Body and Soul: The Selective Draft Law Cases and World War I

Christopher Capozzola

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By most accounts, the career of the Selective Service Act of 1917 before the Supreme Court of the United States was remarkably short. In January 1918, the Court dispensed with constitutional challenges to the recently adopted military conscription law in a brief, unanimous opinion following a session of oral argument in which the Justices were widely reported to be bored by the case and impatient to issue their ruling. But the Supreme Court’s engagement with conscription and its enforcement marked a contingent and transformative moment for the Constitution, the Court, and the United States. The legacies of the Court’s ruling in Arver v. United States include a surprising cast of characters: not only drafted soldiers and conscientious objectors, but a Hungarian refugee, a Canadian nurse, and an unwed teenage mother from rural Virginia. A century later, as Americans continue to grapple with the obligations of citizenship, the limits of federal power, and the extent of personal privacy, we might pause to consider a crucial moment when war brought the federal government into direct contact with the body and soul of every American citizen.¹

The Selective Service Act asserted the federal government’s power at its most extreme. During the war, the basic premise that political obligations implied military ones was rarely challenged, and the general sense of compliance was not lost on a reporter for the New York Times who spent one registration day in the rough-and-tumble neighborhood around Peck Slip on the East River waterfront in Manhattan. There, 3,528 men—among them the longshoremen, dock workers, and drifters who filled the neighborhood’s lodging houses—registered, without complaint, at the makeshift offices of New York Local Board No. 92. “There was no use complaining,” wrote the reporter:

To ask the average registrant what he thought of the whole affair would be to receive a shrug of the shoulder and the acknowledgment that he really saw no use in having any thought on the subject at all, further
than that it was the law of the land, and that every loyal citizen owed it to himself and to his country to obey that law.2

The New York newspaper reporter marveled that this unprecedented registration for military service looked almost like “part of America’s second nature.” But, in fact, it wasn’t. Adopting, enforcing, and upholding America’s first universal military draft required a remarkable departure from the nation’s political traditions of civic voluntarism and militia service. That was a point made by the law’s opponents, who were not so quick to shrug their shoulders. By the war’s end, conscription brought America courtroom battles, shootouts in the Ozark Mountains, and even a fistfight in the cloakroom of the United States Senate. There were torchlight parades and midnight raids; a Kaiser hanged in effigy, a man hanged in a noose. Through it all, the registration forms poured into Selective Service headquarters. And to those we ought to pay a bit of attention.

“Accustomed to consider themselves more or less outside of the social organism of society,” the reporter noted, draft-age men “were suddenly compelled to locate themselves … ask themselves many questions that had not concerned them before—who they were—what they were—where they were.” To the men, the forms were nuisances, beside the point. What the registrants of Peck Slip did not realize was that filling out the forms, “locating” themselves before the state, was the main fact—and their cards were symbols of the new terms of citizenship. Selective Service created new categories of citizens: conscripts, conscientious objectors, draft dodgers. As drafted men and their families interacted with military administrators, they reworked the meanings of American citizenship and its relation to our bodies and our souls. When the Supreme Court joined the debate, it left a remarkably long legacy for such a short opinion.3

Conscription and Coercion

World War I represented a drastic transformation in the power of the federal government. By almost any metric, from the size of the federal budget to the number of federal employees, to the number of soldiers in the standing army, government expanded dramatically during the war and never went back to its prewar size. Before the war, the largest federal budget was $762 million. After the war, the smallest federal budget was $2.8 billion. In 1913, the Sixteenth Amendment brought America the income tax, and the Seventeenth Amendment established the direct election of senators. The war confirmed this constitutional mind-set and accelerated the expansion of federal power. During the war, the government began to regulate alcohol, first as a temporary wartime measure in 1917 and then in the Eighteenth Amendment, ratified in 1919. The government intervened in disputes between business and labor. It nationalized the railroads and the coal industry. It administered the first IQ tests. It instituted daylight savings time. Uncle Sam was truly everywhere in Americans’ lives.4

