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Newspaper editorial support for freedom of expression during World War I

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**NEWSPAPER EDITORIAL SUPPORT FOR FREEDOM OF EXPRESSION DURING
WORLD WAR I**

A Thesis

Presented to

The Faculty of the School of Journalism and Mass Communications

San Jose State University

In Partial Fulfillment

of the Requirements for the Degree

Master of Science

by

Matthew M. Matuszak

December 1996

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ABSTRACT

NEWSPAPER EDITORIAL SUPPORT FOR FREEDOM OF EXPRESSION DURING WORLD WAR I

by Matthew M. Matuszak

December 1996

This study is a content analysis of 7 of the leading circulating daily newspapers from among the largest cities in the United States. The newspaper editorials were coded for their support towards free expression based on discussion of 9 indicators involving federal legislation affecting written and oral forms of communication during World War I.

The newspapers ran the largest number of editorials supporting free expression, but primarily commented on the Espionage Act. The largest amount of support occurred before a press censorship provision was removed from the Espionage Act by the House of Representatives on May 31, 1917. Editorial comment on the remaining indicators, including 7 Supreme Court decisions, dropped significantly and was primarily negative.

Editorials supporting free expression focused on the constitutionally protected role of the press as a watchdog of the federal government. There was minimal defense of free expression towards the individuals prosecuted for violating the Espionage Act.

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Lastly, I wanted to thank all of those people who preceded me in this area of study. It has not consistently generated as much interest as other areas in mass communication studies, but I believe it was an important area to explore and am happy to join the ranks of those who increased our knowledge about free expression in U.S. society.

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Chapter 1

Introduction

Civil liberties face their greatest challenge at times when people fear society's breakdown. Paranoia and panic at real and imagined enemies, both foreign and domestic, forge a solidarity that is often intolerant towards dissenting voices. War or the threat of war has created these moods throughout the United States' history.

Newspapers, as an institution, contribute to this climate through views expressed in editorials. The print press' position was perhaps strongest when the United States fought in World War I, a period before the advent of radio and television, when newspapers and magazines were still the primary written organs of opinion for the American public (Blanchard, 1992; Desmond, 1980).

Newspapers may seem the logical choice to advocate civil liberties such as free speech or a free press. The printed press is one of the institutions referred to in the First Amendment of the Constitution, which states "Congress shall make no law . . . abridging the freedom of speech or of the press" (Lofton, 1980; Stevens, 1982). The normative assumption by many scholars is that newspapers should uphold and defend civil liberties. Researchers of the World War I era have determined that institutional daily newspapers did not perform this role, but minimal attention has been paid to this subject by mass communication researchers.

There have been many studies of this period in U.S. history, primarily from legal and sociological perspectives, but no systematic study has been done examining

commentary in newspaper editorials about national legislation involving freedom of expression during World War I. The studies that deal with freedom of expression during World War I (a) qualitatively discuss selective newspaper commentary and lack explanations of the methods used to gather the evidence, (b) are part of a study of a larger time period, and (c) have a regional focus.

Purpose

The purpose of this thesis is to assess how seven metropolitan daily newspapers contributed to the discussion about national legislation affecting freedom of expression during World War I. Specifically editorials, defined as unsigned opinions of the newspaper, were examined in conjunction with nine events or free expression indicators. The attitudes expressed in the editorials towards free expression were recorded and analyzed. Occasionally, a publisher's name accompanied an editorial, as was the case with William Randolph Hearst, the publisher of the *New York Evening Journal*, who signed two editorials that appeared in that newspaper.

The method used in the study was a content analysis of the editorial pages from a purposive sample of seven newspapers of the period: the *Chicago Tribune*, the *Cleveland Press*, the *Los Angeles Evening Herald*, the *New York Evening Journal*, the *New York Times*, the *Philadelphia Evening Bulletin*, and the *Washington (DC) Evening Star*. The nine free expression indicators were the congressional debate, passage, and enactments of the 1917 Federal Espionage Act, its 1918 amendment, also known as the Sedition Act, and seven Supreme Court decisions which interpreted the act. The seven Court decisions

were *Schenck v. United States* (1919), *Frohwerk v. United States* (1919), *Debs v. United States* (1919), *Abrams v. United States* (1919), *Schaefer v. United States* (1920), *Pierce v. United States* (1920), and *Milwaukee Publishing Co. v. Burleson* (1921). The time periods for sampling the papers fell during the periods of legislative debate, ending 2 weeks or 14 issues after each bill was signed into law, and 2 weeks or 14 issues after each Supreme Court decision was announced.

Free expression in this study refers to written and oral forms of expressing opinions. Legal scholar Thomas Emerson (1970) wrote that free expression in a democratic society represents a core of rights assured to each member. The rights include:

the right to form and hold beliefs and opinions on any subject . . . to communicate ideas, opinions, and information through any medium. . . . to hear the views of others and. . . . the right to inquire . . . the right of access to information. . . . [and] the right to assemble and to form associations. (p. 3)

He noted that periods when the United States is either at war or preparing for war are when “the constitutional guarantee of free and open discussion is put to its most severe test” (p. 56).

The study’s research questions are

1. To what extent do the newspaper editorials support free expression based on their commentary about federal legislation affecting free expression during World War I?

2. What patterns exist between the editorial opinions expressed towards free expression and evidence that editorials conveyed First Amendment concepts to their readers?

Admittedly, the pressures of a war can affect editorial content in ways which are difficult to classify. Views expressed during a war may differ from what would be expressed during peacetime. Pressures from public opinion during a time of national and international volatility may have influenced the stances a newspaper took towards different social groups. However, the durability of a system of civil liberties can be tested more severely during a period of crisis than at other times (Emerson, 1970; Goldstein, 1978). This observation and other aspects about the World War I era ensure that such a study has particular merit for media researchers.

World War I was the first global situation which the U.S. faced with its national infrastructure largely in place. Railroads, airplanes, telegraphs, and telephones ensured that news and opinion traveled swiftly across the country (Desmond, 1980). Patriotism and fear of foreign spies and traitors quickly became national issues (Murphy, 1979).

World War I also marked the last significant era in U.S. history when the print press maintained a virtual monopoly over the dissemination of news and opinion. Alternative media, including film, radio, and television were in their early stages of development and not as widely utilized for circulating opinion. Newspapers and magazines were the primary written organs of opinion contributing to the discussion about the nation's welfare during this period (Blanchard, 1992; Desmond, 1980).

The federal government's response to fears of subversive activity in the United States by foreign spies and German loyalists was to pass several laws to protect the war effort. The U.S. Congress passed the Espionage Act in 1917 and an amendment to it, more commonly known as the Sedition Act, the following year. The congressional debate concerning these bills focused heavily on the conflict between speech and press rights in a democratic society and the perceived need for security measures to hold antiwar activists and foreign subversives in check (Murphy, 1979; Scheiber, 1960).

The Espionage and Sedition Acts

President Woodrow Wilson's administration had proposed legislation to provide for the conviction of foreign agents and other subversive elements in the United States before diplomatic relations with Germany were broken in February 1917 (Carroll, 1919; Murphy, 1979; Peterson & Fite, 1957; Scheiber, 1960).

The Senate originally passed an espionage bill in March 1917, but the House did not finish its debate on the bill before the session ended (Carroll, 1919). However, the climate for passing legislation to deal with external threats drastically improved after President Wilson called a special session of Congress in April 1917 to request a declaration of war against Germany. During 9 weeks of debate between April and June, the press and public reacted with opposition to a controversial censorship provision in the Espionage Act (Scheiber, 1960).

This provision allowed for convictions of anyone who published material on topics, which the President, through a presidential declaration, could declare "to be useful or

possibly useful to the enemy” (Scheiber, 1960, p. 18). This provision was defeated in the House on May 31 by a vote of 184 to 144, after the Senate struck the passage from its version of the bill. One portion of the study examined the coding results from the editorial pages before and after the press censorship provision was removed from the bill to see if there were any differences in newspaper support for free expression.

The Espionage Act was designed to halt efforts by alleged German spies in the United States to interfere with war production and military recruitment. Aspects of this law and its 1918 amendment created a conflict between the federal officials, who enforced the laws and those, who attempted to express critical opinions about the war effort.

The laws effectively silenced and punished commentators, who protested the United States’ involvement in the world conflict between Great Britain and Germany. Individuals and groups, who publicly conveyed their opposition to the United States’ involvement in the First World War for moral, ideological, or political reasons were fined and imprisoned because of these acts (Murphy, 1979; Scheiber, 1960).

Chaffee (1920) wrote of the laws’ effects that:

it became criminal to advocate heavier taxation instead of bond issues, to state that conscription was unconstitutional though the Supreme Court had not yet held it valid, to urge that a referendum should have preceded our declaration of war, to say that war was contrary to the teachings of Christ. Men have been punished for criticizing the Red Cross and the Y.M.C.A. (p. 51)

The passage of these laws marked the first time while the United States was at war that the federal government enacted legislation which was used to prohibit expressions of opinion about its military policies. The actions of the United States Federal Government

during World War I in response to internal security concerns, however, were not entirely without precedent. Siebert's (1952) study of government control in England from 1476 to 1776 examined the proposition that "the area of freedom contracts and the enforcement of restraints increases as the stresses on the stability of the government and of the structure of society increase" (p. 10). He found a direct relationship between the relative stability of the monarchical regime in power in England and the degree of restrictions placed upon the press. The core issue in the effort to punish seditious discourse was the government or the monarch's effort to protect themselves against any language that might tend to undermine people's respect for the government or its policies and "to reduce its dignity and authority" (Smith, 1956, p. 419). At different points in time punishment occurred for simply reporting the proceedings of Parliament (Siebert, 1952).

The passage of the Alien and Sedition acts in 1798 by the United States Congress was based on fears of war with revolutionary France which stimulated partisan conflict between the Federalist Party of President John Adams and Vice President Thomas Jefferson's Democratic-Republican Party. The laws' necessity was justified because of fears of French foreign influence on domestic politics, but in practice both laws were used to suppress any critical discussion about the Adams administration and the Federalist Party (Levy, 1985; Smith, 1956).

The language of the Alien and Sedition acts was similar to the language later used in the 1918 Sedition Act, primarily in terms of both acts' restrictions on seditious discourse involving national symbols and the form of government (Chaffee, 1941). The

differences are that the Alien and Sedition acts were never reviewed by the U.S. Supreme Court, were passed during a period of technical peace, and expired at the end of President Adams' term in 1801.

Although the United States was subsequently involved in the War of 1812, the Mexican-American War, the Civil War, and the Spanish-American War, no federal legislation similar to the Alien and Sedition acts was passed prior to 1917 (Chaffee, 1920). Issues involving censorship of the press and of speech arose during the Civil War, but were promulgated primarily by military officials, with occasional intervention from President Abraham Lincoln. These periods also lack any systematic studies of newspaper editorial commentary on issues affecting freedom of expression (Chaffee, 1920; Knightley, 1975; Mindich, 1993; Randall, 1926; Stevens, 1968, 1982).

The sections of the enacted Espionage Act, which deal with expression are in section three of Title I, in Title XII, and in the 1918 amendment.

The third section in Title I of the 1917 law, which deals with war recruitment states:

Whoever, when the United States is at war, shall willfully make or convey false reports or false statements with intent to interfere with the operation or success of the military or naval forces of the United States . . . and . . . shall willfully cause or attempt to cause insubordination, disloyalty, mutiny, or refusal of duty, in the military or naval forces of the United States, or shall willfully obstruct the recruiting or enlistment service of the United States . . . shall be punished by a fine of not more than \$10,000 or imprisonment for not more than twenty years or both. (Espionage Act, 1917, p. 219)

The scope of these words was broadly defined by the courts and used to imprison and fine those who used oral and written forms of communication to oppose the war. According to Chaffee (1941) there were approximately 877 convictions under the Espionage Act, though Scheiber (1960) wrote that Department of Justice records show more than 2,000 cases of prosecution and at least 1,055 convictions.

Many of the prosecuted were conscientious objectors, but also belonged to organizations with economic and ideological agendas, including the American Socialist Party, the Non-Partisan League, and the International Workers of the World (Chaffee, 1941; Murphy, 1979).

Title XII of the 1917 law deals with the Postmaster General's powers to declare nonmailable any printed materials that violate the act and states:

Every letter, writing, circular, postal card, picture, print, engraving photograph, newspaper, pamphlet, book, or other publication, matter, or thing, of any kind, containing any matter advocating or urging treason, insurrection, or forcible resistance to any law of the United States is hereby declared to be nonmailable. Whoever shall use or attempt to use the mails or Postal Service of the United States for the transmission of any matter declared by this title to be nonmailable shall be fined not more than \$5,000 or imprisoned not more than five years, or both. (Espionage Act, 1917, pp. 230-231)

The provisions of this section allowed the Postmaster General to seize specific issues of nonmailable publications and subsequently suspend their second class mailing privileges. The types of publications affected were primarily foreign-language and Socialist Party newspapers (Chaffee, 1920; Johnson, 1962).

Carl Wittke (1957) wrote that the German-language newspaper press was especially hard hit by these wartime restrictions, citing figures that the war began with 537 daily and weekly German-language newspapers circulating to 950,000 readers. By 1920, the number had dropped to 278 papers, with a readership of 250,000 (p.273).

Many of these publications served a readership distributed over large areas. The second-class or bulk-mail rate was available to all regularly published newspapers and magazines to circulate at a fixed price, regardless of the location in the United States where the issues were mailed (Fowler, 1977). Thus, the loss of second-class mailing rights effectively interfered with the financial life of these publications. According to Chaffee (1941), third-class mailing privileges were approximately eight to fifteen times more expensive than second-class rates and left the affected publications “at the mercy of competitors who enjoy the lower rates” (p. 302).

The amended version of the Espionage Act, passed in 1918, broadened the scope of unacceptable discourse to include:

any disloyal, profane, scurrilous, or abusive language about the form of government of the United States, or the Constitution . . . or the military or naval forces of the United States, or the flag of the United States, or the uniform of the Army or Navy of the United States. (Sedition Act, 1918, pp. 553-554)

The punishment for violating this amended law was “a fine of not more than \$10,000 or imprisonment for not more than twenty years or both” (p. 554). The amendment was repealed by Congress in March 1921 (Murphy, 1972b).

Legacies of this era include the creation of the American Civil Liberties Union and the beginning of the Supreme Court's constitutional determination of the First Amendment (Johnson, 1963; Murphy 1972b, 1979). The seven Supreme Court decisions, which upheld the Espionage Act, denied the defendants' claims to protected speech under the First Amendment, but began that judicial body's 20th century process of determining the parameters of free expression rights.

