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In Things Essential, UNITY—In Things Doubtful, LIBERTY—In All Things, FRATERNITY

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SOME MORE LAW

Text of the amendments to the Espionage Act reported to the Senate and House of Representatives by the conference committee, April 23, 1918. And is now the law of the land.

An Act to amend section three, title one, of the Act entitled, "An Act to punish acts of interference with the foreign relations, the neutrality, and the foreign commerce of the United States, to punish espionage, and better to enforce the criminal laws of the United States, and for other purposes," approved June 15, 1917, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section three of title one of the Act entitled "An Act to punish acts of interference with the foreign relations, the neutrality, and the foreign commerce of the United States, to punish espionage, and better to enforce the criminal laws of the United States, and for other purposes," approved June 15th, nineteen hundred and seventeen, be, and the same is hereby amended so as to read as follows:

"Sec. 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, to to promote the success of its enemies or shall willfully make or convey false reports, 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 service 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, or any language intended to bring the form of government of the United States, or the constitution of the United States, or the military or naval forces of he 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 the 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 the German empire or its allies in the present 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 by imprisonment for not more than twenty years, or both: Provided, That any employe 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 criticises the army or navy or the flag of the United States shall be at once dismissed from the service. Any such employee shall be dismissed by the head of the department in which the employee may be engaged, and any such official shall be dismissed by the authority having power to appoint a successor to the dismissed official."

Sec. 2. That section one of title XII. and all other provisions of the act entitled "An Act to punish acts of interference with the foreign relations, the neutrality, and the foreign commerce of the United States, to punish espionage, and better to enforce the criminal laws of the United States, and for other purposes," approved June 15th, 1917, which apply to section 3 of Title 1 thereof shall apply with equal force and effect to said section 3 as amended.

That Title XII of the said act of June 15th, 1917, be, and the same is hereby, amended by adding thereto the following section:

"Sec. 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."

NOTE—The following amendment was inserted in Section 3 by the Senate, after the penalty clause:

"Provided, however, that nothing in this act shall be construed as limiting the liberty or impairing the right of any individual to publish or speak what is true, with good motives, and for justifiable ends."

This amendment, offered by Senator France of Maryland, was eliminated by the Conference Committee at the request of Assistant Attorney General John Lord O'Brien, who claimed that its retention would hinder the Government in its prosecution of German propagandists.

Mr. O'Brien points out that the "most dangerous type of propaganda used in this country is religious pacifism, i. e., opposition to the war on the ground that is opposed to the word of God."

The assistant attorney general also directed the attention of the Conference Committee to his conviction that opposing the war on the ground that it is a war "between capitalists and proletariat" is also a dangerous propaganda. He says:

"Another class of propaganda extensively used is that of slowing down production or opposing the war on the ground that this war is one between capitalists and proletariat. This is the type of propaganda which produced the most serious results in Russia."

Mr. O'Brien held that Senator France's amendment would hinder the Government in securing convictions in this field of propaganda.

Department of Justice gives account of various sorts of pro-German propaganda met with—Attorney General Gregory urges conference committee on bill amending espionage act to eliminate Senator France's "true", "Good-Motives," "Justifiable ends" amendment from the bill. Washington, April 24.

When the Senate had the amendments to the espionage act under consideration, it adopted the following amendment submitted by Senator France of Maryland:

"Provided, however, That nothing in this Act shall be construed as limiting the liberty or impairing the right of the individual to publish or speak what is true, with good motives and for justifiable ends."

Attorney General Gregory objected to the France amendment on the ground that it would hinder the Government in curbing certain forms of anti-war propaganda. The Conference Committee thereupon struck the France Amendment from the bill.

The objections of Attorney General Gregory were presented to the Conference Committee in the form of a letter from John Lord O'Brian, Special Assistant to the Attorney General for War Work, addressed to Representative Edwin Y. Webb, Chairman of the Judiciary Committee of the House of Representatives.

The letter is valuable in that it throws considerable light on the Attorney General's conception of propaganda that must be prevented and the methods necessary to such prevention. The letter follows:

Department of Justice, Washington, D. C., April 16, 1918.

