Free Speech in Wartime

"The Reign of Witches"

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As Americans struggle with civil liberties issues raised by the War on Terrorism, we should be mindful of the fact that these questions are not unprecedented in our nation's history. In fact, the United States has had to reconcile its commitment to civil liberties with the felt necessities of wartime many times in the past. The record is not a happy one. Indeed, the United States has a long and unfortunate history of overreacting to the perceived dangers of wartime. Time and again, Americans have allowed fear and fury to override their better judgment.

During the Civil War, the government suspended the writ of habeas corpus, resulting in the detention of as many as 38,000 civilians by military authorities; during World War I, the government used the Espionage Act of 1917 and the Sedition Act of 1918 to suppress almost all criticism of the war; during World War II, the government interned 120,000 individuals of Japanese ancestry, two-thirds of whom were American citizens; during the Cold War, the government unleashed a host of loyalty programs and investigations that viciously punished dissent; and during the Vietnam War, the government sought aggressively to "expose, disrupt and otherwise neutralize" organizations and individuals who opposed the war. In each of these instances, the United States has violated civil liberties, and then—later—regretted its actions. It is time we learned from our mistakes.

The very first such conflict, which produced the Alien and Sedition Acts of 1798, is instructive. The years between 1789 and 1801 marked a critical period in American history. In an atmosphere of fear, suspicion and intrigue, the nation's new Constitution was put to a test of its very survival. Bitter internal conflicts buffeted the young nation, even as it found
itself dangerously embroiled in a fierce struggle between the French Republic and Imperial Britain. It was a time of partisan anger and national fear. The political struggles of this era revealed sharp divisions in the nation's nascent understanding of civil liberties and yielded fundamental lessons that shape our national values to this day.

We tend to romanticize the “founding fathers,” but they were subject to petty jealousies, partisan squabbling, and deep distrust, especially of one another. Moreover, they were unsure of the constitutional system they had put in place. It was, after all, an experiment. As they embarked upon an adventure in self-governance, they had no clear precedents to guide their way. When the issue was war and peace, life and death, they deeply disagreed over how much to risk on an untested idea.

No single foreign event affected the United States more profoundly in the 1790s than the French Revolution with its social, political, and diplomatic repercussions. After the Revolution of 1789, most Americans hailed the new Republic's commitment to “liberté, fraternité, égalité.” Over the next several years, however, France found itself embroiled in religious conflict, civil war, and economic chaos that tore at its foundations. With the executions in 1793 of Louis XVI and Marie Antoinette, France spiraled into the “Reign of Terror.”

A pro-monarchist coalition, including England, Spain, Austria, the Netherlands and Prussia, declared war on France. By 1794, however, France had repelled the invaders, and by 1797 it had taken the offensive and seized modern-day Belgium, the Rhineland and the Italian peninsula. Napoleon’s victories made France the dominant military power in Europe. A mighty French army threatened to cross the channel to England.

The United States, eager to maintain its growing international commerce, attempted to preserve a precarious neutrality. But by refusing to support either the British or the French, the United States incurred the enmity of both. The British navy seized American ships and impressed American seamen into its service, bringing the United States and England to the brink of war. Desperate to avoid a break with England, President Washington sent John Jay to London. In 1794, Jay negotiated a treaty that ensured cordial Anglo-American relations and expanded the opportunities for American commerce.

But the Jay Treaty affronted the French, who charged

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treaties with France. An aging George Washington was recalled from Mount Vernon to assume command of the nation’s military forces.

With the appearance of war, the man who had won the presidency by only three electoral votes over Thomas Jefferson became a national hero. Whenever Adams appeared in public, he was greeted with huzzas. The nation was on war footing. Bands played, canon roared and flags unfurled in patriotic fervor. In this fevered atmosphere, as so often throughout our history, the nation's commitment to civil liberties was soon rationalized out of existence.

To understand the bitterness of the debate over the Alien and Sedition Acts of 1798, it is necessary to appreciate the surprising growth of political parties. Although the framers of the Constitution had not anticipated political parties, and had warned sternly against the perils of faction, party structures began to emerge during Washington's first administration as the consequence of long-standing disagreements between merchants and farmers, creditors and debtors, Northerners and Southerners.
The Federalists, led by Alexander Hamilton, and the Republicans, led by Thomas Jefferson and James Madison, differed sharply in their attitudes towards government finance, centralization of authority, and popular government. Federalists distrusted the ignorance, passions and prejudices of the common man. They feared that democracy could readily lapse into anarchy and believed that a governing elite was necessary to lead the nation. Although the “people” might express their views at the ballot box, their representatives, once elected, had the responsibility to govern.