The Selective Service Act of May 1917 is a clear example of the dynamic relationship between expanding state power and voluntary participation during World War I. The idea of universal male obligation to military service was not unknown, but the draft did not come easily to the United States in World War I. During the Civil War, both the Union and the Confederacy adopted conscription, but these notorious systems—marked by violent uprisings in the North and widespread desertion in the South—sent relatively few men into the Civil War armies; only 8% of the Union military force came from conscription. In 1917, support for the war was broad, but opposition to the draft was widespread. Facing objections from southern populists and northern progressives in his own party, President Woodrow Wilson made common
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Political debates and bureaucratic concerns led to a compromise, the Selective Service Act of 1917, which required all male citizens of draft age, and aliens who had taken out first papers of citizenship, to register with local draft boards. Liability to registration was universal, but liability to service was, in the language of that day (and ours), “selective.” A man’s health, his engagement in a “useful” war industry, or his obligations to dependent family members determined whether he would stay home or end up in uniform. But adopting conscription and implementing it were two different things. Although the draft boards had help in the task of identification from the United States Census Bureau, local post offices, and private insurance companies, the state could not locate or identify all those who lived under its authority. A generation later, draft officials could track a man down through his birth certificate, his driver’s license, voter registration, passport, or Social Security card. In 1917, however, the average American man lacked most of these documents; many carried none of them at all.
Voluntarism thus played an important role in the spirit of Selective Service. Casting the registration process as a volunteer "service" to the state—which would do the "selecting" based on its principles of efficiency—gave the draft an aura of consent. Thus we see President Woodrow Wilson's puzzling formulation of the 1917 draft law: "it is in no sense a conscription of the unwilling; it is a selection from a nation which has volunteered in mass."

**Arver v. United States**

Some of those unwilling men pursued their claims in the nation's courts. Georgia's Tom Watson, a leading figure in populist politics of the previous generation, emerged as the most prominent opponent of military conscription. In the summer of 1917, Watson recruited two men, and $100,000, for a test case. Joining in an unlikely alliance with civil libertarian and veteran New York litigator Harry Weinberger, Watson argued that Selective Service legislation violated the Constitution. First of all, Watson said, it violated the Thirteenth Amendment's prohibition against "involuntary servitude"—an ironic deployment of the Thirteenth Amendment by one of Jim Crow's most ardent supporters. Nor, he argued, did the Constitution, which mentions a militia but does not speak of conscription, authorize the raising of armies by such means. Weinberger added his own line of reasoning: by exempting clergymen and divinity students from the draft, the Selective Service Act had also violated the First Amendment's Establishment Clause separating church and state.

Their arguments went nowhere. On January 7, 1918, the U.S. Supreme Court unanimously upheld the constitutionality of conscription. Chief Justice Edward D. White wrote for the Court in a series of cases collected as the Selective Draft Law Cases and headed by *Arver v. United States*. He located the power of the government to exact enforced military duty in the "raise and support armies" clause of the Constitution's Article I. Citizenship, the Court ruled, implies the "reciprocal obligation of the citizen to render military service in time of need and the right to compel it." Any other notion, asserted Chief Justice White, "challenges the existence of all power, for Governmental power which has no sanction to it and which can only be exercised provided the citizen consents is in no substantial sense a power." White thus believed that citizens' fundamental duties to the state preceded the opinions they might have about any one particular policy. Consent followed from citizenship, not the other way around. Watson's Thirteenth Amendment claim, White remarked, was "refuted by its mere statement," and the "unsoundness" of Weinberger's religious establishment claim was "too apparent to require" a counterargument. This was justice by assertion, but no matter. *Arver*, while authoritative, announced nothing new. Every single court that heard a challenge to the draft denied it.

