AN UNEASY ALLIANCE: THE RELATIONSHIP BETWEEN

JEFFERSON AND BURR: 1791-1807

THESIS

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

For the Degree of

MASTER OF SCIENCE

By

Dorcas K. Helms, B.S.
Denton, Texas
August, 1979
Helms, Dorcas K., The Uneasy Alliance: The Relationship Between Jefferson and Burr: 1791-1807. Master of Science (History), August, 1979, 152 pp., 1 table, map, bibliography, 126 titles.

Papers, memoirs, diaries, letters and autobiographies from 1791-1807 are studied to determine the relationship between Jefferson and Burr. A limited examination of congressional records for the same period was made. Monographs and biographies of Jefferson, Burr and their contemporaries were studied.

This study shows that the relationship between Jefferson and Burr was one of political expediency and that Jefferson's antipathy toward Burr began in 1791 and not as a result of the House presidential election of 1801. The thesis concludes that Jefferson used Burr's political influence in New England to achieve Democratic-Republican control of the federal government and then used the alleged conspiracy between Burr and the Federalists during the House election of 1801 as an excuse to begin Burr's political destruction.
TABLE OF CONTENTS

Chapter

I. THE EARLY YEARS: 1791-1796 ........................................ 1
II. THE TENUOUS YEARS: 1797-1800 .................................. 21
III. POLITICAL ALIENATION: 1801-1802 ............................ 44
VI. WESTERN EXPEDITIONS: 1803-1805 ............................ 74
V. TREASON TRIALS AND THE BATTLE FOR
   EXECUTIVE OR JUDICIAL SUPREMACY ......................... 98
VI. EPILOGUE .......................................................... 131

TABLE ................................................................. 50
MAP ................................................................. 101
BIBLIOGRAPHY ....................................................... 143
CHAPTER I

THE EARLY YEARS: 1791-1796

By the time Aaron Burr was born at Newark, New Jersey, on 6 February 1756, the Burr name was well known and respected in New England and the middle colonies. His great-grandfather, Jehue Burr, came to Massachusetts with John Winthrop and later established his family in Connecticut. His father, the Reverend Aaron Burr, became one of the founders and the second president of the College of New Jersey (later renamed Princeton College) and married Esther Edwards, who was the daughter of noted theologian Jonathan Edwards and Sarah Pierrepont. Both of his parents died before Aaron Burr was three years old, and he and his older sister, Sarah, became wards of an uncle, Timothy Edwards. At the age of thirteen, he was admitted to the sophomore class of the College of New Jersey. When he graduated four years later, Burr began preparing for the ministry at a theological school in Bethlehem, Connecticut, conducted by Dr. Joseph Bellamy, who was a friend and former student of Jonathan Edwards. Burr became disillusioned with religion, and after a few months abandoned his theological studies. In 1774 he became a student at Litchfield Law School, which was founded and directed by his brother-in-law, Tappan Reeves.¹

When the Revolutionary War began in 1775, Burr presented himself to General George Washington as a volunteer with letters of introduction from the president of the Continental Congress, John Hancock, and Representative Colonel Lewis Morris. His military service included participation in General Richard Montgomery's ill-fated assault on Quebec and staff duty with Washington and General Israel Putnam. Burr developed a reputation as a strict disciplinarian and an effective intelligence officer, and he attained the rank of lieutenant-colonel, which was the designation he preferred to use for the remainder of his life.²
The greater part of his military service was in New York, and he was notably successful there in restoring order in the western counties, where lawless brigands calling themselves "Cowboys" (those who claimed to be Tory sympathizers) and "Skinners" (claiming to be rebel sympathizers) were plundering. In addition to establishing a credible reputation with the inhabitants of the western counties, his service in New York afforded Burr the opportunity to become well acquainted with the influential Clinton, Livingston and Schuyler families, who had controlled politics since the colonial period. The amicable relations Burr established with them during the war determined his success in the Empire State after the Revolution.

The colonel resigned from the army in 1779 because of poor health and resumed his study of law. He was admitted to the bar in early 1782 and began a legal practice in Albany. A few months later, Burr married Theodosia Prevost, who was the widow of a British officer and the mother of two children. He moved his new family and law practice to New York City when the British evacuated it in 1783. It was an opportune time for a young lawyer to establish himself professionally because passage of a disqualifying act in 1781 excluded from practice many attorneys who could not prove they were patriots during the Revolution.

The year following his relocation to New York City, Burr was elected to the state legislature. Political factionalism developed in New York, as in the rest of the states, during the controversy over the ratification of the Constitution in 1787-1788. The Empire State's three most politically powerful families led the fight. George Clinton, governor since 1777, opposed ratification, while the Livingstons and Schuylers supported it. During the conflict Burr followed his own dictum to "never do today what you can as well do tomorrow; because something may occur to make you regret your premature action," and he did not identify himself with either side. His political position was strengthened not only because of his friendship with both groups and lack of definite alignment with either, but also because he had a group of active followers who were devoted to his interests. Among
the more active of the group were John and William P. Van Ness, and Robert and John Swartwout, who were socially and politically well connected. As his prestige increased, it brought Burr to the attention of Thomas Jefferson.

A member of the landed gentry of Virginia and a delegate to the Continental Congress, Thomas Jefferson had achieved renown as the drafter of the Declaration of Independence. In 1779 he was elected by the legislature of Virginia to succeed Patrick Henry as governor. British forces under the command of Benedict Arnold invaded Virginia in January 1781 and easily captured the capital, Richmond, which had been hastily evacuated by the governor and the legislature. Criticism of his management of the war effort caused Jefferson to resign in mid-1781 and prompted a legislative inquiry that absolved him of culpability but left him extremely bitter. In 1783 he was elected to Congress, and the following year Jefferson was appointed as minister plenipotentiary to join Benjamin Franklin and John Adams in France to negotiate trade treaties with the nations of Europe. Jefferson remained in France until 1790, and when he returned, it was to serve the Washington administration as the nation's first secretary of state.

In 1790 the federal government was temporarily located in New York City, and when Jefferson arrived there to assume the duties of his new office, Congress was debating the fiscal proposals made by Secretary of the Treasury Alexander Hamilton. Virginia led the opposition of the southern states to the proposals, and Hamilton appealed to Jefferson and James Madison to use their prestige to secure the passage of the measures in exchange for the location of the permanent capital on the Potomac River. The Virginians agreed, and the proposals were adopted. However, when Hamilton recommended the chartering of a national bank in December 1790, Jefferson and Madison became the acknowledged leaders of those who opposed it as a further attempt to concentrate the power of the federal government at the expense of the states. The lines of political division were drawn between Hamilton's Federalist party and the opposition, who began calling themselves Democratic-Republicans.

The Federalists were dominant in the northern states, which gave them a
numerical superiority in Congress and the electoral college. If their control was to be successfully challenged by Republicans, an alliance between the South and one or more of the northern states was necessary. Of these Massachusetts, Pennsylvania, and New York had the greatest numbers of electoral votes. Hamilton's party was dominant in Massachusetts and Pennsylvania, although the Republicans, through Albert Gallatin, gained ground in the Keystone State during the 1790's. New York was the logical choice for a political alliance for two important reasons. First, it was Hamilton's adopted state, and a strong Republican party there could be of strategic importance by challenging his position locally. Second, chances of success were good in New York because the Federalists never maintained total dominance there, and control of the state government fluctuated with each election. Of the two senators from the Empire State, Rufus King was a Federalist, but Colonel Burr, who had replaced Philip Schuyler in 1791, was something of a political mystery. As late as 1792, the Albany Gazette claimed that he was not a member of either party. Although he generally aligned himself with the Republicans, Burr adopted a moderate position and maintained cordial relations with the various political factions within the state. His political success in New York was a result of jealousy between the two leading Republican families and his lack of connections with either.

The Clintons, who were Antifederalists during the ratification controversy, had become Republicans. The Schuylers, connected by marriage to Alexander Hamilton, were leaders of the Federalists. The Livingston family was at first of Federalist persuasion but joined the Clintons in opposition to the Hamilton-Schuyler combination because they thought they had been politically slighted by the Federalists. Jealousy between the Clintons and Livingstons enabled Burr to establish himself in a compromise move when Schuyler's short Senate term ended in 1791, and he had to seek reelection. Burr's election as senator placed him in a dominant position within the state at a time when southern Republicans were looking for a northern ally. He became the only choice for a political partnership because both the Livingstons and Clintons could support him.
The colonel's elevation in New York created a dilemma for the Virginians. Jefferson accepted the alliance with Burr, but their relationship was an uneasy one from the beginning. He mistrusted both Burr's ambitions and his politics. Uriah Tracy, an "arch-Federalist," voiced Jefferson's own fears when he wrote, "Burr is a cunning man. If he cannot outwit all the Jeffersonians, I do not know the man."  

Aaron Burr went to Philadelphia and took his Senate seat in October 1791 for the first session of the Second Congress. For part of his six years in Philadelphia, he lived on High Street in the same neighborhood as fellow Senators John Langdon of New Hampshire, Pierce Butler of South Carolina, and Representatives Edward Livingston of New York, William Branch Giles of Virginia and Jonathan Dayton of New Jersey. Other notable residents of the same neighborhood were the secretary of state and the president. In later years Jefferson claimed that he first met Burr when he came to the Senate, although, as secretary of state, Jefferson was in New York during 1790 while the government was still located there. Furthermore, Jefferson and Madison took a four week "botanical excursion" in May and June of 1791 that covered 920 miles through New York and New England. They spent time in New York City and Albany, and although there is no indication it was anything other than a pleasure trip, it seems likely that they used the opportunity to call on party leaders and the newly elected senator who had not yet gone to Philadelphia. One New York Federalist commented on the trip to Hamilton that there was "every appearance of a passionate courtship between the Chancellor (Livingston), Burr, Jefferson and Madison . . . ." 

Burr was well received by society in Philadelphia and wrote to his wife about the many social invitations and attentions he received. He spent a great deal of time during his first winter in Philadelphia gathering material for a history of the American Revolution from the records of the State Department, all of this done with Jefferson's permission. He also served on at least eighteen different committees concerned with topics that included determining the time
of choosing presidential electors and the manner of transmitting votes to Congress, establishment of the post office department, frontier protection, apportioning of representatives and fiscal appropriations for 1792. On approximately half the votes taken in the Senate during his first session, Burr voted the same way as his Virginia Republican colleague, James Monroe, and he remained a political mystery. He was not present to vote on 26 March when Monroe proposed that the Senate conduct its proceedings with open doors, but the motion was defeated by a margin of two to one, so his absence was not significant to the issue.

His nebulous politics disturbed the Republicans, and they increasingly distrusted his ambitions. When his name was mentioned as a possible candidate for both parties in the gubernatorial election for New York in 1792, such action seemed to justify the Republican's lack of confidence. Burr announced that he was not a candidate for the office, and the contenders became Republican George Clinton and Federalist John Jay. The latter received a majority of 400 votes, but the ballots of the counties that gave him the majority, Otsego, Clinton and Tioga, were questioned by the canvassers because of irregularities in their delivery to the secretary of state. These canvassers asked for the opinion of the state's senators, King and Burr, regarding the acceptance or rejection of the votes from the three counties. Burr was reluctant to offer an opinion, but King was not hesitant to assert that the votes should be counted. Before stating his position, Burr sought the advice of Pierpont Edwards of Connecticut, Jonathan D. Sergeant of Pennsylvania, Edmund Randolph of Virginia (who was then United States attorney general), and others. Those consulted agreed with his view that a strict adherence to the technicalities of the law should be observed and the votes disqualified because of irregularities in their delivery.

As the canvassers chose to accept the opinion of the young senator, the votes were disallowed, and Clinton was declared the winner. Burr's opinion was regarded as a partisan one and aroused a great deal of consternation, not only among Federalists, but among some Republicans as well. Monroe expressed disgust with the affair and noted a poor opinion of Clinton and Burr in a letter to
Jefferson. It might, he said, be necessary to support the governor as a "center of union to the republican party in that State," and although there were things about him and his election that were objectionable, he was certainly preferable to Burr as a leader of Republican interests. Monroe's letter shows clearly how serious was the concern over who would be the leader of the party in New York and how hesitant the Virginians were to concede that position to Burr. His voting record during the first session did nothing to allay attitudes about his unpredictability. He did not participate as actively on committees during the second session, but his voting record concurred with Monroe's in about the same percentage as during the previous session.

The vice-presidential election of 1792 proved to the Republicans that Clinton's strength was not sufficient outside his own state to help achieve their ambitions. Washington had agreed to serve another term as president, and his popularity precluded any challenge to his position. Vice-President John Adams did not have the same acclaim as Washington, and there was a chance of replacing him with a Republican. Jefferson did not intend to be a contender, but Clinton and Burr were both possibilities. Hamilton feared the Republicans would use Burr to divide the votes of the northern and middle states and thus produce Jefferson's election by southern votes. Rufus King warned Hamilton that if Jefferson and his friends supported Burr, Adams's votes would be so reduced that he might refuse to serve.

The colonel's friends in New York, Melancthon Smith, Marinus Willet, and John Nicholson, pressed Burr's candidacy on Monroe. Nicholson claimed that votes from the middle and eastern states would be given to the senator that would not be given to Clinton. He also advised Monroe that it was the governor's preference that Burr be the candidate. Monroe wrote to James Madison, then a congressman from Virginia, about the letters from Smith, Willet and Nicholson. He stated it was his opinion that if Burr was "in every respect inexceptionable it would be impossible to have him elected." The reasons he gave were the senator's youth and lack of experience, but Monroe particularly insisted that the nomination should only go to one who "had given unequivocal proofs of what
his principles really were ...' instead of to one whose future conduct could not be anticipated by his past conduct.

Monroe was only echoing statements other Republicans and some Federalists, particularly Hamilton, were making about Burr's unreliability. His popularity with many Federalists and his practice of letting his actions speak for themselves and inviting his fellow men to interpret them as they pleased filled the Virginians with suspicion. It was particularly so for Jefferson, who was notable for continually defending and justifying his own actions. Until Burr proved himself, Jefferson and Monroe were content to have him remain in the Senate, where they could keep him under close observation. At a meeting in Philadelphia on 16 October, it was decided that Clinton would be the vice-presidential candidate. John Beckley, clerk of the House of Representatives, had just returned from New York and told Madison that he had Burr's assurance he would "completely" support the efforts to elect Clinton.

The election results proved the veracity of Nicholson's prediction about Clinton's lack of support in New England. In the final tally the governor received fifty electoral votes to Adams's seventy-five, but it was significant that the majority of his votes came from New York (twelve) and Virginia (twenty-one), with the rest being from other southern states. Evidently Clinton could not bring enough votes from the northern states into Republican totals to defeat Adams. It then seemed that a partnership with Burr would be necessary to insure success.

Events of 1793 gave Burr the opportunity to prove his partisanship. On 1 February of that year, France declared war on Great Britain. War between the two nations deepened the political divisions between the Federalists and Republicans, since the former were pro-British and the latter were pro-French. There was no question about Burr's sympathies in the matter. His admiration for France was well known, and he was among those who condemned the administration's avowed neutrality. He had given refuge in his own home at Richmond Hill in New York to a young girl, Natalie de Lage, who was the daughter of a French rear admiral and a former maid of honor to Queen Marie Antoinette. She was about
the same age as his own daughter, Theodosia, and a French governess was engaged to improve the young girls' manners and French. He asked his daughter to write him letters in French and encouraged the young ladies to visit the emigrés in New York.

In the Senate Burr adopted a more partisan position. He voted to require the diplomatic correspondence between Gourverneur Morris, American minister to France, and the French government be submitted to Congress. He also voted with his Republican colleagues for a purely political constitutional amendment declaring anyone who held stock or offices in the Bank of the United States to be ineligible for congressional office. His most impressive action was in defense of the legality of Republican Albert Gallatin's senatorial election. Gallatin was elected in 1793 by the Pennsylvania legislature, but Senate Federalists challenged his eligibility on the basis of the length of time he had been a citizen. Rufus King of New York was active in his party's attempt to unseat Gallatin, and the right of defense fell to the Republican senator from New York. John Taylor of Caroline (Virginia) wrote to Burr, "We shall leave you to reply to King; first, because you desire it; second, all depends upon it; no one else can do it, and the audience will expect it." Vice-President Adams pledged himself to vote for Gallatin in case of a tie, but Benjamin Hawkins of North Carolina, who was expected to vote for the Pennsylvanian, was not present for the balloting, and Robert Morris, the other senator from Pennsylvania who had intended to abstain, voted with the Federalists. The final vote was fourteen to twelve to deny Gallatin his seat. Burr's able defense nearly succeeded and caused favorable comment among Republicans.

In April 1794 the president nominated Chief Justice John Jay as minister plenipotentiary to Great Britain to settle diplomatic problems stemming from the American Revolution and the British war with France, and again Burr took a partisan stand. He objected to the appointment of a special minister and particularly to the selection of Jay. He offered a resolution that the United States act through its minister to England, Thomas Pinckney of South Carolina, on the
grounds that it was more expedient and less expensive. He objected to Jay on the premise that allowing the appointment of judges of the Supreme Court by the president to any other office was contrary to the "spirit of the constitution" and impolitically exposed them to the influence of the executive office. Burr's resolution failed, and the Senate confirmed the appointment, but Burr was one of only eight who voted against it.

Burr's partisanship should have satisfied Republicans, but they never overcame their initial mistrust of him. When the French government requested the recall of Gouverneur Morris in May 1794, the Jeffersonians tried to have Burr appointed to the post. If he were out of the country, his position of influence in New York would be relinquished to someone in whom they could place more confidence. The French had resented Morris's monarchist sympathies, and Washington indicated willingness to appoint a Republican to the position. In two interviews with the president, Madison and Monroe urged the appointment of Burr, but Washington declined on the grounds that he considered Burr's integrity to be doubtful. He offered the post to either Madison or Monroe, but they refused. The two later met with Edmund Randolph, who had succeeded Jefferson as secretary of state, and agreed to the nomination of Chancellor Robert R. Livingston of New York. Monroe reported to Jefferson, "Burr's name was mentioned to Randolph but with the success that was previously expected..." Livingston refused the offer, and Monroe himself finally accepted it "because of the uncertainty of the person upon whom it might otherwise fall." However, he told Jefferson that he did not accept until Randolph assured him it was impossible for the appointment to go to Burr and until he received the further assurance that Randolph would explain the circumstances to the colonel's friends.

Ironically, the greater Burr's popularity with both parties, the more the Republicans were forced to consider him as a leader of their interests in the North, and the less they trusted him. In late 1794 there were numerous rumors that he would be a candidate for the New York gubernatorial election of 1795.
Madison wrote to Monroe in December that it was a matter of speculation that Hamilton would be a candidate, but he stated definitely that Burr would be a competitor. Stephen Van Rensselaer III, a Federalist state senator, claimed in November that Burr was an "avowed" candidate, and that he would run with him as lieutenant governor. There is no evidence that Burr contemplated a nomination from the Federalists, and it was inconceivable that Hamilton would have allowed it. Governor Clinton announced that he would not be a candidate, and the Republicans, with difficulty, finally agreed to support Judge Robert Yates. Yates had run against Clinton in 1789 as the pro-Constitution candidate, and because of his personal friendship for the judge, Burr supported his candidacy in that election. Hamilton chose John Jay to oppose Yates in 1795, and Jay won the election. Since Congress was in session during the nominating furor in New York, Burr was in Philadelphia, and it was his personal popularity with both parties rather than any personal intrigues that resulted in his name being mentioned as a possibility by both. However, the rumor that some Federalists considered him a likely nominee for their party was another indication to Jefferson and the Republicans that Burr could not be trusted. It should be noted that throughout his career every action on his behalf by his friends was credited to his connivance.

In June 1795 the president called the Senate into special session and presented a document for approval that gave Burr an opportunity to demonstrate, again, his Republican affiliation. This was the controversial treaty John Jay had signed with the British on 14 November 1794. Many Federalists were shocked by the provisions, but attitudes towards it became a matter of party allegiance, and they decided to support the treaty which they considered essential to the preservation of peace and their own domestic program. Burr asked for a meeting with the president on 18 June, but it is uncertain whether it was granted. On 22 June he voiced Republican criticism of the treaty in the Senate in a resolution stating "That the further consideration of the treaty . . . be postponed, and that it be recommended to the President of the United States
to proceed without delay to further negotiations with his Britannic Majesty . . . " The changes he advocated included elimination of four articles and modification of six others. However able Burr's efforts, they were doomed because the Federalists had a numerical superiority in the Senate. On 24 June the upper chamber approved the treaty by a bare two-thirds margin and took exception only to part of Article XII concerning the West Indies trade. By July the provisions of the treaty were known publicly, and Burr's opposition increased his standing among Republicans of his own state. At dinners held by the Democratic Society, the Society of St. Tammany, and the Military Society in celebration of July 4, numerous toasts were drunk to Burr and the other "virtuous" and "independent" senators who voted against the treaty. Other Republicans were impressed with the excellence of his speech against the pact.

Jefferson resigned as secretary of state in late 1793 and retired to Monticello in early 1794, but his friends in Philadelphia, primarily Madison, were constant correspondents and kept him informed of all newsworthy events. There was no correspondence with Burr, but Jefferson could not have remained unaware or indifferent to the senator's activities. He received a copy of Jay's Treaty in the summer of 1795, and as much as he opposed the document, he regretted the opportunity it gave Burr to become a spokesman for the Republican party. 1796 was a presidential election year, and the former secretary of state did not want Burr to gain sufficient popularity within the party to be considered as the Republican presidential contender. He intended for that honor to go to his fellow Virginian, Madison. He wrote to Madison in late 1794, "I do not see in the minds of those with whom I converse, a greater affliction than the fear of your retirement; but this must not be, unless a more splendid & a more efficacious post. There I should rejoice to see you; I hope I may say, I shall rejoice to see you." Jefferson would not willingly let Burr usurp a position he wanted for Madison, even if he considered the colonel perfectly reliable. Leadership of the party rightfully belonged to Virginia in Jefferson's view, and he would not let it pass to a New Yorker of doubtful political integrity.
From September through November 1795, Burr made a peculiar journey from New York to Virginia and then to Philadelphia. He spent some time in the District of Columbia, but the object of the trip was a visit with Jefferson at Monticello. It was a surprisingly short visit of only one day. There are no records of the meeting, but undoubtedly they discussed Jay's Treaty and its possible implications for Republican success in 1796. The significance of the visit was its brevity. It seems unlikely that Burr would have made such a trip for discussions that could be concluded in a day's time. It seems more unlikely that he would have undertaken the journey to discuss only the controversial treaty. Thoughts about that could be more easily communicated through letters. It should be noted that Burr was always extremely reticent to commit anything of a politically significant nature to the mails. Jefferson, too, counseled caution in his correspondence on the grounds that letters were often read by those for whom they were not intended. It was not uncommon for postmasters and post riders to open and read letters; therefore, for many years businessmen and politicians frequently corresponded in cipher. Madison, Monroe, Jefferson and Burr used ciphers in their letters on occasion. Whatever the object of discussion that October day, it must have been so important that it could not be put in a letter, even in code. A likely assumption would be that Burr's objective was determining what Jefferson's plans were for the election of 1796.

It was known, though not publicly acknowledged, by the beginning of 1796 that Washington would not be a candidate for a third term. He revealed his decision in March, but a public announcement was not made until September. The Republicans now intended to challenge the Federalists for control of the executive office. Any hopes of success lay in sponsoring someone whose reputation could rival that of Adams, who it was expected would be the other candidate. Monroe, still in France, received a letter from Madison written in late February stating that since Jefferson was the only person who could be successful, it was in the Republican interest to push his candidacy. In May Madison reported to Monroe, "It is now generally understood that the President will retire. Jefferson is the
object on one side Adams apparently on the other. The secondary object is still unsettled."\textsuperscript{43} Burr communicated the same information in September to Monroe. He wrote, "The approaching election will be on both sides, urged with much activity. Jefferson and Adams will I believe be the only candidates. The prospect of Success is in favor of the former."\textsuperscript{44}

A balanced ticket dictated that the second place go to someone from a northern state. Gallatin and Burr were the two most prominent members from that section. Jefferson preferred someone like Gallatin, but his foreign birth was a liability, and he did not have the popular appeal of Burr. The colonel's ancestry and his own personal popularity in his state and New England among Federalists as well as Republicans could only add prestige to the party's ambitions in an area where their support was weakest. Gallatin and the Pennsylvania Republicans favored Burr, and at a party caucus in Philadelphia on 26 June, they named him to the second place. By the time this nomination occurred, however, it was already clear that the votes of New York would not go to the Republicans. State elections held early in the year had given the Federalists a majority in the state legislature, which assured that the electors would also be Federalists since they were chosen by that body. There was, however, an opportunity to use Burr's standing with the Federalists to Republican advantage. He could be used as the party's political pawn. If Burr could divide Adams's support in New England, there was a good chance that Jefferson could be elected president without the votes from New York. A Federalist representative from New Jersey, Jonathan Dayton, tried to swing support from Adams to Burr, preferring his election to Jefferson's. He wrote to Theodore Sedgwick of Massachusetts advising that the Federalists support Burr since it was doubtful Adams could win.\textsuperscript{45} Sedgwick replied that even if Burr had every vote from Massachusetts, he would not have the "least" chance of election to either office. The reason, he said, was "The party with which he has generally acted, altho' they covet the aid of his character and talents, have not the smallest confidence in his hearty union to their cause .... They doubtless respect Burr's talents, but
they dread his independence of them. 

