



The Red Scare When America Was Less Scared Than Today

After more than 125 bombing plots from 1917-20, U.S. government officials violated civil liberties. But the violations were minuscule compared with today's "war on terror."

by Thomas R. Eddlem

British essayist and humorist G.K. Chesterton noted how he was asked some invasive questions at the American embassy in London in advance of his first speaking tour in America, a tour taken in the wake of the post-World War I "Red Scare." Chesterton explained in his 1922 book *What I Saw in America*: "One of the questions on the paper was, 'Are you an anarchist?'... Then there was the question, 'Are you in favour of subverting the government of the United States by force?'" The British humorist then quipped: "Against this I should write, 'I prefer to answer that question at the end of my tour and not the beginning.'"

Chesterton had accurately described the requirements of the Immigration Act of 1918, a law that specified "that aliens who are anarchists; aliens who believe in or advocate the overthrow by force or violence of the Government of the United States or of all forms of law; aliens who

disbelieve in or are opposed to all organized government; aliens who advocate or teach the assassination of public officials; aliens who advocate or teach the unlawful destruction of public property ... shall be excluded from admission into the United States."

Chesterton noted that on the surface, he could label the requirement to answer the question an "abnormal spirit of inquisition" and "an interference with liberty unknown among all the ancient despotisms and aristocracies." But the reality, Chesterton learned, is that such a rule was quite natural for America and its philosophy of freedom:

America is the only nation in the world that is founded on a creed. That creed is set forth with dogmatic and even theological lucidity in the Declaration of Independence; perhaps the only piece of practical politics that is also theoretical politics and also great literature. It enunciates that all men

Stopping terrorism one deportation at a time: The federal government had few restrictions on immigration in 1919, but it did not hesitate to deport immigrants it suspected of lawbreaking.

are equal in their claim to justice, that governments exist to give them that justice, and that their authority is for that reason just. It certainly does condemn anarchism, and it does also by inference condemn atheism, since it clearly names the Creator as the ultimate authority from whom these equal rights are derived.

Thus, it shouldn't be any surprise that violent anarchists would be excluded from immigration to the United States. And there had been a practical reason for this law, as the United States had just suffered a wave of more than 125 terrorist bombings inspired by anarchist and Bolshevik organizations, including:

November 24, 1917: Nine policemen and a woman bystander were killed (and two injured) in the bombing of a Milwaukee, Wisconsin, police station.

April 28-30, 1919: Anarchists sent 36 mail bombs to Washington, D.C.; Philadelphia; Paterson, New Jersey; Cleveland;

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Pittsburgh; Boston; and other cities. Intended targets included Supreme Court Justice Oliver Wendell Holmes, the U.S. attorney general, industrialists J.P. Morgan and John D. Rockefeller, the U.S. secretary of labor, senators, U.S. congressmen, police commissioners, prosecutors, governors, and mayors. Most of the dynamite bombs were disarmed, but two people were killed and three injured.

June 2, 1919: A wave of bombings in seven cities again targeted prominent citizens. Anarchists made another attempt at killing Attorney General A. Mitchell Palmer, bringing a bomb to Palmer's front porch. The bomb detonated prematurely, killing the bomber, Carlo Valdinoci, a follower of Italian anarchist Luigi Galleani. Galleani had presumably been the mastermind behind many of the bombings, and he openly praised violence in his embrace of the "propaganda of the deed" years later, proclaiming, "No act of rebellion is useless; no act of rebellion is harmful." The U.S. government deported Galleani back to his native Italy later that month.

September 16, 1920: The most dramatic and deadly of the attacks was a "car bomb" of some 100 pounds of dynamite and 500 pounds of metal shrapnel in the back of a horse-drawn cart set off during a busy Wall Street lunch hour. The bomb killed 38, injured several hundred others, and was the bloodiest terrorist incident in U.S. history until the 1995 Oklahoma City bombing.

