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# *The Formative Years*

A HISTORY OF THE UNITED STATES  
DURING THE ADMINISTRATIONS  
OF JEFFERSON AND MADISON



# *The Formative Years*

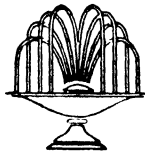
HENRY ADAMS

CONDENSED AND EDITED BY

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*Volume One*



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## Introduction

I NEVER yet heard of ten men who had ever read my history,' Henry Adams wrote to his brother in 1905, fifteen years after the publication of his nine volumes on the administrations of Jefferson and Madison.<sup>1</sup> The statement was a typical Adams exaggeration. The family which has given more to America than any other family has always preferred to think of itself as misunderstood. This was true of Henry Adams's great-grandfather, the second President of the United States. It was true of his grandfather, the sixth President. It was notably true of Henry Adams himself.

Yet there was point to the statement, however exaggerated. It would be unreasonable to expect a large audience for a nine-volume study of sixteen years of early American history. That is the excuse for the present condensed version. No condensation can do justice to the original. An author chooses the scale on which he feels he should write. The greater the author, the greater the loss from imposing upon him a different scale. Yet Henry Adams's history of America from 1801 to 1817 is too important to be left to the scholars and the students. It is one of the great American documents, and is of interest to the world. If some of the wisdom and learning which Adams put into his nine volumes can be preserved in a shorter form, the truncation of a work of art may be forgiven.

In order to cut the book to a third of its original length, it has been necessary to leave out all of the footnotes and many of the quotations from source material; but Henry Adams's comments on the scene he is describing have been preserved almost intact. There is a danger, therefore, that the comments may seem to be unjustified by the text, for the balance which the author gave to his work has been destroyed. Even in this form the story and the running commentary may be of permanent value, for the period chosen by Adams is the ideal period through which to discuss the nature and problems of American democracy.

Readers who know only the later Henry Adams, the Adams of the *Education*, *Mont-Saint-Michel and Chartres*, and the letters of his disillusioned old age, will be surprised at the reverence and understanding

<sup>1</sup> *History of the United States, 1801-1817*, by Henry Adams, 9 vols., New York, 1889-91.

with which he treats the democratic ideal. The whole of this vast book was written in the light of what he called 'the infinite possibilities of American democracy.' It was not written in the light of any false optimism. In the eighteen-eighties Henry Adams knew that the democracy which seemed so flourishing throughout the Western world would soon be faced with a shattering and perhaps a deadly test. He was one of the first to sense that our world was moving, not toward a sunny time of prosperity and peace, but toward revolution and potential disaster. In the next decade Oliver Wendell Holmes added his voice of warning: 'Our comfortable routine is no eternal necessity of things, but merely a little space of calm in the midst of the tempestuous untamed streaming of the world.' It is largely because Adams found it impossible to persuade his neighbors of this simple fact that his later years were embittered. He saw the best of hopes endangered because no one would admit that danger was possible. He felt that if American democracy was to survive, its foundations must be understood, its weaknesses admitted and guarded against, its good points fostered and strengthened. So he went back to the beginnings of our government to learn all that could be learned in preparation for the troubles to come.

## 2

When Jefferson came to the Presidency in 1801, he succeeded John Adams, who had succeeded Washington. The new Government was only twelve years old, yet already (to the surprise and chagrin of its founders) two political parties had arisen. The foresight and wisdom of the founding fathers failed at this point: they did not see that the spirit of our laws destined us for a two-party system. In 1789 Jefferson wrote, 'If I could not go to heaven but with a party, I would not go there at all.' By 1795 he had become the chief architect of a political party which has lasted for more than a hundred and fifty years.

The brilliant financial program of Alexander Hamilton first made clear the necessity for parties in the new Republic. The program was intended to marshal behind the Government a group strong enough to give it power and permanence. The program was a success, but to the surprise of Hamilton and his followers it was a regional and not a national success; it mobilized against the Government a group of almost equivalent strength.

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The Hamiltonian system appealed to commerce and finance and to the nascent manufacturing interest — all of which were concentrated in the North and East. Hamilton did not foresee that the system would have small appeal to the landed interests of the South, and even less appeal to the frontier communities of the West. Our political parties, much against the will of their creators, were founded in sectionalism. Many years and many grievous experiences had to be endured before we developed parties whose chief task it was to avoid sectional and class strife even at the cost of backwardness in facing economic troubles. In the twentieth century our parties became vast and subtle organizations for balancing sectional and class interests and composing sectional and class prejudices; but in the beginning they tended to exacerbate such feeling rather than to assuage it.

Massachusetts and Virginia: the names of the two States appear throughout the Henry Adams history as the names of two causes, two philosophies of politics. In 1798, when Massachusetts in the person of John Adams controlled the Presidency, Virginia led a revolt against the Government on account of the Alien and Sedition Acts, passed to protect the Administration from attack at a time of threatened war with France. Between 1804 and 1814, when Virginia controlled the Presidency in the persons of Jefferson and Madison, Massachusetts led a revolt against the Government because of the oppressive acts engendered by world war. In 1814 the Massachusetts revolt almost culminated in secession and a New England Confederacy. We were saved from disaster by last-minute caution, by military victories over England, and by the Peace of Ghent.

Yet Hamilton and Jefferson, and their friends in both parties, were national patriots striving for peace and union. The fascinating story of how geography and climate and industrial revolution and the French wars compelled sectional strife, and how the strife was composed sufficiently so that the nation could grow strong before sectionalism had finally to be settled by the sword, forms a large part of the Adams history. Anyone who wishes to understand the complex and unusual political system developed in America should study its roots in these formative years.

Henry Adams was the first historian to explore in detail the relation between our domestic politics and the Napoleonic Wars. He is no apologist for Jefferson, whose faults he does not ignore, yet he leaves his readers

with the feeling that Jefferson, a philosopher-ruler on the Platonic model, might have shown the world a new road to peace if Napoleon had been a little less successful or the British Cabinet a little more imaginative.

'Peace is our passion,' said Jefferson, and he did more to prove that he meant it than any other ruler in modern times. He and his disciple Madison, who was Secretary of State before he succeeded to the Presidency, endured theft, physical injury, and wounding bad manners from the French and British Governments for more than a decade. They not only endured the hurt, they persuaded the American people, never slow to wrath and to retaliation, to endure it also. They did not do this because they thought America was weak; in fact, they made the mistake of thinking America was stronger and more important than she really was. They did it because they believed that among the many blessings which America could confer upon herself and her neighbors was the blessing of finding an answer to international tensions other than war. They believed that if the nation could discipline itself, and refrain from reaching for the musket, it could introduce reason into an unreasonable world and persuade all men that war was to everybody's disadvantage and that justice between nations was to everybody's good.

The tenebrous record of life since Jefferson's day makes this hope look silly. And it is easy to prove in retrospect that Jefferson and Madison were wrong in their estimate of the importance of American commerce, in their belief that by refusing economic relations we could force great powers to pause and listen to reason. Nevertheless, Henry Adams's history reminds us that the plan almost worked. Again and again France and England were on the verge of treating the United States with reasonable fairness, almost with politeness. Each time, a new enormous victory would refresh Napoleon's sense of invincibility; a new and seemingly insuperable danger would harden the stubborn pride of the British Cabinet to the point where a change of policy seemed weakness. Even in those fierce days the philosopher-ruler might have succeeded. Some day his plan must succeed if the human race is to survive. It is rewarding to study in the pages of Henry Adams the first long-drawn-out effort on the part of a nation, in the midst of violence and in spite of heavy wrongs, to prove that 'peace is our passion.' It was a good effort, deserving of more than the sarcasm which has usually been bestowed on it.

**And yet — life is complicated, and Jefferson was almost as complicated**

as life. It is impossible to say anything about him which cannot be contradicted, at least in part, by the record. While trying to substitute justice for force in dealing with France and England, he and Madison permitted force to oust justice in dealing with Spain on the question of the ownership of East and West Florida. In 1810, when Napoleon had reached a decisive point in his rape of Spain, the United States ceased negotiating and seized West Florida. When John Quincy Adams tried to explain this *Realpolitik* to Alexander I at St. Petersburg, the Tsar said, with a tired smile, 'Everybody is getting a little bigger, nowadays.'

Since the end was merely another war, it is sad to read the injuries which the American people inflicted upon themselves in the name of the Jefferson-Madison policy of peace. It is surprising that any President had the strength to ask such sacrifices from his people. The embargoes and non-intercourse acts ruined Virginia, bankrupting the class to which Jefferson himself belonged, yet Virginia accepted the ruin at the hands of her own President with hardly a whimper. Massachusetts was threatened with disaster, but was not badly hurt, because behind the protection of the embargo there rose a new manufacturing interest to challenge the old supremacy of commerce. Massachusetts, however, cannot be said to have accepted her troubles quietly; she very nearly split the Union rather than submit. Some of her leaders believed that Jefferson and Madison were in league with Napoleon to destroy England and to impose despotism or anarchy upon the world. Massachusetts did her best to bring the whole of New England to this view. The fact that the infant United States was able to fight a war against Great Britain, with such divisions at home, is one of the strange events that Adams makes comprehensible.

It was a war which few people wanted, which nobody won, which began after Britain had finally withdrawn the worst of her repressive measures, and in which the chief American victory was achieved after peace had been signed. The peace treaty settled nothing, mentioned none of the reasons for the war, and merely declared that hostilities were at an end. Yet it was a war with far-reaching results. Adams tells of the strengthening and unifying effect it had on the American nation, how it gave a sense of liberation from the affairs of Europe. Until 1815 America had been tangled in the problems of Europe because she was weak; **it was not until 1898 that she became tangled again, because she was strong.**

The war had another effect, which lies outside the scope of Adams's



renouncing wealth and commerce to preserve simplicity and equality. To Hamilton all this was sentimental and mischievous nonsense . . . Hamilton believed that the only choice for America lay between a stratified society on the English model and a squalid "mobocracy." Jefferson, who knew Europe, wished America to be as unlike it as possible; Hamilton, who had never left America, wished to make his country a new Europe.<sup>1</sup>

It is easy to see why the Jeffersonians viewed France as man's hope, and the Hamiltonians viewed England as man's bulwark, why the Jeffersonians called their enemies monarchists, and why the Hamiltonians called their enemies Jacobins and foes of Christianity. The terms were not applicable to the realities of the American scene; but they serve to show that the United States is influenced by the outside world more than Americans would like, and more than they will sometimes admit.

During Jefferson's first term, when there was relative peace in Europe, it seemed as if America might work out her own destiny in her own native fashion; but when fire swept over Europe again, the heat and the glare affected every man's judgment in America and increased every man's passion. Infected by the world melodrama, domestic politics became melodramatic also. An extreme example is the conspiracy of Burr, the Vice-President of the United States, who planned to take the West out of the Union and either to rule it himself as Emperor or to rule it as Viceroy of Spain or England. Burr's right-hand man was the commanding general of the American army, who was in the pay of the Spanish Government. Like all conspiracies long after they have failed, Burr's plan looks mad today; yet Adams is able to re-create the mood of the time so skillfully that one can at least see why some sane men believed the plan might succeed.

Another piece of half-forgotten melodrama which Adams brings to life is the contribution of Toussaint L'Ouverture and the Negroes of St. Domingo to the survival of the American Republic. Napoleon took Louisiana from Spain in order to re-create the French Empire of North America. His campaign was planned, his armies ready, but he could do nothing unless he held the strategic island of St. Domingo. The Negroes of that island wasted two French armies, and there seemed no reason

<sup>1</sup> *The Growth of the American Republic*, by Samuel Eliot Morison and Henry Steele Commager, 2 vols., New York, 1941.

why they might not waste a third. So Napoleon turned eastward (as another conqueror, also to his disaster, turned eastward more than a century later), and tossed Louisiana to America for a few million dollars.

Somehow, in the Adams book, these narrow escapes do not seem like accidents; they seem part of a plan which is related to the meaning of history. Even the fact that America was not crushed when Wellington's veterans were at last free to meet the foolish-seeming armies of the Republic does not appear an accident. Adams is far too good a historian to make claims which cannot be documented, or to read meanings where no meanings can be proved, yet the reader senses that in writing of these critical years Adams acquired the feeling which moved the founders of the United States, the feeling that something new and something useful was intended by Providence to take place in North America. He wrote at a time when wise men already saw that the feeling might not be justified by the event; he wrote with the hope that he might learn from our origins some way of countering the weaknesses which threatened to degrade us.

## .4

Students of government can learn much about the relation between political theory and the realities of power by a study of the sixteen years of Jefferson's and Madison's administrations. The men who believed in a diffusion of power were forced to concentrate power, not because they had changed their minds or had forgotten their principles, but because they found themselves responsible for the safety of the nation at a time when world history imposed a concentration of power as the price of survival. The men who believed in rigid economy were forced to spend money faster than the capitalist-minded Federalists had thought of spending it. The men who believed in a strict interpretation of constitutional authority, and who had attacked the Federalists for giving too much strength to central government, were forced to assume authority which none of them even pretended was written into the document, or else to betray the national interest. When Napoleon offered to sell the United States an empire of land across the Mississippi — an offer which might have been withdrawn any morning by that moody tyrant — there was no time to change the Constitution, and there would

have been no excuse for refusing the golden chance. The men who wanted to keep America a nation of farmers were forced to impose an embargo on trade with the outside world which made domestic industry a necessity. The men who thought the tiny fleet built by the Federalists was a threat to liberty were forced to try to build a navy that could hold some portion of the seas against the navy that had changed world-history at Trafalgar. The men who had abused John Adams as a despot because of the Alien and Sedition Acts were forced to pass acts far more restrictive in order to carry out the commercial policy which they hoped would save America from war.

Step by step Jefferson and Madison were driven from their old Republican principles, and their political opponents did not refrain from the pleasure of calling attention to this fact. Yet, as Adams describes the process, we pity the two Presidents for the pain they suffered in the name of necessity, and we honor them for having the strength to subject theory to harsh truth. If they had stuck to the theory, we might not have an America today. If the world had permitted them to try out the theory at leisure, we might have a better America; but since the world was not theirs to make or to change, the second 'if' is irrelevant.

By the time of his Message to Congress on December 5, 1815, Madison was recommending a system similar to that of Washington, which the old Republicans had called tyrannical: liberal provisions for the army, navy, and military academies, a protective tariff, national roads and canals, a national bank, an annual peacetime expenditure of twenty-seven millions instead of the ten millions which the Republicans had once thought sufficient. And on December 23 of that year, John Caldwell Calhoun, who was later to unify the South in defense of the most rigid limitations on federal power, introduced a bill for internal improvements at federal expense with the warning that the size of America exposed her 'to the greatest of all calamities, next to the loss of liberty, and even to that in its consequences — *disunion*.' The bill passed both Houses of Congress, but was vetoed by Madison. This was one of the retiring President's final acts, and one of his most important. It was a last-minute return to the principles he had espoused in the seventeen-nineties, but which he had seldom been able to practice since he rose to high power with Jefferson. The reader of Henry Adams may find himself wondering whether Madison, in this sudden return to his ancient scruples, did not

do much to revive the sectional strife which the Peace of Ghent had seemed to assuage.

The unforeseen result of the veto was to impose new burdens and a new inferiority upon the South. New York went ahead with her own internal improvements and built the Erie Canal. Pennsylvania went ahead with her own improvements and built the necessary roads and canals. But the South did not have the money to outfit herself at her own expense for the competition in trade routes and commerce which was about to begin. Within a few years the South found herself an under-privileged region, seemingly dependent on the institution of slavery for maintaining her position in the Union. Within a few years Calhoun decided that any extension of federal authority would be used for projects harmful to Southern interest, so he became the most eloquent foe of enlarged federal power. The precedent of Madison's veto was far-reaching: a century and a quarter later the Congress of the United States was still discussing whether federal money could properly be used to promote education in financially backward parts of the South.

These are but a few bare samples of how Adams's book illuminates the later history of America. The development of the modern party system under Jackson becomes more comprehensible in the light of these sixteen years. The long struggles over a national bank and over the disposal of public lands, which poisoned the Middle Period of our history, become more real and more interesting; and the Civil War itself is set against a background of previous disunion which adds to the dignity of that tragedy.

In his treatment of Jefferson's troubles over the Two Million Act, and indeed throughout the nine volumes, Adams helps us to understand the recurring discord between the Executive and the Congress which has marked our history. He shows why this discord may fairly be described as part of our constitutional system. He does not attempt to say whether it is a healthy or an unhealthy part, though many years later he seems to have decided in favor of the negative. In 1898 John Hay, about to become McKinley's Secretary of State, wrote to Adams: 'I have told you many times that I did not believe another important treaty would ever pass the Senate. What is to be thought of a body which will not take Hawaii as a gift, and is clamoring to hold the Philippines?' In the same year Adams wrote, 'I have always been impressed by the parting speech

of that otherwise overrated scoundrel Aaron Burr, on going out of office as Vice-President: "If the Constitution is to perish, its dying agonies will be seen on this floor."<sup>1</sup>

In his history Adams never attempts to enforce a thesis. He sets down his facts, and the contemporary meaning of the facts as he sees them, in the hope that this may help in the permanent fight to make America true to herself. He concludes by saying that the future growth, wealth, and physical success of America was determined before the end of Madison's second administration, and he asks what kind of people these fortunate millions would become. 'They were intelligent, but what paths would their intelligence select? They were quick, but what solution of insoluble problems would their quickness hurry? They were scientific, and what control would their science exercise over their destiny? They were mild, but what corruptions would their relaxations bring? They were peaceful, but by what machinery would their corruptions be purged? What interests were to vivify a society so vast and uniform? What ideals were to ennoble it? What object, besides physical content, must a democratic continent aspire to attain.'

These questions have not been answered, and they are unlikely ever to be answered; but they are questions which Americans must always ask.

## 5

Henry Adams tells us that his history was 'ten or a dozen years of work.' It is amusing to follow in his letters the early years of this work during 1879 and 1880, when he went to London, Paris, and Madrid to study the Foreign Office archives of the countries with which Jefferson and Madison were most involved. Characteristically, Adams hated Paris, where everything was done to help him, and fell reluctantly and sardonically in love with Spain, where everything was done to thwart him. The Duke of Tetuan, Foreign Secretary of Spain, at first could

<sup>1</sup> In the *Education*, Henry Adams wrote: 'The Secretary of State has always stood as much alone as the historian. Required to look far ahead and round him, he measures forces unknown to party managers, and has found Congress more or less hostile ever since Congress first sat. The Secretary of State exists only to recognize the existence of a world which Congress would rather ignore; of obligations which Congress repudiates whenever it can; of bargains which Congress distrusts and tries to turn to its advantage or to reject. Since the first day the Senate existed, it has always intrigued against the Secretary of State whenever the Secretary has been obliged to extend his functions beyond the appointment of Consuls in Senators' service.'

find no papers relating to the long and stormy quarrels with America over the Floridas. When he did find a few, he said they were 'too delicate to be shown.' This was about seventy years after the event. The Foreign Secretary was at length overpersuaded by the American Minister to Spain, Mr. Lowell. Yet Adams wrote to Henry Cabot Lodge: 'I rejoiced as much to leave Paris, where I got all I wanted and was perfectly well established, as I regretted to leave dirty, hideous, wretched old Spain, where I was refused everything, and swore at every step.'

Adams was already, by 1879, one of the most traveled citizens of America. He had friends and connections in every capital, and he was a devoted and methodical worker. No one has yet improved on the materials he dredged from the archives of Spain, France, and England. At the end of his explorations abroad he wrote to a friend: 'My material is enormous, and I now fear that the task of compression will be painful. Burr alone is good for a volume. Canning and Perceval are figures that can't be put in a nutshell, and Napoleon is vast. I have got to contemplate six volumes for the sixteen years as inevitable. If it proves a dull story, I will condense, but it's wildly interesting, at least to me.'

Luckily for historical scholarship, it remained wildly interesting to him, and the six volumes grew into nine.

In 1881 he returned home to Washington and to Beverly Farms, Massachusetts. He turned to the study of American life and culture in the year 1800. To judge from his letters, he was at first discouraged with what he found. In 1881 he wrote, 'Thus far my impression is that America in 1800 was not far from the condition of England under Alfred the Great.' But to judge from his first six chapters, he came to feel that this subject, also, was 'wildly interesting.' He unquestionably makes it so for the reader. These chapters are an important contribution to our knowledge of America. With the possible exception of Tocqueville, they are the best interpretation of the American national character.

When at last he settled to the work of composition, Adams wrote for five hours a day and rode horseback for two — and, he added, 'I do society for the remainder.' When he was halfway through the history, his wife died, and hope departed from his life, and he no longer 'did society' at all. He always felt that the unhappiness affected the latter part of the work. In 1891 he wrote: 'If you compare the tone of my first volume — even toned down, as it is, from the original — with that of the

ninth when it appears, you will feel that the light has gone out. I am not to blame. As long as I could make life work, I stood by it, and swore by it as though it was my God, as indeed it was.' The reader will be unlikely to detect the difference. Perhaps Adams planned, in the beginning, to come to more positive conclusions; yet it was always his temperament to ask questions rather than to give answers, to display the facts as he saw them and to profess an inability to mold them into a satisfying pattern. 'I am like most other men,' he once wrote, 'who have studied much, and know that they know nothing. I have nothing to say . . . I am glad to hear other men, if they think they have something worth saying; but it is as a scholar, and not as a teacher, that I have taken my seat.' So long as the scholarship is thorough, this is a temperament which may be useful to the historian.

When the last volume of the history appeared, Adams was fifty-three. He felt that his personal life was at an end and he no longer wished to write for publication. He began his fruitful years of wandering over the world, exploring every corner and every major capital, East and West. He was looking, though without hope of success, for a contradiction to the despair with which he viewed civilization. 'On all sides,' he wrote in 1893, 'especially in Europe and Asia, the world is getting awful rickety. In our own country we shall follow more or less the path of the world outside. . . . With a communism I could exist tolerably well; but in a world made up of maniacs wild for gold, I have no place. In the coming rows you will know where to find me. Probably I shall be helping the London mob to pull up Harcourt and Rothschild on a lamp-post in Piccadilly.'

This was not a mannerism or a mood, though it was an exaggeration of his growing sense of disaster. Adams always exaggerated in his letters, and never exaggerated in his history. His sense of world-sickness was shown in his enjoyment of Petrarch's Sonnet XCI, which he later translated himself. In his own version the sonnet begins:

From impious Babylon festering in decay,  
Where all God's gifts are basely turned to gain;  
Mother of error; Shelter of greed and pain;  
As life's last hope, I too have fled away.

He did flee away, to every hidden corner of the world, on mules, on horses, on ships, on railway trains, sleeping in a tent in the Tetons, on

the bare ground in Samoa, in filthy shacks in Mexico and throughout the Spanish Main, in Grand Hotels everywhere. He fled and fled, and complained and complained, but the Hound of Heaven pursued him wherever he hid, forcing him to ask, What does this mean? Where does it fit? How can I find a clue which will help us to understand? He insisted that his wanderings were thoughtless and without motive. 'As I am a professional wanderer,' he wrote, 'all is much alike to me, provided I am not seasick or ill, and I am ready to go wherever the steamers or the donkeys can take me.' Yet throughout these years he could not keep himself from writing a number of the most thoughtful books in the modern world, including at least one classic, *Mont-Saint-Michel and Chartres*.

Writing from Papeete in 1891, Adams said that the natives were marked with 'the look of sadness that always goes with civilization, and means that a race has opened its eyes to its cares.' The sentence reminds us of Melville, a traveler in the same seas, who wrote that 'the early undistrusted beauty of the world is forever fled.' Adams was one of the first Americans to open his eyes to the cares of modern life without illusion, and to keep them open no matter how painful the sight. There could be no 'early undistrusted beauty' for him. Nothing is beautiful if it is false.

Adams found his contemporaries 'full of swagger and self-satisfaction.' They found him complaining and disconsolate. Yet the passing years have left Adams more alive than the men who condemned him. A few quotations from his letters may bear out this statement.

1897: 'As I view it, the collapse of our nineteenth century J. S. Mill, Manchester, Chicago formulas, will be displayed — if at all — by the collapse of Parliamentarianism, and the reversion to centralized government. The open abandonment of the system ought to be nearly simultaneous in Germany and France. It must coincide with social disintegration.'

1898: 'I regard the crisis as already certain to be accompanied by the most sweeping revolution that has ever been known, which can only end, if it has an end, in the concentration of life in two last centers, one probably in Russia, and logically on the Black Sea, the other in the Mississippi Valley.'

1902: 'My belief is that science is to wreck us, and that we are like monkeys monkeying with a loaded shell. . . . It is mathematically certain



to me that another thirty years of energy-development at the rate of the last century must reach an *impasse*.'

1917 (after the United States had entered the war): 'Here we are, for the first time in our lives fighting side by side, and to my bewilderment I find the great object of my life thus accomplished in the building up of the great community of Atlantic Powers which I hope will at least make a precedent that can never be forgotten. We have done it once and perhaps we can keep it up. Strange it is that we should have done it by means of inducing those blockheads of Germans to kick us into it.'

The last quotation may surprise those who know the works of Henry Adams well — especially the *Education* and the *Letters*. Adams was a lifelong critic of the British. His harsh views were based partly on the experiences of his great-grandfather and his grandfather, partly on his own experience in London during the American Civil War, partly on his fear that the collapse which he foresaw would begin with the British Empire, which must drag the world down with it. He was always writing his English friends about the stupidity of the policy of their nation; but his friends didn't mind, because he never said anything worse about England than he said about all other nations, including his own. His belief in the importance of unifying the Atlantic Community was the result of his long work on the period of Jefferson and Madison.

## 6

Adams did not like to have his personal life discussed in public. No one was ever warmer and more generous with his friends; no one was more remote from the world outside that circle. During his last thirty years he carried this remoteness so far that he refused to publish most of what he wrote, except in private editions for a few people.

Henry Adams was born in 1838, son of the Charles Francis Adams who was American Minister in London during the Civil War. Cantankerous as all his forbears, he has the reputation of being a bitter critic of his country; yet there was probably never a more simple patriot. He attacked and exposed the faults he thought were ruining America, because he loved America. He did not attack her, as some have done, when she was in danger. During the first World War, at his own dinner-table, he silenced a friend of forty years, a leading American Senator,

who was speaking bitterly about the Commander-in-Chief, Woodrow Wilson. Adams had no love for Wilson, but he knew when a nation should close its ranks. 'America is at war,' he told his friend, 'and that is treason. You cannot talk treason in my house.'

During the Civil War he went to London as his father's secretary. The story of those critical years when British or French intervention, constantly threatened, might have destroyed America, forms one of the best sections of the *Education*. Returning to America, he set himself to observe and interpret the Washington scene. He edited the *North American Review*. He taught medieval history for seven years at Harvard; then he turned to the writing of American history. Until the death of his wife in 1885, his house was a center for the world of politics and art, and for the pursuit of wisdom.

After 1885, he first finished the history and then set out on his eternal travels. He was financially independent, and his life was one which seemed to justify an inherited income. In 1912 he had a stroke, and thereafter he wrote no more books, though he continued his heavy correspondence. When he died in 1918, at the age of eighty, his niece wrote to one of his dearest English friends: 'He was surrounded by people who would have done anything on earth to make him happy. . . . For him there is nothing to regret, he was more than ready to go, but to us who loved him and to whom he stood for so much his loss is great, beyond all words to express.' In a period not notable for its reverence toward old age, the words tell much of what this lonely and hypercritical scholar meant to his friends. To the world, who knew only his work, Adams's death meant that one more great man had been

Gathered to the kings of thought  
Who wage contention with their time's decay,  
And of the past are all that cannot pass away.

HERBERT AGAR

LA OSA RANCH  
SASABE, ARIZONA

*A Chronological List of the  
Principal Writings of Henry Adams*

- 1879      *The Life of Albert Gallatin.*
- 1880      *Democracy — An American Novel.* (Anon.)
- 1882      *John Randolph.*
- 1884      *Esther, A Novel.* By Frances Snow Compton (pseud.).
- 1889      *History of the United States of America during the First Administration of Thomas Jefferson.* 2 vols.
- 1890      *History of the United States of America during the Second Administration of Thomas Jefferson.* 2 vols.
- 1890      *History of the United States of America during the First Administration of James Madison.* 2 vols.
- 1891      *History of the United States of America during the Second Administration of James Madison.* 3 vols.
- 1904      *Mont-Saint-Michel and Chartres.*
- 1907      *The Education of Henry Adams.*
- 1911      *The Life of George Cabot Lodge.*
- 1919      *The Degradation of the Democratic Dogma.* Brooks Adams, ed.
- 1930–1938      *Letters of Henry Adams (1858–1918).* W. C. Ford, ed. 2 vols.
- 1947      *Henry Adams and His Friends: A Collection of His Unpublished Letters.* Harold Dean Cater, ed.

BOOK ONE

*The State of the Nation in 1800*



## CHAPTER ONE

### *Physical and Economic Conditions*

ACCORDING to the Census of 1800, the United States of America contained 5,308,483 persons. In the same year the British Islands contained upwards of fifteen millions; the French Republic, more than twenty-seven millions. Nearly one-fifth of the American people were Negro slaves; the true political population consisted of four and a half million free whites, or less than one million able-bodied males, on whose shoulders fell the burden of a continent. Even after two centuries of struggle the land was still untamed; forest covered every portion, except here and there a strip of cultivated soil; the minerals lay undisturbed in their rocky beds, and more than two-thirds of the people clung to the seaboard within fifty miles of tidewater, where alone the wants of civilized life could be supplied. The center of population rested within eighteen miles of Baltimore, north and east of Washington. Except in political arrangement, the interior was little more civilized than in 1750, and was not much easier to penetrate than when La Salle and Hennepin found their way to the Mississippi more than a century before.

A great exception broke this rule. Two wagon-roads crossed the Alleghany Mountains in Pennsylvania — one leading from Philadelphia to Pittsburgh; one from the Potomac to the Monongahela; while a third passed through Virginia southwestward to the Holston River and Knoxville in Tennessee, with a branch through the Cumberland Gap into Kentucky. By these roads and by trails less passable from North and South Carolina, or by waterways from the Lakes, between four and five hundred thousand persons had invaded the country beyond the Alleghanies. At Pittsburgh and on the Monongahela existed a society, already old, numbering seventy or eighty thousand persons, while on the Ohio River the settlements had grown to an importance which threatened to force a difficult problem on the Union of the older States. One hundred and eighty thousand whites, with forty thousand Negro slaves, made Kentucky the largest community west of the mountains; and about ninety thousand whites and fourteen thousand slaves were scattered over Tennessee. In the territory north of the Ohio less progress had been made. A New England colony existed at Marietta; some fifteen thousand people were

gathered at Cincinnati; halfway between the two, a small town had grown up at Chillicothe, and other villages or straggling cabins were to be found elsewhere; but the whole Ohio territory contained only forty-five thousand inhabitants. The entire population, both free and slave, west of the mountains, reached not yet half a million; but already they were partly disposed to think themselves, and the old thirteen States were not altogether unwilling to consider them, the germ of an independent empire, which was to find its outlet, not through the Alleghanies to the seaboard, but by the Mississippi River to the Gulf.

Nowhere did eastern settlements touch the western. At least one hundred miles of mountainous country held the two regions everywhere apart. The shore of Lake Erie, where alone contact seemed easy, was still unsettled. The Indians had been pushed back to the Cuyahoga River, and a few cabins were built on the site of Cleveland; but in 1800, as in 1700, this intermediate region was only a portage where emigrants and merchandise were transferred from Lake Erie to the Muskingum and Ohio valleys. Even western New York remained a wilderness: Buffalo was not laid out; Indian titles were not extinguished; Rochester did not exist; and the county of Onondaga numbered a population of less than eight thousand. In 1799, Utica contained fifty houses, mostly small and temporary. Albany was still a Dutch city, with some five thousand inhabitants; and the tide of immigration flowed slowly through it into the valley of the Mohawk, while another stream from Pennsylvania, following the Susquehanna, spread toward the Genesee country.

The people of the old thirteen States, along the Atlantic seaboard, thus sent westward a wedge-shaped mass of nearly half a million persons, penetrating by the Tennessee, Cumberland, and Ohio Rivers toward the western limit of the Union. The Indians offered sharp resistance to this invasion, exacting life for life, and yielding only as their warriors perished. By the close of the century the wedge of white settlements, with its apex at Nashville and its flanks covered by the Ohio and Tennessee Rivers, nearly split the Indian country in halves. The northern half — consisting of the later States of Wisconsin, Michigan, Illinois, Indiana, and one-third of Ohio — contained Wyandottes and Shawanese, Miamis, Kickapoos, and other tribes, able to send some five thousand warriors to hunt or fight. In the southern half, powerful confederacies of Creeks, Cherokees, Chickasaws, and Choctaws lived and hunted where the States of Mis-







issippi, Alabama, and the western parts of Georgia, Tennessee, and Kentucky were to extend; and so weak was the State of Georgia, which claimed the southwestern territory for its own, that a well-concerted movement of Indians might without much difficulty have swept back its white population of one hundred thousand toward the ocean or across the Savannah River. The Indian power had been broken in halves, but each half was still terrible to the colonists on the edges of their vast domain, and was used as a political weapon by the Governments whose territory bounded the Union on the north and south. The governors-general of Canada intrigued with the northwestern Indians, that they might hold in check any aggression from Washington; while the Spanish governors of West Florida and Louisiana maintained equally close relations with the Indian confederacies of the Georgia territory.

With the exception that half a million people had crossed the Alleghanies and were struggling with difficulties all their own, in an isolation like that of Jutes or Angles in the fifth century, America, so far as concerned physical problems, had changed little in fifty years. The old landmarks remained nearly where they stood before. The same bad roads and difficult rivers, connecting the same small towns, stretched into the same forests in 1800 as when the armies of Braddock and Amherst pierced the western and northern wilderness, except that these roads extended a few miles farther from the seacoast. Nature was rather man's master than his servant, and the five million Americans struggling with the untamed continent seemed hardly more competent to their task than the beavers and buffalo which had for countless generations made bridges and roads of their own.

Even by water, along the seaboard, communication was as slow and almost as irregular as in colonial times. The wars in Europe caused a sudden and great increase in American shipping employed in foreign commerce, without yet leading to general improvement in navigation. The ordinary seagoing vessel carried a freight of about two hundred and fifty tons; the largest merchant ships hardly reached four hundred tons; the largest frigate in the United States Navy, the 'line-of-battle ship in disguise,' had a capacity of fifteen hundred and seventy-six tons. Elaborately rigged as ships or brigs, the small merchant craft required large crews and were slow sailers; but the voyage to Europe was comparatively more comfortable and more regular than the voyage from New York to

Albany, or through Long Island Sound to Providence. No regular packet plied between New York and Albany. Passengers waited till a sloop was advertised to sail; they provided their own bedding and supplies; and within the nineteenth century Captain Elias Bunker won much fame by building the sloop *Experiment*, of one hundred and ten tons, to start regularly on a fixed day for Albany, for the convenience of passengers only, supplying beds, wine, and provisions for the voyage of one hundred and fifty miles. A week on the North River or on the Sound was an experience not at all unknown to travelers.

While little improvement had been made in water travel, every increase of distance added to the difficulties of the westward journey. The settler, who after buying wagon and horses hauled his family and goods across the mountains, might buy or build a broad flat-bottomed ark, to float with him and his fortunes down the Ohio, in constant peril of upsetting or of being sunk; but only light boats with strong oars could mount the stream, or boats forced against the current by laboriously poling in shallow water. If he carried his tobacco and wheat down the Mississippi to the Spanish port of New Orleans, and sold it, he might return to his home in Kentucky or Ohio by a long and dangerous journey on horseback through the Indian country from Natchez to Nashville, or he might take ship to Philadelphia, if a ship were about to sail, and again cross the Alleghanies. Compared with river travel, the sea was commonly an easy and safe highway. Nearly all the rivers which penetrated the interior were unsure, liable to be made dangerous by freshets, and both dangerous and impassable by drought; yet such as they were, these streams made the main paths of traffic. Through the mountainous gorges of the Susquehanna the produce of western New York first found an outlet; the Cuyahoga and Muskingum were the first highway from the Lakes to the Ohio; the Ohio itself, with its great tributaries the Cumberland and the Tennessee, marked the lines of western migration; and every stream which could at high water float a boat was thought likely to become a path for commerce. As General Washington, not twenty years earlier, hoped that the brawling waters of the Cheat and Youghiogeny might become the channel of trade between Chesapeake Bay and Pittsburgh, so the Americans of 1800 were prepared to risk life and property on any streamlet that fell foaming down either flank of the Alleghanies. The experience of mankind proved trade to be dependent on water communications, and

as yet Americans did not dream that the experience of mankind was useless to them.

If America was to be developed along the lines of water communication alone, by such means as were known to Europe, Nature had decided that the experiment of a single republican government must meet extreme difficulties. The valley of the Ohio had no more to do with that of the Hudson, the Susquehanna, the Potomac, the Roanoke, and the Santee, than the valley of the Danube with that of the Rhone, the Po, or the Elbe. Close communication by land could alone hold the great geographical divisions together either in interest or in fear. The union of New England with New York and Pennsylvania was not an easy task even as a problem of geography and with an ocean highway; but the union of New England with the Carolinas, and of the seacoast with the interior, promised to be a hopeless undertaking. Physical contact alone could make one country of these isolated empires, but to the patriotic American of 1800, struggling for the continued existence of an embryo nation, with machinery so inadequate, the idea of ever bringing the Mississippi River, either by land or water, into close contact with New England must have seemed wild. By water, an Erie Canal was already foreseen; by land, centuries of labor could alone conquer those obstacles which Nature permitted to be overcome.

In the minds of practical men, the experience of Europe left few doubts on this point. After two thousand years of public labor and private savings, even despotic monarchs, who employed the resources of their subjects as they pleased, could in 1800 pass from one part of their European dominions to another little more quickly than they might have done in the age of the Antonines. A few short canals had been made, a few bridges had been built, an excellent post-road extended from Madrid to St. Petersburg; but the heavy diligence that rumbled from Calais to Paris required three days for its journey of one hundred and fifty miles, and if travelers ventured on a trip to Marseilles they met with rough roads and hardships like those of the Middle Ages. Italy was in 1800 almost as remote from the north of Europe as when carriage-roads were first built. Neither in time nor in thought was Florence or Rome much nearer to London in Wordsworth's youth than in the youth of Milton or Gray. Indeed, such changes as had occurred were partly for the worse, owing to the violence of revolutionary wars during the last ten years of

the eighteenth century. Horace Walpole at his life's close saw about him a world which in many respects was less civilized than when as a boy he made the grand tour of Europe.

While so little had been done on the great highways of European travel, these highways were themselves luxuries which furnished no sure measure of progress. The post-horses toiled as painfully as ever through the sand from Hamburg to Berlin, while the coach between York and London rolled along an excellent road at the rate of ten miles an hour; yet neither in England nor on the Continent was the post-road a great channel of commerce. No matter how good the road, it could not compete with water, nor could heavy freights in great quantities be hauled long distances without extravagant cost. Water communication was as necessary for European commerce in 1800 as it had been for the Phoenicians and Egyptians; the Rhine, the Rhone, the Danube, the Elbe, were still the true commercial highways, and except for government post-roads, Europe was as dependent on these rivers in the eighteenth century as in the thirteenth. No certainty could be offered of more rapid progress in the coming century than in the past; the chief hope seemed to lie in the construction of canals.

While Europe had thus consumed centuries in improving paths of trade, until merchandise could be brought by canal a few score miles from the Rhone to the Loire and Seine, to the Garonne and the Rhine, and while all her wealth and energy had not yet united the Danube with other river systems, America was required to construct, without delay, at least three great roads and canals, each several hundred miles long, across mountain ranges, through a country not yet inhabited, to points where no great markets existed — and this under constant peril of losing her political union, which could not even by such connections be with certainty secured. After this should be accomplished, the Alleghanies must still remain between the eastern and western States, and at any known rate of travel Nashville could not be reached in less than a fortnight or three weeks from Philadelphia. Meanwhile, the simpler problem of bringing New England nearer to Virginia and Georgia had not advanced even with the aid of a direct ocean highway. In becoming politically independent of England, the old thirteen provinces developed little more commercial intercourse with each other in proportion to their wealth and population than they had maintained in colonial days. The

material ties that united them grew in strength no more rapidly than the ties which bound them to Europe. Each group of States lived a life apart.

Even the lightly equipped traveler found a short journey no slight effort. Between Boston and New York was a tolerable highway, along which, thrice a week, light stage-coaches carried passengers and the mail, in three days. From New York a stage-coach started every week-day for Philadelphia, consuming the greater part of two days in the journey, and the road between Paulus Hook, the modern Jersey City, and Hackensack was declared by the newspapers in 1802 to be as bad as any other part of the route between Maine and Georgia. South of Philadelphia the road was tolerable as far as Baltimore, but between Baltimore and the new city of Washington it meandered through forests; the driver chose the track which seemed least dangerous and rejoiced if in wet seasons he reached Washington without miring or upsetting his wagon. In the Northern States, four miles an hour was the average speed for any coach between Bangor and Baltimore. Beyond the Potomac the roads became steadily worse, until south of Petersburg even the mails were carried on horseback. Except for a stage-coach which plied between Charleston and Savannah, no public conveyance of any kind was mentioned in the three southernmost States.

The stage-coach was itself a rude conveyance, of a kind still familiar to experienced travelers. Twelve persons, crowded into one wagon, were jolted over rough roads, their bags and parcels, thrust inside, cramping their legs, while they were protected from the heat and dust of mid-summer and the intense cold and driving snow of winter only by leather flaps buttoned to the roof and sides. In fine, dry weather this mode of travel was not unpleasant, when compared with the heavy vehicles of Europe and the hard English turnpikes; but when spring rains drew the frost from the ground, the roads became nearly impassable, and in winter, when the rivers froze, a serious peril was added, for the Susquehanna or the North River at Paulus Hook must be crossed in an open boat — an affair of hours at best, sometimes leading to fatal accidents.

In the Southern States the difficulties and perils of travel were so great as to form a barrier almost insuperable. Even Virginia was no exception to this rule. At each interval of a few miles the horseman found himself stopped by a river, liable to sudden freshets, and rarely bridged. Jefferson

in his frequent journeys between Monticello and Washington was happy to reach the end of the hundred miles without some vexatious delay. 'Of eight rivers between here and Washington,' he wrote to his Attorney-General in 1801, 'five have neither bridges nor boats.'

Heavy traffic never used stage-routes if it could find cheaper. Commerce between one State and another, or even between the seaboard and the interior of the same State, was scarcely possible on any large scale unless navigable water connected them. Except the great highway to Pittsburg, no road served as a channel of commerce between different regions of the country. In this respect New England east of the Connecticut was as independent of New York as both were independent of Virginia, and as Virginia in her turn was independent of Georgia and South Carolina. The chief value of inter-State communication by land rested in the postal system; but the post furnished another illustration of the difficulties which barred progress. In the year 1800 one general mail-route extended from Portland in Maine to Louisville in Georgia, the time required for the trip being twenty days. Between Portsmouth in New Hampshire and Petersburg in Virginia, the contracts required a daily service, except Sundays; between Petersburg and Augusta, the mail was carried thrice a week. Branching from the main line at New York, a mail went to Canandaigua in ten days, from Philadelphia another branch line went to Lexington in sixteen days, to Nashville in twenty-two days. Thus, more than twenty thousand miles of post-road, with nine hundred post-offices, proved the vastness of the country and the smallness of the result, for the gross receipts for postage in the year ending October 1, 1801, were only three hundred and twenty thousand dollars.

Throughout the land the eighteenth century ruled supreme. Only within a few years had the New Englander begun to abandon his struggle with a barren soil among granite hills, to learn the comforts of easier existence in the valleys of the Mohawk and Ohio; yet the New England man was thought the shrewdest and most enterprising of Americans. If the Puritans and the Dutch needed a century or more to reach the Mohawk, when would they reach the Mississippi? The distance from New York to the Mississippi was about one thousand miles; from Washington to the extreme southwestern military post, below Natchez, was about twelve hundred. Scarcely a portion of western Europe was three hun-

dred miles distant from some sea, but a width of three hundred miles was hardly more than an outskirts of the United States. No civilized country had yet been required to deal with physical difficulties so serious, nor did experience warrant conviction that such difficulties could be overcome.

If the physical task which lay before the American people had advanced but a short way toward completion, little more change could be seen in the economical conditions of American life. The man who in the year 1800 ventured to hope for a new era in the coming century could lay his hand on no statistics that silenced doubt. The machinery of production showed no radical difference from that familiar to ages long past. The Saxon farmer of the eighth century enjoyed most of the comforts known to Saxon farmers of the eighteenth. The eorls and ceorls of Offa and Ecgbert could not read or write, and did not receive a weekly newspaper with such information as newspapers in that age could supply; yet neither their houses, their clothing, their food and drink, their agricultural tools and methods, their stock, nor their habits were so greatly altered or improved by time that they would have found much difficulty in accommodating their lives to that of their descendants in the eighteenth century. In this respect America was backward. Fifty or a hundred miles inland more than half the houses were log cabins, which might or might not enjoy the luxury of a glass window. Throughout the South and West houses showed little attempt at luxury; but even in New England the ordinary farmhouse was hardly so well built, so spacious, or so warm as that of a well-to-do contemporary of Charlemagne. The cloth which the farmer's family wore was still homespun. The hats were manufactured by the village hatter; the clothes were cut and made at home; the shirts, socks, and nearly every other article of dress were also homemade. Hence came a marked air of rusticity which distinguished country from town — awkward shapes of hat, coat, and trousers, which gave to the Yankee caricature those typical traits that soon disappeared almost as completely as coats of mail and steel headpieces. The plow was rude and clumsy; the sickle as old as Tubal Cain, and even the cradle not in general use; the flail was unchanged since the Aryan exodus; in Virginia, grain was still commonly trodden out by horses. Enterprising gentlemen-farmers introduced threshing-machines and invented scientific plows; but these were novelties. Stock was as a rule not only un-



improved, but ill-cared-for. The swine ran loose; the cattle were left to feed on what pasture they could find, and even in New England were not housed until the severest frosts, on the excuse that exposure hardened them. Near half a century afterward a competent judge asserted that the general treatment of cows in New England was fair matter of presentment by a grand jury. Except among the best farmers, drainage, manures, and rotation of crops were uncommon. The ordinary cultivator planted his corn as his father had planted it, sowing as much rye to the acre, using the same number of oxen to plow, and getting in his crops on the same day. He was even known to remove his barn on account of the manure accumulated round it, although the New England soil was never so rich as to warrant neglect to enrich it. The money for which he sold his wheat and chickens was of the Old World; he reckoned in shillings or pistareens, and rarely handled an American coin more valuable than a large copper cent.

At a time when the wealth and science of London and Paris could not supply an article so necessary as a common sulphur match, the backwardness of remote country districts could hardly be exaggerated. Yet remote districts were not the only sufferers. Of the whole United States New England claimed to be the most civilized province, yet New England was a region in which life had yet gained few charms of sense and few advantages over its rivals.

A measure of the difficulties with which New England struggled was given by the progress of Boston, which was supposed to have contained about eighteen thousand inhabitants as early as 1730, and twenty thousand in 1770. For several years after the Revolution it numbered less than twenty thousand, but in 1800 the Census showed twenty-five thousand inhabitants. In appearance, Boston resembled an English market town, of a kind even then old-fashioned. The footways or sidewalks were paved, like the crooked and narrow streets, with round cobblestones, and were divided from the carriageway only by posts and a gutter. The streets were almost unlighted at night, a few oil lamps rendering the darkness more visible and the rough pavement rougher. Police hardly existed. The system of taxation was defective. The town was managed by selectmen, the elected instruments of town meetings whose jealousy of granting power was even greater than their objection to spending money, and whose hostility to city government was not to be overcome.

Although on all sides increase of ease and comfort was evident, and roads, canals, and new buildings, public and private, were already in course of construction on a scale before unknown, yet, in spite of more than a century and a half of incessant industry, intelligent labor, and pinching economy, Boston and New England were still poor. A few merchants enjoyed incomes derived from foreign trade, which allowed them to imitate in a quiet way the style of the English mercantile class; but the clergy and the lawyers, who stood at the head of society, lived with much economy. Many a country clergyman, eminent for piety and even for hospitality, brought up a family and laid aside some savings on a salary of five hundred dollars a year.

On the Exchange a few merchants had done most of the business of Boston since the Peace of 1783, but six mail-coaches a week to New York, and occasional arrivals from Europe or the departure of a ship to China, left ample leisure for correspondence and even for gossip. The habits of the commercial class had not been greatly affected by recent prosperity. Within ten or fifteen years before 1800, three banks had been created to supply the commercial needs of Boston. One of these was a branch Bank of the United States, which employed there whatever part of its capital it could profitably use; the two others were local banks, with capital of \$1,600,000, toward which the State subscribed \$400,000. Altogether the banking capital of Boston might amount to two millions and a half. A number of small banks, representing in all about two and a half millions more, were scattered through the smaller New England towns. The extraordinary prosperity caused by the French wars opened to Boston a new career. Wealth and population were doubling; the exports and imports of New England were surprisingly large, and the shipping was greater than that of New York and Pennsylvania combined; but Boston had already learned, and was to learn again, how fleeting were the riches that depended on foreign commerce, and conservative habits were not easily changed by a few years of accidental gain.

Of manufactures New England had many, but none on a large scale. The people could feed or clothe themselves only by household industry; their whale oil, salt fish, lumber, and rum were mostly sent abroad; but they freighted coasters with turners' articles, home-made linens and cloths, cheese, butter, shoes, nails, and what were called 'Yankee Notions' of all sorts, which were sent to Norfolk and the Southern ports, and often

peddled from the deck, as goods of every sort were peddled on the flatboats of the Ohio. Two or three small mills spun cotton with doubtful success; but England supplied ordinary manufactures more cheaply and better than Massachusetts could hope to do. A triweekly mail and a few coasting sloops provided for the business of New England with domestic ports. One packet sloop plied regularly to New York.

The State of New York was little in advance of Massachusetts and Maine. In 1800, for the first time New York gained the lead in population by the difference between 589,000 and 573,000. The valuation of New York for the direct tax in 1799 was one hundred million dollars; that of Massachusetts was eighty-four million dollars. New York was still a frontier State, and although the city was European in its age and habits, travelers needed to go few miles from the Hudson in order to find a wilderness like that of Ohio and Tennessee. In most material respects the State was behind New England; outside the city was to be seen less wealth and less appearance of comfort. The first impression commonly received of any new country was from its inns, and on the whole few better tests of material condition then existed. President Dwight, though maintaining that the best old-fashioned inns of New England were in their way perfect, being in fact excellent private houses, could not wholly approve what he called the modern inns, even in Connecticut; but when he passed into New York, he asserted that everything suffered an instant change for the worse. He explained that in Massachusetts the authorities were strict in refusing licenses to any but respectable and responsible persons, whereas in New York licenses were granted to anyone who would pay for them — which caused a multiplication of dramshops, bad accommodations, and a gathering of loafers and tipplers about every tavern porch, whose rude appearance, clownish manners, drunkenness, swearing, and obscenity confirmed the chief of Federalist clergymen in his belief that democracy had an evil influence on morals.

If Washington Irving was right, Rip Van Winkle, who woke from his long slumber about the year 1800, saw little that was new to him, except the head of President Washington where that of King George had once hung, and strange faces instead of familiar ones. Except in numbers, the city was relatively no farther advanced than the country. Between 1790 and 1800 its population rose from thirty-three thousand to sixty thousand; and if Boston resembled an old-fashioned English market

town, New York was like a foreign seaport, badly paved, undrained, and as foul as a town surrounded by the tides could be. Although the Manhattan Company was laying wooden pipes for a water supply, no sanitary regulations were enforced, and every few years — as in 1798 and 1803 — yellow fever swept away crowds of victims, and drove the rest of the population, panic-stricken, into the highlands. No day police existed; constables were still officers of the courts; the night police consisted of two captains, two deputies, and seventy-two men. The estimate for the city's expenses in 1800 amounted to a hundred and thirty thousand dollars. One marked advantage New York enjoyed over Boston, in the possession of a city government able to introduce reforms. Thus, although still medieval in regard to drainage and cleanliness, the town had taken advantage of recurring fires to rebuild some of the streets with brick sidewalks and curbstones. Travelers dwelt much on this improvement, which only New York and Philadelphia had yet adopted, and Europeans agreed that both had the air of true cities: that while Boston was the Bristol of America, New York was the Liverpool, and Philadelphia the London.

In respect to trade and capital, New York possessed growing advantages, supplying half New Jersey and Connecticut, a part of Massachusetts, and all the rapidly increasing settlements on the branches of the Hudson; but no great amount of wealth, no considerable industry or new creation of power, was yet to be seen. Two banks, besides the branch Bank of the United States, supplied the business wants of the city, and employed about the same amount of capital in loans and discounts as was required for Boston. Besides these city institutions but two other banks existed in the State — at Hudson and at Albany.

The proportion of capital in private hands seemed to be no larger. The value of exports from New York in 1800 was but \$14,000,000; the net revenue on imports for 1799 was \$2,373,000, against \$1,607,000 collected in Massachusetts. Such a foreign trade required little capital, yet these values represented a great proportion of all the exchanges. Domestic manufactures could not compete with foreign, and employed little bank credit. Speculation was slow, mostly confined to lands which required patience to exchange or sell. The most important undertakings were turnpikes, bridges such as Boston built across the Charles, or new blocks of houses; and a canal, such as Boston designed to the

Merrimac, overstrained the resources of capital. The entire banking means of the United States in 1800 would not have answered the stock-jobbing purposes of one great operator of Wall Street in 1875. The nominal capital of all the banks, including the Bank of the United States, fell short of twenty-nine million dollars. The limit of credit was quickly reached, for only the richest could borrow more than fifteen or twenty thousand dollars at a time, and the United States Government itself was gravely embarrassed whenever obliged to raise money. In 1798, the Secretary of the Treasury could obtain five million dollars only by paying eight per cent interest for a term of years; and in 1814 the Government was forced to stop payments for the want of twenty millions.

The precise value of American trade was uncertain, but in 1800 the gross exports and imports of the United States may have balanced at about seventy-five million dollars. The actual consumption of foreign merchandise amounted perhaps to the value of forty or fifty million dollars, paid in wheat, cotton, and other staples, and by the profits on the shipping employed in carrying West India produce to Europe. The amount of American capital involved in a trade of fifty millions, with credits of three, six, and nine months, must have been small, and the rates of profit large.

As a rule American capital was absorbed in shipping or agriculture, whence it could not be suddenly withdrawn. No stock exchange existed, and no broker exclusively engaged in stock-jobbing, for there were few stocks. The national debt, of about eighty millions, was held abroad, or as a permanent investment at home. States and municipalities had not learned to borrow. Except for a few banks and insurance offices, turn-pikes, bridges, canals, and land companies, neither bonds nor stocks were known. The city of New York was so small as to make extravagance difficult; the Battery was a fashionable walk, Broadway a country drive, and Wall Street an uptown residence. Great accumulations of wealth had hardly begun. The Patroon was still the richest man in the State. John Jacob Astor was a fur merchant living where the Astor House afterward stood, and had not yet begun those purchases of real estate which secured his fortune. Cornelius Vanderbilt was a boy six years old, playing about his father's ferryboat at Staten Island. New York City itself was what it had been for a hundred years past — a local market.

As a national capital New York made no claim to consideration. If

Bostonians for a moment forgot their town meetings, or if Virginians overcame their dislike for cities and pavements, they visited and admired, not New York, but Philadelphia. 'Philadelphia,' wrote the Duc de Liancourt, 'is not only the finest city in the United States, but may be deemed one of the most beautiful cities in the world.' In truth, it surpassed any of its size on either side of the Atlantic for most of the comforts and some of the elegancies of life. While Boston contained twenty-five thousand inhabitants and New York sixty thousand, the Census of 1800 showed that Philadelphia was about the size of Liverpool — a city of seventy thousand people. The repeated ravages of yellow fever roused there a regard for sanitary precautions and cleanliness; the city, well paved and partly drained, was supplied with water in wooden pipes, and was the best-lighted town in America; its market was a model, and its jail was intended also for a model — although the first experiment proved unsuccessful, because the prisoners went mad or idiotic in solitary confinement. In and about the city flourished industries considerable for the time. The ironworks were already important; paper and gunpowder, pleasure carriages, and many other manufactures were produced on a larger scale than elsewhere in the Union. Philadelphia held the seat of government until July, 1800, and continued to hold the Bank of the United States, with its capital of ten millions, besides private banking capital to the amount of five millions more. Public spirit was more active in Pennsylvania than in New York. More roads and canals were building; a new turnpike ran from Philadelphia to Lancaster, and the great highway to Pittsburgh was a more important artery of national life than was controlled by any other State. The exports of Pennsylvania amounted to \$12,000,000, and the custom-house produced \$1,350,000. The State contained six hundred thousand inhabitants — a population somewhat larger than that of New York.

Of all parts of the Union, Pennsylvania seemed to have made most use of her national advantages; but her progress was not more rapid than the natural increase of population and wealth demanded, while to deal with the needs of America, man's resources and his power over Nature must be increased in a ratio far more rapid than that which governed his numbers. Nevertheless, Pennsylvania was the most encouraging spectacle in the field of vision. Baltimore, which had suddenly sprung to a population and commerce greater than those of Boston, also offered strong hope of

future improvement; but farther south the people showed fewer signs of change.

The city of Washington, rising in a solitude on the banks of the Potomac, was a symbol of American nationality in the Southern States. The contrast between the immensity of the task and the paucity of means seemed to challenge suspicion that the nation itself was a magnificent scheme like the federal city, which could show only a few log cabins and Negro quarters where the plan provided for the traffic of London and the elegance of Versailles. When in the summer of 1800 the Government was transferred to what was regarded by most persons as a fever-stricken morass, the half-finished White House stood in a naked field overlooking the Potomac, with two awkward department buildings near it, a single row of brick houses and a few isolated dwellings within sight, and nothing more; until, across a swamp, a mile and a half away, the shapeless, unfinished Capitol was seen, two wings without a body, ambitious enough in design to make more grotesque the nature of its surroundings. The conception proved that the United States understood the vastness of their task, and were willing to stake something on their faith in it. Never did hermit or saint condemn himself to solitude more consciously than Congress and the Executive in removing the Government from Philadelphia to Washington: the discontented men clustered together in eight or ten boarding-houses as near as possible to the Capitol, and there lived, like a convent of monks, with no other amusement or occupation than that of going from their lodgings to the Chambers and back again. Even private wealth could do little to improve their situation, for there was nothing which wealth could buy; there were in Washington no shops or markets, skilled labor, commerce, or people. Public efforts and lavish use of public money could alone make the place tolerable; but Congress doled out funds for this national and personal object with so sparing a hand that their Capitol threatened to crumble in pieces and crush Senate and House under the ruins, long before the building was complete.

A Government capable of sketching a magnificent plan and willing to give only a half-hearted pledge for its fulfillment; a people eager to advertise a vast undertaking beyond their present powers, which when completed would become an object of jealousy and fear — this was the impression made upon the traveler who visited Washington in 1800, and mused among the unraised columns of the Capitol upon the destiny of

the United States. As he traveled farther south, his doubts were strengthened, for across the Potomac he could detect no sign of a new spirit. Manufactures had no existence. Alexandria owned a bank with half a million of capital, but no other was to be found between Washington and Charleston, except the branch Bank of the United States at Norfolk, nor any industry to which loans and discounts could safely be made. Virginia, the most populous and powerful of all the States, had a white population of 514,000, nearly equal to that of Pennsylvania and New York, besides about 350,000 slaves. Her energies had pierced the mountains and settled the western territory before the slow-moving Northern people had torn themselves from the safer and more comfortable life by the seaboard; but the Virginia ideal was patriarchal, and an American continent on the Virginia type might reproduce the virtues of Cato, and perhaps the eloquence of Cicero, but was little likely to produce anything more practical in the way of modern progress. The Shenandoah Valley rivaled Pennsylvania and Connecticut in richness and skill of husbandry; but even agriculture, the favorite industry in Virginia, had suffered from the competition of Kentucky and Tennessee, and from the emigration which had drawn away fully one hundred thousand people. The land was no longer very productive. Even Jefferson, the most active-minded and sanguine of all Virginians — the inventor of the first scientific plow, the importer of the first threshing-machine known in Virginia, the experimenter with a new drilling-machine, the owner of one hundred and fifty slaves and ten thousand acres of land, whose Negroes were trained to carpentry, cabinet-making, house-building, weaving, tailoring, shoe-making — claimed to get from his land no more than six or eight bushels of wheat to an acre, and had been forced to abandon the more profitable cultivation of tobacco. Except in a few favored districts like the Shenandoah Valley, land in Virginia did not average eight bushels of wheat to an acre. The cultivation of tobacco had been almost the sole object of landowners, and even where the lands were not exhausted, a bad system of agriculture and the force of habit prevented improvement.

The great planters lavished money in vain on experiments to improve their crops and their stock. They devoted themselves to the task with energy and knowledge; but they needed a diversity of interests and local markets, and except at Baltimore these were far from making their appearance. Neither the products, the markets, the relative amount of



*capital, nor the machinery of production had perceptibly changed.* 'The Virginians are not generally rich,' said the Duc de Liancourt, 'especially in net revenue. Thus, one often finds a well-served table, covered with silver, in a room where for ten years half the window-panes have been missing, and where they will be missed for ten years more. There are few houses in a passable state of repair, and of all parts of the establishment those best cared for are the stables.' Wealth reckoned in slaves or land was plenty; but the best Virginians, from President Washington downward, were most outspoken in their warnings against the Virginia system both of slavery and agriculture.

The contrast between Virginia and Pennsylvania was the subject of incessant comment.

In Pennsylvania [said Robert Sutcliffe, an English Friend who published travels made in 1804-1806] we meet great numbers of wagons drawn by four or more fine fat horses, the carriages firm and well made, and covered with stout good linen, bleached almost white; and it is not uncommon to see ten or fifteen together traveling cheerfully along the road, the driver riding on one of his horses. Many of these come more than three hundred miles to Philadelphia from the Ohio, Pittsburgh, and other places, and I have been told by a respectable Friend, a native of Philadelphia, that more than one thousand covered carriages frequently come to Philadelphia market. . . . The appearance of things in the slave States is quite the reverse of this. We sometimes meet a ragged black boy or girl driving a team consisting of a lean cow and a mule; sometimes a lean bull or an ox and a mule; and I have seen a mule, a bull, and a cow, each miserable in its appearance, composing one team, with a half-naked black slave or two riding or driving as occasion suited. The carriage or wagon, if it may be called such, appeared in as wretched a condition as the team and its driver. Sometimes a couple of horses, mules, or cows would be dragging a hogshead of tobacco, with a pivot or axle driven into each end of the hogshead, and something like a shaft attached, by which it was drawn or rolled along the road. I have seen two oxen and two slaves pretty fully employed in getting along a single hogshead; and some of these come from a great distance inland.

In the middle of these primitive sights, Sutcliffe was startled by a contrast such as Virginia could always show. Between Richmond and Fredericksburg: 'In the afternoon, as our road lay through the woods, I was surprised to meet a family party traveling along in as elegant a

coach as is usually met with in the neighborhood of London, and attended by several gayly dressed footmen.'

The country south of Virginia seemed unpromising even to Virginians. In the year 1796, President Washington gave to Sir John Sinclair his opinion upon the relative value of American lands. He then thought the valley of Virginia the garden of America; but he would say nothing to induce others to settle in more southern regions.

The uplands of North and South Carolina and Georgia are not dissimilar in soil [he wrote], but as they approach the lower latitudes are less congenial to wheat, and are supposed to be proportionably more unhealthy. Toward the seaboard of all the Southern States, and farther south more so, the lands are low, sandy, and unhealthy; for which reason I shall say little concerning them, for, as I should not choose to be an inhabitant of them myself, I ought not to say anything that would induce others to be so. . . . I understand that from thirty to forty dollars per acre may be denominated the medium price in the vicinity of the Susquehanna in the State of Pennsylvania, from twenty to thirty on the Potomac in what is called the Valley, . . . and less, as I have noticed before, as you proceed southerly.

Whatever was the cause, the State of North Carolina seemed to offer few temptations to immigrants or capital. Even in white population ranking fifth among the sixteen States, her 478,000 inhabitants were unknown to the world. The beautiful upper country attracted travelers neither for pleasure nor for gain, while the country along the seacoast was avoided except by hardy wanderers. The grumbling Wilson, who knew every nook and corner of the United States, and who found New England dreary, painted this part of North Carolina in colors compared with which his sketch of New England was gay.

The taverns are the most desolate and beggarly imaginable; bare, bleak, and dirty walls, one or two old broken chairs and a bench form all the furniture. The white females seldom make their appearance. At supper you sit down to a meal the very sight of which is sufficient to deaden the most eager appetite, and you are surrounded by half-a-dozen dirty, half-naked blacks, male and female, whom any man of common scent might smell a quarter of a mile off. The house itself is raised upon props four or five feet, and the space below is left open for the hogs, with whose charming vocal performance the wearied traveler is serenaded the whole night long.

The landscape pleased him no better — ‘immense solitary pine savannahs through which the road winds among stagnant ponds; dark, sluggish creeks of the color of brandy, over which are thrown high wooden bridges without railings,’ crazy and rotten.

North Carolina was relatively among the poorest States. The exports and imports were of trifling value, less than one-tenth of those returned for Massachusetts, which were more than twice as great as those of North Carolina and Virginia together. That under these conditions America should receive any strong impulse from such a quarter seemed unlikely; yet perhaps for the moment more was to be expected from the Carolinas than from Virginia. Backward as these States in some respects were, they possessed one new element of wealth which promised more for them than anything Virginia could hope. The steam engines of Watt had been applied in England to spinning, weaving, and printing cotton; an immense demand had risen for that staple, and the cotton gin had been simultaneously invented. A sudden impetus was given to industry; land which had been worthless and estates which had become bankrupt acquired new value, and in 1800 every planter was growing cotton, buying Negroes, and breaking fresh soil. North Carolina felt the strong flood of prosperity, but South Carolina, and particularly the town of Charleston, had most to hope.

The exports of South Carolina were nearly equal in value to those of Massachusetts or Pennsylvania; the imports were equally large. Charleston might reasonably expect to rival Boston, New York, Philadelphia, and Baltimore. In 1800 these cities still stood, as far as concerned their foreign trade, within some range of comparison; and between Boston, Baltimore, and Charleston, many plausible reasons could be given for thinking that the last might have the most brilliant future. The three towns stood abreast. If Charleston had but about eighteen thousand inhabitants, this was the number reported by Boston only ten years before, and was five thousand more than Baltimore then boasted. Neither Boston nor Baltimore saw about them a vaster region to supply, or so profitable a staple to export. A cotton crop of two hundred thousand pounds sent abroad in 1791 grew to twenty millions in 1801, and was to double again by 1803. An export of fifty thousand bales was enormous, yet was only the beginning. What use might not Charleston, the only considerable town in the entire South, make of this golden flood?

The town promised hopefully to prove equal to its task. Nowhere in the Union was intelligence, wealth, and education greater in proportion to numbers than in the little society of cotton and rice planters who ruled South Carolina; and they were in 1800 not behind — they hoped soon to outstrip — their rivals. If Boston was building a canal to the Merrimac, and Philadelphia one along the Schuylkill to the Susquehanna, Charleston had nearly completed another which brought the Santee River to its harbor, and was planning a road to Tennessee which should draw the whole interior within reach. Nashville was nearer to Charleston than to any other seaport of the Union, and Charleston lay nearest to the rich trade of the West Indies. Not even New York seemed more clearly marked for prosperity than this solitary Southern city, which already possessed banking capital in abundance, intelligence, enterprise, the traditions of high culture and aristocratic ambition, all supported by slave-labor, which could be indefinitely increased by the African slave-trade.

If any portion of the United States might hope for a sudden and magnificent bloom, South Carolina seemed entitled to expect it. Rarely had such a situation, combined with such resources, failed to produce some wonderful result. Yet, as Washington warned Sinclair, these advantages were counterbalanced by serious evils. The climate in summer was too relaxing. The sun was too hot. The seacoast was unhealthy, and at certain seasons even deadly to the whites. Finally, if history was a guide, no permanent success could be prophesied for a society like that of the low country in South Carolina, where some thirty thousand whites were surrounded by a dense mass of nearly one hundred thousand Negro slaves. Even Georgia, then only partially settled, contained sixty thousand slaves and but one hundred thousand whites. The cotton States might still argue that if slavery, malaria, or summer heat barred civilization, all the civilization that was ever known must have been blighted in its infancy, but although the future of South Carolina might be brilliant, like that of other oligarchies in which only a few thousand freemen took part, such a development seemed to diverge far from the path likely to be followed by Northern society, and bade fair to increase and complicate the social and economical difficulties with which Americans had to deal.

A probable valuation of the whole United States in 1800 was \$1,800,000,000; equal to \$328 for each human being, including slaves; or \$418 to

each free white. This property was distributed with an approach to equality, except in a few of the Southern States. In New York and Philadelphia a private fortune of one hundred thousand dollars was considered handsome, and three hundred thousand was great wealth. Inequalities were frequent; but they were chiefly those of a landed aristocracy. Equality was so far the rule that every white family of five persons might be supposed to own land, stock, or utensils, a house and furniture, worth about two thousand dollars; and as the only considerable industry was agriculture, their scale of life was easy to calculate—taxes amounting to little or nothing, and wages averaging about a dollar a day.

Not only were these slender resources, but they were also of a kind not easily converted to the ready uses required for rapid development. Among the numerous difficulties with which the Union was to struggle, and which were to form the interest of American history, the disproportion between the physical obstacles and the material means for overcoming them was one of the most striking.

## CHAPTER TWO

### *Popular Characteristics*

**T**HE GROWTH OF CHARACTER, social and national — the formation of men's minds — more interesting than any territorial or industrial growth, defied the tests of censuses and surveys. No people could be expected, least of all when in infancy, to understand the intricacies of its own character, and rarely has a foreigner been gifted with insight to explain what natives did not comprehend. Only with diffidence could the best-informed Americans venture, in 1800, to generalize on the subject of their own national habits of life and thought. Of all American travelers President Dwight was the most experienced; yet his four volumes of travels were remarkable for no trait more uniform than their reticence in regard to the United States. Clear and emphatic wherever New England was in discussion, Dwight claimed no knowledge of other regions. Where so good a judge professed ignorance, other observers were likely to mislead; and Frenchmen like Liancourt, Englishmen like Weld, or Germans like Bülow, were almost equally worthless authorities on a subject which none understood. The newspapers of the time were little more trustworthy than the books of travel, and hardly so well written. The literature of a higher kind was chiefly limited to New England, New York, and Pennsylvania. From materials so poor no precision of result could be expected. A few customs, more or less local; a few prejudices, more or less popular; a few traits of thought, suggesting habits of mind — must form the entire material for a study more important than that of politics or economics.

The standard of comfort had much to do with the standard of character; and in the United States, except among the slaves, the laboring class enjoyed an ample supply of the necessaries of life. In this respect, as in some others, they claimed superiority over the laboring class in Europe, and the claim would have been still stronger had they shown more skill in using the abundance that surrounded them.

Salt pork three times a day was regarded as an essential part of American diet. In the *Chainbearer*, Cooper described what he called American poverty as it existed in 1784. 'As for bread,' said the mother, 'I count that for nothing. We always have bread and potatoes enough; but I hold

a family to be in a desperate way when the mother can see the bottom of the pork-barrel. Give me the children that's raised on good sound pork afore all the game in the country. Game's good as a relish, and so's bread; but pork is the staff of life. . . . My children I calkerlate to bring up on pork.'

By day or by night, privacy was out of the question. Not only must all men travel in the same coach, dine at the same table, at the same time, on the same fare, but even their beds were in common, without distinction of persons. Innkeepers would not understand that a different arrangement was possible. When the English traveler Weld reached Elkton, on the main road from Philadelphia to Baltimore, he asked the landlord what accommodation he had. 'Don't trouble yourself about that,' was the reply; 'I have no less than eleven beds in one room alone.' This primitive habit extended over the whole country from Massachusetts to Georgia, and no American seemed to revolt against the tyranny of innkeepers.

Almost every traveler discussed the question whether the Americans were a temperate people, or whether they drank more than the English. Temperate they certainly were not, when judged by a modern standard. Everyone acknowledged that in the South and West drinking was occasionally excessive; but even in Pennsylvania and New England the universal taste for drams proved habits by no means strict. Every grown man took his noon toddy as a matter of course; and although few were seen publicly drunk, many were habitually affected by liquor. The earliest temperance movement, ten or twelve years later, was said to have had its source in the scandal caused by the occasional intoxication of ministers at their regular meetings. Cobbett thought drinking the national disease; at all hours of the day, he said, young men, 'even little boys, at or under twelve years of age, go into stores and tip off their drams.' The mere comparison with England proved that the evil was great, for the English and Scotch were among the largest consumers of beer and alcohol on the globe.

The horse and the dog existed only in varieties little suited for sport. In colonial days New England produced one breed of horses worth preserving and developing — the Narragansett pacer, but, to the regret even of the clergy, this animal almost disappeared, and in 1800 New England could show nothing to take its place. The germ of the trotter

and the trotting-match, the first general popular amusement, could be seen in almost any country village, where the owners of horses were in the habit of trotting what were called scratch-races, for a quarter or half a mile from the door of the tavern, along the public road. Perhaps this amusement had already a right to be called a New England habit, showing defined tastes; but the force of the popular instinct was not fully felt in Massachusetts, or even in New York, although there it was given full play. New York possessed a race-course, and made in 1792 a great stride toward popularity by importing the famous stallion 'Messenger' to become the source of endless interest for future generations.

But Virginia was the region where the American showed his true character as a lover of sport. Long before the Revolution the race-course was commonly established in Virginia and Maryland; English running-horses of pure blood — descendants of the Darley Arabian and the Godolphin Arabian — were imported, and racing became the chief popular entertainment. The long Revolutionary War and the general ruin it caused checked the habit and deteriorated the breed; but with returning prosperity Virginia showed that the instinct was stronger than ever. In 1798 'Diomed,' famous as the sire of racers, was imported into the State, and future rivalry between Virginia and New York could be foreseen. In 1800 the Virginia race-course still remained at the head of American popular amusements.

In an age when the Prince of Wales and crowds of English gentlemen attended every prize-fight, and patronized Tom Crib, Dutch Sam, the Jew Mendoza, and the Negro Molyneux, an Englishman could hardly have expected that a Virginia race-course should be free from vice; and perhaps travelers showed best the general morality of the people by their practice of dwelling on Virginia vices. They charged the Virginians with fondness for horse-racing, cock-fighting, betting, and drinking; but the popular habit which most shocked them, and with which books of travel filled pages of description, was the so-called rough-and-tumble fight. The practice was not one on which authors seemed likely to dwell; yet foreigners like Weld, and Americans like Judge Longstreet in *Georgia Scenes*, united to give it a sort of grotesque dignity like that of a bull-fight, and under their treatment it became interesting as a popular habit. The rough-and-tumble fight differed from the ordinary prize-fight, or boxing-match, by the absence of rules. Neither kicking, tearing, biting,



nor gouging was forbidden by the law of the ring. Brutal as the practice was, it was neither new nor exclusively Virginian. The English travelers who described it as American barbarism might have seen the same sight in Yorkshire at the same date. The rough-and-tumble fight was English in origin, and was brought to Virginia and the Carolinas in early days, whence it spread to the Ohio and Mississippi. The habit attracted general notice because of its brutality in a society that showed few brutal instincts. Friendly foreigners like Liancourt were honestly shocked by it; others showed somewhat too plainly their pleasure at finding a vicious habit which they could consider a natural product of democratic society.

Border society was not refined, but among its vices, as its virtues, few were permanent, and little idea could be drawn of the character that would at last emerge. The Mississippi boatman and the squatter on Indian lands were perhaps the most distinctly American type then existing, as far removed from the Old World as though Europe were a dream. Their language and imagination showed contact with Indians. A traveler on the levee at Natchez, in 1808, overheard a quarrel in a flatboat near-by:

‘I am a man; I am a horse; I am a team!’ cried one voice; ‘I can whip any man in all Kentucky, by God!’ ‘I am an alligator!’ cried the other; ‘half man, half horse; I can whip any man on the Mississippi, by God!’ ‘I am a man!’ shouted the first; ‘have the best horse, best dog, best gun, and handsomest wife in all Kentucky, by God!’ ‘I am a Mississippi snapping-turtle!’ rejoined the second; ‘have bear’s claws, alligator’s teeth, and the devil’s tail; can whip any man, by God!’

And on this usual formula of defiance the two fire-eaters began their fight, biting, gouging, and tearing. Foreigners were deeply impressed by barbarism such as this, and orderly emigrants from New England and Pennsylvania avoided contact with Southern drinkers and fighters; but even then they knew that with a new generation such traits must disappear, and that little could be judged of popular character from the habits of frontiersmen.

‘Good country this for lazy fellows,’ wrote Wilson from Kentucky; ‘they plant corn, turn their pigs into the woods, and in the autumn feed upon corn and pork. They lounge about the rest of the year.’ The roar of the steam engine had never been heard in the land, and the carrier’s wagon was three weeks between Philadelphia and Pittsburgh. What need for haste when days counted for so little? Why not lounge about

the tavern when life had no better amusement to offer? Why mind one's own business when one's business would take care of itself?

Yet, however idle the American sometimes appeared, and however large the class of tavern loafers may have actually been, the true American was active and industrious. No immigrant came to America for ease or idleness. If an English farmer bought land near New York, Philadelphia, or Baltimore, and made the most of his small capital, he found that, while he could earn more money than in Surrey or Devonshire, he worked harder and suffered greater discomforts. The climate was trying; fever was common; the crops ran new risks from strange insects, drought, and violent weather; the weeds were annoying; the flies and mosquitoes tormented him and his cattle; laborers were scarce and indifferent; the slow and magisterial ways of England, where everything was made easy, must be exchanged for quick and energetic action; the farmer's own eye must see to every detail, his own hand must hold the plow and the scythe. Life was more exacting, and every such man in America was required to do, and actually did, the work of two such men in Europe. Few English farmers of the conventional class took kindly to American ways, or succeeded in adapting themselves to the changed conditions. Germans were more successful and became rich; but the poorer and more adventurous class, who had no capital and cared nothing for the comforts of civilization, went West, to find a harder lot. When, after toiling for weeks, they reached the neighborhood of Genesee or the banks of some stream in southern Ohio or Indiana, they put up a rough cabin of logs with an earthen floor, cleared an acre or two of land, and planted Indian corn between the tree-stumps — lucky if, like the Kentuckian, they had a pig to turn into the woods. Between April and October, Albert Gallatin used to say, Indian corn made the penniless immigrant a capitalist. New settlers suffered many of the ills that would have afflicted an army marching and fighting in a country of dense forest and swamp, with one sore misery besides — that whatever trials the men endured, the burden bore most heavily upon the women and children. The chance of being shot or scalped by Indians was hardly worth considering when compared with the certainty of malarial fever, or the strange disease called milk-sickness, or the still more depressing homesickness, or the misery of nervous prostration, which wore out generation after generation of women and children on the frontiers, and left a tragedy in every log cabin. Not for love of ease

did men plunge into the wilderness. Few laborers of the Old World endured a harder lot, coarser fare, or anxieties and responsibilities greater than those of the Western emigrant.

A standard far higher than the average was common to the cities; but the city population was so small as to be trifling. Boston, New York, Philadelphia, and Baltimore together contained one hundred and eighty thousand inhabitants; and these were the only towns containing a white population of more than ten thousand persons. In a total population of more than five millions, this number of city people, as Jefferson and his friends rightly thought, was hardly American, for the true American was supposed to be essentially rural. Their comparative luxury was outweighed by the squalor of nine hundred thousand slaves alone.

From these slight notices of national habits no other safe inference could be drawn than that the people were still simple. The path their development might take was one of the many problems with which their future was perplexed. Such few habits as might prove to be fixed offered little clue to the habits that might be adopted in the process of growth, and speculation was useless where change alone could be considered certain.

If any prediction could be risked, an observer might have been warranted in suspecting that the popular character was likely to be conservative, for as yet this trait was most marked, at least in the older societies of New England, Pennsylvania, and Virginia. Great as were the material obstacles in the path of the United States, the greatest obstacle of all was in the human mind. Down to the close of the eighteenth century no change had occurred in the world which warranted practical men in assuming that great changes were to come. Afterward, as time passed, and as science developed man's capacity to control Nature's forces, old-fashioned conservatism vanished from society, reappearing occasionally, like the stripes on a mule, only to prove its former existence; but during the eighteenth century the progress of America, except in political paths, had been less rapid than ardent reformers wished, and the reaction which followed the French Revolution made it seem even slower than it was. In 1723, Benjamin Franklin landed at Philadelphia, and with his loaf of bread under his arm walked along Market Street toward an immortality such as no American had then conceived. He died in 1790, after witnessing great political revolutions; but the intellectual

revolution was hardly as rapid as he must, in his youth, have hoped.

In 1732, Franklin induced some fifty persons to found a subscription library, and his example and energy set a fashion which was generally followed. In 1800, the library he founded was still in existence; numerous small subscription libraries on the same model, containing fifty or a hundred volumes, were scattered in country towns; but all the public libraries in the United States — collegiate, scientific, or popular, endowed or unendowed — could hardly show fifty thousand volumes, including duplicates, fully one-third being still theological.

