

tice religion as one chose, without governmental interference. The decisions gave pluralism a constitutional foundation and paved the way for the Court's elaboration, two generations later, of a constitutional right to privacy.⁵⁵

In 1927, the New School for Social Research in New York City organized a series of lectures on the theme of "Freedom in the Modern World." Founded eight years earlier as a place where "free thought and intellectual integrity" could flourish in the wake of wartime repression, the school's distinguished faculty included Dewey and historian Charles Beard (who had resigned from Columbia to protest the dismissal of antiwar professors). The lectures depicted a country in which nineteenth-century values had lingered into the modern world, where they were increasingly inappropriate. "The idea of freedom," declared the economist Walton H. Hamilton, had become "an intellectual instrument for looking backward. . . . Liberty of contract has been made the be-all and end-all of personal freedom . . . the domain of business has been defended against control from without in the name of freedom." The free exchange of ideas, moreover, had not recovered from the crisis of World War I. Dissenting views, declared Max Eastman, editor of the defunct *Masses*, once the journalistic voice of prewar bohemia, were widely considered "un-American," and in the popular mind, belief in liberty had been replaced by "the complex of national efficiency." The "sacred dogmas of patriotism and Big Business," said Horace Kallen, who had been forced to leave the University of Wisconsin for defending the rights of pacifists, dominated teaching, the press, and public discourse. Never before, he added, had "the unity of the social structure and the social purpose . . . so clamped down upon the individual."

As the comments of Eastman and Kallen suggested, the lectures offered, among other things, a valedictory for Progressivism. For what was more central to Progressive thought than belief in "national efficiency" and "social purpose"? That state and private efforts to produce social cohesion could seriously threaten freedom had been one of the unpleasant surprises of World War I. As a result, observed Kallen, the meaning of freedom had become "a paramount topic of liberal discussion." In that discussion, the seeds had been planted for a new conception of freedom, which combined two disparate elements in a sometimes uneasy synthesis. One was the Progressive belief in a socially conscious state making what Dewey called "positive and constructive changes" in economic arrangements. The other centered on respect for civil liberties and cultural pluralism, and declared realms of life such as group identity, personal behavior, and the free expression of ideas outside legitimate state concern.⁵⁶

For the moment, however, a different understanding of freedom reigned supreme, one that reveled in the unimpeded reign of economic enterprise, yet

tolerated the coercive surveillance of private life and individual conscience. The prosperity of the 1920s and the elimination of "widespread poverty" (or so President Herbert Hoover claimed in his inaugural address of 1929) seemed to vindicate this definition of freedom.⁵⁷ When the economic crash came, it would be swept aside, making way for the consolidation of modern liberalism and its remapping of American freedom.

"cultural pluralism," insisted that the country should glory in its ethnic and cultural diversity rather than attempting to suppress it. Toleration of difference was itself part of the "American Idea," Kallen wrote. The United States was and always would be a "federation of nationalities" in which groups retained their separate identities while cooperating as citizens toward common goals. Louis Brandeis, like Kallen a Zionist, insisted that "True Americanism" required not coerced assimilation, but that "each race or people, like each individual" should enjoy the right to unfettered development.

Probably the most penetrating critique issued from the prolific pen of Randolph Bourne, whose 1916 essay, "Trans-National America," pointedly linked demands for Americanization to the Progressive obsession with forging "an integrated and disciplined America." "There is no distinctive American culture," Bourne pointed out, exposing the fundamental flaw in the Americanization model. The nation's music, poetry, philosophy, and other cultural expressions were produced by the interaction between individuals and groups. Rather than a threat to a preexisting culture, continued immigration was essential to cultural vitality. The alternative was "stagnation." Whereas Kallen seemed to view group identities as primordial and never-changing, Bourne posited a democratic, cosmopolitan society, in which the parochial loyalties of immigrants and natives alike were submerged in a "trans-national" culture freed from the Americanizers' uniformity. Meanwhile, the idea that Southern and Eastern Europeans were unfit to become citizens, or could only do so by abandoning their traditions in favor of Anglo-Saxon ways, was being challenged from another source. Anthropologists Franz Boas, Alfred Kroeber, and Ruth Benedict insisted that no scientific basis existed for theories of racial superiority or for the prevailing notion that societies and races inhabited a fixed spectrum running from "primitive" to "civilized."³²

