

The History of the Twentieth Century

Episode 130

“He Kept Us Out of War”

Transcript

[music: Fanfare]

“Without orphaning a single American child, without widowing a single American mother, without firing a single gun, without the shedding of a single drop of blood, he wrung from the most militant spirit that ever brooded above a battlefield an acknowledgement of American rights and an agreement to American demands...

“When the last great day shall come, and before the Court of God the nations of this earth shall march in judgment review, the monarchs of the Old World shall have to answer for this awful carnage... When that day shall come, who is it that would have our President exchange places with the blood-spattered monarchs of the Old World? I can see him with the white light streaming upon his head and hear the Master say, ‘Blessed are the peacemakers, for they shall be called the children of God.’”

Democratic Senator Ollie James of Kentucky, speaking to the Democratic National Convention of 1916.

Welcome to *The History of the Twentieth Century*.

[music: Opening War Theme]

Episode 130. He Kept Us Out of War.

The year 1916 had seen the second vacancy on the Supreme Court since Wilson had become President. The first had come in August 1914, and to that vacant seat Wilson had appointed his own Attorney General, a 52-year old Kentucky-born lawyer named James Clark McReynolds.

McReynolds had attracted Wilson’s attention as a private attorney engaged by the US government to represent it in anti-trust litigation. He had previously served in the Roosevelt Justice Department as an anti-trust litigator. Progressives like Wilson were ardently anti-trust, as you will recall, and that plus the fact that McReynolds was a Southern Democrat were enough to get him first, into the Cabinet, and soon afterward, onto the Supreme Court. Wilson nominated him on August 19, 1914, and the Senate confirmed him that very same day.

McReynolds would serve on the Supreme Court for 26 years and would prove to be Woodrow Wilson's worst appointment, and that's saying something. He has to be on anyone's short list for worst Supreme Court Justice of the twentieth century. He was an ardent supporter of *Lochner*-era jurisprudence limiting government economic regulation, exactly the opposite of what Wilson stood for. In later years he would be the Court's most vehement opponent of the New Deal.

William Howard Taft, the former President whose Justice Department had also hired McReynolds and who had recommended him to Wilson for Attorney General would later become Chief Justice of the United States and would serve on the Court alongside McReynolds. Working with McReynolds moved the normally genteel Taft to call him "selfish to the last degree...fuller of prejudice than any man I have ever known...one who delights in making others uncomfortable..." *Time* magazine would call him "Puritanical, rude, reactionary, and anti-Semitic." He was known to leave the room when a Jewish colleague spoke and refused to sit next to Jewish Justices for the annual Supreme Court photograph. He also disapproved of women attorneys and would leave the chamber when a woman argued a case.

How ironic then, that for his second Supreme Court appointment, on January 28, 1916, Wilson would choose a nominee that was as different from McReynolds as you could imagine: none other than the now 59-year old Louis Brandeis. Brandeis, like McReynolds, was born in Kentucky, but the list of similarities ends there. I talked about Brandeis in episode 89. He was a highly successful Boston attorney, a Wilson supporter and informal advisor, and a staunch Progressive who had made a name for himself as a *pro bono* litigator. They called him the "People's Lawyer," and the business and corporate interests hated him.

Also, he was Jewish.

[sound effect: record scratch]

Say that again...? No Jewish American had ever been nominated to the Supreme Court. Assuming he is confirmed, he will not only become the first Jewish Supreme Court Justice but in fact the highest-ranking Jewish officeholder ever in the history of the American Republic. Assuming he is confirmed.

It is said that when the nomination was read aloud to the Senate, there was an audible gasp. Business interests and conservatives—both of which were well-represented in that body—were apoplectic. Former President Taft spoke out against the nomination, as did Taft's Attorney General, seven former presidents of the American Bar Association, and other prominent Republicans such as Elihu Root. The word these critics used over and over again was "unfit." Brandeis was "unfit" to serve as a Supreme Court Justice. Fifty-one prominent Bostonians, citizens of Brandeis's home town, including the President of Harvard University, Lawrence Lowell, the younger brother of astronomer Percival Lowell, whom we met in episode 54, signed a petition declaring Brandeis "unfit."

