**Chapter Five**

**The Federalist Era: Nationalism Triumphant**

At first, few citizens resented the constraints imposed by the Articles of Confederation on the power of the central government. But once the war was over, the need for unity seemed less pressing, and interstate conflicts reasserted themselves. Research has modified, but not contradicted, the thesis advanced by John Fiske in The Critical Period of American History (1888) that the national government was demoralized and inadequate. If, as Washington said, it moved "on crutches . . . tottering at every step:' nevertheless it did move. The negotiation of peace ending the Revolutionary War, the humane and farsighted federal land policies, and even the establishment of a rudimentary federal bureaucracy to manage routine affairs were remarkable achievements, all carried out under the Articles. Yet the country's evolution placed demands on the national government that its creators had not anticipated.

**Border Problems**

The government had to struggle to win actual control over the territory granted to the United States in the treaty ending the Revolution. Both Great Britain and Spain stood in the way of this objective. The British had promised to withdraw all their troops from American soil promptly, and so they did-within the settled portions of the 13 states. Beyond the frontier, however, they had established a string of military posts. These, despite the Treaty of Paris, they refused to surrender. Pressing against America's exposed frontier like hot coals, the posts seared national pride. They threatened to set off another Indian war, for the British intrigued constantly to stir up the tribes. The prize was the rich fur trade of the region, which the British now controlled but which might be drained off through Albany and other American centers if British military was removed.

The British justified holding on to these positions by citing the failure of the Americans to live up to some terms of the peace treaty. The United States had agreed not to impede British creditors seeking to collect prewar debts in America and to "earnestly recommend" that the states restore Tory property confiscated during the revolt. The national government complied with these requirements (which called for nothing more than words on Congress's part), but the separate states did not cooperate. Many passed laws making it impossible for British creditors to collect debts, and in general the property of Tory emigres was not returned. Yet those violations of the peace terms had little to do with the continued presence of the British on American soil. They would not have evacuated the posts at this time even if every farthing of the debt had been paid and every acre of confiscated land restored.

Then there was the question of the Spanish in the Southwest. In the peace negotiations Spain had won back Florida and the Gulf Coast region east of New Orleans. Far more serious, in 1784 the Spaniards had closed the lower Mississippi River to American commerce. Because of the prohibitive cost of moving bulky farm produce over the mountains, settlers beyond the Appalachians depended on the Mississippi and its network of tributaries to get their corn, tobacco, and other products to eastern and European markets. The Spanish governor of Louisiana, Esteban Miro, soon opened the river to American produce, subject only to a modest tariff, but if Spain even denied them the right to "deposit" goods at New Orleans while awaiting oceangoing transportation, westerners; could not sell their surpluses.

A stronger central government might have dealt with these foreign problems more effectively, but it could not have eliminated them. United or decentralized, America was too weak in the 1780s to challenge a major European nation. Until the country grew more powerful or until the Europeans began to fight among themselves, the United States was bound to suffer at their hands.

**Foreign Trade**

The fact that the Revolution freed American trade from the restrictions of British mercantilism proved a mixed blessing in the short run. Americans could now trade directly with the continental powers, and commercial treaties were negotiated with a number of them. Beginning in 1784, a valuable Far Eastern trade sprang up where none had existed before. At the same time, exclusion from Britain's imperial trade union brought losses of a much larger magnitude.

Immediately after the Revolution a controversy broke out in Great Britain over fitting the former colonies into the mercantilistic system. Some people, influenced by Adam Smith's brilliant exposition of the subject in De Wealth of Nations, published in 1776, argued that placing restrictions on the buying and selling of goods was wasteful. Others, while remaining mercantilists, realized how important the American trade was for British prosperity and argued that special treatment should be afforded the former colonists. Unfortunately, a proud empire recently humbled in war could hardly be expected to exercise such forbearance. Persuaded in part by the reasoning of Sheffield, who claimed that Britain could get all the American commerce it wished without making concessions, Parliament voted to try building up exports to America while holding imports to a minimum, all according to the best tenets of mercantilism.

The British attitude hurt American interests severely. In the southern states the termination of royal bounties hit North Carolina producers of naval stores and South Carolina indigo planters hard. In addition, a new British duty on rice drastically reduced the export of that product by almost 50 percent.

In 1783 British Orders in Council barring American cured meat, fish, and dairy products from the British West Indies and permitting other American products to enter the islands only in British ships struck at the northern states. Fishermen lost the lucrative West Indian market; merchants lost a host of profitable opportunities. Trade with the West Indies fell off, idling many American ships. More than a thousand American sailors lost their jobs. Shipbuilding slumped because of these facts and because British merchants stopped ordering American-made vessels.

At the same time, British merchants, eager to regain markets closed to them during the Revolution, poured low-priced manufactured goods of all kinds into the United States. Americans, long deprived of British products, rushed to take advantage of the bargains. Soon imports of British goods were approaching the levels of the early 1770s, whereas exports to the empire reached no more than half their earlier volume.

America had always had an unfavorable balance of trade. The economy was essentially colonial; the people produced bulky, relatively cheap raw materials and voraciously consumed expensive manufactures. The influx of British goods after the Revolution aggravated the imbalance just when the economy was suffering a certain dislocation as a result of the ending of the war. From 1784 to 1786 the country went through a period of bad times. The inability of Congress to find money to pay the nation's debts undermined public confidence. Veterans who had not yet been paid, private individuals, and foreign governments that had lent the United States money were clamoring for their due. In some regions crop failures compounded the difficulties. The depression made the states stingier than ever about supplying the requisitions of Congress; at the same time many of them levied heavy property taxes in order to pay off their own war debts.

The depression of the mid-1780s was not by any stretch of the imagination a major economic collapse. By 1786 all signs pointed to a revival of good times. Nevertheless, dislike of British trade policy remained widespread. The obvious tactic would have been to place tariffs on British goods in order to limit imports or to force the British to open the West Indies to American products, but the Confederation lacked the authority to do this. When individual states erected tariff barriers, British merchants easily got around them by bringing their goods in through states that did not have them. That the central government lacked the power to control commerce disturbed merchants, other businessmen, and the ever-increasing number of national minded citizens in every walk of life.

Thus a movement developed to give the Confederation the power to tax imports. Although several attempts by Congress to do so failed, the attempts indicated that a large percentage of the states were ready to increase the power of the national government, and they pointed up the need for revising the Articles of Confederation. Although many individuals in every region were worried about creating a centralized monster that might gobble up the sovereignty of the states, the practical needs of the times convinced many others that this risk must be taken.

**The Specter of Inflation**

The depression and the unfavorable balance of trade led to increased pressures in the states for the printing of paper money and the passage of laws designed to make life easier for debtors. In response to wartime needs, both the Continental Congress and the states issued large amounts of paper money during the Revolution, with inflationary results (the Continental dollar became utterly worthless by 178 1, and Virginia eventually called in its paper at 1,000 to 1).

