's sympathies were with the laborers, he had no illusions about them. Unlike many labor supporters he did not canonize them:

⁵⁶ STORY OF MY LIFE, *supra* note 35, at 61-62.

⁵⁷ *Id.* at 62.

I had no feeling that the members of labor unions were better than employers: I knew that like all other men they were often selfish and unreasonable, but I believed that the distribution of wealth was grossly unjust, and I sympathized with almost all efforts to get higher wages and to improve general conditions for the masses.⁵⁸

United States v. Debs - Civil Contempt Proceedings

In July there were a couple of minor hearings in regard to the civil contempt charges for violating the injunction, but the judge continued the civil case until September. During the contempt proceedings Debs and the other defendants were defended by Clarence Darrow, S.S. Gregory and W.W. Erwin. They were prosecuted by Edwin Walker and T.E. Milchrist.

Darrow's co-counsel Stephen S. Gregory, often referred to as S.S. Gregory, was a former president of the American Bar Association. Darrow and Gregory knew each other and they had just recently worked together to try and save Patrick Eugene Prendergast from being executed for the October 1893 assassination of the mayor of Chicago, Carter Harrison. Darrow recalled his work with Gregory:

In due time, the strike ran its course, as strikes always do. The A. R. U. was destroyed. For many years its members were boycotted; they changed their names and wandered over the land looking for a chance to work. After the strike was over, the cases of Mr. Debs and his associates were called in court. Mr. S. S. Gregory consented to go into the trial of these cases with me. Mr. Gregory was one of the best lawyers I have ever known. He was emotional and sympathetic, he was devoted to the principles of liberty and always fought for the poor and oppressed. In spite of all this, he had a fine practice, and his ability and learning were thoroughly recognized. He at one time was president of the American Bar Association, and his legal attainments were everywhere acknowledged.⁵⁹

At the beginning of the contempt hearing in September, Gregory demanded a jury trial for Debs and the other defendants. But Judge Woods denied the request because it was a civil contempt proceeding and not a criminal trial, so there was no right to a jury trial.

To try and prove the contempt charges, the government introduced witnesses who testified that union leaders had urged them to go on strike. The prosecution also introduced 9,000 telegrams as evidence. So many telegrams had been sent during the strike that the ARU had run up \$6,000 worth of charges for sending them in just the period from June 26 to July 17, which is the day the union officials went to jail.⁶⁰ The government's lawyer argued that while the union officials themselves did not engage in violence or personally stop any trains, they had nevertheless violated the broad injunction.

⁵⁸ *Id.* at 58.

⁵⁹ *Id.* at 66.

⁶⁰ THE PULLMAN CASE, *supra* note 29, at 47.

In a surprising move, the defense did not call any witnesses or present any new evidence to rebut the government's arguments. Their strategy was to keep this type of information away from the government because of the criminal charges that would be coming in the future. But the defense did vigorously deny that the injunction had been violated.

Judge Woods was well aware of how important the case was and to the dismay of the government, he did not issue an opinion until December. He issued a lengthy opinion on December 14, 1894, which he read in court. He found the defendants guilty of contempt for violating the injunction. Judge Woods accepted the prosecution's public nuisance argument and also justified the court's jurisdiction over the matter by interpreting the Sherman Anti-Trust Act as applying to the strike because the statute made illegal all combinations in restraint of trade. Darrow had argued strongly that the Sherman Act was not meant to apply to labor unions; moreover, there wasn't any evidence that the defendants had violated the injunction.

Judge Woods reviewed the boycott order from the ARU, which was signed by Debs and sent on June 26, 1894, and found:

Pullman cars in use upon the roads are instrumentalities of commerce, and it follows that from the time of this announcement, if not from the adoption of the resolution by the convention, the American Railway Union was committed to a conspiracy in restraint of interstate commerce, in violation of the act of July 2, 1890, and that the members of that association, and all others who joined in the movement, became criminally responsible each for the acts of others done in furtherance of the common purpose, whether intended by him or not. The officers became responsible for the men, and the men for the officers.⁶¹

Judge Woods ruled:

These defendants were the directors and general officers of the American Railway Union, and had practical control of the organization. They procured the adoption of the resolutions by which the boycott of the Pullman cars was declared, and authority given themselves to begin and control the movement. They put themselves at once in telegraphic communication with the officers of local unions, advising them of the action of the convention, and that no Pullman cars were to be handled; but, it appearing very soon that men who refused to handle Pullman cars were being discharged, they determined to prevent the running of all trains upon all the roads until the companies should accede to their demands, including the reinstatement of men who had been discharged. Later the Pullman strikers were abandoned, and only the re-employment of railroad men insisted on. As early as the 27th of June they sent out telegrams directing men to quit work if the running of Pullman cars was insisted upon, and unless discharged men were restored to their places, and by the 28th it had become the distinct policy "to get the men out"; "to tie up" or paralyze the roads; to promise full protection to all who joined

⁶¹ United States v. Debs, 64 F. 724, 763-64 (C.C.N.D. Ill. 1894).

in the strike; to denounce as scabs, or as traitors to the cause of labor, all who refused to go out, and all who should consent to take places which others had abandoned,- and later the form or substance of expression became: "All employees of all roads will stand together"; "None will return until all return."

