

# Alien and Sedition Acts

In 1798, the Federalist-controlled Congress passed four acts to empower the president of the United States to expel *dangerous Aliens* from the country; to give the president authority to arrest, detain, and deport resident aliens hailing from enemy countries during times of war; to lengthen the period of naturalization for immigrants, and to silence Republican criticism of the [Federalist Party](#). Also an act passed by Congress in 1918 during [World War I](#) that made it a crime to disrupt military recruiting or enlistments, to encourage support for Germany and its allies or disrespect for American war efforts, or to otherwise bring the U.S. government, its leaders, or its symbols into disrepute.

## The Alien and Sedition Acts of 1798

Passions over the French Revolution split early American politics. Having endured [Shays's Rebellion](#) and the [Whiskey Rebellion](#), Federalists saw much to fear in the French Revolution. On the other hand, Democratic-Republicans, led by [Thomas Jefferson](#), proudly supported the French Revolution as the progeny of the American Revolution. Democratic-Republicans still viewed Britain as an enemy, while the Federalists regarded Britain as a bulwark against French militancy.

In early 1798, [John Quincy Adams](#), son of President [John Adams](#) and the U.S. ambassador to Prussia, advised his father that France intended to invade America's western frontier. Jonathon Dayton, speaker of the U.S. House of Representatives, speculated publicly that troops already massed in French ports were destined for North America. Federal officials feared parts of America were rife with French agents and sympathizers who might rise up in support of an invasion. George Tucker, professor of Law at the College of William and Mary, predicted that 100,000 U.S. inhabitants, including himself, would join a French invading army. Former president [George Washington](#), summoned from retirement to lead the U.S. Army against a possible French invasion, expressed concerns that France would invade the southern states first, "because the French will expect from the tenor of the debates in Congress to find more friends there."

Congress responded to these concerns by enacting the [Alien and Sedition Acts](#), the popular names for four laws passed in 1798. On June 18, Congress passed the Naturalization Act, which extended from five to 14 years the period of residence required for alien immigrants to become full U.S. citizens (1 Stat. 566). On June 25, Congress passed the Alien Act, which authorized the president to expel, without a hearing, any alien the president deemed "dangerous

to the peace and safety" of the United States or whom the president suspected of "treasonable or secret" inclinations (1 Stat. 570). On July 6, Congress passed the Alien Enemy Act, which authorized the president to arrest, imprison, or banish any resident alien hailing from a country against which the United States had declared war (1 Stat. 577).

None of these first three acts had much practical impact. The Naturalization Act contained a built-in window period that allowed resident aliens to become U.S. citizens before the fourteen-year requirement went into effect. President Adams never invoked the Alien Act, and the passing of the war scare in 1789 rendered the Alien Enemies Act meaningless.

However, the Sedition Act deepened partisan political positions between the Federalist Party and the [Democratic-Republican Party](#). The Sedition Act made it a high misdemeanor, punishable by fine, imprisonment, or both, for citizens or aliens (1) to oppose the execution of federal laws; (2) to prevent a federal officer from performing his or her duties; (3) to aid "any insurrection, riot, [Unlawful Assembly](#), or combination"; or (4) to make any defamatory statement about the federal government or the president (1 Stat. 596).

Because the Federalists controlled Congress and the White House, Republicans believed these laws were aimed at silencing Jeffersonian critics of the Adams administration and its laws and policies. Eighteen people were indicted under the Sedition Act of 1798; 14 were prosecuted, and 10 convicted, some of whom received prison sentences.

The validity of the Sedition Act was never tested in the U.S. Supreme Court before it expired in 1801. But Congress later passed a law that repaid all fines collected under it, and Jefferson, after becoming president in 1801, pardoned all those convicted under the act.

Before becoming president, Jefferson joined Madison in voicing opposition to the Sedition Act by drafting the VIRGINIA AND KENTUCKY RESOLUTIONS. Jefferson was responsible for drafting the two Kentucky Resolutions, while Madison penned the one Virginia Resolution. The Virginia and Kentucky Resolutions condemned the Sedition Act as a violation of the Free Speech Clause to the [First Amendment](#) of the U.S. Constitution. The resolutions also argued that Congress had exceeded its powers by passing the law in the first place, since Congress may only exercise those powers specifically delegated to it, and nowhere in Article I of the Constitution is authority given to the legislative branch to regulate political speech. The Kentucky state legislature passed its two resolutions on November 16, 1798, and

November 22, 1999, while Virginia passed its one resolution on December 24, 1798.

## Sedition Act of 1918

Concern over disloyalty during wartime provided the backdrop for the second Sedition Act in U.S. history. In April 1917, the United States entered World War I when Congress declared war against Germany and its allies. A month later, the Selective Service Act reinstated the military draft. Both the draft and U.S. entry into the war were met with protest at home. Worried that anti-war protestors might interfere with the prosecution of the war, Congress passed the Sedition Act of 1918.

An amendment to the [Espionage Act of 1917](#), the Sedition Act of 1918 made it a felony (1) to convey false statements interfering with American war efforts; (2) to willfully employ "disloyal, profane, scurrilous, or abusive language" about the U.S. form of government, the Constitution, the flag, or U.S. military or naval forces; (3) to urge the curtailed production of necessary war materials; or (4) to advocate, teach, defend, or suggest the doing of any such acts. Violations were punishable by fine, imprisonment, or both. The law was aimed at curbing political dissent expressed by socialists, anarchists, pacifists, and certain labor leaders.

The U.S. Supreme Court upheld the Sedition Act of 1918 over free speech objections made by civil libertarians. However, in a famous dissenting opinion that shaped First Amendment law for the rest of the twentieth century, Associate Justice OLIVER WENDELL HOLMES JR. encouraged courts to closely scrutinize prosecutions under the Sedition Act to make sure that only those individuals who created a [Clear and Present Danger](#) of immediate criminal activity were convicted ([Abrams v. United States](#), 250 U.S. 616, 1180, 40 S. Ct. 17, 63 L. Ed. 1173 [1919]).

## Further readings

Miller, John Chester. 1951. *Crisis in Freedom: The Alien and Sedition Acts*. Boston: Little, Brown.

Moore, Wayne D. 1994. "Reconceiving Interpretive Autonomy: Insights from the Virginia and Kentucky Resolutions." *Constitutional Commentary* 11 (fall).

Smith, James Morton. 1956. *Freedom's Fetters: The Alien and Sedition Laws and American Civil Liberties*. Ithaca, N.Y.: Cornell Univ. Press.

## Cross-references

[Aliens "Aliens and Civil Rights" \(Sidebar\); Espionage; Freedom of Speech.](#)

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