1962

The Republicans, 1800-1804: A Study in Political Consistency

Susan Anne Torbit

College of William & Mary - Arts & Sciences

Follow this and additional works at: https://scholarworks.wm.edu/etd

Part of the Political Science Commons, and the United States History Commons

Recommended Citation


https://dx.doi.org/doi:10.21220/s2-k0j9-3r45

This Thesis is brought to you for free and open access by the Theses, Dissertations, & Master Projects at W&M ScholarWorks. It has been accepted for inclusion in Dissertations, Theses, and Masters Projects by an authorized administrator of W&M ScholarWorks. For more information, please contact scholarworks@wm.edu.
THE REPUBLICANS, 1800-1804
"" A STUDY IN POLITICAL CONSISTENCY

A Thesis
Presented to
The Faculty of the Department of History
The College of William and Mary in Virginia

In Partial Fulfillment
Of the Requirements for the Degree of
Master of Arts

By
Susan Anne Torbit
May 1962
APPROVAL SHEET

This thesis is submitted in partial fulfillment of
the requirements for the degree of
Master of Arts

Susan A. Torbit

Approved, May 1962

James Morton Smith, Ph. D.
Harold Lees Fowler, Ph. D.
Thaddeus W. Tate, Ph. D.
ACKNOWLEDGMENTS

The author wishes to express her appreciation to Dr. James Morton Smith for his guidance throughout the preparation of this thesis and to Dr. Harold L. Fowler and Dr. Thaddeus W. Tate for their reading and criticism of the manuscript. The writer also wants to thank Dr. Ludwell H. Johnson and Miss Judith Reynolds for their encouragement and helpful suggestions.
TABLE OF CONTENTS

ACKNOWLEDGMENTS ........................................ iii
ABSTRACT ............................................... v
INTRODUCTION ........................................... 2

PART I: THE CAMPAIGN of 1800
I. Unconstitutional Practices and Tendencies .......... 8
II. Abridgment of Rights .................................. 18
III. Partisan Government .................................. 27
IV. Unsound Fiscal Policy .................................. 36

PART II: THE FIRST ADMINISTRATION
OF THOMAS JEFFERSON
V. Economy and Its Implications ......................... 45
VI. Partisanship and Constitutionality .................. 57
VII. Rights and Liberties .................................. 67
CONCLUSION ............................................. 76
BIBLIOGRAPHY .............................................. 81
VITA ......................................................... 84
ABSTRACT

This study is a comparison between the Republicans' attacks on the Federalists in the campaign of 1800 and the actions of the Republicans during the first administration of Thomas Jefferson. The purpose of this study is to determine whether or not the Republicans, when they first gained office, governed according to the principles which they had maintained as an opposition party.

For my description of the campaign issues, I relied largely on campaign pamphlets and newspapers for the year 1800. In analyzing Jefferson's first administration, I consulted the writings of the leading Republicans and pertinent secondary sources.

My findings seem to indicate that in several instances the Republicans from 1801 to 1804 did not act in accordance with the principles that they had established in the preceding years. Yet the general tone of Jefferson's first administration was Republican, and those four years presented quite a contrast to the preceding Federalist period.
THE REPUBLICANS, 1800-1804

A STUDY IN POLITICAL CONSISTENCY
INTRODUCTION

After twelve years of Federalist rule the election of 1800 brought the Jeffersonian Republicans into power. Their victory came as a result of an intensive campaign which was the culmination of their years of agitation as the minority opposition in the federal government. Though but loosely organized, opposition to administration policies had appeared in Congress as early as 1790 when Alexander Hamilton, secretary of the treasury, had introduced his system of finance. By the end of the First Congress in March of 1791, James Madison was clearly the leader of this movement in Congress which stood in opposition to Hamilton. Early in 1791 Thomas Jefferson, secretary of state, had also begun to voice disapproval of Hamilton's financial program. As successive issues arose and the stands taken by the administration, under Hamilton's guidance, revealed an endorsement of government by the well-born few, an organized party of opposition evolved under the leadership of Madison and Jefferson. Intent on maintaining the principles of government for which the Revolutionary War had been fought, the Jefferson-Madison party came to be known as the Republicans while the party of the administration became known as the Federalists. 1

By the election of 1792 there were definite signs of party organization on the national level. Although George Washington's

decision to stand for reelection eliminated any contest at the presidential level, the Republicans wished to replace Vice-President John Adams with a man more in line with their republican principles. The party leaders were able to agree on George Clinton, but he received only fifty electoral votes to Adams's seventy-seven. 2 In the spring of 1793, a new issue became the center of dispute in American politics. Public opinion began to divide over support of the French Revolution with the Republicans endorsing the actions of the French people in their war against England and the Federalists taking the opposite side. In 1795 this cleavage was increased by the administration's sponsorship of the pro-British Jay Treaty which was approved by Congress in spite of strong Republican opposition. But the strength of the Republican party had greatly increased over the last four years, and this was demonstrated in the election of 1796. Although the Federalists successfully elected John Adams to the presidency, Thomas Jefferson, the Republican candidate, received only three electoral votes less than Adams and therefore assumed the vice-presidency. 3

While Washington was President, because of the respect in which he was held throughout the country, expediency had prompted the Republicans to temper somewhat their attacks on the administration. With Adams in office, however, the Republicans felt no such restraint and the next four years of Federalist rule were years of bitter party contest. 4

2. Ibid., 45, 49.
3. Ibid., 54-56, 77, 85, 115.
4. Ibid., 115.
John Adams opened his administration by sending a special diplomatic mission to France in an effort to heal the breach that had occurred in Franco-American relations after the United States had ratified the Jay Treaty with Great Britain. In order to negotiate from a position of strength, the Federalists sought to increase the army and the navy and introduced bills in Congress in 1797 for those purposes. These measures were attacked by the Republicans as tending to provoke war, and the increases finally sanctioned by Congress were less than the Federalists had desired. Soon, though, conditions made it possible for the Adams administration to have things its own way. 5

The envoys to France returned with a report of the French government's efforts to bribe them, and the people of the United States became incensed against their Revolutionary War ally. While the public rallied to the support of President Adams and his party, the Republicans were rejected, for they had championed the cause of the French revolutionaries in their struggle against Britain. The Federalists were now able to override Republican opposition in Congress, and they took strong measures against France. Commercial intercourse with France was suspended, the capture of French armed ships was authorized, and all treaties with France were abrogated. For the defense of the United States, a provisional army was created and a navy department was established. To pay for all this, a tax was laid on lands, houses, and slaves. Finally, the Alien and Sedition Acts were passed. In taking advantage of their popularity and enacting such extreme measures, the

Federalists unwittingly provided the Republicans with issues which they utilized effectively in the campaign of 1800. 6

The congressional elections of 1798-99, though, took place during the furor aroused by the French situation, and the Republican party sustained severe losses. These losses, however, prodded the Republicans to undertake an aggressive campaign program as the presidential election of 1800 approached. 7 Convinced that the very existence of republican government in the United States was at stake, the Republicans sought to awaken Americans to the dangers of Federalist rule. Their victory at the polls may serve as evidence of the effectiveness of their campaign.

Because the Republicans, when out of power, had condemned so completely Federalist principles and practices, one wonders just how they acted when for the first time they had the responsibility of running the federal government. Did they follow through on their campaign promises and govern according to their reiterated principles of frugality, strict constitutionalism, and equal respect for the rights of all citizens? Or did the Republicans find that the Federalists' solutions to the problems of government were more expedient, and did they therefore adopt them? In attempting to answer those questions it seems best to divide the discussion into two parts: In the first part the Republicans' attacks on the Federalists in the campaign of 1800 will be described, and in the second part those attacks will be compared with the measures sponsored by the Republicans during the first

---


7. Ibid., 133-35.
administration of Thomas Jefferson. Within each part the material will be organized according to the broad principles involved in each instance. Often, however, more than one principle was involved in a single campaign issue or in an act of the Republicans when in office. In such cases the issue or the act with all its implications will be discussed in the chapter corresponding to the major principle involved.
PART I

THE CAMPAIGN OF 1800
CHAPTER I

UNCONSTITUTIONAL PRACTICES AND TENDENCIES

In January of 1799, a year before the period of intensified campaigning began, Thomas Jefferson made "a profession of . . . [his] political faith" in a letter to Elbridge Gerry. Although there was no official Republican platform during the campaign of 1800, this statement adequately describes the position taken by the Jeffersonian Republicans in their appeals to the electorate. Stressed both in this letter and in the campaign was a firm maintenance of the Constitution against attacks by the Federalists, who, the Republicans claimed, were trying to alter its principles.

I do then, with sincere zeal, wish an inviolable preservation of our present federal constitution, according to the true sense in which it was adopted by the states, that in which it was advocated by it's friends, and not that which it's enemies apprehended, who therefore became it's enemies; and I am opposed to the monarchising it's features by the forms of it's administration, with a view to conciliate a first transition to a President and Senate for life, and from that to a hereditary tenure of these offices, and thus to worm out the elective principle. I am for preserving to the States the powers not yielded by them to the Union, and to the legislature of the Union it's constitutional share in the division of powers; and I am not for transferring all the powers of the States to the general government, and all those of that government to the Executive branch. 1

It seemed to the Republicans that, instead of striving to uphold the present federal Constitution, the Adams administration was

trying to convert the Republic into a monarchy. Jefferson himself thought that the Federalists planned to effect various changes in the principles of government until they attained their goal peaceably or forced a rebellion which would be put down by the army which would, in turn, establish a monarchical state. The only hope of preventing such an occurrence lay in acquainting the people with the dangers of the present situation, for then they would surely turn the Federalists out of office in the election of 1800.²

Taking their cue from their presidential candidate, the Republicans set out to make Americans fully aware of the monarchical tendencies of the Adams administration.³ Many of the charges were based on statements of John Adams that seemed to indicate his espousal of monarchical principles. Tench Coxe in a letter to the Aurora recounted a conversation that had taken place in 1794 when Adams had been vice-president. John Langdon, the senator from New Hampshire, had told Coxe that Adams had "expressed himself in favor of an hereditary President. . . ." Continuing in the same vein, Adams had then maintained that on account of the virtue of the people of the United States, which was owing to the youth of the country Republican government might do here for a while, but that . . . the people of America could not be happy without an hereditary Chief Magistrate, and an hereditary Senate, or a senate, for life.

According to Coxe, Adams had never denied making such strong statements.⁴

² Thomas Jefferson to Charles Pinckney, Oct. 29, 1799, Ibid., 87-88.

³ For an analysis of the extent to which charges of monarchism were valid, see Louise Burnham Dunbar, A Study of "Monarchical" Tendencies in the United States from 1776 to 1801 (Urbana, Ill., 1922).

Other remarks made by Adams provided further ammunition for the Republicans. Writing in The Kentucky Gazette, "a Freeman" posed the following questions:

Is Mr. Adams a republican? Whence then are his extravagant and unqualified panegyrics on the English constitution, which he represents as "BEING THE MOST SOLID AND DURABLE GOVERNMENT AS WELL AS THE MOST FREE." Whence his great mortification that the Americans had not imitated it "in giving a negative upon their legislature, to the executive power," and that they had given "the choice of some militia officers, etc. to the people?" And whence his expectations and evident hopes that they will hereafter have hereditary presidents and governors and senators? 5

That such views were held by the President was indeed alarming. The dangers were further compounded when another statement of Adams was considered. Republicans brought to the attention of the "people out of the way of Politics, ... a printed Declaration of Mr. Adams, in Fenn's Paper of the 3rd July, 1798, in which Mr. Adams says that 'Republican Government may be interpreted to mean any thing.'" 6

Twisting this statement, the Aurora charged that the Federalists "agree in their hatred of popular or democratic government, and in their efforts to render it odious and make it mean any thing or nothing." 7

Such choice statements from no less than the Federalist presidential candidate himself were woven into Republican campaign pamphlets and newspaper articles, and the logical conclusions were pointed out. "Timolean" prefaced his recitation of the damning quotations by noting:

5. The Kentucky Gazette (Lexington), Aug. 7, 1800.

6. [Tench Coxe], Strictures upon the Letter Imputed to Mr. Jefferson, Addressed to Mr. Mazzei (n.p., 1800), 8-9.

