THE DEMOCRATIC-REPUBLICANS: A STUDY IN STATE RIGHTS IDEOLOGY

APPROVED:

Jack S. Cerrocco
Major Professor

E. Ray Griffin
Minor Professor

Frank H. Goff
Director of the Department of History

Robert B. Toulouse
Dean of the Graduate School
THE DEMOCRATIC-REPUBLICANS: A STUDY
IN STATE RIGHTS IDEOLOGY

THESIS

Presented to the Graduate Council of the
North Texas State College in Partial
Fulfillment of the Requirements

For the Degree of

MASTER OF ARTS

Robert Duane Black, B. A.

Denton, Texas

June, 1957
PREFACE

The ideology of state rights as developed under the Constitution of the United States, has been in all its multifarious manifestations basically a doctrine designed to enable states severally to resist central authority, when the will of that authority should prove contrary to the will of the state. Quite logically this ideology has been one of minority origination. Its fundamental and enduring aspects were, in fact, formulated by the first minority party under the Constitution, the party which came to denominate itself Democratic-Republican. This study is devoted to an examination of the state rights ideology of this party.

It should be pointed out, however, that such a study does not comprehend an examination of all the aspects of state rights philosophy which presented themselves under the auspices of Democratic-Republicanism. This would be to examine such issues as developed around the tariff, internal improvements, and the Supreme Court in its capacity as the ultimate judge of constitutional disputes. While these and other such matters resulted in the formulation of pertinent state rights dogmas by elements calling themselves Democratic-Republicans, the elements were, in fact, minority elements within the party, and, therefore, their pronouncements may not properly be considered as the ideology of the party.
Strict attention has been paid to present as Democratic-
Republican ideology only those principles advocated by the
party in its majority capacity. Mainly these were the prin-
ciples formulated and adhered to during the party's tenure
in opposition, and through its first years in power.
Certainly after 1812, at the latest, in its majority, it was
no longer a true state rights party. It should be addition-
ally noted that no confusion should arise from the usage of
the terms Democratic-Republican and Republican. These terms
are employed interchangeably in identification of the party
of Jefferson. Furthermore, the term is also used in referring
to the elements of minority opposition in describing the
inchoate period of Democratic-Republican development.

The study as a whole does not pretend to be in any way
an introduction of information new or novel, but is intended
only as a distillation of facts well known, but largely un-
assembled in the specific fashion here attempted. Relative
to the Republican campaign against the Alien and Sedition
legislation, however, it would appear that perhaps there has
been a certain amount of misunderstanding. It is hoped that
the treatment herein accorded this matter may in some way
contribute to an improved insight.
<table>
<thead>
<tr>
<th>Chapter</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>I. BASES OF REPUBLICAN PARTY ORGANIZATION</td>
<td>1</td>
</tr>
<tr>
<td>II. THE REPUBLICAN CONCEPTION OF THE NATURE OF THE UNION</td>
<td>76</td>
</tr>
<tr>
<td>III. A STATE RIGHTS GUIDE FOR GOVERNMENT</td>
<td>149</td>
</tr>
<tr>
<td>IV. THE PRINCIPLE OF STATE ABROGATION</td>
<td>203</td>
</tr>
<tr>
<td>BIBLIOGRAPHY</td>
<td>242</td>
</tr>
</tbody>
</table>
CHAPTER I

BASES OF REPUBLICAN PARTY ORGANIZATION

On March 4, 1801, Thomas Jefferson stood before Chief Justice of the Supreme Court, John Marshall, and took the oath which made him officially the third president of the United States. Jefferson came to this office as the standard bearer of a political element which was capturing control of the government under the Constitution for the first time. This element was denominated the Democratic-Republican Party, and though the political principles which it professed at its moment of initial triumph were to undergo considerable evolution, the organization under this denomination continued for some twenty-eight years thereafter to be the party in power.

The forces which opposed one another in the election contest of 1800 were by no means new or unfamiliar opponents. These were to the contrary essentially the same alignments that had taken shape some thirteen years earlier by virtue of favor or opposition to the adoption of the Constitution. In the Constitutional struggle those favoring adoption came to be known as Federalists, and those who opposed adoption as Anti-Federalists. In 1800 the Constitutionalists of 1788 were still known as Federalists, but the Anti-Constitutionalists, the Anti-Federalists, had since taken on the identification of
Democratic-Republicans, or more commonly, simply Republicans. The component elements of both struggles were, however, essentially the same, and the struggle between them continued virtually unabated during the interval period. Not, though, until the turn of the century could the Republicans muster strength enough to score a major triumph.

The party which brought Jefferson to the White House was comprised for the most part of the country's so-called "smaller folks," the farmers and the modest income city dwellers. In New England they were such people as lived in the back country between well favored river valleys, farmers of scanty income. In New York they were such as followed George Clinton and his nephew Dewitt, farmers of the Hudson and Mohawk valleys and the newly claimed country toward Lake Erie, together with the commoners of the cities. They were the Dutch of Pennsylvania, under the leadership of the Muhlenberg family, whose neat fields stretched frontierward from Philadelphia. In that state, also, they were the Scotch-Irish beyond the Susquehanna and the mixed population of the Monomangaehla hill country. 1 Especially were they the easily excitable "mob" of Philadelphia. In the South they were, to be sure, the small farmers of the headwater western regions, but they were as well the tidewater planters.

That small farmers, North and South, should have joined in political partnership with the possessors of large plantations cultivated by slaves, seems superficially an anomaly. However, anomalous or not, it was an actuality, the importance of which can scarcely be over estimated, for on this alliance, the Republican party was based. The planter aristocracy provided the founding genius and leadership, while the agrarians of lesser rank constituted the firm structural foundation. An examination of the circumstances prompting this partnership reveals that it was really quite a natural affinity.

The Revolutionary War left both states and individuals greatly burdened with debt. Small landowners almost without exception had to struggle at once against state and national tax collectors and their creditors. Southern plantation owners were also hard pressed. In addition to debt incurred during the Revolution, they were made liable by the power given the government to enforce the treaty of peace with England, to payment of pre-war debts due English merchants. This condition of pecuniary distress had joined the two elements in opposition to the Constitution, which was held by them to be the work of the creditor class. They saw therein the creation of a government under which there would be strict enforcement of public and private contracts. After the Constitution was approved and the government was established, they saw in the Federalist sponsored and passed financial legislation a program designed,
and they believed deliberately so, in detriment to themselves. Their reaction was again to raise their voices in a unison of opposition, which now they did as members of the Republican chorus, whose agrarian section thus featured voices of all ranges.

By 1800 a considerable portion of the poorer orders in the cities were to be found in the Democratic-Republican ranks. There seems good reason to believe, however, that universally they may not have been allies with the agrarians in the Constitutional conflict or in the very early years of Constitutional government. In some areas during this period they were most likely, in so far as enfranchised, of Federalist sympathies, since their position enabled them to receive the pence dropped from the overflowing merchants' tables. In Boston and New York, for instance, where many occupations were related to commerce, a large segment of the working populace saw their welfare involved in the growth of American shipping, and so cast their votes for jobs. The Jeffersonian plea to the masses


3Beard, Economic Origins of Jeffersonian Democracy, p. 400.

4Baldwin, p. 322.

5Wilfred E. Binkley, American Political Parties (New York, 1943), pp. 424-43.
against aristocracy was not without effect, however, and by the century's turn it had captured hundreds of mechanics in cities like Boston, New York, Philadelphia and Baltimore.

The Republicans drew to their ranks a large portion of the country's foreigners. The Germans, Irish and French were groups with no little power potential, and generally they came to regard the Federalists as their sworn enemies. The Irish, for instance, looked upon Federalists much as they had looked upon English Tories. Both were seen as aristocrats and enemies of the rights of man. The Naturalization Law of 1795 and the Alien Act of 1798 did nothing to convince them that they were wrong. These measures served to intensify already existing antipathy and transform inclination to disinclination on the part of most foreigners who may have found cause to cast their lot with the Federalists. In 1800 it was reported that in New York state some fifteen hundred naturalized Frenchmen who had never voted before, exercised the franchise for Republican candidates.

6 Beard, Economic Origins of Jeffersonian Democracy, p. 400.


8 Miller, pp. 46-47.

9 Miller, p. 193.
Thus farmers great and small, North and South, and the working classes of the cities, these were the folk who mainly filled the ranks of the Democratic-Republican Party, and allied with them were most of the country's foreign-voting populace. These classes had, of course, existed in each colony from the earliest days, and from time to time had asserted themselves in local combinations. It was they who settled the Rhode Island and Connecticut river towns, who engaged in Bacon's Rebellion, who fought the Stuart governors in 1689, who comprised the Carolina Regulars, who formed the Country Party of agrarian frontiersmen, who composed the Lee-Adams Junto in the Revolution, and who, as has been mentioned, led the Anti-Federalist opposition to the Constitution. Indeed, on the latter issue for the first time these forces in each colony were stimulated to act as a body in an issue that was country-wide. Therefore, though ratification or rejection was by states and not nation-wide, some measure of common purpose was bound to have been sensed, and a recognition of common identity gained. Certainly the Constitutional struggle did much to prepare the way for the national union of these elements in the party of Jefferson. This seems beyond question, though prominent arguments have been presented to discredit such a supposition.

Professor Charles Beard has made perhaps the most careful study of this question, and it was his conclusion that though
proof positive is lacking, the information available, when subjected to the proper interpretation, appears to substantiate the existence of a fundamental relation between the division over the adoption of the Constitution and the later party antagonism between Federalists and Republicans. This would disprove contentions to the contrary by men like Professors O. C. Libby and J. S. Bassett, to whose points of view Beard gives particular notice, that the alignments of Federalists and Anti-Federalists which developed in the ratification struggle did not carry over to the formation of the Federalist and Republican parties, that once the ratification struggle was over the alignments melted away, and that the subsequent Federalist and Republican parties developed from new issues separate and apart from the fundamental controversy that was the basis of the ratification struggle, that is, capitalist, propertied, monied class versus agricultural, workingman, debtor class.

To identify as alignments of essential sameness the Anti-Federalists of the Constitutional struggle and the party which came to power in 1801 is, however, by no means to suggest supposition of a like and continuous structural organization, a political party with only a change of name as the chief substance of distinctive difference. Such a supposition would

11 Beard, Economic Origins of Jeffersonian Democracy, pp. 30-75.
be far from correct. The Anti-Federalists were not a political party, as they existed either in each state or nation-wide. True, there was an element in each state which rose to oppose the adoption of the Constitution. True, also, these elements were denominated the same the country over. These facts in this instance are nevertheless non-significant in so far as they seem to spell out political party. They should properly be explained to indicate no more than this. In each state these elements of opposition were not pre-existent in organized association. The men who composed them came to take on a sort of impromptu group identity when they found themselves of like opinion on the suddenly submitted question of Constitutional adoption. Moreover, the question was one which all states were asked to answer, so it was not strange that since it was under simultaneous consideration by all, those who should answer similarly should be similarly identified the nation over, nor additionally that those who would be similarly affected should give similar answers. That an occasion came to give men of like circumstances a consciousness of common association did not make them a political party.

The Anti-Federalist alignment might well, in fact, have completely dissolved with the abruptness that it had crystallized had the legislative enactments of the Washington administration been of a different nature. As it was, the first government under the Constitution rekindled the sentiments
that had brought the controversy over ratification, and in so
doing brought about a political re-cleavage virtually along
the same lines of initial division, although the divisions made
by the initial cleavage may properly have never completely
knitted together, for the election contest that came immediately
after the struggle over ratification served to prolong and pre-
serve the former alignments. Each side was naturally anxious
to see the new government a composition of its own members,
and therefore strove to keep its voting ranks intact for this
purpose. With Washington at the helm of the new ship of state,
the universal confidence which he inspired may well, however,
during the few peaceful post-launching months, have done so
much toward closing this cleavage and bringing an amalgama-
tion of former alignments, that had there been no Alexander
Hamilton to drive a wedge into still existing seams, other
issues might indeed have wrought the next cleavages where there
were no seams. Certainly with both Federalists and Anti-
Federalists in the Cabinet and Washington deploiring the very
thought of the development of parties, hoping to do everything
reasonably possible to dissolve former differences, this was
not a far-fetched possibility. But possibilities notwithstanding,
actualities were that though the Anti-Federalist align-
ment may never fully have disintegrated before it was again
re-solidified by new developments to constitute the core and
probably the bulk of the Democratic-Republican Party, as it
existed formerly and latterly, it was not the same organization.
The Anti-Federalist elements did not come to constitute the Democratic-Republican Party per se, until they were transformed thereinto by consequence of developments during the early 1790's.

For this transformation no exact date is determinable. No delegates in convention assembled proclaimed the creation of such a party. Its component elements were rather chilled by degrees first into a semi-solid mass by a series of provoking enactments, and then crystallized by vigorous leadership into a clear-cut and block-like formation. On December 11, 1794, Nathaniel Macon in a letter to General John Steele wrote: "It is said there are two parties in Congress, but that fact I do not positively know." 12 It must be concluded that in so saying, Macon was either demonstrating undue conservatism, or that for some reason he did not see the existing situation in a true light, for by a date much earlier than this, there had come to exist in Congress and doubtless among the followers of congressional happenings throughout the nation, opposing alignments which by the standards of that day must definitely be dubbed parties. As early, in fact, as September of 1792, James Madison had given the group of which he was a foremost member, its political christening. In a

12 Nathaniel Macon to General John Steele, December 11, 1794, cited in William E. Dodd, The Life of Nathaniel Macon (Raleigh, 1903), pp. 76-77.
newspaper article of that date entitled "A Candid State of Parties," he employed, for evidently the first time in print, the usage Republican Party, to identify the elements of which he spoke. He further recognized the conscious existence of such a body by proclaiming for it a purpose. "The Republican Party," he said, "as it may be termed," would seek to banish every difference except that which divided the mass of people from the enemies of republican government. But termed or untermend, the forces then referred to had known association in consciousness of common cause for some two years prior even to this.

This common cause in essence consisted of a determined opposition to the conception of government that was revealed in the policies proffered for congressional enactment by the brilliant and aggressive Secretary of the Treasury Alexander Hamilton. Shortly after the new government got under way in the fall of 1790, the House resolved that an adequate provision be made for the support of the public credit, and directed that the Secretary of the Treasury prepare a plan for the purpose and report the same to the House at its next meeting. The House soon thereafter adjourned until January of the next year. When it resumed session Hamilton was ready with his proposals, which

---

on January 9th he submitted to the House in a twenty-thousand word Report on the Public Credit. In this report he set forth his plan for assumption of both national and state debts. Then toward the close of the year, on December 14th, he offered his plan for the establishment of a national bank, which he said was submitted in further compliance with the earlier House order for plans to restore the public credit. The proposals embodied in these three plans provoked instantaneous controversy, and rent the ranks of the House and Senate in support or opposition. This controversy, of course, was not limited to the halls of Congress, and when the substance of the proceedings went forth over the nation, it had a like divisive effect on the general population.

The ratification struggle had been a contest chiefly over concrete economic issues, and the political division which accompanied it was substantially along the lines of the interests affected. The financiers, public creditors, traders, commercial men, manufacturers and allied groups, centering mainly in the larger seaboard towns were principal among the Constitution's advocates. The farmers and debtors in general were chief among its opponents. The struggle, therefore, was one mainly between capitalistic-credit and agrarian-debtor interests.  

---


The capitalistic interests without doubt wanted and saw in the Constitutional creation a strong central government which could effect regulation of sufficient force and extent to insure conditions propitious to business. They conceived of the central government as an agency which would labor in their behalf. The agrarian-debtor classes saw therein the same type of government, but they deplored the thought of it. They did not want a government with power sufficient to effect nation-wide regulation to favor the capitalists, because they feared that such regulation would very likely be detrimental to themselves. Or if there was not this specific fear of governmental favoritism, there was the vague but acute fear simply of more government, more regulations and more taxes. This has been a common fear of debtor classes in all ages whenever stronger government was the prospect. At this time, in the South especially, there was a psychology which held as anathema the thought of a strong central government. The southern mind generally rebelled at the thought of outside interests, unkindred interests, binding them with regulations and controlling their affairs. Each state felt quite able of itself to regulate its own business. The people cherished and trusted their own government, feeling assured that its enactments would be in their interest and to their welfare, whereas those of a central government were apt not to be. A psychology of this sort led Patrick Henry to say in June, 1788, during the debate over ratification, in the convention at Richmond:
That this is a consolidated government is demonstrably clear; and the danger of such government is, to my mind, very striking. . . What right had they to say, We, the People? . . . Who authorized them to speak the language of We, the People, instead of We, the States? States are the characteristics and soul of a confederation. If the States be not the agents of their compact, it must be one great consolidated National Government, of the people of all the States. . . That they exceeded their power is perfectly clear.

And in so saying, Henry declared he represented the feelings of a people uneasy over the present condition of things. 16 This Southern uneasiness and kindred uneasiness in all states would have been sufficient to spell rejection of the Constitution had not its friends, many of whom were among the most respected men of the country, given fear-quelling assurances sufficient to win over doubters enough to decide the issue.

Needless to say, this psychology which caused men to be uneasy over the Constitution did not magically disappear with the Federalist triumph. It was present in the First Congress and could be expected to assert itself instinctively, if challenged by that which seemed alien to its welfare. In the First Congress were a number of men who had actually proffered the old confederation, with some modifications to give it energy, and who were very strongly opposed to a strong central system, as they suspected the new government to be.

These men, of whom Theodorick Bland and Thomas Tudor Tucker of Virginia were the most prominent, could be counted on to watch jealously every step it might attempt to take. There were, also, those who had supported the Constitution, several even who were numbered among its framers at Philadelphia, who likewise opposed a national government, as Henry had said he saw in that of the Constitution, but who were persuaded that the new government was not of this sort. They, too, would likely challenge any efforts to make it other than what they held it to be. A large percentage of this combination was Southern, and, therefore, almost certainly of an agrarian-debtor outlook, or inclined thereto. Few, if any, were of the capitalist element.

In one phase or another of Hamilton's Report on the Public Credit these men found that, which if sanctioned, would impale what seemed the very heart of their own eco-political ideology upon the shaft of capitalistic nationalism. Their reaction was accordingly one of instantaneous opposition, and although this opposition was not all in unison, or for that matter, even on precisely the same points, it came in the course of time to coagulate and to constitute a fairly constant mass. This association of congressional opposition to the various features of the Hamiltonian financial program was the embryonic core of the Democratic-Republican Party.

Those who gave general support to Hamilton's measures constituted the nucleus of Federalism. This latter group was, as it were, carrying forward the task of the advocates of the Constitution, and should probably be considered... "as the agency for the first party government under the Constitution." The gathering of the opposition into a consolidated alignment and the agency of party number two was almost simultaneous.

Yet the division that occurred during the hot and prolix debates that developed over the funding of the national debt and the assumption of state debts might not of these causes alone have been more than temporary. The opposed features in these measures did not actually seem to constitute issues of long lasting quality. They might well have been soon forgotten had attention been then turned to matters not so innately controversial. As it was, before the feelings raised by these measures had scarcely begun to lose their fervor, Hamilton submitted the bank bill. This measure immediately re-kindled the resentment engendered by its predecessors, resentment which had stemmed mainly from the opinion that funding was accomplished to the corrupt advantage of capitalist interests, and that some states would suffer injustice when state debts were nationally assumed. It

---

heated it to white hot intensity, and additionally and all importantly inserted the issue of strict versus loose construction, limited versus unlimited government. The opponents of Hamiltonian funding and assumption now became convinced that not only were the Secretary of the Treasury and his cohorts bent on legislating gain to the country's financial interests, which would in many cases be to themselves, but that, also, they were attempting through "construction" to make the central government all-powerful over the states, to perhaps even establish a monarchy. Consequently, whereas heretofore the funding and assumption discontents might well have come to leave these grievances to the past, they now saw them as the initial phases of a carefully planned, sweeping and co-ordinated plot, and in this perspective, far from being forgotten, they were employed as battle cries. Whereas, heretofore the funding and assumption discontents might have soon come to disband as only a temporary combination, they were now transformed into a regular army with a war to wage. "By the middle of 1791, the conflict... had become bitter, open and permanent." 19

The early opposition to the Hamiltonian program was centered in the person of James Madison. On the surface this was a bit of high irony since the co-operation of these

two men in the authorship of The Federalist was a main factor in securing the Constitution's adoption. Madison was a close confidant of Washington, and in the organization and first months of government acted in a capacity approximate to administration spokesman in the House, of which he was the recognized leader. When, however, Hamilton submitted to that body the Report on the Public Credit, Madison took a strong stand against certain of its provisions, particularly that which purposed the face-value redemption of public securities, which was to be made en toto to the current holders. Madison favored some consideration being given to original holders, many of whom were men of little means, who may have sold them cheaply of necessity, or else unknowingly to speculators who were informed to foresee the congressional action that would vastly enhance their value. He did not really become irreconcilable with Hamilton, however, until the bank bill was introduced. This measure convinced Madison that the Secretary of the Treasury was traveling a course on which he could not be a travel companion. He is said to have later explained the schism in this way:

I deserted Colonel Hamilton, or rather Colonel Hamilton deserted me; in a word, the divergence between us took place--from his wishing to administer, or rather to administer the Government (these were his very words), into what he thought it ought to be, while on my part, I endeavored to make it confirm to the Constitution as understood by the Convention that produced and recommended
it, and particularly by the State conventions that adopted it. 20

The strong and positive position which Madison took in the struggle over the Hamiltonian measures, of course, precluded his continuation in leadership over the whole. In fact, only in a fluid sort of situation like that which had up to now existed could anyone have continued in a capacity of leadership so broad. When the House should cease to exist in a solution-like status of undistinguishable component parts, and should be shaken so as to yield a division into distinguishable elements, as sooner or later was bound to be, then leadership would be only a group or coalition, and not of the whole. The Hamiltonian program gave the First Congress just such a shake and precipitated therefrom a Hamilton-led administration group and a Madison-led element of opposition. Madison sacrificed what probably could have been leadership of the administration forces, when in the funding debates he undertook the fight for Revolutionary War veterans and other original security holders, against the commercial and financial interests, the speculators in and out of Congress. By the same course he split the original Federalists asunder, bringing one part of them to association with the radical wing of the vanishing

Anti-Federalists. He gave political direction to the cleavage which swiftly divided the American public into Federalists and Republicans, and became the fusing agent of a new and powerful political movement. Had he possessed personal glamour, this new political phenomenon in America would have become known as Madisonian democracy, but as it was, he planted the seed and started the growth of the party which came instead to receive the label of Jefferson. 21

Thomas Jefferson did not create opposition to the Hamiltonians, but more than anyone else he was responsible for giving it national organization. During the Constitutional struggle and the subsequent election and organization of the government, Jefferson was out of the country as American minister to France. He was, however, the choice of Washington for Secretary of State, and reluctantly accepted that appointment at the urging of Washington and Madison. When Jefferson came to New York in March of 1790, the Report on the Public Credit had been some two months before the House, and the debates and maneuverings thereover were waging strong. As has been indicated, however, the issues at this time had not assumed an uncompromising aspect. It was, therefore not unnatural that Jefferson looked on Hamilton with favorable eyes as a co-worker of Madison, and that for some two months the two labored in

21 Brant, III, 305, 333.
comparative harmony in continuation of governmental organization.

The first hint of serious dissension came when Jefferson began to question Hamilton's financial doings. Sundry accounts had been issued by the Treasury Department, which in certain respects were very incomplete and vague. Jefferson asked Hamilton for something more definite, feeling that as a trustee of the sinking fund he had a right to be presented with this information. To his consternation, no satisfaction was forthcoming. This sowed in Jefferson a seed of distrust, which was then nourished by the course of unfolding developments, especially by the wild run of speculation, to full flower and fruition. The real break between the two men, as between Madison and Hamilton, came finally at the close of 1790. Jefferson had reluctantly accepted the proposal of funding the national debt, and was won to assumption of state debts by the promise of a southern capital. Yet his whole being rebelled when Hamilton submitted his plan for a bank. Henceforth as long as the Federalists were in power, he was set in irreconcilable opposition.

Jefferson, from the first moment of his arrival in New York, was looked upon as the chief figure of those

---

congressional forces that were forming into fast alignment against the so-called stock-jobbing element of that body and of the nation. It was Jefferson to whom Hamilton came with a plea that he use his influence to achieve assumption of the state debts and break a deadlock which Hamilton described as a threat to the Union. By all indications he did not underestimate Jefferson's power of accomplishment, for at a Jefferson-sponsored meeting of opposition leaders, the desired deadlock was quickly brought to an end. Between Jefferson and Madison there was long before this time a happiness of understanding that lasted until they were parted by death, so that Jefferson's supercession to the position until now occupied by Madison was accomplished friction free, and with Madison's full support.

At the close of 1793 Jefferson resigned his secretaryship. As the definite head of the opposition in a situation which more and more tended to party government, in spite of Washington's earnest preventative efforts, Jefferson had come to realize he was out of place in the Cabinet. Moreover, he was at this time sincerely sick of politics. Feeling that twenty-five years of public service were all that should be expected of any man, he longed to retire forever from public life and live quietly in the management of his farm.\(^{23}\) As long as he was serving as an appointee of

Washington, Jefferson could scarcely have failed to exercise a certain degree of restraint in manifesting his opposition to the program to which Washington lent his support. Separated from this binding influence, he would be free to give full vent to the consternation which the Hamiltonian program came increasingly to engender within him, and to give guidance to and rally unrestrained the party of opposition thereto. When he left his Cabinet position, this was an intention not even remotely contemplated, but it was indeed the job for which he seemed destined, and into which he soon drifted. His resignation was a proper indication that any hope which Washington may still have had for preventing party alignments was in effect dashed to pieces. Passing time and accompanying events would see only perpetuation, and not dissolution of then existing divisions.

At precisely the same period that the Hamiltonian program was stimulating the formation of opposing alignments, there was transpiring in Europe a train of events which could scarcely have been of nature and occurrence more calculated and co-ordinated to blend with these American developments, than if deliberately conceived and set in motion for this purpose. This turn of events was in the form of the French Revolution and the Anglo-French conflict resulting therefrom; events pregnant with import and issues perfectly adaptable to the developing
ideological conflict in America. The American antagonists came to be eventually as vigorously and bitterly in conflict over these issues as over those of domestic origin.

The initial stages of the Revolution provoked to marked overt expression neither the subsequently emerging disapproval of the event itself, nor the pronounced pro-English, anti-French sentiment which became pitted against the vigorous sentiment in support of the Revolution and in favor of France. France had been an only ally of the colonies in the War of Independence, and it was but natural that Americans in general should be prone to sympathize in turn with the French democratic movement, with which Tom Paine and Lafayette stood as visible links.\textsuperscript{24} From the first, to be sure, the events of revolution wrought in those of conservative inclinations a germination of the seeds of sentiment that came eventually to full growth. Generally, though, those who had misgivings concealed them.\textsuperscript{25} It was not until the Revolution took a turn that brought the succession of events culminating in the execution of the King, the Reign of Terror, and finally war with England, that criticism rose in crescendo against the French, to the harmonized accompaniment

\textsuperscript{24} Baldwin, p. 328.

\textsuperscript{25} Charles A. Beard and Mary Beard, \textit{The Rise of American Civilization}, I (New York, 1927), 360.
of English eulogy. Almost to a man this was the reaction of the Hamiltonians, and likewise almost to the man did the Jeffersonians, as from the first, continue in favor of the Revolution and of France. At the same time, each side attacked with vehemence the stand taken by the other.

The issues and principles discerned in the French Revolution were basically the same as those upon which the First Congress had dashed itself into Jeffersonian and Hamiltonian fragments. It was simply a matter of seeing them now in a new situation. It will be remembered that when Hamilton proposed the bank bill, the Jeffersonians saw in it an attempt to usurp the rights of the states, and to create a consolidated government. They seemed to sincerely believe that the Hamiltonians harbored as an ultimate intention the return of the country to some form of monarchy, and monarchy to the Jeffersonians was in any form the antithesis of liberty. In the French Revolution they saw a struggle against monarchy and for liberty; exactly what they held the American Revolution to have been; and in the success or failure of this struggle they saw at stake what almost had been then at stake. Jefferson expressed his concern in the following fashion:

I look with great anxiety for the firm establishment of the new government in France, being perfectly convinced that if it takes place there, it will spread sooner or later all over Europe. On the contrary, a check there would retard the revival of liberty in other countries. I consider the establishment and success of their government as necessary to stay up our own, and to prevent it from falling back to that kind of a half-way home, the English Constitution. 27

A failure there, he felt, would be a powerful argument for those Americans of monarchial tendencies, to prove that there must be a failure here. 28 Thus when the Hamiltonians came to manifest disfavor toward the Revolution, their opponents interpreted this as an indication in favor of monarchy. This appeared readily confirmable by their overtly averred desire for rapprochement with the English even before the outbreak of the Anglo-French conflict in 1793, and certainly by their professed sympathy with England thereafter. Moreover, since to the Jeffersonians the English monarchy was synonymous with an entrenched aristocracy of the monied elements, these Federalist manifestations appeared as in harmony with and in substantiation of their charges that the Federalists were aristocratic capitalists seeking to exploit the agrarians and other less financially fortunate elements. Indeed the Federalists' attitude toward the Revolution was in Republican


eyes of like derivation as that which led them to support the bank bill.

Thus was the French Revolution an issue bringing no little foment to the American scene. As to the actual part it played in the formulation of the first political parties, there has been, however, widespread mis-evaluation. Professor Binkley, for instance, credits it and the ensuing Anglo-French conflict with working the transformation of the opposing alliances of Jeffersonian and Hamiltonian interests into integrated parties. Baldwin declares that it raised a factional skirmish to a battle between parties. Admittedly it is tempting, and as more than an initial impulse, to assign to the Revolution such a role. To do so, nevertheless, is to give too much recognition to the role of the Revolution and too little recognition to the situation as it was while the Revolution was yet a comparative off-stage factor.

