

Washington: "I fear Congress will close the session without a declaration of War, which I look upon as necessary to enable us to lay our hands on traitors, and as the best means that can be resorted to, to destroy the effect of the skill of the Directory in their transactions with Mr. Gerry."¹⁹ A week later, on July 11, the House passed the Sedition Bill by a close vote of forty-four to forty-one. Signed by the president, it became law on July 14.

The Naturalization Act lengthened to fourteen years the period of residence required prior to obtaining citizenship. This act reflected the nativistic fear of immigrant influence as well as the political fact that the majority of the new citizens were joining the Jeffersonian party. The Federalists had been critical of the increasing immigration into the United States for several years. As early as May of 1797 they had tried to place a twenty dollar tax on naturalization. The frenzy over the XYZ affair provided an emotional climate in which Federalists in Congress could lash out at both new immigrants and Republican opponents.

The first of the alien bills, officially titled An Act Concerning Aliens, but usually referred to as the Alien Friends Act, was to expire in 1800. It empowered the president to deport any alien he considered dangerous to the public peace. The Alien Enemies Act allowed the president to deport citizens of any country with which the United States was at war. It was a bipartisan measure supported by many Republicans and was designed to be permanent.

The Sedition Act was most controversial and has been much criticized. It grew out of a variety of circumstances and conditions. Some have attributed it to the XYZ affair, but that excitement probably provided the occasion rather than the cause of its passage. It provided prison sentences for criticizing the president or Congress.

Senator Bingham wrote to Rufus King on September 30, "The Friends of the Government have improved the Opportunity of cloathing the Executive with additional Energies."²⁰ Certainly the desire to strike out at political opposition was one of the major causes of the alien and sedition legislation. Many Federalists were alarmed at the growth of Jeffersonian strength and fearful that their party would lose its dominant position. This attitude was compounded of two parts: selfish fear of losing power and sincere concern for the nation, which would certainly suffer, they felt, from being subjected to a different political philosophy.

In order to understand and properly appraise the Sedition Act, certain facts must be accepted. In the first place, English common law provided for the punishment of seditious speech or press. Dur-

ing congressional debate on the sedition bill, it was actually argued, and fairly so, that the legislation being proposed was more lenient than the common law. The act as it was finally passed by the House required the prosecution to prove "malice and intent," a safeguard never provided by common law. Furthermore, the Sedition Act as passed was more lenient than the common-law doctrine on libels.

In the second place, it must be remembered that the first prosecution of libelous editors took place before the Sedition Act was passed. Bache was arrested June 26, nineteen days before the Sedition Act became law. Furthermore, there is evidence that the debate over this act brought into the open a disagreement about the role of the federal judiciary that had existed between Federalists and Republicans for some time. At least as early as 1796, Chief Justice Francis Dana of the Massachusetts Supreme Court, in his address at the opening of a session of that court, had criticized the slanderous treatment accorded those in public office. In the spring of 1797 Supreme Court Justice Iredell, presiding over the circuit bench in Virginia, condemned the "unsettling tendencies" of some members of the House of Representatives.

It should also be noted, in appraising the Sedition Act, that there were rather recent English precedents for this type of legislation, and that the Republican opposition was very largely based on their objection to an extension of the power of the central government. There is little indication that the Republicans were fighting for a free press; they merely wanted the supervision of the press to be in the hands of the state courts. Such a position was no doubt compounded out of equal parts of political philosophy and of fear of Federalist dominance of the judiciary.

As finally passed into law, the Sedition Act consisted of two sections. The first set a maximum fine of five thousand dollars and a maximum sentence of five years for "conspiracies and combinations to impede the operation of federal laws." The second section set a possible two thousand dollar fine and a two-year sentence for "false, scandalous and malicious" accusations against the president, the Congress, or the government. The law imposed on the prosecution the necessity of proving "intant to defame" or "to bring them into contempt or disrepute, or to excite against them the hatred" of the American people.²¹

While a good number of Republicans supported the Alien Enemies Act, the other pieces of legislation were truly partisan acts, introduced, defended, and passed by Federalists, and signed into

law by a Federalist president. Why this nearly unanimous support for the alien and sedition legislation by the Federalists? It is easy for us today, reading their private letters as well as the public pronouncements, to argue that the motivation for this legislation was compounded out of hatred for France and the desire to destroy the political power of the Jeffersonians. Yet there must have been many Federalists who were sincerely fearful lest what they thought of as an ideal society be destroyed. England had become alarmed by the influence of the French Revolution, and had passed legislation restricting both aliens and "dangerous" political doctrines. Federalists may have felt that such legislation was what had saved England. Robert Goodloe Harper, militant Federalist representative from South Carolina, in debate on June 19, 1798, pontificated that "Unless we follow their [the European nations which had escaped French dominance] example and crush the viper in our breast, we shall not, like them, escape the scourge which awaits us."²²

It is always difficult to sense the true feelings of the average man or woman. Perhaps Billy Shaw, nephew of Abigail and secretary to John Adams, expressed the feelings of middle-class Federalists when he wrote his aunt, on January 2, 1799, that he had decided the Alien and Sedition Acts were absolutely necessary because a licentious press would destroy the social order.