Whatever may be the virtues or religion of Mr. Adams, his principles are not republican, his sentiments are not congenial with the spirit of the constitution, he has published and proclaimed his opinions, they stand as an everlasting record and monument against him. Mr. Adams would destroy the essential nature and character of a republic; his principles would wrest the government from the hands of the people, and vest its dominion and prerogatives in the distinguished and "well born few." . . .

In citing evidence of the monarchical tendencies of the Adams administration, the Republicans did not depend exclusively on incriminating statements made by John Adams. They also pointed to the actions of the administration which they felt tended to promote monarchism. Specifically these were the assumption of state debts, heavy taxes, the Excise and Stamp Acts, the Alien and Sedition Acts, the navy, and the standing army. Abraham Bishop charged that "the foundation of a MONARCHY is already laid in 6 per cent. 3 per cent. and deferred stock, in millions of civil list and indirect taxation," for those acts tended to favor the few at the expense of the majority of Americans.

8. [Tunis Wortman], A Solemn Address to Christians and Patriots. Upon the Approaching Election of a President of the United States: In Answer to a Pamphlet, Entitled, "Serious Considerations," etc. (New York, 1800), 29. For other examples of the use made by Republican pamphleteers of Adams's statements, see [John James Beckley], Address to the People of the United States; with an Epitome and Vindication of the Public Life and Character of Thomas Jefferson (Philadelphia, 1800), 4; Tench Coxe, Timothy Matlack, Frederick A. Muhlenberg, Jacob Carpenter, Samuel Bryan, To the Republican Citizens of the State of Pennsylvania (Lancaster, Pa., 1800), 8.


The term, monarchist, was hurled at John Adams over and over again, often times without citing any evidence for the charge. This was especially true in the Aurora, which tended to go in for "sensational" campaigning. 11

Closely related to the charge of monarchism was the Republicans' insistence that the Federalists had violated the constitutional doctrine of separation of powers in several ways. In most of the instances they mentioned, the executive department had been enlarging its powers at the expense of the other two branches. The Republicans pointed out as unconstitutional that the President had been recommending laws to the legislature although the Constitution had specifically separated the two branches. In particular, the Chief Executive had recommended to Congress the assumption of the state debts, ratification of the British Treaty, passage of the Alien and Sedition Laws, establishment of the army and navy, and floating loans. Not only were these measures recommended, but when Congress seemed opposed to passing them, executive pressure was exerted until the legislative branch submitted. This was seen as conclusive evidence that the presidency had become too powerful, for in a republic the legislature should be the strongest of the three branches. 12

The strength of the President was also increased, the Republicans maintained, by Congress's voluntary, but unconstitutional, transference of some of its power to the executive. As Gabriel Duvall noted, the Constitution gives to Congress the power "to raise and support armies."

11. For example, see Aurora, Aug. 4, 16, Sept. 3, 6, 22, 23, 24, 26, Oct. 2, 6, 8, 10, 11, 13, 16, 1800.

In spite of this fact, Duvall continued, an act was passed in May 1798 which authorized the President to raise and support an army if there was a declaration of war against the United States or if he thought there was a danger of invasion, before the next session of Congress. Another act in March of 1799 authorized him to increase the size of the army. Thus the power reserved strictly to the legislative branch was transferred to the executive. Above all, the particular crisis which instigated this transfer proved that it was unwarranted.  

Duvall continued his attack on the Republicans by noting that Congress also transferred to the President its power "to borrow money." By an act of Congress, John Adams was authorized to borrow for the public service five million dollars. No limitation was put on the rate of interest that might be accepted, and the loan was subsequently obtained "at the enormous interest of eight per cent." The House of Representatives had passed the bill without defining the amount of money to be borrowed, but the Senate set the limit at five million dollars. "Without this restriction, the president would have possessed an almost unlimited and dictatorial power over the purse. . . . A power vested in Congress, and which cannot be rightfully exercised by any other authority."  

Not only did the President move into an area of power specifically reserved to Congress, according to the Republicans, he also concerned himself with matters rightfully belonging to the judicial branch. The instance they named was the case of "Jonathan Robbins." This incident involved Thomas Nash, a British sailor who claimed that he was really


Jonathan Robbins of Connecticut and that he had been impressed by the captain of the British frigate *Hermione*. While Nash had been on board the *Hermione*, the crew had mutinied and killed the officers. Later apprehended in Charleston, South Carolina, Nash maintained that he was an American citizen—and furthermore he denied that he had taken part in the mutiny. Upon the request of the British minister, John Adams examined the evidence concerning the case and concluded that Nash was not an American citizen. Therefore, according to the twenty-seventh article of the treaty with Britain, Nash was turned over to the British authorities, by whom he was executed following a trial at which he was found guilty. At that time extradition was unusual in international relations, and Adams was violently attacked for his action by the Republicans.  

In the *Maryland Gazette* it was claimed that the President had advised Judge Bee of South Carolina to deliver up Robbins if the evidence of his criminality would have justified his apprehension if the murder had been committed in the United States. The Judge had considered only that and not Robbins's certificate of citizenship nor his affidavit of impressment. The newspaper article went on to note that in a similar case, George Washington, as President, had referred the matter entirely to the judiciary due to the doctrine of separation of powers. In that instance the court had decided against extradition. 

Adams's usurpation of the judiciary's powers was emphasized even more in the *Aurora*. The readers were asked to recall that it was

---


within the province of the judicial branch to interpret the laws of the land and that treaties with foreign nations were part of these laws. Then the article continued accusingly, "yet did President Adams not only take upon himself the construction of the treaty with Great Britain by deciding the question of jurisdiction in the first instance, but did further direct a judge of the Court to deliver up a man. . . ." 17 This incident received great play in the Republican newspapers and pamphlets where not only its legalistic aspects were stressed, but its emotional appeal was also utilized. Thomas Jefferson correctly assessed its impact early in the campaign:

I was both pleased and edified by the piece on Robbins case. I think no one circumstance since the establishment of our government has affected the popular mind more. I learn that in Pennsylvania it had a great effect. I have no doubt the piece you enclosed will run through all the republican papers, and carry the question home to every man’s mind. 18

If the case of Jonathan Robbins had not convinced the public of the dangers of maintaining the Federalists in office, the Ross election bill supplied the Republicans with further evidence that the Federalists were trying to subvert the Constitution. This bill, introduced by Senator James Ross of Pennsylvania, proposed that a committee elected by both houses of Congress, with the Chief Justice of the Supreme Court, as chairman, be given extraordinary powers in the election of the president and vice-president. According to this bill, when the President of the Senate had received the electoral votes, he would turn

17. Aurora, Mar. 3, 1800.
the state certifications over to this special committee which would consider the circumstances surrounding the selection of each elector, decide on the validity of the votes, count the votes, and announce who had been elected. Later in the House the Ross bill was modified to require a vote of both houses of Congress for the acceptance of the report of the committee. The Senate, however, would not accept the House version, and the bill was never finally enacted. Nonetheless, the support it had received from many of the Federalists made it useful to the Republicans. James Madison pointed out the basis for the objection to the bill when he explained that legislative interference in the election of the president and vice-president was meant to be as little as possible. The Constitution had made those two departments independent of each other and dependent on their constituents. Maintaining that such a change as the election bill would effect necessitated a constitutional amendment, Madison continued: "If this licentiousness in constructive perversions of the Constitution, continue to increase, we shall soon have to look into our code of laws, and not the Charter of the people, for the form as well as the powers of our Government." Expressing the same idea in its characteristic style, the Aurora lashed out at the Federalists:

and to cap the climax of the aggression, we have beheld an attempt made to supersede the constitution of the United States, by a law of the Legislature, by which the most estimable right of the people was to be transferred to a chief justice of executive creation, and a secret committee


organized by intrigue and acting without responsibility..."

Clearly, Americans were told, the existence of the Constitution as a living document would be of short duration if the Federalists were continued in office. Had not John Adams himself frequently expressed his sentiments in favor of a monarchy? The actions of Federalists in both the executive and legislative branches, the Republicans said, indicated a disregard of constitutional restrictions. The time had come to turn these men out of office.

---

21. *Aurora*, Aug. 16, 1800. See also [Coxe], *Strictures upon the Letter Imputed to Mr. Jefferson*, 10-11; *Kentucky Gazette*, Mar. 27, 1800.
CHAPTER II
ABRIDGMENT OF RIGHTS

"Let us be true to ourselves — Let us rally before the genius of liberty and the spirit of the constitution, and let no consideration divert us from the determined resolution of preserving the rights and freedom of our country."¹ Thus did the Republican campaign literature exhort Americans to protect their liberties by removing the Federalists from office. Had not the Federalists sought to abridge their rights in several ways over the past years, Americans were asked. Think what four more years of Federalist rule would bring.

Two prime examples of Federalist tyranny were the Alien and Sedition Acts. Jefferson noticed their effectiveness as campaign material as early as January 1799.² Although the Alien Act had already expired by the time of the campaign, the Republicans did not hesitate to include it in their indictment of the Federalists. The supporters of the Alien Act maintained that it operated as preventive justice rather than as penal justice. Gabriel Duvall, speaking for the Republicans, retorted that it had violated all the principles of preventive justice in American jurisprudence. For instance, the President, not a judicial authority, judged the grounds for the suspicion of the alien, and no oath or affirmation was required. If the President found the suspicion to be

¹. [Wortman], Solemn Address to Christians and Patriots, 31.
reasonable, he might order the alien out of the United States with no opportunity to avoid the sentence by securing pledges of his good conduct in the future. "As the President may limit the time of departure as he pleases," Duvall continued, "the benefit of the writ of habeas corpus may be suspended with respect to the party. . . ." This was in direct violation of the Constitution, he charged, which specifically says that the writ of habeas corpus shall not be suspended unless public safety may require it in case of rebellion or invasion, and neither had existed when the Alien Act was passed. Once a man had been convicted under this act by the President, he could never be exonerated even though the highest judicial authority might see sufficient cause for such action. 3

The full tragedy of the Alien Act was revealed, Duvall noted, when one realized that it operated against alien friends. Of course, Congress has the power to deal with alien enemies, for it has the power to declare war on any nation and to treat any of its citizens as enemies. The constitutionality of the "Act respecting alien enemies," therefore, was not disputed. It was unconstitutional, however, for

3. Maryland Gazette, July 3, 1800. During the Congressional debate on the Alien Act the Republicans had emphasized that the act would violate the Fifth and Sixth Amendments to the Constitution. The alien under suspicion could be deported without a presentionment of a grand jury, without a speedy and public trial by an impartial jury, without being informed of the nature and the cause of the accusation, without confrontation and examination of witnesses against him, without compulsory process for obtaining witnesses in his favor, and without counsel. In short, he would be deprived of his liberty without due process of law.

Congress to have assumed the powers of the Alien Act over aliens from nations who are at peace with the United States. According to the Aurora, the Alien Act was calculated to operate specifically against such alien friends, for these were often radicals from the British Isles, who opposed the Federalists.

Often the Republican campaign literature linked the Alien Act with the Naturalization Act, which had increased the residency requirement for citizenship to fourteen years. Together these laws, the Republicans claimed, had served to discourage immigration which was most important to the growth of the new nation. Farmers were needed to take up the unsettled lands, laborers were especially needed since the abolition of the slave trade, and artisans were needed to develop American manufacturing. Not only had these restrictive laws discouraged immigration, but they also were the cause of a reduction in foreign investment. At the establishment of the federal government, Europeans "crowded our markets and offices to purchase every description of property, and they invested large sums in useful improvements."

Such was no longer the case.

Embarrassed and alarmed by our long Naturalization Law, and our new Alien Law, and astonished at the increase of our Taxes, Duties, and Expenses . . . these Foreigners had ceased to feed that prosperity. . . . From every public and private opportunity of Information which we possess, we are thoroughly convinced, that the stagnation of almost every kind of real and landed property, is owing to the joint operation of these Causes.