Dayton's efforts indicated that the Republican assumptions were not groundless, and Sedgwick's comments proved to be an astute evaluation of the situation.

Burr campaigned for the party in New England during the autumn prior to the election. After returning to New York, he kept in touch with the situation through letters. In November he asked Pierpont Edwards of Connecticut to "favor me with one line respecting your hopes from the Electors of Connec. & R.I. . . . ." He told Edwards that his information indicated their ticket would obtain a large majority in Pennsylvania unless the votes were "stolen or fraudulently suppressed." Despite Burr's efforts, neither of the Republican candidates received a single vote from the New England states, and the only northern state in their column was Pennsylvania. The actual distribution of the vote between Jefferson and Burr must have surprised the latter and caused as much distrust on his part as already existed on the other. He received only marginal support in the southern states and only one vote from Virginia, which gave twenty to Jefferson, fifteen to Samuel Adams, and three to George Clinton. Burr's total of thirty votes placed him fourth in the election, while Jefferson's sixty-eight placed him second. Burr commented sardonically on the results to a friend, "It is now known that Adams is chosen President and Jefferson [sic], Vice-President. It is doubtful whether the latter will serve. I think he will."

The closeness of the vote between Jefferson and Adams caused some speculation that the election might result in a tie. Jefferson wrote to Madison on 17 December expressing his attitude about such a possibility. He said, "It is both my duty and inclination to relieve the embarrassment, should it happen; and in that case, I pray you and authorize you fully to solicit on my behalf, that Mr. Adams is to be preferred . . . ." The final tally gave Adams a majority of three votes, and the "embarrassment" was avoided.

A notable feature of Burr's career was his lack of acumen in recognizing his enemies. On three momentous occasions during his life, he misjudged men, and they were the primary instigators of his downfall. Hamilton's hostility began
in 1791 when Burr replaced his father-in-law as senator, yet the two maintained outwardly cordial relations for many years afterwards, and Burr seemed unaware of the depth of the other's antipathy. In his western intrigues of 1805-1806, he selected a friend from the Revolution, General James Wilkinson, as one of his partners, and Wilkinson allegedly became his betrayer. The same thing was true of his relationship with Jefferson. Until the election of 1796, Burr was unaware of the wariness with which Jefferson regarded him. One one occasion Burr gave a better description of himself than he realized when he told a hostile judge that he was "in the condition of Jeremy Bentham's dog." When the judge asked for an explanation of the statement, he replied, "He never knew his master's will until he felt his kick." 52

When the electoral votes were counted in 1796, Burr was for the first, but not the last, time in the "condition of Jeremy Bentham's dog." He had felt his master's kick, and his lack of support from the southern states made Jefferson's will abundantly clear.
FOOTNOTES: CHAPTER I


3. Ibid., pp. 100-103.


7. Hamilton's followers designated themselves "Federalists" during the ratification conflict, and the opposition adopted the name "Antifederalists." After the Constitution was adopted, those who opposed Federalist principles called themselves "Antis" or "Democratic-Republicans" or "Republicans." Hereinafter they will be termed Republicans.


9. In 1789 the Livingstons wanted one of their family chosen as senator along with Schuyler (in place of King) and they thought that Chancellor Robert R. Livingston should have been appointed chief justice of the United States Supreme Court instead of John Jay. In 1791 the votes they controlled in the legislature, combined with the Clinton votes, gave Burr a majority on the first ballot.


17. Ibid., 26 March 1792, p. 113.


19. Ibid.


28. Aaron Burr to Theodosia Burr, 14 August 1794, Burr Papers.

29. Burr, *Memoirs*, 1:407. The Senate still conducted sessions behind closed doors, but the hearings on this debate were open.


31. Senate Resolution, 19 April 1794, Burr Papers.


37. Burr, *Memoirs*, 1:409-10. The articles Burr wanted eliminated were the 9th, 10th, 24th, and 25th. Those he wanted changed were the 2nd, 3rd, 6th, 12th, 15th, and 21st.


44. Burr to Monroe, 6 September 1796, Burr Papers.


46. Sedgwick to Dayton, ibid., p. 407.

47. Burr to Edwards, 22 November 1796, Burr Papers.


49. Hammond, *History of Political Parties*, 1:102. Burr received the following votes: Tennessee 3; Kentucky 4; Virginia 1; Maryland 3; North Carolina 6; Pennsylvania 13. Jefferson's votes were Tennessee 3; Kentucky 4; Georgia 4; South Carolina 8; North Carolina 11; Virginia 20; Maryland 4; Pennsylvania 14. Pennsylvania was the only state to cast votes for the ticket in the correct order for distinguishing between the vice-presidential and presidential votes.

50. Burr to Peter Van Gaasbeck, 4 January 1797, Burr Papers.


CHAPTER II

THE TENUOUS YEARS: 1797-1800

The Federalists' victory in the spring legislative elections of 1796 and John Jay's success over the Republican gubernatorial candidate, Judge Robert Yates, gave Hamilton's party firm control of the New York state government. Aaron Burr's six year senatorial term, which began in March 1791, was to end in March 1797, and in January the Federalist-dominated legislature elected Philip Schuyler (Hamilton's father-in-law) to replace the colonel. Burr relinquished his office and returned to New York City to devote his time to land speculation, his law practice, and revitalization of the Republican cause. State elections were held annually in the spring, and the colonel arrived from Philadelphia in time to become a candidate for the general assembly. Schuyler wrote to Alexander Hamilton with concern about Burr's candidacy and predicted that if he were elected, there would be a complete change of politics in the legislature. 1 Schuyler and Hamilton were as wary of the colonel's influence in their party as the Virginians were.

Burr was elected, and the Republicans gained substantial numbers in the assembly. The Federalists, however, maintained a majority in both houses of the legislature. Federalist domination of the legislature had given the Empire State's electoral votes to John Adams in 1796 and secured his narrow election as president. Republican hopes for securing the executive office could not be realized until the party controlled the decisive electoral votes of New York, and securing that control became Burr's responsibility.

Burr had become a key figure in the party's plans. Evidently he was the only one who could unite the Republican factions within the state, and it was clear that if he were alienated from the party, it would have a devastating effect on Republican prospects. The failure of southern states, particularly Virginia, to support Burr's vice-presidential candidacy in 1796 had been an
insult, and the Virginians were concerned that it might damage the party's North-South alliance. Therefore, the southerners began in 1797 to carefully cultivate the colonel's good will.

In March of 1797, when Jefferson took office as vice-president and Burr left Philadelphia, one of the primary concerns in Congress was the seizure of American ships by France, which was still at war with Great Britain. The French government, alarmed over Jay's Treaty, refused American claims for restitution. Relations with France had been further strained by the recall of Minister James Monroe in August 1796, and his replacement with Federalist Charles Cotesworth Pinckney of South Carolina. Hamilton's party vocally denounced French aggression and favored measures of retaliation.

The problems with France gave Jefferson an opportunity to write to Burr in June 1797 and relate the current status of affairs in Congress. He expressed his esteem for the colonel and his pleasure at the "dawn of change in the spirit of your state," as evidenced by the results of the recent elections. He asked that Burr keep him advised about the party's prospects in other northern states. The conciliating letter apparently had the desired effect, and by the end of the month, Burr was in Philadelphia conferring with the vice-president. Monroe arrived from France on 27 June and met with Jefferson, Burr, and Albert Gallatin to discuss the diplomatic crisis with France.

A few weeks after the meeting in Philadelphia, Monroe enlisted Burr's support in a matter between the former minister and the leader of the Federalist party. The scandal of Hamilton's amorous affair with Mrs. Maria Reynolds had been revealed by a scurrilous Republican writer, James Thomson Callender, in his History of the United States. Hamilton thought Monroe, who had known about the affair, was responsible for the exposure, and he wrote to the Virginian in a manner that amounted to a challenge to a duel. Monroe asked Burr to be his second in the matter, but through Burr's diplomatic management, both parties were reconciled.

As further evidence of his regard for Burr's talent, Jefferson asked him
to handle a civil suit of a friend, Dr. James Currie, against former Superintendent of Finance Robert Morris. The colonel accepted the overture and made several trips to Philadelphia for discussions with the vice-president about the political climate in the northern states. He was not successful, however, in recovering Currie's claims against Morris.

In the state elections of April 1798, the Republican party made substantial gains in the legislature, but Jay defeated Robert R. Livingston and was re-elected governor. DeWitt Clinton, nephew of former Governor George Clinton, and David Gelston, a close friend and supporter of Burr, were elected to the state senate. The colonel was re-elected, and his influence in the assembly was increased by the election of one of his devoted followers, John Swartwout, and his stepson, John Bartow Prevost.

During 1798 the diplomatic problems with France intensified, and war seemed imminent. The Federalists were capitalizing on the reaction of the French Directory to Jay's Treaty and subsequent seizure of American ships, but President John Adams, in an effort to avoid war, appointed John Marshall and Elbridge Gerry to join Pinckney in Paris to negotiate the problems. In April 1798 the president published the ministers' report of the insulting requirements for negotiation that Talleyrand, minister of foreign affairs, had unofficially communicated to them through his agents designated "W, X, Y and Z." The agents told the American ministers that favorable negotiations might be secured by payment of a bribe of $50,000 to each of the five members of the Directory and a substantial loan to the French government. Republicans were stunned by the affair, and the Federalists clamored for war.

Even before the XYZ Affair, Federalist reaction to the diplomatic problems with France had become so intense that Jefferson wrote to Edward Rutledge that men who had been friends despite their previous political differences were no longer speaking to each other. The disclosure of the French response to Marshall, Gerry and Pinckney's commission gave the Federalists an opportunity to utilize the reaction of the American public to strengthen their political
position. Federalist newspapers intensified their denunciation of the Republicans for their pro-French sympathies and claimed they were unpatriotic. The New York Commercial Advertiser stated that, in the event of a French invasion, a Republican Directory would be established, and it would be headed by Jefferson, Madison, Monroe and Burr. The inclusion of Burr's name in the list indicates the position he had achieved in the party by 1798. Republican newspapers decried the perfidy of the Federalist claims and warned readers to "BEWARE OF FABRICATED NEWS." The party leaders, however, were seriously concerned about their political prospects in a public climate of hysteria that fostered numerous rumors of plots and conspiracies.

On 24 May Burr wrote to the vice-president asking how long he planned to remain in Philadelphia and expressing the hope that he could see Jefferson before he left for Monticello. The colonel wrote that free communication would be impossible through the mails. Jefferson must have been equally anxious to talk with Burr because he immediately replied that he intended to remain in Philadelphia a while longer. Congress was still in session, considering legislative reaction to the XYZ Affair. There are no records of the meeting between the two, but in view of the situation, they probably discussed the political implication to the Republican cause of war with France.

War hysteria and fear of a possible French invasion prompted Congress to approve raising an army and naming George Washington as commander-in-chief. Hamilton became second-in-command, and Adams wanted to nominate Burr as a brigadier-general. Washington refused to sanction the appointment on the grounds that he considered Burr's integrity doubtful. It was the same reason he had given Madison and Monroe in 1794, when, as president, he had refused to nominate Burr as minister to France.

To counter the charges of the Federalist press that Republicans would welcome a French invasion, Burr actively supported fortification measures in New York. He served with Hamilton and Colonel Ebenezer Stevens on a committee for the defense of New York harbor, and in the assembly Burr supported
passage of a state tax to finance defensive measures. He successfully challenged Federalist attempts to include a statement in the proposed tax bill indicating it was intended to finance fortifications for a war with France. In its final form, the wording of the bill designated it a means of funding defensive measures against the probability of war with any foreign nation.

Burr's exertions for military preparedness were not a defection from his pro-French sympathies. His actions did provoke censure from his former friend, Federalist Robert Troup of New York, who had become one of his most outspoken critics. Troup interpreted the colonel's activity as an indication that Burr was ready to change political affiliation. He noted that the former senator was "particularly courteous" to Hamilton and had lost the confidence of some of his party. The criticism was unjustified and typical of the bitterness of Burr's enemies. The colonel had become more of a partisan Jeffersonian, and as a leader of the New York Republican party, it was necessary that he pursue a nationalistic course while a possibility of war existed. His insistence that the wording of the tax bill designate that the appropriation was for defense in the event of war with any foreign power instead of specifically France was partisan in nature. Republicans considered there was more to fear from Great Britain than from France. Burr, as a member of the Democratic Society of New York, was one of a committee of five appointed in June 1798 to draft a message to the state's representatives in Congress urging measures against British depredations on American commerce.

The Quasi War remained undeclared, but the Federalists managed to get four statutes, collectively called the Alien and Sedition Laws, passed by Congress in June and July 1798. Republicans denounced the laws as infractions of the Constitution that would be used by the Federalists to destroy political opposition. The Naturalization and Sedition Acts were particularly aimed at the Republicans. The Naturalization Statute, which changed the residency requirement from five to fourteen years, seemed directed at party members like Albert Gallatin, whose citizenship status had been challenged in 1793 by Federalists in a successful effort
to deny him his Senate seat. Gallatin had been subsequently elected to the House of Representatives. The Sedition Act, which made it illegal to criticize government officials, was even more partisan and repugnant to the Republicans. They viewed it as a violation of the First Amendment which would be used to persecute their party. Matthew Lyon, representative from Vermont, Dr. Thomas Cooper, a friend of Jefferson, Jedediah Peck, New York assemblyman, and Callender were among those who were indicted under the act along with the editors of the Richmond Enquirer, the Boston Independent Chronicle, the New York Argus, the New London Bee and the New York Time Piece.

Burr became involved in the proceedings against Dr. James Smith and John Daly Burk, who had purchased the Time Piece from Matthew L. Davis while the Alien and Sedition bills were under consideration in Congress. Eight days before the bills were passed, Burr and Smith were arrested for implying that Adams had altered portions of correspondence with Elbridge Gerry, concerning the negotiations with France. Smith was charged with libel, but Burk was charged with seditious libel, and bail was set at $4,000 for each. Smith's family paid his bail, but Burr, Colonel Henry Rutgers and Peter R. Livingston paid Burk's bail. Burk never came to trial because Burr interceded to have the charges dropped on the condition that the editor leave the country.

Burr realized that reaction to the diplomatic problems with France could have a detrimental effect on Republican success in the state elections. 1800 was a presidential election year, and a Federalist majority in the legislature would preclude the possibility of Republicans gaining control of the executive office. Adams's narrow victory in 1796 had demonstrated how critical were New York's twelve electoral votes. In an attempt to avert a similar situation in 1800, Burr directed John Swartwout to move on 7 February 1799 that the assembly consider dividing the state into districts, allowing the direct selection of presidential electors by the people of each district. Electoral reform would greatly enhance Republican prospects in 1800 if control of the votes could be removed from the legislature. However, the possibility of passing this partisan measure while the
Federalists had a majority in both the assembly and senate seemed highly unlikely, but Burr used his personal popularity with the small group of assembly members who generally nebulously identified themselves with the Federalists, and he persuaded them to defect. One of this group was Jedediah Peck, judge of a Court of Common Pleas from Otesgo County. Otesgo was one of the western counties where Burr's reputation was favorably established by his success in restoring order during the Revolutionary War. Burr asked the judge to introduce the committee resolutions on electoral votes, and this so effectively alienated him from the Federalist party that its leaders considered Peck an anathema. The resolutions passed the assembly, but they failed in the senate where the Republicans were in a minority. Although the colonel had failed to achieve electoral reform, the identification of Peck with Republican interests proved consequential. The judge became an object of Federalist persecution under the Sedition Act for alleged criticism of the government, and his personal popularity caused significant public reaction against that party.

Jefferson and Madison expressed their opposition to the Alien and Sedition Acts by drawing up resolutions that were subsequently adopted by the legislatures of Kentucky and Virginia. The resolutions asserted the compact theory of government and the right of states to nullify acts of Congress that were unconstitutional. When the Kentucky and Virginia Resolutions were sent to the New York legislature with a message from Governor Jay, Burr wrote to Jefferson that prospects were not favorable for their adoption. He predicted the vote against them in the senate would be overwhelming, and that they would be rejected by the lower house by a narrow margin. Burr explained that under such inauspicious circumstances, "I have not thought it discreet to urge a determination in either house." He predicted, however, that there would be many political changes in the state during the next two years.

On 16 February Burr proposed that consideration of the message and resolutions be postponed until May. When the motion was rejected by a vote of fifty-four to forty-two, John Swartwout tried to table the matter by proposing that the
committee considering the message and resolutions be discharged. Swartwout's motion was defeated, forty-nine to forty-five. When it became evident that a formal statement drawn up by the Federalists to condemn the resolutions would be adopted, Burr tried to have a clause inserted that affirmed the right of citizens, individually and collectively, to express opinions of congressional acts. His motion failed, fifty to forty-three, and the New York assembly took its official stand in opposition to the states' rights doctrine as expressed by Madison and Jefferson.

Jefferson was undaunted by these failures in New York. During February and March he wrote to friends enthusiastically about the "wonderful and rapid change" that was taking place in New York, Pennsylvania and New Jersey. He was encouraged by the number of petitions to Congress from those three states against the Alien and Sedition Acts and predicted that the states would be under the control of the Republican party before the end of the year.

Burr, like Jefferson, was not discouraged by the failures to further the party's interest in New York. In April the colonel introduced a seemingly innocuous bill to establish a pure and wholesome water supply for the city of New York. A deficient source of pure water and a particularly devastating epidemic of yellow fever in the summer of 1798 had indicated an urgent need for such a measure. The bill provided for the incorporation of the Manhattan Company to supply the city with water. Although a majority of the proposed board of directors for the new company were Republicans, three Federalists, including Hamilton's brother-in-law, John B. Church, were also named as directors. It appeared to be a non-partisan bill and passed both houses with little opposition. Some Federalists purchased stock in the new company, but a majority of the stockholders were Republicans.

Skillfully written into the bill was a clause that established capitalization for the new company at $2,000,000, with the stipulation that the surplus capital could be used in any way that was consistent with the constitution and laws of New York and the United States. The Federalists in the legislature apparently did not understand the implication of the clause, which allowed the Manhattan Company
to establish a bank. There were at the time only two banks in the Empire State, the Bank of New York and a branch of the Bank of the United States. Both were dominated by Hamiltonians, and the legislature had refused to allow the incorporation of any additional banks. As soon as the Federalists realized they had been outmaneuvered, they indignantly denounced Burr's "duplicity." 32

Burr secured a bank for the party but impaired his immediate political fortunes in the process. The state elections were held a few weeks after the bill became law in April 1799, and the Federalists' furor over the colonel's coup caused sufficient reaction that the whole Republican ticket for New York City, headed by Burr, was defeated. 33 It was a serious setback for the party since the city elected twelve members to the assembly, and the city losses gave the Federalists a greater majority. Because state elections would be held again in the spring of 1800, the Republicans had a year to recover their lost ground before presidential electors were chosen. The relatively equal strength of both parties in the state precluded leaving anything to chance, and it became a year of intense activity in which Burr utilized all the party's resources. The bank supplied the financial support, and the Society of St. Tammany, sometimes called the Columbian Order, supplied the propaganda.

The society had been founded in New York City on 12 May 1789 as a fraternal order to counterbalance the elitist Society of the Cincinnati. 34 The Cincinnati's membership consisted of former French and American officers of the Revolution, while Tammany's membership initially was composed of common soldiers who were excluded from the Cincinnati. Unlike the Democratic-Republican Societies of the 1790's, Tammany was originally a non-political organization with both Federalist and Republican members. In reaction to the Whiskey Rebellion in 1794, which was a protest against the government's authority to impose an excise tax on distilled spirits, President Washington, in a message to Congress, condemned political societies as instruments of insurrection. 35 In a special meeting the Federalists in Tammany passed a resolution endorsing the message and denouncing the societies as revolutionary. 36 Republican members then called
a special meeting and passed a resolution that repudiated the earlier one, and Federalists began withdrawing from the society. Tammany was vocally opposed to Jay's Treaty in 1795 and held a joint 4th of July celebration with the Democratic-Republican Society in New York City. As political divisions became more intense, the Federalists completely withdrew from the organization, and it became a center of Republicanism.

Burr was a member of the Cincinnati and never joined Tammany, but many of his followers did become members. John and Robert Swartwout, John and William P. Van Ness, Matthew L. Davis, Jacob Baker, Benjamin Romaine, Isaac Pierson and Jacob Hayes affiliated with the organization. By 1800 all of the Republican leaders of New York City were members except Burr, Samuel Osgood, David Gelston, and John Nicholson. Membership roles indicate, however, that a majority of those who joined the society before 1800 were tradesmen and mechanics, and in lesser numbers, merchants and professionals. Matthew Davis, later to be Burr's chosen biographer, eventually claimed that the colonel transformed the order into an active political force for the election of 1800. It was not the well run party machine that it became in later years, however. The role Burr designated for Tammany in 1800 was one of appeal to the working classes and promotion of the party's stand against the aristocratic Federalists.

As the year began Republicans were anxious about the possibility of success in the state elections. Burr made a hurried trip to Philadelphia to confer with Jefferson and reassure him that there was every reason for confidence in the outcome of the April elections. The vice-president wrote to James Madison that "... In New York all depends on the success of the city election, which is of twelve members and... which is sufficient to make the two Houses, joined together, republican in their vote..." He related Burr's confidence in their success but added that he personally considered it more doubtful than the election of 1796. Jefferson evaluated the importance of the state elections in relation to the presidential contest and concluded, "If Pennsylvania votes, then either Jersey or New York giving a republican vote, decides the election. If Pennsylvania does
New York was to be the pivotal state, and the vote in the city would determine the outcome. Burr's role became all-important, and he utilized his considerable talent for outwitting his opponents. He drafted the Republican ticket for the city, but he did not announce the candidates until the Federalists had revealed their nominees. The ticket that Hamilton proposed was not distinguished in any way, and when Burr received the list of Federalist candidates, he reportedly exclaimed, "Now I have him hollow." Burr had carefully selected the nominees for his party's ticket, and the reputations of those who headed the Republican list overshadowed those of the Federalist competitors. The twelve chosen by the colonel were George Clinton, Horatio Gates, (Henry) Brockholst Livingston, Samuel Osgood, Henry Rutgers, Elias Neusen, Thomas Storm, George Warner, Philip I. Arcularius, James Hunt, Ezekiel Robins, and John Swartwout. Burr's name was conspicuously absent, for he had judged public reaction to the Manhattan Company to be sufficient that it might jeopardize the party's success, and he decided to be a candidate from Orange County.

Each of the members of the ticket were distinguished in talent and reputation, but its greatest strength was the balance it effected between the three Republican factions. The Clintons and Livingstons were represented by leading members of their families, and the Burr faction was represented by General Gates, who was a personal friend of the colonel's. Burr used his considerable powers of persuasion to effect the coalition and secure inclusion of prestigious candidates. Gates and Livingston agreed to their candidacy conditionally on Clinton's acceptance. Clinton was reluctant to lend his name and influence to a move that would assure Jefferson's presidential election, since he held a poor opinion of the vice-president's ability as a statesman and "his firmness as a republican," but he finally agreed not to repudiate his nomination.

