

vent such free and general discussion of public matters as seems absolutely essential to prepare the people for an intelligent exercise of their rights as citizens.”⁴⁵⁶ A rule of law permitting criminal or civil liability to be imposed upon those who speak or write on public issues would lead to self-censorship, which would not be relieved by permitting a defense of truth. “Under such a rule, would-be critics of official conduct may be deterred from voicing their criticism, even though it is believed to be true and even though it is in fact true, because of doubt whether it can be proved in court or fear of the expense of having to do so The rule thus dampens the vigor and limits the variety of public debate.”⁴⁵⁷

“Persecution for the expression of opinions seems to me perfectly logical. If you have no doubt of your premises or your power and want a certain result with all your heart you naturally express your wishes in law and sweep away all opposition. To allow opposition by speech seems to indicate that you think the speech impotent, as when a man says that he has squared the circle, or that you do not care whole-heartedly for the result, or that you doubt either your power or your premises. But when men have realized that time has upset many fighting faiths, they may come to believe even more than they believe the very foundations of their own conduct that the ultimate good desired is better reached by free trade in ideas—that the best test of truth is the power of the thought to get itself accepted in the competition of the market, and that truth is the only ground upon which their wishes safely can be carried out. That at any rate is the theory of our Constitution.”⁴⁵⁸ “Those who won our independence believed that the final end of the State was to make men free to develop their faculties; and that in its government the deliberative forces should prevail over the arbitrary. They valued liberty both as an end and as a means. They believed liberty to be the secret of happiness and courage to be the secret of liberty. They believed that freedom to think as you will and to speak as you think are means indispensable to the discovery and spread of political truth; that without free speech and assembly discussion would be futile; that with them, discussion affords ordinarily adequate protection against the dissemination of noxious doctrine; that the greatest menace to freedom is an inert people; that public discussion is a political duty; and that this should

⁴⁵⁶ 2 T. COOLEY, A TREATISE ON THE CONSTITUTIONAL LIMITATIONS WHICH REST UPON THE LEGISLATIVE POWERS OF THE STATES OF THE AMERICAN UNION 885–86 (8th ed. 1927).

⁴⁵⁷ *New York Times Co. v. Sullivan*, 376 U.S. 254, 279 (1964). *See also* *Speiser v. Randall*, 357 U.S. 513, 526 (1958); *Smith v. California*, 361 U.S. 147, 153–54 (1959); *Time, Inc. v. Hill*, 385 U.S. 374, 389 (1967).

⁴⁵⁸ *Abrams v. United States*, 250 U.S. 616, 630 (1919) (Justice Holmes dissenting).