

0. ESPIONAGE and SEDITION ACTS - Story Preface

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After America joined World War I, the country needed men to serve in the military. Compulsory service was in place within six weeks. Draft Notices, like the one depicted in this image, alerted all males between the ages of 21 and 30 ("both inclusive") to register for military service. Anyone who failed to do so risked a year in jail. In early June, of 1917, about 9 million young American men registered for the draft. Image online, courtesy Oregon State Archives.

After much soul-searching, the United States entered World War I in April of 1917. Six weeks later, to help raise an Army, Congress passed the Selective Service Act on May 19.

The Supreme Court upheld the government's right to "draft" young men into the military. By the end of the war, America's armed forces had increased from 200,000 to 4,791,172. Of that increase, approximately 2.8 million men were drafted through the May 19th Selective Service Act. Many of those draftees went to France where trench warfare was a disastrous way of life.

Not everyone agreed with America joining the war. Not everyone tapped on the shoulder to fight was happy about his selection. Hundreds of men did not want to be soldiers and did not want to be shipped overseas.

Members of Congress worried whether the public's unease about the war would impede the government's ability to recruit more soldiers. Labor groups, especially the Industrial Workers of the World (IWW), began to agitate against the war and in favor of workers world-wide, especially those in Russia where people were in desperate shape.

To assist military recruitment, on June 15th Congress passed the Espionage Act of 1917. Section 3 created very stiff penalties (a \$10,000 fine and/or 20 years in prison) if anyone violated the law and was convicted of thwarting the government's efforts to recruit American soldiers:

Whoever, when the United States is at war, shall wilfully make or convey false reports or false statements with intent to interfere with the operation or success of the military or naval forces of the United States or to promote the success of its enemies and whoever when the United States is at war, shall wilfully cause or attempt to cause insubordination, disloyalty, mutiny, refusal of duty, in the military or naval forces of the United States, or shall wilfully obstruct the recruiting or enlistment service of the United States, to the injury of the service or of the United States, shall be punished by a fine of not more than \$10,000 or imprisonment for not more than twenty years, or both.

On May 16, 1918 Congress passed an amendment (called the Sedition Act) to the original Espionage law. The new provision substantially tightened Section 3, adding language effectively preventing anyone from interfering with the operation or success of the United States military in any way:

...whoever, when the United States is at war, shall wilfully utter, print, write, or publish any disloyal, profane, scurrilous, or abusive language about the form of government of the United States, or the Constitution of the United States, or the military or naval forces of the United States, or the flag... or the uniform of the Army or Navy of the United States, or any language intended to bring the form of government... or the Constitution... or the military or naval forces... or the flag... of the United States into contempt, scorn, contumely, or disrepute... or shall wilfully display the flag of any foreign enemy, or shall wilfully... urge, incite, or advocate any curtailment of production in this country of any thing or things... necessary or essential to the prosecution of the war... and whoever shall wilfully advocate, teach, defend, or suggest the doing of any of the acts or things in this section enumerated and whoever shall by word or act support or favour the cause of any country with which the United States is at war or by word or act oppose the cause of the United States therein, shall be punished by a fine of not more than \$10,000 or imprisonment for not more than twenty years, or both....

Given those strict provisions, anyone who encouraged young men to resist the draft would violate the law. But if a person truly believed the Selective Service law was wrong, and the draft, accordingly, was illegal, wouldn't that person have a first-amendment right to say so?

Doesn't the Bill of Rights allow freedom of speech, including the right of Americans to criticize the government?

What happens, in such instance, when laws conflict?

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Media Stream



Pro Labor - Cartoon

Image online, courtesy U Wisconsin at Madison. PD

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