

THE THREATENED ECLIPSE OF FREE SPEECH

BY JAMES HARVEY ROBINSON

I

IN the letter in which the editor of the *Atlantic* suggested that I say something about the limits of free speech during critical times, he wrote, 'Personally, I am heartily in favor of prosecuting the present war with every ounce of American vigor, but I question the effect of the growing intemperance of the public attitude.' I, too, am eager, now that our country has entered the fearful game, that it should play its part bravely and skillfully.

All paths to peace seem momentarily to be blocked by towering obstacles — even the ancient and oft-trodden highway of war. Although reconciled to taking this as the most promising way, I cannot share the flushed indignation of those who denounce as traitors all who take a different view of our national policy and of the choice we have made. The present crisis baffles the insight of the wisest men and pitifully dwarfs the resources of the most seasoned intellect. If we can honestly agree with the great mass of our countrymen on the wisdom of joining in the war, we should be devoutly thankful, for we are lucky in escaping the disgrace and danger of dissent and suspected loyalty. We may well pity those who find themselves in disagreement, for their lot is a hard one; but some of us who now warmly support the war cannot find it in our hearts to condemn all so-called pacifists, or even those who are torn by conflicting allegiances. They sadly irritate us, and in the free expansion of friendly

conversation I, at least, can deal damnation round in a way fully to justify my claim to be a patriot. Yet in many cases we are forced to confess that those who disagree with us appear to be quite as noble as we, their ideals are no less lofty than ours, and their estimate of the present and guesses about the future quite as inspired.

Man must have his woes and sore perplexities in order to develop his faculties. Philosophers have often pointed out that uninterrupted contentment would speedily land us in unconsciousness. Now, to our usual steady and beneficent supply of private troubles have been added public disasters and social problems of unprecedented magnitude. The war has stirred men's minds as nothing else could have done. It has made certain questions acute and urgent which have hitherto been only languidly asked and never answered. What causes wars? What assures peace? What is democracy? What is neutrality? Who is a non-combatant? What is freedom of the seas?

When we see khaki uniforms all about us, when we are saying good-bye to relatives and friends departing for French trenches; when coal runs low in the cellar and sugar in the kitchen; when we have a guilty feeling in giving preference to rolled wheat over oatmeal, and are consciously grateful for a boiled potato; when we note the lowering of the exemption limit of the income tax, and are suspected of being a scoundrel if we do not invest in government bonds, the mind is quick-

ened as never before. We would seem to have a right to suspect that many things must have been fundamentally wrong in the old and revered notions of the State, of national honor, even of patriotism, since they seem at least partially responsible for bringing the world to the pass in which it now finds itself.

Just at this critical juncture, when scrupulous thinking and ruthless analysis of accepted principles of social and political order are forced upon us, come reports of government censorship, exclusions from the mails, the breaking up of public meetings, and expulsion of teachers from our schools and colleges for expressing opinions adjudged disloyal, seditious, or treasonable.

Here is a new puzzle. We have had little sympathy for similar proceedings in the belligerent countries. We have freely expressed our contempt for the ninety and three distinguished German professors who, in the autumn of 1914, — under the Kaiser's whip, it was assumed, — addressed to the civilized world their passionate defense of their country's policy. Our most conservative newspapers, which always damn Socialists at home, have quoted ecstatically the brave utterances of the same party in Germany. We have denounced the stupidities of the British censors and lamented the cutting off of our supply of German newspapers, even of scientific periodicals; and why, we asked, need any one get so heated by the words of a gentle philosopher like Bertrand Russell? And, now that we are actually in the war, these same things which we deprecated in the policy of European countries have become our policy.

