
CHRISTOPHER P. GRAHAM

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SUMMARY

Innovative and successful attorney; Detail oriented and conscientious, with twenty (20) years of experience providing sound legal advice and obtaining favorable results in a variety of cases and contexts involving insurance defense and coverage, commercial litigation, and construction law; Able to communicate clearly and concisely with individuals of diverse backgrounds and levels of authority; Exceptional knowledge of the rules of civil procedure, the rules of evidence, trial and appellate practices, and alternative dispute resolution practices

ACCOMPLISHMENTS

- “AV” Peer Review Rated Attorney by Martindale Hubbell
- Mountain States Super Lawyer

EXPERIENCE

BRASSEY CRAWFORD, PLLC

PARTNER: 2019 – PRESENT

- Active private law practice involving insurance defense and coverage, commercial litigation, employment law, business law, construction law, alternative dispute resolution, and personal injury litigation
- Experience in all aspects of civil law practice, including significant first chair jury trial experience and appeals
- Experience as Small Lawsuit Resolution Act evaluator/civil case mediator in more than one hundred (150) cases
- Experience as mediator in more than one hundred (100) civil cases involving personal injury, medical malpractice, and various commercial/construction claims
- Experience as umpire in disputed appraisal matters

JONES GLEDHILL FUHRMAN GOURLEY, P.A. – BOISE, IDAHO

PARTNER: 2008 – 2019

- Practice consisted of insurance defense and coverage, commercial litigation, employment law, business law, construction law, alternative dispute resolution, and personal injury litigation

BRASSEY WETHERELL & CRAWFORD LLP – BOISE, IDAHO

ASSOCIATE: 2004 – 2007

- Practice consisted of insurance defense and coverage, employment law, and medical malpractice defense

HOLLAND & HART LLP – BOISE, IDAHO

ASSOCIATE: 2001 – 2004

- Practice consisted of commercial litigation, personal injury litigation, employment law, and Federal Indian Law

IDAHO SUPREME COURT – BOISE, IDAHO

LAW CLERK FOR JUSTICE JESSE R. WALTERS: 2000 – 2001

- Researched and drafted appellate opinions involving a variety of civil, criminal, and constitutional law issues

EDUCATION

UNIVERSITY OF IDAHO COLLEGE OF LAW – MOSCOW, IDAHO, 1997-2000

J.D., *CUM LAUDE*, MAY 2000

- Editor-in-Chief, *Idaho Law Review* 1999-2000
- Dean’s List

BOISE STATE UNIVERSITY – BOISE, IDAHO, 1990-1995

B.A., HISTORY, DECEMBER 1995

- Phi Alpha Theta History Honor Society
- Dean’s List

MEMBERSHIPS

- Admitted to practice before U.S. Court of Appeals, 9th and 10th Circuits, U.S. District Court for the District of Idaho, and all courts in the State of Idaho
- Idaho State Bar Association (Litigation, Employment Law, ADR, and Appellate sections); Governing Council – Appellate Section (2017 – present)
- Idaho Association of Defense Counsel
- Benchers – Richard C. Fields American Inns of Court

References for Christopher P. Graham

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From: [Warren Dowdle](#)
To: [Paula Wilson](#)
Subject: Chris Graham
Date: Monday, March 9, 2020 10:57:57 AM

Chris Graham has asked that I provide a letter of reference for him as he intends to submit his name to be an evaluator with the Department of Environmental Quality.

I have known and worked with and against Chris Graham for 20 years. Both of us became involved with Civil Litigation in the 1999-2000 time period. Since that time, I have used Chris as a mediator and/or evaluator with the Idaho Small Lawsuit Resolution Arbitrations on several dozen cases. Chris is always quick and efficient with his decisions. However, these decisions and awards are well crafted and are supported by the legal authorities in place.

I would highly recommend Chris to be an evaluator within the Department. If you have any questions, please contact me at your convenience and I would be happy to discuss this more with you. Thanks.

Warren W. Dowdle

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Free Speech and the Sedition Act of 1918

Christopher P. Graham

The year 2018 marks the 100th anniversary of many noteworthy events in United States history, including the armistice that ended World War I. Historians, free speech proponents and legal scholars, however, also lament that 2018 marks the 100 year anniversary of the Sedition Act.¹ A historical review of the Sedition Act is a useful reminder of its importance in free speech jurisprudence.