It is quite right that the French question came to a head some scant two years following Hamilton's laying of the Report on the Public Credit before the House. It is quite right additionally that from that time until 1800 the Anglo-French question that rose out of the Revolution was a main theme of controversy between the opposing groups. By 1796, however, there were definitely two distinct parties, because there were

---

29 Binkley, p. 44. 30 Baldwin, p. 328.
two distinct sets of executive candidates, whereas in 1792 both the Hamiltonians and Jeffersonians had supported Washington for president, a fact which could easily be interpreted as indicating that though there might be a family squabble, actually there was still but one family.\textsuperscript{31} With these facts in mind, and in view of the difficulty involved in trying to fix an exact date of party formation, one's logic is pricked to conclude that in the winter of 1793, when the Revolution really became the fore-front issue, the alignments stimulated by the Hamiltonians in 1790 were still in an inchoate stage of development so far as their existence as parties was concerned, and that the Revolution controversy, coming when it did, must have been the forging agent that transformed factions into distinctly separate and organized groups of party status.

Tempting as it is to concur in this conclusion, the facts must be held as in disapproval. Judged by the standards of the day, the alignments as they existed in the winter of '93 were parties already, and had been for some months prior. The bank bill was forging force sufficient to transform opposing alliances of Jeffersonian interests into integrated parties, or to raise a factional skirmish into a battle between parties. Had anyone save Washington been the presidential candidate of

\textsuperscript{31} Though the Jeffersonians did generally support Clinton against Adams for vice-president.
the Hamiltonians in 1792, this fact would have been adequately
demonstrated by the Jeffersonians putting forth one of their
own number as a candidate for the highest office, to oppose
whomever the Hamiltonians might have selected. By the time
the Revolution attained status as an open issue of first rank,
the opponents were arranged in fixed formation. The Revolu-
tion simply served as a new front to which the battle was
diverted. The battle on this front was not one which fashioned
raw recruits into armies, but one which gave to armies already
battle-tried and proven the increased efficiency and sense of
unity that comes from additional efforts and campaigning in a
common cause.

One development of Revolutionary stimulus which imparted
to Republican elements over the country an increased con-
sciousness of common purpose and identity, and made of them
a more co-ordinated and organized entity, was the establishing
of the Democratic-Republican Societies. In Philadelphia in
the spring of 1793 the first of these societies was organized.
The third society, established in the same year and in the same
city, proved, however, to be of greatest influence in promoting
the movement. This society had a brilliant leadership, among
which was Alexander J. Dallas, later to become Secretary of
the Treasury. It sent out circulars urging the formation of
societies in every section of the nation. It imparted to the
movement unity and real momentum. As far as is known, from
1793 to 1800, forty-two of these societies were established. Generally, they were established first in state capitals, and spread then to the hinterlands. The broad basis of membership was composed, as might be expected, of men of little means, small farmers, artisans and sailors. Above them were the men with vested interests in land, a few large merchants, a greater number of smaller merchants, certain manufacturers and traders, and a group of the professional classes. Every popular society wrote into its constitution a clause expressing support of the French Republic. Wide-spread protest was made to Hamilton's financial program. The societies expressed a strong belief in local government, small units which could register the common man's opinion and awaken his interest in government. They brought out voters who had never before taken part in government. The clubs strove for close association, through committees of correspondence and intervisitation. They sought a liberal communication of republican sentiments. For various reasons the societies, as they had existed from 1793,

33 Ibid., p. 60.
34 Ibid., p. 91.
36 Ibid., p. 128.
37 Ibid., p. 206.
38 Ibid., p. 110.
disappeared for the most part in 1795 and 1796, and those remaining had their influence diminished. Their places were commonly taken by township meetings which served essentially similar functions.  

Washington's announcement that he would not be a candidate for a third term was the beginning of the end for the Federalists. Heretofore the Republicans, while attacking their opponents bitterly and incessantly, were deterred by Washington's presence at their head, from making an all-out assault on the Federalist fortress. Washington was revered by both groups, and though the Republicans lambasted the Hamilton conceived program, which Washington signed into being, they refrained from attributing him with the motives attributed to his party subalterns. While Washington remained at the helm, the Republican campaign was necessarily one of limited objectives and limited attainments.  

In the congressional realm, however, the Republican cause fared well. By the Fourth Congress their strength in the House was almost equal to that of the Federalists. In this House, which was at that time the more important of the legislative divisions, they were from the first more than ably led. Through the initial session of the Fourth Congress Madison was the chief

---

formulator and executor of their policies. He was capably assisted and supported by the Virginia duo of William B. Giles and John Nicholas. In 1795 Albert Gallatin and Edward Livingston made their debut to further strengthen the ranks. Gallatin, who was highly thought of by both Jefferson and Madison, and with them constituted the Big Three of Republicanism, immediately assumed the reins of leadership. But congressional gains and leadership notwithstanding, while Washington might be persuaded to continue in office, the Republicans could not hope to gain control of the government. With his announcement that he would not serve past a second term, they could and did hope to ascend immediately to power.

In February of 1796 Madison wrote to Monroe advising him that Washington would not run again, and that the Federalist candidate would be John Adams. "The Republicans," he said, "knowing that Jefferson alone can be started with hope of success, mean to push him." It will be recalled that Jefferson had left his post as Secretary of State with the very determined intention of retiring forever from public life. While he was at Monticello, however, the active party leaders continued to

---

⁴⁰ Brant, III, 442.

⁴¹ John A. Stevens, Albert Gallatin (Boston, 1884), pp. 103-131.

⁴² Brant, III, 433.
correspond with him, and he with them. Whether he wanted them to or not, they continued still to hold him as first among them, and to give scant recognition to his professed status of retirement. Nor was it different with the men in the ranks. During the summer of 1795 the Democratic-Republican Societies began to toast Jefferson as their national leader. One such toast read, "May the patriots of '76 step forward with Jefferson their head and cleanse the country of degeneracy and corruption." By 1796 there were men in every important town of every state who looked to him for political salvation, and awaited the opportunity to carry out his wishes.

At this time there was no agency of formal nomination to give official party recognition of candidates. This function was accomplished by congressional leaders arriving informally at a consensus, and then making their decision known to the local leaders among their constituents. In 1796 this system was sufficiently adequate to Republican needs, for Jefferson was universally their choice. For vice-president the leaders ultimately gave their stamp of approval to Aaron Burr. The Federalists put forward Thomas Pinckney as a running mate for Adams.

---

43 Link, p. 133.  
44 Channing, IV, 168.  
It was well known by the group of leaders close to Jefferson that he was not anxious to run, but knowing there was no chance of winning with anyone else, they resorted to a sort of calculated risk draft movement. They presumed his candidacy and proceeded accordingly, fearing the while to press him for confirmation, but hoping that under the circumstances he would become resolved to and acquiesce in the role written for him. On September 29th Madison wrote Monroe that he was refraining even from visiting Jefferson lest an opportunity be provided for Jefferson to protest his candidacy. To the very last, as Chinard has observed, Jefferson manifested no desire to run. Bryant thinks he was never asked, but this seems unlikely. From a letter written by Madison to Jefferson on December 19th it appears that at some earlier date Madison had discussed the matter with his friend, and had received an indication of reluctant willingness to run if it were the will of the party. Otherwise, shrewd politician that he was, it seems likely that Madison would have discouraged the movement to draft Jefferson before it came to a possibly preposterous end.

46 Brant, III, 444. 47 Chinard, p. 317.

48 Brant, III, 444.

When the results were in, the Republicans found themselves thwarted by three electoral votes in their initial bid to capture the administration. They won a partial triumph, however, for Jefferson was the vice-president; four years more, and their victory would be complete.

With the election of Adams the Republican opposition became increasingly active and direct. As Beard says, "The Republican newspapers heaped indiscriminate abuse upon the head of the President and the Federalists generally." He asserts that the net result of it all was the thorough discrediting of the Federalist party. This violent Republican onslaught came at the same time that the Federalists were split and quarreling among themselves. Hamilton was now out of office, but he desired none the less to be the power behind the throne. He disliked Adams personally, as did generally the military and administrative faction that was in power under Washington. Hamilton intrigued with this group against the President. Adams in turn did not favor Hamilton's financial and commercial policy, nor his imperialistic and militaristic program. He was naturally in antipathy with the faction which did.

50 Gettell, p. 180.


52 Gettell, p. 180.
Foreign affairs held the center of the political stage throughout this quadrennial, and resulted directly or indirectly in most happenings of import. The chief controversy continued to be whether to incline the government's official position in favor of the French or the English, who remained constantly at war through the century's close. Party sentiments in the matter remained as they had been since their emergence in overt conflict in 1793, and party stock went up or down in accordance with the general sentiment which attached to the turn of events. In Washington's administration, for instance, the nation reacted adversely to the Federalist sponsored Jay Treaty. Mass meetings of protest were held the country over. In Boston fifteen hundred heard the Treaty read and opposed it unanimously. The burden of this unpopularity was almost too much for the Federalists in the election of 1796, when the distribution of the electoral votes presented the appearance of a referendum on the Treaty. The Republicans were brought into similar disrepute with the publication in 1798 of the X. Y. Z. correspondence. This revelation of French diplomacy resulted in an unexampled wave of patriotic feeling, with the slogan, "Millions for Defense but Not One Cent for Tribute." For the moment people and government became united in policy, and the Republicans were brought to the verge of ruin. Fisher Ames, a leading Federalist,

---

53 Link, pp. 131-132.  54 Binkley, p. 48.
noted that trimmers dropped off the party like September windfalls from an apple tree. Jefferson acknowledged as much. In the Anus he recalls that the Federalists, waving the then raging horrors of the Revolution as a raw head and bloody bones, used the occasion to spread alarm into all but the firmest breasts. Nothing, he said, "... rescued us from their liberticide effect, but the unyielding opposition of those firm spirits who sternly maintained their post in defiance of terror, until their fellow citizens could be aroused to their own danger, and rally round the standard of the Constitution." Carman goes so far as to conclude that the Republicans were perhaps spared extinction only by the Adams-Hamilton conflict, which flared forth over the organization of the army.

When, however, the Federalists in an attempt to exploit their advantage, pushed through Congress the Alien and Sedition Acts, they extended their luck too far, and provided the Republican leaders with an opportunity for rallying their beleaguered forces. Jefferson and Madison utilized these acts, aimed at silencing bitter Republican criticism of the Federalist conduct of foreign affairs, indirectly to an

55 Miller, pp. 4-10.

56 The Anus, Jefferson, Writings, edited by Bergh, I, 281.

advantage that stood to gain them far more than could their attacks on the foreign policy. Through the media of the Virginia and Kentucky Resolutions of 1798, they raised anew the cry of state rights, as opposed to centralized government, always a cry which under the proper circumstances could be calculated to elicit widespread sympathy. Madison, who was the author of the Virginia Resolutions, explained explicitly the Republican policy. The resolutions were"... for political effect," he said, "intended as a party platform to arouse the Republican sentiment throughout the country and secure a general condemnation of the Federalist centralization."

The official reaction to these resolves imparts the impression that their intentions were definitely thwarted. The resolves were sent to all states for comment, and except for Georgia and the Carolinas, which made no replies, all other states replied with condemnation. These face-value reactions were not reliable, however, as accurate indications of public sentiment, since the Federalists had ridden their war frenzy popularity to control most state legislatures.


With passing time Jefferson became convinced that they were serving their purpose. In the spring of 1800 he commented that "The people of the middle states are almost rallied to Virginia already; and the Eastern States are recommencing the vibration which had been checked by X. Y. Z." 61 Channing, however, is probably correct in his argument to dispel any illusion that the Republicans swept to victory in 1800 on the change of opinion occasioned by the Alien and Sedition Acts and the Republican rejoinders. 62 Still it must be conceded that largely because of the ammunition provided by these measures, the Republicans were able to recover, at least in part, from this near disastrous setback occasioned by X. Y. Z., for a large portion of the American people were disgusted, especially by the Sedition Act, and were doubtless inclined to sympathize with efforts of opposition. 63

In 1799 the Federalists won their largest congressional majority ever, but paradoxically enough, the year following they were to find themselves unable to elect a president, this in spite of the fact that they enjoyed the apparent advantages of occupying almost all federal offices and being ably led. In contemplating the conditions which


62 Channing, IV, 232-237. 63 Miller, p. 221.
served as setting to this unusual transpiring of events, several things must be taken into consideration. Some have been mentioned already. There was the lack of harmony within the Federalist ranks, centering in the persons of Adams and Hamilton. This cacophony came to a climax just at election time. Adams purged most of the Hamiltonian faction in his Cabinet. Hamilton, to undermine Adams as the party's candidate, prepared a pamphlet entitled "The Public Conduct and Character of John Adams, Esq.; President of the United States," which was designed to reveal to the party, as Hamilton put it in his own words, "... the facts which denote unfitness in Mr. Adams."64 There was the unpopularity which Jefferson had managed to cast about several of the Federalist measures. There was the aristocratic tone of the Federalist leaders. Adams, a man of pompous and ungracious manners, had an open scorn for the political capacity of the people, whom Hamilton is said to have characterized as a great beast. From the first the Republicans had made much of these aristocratic tendencies. There were additionally the growing expenses and heavy taxation for military preparedness, which met with much resistance. Monroe claimed the Administration was preparing for a war that did not exist, and expending millions which could but bring war.65 When on

---

65 Gettell, p. 181.
February 18, 1799, Adams, to the consternation of Federalists in general, sent to the Senate a nomination for a Plenipotentiary to the French Republic, who was to seek a settlement between the two nations, and when in 1800 a convention for peace was signed, the Federalists' preparations for war were rendered useless, and the patriotic wind which had blown to fill the Federalist sails after A. Y. Z. was now largely stilled. These various circumstances greatly improved the Republican position for the forthcoming election.

But for the substitution of General Charles Cotesworth Pinckney of South Carolina for Thomas Pinckney, the slate of candidates was the same in 1800 as it had been in 1796. There was the major difference, however, that in 1800 Jefferson cast aside all the reluctance that had marked his candidacy in 1796. Contrary, though, to current practices, he was not more active as a candidate. He spent the whole campaign on his farm, remaining almost silent, even afraid to write lest his letters be intercepted and used against him.

There were no formally adopted platforms for the campaign, but it was clearly understood that Jefferson's election would place in control of the government a clique of leaders pledged to democratic reforms. The

---

66 Chinard, p. 363.  
67 Robinson, p. 71.
Republicans said a Federalist triumph would mean the disappearance of the last guarantee of democratic government. They prophesied the states' vassalage to England, the ultimate result being a titled nobility and an hereditary monarchy. The Federalists for their part predicted awful consequences should Jefferson be elected. They pointed to the French Revolution as an example of the length to which mob rule would go. The restraints of civilization, they declared, would be removed, and the government's obligations repudiated.

The state electoral colleges met on December 4th, and by the 13th the returns in Washington indicated that the Republicans, some twenty years following their embryo development as a party, had succeeded to control of the government. The Federalists were definitely defeated. It appeared, however, and was subsequently verified, that the two Republican candidates had received an equal number of votes. Jefferson, for whom the highest office had been intended, assumed that Burr would take the necessary action toward setting the situation in proper order. When he did not, the election evolved in February upon the House, and it was only after days of inconclusive balloting and bargaining that Federalists in four states altered their voting

---

Gettell, pp. 181-182.
to provide the necessary majority. Theodore Sedgewick, Speaker of the House, and one of Jefferson’s bitterest enemies, was forced to announce Jefferson as the new president-elect.

Outside of New York, Adams actually received more electoral votes in 1800 than he did four years earlier. In New York he received none, whereas in 1796 he received all twelve. The election thus turned on this one state, and in this state, ironically enough, the change had been wrought chiefly by the political activity in New York City of Aaron Burr. These facts make it difficult not to accord considerable credence to Robinson’s analysis of the Republican victory, when he observes that success was not primarily a result of an uprising of the people or a victory of a party of numbers, but was due to a number of different leaders in various states, who had won support of a majority of electors and who by joining forces under a common party name secured a majority of votes in the electoral college for nominees of a caucus of Republican congressmen.

Notwithstanding the manner in which it may have been wrought, the Republican triumph was no less significant

---

69 Chinard, pp. 368-373. 70 Channing, IV, 235-37.
than if the people had risen in mass to attack and vanish the Federalist foe. The Republican party was no less the party of the present and future, and the Federalists that of the past. The Republicans had fallen short of their goal in 1796, but they kept their forces intact and carried the day four years later. The Federalists never rallied from their dark day. Their first fall from power was a fall forever. They proved to be a party devoid of political resiliency.

From the time of Jefferson's inaugural, following this initial conquest, until the inaugural of Andrew Jackson, twenty-eight years later, the Democratic-Republican party as a political physical body was to remain the party in power. True, its ideological nature underwent drastic metamorphosis. In fact, were a political party identified as a distinct political being by virtue of its ideological character alone, it would have to be said that the party of Jefferson lived a life which transpired many years before Jackson exchanged the Hermitage for the White House. Yet when seen as an organizational creature, a physical being in the structural sense, this party continued until that time as an identifiable political personality. Nor did it ever suffer death in any sense similar to the manner of passing experienced by the party of Hamilton. Rather its disappearance as an identifiable entity came after the fashion of the biological process by which a single cell ceases to exist as such. Through a process of political mitosis it divided itself in two, the
resultant divisions being thereafter seen as two new creations, with identities of their own, while the body which underwent division was no longer identifiable as the person of its parts.

For the purpose of this paper, the portion of the party's history prior to 1801 is actually of more pertinence, since it was during this period that the essence of Democratic-Republican state rights ideology was developed. The later history of the party was not without importance in this respect, however, and may be therefore properly reviewed in order to present a full length picture view of the political person which gave voice to the ideology under consideration.

Insofar as putting into practice their professed pre-election principles, the Republicans in their first administration in power met the approval of so severe a critic as John Randolph proved later to be. Randolph, an arch state righter, heaped praise on these first four years of Jeffersonian rule, saying that "Never was there an administration so brilliant. . . ." Jefferson introduced no drastic changes such as the Federalists had professed would be probably forthcoming. They had pictured the Republican leader as a dangerous liberal, and predicted dire consequences should he come

72

to power. Jefferson was not long in demonstrating these predictions unfounded. In his inaugural address he proclaimed, "We have called by different names brethren of the same principle. We are all Republicans, we are all Federalists." This was not to be taken exactly as it sounded, but it did serve accurately as an indication that there would be no violent change in governmental administration. There was a Republican reformation, but as Carman notes, the introduced innovations were such as to alter"... the surface aspects of administration without fundamentally changing the governmental structure that had been erected by the Federalists." 73

The change in the instrument of government was to be noted more in the tones that it now emitted rather than in the basic construction of the instrument itself. These new tones, however, were distinctly attributable to a combination of identifiable and characteristically Republican causatives. There was an introduction of ceremonial simplicity, quite in contrast to the formality of Federalist practice. A definite program was undertaken for curtailing expenses and reducing the debt, of which program the lowering of despicable direct and indirect taxes was a prominent feature. The hated Alien and Sedition Acts were allowed to expire, and strict naturalization requirements established

---

73 Carman, pp. 282-283.
in 1795 were made much more lenient. Federalist prophecies to the effect that Jefferson's asserted atheistic liberalism would bring upon the country conditions approximating those of the French Revolution at its worst, were, of course, whether sincere or not, preposterous to begin with, and Jefferson and his so-called Jacobin followers did nothing whatsoever that would have substantiated the most reserved claims of prophetic fulfillment.

On February 25, 1804, a congressional caucus renominated Jefferson for president, and designated George Clinton as the vice-presidential candidate. Jefferson's popularity was tremendous, and the Republicans won easily over the Federalist nominees, Charles C. Pinckney and Rufus King, whose followers scarcely staged a contest in their behalf. When reference is again made to the opinion of John Randolph for an evaluation of these last four years of Jefferson's administration, his judgment is found to be quite different from that which he pronounced for the first administration. The country, he believed, would never see an administration so bad as the second administration of Jefferson. He made allegorical references to the Bible, saying that as the lean kine of Pharaoh devoured the fat kine, so also did the last four years

---

74 Lynch, pp. 167-168.
of Jefferson's rule, with the embargo in their train, eat up the rich harvest of the first four.  

Factualy, this pronouncement of Randolph seems far less accurate than was his former one, yet taking into account the bitterness in which he made his evaluation, it may be properly interpreted as indicative of the general tenor of the evaluation which in a much milder form has been made of the party during this era. Randolph thought the first administration so admirable because in his opinion it practiced the principles of 1800. He thought the last so censurable because in his opinion it departed from these principles.  

Historians in general have been inclined to agree with Randolph that Jefferson's second administration did manifest a departure from the principles of 1800. Some have been almost as condemnatory as Randolph himself, as far instance Baldwin, who asserts that when Jefferson left the presidency, most of the Republican principles were so full of holes as to be scarcely recognizable; and Henry Adams, who says that after 1806 the most honest convictions of the Republicans were discredited, that Jefferson steadily drifted away from his original theories, and that the party as a whole was more or less corrupted by power. There is not

---

75 Bruce, p. 323, citing *Annals of Congress*, 1808-1809, I, 68.

76 Baldwin, p. 364 and Henry Adams, *John Randolph* (Boston, 1910), p. 188.
space here for presenting any protracted discussion of this matter. Suffice it to make these summary observations and opinion. It is to be admitted that judged strictly by the criteria which as the party of opposition it had employed to evaluate Federalist actions, there are grounds for concluding that in some degree charges on the order of Baldwin's and Adams' seem justifiable. In actions such as the Louisiana Purchase, the Embargo and subsequent Enforcement Act, the effecting of harbor improvements at federal expense, Gallatin's report of 1803 for an extensive system of internal improvements, the party is, negatively speaking, certainly not immune to this order of accusation. On the other hand, giving due consideration to the realm of surrounding circumstances, it may be very properly said that mitigation is in order for any too severe blanket condemnation on these grounds.

Once in power, the Republicans, believing themselves not of the dispositions and intentions which they had attributed to the Federalists, were prone to look less warily and critically upon certain of their own actions, than doubtless they would have, had the actions been those of the Federalists while they were in power. Whether censurable or not, in many such instances they did not consciously conceive of themselves as perpetrating a violation of their principles. In other cases, where they did entertain doubts as to the rightness of their actions, as in the purchase of Louisiana,
circumstances seemed to compel their proceeding whether technically right or wrong.

Throughout almost the entirety of his administration, Jefferson exerted a powerful and ruling influence over his party in general, and its congressional contingent in particular. So firm was this congressional leadership that it has been sometimes described as autocratic. Jefferson was no autocrat, however, and that his actions were sometimes of a manner to even suggest this character is easily explained. There was almost constant factional controversy in Republican congressional ranks. This presented Jefferson with the bitter choice of allowing internal weakness to wreck the party, or of throwing away his theories of strict separation of governmental departments, and taking near full charge of legislative management. As a good politician he chose the latter.

For almost eight years Jefferson held his ranks together and guided adoption of the administration program. In so doing a highly centralized system was developed. Having made but slight use of the caucus before 1800, beginning with the Seventh Congress it was extensively used by the Republicans as an off-floor forum for outlining and ascertaining their on-floor course of action, so that planned legislative campaigns might be as well co-ordinated as possible. To act as his personal congressional agents, Jefferson solicited outstanding men who were known as floor leaders. During the course of the administration, William B. Giles, Caesar A. Rodney,
John Randolph and William Cary Nicholas were the successive incumbents to this unofficial office. Their position overshadowed even that of the Speakership. 77

Throughout his years in power, Jefferson took Madison and Gallatin completely into his confidence; so much so that the government of this period has been frequently called a triumvirate. "Three more congenial souls certainly have never ruled a nation, for they were drawn together not merely by agreement on a common policy but by sympathetic understanding of the fundamental principles of government." Together they were responsible for the main outlines, and in some cases for the details as well, of party measures. 79

In the winter of 1794 and the spring of 1795 Jefferson had written Madison to observe in glowing terms his qualifications for the presidency, and urge his candidacy in 1796. In 1808 Jefferson's opinion of his friend was no different, and Madison received the backing of the administration for nomination. The designation of a successor for Jefferson was not, however, a matter upon which there was anything like a universal agreement throughout the party. There were, on


79 Harlow, pp. 176-181.

80 Koch, Jefferson and Madison, pp. 174-175.
the contrary, elements of pronounced opposition to Madison's candidacy, indicating rather serious factional strife. John Randolph in the early years of Jefferson's second administration had broken with the party leadership. Since that time he had acted as leader of a small band of malcontents, mostly of Southern composition, who bitterly insisted that the party was departing from the principles of 1800. These men had developed into chronic opponents of practically every administrative undertaking. They now sought to secure the election of James Monroe, thinking to ride his coat tails to a position of real party prominence. Monroe was willing, but all these hopes were squelched when Monroe, as Ambassador to England, brought home a proposed treaty with that nation, which was obviously so unfavorable that it was not even submitted to the Senate.

Vice-President Clinton was representative of another faction which was opposed to Madison's candidacy, and was himself receptive to nomination. When the regular party caucus met on January 23rd and nominated Madison for first place and him for second place on the ticket, he evidently became resolved to his position and did not push himself for the presidential spot independent of the regular organization. Madison and Clinton were overwhelming choices over Charles C. Pinckney and Rufus King, the Federalist nominees. 81

81 Lynch, pp. 192-195.
The last four years of Jefferson's administration were probably as exasperating as any ever experienced by an American president. How to cope with the situation presented by the conduct of warring France and England was a problem to try any man who attempted to be governed by reason and principles as opposed to impulses and inclinations. For a man of the character and principles of Jefferson, this was particularly so. He wanted peace, but was constantly prodded toward war. He wanted to practice the whole body of his Republican principles, but was forever being pushed to depart from them. That he kept the ship of state on the course of his choosing as well as he did is a tribute to his sincerity and ability as a leader. Such tortuous times were bound to increase factionalism, for not only was Jefferson confronted with the dilemma above mentioned, but to a certain degree so was the party as a whole. And when a group is so confronted, there are bound to be divergent reactions.

Worn out and discouraged by growing opposition, Jefferson laid down the burden of his office in the winter of 1809. Only an outstanding leader could have contained the discordant congressional collection for as long as he had. It is doubtful that he could have done so much longer. Madison, a thoroughly outstanding man himself in many respects, was not the leader of men that Jefferson was, and proved conspicuously unequal to the task. In January the House broke from
executive control and assumed for itself the wisdom of plotting the country's course. The reins of leadership were for the time being assumed by a small Senate group, which forced upon Madison the inclusion within his cabinet of a hostile element in the persons of the brothers Robert and Samuel Smith, and their brother-in-law Wilson Cary Nicholas. This initial inability to assume control was to be a pattern for Madison's entire tenure in office. Had he remained in Virginia he could have scarcely played a less important part during the ensuing eight years. The Eleventh Congress refused to act in harmony with the administration, and by itself it accomplished nothing, a result mainly due to the absence of any particular policy in the conduct of foreign affairs, which continued to be the matter of primary concern. 82 "By 1811 both the executive and legislative departments were reduced to the lowest terms compatible with the continuance of the federal union." 83

The transformation which was effected in the Twelfth Congress was tantamount to little less than a revolution. Certainly it was a revitalization. It has been said that the Eleventh Congress accomplished nothing because it had no specific policy to pursue in the conduct of foreign affairs.

82 Harlow, pp. 194-197.

This is not quite true. More accurately put, they did have a specific policy. It was their policy to keep the peace. Their deficiency lay in resorting to so vacillating a program of means to gain their end. They lacked a fixed and particular program for effecting their policy, though it may be cogently contended that under the circumstances no fixed program was possible, lest the end be lost. However this may have been, the Twelfth Congress was no less a contrast. There surged to pre-eminence in this body an element which had both a fixed policy and a fixed program with which they planned to implement it. Their policy was the upholding of American honor among nations, and their program was war, if necessary, for its accomplishment. The group's most outstanding leader, Henry Clay, voiced a representative expression of their feelings when he said, "What are we to gain by war? What are we not to lose by peace? Commerce, character, a nation's best treasure, honor!"

The main body of these War Party Republicans was constituted of men from the West and frontier sections of the other older states. Clay, Calhoun and Grundy were the most prominent of the many prominent members. These new Republicans ". . . were the first ripened product of the generation which had grown up since the Revolutionary War. They

---

34. Johnson, p. 213.
were patriotic by inheritance, optimistic and self-restrained by force of their surroundings. . . ." They came to Washington willing to rebuke Jefferson and Madison for not asserting the national spirit against the overbearing conduct of Britain. They were representatives of a people restive under the older and more conservative leaders. They resented the wrongs done their country, and scorned the pacific measures hitherto employed to repel them. In their country's abilities and in its future they had an unlimited faith, believing its destined limits to be no less than the eastern and western oceans; the Gulf of Mexico and the regions of eternal frost. "Hence they came to favor a war which would at the same time defend the country's rights and expand its boundaries. They would punish British insults with the sword, and wrest Canada from her, and the residue of the Floridas from her weak ally, Spain."

When the House was organized in November of 1811, the War Republicans were able to exert a controlling influence. Clay was elected Speaker, and others of their members were put at the head of the most important committees. They came ultimately to give Madison and Monroe the option of declaring war.

85 Babcock, p. 81.
87 Julius W. Pratt, Expansionists of 1812 (New York, 1925), pp. 126-127.
88 Bruce, pp. 370-371.
upon England in defense of the new nationalism, and on behalf of a militant Southern and Western imperialism, or of yielding the leadership of the country. The dilemma gave the Virginians much agony of mind, but finally they made their decision to yield.