Whatever their differences in emphasis, Kallen, Bourne, Boas, and others planted the seeds of a pluralist vision of Americanism that would eventually become a "touchstone of liberal enlightenment." At the time, however, their writings had little impact on public policy. In the 1920s, the most potent defense of pluralism emanated from the new immigrants themselves, who in the face of immigration restriction, prohibition, a revived Ku Klux Klan, and widespread anti-Semitism and anti-Catholicism reasserted the validity of cultural diversity and identified toleration of difference—religious, cultural, and individual—as the essence of American freedom. In effect, they reinvented themselves as "ethnic" Americans, claiming an equal share in the nation's life but, in addition, the right to remain in many respects culturally distinct. The

Roman Catholic Church urged immigrants to learn English and embrace "American principles," but strenuously insisted on the right to maintain a separate system of schools and other institutions. In 1924, the Catholic Holy Name Society brought ten thousand marchers to Washington to challenge the Klan and nativism and to affirm the loyalty of Catholics to the nation. Throughout the country, organizations like the B'nai B'rith and the National Catholic Welfare Council lobbied for laws prohibiting discriminatory practices by employers, colleges, and government agencies. The Americanization movement, declared a Polish newspaper in Chicago, had "not the smallest particle of the true American spirit, the spirit of freedom, the brightest virtue of which is the broadest possible tolerance."³³

Time would reveal that in a society increasingly knit together by mass culture and a consumer economy, few could escape the gravitational pull of assimilation. The department store, dance hall, and motion picture theater were as much agents of Americanization as the school and workplace. In the 1920s, however, every major city still harbored self-contained ethnic enclaves, with their own civic institutions, theaters, churches, and foreign-language newspapers, and a sense of separate identity heightened by the emergence of independent nation-states in Eastern Europe after the war. It would be wrong, to be sure, to view ethnic communities as either homogeneous or as wholly united in opposition to assimilation. From the perspective of many women, the voyage to the New World marked an escape, as one female Italian emigrant put it, from the "fear" and "servility." In these circumstances, Americanization often seemed less an assault on an inherited culture than a loosening of patriarchal bonds and an expansion of freedom. "All women have to be free a little," said one Polish-American woman, hardly a ringing claim to autonomy, but a fruit, nonetheless, of Americanization.³⁴

The efforts of immigrant communities to resist coerced Americanization and of the Catholic Church to defend its alternative system of schools broadened the definition of liberty for all Americans. In landmark decisions of the 1920s, the Supreme Court struck down Oregon's law requiring all students to attend public schools and Nebraska's prohibiting teaching in a language other than English (including, according to the letter of the law, Latin). "The protection of the Constitution," the Nebraska decision declared, "extends to all, to those who speak other languages as well as to those born with English on the tongue," a startling rebuke to enforced Americanization. In these cases, the Court expanded the Fourteenth Amendment's guarantee of equal liberty to embrace the right to "martyr, establish a home and bring up children," and prac-

dents to attend public schools—a measure deemed necessary, said the state's attorney general, to alleviate "religious suspicions" by abolishing parochial institutions and to prevent "bolshevists, syndicalists and communists" from organizing their own schools. The campaign intensified during the 1920s—a decade of citizenship education programs in public schools and vigorous efforts by employers to teach immigrants English and instill an appreciation for "American values." Only "an agile and determined immigrant," commented the *Chicago Tribune*, could "hope to escape Americanization by at least one of the many processes now being prepared for his special benefit."⁴⁷

No matter how coercive, Americanization programs assumed that the new immigrants (and especially their children) could adjust to the conditions of American life, embrace "American ideals and ideas," and become productive citizens, enjoying the full blessings of American freedom. Yet simultaneously, the war strengthened the conviction that certain kinds of immigrants ought to be excluded altogether from American life. The new immigrants, one advocate of restriction declared in 1919, were far less attuned to the values of democracy and freedom than "the Anglo-Saxon," as evidenced by their attraction to "extreme political doctrines" such as anarchism and socialism. Intelligence tests administered to recruits by the army seemed to confirm "scientifically" that blacks, Irish Americans, and the new immigrants stood far below native white Protestants on the IQ scale.⁴⁸