In the wake of such widespread violence — attacks upon the political, judicial,

and financial kingpins of American society — many Americans believed that the United States and its way of life were under ongoing attack. Though the loss of life was not as great as the September 11, 2001 attacks, many Americans had come to believe that these waves of anarchist attacks were increasing, in contrast to the

September 11 terrorist attack, which appeared to have been a single event. President Woodrow Wilson's attorney general, A. Mitchell Palmer, engaged in a series of dramatic searches and seizures in December 1919 and January 1920, in which as many as 10,000 suspected immigrant anarchists and Russian Bolsheviks were apprehended by a new branch of the Justice Department called the "Bureau of Investigation, Intelligence Division." The Bureau of Investigation (BOI) was led by the ambitious 24-year-old John Edgar Hoover; the BOI eventually emerged as the Federal Bureau of Investigation (FBI).



Red hunter: Wilson's Attorney General A. Mitchell Palmer led dragnet-style raids against Bolsheviks and anarchists in 1919, raids that both violated civil liberties and deported actual radicals.

Palmer explained in *Forum* magazine later in 1920: "The Department of Justice will pursue the attack of these 'Reds' upon the Government of the United States with vigilance, and no alien, advocating the overthrow of existing law and order in this country, shall escape arrest and prompt deportation." Palmer justified the raids: "Upon these two basic certainties, first that the 'Reds' were criminal aliens and secondly that the American Government must prevent crime, it was decided that there could be no nice distinctions drawn between the theoretical ideals of the radicals and their actual violations of our national laws. An assassin may have brilliant intellectuality, he may be able to excuse his murder or robbery with fine oratory, but any theory which excuses crime is not wanted in America. This is no place for the criminal to flourish, nor will he do so so long as the rights of common citizenship can be exerted to prevent him."

Critics noted that many anarchists were deported simply for belonging to anarchist organizations, rather than for explicit terrorist deeds. To this charge, Palmer acknowledged he would shed no tears for the deported anarchists who had not engaged in violence: "It has been inferred by the 'Reds' that the United States Government, by arresting and deporting them, is returning to the autocracy of Czardom, adopting the system that created the severity of Siberian banishment. My reply to such charges is that in our determination to maintain our government we are treating our alien enemies with extreme consideration. To deny them the privilege of remaining in a country which they have openly deplored as an unenlightened community, unfit for those who prefer the privileges of Bolshevism, should be no hardship."

The newly formed American Civil Liberties Union and U.S. Senator Thomas J. Walsh (D-Mont.) of the Senate Judiciary Committee condemned Palmer's dragnet-style arrest of immigrants and deportation of people based upon their beliefs — protected by the First

Amendment to the U.S. Constitution — rather than on criminal deeds. Walsh — who was criticizing a president of his own party, and with whom he had allied on numerous progressive causes — concluded:

In the more or less hysterical state of mind that prevailed when the raids were in progress and which to some extent still persists, it was popularly believed that all those taken were of that class — that they were all “red.” It was quite natural that persons more or less remotely or feebly sympathetic with such should attend the hearings of the committee, as they did, so that the inquiry became known to the newspaper reporters as the “red” hearing. Indeed, anyone who challenged the proceeding, either from a legal or a humanitarian standpoint, laid himself open to the suspicion of being to some extent incarnadine. As a matter of fact, the great majority of those arrested, yea, even those deported, were perfectly harmless, deluded individuals, many of them unable to speak a word of English, with little or no comprehension of the principles or the purposes of the political party of which upon one consideration or another they had become nominal members, offenders against the letter but not the spirit of the law.

Walsh accused Palmer of “flagrant disregard of the constitutional rights,” stressing that “none of the six thousand and odd persons for whose arrests warrants were issued during the five months’ period following November 1, 1919, had committed any crime for which they were being prosecuted.... They were simply charged with being illegally in the country because of their membership in one or the other of the proscribed organizations and therefore subject to deportation.”