After the war some states set out to restore their credit by imposing heavy taxes and severely restricting new issues of money. Combined with the postwar depression and the increase in imports, this policy had a powerful deflationary effect on prices and wages. Soon debtors, especially farmers, were crying for relief, both in the form of stay laws designed to make it difficult to collect debts (these laws were popular because of the anti-British feeling of the times) and through the printing of more paper money.

More than half the states yielded to this pressure in 1785 and 1786. The most disastrous experience was that of Rhode Island, where the government attempted to legislate public confidence in L100,000 of paper. Landowners could borrow a share of this money from the state for 14 years, using their property as security. Creditors feared that the loans would never be repaid and had no confidence in the money, but the legislature passed a law fining persons who refused to accept it. When creditors fled the state to avoid being confronted, the legislature authorized debtors to discharge their obligations by turning the necessary currency over to a judge. Of course, these measures further weakened public confidence.

**Daniel Shays's "Little Rebellion"**

Although the Rhode Island case was atypical, it alarmed conservatives. Then, close on its heels, came a disturbing outbreak of violence in Massachusetts. The Massachusetts legislature had been almost fanatical in its determination to pay off the state debt and maintain a sound currency. Taxes amounting to almost L1.9 million were levied between 1780 and 1786, the burden falling most heavily on farmers and others of moderate income. Bad times and deflation led to many foreclosures, and the prisons were crowded with honest men unable to pay their debts. "Our Property is torn from us," one town complained, "our Goals filled and still our Debts are not discharged."

In the summer of 1786, mobs in the western communities began to stop foreclosures by forcibly preventing the courts from holding their sessions. Under the leadership of Daniel Shays, the "rebels" marched on Springfield and prevented the state supreme court from meeting. When the state sent troops against them, the rebels attacked the Springfield arsenal. They were routed, and the uprising then collapsed. Shays fled to Vermont.

As Thomas Jefferson observed at a safe distance from the trouble in Paris, where he was serving as minister to France, Shays's uprising was only "a little rebellion" and as such "a medicine necessary for the sound health of government." But Shays and his followers were genuinely exasperated by the refusal of the government to even try to provide relief for their troubles. By taking up arms they forced the authorities to heed them.

Yet the episode had an impact far beyond the borders of Massachusetts. Unlike Jefferson, most responsible Americans considered the uprising "Liberty run mad." During the crisis, private persons had to subscribe funds to put the rebels down, and when Massachusetts had appealed to Congress for help, there was little Congress could legally do. The lessons seemed plain: Liberty must not become an excuse for license; and therefore greater authority must be vested in the central government.

**To Philadelphia and the Constitution**

If most people wanted to increase the power of Congress, they were also afraid to shift the balance too far test they destroy the sovereignty of the states and the rights of individuals. The first fumbling step toward reform was taken in March 1785, when representatives of Virginia and Maryland suggested a conference of all the states to discuss common problems of commerce. In January 1786 the Virginia legislature sent out a formal call for such a gathering, to be held in September at Annapolis. However, the Annapolis convention disappointed advocates of reform; delegates from only five states appeared. Being so few, the group did not feel it worthwhile to propose changes.

Among the delegates was a young New York lawyer named Alexander Hamilton, a brilliant, imaginative, and daring man who was convinced that only drastic centralization would save the nation from disintegration. Hamilton described himself as a "nationalist." He liked to contrast the virtues of a "Federal Republic" with the existing system of "petty states with the appearance only of union, jarring, jealous, and perverse." Instead of giving up, he proposed calling another convention to meet at Philadelphia to deal generally with constitutional reform. Delegates to the new convention should be empowered to work out a broad plan for correcting "such defects as may be discovered to exist" in the Articles of Confederation.

The Annapolis group approved Hamilton's suggestion, and Congress reluctantly endorsed it. This time all the states but Rhode Island sent delegates. On May 25, 1787, the convention opened its proceedings at the State House in Philadelphia and unanimously elected George Washington its president. When it adjourned four months later, it had drafted the Constitution.

**The Great Convention**

The Founding Fathers were remarkable men. Though he later had reason to quarrel with certain aspects of their handiwork, Jefferson, who was in Europe and could not attend the convention, called them "demigods." Collectively they possessed a rare combination of talents. Most of them had considerable experience in politics, and the many lawyers among them were skilled in logic and debate.

Fortunately, they were nearly all of one mind on basic questions. That there should be a federal system, with both independent state governments and a national government with limited powers to handle matters of common interest, was accepted by all but one or two of them. Republican government, drawing its authority from the people and remaining responsible to them, was a universal assumption. A measure of democracy followed inevitably from this principle, for even the most aristocratic delegates agreed that ordinary citizens should share in the process of selecting those who were to make and execute the laws.

All agreed, however, that no group within society, no matter how numerous, should have unrestricted authority. They looked upon political power much as we to

day view nuclear energy: a force with tremendous potential value for mankind, but one easily misused and therefore dangerous to unleash. People meant well and had limitless possibilities, the constitution makers believed, but they were selfish by nature and could not be counted on to respect the interests of others. The ordinary people farmers, artisans, any taxpayer-should have a say in government in order to be able to protect themselves against those who would exploit their weakness, and the majority must somehow be prevented from plundering the rich, for property must be secure or no government could be stable. No single state or section must be allowed to predominate, nor should the legislature be supreme over the executive or the courts. Power, in short, must be divided, and the segments must be balanced one against the other.

Although the level of education among them was high and a number might fairly be described as learned, the delegates' approach was pragmatic rather than theoretical. This was perhaps their most useful asset, for their task called for reconciling clashing interests. It could never have been accomplished without compromise and an acute sense of what was possible as distinct from what was ideally best.

At the outset the delegates decided to keep the proceedings secret. That way no one was tempted to play to the gallery. Next they agreed to go beyond their instructions to revise the Articles of Confederation and draft an entirely new frame of government. This was a bold, perhaps illegal act, but it was not irresponsible because nothing the convention might recommend was binding on anyone and because under the Articles, a single state could have prevented the adoption of any change. Alexander Hamilton, eager to scrap the Confederation, captured the mood of the gathering when he said: "We can only propose and recommend-the power of ratifying or rejecting is still in the States.... We ought not to sacrifice the public Good to narrow Scruples."

**The Compromises That Produced the Constitution**

The delegates voted on May 30 that "a national Government ought to be established" and then set to work hammering out a specific plan. Furthermore, the delegates believed that the government should have separate executive and judicial branches as well as a legislature. But two big questions had to be answered. The first, "What powers should this national government be granted?" occasioned relatively little discussion. The right to levy taxes and to regulate interstate and foreign commerce was assigned to the central government almost without debate. So was the power to raise and maintain an army and a navy and to summon the militia of the states to enforce national laws and suppress insurrections. With equal absence of argument, the states were deprived of their rights to issue money (coin or paper), to make treaties, and to tax either imports or exports without the permission of Congress. Thus, in summary fashion, they brought about the shift of power made necessary by the problems of the day and made practicable by the new nationalism of the 1780s.