A central mission of the Federalist Party was to save the nation from the perils of democracy. To Federalists, the paramount end of government was to “protect the rights of property and the tranquility of society.” The Federalist Party drew its support largely from the propertied interests — merchants, bankers, shippers, financiers and large landowners. It was committed to long-term economic growth and a strong central government.

Republicans, by contrast, held an ardent faith in popular government. They feared tyranny more than anarchy, and valued liberty more than security. They advocated a government directly responsive to the will of the people, without the oversight of a ruling class. Consisting largely of artisans, mechanics and farmers, the Republican Party distrusted the nation’s commercial and financial interests and envisioned a decentralized republic that would stand as a symbol of individual liberty.

Republicans saw the French Revolution as an extension of the American promise of liberty, republicanism and democracy. Federalists saw the French Revolution as a menacing harbinger of disorder, licentiousness and atheism. It was, to them, a clear and present danger to the established order. Republicans feared the allure of British laws and customs; Federalists feared the contagion of Jacobin values and ideas. Each party feared that the other posed a threat to its vision of America.

The growing antagonism between the parties boiled over in the rancorous congressional debates in the spring of 1798 over Adams’s proposed defense measures. Federalists were quick to embrace the President’s call to strengthen the nation’s defense. Republicans were skeptical. Fearing that a large military build-up would make war with France inevitable, increase the authority of the President, and deepen the national debt, they opposed every significant measure put forth by the Federalists. But because the Federalists had working majorities in both Houses of Congress, most Federalist proposals were quickly enacted by a (more or less) straight party vote.

A careful review of these debates is essential both to understand the tenor of the times and to begin to see the emergence of patterns of discourse in times of real or perceived crisis that have been repeated time after time throughout American history. In these often angry debates, which took place more than two centuries ago, we can see the all-too-familiar strands of argument that plague our wartime political rhetoric to this very day.

At the outset of the debate over the President’s war policy, Republicans charged that Federalists were flagrantly exaggerating the danger facing the nation and that the steps they proposed would likely precipitate, rather than avoid, a perilous and unnecessary war. Congressman Albert Gallatin of Pennsylvania, the leader of the House Republicans, derided Federalist fears of a French invasion as “as a mere bugbear,” and Congressman Richard Brent of Virginia observed that he was no more apprehensive of a French invasion than he was of being “transported before night into the moon.”

The Federalists were appalled. Congressman Robert Goodloe Harper of South Carolina pronounced it “extremely probable” that France would send its well-trained army against the United States, and warned that the nation must prepare immediately for war. Congressman “Long John” Allen of Connecticut questioned whether Republicans loved their country, and Congressman William Edmund charged Republicans with being “so degraded” that they were willing to receive whatever “boon we can beg” from the French.

In a pattern that would become all too common throughout American history, Federalists raised the specter of internal subversion. Congressman Samuel Sitgreaves of Pennsylvania maintained that the government must “destroy the cankerworm that is corroding in the heart of the country,” and Congressman Harrison Gray Otis of Massachusetts warned that “an army of soldiers would not be so dangerous to the country, as an army of spies and incendiaries scattered thorough the Continent.”

Federalists blurred the line between dissent and treason,
and directly accused Republicans of disloyalty. Harper charged that Republicans were attempting to prepare "the people for a base surrender of their rights" and asked just what "masters" they served. In this crisis, the Federalists saw—and seized—the opportunity to strike a critical blow at the Republicans. By discrediting Jefferson and his colleagues as disloyal and treasonable, the Federalists attempted to entrench themselves as the nation's dominant party. By leveraging a moment of high patriotism and deep suspicion, they succeeded in enacting a legislative program designed to cripple, perhaps even destroy, the Republican Party.

A theme that recurs throughout the history of war in the United States is the status of aliens. With fears about the French in 1798, the Germans in World War I, the Japanese in World War II, and Muslims in the War on Terrorism, Americans have long wrestled with the question whether non-citizens are entitled to civil liberties.

