

## CONSTITUTIONAL RIGHTS FOUNDATION

### *Bill of Rights in Action 19:4*

# **The Alien and Sedition Acts: Defining American Freedom**

**The Alien and Sedition Acts of 1798 challenged the Bill of Rights, but ultimately led to a new American definition of freedom of speech and the press.**

When John Adams succeeded George Washington as president in 1797, the Federalist Party had controlled Congress and the rest of the national government from the beginning of the new nation. Adams and the other Federalists believed that their political party was the government. The Federalists believed that once the people had elected their political leaders, no one should publicly criticize them.

The Federalist Party, led by Alexander Hamilton, aimed to create a stable and secure country, safe for business and wealthy men of property. The opposition Democratic-Republican Party was bitterly opposed to the Federalists. Led by Thomas Jefferson, it tended to represent poor farmers, craftsmen, and recent immigrants. (The party was commonly referred as the Republicans or Jeffersonians. It was the forerunner of today's Democratic Party.)

In foreign affairs, the Federalists detested the French Revolution of 1789 because it led to mob rule and confiscation of property. The Republicans supported the French Revolution for its democratic ideals.

In 1794, President Washington negotiated a treaty with England to settle outstanding differences between the two countries. The resulting improvement in American-English relations angered the revolutionary French leaders, who were enemies of the English.

In the election of 1796, Federalist John Adams won the most electoral votes to become president. Republican Thomas Jefferson came in second, which made him vice-president. (The 12th Amendment later changed this election method, requiring separate electoral ballots for president and vice-president.)

Shortly after becoming president, Adams sent diplomats to France to smooth over the bad feelings. But three French representatives—dubbed X, Y, and Z—met secretly with the U.S. diplomats and demanded \$10 million in bribes to the French government to begin negotiations. When the Americans refused, Mr. X threatened the United States with the "power and violence of France."

News of the "XYZ Affair" enraged most Americans. Many Federalists immediately called for war against France. President Adams, however, only proposed war preparations and a land tax to pay for them. On the defensive, Republicans spoke out against the "war fever."

Neither the United States nor France ever declared war. But the Federalists increasingly accused Jefferson and the Republicans of being a traitorous "French Party." A leading Federalist newspaper proclaimed to the nation, "He that is not for us, is against us."

### **The Alien Acts**

Rumors of a French invasion and enemy spies frightened many Americans. President Adams warned that foreign influence within the United States was dangerous and must be "exterminated."

The Federalist majority in Congress quickly passed four laws in 1798 to make the United States more secure from alien (foreign) spies and domestic traitors. Most of these laws, however, were also intended to weaken Jefferson's Democratic-Republican Party.

The first law, the **Naturalization Act**, extended the time immigrants had to live in the United States to become citizens from five to 14 years. Since most immigrants favored the Republicans, delaying their citizenship would slow the growth of Jefferson's party.

The **Alien Enemies Act** provided that once war had been declared, all male citizens of an enemy nation could be arrested, detained, and deported. If war had broken out, this act could have expelled many of the estimated 25,000 French citizens then living in the United States. But the country did not go to war, and the law was never used.

The **Alien Friends Act** authorized the president to deport any non-citizen suspected of plotting against the government during either wartime or peacetime. This law could have resulted in the mass expulsion of new immigrants. The act was limited to two years, but no alien was ever deported under it.

The fourth law was the **Sedition Act**. Its provisions seemed directly aimed at those who spoke out against the Federalists.

### **The Sedition Act**

In general, sedition means inciting others to resist or rebel against lawful authority. In England, "seditious libel" prohibited virtually any criticism of the king or his officials. English common law held that any spoken or written words that found fault with the king's government undermined the respect of the people for his authority.

The U.S. Sedition Act first outlawed conspiracies "to oppose any measure or measures of the government." Going further, the act made it illegal for anyone to express "any false, scandalous and malicious writing" against Congress or the president. Significantly, the act did not specifically protect the vice-president who, of course, was Jefferson. Additional language punished any spoken or published words that had "bad intent" to "defame" the government or to cause the "hatred" of the people toward it.

These definitions of sedition were more specific than those found in English common law. Even so, they were still broad enough to punish anyone who criticized the federal government, its laws, or its elected leaders.

Unlike English common law, the Sedition Act allowed "the truth of the matter" to be a defense. The act also left it to the jury to decide if a defendant had "bad intent." Penalties for different provisions of the law ranged from six months to five years in prison and a fine of up to \$5,000 (more than \$100,000 in today's dollars).

The Republican minority in Congress argued that sedition laws violated the First Amendment to the U.S. Constitution, which protects freedom of speech and the press. The Federalists countered by defining these freedoms in the narrow English manner. According to English law, free speech and press only applied before the expression of ideas. The government could not censor or stop someone from expressing ideas. But after the words had been spoken or printed, the government could punish people if they had maliciously defamed the king or his government.

The Federalist majority in Congress passed the Sedition Act and President Adams signed it into law on July 14, 1798. It was set to expire on March 3, 1801, the last day of the first and—as it turned out—only presidential term of John Adams.

### **The Attack on the Republicans**

Secretary of State Timothy Pickering was in charge of enforcing the Alien and Sedition Acts. He immediately began to read as many Republican newspapers as he could, looking for evidence of sedition against President Adams and Congress.