We have, furthermore, been taught from childhood to sing of our country as a land of liberty and to flatter ourselves that freedom of speech is an indubitable element of 'Americanism.' The Constitution of the United States

precludes Congress from passing any law abridging freedom of speech, or of the press, or the right of the people peaceably to assemble, and to petition the government for a redress of grievances. The state constitutions abound in praise of freedom of speech. For instance, the constitution of New York (1894) assures to every citizen the right to 'freely speak, write, and publish his sentiments on all subjects'; and the constitution of Pennsylvania (1873) declares that 'the free communication of thoughts and opinions is one of the invaluable rights of man.' In the constitution of North Carolina the freedom of the press is pronounced 'one of the great bulwarks of liberty'; and freedom of speech is held 'sacred' by the constitution of Mississippi. According to those of Wyoming and Kentucky, absolute and arbitrary power exists nowhere in a republic, 'not even in the largest majority.'

Such are the ideals of our constitutional law — and they should be a source of deep satisfaction to all free-minded people. In practice, however, one is not permitted, even in times of profound peace, to publish and utter publicly all the criticisms, recommendations, and denunciations which he may deem important for the public ear. According to those very laws which proclaim freedom of speech, 'every individual is to be held responsible for the abuse of the same.' This means that, although no laws are to be passed by Congress or by the state legislatures imposing limits upon the expression of opinion, yet if any one says anything at a public meeting which is deemed immoral, indecent, inflammatory, or treasonable by the policemen or plainclothes men present, he may be arrested, and mayhap imprisoned or fined. If one seeks to disseminate his ideas by means of periodicals or pamphlets, the post-office officials may decline to trans-

mit anything that does not suit their taste; and the courts have decided that the United States post-office has precisely the same right to refuse to carry *The Masses* that it has to exclude sulphuric acid and dynamite from the mails. So it comes about that the rights of public discussion are always really limited, and that they may readily be impaired by narrow, ignorant, and prudish interference. Such then is the legal status of the matter in times of peace.

Many intelligent persons, as well as the great mass of the unthinking, would, now that war is on, have us surrender some of the normal constitutional safeguards of free speech; they would have the plain-clothes men and police officials, our district attorneys, juries, and judges, exercise new vigilance in their control of meetings and public speeches. The excuses for this are the activities of German agents and sympathizers, the encouragement which slackers may receive, and the depressing effect upon our troops of tolerated pacifists and conscientious objectors.

The people, speaking through their duly appointed representatives, — the President and Congress, — have, after the most atrocious provocations and reiterated attacks upon our national honor, deliberately and with the general sanction of the nation decided to enter the war in defense of the highest ideals of democracy and of world-peace. The minority, who are still unreconciled with this decision or are not yet fully persuaded, must, it is urged, yield to the majority and keep their mouths shut. For them to continue their protests when the boys are in the trenches is giving aid and comfort to the enemy; it is essentially disloyal, if not downright treasonable. It promotes disunion at home, when every nerve should be strained to obtain a

speedy victory, and it encourages the enemy to continue the struggle.

As a writer in the New York *Evening Post* has recently put the case: 'Freedom of speech, freedom of the press, academic freedom, freedom of conscience — these are noble and inspiring phrases; as symbols of causes they are worth fighting for and dying for. The more pity that they should be invoked so often these days in behalf of those who abuse their freedom to the injury of their country's cause. When peace comes, freedom will be as regnant in American life and thought as ever before. But in the meantime, they are not helping the cause of freedom who are using it as a cloak to conceal disloyalty.'

It may be urged further that war is a very ancient expedient and will bring its inevitable ancient accompaniments. When we start out to kill enemies abroad on a gigantic scale, we are not likely to hesitate to gag those at home who seem directly or indirectly to sympathize with the foe. But just here we may well stop and make a couple of distinctions.

