

The Affects of Fear on Government Powers in Times of Crisis: the
Terror Theorem

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Acknowledgments and Dedication

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Abstract

In the course of the last few years the United States has embarked on a new and bold kind of war in the wake of the 9/11 attacks. Among the results of this war is a new kind of a trust in the government and its leaders the likes of which have not been seen in this country since WWII. As a result of 9/11 and WWII, people turned to their government and in a single voice declared a new trust in it and with these new trusts came new powers. It is the purpose of this thesis has been to examine these "new" powers in order to determine what caused the people to grant them, and also how long they are going to last. It has established a Terror Theorem that is a predictor model to show what makes people surrender their rights in these times. To do this a survey instrument will be given to a sample of the student body of Youngstown State that was designed to determine what role fear and politics play in this new world.

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CHAPTER ONE:

INTRODUCTION

War, famine, and plague: these are the words that have struck fear into the hearts of people since the dawn of time. Since 9/11 in the US we have added a new word to this list, terrorism. Though it is not what one would call a new problem it remains one of the most troubling to this day.

Just as war was the prime concern of early man, terrorism is ours. From dirty bombs to airplanes used as missiles, we are a people that have found a new fear and terrorism is it.

People in situations involving terrorism or fear find themselves banded together and ready to do whatever it takes to see an end to these horrible treats. Such situations have always curtailment of rights in order to achieve the goal of security. We want security and are willing to surrender our rights to get it: or are we? In the end here in the United States we have answered this question before but never as we have had to now. In past wars we have banded together and surrendered rights in order to see our country survive a conventional war, but the current emergency is not the same as a conventional war. As the reality of 9/11 moves from current events to recent history, is there still going to the same willingness to give up rights to the government? Also, if we have done this in the

past, why study this phenomena now? Why do we care?

These questions are at the very heart of a democratic society and indeed must be answered. In past emergencies, the people have banded together and called on their government for assistance. In this new war too there has been the call to arms, but there are differences from past wars. First, in this War on Terrorism there is in fact no clear discernable end. We knew in the WWII that there was an end after the Axis powers fell. Where shall the end to this war be? Is it enough to stop those terrorists that have attacked us on September 11 or is more needed? We know acts of terrorism have occurred all through most of the past several centuries. If we indeed intend to stop all terrorism we are going to be at this for some time, so this could indicate that the laws made to protect us from terrorists are going to essentially become permanent rather than ending as past laws have.

In this war it is law enforcement that, in theory, ought to be playing the key role and not the armed forces. We assume, after all, that terrorism is a crime, and therefore is it not the duty of the law enforcement and not the military to act?

These attacks are not going away and nor is this topic. If we look across the world we know these attacks or

ones similar to them all across the world from Britain to Egypt. It is indeed both timely and appropriate we study this to determine what one can expect to occur.

We are then going to look at the following Research Questions and Hypothesizes displayed in Table 1.

Table 1

Hypothesis and Research Questions

Hypothesis Number	Questions
Hypothesis 1:	That fear will directly effect if someone is supportive of the USA PATRIOT act and other restrictions or not
Hypothesis 2:	That as fear reduces the amount of support for the USA PATRIOT act and other restrictions shall reduce as well
Hypothesis 3:	That Political affiliation has an affect on willingness to surrender rights, with some groups being more likely to favor restrictions than others
Hypothesis 4:	That it is possible to develop a possible profile to determine who is most likely to surrender their rights

CHAPTER 2:

LITERATURE REVIEW

Before we can understand and decide why Americans are sometimes willing to give up their rights, there needs to be a discussion of the terrorists themselves. In the case of 9/11, it has its own special place in the hearts of Americans. After the attacks, America was left to ask who did this to us and why do they want to come after us in the first place. These are the questions this chapter seeks to answer.

For the sake of clarity this chapter is going to be split into several distinct parts: a definition of terrorism, an overall history of terrorists, a more case sensitive history of the Muslim Terrorists we are now facings some possible theories as to why they are after us, a look at the Terror Theorem, and finally a look at how past laws have limited American rights.

Before one can discuss terrorism, it is first necessary to define it. As defined by the federal government, terrorism means:

- . . .violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a

criminal violation if committed within the jurisdiction of the United States or of any State, that appears to be intended to intimidate or coerce a civilian population; to influence the policy of a government by intimidation or coercion; or to affect the conduct of a government by mass destruction, assassination, or kidnaping (18 USC 2331).

On the other hand, the Arizona Revised Statutes Terrorism is defined as:

. . . any felony, including any completed or preparatory offense, that involves the use of a deadly weapon or a weapon of mass destruction or the intentional or knowing infliction of serious physical injury with the intent to either: Influence the policy or affect the conduct of this stateor Cause substantial damage to or substantial interruption of public communications, communication service providers, public transportation, common carriers, public utilities, public establishments or other public services.

(13 Arizona Revised Statute 2308.01).

This is compared to the definition in the Ohio Revised Code:

No person shall commit a specified offense with

purpose to do any of the following Intimidate or coerce a civilian population, Influence the policy of any, government by intimidation or coercion, or affect the conduct of any government by the specified offense

(29 Ohio Revised Code 2909.24).

What is evident from these examples is that terrorism is almost anything. It ranges from statutes in Ohio where anything can be classified as an act of terrorism if it could be politically motivated, to the more specific though yet still vague Arizona statute, to the Federal statute listing specific offenses that are terrorist acts. From all of this it is clear that there is no universally accepted definition of terrorism. Rather one is frequently asked to develop their own. Therefore, for the purpose of this thesis, terrorism is defined as a politically motivated act of violence designed to intimidate the masses or to influence government policy.

Having developed a working definition of terrorism the next question is where terrorism came from. Laqueur (2001) puts the actual origin of what we would today call terrorism back to a Jewish rebellion against the Romans in the First Century, so to say that terrorism is a new thing is a stretch.

Essentially, terrorism is the use of violence to achieve a political objective. This does not say that terrorism and terrorists have not changed over the course of the last few centuries. In fact, Crenshaw (2001) states that the current form of radical Islamic terrorist (i.e. right-wing terrorism) are a more recent development.

Basically, Crenshaw lists terrorists as either a rightwing or a left wing phenomena. Left-wingers are the communist groups, the anarchists, or the radical environmentalists. Right-wingers are more the religious or patriotism inspired variety of terrorist.

