The Alien and Sedition Acts

With tempers so dangerously high and fears that political dissent was perhaps akin to treason, Federalist leaders moved to muffle the opposition. In mid-1798, Congress hammered out the Sedition Act, which not only made conspiracy and revolt illegal but also penalized speaking or writing anything that defamed the president or Congress. Criticizing government leaders became a criminal offense. One Federalist in Congress justified his vote for the law this way: “Let gentlemen look at certain papers printed in this city and elsewhere, and ask themselves whether an unwarrantable and dangerous combination does not exist to overturn and ruin the government by publishing the most shameless falsehoods against the representatives of the people.” In all, twenty-five men, almost all Republican newspaper editors, were charged with sedition; twelve were convicted.

Congress also passed two Alien Acts. The first extended the waiting period for an alien to achieve citizenship from five to fourteen years and required all aliens to register with the federal government. The second empowered the president in time of war to deport or imprison without trial any foreigner suspected of being a danger to the United States. The clear intent of these laws was to harass French immigrants already in the United States and to discourage others from coming.

The political tensions of 1798 were not merely intellectual; two men brawled on the floor of Congress. Roger Griswold, a Connecticut Federalist, called Matthew Lyon, a Vermont Republican, a coward. Lyon responded with some well-aimed spit, the first departure from the gentleman’s code of honor. Griswold responded by raising his cane to Lyon, whereupon Lyon grabbed nearby fire tongs to beat back his assailant. Madison wrote to Jefferson that the two should have dueled, the honorable way to avenge insults. But Lyon, a recent Scots-Irish immigrant, preferred rough-and-tumble fighting as the best response to insult. Library of Congress.

Republicans strongly opposed the Alien and Sedition Acts on the grounds that they were in conflict with the Bill of Rights, but they did not have the votes to revoke the acts in Congress, nor could the federal judiciary, dominated by Federalist judges, be
counted on to challenge them. Jefferson and Madison turned to the state legislatures, the only other competing political arena, to press their opposition. Each man anonymously drafted a set of resolutions condemning the acts and had the legislatures of Virginia and Kentucky present them to the federal government in late fall 1798. The Virginia and Kentucky Resolutions put forth the decidedly novel argument that state legislatures have the right to judge the constitutionality of federal laws and even to nullify them. These were amazing assertions of state power, in view of Madison’s role in 1787 in creating a federal government that superseded the states, and in view of Jefferson’s position as the vice president. By their action, both men ran the risk of being charged with sedition. The resolutions made little dent in the Alien and Sedition Acts, but the idea of a state’s right to nullify federal law did not disappear. It would resurface several times in decades to come, most notably in a major tariff dispute in 1832 and in the sectional arguments that led to the Civil War.

Amid all the war hysteria and sedition fears in 1798, President Adams regained his balance. He was uncharacteristically restrained in pursuing opponents under the Sedition Act, and he finally refused to declare war on France, as extreme Federalists wished. No doubt he was beginning to realize how much he had been the dupe of Hamilton. He also shrewdly realized that France was not eager for war and that a peaceful settlement might be close at hand. In January 1799, a peace initiative from France arrived in the form of a letter assuring Adams that diplomatic channels were open again and that new peace commissioners would be welcomed in France.

Adams accepted this overture and appointed new negotiators. By late 1799, the Quasi-War with France had subsided, and in 1800 the negotiations resulted in a treaty declaring “a true and sincere friendship” between the United States and France. But Federalists were not pleased; Adams lost the support of a significant part of his own party and sealed his fate as the first one-term president of the United States.

“We are all republicans, we are all federalists.”

—President THOMAS JEFFERSON

The election of 1800 was openly organized along party lines. The self-designated national leaders of each group met to handpick their candidates for president and vice president. Adams’s chief opponent was Thomas Jefferson. When the election was finally over, President Jefferson mounted the inaugural platform to announce, “We are all republicans, we are all federalists,” an appealing rhetoric of harmony appropriate to an inaugural address. But his formulation perpetuated a denial of the validity of party politics, a denial that ran deep in the founding generation of political leaders.

REVIEW

Why did Congress pass the Alien and Sedition Acts in 1798? Answer on a separate page
As President John Adams inched toward an undeclared war with France, criticism of his foreign policy reached an all-time high. Newspaper editors and politicians favorable to France blasted him with such intemperate language that his supporters feared that the United States could be pushed to the brink of civil war. Federalists in Congress tried to muffle the opposition by criminalizing seditious words, believing it to be the only way to preserve the country. Republicans just redoubled their opposition.

**DOCUMENT 1**
**Abigail Adams Complains of Sedition, 1798**

Throughout the spring of 1798, a beleaguered Abigail Adams complained repeatedly in confidential letters to her sister Mary Cranch about the need for a sedition law to put a stop to the political criticisms of her husband, the president, by Benjamin Bache, the pro-French editor of the Philadelphia Aurora.

(April 26):...Yet dairingly do the vile incendaries keep up in Baches paper the most wicked and base, violent & calumniating abuse—It was formerly considerd as leveld against the Government, but now it...insults the Majesty of the Sovereign People. But nothing will have an Effect until Congress passes a Sedition Bill.... (April 28):....We are now wonderfully popular except with Bache & Co who in his paper calls the President old, querilous, Bald, blind,cripled, Toothless Adams. (May 10):....This Bache is cursing & abusing daily. If that fellow...is not surpressd, we shall come to a civil war. (May 26):....I wish the Laws of our Country were competant to punish the stirer up of sedition, the writer and Printer of base and unfounded calumny. This would contribute as much to the Peace and harmony of our Country as any measure.... (June 19):....In any other Country Bache & all his papers would have been seazd and ought to be here, but congress are dilly dallying about passing a Bill enabling the President to seize suspisious persons, and their papers. (June 23):....I wish our Legislature would set the example & make a sedition act, to hold in order the base Newspaper calumniators. In this State, you could not get a verdict, if a prosecution was to be commenced.