To Federalists, the greatest internal danger facing the nation was the rapidly growing foreign-born population. Between 1790 and 1798, a wave of foreigners had entered the United States, especially from France, Ireland and Germany. Federalists saw these immigrants, many of whom had fled tyrannical governments, as a nest of potential disloyalty and future Republican strength. Federalists like Harrison Gray Otis feared that immigrants would "contaminate the purity . . . of the American character." He was appalled at the prospect that the "turbulent and disorderly of all parts of the world" would come to America to "disturb our tranquility." Rufus King complained that such immigrants "are hardly landed in the United States, before they begin to cavil against the Government."

In the crucible of 1798, the Federalists extended to fourteen years the period of time an individual had to be resident in the United States before being eligible for citizenship—the longest residence requirement in American history. In addition, the Federalists rammed through Congress the controversial Alien Act, which was adopted as an "emergency" measure that would expire on the final day of President Adams's term of office. This Act empowered the president to seize, detain and deport any non-citizen he found to be dangerous to the United States. The individual had no right to a hearing, no right to be informed of the charges against him, and no right to present evidence on his behalf. The Act vested the final decision exclusively in the President.

Republicans attacked this act as a xenophobic betrayal of the nation's most fundamental principles. Congressman Williams objected that whenever governments want "to make inroads upon the liberties of the people" they trump up "an alarm of danger." He objected that no amount of danger could ever justify assigning such an "arbitrary power to the President."

Albert Gallatin asserted that "no facts had appeared . . . which require these arbitrary means to be employed against them," and demanded that, if supporters of the bill possessed such facts, they "lay them before the House." Moreover, he argued that even if such a danger existed it should be addressed by conventional laws, without adopting such an extreme measure. Gallatin warned that if such a law was appropriate for aliens, it might later be directed at citizens. He defied supporters of the act to point to "a single clause in the Constitution which . . . would not equally justify a similar measure against citizens of the United States."

The Federalists were unfazed. Congressman Otis replied that the act was necessary because "the times are full of danger, and it would be the height of madness not to take every precaution in our power."

In reply to the Republican charge that the Alien Act violated the Constitution, Congressmen Otis bluntly asserted that the Constitution gave no rights to aliens.

This infuriated the Republicans. James Madison described the act as a "monster," while Thomas Jefferson labeled it "detestable." The Alien Act was, indeed, a "monster." To put the most vulnerable members of society completely at the mercy of presidential fiat, with no right to due process, no right to counsel, and no right to independent judicial review, was a betrayal of the spirit, if not the letter, of the Constitution. The government could have achieved its legitimate goals in dealing with aliens without stripping them of these fundamental procedural protections. The decision to deny them those protections was petty, intolerant, and insidiously partisan. The hope, quite simply, was to frighten aliens back to their countries of origin.

The other prong of the Federalists' legislative program was the Sedition Act of 1798. To understand this legislation,
it is essential to appreciate the Federalist tenets on "the freedom of speech." In short, the Federalists had little faith in free and open debate. As Congressman James A. Bayard of Delaware observed, confidence that truth prevails over falsehood is "a fine moral sentiment, but our limited knowledge of events [does not] verify it." Federalists believed that the common man was easily manipulated and misled. They feared that even one Jacobin could "alarm a whole country with ridiculous fears of government." The Federalist Philadelphia Gazette warned that if "the alarm is caught by the weak," it will soon be "spread by the foolish" like a "contagious disease."

The Sedition Act declared it unlawful for any person to "write, print, utter or publish... any false, scandalous, and malicious writing or writings against the government of the United States, or either house of the Congress of the United States, or the President of the United States, with intent to defame [them], or to bring them [into] contempt or disrepute; or to excite against them [the] hatred of the good people of the United States."

In this act, the Federalists (and the United States government) declared war on dissent. Republican Congressman Albert Gallatin vehemently protested the proposed legislation. The act, he charged, could only be understood as a deliberate attempt by the Federalists "to perpetuate their authority." He recalled that laws against political criticism had been used time and again by tyrants "to throw a veil on their folly or their crimes." The "proper weapon to combat error," he argued, "is truth."

Congressman John Nicholas of Virginia argued that the Sedition Act would deprive the people of "information on public measures" that is the "life and support of a free Government." Although conceding that some printers might "abuse" the liberty of the press, he maintained that the "great check" on calumny must be the "sound understanding of the people." Congressman Nathaniel Macon of North Carolina warned Federalists that this law would "produce more uneasiness, more irritation, than any act which ever passed the Legislature of the Union," and asserted that the Act is "in direct opposition to the Constitution."