Traditional terrorists include the Red Brigades and the other well meaning leftists that ran through Europe in the 1950s until the 1980s as well as the radical protesters of the Vietnam War, and states only the PLO and IRA were right wing terrorists at the time. According to Crenshaw this switch from the predominantly leftist to rightist terrorist concerns leads to other significant changes. The level of fundamentalism that exists from the right is significantly higher; she argues that with this new fundamentalism comes a less structured organization and a highly decentralized management system. These two

new changes cause a significant difference in how terrorist operate. Left-wing terror groups want a popular revolt making them less willing to commit significant unpopular acts. In contrast rightist terrorists feeling theirs is a divine call to action and not a secular one as such being willing to commit more heinous and less popular acts (like Oklahoma City or 9/11) It is then a different kind of terrorist society faces today. Crenshaw's second point is a difference in control. Traditional Left-wing groups have a strong central hierarchy. That has made the Left-wing groups easy to catch because if you stop the people on top you effectively stop the organization. Right-wing groups are arranged differently, with a lack of central leadership and instead a central goal or plan to work towards. Because of this lack of centralized organization (as in the case of the militia movement in the US) it is more difficult to catch those at top the hierarchy, as there is no one there. This new setup makes it increasingly more difficult to stop the movement.

There are prior examples of right-wing terrorists. Zellner (1995) gives examples of the Klu Klux Klan as an early terrorist organization. Carsten (1982) goes on to

describe the tactics of Nazis and other fascists movements in the mid 1900s as little more than terrorist actions. The actions of these Free Corps, the precursors to the Nazi's SA and later SS, would certainly today be in the category of a type of State Sponsored Terrorism. Radical Free Corps operating in Germany in the early inter war period were left with virtual free license from the Government and the Army to harass and stop the leftists from achieving any true power.

The IRA and the British nationals (McClung Lee 1983) have been at each other for centuries. McClung Lee examines the struggle dating back centuries to include everything from 1192 and the assumption of dominance by the British to the Tudor confiscation of land. From here there is a move to the 1649 use of the English Protestant Army under Cromwell leading to almost 750,000 people having been killed. He then proceeds to show evidence of Irish uprisings in 1795, 1796, 1858, 1867, 1916, the 1920s, 1960s and 70s. Overall these are viewed as either a no fault situation or a strictly British caused problem i.e., that the British forced the others to act as terrorists.

Things have not changed that much. According to the US 9/11 Commissions Report Osama Bin Laden was a US operative used against the Soviets in Afghanistan in the 1980s. When

was all told, this new form of right wing terrorism was not only ignored but supported by western governments until they became politically unpopular in the mid 1980s and throughout the 1990s. Bin Laden then is not in contradiction to the status quo as much as we would like to believe him to be. In short, though radical Islamic terrorists are a new threat to the US, they are not over all a new phenomena at all. We have always had right wing terrorists; we just called them something else.

Having established why terrorism is an important issue, the question now becomes why it is an issue at all. Why should people be willing to surrender their rights in times of war to the government more so than at any other time? There are any number of theories that might fit here, and listed below are the ones this thesis will focus on.

A significant factor in approaching mass public behavior is Social Contract Theory. When assessing social contract theory, one is presented with two main theories discussed in this thesis the classical Rousseau style and a second revisionist viewpoint championed by Adam Smith. In this section both theories will be discussed as well as their implications for the War on Terrorism and War Powers.

A bedrock of the western society, Social Contract Theory as developed by Jean-Jacques Rousseau, and discussed

by Ettin (1997) essentially states that the people relinquish certain powers to their government in exchange for security but that they maintain others as unquestionable and reserved. Essentially, Rousseau develops a principle of General Will as being a single collection of several personal wills then made one will via socialization (Ettin 1997). This means that the government is to act in a certain way because it is the will of a majority of the people or that as there is a social consensus therefore is action as well. Ettin goes on to add that there is only rarely one general will and that indeed a society may form several, but that according to Rousseau these subgroups must be subdued for the good of the many. Essentially then it is the duty in this case of the State to first listen to the people's general will and then to act on that will.

Adam Smith has taken a different view of social contract theory that according to Khalil (1998). To Smith power is more authority and legitimate ability to use it. To Smith, there are several differences, but the key difference is in that under classic Social Contract theory the power of the state rests in its ability to please the people. Under Smith this is still important, but Smith has the opinion the powers of the state are irreversible and not subject to the will of the people as long as the powers are

in the people's best interest. Essentially Smith believes that as little government is good government, and that so long as the government is acting in the best interest of the people the people ought not act out.

Both theories are similar as it relates to the theorem. Whether it is because of a public outcry or because of a practical necessity, both agree the actions of the government in crisis are greatly increased than in times of relative peace. There may be some differences in opinion as the people feel it is no longer in their interest and the government does, but in the short term both are in accord.

Next we examine Ethnomethodology. Here Garfinkle (1968) arguing that essentially society is a series of collective illusions. People look at these illusions and make their own beliefs to fit to them to be normal. What we choose to do essentially is dictated by what it is that we view the public as having done. In this case we see the terrorist attacks against the US and realize collectively that the Muslim Fundamentalists seriously dislike and intend to harm us as a whole. Whether or not that was a personal belief that was what we believed and therefore acted on by passing the PATRIOT act. The Muslim fundamentalists and by extension anyone that looked like they could have been a Muslim fundamentalists were then seen as a danger. This

then results in a collective image of a common enemy. As discussed in early sections, historically enemies ally to end something as a threat to all and in the case of terrorism. This commonality allows the people of the US to unite and they then are able to rationalize a surrender of additional rights and in the end possibly the end to other rights.

Next, there is the Hierarchy of needs by Maslow. It is among the first and the most common of theories that can apply to terrorism. It is commonly cited in works discussing the effects of terrorism including Davis and Silver (2003). Maslow, writing in the 1940 and 50s established in 1943 his hierarchy of needs. The first two levels of the hierarchy include the needs for physiological and safety needs. According to the theory, the 9/11 attacks would have shattered Americans collective scenes of security and therefore would have lead to a move to want to reestablish it. No one can move forward to other steps and still be worried about steps one and two, therefore is physical and security needs are not met we will seek to have these met by most every means necessary.

This fits well in with Lanning (2003) has adapted decision theory to the terrorism threat faced after 9/11. Developed in 1961 by Swets, Tanner, and Birdsall,

Frissora and Brenner (2005), made in their paper in dealing with the numbers of people killed in the attack verses other attacks. As Table 2 indicates there are clearly good reasons to assume that the public would react with fear following Maslow and Lanning's theories.