The Republicans held a caucus on May 18, 1812, and sanctioned Madison's re-nomination. On June 8 Gerry was selected as his running mate. Factional strife, however, still prevailed within the party. In New York a Republican caucus of the legislature nominated DeWitt Clinton for president. Clinton was hostile to Madison, and made the restoration of peace his main policy. In mid-September the Federalists met and agreed to vote for Clinton's electors, though not to give him public endorsement. Jared Ingersoll, a moderate Federalist of Pennsylvania, was accepted by Clinton as his running mate. This Republican-Federalist combination was by no means a weak one. Clinton garnered eighty-nine electoral votes to one hundred twenty-eight for Madison. On June 18, 1812, in response to Madison's recommendation of war, a declaration to that effect was made. The country remained officially in this status until February 15, 1815, when the Treaty of Ghent was ratified.

89 Dodd, Statesmen of the Old South, pp. 100-101.

90 Lynch, pp. 225-228.
If, as has been suggested, there is ample room for contention that the Republicans during Jefferson's second administration did not throw over their principles of 1800, there is not ample room for arguing that when the party emerged from the War of 1812 these principles were still their guiding stars. They distinctly were not. As far as the bulk of the party was concerned, these were in many respects principles of the past. There is no better way to illustrate this, perhaps, than to cite Madison's signing of the bill to re-establish the national bank, and Calhoun's opinion voiced in the course of debate on the measure that discussion of its constitutional aspects was a useless waste of time.

Yet it would not be correct to say even concerning this incontrovertible change of mind that the Republicans had "thrown over" their principles. To expressions of this nature there attaches an implication of deliberate desertion of a recognizedly right cause. Though the Republicans now left many of their former principles behind, they did not typically do so under circumstances of conscience which resulted in their being pricked with a sense of guilt. They did so because time and events had worked in their minds a changed outlook that made their new inclinations seem natural and normal.

Babcock came close to putting a finger on what had come about when he said, "All but unconsciously the nation at the close of the war heard and obeyed the call to face about." The war generated in the Republican mind a nationalism that gave free and fluid sanction to plans and projects which fifteen years earlier it would have condemned as Federalist machinations toward a king and throne.

The year 1815 may be truly said to mark a new period in American and in Republican history. Before this date foreign affairs were a great portion of the time the subject of primary concern. The government could now give near full attention to matters domestic. Additionally, a new group of leaders had come to control of the government. Prior to this advent the men at the helm were men of the Independence Struggle who entertained a strong anxiety lest the government fail, and where the Republicans were concerned, a pronounced fear of a strong government as a destroyer of liberty. The new leaders were not given to these considerations in the same sense that their predecessors were. They were deeply conscious of the evils of a weak government, which they had seen evidenced in the conduct of the war. When their

---

92 Babcock, p. 191.

attention, in the absence of pressing problems of foreign origin, focused on matters of domestic import, such as currency, banking, manufacturing, protective tariffs, transportation, public lands and western migration, the dogma of state rights was unsuitable to their needs. Scarcely stopping to deliberate, they turned naturally to one that was.

The War Hawks had initially encountered some difficulty in holding together their followers in Congress. In the first part of the war there continued to be notes of disharmony in the ranks. The executive leadership had been effectively refuted, but the new leaders had not learned how to operate the Jeffersonian organization to best advantage. In 1814, however, the Clay contingent obtained a control so complete that friction practically disappeared. From the end of the war until his retirement, Madison for some reason was in general agreement with Congress. Perhaps he was following the line of least resistance, or perhaps he was trying to retain a measure of influence to be exerted in securing the selection of Monroe as his successor. If the latter was true, he met with success.

James Monroe was the last of the Virginia Dynasty. In 1808 he had aspired to the presidency, and had been willing to vie with Madison, the most logical successor to Jefferson,

---

94 Binkley, p. 101. 95 Harlow, pp. 201-207.
for the post. Madison was fully cognizant of this, but following his election, forgave Monroe and in recognition of his prominence, and, also, in an attempt to win him away from the Randolph faction to which it seemed likely he might become attached, offered him the position of Secretary of State, an office from which the next step was logically the presidency. Monroe accepted the post, gave his allegiance to the Jefferson-Madison combination, and remained in the good graces of the bulk of the party.

In 1816, as a prominent member of the party's founding fathers, he was the most apparent heir to Madison's position. Of the leading War Hawks, Clay, Calhoun, etc., wily John Randolph had commented a few months after their entry into the House, "They have entered this House with their eye on the Presidency." 96 He was to be proven right, but for the moment they were not well enough established to compete with an old guard leader like Monroe. The caucus met on March 16, 1816, and selected a slate of Monroe and Daniel Tompkins of New York. The Federalists named no one officially, but it became the general understanding among them that they would support Rufus King. No great effort was made in his behalf. Though the Federalists as a party were now acutely anemic, they managed to poll the thirty-four electoral votes

---

96 Garland, p. 306.
of Massachusetts, Connecticut and Delaware. Monroe amassed an overwhelming total of one hundred and eighty-three.

The election of 1816 marked the last time that the Federalists put a candidate in the field to compete for highest honors. Indeed, only a faithful vanguard carried on at this late hour. The thorough drubbing they received was enough even for them. They hereafter confined their steadily diminishing activities to state and local realms. In their opposition to the war, most prominently evidenced in the Hartford Convention, the party had been thoroughly discredited. This, no doubt, influenced many of their number to abandon the obviously sinking ship. But more than this, the Republicans were now putting into effect the Federalists' own program, and it must have seemed woefully needless to stay on the losing team. It was not surprising that old line Federalists found their sons most unwilling to follow in their footsteps. The latter could easily see how little political capital they stood to make in the party trade of their fathers. They consequently swarmed to affiliate in the reconstructed cartel of the Jeffersonians.

This disappearance of the Federalist party as an effective national organ of opposition, the fact that most men in

---

97 Lynch, pp. 250-251.
the nation deemed themselves of a common political denomina-
tion, and the wide popularity of Monroe, to the extent that
he was scarcely challenged for re-nomination to a second
term, and totally unopposed in the general election, are main
reasons that the eight years of Monroe's presidency have been
commonly referred to as "The Era of Good Feelings." When soon
following his initial election the new president made a grand
tour of New England, the hardboiled Boston Sentinel burst forth
in generous words of praise under that caption, and it was
immediately caught up and echoed by the populace. 98 Succeedit-
g generations, in view of the above mentioned conditions,
have considered it sufficiently apt to perpetuate its usage.
Needless to say, of course, that feelings throughout these
years were not universally good. Yet that there was con-
ciliation enough to contain both the Missouri Compromise
struggle and the Panic of 1819 so well that they did not boil
over to produce more serious dissension than they did, is in-
dicative of the prevailing inclination to conciliation.

98 Charles and Mary Beard, *Rise of American Civilization*,
p. 431.

99 Billington, *The United States*, pp. 139-140.
a minimum of contention on the part of other prominent men of the party for the presidential prize. Even stalwarts like Clay and Calhoun made no move in this direction until the Dynasty was sure to have run its course. Once Monroe was embarked on a second term, this time had obviously come. The years 1821-1824, therefore, became an era when rival aspirants were busily engaged in preparatory efforts for the contest that was to come in 1824. With the Federalists removed as opponents, the contest had to resolve itself into an intra-party test of popularity.

Until the very even of the election the preliminary contention was constituted of a five candidate field. William Crawford was the choice of the old school Republicans such as Madison, Macon, Randolph, etc. The main body of his strength was in the cotton country, although by favoring a moderate tariff and the maintenance of the bank, he hoped to garner votes in other sections as well.

Henry Clay was an extremely popular figure the nation over. After the war he had come to formulate a plan for self-sufficient national economy; the American System it came to be called. By means of a protective tariff he thought to create home markets for both farm and manufactured products. Once the factories were well established, the prices of their products would decrease. The tariff revenues would be used to construct a great system of internal improvements to facilitate
the inter-sectional change of products. By advocating a plan of this sort, Clay hoped to attach to himself practically every section of the country, but it was in the Ohio Valley states, by virtue of their specific economic needs, that the warmest response to his program was generated.

John Quincy Adams, in view of his intellect, experience and devotion to public duty was perhaps the best qualified candidate. His beliefs corresponded closely with those of Clay. Of a stern Puritan character, he was not personally warm and appealing. New England stood to be the stronghold of his power.

Andrew Jackson was the chief hero of the War of 1812. His victory over the English at New Orleans remained still a vivid remembrance in the public mind. As late as 1821 Jackson professed to have no presidential aspirations, but he was brought to a change of mind by a group of his home state Tennessee politicians who saw in him a candidate with pronounced Western and potential universal appeal.

John Calhoun was a man of education and vision, with a fine public record, and an especially fine one in particular as Secretary of War during the conflict of 1812. His home state of South Carolina had at first designated William Lowndes, a close companion of Calhoun, as their candidate, whereupon Calhoun was asked by a group of his friends to enter the running. He responded favorably to their request, and upon Lowndes' untimely death was given legislative support.
Calhoun was the most insistent advocate of internal improvements.

In the final year of the campaign this field of five was somewhat narrowed. Crawford was stricken seriously ill in the fall of 1823, and although he did not withdraw, his candidacy was much impaired. When in early 1824 Calhoun saw that Pennsylvania and Virginia would doubtlessly be lost to him, he removed himself from contention, content to believe that the future held time sufficient for gaining the prize he felt sure would be his someday. These events were not enough, however, to turn the contest to any of the other aspirants. When the results of the electoral college were known, Jackson led with ninety-nine, followed by Adams with eighty-four, Crawford with forty-one and Clay with thirty-seven. The House of Representatives was left to choose from the top three of these the president-to-be. On Clay, the eliminated member of the quartet, and, also, the Speaker of the House, a man of powerful influence, the matter of decision was largely dependent. After much hesitation and consideration, his choice turned to Adams, and the son of former arch-Federalist John Adams, became the nation's sixth president. John Calhoun had won the vice-presidency.

From the time that it initially took shape during the years of Washington's first administration, until the time that John Quincy Adams was chosen as president, the Republican party had known a continuous existence as a distinct
organizational being. Until 1800 it was relegated to an oppositional status. After 1800 it had elected every president. After 1816 it had not even had a national opponent. During its tenure in power the principles that it professed during its tenure of opposition underwent drastic evolution, but this ideological evolution was effected within the same organizational framework, and thereafter this framework proved spacious enough to accommodate most of the former occupants of the party home of Hamilton. With Adams’ election, however, the structural framework itself began to crack down the middle, and four years hence the Jeffersonian organization was rent in twain.

Actually division was sooner or later inevitable. It was impossible that one party could continue unopposed to contain the diverse elements of which it had come to be constituted, to keep enrolled practically the whole of the American voting populace. In the instance of political parties, there are always elements of internal dissension, opposition among component factions. When there is no external opposition in the form of an adversary common to these internal elements at odds, to incline them to tolerate their differences and subjugated them to the sake of the union, and so contain them within the party organization, then the resultant friction of the parts will ultimately generate a combustible energy sufficient to the disintegration of the party. When the Republican party ceased to have a
vigorously active opponent to stimulate its component parts to solidarity, then internal dissen'sion was bound to bring partition.

In retrospect, an additional reason for this division seems easily discernible. Soon after 1816 the party had come to contain the greater portion of the economic elements which had formerly constituted the party of opposition. It was not likely that this combination of elements could long remain under the same party banner. There was no simultaneous or subsequent economic leveling to accomplish a real ideological assimilation. In fact, these years saw in the nation's frontier society a generation of democratic spirit which was almost bound to clash with the conservatism that still prevailed in former Federalist New England. Actually, the stage was set for national re-cleavage much like the one which had produced the Union's first party alignments. The initial cleavage was apparently closed when Republicans and Federalists became enrolled within the same party orga'nization, following the manner of ideological rapprochement rendered possible by the evolution of Republican principles. Now this cleavage was to be re-opened along virtually identical economical and very similar ideological lines.

These, however, are underlying reasons. The immediate cause for the division and disappearance of the party per se is to be found, as William O. Lynch has pointed out, in the
controversy that developed around the circumstances of Adams' election. The manner of his selection over Jackson created an immediate issue which triggered the predictable party disintegration and resulted in the basically different elements breaking from their condition of union and falling into their naturally opposing alignments.

In the four-way division of the electoral votes Jackson had received a plurality of fifteen over Adams. Moreover, when for the first time an estimated breakdown of the popular vote was published, Jackson was credited with a plurality of 42 per cent. Upon adding these facts the Jacksonians came to the conclusion that the House was morally obligated to choose their candidate. That Clay should direct his influence to secure Adams' election was wrong enough, but when he was subsequently selected by the new president as his Secretary of State, they chorused to the sky a cry of corrupt bargain. Precedent had marked this position as the traditional stepping stone to the presidency. Clay was thus seen to have traded his influence for the mantle of succession. The Adams-Clay forces were said to be an illicit union, joined to dictate an heir apparent, to the exclusion of Jackson, and with the wishes of the people not considered. It was at once resolved

100 Lynch, p. 275.
101 Binkley, p. 111.
that this must not be, but that the General must be vindicated. The campaign for his election in 1828 was launched immediately. In October the Tennessee legislature placed him officially in nomination.

To the Jackson ranks came most of the major surplus elements of the election of 1824. Martin Van Buren had been the manager of Crawford's ill-fated campaign. He was a politician of great influence, especially in his home state of New York. He, with a great portion of Crawford's forces, now made their trek to the Jackson camp. Crawford himself reluctantly followed. Calhoun, aspiring no less than in 1824 to the presidency, was led to think that Jackson was a sick man who would possibly not be able to fill out one term, lent his stature to the combination as its vice-presidential nominee.

Broadly the Jackson forces came to be constituted of farmers growing grain on nearly self-sufficient small holdings, cotton planters of lesser rank, tobacco growers of the upper South and declining tidewater plantations, the old democracy elements of New York and Pennsylvania, both rural and urban, almost all the Piedmont populace, and everywhere the professional anti-Adams politicians.¹⁰² For the most part these were left wing Republican elements which since 1800 had been greatly strengthened by a combination of developments. The ever expanding frontier areas nourished a vigorous society

¹⁰² Binkley, pp. 115-116.
steeped in the practices of democracy. The cotton gin revolutionized the economy of the South. Impetus was given to large scale cultivation, and a need created for more land. Money making loomed as paramount. To this culture the top talent of the region inevitably migrated. And lastly, the industrialization that swept New England and a part of the Middle States resulted in a great bulk of the immigrants stopping there to work in the factories. Strengthened and united, these left wing forces would indeed be powerful.

As it turned out, the early charges that Clay was to be the dictated heir to Adams' throne were not borne out. Adams himself continued to be the center around which the anti-Jackson forces rallied. Generally, the "Adams Men" were the men of conservative tendencies. They had little sympathy with the western military hero whose name set class against class. With then worked the followers of Clay, men of the Ohio Valley, who could continue to rally to the New Englander because his views on internal improvements still met their pressing needs. To a great extent, Clay's American System became the program of the administration, and this with the opposition to the person of and the non-conservative philosophy attributed to Jackson served the group as a platform.

\[103\] Beard, The American Party Battle, pp. 57-61.

\[104\] Bassett, p. 390.

\[105\] Carman, p. 362.
On the whole the progressively developing party of Jacksonians did not find much to oppose under the Adams administration. The first real conflict between the groups involved the proposition of United States participation in the Panama Congress. The administration desired American participation, whereas the opposition for various reasons did not. The administration won victories in both Houses, but suffered nevertheless an over-all lessening of prestige. When the administration sought to give fair treatment to the Lower Creek Indians in Georgia, that state was angered and alienated. The tariff of 1828 was designed to favor the Jacksonians, but it really did not greatly alter the political situation. Perhaps Southern opposition to the measure resulted in some added antagonism toward Adams.106

Making due allowance for these and other happenings, the growing desire to vindicate the General as the victim of a corrupt bargain remained all the while the greatest rallying factor among his followers. This and assertions that state rights were jeopardized by a New England president, and that Adams had abused the patronage privileges, were strong arguments to win support of the main body of the people, who were told that their representatives had ceased to act as upright agents, and should be replaced with men close to the popular will.107

This time Jackson was not to be denied. Although Adams received all save one of New England's electoral votes, Jackson was predominant elsewhere, and won easily: one hundred seventy-eight to eighty-three. No House election would be necessary to decide this election. The party which four years earlier had split its vote indecisively among a quartet of its prominent members, had in the interval period shifted into two major alignments which in the course of a bitter campaign had become solidified to an extent that when it was over, a closing of the division was out of the question. Where there was one party, there were now two.

The bitterness rising from the circumstances of Adams' election had thus served as a catalyst to touch off and hasten the settling out of the diverse elements in the temporary Republican suspension. Had it not been for this turn of events, these elements might have remained suspended after the election of 1824 and continued somewhat longer in common party association. Division, however, was bound to come sooner or later. The issue of the "corrupt bargain" simply made it sooner than later.

The assumption of party names after the conventional manner of marking the existence of such separate political bodies, came somewhat behind the actual existence of these bodies, in this capacity. Since the division was wrought

---

Bassett, p. 390.
around personalities more than issues, it is not strange that the terms "Adams Men" and "Jackson Men" came initially into common designative use. The term National Republicans came slowly into employment during these years, but has been generally utilized by writers since. It came into more frequent contemporary usage during Jackson's first administration, but when the party began receiving the Jackson cast-offs of all description, it dropped the word National, and then Republican, coming thereupon to be known simply as Whig.

To distinguish themselves as Republicans different from their opposition, when this group was referred to as National Republicans, the Jacksonians sometimes used the term Democratic Republicans. After the birth of the Whig Party, they took on the more abbreviated appellation of Democrats. Jackson continued habitually to speak of himself as a Republican.

The disappearance of the Democratic-Republican Party did not mean that the ideology of state rights, to which the party had given birth, passed also from the American mind. Since the era of nationalism the majority of the party had indeed ceased to be of the frame of mind that conceived the principles of 1800. In the South, however, all the while there were those whose political thought was comparatively untinted with the prevalent nationalism. As time brought a gradual dimming of nationalistic enthusiasm, increasing numbers of

109 Lynch, pp. 356-357.
Southerners came to see cause for alarm in the unfolding legislative program of the government. The American System of Henry Clay, with its plans for a protective tariff and internal improvements may at first have sounded attractive to many in the South. In time, though, the attractiveness of these features faded away, and the South came again to think clearly in terms of sectional self-concern. In this light there seemed little, if anything, to gain from a nationalistic program. On the contrary, the South would apparently be called upon to help pay the bill for benefits which other sections of the country would derive. The reaction of the South was after the fashion in which the program of Hamilton had been met—a resort to the defensive doctrine of state rights. By 1828 this state rights revival was general over much of the South. The mood was fast becoming such that the proper provocation would result in an outbreak of sentiment more particularistic even than that of the Virginia and Kentucky Resolutions.
CHAPTER II

THE REPUBLICAN CONCEPTION OF THE

NATURE OF THE UNION

The nature of the union, as the term union is employed to connote the relationship of the states to the central or federal government, was the most vital conceptive element in the state rights ideology of the Democratic-Republicans. While many of the ideological elements peculiar to these first state rights proponents were considerations occasioned by contemporary circumstances and events no longer present as determinative forces, their reflections on the nature of the union have remained in many respects fundamental to those whose concern has been to secure to the greatest possible extent a reservation to the states the management of their internal affairs.

In seeking to understand the psychology which prompted the First Republicans, as Stuart Brown has designated the party of Jefferson, to adopt a conception of union which held the rights of the states as paramount over the rights of the central government when there was any doubt as to a constitutional assignment of power, no more detailed basic explanation is needed than to say that it was simply a matter of local or regional interests seeking naturally to maintain self-control over their affairs, against external
forces whose designs were considered a threat to their welfare and detrimental to their way of life. More specifically, it was primarily and principally, though not exclusively, a matter of a people with an agricultural economy seeking to manage and maintain this economy in a manner most propitious to their interests. All people by nature strive to do this. Mankind is characteristically scarcely less jealous of economic liberty than he is of other forms of liberty. That the South first gave formulation to a doctrine of state rights was solely because it was their institutions which first seemed jeopardized by a national majority possessed of inclinations counter to their own. Hardly had the echoes of their loudest state rights shibboleths grown faint, before the New England states under Republican control were giving voice to proclamations of essentially the same sort, when their commercial economy seemed threatened with ruin as a consequence of restrictions contrary to what they themselves would have inflicted had it been left to their own volition, governed by the guiding principle of self-welfare, which was the welfare of commerce.

In the instance of the South, however, it was the cherished economy of agriculture that was seen as beset with dangers, and therefore in need of protection. The greatest Republican leaders, and the solid corps of their followers, were for the most part men of the soil. It was their most earnest desire that America should become a land
of agriculture. The best state, said Madison speaking generally, would be a political society founded upon an agrarian basis, although he conceded, as did Republicans generally, that there should be sufficient admixtures of other economic activities to eliminate too great a dependence upon foreign countries. In the very early period of the United States, however, among Republican elements there was to be even less disposition than that demonstrated by Madison for an economy diverse in nature. In 1782 Jefferson wrote in his famous Notes on Virginia, "Let Americans never become mechanics, carpenters, etc. Let our workshops remain in Europe. It is better to take European artisans' provisions and materials, than to bring artisans here, with their manners and principles." The less, he reasoned, that would be incurred in transatlantic transportation would be made up in happiness and permanence of government.

The Republicans seemed sincerely to believe that cultivation of the good earth was of the noblest of professions in which mankind could engage; that it was conducive to his attainment of that which is best in life. John Taylor of

---

1James Madison, "Republican Distribution of Citizens"; originally appearing in The National Gazette (March 5, 1792); reprinted in Writings of James Madison, 9 vols., Gaillard Hunt, editor (New York, 1906), VI, 98.

Carolina, perhaps the most brilliant political theorist the United States has produced, was the very embodiment of the agricultural ideal. An extremely successful planter, who, although serving with distinction at various times as a member of the Virginia Assembly and of the United States Senate, removed himself for extended periods of time from public pursuits, in order to be able to wage with an able pen the battle against those forces which to his mind were undermining the agrarian way of life. Taylor asserted:

The capacity of agriculture for affording luxuries to the body, is not less conspicuous than its capacity for affording luxuries to the mind. . . In short, by the exercise it gives both to the body and to the mind, it secures health and vigor to both; and by combining a thorough knowledge of the real affairs of life, with a necessity for investigating the arena of nature, and the strongest invitation to the practice of morality, it becomes the best architect of a complete man. 3

An agricultural society, Jefferson was fully convinced, somehow engendered and instilled within man a superior sort of moral virtue. The laborers of the earth, he held to be . . . "the chosen people of God, if ever he had a chosen people. . . ." In them He has made His peculiar deposit for substantial and genuine virtue. Jefferson thought this fact borne out by history, in that by his estimation no age or nation had furnished an example of a corruption of morals

in the mass of cultivators. This was largely because the husbandman was not dependent on the casualties and caprice of customers for his subsistence, such dependence being conducive to subservience and banality, which suffocate the germ of virtue and prepare men for the designs of ambition. It was generally true, Jefferson felt, that "... the proportion which the aggregate of the other classes of citizens bears in any state to that of its husbandmen is the proportion of its unsound to its healthy parts," and is a good enough barometer whereby to measure its degree of corruption." This development in an agricultural society of a citizenry free from corruption would, in turn, work to the benefit of the state. "It is the manners and spirit of a people which preserve a republic in vigor," said Jefferson. "A degeneracy in these is a canker which soon eats to the heart of its laws and constitution." Madison concurred with Jefferson. The class of citizens who provide at once for their own food and raiment, he said, are observably the most truly independent and happy. "They are more: they are the best basis of public liberty, and the strongest bulwark of public safety."  


By 1813 Jefferson had come to recognize that America was not to be the land of farmers to the exclusive extent he had hoped for. He now observed that men, should they not prefer to become landholders and tillers of the soil, could turn to some other labor from which they would derive satisfaction. But doubtless, he still conceived of the United States as primarily an agricultural society, to the extent of being free from the crowded cities which he had observed with abhorrence in Europe. And taking note of this in a letter to John Adams, he explained in large measure the agricultural psychology which was so insistent on the maintenance of local, and in particular of state rights. He conceded that conditions in the Old World were such as to necessitate a government of an entirely different sort than would be possible under other conditions. The *canaille* of the European cities, he reasoned, would indeed require government by a strong hand, for they would pervert too great an allowance of freedom "... to the demolition and destruction of everything public and private." But in a land like America, where "Everyone, by his property, or by his satisfactory situation, is interested in the support of law and order, ... men may safely and advantageously reserve to themselves a wholesome control over their public affairs,
and a degree of freedom, which . . . in Europe would not be possible."

The agricultural intellect, accustomed as it was to the large degree of self-sufficiency and independence, resulting from each man being the tiller of his own land, and the manager of his own affairs, and therefore finding small cause for any general regulation, as men of commerce and finance have often found essential for the successful pursuit of their professions, rebelled at the very thought of such regulation and control. The agriculturist was largely capable of managing his own affairs. Wherein there was need for the benefits that might accrue from government, the state governments usually would be able to meet such needs. From the state governments, moreover, there was nothing to fear, for they were the representatives of agriculture and sympathetically understanding of its needs. Only a minimum of power, therefore, need be delegated to any government more inclusive than the state governments. To the general government of the states in union, it would be only necessary to allot control over the conduct of affairs occasioned by union, and to the advantage of all. In this category principally would fall the conduct of foreign affairs and the

---

regulation of interstate commerce. Attempts to exert a regulation not propitious to all, specifically to exert a regulation deemed detrimental to agriculture, were to deprecate, for agriculture could manage itself. "Political liberty," said John Taylor, "consists only in a government constituted to preserve, and not to defeat the natural capacity of providing for our own good." No power strong enough to effect regulation of intra-state affairs could be safely given to the central government. No unkindred interests could ever be allowed to exercise supervision over agriculture. To have the management of one's affairs in the power of another would be the very essence of monarchy and of tyranny.

Consequently, to exercise a double safeguard of the agricultural interests, when and in the event that limitations supposedly incorporated by the governmental forms might prove insufficient to the task, it was essential that the general government as well be constituted predominantly of agrarians. "The only corrective of what is corrupt in our present form of government," asserted Jefferson, as he reviewed with alarm the Hamiltonian fiscal arrangements under consideration, "will be the augmentation of the numbers in the lower House, so as to get a more

---

agricultural representation which may put that interest above that of the stockjobbers." In 1797, having noted what he evaluated to be the British-like condition of the government, Jefferson speculated as to the chances of its being changed:

All can be done peacefully, by the people confining their choice of Representatives and Senators to persons attached to Republican government and the principles of 1776, not office-hunters, but farmers, whose interests are entirely agricultural. Such men are the true representatives of the great American interest, and are alone to be relied on for expressing the proper American sentiments. 9

The Republicans were confirmed in their philosophy of an agricultural society by the experience of their environment; or probably it would be more correct to say that their environment led them to such a philosophy. The aristocratic, property-tied society of the South was a most congenial one, generating and seemingly breeding in its members a profound adherence to its ways. It was a leisurely and pleasant society, which although overtaken with periods of economic hardship, was most conducive to the happiness of its members. They were consequently possessed with an almost inherent


disposition to perpetuate it. This natural affection, when buttressed and confirmed with convictions derived from resultant deliberation, made of them staunch advocates of the agrarian way, and ever ready to rise in its defense.

The natural Southern predilection for agriculture, and the desire to maintain self-control over agricultural affairs was indubitably the main underlying explanation for the resort to and development of the Democratic-Republican state rights conception of the union. There was, however, another factor of almost co-equal significance. That factor was the colonial heritage of a conception of the states as independent territorial and governmental units, as distinct from being merely formative parts of one territorial and governmental whole. Colonies were from the earliest settlements units separate and distinct as far as authority on American shores was concerned, each having the ultimate source of authority resident within its own governmental and territorial boundaries. All were completely independent one of another, there being no central colony-wide authority whatsoever on American territory.

It is true, of course, that infused with this sense of severalness, and likewise so almost from the beginning of the American colonial establishments, there was a sense of common association, a certain feeling of unity which made of the colonists one people. Their geographical contiguity, as essentially like units of common English heritage, paying
common allegiance to the English Crown, made this in-
evitable.

This dual sense of existence did not cease; nor was it substantially altered by the winning of independence, the establishment of the Confederation, and after that of the Union under the Constitution. Consequently, as constitutional government was initiated, this sense of dual belonging, this feeling of being vitally a part of an American Union and at the same time a member of a constituent state in that union, was indeed conflicting, and served with passing time and developing circumstances, to a large extent, as the basis of state rightism. Moreover it likely will be an ever present cause of conflict as long as the United States is governed by the federal form set forth in the Constitution. Local authority everywhere is jealous of central authority. Especially was this jealousy subject to aggravation when the chief units of local authority were initially so independent and self-sufficient as were the state at the time of the Constitution's ratification.

Perceiving then the component psychological elements of that segment of Americans who were to become the core of Republicanism, the desire to maintain self-control over agricultural affairs and to safeguard the agricultural economy, and the concept of the states as separate and distinct territorial and governmental units, it is
readily understandable how they became the basis of the
development of a state rights ideology. When occasion
rose to defend the institution of agriculture, it was but
natural that the would-be defenders should call to their
aid this concept of state individuality, and put its use as
a great protecting wall enclosing the state and its fields
and farmers against the onslaught of the central govern-
ment.

Noting these elements, and perceiving their obvious
capability in themselves under the proper circumstances,
of producing a philosophy of state rights, it may well be
concluded that examination of any further aspects of the
philosophy which engendered such a doctrine is to go beyond
the essential into the superfluous. Yet there are two ad-
ditional ideological elements which would appear to warrant
at least summary mention; to wit, limited government and
natural rights. Both of these principles were prominent
in Republican thinking, but the role to be assigned them
as causatives in the state rights scheme of things is de-
batable.

