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PRISONER OF WAR

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Ernest Freeberg. *Democracy's Prisoner: Eugene V. Debs, the Great War, and the Right to Dissent.* Cambridge: Harvard University Press, 2008. 392 pp. Photographs, illustrations, notes, and index. \$29.95.

Offshore prisons. Extraordinary rendition. Warrantless wiretaps. Torture. By pushing questions of civil liberties and human rights to the forefront of political consciousness, the war on terror has provided some new subjects of inquiry for American historians, while putting some old concerns in a new light. Established accounts of the nation's past have rather quickly become inadequate. When alleged U.S. violations of the Geneva Conventions dominated the news a few years ago, Linda Kerber, president of the American Historical Association at the time, expressed her "embarrassment" that she had never discussed the conventions in her classes.¹ Surely many scholars were blushing, or should have been, along with Kerber. Contemporary events have, not for the first time, outrun attempts to place the present in historical context.

Fortunately, some recent scholarship has demonstrated how embarrassment might lead to opportunity. This work has not only explored human rights, broadly defined, but has also tried to incorporate human rights concerns into more general narratives of American, and world, history. Notable efforts include Lynn Hunt's long view of the campaign against torture, Elizabeth Borgwardt's illuminating exploration of World War II-era multilateralism, and Mae Ngai's incisive study of illegal aliens, along with a pair of path-breaking essays by the late Kenneth Cmiel.² To this pioneering work we can now add Ernest Freeberg's *Democracy's Prisoner*. In his riveting account of the incarceration of Eugene V. Debs and the amnesty movement that set him free, Freeberg has subtly reimagined the post-World War I Red Scare for a post-September 11 world.

Freeberg's previous book, *The Education of Laura Bridgman* (2001), breathed new life into the hoary topic of antebellum reform by recounting the deeply moving story of Samuel Gridley Howe and Bridgman, his deaf and blind protégé. Keeping this troubled and ultimately tragic relationship at the center of his narrative, Freeberg weighed in on longstanding scholarly debates over nineteenth-century science, religion, and social control, while making a novel

contribution to the emerging field of disability history as well. *Democracy's Prisoner* manages a similarly deft balance of the human and the historiographical. It is a study of human frailty in the most literal way: an old man, Debs, dying in prison, and another old man, Woodrow Wilson, dying in the White House, both of them taxed to the limits of their declining powers. Yet within this tale of mortality, Freeberg explores seemingly deathless arguments about civil liberties, social movements, and American democracy.

The book is not a biography of Debs or a response to the old question of why (recent government bailouts notwithstanding) there is no socialism in the United States. For those purposes, Nick Salvatore's sensitive *Eugene V. Debs: Citizen and Socialist* (2007) remains the standard. Freeberg is most interested in an "unintended consequence" that sprung from the activities of the Socialist Party during and after World War I, namely "a national debate about the meaning of the First Amendment" (p. 319). *Democracy's Prisoner* joins a growing historical literature on the "unintended consequences" of American radicalism, a literature that downplays the subject of workers' revolution in order to take up other subjects. The trend has been especially fruitful in accounts of Depression-era American Communism. Robin Kelley and Glenda Gilmore have moved racial equality to the forefront of Communist history, while Michael Denning has posited a "cultural front" of Communists and fellow travelers who pioneered lasting innovations in literature, music, and film. For these scholars, the far left had an influence out of proportion to its numbers.³ Freeberg accomplishes an analogous change of focus with the Socialist Party by showing how the amnesty movement to free dissenters after World War I gained widespread appeal beyond the ranks of diehard revolutionaries.

The events that led to Eugene Debs's incarceration are familiar, though Freeberg effectively shows how bewildering they looked at the time. When the Great War began in Europe in 1914, Americans had little interest in participating. The Socialists were more adamant about staying out than most. Debs helpfully suggested that, rather than sending workers to fight in wars, capitalists should "rip out their own loins and livers, riot in their own blood and entrails and offer up their own mangled and putrescent carcasses on the blood-drenched altar of Mars and Mammon" (p. 31). Yet only three years after the conflict began, the United States joined it and antiwar utterances became potentially criminal under the Espionage Act. In this book devoted to the meaning of democracy, Freeberg reveals how much Americans disagreed over the new law, right from the beginning. During Congressional debates preceding its passage, Idaho Republican William Borah grumbled that "some Senators seem to think that the Constitution is suspended in time of war" (p. 47). Nonetheless, the Espionage Act became law, with a few minor modifications to appease free-speech advocates. Under the auspices of rooting out treason, the government interpreted the Act to proscribe a wide range of dissenting opinion.