Perhaps the most menacing reflection of the renewed association between racialism, citizenship, and ideas of freedom was the spectacular resurgence of the Ku Klux Klan in the early 1920s. By mid-decade, the Klan claimed over 3 million members, nearly all white nativeborn Protestants, mostly respectable members of their communities. Unlike the Klan of Reconstruction days, the organization in the 1920s sank deep roots in parts of the North. For a time, it was the largest private organization in the state of Indiana. In the 1920s, the Klan insisted, civilization faced a broader array of enemies than during Reconstruction—not only blacks but immigrants (especially Jews and Catholics), and all the forces (feminism, labor radicalism, even, on occasion, the giant corporation) that endangered "individual liberty." Despite its extremism, in demanding that control of the nation be returned to "citizens of the old stock," the Klan reflected a sentiment widely accepted in 1920s America.⁴⁹

The linkage of Americanism, intelligence, and "race" helped to inspire a fundamental change in immigration policy, the implementation of a new answer to the venerable question, "Who is an American?" In 1924, in a repudiation of the tradition of open entry for whites except for specifically designated classes of undesirables, Congress imposed the first sharp limits on European immi-

gration, establishing a nationality quota system that sought to ensure that descendants of the old immigrants would forever outnumber children of the new. "America must be kept American," declared President Calvin Coolidge in signing the 1924 statute; his secretary of labor, James J. Davis, commented that immigration policy, once based on the ideal of asylum and the need for labor, now must rest on a biological definition of the ideal population. Although enacted by a highly conservative Congress, the 1924 immigration law reflected, among other things, the Progressive desire to improve the "quality" of democratic citizenship and employ scientific methods to rationalize public policy. Simultaneously, it revealed how these aims were overlain with pseudoscientific assumptions about the superiority and inferiority of particular "races" and influenced by the political power of descendants of the old immigrants and the pragmatic need for immigrant labor. The result was less a rational definition of the boundaries of nationhood than a hodgepodge of contradictory policies.⁵⁰

The 1924 law severely restricted immigration from Southern and Eastern Europe and barred the entry of all those ineligible for naturalized citizenship—that is, the entire population of Asia. With women now recognized as part of the political nation, Congress also overturned a 1907 law requiring American women who married foreigners to assume the citizenship of the husband—except in the case of those who married Asians, who still forfeited their nationality. At the same time, to satisfy the demands of large farmers in California, who relied heavily on seasonal Mexican labor, no quotas at all were established for nations of the western hemisphere. The seemingly "scientific" calculation of the new nationality quotas—based on the "national origins" of the American population dating back to 1790—involved a highly speculative analysis of past census returns, with the results, as in the case of Irish-Americans, sometimes altered to increase allowable immigration. Meanwhile, non-whites were excluded altogether when calculating the origins of the American population—otherwise African nations would have received a far higher quota than the tiny numbers they were eventually allotted. But then, the entire concept of race as a basis of public policy lacked any rational foundation. The Supreme Court admitted as much in 1923 when it rejected the claim to naturalization of Bhagat Singh Thind, an Asian Indian and World War I veteran who asserted that as a "pure Aryan," he was actually white. "White," the Court declared, was part of "common speech, to be interpreted with the understanding of the common man" (a forthright affirmation of what a later generation would call the "social construction" of race).⁵¹

Only a handful of Progressives seriously questioned the massive Americanization efforts of the World War I era. Horace Kallen, who coined the phrase

deed, in Mississippi, the first state to revise its constitution to eliminate black suffrage, disenfranchisement was soon followed by the direct election of judges, the initiative and referendum, and other measures that placed the state in the mainstream of Progressive reform. Women's suffrage was achieved by a constitutional amendment that left the states free to limit voting on other grounds, and thus did nothing for the vast majority of the country's black women. Barred from joining most unions and from skilled employment, black workers had little access to "industrial freedom." A majority of adult black women worked outside the home, but for wages that offered no hope of the independence work ostensibly provided, and their occupations—overwhelmingly domestic and agricultural—remained unaffected by laws regulating the hours and conditions of female labor. Nor could blacks, the majority desperately poor, participate fully in the emerging consumer economy, either as employees in the new department stores (except as janitors and cleaning women) or as purchasers of the consumer goods now flooding the marketplace.