By this course the original conspiracy against the use of Pullman cars became a conspiracy against transportation and travel by railroad. Upon their own authority, without consulting the local unions, the defendants converted the boycott into a strike; and with the aid of followers, some of whom stopped at no means between the drawing of a coupling pin and the undermining of a bridge, whereby men should be hurled to death, they pushed the strike to the conditions which prevailed when the intervention of the court was asked, and which, in the end, compelled the employment of military force to re-establish peace and start again the activities of commerce. The evidence leaves no feature of the case in doubt. The substance of it, briefly stated, is that the defendants, in combination with the members of the American Railway Union and others, who were prevailed upon to co-operate, were engaged in a conspiracy in restraint or hindrance of interstate commerce over the railroads entering Chicago, and, in furtherance of their design, those actively engaged in the strike were using threats, violence, and other unlawful means of interference with the operations of the roads; that by the injunction they were commanded to desist, but, instead of respecting the order, they persisted in their purpose, without essential change of conduct, until compelled to yield to superior force.⁶²

As to the allegations of mistreatment by Pullman, the original cause of the strike and boycott, Judge Woods wrote:

Much has been said, but without proof, of the wrongs of the workmen at Pullman, of an alliance between the Pullman Company and the railway managers to depress wages, and generally of corporate oppression and arrogance. But it is evident that these things, whatever the facts might have been proved or imagined to be, could furnish neither justification nor palliation for giving up a city to disorder, and for paralyzing the industries and commerce of the country.⁶³

Debs was sentenced to six months in jail and the other defendants received three month sentences. Even though the defendants were punished with jail sentences, the contempt proceeding was a civil action and the process for getting Debs and other union officials on criminal charges was simultaneously in progress.

The use of civil contempt proceedings for labor strikes was a new development:

During most of the nineteenth century, the primary legal strategy for employers and government officials anxious to end labor actions and to discipline and control unruly workers had been a criminal prosecution. A strike or even the

⁶² *Id.* at 764-65.

⁶³ *Id.* at 765.

formation of a union could be understood as a criminal “conspiracy.” Only in the 1890s did prosecutions of this sort once and for all give way to injunctions issued in the civil courts.⁶⁴

Even though injunctions were tried in earlier labor disputes, the trial of Debs and the other ARU officials is considered by most authorities to be the first effective use of such legal proceedings against a labor union.⁶⁵ The civil contempt proceedings against Debs and the other ARU leaders:

“brought to full flower the concept of ‘government by injunction,’ whereby labor disputes were in effect resolved by compliant judges through the issuance of restraining orders, commanding strikers to return to work, halt boycotts, and so on.”⁶⁶

Moreover, “[v]iolators of such injunctions were subject to contempt sentences, imposed by the issuing judge without the involvement of a jury and in the absence of the standard protections of criminal procedures.”⁶⁷

Thus the “labor injunction” could be used as a “highly reliable weapon which juries sympathetic to workers could not disarm.”⁶⁸ Judge Woods’ decision in *United States v. Debs* is still good law.

Criminal Trial

The criminal charges alleged that Debs and the other union members engaged in a large conspiracy to halt the trains. The criminal trial began on January 24, 1895 in the U.S. District Court for the Northern District of Illinois, a little over two weeks after the defendants had begun serving their jail sentences for the contempt charges. District Judge Peter S. Grosscup presided over the trial. The fact that the defendants had already been jailed for the contempt charges did not prevent their prosecution on the criminal charges because it did not trigger the double jeopardy prohibition. Debs and the other jailed ARU leaders were brought 55 miles to Chicago for trial each day and returned to Woodstock jail in the evening.

Darrow strongly opposed the prosecution’s use of conspiracy laws, especially since there were federal statutes which prohibited interference with the mail but which also required proof of intent. Darrow pointed out that the telegrams showed that Debs repeatedly directed that there should be no violence. Darrow called Debs to testify about his background, the history of the ARU, how violence was not encouraged, and the fact that the union had held open meetings, a fact which refuted the accusations that the conspiracy was hatched in secret.⁶⁹

⁶⁴ THE PULLMAN CASE, *supra* note 29, at 51.

⁶⁵ The Pullman Strike Cases, *supra* note 37, at 132.

⁶⁶ *Id.* at 121.

⁶⁷ *Id.*

⁶⁸ *Id.*

⁶⁹ *Id.* at 129.

Darrow Hated Conspiracy Laws

The Debs trial would give Darrow a lifelong hatred for conspiracy laws:

If there are still any citizens interested in protecting human liberty, let them study the conspiracy laws of the United States. They have grown apace in the last forty years until to-day no one's liberty is safe. The conspiracy laws magnify misdemeanors into serious felonies. If a boy should steal a dime a small fine would cover the offense; he could not be sent to the penitentiary. But if two boys by agreement steal a dime then both of them could be sent to the penitentiary as conspirators. Not only could they be, but boys are constantly being sent under similar circumstances.

If A is indicted and a conspiracy is charged, or even if it is not charged, the state's attorney is allowed to prove what A said to B and what B said to C while the defendant was not present. Then he can prove what C said to D and what D said to E, and so on, to the end of the alphabet, and after the letters are used up the state's attorney can resort to figures for as long a stretch as he cares to continue. To make this hearsay or gossip competent, the state's attorney informs the court that later he will connect it up by showing that the defendant was informed of the various conversations, or that he otherwise had knowledge of them. Thereupon the complaisant judge holds that the evidence is admissible, but if it is not connected up it will be stricken out. A week or a month may pass by, and then a motion is made to strike it out. By that time it is of no consequence whether it is stricken out or not; it has entered the jurors' consciousness with a mass of other matter, and altogether it has made an impression on his mind. What particular thing made the impression, neither the juror nor any one else can know.

