



## The Trial of Thomas Cooper

Excerpted from “[The Kentucky and Virginia Resolutions: Guideposts of Limited Government](#),” by William J. Watkins, Jr. [[http://www.constitution.org/lrev/kentvirg\\_watkins.txt](http://www.constitution.org/lrev/kentvirg_watkins.txt)], on the website of the Constitution Society, a link from the EDSITEment resource **Internet Public Library**.

Thomas Cooper, who later became the president of the South Carolina College, was a multitalented English lawyer and radical who had moved to the United States in 1794. Cooper was arrested on 9 April 1800 for a handbill written five months earlier, and his trial attracted national attention. The secretaries of war, state, and the navy all attended the trial. Congressman Robert Goodloe Harper was also there to observe the application of section 2 of the Sedition Act, which he had drafted. Timothy Pickering went so far as to sit on the bench with the two judges, Justice Samuel Chase and District Judge Richard Peters.

Attorney General William Rawle, ... handled the case for the government. Cooper was indicted for “being a person of wicked and turbulent disposition, designing and intending to defame the President ... and to bring him into contempt and disrepute, and excite against him the hatred of the good people of the United States” (Cooper 1800, 7).

Cooper’s questioned writings included *sundry* (various) complaints against the government. Those stressed by Rawle were the assertions that the country had been saddled with the expense of a permanent navy and a standing army; that the government had foolishly borrowed money at 8 percent in time of peace; that Adams’s statements about the French “might justly have provoked war”; and that Adams had interfered with the proceedings of a court of law. Cooper described the last point as “a stretch of authority which the Monarch of Great Britain would have shrunk from” (1800, 7). Cooper pleaded not guilty and used the truth as a defense. As he mounted his defense it was clear he was not speaking merely to the court. Cooper’s defense was even more an indictment of Adams and a message to the people to support the Jeffersonians in the election that was only months away.

Cooper questioned how the people could rationally use their franchise if “perfect freedom of discussion of public characters be not allowed” [1800, 19]. He said he knew the king of England could do no wrong, “but I did not know till now that the President of the United States had the same attribute” [1800, 20]. At remarks such as these, vexation surely showed on the faces of the Federalists in the courtroom. However, compared with his actions at some of his other trials, Justice Chase showed great patience before launching into his diatribe [tirade] of jury instruction.

In his charge to the jury, Justice Chase *took on the air of* [acted like] a prosecutor rather than a judge. He even pointed out to the jury several things that Attorney General Rawle had left out of the prosecution’s case. Chase then declared that Cooper’s “conduct shewed that he intended to dare and defy the government, and to provoke them, and his subsequent conduct [defense presented at trial] satisfies in my mind, that such was his disposition” (Cooper 1800, 46). Chase regarded Cooper’s publication as the boldest attempt he had seen to poison the minds of the people. And if the jury was not satisfied that Cooper had proved his innocence regarding all points of the indictment, they must find him guilty.

So charged, the jury could reasonably have feared that a verdict of not guilty would earn them arrest for sedition. Chase—never impartial—got the verdict he desired; Cooper was fined \$400 and imprisoned for six months. “I do not want to oppress,” Chase said as he sentenced Cooper, “but I will restrain, as far as I can, all such licentious attacks on the government of the country” (Cooper 1800, 46).

One wonders what sort of statements by the political opposition could avoid being characterized as “licentious attacks on the government.” Clearly, under the Federalists’ Sedition Act, all less-than-favorable discussion of government policies was prohibited.