In the first place difference of opinion is not necessarily disloyalty. This name is now applied with the utmost abandon; much as 'atheist' was once used to defame any one who differed from the generally accepted religious doctrines, no matter how fervently he believed in God and the Bible. Some people in the United States wish Germany to be victorious; to express this wish publicly, or to do anything with a view of hampering the efficiency of our preparations for war, or to transmit useful information to the enemy, would certainly be disloyal, not to say treasonable. Those, however, who continue to say that they wish we had not entered the war; that some other less horrible policy might have been selected; that war has never yet begotten

lasting peace but only new war; that some men loathe shooting their fellow men under government auspices in the same sickening way that they would loathe private murder — such persons are in no way treasonable, and disloyal only in the sense of failing eagerly to coöperate with the majority in a crisis. To accuse them of ‘giving aid and comfort to the enemy’ is not only to use this legal expression *in just the sense that it was designed to preclude*, — namely, constructive treason, — but the charge might facetiously be brought against President Wilson himself, who, by distinguishing between the German people and their government, has, according to the Germans themselves, only solidified their intimate union and fortified their resolution to defend their beloved ruler to the end.

It is this confusion between real traitors on the one hand, and on the other hand those persons whose human sympathy and idealism outrun the common bounds, that fills many of us with dismay. Few readers will feel any misgivings in regard to measures, however harsh, taken against the first group; it is the second category that raises the question of freedom of speech and its proper restraint in war-times.

II

There is another consideration which must not be neglected in any discussion of free speech, whether in peace or war; and that is the time, place, and manner in which talking is carried on. Speech is, after all, only one phase of our general behavior. It may be used to give information, to present various interests and points of view, to clarify problems, and to suggest solutions. On the other hand, it may degenerate into violence, gross misrepresentation, and confusion. Human speech is derived directly from the various noises that

our humbler kinsmen in the animal world are wont to make. We can growl, snarl, bark, whine, cackle, and purr, articulately as well as inarticulately. Talk enables us to warn, frighten, conciliate, threaten, soothe, and startle our fellow beings. In the beginning language was made up of vocal gestures which gave relief to fundamental emotions. It still serves this purpose and will continue to do so, *in sæcula sæculorum*.

What passes for reasoning on most occasions is a series of vocal sounds which serve — to use a phrase at once popular and scientific — to ‘relieve our minds.’ Arguments employed in political addresses, sermons, and newspaper editorials are commonly little more than mere ejaculations, called forth by feelings of approval or disapproval, comfort or alarm.

Language is also an ingenious substitute for other and more laborious forms of action. A purely verbal attack often produces the same attractive results that might be looked for from a bodily encounter, and with none of its hazards. It gives the weak and timid a weapon for vanquishing the strong. One can arraign and punish whole nations in this way, without shedding a drop of blood. Those who are wont to be frightened by violent talk should realize that the more violent it is, the less dangerous. The very utterance of one’s feelings produces a sort of Aristotelian catharsis, relieves the tension, and reconciles the speaker to inaction. If we do not approve of the talk, we are tempted to declare that it is a menace to morals and public order; but it is the talk that disconcerts us, rather than any appreciable risk that it will take the form of actual physical violence. Why cannot we learn that most people are continually saying things that they have no intention of doing, and of urging others to do things which they well know will not be done? The very free-

dom of speech is commonly its own antidote, and so should logically be welcomed by all those who would have the existing order remain undisturbed.

If speech were confined to cool reasoning, it would attract but little attention and would rouse little objection, whatever might be said. But since it is primarily or exclusively an expression of feelings and sympathies, of approbation and hostility, it will always be offensive so far as it does not suit the tastes and accord with the habits of those who listen to it. It will inevitably be judged as polite or impolite, courteous or inconsiderate, gracious or insulting, godly or impious. Now such adjectives as these are inapplicable when we are employing our powers of speech, as we now and then do, for real reasoning — analyzing complicated situations, making distinctions, agreeing on definitions, and seeking the proper educations and inferences to be made from new knowledge. Conclusions that we express in regard to the constitution of the atom, the construction of a carbureter, the obligations of neutrality, the historic development of marriage, or the nature of the modern state, should not aim to be polite or impolite, gracious or rude; they should aim to be what we call true. But strangely enough most of us most of the time are really quite indifferent to truth, and are using language in the old, primitive way as a signal of agreement or disagreement. We become partisans before we realize it. We get pledged to beliefs we know not how, and they become dear to us by reason of their familiarity and associations. When they are questioned, we are outraged, and rush to their defense in the name of truth. Our hypocrisy is too deep and impulsive for us to detect. Our beliefs are not the result of reasoning, as we fondly conceive in our childlike innocence of the processes of the

mind; they are, on the contrary, the motives which prompt us to 'rationalize' — that is to discover plausible grounds for continuing to believe what we wish.