These conspiracy laws, made by the courts, have gone so far that they can never be changed except through a general protest by liberty-loving men and women, if any such there be, against the spirit of tyranny that has battered down the ordinary safeguards that laws and institutions have made to protect individual rights. In that event, any degree of freedom cannot be established except by statutes of the Federal government and of the several States. In this event, these laws will be chipped away by courts through sophistry and tyranny, as they always have been destroyed. Liberty cannot prevail unless the feeling is in the hearts of the people; and wealth, and the hope of it, have taken this away.⁷⁰

Darrow presented witnesses to talk about the problems in the town of Pullman, and while not directly relevant to the charges against Debs and the ARU, "Darrow was presenting a moral, not a legal defense here, and such evidence doubtless had an effect upon the jury."⁷¹

⁷⁰ STORY OF MY LIFE, *supra* note 35, at 64-65.

⁷¹ The Pullman Strike Cases, *supra* note 37, at 130.

The defense wanted to get George Pullman on the stand. Pullman was subpoenaed but he hid from the process server. At some point during the strike, George Pullman left an armed guard at his mansion and moved his family out of Chicago to one of his other homes on the St. Lawrence River. Judge Grosscup declined the defense's request to have Pullman held in contempt. Pullman met with Judge Grosscup after the trial and explained why he had left, and the judge took no legal action.

Darrow also aggressively pursued Pullman management by issuing subpoenas requiring that they testify. This caught Pullman management off guard, and some hid rather than testify. George Pullman and his company began to look even more frightened as more and more employees of Pullman's office disappeared when subpoenas were served, and "Darrow, now enjoying himself hugely, proceeded to ask for a number of additional subpoenas for other employees of the Pullman building. One suspects he hoped to destroy the company by causing all of its staff to disappear as magically as the president."⁷²

The government's case started to look weak. At this point in the trial, one of the jurors became sick and the judge cut off any further testimony because the juror would miss several days. Because the trial was going favorably for the defense, Darrow offered to proceed with just eleven jurors or have the previous testimony read to a new juror. The defense believed that the jurors had been ready to vote eleven to one for acquittal. But on February 12, over the strong objections of the defense, Judge Grosscup discharged the jury and thereby ended the criminal trial. But he did set a new trial date. Both Debs and Darrow believed the case was dropped because the government was afraid that the GMA would have to produce damaging evidence if the criminal trial proceeded.

In re Debs

The defense appealed the contempt ruling to the United States Supreme Court on the basis of a writ of error and a writ of habeas corpus petition. Darrow and Gregory were joined by former senator Lyman Trumbull. Trumbull volunteered his service and refused a fee; he only accepted traveling expenses. Attorney General Olney joined Edwin Walker and Assistant Attorney General E. B. Whitney for the prosecution. Olney helped coordinate the preparation of briefs and oral arguments for the government and appeared before the Court.

According to an article co-written by future Supreme Court Justice Felix Frankfurter, in the Debs case "the Supreme Court of the United States for the first time in its history passed on the scope and validity of an injunction in a labor controversy."⁷³

The Court heard oral arguments on the matter on March 25 and 26, 1895. The Court issued a unanimous decision on May 27, 1895. To the defense's dismay, the Supreme Court limited its review to the habeas corpus petition, which narrowed the issue to whether the circuit court had proper jurisdiction to issue the injunction.⁷⁴

⁷² *Id.* at 131.

⁷³ Felix Frankfurter & Nathan Greene, *Legislation Affecting Labor Injunctions*, 38 YALE L. J. 879 (1929).

⁷⁴ The Pullman Strike Cases, *supra* note 37, at 133.

The Court acknowledged the arguments of the defense while dismissing the strike as the work of a mob:

A most earnest and eloquent appeal was made to us in eulogy of the heroic spirit of those who threw up their employment, and gave up their means of earning a livelihood, not in defense of their own rights, but in sympathy for and to assist others whom they believed to be wronged. We yield to none in our admiration of any act of heroism or self-sacrifice, but we may be permitted to add that it is a lesson which cannot be learned too soon or too thoroughly that under this government of and by the people the means of redress of all wrongs are through the courts and at the ballot box, and that no wrong, real or fancied, carries with it legal warrant to invite as a means of redress the co-operation of a mob, with its accompanying acts of violence.⁷⁵

The Supreme Court denied the petition for a writ of habeas corpus and held:

We have given to this case the most careful and anxious attention, for we realize that it touches closely questions of supreme importance to the people of this country. Summing up our conclusions, we hold that the government of the United States is one having jurisdiction over every foot of soil within its territory, and acting directly upon each citizen; that, while it is a government of enumerated powers . . . to it is committed power over interstate commerce and the transmission of the mail . . . that in the exercise of those powers it is competent for the nation to remove all obstructions upon highways, natural or artificial, to the passage of interstate commerce or the carrying of the mail; that, while it may be competent for the government . . . to forcibly remove all such obstructions, it is equally within its competency to appeal to the civil courts . . . to invoke the powers of those courts to remove or restrain such obstructions; that the jurisdiction of courts to interfere in such matters by injunction is one recognized from ancient times and by indubitable authority; that such jurisdiction is not ousted by the fact that the obstructions are accompanied by or consist of acts in themselves violations of the criminal law; that the proceeding by injunction is of a civil character, and may be enforced by proceedings in contempt; that such proceedings are not in execution of the criminal laws of the land; that the penalty for a violation of injunction is no substitute for and no defense to a prosecution for any criminal offenses committed in the course of such violation; that the complaint filed in this case clearly showed an existing obstruction of artificial highways for the passage of interstate commerce and the transmission of the mail,-an obstruction not only temporarily existing, but threatening to continue; that under such complaint the circuit court had power to issue its process of injunction; that, it having been issued and served on these defendants, the circuit court had authority to inquire whether its orders had been disobeyed, and, when it found that they had been, . . . to enter the order of punishment complained of; and, finally, that the circuit court having full jurisdiction in the premises, its finding of