Both Walsh and the American Civil Liberties Union (ACLU) also strongly condemned the Palmer raids for other constitutional irregularities. Of course, neither Walsh nor the ACLU were pureblood paragons of constitutional virtue. Walsh supported many of President Wilson’s grabs for federal power, including the income tax and the Federal Reserve, as well as Wilson’s effort to sacrifice American sov-



Car bomb without the car: Anarchists were suspected in the detonation of 100 pounds of dynamite and 500 pounds of shrapnel in the back of a horse-drawn cart on Wall Street on September 16, 1920, demonstrating that car bombs are nothing new in the minds of terrorists.

ereignty to the League of Nations. In 1933, he was nominated by the newly elected Franklin Roosevelt to be his attorney general. If a fatal heart attack had not prevented Walsh from taking office, he very likely would have supported the many dictatorial and unconstitutional usurpations of FDR. The ACLU was founded and dominated by radicals who were more enamored of — and in tune with — Lenin and the other Bolshevik leaders of the newly founded Soviet Union than of America’s Founding Fathers. ACLU founder (and for the organization’s first 30 years its executive director) Roger Baldwin traveled to the Soviet Union and returned to sing praises of the Bolshevik gulag state. National ACLU officers who were also top leaders of the Communist Party USA included William Z. Foster, Elizabeth Gurley Flynn, and Louis Budenz. They were also agents of the Communist International, or Comintern, the Kremlin’s apparatus that directed a global network of Communist Parties that carried out violent and subversive revolutionary criminal activities throughout the world. Ironically, these ACLU Reds, who condemned Palmer’s deportations of anarchists, uttered no protests when their heroes, the Soviet Communists, imprisoned, tortured, and executed thousands of non-conforming anarchists in Soviet Russia.

Nevertheless, the genuine dangers to liberty posed by the Palmer raids were not minuscule. Many warrants were not signed under oath as required by the Fourth Amendment, some immigrants were held under excessive bail (Eighth Amendment), none were given an attorney during questioning (Sixth Amendment), and less than 1,000 of the 10,000 arrested in the dragnet were eventually deported. Of course, if more than 90 percent of the persons arrested were released without charges or deportation hearings, the Fourth Amendment requirement of “probable cause” for searches was clearly in doubt.

Indeed, some of the arrests were sweeping. In a Detroit raid on a baking cooperative, BOI agents arrested patrons of the restaurant and even band members hired to entertain the guests — arrests that included U.S. citizens. While most of those arrested in the nationwide sweeps were detained only overnight, several dozen were imprisoned without trial or deportation hearing for months. Wasil Lalajo was jailed by federal agents in Youngstown, Ohio, and held for 162 days on \$1,000 bail (more than a year’s salary at the time), and then released without charges to his “desperate and suffering” wife and children, according to a report by the National Popular Government League, a report circulated

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by the recently founded ACLU. The reason for Lalajo's release was that "the only evidence [the BOI] had came from confidential informants or 'under-cover men,' whose identity it was deemed inadvisable to expose."

The *New York World* reported August 6, 1921 that one Italian immigrant suffered 80 days of imprisonment, including two weeks of solitary confinement, only to be released without charges. "After arresting Guiseppe di Filipis the 23-year-old Bayonne (N.J.) truckman, on the charge of being the driver of the Wall Street bomb wagon, and keeping him in a cell 14 days, practically incommunicado, government officials went into court yesterday, 80 days following the original arrest, and asked that the charge be dismissed, virtually admitting that their suspicions were unfounded."

Perhaps most importantly, the Justice Department had not been authorized by Congress to enforce immigration law. By law, immigration rules had been the responsibility of the Labor Department, which eventually refused to reimburse Palmer's Justice Department for the cost of the raids in an inter-agency squabble. Senator Walsh asked Boston-based Bureau of Investigation agent George E. Kelleher in hearings, "By virtue of what law does an agent of the Department of Justice make an arrest in a deportation case?" Kelleher's reply: "I do not know of any law." The report by the National Popular Government League concluded that the attorney general had exceeded his authority, as deportation of aliens under law was the responsibility of the Department of Labor at the time. "The department finding itself unable to get from Congress the authority it sought in respect to searches to secure evidence, sought to attain its end by a palpable subterfuge."

The official 1923 Senate Judiciary

Committee report written by South Dakota Republican Thomas Sterling argued that the effectiveness of the Palmer raids justified the lawbreaking: "Your committee can not say but that the policy thus adopted and carried out was an effectual one. Subsequent events and conditions might very well indicate that it was effect-

tual." Senator Walsh countered: "Why quibble over the law or dwell upon rights guaranteed by the Constitution? Why cavil at the means if the ends attained are to be commended?"