In view of the fact that the Republicans were ardent
exponents of these principles, and additionally that the
principles seem so vitally basic to any philosophy of
local autonomy, it is tempting to assign them a highly
responsible role. But as a deterrent to so doing, the
question unavoidably presents itself: Were not these
principles of themselves, in this instance, only indirectly of determinative nature? That is to say, were they not of significance only as propitious background factors in the formulation of the particularistic state rights philosophy, rather than being of themselves prominent and immediate formulative factors? The answer must not likely be that they were the former. Although it was natural that the principles of limited government and natural rights were adhered to, on the part of those who sought to safeguard local control, it was not primarily from these principles, as theoretically advocated, that the Republicans took occasion to formulate their distinctive concepts of the nature of the union. Even, however, if this be true, the obvious importance attaching to these principles warrants their recognition.

What Professor Caleb Patterson said of Jefferson, regarding the principle of limited government, may certainly be said of his party as a whole. To Jefferson, he said, good government was doubtless synonymous with limited government. Power, untempered by division, and exercised by nations or their governments, the Republicans held to be invariably the scourge of human happiness. Moreover, if security against

---


power lay in its division, the security must increase with the increase of the parts into which the whole can conveniently be divided. "Every government," said Jefferson, "degenerates when trustee to the rulers of the people alone. The people themselves therefore are its only safe repositories. The influence over government must be shared among all the people."\(^{12}\) His general rule for making this distribution of power was that man should\(^{13}\) make himself the depository of the powers respecting himself, so far as he is competent to them, \(\ldots\) delegating only what is beyond his competence by a synthetical process, to higher and higher orders of functionaries, so as to trust fewer and fewer powers in proportion as the trustees become more and more oligarchical.\(^{14}\)

Specifically applied to the American union, this meant in the first place that were America not already divided into states, such a division should be made. The central government, then of these states, should be entrusted generally with the defense of the whole and its foreign and federal


\(^{13}\) Jefferson, *Notes on Virginia*, p. 265.

relations. Each state would reserve to itself what it was capable of doing much better than the distant central authority, which reservation would include supervision of civil rights, laws, police and administration of what concerns itself directly. The state should in turn be again divided into counties, each to take care of what lies within its local bounds, and each county again into townships or wards, to manage minute details. Finally, every ward should be composed of farms, to be each governed by its individual proprietor. Ideally every man should become in some capacity a participator in governing, in councils large or small. When this was the case, men would as soon have their hearts torn from them as to relinquish their power to a Caesar or a Bonaparte. By partitioning responsibility in this manner, "... descending in graduation from general to particular, the mass of human affairs could be best managed, for the good and prosperity of all."  

In summary, these were the Republican beliefs relative to limited government. Obviously they were of a nature conducive to a state rights doctrine of particularism. But of themselves, they were not a primary factor in the Republican


formation of a state rights creed. Nor were their conceptions of natural rights. The natural rights doctrines were popularized in America during the period of pre-Revolutionary War agitation. When the colonists in their debates with English authority had despaired of gaining the sought-after ends of self-government with arguments based upon their alleged charter rights, they resorted to the recourse available to them in the doctrine of natural rights. 17 In 1776 this recourse was brought to its logical culmination in the Declaration of Independence, which was a basis presentation of the natural rights philosophy.

By this time, due to their extensive utilization and propagation, these ideas were familiar to "... every pamphleteer, every lawyer, every minister of the gospel, almost every subject of George III. ..." 18 Jefferson declared his purpose in writing the Declaration of Independence "... was simply to formulate an expression of the American mind." 19 Needless to say, in view of these observations, these doctrines were prominent in Republican ideology. Both Jefferson and Madison, "regarded the preservation of natural rights as the great object of political

17 Vernon L. Parrington, Main Currents in American Thought (New York, 1930), I, 186.


society. . . ." The writings of Jefferson, particularly, are profuse in professing adherence to these principles. Moreover, Jefferson was sincerely concerned that these beliefs be practically realized in governmental operation. "I shall see," he wrote soon after ascending to the presidency, "with sincere satisfaction the progress of those sentiments which tend to restore to man all his natural rights. . . ." The duty of legislators, he felt was to "declare and enforce only our natural rights and duties, and to take none of them from us."  

Flexible as it was, the doctrine of natural rights possessed a leeway of utilization which made its application suitably variable to the peculiarity of the need. It could be used to safeguard either individual or group liberty, the latter being, of course, inclusive of economic as well as other kinds of liberty, in which capacity it had been of principal service to the colonists in their struggle against English aspirations of dominant economic manipulation. The popularization and acceptance of the broad


22 Jefferson to Francis W. Gilmer, June 7, 1816, ibid., XV, 24.
and general principles inherent in natural rights philosophy served to impregnate Americans with an acute jealousy of their alleged natural rights, whatever their discretion might determine them to be, and imbued them with a propensity to resist any attempt at their encroachment. It made them sensitive to considered oppression or tyranny in whatever form, it being their conviction that it was counter to natural law. Without doubt these developments of the Revolutionary period were influential in the civil struggle of ideologies which occurred subsequently during the first years of constitutional government.

The controversy, however, between the Republicans and the Federalists was of a nature quite different from that of the colonies' dispute with the mother country, with the consequence that the doctrine of natural rights as such was not employed directly by the Republicans in the same manner that it had been employed against England. The Republican battle against the Federalists did not result in the utilization of natural rights ideas as a main issue upon which to base their defense. These ideas did not have the extreme effect in the Republican formulation of a state rights conception of the union that they had earlier had in the colonial conception of the Empire. The circumstances of the latter situation were not such as to lend themselves so well to natural rights application as were those of the earlier struggle. The individual states were
more integrated parts of the Union than were the colonies of the British Empire. They were not subordinate, but coordinate members of the governmental whole. They were participating members in a government, to which voluntarily they had recently granted their assent. In short, the states were not subjected to a situation which would give them cause to cry tyranny in the same sense that they earlier had against England, and therefore to rely on the natural rights reservoir as a main retaliatory recourse. They may have accused the Federalists of monarchial inclinations, but the Federalists were far from monarchists, and the Republicans subconsciously knew it. They may have accused the Federalists of tyrannical practices, but the Federalists were governed by a written constitution, to which the Republicans had assented, and their practices were not marked by anything approaching the lack of restraint which had marked the English conduct. Natural rights, therefore, never became the issue that it formerly had been, and there was no provocation to go to the extremes in expounding the nature of the Union, to which Jefferson had gone in 1774 in his A Summary View of the Rights of British America in interpreting the nature of the colonies in the Union of the Empire. 23

The Republicans, however, did make application of the doctrine, to suit the circumstances of their day, and the peculiarities of their needs. And like Jefferson's application, it was to the end of protecting governmental units from the central governing authority of the whole. When the agricultural element of America found itself in need of help to protect itself from the enactments of a central authority, it made the states and their relation to the union, analogous to individuals and their relations to society. Thus, in the Kentucky Resolutions, the Republicans visualized the Constitution as the compact wherein the states as individuals had set forth the rights which they were entrusting to the common authority, and proclaimed the prerogative of protecting "... their natural rights not made federal. ..."

This line of reasoning, employing as it did a specific reliance on natural rights, was but little resorted to, however. It was by sensitizing the Republicans to authority, making them ever ready to resist it when appearing in an unsympathetic form, and to restrict it to the narrowest possible limits, that the natural rights doctrines played their main role in formulating the Republican conception of the union.

In summary then, the elements of Republican psychology that played a leading part in the formulation of the state rights conception of the nature of the union were (1) a devoted attachment to the agricultural way of life, not solely, though probably principally, because it was the economy to which they were accustomed and by which almost exclusively they gained their livelihood, but also because they sincerely believed it was the way of life most conducive to man's happiness and welfare, that it developed in him a high degree of moral virtue, and that consequently a nation devoted to agriculture must be the best type of state; (2) an habituation to think of the states in their individual capacities, as each in itself a nation, while at the same time holding them collectively as a conglomerate whole; (3) a strong and abiding belief in the principal of limited government; and (4) a firm adherence to the doctrine of natural rights.

In the Constitution, which a vast portion of their number had once denounced, the Republicans found the heart and soul of their state rights philosophy. From the initial stages of the struggle between the forces that were to be designated Republicans and Federalists, the Republicans waged the battle behind the breastwork of this document. Once ratification was a matter of fact, the Anti-Federalists immediately adapted themselves to the new situation and strove to make the most of it. The
agricultural element had feared that the Constitution was an instrument designed to create a consolidated government, capable of subordinating the authority of the states, and thereby enabling commercial and financial interests to exploit the agricultural domain. The Federalists, however, had assured them that this would not be the case, and explained in detail why. It was but natural, therefore, after being unable to prevent adoption, that the Anti-Federalists should salvage the most from the circumstances by holding the document to be what they wished it to be, which for the most part, was in fact essentially what the Federalists had told them it was in order to win their support. This amounted to conceiving of the provisions of the document in a fashion which was most restrictive to the power of the general government, and most concessionary to the power reservations of the states. To this end, the wording of the Constitution seemed to lend itself. If thereby the Republicans could secure the prevalence of their way of thinking, they stood ironically to gain their salvation through the medium of that which first seemed to promise their destruction.

By such an adaptation the Republican conception of the Union became strictly a "Constitutional" one. They adhered to the letter of its law. It was unnecessary that they resort to a change of government, if only they could secure the government they held to be Constitutionally
created. The preservation of the Constitution became thus their pronounced purpose. Jefferson keynoted their course, when in 1791 he announced: "I wish to preserve the line drawn by the federal constitution between the general and particular governments as it stands at present, and to take every prudent means of preventing either from stepping over it." If any leeway of power were to be accorded, however, it should be to the states, for an excess of liberty would be much better than tyranny. But this end, he maintained, would not be gained. . . "by any change in the federal constitution. . . ." To the contrary," . . . the preservation of that [Constitution] . . . was all that needed to be contended for." 25

Basically this was over the Republicans' contention, although from time to time, when the Federalists interpreted the document to disapproved ends, they advocated amendatory additions, though generally only to the purpose of clarifying and confirming beyond doubt, what for their part was obvious enough as was. It was not until late in the Republican reign that one-time Jeffersonian Republicans, since become Southern sectional extremists, began to entertain seriously opinions of the nature voiced by John Randolph in the tariff controversy of 1824, when he

exclaimed in the House of Representatives, "I have no faith in
parchment, sir; I have no faith in the abra cadabra of the
Constitution; I have no faith in it," and began to look more
to the states than to the Constitution for their means of
defense. But in the ideology of the true Democratic-Repub-
licans, a near supreme reliance was placed in the Constitu-
tion, which as they came to interpret it, seemed to provide
for the most beautiful system of government ever known to
mankind.

To the Republicans the Constitution was a compact among
states, which compact ". . . constituted a general government
for special purposes, delegated to that government certain
definite powers, reserving, each state to itself, the residuary
mass of right to their own self-government. . . ." To this
compact" . . . each state acceded as a state. . . .," and was
an integral party.

26 John Randolph, Annals of Congress, 18th Congress, 1st
Session, p. 236, cited in Jesse T. Carpenter, The South as a


28 "Kentucky Resolutions,"Elliot, IV, 540; "Virginia Resolu-
tions of 1798," Elliot, IV, 528; "Madison's Report on the Virginia
Resolutions," Elliot, IV, 547; James Madison to Spencer Roane,
June 29, 1821, as summarized in Burns, James Madison, p. 92;
Manuscript, Madison's Papers, Library of Congress, cited by
Burns, James Madison, p. 92; Madison to Edward Everett, August
In exactly what capacity did these integral parties accede to this compact? Madison dealt specifically with this subject. The term state, he noted, was indeed "... sometimes used in a vague sense, and sometimes in different senses..." according to the subject to which it might be applied. Sometimes, said Madison, it "... means the separate sections of territory occupied by the political societies within each; sometimes the particular governments established by those societies; sometimes those societies as organized into particular governments; and lastly, it means the people composing those political societies, in their highest sovereign capacity." Of these, the last mentioned usage was the one which Madison designated as applicable in describing the capacity in which the states held associative membership in the Union, for it was in that sense, he said, that the Constitution was submitted to the states, and that the states ratified it. It was in that sense of the term "states," that they were consequently parties to the compact from which the powers of the federal government result. In acceding to the Union, they were not deprived of "... that corporate existence and political unity which wd. in the event of dissolution, voluntary or violent, of the Constn. replace them

in the condition of separate communities, that being the condition in which they entered into the compact."  

John Taylor set forth in his writings more clearly than anyone the status to be accorded the states as parties to the compact. As the term is found in the various state constitutions, he said, "used geographically, it refers to state territory; used politically, it refers to the inhabitants of this territory, united by mutual consent into a civil society." These states, then, as they were enumerated individually and dubbed collectively the United States of America, were political associations, each constituted by a people. They were political individual entities, each entity possessing a separate sovereignty, a sovereignty by virtue of which they were enabled to convey and retain rights, to transfer a portion of sovereignty, as indeed they did to a federal government, while likewise being capable of retaining, as they did, a portion of their sovereignty. In short, the states were conceived of by Taylor as complete nations, "state nations," as he frequently called them. Eugene Nudge has summarized


32 Ibid.

33 Taylor, Tyranny Unmasked, p. 319.
Taylor’s, and it could be said, the Republican conception of a state, as "... a sovereign, independent, political community, with national rights derived from nature, composed of individuals possessed of natural rights."  

Taylor sought to support irrefutably this conception of the states by examining their history from the moment of their existence, proving thereby that their status as such had never undergone subordinating evolution. "A people of each state," he said, "was created by the declaration of independence, invested with sovereignty, and therefore entitled to unite or not." The declaration was thus "... the origin of our liberty, and the foundation of our form of government..." and if it were not considered as obligatory, then "our entire political fabric has lost its magna charta, and is without any solid foundation." The validity of this principle he deemed to be evidenced unmistakably in the treaty of peace between England and America, which specifically acknowledged the separate and independent sovereignty of each state. By the revolution each state became a perfect individual nation, possessed of all the natural rights of nations. Under the Articles of Confederation full


35 Taylor, Tyranny Unmasked, pp. 2-9.

36 Ibid., p. 171.
confirmation and recognition was accorded to their existence as such.

But proof more conclusive than all of this, Taylor asserted, came when the Federal Union was formed. "No act," he said, "can ascertain the existence of a sovereign and independent community more completely than the creation of a government. . . ." Especially was this so in the creation of the government under the Constitution, in view of the uncoordinated unanimity of the participating states in sending delegates to the Constitutional Convention, instructed to set up a federal form of government only, thereby attesting to their complete understanding of differences involved in this and other forms of government, and in view of the subsequent ratification of the created instrument by the separate people of each state.

Finally, however, as conclusive indication of the separate and sovereign character of the states as members to the compact was the Republicans' observation that the organization of the central government". . . CANNOT BE MAINTAINED WITHOUT THE CO-OPERATION OF THE STATES. . . ." 39 If a state was


38 Ibid., pp. 9-15.

39 "Extracts from The Address to the People, Accompanying the Virginia Resolutions," Elliot, IV, 530; capitalization is that of the Assembly.
possessed of a determinative prerogative of this nature, the Republicans reasoned, how could the Union be ought save what they said it was?

This conception of the nature of the agreement or compact and of the parties to the compact was scarcely more important, however, to Republicans' state rights ideology than was the conception of the purpose and intent of the association. Professor Carpenter has observed in The South as a Conscious Minority, that "In the control over external affairs delegated to the national government, the South found its justification for the adoption of the Federal Constitution." In the Constitutional Convention and in the ratification conventions that followed, he notes, the need of protection from external aggression, and the idea of the Constitution's being adopted principally for this purpose, was the argument that carried its adoption.

This justification on the part of those won to ratification on these grounds was a restrictive justification. That is to say, when they agreed to the adoption of the Constitution, being largely influenced by the idea of the central government being chiefly for the purpose of managing external affairs of the union, they intended that it be confined as exclusively as possible to this purpose and pursuit alone.

40 Carpenter, The South as a Conscious Minority, pp. 35-36.
Needless to say that those who were not won to ratification even by this consideration were not disposed to make any great allowances for exercising authority beyond that necessary to achieve this end.

In 1800, following the election of Jefferson, Edmund Pendleton, proposing a number of amendments to the Constitution, in an article entitled "The Danger not Over," sought by these amendments to make this principle a definitely incorporated portion of the Constitution. Pendleton said that union was the aim and the basis of prosperity, but he thought that its preservation was dependent upon confining the activities of the general government, with precision, to the exercise of powers clearly required by the general interest, or foreign affairs.\footnote{41}

It was in the light of this disposition to conceive of the general government in this limited capacity, that the nature of the Constitutional Compact between the states was construed by those jealous for state rights, as reserving to the states the management of all matters internal. It was in this disposition that Carpenter found a basis for saying that consciously or unconsciously "... The South adopted... an abstract theory of the negative character of government."\footnote{42}

Jefferson was ever governed by this conception as to the purpose and nature of the Compact. "The true theory of our Constitution," he said, "is surely the wisest and best, that the States are independent as to everything within themselves, and United as to everything respecting foreign nations." To the united nation was to devolve the conduct of external and mutual relations; authority, that is, respecting the relations of citizens of foreign or other states. To each state severally was to remain the care of the persons, their property, reputations, etc., within the state; authority, in other words, representing its own citizens only. This distribution, if carefully preserved, would prove, it was believed,"... that while smaller governments are better adapted to the ordinary objects of society, larger confederations more effectually secure independence and the preservation of republican government." To his life's end, Jefferson persisted in insisting that it was "The capitol and leading object of the Constitution... to make us several as to ourselves, but one as to all others."45


45  Jefferson to William Johnson, ibid.
This guiding intent of the states in acceding to union under the Constitutional Compact, the Republicans maintained, had been effectively realized through a specific and explicit enumerative delegation of powers to the central government, and an equally explicit reservation to the state of all powers and authority naturally inherent in them as such, which were not expressly delegated to the central authority. Although prior to the adoption of the tenth amendment, there was no wording in the Constitution itself to this effect, the document's advocates, in their arguments to win its adoption, had insisted that it should be so construed. To those opposed to the document, such a construction was prerequisite to even considering it at all in its further aspects. Well can it be imagined, in this light, how tenacious was the adherence to this point of view following the adoption of the tenth amendment. Madison excellently summarized the Republican line of thought to this effect: "... In all the contemporary discussions and comments which the Constitution underwent," he recalled, "it was constantly justified and recommended on the ground that the powers not given to the government were held from it; and that if any doubt could have existed on this subject, under the original text of the Constitution, it is removed as far as words would remove it, by the twelfth amendment. ..."

---

46 Report on the Virginia Resolutions, Elliot, IV, 547.
"I consider," wrote Jefferson to Washington in his opinion as to the constitutionality of a national bank, "the foundation of the Constitution as laid on this ground: 'That all powers not delegated to the United States, by the Constitution, nor prohibited by it to the States, are reserved to the States or to the people.' To proceed even a single step beyond the boundaries specifically drawn around the central government, would be to take possession of a boundless field of power, no longer susceptible of any definition. 47

It was evident, the Republicans believed, that the objects for which the Constitution was formed had been attained only by a particular enumeration and specification of powers granted to the general government, and reservation of all others to the people, or to the states. Moreover, these powers granted to the general government were to be ... "limited by the plain sense and intention of the instrument constituting that compact, as no further valid than they were authorized by the enumerated grants." Therefore, if the powers were valid, it was solely because they were granted; and if the granted powers were valid because granted, ... 48


48 "Address to the People," Elliot, IV, 530.

49 "Virginia Resolutions," ibid., IV, 528.
all other powers not granted must not be valid."  

No power, however essential it might be deemed, could be claimed by the federal government, unless it were granted or necessarily implied in the Constitution. Had, for example, the power of making treaties been omitted, "... the defect could only have been lamented, or supplied by an amendment of the Constitution."  

All power must have its limits; the powers of the central government were ceded from the mass of the general power inherent in the people, "... and were consequently confined within the bounds fixed by this act of cession."  
The Constitution was this act, and for Congress to be warranted in exercising any power, "... the grant of it should be pointed out in that measure."  

Taylor sought to prove the Republican contention of reservation to the states of all powers not specifically granted or necessarily implied by a sort of "back door" argumental approach. By prohibiting to the states portions of their supremacy, he alleged there was an acknowledgement of those portions not prohibited, which remaining powers were to be

---


exercised according to their previous nature. He drew a specific illustration of what he meant. The tenth section of the first article constituted a prohibition to the states from exercising certain specific, supreme and sovereign powers, among them being the powers of engaging in war, raising armies, and making treaties. These prohibitions of sovereign power, he said were acknowledgements of the inherent supremacy and sovereignty of the states, except for which the prohibitions would have been idle and useless. Had these specific prohibitions been omitted, a concurrency of power in these respects would have existed in the state and federal government. The power of the states to punish crimes, regulate property and impose taxes, since they were not given to the states specifically by the Constitution, must either be usurpations, or else be justified by their sovereignty and supremacy. And "... if they are legitimate offsprings, then the sovereignty from which they proceed is reserved to the states, as necessary to give them birth, is not delegated to the federal government, and may be exercised in every case not prohibited."

This enumerative delegation of powers to a central government, and reservation of all other powers to the states was referred to variously as a division of power or division

---

of sovereignty, which division was to the result of there being existent two distinct and separate governments, otherwise variously referred to analogously as spheres or departments, to each of which was appointed by the people a distinct set of functionaries. The Constitution, therefore, was seen to rest on a middle ground "... between a form wholly national and one merely federal..." Taylor captured the conception with acute accuracy when he said: "The union is a compact between two distinct minds, state and popular." By the Constitution sovereignty was held to have been divided between the States in their united and the States in their individual capacities that as the States, in their highest sovereignty, were competent to surrender the whole sovereignty and form themselves into a Consolidated State, so they might surrender a part & retain, as they have done, the other part, forming a mixed Govt. with a division of attributes. ...

This simultaneous surrender and retention of sovereignty, to the end of there being separate spheres, each bound with Constitutional restrictions, was as necessary "... to prevent the state planets from being absorbed by a vortex, as to prevent them from wandering into some other system. The delegated

---

powers were, therefore, given to one sphere, to prevent a centrifugal, and the reserved powers retained for the other, to prevent a centripetal tendency." 58

This conception of a constitutional delegation of power to a central government, and reservation of power to the states, of the existence thereby of separate and distinct governments or spheres, was ideal to the Republican aim of protecting the agricultural economy through the media of the states, as long, that is, as the division of power remained essentially static, as long as the states could continue to exercise all powers not specifically delegated, and as long as the central government could be restricted to exercising only the powers of enumerated delegation. To this end it was both safe and advantageous. It was critically essential, in fact, that the Republicans claim for each sphere an absolute supremacy in itself, which supremacy would guarantee to each the exclusive exercise of its own constitutionally set forth powers, and at the same time protect it from an infringing or subjugative exercise of power by the other. What was there to fear in conceding supremacy to the central government, so long as this supremacy was restricted to the areas in which the Republicans alleged that it should be?

It was, therefore, pronounced a fatal heresy to suppose the state governments superior to the federal, or the federal to the states. The people (of each state) had divided power into two divisions, each of which was equally supreme, as to the powers delegated to itself, and neither authorized ultimately to decide what belonged to itself or to its co-partner in government. 59 Each government was to be considered as sovereign, so far as the term was applicable in a country where the people alone are so, and all sovereigns are equal; the sovereignty of a state being equal to that of the Union, for the sovereignty of each is a moral person. 60 In this concept James Monroe found grounds to argue that "... the correspondence between the Executive of the Genl. Govt. and a State shd. be conducted as between parties that were mutually respectful but equally independent of each other." Had state governors to correspond with presidential appointees, they would seem to be of the same grade. The states would appear to be denied their sovereignty and considered as only "... subaltern inferior establishments emanating from and dependent on the general government." 61

59 Jefferson to _______.?, 1821, Writings, Bergh ed., XV, 327-29.


61 Monroe to Thomas Jefferson, ibid.
In their capacity of sovereign equals, each by its powers would have a coordinate, checking and balancing effect on the other, like the three cardinal departments in the individual states. To the central government sufficient power was delegated to render it strong enough to preserve the Union, but not strong enough to change it into a consolidated republic. To the states was reserved powers making them strong enough to sustain a Federal republic, but not strong enough to destroy the union. Both state and federal governments were made perfect in relation to their respective powers, subject in the one case to three fourths of the states, and in the other to the people of each state. But neither in this species of protection nor in the mechanism of either was there that which invested either with any supremacy over the other.

Especially was it vital for the safety of the states, that they "... preserve unimpaired the line of partition" between the two spheres, but for the welfare and tranquility of the whole enterprise of union as well, each government "... should prudently shrink from all approach to the line..." instead of rashly overleaping it, or throwing grapples ahead


63 Taylor, Tyranny Unmasked, pp. 338-339.

64 Taylor, New Views, p. 141.
to haul to hereafter. 65 All who loved their country, its repose and its republicanism, should strive to elucidate and guard the limits between the two governments, "... by inculcating moderation in the exercise of the powers of both ...", and particularly a mutual abstinence from such as might nurse jealousies which at any particular time might be present, or engender even greater ones. 66

It becomes readily apparent that if the Republicans were to succeed in attaining and maintaining this desideratum of supremacy for the state and federal spheres, to the primary end, as pointed out, of retaining intact the system of state autonomy, it was mandatory that in the course of governmental organization and the long run of operation, the authorizations of the Constitution be in all contingencies construed and applied thereto; that interpretation of the instrument be always in accord with the master plan of strictly confining the central government to the delegated conduct of external and mutual relations, and of broadly reserving to the states the conduct of internal affairs. The Republicans met head on, therefore, every effort of the Federalists which was deemed to be contrary to this master plan, and


in the exigencies of so doing formulated a creed for strict construction.

This struggle for containment of the power of the central government by strictly construing the authorizations of the Constitution, was waged principally over the meaning to be accorded three clauses which because of the inclusiveness claimed for them by the Federalists, came to be known as the general or sweeping clauses. These clauses in the order of their appearance in the Constitution were: (1) that which appears in the Preamble—"We, the people of the United States, order to... provide for the common defence, promote the general welfare..." "... do ordain and establish this Constitution for the United States of America."; (2) that which comprises a part of the first of the listed powers of Congress--Congress shall have power ". To lay and collect taxes, duties, imposts and excises, to pay the debts and provide for the common defence and general welfare of the United States..."; and (3) that which comprises the last of the listed powers of Congress--Congress shall have power ". To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this constitution in the government of the United States, or in any department or officer thereof."

Of these three, the last listed came initially to the forefront of controversy, being cited by the proponents of
the bank bill in the debates of 1791 and 1792. This clause constituted the grant to Congress of incidental or implied powers; powers which would be necessary to achieve the intents of the Constitution, but which practically would have precluded any thought of setting forth in detail, though for the most part they were obviously not foreseeable. The great desired ends of the Constitution, said Madison were particularly enumerated, "... but all the means were not, nor could they all be... without making the Constitution a complete code of laws; some discretionary power and reasonable latitude, must be left to the judgement of the legislature." 67

Madison was admittedly one of the most liberal of the Republicans, but there can be little doubt that the principle of implied powers was generally recognized as a necessary concomitant of delegated powers, by Republicans as well as Federalists. It was the degree of extension to be accorded the implication of delegated powers that became the principal point of issue, though there were, to be sure, extremists, who as Madison himself described them, interpreted the words necessary and proper in a very limited sense, holding them to extend only "... to the passing of such laws as were

indispensably necessary to the very existence of the government."  

The principles upon which the Republican opposition was founded were, however, essentially identical, and their arguments in objection, except for this fine degree of theoretical difference as to the allowable latitude of construction, one and the same. The necessary and proper clause was not to be construed as a grant of new powers to Congress, "... but merely a declaration, for the removal of all uncertainty, that the means of carrying into execution those otherwise granted are included in the grant." Powers not enumeratively delegated by the Constitution could not be rightfully exercised, unless by fair and safe rules of interpretation they were thereby derived from a power specifically expressed. They could not validly result from remote implication, but only when vitally appurtenant to the achievement of one of the great ends of government, all of which, so far as constitutionally authorized, were clearly enumerated. To allow a ductile and diffusive interpretation of this clause would be

68 Among those to whom Madison alluded was William Giles, who earlier in the debate had argued against the bill, stating among other reasons that the bank was not necessary for the preservation of government, ibid., p. 412.


to allow the exercise of every power whatsoever, and the
government would be paramount in all cases. Implications,
when loosely multiplied and combined, would form a chain
reaching every object of legislation. 71

Assigning a correct meaning to the words necessary and
proper was rendered by the manner of their employment in this
clause. Of these two words, the first mentioned evidently
connoted to Republicans far more possibilities of restric-
tion. At any rate, it was to the establishment of a correct
connotation of its meaning that they concentrated their
definitive efforts. Jefferson's discussion, in his "Opinion
on the Bank Bill," may properly serve as a forerunner of the
party's official dictionary listing. Necessary, said Jeffer-
son, when used to indicate the means allowable for imple-
menting an expressed power, restricts such means to those
". . . without which the grant of power would be nugatory."
Necessary was not to be used synonymously with convenient.
If the Constitution were to allow those means which might be
convenient for effecting the enumerated powers, and not those
which were actually necessary, this latitude of construction
would render allowable every non-enumerated power, "... for
there is not one which ingenuity may not torture into a

71 Madison to Edmund Pendleton, February 13, 1791, ibid.,
VI, 43-44; Madison, "Debate on National Bank," Elliot, IV,
414, 417.
convenience in some instance or other, to someone of so long a list of enumerated powers." All delegated powers would be swallowed up and the whole reduced to one power. 72

Jefferson in a later instance analyzed aptly and forcefully the danger he discerned in yielding the least bit to inclination toward loose construction. To Gallatin in 1802, he expressed his convictions as to the unconstitutionality of a proposed act for building piers in the Delaware River. The act, he noted, was built on the exercise of the power of building lighthouses, as a regulation of commerce. "But I well remember," he said, "the opposition, on this very ground, to the first act for building a lighthouse. The utility of the thing has sanctioned the infraction. But if on that infraction we build a second, on that second a third, etc., any one of the powers in the Constitution may be made to comprehend every power of government." 73

Holding to these guiding rules, when a question should arise concerning the constitutionality of a particular power, determination should be made through their application in this manner. First, it should be determined whether the power was expressed in the Constitution. If so, then the question was


73 Jefferson to Albert Gallatin, October 13, 1802, Writings, Bergh ed., X, 337-338.
decided without further ado. If the power was found to be not expressed, the next inquiry would be, whether it was properly incidental to an express power, and necessary to its execution. If so, it was exercisable by Congress. If not, Congress could not exercise it.