The Supreme Court Decisions

The Supreme Court's decisions in the Espionage Act cases were unprecedented in United States legal tradition because "up to this point there had been no major decision by the Supreme Court applying the guarantees of the First Amendment" (Emerson, 1970, p. 56).

Six of the seven Supreme Court cases dealt with convictions or actions taken under the Espionage Act as it was originally passed in 1917. These cases encompassed different aspects of expression including mailing and publicly circulating antiwar pamphlets, publicly speaking against military recruitment, and denying bulk mailing privileges to a publication because of its content. A seventh case, *Abrams v. United States* (1919) dealt with the amended 1918 version of the act and also involved distribution of a pamphlet.

Schenck v. United States (1919), which was unanimously decided by the Supreme Court in 1919, upheld a Pennsylvania Federal District Court's conviction of Charles T.

Schenck, the general secretary of the Socialist Party, for mailing printed notices to men, some of whom were military draftees.

The two-sided sheet, contained a quotation from the Thirteenth Amendment, an argument that federal conscription was unconstitutional under this amendment, and urged the men to gather petitions to repeal the 1917 conscription act. The arguments on the pamphlet's back page condemned the capitalist system that was perpetuating the state of warfare and urged the men to stand up for their own rights and those of other U.S. citizens.

The Supreme Court ruled that distributing the pamphlet was an attempt to obstruct the recruitment process. Justice Oliver Wendell Holmes' opinion denied that Schenck's right to free speech was violated by the Espionage Act because of the circumstances in which the act of expression was made. While conceding that in ordinary times there would not necessarily have been a problem with distributing the pamphlets, Holmes specifically excluded war from this category.

Justice Holmes also delivered the Court's unanimous opinion one week later for the cases of *Frohwerk v. United States* (1919) and *Debs v. United States* (1919). The *Frohwerk* case involved the publisher of a German-language newspaper, the *Missouri Staats Zeitung*, for the content of 12 articles which criticized the war and the rationale for U.S. military participation. The Court unanimously upheld the Missouri Federal District Court's indictment and declared that the publication and circulation of the newspaper were overt acts to obstruct recruiting. Justice Holmes, writing the Court's opinion, declined to

review the issue of whether the allegations made in the paper were true or false and declared that the purpose of obstructing recruiting “could be accomplished or aided by persuasion as well as by false statements. . . . there was no need to allege that false reports were intended to be made or made” (*Frohwerk v. United States*, 1919, p. 209).

The *Debs* case involved a speech that Eugene Debs, a former Presidential candidate of the Socialist Party, had delivered in Ohio the previous summer. The Supreme Court sustained an Ohio Federal District Court’s conviction of Debs. Holmes wrote that the parts of Debs’ speech that expressed opposition to all war were not protected by the Constitution if:

its natural and intended effect would be to obstruct recruiting. If that was intended and if, in all the circumstances, that would be its probable effect, it would not be protected by reason of its being part of a general program and expressions of a general and conscientious belief. (*Debs v. United States*, 1919, p. 215)

Schaefer v. United States (1920) involved a German-language newspaper, the *Philadelphia Tageblatt*. Five newspaper staff members were charged with printing material which “conveyed false reports and statements with intent to promote the success of Germany and obstruct the recruiting and enlistment service of the United States” (p. 467).

The Court upheld the counts against three of the defendants and reversed the verdicts against the remaining two men. Justices Louis Brandeis and Holmes dissented on the grounds that the Court possessed the authority in this case to review the jury’s decision. Brandeis wrote that he did not find the content of the alleged articles constituted

an attempt to undermine the recruiting process or to interfere with the U.S. military or naval forces and warned that “to hold that such harmless additions to or omissions from news items, and such impotent expressions of editorial opinion . . . can afford the basis even of a prosecution will doubtless discourage criticism of the policies of the Government” (*Schaefer v. United States*, 1920, pp. 493–494). Justice John Clarke filed a separate dissent, but maintained that he believed that a new trial was in order for all the defendants as there were inconsistencies among the counts for which the defendants were convicted. He denied that freedom of the press was at stake in this case (p. 501).

Pierce v. United States (1920) dealt with the distribution of a pamphlet opposing military recruitment by a branch of the Socialist Party in Albany, New York. The Court upheld the trial jury’s determination that the pamphlet’s contents possessed the tendency to produce the consequences prohibited by the Espionage Act. Justices Holmes and Brandeis both dissented in this case. Brandeis analyzed the entire text of the pamphlet and wrote that all the statements alleged to be false “were an interpretation and discussion of public facts of public interest,” (p. 269) and that there was not sufficient evidence to prove that the defendants distributed information they knew was false.

In *Milwaukee Publishing Co. v. Burleson* (1921) the Court split again with separate dissents from Holmes and Brandeis. The majority opinion, written by Justice Clarke, upheld Postmaster General Albert Burleson’s revocation of second-class mailing privileges for the German-language newspaper, the *Milwaukee Leader*. Brandeis wrote that he could not find any statutory evidence that the Postmaster General had the authority

to permanently deny second-class mail privileges to the Milwaukee newspaper. Holmes echoed Brandeis' comments and added that specific issues of the paper containing objectionable material could have been held from the mail, but that the Postmaster General "could not issue a general order that a certain newspaper should not be carried because he thought it likely or certain that it would contain treasonable or obscene talk" (p. 437).

Abrams v. United States, (1919) a case tried under the 1918 Sedition Act, marked the first of the speech and press cases during World War I when the Court did not rule unanimously because of dissents from Justices Holmes and Brandeis. The defendants, a group of anarchists from Russia, had been convicted for distributing a pamphlet protesting U.S. military involvement in Russia. The Court's majority ruled that the pamphlet's suggestion that a general strike should be called could, by extension, affect the munitions workers producing armaments for the war with Germany and was a violation of the Sedition Act.

Holmes, with Brandeis' concurrence, argued against the Court's decision in a strong defense of the defendants' First Amendment rights. Holmes wrote that Congress possesses the authority, especially during wartime, to punish speech "that produces or is intended to produce a clear and imminent danger" (p. 627).

However, Holmes explicitly pointed out that the principle of the free marketplace of ideas should be the default assumption, that only certain circumstances can allow authorities to deviate from the marketplace principle, and that he did not feel the defendants' actions fell outside the arena of protected speech.

The studies of legal scholars and historians concluded that this era of zealous patriotism was followed by a decade of suppression towards dissenting viewpoints, most notably Socialist Party members and the supporters of the Bolshevik regime in the newly formed Soviet Union (Blanchard, 1992; Murphy, 1979; Murray, 1955).

Critics of the American press' editorial position towards the debate, passage, and judicial interpretation of the Espionage Act concluded that the press displayed scant concern about the federal government's encroachment upon civil liberties during this time period (Goldstein, 1978; Lofton, 1980; Stevens, 1982). John Roche (1963) wrote that the scope of the federal government's efforts to draw a distinct line between acceptable and unacceptable forms of discourse about its war policies during World War I made this era one of the darkest periods for American civil liberties.

Murray's (1955) chronicle of the Communist hysteria, which immediately followed the Russian Revolution and Russia's withdrawal from World War I, noted that newspapers throughout the United States were an important factor in perpetuating a climate of fear. He wrote that many papers never grasped the idea that dissenting voices were not always "radicals, but . . . solid patriotic American citizens who supposedly championed law and order and abhorred violence" (p. 77).

In Lucy Maynard Salmon's (1923) summation of the U.S. newspaper press as it relates to governmental authority she wrote:

[the press] has expected freedom of the press in the concrete for itself, but it has protested against the claim to freedom of the press on the part of a weak, defenceless [sic] minority. . . . [it] has been afraid to ally itself for the sake of a

principle with those representatives of the press whose opinions have apparently been for the time in discredit. (p. 460)

The Espionage Act is still in force, though it can only be activated while the United States is at war. During World War II only one Espionage Act case reached the Supreme Court. In this case, *Hartzel v. United States* (1944), the Court reversed an appeals court's conviction by a five to four vote. The Supreme Court ruled that there was not enough evidence to sustain the conviction of the defendant, who had mailed three pamphlets to various public and military figures. The pamphlets denounced the United States' involvement in World War II and contained racial arguments for why the United States and Britain should not be fighting against Germany. Justice Frank Murphy wrote the Court's opinion which found that the two conditions needed for a conviction were proof of a specific intent to encourage disloyalty in the armed forces and evidence that the actions "presented a clear and present danger that the activities in question will bring about the substantive evils which Congress has a right to prevent" (p. 687). Murphy wrote that these two conditions had not been proven.

It is uncertain what type of decision the Supreme Court would make if another case involving the Espionage Act appeared before them. Since 1919, the Court has expanded its jurisdiction over speech protection into the realms of state and municipal government. *Brandenberg v. Ohio* (1969) tightened the restrictions on state interference with free expression to instances "when advocacy is directed to inciting or producing imminent lawless action and is likely to incite or produce such action" (p. 448) and

overturned the Court's 1927 decision in *Whitney v. California*, invalidating a state criminal syndicalism law.

Most recently the Court has struck down state and federal efforts to prevent the destruction of the U.S. flag. The critical reaction to these decisions, reached in the cases of *Texas v. Johnson* (1989) and *United States v. Eichman* (1990), galvanized the U.S. House of Representatives to pass by a 312 to 120 vote on June 28, 1995, a constitutional amendment to ban the destruction of the U.S. flag. The Senate, however, defeated this amendment by a 63 to 36 vote on December 12, 1995.

The next chapter is a literature review of this era's impact on freedom of speech and other researchers' attempts to quantify editorial commentary of key events involving free expression. Chapter three is an explanation of the methods used in this study. Chapter four is the results of the content analysis and includes a discussion of the newspapers' performance. Chapter five is the summary and conclusion.

Chapter 2

A Literature Review

There is no systematic study which specifically addresses newspaper editorials and their commentary on national free expression indicators during the World War I era. The existing studies are (a) qualitative in nature and lack a systematic framework for examining the editorials, (b) quantitative, concerned with a larger time period, and utilize fewer indicators from the World War I period, and (c) quantitative and focused at a regional level.

This literature review examined previous studies dealing with newspaper discussion about freedom of expression towards dissenting viewpoints during periods of national crisis, focusing on the World War I era. Studies dealing with the social context of the era and the legal ramifications of constitutional law were also examined. Specific information about the World War I era and the reasons for pursuing this study previously appeared in chapter one.

The existing studies about this time period show that limits on freedom of expression were directly linked to periods of magnified apprehension about foreign influence on domestic affairs. The consensus about newspaper involvement during World War I was that the press acted as an agent of social control and minimally defended the right to express dissenting viewpoints during a period of crisis. Instead, it subordinated these early civil rights concerns in favor of policies which maintained national cohesion and national security.

Status of Media Research

Lofton's (1980) broad study of press coverage and editorial opinion towards freedom of expression issues throughout American history included an examination of six events during World War I. Lofton did not provide explanations for the selection of the newspapers he surveyed, but the qualitative results of his work indicate that editorials rarely appeared in response to the World War I events and usually favored suppression of dissenting speech. The six events he examined were the passage of the Espionage Act in 1917 and the Sedition Act in 1918, the Post Office's 1917 suspension of second-class mail privileges for the *Milwaukee Leader*, the indictment and conviction in 1918 and 1919 of Socialist leaders Victor Berger and Eugene Debs for violating the Espionage Act, decisions by the Supreme Court between 1919 and 1921 which interpreted the Espionage and Sedition acts, and the 1920 roundup of alleged radicals under the supervision of U.S. Attorney General A. Mitchell Palmer (p. 171).

Lofton noted that the papers rarely commented on the issue of freedom of expression, but were likely to condemn the character of the prosecuted parties, some of whom were ideologically opposed to capitalism and considered to endanger the American way of life. He concluded that newspapers have been selective guardians of the First Amendment's guarantees for freedom of expression throughout the history of the United States and were more likely to apply free expression as a privilege to some members of society while denying it to others. He wrote that:

Except when their own freedom was discernibly [sic] at stake, established general circulation newspapers have tended to go along with efforts to suppress deviations

from the prevailing political and social orthodoxies of their time and place rather than to support the right to dissent. (p. 279)

Lofton observed that newspapers were more likely to comment about the Espionage Act before a censorship provision was removed by members of the House of Representatives on May 31, 1917, but were largely silent in their commentary afterwards. Concerns about the implications for free expression of opinion arising from other aspects of the Espionage and Sedition acts were seldom expressed, except by Socialist papers (p. 173).

Fought (1970) focused on the degree of bias present in news and editorial commentary about alleged Reds or Communists and other radical movements in the United States between 1918-1921. He arranged the six newspapers in his study by an ideological spectrum from liberal to conservative. He classified the *New York Times* and the *St. Louis Post-Dispatch* as liberal, the *Chicago Tribune* and the *Washington Post* as conservative, the *New York Evening Journal* as left-wing, and the *New York Tribune* as strongly conservative (p. 20). Fought also consulted two journals of opinion, the *New Republic* and the *Nation*, and noted that they displayed a moderate tone towards the indicators used in his study (p. 220).

While Fought explained that the papers were selected based on circulation and population factors, it was unclear what criteria he used to ideologically rank the papers. He recorded the total column inches of editorial space and of news space per newspaper

dedicated to four events: the trials of Eugene Debs and Victor Berger, steel and coal strikes in the fall of 1919, and the Palmer Raids.

Bias was not strictly defined, but was recorded in Fought's chronological accounts of each of the four events described. Press attitudes about free speech were not measured, but the quantitative results of the study, show that the *New York Times* contained the largest amount of editorial and news coverage space in both categories (p. 224). The Hearst-owned *New York Evening Journal* ran no editorials on the four items discussed, while the other papers ran varying amounts of news and editorial commentary (p. 224).

Fought's study was performed by examining the home editions of every newspaper during a 42-month period. Although Fought indicated that he found biased coverage and negative editorials towards the Socialists and radical labor organizations of the period, it was not possible to determine from the results of the study which of the newspapers had the most biased coverage.

Stevens' (1968, 1969) study of the suppression of free expression in Wisconsin during World War I dealt with restrictions imposed by local, state, and federal bodies. The author concluded that press reactions during an immediate period of crisis may not be indicative of their normal stance towards civil liberties issues over a long-term period.