Palmer's "Red Raids" led to fundamental questions about constitutional government: Can the U.S. government ignore the clear wording of the First Amendment and deport aliens based upon their beliefs, rather than their actions? And was membership in Bolshevik-inspired organizations, by itself, equivalent to encouraging violence? Such questions have relevance to the war against Islamist extremism today, and especially the case of President Obama's drone attack on American citizen Anwar al-Awlaki, who publicly aligned with al-Qaeda and verbally encouraged violence in America.

The Palmer raids involved infringements of the First, Fourth, Fifth, Sixth, and Eighth Amendments to the U.S. Constitution, directed against some 10,000 immigrants. Some of those immigrants — such as Luigi Galleani — undoubtedly deserved deportation. Everywhere Galleani spoke, his followers carried out bombings. Just days after Galleani's February 1919 speech in Taunton, Massachusetts, four of his followers accidentally blew themselves up while trying to plant a bomb at the American Woolen Company in nearby Franklin. (Workers at the American Woolen Company had just recently gone on strike.) But most of those arrested had not planned or carried out any bombings. Palmer's zeal for catching the real bad guys had also caught some innocents in his dragnet, and he had clearly ignored both statutory and constitutional law in trying to get at the bombers. And he was rightly condemned for his excesses during the "Red Scare," a scare that perhaps had more real frights than today's war on terror.

As bad as these excesses may have been, the U.S. government's response to the "Red Scare" was less invasive of personal liberties than anti-First Amendment laws enacted and enforced during the First World War. Under the Espionage Act of



AP Images

Consummate G-man: The 24-year-old J. Edgar Hoover led the Palmer raids from the incipient Bureau of Investigation (Intelligence Division), an agency that evolved into today's FBI. Hoover would go on to serve 10 presidents, from Wilson to Nixon.

1917, socialist Charles Schenck was imprisoned for writing and speaking against the constitutionally dubious military draft enacted during World War I. Likewise, Socialist Party Leader Eugene V. Debs and others were imprisoned for simply speaking out against the war.

None of those abuses happened during the Palmer raids. In addition, the Palmer raids compare favorably to current abuses of the U.S. Constitution in the “war on terrorism”:

- There were no house-to-house dragnet searches without warrants, as happened after this year’s Boston Marathon bombings. In Boston this year, the bombers actually used more ancient technology (gunpowder bombs) than the dynamite used by the anarchists who struck the same city in 1919.

- There was no massive wiretapping or warrantless search regime created, as happened under the NSA after the September 11, 2001 attacks.

- There were no indefinite detentions without trials or habeas corpus protection, as has happened at Guantanamo Bay,

Bagram Air Force Base, and other secret CIA “black sites” under both the Bush and Obama administrations (though Obama granted habeas protections and officially banned black sites).

- There was no torture, as authorized by the Bush administration in the use of waterboarding, “walling,” and “food manipulation” under its “enhanced interrogation” regime.

- There were no assassinations of aliens who had advocated violence against America, as President Obama has used (without any judicial proceedings) against both foreigners and U.S. citizens in recent years.

Senator Walsh concluded during the “Red Scare” that constitutional liberties are most needed during times of national crisis:

It is only in such times that the guarantees of the Constitution as to personal rights are of any practical value. In seasons of calm no one thinks of denying them; they are accorded as a matter of course. It is rare except

when the public mind is stirred by some overwhelming catastrophe or is aghast at some hideous crime, or otherwise overwrought, that one is required to appeal to his constitutional rights. If, in such times, the constitution is not a shield, the encomiums which statesmen and jurists have paid it are fustian.

Though a dark period of American history, Americans can and must learn one lesson from the “Red Scare.” American citizens must learn — as they did in the 1920s — how to protect their constitutional liberties in the face of external or internal threats, and how to stop trading away freedoms for illusory security. We must, in particular, be on guard against would-be usurpers in government exploiting *real* threats in order to “justify” sacrificing our liberties. A demand that elected representatives make executive branch officials follow the rules of the Constitution and Bill of Rights — or face the wrath of voters on election day — is the means by which those freedoms may be reclaimed. ■