Burr was not only responsible for drafting the list of candidates, but he also conducted the campaign in the city personally. He used all the resources he had cultivated since his retirement from the Senate in 1797. The Bank of
Manhattan provided economic backing, and the colonel kept a file on each Republican in the city that enabled him to assess who could be depended upon for financial or other assistance. New York's suffrage was limited to property owners, and at Burr's direction, groups of thirty to seventy men who were disfranchised, collectively bought property, which then qualified them to vote. 49

The colonel also utilized the talents of a group of young men who were fanatically loyal to him. This group, called "the Tenth Legion" by Burr's daughter Theodosia, included the Swartwout brothers, John and Robert, the Van Ness brothers, William, Peter and John, Matthew L. Davis, Theodorus Bailey, David Gelston, John Bartow Prevost (Burr's stepson), and several others. They were all politically active and willingly followed Burr's directions. Gelston, John Swartwout and Davis helped the colonel persuade Clinton, Gates and Livingston to head the city ticket. 51 Many of the group joined Tammany and became officers of the society. Tammany became the source of Republican agitation in the city. It published party principles and policies and appealed to the growing numbers of mechanics and tradesmen for whom the aristocratic Federalist party held no attraction. 52

The elections took place from 29 April to 1 May 1800, and Burr's efforts became more intense. He constantly visited the polls and directed the campaigning in wards where the party had the least strength. 53 The results were announced on 2 May, and the Republicans found themselves victorious by a narrow majority of 490 votes. 54 The party was also triumphant in the rest of the state. Although the Federalists maintained a majority of six in the senate, the Republicans achieved a majority of twenty-five in the assembly, which gave them an overall superiority and insured the Empire State's twelve electoral votes would go to the Republican candidates in the presidential election. 55 Hamilton made an attempt to turn the victory into defeat by proposing that Governor Jay call the outgoing Federalist-dominated legislature into special session to change the process for selecting the state's electors, but Jay refused to take such action. 56

The presidential and vice-presidential candidates were selected by a party
caucus in Philadelphia. Jefferson was the obvious choice for the first place, but Matthew Davis wrote to Gallatin with concern about the possibilities for the second place. He affirmed the claims of a New Yorker for the nomination and stated that there were only three possibilities: George Clinton, Robert R. Livingston and Burr. Clinton was too old, according to Davis, and Livingston was too unreliable and lacked sufficient popular appeal to be a credit to the ticket. Davis claimed that Burr was the most eligible and the one whom the Republicans of the state wished to be the candidate. Gallatin charged his father-in-law, John Nicholson, with the task of ascertaining the wishes of the party in New York, and he asked that the matter be discussed with Clinton and Burr. Nicholson personally favored Burr and reported that Clinton was of the same opinion. Others that he consulted also thought the colonel was the only possible choice. However, Nicholson cautioned, Burr seemed reluctant about his nomination. "He seemed to think that no arrangement could be made which would be observed southward; alluding as I understand, to the last election in which he was certainly ill used by Virginia and North Carolina."

Gallatin's wife wrote to the congressman in a similar manner relating that Burr had "no confidence in the Virginians; they once deceived him, and they are not to be trusted . . . ." On 11 May the Republican caucus unanimously selected Burr as their vice-presidential candidate.

The Federalists were greatly alarmed about the results of the New York elections and the probability of Jefferson becoming president. The incumbent, John Adams, and Charles Cotesworth Pinckney were the presidential and vice-presidential candidates for their party. Hamilton had his own plans for replacing Adams with Pinckney, but he was seriously concerned that Jefferson, whom he labelled "an Aethiest in religion and a Fanatic in politics" would be elected. More than he feared Jefferson's success, Hamilton dreaded the possibility that Burr might become president. In 1800 the electors each cast one ballot for two men without distinction of office, and the lack of party discipline and mode of electoral balloting allowed the possibility that one who had been designated as a vice-presidential candidate might become president.
During the summer of 1800, Hamilton filled his correspondence with warnings that Burr was intriguing to displace Jefferson. Appraising the party's position to Charles Carroll of Carrollton, Maryland, reportedly one of the wealthiest men in America and Federalist leader, Hamilton stated that it was more than probable that the Republicans would be elected and charged that Burr's efforts to secure victory in New Jersey, Rhode Island and Vermont were motivated by a desire to overstep Jefferson. Hamilton wrote the same information to James A. Bayard of Delaware and emphasized that Burr was "an unprincipled and dangerous man. . . ." Burr actually was not trying to displace Jefferson, and Hamilton's accusations were prompted by the despair of many of his party of their own candidates' success after the loss of New York. Since Burr was personally and politically more acceptable, many, like George Cabot, senator from Massachusetts, were suggesting that it was only realistic for the party to support Burr, thereby preventing Jefferson's election.

Hamilton's hostility toward Burr was the long standing result of the colonel's senatorial election in 1791 that produced a defeat for Hamilton's father-in-law. It became more bitter because Burr acquired and published parts of a pamphlet Hamilton had written but did not intend to release until a few days before the legislative selection of electors in South Carolina. The pamphlet, entitled A Letter from Alexander Hamilton, Concerning the Public Conduct and Character of John Adams, Esq., President of the United States, was intended to secure the electoral votes of that state for Pinckney and place him ahead of Adams. In this tract Hamilton condemned Adams's personality as vain and eccentric and his foreign policy as destructive at home and damaging abroad. Burr sent extracts of the pamphlet to the editors of the Aurora and the New London Bee, which immediately published them. Hamilton then published the entire letter earlier than intended, and it caused severe repercussions in his own party.

Burr's objectives in frustrating Hamilton's schemes were to fulfill his role in the Republican alliance and secure Jefferson's election. He was also concerned about the Virginians honoring their obligations to his candidacy. Burr expressed
his hesitation and distrust of southern integrity when Nicholson discussed the nomination with him. He considered his subsequent selection as a candidate a commitment from the Virginians, but the colonel was still unsure that they could be trusted. He wrote to John Taylor of Caroline (Virginia) in October 1800 expressing his reluctance to be a candidate but emphasizing that he did not expect "to be trifled with" again. 70

Burr worked diligently in the middle and New England states on Jefferson's behalf. The colonel wrote confidently to Madison that he was sure that Jefferson would have the votes of Rhode Island, and although the issue was uncertain in New Jersey, he considered the situation hopeful. During October, November and December, Burr was constantly in touch with members of the party in states where the election was undecided, asking for evaluations of the situation and reporting progress in other states. He tried to persuade some of his Federalist friends, including Charles Biddle of Pennsylvania, to support Jefferson's election. 72

South Carolina's eight electoral votes were the cause of great concern to Burr. Reports in early November indicated that Jefferson would receive the state's votes, but the colonel's friends advised him that it was likely that the second votes would go to Pinckney. 73 Madison wrote to Jefferson and Monroe that Burr and his supporters were anxious about the "integrity of the southern votes" and added a warning that a defection of the secondary votes must be avoided. 74 By early December, Burr's contacts in South Carolina, Wade Hampton and Joseph Alston (who became the colonel's son-in-law in January 1801), advised that it was "highly probable" that there would be eight votes for Pinckney, which would give him second place and Burr third place in the final totals. 75

On 15 December Jefferson congratulated Burr although the final tally of electoral votes was still undetermined. He told Burr that it was supposed that South Carolina, Tennessee and Georgia would withhold one vote from the New Yorker, but Jefferson assured him that he would have more votes than the
Federalist candidates. It was customary for one vote to be withheld from the intended vice-president to prevent a possible tie, but Jefferson excused the mismanagement that caused uncertainty about who should withhold the vote on the grounds of the necessity that he personally take no active part in the proceedings. With all his assurances, Jefferson seems to have been uncertain that Burr would place second. Having excused his own part in the management of the election, he continued by declaring that his only regret in the matter was that it deprived his administration of the colonel's talents. He intimated that he considered Burr wasted as vice-president and would have preferred him in a cabinet position. The tone of the letter suggested that in the event Burr were not elected, Jefferson planned to conciliate him with an appointment.

However, when Jefferson wrote the letter in December, there was already some speculation that both Republicans would have an even number of electoral votes. Jefferson mentioned the possibility in his letter to Burr. When it seemed probable that Jefferson and Adams might have the same number of votes in 1796, Jefferson had written to Madison authorizing him to state that he had no desire to usurp Adams's position. Burr wrote to Representative Samuel Smith of Maryland in the same manner on 17 December. He told Smith that "every man who knows me ought to know that I should utterly disclaim all competition . . . as to my friends, they would dishonor my views and insult my feelings by harbouring a suspicion that I should submit to be instrumental in counteracting the wishes & expectations of the U.S. and I now construe you . . . to declare these sentiments if the occasion shall require." On 18 December Burr wrote to John Taylor of Caroline about the possibility of a tie and stated "no man will join with more Sincerity than I shall, to place Jefferson in the chair. . . ." But he still hoped that there would be one vote in Vermont for Jefferson, which would negate a tie. Burr also wrote Jefferson that in the event of a tie, he would use his influence with friends in the House of Representatives to assure their votes would be cast for Jefferson. He also offered to abandon the office of vice-president if the Virginian thought he would be more useful in any other position.
By the end of December, it was certain that each of the Republican candidates had seventy-three votes, although the totals would not be official until February when they were counted by the Senate before a joint session of both houses. It was an unprecedented situation, but the framers of the Constitution had foreseen the possibility and had provided that in such eventuality, the House of Representatives would select the president.

The Republicans were jubilant. Their North-South alliance had ousted Federalists from the executive office. The tie created an awkward situation, but Burr had no desire to supersede Jefferson, and as the year ended, the latter was busy making selections for his cabinet. The Federalists did not accept defeat graciously, and by the end of 1800, they were plotting new schemes for reversing the Republican victory.
FOOTNOTES: CHAPTER II


4. Monroe to Burr, 6 August 1797, Burr Papers; Burr to Monroe, 8 August 1797, ibid.; Burr to Monroe, 9 August 1797, ibid.; Burr to Monroe, 10 August 1797, ibid.; Burr to Monroe, 13 August 1797, ibid.; Monroe to Burr, 16 August 1797, ibid.


8. Quoted in the *Philadelphia Aurora and General Advertiser*, 11 June 1798, hereinafter cited as *Aurora*.


13. The legislation under consideration was the Alien and Sedition Acts.


17. The other members of the committee were Dr. Samuel Mitchell, David Gelston, John Broome and Henry Rutgers. As an expression of growing political factionalism, Democratic-Republican societies were being formed in many states during the early 1790's. They enthusiastically supported the French Revolution and were committed to the spirit of the American Revolution, liberty and the equal rights of men. Their activities included participation in local elections, public discussions, and issuing circulars, resolutions and addresses. They stressed popular participation in the governmental process and became a center of Republican agitation and propaganda in the 1790's. Philip S. Foner, *The Democratic-Republican Societies, 1790-1800* (Westport, Ct: Greenwood Press, 1976), p. 200.

18. The four statutes were: The Naturalization Act, which increased the residency requirement for citizenship from five to fourteen years; the Alien Enemies Act, which gave the president the authority to arrest or expel aliens in time of declared war; the Alien Act, which gave the president the power to expel all aliens whom he thought dangerous to the peace and safety of the United States; and the Sedition Act, which made it illegal to impede the operation of any law or attempt to instigate a riot or insurrection, or publish or say any false, scandalous and malicious criticism of government officials. U.S., *Statutes at Large*, 1:566-67; 571-72, 579, 596-97; U.S. House, *Annals of Congress*, 5th Cong., 2 d sess., 18 June 1798, p. 1925; 25 June 1798, p. 2028; 26 June 1798, p. 2049; 14 July 1798, p. 2171; also see John C. Miller, *Crisis in Freedom: The Alien and Sedition Acts* (Boston: Little, Brown and Company, 1951), and James Morton Smith, *Freedom's Fetters: The Alien and Sedition Laws and American Civil Liberties* (Ithaca, N.Y.: Cornell University Press, 1956).


22. Miller, Crisis in Freedom, pp. 101-102; Burk actually never left the United States. He went to Virginia and lived under an assumed name until he was killed in a duel in 1808; also see Smith, Freedom's Fetters, p. 217.


27. Assembly Proceedings, 16 February 1799, ibid.

28. Ibid.


33. Parmet and Hecht, Aaron Burr, p. 143.

34. The Society of the Cincinnati was formed in 1783 by General Henry Knox. Units were established in each of the original thirteen states and France. Washington became the first president, and Knox was the first secretary general. Officers who had served in the Continental Army for three years or who had been in service at the end of the war were eligible for membership. North Callahan, Henry Knox: General Washington's General (New York: Rinehart and Company, 1958), p. 212; Albert Sidney Britt, Jr., "The Society of the Cincinnati in the State of Georgia," Georgia Historical Quarterly, 54(1970): 553-62.

36. Ibid.

37. Ibid., p. 72.


43. Ibid.


47. There was no residency requirement, and Burr could, therefore be a resident of New York City and a candidate from Orange County. Ibid., p. 56.

48. Ibid., p. 59.


55. *Aurora*, 6 May 1800; 27 May 1800.


57. Davis to Gallatin, 5 May 1800, Gallatin Papers.


61. Hamilton to Jay, 7 May 1800, *Hamilton Papers*, 24:465; Hamilton was determined that Adams would not be re-elected even if that meant allowing Jefferson's election; Hamilton to Theodore Sedgwick, 10 May 1800, ibid., pp. 474–75.


65. George Cabot to Hamilton, 10 August 1800, ibid., p. 63.


67. Electors were chosen by the legislature in all but five states: Rhode Island and Virginia selected electors in a general election; electors from Maryland and Kentucky were chosen by congressional districts; in Tennessee the legislature appointed delegates from districts to a convention where electors were chosen; *Hamilton Papers*, 24:445.


70. Burr to Taylor, 23 October 1800, *Burr Papers*.

71. Burr to Madison, 9 October 1800, ibid.

72. Burr to Biddle, 18 November 1800, ibid.

73. Burr to Pierpont Edwards, 20 November 1800, ibid.


78. Burr to Smith, 16 December 1800, *Burr Papers*.

79. Burr to John Taylor, 18 December 1800, ibid.

CHAPTER III

POLITICAL ALIENATION: 1801-1802

By late December 1800, it was reasonably certain that Thomas Jefferson and Aaron Burr had an even number of electoral votes. On 19 December Jefferson wrote to James Madison that even though Burr still hoped there would be one vote in Vermont for Jefferson, it seemed evident they would each have seventy-three. Among Republicans this situation had produced "great dismay and gloom," and "exultation in the federalists, who openly declare they will prevent an election, and will name a President of the Senate, pro tem..."¹ A few days later, Jefferson wrote to Madison that he and Burr definitely had the same number of votes and that the Federalists intended to place either John Jay or John Marshall at the head of the government.²

There was a valid basis for Jefferson's fears. The Constitution provided that in the event of a tie between contenders, the House of Representatives would choose the president. In the balloting "the Votes shall be taken by States, the Representation from each State having one Vote;... and a Majority of all the States shall be necessary to make a Choice."³ It was, therefore, within the power of the Federalist party to prevent an election. They had a numerical superiority in the lame-duck Congress that would make the selection, but in voting by states their advantage was not as great, for their strength was concentrated in the heavily populated New England states. Although the Republicans were dominant in more states, neither party could control the majority needed for the election.⁴ According to a statute approved by Congress on 1 March 1792, if there were neither a president or vice-president, the position of acting executive would devolve to the president of the Senate pro tempore until the states appointed electors to select a president and vice-president.⁵

Some Federalists believed it was to their party's advantage to prevent an election, but others considered it unfeasible. Gouverneur Morris wrote to
Hamilton on 19 December: "This appear'd to me a wild Measure and I endeavored to dissuade those gentlemen from it who mentioned it to me; it seems now to be given up. The Object with many is to take Mr. Burr & I should not be surpriz'd if that Measure were adopted." Hamilton had already heard reports that some in his party intended to lend their support to the election of Burr.

The former secretary of the treasury vehemently opposed any attempt to place Burr in the presidential office, but he appreciated the merit of letting the Federalists appear to support such a plan. He informed Oliver Wolcott, Jr., that "it may be well enough to throw out a lure for him, in order to tempt him to start for the plate & thus laying the foundation of dissention between the two chiefs." However, Hamilton warned against any serious move to elect Burr and bitterly denounced the colonel's character in his correspondence, claiming that if Burr became president, he would immediately involve the United States in war with Great Britain for the sole purpose of redeeming his personal financial situation. It would be wise, Hamilton argued, to use the colonel's popularity with the Federalists to obtain assurances from Jefferson that, once president, he would continue the present system "especially on the cardinal articles of public Credit, a Navy, and Neutrality." By the end of December 1800, Hamilton was receiving increasing reports of Federalist support for Burr. At length he expressed his evaluation of the colonel's character and warned his party against trying to supplant Jefferson. Certain Federalists knew of Burr's letter to Representative Samuel Smith of 17 December 1800, in which he had disclaimed any competition with Jefferson, but many thought it was not a commitment to refuse the presidency if elected by the House. According to former Secretary of War James McHenry, Maryland Federalists believed they could lose nothing by the attempt to displace Jefferson, for even if they failed, they would at least plant seeds of disunion in the Republican party.

Republicans also heard that some Federalists preferred Burr as president. After stating his position in his 17 December letter to Samuel Smith, Burr sent a second letter to the congressman asserting that he would consider it an
unforgivable insult if any Republican doubted his integrity in the matter. On 29 December the colonel penned an angry note to Smith about the contacts he had received from Republicans regarding the election. One person, whom he did not name, had even asked him to resign if chosen by the House. It was, he said, "unnecessary, unreasonable, and impertinent... I was made a Candidate against my advice and against my will; God knows, never contemplating and wishing the result which has appeared -- and now I am insulted by those who used my name..." Smith responded in a conciliatory manner by reaffirming the party's confidence in Burr and warning that they must be constantly wary of Federalist attempts to disunite them.

Jefferson told his daughter, Maria (Polly) Eppes, of the Federalist attempts to "debauch" Burr by offering him their votes, but "His conduct has been honorable and decisive, and greatly embarrasses them." Albert Gallatin was equally laudatory of Burr's attitude and claimed that he "sincerely" opposed the designs of Hamilton's party and would go to "any lengths" to prevent them. George Clinton wrote his nephew, DeWitt, that he had no reason to doubt the colonel's explicit statement to him that he would not countenance competition with Jefferson.

Hamilton, however, was increasingly alarmed at the growing support for the colonel he detected in his party. He continued his barrage of correspondence, urging that efforts to displace Jefferson be dropped, and he wrote a paper, which he claimed was a faithful sketch of Burr's character, to be circulated within the party. The paper labelled the colonel as a "profligate," and a "Catiline," and questioned his integrity as an officer in the Revolution and in private life. Of Burr's politics, Hamilton noted:

No mortal can tell what his political principles are. He has talked all round the compass. At times he has dealt in all the jargon of Jacobinism; at other times he has proclaimed decidedly the total insufficiency of the Foederal [sic] Government and the necessity of changes to one far more energetic. The truth seems to be that he has no plan but that of getting power by any means and keeping it by all means. It is probable that if he has any theory 'tis that of a simple despotism.
Representative James A. Bayard, of Delaware, told Hamilton on 7 January that he had heard from "reliable" sources that Burr was willing to bargain with the Federalists, who would caucus in a few days to determine what course to pursue. Hamilton's information, however, declared that Burr had refused to give any assurances about his future conduct and concluded that it was obvious that the colonel intended only to use the Federalists to gain the presidency. Regardless of Hamilton's advice, some Federalists actively encouraged other members of their party to support Burr. David Ogden of New York City tried to persuade the Republican representatives from the Empire State to vote for the colonel, giving among his reasons the benefit to their state if Burr became president. He told them he had talked with Burr about the tie and intimated that he had Burr's confidence.

When Samuel Smith informed the colonel of Ogden's statements, Burr denied having talked with him about the matter and reiterated that he had not expressed any sentiments to anyone contrary to those he had written to Smith in December. He recommended that Smith talk to Edward Livingston concerning the tactics Federalists were using and how unsuccessful his attempts to counter them had been.

In January a series of articles appeared in the New York Gazette and the Georgetown Washington Federalist signed "Epaminondas." These essays were addressed to Federalist congressmen and encouraged them to vote for Burr. A young man named Montfort appeared in Washington and claimed to have written them at the colonel's instigation. Montfort's statements created some excitement in Republican capital circles. In response to a query from Samuel Smith about his connection with Montfort, Burr said:

Mr. Montfort was strongly recommended to me by General Gates & Col. Griffin - At their request I undertook to direct his studies in pursuit of the law. He left here suddenly and apparently in some agitation without assigning to me any cause and without disclosing to me his intentions or Views or even whither he was going, except that he proposed to pass through Washington - Nor had I any reason
to believe that I should ever see him again—
You may communicate this to Mr. J. who has also written me something about him.

According to Jefferson, the Federalists also forged letters from him that were derogatory to Burr. He told the colonel "It was to be expected that the enemy would endeavor to sow tares between us, that they might divide us and our friends." He said that he had heard from a "Mr. Munford" (Montfort?) that before he left New York he had seen a letter supposedly from Jefferson to Judge Breckenridge that was "highly injurious to you." He affirmed that if such a letter existed it was a forgery and enclosed a copy of the only letter he had written to Breckenridge. Mutual trust, Jefferson wrote, was their best protection against such plots to create distrust. It is evident that prior to the events of February 1801, Jefferson and the other Republicans had acquitted Burr of any attempts to become president with the aid of Hamilton's party. Gallatin was certain that the Federalists planned not to elect Burr, but to defeat an election under the "pretense" of voting for the colonel.

On 5 February 1801 an article appeared in the Hartford American Mercury, copied from the National Intelligencer and signed by "Aristides," which was a pseudonym used by William P. Van Ness, one of Burr's most stalwart supporters. "Aristides" wrote, "If the voice of the people of America be at all regarded, Mr. Jefferson will be preferred to Mr. Burr . . ." In his correspondence, Burr expressed his confidence that the balloting in the House would end as Republicans intended. To Samuel Smith he wrote that there never appeared much doubt that Jefferson would have the votes of nine or ten states (which would be a majority) on the first ballot and told the congressman there was no longer any danger of the Federalists preventing an election. Republicans in Washington also seemed to share the colonel's optimism by early February, and Federalist Henry Lee commented to Hamilton on their confidence over the outcome of the contest in the House.

On 7 February the House approved rules of procedure for the balloting, including a Federalist sponsored motion to remain in session until a president was
chosen. The official tabulation of electoral votes was made in a joint session of Congress on 11 February in the Senate chambers. Jefferson, in his capacity of presiding officer, announced the totals. The four electors of Georgia, who voted for Jefferson and Burr, had neglected to sign their ballot, but Jefferson announced they had given their votes to the Republicans and continued the tabulation. Of the 138 electoral votes, Jefferson and Burr each had seventy-three, Adams sixty-five and Pinckney sixty-four.

The House retired to their chambers and began voting. On the first ballot Jefferson received the vote of eight states: New York, New Jersey, Pennsylvania, Virginia, North Carolina, Kentucky, Georgia and Tennessee. Burr had six states: New Hampshire, Massachusetts, Rhode Island, Connecticut, Delaware and South Carolina. The representatives of Vermont and Maryland were divided evenly, and according to the rules adopted on 9 February, they cast no vote. (See Table I, pp. 50-52.) By midnight on 11 February, the House had tried nineteen times to make a selection. At noon on 12 February, the twenty-eighth ballot was taken, and the votes remained unchanged from the first try. The next attempt was scheduled for noon on the following day.