The Federalists were incredulous. Congressman Otis was at a loss to understand the alarm caused by the bill, which he described as "perfectly harmless." Congressman Samuel Dana of Connecticut declared it absurd to suggest that the framers of the First Amendment had intended "to guarantee, as a sacred principle, the liberty of lying against the Government."

Republicans replied that the matter was not so simple. Gallatin conceded that under the Act a defendant would be acquitted if he proved the truth of his assertions. But, he observed, the Act was directed against "writings of a political nature, libels against the Government," and it "was well known that writings, containing animadversions on public measures, almost always contained not only facts but opinions." How, Gallatin asked, could the truth of such opinions be proved?

As an illustration, Gallatin posited an individual who believed, as did he, that the proposed legislation was unconstitutional. Suppose such an individual decided to publish his opinion and the Adams administration prosecuted him under the Act. Would a jury, he asked, "composed of the friends of that Administration," hesitate to declare "the opinion ungrounded, or, in other words, false and scandalous, and its publication malicious?" In the "present temper of the parties," he asked, could the accused convince such a jury "that his opinion was true?"

A year later, James Madison reasoned that fundamental differences between English and American political institutions rendered the British conception of free speech inapposite to the United States. He reasoned that, in the seventeenth and eighteenth centuries, when the English common law of seditious libel evolved, the rulers—kings and lords—were deemed the "superiors" of the people. In such a system, it might be appropriate to require citizens to treat their rulers with respect and to prohibit criticism of their decisions. But, in the United States "a greater freedom of animadversion" is essential because government officials are "responsible to their constituents," who may quite properly bring them "into contempt or disrepute" if they "fail to live up to their trusts." Madison concluded that the Sedition Act was unconstitutional because it undermined "the responsibility of public servants and public measures to the people" and embraced the "exploded doctrine 'that the administrators...
of the Government are the masters, and not the servants, of the people.”

The Federalists had the votes. On July 10, 1798, the House approved the Sedition Act by a straight party vote of 44 to 41. On July 14, President Adams signed the Act into law.

The animosity that marked the congressional debates of 1798 also infected Federalist enforcement policy. The Federalists identified the Adams administration with the Constitution and construed criticism as disloyalty. The administration was eager to enforce the Act. Secretary of State Timothy Pickering led the charge. Grimly single-minded, Pickering was jealous in his hunt for Jacobin influences. Pickering exemplified the most rigid form of “extreme Federalism.” Even to Abigail Adams, never at a loss for caustic comment, he was a man “whose manners are forbidding, whose temper is sour and whose resentments are implacable.” In Pickering’s view, the Sedition Act was not a threat to free speech, but an essential measure to exterminate the “pests of society and disturbers of order and tranquility.”

In an era described by Thomas Jefferson as “the reign of witches,” the Federalists issued seventeen indictments for seditious libel—fourteen under the Sedition Act and three under the common law. The Federalist enforcement strategy was aimed directly at the presidential election of 1800. Pickering’s objective was to silence every leading Republican newspaper as the second contest between Adams and Jefferson drew nigh. Pickering prosecuted four of the five most influential Republican journals, as well as several lesser Republican newspapers. As a result of these prosecutions, two Republican newspapers folded and several others were compelled to suspend operations while their editors were in jail.

One of the most interesting of these prosecutions involved Congressman Matthew Lyon of Vermont. An Irish immigrant who had fought with the Green Mountain Boys during the Revolution, Lyon won election to Congress as an avid Republican in 1796. He was a frontiersman—coarse, crude, and bluntly outspoken. The Federalists despised him, ridiculing him as the “Beast of Vermont.”

Because Republicans and Democrats were almost evenly divided in the House of Representatives, the congressional elections of 1798 were bitterly contested. Any tip one way or the other could determine the outcome of pivotal national issues.

When Lyon returned to Vermont in the summer of 1798, he faced blistering criticism from his Federalist opponents. In a campaign speech responding to these attacks, Lyon criticized John Adams and his administration, declaring that under President Adams “every consideration of the public welfare” was “swallowed up in a continual grasp for power, in an unbounded thirst for ridiculous pomp, foolish adulation, and selfish avarice.”