Half a century had passed since Franklin's active mind drew the lightning from heaven and decided the nature of electricity. No one in America had yet carried further his experiments in the field which he had made American. This inactivity was commonly explained as a result of the long Revolutionary War; yet the war had not prevented population and wealth from increasing, until Philadelphia in 1800 was far in advance of the Philadelphia which had seen Franklin's kite flying among the clouds.

In the year 1753 Franklin organized the postal system of the American colonies, making it self-supporting. No record was preserved of the number of letters then carried in proportion to the population, but in 1800 the gross receipts for postage were \$320,000, toward which Pennsylvania contributed most largely — the sum of \$55,000. From letters the Government received in gross \$290,000. The lowest rate of letter-postage was then eight cents. The smallest charge for letters carried more than a hundred miles was twelve and a half cents. If on an average ten letters were carried for a dollar, the whole number of letters was 2,900,000 — about one a year for every grown inhabitant.

Such a rate of progress could not be called rapid even by conservatives, and more than one stanch conservative thought it unreasonably slow. Even in New York, where foreign influence was active and the rewards of scientific skill were comparatively liberal, science hardly kept pace with wealth and population.

Noah Webster, who before beginning his famous dictionary edited the *New York Commercial Advertiser*, and wrote on all subjects with characteristic confidence, complained of the ignorance of his countrymen. He claimed for the New Englanders an acquaintance with theology, law, politics, and light English literature; 'but as to classical learning, history

(civil and ecclesiastical), mathematics, astronomy, chemistry, botany, and natural history, excepting here and there a rare instance of a man who is eminent in some one of these branches, we may be said to have no learning at all, or a mere smattering.' Although defending his countrymen from the criticisms of Doctor Priestley, he admitted that 'our learning is superficial in a shameful degree, . . . our colleges are disgracefully destitute of books and philosophical apparatus, . . . and I am ashamed to own that scarcely a branch of science can be fully investigated in America for want of books, especially original works. This defect of our libraries I have experienced myself in searching for materials for the History of Epidemic Diseases. . . . As to libraries, we have no such things. There are not more than three or four tolerable libraries in America, and these are extremely imperfect. Great numbers of the most valuable authors have not found their way across the Atlantic.'

This complaint was made in the year 1800, and was the more significant because it showed that Webster, a man equally at home in Philadelphia, New York, and Boston, thought his country's deficiencies greater than could be excused or explained by its circumstances. George Ticknor felt at least equal difficulty in explaining the reason why, as late as 1814, even good schoolbooks were rare in Boston, and a copy of Euripides in the original could not be bought at any bookseller's shop in New England. For some reason, the American mind, except in politics, seemed to these students of literature in a condition of unnatural sluggishness; and such complaints were not confined to literature or science. If Americans agreed in any opinion, they were united in wishing for roads; but even on that point whole communities showed an indifference, or hostility, that annoyed their contemporaries. President Dwight was a somewhat extreme conservative in politics and religion, while the State of Rhode Island was radical in both respects; but Dwight complained with bitterness unusual in his mouth that Rhode Island showed no spirit of progress. The subject of his criticism was an unfinished turnpike road across the State.

The people of Providence expended upon this road, as we are informed, the whole sum permitted by the Legislature. This was sufficient to make only those parts which I have mentioned. The turnpike company then applied to the Legislature for leave to expend such an additional sum as would complete the work. The Legislature refused. The principal reason

for the refusal, as alleged by one of the members, it is said, was the following: that turnpikes and the establishment of religious worship had their origin in Great Britain, the government of which was a monarchy and the inhabitants slaves; that the people of Massachusetts and Connecticut were obliged by law to support ministers and pay the fare of turnpikes, and were therefore slaves also; that if they chose to be slaves they undoubtedly had a right to their choice, but that free-born Rhode Islanders ought never to submit to be priest-ridden, nor to pay for the privilege of traveling on the highway. This demonstrative reasoning prevailed, and the road continued in the state which I have mentioned until the year 1805. It was then completed, and free-born Rhode Islanders bowed their necks to the slavery of traveling on a good road.

In this instance the economy of a simple and somewhat rude society accounted in part for indifference; in other cases, popular prejudice took a form less easily understood. So general was the hostility to banks as to offer a serious obstacle to enterprise. The popularity of President Washington and the usefulness of his administration were impaired by his support of a national bank and a funding system. Jefferson's hostility to all the machinery of capital was shared by a great majority of the Southern people and a large minority in the North. For seven years the New York Legislature refused to charter the first banking company in the State; and when in 1791 the charter was obtained, and the bank fell into Federalist hands, Aaron Burr succeeded in obtaining banking privileges for the Manhattan Company only by concealing them under the pretense of furnishing a supply of fresh water to the city of New York.

This conservative habit of mind was more harmful in America than in other communities, because Americans needed more than older societies the activity which could alone partly compensate for the relative feebleness of their means compared with the magnitude of their task. Some instances of sluggishness, common to Europe and America, were hardly credible. For more than ten years in England the steam-engines of Watt had been working, in common and successful use, causing a revolution in industry that threatened to drain the world for England's advantage; yet Europe during a generation left England undisturbed to enjoy the monopoly of steam. France and Germany were England's rivals in commerce and manufactures, and required steam for self-defense; while the United States were commercial allies of England, and needed steam

neither for mines nor manufactures, but their need was still extreme. Every American knew that if steam could be successfully applied to navigation, it must produce an immediate increase of wealth, besides an ultimate settlement of the most serious material and political difficulties of the Union. Had both the National and State Governments devoted millions of money to this object, and had the citizens wasted, if necessary, every dollar in their slowly filling pockets to attain it, they would have done no more than the occasion warranted, even had they failed; but failure was not to be feared, for they had with their own eyes seen the experiment tried, and they did not dispute its success.

For America this question had been settled as early as 1789, when John Fitch — a mechanic, without education or wealth, but with the energy of genius — invented engine and paddles of his own, with so much success that during a whole summer Philadelphians watched his ferryboat plying daily against the river current. No one denied that his boat was rapidly, steadily, and regularly moved against wind and tide, with as much certainty and convenience as could be expected in a first experiment; yet Fitch's company failed. He could raise no more money; the public refused to use his boat or to help him build a better; they did not want it, would not believe in it, and broke his heart by their contempt. Fitch struggled against failure, and invented another boat moved by a screw. The Eastern public still proving indifferent, he wandered to Kentucky, to try his fortune on the Western waters. Disappointed there, as in Philadelphia and New York, he made a deliberate attempt to end his life by drink; but the process proving too slow, he saved twelve opium pills from the physician's prescription, and was found one morning dead. Fitch's death took place in an obscure Kentucky inn, three years before Jefferson, the philosopher-President, entered the White House.

Had Fitch been the only inventor thus neglected, his peculiarities and the defects of his steamboat might account for his failure; but he did not stand alone. At the same moment Philadelphia contained another inventor, Oliver Evans, a man so ingenious as to be often called the American Watt. He, too, invented a locomotive steam engine which he longed to bring into common use. The great services actually rendered by this extraordinary man were not a tithe of those he would gladly have performed, had he found support and encouragement; but his success was not even so great as that of Fitch, and he stood aside while Livingston and

Fulton, by their greater resources and influence, forced the steamboat on a skeptical public.

While the inventors were thus ready, and while State legislatures were offering mischievous monopolies for this invention, which required only some few thousand dollars of ready money, the Philosophical Society of Rotterdam wrote to the American Philosophical Society at Philadelphia, requesting to know what improvements had been made in the United States in the construction of steam engines. The subject was referred to Benjamin H. Latrobe, the most eminent engineer in America, and his report, presented to the Society in May, 1803, published in the *Transactions*, and transmitted abroad, showed the reasoning on which conservatism rested.

During the general lassitude of mechanical exertion which succeeded the American Revolution [said Latrobe], the utility of steam engines appears to have been forgotten; but the subject afterward started into very general notice in a form in which it could not possibly be attended with much success. A sort of mania began to prevail, which indeed has not yet entirely subsided, for impelling boats by steam engines. . . . For a short time a passage-boat, rowed by a steam engine, was established between Bordentown and Philadelphia, but it was soon laid aside. . . . There are indeed general objections to the use of the steam engine for impelling boats, from which no particular mode of application can be free. These are, first, the weight of the engine and of the fuel; second, the large space it occupies; third, the tendency of its action to rack the vessel and render it leaky; fourth, the expense of maintenance; fifth, the irregularity of its motion and the motion of the water in the boiler and cistern, and of the fuel-vessel in rough water; sixth, the difficulty arising from the liability of the paddles or oars to break if light, and from the weight, if made strong. Nor have I ever heard of an instance, verified by other testimony than that of the inventor, of a speedy and agreeable voyage having been performed in a steamboat of any construction. I am well aware that there are still many very respectable and ingenious men who consider the application of the steam engine to the purpose of navigation as highly important and as very practicable, especially on the rapid waters of the Mississippi, and who would feel themselves almost offended at the expression of an opposite opinion. And perhaps some of the objections against it may be obviated. That founded on the expense and weight of the fuel may not for some years exist in the Mississippi, where there is a redundancy of wood on the banks; but the cutting and loading will be almost as great an evil.



Within four years the steamboat was running, and Latrobe was its warmest friend. The dispute was a contest of temperaments, a divergence between minds, rather than a question of science; and a few visionaries such as those to whom Latrobe alluded — men like Chancellor Livingston, Joel Barlow, John Stevens, Samuel L. Mitchell, and Robert Fulton — dragged society forward. What but skepticism could be expected among a people thus asked to adopt the steamboat, when as yet the ordinary atmospheric steam engine, such as had been in use in Europe for a hundred years, was practically unknown to them, and the engines of Watt were a fable? Latrobe's report further said that in the spring of 1803, when he wrote, five steam engines were at work in the United States — one lately set up by the Manhattan Water Company in New York to supply the city with water; another in New York for sawing timber; two in Philadelphia, belonging to the city, for supplying water and running a rolling and slitting mill; and one at Boston employed in some manufacture. All but one of these were probably constructed after 1800, and Latrobe neglected to say whether they belonged to the old Newcomen type, or to Watt's manufacture, or to American invention; but he added that the chief American improvement on the steam engine had been the construction of a wooden boiler, which developed sufficient power to work the Philadelphia pump at the rate of twelve strokes, of six feet, per minute. Twelve strokes a minute, or one stroke every five seconds, though not a surprising power, might have answered its purpose had not the wooden boiler, as Latrobe admitted, quickly decomposed, and steam leaks appeared at every bolt-hole.

If so eminent and so intelligent a man as Latrobe, who had but recently emigrated in the prime of life from England, knew little about Watt, and nothing about Oliver Evans, whose experience would have been well worth communicating to any philosophical society in Europe, the more ignorant and unscientific public could not feel faith in a force of which they knew nothing at all. For nearly two centuries the Americans had struggled on foot or horseback over roads not much better than trails, or had floated down rushing streams in open boats momentarily in danger of sinking or upsetting. They had at length, in the Eastern and Middle States, reached the point of constructing turnpikes and canals. Into these undertakings they put sums of money relatively large, for the investment seemed safe and the profits certain. Steam as a locomotive

power was still a visionary idea, beyond their experience, contrary to European precedent, and exposed to a thousand risks. They regarded it as a delusion.

About three years after Latrobe wrote his report on the steam engine, Robert Fulton began to build the boat which settled forever the value of steam as a locomotive power. According to Fulton's well-known account of his own experience, he suffered almost as keenly as Fitch, twenty years before, under the want of popular sympathy:

When I was building my first steamboat at New York [he said, according to Judge Story's report], the project was viewed by the public either with indifference or with contempt as a visionary scheme. My friends indeed were civil, but they were shy. They listened with patience to my explanations, but with a settled cast of incredulity upon their countenances. I felt the full force of the lamentation of the poet,

'Truths would you teach, or save a sinking land,  
All fear, none aid you, and few understand.'

As I had occasion to pass daily to and from the building-yard while my boat was in progress, I have often loitered unknown near the idle groups of strangers gathering in little circles, and heard various inquiries as to the object of this new vehicle. The language was uniformly that of scorn, or sneer, or ridicule. The loud laugh often rose at my expense; the dry jest; the wise calculation of losses and expenditures; the dull but endless repetition of the Fulton Folly. Never did a single encouraging remark, a bright hope, or a warm wish cross my path.

Possibly Fulton and Fitch, like other inventors, may have exaggerated the public apathy and contempt; but whatever was the precise force of the innovating spirit, conservatism possessed the world by right. Experience forced on men's minds the conviction that what had ever been must ever be. At the close of the eighteenth century, nothing had occurred which warranted the belief that even the material difficulties of America could be removed. Radicals as extreme as Thomas Jefferson and Albert Gallatin were contented with avowing no higher aim than that America should reproduce the simpler forms of European republican society without European vices; and even this their opponents thought visionary. The United States had thus far made a single great step in advance of the Old World — they had agreed to try the experiment of embracing half a continent in one republican system; but so little were they disposed to

feel confidence in their success that Jefferson himself did not look on this American idea as vital; he would not stake the future on so new an invention. 'Whether we remain in one confederacy,' he wrote in 1804, 'or form into Atlantic and Mississippi confederations, I believe not very important to the happiness of either part.' Even over his liberal mind history cast a spell so strong that he thought the solitary American experiment of political confederation 'not very important' beyond the Alleghanies.

The task of overcoming popular inertia in a democratic society was new, and seemed to offer peculiar difficulties. Without a scientific class to lead the way, and without a wealthy class to provide the means of experiment, the people of the United States were still required, by the nature of their problems, to become a speculating and scientific nation. They could do little without changing their old habit of mind, and without learning to love novelty for novelty's sake. Hitherto their timidity in using money had been proportioned to the scantiness of their means. Henceforward they were under every inducement to risk great stakes and frequent losses in order to win occasionally a thousandfold. In the colonial state they had naturally accepted old processes as the best, and European experience as final authority. As an independent people, with half a continent to civilize, they could not afford to waste time in following European examples, but must devise new processes of their own. A world which assumed that what had been must be could not be scientific; yet in order to make the Americans a successful people, they must be roused to feel the necessity of scientific training. Until they were satisfied that knowledge was money, they would not insist upon high education; until they saw with their own eyes stones turned into gold, and vapor into cattle and corn, they would not learn the meaning of science.

## CHAPTER THREE

### *Intellect of New England*

**W**HETHER THE UNITED STATES were to succeed or fail in their economical and political undertakings, the people must still develop some intellectual life of their own, and the character of this development was likely to interest mankind. New conditions and hopes could hardly fail to produce a literature and arts more or less original. Of all possible triumphs, none could equal that which might be won in the regions of thought if the intellectual influence of the United States should equal their social and economical importance. Young as the nation was, it had already produced an American literature bulky and varied enough to furnish some idea of its probable qualities in the future, and the intellectual condition of the literary class in the United States at the close of the eighteenth century could scarcely fail to suggest both the successes and the failures of the same class in the nineteenth.

In intellectual tastes, as in all else, the Union showed well-marked divisions between New England, New York, Pennsylvania, and the Southern States. New England was itself divided between two intellectual centers — Boston and New Haven. The Massachusetts and Connecticut schools were as old as the colonial existence; and in 1800 both were still alive, if not flourishing.

Society in Massachusetts was sharply divided by politics. In 1800 one-half the population, represented under property qualifications by only some twenty thousand voters, was Republican. The other half, which cast about twenty-five thousand votes, included nearly everyone in the professional and mercantile classes, and represented the wealth, social position, and education of the Commonwealth; but its strength lay in the Congregational churches and in the cordial union between the clergy, the magistracy, the bench and bar, and respectable society throughout the State. This union created what was unknown beyond New England — an organized social system, capable of acting at command either for offense or defense, and admirably adapted for the uses of the eighteenth century.

Had the authority of the dominant classes in Massachusetts depended merely on office, the task of overthrowing it would have been as simple as

it was elsewhere; but the New England oligarchy struck its roots deep into the soil, and was supported by the convictions of the people. Unfortunately the system was not and could not be quickly adapted to the movement of the age. Its starting-point lay in the educational system, which was in principle excellent; but it was also antiquated. Little change had been made in it since colonial times. The common schools were what they had been from the first; the academies and colleges were no more changed than the schools. On an average of ten years, from 1790 to 1800, thirty-nine young men annually took degrees from Harvard College; while during the ten years, 1766 to 1776, that preceded the Revolutionary War, forty-three bachelors of art had been annually sent into the world, and even back in 1720 to 1730 the average number had been thirty-five. The only sign of change was that in 1720 to 1730 about one hundred and forty graduates had gone into the Church, while in 1790 to 1800, only about eighty chose this career. At the earlier period the president, a professor of theology, one of mathematics, and four tutors gave instruction to the undergraduates. In 1800, the president, the professor of theology, the professor of mathematics, and a professor of Hebrew, created in 1765, with the four tutors did the same work. The method of instruction had not changed in the interval, being suited to children fourteen years of age; the instruction itself was poor, and the discipline was indifferent. Harvard College had not in eighty years made as much progress as was afterward made in twenty. Life was quickening within it as within all mankind — the spirit and vivacity of the coming age could not be wholly shut out; but nonetheless the college resembled a priesthood which had lost the secret of its mysteries, and patiently stood holding the flickering torch before cold altars, until God should vouchsafe a new dispensation of sunlight.

Nevertheless, a medical school with three professors had been founded in 1783, and every year gave degrees to an average class of two doctors of medicine. Science had already a firm hold on the college, and a large part of the conservative clergy were distressed by the liberal tendencies which the governing body betrayed. This was no new thing. The college always stood somewhat in advance of society, and never joined heartily in dislike for liberal movements; but unfortunately it had been made for an instrument, and had never enjoyed the free use of its powers. Clerical control could not be thrown off, for if the college was compelled

to support the clergy, on the other hand the clergy did much to support the college; and without the moral and material aid of this clerical body, which contained several hundred of the most respected and respectable citizens, clad in every town with the authority of spiritual magistrates, the college would have found itself bankrupt in means and character. The graduates passed from the college to the pulpit, and from the pulpit attempted to hold the college, as well as their own congregations, facing toward the past. 'Let us guard against the insidious encroachments of *innovation*,' they preached — 'that evil and beguiling spirit which is now stalking to and fro through the earth, seeking whom he may destroy.' These words were spoken by Jedediah Morse, a graduate of Yale in 1783, pastor of the church at Charlestown, near Boston, and still known in biographical dictionaries as 'the father of American geography.' They were contained in the Election Sermon of this worthy and useful man, delivered June 6, 1803; but the sentiment was not peculiar to him, or confined to the audience he was then addressing — it was the burden of a thousand discourses enforced by a formidable authority.

The power of the Congregational clergy, which had lasted unbroken until the Revolution, was originally minute and inquisitory, equivalent to a police authority. During the last quarter of the century the clergy themselves were glad to lay aside the more odious watchfulness over their parishes, and to welcome social freedom within limits conventionally fixed; but their old authority had not wholly disappeared. In country parishes they were still autocratic. Did an individual defy their authority, the minister put his three-cornered hat on his head, took his silver-topped cane in his hand, and walked down the village street, knocking at one door and another of his best parishioners, to warn them that a spirit of license and of French infidelity was abroad, which could be repressed only by a strenuous and combined effort. Any man once placed under this ban fared badly if he afterward came before a bench of magistrates. The temporal arm vigorously supported the ecclesiastical will. Nothing tended so directly to make respectability conservative, and conservatism a fetich of respectability, as this union of bench and pulpit. The democrat had no caste; he was not respectable; he was a Jacobin — and no such character was admitted into a Federalist house. Every dissolute intriguer, loose-liver, forger, false-coiner, and prison-bird; every háre-brained, loud-talking demagogue; every speculator,

scoffer, and atheist — was a follower of Jefferson; and Jefferson was himself the incarnation of their theories.

A literature belonging to this subject exists — stacks of newspapers and sermons, mostly dull, and wanting literary merit. In a few of them Jefferson figured under the well-remembered disguises of Puritan politics: he was Ephraim, and had mixed himself among the people; had apostatized from his God and religion; gone to Assyria, and mingled himself among the heathen; ‘gray hairs are here and there upon him, yet he knoweth not’; or he was Jeroboam, who drove Israel from following the Lord, and made them sin a great sin. He had doubted the authority of revelation, and ventured to suggest that petrified shells found embedded in rocks fifteen thousand feet above sea-level could hardly have been left there by the Deluge, because, if the whole atmosphere were condensed as water, its weight showed that the seas would be raised only fifty-two and a half feet. Skeptic as he was, he could not accept the scientific theory that the ocean-bed had been uplifted by natural forces; but although he had thus instantly deserted this battery raised against Revelation, he had still expressed the opinion that a universal deluge was *equally* unsatisfactory as an explanation, and had avowed preference for a profession of ignorance rather than a belief in error. He had said, ‘It does me no injury for my neighbors to say there are twenty gods, or no god,’ and that all the many forms of religious faith in the Middle States were ‘good enough, and sufficient to preserve peace and order.’ He was notoriously a deist; he probably ridiculed the doctrine of total depravity; and he certainly would never have part or portion in the blessings of the New Covenant, or be saved because of grace.

No abler or more estimable clergyman lived than Joseph Buckminster, the minister of Portsmouth, in New Hampshire, and in his opinion Jefferson was bringing a judgment upon the people.

I would not be understood to insinuate [said he in his sermon on Washington’s death] that contemners of religious duties, and even men void of religious principle, may not have an attachment to their country and a desire for its civil and political prosperity — nay, that they may not even expose themselves to great dangers, and make great sacrifices to accomplish this object; but by their impiety . . . they take away the heavenly defense and security of a people, and render it necessary for him who ruleth among the nations in judgment to testify his displeasure against those who despise his laws and contemn his ordinances.

Yet the Congregational clergy, though still greatly respected, had ceased to be leaders of thought. Theological literature no longer held the prominence it had enjoyed in the days of Edwards and Hopkins. The popular reaction against Calvinism, felt rather than avowed, stopped the development of doctrinal theology; and the clergy, always poor as a class, with no weapons but their intelligence and purity of character, commonly sought rather to avoid than to challenge hostility. Such literary activity as existed was not clerical but secular. Its field was the Boston press, and its recognized literary champion was Fisher Ames.

The subject of Ames's thought was exclusively political. At that moment every influence combined to maintain a stationary condition in Massachusetts politics. The manners and morals of the people were pure and simple; their society was democratic; in the worst excesses of their own revolution they had never become savage or bloodthirsty; their experience could not explain, nor could their imagination excuse, wild popular excesses; and when in 1793 the French nation seemed mad with the frenzy of its recovered liberties, New England looked upon the bloody and blasphemous work with such horror as religious citizens could not but feel. Thenceforward the mark of a wise and good man was that he abhorred the French Revolution, and believed democracy to be its cause. Like Edmund Burke, they listened to no argument: 'It is a vile, illiberal school, this French Academy of the sans-culottes; there is nothing in it that is fit for a gentleman to learn.' The answer to every democratic suggestion ran in a set phrase, 'Look at France!' This idea became a monomania with the New England leaders, and took exclusive hold of Fisher Ames, their most brilliant writer and talker, until it degenerated into a morbid illusion. During the last few months of his life, even so late as 1808, this dying man could scarcely speak of his children without expressing his fears of their future servitude to the French. He believed his alarms to be shared by his friends. 'Our days,' he wrote, 'are made heavy with the pressure of anxiety, and our nights restless with visions of horror. We listen to the clank of chains, and overhear the whispers of assassins. We mark the barbarous dissonance of mingled rage and triumph in the yell of an infuriated mob; we see the dismal glare of their burnings, and scent the loathsome steam of human victims offered in sacrifice.' In theory the French Revolution was not an argument or a proof, but only an illustration, of the workings of divine law; and what



had happened in France must sooner or later happen in America if the ignorant and vicious were to govern the wise and good.

The bitterness against democrats became intense after the month of May, 1800, when the approaching victory of Jefferson was seen to be inevitable. Then for the first time the clergy and nearly all the educated and respectable citizens of New England began to extend to the National Government the hatred which they bore to democracy. The expressions of this mixed antipathy filled volumes. 'Our country,' wrote Fisher Ames in 1803, 'is too big for union, too sordid for patriotism, too democratic for liberty. What is to become of it, he who made it best knows. Its vice will govern it, by practicing upon its folly. This is ordained for democracies.' He explained why this inevitable fate awaited it. 'A democracy cannot last. Its nature ordains that its next change shall be into a military despotism — of all known governments perhaps the most prone to shift its head, and the slowest to mend its vices. The reason is that the tyranny of what is called the people, and that by the sword, both operate alike to debase and corrupt, till there are neither men left with the spirit to desire liberty, nor morals with the power to sustain justice. Like the burning pestilence that destroys the human body, nothing can subsist by its dissolution but vermin.' George Cabot, whose political opinions were law to the wise and good, held the same convictions. 'Even in New England,' wrote Cabot in 1804, 'where there is among the body of the people more wisdom and virtue than in any other part of the United States, we are full of errors which no reasoning could eradicate, if there were a Lycurgus in every village. We are democratic altogether, and I hold democracy in its natural operation to be the government of the worst.'

Had these expressions of opinion been kept to the privacy of correspondence, the public could have ignored them; but so strong were the wise and good in their popular following that every newspaper seemed to exult in denouncing the people. They urged the use of force as the protection of wisdom and virtue. A paragraph from Dennie's *Portfolio*, reprinted by all the Federalist newspapers in 1803, offered one example among a thousand of the infatuation which possessed the Federalist press, neither more extravagant nor more treasonable than the rest:

A democracy is scarcely tolerable at any period of national history. Its omens are always sinister, and its powers are unpropitious. It is on

its trial here, and the issue will be civil war, desolation, and anarchy. No wise man but discerns its imperfections, no good man but shudders at its miseries, no honest man but proclaims its fraud, and no brave man but draws his sword against its force. The institution of a scheme of policy so radically contemptible and vicious is a memorable example of what the villany of some men can devise, the folly of others receive, and both establish in spite of reason, reflection, and sensation.

The Philadelphia grand jury indicted Dennie for this paragraph as a seditious libel, but it was not more expressive than the single word uttered by Alexander Hamilton, who owed no small part of his supremacy to the faculty of expressing the prejudices of his followers more tersely than they themselves could do. Compressing the idea into one syllable, Hamilton, at a New York dinner, replied to some democratic sentiment by striking his hand sharply on the table and saying, 'Your people, sir — your people is a great *beast!*'

The political theories of these ultra-conservative New Englanders did not require the entire exclusion of all democratic influence from government. 'While I hold,' said Cabot, 'that a government altogether popular is in effect a government of the populace, I maintain that no government can be relied on that has not a material portion of the democratic mixture in its composition.' Cabot explained what should be the true portion of democratic mixture: 'If no man in New England could vote for legislators who was not possessed in his own right of two thousand dollars' value *in land*, we could do something better.' The Constitution of Massachusetts already restricted the suffrage to persons 'having a freehold estate within the commonwealth of an annual income of three pounds, or any estate of the value of sixty pounds.' A further restriction to freeholders whose estate was worth two thousand dollars would hardly have left a material mixture of any influence which democrats would have recognized as theirs.

Meanwhile, even Cabot and his friends Ames and Colonel Hamilton recognized that the reform they wished could be effected only with the consent of the people; and firm in the conviction that democracy must soon produce a crisis, as in Greece and Rome, in England and France, when political power must revert to the wise and good or to the despotism of a military chief, they waited for the catastrophe they foresaw. History and their own experience supported them. They were right, so

far as human knowledge could make them so; but the old spirit of Puritan obstinacy was more evident than reason or experience in the simple-minded, overpowering conviction with which the clergy and serious citizens of Massachusetts and Connecticut, assuming that the people of America were in the same social condition as the contemporaries of Catiline and the adherents of Robespierre, sat down to bide their time until the tempest of democracy should drive the frail government so near destruction that all men with one voice should call on God and the Federalist prophets for help. The obstinacy of the race was never better shown than when, with the sunlight of the nineteenth century bursting upon them, these resolute sons of granite and ice turned their faces from the sight, and smiled in their sardonic way at the folly or wickedness of men who could pretend to believe the world improved because henceforth the ignorant and vicious were to rule the United States and govern the churches and schools of New England.

Even Boston, the most cosmopolitan part of New England, showed no tendency in its educated classes to become American in thought or feeling. Many of the ablest Federalists, and among the rest George Cabot, Theophilus Parsons, and Fisher Ames, shared few of the narrower theological prejudices of their time, but were conservatives of the English type, whose alliance with the clergy betrayed as much policy as religion, and whose intellectual life was wholly English. Boston made no strong claim to intellectual prominence. Neither clergy, lawyers, physicians, nor literary men were much known beyond the State. Fisher Ames enjoyed a wider fame; but Ames's best political writing was saturated with the despair of the tomb to which his wasting body was condemned. Five years had passed since he closed his famous speech on the British Treaty with the foreboding that if the treaty were not carried into effect, 'even I, slender and almost broken as my hold upon life is, may outlive the government and constitution of my country.' Seven years more were to pass in constant dwelling upon the same theme, in accents more and more despondent, before the long-expected grave closed over him, and his warning voice ceased to echo painfully on the air. The number of his thoroughgoing admirers was small, if his own estimate was correct. 'There are,' he said, 'not many, perhaps not five hundred, even among the Federalists, who yet allow themselves to view the progress of licentiousness as so speedy, so sure, and so fatal as the deplorable experience

of our country shows that it is, and the evidence of history and the constitution of human nature demonstrate that it must be.' These five hundred, few as they were, comprised most of the clergy and the State officials, and overawed large numbers more.

Ames was the mouthpiece in the press of a remarkable group, of which George Cabot was the recognized chief in wisdom, and Timothy Pickering the most active member in national politics. With Ames, Cabot, and Pickering, joined in confidential relations, was Theophilus Parsons, who in the year 1800 left Newburyport for Boston. Parsons was an abler man than either Cabot, Ames, or Pickering, and his influence was great in holding New England fast to an independent course which could end only in the overthrow of the Federal Constitution which these men had first pressed upon an unwilling people; but though gifted with strong natural powers, backed by laborious study and enlivened by the ready and somewhat rough wit native to New England, Parsons was not bold on his own account; he was felt rather than seen, and although ever ready in private to advise strong measures, he commonly let others father them before the world.

These gentlemen formed the Essex Junto, so called from the county of Essex where their activity was first felt. According to Ames, not more than five hundred men fully shared their opinions; but Massachusetts society was so organized as to make their influence great, and experience foretold that, as the liberal Federalists should one by one wander to the democratic camp where they belonged, the conservatism of those who remained would become more bitter and more absolute as the Essex Junto represented a larger and larger proportion of their numbers.

Nevertheless, the reign of old-fashioned conservatism was near its end. The New England Church was apparently sound; even Unitarians and Baptists were recognized as parts of one fraternity. Except a few Roman and Anglican bodies, all joined in the same worship, and said little on points of doctrinal difference. No one had yet dared to throw a fire-brand into the temple; but Unitarians were strong among the educated and wealthy class, while the tendencies of a less doctrinal religious feeling were shaping themselves in Harvard College. William Ellery Channing took his degree in 1798, and in 1800 was a private tutor in Virginia. Joseph Stevens Buckminster, thought by his admirers a better leader than Channing, graduated in 1800, and was teaching boys to construe

their Latin exercises at Exeter Academy. Only the shell of orthodoxy was left, but respectable society believed this shell to be necessary as an example of Christian unity and a safeguard against more serious innovations. No one could fail to see that the public had lately become restive under its antiquated discipline. The pulpits still fulminated against the fatal tolerance which within a few years had allowed theaters to be opened in Boston, and which scandalized God-fearing men by permitting public advertisements that *Hamlet* and *Othello* were to be performed in the town founded to protest against worldly pageants. Another innovation was more strenuously resisted. Only within the last thirty years had Sunday travel been allowed even in England; in Massachusetts and Connecticut it was still forbidden by law, and the law was enforced. Yet not only travelers, but innkeepers and large numbers of citizens, connived at Sunday travel, and it could not long be prevented. The clergy saw their police authority weakening year by year, and understood, without need of many words, the tacit warning of the city congregations that in this world they must be allowed to amuse themselves, even though they were to suffer for it in the next.

The longing for amusement and freedom was a reasonable and a modest want. Even the young theologians, the Buckminsters and Channings, were hungry for new food. Boston was little changed in appearance, habits, and style from what it had been under its old king. When young Doctor J. C. Warren returned from Europe about the year 1800, to begin practice in Boston, he found gentlemen still dressed in colored coats and figured waistcoats, short breeches buttoning at the knee, long boots with white tops, ruffled shirts and wristbands, a white cravat filled with what was called a 'pudding,' and for the elderly, cocked hats, and wigs which once every week were sent to the barber's to be dressed — so that every Saturday night the barbers' boys were seen carrying home piles of wig-boxes in readiness for Sunday's church. At evening parties gentlemen appeared in white small-clothes, silk stockings and pumps, with a colored or white waistcoat. There were few hackney coaches, and ladies walked to evening entertainments. The ancient minuet was danced as late as 1806. The waltz was not yet tolerated.

Fashionable society was not without charm. In summer Southern visitors appeared, and admired the town, with its fashionable houses perched on the hillsides, each in its own garden, and each looking sea-

ward over harbor and islands. Boston was then what Newport afterward became, and its only rival as a summer watering-place in the North was Ballston, whither society was beginning to seek health before finding it a little farther away at Saratoga. Of intellectual amusement there was little more at one place than at the other, except that the Bostonians devoted themselves more seriously to church-going and to literature. The social instinct took shape in varied forms, but was highly educated in none; while the typical entertainment in Boston, as in New York, Philadelphia, and Charleston, was the state dinner — not the light, feminine triviality which France introduced into an amusement-loving world, but the serious dinner of Sir Robert Walpole and Lord North, where gout and plethora waited behind the chairs; an effort of animal endurance.

There was the arena of intellectual combat, if that could be called combat where disagreement in principle was not tolerated. The talk of Samuel Johnson and Edmund Burke was the standard of excellence to all American society that claimed intellectual rank, and each city possessed its own circle of Federalist talkers. Democrats rarely figured in these entertainments, at least in fashionable private houses. 'There was no exclusiveness,' said a lady who long outlived the time; 'but I should as soon have expected to see a cow in a drawing-room as a Jacobin.' In New York, indeed, Colonel Burr and the Livingstons may have held their own, and the active-minded Doctor Mitchill there, like Doctor Eustis in Boston, was an agreeable companion. Philadelphia was comparatively cosmopolitan; in Baltimore the Smiths were a social power; and Charleston, after deserting Federal principles in 1800, could hardly ignore democrats; but Boston society was still pure. The clergy took a prominent part in conversation, but Fisher Ames was the favorite of every intelligent company; and when Gouverneur Morris, another brilliant talker, visited Boston, Ames was pitted against him.

The city was still poorer in science. Excepting the medical profession, which represented nearly all scientific activity, hardly a man in Boston got his living either by science or art. When in the year 1793 the directors of the new Middlesex Canal Corporation, wishing to bring the Merrimac River to Boston Harbor, required a survey of an easy route not thirty miles long, they could find no competent civil engineer in Boston; and sent to Philadelphia for an Englishman named Weston, engaged on the Delaware and Schuylkill Canal.

Possibly a few Bostonians could read and even speak French; but Germany was nearly as unknown as China, until Madame de Staël published her famous work in 1814. Even then young George Ticknor, incited by its account of German university education, could find neither a good teacher nor a dictionary, nor a German book in the shops or public libraries of the city or at the college in Cambridge. He had discovered a new world.

Pope, Addison, Akenside, Beattie, and Young were still the reigning poets. Burns was accepted by a few; and copies of a volume were advertised by booksellers, written by a new poet called Wordsworth. America offered a fair demand for new books, and anything of a light nature published in England was sure to cross the ocean. Wordsworth crossed with the rest, and his *Lyrical Ballads* were reprinted in 1802, not in Boston or New York, but in Philadelphia, where they were read and praised. In default of other amusements, men read what no one could have endured had a choice of amusements been open. Neither music, painting, science, the lecture-room, nor even magazines offered resources that could rival what was looked upon as classical literature. Men had not the alternative of listening to political discussions, for stump-speaking was a Southern practice not yet introduced into New England, where such a political canvass would have terrified society with dreams of Jacobin license. The clergy and the bar took charge of politics; the tavern was the club and the forum of political discussion; but for those who sought other haunts, and especially for women, no intellectual amusement other than what was called 'belles-lettres' existed to give a sense of occupation to an active mind. This keen and innovating people, hungry for the feast that was almost served, the Walter Scotts and Byrons so near at hand, tried meanwhile to nourish themselves with husks.

Afraid of Shakespeare and the drama, trained to the standard of Queen Anne's age, and ambitious beyond reason to excel, the New Englanders attempted to supply their own wants. Massachusetts took no lead in the struggle to create a light literature, if such poetry and fiction could be called light. In Connecticut the Muses were most obstinately wooed; and there, after the Revolutionary War, a persistent effort was made to give prose the form of poetry. The chief of the movement was Timothy Dwight, a man of extraordinary qualities, but one on

whom almost every other mental gift had been conferred in fuller measure than poetical genius. Twenty-five years had passed since young Dwight, fresh from Yale College, began his career by composing an epic poem, in eleven books and near ten thousand lines, called *The Conquest of Canaan*. In the fervor of patriotism, before independence was secured or the French Revolution imagined, he pictured the great Hebrew leader Joshua preaching the Rights of Man, and prophesying the spread of his 'sons' over America.

A world of eighteenth-century thought, peopled with personifications, lay buried in the ten thousand lines of President Dwight's youthful poem. Perhaps in the year 1800, after Jefferson's triumph, Dwight would have been less eager that his hero should save the Rights of Man; by that time the phrase had acquired a flavor of French infidelity which made it unpalatable to good taste.

One of the few books of travel which will always retain value for New Englanders was written by President Dwight to describe his vacation rambles; and although in his own day no one would have ventured to insult him by calling these instructive volumes amusing, the quaintness which here and there gave color to the sober narrative had a charm of its own. How could the contrast be better expressed between volatile Boston and orthodox New Haven than in Dwight's quiet reproof, mixed with paternal tenderness? The Bostonians, he said, were distinguished by a lively imagination, ardor, and sensibility; they were 'more like the Greeks than the Romans'; admired where graver people would only approve; applauded or hissed where another audience would be silent; their language was frequently hyperbolic, their pictures highly colored; the tea shipped to Boston was destroyed — in New York and Philadelphia it was stored; education in Boston was superficial, and Boston women showed the effects of this misfortune, for they practiced accomplishments only that they might be admired, and were taught from the beginning to regard their dress as a momentous concern.

At about the time when Dwight composed his serious epic, another tutor at Yale, John Trumbull, wrote a burlesque epic in Hudibrastic verse, *McFingal*, which his friend Dwight declared to be not inferior to *Hudibras* in wit and humor, and in every other respect superior. When *Hudibras* was published, more than a hundred years before, Mr. Pepys remarked: 'It hath not a good liking in me, though I had tried but twice



or three times reading to bring myself to think it witty.' After the lapse of more than another century, the humor of neither poem may seem worth imitation; but to Trumbull in 1784 Butler was a modern classic, for the standard of taste between 1663 and 1784 changed less than in any twenty years of the following century. *McFingal* was a success, and laid a solid foundation for the coming school of Hartford wits. Posterity ratified the verdict of Trumbull's admirers by preserving for daily use a few of his lines quoted indiscriminately with Butler's best:

'What has posterity done for us?'

'Optics sharp it needs, I ween,  
To see what is not to be seen.'

'A thief ne'er felt the halter draw  
With good opinion of the law.'

Ten years after the appearance of *McFingal*, and on the strength of its success, Trumbull, Lemuel Hopkins, Richard Alsop, Theodore Dwight, Joel Barlow, and others began a series of publications, *The Anarchiad*, *The Echo*, *The Guillotine*, and the like, in which they gave tongue to their wit and sarcasm.

Dwight, Trumbull, Alsop, and Hopkins, whatever their faults, were Miltonic by the side of Joel Barlow. Yet Barlow was a figure too important in American history to be passed without respectful attention. He expressed better than anyone else that side of Connecticut character which roused at the same instant the laughter and the respect of men. Every human influence twined about his career and lent it interest; every forward movement of his time had his sympathy, and few steps in progress were made which he did not assist. His ambition, above the lofty ambition of Jefferson, made him aspire to be a Connecticut Maecenas and Virgil in one; to patronize Fulton and employ Smirke; counsel Jefferson and contend with Napoleon. In his own mind a figure such as the world rarely saw — a compound of Milton, Rousseau, and the Duke of Bridgewater — he had in him so large a share of conceit that tragedy, which would have thrown a solemn shadow over another man's life, seemed to render his only more entertaining. As a poet, he undertook to do for his native land what Homer had done for Greece and Virgil for Rome, Milton for England and Camoens for Portugal — to supply

America with a great epic, without which no country could be respectable; and his *Vision of Columbus*, magnified afterward into the *Columbiad*, with a magnificence of typography and illustration new to the United States, remained a monument of his ambition.

Dwight, Trumbull, and Barlow united in offering proof of the boundless ambition which marked the American character. Their aspirations were immense, and sooner or later such restless craving was sure to find better expression. Meanwhile, Connecticut was a province by itself, a part of New England rather than of the United States. The exuberant patriotism of the Revolution was chilled by the steady progress of democratic principles in the Southern and Middle States, until at the election of Jefferson in 1800 Connecticut stood almost alone with no intellectual companion except Massachusetts, while the breach between them and the Middle States seemed to widen day by day. That the separation was only superficial was true; but the connection itself was not yet deep. An extreme Federalist partisan like Noah Webster did not cease working for his American language and literature because of the triumph of Jeffersonian principles elsewhere; Barlow became more American when his friends gained power; the work of the colleges went on unbroken; but prejudices, habits, theories, and laws remained what they had been in the past, and in Connecticut the influence of nationality was less active than ten, twenty, or even thirty years before. Yale College was but a reproduction of Harvard with stricter orthodoxy, turning out every year about thirty graduates, of whom nearly one-fourth went into the Church. For the last ten years the number tended rather to diminish than to increase.

Evidently an intellectual condition like that of New England could not long continue. The thoughts and methods of the eighteenth century held possession of men's minds only because the movement of society was delayed by political passions. Massachusetts, and especially Boston, already contained a younger generation eager to strike into new paths, while forcibly held in the old ones. The more decidedly the college graduates of 1800 disliked democracy and its habits of thought, the more certain they were to compensate for political narrowness by freedom in fields not political. The future direction of the New England intellect seemed already suggested by the impossibility of going further in the line of President Dwight and Fisher Ames. Met by a barren negation on

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that side, thought was driven to some new channel; and the United States were the more concerned in the result because, with the training and literary habits of New Englanders and the new models already established in Europe for their guidance, they were likely again to produce something that would command respect.

## CHAPTER FOUR

### *Intellect of the Middle States*

**B**ETWEEN NEW ENGLAND and the Middle States was a gap like that between Scotland and England. The conceptions of life were different. In New England society was organized on a system — a clergy in alliance with a magistracy; universities supporting each, and supported in turn — a social hierarchy, in which respectability, education, property, and religion united to defeat and crush the unwise and vicious. In New York, wisdom and virtue, as understood in New England, were but lightly esteemed. From an early moment no small number of those who by birth, education, and property were natural leaders of the wise and virtuous, showed themselves ready to throw in their lot with the multitude. Yet New York, much more than New England, was the home of natural leaders and family alliances. John Jay, the Governor; the Schuylers, led by Philip Schuyler and his son-in-law, Alexander Hamilton; the Livingstons, led by Robert R. Livingston the Chancellor, with a promising younger brother Edward nearly twenty years his junior, and a brother-in-law, John Armstrong, whose name and relationship will be prominent in this narrative, besides Samuel Osgood, Morgan Lewis, and Smith Thompson, other connections by marriage with the great Livingston stock; the Clintons, headed by Governor George Clinton and supported by the energy of De Witt, his nephew, thirty years of age, whose close friend, Ambrose Spencer, was reckoned as one of the family; finally, Aaron Burr, of pure Connecticut Calvinistic blood, whose two active lieutenants, William P. Van Ness and John Swartwout, were socially well connected and well brought up — all these Jays, Schuylers, Livingstons, Clintons, Burrs, had they lived in New England, would probably have united in the support of their class or abandoned the country; but being citizens of New York they quarreled. On one side Governor Jay, General Schuyler, and Colonel Hamilton were true to their principles. Rufus King, the American minister in London, by birth a New Englander, adhered to the same connection. On the other hand, George Clinton, like Samuel Adams in Boston, was a Republican by temperament, and his protest against the Constitution made him leader of the Northern Republicans long before Jefferson was mentioned as his rival. The rest were

all backsliders from Federalism — and especially the Livingston faction, who after carefully weighing arguments and interests, with one accord joined the mob of free-thinking democrats, the ‘great beast’ of Alexander Hamilton. Aaron Burr, who prided himself on the inherited patrician quality of his mind and manners, coldly assuming that wisdom and virtue were powerless in a democracy, followed Chancellor Livingston into the society of Cheetham and Paine. Even the influx of New Englanders into the State could not save the Federalists; and in May, 1800, after a sharp struggle, New York finally enrolled itself on the side of Jefferson and George Clinton.

Fortunately for society, New York possessed no church to overthrow, or traditional doctrines to root out, or centuries of history to disavow. Literature of its own it had little; of intellectual unity, no trace. Washington Irving was a boy of seventeen wandering along the banks of the river he was to make famous; Fenimore Cooper was a boy of eleven playing in the primitive woods of Otsego, or fitting himself at Albany for entrance to Yale College; William Cullen Bryant was a child of six in the little village of Cummington, in western Massachusetts.

Political change could as little affect the educational system as it could affect history, church, or literature. In 1795, at the suggestion of Governor Clinton, an attempt had been made by the New York Legislature to create a common-school system, and a sum of fifty thousand dollars was for five years annually applied to that object; but in 1800 the appropriation was exhausted, and the thirteen hundred schools which had been opened were declining. Columbia College, with a formidable array of unfilled professorships, and with fifteen or twenty annual graduates, stood apart from public affairs, although one of its professors, Doctor Samuel L. Mitchill, gave scientific reputation to the whole State. Like the poet Barlow, Mitchill was a universal genius — a chemist, botanist, naturalist, physicist, and politician, who, to use the words of a shrewd observer, supported the Republican Party because Jefferson was its leader, and supported Jefferson because he was a philosopher. Another professor of Columbia College, Doctor David Hosack, was as active as Doctor Mitchill in education, although he contented himself with private life, and did not, like Mitchill, reach the dignity of Congressman and Senator.

Science and art were still less likely to be harmed by a democratic revo-

lution. For scientific work accomplished before 1800 New York might claim to excel New England; but the result was still small. A little botany and mineralogy, a paper on the dispute over yellow fever or vaccination, was the utmost that medicine could show; yet all the science that existed was in the hands of the medical faculty. Botany, chemistry, mineralogy, midwifery, and surgery were so closely allied that the same professor might regard them all as within the range of his instruction; and Doctor Mitchill could have filled in succession, without much difficulty, every chair in Columbia College as well as in the Academy of Fine Arts about to be established. A surgeon was assumed to be an artist. The Capitol at Washington was designed, in rivalry with a French architect, by Doctor William Thornton, an English physician, who in the course of two weeks' study at the Philadelphia Library gained enough knowledge of architecture to draw incorrectly an exterior elevation. When Thornton was forced to look for someone to help him over his difficulties, Jefferson could find no competent native American, and sent for Latrobe. Jefferson considered himself a better architect than either of them, and had he been a professor of *materia medica* at Columbia College, the public would have accepted his claim as reasonable.

The intellectual and moral character of New York left much to be desired; but on the other hand, had society adhered stiffly to what New England thought strict morals, the difficulties in the path of national development would have been increased. Innovation was the most useful purpose which New York could serve in human interests, and never was a city better fitted for its work. Although the great tide of prosperity had hardly begun to flow, the political character of city and State was already well defined in 1800 by the election which made Aaron Burr Vice-President of the United States, and brought De Witt Clinton into public life as Burr's rival. De Witt Clinton was hardly less responsible than Burr himself for lowering the standard of New York politics, and indirectly that of the nation; but he was foremost in creating the Erie Canal. Chancellor Livingston was frequently charged with selfishness as great as that of Burr and Clinton; but he built the first steamboat, and gave immortality to Fulton. Ambrose Spencer's politics were inconsistent enough to destroy the good name of any man in New England; but he became a chief justice of ability and integrity. Edward Livingston was a defaulter under circumstances of culpable carelessness, as the Treasury

thought; but Gallatin, who dismissed him from office, lived to see him become the author of a celebrated code of civil law and of the still more celebrated Nullification Proclamation. John Armstrong's character was so little admired that his own party could with difficulty be induced to give him high office; yet the reader will judge how Armstrong compared in efficiency of public service with the senators who distrusted him.

New York cared but little for the metaphysical subtleties of Massachusetts and Virginia, which convulsed the nation with spasms almost as violent as those that, fourteen centuries before, distracted the Eastern Empire in the effort to establish the double or single nature of Christ. New York was indifferent whether the nature of the United States was single or multiple, whether they were a nation or a league. Leaving this class of questions to other States which were deeply interested in them, New York remained constant to no political theory. There society, in spite of its aristocratic mixture, was democratic by instinct; and in abandoning its alliance with New England in order to join Virginia and elect Jefferson to the Presidency, it pledged itself to principles of no kind, least of all to Virginia doctrines. The Virginians aimed at maintaining a society so simple that purity should suffer no danger, and corruption gain no foothold; and never did America witness a stranger union than when Jefferson, the representative of ideal purity, allied himself with Aaron Burr, the Livingstons and Clintons, in the expectation of fixing the United States in a career of simplicity and virtue. George Clinton, indeed, a States-rights Republican of the old school, understood and believed the Virginia doctrines; but as for Aaron Burr, Edward Livingston, De Witt Clinton, and Ambrose Spencer — young men whose brains were filled with dreams of a different sort — what had such energetic democrats to do with the plow, or what share had the austerity of Cato and the simplicity of Ancus Martius in their ideals? The political partnership between the New York Republicans and the Virginians was from the first that of a business firm; and no more curious speculation could have been suggested to the politicians of 1800 than the question whether New York would corrupt Virginia, or Virginia would check the prosperity of New York.

In deciding the issue of this struggle, as in every other issue that concerned the Union, the voice which spoke in most potent tones was that of Pennsylvania. This great State, considering its political importance, was treated with little respect by its neighbors; and yet had New England,

New York, and Virginia been swept out of existence in 1800, democracy could have better spared them all than have lost Pennsylvania. The only true-democratic community then existing in the Eastern States, Pennsylvania was neither picturesque nor troublesome. The State contained no hierarchy like that of New England; no great families like those of New York; no oligarchy like the planters of Virginia and South Carolina. 'In Pennsylvania,' said Albert Gallatin, 'not only we have neither Livingstons nor Rensselaers, but from the suburbs of Philadelphia to the banks of the Ohio I do not know a single family that has any extensive influence. An equal distribution of property has rendered every individual independent, and there is among us true and real equality.'

This was not all. The value of Pennsylvania to the Union lay not so much in the democratic spirit of society as in the rapidity with which it turned to national objects. Partly for this reason the State made an insignificant figure in politics. As the nation grew, less and less was said in Pennsylvania of interests distinct from those of the Union. Too thoroughly democratic to fear democracy, and too much nationalized to dread nationality, Pennsylvania became the ideal American State, easy, tolerant, and contented. If its soil bred little genius, it bred still less treason. With twenty different religious creeds, its practice could not be narrow, and a strong Quaker element made it humane. If the American Union succeeded, the good sense, liberality, and democratic spirit of Pennsylvania had a right to claim credit for the result; and Pennsylvanians could afford to leave power and patronage to their neighbors, so long as their own interests were to decide the path of administration.

The people showed little of that acuteness which prevailed to the eastward of the Hudson. Pennsylvania was never smart, yet rarely failed to gain her objects, and never committed serious follies. To politics the Pennsylvanians did not take kindly. Perhaps their democracy was so deep an instinct that they knew not what to do with political power when they gained it; as though political power were aristocratic in its nature, and democratic power a contradiction in terms. On this ground rested the reputation of Albert Gallatin, the only Pennsylvanian who made a mark on the surface of national politics. Gallatin's celebrated financial policy carried into practice the doctrine that the powers of government, being necessarily irresponsible, and therefore hostile to liberty, ought to be exercised only within the narrowest bounds, in order to leave de-



mocracy free to develop itself without interference in its true social, intellectual, and economical strength. Unlike Jefferson and the Virginians, Gallatin never hesitated to claim for government all the powers necessary for whatever object was in hand; but he agreed with them in checking the practical use of power, and this he did with a degree of rigor which has been often imitated but never equaled. The Pennsylvanians followed Gallatin's teachings. They indulged in endless factiousness over offices, but they never attempted to govern, and after one brief experience they never rebelled. Thus holding abstract politics at arm's length, they supported the National Government with a sagacious sense that their own interests were those of the United States.

Although the State was held by the New Englanders and Virginians in no high repute for quickness of intellect, Philadelphia in 1800 was still the intellectual center of the nation. For ten years the city had been the seat of National Government, and at the close of that period had gathered a more agreeable society, fashionable, literary, and political, than could be found anywhere, except in a few capital cities of Europe. This Quaker city of an ultra-democratic State startled travelers, used to luxury, by its extravagance and display. According to the Duc de Liancourt, writing in 1797:

The profusion and luxury of Philadelphia on great days, at the tables of the wealthy, in their equipages, and the dresses of their wives and daughters, are extreme. I have seen balls on the President's birthday where the splendor of the rooms and the variety and richness of the dresses did not suffer in comparison with Europe; and it must be acknowledged that the beauty of the American ladies has the advantage in the comparison. The young women of Philadelphia are accomplished in different degrees, but beauty is general with them. They want the ease and fashion of French women, but the brilliancy of their complexion is infinitely superior. Even when they grow old, they are still handsome; and it would be no exaggeration to say, in the numerous assemblies of Philadelphia it is impossible to meet with what is called a plain woman. As to the young men, they for the most part seem to belong to another species.

For ten years Philadelphia had attracted nearly all the intelligence and cultivation that could be detached from their native stocks. Stagnation was impossible in this rapid current of men and ideas. The Philadelphia press showed the effect of such unusual movement. There Cobbett

vociferated libels against democrats. His career was cut short by a blunder of his own; for he quitted the safe field of politics in order to libel the physicians, and although medical practice was not much better than when it had been satirized by Le Sage some eighty years before, the physicians had not become less sensitive. If ever medical practice deserved to be libeled, the bleeding which was the common treatment not only for fevers but for consumption, and even for old age, warranted all that could be said against it; but Cobbett found to his cost that the Pennsylvanians were glad to bleed, or at least to seize the opportunity for silencing the libeler. In 1800 he returned to England; but the style of political warfare in which he was so great a master was already established in the Philadelphia press. An Irish-American named Duane, who had been driven from England and India for expressing opinions too liberal for the time and place, came to Philadelphia and took charge of the opposition newspaper, the *Aurora*, which became in his hands the most energetic and slanderous paper in America. In the small society of the time libels rankled, and Duane rivaled Cobbett in the boldness with which he slandered. Another point of resemblance existed between the two men. At a later stage in his career Duane, like Cobbett, disregarded friend as well as foe; he then attacked all who offended him, and denounced his party leaders as bitterly as he did his opponents; but down to the year 1800 he reserved his abuse for his enemies, and the *Aurora* was the nearest approach to a modern newspaper to be found in the country.

Judged by the accounts of his more reputable enemies, Duane seemed beneath forbearance; but his sins, gross as they were, found abettors in places where such conduct was less to be excused. He was a scurrilous libeler; but so was Cobbett; so was William Coleman, who in 1801 became editor of the New York *Evening Post* under the eye of Alexander Hamilton; so was the refined Joseph Dennie, who in the same year established at Philadelphia the *Portfolio*, a weekly paper devoted to literature, in which for years to come he was to write literary essays, diversified by slander of Jefferson. Perhaps none of these habitual libelers deserved censure so much as Fisher Ames, the idol of respectability, who cheered on his party to vituperate his political opponents. He saw no harm in showing 'the knaves,' Jefferson and Gallatin, 'the cold-thinking villains who lead, "whose black blood runs temperately bad,"' the motives of

'their own base hearts. . . . The vain, the timid, and trimming must be made by examples to see that scorn smites and blasts and withers like lightning the knaves that mislead them.' Little difference could be seen between the two parties in their use of such weapons, except that democrats claimed a right to slander opponents because they were monarchists and aristocrats, while Federalists thought themselves bound to smite and wither with scorn those who, as a class, did not respect established customs.

Of American newspapers there was no end; but the education supposed to have been widely spread by eighteenth-century newspapers was hardly to be distinguished from ignorance. The student of history might search forever these storehouses of political calumny for facts meant to instruct the public in any useful object. A few dozen advertisements of shipping and sales; a marine list; rarely or never a price-list, unless it were European; copious extracts from English newspapers, and long columns of political disquisition — such matter filled the chief city newspapers, from which the smaller sheets selected what their editors thought fit. Reporters and regular correspondents were unknown. Information of events other than political — the progress of the New York or Philadelphia waterworks, of the Middlesex Canal, of Fitch's or Fulton's voyages, or even the commonest details of a Presidential inauguration — could rarely be found in the press. In such progress as newspapers had made, Philadelphia took the lead, and in 1800 was at the height of her influence. Not until 1801 did the extreme Federalists set up the *Evening Post* under William Coleman, in New York, where at about the same time the Clinton interest put an English refugee named Cheetham in charge of their new paper, the *American Citizen and Watchtower*, while Burr's friends established the *Morning Chronicle*, edited by Doctor Peter Irving. Duane's importance was greatly reduced by this outburst of journalism in New York, and by the rise of the *National Intelligencer* at Washington, semi-official organ of Jefferson's administration. After the year 1800 the *Aurora* languished; but between 1795 and 1800 it was the leading newspaper of the United States, and boasted in 1802 of a circulation of four thousand copies, at least half of which its rivals declared to be imaginary.

Although Philadelphia was the literary as well as the political capital of America, nothing proved the existence of a highly intellectual society.

When Joseph Dennie, a graduate of Harvard College, quitted Boston and established his *Portfolio* in Philadelphia in 1801, he complained bitterly against the land 'where Genius sickens and where Fancy dies'; but he still thought Philadelphia more tolerable than any other city in the United States. With a little band of literary friends he passed his days in defying the indifference of his countrymen.

In the society of Mr. Dennie and his friends at Philadelphia I passed the few agreeable moments which my tour through the States afforded me [wrote in 1804 the British poet whom all the world united in calling by the familiar name of Tom Moore]. If I did not hate as I ought the rabble to which they are opposed, I could not value as I do the spirit with which they defy it; and in learning from them what American *can be*, I but see with the more indignation what Americans *are*.

Yet, yet forgive me, O you sacred few,  
Whom late by Delaware's green banks I knew;  
Whom, known and loved, through many a social eve  
'Twas bliss to live with, and 'twas pain to leave.  
Oh, but for *such*, Columbia's days were done!  
Rank without ripeness, quickened without sun,  
Crude at the surface, rotten at the core,  
Her fruits would fall before her spring were o'er.

If Columbia's days were to depend on '*such*,' they were scarcely worth prolonging; for Dennie's genius was but the thin echo of an English classicism thin at its best. Yet Moore's words had value, for they gave a lifelike idea of the 'sacred few' who sat with him, drinking deep, and reviling America because she could not produce poets like Anacreon and artists like Phidias, and still more because Americans cared little for Addisonian essays.

Not far from the city of Philadelphia, on the banks of the Schuylkill, lived William Bartram, the naturalist, whose *Travels* through Florida and the Indian country, published in 1791, were once praised by Coleridge, and deserved reading both for the matter and the style. Not far from Bartram, and his best scholar, was Alexander Wilson, a Scotch poet of more than ordinary merit, gifted with a dogged enthusiasm, which in spite of obstacles gave to America an ornithology more creditable than anything yet accomplished in art or literature. Beyond the mountains, at Pittsburgh, another author showed genuine and original qualities. American humor was not then so marked as it afterward became, and

good-nature was rarer; but H. H. Brackenridge set an example of both in a book once universally popular throughout the South and West. A sort of prose *Hudibras*, it had the merit of leaving no sting, for this satire on democracy was written by a democrat and published in the most democratic community of America. *Modern Chivalry* told the adventures of a militia captain, who, riding about the country with a raw Irish servant, found this red-headed, ignorant bog-trotter, this Sancho Panza, a much more popular person than himself, who could only with difficulty be restrained from becoming a clergyman, an Indian chief, a member of the legislature, of the philosophical society, and of Congress. At length his employer got for him the appointment of excise officer in the Alleghanies, and was gratified at seeing him tarred and feathered by his democratic friends. *Modern Chivalry* was not only written in good last-century English, none too refined for its subject, but was more thoroughly American than any book yet published, or to be published until the *Letters of Major Jack Downing* and the *Georgia Scenes* of forty years later. Never known, even by title, in Europe, and little enjoyed in the seaboard States, where bog-trotters and weavers had no such prominence, Judge Brackenridge's book filled the place of *Don Quixote* on the banks of the Ohio and along the Mississippi.

Another man whose literary merits were not to be overlooked had drifted to Philadelphia because of its varied attractions. If in the last century America could boast of a poet who shared some of the delicacy if not the grandeur of genius, it was Philip Freneau; whose verses, poured out for the occasion, ran freely, good and bad, but the bad, as was natural, much more freely than the good. Freneau proved his merit by an experience unique in history. He was twice robbed by the greatest English poets of his day. Among his many slight verses were some pleasing lines called 'The Indian Burying Ground':

'His bow for action ready bent,  
And arrows with a head of stone,  
Can only mean that life is spent,  
And not the finer essence gone.

'By midnight moons, o'er moistening dews,  
In vestments for the chase arrayed,  
The hunter still the deer pursues,  
The hunter and the deer — a shade.'

The last line was taken by the British poet Campbell for his own poem called 'O'Connor's Child,' and Freneau could afford to forgive the theft which thus called attention to the simple grace of his melody; but although one such compliment might fall to the lot of a common man, only merit could explain a second accident of the same kind. Freneau saw a greater genius than Campbell borrow from his modest capital. No one complained of Walter Scott for taking whatever he liked wherever he chose, to supply that flame of genius which quickened the world; but Freneau had the right to claim that Scott paid him the highest compliment one poet could pay to another. In the Introduction to the third canto of 'Marmion' stood and still stands a line taken directly from the verse in Freneau's poem on the 'Heroes of Eutaw':

'They took the spear — but left the shield.'

Gilbert Stuart, the best painter in the country, came to Philadelphia, and there painted portraits equal to the best that England or France could produce — for Reynolds and Gainsborough were dead, and Sir Thomas Lawrence ruled the fashion of the time. If Franklin and Rittenhouse no longer lived to give scientific fame to Philadelphia, their liberal and scientific spirit survived. The reputation of the city was not confined to America, and the accident that made a Philadelphian, Benjamin West, President of the Royal Academy in succession to Sir Joshua Reynolds, was a tacit compliment, not undeserved, to the character of the American metropolis.

There manners were milder and more humane than elsewhere. Societies existed for lessening the hardships of the unfortunate. A society labored for the abolition of slavery without exciting popular passion, although New York contained more than twenty thousand slaves, and New Jersey more than twelve thousand. A society for alleviating the miseries of prisons watched the progress of experiments in the model jail, which stood alone of its kind in America. Elsewhere the treatment of criminals was such as it had ever been. In Connecticut they were still confined underground, in the shafts of an abandoned copper mine. The Pennsylvania Hospital was also a model, for it contained a department for the insane, the only one of the sort in America except the Virginia Lunatic Asylum at Williamsburg. Even there the treatment of these beings, whom a later instinct of humanity thought peculiarly worthy of

care and lavish expenditure, was harsh enough — strait-jackets, whippings, chains, and dark-rooms being a part of the prescribed treatment in every such hospital in the world; but where no hospitals existed, as in New England, New York, and elsewhere, the treatment was apt to be far worse. No horror of the Middle Ages wrung the modern conscience with a sense of disgust more acute than was felt in remembering the treatment of the insane even within recent times. Shut in attics or cellars, or in cages outside a house, without warmth, light, or care, they lived in filth, with nourishment such as was thrown to dogs. Philadelphia led the way in humanitarian efforts which relieved man from incessant contact with these cruel and coarsening associations.

The depth of gratitude due to Pennsylvania as the model democratic society of the world was so great as to risk overestimating what had been actually done. As yet no common-school system existed. Academies and colleges were indifferent. New Jersey was no better provided than Pennsylvania. The Englishman Weld, a keen if not a friendly critic, visited Princeton:

A large college [he said], held in much repute by the neighboring States. The number of students amounts to upwards of seventy; from their appearance, however, and the course of studies they seem to be engaged in, like all the other American colleges I ever saw, it better deserves the title of a grammar-school than of a college. The library which we were shown is most wretched, consisting for the most part of old theological books not even arranged with any regularity. An orrery contrived by Mr. Rittenhouse stands at one end of the apartment, but it is quite out of repair, as well as a few detached parts of a philosophical apparatus enclosed in the same glass case. At the opposite end of the room are two small cupboards which are shown as the museum. These contain a couple of small stuffed alligators and a few singular fishes in a miserable state of preservation, from their being repeatedly tossed about.

## CHAPTER FIVE

### *Intellect of the Southern States*

**B**ETWEEN PENNSYLVANIA AND VIRGINIA stretched no barrier of mountains or deserts. Nature seemed to mean that the northern State should reach toward the Chesapeake, and embrace its wide system of coasts and rivers. The Susquehanna, crossing Pennsylvania from north to south, rolled down wealth which in a few years built the city of Baltimore by the surplus of Pennsylvania's resources. Any part of Chesapeake Bay, or of the streams which flowed into it, was more easily accessible to Baltimore than any part of Massachusetts or Pennsylvania to New York. Every geographical reason argued that the Susquehanna, the Potomac, and the James should support one homogeneous people; yet the intellectual difference between Pennsylvania and Virginia was already more sharply marked than that between New England and the Middle States.

The old Virginia society was still erect, priding itself on its resemblance to the society of England, which had produced Hampden and Chatham. The Virginia gentleman, wherever met, was a country gentleman or a lawyer among a society of planters. The absence of city life was the sharpest characteristic of Virginia, even compared with South Carolina. In the best and greatest of Virginians, the virtues which always stood in most prominence were those of the field and farm — the simple and straightforward mind, the notions of courage and truth, the absence of mercantile sharpness and quickness, the rusticity and openhanded hospitality, which could exist only where the struggle for life was hardly a struggle at all. No visitor could resist the charm of kindly sympathy which softened the asperities of Virginian ambition. Whether young Albert Gallatin went there, hesitating between Europe and America, or the still younger William Ellery Channing, with all New England on his active conscience, the effect was the same:

I blush for my own people [wrote Channing from Richmond in 1799] when I compare the selfish prudence of a Yankee with the generous confidence of a Virginian. Here I find great vices, but greater virtues than I left behind me. There is one single trait which attaches me to the people I live with more than all the virtues of New England — they *love money*



less than we do; they are more disinterested; their patriotism is not tied to their purse-strings. Could I only take from the Virginians their sensuality and their slaves, I should think them the greatest people in the world. As it is, with a few great virtues, they have innumerable vices.

The Virginians at the close of the eighteenth century were inferior to no class of Americans in the sort of education then supposed to make refinement. The Duc de Liancourt bore witness: 'In spite of the Virginian love for dissipation, the taste for reading is commoner there among men of the first class than in any other part of America; but the populace is perhaps more ignorant there than elsewhere.'

Those whom Liancourt called 'men of the first class' were equal to any standard of excellence known to history. Their range was narrow, but within it they were supreme. The traditions of high breeding were still maintained, and a small England, much as it existed in the time of the Commonwealth, was perpetuated in the Virginia of 1800. Social position was a birthright, not merely of the well-born, but of the highly gifted. Nearly all the great lawyers of Virginia were of the same social stock as in New England — poor and gifted men, welcomed into a landed aristocracy simple in tastes and genial in temper. Chief Justice Marshall was such a man, commanding respect and regard wherever he was seen — perhaps most of all from New Englanders, who were least familiar with the type. George Mason was an ideal republican — a character as strong in its way as Washington or Marshall. George Wythe the Chancellor stood in the same universal esteem; and even his young clerk, Henry Clay, 'the mill-boy of the slashes,' who had lately left Chancellor Wythe's office to set up one of his own at Lexington in Kentucky, inherited that Virginia geniality which, as it ripened with his years, made him an idol among Northern and Western multitudes who knew neither the source nor secret of his charm. Law and politics were the only objects of Virginian thought; but within these bounds the Virginians achieved triumphs. What could America offer in legal literature that rivaled the judicial opinions of Chief Justice Marshall? What political essay equaled the severe beauty of George Mason's Virginia Bill of Rights? What single production of an American pen reached the fame of Thomas Jefferson's Declaration of Independence? 'The Virginians are the best orators I ever heard,' wrote the young Channing; although Patrick Henry, the greatest of them all, was no longer alive.

Everyone admitted that Virginia society was ill at ease. In colonial days it rested on a few great props, the strongest being its close connection with England; and after this had been cut away by the Revolutionary War, primogeniture, the Church, exemption of land from seizure for debt, and Negro slavery remained to support the oligarchy of planters. The momentum given by the Declaration of Independence enabled Jefferson and George Wythe to sweep primogeniture from the statute book. After an interval of several years, Madison carried the law which severed Church from State. There the movement ended. All the great Virginians would gladly have gone on, but the current began to flow against them. They suggested a bill for emancipation, but could find no one to father it in the legislature, and they shrank from the storm it would excite.

President Washington, in 1796, in a letter already quoted, admitted that land in Virginia was lower in price than land of the same quality in Pennsylvania. For this inferiority he suggested, among other reasons, the explanation that Pennsylvania had made laws for the gradual abolition of slavery, and he declared nothing more certain than that Virginia must adopt similar laws at a period not remote. Had the Virginians seen a sure prospect that such a step would improve their situation, they would probably have taken it; but the slave-owners were little pleased at the results of reforms already effected, and they were in no humor for abolishing more of their old institutions. The effects of disestablishing the Church were calculated to disgust them with all reform. From early times the colony had been divided into parishes, and each parish owned a church building. The system was the counterpart of that established in New England. The church lands, glebes, and endowments were administered by the clergyman, wardens, and vestry. Good society in Virginia recognized no other religion than was taught in this branch of English episcopacy. 'Sure I am of one thing,' was the remark in the Virginia Legislature of an old-fashioned Federalist, with powdered hair, three-cornered hat, long queue, and white top-boots — 'Sure I am of one thing, that no *gentleman* would choose any road to heaven but the Episcopal.' Every plantation was attached to a parish, and the earliest associations of every well-bred man and woman in Virginia were connected with the Church service. In spite of all this, no sooner had Madison and his friends taken away the support of the State than the Church perished. They argued that freedom of religion worked well in

Pennsylvania, and therefore must succeed in Virginia; but they were wrong. The Virginia gentry stood by and saw their churches closed, the roofs rot, the aisles and pews become a refuge for sheep and foxes, the tombstones of their ancestry built into strange walls or turned into flagging to be worn by the feet of slaves. By the year 1800, Bishop Madison found his diocese left so nearly bare of clergy and communicants that after a few feeble efforts to revive interest he abandoned the struggle, and contented himself with the humbler task of educating boys at the ancient College of William and Mary in the deserted colonial capital of Williamsburg.

Such a state of society was picturesque, but not encouraging. An aristocracy so lacking in energy and self-confidence was a mere shell, to be crushed, as one might think, by a single vigorous blow. Nevertheless, Jefferson and Madison, after striking it again and again with the full force of Revolutionary violence, were obliged to desist, and turned their reforming axes against the Church and hierarchy of New England. There they could do nothing but good, for the society of New England was sound, whatever became of the Church or of slavery; but in Virginia the gap which divided gentry from populace was enormous; and another gap, which seemed impassable, divided the populace from the slaves. Jefferson's reforms crippled and impoverished the gentry, but did little for the people, and for the slaves nothing.

Nowhere in America existed better human material than in the middle and lower classes of Virginians. As explorers, adventurers, fighters — wherever courage, activity, and force were wanted — they had no equals; but they had never known discipline, and were beyond measure jealous of restraint. With all their natural virtues and indefinite capacities for good, they were rough and uneducated to a degree that shocked their own native leaders. Jefferson tried in vain to persuade them that they needed schools. Their character was stereotyped, and development impossible; for even Jefferson, with all his liberality of ideas, was Virginian enough to discourage the introduction of manufactures and the gathering of masses in cities, without which no new life could grow. Among the common people, intellectual activity was confined to hereditary common-places of politics, resting on the axiom that Virginia was the typical society of a future Arcadian America. To escape the tyranny of Caesar by perpetuating the simple and isolated lives of their fathers was the sum of

their political philosophy; to fix upon the National Government the stamp of their own idyllic conservatism was the height of their ambition.

Debarred from manufactures, possessed of no shipping, and enjoying no domestic market, Virginian energies necessarily knew no other resource than agriculture. Without Church, university, schools, or literature in any form that required or fostered intellectual life, the Virginians concentrated their thoughts almost exclusively upon politics; and this concentration produced a result so distinct and lasting, and in character so respectable, that American history would lose no small part of its interest in losing the Virginia school.

No one denied that Virginia, like Massachusetts, in the War of Independence believed herself competent to follow independently of other provinces whatever path seemed good. The Constitution of Virginia did not, like that of Massachusetts, authorize the Governor to 'be the commander-in-chief of the army and navy,' in order 'to take and surprise, by all ways and means whatsoever, all and every such person or persons (with their ships, arms, ammunition, and other goods) as shall in a hostile manner invade or attempt the invading, conquering, or annoying this Commonwealth'; but although Massachusetts expressed the power in language more detailed, Virginia held to its essence with equal tenacity. When experience showed the necessity of 'creating a more perfect union,' none of the great States were unanimous for the change. Massachusetts and New York were with difficulty induced to accept the Constitution of 1787. Their final assent was wrung from them by the influence of the cities and of the commercial class; but Virginia contained no cities and few merchants. The majority by which the State Convention of Virginia, after an obstinate contest, adopted the Constitution, was influenced by pure patriotism as far as any political influence could be called pure; but the popular majority was probably hostile to the Constitution, and certainly remained hostile to the exercise of its powers. From the first the State took an attitude of opposition to the National Government, which became more and more decided until in 1798 it found expression in a formal announcement, through the Legislature and Governor, that the limit of further obedience was at hand. The General Assembly adopted resolutions promising support to the Government of the United States in all measures warranted by the Constitution, but declaring the powers of the Federal Government 'no

further valid than they are authorized by the grants enumerated in that compact; and that in case of a deliberate, palpable, and dangerous exercise of other powers, not granted by said compact, the States who are parties thereto have the right, and are in duty bound, to interpose, for arresting the progress of the evil and for maintaining within their respective limits the authorities, rights, and liberties appertaining to them.'

Acting immediately on this view, the General Assembly did interpose by declaring certain laws, known as the Alien and Sedition Laws, unconstitutional, and by inviting the other States to concur, in confidence 'that the necessary and proper measures will be taken by each for cooperating with this State in maintaining unimpaired the authorities, rights, and liberties reserved to the States respectively or to the people.'

These Virginia Resolutions, which were drawn by Madison, seemed strong enough to meet any possible aggression from the National Government; but Jefferson, as though not quite satisfied with these, recommended the Kentucky Legislature to adopt still stronger. The draft of the Kentucky Resolutions, whether originally composed or only approved by him, representing certainly his own convictions, declared that 'where powers are assumed which have not been delegated a nullification of the Act is the rightful remedy,' and 'that every State has a natural right, in cases not within the compact, to nullify of their own authority all assumptions of power by others within their limits.' Jefferson did not doubt 'that the co-States, recurring to their natural right in cases not made federal, will concur in declaring these acts void and of no force, and will each take measures of its own for providing that neither these acts, nor any others of the Federal Government not plainly and intentionally authorized by the Constitution, shall be exercised within their respective territories.'

In the history of Virginia thought, the personal opinions of Jefferson and Madison were more interesting, if not more important, than the official opinion of State legislatures. Kentucky shrank from using language which seemed unnecessarily violent, but still declared, with all the emphasis needed, that the National Government was not 'the exclusive or final judge of the extent of the powers delegated to itself, since that would have made its discretion, and not the Constitution, the measure of its powers,' but that each party had an equal right to judge for itself as to an infraction of the compact, and the proper redress; that in the case

of the Alien and Sedition Laws the compact had been infringed, and that these acts, being unconstitutional and therefore void, 'may tend to drive these States into revolution and blood'; finally, the State of Kentucky called for an expression of sentiment from other States, like Virginia, not doubting 'that the co-States, recurring to their natural right in cases not made federal, will concur in declaring these acts void and of no force.'

These famous Resolutions of Virginia and Kentucky, historically the most interesting of all the intellectual products of the Virginia school, were adopted in 1798 and 1799. In 1800, Jefferson their chief author was chosen President of the United States, and Madison became his Secretary of State. Much discussion then and afterward arose over the constitutional theory laid down by Virginia and Kentucky, and thus apparently adopted by the Union; but in such cases of disputed powers that theory was soundest which was backed by the strongest force, for the sanction of force was the most necessary part of law. The United States Government was at that time powerless to enforce its theories; while, on the other hand, Virginia had all the power necessary for the object desired. The Republican leaders believed that the State was at liberty to withdraw from the Union if it should think that an infraction of the Constitution had taken place; and Jefferson in 1798 preferred to go on by way of Resolution rather than by way of Secession, not because of any doubt as to the right, but because, 'if we now reduce our Union to Virginia and North Carolina, immediately the conflict will be established between those two States, and they will end by breaking into their simple units.' In other letters he explained that the Kentucky Resolutions were intended 'to leave the matter in such a train as that we may not be committed absolutely to push the matter to extremities, and yet may be free to push as far as events will render prudent.' Union was a question of expediency, not of obligation. This was the conviction of the true Virginia school, and of Jefferson's opponents as well as his supporters; of Patrick Henry, as well as John Taylor of Caroline and John Randolph of Roanoke.

The Virginia and Kentucky Resolutions, giving form to ideas that had not till then been so well expressed, left a permanent mark in history, and fixed for an indefinite time the direction and bounds of Virginia politics; but if New England could go no further in the lines of thought pursued by Fisher Ames and Timothy Dwight, Virginia could certainly

expect no better results from those defined by Jefferson and Madison. The science of politics, if limited by the Resolutions of Virginia and Kentucky, must degenerate into an enumeration of powers reserved from exercise. Thought could find little room for free development where it confined its action to narrowing its own field.

This tendency of the Virginia school was the more remarkable because it seemed little suited to the tastes and instincts of the two men who gave it expression and guided its course. By common consent, Thomas Jefferson was its intellectual leader. According to the admitted standards of greatness, Jefferson was a great man. After all deductions on which his enemies might choose to insist, his character could not be denied elevation, versatility, breadth, insight, and delicacy; but neither as a politician nor as a political philosopher did he seem at ease in the atmosphere which surrounded him. As a leader of democracy he appeared singularly out of place. As reserved as President Washington in the face of popular familiarities, he never showed himself in crowds. During the last thirty years of his life he was not seen in a Northern city, even during his Presidency; nor indeed was he seen at all except on horseback, or by his friends and visitors in his own house. With manners apparently popular and informal, he led a life of his own, and allowed few persons to share it. His tastes were for that day excessively refined. His instincts were those of a liberal European nobleman, like the Duc de Liancourt, and he built for himself at Monticello a *château* above contact with man. The rawness of political life was an incessant torture to him, and personal attacks made him keenly unhappy. His true delight was in an intellectual life of science and art. To read, write, speculate in new lines of thought, to keep abreast of the intellect of Europe, and to feed upon Homer and Horace, were pleasures more to his mind than any to be found in a public assembly. He had some knowledge of mathematics, and a little acquaintance with classical art; but he fairly reveled in what he believed to be beautiful, and his writings often betrayed subtle feeling for artistic form — a sure mark of intellectual sensuousness. He shrank from whatever was rough or coarse, and his yearning for sympathy was almost feminine. That such a man should have ventured upon the stormy ocean of politics was surprising, the more because he was no orator, and owed nothing to any magnetic influence of voice or person. Never effective in debate, for seventeen years before his Presidency he had not appeared in a legislative body except in

the chair of the Senate. He felt a nervous horror for the contentiousness of such assemblies, and even among his own friends he sometimes abandoned for the moment his strongest convictions rather than support them by an effort of authority.

If Jefferson appeared ill at ease in the position of a popular leader, he seemed equally awkward in the intellectual restraints of his own political principles. His mind shared little in common with the provincialism on which the Virginia and Kentucky Resolutions were founded. His instincts led him to widen rather than to narrow the bounds of every intellectual exercise; and if vested with political authority, he could no more resist the temptation to stretch his powers than he could abstain from using his mind on any subject merely because he might be drawn upon ground supposed to be dangerous. He was a deist, believing that men could manage their own salvation without the help of a State Church. Prone to innovation, he sometimes generalized without careful analysis. He was a theorist, prepared to risk the fate of mankind on the chance of reasoning far from certain in its details. His temperament was sunny and sanguine, and the atrabilious philosophy of New England was intolerable to him. He was curiously vulnerable, for he seldom wrote a page without exposing himself to attack. He was superficial in his knowledge, and a martyr to the disease of omniscience. Ridicule of his opinions and of himself was an easy task, in which his Federalist opponents delighted, for his English was often confused, his assertions inaccurate, and at times of excitement he was apt to talk with indiscretion; while with all his extraordinary versatility of character and opinions, he seemed during his entire life to breathe with perfect satisfaction nowhere except in the liberal, literary, and scientific air of Paris in 1789.