5. Aurora, Aug. 1, 1800.

Indeed, Americans were reminded, one of the grievances against King George III listed in the Declaration of Independence was that the seven years residency requirement for naturalization had tended to check immigration. The Federalist law doubled the old British requirement. 7

These laws, however, were more than a threat to the economy of the country. Their implications threatened the very rights of the nation's naturalized citizens. The Federalists intended, the Republicans maintained, to make a distinction between natives and naturalized citizens, and it would be the policy from now on never to appoint any men to public office who were not natives. Men from Massachusetts and Connecticut had already tried to alter the Constitution to permit only natives or those who were citizens at the time of the adoption of the Constitution to be eligible for the offices of president, vice-president, and congressmen. The conclusion was obvious to Republicans: "If after this any man can doubt there is an intention to draw a line in the opinions of the people, between those who are natives and such as are not, he must be a blind politician indeed, or very much warped by his office or expectations." 8

7. Ibid., 12; Aurora, Aug. 1, 1800; On the Election of the President of the United States. Number XII (Philadelphia, 1800), 1-2.

8. Ibid., 4-5. In May 1798 when resolutions in regards to enacting an alien bill were being considered in the House, Harrison Gray Otis had proposed that only native born citizens should be permitted to hold federal office. In the Senate Benjamin Goodhue made a similar proposal in July 1798. Later, several of the states recommended that Otis's suggestion be embodied in a constitutional amendment. Bauer, The Adams Federalists, 152-53; U.S. Congress, The Debates and Proceedings in the Congress of the United States, 14 vols. (Washington, 1825-37), 5th Congress, 2d session, 602; hereafter cited as Annals of Congress.
The immediate purpose of the Naturalization Act, which prevented foreigners from voting, was even more clearly visible to the Republicans: The Federalists sought to diminish the vote of their political opponents. Most foreigners who came to America were "friends of liberty" and therefore voted Republican. By restricting the foreign vote, the Federalists were hurting the Republicans, and at the same time they were reducing the electorate generally, which was the desire of some men. 9

Even more of a danger to the liberties of Americans than the Alien and Naturalization Acts was the Sedition Act. The prosecutions conducted under this act were exhibited by the Republicans as excellent examples of the Federalists' disregard of the Bill of Rights. As Gabriel Duvall emphasized, the power exercised under the Sedition Act was expressly forbidden by a constitutional amendment. Furthermore, it is the right of free inquiry into the acts of the government and its officials which protects all the other rights. 10 The Republicans immediately posed the logical questions:

Why do a party wish to destroy opposition and enquiry? Are there men in our councils who wish to enslave us? — whose conduct will not bear the test of ecclaireissement? And who wish to close the mouths of 5 million of people, so freed from foreign despotism? 11

As for the Federalists' claim that they had liberalized the old seditious libel law of common law by allowing the defendant to

---

attempt to prove the truth of the charge, Gabriel Duvall dismissed this as "a mere delusion." Although the truth of a fact may be proved, Duvall pointed out, how can the truth of an opinion be established to satisfy a court of law? Political writings contain "reasoning and deductions" as well as facts, and a libel usually arises from the former rather than from the latter. "But as evidence can be given only of the truth of facts, and not of the truth of the opinions stated as arising out of those, the consequence will be that the person accused will be found guilty, because he cannot prove the truth of that which is incapable of being proved." 12 Then followed the unhappy result, as described dramatically in the Aurora: "In this boasted land of liberty, we behold citizens immured in prisons, and like slaves, permitted only to breath through the lattice, for exercising the faculties of their minds, and questioning the measures of a public servant!" 13 Thus were Americans acquainted with the efforts of the Federalists to restrict their right of freedom of speech.

The Bill of Rights also guaranteed freedom of religion, but, according to the Republicans, Federalist rule was likewise a threat to the maintenance of that right. Americans were reminded that in Federalist New England there was a union of church and state. All the citizens of Massachusetts and Connecticut were taxed to support the church of John Adams. 14 As for the avowed interest of the Federalists in matters of religion, the Republicans claimed that their concern lay


in using religion to maintain their political ascendancy. 15 Thus the *Aurora*'s interpretation of the future plans of the Federalists, if reelected, included:

We [Federalists] shall amend that part of the Constitution which admits a Jew as President, for we must have an established religion of some sort — pulpit fulminations have always been found, by experience, more effectual, in support of all governments, than any device ever yet discovered — nor can a weak or wicked government, be supported without its aid. 16

Duplicity was also discovered by the Republicans in the Federalists' creation of a standing army during the French crisis. 17 The danger that Napoleon Bonaparte and his army presented on the other side of the Atlantic Ocean seemed rather remote. Further suspicions were aroused by the fact that, due to popular disapproval of the measure, the Federalists had voted to disband the army early in 1800, before the peace negotiations with France had been completed. 18 Originally Congress had voted to increase the regular army to 42,000 men and to employ a volunteer corps of up to 75,000 men. At the same time, Republicans pointed out, the Senate had passed a bill "to authorize the President to disuse the militia North of the Potomac" River even in the case of a French invasion. This evidence against the Federalists


17. For a discussion of the creation of the standing army as an unnecessary expenditure, see Chapter V.

seemed rather conclusive, for it was only the militia which had accepted Republicans, and the volunteer corps was entirely made up of Federalists. Americans were reminded of the various ways in which armies had been used in other nations and that the Federalist party had acknowledged that their internal split had come over "the degree of hatred and animosity to be used against their Fellow-citizens." 19

Thus the Republicans built their case that the standing army had originally been created to enforce party measures that deprived Americans of their rights, rather than to defend the nation against a French invasion. The best defense of the nation, in any case, lay in a firm reliance on the militia which unfortunately had been neglected during the build-up of the regular army. It was always best to depend on local forces for defense.

These are the men who will always fight bravely for their altars and their homes; but how absurd is it to rely for defence on men, who care not for altars, and who have no homes! The only earthly objection to reliance on the body of the people is, that with arms in their hands they might repel domestic agressions. 20

---

19. Ibid., 4. The action taken by the Senate to which the Pennsylvania Republicans made reference was an amendment to a bill sent from the House of Representatives entitled "an act authorising a detachment from the militia of the United States." The amendment read as follows:

Provided, always, That it shall be lawful for the President of the United States, if he shall judge it expedient, to forbear to call on the Executive authority of any particular State or States east of the river Delaware, to organize, arm, and equip the proportion of the militia of such State or States as fixed by this act.

The Senate then inserted the word, "Potomac," for the word, "Delaware," and the House bill with the Senate amendment was passed March 2, 1799. Annals of Congress, 5th Cong., 3d sess., 2240.

Under Federalist control, the Republicans maintained, the government had moved away from the principles of the Founding Fathers. For instance, consider how individual liberties had been disregarded in the last few years. It was awful to contemplate what four more years of Federalist rule might bring. With the government in the hands of the Republicans, however, the people could be sure that their rights would be protected.
PARTISAN GOVERNMENT

Particularly in the middle states and in the South, the Republicans stressed how strongly the Adams administration had favored "the Eastern influence." In proving their charge of partisan government they examined the Federalist policies in regards to office holding, their support of the commercial interests, and their attitude toward Great Britain.

Even a quick survey of the geographical origins of the men holding office under the Adams administration revealed a preponderance of New Englanders. The Mirror of the Times pointed out that no man from New York, "the first exporting state in the Union," nor from "Pennsylvania, next to Virginia the most important state," had been appointed to a federal office by Adams. (Alexander Hamilton, appointed second in command of the army, was regarded not as a New Yorker but as "a native of the West Indies.")

The Aurora noted specifically that Massachusetts and Connecticut

(of whose numbers of people we [Pennsylvania] have two thirds) have resident, two out of four Heads of Departments, and two members of the Council, the Chief Justice and one other of the supreme judges, the important ministers to England, Spain, Prussia, and first named

1. Mirror of the Times, and General Advertiser (Wilmington, Del.), Sept. 13, 1800.

2. Ibid., Apr. 30, 1800.
of the ministers to France. Distributive justice in regard to Pennsylvania and other States is trodden under foot. 3

Generally the presidential policy was described to be "the appointment of no man to office, but of a certain political stamp, and the removing of all men from office who had the virtue or courage to differ from the Presidential creed..." 4

Yet the Republicans' indictment of Adams grew even more serious. They charged that Adams favored his family above all in the distribution of patronage. He had removed several men (even New Englanders) who had been appointed by Washington, to appoint "persons in his Family or Friendship" of the same political ties as the former office holders. This was in great contrast to the conduct of Thomas Jefferson, who as secretary of state and vice-president, never procured an office "for one of his Relations or connections." 5 Consider Adams's "nomination of his son-in-law" and his "appointment of his son, and son's father-in-law, to important and lucrative offices. . . ." This was hardly impartiality. 6 The Aurora went even further and claimed that "the first object of Mr. Adams is his family aggrandizement in riches and power." 7 Gabriel Duvall summed up the Republican accusation:

Talents -- integrity -- patriotism -- attachment to the constitution -- and meritorious services, ought at all times to be powerful recommendations. These seldom

3. Aurora, Sept. 6, 1800.
5. Coxe et al., To the Republican Citizens of the State of Pennsylvania, 5.
recommended to the late president, his near relations and connexions: and these if we may believe what I have never heard contradicted, without an additional ingredient, have seldom been deemed a sufficient recommendation to the ruling president.  

If some Americans should regard the matter of patronage distribution as petty or only the concern of office seekers, the Republicans were able to produce further evidence of the Federalists' practice of partisan government. The commercial interest of the nation had been especially protected through the use of federal tax income which had been paid in part by the farmers. The Republicans made great use of this fact when campaigning in agricultural sections of the country. Particularly important in this aspect of the campaign, were two essays which had been written by Thomas Cooper in 1799, entitled Political Arithmetic, for they criticized government protection of commerce through the establishment of a navy. Thomas Jefferson recognized the merit of this argument early in 1800, and in a letter to Joseph Priestley, who had written on the same subject, he declared:

The Papers of political arithmetic, both in your and Mr. Cooper's pamphlets, are the most precious gifts that can be made to us; for we are running navigation mad, and commerce mad, and navy mad, which is worst of all. How desirable it is that you could pursue that subject for us.  

8. Maryland Gazette, July 24, 1800.

9. These two essays were part of a collection of writings by Cooper entitled Political Essays and originally published in the Gazette (Northumberland, Pa.) in 1799. A second edition, with additions and corrections, was printed in Philadelphia in 1800.

Later in April, Jefferson forwarded from Philadelphia several copies of Cooper's *Political Arithmetic* to Philip Norborne Nicholas, his campaign manager in Virginia. He suggested that they be distributed to every county committee in the state, for they contained "views which I am anxious should be generally exhibited." 11

In his essays Cooper maintained that the value of foreign commerce to the country was less than the cost of protecting it with a navy. The primary exports of the nation were commodities of first necessity. Because of the demand for these articles, foreign vessels would come to the United States to get them if American ships were not available to carry them across the ocean. Thus the only part of the commercial system that was being defended by the American navy was the carrying trade. More for the benefit of British agents in commercial towns, than for aid to the farmer or the mechanic, heavy taxes had been laid on the whole community so that a navy could be created. The hidden danger in the whole situation was the tendency of an active navy to lead the country into war. The prosperity of the United States could best be served, Cooper maintained, by a concentrated effort to promote the growth of agriculture and internal commerce. Until the land was fully peopled and intensively cultivated, attention to foreign commerce was financially unwise. Cooper did not feel that foreign commerce should necessarily be prohibited, but he did oppose the extension of government protection to merchants, for they must be willing to take

11. Jefferson added, however: "I trust yourself only with the secret that these pamphlets go from me." Jefferson to Philip Norborne Nicholas, Apr. 7, 1800, *Abid.*, 127-28.
the risk of their investment as did other speculators. 12 Through a
dissemination of Cooper's conclusions, Jefferson and his party hoped
to convince Americans of the evils present in the Federalists' policy
of commerce first. This was pointed out as only one example of the
narrow program of the Federalists who sought to advance the commercial
interest they represented at the expense of the rest of the public.