There are good reasons to think anti-Semitism was a factor in this eruption of opposition, and that “unfit” was a code word for “Jewish.” Republican Senator Henry Cabot Lodge, who represented Brandeis’s home state, grumbled privately that Brandeis never would have gotten the nomination, except for the fact that he was Jewish. And yes, there were people who talked like that even in 1916.

McReynolds had been confirmed by the Senate the same day his nomination was received by that body, in an immediate up-or-down vote, which was the norm at the time. Brandeis’s nomination, by contrast, would be referred to the Senate Judiciary Committee for public hearings, which is the norm in our time, but at this time was unprecedented. And it would take an unheard of four months to get the nomination through, and as the hearings dragged on, it became apparent that the nomination would not reach the full Senate without Presidential intervention.

The chair of the committee, Senator Charles Culberson of Texas, a Wilson supporter, broke the logjam by asking the President to submit a letter detailing his reasons for the Brandeis nomination. This was not an accident; Wilson had asked Culberson to do just this. Wilson responded to the request on May 5 with a long and eloquent letter, which was read to the Committee and released to the press. The President’s letter offered lavish praise of Brandeis. Wilson wrote, “He is a friend of all just men and a lover of the right, and he knows more than how to talk about the right—he knows how to set it forward in the face of its enemies.”

It worked. The Judiciary Committee submitted the nomination to the full Senate on May 24, though with the narrowest possible margin: 10 votes for, 8 against, a straight party-line vote. On June 1, the full Senate approved the nomination, 47-22. One Democrat voted against Brandeis; three Republicans voted in favor, including Fighting Bob LaFollette of Wisconsin.

Wilson would say afterward that “I can never live up to my Brandeis appointment. There is nobody else who represents the greatest technical ability and professional success with complete devotion to the people’s interest.” And it is true that Brandeis would be one of Wilson’s most important legacies, fully in tune with his stated Progressive values, as well as striking an important blow against anti-Semitism in the United States, just nine months after the lynching of Leo Frank. And Justice McReynolds paid Justice Brandeis the ultimate compliment. He refused to speak to his new colleague for the first three years, and even when Brandeis retires from the Court in 1939, twenty years after that, McReynolds will refuse to sign the customary farewell letter from his fellow Justices.

[music: “The Liberty Bell”]

And all this brings us around once again to Theodore Roosevelt. Doesn’t everything? Roosevelt had never really left the political scene. You’ll recall that after leaving the Presidency in 1909, he went on an extended African safari. After losing the 1912 Presidential election to Wilson, Roosevelt agreed to a similar expedition into the headwaters of the Amazon, which ran from December 1913 to May 1914. But Roosevelt was now 55 years old, and no matter how dynamic

and energetic you are, there comes a time in your life when your age catches up to you. Believe me; I know whereof I speak.

In the course of the expedition, Roosevelt suffered a leg injury. No doubt owing to his advancing age and the hazards of the tropics, it became infected. Old injuries flared up again, including the bullet wound from the 1912 assassination attempt and the malaria he had first contracted in Cuba in 1898. He couldn't walk, his fever reached 103°F and he experienced bouts of delirium. Finally, he suggested to his 24-year old son Kermit, who was also on the expedition, that he be left behind. Happily, Kermit talked him out of this idea and the elder Roosevelt did complete the expedition and return home safely, though he had lost fifty pounds along the way, and his friends and family were reportedly shocked at how frail he looked when he reached home. Roosevelt said afterward, perhaps presciently, that the experience had taken ten years off his life.

Roosevelt generally approved of Wilson's progressive domestic policies, but the outbreak of the Great War saw the return of Roosevelt the jingo. He was one of the loudest voices in American politics in support of a hard line against Germany and became one of the staunchest critics of Wilson's neutrality policies. He didn't have much use for Wilson's policy toward Mexico, either.

Theodore Roosevelt's name had been on the ballot in four of the past five Presidential elections in the United States. His Progressive Party run in 1912 had been the strongest third-party run in US history, but in the 1914 mid-term elections, it became clear that the Progressive Party had no staying power, at least, not without the name Roosevelt at the top of its ticket.

