



Photo for the Tribune by Beth Schlanker

Phyllis Rolf holds a photo of her grandfather, Fred Rodewald, outside her home in Atwater, Minn. Rodewald was 42 when he was jailed for what were then judged seditious comments. "I will be very, very happy if they can clear not only my grandfather, but all of them," Rolf said, referring to scores of others jailed under the Montana sedition law.

## SPEECH: Patriot Act is like sedition laws, some say

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Today, with criticism of the government's conduct of the war shouted in the streets, heard in the halls of Congress and read on Weblogs, Rodewald's remark about the kaiser seems rather innocuous.

"If [Montana's sedition] law was around now, I probably would be in jail myself—relating to Iraq," said one of the law students, Jason Lazark, 28, of Sebastopol, Calif. "The modern context interests me because free speech is such an important thing—to be able to speak about the war and not to be thrown in-

to jail."

Schweitzer, a plainspoken man whose German-Russian grandparents emigrated to the U.S. and settled in Montana, said in a recent interview that he had just finished reading Work's book. And although the governor made no promises, he appeared favorably disposed to granting clemency if petitions are presented.

### Governor defends free speech

"I would be interested," Schweitzer said. "There was a time when 40 percent of the people in Montana spoke German, and there was a law that prohibited anyone from speaking German from the pulpit.

"If we locked people up today for calling politicians liars, we would have to build a lot more jails," he said. "I will defend our right to call a politician a son-of-a-bitch at any time, even when they are calling me a son-of-a-bitch."

After Montana enacted its Se-

dition Act in 1918, an array of ranchers, farmers, loggers, butchers, cooks, and bartenders—people scratching out a living in fierce winters and scorching summers of the rugged West—was convicted of making anti-government statements. Some of the remarks were little more than profanity-laced tirades uttered in saloons.

For example, Work unearthed the case of Adam Steck, a 53-year-old German immigrant bartender in the Trocadero Saloon in Helena who was sent to prison for calling the American flag a "dirty rag" and saying that "this damned country is bankrupt already and do they expect to lick Germany? No, they never did and they never will."

America's first law against sedition, the Sedition Act of 1798, was enacted to silence opposition to what was then a growing fear of war with France. The law expired in 1801.

There were no further federal

legislative actions against disloyal expression until after the U.S. entered World War I in 1917, when Congress passed the Espionage Act.

### Unkind words for Wilson

The first case in Montana that came to trial under the Espionage Act was against Ves Hall, a rancher who lived near the junction of Otter Creek and the Tongue River in the southeastern part of the state. Hall was accused of speaking against the draft, saying that Germany would win the war, and that President Woodrow Wilson was "the crookedest son-of-a-bitch that ever sat in the president's chair," according to Work.

But after a three-day trial in Helena, U.S. District Judge George Bourquin acquitted Hall, ruling that the Espionage Act was "not intended to suppress criticism or denunciation ... of the president ... but only false facts, willfully put forward as true."

It was a time, Work wrote in the book, of "hyper-patriotism" in Montana and the acquittal so outraged the state's politicians that the legislature went into special session. Twenty-eight days after Hall's acquittal, the state sedition law was signed.

"Montana's law was the broadest, most repressive anti-speech law passed by a state in the history of the country," Work said. Three months later, Congress passed a national sedition law, "largely due to the influence of Montana politicians and legislative leaders," he said.

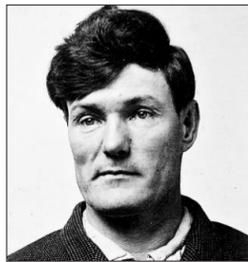
Except for three words, the federal law was a copy of Montana's law. About 2,000 men and women would be convicted under the national Espionage and Sedition Acts, including Eugene V. Debs, who organized the American Railway Union, the nation's first industrial union, in Chicago.

Work, an attorney and former deputy director of the Reporters Committee for Freedom of the Press in Washington, D.C., said he began researching the Montana sedition cases as an outgrowth of a media law class he teaches at the University of Montana. A former reporter for U.S. News & World Report, Work said he was intrigued particularly because of the post-Sept. 11 sentiments of "Are you with us or against us?"