The short-sightedness of the commercial bloc was further
illustrated by a statement that appeared in the Boston Centinel, a
leading Federalist newspaper, calling upon Americans to pray for a
continuation of the European war because war was necessary to fill the
warehouses. The Aurora immediately reprinted the paragraph and pointed
out that this statement, which was in strict contradiction to the
principles of Christianity, was made by men who were attacking Jeffer­
son for his religious beliefs. "This is the true religion of the
anglo federalists and Mammon is the divinity that presides over it."
Beyond the religious implications, the statement could be criticized
from a practical standpoint. The opinion that the war helped commerce
had been disproved. During the debates on the direct tax in the last
session of Congress, it had been noted that the revenue from the impost
had decreased because of the European war. 13 Furthermore, due to the
war, the farmers of Virginia, Maryland, and the Carolinas had suffered
an actual loss. Yet the Federalists urged prayers for a continuation

12. Dumas Malone, The Public Life of Thomas Cooper, 1783-1839
(Columbia, S.C., 1961), 99-100. Abraham Bishop followed Cooper's line
of reasoning in his discussion of the commercial system; Connecticut
Republicanism, 7-9.

of the war. This, said the Republicans, is the type of men who are in control in the country now and who are running the government to support their own interests to the detriment of the rest of the nation.

Federalists' disregard of the country's best interests was also evident to the Republicans in their pro-British tendencies. Proof that the Federalists did favor Great Britain was easily supplied by the Republicans. They cited a statement made in "a formal and regular report . . . in the year 1791, by the Lords of the British Privy Council, to the King of Great Britain, on the American Politics, Government, and Trade." In this report "those Lords expressly declare[d] 'that a Party in favor of Great Britain was formed in America.'" If that statement of the British Privy Council was not sufficient evidence, the Republicans could supply a similar one made by the President. The Republicans claimed that Adams himself had acknowledged the existence of a British Party in the United States and stated that the Pinckneys were attached to it.

Several acts of Federalist administrations were also cited by Republicans to show British tendencies which were harmful to the nation.


15. [Coxe], Strictures Upon the Letter Imputed to Mr. Jefferson, 6. The British remark is also stated in Coxe et al., To the Republican Citizens of the State of Pennsylvania, 16; Maryland Gazette, Oct. 2, 1800.

16. [Wortman], Solemn Address to Christians and Patriots, 35. See also [Coxe], Strictures Upon the Letter Imputed to Mr. Jefferson, 7. These statements came from a letter that Tench Coxe claimed John Adams had written to him in May 1792. When the Republicans published Adams's letter during the campaign, the President wrote Thomas Pinckney (Oct. 26, 1800) that he had "no copy, nor any very particular recollection" of that letter. See National Intelligencer, Oct. 31, 1800, for reprints of both letters.
In the United States the adoption of the funding system, the erection of banks, and the practice of speculation were pictured as "similar to the scenes of stock jobbing so much practiced in Great Britain." Such a situation was subversive to liberty and equality, for the collecting of money in banks and the practice of speculation put money in the hands of a few. In Great Britain "this species of fraud hath been long practised [and] it had indeed rendered her a formidable tyrant." Was this the situation that Americans wanted to have created on this side of the ocean, Republicans asked. 17

The trend toward British policies could also be seen, the Republicans claimed, in this list of Federalist actions, all imitative of English precedents:

the Stamp Act, the Alien and Sedition Acts; the tax on Carriages, the mode of collecting and obtaining redress in case of an unjust taxation, the manner of collecting the direct tax, the eight per cent loan, the numerous train of officers appointed by the Executive, independent of the people; in consequence of those acts many of them avowed enemies to the independence of the United States. . . .

Having considered this evidence, did Americans want "to promote to offices of trust and power, . . . men who have evinced by their conduct that their intention is to assimilate the government and jurisprudence of the United States as near to that of Great Britain as they possibly can?" 18

Even more of a threat to the nation's welfare was the tack that the Federalists' foreign policy took because of their British

17. Gloucester County, State of New Jersey. At a Meeting of the Republican Committee, held . . . the 6th of September, 1800. (n.p., 1800), 3-4.
18. Ibid., 4-5.
sympathies. Republicans pointed out that the depredations of the British fleet on American trading vessels were borne with more patience than those of the French. Calling attention to the ill-fated Jay Treaty, they observed that it had contained no condemnation of past depredations by the British and had provided no security for payment in case of spoils in the future. British influence was also seen in the Federalist endorsement of Toussaint L'Ouverture in French Santo Domingo. This rebellion of the Negroes against their French masters was supported by the British in an effort to reduce French power. The Republicans attacked the Federalists for following the British line in spite of the obvious implications that the situation had for the United States with its large slave population.

The charge that the Federalists were following the British lead in both domestic and foreign policies appeared over and over again in Republican newspapers and pamphlets. It was an issue of great emotional impact to a nation who had so lately thrown off British rule. Consider the effect of this statement in an address delivered by a local Revolutionary War hero, Major General Joseph Bloomfield, at a Republican rally in Burlington County, New Jersey:

The British prints proclaim at this time, "a hearty wish for the success of Mr. Adams' re-election, as he is known to be


22. For further examples, see *Aurora*, Aug. 28, Sept. 9, 15, Oct. 6, 8, 10, 13, 1800.
a well wisher to Great Britain:" and for this reason Mr. Adams ought not to have it in his power to shew his partiality to the nation, which is determined on our subjugation. 23

Did Americans really want four more years of Federalist rule, four more years of the Federalists' running the government for the benefit of the small, pro-British, commercial clique of New England to the detriment of the rest of the nation's citizens?

CHAPTER IV

UNSOULD FISCAL POLICY

In stating his political creed in 1799, Thomas Jefferson included his views on government fiscal policy:

I am for a government rigorously frugal and simple, applying all the possible savings of public revenue to the discharge of the national debt; and not for a multiplication of officers and salaries merely to make partisans, and for increasing, by every device, the public debt, on the principles of its being a public blessing. 1

The criticism of Federalist practices implicit in Jefferson's statement was developed by Republicans during the campaign of 1800 into a fierce attack on the fiscal policies of the Adams administration. According to a Federalist newspaper in Connecticut, "the system of Finance" was "the subject of the loudest complaint of the Democratic party in this country." 2 Generally the Republican attack on fiscal policy concentrated on these three aspects: the national debt, taxes, and extravagant expenditures. This piece in the Aurora illustrates the Republican attack on this unholy trinity: "We have seen enormous loans made at an exhorbitant interest, while the nation was at peace: oppressive taxes and imposts imposed to support measures of extravagance. . . ." 3


3. Aurora, Aug. 16, 1800.
One of the most effective pieces of campaign literature on the Republican side was *Views of the Public Debt* by Albert Gallatin. In this pamphlet Gallatin took issue with the Federalists' estimate of the size of the national debt. In January of 1800, Oliver Wolcott, Adams's secretary of the treasury, in a letter to the Committee of Ways and Means of the House of Representatives reported that the principal of the debt had increased $1,516,338 since 1789. In May, however, a committee of the House announced that during the same period of time the debt had not grown, but rather had decreased $1,092,841. Gallatin analyzed the methods by which these divergent results had been obtained, and then tested the Federalist estimates by his own method of comparing receipts and expenditures. His process showed an increase of $9,462,264. This figure could have been two million dollars less, Gallatin emphasized, if the state debts had not been unnecessarily assumed by the federal government. By considering funds actually acquired by the government that could be applied to the reduction of the debt, Gallatin was able to reduce his estimate of the increase to $6,657,319 -- still a substantial sum.

Most of the Republican propaganda against the public debt was not presented in such a methodical style. For instance, the *Mirror of the Times* printed this tirade:

> The rapid increase of our National Debt to Twenty Millions of Dollars, in the space of ten years of prosperity, must be an object of serious and important consideration, to all

---


intelligent and virtuous men, who do not subscribe to the opinion, that "a public debt is a public blessing."... Is it not to be feared, that we are pursuing the same system which has been adopted by the British government, of anticipating the revenue, by borrowing money at exorbitant interest? the most dangerous system that was ever pursued, by an individual, or a government! 6

The most disturbing thing about the debt, of course, was the amount of the government's revenue that had to be "wasted" in interest payments. The 8 per cent loan was particularly attacked by the Republicans; Abraham Bishop pointed out that "tho' in an individual the lending of money at 8 per cent. is a crime, denominated by statute corrupt and usurious, and meriting a forfeiture of the whole sum loaned; yet the exigencies of government drive them to procure the commission of this crime." 7 Republican catalogues of grievances rarely failed to include the "eight per cent loan." 8 The Aurora pessimistically observed: "And finally he [Adams] is to have a new loan of three millions five hundred thousand dollars for which he will be obliged to pay eight, and probably ten per cent." 9

Obviously the money for interest payments came from only one source — taxes; hence the conclusion: "The taxes will always be in proportion to the increase of the national debt." As for the present tax situation, Republicans maintained: "They have now become insupportable. — In fact, the tax upon the property of many individuals, is equal, if it does not exceed, the amount of the nett proceeds thereof.

8. For example, see Aurora, Mar. 21, Sept. 22, 26, 1800.
9. Ibid., Mar. 21, 1800.
Yet it is to be apprehended it will not stop here." 10

The direct tax on property provided an effective campaign issue for the Republicans. It was a subject which could be brought home to every man. In Federalist New England "a Republican Elector" maintained:

It is now seen, felt, and understood. — Almost every common farmer, whose means of knowledge on the subject extended no further than the information derived from interested men or the one-sided channel of some party newspaper, has acknowledged himself deceived respecting the proportion and operation of the federal Tax. Under the delusive persuasion, that it would fall chiefly on the houses of the rich, and very lightly on lands, the great body of Agriculturalists lost the opportunity of petitioning against its oppressive inequality. No alternative was left; but to pay it patiently and guard against it in future by the constitutional checks of Election.

Following this introduction, the "Republican Elector" sought to acquaint the farmers with a few facts that perhaps they had not yet realized:

For the tax is not paid once for all. It is evidently calculated for repetition and perpetuity. Such expense in forming a grand valuation indicates the object. Even permanent offices are established, and already filled with surveyors, whose official duty it is to register transfers of land and eliminate future variations, so as to preserve the valuation complete. If the growing expenses of our government should not be kept within Republican bounds, the little finger of future taxes will be thicker than the loins of the present. 11

In explaining its opposition to the direct tax, the Aurora pointed out two major objections. First it was a poor form of taxation because the collection of it required, in total, seven thousand officers. Their salaries amounted to one-third of the revenues from the direct tax. Secondly, the Aurora charged, it was an unnecessary tax. When Congress


passed this tax bill, there was already more money in the hands of the collectors and supervisors of revenue than could be brought into the treasury by the direct tax. Furthermore, twice the amount that it could produce might be found at all times in the hands of contractors and agents. This money was unaccounted for and was probably being used for private speculation. Above all, the purposes for which the revenue from the direct tax was intended were unnecessary.