**DOCUMENT 2**
**The Sedition Act of 1798**

On July 14, 1798, Congress approved a bill making sedition with malicious intent a crime.

SECTION 1.... if any persons shall unlawfully combine or conspire together, with intent to oppose any measure or measures of the government of the United States..., or to impede the operation of any law of the United States, or to intimidate or prevent any person holding...office in or under the government of the United States, from undertaking, performing or executing his trust or duty, and if any person or persons, with intent as aforesaid, shall counsel, advise or attempt to procure any insurrection, riot, unlawful assembly, or combination...., he or they shall be deemed guilty of a high misdemeanor, and on conviction...shall be punished by a fine not exceeding five thousand dollars, and by imprisonment during a term not less than six months nor exceeding five years....
SEC. 2.... If any person shall write, print, utter or publish, or shall cause or procure to be written, printed, uttered or published..., any false, scandalous and malicious writing or writings against the government of the United States, or either house of the Congress of the United States, or the President of the United States, with intent to defame the said government...or to bring them...into contempt or disrepute; or to excite against them...the hatred of the good people of the United States..., or to aid, encourage or abet any hostile designs of any foreign nation against the United States..., then such person, being thereof convicted...shall be punished by a fine not exceeding two thousand dollars, and by imprisonment not exceeding two years.

SOURCE: Excerpted text from congressional bill, July 14, 1798.

DOCUMENT 3
Matthew Lyon Criticizes John Adams, 1798

Matthew Lyon, a member of Congress from Vermont, published this criticism of President Adams in a letter to the editor of Spooner's Vermont Journal (July 31, 1798). It became the first of three counts against him in a sedition trial. Lyon drew a four-month sentence and a fine of $1,000. From jail, he ran for reelection to Congress—and won.

As to the Executive, when I shall see the efforts of that power bent on the promotion of the comfort, the happiness, and the accommodation of the people, that Executive shall have my zealous and uniform support. But when I see every consideration of the public welfare swallowed up in a continual grasp for power, in an unbounded thirst for ridiculous pomp, foolish adulation, or selfish avarice; when I shall behold men of real merit daily turned out of office for no other cause but independence of sentiment; when I shall see men of firmness, merit, years, abilities, and experience, discarded on their application for office, for fear they possess that independence; and men of meanness preferred for the ease with which they take up and advocate opinions, the consequence of which they know but little of; when I shall see the sacred name of religion employed as a State engine to make mankind hate and persecute one another, I shall not be their humble advocate.


DOCUMENT 4
The Virginia Resolution, December 24, 1798

James Madison drafted the Virginia Resolution and had a trusted ally present it to the Virginia legislature, which was dominated by Republicans. (Jefferson did the same for Kentucky.) The Virginia document denounces the Alien and Sedition Acts and declares that states have the right to “interpose” to stop unconstitutional actions by the federal government.

RESOLVED...That this assembly most solemnly declares a warm attachment to the Union of the States, to maintain which it pledges all its powers; and that for this end, it is their duty to watch over and oppose every infraction of those principles which constitute the only basis of that Union, because a faithful observance of them, can alone secure its existence and the public happiness.

That this Assembly doth explicitly and peremptorily declare, that it views the powers of the federal government, as resulting from the compact, to which the states are parties; as limited by the plain sense and intention of the instrument constituting the compact; as no further valid that they are authorized by the grants enumerated in that compact; and that in case of a deliberate, palpable, and dangerous exercise of other
powers, not granted by the said compact, the states who are parties thereto, have the right, and are in duty bound, to interpose for arresting the progress of the evil, and for maintaining within their respective limits, the authorities, rights and liberties appertaining to them....

That the General Assembly doth particularly protest against the palpable and alarming infractions of the Constitution, in the two late cases of the “Alien and Sedition Acts”...; the first of which exercises a power no where delegated to the federal government...; and the other of which acts, exercises in like manner, a power not delegated by the constitution, but on the contrary, expressly and positively forbidden by one of the amendments thereto; a power, which more than any other, ought to produce universal alarm, because it is levelled against that right of freely examining public characters and measures, and of free communication among the people thereon, which has ever been justly deemed, the only effectual guardian of every other right.


Questions for Analysis (Answer these on a separate page)

1. Why did the Federalists believe that the Sedition Act was necessary? What exactly was the threat, according to Abigail Adams? What threat is implied by the wording of the act?

2. Does Matthew Lyon’s criticism of President Adams rise to the level of threat that the Federalists feared? How do you explain Lyon’s guilty verdict? His reelection to Congress?

3. What might Madison have meant by “interpose” as the desired action by states? What could states actually do?

4. Which side had the stronger argument in 1798–1799? Do you think there should be limits on what can be said publicly about high government officials? Why or why not?

On Turnitin.com, you are going to respectfully debate the merits and drawbacks of the Federalist-sponsored Alien and Sedition Acts. The guiding question is: Does Congress have the “right” to subvert the Constitution during times of crisis? In other words, how far can the federal government “bend” the Constitution in order to “protect” the republican form of government?

BTW, we will come back to this issue during the Civil War, World War I and World War II.