Table 2

Examination of the number of deaths in terrorist actions prior to 9/11 since the 1980s

Year	Location	Number of Of Dead	Proportion 9/11 Dead
1983	Beirut (April)	63	2%
1983	Beirut (October)	299	10%
1985	India	329	11%
1987	Sri Lanka	270	9%
1989	Scotland	170	6%
1993	WTC (First Attack)	6	0%
1994	Benus Aries	96	3%
1995	Saudi Arabia	19	1%
1998	Kenya/Tanzania	224	7%
1998	Omagh Town Center	29	1%
1999	Moscow	118	4%
2000	US Cole	17	1%
	Total	1640	54%

(Note there were 2996 people killed in the 9/11 attacks and

this table was adapted from adapted from Newland (2001))

If feeling safe and knowing our physical needs are met means the sacrifice of certain rights the theory would see that as a logical progression to Lanning's Decision theory. A total of only 1640 people having died in foreign nationals terrorist attacks between April of 1983 and 9/11 , accounting for only 54% of the total dead at 9/11. This is clear evidence that if we assume that Maslow and Lanning are right there ought to be a massive fear that is then counteracted by a lessened concern for individual liberties. This should mean that in light of a new terrorist threat there will be a greater willingness to see rights restricted in the name of safety. For a past example of this we need only look to 1942 and President Roosevelt's Executive Order 9066. After 2390 people were killed, mostly military (and 4000 plus casualties as per Stokesburry, 1980), nearly every person of Japanese Decent was rounded up and placed in quasi concentration camps for the duration of the war.

The second effect of this is going to be a mad dash to the government in power. People in crisis are more willing to allow the central authorities a broader leeway. Hetherington and Nelson (2003) have attributed this willingness to what they call the rally effect. Under their theory, when a crisis occurs, the nation rallies to the

President. To not seem disloyal or to be causing strife in times of peril, many opposition leaders in Congress and elsewhere stand mute. This occurs, according to Hetherington and Nelson, due to a want to present a unified front to the world in the face of these dangers. The American people, they argue, want to see not partisan bickering but a unified front to stop the enemy and restore peace. Any leader who speaks out at this time risks the wrath of the people.

Table 3

Presidential Popular Vote Percentage in Time of War

Year	President	Popular Vote Number	Popular Percent
1864	Lincoln	2,218,388	55.02%
1944	Roosevelt	25,612,916	53.39%
2004	Bush	62,040,461	50.73%

In a Table 3 (above) we can see a better picture of the phenomena that Hetherington and Nelson are describing (also adapted from Frissora and Brenner) As is clear from above, every President in a time of war has in fact enjoyed a 50% reelection rate, though this rate has reduced over time from 55% in 1864 to 51% this last election. This would follow the old adage you don't change a horse in mid stream. Clearly

Hetherington and Nelson are correct in their assumption, though there is a trend away from this exhibited and none of these have been a clear mandate. Over the years this reelection margin has closed and there is then the distinct possibility that someday there will be a US President whose horse does not make it across the stream.

Next is an examination of Packer (1964) and his two models of justice, staples of the Criminal Justice System are the final area of discussion here. Packer essentially found one of two systems existing in Criminal Justice the Due Processes focused on individual rights and interested in avoiding wrongful imprisonment and a second Crime Control Model interested in making sure society was safe.

If we assume that Maslow and Lanning are all correct than the result will be a desire to see more done to stop the threat and a higher willingness to see Packer's Crime Control Model adopted. We will have sacrificed our individual rights to feel safe as a society.

Based off the research conducted by Maslow, Lanning, and Hetherington and Nelson, there is in fact a predictive model to which ought to determine how people are going to react to terrorism. From the empirical research available, one can argue the following model should fit.

The theorem works as follows. The central elements are

fear of an attack and the expectation of the attack. Fear and expectation then combine to create the Threat of attack, perceived or actual and this to a call for action from public opinion. Once this call for action is in place, the government, being a democratic society, must offer a planned response as per its social contract with the people and this response manifests itself in form of suspension of civil liberties and other measures to reassure the public they are in fact safe. This suspension or restriction is mitigated in the end by outside forces of politics (liberalism or a fear of government power) and the amount of time that elapses between attacks. If there is a great deal of time between attacks, the result will be a reduced fear and therefore a reduced likelihood of attack. In way of predictive model then it can be argued that as threat of attack (real or imagined) increases, the willingness of people to see rights suspended increases as well and likewise for decreases.

In the days that followed 9/11 there were several studies conducted that show conclusive evidence of this theory in effect. Next we examine the polls conducted after 9/11 and see what if anything can be divined from them. If these polls support theorem, they ought to show an increase in fear and reduction in concern over civil

liberties.

First is Lerner, Gonzalez, Small, and Fischhoff (2003) conducted a national field experiment directly after 9/11. Conducting research directly after 9/11 (on 20 September and a second group on 10 November). According to their argument, the result of 9/11 was to cause fear, anger, and sadness in Americans. Depending on which of these emotions were felt there was a different response. Key points found in Lerner et al include the following:

- Americans were more angry than afraid but were still frightened.
- Males were more angry, females more afraid,
- 20.5% of Americans were concerned that they themselves were at risk of a terror attack but 47.8% were concerned that other Americans were,
- 23% reported having trouble sleeping over the War on Terrorism where as 44% reported that the average American did.

Davis and Silver (2004) also conducted a study after 9/11 (between November 14, 2001 and January 15, 2002) to determine the effects this time of what would make people surrender their right. They found in an interview that:

- 60% of Americans feel Schoolteachers should not criticize American Anti Terrorism Policy,

- 54% would favor a national ID card,
- 47% that it was justifiable to hold a non-citizen, indefinitely,
- The greater the fear of attack the more willing to surrender rights,
- Liberals, Moderates, and Conservatives were all upward of 80% concerned about another attack.

As a part of a paper presented at the Academy of Criminal Justice Sciences in Chicago in March 2005, Frissora and Brenner have collected data on just this topic. In data collected over a five month period as part of a paper to determine the effects of the war on terrorism on the 2004 Presidential Election, Frissora and Brenner found that of the 204 Youngstown State students surveyed:

- 39% favor a renewal of the PATRIOT act as opposed to 27% feeling that it should not and an additional 27% that they are unsure if it should be,
- 24% feeling that we are winning the war on terrorism to 49% that we are not,
- 37% that are afraid of another attack as opposed to 49% that are not.

What can be deduced from these numbers is that if the terror theorem is right, the polls should show that people were concerned there was going to be another attack.

From this data it can be inferred that Maslow, Lanning, and Hetherington/Nelson were right, and that there does in America exist this tradeoff between willing to surrender personal rights and afraid of a future attack. Davis and Silver showed as much in that upwards of 80% of the population were concerned there would be another attack and that of the same people over 50% were willing to see a national ID card put in place and also that almost 50% were willing to see noncitizens detained for an indefinite period of time.