**Enforcing the Draft**

No matter how forcefully the Court spoke in the Selective Draft Law Cases, however, opposition to the draft persisted. At least as many as 350,000 Americans dodged the draft and became—in the slang of the period—" slackers." The response of Americans to draft dodging marked a crucial moment in the evolution of federal power. During the course of the war, thousands of letters arrived at Selective Service headquarters alleging slackerism on the part of neighbors, colleagues, and even family members. Edna Shaw of St. Louis, Missouri, wrote to draft officials to turn in her friend Otto Schaflitzel. "I wouldn't say anything about it," she wrote, "only he is so disloyal for only being 24 years of age and single. [He is] hurting my feelings, when he talks about the country, cause I have brothers in service and I will almost think ... if I only had a
gun I would kill him.” Emma Wolschendorf of East Bridgewater, Massachusetts, wrote to the draft board in May 1918 asking them to draft her husband. “He is not a good father to his two little babies, and therefore I want our great ‘Uncle Sam’ to take care of him.”

Some mechanisms of coercion were more personal. Parents often accompanied children to draft registration centers, where they received registration buttons that they were asked to wear prominently on their lapels. The wartime draft also attached the nation-state to the bodies of draft-age men in the form of draft cards—the first mass state-issued identity documents in U.S. history—that men were legally bound to carry at all times and show upon request. Churches read out the names of members of their congregations who had registered for the draft, a process ostensibly aimed at honoring the registrants, but that also acted to ensure compliance.

Swamped with requests for investigation of draft dodging, the Justice Department’s Bureau of Investigation (which would later
become the FBI) supported a group of Chicago activists in the formation of the American Protective League in early 1917. By the time of the League’s dissolution in February 1919, as many as 250,000 men—and a small number of women—may have served in this secret organization. The APL was best known for conducting the so-called slacker raids, massive dragnets designed to ferret out men who had not registered for the draft and therefore were not in possession of their draft cards. In the course of three days in September 1918, slacker raiders in New York City interrogated as many as 500,000 men and held almost 60,000 in custody. The APL reflected the historical transition that it participated in: it was a private voluntary association with roots in local habits of vigilantism, but it was also an arm of an emergent federal surveillance state that employed modern methods of social control to uphold the law. The APL’s methods eventually generated press criticism and Congressional debate. On the extent of the APL’s authority to enforce the draft, the Supreme Court was never asked to rule.  

Testing Sincerity

If Selective Service registration and its enforcement transformed the federal government’s relationship to the American body, the law’s provisions on conscientious objection reflected an equally invasive transformation of the American soul. The new draft law included a provision that allowed exemption for members of “any well-recognized religious sect or organization organized and existing May 18, 1917, and whose then existing creed or principles forbid its members to participate in war in any form.” Nearly 65,000 registrants filed initial claims when they filled out their draft cards.  

Americans actively opposed draft exemptions for conscientious objectors. Their methods ranged from scriptural argument in the pews of the nation’s churches to physical harassment in its military prisons. Against great odds, objectors earnestly tried to reconcile the dictates of personal conscience with the needs of the state, and after extensive lobbying from peace groups and religious organizations, military officers and civilian legislators ultimately crafted an official policy that recognized the category and found a small and fragile place for objectors in the American polity. At least on paper.

But once again, the question for a small federal government fighting a great war remained: How would the policy be enforced? The soul was even less amenable to investigation than marriage or employment, and Americans demanded tangible measures to regulate the invisible consciences of their fellow citizens. The War Department embarked on a campaign of scrutiny, officially evaluating the contents of American citizens’ minds and hearts. This can be seen most clearly in the work of the Board of Inquiry. Under the authority of an executive order, the War Department established the board in June 1918 to “discover and weigh and measure the secret motives which actuated the objector to resist authority.” Three legal heavyweights comprised it: Major Walter G. Kellogg of the U.S. Army Judge Advocate Corps; progressive judge Julian W. Mack; and Harlan Fiske Stone, then the Dean of the Columbia Law School. Between June 1918 and the Armistice that November, the three men traveled across the United States interrogating 2,294 conscientious objectors stationed at the nation’s military camps. The board traveled to every major military installation where COs had been encamped, and based on brief interrogations, usually no more than a few minutes, fulfilled its obligation to fix, with legal authority, the “sincerity” of each of the men they interviewed.  