His 1968 study focused on the state of Wisconsin because he found that 1910 Bureau of the Census records showed that the German-American population composed one of the highest percentages of that state's total population, compared to the United States as a whole. The German-American population in Wisconsin stood at 45.5%,

second only to Kentucky's 48.2%, while the United States' total German-American population was 18.5% of the total (p. 8). Stevens compiled the types of remarks that resulted in convictions for violating federal, state, and local statutes passed during World War I. He also examined the press' role as an agent of social control and broadly discussed the German-language press, which was affected by anti-German attitudes throughout the war.

Stevens developed an index of newspaper editorial coverage of 33 free expression indicators over a 17-year period. He chose daily newspapers from eight counties, which fell at different points along a toleration index he developed for counties throughout the state. He found that in more tolerant counties the newspapers tended to give more balanced news coverage towards dissenters, a proportion that increased as indicators extending back to 1901 were added.

He also included a qualitative discussion of newspaper editorials and their comment on free expression issues involving Wisconsin citizens and politicians. His assessment was bleak. He wrote that if anyone with unpopular views had looked to "the newspaper press as his defender . . . in Wisconsin . . . his faith was misplaced" (p. 191).

Stevens selectively used editorials from his study's sample in his qualitative discussion, but did not consistently provide the specific numbers of pro or con editorials towards different free speech indicators. Additionally, only two of his indicators included Supreme Court decisions, both involving Wisconsinites. His 1968 study also did not address how the newspaper editorials discussed First Amendment concepts.

Other studies of newspaper editorial commentary on free speech issues primarily rely on Supreme Court decisions (Hale, 1979; Bowles, 1978, 1989) or on a combination of other incidents (Bowles, 1977).

Hale (1979) and Bowles (1978, 1989) studied newspaper editorials in response to selected Supreme Court cases involving freedom of the press and freedom of speech. Bowles' 1978 study selected 20 cases from 24 newspapers over a 50-year time period to determine (a) the extent that 20th century newspapers editorially supported the First Amendment guarantees of free speech and a free press, (b) if there was a consistent pattern of support over time and, (c) whether such support was more likely to be given if a press issue was involved than if the case involved nonmedia matters. She ranked the editorials into groups by whether they supported the free expression claims of the defendants, were nonsupportive, neutral with no stance taken, or registered no opinion (p. 15).

Bowles wrote that her decision to sample newspaper editorials in conjunction with Supreme Court decisions was to maximize the potential that publications spread throughout the United States would comment on the same event within the same time period. The newspapers were selected randomly on the basis of population distribution in the United States, the size of the city, and the circulation size of the newspaper. She selected Court decisions, rather than federal or state legislative debates because of the difficulty in precisely pinpointing the sampling period dates during a 50-year period (pp. 8-9). She sampled editorials for a period of 2 weeks or 14 issues after the date of the

relevant Supreme Court verdict announcements in order to maintain the timely news aspect that many newspapers use as a criteria for running an editorial (p. 99).

During the 1920s Bowles found that editorial commentary in 24 nationally distributed newspapers was minimal and rarely supported or even commented on free expression claims. The three Supreme Court decisions from this period that she sampled were the cases of *Debs v. United States* (1919), *Milwaukee Publishing Co. v. Bureson* (1921), and *Gitlow v. New York* (1925). For the *Debs* case, Bowles' results show that 15 newspapers did not run editorials. The remaining 9 supported the Court's decision and ignored or dismissed the case's free speech element (pp. 70-71). The *Debs* case was the only instance when none of the newspapers in her sample supported a defendant's free expression claim.

Her study's results for the 1921 case involving the *Milwaukee Leader* show that 21 of the newspapers ran no editorials. Only 2 newspapers supported the Court's verdict in their editorials, and the *St. Louis Post-Dispatch* was the only paper to disagree with the Court (pp. 70, 89-90). The *Gitlow* case's verdict was supported in 9 newspaper editorials and opposed in 2. A neutral editorial ran in 1 newspaper and 12 ran no editorials (p. 70).

Bowles performed bivariate and multivariate analysis to look for correlations among the editorial reaction, the time period, and economic and demographic variables. She found that the 1920s was the only period in her study when newspaper editorial support for free expression fell far behind nonsupport levels. Her study showed that editorial commentary and support both reached high levels in the 1930s and the 1940s, but

diverged in the 1950s when commentary continued to rise and support dropped. The balance between editorials which supported free expression claims and those that were nonsupportive only slightly favored suppressing speech (p. 31). In the 1960s support rose again while the number of commentaries steadily dropped. She concluded that except for the period during the 1920s and the 1950s there was no evidence that newspapers were more supportive of media cases than nonmedia cases.

In her 1978 study, Bowles also discussed time and space constraints, which might affect a newspaper's Supreme Court coverage. Potential constraints included editorial writers' lack of access to texts of the Court's opinions and legal analyses before they wrote the newspaper editorials that commented on the decision. Additional constraints discussed were the scarcity of reporters assigned to cover the Supreme Court and that a large number of decisions are announced on the same day, usually a Monday, with no prior notice (pp. 63-69). Another factor is space limitation when other items are competing for the small section of the newspaper's editorial page devoted to editorials (pp. 98-99).

Dennis Hale (1979) studied news and editorial commentary in 10 daily newspapers for 20 free speech and 20 free press cases heard before the Supreme Court between 1966 and 1975 to gauge if the press was "equally responsive in sounding the alarm when other basic freedoms [were] threatened, particularly freedom of speech" (p. 43). Contrary to Bowles' (1978, 1989) results, Hale's study found that the press ran editorials for 25% of the press decisions vs. 8% of the speech cases and that 81% of press case editorials

avored First Amendment rights vs. 56% of speech case editorials (p. 47). The two studies are not comparable, however, because the time periods are different in length and many of the cases involved in the two studies do not overlap.

Bowles' 1978 study of Supreme Court decisions also examined whether editorials merely discussed the facts and outcomes of a case or provided an analysis of the decision and whether any discussion appeared in the editorials about First Amendment principles. This non-numerical portion of her study looked for patterns in the editorials' use of values outlined by Chaffee (1941) and Emerson (1970). Bowles (1978) referred to the values as reasons for the existence of free expression in a democratic society and examined newspaper editorials for their presence in order to determine whether the newspapers tried to educate readers about the values and theoretical foundations of the First Amendment (pp. 100-101).

The values she extrapolated from Chaffee's arguments against governmental restriction on expression of opinion were that (a) new ideas should be able to get started, (b) freedom is essential to re-examining community and individual standards, (c) freedom is necessary for people's participation in the political process, (d) freedom helps accomplish long-term policies over short-term policies, (e) freedom protects people against abuses of power by government leaders, (f) freedom preserves human dignity, and (g) free expression ensures a better type of community to live in (p. 101).

The four principles Bowles used from Thomas Emerson's (1970) discussion about a system of free expression in a democratic society are similar to Chaffee's (1941). The

four principles listed by Bowles (1978) were that free expression (a) assures individual self-fulfillment, (b) reveals the truth, (c) allows members of society to participate in societal and political processes, and (d) maintains a balance between stability and change in society (pp. 101-102).

She concluded that “most editorials did not incorporate information reflecting an understanding of the underlying rationale for freedom of expression in contemporary society” (p. 100). Bowles wrote that characteristic examples of how newspapers editorialized about decisions were to discuss:

free expression in very general terms or to quote extensively from Court opinions and, in effect, use the words of the Court to support the Court’s position. In cases involving political dissidents, many editorials tended to find national security involved, and to view it as a societal value deserving priority over free expression. (p. 111)

Her generalization about the type of presentations made does not emphasize how the concept of First Amendment values in newspaper editorials developed over time. The prevalent finding from the 1920s portion of her study, involving political dissidents like Eugene Debs, showed that relatively few of the newspapers acknowledged the rationale for free expression. When a rationale for free expression was discussed the editorial subordinated it to national security concerns because the aims of political dissidents “could not be reconciled with other societal interests” (p. 107). Bowles found that the only other period in her study when such attitudes were expressed was during the 1950s when fears about Communist agents infiltrating levels of U.S. government reached a crescendo.

Bowles' (1977) study of 16 daily newspapers was pegged to 16 indicators in 1920 and 1940. She examined the degree of support for freedom of expression during two periods of crisis and whether the press' support was contingent on a self-perceived threat. Her findings for the two periods indicate that there was no significant link between newspaper support for free expression and a self-perceived threat. She noted that intolerance for free expression was at its greatest level following the Palmer Raids in 1919.

Bowles 1977 study showed that between 1920 and 1940, the percent of editorials supporting freedom of expression rose from 56% to 70% while negative editorials dropped from 44% to 31%. All editorials were coded as either negative or positive. Her 1978 and 1989 studies included a third category for neutral editorials.

The results of her sets of studies show that newspapers in the 1920s were more likely to deny free expression rights to dissident members of society than to advocate that such people should be allowed to exercise those rights. However, her studies did not focus on a single time period that explores the patterns between positions taken by the editorials towards free expression indicators and the discussion about free expression principles.

Period studies

Mott (1962) and Emery and Emery (1988) briefly discussed this period in their surveys of American journalism history. Mott balanced his narrative between issues of censorship that confronted reporters covering battle fronts and the domestic pressures brought against the Socialist and foreign-language presses. Mott concluded that few

papers were disturbed in their freedom of comment upon American performance in the war, but he did not examine whether the papers took a stance on the larger First Amendment issues of the Espionage Act. Emery and Emery (1988) mentioned the papers that opposed the war before it began, but their discussion primarily dealt with wartime censorship towards German-language and Socialist papers and did not discuss newspaper commentary on free expression issues.

Other research of the era offered detailed explanations of specific aspects of wartime speech restrictions and the effects on certain elements within American society. These elements included conscientious objectors, the peace movement, the American Socialist Party, the radical labor movement, and the German-American population. The researchers utilized newspaper editorials and commentary, primarily from the *New York Times*, to illustrate public opinion of the period, but their evidence rested primarily with official statements and public policy (Child, 1939; Fowler, 1977; Jensen, 1968; Linfield, 1990; Luebke, 1974; Mock, 1941; Murphy, 1979; Murray, 1955; Peterson & Fite, 1957; Preston Jr., 1963; and Wittke, 1936).

Chester Milham (1938) thoroughly documented the process of World War I espionage legislation from an historical perspective. His study was primarily descriptive and provided little commentary on newspaper reaction to the legislation.

Other studies of this period focused on civil rights in terms of legal concerns regarding free speech issues and included analyses of Supreme Court decisions (Chaffee, 1920, 1941; Emerson, 1968, 1970; Roche 1963; Hilton, 1947, 1948; Lawrence, 1974; and

Murphy, 1972a, 1972b). Biddle (1952) and Goldstein (1978) analyzed the repressive and paranoid atmosphere of the period from a retrospective stance. Goldstein commented minimally on actual press performance during World War I. He categorized the press as one of the key elites in U.S. society. According to his argument, journalists contributed to the climate that resulted in government intervention for the purpose of mitigating internal tension by the newspapers' "lack of opposition to repression" (p. 559).

Stevens (1982) was critical of the press' performance as a watchdog for civil liberties during World War I. He wrote that "few publications cried out; instead, many called for military trials and even the death penalty" (p. 48). His focus in this study about the development of the First Amendment through U.S. history broadly examined historical influences that converged to shape free expression practice in this country. Influences he described included wars, ideologues, editors, and self-appointed protectors of society.

In his analysis of the World War I era, Stevens noted that the paranoia over dangerous elements in U.S. society had two long-term results. The Supreme Court asserted the primacy of federal jurisdiction over state laws by linking the Fourteenth Amendment to the First Amendment in the 1925 case of Benjamin Gitlow, a Socialist Party member convicted under a New York statute, one of many individuals and groups from various states legally prosecuted for expressing opinions favorable to left-wing causes. Although the decision upholding Gitlow's conviction in *Gitlow v. New York* (1925) came years after the end of the war, the relevant New York state statute was

passed as a direct response to the fear of Communist activity in the United States, also known as the Red Scare, which began in the fall of 1919.

The second result of the Supreme Court's decisions involving the Espionage Act was that free expression, particularly as it related to political views, became a public and a national issue. Over time other issues involving expression, including the use of arm bands and the display of red flags became considered viable public forms of expression, although they were not initially protected. Appeals by the persecuted, who defended these activities as a form of expression, became more commonplace than prior to the war.

Other studies focused on the Progressive era of U.S. history which roughly extended from 1901 to 1914 (Blanchard, 1982, 1992; Cobb-Reiley, 1986; and Rabban, 1981, 1983). These authors commented on the lack of attention by legal scholars towards 19th and early 20th century state court decisions, which in some instances, mirrored the later Espionage Act decisions' intolerance towards dissident elements within society. The authors acknowledged that more importance has been placed upon Supreme Court decisions beginning with *Schenck v. United States* (Blanchard, 1982; Rabban, 1981, 1983).

The work surveyed in this section examined aspects of newspaper commentary on issues involving civil liberties and historical and legal studies, focusing on the World War I period. None of the studies systematically explored commentary in newspaper editorials about federal legislation affecting freedom of expression during World War I. There was also no attempt to concentrate attention on newspaper editorial commentary towards the

First Amendment issues raised by the federal government's moves to enact legislation during this time period that affected expression of opinion.

Chapter 3

Method

This study is a content analysis of editorials that appeared in seven daily newspapers during the World War I period. The editorials ran in conjunction with nine free expression indicators. These were the legislative debate and passage of the Federal Espionage and Sedition acts and subsequent interpretation of the acts in seven Supreme Court decisions. The indicators dealt with publicly discussed issues during World War I involving expression of opinion. The study categorized the editorials' support for free expression and for two themes observed in studies by Bowles (1978) and Lofton (1980). The two themes were (a) priority for free expression of opinion during wartime as a fundamental right compared to national security, and (b) whether free expression was applied as a fundamental right to all members of society during wartime or as an exclusive privilege.

The editorials were also coded for the presence or absence of four principles derived by Emerson (1970) as foundations for a system of free expression in a democracy. The four principles were (a) free expression is an essential part of individual self-fulfillment, (b) free expression advances knowledge and the process of discovering truth, (c) free expression allows for participation in decision making by all members of society, and (d) free expression helps to achieve a balance between stability and change (pp. 6-7). The principles were used to determine what kind of editorial effort was made to educate newspaper readers about First Amendment concepts. This information was compared

with the data about editorial support towards free expression and the discussion involving the two themes.

