

***Decades before the controversy surrounding the USA Patriot Act's attacks on civil liberties, the Espionage Act of 1917 laid the groundwork for the constitutionality of Patriot...***

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## **CIVIL LIBERTIES IN WARTIME**

### **Legislative Histories of the Espionage Act of 1917 and the Sedition Act of 1918**

**Edited by William H. Manz**  
Senior Research Librarian, St. John's University School of Law

**F**ollowing several incidents including the Black Tom Island explosions of July 30, 1916, in which more than 2 million pounds of TNT, gunpowder, dynamite and shrapnel caused windows within a 10-mile radius to shatter, damaged the Statue of Liberty's torch to the point that visitors are still not permitted access to it, and citizens from as far away as Philadelphia felt the shock waves of the explosion, the United States passed the Espionage Act of 1917. While the Act was designed to curtail acts of terrorism on U.S. soil (many consider the Black Tom incident to be one of the three worst terrorist attacks on U.S. soil-with the Oklahoma City bombing and World Trade Center attacks the other two), the statute went beyond its principal purpose and outlawed from the U.S. mail "every letter, writing, circular, postal card, picture, print, engraving, photograph, newspaper, pamphlet, book or other publication... containing any advocating or urging of treason, insurrection, or forcible resistance to any law of the United States". For this reason **the Espionage Act created perhaps the first large-scale debate in the United States regarding freedom of speech and freedom of the press.**

A potent precedent favoring the constitutionally-questionable provisions of the United States Patriot Act passed shortly after the September 11, 2001 attacks, the 1917 law was given the Supreme Court's approval in *Schenk v United States*, when **Oliver Wendell Holmes wrote**, "When a nation is at war many things that might be said in time of peace are such a hindrance to its efforts that their utterance will not be endured so long as men fight...."

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While the Espionage Act resulted in more than 2,000 prosecutions by the U.S. Justice Department, the Wilson Administration was dissatisfied with the law as enacted. Attorney General Thomas Gregory noted, "most of the teeth which we tried to put in (the Act) were taken out." Therefore, one year later, the deficiencies felt by the Administration were addressed with passage of the Sedition Act of 1918. This new Act established that it was a violation of law to "utter, print, write or publish any disloyal, profane, scurrilous, or abusive language intended to cause contempt, scorn, or disrepute as regards the form of government of the United States, or the Constitution, or the flag, or the uniform of the Army or Navy, or any language intended to incite resistance to the United States or to promote the cause of the enemies...." While opponents in the Senate raised concerns about further restrictions on freedom of expression, supporters cited the need for the Act to curb vigilante violence against the allegedly disloyal.

While the Sedition Act of 1918 was repealed following World War I, the Espionage Act of 1917 remains in effect and has been sporadically invoked over time; most recently in 2006 when a congressman suggested that the New York Times may have violated the Act when it published a secret report about a government program to monitor banking transactions linked to terrorist activities.

This compilation includes many hard to obtain documents related to the laws' legislative histories, including the major bill versions, the complete congressional debate, reports and hearings. Also included are other materials related to the controversial acts, including hearings on amnesty for those convicted, a report on Espionage Act prosecutions, and hearings investigating an allegedly disloyal speech given by anti-war Senator Robert La Follette.

This invaluable, one-of-a-kind collection will enhance all research libraries, not only for its' significance to legal history but also for its' ongoing impact in today's world.

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