The specific kinds of expression forbidden by the Espionage Act were by no means clear. Nor was Debs's fiery oration in Canton, Ohio on June 16, 1918 vastly different from other addresses he had given for decades. Freeberg doubts that he intended to provoke an arrest. Debs did denounce the war and mock Wilson's high-minded rhetoric, but even Justice Department lawyers thought that the grounds for legal charges were slim. Only the exceptional zeal of a federal prosecutor in Ohio brought governmental power to bear. On the Socialists' side, the war had become a somewhat open question, especially after the Kaiser's invasion of Bolshevik Russia, an event that led a pro-war contingent of Socialists to push for a revision of the party's antiwar St. Louis Proclamation. Freeberg, more than Salvatore, suggests that Debs may have entertained misgivings about his own opposition to the conflict in the summer that he gave his fateful Canton speech. So Debs's arrest was hardly the simple morality play that it became in hindsight, the tale of a dedicated radical silenced by a proto-totalitarian state. Rather, the government reluctantly enforced an ambiguous law against a man who was himself trying to puzzle out the complexities of the world's first global war.

Debs's trial in Cleveland drew some clearer battle lines. He decided to attack the Espionage Act itself rather than focusing on narrower legal questions, such as whether any draft-age men had actually resisted conscription as a result of hearing him in Canton. The defense attorney called no witnesses, but simply allowed the defendant to make a long statement that ranged from the war and socialism to the abolitionists and the teachings of Jesus. Debs's oratory moved Max Eastman and other radical spectators, but it failed to sway the jury, which found him guilty. At his sentencing, Debs spoke the words for which he is most remembered: "while there is a lower class, I am in it; while there is a criminal element, I am of it; while there is a soul in prison, I am not free" (p. 106). The judge made this rhetoric real by giving him ten years in prison, and after an unsuccessful Supreme Court appeal, the sixty-three-year-old man began his sentence on April 13, 1919.

Democracy's Prisoner gives a cogent account of the important role of *Debs v. United States* in creating a new legal framework for free speech, but the book's heart lies elsewhere. Many scholars have written about civil liberties as a topic in legal and intellectual history, but Freeberg presents a broader "free speech politics." His point is that "the scope and meaning of the First Amendment are determined not only by Supreme Court justices, attorneys, and legal scholars, but by the much wider democratic process of citizens working together in social movements" (p. 6). This is a critique of top-down histories, but also a refutation of the pseudo-psychological explanation of the "Red Scare" as a "period of irrational emotion, a spasm of national 'hysteria'" that impaired the nation's collective reasoning capacity (p. 217). Freeberg shatters this reductive view by showing the intense resistance that Red hunters faced.

The post-World War I amnesty movement was not as popular as the 1930s labor movement or the 1960s civil rights movement, but it shared some characteristics with those later phenomena. For instance, Debs's supporters tried to use media spectacles as political weapons. One of Freeberg's many ingenious moves is to make this story about an antiwar speech into an examination of many different kinds of communication. The Espionage Act itself had placed the media in an anxious new relationship to the state. During the Cleveland trial, newspaper editors refused to reprint excerpts from Debs's Canton address, even simply as part of news stories, because they feared leaving themselves open to government prosecution. Indeed, the Postmaster General prohibited some issues of radical journals such as the *Masses* from the U.S. mail. On the other hand, it was a newspaper reporter who had tipped off the federal prosecutor to the potentially subversive aspects of the Canton speech in the first place. *Democracy's Prisoner* suggests, mostly by implication, that the debate over antiwar ideas was at once a debate over the circulation of those ideas in the rapidly proliferating mass media.

The Socialists tried to turn this mass-mediated world to their own ends, most audaciously in their selection of Debs as the party's 1920 presidential candidate. On May 29, party leaders, accompanied by a coterie of reporters and photographers, traveled to the Atlanta penitentiary that held their nominee. The comrades presented Debs with a bouquet of carnations as newsreel cameras whirred. "You're a fine actor, Mr. Debs," called out one photographer, while the *New York Times* sniffed that the ceremony had been only a "fraudulent melodrama" (pp. 211, 214). Freeberg finds a peculiar power in the performance: "A smiling old man in prison garb, clutching carnations and kissing his friends, Debs looked less like a threat to his country than its victim" (p. 214). The Socialists often appear as the grimmest of American radicals, but those carnations suggest, perhaps, that they were not only the fist-clenching followers of Marx and Engels but also the precursors of a brazenly theatrical form of protest sometimes called "Flower Power."