By this seemingly simple process, the adherents of limited government measured the Bank Bill and found it wanting. The power of incorporating, they said, was not among the powers specially enumerated. Indeed the only enumerated powers which were conceivably relevant to this subject were: (1) to lay taxes for the purpose of paying the debts of the United States—for no debt was paid by the bill, nor any tax laid; (2) to borrow money—for the bill neither borrowed money, nor insured the borrowing of it; and (3) to regulate commerce with foreign nations and among the states and with the Indian tribes—for the erection of a bank and the regulation of commerce were very different acts.

Additionally, if the Constitutional Convention had intended that Congress should have the power of incorporation they would have specifically said so, for this was a power of primary importance, not to be viewed in any sense as subordinate. A proposition had, in fact, been made in the convention to authorize Congress to open canals, and an amendatory one to

empower them to incorporate, but the whole had been rejected, one of the principal reasons being that incorporation would include the power of erecting a bank, and this was not desired. Thus the very power proposed by the Bank Bill as a means, had been rejected by the Convention as an end.

And not being itself definitely expressed, neither was it properly incidental to an express power, in the sense of being necessary and proper, as the opponents of the bank understood the words. All the express powers, they said, could be carried into execution without a bank; therefore a bank was not necessary. Indeed it might be, as alleged by its proponents, an incidental convenience, as for instance to the collection of taxes, in serving to obviate the need of transporting and re-transporting money between the states and the treasury, bank bills being perhaps a more convenient vehicle than treasury orders, but a little difference in the degree of convenience, they held to be not commensurate with the necessity which the Constitution imposed as the ground for assuming any non-enumerated power. 75

The degree of restrictiveness which the Constitution's framers intended should attach to authorizations on the grounds of necessity and propriety in carrying out enumerated

powers, the Republicans said, was manifested in other provisions. Congress was given power to regulate the value of money; yet it was expressly added, and not left to implication, that counterfeiter might be punished. Armies were more incident to the power of declaring war than were banks to borrowing; yet there was an express provision for raising and supporting armies. And regulations and calling forth of the militia were directly related to the war powers, but even they were not left to discovery by logical deduction.

In this fashion did the Republicans attempt to lace up the powers of the central government straitly within the enumerated powers, and so maintain the separation of spheres, and the retention to each of the full measure of sovereignty which was claimed to have been respectively intended by constitutional compact. Following Marshall's 1819 decision in McCulloch v. Maryland, the Virginia state rights school, led by Spencer Roane and John Taylor, poured forth fresh refutations of Marshall's "necessary and proper" interpretation, but there was nothing essentially new in what they said. Marshall's famous usage of the words convenient, useful and essential as indicative of the proper connotation

---

to be accorded to the constitutional usage of necessary and proper, provided a broader text for commentary, but it constituted merely an enlargement of the Republicans' earlier commentary which was concentrated chiefly on disproving the synonymy of the terms convenient and necessary. 77

In the light of the meaning which the Federalists came to assign them, the welfare clauses posed a threat far more serious to the state rights advocates than did the "necessary and proper" clause. The matter of their being governed by a proper interpretation became, therefore, of even greater concern. From the time of the Constitution's formulation, the Republicans were amply aware of the danger dormantly inherent in the welfare clauses, particularly that of Article I, Section 8, which introduced the enumerated powers. Madison had devoted a portion of the Federalist Papers to allaying the apprehensions which had been evoked by the far reaching power conceivably claimable by the central government under these indefinite clauses. In the Bank Bill controversy the future Republicans declared, in their anxiety to block off every possible avenue of authorization, that in no wise could the bill for incorporation be justified on

77 See Taylor, Construction Construed; Spencer Roane, "Amphictyon" Letter, Richmond Enquirer, April 2, 1819; the pertinent portions of Roane's letter are conveniently presented in Carpenter, The South as a Conscious Minority, pp. 522-523.
the grounds of the welfare clause, and in so doing they enumerated the far reaching consequences which justification under this authority would bring. Yet, because the Federalists themselves initially made no move to utilize this clause to the ends which their opponents feared, their opponents were not struck with the full degree of concern that they likely would be should the clause be actually held forth to the use they envisioned as a possibility.

On December 5, 1791, the Federalists afforded the occasion for stimulating the full measure of concern. On that date, Hamilton submitted to Congress his Report on Manufacturers, in which it was contended that to Congress belonged the discretion of pronouncing upon the objects which concerned the general welfare, and for which an appropriation of money was requisite and proper. Jefferson expressed in a conversation with Washington the impact with which this contention struck him. A proposition, he told Washington, had been brought forth which went far beyond any previously advanced, to which the eyes of many were turned as the decision which would reveal whether the United States was to continue as a limited or unlimited government. He cited then the nature of the doctrine advanced, and concluded it to be "... a very different question from that of the bank, which was thought an incident to an enumerated power. ..."

This was likewise the opinion of Madison, who observed that prior to this occasion even the greatest champions for latitude had limited the Federal Government to the specified powers. In January of 1797 a committee of Congress for the promotion of agriculture submitted a report in which virtually the same latitude of power was assumed. Neither of these reports received the sanction of a law carrying it into effect, but the consternation they created in Republican ranks was scarcely less than if they had.

Here was the greatest threat of all to the Republican’s desire of maintaining the division of power, far greater than was likely to result through a loose construction of the "necessary and proper" clause. If the Federalists were able to realize the claims made for the "welfare clause," the division of power, according to Republican thinking, would be instantaneously dissolved, judged by their restricted conception of federal power, there were no ends to which the claimed grant of power would not reach. If Congress were authorized to do whatever they might think fit, provided it be in their opinion for the general welfare, and money be applied to it, then they must possess the power to create and support a judiciary with a jurisdiction

---

extending to all cases deemed favorable to the general welfare. Possessed of this combination of power, the federal government could take the care of religion into their hands; they could appoint teachers for every state, county and parish, and pay them out of the public treasury; they could take education into their own hands and provide schools throughout the nation; they could undertake the regulation of all roads; in short "... everything, from the highest object of state legislation down to the most minute object of police..." would be placed under their power.

By Republican construction, in assigning to Congress the power to lay taxes to provide for the common defense and general welfare, the terms "common defence and general welfare," were intended only as a sort of caption or general description of the specified powers. They were only meant to express the motives which induced the convention to give to the legislature certain specified and enumerated powers, and not to give them as well, those unspecified. Considered otherwise, there could have been no explanation whatsoever for subsequent specification. A further cataloging of power would have been superfluous, because these

---


81 Ibid., IV, 428.
words would have covered both the powers specified and others not specified, which might advance the general welfare. "It follows, either that these words convey no power, or that the subsequent definitions of the powers delegated restrict their meaning." 82 Surely, said the Republicans, the men who framed the Constitution were not so awkward in language as to mean "all and some." 83 Or if it was not meant that the power was not to extend to all cases provisional for the common defense and general welfare, but only to those which would admit of an application of money, where but nominally did this refined difference lay? Would there not be still provided as much latitude as any government could desire?

It was far more latitude, said the Republicans, than the framers of the Constitution had intended that the Congress of the United States should have. In authorizing Congress to provide money for the common defense and general welfare, they had accordingly subjoined an enumeration of the cases to which this power should extend. Money was not to be applicable to a general measure, save as it were applicable to a particular measure. Whenever money should be raised, and contemplation be entertained for

82 Taylor, Construction Construed, p. 165.

83 Jefferson to Spencer Roane, October 12, 1815, Writings, Bergh ed., XIV, 349-351.

84 Madison, "Debate on Cod Fishery Bill," Elliot, IV, 428.
applying it to a particular measure, the question must arise whether the particular measure is within the enumerated powers of Congress. If so, its application to the measure in question would be permissive; if not, it would not. The usage of the words common defense and general welfare was only an introductory usage, and not a decretal one. They were employed merely to recite the ends in view, after which were set forth the means for effecting these ends. Should the means prove insufficient to the desired ends, the Constitution, far from confiding to its officers a power to supply the deficiencies, had provided otherwise for correction.

The Republicans sought to substantiate their contentions as to the meaning of the clause, by alleging its analogous usage in the Articles of Confederation. The terms, they said, were repeatedly found in the Articles, where it was never supposed or pretended that they conveyed any power like that claimed for them by the Federalists. "On the contrary, it was always considered clear and certain that the Old Congress was limited to the enumerated powers, and that the enumeration limited and explained the general terms." This must likewise have been the limited meaning meant for the phrases

86 Taylor, Construction Construed, p. 165.
when copied into the Constitution, which therefore resulted in there being directed to them no critical attention or studied precaution. Obviously it was so understood by the people in ratifying the Constitution, for seven states annexed suggested amendments to their ratification, all circumscribing the powers granted to the general government. Yet, there was not "... a single proposition from a single State referring to the terms common defence & general welfare, which if understood to convey the asserted power, could not have failed to be the powers most strenuously aimed at, because evidently more alarming in its range, than all the powers objected to put together..."

Madison claimed that the inclusion in the Constitution of the words common defense and general welfare, so as to provide that "Congress shall have power to lay and collect taxes, duties, and excises, to pay the debts and provide for the common defence and general welfare of the United States," was the result of a kind of historical freak. The taxing power, he said, as it originally stood, expressed simply a power "to lay taxes, duties, imposts and excises," with no indication of objects, though of course comprehending that revenues derived should be applicable to other specified powers of Congress. But an anxiety to prevent possible danger to the validity of

---

debts contracted by the Confederation, led the Convention to add the phrase, "to pay the debts of the United States." Then since they felt this might be taken to limit the taxing power to a single object, a phrase familiar to the Articles of Confederation was added, i. e., "to provide for the common defense and the general welfare," though it was added without the purpose of granting additional power to Congress." But for the old debts, asserted Madison, it was fair to presume that the controversial wording would never have been included in the Constitution, for in the document's first draft, there was no special provision for debts. It was not until the matter of the old debts was brought into consideration that such a provision was inserted, together with the terms "common defense and general welfare," which were associated with the old debts. 89

The Federalists attempted to utilize the Preamble welfare clause far less than they did that of the enumerated powers. There were, however, some claims for justification of the Sedition Act under its authority. In countering these claims, the Republicans argued that preambles typically contain the general motive or reason for the particular regulations or measures which are to follow, and are always

understood to be explained and limited by them. It would be a contradiction of every acknowledged rule of construction to set up the Preamble of the Constitution of the United States in opposition to the plain meaning expressed in the body of the instrument, and thereby to despoil the states of their sovereignty. The Preamble was merely in explanation of the ends of the Constitution, which were to secure the liberties and welfare of the American people. To contend the Preamble to be a delegation of sweeping power would be to render nugatory or improper every part of the Constitution which succeeds it. 90 That cogency should be accorded to reasoning of this order, was to the Republicans preposterous.

These were the rules which the Republicans formulated to apply to the sweeping clauses. The basic principles of these rules were, of course, equally applicable to construing any portion of the document. It will be noted that time and again the Republicans made reference to the intent of the framers or to the understanding of the states in ratification. Resort to these sources could almost always produce evidence in favor of localism, and the Republicans logically exploited this advantage.

to the utmost. On every question of construction, they felt, the construers should carry themselves "... back to the time when the Constitution was adopted, recollect the spirit manifested in the debates, and instead of trying what meanings may now be squeezed out of the text, or invented against it, conform to the probable one in which it was passed." 91 This was ever the Republicans' natural practice, and with the passing years, especially when the nationalistic opinions of John Marshall led the chiefs of former years to join with their ardent and more extreme state rights successors in Virginia to oppose this lingering bastion of Federalism, they became more and more insistent that this be a cardinal part of the interpreting process.

In addition to this general rule for interpretation, the Republicans offered others. When a phrase might be found to bear either of two meanings, it should be assigned that which would allow some meaning to other parts of the instrument, and not that which would render all others useless. And, if one meaning were safe, and another dangerous, one precise, the other indefinite, that which was safe and precise should be chosen over that which was dangerous and indefinite. It would be better to ask an enlargement of power from the nation.

when necessary, then to assume the enlargement by a construction which would make the national government boundless in power. The peculiar security of America was in a written constitution. It should not be made a blank paper by loose construction. 92

With these specific and general rules for construing the Constitutions the Republicans sought to preserve each sphere as the separate and supreme sovereignty they held it to be. To be sure, as strict constructionists they were strict only so far as the powers of the Federal government were concerned, but in theoretical consistency they held strict construction was necessary to the preservation of the federal as well as of the state spheres, and it was ever their announced aim to maintain the constitutional nature of one sphere as well as the other. Their principal concern, however, was for the states, and it was the states which were meant to be the principal beneficiaries of strict construction.

In their efforts to retain to the states the full scope of power and measure of sovereignty allegedly reserved to them by the Constitution, the Republicans had to do battle on a wide front. In 1799 they were faced with a threat to the maintenance of the separate sovereignties of the states,

which Jefferson said was to him the most formidable which
the Federalists had yet broached, a doctrine which rendered
their other assumptions, the bank law, the Alien and Sedition
Acts included, "solitary, unconsequential, timid things" as
compared with this audacious, barefaced and sweeping pre-
tention. 93 This was the doctrine, advanced as a sanction to
the Sedition Law, that the common law constituted a part of
the law of the United States in their united and national
capacity, and was enforceable by the federal courts. If the
Federalists should succeed in establishing it as such, said
Jefferson, the state courts could be shut up, for the federal
courts might then be employed in every case. The central
government would possess itself of all the powers of the
state governments. 94 Madison said that its admission "would
overwhelm the residuary sovereignty of the states, and by one
constructive operation, new-model the whole political fabric
of the country," while John Taylor declared there was hardly
any species of oppression it would not justify. 95

Actually putting forward the common law in sanction of
the Sedition Act was not the first occasion on which the

93 Jefferson to Edmund Randolph, August 18, 1799, Writings,
Bergh ed., X, 125.

94 Ibid.; Jefferson to Gideon Granger, August 13, 1800,
Ibid.

95 "Report on the Virginia Resolutions," Elliot, IV, 566; Simms,
Life of John Taylor, p. 87.
Federalists had claimed its authority as justification for their actions. Immediately following the establishment of the government under the Constitution, persons had begun to be hauled before the federal courts charged with offenses unknown to the national statutes, and unnamed in the Constitution. The national judges had held nevertheless that the charged offences were indictable and punishable under the common law of England. The occasions calling forth this exercise of judicial authority were the violation of Washington's Neutrality Proclamation, violation of the Treaty of Peace with England, and numerous threats to both. 96

Yet, these early applications of the common law apparently did not incite the Republicans to the alarm that they registered when the doctrine was claimed in justification of the Sedition Act. Jefferson reacted as if he were hearing it for the first time, terming it novel and new. 97 Certainly he hoped he would soon be hearing it for the last time. Toward this end he suggested that opposition to this doctrine should become a cardinal feature of the contemplated coordinated action of the Virginia and Kentucky legislatures in response to the unfavorable commentary against the Virginia and Kentucky


Resolutions of the preceding year. The result was Madison's able assault on the doctrine in his "Report to the Virginia Assembly on the Virginia Resolutions," which in the opinion of Brant "... destroyed for all time the notion that Congress could base criminal statutes on the common law." Regardless of whether or not Madison's argument should receive this measure of assigned credit, in 1812 the Supreme Court officially put an end to the usage the federal courts had been making of the common law, while the Republican ascension to power in 1800 removed the fear of the executive and legislative departments being proponents of the doctrine.

Certainly Madison's indictment was the most able one penned by the Republicans. He first traced the American history of the common law prior to the adoption of the Constitution, to the end of demonstrating that neither under England during the turmoil of the Revolution nor under the Articles of Confederation did the common law operate through the whole of the country, but that it was operative in various forms in each colony or state separately, and then only by adoption

---


99 Brant, James Madison, III, 470.

100 Beveridge, Life of John Marshall, IV, 28.
and not by imposition. Was then, he asked, "the common law introduced as national law by the present Constitution of the United States?" He thought definitely not. The extension of the judicial powers to all cases in law and equity arising under the Constitution, was not meant, as the Federalists contended, to comprehend the common law. He cited examples to demonstrate the nature of cases the wording did comprehend, climaxing his argument by observing that the usage could not have included the common law, because cases in law and equity are clearly only those of a civil nature, whereas the common law included criminal cases. The law of the United States, said Madison, was described in Article 3, Section 3 and in the 2nd paragraph of Article 6. In neither of these passages was the common law included. Obviously, he reasoned, there had been no intent on the part of the convention to include the common law. Therefore, concluded Madison, "... the common law never was, nor by any fair construction, ever can be, deemed a law for the American people as one community." 102

101 Jefferson presents substantially the same arguments in Jefferson to Edmund Randolph, August 18, 1799, Writings, Bergh ed., I, 126-129.

It will be recalled that during the debate over ratification, a great protest had arisen from the South, that the Constitution presumed the existence of an American people, and was on this basis unacceptable as a document which subverted the existence of the states, and the people of each, as sovereignties separate and distinct. The denial of this presumption remained no less fundamentally important to the Republicans, in their struggle to maintain the separate supremacy of the federal and state spheres.

In the specific manner, however, with which the Anti-Federalists had made it a forefront issue, it did not appear as a matter of open contention during the years of Republican existence as a united and national state rights party. Perhaps the emphatic Federalist reassurance during the ratification struggle resolved the matter sufficiently to preclude its being resurrected by the Republicans, without Federalist provocation, and such provocation in this specific respect was not forthcoming. All the while, nevertheless, the denial of this doctrine remained a most fundamental, element in Republican ideology, if only tacitly.

This tacitness, it should be emphasized, however, was a tacitness only so far as the issue was not broached in a precise form. In countless different ways the Republicans affirmed what they did not say in a specific manner. All their contentions as to the nature of the Constitution being that of a compact among sovereign and independent states, all
their pronouncements against unlimited government, against consolidation, and against the common law as a law for the American people as one community, were contentions in substance, if not in precise phrasing, against the existence of an American people. This suggestion to the deepest depth ran counter to the grain of their convictions. To recognize the existence of an American people, in the united sense suggested, they realized, was to open the door to a truly national government, and to nationalism they were not prepared to open the peep-hole, much less the door itself.

A near approach to the controversy, as it had been debated in the ratification struggle occurred during the early years of Republican ascendancy. When in the first session of the Seventh Congress, in 1801, Macon proposed a bill changing congressional representative apportionment from 1/33,000 to 1/30,000, John Randolph utilized the occasion to denounce as heretical and improper the doctrine avowed in the debate, that the House was composed of representatives of the people instead of the states in proportion to their numbers. He said that members of the House were not the representatives of the aggregate of the people of the United States, in their national capacity, but of the states in their respective sovereign capacities. 103 Macon heartily concurred.

with Randolph, and through the years this remained the text of his and Randolph's political lives.

But as in other instances it remained for Taylor to crystallize Republican thought in formal and elaborate enunciation, and even he did not do so until stimulated by the era of nationalism following the War of 1812. He said, however, what all the while he and the Jeffersonians had believed and felt, but had not taken occasion to forcefully say. With reference to the constitutional wording, "The United States of America," Taylor maintained that the word America was used only to designate the quarter of the globe in which the states were established; not to designate a nation of Americans. "There are many states in America, but no state of America, nor any people of the American state." Throughout the Constitution, he observed, "... the word people is never associated with the words United States, except in the first line of the preamble," and he outlined arguments to show that the whole of the document following the Preamble was disapproval of the allowance which the Preamble might be asserted to have made.

Citing the Journal of the Constitutional Convention for June 25th, he called attention to an instance in which the convention substituted the term United States for the word national.


106 Ibid., p. 196.
In so doing, he said, the convention went on record that the phrase United States was not to mean a consolidated American people or nation, "... and all inferences in favor of a national government from the style 'We, the people of the United States' are overthrown, as that style was adopted, not to establish the idea of an American people, but to defeat it."

Almost every major feature of the central government, Taylor utilized in support of his position. The character of the Senate and House were demonstrable proof against the existence of an American nation. The Senate, he said, was allowed by all to be of a federal character, and the second article of the Constitution, providing that in voting for the president, the voting would be by states, demonstrated as well that the House was not a national representation. Also, each state was allowed to exercise an exclusive controlling influence over its own representatives, a recognition of this fact having prompted the small states, fearing the preponderance of the larger ones, to demand a senate, where representation was equal among states.

---

107 Ibid., p. 29.

108 Ibid., pp. 277-278.

109 Ibid., pp. 194-195.
Nor was ratification made possible by a majority of the people of the Union, but rather it was made provisional only by the ratification of nine states. The fact that approval in the individual states was by conventions, instead of legislatures, as in the instance of the Articles of Confederation, in no way worked a change of significance, for "... a concurrence or rejection of either, was considered a sovereign act of a state people by their representatives."

The matter of whether or not the central government was invested with the attribute of sovereignty, as the term is used to connote an intrinsic possession of all governing power whatsoever, likewise failed to materialize explicitly as an issue. It did distinctly, however, develop as such in substance. When the Republicans refuted categorically and generally Federalist pretensions to an unlimited scope of power through a loose construction of the welfare clauses and the Constitution as a whole, when they insisted that the government was one of enumerated powers only, and combatted every suggestion of its being a true national or consolidated government, they were in a variety of ways saying as well that the central government was not invested with any special sovereignty which would allow it under any circumstances, power beyond that of constitutional delegation.

Ibid., p. 8.
The Sedition Act called forth language which incorporated the essence of anti-sovereignty sentiment. In the "Address of the General Assembly to the People of Virginia," which was passed in conjunction with the Virginia Resolutions, Madison wrote, "... it is urged that every Government possesses an inherent power of self-preservation, entitling it to do whatever it shall judge necessary for the purpose." This, Madison denied, with the argument that the powers of Congress were limited by definition. Essentially this was to take note of a claim for the federal government of the aspects of sovereignty which Republican theory denied to it.

Once again, it was left finally for Taylor to voice what his party had felt, but had not made a specific plank in their platform. In 1814, Taylor approached his subject. People did not relinquish sovereignty to the national government, he said; "... thus the only sanction of the federal government are agents, and not masters." Employing a very ingenious bit of logic, he averred that to deprive it of this type of sovereignty and allow to it a sovereignty in itself was to make it a rebel against the state governments, because these governments antedated the federal government. If the people relinquished their sovereignty to any government, he said, it was relinquished to the governments of the states.


In the early 1820's, Taylor dealt with the very heart of the matter. The Constitution, he said, "... did not confer sovereignty and independence upon the federal government, as the declaration of independence had done upon the states." On the contrary, the states, if they wished, might take away all the powers of the federal government, while that government was not able to take away a single power reserved to the states. 113 Dubbing writers on the law of nations, "self-constituted legislators," he asserted that they had drawn their conclusions on sovereignty from the same established principle that governments were invested with sovereignty. The legitimate legislators who framed the constitutions of the states, based these constitutions, however, on the principle that there is no sovereignty among men save species which resides in the people or society. The old principle placed nations in a state of vassalage to governments, whereas the American principle placed governments in a state of dependence on nations. 114

Sovereignty was the highest degree of political power, and the establishment of a form of government the highest proof which could be given of its existence. Had the states not been sovereign, they could have retained no rights by

113 Taylor, New Views, p. 36.

114 Taylor, Construction Construed, p. 279.
the articles of union, because no rights were available except those flowing from this source. In creating the federal government, the states exercised the highest proof of their sovereignty, and if they pleased might repeat the proof of this sovereignty by annihilating their creation. But the union possessed no innate sovereignty. It was not, like the states, self-constituted, but was conventional, and in that sense subordinate to the sovereignties by which it was formed. In this light, it became unthinkable that they "who created and could destroy might be themselves turned upon and deprived of their sovereignty by their own creation, which by utilizing a misapplication of words, should succeed in bestowing the states' sovereignty upon itself." 115

Finally, no discussion of the Republican struggle to maintain the spheres as separate sovereignties would be complete without a devotion of attention to their beliefs relative to a division of power within the central government itself. The importance which the principle of departmental separation commanded in Republican thought is prominently manifest in their expressions of political theory. Power, they felt, had been discovered by universal experience to be liable to abuses, causing free governments to hold as a necessity its distribution into separate departments, with

115 Taylor, New Views, p. 36.
provisions being made that no one department could transcend its legal limits without being effectually checked and restrained by the other. By this contrivance, the portion entrusted to the same hands being less, there would be less room to abuse what had been granted. Because the different departments would be interested, each is maintaining its own, the opportunity would be diminished for usurping what was not granted. 116 So vital did Jefferson consider this principle, that on one occasion he pronounced it the leading one of the Constitution. 117 To all Republicans it was held as a first line of defense. If it could be maintained, the likelihood of the central government being able to accomplish a subordination of the states would be greatly diminished.

Viewing prospectively the nature of the Union in Republican ideology, it was seen first and last as a creation of compact among sovereign states, which, desiring to entrust the conduct of certain of their external affairs to a common authority, wrought by compact a union for that purpose. The terms of this union were explicit and complete in the compact, neither the contracting parties of the states, nor the created party of the central government possessing any right whatsoever.


to proceed in even the slightest exercise of power beyond that of compact provision. So far as the central government was concerned, its powers were powers of delegation, specifically enumerated. The states retained to themselves the residue of power not delegated, which power was commensurate, save in the portion delegated, to that residuary in any originally sovereign society.

Both the central government and the governments of the states were to exercise in exclusive supremacy the powers delegated to the one, and reserved to the others. Should any question arise as to this division of power, determination should be broadly made in the considerative light of the master purpose of the compact—union for central management of common or external affairs. More particularly it should be made with the guiding recognition of the means employed for attaining this purpose—a specific delegation of powers to the central authority; a reservation of all others to the states. In this perspective, constitutional interpretation could be safely made. There would be neither room nor reason for construction to non-consonant ends, or for any doctrine to this effect, whether strictly of a constructive derivation or otherwise.
CHAPTER III

A STATE RIGHTS GUIDE FOR GOVERNMENT

The views of the First Republicans relative to the operational nature and the governing policies of the central government resulted from the same basic considerations which caused them to adopt a theory of strict construction. Conceiving of the government as created mainly to conduct the external and mutual affairs of the states, the Republicans envisioned the nature of its operation and the character of its policies in accordance with the limited nature of its functions. Charged with comparatively few duties to discharge, it was supposed that the governmental machine could be both simple and operationally inexpensive. As long as it confined itself to the functional realm of its design, there could be no need of its being otherwise. In fact, it must not be otherwise, lest there accrue to it power in excess of that intended for it to have, power which would make it a menace to the states. Here was the real key to the Republican conceptions. By rendering the character of government consonant to its power, the rights of the states would be additionally safeguarded.

Jefferson typified Republican thought in this respect. If general government, he said, were reduced to foreign
concerns only, and affairs disentangled from those of other
nations, except as to commerce, which ought to be left largely
to the merchants, then ". . . General Government may be re-
duced to a very simple organization, and a very inexpensive
one; a few plain duties to be performed by a few servants." He
minimized the " . . . difficulties supposed to attend the
public administration," comparing the operation of the govern-
ment with that of a farm. "We all know," he said, "that a farm,
however large, is not more difficult to direct than a garden,
and does not call for more attention or skill." Governing
was not an operation fraught with mysteries. Difficulties,
to be sure, would sometimes present themselves, but common
sense and honest intention would generally work their resolu-
tion. And should the difficulties be on occasion insurmount-
able, the well intentioned part of the people would understand,
and not demand the impossible. 2

The Republicans thought they saw the very antithesis of
simple government in the governing practices of the Federalists;
particularly in the scheme of things prevalent in the Treasury
Department of Alexander Hamilton. It was the Republicans' aim

1 Jefferson to Gideon Granger, August 13, 1800, *The Writings
of Thomas Jefferson*, 20 vols., Albert E. Bergh and Andrew A.
Lipscomb, editors (Washington, 1903), IX, 420.

2 Jefferson to Josephus B. Stuart, May 10, 1817, *ibid.*, XV, 112.
to "... simplify our system of finance and bring it within the comprehension of every member of Congress." Hamilton, they felt, had set out on a different plan, "in order that he might have the entire government of his machine, he determined so to complicate it that neither the President nor Congress should be able to understand it or control him." ³

Probably no Republican was more interested in correcting the asserted complexities of the Hamiltonian system than was Albert Gallatin. Of this remarkable Swiss-American, Henry Adams says: "In regard to mere machinery [governamental machinery] he made every effort to simplify rather than to complicate it." ⁴ Gallatin's efforts in this respect began almost immediately upon his arrival on the federal scene in December of 1793, as a senator. On January 8th he offered a motion calling for more specific treasury reports, to which Hamilton replied in substance that he was too busy to comply. Disqualified from his Senate seat on a legal technicality relative to his citizenship, Gallatin pressed his campaign as a member of the House. His next step was to insist that appropriations of money for executive expenditure be specific.

On December 17, 1795, he moved that a committee be established

---


to superintend the general operations of finance. The motion carried, and the result was the establishment of the Ways and Means Committee as a standing committee of the House. Gallatin's theory was that if the Treasury could not be forced to make a full accounting, it could at least be required by law to spend money according to congressional direction. This would be equivalent to a kind of accounting system imposed in advance of expenditure. The establishment of this committee ended the Hamiltonian idea that the Treasury should formulate tax laws and hand them down to the House, which was the body constitutionally entrusted with the duty.