⁷⁵ In re Debs, 158 U.S. 564, 598-99 (1895).

the fact of disobedience is not open to review on habeas corpus in this or any other court.⁷⁶

No Right to Jury Trial for Contempt Proceedings

The Court also held that in proceedings for contempt of court a defendant is not entitled to a jury trial. According to the Court:

Nor is there in this any invasion of the constitutional right of trial by jury. . . . But the power of a court to make an order carries with it the equal power to punish for a disobedience of that order, and the inquiry as to the question of disobedience has been, from time immemorial, the special function of the court. And this is no technical rule. In order that a court may compel obedience to its orders, it must have the right to inquire whether there has been any disobedience thereof. To submit the question of disobedience to another tribunal, be it a jury or another court, would operate to deprive the proceeding of half its efficiency.⁷⁷

After the Debs case, civil injunctions became “the major tool for breaking strikes, boycotts, and unions.”⁷⁸ The ex parte labor injunction was ratified by the Debs case and in time “came to constitute over 70 percent of the injunctive cases in federal courts. Over 90 percent of these were issued without even the minimal evidence of supporting affidavits.”⁷⁹

After the decision, Olney reportedly told his secretary that the Supreme Court “took my argument and turned it into an opinion.”

Darrow said the Supreme Court opinion that it “strengthened the arm of arbitrary power. It left the law so that, in cases involving strikes, at least, a man could be sent to prison for crime without trial by jury. The opinion of the Supreme Court was unanimous. Justice Holmes and Justice Brandeis were not then members.”⁸⁰

Darrow Critical of Labor Injunctions

Darrow hated the use of injunctions in labor disputes. In 1932 he wrote:

The strike was hardly well under way before the railroads applied to the Federal Courts to get injunctions against the strikers. Neither then nor since have I ever believed in labor injunctions. Preserving peace is a part of the police power of the State, and men should be left free to strike or not, as they see fit. When violence occurs this is for the police department and not for a court of chancery. I had never been connected with a case involving strikes, but both by education and

⁷⁶ *Id.* at 599-600.

⁷⁷ *Id.* at 594-95.

⁷⁸ The Pullman Strike Cases, *supra* note 37, at 135.

⁷⁹ *Id.*

⁸⁰ STORY OF MY LIFE, *supra* note 35, at 67.

natural tendency I had a deep-rooted feeling for the men against whom injunctions were issued.⁸¹

Government by Injunction

The injunction against Debs and the ARU was very controversial and it was heavily criticized by organized labor. Illinois Governor John Peter Altgeld is generally credited with coining the phrase “[g]overnment by injunction” when he criticized the decision in *In re Debs*. The Democratic Party adopted this phrase as part of its platform on July 9, 1896: “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” This phrase became a slogan used by the Democratic Party during the 1896 election.

Aftermath

On March 12, 1896 the United States Attorney entered an order of nolle prosequi⁸² which formally ended the criminal prosecution of Debs and the other union leaders. On the day after the Supreme Court handed down its decision in *In re Debs*, Secretary of State Walter G. Gresham died. On June 8, 1895, President Grover Cleveland appointed Richard Olney as Secretary of State. Olney served as Secretary of State until March 5, 1897. In 1904, Olney was a candidate for the Democratic nomination for President. He declined the ambassadorship to Great Britain in 1914, citing his age. Olney died on April 8, 1917. Interestingly, Debs told acquaintances in later years that Olney was an honorable man.⁸³

Report on the Chicago Strike of June-July, 1894

In July 1894, President Grover Cleveland appointed a United States Strike Commission to investigate the Pullman strike. The Strike Commission consisted of Chairman Carroll D. Wright, the United States Commissioner of Labor, John D. Kernan, a former Railroad Commissioner for New York, and Nicholas E. Worthington, a former U.S. Representative of Illinois and a circuit judge of the Tenth Judicial District of Illinois. The commission held hearings and listened to testimony from many participants, including Eugene Debs and George Pullman.

The report listed monetary damages sustained during the strike and resulting violence. The cost to the railroads in property damage and the cost of hiring deputy marshals and related expenses was \$685,308. The railroads lost an estimated \$4,672,916 in earnings. The 3,100 Pullman employees lost about \$350,000 in wages. The approximately 100,000 railroad employees involved in the strike lost an estimated \$1,389,142 in wages.

⁸¹ *Id.* at 60-61.

⁸² Black’s Law Dictionary defines nolle prosequi as Latin for “not to wish to prosecute” and as “[a] legal notice that a lawsuit or prosecution has been abandoned.”

⁸³ THE PULLMAN CASE, *supra* note 29, at 86.

Crime

The report listed the following crime statistics:

Number shot and fatally wounded	12
Number arrested by the police	515
Number arrested under United States statutes and against whom indictments were found	71
Number arrested against whom indictments were not found	119 ⁸⁴

The arrests were for murder, arson, burglary, assault, intimidation, riot, inciting to riot, and lesser crimes.