Federalist James A. Bayard was Delaware's only representative, and, therefore, had the power to determine the election if he cast his state's vote for Jefferson. However, from the first ballot he had supported Burr. Convinced that the colonel would negotiate with his party, Bayard tried to persuade Republicans to give up Jefferson. On 12 February Jefferson noted that Edward Livingston told him that Bayard had tried to persuade Samuel Smith of Maryland to vote with the Federalists. Since the representatives of Maryland were divided, a defection by Smith would have given the state to Burr. Smith, who had been a Federalist until 1796, was considered by some of his former party as a man of little talent, but one who had "a passion for low intrigue, and wishes to be Secretary of the navy." When Bayard approached Smith, he told the Maryland representative that he might have his choice of appointments and particularly mentioned the secretaryship of the navy. Smith asked if Bayard had the authority to make the
TABLE I

TABULATION OF VOTING BY INDIVIDUAL REPRESENTATIVES IN HOUSE
FEBRUARY 1801

<table>
<thead>
<tr>
<th>State</th>
<th>For Jefferson</th>
<th>T*</th>
<th>For Burr</th>
<th>T*</th>
</tr>
</thead>
<tbody>
<tr>
<td>New Hampshire+</td>
<td></td>
<td>0</td>
<td>Abiel Foster, Jonathan Freeman, James Sheafe, Samuel Tenney</td>
<td>4</td>
</tr>
<tr>
<td>Rhode Island+</td>
<td></td>
<td>0</td>
<td>Christopher Champlin, John Brown</td>
<td>2</td>
</tr>
<tr>
<td>Connecticut+</td>
<td></td>
<td>0</td>
<td>John Davenport, Roger Griswold, Samuel W. Dana, Chauncey Goodrich, William Edmond, John C. Smith</td>
<td>6</td>
</tr>
<tr>
<td>South Carolina+</td>
<td>Benjamin Huger</td>
<td>1</td>
<td>Robert G. Harper, Thomas Pinckney, John Rutledge</td>
<td>3</td>
</tr>
<tr>
<td>Delaware+</td>
<td></td>
<td>0</td>
<td>James A. Bayard</td>
<td>1</td>
</tr>
</tbody>
</table>
### TABLE I--Continued

<table>
<thead>
<tr>
<th>State</th>
<th>For Jefferson</th>
<th>T*</th>
<th>For Burr</th>
<th>T*</th>
</tr>
</thead>
<tbody>
<tr>
<td>New York++</td>
<td>Theodorus Bailey</td>
<td>6</td>
<td>Henry Glen</td>
<td>4</td>
</tr>
<tr>
<td></td>
<td>John Thompson</td>
<td></td>
<td>John Bird</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Edward Livingston</td>
<td></td>
<td>William Cooper</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Lucus Elmendorf</td>
<td></td>
<td>Jonas Platt</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Philip Van Cortlandt</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>John Smith</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>New Jersey++</td>
<td>Aaron Kitchell</td>
<td>3</td>
<td>Franklin Davenport</td>
<td>2</td>
</tr>
<tr>
<td></td>
<td>James Linn</td>
<td></td>
<td>James M. Imlay</td>
<td></td>
</tr>
<tr>
<td></td>
<td>John Condit</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Pennsylvania++</td>
<td>Albert Gallatin</td>
<td>9</td>
<td>Robert Waln</td>
<td>4</td>
</tr>
<tr>
<td></td>
<td>Andrew Gregg</td>
<td></td>
<td>Wilkes Kittera</td>
<td></td>
</tr>
<tr>
<td></td>
<td>John A. Hanna</td>
<td></td>
<td>Richard Thomas</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Michael Leib</td>
<td></td>
<td>Henry Woods</td>
<td></td>
</tr>
<tr>
<td></td>
<td>John Smilie</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Peter Muhlenberg</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>John Heister</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>John Stewart</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Robert Brown</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Virginia++</td>
<td>Matthew Clay</td>
<td>14</td>
<td>Thomas Evans</td>
<td>5</td>
</tr>
<tr>
<td></td>
<td>John Nicholas</td>
<td></td>
<td>Henry Lee</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Samuel J. Cabell</td>
<td></td>
<td>Robert Page</td>
<td></td>
</tr>
<tr>
<td></td>
<td>John Dawson</td>
<td></td>
<td>Josiah Parker</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Joseph Eggleston</td>
<td></td>
<td>Leven Powell</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Samuel Goode</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Edwin Gray</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>David Holmes</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>George Jackson</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Anthony New</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>John Randolph</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>John Trigg</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Abram Trigg</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Littleton W. Tazewell</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Georgia++</td>
<td>Benjamin Taliaferro</td>
<td>1</td>
<td></td>
<td>0</td>
</tr>
</tbody>
</table>
**TABLE I--Continued**

<table>
<thead>
<tr>
<th>State</th>
<th>For Jefferson</th>
<th>T*</th>
<th>For Burr</th>
<th>T*</th>
</tr>
</thead>
<tbody>
<tr>
<td>North Carolina++</td>
<td>Willis Alston</td>
<td>6</td>
<td>Archibald Henderson</td>
<td>4</td>
</tr>
<tr>
<td></td>
<td>Nathaniel Macon</td>
<td></td>
<td>William H. Hill</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Richard Stanford</td>
<td></td>
<td>Joseph Dickson</td>
<td></td>
</tr>
<tr>
<td></td>
<td>David Stone</td>
<td></td>
<td>William B. Grove</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Robert Williams</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Dobbs Spaight</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Kentucky++</td>
<td>John Fowler</td>
<td>2</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Thomas T. Davis</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Tennessee++</td>
<td>William C.C. Claiborne</td>
<td>1</td>
<td></td>
<td>0</td>
</tr>
<tr>
<td>Vermont+++</td>
<td>Matthew Lyon</td>
<td>1</td>
<td>Lewis R. Morris</td>
<td>1</td>
</tr>
<tr>
<td>Maryland+++</td>
<td>Samuel Smith</td>
<td>4</td>
<td>John C. Thomas</td>
<td>4</td>
</tr>
<tr>
<td></td>
<td>George Dent</td>
<td></td>
<td>William Craik</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Gabriel Christie</td>
<td></td>
<td>George Baer</td>
<td></td>
</tr>
<tr>
<td></td>
<td>John H. Nicholson</td>
<td></td>
<td>John Dennis</td>
<td></td>
</tr>
</tbody>
</table>

*Total of individual representatives voting for each candidate.
+State vote cast for Burr.
++State vote cast for Jefferson.
+++Individual votes evenly divided and state cast no vote.
offer and was told that he did.

Bayard also approached Edward Livingston of New York and James A. Linn of New Jersey, offering them whatever they wanted to change their votes to Burr, according to the reports Jefferson received. On individual ballots, the representatives of New York and New Jersey were closely divided. New York's members were split six to four and New Jersey's three to two, respectively, for Jefferson. If Linn and Livingston changed their votes, New Jersey would be transferred from Jefferson's column, and New York would be evenly divided, which would mean it would not cast a vote. When the twenty-ninth vote was taken on 13 February, however, the results were unchanged. Federalist William Cooper of New York observed to a friend that if Burr had done anything for himself, the House would have already reached a decision in his favor.

The thirtieth ballot was not taken until the following day, and in four more attempts, the results remained the same. Bayard, discouraged by Burr's failure to cooperate, approached John Nicholas of Virginia, a close friend of Jefferson, and offered to end the stalemate if an understanding could be reached. The Delaware representative wanted Jefferson's assurance that there would be no changes in the public credit or the naval systems and that the Federalist officeholders would not be removed. Nicholas refused to become involved in the matter, therefore, Bayard turned to Samuel Smith for assistance. He mentioned two men specifically to Smith that he wanted retained in office: George Latimer, collector of the port of Philadelphia, and Allen McLane, collector of Wilmington. Smith talked to Jefferson and reported to Bayard that the Virginian agreed to all the qualifications. The conversation between the two representatives took place on the evening of 14 February (Saturday), and Bayard said he would break the deadlock on Monday.

When the thirty-fourth ballot was taken on Monday, however, there was no change of votes. Gallatin wrote to his father-in-law that Bayard probably delayed breaking the stalemate because he was still trying to persuade all the House Federalists to come over to Jefferson. John Cotton Smith, Federalist from North
Carolina, claimed that Bayard hesitated because he continued to hope Burr would indicate a willingness to accept the election as a gift from the Federalists. On 17 February two votes were taken, and on the thirty-sixth, Delaware and South Carolina cast blank ballots. Lewis R. Morris of Vermont, who had supported Burr, did not vote, and Matthew Lyon's ballot gave that state to Jefferson. The Maryland Federalists put in blank sheets, and Republican votes carried the state for Jefferson. The final tabulation gave Jefferson a total of ten states and Burr four. Bayard told Hamilton, "The means existed for electing Burr, but they required his cooperation. By deceiving one man (a great blockhead) and tempting two (not incorruptible) he might have secured a majority of the States."

Thomas Pinckney of South Carolina, Littleton W. Tazewell of Virginia, and Bayard were appointed to notify Jefferson of his election. Pinckney reported Jefferson's reply in which he stated, "In deciding between the candidates, whom their equal vote presented to you choice, I am sensible that age has been respected rather than more active and useful qualifications." The president-elect told Governor Thomas McKean of Pennsylvania that if the contest had gone to Burr, no one would have acquiesced more cheerfully than he, because the administration would have been Republican, and he would have been content to remain in the Senate.

Burr wrote to Gallatin expressing his satisfaction with the outcome of the contest, and said "As to the infamous slanders which have been so industriously circulated - they are now of little consequence & those who have believed them will doubtless blush at their own workings . . . ." However, he related that Hamilton's party was boasting that they had negotiated with Jefferson to secure his election, and that despite Burr's efforts, some Republicans in New York believed the rumors.

The oath of office was administered to the new president on 4 March 1801 in the Senate chambers of the unfinished capitol building in Washington by John Marshall, who had recently been appointed chief justice of the Supreme Court by outgoing President John Adams. The inaugural speech was conciliatory in nature,
but Jefferson wrote to Madison after the final ballot in the House that he con-
sidered the intrigues of the leading Federalists as a "declaration of war."\textsuperscript{56} His selections for all the cabinet positions were all Republicans. James Madison was named secretary of state, Albert Gallatin, secretary of the treasury, Levi Lincoln of Massachusetts, attorney general, and Henry Dearborn, also of Massa-
chusetts, secretary of war. The post of secretary of the navy was offered to
Robert R. Livingston, then to Samuel Smith, John Langdon of New Hampshire,
and William Jones of Pennsylvania, who each refused in turn, but Smith agreed
to fill the post until Jefferson found someone else.\textsuperscript{57} It finally went to Robert
Smith, younger brother of the congressman from Maryland, on 15 July 1801.\textsuperscript{58}

During February while the House struggled to determine who would become
president, Republicans in New York were concerned with the gubernatorial election
to be held in April. Former Governor George Clinton decided to run for a seventh
term. Burr wanted Oliver Phelps of Genesee County in upstate New York to be
the Republican nominee for lieutenant governor.\textsuperscript{59} However, the party chose to
support Jeremiah Van Rensselaer. Jay did not wish to seek a third term, and
the Federalists nominated Stephen Van Rensselaer III, incumbent lieutenant
governor, as their candidate for the first place and James Watson, former state
senator from New York City, for the second place. Burr returned from the
capital after the inauguration in March to campaign for his party's ticket, and
the Republicans won by a large majority. The governor-elect appointed his
nephew, DeWitt Clinton, as his secretary.

The younger Clinton had been elected to the powerful Council of Appoint-
ment in October 1800. The council was composed of four members (one senator
from each of the four districts), and it was responsible for nominating candidates
for state offices. The appointments were, however, subject to the approval of
the governor.\textsuperscript{60} State offices in the Empire State were openly and continuously
used for partisan purposes, and with the executive office controlled by one party
and the council by the other, both wanted control of the spoils.\textsuperscript{61} The compe-
tition between the council and Jay, who was governor until May 1801, became
particularly intense after DeWitt Clinton's election to that body in October 1800. In 1801 the legislature called for a constitutional convention to settle, among other problems, the dispute between the governor and the council. Burr was delegated as a representative from Orange County and was named president of the convention, which met in October 1801. On the question of appointments, the convention determined that the power was vested concurrently in the four members of the council and the governor: each was entitled to one vote. The decision, which Burr did not oppose, gave DeWitt Clinton control of state patronage since the other members of the council followed his direction. The governor's nephew was jealous of Burr's influence in the Republican party, and the colonel's passive role over the matter of appointments did not placate him. When the vice-president took an active part in a move to reduce the number of the state's senators to twenty-four, DeWitt Clinton considered it a personal challenge designed to deprive him of his senate seat. George Clinton, Jr., another nephew of the governor, successfully countered with a motion to establish the number of senators at thirty-two.

With George Clinton in the governor's office and DeWitt Clinton in control of the patronage, the Clinton family became the most powerful influence in New York. In 1791 the division of power between the Clintons and Livingstons had elevated Burr to the Senate as a compromise between the two factions. With their new strength in state politics, the Clintons had the means to destroy Burr's political position in New York by depriving his partisans of office. The Livingstons were willing to cooperate, and the two families formed a phalanx to neutralize the new vice-president's influence.

Jefferson understood the implications of the Clinton's control in the Empire State and knew how they resented Burr's position. The alliance with Burr had been forced on the southern Republicans because of the factionalism within the party in New York, and the emergence of the Clintonians as the dominant group gave Jefferson the opportunity to rid himself of a partner he had never trusted. The events of February had confirmed the danger of the colonel's popularity with
the Federalists. Pragmatically, Jefferson decided to aid the Clintons in Burr's destruction.

Burr believed that his position as vice-president and his contributions to the Republican victory gave him the right to determine the disposal of the federal patronage in his state. He consulted with New York Republicans in Congress and drew up a list in which all the factions of the party were given consideration. The only Burr partisans included were John Swartwout for federal marshal, Matthew L. Davis for naval officer, David Gelston for collector of the port, and Theodorus Bailey as port supervisor. When Burr submitted the list to Jefferson, the president sent it to Governor Clinton and invited his opinions on the proposed candidates. Consequently, the only Burrites to receive offices were John Swartwout and David Gelston.

The vice-president became particularly concerned about the appointment of Davis. The post of naval officer was held by Federalist Commodore John Rogers, and Jefferson postponed the matter on the grounds that he was an efficient and honest administrator whose removal might be unjustifiable. The Clintons were indiscriminately removing Federalists from state offices and replacing them with Republicans, and Burr, along with the rest of the party, approved the reallocation and expected the same reallocation of federal patronage. When no action had been taken with regard to Davis's appointment by the latter part of June, the vice-president wrote to Gallatin concerning reports that the commission would not be given to his friend. Burr emphasized the embarrassment attached to the situation because Edward Livingston had assured Davis the appointment would be made, and consequently, Davis had refused "a very lucrative employment" in expectation of it. The vice-president told the secretary of the treasury how much importance he personally attached to the confirmation and asked that Gallatin intercede on his friend's behalf with the president.

By September the appointment was still unfilled, and Davis decided to go to Monticello, where the president had retired for the summer, to plead his own cause to Jefferson. He carried a letter from Burr to Gallatin expressing chagrin
at the delay in the commission. The note asked Gallatin to write to the president detailing Davis's claims to the office and urging that a determination be made. The secretary of the treasury tried to disuade Davis from the journey to Virginia, but failing to do so, he wrote a letter to Jefferson emphasizing the awkwardness of the situation and the New Yorker's qualifications for office. The president replied to Gallatin on 18 September that Davis was with him and that he intended to tell him nothing could be decided until Congress convened. Jefferson sent a curt note to Burr stating that the answer to questions about appointments would be "found in what is done or not done on them." Davis never received the appointment, but as late as March 1802, Burr was still writing to Gallatin urging a determination.

Added to the humiliation over the federal patronage in his own state, Burr was forced to admit to Pierce Butler of South Carolina that a list for the offices of collector, marshall, and supervisors for that state (that he had drawn up from the suggestions of Charles Cotesworth Pinckney and representatives from South Carolina) had been given to the president, but that he could not get any reply to inquiries about the status of the matter. It seemed abundantly clear that Jefferson did not intend to share any power with his vice-president. Some Republicans disapproved the president's arbitrary treatment of Burr.

Alexander J. Dallas, district attorney of Pennsylvania, heard rumors about the "jealousy and dissatisfaction" in the executive department and told Burr it was disgraceful. Gallatin was also concerned. He told Jefferson that it was likely that his policies might disrupt their North-South alliance before the next presidential election. Alienation of Burr might drive him into the Federalist camp and make him their candidate at the next election. He reiterated the reasons for Burr's selection for the second position on the Republican ticket in the previous election and declared that, by that choice and the antipathy of some of the party to the vice-president, the resulting situation created a dilemma that required careful consideration. If the party decided to try to isolate Burr politically, he would consider it a "declaration of war." Gallatin posed some
questions about what the president intended to do in the matter. A few days later, Jefferson acknowledged the letter and several others from the secretary of the treasury, and while he answered all other issues Gallatin raised, he did not mention Burr's name.

By cooperating with the Clintons and distributing offices to the Livingstons, Jefferson was certain that he could secure the party's position in New York. Chancellor Robert R. Livingston was offered the post of secretary of the navy, and when he refused that position, Jefferson offered him the ministry to France. Edward Livingston was given the office of the United States district attorney for New York.

By denying Burr patronage, the president temporarily negated the vice-president's influence. Jefferson was willing to delegate the long-range destruction of Burr's political career to his new allies in New York.

The president had more urgent matters claiming his attention. Particularly prominent was the Judiciary Act of 1801 that the Federalist-dominated Congress had passed in the lame-duck session in February 1801. The statute expanded the entire federal court system, and Adams used the two weeks from the time the bill became law until he left office to fill the newly created judiciary offices with members of his own party. Jefferson outlined his position in a message at the opening of the first session of the Seventh Congress on 8 December 1801 by stating:

The Judiciary system of the United States, and especially that portion of it recently erected, will of course, present itself to the contemplation of Congress; and that they may be able to judge of the proportion which the institution bears to the business it has to perform, I have caused to be procured from the several States, and now lay before Congress, an exact statement of all the causes decided since the first establishment of the courts, and of those which were depending when additional courts and judges were brought to their aid.

In the Senate on 6 January 1802, John Breckenridge of Kentucky moved
repeal of the Judiciary Act. \footnote{Burr did not take his chair as presiding officer until 15 January and therefore missed several days of the heated arguments between the Federalists and Republicans over Breckenridge's motion.} The debates continued until 27 January, when Jonathan Dayton of New Jersey moved that the bill of repeal be submitted to a select committee. The vote on the motion was equal, and it became the vice-president's duty to cast the deciding vote. \footnote{He voted for reference on the grounds that he hoped the committee would "render it more acceptable to the Senate" but added that he would oppose any indirect means of defeating the bill by reference.}

Burr's decision to vote with the Federalists was not indicative of any rebuff to his own party for the humiliation over the patronage question. He did not question the legality of the repeal measure, but he expressed concern about the "morality" of depriving judges of their offices and salaries. \footnote{Some conservative Republicans, including Alexander J. Dallas, shared the vice-president's point of view.} Burr asked his son-in-law, Joseph Alston, to read the Constitution, listen to the opinions of others in South Carolina and then give his analysis of the matter. \footnote{The arrival of another Republican senator at the end of January gave Jefferson's party enough votes to bring the bill out of committee and pass it on 3 February by a vote of sixteen to fifteen.}

Some indication of the attitude of Republicans in Washington to Burr during his first year as vice-president is given in his letters to his son-in-law. Shortly after he assumed his duties as presiding officer of the Senate, he told Alston that he had not heard anything about any changes to be made in the offices of South Carolina, and "for reasons well known to you, I shall neither make an inquiry nor offer advice." \footnote{A few weeks later Burr remarked that he dined with the president about once every two weeks and occasionally met on the street other members of the administration, who were all "very busy." He told his son-in-law, however, that he and the senators were courteous with each other.}

The Federalists were quick to note the coolness of many Republicans to Burr and speculate on the advantages to their party of his alienation. They
invited him to a dinner celebration of Washington's birthday on 22 February held at Stelle's Hotel in the capital. Since the celebration was for Federalist members of both houses of Congress, James A. Bayard confided to Hamilton that the invitation was extended because of the impression it would create in Republican circles. The vice-president did not attend the meal but made an appearance at the gathering later in the evening. When called on for a toast, he proposed "The union of all honest men." Burr's words were not significantly different from Jefferson's inaugural speech of the previous year, but both Republicans and Federalists chose to interpret it as an offer of a personal alliance with Hamilton's party. Hamilton commented on the vice-president's presence at the celebration and told Gouverneur Morris that Burr's indiscreet words could be a good thing for their party if used wisely. However, he questioned Bayard about the possibility that it was some new intrigue to link the vice-president with the Federalists. The representative from Delaware responded that Hamilton's fears were groundless at the present time and declared that Burr was waiting until the intentions of his own party became more clear before deciding his own course.

During 1802 the relationship between the vice-president and his party continued to degenerate, and in November Burr wrote to Joseph Alston about a "conspiracy" against him that had been formed in the earlier part of the year. The "conspiracy" was directed from New York by DeWitt Clinton through a scurrilous newspaper editor, James Cheetham, who jointly owned the American-Citizen with David Denniston, Clinton's cousin. Cheetham had written to Jefferson in December 1801 charging that Burr had plotted in various ways to have himself elected president. Burr's plans, according to the newspaper man, included having one of the electoral votes from New York withheld from Jefferson and securing votes in Rhode Island and South Carolina only for himself. Cheetham also claimed that the vice-president was already preparing a campaign to secure the presidential office at the next election. Though unable to offer any proof of the intrigues he reported, it was not long before the editor discovered something that he contended gave credence to his accusation. His discovery was
Burr's negotiations to suppress the *History of the Administration of John Adams*, written by historian John Wood, a recent immigrant from Scotland.

William Duane, editor of the *Aurora*, provided some of the material for Wood's *History*, and Burr supplied some of the biographical information. The New York firm of Ward and Barlas held the copyright of the book and advertised that it would be available in December 1801. The vice-president received a copy of the work before its release and decided it would cause more harm than good for Republicans. He offered to pay Ward and Barlas for the number of books already printed if they turned over to him the entire 1250 copies. Duane and Cheetham found out about the negotiations to suppress the work. The *Aurora* asked, "Was it suppressed to conceal from the people the views, designs, and conduct of Mr. Adams and his ministers . . .?" The furor became so great that William P. Van Ness advised the vice-president that he, Davis and Swartwout thought the book should be released in its present form. Publication would silence Cheetham and Duane's claims that it was being withheld because it was unfavorable to the Federalists and would prove exactly why Burr wanted to prevent its release.

Burr sent the paragraph from the *Aurora* to his daughter, Theodosia Alston, and commented it was well known that he had delayed Wood's book. He described it as a lengthy work of "principally low scurrility and illy-told private anecdotes," containing a considerable amount of praise and commendation of him. Burr said that Wood had charged a dozen people with being bribed by Great Britain and, of all the Federalists, had treated only Hamilton with respect. He also noted that Barlas, the publisher, was a tutor to Hamilton's children. To his daughter the vice-president dismissed the attacks against him as insignificant, but he wrote with concern about the aspersions on his character to William P. Van Ness and reaffirmed that his only interest in suppressing the book was that it would harm Republicans.

After William Duane read the *History*, he agreed with Burr that it was a crude and inaccurate work, calculated to do more harm than good to the
Republicans, who would be blamed for its false and libelous statements. He suggested that an edited version be considered. Cheetham, however, continued to interpret the suppression as an attempt of Burr to gain favor with the Federalists. In May he published a pamphlet entitled *Narrative of the Suppression by Colonel Burr of the History of the Administration of John Adams, Late President of the United States, Written by John Wood, Author of the History of Switzerland and the Swiss Revolution*. The journalist emphasized the vice-president's "secrecy" and said, "There is about his actions a cunning, a sort of legerdemain, which while it defies conclusive proof, eludes the most acute research. In everything therefore, which relates to this gentleman, no higher a species of testimony ought to be expected, than that of a circumstantial or presumptive nature." Burr, according to Cheetham, could only have been flattered by what Wood said of him but wanted to withhold the book for two reasons. First, he wanted to appease the Federalists, and second, Wood eulogized Jefferson too much to please Burr. By preventing publication of the original edition, the vice-president could dictate a different portrayal of the president in a revised edition.

William Duane wanted Burr to publicly reveal his motives for the suppression and warned in the *Aurora* that lack of an explanation would destroy his standing with the Republicans. Disregarding Duane's advice, the vice-president adhered to his usual aloof custom of disdaining to justify his actions. He wrote to Joseph Alston that in due time it would become obvious that DeWitt Clinton was Cheetham's instigator and that he doubted they could harm him personally. However, Burr misjudged Cheetham's vitriolic pen. A month after the release of his *Narrative*, the editor unleashed a more devastating attack on his victim in a pamphlet entitled *A View of the Political Conduct of Aaron Burr, Esq., Vice-President of the United States*. Burr heard about the new attack before it was published and warned Pierpont Edwards that it was imminent and that it claimed Edwards was a party to "certain imaginary intrigues of mine . . . ." Of Cheetham and DeWitt Clinton, he said "This knot of
knaves cannot long hold together - they begin already to call each other lyars [sic] - the only truth they have uttered . . . ."  

A View charged that the vice-president's silence on the accusations published in the Narrative indicated that he had no defense.  

Beginning with the ratification controversy, Cheetham read a sinister motive into each public action of Burr's career. He charged the vice-president of intriguing with the Federalists in every instance where he was a candidate for any office. Motivated only by selfishness, Burr had given only apathetic support to other Republican candidates and measures. Cheetham claimed that in the election of 1800, the colonel had numerous schemes for overstepping Jefferson, including assuring that he would lose no southern votes by pretending that Jefferson would have two votes from Rhode Island. He dismissed Burr's letter to Samuel Smith of 17 December as "machiavelian" and claimed that it was not voluntarily written nor intended for publication.  

Echoing the terminology of Hamilton, Cheetham called the vice-president "a dangerous man" and likened him to Caesar.  

Burr tried to dismiss the virulent attacks and told his son-in-law that they would soon be shown to be fabrications. To Samuel Smith (of Maryland), the vice-president wrote confidently that he expected the whole thing would be revealed in a few weeks for what it was. Others apparently did not share Burr's confidence and the newspapers were filled with a barrage of denials from his friends. Dr. Samuel S. Smith, president of Princeton College and the father-in-law of Burr's stepson, John B. Prevost, was one of the electors from New Jersey whom Cheetham said was involved in the "schemes" to supercede Jefferson. Dr. Smith wrote to William Coleman, Federalist editor of the Evening Post, that there were no intrigues involving the votes of his state.  