Next is a section to look at the laws and see how they fit in with the theorem. To this end the several laws will first be examined and then the effect they have had and how they fit into the theorem. All these laws were passed or orders enacted in reaction to a crisis and all gave new sweeping powers to the federal government. For the sake of simplicity, the actual laws will be attached as an appendix to the thesis if the author wishes to read it and a summary provided in text.

The US first saw a challenge to our liberties in the administration of John Adams. Adams, the nation's second President and first to be elected from a formal political party, decided to enact the Alien and Sedition Acts as a result of what is seen as an impending war with France.

France, a major power of the time and the US's first ally, was attempting to bully the US into bribery. The result of this was a sensation wherein the Adams Administration was pitted against one of the major allies that had aided in our winning our independence.

The result was the passage of two separate acts in the Congress, the Alien and the Sedition acts. In the Alien Act, Congress allowed the following powers to be given to the President (see Appendix C for full text):

- To remove anyone that the President sees as a foreign national and a threat from the country,
- Command that anyone that was in country after ordered to leave could be imprisoned for up to three years,
- Force such people to pay a fine to the country and the limit not being set,
- Allows for indefinite detention of an alien as long as the President wishes or deems necessary,
- The Aliens loose all property left in the US when they depart.

What is clear from this is that first, the legislature decided that for some reason the President had to be allowed additional and clearly more fearsome powers for some reason. The President was now allowed judicial powers to remove people from the US after he decided they were a danger and

no mention is made of a mechanism for either appeal or for defending themselves.

This is particularly unique in that Adams (and many of the others in Congress) were the same people who fought for freedoms from England, and now they were the first to restrict these freedoms, for others and were now willing to see rights removed for other people. These rights include and are not limited to Habeas Corpus, forcing people to inform on others, and allowing detention on mere suspicion of the executive branch. The Adams administration would go further still in the Sedition Act where (see Appendix D for full text):

- Imposes a fine of up to \$5000 and imprisonment for up to 5 years for the act of opposing any measure of the government, or impede the operation of the country, or for attempting to intimidate a public official,
- To speak or write of badly of the Government is punishable by 2 years in prison and a two thousand dollar fine,

The indications here are that although the courts are now involved as they were not for the immigrants under the Alien act, there are still severe restrictions on American citizens' rights put in place by their government, including

the fact they were essentially forbidden by law to say anything bad about their government. The final result of these actions would be that US citizens, only a few years after winning independence the American people were seeing their rights eroded in their second president's administration.

A second instance of use of executive powers in times of war is the suspension of Habeas Corpus during the Civil War by President Lincoln in a proclamation. In some ways it is difficult to see a direct parallel to the Adams administration; the threat was not the abstract threats of a possible foreign enemy but rather a nation in rebellion. Clearly Lincoln needed to take drastic measures and he did. (See Appendix E for full text)

- All persons that were deemed rebels or to be aiding and abiding the rebels were subject to military courts and martial law,
- There was no writ of Habeas Corpus for any persons charged under this system.

Here in we see several distinctions, first that it is not only the actual rebels, but also people that assist them that are subject to these laws but it was more limited. This is in many ways problematic, as it now begs the question what is offering assistance to the enemy. Aiders

or Abettors could be anything from offering food to a hungry person or family member to a person that takes a more active role to someone offering money to a church for example and then them giving the money to the enemy. Is that enough or not? What is aiding? These things can be easily applied to today and situations in the US with the war on terrorism. So too can the second problem that the authorities were allowing the civilian population to be tried before a military commission. Further, this act that allowed the suspension of Habeas Corpus, and therefore means that there was no requirement to show cause and essentially the military authorities were allowed to hold prisoners as long as they want for no reason. Finally, this is different in that it is a Presidential decree and not an actual congressional law.

Overall, though, there are some other points here as well including the early statement that the Lincoln administration had to do this for a justifiable reason, something not included in the statement for the Alien and Sedition Acts.

As has by this point become custom, the government would add power during crisis, use them sparingly and then reduce them after the crisis has passed. Enter World War One and enter new powers for the executive branch again this

time as the Espionage Act of 1917 and latter augmentation of the Sedition Act in 1918. (See Appendix F for full text)

Anyone who:

- Will be placed in prison for up to two years and \$10,000:
 - Making a model of anything deemed of National Security Interest
 - If you harbor someone you think is guilty of a crime under this law
 - Who tries to gain information about a facility deemed of National Security Interest
 - Who has lawful possession of some document related to national security,
- Will be placed in prison for up to twenty years if:
 - You intend to give aid to the enemy Directly or indirectly
 - Convey false information to the government from a foreign agent,
- Will be put to death or imprisoned for thirty years if:
 - If you do any of this in time of war
 - If you publish in time of war anything that can be helpful for the enemy

Here again we see the same thing but different. In this Sedition Act it is not speaking ill to the government

but the actions of espionage that will lead to the violation of this act and the simple truth is that here the government was required to state more specific crimes that are punishable by specified and graduated scales depending on the severity, a huge step forward from the Lincoln and Adams administrations.

Next we come to the infamous Executive Order 9066, the closest to our current time and also to the situation after 9/11. Here things again are different. For one thing it was a direct attack from the Japanese and for this reason the enemy. Second, the Japanese are a foreign power, a common theme here and in the 1918 Sedition Act as well as the Alien Act and the 9/11 attacks. Finally there was a greater amount of fear of additional attack as an attack had already occurred. Therefore in Executive Order 9066 (see Appendix G for full text):

- To allow the Secretary of War to set military areas in order to exclude people to certain areas,
- To allow them to set up these facilities to house persons deemed a national security threat,
- Allow Military regulations in the camps.

Here again we see some of the same themes, the statement of why the imposition of restrictions was necessary, the statement the President has the power to

detain the people in question without essentially any recourse for an indefinite amount of time. The difference mainly is that it allows for designation of others to exercise power in the place of the President. This means by this point the executive branch is so bold they no longer need to claim it is the President alone that allows this, but his branch, and like with Lincoln this too was an executive order and not act of Congress. The implication here is that this can lead to the branch being more powerful and less responsive.

Having discussed earlier examples of suspension of rights in times of war as well as the increase of executive power that results, it is then not such a shock that the USA PATRIOT Act has done what it has. In all actuality, the act itself has done little more than further augment prior increases already in place by other Presidents, in this case the Antiterrorism and Death Penalty Act of 1996 by the Clinton Administration and the FISA Act by the Carter Administration as well as others. In fact, there has been little change in the powers assumed by the President from the days of Adams.