On October 3, 1798, the Federal Circuit Court for the District of Vermont convened in Rutland, Vermont. In charging the grand jury, Associate Justice William Paterson of the United States Supreme Court explained the Sedition Act and advised the grand jurors to pay careful attention “to the seditious attempts of disaffected persons to disturb the government.” On October 5, the grand jury indicted Congressman Matthew Lyon for violating the act by maliciously bringing “the President and government of the United States into contempt.”

Acting as his own attorney, Lyon argued that the Sedition Act was unconstitutional, that he had not spoken maliciously, and that his statements were true. Justice Paterson rejected out-of-hand Lyon’s constitutional objection and then instructed the jurors that they “must render a verdict of guilty” if
Lyon had made his remarks with the intent of making the President "odious and contemptible" and bringing him "into disrepute." After an hour's deliberation, the jury returned a verdict of guilty.

The next day, Justice Paterson sentenced Lyon to four months in jail and a substantial fine. Although Lyon had lost most of his property in the depression of 1798, Paterson ordered he would remain in jail, even beyond his four month sentence, unless and until the fine was paid.

Lyon was stunned. The most he had anticipated was a minor fine and a reprimand. But the sentence was only the beginning. From that moment on, he was subjected to a long series of indignities. He was not permitted to return to his lodgings to procure his papers or given time to arrange his affairs, but was taken immediately into custody. Instead of being imprisoned in his home county of Rutland, where the trial had taken place, he was dragged on a humiliating two-day journey, under armed guard, to a jail in Vergennes, forty-four miles away.

Jabez Fitch, the marshal in charge of Lyon's imprisonment and one of Lyon's most bitter Federalist enemies, seized every opportunity to add to his prisoner's misery. Fitch confined Lyon in a cell that Lyon described as "the common receptacle for horse-thieves, money-makers, runaway-negroes, or any kind of felon." In the corner of the cell was a "necessary" that, in Lyon's words, afforded "a stench equal to the Philadelphia docks in the month of August." There was nothing "but the iron bars to keep the cold out." Thus, Lyon had to "walk smartly with my great coat on, to keep comfortably warm." Lyon's constituents were outraged by his treatment and threatened to break into the jail to free him, but Lyon dissuaded them, vowing that he would rather "suffer any kind of death here ... than be taken out by violence."

Federalists were overjoyed with Lyon's conviction. The Salem Gazette cheered that "the vile career of the beast of the mountain" has ended in disgrace, and the Gazette of the United States celebrated Lyon's conviction as the triumph of law over the "unbridled spirit of opposition to government." Republicans, of course, were of a different mind. The Aurora hailed Lyon as a martyr of "a law framed directly in the teeth of the Constitution," and Jefferson wrote that federal judges are now "objects of national fear."

Undaunted by his plight, Lyon launched a vigorous re-election campaign from jail. For the first time in American history, a candidate for Congress championed his cause from a federal prison. Lyon appealed to the American sense of justice, and as he attacked his Federalist persecutors he took on the mantle of a hero suffering unmerited punishment for having upheld freedom against his enemies.

When the ballots were counted, Lyon won a stunning victory. Republicans were jubilant. Jefferson exultantly wrote Madison: "Lyon is re-elected!" Federalists were furious. The Commercial Advertiser lamented that "our national councils" will again be "disgraced by that vile beast."

That still left the matter of the fine. Senator Stevens T. Mason of Virginia wrote Lyon on November 10, 1798, that he and Lyon's fellow Republicans had agreed that "the personal suffering to which you are exposed" is much more than what "you ought to bear in the common cause of Republicanism." Because the fine was the only part of the sentence in which others could share, Lyon's colleagues decided "that it should be paid by subscription among the enemies of political persecution." Jefferson, Galloway, Madison and James Monroe were among those who contributed to this fund.

When Lyon returned to Philadelphia to take his seat in Congress, the Federalist Porcupine's Gazette snarled that "happy must the nation be where it is but a single step from the dungeon to the Legislature!" The Federalists moved immediately to expel Lyon from the House because of his conviction under the Sedition Act. In the ensuing debate, Congressman Nicholas argued that Lyon's conviction was unwarranted because he had been prosecuted for statements of political opinion. Nicholas asked the Federalists whether they truly believed that "opinions can be false." "Men's opinions," he argued, "are as various as their faces, and the truth or falsehood of those opinions are not fit subjects for the decision of a jury." The vote on the motion for expulsion was straight party line, with 49 in favor and 45 opposed. Because a two-thirds majority is necessary to expel a member of the House, Lyon retained his seat.