It was intended to aid that war system, which all wise men now join in condemning: a system calculated to secure the seats of the men in power. ... This tax, was not only an aid to this system, but an important part of it. It operates as a fee to hire seven thousand advocates to plead for the powers that be. 12

Thus the Republicans used the direct tax, which all men were unhappily aware of, to lead into an examination of government spending during the Adams administration. Jefferson had judged this approach to be effective in 1799 when he predicted that "the direct tax is likely ... to excite inquiries into the object of the enormous expences and taxes we are bringing on." 13 In following Jefferson's suggestion, the Republicans applied themselves diligently to the task of presenting to the public the enormity of Federalist expenditures, pointing out that the expense of running the federal government had now risen to forty-two thousand dollars a day. 14 The total expenditures for 1800 were reported to be $11,600,000. Yet the old Congress had estimated, when the federal

12. Aurora, Oct. 9, 1800. See also Aug. 6, 1800.


Constitution had been adopted, that four million dollars of revenue annually would be enough for the running of the government, the payment of the interest on the national debt, and the gradual reduction of the principal. Instead taxes had been increased so that the annual revenue was $9,300,000, and, at the same time, due to the extravagance of the Federalists, the public debt had been increased by $11,000,000. 15

Indeed, as one Republican pamphlet noted, "we should have expected more economy from a Newengland Administration. Our brethren in those States expected, we believe, much more." 16

The crux of the Republican argument was that most of this government spending was unjustifiable. Republican campaign literature often presented lists of expenditures which they termed unnecessary. For instance, Abraham Bishop recorded:

in the present year it is costing you more than 1,700 dollars an hour to support the public burdens. It goes from you in cents and small change, and the return of expenditures is in gross millions. The President's salary and the compensation to members of Congress, so often complained of, form but a very small part of the bill. The federal city, begun on a system rivalling in expense and magnificence ancient Babylon, has been a sink for your money. The military establishment and navy are immensely expensive. Your great men abroad need some pocket money. The Dey of Algiers can account for 24,000 dollars a year beside the frigate Crescent and some extras. 17

Especially attacked by the Republicans as examples of Federalist misuse of public funds were the army and the navy. As explained

15. Aurora, Sept. 24, 1800.


17. Bishop, Connecticut Republicanism, 14. For examples of similar lists, see Aurora, Aug. 26, Sept. 20, 24, 1800.
in Chapter II, the army was not only viewed as unnecessary but also as a threat to the liberty of Americans. The navy, moreover, had been created for the sole benefit of the commercial interests (see Chapter III). Thus the Federalists were attacked on several grounds for these two items. The establishment of embassies in foreign lands also received its share of abuse from the Republicans, who proclaimed for Jefferson's maxim, "little or no diplomatic establishment." 18 Adams's promotion of foreign intercourse was contrasted with the principle laid down by George Washington in his Farewell Address. 19 "Grotius" warned:

> The expenses of foreign intercourse, since establishment of our government, amount to nearly three millions of dollars; and this immense expenditure has in part gone to support in pomp and luxury, men who, in general, have probably acted more in subserviency to foreign views and impressions, than the real interests of their country. 20

Not only did the Republicans question the loyalty of the Federalists, they also questioned their honesty in regards to the public money. It was often charged that federal officials had used public funds for their own private purposes. Timothy Pickering, secretary of state, and Jonathan Dayton, speaker of the House of Representatives, were specifically accused of being indebted to the United States government. 21 Furthermore, said the Aurora, the Federalists had devised a new way to acquire public funds:


20. [Clinton], Vindication of Thomas Jefferson, 49.

21. Aurora, Mar. 14, Aug. 8, 1800; Kentucky Gazette, July 10, July 17, 1800. As secretary of the treasury, Albert Gallatin recommended that Congress make specific appropriations in order to prevent misapplication of public funds. Gallatin noted that under the Federalists' rule lump sums had been appropriated to department heads to distribute, and often the
The penetration of administration has discovered a way of cheating the devil! — it is said by law, the secretaries of state and treasury shall have 5000 dollars per annum, and people suppose they cannot receive more; but these secretaries are made commissioners to settle with Georgia the right to the territory ceded by Spain in Mr. Pinckney's treaty, and for this they will receive seven dollars per day. This business of double salaries is becoming fashionable. Chief justice Ellsworth has the salary of Judge and at the same time of Ambassador — General McPherson has the pay of a brigadier and at the same time a salary as an officer in the customs. Civil and military appointments now go together without being thought incompatible, and it is said that the high state of discipline at the Scotch Plains gives Col. Smith a great deal of leisure time, and that he will be squeezed into the first good birth which becomes vacant — this will be all right according to pappy's maxim that "we must take care of our friends." 22

Thus the Republicans displayed to the public a picture of the Federalists as misusers of public funds. Because of Federalist extravagance, Americans were heavily taxed and still the national debt grew larger and larger. It was definitely time, said the Republicans, to replace these men who had betrayed the American people in so many ways. They had displayed a flagrant disregard of constitutional principles as they sought to convert the Republic into a monarchy. The rights and liberties of Americans had been likewise ignored. The only benefactors of this regime had been the commercial interest of New England. How much longer, Republicans asked, did the public want to support this chosen few?

result was the "application of public moneys by the Departments to objects for which they were not appropriated. Witness Pickering's account... see the Quartermaster-General's account for five hundred thousand dollars in the office of the accountant of the War Department." Albert Gallatin to Thomas Jefferson, Nov. 1801, Henry Adams, ed., The Writings of Albert Gallatin, 3 vols. (Philadelphia, 1789), I:68.

22. Aurora, Jan. 4, 1800.
PART II

THE FIRST ADMINISTRATION OF THOMAS JEFFERSON
CHAPTER V

ECONOMY AND ITS IMPLICATIONS

The effectiveness of the Republicans' campaign was demonstrated in the election of 1800, for a majority of Republican electors was chosen. In voting, however, each of them selected both Thomas Jefferson and Aaron Burr, and this meant that these two Republican candidates tied for first place with seventy-three votes. On the Federalist side, John Adams received sixty-five votes, and Charles Cotesworth Pinckney, sixty-four. ¹

In accordance with the Constitution, the tie between the Republican candidates would be decided by a majority vote in the House of Representatives, and each state would have one vote. The Federalists saw this as a last-chance opportunity to prevent Jefferson, clearly the presidential choice of his own party, from attaining the highest office, for they had a majority in the House. They attempted to make a deal with Burr to support him over Jefferson, but they were unable to muster enough votes to put the New Yorker in office. There were rumors that the Federalists might delay the choice until after March 4, in which case the Speaker of the House would take over the administration. Finally, however, on the thirty-sixth ballot, Jefferson was elected President on February 17, 1801. ²

² Edward Channing, A History of the United States, 6 vols. (New York, 1905-25), IV, 241-43. Just how willing Burr was to agree to the Federalist
The Republicans had been successful in attaining office, but it remained to be seen just how far the party would go in carrying out the Republican principles it had so loudly proclaimed. No part of the Federalist program had been attacked more fiercely by the Republicans than fiscal policy. Now in power, it was their responsibility to effect a return to frugal government.

Excessive taxation by the Federalists had provided the Republicans with a useful campaign issue. Thus in his first annual message to Congress on December 8, 1801, President Thomas Jefferson recommended, among other measures, the repeal of internal taxes:

weighing all probabilities of expense, as well as of income, there is reasonable ground of confidence that we may safely dispense with all internal taxes, comprehending excises, stamps, auctions, licenses, carriages, and refined sugars, to which postage on newspapers may be added, to facilitate the progress of information, and that the remaining sources of revenue will be sufficient to provide for the support of government to pay the interest on the public debts, and to discharge the principals in shorter periods than the laws or general expectations had contemplated.

Jefferson went on to note that war or some other "untoward events" might necessitate a change of policy. That did not mean, however, that an accumulation of revenue should be built up in the treasury now in case of some such happening in the future. Indeed, a rich treasury often tempted one to enter into war more quickly. ³

Jefferson had previously consulted Albert Gallatin, his secretary of the treasury, on the matter of internal taxes. Gallatin's view was that the taxes should indeed be discontinued. He feared that if Jefferson's administration did not reduce taxes, they would never be reduced. The repeal of internal taxation would, Gallatin believed, "strike at the root of the evil and avert the danger of increasing taxes, encroaching government, temptations to offensive wars, etc. . . ."

To be effective, however, all internal taxes must go, for none should "remain on which sister taxes may be hereafter engrafted." 4

The Republican Congress complied with the President's recommendation, and internal taxes were removed. 5 Republican opposition to this form of taxation was so great that in 1804 when additional revenue was needed for expenses connected with the Mediterranean war, Congress preferred to increase the duty on imports rather than to reenact the internal taxes. The additional duty was to cease three months after a general peace had been declared, and a separate Treasury account was created to handle this "Mediterranean Fund." 6

Thus the Republicans sought to relieve the public of the financial burdens which had been placed on them by the previous Federalist administration. Such a reduction of revenue necessitated not only a reduction of government expenditures but also an improved method of


6. Ibid., II, 140-41.
preventing fraud in the treasury department. Gallatin early set about to reorganize the treasury's accounts and officers for greater efficiency. Jefferson recorded his approval of Gallatin's efforts and added:

Our predecessors have endeavored by intricacies of system and shuffling the investigator over from one officer to another, to cover everything from detection. I hope we shall go in the contrary direction, and that by your honest and judicious reformations, we may be able, within the limits of our time, to bring things back to that simple and intelligible system on which they should have been organized at first. 7

Gallatin was also concerned with "misapplication of public moneys" in departments other than the treasury. He suggested to Jefferson that he include in his first annual message to Congress a recommendation regarding appropriations made by Congress. Although his own power would be limited by such a change, Gallatin felt that Congress should pass measures to tighten up on appropriations. When appropriating a sum of money, its specific purpose should be designated, and safeguards should be erected to prevent its misapplication. 8 This plan met with Jefferson's approval and it was included in the annual message. 9

Although all such efforts to control the utilization of public funds were important in keeping down the cost of running the government, repeal of internal taxes necessitated, above all, a reduction in government spending. When recommending the removal of the hated taxes, Jefferson had explained:


These views, however, of reducing our burdens, are formed on the expectation that a sensible, and at the same time salutary reduction, may take place in our habitual expenditures. For this purpose, those of the civil government, the army, and navy need revision. 10

Indeed his energetic secretary of the treasury had already exacted from Henry Dearborn, secretary of war, and Robert Smith, secretary of the navy, pledges to reduce the total budgets of their departments by six hundred thousand dollars. 11

Throughout Jefferson's first administration the navy especially seemed to bear the brunt of Republican efforts to economize. In the first year naval expenditures were reduced to one million dollars as compared to three million in 1800; a reduction of greater magnitude than had been projected. Jefferson attained this by keeping only six frigates in service and laying up the other seven according to an act passed in the last days of Adams's administration. He had also suspended work on dry docks and shore installations, laid off many commissioned officers and seamen, and reduced in number purchasing agents and navy yard employees. 12 Although the war with the Barbary pirates had already begun, in September of 1802 Jefferson wrote to Gallatin that if it still seemed necessary to reduce expenditures, it would be best to do so in the navy department. 13 Gallatin had even recommended that, if necessary, an additional annuity should be paid to Tripoli in order to settle the

10. Ibid., 334.


Mediterranean disturbance. It would be less expensive, he maintained, than supporting the navy to finish out the war to a successful conclusion. Economy, he felt, should be the primary aim of the government at this point. Thus in 1803 he noted that he felt that the naval establishment could be cut in half although it then consisted of only two frigates and five small vessels. Such suggestions were typical of the Republicans' attitude toward a navy. They believed that the smaller it was the better, for it served only the interests of the commercial class and was likely to get the country into war.

The Republicans also viewed the standing army as a fit object for economizing. Jefferson explained in his first annual address that the number of men needed to garrison the posts on the frontiers was "considerably short of the present military establishment. For the surplus no particular use can be pointed out." Congress responded by reducing the army to one regiment of artillerists and two regiments of infantry. This meant a total establishment of about 3,350 officers and men, and so it remained during Jefferson's first administration. He believed that the maintenance of a standing army in time of peace was neither necessary nor safe. His reasoning was that since an enemy might choose to invade at any place on the nation's frontiers, "the only force which can be ready at every point and competent to oppose them, is the

15. Same to same, Oct. 6, 1803, ibid., 162.
body of neighboring citizens as formed into a militia." Because of the
great importance of local forces, Jefferson recommended that at each
session Congress should review the laws regulating the militia in order
"to amend the defects which from time to time show themselves..." 18

Jefferson also saw as necessary a reduction in the "army" of
civil servants that had grown up in past years.

When we consider that this government is charged with the
external and mutual relations only of these states; ... we
may well doubt whether our organization is not too complicated,
too expensive; whether offices or officers have not been
multiplied unnecessarily, and sometimes injuriously to the
service they were meant to promote.