Editorials were collected by sampling 2,058 newspaper editorial pages for the time periods when the legislative debates for the Espionage and Sedition acts occurred, which were April 2, 1917 to June 29, 1917 and January 6, 1918 to May 6, 1918, respectively. The sampling period ended 2 weeks after the acts were signed into law. For newspapers, which did not have Sunday editions, the sampling concluded after 14 newspaper issues were checked. The same sampling technique was used for the seven Supreme Court decisions. The sampling periods for these indicators were between March 3, 1919 and March 25, 1919 for the cases of *Schenck v. United States*, *Frohwerk v. United States*, and *Debs v. United States*, between November 10, 1919 and November 25, 1919 for the case of *Abrams v. United States*, between March 1, 1920 and March 23, 1920 for the cases of *Schaefer v. United States* and *Pierce v. United States*, and between March 7, 1921 and March 22, 1921 for the case of *Milwaukee Publishing Co. v. Burleson*.

The newspapers used in the study were the *Chicago Tribune*, the *Cleveland Press*, the *Los Angeles Evening Herald*, the *New York Evening Journal*, the *New York Times*, the *Philadelphia Evening Bulletin*, and the *Washington (DC) Evening Star*.

Research Questions

1. To what extent do the newspaper editorials support free expression based on their commentary about federal legislation affecting free expression during World War I?

Answers to this question were determined by coding the editorial's position towards free expression, raised in its discussion of the nine free expression indicators. Opinions appearing in the editorials were placed into two categories depending on whether the indicators were explicitly mentioned or implicitly referred to and then coded on a five-point scale ranging from support towards free expression to opposition. Support for free expression meant that the newspaper disagreed with the need for the Espionage or Sedition acts, or disagreed with the Court's decisions because of the impact on free expression. Opposition for free expression meant that the newspaper supported the legislation or the Court's decisions and discounted any adverse effect on free expression. The implicit and explicit categories were subsequently collapsed into a single group in the results discussion. The editorials were also coded for the presence of two themes observed in studies by Lofton (1980) and Bowles (1978). The themes were (a) the priority expressed for free expression of opinion during wartime, and (b) how broadly the editorial applied free expression to members of society during wartime.

On a second sheet, terms used in the editorial were also recorded for use in a qualitative discussion. The terminology consisted of reasons the editorial gave in support of or against free expression and when it is permissible to censor opinion. Groups named in the editorial as deserving of the right to freely express their opinions were recorded as well as names of groups named in the editorial as nondeservers of this right. Terms were also collected when present in the editorial for the two themes of priority for and application of free expression during wartime.

Lofton (1980) and Scheiber (1960) observed that most mainstream daily newspapers ran editorials commenting on the Espionage Act through June 1, 1917, but remained largely silent about free expression issues after a news censorship provision was removed from the bill. The provision allowed for convictions of anyone who published material on topics, which President Wilson, through a presidential declaration, could declare “to be useful or possibly useful to the enemy” (Scheiber, 1960, p. 18). The provision was defeated in the House on May 31 by a vote of 184 to 144, after the Senate struck this passage from its version of the bill.

Lofton and Scheiber’s observations were addressed in this study by comparing the coding results from the editorials during two periods of time. The first period was the legislative debate on the Espionage Act before a press censorship provision was removed from the bill by a vote of the House of Representatives on May 31, 1917. This included editorials that ran through June 1, 1917. The second time period encompassed the rest of the debate for the Espionage Act, the legislative debate and passage of the Sedition Act, and the subsequent seven Supreme Court decisions. This was done to see if there were any differences in the editorials’ support for free expression, based on the presence or absence of legislation that had the potential of controlling print content.

2. What patterns exist between the editorial opinions expressed towards free expression and evidence that editorials conveyed First Amendment concepts to their readers?

This section of the study was patterned after Bowles' (1978) effort to determine whether newspapers tried to educate their readers about the theoretical foundations of the First Amendment (pp. 100-101). This question's results are primarily qualitative. The presence or absence of Emerson's (1970) four principles of societal values attached to free expression of opinion were recorded for each of the editorials. The terminology used in the editorial to support the appearance of each of the principles was also recorded on the terms sheet. The intent was to compare efforts to educate newspaper readers about First Amendment concepts with the editorial support for free expression, the two themes of priority for and application of free expression during wartime, and to discuss the resulting patterns.

Because of the limited availability of newspaper holdings from the time period of interest, the study was conducted as a purposive sample, which according to Budd, Thorp, and Donohew (1967) is not generalizable "to all other units comprising the population from which the samples are selected" (p. 24). The population or universe in this case comes from newspaper listings in the 1920 edition of *N. W. Ayer and Son's Newspaper Annual and Directory*.

Selection of Newspapers

Five of the newspapers were selected from cities that the 1920 U.S. census listed among the top ten population centers in the country. The papers selected were the largest circulating newspapers in those cities according to the 1920 edition of *N. W. Ayer and Son's Newspaper Annual and Directory*. The papers were the *Chicago Tribune*, the

Cleveland Press, the *Los Angeles Evening Herald*, the *New York Evening Journal*, the *New York Times*, the *Philadelphia Evening Bulletin*, and the *Washington Evening Star*.

Two of the papers used in the study, the *New York Times* and the *Washington Evening Star* were chosen respectively as the nation's newspaper of record and the top circulating newspaper in the nation's capital.

New York City was the largest city in the United States with a 1920 population of 5,620,048 (Bureau of the Census, 1921, I, p. 78) and contained 65 daily newspapers, including 32 foreign-language publications. The *New York Evening Journal* was the largest circulating daily newspaper with 685,428 issues and no Sunday edition. The *New York Times* was the second largest paper at the time with a daily circulation of 367,387 and a Sunday circulation of 546,728. The other significant English-language dailies were the *New York World*, the *New York Tribune*, and the *New York American*, which each had daily circulations of more than 100,000 (*N. W. Ayer and Son's Newspaper Annual and Directory*, 1920, p. 1179).

Support for using the *New York Times* as the newspaper of record came from Pool's (1952) study of prestige newspapers, where he wrote that the *Times* served the United States as "an organ of elite opinion, usually semi-official" (p. 1). A distinctive feature that the *Times* had been noted for since Adolph Ochs became publisher in 1896 was the complete reproduction of official documents within its pages (Kobre, 1959). Historian Preston William Slosson (1930) also cited the *Times* as the best daily newspaper

used in his study of the period in U.S. history between 1914 and 1928 because it “printed in full documentary material which most papers were content to summarize” (p. 443).

Chicago, the second largest city, had a 1920 population of 2,701,705 (Bureau of the Census, 1921, *I*, p. 78) and 36 dailies, including 22 foreign-language newspapers. The *Chicago Tribune* had a daily circulation of 424,588 and a Sunday circulation of 666,496. The other high-circulation English-language newspapers were the *Chicago American*, the *Chicago Herald and Examiner* and the *Chicago News*, each with daily circulations above 250,000 (*N. W. Ayer and Son's Newspaper Annual and Directory*, 1920, pp. 1170-1171).

Philadelphia, the third largest city, had a 1920 population of 1,823,779 (Bureau of the Census, 1921, *I*, p. 78) and contained 11 daily newspapers and 5 foreign-language newspapers. The *Philadelphia Evening Bulletin* had a daily circulation of 445,999 and no Sunday edition. The other major English-language papers were, the *Philadelphia Inquirer*, the *Philadelphia Public Ledger*, and the *Philadelphia North American*, each with circulations above 100,000 (*N. W. Ayer and Son's Newspaper Annual and Directory*, 1920, p. 1183).

The 1920 population of Cleveland, Ohio, the fifth largest city, was 796,841 (Bureau of the Census, 1921, *I*, p. 78) with 15 daily newspapers, including 9 foreign-language newspapers. The *Cleveland Press* had a daily circulation of 180,421 and no Sunday edition. The *Press*' main English-language competitor was the *Cleveland Plain-Dealer* with a daily circulation of 167,720 and a Sunday circulation of 208,861 (*N. W. Ayer and Son's Newspaper Annual and Directory*, 1920, p. 1180).

Los Angeles, the ninth largest city, had a 1920 population of 576,673 (Bureau of the Census, 1921, *I*, p. 78) and eight daily newspapers including four foreign-language publications. The *Los Angeles Evening Herald* had a daily circulation of 124,684 and no Sunday edition. The *Herald's* primary English-language competitors were the *Los Angeles Times*, the *Los Angeles Examiner*, and the *Los Angeles Express*, each with daily circulations above 50,000 (*N. W. Ayer and Son's Newspaper Annual and Directory*, 1920, p. 1168).

Washington DC, the 19th largest city, had a 1920 population of 437,571 (Bureau of the Census, 1921, *I*, p. 78) and six daily newspapers, none of which were written in foreign languages. The *Washington Evening Star*, had a daily circulation of 90,831 and a Sunday circulation of 76,999. The *Star* was noted for its thorough political and social coverage of events in the capital (Kobre, 1959). Its primary competitors were the *Washington Post* and the *Washington Times*, both with daily circulations above 55,000 (*N. W. Ayer and Son's Newspaper Annual and Directory*, 1920, p. 1160).

The daily newspapers were obtained from microfilm collections at San Jose State University, U. C. Berkeley, Stanford University, and Inter-Library Loan services.

That fact that the largest circulating newspapers from among the largest cities in the United States were chosen for the study neither implies that these publications reached the same types of audiences, nor that the newspaper held the same political or social ideologies. The only factor in common among these papers, with the exception of the *New York Times*, is that they were the largest circulating papers in the city of publication.

There was no specific information available about the composition of the papers' actual readership, such as political party affiliation or level of education.

The results chapter include a discussion of any relevant factors which may have influenced the opinions expressed by the newspapers towards free expression and discussion of First Amendment principles. This information includes business and contextual data about the newspapers, such as available ownership information and evidence from documents, memoirs, and biographies from or about the period.

Demographic information about the cities and information about the number of Espionage Act and Sedition Act convictions that occurred in the relevant federal court districts is also included. The demographic information from the 1920 records of the Bureau of the Census includes the proportion of the largest groups of foreign-born residents to natural-born residents for the region and the proportion of residents whose primary language was not English, focusing on German-Americans.

Selection of Free Expression Indicators

The first event selected as a free expression indicator for the study was the legislative debate for the Federal Espionage Act, beginning on April 2, 1917, when the bill was first introduced into the Senate and ending on June 29, 1917, 2 weeks after President Wilson signed the bill into law (H.R. 291, 65th Cong. 1st Sess., 55 Cong. Rec. Index 54 [1917; enacted]; S. 2, 65th Cong. 1st Sess., 55 Cong. Rec. Index 1 [1917; enacted]). The second indicator was the legislative debate for the Federal Sedition Act, beginning on January 6, 1918 when that amendment to the Espionage Act was introduced into the

Senate and ending on May 16, 1918, 2 weeks after the President signed the bill into law (H.R. 8753, 65th Cong. 2nd Sess., 56 Cong. Rec. Index 462 [1918; enacted]; S. 3522, 65th Cong. 2nd Sess., 56 Cong. Rec. Index 399 [1918; enacted]). The remaining indicators were the seven Supreme Court decisions, encompassing two week periods after the cases of *Schenck v. United States*, decided on March 3, 1919, *Frohwerk v. United States* and *Debs v. United States*, both decided on March 10, 1919, *Abrams v. United States*, decided on November 10, 1919, *Schaefer v. United States*, decided on March 1, 1920, *Pierce v. United States*, decided on March 8, 1920, and *Milwaukee Publishing Co. v. Burlison*, decided on March 7, 1921. Although the Court cases were decided after the 1918 Armistice, an actual treaty was not ratified by the Senate and signed by President Warren G. Harding until July 2, 1921, so technically the United States was still at war (Ferrell, 1985, p. 230).

The criteria used for selecting the indicators were that the topics should be national in scope and raise issues about the freedom to publicly express opinion. The selection process was patterned after Bowles' 1978 study, when she selected Supreme Court decisions to measure newspaper attitudes towards freedom of expression between 1919 and 1969. She wrote that Supreme Court decisions were an appropriate indicator for a national study because of the salience if a "controversy is deemed significant enough for the United States Supreme Court to decide it" (p. 8).

The researcher used this same procedure to include the legislative debates for the Espionage and Sedition acts and the accompanying Supreme Court decisions. The dates

of the congressional debates came from the indices of volumes 55 and 56 of the *Congressional Record*. The sampling pattern employed by Bowles (1978) was also used in this study, specifically scanning editorial pages for a given period of time, ending 2 weeks or 14 issues after the acts were signed into law or after the Supreme Court decisions were announced.

This procedure was time consuming since each newspaper's editorial page was checked during the months-long period of the legislative debates. Following the legislative process also generated a larger number of editorials to code because the editorials appeared over a period of time while the bills were being discussed and modified. Each Supreme Court decision would be expected to generate only one editorial per newspaper because the newspapers were commenting on a situation that was already concluded. The indicators used in the study are all linked together because they stem from the debate and passage of the 1917 Espionage Act and have national scope. Legislative debates on a state or municipal level involving similar laws affecting expression of opinion could have been included as indicators for the time period, but there was no guarantee that newspapers in different parts of the country would provide editorial commentary about matters that did not affect people in their sphere of coverage.

Content Analysis

For the purposes of this study, content analysis refers to the definition used by Ole Holsti (1969), who wrote that "content analysis is any technique for making inferences by objectively and systematically identifying specified characteristics of messages" (p. 14).

Each individual editorial constituted the recording unit and the unit of analysis. Each editorial was given a coding number for use in the analysis.

For assessing the newspaper editorials' support for free expression based on the discussion of issues raised by the Espionage Act, the Sedition Act, and the seven Supreme Court decisions, a five-point scale was used to measure opinions. The choices were exclusive and no more than one could be used for each editorial. The scale moved in a direction from support for free expression to opposition towards free expression. The choices were

1. Support: The editorial supported free expression and contained no opposing arguments, which supported restrictive legislation or a Court decision which denied free expression claims.

2. Partial support: The editorial provided more arguments in favor of free expression than qualifying comments or opposing arguments.

3. None: The editorial either did not provide arguments in favor of or against free expression or it took no clear position in either direction.

4. Partial opposition: The editorial provided more arguments against free expression than qualifying comments or supportive arguments.

5. Opposition: The editorial opposed free expression and contained no supporting arguments, in terms of the discussions raised by the legislative debates and the Court decisions.

Three exclusive choices were used for coding two themes in each editorial when they were present. The themes were (a) what priority was advocated for free expression of opinion as a fundamental right during wartime and (b) towards which elements of society did the editorial apply free expression as a fundamental right during wartime? The not applicable choice was used for both of the themes in cases when there was no language which supported its presence in the editorial.

