

The Sedition Act and Civil Liberties— A Document-Based Question

Prepared by Eric Rothschild

For use in conjunction with “The Sedition Act Trials,” by Bruce A. Ragsdale, available at <http://www.fjc.gov/history/home.nsf>. A unit in the Teaching Judicial History Project, developed by the Federal Judicial Center in partnership with the American Bar Association’s Division for Public Education.

Document-Based Question

To what extent did the Sedition Act of 1798 mark a gain for civil liberties in theory and in practice?

Directions: This document-based question is designed for use with students who have studied “The Sedition Act Trials,” by Bruce A. Ragsdale (available online at <http://www.fjc.gov/history/home.nsf>). Student essays should draw on the documents below, their knowledge of the period from 1798–1801, and the unit to construct their response. Essays should cite key pieces of evidence from the documents.

Document A

The liberty of the press is indeed essential to the nature of a free state: but this consists in laying no *previous* restraints upon publications, and not in freedom from censure for criminal matter when published. Every freeman has an undoubted right to lay what sentiments he pleases before the public . . . but if he publishes what is improper, mischievous, or illegal, he must take the consequence of his own temerity.

Source: Blackstone’s *Commentaries on the Laws of England*, 1765–69. Facsimile of the 1st ed. (Chicago: University of Chicago Press, 1979), 4: 151–52.

Document B

Either the Executive must have been supremely ignorant of the Laws of Nations, or his moral sense must have sympathized with that of the Secretary of the Treasury. The law of nations being precise on the reality of our Treaties, can leave him but the alternative of the grossest ignorance, or the basest treachery. No intention can be clearer, than that the Administration wished to keep aloof from our engagements with France, and intention in this case constitutes the highest grade of criminality.

Source: *The Argus or Greenleaf’s New Daily Advertiser* [New York City] “Letter to the Printer of *The Independent Gazetteer* from Paulding.”

Document C

Suppose Congress had expelled Col. Lyon for spitting in your face—ought they not to have expelled you also for provoking it? A pretty affair this! and a pretty history of our great national assembly! . . . If the frost had been severe enough to congeal the *saliva*, it might have been carried through the state, like relics in a catholic country, to engage the worship of cowards. It might have been handed down to posterity, and perhaps revived the age of chivalry. Fie upon your nonsensical combat.

Source: *The Bee* [New London, Ct.] February 28, 1798. Letter to Mr. Roger Griswold.

Document D

Thinking Club:

The members of the truly *constitutional thinking club are commanded*, by their president to meet on Monday evening next, at the cooper's arms in Cateaton Street: The chair to be taken at half past seven, and to *begin to think* precisely at eight.

By order of the president. Every thinker is requested to bring pen, ink, and paper with him.

N.B. Those thinkers who may not have the good fortune to be born *deaf & dumb*, and who consequently may have the treasonable infirmity of exercising the faculty of speech, in order to obviate every possibility of danger, may be accommodated with *constitutional muzzles* at the door.

Source: *The Guardian of Freedom* [Frankfort, Ky.], August 7, 1798.

Document E

The Sedition Act, has likewise been shamefully misrepresented as an attack upon the Freedom of speech and of the press, but we find on the contrary, that it prescribes a punishment only for those pests of society, and disturbers of order and tranquility 'who write, print, utter, or publish any *false, scandalous and malicious writings* against the Government of the United States, or either House of the Congress of the United Sates, with intent to defame or bring them into contempt or disrepute, or to excite against them the hatred of the good people of the United States, or to stir up sedition, or to abet the hostile designs of any foreign nation.' . . . We may indeed use our tongues, employ our pens, or carry our cudgels or our muskets whenever we please; but at the same time we must be accountable . . .

Source: Speech by Timothy Pickering, September 29, 1798, published in the *Porcupine's Gazette* [Philadelphia, Pa.], October 9, 1798.

Document F

Matthew Lyon, of Vermont, has the *honor* of being the first victim of a law, framed *directly in the teeth of the Constitution of this Federal Republic*—the ancients were wont to Bestow particular honors on the first chosen who suffered in *resisting tyranny*.

Source: *The Aurora and General Advertiser*, as quoted in *Porcupine's Gazette* [both published in Philadelphia, Pa.], November 3, 1798.

Document G

To the usual subjects of gratitude I can not omit to add one of the first importance to our well-being and safety; I mean that spirit which has arisen in our country against the menaces and aggression of a foreign nation. A manly sense of national honor, dignity, and independence has appeared which, if encouraged and invigorated by every branch of the Government, will enable us to view undismayed the enterprises of any foreign power and become the sure foundation of national prosperity and glory.

Source: Annual Message of President John Adams, December 8, 1798. Printed in *A Compilation of the Messages and Papers of the Presidents Prepared under the Direction of the Joint Committee on Printing, of the House and Senate, Pursuant to an Act of the Fifty-Second Congress of the United States* (New York: Bureau of National Literature, Inc., 1897), 261–62.

Document H

The succeeding day at 10 o'clock [James Thompson Callender] appeared at the bar to receive his sentence. Judge Chase, after making some observations upon the dangerous consequences that must result from a disobedience to the laws, . . . addressed himself to the prisoner, to inform him of the determination of the Court—which was, that he be fined the sum of 200 dollars, [and] imprisoned nine months. . . . We hope and trust that this prosecution may have the desired effect in deterring others from any attempt to violate the laws of our country—under which banner, rests all that is dear to us.

Source: *The Newport Mercury* [Newport, R.I.], June 24, 1800.