

Liberty in America During the Great War

There's always plenty for libertarians to complain about in our troubled world, but in many respects, things could be much worse. I'm thinking particularly of how the U.S. government punished dissent before, during, and even after America's participation in World War I. Although it will be a few years before we observe the centenary of Woodrow Wilson's idiotic decision in 1917 to plunge the country into the Great War, this seems like as good a time as any to review his administration's, Congress's, and the courts' shameful conduct.

My source here is David M. Kennedy's *Over Here: The First World War and American Society* (paperback, 2004), especially chapter 1, "The War for the American Mind." (Also see Joseph Stromberg's "Remembering with Astonishment Woodrow Wilson's Reign of Terror in Defense of 'Freedom.'")

Wilson of course was reelected president in 1916 after a campaign that reminded voters, "He kept us out of war." But as Kennedy tells it, most of the public did not need to be dragged into war. (Germany's resumption of submarine warfare must have had something to do with this.) Resistance did not appear widespread, and efforts to suppress dissent (and activities having nothing to do with dissent) were more virulent at the grassroots level than in Washington. At some point, American nativism kicked in with a vengeance, and the prowar fever was easily exploited to turn up the heat on immigrants and workers.

The propaganda campaign was remarkable, the repression more so, as though the policymakers feared that a little dissent could turn the whole country antiwar. "Woe be to the man or group of men that seeks to stand in our way." That was Wilson's warning to the war opponents two months after he asked an obliging Congress for a declaration of war on Germany. "They had no small idea, as yet, just how much woe was to befall them," Kennedy writes.

Kennedy believes that suppression of dissent was made easier by a traditional American striving for agreement. The government's public school — known in the 19th century as the common school — won favor out of a desire to homogenize the religiously and ethnically diverse population. The "melting pot" was a popular notion. "Those deep-running historical currents," Kennedy writes, "darkly moving always beneath the surface of a society more created than given, more bonded by principles than by traditions, boiled once more to the surface of American life in the crisis of 1917-1918." Social stability was seen as requiring "sameness of opinion ... commonality of mind."

It was in the preparation for war and during the war itself that the notion of "100 percent Americanism" was forged, Kennedy adds, and most people were suspicious of anyone who seemed less than 100 percent American.

Kennedy notes that Wilson was well suited for the role he assumed:

He had all his life been a moralizing evangelist who longed with a religious fervor to sway the public mind with the power of his person and his rhetoric. The war furnished him with a wider stage for the ultimate performance of the act he had long been perfecting.... He subverted the more or less orderly processes of politics by stirring and heating the volatile cauldron of public opinion. Therein lay both his great political genius and a major source of his eventual downfall.

But Wilson's public reversal on the war caught many people by surprise — particularly the Progressive intelligentsia, which, led by John Dewey and the *New Republic*, converted to war-boosterism with relative ease — to Randolph Bourne's horror. (See Murray Rothbard's classic "World War I as Fulfillment: Power and the Intellectuals.") But, Kennedy adds,

some of those persons of sensitive conscience would indeed find the passage from neutrality to war impossible to negotiate. The steadfast pacifists — like those who held to the original anti-war principles of the American Union Against Militarism — increasingly found themselves isolated in a wilderness of opposition from which nearly all their countrymen had fled by the end of 1917.

Just as the Eastern Progressives hoped that they could harness the unpleasantness of war to their reformist aims (Progressives further west were skeptical), conservatives and others also "sought to invest America's role in the war with their preferred meaning and to turn the crisis to their particular advantage," Kennedy writes. "All, of course, mantled their activities in the raiment of patriotism. But that loose garment could be stretched to many sizes and shapes, and the struggle to define the war's meaning often cloaked purposes far removed from Wilson's summons to a crusade for a liberal peace and democracy."

Thus the demand for solid support for the war bolstered groups that were already suspicious of immigrants and workers showing an interest in unions. Thus opponents of war could be further stigmatized as foreigners and socialists. (Recall that avowed socialists condemned the Great War as a "capitalist war" in which the world's workers had no interest.)

Washington's efforts to disseminate a particular view of the war — democracy versus German authoritarianism — reached into the schools, and local school officials obliged by stepping up the effort, for example, by outlawing the teaching of German. "Ninety percent of all the men and women who teach the German language are traitors," Kennedy quotes one Iowa politician as saying.