Passed a little over a year after the United States' entry into World War I, the Sedition Act of 1918 made it a crime to: (1) willfully utter, print, write or publish any disloyal, profane, scurrilous or abusive language about the government, military or flag of the United States; (2) use any language intended to bring the government, military or flag of the United States into contempt, scorn, contumely or disrepute; or (3) willfully display the flag of any foreign enemy, advocate the curtailment of war production or advocate, teach, defend or suggest doing any of these; or by word or act support the enemy or oppose the United States.²

The United States government prosecuted more than 2,000 individuals under the Sedition Act and its predecessor counterpart, the Espionage Act of 1917.³ Between 1919 and 1920, the Sedition Act, along with other similar laws, resulted in at least 877 convictions,⁴ many of which imposed lengthy prison terms. One of the most notable prosecutions under the Sedition Act was of renowned socialist and perennial Presidential candidate Eugene Debs. After his unsuccessful run for President in 1912, Debs had been ill, depressed and isolated from other socialists.⁵ America's entry into World War I, however, provided Debs with a chance to reassert himself as the "fa-

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ther" of American socialism through a series of anti-war speeches. In June of 1918, Debs set out on a speaking tour "designed in part to taunt federal officials and bait them into arresting him."⁶ His plan worked. On June 16, 1918, Debs gave a passionate anti-war speech in Canton, Ohio. In the audience were stenographers dispatched by E.S. Wertz, the United States Attorney for the Northern District of Ohio, who believed that he could prosecute Debs under the newly enacted Sedition Act.⁷ When Debs arrived in Cleveland a week later, federal authorities arrested Debs and charged him with attempting to: (1) "cause and incite insubordination, disloyalty, mutiny and refusal of duty in the military and naval forces of the United States;" and (2) "obstruct the recruiting and enlistment service of the United States...."⁸

Debs' trial took place four months later. The jury convicted Debs and the judge sentenced him to ten years in prison. In 1919, in an opinion authored by Justice Oliver Wendell Holmes, the United States Supreme Court upheld Debs' conviction, holding that Debs' speech was not protected under the First Amendment.⁹ After his failed appeal, Debs served two years in fed-

eral prisons in West Virginia and Georgia before having his sentence commuted by President Warren G. Harding.¹⁰ Debs' health never recovered and he died five years later. To some historians, Debs' trial and conviction "functioned as a religious ritual that anointed him as the savior of American liberty."¹¹

Another noteworthy prosecution under the Sedition Act involved a female physician living in the Pacific Northwest. Marie Equi was born in 1872 to working class Irish and Italian immigrant parents in New Bedford, Massachusetts. Although she was a good student, Equi dropped out of school to help her family by working in the textile mills. Life was not easy. Three of Equi's siblings died of childhood diseases.¹²

In 1892, Equi left home with her girlfriend to forge a new life in Oregon. From there, Equi moved to San Francisco to attend medical school, a unique goal among working-class women in the West. In 1903, Equi finished medical school at the University of Oregon as one of five women in her class, settled in Portland and set up a family practice specializing in the treatment of women and children. Equi's medical practice was not without controversy,

however, as she performed abortions and advocated for birth control. She also championed numerous other Progressive Era causes such as prison reform and higher education.¹³

A vicious clash with the police during a 1913 cannery worker strike in Portland radicalized Equi. Equi had come to support the women workers, who were seeking better wages, when the strike turned violent. Equi was clubbed by a mounted policeman and observed a pregnant woman forcibly taken to jail after being beaten by another police officer. Deciding that measured political reform could not achieve justice for the working class, Equi subsequently declared herself a socialist, espoused anarchism and began supporting the radical labor union Industrial Workers of the World (IWW). Days after the strike incident, Equi reportedly climbed onto a chair in the middle of Portland's city hall and, allegedly producing a poisoned hat pin certain to cause a "slow and lingering death," threatened to spill blood if anyone stood in the way of her cause.¹⁴