To Cheetham's charges that Timothy Green had been sent to South Carolina to secure its votes for Burr and "secretly" corresponded with the colonel through John Swartwout, both Green and Swartwout wrote emphatic denials to the American-Citizen. Edward Livingston and David A. Ogden were implicated in the alleged plots, and they added their unqualified refutations to the Evening Post.
In response to a letter from Governor Joseph Bloomfield of New Jersey on Cheetham's accusations, Burr made one of the few denials of his career. He asserted emphatically that any claims or insinuations of any intrigues or attempts by him to defeat Jefferson's election were "FALSE AND GROUNDLESS." To other friends he privately expressed the hope that DeWitt Clinton and his colleague were exhausted from their "calumniations," but again, he misjudged the intensity of those who wanted to destroy him. Far from exhausting their vindictive resources, Clinton and Cheetham were only beginning.
FOOTNOTES: CHAPTER III


5. U.S., Statutes at Large, 1:240.


7. Hamilton to Oliver Wolcott, Jr., 16 December 1800, ibid., p. 258.


10. Hamilton to Gouverneur Morris, 26 December 1800, ibid., p. 275; Hamilton to James A. Bayard, 27 December 1800, ibid., pp. 275-77; Hamilton to James Ross, 29 December 1800, ibid., pp. 280-81; Hamilton to Oliver Wolcott, Jr., 7 December 1800, ibid., pp. 286-89.


19. Bayard to Hamilton, 7 January 1801, ibid., pp. 300-01; The caucus was held on 9 January but no decision was made for unified action. Philadelphia Aurora and General Advertiser, 16 January 1801.


23. James Cheetham, A View of the Political Conduct of Aaron Burr, Esq., Vice-President of the United States (New York: Denniston and Cheetham, 1802; on microfilm, North Texas State University), p. 66.


26. Ibid.

27. Albert Gallatin to Hannah Gallatin, 22 January 1801, Gallatin Papers.


30. Burr to Smith, 4 February 1801, ibid.


34. Senate, Annals, 6th Cong., 2d sess., p. 744.

35. Two of Virginia's representatives voted for Jefferson on the first ballot but gave Burr their votes on succeeding tabulations. Three of North Carolina's representatives changed their votes from Jefferson to Burr after the first ballot. Two representatives from South Carolina were absent during the voting. House, Annals, 6th Cong., 2d sess., pp. 1024-27.

36. Ibid.

37. Bayard wrote to Hamilton that "persons friendly to Burr" stated the colonel was willing to consider Federalists "as his friends and accept the office of President as their gift." Bayard to Hamilton, 7 January 1801, Hamilton Papers, 25:300.


41. Ibid.

42. Ibid.

43. Ibid.

44. Ibid.

46. Ibid., p. 136.

47. Ibid.


49. Borden, Bayard, p. 89.


51. Bayard to Hamilton, 8 March 1801, Hamilton Papers, 25:345. It seems likely the three referred to were Smith of Maryland and Linn of New Jersey, whose change of votes would have given those states to Burr, and Matthew Lyon of Vermont, where the vote was evenly divided. The change of these three votes would have given Burr a majority of nine states. Lyon later claimed that he was approached by John Brown of Rhode Island to change his vote. Parton, Aaron Burr, 1:289.

52. House, Annals, 6th Cong., 2d sess., p. 1029.

53. Ibid., p. 1047.

54. Jefferson to McKean, 9 March 1801, Jefferson, Writings, 10:221.


61. During most of the years Clinton was governor (1777-1795), the Federalists dominated the legislature. While John Jay was governor (1795-1801), the legislature came under the control of the Republicans.

63. Cbeetham, A View, pp. 93-94.


66. Ibid.


68. Samuel H. Wandell and Meade Minnigerode, Aaron Burr, 2 vols. (New York: G.P. Putnam's Sons, 1925), 1:236. Burr's stepson, John Bartow Prevost, was given the post of recorder, which was a state appointment.


70. Burr to Gallatin, 8 June 1801, Burr Papers.

71. Burr to Gallatin, 28 June 1801, ibid.

72. Ibid.

73. Burr to Gallatin, 8 September 1801, ibid.

74. Gallatin to Jefferson, 12 September 1801, Gallatin, Writings, 1:47-49.

75. Jefferson to Gallatin, 18 September 1801, ibid., p. 54.


77. Burr to Gallatin, 25 March 1802, Gallatin Papers.

78. Burr to Pierce Butler, 16 September 1801, Burr Papers.

79. A.J. Dallas to Burr, 3 April 1802, ibid.

80. Gallatin to Jefferson, 14 September 1801, Gallatin, Writings, 1:49-54.
81. Jefferson to Gallatin, 18 September 1801, ibid., pp. 54-55.


83. *Statutes at Large*, 2:89-100.


87. Ibid., p. 150.

88. Ibid.

89. Burr to Barnabas Bidwell, 1 February 1802, Burr Papers.

90. A. J. Dallas to Burr, 3 February 1802, ibid; Nathaniel Niles to Burr, 17 February 1802, ibid.

91. Burr to Joseph Alston, 2 February 1802, ibid.


93. Burr to Joseph Alston, 2 February 1802, ibid.

94. Burr to Joseph Alston, 8 March 1802, ibid.


97. Troup to King, 9 April 1802, ibid.

98. Hamilton to Morris, 4 March 1802, ibid., p. 559.

99. Hamilton to Bayard, 6 April 1802, ibid., p. 587.

100. Bayard to Hamilton, 12 April 1802, ibid., p. 600.

101. Burr to Alston, 5 November 1802, Burr Papers.


104. *Aurora*, 27 February 1802.

105. William P. Van Ness to Burr, 12 January 1802, Burr Papers.

106. Burr to Theodosia Alston, 8 March 1802, ibid.


108. William Duane to Burr, 15 April 1802, ibid.


110. Ibid., pp. 19, 38.

111. *Aurora*, 12 July 1802.

112. Burr to Joseph Alston, 3 July 1802, Burr Papers.


114. Ibid.


116. Ibid., p. 51.

117. Ibid., pp. 6, 14.

118. Burr to Joseph Alston, 19 July 1802, Burr Papers.

119. Burr to Samuel Smith, 24 July 1802, ibid.


123. Bloomfield to Burr, 17 September 1802, Burr Papers; Burr to Bloomfield, 21 September 1802, ibid.

CHAPTER IV

ISOLATION AND INFAMY: 1803-1805

DeWitt Clinton and James Cheetham created a breach between Aaron Burr and the Republican party in 1802 with their scurrility. Many Republicans, who had never entirely trusted Burr, willingly accepted the unsubstantiated allegations made by Cheetham. The colonel usually did not explain, excuse or refute any claims made about him, and, except for his letter to Governor Joseph Bloomfield of New Jersey on 21 September 1802, he did not publicly notice or deny any of the newspaper editor's charges. The combined factors of his reticence, his obvious popularity with Federalists, and the innate mistrust of many of his party enabled many Republicans to believe anything about Burr as long as it was sufficiently incredible.

The effectiveness of Clinton's and Cheetham's campaign became obvious during the latter part of 1802. Burr and John Swartwout were ousted from the board of directors of the Manhattan Bank, and Robert Troup observed that the vice-president was ruined politically. Burr's closest friends, angered by the damage to his political career, became militant in his defense. Robert Swartwout wounded the Clinton partisan district attorney, Richard Riker, on the dueling field. When DeWitt Clinton refused to sign an apology for accusations against the vice-president, John Swartwout challenged him to a duel. They met at Weehawken, New Jersey, in the latter part of July 1802, and Swartwout received wounds in both legs but insisted on continuing the fight unless Clinton signed the apology. However, the latter refused to continue or to apologize. Jonathan Dayton, Federalist senator from New Jersey, also challenged Clinton on Burr's behalf, but Clinton managed to placate the senator, and the affair was dropped.

In 1803 Cheetham published a third pamphlet, Nine Letters on the Subject
of Aaron Burr's Political Defection, which was a collection of articles that had appeared in the New York American-Citizen during the latter part of the previous year. The new publication rehashed the accusations of the two previous efforts: Narrative of the Suppression by Colonel Burr of the History of the Administration Of John Adams, Late President of the United States, Written by John Wood, Author of the History of Switzerland and the Swiss Revolution; and A View of the Political Conduct of Aaron Burr, Esq., Vice-President of the United States. Nine Letters claimed that Burr had turned to the Republican party only after he was sure he could not use the Federalists to gratify his ambitions. Cheetham asserted confidently that there were few people who thought the vice-president innocent of the charges made against him in A View. Burr had never actively supported the Republican party, the editor said, and he alternately intrigued in 1800 with both parties to realize his own ambition to become president. According to Cheetham, Alexander Hamilton had said privately that he could "prove in a court of law that Burr connived with Federalists" to usurp the presidential office. Hamilton denied that he had made such a statement, or that he had any knowledge of any negotiations between Burr and anyone during the election, but many chose to ignore Hamilton's denial and believe the editor's statements.

In the first three pamphlets, Cheetham accused the vice-president's friends of being accomplices in his schemes and added further condemnations in a fourth publication, Letter to a Friend on the Conduct of the Adherents to Mr. Burr. The Letter repeated the allegations against Burr and included an affidavit signed by one William Dunstan stating that he had seen a letter from the colonel to Edward Livingston that "proved" Burr had schemed to achieve the presidency in 1800. However, far from proving anything, Dunstan's testimony was simply that he saw a letter, not in Burr's writing, but a purported copy which was shown to him by Cheetham.

Among those denounced in the Letter was the New York Morning Chronicle. The paper, edited by Dr. Peter Irving, had been established in the summer of 1802 with the aid of some of Burr's friends. Irving and the Morning Chronicle
came under attack for failing to copy the diatribes from the *American-Citizen* as other newspapers had. Irving refused to print accusations that Cheetham acknowledged he could not substantiate.  

The *Morning Chronicle* was the only Republican newspaper that did not join the campaign against the vice-president. Burr's friends looked to Jefferson to take some action to silence the colonel's critics. The president, however, assumed a passive attitude about the vice-president's political fate. He told Burr that he did not consider it "proper" to interfere with things written by newspaper editors even if their papers held government printing contracts as the *American-Citizen* did. The president assured Burr that he gave scant attention to the things Cheetham said about the vice-president, but Jefferson neglected to say that he had copies of all four of the editor's pamphlets.

The effectiveness of Clinton and Cheetham in discrediting the vice-president pleased Jefferson since he no longer needed Burr as an ally. As the party had secured control of New York, and the Clintons were now the most powerful faction in the state, the president willingly accepted the necessity of the colonel's political destruction. Jefferson preferred the Clintons as political partners since they were more predictable and more easily controlled than Burr, and the president was grateful for their aid in getting rid of the man he had always mistrusted. Therefore, he turned his attention to matters of national importance and left Burr's fate to the Clintons.

The rumored retrocession of Louisiana by Spain to France became an acknowledged fact by early 1802. The Quasi War had destroyed the pro-French sympathy in the United States, and Napoleon's plans for a western empire created concern among Americans over the fate of Louisiana. In the autumn of 1802, the Spanish Intendant closed New Orleans to American deposits as guaranteed in Pinckney's Treaty of 1795. Technically Spain had the right to suspend the privilege since the guarantee of the use of wharves and warehouses had expired in 1798. However, Pinckney's Treaty specified that the right would not be suspended without provisions for an "equivalent establishment" at another location.
a measure of security, the president instructed Robert R. Livingston, minister to France, to try to purchase New Orleans and the Floridas. As an indication of the importance he attached to the mission, Jefferson told Livingston that the day France took possession of Louisiana, the United States would have to "marry" itself to Great Britain. He assured Livingston "Every eye in the United States is now fixed on the affairs of Louisiana." 18

As tension mounted over ending the right of deposit, Jefferson nominated James Monroe as minister extraordinary to join Livingston in France, and the Senate gave its approval in January 1803. 19 The Federalists clamored for the seizure of the city, but during April 1803 the Spanish government restored the privilege. 20 In Paris during April, the French government offered to sell all of Louisiana to the United States. The ministers accepted the offer, and news of the transaction reached Jefferson on 3 July 1803. A few days later the (Washington) National Intelligencer and Philadelphia Aurora reported it to the American public. 21 Rufus King noted that the commercial interests in New York recognized the importance of gaining full control of the Mississippi River and that the acquisition confirmed the popularity of the administration. 22

However jubilant Americans were over the success of Livingston and Monroe in Paris, there were still problems to be resolved during the latter part of 1803. Of major importance were the constitutional considerations the acquisition presented, including immediate American citizenship for persons of French and Spanish descent ("Creoles"). Equally important were the Spanish objections to the cession of the territory, the question of boundaries, and provisions for taking possession of the area. Jefferson's preoccupation with Louisiana afforded him a reason to remain uninvolved in the conflict between the Clintons and Burr.

William P. Van Ness, one of the vice-president's closest supporters, followed Cheetham's example and published a pamphlet, An Examination of the Various Charges Exhibited Against Aaron Burr, Esq., Vice-President of the United States: An Development of the Character and Views of his Political Opponents, under the pseudonym of "Aristides." Van Ness claimed that all of
Cheetham's charges stemmed from the jealousy of the Clintons, who had sworn on the "altar of their ambitions" to destroy Burr's political position. Although DeWitt Clinton was the "acknowledged" leader of those who opposed the vice-president, Van Ness said George Clinton had "dwindled into the mere instrument of an ambitious relative, and his mercenary adherents." "Aristides" also condemned Robert R. Livingston and the "clamorous vanity of his relatives" for their cooperation in the Clintons' plans to undermine the vice-president. An Examination refuted each of the charges Cheetham had made in his four publications and documented the denials of Burr's friends that there had been any schemes to place him in the executive office in 1800. "Aristides" concluded with the assertion that Jefferson could not be deceived by Burr's enemies and called on the president to take some positive action to prove that he did not accept the claims of Clinton and Cheetham.

Jefferson was not quite as disinterested in the furor Cheetham and Clinton had started as he pretended to Burr. He not only had copies of Cheetham's four pamphlets, but he noted in his diary on 31 December 1803 that the pamphlet by Van Ness was the subject of conversation during dinner. In that discussion, Representative Lyon, formerly of Vermont but now of Kentucky, expressed the wish that everything that had taken place during the balloting in the House might be made known. Jefferson recorded Lyon's statement that he had been approached by John Brown of Rhode Island urging him to vote for Burr. According to Lyon, Brown asked "What is it you want . . . . Is it office, is it money? Only say what you want, and you shall have it." It seems evident that Jefferson found it reasonable to believe any of the charges Cheetham levelled against the vice-president, although during January and February 1801 he had acquitted Burr of encouraging or cooperating with Federalists. He never trusted Burr, and like Cheetham, he needed no proof. The Federalists had come perilously close to denying Virginia's claim to the executive office in February 1801 by supporting Burr, therefore, the Clintons had Jefferson's good wishes in their campaign to neutralize the colonel's political
power.

Governor George Clinton wrote to Jefferson on 22 December 1803 about the "Aristides" publication, and the president replied that he had seen the "libellous" paper but found it too dull to read thoroughly. Having read portions of it, Jefferson assured Clinton that he considered it "useless to read lies, [and] I threw it by." As he had written to Burr during the House election, the president now wrote to Clinton to beware of those who wished to "sow tares" between them through falsehoods.

The president carefully recorded every new piece of information passed on to him that "proved" Burr's perfidy. A few days after his letter to Clinton, he recorded a conversation with Colonel Benjamin Hitchborn of Massachusetts concerning a meeting between Samuel Smith and Burr in December 1800. According to Hitchborn, Burr said the only way to keep Federalists from preventing an election in the House was for Republicans to acquiesce and allow him to be elected president, then naming Jefferson as vice-president.

In contrast to the hostility within his own party, many Federalists continued to be amiable to the vice-president. Governor Bloomfield wrote to Burr in April 1803 to inform him that the College of New Jersey (later Princeton) had conferred a Doctor of Laws degree on him, and he also told the colonel that the Federalists in his state were "abusively hostile" to the president and his adherents but not to the vice-president. In December 1803 Robert Goodloe Harper invited Burr to spend Christmas in Annapolis with the Harper family. The colonel accepted the offer, and Charles Carroll, Harper's father-in-law, extended an invitation for him to spend as much time as he wished at the Carroll townhouse in Annapolis during the holidays. Jonathan Dayton planned to join Burr in Maryland, but on 24 December he wrote to the vice-president that he would be unable to make the trip.

The Federalists were obviously courting Burr, hoping to capitalize on the schism in the Republican party. It is uncertain what happened during those few days in Annapolis. Burr was back in Washington by 27 December and wrote to
his daughter and son-in-law about the visit, but with his usual reticence, he said "what I did and who I saw are other matters." He never revealed more explicit details about the holidays, but it seems certain that he afterward believed the Federalists would support his political aspirations. In a note to his daughter in early January, Burr made another mysterious reference to his holiday expedition: "for Annapolis is yet on hand. Indeed, matters thicken so fast, that I may possibly leave this city within twenty days to go northward, without saying a word about it." Relations between Burr and Jefferson remained courteous but cool. The vice-president was invited to dine at the presidential mansion on 17 January 1804, and nine days later, just before leaving New York, Burr had a private meeting with the president. Jefferson recorded a lengthy account of the meeting in his diary. Burr told him that he had worked in 1800 to secure the interest of the Republican party in New York without any view to his own political advancement and had become the vice-presidential candidate only to lend his support to Jefferson's election. The president noted that Burr declared:

those great families [the Livingstons and the Clintons] had become hostile to him, and had excited the calumnies which I had seen published. That in this Hamilton had joined, and had even written some of the pieces against him. That his attachment to me had been sincere, and was still unchanged, although many little stories had been carried to him, and he supposed to me also, which he despised; but that attachments must be reciprocal or cease to exist, and therefore he asked if any change had taken place in mine toward him; that he had chosen to have this conversation with myself directly, and not through any intermediate agent. He reminded me of a letter written to him about the time of counting votes, (say February, 1801) mentioning that his election had left a chasm in my arrangements; that I had lost him from my list in the administration, & c. He observed, he believed it would be for the interest of the republican cause for him to retire; that a disadvantageous schism would otherwise take place; but that were he to retire, it would be said he shrank
from the public sentence, which he never would do; that his enemies were using my name to destroy him; and something was necessary from me to prevent and deprive them of that weapon, some mark of favor from me which would declare to the world that he retired with my confidence.

Jefferson replied that he believed it would be improper to take any active part in Burr's problems with the Clintons and Livingstons and avoided making the commitments the vice-president requested. The president commented in his notes concerning the encounter that he never trusted Burr and had continually cautioned Madison against trusting him too much. He wrote that "under General Washington's and Mr. Adams's administrations, whenever a great military appointment or diplomatic one was to be made, he came post to Philadelphia to show himself and in fact that he was always at market if they had wanted him."

The interview with the president on 26 January convinced Burr that he had been completely abandoned by the Republican leader. On the following day he announced his intention of going to Philadelphia for a few weeks. In spite of weather conditions that made travel almost impossible, Burr reached Philadelphia by 1 February and remained there for a week. It is not certain precisely what the nature of his business in Philadelphia was, and although it is likely that he visited his Federalist friend, Charles Biddle, his note to his daughter about the time spent there contains only social news. When he left Philadelphia, he went to New York City and remained there for eight days.

1804 was a presidential election year, and although Republicans had not determined who would be the Republican vice-presidential nominee, the Aurora claimed "It requires no aid of prophetic talents to say Mr. Burr will not." After his conversation with Jefferson, it was also evident that he could not hope for any appointive office, and by the time the vice-president reached New York on 8 February, he had decided to try to repair his political position in that state and seek the office of governor. Burr still had a strong contingent in the Tammany Society and retained his popularity in the western counties where friends
promised an "immense majority." By the time he left New York on 16 February, the vice-president had let his friends know about his plans and had made arrangements to have his candidacy announced.

The most likely "regular" Republican gubernatorial candidate was Chancellor John Lansing, a loyal Clintonian. Lansing, however, declined the nomination, and Burr noted that "the Clintons, Livingstons, & c., had not at the last advice from Albany, decided on their candidate for governor. Hamilton is intriguing for any candidate who can have a chance of success against A.B. He would doubtless, become the advocate of even DeWitt Clinton if he should be the opponent." Morgan Lewis, chief justice of the New York Supreme Court, finally became the Republican nominee.

A week after Burr left New York, his candidacy was formally announced, and Oliver Phelps was named as his running mate. Peter Townsend wrote to the vice-president about the furor that greeted the announcement:

the malice and malignance . . . have here burst into a flame that will not easily be extinguished. Mr. Abraham G. Lansing and his friends begin to be very hostile to the friends of Col. Burr - he told me this morning that he had to make an apology for not paying me the usual satisfactions when I was in Albany last winter - that to be seen with a friend of yours would be dangerous - this is an honest confession - the intrigues here by the Clintons in order to get Talor nominated . . . have been barefaced and eventually the nomination of Lewis has closed the same of destruction to their party - they are in no hopes of Success at this Election . . .

While Burr's friends worked for his election, the vice-president was in Washington presiding over the impeachment trial of District Judge John Pickering of New Hampshire. The proceedings against Pickering were part of the "war" the president had declared on the Federalist-dominated judiciary. The conflict had begun when James Madison, Jefferson's secretary of state, took office in March 1801 and found commissions for seventeen of John Adams's
"midnight" appointments that had been confirmed, signed and sealed, but not delivered. Jefferson directed the secretary to withhold the commissions, and William Marbury and three others who did not receive their appointments applied to the Supreme Court for a writ of mandamus compelling Madison to deliver the certificates. Chief Justice John Marshall ruled in *Marbury v. Madison* that the court did not have the power to issue the writ, but it was a hollow victory for the president since Marshall used the case to assert the exclusive right of the judiciary to determine the constitutionality of laws.

By the time the Supreme Court handed down a ruling in *Marbury v. Madison*, Congress, at Jefferson's direction, had repealed the Federalist sponsored judiciary law of 1801 that had expanded the whole federal court system. The next campaign the president planned was the removal of judges. The first attempt was made at the state level in Pennsylvania. In the Keystone State, Alexander J. Dallas, whom Jefferson appointed federal district attorney, conducted the prosecution of Alexander Addison, presiding judge of the fifth judicial district, on the impeachment charges brought by the lower house of the legislature. In January 1803 Addison was convicted and removed from office.

A few days after the successful attempt in Pennsylvania, Jefferson sent a list of complaints against John Pickering to the House of Representatives. The House impeached the New Hampshire judge in March 1803, but the trial did not begin until 2 March 1804. Pickering, who was an alcoholic and insane, did not appear during the trial nor was he represented by counsel. The Senate, with Burr presiding, found the judge guilty of the charges and removed him from his office.

In February, a few days before the Pickering trial began, a Republican caucus in Washington unanimously renominated Jefferson, and by a majority vote, named George Clinton as the party's vice-presidential nominee. By nominating Clinton the Republicans publicly disavowed Burr and at the same time rewarded the family who had engineered his political ruin. To Federalists the schism seemed to offer the opportunity to recoup their diminished political
prospects. They did not have a candidate for the New York gubernatorial contest, and many hoped, that by becoming Burr's new allies, they would regain lost ground.

As soon as the Pickering trial ended in early March 1804, Burr left Washington for New York, where the gubernatorial election was creating some excitement. From the moment the colonel's friends had announced his intention of being a contestant, Alexander Hamilton had been trying to dissuade members of his party from lending their aid to Burr. He asked Rufus King to place his name in contention so Federalist votes would not go to Burr. King, however, refused to become a candidate and advised Hamilton that about two-thirds of the Federalists in New York City would vote for the colonel. The New York Evening Post favored Burr's claims, and some Federalists, like Gaylord Griswold, congressman from Herkimer County, believed Hamilton's opposition stemmed from "personal resentment." Many New England Federalists were dissatisfied with a federal government controlled by Republicans, and the Louisiana Purchase prompted a fear that a strong West-South agrarian alliance would result, which would be detrimental to the economic and political interests of the northeastern states. A few Federalists, like Representatives Timothy Pickering of Massachusetts, William Plumer of New Hampshire, Uriah Tracy, James Hillhouse, Oliver Wolcott, and Roger Griswold of Connecticut, believed that the only course for the Northeast was secession. The idea of disunion was not new, but in the winter of 1803-1804 there was only a marginal group of Federalists who promoted such an extreme measure. This group, led by Pickering, recognized the importance of securing New York in a secessionist movement, and consequently, Hillhouse, Plumer and Pickering dined with Burr before he left Washington in March and discussed the matter with him. However, they found the vice-president evasive, and Griswold met with him in New York on 4 April to try and obtain a more precise statement from Burr about the position he would adopt if elected governor. The colonel kept a record of their conversation and noted that
he told Griswold the northern states must either govern or be governed by Virginia. He also pledged himself, if elected, to administer the government of New York in a manner satisfactory to the Federalists. The meeting ended with Griswold wishing Burr success in "rescuing New York from Jeffersonian politics." Burr received other assurances of Federalist support. Hamilton, however, continued to oppose the colonel's aspirations and used every opportunity to denounce him as a dangerous man. After Griswold's meeting with the vice-president, Hamilton was a guest at a dinner in the home of Judge John Tayler in Albany. During the evening he commented on how much he detested Burr and gave his evaluation of the colonel's character. Charles D. Cooper, Tayler's son-in-law, was present during the evening and wrote letters about Hamilton's remarks to Andrew Brown "of Berne" and Philip Schuyler. The letter to Schuyler appeared in the Albany Register on 24 April, the day the election began.