Jefferson aspired beyond the ambition of a nationality, and embraced in his view the whole future of man. That the United States should become a nation like France, England, or Russia, should conquer the world like Rome, or develop a typical race like the Chinese, was no part of his scheme. He wished to begin a new era. Hoping for a time when the world's ruling interests should cease to be local and should become universal; when questions of boundary and nationality should become insignificant; when armies and navies should be reduced to the work of police, and politics should consist only in non-intervention — he set himself to the task of governing, with this golden age in view. Few men



have dared to legislate as though eternal peace were at hand, in a world torn by wars and convulsions and drowned in blood; but this was what Jefferson aspired to do. Even in such dangers, he believed that Americans might safely set an example which the Christian world should be led by interest to respect and at length to imitate. As he conceived a true American policy, war was a blunder, an unnecessary risk; and even in case of robbery and aggression, the United States, he believed, had only to stand on the defensive in order to obtain justice in the end. He would not consent to build up a new nationality merely to create more navies and armies, to perpetuate the crimes and follies of Europe; the central Government at Washington should not be permitted to indulge in the miserable ambitions that had made the Old World a hell, and frustrated the hopes of humanity.

With these humanitarian ideas which passed beyond the bounds of nationality, Jefferson held other views which seemed narrower than ordinary provincialism. Cities, manufactures, mines, shipping, and accumulation of capital led, in his opinion, to corruption and tyranny.

'Generally speaking,' said he, in his only elaborate work, the *Notes on Virginia*, 'the proportion which the aggregate of the other classes of citizens bears in any State to that of its husbandmen is the proportion of its unsound to its healthy parts, and is a good enough barometer whereby to measure its degree of corruption. . . . Those who labor in the earth are the chosen people of God if ever He had a chosen people, whose breasts He has made His peculiar deposit for substantial and genuine virtue.'

This doctrine was not original with Jefferson, but its application to national affairs on a great scale was something new in the world, and the theory itself clashed with his intellectual instincts of liberality and innovation.

A school of political thought, starting with postulates like these, was an interesting study, and would have been more interesting had Jefferson's friends undertaken to develop his ideas in the extent he held them. Perhaps this was impossible. At all events, Madison, although author of the Virginia Resolutions, showed little earnestness in carrying out their principles either as a political or as a literary task; and John Taylor of Caroline, the only consistent representative of the school, began his writings only when political power had established precedents inconsistent with their object.

With such simple conceptions as their experience gave them in politics, law, and agriculture, the Virginians appeared to be satisfied; and whether satisfied or not, they were for the time helpless to produce other literature, science, or art. From the three States lying farther south, no greater intellectual variety could be expected. In some respects North Carolina, though modest in ambition and backward in thought, was still the healthiest community south of the Potomac. Neither aristocratic like Virginia and South Carolina, nor turbulent like Georgia, nor troubled by a sense of social importance, but above all thoroughly democratic, North Carolina tolerated more freedom of political action and showed less family and social influence, fewer vested rights in political power, and less tyranny of slaveholding interests and terrors than were common elsewhere in the South. Neither cultivated nor brilliant in intellect, nor great in thought, industry, energy, or organization, North Carolina was still interesting and respectable. The best qualities of the State were typified in its favorite representative, Nathaniel Macon.

The small society of rice and cotton planters at Charleston, with their cultivated tastes and hospitable habits, delighted in whatever reminded them of European civilization. They were travelers, readers, and scholars; the society of Charleston compared well in refinement with that of any city of its size in the world, and English visitors long thought it the most agreeable in America. In the Southern wilderness which stretched from the Appomattox to the St. Mary's, Charleston was the only oasis. The South Carolinians were ambitious for other distinctions than those which could be earned at the bar or on the plantation. From there Washington Allston went to study at Harvard College, and, after taking his degree in the same class with young Buckminster, sailed in the same year, 1800, for Europe with his friend Malbone, to learn to express in color and form the grace and dignity of his imagination. In South Carolina were felt the instincts of city life. During two or three weeks of the winter, the succession of dinners, balls, and races at Charleston rivaled the gaiety of Philadelphia itself; and although the city was dull during the rest of the year, it was not deserted even in the heat of summer, for the seabreeze made it a watering-place, like Boston, and the deadly fevers sure to kill the white man who should pass a night on one bank of the Ashley River were almost unknown on the other. In the summer, therefore, the residents remained or returned; the children got their schooling,

and business continued. For this reason South Carolina knew less of the country hospitality which made Virginia famous; city life had the larger share in existence, although in the hot weather torpor and languor took the place of gaiety. In certain respects Charleston was more Northern in habits than any town of the North. In other warm countries, the summer evening was commonly the moment when life was best worth living; music, love-making, laughter, and talk turned night into day; but Charleston was puritanic in discipline. Every night at ten o'clock the slamming of window-blinds and locking of doors warned strangers and visitors to go, not only to their houses, but to their beds. The citizens looked with contempt on the gaiety of Spanish or Italian temper. Beneath all other thoughts, the care of the huge slave population remained constant. The streets were abandoned at an early hour to the patrol, and no New England village was more silent.

Confident as the Carolinian was in the strength of the slave system, and careless as he seemed and thought himself to be on that account, the recent fate of St. Domingo gave him cause for constant anxiety; but even without anxiety, he would have been grave. The gentry of the lower country belonged to the same English class which produced the gentry of Virginia and Massachusetts. The austerity of the Puritan may have been an exaggerated trait, but among the Middletons, Pinckneys, Rutledges, and Lowndeses, the seriousness of the original English stock was also not without effect in the habit of their minds. They showed it in their treatment of the slave system, but equally in their churches and houses, their occupations and prejudices, their races and sports, the character of their entertainments, the books they read, and the talk at their tables. No gentleman belonged to any church but the Anglican, or connected himself with trade. No court departed from the practice and precedents of English law, however anomalous they might be. Before the Revolution large numbers of young men had been educated in England, and their influence was still strong in the society of Charleston. The younger generation inherited similar tastes. Of this class the best-known name which will appear in this narrative was that of William Lowndes; and no better example could be offered of the serious temper which marked Carolinian thought than was given by the career of this refined and highly educated gentleman, almost the last of his school.

Charleston was more cosmopolitan than any part of Virginia, and

enjoyed also a certain literary reputation on account of David Ramsay, whose works were widely read; and of Governor Drayton, whose *Letters written during a Tour through the Northern and Eastern States* and *View of South Carolina* gave an idea of the author as well as of the countries he described. Charleston also possessed a library of three or four thousand well-selected books, and maintained a well-managed theater. The churches were almost as strictly attended as those in Boston. The fashionable wine-party was even more common, and perhaps the guests took pride in drinking deeper than they would have been required to do in New York or Philadelphia.

Politics had not mastered the thought of South Carolina so completely as that of Virginia, and the natural instincts of Carolinian society should have led the gentry to make common cause with the gentry of New England and the Middle States against democratic innovations. The conservative side in politics seemed to be that which no Carolinian gentleman could fail to support. The oligarchy of South Carolina, in defiance of democratic principles, held the political power of the State, and its interests could never harmonize with those of a theoretic democracy, or safely consent to trust the National Government in the hands of Jefferson and his friends, who had founded their power by breaking down in Virginia an oligarchy closely resembling that of the Carolinian rice-planters. Yet in 1800 enough of these gentlemen, under the lead of Charles Pinckney, deserted their Northern friends, to secure the defeat of the Federalist candidates, and to elect Jefferson as President. For this action, no satisfactory reason was ever given. Of all States in the Union, South Carolina, under its actual system of politics, was the last which could be suspected of democratic tendencies.

Such want of consistency seemed to show some peculiarity of character. Not every educated and privileged class has sacrificed itself to a social sentiment, least of all without understanding its object. The eccentricity was complicated by another peculiar element of society. In South Carolina the interesting union between English tastes and provincial prejudices, which characterized the wealthy planters of the coast, was made more striking by contrast with the character of the poor and hardy yeomanry of the upper country. The seriousness of Charleston society changed to severity in the mountains. Rude, ignorant, and in some of its habits half barbarous, this population, in the stiffness of its

religious and social expression, resembled the New England of a century before rather than the liberality of the Union. Largely settled by Scotch and Irish emigrants, with the rigid Presbyterian doctrine and conservatism of their class, they were democratic in practice beyond all American democrats, and were more conservative in thought than the most aristocratic Europeans. Though sharply divided both socially and by interest from the seacoast planters, these up-country farmers had one intellectual sympathy with their fellow citizens in Charleston — a sympathy resting on their common dislike for change, on the serious element which lay at the root of their common characters; and this marriage of two widely divergent minds produced one of the most extraordinary statesmen of America. In the year 1800, John Caldwell Calhoun, a boy of eighteen, went from the upper country to his brother-in-law's academy in Georgia. Grown nearly to manhood without contact with the world, his modes of thought were those of a Connecticut Calvinist; his mind was cold, stern, and metaphysical; but he had the energy and ambition of youth, the political fervor of Jeffersonian democracy, and little sympathy with slavery or slave-owners. At this early age he, like many other Republicans, looked on slavery as a 'scaffolding,' to be taken down when the building should be complete. A radical democrat, less liberal, less cultivated, and much less genial than Jefferson, Calhoun was the true heir to his intellectual succession; stronger in logic, bolder in action. Upon him was to fall the duty of attempting to find for Carolina an escape from the logical conclusions of those democratic principles which Jefferson in 1800 claimed for his own, but which in the full swing of his power, and to the last day of his life, he shrank from pressing to their results.

Viewed from every side by which it could be approached, the society of South Carolina, more than that of any other portion of the Union, seemed to bristle with contradictions. The elements of intellectual life existed without a sufficient intellectual atmosphere. Society, colonial by origin and dependent by the conditions of its existence, was striving to exist without external support. Whether it would stand or fall, and whether, either standing or falling, it could contribute any new element to American thought, were riddles which, with so many others, American history was to answer.

## CHAPTER SIX

### *American Ideals*

NEARLY EVERY FOREIGN TRAVELER who visited the United States during these early years carried away an impression sober if not sad. A thousand miles of desolate and dreary forest, broken here and there by settlements; along the seacoast a few flourishing towns devoted to commerce; no arts, a provincial literature, a cancerous disease of Negro slavery, and differences of political theory fortified within geographical lines — what could be hoped for such a country except to repeat the story of violence and brutality which the world already knew by heart, until repetition for thousands of years had wearied and sickened mankind? Ages must probably pass before the interior could be thoroughly settled; even Jefferson, usually a sanguine man, talked of a thousand years with acquiescence, and in his first Inaugural Address, at a time when the Mississippi River formed the western boundary, spoke of the country as having ‘room enough for our descendants to the hundredth and thousandth generation.’ No prudent person dared to act on the certainty that, when settled, one government could comprehend the whole; and when the day of separation should arrive, and America should have her Prussia, Austria, and Italy, as she already had her England, France, and Spain, what else could follow but a return to the old conditions of local jealousies, wars, and corruption which had made a slaughter-house of Europe?

The mass of Americans were sanguine and self-confident, partly by temperament, but partly also by reason of ignorance; for they knew little of the difficulties which surrounded a complex society. The Duc de Liancourt, like many critics, was struck by this trait. Among other instances he met with one in the person of a Pennsylvania miller, Thomas Lea, ‘a sound American patriot, persuading himself that nothing good is done, and that no one has any brains, except in America; that the wit, the imagination, the genius of Europe are already in decrepitude’; and the Duke added: ‘This error is to be found in almost all Americans — legislators, administrators, as well as millers, and is less innocent there.’ In the year 1796 the House of Representatives debated whether to insert in the Reply to the President’s Speech a passing remark that the nation

was 'the freest and most enlightened in the world'— a nation as yet in swaddling-clothes, which had neither literature, arts, sciences, nor history; nor even enough nationality to be sure that it was a nation. The moment was peculiarly ill-chosen for such a claim, because Europe was on the verge of an outburst of genius. Goethe and Schiller, Mozart and Haydn, Kant and Fichte, Cavendish and Herschel, were making way for Walter Scott, Wordsworth, and Shelley, Heine and Balzac, Beethoven and Hegel, Oersted and Cuvier, great physicists, biologists, geologists, chemists, mathematicians, metaphysicians, and historians by the score. Turner was painting his earliest landscapes, and Watt completing his latest steam engine; Napoleon was taking command of the French armies, and Nelson of the English fleets; investigators, reformers, scholars, and philosophers swarmed, and the influence of enlightenment, even amid universal war, was working with an energy such as the world had never before conceived. The idea that Europe was in her decrepitude proved only ignorance and want of enlightenment, if not of freedom, on the part of Americans, who could only excuse their error by pleading that, notwithstanding these objections, in matters which for the moment most concerned themselves Europe was a full century behind America. If they were right in thinking that the next necessity of human progress was to lift the average man upon an intellectual and social level with the most favored, they stood at least three generations nearer than Europe to their common goal. The destinies of the United States were certainly staked, without reserve or escape, on the soundness of this doubtful and even improbable principle, ignoring or overthrowing the institutions of Church, aristocracy, family, army, and political intervention, which long experience had shown to be needed for the safety of society. Europe might be right in thinking that without such safeguards society must come to an end; but even Europeans must concede that there was a chance, if no greater than one in a thousand, that America might, at least for a time, succeed. If this stake of temporal and eternal welfare stood on the winning card; if man actually should become more virtuous and enlightened, by mere process of growth, without Church or paternal authority; if the average human being could accustom himself to reason with the logical processes of Descartes and Newton! — what then?

Then, no one could deny that the United States would win a stake such as defied mathematics. With all the advantages of science and cap-

ital, Europe must be slower than America to reach the common goal. American society might be both sober and sad, but except for Negro slavery it was sound and healthy in every part. Stripped for the hardest work, every muscle firm and elastic, every ounce of brain ready for use, and not a trace of superfluous flesh on his nervous and supple body, the American stood in the world a new order of man. From Maine to Florida, society was in this respect the same, and was so organized as to use its human forces with more economy than could be approached by any society of the world elsewhere. Not only were artificial barriers carefully removed, but every influence that could appeal to ordinary ambition was applied. No brain or appetite active enough to be conscious of stimulants could fail to answer the intense incentive. Few human beings, however sluggish, could long resist the temptation to acquire power; and the elements of power were to be had in America almost for the asking. Reversing the Old-World system, the American stimulant increased in energy as it reached the lowest and most ignorant class, dragging and whirling them upward as in the blast of a furnace. The penniless and homeless Scotch or Irish immigrant was caught and consumed by it; for every stroke of the axe and the hoe made him a capitalist, and made gentlemen of his children. Wealth was the strongest agent for moving the mass of mankind; but political power was hardly less tempting to the more intelligent and better-educated swarms of American-born citizens, and the instinct of activity, once created, seemed heritable and permanent in the race.

Compared with this lithe young figure, Europe was actually in decrepitude. Mere class distinctions, the *patois* or dialect of the peasantry, the fixity of residence, the local costumes and habits marking a history that lost itself in the renewal of identical generations, raised from birth barriers which paralyzed half the population. Upon this mass of inert matter rested the Church and the State, holding down activity of thought. Endless wars withdrew many hundred thousand men from production, and changed them into agents of waste; huge debts, the evidence of past wars and bad government, created interests to support the system and fix its burdens on the laboring class; courts, with habits of extravagance that shamed common-sense, helped to consume private economies. All this might have been borne; but behind this stood aristocracies, sucking their nourishment from industry, producing nothing themselves, employ-



ing little or no active capital or intelligent labor, but pressing on the energies and ambition of society with the weight of an incubus. Picturesque and entertaining as these social anomalies were, they were better fitted for the theater or for a museum of historical costumes than for an active workshop preparing to compete with such machinery as America would soon command. From an economical point of view, they were as incongruous as would have been the appearance of a medieval knight in helmet and armor, with battle-axe and shield, to run the machinery of Arkwright's cotton-mill; but besides their bad economy they also tended to prevent the rest of society from gaining a knowledge of its own capacities. In Europe, the conservative habit of mind was fortified behind power. During nearly a century Voltaire himself — the friend of the kings, the wit and poet, historian and philosopher of his age — had carried on, in daily terror, in exile and excommunication, a protest against an intellectual despotism contemptible even to its own supporters. Hardly was Voltaire dead, when Priestley, as great a man if not so great a wit, trying to do for England what Voltaire tried to do for France, was mobbed by the people of Birmingham and driven to America. Where Voltaire and Priestley failed, common men could not struggle; the weight of society stifled their thought. In America the balance between conservative and liberal forces was close; but in Europe conservatism held the physical power of government. In Boston a young Buckminster might be checked for a time by his father's prayers or commands in entering the path that led toward freer thought; but youth beckoned him on, and every reward that society could offer was dangled before his eyes. In London or Paris, Rome, Madrid, or Vienna, he must have sacrificed the worldly prospects of his life.

Granting that the American people were about to risk their future on a new experiment, they naturally wished to throw aside all burdens of which they could rid themselves. Believing that in the long run interest, not violence, would rule the world, and that the United States must depend for safety and success on the interests they could create, they were tempted to look upon war and preparations for war as the worst of blunders; for they were sure that every dollar capitalized in industry was a means of overthrowing their enemies more effective than a thousand dollars spent on frigates or standing armies. The success of the American system was, from this point of view, a question of economy. If they could

relieve themselves from debts, taxes, armies, and government interference with industry, they must succeed in outstripping Europe in economy of production; and Americans were even then partly aware that if their machine were not so weakened by these economies as to break down in the working, it must of necessity break down every rival. If their theory was sound, when the day of competition should arrive, Europe might choose between American and Chinese institutions, but there would be no middle path; she might become a confederated democracy, or a wreck.

Whether these ideas were sound or weak, they seemed self-evident to those Northern democrats who, like Albert Gallatin, were comparatively free from slave-owning theories, and understood the practical forces of society. If Gallatin wished to reduce the interference of government to a minimum, and cut down expenditures to nothing, he aimed not so much at saving money as at using it with the most certain effect. The revolution of 1800 was in his eyes chiefly political, because it was social; but as a revolution of society, he and his friends hoped to make it the most radical that had occurred since the downfall of the Roman Empire. Their ideas were not yet cleared by experience, and were confused by many contradictory prejudices, but wanted neither breadth nor shrewdness.

Many apparent inconsistencies grew from this undeveloped form of American thought, and gave rise to great confusion in the different estimates of American character that were made both at home and abroad.

That Americans should not be liked was natural; but that they should not be understood was more significant by far. After the downfall of the French Republic they had no right to expect a kind word from Europe, and during the next twenty years they rarely received one. The liberal movement of Europe was cowed, and no one dared express democratic sympathies until the Napoleonic tempest had passed. With this attitude Americans had no right to find fault, for Europe cared less to injure them than to protect herself. Nevertheless, observant readers could not but feel surprised that none of the numerous Europeans who then wrote or spoke about America seemed to study the subject seriously. The ordinary traveler was apt to be little more reflective than a bee or an ant, but some of these critics possessed powers far from ordinary; yet Talleyrand alone showed that had he but seen America a few years later than he did, he might have suggested some sufficient reason for apparent contradictions that perplexed him in the national character.

The other travelers — great and small, from the Duc de Liancourt to Basil Hall, a long and suggestive list — were equally perplexed. They agreed in observing the sordid motives. Talleyrand expressed extreme astonishment at the apathy of Americans in the face of religious sectarians; but he explained it by assuming that the American ardor of the moment was absorbed in money-making. ‘There is, perhaps, no civilized country in the world,’ wrote Félix de Beaujour, soon after 1800, ‘where there is less generosity in the souls, and in the heads fewer of those illusions which make the charm or the consolation of life. Man here weighs everything, calculates everything, and sacrifices everything to his interest.’ An Englishman named Fearon, in 1818, expressed the same idea with more distinctness: ‘In going to America, I would say generally, the emigrant must expect to find, not an economical or cleanly people; not a social or generous people; not a people of enlarged ideas; not a people of liberal opinions, or toward whom you can express your thoughts free as air; not a people friendly to the advocates of liberty in Europe; not a people who understand liberty from investigation and principle; not a people who comprehend the meaning of the words “honor” and “generosity.”’

Such quotations might be multiplied almost without limit. Rapacity was the accepted explanation of American peculiarities; yet every traveler was troubled by inconsistencies that required explanations of a different kind. ‘It is not in order to hoard that the Americans are rapacious,’ observed Liancourt as early as 1796. The extravagance, or what economical Europeans thought extravagance, with which American women were allowed and encouraged to spend money was as notorious in 1790 as a century later; the recklessness with which Americans often risked their money, and the liberality with which they used it, were marked even then, in comparison with the ordinary European habit. Europeans saw such contradictions, but made no attempt to reconcile them. No foreigner of that day — neither poet, painter, nor philosopher — could detect in American life anything higher than vulgarity; for it was something beyond the range of their experience, which education and culture had not framed a formula to express. Moore came to Washington, and found there no loftier inspiration than any Federalist rhymester of Dennie’s school.

‘Take Christians, Mohawks, democrats and all,  
 From the rude wigwam to the Congress hall —  
 From man the savage, whether slaved or free,  
 To man the civilized, less tame than he:  
 ’Tis one dull chaos, one unfertile strife  
 Betwixt half-polished and half-barbarous life;  
 Where every ill the ancient world can brew  
 Is mixed with every grossness of the new;  
 Where all corrupts, though little can entice,  
 And nothing’s known of luxury but vice.’

Moore’s two small volumes of *Epistles*, printed in 1807, contained much more so-called poetry of the same tone — poetry more polished and less respectable than that of Barlow and Dwight; while, as though to prove that the Old World knew what grossness was, he embalmed in his lines the slanders which the Scotch libeler Callender invented against Jefferson:

‘The weary statesman for repose hath fled  
 From halls of council to his Negro’s shed;  
 Where, blest, he woos some black Aspasia’s grace,  
 And dreams of freedom in his slave’s embrace.’

To leave no doubt of his meaning, he explained in a footnote that his allusion was to the President of the United States; and yet even Moore, trifler and butterfly as he was, must have seen, if he would, that between the morals of politics and society in America and those then prevailing in Europe, there was no room for comparison — there was room only for contrast.

Moore was but an echo of fashionable England in his day. He seldom affected moral sublimity; and had he in his wanderings met a race of embodied angels, he would have sung of them or to them in the slightly erotic notes which were so well received in the society he loved to frequent and flatter. His remarks upon American character betrayed more temper than truth; but even in this respect he expressed only the common feeling of Europeans, which was echoed by the Federalist society of the United States. Englishmen especially indulged in unbounded invective against the sordid character of American society, and in shaping their national policy on this contempt they carried their theory into practice with so much energy as to produce its own refutation. To their astonishment and anger, a day came when the Americans, in defiance of self-interest and in contradiction of all the qualities ascribed to them, insisted on

declaring war; and readers of this narrative will be surprised at the cry of incredulity, not unmixed with terror, with which Englishmen started to their feet when they woke from their delusion on seeing what they had been taught to call the meteor flag of England, which had burned terrific at Copenhagen and Trafalgar, suddenly waver and fall on the bloody deck of the *Guerrière*.

Fearon and Beaujour, with a score of other contemporary critics, could see neither generosity, economy, honor, nor ideas of any kind in the American breast; yet the obstinate repetition of these denials itself betrayed a lurking fear of the social forces whose strength they were candid enough to record. What was it that, as they complained, turned the European peasant into a new man within half an hour after landing at New York? Englishmen were never at a loss to understand the poetry of more prosaic emotions. Neither they nor any of their kindred failed in later times to feel the 'large excitement' of the country boy, whose 'spirit leaped within him to be gone before him,' when the lights of London first flared in the distance; yet none seemed ever to feel the larger excitement of the American immigrant. Among the Englishmen who criticized the United States was one greater than Moore — one who thought himself at home only in the stern beauty of a moral presence. Of all poets, living or dead, Wordsworth felt most keenly what he called the still, sad music of humanity; yet the highest conception he could create of America was not more poetical than that of any Cumberland beggar he might have met in his morning walk.

Possibly the view of Wordsworth and Moore, of Weld and Dennie, was right. The American democrat possessed little art of expression, and did not watch his own emotions with a view of uttering them either in prose or verse; he never told more of himself than the world might have assumed without listening to him. Only with diffidence could history attribute to such a class of men a wider range of thought or feeling than they themselves cared to proclaim. Yet the difficulty of denying or even ignoring the wider range was still greater, for no one questioned the force or the scope of an emotion which caused the poorest peasant in Europe to see what was invisible to poet and philosopher — the dim outline of a mountain summit across the ocean, rising high above the mist and mud of American democracy. As though to call attention to some such difficulty, European and American critics, while affirming that Americans

were a race without illusions or enlarged ideas, declared in the same breath that Jefferson was a visionary whose theories would cause the heavens to fall upon them. Year after year, with endless iteration, in every accent of contempt, rage, and despair, they repeated this charge against Jefferson. Every foreigner and Federalist agreed that he was a man of illusions, dangerous to society and unbounded in power of evil; but if this view of his character was right, the same visionary qualities seemed also to be a national trait, for everyone admitted that Jefferson's opinions, in one form or another, were shared by a majority of the American people.

Illustrations might be carried much further, and might be drawn from every social class and from every period in national history. Of all Presidents, Abraham Lincoln has been considered the most typical representative of American society, chiefly because his mind, with all its practical qualities, also inclined, in certain directions, to idealism. Lincoln was born in 1809, the moment when American character stood in lowest esteem. Ralph Waldo Emerson, a more distinct idealist, was born in 1803. William Ellery Channing, another idealist, was born in 1780. Men like John Fitch, Oliver Evans, Robert Fulton, Joel Barlow, John Stevens, and Eli Whitney were all classed among visionaries. The whole society of Quakers belonged in the same category. The records of the popular religious sects abounded in examples of idealism and illusion to such an extent that the masses seemed hardly to find comfort or hope in any authority, however old or well established. In religion as in politics, Americans seemed to require a system which gave play to their imagination and their hopes.

Some misunderstanding must always take place when the observer is at cross-purposes with the society he describes. Wordsworth might have convinced himself by a moment's thought that no country could act on the imagination as America acted upon the instincts of the ignorant and poor, without some quality that deserved better treatment than poignant scorn; but perhaps this was only one among innumerable cases in which the unconscious poet breathed an atmosphere which the self-conscious poet could not penetrate. With equal reason he might have taken the opposite view — that the hard, practical, money-getting American democrat, who had neither generosity nor honor nor imagination, and who inhabited cold shades where fancy sickened and where genius died, was

in truth living in a world of dream, and acting a drama more instinct with poetry than all the avatars of the East, walking in gardens of emerald and rubies, in ambition already ruling the world and guiding Nature with a kinder and wiser hand than had ever yet been felt in human history.

From this point his critics never approached him — they stopped at a stone's throw; and at the moment when they declared that the man's mind had no illusions, they added that he was a knave or a lunatic. Even on his practical and sordid side, the American might easily have been represented as a victim to illusion. If the Englishman had lived as the American speculator did — in the future — the hyperbole of enthusiasm would have seemed less monstrous.

'Look at my wealth!' cried the American to his foreign visitor. 'See these solid mountains of salt and iron, of lead, copper, silver, and gold! See these magnificent cities scattered broadcast to the Pacific! See my cornfields rustling and waving in the summer breeze from ocean to ocean, so far that the sun itself is not high enough to mark where the distant mountains bound my golden seas! Look at this continent of mine, fairest of created worlds, as she lies turning up to the sun's never-failing caress her broad and exuberant breasts, overflowing with milk for her hundred million children! See how she glows with youth, health, and love!'

Perhaps it was not altogether unnatural that the foreigner, on being asked to see what needed centuries to produce, should have looked about him with bewilderment and indignation. 'Gold! cities! cornfields! continents! Nothing of the sort! I see nothing but tremendous wastes, where sickly men and women are dying of homesickness or are scalped by savages! mountain ranges, a thousand miles long, with no means of getting to them, and nothing in them when you get there! swamps and forests choked with their own rotten ruins! nor hope of better for a thousand years! Your story is a fraud, and you are a liar and swindler!'

Met in this spirit, the American, half perplexed and half defiant, retaliated by calling his antagonist a fool, and by mimicking his heavy tricks of manner. For himself he cared little, but his dream was his whole existence. The men who denounced him admitted that they left him in his forest swamp quaking with fever, but clinging in the delirium of death to the illusions of his dazzled brain. No class of men could be required to support their convictions with a steadier faith, or pay more devotedly

with their persons for the mistakes of their judgment. Whether imagination or greed led them to describe more than actually existed, they still saw no more than any inventor or discoverer must have seen in order to give him the energy of success. They said to the rich as to the poor, 'Come and share our limitless riches! Come and help us bring to light these unimaginable stores of wealth and power!' The poor came, and from them were seldom heard complaints of deception or delusion. Within a moment, by the mere contact of a moral atmosphere, they saw the gold and jewels, the summer cornfields and the glowing continent. The rich for a long time stood aloof — they were timid and narrow-minded; but this was not all — between them and the American democrat was a gulf.

The charge that Americans were too fond of money to win the confidence of Europeans was a curious inconsistency; yet this was a common belief. If the American deluded himself and led others to their death by baseless speculations; if he buried those he loved in a gloomy forest where they quaked and died while he persisted in seeing there a splendid, healthy, and well-built city — no one could deny that he sacrificed wife and child to his greed for gain, that the dollar was his god, and a sordid avarice his demon. Yet had this been the whole truth, no European capitalist would have hesitated to make money out of his grave; for, avarice against avarice, no more sordid or meaner type existed in America than could be shown on every 'Change in Europe. With much more reason Americans might have suspected that in America Englishmen found everywhere a silent influence, which they found nowhere in Europe, and which had nothing to do with avarice or with the dollar, but, on the contrary, seemed likely at any moment to sacrifice the dollar in a cause and for an object so illusory that most Englishmen could not endure to hear it discussed.

European travelers who passed through America noticed that everywhere, in the White House at Washington and in log cabins beyond the Alleghanies, except for a few Federalists, every American, from Jefferson and Gallatin down to the poorest squatter, seemed to nourish an idea that he was doing what he could to overthrow the tyranny which the past had fastened on the human mind. Nothing was easier than to laugh at the ludicrous expressions of this simple-minded conviction, or to cry out against its coarseness, or grow angry with its prejudices; to



see its nobler side, to feel the beatings of a heart underneath the sordid surface of a gross humanity, was not so easy. Europeans seemed seldom or never conscious that the sentiment could possess a noble side, but found only matter for complaint in the remark that every American democrat believed himself to be working for the overthrow of tyranny, aristocracy, hereditary privilege, and priesthood, wherever they existed. Even where the American did not openly proclaim this conviction in words, he carried so dense an atmosphere of the sentiment with him in his daily life as to give respectable Europeans an uneasy sense of remoteness.

Of all historical problems, the nature of a national character is the most difficult and the most important. Readers will be troubled, at almost every chapter of the coming narrative, by the want of some formula to explain what share the popular imagination bore in the system pursued by Government. The acts of the American people during the administrations of Jefferson and Madison were judged at the time by no other test. According as bystanders believed American character to be hard, sordid, and free from illusion, they were severe and even harsh in judgment. This rule guided the Governments of England and France. Federalists in the United States, knowing more of the circumstances, often attributed to the democratic instinct a visionary quality which they regarded as sentimentality, and charged with many bad consequences. If their view was correct, history could occupy itself to no better purpose than in ascertaining the nature and force of the quality which was charged with results so serious; but nothing was more elusive than the spirit of American democracy. Jefferson, the literary representative of the class, spoke chiefly for Virginians, and dreaded so greatly his own reputation as a visionary that he seldom or never uttered his whole thought. Gallatin and Madison were still more cautious. The press in no country could give shape to a mental condition so shadowy. The people themselves, although millions in number, could not have expressed their finer instincts had they tried, and might not have recognized them if expressed by others.

In the early days of colonization, every new settlement represented an idea and proclaimed a mission. Virginia was founded by a great, liberal movement aiming at the spread of English liberty and empire. The Pilgrims of Plymouth, the Puritans of Boston, the Quakers of

Pennsylvania, all avowed a moral purpose, and began by making institutions that consciously reflected a moral idea. No such character belonged to the colonization of 1800. From Lake Erie to Florida, in long, unbroken line, pioneers were at work, cutting into the forests with the energy of so many beavers, and with no more express moral purpose than the beavers they drove away. The civilization they carried with them was rarely illumined by an idea; they sought room for no new truth, and aimed neither at creating, like the Puritans, a government of saints, nor, like the Quakers, one of love and peace; they left such experiments behind them, and wrestled only with the hardest problems of frontier life. No wonder that foreign observers, and even the educated, well-to-do Americans of the seacoast, could seldom see anything to admire in the ignorance and brutality of frontiersmen, and should declare that virtue and wisdom no longer guided the United States! What they saw was not encouraging. To a new society, ignorant and semi-barbarous, a mass of demagogues insisted on applying every stimulant that could inflame its worst appetites, while at the same instant taking away every influence that had hitherto helped to restrain its passions. Greed for wealth, lust for power, yearning for the blank void of savage freedom such as Indians and wolves delighted in — these were the fires that flamed under the caldron of American society, in which, as conservatives believed, the old, well-proven, conservative crust of religion, government, family, and even common respect for age, education, and experience, was rapidly melting away, and was indeed already broken into fragments, swept about by the seething mass of scum ever rising in greater quantities to the surface.

Against this Federalist and conservative view of democratic tendencies, democrats protested in a thousand forms, but never in any mode of expression which satisfied them all, or explained their whole character. Probably Jefferson came nearest to the mark, for he represented the hopes of science as well as the prejudices of Virginia; but Jefferson's writings may be searched from beginning to end without revealing the whole measure of the man, far less of the movement. Here and there in his letters a suggestion was thrown out, as though by chance, revealing larger hopes — as in 1815, at a moment of despondency, he wrote: 'I fear from the experience of the last twenty-five years that morals do not of necessity advance hand in hand with the sciences.' In 1800, in the flush of triumph, he believed that his task in the world was to establish

a democratic republic, with the sciences for an intellectual field, and physical and moral advancement keeping pace with their advance. Without an excessive introduction of more recent ideas, he might be imagined to define democratic progress in the somewhat affected precision of his French philosophy: 'Progress is either physical or intellectual. If we can bring it about that men are on the average an inch taller in the next generation than in this; if they are an inch larger round the chest; if their brain is an ounce or two heavier, and their life a year or two longer — that is progress. If fifty years hence the average man shall invariably argue from two ascertained premises where he now jumps to a conclusion from a single supposed revelation — that is progress! I expect it to be made here, under our democratic stimulants, on a great scale, until every man is potentially an athlete in body and an Aristotle in mind.'

To this doctrine the New Englander replied, 'What will you do for moral progress?' Every possible answer to this question opened a chasm. No doubt Jefferson held the faith that men would improve morally with their physical and intellectual growth; but he had no idea of any moral improvement other than that which came by nature. He could not tolerate a priesthood, a State Church, or revealed religion. Conservatives, who could tolerate no society without such pillars of order, were, from their point of view, right in answering, 'Give us rather the worst despotism of Europe — there our souls at least may have a chance of salvation!' To their minds vice and virtue were not relative, but fixed terms. The Church was a divine institution. How could a ship hope to reach port when the crew threw overboard sails, spars, and compass, unshipped their rudder, and all the long day thought only of eating and drinking. Nay, even should the new experiment succeed in a worldly sense, what was a man profited if he gained the whole world, and lost his own soul? The Lord God was a jealous God, and visited the sins of the parents upon the children; but what worse sin could be conceived than for a whole nation to join their chief in chanting the strange hymn with which Jefferson, a new false prophet, was deceiving and betraying his people: 'It does me no injury for my neighbor to say there are twenty Gods or no God!'

On this ground conservatism took its stand, as it had hitherto done with success in every similar emergency in the world's history, and fixing its eyes on moral standards of its own, refused to deal with the subject as

further open to argument. The two parties stood facing opposite ways and could see no common ground of contact.

Yet even then one part of the American social system was proving itself to be rich in results. The average American was more intelligent than the average European, and was becoming every year still more active-minded as the new movement of society caught him up and swept him through a life of more varied experiences. On all sides the national mind responded to its stimulants. Deficient as the American was in the machinery of higher instruction; remote, poor; unable by any exertion to acquire the training, the capital, or even the elementary text-books he needed for a fair development of his natural powers — his native energy and ambition already responded to the spur applied to them. Some of his triumphs were famous throughout the world; for Benjamin Franklin had raised high the reputation of American printers, and the actual President of the United States, who signed with Franklin the treaty of peace with Great Britain, was the son of a small farmer, and had himself kept a school in his youth. In both these cases social recognition followed success; but the later triumphs of the American mind were becoming more and more popular.

John Fitch was not only one of the poorest, but one of the least-educated Yankees who ever made a name; he could never spell with tolerable correctness, and his life ended as it began — in the lowest social obscurity. Eli Whitney was better educated than Fitch, but had neither wealth, social influence, nor patron to back his ingenuity. In the year 1800, Eli Terry, another Connecticut Yankee of the same class, took into his employ two young men to help him make wooden clocks, and this was the capital on which the greatest clock-manufactory in the world began its operations. In 1797, Asa Whittamore, a Massachusetts Yankee, invented a machine to make cards for carding wool, which 'operated as if it had a soul,' and became the foundation for a hundred subsequent patents. In 1790, Jacob Perkins, of Newburyport, invented a machine capable of cutting and turning out two hundred thousand nails a day; and then invented a process for transferring engraving from a very small steel cylinder to copper, which revolutionized cotton-printing. The British traveler Weld, passing through Wilmington, stopped, as Liancourt had done before him, to see the great flour-mills on the Brandywine. 'The improvements,' he said, 'which have been made in the machinery

of the flour-mills in America are very great. The chief of these consist in a new application of the screw, and the introduction of what are called elevators, the idea of which was evidently borrowed from the chain-pump.' This was the invention of Oliver Evans, a native of Delaware, whose parents were in very humble life, but who was himself, in spite of every disadvantage, an inventive genius of the first order. Robert Fulton, who in 1800 was in Paris with Joel Barlow, sprang from the same source in Pennsylvania. John Stevens, a native of New York, belonged to a more favored class, but followed the same impulses.

All these men were the outcome of typical American society, and all their inventions transmuted the democratic instinct into a practical and tangible shape. Who would undertake to say that there was a limit to the fecundity of this teeming source? Who that saw only the narrow, practical, money-getting nature of these devices could venture to assert that as they wrought their end and raised the standard of millions, they would not also raise the creative power of those millions to a higher plane? If the priests and barons who set their names to Magna Charta had been told that in a few centuries every swineherd and cobbler's apprentice would write and read with an ease such as few kings could then command, and reason with better logic than any university could then practice, the priest and baron would have been more incredulous than any man who was told in 1800 that within another five centuries the plowboy would go afield whistling a sonata of Beethoven, and figure out in quaternions the relation of his furrows. The American democrat knew so little of art that among his popular illusions he could not then nourish artistic ambition; but leaders like Jefferson, Gallatin, and Barlow might without extravagance count upon a coming time when diffused ease and education should bring the masses into familiar contact with higher forms of human achievement, and their vast creative power, turned toward a nobler culture, might rise to the level of that democratic genius which found expression in the Parthenon; might revel in the delights of a new Buonarrotti and a richer Titian; might create for five hundred million people the America of thought and art which alone could satisfy their omnivorous ambition.

Whether the illusions, so often affirmed and so often denied to the American people, took such forms or not, these were in effect the problems that lay before American society: Could it transmute its social power

into the higher forms of thought? Could it provide for the moral and intellectual needs of mankind? Could it take permanent political shape? Could it give new life to religion and art? Could it create and maintain in the mass of mankind those habits of mind which had hitherto belonged to men of science alone? Could it physically develop the convolutions of the human brain? Could it produce, or was it compatible with, the differentiation of a higher variety of the human race? Nothing less than this was necessary for its complete success.



BOOK TWO

*The First Administration of Thomas Jefferson*

1801–1805





## CHAPTER SEVEN

### *The Inauguration*

**T**HE MAN who mounted the steps of the Capitol, March 4, 1801, to claim the place of an equal between Pitt and Bonaparte, possessed a character which showed itself in acts; but person and manner can be known only by contemporaries, and the liveliest description was worth less than a moment of personal contact. Jefferson was very tall, six feet two-and-a-half inches in height; sandy-complexioned; shy in manner, seeming cold; awkward in attitude, and with little in his bearing that suggested command. Senator Maclay of Pennsylvania described him in 1790, when he had returned from France to become Secretary of State, and appeared before a Committee of the Senate to answer questions about foreign relations.

Jefferson is a slender man [wrote the Senator]; has rather the air of stiffness in his manner. His clothes seem too small for him. He sits in a lounging manner, on one hip commonly, and with one of his shoulders elevated much above the other. His face has a sunny aspect. His whole figure has a loose, shackling air. He had a rambling, vacant look, and nothing of that firm collected deportment which I expected would dignify the presence of a secretary or minister. I looked for gravity, but a laxity of manner seemed shed about him. He spoke almost without ceasing; but even his discourse partook of his personal demeanor. It was loose and rambling; and yet he scattered information wherever he went, and some even brilliant sentiments sparkled from him.

Maclay was one of the earliest members of the Republican Party, and his description was not unfriendly.

Augustus Foster, Secretary of the British Legation, described Jefferson as he appeared in 1804:

He was a tall man, with a very red freckled face, and gray neglected hair; his manners good-natured, frank, and rather friendly, though he had somewhat of a cynical expression of countenance. He wore a blue coat, a thick gray-colored hairy waistcoat, with a red under-waistcoat lapped over it, green velveteen breeches with pearl buttons, yarn stockings, and slippers down at the heels — his appearance being very much like that of a tall, large-boned farmer.

For eight years this tall, loosely built, somewhat stiff figure, in red waistcoat and yarn stockings, slippers down at the heel, and clothes that seemed too small for him, may be imagined as Senator Maclay described him, sitting on one hip, with one shoulder high above the other, talking almost without ceasing to his visitors at the White House. His skin was thin, peeling from his face on exposure to the sun, and giving it a tettered appearance. This sandy face, with hazel eyes and sunny aspect; this loose, shackling person; this rambling and often brilliant conversation, belonged to the controlling influences of American history, more necessary to the story than three-fourths of the official papers, which only hid the truth. Jefferson's personality during these eight years appeared to be the Government, and impressed itself, like that of Bonaparte, although by a different process, on the mind of the nation. In the village simplicity of Washington he was more than a king, for he was alone in social as well as in political pre-eminence. Except the British Legation, no house in Washington was open to general society; the whole mass of politicians, even the Federalists, were dependent on Jefferson and 'The Palace' for amusement; and if they refused to go there, they 'lived like bears, brutalized and stupefied.'

Jefferson showed his powers at their best in his own house, where among friends as genial and cheerful as himself his ideas could flow freely and could be discussed with sympathy. Such were the men with whom he surrounded himself by choice, and none but such were invited to enter his Cabinet. First and oldest of his political associates was James Madison, about to become Secretary of State, whose character also described itself, and whose personality was as distinct as that of his chief. A small man, quiet, somewhat precise in manner, pleasant, fond of conversation, with a certain mixture of ease and dignity in his address, Madison had not so much as Jefferson of the commanding attitude which imposed respect on the world.

The third aristocrat in this democratic triumvirate was Albert Gallatin, marked by circumstances even more than by the President's choice for the post of Secretary of the Treasury. Like the President and the Secretary of State, Gallatin was born and bred a gentleman; in person and manners he was well fitted for the Cabinet table over which Jefferson presided. Gallatin possessed the personal force which was somewhat lacking in his two friends. His appearance impressed bystanders with a

sense of strength. His complexion was dark; his eyes were hazel and full of expression; his hair black, and like Madison he was becoming bald. From long experience, at first among the Democrats of western Pennsylvania, and afterward as a leader in the House of Representatives, he had lost all shyness in dealing with men. His long prominent nose and lofty forehead showed character, and his eyes expressed humor. A slight foreign accent betrayed his Genevan origin. Gallatin was also one of the best talkers in America, and perhaps the best-informed man in the country; for his laborious mind had studied America with infinite care, and he retained so much knowledge of European affairs as to fit him equally for the State Department or the Treasury. Three more agreeable men than Jefferson, Madison, and Gallatin were never collected round the dinner-table of the White House; and their difference in age was enough to add zest to their friendship; for Jefferson was born in 1743, Madison in 1751, and Gallatin in 1761. While the President was nearly sixty years old, his Secretary of the Treasury had the energy and liberality of forty.

Jefferson was the first President inaugurated at Washington, and the ceremony, necessarily simple, was made still simpler for political reasons. The retiring President was not present at the installation of his successor. In Jefferson's eyes a revolution had taken place as vast as that of 1776; and if this was his belief, perhaps the late President was wise to retire from a stage where everything was arranged to point a censure upon his principles, and where he would have seemed, in his successor's opinion, as little in place as George III would have appeared at the installation of President Washington. The collapse of government which marked the last weeks of February, 1801, had been such as to leave of the old Cabinet only Samuel Dexter of Massachusetts, the Secretary of the Treasury, and Benjamin Stoddert of Maryland, the Secretary of the Navy, still in office. John Marshall, the late Secretary of State, had been appointed, six weeks before, Chief Justice of the Supreme Court.

In this first appearance of John Marshall as Chief Justice, to administer the oath of office, lay the dramatic climax of the inauguration. The retiring President, acting for what he supposed to be the best interests of the country, by one of his last acts of power, deliberately intended to perpetuate the principles of his administration, placed at the head of the judiciary, for life, a man as obnoxious to Jefferson as the bitterest New

England Calvinist could have been; for he belonged to that class of conservative Virginians whose devotion to President Washington and whose education in the common law caused them to hold Jefferson and his theories in antipathy.

Pure in life; broad in mind, and the despair of bench and bar for the unswerving certainty of his legal method; almost idolized by those who stood nearest him, and loving warmly in return — this excellent and amiable man clung to one rooted prejudice: he detested Thomas Jefferson. He regarded with quiet, unspoken, but immovable antipathy the character and doings of the philosopher standing before him, about to take the oath to preserve, protect, and defend the Constitution. No argument or entreaty affected his conviction that Jefferson was not an honest man. 'By weakening the office of President he will increase his personal power,' were Marshall's words, written at this time; 'the morals of the author of the letter to Mazzei cannot be pure.' Jefferson in return regarded Marshall with a repugnance tinged by a shade of some deeper feeling, almost akin to fear. 'The judge's inveteracy is profound,' he once wrote, 'and his mind of that gloomy malignity which will never let him forego the opportunity of satiating it on a victim.'

Another person, with individuality not less marked, took the oath of office the same day. When the Senate met at ten o'clock on the morning of March 4, 1801, Aaron Burr stood at the desk, and having duly sworn to support the Constitution, took his seat in the chair as Vice-President. This quiet, gentlemanly, and rather dignified figure, hardly taller than Madison, and dressed in much the same manner, impressed with favor all who first met him. An aristocrat imbued in the morality of Lord Chesterfield and Napoleon Bonaparte, Colonel Burr was the chosen head of Northern Democracy, idol of the wards of New York City, and aspirant to the highest offices he could reach by means legal or beyond the law; for as he pleased himself with saying, after the manner of the First Consul of the French Republic, 'Great souls care little for small morals.'

Colonel Burr was a new power in the Government; for being in public and in private life an adventurer of the same school as scores who were then seeking fortune in the antechambers of Bonaparte and Pitt, he became a lodestone for every other adventurer who frequented New York or whom the chances of politics might throw into office. The Vice-President wielded power, for he was the certain center of corruption.

Thus, when the doors of the Senate Chamber were thrown open, and the new President of the United States appeared on the threshold; when the Vice-President rose from his chair and Jefferson sat down in it, with Aaron Burr on his right hand and John Marshall on his left, the assembled Senators looked up at three men who profoundly disliked and distrusted each other.

Time, which has laid its chastening hand on many reputations and has given to many once famous formulas a meaning unsuspected by their authors, has not altogether spared Jefferson's first Inaugural Address, although it was for a long time almost as well known as the Declaration of Independence; yet this Address was one of the few State Papers which should have lost little of its interest by age. As the starting-point of a powerful political party, the first Inaugural was a standard by which future movements were measured, and it went out of fashion only when its principles were universally accepted or thrown aside. Even as a literary work, it possessed a certain charm of style peculiar to Jefferson, a flavor of Virginia thought and manners, a Jeffersonian ideality calculated to please the ear of later generations forced to task their utmost powers in order to carry the complex trains of their thought.

The chief object of the address was to quiet the passions which had been raised by the violent agitation of the past eight years. Every interest of the new Administration required that the extreme Federalists should be disarmed. Their temper was such as to endanger both Administration and Union; and their power was still formidable, for they controlled New England and contested New York. To them, Jefferson turned:

I know, indeed, that some honest men fear that a republican government cannot be strong; that this government is not strong enough. But would the honest patriot, in the full tide of successful experiment, abandon a government which has so far kept us free and firm, on the theoretic and visionary fear that this government, the world's best hope, may by possibility want energy to preserve itself? I trust not. I believe this, on the contrary, the strongest government on earth. I believe it is the only one where every man, at the call of the laws, would fly to the standard of the law, and would meet invasions of the public order as his own personal concern. Sometimes it is said that man cannot be trusted with the government of himself. Can he then be trusted with the government of others? Or have we found angels in the forms of kings to govern him? Let history answer this question!

That the Government, the world's best hope, had hitherto kept the country free and firm, in the full tide of successful experiment, was a startling compliment to the Federalist Party, coming as it did from a man who had not been used to compliment his political opponents; but Federalists, on the other hand, might doubt whether this Government would continue to answer the same purpose when administered for no other avowed object than to curtail its powers. Clearly, Jefferson credited government with strength which belonged to society; and if he meant to practice upon this idea, by taking the tone of 'the strongest government on earth' in the face of Bonaparte and Pitt, whose Governments were strong in a different sense, he might properly have developed this idea at more length, for it was likely to prove deeply interesting. Moreover, history, if asked, must at that day have answered that no form of government, whether theocratic, autocratic, aristocratic, democratic, or mixed, had ever in Western civilization lasted long, without change or need of change. History was not the witness to which Republicans could with entire confidence appeal, even against kings.

The address next enumerated the advantages which America enjoyed, and those which remained to be acquired:

With all these blessings, what more is necessary to make us a happy and prosperous people? Still one thing more, fellow-citizens — a wise and frugal government, which shall restrain men from injuring one another, which shall leave them otherwise free to regulate their own pursuits of industry and improvement, and shall not take from the mouth of labor the bread it has earned. This is the sum of good government, and this is necessary to close the circle of our felicities.

A government restricted to keeping the peace, which should raise no taxes except for that purpose, seemed to be simply a judicature and a police. Jefferson gave no development to the idea further than to define its essential principles and those which were to guide his Administration. Except the Kentucky and Virginia Resolutions of 1798, this short passage was the only official gloss ever given to the Constitution by the Republican Party; and for this reason students of American history who would understand the course of American thought should constantly carry in mind, not only the Constitutions of 1781 and of 1787, but also the Virginia and Kentucky Resolutions, and the following paragraph of Jefferson's first Inaugural Address:

I will compress them [said the President] within the narrowest compass they will bear, stating the general principle, but not all its limitations. Equal and exact justice to all men, of whatever state or persuasion, religious or political; peace, commerce, and honest friendship with all nations, entangling alliances with none; the support of the State Governments in all their rights, as the most competent administrations for our domestic concerns and the surest bulwarks against anti-republican tendencies; the preservation of the general Government in its whole Constitutional vigor, as the sheet-anchor of our peace at home and safety abroad; a jealous care of the right of election by the People — a mild and safe corrective of abuses which are lopped by the sword of revolution where peaceable remedies are unprovided; absolute acquiescence in the decisions of the majority — the vital principle of republics, from which there is no appeal but to force, the vital principle and immediate parent of despotism; a well-disciplined militia — our best reliance in peace and for the first moments of war, till regulars may relieve them; the supremacy of the civil over the military authority; economy in the public expense, that labor may be lightly burdened; the honest payment of our debts, and sacred preservation of the public faith; encouragement of agriculture, and of commerce as its handmaid; the diffusion of information, and arraignment of all abuses at the bar of public reason; freedom of religion, freedom of the press, and freedom of person under the protection of the *habeas corpus*; and trial by juries impartially selected; — these principles form the bright constellation which has gone before us and guided our steps through an age of revolution and reformation. The wisdom of our sages and the blood of our heroes have been devoted to their attainment; they should be the creed of our political faith, the text of civic instruction, the touchstone by which to try the services of those we trust; and should we wander from them in moments of error or alarm, let us hasten to retrace our steps and to regain the road which alone leads to peace, liberty, and safety.

From the metaphors in which these principles appeared as a constellation, a creed, a text, a touchstone, and a road, the world learned that they had already guided the American people through an age of revolution. In fact, they were mainly the principles of President Washington, and had they been announced by a Federalist President would have created little remonstrance or surprise. In Jefferson's mouth they sounded less familiar, and certain phrases seemed even out of place.

Among the cardinal points of republicanism thus proclaimed to the world was one in particular, which as a maxim of government seemed to contradict cherished convictions and the fixed practice of the Republican Party. 'Absolute acquiescence' was required 'in the decisions of the



majority — the vital principle of republics, from which there is no appeal but to force, the vital principle and immediate parent of despotism.' No principle was so thoroughly entwined in the roots of Virginia Republicanism as that which affirmed the worthlessness of decisions made by a majority of the United States, either as a nation or a confederacy, in matters which concerned the exercise of doubtful powers. Not three years had passed since Jefferson himself penned the draft of the Kentucky Resolutions, in which he declared 'that in cases of an abuse of the delegated powers, the members of the general Government being chosen by the people, a change by the people would be the constitutional remedy; but where powers are assumed which have not been delegated, a nullification of the act is the rightful remedy; that every State has a natural right, in cases not within the compact, to nullify of their own authority all assumptions of power by others within their limits; that without this right they would be under the dominion, absolute and unlimited, of whosoever might exercise this right of judgment for them.' He went so far as to advise that every State should forbid, within its borders, the execution of any act of the general Government 'not plainly and intentionally authorized by the Constitution'; and, although the Legislatures of Kentucky and Virginia softened the language, they acted on the principle so far as to declare certain laws of the United States unconstitutional, with the additional understanding that whatever was unconstitutional was void. So far from accepting with 'absolute acquiescence' the decisions of the majority, Jefferson and his followers held that freedom could be maintained only by preserving inviolate the right of every State to judge for itself what was, and what was not, lawful for a majority to decide.

The Republic which Jefferson believed himself to be founding or securing in 1801 was an enlarged Virginia — a society to be kept pure and free by the absence of complicated interests, by the encouragement of agriculture and of commerce as its handmaid, but not of industry in a larger sense. 'The agricultural capacities of our country,' he wrote long afterward, 'constitute its distinguishing feature; and the adapting our policy and pursuits to that is more likely to make us a numerous and happy people than the mimicry of an Amsterdam, a Hamburg, or a City of London.' He did not love mechanics or manufactures, or the capital without which they could not exist. 'Banking establishments are more

dangerous than standing armies,' he said; and added, 'that the principle of spending money to be paid by posterity, under the name of funding, is but swindling futurity on a large scale.' Such theories were republican in the Virginia sense, but not democratic; they had nothing in common with the democracy of Pennsylvania and New England, except their love of freedom; and Virginia freedom was not the same conception as the democratic freedom of the North.

In 1801 this Virginia type was still the popular form of republicanism. Although the Northern democrat had already developed a tendency toward cities, manufactures, and 'the mimicry of an Amsterdam, a Hamburg, or a City of London,' while the Republican of the South was distinguished by his dislike of every condition except that of agriculture, the two wings of the party had so much in common that they could afford to disregard for a time these divergencies of interest; and if the Virginians cared nothing for cities, banks, and manufactures, or if the Northern Democrats troubled themselves little about the dangers of centralization, they could unite with one heart in overthrowing monarchy, and in effecting a social revolution.

The possibility of foreign war alone disturbed this dream. President Washington himself might have been glad to accept these ideas of domestic politics, had not France, England, and Spain shown an unequivocal wish to take advantage of American weakness in arms in order to withhold rights vital to national welfare. How did Jefferson propose to convert a government of judiciary and police into the strongest government on earth? His answer to this question, omitted from the Inaugural Address, was to be found in his private correspondence and in the speeches of Gallatin and Madison as leaders of the Opposition. He meant to prevent war. He was convinced that governments, like human beings, were on the whole controlled by their interests, and that the interests of Europe required peace and free commerce with America. Believing a union of European Powers to be impossible, he was willing to trust their jealousies of each other to secure their good treatment of the United States. Knowing that Congress could by a single act divert a stream of wealth from one European country to another, foreign Governments would hardly challenge the use of such a weapon, or long resist their own overpowering interests. The new President found in the Constitutional power 'to regulate commerce with foreign nations' the machinery for doing away with navies, armies, and wars.

His view of governmental functions was simple and clearly expressed. The National Government, as he conceived it, was a foreign department as independent from the domestic department, which belonged to the States, as though they were governments of different nations. He intended that the general Government should 'be reduced to foreign concerns only'; and his theory of foreign concerns was equally simple and clear. He meant to enforce against foreign nations such principles as national objects required, not by war, but by 'peaceable coercion' through commercial restrictions. 'Our commerce is so valuable to them that they will be glad to purchase it, when the only price we ask is to do us justice.'

The history of his Administration will show how these principles were applied, and what success attended the experiment.

## CHAPTER EIGHT

### *Organization*

**I**N 1801, and throughout Jefferson's Administration, the Cabinet consisted of five heads of department — the Secretaries of State, of the Treasury, of the Army, and of the Navy, with the Attorney-General. The law business of the Government being light, the Attorney-General was frequently absent, and, indeed, was not required to reside permanently at Washington. Rather the official counsel of government than a head of department, he had no clerks or office room, and his salary was lower than that of his colleagues. The true Cabinet consisted of the four secretaries; and the true government rested in still fewer hands, for it naturally fell within the control of the officers whose responsibility was greatest — the President, the Secretary of State, and the Secretary of the Treasury.

Hardly was the new Cabinet completely organized for the work that was still to be defined, when another annoyance distracted the President's attention from the main objects of his policy. The Government had been, for eight years, in the hands of Federalist partisans. If, as Jefferson declared in his Inaugural Address, 'we are all Republicans, we are all Federalists'; if differences of opinion were not differences of principle; if he seriously wished all Americans to 'restore to social intercourse that harmony and affection without which liberty and even life itself are but dreary things' — he could afford to make few removals for party reasons. On the other hand, if, as he privately declared and as was commonly believed, the actual officeholders were monarchists at heart, and could not be trusted to carry the new Republican principles into practice, the public welfare required great changes. For the first time in national experience, the use of patronage needed some definite regulation.

The most skillful politician must have failed in the attempt to explain that a revolution had been made which ought to satisfy everyone, by methods which no one had an excuse for opposing. Jefferson was embarrassed, not so much by the patronage as by the apparent inconsistency between his professions and his acts concerning it. At first he hoped to make few removals, and these only for misconduct or other sufficient cause. As these removals began, the outcry of the Federalists grew loud,

until the President thought himself obliged to defend his course. The occasion was furnished by the State of Connecticut, where the necessity for a change in officeholders was proved by the temper of the officeholding class. 'The spirit in that State,' wrote Madison, July 10, 'is so perverse that it must be rectified by a peculiar mixture of energy and delicacy.' The spirit of which Madison complained was illustrated, only three days before, by an oration delivered July 7, at New Haven, by Theodore Dwight. The Government, said Dwight, which had been established under the auspices of Washington was the sport of popular commotion, adrift without helm or compass in a turbid and boisterous ocean.

The great object of Jacobinism, both in its political and moral revolution, is to destroy every trace of civilization in the world, and to force mankind back into a savage state. . . . We have now reached the consummation of democratic blessedness. We have a country governed by blockheads and knaves; the ties of marriage with all its felicities are severed and destroyed; our wives and daughters are thrown into the stews; our children are cast into the world from the breast and forgotten; filial piety is extinguished, and our surnames, the only mark of distinction among families, are abolished. Can the imagination paint anything more dreadful on this side of hell?

Madison could hardly be blamed for thinking this spirit perverse; and the President was as little to be censured for wishing to rectify it. Elizur Goodrich, a person who was quite in the same way of thinking, was Collector of New Haven. Jefferson removed him, and appointed an old man named Bishop, whose son had made himself conspicuous by zealous republicanism in a community where zeal in such a cause was accounted a social crime. A keen remonstrance was drawn up, signed by New Haven merchants, and sent to the President. Couched, as Madison said, 'in the strongest terms that decorum would tolerate,' this vigorous paper was in effect a challenge, for it called on the President to proclaim whether he meant to stand by the conciliatory professions of his Inaugural Address or on his private convictions; and Jefferson was not slow to accept the challenge, in order to withdraw himself from an embarrassing position which was rapidly rousing discontent among his friends. He wrote a reply to the New Haven remonstrants, in which, without going so far as to assert that to the victors belonged the spoils, he contented himself with claiming that to the victors belonged half the spoils. Without abandoning

his claim to establish harmony, he appealed to the necessity under which he was placed by the duty of doing justice to his friends.

Rules which might suit New England conveyed quite another impression elsewhere. While Jefferson professed tenderness to New England in order to undermine a Federalist majority, nothing of the sort was needed in other States of the Union. New York and Pennsylvania had grown used to the abuse of political patronage, and no sooner had the Republicans wrested these two States from Federalist hands than they rooted out all vestige of Federalist influence. Governor McKean, in Pennsylvania, was arbitrary enough; but when George Clinton, elected Governor of New York in the spring of 1801, came into power, the State Government showed no disposition to imitate Jefferson's delicacy or his professions. August 8, 1801, a few weeks after the New Haven letter was written, Governor Clinton called a meeting of the Council which, under the Constitution of New York, had charge of the State patronage. Young De Witt Clinton and his friend Ambrose Spencer controlled this Council, and they were not persons who affected scruple in matters of political self-interest. They swept the Federalists out of every office even down to that of auctioneer, and without regard to appearances, even against the protests of the Governor, installed their own friends and family connections in power.

Had this been all, Jefferson might have ignored it. The difficulties he encountered in New York were caused, not so much by the removal of Federalists as by unwillingness to appoint Republicans. Jefferson did not like the Clintons, but he liked Aaron Burr still less.

The character of Burr was well understood by the party leaders on both sides long before 1800. The Virginians twice refused to vote for him as Vice-President before they were induced to do so in that year. Jefferson himself recorded that he considered Burr as for sale between 1790 and 1800; he even added that the two parties bid against each other in the latter year for the prize. 'He was told by Dayton in 1800 he might be Secretary at War; but this bid was too late; his election as Vice-President was then foreseen.' According to this view, the Virginians bought him; but they had no sooner done so than they prayed to be delivered from their bargain; and De Witt Clinton undertook to deliver them, with a tacit understanding, at least on his part, that in 1808 the Virginians must reckon with him for the debt.

Not, therefore, Federalists alone were victims of the scandal in New York. The exhibition of selfish intrigue which centered in New York politics was calculated to startle Jefferson from his confidence in human nature. Burr's overthrow was a matter of offices and public patronage; no principle of reform or pure motive in any person was involved in it. The New York Republicans were divided into three factions, represented by the Clinton, Livingston, and Burr interests; and among them was so little difference in principle or morals that a politician as honest and an observer as keen as Albert Gallatin inclined to Burr as the least selfish of the three. The Vice-President was popular in the city of New York, and to some extent in the country districts throughout the State. Bad as his morality was understood to be, he had at that time committed no offense that warranted ostracism; but from the moment of Governor Clinton's accession to power, he was pursued and persecuted by the whole Clinton interest.

That Jefferson and De Witt Clinton expected and intended to drive Burr from the party was already clear to Burr and his friends as early as September, 1801. On both sides the game was selfish, and belonged rather to the intrigues of Guelfs and Ghibellines in some Italian city of the thirteenth century than to the pure atmosphere of Jefferson's republicanism. The disgust of Gallatin was deep; but he knew too well the nature of New York politics to care greatly whether Burr or Clinton were to rule and he was anxious only to stop the use of federal patronage in the interests of party intrigue. The New Haven letter had not pleased him. Within a fortnight after that letter was written, he sent to the President the draft of a Treasury circular which would not only have stopped the removal of inferior officers, but would have shut them out from active politics. Jefferson declined to approve it. He insisted that one half the tide-waiters and other employees should be changed before he should interfere. Gallatin replied that this had already been done. 'The number of removals is not great, but in importance they are beyond their number. The supervisors of all the violent party States embrace all the collectors. Add to that the intended change in the post-office, and you have in fact every man in office out of the seaports.' Still Jefferson hung back, and declared that it would be a poor maneuver to revolt tried friends in order to conciliate moderate Federalists. He could not follow his true instincts; for the pressure upon him, although trifling when compared

with what he thus helped to bring on his successors, was more than he could bear.

Although these disputes over patronage seemed to require more of the President's thoughts than were exacted by the study of general policy, the task of government was not severe. After passing the month of April at Monticello, Jefferson was able to rest there during the months of August and September, leaving Washington July 30. During six months, from April to October, he wrote less than was his custom, and his letters gave no clear idea of what was passing in his mind. In regard to his principles of general policy he was singularly cautious.

Levees are done away [he wrote to Macon]; the first communication to the next Congress will be, like all subsequent ones, by message, to which no answer will be expected; the diplomatic establishment in Europe will be reduced to three ministers; the army is undergoing a chaste reformation; the navy will be reduced to the legal establishment by the last of this month; agencies in every department will be revised; we shall push you to the utmost in economizing.

His followers were not altogether pleased with his moderation of tone. They had expected a change of system more revolutionary than was implied by a pledge to do away with the President's occasional receptions and his annual speech to Congress, to cut off three second-rate foreign missions, to chasten the army, and to execute a Federalist law about the navy, or even to revise agencies. John Randolph wrote, July 18, to his friend Joseph Nicholson, a member from Maryland: 'In this quarter we think that the great work is only begun, and that without a substantial reform we shall have little reason to congratulate ourselves on the mere change of men.'

The task of devising what Randolph called a substantial reform fell almost wholly upon Gallatin, who arrived in Washington, May 13, and set himself to the labor of reducing to a system the theories with which he had indoctrinated his party. Through the summer and autumn he toiled upon this problem, which the President left in his hands. When October arrived, and the whole Cabinet assembled at length in Washington, under the President's eye, to prepare business for the coming session, Gallatin produced his scheme. First, he required common consent to the general principle that payment of debt should take precedence of all other ex-



penditure. This axiom of Republicanism was a party dogma too well settled to be disputed. Debt, taxes, wars, armies, and navies were all pillars of corruption; but the habit of mortgaging the future to support present waste was the most fatal to freedom and purity. Having fixed this broad principle, which was, as Gallatin afterward declared, the principal object of bringing him into office, a harder task remained; for if theory required prompt payment of the debt, party interest insisted with still greater energy on reduction of taxes; and the revenue was not sufficient to satisfy both demands. The customs duties were already low. The highest *ad valorem* rate was twenty per cent; the average was but thirteen. Reduction to a lower average, except in the specific duties on salt, coffee, and sugar, was asked by no one; and Gallatin could not increase the rates even to relieve taxation elsewhere. Whatever relief the party required must come from another source.

The Secretary began by fixing the limits of his main scheme. Assuming four Administrations, or sixteen years, as a fair allowance of time for extinguishing the debt, he calculated the annual sum which would be required for the purpose, and found that \$7,300,000 applied every year to the payment of interest and principal would discharge the whole within the year 1817. Setting aside \$7,300,000 as an annual fund to be devoted by law to this primary object, he had to deal only with such revenue as should remain.

The net receipts from customs he calculated at \$9,500,000 for the year, and from lands and postage at \$450,000; or \$9,950,000 in all. Besides this sum of less than ten million dollars, internal taxes, and especially the tax on whiskey stills, produced altogether about \$650,000; thus raising the income to \$10,600,000, or \$3,300,000 in excess of the fund set apart for the debt.

If taxation were to be reduced at all, political reasons required that the unpopular excise should come first in order of reduction; but if the excise were abolished, the other internal taxes were not worth retaining. Led by the wish to relieve Government and people from the whole system of internal taxation, Gallatin consented to sacrifice the revenue it produced. After thus parting with internal revenue to the amount of \$650,000, and setting aside \$7,300,000 for the debt, he could offer to the other heads of departments only \$2,650,000 for the entire expenses of government. Gallatin expected the army to be supported on \$930,000,

while the navy was to be satisfied with \$670,000 — a charge of less than thirty-three cents a head on the white population.

Of all standards by which the nature of Jeffersonian principles could be gauged, none was so striking as this. The highest expenditure of the Federalists in 1799, when preparing for war with France and constructing a navy and an army, was six million dollars for these two branches. Peace with France being made in 1800, the expenses of army and navy would naturally fall to a normal average of about three million dollars. At a time when the population was small, scattered, and surrounded by enemies, civilized and savage; when the Mississippi River, the Gulf region, and the Atlantic coast as far as the St. Mary's were in the hands of Spain, which was still a great power; when English frigates were impressing American seamen by scores, and Napoleon Bonaparte was suspected of having bought Louisiana; when New York might be ransomed by any line-of-battle ship, and not a road existed by which a light field-piece could be hauled to the Lakes or to a frontier fort — at such a moment, the people could hardly refuse to pay sixty cents apiece for providing some protection against dangers which time was to prove as serious as anyone then imagined them to be. Doubtless the Republican theory required the States to protect their own coasts and to enforce order within their own jurisdiction; but the States were not competent to act in matters which concerned the nation, and the immense territory, the Lakes, and the Mississippi and Mobile Rivers, belonged within the exclusive sphere of National Government.

Gallatin's scheme partially warranted the claim which Jefferson in his old age loved to put forward, that he had made a revolution in the principles of the Government. Yet, apart from the question of its success, its rigor was less extreme than it appeared to be. Doubtless, such excessive economy seemed to relieve Government of duties as well as responsibilities. Congress and the Executive appeared disposed to act as a machine for recording events, without guiding or controlling them. The army was not large enough to hold the Indians in awe; the navy was not strong enough to watch the coasts; and the civil service was nearly restricted to the collection and disbursement of revenue. The country was at the mercy of any Power which might choose to rob it, and the President announced in advance that he relied for safety upon the soundness of his theory that every foreign country felt a vital interest in retain-

ing American commerce and the use of American harbors. All this was true, and the experiment might be called revolutionary, considering the condition of the world; nevertheless, there were shades of difference in the arguments on which it rested. Even Jefferson wavered in asserting the permanence of the system, while Gallatin avowedly looked forward to the time when diminished debt and increasing resources would allow wider scope of action. Viewed from this standpoint, the system was less rigid than it seemed, since a period of not more than five or six years was needed to obtain Gallatin's object.

By an unlucky chance the system never became fully established. The first step in foreign affairs taken by the new Administration plunged it into difficulties which soon forced Congress to reimpose taxation to the full amount of the internal taxes. Jefferson had not been three months in power before he found himself, by no fault of his own or of his predecessors, at war with a country against which he was forced to use in his own defense some of those frigates, the construction of which had been vehemently resisted by his party, and which he was anxious only to leave under the care of a score of marines at the navy yard in the Eastern Branch of the Potomac. From time immemorial the northern coast of Africa had been occupied by a swarm of pirates who played a dramatic part in the politics and literature of Europe. They figured in the story of *Don Quixote* as in the lies of *Scapin*, and enlivened with picturesque barbarism the semi-civilization of European habits and manners through centuries of slow growth. The four Barbary Powers, Morocco, Algiers, Tunis, and Tripoli lived by blackmail. So little sense of common interest had the nations of Europe that they submitted to the demands of these petty Mahometan despots and paid yearly sums of money, or an equivalent in ships, arms, or warlike stores, in return for which the Barbary Powers permitted them to trade with the ports on the coast and protected their ships and men. The European consuls at Algiers, Tunis, and Tripoli intrigued to impose heavier conditions on rival commerce. Following the established custom, the United States had bought treaties with all four Powers, and had during the past ten years appropriated altogether more than two million dollars for the account of ransoms, gifts, and tribute. The treaty with Tripoli, negotiated in 1796, had been observed about three years and a half. The Pacha received under it from the United States Government eighty-three thousand dollars in cash and

presents. He suddenly demanded more, and when his demand was refused, May 14, 1801, he ordered the consular flagstaff to be cut down, which was his formal declaration of war.

The conduct of the Dey of Algiers was almost as threatening to peace as that of the Pacha of Tripoli; for the Dey compelled Captain Bainbridge to put his frigate, the *George Washington*, under Algerine colors and carry an embassy and presents to the Grand Sultan. Rather than take the responsibility of bringing on a war, Bainbridge and Consul O'Brian submitted, under protest, to this indignity; and in October, 1800, the United States flag was first seen at Constantinople in this extraordinary company.

Under these circumstances, without knowing that war had actually begun, Samuel Smith, as acting Secretary of the Navy, in May, 1801, sent out Commodore Dale in command of a squadron of three frigates and an armed schooner, the *Enterprise*, with orders to meet force by force. On her way to Malta, August 1, the *Enterprise* met and destroyed a Tripolitan corsair. Commodore Dale blockaded Tripoli; and his appearance in the Mediterranean inspired Tunis and Algiers with so much respect as caused them to leave the Pacha of Tripoli to his fate and to accept the presents which their treaties stipulated. Much injury to American commerce was prevented; but Gallatin found a war and a navy fastened on his resources.

That enlightened Governments like those of England, France, and Spain should rob and plunder like an Algerine pirate was in theory not to be admitted; but even if they did so, a few frigates could not prevent them, and therefore Jefferson, without regard to this partial failure of his system, prepared to meet Congress with confidence in his reforms.

## CHAPTER NINE

### *The Annual Message*

PRESIDENT WASHINGTON began his Administration by addressing Congress in a speech, which Congress answered; and the precedent established by him in 1790 was followed by his successor. The custom was regarded by the Opposition as an English habit, tending to familiarize the public with monarchical ideas, and Jefferson gave early warning that he should address Congress in a message, which would require no answer. In aftertimes the difference between oral and written communications as signs of monarchy or republicanism became less self-evident; but the habit of writing to Congress was convenient, especially to Presidents who disliked public speaking, and Jefferson's practice remained the rule. The Federalists naturally regarded the change as a reproof, and never admitted its advantages.

Jefferson's first Annual Message deserved study less for what it contained than for what it omitted. If the scope of reform was to be measured by the President's official recommendations, party spirit was likely to find little excuse for violence. The Message began by announcing, in contrast with the expectations of Republicans, that while Europe had returned to peace the United States had begun a war, and that a hostile cruiser had been captured 'after a heavy slaughter of her men.' The Federalist wits made fun of the moral which the President added to soften the announcement of such an event: 'The bravery exhibited by our citizens on that element will, I trust, be a testimony to the world that it is not the want of that virtue which makes us seek their peace, but a conscientious desire to direct the energies of our nation to the multiplication of the human race, and not to its destruction.'

As he approached the reforms themselves, the manner in which he preferred to present them was characteristic. As in his Inaugural Address, he showed skill in selecting popular ground.

There is reasonable ground of confidence [he said] that we may now safely dispense with all the internal taxes, . . . and that the remaining sources of revenue will be sufficient to provide for the support of government, to pay the interest on the public debts, and to discharge the principals within shorter periods than the laws or the general expectation had con-

templated. War, indeed, and untoward events may change this prospect of things, and call for expenses which the imposts could not meet; but sound principles will not justify our taxing the industry of our fellow-citizens to accumulate treasure for wars to happen we know not when, and which might not perhaps happen but from the temptations offered by that treasure.

Assuming that 'the States themselves have principal care of our persons, our property, and our reputation, constituting the great field of human concerns,' the Message maintained that the general Government was unnecessarily complicated and expensive, and that its work could be better performed at a smaller cost.

Considering the general tendency [it said] to multiply offices and dependencies, and to increase expense to the ultimate term of burden which the citizen can bear, it behooves us to avail ourselves of every occasion which presents itself for taking off the surcharge, that it never may be seen here that, after leaving to labor the smallest portion of its earnings on which it can subsist, Government shall itself consume the residue of what it was instituted to guard.

No one could deny that these sentiments were likely to please a majority of citizens, and that they announced principles of government which, if not new, were seldom or never put into practice on a great scale. Gallatin's economies turned on the question whether the national debt or the risk of foreign aggression were most dangerous to America. Freedom from debt and the taxation which debt entailed was his object, not in order to save money, but to prevent corruption. He was ready to risk every other danger for the short time required. 'Eight years hence,' he afterward wrote, 'we shall, I trust, be able to assume a different tone; but our exertions at present consume the seeds of our greatness, and retard to an indefinite time the epoch of our strength.' The epoch of strength once reached, Gallatin had no objection to tax, and tax freely, for any good purpose, even including ships-of-the-line.

The Federalists disagreed with Gallatin rather on a question of fact than of principle. They asserted that the country could not safely disarm; Gallatin, on the other hand, thought that for a few years military helplessness might be risked without too much danger. Time could alone decide which opinion was correct; but in this issue the Federalists could see no suggestion, such as Jefferson made, that 'sound principles will not justify our taxing the industry of our fellow-citizens to accumulate

treasures for wars to happen we know not when.' If this was the true principle of government, and if the hands of Congress were to be tied so fast that no provision could ever be made for national defense except in actual presence of war, this 'sound principle' should have been announced, according to Federalist theories, not as a detail of administration, but as a constitutional amendment.

The Message, in regard to constitutional powers, ignored the existence of a problem. In this silence, which for the first time since 1787 fell on the lips of those who had hitherto shown only jealousy of government; in this alacrity with which Republicans grasped the powers which had, as they affirmed, made 'monocrats' of their old opponents — a European would have seen the cynicism of conscious selfishness. Certain phrases in the Constitution had been shown by experience to be full of perils, and were so well established by precedent in their dangerous meaning as to be susceptible only of excision. The clause which gave Congress sweeping power to make all laws which a majority might think 'necessary and proper' for carrying the Constitution into effect was, as settled by precedents, fatal, not only to the theory of States-rights, but to the doctrine of strict construction on which American liberties were supposed to rest. The war and treaty-making powers, with their undefined and therefore unlimited consequences, were well understood. These loopholes for the admission of European sovereignty into the citadel of American liberty were seen in 1800 as clearly as when the children and grandchildren of the Southern statesmen broke up the Union because they feared the consequences of centralization. Yet Jefferson called no man's attention to the danger, took no step toward averting it, but stretched out his hand to seize the powers he had denounced.

Even in regard to the Judiciary, the most dangerous part of the system, he recommended no legislation but for the apparent purpose of saving money.

The judiciary system of the United States [continued the Message], 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 in to their aid.

That he should have shown no anxiety to limit the vague powers of Legislature and Executive was less surprising, because these powers were henceforward to remain in the hands of his own party; but the Judiciary was in the hands of Federalists, whose constitutional theories were centralization itself. The essence of Virginia Republicanism lay in a single maxim: THE GOVERNMENT SHALL NOT BE THE FINAL JUDGE OF ITS OWN POWERS. The liberties of America, as the Republican Party believed, rested in this nutshell; for if the Government, either in its legislative, executive, or judicial departments, or in any combination of them, could define its own powers in the last resort, then its will, and not the letter of the Constitution, was law. To this axiom of Republicanism the Federalist Judiciary opposed what amounted to a flat negative. Chief Justice Marshall and his colleagues meant to interpret the Constitution as seemed to them right, and they admitted no appeal from their decision.

The question how to deal with the Judiciary was, therefore, the only revolutionary issue before the people to be met or abandoned; and if abandoned then, it must be forever. No party could claim the right to ignore its principles at will, or imagine that theories once dropped could be resumed with equal chance of success. If the revolution of 1800 was to endure, it must control the Supreme Court. The object might be reached by constitutional amendment, by impeachment, or by increasing the number of judges. Every necessary power could be gained by inserting into the United States Constitution the words of the Constitution of Massachusetts, borrowed from English constitutional practice, that judges might be removed by the President on address by both Houses of the Legislature. Federalists were certain to denounce both object and means as revolutionary and dangerous to public repose; but such an objection could carry little weight with men who believed themselves to have gained power for no other purpose than to alter, as Jefferson claimed, the principles of government. Serious statesmen could hardly expect to make a revolution that should not be revolutionary.

Whatever was the true cause of the inaction, it was certainly intentional. President Jefferson wished to overthrow the Federalists and annihilate the last opposition before attempting radical reforms. Confident that States-rights were safe in his hands, he saw no occasion to alarm the people with legislation directed against past rather than future dangers.



Another reason partly accounted for the President's silence. In theory the Executive received its instructions from the Legislature. Upon no point had the Republican Party, when in opposition, laid more stress than on the necessity of reducing Executive influence. President Washington's personal authority, even more than the supposed monarchical tendencies of his successor, inspired anger, if not terror, in the minds of his opponents. Jefferson wished to avoid this error, and to restore the true constitutional theory to its place in practice. His recommendations were studiously restrained, and the Federalists were so far silenced that they could only say with Chief Justice Marshall, 'By weakening the office of President, he will increase his personal power.'