The report also said of the violence:

The figures given as to losses, fatalities, destruction of property, and arrests for crime tell the story of violence, intimidation, and mob rule better than can be described. Chicago is a vast metropolis, the center of an activity and growth unprecedented in history, and combining all that this implies. Its lawless elements are at present augmented by shiftless adventurers and criminals attracted to it by the Exposition and impecuniously stranded in its midst. In the mobs were also actively present many of a certain class of objectionable foreigners, who are being precipitated upon us by unrestricted immigration. No more dangerous place for such a strike could be chosen.⁸⁵

Military Intervention

The report found that the number of local, state and federal forces used totaled 14,186, which consisted of 1,936 United States military sent to Chicago to protect the mail and federal buildings; 4,000 state militia; 5,000 extra deputy marshals; 250 extra deputy sheriffs; and 3,000 Chicago police.

Strikers Involved in Violence

The commission did find that strikers were involved in violence based on the:

vast amount of testimony from disinterested sources. . . . It is fair to conclude that strikers were concerned in the outrages against law and order, although the number was undoubtedly small as compared with the whole number out. The strikers' experience and training were to be seen in the spiking and misplacing of switches, removing rails, crippling of interlocking systems, the detaching, side tracking, and derauling of cars and engines, placing of coupling pins in engine machinery, blockading tracks with cars, and attempts to detach and run in mail cars. The commission is of opinion that offenses of this character, as well as

⁸⁴ REPORT ON THE CHICAGO STRIKE, *supra* note 9, at XVIII.

⁸⁵ *Id.* at XLIII.

considerable threatening and intimidation of those taking strikers' places, were committed or instigated by strikers.

The mobs that took possession of railroad yards, tracks, and crossings after July 3, and that stoned, tipped over, burned, and destroyed cars and stole their contents, were, by general concurrence in the testimony, composed generally of hoodlums, women, a low class of foreigners, and recruits of the criminal classes. Few strikers were recognized or arrested in these mobs, which were without leadership and seemed simply bent upon plunder and destruction.⁸⁶

American Railway Union Criticized

The commission assigned responsibility "largely with the American Railway Union" because the strike was wrong; moreover, it was known that such mobs would be attracted to the strike and use it as an excuse to commit crimes.⁸⁷

The commission admonished the ARU and other labor unions:

The omission of a direct provision in the constitution of the American Railway Union for the punishment or disqualification of a member who commits or instigates violence toward persons or property in strikes is a usual and a grievous omission, and deserves severe condemnation. Until labor organizations take hold of this question vigorously and control their own members effectually they are certain to lose sympathy in their contentions and to be defeated, even though their cause be just and deserve success.⁸⁸

The Commission found fault with the ARU's decision to admit Pullman employees:

To admit the Pullman shop employees, however, into the American Railway Union as "persons employed in railway service" was not wise or expedient. The constitution can not fairly be construed to include as eligible members those who build cars and run them in and out over private switches. Such loose construction of a labor constitution is certain to involve any organization in such an infinite variety of conflicting positions and to force it into so many contests demanding different and perhaps apparently inconsistent treatment at the same time as to curtail its usefulness and threaten its existence. To reach out and take in those so alien to its natural membership as the Pullman employees, was, in the inception of the organization at least, a mistake. This mistake led the union into a strike purely sympathetic and aided to bring upon it a crushing and demoralizing defeat.⁸⁹

Pullman Criticized

⁸⁶ *Id.* at XLV-XLVI.

⁸⁷ *Id.* at XLVI.

⁸⁸ *Id.* at XXV.

⁸⁹ *Id.* at XXVII.

The Commission criticized the Pullman Company's stance against organized labor:

The company does not recognize that labor organizations have any place or necessity in Pullman, where the company fixes wages and rents, and refuses to treat with labor organizations. The laborer can work or quit on the terms offered; that is the limit of his rights. To join a labor organization in order to secure the protection of union against wrongs, real or imaginary, is overstepping the limit and arouses hostility. This position secures all the advantages of the concentration of capital, ability, power, and control for the company in its labor dealings, and deprives the employees of any such advantage or protection as a labor union might afford. In this respect the Pullman company is behind the age.⁹⁰

During the strike, the Pullman Company made statements to the public that all its actions were for the object of continuing operations to benefit the workmen and trades people in and around Pullman, and to prevent interrupted travel from annoying the public. The Commission found this to be self-serving:

The commission thinks that the evidence shows that it sought to keep running mainly for its own benefit as a manufacturer, that its plant might not rust, that its competitors might not invade its territory, that it might keep its cars in repair, that it might be ready for resumption when business revived with a live plant and competent help, and that its revenue from its tenements might continue.⁹¹

Eugene Debs Testifies

Eugene Debs testified before the Strike Commission on August 20, 1894. Debs was asked to fully but briefly explain the history of the strike as he saw it. Debs said that when he was informed by the vice president of the ARU that there might be a strike by the Pullman employees, he authorized the vice president to act as president because Debs was in Indiana, but he also told the vice president to "do all in his power to prevent a strike." When the Pullman employees did go on strike Debs went to Chicago and investigated the grievances made by the Pullman strikers and became convinced that they were justified. Debs also explained that whatever grievances the ARU workers had against the railroads, it was the conditions suffered by the Pullman employees that were the cause of the boycott. Debs said that because of the economic conditions in the country, the ARU would not have gone on strike if it were not for the situation at Pullman.

Power of the Labor Injunction

Debs also described the power and effect of the labor injunction:

As soon as the employees found that we were arrested and taken from the scene of action, they became demoralized, and that ended the strike. It was not the

⁹⁰ *Id.* at XXVI-XXVII.