The next day Burr told his daughter, "I . . . write in a storm; an election storm, of the like you have once been a witness . . . . Both parties claim majorities, and there never was, in my opinion, an election of the result of which so little judgment could be formed. A.B. will have a small majority in the city if to-morrow should be a fair day, and not else." Burr did indeed have a small majority in the city but lost the state by more than 7,000 votes. His only comment to his daughter was that the election was lost by a "great majority."

Seven weeks after the election, the colonel wrote to Hamilton calling his attention to the letter Cooper addressed to Schuyler on 23 April that had been printed in the Register. The communication to Hamilton was delivered by William P. Van Ness and requested an acknowledgement or denial that he had, as Cooper told Schuyler, expressed "a more despicable opinion" of Burr than the one he stated at Tayler's house to the effect that the colonel was a "dangerous man, and one who ought not to be trusted with the reins of government." Burr's letter began an exchange between the two men that covered the next nine days in
which Van Ness and Nathaniel Pendleton became the intermediaries.

On 20 June Hamilton responded to Burr's letter and said:

I cannot reconcile it with propriety to make the acknowledgement or denial you desire, I will add that I deem it inadmissible on principle, to consent to be interrogated as to the justness of the inferences which may be drawn by others from whatever I may have said of a political opponent, in the course of fifteen years competition.

Burr replied on 21 June, "Political opposition can never absolve gentlemen from the necessity of a rigid adherence to the laws of honour, and the rules of decorum. I neither claim such privilege nor indulge it in others."

Van Ness delivered Burr's letter on 22 June, and Hamilton said it seemed to close the door to all further reply and that he would make none. The same day Hamilton called on Pendleton and told him what had transpired between him and Burr. He also gave Pendleton another letter for Burr which asserted in emphatic terms that he had no answer to give to the request for acknowledgements or denials of what he might have said. Through succeeding days, both parties remained implacable. Burr continued to demand a declaration from Hamilton that he never, at any time, intended to impeach the colonel's character, and Hamilton staunchly refused to comply.

On 26 June Van Ness wrote to Pendleton that Burr considered his honor impeached and was determined to "vindicate that honor at such hazard as the nature of the case demands." Since Hamilton had a court transaction pending at the time, Van Ness and Pendleton agreed the matter would be postponed until the legal business had been concluded. On 9 July they agreed that Burr and Hamilton would meet at Weehawken on the morning of 11 July. When the two faced each other at a distance of ten paces on the appointed day, they fired simultaneously, and Hamilton was mortally wounded. The statement Pendleton and Van Ness, who acted as seconds, prepared for the press immediately after the duel agreed that when Hamilton fell, Burr started toward him "with a manner and gesture that appeared . . . to be expressive of regret." Their
accounts of who fired the first shot disagreed; Pendleton claimed Burr fired first, and Van Ness asserted that Hamilton's gun was the first discharged. Recent examinations of Hamilton's pistols, which belonged to his brother-in-law, John B. Church, have found that they had a concealed hair trigger. While Burr probably did not know about the secret device, it seems likely that Hamilton set it on his gun and that he triggered it accidentally before he had taken aim.

Two days after the duel, Burr wrote to his son-in-law:

General Hamilton died yesterday. The malignant federalist or tories, and the imbittered Clintonians, unite in endeavouring to excite public sympathy in his favour and indignation against his antagonist. Thousands of absurd falsehoods are circulating with industry. The most illiberal means are practised in order to produce excitement, and for the moment, with effect.

Several days later the colonel noted again to his son-in-law that it was the Republicans, who had previously regarded Hamilton as the most "detestable and unprincipled of men," who were creating the most agitation over his death, and he added, "the motives are obvious."

Newspapers and ministers denounced Burr for his part in the affair. Eliphalent Nott, pastor of a Presbyterian Church in Albany, claimed the vice-president had committed "deliberate, aggravated, MURDER." Among the newspapers, the **American-Citizen** was the most outspoken in claiming that the duel was the result of a "long meditated and predetermined system of hostility on the part of Mr. Burr and his confidential advisors." The Charleston **Courier** praised the eloquence of Cheetham's eulogy of Hamilton and his condemnation of the "savage part" of the vice-president.

The intensity of the reaction to Hamilton's death surprised Burr. Dueling was not an uncommon practice, and the death of one of the antagonists was not usually regarded as murder. Hamilton's oldest son, Philip, had been killed at Weehawken in November 1801 by a Republican lawyer, George Eacker, without
the furor that was evident in July 1804. However, as the agitation continued, the vice-president quietly left New York on 21 July with Samuel Swartwout, younger brother of John and Robert. They stopped briefly at Commodore Thomas Truxton's home before continuing to Philadelphia. Federalist Charles Biddle was Burr's host in Philadelphia, and he remained there until mid-August. However, in New York, two of Burr's friends, Matthew L. Davis and Marinus Willet, were in prison, and warrants were out for the arrest of William P. Van Ness and Samuel Swartwout. The vice-president told his son-in-law, "How long this sort of persecution may endure cannot be conjectured."

On 2 August Samuel Swartwout advised Burr that the coroner's jury had returned a verdict of willful murder against him, but he also advised that the tide of public opinion was beginning to turn, and many now considered the hue and cry "nothing but the workings of the meanest passions." There was also a move to have Governor Morgan Lewis request extradition, but Burr decided to remain in Philadelphia until at least the middle of August to await further developments.

When the vice-president did leave Biddle's home, his destination was St. Simon's Island, near Darien, Georgia, to be the guest of Pierce Butler. Burr spent a pleasant month at St. Simon's and made a week-long excursion to the Floridas before starting for Savannah on 27 September. He told his daughter that his plans from that point depended on the news he heard there. From Savannah he reported he had been received with "warmest hospitality" by the Republicans there.

Burr traveled up the coast of South Carolina to visit his daughter and her family for a few days before continuing north. When he reached Petersburg, Virginia, late in October, the vice-president was pleasantly surprised at his reception. He confided to his daughter that "Virginia is the last state, and Petersburg the last town in the state of Virginia in which I should have expected any open marks of hospitality." To his son-in-law he wrote, "The hospitalities of the place have detained me three days."
By the time he reached Washington, however, the climate of opinion was considerably less favorable. A grand jury in Bergen County, New Jersey, had handed down an indictment for murder against him, and although no indictment had been issued from New York, his home, Richmond Hill, was sold to pay his debts. In early December Burr noted to his daughter that New York and New Jersey were contending which would have the honor of hanging the vice-president. Federalist William Plumer deplored the "evil times" in which a man indicted for murder could preside over the Senate. However, Plumer and other Federalists noticed that while their party treated Burr with coldness, the Republicans were more attentive than before. Jefferson invited him more often to dinner, and Gallatin and Madison seemed disposed to be more friendly towards the vice-president.

William Branch Giles of Virginia, Senate majority leader, petitioned Governor Bloomfield of New Jersey to drop the murder indictment against Burr. Most of the other Republican senators signed the request, while Alexander J. Dallas and Charles Biddle of Pennsylvania wrote a joint letter to the governor asking that the charges be dropped. The vice-president noted the efforts on his behalf to Joseph Alston and accurately summed up the situation by saying "Nothing final and favourable will promptly be done. On the other hand, nothing hostile will be attempted." Bloomfield took no official action, but nothing more came of the indictment in New Jersey.

Burr perfectly understood the motives of Republicans in the matter. In his letter to Joseph Alston concerning the petition and letters to Bloomfield, he stated that the impeachment trial of Samuel Chase would begin in January 1805. It was obvious that Republicans were courting the colonel's good will since he would preside over the Senate proceedings.

The Supreme Court justice's impeachment and trial was another phase of Jefferson's war on the judiciary. Chase had incurred the antipathy of Republicans for what they considered overzealous measures in the cases of Thomas Cooper and James T. Callender, who were tried under the Sedition Act. As a justice
on circuit, Chase presided at the trials, and many Republicans considered his conduct "indecent and tyrannical." In May 1803 the justice delivered a charge to a grand jury in Baltimore in which he included an attack on the action of the federal government in repealing the Judiciary Act of 1801 and a censure of the state of Maryland for adopting universal suffrage. Jefferson then wrote to Joseph H. Nicholson, representative from Maryland, "You must have heard the extraordinary charge of Chase [sic] to the Grand Jury at Baltimore. Ought this seditious and official attack on the principles of our Constitution go unpunished? And to whom so pointedly as yourself will the public look for the necessary measures?" The president made his point, and at the next session of Congress, John Randolph led the move to impeach Chase. The House adopted eight articles against the Supreme Court justice on 4 December 1804, and he was summoned to appear before the Senate in January 1805.

Chase came before the Senate on 2 January, and Burr allowed the defendant a month to prepare an answer to the charges against him of high crimes and misdemeanors. The trial, scheduled to begin on 4 February, lasted for a month, and John Marshall was one of the spectators at the proceedings. The chief justice and other Federalists thought the independence of the judiciary would be determined by the trial. Jefferson did not appear during the course of the procedure. On 1 March the senators voted on the eight articles. There were twenty-five Republican senators, and a two-thirds majority of twenty-three votes was necessary for conviction. Although there was a majority vote of guilty on three of the charges, it fell short of the constitutionally required two-thirds vote, and Chase was acquitted on all counts.

The acquittal was a setback in Jefferson's assault on the judiciary. However, when Aaron Burr vacated the vice-presidential office two days after the end of the trial, he headed West, and his activities there soon provided the material for the president's next move.
FOOTNOTES: CHAPTER IV


6. Ibid., p. 326.


8. Ibid., p. 15.

9. Ibid., p. 55.


12. Ibid., pp. 24-30.


15. Ibid.


17. Ibid., p. 119.


20. Biddle to Burr, 3 February 1803, Burr Papers.


24. Ibid., pp. 13, 44.

25. Ibid., p. 18.


27. Ibid., pp. 114–15.


30. Ibid.

31. Ibid.


33. Bloomfield to Burr, 14 April 1803, Burr Papers.

34. Harper to Burr, 9 December 1803, ibid.


37. Burr to Joseph Alston, 27 December 1803, ibid.

38. Burr to Theodosia Alston, 17 January 1804, ibid. Burr wrote "Of Annapolis, I find the newspapers have anticipated me. They will tell you where I dined, and supped, and whom I saw." After an extensive examination of the papers, however, this writer found no account of the trip to Annapolis.

39. Burr to Theodosia Alston, 3 January 1804, ibid.


42. Ibid., p. 227.

43. Burr to Natalie Sumter, 27 January 1804, Burr Papers; Burr to A.R. Ellery, 29 January 1804, ibid.

44. Burr to Theodosia Alston, 8 February 1804, ibid.

45. Aurora, 31 January 1804.


47. Burr to Theodosia Alston, 16 February 1804, ibid.
48. Peter Townsend to Burr, 24 February 1804, ibid.

49. Malone, First Term, p. 145.

50. Marbury v. Madison, 5 U.S. 137(1803). Marshall was Adams's final secretary of state, and it was he who failed to deliver the commissions.


61. Memorandum, 4 April 1804, Burr Papers.

62. Ibid.

63. Peter Jay Munro to Burr, 18 April 1804, ibid.


66. Burr to Theodosia Alston, 1 May 1804, ibid.


81. Ibid., p. 64.

82. Ibid., pp. 170-71; Charleston Courier, 7 August 1804.


84. Burr to Joseph Alston, 29 July 1804, Burr Papers.

85. Swartwout to Burr, 2 August 1804, ibid.

86. Burr to Joseph Alston, 3 August 1804, ibid.

87. Burr to Theodosia Alston, 11 August 1804, ibid.

88. Burr to Theodosia Alston, 26 September 1804, ibid.

89. Burr to Theodosia Alston, 2 October 1804, ibid.

90. Burr to Theodosia Alston, 31 October 1804, ibid.

91. Burr to Joseph Alston, 31 October 1804, ibid.

92. Burr to Joseph Alston, 5 November 1804, ibid.

93. Burr to Theodosia Alston, 4 December 1804, ibid.


95. Ibid., p. 330.


97. Ibid.


104. Ibid., pp. 664-69.
CHAPTER V

WESTERN TRAVELS AND TREASON TRIALS: 1805-1807

By the time Aaron Burr's term as vice-president ended in March 1805, he was financially bankrupt and politically ruined. As a result of his duel with Alexander Hamilton in 1804, he was still under a murder indictment in Bergen County, New Jersey, and had been disfranchised in New York. However, Burr, who used as his seal the emblem of a rock in a tempest-tossed sea, was not overwhelmed by his situation. He told Joseph Alston not to "conclude that I have become passive or disposed to submit tamely to the machinations of a banditti. If you should you would err -- [Jefferson] and his clan affect to deplore, but secretly rejoice at and stimulate the villanies of all sorts which are practised against me."

The former vice-president's immediate plan in March 1805 was to visit the western territories and New Orleans. Even though the Louisiana province had been formally turned over to the United States on 20 December 1803, speculation about the ultimate fate of the area continued. Many Americans seemed to think the area might eventually become a separate nation. Jefferson wrote to Joseph Priestley shortly after the United States flag had been raised in New Orleans that "Whether we remain one confederacy, or form into Atlantic and Mississippi Confederacies, I believe not very important to the happiness of either."

Burr had a number of friends in Louisiana. Edward Livingston, who had left his office as district attorney in New York under a court judgment for a shortage in his accounts, was in New Orleans trying to repair his fortunes. Burr's stepson, John Bartow Prevost, had been appointed a territorial judge, and his brother-in-law, Dr. Joseph Browne, had been named territorial secretary. The colonel's friend from Revolutionary War days, General James
Wilkinson, was commander of the army and governor of the Upper Louisiana Territory. In early 1804 the general wrote to Burr stating that he would soon be in Washington, and he invited Burr, at that time, to meet some of "my particular" friends and "see my Maps." Wilkinson also visited Burr in New York in May 1804, and evidence indicates that during that time, the two made some plans about the western territories. The colonel had just been defeated in the New York gubernatorial election, and his term as vice-president would expire in ten months, leaving him without either office or political party. Less than two months after his meeting with Wilkinson in New York, the colonel fatally wounded Hamilton and retired to Philadelphia in the wake of reaction. During his stay in Pennsylvania, he apparently met with the British minister, Anthony Merry, who informed his government on 6 August that Burr had offered his services to help separate the western provinces from the United States. According to Merry, Burr wished Great Britain to supply a naval squadron at the mouth of the Mississippi River and a loan of half a million dollars.

Whatever plans Burr and Wilkinson made during early 1804, they spent the latter part of that year and early 1805 procuring copies of maps of East and West Florida, Orleans and Louisiana provinces, and the adjacent Spanish domain. The colonel liked to be well acquainted with his territory and advised his daughter, "In all journeys, whether on foot or on horseback, it is a relief to know not only where you start from, but where you are going to, and all the intermediate stages." By 10 March 1805, Burr had his plans completed for his western expedition and outlined the itinerary for his daughter: "On the 13th I shall leave this for Philadelphia . . . from Philadelphia to Fort Pitt (Pittsburg), thence through the states on each side of the Ohio. To visit St. Louis and the mouth of the Mississippi; thence through Tennessee (where pass a month) to Orleans; and thence, either by water or land to the Atlantic coast."

By 21 March the colonel had completed the first stage of his journey and was in Philadelphia, where he remained until 10 April. There he had a
succession of visitors from New York and New Jersey, including Samuel Swartwout, and he met again with Merry. From Philadelphia he travelled to Pittsburgh, where he found his boat ready for his trip down the Ohio River. He left Pittsburgh on 30 April, and within a short time Burr overtook Matthew Lyon, who was on his way to Kentucky by the same route. The two travelled as far as Marietta, Ohio, with their boats lashed together. Between Marietta and Parkersburg, Virginia, the former vice-president visited the narrow 200 acre island where Harman Blennerhassett, an Irish emigrant, had built a costly mansion eight years earlier. He spent a pleasant evening with Blennerhassett and his wife and made a favorable impression on them.

By 11 May Burr was at Cincinnati, where he spent the day with Jonathan Dayton and a former senator, John Smith. Leaving his boat at Louisville, Kentucky, the colonel rode across Kentucky on horseback to Nashville, Tennessee, where he remained as the guest of General Andrew Jackson from 29 May until 3 June. From Nashville he travelled by boat on the Cumberland River to its junction with the Ohio and reached Fort Massac on 6 June, where he met Wilkinson, who was on his way to St. Louis. The two stayed at the fort for four days, and Wilkinson supplied the colonel with an "elegant barge" to continue his journey. A week after he left Wilkinson at Massac, Burr reached Natchez, where he reported to his daughter that he had "a most cordial reception." However, he did not linger there and arrived in New Orleans on 25 June (see map, p. 101).

The former vice-president happily noted that he was received with "distinction" in the Crescent City. During the three weeks he spent there, Edward Livingston was his host, and the governor of Orleans Territory, William C.C. Claiborne, entertained the colonel. The members of the Mexican Association cordially received him. However, Burr told his daughter that the most flattering mark of attention in New Orleans was the invitation from the Ursuline nuns to visit their cloister, and at the conclusion of his visit, they promised to remember him in their prayers.

The colonel left New Orleans on 10 July, travelling by land to Natchez and
On 26 March 1804 the Louisiana Purchase was organized into two territories. The area north of the 33rd parallel became the District of Louisiana. The area south of the 33rd parallel became the Orleans Territory.
on to Nashville, where he again accepted Jackson's hospitality. Burr spent two
weeks touring Kentucky, where he met Henry Clay, and by the middle of Septem-
ber joined Wilkinson at St. Louis. By November the colonel was back in
Washington. His trip had been productive. Besides a knowledge of the western
country, Burr had learned how strong the anti-Spanish sentiment was among
westerners and how they would welcome a war with Spain that would justify sei-
zure of the Floridas and Mexico. However, he confided to his son-in-law that
there would be no war "unless we shall declare it, which is not expected."

During Burr's tour, various rumors began about the purpose of his ex-
pedition and its possible connection with the war desired by westerners. In the
summer of 1805, Harman Blennerhassett wrote a series of articles that he signed
"Querist," speculating about the colonel's activities in the West. "Querist"
proposed a number of alternative schemes that Burr might be planning, including
a revolutionary movement in the West, the formation of a separate government
there and the conquest of Mexico. Blennerhassett hoped the articles would
 test the mood and reaction of westerners to such actions. Although they were
first printed in the Columbus Ohio State Journal, they were soon copied and dis-
cussed in many eastern and southern newspapers, including the Philadelphia
Gazette of the United States and the Richmond Enquirer.

By the time Burr returned to Washington in late November 1805, many
people were speculating privately and publicly about the former vice-president's
plans and the reason for his extensive western travels. During the week he spent
in the capital, he dined with the president and talked about his trip. By the
time Burr left Washington for Philadelphia on 1 December, Jefferson had begun
receiving anonymous letters warning that the colonel's western expedition was
part of a plan to overthrow the administration with the aid of the British govern-
ment, and that Francisco de Miranda, who was in New York raising a force to
revolutionize Venezuela, was also a partner in the schemes.

There was a basis for the rumors. In addition to his contacts with Merry,
Burr had purchased land that was part of the claim of Baron de Bastrop in the
Washita (Ouachita) area of the Louisiana Territory (see map, p. 101). The Bastrop claim had been transferred to Edward Livingston and Charles Lynch of Shelby County, Kentucky, after the United States had taken possession of Louisiana. Burr purchased half of the 700,000 acres of Lynch's claim for $50,000. In early 1806 the colonel's agents were enlisting men and purchasing equipment for the ostensible purpose of settling the acquired lands. Comfort Tyler of Herkimer, New York, was the chief procurement agent for engaging men and contracting for supplies. Tyler promised recruits twelve dollars a month pay plus clothing and supplies for six months and one hundred-fifty acres of land in the Louisiana Territory.

Blennerhassett, hoping to recoup his strained financial situation, eagerly offered himself as a partner in Burr's western venture. Others who became involved were Peter V. Ogden, nephew of Senator Jonathan Dayton of New Jersey, and Samuel Swartwout, who had helped Burr leave New York after the duel with Hamilton. Dr. Justus Erich Bollman, like Blennerhassett, hoped to recover his financial position through the colonel's plans. Bollman, a German emigrant, had achieved fame through a daring, but unsuccessful, attempt to free Lafayette from prison at Olmutz, Austria. When the doctor came to the United States, he established a mercantile operation in New York, which failed, and Burr's enterprise offered adventure and possible financial reward.

James Wilkinson was an equal partner in the former vice-president's western plans, but the general, for reasons of his own, decided to abandon his colleague before the enterprise reached fruition. During early 1806 rumors became so rampant about Burr's plans and those connected with him that speculation alternately linked the names of Andrew Jackson, who would have welcomed war with Spain, and the Marques de Casa Yrujo, Spanish minister to the United States, with the colonel's schemes.

After the anonymous letters in December 1805 warning him about Burr, Jefferson received letters from various sources during early 1806 cautioning him against the former vice-president's mysterious designs. "General" William
Eaton counselled the president that Burr was "dangerous," and Joseph Hamilton Daveiss, brother-in-law of John Marshall and United States attorney for Kentucky, bombarded Jefferson with warnings about a "conspiracy." In March 1806 Burr called on the president and reaffirmed his support of the administration. Jefferson noted that the colonel said he was "now disengaged from all particular business --- willing to engage in something . . . . If I should have anything to propose to him." The president repeated the remarks he had made in an interview with Burr in January 1804 about the colonel’s loss of public confidence that negated the possibility of giving him any official position. A few weeks after the meeting in March, Burr dined with the president and called on Jefferson again several days later before leaving Washington for Philadelphia. During the summer of 1806, Comfort Tyler continued to assemble boats, men and supplies, and rumors about the actual objective of Burr’s mission grew. The colonel sent Samuel Swartwout and Peter V. Ogden to New Orleans with two letters to Wilkinson; one from Jonathan Dayton and one from Burr in cipher dated 29 July. He also sent Bollman to New Orleans with a letter to Edward Livingston and a copy of the cipher letter to Wilkinson. Burr left Philadelphia in August 1806 and followed his western route of the previous year. He stopped briefly at Blennerhassett’s island in late August, and by 24 September he was at Nashville with Andrew Jackson.

Jefferson continued receiving reports on Burr’s activities from William Eaton, Gideon Granger and John Nicholson. The president noted in his diary that he intended to write confidential letters to the governors of the state of Ohio and the territories of Indiana, Mississippi and Orleans, and to the district attorneys of Kentucky, Tennessee and Louisiana "to have him [Burr] strictly watched, and on his committing any overt act unequivocally, to have him arrested and tried for treason, misdemeanor, or whatever other offence the act may amount to." Jefferson also noted that Eaton told him that Burr acknowledged that Wilkinson "is engaged with him in this design, as his lieutenant, or first in command, and suspicions of infidelity in Wilkinson being now become so very general, a
question is proposed what is proper to be done as to him." However, the president was more concerned with Burr than Wilkinson and decided to send John Graham, secretary of the Orleans Territory, to follow the colonel with the authority to arrest him if "he has made himself liable."

In November Jefferson received a communication from Wilkinson dated 21 October advising of a conspiracy to revolutionize the western territory as a preliminary step to an attack against Mexico; however, the general did not name those whom he believed to be involved. Two days after he received the general's letter, Jefferson issued a proclamation which announced that unlawful enterprises were underway and authorized military and civil officers to exercise their offices to bring those involved to justice. Like Wilkinson, the president did not name the offenders.

In his message to Congress on 2 December 1806, Jefferson stated his reason for the proclamation; he had received information that "a great number of private individuals were combining together, arming and organizing themselves contrary to law, to carry on a military expedition against the territories of Spain . . . ." After the communication from Wilkinson in November, Jefferson received several more letters from the general including a letter in cipher from Burr. The cipher letter, dated 29 July 1806, was the one Burr sent with Swartwout and Ogden, who delivered it on 8 October. A few days later, Bollman delivered a duplicate of the letter. It informed the general that Burr was ready to begin. Arrangements had been made for the naval forces, and Burr would start westward on 1 August. By the middle of November, according to the letter, he would be at the falls of the Ohio River (Louisville) with 500 to 1,000 men and would meet Wilkinson in Natchez in the middle of December. The letter said the decision would then be made whether to "seize on or pass by Baton Rouge." Burr allegedly declared that the people where they were going were ready to receive them, and "in three weeks all will be settled."

