

INTRODUCTION

In July 2005, four Connecticut librarians defied the United States government. The Federal Bureau of Investigation had issued a National Security Letter demanding information about a patron who had used one of the library's computers. Fearing that a government search of library records would have a chilling effect on free speech, the librarians contacted the American Civil Liberties Union, which obtained an injunction blocking the order. This was not the first time the FBI had run into a stonewall in its effort to obtain information from a library. Only the year before, a library in Whatcom County, Washington, had gone to court to suppress an FBI subpoena that sought the names of patrons who had checked out a biography of terrorist leader Osama bin Laden. In January 2003, the American Library Association, representing over sixty thousand librarians, demanded that Congress restore the safeguards for reader privacy that had been eliminated by the USA Patriot Act. The Justice Department was stunned. Attorney General John Ashcroft accused the librarians of "hysteria." Privately, FBI agents complained that they had to fight both the terrorists and the librarians. One agent criticized the Justice Department's Office of Intelligence Policy and Review (OIPR) for knuckling under to the librarians by blocking wider use of the Patriot Act. "While radical militant librarians kick us around, true terrorists benefit from OIPR's failure to let us use the tools given to us," the agent wrote. "This should be an OIPR priority!!!"¹

Since when did librarians become champions of free speech? At

the beginning of the twentieth century, they prided themselves on protecting the public from “bad” books. (In 1908, an Atlanta librarian revealed that she hid trashy novels in the stacks in the hope that her patrons wouldn’t find them.) It isn’t only librarians who changed. There has been a revolution in our attitude toward free speech over the course of the last century. Prior to World War I, freedom of speech was something most Americans took for granted. Yet there had always been censorship in America. Only a few years after the adoption of the First Amendment in 1791, Federalists threw newspapers editors into jail for criticizing the government. Defenders of slavery killed the abolitionist editor Elija Lovejoy and banned members of Congress from raising the issue of slavery on the floor of the House of Representatives. A northern critic of the Civil War was sentenced to two years in prison for making a speech that might “demoralize the troops.” But censorship was not widely seen as a problem until World War I. It was then that the rapidly expanding federal government crushed criticism of the war, convicting more than a thousand Americans of making statements that allegedly harmed the war effort. Immediately following the war, Attorney General A. Mitchell Palmer launched nationwide raids that rounded up thousands of suspected Communists who were guilty of nothing more than belonging to the wrong political party.

The civil liberties movement in this country was born in the outrage over the abuses committed during World War I and the Red Scare. In the beginning, the fight for free speech was waged by a handful of men and women who believed that the greatest threat to American government came not from radicals calling for its overthrow but from patriotic officials intent on suppressing “dangerous” beliefs. Many of the early civil libertarians were radicals themselves. Roger Baldwin, a draft resister, emerged from prison to found the American Civil Liberties Union in 1920. But from the beginning, the civil liberties movement had the support of important establishment figures, including U.S. Supreme Court justice Oliver Wendell Holmes Jr. In 1919, the seventy-eight-year-old Holmes turned aside the earnest pleas of his wife and his fellow justices to protest the jailing of a radical for his beliefs. In his dissenting opinion in *Abrams v. U.S.*, Holmes explained:

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.

In succeeding years, civil libertarians fought to establish a free trade in ideas. Slowly, battle by battle, they fundamentally changed the relationship between the American people and their government. “The censorial power is in the people over the Government, and not in the Government over the people,” James Madison said during a debate in the House of Representatives in 1794. This is the story of our triumph over government censors. But, as any librarian will tell you, the battle will never be won. The fight continues.²