The second major question, "Who shall control the national government?" proved more difficult to answer in a manner satisfactory to all. Led by Virginia, the larger states pushed for representation in the national legislature based on population. The smaller states wished to maintain the existing system of equal representation for each state regardless of population. The large states rallied behind the Virginia Plan, drafted by James Madison and presented to the convention by Edmund Randolph, governor of the state. The small states supported the New Jersey Plan, prepared by William Paterson, a former attorney general of that state.

The question was important; equal state representation would have been undemocratic, but a proportional system would have effectively destroyed the influence of all the states as states. But the delegates saw it in terms of combinations of large or small states, and this old-fashioned view was unrealistic: When the states combined they did so on geographic, economic, or social grounds that seldom had anything to do with size. Nevertheless, the debate was long and heated, and for a time it threatened to disrupt the convention. Finally, in mid-July, the delegates agreed to what is called the Great Compromise. In the lower branch of the new legisature-the House of Representatives-places were to be assigned according to population and filled by popular vote. In the upper house-the Senate-each state was to have two members, elected by the state legislature.

Then a complicated struggle took place between northern and southern delegates, occasioned by the institution of slavery. About one American in seven in the 1780s was a slave. Northerners contended that slaves should be counted in deciding each state's share of direct federal taxes. Southerners, of course, wanted to exclude slaves from the count. Yet they wished to include slaves in determining each district's representation in the House of Representatives, though they had no intention of permitting the slaves to vote. In the Three-fifths Compromise it was agreed that "three fifths of all other Persons" should be counted for both purposes. (As it turned out, the compromise was a victory for the southerners, for direct taxes were only rarely levied by Congress before the Civil War.) Settlement of the knotty issue of the African slave trade was postponed by a clause making it illegal for Congress to outlaw the trade before 1808.

Many other differences of opinion were resolved by the give-and-take of practical compromise. The final document, signed on September 17, established a legislature of two houses, an executive consisting of a president with Aide powers and a vice president whose only function was to preside over the Senate, and a national judiciary consisting of a supreme court and such "inferior courts" as Congress might decide to create.

The establishment of a powerful president was the most drastic departure from past experience, and it is doubtful that the Founding Fathers would have gone so far had not everyone counted on General Washington, a man universally esteemed for character, wisdom, and impartiality, to be the first to occupy the office. Besides giving him general responsibility for executing the laws, the Constitution made the president commander in chief of the armed forces of the nation and general supervisor of its foreign relations. He was to appoint federal judges and other officials, and he might veto any law of Congress, although his veto could be overridden by a two-thirds majority of both houses.

Looking beyond Washington, whose choice was sure to come about under any system, the Constitution established a cumbersome method of electing presidents. Each state was to choose "electors" equal in number to its representation in Congress. The electors, meeting separately in their own states, were to vote for two persons for president. Supposedly the procedure would prevent anyone less universally admired than Washington from getting a majority in the "electoral college," in which case the House of Representatives would choose the president from among the leading candidates, each state having but one vote. However, the swift rise of national political parties prevented the expected fragmentation of the electors' votes, and only two elections have ever gone to the House for settlement.

That the Constitution reflected the commonly held beliefs of its framers is evident everywhere in the document. It greatly expanded the powers of the central government, yet did not seriously threaten the independence of the states. Foes of centralization-at the time and ever since-have predicted the imminent disappearance of the states as sovereign bodies. But despite a steady trend toward centralization, probably inevitable as American society has grown ever more complex, the states remain powerful political organizations that are sovereign in many areas of government.

The Founders believed that because the new powers of government might easily be misused, each should be held within safe limits by some countervailing force. The Constitution is full of ingenious devices ("checks and balances") whereby one power controls and limits another without reducing it to impotence. "Let Congress Legislate, let others execute, let others judge," John Jay suggested. This separation of legislative, executive, and judicial functions is the fundamental example of the principle.

Other examples are the president's veto; Congress's power of impeachment, cleverly divided between House and Senate; the Senate's power over treaties and appointments; and the balance between Congress's right to declare war and the president's control of the armed forces.

**Ratifying the Constitution**

Influenced by the widespread approval of Massachusetts's decision to submit its state constitution of 1780 to the voters for ratification, the framers of the Constitution provided (in Article 7) that their handiwork be ratified by special state conventions. This procedure gave the Constitution what Madison called "the highest source of authority"-the endorsement of the people, expressed through representatives chosen specifically to pass upon it.

Such a complex and controversial document as the Constitution naturally excited argument throughout the country. Those who favored it called themselves Federalists, thereby avoiding the more accurate but politically unattractive label of Centralizers. Their opponents thus became the Antifederalists. It is difficult to generalize about the members of these groups. The Federalists tended to be substantial individuals, members of the professions, well to do, active in commercial affairs, and somewhat alarmed by the changes wrought by the Revolution. They were more interested, perhaps, in orderly and efficient government than in safeguarding the maximum freedom of individual choice.

The Antifederalists were more often small farmers, debtors, and people to whom free choice was more important than power and who resented those who sought power. Power seekers, one Antifederalist warned, want to "swallow up all us little folks ... just as the whale swallowed up Jonah." But many rich and worldly citizens opposed the Constitution, and many poor and obscure persons were for it.

Whether the Antifederalists were more democratic than the Federalists is an interesting question. Those who were loud for local autonomy did not necessarily believe in equal rights for all the locals. Many Antifederalist leaders, including Richard Henry Lee, the man who introduced the resolution that resulted in the Declaration of Independence, had reservations about democracy. Yet, even Hamilton, no admirer of democracy, believed that ordinary citizens should have some say about their government. In general, practice still stood well ahead of theory when it came to popular participation in politics.

Various Antifederalists criticized many of the specific grants of authority in the new Constitution. But the chief force behind the opposition was a vague fear that the new system would destroy the independence of the states. It is important to keep in mind that the country was large and sparsely settled, that communication was primitive, and that the central government did not influence the lives of most people to any great degree. Many persons, including some who had been in the forefront of the struggle for independence, believed that a centralized republican system would not work in a country so large and with so many varied interests as the United States. That Congress could pass all laws "necessary and proper" to carry out the functions assigned it and legislate for the "general welfare" of the country seemed alarmingly all inclusive. The Constitution "squints toward monarchy," Patrick Henry complained. The first sentence of the Constitution, beginning "We the people of the United States" rather than "We the states," convinced many that the document represented centralization run wild. Another old revolutionary who expressed doubts was Samuel Adams, who remarked: "As I enter the Building I stumble at the Threshold."