Progressive intellectuals, social scientists, labor reformers, and suffragists all displayed a remarkable indifference to the black condition. Walter Weyl waited until the last fifteen pages of *The New Democracy* to introduce the "race problem." Though he acknowledged that "white democracy" was a contradiction in terms, he offered no concrete proposal for moving toward a more egalitarian standard. Some settlement house reformers tried to address the problems of the urban black poor, but few understood the innumerable disabilities under which blacks labored. Most accepted segregation as natural and equitable, assuming there should be white settlements for white neighborhoods and black settlements for black.⁴³

Theodore Roosevelt's ingrained belief in Anglo-Saxon racial destiny (he called Indians "savages" and blacks "wholly unfit for the suffrage") did nothing to lessen the Progressive intellectuals' enthusiasm for his New Nationalism. Even Jane Addams, one of the few Progressives to take a strong interest in black rights, and a founder of the NAACP, acquiesced when the Progressive Party convention of 1912 rejected a civil rights plank in its platform and barred contested black delegates from the South. Woodrow Wilson, a native of Virginia, and its exalted "standards of liberty." His administration imposed full racial segregation in Washington and hounded from office considerable numbers of black federal employees. "Have you a 'new freedom' for white Americans and a new slavery for your African-American fellow citizens?" William Monroe Trotter asked the president during a contentious audience in 1914.⁴⁴

The status of blacks, however, was only one strand in what Progressives

called the era's "race problem." *The Dictionary of Races of Peoples*, published in 1911 by the U.S. Immigration Commission, listed the immigrant "races" within a hierarchy ranging from Anglo-Saxons at the top down to Hebrews, Northern Italians, and, lowest of all, Southern Italians—allegedly violent, undisciplined, and incapable of genuine assimilation. Popular bestsellers like *The Passing of the Great Race*, published in 1916 by Madison Grant, president of the New York Zoological Society, warned that the influx of new immigrants and the low birthrate of native white women threatened to obliterate the foundations of American civilization. If democracy could not flourish in the face of vast inequalities of economic power, neither, most Progressives believed, could it survive in a nation permanently divided along racial and ethnic lines. Somehow, the very nationalization of politics and economic life served to heighten awareness of ethnic and racial difference, and spurred demands for "Americanization"—the conscious creation of a more homogenous national culture.⁴⁵

The task of Americanizing the new immigrants was taken up by public and private bodies of all kinds—educators, employers, labor leaders, social reformers, and public officials. Americanization was not necessarily incompatible with respect for immigrant subcultures and the right of individuals to retain Old World loyalties. At Jane Addams's Hull House in Chicago, teachers encouraged immigrants to value their European heritage, teaching English through tales of the struggles for independence of Italians, Greeks, and Poles. Other versions of Americanization were more coercive. The Ford Motor Company's famed sociology department entered the homes of immigrant workers to evaluate their clothing, furniture, and cuisine according to American standards. Until the United States entered World War I, however, efforts at Americanization were largely conducted by private organizations. It was the war that transformed Americanization into a government-sponsored campaign to instill undivided loyalty in immigrant communities and gave the concept "American" a deeply conservative new meaning.⁴⁶

The wartime obsession with "100 per cent Americanism" not only led the federal and state governments to unprecedented restrictions on freedom of expression but demanded that immigrants demonstrate their unwavering devotion to the United States. No longer, declared Theodore Roosevelt in September 1917, was there room for "divided loyalty." Patriotism now meant absolute support for the government and the war, while labor radicalism, sympathy for the Russian Revolution, and a desire to retain elements of foreign culture, including immigrants' native language, were stigmatized as "un-American." By 1919, the vast majority of the states had enacted laws restricting the teaching of foreign languages. In 1922, Oregon became the only state ever to require all stu-

sented a "clear and present danger" of inspiring illegal actions. For the next half century, Holmes's doctrine would remain the basic test in First Amendment cases. Since the justices usually allowed public authorities wide latitude in deciding which speech was in fact "dangerous," it hardly provided a stable foundation for the defense of free speech in times of crisis. A week after *Schenck*, the Court unanimously upheld the conviction of Debs, even though his speech condemning the war had not urged resistance to the draft or government. It also affirmed the wartime jailing of the editor of a German-language newspaper whose editorials had questioned the constitutionality of conscription.