⁹¹ *Id.* at XXXV.

soldiers that ended the strike; it was not the old brotherhoods that ended the strike; it was simply the United States courts that ended the strike. Our men were in a position that never would have been shaken under any circumstances if we had been permitted to remain upon the field, remain among them; but once that we were taken from the scene of action and restrained from sending telegrams or issuing the orders necessary, or answering questions The headquarters were demoralized and abandoned, and we could not answer any telegrams or questions that would come in. . . . The men went back to work, and the ranks were broken, and the strike was broken up by the Federal courts of the United States, and not by the Army, and not by any other power, but simply and solely by the action of the United States courts in restraining us from discharging our duties as officers and representatives of the employees.⁹²

Debs also told the Commission about the raid on the ARU offices in which all their books and documents were seized. In regard to this raid, Debs said, “I want to say, in justice to the court, to Judge Grosscup, that the next morning he sent for me and explained that this action had been taken without authority; and he ordered the papers restored—my personal papers.”⁹³ Debs also said he believed his personal letters were returned unopened.

George Pullman Testifies

George Pullman testified on August 27, 1894. Pullman told the commission that the Pullman Palace Car Company had been in continual existence with him as president for 27 years. Pullman was asked about why the town of Pullman was created, and he read from a brief he had prepared about the town:

The object in building Pullman was the establishment of a great manufacturing business on the most substantial basis possible, recognizing, as we did, and do now, that the working people are the most important element which enters into the successful operation of any manufacturing enterprise. We decided to build, in close proximity to the shops, homes for workmen of such character and surroundings as would prove so attractive as to cause the best class of mechanics to seek that place for employment in preference to others. We also desired to establish the place on such a basis as would exclude all baneful influences, believing that such a policy would result in the greatest measure of success, both from a commercial point of view, and also, what was equally important, or perhaps of greater importance, in a tendency toward continued elevation and improvement of the conditions not only of the working people themselves, but of their children growing up about them.⁹⁴

⁹² *Id.* at 143-44.

⁹³ *Id.* at 144.

⁹⁴ *Id.* at 529.

Pullman explained that the policy of excluding “baneful influences” was very successful: “There are no saloons in Pullman; there are no brothels or other objectionable houses; no such places of resort.”⁹⁵

Recommendations

The Commission made several recommendations to address problems created by the antagonism between railroads and the unions. The Commission recommended the creation of a “permanent United States strike commission of three members, with duties and powers of investigation and recommendation as to disputes between railroads and their employees similar to those vested in the Interstate Commerce Commission as to rates, etc.”⁹⁶

Realizing that courts would be involved in any major dispute, the Commission recommended that similar to the Interstate Commerce Act, “power be given to the United States courts to compel railroads to obey decisions of the commission, after summary hearing unattended by technicalities, and that no delays in obeying the decisions of the commission be allowed pending appeals.”⁹⁷

For disputes involving one or more railroads against one or more national trade unions, it recommended that “each side . . . have the right to select a representative, who shall be appointed by the President to serve as a temporary member of the commission in hearing, adjusting, and determining that particular controversy.”⁹⁸ The Commission believed this recommendation would encourage labor unions to incorporate and make the commission “a practical board of conciliation.”⁹⁹

One recommendation would take away considerable power and influence from the railroads and unions during a strike:

[D]uring the pendency of a proceeding before the commission inaugurated by national trade unions, or by an incorporation of employees, it shall not be lawful for the railroads to discharge employees . . . except for inefficiency, violation of law, or neglect of duty; nor for such unions or incorporation during such pendency to order, unite in, aid, or abet strikes or boycotts against the railroads . . .¹⁰⁰

Under this recommendation, for six months after a decision by the permanent strike commission the railroads would be prevented from discharging employees and hiring replacements, and employees could not quit work without 30 days written notice.

⁹⁵ *Id.* at 531.

⁹⁶ *Id.* at LII-LIII.

⁹⁷ *Id.* at LIII.

⁹⁸ *Id.*

⁹⁹ *Id.*

¹⁰⁰ *Id.*

The Commission recommended that the relevant federal statute be amended as follows:

[T]o require national trade unions to provide in their articles of incorporation, and in their constitutions, rules and by-laws that a member shall cease to be such and forfeit all rights and privileges conferred on him by law as such by participating in or by instigating force or violence against persons or property during strikes or boycotts, or by seeking to prevent others from working through violence, threats, or intimidations; also, that members shall be no more personally liable for corporate acts than are stockholders in corporations.¹⁰¹

The Commission concluded its recommendations with a rather optimistic and naïve statement:

The commission is satisfied that if employers everywhere will endeavor to act in concert with labor; that if when wages can be raised under economic conditions they be raised voluntarily, and that if when there are reductions reasons be given for the reduction, much friction can be avoided. It is also satisfied that if employers will consider employees as thoroughly essential to industrial success as capital, and thus take labor into consultation at proper times, much of the severity of strikes can be tempered and their number reduced.¹⁰²

Labor Injunctions after the Debs Case

In March, 1900 hearings were held by the House Committee on the Judiciary on a bill titled *To Limit the Meaning of the Word 'Conspiracy'* that also addressed the use of restraining orders and injunctions in labor disputes. Clarence Darrow and others including Thomas I. Kidd, who Darrow defended after the 1898 Oshkosh woodworker strike, testified. Darrow began his remarks before the committee by stating:

This bill as presented is meant, I take it, to provide against what the working people think are very flagrant violations of their personal liberties and their personal rights by the issuing of injunctions in the various Federal courts of the United States. This matter has grown to an alarming extent within the last few years, to an alarming extent to all the people who believe these injunctions are wrongfully issued, and certainly to an amazing extent from whatever view of the question you may take.

