

Introduction

V. THE HOME FRONT: SELLING UNITY, SUPPRESSING DISSENT

AMERICA was not prepared for war in April 1917. This was certainly true militarily. The United States army consisted of a mere 200,000 soldiers, roughly the same number as French casualties in the recent Battle of the Somme. The nation's lack of readiness translated to the homefront as well. Most Americans before the spring of 1917 hoped to avoid becoming directly involved in the European maelstrom. Indeed, Woodrow Wilson had won reelection in 1916 on a platform of American neutrality. The Zimmerman telegram and Germany's resumption of unrestricted submarine warfare shifted public opinion and compelled Wilson to change course. His framing of America's participation in the war as a progressive cause to make the world "safe for democracy" tapped into cherished ideals at the heart of the nation's identity. The nation, however, was far from unified as the United States entered the war. Victory would require not just defeating a fearsome German adversary, but also overcoming, by persuasion and, if necessary, by coercion, the racial, ethnic and ideological divisions of a diverse American population.

Responsibility for selling the war effort to the American public rested on the shoulders of George Creel. Woodrow Wilson appointed the former muckraking journalist to serve as chairman of the Committee on Public Information (CPI), established just seven days after America's entry into the war. In heading the CPI, Creel saw his principle duty to promote "the justice of America's cause" and fight for the "hearts and minds" of the public to unconditionally support the war and embrace "One Hundred Percent Americanism."

The CPI used every tool at its disposal to promote a vast propaganda effort. Its Division of Pictorial Publicity employed hundreds of the country's most talented artists to produce posters, often in multiple languages, that inspired both patriotism and fear by casting the German enemy as an existential

(and often bestial) threat to civilization and the American way of life. While Creel asserted that the CPI was in no degree “an agency of censorship,” it did issue guidelines for “voluntary censorship” to the press, believing it was far better “to have the desired compulsions proceed from within than to apply them from without.” The CPI made use of 75,000 “Four-Minute Men” to deliver patriotic speeches across the country, and worked closely with other government agencies, such as the Treasury Department, to promote the selling of Liberty Bonds, and the Food Administration, led by Herbert Hoover, to encourage Americans to conserve food and grow “war gardens.” Eager to use the newest form of mass communication, it collaborated with movie studios to produce films such as *Pershing’s Crusaders*, *The Prussian Cur*, and *The Kaiser, the Beast of Berlin*.

Nonetheless, the United States government recognized that propaganda alone would not be enough to create uniform support for the war. In his April 2, 1917 address asking for a declaration of war, Woodrow Wilson promised that: “If there should be disloyalty, it will be dealt with with a firm hand of stern repression.” He was true to his word. At Wilson’s behest, Congress passed the Espionage Act on June 15, 1917, making attempts to cause “insubordination, disloyalty, mutiny” in the armed forces, or to “obstruct the recruiting or enlistment service of the United States” a crime punishable by up to twenty years in prison. The Sedition Act, an amendment to the Espionage Act passed by Congress on May 16, 1918, placed additional restrictions on speech criticizing the government. By a 7–2 majority, the U.S. Supreme Court upheld the convictions of five anarchists under the Sedition Act in *Abrams v. United States* (1919). Justice Oliver Wendell Holmes, however, offered a powerful dissent, joined by Justice Louis Brandeis, that cast the ruling as an infringement on America’s First Amendment traditions.

The war marked the birth of the modern national security state. With the unbridled power of the law at their disposal, U.S. Attorney General Thomas Watt Gregory and other government and military officials set out to crush any and all dissent. Postmaster General Albert S. Burleson used the powers given him under the Espionage Act to ban newspapers and magazines he deemed subversive from the mail. Opponents of

the war, ranging from ordinary citizens to the Woman's Peace Party in New York City, faced constant surveillance by a rapidly expanded government intelligence apparatus that was assisted by civilian groups like the American Protective League. Federal prosecutors arrested, tried and imprisoned more than a thousand antiwar activists, most notably the Russian-born anarchist Emma Goldman and the chairman of the Socialist Party of America, Eugene Debs. A newly constituted Military Intelligence Division actively investigated signs of disloyalty or resistance to the war effort both in and outside of the army, while J. Edgar Hoover, a young attorney in the Justice Department, would play a leading role in the government campaign against subversion that followed the signing of the Armistice. The legacies of this period would reverberate throughout the post-war period and into the twenty-first-century.

