

World War I and the American Constitution

World War I profoundly affected the American political system by transforming constitutional law and providing the predicate for the modern administrative state. In this groundbreaking study, Professor William G. Ross examines the social, political, economic, and legal forces that generated this rapid change. Ross explains how the war increased federal and state economic regulatory powers, transferred power from Congress to the president, and altered federalism by enhancing the powers of the federal government. He demonstrates how social changes generated by the war provided a catalyst for the expansion of personal liberties, including freedom of speech, freedom of the press, and the rights of women, racial minorities, and industrial workers. Through a study of constitutional law, gender, race, economics, labor, the prohibition movement, international relations, civil liberties, and society, this book provides a major contribution to our understanding of the development of the American Constitution.

William G. Ross is the Lucille Stewart Beeson Professor of Law at Samford University. His previous books include A Muted Fury: Populists, Progressives, and Labor Unions Confront the Courts, 1890–1937 (1994); Forging New Freedoms: Nativism, Education, and the Constitution (1994); and The Chief Justiceship of Charles Evans Hughes, 1930–1941 (2007).



Cambridge Studies on the American Constitution

Series Editors

Maeva Marcus, The George Washington University Melvin I. Urofsky, Virginia Commonwealth University Mark Tushnet, Georgetown University Law Center Keith Whittington, Princeton University

Cambridge Studies on the American Constitution seeks to publish works that embrace constitutional history, politics, law, and legal and political theory to better explain constitutional politics outside the courts, the determinants of constitutional change, the relationship between constitutional lawmaking and conventional politics, the nature of constitutional regimes, comparative approaches to constitutional systems, and the criteria for evaluating constitutional success and failure. Books in the series will explore these and similar issues within a variety of theoretical and methodological traditions, with special emphasis given to research using interdisciplinary approaches in innovative ways.

Titles in the Series

Mark A. Graber, Dred Scott and the Problem of Constitutional Evil
Christian G. Fritz, American Sovereigns: The People and America's Constitutional
Tradition Before the Civil War
R. Kent Newmyer, The Treason Trial of Aaron Burr

Pamela Brandwein, Rethinking the Judicial Settlement of Reconstruction



World War I and the American Constitution

WILLIAM G. ROSS

Samford University, Birmingham, Alabama





CAMBRIDGE UNIVERSITY PRESS

University Printing House, Cambridge CB2 8BS, United Kingdom
One Liberty Plaza, 20th Floor, New York, NY 10006, USA
477 Williamstown Road, Port Melbourne, VIC 3207, Australia
4843/24, 2nd Floor, Ansari Road, Daryaganj, Delhi – 110002, India
79 Anson Road, #06–04/06, Singapore 079906

Cambridge University Press is part of the University of Cambridge.

It furthers the University's mission by disseminating knowledge in the pursuit of education, learning, and research at the highest international levels of excellence.

www.cambridge.org Information on this title: www.cambridge.org/9781107094642 10.1017/9781316148464

© William G. Ross 2017

This publication is in copyright. Subject to statutory exception and to the provisions of relevant collective licensing agreements, no reproduction of any part may take place without the written permission of Cambridge University Press.

First published 2017

Printed in the United States of America by Sheridan Books, Inc.

A catalogue record for this publication is available from the British Library.

Library of Congress Cataloging-in-Publication Data

NAMES: Ross, William G., 1954– author.

TITLE: World War I and the American Constitution / William G. Ross.

DESCRIPTION: New York: Cambridge University Press, 2017. |

Series: Cambridge studies on the american constitution

IDENTIFIERS: LCCN 2016046813 | ISBN 9781107094642 (hardback)

SUBJECTS: LCSH: Constitutional history – United States. | World War,

1914–1918 – United States. | United States. Constitution.

CLASSIFICATION: LCC KF4550.R5973 2017 | DDC 342.73/042–dc23

LC record available at https://lccn.loc.gov/2016046813

ISBN 978-1-107-09464-2 Hardback

Cambridge University Press has no responsibility for the persistence or accuracy of URLs for external or third-party Internet Web sites referred to in this publication and does not guarantee that any content on such Web sites is, or will remain, accurate or appropriate.



To Larry Bell



Contents

Acknowledgments		page viii
	Introduction	I
Ι	Military Conscription	13
2	Economic Regulation	50
3	Labor	110
4	Enfranchisement of Women	145
5	Prohibition of Alcohol	186
6	Racial Minorities	225
7	Personal Liberties	267
8	The League of Nations	319
	Conclusion	367
Subject Index		379



Acknowledgments

It is a pleasure to acknowledge and thank some of the many persons who made significant contributions to this book.

I particularly wish to thank my friends and colleagues David J. Langum, Sr., and Brannon P. Denning for carefully reading the manuscript and offering useful insights. I also appreciate their encouragement. David, an eminent legal historian, has now helped guide me through four books on American constitutional history. Many of my other colleagues, particularly Robert J. Goodwin, Andrew Robert Greene, D. Wendy Greene, and Howard P. Walthall, Sr., also provided suggestions and encouragement.

The book also benefited from the resourcefulness and good cheer of Cumberland School of Law librarians Cherie Feenker, Grace L. Simms, Edward L. Craig, Jr., Brenda Jones, and Library Director Gregory K. Laughlin. I also very much appreciate the assistance of the librarians at the Manuscript Division of the Library of Congress.

Erin Carroll, my talented administrative assistant, helped in many ways, particularly through her excellent proofreading abilities. The book likewise benefited from the skills of Jeffrey M. Whitcomb, Cumberland's director of computer services.

Deserving of gratitude also are Cumberland Dean Henry C. Strickland, Jr., and former Dean John L. Carroll, who provided financial resources, particularly for travel to archives.

I also wish to thank Lawrence J. Reilly, who provided assistance when he was editor of *The American Journal of Legal History*, in which an expanded version of the League of Nations chapter of this book was published in volume 53 (January 2013) at pages 1–88 under the title "Constitutional Issues Involving the Controversy over American Membership in the League of Nations, 1918–1920."