Introduction

On June 27, 1941, FBI agents and U.S. marshals raided the offices of the Socialist Workers Party (SWP) in Minneapolis and in St. Paul. Following orders from the Department of Justice, they confiscated party files and literature, two red flags, and several pictures of Leon Trotsky. Three weeks later, twenty-nine party members, fifteen of whom also belonged to the militant Teamsters Local 544, were arrested. In July, a federal grand jury indicted them for violating the 1940 Smith Act, specifically for conspiring to advocate the overthrow of the government. As Socialist Workers, these men and women openly opposed the war in Europe and supported the creation of a socialist commonwealth through proletarian revolution. The Roosevelt administration deemed them a threat to the nation because of their advocacy of these beliefs. These twenty-nine Trotskyists became the first Americans to be indicted under the Smith Act.

Among the twenty-nine defendants were organizers and officers from Local 544, including the locally infamous Dunne brothers, Grant, Miles, and Vincent, who led the epic 1934 Teamsters strikes in Minneapolis. First in the coal yards and then among the truck drivers, these men coordinated three separate walkouts over six months that ground the city’s business to a halt and ultimately transformed what had been one of the nation’s most committed open-shop cities into one in which strong unions had a significant presence.¹ Other defendants in the 1941 Smith Act case included activists from the Federal Workers Section (FWS) of Local 544, an auxiliary dedicated to organizing the unemployed and those who worked on various Works Progress Administration (WPA) projects during the Great Depression. The feisty young Max Geldman and his SWP comrade Edward Palmquist, who helped lead the 1939 WPA strike in Minneapolis, were among those targeted for prosecution under the Smith Act.² And then there were the national leaders of the SWP, including James P. Cannon, the titular and spiritual head of the American organization; Farrell Dobbs, the party’s chief labor strategist, whose roots were deeply planted in the soil of the Minneapolis Teamsters’ struggles; and Albert Goldman, the party’s legal counsel who represented, in part, its New York intellectual wing.³

Leading SWP figures from Minneapolis and St. Paul were also included in the federal government’s prosecution. Grace Holmes Carlson and her sister
Dorothy Holmes Schultz, two of the three women defendants, were active SWP members. Carlson in particular had become a leading public figure in the movement by 1940; that year she both worked as a state organizer and ran for U.S. Senate as a Trotskyist. The federal government thus targeted for prosecution the Trotskyist leaders of Local 544, their supporters in the FWS, their high-ranking comrades in the SWP in New York, and those who had public profiles in the party in Minneapolis and St. Paul.

Not all of the twenty-nine defendants were ultimately convicted. In a tragic turn of events, Grant Dunne committed suicide on October 4 before the trial convened on October 27. Judge Matthew M. Joyce issued a directed verdict of not guilty on November 18 for five defendants, including Dorothy Schultz, citing insufficient evidence of their knowledge of the conspiracy in question. On December 1 the jury found all remaining twenty-three defendants not guilty on the first count of the indictment (organizing armed revolution against the government). It also found five other defendants not guilty on the second count, the sedition and conspiracy charge. The remaining eighteen defendants, however, including Vincent Dunne, Farrell Dobbs, James Cannon, Max Geldman, and Grace Carlson, were found guilty on the second count, of violating the Smith Act, and were sentenced to prison for twelve to sixteen months.

By exploring the social, political, and legal history of the first Smith Act case, I chart the compromise many Americans were willing to make between free speech and national security during wartime and probe the implications of that choice for dissent and democracy in American society during the middle to late twentieth century. With the benefit of declassified government documents and recently opened archival sources, I explore the social and political history of the first Smith Act case from its roots in intra-union rivalry during the mid-1930s to its role in shaping the parameters of free speech law during the Second Red Scare of the late 1940s and early 1950s. I also consider the ongoing efforts of the Trotskyists to defend their civil liberties throughout these decades and beyond, including their landmark 1981 lawsuit against the FBI. Until relatively recently, such a comprehensive history of the experiences of the Minneapolis twenty-nine has not been possible. Access to newly available sources allows for a fuller and more historically grounded story that explains the implications of the first Smith Act case for organized labor and civil liberties in wartime and postwar America.

Passed in June 1940, the Smith Act was a peacetime antisedition law that marked a dramatic shift in the legal definition of free speech protection in America. The Smith Act criminalized advocacy of disloyalty in the armed forces and of the overthrow of the government by force. It also criminalized
the acts of printing, publishing, or distributing any materials advocating such sedition and made it illegal to organize or belong to any association that did the same. Although such provisions were not unprecedented in federal law (the World War I era Sedition Act contained similar prohibitions), their being enshrined in legislation and applied in prosecutions during peacetime were realities not seen in the United States since the Alien and Sedition Acts of 1798. In 1940, as in 1798, fear of an impending war, and of domestic dissent against the administration in power preparing for that war, fueled the legislation’s passage. The Smith Act found strong supporters among the nation’s military leaders and patriotic organizations (including the American Legion) but faced vocal opposition from the American Civil Liberties Union (ACLU). In defending the bill, its sponsor, Virginia congressman Howard Smith, stoked fears of possible fascist or communist attacks from within. At the height of what historians have called the “little red scare,” with the war in Europe raging under Hitler’s blitzkrieg, President Roosevelt signed the Smith Act into law on June 29, 1940, seven days after the fall of France.