Staunchly opposed to America's involvement in World War I, Equi gave a fiery anti-war speech at the IWW hall in Portland on June 27, 1918. She was subsequently arrested and charged under the Sedition Act for: (1) stating that she and all of her fellow IWW workers were not fighting for the flag containing the red, white and blue, nor the British flag, nor for a flag of any country, but that the fellow workers and the IWW platform stood for the industrial flag, the red banner that symbolized the blood of the Industrial Workers; (2) stating that the ruling class had been in power long enough, with the law and the Army and Navy behind them, and that the IWW knew there were fellow workers pulled into the Army against their will and were placed in the trenches to fight their own brothers and relatives; and (3)

stating it was against the IWW platform to injure or kill another fellow worker, but if it was necessary to do this, to gain their rights, that she for one, and every man or woman packing a red card (an IWW membership card) would be willing to sacrifice all they had, their lives, if need be, for the cause of industrial freedom.¹⁵

A jury convicted Equi of five of the eight counts against her and the presiding judge sentenced Equi to three years in federal prison. On October 27, 1919, the Ninth Circuit Court of Appeals, in part relying on the Supreme Court's decision in

In a trilogy of opinions,²² including *Debs v. United States*, the United States Supreme Court first articulated the "clear and present danger" test to uphold convictions against a challenge under the First Amendment.²³ In doing so, however, the Supreme Court also laid the groundwork "that later served to provide more protection for speech."

Debs v. United States, upheld Equi's conviction and Equi was sent to San Quentin California State Prison to serve out her sentence.¹⁶ She served ten months before being released for good behavior. Many years later, on December 24, 1933, President Franklin Delano Roosevelt pardoned Equi, who continued to be an activist for the working class for the remainder of her life.¹⁷

Roughly three years after its passage, Congress repealed the Sedition Act, and although the Act is the subject of broad castigation by

many legal scholars and historians, others believe it should instead be remembered today for the "honorable, if misguided reasons why some in Congress supported [its] enactment."¹⁸ For example, when debating the Act's passage, Idaho Senator William Borah is reported to have stated: "I know this is a drastic law and I would not support it . . . unless I believed it necessary to prevent things far worse."¹⁹ Thus, while most legislators supported the act to put down anti-war dissent, Senator Borah and others felt as though the law "was needed to preempt mob violence against dissenters."²⁰

World War I therefore marked the first time "in which the courts played a significant role in relation to the restrictions imposed on freedom of expression."²¹ As demonstrated by the decisions involving Debs and Equi, courts throughout the country generally affirmed the restrictions. In a trilogy of opinions,²² including *Debs v. United States*, the United States Supreme Court first articulated the "clear and present danger" test to uphold convictions against a challenge under the First Amendment.²³ In doing so, however, the Supreme Court also laid the groundwork "that later served to provide more protection for speech." In 1918, the United States Supreme Court upheld the constitutionality of the Sedition Act in *Abrams v. United States*.²⁴ In *Abrams*, the Court affirmed the convictions of Russian immigrants under the Sedition Act for tossing leaflets from the tops of buildings in Manhattan for – among other things – a strike to protest American operations in Russia after the Russian Revolution.²⁵ Justice Oliver Wendell Holmes, who earlier authored the opinion creating the "clear and present danger" test, dissented in *Abrams*, in what legal scholars have described as "sonorous language that set the terms for our modern interpretation of the First Amendment."²⁶

Viewed as a well-meaning but unsound attempt to suppress free speech in a time of war, the Sedition Act of 1918 thus serves as a cautious reminder regarding the resiliency of the First Amendment. Although the Act was short-lived and it seems unlikely that similar legislation would be considered constitutional today, large portions of the Act's precursor, the Espionage Act of 1917, remain part of United States law. Consequently, it is prudent to keep the Sedition Act of 1918 in mind as – one hundred years later – our country continues to work through the myriad of complex issues surrounding the limits of free speech.

