

Freedom's Fetters: The Alien and Sedition Laws and American Civil Liberties

James Morton Smith

*ePub | *DOC | audiobook | ebooks | Download PDF*



#3289856 in Books 1966-06Ingredients: Example IngredientsOriginal language:EnglishPDF # 1 #File Name: 0801490332488 pages | File size: 66.Mb

James Morton Smith : Freedom's Fetters: The Alien and Sedition Laws and American Civil Liberties before purchasing it in order to gage whether or not it would be worth my time, and all praised Freedom's Fetters: The Alien and Sedition Laws and American Civil Liberties:

0 of 0 people found the following review helpful. Five StarsBy G.L. SeligmannIt's reputation as a classic is well deserved.6 of 6 people found the following review helpful. Government Overreach in Early US HistoryBy Leonard J. WilsonFreedom's Fetters, by James Morton Smith, is the history of the Alien and Sedition Acts of 1798. I'll get back to the Acts after a brief setting of the stage.In 1798, the Federalist Party controlled both houses of congress and the presidency in the person of John Adams. This was the time of the "Quasi-War" with Revolutionary France, which was technically still an ally of the US from the time of our revolution. French ships were routinely attacking American shipping. In 1793, the French emissary to the US, "Citizen" Genet, had most undiplomatically sought to incite the American people against their own government using the argument that Washington's neutrality policy in the French-British conflict was incompatible with the US-French alliance. In 1795, Jay's Treaty with Britain had placed the US in what the French government coonsidered a pro-British stance. In 1797, President Adams had sent three emissaries to Paris to attempt to negotiate a peaceful settlement to these conflicts. The emissaries (Charles Cotesworth Pinckney, John Marshall, and Elbridge Gerry) were not received by French Foreign Minister Talleyrand and were told that to be

received a bribe must be paid. Pinckney and Marshall, both Federalists, departed and reported the situation to Adams and Congress (the XYZ Affair in which the names of the three French officials who demanded the bribe were named only as X, Y, and Z.) Gerry, a Republican, remained in Paris in case an opportunity arose to salvage the diplomatic mission. His decision was motivated by patriotism but resulted in Federalist claims that he, and other prominent Republicans, were "the French Party". War between the US and France was widely expected. Back to the Alien and Sedition Acts. There were actually four separate acts, all passed in 1798, which are often lumped together under this heading:

1. The Naturalization Act increased the waiting period for immigrants seeking US citizenship from five to fourteen years. The motivation for this Federalist measure was that the newly enfranchised immigrants tended to vote overwhelmingly for Republican candidates, and the election of 1800 was likely to be close.
2. The Alien Enemies Act provided for the deportation of citizens of a hostile country when a formal state of war has been declared. This was the only one of the four acts that had bipartisan support. Its provisions are still in effect today.
3. The Alien Friends Act gave the president authority to deport aliens of countries with which the US was not at war based merely on the president's suspicion that the individuals were a threat to the US. Such aliens need not have broken any law, no legal charges need be presented, and no court hearings were required. A deported alien who returned without permission could be jailed for as long as the president deemed appropriate.
4. The Sedition Act severely restricted the freedom of US citizens as well as aliens in the US to speak, write, print, or publish anything critical of the US government or its officials. Questioning the constitutionality of an act, or the motivation of the president or members of congress who supported such an act, were expressly included as seditious actions.

The Bill of Rights had been added to the Constitution in 1791. The Alien Friends Act was in direct conflict with the Fifth Amendment provision that no person should be deprived of life, liberty, or property without the due process of law. The Sedition Act was in direct conflict with the First Amendment guarantees of freedom of speech and the press. The Alien Friends act appears not to have been used by the Adams Administration before it expired. In contrast, the Sedition Act was used in several prosecutions and convictions. Professor Smith provides detailed descriptions of these cases and closes his book with some interesting background that is worth noting. At the time of the American Revolution, English Common Law applied in the Colonies. Among its provisions was the Common Law of Seditious Libel which "asserted the right of the state to punish those who wrote true statements about public magistrates if they tended to expose them to public hatred, contempt, and ridicule". To make the Sedition Act of 1798 more palatable to American minds, the Federalists included provisions that provided that (1) the truth of a statement was an adequate defense, (2) the criminality of a writing was to be determined by the jury, and (3) the author must have written with "bad intent" as opposed to the common law test which merely judged the "tendency" of the effect of the writing. In the cases tried under the Sedition Act, Federalist judges effectively rewrote these provisions by (1) requiring the accused to prove the truth of every statement in question, thereby assuming him guilty until proven innocent, (2) provided instruction to the jury that declared that the statements in question were criminal and charging the jury only to determine whether or not the accused was the author, and (3) also instructed the jury that by attempting to prove the truth of the statements, the accused had demonstrated his "bad intent". The judges, especially Samuel Chase of the US Supreme Court, made the Sedition Act closely resemble the Common Law of Seditious Libel. Perhaps the most important outcome of furor caused by the Sedition Act was the clarification of the meaning of the First Amendment. In 18th Century Britain, freedom of the press was limited to freedom from censorship prior to publication. (Censorship ended with the expiration of the Licensing Act of 1695.) As noted above, the Common Law of Seditious Libel gave the British government extensive powers to punish writers who displeased the government. The more extreme Federalists believed that the First Amendment merely prohibited pre-publication censorship. The defeat of the Federalists in the 1800 election established the deeper meaning of the First Amendment. The Alien Friends and Sedition Acts expired in 1801 and were not renewed. Professor Smith had intended to write a second volume on the reaction to these acts, specifically on the Kentucky and Virginia Resolutions, in which these states denounced the Alien Friends Act and the Sedition Act as unconstitutional and called for their repeal. Sadly, I cannot find any indication that the second volume was ever published. *Freedom's Fetters* was originally published in 1955 and remains, to the best of my knowledge, the primary text on the Alien and Sedition Acts. It deserves to be reprinted and reread as a lesson on the evolution of constitutional law and civil liberties. Today it is also relevant to the legal status and treatment of immigrants.

Freedom's Fetters: The Alien and Sedition Laws and American Civil Liberties