The defendants’ opposition to the war was not the only reason they were prosecuted under this new law, but it does help explain why they were targeted when Communists were not. By late June 1941, with the German invasion of the Soviet Union, the Communist Party’s volte-face positioned it squarely in support of the Allied war effort. On the political left, only the SWP remained opposed to the war, and its members’ alleged plans to take advantage of the wartime crisis to advocate a proletarian revolution placed them in the crosshairs of the Smith Act. The strong Trotskyist presence among the leadership of Teamsters Local 544 in Minneapolis, a radical stewardship that successfully guided drivers and thousands of their supporters in a bloody fight against the open shop during the momentous 1934 strikes, was already well known to the FBI and made it an object of concern to the bureau. With the added statutory authority provided to it by the Smith Act, J. Edgar Hoover’s agency intensified its domestic surveillance of SWP members and their affiliates in Local 544, seeing both groups as possible agents of internal subversion.

Because the origins of this case can be found partly in the actions of a rank-and-file opposition movement formed in late 1940 against Local 544’s Trotskyist-dominated leadership, its history fits within the story of early labor anticommunism—opposition to communism within the ranks of labor during the 1930s and early 1940s. Several historians have charted this territory, exploring how internal union factionalism often followed the contours of anticommunist sentiment that was at times sincerely felt for ideological, faith-based, partisan, or moral reasons (i.e., among liberals, Catholics, Socialists, or anti-Stalinists), and at other times was embraced for more practical ones
(e.g., Walter Reuther’s shifting alliances within the United Auto Workers). These historians have noted how workers’ opposition to communism, whatever the motive, became more intense by 1939. With the announcement of the Nazi-Soviet Pact that August and with the outbreak of the war in Europe that September, anticommunism among the ranks of labor became an important sign of respectability and conformity.

These attributes became valuable to unions confronting both the new political reality of what historians have called the “little red scare” of 1939–1941 and the nation’s shift to wartime preparedness. This tense political context made union militancy impractical; any interruptions in production—including those legitimately based on workers’ grievances—could now be perceived as internal subversion, as was the case at North American Aviation. When workers struck at the plant in Inglewood, California, that June, shutting down “25 percent of all fighter aircraft production” in a maneuver that “appeared to be . . . Communist-led,” the president authorized the military seizure of the factory that broke the strike. Even though America was not at war, supporting its allies created a sense of emergency in which drastic action in the name of national security went virtually uncriticized. American workers and their union leaders were beginning to appreciate what Roosevelt’s shift from Dr. New Deal to Dr. Win-the-War would come to mean for them.

But changes also took place within the house of labor because of the growing international crisis: both the no-strike pledge and the proliferation of anticommunist resolutions and bans on communists serving as union leaders were, in part, manifestations of workers’ responses to the wartime emergency. And such responses were not necessarily markers of conservative political tendencies within the ranks of labor. Similar “Communazi” resolutions were supported in left and liberal organizations at the time, including the ACLU. The rank-and-file opposition to the Trotskyist leadership of Minneapolis Teamsters Local 544 was one manifestation of this type of early, liberal anticommunism.

What sets this case apart are those ties between the local rank-and-file opposition and the FBI, something that has been less thoroughly probed in the scholarship on early labor anticommunism. The hostility certain Teamsters felt toward the Trotskyists in their midst dovetailed with the Justice Department’s independent concerns about national security risks in the transportation industry on the eve of America’s entry into World War II, leading it to seek these first Smith Act indictments in July 1941. But unlike the situation at North American Aviation, when the federal government intervened after a strike had begun to disrupt defense production, in the Minneapolis case
the prosecution was based on what might happen at some unspecified time in the future because of the advocacy of certain beliefs. The defendants’ alleged statements regarding their plans to overthrow the government by force, to undermine morale in the armed forces, and to disrupt the nation’s freight transportation networks were first brought to the attention of the attorney general by the FBI through its lengthy and extensive secret investigations, aided by informants within the union.

Because the 1941 Smith Act case originated, in part, out of that cooperation between the Trotskyists’ rank-and-file opponents and federal agents, this book provides a case study of the relationship between such early labor anticommunists and the developing security state. It demonstrates how some working-class Americans welcomed federal investigations into their internal union disputes, a disquieting reality not yet fully explored by labor historians. Labor and radical factionalism have been well documented, but the cooperation of rank-and-file workers with the mechanisms of government repression has not, especially for this earlier period. Yet in Minneapolis men like Thomas Williams, James Bartlett, and their supporters in the opposition group they formed rebelled against Vincent Dunne and the other Trotskyist leaders of Local 544 in part because of the radical political activities of those leaders within the union. Williams, Bartlett, and their Committee of 100, as it became known, cooperated with the FBI’s investigation of the SWP, transforming the struggle for control of the union from a local squabble into a federal criminal case.