Many delegates to the Philadelphia convention were well to do and stood to profit from the establishment of a sound and conservative government that would honor its obligations, foster economic development, and preserve a stable society. Because the Constitution was designed to do all these things, it has been suggested that the Founders were not true patriots, but selfish men out to protect their own interests. Charles A. Beard advanced this thesis in An Economic Interpretation of the Constitution (1913). Certainly the Founders wanted to advance their own interests, as every normal human being does. Beard provided a necessary corrective to the nineteenth century tendency to deify them. But there is abundant evidence that the closest thing to a general spirit at Philadelphia was a public spirit.

Most people were ready to give the new government a chance if they could be convinced that it would not destroy the states. When backers agreed to add amendments guaranteeing the civil liberties of the people against challenge by the national government and reserving all unmentioned power to the states, much of the opposition disappeared. Sam Adams ended up voting for the Constitution in the Massachusetts convention after the additions had been promised.

The Constitution met with remarkably little opposition in most of the state ratifying conventions, considering the importance of the changes it instituted. Delaware acted first, ratifying unanimously on December 7, 1787. Pennsylvania followed a few days later, voting for the document by a 2-to-1 majority. New Jersey approved unanimously on December 18; so did Georgia on January 2, 1788. A week later Connecticut fell in line, voting 128 to 40.

The Massachusetts convention provided the first close contest. Early in February, after extensive debate, the Constitution was ratified by a vote of 187 to 168. In April, Maryland accepted it by nearly 6 to 1, and in May, South Carolina approved, 149 to 73. New Hampshire came along on June 21, voting 57 to 47 for the Constitution. This was the ninth state, making the Constitution legally operative. Before the news from New Hampshire had spread throughout the country, the Virginia convention ratified, 89 to 79.

Aside from Rhode Island, this left only New York and North Carolina outside the Union. The Antifederalists, well organized and competently led in New York, won 46 of the 65 seats at the ratifying convention. But the New York Federalists had one great asset in the fact that so many states had already ratified and another in the person of Alexander Hamilton. Although contemptuous of the weakness of the Constitution, Hamilton supported it with all his energies as being incomparably stronger than the old government. Working with Madison and John Jay, he produced the Federalist Papers, a brilliant series of essays explaining and defending the new system. These were published in the local press and later in book form. Although generations of judges and lawyers have treated them almost as parts of the Constitution, their impact on contemporary public opinion was probably slight. Open-minded members of the convention were undoubtedly influenced, but few delegates were open-minded.

Hamilton became virtually a one-man army in defense of the Constitution, plying hesitating delegates with dinners and drinks, facing obstinate ones with the threat that New York City would secede from the state if the Constitution were rejected. In the end, by promising to support a call for a second national convention to consider amendments, the Federalists carried the day, 30 to 27. With New York in the fold, the new government was free to get under way.

**Washington as President**

Elections took place during January and February 1789, and by early April enough congressmen had gathered in New York, the temporary national capital, to commence operation. The ballots of the presidential electors were officially counted in the Senate on April 6, with Washington being the unanimous choice. John Adams, with 34 electoral votes, won the vice presidency. On April 30, Washington took the oath of office at Federal Hall.

Washington made a firm, dignified, conscientious, but cautious president. His acute sense of responsibility led him to face the job "with feelings not unlike those of a culprit who is going to the place of his execution." He meticulously avoided treading on the toes of Congress, for he took seriously the principle of the separation of powers. Never would he speak for or against a candidate for Congress, nor did he think that the president should push or even propose legislation. When he knew a controversial question was to be discussed in Congress, he avoided the subject in his annual message. The veto, he believed, should be employed only when the president considered a bill unconstitutional.

Although the Constitution said nothing about a presidential cabinet, Washington established the practice of calling his department heads together for general advice. In selecting them, he favored no particular faction. He insisted only that appointees be

competent and "of known attachment to the government we have chosen." He picked Hamilton for secretary of the treasury, Jefferson for secretary of state, General Henry Knox of Massachusetts for secretary of war, and Edmund Randolph for attorney general. He called on them for advice according to the logic of his particular needs and frequently without regard for their own specialties. Thus he sometimes consulted Jefferson about financial matters and Hamilton about foreign affairs. But despite his respect for the opinions of others, Washington was a strong chief executive. As Hamilton put it, he "consulted much, pondered much, resolved slowly, resolved surely."

**Congress under Way**

The first Congress had the task of constructing the machinery of government. By September 1789 it had created the State, Treasury, and War departments and passed a Judiciary Act establishing 13 federal district courts and three circuit courts of appeal. The number of Supreme Court justices was set at six, and Washington named John Jay as chief justice.

True to Federalist promises-for a large majority of both houses were friendly to the Constitution-Congress prepared a list of a dozen amendments (10 were ratified) guaranteeing what Representative James Madison, who drafted the amendments, called the "great rights of man-kind." These amendments, known as the Bill of Rights, provided that Congress should make no law infringing freedom of speech, the press, or religion. The right of trial by jury was reaffirmed, the right to bear arms guaranteed. No one was to be subject to "unreasonable" searches or seizures or compelled to testify against himself in a criminal case. No one was to "be deprived of life, liberty, or property, without due process of law." The Tenth Amendment, not, strictly speaking, a part of the Bill of Rights, was designed to mollify those who feared that the states would be destroyed by the new government. It provided that powers not delegated to the United States or denied specifically to the states by the Constitution were to reside either in the states or in the people.

As experts pointed out, the amendments were not logically necessary, because the federal government had no authority to act in such matters to begin with. But many had wanted to be reassured. Experience has proved repeatedly that whatever the logic of the situation, the protection afforded individuals by the Bill of Rights has been anything but unnecessary.

The Bill of Rights did much to convince doubters that the new government would not become too powerful. More complex was the task of proving that it was powerful enough to deal with those national problems that the Confederation had not been able to solve: the threat to the West posed by the British, Spaniards, and Indians; the disruption of the pattern of American foreign commerce resulting from independence; the collapse of the financial structure of the country.

**Hamilton and Financial Reform**

One of the first acts of Congress in 1789 was to employ its new power to tax. Congress levied a 5 percent duty on all foreign products entering the United States, applying higher rates to certain products, such as hemp, glass, and nails, as a measure of protection for American producers. The Tariff Act of 1789 also placed heavy tonnage duties on all foreign shipping, a mercantilistic measure designed to stimulate the American merchant marine.

Raising money for current expenses was a small and relatively simple aspect of the financial problem faced by Washington's administration. The nation's debt was large, its credit shaky, its economic future uncertain. In October 1789, Congress deposited upon the slender shoulders of Secretary of the Treasury Hamilton the task of straightening out the fiscal mess and stimulating the country's economic development.