In October 1798, a Vermont Republican congressman, Matthew Lyon, became the first person to be put on trial under the Sedition Act. Like most Republicans, Lyon opposed going to war against France and objected to the land tax to pay for war preparations.

Lyon wrote a letter published in a Republican newspaper, criticizing President Adams for "a continued grasp for power." He also read aloud at several public meetings a letter written by poet Joel Barlow who jokingly wondered why Congress had not ordered Adams to a madhouse.

A federal grand jury indicted Lyon for intentionally stirring up hatred against President Adams. Unable to find a defense attorney for his trial, Lyon defended himself. The U.S. marshal, a Federalist appointee, assembled a jury from Vermont towns that were Federalist strongholds.

Lyon attempted to prove the truth of the words he wrote and spoke, as permitted by the Sedition Act. This meant that the burden of proof was on him. Lyon had to prove the words in question were true rather than the prosecutor having to prove them false. Lyon also argued that he was only expressing his political opinions, which should not be subject to the truth test.

The jury found Lyon guilty of expressing seditious words with "bad intent." The judge, also a Federalist, sentenced him to four months in jail, a \$1,000 fine, and court costs.

Lyon ran for re-election to Congress from his jail cell and won. Vermont supporters petitioned President Adams to release and pardon him, but Adams refused.

When Lyon was released from jail, he was welcomed as a hero in his Vermont hometown. He was cheered along the route he took when he journeyed to Congress. Once Lyon returned to Congress, the Federalists tried to expel him as a convicted criminal, but this effort failed.

Thirteen more indictments were brought under the Sedition Act, mostly against editors and publishers of Republican newspapers. While some Republican newspapers were forced to close down, many others were intimidated not to criticize the government.

One Republican was convicted of sedition for publishing a pro-Jefferson campaign pamphlet that accused President Adams of appointing corrupt judges and ambassadors. Two men were found guilty of raising a "liberty pole" and putting a sign on it that said, "downfall to the Tyrants of America." Another was arrested, but never tried, for circulating a petition to repeal the Alien and Sedition Acts themselves. A drunk was fined \$150 for insulting President Adams.

In the most bizarre case, the Federalists in the U.S. Senate formed a special committee to investigate a Republican editor, William Duane. Republicans had leaked to him a Federalist proposal to change how presidential electoral votes were counted. Duane had printed the law and written editorials denouncing it. When summoned to the Senate to face charges of writing "false, scandalous, defamatory, and malicious assertions," he went into hiding and secretly continued writing for his newspaper.

### **A New Definition of Free Speech and Press**

The Alien and Sedition Acts provoked a debate between Republican and Federalist state legislatures over freedom of speech and the press. In a resolution he wrote for the Virginia legislature, James Madison argued that the Sedition Act attacked the "right of freely examining public characters and measures, and of free communication among the people." In heavily Federalist Massachusetts, state legislators responded that a sedition law was "wise and necessary" to defend against secret attacks by foreign or domestic enemies.

The Federalists in Congress issued a report accepting the old English common law definition of free speech and press. It argued that the First Amendment only stopped the government from censoring beforehand any speeches or writings. The government, argued the Federalists, should be able to protect itself from false and malicious words.

Congressman John Nichols, a Republican from Virginia, challenged this Federalist view. He asserted that Americans must have a free flow of information to elect leaders and to

judge them once they were in office. Nichols asked why government, which should be critically examined for its policies and decisions, should have the power to punish speakers and the press for informing the voters.

In the end, the people settled this debate in 1800 by electing Thomas Jefferson president and a Republican majority to Congress. In his inaugural address, Jefferson confirmed the new definition of free speech and press as the right of Americans "to think freely and to speak and write what they think."

### **For Discussion and Writing**

1. What was the Sedition Act? Why was it passed? Do you think it was constitutional? Explain.
2. How did the Federalists and the Democratic-Republicans differ regarding criticism of the government and freedom of speech and the press?
3. Write a letter to the editor of a 1798 newspaper, expressing your views about the Alien and Sedition Acts.

### **For Further Information**

[Primary Documents](#) | [Articles](#) | [Books](#) | [Links](#)

#### **Primary Documents**

[The Alien and Sedition Acts](#). From the Avalon Project.

[The Alien and Sedition Acts of 1798](#) From Archiving Early America.

[Alien and Sedition Acts](#) From Our Documents.

[Alien and Sedition Acts of the United States](#) From NapoleonSeries.

#### **Encyclopedia and Other Articles**

[Alien and Sedition Acts](#) From *Columbia Encyclopedia*.

[Alien and Sedition Acts](#) From Wikipedia.

[Alien and Sedition Acts](#) From AllRefer.

[Order vs. Liberty](#) By Larry Gragg from *American History Magazine*.

#### **Books**

*Matthew Lyon, "New Man" of the Democratic Revolution, 1749-1822* By Aleine Austin.  
University Park, Pennsylvania: Pennsylvania State University Press, 1981.

*John Adams* By David McCullough.

Teaching With Documents Lesson Plan: U.S. v. Thomas Cooper—A Violation of the Sedition Law From the National Archives and Records Administration.

## **Links**

[Yahoo Directory: Alien and Sedition Act](#)