Endnotes

1. See Andrew P. Napolitano, *A Legal History of National Security Law and Individual Rights in the United States the Unconstitutional Expansion of Executive Power*, 8 NYU J.L. & Liberty 396, 472 (2014) (“The Sedition Act of 1918 represents one of the most constitutionally-repugnant laws ever enacted.”); Geoffrey R. Stone, *War Fever*, 69 Mo. L. Rev. 1131, 1140 (2004) (“This is a dreary record of legislative achievement.”); cf. *Arar v. Ashcroft*, 585 F.3d 559, 615 (2d Cir. 2009) (“The Supreme Court’s decisions upholding convictions under the Sedition Act of 1918 are regarded as indefensible today.”).
2. Sedition Act of May 16, 1918, ch. 75, § 1, 40 Stat. 553, 553 (1918).
3. See Nancy Murray and Sarah Wunsch, *Civil Liberties in Times of Crisis: Lessons From History*, 87 Mass. L. Rev. 72, 76 (2002).
4. The Sedition Act of 1918 From the United States Statutes at Large, v. 40 (April 1917-March 1919), at https://www.thirteen.org/wnet/supremecourt/capitalism/sources_document1.html
5. See Kathleen Kennedy, *Manhood and Subversion During World War I: The Cases of Eugene Debs and Alexander Berkman*, 82 N.C.L. Rev. 1661, 1687 (2004).
6. *Id.* at 1688.
7. See David Forte, *Righting a Wrong: Woodrow Wilson, Warren G. Harding, and the Espionage Act Prosecutions*, 68 Case W. Res. L. Rev. 1097, 1107 (2018).

Although the Act was short-lived and it seems unlikely that similar legislation would be considered constitutional today, large portions of the Act's precursor, the Espionage Act of 1917, remain part of United States law.

8. *Debs v. United States*, 249 U.S. 211, 212 (1919).
9. *Id.* at 217.
10. See Kennedy, *supra* note 5, at 1688.
11. *Id.* (citing NICK SALVATORE, EUGENE V. DEBS: SOCIALIST AND CITIZEN 294 (1982)).
12. See Marie Qui, at <http://historicsouthcoast.org/marie-equi/>; Marie Qui (1872-1952), at https://oregonencyclopedia.org/articles/equi_marie_1872_1952/#.W5wfAeSWyUk; an out lesbian and abortion rights activist, Marie Qui got locked up for espionage, at <https://timeline.com/marie-equi-abortion-activist-b712c6ef2656>.
13. *Id.*
14. *Id.*
15. See *Equi v. United States*, 261 F. 53, 54 (9th Cir. 1919).
16. *Id.* at 56-57.
17. See *supra* note 12. For more information on Equi's life and activism, see MICHAEL HELQUIST, MARIE EQUI: RADICAL POLITICS AND OUTLAW PASSIONS (2105).
18. Eric B. Eaton, *A Grim Anniversary: The*

- Sedition Act of 1918*, at: <https://uwpress.wisc.edu/blog/?p=3209>
19. *Id.* (citing GEOFFREY STONE, *PERILOUS TIMES* (2004)).
20. *Id.*
21. Murray and Wunsch, *supra* note 3 at 77.
22. See *Schenk v. United States*, 249 U.S. 47 (1919); *Frohwerk v. United States*, 249 U.S. 204 (1919); *Debs*, 249 U.S. 211.
23. See *Schenk*, 249 U.S. at 52 (“The question in every case is whether the words used are used in such circumstances and are of such a nature as to create a clear and present danger that they will bring about the substantive evils that Congress has a right to prevent.”).
24. 250 U.S. 616 (1919).
25. For a thorough analysis of the background and decision in *Abrams*, see Frederick M. Lawrence, *The Coastwise Voyager and the First Amendment: The Fighting Faiths of the Abrams Five*, 69 B.U. L. Rev. 897, 905 (1989).
26. See Wyatt Kozinski, *Our Proudest Boast*, 53 Tulsa L. Rev. 523, 529 (2018).

Christopher P. Graham is a partner at Jones Gledhill Fuhrman Gourley, P.A. He grew up on a family farm in New Plymouth, Idaho. He graduated with a B.A. in history from Boise State University in 1995 and received his J.D., cum laude, from the University of Idaho College of Law in 2000, where he was Editor-in-Chief of the Idaho Law Review. He is a member of the Idaho Legal History Society.