Years later, recalling the fear inspired by the Sedition Act, Thomas Jefferson reflected that "no person who was not a witness of the scenes of that gloomy period, can form any idea of the afflicting persecutions and personal indignities we had to brook." Although the Sedition Act was purportedly enacted as a war measure to strengthen the nation in its impending war with France, it served primarily as a political weapon to strengthen the Federalists in their ongoing war with the Republicans. Although Federalist editors and speakers were as guilty as Republican editors and speakers in their
resort to innuendo, hyperbole, and false statement in their political attacks, not a single Federalist was ever indicted under the act.

The Sedition Act alienated a substantial majority of the American people, gave those who supported the Republican cause a powerful issue of principle around which to rally, and hastened the downfall of the Federalist Party. In this respect, the story of the Sedition Act of 1798 teaches a critical lesson for the future: the protection of freedom must come ultimately from the people themselves. In the long run, a citizenry that relies entirely on legislators, judges and juries to protect their rights will have no rights.

A fundamental test for the new nation was whether it could peacefully transfer power from one faction to another. In 1800, the nation seemed to be “trotting on the edge of chaos.” No one knew for sure whether the election of 1800 would trigger civil war and the dismemberment of the nation. There was good reason to believe that the United States would simply disintegrate. But beneath the abusive rhetoric and venomous invective, it turned out that Federalists and Republicans shared a deeper allegiance to the Constitution than even they had suspected.

In his Inaugural Address in March of 1801, President Jefferson was conciliatory. He observed that “during the contest of opinion through which we have passed, the animation of discussion ... has sometimes worn an aspect which might impose on strangers unused to think freely and to speak and to write what they think.” “Every difference of opinion,” he observed, “is not a difference of principle ... We are all republicans — we are all federalists.”

Jefferson added that “if there be any among us who would wish to dissolve this Union or to change its republican form, let them stand undisturbed as monuments of the safety with which error of opinion may be tolerated while reason is left free to combat it.” Noting that the nation was “in the full tide of successful experiment,” he conceded that “sometimes it is said that man cannot be trusted with the government of himself.” But, he asked, “can he, then, be trusted with the government of others?”

As one of his first official acts of office, Jefferson pardoned all those who had been convicted under the Sedition Act and freed those who were still in jail, noting that he considered the Act “to be nullity as absolute and as palpable as if Congress had ordered us to fall down and worship a golden image.”

Forty years later, on July 4, 1840, Congress repaid all of the fines paid under the Sedition Act, with interest, to the legal representatives of those who had been convicted. The congressional committee report declared that the Sedition Act had been passed under a “mistaken exercise” of power and was “null and void.” The unconstitutionality of the Act, the report announced, had been “conclusively settled.”

More than a century after Congress’ action, the Supreme Court, in its landmark 1964 decision in New York Times v. Sullivan, celebrated our “profound national commitment to the principle that debate on public issues should be uninhibited, robust, and wide-open,” noting that it may well include “vehement, caustic, and sometimes unpleasantly sharp attacks on government and public officials.” The Court added that “this is the lesson to be drawn from the great controversy over the Sedition Act of 1798, which first crystallized a national awareness of the central meaning of the First Amendment.” The Court concluded that, “although the Sedition Act was never tested in this Court, the attack upon its validity has carried the day in the court of history.”

What can we learn from this episode? The threat of imminent war with France fostered a climate of fear and suspicion. The sights and sounds of martial music, waving flags, patriotic parades, and men in uniform stirred the blood and quickened the imagination. In this atmosphere of high anxiety and fevered patriotism, the nation rallied in support of bold new legislation designed to strengthen the military, ferret out and destroy potential subversives, and crush disloyalty. In the tide of wartime hysteria, the cautions voiced by Republicans were swept aside as the self-interested protests of a suspect faction. The congressional debates in 1798 reveal how easily a nation in the throes of a wartime hysteria can slide from disagreements about policy to accusations of disloyalty.

Moreover, as illustrated by the events of 1798, those in power in such circumstances can readily exploit a perceived threat to the nation’s security to serve their own partisan ends. A time-honored strategy for consolidating power is to inflame the public’s fears, inflame their patriotism, and then condemn political opponents as “disloyal” and “un-American.” A national crisis (real, fabricated or imagined) invites this strategy. As Americans learned in the struggle over the Alien and Sedition Acts, it falls ultimately to the people themselves to preserve their most precious liberties.