

The Breakfast Club

Constitutional Minute for 18 October 2022

The Alien and Sedition Laws

The ink was still drying on the First Amendment -- ratified just seven years prior -- when Congress decided it was time to make it a crime to say anything or print a newspaper article disparaging of the present administration of John Adams. James Madison and his friend Thomas Jefferson were livid that Congress would suggest this, and even more alarmed that President Adams had not vetoed the bill, and they soon set about to write essays rejecting the several measures encompassed as the Alien and Sedition Laws. What could have prompted Congress to take such a drastic measure?

The animosity between Britain and France created by the US Revolutionary War was long lasting. The French Revolutionary Wars (1792 – 1802) pitted France against Britain, Austria, Prussia, Russia, and several other monarchies. The Adams administration desperately tried to avoid choosing sides and remain out of the conflict, but Federalists called for support to Britain and Democratic-Republicans called equally for support to France. Neither side wanted America to stay neutral. In a desperate attempt to curtail the “war between the parties” being fought in the partisan newspapers of the time, Adams suggested Congress pass what became known as the Alien and Sedition Acts.

The Alien and Sedition Acts were a collection of four separate acts: The Alien Friends Act, the Alien Enemies Act, the Naturalization Act and the Sedition Act.

The Alien Friends Act authorized the president to arbitrarily deport any non-citizen who was deemed to be “dangerous to the peace and safety of the United States.” Once a non-citizen was determined to be “dangerous,” the president could set a reasonable amount of time for the person to leave the confines of the United States; three years in prison was the penalty for remaining after that time limit. No one was prosecuted under this law, but many non-citizens understood the threat and left voluntarily.

The Alien Enemies Act authorized the president to order the arrest, relocation, or deportation of any male non-citizens 14 years or older. This act was renewed when others expired and remains in effect today. President James Madison used the act against British nationals during the War of 1812. President Woodrow Wilson invoked it against citizens of the “Central Powers” during World War I. In 1918, an amendment to the act removed the law’s restriction to males. President Roosevelt used the act during WWII and Harry Truman did the same after FDR died in office.

The Naturalization Act increased the residency requirement to apply for American citizenship from five to 14 years. Many of the new immigrants of the time were supporters of France. It was replaced by the Naturalization Law of 1802.

The Sedition Act, the most controversial, made it illegal to utter or print false or malicious statements about the federal government. In perhaps its most partisan feature, the act excluded speech concerning the sitting Vice President, Thomas Jefferson; Jefferson remained a lucrative target for slander or ridicule.

The most famous victim of the Sedition Act was newspaperman James Callender, a British subject, who wrote a book entitled *The Prospect Before Us* (read and approved by Vice President Jefferson before publication), in which he called the Adams administration a “continual tempest of malignant passions,”

and referred to President Adams as a “repulsive pedant, a gross hypocrite, and an unprincipled oppressor.” For this, Callender was indicted a few months before the Presidential election of 1800; convicted, he was fined \$200 and sentenced to nine months in jail. Upon his release, he failed to receive the help getting a job he anticipated from now-President Jefferson and reacted by publishing allegations that Jefferson had fathered a child with Sally Hemings. Callender drowned in the James River in 1803.

Matthew Lyon, a Democratic-Republican congressman from Vermont, was indicted for an essay in which he accused the administration of “ridiculous pomp, foolish adulation, and selfish avarice.” He was convicted, fined \$1,000, and sentenced to four months in jail. After his release, he returned to Congress.

In perhaps the most laughable incident, New Jersey resident Luther Baldwin was indicted, convicted, and fined \$100 for yelling “I hope it hit Adams in the arse,” when a gun shot was heard as President Adams participated in a parade in his honor in Newark.

Three other men were convicted, jailed and fined under the Sedition Act. Upon assuming the office of President Jefferson issued pardons for them all.

When the Acts were published, the new state of Kentucky employed the services of sitting-VP Jefferson in writing “The Kentucky Resolutions” which argued that states had the authority to judge the constitutionality of federal laws, declare them void, and refuse to uphold them in their state. Virginia quickly appointed a “retired” James Madison to the Virginia Legislature where Madison penned The Virginia Resolutions” which argued that states had the moral responsibility to “interpose” themselves between an overarching federal government and the state’s citizens.

The Alien Friends Act and the Sedition Act expired automatically after a set number of years, and the Naturalization Act was repealed in 1802 by the Democratic-Republican Congress that gained the majority in the 1800 election.

That is not the end of the story, however.

Governments throughout history have shown a readiness to impose restrictions on the speech of citizens it sees as an “enemy.”

During the approach to the Civil War (aka, the War for Southern Independence) many southern states passed laws making it illegal for their residents to criticize slavery.

From 1914 to 1817, a lot of Americans were quite sure the U.S. should not enter WWI, and they voiced their opinions repeatedly and strongly, particularly in the press. “The Sedition Act of 1918,” actually an amendment of the Espionage Act of 1917, prohibited the utterance or printing of “disloyal, profane, scurrilous, or abusive language” about the United States government, the American flag, or U.S. armed forces.

Today we find the Biden administration all too eager to curtail the speech of people critical of its policies, not directly, mind you, that would be too obvious, but by enlisting the aid of media companies to “cancel” or suppress what it deems to be “disinformation.” *“Watch over your liberties and privileges - civil and religious - with a careful eye.”* Pastor Matthias Burnett, 1803.

Prepared by: Gary R. Porter, Executive Director, Constitution Leadership Initiative, Inc. for The Breakfast Club. Contact: gary@constitutionleadership.org; or 757-817-1216.