Therefore, he suggested in his first annual message that Congress should
examine carefully the offices that had been created by legislative action
over the past years and abolish those which did not meet "the test of
public utility." He noted that he had already begun a reduction of
unnecessary offices "dependent on executive discretion." 19

Among the federal officials appointed by the President were
ambassadors to foreign lands. With an eye to reducing expenses, the
diplomatic establishment was cut to three ministers. 20 Such drastic
action by the United States must have come as a surprise to other nations
and raised questions in their minds as to its meaning. Consider this
letter which James Madison, secretary of state, wrote to the Batavian
Republic to explain America's position:

18. First annual message, Dec. 8, 1801, Ford, ed., Works of
Jefferson, IX, 337.

19. Ibid., 334-35.

20. Ibid., 335; Thomas Jefferson to Nathaniel Macon, May 14, 1801,
The President receives with much satisfaction, the assurance that the disposition of the Batavian Republic to cultivate friendship with the United States will suffer no diminution from the mutual recall of their Diplomatic functionaries; and I am charged to say in return, that as the step taken in this case on the part of the United States, had its origin altogether in considerations of domestic arrangement and economy, your Government may be equally assured of the constancy of the United States in their cordial dispositions towards a nation whose early and welcome proofs of good will strengthen its other titles to their confidence, their esteem, and their cultivation of the friendly relations which subsist between the two countries. 21

Three-fourths of the offices that came within the President's appointive powers had been abolished by the repeal of the internal taxes. 22 Nevertheless there still existed a considerable number of offices, and Republicans were clamoring for appointment. Because he did not want to offend the moderate members of the opposition party, Jefferson early resolved not to remove from office those Federalists who had practiced their political beliefs "only as far as the right of a private citizen will justify." Those who were guilty of misconduct in office, however, were "proper subjects of removal." Jefferson regarded as nullities "all appointments to civil offices during pleasure, made after the event of the election was certainly known to Mr. A[dam]s..." He did not even feel he was obliged to notify those men so appointed, in case their certificates of appointment had not been delivered. He also considered attorneys and marshals as special exceptions and therefore planned to remove them in favor of Republicans. His reasoning was: "The courts


being so decidedly federal and irremovable, it is believed that republican attorneys and marshals, being the doors of entrance into courts, are indispensably necessary as a shield to the republican part of our fellow citizens, which, I believe, is the main body of the people." Generally, during his administration Jefferson appointed only those of his own party to office. He also made his appointments with an eye to geographical distribution in order to "unite a great mass of confidence." 23

In their efforts to economize by cutting down on federal office holders, the Republicans did not spare the judiciary. Particularly eligible for attack were the new judgeships created by the Judiciary Act of 1801 and filled with Federalists by John Adams in the last days of his administration. Jefferson brought this matter to the attention of Congress in his first annual message. He asked the legislators to consider "the proportion which the institution bears to the business it has to perform..." 24 Republican leader John Breckinridge soon followed up the President's suggestion by introducing in the Senate a bill to repeal the Judiciary Act of 1801. He explained that documents showed that the courts, without the additional increase of judges of 1801, had been competent to handle the number of cases that had fallen within their jurisdiction. Furthermore, since that time the number of cases had been decreasing and would continue to do so because many of those cases during the last few years had involved the excise tax and the Sedition Act.


which no longer existed, and the suits brought by British creditors, which were almost at an end. 25

The Constitution did not intend, Breckinridge maintained, that the judiciary should consist of six Supreme Court judges plus thirty-two inferior court judges. The federal courts were to concern themselves only with great national and foreign litigation and not with cases which could be left to the state courts. The Republicans saw the repeal of the Judiciary Act of 1801 as more than an economy measure. It was designed to protect the rights of the state courts which they believed the federal courts threatened to overwhelm. The additional judgeships were also viewed as a threat to the rights of individuals. Senator James Jackson of Georgia claimed that he feared an "army of judges" more than one made up of soldiers. The judges attack liberties, and their tenure is for life. He pointed out that the nation had already seen judges crying sedition throughout the land. 26

This economy measure of the Republicans was strongly contested by the Federalists in Congress on constitutional grounds. Jonathan Mason, the senator from Massachusetts, emphasized that it was one of the checks of the Constitution that the judges should hold their offices during good behavior. The judiciary was to be as independent of the legislature as it was of the executive. If Congress could repeal a law and thereby legislate a whole group of judicial offices out of existence, what would prevent their applying the same system in the case of a particularly obnoxious judge and legislating his office out of existence?


26. Ibid., 26, 47; Adams, History of the United States, I, 275.
Republicans replied that Congress was empowered to create inferior courts and therefore could abolish them. If offices could not be removed by their creator, then it would mean that the nation would have to submit to a system even if it exhibited all the evils of the Inquisition. Furthermore, the Republicans added, the men who passed the Judiciary Act of 1801 did so after the election results had shown that they were no longer supported by the people. These men should have left such an important matter for the new Congress to consider. And having considered it, the Seventh Congress repealed the Judiciary Act of 1801.

During the campaign the Republicans had maintained their devotion to economy in government, and upon their election they undertook to put their principles into action. The success of their economy measures may be judged from this portion of Jefferson's fourth annual message of November 8, 1804:

The state of our finances continues to fulfill our expectations. Eleven millions and a half of dollars, received in the course of the year ending on the 30th of September last, have enabled us, after meeting all the ordinary expenses of the year, to pay upward of $3,600,000 of the public debt, exclusive of interest. This payment, with those of the two preceding years, has extinguished upward of twelve millions of the principal, and a greater sum of interest, within that period; and by a proportional diminution of interest, renders already sensible the effect of the growing sum yearly applicable to the discharge of the principal.

It is also ascertained that the revenue accrued during the last year, exceeds that of the preceding; and the probable receipts of the ensuing year may safely be relied on as sufficient with the sum already in the treasury, to meet all the current demands of the year, to discharge upward of three millions and a half of the engagements incurred under the British and French conventions, and to advance in the farther redemption of the funded debts as rapidly as had been contemplated.


This was quite a change from the financial situation of the government under the Adams administration.
CHAPTER VI

PARTISANSHIP AND CONSTITUTIONALITY

Determined as we are to avoid, if possible, wasting the energies of our people in war and destruction, we shall avoid implicating ourselves with the powers of Europe, even in support of principles which we mean to pursue. They have so many other interests different from ours that we must avoid being entangled in them.  

Thus President Jefferson set forth the aims of his administration in regards to foreign policy. Peace was essential to the entire Republican program. The United States simply could not afford to get involved in any European controversy, Jefferson maintained, until it got out of debt. Until that goal was achieved, all treaties with foreign nations would be allowed to lapse, and diplomatic missions, except with the most important nations, would be discontinued. Perhaps even those few ambassadors would be recalled, although consuls would remain. These efforts at economy would not hurt commerce, Jefferson claimed, because the interest of other nations in the products of the United States would insure the continuation of commercial intercourse. Jefferson agreed that the rights of neutrals on the high seas needed to be restored, but he believed that the United States should wait until it was stronger before attempting such a feat. Above all, it should not join in an European alliance in an effort to restore freedom of the seas. The European

---

nations "have so many other bye-interests of greater weight, that some one or other will always be bought off. To be entangled with them would be a much greater evil than a temporary acquiescence in the false principles which have prevailed." 2

Jefferson believed that he would be able to carry out his program of no foreign involvement because, unlike the situation under the Federalists, public officials would be "detached from foreign views." 3 The Federalists, on the other hand, emphasized Jefferson's strong French sympathies and predicted that his foreign policy would favor France to the detriment of American interests. In 1802, however, during the Louisiana crisis, Jefferson was able to demonstrate that his primary concern was for the United States. Greatly dismayed by Spain's cession of Louisiana to France, he acknowledged that she had become "our natural and habitual enemy" by assuming possession of New Orleans. This had not always been the case. Indeed, he observed:

Of all nations of any consideration France is the one which hitherto has offered the fewest points on which we could have any conflict of right, and the most points of a communion of interests. From these causes we have ever looked to her as our natural friend, as one with which we never could have an occasion of difference.

The latest action of France, however, had changed all this, for the produce of three-eighths of the territory of the United States must pass through New Orleans. Control of that area by Spain presented no problem because of "her pacific disposition" and "her feeble state." The situation would be different with that vital port owned by France.

2. Thomas Jefferson to William Short, Oct. 3, 1801, ibid., 308-9; Thomas Jefferson to Dr. George Logan, Mar. 21, 1801, ibid., 219-20.

3. Thomas Jefferson to Thomas Paine, Mar. 18, 1801, ibid., 212.
The impetuosity of her temper, the energy and restlessness of her character, placed in a point of eternal friction with us, and our character, which though quiet, and loving peace and the pursuit of wealth, is high-minded, despising wealth in competition with insult or injury, enterprising and energetic as any nation on earth, these circumstances render it impossible that France and the U.S. can continue long friends when they meet in so irritable a position. 4

Perceiving the dangers involved in French possession of Louisiana, Jefferson instructed Robert R. Livingston, minister to France, to issue a warning to Napoleon Bonaparte's government. If France would not consider ceding New Orleans to the United States, she would be forced to make common cause with Great Britain against France in the next European war. Thus it was demonstrated that Jefferson's prejudice against Britain and his predilection for France did not prevent his taking the actions necessary to protect the best interests of the United States. In fact, in April of 1803 Madison was told to instruct the United States envoys in France to negotiate a treaty of alliance with England if the French government should meditate war with the United States or force a war by closing the Mississippi River. This treaty should stipulate that neither country should make peace or truce without the other's consent. Although it was never necessary for the American ministers to take such drastic action, the intention itself was further than Adams's "British" administration had ever gone. 5

While the Republicans could not be accused of slanting their foreign policy to favor France, they could be charged with practicing partisanship on the domestic level. This was particularly true in regards


to the problem of Louisiana which was the special concern of the South and the West. In suggesting a British alliance, Jefferson was extending the whole nation quite far to protect the agricultural interests of the South and West, even as the Federalists' creation of a navy had been of special benefit to the merchants. In both instances, taking a broader view, the interests of the whole nation were involved, but party politicians were able to make strong cases for partisanship. Furthermore, in taking such a stand on Louisiana, Jefferson was contradicting his policy of no foreign involvements. When the question of acquiring the Louisiana territory arose, the Republicans were also willing to give up their strict constructionist principles if holding to them was not of benefit to the Southern and Western agriculturalists, their strongest supporters.

The question of the constitutionality of acquiring territory first arose when the purchase of New Orleans was suggested as a solution to the problem of French possession of the Louisiana territory. Albert Gallatin discussed the matter in a letter to Jefferson in January 1803. Gallatin believed that the very existence of the United States as a nation presupposed its power to extend its territory by treaty. He felt that the organs through which the acquisition might be made had already been designated by the constitutional powers given to the President and the Senate to make treaties. The Constitution had also provided Congress with the proper authority for either admitting the new territory into the Union or governing its inhabitants as subjects. Yet Gallatin finally concluded: "I must, however, confess that after all I do not feel myself perfectly satisfied; the subject must be thoroughly examined. . . ." 6 Jefferson replied:

You are right, in my opinion... there is no constitutional
difficulty as to the acquisition of territory, and whether, when
acquired, it may be taken into the Union by the Constitution as
it now stands, will become a question of expediency. I think
it will be safer not to permit the enlargement of the Union but
by amendment of the Constitution. 7

When the French offered the United States, not just New Orleans,
but the whole Louisiana territory, Jefferson was really in a dilemma. In
the beginning of August 1803, he wrote that he believed that the country
should definitely take advantage of such a bargain. On the other hand,
he recognized that there was "a difficulty in this acquisition which pre­
sents a handle to the malcontents among us, though they have not yet
discovered it." Jefferson believed that the United States as a confeder­
ation was confined to the limits that had been established by the
Revolutionary War. Holding to his strict constructionist principles,
he maintained that the federal government possessed "no powers but such
as the constitution has given it." Included in these designated powers
there was surely not one "of holding foreign territory, and still less
of incorporating it into the Union." Therefore an amendment to the
Constitution would be necessary to allow the federal government to take
such action.