## CHAPTER TEN

### *Legislation*

HONEST as Jefferson undoubtedly was in his wish to diminish Executive influence, the task was beyond his powers. In ability and in energy the Executive overshadowed Congress, where the Republican Party, though strong in numbers and discipline, was so weak in leadership, especially among the Northern democrats, that the weakness almost amounted to helplessness. Of one hundred and five members, thirty-six were Federalists; of the sixty-nine Republicans, some thirty were Northern men, from whom the Administration could expect little more than votes. Boston sent Doctor Eustis; from New York came Doctor Samuel L. Mitchill — new members both; but two physicians, or even two professors, were hardly competent to take the place of leaders in the House or to wield much influence outside. The older Northern members were for the most part men of that respectable mediocrity which followed where others led. The typical Northern Democrat of that day was a man disqualified for great distinction by his want of the habits of leadership; he was obliged, in spite of his principles, to accept the guidance of aristocrats like the Livingstons, Clintons, and Burrs, or like Gallatin, Jefferson, John Randolph, and the Smiths, because he had never been used to command, and could not write or speak with perfect confidence in his spelling and grammar, or enter a room without awkwardness. He found himself ill at ease at the President's dinner-table; he could talk only upon subjects connected with his district, and he could not readily accustom himself to the scale of national affairs. Such men were thrust aside with more or less civility by their leaders, partly because they were timid, but chiefly because they were unable to combine under the lead of one among themselves. The moment true Democrats produced a leader of their own, they gave him the power inherent in leadership, and by virtue of this power he became an aristocrat, was admitted into the circle of Randolphs and Clintons, and soon retired to an executive office, a custom-house or a marshalship; while the never-failing succession of democratic Congressmen from the North continued to act as before at the command of some aristocratic Virginian or educated gentleman from the city of New York.

The House chose for Speaker Nathaniel Macon, a typical, homespun planter, honest and simple, erring more often in his grammar and spelling than in his moral principles, but knowing little of the world beyond the borders of Carolina. No man in American history left a better name than Macon; but the name was all he left. An ideal Southern Republican, independent, unambitious, free from intrigue, true to his convictions, a kindly and honorable man, his influence with President Jefferson was not so great as that of some less respectable and more busy politicians.

The oldest members of much authority were William B. Giles of Virginia, and Samuel Smith of Maryland. In the characters of both these men was something which, in spite of long service and fair abilities, kept them subordinate. Whether on account of indolence or temper, restlessness or intrigue, they seldom commanded the full weight to which their service entitled them. Speaker Macon, in appointing his standing committees, passed over both in order to bring forward a young favorite of his own — a Virginian barely twenty-eight years old, whose natural quickness of mind and faculty for ready speaking gave him prominence in a body of men so little marked by ability as was the Seventh Congress. During several years the Federalist newspapers never wearied of gibing at the long lean figure, the shrill voice and beardless face of the boyish Republican leader, among whose peculiarities of mind and person common shrewishness seemed often to get the better of intense masculine pride. Besides his natural abilities and his superior education, the young man had the advantage of belonging to the most widely connected of all Virginia families; and this social distinction counted for everything in a party which, although reviled as democratic, would be led by no man without birth and training. Incomprehensible to New England Federalists, who looked on him as a freak of Nature; obnoxious to Northern Democrats, who groaned in secret under his insane spur and curb; especially exasperating to those Southern Republicans whose political morality or whose manners did not suit him — Randolph, by his independence, courage, wit, sarcasm, and extreme political orthodoxy, commanded strong influence among the best Virginians of the States-rights school. More than half the Virginia delegation belonged to the same social and political caste; but none of them could express so well as Randolph the mixture of contradictory theories, the breadth and narrowness, the aspirations and ignorance, the genius and prejudices of Virginia.

No member of the House wielded serious influence over the President or represented with authority the intentions of the party; and although in the Senate the Republicans were stronger in ability, they were weaker in numbers, and therefore more inclined to timidity. The ablest of the Republican Senators was a new man, John Breckinridge of Kentucky, another Virginia aristocrat, chiefly known as the putative father of the Kentucky Resolutions of 1798. Breckinridge was bold enough to support any policy that the Administration would consent to impose; but he was new to the Senate, and, like Randolph, had yet to win the authority of a leader against a strong Federalist Opposition.

The business of the first session of the Seventh Congress quickly took shape in two party struggles on the lines marked out by the Message; and the same caution which made the Message disappointing as a declaration of principles affected the debates and laws. Although the Federalists offered challenge after challenge, charging the majority with revolutionary schemes which no honest democrat needed to deny, the Republicans, abiding carefully for the most part within the defenses selected by the President, seemed unwilling to avow the legitimate objects of their acts. The two measures over which the struggle took place were not so important as to touch the foundations of government, unless they were parts of more sweeping changes to come. They required the overthrow of two Federalist creations, but not expressly of any Federalist principle. They abolished the internal taxes and the Circuit Courts, but touched no vital power of government.

Resistance to the abolition of taxes was impossible after the promise which the President's Message held out. The Federalists themselves had made peace with France, and hostilities between France and England had ceased. For the first time in ten years no danger of foreign war was apparent, and if the Administration offered to effect economies in the public service, Congress could hardly deny that economies were possible. The Opposition preferred not to question the estimates, but to rival the Government in zeal for reduction of taxes. The internal taxes were swept away, and with them one-half the Government patronage; while a sinking fund was organized, by means of which the public debt, amounting to a nominal capital of about eighty million dollars, was to be paid off in sixteen years.

This financial legislation was the sum of what was accomplished by

Congress toward positive reform. The whole of Jefferson's theory of internal politics, so far as it was embodied in law, rested in the Act making an annual appropriation of \$7,300,000 for paying interest and capital of the public debt; and in the Act for repealing the internal taxes. In these two measures must be sought the foundation for his system of politics abroad and at home, as this system has been described; for his policy flowed in a necessary channel as soon as these measures were adopted.

Great as the change was which under the guise of economy Congress thus quietly effected — a change which in Jefferson's intention was to substitute commercial restrictions in the place of armaments, for purposes of national defense — so skillfully was it done that the Federalists could muster only twenty-four votes against it. Jefferson succeeded in carrying his preliminary measures through Congress without meeting, or even raising, the question of their ultimate objects and practical scope; but this manner of dealing with a free people had disadvantages, for it caused them to adopt a system which they did not wholly understand and were not fully prepared to carry out. A few Virginians knew what Jefferson meant; a clique of members in the House and Senate might have foretold every step in the movement of Government: but the Northern and Western Democrats thought only of economy, and accepted the President's partial reasoning as sufficient; while the Federalists, although they saw the truth more clearly, could not oblige the Administration to enter into a full and candid discussion which, without affecting the result, would have educated the public and saved much misunderstanding in the future. In reality the Opposition resisted feebly the vital financial scheme, and exerted all its energies against the second and less serious Administration measure — the repeal of the Judiciary Act of 1801.

The previous history of the Judiciary Act belonged to the Administration of Jefferson's predecessor and to the records of the Federalist Party. Before 1801 the Supreme Court consisted of six justices, who held two terms a year at Washington and twice a year rode their circuits, each justice then sitting in association with a district judge. The system pleased no one. The justices, men of age and dignity, complained that they were forced twice a year, in the most trying seasons and through the roughest country, to ride hundreds of miles on horseback 'with the agility of post-boys'; the lawyers found fault because the errors of the

inferior court were corrected by the judges who had made them; the suitors were annoyed by the delays and accidents inevitable to such journeys and such judges. In the last year of Federalist power a new arrangement was made, and the Judiciary Act of 1801 reduced the Supreme Court to five judges, who were fixed at Washington, while their circuit duties were transferred to a new class of circuit judges, eighteen in number. Twenty-three districts were divided into six circuits, and the circuit judges sat independently of the district judges, as well as of the Supreme Bench. This separation of the machinery of the District, Circuit, and Supreme Courts caused a multiplication of judicial offices and an increased annual expense of some thirty thousand dollars.

No sooner did this bill become law, February 13, 1801, than the Federalists used their last moments of power to establish themselves in the posts it created. In Jefferson's words, they retreated into the Judiciary as a stronghold. They filled the new courts as well as the vacancies on the old bench with safe men, at whose head, as Chief Justice of the Supreme Court, was placed the Secretary of State, John Marshall. That Jefferson should have been angry at this maneuver was natural; but, apart from greed for patronage, the Federalists felt bound to exclude Republicans from the bench to prevent the overthrow of those legal principles in which, as they believed, national safety dwelt. Jefferson understood the challenge, and was obliged to accept or decline it.

On one ground alone could the President and his party fully meet the issue thus offered. They had sought and won popularity on the principle of States-rights. The Judiciary Act of 1789, even more than its supplement of 1801, was notoriously intended to work against the object they had most at heart. The effect of both these acts was, in their belief, to weaken the State judiciaries and to elevate the national judiciary at their expense, until the national courts should draw to themselves all litigation of importance, leaving the State courts without character or credit. From their point of view, the whole judiciary system should be remodeled, with the purpose of reversing this centralizing movement; and that such a reform must begin with the Supreme Court was too evident for discussion. The true question for Congress to consider was not so much the repeal of the Judiciary Act of 1801 as the revision of that which had set in motion the whole centripetal machine in 1789.

Jefferson's Message offered to Congress an issue quite different, at least in appearance.

The judiciary system of the United States [so his words ran], 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 in to their aid.

From the true Virginia standpoint, the fewer the causes the less danger. What the Virginians feared most was the flow of business to the national courts; and Jefferson's statistics tended only to show that as yet the new courts had done no harm, inasmuch as they had little to do. Their abolition on the ground of economy would still leave the judiciary establishment of 1789 untouched, merely in order to lop off an excrescence which might be restored whenever increase of business should require it — and which Jefferson's argument in a manner pledged him in such an event to re-establish.

The contradictions in Jefferson's character have always rendered it a fascinating study. Excepting his rival, Alexander Hamilton, no American has been the object of estimates so widely differing and so difficult to reconcile. Almost every other American statesman might be described in a parenthesis. A few broad strokes of the brush would paint the portraits of all the early Presidents with this exception, and a few more strokes would answer for any member of their many cabinets; but Jefferson could be painted only touch by touch, with a fine pencil, and the perfection of the likeness depended upon the shifting and uncertain flicker of its semi-transparent shadows. Of all the politicians and writers of that day, none could draw portraits with a sharper outline than Hamilton, whose clear-cut characterizations never failed to fix themselves in the memory as distinctly as his own penetrating features were fixed in Ceracchi's marble or on Trumbull's canvas; and Hamilton's contrasted portraits of Jefferson and Burr, drawn in an often-quoted letter written to Bayard in January, 1801, painted what he believed to be the shifting phase of Jefferson's nature.

Nor is it true [he said] that Jefferson is zealot enough to do anything in pursuance of his principles which will contravene his popularity or his

interest. He is as likely as any man I know to temporize, to calculate what will be likely to promote his own reputation and advantage; and the probable result of such a temper is the preservation of systems, though originally opposed, which, being once established, could not be overturned without danger to the person who did it. To my mind, a true estimate of Mr. Jefferson's character warrants the expectation of a temporizing rather than a violent system.

Never was a prophecy more quickly realized. Jefferson's suggestion that the new judiciary was unnecessary because it had not enough business to keep it fully employed, although by implication admitting that more business would justify its creation, became at once the doctrine of his party. January 8, 1802, Breckinridge undertook the task of moving in the Senate the repeal of the Act; and his argument closely followed the President's suggestion, that the new courts, being unnecessary and therefore improper, might and should be abolished. The Federalists took the ground that the Constitution secured to the judges their office during good behavior, and that to destroy the office was as distinct a violation of the compact as to remove the judge. Thus, from the beginning the debate was narrowed to a technical issue. On the one side was seen an incessant effort to avoid the broader issues which the Federalists tried to force; on the other side, a certain dramatic folding of robes, a theatrical declamation over the lay-figure which Federalists chose to declare a mangled and bleeding Constitution. Gouverneur Morris of New York, whose oratory was apt to verge on the domain of melodrama, exceeded himself in lamentations over the grave of the Constitution:

Cast not away this only anchor of our safety. I have seen its progress. I know the difficulties through which it was obtained. I stand in the presence of Almighty God and of the world, and I declare to you that if you lose this charter, never, no, never will you get another! We are now, perhaps, arrived at the parting point. Here, even here, we stand on the brink of fate. Pause! pause! For Heaven's sake, pause!

If ever a party had paused, it was the Republicans. The progress of what Gouverneur Morris, with characteristic rhetoric, called the 'anchor,' was thus far arrested only in appearance; and there were already symptoms that the Virginians had reached not only the limit of their supposed revolutionary projects, but also of their influence, and that they were themselves anxious to go no farther. Signs of trouble appeared among



the Northern Democrats, and sharp hints were given that the Virginians might expect revolt, not so much against their principles as against their patronage. Vice-President Burr did not appear in Washington until six weeks of the session had passed; and when he took the chair of the Senate, January 15, 1802, the Virginians had every reason to expect that he would show them no kindness. Under the affected polish and quiet of his manner, he nursed as bitter a hatred as his superficial temper could feel against the whole Virginia oligarchy. Any suggestion that Burr held scruples of conscience in regard to the Federalist Judiciary would border on satire, for Burr's conscience was as elastic as his temper; but he made grave inquiries as to the law, and hinted doubts calculated to alarm the Virginians. Had he been content to affect statesmanship, Breckinridge could have afforded to ignore his demonstrations; but the behavior of General Armstrong, the Democratic Senator from New York, and the accidental absence of Senator Bradley of Vermont unexpectedly threw into Burr's hands the power to do mischief. Armstrong failed to appear at Washington, and his vote was lost. Breckinridge's motion for a committee of inquiry was carried, January 19, only by fifteen against thirteen votes; and no sooner had his committee, with all practicable speed, reported a bill for the repeal of the Judiciary Act of 1801 than it appeared that the Senate was tied, fifteen to fifteen, with Armstrong and Bradley absent, and the Vice-President controlling the fate of the bill. Burr lost no time in giving a first warning to the Virginians. Dayton of New Jersey, a Federalist, but an intimate friend of the Vice-President, moved January 27 to recommit the bill to a select committee, and Burr's casting vote carried the motion.

That Breckinridge and his friends were angry at this check need not be said; but they were forced to wait several days for Bradley's return, before Breckinridge could move and obtain, February 2, the discharge of the special committee and recover control of the bill. Burr was never given another opportunity to annoy his party by using his casting vote.

## CHAPTER ELEVEN

### *The Judiciary Debate*

**T**HE BILL repealing the new Judiciary Act, having passed the Senate, February 3, was taken into consideration by the House, in Committee of the Whole, February 4, and caused the chief debate of the session.

As a matter of expediency and public convenience, no one seriously denied that the Federalists were altogether in the right. The introduction of railways and steamboats greatly altered the problem of judicial organization; but no system could have been better adapted to its time and purposes than that of 1801. The only solid argument brought against it was that it attained its object too completely, bringing Federal justice to every man's door, and removing every difficulty or objection to suing in Federal courts. There was truth in the complaint that it thus placed the State judiciaries at a disadvantage. Beyond and above this, the controversy involved another question of far-reaching consequences which the Republicans were too timid to avow. A true democrat might have said openly that he wanted an elective judiciary, or would have insisted that the whole judiciary must be made subject to removal by the Legislature. In neither of these opinions was anything disgraceful or improper; yet such was the dread of Federalist and conservative outcry that, although many of the Republican speakers went to the verge of the avowal, none dared make the issue.

Their timidity cost the Virginians dear. They knew, and never ceased to complain, that power grew mechanically; and only their want of experience excused them for overconfidence in the strength of their own virtue. They saw that the only part of Federalist centralization still remaining beyond their control was the Judiciary; and they knew that if the Judiciary were allowed to escape them in their first fervor of Republican virtue, they never could grapple with it after their own hands had learned the use of centralized power and felt the charm of office. Instead of acting, they temporized, threatened without daring to strike, and were made to appear like secret conspirators planning what they feared to avow.

The repeal of the Judiciary Act passed the House, March 3, by a party vote of fifty-nine to thirty-two: but the Federalists

were far from feeling themselves beaten. They had measured the strength of the majority and felt that the revolutionary impulse was exhausted. As the Federalists grew bolder, the Republicans grew more timid. They passed a supplementary Judiciary Act, to quiet complaint and to prevent the Supreme Court from holding its customary autumn term, lest Marshall should declare the abolition of the circuit courts unconstitutional.

The evidences of timidity were not confined to judiciary measures. On no subject had the Republicans expressed stronger convictions than against the navy; yet when Michael Leib of Pennsylvania, in the heat of the judiciary debate, moved for a committee to consider the question of abolishing the navy, his motion was allowed to lie on the table until Roger Griswold, an extreme Connecticut Federalist, called it up, March 5, in a spirit of defiance. The House sustained Griswold and took up the Resolution; whereat Leib withdrew his own motion and evaded the issue he had challenged.

Perhaps the most important legislation of the year was an Act approved April 30, which authorized the people of Ohio to form a Constitution and enter the Union; for not only was the admission of Ohio a formidable increase of power to the Northern democracy, but Gallatin inserted into the law a contract, which bound the State and nation to set aside the proceeds of a certain portion of the public lands for the use of schools and for the construction of roads between the new State and the seaboard. This principle, by which education and internal improvements were taken under the protection of Congress, was a violation of States-rights theories, against which, in after years, the strict constructionists protested; but in this first year of their sway Gallatin and the Northern Democrats were allowed to manage their own affairs without interference. John Randolph would not vote for the admission of a new State, but Giles and Nicholson gave their votes for the bill, which passed without a murmur.

Gallatin's influence carried another point, more annoying to the Southern Republicans, although less serious. After years of wrangling, Georgia surrendered to the United States Government all right and title to the territory which was afterward to become the States of Alabama and Mississippi. This immense region, shut from the Gulf of Mexico by the Spaniards, who owned every river mouth, was inhabited by powerful

Indian tribes, of whom the Georgians stood in terror. The Creeks and Cherokees, Choctaws and Chickasaws, owned the land, and were wards of the United States Government. No one could say what was the value of Georgia's title, for it depended on her power to dispossess the Indians; but however good the title might be, the State would have been fortunate to make it a free gift to any authority strong enough to deal with the Creeks and Cherokees alone. In the year 1795, ignoring the claims of the National Government, the Georgia Legislature sold its rights over twenty million acres of Indian land to four land companies for the gross sum of five hundred thousand dollars. With one exception, every member of the Legislature appeared to have a pecuniary interest in the transaction; yet no one could say with certainty that the title was worth more than half a million dollars, or indeed was worth anything to the purchasers, unless backed by the power of the United States Government, which was not yet the case. Nevertheless, the people of Georgia, like the people of Massachusetts and Pennsylvania, being at the moment in the fever of land speculation, partly because they thought the land too cheap, partly because they believed their representatives to have been bribed, rose in anger against their Legislature and elected a new one, which declared the sales 'null and void,' burned the Yazoo Act, as it was called, in the public square of Louisville, and called a State Convention which made the repealing Act a part of the Constitution.

This series of measures completed the embroglio. No man could say to whom the lands belonged. President Washington interposed on the part of the central Government; the Indians quietly kept possession; hundreds of individuals in the Eastern States who had bought land-warrants from the Yazoo companies claimed their land; while Georgia ignored President Washington, the Indians, the claimants, and the law, insisting that as a sovereign State she had the right to sell her own land and to repudiate that sale for proper cause. In this case the State maintained that the sale was vitiated by fraud.

Doubtless the argument had force. If a sovereign State had not the power to protect itself from its own agents, it had, in joining the Union, entered into a relation different from anything hitherto supposed. Georgia put the utmost weight on the rescinding Act as a measure of States-rights, and the true Virginia school made common cause with Georgia. Republicans who believed in the principles of 1798 considered the maintenance of the rescinding Act a vital issue.

At length Congress took the matter in hand. Madison, Gallatin, and Levi Lincoln were appointed commissioners to make a settlement; and Senator James Jackson, the anti-Yazoo leader, supported by his colleague, Senator Baldwin, and by Governor Milledge, met them on behalf of Georgia — a formidable array of high officials, whose whole authority was needed to give their decision weight. April 24, 1802, they reached a settlement so liberal to Georgia that Jackson and his associates took the risk of yielding more than they liked to concede. The western boundary was fixed to please the State; an immediate cession of land was obtained from the Indians, and the United States undertook to extinguish at their own expense, as early as they could reasonably do it, the Indian title to all lands within the limits of Georgia; the sum of \$1,250,000 was to be paid to the State from the first net proceeds of land sales; the ceded territory was to be admitted as a State, with slavery, whenever its population should reach sixty thousand; and in consideration for these advantages the Georgians unwillingly agreed that five million acres should be set aside for the purpose of compromising claims. The commissioners did not venture to affirm the legality of the Yazoo sale, but, while expressing the opinion that 'the title of the claimants cannot be supported,' declared that 'the interest of the United States, the tranquillity of those who may hereafter inhabit that territory, and various equitable considerations which may be urged in favor of most of the present claimants, render it expedient to enter into a compromise on reasonable terms.' With this concession to the principle of States-rights, the Georgians were appeased, and the commissioners hoped that all parties would be satisfied. The brunt of the negotiation fell upon Gallatin; but Madison found no difficulty in giving his support to the compromise.

These two measures greatly affected the Government and increased its power. The admission of Ohio into the Union gave two more Senators to the Administration, and the acquisition of the southwestern territory relieved it from an annoying conflict of authority. Jefferson was henceforward better able to carry out his humane policy toward the Indians — a policy which won him praise from some of his bitterest enemies; while Gallatin turned his energies toward developing the public-land system, in which he had, when in Opposition, taken active interest. The machinery of government worked more easily every day.

## CHAPTER TWELVE

### *Personalities*

WHEN THE SESSION OF CONGRESS closed, May 3, the Administration was left to administer a system greatly reduced in proportions. In Jefferson's own words, he had 'put the ship on her Republican tack,' where she was to show by the beauty of her motion the skill of her builders. Nothing remained, with respect to internal politics, but to restore harmony by winning recalcitrant New England, a task which he confidently hoped to accomplish within the course of the year. 'If we are permitted,' he wrote, in October, 1801, 'to go on so gradually in the removals called for by the Republicans as not to shock or revolt our well-meaning citizens who are coming over to us in a steady stream, we shall completely consolidate the nation in a short time — excepting always the royalists and priests.'

Although in cooler moments Jefferson was less sanguine, he still so far miscalculated the division between himself and New England that, when the spring elections showed less increase than he expected in the Republican vote, he could not explain the cause of his error.

I had hoped [he wrote, in April, 1802] that the proceedings of this session of Congress would have rallied the great body of citizens at once to one opinion; but the inveteracy of their quondam leaders has been able, by intermingling the grossest lies and misrepresentations, to check the effect in some small degree until they shall be exposed.

Nevertheless, he flattered himself that the work was practically done.

In Rhode Island the late election gives us two to one through the whole State. Vermont is decidedly with us. It is said and believed that New Hampshire has got a majority of Republicans now in its Legislature, and wanted a few hundreds only of turning out their Federal Governor. He goes assuredly the next trial. Connecticut is supposed to have gained for us about fifteen or twenty per cent since the last election; but the exact issue is not yet known here, nor is it certainly known how we shall stand in the House of Representatives of Massachusetts; in the Senate there we have lost ground. The candid Federalists acknowledge that their party can never more raise its head.

This was all true; he had won also in national politics a triumph that warranted confidence.

Our majority in the House of Representatives has been about two to one; in the Senate, eighteen to fifteen. After another election it will be of two to one in the Senate, and it would not be for the public good to have it greater. A respectable minority is useful as censors; the present one is not respectable, being the bitterest remains of the cup of Federalism rendered desperate and furious by despair.

Jefferson resembled all rulers in one peculiarity of mind. Even Bonaparte thought that a respectable minority might be useful as censors; but neither Bonaparte nor Jefferson was willing to agree that any particular minority was respectable. Jefferson could not persuade himself to treat with justice the remnants of that great party which he himself, by opposition not more 'respectable' than theirs, had driven from power and 'rendered desperate and furious by despair.' Jefferson prided himself on his services to free thought even more than on those he had rendered to political freedom: in the political field he had many rivals, but in the scientific arena he stood, or thought he stood, alone. His relations with European philosophers afforded him deep enjoyment; and in his Virginian remoteness he imagined his own influence on thought, abroad and at home, to be greater than others supposed it. His knowledge of New England was so slight that he readily adopted a belief in the intolerance of Puritan society toward every form of learning; he loved to contrast himself with his predecessor in the encouragement of science, and he held that to break down the theory and practice of a State Church in New England was necessary, not only to his own complete triumph, but to the introduction of scientific thought.

Expecting no mercy from the clergy, Jefferson took pains to show that they were to look for no mercy from him. At the moment he began the attempt to 'completely consolidate the nation,' he gave what amounted to a formal notice that with the clergy he would neither make peace nor accept truce. A few days after announcing in his Inaugural Address, 'We are all Republicans — we are all Federalists,' and appealing for harmony and affection in social intercourse, Jefferson wrote a letter to the famous Thomas Paine, then at Paris waiting for means of conveyance to America. A sloop-of-war, the *Maryland*, was under orders for Havre

to carry the ratification of the new treaty with France, and the President made his first use of the navy to pay a public compliment to Paine.

You expressed a wish [he wrote] to get a passage to this country in a public vessel. Mr. Dawson is charged with orders to the captain of the *Maryland* to receive and accommodate you with a passage back, if you can be ready to depart at such short warning. . . . I am in hopes you will find us returned generally to sentiments worthy of former times. In these it will be your glory to have steadily labored, and with as much effect as any man living. That you may long live to continue your useful labors, and to reap their reward in the thankfulness of nations, is my sincere prayer. Accept assurances of my high esteem and affectionate attachment.

The sentiments in which Paine gloried 'to have steadily labored,' so far as they were recent, chiefly consisted in applause of the French Revolution, in libels on President Washington and his successor, and in assaults on the Christian religion. Whether he was right or wrong need not be discussed. Even though he were correct in them all, and was entitled to higher respect than any which Jefferson could show him, he was at that time regarded by respectable society, both Federalist and Republican, as a person to be avoided, a character to be feared. Among the New England churches the prejudice against him amounted to loathing, which epithets could hardly express. Had Jefferson written a letter to Bonaparte applauding his 'useful labors' on the Eighteenth Brumaire, and praying that he might live long to continue them, he would not have excited in the minds of the New England Calvinists so deep a sense of disgust as by thus seeming to identify himself with Paine. All this was known to him when he wrote his letter; he knew, too, that Paine would be likely to make no secret of such a compliment; and even if Paine held his tongue, the fact of his return in a national vessel must tell the story.

Although the letter to Paine was never explained away, other expressions of the President seemed to contradict the spirit of this letter, and these the President took trouble to explain. What had he meant by his famous appeal in behalf of harmony and affection in social intercourse, 'without which liberty and even life itself are but dreary things'? What was to become of the still more famous declaration, 'We are all Republicans — we are all Federalists'? Hardly had he uttered these words than he hastened to explain them to his friends. 'It was a conviction,' he



wrote to Giles, 'that these people did not differ from us in principle which induced me to define the principles which I deemed orthodox, and to urge a reunion on those principles; and I am induced to hope it has conciliated many. I do not speak of the desperadoes of the quondam faction in and out of Congress. These I consider as incurables, on whom all attentions would be lost, and therefore will not be wasted; but my wish is to keep their flock from returning to them.' He intended to entice the flock with one hand and to belabor the shepherds with the other.

In any other man such contradictions would have argued dishonesty. In Jefferson they proved only that he took New England to be like Virginia — ruled by a petty oligarchy which had no sympathies with the people, and whose artificial power, once broken, would vanish like that of the Virginia Church. He persuaded himself that if his system were politically successful, the New England hierarchy could be safely ignored. When he said that all were Republicans and all Federalists, he meant that the churches and prejudices of New England were, in his opinion, already so much weakened as not to be taken into his account.

At first the New Englanders were half inclined to believe his assurances. The idea of drawing a line between the people on one side and the bulk of their clergy, magistrates, political leaders, learned professions, colleges, and landowners on the other, did not occur to them, and so thoroughly Virginian was this idea that it never came to be understood; but when they found Jefferson ejecting Federalists from office and threatening the clergy with Paine, they assumed, without refined analysis, that the President had deliberately deceived them. This view agreed with their previous prejudices against Jefferson's character and with their understanding of the Mazzei letter. Their wrath soon became hot with the dry white heat peculiar to their character. The clergy had always hated Jefferson, and believed him not only to be untruthful, but to be also a demagogue, a backbiter, and a sensualist. When they found him, as they imagined, actually at work stripping not only the rags from their religion, but the very coats from their backs, and setting Paine to bait them, they were beside themselves with rage and contempt.

Thus the summer of 1802, which Jefferson's hopes had painted as the term of his complete success, was marked by an outburst of reciprocal invective and slander such as could not be matched in American history. The floodgates of calumny were opened.

By a stroke of evil fortune Jefferson further roused against himself the hatred of a man whose vileness made him more formidable than the respectability of New England could ever be. James Thompson Callender, a Scotch adventurer compared with whom the Cobbetts, Duanes, Cheethams, and Woods who infested the press were men of moral and pure life, had been an ally of Jefferson during the stormy days of 1798, and had published at Richmond a volume called *The Prospect Before Us*, which was sufficiently libelous to draw upon him a State prosecution, and a fine and some months' imprisonment at the rough hands of Judge Chase. A few years later the Republicans would have applauded the sentence, and regretted only its lightness. In 1800 they were bound to make common cause with the victim. When Jefferson became President, he pardoned Callender, and by a stretch of authority returned to him the amount of his fine. Naturally Callender expected reward. He hastened to Washington, and was referred to Madison. He said that he was in love, and hinted that to win the object of his affection nothing less than the post-office at Richmond was necessary for his social standing. Meeting with a positive refusal, he returned to Richmond in extreme anger, and became editor of a newspaper called *The Recorder*, in which he began to wage against Jefferson a war of slander that Cobbett and Cheetham would have shrunk from. He collected every story he could gather, among overseers and scandalmongers, about Jefferson's past life — charged him with having a family of Negro children by a slave named Sally; with having been turned out of the house of a certain Major Walker for writing a secret love-letter to his wife; with having swindled his creditors by paying debts in worthless currency, and with having privately paid Callender himself to write *The Prospect Before Us*, besides furnishing materials for the book. Disproof of these charges was impossible. That which concerned Black Sally, as she was called, seems to have rested on a confusion of persons which could not be cleared up; that relating to Mrs. Walker had a foundation of truth, although the parties were afterward reconciled; that regarding the payment of debt was true in one sense, and false only in the sense which Callender gave it; while that which referred to *The Prospect Before Us* was true enough to be serious. All these charges were welcomed by the Federalist press, reprinted even in the *New York Evening Post*, and scattered broadcast over New England. There men's minds were ready to welcome any tale

of villainy that bore out their theory of Jefferson's character; and, at the most critical moment, a mistake made by himself went far to confirm their prejudice.

Jefferson's nature was feminine; he was more refined than many women in the delicacy of his private relations, and even men as shameless as Callender himself winced under attacks of such a sort. He was sensitive, affectionate, and, in his own eyes, heroic. He yearned for love and praise as no other great American ever did. He hated the clergy chiefly because he knew that from them he could expect neither love nor praise, perhaps not even forbearance. He had befriended Callender against his own better judgment, as every party leader befriended party hacks, not because the leaders approved them, but because they were necessary for the press. So far as license was concerned, *The Prospect Before Us* was a mild libel compared with Cobbett's, Coleman's, and Dennie's cataracts of abuse; and at the time it was written, Callender's character was not known and his habits were still decent. In return for kindness and encouragement, Callender attempted an act of dastardly assassination, which the whole Federalist press cheered. That a large part of the community, and the part socially uppermost, should believe this drunken ruffian and should laugh while he bespattered their President with his filth was a mortification which cut deep into Jefferson's heart. Hurt and angry, he felt that at bottom it was the old theological hatred in Virginia and New England which sustained this mode of warfare; that as he had flung Paine at them, they were flinging Callender at him. 'With the aid of a lying renegade from Republicanism, the Federalists have opened all their sluices of calumny,' he wrote.

The struggle was full of interest; for if Jefferson had never yet failed to break down every opponent, from King George III to Aaron Burr, the New England oligarchy for near two hundred years were a fatal enemy to every ruler not of their own choice, from King Charles I to Thomas Jefferson.

Had the clergy and lawyers, the poets and magistrates, of Massachusetts been the only troublesome element with which Jefferson had to deal, the task of the Republican Party would have been simple; but virulent as party feeling was in New England during the summer of 1802, a feud broke out in New York which took a darker hue. With a violence that startled uninitiated bystanders, Cheetham in his *American Citizen* flung

one charge after another at Burr; first his Judiciary vote; then his birthday toast; then the suppression of a worthless history of the last Administration written by John Wood, another foreign adventurer, whose book Burr bought in order, as Cheetham believed, to curry favor with the New England Federalists; finally, with the rhetorical flourish of an American Junius, Cheetham charged that Burr had tried to steal the Presidency from Jefferson in February, 1801, when the House of Representatives was divided. All the world knew that not Cheetham, but De Witt Clinton thus dragged the Vice-President from his chair, and that not Burr's vices, but his influence made his crimes heinous; that behind De Witt Clinton stood the Virginia dynasty, dangling Burr's office in the eyes of the Clinton family, and lavishing honors and money on the Livingstons.

All this was as clear to Burr and his friends as though it were embodied in an Act of Congress. No one ever explained why Burr did not drag De Witt Clinton from his ambush and shoot him, as two years later he shot Alexander Hamilton with less provocation. At midsummer the city was startled by the report that John Swartwout the marshal, one of Burr's intimates, had charged Clinton with attacking the Vice-President from personal and selfish motives; that Clinton had branded Swartwout as a liar, a scoundrel, and a villain; that they had met at Weehawken, where, after lodging two bullets in his opponent, Clinton had flung down his pistol at the sixth shot, swearing that he would have no more to do with the bloody business. Among the stories current was one that Clinton had expressed regret at not having Swartwout's *principal* before his pistol. Swartwout, wounded as he was, returned directly to Burr's house. In the face of all this provocation, the Vice-President behaved with studied caution and reserve. Never in the history of the United States did so powerful a combination of rival politicians unite to break down a single man as that which arrayed itself against Burr; for as the hostile circle gathered about him, he could plainly see not only Jefferson, Madison, and the whole Virginia legion, with Duane and his *Aurora* at their heels; not only De Witt Clinton and his whole family interest, with Cheetham and his *Watchtower* by their side; but — strangest of companions — Alexander Hamilton himself joining hands with his own bitterest enemies to complete the ring.

Under the influence of these personal hatreds, which raged from the

Penobscot to the Potomac, American politics bade fair to become a faction fight. The President proposed no new legislation; he had come to the end of his economies, and was even beginning to renew expenditures; he had no idea of amending the Constitution or reconstructing the Supreme Court; he thought only of revolutionizing the State Governments of New England. 'The path we have to pursue is so quiet, that we have nothing scarcely to propose to our Legislature' — so he wrote a few days before Congress was to meet. 'If we can prevent the Government from wasting the labors of the people under the pretense of taking care of them, they must become happy.' The energy of reform was exhausted, the point of departure no longer in sight; the ever-increasing momentum of a governmental system required constant care; and with all this, complications of a new and unexpected kind began, which henceforward caused the chief interest of politics to center in foreign affairs.

## CHAPTER THIRTEEN

### *The Retrocession of Louisiana to France*

**M**OST PICTURESQUE of all figures in modern history, Napoleon Bonaparte, like Milton's Satan on his throne of state, although surrounded by a group of figures little less striking than himself, sat unapproachable on his bad eminence; or, when he moved, the dusky air felt an unusual weight. His conduct was often mysterious, and sometimes so arbitrary as to seem insane; but later years have thrown on it a lurid illumination. Without the mass of correspondence and of fragmentary writings collected under the Second Empire in not less than thirty-two volumes of printed works, the greatness of Napoleon's energies or the quality of his mind would be impossible to comprehend. Ambition that ground its heel into every obstacle; restlessness that often defied common-sense; selfishness that eat like a cancer into his reasoning faculties; energy such as had never before been combined with equal genius and resources; ignorance that would have amused a schoolboy; and a moral sense which regarded truth and falsehood as equally useful modes of expression — an unprovoked war or secret assassination as equally natural forms of activity — such a combination of qualities as Europe had forgotten since the Middle Ages, and could realize only by reviving the Eccelinos and Alberics of the thirteenth century, had to be faced and overawed by the gentle optimism of President Jefferson and his Secretary of State.

As if one such character were not riddle enough for any single epoch, a figure even more sinister and almost as enigmatical stood at its side. On the famous Eighteenth Brumaire, the 9th November, 1799, when Bonaparte turned pale before the Five Hundred, and retired in terror from the hall at Saint-Cloud, not so much his brother Lucien, or the facile Sieyès, or Barras, pushed him forward to destroy the republic, but rather Talleyrand, the ex-Bishop of Autun, the Foreign Secretary of the Directory. Talleyrand was most active in directing the *coup d'état*, and was chiefly responsible for the ruin of France. Had he profited by his exile in America, he would have turned to Moreau rather than to Bonaparte; and some millions of men would have gone more quietly to their graves. Certainly he did not foresee the effects of his act; he had not meant to set

a mere soldier on the throne of Saint Louis. He betrayed the republic only because he believed the republic to be an absurdity and a nuisance, not because he wanted a military despotism. He wished to stop the reign of violence and scandal, restore the glories of Louis XIV, and maintain France in her place at the head of civilization. To carry out these views was the work of a lifetime. Every successive government was created or accepted by him as an instrument for his purposes; and all were thrown aside or broke in his hands. Superior to Bonaparte in the breadth and steadiness of his purpose, Talleyrand was a theorist in his political principles; his statecraft was that of the old régime, and he never forgave himself for having once believed in a popular revolution.

This was the man with whom Madison must deal, in order to reach the ear of the First Consul. In diplomacy a more perplexing task could scarcely be presented than to fathom the policy which might result from the contact of a mind like Talleyrand's with a mind like Bonaparte's. If Talleyrand was an enigma to be understood only by those who lived in his confidence, Bonaparte was a freak of Nature such as the world had seen too rarely to comprehend. His character was misconceived even by Talleyrand at this early period; and where the keenest of observers failed to see through a mind he had helped to form, how were men like Jefferson and Madison, three thousand miles away, and receiving at best only such information as Chancellor Livingston could collect and send them every month or six weeks — how were they, in their isolation and ignorance, to solve a riddle that depended on the influence which Talleyrand could maintain over Bonaparte and the despotism which Bonaparte could establish over Talleyrand?

If France was a political factor of the first class in Jefferson's mind, it was not because of her armies or fleets, or her almost extinguished republican character, or her supposed friendship for Jefferson's party in its struggle with Anglican Federalism. The Eighteenth Brumaire severed most of these sentimental ties. The power which France wielded over American destinies sprang, not from any direct French interest or fear of French arms, but from the control which Napoleon exercised over the Spanish Government at Madrid. France alone could not greatly disturb the repose of Jefferson; but France, acting through Spain on the hopes and fears of the Southern States, exercised prodigious influence on the Union.

Don Carlos IV reigned at Madrid — a Bourbon, but an ally of the

French Republic, and since the Eighteenth Brumaire a devoted admirer of the young Corsican who had betrayed the republic. So far as Don Carlos was King of Spain only, his name meant little to Americans; but as an American ruler his empire dwarfed that of the United States. From the sources of the Missouri and Mississippi to the borders of Patagonia, two American continents acknowledged his rule. From the mouth of the St. Mary's, southward and westward, the shores of Florida, Louisiana, Texas, and Mexico were Spanish; Pensacola, Mobile, and New Orleans closed all the rivers by which the United States could reach the Gulf. The valley of the Ohio itself, as far as Pittsburgh, was at the mercy of the King of Spain; the flour and tobacco that floated down the Mississippi, or any of the rivers that fell into the Gulf, passed under the Spanish flag, and could reach a market only by permission of Don Carlos IV. Along an imaginary line from Fernandina to Natchez, some six hundred miles, and thence northward on the western bank of the Mississippi River to the Lake of the Woods, some fourteen hundred miles farther, Spanish authority barred the path of American ambition. Of all foreign Powers Spain alone stood in such a position as to make violence seem sooner or later inevitable even to the pacific Jefferson; and every Southern or Western State looked to the military occupation of Mobile, Pensacola, and New Orleans as a future political necessity.

By a sort of tacit agreement, the ordinary rules of American politics were admitted not to apply to this case. To obtain Pensacola, Mobile, and New Orleans, the warmest States-rights champions in the South, even John Taylor of Caroline and John Randolph of Roanoke, were ready to employ every instrument of centralization. On the Southern and Western States this eagerness to expel Spain from their neighborhood acted like a magnet, affecting all, without regard to theories or parties. The people of Kentucky, Tennessee, and Georgia could not easily admit restrictions of any sort; they were the freest of the free; they felt keenly their subjection to the arbitrary authority of a king — and a King of Spain. They could not endure that their wheat, tobacco, and timber should have value only by sufferance of a Spanish official and a corporal's guard of Spanish soldiers at New Orleans and Mobile. Hatred of a Spaniard was to the Tennessean as natural as hatred of an Indian, and contempt for the rights of the Spanish Government was no more singular than for those of an Indian tribe. Against Indians and



Spaniards the Western settler held loose notions of law; his settled purpose was to drive both races from the country, and to take their land.

In July, 1797, eight months before Godoy's retirement from power at Madrid, Talleyrand became Minister for Foreign Affairs to the French Directory. If the Prince of Peace was a man of no morals, the ex-Bishop of Autun was one of no morality. Colder than Pitt and hardly less corrupt than Godoy, he held theories in regard to the United States which differed from those of other European statesmen only in being more aggressive. Chateaubriand once said, 'When M. Talleyrand is not conspiring, he traffics.' The epigram was not an unfair description of Talleyrand's behavior toward the United States. He had wandered through America in the year 1794, and found there but one congenial spirit. 'Hamilton avait deviné l'Europe,' was his phrase: Hamilton had felt by instinct the problem of European conservatives. After returning from America and obtaining readmission to France, Talleyrand made almost his only appearance as an author by reading to the Institute, in April, 1797, a memoir upon America and the Colonial System. This paper was the clue to his ambition, preparing his return to power by laying the foundation for a future policy. The United States, it said, were wholly English, both by tastes and by commercial necessity; from them France could expect nothing; she must build up a new colonial system of her own — but 'to announce too much of what one means to do is the way not to do it at all.'

France still coveted Louisiana, the creation of Louis XIV, whose name it bore, which remained always French at heart, although in 1763 France ceded it to Spain in order to reconcile the Spanish Government to sacrifices in the Treaty of Paris. By the same treaty Florida was given by Spain to England, and remained twenty years in English hands, until the close of the Revolutionary War, when the Treaty of 1783 restored it to Spain. The Spanish Government of 1783, in thus gaining possession of Florida and Louisiana together, aimed at excluding the United States, not France, from the Gulf. Indeed, when the Count de Vergennes wished to recover Louisiana for France, Spain was willing to return it, but asked a price which, although the mere reimbursement of expenses, exceeded the means of the French Treasury, and only for that reason Louisiana remained a Spanish province. After Godoy's war with France, at the

Peace of Bâle the French Republic again tried to obtain the retrocession of Louisiana, but in vain. Nevertheless, some progress was made, for by that treaty, July 22, 1795, Spain consented to cede to France the Spanish, or eastern, part of St. Domingo — the cradle of her trans-Atlantic power, and the cause of yearly deficits to the Spanish Treasury. Owing to the naval superiority of England, the French Republic did not ask for immediate possession. Fearing Toussaint L'Ouverture, whose personal authority in the French part of the island already required forbearance, France retained the title, and waited for peace. Again, in 1797, Carnot and Barthélemy caused the Directory to offer the King of Spain a magnificent bribe for Louisiana. They proposed to take the three legations just wrung from the Pope, and joining them with the Duchy of Parma, make a principality for the son of the Duke of Parma, who had married a daughter of Don Carlos IV. Although this offer would have given his daughter a splendid position, Charles refused it, because he was too honest a churchman to share in the spoils of the Church.

These repeated efforts proved that France, and especially the Foreign Office, looked to the recovery of French power in America. A strong party in the Government aimed at restoring peace in Europe and extending French empire abroad. Of this party Talleyrand was, or aspired to be, the head; and his memoir, read to the Institute in April and July, 1797, was a cautious announcement of the principles to be pursued in the administration of foreign affairs which he immediately afterward assumed.

Although Talleyrand had mismanaged the execution of his plan, the policy itself was a great one. The man who could pacify Europe and turn the energies of France toward the creation of an empire in the New World was the more sure of success because, in the reactionary spirit of the time, he commanded the sympathies of all Europe in checking the power of republicanism in its last refuge.

The first object of the new policy was to restore the peace of Europe; and the energy of Bonaparte completed this great undertaking within two years after the Eighteenth Brumaire. However little admiration a bystander might feel for Napoleon's judgment or morals, no one could deny the quickness of his execution. Within six weeks after the battle of Marengo, without waiting for peace with England or Austria, convinced that he held these countries in the hollow of his hand, he ordered Talley-

rand to send a special courier to the Citizen Alquier, French minister at Madrid, with powers for concluding a treaty by which Spain should retrocede Louisiana to France, in return for an equivalent aggrandizement of the Duchy of Parma. The courier was at once dispatched, and returned with a promptitude and success which ought to have satisfied even the restlessness of Bonaparte. The Citizen Alquier no sooner received his orders than he went to Señor Urquijo, the Spanish Secretary for Foreign Relations, and, passing abruptly over the well-worn arguments in favor of retrocession, he bluntly told Urquijo to oppose it if he dared.

Urquijo's reply measured the degradation of Spain: 'Eh! who told you that I would not give you Louisiana? But we must first have an understanding, and you must help me to convince the King.'

At this reply, which sounded like Beaumarchais' comedies, Alquier saw that his game was safe. 'Make yourself easy on that score,' he replied; 'the Queen will take that on herself.' So the conference ended.

Alquier was right. The Queen took the task on herself, and Urquijo soon found that both King and Queen were anxious to part with Louisiana for their daughter's sake. They received the offer with enthusiasm and lavished praises upon Bonaparte. The only conditions suggested by Urquijo were that the new Italian principality should be clearly defined and that Spain should be guaranteed against the objections that might be made by other Governments.

Moreau's great victory at Hohenlinden, December 3, next brought Austria to her knees. Joseph Bonaparte was sent to Lunéville in Lorraine, and in a few weeks negotiated the treaty which advanced another step the cession of Louisiana. The fifth article of this treaty, signed February 9, 1801, deprived the actual Grand Duke of his Grand Duchy, and established the young Duke of Parma in Tuscany. To complete the transaction, Lucien Bonaparte was sent as ambassador to Madrid.

Lucien's first act was to negotiate a new treaty closing the bargain in regard to Parma and Tuscany. Here Godoy offered no resistance. The Prince of Parma was created King of Tuscany, and the sixth article provided that the retrocession of Louisiana should at once be carried out. This treaty was signed at Madrid, March 21, 1801. The young King and Queen of Tuscany — or, according to their title, of Etruria — were dispatched to Paris.

## CHAPTER FOURTEEN

### *Toussaint L'Ouverture*

**T**HAT BONAPARTE felt no strong sympathy with Talleyrand's policy of peace in Europe and peaceful development abroad is more than probable; but he was not yet so confident of his strength as to rely wholly on himself — he had gone too far in the path of pacification to quit it suddenly for one of European conquest and dynastic power. He left Godoy and Spain untouched, in order to rebuild the empire of France in her colonies. His agent at London, October 1, 1801, signed with Lord Hawkesbury preliminary articles of peace which put an end to hostilities on the ocean. No sooner did Bonaparte receive the news than he summoned his brother-in-law Leclerc to Paris. Leclerc was a general of high reputation, who had married the beautiful Pauline Bonaparte and was then perhaps the most promising member of the family next to Napoleon himself. To him, October 23, Napoleon entrusted the command of an immense expedition already ordered to collect at Brest, to destroy the power of Toussaint L'Ouverture and re-establish slavery in the Island of St. Domingo.

The story of Toussaint L'Ouverture has been told almost as often as that of Napoleon, but not in connection with the history of the United States, although Toussaint exercised on their history an influence as decisive as that of any European ruler. His fate placed him at a point where Bonaparte needed absolute control. St. Domingo was the only center from which the measures needed for rebuilding the French colonial system could radiate. Before Bonaparte could reach Louisiana he was obliged to crush the power of Toussaint.

The magnificent Island of St. Domingo was chiefly Spanish. Only its western end belonged by language as well as by history to France; but this small part of the island, in the old days of Bourbon royalty, had been the most valuable of French possessions. Neither Martinique nor Guadeloupe compared with it. In 1789, before the French Revolution began, nearly two-thirds of the commercial interests of France centered in St. Domingo; its combined exports and imports were valued at more than one hundred and forty million dollars; its sugar, coffee, indigo, and cotton supplied the home market, and employed in prosperous years

more than seven hundred ocean-going vessels, with seamen to the number, it was said, of eighty thousand. Paris swarmed with creole families who drew their incomes from the island, among whom were many whose political influence was great; while, in the island itself, society enjoyed semi-Parisian ease and elegance, the natural product of an exaggerated slave-system combined with the manners, ideas, and amusements of a French proprietary caste.

In 1789 the colony contained about six hundred thousand inhabitants, five-sixths of whom were full-blooded Negroes held in rigid slavery. Of the eighty or hundred thousand free citizens, about half were mulattoes or had some infusion of Negro blood which disqualified them from holding political power. All social or political privileges were held by forty or fifty thousand French creoles, represented by the few hundred planters and officials who formed the aristocracy of the island. Between the creoles and the mulattoes, or mixed-breeds, existed the jealousy sure to result from narrow distinctions of blood marking broad differences in privilege. These were not the only jealousies which raged in the colony; for the creoles were uneasy under the despotism of the colonial system, and claimed political rights which the home Government denied. Like all colonists of that day, in the quiet of their plantations they talked of independence, and thought with envy of their neighbors in South Carolina, who could buy and sell where they pleased.

When in 1789 France burst into a flame of universal liberty, the creoles of St. Domingo shared the enthusiasm so far as they hoped to gain by it a relaxation of the despotic colonial system; but they were alarmed at finding that the mulattoes, who claimed to own a third of the land and a fourth of the personality in the colony, offered to make the Republic a free gift of one-fifth of their possessions on condition of being no longer subjected to the creole tyranny of caste. The white and mulatto populations were thus brought into collision. The National Assembly of France supported the mulattoes. The creoles replied that they preferred death to sharing power with what they considered a bastard and despicable race. They turned royalists. Both parties took up arms, and in their struggle with each other they at length dropped a match into the immense powder magazine upon which they both lived. One August night in the year 1791 the whole plain of the north was swept with fire and drenched with blood. Five hundred thousand Negro slaves in the depths

of barbarism revolted, and the horrors of the massacre made Europe and America shudder.

For several years afterward the colony was torn by convulsions; and to add another element of confusion, the Spaniards and English came in, hoping to effect its conquest. February 4, 1794, the National Assembly of France took the only sensible measure in its power by proclaiming the abolition of slavery; but for the moment this step only embroiled matters the more. Among its immediate results was one of great importance, though little noticed at the time. A Negro chief, who since the outbreak had become head of a royalist band in Spanish pay, returned, in April, 1794, within French jurisdiction and took service under the Republic. This was Toussaint L'Ouverture, whose father, the son of a Negro chief on the slave-coast of Africa, had been brought to St. Domingo as a slave. Toussaint was born in 1746. When he deserted the Spanish service and with some four thousand men made the sudden attack which resulted in clearing the French colony of Spanish troops, he was already forty-eight years old.

Although Toussaint was received at once into the French service, not until more than a year later, July 23, 1795, did the National Convention recognize his merits by giving him the commission of Brigadier-General. Within less than two years, in May, 1797, he was made General-in-Chief, with military command over the whole colony. The services he rendered to France were great, and were highly rewarded. His character was an enigma. Hated by the mulattoes with such vindictiveness as mutual antipathies and crimes could cause, he was liked by the whites rather because he protected and flattered them at the expense of the mulattoes than because they felt any love for him or his race. In return they flattered and betrayed him. Their praise or blame was equally worthless; yet to this rule there were exceptions. One of the best among the French officers in St. Domingo, Colonel Vincent, was deep in Toussaint's confidence, and injured his own career by obstinate attempts to intervene between Bonaparte and Bonaparte's victim. Vincent described Toussaint, in colors apparently unexaggerated, as the most active and indefatigable man that could be imagined — one who was present everywhere, but especially where his presence was most needed; while his great sobriety, his peculiar faculty of never resting, of tiring out a half-dozen horses and as many secretaries every day; and, more than all, his art of

amusing and deceiving all the world — an art pushed to the limits of imposture — made him so superior to his surroundings that respect and submission to him were carried to fanaticism.

Gentle and well-meaning in his ordinary relations, vehement in his passions, and splendid in his ambition, Toussaint was a wise, though a severe, ruler so long as he was undisturbed; but where his own safety or power was in question, he could be as ferocious as Dessalines and as treacherous as Bonaparte. In more respects than one his character had a curious resemblance to that of Napoleon — the same abnormal energy of body and mind; the same morbid lust for power and indifference to means; the same craft and vehemence of temper; the same fatalism, love of display, reckless personal courage, and, what was much more remarkable, the same occasional acts of moral cowardice. One might suppose that Toussaint had inherited from his Dahomey grandfather the qualities of primitive society; but if this was the case, the conditions of life in Corsica must have borne some strong resemblance to barbarism, because the rule of inheritance which applied to Toussaint should hold good for Bonaparte. The problem was the more interesting because the parallelism roused Napoleon's anger, and precipitated a conflict which had vast influence on human affairs. Both Bonaparte and L'Ouverture were the products of a revolution which gave its highest rewards to qualities of energy and audacity. So nearly identical were the steps in their career that after the Eighteenth Brumaire Toussaint seemed naturally to ape every action which Bonaparte wished to make heroic in the world's eyes. There was reason to fear that Toussaint would end in making Bonaparte ridiculous; for his conduct was, as it seemed to the First Consul, a sort of Negro travesty on the consular régime.

Perhaps audacity was L'Ouverture's best policy; yet no wise man would intentionally aggravate his own dangers by unnecessary rashness, such as he showed in Bonaparte's face. He was like a rat defying a ferret; his safety lay not in his own strength, but in the nature of his hole. Power turned his head, and his regular army of twenty thousand disciplined and well-equipped men was his ruin. All his acts, and much of his open conversation, during the years 1800 and 1801, showed defiance to the First Consul. He prided himself upon being 'First of the Blacks' and 'Bonaparte of the Antilles.' Warning and remonstrance from the **Minister of Marine in France** excited only his violent anger. He insisted upon

dealing directly with sovereigns and not with their ministers, and was deeply irritated with Bonaparte for answering his letters through the Minister of Marine. Throwing one of these dispatches aside unopened, he was heard to mutter before all his company the words, '*Ministrel . . . valet!* . . .' He was right in the instinct of self-assertion, for his single hope lay in Bonaparte's consent to his independent power; but the attack on Spanish St. Domingo and the proclamation of his new Constitution were unnecessary acts of defiance.

Rarely has diplomacy been used with more skill and energy than by Bonaparte, who knew where force and craft should converge. That in this skill mendacity played a chief part need hardly be repeated. Toussaint was flattered, cajoled, and held in a mist of ignorance, while one by one the necessary preparations were made to prevent his escape; and then, with scarcely a word of warning, at the First Consul's order the mist rolled away and the unhappy Negro found himself face to face with destruction. The same ships that brought news of the preliminary treaty signed at London brought also the rumor of a great expedition fitting at Brest and the gossip of creole society in Paris which made no longer a secret that Bonaparte meant to crush Toussaint and restore slavery at St. Domingo. Nowhere in the world had Toussaint a friend or a hope except in himself. Two continents looked on with folded arms, more and more interested in the result, as Bonaparte's ripening schemes began to show their character. As yet President Jefferson had no inkling of their meaning. The British Government was somewhat better informed, and perhaps Godoy knew more than all the rest; but none of them grasped the whole truth or felt their own dependence on Toussaint's courage. If he and his blacks should succumb easily to their fate, the wave of French empire would roll on to Louisiana and sweep far up the Mississippi; if St. Domingo should resist, and succeed in resistance, the recoil would spend its force on Europe, while America would be left to pursue her democratic destiny in peace.

The story of this war, interesting though it was, cannot be told here. Toussaint's resistance broke the force of Bonaparte's attack. Although it lasted less than three months, it swept away one French army and ruined the industry of the colony to an extent that required years of repair. Had Toussaint not been betrayed by his own generals and had he been less attached than he was to civilization and despotic theories of



military rule, he would have achieved a personal triumph greater than was won by any other man of his time. His own choice was to accept the war of races, to avoid open battle where his troops were unequal to their opponents, and to harass instead of fighting in line. He would have made a war of guerrillas, stirred up the terror and fanaticism of the Negro laborers, put arms into their hands, and relied on their courage rather than on that of his army. He let himself be overruled. 'Old Toussaint,' said Christophe afterward, 'never ceased saying this, but no one would believe him. We had arms; pride in using them destroyed us.' Christophe, for good reasons, told but half the story. Toussaint was not ruined by a few lost battles, but by the treachery of Christophe himself and of the other Negro generals. Jealous of Toussaint's domination and perhaps afraid of being sent to execution like Moyse — the best general officer in their service — for want of loyalty to his chief, Christophe, after one campaign, April 26, 1802, surrendered his posts and forces to Leclerc without the knowledge and against the orders of Toussaint. Then L'Ouverture himself committed the fatal mistake of his life, which he of all men seemed least likely to commit — he trusted the word of Bonaparte. May 1, 1802, he put himself in Leclerc's hands in reliance on Leclerc's honor.

Surprising as such weakness was in one who had the sensitiveness of a wild animal to danger — Leclerc himself seemed to be as much surprised that the word of honor of a French soldier should be believed as any bystander at seeing the Negro believe it — the act had a parallel in the weakness which led Bonaparte, twelve years afterward, to mount the deck of the *Bellerophon* and without even the guaranty of a pledge surrender himself to England. The same vacillations and fears, the same instinct of the desperate political gambler, the same cowering in the face of Fate, closed the active lives of both these extraordinary men. Such beings should have known how to die when their lives were ended. Toussaint should have fought on, even though only to perish under the last cactus on his mountains, rather than trust himself in the hands of Bonaparte.

The First Consul's orders to Leclerc were positive, precise, and repeated. 'Follow exactly your instructions,' said he, 'and the moment you have rid yourself of Toussaint, Christophe, Dessalines, and the principal brigands, and the masses of the blacks shall be disarmed, send

over to the Continent all the blacks and mulattoes who have played a rôle in the civil troubles. . . . Rid us of these gilded Africans, and we shall have nothing more to wish.' With the connivance and at the recommendation of Christophe, by a stratagem such as Bonaparte used afterward in the case of the Duc d'Enghien and of Don Carlos IV, Toussaint was suddenly arrested, June 10, 1802, and hurried on shipboard. Some weeks later he was landed at Brest; then he disappeared. Except a few men who were in the secret, no one ever again saw him. Plunged into a damp dungeon in the fortress of Joux, high in the Jura Mountains on the Swiss frontier, the cold and solitude of a single winter closed this tropical existence. April 7, 1803, he died forgotten, and his work died with him. Not by Toussaint, and still less by Christophe or Dessalines, was the liberty of the blacks finally established in Hayti and the entrance of the Mississippi barred to Bonaparte.

The news of Leclerc's success reached Paris early in June, and set Bonaparte again in motion. Imagining that the blacks were at his mercy, orders were at once issued to provide for restoring them to slavery.

## CHAPTER FIFTEEN

### *Monroe's Mission*

**S**MULTANEOUSLY with the order to restore slavery at Guadeloupe and St. Domingo, Bonaparte directed his Minister of Marine to prepare plans and estimates for the expedition which was to occupy Louisiana. 'My intention is to take possession of Louisiana with the shortest delay and that this expedition be made in the utmost secrecy, under the appearance of being directed on St. Domingo.' The First Consul had allowed Godoy to postpone for a year the delivery of Louisiana, but he would wait no longer. His minister at Madrid, General Gouvion Saint-Cyr, obtained at length a promise that the order for the delivery of Louisiana should be given by Charles IV to the First Consul on two conditions: first, that Austria, England, and the dethroned Grand Duke of Tuscany should be made to recognize the new King of Etruria; second, that France should pledge herself 'not to alienate the property and usufruct of Louisiana, and to restore it to Spain in case the King of Tuscany should lose the whole or the greater part of his estates.'

To these demands Talleyrand immediately replied in a letter of instructions to Gouvion Saint-Cyr, which was destined to a painful celebrity. After soothing and reassuring Spain on the subject of the King of Etruria, this letter came at last to the required pledge in regard to Louisiana:

Spain wishes that France should engage herself not to sell or alienate in any manner the property or enjoyment of Louisiana. Her wish in this respect perfectly conforms with the intentions of the French Government, which parted with it in 1762 only in favor of Spain, and has wished to recover it only because France holds to a possession which once made part of French territory. You can declare in the name of the First Consul that France will never alienate it.

Saint-Cyr accordingly gave a formal written pledge in the name of the First Consul that France would never alienate Louisiana.

Even yet the formal act of delivery was delayed. Bonaparte gave orders that the expedition should be ready to sail in the last week of September; but the time passed, and delays were multiplied. For once the First Consul failed to act with energy. His resources were drained

to St. Domingo as fast as he could collect them, and the demands of the colonies on his means of transportation exceeded his supply of transports. The expedition to Louisiana was postponed, but, as he hoped, only to give it more scope.

From the time of Berthier's treaty of retrocession, Bonaparte had tried to induce the King of Spain to part with the Floridas; but Charles IV refused to talk of another bargain. In vain Bonaparte wrote to the young King of Etruria, offering to give him Parma, Piacenza, and Guastalla, if Don Carlos would add Florida to Louisiana.

Europe would have acted more wisely in its own interest by offering Bonaparte every inducement to waste his strength on America. Had England, Spain, and Russia united to give him Florida on his own terms, they would have done only what was best for themselves. A slight impulse given to the First Consul would have plunged him into difficulties with the United States from which neither France nor the United States could have easily escaped. Both Godoy and the Emperor Alexander would have done well to let French blood flow without restraint in St. Domingo and on the Mississippi, rather than drown with it the plains of Castile and Smolensk.

Had not Godoy's delays and Toussaint's resistance intervened, ten thousand French soldiers, trained in the school of Hoche and Moreau, and commanded by a future marshal of France, might have occupied New Orleans and St. Louis before Jefferson could have collected a brigade of militia at Nashville. The whole power of the United States could not at that day, even if backed by the navy of England, have driven ten thousand French troops out of Louisiana. On the contrary, a vigorous French officer, with a small trained force and his Indian allies, could make Claiborne uneasy for the safety of his villages at Natchez and Vicksburg. No one could foresee what might be the effect of one or two disastrous campaigns on the devotion of the Western people to the Government at Washington. The existence of the Union and the sacrifice of many thousand lives seemed, in the opinion of competent judges, likely to be risked by allowing Bonaparte to make his position at New Orleans impregnable.

The New England Federalists were satisfied that President Jefferson must either adopt their own policy and make war on France or risk a dissolution of the Union. They had hardly dared hope that democracy

would so soon meet what might prove to be its crisis. They, too, cried for war, and cared little whether their outcry produced or prevented hostilities, for the horns of Jefferson's dilemma were equally fatal to him. All eyes were bent on the President, and watched eagerly for some sign of his intentions.

'Peace is our passion!' This phrase of President Jefferson, taken from a letter written a few months later, expressed his true policy. In spite of his frequent menaces, he told Livingston in October, 1802, that the French occupation of Louisiana was not 'important enough to risk a breach of peace.' Within a week after this letter was written, New Orleans was closed to American commerce and a breach of peace seemed unavoidable. Down to that time the Executive had done nothing to check Napoleon. The President had instructed his agents at Paris and Madrid to obtain, if they could, the cession of New Orleans and West Florida, and had threatened an alliance with England in case this request were refused; but England was at peace with France and Bonaparte was not likely to provoke another war until he should be able to defend Louisiana. So far as any diplomatic action by the United States Government was concerned, Madison and Jefferson might equally well have written nothing; and when news arrived that the Mississippi was closed, alarming as the situation became, no new action was at first suggested. The President was contented to accept the assistance of the Spanish and French representatives at Washington.

There the matter rested until December 6, when Congress met. Even at so exciting a moment, Senators were slow in arriving at Washington, and a week passed before a quorum was formed. Not till December 15 could the Annual Message be read. No message could be more pacific in tone. The President discussed everything except the danger which engrossed men's minds. He talked of peace and friendship, of law, order, and religion, of differential duties, distressed seamen, the blockade of Tripoli, Georgia lands, Indian treaties, the increase in revenue, 'the emancipation of our posterity from that mortal canker,' a national debt, 'by avoiding false objects of expense'; he said that no change in the military establishment was deemed necessary, but that the militia might be improved; he regretted that the behavior of the Barbary Powers rendered a small squadron still necessary to patrol the Mediterranean,

but at the same time he strongly urged Congress to take measures for laying up the whole navy, by constructing a large dry-dock on the Eastern Branch, where the seven frigates might be stowed away side by side under cover, and kept from decay or expense. All these subjects he touched in a spirit of peace and good-will toward mankind; but when he came to the question of Louisiana, about which he had written so many alarming letters to Europe, he spoke in a tone of apparent indifference. 'The cession of the Spanish province of Louisiana to France,' he said, 'which took place in the course of the late war, will, if carried into effect, make a change in the aspect of our foreign relations which will doubtless have a just weight in any deliberations of the Legislature connected with that subject.' No allusion was made to the closure of the Mississippi.

Nothing could more disconcert the war party than this manner of ignoring their existence. Jefferson afterward explained that his hope was to gain time; but he could not more effectually have belittled his Federalist enemies than by thus telling them that a French army at New Orleans would 'make a change in the aspect of our foreign relations.' This manner of treating Congress was the more dexterous, because if the President did not at once invite the Legislature to realize the alarming state of foreign affairs, he abstained only in order to carry out other tactics. Two days after the Message was read, December 17, John Randolph, the Administration leader in the House, moved for the papers relating to the violated right of deposit. Great curiosity was felt to know what course the President meant to take.

Five days passed before Jefferson answered the call of the House; and when he did so, he sent papers which might have been prepared in five minutes, for most of them had been long printed in the newspapers. In communicating these documents, the President added that he had not lost a moment in causing every step to be taken which the occasion claimed from him; but he did not say what these steps were. A week later he sent another document, which he requested the House to return without publication; it was a letter which Governor Claiborne had received from Governor Salcedo, denying responsibility for the Intendant's act and asserting that it was not authorized by the Spanish Government. The House shut its doors and debated a week. Then it reopened its doors and announced to the world that by a party vote of fifty to twenty-five, the following resolution had been adopted:

Adhering to that humane and wise policy which ought ever to characterize a free people, and by which the United States have always professed to be governed; willing at the same time to ascribe this breach of compact to the unauthorized misconduct of certain individuals rather than to a want of good faith on the part of His Catholic Majesty; and relying with perfect confidence on the vigilance and wisdom of the Executive — they will wait the issue of such measures as that department of the Government shall have pursued for asserting the rights and vindicating the injuries of the United States.

Strenuously as the President exerted himself to stifle the warlike feeling in Congress, his influence did not extend far enough to check the same feeling elsewhere. Successful in Washington, he found himself exposed to an alarming pressure from the West. One State Legislature after another adopted resolutions which shook the ground under his feet. Eighteen months had passed since the seriousness of Napoleon's schemes became known to him, but as yet he had done nothing that could be construed as an attempt to represent the demands of the Western country; all his ingenuity had, in fact, been exerted to evade these demands. The West wanted troops at Natchez, to seize New Orleans at the first sign of a French occupation; but the use of force at that stage was not in Jefferson's thoughts. To quiet Kentucky and Tennessee without satisfying them was a delicate matter; but, delicate as it was, Jefferson succeeded in doing it. He explained his plan in a letter to Monroe, written at the moment when everything depended on Monroe's aid:

The agitation of the public mind on occasion of the late suspension of our right of deposit at New Orleans is extreme. In the Western country it is natural, and grounded on honest motives; in the seaports it proceeds from a desire for war, which increases the mercantile lottery; in the Federalists generally, and especially those of Congress, the object is to force us into war if possible, in order to derange our finances; or if this cannot be done, to attach the Western country to them as their best friends, and thus get again into power. Remonstrances, memorials, etc., are now circulating through the whole of the Western country, and signed by the body of the people. The measures we have been pursuing, being invisible, do not satisfy their minds. Something sensible, therefore, has become necessary.

This sensible, or rather this tangible, measure was the appointment of a minister extraordinary to aid Livingston in buying New Orleans and the Floridas. The idea was adopted after the secret debate in the House.

Accordingly, General Smith of Maryland, January 11, 1803, carried the House again into secret session, and moved to appropriate two million dollars 'to defray any expenses which may be incurred in relation to the intercourse between the United States and foreign nations.' The next day a committee reported, through Joseph Nicholson, in favor of appropriating the money, with a view to purchasing West Florida and New Orleans. The report argued that there was no alternative between purchase and war. Meanwhile, January 11, the President sent to the Senate the name of James Monroe as minister extraordinary to France and Spain to help Livingston and Pinckney in 'enlarging and more effectually securing our rights and interests in the river Mississippi and in the territories eastward thereof.'

For the purchase of New Orleans, Livingston was fully competent; but the Opposition at home, as Jefferson candidly wrote to him, were pressing their inflammatory resolutions in the House so hard that 'as a remedy to all this we determined to name a minister extraordinary to go immediately to Paris and Madrid to settle this matter. This measure being a visible one, and the person named peculiarly popular with the Western country, crushed at once and put an end to all further attempts on the Legislature. From that moment all has been quiet.' The quiet was broken again, soon after this letter was written, by a sharp attack in the Senate. Ross of Pennsylvania, White of Delaware, and Gouverneur Morris of New York assailed the Administration for the feebleness of its measures. In private, Jefferson did not deny that his measures were pacific and that he had no great confidence in Monroe's success; he counted rather on Bonaparte's taking possession of New Orleans and remaining some years on the Mississippi. 'I did not expect he would yield until a war took place between France and England; and my hope was to palliate and endure, if Messrs. Ross, Morris, etc., did not force a premature rupture, until that event. I believed the event not very distant, but acknowledge it came on sooner than I had expected.'

'To palliate and endure' was, therefore, the object of Jefferson's diplomacy for the moment. Whether the Western States could be persuaded to endure or to palliate the presence of a French army at New Orleans was doubtful; but Jefferson's success in controlling them proved his personal authority and political skill.

The essence and genius of Jefferson's statesmanship lay in peace.



Through difficulties, trials, and temptations of every kind he held fast to this idea, which was the clue to whatever seemed inconsistent, feeble, or deceptive in his Administration. Yielding often, with the suppleness of his nature, to the violence of party, he allowed himself to use language which at first sight seemed inconsistent, and even untruthful; but such concessions were momentary; the unswerving intent could always be detected under every superficial disguise; the consistency of the career became more remarkable on account of the seeming inconsistencies of the moment. He was pliant and yielding in manner, but steady as the magnet itself in aim. His maneuvers between the angry West and the arbitrary First Consul of France offered an example of his political method. He meant that there should be no war. While waiting to hear the result of Monroe's mission he wrote to an English correspondent a letter which expressed his true feelings with apparent candor:

We see . . . with great concern the position in which Great Britain is placed, and should be sincerely afflicted were any disaster to deprive mankind of the benefit of such a bulwark against the torrent which has for some time been bearing down all before it. But her power and prowess by sea seem to render everything safe in the end. Peace is our passion, and wrongs might drive us from it. We prefer trying *every* other just principle, right and safety, before we would recur to war.

## CHAPTER SIXTEEN

### *The Louisiana Treaty*

**B**ONAPARTE'S EXPEDITION to Louisiana was to have sailed at the end of September, 1802. A general of division, three generals of brigade, five battalions of infantry, two companies of artillery, sixteen pieces of cannon, and three thousand muskets were to be collected at Dunkirk for shipment; but as fast as regiments could be named they were consumed by the fiery furnace of St. Domingo. Nevertheless, all the orders and arrangements were gradually made. Victor was to command the forces in Louisiana; Laussat was to be prefect, charged with the civil administration. Both received elaborate written instructions; and although Victor could not sail without ships or troops, Laussat was sent on his way.

In these instructions not a word could be found which clashed with Jefferson's pacific views; and partly for that reason they were more dangerous to the United States than if they had ordered Victor to seize American property on the Mississippi and occupy Natchez with his three thousand men. Victor was instructed, in effect, to tamper with every adventurer from Pittsburgh to Natchez; buy up every Indian tribe in the Georgia and Northwestern Territory; fortify every bluff on the western bank from St. Louis to New Orleans; and in a few years create a series of French settlements which would realize Madison's 'sound policy' of discouraging the United States from colonizing the west bank.

These were the ideas held by the Government of France at the moment when Jefferson nominated Monroe as a special envoy to buy New Orleans and West Florida. Jefferson's hopes of his success were small; and Livingston, although on the spot and eager to try the experiment, could only write: 'Do not absolutely despair.' Whatever chance existed of obtaining New Orleans seemed to lie in the possibility that Addington's peaceful administration in England might be driven into some act contrary to its vital interests; and even this chance was worth little, for so long as Bonaparte wanted peace, he could always keep it. England was thoroughly weary of war; and proved it by patiently looking on while Bonaparte, during the year, committed one arbitrary act after another, which at any previous time would have been followed by an instant withdrawal of the British minister from Paris.

On the other hand, the world could see that Bonaparte was already tired of peace; his rôle of beneficent shopkeeper disgusted him, and a new war in Europe was only a question of months. In such a case the blow might fall on the east bank of the Rhine, on Spain, or on England. Yet Bonaparte was in any case bound to keep Louisiana or return it to Spain. Florida was not his to sell. The chance that Jefferson could buy either of these countries, even in case of a European war, seemed so small as hardly to be worth considering; but it existed, because Bonaparte was not a man like other men, and his action could never be calculated in advance.

The news that Leclerc was dead, that his army was annihilated, St. Domingo ruined, and the Negroes more than ever beyond control, reached Paris and was printed in the *Moniteur* January 7, 1803, in the same active week when Bernadotte, Laussat, and Victor were ordered from France to America and Monroe was ordered from America to France. Of all the events of the time, Leclerc's death was the most decisive. The colonial system of France centered in St. Domingo. Without that island the system had hands, feet, and even a head, but no body. Of what use was Louisiana when France had clearly lost the main colony which Louisiana was meant to feed and fortify?

Not only had the Island of St. Domingo been ruined by the war, its plantations destroyed, its labor paralyzed, and its population reduced to barbarism, so that the task of restoring its commercial value had become extremely difficult; but other and greater objections existed to a renewal of the struggle. The army dreaded service in St. Domingo, where certain death awaited every soldier; the expense was frightful; a year of war had consumed fifty thousand men and money in vast amounts, with no other result than to prove that at least as many men and as much money would be still needed before any return could be expected for so lavish an expenditure. In Europe war could be made to support war; in St. Domingo peace alone could but slowly repair some part of this frightful waste.

From the day when news of Leclerc's death arrived, during the first week of January, 1803, the First Consul brooded over the means of abandoning St. Domingo without appearing to desert intentionally a policy dear to France. Talleyrand and Decrès were allowed to go on as before; they gave instructions to Bernadotte and hurried the preparations of Victor, whom the ice and snow of Holland and the slowness of the work-

men held motionless; they prepared a reinforcement of fifteen thousand men for Rochambeau, and Bonaparte gave all the necessary orders for hastening the departure of both expeditions. As late as February 5, he wrote to Decrès that fifteen thousand men had been, or were about to be, sent to St. Domingo, and that fifteen thousand more must be ready to sail by the middle of August. Yet his policy of abandoning the colonial system had been already decided; for on January 30 the *Moniteur* produced Sebastiani's famous Report on the military condition of the East — a publication which could have no other object than to alarm England.

Bonaparte loved long-prepared transformation scenes. Such a scene he was preparing, and the early days of April, 1803, found the actors eagerly waiting it. All the struggles and passions of the last two years were crowded into the explosion of April. At St. Domingo, horror followed fast on horror. Rochambeau, shut in Port au Prince — drunken, reckless, surrounded by worthless men and by women more abandoned still, wallowing in the dregs of the former English occupation and of a half-civilized Negro empire — waged as he best could a guerrilla war, hanging, shooting, drowning, burning all the Negroes he could catch; hunting them with fifteen hundred bloodhounds bought in Jamaica for something more than one hundred dollars each; wasting money, squandering men; while Dessalines and Christophe massacred every white being within their reach. To complete Bonaparte's work, from which he wished to turn the world's attention, high among the Jura Mountains, where the ice and snow had not yet relaxed their grip upon the desolate little fortress and its sunless casemate, in which for months nothing but Toussaint's cough had been heard, Commander Amiot wrote a brief military report to the Minister of Marine: 'On the 17th [April 7], at half-past eleven o'clock of the morning, on taking him his food, I found him dead, seated on his chair near his fire.' According to Tavernier, doctor of medicine and *chirurgien* of Pontarlier, who performed the autopsy, pleuropneumonia was the cause of Toussaint's death.

Toussaint never knew that St. Domingo had successfully resisted the whole power of France, and that had he been truer to himself and his color he might have worn the crown that became the plaything of Christophe and Dessalines; but even when shivering in the frosts of the Jura, his last moments would have glowed with gratified revenge had he known that at the same instant Bonaparte was turning into a path

which the Negroes of St. Domingo had driven him to take and which was to lead him to parallel at St. Helena the fate of Toussaint himself at the Château de Joux. In these days of passion, men had little time for thought; and the last subject on which Bonaparte thereafter cared to fix his mind was the fate of Toussaint and Leclerc. That the 'miserable Negro,' as Bonaparte called him, should have been forgotten so soon was not surprising; but the prejudice of race alone blinded the American people to the debt they owed to the desperate courage of five hundred thousand Haytian Negroes who would not be enslaved.

Monroe arrived in sight of the French coast April 7, 1803; but while he was still on the ocean, Bonaparte, without reference to him or his mission, opened his mind to Talleyrand in regard to ceding Louisiana to the United States.

The suddenness of Bonaparte's change disconcerted Livingston. For months he had wearied the First Consul with written and verbal arguments, remonstrances, threats — all intended to prove that there was nothing grasping or ambitious in the American character; that France should invite the Americans to protect Louisiana from the Canadians; that the United States cared nothing for Louisiana, but wanted only West Florida and New Orleans — 'barren sands and sunken marshes,' he said; 'a small town built of wood; . . . about seven thousand souls'; a territory important to the United States because it contained 'the mouths of some of their rivers,' but a mere drain of resources to France. To this rhapsody, repeated day after day for weeks and months, Talleyrand had listened with his imperturbable silence, the stillness of a skeptical mind into which such professions fell meaningless; until he suddenly looked into Livingston's face and asked: 'What will you give for the whole?' Naturally Livingston for a moment lost countenance.

A week was next passed in haggling over the price. Livingston did his utmost to beat Marbois down, but without success. Meanwhile, he ran some risk of losing everything; for when Bonaparte offered a favor suitors did well to waste no time in acceptance. A slight weight might have turned the scale; a divulgence of the secret, a protest from Spain, a moment of irritation at Jefferson's coquetry with England or at the vaporings of the American press, a sudden perception of the disgust which every true Frenchman was sure sooner or later to feel at this

squandering of French territory and enterprise — any remonstrance that should stir the First Consul's pride or startle his fear of posterity might have cut short the thread of negotiation. Livingston did not know the secrets of the Tuileries, or he would not have passed time in cheapening the price of his purchase. The voice of opposition was silenced in the French people, but was still so high in Bonaparte's family as to make the Louisiana scheme an occasion for scenes so violent as to sound like the prelude to a tragedy.

May 1, Monroe was presented at the Tuileries, and dined there with Livingston; but Bonaparte said nothing of their business, except that it should be settled. The same evening the two envoys had a final discussion with Marbois. 'May 2, we actually signed the treaty and convention for the sixty million francs to France, in the French language; but our copies in English not being made out, we could not sign in our language. They were, however, prepared, and signed in two or three days afterward. The convention respecting American claims took more time, and was not signed till about the eighth or ninth.' All these documents were antedated to the thirtieth of April.

The first object of remark in this treaty was the absence of any attempt to define the property thus bought and sold. 'Louisiana with the same extent that is now in the hands of Spain, and that it had when France possessed it, and such as it should be after the treaties subsequently entered into between Spain and other States' — these words, taken from Berthier's original treaty of retrocession, were convenient for France and Spain, whose Governments might be supposed to know their own boundaries; but all that the United States Government knew upon the subject was that Louisiana, as France possessed it, had included a part of Florida and the whole Ohio Valley as far as the Alleghany Mountains and Lake Erie. The American commissioners at first insisted upon defining the boundaries, and Marbois went to the First Consul with their request. He refused. 'If an obscurity did not already exist, it would perhaps be good policy to put one there.' He intentionally concealed the boundary he had himself defined, a knowledge of which would have prevented a long and mortifying dispute. Livingston went to Talleyrand for the orders given by Spain to the Marquis of Somoruelo, by France to Victor and Laussat. 'What are the eastern bounds of Louisiana?' asked Livingston. 'I do not know,' replied Talleyrand; 'you must

take it as we received it.' 'But what did you mean to take?' urged Livingston. 'I do not know,' repeated Talleyrand. 'Then you mean that we shall construe it our own way?' 'I can give you no direction. You have made a noble bargain for yourselves, and I suppose you will make the most of it,' was the final reply of Talleyrand. Had Livingston known that Victor's instructions, which began by fixing the boundaries in question, were still in Talleyrand's desk, the answer would have been the same.