The origins of the 1941 case also reveal the extensive involvement of the FBI in investigating targets under the Smith Act and in pressuring both union and federal government officials into supporting a case against those targets. By encouraging the first prosecution under the Smith Act through his communications with the attorney general and the U.S. attorneys, J. Edgar Hoover tapped into the statutory authority of the new sedition law to legitimize the FBI’s investigation of subversives. And, as with investigations of other alleged subversive groups during the war, he expanded the bureau’s inquiries to include more proactive domestic intelligence work: the use of informants and plants to disrupt the internal workings of targeted organizations, as well as the promotion of prosecutions based on such work. His agents’ presence in Minneapolis played a role in fueling the grassroots opposition to the Trotskyists by emboldening it and contributing to its sense of self-importance in what was perceived as a struggle against fifth columnists. As a result, the bureau’s agents raised the stakes in what otherwise was a run-of-the-mill intra-union factional fight mired in the politics of early labor anticommunism. And what followed—the prosecution of the Trotskyists under the new peacetime sedi-
tion law—silenced the voices of skilled organizers within the Teamsters and undermined the Trotskyist adventure in trade union work.

In addition to deepening our understanding of early labor and liberal anticommunism (illuminating in particular the role of the FBI), this study of the 1941 Smith Act case engages with the broader issue of how the state balanced the competing claims of civil liberties and national security just before and during World War II. Specifically, it explores the role of the Roosevelt administration in restricting free speech at home while it supported the fight to save democracy abroad. Under Acting Attorney General Francis Biddle, the administration prosecuted the Trotskyists beginning in July 1941. This action was the first time since 1798 that the United States put defendants on trial for sedition while the nation was not at war. The decision to go ahead with the case illuminates how even self-described civil libertarians participated in curtailing free speech. As such, this study complements existing works on the civil liberties violations that took place under the Roosevelt administration.21 The Minneapolis case, however, shows how far the administration went to prosecute political dissent—even to the point of targeting the labor-liberal left. The history of the case reveals how strong fear of fifth column activity became on the eve of war and how figures like Biddle allowed that fear to trump their defense of free speech rights.

This study of the Minneapolis case also complements the works of scholars who have begun to explore the links between the wartime growth of the FBI and its domestic security programs. They have grappled with the convergence of spreading fears of the fifth column, shifting attitudes toward the Communist Party, deepening hostility aimed against anti-interventionists, and growing support for the Smith Act in the summer of 1940 on the eve of America’s entry into World War II. And they have probed some of the ways civil liberties were eroded during the war.22 It was during the wartime emergency that the framework of the nation’s postwar security state was constructed. The Trotskyists were among that state’s first victims, and their case had critical legal consequences for those—on the right and the left—who would follow.

Most significantly, their case legitimized the Smith Act itself and, as one contemporary observer noted, its “punishment of mere political advocacy.”23 The government’s prosecution of the Trotskyists marked a turning point in First Amendment litigation. During the trial, and throughout the appeals process, the defense team unsuccessfully urged the courts to apply the clear and present danger test to federal restrictions on free speech. Challenging the validity of such application, the prosecution interpreted its mandate as merely having to prove a conspiracy to advocate the violent overthrow of the government. As was the case in the infamous Haymarket trial in 1886 (albeit
on the state level) and as would be the case in the prosecution of the Communist Party leadership in 1949, the government constructed an argument based, in part, on literary evidence. The Marxist classics, along with party publications, were interpreted as proof of the movement’s crimes in which the indicted party members conspired. Any question of the evident or imminent threat that their beliefs posed to the nation was disregarded as the argument for the criminality of their political associations and utterances was forcefully advanced and upheld by the courts.24

First implemented in this way in 1941, the Smith Act remained in full force for the next sixteen years.25 It served as the statutory basis for many of the prosecutions of the Second Red Scare, most notably that of the Communist Party leadership in 1949. The Trotskyists protested this, even though the Communists, adhering to their doctrinaire ways, had supported the SWP’s prosecution under the “Gag” Act in 1941.26 While it remained unchallenged by the Supreme Court until 1957, that law contributed to the chilling of political dissent during the early Cold War years. For the anticommunist opposition within Local 544 during the summer of 1941, however, the immediate internecine union fight was all that mattered, and the alliance with the FBI that led to this first Smith Act prosecution seemed worth it. The Minneapolis defendants paid the price that year, but the cost, in terms of free speech and the expansion of the nation’s domestic security state, was something that many more Americans would bear in the postwar years.

The central issue of how Americans have tolerated (or suppressed) dissent during moments of national crisis not only is important to our understanding of the period around World War II but also remains a pressing concern in the post-9/11 world. Americans were willing in the past to place limits on First Amendment rights in the context of perceived grave and imminent threats to the nation’s security, and they have been willing to do so again now with the PATRIOT Act as the country finds itself in a state of perpetual war on terror. This study traces some of the implications of this compromise between rights and security that was made in the middle to late twentieth century, offering historical context for some of the consequences of such bargains struck today.