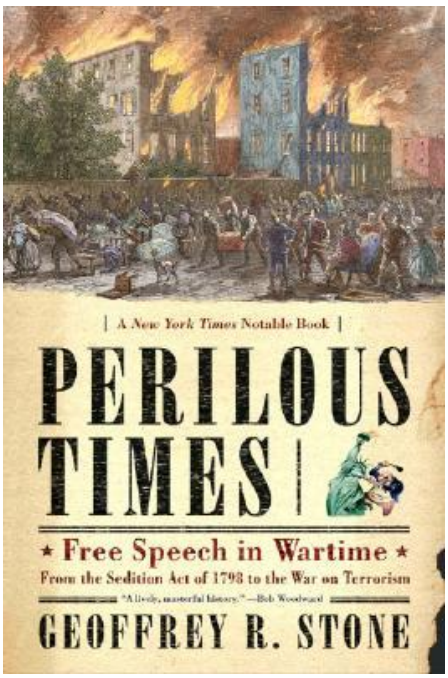

Perilous Times: Free Speech in Wartime: From the Sedition Act of 1798 to the War on Terrorism

Geoffrey R. Stone

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Geoffrey Stone's *Perilous Times* incisively investigates how the First Amendment and other civil liberties have been compromised in America during wartime. Stone delineates the consistent suppression of free speech in six historical periods from the Sedition Act of 1798 to the Vietnam War, and ends with a coda that examines the state of civil liberties in the Bush era. Full of fresh legal and historical insight, *Perilous Times* magisterially presents a dramatic cast of characters who influenced the course of history over a two-hundred-year period: from the presidents—Adams, Lincoln, Wilson, Roosevelt, and Nixon—to the Supreme Court justices—Taney, Holmes, Brandeis, Black, and Warren—to the resisters—Clement Vallandingham, Emma Goldman, Fred Korematsu, and David Dellinger. Filled with dozens of rare photographs, posters, and historical illustrations, *Perilous Times* is resonant in its call for a new approach in our response to grave crises.

Perilous Times: Free Speech in Wartime: From the Sedition Act of 1798 to the War on Terrorism Details

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From Reader Review Perilous Times: Free Speech in Wartime: From the Sedition Act of 1798 to the War on Terrorism for online ebook

Mia says

A comprehensive review of the challenges to freedom of expression in U.S. history, with close examinations of failures, triumphs and pivotal decisions and precedents. The author notes the tendency for government to try to restrict freedoms in wartime and that although the courts tend to find for the protection of civil liberties, that the challenges presented against those freedoms change through the years, both in approach and inerpretation; and cautions that fear is always the opponent of freedom.

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le-trombone says

This superb book covers a topic that most Americans give lip service to, but rarely comprehend: what freedom of speech really means as described in the First Amendment, and as interpreted by the branches of government during those times when it is most under threat: when the country is on a war footing.

Stone divides his coverage of these periods into six chapters, “The 'Half War' With France” (John Adams, The Federalists, and The Republicans), “The Civil War” (Lincoln, suspension of habeas corpus, and the subordinates who took it further than Lincoln wanted), “World War I” (Wilson), “World War II” (Roosevelt, Japanese internment, and anti-war activists), “The Cold War” (HUAC and general fear-mongering), and “The Vietnam War” (anti-war activists, and again the rights of protesters).

Each chapter describes how the First Amendment was interpreted, and how government tried to limit the amendment's reach for its own purposes. Sadly, there is a common template – officials in government try to extend their authority (presidents who can't stand contradiction are a recurring theme), there is an effort to limit this new authority, sometimes effectively, most often not, and in the aftermath new restrictions are put on the government's power to subject its citizens to arrest, either through law or new-found interpretations of the amendment.