"There are some parallels in the sense that the [USA] Patriot Act represents some retrenchment of our civil liberties and free speech," Work said. "It is not as raw and blatant as the Se-

## Freely spoken, punishable by jail

During World War I, more than 70 people in Montana were jailed for comments deemed seditious. Here are examples.



Ed Horn

"The heads of the government at the White House ought to be killed and then the war would stop."



Leo Reno

"These damn fools still think they can lick Germany, but all they get is a good licking in France every day."



Pete Ervik

"I would sooner fight for the Kaiser than I would for the United States."



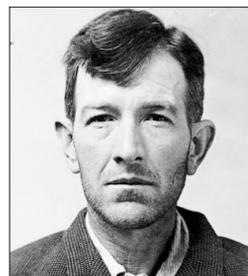
Frank Waara

"Americans are no good, and I hope that Germany will win."



Albert Brooks

"Let those who own the country do the fighting! Put the wealthiest in the front ranks; the middle class next; follow these with judges, lawyers, preachers and politicians."



Frank McVey

"I do not see why we should be fighting the Kaiser, and I don't see why people should go crazy over patriotism. The Kaiser and his government is better than the U.S.A."



Janet Smith

Witnesses said she declared the Red Cross a "fake," and that "while she didn't mind helping the Belgians with the relief work, the trouble was that the damned soldiers would get it."



Herbert Mansolf

"There will be a damn German flag flying over the United States inside of a year. The Americans never did amount to nothing and they will amount to a whole lot less when the war is over."

dition Act, but it represents an effort by government and the Congress to bolster security at the price of liberty—not just the Patriot Act, but the language and rhetoric and debate over who is more patriotic."

### Author tells his dream

Earlier this year, during a reading at a bookstore in Missoula where he lives, Work said he was asked what he hoped to accomplish with his research.

"I said that in my box of dreams, I hoped that some day they would be exonerated," Work said.

Jeff Renz, director of the criminal defense clinic at the university's law school was at the store that day and a short time later contacted Work and suggested that his law students prepare clemency petitions.

"At first, I wasn't sure it was important to exonerate these people," said Katie Olson, 26, of Great Falls, Mont., who is one of Renz's students. "But the more I thought about it, I realized that

in the context of today's world, it's important to reaffirm the foundation of free speech."

Work said he is hopeful that the students will be able to locate more relatives and hoped relatives would come forward after hearing about the clemency project. A Web site, <http://www.seditionproject.net>, contains personal details of the convicted individuals.

Rolf, 60, of Atwater, Minn., said that until Work found her while working on his book, she had been unaware of her grandfather's past.

"It was a complete surprise to me," she said. "It blew me off my chair. Now that I know about it, I hope the conviction will be written off the books."

[mpossley@tribune.com](mailto:mpossley@tribune.com)

Maurice Possley was the T. Anthony Pollner visiting professor of journalism at the University of Montana in 2003 and provided editing assistance for a few chapters of Clemens Work's book, which was then in progress.

## Spy effort faces legal challenges

New York Times News Service

WASHINGTON — Defense lawyers in some of the country's biggest terrorism cases say they plan to bring legal challenges to determine whether the National Security Agency used illegal wiretaps against several dozen Muslim men tied to Al Qaeda.

The lawyers said in interviews that they wanted to learn whether the men were monitored by the agency and, if so, whether the government withheld crucial information or misled judges and defense lawyers about how and why the men were targeted for investigation.

The expected legal challenges, in cases from Ohio and Virginia to Florida and Oregon, add another dimension to the growing controversy over the agency's domestic surveillance

program and could jeopardize some of the Bush administration's most important courtroom victories in terror cases, legal analysts say.

The question of whether the NSA program was used in criminal prosecutions and whether it improperly influenced them raises "fascinating and difficult questions," said Carl Tobias, a law professor at the University of Richmond who has studied terrorism prosecutions.

While some civil rights advocates, legal experts and members of Congress have charged that President Bush did not have the authority to order warrantless eavesdropping by the NSA, the White House and the Justice Department continued to defend the legality and propriety of the program on Tuesday.