Much depended on the board’s decisions: Those deemed sincere could be assigned to noncombat alternatives such as a farm furlough, while the insincere faced the choice of
Years after the Armistice, then presiding over the Supreme Court, Harlan Fiske Stone received a letter from a former CO, who wanted to know if the Chief Justice who had ruled against most objectors’ claims had had a change of heart. Even as he crafted a more durable legacy of civil libertarianism during his tenure on the nation’s highest court, even as he voted in *West Virginia Board of Education v. Barnette* (1943) to affirm the rights of Jehovah’s Witness children not to be required to salute the flag or recite the Pledge of Allegiance, Stone’s answer was: he hadn’t. “I believe that inasmuch as I must live in and be a part of organized society, the majority must rule, and that consequently I must obey some laws of which I do not approve, and even participate in a war which I may think ill advised,” he wrote. In the later twentieth century, as America did battle with totalitarian enemies, the toleration of conscientious objectors was sometimes lauded as a sign of liberalism’s durability. During the Vietnam War, CO provisions expanded, and the Supreme Court generally upheld them. The draft itself ended in 1973. But in America’s first world war, objectors found little shelter in public opinion or the Constitution.15

**Carrie Buck**

It is thus clear that the Selective Service Act of 1917 shaped the lives of American men, whether they fought or not. But how did Selective Service affect American women? Little in the Selective Service Act applied directly to women, but the war’s coercions of all its citizens’ bodies laid the groundwork for new understandings of women’s relationships to the state in the postwar era. And, significantly, the justification for that coercion provided by the Supreme Court in *Arver v. United States* would reappear in some surprising places.

In the 1929 case *United States v. Schwimmer*, the Supreme Court ruled that a pacifist woman who said she would not
bear arms to defend the United States should be denied naturalization as a citizen. Rosika Schwimmer was a fifty-two-year-old Hungarian citizen who supported progressive, feminist, and pacifist causes. In 1921 she fled political persecution in Hungary and moved permanently to the United States. In September 1926, not as a test case but because she believed it would help her support her family, she applied for naturalization. Statutes at the time required that applicants be “attached to the principles of the Constitution” and take an oath to defend the United States “against all enemies, foreign and domestic.” Asked on a form if she were “willing to take up arms in defense of this country,” Schwimmer wrote that “I would not take up arms personally.” Federal officials, likely
lobbied by the Women's Auxiliary of the American Legion, denied her naturalization petition. A series of cases brought Rosika Schwimmer before the U.S. Supreme Court in April 1929.16

Ruling for the Court that May, Justice Pierce Butler insisted that Schwimmer's refusal to take up arms disqualified her for citizenship. "That it is the duty of citizens by force of arms to defend our government against all enemies whenever necessity arises is a fundamental principle of the Constitution," he announced, and he cited Arver v. United States to support his views. Butler deemed irrelevant the fact that Schwimmer, a 52-year-old woman, was unlikely to be included in any military force. It was the principle that mattered. Rosika Schwimmer lived for the next twenty years in New York City as a resident alien. So did Marie Bland, a Canadian nurse whose petition for naturalization was struck down two years later. Relying on Schwimmer and Arver as precedents, the Court ruled that Bland's religious pacifism also made her ineligible for citizenship, despite the fact that she had actually served as a volunteer nurse for American soldiers in France during World War I.17

A more indirect—and deeply disturbing—appearance of Arver came in Buck v. Bell, a 1927 ruling by the Supreme Court upholding the provisions of a Virginia statute that authorized the sterilization of teenager Carrie Buck, then a patient at the State Colony for Epileptics and the Feeble Minded. The opinion is notorious for a remark by Justice Oliver Wendell Holmes, Jr. Reflecting upon the fact that Carrie Buck was purported to be the daughter of a "feebleminded" woman and the mother of another, Holmes opined cruelly that "three generations of imbeciles are enough."18