It would not be wise, however, to wait until an amendment had
been passed before acting on France's offer. The only solution was for
Congress to ratify the treaty and pay for the territory and "then appeal
to the nation for an additional article to the Constitution, approving


8. Thomas Jefferson to John Dickinson, Aug. 9, 1803, Ford, ed.,
and confirming an act which the nation had not previously authorized."
Congress would be acting like the guardian who invests the money of
his ward for the child's good. When the child comes of age, the guardian
must acknowledge that his ward has a right to disavow him and he must then
get out of the scrape as best he could. Yet he believed it was his duty
to risk himself for his ward. "But," Jefferson was certain, "we shall
not be disavowed by the nation, and their act of indemnity will confirm
and not weaken the Constitution, by more strongly marking out its lines." 9

Then on August 17, 1803, Jefferson received a letter from
Livingston in France urging that the federal government make haste to
act on the Louisiana treaty and give the French no pretext for retracing
their offer. They were beginning to regret their benevolence and would
try to escape their obligations through any loophole such as the uncon-
stitutionality of the actions of the United States ministers. Jefferson
immediately notified influential Republicans of the latest development
and requested that Congress act quickly on the treaty and "say as little
as possible on the constitutional difficulty. . . ." To Wilson Cary
Nicholas, the senator from Virginia, Jefferson explained that he was still
of the opinion that the Constitution had not provided Congress with the
power to admit Louisiana into the Union, for he always preferred the
strict construction of an instrument of government. If the Constitution
was defective in that it did not provide such powers, then it should be
perfected through the process of amendment. It was important in this
instance, he emphasised, "to set an example against broad construction,

by appealing for a new power to the people." Then after such a strong protest, in the very next sentence he concluded: "If, however, our friends shall think differently, certainly I shall acquiesce with satisfaction; confiding, that the good sense of our country will correct the evil of construction when it shall produce ill effects." 10

Thus Jefferson swallowed his constitutional scruples, and in his third annual message on October 17, 1803, he presented the Louisiana treaty to Congress without a suggestion of the constitutional difficulties raised by it. He simply stated:

the property and sovereignty of all Louisiana, which had been restored to them [the French], have on certain conditions been transferred to the United States by instruments bearing date the 30th of April last. When these shall have received the constitutional sanction of the senate, they will without delay becommunicated to the representatives also, for the exercise of their functions, as to those conditions which are within the powers vested by the constitution in Congress. 11

He then went on to describe the benefits that would accrue to the United States from the acquisition of the Louisiana territory:

While the property and sovereignty of the Mississippi and its waters secure an independent outlet for the produce of the western States, an uncontrolled navigation through their whole course, free from collision with other powers and the dangers


11. Third annual message, Oct. 17, 1803, Ford, ed., Works of Jefferson, X, 36. In planning to submit the treaty also to the House of Representatives, Jefferson was following a Republican principle which had been maintained when the Jay Treaty had been before Congress in 1796. The House had claimed the right to participate in the treaty-making process because of its control of any appropriation necessary to carry a treaty into effect. Miller, Federalist Era, 172–74.
By large majorities both the Senate and the House passed the motions necessary to ratify the Louisiana treaty and to carry it into effect. Although the Republicans had adhered to their concept that the House was involved in making treaties, the debates showed that on this issue they had abandoned their former beliefs in the strict construction of the Constitution. For instance, Caesar A. Rodney, the Republican representative from Delaware, even went so far as to cite the "general welfare" clause, the favorite loophole of loose constructionists. By that provision, he said, it was constitutional to increase the territory of the United States if it were necessary for the general welfare or the common defense. He went on to ask, since Congress had the right to purchase territory from a state, why would it not have the power to purchase territory from a foreign nation. Finally, he pointed out that the right of acquiring territory must be included in the power to make treaties because there were very few treaties that did not include a change of territory from one nation to another. Since it was constitutional for the President and the Senate to accept the cession of territory, then it was constitutional for the House to pass any measures necessary for carrying it into effect. In the Senate John Breckinridge of Kentucky maintained that it would even be possible for Congress to admit into the Union a foreign nation of ten million people if the people would consent.

to such an action. He concluded that "the true construction must depend on the manifest import of the instrument [of government] and the good sense of the community." 13

If the leaders of both parties thought that it was necessary to deliberate the acquisition of Louisiana on constitutional grounds, perhaps many of the Congressmen did not think in such legalistic terms. Consider the reasoning of Jacob Crowninshield, the representative from Massachusetts, as he expressed his support of the Louisiana treaty:

Feeling as I do that we have acquired this country [Louisiana] at a cheap price, that it is a necessary barrier in the Southern and Western quarters of Union, that it offers immense advantages to us as an agricultural and commercial nation, I am highly in favor of the acquisition, and I shall most cordially give my vote in approbation of the resolution. 14

Probably Crowninshield expressed the feelings of most Americans as they considered the possibility of adding the Louisiana territory to the Union.

By Jefferson's own statements, the action taken by the Republicans on the Louisiana treaty was unconstitutional and a violation of their strict constructionist principles. Evidence of partisanship may also be seen in the measure since its immediate purpose was to secure the interests of the South and the West, even as the Federalists' creation of a navy was called partisan by the Republicans because it protected commerce. At the same time, however, several extenuating factors in regards to the Republicans' actions must be considered. The Louisiana territory was surely a bargain, and this fact was realized even in 1803. Through this


purchase the Mississippi River and the port of New Orleans were brought within the bounds of the United States, and thus the threat to peace that foreign control of that vital area presented was removed. Acquisition of Louisiana also provided the new nation with a vast territory for expansion. Since the French, soon after their offer had been accepted, were looking for a way to get out of the agreement, the treaty had to be acted upon quickly by the United States. Any acknowledgment of constitutional difficulties would have delayed the necessary action and possibly given France a pretext for retracting her offer. Thus all ideas of a constitutional amendment were abandoned. However, had such an amendment been presented to the people of the United States, it surely would have been passed because public opinion favored the acquisition of Louisiana. This may be seen in the overwhelming support the measure received from the people's representatives in Congress. If the Republicans had held to their strict constructionist principles and thereby had allowed the Louisiana territory to slip through their fingers, consider the abuse that would have been heaped on their heads!
CHAPTER VII

RIGHTS AND LIBERTIES

During the campaign of 1800 the Republicans had pointed to several Federalist measures as evidence that the rights of the people had been abridged. Once in office the Republicans sought to restore these rights and return the country to a state of freedom and liberty. In effecting this change, the Republican Congress revised the Federalists' naturalization law which had required aliens to reside in the country fourteen years before they could become citizens. The Republicans reduced this residence period to five years. Such a change had been recommended by Jefferson in his first annual message to Congress. He emphasized that "considering the ordinary chances of human life, a denial of citizenship under a residence of fourteen years is a denial to a great proportion of those who ask it. . . ." He went on to ask: "And shall we refuse the unhappy fugitives from distress that hospitality which the savages of the wilderness extended to our fathers arriving in this land? Shall oppressed humanity find no asylum on this globe?" The economic implication of the Federalist law, which had discouraged immigration, was also mentioned by Jefferson. Requiring a residency period of fourteen years contradicted the "policy pursued from their first settlement by many of these States, and still believed of consequence to their prosperity." 1

Although the Republicans found it necessary to revise the Naturalization Act of 1798 in order "to establish principles and practices of administration favorable to the security of liberty . . . ," they did not have to concern themselves with its companion acts of 1798, the Alien and Sedition Acts, for they had already expired. Upon taking office Jefferson pardoned those who had been convicted under the Sedition Act and ordered that pending trials be discontinued although, according to the provisions of the act, the trials of men arrested under that law were to be continued past its date of expiration. One of the most famous of these men who had been accused of seditious libel was William Duane, editor of the Aurora. In justifying his action in ordering that Duane's trial be discontinued, Jefferson explained: "The President is to have the laws executed. He may order an offense then to be prosecuted. If he sees a prosecution put into train which is not lawful, he may order it to be discontinued and put into legal train." Duane's trial was to be regarded as unlawful because it had been initiated under the Sedition Act. Jefferson concluded: "I affirm that act to be no law, because in opposition to the constitution; and I shall treat it as a nullity, whenever

manuscripts is the following note which seems to have served as a basis for his recommendations to Congress regarding the naturalization law:

every man has a right to live some where on the earth, and if some where, no one society has a greater right than another to exclude him. Becoming indeed a member of any society, he is bound to conform to the rules formed by the Majority, but has the Majority a right to subject him to unequal rules, to rules from which they exempt themselves. I hazard these suggestions for the consider'n of Congress. the only rightful line is between transient persons and bona fide citizens.

Ibid., 341n.
it comes in the way of my functions." He then ordered that a new prosecution against Duane be commenced if it could be justified on the basis of any other law in existence. A Grand Jury, however, failed to discover any grounds for indictment and "declined doing anything."

Jefferson had successfully defended freedom of expression. At the same time, though, he had evolved a new constitutional principle. He had maintained that it was within the power of a President to declare a law unconstitutional and therefore null and void. The implications of the assumption of such broad powers by the President were great. As Abigail Adams pointed out to Jefferson, "if a Chief Magistrate can by his will annul a Law, where is the difference between a republican, and a despotic Government?" Yet this was the same Jefferson who had accused the Federalists of exhibiting dangerous monarchical tendencies. Jefferson was not so inconsistent, however, as to recommend the reenactment of the federal sedition law although he was under constant attack in the Federalist papers. In March of 1802 he sent his attorney-general, Levi Lincoln, several examples of the Federalist press with the remark: "I had no conception there were persons enough to support a paper whose stomachs could bear such aliment as the enclosed papers contain."

---


went on to note that it would be impractical to try to punish the authors of the libel until the people from whom the juries would be chosen "get their minds to rights." Even then he questioned the expediency of such action and added:

While a full range is proper for actions by individuals, either private or public, for slanders affecting them, I would wish much to see the experiment tried of getting along without public prosecution for libels. I believe we can do it. Patience and well doing, instead of punishment, if it can be found sufficiently efficacious, would be a happy change in the instruments of government. 5

As perhaps the above letter indicates, Jefferson did not intend that his pronouncement of the unconstitutionality of the federal sedition law should "remove all restraint from the overwhelming torrent of slander which is confounding all vice and virtue, all truth and falsehood in the US." It was the responsibility of the state legislatures to act against slanderous expressions, for such power had been given to the states by the Constitution, but not to the federal government. Speaking for the Republicans, Jefferson explained to Abigail Adams: "While we deny that Congress have a right to control the freedom of the press, we have ever asserted the right of the states, and their exclusive right, to do so." Utilizing this right, the states had enacted laws to punish slander "which those who have time and inclination resort to for the vindication of their characters." Generally, Jefferson felt, "the state laws appear to have made the presses responsible for slander as far as is consistent with their useful freedom." He added, though that "where they do not admit even the truth of allegations to protect

the printer, they have gone too far."

Since Jefferson believed that the states had the right to prosecute in cases of libel, it is not surprising to find that in 1803 he approved of Pennsylvania Governor Thomas McKean's plans to start proceedings against several Federalist editors in that state. Jefferson expressed the opinion that "the federalists having failed in destroying the freedom of the press by their gag-law, seem to have attacked it in an opposite form, that is by pushing it's licentiousness and its lying to such a degree of prostitution as to deprive it of all credit." It was time that something was done to correct this "dangerous state of things," and the application of the state libel laws could remedy the situation and restore "the integrity of the presses." Nonetheless, Jefferson cautioned McKean against "a general prosecution, for that would look like persecution," and recommended instead "a selected one."

Hopefully he concluded: "If the same thing be done in some other of the states it will place the band more on their guard." 7

That same year Republican Governor George Clinton of New York acted on Jefferson's suggestion. His administration obtained a common law indictment for seditious libel against Harry Croswell, editor of the Federalist newspaper, The Wasp. Croswell's crime was that he had charged that Jefferson had paid James T. Callender to denounce Washington and Adams, and the jury returned a verdict of guilty. Chief Justice Morgan Lewis, an important Republican, presided over the trial. Although


there is no record of Jefferson's opinion of the case, judging from
the views he expressed in his letter to McKean, he probably had no
objections to New York's actions in his behalf. On the other hand,
considering his statement to Abigail Adams, he may have objected to
Chief Justice Lewis's charge to the jury that the possibility of the
truth of Croswell's statement should not be regarded as a sufficient
defense against the accusation of seditious libel. 8

Although he regarded the Federalists' Sedition Act as uncon-
stitutional, it seems that once in power Jefferson did not interpret
the first article of the Bill of Rights in completely literal terms.
On the other hand, while he wanted to restrain the "sensational"
Federalist newspapers from printing outrageous slander, he recognized
the service that an opposition party rendered to the nation. Writing
to Joel Barlow in 1802, Jefferson explained:

Our majority in the House of Representatives had been about
two to one — in the Senate, eighteen to fourteen. Another
election it will be two to one in the Senate, and it would
not be for the public good to have it greater, a respectable
minority is useful as censors.