In practice, those are very few who have any inclination to talk in a way that is likely to lead to their arrest, or to express their indecencies with so little subtlety as to attract the attention of the postal officials and guardians of the public purity. The censor is commonly slow-footed and heavy-eyed, for otherwise he would not aspire to his rôle. It is not hard to elude him; one need only avoid a few phrases which he has learned to recognize as wicked or dangerous, and express one's self with a little freshness, or resort to irony, or a scientific phraseology, in order to be quite safe. Indeed, one cannot avoid at times lamenting the decay of censorship, which in the eighteenth century was the occasion of much humorous pussyfooting on the part of Diderot, Voltaire, Gibbon, and the rest; a source of innocent pleasure to themselves and their discriminating readers.

At present, all things may be said and printed if only time and circumstance be somewhat carefully considered. One may reject every vestige, not only of Christianity but of all religious belief, even the existence of God and the life to come; and there are many occasions on which this privilege can be exercised. Indeed, except for blasphemy, which is a sort of breach of good order, no arrests or exclusions from the mails are likely to take place, unless one's negations are accompanied by seditious or otherwise shocking remarks. One can always criticize and attack the policy of all government officials, from the President of the United States down to the local coroner; they can safely be denounced as knaves, fools, and, latterly, even as traitors. One can pick flaws in our Constitution and the courts which interpret it; one

can even question the expediency of the State itself, as now understood; but one would better not be associating with supposed anarchists when so doing.

Our economic system, our prevailing rights of property and methods of distributing wealth, may be freely dealt with, and the Socialist has his say so long as he does not choose an acute labor crisis as the occasion for expressing his mind. Lastly, marriage, the family, and the relations of the sexes, are rapidly freeing themselves from the reticences of our rather prudish traditions. The recent agitations in regard to methods of contraception indicate clearly that there is still a good deal of old-fashioned frantic obscurantism; but the work of Havelock Ellis has proved that even the most intimate and usually repulsive details of sexual relations, normal and abnormal, can be presented in a spirit at once high-minded, scientific, and sympathetic. Then, too, all the speculations which are associated with Freud's name have given a certain dignity to what might formerly have been regarded as prurient reveries. The modern story and drama are also serving to diminish the importance of the impurity complex.

When one reviews the history of toleration and of freedom of thought, one has no reason to be discouraged. The issue of free speech is really modern, and emerged clearly as a defensible proposition only with Milton's *Areopagitica*, to be followed by the widely divergent reasoning of Jeremy Taylor and Joseph Glanvil, and by Locke's classical first *Letter on Toleration* (1689), which says almost the last word on the matter so far as religious differences are concerned. Natural science and philosophy have gradually escaped from the control of an antiquated theology, and it is a good while since any one has been imprisoned for his scientific or philosophical views.

English experience and the democratic revolutions, beginning with the first French Revolution, have served to assure practical freedom in the discussion of current political questions; which is a gain of incalculable importance. Finally, the industrial revolution of the nineteenth century has opened up such fundamental matters as the limits of private ownership, the apportionment of profits, the implications of the new position in which woman finds herself, her place in the family, and her general relations with the other sex.

The world-war has greatly deepened our study of the State and has forced us to consider, not merely the old questions as to how it should be governed, whether by a king, an aristocracy, or democratically, but whether the national state as now conceived is not a product of particular historical conditions which are passing away, and whether it is not coming to be an anachronism and the chief obstacle in the way of the permanent peace for which we all sigh.