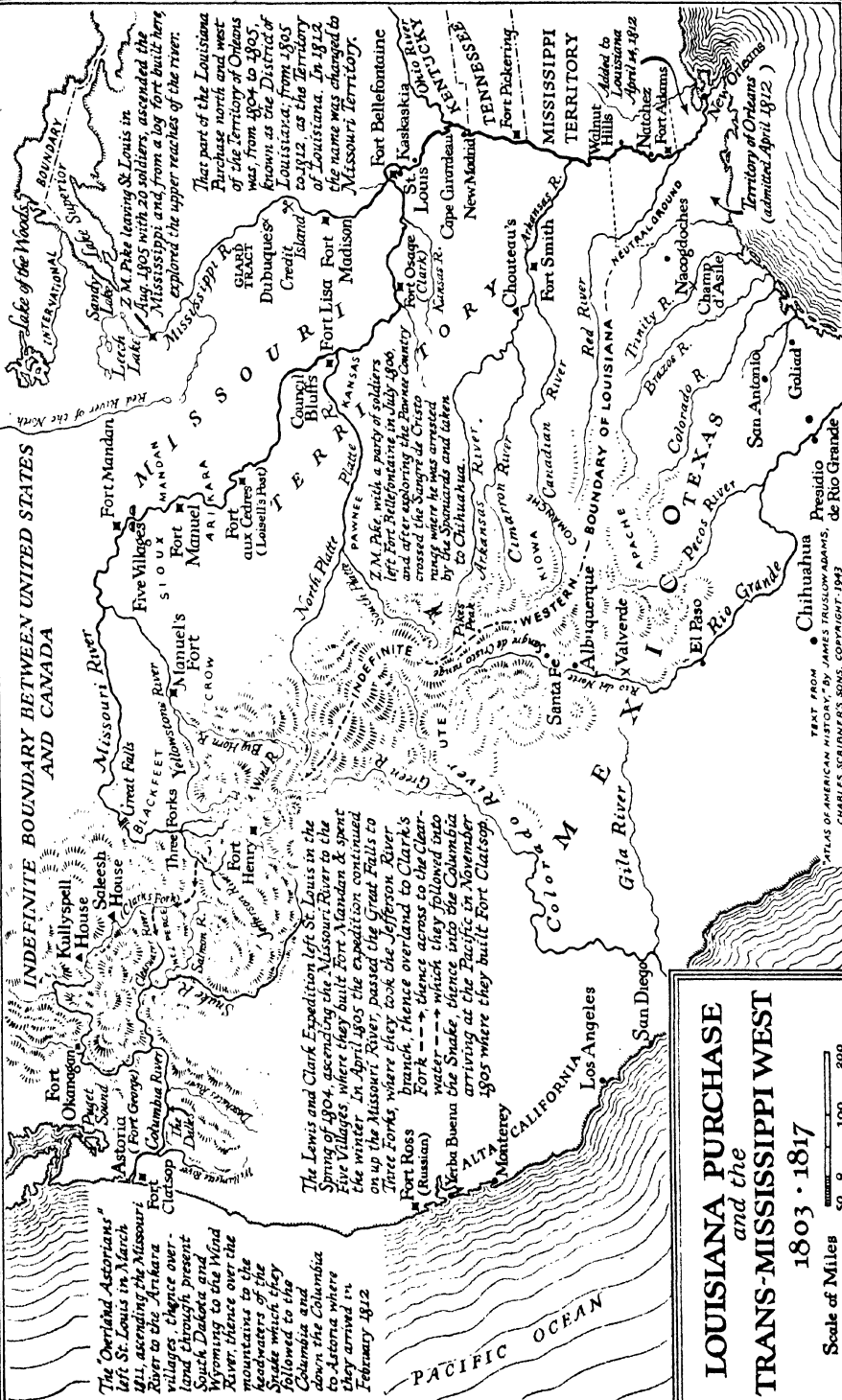
One point alone was fixed — the Floridas were not included in the sale; this was conceded on both sides. In his first conversation with Marbois, Livingston made a condition that France should aid him in procuring these territories from Spain. 'I asked him, in case of purchase, whether they would stipulate that France would never possess the Floridas, and that she would aid us to procure them, and relinquish all right that she might have to them. He told me that she would go thus far.' Several days later, Marbois repeated this assurance to Monroe, saying that the First Consul authorized him, besides offering Louisiana, 'to engage his support of our claim to the Floridas with Spain.' Yet, when the American commissioners tried to insert this pledge into the treaty, they failed. Bonaparte would give nothing but a verbal promise to use his good offices with Spain.

Besides the failure to dispose of these two points, which were in reality but one, the treaty contained a positive provision, Article III, taken from Bonaparte's *projet*, with slight alteration, that 'the inhabitants of the ceded territory shall be incorporated in the Union of the United States, and admitted as soon as possible, according to the principles of the Federal Constitution, to the enjoyment of all the rights, advantages, and immunities of citizens of the United States.' On republican principles of the Virginian school, only the States themselves could by a new grant of power authorize such an incorporation. Article III violated Madison's instructions, which forbade the promise. 'To incorporate the inhabitants of the hereby-ceded territory with the citizens of the United States,' said these instructions, 'being a provision which cannot now be made, it is to be expected, from the character and policy of the United States, that such incorporation will take place without unnecessary delay.' The provision, which Madison said could not be made, was nevertheless made by Livingston and Monroe.

INDEFINITE BOUNDARY BETWEEN UNITED STATES AND CANADA

The Overland Astorians<sup>1</sup> left St. Louis in March 1811, ascending the Missouri River to the Arkhara villages, thence overland through present South Dakota and Wyoming to the Wind River, thence over the mountains to the headwaters of the Snake which they followed to the Columbia and down the Columbia to Astoria where they arrived in February 1812

The Lewis and Clark Expedition left St. Louis in the Spring of 1804, ascending the Missouri River to the Five Villages where they built Fort Mandan and spent the winter. In April 1805 the expedition continued on up the Missouri River, passed the Great Falls to Three Forks, where they took the Jefferson River to Fort Ross — — — thence overland to Clark's Landing. When they followed into the Columbia they reached Buena Vista Buena the Snake, thence into the Columbia arriving at the Pacific in November 1805 where they built Fort Clatsop.



That part of the Louisiana Purchase north and west of the Territory of Orleans was, from 1804 to 1805, known as the District of Louisiana; from 1805 to 1812, as the Territory of Louisiana. In 1812 the name was changed to Missouri Territory.

Z. M. Pike with a party of soldiers left Fort Mandan in July 1806, crossed the Sangre de Cristo range where he was arrested by the Spaniards and taken to Chihuahua.

Z. M. Pike with a party of soldiers left Fort Mandan in July 1806, crossed the Sangre de Cristo range where he was arrested by the Spaniards and taken to Chihuahua.

Albuquerque — BOUNDARY OF LOUISIANA

Territory of Orleans (admitted April 1812)

**LOUISIANA PURCHASE**  
and the  
**TRANS-MISSISSIPPI WEST**  
1803 • 1817

Scale of Miles  
50 0 100 200

TEXT FROM  
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Embarrassing as these omissions or provisions were, they proved not so much that the treaty was carelessly drawn as that the American negotiators were ready to stipulate whatever was needed for their purpose. Other portions of the treaty were not to be defended on that excuse. The price stipulated for Louisiana was sixty million francs, in the form of United States six per cent bonds, representing a capital of \$11,250,000. Besides this sum of eleven and a quarter million dollars, the United States Government was to assume and pay the debts due by France to American citizens, estimated at twenty million francs, or, at the same rate of exchange, \$3,750,000 — making fifteen million dollars in all as the price to be paid. Livingston himself drew the claims convention with what he supposed to be particular attention; but it was modified by Monroe, and still further altered by Marbois. 'The moment was critical; the question of peace or war was in the balance; and it was important to come to a conclusion before either scale preponderated. I considered the convention as a trifle compared with the other great object,' avowed Livingston; 'and as it had already delayed us many days, I was ready to take it under any form.'

The claims convention was not signed till nearly a week after the signature of the treaty of cession. The form in which Livingston took it showed that neither he nor Monroe could have given careful attention to the subject; not only did the claims specified fail to embrace all the cases provided for by the Treaty of 1800, which this convention was framed to execute; not only were the specifications arbitrary, and even self-contradictory — but the estimate of twenty million francs was far below the amount of the claims admitted in principle; no rule of apportionment was provided, and, worst of all, the right of final decision in every case was reserved to the French Government. The meaning of this last provision might be guessed from the notorious corruption of Talleyrand and his band of confidential or secret agents.

Doubtless Livingston was right in securing his main object at any cost; but could he have given more time to his claims convention, he would perhaps have saved his own reputation and that of his successor from much stain, although he might have gained no more than he did for his Government. In the two conventions of 1800 and 1803 the United States obtained two objects of the utmost value — by the first, a release from treaty obligations which, if carried out, required war with England; by

the second, the whole west bank of the Mississippi River and the Island of New Orleans, with all the incidental advantages attached. In return for these gains the United States Government promised not to press the claims of its citizens against the French Government beyond the amount of three million seven hundred and fifty thousand dollars, which was one-fourth part of the price paid for Louisiana. The legitimate claims of American citizens against France amounted to many million dollars; in the result, certain favored claimants received three million seven hundred and fifty thousand dollars, less their expenses, which reduced the sum about one-half.

The impression of diplomatic oversight was deepened by the scandals which grew out of the distribution of the three million seven hundred and fifty thousand dollars which the favored claimants were to receive. Livingston's diplomatic career was poisoned by quarrels over this money. That the French Government acted with little concealment of venality was no matter of surprise; but that Livingston should be officially charged by his own associates with favoritism and corruption — 'imbecility of mind and a childish vanity, mixed with a considerable portion of duplicity' — injured the credit of his Government; and the matter was not bettered when he threw back similar charges on the Board of Commissioners, or when at last General Armstrong, coming to succeed him, was discredited by similar suspicions. Considering how small was the amount of money distributed, the scandal and corruption surpassed any other experience of the National Government.

## CHAPTER SEVENTEEN

### *Claim to West Florida*

WHEN MARBOIS took the treaty to the First Consul, Bonaparte listened to its provisions with lively interest; and on hearing that twenty millions were to be employed in paying claims — a use of money which he much disliked — he broke out: ‘Who authorized you to dispose of the money of the State? I want to have these twenty millions paid into the Treasury. The claimants’ rights cannot come before our own.’ His own *projet* had required the Americans to assume these claims — which was, in fact, the better plan. Marbois’s alteration turned the claims into a French job. Perhaps Bonaparte was not averse to this; for when Marbois reminded him that he had himself fixed the price at fifty millions, whereas the treaty gave him sixty, and settled the claims besides — ‘It is true,’ he said; ‘the negotiation leaves me nothing to wish. Sixty millions for an occupation that will not perhaps last a day! I want France to have the good of this unexpected capital and to employ it in works of use to her marine.’ On the spot he dictated a decree for the construction of five canals. This excellent use of the money seemed inconsistent with Lucien’s remark that it was wanted for war — but the canals were never built or begun; and the sixty millions were spent, to the last centime, in preparations for an impracticable descent on England.

Yet money was not the inducement which caused Bonaparte to sell Louisiana to the United States. The Prince of Peace would at any time have given more money, and would perhaps have been willing, as he certainly was able, to pay it from his private means rather than allow the United States to own Louisiana. In other respects the sale needed explanation, since it contradicted the First Consul’s political theories and prejudices. He had but two rooted hatreds. The deeper and fiercer of these was directed against the Republic — the organized democracy, and what he called ideology, which Americans knew in practice as Jeffersonian theories; the second and steadier was his hatred of England as the chief barrier to his military omnipotence. The cession of Louisiana to the United States contradicted both these passions, making the ideologists supreme in the New World and necessarily tending in the end to strengthen England in the Old. Bonaparte had been taught by Talley-

rand that America and England, whatever might be their mutual jealousies, hatreds, or wars, were socially and economically one and indivisible. Barely ten years after the Revolutionary War had closed, and at a time when the wounds it made were still raw, Talleyrand remarked: 'In every part of America through which I have traveled, I have not found a single Englishman who did not feel himself to be an American; not a single Frenchman who did not find himself a stranger.' Bonaparte knew that England held the monopoly of American trade and that America held the monopoly of democratic principles; yet he did an act which was certain to extend British trade and fortify democratic principles.

This contradiction was due to no change in Bonaparte's opinions; these remained what they were. At the moment when talking to Marbois about 'those republicans whose friendship I seek,' he was calculating on the chance that his gift would one day prove their ruin. 'Perhaps it will also be objected to me,' he said, 'that the Americans may in two or three centuries be found too powerful for Europe; but my foresight does not embrace such remote fears. Besides, we may hereafter expect rivalries among the members of the Union. The confederations that are called perpetual last only till one of the contracting parties finds it to its interest to break them. . . . It is to prevent the danger to which the colossal power of England exposes us that I would provide a remedy.' The 'colossal power' of England depended on her navy, her colonies, and her manufactures. Bonaparte proposed to overthrow it by shattering beyond repair the colonial system of France and Spain; and even this step was reasonable compared with what followed. He expected to check the power of England by giving Louisiana to the United States — a measure which opened a new world to English commerce and manufactures, and riveted England's grasp on the whole American continent, inviting her to do what she afterward did — join hands with the United States in revolutionizing Mexico and South America in her own interests. As though to render these results certain, after extending this invitation to English commerce and American democracy, Bonaparte next invited a war with England, which was certain to drive from the ocean every ship belonging to France or Spain — a war which left even the United States at England's mercy.

Every detail that could explain Bonaparte's motives becomes interesting in a matter so important to American history. Certain points were

clear. Talleyrand's colonial and peace policy failed. Resting on the maintenance of order in Europe and the extension of French power in rivalry with the United States and England in America, it was a statesmanlike and honorable scheme, which claimed for the Latin races what Louis XIV tried to gain for them; but it had the disadvantage of rousing hostility in the United States, and of throwing them into the arms of England. For this result Talleyrand was prepared. He knew that he could keep peace with England, and that the United States alone could not prevent him from carrying out his policy. Indeed, Madison in his conversation with Pichon invited such action, and Jefferson had no means of resisting it; but from the moment when St. Domingo prevented the success of the scheme, and Bonaparte gained an excuse for following his own military instincts, the hostility of the United States became troublesome. President Jefferson had chiefly reckoned on this possibility as his hope of getting Louisiana; and slight as the chance seemed, he was right.

When Livingston set his name to the treaty of cession, May 2, 1803, he was aware of the immense importance of the act. He rose and shook hands with Monroe and Marbois. 'We have lived long,' said he; 'but this is the noblest work of our lives.' This was said by the man who in the Continental Congress had been a member of the committee appointed to draft the Declaration of Independence; and it was said to Monroe, who had been assured, only three months before, by President Jefferson, of the grandeur of his destinies in words he could hardly have forgotten: 'Some men are born for the public. Nature, by fitting them for the service of the human race on a broad scale, has stamped them with the evidences of her destination and their duty.' Monroe was born for the public, and knew what destiny lay before him; while in Livingston's mind New York had thenceforward a candidate for the Presidency whose claims were better than Monroe's. In the cup of triumph of which these two men then drank deep was yet one drop of acid. They had been sent to buy the Floridas and New Orleans. They had bought New Orleans; but instead of Florida, so much wanted by the Southern people, they had paid ten or twelve million dollars for the west bank of the Mississippi. The negotiators were annoyed to think that having been sent to buy the east bank of the Mississippi, they had bought the west bank instead; that the Floridas were not a part of their purchase. Liv-

Livingston especially felt the disappointment and looked about him for some way to retrieve it.

Hardly was the treaty signed when Livingston found what he sought. He discovered that France had actually bought West Florida without knowing it, and had sold it to the United States without being paid for it. This theory, which seemed at first sight preposterous, became a fixed idea in Livingston's mind.

The reasoning on which he rested this opinion was in substance the following: France had, in early days, owned nearly all the North American continent, and her province of Louisiana had then included Ohio and the watercourses between the Lakes and the Gulf, as well as West Florida, or a part of it. This possession lasted until the treaty of peace, November 3, 1762, when France ceded to England, not only Canada, but also Florida and all other possessions east of the Mississippi, except the Island of New Orleans. Then West Florida by treaty first received its modern boundary at the Iberville. On the same day France further ceded to Spain the Island of New Orleans and all Louisiana west of the Mississippi. Not a foot of the vast French possessions on the continent of North America remained in the hands of the King of France; they were divided between England and Spain.

The retrocession of 1800 was made on the understanding that it referred to this cession of 1762. The province of Louisiana which had been ceded was *retroceded*, with its treaty boundary at the Iberville. Livingston knew that the understanding between France and Spain was complete; yet on examination he found that it had not been expressed in words so clearly but that these words could be made to bear a different meaning. Louisiana was retroceded, he perceived, 'with the same extent that it now has in the hands of Spain, and that it had when France possessed it, and such as it should be according to the treaties subsequently entered into between Spain and other States.' When France possessed Louisiana, it included Ohio and West Florida: no one could deny that West Florida was in the hands of Spain; therefore, Bonaparte, in the absence of negative proof, might have claimed West Florida, if he had been acute enough to know his own rights or willing to offend Spain — and as all Bonaparte's rights were vested in the United States, President Jefferson was at liberty to avail himself of them.

The ingenuity of Livingston's idea was not to be disputed; and as a

ground for a war of conquest it was as good as some of the claims which Bonaparte made the world respect. As a diplomatic weapon, backed as Napoleon would have backed it by a hundred thousand soldiers, it was as effective an instrument as though it had every attribute of morality and good faith; and all it wanted, as against Spain, was the approval of Bonaparte. Livingston hoped that, after the proof of friendship which Bonaparte had already given in selling Louisiana to the United States, he might without insuperable difficulty be induced to grant this favor. Both Marbois and Talleyrand, under the First Consul's express orders, led him on. Marbois did not deny that Mobile might lie in Louisiana, and Talleyrand positively denied knowledge that Laussat's instructions contained a definition of boundaries. Bonaparte stood behind both these agents, telling them that if an obscurity did not exist about the boundary they should make one. Talleyrand went so far as to encourage the pretensions which Livingston hinted: 'You have made a noble bargain for yourselves,' said he, 'and I suppose you will make the most of it.' This was said at the time when Bonaparte was still intent on punishing Spain.

Livingston found no difficulty in convincing Monroe that they had bought Florida as well as Louisiana.

We consider ourselves so strongly founded in this conclusion, that we are of opinion the United States should act on it in all the measures relative to Louisiana in the same manner as if West Florida was comprised within the Island of New Orleans, or lay to the west of the River Iberville.

Livingston expected that 'a little force,' as he expressed himself, might be necessary.

After the explanations that have been given here, you need apprehend nothing from a decisive measure; your Minister here and at Madrid can support your claim, and the time is peculiarly favorable to enable you to do it without the smallest risk at home. . . . The moment is so favorable for taking possession of that country that I hope it has not been neglected, even though a little force should be necessary to effect it. Your Minister must find the means to justify it.

A little violence added to a little diplomacy would answer the purpose. To use the words which 'Aristides' Van Ness was soon to utter with striking effect, the United States Ministers to France 'practiced with unlimited success upon the Livingston maxim:

"Rem facias, rem  
Si possis recte; si non, quocunque modo, REM."



## CHAPTER EIGHTEEN

### *Constitutional Difficulties*

**I**N THE EXCITEMENT of this rapid and half-understood foreign drama, domestic affairs seemed tame to the American people, who were busied only with the routine of daily life. They had set their democratic house in order. So short and easy was the task that the work of a single year finished it. When the President was about to meet Congress for the second time, he had no new measures to offer. 'The path we have to pursue is so quiet that we have nothing scarcely to propose to our Legislature.' The session was too short for severe labor. A quorum was not made until the middle of December, 1802; the Seventh Congress expired March 4, 1803. Of these ten weeks a large part was consumed in discussions of Bonaparte's scheme of colonizing Louisiana.

On one plea the ruling party relied as an excuse for inactivity and as a defense against attack. Their enemies had said and believed that the democrats possessed neither virtue nor ability enough to carry on the Government; but after eighteen months of trial, as the year 1803 began, the most severe Federalist could not with truth assert that the country had yet suffered in material welfare from the change. Although the peace in Europe, after October, 1801, checked the shipping interests of America, and although France and Spain, returning to the strictness of their colonial system, drove the American flag from their harbors in the Antilles, yet Gallatin at the close of the first year of peace was able to tell Congress that the customs revenue, which he had estimated twelve months before at \$9,500,000, had brought into the Treasury \$12,280,000, or much more than had ever before been realized in a single year from all sources of revenue united. That the Secretary of the Treasury should miscalculate by one-third the product of his own taxes was strange; but Gallatin liked to measure the future, not by a probable mean, but by its lowest possible extreme, and his chief aim was to check extravagance in appropriations for objects which he thought bad. His caution increased the popular effect of his success. Opposition became ridiculous when it persisted in grumbling at a system which, beginning with a hazardous reduction of taxes, brought in a single year an immense increase in rev-

enue. The details of Gallatin's finance fretted the Federalists without helping them.

The Federalists were equally unlucky in finding other domestic grievances. The removals from office did not shock the majority. The Judiciary was not again molested. The overwhelming superiority of the democrats was increased by the admission of Ohio, November 29, 1802. No man of sense could deny that the people were better satisfied with their new Administration than they ever had been with the old. Loudly as New England grumbled, the Federalists even there steadily declined in relative strength; while elsewhere an organized body of opposition to the National Government hardly existed.

Federalism was already an old-fashioned thing; a subject of ridicule to people who had no faith in forms; a halfway house between the European past and the American future. The mass of Americans had become democratic in thought as well as act; not even another political revolution could undo what had been done. As a democrat, Jefferson's social success was sweeping and final; but he was more than a democrat — and in his other character, as a Virginia Republican of the States-rights school, he was not equally successful.

In the short session of 1802-1803 many signs proved that the revolution of 1800 had spent its force and that a reaction was at hand. Congress showed no eagerness to adopt the President's new economies, and dismissed, with silence almost contemptuous, his scheme for building at Washington a large dry-dock in which the navy should be stored for safety and saving. The mint was continued by law for another five years, and twenty thousand dollars were quietly appropriated for its support. Instead of reducing the navy, Congress decided to build four sixteen-gun brigs and fifteen gunboats, and appropriated ninety-six thousand dollars for the brigs alone. The appropriation of two millions as a first installment toward paying for New Orleans and Florida was another and a longer stride in the old Federalist path of confidence in the Executive and liberality for national objects. The expenditure for 1802, excluding interest on debt, was \$3,737,000. Never afterward in United States history did the annual expenditure fall below four millions. The navy, in 1802, cost \$915,000; never afterward did it cost less than a million.

The reaction toward Federalist practices was more marked in the

attitude of the Executive than in that of Congress. If Jefferson's favorite phrase was true — that the Federalist differed from the Republican only in the shade more or less of power to be given the Executive — it was hard to see how any President could be more Federalist than Jefferson himself. A resolution to commit the nation without its knowledge to an indissoluble British alliance was more than Washington would have dared take; yet this step was taken by the President, and was sustained by Madison, Gallatin, and Robert Smith as fairly within the limits of the Constitution. In regard to another stretch of the treaty-making power, they felt with reason the gravest doubts. When the President and Cabinet decided early in January, 1803, to send Monroe with two million dollars to buy New Orleans and Florida, a question was instantly raised as to the form in which such a purchase could be constitutionally made. Attorney-General Lincoln wished to frame the treaty or convention in such language as to make France appear, not as adding new territory to the United States, but as extending already existing territory by an alteration of its boundary. He urged this idea upon the President in a letter written the day of Monroe's nomination to the Senate.

If the opinion is correct [said he] that the general Government when formed was predicated on the then existing *United States*, and such as could grow out of them, and out of them only; and that its authority is constitutionally limited to the people composing the several political State societies in that Union, and such as might be formed out of them — would not a direct independent purchase be extending the Executive power farther, and be more alarming, and improvable by the Opposition and the Eastern States, than the proposed indirect mode?

Jefferson sent this letter to Gallatin, who treated it without favor.

If the acquisition of territory is not warranted by the Constitution [said he], it is not more legal to acquire for one State than for the United States. . . . What could, on his construction, prevent the President and Senate, by treaty, annexing Cuba to Massachusetts, or Bengal to Rhode Island, if ever the acquirement of colonies should become a favorite object with governments, and colonies should be acquired? But does any constitutional objection really exist? . . . To me it would appear, (1) that the United States, as a nation, have an inherent right to acquire territory; (2) that whenever that acquisition is by treaty, the same constituted authorities in whom the treaty-making power is vested have a constitutional right to sanction the acquisition.

Gallatin not only advanced Federal doctrine, but used also what the Virginians always denounced as Federalist play on words. 'The United States as a nation' had an inherent right to do whatever the States in union cared to do; but the Republican Party, with Jefferson, Madison, and Gallatin at their head, had again and again maintained that the United States *Government* had the inherent right to do no act whatever, but was the creature of the States in union; and its acts, if not resulting from an expressly granted power, were no acts at all, but void, and not to be obeyed or regarded by the States. The negotiation for New Orleans was begun on the understanding that the purchase, if made, would be an inchoate act which would need express sanction from the States in the shape of an amendment to the Constitution.

The chief ambition of Southern statesmen in foreign affairs was to obtain the Floridas and New Orleans; and in effecting this object they could hardly escape establishing a serious precedent. Already Jefferson had ordered his ministers at Paris to buy this territory, although he thought the Constitution gave him no power to do so; he was willing to increase the national debt for this purpose, even though a national debt was a 'mortal canker'; and he ordered his minister, in case Bonaparte should close the Mississippi, to make a permanent alliance with England, or in his own words to 'marry ourselves to the British Fleet and nation,' as the price of New Orleans and Florida. Jefferson foresaw and accepted the consequences of the necessity; he repeatedly referred to them and deprecated them in his letters; but the territory was a vital object, and success there would, as he pointed out, secure forever the triumph of his party even in New England.

What he rightly feared more than any other political disaster was the risk of falling back to the feelings of 1798 and 1799, 'when a final dissolution of all bonds, civil and social, appeared imminent.' With zeal which never flagged, Jefferson kept up his struggle with the New England oligarchy. While waiting for news from Monroe, he wrote a defense of his own use of patronage, showing, under the assumed character of a Massachusetts man, that a proportionate division of offices between the two parties would, since the Federalists had so much declined in numbers, leave to them even a smaller share of Federal offices than they still possessed. This paper he sent to Attorney-General Lincoln, to be published in the *Boston Chronicle*; and there, although never recognized, it appeared.

Had the Federalists suspected the authorship, they would have fallen without mercy upon its arguments and its inserted compliment to 'the tried ability and patriotism of the present Executive'; but the essay was no sooner published than it was forgotten. The *Chronicle* of June 27, 1803, contained Jefferson's argument founded on the rapid disappearance of the Federalist Party; the next issue of the *Chronicle*, June 30, contained a single headline, which sounded the death-knell of Federalism altogether: 'Louisiana ceded to the United States!' The great news had arrived; and the Federalist orators of July 4, 1803, set about their annual task of foreboding the ruin of society amid the cheers and congratulations of the happiest society the world then knew.

The President's first thought was of the Constitution. Without delay he drew up an amendment, which he sent at once to his Cabinet. 'The province of Louisiana is incorporated with the United States and made part thereof,' began this curious paper; 'the rights of occupancy in the soil and of self-government are confirmed to the Indian inhabitants as they now exist.' Then, after creating a special Constitution for the territory north of the thirty-second parallel, reserving it for the Indians until a new amendment to the Constitution should give authority for white ownership, the draft provided for erecting the portion south of latitude 32° into a territorial government, and vesting the inhabitants with the rights of other territorial citizens.

Gallatin took no notice of this paper, except to acknowledge receiving it. Robert Smith wrote at some length, July 9, dissuading Jefferson from grafting so strange a shoot upon the Constitution.

Coldly as his ideas were received in the Cabinet, Jefferson did not abandon them. Another month passed, and a call was issued for a special meeting of Congress October 17 to provide the necessary legislation for carrying the treaty into effect. As the summer wore away, Jefferson imparted his opinions to persons outside the Cabinet. He wrote, August 12, to Breckinridge of Kentucky a long and genial letter. Congress, he supposed, after ratifying the treaty and paying for the country,

must then appeal to *the nation* for an additional article to the Constitution approving and confirming an act which the nation had not previously authorized. The Constitution has made no provision for our holding foreign territory, still less for incorporating foreign nations into our Union. The Executive, in seizing the fugitive occurrence which so much ad-

vances the good of their country, have done an act beyond the Constitution. The Legislature, in casting behind them metaphysical subtleties and risking themselves like faithful servants, must ratify and pay for it, and throw themselves on their country for doing for them unauthorized what we know they would have done for themselves had they been in a situation to do it.

On the day of writing to Breckinridge the President wrote in a like sense to Paine; but in the course of a week dispatches arrived from Paris which alarmed him. Livingston had reason to fear a sudden change of mind in the First Consul, and was willing to hasten the movements of President and Congress. Jefferson took the alarm, and wrote instantly to warn Breckinridge and Paine that no whisper of constitutional difficulties must be heard:

I wrote you on the 12th instant on the subject of Louisiana and the constitutional provision which might be necessary for it. A letter received yesterday shows that nothing must be said on that subject which may give a pretext for retracting, but that we should do *sub silentio* what shall be found necessary. Be so good, therefore, as to consider that part of my letter as confidential.

He gave the same warning to his Cabinet:

I infer that the less we say about constitutional difficulties the better; and that what is necessary for surmounting them must be done *sub silentio*.

He then drew up a new amendment, which he sent to the members of his Cabinet. The July draft was long, elaborate, and almost a new Constitution in itself; the August draft was comparatively brief. 'Louisiana as ceded by France to the United States is made a part of the United States. Its white inhabitants shall be citizens, and stand, as to their rights and obligations, on the same footing with other citizens of the United States in analogous situations.' The whole country north of the Arkansas River was reserved for Indians until another amendment should be made; and as an afterthought Florida was to be admitted as a part of the United States 'whenever it may be rightfully obtained.'

These persistent attempts to preserve his own consistency and that of his party were coldly received. Jefferson found himself alone. Wilson Cary Nicholas, a prominent supporter of the Virginia Resolutions in 1798 and a Senator of the United States in 1803, had a long conversation

with the President, and in the early days of September wrote him a letter which might have come from Theodore Sedgwick or Roger Griswold in the days of Jay's Treaty, when Federalist notions of prerogative ran highest.

Upon an examination of the Constitution [wrote Nicholas], I find the power as broad as it could well be made (Sect. 3, Art. IV), except that new States cannot be formed out of the old ones without the consent of the State to be dismembered; and the exception is a proof to my mind that it was not intended to confine the Congress in the admission of new States to what was then the territory of the United States. Nor do I see anything in the Constitution that limits the treaty-making power, except the general limitations of the other powers given to the Government, and the evident objects for which the Government was instituted.

Such reasoning in the mouths of Virginia Republicans, who had asked and gained office by pledging themselves to their people against the use of implied powers, marked a new epoch. From them the most dangerous of all arguments, the *reductio ad absurdum*, was ominous. What right had they to ask whether any constitutional grant was less complete than the people might have wished or intended? If the Constitution were incomplete or absurd, not the Government, but the people of the States who had made it were the only proper authority to correct it. Otherwise, as Nicholas had so often pointed out, their creature would become their tyrant, as had been the law of politics from the beginning.

Jefferson was distressed to find himself thus deserted by his closest friends on an issue which he felt to be vital. The principle of strict construction was the breath of his political life. The Pope could as safely trifle with the doctrine of apostolic succession as Jefferson with the limits of Executive power. If he and his friends were to interpret the treaty-making power as they liked, the time was sure to come when their successors would put so broad an interpretation on other powers of the Government as to lead from step to step, until at last Virginia might cower in blood and flames before the shadowy terror called the war-power. With what face could Jefferson then appear before the tribunal of history, and what position could he expect to receive?

All this he felt in his kindly way; and with this weight on his mind he wrote his reply to Nicholas. Beginning with the warning that Bonaparte could not be trusted, and that Congress must act with as little debate as

possible, particularly as respected the constitutional difficulty, he went on:

I am aware of the force of the observations you make on the power given by the Constitution to Congress to admit new States into the Union without restraining the subject to the territory then constituting the United States. But when I consider that the limits of the United States are precisely fixed by the Treaty of 1783, that the Constitution expressly declares itself to be made for the United States, . . . I do not believe it was meant that [Congress] might receive England, Ireland, Holland, etc., into it — which would be the case on your construction. . . . I had rather ask an enlargement of power from the nation, where it is found necessary, than to assume it by a construction which would make our powers boundless. Our peculiar security is in the possession of a written Constitution. Let us not make it a blank paper by construction. I say the same as to the opinion of those who consider the grant of the treaty-making power as boundless. If it is, then we have no Constitution.

From the Virginia standpoint nothing could be better said. Jefferson in this letter made two points clear: the first was that the admission of Louisiana into the Union without express authority from the States made blank paper of the Constitution; the second was that if the treaty-making power was equal to this act, it superseded the Constitution. He entertained no doubts on either point, and time sustained his view; for whether he was right or wrong in law, the Louisiana treaty gave a fatal wound to 'strict construction,' and the Jeffersonian theories never again received general support. In thus giving them up, Jefferson did not lead the way, but he allowed his friends to drag him in the path they chose. The leadership he sought was one of sympathy and love, not of command; and there was never a time when he thought that resistance to the will of his party would serve the great ends he had in view. The evils which he foresaw were remote: in the hands of true Republicans the Constitution, even though violated, was on the whole safe; the precedent, though alarming, was exceptional. So it happened that after declaring in one sentence the Constitution at an end if Nicholas had his way, Jefferson in the next breath offered his acquiescence in advance:

I confess I think it important in the present case to set an example against broad construction by appealing for new power to the people. If, however, our friends shall think differently, certainly I shall acquiesce with satisfaction, confiding that the good sense of our country will correct the evil of construction when it shall produce ill effects.



With these words Jefferson closed his mouth on this subject forever. Although his future silence led many of his friends to think that he ended by altering his opinion and by admitting that his purchase of Louisiana was constitutional, no evidence showed the change; but rather one is led to believe that, when in later life he saw what he called the evils of construction grow until he cried against them with violence almost as shrill as in 1798, he felt most strongly the fatal error which his friends had forced him to commit and which he could neither repudiate nor defend. He had declared that he would acquiesce with satisfaction in making blank paper of the Constitution.

## CHAPTER NINETEEN

### *Impeachments*

FROM EVERY POINT OF VIEW, the Louisiana Purchase possessed an importance not to be ignored. Even in 1804 the political consequences of the act were already too striking to be overlooked. Within three years of his inauguration Jefferson bought a foreign colony without its consent and against its will, annexed it to the United States by an act which he said made blank paper of the Constitution; and then he who had found his predecessors too monarchical, and the Constitution too liberal in powers — he who had nearly dissolved the bonds of society rather than allow his predecessor to order a dangerous alien out of the country in a time of threatened war — made himself monarch of the new territory, and wielded over it, against its protests, the powers of its old kings. Such an experience was final; no century of slow and half-understood experience could be needed to prove that the hopes of humanity lay thenceforward, not in attempting to restrain the Government from doing whatever the majority should think necessary, but in raising the people themselves till they should think nothing necessary but what was good.

Jefferson took a different view. He regarded, or wished to regard, the Louisiana treaty and legislation as exceptional and as forming no precedent. While he signed the laws for governing the territory, he warmly objected to the establishment of a branch Bank of the United States at New Orleans. 'This institution is one of the most deadly hostility existing against the principles and form of our Constitution,' he wrote to Gallatin; 'ought we to give further growth to an institution so powerful, so hostile?' Gallatin was clear that the business of the Treasury required such aid, and Jefferson again acquiesced. Gallatin was also allowed and encouraged to enforce the restrictions on the importation of slaves into Louisiana. 'It seems that the whole Cabinet,' wrote the French chargé to his Government, 'put the utmost weight on this prohibition. Mr. Jefferson is earnestly bent on maintaining it, and his Secretary of the Treasury takes the severest measures to insure its execution.'

As though the annexation of Louisiana alone made not enough change

in the old established balances of the Constitution, Congress took up another matter which touched the mainspring of the compact. A new Presidential election was at hand. The narrow escape of 1800 warned the party in power not again to risk society by following the complicated arrangements of 1788. In the convention which framed the Constitution no single difficulty was more serious than that of compromising the question of power between the large and small States. Delaware, New Jersey, Rhode Island, Maryland, and Connecticut were well aware that the large States would take the lion's share of power and patronage; they knew that except by accident no citizen of theirs could ever reach the Presidency; and as accident alone could give the small States a chance, accident was to them a thing of value. Whatever tended to make their votes decisive was an additional inducement with them to accept the Constitution. The Vice-Presidency, as originally created, more than doubled their chance of getting the Presidency, and was invented chiefly for this purpose; but this was not all. As the number of electoral votes alone decided between President and Vice-President, a tie vote was likely often to occur; and such a tie was decided by the House of Representatives, where another bribe was intentionally offered to the small States by giving the election to the State delegations voting as units, so that the vote of Delaware weighed as heavily as the vote of Pennsylvania.

The alarm caused by Burr's rivalry with Jefferson in February, 1801, satisfied the Republican Party that such a door to intrigue ought not to be left open. October 17, 1803, before the Louisiana treaty was taken up, an amendment to the Constitution was moved by friends of the Administration in the House. This, which took shape at length as the Twelfth Amendment, obliged the members of the electoral college to distinguish in their ballots the persons voted for as President and Vice-President.

Slight as this change might appear, it tended toward centralizing powers hitherto jealously guarded. It swept away one of the checks on which the framers had counted to resist majority rule by the great States. Lessening the influence of the small States and exaggerating the office of President by lowering the dignity of Vice-President, it made the processes of election and government smoother and more efficient — a gain to politicians, but the result most feared by the States-rights school. The change was such as Pennsylvania or New York might naturally want;

but it ran counter to the theories of Virginia Republicans, whose jealousy of Executive influence had been extreme.

Roger Griswold said with prophetic emphasis:

The man voted for as Vice-President will be selected without any decisive view to his qualifications to administer the Government. The office will generally be carried into the market to be exchanged for the votes of some large States for President; and the only criterion which will be regarded as a qualification for the office of Vice-President will be the temporary influence of the candidate over the electors of his State. . . . The momentary views of party may perhaps be promoted by such arrangements, but the permanent interests of the country are sacrificed.

Griswold held that true reform required abolition of the office; and in this opinion his old enemy John Randolph warmly agreed. In the Senate, had the question risen as a new one, perhaps a majority might have favored abolition, for the results of retaining the office were foreseen; but the discussion was hampered by the supposed popular will and by express votes of State Legislatures, and Congress felt itself obliged to follow a prescribed course. The amendment was adopted by the usual party vote; and the Federalists thenceforward were able to charge Jefferson and his party with responsibility, not only for stripping the small States of an advantage which had made part of their bargain, but also for putting in the office of President, in case of vacancies, men whom no State and no elector intended for the post.

The extraordinary success which marked Jefferson's foreign relations in the year 1803 was almost equally conspicuous in domestic affairs. The Treasury was as fortunate as the Department of State. Gallatin silenced opposition. Although the customs produced two millions less than in 1802, yet, when the Secretary in October, 1803, announced his financial arrangements, which included the purchase-money of fifteen million dollars for Louisiana, he was able to provide for all his needs without imposing a new tax. The treaty required the issue of six per cent bonds for eleven million two hundred and fifty thousand dollars, redeemable after fifteen years. These were issued; and to meet the interest and sinking fund Gallatin added from his surplus an annual appropriation of seven hundred thousand dollars to his general fund; so that the discharge of the whole debt would take place within the year 1818, instead

of eighteen months earlier, as had been intended. New Orleans was expected to provide two hundred thousand dollars a year toward the interest. Of the remaining four millions, the Treasury already held half, and Gallatin hoped to provide the whole from future surplus, which he actually did.

This was ideal success. On a sudden call, to pay out four million dollars in hard money, and add seven hundred thousand dollars to annual expenditure, without imposing a tax, and with a total revenue of eleven millions, was a feat that warranted congratulations. Yet Gallatin's success was not obtained without an effort. As usual, he drew a part of his estimated surplus from the navy. He appealed to Jefferson to reduce the navy estimates from nine hundred thousand to six hundred thousand dollars.

Jefferson urged the reduction, and Secretary Smith consented. The navy estimates were reduced to six hundred and fifty thousand dollars, and on the strength of this economy Gallatin made his calculation. As he probably foresaw, the attempt failed. Whether in any case Smith could have effected so great a retrenchment was doubtful; but an event occurred which made retrenchment impossible.

The war with Tripoli dragged tediously along and seemed no nearer its end at the close of 1803 than eighteen months before. Commodore Morris, whom the President sent to command the Mediterranean squadron, cruised from port to port between May, 1802, and August, 1803, convoying merchant vessels from Gibraltar to Leghorn and Malta, or lay in harbor and repaired his ships, but neither blockaded nor molested Tripoli; until at length, June 21, 1803, the President called him home and dismissed him from the service. His successor was Commodore Preble, who September 12, 1803, reached Gibraltar with the relief squadron which Secretary Gallatin thought unnecessarily strong. He had the *Constitution*, of forty-four guns, and the *Philadelphia*, of thirty-eight; the four new brigs just built — the *Argus* and the *Syren*, of sixteen guns, the *Nautilus* and the *Vixen*, of fourteen guns; and the *Enterprise*, of twelve. With this force Preble set energetically to work.

Tripoli was a feeble Power, and without much effort could be watched and blockaded; but if the other Governments on the coast should make common cause against the United States, the task of dealing with them was not so easy. Morocco was especially dangerous, because its ports

lay on the ocean, and could not be closed even by guarding the Straits. When Preble arrived, he found Morocco taking part with Tripoli. Captain Bainbridge, who reached Gibraltar in the *Philadelphia* August 24, some three weeks before Preble arrived, caught in the neighborhood a Moorish cruiser of twenty-two guns with an American brig in its clutches. Another American brig had just been seized at Mogador. Determined to stop this peril at the outset, Preble united to his own squadron the ships which he had come to relieve, and with this combined force — the *Constitution*, forty-four; the *New York*, thirty-six; the *John Adams*, twenty-eight; and the *Nautilus*, fourteen — sending the *Philadelphia* to blockade Tripoli, he crossed to Tangiers October 6, and brought the Emperor of Morocco to reason. On both sides prizes and prisoners were restored and the old treaty was renewed. This affair consumed time; and when at length Preble got the *Constitution* under way for the Tripolitan coast, he spoke a British frigate off the Island of Sardinia, which reported that the *Philadelphia* had been captured October 21, more than three weeks before.

The loss greatly embarrassed Preble. The *Philadelphia* was, next to the *Constitution*, his strongest ship. Indeed, he had nothing else but his own frigate and small brigs of two and three hundred tons; but the accident was such as could not fail sometimes to happen, especially to active commanders. Bainbridge, cruising off Tripoli, had chased a Tripolitan cruiser into shoal water, and was hauling off when the frigate struck on a reef at the mouth of the harbor. Every effort was made without success to float her; but at last she was surrounded by Tripolitan gunboats, and Bainbridge struck his flag. The Tripolitans, after a few days' work, floated the frigate and brought her under the guns of the castle. The officers became prisoners of war and the crew, in number three hundred or more, were put to hard labor.

The Tripolitans gained nothing except the prisoners; for at Bainbridge's suggestion Preble, some time afterward, ordered Stephen Decatur, a young lieutenant in command of the *Enterprise*, to take a captured Tripolitan craft renamed the *Intrepid*, and with a crew of seventy-five men to sail from Syracuse, enter the harbor of Tripoli by night, board the *Philadelphia*, and burn her under the castle guns. The order was literally obeyed.

Bainbridge's report of his capture, which had happened at the end of

October, 1803, was sent to Congress March 20, 1804, in the last week of the session. The President sent with it a brief Message recommending Congress to increase the force and enlarge expenses in the Mediterranean. As Gallatin never willingly allowed his own plans for the public service to be deranged, Congress adopted a new means for meeting the new expense. Although the Treasury held a balance of \$1,700,000, Gallatin would not trench upon this fund, but told Randolph, who was Chairman of the Ways and Means Committee, that the specie in the Treasury could not be safely reduced below that amount. He informed Joseph Nicholson that \$150,000 was the utmost sum he could spare. The sum wanted was \$750,000 per annum. A bill was introduced which imposed an additional duty of two and one-half per cent on all imports that paid duty *ad valorem*. The average *ad valorem* duty was before about thirteen and one-half; the additional tax raised it above sixteen per cent. After imposing the additional duty of two and one-half per cent, the bill made of it a separate Treasury account, to be called the 'Mediterranean Fund,' which was to last only as long as the Mediterranean war should last, when the two and one-half per cent duty was to cease three months after a general peace.

The Mediterranean war was the first failure of President Jefferson's theory of foreign relations, and the Mediterranean Fund was the measure of the error in financial form. No reproach henceforward roused more ill temper among Republicans than the common charge that their elaborate financial precautions and formalities were a deception, and that the Mediterranean Fund was meant to conceal a change of principle and a return to Federalist practices. Even in the first words of the debate, Roger Griswold told them that their plausible special fund was 'perfectly deceptive,' and amounted to nothing. John Randolph retaliated by declaring that the Republican Government consisted of men who never drew a cent from the people except when necessity compelled it; and Griswold could not assert, though he might even then foresee, that for ten years to come Randolph would denounce the extravagance and waste of the men whom he thus described.

The annexation of Louisiana, the constitutional amendment in regard to the Vice-Presidency, the change of financial practices foreshadowed by the Mediterranean Fund, were signs of reaction toward nationality and energy in government. Yet the old prejudices of the Republican

Party had not yet wholly lost their force. Especially the extreme wing, consisting of men like John Randolph and W. B. Giles, thought that a substantial reform should be attempted. Increase of power encouraged them to act. The party, stimulated by its splendid success and irresistible popularity, at length, after long hesitation, prepared for a trial of strength with the last remnant of Federalism — the Supreme Court of the United States.

A year of truce between Congress and the Supreme Court had followed the repeal of the Judiciary Act. To prevent Chief Justice Marshall and his associates from interfering with the new arrangements, Congress in abolishing the circuit courts in 1801 took the strong measure of suspending for more than a year the sessions of the Supreme Court itself. Between December, 1801, and February, 1803, the Court was not allowed to sit. Early in February, 1803, a few days before the Supreme Court was to meet, after fourteen months of separation, President Jefferson sent an ominous Message to the House of Representatives. 'The enclosed letter and affidavits,' he said, 'exhibiting matter of complaint against John Pickering, district judge of New Hampshire, which is not within Executive cognizance, I transmit them to the House of Representatives, to whom the Constitution has confided a power of instituting proceedings of redress if they shall be of opinion that the case calls for them.'

The enclosed papers tended to show that Judge Pickering, owing to habits of intoxication or other causes, had become a scandal to the bench, and was unfit to perform his duties. At first sight the House of Representatives might not understand what it had to do with such a matter; but the President's language admitted no doubt of his meaning. The Constitution said that the House of Representatives 'shall have the sole power of impeachment'; and 'all civil officers of the United States shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors.' Jefferson's Message officially announced to the House the President's opinion that Judge Pickering's conduct was a misdemeanor within the reach of impeachment.

The House referred the Message to a committee of five, controlled by Joseph Nicholson and John Randolph. A fortnight later, Nicholson reported a resolution ordering the impeachment; and before the session



closed, the House, by a vote of forty-five to eight, adopted his report, and sent Nicholson and Randolph to the bar of the Senate to impeach Judge Pickering of high crimes and misdemeanors. March 3, 1803, the last day of the session, the two members delivered their message.

Precisely as the House, by the President's invitation, was about to impeach Judge Pickering, the Supreme Court, through the Chief Justice's mouth, delivered an opinion which could be regarded in no other light than as a defiance. Chief Justice Marshall's own appointment had been one of those made by the last President between December 12, 1800, and March 4, 1801, which Jefferson called an 'outrage on decency,' and which, except as concerned life offices, he held to be 'nullities.' His doctrine that all appointments made by a retiring President were nullities, unless made with the consent of the President-elect, rested on the argument that the retiring President was no longer selecting his own but his successor's agents.

Among the nominations which, like the appointment of Marshall, were obnoxious to Jefferson, was that of William Marbury as justice of the peace for five years for the District of Columbia. The nomination was sent to the Senate March 2, 1801, and was approved the next day, a few hours before Jefferson took his oath of office. The commission, regularly made out, signed by the President, countersigned by John Marshall the acting Secretary of State, and duly sealed, was left with other documents on the table in the State Department, where it came into the possession of Attorney-General Lincoln, acting as President Jefferson's Secretary of State. Jefferson, having decided that late appointments were nullities, retained Marbury's commission. Marbury, at the December term of 1801, moved the Supreme Court for a rule to Secretary Madison to show cause why a mandamus should not issue commanding him to deliver the document. The rule was duly served, and the case argued in December, 1801; but the Judiciary Act having suspended for fourteen months the sessions of the Supreme Court, the Chief Justice did not deliver his opinion until February 24, 1803.

The strongest admirers of Marshall admitted that his manner of dealing with this case was unusual. Where a judgment was to turn on a question of jurisdiction, the Court commonly considered that point as first and final. In the case of Marbury the Court had no original jurisdiction, and so decided; but instead of beginning at that point and dis-

missing the motion, the Court began by discussing the merits of the case and ruled that when a commission had been duly signed and sealed the act was complete and delivery was not necessary to its validity. Marbury's appointment was complete; and as the law gave him the right to hold for five years, independent of the Executive, his appointment was not revocable: 'To withhold his commission, therefore, is an act deemed by the Court not warranted by law, but violative of a legal vested right.'

Marshall ruled that Marbury had to his commission a vested legal right of which the Executive could not deprive him; and although the Court could not intermeddle with the prerogatives of the Executive, it might and would command a head of department to perform a duty not depending on Executive discretion, but on particular Acts of Congress and the general principles of law. The mandamus might issue, but not from the Supreme Court, which had appellate jurisdiction only. In other words, if Marbury chose to apply for the mandamus to Judge Cranch and the District Court, he might expect the success of his application.

The decision in Marbury's case naturally exasperated Jefferson; but the Chief Justice knew the point beyond which he could not go in asserting the jurisdiction of his Court, and was content to leave the matter as it stood. Marbury never applied for the mandamus in the court below. The opinion in the case of Marbury and Madison was allowed to sleep, and its language was too guarded to furnish excuse for impeachment; but while the President was still sore under the discourtesy of Marshall's law, another member of the Supreme Bench attacked him in a different way. If one judge in the United States should have known the peril in which the judiciary stood, it was Justice Samuel Chase of Maryland, who had done more than all the other judges to exasperate the democratic majority. His overbearing manners had twice driven from his court the most eminent counsel of the circuit; he had left the bench without a quorum in order that he might make political speeches for his party; and his contempt for the popular will was loudly expressed. In the cases of Fries and Callender, in 1800, he had strained the law in order to convict for the Government; and inasmuch as his energy was excess of zeal, for conviction was certain, he had exposed himself to the charge of over-officiousness in order to obtain the Chief Justice's chair, which was given to Marshall. That he was not impeached after the change of Administration proved the caution of the Republican Party; but by this neglect

Congress seemed to have condoned his old offenses, or at least had tacitly consented to let their punishment depend on the judge's future good behavior.

Unluckily Chase's temper knew no laws of caution. He belonged to the old class of conservatives who thought that judges, clergymen, and all others in authority should guide and warn the people. May 2, 1803, barely two months after Marshall's defiance of the President in Marbury's case and the impeachment of Pickering, Justice Chase addressed the grand jury at Baltimore on the democratic tendencies of their local and National Government.

Where law is uncertain, partial, or arbitrary [he said]; where justice is not impartially administered to all; where property is insecure, and the person is liable to insult and violence without redress by law — the people are *not free*, whatever may be their form of government. To this situation I greatly fear we are fast approaching. . . . The late alteration of the Federal Judiciary by the abolition of the office of the sixteen circuit judges, and the recent change in our State Constitution by the establishing of universal suffrage, and the further alteration that is contemplated in our State judiciary (if adopted) will in my judgment take away all security for property and personal liberty. The independence of the National Judiciary is already shaken to its foundation, and the virtue of the people alone can restore it. . . . Our republican Constitution will sink into a mobocracy — the worst of all possible governments. . . . The modern doctrines by our late reformers, that all men in a state of society are entitled to enjoy equal liberty and equal rights, have brought this mighty mischief upon us; and I fear that it will rapidly progress until peace and order, freedom and property, shall be destroyed.

At the moment of Justice Chase's outburst to the Baltimore grand jury, the President was at Washington deeply interested in the Louisiana business, and unaware that on the day when Chase delivered his tirade Livingston and Monroe in Paris were signing their names to a treaty which put the Administration beyond danger from such attacks. When he saw in the newspapers a report of what had been said from the bench at Baltimore, he wrote to Joseph Nicholson, in whose hands already lay the management of Pickering's impeachment:

You must have heard of the extraordinary charge of Chase to the grand jury at Baltimore. Ought this seditious and official attack on the principles of our Constitution and on the proceedings of a State to go

unpunished; and to whom so pointedly as yourself will the public look for the necessary measures? I ask these questions for your consideration; for myself, it is better that I should not interfere.

'Non-intervention,' according to Talleyrand, 'is a word used in politics and metaphysics, which means very nearly the same thing as intervention.' The event proved that non-intervention was wise policy; but Jefferson was somewhat apt to say that it was better he should not interfere in the same breath with which he interfered. The warning that he could not officially interfere seemed to imply that the quarrel was personal; for in the case of Pickering he had interfered with decision. If this was his view, the success of any attack upon Chase would be a gain to him, and he was so ordering as to make failure a loss only to those who undertook it. Nicholson, hot-headed though he was, did not enter readily into this hazardous venture. He reflected upon it all summer, and consulted the friends on whose support he depended. Macon wrote to him a letter of unusual length, suggesting grave doubts whether a judge ought to be impeached for expressing to a grand jury political opinions which every man was at liberty to hold and express elsewhere, and closed by announcing the conviction that if any attempt were made to impeach, Nicholson ought not to be the leader. In this opinion Macon was evidently right, for Chase's friends could not fail to suggest that Nicholson was to be rewarded by an appointment to Chase's vacant seat on the Supreme Bench; but the House of Representatives contained no other leader whose authority, abilities, and experience warranted him in taking so prominent a part, unless it were John Randolph.

A worse champion than Randolph for a difficult cause could not be imagined. Between him and Jefferson little sympathy existed. Randolph had quarreled with the branch of his family to which Jefferson was closely allied; and his private feelings stood in the way of personal attachment. His intimates in Congress were not chiefly Virginians, but men like Macon of North Carolina, Joseph Bryan of Georgia, and Nicholson of Maryland — independent followers of Virginia doctrine, who owned no personal allegiance to Jefferson. That the President should have been willing to let such a man take entire responsibility for an impeachment was natural; but had Jefferson directed the step, he would never have selected Randolph to manage a prosecution on which the fate of his principles closely depended. Randolph was no lawyer; but this defect was a trifling ob-

jection compared with his greater unfitness in other respects. Ill-balanced, impatient of obstacles, incapable of sustained labor or of methodical arrangement, illogical to excess, and egotistic to the verge of madness, he was sparkling and formidable in debate or on the hustings, where he could follow the wayward impulse of his fancy running in the accustomed channels of his thought; but the qualities which helped him in debate were fatal to him at the bar.

Such was the origin of a measure which did more to define the character of the Government than any other single event in Jefferson's first Administration, except the purchase of Louisiana. Randolph threw himself into the new undertaking; for he sincerely believed in the justice of his cause, and was alive to the danger of leaving the Supreme Court in the hands of Marshall and men of his stamp who were determined to consolidate the Government. Yet the chance of obtaining a conviction, on a charge no stronger than that of the Baltimore address, was so slight as to incline Randolph against risking it; and he decided to insure success by putting the cases of Fries and Callender in the foreground.

This was not easily done. Pickering's impeachment had been brought before the House by a Message from the President; but in Chase's case the President preferred not to take part. Randolph was forced to escape the difficulty by an awkward maneuver. During the autumn and early winter of 1803 Congress was busy with Louisiana legislation and had no leisure for other matters; but soon after the new year Randolph rose and said that in the course of the last session Mr. Smilie of Pennsylvania had made some statements in regard to Justice Chase's conduct which seemed to call for notice, but that want of time had precluded action. Finding his attention thus drawn to the matter, Randolph gravely continued, he had felt it his duty to investigate Smilie's charges; and having convinced himself that ground for impeachment existed, he asked the House to appoint a committee of inquiry. Such an introduction of a great constitutional struggle was not imposing; but party discipline was at its highest point, and after some vigorous Federalist resistance Randolph carried his motion by a vote of eighty-one to forty. Three Northern democrats voted with the Federalists; and although the defection seemed not serious so far as concerned the scientific Doctor Samuel L. Mitchill, whose political principles were liberal enough at all times, some importance even then attached to the vote of John Smith of New York, who

was about to enter the Senate and to act as one of Chase's judges.

Meanwhile, Judge Pickering's trial began. The Senate, 'sitting as a Court of Impeachments,' listened while Nicholson, Randolph, Rodney, and six or seven other Republican members 'exhibited the grand inquest of the nation.' The character of a court was taken in all the forms of summons. The Secretary of the Senate signed, and the Sergeant-at-Arms served, the summons to Judge Pickering, while the witnesses were regularly subpoenaed by the Secretary, 'to appear before the Senate of the United States in their capacity of a Court of Impeachments,' and the subpoenas were served by the marshals of the district courts.

Judge Pickering was ordered to appear on the second of March, 1804; but when the day arrived, and the Senate was assembled, with the managers in attendance, John Pickering's name was three times called without an answer. Vice-President Burr then submitted to the Senate a petition from Jacob Pickering, son of the impeached judge, praying the Court to postpone the trial that he might have time to collect evidence with the view of showing that when the alleged crimes were committed, and two years before as well as ever since, the judge was wholly deranged, incapable of transacting any kind of business which required the exercise of reason, and therefore incapable of corruption of judgment, no subject of impeachment, and amenable to no tribunal for his actions. With this petition a letter from Robert G. Harper was laid before the Court, requesting to be allowed to appear on the part of the petitioner in support of the petition. Harper, having been invited to a seat within the bar, asked whether he might be heard, not as counsel for Judge Pickering, who being insane could give no authority for the purpose, but as agent for the petitioner, to ask a postponement.

The question threw all parties into agitation. The managers instantly protested that Harper in such a character could not be heard. The Senators retired for consultation, and debated all day without coming to a decision. The impeaching party dreaded the alternative to which the proof of insanity must force them — of saying either that an insane man was responsible, or that a man mentally irresponsible might still be guilty of 'high crimes and misdemeanors' for purposes of impeachment. Senator Jackson of Georgia, who had always the merit of speaking with candor, avowed the fear that presently Judge Chase's friends would come and pretend that he too was mad; but he could not, even with Breckin-

ridge's help, carry his point. The Northern Democrats flinched. Six of them and three Southern Senators voted with the Federalists, and admitted Harper in his volunteer character.

Harper put in his testimony, which was decisive in regard to the insanity; but when he rose to do so, the managers retired, saying that they considered themselves under no obligation to discuss a preliminary question raised by an unauthorized third party. The Senate went on with its session. The managers were obliged to maintain that insanity was no bar to impeachment, and the Northern democrats were forced to accept the doctrine.

This view of impeachment, so far as concerned the judiciary, had strong arguments in its favor. Although the Constitution made judges' tenure of office dependent on their good behavior, it provided no other means than that of impeachment for their removal. Even in England and in Massachusetts, judges could be removed by the joint action of Legislature and Executive; but this was not the case under the Constitution of the United States. If insanity or any other misfortune was to bar impeachment, the absurdity followed that unless a judge committed some indictable offense the people were powerless to protect themselves. Even Federalists might reasonably assume that the people had never placed themselves in such a situation, but that in making their judges subject to impeachment for misdemeanors they had meant to extend the scope of impeachment and to include within it all cases of misbehavior which might require a removal from office for the good of the public service.

This ground was fairly taken by the impeachers, though not formally expressed. When Harper had put in his evidence and retired, the Senate sent again for the managers, who occupied one day in supplying evidence, and then left their case without argument in the hands of the Court. The Senate found itself face to face with an issue beyond measure delicate, which had never been discussed, but from which escape was impossible. Acquittal of Pickering would probably be fatal to the impeachment of Chase, and would also proclaim that the people could not protect themselves from misbehavior in their judicial servants. On the other hand, conviction would violate the deep principle of law and justice that an insane man was not responsible for his acts and not amenable to any earthly tribunal. Virginians like Randolph and Wilson Cary Nicholas, or John Breckinridge, were ready to make a precedent which should fix

the rule that impeachment need not imply criminality and might be the equivalent to removal by address. The Northern democrats were not unwilling to accept this view; but their consciences revolted against saying 'guilty' where no guilt was implied or proved.

To escape this objection a compromise was proposed and adopted. The Federalists would have forced Senators to say in their final vote that Judge Pickering was 'guilty' or 'not guilty' of high crimes and misdemeanors. Senator Anderson of Tennessee eluded this challenge by moving for a yea-and-nay vote on the question whether Pickering was guilty 'as charged.' The nine Federalists alone opposed his motion, which was at length adopted by a majority of two to one. By a vote of nineteen to seven Judge Pickering was declared 'guilty as charged' in the articles of impeachment; and by a vote of twenty to six the Senate resolved that he ought to be removed from office.

Two of the Federalist Senators refused to vote, on the ground that the proceedings were irregular; Senator Bradley of Vermont, Senator Armstrong of New York, and Senator Stone of North Carolina tacitly protested by absenting themselves. In a Senate of thirty-four members only twenty-six voted, and only nineteen voted for conviction. So confused, contradictory, and irregular were these proceedings that Pickering's trial was never considered a sound precedent. That an insane man could be guilty of crime and could be punished on *ex parte* evidence, without a hearing, with not even an attorney to act in his behalf, seemed such a perversion of justice that the precedent fell dead on the spot. Perhaps, from the constitutional point of view, a more fatal objection was that, in doing what the world was sure to consider an arbitrary and illegal act, the Virginians failed to put on record the reasons which led them to think it sound in principle. In the Louisiana Purchase they had acted in a way equally arbitrary, but they had given their reasons for thinking themselves in the right. In Pickering's case not a word was publicly spoken on either side; a plainly extra-constitutional act was done without recording the doctrine on which it rested.

As though to intimidate the Senate, March 6, the day after the managers were defeated on the vote to hear Harper, Randolph reported to the House a resolution ordering the impeachment of Justice Chase. March 12, the day when the Senate voted Pickering guilty, the House took up Randolph's report, and the majority, without debate, voted by



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seventy-three to thirty-two that Chase should be impeached. Not a Republican ventured to record a vote in the negative. The next morning Randolph again appeared at the bar of the Senate, and announced that the House of Representatives would in due time exhibit articles of impeachment against Samuel Chase.

## CHAPTER TWENTY

### *Conspiracy*

AS THE YEAR 1804 began, with Louisiana annexed, the Electoral Amendment secured, and the impeachments in prospect, the Federalists in Congress wrought themselves into a dangerous state of excitement. All agreed that the crisis was at hand; democracy had nearly reached its limit; and, as Justice Chase said from the bench, peace and order, freedom and property, would soon be destroyed. They discussed in private what should be done; and among the New Englanders almost all the men of weight were found to favor the policy of at least saving New England. Of the six Federalist Senators from the Eastern States — Plumer and Olcott of New Hampshire, Pickering and Adams of Massachusetts, Tracy and Hillhouse of Connecticut — all but Olcott and Adams thought a dissolution of the Union inevitable. Among the Federalist members of the House, Roger Griswold of Connecticut was the most active; he too was convinced that New England must protect herself. Samuel Hunt of New Hampshire and Calvin Goddard of Connecticut held the same opinion. Indeed, Pickering declared that he did not know 'one reflecting Nov-Anglian' who held any other.

In the month of January, 1804, despair turned into conspiracy. Pickering, Tracy, Griswold, Plumer, and perhaps others of the New England delegation, agreed to organize a movement in their States for a dissolution of the Union. They wrote to their most influential constituents and sketched a plan of action. The first action must come from the Legislature of Massachusetts, which was not yet elected, but would meet early in June. Connecticut and New Hampshire were to follow; and to Pickering's sanguine mind the Northern Confederacy seemed already established. 'The people of the East,' he said, 'cannot reconcile their habits, views, and interests with those of the South and West. The latter are beginning to rule with a rod of iron.'

Pickering knew that the Federalist majority in Massachusetts was none too great. The election in May, four months later, showed a Federalist vote of thirty thousand against a Republican minority of twenty-four thousand, while in the Legislature Harrison Gray Otis was chosen Speaker by 129 votes to 103. Pickering knew also that his colleague,

Senator Adams, was watching his movements with increasing ill-will, which Pickering lost no chance to exasperate. Nothing could be more certain than that at the first suggestion of disunion Senator Adams and the moderate Federalists would attack the Essex Junto with the bitterness of long-suppressed hatred; and if they could not command fourteen votes in the Legislature and three thousand in the State, a great change must have occurred since the year before, when they elected Adams to the Senate for the long term over Pickering's head. Pickering concealed his doings from his colleague; but Tracy was not so cautious. Adams learned the secret from Tracy; and the two Senators from Massachusetts drew farther and farther apart, in spite of the impeachments, which tended to force them together.

The Essex Junto, which sent Pickering to Washington and to which he appealed for support, read his letter with evident astonishment. George Cabot, Chief Justice Parsons, Fisher Ames, and Stephen Higginson, who were the leaders consulted, agreed that the scheme was impracticable; and Cabot, as gently as possible, put their common decision into words.

All the evils you describe [he said], and many more, are to be apprehended; but I greatly fear that a separation would be no remedy, because the source of them is in the political theories of our country and in ourselves. A separation at some period not very remote may probably take place — the first impression of it is even now favorably received by many; but I cannot flatter myself with the expectation of essential good to proceed from it while we retain maxims and principles which all experience, and I may add reason too, pronounce to be impracticable and absurd. Even in New England, where there is among the body of the people more wisdom and virtue than in any other part of the United States, we are full of errors which no reasoning could eradicate if there were a Lycurgus in every village. We are democratic altogether; and I hold democracy in its natural operation to be the government of the worst.

I incline to the opinion that the essential alterations which may in future be made to amend our form of government will be the consequences only of great suffering or the immediate effects of violence. If we should be made to feel a very great calamity from the abuse of power by the National Administration, we might do almost anything; but it would be idle to talk to the deaf, to warn the people of distant evils. By this time you will suppose I am willing to do nothing but submit to fate. I would not be so understood. I am convinced we cannot do what is wished; but we can do much, if we work with Nature (or the course of things), and not against her. A separation is now impracticable, because we do not

feel the necessity or utility of it. The same separation then will be unavoidable when our loyalty to the Union is generally perceived to be the instrument of debasement and impoverishment. If it is prematurely attempted, those few only will promote it who discern what is hidden from the multitude.

Cabot's letter, more clearly than any writing of Alexander Hamilton himself, expressed the philosophy and marked the tactics of their school. Neither Cabot nor Hamilton was a lively writer, and the dust which has gathered deep on their doctrines dulls whatever brilliancy they once possessed; but this letter showed why Cabot was considered the wisest head in his party, to whose rebuke even Hamilton was forced to bow. For patient and willing students who have groped in search of the idea which, used by Hamilton and Jefferson, caused bitterer feeling and roused deeper terrors than civil war itself, Cabot's long and perhaps pedantic letter on the policy of disunion was full of meaning. 'We shall go the way of all governments wholly popular — from bad to worse — until the evils, no longer tolerable, shall generate their own remedies.' Democracy must end in a crisis, experience and reason pronounced it impracticable and absurd, Nature would in due time vindicate her own laws; and when the inevitable chaos should come, then conservative statesmanship could set society on a sound footing by limiting the suffrage to those citizens who might hold in their own right two thousand dollars' value in land. Meanwhile, disunion would be useless, and the attempt to bring it about would break up the Federalist Party. 'A war with Great Britain manifestly provoked by our rulers' was the only chance which Cabot foresaw of bringing the people of New England to a dissolution of the Union.

Pickering was not so intelligent as Cabot, Parsons, and Ames; his temper was harsher than theirs; he was impatient of control, and never forgot or wholly forgave those who forced him to follow another course than the one he chose. Cabot's letter showed a sense of these traits; for though it was in the nature of a command or entreaty to cease discussing disunion, if the Federalist Party in Massachusetts were to be saved, it was couched in gentle language, and without affecting a tone of advice suggested ideas which ought to guide Federalists in Congress. Pickering was to wait for the crisis. Inaction was easy; and even though the crisis should be delayed five or ten years — a case hardly to be supposed — no step could be taken without a blunder before the public should be ready

for it. With this simple and sound principle to guide them, conservatives could not go wrong. Cabot there left the matter.

Such gentleness toward a man of Pickering's temper was a mistake, which helped to cost the life of one whom conservatives regarded as their future leader in the crisis. Pickering was restive under the sense that his friends preferred other counselors; whereas his experience and high offices, to say nothing of his ability, entitled him, as he thought, to greater weight in the party than Hamilton, Cabot, or Rufus King. Backed by Tracy, Griswold, and other men of standing, Pickering felt able to cope with opposition. His rough sense and democratic instincts warned him that the fine-drawn political theories of George Cabot and Theophilus Parsons might end in impotence. He could see no reason why Massachusetts, once corrupted, might not wallow in democratic iniquities with as much pleasure as New York or Pennsylvania; and all that was worth saving might be lost before her democracy would consent to eat the husks of repentance and ask forgiveness from the wise and good. Cabot wanted to wait a few months or years until democracy should work out its own fate; and whenever the public should yearn for repose, America would find her Pitt and Bonaparte combined in the political grasp and military genius of Alexander Hamilton. Pickering, as a practical politician, felt that if democracy were suffered to pull down the hierarchy of New England, neither disunion nor foreign war, nor 'a very great calamity' of any kind, could with certainty restore what had once been destroyed.

Cabot's argument shook none of Pickering's convictions; but the practical difficulty on which the home Junto relied was fatal unless some way of removing it could be invented. During the month of February, 1804, when the impeachment panic was at its height in Congress, Pickering, Tracy, and Plumer received letter after letter from New England, all telling the same story. The eminent Judge Tapping Reeve, of Connecticut, wrote to Tracy: 'I have seen many of our friends; and all that I have seen and most that I have heard from believe that we must separate, and that this is the most favorable moment.' He had heard only one objection — that the country was not prepared; but this objection, which meant that the disunionists were a minority, was echoed from all New England. The conspirators dared not openly discuss the project. 'There are few among my acquaintance,' wrote Pickering's

nephew, Theodore Lyman, 'with whom I could on that subject freely converse; there may be more ready than I am aware of.' Plumer found a great majority of the New Hampshire Federalists decidedly opposed. Roger Griswold, toward the end of the session, summed up the result in his letter to Oliver Wolcott:

We have endeavored during this session to rouse our friends in New England to make some bold exertions in that quarter. They generally tell us that they are sensible of the danger, that the Northern States must unite; but they think the time has not yet arrived. Prudence is undoubtedly necessary; but when it degenerates into procrastination it becomes fatal. Whilst we are waiting for the time to arrive in New England, it is certain the democracy is making daily inroads upon us, and our means of resistance are lessening every day. Yet it appears impossible to induce our friends to make any decisive exertions. Under these circumstances I have been induced to look to New York.

Griswold's remark that the procrastination of New England had led him to look to New York was not quite candid; his plan had from the first depended on New York. Pickering had written to Cabot at the outset, 'She must be made the center of the Confederacy.' New York seemed, more than New England, unfit to be made the center of a Northern Confederacy, because there the Federalist Party was a relatively small minority. If Massachusetts and Connecticut showed fatal apathy, in New York actual repulsion existed; the extreme Federalists had no following. To bring New York to the Federalism of Pickering and Griswold, the Federalist Party needed to recover power under a leader willing to do its work. The idea implied a bargain and an intrigue on terms such as in the Middle Ages the Devil was believed to impose upon the ambitious and reckless. Pickering and Griswold could win their game only by bartering their souls; they must invoke the Mephistopheles of politics, Aaron Burr.

To this they had made up their minds from the beginning. Burr's four years of office were drawing to a close. The Virginians had paid him the price he asked for replacing them in power; and had it been Shylock's pound of flesh, they could not have looked with greater care to see that Burr should get neither more nor less, even in the estimation of a hair, than the exact price they had covenanted to pay. In another year the debt would be discharged, and the Virginians would be free. Burr had

not a chance of regaining a commanding place among Republicans, for he was bankrupt in private and public character. In New York the Clintons never ceased their attacks, with the evident wish to drive him from the party.

Although Vice-President until March, 1805, Burr announced that he meant to offer himself as a candidate for the post of Governor of New York in April, 1804.

The threads of intrigue drew together, as they were apt to do before a general election. The last week in January came. Three days before Senator Pickering wrote his conspiracy letter to George Cabot, a letter which implied co-operation with Burr in making him Governor of New York, Burr asked for a private interview with Jefferson, and formally offered him the choice between friendship or enmity. The President thought the conversation so curious that he made a note of it.

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 would never 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, with many words but with his usual courtesy, intimated that he could not appoint the Vice-President to an Executive office; and Burr then united his intrigues with those of Pickering and Griswold. Thenceforth his chance of retaining power depended on the New York election; and his success in this election depended on the Federalists. Before George Cabot had yet written his answer to Pickering's questions, Pickering could no longer resist the temptation to act.

The effect of what passed at Washington was instantly felt at Albany. Toward the middle of February, about three weeks after Jefferson had civilly rejected the Vice-President's advances, Burr's friends in the New York Legislature announced that they should hold a caucus February 18, and nominate him as candidate for Governor. The Federalists at once called a preliminary caucus to decide whether they should support Burr. Alexander Hamilton, who happened to be engaged in law business at Albany, February 16, 1804, attended the Federal caucus and used his influence in favor of the regular Clinton candidate against Burr's pre-

tensions. The drift of his argument was given in an abstract of reasons which he drew up for the occasion. Unfortunately the strongest of these reasons was evidently personal; the leadership of Hamilton would not tolerate rivalry from Burr. Hamilton pointed out that Burr's elevation by the Federalists of New York would present him as their leader to the Federalists of New England, and would assist him to disorganize New England if so disposed; that there 'the ill-opinion of Jefferson, and jealousy of the ambition of Virginia, is no inconsiderable prop of good opinions; but these causes are leading to an opinion that a dismemberment of the Union is expedient. It would probably suit Mr. Burr's views to promote this result — to be the chief of the Northern portion; and placed at the head of the State of New York, no man would be more likely to succeed.'

If the Union was to be severed, Hamilton was the intended chief of the Northern portion; but he wanted no severance that should leave the germs of the democratic disease. His philosophy was that of George Cabot, William Pitt, and Talleyrand; he waited for the whole country to come to its senses and restore sound principles, that democracy might everywhere die out or be stifled. Burr's methods were democratic, and would perpetuate in a Northern Confederacy the vices of the Union; they would break up the conservative strength without weakening democracy. Within a few days the danger which Hamilton foresaw came to pass. Burr's little band of friends in the Legislature, February 18, 1804, set him in nomination; and a large majority of Federalists, in defiance of Hamilton's entreaties, meant to vote for him.

As the situation became clearer, Hamilton's personal feeling became public. While at Albany, February 16, he dined with John Tayler, and at table talked of the political prospect. One of the company, Doctor Charles D. Cooper, an active partisan, wrote an account of the conversation to a certain Mr. Brown near Albany: 'General Hamilton and Judge Kent have declared, in substance, that they looked upon Mr. Burr to be a dangerous man, and one who ought not to be trusted with the reins of government.' The letter was printed, and went the rounds of the press. As it roused some question and dispute, Cooper wrote again: 'I could detail to you a still more despicable opinion which General Hamilton has expressed of Mr. Burr.' This letter also was printed; the *Albany Register* of April 24 contained the correspondence.



The news of Burr's nomination reached Washington at the moment when Pickering and Tracy received answers to their disunion scheme; and it served to keep them steady to their plan. The Federalists, who professed to consider Hamilton their leader, seldom followed his advice; but on this occasion they set him somewhat unkindly aside. Too much in awe of Hamilton to say directly to his face that he must be content with the place of Burr's lieutenant, they wrote letters to that effect which were intended for his eye.

Of all Federalist leaders, moderate and extreme, Rufus King, who had recently returned from London, stood highest in the confidence of his party. He was to be the Federalist candidate for Vice-President; he had mixed in none of the feuds which made Hamilton obnoxious to many of his former friends; and while King's manners were more conciliatory, his opinions were more moderate, than those of other party leaders. To him Pickering wrote, March 4, 1804, in a tone of entreaty:

I am disgusted with the men who now rule, and with their measures. At some manifestations of their malignancy I am shocked. The cowardly wretch at their head, while like a Parisian revolutionary monster prating about humanity, would feel an infernal pleasure in the utter destruction of his opponents.

After avowing his hopes of disunion, Pickering next touched the New York election:

The Federalists here in general anxiously desire the election of Mr. Burr to the chair of New York, for they despair of a present ascendancy of the Federalist Party. Mr. Burr alone, we think, can break your democratic phalanx, and we anticipate much good from his success. Were New York detached, as under his administration it would be, from the Virginia influence, the whole Union would be benefited. Jefferson would then be forced to observe some caution and forbearance in his measures. And if a separation should be deemed proper, the five New England States, New York, and New Jersey would naturally be united.

Rufus King was as cautious as Pickering was indiscreet. He acknowledged this letter in vague terms of compliment, saying that Pickering's views 'ought to fix the attention of the real friends of liberty in this quarter of the Union, and the more so as things seem to be fast advancing to a crisis.' Even King's cool head was possessed with the thought which tormented Hamilton, Cabot, Ames, Pickering, Griswold, and Tracy —

the crisis which was always coming, and which, in the midst of peace, plenty, and contentment such as a tortured world has seldom known, overhung these wise and virtuous men like the gloom of death.

March 27, Congress adjourned; and thenceforward the intrigue centered about Burr and Hamilton in New York. In a conversation, April 4, Burr cautiously said that in his present canvass 'he must go on democratically to obtain the government; that if he succeeded, he should administer it in a manner that would be satisfactory to the Federalists. In respect to the affairs of the nation, Burr said that the Northern States must be governed by Virginia, or govern Virginia, and that there was no middle course; that the democratic members of Congress from the East were in this sentiment — some of those from New York, some of the leaders in Jersey, and likewise in Pennsylvania.' Further than this he would not go.

On the other hand, Rufus King's library was the scene of grave dissensions. There Pickering went, April 8, to urge his scheme of disunion, and retired on the appearance of his colleague, Senator Adams, who for the first and last time in his life found himself fighting the battle of Alexander Hamilton, whom he disliked as decidedly as Pickering professed to love him. As the older Senator left the house at his colleague's entrance, King said to Adams: 'Colonel Pickering has been talking to me about a project they have for a separation of the States and a Northern Confederacy; and he has also been this day talking of it with General Hamilton. Have you heard anything of it at Washington?' Adams replied that he had heard much, but not from Colonel Pickering. 'I disapprove entirely of the project,' said King; 'and so, I am happy to tell you, does General Hamilton.'

The struggle for control between Hamilton and the conspirators lasted to the eve of the election — secret, stifled, mysterious; the intrigue of men afraid to avow their aims, and seeming rather driven by their own passions than guided by the lofty and unselfish motives which ought to inspire those whom George Cabot emphatically called the *best!* The result was a drawn battle. Hamilton prevented leading Federalists from open committal of the party, but he could not prevent the party itself from voting for Burr. The election took place April 25, 1804; and although Burr succeeded in carrying to the Federalists a few hundred voters in the city of New York, where his strength lay, giving him there a

majority of about one hundred in a total vote of less than three thousand, he polled but about twenty-eight thousand votes in the State against thirty-five thousand for the Clinton candidate. The Federalists gained nothing by supporting him; but only a small portion of the party refused him their aid.

The obstinacy of Pickering and Griswold in pressing Burr on the party forced Hamilton to strain his strength in order to prevent what he considered his own humiliation. That all Hamilton's doings were known to Burr could hardly be doubted. When the election closed, a new era in Burr's life began. He was not a vindictive man, but this was the second time Hamilton had stood in his way and vilified his character. Burr could have no reason to suppose that Hamilton was deeply loved; for he knew that four-fifths of the Federal Party had adopted his own leadership when pitted against Hamilton's in the late election, and he knew too that Pickering, Griswold, and other leading Federalists had separated from Hamilton in the hope of making Burr himself the chief of a Northern confederacy. Burr never cared for the past — the present and future were his only thought; but his future in politics depended on his breaking somewhere through the line of his personal enemies; and Hamilton stood first in his path, for Hamilton would certainly renew at every critical moment the tactics which had twice cost Burr his prize.

Nearly two months passed after the New York election, when, on the morning of June 18, William P. Van Ness appeared in Hamilton's office. He brought a note from Vice-President Burr, which enclosed newspaper cuttings containing Doctor Cooper's report of Hamilton's 'despicable' opinion of Burr's character. The paragraph, Burr said, had but very recently come to his knowledge. 'You must perceive, sir, the necessity of a prompt and unqualified acknowledgment or denial of the use of any expression which would warrant the assertions of Doctor Cooper.' General Hamilton took two days to consider the subject; and then replied in what Burr thought an evasive manner, but closed with two lines of defiance: 'I trust on more reflection you will see the matter in the same light with me; if not, I can only regret the circumstance, and must abide the consequences.'