Government officials, in de-

fending the value of the NSA surveillance program, have said in interviews that it played a crucial part in at least two cases that led to the convictions of Al Qaeda associates—Iyman Faris of Ohio, who admitted taking part in a failed plot to bring down the Brooklyn Bridge, and Mohammed Junaid Babar of Queens, N.Y., who was implicated in a failed plot to use fertilizer bombs against British targets.

David Smith, a lawyer for Faris, said he plans to file a motion in part to determine whether information about the NSA program should have been turned over in the criminal case. Lawyers said they also are considering a civil case against Bush, claiming that Faris was the target of an illegal wiretap ordered by the president. A lawyer for Babar declined to comment.

## IMPORTANT FACTS



### LOWERING YOUR HIGH CHOLESTEROL

High cholesterol is more than just a number, it's a risk factor that should not be ignored. If your doctor said you have high cholesterol, you may be at an increased risk for heart attack. But the good news is, you can take steps to lower your cholesterol.

With the help of your doctor and a cholesterol-lowering medicine like LIPITOR, along with diet and exercise, you could be on your way to lowering your cholesterol. Ready to start eating right and exercising more? Talk to your doctor and visit the American Heart Association at [www.americanheart.org](http://www.americanheart.org).

### WHO IS LIPITOR FOR?

Who can take LIPITOR:

- People who cannot lower their cholesterol enough with diet and exercise
- Adults and children over 10

Who should NOT take LIPITOR:

- Women who are pregnant, may be pregnant, or may become pregnant. LIPITOR may harm your unborn baby. If you become pregnant, stop LIPITOR and call your doctor right away.
- Women who are breast-feeding. LIPITOR can pass into your breast milk and may harm your baby.
- People with liver problems
- People allergic to anything in LIPITOR

### BEFORE YOU START LIPITOR

Tell your doctor:

- About all medications you take, including prescriptions, over-the-counter medications, vitamins, and herbal supplements
- If you have muscle aches or weakness
- If you drink more than 2 alcoholic drinks a day
- If you have diabetes or kidney problems
- If you have a thyroid problem

### ABOUT LIPITOR

LIPITOR is a prescription medicine. Along with diet and exercise, it lowers "bad" cholesterol in your blood. It can also raise "good" cholesterol (HDL-C). In adults, it can lower the risk of heart attack in patients with multiple risk factors for heart disease—such as family history of heart disease, high blood pressure, older than 55, low "good" cholesterol, or smoking.

### POSSIBLE SIDE EFFECTS OF LIPITOR

Serious side effects in a small number of people:

- **Muscle problems** that can lead to kidney problems, including kidney failure. Your chance for muscle problems is higher if you take certain other medicines with LIPITOR.
  - **Liver problems.** Your doctor may do blood tests to check your liver before you start LIPITOR and while you are taking it.
- Symptoms of muscle or liver problems include:
- Unexplained muscle weakness or pain, especially if you have a fever or feel very tired
  - Nausea, vomiting, or stomach pain
  - Brown or dark-colored urine
  - Feeling more tired than usual
  - Your skin and the whites of your eyes turn yellow
  - If you have these symptoms, call your doctor right away.

The most common side effects of LIPITOR are:

- Headache
- Constipation
- Diarrhea, gas
- Upset stomach and stomach pain
- Rash
- Muscle and joint pain

Side effects are usually mild and may go away by themselves. Fewer than 3 people out of 100 stopped taking LIPITOR because of side effects.

### HOW TO TAKE LIPITOR

Do:

- Take LIPITOR as prescribed by your doctor.
  - Try to eat heart-healthy foods while you take LIPITOR.
  - Take LIPITOR at any time of day, with or without food.
  - If you miss a dose, take it as soon as you remember. But if it has been more than 12 hours since your missed dose, wait. Take the next dose at your regular time.
- Don't:

- Do not change or stop your dose before talking to your doctor.
- Do not start new medicines before talking to your doctor.
- Do not give your LIPITOR to other people. It may harm them even if your problems are the same.
- Do not break the tablet.

### NEED MORE INFORMATION?

- Ask your doctor or health care provider.
- Talk to your pharmacist.
- Go to [www.lipitor.com](http://www.lipitor.com) or call 1-888-LIPITOR.

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