Still, not everything in the amnesty movement was coming up roses. Freeberg deftly outlines a split between radical and moderate wings of the effort to free Debs. For Socialist true believers, his incarceration would make the revolution blossom, but others were less sure. Lucy Robins, one of the book's many enthralling minor characters, was an anarchist influenced by Emma Goldman, but her work for amnesty took her in a more pragmatic direction. "The only way to get Debs and others out of jail, Robins decided, would be to find a new way to reach the 'conservative mass' of America's unionized workers and convince them that they had a stake in the amnesty fight" (p. 165). Robins did the unthinkable by appealing to Samuel Gompers, the president of the American Federation of Labor whose success had depended on his coziness with the political establishment and his repudiation of the likes of Debs and

Goldman. By reaching out to Gompers, many Socialists thought that Robins had caved in to the reactionaries; she, in turn, considered them deluded by impossible fantasies of revolution. Freeberg, always evenhanded, leans toward Robins, not least because her strategy worked. In 1920, the AFL endorsed her amnesty petition, providing a major lift for the movement.

Freeberg's explication of the radical-moderate division makes this book far more than a mere chronicle of heroic popular resistance to a repressive state. In fact, the idea that "public opinion" helped determine the meaning of free speech turns out to be frightening as well as inspiring. *Democracy's Prisoner* charts the development of an anti-amnesty effort that emerged as part of the more general antiradical campaign led by formal organizations such as the American Legion and more nebulous vigilante groups. In 1921, when Debs's associate Kate Richards O'Hare visited Idaho to give an oration on prison reform, a mob led by a Legion commander kidnapped her in the middle of the night. She escaped and ran through the darkness to the safety of a railway station, but much of the "public" continued to hold a rather restrictive "opinion" about the limits of free expression.

Through it all, Eugene Debs remained in jail. Freeberg never lets us forget that the Socialist leader was not just a political symbol, but an elderly man subjected to grueling physical challenges. Debs may have been, metaphorically, "democracy's prisoner," but he was also an actual prisoner, first in West Virginia and then in the Deep South heat of Atlanta. Freeberg details Debs's interactions with prison officials, his influence on his fellow convicts, his declining health, and his attempts to weigh in on Socialist Party politics within the confines of prison regulations. In fact, having been put in jail for illegal speech, Debs found himself subjected to a whole new world of censorship. Yet here, as elsewhere, Freeberg describes less a total institution than a somewhat *ad hoc* situation. Flexible wardens frequently relaxed prison rules for the famous inmate (that's how he got the carnations). When President Warren Harding finally issued a pardon, effective Christmas Day 1921, guards let all of the prisoners out of their cells so that they could watch the final departure of "Convict No. 9653" through the windows. The belated triumph came too late, though. Debs suffered health problems for the rest of his life, which came to an end just five years after his release.

This book will inevitably evoke parallels to our own time. Freeberg's depiction of an unpopular and increasingly isolated president (Woodrow Wilson), hapless attorney generals (A. Mitchell Palmer and Harry Daugherty), and even Ohio as a battleground state all seem remarkably familiar. Still, the differences are important. If Barack Obama closes Guantanamo Bay, his political logic will hardly resemble the decision by Warren Harding, the pro-business Republican champion of "normalcy," to pardon Debs. Indeed, to simply label the Red Scare and the war on terror as analogous reactionary moments is to miss one

of Freeberg's central points. The post-World War I period, he argues, was not only a time of conservative ascendance; it also saw the genesis of important strains of modern liberal, progressive, and radical politics. Against the refrain of "normalcy," he notes that nearly one million Americans in 1920 cast their presidential votes for an incarcerated Socialist (Debs received 3.4 percent of the popular vote, a small slice but more than Ralph Nader's share in the controversial 2000 election). Against the rise of the American Legion and the Ku Klux Klan, Freeberg pits the emergence of the American Civil Liberties Union. Scholars have long argued that the decade after the war was more than a reactionary "Tribal Twenties" or a politically apathetic "Jazz Age," but *Democracy's Prisoner* underscores the point from a new perspective.