And Roosevelt was game to run again. And why not? He was still only 58 years old—two years younger than the incumbent. The leadership of what was left of the Progressive Party scheduled a party convention to run concurrently with the Republican Party convention. Roosevelt and the Progressives hoped that both conventions would nominate Roosevelt for President, which would allow the man and his movement to rejoin the Republican Party without shame, with their heads held high.

But it was not to be. Roosevelt's tilt away from progressivism and back toward the nationalism and jingoism that had made him his name back during the Spanish-American War—yes, that put him more in tune with the leadership of the Republican Party, but the Republican Party leadership had never been all that enthusiastic about Roosevelt in the first place, and they were definitely not ready to forgive him for his break with the party in 1912. In the view of a Stalwart, Roosevelt's split with Taft and the Party had set the stage for the Republican electoral setbacks of 1910 and 1912. The result had been the disruption of the natural order—perpetual Republican hegemony—replacing it with the unnatural situation we now find ourselves in, a Federal government run by Democrats. The Party leaders were in no mood to forgive and forget, and firmly believed that another third-party run by Roosevelt would simply guarantee another four years of Woodrow Wilson. What's more, they convinced Roosevelt of that, too.

Instead, the Republicans nominated former New York governor and current Supreme Court Justice Charles Evans Hughes. You may recall the name from episode 53, when I mentioned that President Taft had appointed him to the Supreme Court. This would be the first and only time in US history that a Supreme Court Justice would be nominated for President. Hughes resigned his seat on the high court as soon as the nomination was offered. For Vice President, the Republicans nominated a familiar name: Charles Fairbanks, who had previously served as Vice President under Theodore Roosevelt.

Hughes was a smart choice. New York was at the time the most populous state in the Union, with the most electoral votes. The governorship of New York had helped both Grover Cleveland and Theodore Roosevelt make their ways to the White House. Hughes had a reputation as a moderate progressive, making him a good compromise choice. Best of all, he had been on the Supreme Court and out of politics since 1910, meaning he had taken no part in the fight between Roosevelt and Taft and therefore no one in the Republican Party held any grudges against him.

And by the way, I'll also note about Hughes that his 1906 run for governor of New York was against the colorful and controversial newspaper publisher William Randolph Hearst, and yes, this election was the historical basis for the fictional gubernatorial race depicted in the 1941 Orson Welles film, *Citizen Kane*.

The Progressive convention went ahead and nominated Roosevelt anyway, in spite of the Hughes nomination. Roosevelt responded with a telegram in which he declined the nomination and told the delegates he would be campaigning for Hughes. For Roosevelt, this was the best way to rebuild his relationship with the Republican Party and—who knows?—maybe even position himself for 1920, but disgusted Progressive delegates reacted by tearing off their Roosevelt buttons and throwing them to the floor. Still, there was no escaping the fact that without Roosevelt, the Progressive Party was as good as dead.

Wilson had no serious competition for the Democratic nomination, and the party convention re-nominated him and Thomas Marshall by acclamation. The collapse of the Progressive Party was an opportunity for Wilson, and he made full use of it. "I am a progressive," he said in one campaign speech. "I do not spell it with a capital 'P,' but I think my pace is just as fast as those who do."

Wilson's claim to the mantle of progressivism was more than just a slogan. The summer of 1916 saw a lull in the diplomatic confrontations between the US and Germany following the Sussex Pledge, episode 122, and thus allowing Wilson to return for a time to his domestic legislative priorities. The year saw new Federal legislation setting minimum wages, maximum hours, creating a worker's compensation system, and prohibiting child labor. It also saw the creation of the National Park Service to manage the growing number of national parks, putting the capstone on the system of Federal conservation of public lands begun by Theodore Roosevelt.

In fact, this period of relatively smooth relations between the US and Germany corresponded with a rocky patch in US relations with the United Kingdom. It was revealed that the British government was opening mail from Americans suspected of German sympathies and had created a blacklist of American businesses suspected of trading with Imperial Germany, and that strained the Anglo-American relationship, but it was the harsh British response to the Easter Rising in Dublin that really inflamed anti-British sentiment in the US. Irish-Americans were understandably the most outraged, but keep in mind they are a key constituency of the Democratic Party at this time. Anyway, Americans of all ethnic backgrounds found the British reaction extreme; it damaged Britain's reputation in the same way that German conduct in Belgium damaged Germany's, and it reminded many Americans of the nation's revolutionary history.