Also in 1919, the justices upheld the conviction of Jacob Abrams and five other men for distributing pamphlets critical of the American intervention in Russia after the Bolshevik Revolution. This time, however, Holmes and Louis Brandeis dissented, marking the emergence of a Court minority committed to a broader defense of free speech. Six years after *Abrams*, Brandeis (who had come to regret voting with the majority in *Schenck* and *Debs*) and Holmes again dissented when the Court upheld the conviction of Benjamin Gitlow, a Communist whose *Left-wing Manifesto* calling for revolution led to his conviction under New York's criminal anarchy law. "The only meaning of free speech," Holmes declared, was that advocates of every set of beliefs, even "proletarian dictatorship," should have the right to convert the public to their views in the great "marketplace of ideas" (an apt metaphor for a consumer society). Brandeis had already called for the application of the First Amendment to the states. "I cannot believe," he wrote, "that the liberty guaranteed by the Fourteenth Amendment includes only liberty to acquire and to enjoy property." Now, although Gitlow was convicted, the Court majority observed that the Fourteenth Amendment obligated the states to refrain from unreasonable restraints on freedom of speech and the press. The comment marked a major step in the process by which the Bill of Rights was transformed from an often ineffective statement of principle into a significant protection of civil liberties.⁴⁰

Slowly, the tide of civil liberties jurisprudence began to turn. Although explaining judicial voting is a notoriously inexact science, it seems likely that the extent of wartime and postwar repression shocked at least some members of the Supreme Court into a greater sensitivity to civil liberties questions. By the end of the 1920s, the Court had voided the criminal syndicalism law of Kansas and a Minnesota statute allowing for censorship of the press. The new regard for free speech was not confined to political expression, the ACLU's dominant concern these years. In 1930, the Court reversed the conviction under the Comstock Law of Mary Ware Dennett for sending a sex education pamphlet, *The Sex Side of Life*, through the mails. Three years later a federal court overturned

the Customs Service's ban on James Joyce's *Ulysses*, a turning point in the battle against the censorship of works of literature.⁴¹

Meanwhile, Brandeis was crafting an intellectual defense of civil liberties on grounds somewhat different from Holmes's model of a competitive market in ideas. In 1927, Brandeis concurred on procedural grounds when the Court upheld the conviction of Anita Whitney, a prominent California socialist and women's rights activist, for attending a convention of the Communist Labor Party, which advocated violent revolution. But he issued a powerful defense of freedom of speech as essential to active citizenship in a democratic polity: "Those who won our independence believed . . . that freedom to think as you will and to speak as you think are indispensable to the discovery and spread of political truth. . . . The greatest menace to freedom is an inert people." A month after the decision, the governor of California pardoned Whitney, terming freedom of speech the "indispensable birthright of every free American." The intrepid Mrs. Whitney was soon back in court for violating a California statute making it a crime to display a red flag. This time, she had greater success. In 1931, the Supreme Court overturned the law as "repugnant to the guaranty of liberty contained in the Fourteenth Amendment." Slowly, a judicial defense of civil liberties was being born.⁴²

Who Is an American?

Even as the slow growth of civil liberties during the 1920s expanded the substance of American freedom, the implementation of severe restrictions on immigration narrowed the definition of those entitled to enjoy its blessings. Rather than a repudiation of Progressivism, the triumph of a nativist definition of Americanism drew on crucial elements of prewar thought. We are accustomed to thinking of Progressivism as a precursor to major developments of the twentieth century—the New Deal, the Great Society, the empowered national state. But it is important to remember how in so many ways Progressives still bore the marks of their nineteenth-century origins. The idea of "race" as a permanent, defining characteristic of individuals and social groups retained a powerful hold on their thinking. Consciously or not, it circumscribed the "imagined community" of Progressive America.

African-Americans were excluded from nearly every Progressive definition of freedom. In some ways, the disenfranchisement of southern blacks was a typical Progressive reform, a step, its advocates claimed, toward "upgrading" the electorate and allowing for a broader democracy among remaining voters. In-