What makes this interesting are the details covered and the people involved. We may make certain assumptions as to what the First Amendment means, but our understanding comes from over two hundred years of commentary. When Adams and the Federalists in Congress created the Alien Friends Act and the Sedition Act, the First Amendment was only seven years old, and its meaning hadn't been fully put to the test (unfortunately, the person to adjudicate this was justice Samuel Chase, who gave rulings that appalled even Adams, who hadn't wanted such limited interpretations). Similarly, when the question of what speech was prosecutable during WWI was under examination, the concept of “clear and present danger” hadn't been defined, and the justices who would eventually set forth this concept had to work toward it, unfortunately not in time for the people who were prosecuted. And then there were the flat-out abuses of power: HUAC, abetted by Truman for his own political purposes (ironically the FBI was for a time a voice of sanity); and of course the machinations of Johnson and Nixon during their tenures over the Vietnam war.

The final chapter, written during the Bush administration's abuses of free speech rights (see Molly Ivin's Bill of Wrongs) has subheadings “Can We Do Better?” and “The War on Terrorism”. We can do better, but it takes an effort not to succumb to fear and suspicion to do so.

Each chapter discusses not only the details of the cases that tested the First Amendment, they also discuss the people who had to go through the ordeal (many admirably, but there were also those who held abhorrent positions; the pro-slavery and Nazi apologists are two such), as well as the people who steered the courts to new positions on the First Amendment's meaning, sometimes at personal cost. Despite the overall length of the book, the chapters are good encapsulations of the issues of the times, and it will probably fit your reading style whether you are a cover-to-cover reader or one who wants to dip into one section of history at a time.

Maureen Mahowald says

This was a meticulously researched book on the history of the First Amendment and the exercise of the right of freedom of expression during times of war. It explores the tension between the need for national security and the right of free speech and how the government has acted (or reacted) since the beginning of our country.

Colleen Browne says

This is a great book for anyone interested in the First Amendment. Stone explores six events in the history of the country where freedom of speech came under attack and meticulously examines each one and measures how or if the government and the country have grown from one crisis to the next. He starts with the Alien and Sedition Acts under the Adams Administration to the Civil War, to World War One and the Red Scare, to WWII, to the Cold War and finally to the Vietnam War. The War on Terror is also given a short review. (The book was published in 2004 so the story hadn't completely unfolded yet).

Stone writes with clarity and erudition about each of the episodes from the Federalists exploitation of the "half war" with France in an ill-conceived attempt to keep the Jeffersonian Republicans out of power where anyone who spoke ill of the government could be imprisoned in what he characterizes as the worst legislative attack on free speech in the history of the country to the Johnson and Nixon Administrations secrecy and lies about the progress of the Vietnam War. There is also a good discussion about the Pentagon Papers and how Nixon and his Attorney General John Mitchell attempted to prevent them being published.
Generally, the author finds that from a time when the First Amendment was brand new and not yet tested through the rest of our history, that the courts and even Congress have come to accept the standard first set forth by Holmes and Brandeis that unless speech poses a "clear and present danger", it is protected.

We have not always done such a good job and we have taken steps backward but by and large, the clear and present danger standard is the expectation of our day. The author provides a very interesting and detailed history of times of crisis in the country.

Gregg says

Great reading for two reasons: history and argument. Stone traces the background of First Amendment issues in the face of national emergencies (war, riots, etc.) both real and hyped up. He revolves his discussion around the Sedition Act of 1798, the Civil War, WWI and WWII, the Cold War and Vietnam, and concludes with a lengthy discussion about the impact of various laws and Supreme Court decisions in today's post-9/11 political landscape.

Mr. Stone makes many points. They deserve more weight than there is space here. But one point works as an umbrella under which his discussion can fall: there needs to be careful attention paid to the exigencies of free speech restrictions. We've learned many lessons since, say, Eugene Debs was locked up for criticizing our involvement in WWI (John Kerry, needless to say was not imprisoned for speaking out against the Iraq war). But President Bush's "you're either with us or with the terrorist" line of crap worked too well. Democracy only works when its citizens are informed. Government misinformation has the exact opposite effect. And Stone's lessons of history need to be taken to heart: there have been precious few examples of the government *not* exaggerated risks in order to advance its own agenda.

