

A History of Wartime Laws

(Sources: *Newsday*, October 2, 2001; *The New York Times*, November 10, 2001)

Throughout United States history, wartime laws have infringed on civil liberties.

- **ALIEN ENEMY ACT:** One of the Alien and Sedition Acts passed in 1798 in anticipation of war with France. It authorized the deportation of “alien enemy males of 14 years and upwards.”
- **CIVIL WAR:** Suspended the writ of habeas corpus - the right to know why a person is detained to ensure that the imprisonment is not illegal. In 1861, President Abraham Lincoln revoked the right for secessionists and those suspected of disloyalty. Congress expanded the suspension of the right in 1863.
- **ESPIONAGE ACT OF 1917:** Punished spying and wartime sabotage, obstruction of recruiting for the armed forces or for causing insubordination, disloyalty or mutiny in the military. It also punished those making seditious comments. Enforced during World War I and World War II.
- **PALMER RAIDS:** Under the Espionage Act of 1917 and the Sedition Act of 1918, hundreds of foreign radicals from enemy countries (Germany and Austria-Hungary) were arrested or deported during World War I through 1920 during the Red Scare. General Mitchell Palmer’s tenure as “alien property custodian” also included confiscating their property and selling personal belongings and other assets.
- **SMITH ACT:** Penalized anyone who knowingly or willfully advocated overthrowing or destroying the government by force or violence. Also known as the Alien Registration Act because it required aliens to register and be fingerprinted. Upheld in 1961 by the Supreme Court, which ruled later that advocating government overthrow without violence was an abstract idea that did not violate the law, thus curtailing its use.
- **EXECUTIVE ORDER 9066:** Allowed Army to exclude “any or all persons” from designated military zones. The order became the impetus for internment camps for 110,000 Japanese-Americans until the end of 1945. Rescinded in 1975.
- **McCARRAN ACT:** Also known as the Internal Security Act, required organizations associated with communism to register with the attorney general. Members of such organizations were denied passports and were blacklisted from government and defense contractor jobs. Also allowed for detention in time of emergency such as war or insurrection. Established Subversive Activities Control Board that stopped functioning in 1968. Law was dismantled in 1970s.
- **FOREIGN INTELLIGENCE SURVEILLANCE ACT:** Passed in 1978 in response to increased terrorist activity around the world. It authorized electronic eavesdropping and wiretapping in the collection of “foreign intelligence” information. The act creates a special court composed of seven federal judges, meeting in secret, that considers applications from the Department of Justice and intelligence agencies.
- **ANTI-TERRORISM ACT:** Proposed after the Oklahoma City bombing and signed into law by President Bill Clinton, this act authorized \$1 billion to be spent on fighting terrorism in the United States and reserved the right of the government to deny entrance to any foreigner who was believed to be associated with a terrorist organization.

Examine the nine actions described above.

1. Which of these actions do you consider justified? Explain.
2. Which actions do you consider unjustified intrusions on American rights? Explain.

Write an essay explaining your views about infringing on civil liberties during the time of war. In your essay, refer to specific laws and rights.