Gallatin was not satisfied with this step, however. As Jefferson's appointee to the Treasury secretaryship when the Republicans came to power, he worked for a system of specific appropriations, for in his opinion, "... the Legislature cannot enforce true economy otherwise than by making specific appropriations." In so doing he demonstrated a willingness to fight for the curtailment of his own power. Gallatin did not think Hamilton's dealing with appropriated money had been dishonest, but he did think it was unbusiness-like and dangerous. He could not justify in his own mind the

---


6 Bowers, Jefferson in Power, pp. 81-82.

idea that money appropriated for one purpose could be used for another. No longer would it be, and "no longer should the Treasury be a mystery if he could prevent it." 8

In the "notes" which he submitted to Jefferson as suggestions relative to the latter's draft copy of his First Annual Message to Congress, Gallatin outlined his plan for correction of what he termed ". . . the characteristic, the flagrant vice of the late administration." Generally, he said,

Congress should adopt such measures as will effectually guard against misapplications of public moneys, by making specific appropriations whenever practicable; by providing against the application of moneys to any greater amount than that for which they have been drawn; by limiting discretionary power in the application of that money, whether by heads of department or by any other agents; and by rendering every person who receives public moneys from the Treasury as immediately, promptly, and effectually accountable to the accounting offices as practicable. 9

Jefferson responded by including a passage on the matter in his First Message. He recommended prudence ". . . by appropriating specific sums to every specific purpose susceptible of definition; by disallowing all applications of money varying from the appropriation in object or transcending it in

---


9 John A. Stevens, Albert Gallatin (Boston, 1884), p. 194. It should be noted that the Federalists also accepted the principle of specific appropriations, but they believed in a lax application that would allow the principles infringement under certain exigencies.
amount; by reducing the undefined field of contingencies and thereby circumscribing discretionary powers over money. . ." 10

Doubtless the party as a whole embraced basically the beliefs of Gallatin in this respect, but it demonstrated itself as unwilling to rigidly incorporate them in legislation. On March 1, 1802, Gallatin, at the request of a special committee appointed to consider the matter, made a report the burden of which was that too much arbitrary power had been left to the Secretary of the Treasury to put his own construction on the appropriation laws, and that no proper checks existed over the War and Navy Departments. The remedies suggested were for specific appropriations and direct accountability of the War and Navy Departments to the Treasury officers. Joseph H. Nicholson, the committee chairman, introduced a bill incorporating these features, but it was never debated. 12

The party did, however, take certain steps indicating sincere sympathy to the principle, though not to the extent that Gallatin would have had it. Early in the new regime they changed the wording of the enacting clause employed in


11 Adams, Life of Gallatin, pp. 299-300.

12 Even Jefferson was more flexible on his allowances than Gallatin, as revealed in a letter to the latter, February 19, 1804, Writings, Bergh ed., XI, 6.
appropriation bills, to read: "... the following sums be, and the same hereby are respectively appropriated." This was wording considerably more obligatory than was that employed by the Federalists, though still not powerful enough to prevent evasions by department heads, other than Gallatin. In 1809 it was sought to restrict the use of one fund for the purpose of another by requiring tighter procedures on transfers. Congress stated explicitly that "... the sums appropriated by law for each branch of expenditure in the several departments shall be solely applied to the objects for which they are respectively appropriated, and to no other." A loophole clause was inserted, however, making possible some variation upon formal action of both a departmental secretary and the President.

Of greater fundamental concern to the Republicans, however, than the matter of increasing the efficiency of the Treasury, and making its management less of a mystery and more of a simple, comprehensible, business-like operation, was the matter of the public debt. The Republicans could not abide the thought of an expensive government. Money in the hands of the central government was in their way of thinking truly the root of all evil, in the sense that governmental evil was that which stood to work the undermining of state rights.

---

When government under the Constitution was being first set in motion, Jefferson wrote from Paris to Madison that in his opinion the principle that debts could be validly contracted for no longer than a generation, would furnish a fine preamble to the first appropriation bill. It would, he believed, "... exclude at the threshold of our new government, the ruinous and contagious errors of this quarter of the globe, which have armed despots with means which nature does not sanction, for binding in chains their fellow men." Some ten years later he was ready to prohibit the government's borrowing at all. If this prerogative were made by amendment a prohibition, he advised that this alone would reduce"... the administration of our government to the principles of its construction..." Jefferson conceded that it would, in case of war, be difficult to pay all the proper expenses within the year, but he believed that by so doing there would be instead of ten wars, one. This statement, made when Republican antipathy to Federalism was at its apex, was to be sure one of the most extreme that Jefferson ever made, and represented

14 Jefferson to Madison, September 6, 1789, *Writings*, Bergh ed., VII, 489. In this letter Jefferson calculated a generation to be thirty-four years (pp. 455-456). In a subsequent letter to Dr. Gem, ... *Writings*, Bergh ed., VII, 462-463, he revised this figure to nineteen years.

neither his own, nor his party's true sentiment. However, it was acutely indicative of the disgust which both he and Republicans generally held for debt.

In a summation which can be accepted as an accurate reflection of Republican sentiment, Jefferson said soon afterward: "I am for a government rigorously frugal and simple, applying all the possible savings of the 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."

"... A public debt," said Madison, "is a Public curse, and in a Rep. Govt. a greater than in any other." The real friends of the Union were accordingly those, "... who considering a public debt injurious to the interest of the people, and baneful to the virtue of the government, are enemies to every contrivance for unnecessarily increasing its amount, as protracting its duration, or extending its influence."

It is not surprising in the light of statements such as these, that Adams declared the "... payment of the debt was

---

16 Jefferson to Elbridge Gerry, January 6, 1799, ibid., X, 77.

17 Madison to Henry Lee, April 13, 1790, Writings of James Madison, 9 vols., Gaillard Hunt, editor (New York, 1906), VI, 98.

the great dogma of the Democratic principle." 19 And indeed it was a dogma of practice as well as of theory. Jefferson was probably correct when, after laying down the reins of government, he observed to Gallatin that "... we shall never see another President and Secretary of the Treasury making all other objects subordinate to ..." the discharge of the debt. 20 Gallatin replied that the reduction of the debt was certainly the principal object in bringing him into office. 21

In approaching the problem of debt and its retirement, the Republicans offered an answer typically simple and thus typically similar to their over-all conceptions relative to governmental operation. "I know but one way," said Gallatin, "that a nation has of paying her debts, and that is precisely the same which individuals practise. 'Spend less than you receive,' and you may then apply the surplus of your receipts to the discharge of your debts." If more is spent than received, however the figures might be modified, the debt must be still increased, the artifices of sinking funds, complex accounts, etc., notwithstanding. And loans to supply the difference simply beget more loans and more debt. 22 To spend less

19 Adams, Life of Gallatin, p. 270.

20 Jefferson to Gallatin, October 11, 1809, Writings, Bergh ed., XII, 324.

21 Adams, Life of Gallatin, p. 270.

than they received, and to apply the balance to the retirement of the debt thus became practically a Republican obsession, once they came to power. The urgency of so doing was impressed upon them by the conviction that if they did not do all in their power to this end, "... the debt will be entailed on us and the ensuing generations, together with all the systems which support it, and which it supports." 23

For some three months following Jefferson's inaugural, Jefferson, Madison and Gallatin were in close contact formulating the program to be followed by the new government. "The trio were as one in their determination to enforce economy." 24 Their broad plan to this end was revealed in Jefferson's First Annual Message. It consisted of a salutary reduction in the habitual expenses; in other words, of the civil government, the Army and Navy. The savings which would result were envisioned as "... sufficient to provide for the support of government, to pay the interest on the public debt, and to discharge the principals in shorter periods than the laws or the general expectations had contemplated." 25 As specifically worked out by Gallatin, the rate of discharge was to be an annual application of $7,300,000 to the principal and interest


24 Bowers, Jefferson in Power, p. 79.

of the debt; $32,289,000 of the principal would thereby be paid off at the end of eight years. This would leave $45,592,739.59, which would be discharged by 1817. A rigid plan was adopted in order to insure adherence to this schedule. The yearly revenue was to be estimated, the "must" payment of $7,300,000 set aside, and other expenditure taken from the residue.

Many of the measures which the Republicans took toward restricting government to the reduced budget were also measures toward making the governmental machine less complex. Even before Jefferson's First Annual Message a considerable reduction had been made among officers dependent on executive discretion. Most offices, however, were creations of Congress, and could be altered only by congressional action. In 1802, at Jefferson's recommendation, two principal curtailments of this nature were effected. The system of internal revenue was abandoned, resulting in a decrease of federal patronage of some twenty-five per cent. Also the Judiciary Act of 1801 was


\[27\] See Bowers, Jefferson in Power, pp. 79-85.

repealed. The removal of the Federalists so recently appointed by John Adams to fill the additional posts created by this act doubtless was as much a political as it was an economic action, but the Republicans debated the repeal chiefly on the grounds that the new offices were in excess of the demand. At any rate the repeal discontinued sixteen judgeships, which together with the marshals, clerks, and messengers assistant to them, resulted in a saving of some $36,000.  

The chief reductions, however, were made, though not to the desired extent, in the establishments of the Army and Navy. Before Gallatin entered on the duties of his office, he insisted that a curtailment of appropriations to these departments were the only savings adequate to allow the repeal of all internal duties, whose revenue production was approximately $650,000. The Secretary of the Army, Henry Dearborn, co-operated satisfactorily with Gallatin in his retrenchment campaign, and the Army was reduced to its 1796 footing. The Navy, under Robert Smith, vigorously resisted Gallatin's efforts, but Jefferson sympathized with Gallatin's point of view, and reductions proceeded, though agonizingly. Actually so far as the numbers of the naval force were concerned, the reductions were


effected under the discretion allowed by a law of the Adams administra-
tion. In 1803 naval economy received a rude jolt with the advent of war with Tripoli. Adherence to the original scheme of economy, which had been followed closely for the preceding two years, proved impossible, and a 2½ per cent duty on all imported articles paying ad valorem was assessed to meet the emergency. All things considered, the naval establishment was, in spite of the Republicans' most earnest wishes to the contrary, scarcely less expensive in the long run than under the Federalists. 31

The Republicans had hoped to limit the over-all operational expenses of the government to $2,700,000 annually, which would allow, considering the contemplated revenue, the "must" pay-
ment of $7,200,000 on the debt. They were never able, how-
ever, to contain expenditures to this rigid schedule. The military expenses alone, which it was hoped could be held to roughly $2,500,000, averaged during the years 1802-1811 approximately $3,500,000, and civil and military expenses were during this same period an annual average of $5,400,000, or about double the amount desired. But due to normal revenue in excess of that estimated, and to the additional amount made

available from the Mediterranean Fund, as the levy for the Tripoli emergency was dubbed, the Republicans were able to proceed basically as planned in the retirement of the debt. 32

All in all, notwithstanding their failure to achieve their own goals, reductions in comparison with the Federalist administration were considerable. The net expenses for ordinary purposes, exclusive of interest on the public debt, were reduced from $7,500,000 for the fiscal year 1800, to $5,000,000 the following year. For the three succeeding years a reduction to about $4,000,000 annually was effected. 33 As for the reduction of the debt, by 1810, had it not been for the increase occasioned by the purchase of Louisiana, the reduction would have amounted to $34,167,895.35, a sum exceeding by $1,878,895.35 that estimated by Gallatin in 1801.

The War of 1812 disrupted the discharge schedule tremendously, sending the debt soaring by February 12, 1816, to more than $123,000,000. It was, however, the crucial test of the soundness of Gallatin's policy. The maxim which he announced, that debt is only reducible by a surplus of revenue over expenditure, became the fundamental principle of American finance. It was faithfully followed by Dallas and Crawford,


Gallatin's successors, and the impulse given by Gallatin continued through later administrations, until in 1837 the entire debt was extinguished. 34

The Republicans were turned to accentuated advocacy of a central government simple and frugal, and to an aversion to national debt by the events which transpired at the very outset of constitutional government. As members of an agricultural economy, whose experience as debtors had produced in them a natural antipathy to the creditor classes, and as members of states, which were largely self-satisfied in their essentially independent capacities, and not disposed to surrender the conduct of their affairs to a central organization, which would conceivably be dominated by the creditor classes, the Republican elements prior to the Constitution's adoption were of a psychology disposed to the particular dogmas of governmental organization and operation that later constituted their platform as an organized party. Yet it was the Hamiltonian program of funding, assumption and a national bank that provoked these agricultural elements to formulation of the doctrines adapted specifically to the circumstances of constitutional government; or more correctly, of constitutional government under Federalist rule. The impressions they made, and the results they wrought on Republican ideology endured

34 Stevens, Albert Gallatin, pp. 199, 213, 222, 223.
dominantly throughout the Federalist tenure in power, and in large measure throughout the first decade of Republican rule. They were the deciding factors in guiding the Republicans to a state rights conception for the conduct of government. The importance of understanding the perspective they assumed in agrarian eyes is obvious.

The Republicans were by no means basically averse to establishing the national credit through the funding of the public debt. In subsequent years, with Gallatin and Taylor in the lead, they came to denounce funding in principle, but at this time the issue did not take shape around this point, but around the circumstances and manner of its accomplishment. Madison led the opposition in Congress. Affirming that the debt was fully valid, as contracted by the United States in a national capacity, by the government as the agent of the whole people, he said the question was to whom the debt was due. Hamilton's position was that it was due in full to whoever might be the possessors of public securities at the time their redemption should be authorized. In other words, he favored indiscriminate redemption. Madison set himself squarely against such a plan. He felt that those to whom the debt was originally due should not fail to share to some extent in the profit to be realized by redemption, because they might have alienated their securities. To present holders of the alienated securities he would allow the highest price which had
prevailed in the market. But to the original holders he would give the residue between the highest market price and the face value price of redemption. By this plan all save a few of the present holders would make profit. Others, while losing nothing, would realize minimally a sound 6 per cent investment.

The original holders, said Madison, had been paid in paper, which at the time of payment was worth in the market no more than one eighth or one seventh of its face value. They were offered that or nothing. "The same degree of constraint would vitiate a transaction between man and man before any court of equity on the face of the earth." While sympathy was an American virtue, the suffering of soldiers should not be forgotten. Madison declared a refusal to admit "... that America ought to erect the monuments of her gratitude, not to those who saved her liberties, but to those who had enriched themselves in her funds." He could not, he said, persuade himself that there was not "... something radically wrong in suffering those who rendered a bona fide consideration to lose seven eighths of their dues, and those who have no particular merit towards their country to gain 7 or 8 times as much." 35 Jefferson agreed with Madison, and in retrospect reviewed deploringly the results that followed congressional

failure to adopt Madison's plan. When passage in Hamiltonian form seemed assured, he observed, speculators left for all parts of the union to buy up at cut-rate prices the paper to be redeemed at par." Immense sums were fetched from the poor and ignorant, and fortunes accumulated by those who had themselves been poor enough before. "The men thus enriched became zealous instruments of all Hamilton's enterprises." 36

By taking the position which they did in this matter, the Republicans were aligning themselves against a policy of favoritism for special interests. Whatever the Hamiltonians might contend in defense of the policy of indiscriminate redemption, and their case was in many respects cogent, it was perfectly obvious to the Republicans that the design of the plan was such as to deliberately allow the greatest gain to be realized by a group whose position of vantage would allow them to make special utilization of the opportunity. This was the nation's financial element, men who made speculation a main avenue of enterprise. The Republicans tried, but failed, to block this avenue. They considered it grossly improper that the government should co-operate with this element, to enrich it, and thereby make of it an ally, as security holders, they said, this element had a common interest of imposing taxes and seeing them rigidly collected.

for the payment of the debt. This interest made of them a compact body which moved in concert, and would always be devoted to the administration as long as it found means to satisfy their claims. "They may be considered as a ministerial corps... leagued together upon principles to a certain degree hostile to the rest of the community."  

By virtue of the operation of the sinking fund serving greatly to regulate the rise of stocks, the interested party was calculated by the Republicans to be controlled to a great extent by the fund's directors, i.e., the Treasury. This, they held, was serious enough. But more serious was the fact that members of Congress had themselves become personally interested in the fiscal operations of the government. "To enrich perhaps fifty members of Congress," asserted the Republicans, "the whole continent was converted into an immense gaming table, and the wheels of government were clogged and the industry of the country was oppressed with forty millions of domestic debt, instead of ten or fifteen millions."  


38 *Aibid.*, pp. 199-200.

39 Joseph Callender, "Hedgewick & Co. or A Key to the Six Per Cent Cabinet"; reproduced summarily in *Aibid.*, p. 213.
With such an element in the legislature, the power of the fiscal corps was immensely increased, and their chances of success commensurately improved. And like the fiscal corps, this legislative faction was attached to the Secretary of Treasury. "In their eyes his conduct will appear immaculate, angelic, and partaking of something still more divine." Men so influenced, the Republicans reasoned, could not retain their character as representatives of the people. The inclination must be toward executive and legislative union, and a consequent conversion of the government from a limited to an unlimited one.

The main opposition to assumption of state debts came from the states which already had retired a considerable portion of their debts. If an unadjusted assumption were effected, these states envisioned themselves paying not only for the balance of their own debts, but also a portion of the debts of the states less industrious than themselves. This considered inequity was doubtless the basis of opposition to assumption, but minds resentful on this account were stimulated to other objective considerations that took on almost equal significance. The import which these considerations came to

40 Taylor, An Examination, ibid., pp. 197, 202-205.

41 Madison vividly and concisely presents this point of view in a letter to Edmund Pendleton, March 4, 1790, Writings, Hunt ed., VI, 5-7.
assume is revealed in a statement by Monroe that "the assump-
tion of the state debts is dislik'd here & will create great
disgust if adopted under any shape whatever." 42

The grounds upon which these additional considerations
rested were familiar ones: a concern lest the power of the
central government be increased over that of the states, and
lest the financial interests be favored at the expense of the
agricultural. As to the first of these, the opposition felt
that by assuming the state debts, and likewise the necessity
of taxation to retire them, the diminishing the necessity for
state taxation would ". . . undoubtedly leave the national govt.
more at liberty to exercise its powers & increase the subjects
on wh. it will act for that purpose. . . " 43 The financial
relationship between individuals and separate states would be
dissolved, ". . . so as to diminish state power and bring
about consolidation." Monroe advised against ". . . throwing
anything occasionally into that scale from . . . . " most
danger was apprehended. 45

42 Monroe to Jefferson, July 3, 1790, The Writings of James
Monroe, 7 vols., Stanislaw M. Hamilton, editor (New York, 1898),

43 Monroe to Jefferson, July 18, 1790, ibid., I, 211-214.

44 Taylor, "A Definition of Parties, or the Effect of the
Paper System," 1794, cited in Henry H. Simmons, Life of John
Taylor (Richmond, 1932), p. 52.

45 Monroe to Jefferson, July 18, 1790, Hamilton ed.,
Writings, I, 211-214.
Secondly, the Republicans objected that "... in an agricultural country like this, ... to erect, and concentrate, and perpetuate a large monied interest is a measure which ... must in the course of human events produce one or other of two evils, the prostration of agriculture at the feet of commerce, or a change in the present form of federal government, fatal to the existence of American liberty." The national debt was unnecessarily increased, perhaps carried beyond payability, whereas, if the debtor states could have been bestirred to pay their deficiencies to creditor states this could have been easily done by a direct tax in the South and an excise in the North. As it was, a heavy debt and consequently heavy taxes would be entailed upon states such as Virginia, from which they could never be relieved "... while any part of the debts contracted by any State in the American Union, and so assumed, shall remain unpaid." In such an arrangement, a striking similarity to the English system was detected, a system which perpetuated an enormous debt, and insinuated into the hands of the executive an unbounded influence.

Hamilton's delayed action proposal for a national bank stimulated the agrarian opposition to a protest more common


and general than did any other phase of his projected financial program. Whereas funding the national debt would have likely caused little consternation among Southerners, had the manner for effecting it not been so obviously and conducively favorable to the financial element, and many congressmen themselves, and whereas men like Madison were amenable to proposals for assuming the debts of the states, could the assumption be worked on an equitable basis, the proposal of a national bank evoked what was essentially unconditional opposition. It convinced the men of agriculture that the Hamiltonian faction was embarked upon a concerted program specifically calculated to make the central government a fostering agency for finance. The enriching effects of funding and assumption, said Jefferson, were temporary. A more permanent engine had to be contrived while "... these myrmidons were yet in place to carry it through all opposition." 49

The greatest concern over the bank resulted perhaps from the power claimed for the federal government in constitutionally justifying its establishment. This aspect of Republican opposition has been already considered. The concern manifested over the measure strictly on grounds of its being an unadvisable pursuit of government was, however, almost as

great. Perhaps the leading reason for finding disfavor in
the proposed bank was the devotion of the planter aristoc-
racry to coin specie, or hard money. In the past their ex-
perience with paper systems had been in many cases most
unfortunate, making them subject to much mistrust. Jefferson,
for instance, at the beginning of the Revolutionary War had
sold land to the amount of four thousand two hundred pounds,
in order to pay off some of his father-in-law's debts in
England, which had been a burden on his wife's estate. When
the war prevented payment, the whole amount was subsequently
lost by depreciation.

It is not surprising then that Jefferson in countering
the Federalists' contentions for a bank, concluded that as
to convenience in respect of supplying circulating medium, he
would pass over this feature "... ascribed to it as a want,
and which according to my ideas of paper money, is clearly a
demerit." Madison listed as the first disadvantage to a
central bank, the inevitable banishment of the precious
metals, and in answering the argument that the banished money
was only an exchange for something equally valuable that

50 James T. Adams, The Living Jefferson (New York,
1936), p. 126.

51 Jefferson, "Opinion on the Constitutionality of a
National Bank," February 15, 1791, Writings, Padover ed.,
pp. 342-346.
would be imported in return, he admitted the weight of the opposition in general, but expressed his doubt whether in the present habits of the United States, the returns would not be in articles of no permanent use to it.  

John Taylor, however, couched his criticism in no such terms of moderation, as did Jefferson and Madison. With characteristic lack of reserve he indicted banking in its best view "... as only a fraud whereby labour suffers the imposition of paying an interest upon the circulating medium; whereas if specie only were circuladed, the medium would, in passing among the rich, often lie in the pockets of the aristocracy without gaining an interest." But the monied aristocracy, he reasoned, had contrived the device of the bank to inflict a tax on labor, which would constantly work for their emolument, to the deprivation of labor's earned fruits. "The loss is the same," he concluded, "whether a daring robber extracts your property with his pistol at your breast, or whether a midnight thief secretly filches it away."  

The Republicans saw in the plan of the bank a startling similarity to the detested forms of the English monarchical

---


system. Many banks, they held, would be better suited to the United States than a single one, which would be an aid only to commerce proximate to the seat of the bank, as well as to merchants in the payment of customs. Anticipations of the government would also be most convenient at the various places where the interest was to be paid. In England the situation was different, the interest there being all due at one place, since the genius of monarchy favored the concentration of wealth and influence at the metropolis. Certainly the Republicans wanted no such concentration at the site of the national government.

Furthermore, if Congress by virtue of its power to borrow could incorporate a bank, they could do anything whatever creative of like means. They could establish and foster institutions like the East India Company and the South Sea company, both of which were prime borrowing sources of the British Government. "Private capitals are the chief resources for loans to the British Government. Whatever then may be conceived to favor the accumulation of capitals may be done by Congress." Manufactures might be incorporated and monopolies established in every branch of domestic industry. Madison elaborated on the great and extensive influence had by incorporated societies on public affairs in Europe, and advised against their inculcation in this country. They were always powerful machines, he cautioned,"... competent to effect
objects on principles in a great measure independent of the people." 54

As in the controversy over funding, there was objection that certain interests were to be designedly favored for capitalizing on the opportunity for gain that the bank would provide. Madison made this a main point of contention in a veto message prepared for Washington in the event he should decide ultimately against the measure. It was the duty of the Government, the message observed, "... to dispense its benefits to individuals with an impartial hand as the public interest will permit..." The Bank Bill had failed to do so in two respects. First, it was unequal to individuals holding different denominations of public stock, and willing to become subscribers. [The holders of 6 per cent securities were to derive greater advantages than those of 3 per cent.] 55 Second, in view of the early date appointed for opening sub-
scriptions, if these subscriptions should be filled as quickly as might happen, those would be subscribers living remote from the government would be excluded in favor of those near enough to take advantage of opportunity.

54 Madison's speech, "Banks of the United States," February 2 and 8, 1791, Writings, Hunt ed., VI, 26, 30, 37.

Nor again was the consideration of congressmen legislat-
ing for their own benefit overlooked. Members of Congress,
Taylor complained, could vote for a gainful project and them-
selves receive the gain. They could impose a tax on a portion
of the community, and instead of sharing the burden, share the
plunder. And the higher they made the taxes and loans, the
more public money would be deposited in the bank, and the
greater would be the profit of the congressional bank members.
A legislator debauched by a profitable banking interest ceases
to be a citizen of the union or an inhabitant of the state
that sent him, so far as constitutional purposes are concerned.
Rather is such a one a citizen and inhabitant of Carpenters
Hall. The Constitution made no provisions for congressional
representation of corporations, but for states in proportion
to numbers. Yet if corporation members are allowed to sit
in Congress, corporations would be better represented than
states. 56

Lastly, though not less significantly, may be mentioned
the objection that the bank corporation would undermine state
authority. Not only would it interfere in the state banking
systems, in some instances even defeating state banks, where
their location was the same, but also in its power to make

by-laws, if this power were interpreted as governed only by
the law of the United States, it could work to supersede
state laws within the area of the corporation's jurisdic-
tion. 57 Jefferson declared it would break down the most
ancient and fundamental laws of the states, such as of mort-
main, alienage, descent, distribution, escheat, forfeiture
and monopoly. 58

Seeing the impact produced by the program of Hamilton
upon the nation's agricultural contingent, who were molded
as a consequence into the Republican Party, it is not diffi-
cult to understand their advocacy of a simple government,
operating as economically as possible, in order to remain free
of debt. From the beginning the agricultural element looked
apprehensively at the Federalists as men of finance favoring
a strong government. The Hamiltonian measures confirmed them
in the correctness of their apprehension. The agrarians re-
acted logically in defense of their own interests. Since
the danger to their way of life lay imminently in a central
government operated by and to the interests of finance, they
sought to render the danger a minimum one by keeping this
government a small business with a small budget. As a small

57 Madison's speech, "Bank of the United States, 

pp. 342-346.
business with a small staff, its influence would be limited. Its operation could be non-complex and comprehensible. As a small business with a small budget, it would be unable to solicit the prestige and patrons that money can bring. Shorn of the attribute of big business, it would be unable to engage in ventures which might by the promise or prospect of profit attract the cooperation of the financial element, the speculators and the stock-jobbers, and which could by the nature of the undertaking work detrimentally to the interests of agriculture. It would be unable in its operation to incur a debt of size sufficient to bring profit and poverty perpetual in the manner of its manipulation. It could have little opportunity for catering to special interests.

Government fostering of special interests was anathema to the agricultural Republicans, for special interests were to them, in the light of the Hamiltonian program, interests other than agricultural. They were capitalistic interests, and it was corruption to favor them, because it was seemingly done at agriculture's expense. Again and again the Republicans cited the English system as one built upon the principle of providing special benefits to certain interests, and drew analogies between it and various features of Federalist fashioning. There was definite conviction on the part of some that the vagueness of the Constitution in certain respects was of a purposed design, brought about those "... who unable
to incorporate their unrepublican principles into it, hoped to import them, gradually by construction." The funding system, the irredeemable quality of the debt, and the national bank, they declared, were features borrowed from the British system. Not only did they believe this had because of the inequities produced, but also because of the tendency to consolidation and monarchy. Favors, they reasoned, brought dependence and servility.

When legislators themselves were seen as the special interests sharing in the bestowed benefits, Republican intellect could scarcely find words to register its disgust. These men were to the Republicans a corrupt, stock-jobbing squadron who voted constantly for every Treasury measure, and thus for their own interest and in opposition to those of the people. It was the Republicans' desire that both Houses of Congress be cleansed of all persons interested in the bank or other public stock. Of course, such a pure legislature was conceived of as one comprised of agriculturists, and would be pure because it would not vote benefits to finance, and thus not to itself.


Needless to say, a strong case can be made to demonstrate forcefully this point, and to assert further that the Republicans had no scruples in legislating to the benefit of agriculture. Beard has done this as well as anyone, concluding that "... at bottom... the dispute between parties was over economic measures rather than over questions of political propriety." The Republican leaders were doubtless sincere, however, in their convictions, and indeed they had in mind no thought of doing anything in their behalf as agriculturists which would bring gain in so direct and flagrant a fashion as they witnessed in the instances of funding and establishing the bank. The spirit of the Jeffersonian leadership in this respect is well depicted by Jefferson himself, in declaring that when coming first to public office he resolved never to engage while in office in any kind of enterprise for the improvement of his personal fortune. The Republicans wanted a government of agriculturists, and they wanted them to govern in agriculture's behalf. Yet governing in agriculture's behalf was to them governing that would leave agriculture to govern itself. Whereas finance in governing for its benefit found need of positive action from which it often


62 Jefferson to ____________, March 18, 1793, Writings, Bergh ed., IX, 44-45.
found occasion to reap benefits directly and obviously deriving from this action. In the Republican way of thinking, this was graft, while governing in their own behalf took on no like aspect, for being government of inaction rather than action, the gain was not directlytraceable to the legislative source.

Lastly, in connection with their animadversions against special interests, it should be observed that the Republicans assailed any suggestion of incorporating in government the English practice of a balance of orders. The pseudo-aristoi should not be put into a separate chamber of legislation. The wealthy needed no special protection, because "... enough of those will find their way into every branch of legislation, to protect themselves." 63 Taylor said that a balance of orders would bring turmoil and strife, because of the friction which would develop between them. When such friction stopped, it was because one or a combination of orders becomes supreme, which, however, was no more desirable than the former condition. "It was reserved for the United States to discover, that by balancing man with man, and by avoiding the artificial combinations of exclusive privilege, no individual of these equi-poised millions would be incited by a probability of success to assail the rest...", and that the subversion

of liberty by one combination over another would be avoided.