It is clear that the extension of public discussion to matters hitherto deemed too fundamental and sacred to be questioned is a secular process, extending through the centuries, which is widening the range of our thought and speculation *malgré nous*. In the beginning, social relations and religious beliefs changed so slowly that there was no idea of progress and improvement, only of degeneration, since the old have always been prone, for rather obvious psychological reasons, to suspect that things were brighter and nobler in their youth than in their years of decline. The Greek and Roman writers tried in some cases to account for the manner in which man had reached the condition in which they found him, but they did not look at themselves as contributing to or hindering advance. Indeed, the notion that man can learn more and

more of the world in which he lives, of the nature and workings of natural things, and that he may succeed in applying his knowledge to better his estate was not very clearly stated until Lord Bacon's *Advancement of Learning* appeared, in 1605. This truth has become a commonplace with us now, and we see on every side multifiform demonstrations of its validity.

Nevertheless few people as yet realize that the great increase in our knowledge of man and the world, and the practical revolution that this knowledge is making in our environment, may in time discredit practically all the opinions and beliefs which have been handed down to us from the Middle Ages and earlier times. How much of contemporaneous thought, widely accepted as peculiarly binding and sacred, was formulated for us in the decadent Roman Empire and transmitted to the Middle Ages, only a student of intellectual history is likely to appreciate. He is constantly impressed with the fact that thought, instead of taking the lead, too often lags behind the procession of outward changes, and tardily and grudgingly adjusts itself to them.

To take a good illustration, the principles of International Law were set down by Grotius in the first half of the seventeenth century with such insight and astuteness that his work became a classic. But there were no standing armies of highly trained conscripts in his day, no nations in arms, no strong national feeling, no monster guns, no steel ships driven by steam or oil, no such deadly explosives as modern chemistry has discovered. As yet war was carried on neither in the blue heavens nor beneath the ocean wave. Distant colonies and defenseless peoples in Asia and Africa had not yet become objects of European exploitation on any considerable scale. As yet there were no Quakers to denounce war altogether,

and to found the line of conscientious objectors; no Voltaire to admire them and spread the fame of their good sense and humanity among the philosophers. What could Grotius know of the causes and etiquette of war as we know it, or of the conditions essential to the peace which it devolves upon us to hasten? Yet, if I am not mistaken, many of the cherished principles of international law as it was treated before the war were derived from the Dutch jurist and his *De Jure Belli et Pacis*, published in 1625.

Nothing could be less intelligent than to assume, as many respectable persons still manage to do, that the forms of agitation which are popularly summed up in the terms socialism, anarchism, feminism, and pacificism are mere eccentricities of unbalanced minds, seeking to cloak their hatred of restraint and their cowardice under theories of social regeneration. All these movements are simply indices of altered conditions produced by modern applied science, and the new vistas of necessary adaptation which these have opened.

The patience of even the most tolerant is bound to be sorely taxed. Old-fashioned toleration of religious dissent and of political views, which is now pretty generally established, as well as the freedom of scientific and philosophical speculation, are no longer sufficient. Pascal remarked that, if the earth were turning on its axis, the decisions of the Roman Curia would not stop it. If the terms and conditions of human relationship, private, national, and international, are being revolutionized, as they obviously are, the protests of distracted reactionaries cannot check the process; they can serve only to render the adjustments slower, more bungling and circuitous, than they would otherwise be.

Were there time, it might be shown by glaring historical instances that it is

the conservatives, not the reformers, who have hitherto been responsible for disorder and bloodshed; who organize inquisitions and censorships, Albigenian crusades and massacres of St. Bartholomew. It may be that this is only because they have always constituted the dominant party; that those advocating change may some day become so numerous and so well organized that they too may be in a position to coerce the laggards. As yet only a few minor attempts, the gravity of which has been grossly exaggerated by the heated imaginations and fears of the conservative, can be charged up against them. It might be shown that the horrors of the present war are largely due to the perpetuation of outworn institutions, of discredited ambitions, and of illicit national aspirations.