These concluding words were the usual form in which men expressed themselves when they intended to accept a challenge to a duel. At first sight, no sufficient reason for accepting a challenge was shown by Hamil-

ton's letter, which disavowed Doctor Cooper's report so far as Burr was warranted in claiming disavowal. Hamilton might without impropriety have declined to give further satisfaction. In truth, not the personal but the political quarrel drew him into the field; he knew that Burr meant to challenge, not the man, but the future political chief, and that an enemy so bent on rule must be met in the same spirit. Hamilton fought to maintain his own right to leadership, so rudely disputed by Burr, Pickering, and Griswold. He devoted some of his moments before the duel to the task of explaining, in a formal document, that he fought only to save his political influence. 'The ability to be in future useful, whether in resisting mischief or effecting good, in those crises of our public affairs which seem likely to happen, would probably be inseparable from a conformity with public prejudice in this particular.'

Always the crisis! Yet this crisis which brought Hamilton in July to the dueling-ground at Weehawken was not the same as that which Pickering and Griswold had so lately tried to create. Pickering's disunion scheme came to a natural end on Burr's defeat in April. The legislatures of the three Federalist States had met and done nothing; all chance of immediate action was lost, and all parties, including even Pickering and Griswold, had fallen back on their faith in the 'crisis'; but the difference of opinion between Hamilton and the New Englanders was still well defined. Hamilton thought that disunion, from a conservative standpoint, was a mistake; nearly all the New Englanders, on the contrary, looked to ultimate disunion as a conservative necessity. The last letter which Hamilton wrote, a few hours before he left his house for the dueling-ground, was a short and earnest warning against disunion, addressed to Theodore Sedgwick, one of the sternest Massachusetts Federalists of Pickering's class. 'Dismemberment of our empire,' said Hamilton, 'will be a clear sacrifice of great positive advantages, without any counterbalancing good; administering no relief to our real disease, which is *democracy* — the poison of which, by a subdivision, will only be the more concentrated in each part, and consequently the more virulent.'

The New Englanders thought this argument unsound, as it certainly was; for a dissolution of the American Union would have struck a blow more nearly fatal to democracy throughout the world than any other 'crisis' that man could have compassed. Yet the argument showed that had Hamilton survived, he would probably have separated from his

New England allies, and at last, like his friends Rufus King and Oliver Wolcott, would have accepted the American world as it was.

The tragedy that actually happened was a fitter ending to this dark chapter than any tamer close could have been. Early on the morning of July 11, in the brilliant sunlight of a hot summer, the two men were rowed to the dueling-ground across the river, under the rocky heights of Weehawken, and were placed by their seconds face to face. Had Hamilton acted with the energy of conviction, he would have met Burr in his own spirit; but throughout this affair Hamilton showed want of will. He allowed himself to be drawn into a duel, but instead of killing Burr he invited Burr to kill him. In the paper Hamilton left for his justification, he declared the intention to throw away his first fire. He did so. Burr's bullet passed through Hamilton's body. The next day he was dead.

As the news spread, it carried a wave of emotion over New England, and roused everywhere sensations strangely mixed. In New York the Clinton interest, guided by Cheetham, seized the moment to destroy Burr's influence forever. Cheetham affected to think the duel a murder, procured Burr's indictment, and drove him from the State. Charges were invented to support this theory, and were even accepted as history. In the South and West, on the other hand, the duel was considered as a simple 'affair of honor,' in which Burr appeared to better advantage than his opponent. In New England a wail of despair arose. Even the clergy, though shocked that Hamilton should have offered the evil example of dueling, felt that they had lost their champion and sword of defense. 'In those crises of our public affairs which seemed likely to happen,' Hamilton's genius in council and in the field had been their main reliance; he was to be their Washington, with more than Washington's genius — their Bonaparte, with Washington's virtues. The whole body of Federalists, who had paid little regard to Hamilton's wishes in life, went into mourning for his death, and held funeral services such as had been granted to no man of New England birth. Orators, ministers, and newspapers exhausted themselves in execration of Burr. During the whole summer and autumn, undisturbed by a breath of discord or danger, except such as their own fears created, they bewailed their loss as the most fatal blow yet given to the hopes of society.

The death of Hamilton cleared for a time the murky atmosphere of New York and New England politics. Pickering and Griswold, Tracy

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and Plumer, and their associates retired into the background. Burr disappeared from New York, and left a field for De Witt Clinton to sacrifice in his turn the public good to private ambition. The bloody feuds of Burr's time never again recurred. The death of Hamilton and the Vice-President's flight, with their accessories of summer-morning sunlight on rocky and wooded heights, tranquil river, and distant city, and behind all, their dark background of moral gloom, double treason, and political despair, still stand as the most dramatic moment in the early politics of the Union.

## CHAPTER TWENTY-ONE

### *Trial of Justice Chase*

WHILE THE MOBILE, many-sided, restless democracy of New England, New York, and Pennsylvania exhibited its faults, and succeeded, with much personal abuse, in thrusting out the elements foreign to its character which retarded its movement, the society of the Southern States was classically calm. Not a breath disturbed the quiet which brooded over the tobacco and cotton fields between the Potomac and Florida. A Presidential election was taking place, but the South saw only one candidate. The State Legislatures quietly chose electors to vote for Jefferson and Clinton. From the St. Mary's to the Potomac and the Ohio, every electoral voice was given to Jefferson. With some surprise the public learned that Maryland gave two of eleven votes to C. C. Pinckney, who received also the three votes of Delaware. This little State even went back on its path, repudiated Caesar A. Rodney, and returned to its favorite Bayard, who was sent by a handsome majority to his old seat in the House of Representatives. Broken for an instant only by this slight check, the tide of democratic triumph swept over the States of Pennsylvania, New Jersey, and New York, and burst upon Connecticut as though Jefferson's hope of dragging even that State from its moorings were at length to be realized. With difficulty the Connecticut hierarchy held its own; and with despair after the torrent passed by, it looked about and found itself alone. Even Massachusetts cast 29,310 votes for Jefferson, against 25,777 for Pinckney.

Rarely was a Presidential election better calculated to turn the head of a President, and never was a President elected who felt more keenly the pleasure of his personal triumph. At the close of four years of administration, all Jefferson's hopes were fulfilled. He had annihilated opposition. The slanders of the Federalist press helped to show that he was the idol of four-fifths of the nation. He received one hundred and sixty-two of one hundred and seventy-six electoral votes, while in 1801 he had but seventy-three in one hundred and thirty-eight; and in the Ninth Congress, which was to meet in December, 1805, barely seven out of thirty-four Senators, and twenty-five out of one hundred and forty-one Representatives, would oppose his will.

Such success might have turned the head of any philosopher that ever sat on a throne. Easily elated, unwilling to forebode trouble, devoid of humor, and unable to see himself in any but the heroic light, President Jefferson basked in the sunshine of popularity and power as though it were no passing warmth such as had led scores of kings into disaster, but shone by virtue of some democratic law which rested on truth that could never change. The White House was filled with an atmosphere of adulation. Flattery, gross as any that man could ask, was poured into the President's ear, but was as nothing compared with the more subtle flattery of the popular vote. No friend stopped him to ask how such a miraculous success had been brought about. Four years had not passed since Jefferson and his party had clamored against attempts to give energy to government; and no one could ever forget that they claimed and received power from the people in order to defend States-rights, restrict Executive influence, and correct strained constructions of the Constitution. Who upheld States-rights in 1804, and complained of Executive influence and strained constructions? Certainly not Jefferson or his friends, but the monarchical Federalists, who were fit inmates for an asylum.

Jefferson said with truth that the two old parties were almost wholly melted into one; but in this fusion his own party had shown even more willingness than its opponents to mix its principles in a useful, but not noble, amalgam. His own protests in regard to the Louisiana Purchase and the branch bank at New Orleans were recorded. With such evidence on their side, the moderate Federalists, who in the election of 1804 gave to Jefferson the nineteen electoral votes of Massachusetts and the seven of New Hampshire, could claim that they had altered no opinion they ever held; that the Government had suffered no change in principle from what it had been under President Washington; that not a Federalist measure, not even the Alien and Sedition Laws, had been expressly repudiated; that the national debt was larger than it had ever been before, the navy maintained and energetically employed, the National Bank preserved and its operations extended; that the powers of the National Government had been increased to a point that made blank paper of the Constitution as heretofore interpreted by Jefferson, while the national territory, vastly more than doubled in extent, was despotically enlarged and still more despotically ruled by the President and Congress, in the



teeth of every political profession the Republican Party had ever made. Had this been the work of Federalists, it would have been claimed as a splendid triumph of Federalist principles; and the good sense of New England was never better shown than when Massachusetts and New Hampshire flung aside their prejudices and told Jefferson that they accepted his inaugural pledge to be a Federalist as they were Republicans.

Every Federalist who came over and every State that joined the majority weakened the relative influence of Virginia, and helped to dilute the principles of the pure Virginia school. The new democrats in New England, New York, and Ohio were Federalists in disguise, and cared nothing for fine-spun constitutional theories of what government might or might not do, provided government did what they wanted. They feared no corruption in which they were to have a part. They were in secret jealous of Virginia, and as devoted as George Cabot and Stephen Higginson to the interests of commerce and manufactures. A majority of the Northern Democrats were men of this kind. Their dislike of Federalists was a social rather than political feeling, for Federalist manners seemed to them a willful impertinence; but the Varnums and Crowninshields of Massachusetts cared as little as De Witt Clinton or Aaron Burr for the notions of Speaker Macon and John Randolph. As orators and leaders the Northern Democrats made a poor figure beside the Virginians; but their votes weighed more and more heavily with every succeeding Congress, and both Randolph and Macon were becoming suspicious that these votes were too apt to be cast against the wishes of Virginia.

The second session of the Eighth Congress met on the first Monday in November, as provided by a law passed in view of Judge Chase's impeachment. The President's Message, sent to Congress November 8, 1804, was as usual toned to cheerful harmony. The income had reached eleven millions and a half of dollars; more than three million six hundred thousand dollars of the public debt had been discharged within the year, more than twelve millions since 1801; and the revenue was still increasing. Difficulties had risen with foreign nations, but no disturbance of the peace was to be expected. The Indians were quiet. Gunboats were in course of construction. No increase of the army was called for. Congress had only to inquire whether anything remained to be done for the public good.

One thing was certainly wanting in this Message. No hint was given that Congress stood in danger of overstepping the limits of its powers, or would do well to return within them. This silence was not accidental; it marked the moment of separation between Jefferson and the Old Republicans of 1798. Speaker Macon, John Randolph, and Joseph Nicholson soon showed that they meant to take no such view of their duties.

The schisms which characterized the last year of President Jefferson's first term increased the difficulty of convicting Justice Chase. Burr was still Vice-President, and was sure not only to preside at the trial, but also, unless conciliated, to encourage rebellion against the Virginians. He had warm friends even in the Senate; and he was observed to cultivate close social relations with John Smith, the Senator from Ohio, whose vote was likely to be necessary for conviction. Although the two Senators from New York were no friends of Burr, one of them, Doctor Samuel L. Mitchill, was known to oppose impeachment; and not only he, but also his colleague, another John Smith, when members of the House, voted against Randolph's motion for a committee of inquiry. Senator Bradley of Vermont privately talked with earnestness against the Pickering impeachment and never favored that of Chase. His colleague, Israel Smith, shared his doubts. Twenty-three votes were required to convict, and the Republicans had but twenty-five Senators against nine Federalists. A defection of three Republican Senators would be fatal; but votes of at least five were in doubt.

Neither the Administration nor his Virginia friends failed to support Randolph. They made efforts to conciliate Burr, whose opposition to the impeachment was most feared. Jefferson appointed J. B. Prevost of New York, Burr's stepson, a judge of the Superior Court at New Orleans; James Brown, who married Mrs. Burr's sister, was made Secretary to the Louisiana Territory and sent to govern St. Louis, solely on Burr's recommendation; James Wilkinson, one of Burr's most intimate friends and General-in-Chief of the army, was made Governor of the Louisiana Territory — an appointment directly opposed to Jefferson's theories about the union of civil and military authority. Besides these conciliatory compliments the President repeatedly invited Burr to dinner, and treated him with more attention than ever before; both Madison and Gallatin kept up friendly relations with him; while Senator Giles of Virginia drew

an address to Governor Bloomfield of New Jersey, and caused it to be signed by all the Senators who could be induced to let their names be used, requesting that a *nolle prosequi* should be entered on the indictment against Burr found by the grand jury of Bergen County.

The Virginians closed their quarrels for the moment in order to support the impeachment. William B. Giles, who came to the Senate in place of Wilson Cary Nicholas, acted as Randolph's representative in shaping the Senate's rules. He canvassed its members, and dealt with those who doubted, laboring earnestly and openly to bring Senators to the Virginia standpoint, as fixed by him in a speech intended to serve as guide in framing rules for the proceedings about to begin. This speech, made December 20, 1804, maintained that the Constitution put no limit on impeachment, but said only that the Senate should try all impeachments; and therefore, while any civil officer convicted of treason, bribery, or other high crimes and misdemeanors should be removed from office, in all other cases not enumerated the Senate might at its discretion remove, disqualify, or suspend the officer. Thus Judge Pickering had been removed, said Giles, though undoubtedly insane and incapable of committing any crime or of making his defense. 'So the assumption of power on the part of the Supreme Court in issuing their process to the office of the Secretary of State, directing the Executive how a law of the United States should be executed, and the right which the courts have assumed to themselves of reviewing and passing upon the Acts of the Legislature in other cases,' were matter of impeachment. In arguing this thesis Giles was obliged to take the ground that the Senate was not a court, and ought to discard all analogy with a court of justice; impeachment need imply no criminality or corruption, and removal was nothing more than a notice to the impeached officer that he held opinions dangerous to the State and that his office must be put in better hands. He induced the Senate to strike out the word 'court' where it occurred in the proposed rules; and at length went so far as to deny that the Secretary of the Senate could administer the oath to witnesses or that the Senate had power to authorize the Secretary to administer such an oath, but must send for a magistrate competent for the purpose. Unfortunately for him, the impeachment of Judge Pickering was a precedent directly opposed to this doctrine. He was compelled to submit while the Senate unwillingly took the forms of a court.

Giles's view of impeachment, which was the same with that of Randolph, had the advantage of being clear and consistent. The opposite extreme, afterward pressed by Luther Martin and his associate counsel for the defense, restricted impeachment to misdemeanors indictable at law — a conclusion not to be resisted if the word of the Constitution were to be understood in a legal sense. Such a rule would have made impeachment worthless for many cases where it was likely to be most needed; for comparatively few violations of official duty, however fatal to the State, could be brought within this definition. Giles might have quoted Madison in support of the broader view; and if Madison did not understand the Constitution, any other Virginian might be excused for error. So far back as the year 1789, when Congress began to discuss the President's powers, Madison said: 'I contend that the wanton removal of meritorious officers would subject him to impeachment and removal from his own high trust.' Such a misdemeanor was certainly not indictable, and could not technically be brought within the words of the Constitution; it was impeachable only on Giles's theory.

The Senate became confused between these two views and never knew on what theory it acted. Giles failed to take from its proceedings the character of a court of justice; but though calling itself a court of justice, it would not follow strict rules of law. The result was a nondescript court, neither legal nor political, making law and voting misdemeanors for itself as it went, and stumbling from one inconsistency to another.

The managers added to the confusion. They put forward no steady theory of their own as to the nature of impeachment; possibly differing in opinion, they intentionally allotted different lines of argument to each. In opening the case, February 20, 1805, one of the managers, George W. Campbell of Tennessee, took the ground that 'misdemeanor' in the Constitution need imply no criminality. 'Impeachment,' said he, 'according to the meaning of the Constitution, may fairly be considered a kind of inquest into the conduct of an officer merely as it regards his office. . . . It is more in the nature of a civil investigation than of a criminal prosecution.' Such seemed to be the theory of the managers and of the House; for although the articles of impeachment reported by Randolph in March, 1804, had in each case alleged acts which were inspired by an evil intent to oppress the victim or to excite odium against the Government, and were at least misdemeanors in the sense of misbehavior, Randolph

at the last moment slipped into the indictment two new articles, one of which alleged no evil intent at all, while both alleged, at worst, errors in law such as every judge in the United States had committed.

That a judge was impeachable for a mistake in declaring the law seemed therefore to be settled, so far as the House and its managers could decide the point. Judge Chase's counsel assumed that this principle, which had been so publicly proclaimed, was seriously meant; and one after another dwelt on the extravagance of the doctrine that a civil officer should be punished for mere error of judgment. In reply, Joseph H. Nicholson, Randolph's closest ally, repudiated the theory on which he had himself acted in Pickering's case, and which Giles, Randolph, and Campbell pressed; he even denied having heard such ground taken as that an impeachment was a mere inquest of office.

Staggering under this load of inconsistencies, uncertain what line of argument to pursue, and ignorant whether the Senate would be ruled by existing law or invent a system of law of its own, the managers, February 9, 1805, appeared in the Senate Chamber to open their case and produce their witnesses. Upon the popular imagination of the day the impeachment of Warren Hastings had taken deep hold. Barely ten years had passed since the House of Lords rendered its judgment in that famous case; and men's minds were still full of associations with Westminster Hall. The impeachment of Judge Chase was a cold and colorless performance beside the melodramatic splendor of Hastings's trial; but in the infinite possibilities of American democracy, the questions to be decided in the Senate Chamber had a weight for future ages beyond any that were then settled in the House of Lords. Whether Judge Chase should be removed from the bench was a trifling matter; whether Chief Justice Marshall and the Supreme Court should hold their power and principles against this combination of States-rights conservatives and Pennsylvania democrats was a subject for grave reflection. Men who did not see that the tide of political innovation had long since turned, and that the French Revolution was no longer raging, were consumed with anxiety for the fate of Chase, and not wholly without reason; for had Marshall been a man of less calm and certain judgment, a single mistake by him might easily have prostrated the Judiciary at the feet of partisans.

By order of the Vice-President the Senate Chamber was arranged in accordance with his ideas of what suited so grave an occasion. His own

chair stood, like that of the Chief Justice in the courtroom, against the wall, and on its right and left crimson benches extended like the seats of associate judges, to accommodate the thirty-four Senators, who were all present. In front of the Vice-President, on the right, a box was assigned to the managers, on the left, a similar box was occupied by Justice Chase and his counsel. The rest of the floor was given to members of the House, foreign ministers, and other official persons. Behind these a new gallery was erected especially for ladies, and at each end of this temporary gallery boxes were reserved for the wives and families of public officers. The upper and permanent gallery was public. The arrangement was a mimic reproduction of the famous scene in Westminster Hall; and the little society of Washington went to the spectacle with the same interest and passion which had brought the larger society of London to hear the orations of Sheridan and Burke.

Before this audience Justice Chase at last appeared with his array of counsel at his side — Luther Martin, Robert Goodloe Harper, Charles Lee, Philip Barton Key, and Joseph Hopkinson. In such a contest weakness of numbers was one element of strength; for the mere numbers of Congressmen served only to rouse sympathy for the accused. The contest was unequal in another sense, for the intellectual power of the House was quite unable on the field of law to cope with the half-dozen picked and trained champions who stood at the bar. Justice Chase alone was a better lawyer than any in Congress; Luther Martin could easily deal with the whole box of managers; Harper and Lee were not only lawyers, but politicians; and young Hopkinson's genius was beyond his years.

In the managers' box stood no lawyer of corresponding weight. John Randolph, who looked upon the impeachment as his personal act, was not only ignorant of law, but could not work by legal methods. Joseph H. Nicholson and Caesar A. Rodney were more formidable; but neither of them would have outweighed any single member of Chase's counsel. The four remaining managers, all Southern men, added little to the strength of their associates. None of them rose much above the average level of Congress; and Chase's counsel grappled with them so closely, and shut them within a field so narrow, that no genius could have found room to move. From the moment that the legal and criminal character of impeachment was conceded, Chase's counsel dragged them hither and thither at will.

Ten days passed in taking evidence before the field was cleared and the discussion began. Then, February 20, 1805, Early and Campbell led for the managers, inferring criminality in the accused from the manifest tenor of his acts. Campbell ventured to add that he was not obliged to prove the accused to have committed any crime known to the law — it was enough that he had transgressed the line of official duty with corrupt motives; but this timid incursion into the field of the Constitution was supported by no attempt at argument. 'I lay it down as a settled rule of decision,' said he, 'that when a man violates a law or commits a manifest breach of his duty, an evil intent or corrupt motive must be presumed to have actuated his conduct.'

Joseph Hopkinson opened for the defense. Friends and enemies joined in applauding the vigor of this young man's attack. The whole effort of Chase's counsel was to drive the impeachers within the limits of law and compel them to submit to the restrictions of legal methods. Hopkinson struck into the heart of the question. He maintained that under the Constitution no judge could be lawfully impeached or removed from office for any act or offense for which he could not be indicted; 'misdemeanor,' he argued, was a technical term well understood and defined, which meant the violation of a public law, and which, when occurring in a legal instrument like the Constitution, must be given its legal meaning. After stating this proposition with irresistible force, he dealt with Article I of the impeachment, which covered the case of Fries, and shook it to pieces with skill very unlike the treatment of Early and Campbell. Barton Key next rose, and dealt with Articles II, III, and IV, covering part of Callender's case; he was followed by Charles Lee, who succeeded in breaking down Randolph's interpolated Articles V and VI. Then Luther Martin appeared on the scene, and the audience felt that the managers were helpless in his hands.

This extraordinary man — 'unprincipled and impudent Federalist bulldog,' as Jefferson called him — reveled in the pleasure of a fight with democrats. The bar of Maryland felt a curious mixture of pride and shame in owning that his genius and vices were equally remarkable. Rough and coarse in manner and expression, verbose, often ungrammatical, commonly more or less drunk, passionate, vituperative, gross, he still had a mastery of legal principles and a memory that overbalanced his faults, an audacity and humor that conquered ill-will. In the practice

of his profession he had learned to curb his passions until his ample knowledge had time to give the utmost weight to his assaults. His argument at Chase's trial was the climax of his career; but such an argument cannot be condensed in a paragraph. Its length and variety defied analysis within the limits of a page, though its force made other efforts seem unsubstantial.

Martin covered the same ground that his associates had taken before him, dwelling earnestly on the contention that an impeachable offense must be also indictable. Harper followed, concluding the argument for the defense and seeming to go beyond his associates in narrowing the field of impeachment; for he argued that it was a criminal prosecution, which must be founded on some willful violation of a known law of the land — a line of reasoning which could end only in requiring the violation of an Act of Congress. This theory did not necessarily clash with that of Martin. No hesitation or inconsistency was shown on the side of the defense; every resource of the profession was used with energy and skill.

The managers then put forward their best pleaders; for they had need of all their strength. Nicholson began by disavowing the idea that impeachment was a mere inquest of office; this impeachment was, he said, a criminal prosecution intended not merely to remove, but to punish, the offender. On the other hand, he maintained that since judges held their commissions during good behavior and could be removed only by impeachment, the Constitution must have intended that any act of misbehavior should be considered a misdemeanor. He showed the absurdities which would rise from construing the Constitution in a legal sense. His argument, though vigorous and earnest, and offering the advantages of a plausible compromise between two extreme and impracticable doctrines, yet evidently strained the language of the Constitution and disregarded law. As Nicholson himself said, he discarded legal usage: 'In my judgment the Constitution of the United States ought to be expounded upon its own principles, and foreign aid ought never to be called in. Our Constitution was fashioned after none other in the known world; and if we understand the language in which it is written, we require no assistance in giving it a true exposition.' He wanted a construction 'purely and entirely American.' In the mouth of a strict constructionist this substitution of the will of Congress for the settled rules of law had as strange a sound as Luther Martin could have wished,



and offered another example of the instinct, so striking in the Louisiana debate, which not even Nicholson, Randolph, or Jefferson himself could always resist.

Rodney, the same day, followed Nicholson; and, as though not satisfied with his colleague's theory, did what Nicholson, in the name of all the managers, had a few hours before expressly disclaimed—he adopted and pressed Giles's theory of impeachment with all the precision of language he could command. Nicholson seemed content to assume impeachment as limited to 'treason, bribery, or other high crimes and misdemeanors'; but in his view misbehavior might be construed as a misdemeanor in a 'purely and entirely American' sense. Rodney was not satisfied with this argument, and insisted that the Constitution imposed no limit on impeachment.

The judges held their offices during good behavior; the instant a judge should behave ill his office became forfeited. To ascertain the fact 'officially, or rather judicially,' impeachment was provided; the authority of the Senate was therefore coextensive with the complaint.

Rodney stated this principle broadly, but did not rest upon it; on the contrary, he accepted the respondent's challenge, and undertook to show that Chase had been guilty of crimes and misdemeanors in the technical sense of the term. Probably he was wise in choosing this alternative; for no one could doubt that his constitutional doctrine was one into which Chase's counsel were sedulously trying to drive him. If Rodney was right, the Senate was not a court of justice, and should discard judicial forms. Giles had seen this consequence of the argument and had acted upon it until beaten by its inevitable inconsistencies; at least sixteen Senators were willing to accept the principle, and to make of impeachment an 'official, or rather judicial,' inquest of office. Judge Chase's counsel knew also that some half-dozen Republican Senators feared to allow a partisan majority in the Senate to decide, after the fact, that such or such a judicial opinion had forfeited the judge's seat on the bench. This practice could end only in making the Senate, like the House of Lords, a court of last appeal. Giles threatened to impeach Marshall and the whole Supreme Court on Rodney's theory; and such a threat was as alarming to Doctor Mitchill of New York, or Senator Bradley of Vermont, as it was to Pickering and Tracy.

When Rodney finished, the theory of impeachment was more perplexed

than ever, and but one chance remained to clear it. All the respondent's counsel had spoken in their turn; all the managers had expounded their theories: John Randolph was to close. Randolph was an invalid, overwhelmed by work and excitement, nervous, irritable, and not to be controlled. When he appeared in the box, February 27, 1805, he was unprepared; and as he spoke, he not only made his usual long pauses for recollection, but continually complained of having lost his notes, of his weakness, want of ability, and physical as well as moral incompetence. Such expressions in the mouths of other men might have passed for rhetoric; but Randolph's speech showed that he meant all he said. He too undertook to answer the argument of Luther Martin, Harper, and Hopkinson on the nature of impeachment; but he answered without understanding it — calling it 'almost too absurd for argument,' 'a monstrous pretension,' 'a miserable quibble,' but advancing no theory of his own, and supporting neither Campbell's, Nicholson's, nor Rodney's opinion. After a number of arguments which were in no sense answers, he said he would no longer worry the good sense of the Court by combating such a claim — a claim which the best lawyers in America affirmed to be sound and the two ablest of the managers had exhausted themselves in refuting.

The next day the Senate debated the form of its final judgment. Bayard moved that the question should be put: 'Is Samuel Chase guilty or not guilty of a high crime or misdemeanor as charged in the article just read?' The point was vital; for if this form should be adopted, the Senate returned to the ground it had deserted in the case of Judge Pickering, and every Senator would be obliged to assert that Chase's acts were crimes. At this crisis Giles abandoned the extreme impeachers. He made a speech repeating his old argument, and insisting that the House might impeach and the Senate convict, not only for other than indictable offenses, but for other than high crimes and misdemeanors; yet, since in the present case the charges were avowedly for high crimes and misdemeanors, he was willing to take the question as Bayard proposed it; protesting meanwhile against its establishment as a precedent. Bayard's resolution was adopted March 1, a few moments before the hour of half-past twelve, which had been appointed for pronouncing judgment.

The Senate Chamber was crowded with spectators when Vice-President Burr took the chair and directed the Secretary to read the first article of

impeachment. Every member of the Senate answered to his name. Tracy of Connecticut, prostrated by recent illness, was brought on a couch and supported to his seat, where his pale face added to the serious effect of the scene. The first article, which concerned the trial of Fries, was that on which Randolph had founded the impeachment and on which the managers had thrown perhaps the greatest weight. As the roll was called, Senator Bradley of Vermont, first of the Republican members, startled the audience by saying 'Not Guilty.' Gaillard of South Carolina, and, to the astonishment of everyone, Giles, the most ardent of impeachers, repeated the same verdict. These three defections decided the result; but they were only the beginning. Jackson of Georgia, another hot impeacher, came next; then Doctor Mitchill, Samuel Smith of Maryland, and in quick succession all the three Smiths of New York, Ohio, and Vermont. A majority of the Senate declared against the article, and the overthrow of the impeachers was beyond expectation complete.

On the second article the acquittal was still more emphatic; but on the third the impeachers rallied — Giles, Jackson, and Samuel Smith returned to their party, and for the first time a majority appeared for conviction. Yet even with this support, the impeachers were far from obtaining the required twenty-three votes; the five recalcitrant Northern democrats stood firm; Gaillard was not to be moved, and Stone of North Carolina joined him: — the impeachers could muster but eighteen votes. They did no better on the fourth article. On the fifth — Randolph's interpolated charge, which alleged no evil intent — every member of the Senate voted 'Not Guilty'; on the sixth, which was little more than a repetition of the fifth, only four Senators could be found to condemn, and on the seventh, only ten. One chance of conviction remained, the eighth article, which covered the judge's charge to the grand jury at Baltimore in 1803. There lay the true cause of impeachment; yet this charge had been least pressed and least defended. The impeachers brought out their whole strength in its support; Giles, Jackson, Samuel Smith, and Stone united in pronouncing the judge guilty: but the five Northern democrats and Gaillard held out to the last, and the managers saw themselves deserted by nearly one-fourth of the Republican Senators. Nineteen voices were the utmost that could be induced to sustain impeachment.

The failure of Chase's impeachment was a blow to the Republican

Party from which it never wholly recovered. Chief Justice Marshall at length was safe; he might henceforward at his leisure fix the principles of constitutional law. Jefferson resigned himself for the moment to Randolph's overthrow; but the momentary consolations passed away, and a lifelong disappointment remained. Fifteen years later his regret was strongly expressed:

The Judiciary of the United States [mourned the old ex-President] is the subtle corps of sappers and miners constantly working underground to undermine the foundations of our confederated fabric. They are construing our Constitution from a co-ordination of a general and special government to a general and supreme one alone. . . . Having found from experience that impeachment is an impracticable thing, a mere scarecrow, they consider themselves secure for life; they skulk from responsibility; . . . an opinion is huddled up in conclave, perhaps by a majority of one, delivered as if unanimous, and with the silent acquiescence of lazy or timid associates, by a crafty chief judge who sophisticates the law to his mind by the turn of his own reasoning.

Although the acquittal of Chase decided no point of law except his innocence of high crimes or misdemeanors, as charged in the indictment, it proved impeachment to be 'an impracticable thing' for partisan purposes, and it decided the permanence of those lines of constitutional development which were a reflection of the common law. Henceforward the legal profession had its own way in expounding the principles and expanding the powers of the central Government through the Judiciary

## CHAPTER TWENTY-TWO

### *Quarrel with Yrujo*

**T**HE LOUISIANA TREATY, signed in May, 1803, was followed by two years of diplomatic activity. The necessary secrecy of diplomacy gave to every President the power to involve the country without its knowledge in dangers which could not be afterward escaped, and the Republican Party neither invented nor suggested means by which this old evil of irresponsible politics could be cured; but of all Presidents, none used these arbitrary powers with more freedom and secrecy than Jefferson. His ideas of Presidential authority in foreign affairs were little short of royal. He loved the sense of power and the freedom from oversight which diplomacy gave, and thought with reason that, as his knowledge of Europe was greater than that of other Americans, so he should be left to carry out his policy undisturbed.

Jefferson's overmastering passion was to obtain West Florida. To this end two paths seemed open. If he chose to conciliate, Yrujo was still ready to aid; and Spain stood in such danger between England and France that Godoy could not afford to throw the United States into the hands of either. If Jefferson wished the friendship of Spain, he had every reason to feel sure that the Prince of Peace would act in the same spirit in which he had negotiated the Treaty of 1795 and restored the right of deposit in 1802. In this case Florida must be let alone until Spain should be willing to cede or the United States be ready for war.

On the other hand, the President might alienate Spain and grasp at Florida. Livingston and Monroe warmly urged this policy and were in fact its authors. Livingston's advice would by itself have had no great weight with Jefferson or Madison, but they believed strongly in Monroe; and when he made Livingston's idea his own, he gave it weight. Monroe had been sent abroad to buy Florida; he had bought Louisiana. From the Potomac to the Mississippi, every Southern man expected and required that by peace or war Florida should be annexed to the Union; and the annexation of Louisiana made that of Florida seem easy. Neither Monroe, Madison, nor Jefferson could resist the impulse to seize it.

Livingston's plan has been described. He did not assert that Spain had intended to retrocede Florida to France or that France had claimed it as included in the retrocession. He knew the contrary; and tried in vain

to find someone willing to say that the country to the Perdido ought to be included in the purchase. He made much of Marbois's cautious encouragement and Talleyrand's transparent maneuvers; but he was forced at last to maintain that Spain had retroceded West Florida to France without knowing it, that France had sold it to the United States without suspecting it, that the United States had bought it without paying for it, and that neither France nor Spain, although the original contracting parties, were competent to decide the meaning of their own contract. Believing that Bonaparte was pledged to support the United States in their effort to obtain West Florida, Livingston was anxious only to push Spain to the utmost. Talleyrand allowed him to indulge in these dreams. 'I have obtained from him,' wrote Livingston to Madison, 'a positive promise that this Government shall aid any negotiation that shall be set on foot' for the purchase of East Florida; while as for Florida west of the Perdido, 'the moment is so favorable for taking possession of that country, that I hope it has not been neglected, even though a little force should be necessary to effect it. Your minister must find the means to justify it.'

When the letters written by Livingston and Monroe in May, 1803, reached Washington, they were carefully studied by the President, fully understood, and a policy quickly settled. When Jefferson wrote to Senator Breckinridge his ideas on the unconstitutionality of the Purchase, he spoke with equal clearness on the course he meant to pursue toward Spain in order to obtain Florida:

We have some claims to extend on the seacoast westwardly to the Rio Norte or Bravo, and, better, to go eastwardly to the Rio Perdido, between Mobile and Pensacola, the ancient boundary of Louisiana. These claims will be a subject of negotiation with Spain; and if as soon as she is at war we push them strongly with one hand, holding out a price with the other, we shall certainly obtain the Floridas, and all in good time.

This was not Livingston's plan, but something quite distinct from it. Livingston and Monroe wanted the President to seize West Florida and negotiate for East Florida. Jefferson preferred to negotiate for West Florida and to leave East Florida alone for the time.

Madison had already instructed the minister at Madrid that the Floridas were not included in the treaty, 'being, it appears, still held by Spain,' and that the negotiation for their purchase would be conducted by

Monroe at Madrid. Instructions of the same date were instantly sent to Monroe, urging him to pursue the negotiations for Florida, although, owing to the large drain made on the Treasury and to the 'manifest course of events,' the Government was not disposed to make sacrifices for the sake of obtaining that country. 'Your inquiries may also be directed,' wrote Madison, 'to the question whether any, and how much, of what passes for West Florida be fairly included in the territory ceded to us by France.'

The idea that West Florida could be claimed as a part of the Louisiana Purchase was a turning-point in the second Administration of Jefferson. Originating in Minister Livingston's mind, it passed from him to Monroe; and in a few weeks the President declared the claim substantial. As the summer of 1803 closed, Jefferson's plan became clear. He meant to push this claim, in connection with other claims, and to wait the moment when Spain should be dragged into the war between France and England.

These other claims were of various degrees of merit and involved France as well as Spain. During the *quasi-war* between the United States and France, before Jefferson came into power, American commerce in Spanish waters suffered severely from two causes. The first consisted in captures made by Spanish cruisers and condemnations decided in Spanish courts; the second was due to captures made by French cruisers and condemned by French consuls in Spanish ports or by courts of appeal in France, without regard to the rights or dignity of Spain. With much trouble, in August, 1802, at the time when Europe and America were waiting for the end of Leclerc's struggle with the Negroes and fevers of St. Domingo, Pinckney succeeded in persuading the Prince of Peace to let the claims for Spanish depredations go before a commission for settlement; but Godoy obstinately refused to recognize the claims for French depredations, taking the ground that Spain was in no way responsible for them, had never in any way profited by them, and had no power at the time they occurred to prevent them; that France, and France alone, had committed the offense, and should pay for it.

Pinckney resisted this reasoning as energetically as possible; but when Cevallos offered to sign a convention covering the Spanish depredations and reserving the Franco-Spanish claims for future discussion, Pinckney properly decided to accept an offer which secured for his fellow-citizens five or ten millions of money and which left the other claim still open.

The Convention of August 11, 1802, was sent to the Senate January 11, 1803, in the excitement that followed Morales's withdrawal of the entrepôt at New Orleans. The Senate deferred action until the last moment of the session; and then, March 3, 1803, after Nicholson and Randolph had appeared at the bar to impeach Judge Pickering, Pinckney's claims convention was taken up, and the nine Federalists were allowed to defeat it by the absence of Republican Senators. The majority reconsidered the vote and postponed the whole subject till the next session. Thus, owing to the action of Federalist Senators, when Jefferson in the following summer, after buying Louisiana, looked about for the means of buying Florida, he found these classes of claims, aggregating as he supposed between five and ten million dollars, ready to his hand. Monroe was promptly ordered to insist upon treating both classes alike and setting both of them against the proposed purchase of Florida. 'On the subject of these claims you will hold a strong language,' said Madison.

The news of the Louisiana Purchase reached Washington early in July, 1803; Madison wrote his instructions to Monroe at the end of the same month; Jefferson announced his policy to Breckinridge in August. This was the harvest season of his life. His theories were proved sound; his system of government stood in successful rivalry with that of Bonaparte and Pitt; and he felt no doubt that his friendship was as vital to England, France, and Spain as all the armies and navies of the world. In the midst of this enjoyment, September 4, he was suddenly told by the Marquis of Casa Yrujo that he had bought stolen goods and that Spain as the rightful owner protested against the sale.

On receiving Yrujo's protests of September 4 and 27, Jefferson's first feeling was of anger. He sent a strong body of troops to Natchez. 'The Government of Spain,' he wrote to Dupont de Nemours, 'has protested against the right of France to transfer, and it is possible she may refuse possession, and that may bring on acts of force; but against such neighbors as France there and the United States here, what she can expect from so gross a compound of folly and false faith is not to be sought in the book of wisdom.' The folly of such conduct might be clear, but the charge of false faith against Spain for protesting against being deprived of her rights seemed unjust, especially in the mouth of Jefferson, who meant to claim West Florida under a Franco-Spanish treaty which was acknowledged by all parties to have transferred Louisiana alone.



John Randolph's official assertion that Mobile belonged to the United States under the treaty of cession was made in the last part of October, 1803, soon after Congress met. About a month later, November 30, he introduced a bill nominally for giving effect to the laws of the United States within the ceded territory. After much debate and disagreement this bill at length passed both Houses, and February 24, 1804, received the President's signature. The fourth section directed that the territories ceded to the United States by the treaty, 'and also all the navigable waters, rivers, creeks, bays, and inlets lying within the United States, which empty into the Gulf of Mexico east of the River Mississippi, shall be annexed to the Mississippi district, and shall, together with the same, constitute one district, to be called the "District of Mississippi."' This provision was remarkable, because, as everyone knew, no creeks, bays, or inlets lying within the United States emptied into the Gulf. The Act by its eleventh section authorized the President, 'whenever he shall deem it expedient, to erect the shores, waters, and inlets of the Bay and River of Mobile, and of the other rivers, creeks, inlets, and bays emptying into the Gulf of Mexico east of the said River Mobile, and west thereof to the Pascagoula, inclusive, into a separate district, and to establish such place within the same as he shall deem expedient, to be the port of entry and delivery for such district.' This section gave the President power of peace and war, for, had he exercised it, the exercise must have been an act of war; and John Randolph's previous declarations left no doubt as to the meaning in which he, who reported the bill, meant it to be understood.

By this time Yrujo was boiling with such wrath as a Spaniard alone could imagine or express. His good-will vanished from the moment he saw that to save Florida he must do battle with President, Secretary of State, Congress, and people. One insult had followed another with startling rapidity. The President's *pêle-mêle*, of which the story will be told hereafter, wounded him personally. The cold reception of his protest against the Louisiana cession; the captiousness of Madison's replies to his remonstrances; the armed seizure of New Orleans with which he was threatened; the sudden disregard of his friendship and great services; the open eagerness of the Government to incite Bonaparte to plunder and dismember Spain; the rejection of the claims convention in March, and its sudden approval by the Senate in January, as though to obtain all the money Spain was willing to give before taking by force territory vital to

her empire; and above all, the passage of this law annexing the Floridas without excuse or explanation — all these causes combined to change Yrujo's ancient friendship into hatred.

Madison seemed unconscious that Yrujo could have any just cause for complaint, or that his Government could resent the tone and temper of President and Congress. The passage of the bill which made Mobile a collection district and a part of the Mississippi Territory gave Yrujo the chance to retaliate. About a fortnight after the President had signed this law, Yrujo one morning entered the State Department with the printed Act in his hand, and overwhelmed Madison with reproaches, which he immediately afterward supported by a note so severe as to require punishment and so able as to admit of none. He had at first, he said, regarded as 'an atrocious libel' on the United States Government the assertion that it had made a law which usurped the rights of Spanish sovereignty; yet such was the case. He gave a short and clear abstract of the evidence which refuted the claim to West Florida and closed by requesting that the law be annulled.

Madison could neither maintain the law nor annul it; he could not even explain it away. Gallatin told the President, six months afterward, that 'the public mind is altogether unprepared for a declaration that the terms and object of the Mobile Act had been misunderstood by Spain; for every writer, without a single exception, who has written on the subject seems to have understood the Act as Spain did; it has been justified by our friends on that ground.' Yet Jefferson was not prepared to maintain and defend the Act in its full assertions of authority, after accepting Louisiana without asking for West Florida. By a proclamation issued a few weeks afterward, reciting the terms of the Act of Congress in regard to the Bay and River of Mobile, he declared all these 'shores, waters, inlets, creeks, and rivers, lying *within the boundaries of the United States,*' to be a collection district, with Fort Stoddert for its port of entry. The italics were a part of the proclamation, and suggested that such could not have been the intent of Congress, because no part of the shores or water of Mobile Bay, or of the other bays east of Mobile, lay within the boundaries of the United States. The evasion was a divergence from the words of the Act unwarranted by anything in the context; and to give it authority, Jefferson, in spite of Gallatin's remonstrance, declared in his next Annual Message that the Mobile Act had been misunderstood on the part of Spain.

## CHAPTER TWENTY-THREE

### *Pinckney's Diplomacy*

**T**HE QUARREL WITH YRUJO was the more unfortunate because it happened at a moment when Charles Pinckney, the American minister at Madrid, showed extreme want of discretion. The President had not intended to leave Pinckney unassisted. After the conclusion of the Louisiana treaty, in May, 1803, Madison supposed that Monroe, in obedience to his instructions, would go at once to Madrid and take the negotiation from Pinckney's hands. For reasons that will hereafter appear, Monroe decided against this step, and went to London instead. On learning the change of plan, Madison warned Pinckney to make no propositions to the Spanish Government, which was not yet in a humor to receive them with favor. Pinckney, restive under restraint, managed to keep up an appearance of diplomatic activity that greatly vexed the Secretary of State. Madison complained to the President that his minister at Madrid teased the Spanish Government on the subject of Florida, which he had been ordered not to touch without the presence or the advice of Monroe; forbidden to make, but permitted to accept, offers, he was continually offering to accept; while Livingston at Paris, equally restive under the imposed authority of Monroe, could not resist the temptation to stimulate Pinckney and offer advice both to France and Spain. Madison's complaints were well founded; but when he wrote in this sense to Jefferson, he had not begun to appreciate the full measure of diplomatic activity which his minister at Madrid was capable of displaying.

Yrujo always managed to embarrass the American Government without seriously committing his own; but Pinckney showed no such forbearance, and by the close of the year 1804 drew Madison into a mortifying position. He began his activity in July, 1803, immediately after hearing that Monroe had given up the proposed visit to Madrid and had gone to London. Without waiting to learn how this change of plan and the purchase of Louisiana might affect the President's views toward Spain, Pinckney, to use his own words, 'pushed the new propositions respecting our claims in that positive and decided manner which the circumstances of Europe and the particular situation of Spain seemed to me to warrant.' Cevallos contented himself with parrying this attack by giving to Pinck-

ney the written opinion obtained by Yrujo from the five American lawyers in support of his argument that the United States, by their treaty with France of September 30, 1800, had renounced their right to demand indemnity for losses sustained from French cruisers.

Both parties next appealed to the French ambassador at Madrid. The Prince of Peace, though irritated by the sale of Louisiana, quickly saw that his only chance of retaining Florida was to conciliate Bonaparte; and Pinckney, who knew that the French ambassador at Madrid had been instructed to support Monroe in negotiating for Florida, counted on the same aid in order to maintain a threatening attitude. The result was soon seen. Pinckney, disturbed by the news of Yrujo's protest against the sale of Louisiana, turned to the French ambassador for advice. Beurnonville accordingly wrote to Talleyrand for instructions; but Talleyrand had already sent to the Spanish Embassy at Paris a note of sharp remonstrance against the protest. Beurnonville, learning this, asked the Prince of Peace for explanations; and Godoy hastened to assure him that Bonaparte might be at ease on this score, for orders had been sent to New Orleans to surrender the province without opposition, and already Yrujo had been instructed to change his tone at Washington. Soon afterward Cevallos formally notified Pinckney that the King renounced his opposition to the cession of Louisiana. In due time Yrujo sent to the State Department a formal note to the same effect.

At the cost of recognizing the Louisiana cession, Godoy pacified Bonaparte, who stood in need of Spanish support. From that moment Pinckney begged in vain for help from the French ambassador of Madrid, although the need of aid increased from day to day. Just as his first and least important point, the withdrawal of Yrujo's protest, was gained at Madrid, the Government at Washington created new difficulties about his path. At the moment when Beurnonville, Talleyrand, and Pinckney wrung from King Charles his adhesion to the Louisiana treaty, the Senate at Washington, January 9, 1804, ratified the Spanish claims convention, which had been negotiated by Pinckney nearly eighteen months before and had been held an entire year under consideration by the Senate. The last article of this convention provided, as usual with such instruments, that it should have no effect until ratified by both parties and that the ratifications should be exchanged as soon as possible. So far from performing its part of the contract, the Senate had at one moment re-

fused to ratify at all, and, after reconsidering this refusal, had delayed ratification an entire year, until the relations of the two parties had been wholly changed. The idea that the King of Spain was bound to ratify in his turn implied excessive confidence in his good-nature; but Madison, in sending the ratified treaty to Pinckney, suggested no suspicion that Charles IV might have changed his mind, and gave not a hint to Pinckney of the course to be followed in such a contingency. The Mobile Act had not yet become law, and Yrujo was waiting for its signature by the President before waking Madison from his dreams of doing what he pleased with Spanish property.

Early in February, 1804, Madison sent these new instructions to Pinckney, enclosing the ratified treaty, and instructing him in effect to press the reserved claims for French spoiliations in Spanish ports. The dispatch reached Pinckney in May, and he went at once to Cevallos for the ratification. To his great annoyance Cevallos made difficulties. During the discussion, Cevallos received from Yrujo a copy of the Mobile Act, which he sent to Pinckney May 31, with a demand for explanations. Pinckney replied in a tone little short of dictatorial.

Permit me on this subject to remind your Excellency [said he] that on the first intelligence being received of the cession of Louisiana, I communicated verbally to your Excellency and the Prince of Peace the contents of an official letter I had received from Mr. Livingston and Mr. Monroe, informing me that they considered a great part of West Florida, as so called by the English, as included. Such letter could not have been written officially to me by them without their having been so informed by the French plenipotentiary and government.

Pinckney urged that the two subjects should be kept separate. 'Do not show the United States that you have no confidence either in their honor or justice — qualities on which they value themselves more than on power or wealth.'

Unfortunately Pinckney's note obliged Spain to show want of confidence in the 'honor or justice' of the United States, unless indeed she meant to acquiesce in losing Florida as well as Louisiana. Pinckney next appealed to the French ambassador for help. 'I took the course of giving Mr. Pinckney an obliging but vague answer,' said Beurnonville, writing for instructions to Talleyrand. Cevallos, on his side, wrote to Admiral Gravina, the Spanish ambassador at Paris, instructing him to

remonstrate with Talleyrand against Pinckney's conduct. After a month's delay, Cevallos, in answer to Pinckney's letters, sent a sharp note, offering to ratify the convention on three conditions — one being that the reserved claim for French spoliations should be abandoned and another that the Mobile Act should be revoked.

Without waiting for further instructions, or even consulting Monroe at London, Pinckney next wrote to Cevallos a letter which surpassed all indiscretions that Madison could have imagined. Requesting Cevallos 'merely to answer this question,' whether ratification was refused except on the conditions specified, he added:

I wish to have your Excellency's answer as quickly as possible, as on Tuesday I send a courier with circular letters to all our consuls in the ports of Spain, stating to them the critical situation of things between Spain and the United States, the probability of a speedy and serious misunderstanding, and directing them to give notice thereof to all our citizens; advising them so to arrange and prepare their affairs as to be able to move off within the time limited by the treaty, should things end as I now expect. I am also preparing the same information for the commander of our squadron in the Mediterranean, for his own notice and government, and that of all the American merchant-vessels he may meet.

Cevallos immediately answered that, as he could not comprehend the motive for 'breaking out in the decisions, not to say threats,' of this letter, or how it was possible that Pinckney could have the authority of his Government for such conduct, he should by the King's order transfer the negotiation to Washington. Pinckney rejoined by dispatching his circular letter, which created a panic in the Mediterranean. He then informed Cevallos that, so soon as his affairs could be arranged, he should send for his passports and quit Madrid.

Although this step was in the highest degree improper, Pinckney had some excuse for his conduct. Left without instructions in the face of an emergency which might have been foreseen at Washington, he argued that his Government, which had officially annexed West Florida, meant to support its acts with a strong hand. He thought that the issue presented by Cevallos was such as the President was bound to take up, and he knew that the only chance of carrying the points which the President had at heart was in energetic action. For three years he had watched the preemptory tone of France and England at Madrid, and had been

assured by the common voice of his diplomatic colleagues that threats alone could extort action from the Spanish Government. He had seen the Prince of Peace, after resorting to one subterfuge after another, repeatedly forced to cower before the two great robbers who were plundering Spain, and he explained to Madison the necessity of imitating their example if the President meant that Spain should cower before the United States. Perhaps he felt that Godoy looked on the President at Washington as the jackal of Bonaparte, and he may have wished to prove that America could act alone. His eager ambition to make himself as important as the representatives of France and England in the eyes of Europe might imply vanity, but rested also on logic.

The first result of this energetic tone was not what Pinckney had hoped. Cevallos was outwardly unmoved; Pinckney's violence only caused him to lay aside that courtesy which was the usual mark of Spanish manners. His official notes were in outward form still civil enough, but in two or three conversations Pinckney listened to a series of remarks as blunt as though Lord Harrowby were the speaker. Pinckney reported to Madison the tenor of these rough rejoinders. Cevallos told him that the Americans, ever since their independence, had been receiving the most pointed proofs of friendship and generosity from Spain, who, as was well known, received no benefit from them — on the contrary, their commerce was extremely injurious to Spain; the Spanish Government had ten times more trouble with them than with any other nation, and for his part, he did not wish to see the trade with the United States extended. Spain had nothing to fear from the United States, and had heard with contempt the threats of Senators like Ross and Gouverneur Morris. The Americans had no right to expect much kindness from the King; in the purchase of Louisiana they had paid no attention to his repeated remonstrances against the injustice and nullity of that transaction, whereas if they had felt the least friendship they would have done so. They were well known to be a nation of calculators, bent on making money and nothing else; the French, and probably in the result all the nations having possessions in the West Indies, would be materially injured by them, for without a doubt it was entirely owing to the United States that St. Domingo was in its present situation.

Pinckney, having done his worst, found himself in a position extremely awkward. Although he threatened to leave Spain and pro-

claimed that he meant soon to demand his passports, he did not venture to take this last step without instructions. Cevallos, excessively perplexed by his conduct, could not conceive that he should act thus without some definite authority. Boldly as Cevallos talked, he was in truth greatly alarmed by the idea of war.

The news of Pinckney's war slowly crossed the Atlantic. No sooner did it arrive than Yrujo in the middle of October wrote to the Secretary of State a formal letter, repeating what had already been said to Pinckney at Madrid. Madison's reply was studiously moderate and conciliatory. He explained as best he could the offensive language of the Mobile Act, and announced that a special minister would soon reach Madrid, to hasten the adjustment of all territorial disputes; he deprecated the demand for an abandonment of the French claims, and argued that such a condition of ratification was not supported by international law; he urged Yrujo to give assurances of an unqualified ratification, but he said not a word about Pinckney's performances and gave it to be understood that Pinckney would be recalled. A few days afterward he wrote to Monroe, ordering him in haste to Spain.



## CHAPTER TWENTY-FOUR

### *Monroe and Talleyrand*

PLACING HIS LEGATION in charge of a secretary, Monroe left London. While he waited in Paris to sound the disposition of Talleyrand, General Armstrong arrived to relieve Livingston. Thus it happened that three American ministers — Monroe, Livingston, and Armstrong — met at Paris in November, 1804, to cope with Talleyrand, in whose hands lay the decision of Jefferson's quarrel with Spain.

The question to be decided was whether the United States Government should disregard its obligations to Napoleon and act independently, or whether the President should defer to the opinion of Talleyrand and to the Emperor's will. The story of diplomatic adventure, which has so often an interest beyond what could be supposed possible from the contact of three or four quiet and elderly gentlemen meeting about a green table, or writing letters inordinately long, owes that interest in most cases to a hope or a despair, to a mystery or an elucidation; but Monroe's labors at that time offered little mystery, and less hope. Although he did not know all that was happening behind the diplomatic curtain, he knew enough to be aware that his negotiation for Florida, on the ground chosen by the President, was hopeless.

Talleyrand, who held that Bonaparte had made a mistake in selling Louisiana to the United States, and who looked upon himself as having no responsibility for the transaction, was glad to restrict what he thought the evil that had been done. Taking the complaints of Spain to the Emperor, he received permission to do what Spain requested; and during the month of August he sent from the Foreign Office a series of documents that disposed for the time of any hopes still nourished by Jefferson's diplomacy.

By September 1, 1804, these precautionary measures were completed, and Talleyrand could wait for the coming of Monroe and Armstrong. About the middle of October, Monroe appeared in Paris. His instructions, sent from Washington before the news of Pinckney's extravagances had reached America, obliged him to insist upon the right to West Florida as '*a sine quâ non*, and no price to be given for it'; to insist, also, upon the right to Texas, but with a borderland to be kept unsettled for

thirty years; and to offer two million dollars for East Florida beyond the Perdido. The Cabinet then for the first time decided to commit itself to the doctrine that West Florida was a part of the Louisiana Purchase, alleging as its ostensible reason, not so much the abstract justice of the title as the wish to avoid acknowledging Spanish land-grants made in Florida since the Louisiana cession.

It is indispensable [wrote Madison, April 15, 1804] that the United States be not precluded from such a construction [of the treaty], first, because they consider the right as well founded; secondly and principally, because it is known that a great proportion of the most valuable lands between the Mississippi and the Perdido have been granted by Spanish officers since the cession was made by Spain. These illicit speculations cannot otherwise be frustrated than by considering the territory as included in the cession made by Spain.

The hope that Spain might submit to these concessions rested on the belief that she could not afford to quarrel with the United States. Foreseeing that she must soon be drawn into the war with England, the President from the first looked forward to that event, believing that the same reasons which as he supposed had forced Bonaparte to cede Louisiana must reconcile Spain to the cession of Florida.

Should she be engaged in the war [wrote Madison to Monroe], or manifestly threatened with that situation, she cannot fail to be the more anxious for a solid accommodation on all points with the United States, and the more willing to yield, for that purpose, to terms which, however proper in themselves, might otherwise be rejected by her pride and misapplied jealousy.

The first part of this calculation was realized even before Monroe quitted London. October 1, 1804, a British squadron seized the Spanish treasure-ships on their voyage from America; and no one doubted that Spain must declare war. She did so a few weeks later, December 12, before Monroe reached Madrid. The effect of this new disaster on what Madison called her 'misapplied jealousy' remained to be seen.

The only published record of Monroe's stay in Paris is contained in a note dated November 8, 1804, which he persuaded Livingston to convey to Talleyrand. Although Livingston's temper was peculiar, and his diplomacy under ordinary circumstances restless, he was well acquainted

with the men who governed France; and he had little faith in another man's ability to do what he had himself attempted in vain. That Livingston should be jealous of Monroe's presence in Paris was natural; for the American minister at London was not accredited to the Emperor, and his interference could do nothing but harm to the actual minister at Paris. When asked to act as medium for Monroe's proposed communications with Talleyrand, Livingston made objections. Not until Armstrong arrived, about November 1, did the ministers agree upon the terms of the note and send it to its address. Monroe had then been one month absent from London.

Nothing could be more courteous than the tone of Monroe's letter, which ignored Pinckney's conduct and breathed a spirit of benevolence. The object of writing was to ask the Emperor's good offices in support of the negotiation to be opened at Madrid; and in order to reach this end, Monroe touched on the story of his present mission, recounting the causes of the previous quarrel with Spain, and alluding to West Florida, the spoliation claims, the claims for damages rising from Morales's occlusion of the Mississippi, and to the Mobile Act, which, as Monroe admitted, was intended to authorize the taking immediate possession of Florida. The only offensive idea suggested in the note was that the Spanish occupation of Florida implied an aggression against the United States, 'which tends to provoke hostility and lead to war.'

The note combining the diplomacy of three ministers was sent; and the three diplomatists waited in fear of what would follow, dreading nothing so much as Talleyrand's answer. They had reason to know that it would be unfavorable, and that at least on the question of West Florida Talleyrand had already committed himself against the United States. They were told, too, that on reading their note, Napoleon showed **great** irritation. Besides this, they had other causes of alarm. Within three days after Monroe's arrival at Paris, Marbois, his best friend among Napoleon's Ministers, told him that the question was one of money: 'Such was the situation of Spain at this time that he was persuaded if we would **make** her suitable pecuniary accommodations we might succeed.' M. Hauterive, another gentleman within the circle of Government, soon afterward repeated the remark: '**Spain** must cede territory; the **United States** must pay money.' Care was taken to let Monroe understand that once this principle should be agreed upon, France would cause the nego-

tiation to be transferred to Paris. Armstrong soon afterward wrote to Madison, alluding to the story in regard to the Emperor:

This country has determined to convert the negotiation into a job, and to draw from it advantages merely pecuniary to herself, or, in other language, to her agents. It is this venality that explains her present reserve, the degree of excitement displayed by the Emperor on reading the note, and the marked incivility with which Mr. Monroe was treated by Talleyrand. Since his departure, repeated intimations have been given to me that if certain persons could be sufficiently gratified, the negotiation should be transferred hither, and brought to a close with which we should have no reason to find fault.

Monroe, though honest as any man in public life, and more courageous in great emergencies than some of his friends or rivals, was commonly not quick at catching an idea, nor did he see it at last from a great elevation; but in this instance the idea was thrust so persistently into his face that had he been blind he could not have missed it. Having led his Government to take the ground that West Florida had already been bought, he could not enter into a negotiation to buy it a second time. His instructions made this point a *sine quâ non* of negotiation. Recognizing that under these circumstances further effort was useless, or in his own words that no other alternative presented itself but to abandon the object and return to London, Monroe intimated to Talleyrand that he meant not only to pay no money, but also to negotiate in spite of Napoleon; and started for Madrid. During his journey, Charles IV declared war against England. This long-foreseen event, which should have brought Spain to terms with the United States, in fact threw her only at the feet of Napoleon. Henceforward every offense to Spain was an offense to France, which the Emperor was the more bound to resent because by treaty he must regard a war upon Charles IV as a war upon himself.

Talleyrand was not vindictive, but he had been twice mortified by the failure of his policy toward America. If his callous cheek could burn, it was still red with the blow which the last President of the United States had struck it; and no waters of oblivion could drown in his memory the cry of distress with which he had then begged for mercy. He had been again overthrown by the present President, and obliged to sell Louisiana, turn his back on the traditions of France, and shut up his far-reaching

mind within the limit of his master's artillery politics. Day by day he saw more clearly that soldiership, and not statecraft, was to guide the destinies of France, and that the new régime was but revolution without ideas. He had probably begun already to feel that the presence of his coldly silent face was becoming irksome to a will which revolted at the memory of a remonstrance. Talleyrand was corrupt — perhaps he thought himself more corrupt than he was; but his political instincts were sounder than his private morality. He was incarnate conservatism; but he was wider-minded and more elevated in purpose than Napoleon. He had no faith in Napoleon's methods, and was particularly hostile to his projects against Spain; but in respect to Monroe and his mission, Talleyrand's ideas coincided with those of the Emperor; and when two such men marked out a victim, his chance of escape was small.

Talleyrand was not to blame that Monroe's note remained unanswered before Monroe left Paris. About ten days after receiving it, Talleyrand made to the Emperor a report on the subject, so cool and clear as to read like a mathematical demonstration. After enumerating the threats and aggressions of the United States Government against Spain during the last three years, the report disposed of the American claims, one by one, in few words. First, the spoliations, which had been formally abandoned by treaty; second, the claim for losses rising from the interruption of entrepôt at New Orleans, which 'should be terminated by the treaty of cession — the acquisition of an immense country might throw out of view some anterior losses'; finally, the claim to West Florida — a species of attack on the Emperor's dignity and good faith which merited some expression of his displeasure. To support this view, Talleyrand related the history of the French negotiation for West Florida and its failure, commenting on the manner in which the Americans had fabricated their claim, and coming at last to a conclusion studiously moderate.

Only in case the United States should desist from their unjust pretensions to West Florida and return to the forms of civility and decorum — from which in their relations with each other Governments should never depart — could the Emperor allow himself to second at the Court of Madrid the project of acquisition of the two Floridas. Then perhaps the Emperor might think that this country is less suited to Spain now that it is separated from her other colonies, and that it is better suited to the United States because a part of their Western rivers cross the Floridas

before flowing into the Gulf of Mexico; and finally, that Spain may see in her actual situation, and in the expenses entailed on her by the war, some motives for listening to the offers of the Federal Government.

Talleyrand had great need to insist on 'the forms of civility and decorum from which Governments should never depart'! Perhaps Talleyrand already foresaw the scene, said to have occurred some two years later, when Napoleon violently denounced him to his face as 'a silk stocking stuffed with filth,' and the Minister coldly retaliated by the famous phrase, 'Pity that so great a man should be so ill brought up!' The task of teaching manners to Jefferson was not Napoleon's view of his own functions in the world. He probably gave more attention to the concluding lines of the report, which suggested that he should decide whether a Spanish colony, made worthless by an arbitrary act of his own, could be usefully employed in sustaining his wars.

This report, dated November 19, 1804, lay some weeks in the Emperor's hands. Monroe left Paris for Madrid December 8, and still no answer had been sent to his note. He wrote from Bordeaux, December 16, a long and interesting letter to Madison, and resumed his journey. He could hardly have crossed the Bidassoa when Armstrong received from Talleyrand, December 21, the long-expected answer, which by declaring the claim to West Florida emphatically unfounded struck the ground from under Monroe's feet and left him to repent at leisure his defiance of Talleyrand's advice. Under the forms of perfect courtesy, this letter contained both sarcasm and menace. Talleyrand expressed curiosity to learn the result of Monroe's negotiation:

This result His Imperial Majesty will learn with real interest. He saw with pain the United States commence their difficulties with Spain in an unusual manner, and conduct themselves toward the Floridas by acts of violence which, not being founded in right, could have no other effect but to injure the lawful owner. Such an aggression gave the more surprise to His Majesty because the United States seemed in this measure to avail themselves of their treaty with France as an authority for their proceedings, and because he could scarcely reconcile with the just opinion which he entertains of the wisdom and fidelity of the Federal Government a course of proceedings which nothing can authorize toward a Power which has long occupied, and still occupies, one of the first ranks in Europe.

Madison and Monroe, as well as Jefferson, in the course of their diplomacy had many mortifications to suffer; but they rarely received

a reprimand more keen than this. Yet its sharpness was so delicately covered by the habitual forms of Talleyrand's diplomacy that Americans, who were accustomed to hear and to use strong language, hardly felt the wound it was intended to inflict. After hearing Yrujo denounce an act of their Government as an 'atrocious libel,' they were not shocked to hear Talleyrand denounce the same act as one of violence which nothing could authorize. The force of Talleyrand's language was more apparent to Godoy than to Madison, for it bore out every expression of Yrujo and Cevallos. The Prince of Peace received a copy of Talleyrand's note at the moment when Monroe, after almost a month of weary winter travel, joined Pinckney, who had for six months been employed only in writing letter after letter begging for succor and support. Don Pedro Cevallos, with this public pledge in his hand, and with secret French pledges covering every point of the negotiation in his desk, could afford to meet with good-humor the first visit of the new American plenipotentiary.

At the beginning of the new year, January 2, 1805, Monroe entered Madrid to snatch Florida from the grasp of Spain and France. The negotiation fell chiefly within Jefferson's second term, upon which it had serious results. But while Monroe, busy at Madrid with a quarrel which could lead only to disappointment or war, thus left the legation at London for eight months to take care of itself, events were occurring which warned President Jefferson that the supreme test of his principles was near at hand and that a storm was threatening from the shores of Great Britain compared with which all other dangers were trivial.

## CHAPTER TWENTY-FIVE

### *Relations with England*

FOR EIGHTEEN YEARS after 1783, William Pitt guided England through peace and war with authority almost as absolute as that of Don Carlos IV or Napoleon himself. From him and from his country President Jefferson had much to fear and nothing to gain beyond a continuance of the good relations which President Washington, with extreme difficulty, had succeeded in establishing between the two peoples. So far as England was concerned, this understanding had been the work of Pitt and Lord Grenville, who rather imposed it on their party than accepted it as the result of any public will. The extreme perils in which England then stood inspired caution; and of this caution the Treaty of 1794 was one happy result. So long as the British Government remained in a cautious spirit, America was safe; but should Pitt or his successors throw off the self-imposed restraints on England's power, America could at the utmost, even by a successful war, gain nothing materially better than a return to the arrangements of 1794.

The War of Independence, which ended in the definite Treaty of 1783, naturally left the English people in a state of irritation and disgust toward America; and the long interregnum of the Confederation, from 1783 to 1789, allowed this disgust to ripen into contempt. When at length the Constitution of 1789 restored order in the American chaos, England felt little faith in the success of the experiment. She waited for time to throw light on her interests.

This delay was natural; for American independence had shattered into fragments the commercial system of Great Britain and powerful interests were combined to resist further concession. Before 1776 the colonies of England stretched from the St. Lawrence to the Mississippi and across the Gulf of Mexico to the coast of South America, mutually supporting and strengthening each other. Jamaica and the other British islands of the West Indies drew their most necessary supplies from the Delaware and the Hudson. Boston and New York were in some respects more important to them than London itself. The timber, livestock, and provisions which came from the neighboring continent were essential to the existence of the West Indian planters and Negroes. When war cut off these supplies, famine and pestilence followed. After the Peace of 1783



even the most conservative English statesmen were obliged to admit that the strictness of their old colonial system could not be maintained, and that the United States, though independent, must be admitted to some of the privileges of a British colony. The Government unwillingly conceded what could not be refused, and the West Indian colonists compelled Parliament to relax the colonial system so far as to allow a restricted intercourse between their islands and the ports of the United States. The relaxation was not a favor to the United States — it was a condition of existence to the West Indies; not a boon, but a right which the colonists claimed and an Act of Parliament defined.

The right was dearly paid for. The islands might buy American timber and grain, but they were allowed to make return only in molasses and rum. Payment in sugar would have been cheaper for the colonists, and the planters wished for nothing more earnestly than to be allowed this privilege; but as often as they raised the prayer, English shipowners cried that the navigation laws were in peril, and a chorus of familiar phrases filled the air, all carrying a deep meaning to the English people. 'Nursery of seamen' was one favorite expression; 'Neutral frauds' another; and all agreed in assuming that at whatever cost, and by means however extravagant, the navy must be fed and strengthened. Under the cover of supporting the navy any absurdity could be defended; and in the case of the West Indian trade, the British shipowner enjoyed the right to absurdities sanctioned by a century and a half of law and custom. The freight on British sugars belonged of right to British shippers, who could not be expected to surrender of their own accord, in obedience to any laws of political economy, a property which was the source of their incomes. The colonists asked permission to refine their own sugar; but their request not only roused strong opposition from the shipowners who wanted the bulkier freight, but started the home sugar-refiners to their feet, who proved by Acts of Parliament that sugar-refining was a British and not a colonial right. The colonist then begged a reduction of the heavy duty on sugar; but English country gentlemen cried against a measure which might lead to an increase of the income tax or the imposition of some new burden on agriculture. In this dilemma the colonists frankly said that only their weakness, not their will, prevented them from declaring themselves independent, like their neighbors at Charleston and Philadelphia.

At first Pitt hoped that the concession to the colonists might entail no concession to the United States; while admitting a certain hiatus in the colonial system, he tried to maintain the navigation laws in their integrity. The admission of American produce into the West Indies was no doubt an infraction of the protectionist principle on which all the civilized world, except America, founded its economical ideas; but in itself it was not serious. To allow the flour, potatoes, tobacco, timber, and horses of the American continent to enter the harbors of Barbados and Jamaica; to allow in turn the molasses and rum of the islands to be sent directly to New York and Boston — harmed no one, and was advantageous to all parties, so long as British ships were employed to carry on the trade. At first this was the case. The Act of Parliament allowed only British subjects, in British-built ships, to enter colonial ports with American produce. Whether the United States Government would long tolerate such legislation without countervailing measures was a question which remained open for a time, while the system itself had a chance to prove its own weakness. The British shipping did not answer colonial objects. Again and again the colonists found themselves on the verge of starvation; and always in this emergency the colonial governors threw open their ports by proclamation to American shipping, while with equal regularity Parliament protected the governors by Acts of Indemnity. To this extent the navigation system suffered together with the colonial system, but in theory it was intact. Ministry, Parliament, and people clung to the navigation laws as their ark of safety; and even the colonists conceded that, although they had a right to eat American wheat and potatoes, they had no right to eat those which came to them in the hold of a Marblehead schooner.

Such a principle, however convenient to Great Britain, was not suited to the interests of New England shippers. In peace their chances were comparatively few, and the chief diplomatic difficulties between European Governments and the United States had their source in the American attempt to obtain legal recognition of trade which America wished to maintain with the colonies; but in war the situation changed, and more serious disputes occurred. Then the French and Spanish West Indian ports were necessarily thrown open to neutral commerce, because their own ships were driven from the ocean by the superiority of the British navy. Besides the standing controversy about the admission of

American produce to British islands, the British Government found itself harassed by doubts to what extent it might safely admit the Americans into the French or Spanish West Indies, and allow them to carry French property, as though their flag were competent to protect whatever was under it. Granting that an article like French sugar might be carried in a neutral vessel, there were still other articles, called contraband, which ought not to be made objects of neutral commerce; and England was obliged to define the nature of contraband. She was also forced to make free use of the right of blockade. These delicate questions were embittered by another and more serious quarrel. The European belligerents claimed the right to the military service of their subjects, and there was no doubt that their right was perfect. In pursuance of the claim they insisted upon taking their seamen from American merchant vessels wherever met on the high seas. So far as France was concerned, the annoyance was slight; but the identity of race made the practice extremely troublesome as concerned England.

At the outbreak of the French wars, November 6, 1793, the British Government issued instructions directing all British armed vessels to seize every neutral ship they should meet loaded with the produce of a French colony or carrying supplies for its use. These orders were kept secret for several weeks until the whole American commerce with the Antilles and all American ships found on the ocean, laden in whole or in part with articles of French colonial produce or for French colonial use, were surprised and swept into British harbors, where they were condemned by British admiralty courts, on the ground known as the 'Rule of the War of 1756' — that because trade between the French colonies and the United States was illegal in peace, it was illegal in war. From the point of view in which European Powers regarded their colonies, much could be said in support of this rule. A colony was almost as much the property of its home Government as a dockyard or a military station. France and Spain could hardly complain if England chose to treat the commerce of such Government stations as contraband; but a rule which might perhaps be applied by European Governments to each other worked with great injustice when applied to the United States, who had no colonies, and made no attempt to build up a navy or support an army by such means.

When these British instructions of November 26, 1793, became known

in the United States, the Government of President Washington imposed an embargo, threatened retaliation, and sent Chief Justice Jay to London as a last chance of maintaining peace. On arriving there, Jay found that Pitt had already voluntarily retreated from his ground, and that new Orders, dated January 8, 1794, had been issued, exempting from seizure American vessels engaged in the direct trade from the United States to the French West Indies. In the end, the British Government paid the value of the confiscated vessels. The trade from the United States to Europe was not interfered with; and thus American ships were allowed to carry French colonial produce through an American port to France, while Russian or Danish ships were forbidden by England to carry such produce to Europe at all, although their flags and harbors were as neutral as those of the United States. America became suddenly a much-favored nation, and the enemies of England attributed this unexpected kindness to fear. In truth it was due to a natural mistake. The British Treasury calculated that the expense and trouble of carrying sugar and coffee from Martinique or St. Domingo to Boston, of landing it, paying duties, re-embarking it, receiving the drawback, and then carrying it to Bordeaux or Brest would be such as to give ample advantages to English vessels which could transship more conveniently at London. The mistake soon became apparent. The Americans quickly proved that they could under these restrictions carry West Indian produce to Europe, not only more cheaply than British ships could to it, but almost as quickly; while it was a positive advantage on the return voyage to make double freight by stopping at an American port. The consequence of this discovery was seen in the sudden increase of American shipping, and was largely due to the aid of British seamen, who found in the new service better pay, food, and treatment than in their own, and comparative safety from the press-gang and the lash.

President Jefferson believed that the United States had ample means to resist any British pretension. As his letters to Paine and Logan showed, he felt that European Powers could be controlled through the interests of commerce. He was the more firmly convinced by the extraordinary concessions which Pitt had made and by the steady encouragement he gave to the American merchant. Jefferson felt sure that England could not afford to sacrifice a trade of some forty million dollars and that her colonies could not exist without access to the American market. What

need to spend millions on a navy, when Congress, as Jefferson believed, already grasped England by the throat, and could suffocate her by a mere turn of the wrist!

This reasoning had much in its favor. To Pitt the value of the American trade at a time of war with France and Spain was immense; and, when taken in connection with the dependence of the West Indian colonies on America, it made a combination of British interests centering in the United States which much exceeded the entire value of all England's other branches of foreign commerce. Its prospective value was still greater if things should remain as they were, and if England should continue to undersell all rivals in articles of general manufacture. England could well afford to lose great sums of money in the form of neutral freights rather than drive Congress to a protective system which should create manufactures of cotton, woolen, and iron. These were motives which had their share in the civility with which England treated America; and year by year their influence should naturally have increased.

Of all British markets the American was the most valuable; but next to the American market was that of the West Indies. In some respects the West Indian was of the two the better worth preserving. A great majority of British electors would certainly have felt no hesitation in deciding, as between the markets of the United States and of the West Indies, that if a choice must be made, good policy required the Government to save at all hazards the West Indies. Both as a permanent market for manufactures and as a steady support for shipping, the West Indian commerce held the first place in British interests. This fact needed to be taken into account by the United States Government before relying with certainty on the extent to which Great Britain could be controlled by the interests involved in the American trade. At the most critical moment all Jefferson's calculations might be upset by the growth of a conviction in England that the colonial system was in serious danger; and to make this chance stronger, another anxiety was so closely connected with it as to cause incessant alarm in the British mind.

The carrying trade between the French West Indies and Europe which had thus fallen into American hands, added to the natural increase of national exports and imports, required a large amount of additional shipping; and what was more directly hostile to English interests, it drew great numbers of British sailors into the American merchant service.

The desertion of British seamen and the systematic encouragement offered to deserters in every seaport of the Union were serious annoyances which the American Government was unable to excuse or correct. Between 1793 and 1801 they reached the proportions of a grave danger to the British service. Every British Government packet which entered the port of New York during the winter before Jefferson's accession to power lost almost every seaman in its crew; and neither people nor magistrates often lent help to recover them. At Norfolk the crew of a British ship deserted to an American sloop-of-war, whose commander, while admitting the fact, refused to restore the men, alleging his construction of official orders in his excuse.

The captain of any British frigate which might happen to run into the harbor of New York, if he went ashore, was likely to meet on his return to the wharf some of his boat's crew strolling about the town, every man supplied with papers of American citizenship. This was the more annoying because American agents in British ports habitually claimed and received the benefit of the British law; while so far as American papers were concerned, no pretense was made of concealing the fraud, but they were issued in any required quantity and were transferred for a few dollars from hand to hand.

Not only had the encouragement to desertion a share in the decline of British shipping in American harbors, but it also warranted, and seemed almost to render necessary, the only countervailing measure the British Government could employ. Whatever happened to the merchant service, the British navy could not be allowed to suffer. England knew no conscription for her armies, because for centuries she had felt no need of general military service; but at any moment she might compel her subjects to bear arms if circumstances required it. Her necessities were greater on the ocean. There, from time immemorial, a barbarous sort of conscription, known as impressment, had been the ordinary means of supplying the royal navy in emergencies; and every seafaring man was liable to be dragged at any moment from his beer cellar or coasting vessel to man the guns of a frigate on its way to a three-years' cruise in the West Indies or the Mediterranean. Mere engagement in a foreign merchant service did not release the British sailor from his duty. When the captain of a British frigate overhauled an American merchant vessel for enemy's property or contraband of war, he sent an officer on board

who mustered the crew and took out any seamen whom he believed to be British. The measure, as the British navy regarded it, was one of self-protection. If the American Government could not or would not discourage desertion, the naval commander would recover his men in the only way he could. Thus a circle of grievances was established on each side. Pitt's concessions to the United States irritated the British navy and merchant marine, while they gave great profits to American shipping; the growth of American shipping stimulated desertions from the British service to the extent of injuring its efficiency; and these desertions in their turn led to a rigorous exercise of the right of impressment. To find some point at which this vicious circle could be broken was a matter of serious consequence to both countries, but most so to the one which avowed that it did not mean to protect its interests by force.

That there were some points which not even the loss of American trade would bring England to concede was well known to Jefferson; and on these points he did not mean to insist. Setting the matter of impressment aside, the relations between England and America had never been better than when the new President took office March 4, 1801. The British Government seemed earnest in conciliation, and lost no opportunity of showing its good-will. Under the sixth article of Jay's Treaty, a commission had been appointed to settle long-standing debts due to British subjects, but held in abeyance by State legislation in contravention of the Treaty of 1783. After long delays the commission met at Philadelphia and set to work, but had made little progress when the two American commissioners, with the President's approval, in the teeth of the treaty which created the board, refused to accept its decisions, and seceded. This violent measure was not taken by the Administration without uneasiness, for England might reasonably have resented it; but after some further delay the British Government consented to negotiate again, and at last accepted a round sum of three million dollars in full discharge of the British claim. This was a case in which England was the aggrieved party; she behaved equally well in other cases where the United States were aggrieved. Rufus King complained that her admiralty courts in the West Indies and at Halifax were a scandal; in deference to his remonstrances these courts were thoroughly reformed by Act of Parliament. The vice-admiralty court at Nassau condemned the American brigantine *Leopard*, engaged in carrying Malaga wine from the United States to

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the Spanish West Indies. The American minister complained of the decision, and within three days the King's Advocate reported in his favor. Soon afterward the American minister complained that Captain Pellew, of the *Cleopatra*, and Admiral Parker had not effectually restrained their subordinates on the American station; both officers were promptly recalled. Although the Ministry had not yet consented to make any arrangement on the practice of impressment, Rufus King felt much hope that they might consent even to this reform; meanwhile, Lord Grenville checked the practice, and professed a strong wish to find some expedient that should take its place.



## CHAPTER TWENTY-SIX

### *Cordiality with England*

**F**EBRUARY 4, 1801, one month before the inauguration of President Jefferson, Pitt suddenly retired from office and was succeeded by a weak Ministry, in which Mr. Addington, afterward Lord Sidmouth, took the post vacated by Pitt. No event could have been happier for the prospects of President Jefferson, who might fairly count upon Addington's weakness to prevent his interference in American affairs.

Knowing himself to be universally regarded as the friend and admirer of France, Jefferson was the more anxious not to be classed by the British Government among the enemies of England. Even before he was inaugurated, he took occasion to request Edward Thornton, the British *chargé*, 'With great earnestness, to assure His Majesty's Government that it should experience during his administration as cordial and sincere acts of friendship as had ever been received under that of his predecessors.'

Thornton felt no great confidence in the new President's protests, and thought it possible that Jefferson had 'on this, as he seems to have done on many late public occasions, taxed his imagination to supply the deficiency of his feelings.' All Englishmen were attached to the Federalist and New England interest; they could not understand that Virginia should be a safer friend than Massachusetts. Yet in truth Jefferson never was more serious than when he made these professions. The Southern Republicans had nothing to gain from a quarrel with England; they neither wished for Canada nor aspired to create shipping or manufactures: their chief antagonist was not England, but Spain. The only Power which could seriously injure them was Great Britain; and the only injury they could inflict in return was by conquering Canada for the benefit of Northern influence, or by building up manufactures which they disliked, or by cutting off their own markets for tobacco and cotton. Nothing warranted a belief that men like Jefferson, Madison, and Gallatin would ever seek a quarrel with England.

The British Ministry soon laid aside any doubts they might have felt on the subject. Lord Grenville, who retired with Pitt, was succeeded as Foreign Secretary by Lord Hawkesbury, afterward better known as Lord Liverpool. The new Ministry negotiated for peace with Bonaparte.