Put that in your First Amendment pipe and ratify it.

Bruce says

Prof. Stone has produced a book that should be read by everyone concerned with the preservation of American Values. Though heavy on court cases and legal opinions this book provides a flavor of the times during which civil liberties were repressed. That during crises demagogues use scare tactics to harass their enemies and suppress opposition is amply shown from the Federalist use of the Alien and Sedition Acts, which, incidentally were set to expire at the end of John Adams term in office, to the current time. Prof. Stone expounds upon the actions of Presidents who were in office during crises and how they handled dissent. It is interesting to see that during what could be called the greatest crisis faced by the United States, the Civil War, Lincoln did little to suppress dissent in the North. During other times public officials fanned popular discontent with dissenting opinions to pass acts enabling them to suppress those opinions sometimes by legislation at other times through intimidation. In the crises this book covers, few public officials stood up for the civil rights of those opposing main stream thought until several years after the crises ended.
Prof. Stone shows that it is after the crises are over that people realize that what was done to dissenters was not true to American Values. The courts are not immune to the rashness of American politics. During crises the courts have generally sided with those suppressing dissent, only later do they return to a saner, less go with the flow, interpretation of the constitution.
A key phrase in the final chapter is a thought we should all bear in mind. “… [P:]ublic officials not only respond to the demands of a fearful public but sometimes deliberately manipulate the public in order to create national hysteria.” The current crisis, the “War on Terror,” has not ended, but people are starting to realize that they have been manipulated. Perhaps we shall soon see changes to the Patriot Act that will return the civil rights that were taken away in the initial reaction to 9/11.

Tauheedah Najee-ullah says

This was a REALLY good book. Show just how much is left out of "conventional" history (ever notice the

difference between your 5th grade history lesson and what's being taught today?). A must read for anyone interested in numerous attempts by the government to seize freedoms during war time---and how it was averted by an active citizenry.

Dayla says

Free speech in wartime is a subject everyone should read. Even Mr. John Adams comes out of "Perilous Times..." smelling a little stinky after Mr. Stone eruditely describes Adams' use of presidential powers under the Sedition Act of 1798. The thoroughness with which Mr. Stone approaches his subject makes for a lively read. You will say to yourself again and again, "I didn't know that."

PS I met Geoffrey R. Stone at the Los Angeles Times Book Festival. I even had my husband take a picture of Mr. Stone and me together.

Powells.com says

The More Things Change...
A review by Doug Brown

Free speech is something that is nowadays considered an inviolate part of the American experience. However, as Geoffrey Stone elucidates in Perilous Times, it wasn't always so. It wasn't until World War I that the Supreme Court started to truly examine the First Amendment. As each subsequent decision has been made, free speech has slowly evolved into the institution we know now. Dissent wasn't considered necessarily protected until midway through the twentieth century. By the end of Vietnam, the court's definition of unprotected speech fell into an increasingly small set of specific conditions, as Stone summarizes: "There must be express advocacy of law violation; the advocacy must call for immediate law violation; and the immediate law violation must be likely to occur." That's a far cry (no pun intended) from where it started out.

Perilous Times begins with the Sedition Act of 1798, which is probably the most blatant bit of political dissent-quashing in America's history. The act was used by the Federalist majority to punish Republicans who spoke against the Federalist administration. Two giveaways of the act's clear intent were (1) the president and congress (Federalists) were exempted from the act, but the vice president (Jefferson, a Republican) wasn't, and (2) the act ended the day Adams left office, so it couldn't be used by the next administration against the Federalists. So much for our noble founding fathers.