Burke, if I remember rightly, feared lest, if the foundations of the State were really revealed, they would be found to be so insubstantial that anarchy might supervene, and he concludes therefore that they should always be shrouded in mystery. We are now beginning to see that man is not naturally an unruly animal; on the contrary, he is, perhaps, o'er docile, o'er solicitous in regard to the esteem of his fellows. He has always been readily enslaved, and the curtain of history rises on tens of thousands of laborious Egyptians, neglecting their own convenience to drag great blocks of limestone to construct a suit-

able home for their ruler when he should pass to the realms of the sun.

Our inborn subservience is reinforced by the ineffaceable impressions of childhood's dependence. Man spontaneously generates social order and reveres his guides and rulers. He has always been cowed by the wishes of his ancestors and by the writings of ancient sages. He is not naturally anarchic and is not likely ever to become so.

Personally, I am convinced that modern conditions are far more favorable than any previous state of the world for the rapid extension of an unprecedented degree of toleration, and that the revived restraints due to the war are transient, and need not be a serious cause of apprehension to any one, however irritating they may appear to those who regard them as foolish and unnecessary.

One may reach such a stage of intellectual emancipation that he exempts nothing from scrutiny; he perceives that the spheres in which mankind has made the most startling achievements in human coördination and effectiveness are those from which all notions of reverence, except for intelligence and success, have been eliminated. Only when that ancient, savage term 'sacred' disappears from our thought and speech, except as a reminder of outlived superstition, can we hope for a full and generous acknowledgment of the essential rôle of absolutely free discussion.

HOW TO DESTROY PAN-GERMANY

BY ANDRÉ CHÉRADAME

PAN-GERMANY'S STRENGTH AND WEAKNESS

IN April last, when it was generally believed in Paris that the revolution at Petrograd made certain the end of German influence over the vast former Empire of the Tsars, I wrote the study which appeared in the *Atlantic Monthly* for June. I then said, 'It is possible that idealistic extremists may guide the revolution toward pacifism or anarchy. The swarming agents of Germany are working there without respite. If their efforts succeed, the strength of Russia will swiftly dissolve.'

Unhappily, events have justified this word of caution in only too full measure. The Allies have now to set to work to reorganize the forces of Russia. It is a task to which their duty and their interests alike make it imperative for them to devote themselves with their utmost strength. But we must cherish no illusions. The rebuilding of the forces of Russia must inevitably be a long, arduous, and doubtful undertaking. It is advisable, therefore, to consider, at the same time, if there is not some method of making up for the Russian default by bringing into play, to further the victory of the Entente, certain powerful forces which the Allies have not thus far even thought of employing.

Now, these forces and this method do exist; but in order to enforce clearly their reality, their importance, and the way to make use of them, I must, in the first place, call attention to a fundamental and enduring error of the Allies, set forth the extraordinary cre-

dulity with which they allow themselves to be ensnared in the never-ending intrigues of Berlin, and describe the principal shifts which Germany employs, with undeniable cleverness, to annul to an extraordinary degree the effect of the Allies' efforts.

These essential causes of mistaken judgment being eliminated, we shall then be able to understand what the existing forces are which will enable the Entente to make up with comparative rapidity for the Russian default, and to contribute with remarkable efficiency to the destruction of Pan-Germany.

I

THE FUNDAMENTAL AND ENDURING ERROR OF THE ALLIES

For three years past events have notoriously proved that the concrete Pangermanist scheme, developed between 1895 and 1911, has been followed strictly by the Germans since the outbreak of hostilities. Now, the diplomacy of the Entente is devised as if there were no Pangermanist scheme.

This is the source of all the vital strategical and diplomatic errors of the Entente — consequences of the failure to understand the German military and political manœuvring. Here is proof derived from recent events — one of many which it would be possible to allege.

When it was announced a few weeks ago that Austria would play an appar-