Hon. Edwin Y. Webb,
Chairman Judiciary Committee,
House of Representatives,
Washington, D. C.

Sir: By direction of the Attorney General I respectfully call your attention to the proviso inserted in section 3, title I. of the bill amending the espionage act, which reads as follows:

"Provided, however, That nothing in this act shall be construed as limiting the liberty or impairing the right of the individual to publish or speak what is true, with good motives, and for justifiable ends."

It is the view of this department that this proviso would very seriously interfere with the successful prosecution of cases arising under section 3, and it is the hope of the department that this proviso will be eliminated from the pending bill. In connection with this view your attention is respectfully called to the following facts:

The experience of the department justifies the conclusion that there is far more danger to the country in pro-German propaganda than there is in mere outspoken disloyal utterances. This propaganda rarely takes the shape of open abuse of the United States or open advocacy of the cause of Germany and it is seldom, if ever, possible to prove that the propaganda has a German source, i. e., to prove that the financing of it comes from a German source. On the contrary this dangerous propaganda, of which there is a great deal in the country, on its face generally shows a motive entirely legitimate.

The espionage act has proved a fairly effective weapon against propaganda, and if amended as requested by the department by making attempts to obstruct enlistment punishable, there is every reason to believe that it will be thoroughly effective.

Its effectiveness for the purpose of killing propaganda, however, has come from the principle that motives prompting propaganda are ir-relevant and that intent is to be inferred by juries from the natural and necessary effects of it.

The proviso referred to would make the question of motive not only relevant but essential, and would introduce an element of proof which would greatly increase the difficulty of successful prosecution and greatly decrease the value of the espionage act as a deterrent of propaganda.

For example, the most dangerous type of propaganda used in this country is religious pacifism, i. e., opposition to the war on the ground that it is opposed to the word of God. This is the type of propaganda which was extensively used in weakening the Italian armies. The statements used in it generally consist of quotations from the Bible and various interpretations thereof. Convictions against this type of propaganda are only possible where the motive is irrelevant and where juries can be made to infer the intent from the natural effect of the propaganda.

Another class of propaganda extensively used is that of slowing down production or opposing the war on the ground that this war is one between the capitalists and proletariat. This is the type of propaganda which produced the most serious results in Russia. It contains, however, assertions of fact; on its face the motive is not treasonable, or where a treasonable motive exists it would be difficult to prove it.

A third type of propaganda now apparent in the South is that effecting the status of the negro in connection with the war. Here again few facts are stated; the facts which are stated are generally true, and it is difficult to disprove good motives.

There are many other types of dangerous and effective propaganda which on their face appear to be based on good motives, where proof of actual disloyal motive is very difficult to make.

While the proviso referred to might have some justification if section 3 applied only to disloyal utterances, in the opinion of the department it will prove a hindrance for prosecutions in the field of propaganda.

In view of this fact, will you not ask your committee to consider the advisability of eliminating the proviso from the pending bill?

JOHN LORD O'BRIAN,
The Special Assistant to the Attorney General for War Work. (For the Attorney General.)

HERMAN IS HOME

JUNE 19th—State Secretary Herman arrived home at 1:30 A. M.

He is returning from a brief visit with friends at the National University at Leavenworth, Kansas. While there he was the guest of our Uncle Samuel, who also contributed largely to the expense of the trip, paying Comrade Herman's transportation ONE WAY.

As there seems some probability of Comrade Herman taking up his permanent residence at Leavenworth within a few weeks, he will be a very busy man for several days getting his business arranged for the transfer. Comrades and others having business with the State Secretary will facilitate matters greatly by showing promptness in their correspondence.

Comrade Herman wishes to meet PERSONALLY as many of his friends as can find time to call on him; as he has matter of vital importance which he wishes to talk over. To those who cannot find the time for a personal visit he takes this opportunity to assure them of his gratefull appreciation of the loyalty and helpfullness they have shown. His entire family join with him in offering sincere thanks to the many friends that have helped to make a hard road easier.