

The Espionage Act: How the government can engage in serious aggression against the people of the U.S.

by Naomi Wolf
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This week, Senators Joe Lieberman and Dianne Feinstein engaged in acts of serious aggression against their own constituents, and the American people in general. They [both invoked](#) the [1917 Espionage Act](#) and urged its use in going after Julian Assange. For good measure, Lieberman extended his invocation of the Espionage Act to include a call to use it to investigate the *New York Times*, which published WikiLeaks' diplomatic cables. Reports yesterday [suggest](#) that U.S. Attorney General Eric Holder may seek to invoke the Espionage Act against Assange.

These two Senators, and the rest of the Congressional and White House leadership who are coming forward in support of this appalling development, are cynically counting on Americans' ignorance of their own history -- an ignorance that is stoked and manipulated by those who wish to strip rights and freedoms from the American people. They are manipulatively counting on Americans to have no knowledge or memory of the dark history of the Espionage Act -- a history that should alert us all at once to the fact that this Act has only ever been used -- was designed deliberately to be used -- specifically and viciously to silence people like you and me.

The Espionage Act was crafted in 1917 -- because President Woodrow Wilson wanted a war and, faced with the troublesome First Amendment, wished to criminalize speech critical of his war. In the run-up to World War One, there were many ordinary citizens -- educators, journalists, publishers, civil rights leaders, union activists -- who were speaking out against US involvement in the war. The Espionage Act was [used to round](#) these citizens by the thousands for the newly minted 'crime' of their exercising their First Amendment Rights. A movie producer who showed British cruelty in a film about the Revolutionary War (since the British were our allies in World War I) got a ten-year sentence under the Espionage act in 1917, and the film was seized; poet E.E. Cummings spent three and a half months in a military detention camp under the Espionage Act for the 'crime' of saying that he did not hate Germans. Esteemed Judge Learned Hand wrote that the wording of the Espionage Act was so vague that it would threaten the American tradition of freedom itself. Many were held in prison for weeks in brutal conditions without due process; some, in Connecticut -- Lieberman's home state -- were severely beaten while they were held in prison. The arrests and beatings were widely publicized and had a profound effect, terrorizing those who would otherwise speak out.

Presidential candidate Eugene Debs received a ten-year prison sentence in 1918 under the Espionage Act for daring to read the First Amendment in public. The roundup of ordinary citizens -- charged with the Espionage Act -- who were jailed for daring to criticize the government was so effective in deterring others from speaking up that the Act silenced dissent in this country for a decade. In the wake of this traumatic history, it was left untouched -- until those who wish the same outcome began to try to reanimate it again starting five years ago, and once again, now. Seeing the Espionage Act rise up again is, for anyone who knows a thing about it, like seeing the end of a horror movie in which the zombie that has enslaved the village just won't die.

I predicted in 2006 that the forces that wish to strip American citizens of their freedoms, so as to benefit from a profitable and endless state of war -- forces that are still powerful in the Obama years, and even more powerful now that the Supreme Court decision striking down limits on corporate contributions to our leaders has taken effect -- would pressure Congress and the White House to try to breathe new life yet again into the terrifying Espionage Act in order to silence dissent. In 2005, Bush tried this when the *New York Times* ran its exposé of Bush's illegal surveillance of banking records -- the SWIFT program. This report was based, as is the WikiLeaks publication, on classified information. Then, as now, White House officials tried to invoke the Espionage Act against the *New York Times*. Talking heads on the right used language such as 'espionage' and 'treason' to describe the *Times*' release of the story, and urged that Bill Keller be tried for treason and, if found guilty, executed. It didn't stick the first time; but, as I warned, since this tactic is such a standard part of the tool-kit for closing an open society -- 'Step Ten' of the 'Ten Steps' to a closed society: 'Rename Dissent 'Espionage' and Criticism of Government, 'Treason' -- I knew, based on my study of closing societies, that this tactic would resurface.

Let me explain clearly why activating -- rather than abolishing -- the Espionage Act is an act of profound aggression against the American people. We are all Julian Assange. Serious reporters discuss classified information every day -- go to any Washington or New York dinner party where real journalists are present, and you will hear discussion of leaked or classified information. That is journalists' *job* in a free society. The White House, too, is continually classifying and declassifying information.

As I noted in *The End of America*, if you prosecute journalists -- and Assange, let us remember, is the *New York Times* in the parallel case of the Pentagon Papers, not Daniel Ellsberg; he is the publisher, not the one who revealed the classified information -- then any outlet, any citizen, who discusses or addresses 'classified' information can be arrested on 'national security' grounds. If Assange can be prosecuted under the Espionage Act, then so can the *New York Times*; and the producers of *Parker Spitzer*, who discussed the WikiLeaks material two nights ago; and the people who posted a mirror WikiLeaks site on my Facebook 'fan' page; and Fox News producers,

who addressed the leak and summarized the content of the classified information; and every one of you who may have downloaded information about it; and so on. That is why prosecution via the Espionage Act is so dangerous -- not for Assange alone, but for every one of us, regardless of our political views.

This is far from a feverish projection: if you study the history of closing societies, as I have, you see that every closing society creates a kind of 'third rail' of material, with legislation that proliferates around it. The goal of the legislation is to call those who criticize the government 'spies', 'traitors', enemies of the state' and so on. *Always* the issue of national security is invoked as the reason for this proliferating legislation. The outcome? A hydra that breeds fear. Under similar laws in Germany in the early thirties, it became a form of 'espionage' and 'treason' to criticize the Nazi party, to listen to British radio programs, to joke about the fuhrer, or to read cartoons that mocked the government. Communist Russia in the 30's, East Germany in the 50's, and China today all use parallel legislation to call criticism of the government -- or whistleblowing -- 'espionage' and 'treason', and 'legally' imprison or even execute journalists, editors, and human rights activists accordingly.

I call on all American citizens to rise up and insist on repeal of the Espionage Act immediately. We have little time to waste. The Assange assault is theater of a particularly deadly kind, and America will not recover from the use of the Espionage Act as a cudgel to threaten journalists, editors and news outlets with. I call on major funders of Feinstein's and Lieberman;s campaigns to put their donations in escrow accounts and notify the staffers of those Senators that the funds willonly be released if they drop their traitorous invocation of the Espionage Act. I call on all Americans to understand once for all: this is not about Julian Assange. This, my fellow citizens, is about you.

Those calling for Julian Assange's criminalization [include](#):

1. Rep. Candice Miller
2. Jonah Goldberg, "journalist"
3. Christian Whiton, "journalist"
4. Bill O'Reilly, Fox News "journalist"
5. Sarah Palin, Member of the Republican Party, former candidate
6. Mike Huckabee, politician
8. Prof. Tom Flanagan
9. Rep. Peter King
10. Tony Shaffer
11. Rick Santorum
12. Rep. Dan Lugen
13. Jeffrey T. Kuhner, "journalist" *The Washington Times*

14. Rep. Virginia Foxx
15. Sen. Kit Bond, Vice Chairman of the Senate Intelligence Committee
16. Sen. Joe Lieberman
17. Sen. Charles Schumer
18. Marc Thiessen, Columnist