The Democrats, at their convention and in their platform, embraced progressivism and endorsed Wilson's neutralist approach to the Great War. William Jennings Bryan put aside his differences with Wilson and said, "I join the American people in thanking God we have a President who does not want this nation plunged into this war." Senator James gave the speech I quoted from at the top of the episode and it brought the house down.

The Party platform endorsed Wilson's progressive accomplishments and promised more of the same. It endorsed women's right to vote for the first time, but it did not go so far as to endorse a Constitutional amendment guaranteeing it, in deference to Wilson, who believed that was a matter best decided at the state level. Most famously, the platform committee also approved language declaring, "[W]e commend to the American people the splendid diplomatic victories of our great President, who has preserved the vital interests of our government and its citizens, and kept us out of war." This would be the origin of the campaign slogan.

The Hughes campaign got off to a rocky start when the Republican candidate's acceptance speech at Carnegie Hall in New York City fizzled. Having been a judge for six years, Hughes apparently had lost his touch. But he would get better at giving speeches as the campaign progressed.

With the power of incumbency and the play for Progressive support, a catchy peace slogan, and an economic boom fueled by the ever-rising demand for American exports in Britain and France, you might think that Wilson would have smooth sailing to re-election. You would be wrong. Not only did Hughes's speeches get better, he had Theodore Roosevelt campaigning for him. Of course, Wilson had William Jennings Bryan campaigning for *him*, so that's something. The new labor legislation, on the other hand, fired up conservative Republican opposition. It was a constant theme of Hughes's speeches, and wealthy businesses contributed generously to the Republicans. Hughes claimed that if *he* had been President, *Lusitania* would never have been sunk, because Republicans were *not* too proud to fight, while at the same time complaining that Wilson's response to the British blockade was too accommodating. Republicans circulated

rumors that Ellen Wilson's death had been caused by the President pushing his wife down a flight of stairs at the White House.

Hughes also took the bold step of not only supporting women's suffrage, but one-upping Wilson and the Democrats by endorsing a Constitutional amendment to guarantee a woman's right to vote, which went farther than Wilson and the Democrats had been willing to go. But his play for Progressive support was undermined by a couple of crucial mistakes in California. Hughes's campaign, which was mostly run by conservative Republicans, held a campaign event at a hotel in San Francisco, in spite of the fact that the hotel workers there were on strike. Hughes and his campaign crossed the picket line, alienating the labor movement.

The governor of California, Hiram Johnson, had been Roosevelt's vice-presidential candidate on the Progressive ticket in 1912. The Progressives remained a significant political force in California, owing to their governor's support. In 1916, though, Johnson was running for Senate and, like Roosevelt, returning to the Republican fold. Johnson wanted Hughes's support, and Hughes wanted Johnson's, but somehow, and this is probably due to the machinations of Hughes's conservative campaign staff, the two men never did appear in public together, or even meet privately, in spite of the fact that during a visit to Long Beach, Hughes was in the same hotel as Johnson and never tried to arrange a meeting. In fact, Hughes didn't even know Johnson had been at the hotel until it was too late.

Hughes would later point to this moment and blame it for his defeat. And he may have been right about that. But I'm getting ahead of myself.

By October, it was becoming clear to everyone that the election was going to be a close one, and Wilson had to consider the prospect of a defeat. Given the critical international situation, and the fact that a Hughes victory would mean a lame duck presidency for four months, a time during which decisive action might be called for, Wilson's informal adviser, Colonel House, made a novel proposal: If Hughes won, Wilson should ask his Vice President, Thomas Marshall, and his Secretary of State, Robert Lansing, to resign. Wilson would then appoint Hughes Secretary of State and then resign himself. Since the Secretary of State was next after the Vice President in the line of succession in effect at that time, these maneuvers would put Hughes into the White House at once and spare the nation the uncertainties of the lame duck period.