Debating Polk's declaration of war on Mexico in 1848, Abraham Lincoln's law partner argued the president should have the right to declare war on another country to repel invasion. In an amazingly prescient bit of writing, Lincoln disagreed: "Allow the president to invade a neighboring nation whenever he shall deem it necessary to repel an invasion, and you allow him to do so whenever he may choose to say he deems it necessary for such purposes, and you allow him to make war at pleasure. Study to see if you can fix any limit to his power in this respect after having given him so much as you propose. If to-day he should choose to say he thinks it necessary to invade Canada to prevent the British from invading us, how could you stop him? You may say to him, 'I see no probability of the British invading us'; but he will say to you, 'Be silent; I see it, if you don't.'"

World War I was a particularly dark time in America for free speech. Wilson's administration was vigorously aggressive in smashing down any anti-war or anti-draft talk. For instance, a reverend was convicted for distributing a pamphlet stating "if Christians [are:] forbidden to fight to preserve the Person of their Lord and Master, they may not fight to preserve themselves, or any city they happen to dwell in." He was sentenced to fifteen years in prison. Another man was sentenced to a year in jail for "attending a meeting, listening to an address in which disloyal utterances were made, applauding some of the [disloyal:] statements made by the speaker?and contributing 25 cents." A filmmaker was sentenced to ten years for making a film about the American Revolution which showed British soldiers bayoneting women and children. The government argued the images "may have the tendency of sowing?animosity or want of confidence between us and our allies." After the war came the first Red Scare, in which a young J. Edgar Hoover came to eminence by heading a division of the FBI which spent its time gathering information about suspected leftists and deporting them.

World War II was a bit better for free speech, with the black exception of the Japanese-American internment camps. The FBI had rounded up all suspected Japanese-American security threats immediately after Pearl Harbor, so from the FBI's perspective the remaining population posed no threat. The military agreed that internment was unnecessary. But 1942 was an election year, and Roosevelt wanted to give the voters the impression the Democrats were addressing the Asian problem, so he issued Executive Order 9066, which created the camps. By 1943 and early 1944 everyone agreed they were no longer needed, but Roosevelt waited until after the 1944 election to announce the closing. He also delayed publication of a Supreme Court decision declaring the camps unconstitutional until the day after he announced the camp closings. Roosevelt created the camps for campaign politics, and then he waited until he got re-elected again to close them. Nice.

The one non-wartime section included in the book is the post-WWII Red Scare, a bleak and besmirched chapter in American history, all around. Again and again it was proven that you don't have to have data or facts to get people riled up; you just have to claim you do. The actual evidence becomes what Alfred Hitchcock called a "McGuffin;" the thing the story is built around, and yet is itself irrelevant. McCarthy held up a piece of paper claiming to have the names of Communists in the State Department, and the seed was planted. He never had to actually show anyone the piece of paper; once he had planted the seeds of doubt, the hounds were let slip. Then, even if the original evidence were found to be false, people will still believe the charge may have had merit. It still works today (Uranium yellow cake from Niger, anyone?), so it is important to always question fear-sowing charges made by elected officials. As Stone summarizes, "People routinely overreact to vivid descriptions of frightening, but low-probability, dangers."

One of the most pervasive themes in Perilous Times is summed up by the adage, "the more things change, the more they stay the same." The debates about free speech during the Sedition Act are amazingly similar to debates about the Patriot Act today. Past discussions surrounding the suspension of habeas corpus sound very much like today's discussions of Guantanamo detainees. Two hopeful themes Perilous Times offers are that attacks on free speech today are nothing compared to the guttings of the past, and that while free speech often suffers during wartime, it also usually recovers stronger than before. Stone's bottom line message is we as citizens must remain vigilant. We can't rely on our elected officials, or even the courts, to always do the right thing: "Laws punishing dissent are especially appealing to public officials in wartime because they are relatively inexpensive, cater to the public's witch-hunt mentality, create the illusion of decisive action, burden only those who already are viewed with contempt, and enable public officials to silence their critics in the guise of serving the national interest." If you are at all concerned about the issue of free speech and methods that have been used to attack or limit it in the past (and the present), Perilous Times is a must-read.