By executive order, Wilson created the innocuously named Committee on Public Information, a propaganda mill headed by Progressive muckraking journalist George Creel. Kennedy portrays Creel as a man who believed that the American way of shaping opinion "shunned coercion and censorship." But apparently not everyone agreed.

Kennedy finds parallels between the American propaganda effort and themes found in George Orwell's *1984*.

The American experience in World War I ... darkly adumbrated the themes Orwell was to put at the center of his futuristic fantasy: overbearing concern for "correct" opinion, for expression, for language itself, and the creation of an enormous propaganda apparatus to nurture the desired state of mind and excoriate all dissenters. That American propaganda frequently wore a benign face, and that its creators genuinely believed it to be in the service of an altruistic cause, should not obscure these important facts.

At the grassroots level, vigilantism — including lynching — was not uncommon and too often was more or less countenanced by people in power and prominent members of the legal community, including a future U.S. attorney general, Charles Bonaparte.

The Justice Department under Attorney General Thomas Gregory encouraged citizen surveillance through its link to the American Protective League, "a group of amateur sleuths and loyalty enforcers," in Kennedy's description. Said Gregory, "I have today several hundred thousand private citizens — some individuals, most of them as members of patriotic bodies, engaged in ... assisting the heavily overworked Federal authorities in keeping an eye on disloyal individuals and making reports on disloyal utterances." Kennedy says that by the end of the war, the APL had 250,000 members.

This was also the period in which the United States got the Espionage Act and amendments known as the Sedition Act. Under the authority of the Espionage Act, Postmaster General Albert Sidney Burleson banned publications from the mail or stripped them of their second-class mailing permits for even suggesting that Wall Street or the arms industry controlled

the government. Criticizing the government was regarded as aiding the enemy.

Wilson, Kennedy writes, meekly and privately objected to the heavy-handedness of his underlings on occasion but never did anything about it. His true feelings were revealed after the war, when he advocated a new sedition act to take the place of the soon-to-expire wartime amendment.

The courts were no friendlier to dissenters and government critics. Kennedy says “the courts construed the [wartime censorship] laws broadly, convicting persons, for example, for even discussing the constitutionality of conscription, or, as happened in New Hampshire, for claiming ‘this was a Morgan war and not a war of the people’ (a remark that earned its author a three-year prison sentence).”

An antiwar speech could get you indicted, tried, and sent to prison. Socialist leader Eugene V. Debs went to prison for delivering a speech against the war, although he did not call on young men to defy conscription.

“The Supreme Court,” Kennedy writes, “did not review any Espionage Act cases until after the Armistice. By then, of course, the damage was done.”

When District Judge Learned Hand ordered Postmaster General Burleson to stop closing the mails to dissenting magazines, an appeals court overturned the order and the Supreme Court let the appellate decision stand. In 1919 the high court heard three cases brought under the Espionage Act. In one, Justice Oliver Wendell Holmes Jr. declared that in wartime, speech or written work that is “such a hindrance” to the government’s effort may be prohibited.

It was in this opinion that Holmes enunciated the “clear and present danger” standard for when speech and press may be controlled. But Kennedy notes that Holmes and his fellow justices violated their own standard. For example, the court refused to overturn the conviction of a German-American “who had published articles questioning the constitutionality of the draft and the purposes of the war.”

Holmes also sustained Debs’s conviction, writing ominously, “if a part of the manifest intent of the more general utterances was to encourage those present to obstruct the recruiting service ... the immunity of the general theme may not be enough to protect the speech.” Kennedy found only one case in which Holmes, in dissent, used the “clear and present danger” test to oppose a conviction.

Holmes, strangely, has a reputation as a great civil libertarian. One perceptive observer was not fooled; H.L. Mencken demolished the renowned jurist in a 1930 book review that reminded readers of Holmes’s wartime opinions.

We are indeed fortunate that speakers, writers, and publishers who today communicate antiwar messages are no longer treated as they were during World War I. That they were not so treated after the 9/11 attacks — considering the other appalling policies and practices the Bush administration engaged in — we might chalk up to the devout respect for freedom of speech and press that is nurtured by hardworking organizations and civil libertarians dedicated to protecting those freedoms.

Kennedy ends his chapter on a note that today's progressives ought to heed. Eastern Progressives supported Wilson's war hoping it would advance reform while avoiding the domestic excesses that war can produce. They miscalculated, however. Dewey was wrong. Bourne was right.

The devotees of Barack Obama, who has prosecuted more whistleblowers under the same Espionage Act than all previous presidents combined, still have not learned their lesson.