The theme for the priority the editorial gave free expression compared to national security during wartime referred to expression of opinion and not towards issues involving censorship of military facts or secrets.

The choices used for coding this theme were

1. Fundamental priority: The editorial gave priority to free expression of opinion as a fundamental right during wartime.
2. Subordinate to national security: The editorial subordinated free expression as a fundamental right to national security concerns during wartime.
3. Not applicable: The editorial did not take a position towards either free expression or towards national security. The editorial could have mentioned both issues, but did not make a choice or any distinctions between them.

The second theme was the application of free expression as a fundamental right to members of society. Each editorial was coded by how broadly it advocated this right.

The choices for coding this theme were

1. Fundamental right: The editorial endorsed or applied free expression of opinion as a fundamental right for all members of society during wartime.

2. Exclusive privilege: The editorial endorsed free expression of opinion as an exclusive privilege, applicable to responsible and patriotic members of society.

3. Not applicable: The editorial did not express an opinion about how the right to free expression of opinion during wartime should be applied.

This information was recorded both for the number and percentage of editorials which fell into the different choices. This data was also compared with the newspapers' efforts to educate their readers about First Amendment concepts. Evidence of the newspaper providing this educational role was determined by looking for the presence of four principles derived by legal scholar Thomas Emerson (1970). The four principles deal with how free expression enables citizens to participate in the workings of their society, to express their own opinions and hear the opinions of others, to balance the forces of stability and change, and to advance knowledge and the discovery of truth (pp. 6-7). Each of the four principles present in the editorial was recorded. If none of the principles were present in an editorial, the none answer was recorded. The principles were not exclusive so any combination could have been present in a given editorial.

A validation technique was simultaneously employed during the coding process. One technique mentioned by Robert Weber (1985) when measuring attitudes and the presence of themes is to validate them by reference to the text itself (pp. 62-63). As

previously mentioned, terms and assertions were collected from each editorial to verify the coding choices made by the coder and the researcher. This information was recorded on the second coding sheet. For the section on opinions towards freedom of expression, reasons were compiled for an editorial's support or opposition towards free expression as raised by issues in the Espionage Act, the Sedition Act, and the seven Supreme Court decisions.

For the portion of the study dealing with the two themes, reasons were recorded for why free expression of opinion should be a priority or why it is subordinate to national security during wartime. Terms were collected as reasons for why free expression should be applied as a fundamental right or an exclusive privilege during wartime. The groups named in the editorials as deserving of the right to free expression and those groups named as undeserving were recorded. For the portion of the study dealing with the newspapers' education of their readers in First Amendment concepts, terms and assertions were recorded for each of Emerson's (1970) principles found in the editorial.

Since the study was a purposive sample of newspapers' editorial pages, tests and procedures involving statistical significance could not be used to make generalizations towards the entire nation's daily newspaper population of the period. However, external data was collected to offer some explanation for the newspapers' performance as supporters of free expression. Holsti (1969) wrote that it is always necessary to use independent evidence to corroborate evidence obtained from assertions of opinion. The evidence's purpose in this study is limited to making some suggestions about reasons for

why the newspapers took the position they did in their editorials. This independent evidence “can rarely be used to determine the truth of an assertion” (p. 18). As previously discussed, available independent evidence appears in the results discussion to provide further information about the regional and economic context the newspapers operated in.

The systematic method of collecting and categorizing the data meant that the presence of themes in the editorials could be directly compared with the support or nonsupport expressed for free expression. The coding results could also be compared with language in the editorials used to educate readers about First Amendment concepts.

Subjectivity in the coding process was addressed through intercoder-reliability testing. This compared the results of the researcher’s coding efforts with the results of the other coder’s work. The process of validating the choices made in the initial coding process with terms or phrases found in the text also required the researcher and coder to substantiate their selections.

The coding sheets used in the study for coding the editorials’ stance towards free expression, the two themes, and First Amendment concept education efforts were derived through coding 16 editorials from issues of the *Atlanta Constitution* and the *St. Louis Post-Dispatch*. These editorials appeared during the same time period as the editorials from the seven newspapers used in the study, but were not included in the final results. The coding sheets used in the study to categorize the editorials and to collect terms from the editorials appear in Appendix A on page 104 and Appendix B on page 105.

Inter-coder reliability test results were determined from 24 of the 85 editorials used in the study. The results were broken down into the four areas of (a) the editorial's support for free expression, (b) the theme for the priority given to free expression during wartime, (c) the theme of applying free expression to members of society during wartime, and (d) the editorial's use of four principles in educating its readers in First Amendment concepts.

Content analysis of newspaper editorials can reveal only partial evidence about newspaper attitudes towards the free expression indicators in the study. The editorial does not speak for each staff member at the newspaper as a whole. Determining what issues warrant an editorial and what direction the editorial should go in may differ from paper to paper depending on the owner and the structure of the paper. Any conflicts, which may have resulted about what editorial position the paper should take are largely invisible to the outside eye in the absence of documented evidence or memoirs from staff members at the time.

The editorials represent a primary source of an aspect of newspaper opinion as they are one of the few permanent records from the period that was available to the general public. If the purpose of an editorial is to endorse or criticize an issue or a policy, then these editorials represent a partial contribution towards public debate about federal legislation affecting freedom of expression during World War I.

Operational Definitions

Daily newspaper: A daily publication published in English, among the highest circulating newspapers in its city of origin, and not published by a political party.

Editorial: A column that appears on the designated editorial page of a newspaper and reflects the paper's viewpoint on an issue. The editorial is normally unsigned except in cases where the publisher signed his name, which occurred in two editorials of William Randolph Hearst's *New York Evening Journal*.

Freedom of expression: The right to express opinion through written and oral forms of communication.

Free expression indicators: Nine situations and events linked to federal legislative and judicial actions, which affected the ability of individuals, groups, and publications to express opinion.

Themes: "A unit of text that conveys a message about a conceptual entity, an incident or a viewpoint, which can be seen as a coherent whole" (Carney, 1972, p. 159).

Coding Definitions

Explicit: The editorial explicitly mentioned the free speech indicators, namely the Espionage Act or the Sedition Act by name or by reference to the acts that Congress was drafting to combat espionage. For Supreme Court decisions, the editorial mentioned the name of the defendant in the case.

Implicit: The editorial did not mention the federal legislation by name, but advocated some type of legal action or a new law that accomplishes the same intent.

Support: The editorial supported free expression and contained no opposing arguments.

Partial support: The editorial provided more arguments in favor of free expression than qualifying comments or opposing arguments.

None: The editorial either did not provide arguments in favor of or against free expression or it took no clear position in either direction.

Partial opposition: The editorial provided more arguments against free expression than qualifying comments or supportive arguments.

Opposition: The editorial opposed the indicator and contained no supporting arguments.

Fundamental priority: The editorial gave priority to free expression of opinion as a basic right during wartime, whether it was the ability to hear communication and criticism of government war policies or to have access to information that was nonmilitary in value.

Subordinate to national security: The editorial argued that national security during wartime takes priority over free expression, which means that information can be restricted by the government and that harmful language can be suppressed if it has the actual or potential effect of undermining public morale about the war effort.

Fundamental right: The editorial referred to free expression as a fundamental right which all people in the United States can exercise even during wartime.

Exclusive privilege: The editorial supported free expression as a right that can be denied to those who either abuse it or who do not use it in a loyal or patriotic fashion during wartime.

Not applicable: The editorial did not contain information about whether it advocated free expression as a priority during wartime, subordinated free expression to national security concerns during wartime, applied free expression as a fundamental universal right for all members of U.S. society, or applied free expression as an exclusive privilege for loyal Americans.

Self-fulfillment (principle 1): Free expression is an essential part of individual self-fulfillment--the right for individuals to express their opinions.

Discover truth (principle 2): Free expression advances knowledge and the process of discovering truth--the right for individuals to share information and opinions with others, both as a giver and a receiver.

Participation (principle 3): Free expression allows for participation in decision making by all members of society--the right to be informed about government actions and policies, which have non-immediate military value, and to express one's opinions about them.

Balancing force (principle 4): Free expression helps to achieve a balance between stability and change--the use of expression to effect change over time through the input and discussion of new ideas and practices.

None: the editorial did not contain references to any of the four principles.

Chapter IV

Results

The daily newspapers used in this study yielded 85 editorials, which were coded for their support or opposition towards free expression. Editorial pages from the seven newspapers were checked during dates which ran in conjunction with the occurrence of nine free expression indicators. The indicators dealt with federal legislation passed during the World War I era that adversely affected those individuals or groups who spoke out against the United States' military participation in the war. The indicators were the legislative debates and enactments for the Espionage and Sedition acts and seven related Supreme Court decisions which marked the Court's first rulings in cases where First Amendment issues were at stake.

The indicators were also coded for the use of two themes observed in studies by Bowles (1978) and Lofton (1980). The themes of (a) priority for free expression during wartime vs. national security concerns and (b) application of free expression during wartime as a fundamental right or an exclusive privilege were coded when the relevant language appeared in the editorial. This information was used to answer the study's first question

1. To what extent do the newspaper editorials support free expression based on their commentary about federal legislation affecting free expression during World War I?

Other information used to answer this question came from directly comparing the coding results of editorials divided into two time periods. The first time period was before

a press censorship provision was removed from the Espionage Act by the House of Representatives on May 31, 1917. This provision allowed for convictions of anyone who published material on topics, which the President, through a presidential declaration, could declare “to be useful or possibly useful to the enemy” (Scheiber, 1960, p. 18). The first period included editorials which ran on June 1, 1917 as an immediate response to the congressional vote. The second time period covered the rest of the Espionage Act’s debate and ended with the seventh Supreme Court decision. This was done to see whether there were any differences in the editorials’ support for free expression based on the presence or absence of legislation that had the potential of controlling print content, as Lofton (1980) and Scheiber (1960) observed. Terminology collected from the editorials as a method of validation for the choices made during coding is discussed qualitatively in conjunction with regional and ownership information for the seven newspapers used in the study. The information was used to offer some reasons for why individual newspapers performed as they did towards free expression.

The term collection was also used to answer the study’s second question

2. What patterns exist between the editorial opinions expressed towards free expression and evidence that editorials conveyed First Amendment concepts to their readers?

The information from the editorials’ support for free expression and the position taken towards the two themes was compared with evidence that the newspapers educated their readers in First Amendment concepts. The four principles as stated by legal scholar

Thomas Emerson (1970) serve as foundations for a system of free expression in a democratic society. The four principles were that free expression (a) assures individual self-fulfillment, (b) reveals the truth, (c) allows members of society to participate in societal and political processes, and (d) maintains a balance between stability and change in society (pp. 6-7). This discussion is qualitative.

Coding Results

When the newspaper editorials are viewed as a single group, the results of the study show that 53% of the editorials supported or partially supported free expression and that 36% of the editorials either expressed opposition or partial opposition. Table 1 on page 57 depicts the results. There was a much smaller number of editorials which contained the themes of priority for and application of free expression during wartime. For the priority theme, the not applicable choice appeared in 38 of the 85 editorials, whereas 23 gave priority to free expression and 24 subordinated it to national security concerns. Of the editorials applying free expression to members of U.S. society, 52 were coded as not applicable, 18 advocated free expression as a fundamental right for the entire U.S. population, and 15 reserved free expression as an exclusive privilege for responsible patriotic members of society.

Table 1

Number and Percentage of Editorials in Categories of Support for Free Expression During World War I

	<u>Number</u>	<u>Percent</u>
<u>Support for Free Expression</u>		
Support	38	45%
Partial support	7	8
None	9	11
Partial opposition	8	9
Opposition	23	27
<u>Priority for Free Expression During Wartime</u>		
Priority	23	27
Subordinate	24	28
Not applicable	38	45
<u>Application of Free Expression During Wartime</u>		
Exclusive right	18	21
Fundamental privilege	15	18
Not applicable	52	61

The limitation in coding the two themes was that specific language needed to be present in an editorial to support the coding choice. The overall direction of an editorial for or against free expression was easier to determine because it was a more general concept.

There appeared to be a direct relationship between an editorial's support for free expression and whether the editorial supported free expression as a priority and applied it as a fundamental right to U.S. inhabitants during wartime. In 21 editorials which supported free expression, the theme of free expression as a priority during wartime was also present. The other 2 editorials containing this theme as a priority were either in partial support or in partial opposition to free expression. Even the latter editorial argued that some exceptional instances may warrant official censorship, but not as a desirable and normal policy ("Press Censorship," 1917).

In 22 out of the 24 editorials that subordinated free expression to national security concerns free expression was not supported. The remaining 2 editorials partially supported free expression, but also insisted that irresponsible criticism does not fall into that category ("Censorship 1," 1917) and that some modifications to criticism are justified at the present time ("Censorship 2," 1917). Similar patterns with smaller numbers were found for the theme of application of free expression as a fundamental right or an exclusive privilege during wartime. The entire set of 18 editorials that applied free expression as a fundamental right for all people in the United States also supported free expression. There were 12 editorials that opposed free expression and applied it as an

exclusive privilege to responsible American patriots. Two of the remaining 3 editorials containing the theme of free expression as an exclusive privilege were in partial opposition, while 1 partially supported free expression. This particular editorial, by the *Chicago Tribune*, was not specific about who should have the right to express their opinion, but insisted that the criticism must be done by a person who has the intent “to prevent or correct mismanagement” (“Censorship 1,” 1917, April 10, p. 8).

Intercoder Reliability

The results at pi of an intercoder reliability test performed on a sample of 24 editorials show that there was .89 agreement on coding the editorials’ stance towards free expression, .76 agreement on selecting the priority for free expression during wartime, .84 agreement on the application of free expression during wartime, and .81 agreement on selecting Emerson’s (1970) four free expression principles. The four First Amendment education principles were not mutually exclusive, so are not presented in tabular format. Any differences in coding were clarified between the researcher and the coder before making a final decision in coding. The terms collected from the editorials to support the choices made on the categorization sheet were used in this process.

Findings from the Newspapers by Time Periods

When the editorials were broken down by time periods the results show that the seven newspapers ran more editorials commenting on free expression before the House of Representatives voted to remove the press censorship provision from the Espionage Act on May 31, 1917. There were 50 editorials during the first time period, and 35 in the

second period which encompassed the rest of the legislative debate for the Espionage Act and its enactment, debate and enactment of the Sedition Act, and the Supreme Court decisions. The number of newspaper issues sampled during the first period was 420. There were a total of 1,638 issues sampled during the second period. The results are depicted in Table 2 on page 61.