At age 34, Hamilton had already proved himself a remarkable man. Born in the British West Indies, the illegitimate son of a shiftless Scot who was little better than a beachcomber, and raised by his mother's family, he went to New York in 1773 to attend King's College. When the Revolution broke out, he joined the army. At 22 he was a staff colonel, and aide-de-camp to Washington. Later, at Yorktown, he led a line regiment, displaying a bravery approaching foolhardiness. He married the daughter of Philip Schuyler, a wealthy and influential New Yorker, and after the Revolution he practiced law in that state.

Hamilton was a bundle of contradictions. Witty, charming, possessed of a mind like a sharp knife, he was sometimes the soul of practicality, sometimes an incurable romantic. No more hardheaded realist ever lived, yet he was quick to resent any slight to his honor, even-tragically-ready to fight a duel, though he abhorred the custom of dueling. A self-made man, he admired aristocracy and disparaged the abilities of the common run of mankind who, he said, "seldom judge or determine right." Although granting that Americans must be allowed to govern themselves, he was as apprehensive of the "turbulence" of the masses as a small boy passing a graveyard in the dark.

The country, Hamilton insisted, needed strong national government. "I acknowledge," he wrote in one of the Federalist Papers, "my aversion to every project that is calculated to disarm the government of a single weapon, which ... might be usefully employed for the general defense and security." He wished to reduce the states to mere administrative units, like English counties.

As secretary of the treasury, Hamilton proved to be a farsighted economic planner. The United States, a "Hercules in the cradle," needed capital to develop its untapped material and human resources. To persuade investors to commit their funds in America, the country would have to convince them that it would meet every obligation in full. His Report on the Public Credit outlined the means for accomplishing this objective. The United States owed more than $11 million to foreigners and over $40 million to its own citizens. Hamilton suggested that this debt be funded at par, which meant calling in all outstanding securities and issuing new bonds to the same face value in their stead and establishing an untouchable sinking fund to assure payment of interest and principal. Further, the remaining state debts, over $21 million, should be assumed (taken over) by the United States on the same terms.

Although most members of Congress agreed that the debt should be funded at par, many believed that at least part of the new issue should go to the original holders of the old securities: the soldiers, farmers, and merchants who had been forced to accept them in lieu of cash for goods and services rendered the Confederation during the Revolution. Many of these people had sold their securities for a fraction of their face value to speculators; under Hamilton's proposal, the speculators would make a killing. To the argument for divided payment, Hamilton answered coldly: "[The speculator] paid what the commodity was worth in the market, and took the risks.... He ... ought to reap the benefit of his hazard."

Hamilton was essentially correct, and in the end Congress had to go along. What infuriated his contemporaries and still attracts the scorn of many historians was Hamilton's motive. He deliberately intended his plan to give a special advantage to the rich. The government would be strong, he thought, only if well-to-do Americans enthusiastically supported it. What better way to win them over than to make it worth their while financially to do so?

In part, opposition to the funding plan was sectional, for citizens of the northern states held more than four-fifths of the national debt. The scheme for assuming the state debts aggravated the controversy, because most of the southern states had already paid off much of their Revolutionary War obligations. For months, Congress was deadlocked. Finally, in July 1790, Hamilton worked out an arrangement with Representative James Madison of Virginia and Secretary of State Jefferson. The two Virginians swung a few southern votes, and Hamilton induced some of his followers to support the southern plan for locating the permanent capital of the Union on the Potomac River. The entire funding plan was a great success. Soon the United States had the highest possible credit rating in the world's financial centers. Foreign capital poured into the country.

Hamilton next proposed that Congress charter a national bank. Such an institution would provide safe storage for government funds and serve as an agent for the government in the collection, movement, and expenditure of tax money. Most important, it would issue bank notes, thereby providing a vitally needed medium of exchange for the specie-starved economy. This Bank of the United States was to be partly owned by the government, but 80 percent of the $10 million stock issue was to be sold to private individuals.

The country had much to gain from such a bank, but again-Hamilton's devilish cleverness was never more in evidence-the well-to-do commercial classes would gain still more. Government balances in the bank belonging to all the people would earn dividends for a handful of rich investors. Manufacturers and other capitalists would profit from the bank's credit facilities. Public funds would be invested in the bank, but control would remain in private hands, because the government would appoint only 5 of the 25 directors. Nevertheless, the bill creating the bank passed both houses of Congress with relative ease in February 1791.

President Washington, however, hesitated to sign it, for the bill's constitutionality had been questioned during the debate in Congress. Nowhere did the Constitution specifically authorize Congress to charter corporations or engage in the banking business. As was his wont when in doubt, Washington called on Jefferson and Hamilton for advice.

Hamilton defended the legality of the bank by enunciating the doctrine of "implied powers." If a logical connection existed between the purpose of the bill and powers clearly stated in the Constitution, he wrote, the bill was constitutional. Jefferson disagreed. Congress could only do what the Constitution specifically authorized, he said. The "elastic clause" granting it the right to pass "all Laws which shall be necessary and proper" to carry out the specified powers must be interpreted literally or Congress would "take possession of a boundless field of power, no longer susceptible to any definition." Because a bank was obviously not necessary, it was not authorized.

Although not entirely convinced, Washington accepted Hamilton's reasoning and signed the bill. He could just as easily have followed Jefferson, for the Constitution is not clear. If one stresses proper in the "necessary and proper" clause, one ends up a Hamiltonian; if one stresses necessary, then Jefferson's view is correct. Historically (and this is the important point), politicians have -nearly always adopted the "loose" Hamiltonian "implied powers" interpretation when they favored a measure and the "strict" Jeffersonian one when they did not. Jefferson disliked the bank; therefore he claimed it was unconstitutional. Had he approved, he doubtless would have taken a different tack. In 1819 the Supreme Court officially sanctioned Hamilton's construction of the "necessary and proper" clause, and in general that interpretation has prevailed. Because the majority tends naturally toward an argument that increases its freedom of action, the pressure for this view has been continual and formidable.

The Bank of the United States succeeded from the start. People eagerly accepted its bank notes at face value. Business ventures of all kinds found it easier to raise new capital. Soon state-chartered banks entered the field. There were only 3 state banks in 1791; by 1801 the number was 32.

Hamilton had not finished. In December 1791 he submitted his Report on Manufactures, a bold call for economic planning. The pre-Revolutionary nonimportation agreements and wartime shortages had stimulated interest in manufacturing. In his Report he called for government tariffs, subsidies, and awards to encourage American manufacturing. He hoped to change an essentially agricultural nation into one with a complex, self-sufficient economy.

Once again, business and commercial interests in particular would benefit. They would be protected against foreign competition and otherwise subsidized, whereas the general taxpayer, particularly the farmer, would pay the bill in the form of higher taxes and higher prices on manufactured goods. Hamilton argued that in the long run every interest would profit, and he was undoubtedly sincere, being too much the nationalist to favor one section at the expense of another. A majority of the Congress, however, balked at such a broadly gauged scheme. Hamilton's Report was pigeonholed, though many of the specific tariffs he recommended were enacted into law in 1792.