October 1, 1801, the preliminaries were signed, and the world found itself again in a sort of repose, broken only by the bloody doings at St. Domingo and Guadeloupe. England returned, like France and Spain, to the rigor of the colonial system. The customs entries of New York, Boston, and Philadelphia rapidly diminished in number; American shipping declined; but Madison was relieved from the burden of belligerent disputes, which had been the chief anxiety of his predecessors in the State Department.

Yet peace did not put an end to all difficulties. Rufus King continued to negotiate in London in regard to the outstanding British debts, twice recognized by treaty, yet still unpaid by the United States; in regard to the boundary of Maine and that of the extreme Northwest Territory at the source of the Mississippi; and finally, in regard to impressments; while Edward Thornton at Washington complained that, in spite of peace and the decline of American shipping, encouragement was still offered to the desertion of British seamen in every port of the United States — in fact, that this means was systematically used to prevent British shipping from entering American ports in competition with the shipping of America. When Madison alleged that the National Government had no share in such unfriendly conduct, Thornton thrust under his eyes the law of Virginia — a law enacted by President Jefferson's political friends in his political interests — which forbade, under penalty of death, any magistrate of Virginia to be instrumental in surrendering deserters or criminals, even in cases where they were bound by treaty to do so. Madison could not deny that this legislation was contrary to a treaty right which the United States Government was bound to enforce. He admitted that American shipmasters and consuls in British ports habitually asked the benefit of the British law, and received it; but he could hold out only a remote hope that mutual legislation might solve the difficulty by applying the merchant-seamen laws of the two countries reciprocally.

As the summer of 1802 approached, President Jefferson drew into closer and more confidential relations with Thornton. During the Federalist rule the two countries were never on more affectionate terms. At London, Rufus King and Christopher Gore received courteous attention from Lord Hawkesbury. At Washington, Thornton's intimacy at the White House roused the jealousy and alarm of Pichon. As Bonaparte's projects against Louisiana disclosed themselves, and as Leclerc's first successes at

St. Domingo opened the French path to New Orleans, Jefferson began to pay sudden and almost eager court to Thornton, who was a little embarrassed by the freedom with which the President denounced the First Consul.

After the stoppage of the entrepôt at New Orleans, when public opinion seemed intent on driving Jefferson into the war with France which he had predicted, Thornton found himself and his Government in favor at Washington. The Republicans were even better disposed than the Federalists. Jefferson was willing to abolish between England and America the discriminating duties on shipping which the New England Federalists had imposed and which they still wished to maintain for use in the disputed West Indian trade. Jefferson was rapidly becoming the friend and confidant of England. Thornton, naturally delighted with his own success, and with the mortifications and anxieties of Yrujo and Pichon, went so far as to urge his Government to help the views of the United States against Louisiana:

I should hope, my Lord, that by having some share in the delivery of this Island of New Orleans to the United States, which it will be impossible to keep from them whenever they choose to employ force, His Majesty's Government may hereafter attach still more this country to our interests, and derive all the advantage possible from the intercourse with that important part of the world. A very great change has gradually taken place in the opinions of all ranks in this Government in favor of Great Britain, which has struck observers more likely to be impartial than myself. A sense of a common interest has a great share in the change; but the conduct of France in all her relations has not failed to produce its full effect; and I find men, formerly the most vehement in their politics, asserting in the most unqualified terms the necessity of a union among all the members of the civilized world to check her encroachments and to assure the general tranquillity.

A few days later, the President nominated Monroe to act with Livingston and Pinckney in an attempt to purchase New Orleans. This step, which was openly avowed to be the alternative and perhaps the antecedent of war with France, brought Thornton into still more confidential relations with the Government. Finding that the Secretary of State was as cautious as the President was talkative, Thornton carried on an active intercourse with the latter. He offered to detain the British Government

packet for Monroe's use; but it was found that a month or two of delay would be necessary.

The tone of cordiality in Government and people, both in public and private, in New York, Boston, and Philadelphia, as in the South and West, was gratifying to British pride, and would have been still more so had not the community somewhat too openly avowed the intention of leaving England, if possible, to fight alone. At the first news of the approaching rupture between France and England, this wish began to appear so plainly that Thornton was staggered by it. The Americans took no trouble to conceal the hope that England would have to fight their battles for them.

Until July 3, 1803, the relations between President Jefferson's Government and that of Great Britain were so cordial as to raise a doubt whether the United States could avoid becoming an ally of England, and taking part in the war with France. Suddenly came the new convulsion of Europe.

'It was on the third of this month,' wrote Pichon July 7, 1803, 'the eve of the anniversary of Independence, that we received two pieces of news of the deepest interest for this country — that of the rupture between France and England, proclaimed by the latter on May 16, and that of the cession of Louisiana and New Orleans, made by us on April 30.' The next day, when Pichon attended the usual reception at the White House, he found himself received in a manner very different from that to which he had been of late accustomed.

The two events, thus coming together, were sure to affect seriously the attitude of the United States toward England. Not only did Jefferson no longer need British aid, but he found himself in a position where he could afford with comparative freedom to insist upon his own terms of neutrality. He had always felt that Great Britain did not sufficiently respect this neutrality; he never failed to speak of Jay's Treaty in terms of vehement dislike; and he freely avowed his intention of allowing all commercial treaties to expire. The relation between these treaties and the rights of neutrality was simple. Jefferson wanted no treaties which would prevent him from using commercial weapons against nations that violated American neutrality; and therefore he reserved to Congress the right to direct commerce in whatever paths the Government might prefer.

Such a system was best suited to the strongest nations, and to those

which could control their dealings to most advantage. The Administration believed that the United States stood in this position.

The President and Secretary Madison were inclined to assert authority in their relations with foreign Powers. Even so early as the preceding February, before Monroe sailed for Europe, Madison told Pichon of this intention. 'He added,' wrote Pichon to Talleyrand, 'that if war should be renewed, as seemed probable, the United States would be disposed to take a higher tone than heretofore, that Europe had put their spirit of moderation to proofs that would be no longer endured.' Immediately after hearing of the Louisiana cession, Pichon wrote that the same spirit continued to animate the Government. 'It is certain that they propose to cause the neutrality of the United States to be more exactly respected by the belligerent Powers than in the last war. The Government has often shown its intentions in this respect, from the time when everything pointed to an infallible rupture between us and England.'

President Jefferson, while avowing a pacific policy, explained that his hopes of peace were founded on his power to affect the interests of the belligerents. He was confident that he could control France and England: 'I do not believe we shall have as much to swallow from them as our predecessors had.'

The Louisiana question being settled, the field was clear for the United States to take high ground in behalf of neutral rights; and inevitably the first step must be taken against England. No one denied that thus far the Administration of Addington had behaved well toward the United States. Rufus King brought to America at the same time with news of the Louisiana treaty, or had sent shortly before, two conventions by which long-standing differences were settled. One of these conventions disposed of the old subject of British debts — the British Government accepting a round sum of six hundred thousand pounds on behalf of the creditors. The other created two commissions for running the boundary line between Maine and Nova Scotia and between the Lake of the Woods and the Mississippi River. King went so far as to express the opinion that had he not been on the eve of his departure, he might have succeeded in making some arrangement about impressments; and he assured Gallatin that the actual Administration in England was the most favorable that had existed or could exist for the interests of the United States; its only misfortune was its weakness. The conduct of the British

Government in regard to Louisiana proved the truth of King's assertion. Not only did it offer no opposition to the sale, but it lent every possible assistance to the transfer; and under its eye, with its consent, Alexander Baring made the financial arrangements which were to furnish Bonaparte with ten million American dollars to pay the preliminary expenses of an invasion of England.

Nevertheless, if the United States Government intended to take a high tone in regard to neutral rights, it must do so from the beginning of the war. Aware that success in regard to England, as in regard to Spain, depended on asserting at the outset, and maintaining with obstinacy, the principles intended to be established, the President and Secretary Madison lost no time in causing their attitude to be clearly understood. An opportunity of asserting this authoritative tone was given by the appearance of a new British minister at Washington; and thus it happened that at the time when the Secretary of State was preparing for his collision with the Marquis of Casa Yrujo and the Spanish Empire, he took on his hands the more serious task of curbing the pretensions of Anthony Merry and the King of England.

## CHAPTER TWENTY-SEVEN

### *Anthony Merry*

ONE OF ADDINGTON'S FRIENDLY ACTS was the appointment of Anthony Merry as British minister to the United States. For this selection Rufus King was directly responsible. Two names were mentioned to him by the Foreign Office as those of the persons entitled to claim the place; one was that of Merry, the other was that of Francis James Jackson.

In deference to Rufus King's wishes or for some other reason Merry received the appointment. He was a thorough Englishman, with a wife more English than himself. He was not prepared for the isolation of the so-called Federal City, and he did not expect to arrive at a moment when the United States Government, pleased with having curbed Bonaparte, was preparing to chasten Spain and to discipline England.

Landing at Norfolk from a ship-of-war November 4, 1803, Merry was obliged to hire a vessel to carry himself and his belongings to Washington, where, after a tempestuous voyage, he at last arrived, November 26. Possibly Mr. and Mrs. Merry, like other travelers, would have grumbled even though Washington had supplied them with Aladdin's palace and Aladdin's lamp to furnish it; but the truth was not to be denied that the Federal City offered few conveniences, and was better suited for members of Congress, who lived without wives in boarding-houses, than for foreign ministers, with complaining wives, who were required to set up large establishments and to entertain on a European scale.

Had these been the worst trials that awaited the new British minister, he might have been glad to meet them, for, when once surmounted, they favored him by preventing social rivalry. Unfortunately he met more serious annoyances. Until his arrival, Yrujo was the only minister of full rank in the United States; and Yrujo's intimate relations at the White House had given him family privileges. For this reason the Spanish minister made no struggle to maintain etiquette, but living mostly in Philadelphia disregarded the want of what he considered good manners at Washington, according to which he was placed on the same social footing with his own Secretary of Legation. Yet Yrujo, American in many respects, belonged to the school of Spanish diplomacy which had for centuries studied points of honor. He might well have made with his

own mouth the celebrated retort which one of his predecessors made to Philip II, who reproached him with sacrificing an interest to a ceremony: 'How a ceremony? Your Majesty's self is but a ceremony!' Although Yrujo submitted to Jefferson, he quarreled with Pichon on this point, for Pichon was only a secretary in charge of the French Legation. In November, 1803, Yrujo's friendship for Jefferson was cooling, and he waited the arrival of Merry in the hope of finding a champion of diplomatic rights. Jefferson, on the other hand, waited Merry's arrival in order to establish, once for all, a new social code; and that there might be no misunderstanding, he drafted with his own hand the rules which were to control Executive society — rules intended to correct a tendency toward monarchical habits introduced by President Washington.

In 1801, on coming into power Jefferson announced that he would admit not the smallest distinction that might separate him from the mass of his fellow-citizens. He dispensed with the habit of setting apart certain days and hours for receiving visits of business or curiosity, announcing that he would on any day and at any hour receive in a friendly and hospitable manner those who should call upon him. He evidently wished to place the White House on the footing of easy and generous hospitality which was the pride of every Virginia gentleman. No man should be turned away from its doors; its table, liberal and excellent, should be filled with equal guests, whose self-respect should be hurt by no artificial rules of precedence.

So long as this manner of life concerned only the few Americans who were then residents or visitors at Washington, Jefferson found no great difficulty in mixing his company and disregarding precedence. Guests accommodated themselves to the ways of the house, took care of their own comfort, went to table without special request, and sat wherever they found a vacant chair; but foreigners could hardly be expected at first to understand what Jefferson called the 'rule of pell-mell.' Thornton and Pichon, being only secretaries of legation, rather gained than lost by it; but Yrujo resented it in secret; and all eyes were turned to see how the new British minister would conduct himself in the scramble.

Merry duly arrived in Washington, and was told by Madison that the President would receive his letter of credence November 29, according to the usual formality. At the appointed hour the British minister, in diplomatic uniform, as was required in the absence of any hint to the



contrary, called upon Madison and was taken to the White House, where he was received by the President. Jefferson's manner of receiving guests was well known, although this was the first occasion on which he had given audience to a new foreign minister. Among several accounts of his appearance at such times, that of Senator Plumer was one of the best.

In a few moments after our arrival [said the Senator, writing two years before Merry's mishap], a tall, high-boned man came into the room. He was dressed, or rather undressed, in an old brown coat, red waistcoat, old corduroy small-clothes much soiled, woolen hose, and slippers without heels. I thought him a servant, when General Varnum surprised me by announcing that it was the President.

On the occasion of Merry's reception, the President's chief offense in etiquette consisted in the slippers without heels. No law of the United States or treaty stipulation forbade Jefferson to receive Merry in heelless slippers, or for that matter in bare feet, if he thought proper to do so. Yet Virginia gentlemen did not intentionally mortify their guests; and perhaps Madison would have done better to relieve the President of such a suspicion by notifying Merry beforehand that he would not be expected to wear full dress. In that case the British minister might have complimented Jefferson by himself appearing in slippers without heels.

A card of invitation was next sent, asking Mr. and Mrs. Merry to dine at the White House, December 2. Such an invitation was in diplomatic usage equivalent to a command, and Merry at once accepted it. The new minister was then told that he must call on the heads of departments. He remonstrated, saying that Liston, his predecessor, had been required to make the first visit only to the Secretary of State; but he was told, in effect, that what had been done under the last Administration was no rule for the present one. Merry acquiesced, and made his calls. These pin-thrusts irritated him; but he was more seriously inconvenienced by the sudden withdrawal of diplomatic privileges by the Senate, although Vice-President Burr took occasion to explain that the Senate's action was quite unconnected with the President's 'canons of etiquette,' and was in truth due to some indiscretion of Yrujo in the House of Representatives.

Meanwhile, the President took an unusual step. When two countries were at war, neutral Governments commonly refrained from inviting the representative of one belligerent to meet the representative of the other, unless on formal occasions where the entire diplomatic body was

invited, or in crowds where contact was not necessary. Still more rarely were such incongruous guests invited to an entertainment supposed to be given in honor of either individual. No one knew this rule better than Jefferson, who had been himself four years in diplomatic service at Paris, besides being three years Secretary of State to President Washington at Philadelphia. He knew that the last person whom Merry would care to meet was Pichon, the French *chargé*; yet he not only invited Pichon, but pressed him to attend.

Pichon accordingly hurried back from Baltimore, especially at the President's request, in order to have the pleasure of seeing Jefferson humiliate his own guest in his own house.

Pichon was gratified by the result. At four o'clock on the afternoon of December 2, 1803, this curious party assembled at the White House — Mr. and Mrs. Merry, the Marquis Yrujo and his American wife, M. Pichon and his American wife, Mr. and Mrs. Madison, and some other persons whose names were not mentioned. When dinner was announced, the President offered his hand to Mrs. Madison and took her to table, placing her on his right. Mme. Yrujo took her seat at his left.

Yrujo, who made an official report to his Government, after mentioning the neglect shown to Merry before dinner, added a remark that explained the situation more exactly: 'I observed immediately the impression that such a proceeding of the President must have on Mr. and Mrs. Merry; and their resentment could not but be increased at seeing the manifest, and in my opinion studied, preference given by the President throughout to me and my wife over him and Mrs. Merry.'

There the matter might have rested, had not Madison carried the new 'canons' beyond the point of endurance. December 6, four days after the dinner at the White House, the British minister was to dine with the Secretary of State. Pichon and Yrujo were again present, and all the Cabinet with their wives. Yrujo's report described the scene that followed.

I should observe [said he] that until then my wife and I had enjoyed in the houses of Cabinet ministers the precedence of which we had been deprived in the President's house; but on this day the Secretary of State too altered his custom, without informing us beforehand of his resolution, and took to table the wife of the Secretary of the Treasury. This unexpected conduct produced at first some confusion, during which the wife

of the British minister was left without anyone giving her his hand, until her husband advanced, with visible indignation, and himself took her to table.

Even Pichon, though pleased to see the British minister humbled, felt his diplomatic pride a little scandalized at this proceeding. He admitted that it was an innovation, and added, 'There is no doubt that Mr. Madison in this instance wished to establish in his house, the same formality as at the President's, in order to make Mr. Merry feel more keenly the scandal he had made; but this incident increased it.'

The scandal which Merry had made consisted in saying that he believed his treatment at the White House was a premeditated insult against his country. Madison's course took away any remaining doubt on the subject in his mind.

*A sort of civil war ensued in the little society of Washington, in which the women took prominent part, and Mrs. Merry gave back with interest the insults she considered herself to have received. The first serious evil was an alliance between Merry and Yrujo, the two men whom Jefferson had most interest in keeping apart.*

Of all American hospitality none was so justly famous as that of Virginia. In this State there was probably not a white man, or even a Negro slave, but would have resented the charge that he was capable of asking a stranger, a foreigner, a woman, under his roof, with the knowledge that he was about to inflict what the guest would feel as a humiliation. Still less would he have selected his guest's only enemy and urged him to be present for the purpose of witnessing the slight. Reasons of state sometimes gave occasion for such practices, but under the most favorable conditions the tactics were unsafe. Napoleon in the height of his power insulted queens, browbeat ambassadors, trampled on his ministers, and made his wife and servants tremble; but although these manners could at his slightest hint be imitated by a million soldiers, until Europe, from Cadiz to Moscow, cowered under his multiplied brutality, the insults and outrages recoiled upon him in the end. Jefferson could not afford to adopt Napoleonic habits. His soldiers were three thousand in number, and his own training had not been that of a successful general; he had seven frigates, and was eager to lay them up in a single dry-dock. Peace was his passion.

To complicate this civil war in the little society of Washington, Jerome

Bonaparte appeared there, and brought with him his young wife, Elizabeth Patterson of Baltimore. Jerome married this beautiful girl against the remonstrances of Pichon; but after the marriage took place, not only Pichon, but also Yrujo and Jefferson, showed proper attention to the First Consul's brother, who had selected for his wife a niece of the Secretary of the Navy, and of so influential a Senator as General Smith.

The President and his friends were aware of the contrast between their treatment of Jerome Bonaparte and their slights to Anthony Merry. Had they felt any doubt upon the subject, the free comments of the British minister and his wife would have opened their eyes. In truth, no doubt existed. Washington society was in a manner ordered to proscribe the Merrys and Yrujo, and pay court to Jerome and the Smiths.

Had this been all, the matter would have ended in a personal quarrel between the two envoys and the two Virginians, with which the public would have had no concern. Jefferson's 'canons of etiquette' would in such a case have had no further importance than as an anecdote of his social habits. The seriousness of Jefferson's experiments in etiquette consisted in the belief that they were part of a political system which involved a sudden change of policy toward two great Powers. The 'canons' were but the social expression of an altered feeling which found its political expression in acts marked by equal disregard of usage. The Spanish minister had already reason to know what he might expect; for six weeks before Merry's dinners John Randolph proclaimed in the House that West Florida belonged to the United States, and within the week that preceded Merry's reception he brought in the bill which authorized the President to annex Mobile. After such a proceeding, no diplomatist would have doubted what meaning to put upon the new code of Republican society. Merry's arrival, at the instant of this aggression upon Spain, was the signal for taking toward England a higher tone.

The British Government was aware that its so-called right of impressment and its doctrine of blockade rested on force and could not be maintained against superior force; but this consciousness rendered England only the more sensitive in regard to dangers that threatened her supremacy. Knowing that the United States would be justified in declaring war at any moment, Great Britain looked uneasily for the first symptoms of retaliation. When Madison took so earnest a tone, Merry might reasonably expect that his words would be followed by acts.

These shocks were not all that the new British minister was obliged to meet at the threshold of his residence in Washington. At the moment when he was, as he thought, socially maltreated, and when he was told by Madison that America meant to insist on her neutral rights, he learned that the Government did not intend to ratify Rufus King's boundary convention. The Senate held that the stipulations of its fifth article respecting the Mississippi might embarrass the new territory west of the river. King had not known of the Louisiana cession when he signed the treaty; and the Senate, under the lead of General Smith, preferred to follow its own views on the subject, as it had done in regard to the second article of the treaty with France, September 30, 1800, and as it was about to do in regard to Pinckney's claims convention, August 11, 1802, with Spain. Merry was surprised to find that Madison, instead of explaining the grounds of the Senate's hesitation, or entering into discussion of the precise geographical difficulty, contented himself with a bald statement of the fact. The British minister thought that this was not the most courteous way of dealing with a treaty negotiated after a full acquaintance with all the circumstances.

In view of the Mobile Act, introduced into Congress by Randolph on behalf of the Government, Merry's suspicions could hardly be called unreasonable. A like stretch of authority applied to the Northwest Territory would have produced startling results.

Merry's suspicions that some assault was to be made upon England were strengthened when Madison, December 5, in pursuance of a call from the Senate, sent a list of impressments reported to the Department during the last year. According to this paper the whole number of impressments was forty-six — three of which were made by France and her allies; while of the forty-three made by Great Britain twenty-seven of the seamen were not American citizens. Of the entire number, twelve were stated to have had American papers; and of the twelve, nearly half were impressed on land within British jurisdiction. The grievance, serious as it was, had not as yet reached proportions greater than before the Peace of Amiens. Merry drew the inference that Jefferson's Administration meant to adopt stronger measures than had hitherto been thought necessary. He soon began to see the scope which the new policy was to take.

December 22, 1803, Madison opened in a formal conference the diplo-

matic scheme which was the outcome of these preliminary movements. Beginning with a repetition of complaints in regard to impressments, and dwelling upon the great irritation created by such arbitrary acts, the Secretary next remonstrated against the extent given to the law of blockade by British cruisers in the West Indies, and at length announced that the frequent repetition of these grievances had rendered it necessary for the United States to take immediate steps to find a remedy for them. Instructions would, therefore, be shortly sent to Monroe at London to negotiate a new convention on these subjects. The American Government would wish that its flag should give complete protection to whatever persons might be under it, excepting only military enemies of the belligerent. Further, it would propose that the right of visiting ships at sea should be restrained; that the right of blockade should be more strictly defined, and American ships be allowed, in consideration of the distance, to clear for blockaded ports on the chance of the blockade being removed before they arrived; and finally, that the direct trade between the West Indies and Europe should be thrown open to American commerce without requiring it to pass through a port of the United States.

In return Madison offered to the British Government the unconditional surrender of deserters by sea and land, together with certain precautions against the smuggling of articles contraband of war.

Thus, in one short month, the two Governments were brought to what the British minister supposed to be the verge of rupture. That any government should take so well-considered a position without meaning to support it by acts was not probable. Acts of some kind, more or less hostile in their nature, were certainly intended by the United States Government in case Great Britain should persist in contempt for neutral rights; the sudden change of tone at Washington left no doubt on this point.

## CHAPTER TWENTY-EIGHT

### *Jefferson's Enemies*

WHATEVER OBJECTS the President and the Secretary of State may have expected to gain by their change of tone in the winter of 1803-1804 toward Spain and England, they must have been strangely free from human passions if they were unconscious of making at least two personal enemies upon whose ill-will they might count. If they were unaware of giving their victims cause for bitterness — or if, as seemed more probable, they were indifferent to it — the frequent chances of retaliation which the two ministers enjoyed soon showed that in diplomacy revenge was not only sweet but easy. Even the vehement Spanish hatred felt by Yrujo for Madison fell short of the patient Anglo-Saxon antipathy rooted in the minds of the British minister and his wife. When Yrujo, in March, 1804, burst into the State Department with the Mobile Act in his hand and denounced Madison to his face as party to an 'infamous libel,' he succeeded in greatly annoying the Secretary without violating Jefferson's 'canons of etiquette.' Under the code of Republican manners which the President and his Secretary had introduced, they could not fairly object to anything which Yrujo might choose to say or do. Absolute equality and 'the rule of *pêle-mêle*' reached their natural conclusion between such hosts and guests in freedom of language and vehemence of passion. What might have been Merry's feelings or conduct had he met with more cordiality and courtesy was uncertain; but the mortifications of his first month at Washington embittered his temper and left distinct marks of acrimony in the diplomacy of America and England, until war wiped out the memory of reciprocal annoyances. The Spaniard's enmity was already a peril to Madison's ambition, and one which became more threatening every day; but the Englishman's steady resentment was perhaps more mischievous, if less noisy. The first effect of Jefferson's tactics was to ally the British minister with Yrujo; the second bound him to Senator Pickering and Representative Griswold; the third united his fortunes with those of Aaron Burr. Merry entered the path of secret conspiracy; he became the confidant of all the intriguers in Washington and gave to their intrigues the support of his official influence.

At the same moment, in January and February, 1804, Pickering and

Griswold were plotting their New England Confederacy. Merry was taken by them into the secret, and gave them aid. The Senate, February 9, voted to strike out the fifth article of Rufus King's boundary convention, and to approve the other articles, which provided for fixing the disputed boundary line of Maine, New Hampshire, and Vermont. Merry wrote to his Government that the object of cancelling the fifth article was to deprive Great Britain of her treaty right to navigate the Mississippi.

Merry's temper was in this stage of ever-increasing irritability when an event occurred which gave him, as it seemed, a chance to gratify his resentments. After the adjournment of Congress in March, the British minister heard nothing from Pickering and Griswold. Early in June he wrote home that the democrats were carrying all the elections.

A few weeks afterward, July 11, occurred the duel between Burr and Hamilton. Merry had no relations with Hamilton and felt no peculiar interest in his fate; but he had become intimate with Burr at Washington and watched his career with the curiosity which was the natural result of their common hatred of Jefferson. July 21, Burr fled from New York, and a few days afterward reached Philadelphia, where Merry was passing the summer. While there, Burr sent one of his friends — an Englishman named Williamson — to the British minister with a startling message, which Merry immediately transmitted to his Government:

I have just received an offer from Mr. Burr, the actual Vice-President of the United States (which situation he is about to resign), to lend his assistance to His Majesty's Government in any manner in which they may think fit to employ him, particularly in endeavoring to effect a separation of the western part of the United States from that which lies between the Atlantic and the mountains, in its whole extent. His proposition on this and other subjects will be fully detailed to your Lordship by Colonel Williamson, who has been the bearer of them to me, and who will embark for England in a few days. It is therefore only necessary for me to add that if, after what is generally known of the profligacy of Mr. Burr's character, His Majesty's Minister should think proper to listen to his offer, his present situation in this country, where he is now cast off as much by the democratic as by the Federal Party, and where he still preserved connections with some people of influence, added to his great ambition and spirit of revenge against the present Administration, may possibly induce him to exert the talents and activity which he possesses with fidelity to his employers.



Meanwhile, a change of Ministry occurred in England. Pitt returned to power, representing a state of feeling toward America very different from that which prevailed under the mild rule of Addington. Subordinates were quick to feel such changes in the temper of their superiors. Every British officer knew that henceforth he had behind him an energetic Government, which required vigorous action in maintaining what it claimed as British rights. Merry felt the new impulse like the rest; but Pitt's return acted most seriously on the naval service. After the renewal of the war in May, 1803, a small British squadron cruised off Sandy Hook, keeping a sharp lookout for French frigates in New York Harbor, and searching every merchant vessel for enemy's property. During the summer of 1804 this annoyance became steadily greater, until the port of New York was almost blockaded, and every vessel that sailed out or in was liable not only to be stopped and searched, but to lose some part of its crew by impressment. The President, already in trouble with Spain, began to feel the double peril; but Congress pressed him forward, and even while busy with the trial of Judge Chase it found time for two measures which greatly disturbed the British envoy.

The first of these measures was an 'Act for the more effectual preservation of peace in the ports and harbors of the United States.' Under this law any United States Marshal, on the warrant of any United States Judge, was bound to board any British or other foreign ship-of-war lying in American waters and seize every person charged with having violated the peace. If the marshal should be resisted, or if surrender was not made, he must call in the military power, and compel surrender by force of arms. If death should ensue, he should be held blameless; but the resisting party should be punished as for felonious homicide.

Such laws were commonly understood in diplomacy as removing the subject in question from the field of negotiation, preliminary to reprisals and war. The Act was passed with little debate in the last hours of the session, in the midst of the confusion which followed the acquittal of Judge Chase. Merry immediately called on the Secretary of State, and asked him for some assurance that might serve to quiet the apprehensions which his Government would feel on reading the Act. Madison could give none, except that the President would probably not exercise for the present his discretionary powers.

The second threatening measure was a resolution of the Senate, March

2, 1805, calling upon the Secretary of State for such Acts of the British Parliament as imposed heavier duties on the exportation of merchandise to the United States than on similar goods exported to the nations of Europe. Such an export duty upon merchandise for the United States and the West Indies had in fact been imposed by Parliament some two years before; and this Resolution foreshadowed some commercial retaliation by Congress.

While sending to his Government these warnings to expect from Jefferson's second Administration a degree of hostility more active than from the first, Merry suggested means of giving the United States occupation that should induce them to leave England alone. A new element of conspiracy disclosed itself to the British minister.

Under the Louisiana treaty of cession, the United States Government had promised that 'the inhabitants of the ceded territory shall be incorporated in the Union of the United States, and admitted as soon as possible, according to the principles of the Federal Constitution, to the enjoyment of all the rights, advantages, and immunities of citizens of the United States.' This pledge had been broken. The usual display of casuistry had been made to prove that the infraction of treaty was no infraction at all; but the more outspoken Republicans avowed, as has been already shown, that the people of Louisiana could not be trusted, or in the commoner phrase that they were unfit for self-government, and must be treated as a conquered race until they learned to consider themselves American citizens.

The people of New Orleans, finding themselves in a position of dependence, which, owing chiefly to their hatred of Governor Claiborne, seemed more irritating than their old Spanish servitude, sent three representatives to Washington to urge upon Congress the duty of executing the treaty. Messieurs Sauvé, Derbigny, and Destréhan accordingly appeared at Washington, and in December, 1804, presented a remonstrance so strong that Government was greatly embarrassed to deal with it. Any reply that should repudiate either the treaty obligation or the principles of American liberty and self-government was out of the question; any reply that should affirm either the one or the other was fatal to the system established by Congress in Louisiana. John Randolph, on whose shoulders the duty fell, made a report on the subject. 'It is only under the torture,' said he, 'that this article of the Treaty of Paris can

be made to speak the language ascribed to it by the memorialists'; but after explaining in his own way what the article did not mean, he surprised his audience by admitting in effect that the law of the last session was repugnant to the Constitution and that the people of Louisiana had a right to self-government.

Under these influences the three delegates from the creole society succeeded in getting, not what they asked, but a general admission that the people of Louisiana had political rights which Congress recognized by an Act, approved March 2, 1805, to the extent of allowing them to elect a General Assembly of twenty-five representatives, and of promising them admission into the Union whenever their free inhabitants should reach the number of sixty thousand. Considering that the people of Louisiana were supposed to be entitled to 'all the rights, advantages, and immunities of citizens,' Messieurs Sauv , Derbigny, and Destr han thought the concession too small, and expressed themselves strongly on the subject. Naturally the British minister, as well as other ill-affected persons at Washington, listened eagerly to the discontent which promised to breed hostility to the Union.

Another man watched the attitude of the three delegates with extreme interest. Aaron Burr, March 4, 1805, ceased to hold the office of Vice-President. Since the previous August he had awaited the report of his friend Colonel Williamson, who entered into conferences with members of the British Ministry, hoping to gain their support for Burr's plan of creating a Western Confederacy in the Valley of the Ohio. No sooner was Burr out of office than he went to Merry with new communications, which Merry hastened to send to his Government in a dispatch marked 'Most secret' in triplicate.

Mr. Burr (with whom I know that the deputies became very intimate during their residence here) has mentioned to me that the inhabitants of Louisiana seem determined to render themselves independent of the United States, and that the execution of their design is only delayed by the difficulty of obtaining previously an assurance of protection and assistance from some foreign Power, and of concerting and connecting their independence with that of the inhabitants of the western parts of the United States, who must always have a command over them by the rivers which communicate with the Mississippi. It is clear that Mr. Burr (although he has not as yet confided to me the exact nature and extent of his plan) means to endeavor to be the instrument of effecting such a connection.

For this purpose Burr asked the aid of the British Government, and defined the nature of the assistance he should need — a British squadron at the mouth of the Mississippi, and a loan of half a million dollars.

I have only to add that if a strict confidence could be placed in him, he certainly possesses, perhaps in a much greater degree than any other individual in this country, all the talents, energy, intrepidity, and firmness which are required for such an enterprise.

That the new French minister was little better disposed than Merry and Yrujo has been already shown; but his causes for ill-will were of a different and less personal nature. Before Turreau's arrival at Washington in November, 1804, Pichon in one of his last dispatches declared that Jefferson had already alienated every foreign Power whose enmity could be dangerous to the United States.

Turreau became intimate with the deputies from Louisiana and notified Talleyrand that a separation of the western country from the Union was universally expected. Then Turreau, for the information of Talleyrand, drew a portrait of the military commander of Upper Louisiana, who had his headquarters at St. Louis, and whose influence on future events was to be watched.

General Wilkinson is forty-eight years of age. He has an amiable exterior. Though said to be well-informed in civil and political matters, his military capacity is small. Ambitious and easily dazzled, fond of show and appearances, he complains rather indiscreetly, and especially after dinner, of the form of his government, which leaves officers few chances of fortune, advancement, and glory, and which does not pay its military chiefs enough to support a proper style. He listened with pleasure, or rather with enthusiasm, to the details which I gave him in regard to the organization, the dress, and the force of the French army. My uniform, the order with which I am decorated, are objects of envy to him; and he seems to hold to the American service only because he can do no better. General Wilkinson is the most intimate friend, or rather the most devoted creature, of Colonel Burr.

Talleyrand had become acquainted with Burr in the United States, and needed no warnings against him; but Turreau showed himself well-informed:

Mr. Burr's career is generally looked upon as finished; but he is far from sharing that opinion, and I believe he would rather sacrifice the interests

of his country than renounce celebrity and fortune. Although Louisiana is still only a Territory, it has obtained the right of sending a delegate to Congress. Louisiana is therefore to become the theater of Mr. Burr's new intrigues; he is going there under the aegis of General Wilkinson.

Turreau closed his catalogue by the significant remark: 'I am not the only person who thinks that the assemblage of such men in a country already discontented is enough to give rise to serious troubles there.' The treasonable plans of Burr and Wilkinson were a matter of common notoriety, and roused anxious comment even in the mind of John Randolph, who was nursing at home the mortification of Judge Chase's acquittal. Randolph complained of 'the easy credulity of Mr. Jefferson's temper,' which made the President a fit material for intriguers to work upon. Certainly at the close of his first Administration, Jefferson seemed surrounded by enemies. The New England Federalists, the Louisiana creoles, Burr and his crew of adventurers in every part of the Union, joined hands with the ministers of England and Spain to make a hostile circle round the President; while the minister of France looked on without a wish to save the Government whose friendship Bonaparte had sought to obtain at the cost of the most valuable province and the most splendid traditions of the French people.

## CHAPTER TWENTY-NINE

### *England and Tripoli*

**T**HE ADDINGTON MINISTRY was not only weak in character, but timid in policy; and by a natural reaction it threw restless and ambitious younger statesmen into an attitude of protest. A new departure was felt to be necessary; and the nervous energy of England, strained almost to insanity by the anxieties of ten years' desperate danger, exhausted itself in the cry for one great commanding spirit who should meet Bonaparte with his own weapons on his own field.

This cry produced George Canning. Of him and his qualities much will be said hereafter, when his rise to power shall have made him a more prominent figure; here need be noticed only the forces which sought assertion through him and the nature of the passions which he was peculiarly qualified to express. At all times nations have been most imperiled by the violence of disappointed or terrified interests; but the danger was never so great as when these interests joined to a greed for selfish gain the cry for an unscrupulous chief. Every American schoolboy once knew by heart the famous outburst of Canning, which began, 'Away with the cant of "measures, not men"!'

but of the millions of persons who read or heard this favorite extract few understood its meaning to American interests and feelings. This celebrated speech, made December 8, 1802, at a time when Addington's cautious Ministry still held office, was intended to dwarf Addington and elevate Pitt — to ridicule caution and extol violence. 'Sir,' cried Canning, 'to meet, to check, to resist, to stand up against Bonaparte, we want arms of the same kind. I vote for the large military establishments with all my heart; but for the purpose of coping with Bonaparte, one great, commanding spirit is worth them all.'

'Arms of the same kind' were, speaking generally, irresponsible violence and disregard of morality. The great, commanding spirit of the moment was Mr. Pitt; but between the lines of this speech, by the light of its author's whole career, the secret was easily read that in his opinion the man of the future who could best meet Bonaparte on his own ground with his own weapons was not William Pitt, but George Canning.

After many months of warfare against Addington, Canning was gratified. In May, 1804, Addington retired from office, carrying into the House of Lords the new title of Lord Sidmouth, while Pitt returned to power. No one of note returned with him. His old colleague, Lord Grenville, refused to join his Administration, and Charles James Fox was personally excluded by King George.

May 30, 1804, Monroe had his first interview with Lord Harrowby. In such cases the new Secretary, about to receive a foreign minister, commonly sent for the late correspondence, in order to learn something about the subjects on which he was to have an opinion. Beyond a doubt Lord Harrowby had on his table the dispatches of Merry, written between November and April, which he probably finished reading at about the moment when Monroe was announced at the door.

Under such circumstances, Monroe reported to his Government that Lord Harrowby's manners were designedly unfriendly; his reception was rough, his comments on the Senate's habit of mutilating treaties were harsh, his conduct throughout the interview was calculated to wound and to irritate. After this unpromising experience, two months were allowed to pass without further demonstration on either side. Then Lord Harrowby called Monroe's attention to the twelfth article of Jay's Treaty, which regulated the commercial relations between the British West Indies and the United States, and which had expired by limitation. He suggested its renewal, according to its old terms, until two years after the next general peace. To this offer Monroe replied, with the utmost frankness, 'that the President wished to postpone this matter until he could include impressment and neutral rights in the treaty; that we must begin *de novo*; that America was a young and thriving country; that in 1794 she had had little experience, since then she understood her interests better; and that a new treaty should omit certain things from that of 1794, and include others. The most urgent part was that which respected our seamen.'

An approaching contact of opposite forces always interests men's imagination. On one side, Pitt and Lord Harrowby stood meditating the details of measures, which they had decided in principle, for taking from the United States most of the commercial advantages hitherto enjoyed by them; on the other side stood Monroe and Jefferson, equally confident, telling the Englishmen that very much greater advantages

must be conceded. That one or the other of these forces must very soon give way was evident; and if ever an American minister in London needed to be on the alert, with every faculty strained to its utmost, the autumn of 1804 was such a moment. Monroe, aware of his danger, gave full warning to the President. Even as early as June 3, after his first interview with Lord Harrowby, he wrote that a change of policy was imminent. 'My most earnest advice is to look to the possibility of such a change.'

Lord Harrowby also gave every reasonable warning. His reply to Monroe's demands for further negotiation was simple — nothing need be expected from him. He refused to do any business at all, on the plea of other occupations incident to the formation of a new Ministry. Monroe sent him the draft of the comprehensive treaty which Madison had forwarded, but Lord Harrowby declined for the present to discuss it. Then Monroe came to the conclusion that his presence in London was no longer necessary; and accordingly, October 8, 1804, he started for Paris and Madrid. Until July 23, 1805, the Legation at London was left in charge of a secretary.

So matters remained in England during the last months of President Jefferson's first term. On both sides new movements were intended; but while those of the United States Government were foreseen and announced in advance by Merry, those of the British Ministry were hidden under a veil of secrecy, which might perhaps have been no more penetrable to Monroe had he remained in London to watch them than they were to him in his retreat at Aranjuez.

To the world at large nothing in the relations of the United States with England, France, or Spain seemed alarming. The world knew little of what was taking place. Only men who stood between these forces could understand their movements and predict the moment of collision; but if these men, like Merry, Turreau, and Yrujo, had been asked March 3, 1805, to point out the brightest part of Jefferson's political horizon, they would probably have agreed with one voice that everything in Europe threatened disaster, and that the only glimpse of blue sky was to be seen on the shores of Africa. The greatest triumph to be then hoped from Jefferson's peace policy was the brilliant close of his only war.

During the year 1804 the little American fleet in the Mediterranean made famous some names which within ten years were to become more



famous still. With the *Constitution*, the only heavy frigate on the station after the loss of the *Philadelphia*, and with half a dozen small brigs and schooners, Preble worked manfully at his task of annoying the Pacha of Tripoli. Three years' experience showed that a mere blockade answered no other purpose than to protect in part American commerce. It had not shaken the Pacha in the demand of blackmail as his condition of peace. Bainbridge, still held a prisoner in the town, believed that Jefferson must choose between paying what the Pacha asked or sending eight or ten thousand men to attack him in his castle. Blackmail was the life of the small pirate rulers, and they could not abandon it without making a precedent fatal to themselves and inviting insurrection from their subjects.

In the summer of 1804, Commodore Samuel Barron arrived, bringing with him nearly the whole available navy of the United States, and relieved Preble from the command. Preble returned home, and was rewarded for his services by a gold medal from Congress. Two years afterward he died of consumption.

Barron had with him such a force as the United States never before or since sent in hostile array across the ocean — two forty-fours, the *Constitution* and the *President*; two thirty-eight-gun frigates, the *Constellation* and the *Congress*; the *Essex*, of thirty-two guns; the new brigs, *Hornet* of eighteen, and the *Syren* and *Argus* of sixteen; the twelve-gun schooners *Vixen*, *Nautilus*, and *Enterprise*; ten new, well-built American gunboats; and two bomb-vessels. With the exception of the frigates *Chesapeake* and *United States*, hardly a seagoing vessel was left at home. Commanded by young officers like John Rodgers and Stephen Decatur, Chauncey, Stewart, and Isaac Hull, such a squadron reflected credit on Robert Smith's administration of the navy.

Nevertheless, the Pacha did not yield, and Barron was obliged by the season to abandon hope of making his strength immediately felt. Six months later the Commodore, owing to ill-health, yielded the command to John Rodgers, while the Pacha was still uninjured by the squadron. As the summer of 1805 approached, fear of Rodgers's impending attack possibly helped to turn the Pacha's mind toward concession; but his pacific temper was also much affected by events on land, in which appeared so striking a combination of qualities — enterprise and daring so romantic and even Quixotic that for at least half a century every boy

in America listened to the story with the same delight with which he read the *Arabian Nights*.

A Connecticut Yankee, William Eaton, was the hero of the adventure. Born in 1764, Eaton had led a checkered career. At nineteen he was a sergeant in the Revolutionary army. After the peace he persisted, against harassing difficulties, in obtaining what was then thought a classical education; in his twenty-seventh year he took a degree at Dartmouth. He next opened a school in Windsor, Vermont, and was chosen clerk to the Vermont Legislature. Senator Bradley, in 1792, procured for him a captain's commission in the United States Army. His career in the service was varied by insubordination, disobedience to orders, charges, countercharges, and court-martial, and a sentence of suspension not confirmed by the Secretary of War. In 1797, he was sent as consul to Tunis, where he remained until the outbreak of the war with Tripoli in 1801. Tunis was the nearest neighbor to Tripoli, about four hundred miles away; and the consul held a position of much delicacy and importance. In the year 1801 an elder brother of the reigning Pacha of Tripoli resided in Tunis, and to him Eaton turned in the hope of using his services. This man, Hamet Caramelli, the rightful Pacha of Tripoli had been driven into exile some eight or nine years before by a rebellion which placed his younger brother Yusuf on the throne. Eaton conceived the idea of restoring Hamet, and by this act of strength impressing all the Mahometan Powers with terror of the United States. In pursuit of this plan he spent more than twenty thousand dollars, embroiled himself with the Bey of Tunis, quarreled with the naval commanders, and in 1803 returned to America to lay his case before the President and Congress.

Although no one could be surprised that the President and his Cabinet hesitated to put themselves without reserve in the hands of an adventurer, Eaton's anger was extreme at finding the Government earnest for peace rather than war. Eaton's interviews probably took place at the moment when the Louisiana treaty confirmed the Cabinet in its peace policy and in reliance on diplomacy. In March, 1804, Eaton succeeded in returning to the Mediterranean as naval agent, but without special powers for the purpose he had in mind.

With no other authority to act as a military officer than a vague recommendation from the President as a man who was likely to be ex-

tremely useful to Barron, Eaton returned with Barron's large squadron. September 5, 1804, he arrived at Malta, and thence sailed to Alexandria; for in the meanwhile Hamet had been driven to take refuge in Egypt, and Eaton on reaching Cairo, December 8, 1804, found that the object of his search was shut up in Minyeh on the Nile with some rebellious Mamelukes, besieged by the Viceroy's troops. After infinite exertions and at no little personal danger, Eaton brought Hamet to Alexandria, where they collected some five hundred men, of whom one hundred were Christians recruited on the spot. Eaton made a convention with Hamet, arranged a plan of joint operations with Barron, and then, at about the time when President Jefferson was delivering his second Inaugural Address, the navy agent led his little army into the desert with the courage of Alexander the Great, to conquer an African kingdom.

So motley a horde of Americans, Greeks, Tripolitans, and Arab camel-drivers had never before been seen on the soil of Egypt. Without discipline, cohesion, or sources of supply, even without water for days, their march of five hundred miles was a sort of miracle. Eaton's indomitable obstinacy barely escaped ending in his massacre by the Arabs, or by their desertion in a mass with Hamet at their head; yet in about six weeks they succeeded, April 17, 1805, in reaching Bomba, where to Eaton's consternation and despair he found no American ships.

Nothing could prevail on our Arabs to believe that any had been there. They abused us as impostors and infidels, and said we had drawn them into that situation with treacherous views. All began now to think of the means of individual safety; and the Arabs came to a resolution to separate from us the next morning. I recommended an attempt to get into Derne. This was thought impracticable. I went off with my Christians, and kept up fires upon a high mountain in our rear all night. At eight the next morning, at the instant when our camp was about breaking up, the Pacha's casnadar, Zaid, who had ascended the mountain for a last lookout, discovered a *suill*. It was the *Argus*; Captain Hull had seen our smokes, and stood in. Language is too poor to paint the joy and exultation which this messenger of life excited in every breast.

Drawing supplies from the brig the little army rested a few days; and then, April 25, moved against Derne, where they found the town held by a garrison of eight hundred men who had thrown up earthworks and loopholed the terraces and houses for musketry. Eaton sent to the Governor a flag of truce, which was sent back with the Eastern message

— ‘My head, or yours!’ Three cruisers, the *Nautilus*, *Argus*, and *Hornet*, acted in concert with Eaton, and a vigorous combined attack, April 27, drove the Governor and his garrison from the town. Eaton received a ball through the left wrist, but could not afford to be disabled, for on the news of his arrival a large force was sent from Tripoli to dislodge him; and he was obliged to fight another little battle, May 13, which would have been a massacre had not the ships’ guns held the Tripolitans in awe. Skirmishing continued another month without further results. Eaton had not the force to advance upon Tripoli, which was nearly seven hundred miles to the westward, and Hamet found no such popular support at Derne as he had hoped.

What influence Eaton’s success at Derne had on the Pacha at Tripoli was never perfectly understood; but the Pacha knew that Rodgers was making ready for an assault, beside which the hottest of Preble’s bombardments would seem gentle; Eaton at Derne with Hamet was an incessant and indefinite threat; his own subjects were suffering, and might at any moment break into violence; a change of ruler was so common a matter, as Yusuf had reason to remember, that in the alternative of losing his throne and head in one way or the other, he decided that peace was less hazardous than war. Immediately upon hearing that his troops had failed to retake Derne, he entered into negotiations with Tobias Lear, the American Consul-General at Algiers, who had come to Tripoli for the purpose; and on this occasion the Pacha negotiated with all the rapidity that could be wished. June 3, 1805, he submitted to the disgrace of making peace without being expressly paid for it, and Lear on his side consented to ransom the crew of the *Philadelphia* for sixty thousand dollars.

When Eaton learned what Lear had done, his anger was great and not unreasonable. That Lear should have made a treaty which sacrificed Eaton’s Mahometan allies, and paid sixty thousand dollars for the imprisoned seamen at a moment when Eaton held Derne, and could, as he thought, with two hundred marines on shore and an immense fleet at sea drive the Pacha out of his dominions within six weeks, was astonishing. Lear’s only excuse was the fear of causing a massacre of the *Philadelphia*’s crew — a reason which Eaton thought unfounded and insufficient, and which was certainly, from a military point of view, inadmissible. The treaty left the Mahometan allies at Derne to be massacred and threw

Hamet on Eaton's hands. Deposited at Syracuse with a suite of thirty persons without means of support, Caramelli became a suppliant for alms to the United States Congress. Eaton declared the treaty disgraceful, and thenceforth his grievances against the Government took an acute form. The settlement of his accounts was slow and difficult. He returned to America and received great attentions, which made him none the less loud in complaint, until at last he died in 1811 a victim to drink and to craving for excitement.

Hamet Caramelli received at last a small sum of money from Congress, and through American influence was some years afterward made Governor of Derne. Thus, after four years of unceasing effort the episode of the Tripolitan war came to a triumphant end. Its chief result was to improve the navy and give it a firmer hold on popular sympathy. If the once famous battles of Truxton and the older seamen were ignored by the Republicans, Preble and Rodgers, Decatur and Hull, became brilliant names; the hand-to-hand struggles of Decatur against thrice his numbers inflamed the imagination of schoolboys who had never heard that Jefferson and his party once declaimed against a navy. Even the blindest could see that one more step would bring the people to the point, so much dreaded by Jefferson, of wishing to match their forty-fours against some enemy better worthy of their powers than the pirates of Tripoli.

There was strong reason to think that this wish might soon be gratified; for on the same day when Lear, in the *Essex*, appeared off Tripoli and began his negotiation for peace, Monroe's traveling-carriage rumbled through the gates of Madrid and began its dusty journey across the plains of Castile, bearing an angry and disappointed diplomatist from one humiliation to another.

BOOK THREE

*The Second Administration of Thomas Jefferson*  
1805-1809



## CHAPTER THIRTY

### *Internal Improvement*

A SECOND TIME President Jefferson appeared at the Capitol, escorted with due formalities by a procession of militiamen and other citizens; and once more he delivered an Inaugural Address, 'in so low a voice that not half of it was heard by any part of the crowded auditory.' The second Inaugural roused neither the bitterness nor the applause which greeted the first, although in part it was intended as a cry of triumph over the principles and vanishing power of New England.

Jefferson began by renewing the professions of his foreign policy:

With nations, as with individuals, our interests, soundly calculated, will ever be found inseparable from our moral duties; and history bears witness to the fact that a just nation is taken on its word, when recourse is had to armaments and wars to bridle others.

The sentiments were excellent; but many of Jefferson's followers must have asked themselves in what history they could find the fact, which the President asserted, that a 'just nation was taken on its word'; and they must have been still more perplexed to name the nation, just or unjust, which was taken on its word by any other in the actual condition of the world. Without dwelling on this topic, which had already become one of interest in the councils of his Cabinet, Jefferson, passing to practical questions involved in redemption of debt, advanced a new idea.

Redemption once effected [he said], the revenue thereby liberated may, by a just repartition among the States and a corresponding amendment of the Constitution, be applied, *in time of peace*, to rivers, canals, roads, arts, manufactures, education, and other great objects within each State. *In time of war* — if injustice, by ourselves or others, must sometime produce war — increased as the same revenue will be increased by population and consumption, and aided by other resources reserved for that crisis, it may meet within the year all the expenses of the year without encroaching on the rights of future generations by burdening them with the debts of the past. War will then be but a suspension of useful works, and a return to a state of peace a return to the progress of improvement.

Ten years earlier, in the mouth of President Washington, this sentiment would have been generally denounced as proof of monarchical



designs. That Jefferson was willing not only to assume powers for the central Government, but also to part from his States-rights associates and to gratify the Northern democrats by many concessions of principle, his first Administration had already proved; but John Randolph might wonder to see him stride so fast and far toward what had been ever denounced as Roman imperialism and corruption; to hear him advise a change of the Constitution in order to create an annual fund for public works, for the arts, for education, and even for such manufactures as the people might want — a fund which was to be distributed to the States, thus putting in the hands of the central Government an instrument of corruption and making the States stipendiaries of Congress. Every principle of the Republican Party, past or to come, was put to nought by a policy which contradicted the famous sentiment of Jefferson's first Annual Message: 'Sound principles will not justify our taxing the industry of our fellow-citizens to accumulate treasure for wars to happen we know not when, and which might not perhaps happen but from the temptations offered by that treasure.' Yet pregnant as this new principle might be in connection with the Constitution and the Union, its bearing on foreign affairs was more startling. Jefferson, the apostle of peace, asked for a war fund which should enable his Government to wage indefinite hostilities without borrowing money!

Quitting this dangerous ground, the President spoke of the Louisiana Purchase. Then followed a paragraph upon religion. Next he came to the subject of the Indians, and chose this unusual medium for enforcing favorite philosophical doctrines.

The aboriginal inhabitants of these countries [said the President to his great audience] I have regarded with the commiseration their history inspires. Endowed with the faculties and the rights of men, breathing an ardent love of liberty and independence, and occupying a country which left them no desire but to be undisturbed, the stream of overflowing population from other regions directed itself on these shores.

If the Boston newspapers were not weary of ridiculing Jefferson's rhetoric, this sentence was fitted to rouse their jaded amusement; but in a few moments they had reason to feel other emotions. He said that he had done what humanity required, and had tried to teach the Indians agriculture and other industries in order to prepare them for new conditions of life — a claim not only true, but also honorable to him. Un-

fortunately, these attempts met with obstacles from the Indians themselves:

They are combated by the habits of their bodies, prejudice of their minds, ignorance, pride, and the influence of interested and crafty individuals among them, who feel themselves something in the present order of things, and fear to become nothing in any other. These persons inculcate a sanctimonious reverence for the customs of their ancestors; that whatsoever they did must be done through all time; that reason is a false guide, and to advance under its counsel, in their physical, moral, or political condition, is perilous innovation; that their duty is to remain as their Creator made them, ignorance being safety, and knowledge full of danger. In short, my friends, among them is seen the action and counteraction of good sense and bigotry; they too have their anti-philosophers, who find an interest in keeping things in their present state, who dread reformation, and exert all their faculties to maintain the ascendancy of habit over the duty of improving our reason and obeying its mandates.

Gallatin remonstrated in vain against this allusion to New England habits; the President could not resist the temptation to strike once more his old enemies. Gallatin, whose sense of humor was keener than that of Jefferson, must have been amused by the travesty of New England under the war-paint and blankets of the Choctaws and Kickapoos; but Jefferson was never more serious than in believing that the people of Massachusetts and Connecticut were held in darkness by a few interested 'medicine-men,' and that he could, without committing himself in direct warfare, insult the clergy, lawyers, and keen-witted squirearchy of New England, thus held up 'by inference' to the world as the equivalent to so many savages.

The rest of the Inaugural was chiefly devoted to the press and its licentiousness. Jefferson expressed himself strongly in regard to the slanders he had received, and even hinted that he would be glad to see the State laws of libel applied to punish the offenders; but he pointed out that slander had no political success, and that it might safely be disregarded as a political weapon. He urged 'doubting brethren' to give up their fears and prejudices, and to join with the mass of their fellow-citizens. 'In the meantime let us cherish them with patient affection; let us do them justice, and more than justice, in all competitions of interest.' Finally, as though to silence the New England pulpit, he closed with a few words which the clergy might perhaps think misplaced in the

mouth of so earnest a deist — an invocation of ‘that Being in whose hands we are, who led our forefathers, as Israel of old,’ to the ‘country flowing with all the necessaries and comforts of life, . . . and to whose goodness I ask you to join with me in supplications.’

The second Inaugural strode far beyond the first in the path of democracy, away from the landmarks of Virginia Republicanism, betraying what Jefferson’s friends and enemies alike thought a craving for popularity. If this instinct sometimes led him to forget principles he had once asserted, and which he would some day again declare vital, the quality was so amiable as to cover many shortcomings; but its influence on national growth could not be disputed.

Thus the new Presidential term began, bringing with it little sign of change. The old arrangements were continued, with but one exception. Madison, Gallatin, Robert Smith, and Dearborn remained in the Cabinet but Attorney-General Lincoln resigned, and Robert Smith asked to be transferred from the Navy Department to the Attorney-General’s office. After some hesitation Jefferson yielded to Smith’s request and consented to the transfer. As Smith’s successor in the Navy Department, Jefferson selected Jacob Crowninshield, a member of Congress from Massachusetts, who was then at Washington. Crowninshield, in consequence of his wife’s objection to leaving her family, declined the offer, January 29, 1805, but the President nevertheless sent the nomination to the Senate, March 2, 1805, together with that of Robert Smith, ‘now Secretary of the Navy to be Attorney-General of the United States.’ The same day the Senate confirmed both appointments, and the commissions were regularly issued, March 3 — Robert Smith apparently ceasing thenceforward to possess any legal authority over the Navy Department.

Nevertheless, Crowninshield persisted in declining the office, and Robert Smith continued to act as Secretary of the Navy, probably by the verbal request of the President. At length he consented to retain his old position permanently, and Jefferson sought for a new Attorney-General. He offered the post, June 15, to John Julius Pringle of South Carolina, who declined. He then offered it, July 14, to John Thomson Mason, who also declined. August 7, Jefferson wrote to Senator Breckinridge of Kentucky, asking him to accept the office of Attorney-General and a temporary commission was the same day issued to him. Breckinridge’s permanent commission bore date January 17, 1806.

These dates and facts were curious for the reason that Robert Smith, who had ceased to be Secretary of the Navy, March 3, 1805, ceased necessarily to be Attorney-General on the confirmation of Breckinridge, and continued to act as Secretary of the Navy without authority of law. The President did not send his name to the Senate, or issue to him a new commission either permanent or temporary. On the official records of the Department of State, not Robert Smith but Jacob Crowninshield was Secretary of the Navy from March 3, 1805, till March 7, 1809, when his successor was appointed, although Jacob Crowninshield died April 15, 1808, and Robert Smith never ceased to act as Secretary of the Navy from his appointment in 1801 to his appointment as Secretary of State in 1809. During the whole period of Jefferson's second Administration, his Secretary of the Navy acted by no known authority except the verbal request or permission of the President.

In perfect quiet, disturbed only by rumors of wars abroad, spring crept forward to summer, summer ripened to autumn. Peace was restored with Tripoli; commerce grew apace; the revenue rose to fourteen million dollars; the Treasury was near a surfeit; no sign appeared of check to the immense prosperity which diffused itself through every rivulet in the wilderness, and the President could see no limit to its future increase. In 1804 he had sent out an expedition under Captain Meriwether Lewis to explore the Louisiana Purchase along the course of the Missouri River. May 14, 1804, Lewis and his party began their journey from St. Louis, and without serious difficulty reached the Mandan towns, sixteen hundred and nine miles from the starting-point, where, November 1, 1804, they went into winter quarters. April 8, 1805, Lewis resumed his journey to the westward, sending the report of his wanderings to Washington. This report told only of a vast region inhabited by Indian tribes and disturbed by the restless and murderous Sioux; but it served to prove the immensity of the new world which Jefferson's Government had given to the American people. Other explorations had been begun along the line of the Red and Washita Rivers. In such contributions to human knowledge Jefferson took keen interest, for he had no greater delight than in science and in whatever tended to widen the field of knowledge.

These explorations of the territory beyond the Mississippi had little immediate bearing on the interests of commerce or agriculture; but the Government was actively engaged in measures of direct value. July 4,

1805, William Henry Harrison, Governor of the Indiana Territory, closed a bargain with the Wyandots, Ottawas, and other Indian tribes, by which the Indian title over another part of Ohio was extinguished. The Indians thenceforward held within the State of Ohio only the country west of Sandusky and north of the old line fixed by the Treaty of Greenville. Within the year the Piankeshaw tribe sold for a small annuity a tract of land in southern Indiana, along the Ohio River, which made the United States Government master of the whole north bank of the Ohio to its mouth.<sup>4</sup> These concessions, of the utmost value, were obtained at a trifling cost. 'The average price paid for the Indian lands within the last four years,' wrote the Secretary of War, 'does not amount to one cent per acre.' The Chickasaws and Cherokees sold a very large district between the Cumberland and Tennessee Rivers in Tennessee, so that thenceforward the road from Knoxville to Nashville passed through no Indian land. In Georgia the Creeks were induced to sell an important territory between the Oconee and Ocmulgee Rivers. In these treaties provision was also made for horse-roads through the Creek and Cherokee country, both from Knoxville and from central Georgia to the Mobile River.

In spite of these immense gains, the military situation was still extremely weak. The Indians held in strong force the country west of Sandusky. The boundary between them and the whites was a mere line running from Lake Erie south and west across Ohio, Indiana, and Illinois to the neighborhood of St. Louis. Directly on this boundary line, near Greenville, lived the Shawanese, among whom a warrior named Tecumthe, and his brother called the Prophet, were acquiring an influence hostile to the white men. These Indians, jealous of the rapid American encroachments, maintained relations with the British officials in Canada, and in case of a war between the United States and England they were likely to enter into a British alliance. In this case unless the United States Government could control Lake Erie, nothing was more certain than that Detroit and every other post on the Lakes beyond must fall into British hands, and with them the military possession of the whole Northwest.

Even in Kentucky the country between the Tennessee River and the Mississippi still belonged to the Chickasaws; and south of the Tennessee River as far as the Gulf of Mexico, and east to the Ocmulgee, all be-

longed to Cherokees, Creeks, and Choctaws, who could not boast, like the Chickasaws, that 'they had never spilt the blood of a white man.' These tribes maintained friendly relations with the Spanish authorities at Mobile and Pensacola, and, like the Shawanese and Northwestern Indians, dreaded the grasping Americans, who were driving them westward. In case of war with Spain, should New Orleans give trouble and invite a Spanish garrison, the Indians might be counted as Spaniards, and the United States Government might be required to protect a frontier suddenly thrust back from the Floridas to the Duck River, within thirty miles of Nashville.

The President might well see with relief every new step that brought him within nearer reach of his remote military posts and his proconsular province at New Orleans. That he should dread war was natural, for he was responsible for the safety of the settlements on the Indian frontier, and he knew that in case of sudden war the capture of these posts was certain and the massacre of their occupants more than probable. New Orleans was an immediate and incessant danger, and hardly a spot between New Orleans and Mackinaw was safe.

Anxiety caused by these perils had probably much to do with the bent of the President's mind toward internal improvements and democratic rather than Virginia principles. In 1803 the United States Government became owner of a territory which dwarfed the States themselves, and which at its most important point contained a foreign population governed by military methods. Old political theories had been thrown aside both in the purchase and in the organization of this New World; their observance in its administration was impossible. The Louisiana Purchase not only required a military system of government for itself, but also reacted on the other national territory, and through it on the States in their relations to Washington. New England was thrown to the verge of the political system; but New York and Pennsylvania, Georgia and Tennessee, Ohio and Kentucky, found many new interests which they wanted the central Government to assist, and Virginia, holding the power and patronage of the central Government, had every inducement to satisfy these demands.

So it happened that Jefferson gave up his Virginia dogmas, and adopted Gallatin's ideas. They were both jealous of the army and navy; but they were willing to spend money with comparative liberality on internal

improvements; and the wisdom of this course was evident. Even in a military point of view, roads and canals were more necessary than forts or ships.

The first evidence of change was the proposed fund for internal improvements and war purposes described in the second Inaugural Address. The suggestion was intended to prepare the public for a relaxation of Gallatin's economy. Although the entire debt could not be paid before 1817, only \$10,500,000 of bonds remained to be immediately dealt with. By the year 1809 these \$10,500,000 would be discharged; and thereafter Gallatin might reduce his annual payments of principal and interest from \$8,000,000 to \$4,500,000, freeing an annual sum of \$3,500,000 for use in other directions. During the next three years Gallatin was anxious to maintain his old system, and especially to preserve peace with foreign nations; but after the year 1808 he promised to relax his severity and to provide three or four millions for purposes of internal improvement and defense. The rapid increase of revenue helped to create confidence in this calculation and to hasten decision as to the use of the promised surplus. The President had already decided to convert it into a permanent reserve fund. He looked forward to the moment when, as he expressed it, he could 'begin upon canals, roads, colleges, etc.' He no longer talked of 'a wise and frugal government which shall restrain men from injuring one another, which shall leave them otherwise free to regulate their own pursuits of industry and improvement, and shall not take from the mouth of labor the bread it has earned'; he rather proposed to devote a third of the national revenues to improvements and to regulation of industries.

This theory of statesmanship was broader than that which he had proclaimed four years earlier. Jefferson proved the liberality and elevation of his mind; and if he did this at some cost to his consistency, he did only what all men had done whose minds kept pace with the movement of their time. So far as he could see at the threshold of his second term, he had every reason to hope that it would be more successful than his first. He promised to annihilate opposition; and no serious obstacle seemed in his path. No doubt his concessions to the spirit of nationality, in winning support from moderate Federalists and self-interested democrats, alienated a few States-rights Republicans, and might arouse uneasiness among old friends; but to this Jefferson resigned himself. He

parted company with the 'mere metaphysical subtleties' of John Randolph. Except in his aversion to military measures and to formal etiquette, he stood nearly where President Washington had stood ten years before.

The New England hierarchy might grumble, but at heart Massachusetts was already converted. Only with the utmost difficulty, and at the cost of avoiding every aggressive movement, could the Federalists keep control of their State Governments. John Randolph flattered himself that if Jefferson's personal authority were removed from the scale, Virginia would again incline to her old principles; but he was mistaken. So long as Virginia held power, she was certain to use it. At no time since the Declaration of Independence had the prospects of nationality seemed so promising as in the spring of 1805. With the stride of the last four years as a standard for the future, no man could measure the possible effects of the coming four years in extending the powers of the Government and developing the prosperity of the nation. Gallatin already meditated schemes of internal improvements, which included four great thoroughfares across the Alleghanies, while Fulton was nearly ready with the steamboat. The Floridas could not escape the Government's grasp. Even New England must at last yield her prejudices to the spirit of democratic nationality.

No one could wonder if Jefferson's head was somewhat turned by the splendors of such a promise. Sanguine by nature, he felt that every day made more secure the grandeur of his destiny. He could scarcely be blamed for putting a high estimate on the value of his services, for in all modesty he might reasonably ask what name recorded in history would stand higher than his own for qualities of the noblest order in statesmanship. Had he not been first to conceive and to put in practice the theories of future democracy? Had he not succeeded in the experiment? Had he not doubled the national domain? Was not his government a model of republican virtues? With what offense against the highest canons of personal merit could he be charged? What ruler of ancient or modern times, what Trajan or Antonine, what Edward or Louis, was more unselfish or was truer to the interests entrusted to his care? Who had proposed to himself a loftier ideal? Among all the kings and statesmen who swayed the power of empire, where could one be found who had looked so far into the future, and had so boldly grappled with its hopes?



## CHAPTER THIRTY-ONE

### *Monroe's Diplomacy*

**D**URING THE ADMINISTRATIONS of Jefferson and Madison, foreign relations were guided by motives in which the Northern people felt little sympathy. The people of the Northern States seemed almost unwilling to know what the people of the Southern States were thinking or doing in certain directions, and their indifference was particularly marked in regard to Florida. Among the varied forms of Southern ambition, none was so constant in influence as the wish to acquire the Floridas, which at moments decided the action of the Government in matters of the utmost interest; yet the Northern public, though complaining of Southern favoritism, neither understood nor cared to study the subject, but turned impatiently away whenever the Floridas were discussed, as though this were a local detail which in no way concerned the North. If Florida failed to interest the North, it exercised the more control over the South and over a Government Southern in character and purpose. Neither the politics of the Union nor the development of events could be understood without treating Florida as a subject of the first importance. During the summer and autumn of 1805 — a period which John Randolph justly regarded as the turning-point of Republican administration — Florida actually engrossed the attention of the Government.

On arriving at Madrid, Monroe found Charles Pinckney waiting in no happy temper for a decision in regard to himself. Pinckney's recall was then determined upon, and his successor chosen. He was anxious only to escape the last humiliation of being excluded from the new negotiation by Monroe. From this fear he was soon relieved. Monroe shared his views; allowed him to take part in the conferences, and to put his name to the notes. The two ministers acted in harmony.

Nearly a month was consumed in the necessary preliminaries. Not until January 28, 1805, were matters so far advanced that Monroe could present his first note. Following his instructions, he put forward all the claims which had been so often discussed — the Spanish and French spoils; the losses resulting from suppression of the entrepôt at New Orleans in 1802; the claim of West Florida, and that to the Rio Bravo. With the note the two envoys enclosed the *projet* of a treaty — to which

could be made only the usual objection to one-sided schemes, that it required Spain to concede every point and offered no equivalent worth mention. Spain was to cede both the Floridas, and also Texas as far as the Rio Colorado, leaving the district between the Colorado and the Rio Bravo as a borderland not to be further settled. She was to create a commission for arranging the spoliation and entrepôt claims; and this commission should also take cognizance of all claims that might be made by Spanish subjects against the United States Government.

To this note and *projet* Don Pedro Cevallos quickly replied. Availing himself of an inadvertent sentence in Monroe's opening paragraph, to the effect that it was necessary to examine impartially the several points at issue in each case, Cevallos informed the Americans that in accordance with their wish he would first examine each point separately and then proceed to negotiation. He proposed to begin with the claims convention of August, 1802.

Commonly nothing gratified American diplomatists more than to discuss questions which they were ordered to take in charge. Yet the readiness shown by Cevallos to gratify this instinct struck Monroe as a bad sign; he saw danger of lowering the national tone, and even of becoming ridiculous, if he allowed the Spaniards to discuss indefinitely claims which the United States had again and again asserted to be too plain for discussion.

Monroe had no choice but to break through the diplomatic net in which he had wound himself; and at length, May 12, 1805, he sent a general ultimatum to the Spanish Government: If Spain would cede the Floridas, ratify the claims convention of August, 1802, and accept the Colorado as the Texan boundary, the United States would establish a neutral territory a hundred miles wide on the eastern bank of the Colorado, from the Gulf to the northern boundary of Louisiana; would assume the French spoliation claims, abandon the entrepôt claims, and accept the cession of West Florida from the King, thereby abandoning the claim that it was a part of Louisiana.

To this note Cevallos replied three days afterward by a courteous but decided letter, objecting in various respects to Monroe's offers, and summing up his objections in the comment that this scheme required Spain to concede everything and receive nothing; she must give up both the Floridas, half of Texas, and the claims convention, while she obtained

as an equivalent for these concessions only an abandonment of claims which she did not acknowledge.

Three days later Monroe demanded his passports. For once, Cevallos showed as much promptness as Monroe could have desired. Without expressing a regret, or showing so much as a complimentary wish to continue the negotiation, Cevallos sent the passports, appointed the very next day for Monroe's audience of leave, and bowed the American envoy out of Spain.

In October, Pinckney took leave and returned to America, and George W. Erving was sent from London to take charge of the Legation at Madrid. Erving made an excellent representative within the narrow field of action open to him as a mere chargé d'affaires; but he could do little to stem the current of Spanish desperation. The Prince of Peace, driven by France, England, and America nearer and nearer to the precipice that yawned for the destruction of Spain, was willing to see the world embroiled, in the hope of finding some last chance in his favor. When Erving in December, five months after Monroe's departure, went to remonstrate against seizures of American ships in flagrant violation of the Treaty of 1795, Godoy received him with the good-natured courtesy which marked his manners. 'How go our affairs?' he asked; 'are we to have peace or war?' Erving called his attention to the late seizures. The Prince replied that it was impossible for Spain to allow American vessels to carry English property. 'But we have a treaty which secures us that right,' replied Erving. 'Certainly, I know you have a treaty, for I made it with Mr. Pinckney,' rejoined Godoy; and he went on with entire frankness to announce that the 'free-goods' provision of that treaty would no longer be respected. Then he continued, with laughable coolness: 'You may choose either peace or war. 'Tis the same thing to me. I will tell you candidly, that if you will go to war this certainly is the moment, and you may take our possessions from us. I advise you to go to war now, if you think that is best for you; and then the peace which will be made in Europe will leave us two at war.'

Defiance could go no further. Elsewhere the Prince openly said that the United States had brought things to such a point as to leave Spain indifferent to the consequences. In war the President could only seize Florida; and Florida was the price he asked for remaining at peace. Mexico and Cuba were beyond his reach. Meanwhile, Spain not only

saved the money due for the old claims, but plundered American commerce, and still preserved her title to the Floridas and Texas — a title which, at least as concerned the Floridas, the Americans must sooner or later extinguish.

Such was the result of the President's diplomacy in respect to Spain. War was its only natural outcome — war with Spain; war with Napoleon, who must make common cause with King Charles; coalition with England; general recurrence to the ideas and precedents of the last Administration. Jefferson had exasperated Spain and irritated France. He must next decide whether this policy should be pursued to its natural result.

Leaving the Spanish affair embroiled beyond disentanglement, Monroe recrossed the Channel, and July 23 found himself again in London. During a century of American diplomatic history, a minister of the United States has seldom if ever within six months suffered, at two great Courts, such contemptuous treatment as had then fallen to Monroe's lot. That he should have been mortified and anxious for escape was natural. He returned to England, meaning to sail as quickly as possible for America. Hoping to sail at latest by November 1, he selected his ship, and gave notice to the British Foreign Office. In his own interests no step could have been wiser, but it was taken too late; the time lost in Spain and at Paris had been fatal to his plan, and he could no longer avoid another defeat more serious, and even more public, than the two which had already disturbed his temper.

That the American minister in London at any time should for six months leave his post, even in obedience to instructions, was surprising; but that he should have done this in 1804, after Pitt's return to power, was matter of amazement. Pitt had made good use of Monroe's absence. During the winter of 1804-1805, Parliament passed several Acts tending to draw all the West Indian commerce into British hands. These measures were intended to force the trade of the French and Spanish colonies into a British channel; but all were secondary to a direct attack on American commerce. While Parliament and Council devised the legislation and rules necessary for taking charge of the commerce of Cuba, Martinique, and the other hostile colonies, the Lords of Appeals were engaged in providing the law necessary for depriving America of the same trade. July 23, 1805, Sir William Scott pronounced judgment in the

case of the *Essex*. Setting aside his ruling in the case of the *Polly*, he held that the neutral cargo which came from Martinique to Charleston, and thence to London, was good prize unless the neutral owner could prove, by something more than the evidence of a custom-house entry, that his original intention had been to terminate the voyage in an American port. In consequence of this decision, within a few weeks American ships by scores were seized without warning; neutral insurance was doubled; and the British merchantmen vied with the royal navy in applauding the energy of William Pitt.

Of the decision as a matter of morality something might be said. That Pitt should have planned such a scheme was not surprising, for his moral sense had been blunted by the desperation of his political struggle; but the same excuse did not apply to Sir William Scott. The quarrel between law and history is old, and its source lies deep. Perhaps no good historian was ever a good lawyer: whether any good lawyer could be a good historian might be equally doubted. The lawyer is required to give facts the mold of a theory; the historian need only state facts in their sequence.

In law, Sir William Scott was considered as one of the greatest judges that ever sat on the English Bench, a man of the highest personal honor, sensitive to any imputation on his judicial independence — a lawyer in whom the whole profession took pride. In history, he made himself and his court a secret instrument for carrying out an act of piracy. The law defends him by throwing responsibility upon the political chiefs who were bound to make compensation to the plundered merchants if compensation was due. The judge's duty began and ended by declaring what was law. History replies that whatever may be the strictly professional aspect of this famous judgment, in its nature it was a political act, and was known by the judge to be such. As a political measure its character was equivalent to a declaration of war, and did not materially differ from the more violent seizure of the Spanish treasure-ships by Pitt's order in the previous October. The lawyers justified that seizure also; the King's Advocate defended it in the House of Commons by the simple explanation that England was not in the habit of declaring war, but usually began hostilities by some act of force. Lord Grenville, whom Pitt had entreated only a few months before to join the new Ministry, and who was certainly considered as, next to Pitt himself, the highest political authority in England, was not deterred by this reasoning from

denouncing the seizure of the Spanish galleons as an atrocious act of barbarity, contrary to all the law of nations, which stamped indelible infamy on the English name. Lord Grey, another high authority, stigmatized it as combining violence, injustice, and bad faith. The seizure of the American ships was an act different in its nature only in so far as Sir William Scott condescended to throw over it in advance the ermine that he wore.

Monroe reached London on the very day when Sir William Scott pronounced his fatal decision in the case of the *Essex*. Lord Harrowby no longer presided over the Foreign Office; he had taken another position, making way for Lord Mulgrave. The new Foreign Secretary was, like most of Pitt's Ministers in 1805, a Tory gentleman of moderate abilities. Except as a friend of Pitt he was unknown. His character and opinions seemed wholly without importance. To Lord Mulgrave, Monroe addressed himself; and he found the Foreign Secretary as ready to discuss, and as slow to concede, as Don Pedro Cevallos had ever been. 'He assured me in the most explicit terms that nothing was more remote from the views of his Government than to take an unfriendly attitude toward the United States; he assured me also that no new orders had been issued, and that his Government was disposed to do everything in its power to arrange this and the other points to our satisfaction.' Yet when Monroe called his attention to the seizure of a score of American vessels in the Channel, by British naval officers who declared themselves to be acting by order, Lord Mulgrave quietly replied that the Rule of 1756 was good law, and that his Government did not mean to relax in the slightest degree from the rigor of Sir William Scott's decision.

Monroe had felt the indifference or contempt of Lord Harrowby, Talleyrand, and Cevallos: that of Lord Mulgrave was but one more variety of a wide experience. The rough treatment of Monroe by the Englishman was a repetition of that which he had accepted or challenged at the hands of the Frenchman and the Spaniard. Lord Mulgrave showed no wish to trouble himself in any way about the United States. He would not discuss the questions of impressment and commerce; and his only sign of caring to explain or excuse the measures of his Government was in regard to Captain Bradley of the *Cambrian*, who had been recalled from the American station for violations of neutrality. Monroe complained that Bradley had since been given a ship-of-the-line. Mulgrave explained

that the command of a line-of-battle ship was not necessarily a promotion, especially to an active officer accustomed to the independence and prize-money of the *Cambrian's* cruising ground.

Nevertheless, Monroe had not yet reached the bottom of his English disaster. Neither the Acts of Parliament, the Orders in Council, nor the judgment of the Lords of Appeal satisfied the suffering interests of England, however harsh they might seem to the interests of America. The new rules, the extension of licenses, the opening of free ports, tended to please the navy and shipping interests, but left the British colonists in a worse position than before; for as matters stood the whole produce of the West Indian islands, French, Spanish, and British, was to be collected in a single mass and thrown on the London market. The warehouses on the Thames were to be overfilled with sugar, on the chance that neutral ships might convey it to France. For five years the colonists had insisted that their distress was due to excess in production; but how could they check production when the French and Spanish islands were encouraged to produce? Forgetting in their despair the attachment they felt to America, the colonists attributed all their troubles to American competition. The East India Company, whose warehouses were also loaded with unsalable goods, could discover no better reason than the same neutral rivalry for the cessation of Continental demand. The ship-owners, not yet satisfied by Sir William Scott's law, echoed the same cry. All the interested classes of England, except the manufacturers and merchants who were concerned in commerce with the United States, agreed in calling upon Government to crush out the neutral trade. Sir William Scott had merely required an additional proof of its honesty; England with one voice demanded that, honest or not, it should be stopped.

This almost universal prayer found expression in a famous pamphlet that has rarely had an equal for ability and effect. In October, 1805, three months after the *Essex* decision, while Monroe was advising Madison to press harder than ever on all the great belligerent Powers, appeared in London a book of more than two hundred pages, with the title: *War in Disguise; or, the Frauds of the Neutral Flags*. The author was James Stephen, a man not less remarkable for his own qualities than for those which two generations of descendants have inherited from him. He had himself begun his career in the West Indies, and in the prize

court at St. Kitt's had learned the secrets of neutral commerce. Assuming at the outset that the Rule of 1756 was a settled principle of law, he next assumed that the greater part of the neutral trade was not neutral at all, but was a fraudulent business, in which French or Spanish property, carried in French or Spanish ships, was by means of systematic perjury protected by the prostituted American flag.

How much of this charge was true will never be certainly known. Stephen could not prove his assertions. The American merchants stoutly denied them. Alexander Baring, better informed than Stephen and far less prejudiced, affirmed that the charge was untrue, and that if the facts could be learned, more British than enemy's property would be found afloat under the American flag. Perhaps this assertion was the more annoying of the two; but to prove either the one or the other was needless, since from such premises Stephen was able to draw a number of startling conclusions which an English public stood ready to accept. The most serious of these was the certain ruin of England from the seduction of her seamen into this fraudulent service; another was the inevitable decay of her merchant marine; still another pointed to the loss of the Continental market.

Thus a conviction was established in England that the American trade was a fraud which must soon bring Great Britain to ruin, and that the Americans who carried on this commerce were carrying on a 'war in disguise' for the purpose of rescuing France and Spain from the pressure of the British navy. The conclusion was inevitable. 'Enforce the Rule of 1756!' cried Stephen; 'cut off the neutral trade altogether!' This policy, which went far beyond the measures of Pitt and the decision of Sir William Scott, was urged by Stephen with great force; while he begged the Americans, in temperate and reasonable language, not to make war for the protection of so gross a fraud. Other writers used no such self-restraint. The austere and almost religious conviction of Stephen could maintain itself at a height where no personal animosity toward America mingled its bitterness with his denunciations; but his followers, less accustomed than he to looking for motives in their Bibles, said simply that the moment for going to war with the United States had come, and that the opportunity should be seized.