Elliot Schott says

An engaging analysis of American history during times of conflict. If anyone thought the Bush Administration during War on Terror was the greatest silencing of Free Speech, they need the perspective of policies enacted during World War I. It was interesting to understand that comparatively to other times in history, the Nixon administration during the Vietnam War may have been arguably the most lenient on Free Speech during wartime. Geoffrey R. Stone successfully was able to compile exhaustive case information and immense historical detail, while also keeping the book entertaining and fully engaging. Highly recommended!

Michael says

This is a terribly interesting book which shows the progression of the concept of free speech as interpreted by elected official and the Supreme Court. My opinions of Woodrow Wilson and Franklin Roosevelt have been tarnished, but others, Robert H. Jackson, for example, shine through. The book is clearly written and reads well. Law degrees not required!

Bookmarks Magazine says

Most critics found new legal and critical insight in Stone's examination of the First Amendment and how its principles have been compromised during wartime. But some readers may find Stone's comprehensive, footnote-filled tome too scholarly for pleasurable reading. At least one reviewer__Harvard Law School Professor and civil libertarian Alan Dershowitz__believes Stone "exaggerates the role of war in the history of American censorship." (*Boston Globe*) But nobody questions the author's credentials or the importance and timeliness of his topic. That's undoubtedly why several publications__*The New York Times Book Review*, *The Washington Post*, *The Los Angeles Times*, and *The Christian Science Monitor*__included *Perilous Times* on their lists of notable books of 2004.

This is an excerpt from a review published in Bookmarks magazine.

Christopher Donaghue says

A lengthy, pleasurable read on the legal history of the First Amendment.

Stone makes no attempt - so far as I can tell - to whitewash the deeds of the Presidents of the United States; indeed, he seems to paint them as humans, rather than the typical American ideal of the presidents of the past as being semi-divine. Washington, Adams, Jefferson, Lincoln, Wilson, Roosevelt, Truman, LBJ, Nixon, and finally, briefly, Bush. My one complaint is that he was too light on Bush.

Washington is depicted as being almost obnoxiously thin-skinned, unable to take any criticism. Adams was

even worse, and, unlike Washington, used the full force of his office to destroy criticism and ensure reelection. Lincoln wasn't too bad, but still seems to have been woefully under-informed. Roosevelt, luckily, had strong Attorneys General, but was himself apparently only minimally interested in civil liberties, constantly asking them "how is this not sedition?" and "can we prosecute him?" whenever criticism arose. Truman showed rare confidence at times, though cowered down before McCarthy. LBJ tolerated dissent on foreign matters because those same people were supportive of his domestic policies, which were closest to his heart. Nixon, evil as ever, worked as hard as possible to destroy the Democratic Party which, as every American knows, led to his destruction.

I am happy to have read this work and shall keep my eyes open for Geoffrey R. Stone in future; his opinion is fused into the work, and seems closely allied with my own: that freedom is indispensable and ought not bow down to hysteria and fear.

Courtney says

This book took a long time to read, but not because I didn't enjoy it. I kept getting distracted by other books, but returned to this one in earnest because of the current political climate. Reading about McCarthy and Nixon made me feel like we're not in as uncharted of waters as it feels in this exact historical moment. I kept thinking about how I would have viewed the subject matter of the book if I'd finished it over the summer...

Jennifer says

I almost never abandon books in the middle of reading them, but I abandoned this one. This is a topic that is quite interesting to me, and one of my students used it as a reference for a research paper. I didn't realize that the four selected examples of attacks on free speech in wartime would be ones that were familiar to me (Alien & Sedition acts, suspension of habeas corpus, etc during the Civil War, the Sedition Act of 1917, etc). I stopped reading after the section on the Civil War, which pretty much absolves Abraham Lincoln of all responsibility for suspending habeas corpus (his generals did it; Lincoln just followed along). Lincoln is a very complex historical figures, and if I want to read hagiography I will read medieval saints' lives. Addressing more critically the problems and the fact that, even if the abuses were not Lincoln's initial idea, he totally supported them afterwards would make a book that I would have finished.