State sterilization laws such as Virginia's were relatively new, and some had been extended as part of wartime regulation of sex work around military camps—a federal power authorized by Section 13 of the Selective Service Act and upheld by the Supreme Court in the forgotten 1919 case of McKinley v. United States, which cited as its primary authority Arver v. United States. During the war, women suspected of prostitution were disproportionately young, working-class, immigrants, or women of color, often guilty of little more than enjoying public amusements or appearing in public in the company of a uniformed serviceman. The women soon found themselves detained, interned, and forced to submit to medical examination, at times without legal authority. At best, women were quickly released; others, particularly those with sexually transmitted diseases, languished indefinitely in hospitals and prisons, in makeshift detention centers, or workhouses—some behind barbed wire—where they performed manual labor under the watchful eye of armed guards.19

Suspected prostitutes were subjected to psychological examinations, and women found to be "feebleminded" were regularly turned over to institutions without their consent and with no formal hearing. Further complicating matters, between 1910 and 1917, sixteen states passed laws authorizing the sterilization of the feebleminded, and some of the presumptive prostitutes were sterilized. It is unclear how many women faced the strong arms of the law, of medicine, and of the nation's moral vigilance groups during the war. Official documents from the period report as few as 15,000 women arrested as prostitutes, but the number may be closer to 30,000 in federal facilities alone, excluding an even greater number who encountered local laws and organizations but were never formally arrested. It was, as Army Lieutenant George Anderson boasted, "a united and coherent front ... for the drastic suppression of the offence."20

Arguing on behalf of Carrie Buck before the Supreme Court in May 1927, attorney I.P. Whitehead urged the Court to recognize that the Virginia law "violates her
When John T. Neufeld, a Mennonite, claimed conscientious objector status, he was sentenced to fifteen years hard labor in the military prison at Leavenworth. After serving five months of his sentence, he was paroled to do dairy work and released.

constitutional right of bodily integrity and is therefore repugnant to the due process clause of the Fourteenth Amendment.” Handing down the Court’s opinion just ten days later, Justice Holmes disagreed. “The rights of the patient,” he concluded, “are most carefully considered.” In 2018, the United States marked the centennial of the end of World War I with small-town parades, statewide ceremonies, and an official service at Washington’s National Cathedral. But the war was not memorialized in the Charlottesville, Virginia, cemetery, where Carrie Buck’s small gravestone stands as a silent—and surprising—memorial to America’s first world war. The passage in Buck v. Bell to which we must attend is not Holmes’s remark about the “imbeciles,” which was a trademark Holmesian epigram, but a distraction—an offhanded comment inconsequential to his argument. Rather, we should examine the analogy in Holmes’s opinion that actually structured his thought. The involuntary sterilization of a feebleminded
woman, he claimed, was legally analogous to the noble sacrifices of a citizen-soldier. “We have seen more than once,” Holmes wrote, “that the public welfare may call upon the best citizens for their lives. It would be strange if it could not call upon those who already sap the strength of the State for these lesser sacrifices.” In his sweeping opinion, Justice Holmes cited no authority for this claim. Had he wished to, there was one close at hand: Arver v. United States. 21

ENDNOTES

1 My thanks to Clare Cushman, Jennifer Lowe, and David Pride at the Supreme Court Historical Society. Portions of this essay have previously appeared in Christopher Capozzola, Uncle Sam Wants You: World War I and the Making of the Modern American Citizen (New York: Oxford University Press, 2008).

2 “Eighteen to Forty-Five,” New York Times, September 15, 1918, sec. III, p. 10; Enoch H. Crowder, Second Report of the Provost Marshal General to the Secretary of War on the Operations of the Selective Service System to December 20, 1918 (Washington, DC: Government Printing Office, 1919), 557.

3 “Eighteen to Forty-Five.”