Lynch (2004) as a part of a review of Supreme Court cases gives the issues with the Bush Administrations conduct of the War on terrorism. First, there is as always the

question of preventive detention. As already disused in the cases of the Alien Act and Executive Order 9066, the executive branch have taken a frequently liberal interpretation of this power in times of war, especially as it relates to foreign nationals. The Bush administration is no exception. Lynch makes note of questions posed to the Supreme Court centering on several issues including among others the right of the President to detain persons for an indefinite amount of time without oversight in cases of national security and especially as it relates to foreign nationals, but also in this case (as in the case of the Sedition Act) against US Citizens. Also there are questions of whether these people are allowed to be held incommunicado and without benefit of representation as well as the trial of civilians before a military court.

Overall then the government has acted in set ways and taken what are accepted actions. These actions include the preventive detention of possible threats, the use of indeterminate pretrial detention, the use of military and not necessarily civil courts to try offenders, the denial of counsel, and the decision by the courts to essentially stand mute as long as possible. This follows a certain pattern of events that leads to the same end result. First, there is some catastrophic event occurs. This then leads to an

outcry from the population and the government deciding to react as they deem necessary. After the reaction it continues up until the threat has essentially passed and at this point the court has deemed to act in a way and after that, the cycle restarts. The question now is why this restarts. Finally, as time has moved forward a progression is exhibited from the basic free for all that was the Alien and Sedition Acts where the President could at his pleasure designate a person an enemy and then hold them in prison to the Proclamation Lincoln where the government felt obliged to explain why they needed the extra powers to the 1918 Sedition act where in there were specified crimes you had to commit to be charged there were changes to the more specific, continuing to this day with the USA PATRIOT Act being little more than the augmentation of already existing laws. This progression to more narrow and monitored laws is not, however to say that it makes the situation any different in a real way.

Essentially, there is a clear link to the theorem is evident here as the change and swing back to civil liberties occurs after the threat has passed or is passing. There is still during the threat little action taken to safe guard civil liberties.

The theorem fits the facts, and in short it is expected

that we will see the following hypothesizes to be true:

- 1) That fear will directly effect if someone is supportive of the USA PATRIOT act and other restrictions or not.
- 2) That as fear reduces the amount of support for the USA PATRIOT act and other restrictions shall reduce as well
- 3) That Political affiliation has an affect on willingness to surrender rights, with some groups being more likely to favor restrictions than others
- 4) That it is possible to develop a possible profile to determine who is most likely to surrender their rights.

Overall then we know that terrorism is a historic problem, that there are set ways governments act to all emergencies and to terrorism, and that these actions, and these follow set theories of behavior.

Chapter 3:

Methodology

This study was conducted at Youngstown State University in May of 2005. As mentioned earlier, in answering these research questions the following Hypothesizes are set forth: To achieve these results, a single-page instrument was selected and administered to 205 students in nine Criminal Justice classes resulting in a sample size of n=205 for the study. All instruments were at least partly useable. With respect to the classes:

- Six were 1500-level Introduction to Criminal Justice classes,
- One was a lower division 2600-level Corrections class,
- One was an upper division 3700-level Crime and Delinquency class,
- One was a graduate class,
- One student subject was recruited from the Criminal Justice office.

The instrument consisted of several sections including a Demographic section used as control variables (in this case age, gender, political affiliation, academic level, whether the respondents were frightened after 9/11, and if the respondents knew what the USA Patriot Act was). These

demographic controls were used and measured against a second set of variables, asking respondents to answer the same questions twice first to recall directly after 9/11 and then on the date of the survey. The questions were used to measure whether the respondents:

- Supported the Patriot Act
- Would support additional restrictions
- Thought there would be another attack if they were afraid of another attack.

Initially, Frequencies were conducted to determine if there were any erroneous or missing data. Cross tabs with correlations and Chi-square were then conducted on the total data set to determine the picture of the total data. Then further correlations and frequencies were run to determine if any one variable independently affected others, and also to help in creation of the profile.

For this thesis, two main sets of questions were used with one of these subdivided into two smaller. For clarity they will be split into two (or three categories), being Demographics and questions relating to fear or civil liberties. Respondents were asked to respond to the same questions first for their recollections directly after 9/11 and then in a separate section of the instrument for their opinions on the date of the survey were taken.

The demographic questions were used in this thesis as essentially control variables. It is assumed that these factors will affect the other dependants or independents and are being measured to see this effect. These variables were:

- Gender
- Educational Level
- Political Affiliation
- Age in years
- Whether the respondents knew what the Patriot Act was
- Whether the respondents were afraid directly after the 9/11 attacks

The second set of questions relates to fear. These questions are looked at as it relates to terrorism.

Respondents were asked:

- If the respondents were afraid of another attack both directly after 9/11
- If they fear another attack today, and finally a question related to if the respondents expected another attack then or now

Next, the respondents were latter asked questions that would relate to their willingness to see rights restricted that included

- If they supported the Patriot Act

- If they would support other additional restrictions

Essentially the question on fear after 9/11 and the question on knowledge of the Patriot Act were added to determine if there was an outside effect from these forces that made the respondents change their opinions. A final variable was added to control for instructor influences on the respondents but showed no effect.

In summation, a one page instrument was administered to six Criminal Justice classes and 205 students to determine their opinions on the use of restrictions in times of crissis.

Chapter Four:

Findings

Several factors make the study unique. First, the study was given to Criminal Justice classes only as a convenience sample. Notably, the only Introduction class with more than one third of its enrolled students being either Criminal Justice or Forensic Science (CJ/FORSCI) students was offered on Monday and Wednesdays in the evening. The other large CJ/FORSCI enrollment classes were upper division CJ classes. Just under one third of the total participants could have been CJ/FORSCI majors. Approximately 45% of all eligible students took the survey. As of spring 2005, there were 12,396 total students enrolled in the university according to the University Institutional Research. This study looks at a sample of 205 students or approximately one point six percent of the total university population.

The sample population showed characteristics generally consistent with the total population (with in 12%). There are some differences in that the sample population tends to be skewed to the lower academic levels though as Introduction to Criminal Justice courses were used this is not a surprise. Gender differences do exist between the YSU

student Population and the Study, though comparisons can not be drawn as a number of respondents (n35 or 17%) did not answer their gender. When the numbers are looked at with only the valid responses taken into account, the gender is less than one half percent different than the university.

Of respondents the following general characteristics were found. This will allow a general look at the total population and the respondents based strictly off of frequency distribution and taking nothing else into account.