John Adams has been condemned, or at least criticized, by most historians for his role in the passage of this legislation. That he neither drafted the legislation nor asked Congress, even in general terms, for such acts, is of course admitted by everyone. His involvement or responsibility would seem to consist of these elements: the president never opposed the passage of this legislation, and he did not kill the acts with a veto as he might have tried to do. Furthermore, almost every historian writing in this period has concluded that by his replies to addresses, especially in the late spring and summer of 1798, John Adams played a major role in whipping up fervent nationalism, and that this spirit, in turn, was in considerable part responsible for the repressive legislation then passed.

Historians have disagreed about John Adams's personal attitude toward the legislation at the time it was discussed and passed. Those historians who have argued that John Adams personally favored the acts are not convincing, although it is true that he did not oppose the acts nor veto the bills when they were passed. It is known that Adams was disturbed by the slanderous nature of the opposition press. Beyond that there seems no certainty of his position.

Pertinent to an evaluation of Adams's part in the laws, however, is the matter of its enforcement. A decade and a half after the passage of this legislation, John Adams wrote to Thomas Jefferson that "he had not applied the alien law in a single instance," and the historian Frank Malloy Anderson believed he "was at least technically correct." The same historian wrote, "There is no evidence to show that President Adams ever personally interested himself in the enforcement of either law."²³ There is evidence that many Federalists, especially Timothy Pickering, wanted to use the alien laws to deport large numbers of noncitizens. There is also proof that John Adams resisted this pressure—he refused to deport French consuls already stationed in this country, and he several times rejected Pickering's appeal that he sign blank warrants to be used at Pickering's discretion. There is evidence that Pickering was continually trying to persuade the president to move more energetically under these laws.

The Alien Acts were not without effect. Many aliens, especially recent French émigrés, hurriedly left the country, fearing the provisions of the Alien Acts would be turned against them. Enemy agents may well have reduced their activity for fear of reprisals. President Adams did sign warrants for the deportation of three aliens, but they had left the country before they could be apprehended.

It was the Sedition Act, however, that caused most of the anger and dispute, as it has attracted most of the attention of the historians of the period. That both John and Abigail were seriously nettled by the malign accusations and attacks of the Jeffersonian press is readily admitted. At the end of March 1798 for example, a Charleston, South Carolina, newspaper demanded the resignation of the president and his entire cabinet, accusing them of being the source of all the trouble with France. Week after week the administration was accused of dishonesty, misrepresentation, and malicious disloyalty. Without approving of censorship of the press, one can sympathize with Abigail when she wrote her sister, "Yet dairingly do the vile incendiaries keep up in Baches paper the most wicked and base, violent & calumniating abuse But, nothing will have an Effect until congress pass a Sedition Bill"²⁴

As noted above, when the Sedition bill was being debated in Congress its proponents argued that it was more lenient than recently passed British legislation, more protective of the rights of the accused than the common law, and that there were safeguards such as the necessity to prove "malice and intent" and the provision that

allowed submission of the truth as evidence. Yet Borden pointed out that "in operation, these safeguards were of little value. Truth was never used as an effective defense." Furthermore, he indicated, "judges freely delivered blazing lectures to the jury" in "a climate of fear and defiance."²⁵

During the period of hysteria that followed its passage, fourteen persons were sentenced under the Sedition Act. John Adams, without doubt, and despite protestations he made in later life, must take some of the blame for that hysteria, for he seems to have approved at least two of the major prosecutions.

This is certainly not a happy aspect of American history, and those who, through the years, have proclaimed it one of the most fearful and disgraceful episodes in our history have been quite correct. Most judges in 1798 and 1799 seem to have been linked both by politics and by social and economic class to the Arch Federalists, and few of those indicted under the Sedition Act seem to have received an impartial trial. Speaking of the alien and sedition legislation, DeConde wrote, "with Secretary of State Pickens as their chief enforcement officer, and Hamilton a leading advocate of their enforcement, the spirit of the black cockade became one of intolerant, oppressive, and, at times, hysterical native Americanism."²⁶

It is quite proper to condemn the alien and sedition legislation, yet it should be recognized that the significance of that legislation has been overstated. There were Republicans, as well as Federalists, who supported at least part of the program. Some Americans defended the legislation as "war measures." When the Republicans were in power in certain states, Virginia among them, they used the state courts and English common law to inflict penalties for libel even more excessive than those meted out by federal courts under the Sedition Act.

Furthermore, the political effects of the legislation have been distorted and misrepresented. Even the most thorough student of the Jeffersonian newspaper press concluded, "Indisputably, the Sedition Law was a key issue in the 1800 campaign."²⁷ It has been pointed out, however, that in the elections of 1799, eight out of nineteen Virginians elected to the national House of Representatives were Federalists; and thus it would appear that in Virginia, seedbed of the Virginia and Kentucky Resolutions, stronghold of Jefferson and Madison, the Federalists did roughly twice as well as they had in the previous election. Nationalism, aroused by the XYZ furore, seems to have been a much more potent political factor than any anger directed at the sponsors of the repressive legislation. Many

of those who have studied the presidential election of 1800, especially the more recent scholars, tend to de-emphasize the importance of the Alien and Sedition Laws in accounting for Jefferson's victory. In spite of the publicity that resulted from the abortive efforts of the Republicans to repeal the legislation, and the attention to these laws in the Jeffersonian press in 1800, most recent historians have tended to believe that both taxes and the issue of the army were more potent, politically, than the Alien and Sedition Acts.

Support or refute the following statement: "The Alien and Sedition Acts were a gross abuse of power which illustrated the sanity of the anti-federalist fears during the Constitutional Convention."

Write your thesis using the thesis formula.