4 David M. Kennedy, Over Here: The First World War and American Society (New York: Oxford University Press, 1980); Joseph A. McCartin, Labor’s Great War: The Struggle for Industrial Democracy and the Origins of Modern American Labor Relations, 1912–1921 (Chapel Hill: University of North Carolina Press, 1997); Lisa McGirr, The War on Alcohol: Prohibition and the Rise of the American State (New York: Norton, 2016); Ronald Schaffer, America in the Great War: The Rise of the War Welfare State (New York: Oxford University Press, 1991). On the Court’s general deference to the expansion of federal authority during the war, see Alexander M. Bickel, The Judiciary and Responsible Government, 1910–1921 (New York: Viking, 1990), 516–31.

5 40 Stat. 76 (1917); John Whiteclay Chambers II, To Raise an Army: The Draft Comes to Modern America (New York: Free Press, 1987), 41–71, 153–171.

6 Quoted in Alfred Cornebise, War as Advertised: The Four Minute Men and America’s Crusade, 1917–1918 (Philadelphia: American Philosophical Society, 1984), 66.

7 Fred D. Ragan, “An Unlikely Alliance: Tom Watson, Harry Weinberger, and the World War I Draft,” Atlanta Historical Journal 25 (Fall 1981): 19–36.

8 Arver v. United States, 245 U.S. 366 (1918), at 378. See also John Remington Graham, A Constitutional History of the Military Draft (Minneapolis: Ross and Haines, 1971); “Judge Speer to Hear Watson Cases Today,” Atlanta Constitution, August 18, 1917, p. 10; “Draft Law Upheld by Supreme Court,” New York Times, January 8, 1918, p. 3.

9 Edna Shaw to Enoch Crowder, Box 179, Folder Missouri 17 (41–60), and Emma W. Wolfschondorf to Enoch Crowder, Box 158, Folder Mass. 17 (81–100), both in States Files, Records of the Selective Service System (World War I), Record Group 163, National Archives and Records Administration, College Park, MD.

10 Joan M. Jensen, The Price of Vigilance (Chicago: Rand-McNally, 1968).

11 40 Stat. 76 (1917), at 78. In March 1918, President Wilson identified provisions for alternative noncombatant service. “Defines Service for War Objectors,” New York Times, March 22, 1918, p. 6.

12 Alpheus T. Mason, Harlan Fiske Stone, Pillar of the Law (New York: Viking, 1956), 100–114; Mason, “Harlan Fiske Stone: In Defense of Individual Freedom, 1918–1920,” Columbia Law Review 51 (February 1951): 147–69; Harry Barnard, The Forging of an American Jew: The Life and Times of Judge Julian W. Mack (New York: Herzl Press, 1974); “Draft Objectors to Be Segregated,” New York Times, June 1, 1918, p. 5.

13 Lillian Schlissel, ed., Conscience in America: A Documentary History of Conscientious Objection in America, 1757–1967 (New York: E.P. Dutton, 1968), 130; Mason, Harlan Fiske Stone, 103; Walter Guest Kellogg, The Conscientious Objector (New York: Boni and Liveright, 1919), 127–30; “Sifts Draft Objectors,” New York Times, June 28, 1918, p. 8. The remaining sixteen objectors at Camp Gordon were either transferred to Fort Leavenworth for further examination, were determined to be enemy aliens not subject to the draft, or in the hospital and unavailable for interview.

14 Edward M. Coffman, The War to End All Wars: The American Military Experience in World War I (New York: Oxford University Press, 1968), 74; Frances H. Early, A World Without War: How U.S. Feminists and Pacifists Resisted World War I (Syracuse, NY: Syracuse University Press, 1997), 93; H.C. Peterson and Gilbert C. Fite, Opponents of War, 1917–1918 (Seattle: University of Washington Press, 1968 [1957]), 123; Schlissel, ed., Conscience in America, 130–31. For an official account of the military’s handling of conscientious objectors, see Crowder, Second Report of the Provost Marshal General, 56–60.