**The Ohio Country: A Dark and Bloody Ground**

The western issues and those related to international trade proved more difficult because other nations were involved. The British showed no disposition to evacuate their posts on American soil simply because the American people had decided to strengthen their central government, nor did the western Indians suddenly agree to abandon their hunting grounds to the white invaders.

Trouble came swiftly when white settlers moved onto the land north of the Ohio River in large numbers. The Indians, determined to hold this country at all costs, struck hard at the invaders. In 1790 the Miami chief Little Turtle, a gifted strategist, inflicted a double defeat on militia units commanded by General Josiah Harmar. The next year, Little Turtle and his men defeated the forces of General Arthur St. Clair still more convincingly. Both Harmar and St. Clair resigned from the army, their careers ruined, but the defeats led Congress to authorize raising a regular army of 5,000 men.

By early 1792 the Indians had driven the whites into "beachheads" at Marietta and Cincinnati on the Ohio. Resentment of the federal government in the western counties of every state from New York to the Carolinas mounted. The people were convinced that the British were inciting the Indians to attack them, yet the supposedly powerful national government seemed unable to force Great Britain to surrender its forts in the West.

Still worse, the westerners believed, was the way the government was taxing them. In 1791, as part of his plan to take over the debts of the states, Hamilton had persuaded Congress to adopt an excise tax of eight cents a gallon on American-made whiskey. Excise taxes were particularly disliked by most Americans. A duty on imported products could be avoided by purchasing a domestic alternative. Moreover, the collection of excise taxes required hordes of tax collectors, armed with the power to snoop into one's affairs. Westerners, who were heavy drinkers and who turned much of their grain into whiskey in order to cope with the high cost of transportation, were especially angered by the tax on whiskey.

Hamilton knew that the tax would be unpopular, but he was determined to enforce the law. To western complaints, he coolly suggested that farmers drank too much to begin with. Of course this did nothing to reduce western opposition to the tax. Resistance was especially intense in western Pennsylvania. When treasury agents tried to collect the tax there, they were forcibly prevented from doing so.

**Revolution in France**

Events in Europe also affected the situation. In 1789 the French Revolution erupted, and four years later war broke out between France and Great Britain and most of the rest of Europe. With France fighting Great Britain and Spain, there arose the question of America's obligations under the Alliance of 1778. That treaty required the United States to defend the French West Indies "forever against all other powers." Suppose the British attacked Martinique; must America then go to war? Morally the United States was so obligated, but no responsible American statesman urged such a policy. With British and Spanish troops on its borders, the nation would be in serious danger if it entered the war. Instead, in April 1793, Washington issued a proclamation of neutrality committing the United States to be "friendly and impartial" to both sides in the war.

Meanwhile, the French had sent a special representative, Edmond Charles Genet, to the United States to seek support. The French Revolution had excited much enthusiasm in the United States, for it seemed to indicate that American democratic ideas were already engulfing the world. Genet, a charming, ebullient young man, quickly concluded that the proclamation of neutrality was "a harmless little pleasantry designed to throw dust in the eyes of the British." He began, in plain violation of American law, to license American vessels to operate as privateers against British shipping and to grant French military commissions to a number of Americans in order to mount expeditions against Spanish and British possessions in North America.

Washington received Genet coolly, then demanded that he stop his illegal activities. Genet, whose capacity for self-deception was monumental, appealed to public opinion over the president's head and continued to commission privateers. Washington then requested his recall. The Genet affair was incidental to a far graver problem. Although the European war increased the foreign demand for American products, it also led to attacks on American shipping by both France and Great Britain. Each power captured American vessels headed for the other's ports whenever it could. In 1793 and 1794 about 600 United States ships were seized. The British attacks caused far more damage because the British fleet was much larger than France's. The merchant marine, one American diplomat declared angrily, was being "kicked, cuffed, and plundered all over the Ocean." The attacks roused a storm in America, reviving hatreds that had been smoldering since the Revolution. Washington sent Chief Justice John Jay to London as minister plenipotentiary to seek a settlement with the British.

**Federalists and Republicans: The Rise of Political Parties**

The furor over the violations of neutral rights focused attention on a new development, the formation of political parties. Why parties emerged after the ratification of the Constitution has long intrigued historians. Probably the main reason was the obvious one: by creating a strong central government, the Constitution produced national issues. Furthermore, by failing to create machinery for nominating candidates for federal offices, the Constitution left a vacuum, which informal party organizations filled. Washington's principal advisers, Hamilton and Jefferson, were in sharp disagreement, and they soon became the leaders around which parties coalesced.

In the spring of 1791, Jefferson and James Madison began to sound out other politicians about forming an informal political organization. Jefferson also appointed the poet Philip Freneau to a minor state department post and Freneau then began publishing a newspaper, the National Gazette, to disseminate the views of what became known as the Republican Party. The Gazette was soon flailing away editorially at Hamilton's policies. Hamilton hit back promptly, organizing his own followers in the Federalist Party, the organ of which was John Fenno's Gazette of the United States.

The personal nature of early American political controversies goes far toward explaining why the party battles of the era were so bitter. So does the continuing anxiety that plagued partisans of both persuasions about the supposed frailty of a republican government. The United States was still very much an experiment; leaders who sincerely proclaimed their own devotion to its welfare suspected that their opponents wanted to undermine its institutions.

The conflict came to a head slowly. At the start, Hamilton had the car of the president, and his allies controlled a majority in Congress. Jefferson went along with Hamilton's funding plan and traded the assumption of state debts for a capital on the Potomac. However, when Hamilton proposed the Bank of the United States, he dug in his heels. It seemed designed to benefit the northeastern commercial classes at the expense of southern and western farmers.

The growing controversy over the French Revolution and the resulting war between France and Great Britain widened the split. After the radicals in France executed Louis XVI and began the Reign of Terror, American conservatives were horrified. The Jeffersonians, however, continued to defend the Revolution. Slave owners could be heard singing the praises of liberte, egalite, fraternite, and extolling "the glorious successes of our Gallic brethren." In the same way the Federalists began to idealize the British, whom they considered the embodiment of the forces that were resisting French radicalism.

This created an explosive situation. Hamilton came to believe that Jefferson was so prejudiced in favor of France as to be unable to conduct foreign affairs rationally, and Jefferson could say contemptuously: "Hamilton is panic struck, if we refuse our breech to every kick which Great Britain may choose to give it."