Concerned about Jefferson's statement in the December message, Congress asked the president for further information about the situation in the West and the
action he had taken. Jefferson replied on 22 January, admitting that much of the information he had did not constitute formal or legal evidence, but he informed the delegates of the history of Burr's "conspiracy." There were two distinct objectives of the design, according to the president. One was the separation of the lands west of the Allegheny Mountains, and the other was an attack on Mexico. As a cover for the other two, a third alleged objective was the settlement of the Bastrop lands. 54 While Jefferson was reluctant to mention others involved in the intrigue, he had no hesitation in pronouncing Burr guilty beyond question.

The president knew that public reaction would be important in bringing the conspirators to justice. In his January message to Congress, he referred to a "premature attempt" to indict Burr in Kentucky "without sufficient evidence" that had produced a general disbelief in his guilt. 55 The "premature attempt" was the work of Joseph Hamilton Daveiss. Daveiss had applied for a warrant for the former vice-president's arrest on charges of plotting an attack on Mexico in early November 1806. When Burr learned of the planned arrest, he went to Frankfort, retained Henry Clay to represent him, and voluntarily appeared in court. After a brief trial in December before a grand jury impanelled to hear the indictment, the jury announced to a crowded courtroom its acquittal of the former vice-president. In their opinion "no violent disturbance of the Public Tranquility or breech of the laws" had been shown. 56

After his vindication in Kentucky, Burr proceeded with his plans. Comfort Tyler, with a group of four boats and about thirty-two men, moved down the Ohio River to Blennerhassett's island. News of the presidential proclamation (27 November) had aroused the people in Ohio and Virginia, and a force of militia went to arrest those on the island. Blennerhassett and Tyler learned of the planned raid, and the group started down river on 10 December 1806. Along the way they were joined by others and planned to rendezvous with Burr at the mouth of the Cumberland River. 57

Wilkinson went to New Orleans in late November to prepare the defense of the city against an attack by the expedition. He arrested Swartwout, Bollman
and Ogden, put them on a ship and sent them to Washington to stand trial. Burr did not learn of Wilkinson's defection until early January, when he reached Bayou Pierre, thirty miles above Natchez in Mississippi Territory. For the second time he surrendered to civil authorities. The small town of Washington, near Natchez, was the capital of the territory, and there he was placed under bond of $10,000 to appear on 2 February before the Territorial Superior Court.

Judges Thomas Rodney, father of the newly appointed United States Attorney-General, Caesar A. Rodney (a former friend of Burr's), and Peter Bryan Bruin, who was still a friend of the colonel, presided over the court. The United States attorney, George Poindexter, refused to bring in an indictment because he questioned whether the court had proper jurisdiction in the case. Rodney disregarded Poindexter's opinion and impanelled a grand jury to take depositions. The jury declined to return a commitment against the defendant and censured the territorial administration's treatment of him. Rodney refused to release Burr from his bond despite the acquittal. Burr forfeited the bail and left Washington. He later claimed the escape was not an indication of guilt, but it was prompted by knowledge that he was about to be seized by military authorities.

Wilkinson had sent a small military detachment of five men to Natchez with instructions to capture Burr and take him to New Orleans. The men, who were dressed in civilian clothes and armed, had no warrants for the colonel's arrest, but Territorial Governor Robert Williams assured them that he would deliver Burr to them. By 6 February the colonel had disappeared from Washington, and Williams issued a proclamation offering a reward of $2,000 for the capture of the fugitive.

From the time the president delivered his January message to Congress, public opinion crystallized decidedly for or against "this much talked of and either very guilty or very persecuted man." The Charleston Courier claimed he was the object of persecution and deplored the "labyrinth of injustice, unexampled in this country," in which the president had become involved. The Philadelphia Aurora General and Advertiser applauded the action taken by the government,
claiming Wilkinson had "outgeneraled the little emperor . . . ." and contending that Burr's guilt must be obvious to everyone who did not view the case "through the goggles of prejudice." Jefferson, concerned with the need to maintain public approbation on the side of the administration, counseled caution in his correspondence with Wilkinson. Action against Burr, Blennerhassett and Tyler would be "supported by public opinion . . .," the president said, but he advised that the continued arrest of those against whom there were only suspicions and no evidence would result in a loss of public sentiment. 64

Jefferson stated that "the government which can wield the arm of the people must be the strongest possible." It was the "arm of the people" he had in mind when he communicated his January 1807 message to Congress. Well-versed in law, the president knew he did not have enough evidence before him to convict Burr in court. However, he was personally convinced that the former vice-president was guilty and wanted to influence public demand for a conviction. As a measure of his success, he was able to say in July before the trial began in August that "there is not a man in the United States who doubts his guilt." Whether convicted or not, Burr's ruin was completed. However, if he were not convicted, Jefferson would have public justification for submitting the proceedings to Congress to decide if there had been a misapplication of the law and to provide the remedy. The remedy would be to rid the judiciary of John Marshall.

When the case of Erick Bollman and Samuel Swartwout came before the Supreme Court, Marshall had the opportunity to demonstrate that the Court would not be intimidated by public bias. Bollman and Swartwout, arrested in New Orleans by Wilkinson as agents of Burr, had been sent to Washington for trial. Jefferson defended the action in his January message by saying it had been done "probably on the consideration that an impartial trial could not be expected during the present agitation of New Orleans." The two men petitioned the Supreme Court for a writ of habeas corpus, contending that they were not accused of committing any crime in the District of Columbia and therefore could not be held there. On 13 February Marshall delivered the opinion that the Court possessed
the power to issue such a writ, and on 21 February he gave a clarification of the constitutional definition of treason as the "levying of war." He stated:

> if war be actually levied, that is, if a body of men be actually assembled for the purpose of effecting by force a treasonable purpose, those who perform any part, however minute, or however remote from the scene of action, and who are leagued in the general conspiracy, are to be considered as traitors. But there must be an actual assembling of men for the treasonable purpose, to constitute a levying of war. . . .

Marshall concluded that the evidence against Bollman and Swartwout only concerned a plot to attack a foreign nation but gave no evidence of levying war against the United States. Planning an attack against a foreign nation was a misdemeanor, but since the crime had not been committed in the District of Columbia, Bollman and Swartwout could not be tried in that district, according to Marshall. Consequently, the two were never tried on either charge.

Nicholas Perkins, registrar of the local land office, captured Burr in Tombigbee County, Mississippi Territory, in the middle of February. The colonel and Major Robert Ashley of New Orleans, disguised as river boatmen, had passed Perkins's office on the night of 18 February. The two strangers aroused the registrar's curiosity, and he followed them to the home of Major John Hinson. Perkins notified Lt. Edmund Pendleton Gaines, commanding officer at Fort Stoddert, that he believed one of the men at the Hinson house was the fugitive, and the next day Gaines and Perkins arrested Burr. For several weeks the colonel was a prisoner at Fort Stoddert before being moved to Richmond. In late March he arrived in the Virginia capital, where he was provided rooms at the Eagle Tavern. During the next several months, there were four different court proceedings involving charges against Burr. He was first brought before Marshall in an examination to determine the charges on which he would be committed for trial.

The grand jury proceedings began on 30 March in a private room of the Eagle Tavern. The chief justice presided, and George Hay, United States
attorney-general for the district of Virginia, and Caesar A. Rodney, United States attorney-general, represented the prosecution. Edmund Randolph, former governor of Virginia, and John Wickham, a prominent Richmond lawyer, appeared as counsel for Burr. The prosecution presented a record of the Bollman-Swartwout case (including the affidavits of William Eaton and Wilkinson) and called on Perkins to give his account of the arrest. Hay motioned to have Burr committed on charges of misdemeanor (for instigating an expedition against the dominions of the King of Spain) and of treason (for the assemblage of an armed force to seize the city of New Orleans, revolutionize the Orleans territory, and separate the western states). The court agreed to move the hearing to the capitol building, where the arguments of counsel on the motion could be made in public before an opinion was given.

The crowd that came to witness the public hearing was so large that it was necessary for the court to move into the most spacious room in the capitol, the Hall of Delegates. The prosecution argued it was only necessary to show the probability of guilt to have Burr committed on the proposed charges. Counsel for the defense took the position that the former vice-president was the object of unlawful persecution, and there were no grounds for commitment. Wickham said "the law of the land must, and . . . will be executed, regardless of public clamor." Edmund Randolph claimed it was necessary for the examination to be conducted before the public because it afforded the defense an opportunity to correct "the prejudices, which have, so long, and with such industrious malignity, been propagated from one end of America to the other." The defense attorneys consistently maintained throughout the trials that their client had been the object of such overt oppression by government actions and propaganda that a fair and impartial trial would be difficult if not impossible. Government persecution was the cornerstone of their defense. Instead of being presumed innocent until proven guilty, Burr had been placed in the position of having to prove himself not guilty.

Rodney and Hay stated that time was insufficient to collect all of the
evidence necessary to prove guilt, and showing probable cause was sufficient for a commitment. When Marshall delivered his opinion, he said he did not understand the law of showing probable cause to mean that "the hand of malignity may grasp any individual against whom its hate may be directed . . . and charge him with some secret crime, and put him on the proof of his innocence." He concluded that the evidence showed only the probability of misdemeanor, and he declined to include treason in the charge. Marshall instructed Burr to present himself at the circuit court in Richmond on 22 May to answer the commitment and released him on bail in the sum of $10,000.

The chief justice later told reporters that he did not intend an allusion to the conduct of the government when he spoke of the "hand of malignity," but he was simply elucidating one of the general doctrines of Blackstone. Jefferson was furious at the outcome of the examination. In a long letter to William Branch Giles in April, he vented his anger at the "tricks of the judges to force trials before it is possible to collect the evidence." He complained that the Federalists had made Burr's cause their own, and he condemned the "federal courts" and their zeal for the protection of those engaged in treasonable activity. He did not doubt they would find some "loophole" to release the offender when he came to trial but took consolation in the assurance that the nation would judge the judges. The president alluded to the Samuel Chase acquittal and stated, "impeachment is a farce which will not be tried again." He anticipated an amendment to the Constitution to correct the error of one branch of government setting itself in opposition to the other two.

While Jefferson condemned Marshall, the Federalists condemned Jefferson. The Charleston Courier stated that the president's maxim of justice proposed that it was better for fifty innocent men to be suspected of treason and denied protection of the law than for one traitor to escape conviction and punishment. The paper claimed that Marshall was "really as well as officially the superior judge of the nation," and the position he had taken was perfectly upright and correct.

The Republican press soon had more to add to the case against John Marshall.
During April Attorney Wickham invited the chief justice to a dinner party. Marshall accepted the invitation, and when he arrived, the judge discovered that Burr was also a guest. The *Aurora* asked why Marshall released Burr on bail in the small sum of $10,000 and then dined with him? The Philadelphia paper contended that most "respectable" Federalists deplored such "unworthy and shameless conduct." The *Richmond Enquirer* called it an unpardonable breach of "prudence and decorum" and said the chief justice might not have known Burr was to be a guest, but nothing required him to remain at a "treason rejoicing dinner" unless some witchcraft robbed him of his "powers of locomotion."

Burr appeared in the fifth circuit court in Richmond on Friday, 22 May 1807, as specified in the commitment by Marshall. As the circuit courts did not have their own judges, District Court Judge Cyrus Griffin presided with the chief justice, but Griffin took no active part in the proceedings. George Hay, William Wirt, a prominent young Richmond lawyer, and Alexander McRae, lieutenant-governor of the state, appeared for the prosecution. Edmund Randolph led the counsel for the defense, assisted by John Wickham, Benjamin Botts, John Baker and Charles Lee. The final member of the defense team was Luther Martin, the man who represented Chase in his trial before the Senate. Jefferson called him the "unprincipled and impudent federal bull-dog." Aaron Burr was active on his own behalf.

The first difficulty in the trial was the impanelling of a grand jury. From a list of twenty-four, sixteen jurors had to be selected. Two of the twenty-four asked to be excused, and Burr took exception to several of the remaining twenty-two. He challenged Senator William Branch Giles because he had expressed his belief in the defendant's guilt in Congress. Giles agreed to withdraw. Burr also challenged Wilson Cary Nichols, whom he claimed had a "bitter personal animosity" towards him. Nichols also withdrew, and when all the exceptions had been taken, the total number selected lacked two in meeting the needed sixteen for a grand jury quorum. Marshall named two bystanders to serve; William
Foushee and John Randolph of Roanoke. The latter was appointed to act as foreman of the jury. Randolph had broken with the president, but he believed Burr to be guilty and asked to be excused. He had not, however, publicly expressed his bias and was allowed to remain. James Barbour replaced Foushee, who was excused. After the jury had been sworn, the proceedings began.

On 25 May William Wirt denounced the defense tactics of trying to divert attention from the accused and place the president on trial. He said they "would convert this judicial inquiry into a political question; they would make it a question between Thomas Jefferson and Aaron Burr." Edmund Randolph and Wickham replied by emphasizing the "oppressive" and "inhumane" nature of Burr's arrest and removal to Richmond. They stated that Jefferson had said the colonel was guilty of starting a civil war, but in six months he had not been able to produce proof that such a war existed. The prosecution's case centered on the evidence that Wilkinson was suppose to supply. It was he who had informed the president that he had proof of treasonable plans. The cipher letter sent to Jefferson was an important part of the charge the government planned to prove. However, Wilkinson had not arrived in Richmond when the trial began. The prosecution, embarrassed by his delay in appearing, told the court time had been insufficient, and he would arrive soon. The grand jury recessed until 9 June to await his arrival.

The government's witness still had not reached Richmond when the trial resumed in June, and court was expected to recess again. However, Burr, who delighted in surprising his opponents and preparing "ambuscades for them," shocked the prosecution by requesting the court to serve the president with a subpoena duces tecum. He said the letter from Wilkinson cited in the January message to Congress was necessary for his defense along with the military orders issued that pertained to him. A personal appearance of the president was not essential, he stated, if the papers requested were supplied. Burr knew of the power struggle between the president and the chief justice and, for his own advantage, tried to confound the trial with an open confrontation between
Martin delivered an impassioned speech in favor of the motion on 10 June. He accused the president of setting himself up as a "Supreme Being" and said he had "let slip the dogs of war, the hell-hounds of persecution to hunt down my friend." The prosecution opposed the motion, and Lieutenant-Governor McRae denounced the defense for the "pretended persecutions attributed to the government." Wirt supported McRae by stating that the question was not concerned with the guilt or innocence of the president but of Aaron Burr, and any actions by Jefferson, whether right or wrong, did not affect the question before the court. Martin concluded the debate on the motion by affirming the defense had not requested the subpoena to try and escape any just punishment but as a protection from "unjust, rancorous persecution." He further elaborated that "if the presidential edicts are to be the supreme law... however unjust and unconstitutional, we are as subject to despotism, as the people of Turkey."

Marshall announced his opinion on 13 June. In part he stated:

> this court feels many, perhaps, peculiar motives for manifesting as guarded a respect for the chief magistrate of the Union as is compatible with its official duties. To go beyond these would exhibit a conduct, which would deserve some other appellation than the term respect.

He determined the court did have the power to issue the subpoena to the president and stated if the case terminated "as is expected on the part of the United States" and anything had been withheld which was needed for the defense, "it would justly tarnish the reputation of the court, which had given sanction to its being withheld." The chief justice made it abundantly clear that the court was not intimidated by the executive and intended to retain precedence in matters of law.

Hay communicated with Jefferson on the motion for the subpoena before Marshall gave his opinion. In reply to Hay the president said he reserved "the necessary right of the President of the United States to decide, independently of all other authority, what papers, coming to him as President, the public interest
permits to be communicated," but he assured Hay of his willingness to furnish whatever was necessary. He requested the prosecutor to express his sentiments on the matter to the court and said, "the respect mutually due between the constituted authorities . . . will always insure from the executive, in exercising the duty of discrimination confided to him." In a later letter, Jefferson declared that the opinion on the subpoena was typical of Marshall's habit of passing over the larger questions and dwelling on the small details. None of the three branches of government was as jealous of the independence accorded by the Constitution as the judiciary, stated the president, but he questioned whether the executive would retain that independence subject to the "commands" of the courts. Jefferson did supply some of the papers requested, and the matter of the subpoena was not pressed further.

Wilkinson finally arrived in the Virginia capital and appeared before the grand jury on 15 June. With the exception of the pro-Burr Washington Irving, reporters noted that Wilkinson was "calm, dignified and commanding." After four days of questioning by the grand jury about the cipher letter, Wilkinson lost much of his calmness and admitted he had left out the opening sentence of it - "Yours, postmarked 13th of May is received . . . ." and had changed other words. The sentence he omitted when he sent the cipher translation to the president showed that he had previously corresponded with Burr about the plans. An indication of the grand jury's impression of Wilkinson's testimony was the closeness of their vote to indict the general on misprision of treason. The vote was nine to seven against his indictment, and John Randolph commented that the "mammoth of iniquity escaped." The grand jury listened to the testimony of fifty witnesses, including William Eaton, Commodore Thomas Truxton, Peter Taylor and Jacob Allbright. Eaton testified that Burr had approached him during the winter of 1805-1806 and related his plans to revolutionize the territory west of the Allegheny Mountains and establish an independent empire there. Burr was to be head of the new state, and New Orleans was to be the capital. Eaton claimed that the defendant offered
him a position in command of the army second to Wilkinson. He stated that, as a result of their interview, he had tried to have Burr sent out of the country by suggesting that the president appoint him to a diplomatic post. 104

Truxton testified about conversations he had with Burr in the winter of 1805-1806. The defendant was interested in settlement of the Washita lands, the commodore said, and consulted him about boats to convey supplies to the area. They discussed an expedition to Mexico in the event of war with Spain, and according to Truxton, Burr told him that in case of war, he planned to establish an independent government in Mexico and offered to make the commodore an admiral if he would take charge of naval operations. Truxton claimed that he refused the offer when Burr admitted that the president had not sanctioned the project. 105

Peter Taylor, Blennerhassett's gardener, testified he had been with his employer when the latter tried to recruit men to settle the land Burr had purchased. Blennerhassett finally told him, Taylor said, that the real purpose of the trip was the conquest of Mexico and that Burr would be king there. The gardener stated that Blennerhassett had sent him, with a letter, to a Dr. Bennett of Mason County to buy arms for the militia. His instructions were to burn the letter after Bennett read it, for "it contained high treason." 106

Jacob Allbright, a Dutch laborer whom Blennerhassett hired to build a kiln for drying corn, testified that the men who came to the island with Comfort Tyler identified themselves as "Colonel Burr's men." Allbright said he saw General Edward W. Tupper of the Ohio militia attempt to arrest the owner of the island. Tyler's men had weapons, and when Tupper attempted the arrest, seven or eight men pointed guns at him in a threatening manner. 107

The grand jury returned an indictment against Burr and Blennerhassett for treason and misdemeanor on 24 June. It stated that an attempt had been made on 10 December 1806 on Blennerhassett's island "to raise and levy war, insurrection and rebellion against the said United States" with the plan of taking possession of New Orleans. 108 The lengthy indictment used the word "traitorous" fifteen times.
Since treason is a crime that does not permit bail, Burr was placed in the public jail. The governor offered the facilities of the state penitentiary, and the court ordered the former vice-president moved there until the trial before the petit jury began deliberating on 3 August on the charges listed in the indictment.109

During the summer of 1807, the deteriorating diplomatic situation with Great Britain claimed much of the president's attention, but his disgust with the happenings at Richmond was evident. To Samuel du Pont de Nemours, he wrote that although everyone believed Burr guilty, "such are the jealous provisions of our law in favor of the accused & against the accuser, that I question if he can be convicted."110 The Columbian Centinel claimed interest in the trial had been diminished by the magnitude of the situation with England, but the Aurora and the Charleston Courier kept the trial before the attention of the public.111 The Aurora said that the defendant had placed himself in the position of judge and prosecutor rather than that of criminal, and the proceedings had been as "farcical as Burr could have wished."112 Readers were told that the former vice-president and his counsel exhibited the best evidence of their inability to make a good defense by their efforts to change the question before the court from treason to irrelevant matters.113 The paper did not neglect Marshall's part in the affair. When the defense counsel instructed the court "in a tone of authority," the court obeyed; "the eyes of the people of these states ought to be rivetted on the bench," warned the editor.114 The Aurora noted that all those involved with Burr were Federalists.115

The Circuit Court convened on 3 August 1807 in Richmond with Marshall and Griffin presiding. The prosecution and defense counsels were the same as at the grand jury proceeding in May. It took two weeks to select a petit jury. Two lists of forty-eight prospective jurors were used before twelve were chosen to serve. The examination of the prospects showed that Jefferson had been nearly correct in his statement that there was no one who was not convinced of Burr's guilt.116 The January message to Congress and the testimony of Wilkinson and Eaton had been given much publicity, and opinions had been formed on the basis
of it. The president had established the situation precisely as he wanted. Marshall was left with the choice of allowing a conviction or facing public indignation for an acquittal. The necessary twelve jurors were finally chosen and sworn on 15 August with Edward Carrington, Marshall's brother-in-law, as foreman. 117

The prosecution had more than 100 witnesses to support its contentions, and the basis of its case was the opinion of the chief justice in *ex parte Bollman and ex parte Swartwout*. The indictment specified the overt act of assemblage of a force of men on Blennerhassett's island on 10 December 1806 to levy war against the United States by the seizure of New Orleans. Burr was in Kentucky on 10 December, but Marshall's decision in the earlier Bollman-Swartwout case contained the doctrine of "constructive" treason. The chief justice had then stated that anyone who had performed a part in levying war, however remote from the scene, was to be considered as a traitor.

One of the first witnesses called was William Eaton. He presented the same testimony given in his affidavit and earlier appearance before the grand jury. He could only give evidence of the defendant's "expressions of treasonable intentions." 118 Burr and Martin briefly cross-examined Eaton about his claim against the government for expenses incurred in Tripoli that had finally been settled in March 1807. The defense implied that the government had paid Eaton for his testimony against the former vice-president.

Truxton repeated the testimony he had given before the grand jury. Hay asked how Burr planned to procure the navy in which he had offered Truxton an admiralty; Truxton answered that the navy was to be formed after the establishment of an independent government in Mexico. 119 The defendant cross-examined and asked if the commodore had ever heard him (Burr) speak of dismembering the Union, and Truxton answered that he had not. 120

Next, Peter Taylor repeated his testimony. Then, General John Morgan of Pennsylvania testified about a visit the accused had made to his father's estate of Morganza in August 1806. He said Burr spoke of a separation of the Union that would occur within the next four or five years and boasted that with
200-300 men he could drive the president and Congress into the Potomac River and seize New York City. Colonel George Morgan followed his son to the witness stand and substantiated his testimony.

The prosecution's chief witness to prove the men on the island on 10 December were armed was Jacob Allbright. He stated that "muzzels" were aimed at Tupper when he had attempted to arrest Blennerhassett. William Love, Blennerhassett's groom, testified that the men on the island had rifles. Simeon Poole, who had been sent by the governor of Ohio to arrest Blennerhassett, said he observed the men there from across the river, and they appeared to be armed. Several other witnesses testified about weapons and ammunition they had seen on the island.

To Burr, the law was "whatever is boldly asserted and plausibly maintained," and his influence in the defense was evident when Wickham asserted that the government had not proved an overt act. He attacked Marshall's theory of constructive treason in the Bollman-Swartwout case and claimed that it was part of English common law and not intended by the framers of the Constitution. Wickham insisted that constructive treason was used in England to squelch political opposition and if allowed in the United States, it would be used for the same purpose. He went on to claim that to prove Burr guilty of treason, the guilt of Blennerhassett and the others on the island would have to be established first.

Wickham started a debate between counsels that lasted for ten days. William Wirt delivered a speech designed to establish Burr as the principal whose guilt could be confirmed before the guilt of any others. He contrasted the former vice-president to the serpent in the Garden of Eden (Blennerhassett's island), enticing the innocent inhabitant with his schemes. Luther Martin wound up the oratorical battle by affirming that there had been no treason except as existed "in the newspapers and in the mouths of the enemies of the gentleman for whom I appear, who get it put into the newspapers." He again reiterated the prejudice against his client and the difficulty in obtaining justice in such an atmosphere.
John Marshall delivered the longest opinion of his career on 31 August 1807. He stated that the constitutional definition of treason as the levying of war was a technical term; conspiring or meditating insurrection was only a high misdemeanor unless some degree of force was used, and then it became treason. He defended his decision in the Bollman-Swartwout case by saying it did not extend the crime of treason by construction beyond the constitutional definition. Marshall went on to reason that an overt act by Burr could not be proven by the overt acts of others on the island since he was absent at the time, and none of the others had been proven guilty of levying war. The prosecution had not proved the indictment by its witnesses. He continued that an assemblage on the island had been shown but no overt act had been proven and "of consequence, all other testimony must be irrelevant." In his own defense for stopping further testimony, Marshall stated:

That this court dares not usurp power is most true. That this court dares not shrink from its duty is not less true. No man is desirous of placing himself in a disagreeable situation . . . . But if he has no choice in the case, if there is no alternative presented him but a dereliction of duty, or the opprobrium of those who are denominated the world, he merits the contempt as well as the indignation of his country who can hesitate which to embrace.

