

The Sedition Act (Excerpted from Original)

SECTION 3

Whoever, when the United States is at war, shall willfully 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, or shall willfully make or convey false reports or false statements, or say or do anything except by way of bona fide and not disloyal advice to an investor or investors, with intent to obstruct the sale by the United States of bonds or other securities of the United States or the making of loans by or to the United States, and whoever when the United States is at war, shall willfully cause or attempt to cause, or incite or attempt to incite, insubordination, disloyalty, mutiny, or refusal of duty, in the military or naval forces of the United States, or shall willfully obstruct or attempt to obstruct the recruiting or enlistment services of the United States, and whoever, when the United States is at war, shall willfully 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 of the United States, or the uniform of the Army or Navy of the United States into contempt, scorn, contumely, or disrepute, or shall willfully utter, print, write, or publish any language intended to incite, provoke, or encourage resistance to the United States, or to promote the cause of its enemies, or shall willfully display the flag of any foreign enemy, or shall willfully by utterance, writing, printing, publication, or language spoken, urge, incite, or advocate any curtailment of production in this country of any thing or things, product or products, necessary or essential to the prosecution of the war in which the United States may be engaged, with intent by such curtailment to cripple or hinder the United States in the prosecution of war, and whoever shall willfully 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 favor 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 the imprisonment for not more than twenty years, or both: Provided, That any employee or official of the United States Government who commits any disloyal act or utters any unpatriotic or disloyal language, or who, in an abusive and violent manner criticizes the Army or Navy or the flag of the United States shall be at once dismissed from the service.

SECTION 4

When the United States is at war, the Postmaster General may, upon evidence satisfactory to him that any person or concern is using the mails in violation of any of the provisions of this Act, instruct the postmaster at any post office at which mail is received addressed to such person or concern to return to the postmaster at the office at which they were originally mailed all letters or other matter so addressed, with the words "Mail to this address undeliverable under Espionage Act" plainly written or stamped upon the outside thereof, and all such letters or other matter so returned to such postmasters shall be by them returned to the senders thereof under such regulations as the Postmaster General may prescribe.

Source: *The Sedition Act of 1918 was passed by the United States Congress on May 16, 1918*

Supreme Court Chief Justice Oliver Wendell Holmes: *Schenck* Ruling (Excerpted from Original)

But it is said, suppose that that was the tendency of this circular, it is protected by the First Amendment to the Constitution. Two of the strongest expressions are said to be quoted respectively from well known public men. It well may be that the prohibition of laws abridging the freedom of speech is not confined to previous restraints, although to prevent them may have been the main purpose, as intimated in *Patterson v. Colorado*, 205 U. S. 454, 205 U. S. 462. We admit that, in many places and in ordinary times, the defendants, in saying all that was said in the circular, would have been within their constitutional rights. But the character of every act depends upon the circumstances in which it is done. *Aikens v. Wisconsin*, 195 U. S. 194, 195 U. S. 205, 195 U. S. 206. The most stringent protection of free speech would not protect a man in falsely shouting fire in a theatre and causing a panic. It does not even protect a man from an injunction against uttering words that may have all the effect of force. *Gompers v. Bucks Stove & Range Co.*, 221 U. S. 418, 221 U. S. 439. 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. It is a question of proximity and degree. When a nation is at war, many things that might be said in time of peace are such a hindrance to its effort that their utterance will not be endured so long as men fight, and that no Court could regard them as protected by any constitutional right. It seems to be admitted that, if an actual obstruction of the recruiting service were proved, liability for words that produced that effect might be enforced. The statute of 1917, in § 4, punishes conspiracies to obstruct, as well as actual obstruction. If the act (speaking, or circulating a paper), its tendency, and the intent with which it is done are the same, we perceive no ground for saying that success alone warrants making the act a crime. *Goldman v. United States*, 245 U. S. 474, 245 U. S. 477. Indeed, that case might be said to dispose of the present contention if the precedent covers all *media concludendi*. But, as the right to free speech was not referred to specially, we have thought fit to add a few words.

Source: Supreme Court opinion by Justice Oliver Wendell Holmes, Jr., March 3, 1919.