[music: "Semper Fidelis"]

On Election Day, Wilson and his wife Edith drove to Princeton to vote and to have dinner with the family. At ten o'clock, a phone call came. *The New York Times* had declared Hughes the winner of the election. Wilson's daughter Margaret disputed the newspaper's claim by pointing out that the polls were still open in the West. Wilson agreed, but went to bed doubting the outcome. Reportedly, Hughes went to bed that night convinced he had won.

But the earliest returns come in from the Northeastern and Midwestern United States, which were the Republican stronghold of the time. I'm referring to the states east of the Mississippi and north of the Ohio and the Mason-Dixon Line. The fourteen states in this region of the United States represented a much larger share of the total population of the nation in 1916 than they do today. They were almost enough to win a Presidential election on their own. Hughes carried twelve of these states. Wilson carried New Hampshire by 52 votes, which has to be some kind of record. New Hampshire's four electoral votes would not prove decisive, but Ohio's 24 would be. Wilson also carried that state, the home state of William McKinley and William Howard Taft, and now you know why Republicans keep nominating Ohioans for President. In 1916, it was probably Wilson's union support that carried the day for him in the Buckeye State.

But Wilson did *very* well in what William Jennings Bryan called "The Great Crescent," the South and the West. By noon on Wednesday, the electoral vote count had Wilson ahead by four, with four states totaling 33 electoral votes still undecided. It took until midday Thursday before it became clear that Wilson had carried three of those four states, most significantly, California, which he won narrowly for the second time. Democrats retained control of the Senate, but in the House of Representatives the Republicans won a 216-214 plurality, although the Democrats barely retained control with the support of the chamber's three remaining Progressives and one Socialist. The House's one Prohibition Party representative supported the Republicans, leaving the Democrats overall with a two-seat majority.

It was an historic election in a number of ways. Wilson won the popular vote by 3%, the narrowest winning margin ever for an incumbent seeking re-election until 2004, when George W. Bush would be re-elected by an even narrower one. It was only the second time a candidate was elected President without the support of his home state, as New Jersey went Republican this time around. The first time was James K. Polk in 1844, and it will happen once again with Donald Trump in 2016. And Wilson would become the first President to be re-elected with fewer states than in his previous election. This would happen again to Franklin Roosevelt twice, in 1940 and 1944, and to Barack Obama in 2012. Wilson became the first Democrat to be re-elected President since Andrew Jackson, all the way back in 1832, and Thomas Marshall, oddly enough, became the first Vice President of any party to be re-elected since John C. Calhoun in 1828.

Speaking more substantively, we can see in Wilson's re-election the coming political realignment that would lead to Democratic Party domination of US politics in the middle third of the century. Part of that future coalition is coming together already, with progressives and immigrants and Southern whites and the labor movement already on board. Still missing from the future coalition are African Americans. In contrast to 1912, no African-American leader endorsed Wilson for re-election. W.E.B. DuBois wrote him during the campaign to say, "We received from you a promise of justice and sincere endeavor to forward [our] interests. We need scarcely to say that you have grievously disappointed us."

When I studied American history in high school, my teacher summarized this 1916 Presidential election like this: “Wilson’s campaign slogan was ‘He kept us out of war,’ and as soon as the campaign was over, he got us into the war.” A lot of people still say that today, and if you’ll indulge me for a moment, I want to explain why that claim is glib, facile, incoherent, and entirely unfair to Woodrow Wilson.

To the extent there’s any historical claim in there at all, I guess it is that there was a broad consensus among the American people for staying out of the war and that Wilson pandered to that sentiment while secretly planning to jump into the war as soon as the votes were counted, but that’s just wrong on both scores. No one in American politics was criticizing Wilson for being too aggressive, except possibly William Jennings Bryan, and even Bryan supported Wilson as America’s best hope for remaining at peace. All the criticism was coming from those who wanted a *more* aggressive stance toward Germany, and the closeness of this election shows there was no broad consensus for neutrality. Indeed, Wilson stuck to his position of neutrality at significant political cost. On that election night, when Wilson thought he might lose, he predicted his defeat would lead to war with Germany. How else could anyone interpret a Wilson defeat other than as a vote for war? How else would the German government interpret it?