15 Harlan Fiske Stone to Fred Brieihl, in Mason, Harlan Fiske Stone, 105. On World War II, see Milford Q. Sibley and Philip E. Jacob, Conscription of Conscience: The American State and the Conscientious Objector, 1940–1947 (Ithaca, NY: Cornell University
Press, 1952); Rachel Walther Goossen, *Women against the Good War: Conscientious Objection and Gender on the American Home Front, 1941–1947* (Chapel Hill: University of North Carolina Press, 1997); Shawn Francis Peters, *Judging Jehovah’s Witnesses: Religious Persecution and the Dawn of the Rights Revolution* (Lawrence: University Press of Kansas, 2000).

16 *United States v. Schwimmer*, 279 U.S. 644 (1929), at 646, 647; Ronald B. Flowers, *To Defend the Constitution: Religion, Conscientious Objection, Naturalization, and the Supreme Court* (Lanham, MD: Scarecrow Press, 2003); Beth S. Wenger, “Radical Politics in a Reactionary Age: The Unmaking of Rosika Schwimmer, 1914–1930,” *Journal of Women’s History* 2 (Fall 1990): 66–99.

17 *United States v. Schwimmer*, at 650, 649, 651, 652; Henry B. Hazard, “Supreme Court Holds Madam Schwimmer, Pacifist, Ineligible to Naturalization,” *American Journal of International Law* 23 (1929): 626–32; *United States v. Bland*, 283 U.S. 636 (1931); “Citizenship Denied to Arms Objectors,” *New York Times*, May 26, 1931, p. 1. *Bland* was later reversed in *Girouard v. United States*, 328 U.S. 61 (1946).

18 *Buck v. Bell*, 274 U.S. 200 (1927), at 207; Stephen Jay Gould, “Carrie Buck’s Daughter,” in *The Flamingo’s Smile: Reflections in Natural History* (New York: Norton, 1985), 306–18; William E. Leuchtenburg, “Mr. Justice Holmes and Three Generations of Imbeciles,” in *The Supreme Court Reborn: The Constitutional Revolution in the Age of Roosevelt* (New York: Oxford University Press, 1995), 3–25.

19 *McKinley v. United States*, 249 U.S. 397 (1919); Nancy K. Bristow, *Making Men Moral: Social Engineering during the Great War* (New York: New York University Press, 1997), 118–19; Mary Macey Dietzler, *Detention Houses and Reformatories as Protective Social Agencies in the Campaign of the United States against Venereal Diseases* (Washington, DC: Government Printing Office, 1922), 64; Estelle B. Freedman, *Their Sisters’ Keepers: Women’s Prison Reform in America, 1830–1930* (Ann Arbor: University of Michigan Press, 1981), 147; Barbara Meil Hobson, *Uneasy Virtue: The Politics of Prostitution and the American Reform Tradition* (Chicago: University of Chicago Press, 1990), 176; Donald J. Pivar, “Cleansing the Nation: The War on Prostitution, 1917–1921,” *Prologue* 12 (Spring 1980): 34; “Houses of Detention Planned for All Camps,” *Atlanta Constitution*, April 2, 1918, p. 10. Women were the only targets of the wartime raids on prostitution; authorities ignored the calls of some reformers to crack down on their male solicitors.

20 George J. Anderson, “Making the Camps Safe for the Army,” *Annals of the American Academy of Political and Social Science* 79 (September 1918): 150; Dietzler, *Detention Houses*, 3–4, 47, 56; figures from Allan M. Brandt, *No Magic Bullet: A Social History of Venereal Disease in the United States since 1880*, expanded ed. (New York: Oxford University Press, 1987), 234, n. 118. Hobson, *Uneasy Virtue*, 176–77, suggests that no more than one third of interned women were actually commercial sex workers. Henrietta S. Additio, “Work Among Delinquent Women and Girls,” *Annals of the American Academy of Political and Social Science* 79 (September 1918): 156, reports that in one study, a whopping forty-two of eighty-eight women examined were found to be feebleminded.

21 *Buck v. Bell*, at 201, 207.