Table 4

Respondents answers to Demographic and Control Questions

Question/Variable	Percent to Study	Percent to University
Gender		
Male	42.9412	43.2074
Female	57.0588	56.7925
Academic Level		
Freshman	34.1463	
Sophomore	30.2439	
Junior	20	
Senior	12.1951	
Graduate	2.43902	
Other	0.97561	

Table 4 Continued
 Respondents answers to Demographic and Control Questions
 Question/Variable Percent to Study Percent to
 University

Political Affiliation

Liberal	25.1232	No Data
Moderate	23.6453	
Conservative	26.1084	
Not Sure	21.6749	
A Political	0.98522	
Other	2.46305	

Frightened After 9/11

Yes	53.6946	No Data
No	39.4089	
Not Sure	6.89655	

Know what the Patriot Act is

Yes	73.399	No Data
No	13.7931	
Not Sure	12.8079	

As indicated from the findings above, the sample used for this study tends to be diverse with slight over representation of underclassmen (as afore discussed) but no one group being completely dominate over others.

The next set of questions asked respondents about what is the heart of this project, Fear and Expectation of attack and Restrictions to civil liberties. If the theorem is correct, then there ought to be a direct correlation that can be drawn here, with fear dropping and restrictions

following. This is put to the test in table 4 below and discussed in the pages later.

Table 5

Responses in Percent to Questions Related to Fear and Restrictions

Variable	Difference	Directly After 9/11	Now
Patriot Act Support			
Yes	50.00	45.37	-4.63
No	17.16	21.95	4.79
Not Sure	32.84	32.68	-0.16

Support for Added Restrictions

Yes	49.27	42.44	-6.83
No	24.39	30.24	5.85
Not Sure	26.34	27.32	0.98

Were/Are Afraid of Additional Attacks

Yes	55.12	35.12	20.00
No	36.59	55.61	19.02
Not Sure	8.29	9.27	0.98

Think/Thought there will be Additional Attacks

Yes	66.18	49.02	17.16
No	16.67	33.33	16.67
Not Sure	17.16	17.65	0.49

Table 5 does not give any definitive conclusions, though it does show several trends at least that are observable between respondent's answers after 9/11 and Today:

- Support for the Patriot Act and for additional restrictions has dropped between approximately five and six between 9/11 and today,
- Fear of and Expectation of another Attack has also dropped between 17% and 20%,
- Almost all of those respondents that changed their opinion went from the Yes they do support to No they do not with only a minuscule change in the Not Sure responses.

This indicates that there has been a trend over time towards reduced support for the Patriot Act and other restrictions, indicating time is a factor in this equation. There is a greater reduction in the amount of people that feel there is a reduced threat and/or expectation of an additional attack as well. There is an apparent connection in the questions as well with support for the Patriot Act and other restrictions falling at about the same rate of 5 to 6% and Fear or Expectation of attack falling at 17 to 20%.

Another key question to this thesis is does fear affect

peoples willingness to surrender civil rights in times of crisis. To answer this question a correlation was run to:

- 1) Determine if there are any significant factors
- 2) What these factors are if they exist

Please note all further analysis is of only persons answering yes or no. The first example shows correlations exhibited with Patriot Act as a primary independent variable. There was some significance found including:

- In the areas of Gender, Political Affiliation, Added Restrictions, and Patriot Act support in the past, with fear becoming an issue in the continued support of the Patriot Act but not in initial support.
- There is evidence of a gender difference (decreasing over time), as well as Political Affiliation becoming more of an issue, Support for.
- Added restrictions are present in addition to fear effecting fear later, and expectation attack and fear.
- Academic Level and support of the Patriot Act also was significant.

For greater detail on these please see Appendix B where survey instruments are attached.

The final question asked by this study is if political affiliation is related to support of the restrictions. To answer this question, the data was reduced by the factor of

political affiliation. This allowed for an examination of each variable based solely on the factor of political affiliation to determine if there were any differences evident.

Table 6

Political Affiliation as a Factor by Percent

Question	Overall	Liberal	Moderate	Conservative
Support of the Patriot Act				
Directly After 9/11				
Yes	75	53	81	90
No	25	47	19	10
Now				
Yes	67	39	76	85
No	33	62	24	15
Support for Additional Restrictions				
Directly After 9/11				
Yes	64	45	76	77
No	33	55	24	23

Table 6 (Continued) Political Affiliation as a Factor by

Percent

Question	Overall	Liberal	Moderate	Conservative
Now				
Yes	58	39	60	66
No	42	62	40	34
Fear of Additional Attacks				
Directly				
After 9/11				
Yes	60	58	70	47
No	40	42	30	53
Now				
Yes	39	38	47	30
No	61	63	53	70
Expectation of Additional Attacks				
Directly				
After 9/11				
Yes	80	71	86	84
No	20	29	14	16
Now				
Yes	60	54	65	76
No	40	46	38	24

(Note percentages are of only yes or no responses)

As is indicated on Table 5, there are drastic differences in support for the Patriot Act and added restrictions as well as in the number of people that indicated they were afraid of another attack based off their political affiliation.

The study shows:

- Liberals are least supportive of restrictions followed by Moderates and then Conservatives
- Moderates are significantly more frightened of another attack than others, followed by Liberals, Conservatives being the least afraid of another attack
- Expectation of attack follows a reverse pattern of support for restrictions, the Conservatives being most supportive, then Moderates, and then Liberals

Essentially, what we have learned here is that the study has been close to the university population and has provided an interesting set of results on fear and expectation of attack, support for restrictions, and demographic information.

Chapter 5:

Discussion

Having established in previous sections the goals of this thesis, the history of the problem it attempts to look at, and the relevant data to this question, it now comes to a discussion of what this all means. To do this there will be several sections, first a general look at which of the major hypotheses were supported or disproved, second other facts of note found during the conduct of the research, third a look at what these findings mean, and finally a discussion of limitations of this study and recommendations on where to go from here.

Hypothesis: That fear will directly effect if someone is supportive of the USA Patriot Act and other restrictions or not

This hypothesis is based off primarily Lanning and Maslow and would show a clear connection between fear of another attack and want for protection with restrictions of civil liberties. The theory behind it simply enough is that the greater the fear the more restrictions.

Based on findings it is able to be established that fear does not directly affect the willingness of individuals to surrender rights initially after the attack or at least no direct correlation exists between these phenomena. It

does show that the only affect fear does have is not as the initial fear after the attack, but of fear today of another attack does affect peoples responding they were afraid now were more likely to support the Patriot Act both then and now than those that answered they were not. Still and the same in the end the results show a definitive relationship between if people are afraid and if they would like to see restrictions. The null is rejected.

In this case, there is a definitive reduction in fear after 9/11 and in willingness to see rights reduced. The data tends to suggest as well that there is a strong correlation between people that were afraid before and after 9/11, and there is also as earlier mentioned a correlation between fear today and the patriot act support. If we assume Ben Franklin is right and that anyone willing to see essential liberties scarified for security deserves neither, to make him happy there should be an acceptance of the null and consequently a rejection of the Terror Theorem.