Jefferson's answer to an artificial aristocracy of wealth and birth, which was to him synonymous with special interests, and which he believed prominent Federalist leaders wished to recognize and support as an integral part of government, was a natural aristocracy of virtue and talent. The natural aristocracy he considered to be the most precious gift of nature for the instruction and government of society. Nature had wisely provided for this by scattering virtue and talent with an equal hand through all its conditions. "May we not say," he asked, "that the form of government is the best, which provides the most effectually for a pure selection of these natural aristoi into the offices of government?" The artificial aristoi he held to be a mischievous ingredient in government, and provisions should be made to prevent its ascendancy.

The matter of taxes is an ever present problem to be dealt with in the operation of any government. By its nature it typically provokes the political sense to some of its most fervent expressions. This was especially true of

---


the Democratic-Republicans. Many features of the Federalist program kindled their wrath, but only that of taxation stirred reaction approximating rebellion. It is well imaginable that the Republicans had some very definite convictions relative to the employment of taxation in the state rights scheme of things.

For the most part, however, there was nothing particularly noteworthy by its distinctiveness in the Republicans' views on this subject. The Constitution laid down the broad rules to be followed, and settled what otherwise might have become major issues. Certainly the Republicans favored as little taxation as possible, of whatever kind. The taxes which were levied should under all circumstances be equitably apportioned according to the ability to pay. By maintaining a government simple and frugal it was hoped to keep the need for taxation at a minimum. There was no place in the Republican program for taxation simply to accumulate a large budget surplus, for this they considered almost as dangerous as a large debt, in the temptation it could conceivably afford to war.

Save in an emergency, when they might give consideration to excises and direct taxes, the Republicans preferred ideally to resort to import duties for the bulk of their revenue needs. Once in office they made this their principal source of income. The extent to which this was true is clearly revealed in a report by Gallatin to Congress on November 22, 1811. Gallatin said:
The redemption of principal has been effected without the aid of any internal taxes, either direct or indirect... It therefore proves decisively the ability of the United States with their revenue to discharge, in ten years of peace a debt of forty-two millions of dollars, a fact which considerably lessens the most formidable objection to which revenue, depending almost solely on commerce, appears to be liable. 66

Duties were held as particularly preferable because their collection was largely proportionate to an ability to pay. They would fall chiefly upon the rich, who were the main purchasers of imports. They would preserve fairness of taxation between the states, and would be unlikely to generate local dissatisfaction. Also they would fit better into the Republican scheme of economy by virtue of the comparative inexpensiveness of their collection, in relation to internal revenue. 67

The aspect of Republican convictions relative to taxation which commands most attention is that involving the employment of the excise. When Hamilton’s Excise Act,

66 Stevens, Albert Gallatin, p. 213.


68 John Taylor, "A Defence of the Measures of the Administration of Thomas Jefferson," 1804; originally appearing in The National Intelligencer, cited in Simms, Life of John Taylor, p. 112; Taylor claimed it was demonstrable that internal revenues had been collected at 20 per cent of their returns while the collection of duties consumed only 5 per cent.
incorporated originally in his Report on the Public Credit, and passed in slightly modified version on March 3, 1791, came into the limelight of consideration, several leading Republicans, Jefferson, Giles and Madison included, were willing that it be enacted, feeling that under the circumstances it was necessary to meet the obligation of assumption, to which purpose Hamilton had designed it. 69 But the grain growing contingent of agriculture generally, and those of Pennsylvania particularly, were, circumstances notwithstanding, of no such concessionary frame of mind.

A main feature of the Act was its levy on the domestic manufacture of whiskey. This fell as a sort of direct tax on individual farmers, who on their widely scattered farms were accustomed to distill spirits from their grain, as a more economical form in which to transport their product to market. The farmers of Pennsylvania alone were estimated to operate 5,000 distilleries. 70 The need of retiring the assumption debt was a matter of remote influence on the minds of men like this. That which was foremost in their thoughts was the loss of profits liable to be incurred by the levy on their liquor. Their dissatisfaction with the

---

70 Beard, Economic Origins, pp. 250-251; in the North, most liquor was made in distilleries of considerable size and the tax could be made palpable by shifting it to the consumer.
measure was registered in vigorous protestation, which following its passage mounted in crescendo in four western counties of Pennsylvania until on July 15, 1794, it erupted into what has been termed the Whiskey Rebellion. While many, if not most, Republicans deplored this extreme resistance to laws legally enacted, it served to accent repugnance to the device of the excise, and without doubt was a decisive factor in turning the opinion of men like Jefferson and Madison, who from the first were basically opposed to the principle of excises as an ordinary taxing device, to favoring repeal of the measure.

The particular objection to the excise confronting them was that it constituted a discriminating tax on agriculture. "The value of our lands," said Steele of North Carolina, "has been stationary for some time; its produce is not in demand, and where it is, at depreciated prices; and not notwithstanding this, taxes are imposed, evidently calculated in their operation to render agriculture tributary to the more favored branches of business." The tendency of the law would be to erect rum distilleries upon the ruins of those employed by the farmers for domestic uses. The Pennsylvanians asserted that a duty laid on the common drink of a

---

71 An excellent account of this affair may be found in Stevens, Albert Gallatin, pp. 50 ff.

nation, instead of taxing the citizens in proportion to their property, falls as heavy on the poor as on the rich. They noted the particular hardship it worked as a consequence of their being "... distillers through necessity, not choice; that we may comprehend the greatest value in the smallest size and weight," to cope with the problem of getting grain to distant markets.  

In the involvements attaching to excise generally, however, the Republicans discerned dangers which made them opposed in principle to their utilization by the central government. They would fall disproportionately upon the poor, who subsist chiefly on domestic products. They would serve as a key to every lock, in turning loose a swarm of harpies, who under the domination of revenue officers would range over the country, prying into every man's house and affairs in their quest for penalties or bribes. Like a Macedonian phalanx, they would bear down all before them. The extensive patronage they would foster would stand as a danger to republican government. In the system employed by the Federalists, five hundred officers were asserted to be used in collection, at an annual expense of $200,000.  

---

73 Remonstrance to Congress from the Four Western Counties of Pennsylvania, 1792, drafted by Albert Gallatin; reproduced summarily in Stevens, Albert Gallatin, pp. 354-355.

In consequence of the objections to excise systems generally, and of the particular objections to the Hamiltonian version, Republicans came to hold its eradication as a cardinal party objective. Upon their ascension to power, they wasted little time in realizing their aim. In the draft of his First Annual Message, which he circulated to his chief aids, Jefferson made the proposal, and Gallatin wanted their removal as heartily as did Jefferson. "To strike at the root of the evil and avert the danger of increasing taxes, encroaching government, temptation to offensive wars, & c.," he said, "nothing can be more effectual than a repeal of all internal taxes; but let them all go and not one remain on which sister taxes may be hereafter engrafted." If in the future there should be no real need for excises, he expressed the belief that ". . . their abolition by this administration will most powerfully deter any other from reviving them."

The Republican leaders wanted to make certain, however, that removal could be safely effected without impeding the plan for retiring the debt, which in Gallatin's mind held a priority of importance even over removing the taxes. Thus Gallatin, in spite of his avid desire for eradicating the excises, wanted to be absolutely sure that it would not be


76 Ibid., p. 270.
done at the expense of the expedition discharge of the debt. In his official commentary on Jefferson's proposal in the draft of his First Annual Message for dispensing with the taxes, Gallatin accordingly qualified his consent to doing so with the provision that assurance be first available of a sufficient retrenchment in the operating expenses of the various departments, to offset the resulting tax deficit. 77 When John Randolph, as chairman of the Ways and Means Committee, secured from the Secretaries of War and Navy letters pledging the required economy, Gallatin's qualifications were met, and his consent forthcoming. 78

Therefore in the final draft of Jefferson's message appeared the passage: "Circumstances seemingly make it possible that we may now dispense with all the internal taxes. . ." 79

Evidently upon hearing this announcement, there was some apprehension similar to that of Gallatin's, among those who were not apprised of the intricacies of the plans of the Republican chiefs, and therefore not imbued with the conviction

77 Adams, Ibid., p. 292.

78 Channing, The Jeffersonian System, p. 32, Ibid., p. 295; internal taxes produced about $650,000 annually at the time of Jefferson's inaugural, the secretaries pledges savings of $600,000.

of its feasibility. "You will perhaps have been alarmed," Jefferson wrote John Dickenson, "as some have been, at the proposition to abolish the whole of the internal taxes."
Jefferson proceeded to assure them that doing so was perfectly safe, that the over-all economies contemplated would more than allow it. 

So also was the party assured, and repeal effected, over Federalist protests that to rely on customs would be to encourage smuggling, and that because internal taxes were pledged to go in part toward payment of the public debt, to repeal them would be to break a pledge to every creditor of the United States. Not until 1813 were internal excises revived, as a part of war financing, but these for the most part were discontinued in 1817.

Finally, of particular importance in the Republican plan for governing was the necessity of a proper policy in relation to war and peace, and the military. From an improper policy in these respects the Republicans foresaw at the very least the defeat of any attempt at government simple and frugal, and as a consequence of almost equal likelihood, the suppression en toto of Republican processes.

---

31 Bowers, Jefferson in Power, pp. 136-137.
If ever there existed a political party which could be called a party of peace, and whose policies and principles, whose entire scheme of government seemed premised on the conditions of peace, it was the party of Jefferson. The Jeffersonians may have been won to consent to the Constitution on the basis of a need for common defense, but their hope came to be that there would never be an occasion to justify this consent, for they feared that war, quicker than any means, would work the change in the status of the states that they had earlier apprehended would be worked by the instrument of the Constitution. Rarely ever has a group of leaders striven more sincerely under trying circumstances to make practice of a principle, than did the founders of the Republican party in seeking to avoid military conflict. This is true in spite of the fact that these same men occupied the nation's leading offices in the only two wars in which it engaged during the history of the party. Suffice it here to say only that circumstances wrought an act of irony, and not a chameleon of conviction.

Even before the War of Independence had been brought to a conclusion, Jefferson had purposed for what he hoped would soon be the free and independent country of the United States, a policy of peace. Any future measuring of force with the powers of Europe was to be deprecated. All efforts should be devoted to the happy development of the young country,
and none wasted in mutual destruction. There should be a cultivation of the peace and friendship of every nation, for "... never was so much false arithmetic employed on any subject, as that which has been employed to persuade nations that it is right to go to war." This sentiment came to be as the very soul of Republicanism, the spirit without which the Republican form was seen as doomed to death. Under the Constitution, it was even more important than under the Confederation, for the conditions lent themselves much better than those of the Confederation, to working the changes that war could make. The Republicans condemned war as the most dreaded of all enemies to public liberty, because it comprised and would develop the germ of every other. It would serve as the progenitor of armies, debts and taxes, the favored instruments for establishing the domination of the few over the many. It was the corroding principle of republicanism, producing "... inequities of fortune, opportunities for fraud and executive tyranny."  

Consonant to their advocacy of peace were the Republicans' conceptions relative to the military. Basic


to these conceptions was the principle that the military should be subordinate to the civil power. Jefferson declared the principle in his First Inaugural Address, and its pervasiveness of Republican thought is everywhere apparent. 85 John Taylor undertook the most serious attempt to explain the necessity of the principle and how it had been incorporated in the Constitution. Experience he thought dictated the necessity of this principle, in that mercenary armies were universally seen to be insubordinate to every species of civil power, not their accomplice in oppression. Thus, "the supremacy of civil power over military is a stipulation in vindication of a sovereignty of the people."

In his opinion the Constitution had wisely insured the sovereignty of the people, or the supremacy of civil over military power, by investing the people with military as well as civil power; that is, by allowing the government to organize, arm and discipline the militia, which was to be at the resort of the state governments. Had the government solely the right of maintaining an army, this army would soon become the master of civil processes. But when the people themselves possess the military power in the

militia, they can guarantee the maintenance of the civil power. Taylor's explanation is involved, and not entirely harmonious in all its parts, but it is forcibly illustrative of the Republican adherence to the principle that was the subject of his efforts.

There was no more characteristic feature of state rights ideology than the exaltation of the militia. In the militia the Republicans placed trust not only as an agency for preserving the supremacy of civil over military authority, but also as the means of preserving the constitutional system against both internal and external attack. As to the former, Jefferson explained how the state governments supported by the militia would safeguard the liberty of the people in the event of usurping designs by the central agency. While the force of the central authority might paralyze the single state in which it happened to be encamped, the other states, spread over a country two thousand miles in diameter, would rise up on every side to put down the threat. They would be able to do because of the strength of their militia, a militia under the command of the governor, and consisting of every man able to bear arms, formed into regiments and battalions, into infantry, cavalry and artillery, "... trained under officers general and

86 Taylor, Inquiry, pp. 395-397.
subordinate, legally appointed, always in readiness, and to
whom they are already in habits of obedience."

The militia would, also, provide the chief guarantee
against external oppression. The body of the people was
the proper, natural and safe defense of a free state. When
citizens and soldiers were synonymous terms, the nation would
be safe. A standing army was not to be maintained, es-
pecially in times of peace, to perform this function for the
nation. Rather would the militia meet any initial attack,
and if necessary maintain the lines of defense until regu-
lars could be called to relieve them. Generally, though,
the militia would probably be able of itself to perform
the task. Defense then would be the comparatively simple
matter of America rising in mass to drive out the invaders,
and retiring immediately to their farms and homes. In order
that the militia might be always commensurate to its task,
attention should be constantly given to its improvement.
In fact, Congress should never dismiss until they could say
that everything had been done for the militia which could
be done were an enemy at the door.

---

37 Jefferson to Destutt de Tracy, January 26, 1811, Writings, Padover ed., pp. 310-313.
With fervor equal to that displayed in exalting a well organized militia, the Republicans deprecated the existence of a standing army, save of the most modest description. They fought incessantly Federalist efforts to establish such a force, even though it be led by a leader so trusted as Washington. "The disbanding of the army on principles of economy and safety. . ." was a main plank in the Republican platform of 1800. Once in office, action was immediately taken to this end. Especially was this a cherished principle of the Old Republicans, and so rigid was their adherence to it, that at times it seemed to border on sheer fanaticism.

One of Jefferson's earliest commentaries on the Constitution was a regret that the document lacked a clear provision against standing armies. Madison, however, took pains in the Federalist to warn the country of the considered danger in such a force. "On the smallest scale," he cautioned, "it has its inconveniences. On an extensive scale its consequences may be fatal." If America would be wise, it should render the danger from standing armies as small as possible. It was the Republicans' hope and belief that


the geographical situation of America would obviate the pretext often employed in other nations for justifying this mournful catastrophe. "Being separated by the ocean from the great powers of the earth, nature seems to have inhibited by an eternal mandate all colourable pretext for a formidable standing army."  

To the Republicans history spoke with almost countless examples that professional armies were instruments for working the suppression of liberty. They have everywhere brought the downfall of free states, concluded Randolph, "... and riveted the fetters of despotism." "A government at the head of an army able to control the people," insisted Taylor, "will never regard election but as another instrument to rivet oppression." Armies would oversaw the public sentiment. They would punish imaginary insurrections under the pretext of preventive justice. They would raise the national debt to an astonishing amount. In the United States a danger of particular magnitude would be the great power an army would add to the executive, by the homage it would owe him through patronage. Whereas civil patronage was divided among many hands, the entire patronage of military offices was placed in the hands of the president. An army

---

and patronage would enable him to promote a faction. As the
strongest of all factions, the Army would be completely the
instrument of a leader skillful enough to enlist its symp-
pathies and inflame its passions. The president through
patronage would possess this instrument, and election would
be the only insurance against his using it as armies have ever
been used. Indeed, armies have demonstrated themselves a mass
of power which frequently have proved too hard for the whole
residuary power of government. "Military power awakens and
excites man's evil qualities more than any other species of
power, because it is less resistable; hence its malignity to
the good moral principles and the element of self govern-
ment."

Deprecated by Republicans scarcely less than a standing
army, was a navy of any size larger than absolutely requisite
for defense. The chief objection to a navy lay in the aptness
it would have of involving the nation in foreign wars. To
keep this danger at a minimum, a force sufficient only to
the protection of the American coast should be maintained.
A comparatively small force would be adequate for this purpose,

cited in Bruce, *John Randolph of Roanoak*, p. 158; Jefferson
to Elbridge Gerry, January 26, 1799, *Writings*, Bergh ed.,
X, 77; "Extracts from the Address to the People," which
accompanied the Virginia Resolutions, *The Debates on the
Several State Conventions on the Adoption of the Federal
Constitution*, 5 vols., Jonathan Elliot, editor (Philadel-
phia, 1941), IV, 531; Taylor, *ibid*, pp. 536, 174-177.
because disparity in numbers would be offset by the advantage of operation proximate to home harbors. Gunboats were often cited by the Republicans as ideally suited to their convictions. In the war scare of 1797, with Macon in the lead, the Republicans wanted it stipulated by law that the president was not to send vessels to be built for the emergency outside of American coastal waters.

Other objections were that a navy of size would sink the country under a burden of debt, and would provide the president with dangerous powers of patronage. There seems additionally to be some plausibleness to a supposition advanced by Dodd, that Macon and other Southern agrarians so consistently opposed naval appropriations, because they wanted to prevent the least increase of power to the Easterners, whose commercial ventures stood to profit therefrom. Dodd theorized that, without saying so, these Southerners from the beginning believed that every ship built for national defense would come one day to grapple with their section in a struggle for supremacy. It must be concluded, however, that if


this was a consideration for objection, it was in most minds subordinate to the others mentioned.

Fashioned to restrict the powers of the central government to that alleged as of constitutional allotment, the Democratic-Republican scheme for governing was remarkably harmonious in its various aspects, and consistently consonant to the intended end. This was largely because the Republican intellect was so completely consumed and dedicated to the state rights crusade. Keep the government simple, said the Republicans, and it will be safe; safe because understandable in all its functioning; safe because limited in personnel and patronage; and safe because economical, obviating the need of oppressive taxation, and precluding the accumulation of a burdensome debt, which might be unscrupulously manipulated to support a class of financial leeches, who would live upon the honest labor of agriculture. Let essential taxation be likewise simple and safe. Excises were neither. They would fall chiefly on the poor, and their collection would require a host of agents, who would intrude in every man's affairs and consume an exorbitant proportion of the returns in their support. Duties would be much more ideal. Of absolute necessity to this system would be civil supremacy over the military, for were the military to gain the upper hand, all constitutional processes would be at their discretion. To guarantee against military supremacy,
armed forces should be strictly limited in times of peace, and in war increased only as much as essential for defense. Let the country rely mainly on a well organized militia, which would be a dependable guarantee against external as well as internal aggression. And that this nature of government might have the greatest chance for success, let the nation pursue a policy of peace. War would necessarily entail more government, a staggering debt, and an increase in the military; in short, the exact antithesis of that which was desired.

If the Republican plan were followed, a nation unique among nations was the prospect; a nation whose local government would manage the affairs of the people in a way calculated to achieve the greatest happiness; and where liberty would be prevailing over all. If it were not followed, the United States must sooner or later follow the conventional route of nations, and come under the despotic rule of a central authority, which would govern for the benefit of special interests, and which would not hesitate in the suppression of all liberties in the achievement of their purpose.
CHAPTER IV

THE PRINCIPLE OF STATE ABROGATION

In a governmental system like that created by the federal Constitution, the matter of the recourse available to the states in resisting considered unconstitutional action by the central authority had inevitably to be the most vital feature of the ideology of state rights. It was important, to be sure, that there be a correct conception of the nature of the union, and of the division of power. It was important that the Constitution be construed in a manner consonant to precisely preserving the division of power; more particularly, to strictly limiting the central government to those delegated powers expressly enumerated. Important, also, was the matter of maintaining a government simple and frugal, commensurate, that is, to the pursuit only of the purposes of its creation. But in the last analysis, of an importance exceeding all else, was that there be a recourse upon which the states might rely, should all other safety features fail, and the central government still pose a threat to their residuary sovereignty. Circumstances prevalent within the first decade of constitutional government provoked the Republicans to consideration of this matter, and to at least a half-hearted attempt to resolve it satisfactorily to the interests of the states.
The Constitutional Convention did not incorporate in the Constitution any provision expressly enabling the states, or particularly the states individually, or as a minority, to ultimately resist considered unconstitutional encroachment by the central government, upon the rights of state sovereignty. The prevailing sentiment of the Convention was predictably preclusive to the inclusion of such an express, positive provision. Obviously a provision of this nature would have been too strongly suggestive of the conditions of confederacy; of the possibility of evading federal control. The Convention, of course, had quite had its fill of confederate conditions. In seeking to remedy their defects, they were scarcely likely to incorporate in the new polity any provision clearly conducive to the ills of the old.

But neither was there included in the Constitution any provision which was understood to imbue the central agency with an ultimate supremacy over the states, in the exercise of any save the powers of specific delegation. The disposition of the majority of the Convention was to the preclusion of any provision of this nature, more so even, than to one of the opposite extreme. A congressional veto over state enactments was rejected as an attribute conducive to overall supremacy, and it can be assumed with certainty that the Convention did not knowingly accord their sanction to any other provision deemed tantamount thereto. The guiding spirit
of the overwhelming majority of the delegates was perceptible as that only of the states relinquishing by delegation merely those powers which would imbue the central agency with the necessary vigor to remedy the particular defects of confederacy. The power of the central agency was consequently minimized. It was in no sense to be an agency dangerous to the reserved residuary of state power and sovereignty. In the ratification struggle which followed, the states were accordingly given to understand that they were not to be subjected to federal supremacy, except in those enumerated instances of particular delegation; that they were divested only of that authority which the Constitution specifically allotted to the central agency. The central agency was not a creation which was or could be supreme over the states in every respect, as would be the case were it a true national government.

It was only logical, therefore, in portraying a system of this sort, to convey to the states the assurance of a retained character capable of defensive action in the contingency of any federal attempt at encroachment. They were advised generally that if perchance the central government should undertake the exercise of power not within the realm of its allotment, the states would be effective forces of resistance, which by their actions would counteract the unconstitutional advances. No less an advocate of central
authority than Alexander Hamilton gave such an assurance: The people, he pointed out, would be especially protected by the states, from encroachment by the central government. ¹ And following ratification, they were reassured in this respect. Madison, in arguing before the First Congress for a bill of rights, said that not only would the federal courts, with a bill of rights as their guide, be bulwarks against assumptions of power by the central agency, but also "... there is a general possibility that such a declaration in the federal system would be enforced, because the state legislatures will jealously and closely watch the operation of this government, and be able to resist with more effect every assumption of power, than any other power on earth can do." ² In 1792, in a National Gazette article entitled "Government of the United States," he wrote that it was his hope that these two governments "... possess each the means of preventing or correcting unconstitutional encroachments of each other." ³

As to just what these means were, however, explanation was conspicuously absent. The states were assured that being

² Brant, James Madison, III, 267.
still sovereign, save in certain expressly enumerated delegated respects, they would indeed be of a character to resist any possible encroachments by the central government. This was the impression carried by their delegates from the Constitutional Convention. It was the impression conveyed to them in the ratification struggle. And it was the impression under which they embarked upon government under the Constitution. Yet, it was an impression of form only, without clear-cut features. Resistance to encroachment was clearly an imagined state right and capability. But how specifically and effectively this resistance was to be accomplished, was a matter no one of authority ventured to say. Logically it would remain for the states themselves to say, under circumstances which would prompt them necessarily to do so, or to yield.

With the passage of the Federalist sponsored Alien and Sedition legislation in 1798, the Republicans were confronted with circumstances which in their way of thinking justified concrete action. Earlier Federalist actions had on many occasions thoroughly aroused the state rights elements, and called forth denunciations of unconstitutionality. The proposed Bank Bill prompted them to set forth a key for constitutional interpretation, and to proclaim that it should be strictly adhered to. But when it was not, they gave no indication that there was anything to do except comply; that there was any recourse save that of securing a legislative
change of opinion, or of securing legislative strength
even to follow a course consonant to their own conceptions.

Now, however, confronted with a Sedition Law, which
seemed a direct violation of the constitutional guaranteed of
free speech and of a free press, and by an Alien Act which
was held a flagrant usurpation of the reserved power of the
states separately to exercise exclusive regulatory authority
upon the aliens within its borders, the Republicans were
struck with the conviction that something must be done in the
way of more effectively resisting the central government, and
protecting state rights. Had not assurance been given that
the states would not be helpless in their own defense in cir-
cumstances like these? And yet, if they were not to be,
something seemingly must be done, that thus far had not been
done. The defensive recourse to which the Republicans re-
sorted in an effort to cope with the encroachments of the
Alien and Sedition Acts, was manifested in the Kentucky and
Virginia resolutions of 1797, the Kentucky Resolutions of
1799, and Madison's Report on the Virginia Resolutions of
1800.

Formulated in the summer of 1798 by Thomas Jefferson,
perhaps from the suggestive influence of John Taylor, the
basis of the plan to be embodied in these documents was drafted
first by Jefferson, with the close cooperation of Madison, into
the Kentucky Resolutions of 1798. Maintaining the secrecy of its
authors to all but a select few, these Resolutions were
given to Wilson Cary Nicholas, who in turn was to transmit
them to some reliable member of the North Carolina legisla-
ture, for introduction in that body. Instead, with Jeffers-
on's subsequent retrospective sanction, Nicholas gave them
to John Breckenridge of Kentucky. Breckenridge lost little
time in putting the Resolutions to work. On November 10, 1798,
they were passed by the Kentucky House with but a few insig-
nificant alterations, and three days later they were accorded
unanimous concurrence by the Senate.

On November 17 Jefferson sent Madison a copy of the Reso-
lutions. With these as a guide, Madison then drafted the
Virginia Resolutions, which, following probable perusal by
Jefferson, were introduced by John Taylor in the Virginia
House of Delegates on December 10, 1798. On December 21st
they received house approval in the form in which they were
drafted by Madison, and three days later were concurred in
by the Senate. 4

4 Adrienne Koch and Harry Ammon, "The Virginia and
Kentucky Resolutions: An Episode in Jefferson's and
Madison's Defense of Civil Liberties," The William and
Mary Quarterly Historical Magazine, V (April, 1948), 145-
176. This account is generally conceded to be the most
accurate available. Essentially the same version is
In the light of the response to these initial Resolutions, Jefferson, in a letter to Madison of August 27, 1799, set in motion the machinery for a second set of documents. Setting forth the general nature of the proposed plan, Jefferson suggested a meeting with Madison and Nicholas to map out the details. Nicholas could not attend, but Madison at Monticello succeeded in softening Jefferson's original suggestions, and in this new version, they were transmitted by letter to Nicholas, and as before, then to Breckenridge, who secured their passage. It is not known, however, exactly who put the suggestions to paper. Madison, for his part, drafted the Report on the Virginia Resolutions, which was considered and approved by the Virginia House of Delegates in the session of 1799-1800.

In summary, then, it may be noted that the campaign waged by Kentucky and Virginia against the Alien and Sedition Acts was conceived and guided by a surprisingly small strategy committee. Five men, as far as can be determined, were principally responsible for formulating and placing these plans before the legislatures of the two states. And excepting the Kentucky Resolutions of 1799, whose authorship is unknown, although they very probably came from the hand of Jefferson or Breckenridge, the plan was accorded the sanction of the two legislatures, with but one significant exception, in

---

Ibid.
almost word for word form as drafted by the committee. Of these five, three alone, and possibly four, allowing for Breckenridge, appear actually to have played a formulating role. Taylor and Jefferson were almost certainly the originators, but Jefferson assumed the chief responsibility for execution of the plan, and with Madison developed it for legislative presentation. Madison drafted both Virginia documents, and Jefferson one, and possibly both, Kentucky documents.

Considering this high degree of centralized planning, it would seem a foregone conclusion that whatever the recourse to be resorted to in resisting these considered encroachments of the central government on the rights of the states, it would be manifestly the same in the pronouncements of both Kentucky and Virginia. Basically this seems to be the case. In a letter of June 25, 1798, to Jefferson, John Taylor set forth what, without doubt, was to be the guiding aim of the party chiefs in meeting the emergency

6 Whether or not Jefferson actually saw Madison's original draft of the Virginia Resolutions, he was responsible for an alteration of the original wording, to the effect of making the other states "to concur with this commonwealth in declaring, as it does declare, that the said acts are, and were ab initio, null, void, and of no force, or effect." The Resolutions were introduced to the legislature in this form, but just preceding final passage, Taylor moved that it be strick out, and the legislature unanimously approved.
confronting them. Having taken cognizance of the "evils" of the Federalist ascendancy, he suggested as a means of checking them, an extension of suffrage, abbreviation of tenure in service and rotation of office. But these means, he acknowledged, were actually no guarantee to attaining the desired end, since a change of party, which, of course, they were designed to attain, might not preserve liberty. Therefore, to make certain that liberty would be preserved, "... there should be a new mode of abrogating law..." 7 Perhaps Jefferson had already reached the same conclusion. If not, he had no trouble in doing so, as was the case with Madison. The idea, in fact, seemed almost contagious. It caught the spontaneous receptiveness in Republican thinking throughout Kentucky and Virginia. Under the circumstances, it had an appeal which was irresistible. Thus, that which is basically manifest in the campaign of Kentucky and Virginia against the Alien and Sedition Acts, is the intention of promulgating a new mode of abrogating law, of preventing unconstitutional laws from operating within state borders.

It must be concluded, however, that as far as is logically ascertainable from the pronouncements of Kentucky and Virginia to this end, there appears to be a remarkable

7 John Taylor to Thomas Jefferson, June 25, 1798, Taylor manuscript, reprinted in Simms, Life of John Taylor, p. 87.
uncertainty as to just what this new mode of abrogating law was to be, and as to how it was to be affected. This observation may be further set forth as follows: (1) The right of recourse advocated in both Kentucky Resolutions seems the same; (2) Because of the non-specific character of the language in which the claimed right is couched, the Virginia Resolutions of 1798 allow the possibility of two interpretations as to what the right is actually meant to be; (3) The crowning element of uncertainty, however, is evidenced in Madison's Report on the Virginia Resolutions of 1800. This report seems unmistakably to be in declaration of a right essentially different from the claimed right, or rights, of its three fellow documents. These observations, of course, can only be conducive to confusion until applied specifically to the documents and doctrines in question.