In fact, Jefferson never lost his sense of perspective. When the Anglo-French war erupted, he recommended neutrality. He considered Genet "hot-headed, all imagination, no judgment, passionate, disrespectful and even indecent," and cordially approved Washington's decision to send him packing. Hamilton perhaps went a little too far in his friendliness to Great Britain, but the real danger was that some of Hamilton's and Jefferson's excitable followers might become so committed as to forget the true interests of the United States,

**1794: Crisis and Resolution**

During the summer of 1794, several superficially unrelated events brought the partisan conflicts of the period to a peak. The government had not been able to collect Hamilton's whiskey tax in the West. Mobs had burned the homes of revenue agents. Late in July 1794, 7,000 "rebels" converged on Pittsburgh, threatening to burn the town to the ground. They were turned away by the sight of federal artillery and the liberal dispensation of whiskey by the frightened inhabitants.

Early in August, President Washington mustered an enormous army of nearly 13,000 militiamen and marched westward. But when the troops arrived, rebels were nowhere to be seen; the expected Whiskey Rebellion simply did not happen. Good sense had triumphed. Moderates in the region (not everyone, after all, was a distiller) agreed that even unpopular laws should be obeyed.

More important, perhaps, than President Washington's army in pacifying the frontier was the Battle of Fallen Timbers in Ohio near present-day Toledo, where in August 1794 Major General "Mad Anthony" Wayne won a decisive victory over the Indians. Wayne's victory opened the way for the settlement of the region. Some 2,000 of the Whiskey rebels simply pulled up stakes after the effort to avoid the excise collapsed and headed for Ohio.

**Jay's Treaty**

Still more significant was the outcome of President Washington's decision to send John Jay to England to seek a treaty settling the conflicts that vexed the relations of the two nations. The British genuinely wanted to reach an accommodation with the United States-as one minister quipped, the Americans "are so much in debt to this country that we scarcely dare to quarrel with them." They also feared that the two new republics, France and the United States, would draw together in a battle against Europe's monarchies. But they were riding the crest of a wave of important victories in the war in Europe and were not disposed to make concessions to the Americans simply to avoid trouble.

Jay spent months in England in 1794, discussing various issues. The treaty he brought home contained one major concession: The British agreed to evacuate the posts in the West. They also promised to compensate American shipowners for seizures in the West Indies and to open up their colonies in Asia to American ships. The British conceded nothing, however, to American demands that the rights of neutrals on the high seas be respected; in effect, Jay submitted to the "Rule of 1756," a British regulation stating that neutrals could not trade in wartime with ports normally closed to them by mercantilistic restrictions in time of peace.

Jay also assented to an arrangement that prevented the United States from imposing discriminatory duties on British goods, an idea that a number of congressmen had proposed as a means of forcing Great Britain to treat American commerce more gently. He committed the United States government to paying pre-Revolutionary debts still owed British merchants, a slap in the face to states whose courts had been impeding their collection. Yet nothing was said about the British paying for the slaves they had "abducted" during the fighting in the south.

Although Jay could perhaps have driven a harder bargain, this was a valuable treaty for the United States. But it was also a humiliating one because most of what the United States gained already legally belonged to it, and the treaty sacrificed principles of tremendous importance to a nation dependent on foreign trade. It seemed certain to be rejected. But Washington, swallowing his disappointment, submitted the treaty to the Senate.

**1795: All's Well That Ends Well**

Washington's decision was one of the wisest and luckiest of his career and after long debate the Senate ratified the treaty in June 1795. The treaty marked an important step toward regularizing Anglo-American relations, which was essential for both the economic and political security of the nation. And the evacuation of the British forts was an enormous advantage.

Still another benefit was unplanned. The Jay Treaty enabled the United States to solve its problems on its southeastern frontier. During the early 1790s, Spain had made alliances with Indian tribes hostile to the Americans and built forts on territory ceded to the United States by Great Britain in the Treaty of Paris. In 1795, however, Spain intended to withdraw from the European war against France. Fearing a joint Anglo-American attack on Louisiana and its other American possessions, it decided to improve relations with the United States. The king's chief minister suddenly offered the American envoy Thomas Pinckney a treaty granting the United States the free navigation of the Mississippi River and the right of deposit at New Orleans that western Americans so urgently needed. This Treaty of San Lorenzo, popularly known as Pinckney's Treaty, also accepted the American version of the boundary between Spanish Florida and the United States.

The Senate ratified the Jay Treaty in June 1795. Pinckney signed the Treaty of San Lorenzo in October. That August, after their defeat in the Battle of Fallen Timbers, 12 western tribes signed the Treaty of Greenville, surrending huge sections of their lands to the United States. After these events, settlers poured into the West as water bursts through a broken dike. Kentucky had become a state in 1792. In 1796, Tennessee was admitted to the Union, and by 1800 Mississippi and Indiana territories had been organized.

**Washington's Farewell**

However, settlement of western problems did not put an end to partisan strife. Even the sainted Washington was neither immune to attack nor entirely above the battle. On questions of finance and foreign policy he usually sided with Hamilton and thus increasingly incurred the anger of the Jeffersonians. But he was, after all, a Virginian. Only the most rabid partisan could think him a tool of northern commercial interests. He remained a symbol of national unity. But he was determined to put away the cares of office. In September 1796 he announced his retirement in a "Farewell Address" to the nation.

Washington found the acrimonious rivalry between Federalists and Republicans most disturbing. Hamilton advocated national unity, yet he seemed prepared to smash any individual or faction that disagreed with his vision of the country's future. Jefferson had risked his neck for independence, but he opposed the economic development needed to make America strong enough to defend that independence. Washington was less brilliant than either Hamilton or Jefferson but wiser. He appreciated how important it was that the new nation remain at peace and he deplored the "baneful effects of the spirit of party" that led honest people to use unscrupulous means to win a mean advantage over fellow Americans. He tried to show how the North benefited from the prosperity of the South, the South from that of the North, and the East and West also, in reciprocal fashion. In his farewell he urged the people to avoid both "inveterate antipathies" and "passionate attachments" to any foreign nation. Nothing had alarmed him more than the sight of Americans dividing into "French" and "English" factions. America should develop its foreign trade but steer clear of foreign political connections as far as possible. "Permanent alliances" should be avoided, although "temporary alliances for extraordinary purposes" might sometimes be useful.

**The Election of 1796**

Washington's Farewell Address was destined to have a long and important influence on American thinking, but its immediate impact was small. He had intended it to cool political passions. Instead, in the words of one Federalist congressman, people took it as "a signal, like dropping a hat, for the party racers to start." By the time the 1796 presidential campaign had ended, many Federalists and Republicans were refusing to speak to one another.

Jefferson was the only Republican candidate seriously considered in 1796. The logical Federalist was Hamilton, but, as was to happen so often in American history with powerful leaders, he was not considered "available" because his controversial policies had made him many enemies. Gathering in caucus, the Federalists in Congress nominated Vice President John Adams for the top office and Thomas Pinckney of South Carolina, negotiator of the popular Spanish treaty, for vice president. In the election the Federalists were victorious.