In the end, the data does note a reduction in both fear and in willingness to see restrictions over time. There is a difference in the degree to which this is true, a much greater reduction in fear than in the numbers of people willing to see rights suspended. The number of respondents answering they were supportive of the Patriot Act has

decreased along with support of added restrictions but at a slower pace than the number of people that are no longer afraid and that do not think there will be another attack. Prolonged exposure to fear then can cause other results. Media exposure was not measured in this study, but can provide one plausible answer for why this has occurred. The media has served as a reminder that these problems have occurred. This reminder as well as government statements and reactions, such as the raising of the threat level nationally at times, leads to the possibility it may affect some people. Moderates do still remain frightened and willing to support the Patriot Act while liberals are not frightened or willing to support restrictions, and conservatives not frightened but still willing to support restrictions.

Hypothesis: That as fear reduces the amount of support for the USA Patriot Act and other restrictions shall reduce as well

This question serves as well to validate the Terror Theorem. The theorem's validity is supported in that despite liberals and conservatives responding they were not frightened by the events now, the moderates are still somewhat frightened and therefore as they are frightened, they are willing to see rights restricted but that there are

less of them as willing now as directly after 9/11; the theorem is supported, and Ben Franklin severely annoyed. Hypothesis: That Political affiliation has an affect on willingness to surrender rights, with some groups being more likely to favor restrictions than others

This Hypothesis too is supported. Conservatives are more likely than liberals to be willing to see their rights suspended and are also more willing to see added rights suspended, as illustrated in Table 6. As stated before, those identifying themselves as Liberals were not afraid of another attack and least likely to support restrictions and are slightly more afraid than conservatives. Conservatives are not afraid but do expect an attack more than the other groups. This may be why Conservatives are willing to see rights restricted. Moderates are the center and the closest to the overall results, except for in fear, where they are significantly more frightened than others. Liberals are the least willing to see rights suspended and least willing to support the government's current actions, moderates are more willing and are also more frightened and the conservatives are not afraid, but do expect an attack more than the other groups.

Hypothesis 4: That it is possible to develop a possible profile to determine who is most likely to surrender their

rights

This too cannot be rejected. From the data above, one is able to discern that the following people are most likely to surrender their rights:

- Conservative
- Female
- Less Educated
- Know what the PATRIOT Act is
- Supportive of additional restrictions
- Supportive of the PATRIOT Act the first time
- Think there will be another attack
- Are not afraid of another attack

Notwithstanding prior stated issues, the following would be suggestions on additional research:

- Larger and more diverse sample size
- Look at the situation further in the future and see what has changed
- Look at more than just fear as a possible factor, include issues like anger and patriotism as well
- Add questions to assess the individuals degree of conservatism/liberalism

This study has been an interesting look at the mentality of individuals and what affect this has on the movement of government. The study itself was based on

terrorism and civil liberties, but the potential for additional use of this in other areas of Criminal Justice as well as public policy is evident. For example:

- If the Terror Theorem is right and there are these factors that cause changes in police/government actions that is the same for other areas as well. Whether it be a Terrorism or auto theft, the principle remains the same the more people fear something the more they are willing to see their own rights held in limbo to see security restored.

- Conservatives and liberals think differently and are on diametric opposite ends of the scale, but it is the moderates that will make decisive actions and these are based primarily on fear.

All these factors and others are valuable additions to current knowledge as well as to current ability to assess public opinion. In the end it would be ideal to be able to continue this research to continue to monitor changes over time that may occur and see if the civil liberties change as a result. This a situation where in we have an opportunity to see things develop over time that we may never see again and therefore must be exploited to the fullest now. More research is critical.

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Appendix A: Human Subjects Review Committee Approval

Yonkers State University / One University Plaza / Yonkers, NY 10595-0001
School of Graduate Studies / Yonkers, NY 10595-0001
(914) 961-1000
http://www.yonkers.edu

February 24, 2005

Dr. Gordon Frisvold, Principal Investigator
Mr. Paul Brunner, Co-investigator
Department of Criminal Justice
UNIVERSITY

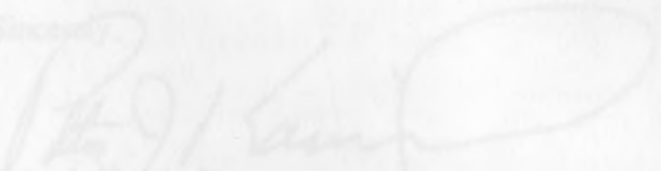
RE: HSRC Protocol Number: 59-2005
Title: The Effects of Fear on War Powers

Dear Dr. Frisvold and Mr. Brunner:

The Human Subjects Research Committee has reviewed the submitted protocol and determined that it is exempt from full committee review based on a Category 2 exemption.

Any changes in your research activity should be promptly reported to the Human Subjects Research Committee and may not be initiated without HSRC approval except where necessary to eliminate hazard to human subjects. Any unanticipated problems involving risks to subjects should also be promptly reported to the Human Subjects Research Committee.

The HSRC would like to extend its best wishes to you in the conduct of this study.

Sincerely,

Peter J. Korrinsky
Dean, School of Graduate Studies
Research Compliance Officer

PJK/te

cc: Dr. James Connor, Acting Chair
Department of Criminal Justice



Youngstown State University / One University Plaza / Youngstown, Ohio 44555-0001
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February 24, 2005

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Dr. Gordon Frissora, Principal Investigator
Mr. Paul Brenner, Co-investigator
Department of Criminal Justice
UNIVERSITY

RE: HSRC Protocol Number: 59-2005
Title: The Effects of Fear on War Powers

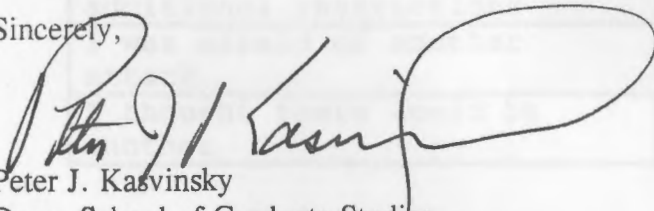
Dear Dr. Frissora and Mr. Brenner:

The Human Subjects Research Committee has reviewed the abovementioned protocol and determined that it is exempt from full committee review based on a DHHS Category 2 exemption.

Any changes in your research activity should be promptly reported to the Human Subjects Research Committee and may not be initiated without HSRC approval except where necessary to eliminate hazard to human subjects. Any unanticipated problems involving risks to subjects should also be promptly reported to the Human Subjects Research Committee.