Unqualified support for free expression appeared in 64% of the editorials during the first time period, dropping to 17% in the second time period. There was opposition for free expression in the first period at 4%, rising to 60% in the second time period. When combined with the partial support and partial opposition categories, support in the first period at 76% mirrored the 74% degree of opposition in the second period. Similar patterns were observed for the two themes of priority and application for free expression, although the variation between the two time periods was not as great.

The numbers show that newspapers ran more editorials supporting free expression before the press censorship provision was removed from the Espionage Act. The newspapers in the study ran a plurality of editorials supporting or partially supporting free expression, but 38 out of those 45 editorials appeared during the legislative debate for the Espionage Act before a press censorship provision was removed from the bill on May 31, 1917. There were 11 editorials in the second period, which commented on the Espionage Act. Five of those editorials supported free expression while 1 was in partial support. Three editorials did not support free expression and 2 did not take a position.

Table 2

Number and Percentage of Editorials in Categories of Support for Free Expression During World War I Divided by Time Period

	<u>Editorials through June 1, 1917</u>		<u>Editorials after June 1, 1917</u>	
	<u>Number</u>	<u>Percentage</u>	<u>Number</u>	<u>Percentage</u>
<u>Support for Free Expression</u>				
Support	32	64%	6	17%
Partial support	6	12	1	3
None	7	14	2	6
Partial opposition	3	6	5	14
Opposition	2	4	21	60
<u>Priority for Free Expression During Wartime</u>				
Priority	19	38	4	11
Subordinate	5	10	19	54
Not applicable	26	52	12	35
<u>Application of Free Expression During Wartime</u>				
Fundamental right	15	30	3	9
Exclusive privilege	2	4	13	37
Not applicable	33	66	19	54

The numbers also mean that the Espionage Act, as a free expression indicator, generated 44 out of 45 of the editorials in the study that supported free expression. There was no editorial commentary about the enactment of the Espionage Act after President Wilson signed the bill and relatively few editorials dealt critically with implications towards free expression in the Sedition Act. Only 20 editorials commented on the Sedition Act, compared with 61 for the Espionage Act. Of the commentary about the Sedition Act, 15 editorials did not support free expression, 4 were in partial opposition towards free expression, and the 1 supporting editorial did not discuss the potential implications of the act, but urged that continued open discussion of congressional activities should not be halted. This editorial, ran by the *Washington Evening Star*, was the only one which supported free expression and did not run in conjunction with the Espionage Act (“Pessimism,” 1918).

There was an even lower incidence of editorials commenting on the seven Supreme Court decisions. Four of the newspapers commented on *Debs v. United States* (1919), only one of those editorials mentioned one of the other cases, and all of those editorials denied that the Court’s decision interfered with the constitutional right to free speech. The disparity in numbers between editorials commenting on legislation and those commenting on Court decisions was not unexpected because the legislative debates occurred over a period of several months while the Court decisions were announced without advance notice. The low number of Court editorials was consistent with Bowles’ (1978) findings. She found that of 24 nationally distributed newspapers, only 9

commented on the *Debs* decision and unanimously supported the Court's verdict (pp. 70-71). For the case of *Milwaukee Publishing Co. v. Burleson* (1921), another decision that also appears in this study, she noted that 21 out of 24 newspapers ignored the verdict, that 2 newspapers supported the Court, and that only one newspaper argued in support of free expression and against the decision (pp. 70, 89-90).

The results suggest that during World War I newspapers supported the principle of free expression when they faced the direct prospect of government control over the content of their publications. Intolerance towards perceived subversive elements in the United States increased over time as the editorials used harsher tones when speaking against dissenting groups. This shift against certain groups began in editorials shortly after the press censorship provision was removed from the Espionage Act and was prevalent in the discussion about the remaining eight free expression indicators. The newspapers in the study either explicitly supported the suppression in the form of the Sedition Act and the Supreme Court decisions or did not comment.

This reinforces observations made by other researchers. Lofton's (1980) observation that decreased attention was paid to free expression after the excision of the press censorship provision from the Espionage Act was supported by this study's results. Stevens (1968, 1982) wrote that newspapers were more likely to condemn than to defend the civil liberties of dissident groups or individuals in the United States at that time. Bowles' (1977, 1978) findings that intolerance for free expression rose through the early part of the 1920s was also reinforced by the findings of this study.

Even a newspaper like the *New York Evening Journal*, which was the most consistent supporter of free expression in this study, ran only three editorials for the remainder of the Espionage Act's legislative debate and did not comment on the Sedition Act or any of the Supreme Court's seven decisions.

The *Los Angeles Evening Herald* and the *New York Evening Journal* tended to be the most supportive of free expression, followed by the *New York Times*. The *Los Angeles Evening Herald* and the *New York Evening Journal* also tended to support free expression as a priority during wartime and to apply it as a fundamental right.

The *Washington Evening Star* ran a larger number of editorials, which were neutral towards free expression and towards the two themes of priority for and application of free expression during wartime. The newspapers which displayed a more negative stance were the *Cleveland Press* and the *Philadelphia Evening Bulletin*, while the *Chicago Tribune* ran editorials which were evenly split between partial support and partial opposition towards free expression.

Regional and Ownership Information

The newspapers used in this study were selected because they were primarily the top circulating papers in their city of publication with the exception of the *New York Times*. The strong economic performance of these papers in a competitive field, usually indicated links to organizations composed of members of the institutional daily press. Several of the publishers were officers in the American Newspaper Publishers Association and involved in large-scale cooperatives such as the Associated Press and United Press

International. Each newspaper's regional and ownership information is discussed separately including their patterns of support for free expression. There does not appear to be an apparent pattern among newspaper performance, the number of local Espionage Act prosecutions and convictions, and the foreign-born and foreign-speaking population, focusing on German-Americans. The following discussion is intended to provide an additional degree of external validation to the coding results obtained from the newspaper editorial pages.

Chicago Tribune.

This newspaper was listed as an Independent Republican newspaper in the 1917 edition of *N. W. Ayer and Son's Newspaper Annual and Directory* (p. 193) and was co-edited by cousins Robert R. McCormick and Joseph Medill Patterson. The Federal District Court encompassing the eastern portion of the state had a lower number of prosecutions and convictions for violations of the Espionage Act than other districts in Illinois. There were 12 prosecutions and 6 convictions, compared to 92 prosecutions and 42 convictions for the entire state (H. R. Rep. No. 1439 [1918], pp. 179-181; House Report No. 412 [1919], pp. 143-145; House Report No. 886 [1920], pp. 246-251).

The demographics for Chicago in 1920 show that the foreign-born population constituted 29.9% of the total city's inhabitants (Bureau of the Census, 1921, *I*, p. 49) and that Germans were the second largest foreign ethnic group at 13.9%, following Poles at 17% (pp. 732-33). German was the native tongue of 22.2% of the foreign-language

population, followed by Polish speakers at 16.4% (Bureau of the Census, 1922, 2, pp. 1,010-1,011).

Both McCormick and Patterson fought in World War I. McCormick rose to the rank of colonel and was noted for his strong patriotism (Sewell, 1984). He was a staunch isolationist and argued against the United States' entrance into the war, but strongly supported the government's military preparedness efforts after war was declared. He has been characterized with strongly influencing the tone of the *Tribune*, specifically with traits like "his narrow nationalism, his distrust of foreigners and especially Europeans . . . especially the English" (p. 212). His cousin Robert Patterson apparently alternated editorial duties with McCormick on a monthly basis (Sewell, 1984).

It is unclear to what degree the two men agreed or disagreed on the Wilson administration's promulgation of the Espionage Act. The paper ran 12 editorials during the course of the study. During the debate for the Espionage Act, 1 editorial was supportive, 4 were partially supportive, and 1 was partially opposed towards free expression. All of these ran before May 31, 1917, often utilizing qualifying arguments.

The *Tribune* ran five editorials about the Sedition Act. Of these, three registered partial opposition and two were in straight opposition towards free expression. The *Tribune's* editorials argued against too much government control, but recognized that the special circumstances of wartime required some regulation of utterances that could prove harmful.

Although the newspaper displayed some support for the harsh measures of the Sedition Act, it was careful to argue against allowing the Government to have too much free rein to enforce the measure. In one of its editorials the paper said:

such legislation will doubtless seem to abrogate many of the liberties which we enjoy in times of peace. . . . In time of war it is necessary that we surrender some of our rights and privileges. . . . limited strictly to the period of the war. (“Surrendering,” 24 April 1918, p. 8)

The newspaper did not question the necessity of dealing with seditious utterances and was one of four newspapers which ran an editorial about the *Debs* decision. This editorial stated that it was not Debs’ socialist views on trial, but his attempts to “spice his argument with suggestions provocative of disloyal acts” (“The Debs Decision,” March 11, 1919, p. 8) which was the constitutionally unprotected crime.

Cleveland Press.

This newspaper was characterized as an Independent in the 1917 edition of *N. W. Ayer and Son’s Newspaper Annual and Directory*. (p. 744) and was owned by E. W. Scripps. The region of Northern Ohio saw a large degree of prosecutions under the Espionage Act compared to the rest of the state as the war progressed. Records from the Annual Report of the Attorney General show that between 1917 and 1920 there were a total of 41 prosecutions and 20 convictions in the Federal District Court where Cleveland was located. This compared to a state-wide total of 57 prosecutions and 30 convictions (House Report No. 1439 [1918], pp. 213-214; House Report No. 412 [1919], pp. 177-178; House Report No. 886 [1920], pp. 314-317).

The demographics of the region from 1920 Bureau of the Census records show that 30.1% of Cleveland's population was composed of foreign-born inhabitants (Bureau of the Census, 1921, 1, p. 49) and that 11% of that group was composed of Germans, making it the 3d largest foreign group (pp. 732-33). The two largest ethnic groups in the city in 1920 were Poles and Hungarians (pp. 732-733). Germans, however, composed the largest foreign-speaking contingent in the city at 22%, followed by Poles at 12% (Bureau of the Census, 1922, 2, pp. 1,010-1,011).

For the majority of the period of this study, E.W. Scripps was convalescing in Florida from a stroke. His son Robert controlled the editorial operations for the Scripps chain of newspapers. Apparently, Scripps' other son, Jim disagreed with his father about maintaining chain-wide editorial support for President Wilson's war policies, resulting in Jim taking five of the chain's West Coast newspapers out of the organization in 1920 (Odendahl and Dematteis, 1984, pp. 259-260). A biographical section in a book composed of E.W. Scripps' writings, edited by Oliver Knight (1966) mentioned that Scripps came out of retirement after the United States entered the war, that he strongly backed the importance of capitalism in winning the war, and supported President Wilson's war policies (pp. 84-86). This suggests that during a crisis period, Scripps and his son Robert may have toned down the liberal slant that the chain's newspapers had been known for (Kobre, 1959).

The *Cleveland Press* clearly fell on the side of opposition towards free expression. It ran only four editorials, all of which were negative. It also used arguments in three of

the editorials which subordinated free expression to security concerns and applied it narrowly as an exclusive privilege. Two editorials responded to the Espionage Act and two responded to the Sedition Act. It ran the fewest number of editorials of the newspapers used in the study and was the only newspaper which never displayed support for free expression.

Los Angeles Evening Herald.

This newspaper was listed in the 1917 edition of *N. W. Ayer and Son's Newspaper Annual and Directory* as an Independent with E. R. Collins as the owner (p. 74). There is relatively little information about the history of this newspaper. Information from one source indicates that William Randolph Hearst secretly bought the paper in 1911. Frank E. Wolfe, the former managing editor of the *Herald* testified before a Senate industrial relations committee in 1916 that the reputedly liberal paper had secretly been owned by General Harrison Gray Otis, the publisher of the conservative *Los Angeles Times* between 1901 and 1911 (Miller, 1961, pp. 212-220; Sen. Document No. 415, [1916], pp. 5,845-5,854). Wolfe subsequently testified that the paper was secretly sold to Hearst with the provision that it become an evening newspaper (p. 5,847). Hearst publicly announced he was buying it in 1922 (Tebbel, 1952; Vaughn, 1984).

Hearst was also the publisher of the *New York Evening Journal*, another newspaper used in this study, so personal constraints that might have affected the editorial tones of both papers are considered here. There were not as many prosecutions and convictions for violation of the Espionage Act in Southern California as there were in the

northern part of the state. There were a total of 52 prosecutions and 21 convictions in Southern California, while the state as a whole prosecuted 138 people and convicted 51 (House Report No. 1439 [1918], pp. 167-168; House Report No. 412 [1919], pp. 131-132; House Report No. 886 [1920], pp. 222-225).

Los Angeles' foreign-born population constituted 21.2% of the total (Bureau of the Census, 1921, 1, p. 49). Germans were the fourth largest foreign group at 8.6%, while Mexicans composed 17.7% of the total (pp. 732-33). The German language was spoken by 17.8% of the foreign white population, while Spanish was the primary language for 13.3% (Bureau of the Census, 1922, 2, pp. 1,010-1,011).

Before the United States entered World War I, Hearst was staunchly isolationist. He had supported movements for Irish independence and was openly critical of the British. In 1916 the British government denied Hearst's International News Service use of its mails and cables, an action repeated by the French and Canadian governments (Carlson and Bates, 1936, p 188). Although Hearst supported the United States' war effort, the perception that his newspapers were pro-German resulted in anti-Hearst demonstrations throughout the United States in 1917 and 1918 when protesters burned his effigy. (p. 192).

The *Los Angeles Evening Herald* staunchly advocated free expression in 11 editorials through June 20, 1917. All of these editorials dealt with the Espionage Act and criticized the federal government for its efforts to pass a press gag law. Only 2 editorials ran in response to the Sedition Act, both advocating suppression of free expression. One

editorial stated: “We shall make our own country safe for Democracy [sic] by stopping the mouths of those who abuse free speech in times like these” (“We Shall Pass,” May 10, 1918, p. 18) and urged that all anti-Americans be punished for abusing free expression.

The shift in the *Herald's* latter editorials were a marked contrast to its editorials which staunchly defended the right to free expression. It is possible that Hearst may have been reluctant to make an unpopular stand during a period of time when he was under attack from the public and other publications like the *New York Tribune*, which led a campaign against Hearst in the spring of 1918 (Carlson & Bates, 1936, pp. 187-193). Hearst's other newspaper used in this study, the *New York Evening Journal*, differed from the *Herald* since all of its editorials supported free expression. Two of its editorials were published with Hearst's signature. The *Journal* also did not run any editorials after June 8, 1917. Its performance is discussed in the next section.