(1) The Kentucky Resolutions of 1798 are premised on the conventional Republican assertion that the central government is one only of certain definite delegated powers, each state having reserved to itself "... the residuary mass of right to its own self-government," and that consequently "... whatsoever the general government assumes undelegated powers, its acts are unauthoritative, void, and of no force." The central government, continued the declaration,"... was not made the exclusive or final judge of the extent of the powers related to itself, since that would have made its
discretion, and not the Constitution, the measure of its powers. . . " Therefore, ". . . as in all other cases of compact among parties having no common judge, each party has an equal right to judge for itself, as well of infractions as of the mode and measure of repress." The Alien and Sedition Acts were accordingly pronounced ". . . altogether void, and of no force." Kentucky congressmen were to endeavor to procure the repeal of the acts at the next session of Congress, and from the co-states was requested a similar declaration of sentiment as to the acts. The Resolutions closed with an expression of confidence that the other states would do as Kentucky had done.

If language has any meaning at all, here indeed was a declaration of the right of the states individually to interpret the Constitution, and render void and of no force within the borders of the declaring state, any legislation in exercise of powers not assigned the central government by constitutional delegation. It seems impossible that words could have set forth such a right with improved clarity of expression.

The Kentucky Resolutions of 1799 are obviously a re-assertion of the right claimed in the Resolutions of the preceding year. The re-assertion is not in language identical

---

to that of the earlier document, but it is no less forceful or clear. In fact, if anything the Kentuckians expressed with added emphasis that which they apparently wished to say. "Resolved, . . . That the several states who formed that instrument, being sovereign and independent, have the unquestionable right to judge of the infraction [constituted, that is, in unconstitutional legislation]; and, That a nullification, by those sovereignties, of all unauthorized acts done under color of that instrument, is the rightful remedy. . . ."

Here, to be sure, was a reaffirmation unmistakable of the same right of recourse act set forth the preceding year.

(2) The doctrine of the Virginia Resolutions was premised on an observation essentially identical to that of the Kentucky Resolutions. The powers of the federal government, it is pointed out, result "... from the compact to which the states are parties...," and are "... no further valid than they are authorized by the grants enumerated in that compact ... ." Having established this, the Resolutions proceed to the pronouncement of the right which purposed them."... In case of a deliberate, palpable, and dangerous exercise of other powers, not granted by the said compact, the states, who are parties thereto, have the right, and are in duty bound, to interpose for arresting the progress of the evil,

9 "Kentucky Resolutions of 1799," ibid., pp. 544-545.
and for maintaining, within their respective limits, the authorities, rights, and liberties, appertaining to them." The Alien and Sedition legislation was by consequence declared "unconstitutional," and to the co-states of Virginia an appeal was issued to take like action. Virginia expressed confidence that they would, and that the "necessary and proper measures" would "... be taken by each for cooperating with this state, in maintaining..." the reserved rights of the states and of the people.

Certainly John Calhoun was not stretching implications unreasonably in professing to perceive in the language of these Resolutions, as in those of Kentucky, a promulgation of the same doctrine of nullification which he himself later advocated, but which historians generally have conceded to be originally of his conception. To be sure the Resolutions did not say specifically that the right claimed was to be exercised by states individually. The plural terms "parties," or "states" are employed with consistency in setting forth the right, although in inviting each state to take the necessary and proper measures of cooperation with Virginia to preserve the rights of the states, the inference seems clear that indeed each one separately, and regardless of what the others might do, was to make the suggested declaration of unconstitutionality, and to interpose to arrest the operational

10 "Virginia Resolutions of 1793," ibid., pp. 528-529.
progress of the Alien and Sedition Acts within its borders. If there were nought but the wording itself of the Resolutions to take into account, it would appear but preposterous that the advocacy could possibly be otherwise. That Madison and the Virginia Resolutions might have had in mind another recourse would seem a likelihood remotely removed from the realm of reason.

The alternate interpretation to be drawn from the Resolutions is, of course, that it was not the right of interpretation and nullification by the states singly, which was being claimed, but rather that it was the right of plural nullification; And yet, how conceivably was the desired end of a new mode of abrogating law to be attained through plural nullification, or at least through unanimous concurrence in nullification, as it must be assumed was meant, if this view be taken, inasmuch as no qualifications of indication to the contrary was given. When and how could the states derive benefit from such a doctrine of plural nullification; that is, from a doctrine by which the abrogation of law would not become effective until all states should concur in nullifying pronouncements? Whenever could it be hoped to gain the concurrence of all states in such a pronouncement? If ever there should come a time when sentiment in all states were of a nature to make this possible, obviously there would be no occasion to apply the doctrine, since a law provoking its application would never in the first place have been passed by
Congress, or else Congress would itself repeal the law before state action could occur, for only under the most far-fetched of circumstances could the majorities in every state of the union be of one sentiment, and the Congress elected by them, of another.

Can this, indeed, have been the doctrine Virginia meant to promulgate? If a doctrine of plural nullification was their intent, seemingly it was, for no qualification was made of indication to the contrary. It was not said that law's abrogation would be worked whenever a majority of states might concur in nullifying declarations; or two thirds, or three fourths, or any other portion. The right set forth in this respect was of no other qualification than can be found in the words "parties" or "states."

(3) In 1800 the Virginia Legislature acceded its sanction to one of the most amazing political documents of American history. As earlier noted, it constituted the crowning element of uncertainty in the episode under consideration, for in its substance it seems to advocate a right of recourse divergent from either of those interpretable from the Resolutions of 1798. Yet, when considered in part only, it seems plainly to be only a re-assertion of that right made from a standpoint which takes into account the replies of the states to the Resolutions of 1798, many of which in countering the claims of those Resolutions, contended that the Supreme Court was constitutionally the exclusive judge of legislation,
precluding, therefore, the right of the states to exercise
a like prerogative.

When there is no resort to a tribunal superior to the
authority of contracting parties, the Report averred, "... the parties themselves must be the rightful judges, in the
last resort, whether the bargain made has been pursued or
violated. ... The states, then, being the parties to the
constitutional compact, and in their sovereign capacity, it
follows of necessity that there can be no tribunal, above
their authority, to decide, in the last resort whether the
compact made by them be violated. ..." It is recognized,
however, that the states should not employ this right in"
... a hasty manner or on doubtful and inferior occasions. ... but only on occasions. ..." deeply and essentially affecting
the vital principles of their political system. The Resolu-
tions of 1798 recognized this qualification of right, by
specifying that only in "... case of a deliberate, palp-
able, and dangerous breach of the Constitution, by the exer-
cise of powers not granted by it," was the recourse of state
interpretation to be resorted to. Nevertheless, the Report
continues, when there should occur instances inherent with
such a degree of danger, the states must have the right
claimed, for "on any other hypothesis, the delegation of
judicial power would annul the authority delegating it; and
the concurrence of this department with the others in usurped
powers, might subvert forever, and beyond the possible reach of any rightful remedy, the very Constitution which all were instituted to preserve."11

If indeed the reader of the Resolutions were to go no further, could it be remotely supposed that what he had thus far read, was anything more than an elaboration in reaffirmation of the recourse earlier claimed? Or could he suppose that the remainder of the document could be to any other purpose? And yet, in the closing pages of the Report Madison enters again upon the discussion apparently finished, and in so doing qualifies the early declarations into a meaning entirely different.

Calling attention to the last Resolution of 1798, in which Virginia had invited the other states to declare the unconstitutionality of the Alien and Sedition Laws, and to take the necessary and proper measures to maintain the reserved rights of states, and noting then the declarations of replying states that it belonged to the judiciary of the United States, and not to state legislatures, to declare the meaning of the Constitution, Madison proceeds to deny that Virginia had or has any intention of disallowing to the Supreme Court the power claimed for it by the remonstrating states. What novelty, he asks, did Virginia perpetrate in

merely declaring an opinion that laws of Congress were unconstitutional? "... Whether affirming or denying the constitutionality of measures of the federal government, or whether made before or after judicial decisions thereon. . . ," either declaration, he said, could not "... be deemed, in any point of view, an assumption of the office of judge." And why not? Because, "the declarations in such cases are expressions of opinion, unaccompanied with any other effect than what they may produce on opinion, by exerting reflection," whereas "the expositions of the judiciary, on the other hand, are carried into immediate effect by force." Therefore, "... in the example given by the state, of declaring the Alien and Sedition Acts to be unconstitutional, no trace of impropriety has appeared. And if the other states had concurred in making a like declaration, supported, took by the numerous applications flowing immediately from the people, it can scarcely be doubted that these means would have been as sufficient as they are unexceptional." And to finally illustrate the innocence of Virginia's action, the report noted that the recourse it had relied upon was only one of several constitutionally provided. The states might have made a direct representation to Congress for the act's rescission. They might have notified their representatives of a wish to have two thirds of Congress propose an explanatory amendment to the Constitution. Or two thirds of themselves, if such had
been their opinion, by application to Congress, might have called a convention for the same object. In this qualifying light, the right of the states to judge for themselves of constitutional infractions, and of interposing to prevent their operation within the states, meant only that in cases when federal legislation might pose extreme danger to the states, the states might then voice their opinion of the legislation's unconstitutional nature, and interpose with the hope of protecting themselves against its operation, by asking the other states to make a similar declaration, trusting that somehow this manifestation of opinion would be sufficient to the protective end in mind.

In view of these observations, it can then be only concluded that if Jefferson and Madison and the legislatures of Kentucky and Virginia meant to be in common advocacy of a recourse for resisting unconstitutional legislation, if they had in mind a new means of abrogating law, what it exactly was, is not determinable from the promulgating proclamations.

An examination, therefore, of these documents themselves, results only in inconclusion as to what exactly they meant to advocate. If they were purposed to announce an agreed upon mode of abrogating law, what that mode was is clearly not determinable. It may next be considered, therefore, whether the

men most instrumental in the formulation of the documents have given any supplementary indication which would illuminate their intentions to better understanding.

Of all state rights Republicans, there was probably no one of inclinations more basically akin to those of Federalism, than was James Madison. It is consequently difficult to believe that Madison could have meant to advocate a true doctrine of individual nullification. In the latter years of his life, when the South Carolina nullification debate was raging, Madison positively denied that this had ever been his intention. Quite to the contrary, he declared repeatedly, that being a "... compact among the States in their highest sovereign capacity, and constituting the people thereof one people for certain purposes, it cannot be altered or amended at the will of the States individually, as the Constitution of a State may be at its individual will." 13

In defending himself and the Virginia Resolutions against having proclaimed such a doctrine, he pointed to the plural usage of the term states, to express the rights set forth. By the authority to interpose, it "... was not meant the authority of the States singly & separately," he said, "but their authority as the parties to the Constn. ... ." 14

13 Madison to Edward Everett, August 28, 1830, Writings, Hunt ed., IX, 386-387.

could there be any doubt of the intent of the Virginia Assembly. Citing the seventh resolution, he recalled that as originally introduced to the Assembly, the term unconstitutional was followed by null, void, etc. But because these added words were considered by some as "... giving pretext for some disorganizing misconstruction..." they were "... unanimously struck out, or rather withdrawn by the mover of the Resolutions." Madison concluded that this unanimous erasure of nullifying expressions, "... was a pretext by the H. of Delegates, in the most emphatic form against it."  

It would seem justifiably and accurately said that Madison personally, as he claimed, truly never meant to advocate nullification by an individual state. His entire constitutional philosophy seems testimony to the contrary. As Brant has noted with reference to the Virginia Resolutions and Report, Madison had no desire to exalt state sovereignty. When, however, searching for some safeguard against congressional encroachment, his anxiety led him further than reason would let him remain. It seems almost certain that in the wording of the Virginia Resolutions, Madison came to feel that he may actually have said more than he wanted to say.

---


Certainly in his Report of 1800, without expressly retracting the language of the earlier document, he strove in every way to show that it did not have the meaning that the Federalists credited it with having. When Jefferson was outlining the plans for the second state of the Republican attack, Madison distinctly exerted a restraining influence on his friend, as to the ground that was to be taken. 17

The doctrine which seems most nearly that of Madison's intended advocacy, and which certainly in the Report of 1800 he manifested clearly was that which he hoped would be drawn, is that which Professor Powell, has in fact concluded was expressed in both the Virginia and Kentucky Resolutions. "The position taken," he writes, "may be summed up as an appeal to the people, as states, to co-operate in nullifying malign legislation, endorsed by the other departments of government. Neither Virginia nor Kentucky proposed that separate action which would constitute revolution." 18 Madison ardently sought some effective way for the states to defend themselves against unconstitutional legislation; ideally to


render it a nullity within the states. His reasoning, however, would not let him take that position which was clearly the one way which this might be accomplished, i.e., nullification by individual states. He, therefore, struck out idealistically and vaguely to advocate alternatively a scheme for plural nullification. He seemed to hope that somehow if the people in each state would indict any given piece of federal legislation as unconstitutional, the collective censure could result in the act's being finally treated by the force of this censure, a nullity in all the states. Therefore, he would hold for the right of each state to pronounce an opinion of unconstitutionality, to the end of winning others to its position, that their combined opinions might finally work the desired de facto nullification.

The Kentucky Resolutions of 1798, as pointed out, were to all intents an assertion of a true doctrine of individual nullification. There was no usage of general language to allow a leeway of interpretation. Moreover, the Resolutions of the following year seem positively to have been in confirmation of such an assertion. In view of the degree to which Jefferson was responsible for the wording of both these documents, it seems reasonable to believe that he may well have meant to advocate exactly what appeared to have been the advocation. Had circumstances proved favorable, he very
possibly would have been in favor of tangible action to make the right an operational reality, rather than a claim only.

The fact that in spite of the ominous nature of their language, neither Kentucky nor Virginia took any positive action, which could be construed as an application of a doctrine of individual nullification, has, of course, been perhaps the main factor in convincing historians that no such doctrine was really meant to be claimed. It should be remembered, however, that even were individual nullification the right claimed, circumstances were most unpropitious for any attempt to apply it. The position of the Republicans at this time was an extremely precarious one. As a consequence of the disaster of X. Y. Z., the party's popularity had receded to an all time low. Additionally, the nation was gripped by the hysteria of war, and the fear of invasion was far from remote in many minds. The peace time army was at a strength greater than at any time in the nation's history, and it was entirely at Federalist command. The Sedition Law broadened tremendously the scope of what might be considered in word or deed a punishable act of subversion, and it was designed specifically to silence Republican criticism of the government. In short, the power of the central government was at an all time high. Obviously any attempt by a state to forcibly resist federal law might well have met with instantaneous suppression.
Without doubt, Jefferson realized this. He was, therefore, not apt to take any action which would invite the defeat of all he was striving to attain. Shortly after the passage of the Kentucky Resolutions, Jefferson explained to Madison what he hoped would be the guiding rule in coping with the situation.

I enclose you a copy of the draught of the Kentucky resolves. I think we should distinctly affirm all the important principles they contain, so as to hold to that ground in the future, and leave the matter in such a train as that we may not be committed absolutely to push the matter to extremities, & yet may be free to push as far events will render prudent. 19

Obviously forcible resistance to federal legislation would be pushing the matter to dire extremities. Jefferson was not likely to do this. Yet to declare a right of nullification, but to prudently refrain from applying it, unless the conditions became propitious for its success, might allow the matter to be pushed as far as safely possible. If the response to the Kentucky and Virginia action should prove favorable in the other states, or if the government reacted waveringly, then it might be feasible to proceed as far as the doctrine seemed to allow. But if favorable results were to accrue from a plan of this sort, the first impression must be as forceful as possible. Certainly no favorable results were apt to follow from any conventional sort of protest. This

was apparent from past efforts. Therefore the plan now to be tried could not be weakened initially by removing the possibility that a true nullification doctrine was not meant, or would not be applied. It were as well to take no action at all, as to take action so watered down as this would be.

To reason in this fashion would seem a plausible explanation as to why Jefferson employed language so extreme, and yet so seemingly empty. "Resolved," read the Kentucky Resolutions of 1798, that "... the act of Congress of the United States... entitled 'An Act concerning Aliens'... is altogether void and of no force." And not only was a like declaration made against the Sedition Act, but also against "... all other acts which assume to create, define, or punish crimes other than those enumerated in the Constitution. ..."

20 In the light of this language, could there be any vestige of doubt that the Alien and Sedition Acts were meant to be thereby rendered and considered as no longer operative within the state? True, Kentucky Congressmen were asked to seek the repeal in Congress of the said legislation, but this cannot be interpreted to mean that it would in the meantime not be made a dead letter within the state. Rather it seems more properly presumable that this end was desirable merely in consummation and confirmation of the action

initiated by the state. Certainly an ideal end to an application of the doctrine at any time would be to have the occasioning legislation written off the record, as if in concession to the correctness of the state's or states' interpretation, and in compliance therewith. And yet, language notwithstanding, the Republicans took no measures designed to implement such declarations; no measures to indicate positively that the Federalists would be prevented from enforcing their acts within the state. At the time the Virginia Resolutions were passed, a bill was introduced to allow Virginia judges to set aside any conviction under the Alien and Sedition Acts, but it failed of enactment. 21

The fact that the Kentucky Resolutions of 1799 expressly declared that the state would bow to the laws of the union is by no means conflicting to a theory of this kind. 22 By this time it was apparent that the venture was not going to produce the results hoped for. And since it would be foolish, and totally consonant with the Republican plan, to push the matter to the point of inciting the Federalists to employ force, there was no reason to continue the bluff. In November of 1799, Jefferson wrote again to Madison, recommending a policy of "... protestation against violation of the true


principles of our Constitution, merely to save them, and prevent precedent and acquiescence from being pleaded against them; but nothing to be said or done which shall look or lead to force, and give any pretext for keeping up the Army."  

Both the Kentucky Resolutions of 1799 and Madison's Report of 1800 conformed precisely to the toned down temper of the new policy. Having failed to attain the major goal, Jefferson revised his strategy accordingly. There was danger that if Virginia and Kentucky did not answer the criticism of the Resolutions of 1798, it would appear that they had admitted its validity, and yielded their own position. Since these Resolutions were not only an announcement of a new doctrine for abrogating law, but a broad statement as well of Republican principles, this might be disastrous to the cause of Republicanism. Therefore replies were necessary, not to continue the campaign of 1798 except secondarily, but mainly to preserve the Republican cause. The fact, however, that the Kentucky Resolutions of 1799 did reaffirm the nullification doctrine in its earlier stated form, could be argued as indication that Jefferson now considered it among the Republican principles.

On the other hand, there is a strong, if not stronger, reason to believe that Jefferson did not embrace a doctrine

---

of individual nullification. Madison vigorously declared that he did not. He admitted that though Jefferson had written with emotional fervor, he had nevertheless not given sanction to the heresy that a single state, remaining within the protection of the union, could by its sole legislative decision, nullify the laws of the federal government. The new theory had been wrongly fostered on Jefferson. While noting that the Kentucky Resolutions had stated that when powers were assumed which had not been delegated, a nullification of the act was the rightful remedy, that every state had a natural right in cases not within the compact, to nullify, Madison pointed out that significantly the remedial right of nullification here appealed to was expressly a natural right. Thus it was not a right derived from the Constitution, "...but from abuses and usurpations, releasing the parties to it from these obligations,"

Madison's opinion must certainly be assumed an honest one, but whether he was correct in it, is not positively ascertainable. It is not impossible that he misunderstood Jefferson's sentiments on this matter; this in spite of their close friendship and their cooperation in planning the Virginia and Kentucky Resolutions. Madison may simply have failed to realize that Jefferson really meant what he was

---

writing, and that he was not simply making strong statements
to insure a minimum of gain. In the final analysis, however,
the decision must be left to the discretion of individual
opinion.

Some ten years before the nullification controversy of
1832, John Taylor was making precisely the claim which so
consumed the nation's interest when later made officially by
the legislature of a state. In 1798 he very likely coveted
such a right for the states but it is not entirely clear
whether he sought to claim the right as already existing,
and to apply it, or whether he wished before applying it to
see it incorporated expressly through amendment. Probably
both were true. In the previously cited letter to Jefferson
of June 25, 1798, in which Taylor broached the need of a new
mode of abrogating law, he suggested that "... the Right
of the State governments to expound the Constitution might

25

In 1822 in *Tyranny Unmasked*, Taylor wrote that the
states have the same negative power as the courts of
justice, and that they derive from such character the
same power to reject unconstitutional legislation. From
the fact that the people of the states retained all
power not delegated to the central government, results
"... a positive constitutional veto clearly pre-
cluding both Congress and the federal court from
touching the reserved State rights (p.270); Taylor
advocated what he referred to as a system of mutual
veto or mutual determination, to prevent either the
federal government becoming supreme over the states
or the states over the federal government; he as-
asserted the same doctrine in his later book, *New
Views of the Constitution*, 1823.
possibly be made the basis of a movement towards its amendment." "If this is insufficient," he said, "the people in state conventions are incontrovertibly the contracting parties, and possessing the infringing rights, may proceed by orderly steps to attain the objects." "Constitutional paper vetoes," he concluded, "are nothing compared with a solid check, so woven into the form of government, as to be incapable of a separation from it." 26

On the basis of this letter, and from Taylor's position in the debate over the Virginia Resolutions, it would seem that while claiming the right for the states, he would refrain from applying it until its legality was constitutionally recognized, or until a movement to make the right by amendment a constitutional feature should prove unsuccessful. Taylor declared before the House of Delegates that forcible resistance was not the Republican aim; the cooperation of the other states was their aim; sufficient cooperation, if possible, to have Congress call a convention to amend the Constitution. 27 Nevertheless, when the bill was introduced to allow Virginia judges to set aside convictions under the Alien and Sedition Laws, Taylor gave it his warm support. These actions appear conflictory, but in Taylor's


27 Ibid.
way of thinking they may not have been. When he denied the intent of forcible resistance, he very likely meant armed resistance to prevent law's operation in any respect; whereas to allow the Virginia judiciary to set aside convictions under the acts would be only a legal battle between the federal and state judicial spheres. This would be entirely in line with his later elaborate advocacy of mutual determination. If, however, the federal government should refuse to acquiesce in having the rulings of its judiciary overruled by the state, it must be presumed that Taylor was willing at this time to yield to federal authority, for, if not, the only recourse would have been forcible, armed resistance, which he allegedly renounced.

Whatever may have been his thoughts in this respect, Taylor more definitely than either Madison or Jefferson, may be assumed to have favored the recourse of law's abrogation by the nullification of states severally. Of the three, he was the only one who expressly declared the desire that the new provision be incorporated in the Constitution. That the others did not, must add in the case of each, to the weight of evidence against their having professsed such a doctrine. Since they did not forthrightly advocate its constitutional incorporation, there is strong cause for contending that perhaps they were only employing the idea in the manner of a bluff, as the only untried recourse with a chance of evoking
a response capable of deterring Federalism from the course it was pursuing.

As may well be imagined, it is no more possible to ascertain exactly what Republicans generally believed relative to the doctrine of the Virginia and Kentucky Resolutions than it is to determine what the beliefs were of the men most instrumental in its framing. Adrienne Koch has concluded that the debates in Virginia legislature do not reveal what the members really thought they were committing themselves to. He believes they were more concerned with proving the unconstitutionality of the Alien and Sedition Acts than with formulating fine-spun constitutional theories. 28

F. M. Anderson has made what probably is the most exhaustive specialized study to determine what the general Republican sentiment was. He is of the opinion that in Kentucky and Virginia the people gave indorsement to what he calls the "hinted at remedy" of the Resolutions, though he admits that the details of the doctrine were not so clearly formulated as later. The thesis of his conviction is that in Virginia the questions raised by the Resolutions of 1798 were constantly before the people until after the election of 1800, during which time the Federalists filled the state with pleas to redeem itself. Most of these pleas were

28 Koch, "Virginia and Kentucky Resolutions," p. 162.
grounded on the basis that the Republicans were seeking dissolution of the union. The issue of state or national sovereignty, he contends, was plainly put before the people for endorsement or rejection. Therefore, he concluded, the approval of Madison's Report of 1800 was a consequence of deliberated public opinion, and was an affirmation of the views of 1798.  

In Kentucky, also, Anderson observes, the issue of state versus national sovereignty was made clear to the people. This was especially effected by the wide circulation of two articles. One was George Nicholas' *A Letter from George Nicholas of Kentucky to His Friend in Virginia*, and the other a rejoinder issued at Cincinnati by "An Inhabitant of the North Western Territory." This rejoinder asked Kentuckians to read the Resolutions and see if they did not lead directly toward securing a dissolution of the union, and said, in fact, that Kentucky had refused obedience to federal laws, and so far as it could do so had dissolved the union. Anderson believes it can be concluded that the legislature elected in the fall of 1799 represented the deliberate opinion of the people of Kentucky upon that feature of the "hinted at remedy" of the 

---

Resolutions of 1798, upon which they had not already expressed their opinion.\textsuperscript{30}

It should be remembered, however, that in spite of the fact that both the people of Kentucky and Virginia may have been well aware of the interpretation put upon their resolutions of 1799 and Madison's Report of 1800, both of these documents were more reserved than their predecessors. There is basis, therefore, for assuming if anything, the peoples of these states must have signalled a definite retreat from the position they were accused of taking in the first instances.

Relative to the Republican opinion as manifested in the available proceedings of the legislatures which considered replies to Kentucky and Virginia, Anderson has found that there was nothing like unanimity over the proposal for state nullification of federal laws. Few, he declares, gave endorsement to the most extreme interpretation of the doctrine. He did find, however, an overwhelming agreement in declaring the unconstitutionality of the Alien and Sedition Laws.\textsuperscript{31}

In summary, then, although Republicans, under the leadership of Jefferson and Madison, sought definitely to devise a new means of abrogating law, it seems they were never able to

\textsuperscript{30} Ibid., p. 238.

come to a consensus as to just what that means should be. The Kentucky and Virginia Resolutions and Madison's Report of 1800, which were to represent the promulgating documents of the new resort, are revelation only of uncertainty. The Republican leaders gave no clarifying explanations, and certainly the bulk of the party entertained no common conviction on the matter. It was a question intrinsically fraught with complexity and complication, and the circumstances under which it was considered, only made its resolution more difficult; in fact, impossible. The sum result was that no conclusion was reached. With the Republican ascendancy, any immediate need for further consideration of the matter was removed, and it was allowed to lapse into oblivion. As long as the Republicans continued a united state rights party, it never again became a subject of their attention.

The Republican opposition to the Alien and Sedition legislation was the climax of the first phase of the struggle for state rights, a struggle which in its subsequent phases was to lead progressively to resistance more extreme, and finally to reach a grand climax in secession and armed resistance. The outcome of this deciding test of strength between the forces of federalism and of state rights was the establishment of the ultimate supremacy of the former, a supremacy presently manifest in the finality of Supreme Court decisions in resolving disputes between the central government and those of the states.
In their course of opposition to Federalism, the Democratic Republicans laid a firm foundation for the more bitter subsequent phases of the struggle. From this foundation it was at most but a single step to forthright advocacy of a doctrine of individual nullification, and but another to secession and armed resistance. Calhoun, in fact, did not think that he had further to go than Virginia and Kentucky had gone already. He supposed, and perhaps correctly, that he was simply making a second stand on the same ground. And except for the restraining influence of Madison, the South in 1860 would likely have found in the pronouncements of these two states, authorization even for the course it embarked upon. It was Jefferson's plan to include in the second set of resolutions a statement to the effect that were the states to be disappointed in their undertaking to safeguard their rights, then they were "... determined... to sever ourselves from that union we so much value, rather than give up the rights of self-government which we have reserved, & in which alone we see liberty, safety & happiness." In deference, however, to Madison's judgment, and "... as we should never think of separation but for repeated and enormous violations, so these, when they occur, will be

---

cause enough of themselves," he agreed to the declaration's omission. 33

Needless to say, although the Confederate defeat did establish the ultimate supremacy of central authority, it did not end the controversy over state rights. This controversy, which was made inevitable from the moment of the Constitution's ratification, will continue as long as government endures essentially in its present federal form. And likewise, as long as it does, the principles first formulated by the Democratic-Republicans will continue to constitute the basic ideology of state rights.

BIBLIOGRAPHY

Primary Sources

Memoirs, Collected Works, and Contemporary Books


Hunt, Gaillard, editor, The Writings of James Madison (9 volumes), New York, G. R. Putnam's Sons, 1904.


Taylor, John, Construction Constrained, Richmond, Shepard and Pollard, 1820.

Tyranny Unmasked, Washington, Davis and Force, 1822.


Secondary Accounts

Secondary Books

Adams, Henry, History of the United States (9 volumes), New York, Charles Scribner's Sons, 1911.


Bancroft, George, History of the United States (11 volumes), New York, D. Appleton and Company, 1884.


---


---


---

Introduction to Political Science, Boston, Ginn and Company, 1910.


Jefferson, Thomas, A Summary View of the Rights of British America, New York, Scholars Facsimiles and Reprints, 1943.

Johnson, Allen, Jefferson and His Colleagues, New Haven, Yale University Press, 1921.


Magazine Articles


"Nathaniel Macon in Southern History," The American Historical Review, VII, 663-75.


Willcox, D. Hamilton, "Was John Randolph a Lunatic?" The South Atlantic Quarterly, XII (January, 1913), 72-78.


Biographies


Conway, Moncure D., Edmund Randolph, New York, G. R. Putnam's Sons, 1889.


Dodd, William E., The Life of Nathaniel Macon, Raleigh, Edwards and Broughton, Prindens and Bondew, 1903.


Rowland, Kate Mason, The Life of George Mason, (2 volumes), New York, G. R. Putnam's Sons, 1892.