Hamilton, hoping to run the new administration from the wings, preferred Pinckney, a relatively weak character, to the tough-minded Adams. He arranged for some of the Federalist electors from South Carolina to vote only for Pinckney. Catching wind of this, a number of New England electors retaliated by cutting Pinckney. As a result, Adams won in the electoral college, 71 to 68, over Jefferson, who had the solid support of the Republican electors. Pinckney got only 59 electoral votes.

The unexpected result seemed to presage a decline in partisanship. Adams actually preferred the Virginian to Pinckney for the vice presidency, and Jefferson said that if Adams would "relinquish his bias to an English constitution," he might make a fine chief executive. The two had in common a distaste for Hamilton-a powerful bond.

However, the closeness of the election indicated a trend toward the Republicans. Without Washington to lead them, the Federalist politicians were already quarreling among themselves; honest, able, hardworking John Adams was too caustic and too scathingly frank to unite them. Everything seemed to indicate a Republican victory at the next election.

**The XYZ Affair**

At this point one of the most remarkable reversals of public feeling in American history occurred. French attacks on American shipping, begun out of irritation at the Jay Treaty and in order to influence the election, continued after Adams took office. Hoping to stop them, Adams appointed three commissioners to negotiate a settlement. Their mission was a fiasco. Talleyrand, the French foreign minister, sent three agents (later spoken of as X, Y, and Z) to demand a huge bribe as the price of making a deal. The Americans refused, the talks broke up, and in April 1798 President Adams released the commissioners' reports.

They caused a sensation. Americans' sense of national honor, perhaps overly tender because the country was so young and insecure, was outraged. Adams, never a man with mass appeal, suddenly found himself a national hero. Federalist hotheads burned for a fight. Congress unilaterally abrogated the French Alliance, created a Navy Department, and appropriated enough money to build 40-odd warships and triple the size of the army. On the seas, American privateers began to attack French shipping.

Adams did not much like the French, and he could be extremely stubborn. A declaration of war would have been immensely popular. But perhaps-it is not an entirely illogical surmise about John Adams-the president did not want to be popular. Instead of calling for war, he contented himself with approving the buildup of the armed forces.

The Republicans, committed to friendship with France, were thrown into consternation. Although angered by the XYZ Affair, they hoped to avoid war and tried, as one angry Federalist said, "to clog the wheels of government" by opposing the military appropriations. Their newspapers spewed abuse on Adams and his administration. Benjamin Bache, editor of the Philadelphia Aurora, referred to the president as "blind, bald, toothless, querulous," which was three-quarters true but irrelevant.

Many Federalists expected the Republicans to side with France if war broke out. Hysterical and near panic, they persuaded themselves that the danger of subversion was acute. The French Revolution and the resulting war were churning European society to the depths, stirring the hopes of liberals and striking fear in the hearts of conservatives. Refugees of both persuasions were flocking to the United States. Suddenly the presence of these foreigners seemed threatening to "native" Americans.

**The Alien and Sedition Acts**

Conservative Federalists saw in this situation a chance to smash the opposition. In June and July 1798 they pushed through Congress a series of repressive measures known as the Alien and Sedition Acts. The least offensive of these laws, the Naturalization Act, increased the period a foreigner had to reside in the United States before being eligible for citizenship from 5 to 14 years. The Alien Enemies Act gave the president the power to arrest or expel aliens in time of "declared war," but because the quasi-war with France was never declared, this measure had no practical importance. The Alien Act authorized the president to expel all aliens whom he thought "dangerous to the peace and safety of the United States." (Adams never invoked this law, but a number of aliens left the country out of fear that he might.)

Finally, there was the Sedition Act. Its first section, making it a crime "to impede the operation of any law" or to attempt to instigate a riot or insurrection, was reasonable enough; but the act also made it illegal to publish, or even to utter, any "false, scandalous and malicious" criticism of high government officials. Although milder than British sedition laws, this proviso rested, as James Madison said, on "the exploded doctrine" that government officials "are the masters and not the servants of the people."

As the election of 1800 approached, the Federalists made a systematic attempt to silence the leading Republican newspapers. Twenty-five persons were prosecuted and 10 convicted, all in patently unfair trials. In a typical case, the editor Thomas Cooper, an English-born radical, later president of the University of South Carolina, was sentenced to six months in jail and fined $400.

**The Kentucky and Virginia Resolves**

Although Thomas Jefferson did not object to state sedition laws, he believed that the Alien and Sedition Acts violated the First Amendment's, guarantees of freedom of speech and the press and were an invasion of the rights of the states. He and Madison decided to draw up resolutions arguing that the laws were unconstitutional. Madison's draft was presented to the Virginia legislature and Jefferson's to the legislature of Kentucky. Jefferson argued that because the Constitution was a compact made by sovereign states, each state had "an equal right to judge for itself " when the compact had been violated. Thus a state could declare a law of Congress unconstitutional. Madison's Virginia Resolves took an only slightly less forthright position.

Neither Kentucky nor Virginia tried to implement these resolves or to prevent the enforcement of the Alien and Sedition Acts. Jefferson and Madison were protesting Federalist high-handedness and firing the opening salvo of Jefferson's campaign for the presidency, not advancing a new constitutional theory of extreme states' rights. "Keep away all show of force," Jefferson advised his supporters.

This was sound advice, for events were again playing into the hands of the Republicans. Talleyrand had never wanted war with the United States. When he discovered how vehemently the Americans had reacted to his little attempt to replenish his personal fortune, he let Adams know. that new negotiators would be properly received.

President Adams quickly grasped the importance of the French change of heart. Other leading Federalists, however, had lost their heads. By shouting about the French danger, they had roused the country against radicalism, and they did not intend to surrender this advantage tamely. Hamilton in particular wanted war at almost any price-if not against France, then against Spain. He saw himself at the head of the new American army sweeping first across Louisiana and the Floridas, then on to the South. "We ought to squint at South America," he suggested. "Tempting objects will be without our grasp."

But the Puritan John Adams specialized in resisting temptation. At this critical point his intelligence, his moderate political philosophy, and his integrity stood him in good stead. He would neither go to war merely to destroy the political opposition in America nor follow "the fools who were intriguing to plunge us into ... wild expeditions to South America." Instead he submitted to the Senate the name of a new minister plenipotentiary to France, and when the Federalists tried to block the appointment, he threatened to resign. That would have made Jefferson president. The furious Federalists had to give in, though they forced Adams to send three men instead of one.

Napoleon had taken over France by the time the Americans arrived, and he drove a harder bargain than Talleyrand would have. But in the end he signed an agreement (the Convention of 1800) abrogating the Franco-American treaties of 1778. Nothing was said about the damage done to American shipping by the French, but the war scare was over.

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