Commencing with the great railroad strike in which the Debs injunction was issued, and running down to the present time, there is scarcely a labor trouble of any consequence anywhere in the United States but what the first act of the employer is to rush off to the court and get an injunction.¹⁰³

¹⁰¹ *Id.*

¹⁰² *Id.* at LIV.

¹⁰³ *Report of a Hearing Before the Committee on the Judiciary of the House of Representatives, March 23, 1900, on the Bill "To Limit the Meaning of the Word 'Conspiracy' and also the use of 'Restraining Orders and Injunctions,' as Applied to Disputes Between Employers and Employees in the District of Columbia*

The Debs trials also ushered in a new legal strategy, backed by the Supreme Court of the United States, in which the Sherman Anti-Trust Act, “a tool against monopoly power, became a valuable instrument to suppress union activity,” and this continued until the New Deal of the Roosevelt administration.¹⁰⁴ Writing in 1930, Felix Frankfurter and Nathan Green in their important work *The Labor Injunction*, stated:

In truth, the extraordinary remedy of injunction has become the ordinary legal remedy, almost the sole remedy. Controversy over its exercise has long “overshadowed in bitterness the question of the relative substantive rights of the parties.” In the administration of justice between employer and employee, it has become the central lever. Organized labor views all law with resentment because of the injunction, and the hostility which it has engendered has created a political problem of proportions. The injunction is America’s distinctive contribution in the application of law to industrial strife.¹⁰⁵

Labor continued to fight the legality of injunctions but it was not until the Clayton Anti-Trust Act of 1914 that they gained some protection from civil injunctions; they were also exempted from the Sherman Anti-Trust Act.¹⁰⁶ Then in 1932, “Congress passed the Norris-LaGuardia Act. The major industrial states passed ‘little Norris-LaGuardia Acts’ shortly thereafter, and together these statutes ended the era of the labor injunction and the old labor law regime.”¹⁰⁷

Bloom v. State of Illinois (1968)

The holding by the United States Supreme Court in *In re Debs* that civil contempt can be tried and punished without a jury survived all the way until 1968, when the United States Supreme Court, in an opinion by Justice White, overruled *In re Debs* in *Bloom v. State of Illinois*.¹⁰⁸ Bloom was convicted in an Illinois state court of criminal contempt and sentenced to 24 months in prison for willfully petitioning to admit to probate a will falsely prepared and executed after the death of the putative testator. Bloom had made a timely demand for jury trial which was refused.

The Court reviewed previous cases, including *In re Debs*, and found:

These cases construed the Due Process Clause and the otherwise inclusive language of Article III and the Sixth Amendment as permitting summary trials in contempt cases because at common law contempt was tried without a jury and

and Territories or Engaged in Commerce Between the Several States, District of Columbia, and Territories, and with Foreign Nations,” 56th Cong., S. DOC. NO. 58. (2d Sess. 1900) (statement of Clarence Darrow, Counsel, American Federation of Labor at 2),

¹⁰⁴ The Pullman Strike Cases, *supra* note 37, at 121-22.

¹⁰⁵ FELIX FRANKFURTER & NATHAN GREEN, *THE LABOR INJUNCTION* 52-53 (MACMILLAN 1930) (internal citation omitted).

¹⁰⁶ LINDSEY, *THE PULLMAN STRIKE*, *supra* note 3, at 360.

¹⁰⁷ WILLIAM E. FORBATH, *LAW AND THE SHAPING OF THE AMERICAN LABOR MOVEMENT* 193 FN 1 (1991).

¹⁰⁸ *Bloom v. Illinois*, 391 U.S. 194 (1968).

because the power of courts to punish for contempt without the intervention of any other agency was considered essential to the proper and effective functioning of the courts and to the administration of justice.¹⁰⁹

In explicitly overruling *In re Debs* and these earlier cases, the Court ruled:

As we read the earlier cases in this Court upholding the power to try contempts without a jury, it was not doubted that the summary power was subject to abuse or that the right to jury trial would be an effective check. Rather, it seems to have been thought that summary power was necessary to preserve the dignity, independence, and effectiveness of the judicial process—“To submit the question of disobedience to another tribunal, be it a jury or another court, would operate to deprive the proceeding of half its efficiency.” *In re Debs*, 158 U.S. 564, 595, 15 S.Ct. 900, 910, 39 L.Ed. 1092 (1895). It is at this point that we do not agree: in our judgment, when serious punishment for contempt is contemplated, rejecting a demand for jury trial cannot be squared with the Constitution or justified by considerations of efficiency or the desirability of vindicating the authority of the court. We cannot say that the need to further respect for judges and courts is entitled to more consideration than the interest of the individual not to be subjected to serious criminal punishment without the benefit of all the procedural protections worked out carefully over the years and deemed fundamental to our system of justice. Genuine respect, which alone can lend true dignity to our judicial establishment, will be engendered, not by the fear of unlimited authority, but by the firm administration of the law through those institutionalized procedures which have been worked out over the centuries.¹¹⁰

The Court held:

Given that criminal contempt is a crime in every fundamental respect, the question is whether it is a crime to which the jury trial provisions of the Constitution apply. We hold that it is, primarily because in terms of those considerations which make the right to jury trial fundamental in criminal cases, there is no substantial difference between serious contempts and other serious crimes. Indeed, in contempt cases an even more compelling argument can be made for providing a right to jury trial as a protection against the arbitrary exercise of official power. Contemptuous conduct, though a public wrong, often strikes at the most vulnerable and human qualities of a judge's temperament. Even when the contempt is not a direct insult to the court or the judge, it frequently represents a rejection of judicial authority, or an interference with the judicial process or with the duties of officers of the court.¹¹¹

The Court further stated:

¹⁰⁹ *Id.* at 195-96.