New York Evening Journal and the *New York Times*.

New York City, the largest city in the United States, had the largest proportion of foreign-born residents, although the state as a whole had fewer Espionage Act prosecutions and convictions than California. Between 1917 and 1920, the Federal Southern District Court had 55 prosecutions and 21 convictions. The state as a whole had 109 prosecutions and 49 convictions for Espionage Act violations (House Report No. 1439 [1918], pp. 206-209; House Report No. 412 [1919], pp. 170-173; House Report No. 886 [1920], pp. 300-307).

The foreign-born population constituted 36.1% of the city's total inhabitants (Bureau of the Census, 1921, *1*, p. 49). Germans composed 9.3% of the total foreign-born population, following Russians and Italians (pp. 732-733). German was spoken by 16.1% of the foreign white population, following Italian and Yiddish (Bureau of the Census, 1922, *2*, pp. 1,010-1,011).

The *New York Evening Journal* was consistently the most pro-free expression of the newspapers used in the study. It was listed in the 1917 edition of *N. W. Ayer and Son's Newspaper Annual and Directory* as a Democratic newspaper with Arthur Brisbane as its editor (p. 661). However, it ran only 10 editorials which took a position towards free expression through June 8, 1917 and all dealt with the Espionage Act. It ran no commentary on the Sedition Act or the seven Supreme Court decisions. This was consistent with Fought's (1970) findings about the *Journal's* lack of commentary towards the four free expression indicators he used in his study. Two of the editorials ran in a condensed form in the *Los Angeles Evening Herald* after they appeared in the *Journal*. This reprinting was not acknowledged by the *Herald* and may be another sign that Hearst owned the West-coast newspaper. The *Journal* criticized the federal government's need for the bill, and characterized itself and the nation's press as loyal, honest, and patriotic.

None of its editorials mentioned any groups that should not enjoy the right to free expression. All of its editorials also consistently utilized Emerson's (1970) four principles about the value of free expression in a democratic society, the only paper in the study to do so. As was previously mentioned, its sudden silence towards subsequent legislation

and the Supreme Court decisions may have been a factor of the public pressure, which was being brought against Hearst.

The *New York Times* ran the largest number of editorials of any newspaper in the study, an observation consistent with Fought's 1970 study. Its performance as a supporter for free expression also appeared to be linked to the press censorship provision in the Espionage Act. Fourteen out of its 15 editorials that ran through June 1, 1917 supported free expression and opposed the government's attempt to regulate the press. After June 1, the remaining 4 editorials either opposed or partially opposed free expression. Three editorials commented on the Sedition Act and 1 commented on the *Debs* case.

Although it did not utilize strident language as often as the other newspapers in the study it occasionally was blunt. In one editorial, "Punishment for the Disloyal," it stated "While we are at war with Germany utterances in support of the enemy or expressions of the hope that he may triumph cannot be tolerated" ("Punishment," April 3, 1918, p. 12).

The *Times* was owned by Adolph S. Ochs and run by managing editor Carr Van Anda and editorial page editor Charles Miller. The 1917 edition of *N. W. Ayer and Son's Newspaper Annual and Directory* listed the paper as Independent Democratic (p. 673).

The paper was not known for taking extreme positions and was often criticized by liberals and radicals for being too content with the status quo (Barnes, 1984; Stewart & Tebbel, 1952). The *Times* reputedly would not fall as strongly on the patriotic bandwagon as other newspapers did at the time, but was also not likely to support groups or

individuals, whom it perceived as a threat to the political and economic system in the United States.

Philadelphia Evening Bulletin.

This newspaper was owned by William L. McLean and is listed in the 1917 edition of *N. W. Ayer and Son's Newspaper Annual and Directory* as an Independent Republican newspaper (p. 852). The Federal District Court in Pennsylvania where Philadelphia is located had a lower number of Espionage Act prosecutions and convictions than the other two districts in the state. There were nine prosecutions and three convictions over a three-year-period. On a state level during the same period there were 64 prosecutions and 24 convictions (House Report No. 1439 [1918], pp. 218-220; House Report No. 412 [1919], pp. 182-184; House Report No. 886 [1920], pp. 324-329).

Philadelphia's foreign-born population constituted 22% of the city's total inhabitants (Bureau of the Census, 1921, 1, p. 49). Russians and Italians accounted, respectively, for 23.9% and 15.9% of the total foreign-born population, followed by Germans at 9.9% (pp. 732-733). German was spoken by 17.6% of the foreign white population, followed by Italian and Yiddish (Bureau of the Census, 1922, 2, pp. 1,010-1,011).

William McLean purchased the ailing *Bulletin* in 1895 and within 10 years it was the top circulating newspaper in Philadelphia. Its focus was primarily local, the editorial page was known for its conservative moderation, and it was described as the "biggest and best small-town newspaper in the United States (Stewart & Tebbel, 1952, p. 347).

McLean was active in the Associated Press where he served as a director between 1896 and 1905 and was a former director of the American Newspaper Publishers Association (Steck, 1984, p. 210). Since McLean was known for not wanting to offend his paper's readers, it seems unlikely that this paper would take any unpopular stands. It supported free expression partially in only two editorials, both of which ran before May 31, 1917. Even in those editorials the paper advocated that the President should use the power of treason to punish seditious and reckless newspapers and let the patriotic press voluntarily deal with censorship. The *Bulletin* ran eight editorials about the Espionage Act and six about the Sedition Act.

In an editorial which ran during the legislative debate for the Sedition Act, the paper advocated that the law be passed, explaining that "anything that is hostile to the Government's efforts for the successful waging of the war is treasonable . . . [even] recklessly expressed individual opinion. . . it is time that the speech, even of the patriot, should be guarded, lest, unconsciously, it do harm" ("Disloyalty," April 3, 1918, p. 6). The paper also ran an editorial about the *Debs* decision, approving the Court's verdict.

Washington Evening Star.

Theodore W. Noyes was listed as the editor in the 1917 edition of *N. W. Ayer and Son's Newspaper Annual and Directory* which also listed the paper as Independent (p. 130). Theodore's brother Fred served as President of the Evening Star Newspaper Company and was a founding member of the Associated Press and its president for 35 years (Stewart & Tebbel, 1952). Since the District of Columbia is such a small area there

were relatively few Espionage Act prosecutions and convictions compared to the other cities in this study. For a three-year-period there were five prosecutions and one conviction (House Report No. 1439 [1918], p. 172; House Report No. 412 [1919], p. 136; House Report No. 886 [1920], pp. 232-233).

Its population was primarily native-born with 6.7% being of foreign birth (Bureau of the Census, 1921, 1, p. 49). Germans formed 11.5% of the foreign-born population, the fourth largest group, after Italians, Irish, and Russians. (pp. 732-733). German was spoken by 20% of the foreign white population, by far the largest foreign language spoken in the city (Bureau of the Census, 1922, 2, pp. 1,010-1,011).

The paper was regionally focused on the city of Washington DC. Its national and foreign news were provided by AP (Fair, 1984). Nearly half of its 11 editorials registered no opinion about free expression. Three of its editorials supported or partially supported the Espionage Act, but the paper was critical of the bill's press censorship provision and urged that voluntary action by the press was preferable to a statute. While the Sedition Act was being debated, the paper urged its passage in 2 editorials. It also ran an editorial praising the Supreme Court for upholding the sentences in the *Debs* and the *Frohwerk* cases, the only newspaper in the study to refer to at least two of the Court's decisions ("Upholding," 1919).

The regional and economic information discussed in this section cannot provide specific reasons for the performance that each newspaper displayed in terms of editorial support for free expression during World War I. The evidence was gathered and

presented as a way to partially validate the coding results obtained from the newspaper editorial pages.

Patterns Between Editorial Opinions Towards Free Expression and Education in First Amendment Concepts

This portion of the study examined each editorial for the use of four principles derived by legal scholar Thomas Emerson (1970) as foundations for the value of free expression in a democratic society. The four principles deal with how free expression enables citizens to participate in their political and social environment, to express their own opinions and hear the opinions of others, to balance the forces of stability and change, and to advance knowledge and the discovery of truth (pp. 6-7). For the purpose of this study, the presence of these principles represented efforts to educate readers in First Amendment concepts.

At least one of the principles appeared in 45 of the editorials coded in the study. The only newspaper which did not use any of the principles was the *Cleveland Press*. For 33 of the editorials utilizing the principles, the editorial also supported free expression. Three partial support editorials used the principles. Principles appeared in 8 editorials that opposed or partially opposed free expression. There was only 1 editorial which did not take a position towards free expression and used the principles.

The two principles which consistently appeared throughout the editorials were the second and third ones--revealing truth and allowing for participation in political and societal processes. The language used in the editorials which supported the presence of

these principles consistently referred to the function of the press as a watchdog of the government on behalf of the people. This was the newspapers' primary explanation for the purpose of the First Amendment during wartime. The right to discuss and criticize the government's war policies was often mentioned within this context, with the analogy of the newspaper being the best medium for this process to occur.

The language referred to the need to expose and correct government blunders and criticized the Espionage Act as an attempt to protect an inefficient bureaucracy from criticism and embarrassment. Editorials also referred to the people's constitutional right to know what their government is doing and to the press' duty to responsibly convey information and contribute to the public debate. The editorials using the principles contained several references about being the voice of the American people, representing the public interest, and acting as a defender for the interests of the people of the United States.

A secondary finding was that 34 or 76% of editorials containing the principles ran during the period through June 1, 1917, while the remaining 11 or 24% ran afterwards. The editorials which ran in the second period discussed the First Amendment principles, but generally were not supportive of free expression. The editorials that spoke out against groups and movements used various negative references when they referred to dissenters. Examples include disloyalists, recalcitrants, rebels, traitors, spies, treasonable orators, lying and spying German propagandists, pacifists, anarchists, crack-brained agitators, and antiwar Bolsheviks. An example of an editorial from the *Philadelphia Evening Bulletin*

which recognized the principle of criticism of government, but opposed free expression during wartime stated “the prohibition which relates to criticism of the Government, which in times of peace is indulged in a freedom of speech so broad as often to be abused, is one that is chiefly to be emphasized” (“Guard Your Tongue,” April 12 1918, p. 6). Another editorial from the *Philadelphia Evening Bulletin* commented on the *Debs* case but made a distinction between the right to discuss and disagree with a law, and an attempt to incite people to disobey it (“The Offense,” 1919).

The results of this portion of the study suggest that education of newspaper readers in First Amendment principles was also linked to the press’ concern about government control over newspaper content. When this concern diminished or disappeared, the use of the free expression principles also dropped. In many cases when the principles appeared in editorials commenting about the Sedition Act and the Supreme Court decisions, the editorials usually cited the crisis nature of the period as a reason for putting civil liberties on hold.

The overall finding is that the newspapers in the study supported free expression in a general and abstract fashion, often citing the constitutional guarantees of a free press. Even when free speech was mentioned, it was rarely mentioned as a right independent of a free press, although there were some exceptions. When the editorials gave qualified reasons for support or opposition, they consistently referred to the special circumstances that being at war entailed and to national security reasons. The editorials that did not support free expression also tended to be very specific in their characterizations of the

groups, who did not deserve to exercise the right to voice their opinions because of their potentially dangerous and subversive influence. Those editorials either ignored potential speech implications or dismissed them as not applicable in those situations. The implications from this observation and the answers to the study's research questions are discussed in chapter five.

Chapter 5

Summary and Conclusion

The attempt to draw a line between what constitutes acceptable and unacceptable forms of discourse has been a recurrent theme throughout the United States' history, predating its very existence and influenced by the legal system incorporated from Britain (Siebert, 1952). During crisis periods when fears arose that support in the governing regime and its policies could be undermined by criticism, governments have acted to sharply limit the ability of critical parties to utter or write "seditious" comments about its actions. The World War I era marked such a time in the United States' history, but was especially significant because the policies which controlled expression were national in scope, were upheld by the Supreme Court, and occurred in a country where an infrastructure existed to convey information rapidly. The constitutional guarantees in the First Amendment forbid the U.S. Congress to abridge free speech or a free press. Such an abridgment occurred during and after World War I. The purpose of this thesis was to determine the role newspapers played in the debate about free expression issues during this period.

The method used in the study was a content analysis of the editorials from seven metropolitan daily newspapers that ran during the World War I period. The editorial pages were sampled in conjunction with nine free expression indicators--legislative debate and passage of the Federal Espionage and Sedition acts, and subsequent interpretation of the acts in seven Supreme Court decisions.

The editorials were coded for their support or opposition towards free expression based on their commentary about the nine free expression indicators. Also coded when the appropriate language appeared in the editorial were two themes based on observations in studies by Bowles (1978) and Lofton (1980).

The themes were (a) whether the editorial gave priority to free expression during wartime or subordinated it to national security concerns, and (b) did the editorial advocate applying free expression during wartime to everyone in the United States as a fundamental right or as an exclusive privilege. The observation by Lofton (1980) and Scheiber (1960) that newspapers were more likely to comment about federal legislation that had the potential of controlling print content was tested by dividing the editorials into two groups by time periods. The first group were editorials which ran through June 1, 1917. This covered the time period when a press censorship provision was being debated as a portion of the Espionage Act. The second period covered the rest of the debate and enactment for the Espionage Act, ending with the seventh Supreme Court decision.

Efforts to educate newspaper readers in First Amendment concepts were also assessed by examining editorials for language utilizing any of four principles for a system of free expression in a democratic society developed by legal scholar Thomas Emerson (1970). The four principles were (a) free expression is an essential part of individual self-fulfillment, (b) free expression advances knowledge and the process of discovering truth, (c) free expression allows for participation in decision making by all members of society, and (d) free expression helps to achieve a balance between stability and change (pp. 6-7).

Extent of Support for Free Expression

The first research question of this study asked

1. To what extent do the newspaper editorials support free expression based on their commentary about federal legislation affecting free expression during World War I?

The results show that the newspapers ran the largest number of editorials in support of free expression, but that this support was directly linked to circumstances when the federal government threatened to assume control over what these same publications could print. The support expressed in editorials was a general defense of the constitutional principles behind the First Amendment. When the threat of government control was removed, the newspapers' level of support for free expression dropped and opposition towards certain types of expression increased. The opposition was specifically directed against certain groups and individuals in the United States, who were attacked for their potentially subversive influence. The legal methods used to punish these commentators were either endorsed by the newspapers, or no editorial comment appeared.