Freeberg's sharp analysis and seamless narrative nearly obscure some important limits of his story. Most importantly, he pays insufficient attention to the ways that the amnesty movement not only championed, but also constructed "free speech politics." He does not so much ignore the construction as take a selective view of it, neglecting the alternative models of civil liberties that the Debs case crowded out. *Democracy's Prisoner* looks somewhat different when placed alongside David Rabban's *Free Speech in Its Forgotten Years*, a book that Freeberg cites but does not extensively engage. Rabban modifies the chronology of a free speech politics that began with World War I and the ACLU by recovering an older lineage of "libertarian radicalism." In Rabban's view, a motley assortment of atheists, labor radicals, and free lovers had made civil liberties a subject of national debate decades before the events in Canton.

Rabban's own precursor to Debs is Moses Harman, the indefatigable publisher of an "Anarchist-Freethought Journal" entitled *Lucifer: The Light-Bearer* ("mankind . . . would never have known Good from Evil," Harman asserted, "if Lucifer had not told them how to become wise as the gods themselves"). By printing letters that mentioned oral sex and compared marriage to rape, *Lucifer* frequently ran afoul of the Comstock Act, which banned the transmission of obscene material through the mail. Harman spent much time in prison, including a final stint in 1905, when he was sentenced to a year of hard labor at the age of seventy-five.⁴

A full history of modern civil liberties has to consider the gulf separating Eugene Debs, who kept a picture of Jesus on his cell wall, from *Lucifer: The Light Bearer*. The amnesty campaign that Freeberg describes was distinguished by its unspoken moralism and by its preference for political over cultural forms of free expression. Debs was a radical, to be sure, but his plight was amenable to a more mainstream progressive interpretation that regarded unfettered debate as the lifeblood of democratic governance. In this view, an individual's criticism, even a Socialist's criticism, was important for its social value. Progressives downplayed the defiant, somewhat idiosyncratic individualism exemplified by Moses Harman. Debs went free in part because many Americans thought

the question of war to be a proper one for spirited civic debate, debate that the law ought not to cut short. Protection of unpopular views on sexuality and religion faced more formidable obstacles because those subjects had a more ambiguous place in the public sphere. In short, *Democracy's Prisoner* is not simply about "the right to dissent," as its subtitle suggests, but about the ways that particular categories of speech became codified as "dissent" while other categories remained "obscene" or otherwise disreputable.

In considering the ordeal of "Convict No. 9653," then, readers will benefit from Freeberg's many insights and probably make a few of their own connections as well. This story is rich enough to support a number of interpretations, not least because it is ultimately an unfinished one. "Our country's perennial debate over the rights of war protesters," Freeberg concludes, "reminds us that 'free speech' is no one thing, but the crossroads for competing claims about the relative value of individual liberty and public order, and the freedoms and responsibilities of democratic citizenship" (pp. 326–7). Arguments about war-time dissent, and about human rights more generally, will no doubt continue to cause historians some embarrassment, as contemporary events repeatedly outflank attempts to interpret and contextualize. We can only hope that such moments of shame lead to the kind of creative analysis that Ernest Freeberg provides in this important book.

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1. Linda K. Kerber, "We Are All Historians of Human Rights," *Perspectives*, October 2006, <<http://www.historians.org>>.

2. Lynn Hunt, *Inventing Human Rights: A History* (2007); Elizabeth Borgwardt, *A New Deal for the World: America's Vision for Human Rights* (2005); Mae M. Ngai, *Impossible Subjects: Illegal Aliens and the Making of Modern America* (2004); Kenneth Cmiel, "The Emergence of Human Rights Politics in the United States," *Journal of American History* 86: 3 (December 1999), <<http://web.ebscohost.com>>; Kenneth Cmiel, "The Recent History of Human Rights," *American Historical Review* 109: 1 (February 2004), <<http://web.ebscohost.com>>.

3. Robin D. G. Kelley, *Hammer and Hoe: Alabama Communists During the Great Depression* (1990); Glenda Gilmore, *Defying Dixie: The Radical Roots of Civil Rights, 1919–1950* (2008); Michael Denning, *The Cultural Front: The Laboring of American Culture in the Twentieth Century* (1996).

4. David M. Rabban, *Free Speech in Its Forgotten Years* (1997), p. 42.