The HSRC would like to extend its best wishes to you in the conduct of this study.

Sincerely,



Peter J. Kasvinsky
Dean, School of Graduate Studies
Research Compliance Officer

PJK/cc

c: Dr. James Conser, Acting Chair
Department of Criminal Justice

Appendix B: Survey Instrument

Gender:	Male	Female	
Academic Level	Freshman	Sophomore	Junior
Senior	Graduate	Other	
Politically what	Liberal	Moderate	Conservative
do you consider yourself?	Not Sure	Political	Other
Were you frightened after the 9/11 attacks?	Yes	No	Not Sure
Do you know what the PATRIOT act is?	Yes	No	Not Sure
What is your age in Years			
Directly After 9/11:			
I supported the Patriot Act	Yes	No	Not Sure
I would have supported additional restrictions	Yes	No	Not Sure
I was afraid of another attack	Yes	No	Not Sure
I thought there would be another	Yes	No	Not Sure
Currently :			
I supported the Patriot Act	Yes	No	Not Sure
I would have supported additional restrictions	Yes	No	Not Sure
I was afraid of another attack	Yes	No	Not Sure
I thought there would be another	Yes	No	Not Sure

Appendix C:
The Alien Act of 1798

SECTION 1. *Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled,* That it shall be lawful for the President of the United States, at any time during the continuance of this act, to order all such aliens as he shall judge dangerous to the peace and safety of the United States, or shall have reasonable grounds to suspect are concerned in any treasonable or secret machinations against the government thereof, to depart out of the territory of the United States within such time as shall be expressed in such order; which order shall be served on such alien, by delivering him a copy thereof, or leaving the same at his usual abode, and returned to the office of the Secretary of State, by the marshal, or other person, to whom the same shall be directed. And in case any alien, so ordered to depart, shall be found at large within the United States after the time limited in such order for his departure, and not having obtained a *license* from the President to reside therein, or having obtained such *license*, shall not have conformed thereto, every such alien shall, on conviction thereof, be imprisoned for a term not exceeding three years, and shall never after be admitted to become a citizen of the United

States: *Provided always, and be it further enacted,* That if any alien so ordered to depart shall prove, to the satisfaction of the President, by evidence, to be taken before such person or persons as the President shall direct, who are for that purpose hereby authorized to administer oaths, that no injury or danger to the United States will arise from suffering such alien to reside therein, the President may grant a *license* to such alien to remain within the United States for such time as he shall judge proper, and at such place as he may designate. And the President may also require of such alien to enter into a bond to the United States, in such penal sum as he may direct, with one or more sufficient sureties, to the satisfaction of the person authorized by the President to take the same, conditioned for the good behaviour of such alien during his residence in the United States, and not violating his license, which license the President may revoke whenever he shall think proper.

SECT. 2. *And be it further enacted,* That it shall be lawful for the President of the United States, whenever he may deem it necessary for the public safety, to order to be removed out of the territory thereof any alien who may or shall be in prison in pursuance of this act; and to cause to be arrested and sent out of the United States such of those

aliens as shall have been ordered to depart therefrom, and shall not have obtained a license as aforesaid, in all cases where, in the opinion of the President, the public safety requires a speedy removal. And if any alien so removed or sent out of the United States by the President shall voluntarily return thereto, unless by permission of the President of the United States, such alien, on conviction thereof, shall be imprisoned so long as, in the opinion of the President, the public safety may require.

SECT. 3. *And be it further enacted,* That every master or commander of any ship or vessel which shall come into any port of the United States after the first day of July next shall, immediately on his arrival, make report in writing to the collector or other chief officer of the customs of such port, of all aliens, if any on board his vessel, specifying their names, age, the place of nativity, the country from which they shall have come, the nation to which they belong and owe allegiance, their occupation, and a description of their persons, as far as he shall be informed thereof, and on failure, every such master and commander shall forfeit and pay three hundred dollars, for the payment whereof, on default of such master or commander, such vessel shall also be holden, and may by such collector or other officer of the customs be detained. And it shall be the duty of such

collector or other officer of the customs, forthwith to transmit to the office of the Department of State true copies of all such returns.

SECT. 4. *And be it further enacted,* That the Circuit and District Courts of the United States shall respectively have cognizance of all crimes and offences against this act. And all marshals and other officers of the United States are required to execute all precepts and orders of the President of the United States, issued in pursuance or by virtue of this act.

SECT. 5. *And be it further enacted,* That it shall be lawful for any alien who may be ordered to be removed from the United States, by virtue of this act, to take with him such part of his goods, chattels, or other property, as he may find convenient; and all property left in the United States, by any alien who may be removed as aforesaid, shall be and remain subject to his order and disposal, in the same manner as if this act had not been passed.

SECT. 6. *And be it further enacted,* That this act shall continue and be in force for and during the term of two years from the passing thereof.

Appendix D

Sedition Act of 1798

SECTION 1. *Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled.* That if any persons shall unlawfully combine or conspire together, with intent to oppose any measure or measures of the government of the United States, which are or shall be directed by proper authority, or to impede the operation of any law of the United States, or to intimidate or prevent any person holding a place or office in or under the government of the United States, from undertaking, performing, or executing his trust or duty: and if any person or persons, with intent as aforesaid, shall counsel, advise, or attempt to procure any insurrection, riot, unlawful assembly, or combination, whether such conspiracy, threatening, counsel, advice, or attempt shall have the proposed effect or not, he or they shall be deemed guilty of a high misdemeanour, and on conviction before any court of the United States having jurisdiction thereof, shall be punished by a fine not exceeding five thousand dollars, and by imprisonment during a term of not less than six months, nor exceeding five years; and further, at the discretion of the court, may be holden to find sureties for his good behaviour, in such sum, and for such time, as the said court may direct.

SECT. 2. *And be it further enacted*, That if any person shall write, print, utter, or publish, or shall cause or procure to be written, printed, uttered, or published, or shall knowingly and willingly assist or aid in writing, printing, uttering, or publishing 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 the said government, or either House of the said Congress, or the said President, or to bring them, or either of them, into contempt or disrepute; or to excite against them, or either or any of them, the hatred of the good people of the United States, or to stir up sedition within the United States; or to excite any unlawful combinations therein, for opposing or resisting any law of the United States, or any act of the President of the United States, done in pursuance of any such law, or of the powers in him vested by the Constitution of the United States; or to resist, oppose, or defeat any such law or act; or to aid, encourage or abet any hostile designs of any foreign nation against the United States, their people or government, then such person, being thereof convicted before any court of the United States having jurisdiction thereof, shall be punished by a fine not exceeding two thousand dollars, and by