The opinion was essentially a reversal of his Bollman-Swartwout decision, and it completely destroyed the government's case.

The jury deliberated a short time, and on 1 September returned a verdict stated in such an unusual way that the defendant objected to it. The verdict read "... that Aaron Burr is not proved to be guilty under this indictment by any evidence submitted to us. We therefore find him not guilty." Marshall had stopped any further testimony and instructed the jury the indictment had not been proven, and by their unusually worded verdict, they demonstrated their unwillingness to pronounce him innocent.

Burr still had to face the charge of misdemeanor, and the proceedings on this matter began on 9 September. The prosecution contended the defendant was
guilty of preparing a military expedition against the territories of the King of Spain on the soil of the United States. Again, most of the government's testimony was prohibited, and Hay moved to discharge the jury. The defense insisted on a verdict, and on 15 September, the jury returned its decision of "not guilty." 133

Jefferson instructed Hay that the testimony of all the witnesses must be taken and made a part of the record so the whole proceedings could be laid before Congress. 134 On 16 September Burr was in court again along with Blennerhassett for a hearing to determine if they should be held for trial in Ohio or Kentucky on charges of having committed treason and misdemeanor in the assembling of their forces at the mouth of the Cumberland River. On 20 October Marshall heard the testimony and handed down the opinion that they should be held on the misdemeanor charge. Bail was set in the amount of $3,000. 135 The government, however, never pressed these charges.

The president bitterly commented that "the criminal is preserved to become the rallying point of all the disaffected and worthless of the United States." 136 He did transmit a record of the trial with his message to Congress and instructed that body to judge whether the defect was in the testimony, the laws, or in the administration of the law. 137 Marshall's premier biographer, Albert J. Beveridge, contends that if the national situation of impending war with Great Britain had not claimed the attention of Congress, Marshall probably would have been impeached by the House and convicted by the Republican-dominated Senate. 138

The active part the president took in the affair indicated clearly that his motives were more complex than a mere interest in assuring the punishment of a traitor. If Marshall could be intimidated by public opinion, Jefferson would have a moral victory since, through his pronouncement of Burr's unequivocal guilt in his January 1807 message to Congress, he had become the "author" of public opinion. If the chief justice maintained that the independence of the judiciary were above executive influence, public outrage would demand his removal. In either instance, the executive branch would have a victory over the Federalist-controlled judiciary. The president made three critical mistakes in his reckoning,
the first two being errors of judgment. He based the government's case on the testimony of a man (Wilkinson) whose own part in Burr's schemes could not bear close inspection. The value of Wilkinson's testimony was mitigated by his doubtful character. Jefferson's own January message to Congress was his second error in judgment. It did create the public climate of opinion he wanted, however, it also gave Burr's attorneys an opportunity to cry "persecution" and presented Marshall a justification for his opinions. It was his duty as presiding justice to guard the accused's right to a fair and impartial hearing.

The third error was one of timing. The situation with Great Britain became so explosive after the Cheasapeake-Leopard affair in June 1807 that it necessarily took precedent over internal political problems. What appeared as his golden opportunity became a bitter disappointment to Jefferson. Aaron Burr and John Marshall had both "escaped."
FOOTNOTES: CHAPTER V


7. Burr to Theodosia Alston, 10 March 1804, Burr Papers. Wilkinson and William C.C. Claiborne were the commissioners sent to New Orleans in 1803 to accept delivery of the province. Wilkinson had been a Spanish agent since 1787, but there is no indication Burr knew his friend was employed by the Spanish. Abernethy, Burr Conspiracy, p. 4.

8. Wilkinson to Burr, 26 March 1804, Burr Papers.


11. Abernethy, *Burr Conspiracy*, p. 20. On 26 March 1804 upper Louisiana became the District of Louisiana and the rest of the purchase was organized as the Orleans Territory. Wilkinson was governor of the District of Louisiana and William C. C. Claiborne became governor of the Orleans Territory.


13. Burr to Theodosia Alston, 10 March 1805, ibid.


17. Parkersburg is today in West Virginia, but in 1805 it was still part of the state of Virginia.

18. Blennerhassett had married his niece, Margaret Agnew, who was thirteen years his junior. The marriage was so "distasteful" to their families that the couple came to the United States in 1796. They purchased the island in the Ohio River in March 1797. Victor R. Turner, "Harman Blennerhassett: His Rise and Fall," *Filson Club History* 38(1964): 316-17.


22. Ibid.

23. Ibid.


28. Ibid., p. 374.


31. Richmond Enquirer, 9 August 1805.


33. Parton, Aaron Burr, 2:51.

34. Abernethy, Burr Conspiracy, p. 38.

35. The correct spelling is "Ouachita." The trial transcripts use the spelling "Washita" and that spelling will be used hereinafter to avoid confusion.


37. Burr, Memoirs, 2:380. Another tract of 100,000 acres in the same area had been granted to Marquis de Maison Rouge in 1795 at the same time the Bastrop grant was made and had been acquired by Daniel Clark. Abernethy, Burr Conspiracy, pp. 73-74.


43. Ibid., p. 238.

44. Malone, Second Term, p. 238.

45. Parton, Aaron Burr, 2:75.

46. Abernethy, Burr Conspiracy, p. 58.


48. Ibid.


55. Ibid.


57. Ibid., pp. 268-69.


60. Examination of Colonel Aaron Burr Before the Chief Justice of the United States Upon the Charges of a High Misdemeanor and of Treason Against the United States (Richmond: n.p., 1807; on microfilm, North Texas State University), p. 24.

61. Boston Columbian Centinel, 15 April 1807.

62. Charleston Courier, 3 February 1807.

63. Philadelphia Aurora and General Advertiser, 22 January 1807, ibid., 23 April 1807.

65. Jefferson to Isaac Weaver, Jr., 7 June 1807, ibid., p. 219.
68. Senate, _Annals of Congress_, 9th Cong., 2d sess., p. 43.
69. _Ex parte Bollman_ and _Ex parte Swartwout_, 8 U.S. 126(1807).
70. The evidence consisted of the affidavits of Generals William Eaton and James Wilkinson. The affidavits are given in 8 U.S. 463-76(1807).
71. (Washington) _National Intelligencer_, 1 April 1807; Abernethy, _Burr Conspiracy_, pp. 221-23.
72. _Examination of Colonel Aaron Burr_, p. 4.
73. Ibid., p. 14.
74. Ibid., p. 17.
75. Ibid., pp. 30-31.
77. Ibid., p. 190.
78. Ibid., p. 191.
79. _Charleston Courier_, 10 April 1807; ibid., 13 April 1807.
80. _Aurora_, 23 April 1807.
81. Ibid., 23 May 1807.
82. _Richmond Enquirer_, 28 April 1807.
84. _Examination of Colonel Aaron Burr_, p. 33.
85. Ibid.
86. Jefferson was disconcerted by the "inauspicious symptoms" in impaneling of the jury. He instructed Hay to spare no expense in pursuing the prosecution, and required him to be certain that verbatim records of the proceedings and sworn affidavits be kept to provide the "full testimony shall be laid before the Legislature and through them the public." Jefferson to Hay, 26 May 1807, Jefferson, Writings, 11:209.

87. David Robertson, ed., Reports of the Trials of Colonel Aaron Burr (Late Vice-President of the United States for Treason and for a Misdemeanor in the Circuit Court of the United States) (Philadelphia: Hopkins and Earle, 1808; on microfilm, North Texas State University), p. 62.

88. Ibid.


91. Ibid., p. 128.

92. Ibid., pp. 130-31.

93. Ibid., p. 139.

94. Ibid., p. 166.

95. Ibid., p. 167.

96. Ibid., pp. 177-87.

97. Ibid., p. 188.


103. Ibid.


106. Ibid., pp. 48-49.


108. *Message from the President*, p. 4.


111. *Boston Columbian Centinel*, 11 July 1807.

112. *Aurora*, 13 June 1807; Ibid., 18 June 1807.

113. Ibid., 23 June 1807.

114. Ibid., 24 June 1807.

115. Ibid., 25 June 1807.


119. *Message from the President*, p. 43.
120. Ibid., p. 44.
121. Ibid., p. 53.
123. Ibid., pp. 504-05.
124. Ibid., p. 506.
125. Ibid., p. 509.
128. Ibid., p. 504.
129. Ibid., p. 508.
131. Ibid.
132. Ibid.
138. Ibid.
CHAPTER VI

EPILOGUE

Even though a petit jury in Richmond acquitted Aaron Burr on charges of treason and high misdemeanor in September and October 1807, the general public did not absolve him of guilt. Thomas Jefferson had boasted that there was not a person in the country who believed him innocent of attempted treason, and the former vice-president had been labelled a man "of loose principles and evil habits," an "American Catiline," an "embryo Caesar," and the "Quid Emperor."¹ After the trials ended in October, Burr left Richmond and went to Baltimore as the guest of Luther Martin. While he was there a mob of about 1,500 men hanged and burned effigies of Burr, Martin, John Marshall and Harman Blennerhassett.² When the colonel heard that further demonstrations were likely, he and Samuel Swartwout left for Philadelphia.

In Philadelphia Burr took a room in a "French boarding house," and friends who visited him there noted that he was "pale and dejected" and feared that he might be contemplating suicide.³ The former vice-president might have been dejected, but it is doubtful that he considered suicide. He had not given up his plans to revolutionize Mexico, and even before the trial on the misdemeanor charge ended, he had decided to go to England and France to try to obtain support for a Mexican expedition.⁴

By April 1808 Burr, using the pseudonym "H.E. Edwards," was in New York making arrangements for his trip.⁵ His daughter and grandson, Aaron Burr Alston, joined him there. They remained with him until the colonel boarded a ship for England on 6 June. A few weeks later Theodosia Alston wrote to her father that she shared the great hopes he had for the success of his mission.⁶

From the time Burr reached London on 16 July 1808, the American minister,
William Pinkney, kept a close watch on his activities. Samuel Swartwout joined the colonel in England, and Pinkney also kept him under surveillance. During the next several months, the colonel had interviews with George Canning, Lord Mulgrave and Lord Melville. However, he found the government officials unresponsive to his proposed project against Mexico, which he designated "X" in his journal and letters. On 6 November Anthony Merry informed him that those in authority had decided that the colonel's proposals could never be countenanced by the British government. Burr noted in his journal that "X is abandoned . . . but I cannot part with what has so long lain near my heart, and not feel some regret, some sorrow."

Even though he did not obtain the support he wanted from the British government, the colonel did not actually abandon his project "X." Burr hoped to secure financial backing from private individuals. Many expressed interest in his proposals, but none offered the help Burr wanted. However, the colonel did gain a lasting friendship during his stay in England. In August he accepted an invitation from Jeremy Bentham, author of a number of works including Principles of Morals and Legislation, to visit his country place, "Barrowgreen." Burr greatly admired Bentham and claimed they developed an "intimate" friendship.

The former vice-president spent considerable time touring England and Scotland and met some of the most notable people of his day including Charles Lamb, William Godwin, Henry McKenzie and Sir Walter Scott. He seemed in no hurry to end his visit to England. However, on 14 January 1809 England signed the Treaty of London with Spain, and in view of the new alliance, the continued presence in England of one who wanted to revolutionize Spanish colonies became an embarrassment to the British government. In April the government asked Burr, who was almost out of money, to leave England.

During the next few months, the colonel toured Sweden, Denmark and Germany. The natives whom he met during his travels were hospitable and courteous, but the American tourists he encountered tended to be suspicious of
him. 13 When he reached Germany in November 1809, he requested a passport to enter France. On 29 December he noted in his journal that reports indicated that Napoleon would assent to the independence of Mexico and other Spanish colonies. 14 However, the French government kept him waiting for about a month before the passport was issued, and it was 16 February 1810 before he arrived in Paris. 15

As soon as he entered the French capital, Burr began trying to obtain an interview with the emperor, but he failed to achieve his objective. 16 Since he could not gain a personal audience with Napoleon, Burr presented oral and written plans to various government officials for the liberation of both Spanish and British colonial possessions. The colonel’s primary interest was still Mexico, but the proposals he submitted to the French included plans for New Mexico (Texas), the Floridas, New Granada, Cuba, Jamaica, the Bahamas, Novia Scotia and Canada. 17 Government officials were unenthusiastic about the plans, and Napoleon remained inaccessible. Therefore, Burr abandoned the project and applied for a passport to the United States. His application was rejected, however, and he spent more than a year in Paris in poverty trying to obtain permission to leave the country. 18

Burr appealed to Jonathan Russell, a former friend and now chargé d’affairs, and to Alexander McRae, who had been one of the government’s attorneys at his Richmond trials and now was the American counsel, but they told him that a passport would only be issued on the condition that he "surrender himself for trial for the offences with which he stands charged." 19

A passport was finally issued unconditionally by American authorities in July 1811, and Burr promptly left Paris for Amsterdam. Jonathan Russell wrote to Monroe to warn him that the colonel was on his way to the United States. 20 However, it was late September before Burr sailed from Amsterdam on the Vigilant, and two days out of port, the ship was seized by a British frigate and taken to Yarmouth, England. 21

The colonel remained in England from October 1811 until March 1812.
trying to obtain another passport and passage to the United States. He was still experiencing financial difficulties and had to sell some of the gifts for his grandson and a number of books that he had purchased during his travels. When he finally boarded the *Aurora*, bound for Boston with a British passport, he noted "I shake the dust off my feet. Adieu, John Bull! Insula inhospitabilis, as you were truly called 1800 years ago."\(^{22}\)

Burr had booked his passage under the name "Mr. A. Arnot." When he landed in Boston, he retained the pseudonym and assumed a disguise of whiskers and a wig.\(^{23}\) In 1808, when he had left the United States, he was still under indictments for murder in New Jersey and for misdemeanor in Ohio and Kentucky, and he had numerous creditors in New York anxious for payment. From Boston Burr wrote to Samuel Swartwout, who was in New York, to find out if he could safely return to that city. Swartwout replied that although some of his creditors still demanded settlement of his debts, there were many friends who would welcome his return.

Circumstances had changed during the colonel's four year absence. Thomas Jefferson had retired to Monticello at the end of his second term in March 1809 and had turned the executive office over to James Madison. The new president and his wife had been friends of Burr's at one time. Theodosia Alston applied to Dolley Madison in 1809 for a removal of the "prosecution now existing against Aaron Burr."\(^{24}\) When the colonel advised Swartwout that he was in Boston, Swartwout wrote to John Wickham, who had represented Burr at the Richmond trials, to find out what action the government might take against the colonel. Wickham replied that no action would be taken on the charges that were still pending and expressed his good wishes for Burr's happiness.\(^{25}\) Perhaps the colonel's daughter's pleas to the Madisons had some effect, but more importantly the diplomatic relations between the United States and Great Britain had deteriorated to the extent that the government was much too preoccupied to worry about prosecuting a man whose reputation and political career had been so effectively destroyed.\(^{26}\)
Burr was in New York by 8 June, and the newspapers announced that he had opened an office and had resumed his legal career. Federalist Robert Troup, whose friendship with Burr had been impaired by their political differences when the colonel became a Republican, had retired from his law practice and offered his former friend the use of his library. As soon as the announcement that he had opened a law office appeared in the newspapers, Burr had numerous clients, and it seemed as if the setbacks in his life were part of the past. However, within two months of his return to New York, Joseph Alston, now governor of South Carolina, wrote that the colonel's grandson had died.

Theodosia Alston was already suffering from some disease, probably cancer, and after the death of her child, she had become so ill that her father and husband agreed that a trip to New York might be beneficial. Timothy Green went to South Carolina to make the arrangements for the journey and to accompany the colonel's daughter. The two left Georgetown, South Carolina, on 30 December 1812, on a privateer, the Patriot, which was reportedly so swift that the voyage could be accomplished in five or six days. Two weeks later, however, the schooner had not reached New York, and there was no word about the Patriot or its passengers. At the beginning of January, there had been a gale off Cape Hatteras, but it was uncertain whether or not the ship had been caught in the storm. By the end of January when there was still no news, both Burr and Joseph Alston accepted the reality that Theodosia was lost. The colonel never knew exactly what happened to his daughter, but he never believed the numerous stories and speculations that she had been captured and murdered by pirates.

Burr remained in New York, and although by 1815 he could claim that "my business affords me a decent support," he never paid his many creditors who continually threatened to have him imprisoned. He was, however, generous to others who were in need. He took Luther Martin, one of his attorneys at the Richmond trials who had become an alcoholic, into his own home when Martin became ill and destitute. Burr continued to provide a home for his former defender
until Martin died in 1826. 33

The colonel could no longer take an active part in politics, but in late 1815, when it became apparent that the Republicans intended to nominate James Monroe to succeed Madison in the election of 1816, Burr tried to encourage Joseph Alston, who was still governor of South Carolina, to exert himself to prevent the nomination. He wrote:

A certain junto of actual and factitious Virginians, having had possession of the government for twenty-four years, consider the United States as their property, and by bawling 'Support the Administration,' have so long succeeded in duping the republican public. One of their principal arts, and which has been systematically taught by Jefferson, is that of promoting state dissensions, not between republicans and federalists, but schisms in the republican party . . . . Let not this disgraceful domination continue. 34

Burr claimed that Monroe had no qualifications for the executive position and called him "incompetent." The colonel proposed that there was only one man in the country in whom the quality of leadership was strong enough to entitle him to be president. That man, according to Burr, was Andrew Jackson. He told Alston that his advocacy of Jackson came not from a personal attachment to the general, but his objective was simply "to break down this vile combination which rules and degrades the United States." 35 As a postscript to the letter, Burr noted that he had received word that Jackson was on his way to Washington and asked his son-in-law to caution the general "against the perfidious caresses" he would be overwhelmed with there. 36 Alston was too ill to pursue the course Burr advised, and he died before the presidential election took place in 1816.

In 1816 the colonel received a letter dated 20 September from General Jose Alvarez de Toledo, commander of the Mexican revolutionary troops, offering Burr the "management of our political and military affairs . . . ." 37 Revolutions had begun in the Spanish American colonies in 1810, but the enterprise that had been so important to Burr in 1806 no longer held any attraction for him, and he refused Toledo's flattering offer.
Throughout the next few years, the colonel lived quietly in New York and practiced law. His financial situation seemed to never improve and his creditors continued to be troublesome at times. His one consolation, had he known it, might have been that Thomas Jefferson also had money problems during those years.

When he left Washington in 1809, Jefferson went home to continue his building at Monticello. In the following years he also worked to establish the University of Virginia and designed its campus. Looking back over his life, he wrote to John Adams that he had "willingly done injury to no man." Long before he wrote that comment to Adams, Jefferson had apparently rationalized his almost paranoid persecution of Aaron Burr.

By 1825 the former president had serious financial problems and failing health, but he wanted to live long enough to witness the fiftieth anniversary of the Declaration of Independence. Jefferson achieved his last goal, and on 4 July 1826 at the age of eighty-three, he died at Monticello.

Burr lived long enough to see Andrew Jackson become president of the United States. In 1833 just as Jackson began his second term in office, the colonel married for the second time. His new wife was a fifty-seven year old widow, Elizabeth (Eliza) Bowen (Brown) Jumel. A former prostitute in Providence, Rhode Island, she had at one time been the mistress of Stephen Jumel, one of the wealthiest merchants in New York, whom she tricked into marrying her in 1804 by feigning illness. When Jumel died in 1832, he left his widow a sizable estate. Burr and Eliza Jumel were married on 1 July 1833, and rumors claimed that they had a long standing relationship. There was also speculation that Eliza Bowen had been part of the disagreement between Hamilton and Burr in 1804 that ended at Weehawken.

Whatever their relationship before July 1833, it was not a happy or long marriage. Eliza Jumel Burr did not approve of the way her new husband spent her money and his time. By 12 July 1834 she filed for divorce charging the colonel with marital infidelity and naming specifically one Jane McManus of
Burr replied to the divorce charges that his wife had behaved "in a manner most undutiful, disobedient and insulting" at a time when he was ill late in 1833.

During the latter part of 1833 the colonel had a stroke that caused temporary paralysis. He had already recovered from one stroke three years before. A third stroke in 1834 caused more extensive paralysis than the first two, and the colonel was confined to a couch for his remaining two years. He passed the time pleasantly by reading and receiving visits from his friends. Samuel Swartwout and Matthew L. Davis spent time with him, and the latter questioned him about whether or not he had planned to separate the western territories in 1806. Burr denied vehemently that he had ever contemplated any treasonable objective.

On 14 September 1836, Aaron Burr died, and two days later he was buried at Princeton, New Jersey, in the college cemetery with his father and grandfather. Ironically, on the same day he died, a divorce decree was granted to Eliza Jumel Burr stating that she could lawfully marry again as though the colonel were "actually dead." However, the decree stated that Burr could not legally remarry as long as Eliza Burr actually lived.

Burr once made an almost prophetic statement about his own place in history. He said that "historians are partisans and no confidence can be placed in their statements except as to dates and some great events but details cannot be relied on." Historians generally regard Burr as either a fanatically ambitious schemer or as a victim of the wiles of Thomas Jefferson and the Republican leadership. There is some validity in both points of view. The relationship between Jefferson and Burr, although dictated by the political necessity for a Republican North-South alliance, might have been an amiable one. However, their diverse personalities and ambitions produced a relationship of conflict and incongruity. Jefferson might have been speaking of the situation between Burr and himself when he wrote to Monroe in 1808 lamenting the rivalry between Madison and Monroe. He warned "I know too well from experience the progress of political controversy, and the exacerbation of spirit into which it degenerates..."
Jefferson's opposition to Burr was motivated by his fear of the colonel's ambitions. Unfortunately Jefferson did not have Andrew Jackson's astute perception of Burr's character. According to Jackson, "Burr is as far from a fool as ever I saw, and yet he is as easily fooled as any man I ever knew."
FOOTNOTES: CHAPTER VI


8. Merry to Burr, 6 November 1808, Burr, Memoirs, 2:413-14.


140


22. Ibid., p. 425.


26. The United States declared war on Great Britain in June 1812.


30. Ibid., p. 428.

31. Ibid., p. 432.

32. Burr to Joseph Alston, 16 October 1815, ibid., p. 433.


35. Ibid., p. 436.

36. Ibid.

37. Toledo to Burr, 20 September 1816, Ibid., p. 443.


40. Ibid., p. 325.


42. Wandell and Minnigerode, Aaron Burr, 2:327.

43. Parton, Aaron Burr, 2:327.

44. Burr, Memoirs, 2:448.

45. Wandell and Minnigerode, Aaron Burr, 2:328.


BIBLIOGRAPHY

Primary Sources

Unpublished Collections and Manuscripts


Letters, Memoirs, Diaries and Autobiographies


Public Documents

American State Papers, 1789-1838.


U.S. Constitution.

U.S., Statutes at Large.

Trial Transcripts

Examination of Colonel Aaron Burr Before the Chief Justice of the United States Upon the Charges of a High Misdemeanor and of Treason Against the United States. Richmond, 1807. On Microfilm, North Texas State University.

Message from the President of the United States, Transmitting a Copy of the Proceedings and of the Evidence Exhibited on the Arraignment of Aaron Burr, and Others, Before the Circuit Court of the United States Held in Virginia, in the Year 1807. On Microfilm, North Texas State University.

Robertson, David., ed. *Reports of the Trials of Colonel Aaron Burr (Late Vice-President of the United States) for Treason and for a Misdemeanor in the Circuit Court of the United States*. Philadelphia: Hopkins and Earle, 1808. On Microfilm, North Texas State University.

United States Supreme Court Cases

*Ex Parte Bollman and Ex Parte Swartwout*, 8 U.S. 126(1807).


Newspapers


*Baltimore Maryland Gazette*, 1807.

*Boston Columbian Centinel*, 1807.

*Charleston Courier*, 1804, 1807.

*Dallas Morning News*, undated.

*Hartford American Mercury*, 1801.

*New York American Citizen*, 1800-05.

*New York Evening Post*, 1807.

*Philadelphia Aurora and General Advertiser*, 1791-1807.

*Philadelphia Gazette of the United States*, 1791.

*Richmond Enquirer*, 1805-07.

Secondary Works

Biographies


__________________  

__________________  

__________________  


__________________  

__________________  


Monographs and General Works


Articles


Unpublished Theses and Addresses