The breakdown of the coding results from the 85 editorials ran by the newspapers shows that 45 editorials either supported or partially supported free expression during World War I. However, all of but one of these supportive editorials ran in response to the Espionage Act. There were 61 editorials that commented on the Espionage Act and 20 that commented on the Sedition Act. Only 4 editorials commented on the Supreme Court decisions.

The number of editorials which either opposed or partially opposed free expression composed 36% of the total. Only three of these editorials ran during the legislative debate for the Espionage Act, whereas nineteen responded to the Sedition Act, and four to the Supreme Court decisions. There was one editorial that supported free expression and commented on the Sedition Act, but that editorial did not directly address the act's speech implications. This shows that the newspapers' support for free expression centered on the debate surrounding the Espionage Act. When the editorials were grouped into two time periods before and after a press censorship provision was removed from the Espionage Act, the results displayed in Table 2 on page 61 show that 76% of the editorials supported free expression in the first period, while 74% opposed it in the second period, an almost mirror reversal. The evidence suggests that the direct possibility of government control over newspaper content may have been an impetus for the newspapers to argue in support of their constitutionally guaranteed right for a free press.

The results also show that the two themes of priority for free expression vs. national security and application of free expression as a fundamental right vs. an exclusive privilege during wartime followed similar patterns to the editorials' overall position toward free expression. The number of editorials containing the themes was much smaller because they could only be coded when language in the editorial verified their presence. This was not the case in a majority of the editorials.

Free expression was advocated as a priority compared to national security in 23 editorials. All but one of the free expression priority themes appeared in editorials which

supported or partially supported free expression. Of the 24 editorials, which gave priority to national security, 22 also opposed free expression.

The same trends were also seen in the editorials when free expression was advocated as a fundamental right to members of U.S. society or as an exclusive privilege. All 18 editorials which applied free expression as a fundamental right also supported free expression. In 14 out of 15 cases when free expression was advocated as an exclusive privilege for patriotic members of society, the editorial also opposed or partially opposed free expression.

The answer to this question partially reinforced findings made by previous researchers. Lofton (1980) and Scheiber's (1960) observations that mainstream daily newspapers were largely silent towards free expression during the World War I period when their own interests were not at stake seemed to be confirmed by the performance of the publications before and after a press censorship provision was removed from the Espionage Act. The newspapers ran more commentary in support of the principle of free expression during the time when the press censorship provision was part of the debate process. In absolute terms, 95% of the 85 editorials dealt with the legislative debate about the Espionage and Sedition acts.

The newspapers did not continue this degree of support when the Sedition Act amendment to the Espionage Act was passed, although that act was far more restrictive towards the discourse of what governmental critics could say about the U.S. government and its involvement in World War I. The restrictions embodied in the Sedition Act were

noted by Chaffee (1941) as among the most restrictive passed in the history of the United States since the 1798 Alien and Sedition acts. The Sedition Act's language was similar to that used in the 1798 Alien and Sedition acts. The situations differed, however, because those earlier acts were never decided by the Supreme Court and were passed during a period of peace. The seven Supreme Court decisions about the Espionage Act convictions were the first cases to come before that judicial body involving First Amendment implications. The Court upheld the convictions in every case. Only four newspapers ran editorials about the Court's decision, and only the *Washington Evening Star* mentioned more than one case. The verdict against former Socialist Presidential candidate Eugene Debs for his Ohio speech against military recruitment was endorsed by all of the newspapers in the study (*Debs vs. United States*, 1919). Debs' defense that he was exercising his constitutional right to free speech was either ignored or dismissed by the newspapers.

One explanation for the newspaper performance observed in this study is that these institutionally representative publications may have acted in their own self-interest at times when they felt that the government was overstepping its bounds. The fact that the government was taking steps to regulate certain areas of expression was more salient for these newspapers when it potentially affected the content of their own publications. When this possibility existed, they stridently defended their rights under the Constitution to provide information about governmental war policies, to keep the American public informed about these activities, and to serve as a medium for transmission of ideas and

criticism. They spoke of free expression as a general principle which the government could not abridge without becoming an autocracy.

Many editorials resorted to harsh language accusing the government of trying to shield its inefficient bureaucracy from valuable criticism and argued that such a system had failed in Britain. When they endorsed the idea of a censorship, the newspapers advocated a set of voluntary guidelines restricted to news about military operations, not about criticism of the government's military operations.

After the press censorship provision was removed from the Espionage Act, the newspapers began more specific attacks against the forces they perceived as subversive. The newspapers presented the argument that now that the country was at war, it was counter-productive, if not treasonous, to interfere with this effort. During the Sedition Act debate the newspapers urged the passage of the bill, citing its necessity in closing legal loopholes which prevented the federal government from dealing with treasonous orators and publishers. The frenzied mob attacks on people perceived as pro-German was part of the reason that the newspapers urged passage of the new legislation. There was little concern expressed in the editorials that governmental restrictions towards specific opinions could lead to further encroachments on expression. Any hesitancy displayed in the editorials towards the Sedition Act either dealt with the arbitrary power of the Postmaster General to withhold mailing privileges from publications that printed content in violation of the act or with language in the act that was not explicit enough.

The specific restrictions on comments about the U.S. government, the flag, the Constitution, or the military forces did not seem to pose any problem for these newspapers. One reason this may not have been an issue for these publications was that they did not question these symbols and were not disposed to allow expression from groups who did. As institutions in their own communities, these newspapers may have reserved the right to align themselves with government policies which suited their own interests when they deemed it expedient.

The Supreme Court decisions, the first ones to deal with congressional efforts to regulate expression, also did not generate any concern from these newspapers. Military hostilities had ended by this point, but the country was already entering the period of the “Red Scare” (Murray, 1955) and the anti-German hysteria was quickly being transferred to Socialist organizations and Communist supporters of the newly formed Soviet Union. Debs and the defendants in the other cases were representatives of the elements in society, such as Socialists, anarchists, and German-language newspaper publishers, whom the newspapers had already urged the federal government to suppress through legal means. Tolerance for dissenting viewpoints reached a low point during this period of internal volatility.

The low incidence of editorials about the Supreme Court decisions was consistent with Bowles (1978) study of newspaper editorial commentary about Supreme Court decisions dealing with free expression between 1919 and 1969. Her study dealt with a larger time period, however, and did not use legislative debates as indicators. The low

numbers were not surprising because Supreme Court decisions are not announced in advance and normally are expected to generate one editorial per decision. Five of the seven cases in this study were decided within two consecutive weekly periods so it was conceivable that three cases in one instance and two in another might have generated two editorials per newspaper. The two legislative debates in this study took place over a period of several months, provided more points of entry for editorial commentary, and were logical opportunities for newspapers to contribute to the debate about national issues. The Supreme Court decisions were already made so the editorials would simply be reacting to a concluded process.

Patterns between Editorial Opinions towards Free Expression and Education in First Amendment Concepts

The second research question asked

2. What patterns exist between the editorial opinions expressed towards free expression and evidence that the editorials conveyed First Amendment concepts to their readers?

There was a direct connection between newspaper support for free expression and attempts to convey First Amendment concepts to readers. When the newspapers spoke out against government attempts to regulate media content, they used language which referred to the constitutional guarantees of the First Amendment and argued that it was in the readers' interest, not just the newspapers' to ensure that those rights were respected. When the editorials commented on attempts to circumscribe the language of dissidents and

the Court decisions upholding their convictions, the principles were either not mentioned or deemed not applicable to those particular situations.

The evidence that newspapers conveyed First Amendment concepts to their readers was assessed by examining each editorial for the presence of any one of Emerson's (1970) four principles about the value for free expression in a democratic society. The four principles deal with how free expression enables citizens to participate in their political and social environment, to express their own opinions and hear the opinions of others, to balance the forces of stability and change, and to advance knowledge and the discovery of truth (pp. 6-7).

The two principles which appeared the most frequently were the ones about revealing truth and allowing for participation in political and societal processes. At least one of the principles appeared in forty-five of the study's editorials. The breakdown in terms of their appearance in editorials which supported and partially supported free expression was 83%. The most extensive use of the principles as part of an argument in defense of the First Amendment occurred in editorials that supported free expression. In editorials that either opposed or partially opposed free expression, the principles were used to acknowledge that wartime requires a departure from the normal exercise of civil rights or to mark a line between what constituted acceptable or unacceptable forms of discourse during a period of crisis.

The answers to this question parallel the conclusions reached in the first question. When newspapers spoke in defense of their own function in a democratic society, they

consistently used language containing the principles. They stated that the First Amendment continued to operate during wartime, that the press and the public's constitutionally guaranteed right to free speech and a free press could not be abridged by Congress, and that it was un-American to attempt to place a muzzle on the voice of the people. These general and broad depictions of the First Amendment were most stridently expressed by the *Los Angeles Evening Herald* and the *New York Evening Journal*. The *Journal* used principles in all of its editorials commenting on the Espionage Act, all of which supported free expression in strong terms. Afterwards, the paper remained silent about the Sedition Act and the seven Supreme Court decisions.

The other newspapers in the study occasionally utilized the principles when they commented about indicators other than the Espionage Act. When editorials specifically argued for the suppression of certain groups they usually depicted these groups in negative terms. The principles in these editorials did not convey an understanding of the First Amendment's function in the United States. Criticism of the government was narrowly advocated as responsible criticism with the intention of correcting mismanagement. There was little tolerance for dissenting opinions about the war effort and scant recognition that there might be an inherent value in allowing groups to express opinions even if those opinions challenged the existing political and economic system. Utterances described as treasonable were equated with actions. Even a nationally recognized figure like Eugene Debs, who had long been active in labor issues, was criticized in the few editorials which commented on the Supreme Court's upholding his conviction. His speech against military

recruitment was characterized an incitement to illegal action. The principle of free expression as a means of criticism and a balance between stability and change was mentioned in one of the editorials, but Debs' actions were merely recognized as an attempt to hide illegal activity under the guise of the constitutional right to free speech.

Suggestions for Further Research

This study dealt with the issues of (a) the concept of free expression as an abstract principle and (b) its actual practice. Studies examining support for free expression might examine at what points the two issues converge and when they diverge. While attitudes are simpler to code and to discuss in a systematic fashion, specific phrases and characterizations of individuals and organizations during periods of crisis might also serve as tools to evaluate newspaper support for free expression.

This period marked a nation-wide paranoia with the growing Communist movement, an era only equaled by the McCarthy period of the 1950s. This study examined newspaper attitudes towards both Supreme Court decisions and federal legislative debates. Since there have been so few studies done about legislation affecting free expression, it might prove fruitful to perform a study on a regional or state-wide level about legislation passed in the 1920s that restricted Communist and Socialist organizations.

The unsuccessful attempt to pass a federal peacetime sedition law in 1919-1920 might be examined on a national level, perhaps comparing the results with the debates about the Espionage and Sedition acts. World War I also marked the beginning of the 20th

century debate about the parameters of the First Amendment in the United States.

Newspapers and the general public did not have the same background to draw upon as they would in later periods in the 20th century, such as the civil rights movements and Vietnam protests in the 1960s, a factor which could affect the results of subsequent studies.

Any study exploring different time periods needs to equate the indicators used to generate editorial commentary. Supreme Court decisions have been used more often, but legislative debates can also be examined. On a national level, there are not as many issues to choose from as there might be on a municipal or state-wide level. There were only two legislative debates about federal laws affecting expression after the Sedition Act. The first was a 1919 peacetime sedition statute, which did not pass. The second was the 1940 Alien Registration Act, also referred to as the Smith Act (Chaffee, 1941).

Developing a more efficient system of categorizing newspaper attitudes about First Amendment rights for dissenting groups might be useful for future researchers. Examining the shift and change in attitudes towards particular groups over a longer time period could also be relevant, since Stevens (1968) observed that newspaper attitudes towards free expression during a period of crisis are not necessarily indicative of their long-term performance. This could be tested by studying how certain groups including labor or Socialist organizations are portrayed either in news coverage or in editorial commentary and linking this to independent events and circumstances. Magazines and their discussion of free expression are another area that has not been fully explored.

Weekly and monthly periodicals have a longer period of time to contemplate the issues involved in editorials they run and could provide a national perspective.

The most difficult aspect of this study was looking for language in each editorial which could be coded into a set of pre-conceived themes and principles. Although necessary as a means of sorting the material into definite patterns, it is still problematic to conduct a study with no idea of how relevant certain categories may be. It was also uncertain how much exposure editorial writers of the period may have had to First Amendment concepts. Emerson's (1970) set of four principles were outlined nearly 50 years after World War I, when many First Amendment decisions had subsequently been made by the Supreme Court and analyzed by legal scholars. The area of language considered seditious discourse was much narrower by the late 1960s, compared with the World War I era.

This study examined in detail a particular episode in U.S. history when free expression's parameters were circumscribed by the federal government. The newspapers displayed a coherent grasp of the issues involved, but only to defend their own independence as a member of the Fourth Estate. They did not defend this same right for free expression when socially unpopular groups attempted to utilize the same constitutional guarantee to express their own opinions. It is hoped that the results and interpretation of this study present a clearer picture of how some of the nation's largest newspapers of this time performed in this unprecedented debate about free expression issues in the United States. The arena of legally acceptable public discourse has grown

since this period, but the debate about when the government should step in and regulate certain forms of comment or criticism still continues.

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Appendix A: Coding Sheet for Content Analysis of Seven Daily Newspapers' Support for
Freedom of Expression During World War I

Opinion towards freedom of expression indicators

<u>Implicit opinion</u>	<u>Explicit opinion</u>	<u>None</u>
Support	Support	
Partial support	Partial support	
Partial opposition	Partial opposition	
Opposition	Opposition	

Freedom of expression discussion

<u>Priority for free expression in wartime</u>	<u>Application of free expression in wartime</u>
Fundamental priority	Fundamental right
Subordinate to national security	Exclusive privilege
Not applicable	Not applicable

Use of Emerson's free expression principles

- Principle 1-Self-fulfillment
- Principle 2-Discover truth
- Principle 3-Participation
- Principle 4-Balancing force
- None

Appendix B: Terminology Used in Editorial's Support for Freedom of Expression

Implicit or explicit opinion

Support

Opposition

Partial Support

Partial Opposition

Terminology used in editorials' discussion about free expression

Application of free expression during wartime

Why it is a fundamental right.

Why it is an exclusive privilege

groups who have and reasons

groups who don't and reasons

Priority for free expression during wartime

Why free expression is a priority

Why it is subordinate to national security

Instances when censorship of opinion is permissible

Terminology used in describing free expression principles

self-fulfillment

discover truth

participation

balancing force