Chad Williams
*Professor of African and Afro-American Studies,
Brandeis University*

“FREE TRADE IN IDEAS”:
WASHINGTON, D. C., NOVEMBER 1919

*Oliver Wendell Holmes: from
Dissenting Opinion in Abrams v. United States*

In March 1919 the Supreme Court ruled 9–0 to uphold the constitutionality of the 1917 Espionage Act in *Schenck v. United States*. Oliver Wendell Holmes, who had been appointed to the Court by Theodore Roosevelt in 1902, wrote the opinion. In his article “Freedom of Speech in War Time,” published in June 1919, Harvard Law School professor and First Amendment scholar Zechariah Chafee Jr. criticized Justice Holmes for having done “nothing to emphasize the social interest behind free speech, and show the need of balancing even in war time” in his *Schenck* opinion. In November the Court upheld the convictions of several radicals prosecuted under the 1918 Sedition Act in *Abrams v. United States*; but this time Holmes dissented, joined by Justice Louis Brandeis, whom President Wilson had appointed in 1916.

In this case sentences of twenty years imprisonment have been imposed for the publishing of two leaflets that I believe the defendants had as much right to publish as the Government has to publish the Constitution of the United States now vainly invoked by them. Even if I am technically wrong and enough can be squeezed from these poor and puny anonymities to turn the color of legal litmus paper; I will add, even if what I think the necessary intent were shown; the most nominal punishment seems to me all that possibly could be inflicted, unless the defendants are to be made to suffer not for what the indictment alleges but for the creed that they avow—a creed that I believe to be the creed of ignorance and immaturity when honestly held, as I see no reason to doubt that it was held here, but which, although made the subject of examination at the trial, no one has a right even to consider in dealing with the charges before the Court.

Persecution for the expression of opinions seems to me perfectly logical. If you have no doubt of your premises or your power and want a certain result with all your heart you

naturally express your wishes in law and sweep away all opposition. To allow opposition by speech seems to indicate that you think the speech impotent, as when a man says that he has squared the circle, or that you do not care whole-heartedly for the result, or that you doubt either your power or your premises. But when men have realized that time has upset many fighting faiths, they may come to believe even more than they believe the very foundations of their own conduct that the ultimate good desired is better reached by free trade in ideas—that the best test of truth is the power of the thought to get itself accepted in the competition of the market, and that truth is the only ground upon which their wishes safely can be carried out. That at any rate is the theory of our Constitution. It is an experiment, as all life is an experiment. Every year if not every day we have to wager our salvation upon some prophecy based upon imperfect knowledge. While that experiment is part of our system I think that we should be eternally vigilant against attempts to check the expression of opinions that we loathe and believe to be fraught with death, unless they so imminently threaten immediate interference with the lawful and pressing purposes of the law that an immediate check is required to save the country. I wholly disagree with the argument of the Government that the First Amendment left the common law as to seditious libel in force. History seems to me against the notion. I had conceived that the United States through many years had shown its repentance for the Sedition Act of 1798, by repaying fines that it imposed. Only the emergency that makes it immediately dangerous to leave the correction of evil counsels to time warrants making any exception to the sweeping command, “Congress shall make no law . . . abridging the freedom of speech.” Of course I am speaking only of expressions of opinion and exhortations, which were all that were uttered here, but I regret that I cannot put into more impressive words my belief that in their conviction upon this indictment the defendants were deprived of their rights under the Constitution of the United States.

MR. JUSTICE BRANDEIS concurs with the foregoing opinion.

November 10, 1919