He added, however: "The present one is not respectable; being the
bitterest cup of the remains of Federalism rendered desperate and furious
by despair." 9 It was the expressions of these desperate Federalists
that Jefferson felt should be restrained.

Not only did Jefferson exhibit conservative views when dealing

8. Leonard W. Levy, Legacy of Suppression: Freedom of Speech and

of Jefferson, IX, 370.
with freedom of the press, but also when he considered the problem of a territorial government for Louisiana. He did not believe that the people of the territory were ready for the introduction of representative government and therefore proposed one that would introduce "principles of freedom" by degrees. The administration bill, as presented to the Senate by John Breckinridge, created a government in which the inhabitants of the Louisiana territory would have no share and the President would have quite broad powers of appointment. Jefferson would be empowered to select not only the governor and secretary but also the legislative council. This council, to be appointed by the President without consulting the Senate, would consist of thirteen men and could be convened and prorogued as the governor wished. The judges for the territory were also appointed by the President, but their term was only for four years instead of during good behavior. The right to a jury trial was only extended to civil cases involving more than twenty dollars and to criminal cases involving capital offenses. Also included in the bill were provisions restricting the transportation of slaves into the territory. 10

The bill was passed in the Senate by a vote of twenty to five after several unsuccessful attempts had been made to modify its despotic features. In the House the bill came under most severe attack from many Republicans who were more attached to democratic principles than to Jefferson. Michael Leib, an extreme Republican from Pennsylvania, characterized the power of the governor over the legislative council as "royal," while Andrew Gregg, another Pennsylvanian, opposed the

presidential appointment of the council. Joseph B. Varnum from Massachusetts pointed out that in the treaty of purchase the inhabitants of Louisiana had been guaranteed the "enjoyment of all the rights, advantages, and immunities of citizens of the United States," and claimed that therefore Congress was obliged to provide an elective legislature. Matthew Lyon of Kentucky felt that it was appropriate to compare Jefferson to Napoleon Bonaparte because of this bill. "A complete despotism" was George W. Campbell's description of the proposed government. Taking the opposite view, Dr. William Eustis of Massachusetts defended the bill and, following Jefferson's line, claimed that people of Louisiana had been accustomed to an authoritarian government and were not prepared for self-government. 11

The result was that the House sent an amended bill back to the Senate. The appointed legislative council was limited to one year after which it should be elected by the people of Louisiana. The restriction on jury trials was removed. Finally the act was limited to two years. The Senate, however, refused to accept these changes. In regards to its opposition to an elective legislative council the Senate offered a lame excuse. Because all of the people of the territory did not speak the same language, the Senators explained, a council of their representatives would contain this same diversity of languages and would therefore be unable to function. In an effort to find a satisfactory compromise, however, the Senate limited the act to one year, and the House agreed to accept the bill.


12. Adams, History of the United States, II, 124-25; Schachner,
Thus Jefferson's Republican administration could be credited with providing the people of the Louisiana territory with a government in which they were denied any participation. It was only a few months, however, before Jefferson realized the danger of trying to subject a foreign people to an autocratic rule. He wrote to James Madison that he hoped that at the next session, Congress would grant the inhabitants of Louisiana an elective legislature. Yet he was not motivated by a desire to restore the rights of these people; rather it was a question of expediency. He felt that "the evils which may arise from the irregularities which such a legislature may run into, will not be so serious as leaving them the pretext of calling in a foreign umpire between them and us." 

Once in power many of the Republicans revealed that their concept of the rights and liberties of the individual was not so broad as they had claimed in their propaganda. They were not unwilling to use state libel laws against their political opponents although they balked at a federal sedition law. Perhaps this was due to a desire to assert the rights of the states as opposed to the federal government rather than a belief in freedom of expression. Just how far away some Republicans had moved from the original principles of the party was illustrated by the form of the territorial government set up in Louisiana. In that instance even many Republicans did not hesitate to point out the inconsistency in their colleagues' views.


CONCLUSION

Often during Jefferson's first administration the Republicans acted in ways that seemed quite contradictory to the principles they had proclaimed when they were out of office. From one point of view, Jefferson and his party appear rather hypocritical. Considering the Republicans in another light, however, one can find more evidences of consistency when comparing their statements in 1800 with their actions from 1801 to 1804. From a broad point of view, the Republicans, during the first four years of their rule, governed for the most part in the spirit of the original principles of their party.

Evidence of Republican consistency may be demonstrated most easily by examining their fiscal policy. In accordance with their campaign promises, not only did they reduce taxes, but by keeping expenditures at a minimum, they were able to begin paying off the national debt. In attaining these ends, many measures undertaken ostensibly to promote economy in government also carried out other Republican principles.

In an effort to trim down the federal budget, the Republicans drastically reduced the army and the navy. These actions had more than an economic purpose. The army was seen as a threat to individual rights, for the Republicans believed that the Federalists had intended it for domestic use. Instead of developing the army for their own purposes, when in power the Republicans dismissed all but a small force to maintain the frontier garrisons. They preferred to earn the support of men
by providing good government rather than to use the threat of force to insure their submission. The navy was not only very expensive but also served to protect only the interests of the commercial class. Both the army and the navy were a threat to maintaining the peace. An active navy on the high seas would be likely to get involved in armed conflict and draw the whole nation into war. With an army in readiness, a nation would enter a war with less provocation. Thus by reducing the army and the navy, the Republicans fulfilled several campaign promises, for they protected individual rights, eliminated partisan government, and promoted peace, besides reducing government spending.

In abolishing the judgeships established by the Federalists through the Judiciary Act of 1801, the Republicans sought to further reduce government expenditures but perhaps more importantly to protect the state courts against an encroaching federal court system. The Republicans had always been concerned with the maintenance of the rights of the state governments against a growing federal government. Also as guardians of the rights of the people, the Republicans abolished the recently created judgeships which had been entirely filled with Federalists. The Republicans strongly doubted that these men would be impartial judges, for they had been appointed by Adams in hopes that a Federalistic judicial branch might stem the tide of Republicanism. Even during the last four years many of the Federalist judges had been unable to rise above party politics. Thus by repealing the Judiciary Act of 1801, the Republicans protected the rights of the people and of the states and also reduced federal expenditures.

Yet while they were maintaining those Republican principles,
they violated their doctrine of strict interpretation of the Constitution. By interpreting the Constitution loosely and thereby removing the judges from office, they established a dangerous precedent. However, it should be pointed out that the Republicans did not strengthen this precedent by abolishing any more judgeships as the Federalists had claimed they would do. All factors considered, it seems that in remodeling the Judiciary Act of 1801, the Republicans acted more in accord with their aforestated principles than in contradiction to them.

Moving out of the area of fiscal policy, the Republicans seem to have ignored their original principles in dealing with the problem of government. Nevertheless, the spirit of Republicanism still may be found in their actions. Jefferson, in setting himself up as a judge of the constitutionality of the Sedition Act of 1798, clearly exceeded the bounds of the Constitution. That the President could declare a law a nullity was a power with dangerous implications. Yet one should consider in what instance this theory was developed. The law on which Jefferson passed judgment violated the Republican ideals of the freedom of the individual. Furthermore, only on that one occasion did Jefferson nullify a law. For the Republicans to have allowed prosecutions begun under the Sedition Act to have continued during their administration was unthinkable. The trials had to be discontinued, and therefore a theory was developed to justify the action. It was formulated for that instance and used only in that instance. It was part of an effort to restore freedom of speech to all individuals — a right proclaimed by the Republicans in the campaign.

In regards to the Sedition Law, it must also be mentioned that
the Republicans did not object to using state libel laws against their political opponents. At the same time, one can hardly compare the few state cases the Republicans sponsored with the general action taken by the Federalists to hunt down Republican editors. In recommending state action against Federalist newspapers Jefferson, ever mindful of public opinion, emphasized that only a selected prosecution should be attempted. This is further evidence of the Republicans' efforts to persuade men to join their party in comparison to the Federalists' methods of force, which was in this case a federal sedition law, thoroughly utilized.

The most severe test of Republican principles came when France offered to sell the Louisiana territory to the United States. From Jefferson's point of view, acquisition of the territory was clearly unconstitutional, but most of her party disagreed with him so he altered his position. If by admitting Louisiana the Republicans seem to have violated their strict constructionist principles, it should be pointed out that the particular problem of acquiring territory had never arisen before. Thus on this particular point one cannot really accuse the Republicans of inconsistency. Furthermore, other Republican principles were accomplished by the acquisition of Louisiana. In its immediate purpose it served the interests of peace — always a Republican aim. With a foreign nation controlling the Mississippi River and the port of New Orleans, both so important to Western farmers, there was always a chance of conflict. Now this threat to the peace of the United States had been removed. The long range implications of the Louisiana purchase were also in line with Republican principles. This vast, unsettled
territory made it possible for countless Easterners and immigrants to go west and get a new start in life. Providing such opportunities was surely in the spirit of Republicanism.

In establishing a government for Louisiana the Republicans moved farthest away from their Republican principles. The autocratic government proposed in Breckinridge's bill violated the basic principle of representative government upheld in the United States since the founding of the first settlement. Yet, it should be noted that the administration did not receive the entire support of the party on this measure. Many Republicans held to their principles and condemned it heartily. They would only agree to the bill when this autocratic government was limited to one year.

That the actions of the Republicans from 1801 to 1804 often fell short of the ideals of government which they had established as an opposition party cannot be disputed. Nonetheless, in many instances of Republican failure, extenuating factors were present. In the final analysis, during Jefferson's first administration there was definitely a change in the tone of the federal government in comparison to the previous years of Federalist rule. Apparently this change met the approval of the people of the United States, for the election of 1804 was a landslide victory for Jefferson and his party.
BIBLIOGRAPHY

PRIMARY SOURCES

Newspapers

The Connecticut Courant (Hartford), 1800.

General Advertiser — Aurora (Philadelphia), 1800.

Hampshire Gazette (Northampton, Mass.), 1800.

The Kentucky Gazette (Lexington), 1800.

The Maryland Gazette (Annapolis), 1800.

Mirror of the Times, and General Advertiser (Wilmington, Del.), 1800.

The National Intelligencer and Washington Advertiser, 1800.

Pamphlets

[Beckley, John James], Address to the People of the United States; with an Epitome and Vindication of the Public Life and Character of Thomas Jefferson. Philadelphia, 1800.


[Clinton, DeWitt], A Vindication of Thomas Jefferson: Against the Charges Contained in a Pamphlet Entitled, "Serious Considerations," etc. New York, 1800.

[Coxe, Tench], Strictures upon the Letter Imputed to Mr. Jefferson, Addressed to Mr. Mazzei. N.p., 1800.


Gloucester County, State of New Jersey. At a Meeting of the Republi-
can Committee, held ... the 6th of September, 1800. N.p., 1800.

On the Election of the President of the United States. Number XII.
Philadelphia, 1800.

[Wortman, Tunis,] A Solemn Address to Christians and Patriots, Upon the
Approaching Election of a President of the United States; In
Answer to a Pamphlet, Entitled, "Serious Considerations," etc.
New York, 1800.

Public Document

U. S. Congress, The Debates and Proceedings in the Congress of the United

Writings of Statesmen

Adams, Abigail and John, and Thomas Jefferson, The Adams-Jefferson Letters: The Complete Correspondence Between Thomas Jefferson and Abigail and


------------------, The Writings of Thomas Jefferson, Being His Autobi-
ography, Correspondence, Reports, Messages, Addresses, and Other
Washington, 1853, 54.

Madison, James, Letters and Other Writings of James Madison, Fourth
President of the United States. 4 vols. Philadelphia, 1865.

------------------, The Writings of James Madison . . . . Gaillard Hunt, ed.

SECONDARY SOURCES

Adams, Henry, History of the United States . . . . 9 vols. New York,
1891-98.


VITA

Susan Anne Torbit