¹¹⁰ *Id.* at 208.

¹¹¹ *Id.* at 201-202.

We do not deny that serious punishment must sometimes be imposed for contempt, but we reject the contention that such punishment must be imposed without the right to jury trial. . . . Our system has wrestled with this problem for hundreds of years, however, and important safeguards have been devised to minimize miscarriages of justice through the malfunctioning of the jury system. Perhaps to some extent we sacrifice efficiency, expedition, and economy, but the choice in favor of jury trial has been made, and retained, in the Constitution. We see no sound reason in logic or policy not to apply it in the area of criminal contempt.¹¹²

George Pullman

George Pullman died on October 19, 1897. To prevent disgruntled former employees from desecrating his grave at Graceland Cemetery in Chicago, his family followed his wishes and took his recommended precautions by burying him at night in a lead-lined casket placed in an eight-foot-deep pit with the floors and walls lined with steel-reinforced concrete. The casket was then covered with asphalt, concrete and steel rails. A Corinthian column was placed over the grave.

Debs Turns to Socialism

As early as his stay in Woodstock prison after being sentenced for violating the labor injunction, Debs began to turn to Socialism. Debs was influenced by the writings of Karl Kautsky who expounded on the philosophy of Karl Marx. A decisive event occurred when Debs was visited in prison by Victor Berger, a founding member of the Socialist Party of America, who gave Debs a copy of *Das Kapital* by Karl Marx. Debs recalled that Berger ““delivered the first impassioned messages of Socialism I had ever heard—the very first to set the ‘wires humming in my system.’”¹¹³ In January, 1897 Debs formally announced he was a Socialist. He would eventually become the most prominent spokesman for the new Socialist Party of America and would be chosen to run for President five times as the party’s candidate.

Deb Returns to Prison

In 1918 Debs got into legal trouble again when he was charged with violating the Espionage Act because of his opposition to World War I. Specifically, he was indicted because “on or about June 16, 1918, at Canton, Ohio, [he] caused and incited and attempted to cause and incite insubordination, disloyalty, mutiny and refusal of duty in the military and naval forces of the United States and with intent . . . delivered, to an assembly of people, a public speech . . .” Debs was also indicted because “he obstructed and attempted to obstruct the recruiting and enlistment service of the United States and to that end and with that intent delivered the same speech, again set forth.” Debs was found guilty and sentenced to 10 years’ imprisonment on each of the two counts, with the

¹¹² *Id.* at 209.

¹¹³ THE PULLMAN CASE, *supra* note 29, at 86.

sentences to run concurrently. Debs was sentenced to the Federal Penitentiary in Atlanta. At his sentencing hearing, Debs proclaimed:

Your Honor, years ago I recognized my kinship with all living beings, and I made up my mind that I was not one bit better than the meanest on earth. I said then, and I say now, that while there is a lower class, I am in it, and while there is a criminal element I am of it, and while there is a soul in prison, I am not free.

Debs appealed his case up to the United States Supreme Court. In an opinion by Justice Holmes, the Court affirmed Debs' conviction.¹¹⁴

While serving his sentence in the Atlanta Federal Penitentiary, Debs ran for president as a socialist in the 1920 election. He received 913,664 write-in votes which amounted to 6.4% of the national vote.

Debs' Sentence Commuted

During his trial in 1918 for violating the Espionage Act, Debs did not ask Darrow to defend him because Debs was angered by Darrow's support of American's involvement in World War I. But while Debs was in the Atlanta Penitentiary, Darrow had written to him offering assistance to obtain a pardon or a commutation of his sentence. Darrow also visited Debs in the penitentiary. Later Darrow traveled to Washington, D.C. to ask Attorney General Alexander Mitchell Palmer to help secure Debs' release. He also appealed to President Wilson. Both Palmer and Wilson, who were Democrats, refused to help Debs. To Darrow's surprise, Republican President Warren G. Harding later commuted Debs' sentence to time served and he was released on December 25, 1921. Darrow later wrote about Harding and his Attorney General, Harry M. Dougherty:

I had always admired Woodrow Wilson and distrusted Harding. Doubtless my opinions about both in relation to affairs of government were measurably correct; still, Mr. Wilson, a scholar and an idealist, and Mr. Palmer, a Quaker, kept Debs in prison; and Mr. Harding and Mr. Dougherty unlocked the door. I know at least two men who understood this: Lincoln Steffens and Fremont Older. So far as I am concerned, I never think of either Harding or Dougherty without saying to myself: "Well, they pardoned Debs!"¹¹⁵

Darrow clearly thought very highly of Debs. He wrote in his autobiography:

Eugene V. Debs has always been one of my heroes. . . . There may have lived some time, some where, a kindlier, gentler, more generous man than Eugene V. Debs, but I have never known him. Nor have I ever read or heard of another. . . . He was not only all that I have said, but he was the bravest man I ever knew. He

¹¹⁴ Debs v. United States, 249 U.S. 211 (1919).

¹¹⁵ STORY OF MY LIFE, *supra* note 35, at 73.

never felt fear. He had the courage of the babe who has no conception of the work or its meaning.¹¹⁶

Eugene Victor Debs died on October 20, 1926, at the age of 70 in Elmhurst, Illinois.

¹¹⁶ *Id.* at 68-69.