It’s also worth noting that when the Democrats boasted that “he kept us out of war,” they were not speaking only of the Great War. They were also speaking of the Mexican Revolution. Republicans were also criticizing Wilson for not taking a harder line in the fighting in Mexico. If you’re like me, and you think that staying out of the Great War was a wise policy for America, then you have to support Wilson. If you disagree with me, and think that the US Army should be fighting in the trenches alongside the French and the British, then you still have to applaud Wilson for his “once burned, twice shy” reluctance to get America further involved in the Mexican Revolution. If the US had responded with a larger military action in Mexico, it would have been that much harder for America to get into the Great War. The US of 1916 was in no position to fight two major wars on two continents at the same time.

And most importantly, no American politician of 1916 did or could have foreseen the events of 1917 that would lead to the US declaration of war against Germany. Those events were the result of German policy decisions. The German government did not act as it did because it believed that Wilson was weak or cowardly, as the Republicans would have had it. It’s a uniquely American conceit to think that foreign governments only ever react to American policy and never make policy decisions of their own. To the contrary, the Germans knew full well what the consequences of their acts would be with regard to the US, and they went ahead anyway, because they thought it would win them the war. But I’m getting ahead of myself.

We’ll have to stop there for today. Thank you for listening, and I’d like to thank Nicolas for becoming a patron of the podcast. The support of Nicolas and patrons like him help keep the show going, and I am forever grateful.

And thanks, too, to Jerry Landry of the *Presidencies of the United States* podcast for introducing today's episode. The *Presidencies of the United States* podcast is just what it sounds like, an in-depth review of every US Presidency, beginning with George Washington. So if that sounds like your cup of tea, check it out. He's already up to John Adams, so you'll want to be sure to hop on this train before it gets away from you.

When I did the Q and A with Brent back in episode 125, I invited listeners to submit questions of their own. Listener and patron Liam took me up on the offer and asked which historical figures I've talked about so far do I find most interesting.

Well, the simple answer to that question is take note of how much time I spend on an historical figure. As a rule, the more time I spend talking about someone, or some topic for that matter, the more interested I am. To be more specific, in the podcast so far I would identify these names of people I found most interesting. In no particular order, Theodore Roosevelt, Woodrow Wilson, Winston Churchill, Emperor Nikolai of Russia, Albert Einstein, Marie Curie, Roger Casement, Sergei Diaghilev, Vaslav Nijinsky, Bertha von Sutter, José Rizal, Emilio Aguinaldo, Jan Bloch, and Henry Ford. That's fourteen names that come to mind right off the top of my head, and I could surely add a few more if I thought for a while longer, but again, anyone I spent significant time talking about, really.

I'm going to take next week off for research and writing, but I hope you'll join me in two weeks' time, here on *The History of the Twentieth Century*, when I talk about two new military technologies emerging from the Great War, the tank and the airplane. They're just getting established at this point in the war, but not only are they going to revolutionize combat, they surely have to count as two of the most important inventions of the entire century. Wellsian Wonders, in two weeks' time, on *The History of the Twentieth Century*.

Oh, and one more thing. With regard to the new Justice Brandeis, he and Oliver Wendell Holmes would form the liberal wing of a Supreme Court that would be stubbornly hard line and obstructionist for the next twenty years. Brandeis and Holmes would be best known for their thoughtful dissenting opinions, often more thorough and persuasive than the majority opinions they were dissenting against, particularly in the areas of individual rights and privacy rights, a subject which Brandeis devoted much of his career to.

Later in the twentieth century, when the pendulum of American jurisprudence begins swinging in the direction of stronger protections for individual rights, future Supreme Court decisions would embrace the reasoning set forth by Brandeis and Holmes, retroactively vindicating them.

Louis Brandeis retired from the Supreme Court in 1939, and died in 1941, at the age of 84. In 1948, a committee of Jewish Americans would establish a new secular university in Massachusetts, one that would *not* set limits on the number of Jewish students admitted, as did many American universities in those days. After Albert Einstein declined the honor, the new school would be named Brandeis University.

Brandeis University sports teams are known as the “Brandeis Judges,” and the school mascot is Ollie the Owl, named in honor of Brandeis’s closest colleague, Justice Oliver Wendell Holmes.

[music: Closing War Theme]

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