## CHAPTER THIRTY-TWO

### *Between France and England*

**N**O ONE CAN SAY what might have happened if in August, 1805, Jefferson had ordered his troops to cross the Sabine and occupy Texas to the Rio Bravo, as Armstrong and Monroe advised. Such an act would probably have been supported, as the purchase of Louisiana had been approved, by the whole country, without regard to constitutional theories; and indeed, if Jefferson succeeded to the rights of Napoleon in Louisiana, such a step required no defense. Spain might then have declared war; but had Godoy taken this extreme measure, he could have had no other motive than to embarrass Napoleon by dragging France into a war with the United States, and had this policy succeeded, President Jefferson's difficulties would have vanished in an instant. He might then have seized Florida; his controversies with England about neutral trade, blockade, and impressment would have fallen to the ground; and had war with France continued two years, until Spain threw off the yoke of Napoleon and once more raised in Europe the standard of popular liberty, Jefferson might perhaps have effected some agreement with the Spanish patriots, and would then have stood at the head of the coming popular movement throughout the world — the movement which he and his party were destined to resist. Godoy, Napoleon, Pitt, Monroe, Armstrong, John Randolph, and even the New England Federalists seemed combined to drag or drive him into this path. Its advantages were so plain, even at that early moment, as to overmaster for a whole summer his instinctive repugnance to acts of force.

After long hesitation, Jefferson shrank from the step, and fell back upon his old policy of conquering by peace; but such vacillations were costly. To Gallatin the decision was easy, for he had ever held that on the whole the nation could better afford a loss of dignity than a war; but even he allowed that loss of dignity would cost something, and he could not foretell what equivalent he must pay for escape from a Franco-Spanish war. Neither Jefferson nor Gallatin could expect to be wholly spared; but Madison's position was worse than theirs, for he had still to reckon with his personal enemies — John Randolph, Yrujo, and Merry

— and to overawe a quasi-friend more dangerous than an enemy — the military diplomat, Turreau.

Turreau had resided hardly six months in the United States before he announced to Talleyrand the conviction of all American politicians that any war would end in driving from office the party which made it. Turreau's sketch of American character and ambition was long and interesting, and suggested the vulnerable point where France should throw her strength against this new people. Neither as a military nor as a naval power did he think the United States formidable. Their Government made no concealment of its weakness: 'To conquer without war is the first fact in their politics.'

These reflections were written early in July, 1805, before the President and his Cabinet had begun to discuss Monroe's failure and the policy of a Spanish war, and more than three months before the President wholly abandoned the thought of warlike measures. Turreau's vision was keen, but he had no excuse for short-sightedness. Madison made little effort to disguise his objects or methods.

I took occasion to express to Mr. Madison [wrote Turreau in the same dispatch] my astonishment that the schemes of aggrandizement which the United States Government appeared to have, should be always directed toward the south, while there were still in the north important and convenient territories, such as Canada, Nova Scotia, etc. 'Doubtless!' replied the Secretary, 'but the moment has not yet come! When the pear is ripe it will fall of itself.'

Had Turreau asked why, then, Madison gave so violent a shaking to the Florida pear tree, Madison must have answered, with the same candor, that he did so because he supposed the Florida pear to be ripe. The phrase was an admission and an invitation — an admission that Florida would have been left alone if Spain had been as strong as England; and an invitation to Turreau to interpose with safety the sword of France.

St. Domingo was still in name and in international law a colony of France. Although Rochambeau surrendered himself and his few remaining troops as prisoners of war to the English in November, 1803; although the Negroes in January, 1804, proclaimed their independence and held undisputed control of the whole French colony, while their ports were open and not an armed vessel bearing the flag of France pretended to maintain a blockade, yet Napoleon claimed that the island

belonged to him. General Ferrand still held points in the Spanish colony for France, and defeated an invasion attempted by Dessalines; nor did any Government betray a disposition to recognize the black empire, or to establish relations with Dessalines or Christophe, or with a Negro republic. On the other hand, the trade of Hayti, being profitable, was encouraged by every Government in turn; but because it was, even more than other West Indian trade, unprotected by law, the vessels which carried it were usually armed and sailed in company. In the winter of 1804-1805, soon after General Turreau's arrival at Washington, a flotilla armed with eighty cannon and carrying crews to the number of seven hundred men, set sail from New York with cargoes which included contraband of war of all kinds. Turreau remonstrated with Madison, who assured him that a law would soon be reported for correcting this abuse.

A bill was accordingly reported; but it prohibited only the armed commerce and put the trade under heavy bonds for good behavior. To answer Turreau's object the trade must be prohibited altogether. Doctor Logan, one of the Senators from Pennsylvania, who led the Northern Democrats, with the *Aurora's* support, in hostility to the Haytian Negroes, moved an amendment to the bill when it came before the Senate. He proposed to prohibit every kind of commerce with St. Domingo; and the Senate was so closely divided as to require the casting vote of the Vice-President. Burr gave his voice against Doctor Logan's amendment, and the bill accordingly passed, March 3, 1805, leaving the unarmed trade still open. Early in August, 1805, after Monroe's return to London, and while Jefferson and Madison were discussing the problem of protecting themselves from French designs, the Emperor Napoleon, who had returned from Italy and gone to the camp at Boulogne, received Turreau's dispatch, and immediately wrote in his own emphatic style to Talleyrand:

The dispatch from Washington has fixed my attention. I request you to send a note to the American minister accredited to me. You will declare to him that it is time for this thing to stop (*que cela finisse*); that it is shameful (*indigne*) in the Americans to provide supplies for brigands and to take part in a commerce so scandalous; that I will declare good prize everything which shall enter or leave the ports of St. Domingo; and that I can no longer see with indifference the armaments evidently directed against France which the American Government allows to be made in its ports.

In this outburst of temper Napoleon's ideas of law became confused. The American Government did not dispute his right to seize American vessels trading with Hayti: the difficulty was that he did not or could not do so, and for this reason he made the demand that the American Government should help him in doing what he was powerless to effect without its aid. Talleyrand immediately wrote to Armstrong a letter in which he tried to put the Emperor's commands into a shape more diplomatic, by treating the Haytians as enemies of the human race, against whom it was right that the United States should interpose with measures of hostility.

Thus, at the moment when Congress was to meet, December 2, 1805, serious problems awaited it. The conduct of Spain was hostile. At sea Spanish cruisers captured American property without regard to treaty rights; on land Spanish armed forces made incursions from Florida and Texas at will. The conduct of France was equally menacing, for Napoleon not only sustained Spain, but also pressed abrupt demands of his own such as Jefferson could not hear without indignation. As though Congress had not enough difficulty in dealing with these two Powers, Great Britain also took an attitude which could be properly met by no resistance short of a declaration of war.

During the whole year the conduct of England changed steadily for the worse. The blockade of New York by the two frigates *Cambrian* and *Leander* became intolerable, exasperating even the mercantile class, who were naturally friendly to England, and who had most to dread from a quarrel. On board the *Leander* was a young midshipman named Basil Hall, who in later years described the mode of life he led in this service, and whose account of the blockade, coming from a British source, was less liable than any American authority to the charge of exaggeration.

Every morning at daybreak [according to his story], we set about arresting the progress of all the vessels we saw, firing off guns to the right and left to make every ship that was running in heave to, or wait until we had leisure to send a boat on board 'to see,' in our lingo, 'what she was made of.' I have frequently known a dozen, and sometimes a couple of dozen, ships lying a league or two off the port, losing their fair wind, their tide, and worse than all their market, for many hours, sometimes the whole day, before our search was completed.

An informality in papers, a suspicion of French ownership, a chance

expression in some private letter found and opened in the search, insured seizure, a voyage to Halifax, detention for months, heavy costs, indefinite damage to vessel and cargo, and at best release, with no small chance of re-seizure and condemnation under some new rule before the ship could reach port.

Such vexations were incident to a state of war. If the merchants of New York disliked them, the merchants might always ask Government to resent them; but in truth commerce found its interest in submission. These vexations secured neutral profits; and on the whole the British frigates and admiralty courts created comparatively little scandal by injustice, while they served as a protection from the piratical privateers of Spain and France. Madison, Gallatin, and the newspapers grumbled and complained; but the profits of neutrality soothed the offended merchant and the blockade of New York was already a fixed practice. Had the British commanders been satisfied with a moderate exercise of their power, the United States would probably have allowed the habit of neutral blockade to grow into a belligerent right by prescription. Neither the mercantile class nor the Government would have risked profit or popularity on such a stake; but fortunately the British officers steadily became more severe, and meanwhile in their practice of impressment roused extreme bitterness among the seafaring classes, who had nothing to gain by submission. In Basil Hall's words, the British officers took out of American vessels every seaman 'whom they had reason, or supposed or said they had reason, to consider' a British subject, 'or whose country they guessed from dialect or appearance.' By these impressments American vessels were often left short-handed, and were sometimes cast away or foundered. More than twenty years afterward, when Basil Hall revisited New York, he was not surprised to find the name of his old ship, the *Leander*, still held in detestation.

After Pitt's return to power impressments increased until they averaged about a thousand a year. Among them were cases of intolerable outrage; but neither President, Congress, nor people, nor even the victims themselves, cared as a body to fight in defense of their rights and liberties. Where an American-born citizen had been seized who could prove his birth, Madison on receiving the documents sent them to Monroe, who transmitted them to the British Admiralty, which ordered an inquiry; and if the man had not been killed in action or died of disease and hard

usage, he was likely, after a year or two of service, to obtain a release. The American-born citizen was admitted to be no subject for impressment, and the number of such persons actually taken was never so large as the number of British-born sailors who were daily impressed; but both the mercantile and the national marine of the United States were largely manned by British seamen, and could not dispense with them. According to Gallatin's calculation, American tonnage increased after 1803 at the rate of about seventy thousand tons a year; and of the four thousand two hundred men required to supply this annual increase, about two thousand five hundred were British. If the British marine lost two thousand five hundred men annually by desertion or engagement in the American service, even after recovering one thousand seamen a year by impressment, the British navy made good only a fraction of the loss. On the other hand, if the United States Government went to war to protect British seamen, America would lose all her mercantile marine; and these same seamen for whom she was fighting must for the most part necessarily return to their old flag, because they would then have no other employer. The immediate result of war must strengthen the British marine by sending back to it ten thousand seamen whom America could no longer employ.

Nations rarely submit to injury without a motive. If Jefferson and the Republican Party, if Timothy Pickering and George Cabot, the merchants of Boston and New York, and even the seamen themselves, rejected the idea of war, it was because they found a greater interest in maintaining peace. This interest consisted, as regarded England, in the large profits realized in neutral freights. So long as the British navy protected this source of American wealth, Americans said but little about impressments; but in the summer of 1805 Pitt thought proper to obstruct this source, and suddenly the whole American seaboard, from Machias to Norfolk, burst into excitement, and demanded that the President should do something — they knew not what, but at moments they seemed to ask for war.

The news of Sir William Scott's decision in the case of the *Essex* reached America in the month of September, while the President and Madison were discussing an alliance with England to protect themselves against France and Spain. The announcement that Great Britain had suddenly begun to seize American ships by scores at the moment when Jefferson

counted most confidently on her willingness to oblige, was a blow to the Administration so severe that a long time elapsed before either Jefferson or Madison realized its violence. Their minds were intent on the Spanish problem; and with the question of war pressing upon them from the south, they did not at once perceive that another war was actually declared against their commerce from the north. Jefferson disliked commercial disputes and gladly shut his eyes to their meaning; Madison felt their importance, but was never quick to meet an emergency.

Merry was near Philadelphia during the autumn, when Mrs. Madison's illness obliged the Secretary to remain in that city. Early in September, Merry wrote to his Government that the complete failure of Monroe's Spanish mission was no secret, and that Madison expected some collision with Spain in West Florida, but would wait for the meeting of Congress before taking action. 'Such a determination on the part of the President,' continued Merry, 'is so consonant with his usual caution and temporizing system (to which the Opposition here give the character of timidity and irresolution), that I cannot but be disposed to give entire credit to the information.' Shortly after the date of this dispatch, news arrived that the British Government had altered its rules in regard to the neutral carrying trade, and that British cruisers were everywhere seizing American ships. Merry, who had not been forewarned by Lord Mulgrave, and who had no wish to see his own position made more uncomfortable than it already was, became uneasy. 'The sensation and clamor,' he wrote, 'excited by this news from England (which has already caused the insurance on such cargoes to be raised to four times the usual premium) is rendered the greater by such events having been totally unexpected, and by the merchants here having, on the contrary, considered themselves as perfectly secured against them.' Merry saw that his Government had in the midst of peace taken a measure which Madison could hardly fail to denounce as an act of war. Dreading a violent explosion, the British minister waited anxiously; but, to his surprise, nothing happened. 'Although I have seen Mr. Madison twice since the attention of the public has been so much engaged with this object, he has not thought proper to mention it to me.' At first Merry could not account for this silence; only by degrees was he taught to connect it with the Spanish quarrel, and to understand that Madison hoped to conciliate England in order to overawe France.

That Merry should have been exceedingly perplexed was no wonder. Two years had elapsed since his first arrival in Washington, when he had been harshly treated without sufficient reason, by President, Cabinet, and Congress; and on returning to the same place in this autumn of 1805, immediately after his Government had made war on United States commerce, he found himself received with surprising cordiality. Immediately on his return, about October 20, he called at the White House. Instead of finding the President in a passion, denouncing Pitt and the British nation, as he might reasonably have expected, Merry was delighted to find Jefferson in his most genial humor. Not a word was said about British outrages; his conversation assumed the existence of a close concert and alliance between England and the United States.

Meanwhile the Secretary of State was engaged in composing a pamphlet, or book, to prove that the new rule adopted by Great Britain was an act of bad faith, in violation of international law. The task was not difficult.



## CHAPTER THIRTY-THREE

### *The Florida Message*

**AUGUST 27, 1805**, President Jefferson, writing to Madison from Monticello, said: 'Considering the character of Bonaparte, I think it material at once to let him see that we are not of the Powers who will receive his orders.' In Europe, on the same day, the Emperor broke up the camp at Boulogne and set his army in motion toward Ulm and Austerlitz. September 4 he was at Paris, busy with the thousand details of imminent war: his armies were in motion, his vast diplomatic and military plans were taking shape.

The United States minister at Paris had little to do except to watch the course of events, when during the Emperor's absence at Boulogne he received a visit from a gentleman who had no official position, but who brought with him a memorandum, written in Talleyrand's own hand, sketching the outlines of an arrangement between the United States and Spain. The United States, said this paper, should send another note to the Government at Madrid, written in a tone and manner that would awaken Spain from her indifference. In this note the Prince of Peace should be warned of the consequences that would follow a persistence in his course, and should be encouraged to join with the United States in referring to Napoleon the matters in dispute. In case Spain would not unite in asking the good offices of France, a copy of the note must be sent by Armstrong to Talleyrand, with a request for the good offices of Napoleon. 'The more you refer to the decision of the Emperor, the more sure and easy will be the settlement.' If Spain, on the Emperor's representations, should consent to part with the Floridas, as she no doubt would do, France would propose the following terms: Commercial privileges in Florida as in Louisiana; the Rio Colorado and a line northwestwardly, including the headwaters of all those rivers which fall into the Mississippi, as the western boundary of Louisiana, with thirty leagues on each side to remain unoccupied forever; the claims against Spain, excluding the French spoliations, to be paid by bills on the Spanish colonies; and, finally, ten million dollars to be paid by the United States to Spain.

Armstrong rejected the conditions on the spot. They sacrificed, he said, the whole country between the Colorado and the Rio Bravo; aban-

done the claim to West Florida, the claim to damages from the violation of entrepôt at New Orleans, and the claim, estimated at six millions, for French spoliations. They gave to Spain an accommodation for her payments beyond what she herself required; and they exacted the enormous sum of ten million dollars for a barren and expensive province.

September 4, the day of Napoleon's return to Paris, a long conversation followed. On both sides vigorous argument was pressed; but the Frenchman closed by saying: 'I see where the shoe pinches. It is "the enormous sum of ten million dollars"; but say seven! Your undisputed claims on Spain amount to two and a half or three millions. The arrangement as thus altered would leave four for Spain. Is not this sum within the limits of moderation?' Armstrong replied that he had nothing to say on the money transaction, but would immediately transmit Talleyrand's memorandum to the President. His dispatch on the subject was accordingly sent, September 10, 1805.

Armstrong had little acquaintance with the person who brought the memorandum for his sole credential, and knew him only as a political agent of the Government, who rested his claim to credit, not on any authority from the Emperor, but on an unsigned document in Talleyrand's handwriting. 'This form of communication he said had been preferred on account of greater security; it was a proof of the Minister's habitual circumspection, and of nothing else.' To most Frenchmen it might have seemed rather an example of Talleyrand's supposed taste for jobbery, and the United States Government had reason to know what was likely to be the outcome of such overtures; but Armstrong was not unused to intrigue, and did not affect virtue above the comprehension of the society in which he lived.

A fortnight afterward the Emperor left Paris for his campaign in Germany. While Armstrong's dispatch was still on its way to Washington, Napoleon captured Ulm, and November 13 entered Vienna. On the same day the dispatch reached the United States.

Jefferson's Cabinet council of November 12 had barely come to its long-disputed conclusion, and decided to reopen the Florida negotiation as a French bargain, when Talleyrand's memorandum arrived, fixing definitely his terms. Naturally, the President supposed that Florida might thenceforward be looked upon as his own. At the next Cabinet he laid Armstrong's letter before the four secretaries.

At last, after more than six months of hesitation, a Spanish policy was fixed; and since it conceded every point which had been required by France, the President might reasonably hope that his difficulties were at an end. He did not venture to send instructions to Armstrong at once, because the authority of Congress was needed before pledging the Government to pay so large a sum of money; but Congress was to meet within a few weeks, and Jefferson could safely assume that the instructions would not be delayed beyond the New Year.

The President was greatly relieved to see the end of this annoying imbroglio; the more, because he could no longer shut his eyes to the conduct of Great Britain. The merchants of Boston, New York, Philadelphia, and Baltimore were frantic with rage and despair, hearing every day of new seizures, which swelled their losses to a sum then quite appalling and carried ruin to their fairest fortunes. The carrying trade was not a matter about which Jefferson cared to quarrel, for he held that Americans should not meddle with a commerce which did not belong to them; yet the public anger was far stronger against England than against Spain, and although the newspapers talked incessantly of a Spanish war, Jefferson soon felt that he should find great difficulty in preserving a British peace. That he should incline to a war with Spain in alliance with England was natural; but under no circumstances, and for no object, did Jefferson wish for war with Great Britain. From the first he had relied upon his powers to coerce her by peaceable means; and the time had come when some coercion must be applied. No one could longer doubt that Pitt meant to keep what he had taken, and that the British policy was preconcerted with deliberate purpose.

When Merry next called at the State Department he heard nothing more about the misconduct of Spain or the advantages of a powerful British navy. Madison raised his tone awkwardly. The Secretary told the British minister that the Government of England had committed 'an act of commercial hostility on this country, and that the citizens of the United States would have a just claim of indemnity for whatever effective losses they might sustain in consequence of it; and he feared that these would be very considerable.' He hinted that measures would be taken to seek redress; and although he did not then foreshadow these measures, Merry read two days afterward in the *National Intelligencer* the resolutions and speech in which Madison, in the year 1794, had urged

commercial restrictions as the true policy of the United States against the same British outrages. The motive of republication was plain.

At about the same time Madison finished his pamphlet called *Examination of the British Doctrine*, which in the course of the coming session was laid on the desk of every Senator and Member. The book was creditable to his literary and scholarly qualities. Clear, calm, convincing, it left the British Government no excuse for its conduct; but, not without reason, John Randolph objected that as an argument it was but a shilling pamphlet against eight hundred British ships-of-war. That Pitt could occasionally be convinced of his mistakes was certain; but no reasoners except Napoleon and Moreau had ever effectually convinced him.

Meanwhile, the President prepared his Message. Of all Jefferson's writings none had a livelier interest than the Annual Message at the meeting of the Ninth Congress. The second Inaugural, nine months before, prepared the public for new political opinions; but the Message surprised even those who looked for surprises. The second Inaugural seemed to sweep old Republican principles to the common rubbish-heap of outworn political toys. The Message went even further, and seemed to announce that the theory of foreign affairs on which the Republican Administration began its career must be abandoned.

The Message began by an allusion to the yellow fever; from which it quickly turned to discuss the greater scourge of war:

Since our last meeting the aspect of our foreign relations has considerably changed. Our coasts have been infested and our harbors watched by private armed vessels; some of them without commissions, others with those of legal form, but committing piratical acts beyond the authority of their commissions. . . . The same system of hovering on our coasts and harbors, under color of seeking enemies, has been also carried on by public armed ships, to the great annoyance and oppression of our commerce. New principles, too, have been interpolated into the law of nations, founded neither in justice nor the usage or acknowledgment of nations. . . . With Spain our negotiations for a settlement of differences have not had a satisfactory issue. . . . Propositions for adjusting amicably the boundaries of Louisiana have not been acceded to. . . . We ought still to hope that time, and a more correct estimate of interest as well as of character, will produce the justice we are bound to expect; but should any nation deceive itself by false calculations, and disappoint that expectation, we must join in the unprofitable contest of trying which party can do the other the most harm. Some of these injuries may perhaps admit a peaceable

remedy. Where that is competent it is always the most desirable. But some of them are of a nature to be met by force only, and all of them may lead to it.

From this preamble the public would naturally infer that measures of force were to be the object of the Special Message promised in regard to Spanish aggressions. As though to leave no doubt on the subject, the President urged the fortification of seaports, the building of gunboats, the organization of militia, the prohibition of the export of arms and ammunition; and added that the materials for building ships-of-the-line were on hand.

All this formality of belligerent language was little better than comedy. Jefferson could hardly be charged with a wish to deceive, since he could not wear the mask of deception. Both friends and enemies were amused to see how naturally he betrayed objects which his plan required should be concealed. In the first draft of the Message, sent for corrections to Gallatin, the financial prospect was as pacific as the diplomatic was warlike; the Message not only announced a surplus for the coming year, but suggested the reduction of taxes. Gallatin pointed out that the English seizures alone would affect the revenue, and any measures of retaliation would still further diminish it; while the navy had increased its estimates from six hundred and fifty thousand dollars to one million and seventy thousand dollars. As for the hint at a reduction of taxes, Gallatin at once struck it out. 'As it relates to foreign nations, it will certainly destroy the effect intended by other parts of the Message. They never can think us serious in any intentions to resist, if we recommend at the same time a diminution of our resources.'

Jefferson was an honest man, and in putting on the outward appearance of a Talleyrand, he resembled an amateur imitating Talma and Garrick. Gestures and tones alike were unnatural, awkward, and false; they exposed him to ridicule. If President Jefferson had taken the public into his confidence, he would have told the people that under no circumstances would he consent to war; but that if the great Powers of Europe combined to injure America, she would close her ports, abandon her commerce, shut herself within her own continent, and let the world outside murder and rob elsewhere. Such an avowal implied no disgrace; the policy it proclaimed was the alternative to war; and as the radical doctrine of the Republican Party, the course was not only that which

Jefferson meant to take, but it was that which he took. The avowal might have invited aggression and have been followed by failure; but he would have done better to fail on a direct issue of principle than to fail after evading the issue until the issue itself was lost.

To carry out his scheme, the President put forward two policies — a public and a secret; or, as he called it, an ostensible and a real one. The warlike recommendations of the Annual Message were the public and ostensible policy; the real one was to be expressed in a secret Message, announced in advance. To this coming Message the President next turned his attention; but he found himself quickly involved in complications of his own creating. He had not only to recommend a double series of measures to Congress, but he had to frame a double series of replies which Congress was to return to him. He tried at first to combine the two answers in one. After writing a secret Message asking for money to buy Florida, he drafted a series of resolutions which Congress was to adopt in reply to both Messages at once, and in which 'the citizens of the United States, by their Senate and Representatives in Congress assembled, do pledge their lives and fortunes' to maintain the line of the Sabine and the free navigation of the Mobile, pending negotiations, while the President should be authorized to take whatever unappropriated moneys might lie in the Treasury in order to carry these resolutions into effect.

Clearly this would not do; and Gallatin undertook to set the matter right. Double Messages breathing war and peace were prepared. Double answers were sketched out. Congress had only to act with the same quickness and secrecy which it had shown in the Louisiana business; and of its readiness to do so, no one in the Cabinet seemed to doubt.

Yet nations could not so readily as individuals swing about on a course opposite to that which they had been led to expect. The American public had been wrought to anger against Spain. Of the negotiations little was publicly known. Monroe had come, and gone; the Marquis Yrujo had remonstrated, and had written in newspapers; but the rights and wrongs of the Spanish dispute remained a mystery to the public at large, which knew only that Spain had rejected all the offers made by the United States, had resumed her depredations on American commerce, and had taken a menacing attitude at Mobile and on the Sabine. Throughout the year the Republican press had followed hints from the

Government at Washington, all looking toward a rupture with Spain. The same newspapers had shown at first a wish to make light of the late British seizures — a course which misled the Federalist press into denunciations of England such as would never have been risked had the party in power not seemed disposed to apologize for England's conduct. The country at large was prepared to hear the President advise a rupture with Spain, and upon that rupture to found his hope of success in negotiating with Pitt. The warlike tone of the Annual Message was certain to give additional strength to this expectation; and Jefferson might have foreseen that the sudden secret change of tone to be taken immediately afterward in the Special Message on Spanish affairs would produce bewilderment among his followers.

No one could doubt where the confusion would first appear. The last session had ended in a series of quarrels, in which party distinctions had been almost forgotten. The summer had done nothing to reunite the factions; on the contrary, it had done much to widen the breach. Three years before the election of 1808, Congress was already torn by a Virginia feud — a struggle for power between John Randolph and James Madison.

No one who knew the men, or who had followed the course of President Jefferson's first Administration, could feel surprise that Madison's character should act on John Randolph as an irritant. Madison was cautious, if not timid; Randolph was always in extremes. Madison was apt to be on both sides of the same question, as when he wrote the *Federalist* and the Virginia Resolutions of 1798; Randolph pardoned dalliance with Federalism in no one but himself. Madison was in person small, retiring, modest, with quiet malice in his humor, and with marked taste for closet politics and delicate management; Randolph was tall in stature, abrupt in manner, self-asserting in temper, sarcastic, with a pronounced taste for publicity, and a vehement contempt for those silent influences which more practical politicians called legitimate and necessary, but which Randolph, when he could not control them, called corrupt. Jefferson soon remarked, in regard to what Randolph denounced as back-stairs influence, 'We never heard this while the declaimer was himself a back-stairs man.'

Intrigue and dissension could not be confined to the House, but must spread to the Senate, and could hardly fail to affect even the Cabinet. While Gallatin's personal sympathies were with Madison, his political

bias was on the opposite side. The old Republicans, with John Randolph at their head, had steadily protected the Treasury from jobs and extravagance; without their help Gallatin would lie at the mercy of the Northern democrats, who were not behind the Federalists in their willingness to spend money. He might expect an alliance between the Northern democrats and the Smith faction which controlled the Navy Department. To such a combination he must have foreseen that Madison would yield.

In the face of such latent feuds nothing could be more hazardous than to spring upon Congress, in Madison's interests, a new, tortuous, complicated Spanish policy, turning on the secret assurance that France could be bribed with five million dollars, at the moment when Congress would be required to begin a commercial war upon England. Whether Madison was responsible for these measures or not, his enemies would charge him with the responsibility; and even without such attacks from his own party, he was struggling with enemies enough to have crushed Jefferson himself.

Early in December, all the actors in the drama assembled, to play another act in a tragi-comedy of increasing interest. With his old sanguine hopes, but not with all his old self-confidence, the President watched them slowly arrive — Democrats, Federalists, Southern Republicans, all equally ignorant of what had been done, and what they were expected to do; but more curious, better-informed, and more sharp-sighted than these, the three diplomatists, Turreau, Merry, and Yrujo, waiting with undisguised contempt to see what species of coercion was to be employed against England, France, and Spain.

To impose on hostile forces and interests the compulsion of a single will was the task and triumph of the true politician, which had been accomplished, under difficult conditions, by men of opposite characters. A political leader might be combative and despotic, or pliant and conciliatory. The method mattered little, provided it obtained success — but success depended more on character than on maneuvers. In the winter of 1805–1806, President Jefferson dealt with a problem such as few Americans have been required to solve. Other Presidents have met with violent opposition both within and without the ranks of their party; but no other President has been obliged to face a hostile minority, together with violent factiousness in the majority, and at the same time a spirit of aggression showing itself in acts of war from three of the greatest



Powers of Europe. If ever the Federalist 'crisis' seemed close at hand, it was in December, 1805. Some energetic impulse could alone save the country from drifting into faction at home and violence abroad.

All might go well if England, France, and Spain could be obliged to respect law. To restrain these three Governments was Jefferson's most urgent need. The three envoys waited to see what act of energy he would devise to break through the net which had been drawn about him. Turreau enjoyed most of his confidence; and soon after the meeting of Congress, at the time when Jefferson was publicly using 'strong language toward Spain,' meant to produce an effect at the Tuileries, Turreau wrote interesting accounts of his private conversation for the guidance of Talleyrand and Napoleon:

After some complaints about Spanish privateers, and the protection which Spain granted to ours in particular, Mr. Jefferson expanded on the griefs of the Americans in regard to some excursions of Spanish patrols beyond the limits provisionally established, and, in consequence, within the Territory of Louisiana. I replied that doubtless the Spanish Government had not authorized these steps, and that the mistakes of a few subalterns could not produce serious differences between the two Powers. 'That is true, but,' he added, 'these Spaniards are so stupid (*bêtes*), their Government so detested,' etc. It was not easy to contradict him on this point. As for the English, his complaints and reproaches have been much more serious. He has assured me that they have taken five hundred American ships; that they could not have done more harm had they been at war with America; yet that England would in vain try, as against the Americans, to destroy neutral rights. 'In that respect,' added Mr. Jefferson, 'we have *principles* from which we shall never depart; our people have commerce everywhere, and everywhere our neutrality should be respected. On the other hand, we do not want war — and all this is very embarrassing.'

Turreau's comment on these words may have affected the policy of Napoleon, as it must certainly have had weight with Talleyrand:

If your Excellency was not already acquainted with the man and his Government, this last phase would be enough to enable you to judge the one and the other.

## CHAPTER THIRTY-FOUR

### *The Two-Million Act*

THE NINTH CONGRESS met December 2, 1805. During no period of eight years did Congress contain a smaller number of remarkable members than during the two Administrations of Jefferson, from 1801 to 1809; and if the few Federalists in Opposition were left out of view, the American people had in the Ninth Congress hardly a single Representative, except John Randolph, capable of controlling any vote but his own. In the Senate, when George Clinton took his seat as Vice-President, he saw before him, among the thirty-four Senators, not less than twenty-seven who belonged to his own party; yet among these twenty-seven Republican members of the Senate was not one whose name lived. In the whole Senate not a Republican member could be found competent to defend a difficult financial or diplomatic measure as Gallatin or Madison could have done it, or would have wished it to be done.

In the House the Administration could count upon equally little aid. Setting aside John Randolph and Joseph Nicholson, who were more dangerous than any Federalist of New England to Government, the huge Republican majority contained no man of note. Its poverty was startling. Gallatin clung to Randolph as the only member of the House competent to conduct the public business; and no small part of Randolph's arrogance toward his own followers was due to his sense of intellectual superiority and to the constant proof that they could do no business without his aid. Randolph was rarely arrogant in the face of men whose abilities were superior to his own, or whose will was stronger; he domineered over those whom he thought his inferiors. In the Ninth Congress he met no rival in his own party.

The President's Message was read December 3, and produced the effect to be expected. The country received it with applause as a proof of vigor. In Baltimore, and along the seaboard, it was regarded as equivalent to a declaration of war against Spain; it stopped trade, raised insurrection, and encouraged piracy. The Federalist press throughout the country, except the *Evening Post*, affected to admire and praise it. 'Federalism revived!' said the bitter *Washington Federalist*; 'dignified, firm,

and spirited.' 'This day we have been astonished,' wrote a correspondent to the *Boston Centinel*; 'the President's speech is, in principle, almost wholly on the Washington and Adams system. It has puzzled the Federalists and offended many of the Democrats. It is in perfect non-conformity to all the former professions of the party.' The Federalists exaggerated their applause in order to irritate John Randolph and his friends, who could not fail to see that the Message strengthened Madison at the expense of the old Republicans. Jefferson's private language was not less energetic than his public Message. Among the favorite ideas which the President urged was that of claiming for America the ocean as far as the Gulf Stream, and forbidding hostilities within the line of deep-sea soundings. One of the Massachusetts Senators to whom he argued this doctrine inquired whether it might not be well, before assuming a claim so broad, to wait for a time when the Government should have a force to maintain it. The President replied by insisting that the Government 'should squint at it'; and he lost no chance of doing so. He assured his friends that no privateer would ever again be permitted to cruise within the Gulf Stream.

Such an attitude, public and private, roused much interest. Congress waited anxiously for the promised Special Message on Spanish affairs, and did not wait long. December 6, only three days after the Annual Message was sent in, the special and secret Message followed; the House closed its doors, and the members listened eagerly to a communication which they expected to be, what it actually was, a turning-point in their politics.

The Message very briefly narrated the story of the unratified claims convention, ending in Monroe's diplomatic misfortunes, and announced that the Spaniards showed every intention of advancing from Texas until they should be repressed by force.

Considering that Congress alone is constitutionally invested with the power of changing our condition from peace to war, I have thought it my duty to await their authority for using force in any degree which could be avoided. I have barely instructed the officers stationed in the neighborhood of the aggressions to protect our citizens from violence, to patrol within the borders actually delivered to us, and not to go out of them, but when necessary to repel an inroad or to rescue a citizen or his property.

Passing next to the conduct of Napoleon, the Message mentioned the

decided part taken by France against the United States on every point of the Spanish dispute;

her silence as to the Western boundary leaving us to infer her opinion might be against Spain in that quarter. Whatever direction she might mean to give to these differences, it does not appear that she has contemplated their proceeding to actual rupture, or that at the date of our last advices from Paris her Government had any suspicion of the hostile attitude Spain had taken here. On the contrary, we have reason to believe that she was disposed to effect a settlement on a plan analogous to what our ministers had proposed, and so comprehensive as to remove as far as possible the grounds of future collision and controversy on the eastern as well as western side of the Mississippi. The present crisis in Europe is favorable for pressing such a settlement, and not a moment should be lost in availing ourselves of it. Should it pass unimproved, our situation would become much more difficult. Formal war is not necessary, it is not probable it will follow; but the protection of our citizens, the spirit and honor of our country, require that force should be interposed to a certain degree. It will probably contribute to advance the object of peace. But the course to be pursued will require the command of means which it belongs to Congress exclusively to yield or to deny. To them I communicate every fact material for their information, and the documents necessary to enable them to judge for themselves. To their wisdom, then, I look for the course I am to pursue, and will pursue with sincere zeal that which they shall approve.

After the reading of this Message, the House was more perplexed than ever. The few Federalists sneered. The warlike tone of the Annual Message, contradicting their theory of Jefferson's character, had already ended, as they believed, in surrender. John Randolph was angry. He felt that the President had assumed, for Madison's political profit, the tone of public bravado toward England and Spain, while Congress was required to overrule Madison's bold policy and to impose on the country what would seem a crouching cowardice of its own. The Message was at once referred to a special committee of seven members, with Randolph at its head, his friend Nicholson second in the number, John Cotton Smith, a vigorous Federalist, coming third.

To this point the Louisiana precedent was closely followed, and Randolph seemed to have no excuse for refusing to do in 1805 what he had done in 1802; yet nothing could be surer than that the Randolph of 1805

was a very different man from the Randolph of three years before, as the Republican Party of 1805 widely differed from the party which first elected Jefferson to the Presidency. No double-dealing, hesitation, or concealment was charged against Randolph. According to his own story, he called upon the President immediately, and learned, not without some surprise, that an appropriation of two millions was wanted to purchase Florida. He told the President without reserve 'that he would never agree to such a measure, because the money had not been asked for in the Message; that he could not consent to shift upon his own shoulders or those of the House the proper responsibility of the Executive; but that even if the money had been explicitly demanded, he should have been averse to granting it, because, after the total failure of every attempt at negotiation, such a step would disgrace us forever' — with much more to the same effect, which was mildly combated by Jefferson.

During the following week Randolph had several interviews with the President and Secretary of State. Madison told him 'that France would not permit Spain to adjust her differences with us; that France wanted money, and that we must give it to her, or have a Spanish and French war.' If Madison said this, he told the truth. Randolph made an unfair use of the confidential words; for he proclaimed them as his excuse for declaring a public and personal war on the Secretary of State, which he waged thenceforward in a temper and by means so revolting as in the end to throw the sympathies of every unprejudiced man on the side of his victim.

The serious charge against Madison was one which Madison alone could reveal. Down to October 23 he had held Randolph's view and had protested against turning the Spanish negotiation into a French job. He could hardly blame Randolph for adhering to an opinion which had been held by President and Cabinet until within a few weeks, when they had abandoned it without explanation or excuse.

Stubbornly refusing to act, Randolph, December 14, mounted his horse and rode to Baltimore, leaving the President for the moment helpless. Every hour's delay shook party discipline and imperiled Armstrong's success. The President appealed to Nicholson; but Nicholson also disliked the intended policy and could be persuaded to use his influence only so far as would enable the committee to act, with the understanding that its action would be adverse to the President's wishes. Although the

situation was still secret, it threatened to become scandalous, and soon became so altogether.

December 21, Randolph returned. As he dismounted at the Capitol, he was received by Nicholson, who told him of the irritation which his delay had caused. The committee was instantly called together. As Randolph went to the committee-room he was met by Gallatin, who put into his hands a paper headed, 'Provision for the purchase of Florida.' Although Gallatin's relations with Randolph were friendly, they did not save the Secretary of the Treasury from a sharp rebuff. Randolph broke out roughly: he would not vote a shilling for the purchase of Florida; the President should not be allowed to throw upon Congress the odium 'of delivering the public purse to the first cut-throat that demanded it'; on the record the Executive would appear as recommending manly and vigorous measures, while Congress would appear as having forced him to abandon them, when in fact it was acting all the while at Executive instigation; 'I do not understand this double set of opinions and principles — the one ostensible, the other real: I hold true wisdom and cunning to be utterly incompatible.' With this sweeping censure of President, Cabinet, and party, Randolph turned his back on Gallatin and walked to the committee-room. There he had no trouble in carrying matters with a high hand. Instead of recommending an appropriation, the committee instructed Randolph to write to the Secretary of War asking his opinion what force was needed to protect the Southern frontier.

Christmas was then at hand, and not a step had yet been taken. Unless the spirit of faction could be crushed, not only was the fate of Madison sealed, but the career of Jefferson himself must end in failure. Nothing could be done with Randolph, who, in a final interview at the White House, flatly declared 'that he too had a character to support and principles to maintain,' and avowed his determined opposition to the whole scheme of buying Florida of France. Jefferson, little as he liked to quarrel, accepted the challenge.

If Randolph could not be overcome in debate, he might at least be overborne by numbers; if the best part of the Old Republican Party went with him, the rank and file of Northern and Western Democrats would remain to support the Administration. Once more the committee was called together: Bidwell moved to appropriate two millions for foreign relations; the majority rejected his motion and adopted a report echoing

the warlike tone of the President's public Message, and closing with a resolution to raise troops for the defense of the Southern frontier 'from Spanish inroad and insult, and to chastise the same.' This report was laid before the House by Randolph January 3, 1806, when two additional resolutions were immediately moved — one appropriating money for extraordinary expenses in foreign intercourse, the other continuing the Mediterranean Fund for a new term of years; and the three resolutions were referred to the House in Committee of the Whole, with closed doors.

Monday, January 6, 1806, the debate began; and throughout the following week the House sat in secret session, while Randolph strained every nerve to break the phalanx of democrats which threatened to overwhelm him. Perpetually on the floor, he declaimed against the proposed negotiation at Paris; while Nicholson, unwillingly consenting to vote for the two millions, said openly that he hoped in God the negotiation would fail. When at length a vote could be reached, the Administration carried its point — seventy-two members supporting the President against a minority of fifty-eight; but in this minority was included no small number of the most respectable Republicans. Twelve of the twenty-two Virginia members broke away from the President; and for the first time in a struggle vital to Jefferson's credit, more than half the majority consisted of Northern men.

The House, having recovered control of the matter, thrust Randolph aside, rapidly passed a bill appropriating two million dollars for extraordinary expenses in foreign relations, and January 16, 1806, sent it to the Senate by a vote of seventy-six to fifty-four. It was accompanied by a secret Message explaining that the money was intended for the purchase of Spanish territory east of the Mississippi. The Senate closed its doors, and with the least possible debate, February 7, 1806, passed the bill, which, February 13, received the President's approval. Not until March 13, six months after Armstrong's dispatch had been written, did Madison at length send to Paris a public authority for Armstrong to offer France five million dollars for Florida and Texas to the Colorado — an authority which should have been secret and prompt, to be worth sending at all.

Jefferson carried his point; he won a victory over Randolph and silenced open resistance within the party; but his success was gained at a cost hitherto unknown in his experience. The men who were most obedi-

ent in public to his will growled in private almost as fiercely as Randolph himself. Senator Bradley made no secret of his disgust. Senator Anderson of Tennessee frankly said that he wished the Devil had the bill; that the Opposition did not half know how bad it was; that it was the most pernicious measure Jefferson had ever taken; 'but so it was, so he would have it, and so it must be!' Three Republican Senators — Bradley, Logan, and Mitchill — absented themselves at the final vote; four more — Adair, Gilman, Stone, and Sumter — voted against the bill, which on its third reading obtained only seventeen voices in its favor against eleven in opposition. Worse than this, the malcontents felt that for the first time in the history of their party the whip of Executive power had been snapped over their heads; and, worst of all, the New England Federalists took for granted that Jefferson had become a creature of Napoleon. Of all political ideas that could gain a lodgment in the public mind, this last was the most fatal!

Unhappily the public knew little of what President Jefferson had done or was doing; and another piece of legislation, carried through Congress at the same moment with the 'Two-Million Act,' went far to fix the Federalists in their belief that the Administration obeyed the beck and call of the French Emperor.

The Annual Message made no allusion to St. Domingo; no public announcement had been given that the Executive wished for further legislation in regard to its trade, when, December 18, 1805, Senator Logan of Pennsylvania brought forward a bill to prohibit the trade altogether. That he acted without concert with Madison was not to be conceived. Logan privately admitted as his only object the wish of enabling Madison to tell the French Government that the trade was forbidden, and that the merchants who carried it on did so at their own peril. The Opposition showed that the measure would sacrifice several hundred thousand dollars of revenue; that it would close the last opening which the new British policy left for American commerce with the West Indies; that it would throw the commerce with St. Domingo wholly into British hands; that it was an attempt to carry out French objects by American legislation, which would endanger the property and lives of American citizens in the island; and finally, that it was done in obedience to Napoleon's orders. December 27 the Senate called for the diplomatic correspondence on the subject, and the President communicated the extraordinary notes in



which Talleyrand and Turreau declared that the commerce 'must' not continue. The Senate received this mandate without protest or remonstrance; and after a long debate passed the bill, February 20, 1806, by a party vote of twenty-one to eight. Of the twenty-seven Republican Senators, Stone of North Carolina alone voted against it. Amid execrations against the Haytian Negroes, the bill was next forced through the House almost without debate, and February 28, 1806, received the President's signature.

This law, limited to one year, declared that any American vessel 'which shall be voluntarily carried, or shall be destined to proceed,' to St. Domingo should be wholly forfeited, ship and cargo: Passed in consequence of Napoleon's positive order, communicated by the President to Congress as though to overawe objection, the Act violated the principles of international law, sacrificed the interests of Northern commerce, strained the powers of the Constitution as formerly construed by the party of States-rights, and, taken in all its relations, might claim distinction among the most disgraceful statutes ever enacted by the United States Government. Nevertheless, this measure, which bore on its face the birthmark of Napoleonic features, did in fact owe its existence chiefly to a different parentage. In truth, the Southern States dreaded the rebel Negroes of Hayti more than they feared Napoleon. Fear often made them blind to their own attitudes; in this instance it made them indifferent to the charge of servility to France. The opportunity to declare the Negroes of Hayti enemies of the human race was too tempting to be rejected; and not only did the Southern Republicans eagerly seize it, but they persuaded their Northern allies to support them. John Randolph himself, though then wearying the House day after day with cries that Madison had sold the honor of the United States to France, never alluded to this act of subservience, which would have made any other Administration infamous, and quietly absented himself at the vote, that he might seem neither to obey Bonaparte's mandate nor to oppose the bill. Of the twenty-six voices against it, nearly all were Federalists; yet in this curious list, side by side with Josiah Quincy, Samuel Dana, and John Cotton Smith, stood the names of Jacob Crowninshield and Matthew Lyon, democrats of the deepest dye and objects of John Randolph's bitterest sneers.

‡ The 'Two-Million Act' and the Act forbidding commerce with St.

Domingo were measures equally necessary for the success of the Florida purchase. Without conciliating Napoleon at St. Domingo, Jefferson could not expect his help at Paris. These measures, together with some appearance of military activity, completed the Executive scheme of foreign policy in regard to France and Spain; the more difficult task remained of dealing with England.

When the first news of Sir William Scott's decision in the case of the *Essex* arrived in America, the merchants were indignant; and their anger steadily rose as the confiscation of American ships became more general, until at length, in December, 1805, Stephen's pamphlet, *War in Disguise*, arrived, and was reprinted in the newspapers. By the close of the year 1805, no one could longer doubt that Great Britain had, so far as suited her purposes, declared war against the United States.

The issue was simple. The United States might make war in return, or submit. Any measure short of open hostilities had unquestionably been taken into Pitt's account and would produce no effect on his policy. War alone could move him from his purpose; but war would destroy American commerce and ruin Federalist resources, while any retaliation short of war would not only prove ineffective, but would injure the American merchants alone. Their dilemma was so unavoidable that they could not fail to be caught in it. George Cabot saw their danger from the first. He dreaded the theories of the Republican Party, which in his opinion were more destructive to American commerce than the British doctrines themselves or the demands of James Stephen. Jefferson and Madison were bent on testing the theory of the first Inaugural Address — that commerce was the handmaid of agriculture; but in the harshest application of the slave-code of South Carolina or Georgia such treatment as agriculture proposed to her handmaid would have been rejected as inhuman, for it was a slow torture.

The theory of peaceable coercion, on which Jefferson relied, had often been explained as a duel in which either side counted upon exhausting its opponent by injuring itself. As Madison once said of the British manufacturers: 'There are three hundred thousand souls who live by our custom: let them be driven to poverty and despair, and what will be the consequence?' The question was more easily asked than answered, for in the actual condition of Europe economical laws were so violently disturbed that no man could venture to guess what fresh extravagance

might result from new delirium; but while the three hundred thousand Englishmen were starving, three hundred thousand Americans would lose the profit on their crops and would idly look at empty warehouses and rotting ships. English laborers had for many generations been obliged to submit to occasional suffering; Americans were untrained to submission. Granting that the Boston merchant, like the injured Brahmin, should seat himself at the door of the British offender and slowly fast to death in order that his blood might stain the conscience of Pitt, he could not be certain that Pitt's conscience would be stimulated by the sacrifice, for the conscience of British Tories as regarded the United States had been ever languid. Cabot saw no real alternative between submission to Great Britain and the entire sacrifice of American commerce. He preferred submission.

The subject in all its bearings quickly came before Congress. January 15, 1806, the Senate referred to a special committee that part of the President's Message which related to the British seizures. February 5, General Smith reported on behalf of the committee a series of resolutions denouncing these seizures as an encroachment on national independence, and recommending the prohibition of British woolens, linens, silks, glasswares, and a long list of other articles. On this resolution the debate began, and soon waxed hot.

## CHAPTER THIRTY-FIVE

### *John Randolph's Schism*

NOTHING IN JEFFERSON'S LIFE was stranger to modern ideas of politics than the secrecy which as President he succeeded in preserving. For two months the people of the United States saw their representatives go day after day into secret session, but heard not a whisper of what passed in conclave. Angry as Randolph was, and eager as the Federalists were to make mischief, they revealed not even to the Senators or the foreign ministers what was passing in the House; and the public at large, under their democratic government, knew no more than Frenchmen of their destinies of war and peace. Such a state of things was contrary to the best traditions of the Republican Party: it could not last, but it could end only in explosion.

When the debate on Smith's non-importation resolutions began in the Senate February 12, the previous struggle which had taken place over the Spanish policy and the 'Two-Million Act' was still a secret; Randolph's schism was unknown beyond the walls of the Capitol; the President's scheme of buying West Florida from France after having, as he maintained, bought it once already, was kept, as he wished, untold. The world knew only that some mysterious business was afoot; and when Senator Samuel Smith's attack on trade began, the public naturally supposed it to be in some way connected with the measures so long discussed in secret session.

The President's attitude became more and more uneasy. Jefferson disliked and dreaded the point in dispute with England. The Spanish policy was his own creation, and he looked upon it with such regard as men commonly bestow upon unappreciated inventions — he depended on its success to retrieve defeats elsewhere; but for the very reason that he exhausted his personal influence to carry the Spanish policy against opposition, he left British questions to Congress and his party. Where England was to be dealt with, Madison took the lead which Jefferson declined. For many years past Madison had been regarded as the representative of a policy of commercial restriction against Great Britain. To revive his influence, his speeches and resolutions of 1794 were re-

printed in the *National Intelligencer* as a guide for Congress; his pamphlet against the British doctrines of neutral trade was made a political textbook; while his friends took the lead in denouncing England and in calling for retaliation. By his own choice, and in a manner almost defiant of failure, Madison's political fortunes were united with the policy of coercing England through restrictions of trade.

At first much was said of an embargo. Senator Jackson of Georgia, December 20, 1805, declared with his usual vehemence in favor of this measure. 'Not a nation,' said he, 'exists which has West Indian colonies but is more or less dependent on us, and cannot do without us; they must come to our terms, or starve. On with your embargo, and in nine months they must lie at your feet!' John Randolph, sure to oppose whatever Madison wished, also looked with favor on this course. 'I would (if anything) have laid an embargo,' he said. The embargo party at best was small, and became smaller when toward the close of December, 1805, news arrived that Admiral Nelson had fought a great naval battle, October 21, against the combined French and Spanish fleets, off Cape Trafalgar, ending in a victory so complete as to leave England supreme upon the ocean. The moral effect of Nelson's triumph was great. Embargo was the last step before war, and few Americans cared to risk war with England under any circumstances; with harbors undefended and without an ally on the ocean, war was rashness which no one would face. Madison's more gentle plan of partial restrictions in trade became the Republican policy.

Even before Senator Samuel Smith reported his resolutions, February 5, to the Senate, the British minister Merry wrote to his Government that the members most opposed to commercial restrictions, despairing of effectual resistance, would endeavor only to limit the number of articles to be prohibited, and to postpone the date on which the law should take effect, in order to send a special mission to England and negotiate an amicable arrangement.

Merry was exactly informed as to the fate of General Smith's resolutions even before they had been reported to the Senate. They were three in number; but only the third, which recommended non-importation, was drawn by Smith. The first and second, the work of Senator Adams of Massachusetts, were not wholly welcome either to the Administration or to the minority. The first declared the British seizures 'an unprovoked

aggression,' a 'violation of neutral rights,' and an 'encroachment upon national independence.' The second requested the President to 'demand and insist upon' indemnity, and to make some arrangement about impressments. The first resolution, although fatal to future Federalist consistency, was unanimously adopted by the Senate, February 12, almost without debate — even Timothy Pickering recording his opinion that the British Government had encroached upon national independence. The second resolution was criticized as an attempt at dictation to the Executive, which would give just cause of offense to the President. By this argument the Senate was induced to strike out the words 'and insist'; but although the resolution, thus altered, was weak, seven Republican senators voted against it as too strong. The second resolution was adopted February 14, 1806.

Until the month of March, 1806, Randolph's opposition was confined to Spanish affairs in secret session. The House was even slower than the Senate to take up the matter of British relations. December 4, 1805, the subject was referred to the Committee of Ways and Means. January 17, 1806, another message was sent to the same committee; but day after day passed without bringing a report from Randolph, until Smilie of Pennsylvania moved to discharge the Committee of Ways and Means in order to bring the subject before the House in Committee of the Whole. Randolph was ill and absent when the House, January 29, 1806, decided to take the matter from his hands.

On the same day Andrew Gregg, a member from Pennsylvania, moved a resolution forbidding the importation of all goods the growth or product or manufacture of Great Britain. Still the House left the subject without decision or discussion. February 10, Joseph Nicholson introduced another resolution, which came probably from Gallatin. Gregg's non-importation measure would cost the Treasury five million dollars a year, and Gallatin preferred a less sweeping prohibition. Even Senator Smith's scheme was too strong for Nicholson, who pointed out that coarse woolens, Jamaica rum, Birmingham hardware, and salt were necessities with which America could not supply herself, nor could any nation except England supply her. Nicholson's resolution prohibited only such British goods as might be replaced by other nations than England, or might be produced at home — manufactures of leather, tin, brass, hemp, flax, silk; high-priced woolens; woolen hosiery; glass, silver, and plated ware, paper,

pictures, prints — a formidable list of articles, which if not, like *Jamaica rum*, necessary to America, were essentials to civilized existence.

Other resolutions were introduced, but those of Gregg and Nicholson by common consent maintained pre-eminence; and between the policies marked by them as complete or partial non-importation Congress had to decide. Although the subject was before the House, the month of February passed without debate. Not until March 5, 1806, did Gregg call up his resolution. In doing so, he made a speech studiously moderate. He seemed disinclined to defend the carrying trade, and abstained from treating the British seizures as cause for war, but rather threw the weight of his argument on the manifest outrage of impressments; yet even this he treated as though it were a question of unfriendly fiscal regulation. 'I have no apprehension whatever of a war,' he said. 'Great Britain is too well versed in the business of calculation, and too well acquainted with her own interest, to persevere in this lawless system at the hazard of losing customers whose annual purchases of her manufactures and other merchandise exceeds, I believe, thirty millions of dollars.'

If Pitt should retaliate, Gregg would go further; he would confiscate all the private property belonging to British subjects on which he could lay his hands, treaty stipulations to the contrary notwithstanding.

The Pennsylvanian contented himself with pacific measures, and his oratory had the merit of consistency with his party doctrines and principles; but the democracy of Massachusetts, which would never understand or obey the theories of Virginia and Pennsylvania, could not rest content with Gregg's Quaker ideas.

After the course we are now taking [said Crowninshield], should Britain persist in her captures and in her oppressive treatment of our seamen, and refuse to give them up, I would not hesitate to meet her in war. But, as I observed before, I do not believe Great Britain will go to war. Our trade is too valuable to her. She knows, too, that in such an event she will lose her eastern provinces; the States of Vermont and Massachusetts will ask no other assistance than their own militia to take Canada and Nova Scotia. Some of her West Indian islands will also fall.

When Crowninshield sat down, John Randolph took the floor. In Randolph's long career of oratorical triumphs, no such moment had offered itself before or was to occur again. Still in Virginian eyes the truest and ablest Republican in Congress, the representative of power and

principle, the man of the future, Randolph stood with the halo of youth, courage, and genius around his head — a sort of Virginian Saint Michael, almost terrible in his contempt for whatever seemed to him base or untrue. He began by saying that he entered on the subject 'manacled, handcuffed, and tongue-tied'; his lips were sealed; he could but 'hobble over the subject as well as his fettered limbs and palsied tongue would enable him to do it'; and with this preamble he fell upon Gregg and Crowninshield:

It is mere waste of time to reason with such persons; they do not deserve anything like serious refutation. The proper arguments for such statesmen are a strait-waistcoat, a dark room, water-gruel, and depletion.

The proposed confiscation of British property called out a sneer:

God help you if these are your ways and means for carrying on war! if your finances are in the hands of such a chancellor of the exchequer! Because a man can take an observation and keep a log-book and a reckoning, can navigate a cock-boat to the West Indies or the East, shall he aspire to navigate the great vessel of State, to stand at the helm of public councils? *Ne sutor ultra crepidam!*

Again and again he turned aside to express contempt for the Northern Democrats:

Shall this great mammoth of the American forest leave his native element and plunge into the water in a mad contest with the shark? Let him stay on shore, and not be excited by the mussels and periwinkles on the strand!

On the point of policy Randolph took ground which, if not warlike, was at least consistent — the ground which all Southern Republicans of the Jefferson school would have taken if shame had not withheld them. Even if determined in the end to submit, the President and Secretary wished to keep up the form of resistance. Randolph declared that the form was absurd; he would do nothing to protect 'this mushroom, this fungus of war' — a carrying trade which at the first moment of peace would no longer exist:

I will never consent to go to war for that which I cannot protect. I deem it no sacrifice of dignity to say to the Leviathan of the deep: We are unable to contend with you in your own element; but if you come within our actual limits, we will shed our last drop of blood in their defense.



Had Randolph contented himself with taking this position, he could not have been overthrown, for he carried with him the secret sympathy of the Southern Republicans; but he had not the self-control that was needed in the face of an opponent so pliant and conciliatory as Jefferson. Randolph took rare pleasure in making enemies, while Jefferson never made one enemy except to gain two friends. Not satisfied with attacking Crowninshield and Gregg, Randolph gave full play to his anger against the whole House, and even assailed the Executive:

I have before protested, and I again protest, against secret, irresponsible, overruling influence. The first question I asked when I saw the gentleman's resolution was, Is this a measure of the Cabinet? Not of an open declared Cabinet, but of an invisible, inscrutable, unconstitutional Cabinet, without responsibility, unknown to the Constitution. I speak of back-stairs influence — of men who bring messages to this House, which, although they do not appear on the Journals, govern its decisions. Sir, the first question that I asked on the subject of British relations was, What is the opinion of the Cabinet; what measures will they recommend to Congress? — well knowing that whatever measures we might take they must execute them, and therefore that we should have their opinion on the subject. My answer was (and from a Cabinet Minister too), '*There is no longer any Cabinet!*'

Randolph next attacked Madison. He took up the Secretary's late pamphlet and overwhelmed its argument with contempt. He declared that France was the real enemy of America; that England was acting under the dictates of necessity; that the situation of Europe had completely changed since 1793, and that England occupied the place which France then held: 'she is the sole bulwark of the human race against universal dominion — no thanks to her for it!' As for a policy, he proposed to abandon commerce and to amputate mercantile interests:

I can readily tell gentlemen what I will not do. I will not propitiate any foreign nation with money. I will not launch into a naval war with Great Britain. . . . I will send her money on no pretext whatever; much less on pretense of buying Labrador or Botany Bay, when my real object was to secure limits which she formally acknowledged at the Peace of 1783. I go further: I would, if anything, have laid an embargo; this would have got our own property home, and our adversary's into our power. If there is any wisdom left among us, the first step toward hostility will always be an embargo. In six months all your mercantile megrims would vanish. As to us, although it would cut deep, we can stand it.

Before closing this desultory harangue, the orator once more turned to taunt the President:

Until I came into the House this morning, I had been stretched on a sick bed; but when I behold the affairs of this nation — instead of being where I hoped, and the people believed they were, in the hands of responsible men — committed to Tom, Dick, and Harry, to the refuse of the retail trade of politics, I do feel, I cannot help feeling, the most deep and serious concern. . . . I know, sir, that we may say, and do say, that we are independent (would it were true!), as free to give a direction to the Executive as to receive it from him; but do what you will, foreign relations, every measure short of war, and even the course of hostilities, depends upon him. He stands at the helm, and must guide the vessel of State. You give him money to buy Florida, and he purchases Louisiana. You may furnish means; the application of those means rests with him. Let not the master and mate go below when the ship is in distress, and throw the responsibility upon the cook and the cabin-boy! I said so when your doors were shut; I scorn to say less now they are open. Gentlemen may say what they please; they may put an insignificant individual to the ban of the Republic; I shall not alter my course.

That such a speech from a man so necessary to the Government should throw consternation among the majority was a matter of course. No such event had ever happened in Congress as the public rebellion of a great party leader. The Federalists had quarreled as bitterly, but had made no such scandal. Yet serious as Randolph's defection might be, it would have done little harm had it not been that in denouncing the course taken by Jefferson and Madison he had much secret sympathy. Nay, as regarded Gregg's resolution, he expressed the feelings of the President himself and of the Cabinet. The so-called resistance to England, like the resistance to Spain, was a sham, and all parties agreed with Randolph in opposing serious retaliation.

Nothing was needed but that Randolph should keep his temper in order to win a triumph. Napoleon could be trusted to give Jefferson no more provinces at any price, for within a few days after Randolph's outbreak news arrived that the battle of Austerlitz had been fought and the Treaty of Pressburg signed. Jefferson himself could be trusted to prevent Gregg's resolution from passing, for the news that Pitt was dead and Fox in power arrived almost at the same moment with that of Austerlitz. The entire situation had changed; an entirely new policy must

be invented, and this could hardly fail to follow Randolph's ideas. He had only to wait; but meanwhile he was consumed by a fever of rage and arrogance. Thinking that the time had come to destroy the Secretary of State, he set himself vigorously to the task. Day after day he occupied the floor, attacking Madison with more and more virulence. He insisted that 'the business from first to last had been managed in the most imbecile manner.'

At length, April 7, Randolph committed his last and fatal blunder by going formally into Opposition.

I came here [he said] prepared to co-operate with the Government in all its measures. I told them so. But I soon found there was no choice left, and that to co-operate in them would be to destroy the national character. I found I might co-operate, or be an honest man. I have therefore opposed, and will oppose them.

Such tactics, in the face of a man so supple as President Jefferson, invited failure. With every weapon of offense in his hand and with the assurance of triumph, Randolph threw his chances away and found himself within a few weeks delivered to the mercy of Secretary Madison and the Northern democrats. Jefferson's strong qualities were called into play by Randolph's method of attack. Jefferson was not apt to be violent, nor was he despotic in temper; but he was, within certain limits, very tenacious of his purpose, and he had to a certain degree the habits of a paternal despot. Randolph's sudden assault, carrying with it some twenty-five or thirty of the ablest and best Republicans in Congress, greatly alarmed the President, who set himself quietly and earnestly to the task of restoring order to his shattered columns. The Northern democrats were easily held firm, for they hated Randolph and had little love for Virginia. As for the rebellious cohort of 'Old Republicans,' Jefferson exhausted his resources in coaxing them to desert their leader. March 13 the House laid Gregg's resolution aside; Nicholson's was then taken up, adopted March 17, and sent to a special committee to be framed as a bill. Meanwhile the President busily conciliated opposition; and his first thought was of Monroe in London, certain to become the center of intrigue. March 16, Jefferson wrote to warn his old friend against the danger of making common cause with Randolph. The task was difficult, because it was necessary at the same time to break the news that Monroe must submit to the implied censure of a special mission.

Two days later he wrote again. In the interval Nicholson's resolution had been adopted by a vote of eighty-seven to thirty-five, and Randolph's minority of Republican members had been reduced, beyond the President's hope, to a mere half-dozen grumblers.

At the same moment Randolph wrote to Monroe that the Republican Party was broken in pieces, and that the 'Old Republicans' were united in the support of Monroe against Madison for the Presidency. Randolph complained bitterly of the atmosphere of intrigue which surrounded the Administration; but as regarded him at least, Jefferson's retort was plausible that he had never found fault with intrigue so long as he had a share in it. After challenging the contest with Madison, he had only himself to blame if the President, who was a master of intrigue, used the weapon freely to defend his favorite and himself.

To detach Randolph's friends from their leader was an object which the President pursued with zeal and success. He was a little disposed to overawe Monroe; but he was glad to conciliate Joseph Nicholson, next to Randolph the most formidable 'Old Republican' in public life. Nicholson was torn by conflicting sympathies; he loved Randolph, and he did not love Madison. On the other hand, he was attached to Gallatin by marriage and respect. A poor man, with a large family, Nicholson found the life of a Congressman unprofitable; and when he was offered a seat on the Bench as Judge of the Sixth Maryland Circuit, he accepted the appointment. April 9, 1806, his letter of resignation was read to the House, and the Democrats knew that Randolph had lost his strongest friend.

The Speaker remained to be dealt with. To overawe Macon was impossible; to buy him was out of the question; to crush him was only a last resort; no other resource was left than to coax him. 'Some enemy, whom we know not, is sowing tares between us,' wrote the President to the Speaker, at the moment when he was warning Monroe and Nicholson escaped to the Bench. 'Between you and myself nothing but opportunities of explanation can be necessary to defeat these endeavors. At least, on my part, my confidence in you is so unqualified that nothing further is necessary for my satisfaction.'

Jefferson never was more sincere than in making this advance to a friend from whom the course of events threatened to part him: but unfortunately, the point of doubt was not so much Jefferson's confidence in

Macon as it was Macon's confidence in Jefferson. At bottom remained the unpleasant thought that Jefferson had ceased to be either a Virginian or a Republican; had chosen other friends and advisers than Macon, other objects and ambitions than Macon pursued.

Even Randolph was treated with delicacy. Jefferson would gladly have won him back had Randolph admitted a hope that he would accept Madison's candidacy; but on that point no compromise could be conceived. Madison's fate was trembling in the balance. Sacrifice of Madison was impossible to the President, and nothing short of sacrifice would satisfy Randolph. The 'Old Republican' schism must therefore be left to itself; the schismatics were too honest and respectable to be dealt with. The President exhausted his power when he won back the wavering, fixed Gallatin in allegiance to Madison, and carried Nicholson out of the arena; but although gentle and forbearing in regard to these honest, and, as he thought, misguided men, Jefferson did not think it necessary to show equal deference to the merely selfish interests which had made use of this moment of confusion in order to exact terms from the Government. He showed that he could punish by making an example of General and Senator Samuel Smith.

Robert Smith in the Cabinet was so near to his brother Samuel in the Senate that Jefferson could no longer trust his secrets to the Cabinet itself. After crushing in the House Randolph's opposition to the Spanish policy, and after yielding to Smith and the Senate in regard to a special English mission, the President was required to make certain appointments, one of which was that of a new minister to aid and succeed Monroe in London, whence it was supposed that Monroe wished to return. General Smith's wider plan assumed that Monroe was on his way home and would be succeeded by a regular minister, assisted, for commercial negotiations, by a special envoy. The special envoy was to be himself; the permanent minister was to be his brother-in-law, Wilson Cary Nicholas. He had even written to assure Nicholas of the appointment when his project was defeated by the secret and unexpected interference of the President.

April 1, 1806, Samuel Smith wrote to his brother-in-law: 'I ought to apologize for leading you into error. I still do believe that you were originally intended for London. A good Federalist is to succeed Monroe, and has been privately written to by the President without the knowledge

of any of his Cabinet; they appeared astonished when he mentioned what he had done.'

The good Federalist thus put over Smith's head was William Pinkney, a prominent lawyer of Smith's city of Baltimore. Such a step without consulting the Smiths and against their personal interests was a strong measure on the part of Jefferson, quite out of keeping with his ordinary practice. Offense of tried friends in order to conciliate Federalists was little to his taste; but General Smith's conduct had become so factious as to warrant reproof. Smith was reduced to submission. He had not shared in Randolph's bitterness against the Spanish policy, but he had attempted to make use of the 'Old Republican' schism for his personal objects; and after Randolph's overthrow, Smith could no longer venture upon open opposition. Though beaten by only one vote in his attack on Armstrong's nomination, Smith felt that his defeat was made final by the collapse of Randolph's rebellion. He admitted to Nicholas that no effective resistance could be made to the Florida purchase, and that nothing remained but obedience to the President's will.

Thus, after four months of confusion, victory declared itself on the President's side. Randolph's violence, even more than Jefferson's dexterity, was fatal to the 'Old Republican' uprising. As early as April 1, discipline was restored, with Madison stronger than ever before. The few remaining days of the session only confirmed the result.

## CHAPTER THIRTY-SIX

### *Domestic Affairs*

AS THE MEMBERS of Congress, after their wrangles, at last, April 22, wandered homeward, and John Randolph's long, lean figure disappeared on horseback beyond the Potomac, both the President and the Secretary of State drew a sigh of relief; for never before in the history of the Government had a President been obliged to endure such public insults and outrages at the hands of friend and enemy alike. The Federalists had quarreled with each other as bitterly as the Republicans were quarreling, but in Congress at least they had held their peace. Under their sway neither Spain, France, nor England insulted them or their Presidents with impunity. Sanguine as Jefferson was, he could not but feel that during two sessions he had been treated with growing disrespect both in Congress and abroad; and that should the contempt for his authority increase, his retirement would offer melancholy proof that the world no longer valued his services. So clearly did he see the danger that, as has been shown, he would gladly have changed the external appearance of his policy. February 18, 1806, he wrote his letter declaring himself convinced that Europe must be taught to know her error in supposing his Government to be 'entirely in Quaker principles'; and that unless this idea could be corrected, the United States would become the plunder of all nations. The attempt to teach Europe her error made his position worse. A month later, after the President had done all that he dared to do toward alarming the fears of Europe, the British minister at Washington wrote that both the American Government and the American people, so far from meaning to use force, were trembling lest Great Britain should declare war.

In view of speeches like those of Gregg, Crowninshield, and Randolph, with their running commentary on the President's policy, such a conclusion as that which Merry had reached could not be called unjust. A few weeks afterward the British minister found his theory put to a severe test. April 25, 1806, soon after the adjournment of Congress, an event occurred which seemed calculated to bring the two nations into collision. The *Leander*, the *Cambrian*, and the *Driver*, blockading the

port of New York, were in the habit of firing shots across the bows of merchant vessels in order to bring them to. According to the British account — which was, of course, as favorable to the frigate as possible — a shot fired by the *Leander* to stop a passing vessel happened by an unlucky chance to be in line with a coasting sloop far beyond, and killed one John Pierce, brother of the coaster's captain. Making his way to the city with the mangled body of his brother, the captain roused New York to excitement over the outrage. A meeting of citizens was held at the Tontine Coffehouse; but the Republicans allowed the Federalist leaders to conduct it. Rufus King, Oliver Wolcott, and other well-known enemies of President Jefferson reported a series of resolutions censuring the Government for permitting the seizures, impressment, and murders which were a consequence of the blockade, recommending that all intercourse with the blockading squadron should be stopped, and advising that John Pierce should be buried with a public funeral. Meanwhile the people took the law into their own hands, intercepting supplies for the squadron, and compelling the few British officers on shore to hide themselves. Pierce's funeral was turned into a popular demonstration. Captain Whitby of the *Leander* was indicted for murder by the grand jury; and the mayor dispatched to Washington the necessary affidavits, on which the President might rest such further action as should seem fit.

Jefferson was greatly annoyed at this new misfortune, which allowed his Federalist enemies to charge upon him responsibility for British aggressions. In truth, the Federalist merchants were the chief opponents of war with England; and their patriotic feeling was for the most part a sham. Yet the matter could not be ignored; and accordingly, May 3, the President issued a proclamation closing the ports and harbors of America forever to the three British frigates and to their commanders, and ordering all officers of the United States to arrest Captain Whitby wherever he might be found within American jurisdiction. This manner of redressing his own wrongs placed Jefferson at a disadvantage in asking for redress from Fox, who might naturally reply that if the United States Government chose to make its appeal to municipal law, it could not expect the Government of Great Britain to offer further satisfaction; but popular excitement was for the moment more important than diplomatic forms.

This was not all. Jefferson avowed himself in favor of a navy. His



fifty new gunboats would, he thought, put New Orleans and New York in safety:

But the building some ships-of-the-line, instead of our most indifferent frigates, is not to be lost sight of. That we should have a squadron properly composed to prevent the blockading our ports is indispensable. The Atlantic frontier, from numbers, wealth, and exposure to potent enemies, has a proportionate right to be defended with the Western frontier, for whom we keep up three thousand men. Bringing forward the measure, therefore, in a moderate form, placing it on the ground of comparative right, our nation, which is a just one, will come into it, notwithstanding the repugnance of some on the subject when first presented.

That Jefferson should repeat the opinions and echo the arguments of the Federalist Presidents was an experience worth noting; but as a matter of statesmanship, there was reason to fear that the change came too late. The theory of peaceable coercion had been made the base of Jefferson's foreign policy; and upon it his fortunes must stand or fall. Merry, though willing to quiet President Jefferson's fears so far as concerned the accident of Pierce's death, was little affected by the outcry of New York, for he saw that the United States Government could not change its pacific system.

Within the last year England had seized a large portion of American shipping and commerce; hundreds of American citizens had been taken by force from under the American flag, some of whom were already lying beneath the waters off Cape Trafalgar; the port of New York had been blockaded by a British squadron, which drew its supplies from the city, and lay habitually within its waters, except when engaged in stopping and searching vessels beyond the three-mile line; and at last an American citizen was killed within American jurisdiction by the guns of the blockading squadron. In return the United States Government had threatened to buy no more fine woollens and silks from England; and had stopped the fresh meat and vegetables which the officers of the *Cambrian* and *Leander* were in the habit of procuring in the New York market. That Merry should still complain, that he should wish to stifle even this whisper of protest, and should talk of the American Government in the same breath as trembling with fear and as having lost respect toward England, showed that he had a memory better than his powers of ob-

servation. He was still brooding over Jefferson's *pêle-mêle* and his heel-less slippers.

For that offense, committed in the heyday of diplomatic triumph, the President had bitterly atoned. As Jefferson twisted and twined along a course daily becoming more tortuous, he found that public disaster was followed by social trials; on all sides he felt the reaction of his diplomatic failures. This kind of annoyance left little trace in history, and was commonly forgotten or ignored by the people; but Jefferson was more than commonly sensitive to social influences, and if it annoyed him to be slandered, it annoyed him still more to be laughed at. He could not retaliate, and the more he exerted himself to appear above his vexations, the more he exposed himself to ridicule.

General Turreau, with grim amusement, reported faithfully what he saw or heard. At one moment Jefferson, trying to discover some plan for checking British authority, broached to the minister of Napoleon a scheme for uniting all Christian Powers in a novel alliance against each other's aggressions.

Your Excellency will of course understand [wrote the sardonic Turreau to the saturnine Talleyrand] that it is not a system of armed neutrality which Mr. Jefferson would like to see established. Everything which tends to war is too far removed from his philanthropic principles, as it is from the interests of his country and the predominant opinion. The guaranty of neutrals would repose on the inert force of all the Powers against the one that should violate the neutral compact, and whose vessels would then find all foreign ports shut to them.

Turreau was amused by the incongruity of inviting Napoleon Bonaparte not only to protect neutral rights, but to do so by peaceful methods, and to join with Great Britain in a Christian confederation which should have for its main object the protection of American commerce, in order to save President Jefferson the expense of protecting it himself; but the humor of the scheme was not to be compared with its rashness. Had Jefferson foreseen the future, he would have abstained from suggesting ideas to a despot of Napoleon's genius.

Neither these annoyances nor the unlucky accident of Pierce's death, following so long a series of political misfortunes, could prevent the skies from clearing with the coming spring. If the Southern Republicans for a time seemed, as General Smith said, to be falling away daily from the

Administration, the President could still congratulate himself on the steadiness of the Northern democrats, who asked for no better fortune than to be rid forever of John Randolph's tyranny. On the whole, Jefferson was well pleased with the behavior of his majority.

Jefferson's great hope seemed likely soon to be realized beyond his own anticipations, when New England should not only accept democratic principles, but should also control the party which Virginia had brought into power. In the April election of 1806, Massachusetts chose a democratic legislature; the Federalist Governor Strong was re-elected by only a few hundred votes, while a democrat was actually elected for Lieutenant-Governor. The conduct of England, which caused Jefferson his most serious difficulties abroad, worked in his favor among the people of America, who were more patriotic than their leaders, and felt by instinct that, whatever mistakes in policy their Government might commit, support was the alternative to anarchy.

On the Texan frontier the Spaniards showed themselves in increasing numbers until a collision seemed imminent. Wilkinson, on his side, could collect at Natchitoches no force capable of holding the Red River against a serious attack. Whether Wilkinson himself were not more dangerous than the Spaniards to the Government of the United States was a question which disturbed men like John Randolph more than it seemed to interest Jefferson.

Fortunately, the Treasury was as strong as the army and the Foreign Department were weak. Gallatin made no mistakes; from the first he had carried the Administration on his shoulders, and had defied attack. The revenue reached \$14,500,000 for 1806, and, after providing the two millions appropriated for the Florida purchase, left a balance for the year of four hundred thousand dollars beyond all current demands. The Treasury held a surplus of at least four millions. The national debt was reduced to less than \$57,500,000; and this sum included the Louisiana stock of \$11,250,000, which could not be paid before the year 1818. After the year 1808, Gallatin promised an annual surplus of five or six millions, ready for any purpose to which Congress might choose to apply it. Even the Federalists gave up the attempt to attack the management of the Treasury; and if they sometimes seemed to wish for a foreign war, it was chiefly because they felt that only a war could shake the authority and success of Gallatin. 'For many years past,' wrote Timothy Pickering in

1814, 'I have said, "Let the ship run aground! The shock will throw the present pilots overboard; and then competent navigators will get her once more afloat, and conduct her safely into port.'" Only war with England, by breaking down the Treasury, could effect Pickering's purpose.

Of such a war, in spite of the Rule of 1756, the blockade of New York, the impressment of seamen, and the slaughter of *Pierce*, there was no immediate prospect. The death of *William Pitt* and the accession of *Charles James Fox* to power quieted fear. The American people were deliberately resolved not to join in the outburst of passion which *Pierce's* death caused in New York. Little sense was felt of a common interest between agriculture and shipping; so that even the outrage of *Pierce* passed without stirring men who followed the plow and swung the scythe. New York was but a seaport, half foreign in population and interests, an object of jealousy to good citizens, who looked askance at manufactures and middlemen. The accidental death of a seaman was no matter of alarm. Every patriotic American wanted peace with England, and was glad to be told that *Fox* had promised pleasant things to *Monroe*.

Although the merchants had been robbed, the people at large were more prosperous and contented than ever. The summer of 1806 was one of quiet and rapid progress. While Europe tossed on her bed of pain, and while Russia built up the fourth coalition against Napoleon, only to drench with blood the battlefields of *Jena*, *Eylau*, and *Friedland*, the United States moved steadily toward their separate objects, caring little for any politics except their own. In foreign affairs their Government, after threatening to break through the bounds it had set to its own action and to punish the offenders of its dignity, ended by returning to its old ground and by avowing, as in 1801, that war was not one of its weapons. In domestic matters no serious division of opinion existed. The American people went to their daily tasks without much competition or mental effort, and had no more wish to wrangle about problems of the future than to turn back on their path and face Old-World issues.

Every day a million men went to their work, every evening they came home with some work accomplished; but the result was matter for a census rather than for history. The acres brought into cultivation, the cattle bred, the houses built, proved no doubt that human beings, like ants and bees, could indefinitely multiply their numbers and could lay

up stores of food; but these statistics offered no evidence that the human being, any more than the ant and bee, was conscious of a higher destiny, or was even mechanically developing into a more efficient animal. As far as politics proved anything, the evidence seemed to show that the American tended already to become narrow in his views and timid in his methods. The great issues of 1776 and of 1787 had dwindled into disputes whether robbery and violence should be punished by refusing to buy millinery and hardware from the robbers, and whether an unsuccessful attempt to purloin foreign territory should be redeemed by bribing a more powerful nation to purloin it at second hand. The great issues of democracy and republicanism were still alive, but their very success removed these subjects for the moment from the field of politics. That a democracy could for so long a time maintain itself above the Old-World miseries was a triumph; but thus far the democracy had been favored by constant good fortune, and even in these five years conservatives thought they felt a steady decline of moral tone. What would happen when society should be put to some violent test?

In politics nothing that proved progress could be seen. In other directions little positive result had been reached.

Far in the wilderness a few men, in the pay of the United States Government, were toiling for the advancement of knowledge. In the summer of 1805, General Wilkinson ordered Lieutenant Pike, a young officer in the First Infantry, to take a sergeant, a corporal, and seventeen privates, and ascertain the true sources of the Mississippi. For scientific purposes such a party of explorers could do little of permanent value, but as a military reconnoissance it might have uses. Lieutenant Pike worked his way up the stream from St. Louis. October 16, 1805, he reached a point two hundred and thirty-three miles above the Falls of St. Anthony, and there stopped to establish a winter station. December 10 he started again with a part of his men and went northward with sleds until, January 8, 1806, he reached a British trading-station on Sandy Lake, from which he struggled to Leech Lake, where another British establishment existed. His visit was rather an act of formal authority than a voyage of exploration; but he notified both the British and the Indian occupants of the territory that they were under the rule of the United States Government. After accomplishing this object, he began his return march February 18, and reached St. Louis April 30, 1806, having shown such energy and perse-

verance in this winter journey as few men could have surpassed.

General Wilkinson was so well pleased with the success of the expedition that he immediately ordered Pike upon another. This time the headwaters of the Arkansas and Red Rivers were to be explored as far as the Spanish settlements of New Mexico. July 15, 1806, with about the same number of men as before, Pike left St. Louis, and September 1 reached the Osage towns on the Missouri River. Striking across the prairie, he marched through a country filled with jealous Pawnee Indians, till he reached the Arkansas River, and, ascending its branches, left a permanent monument to his visit by giving his name to Pike's Peak in Colorado. Turning toward the southwest, he entangled himself in the mountains; and after suffering terribly in snow and ice, at last, February 26, 1807, was stopped by the Spanish authorities at Santa Fé, who sent him to Chihuahua, and thence allowed him to return through Texas to the United States.

Both these expeditions were subordinate to the larger exploration of Lewis and Clark, which President Jefferson himself organized, and in which he took deep interest. After passing the winter at the Mandan village, as has been already told, Lewis with thirty-two men set out April 7 in boats and canoes for the headwaters of the Missouri. The journey proved to be full of labor, but remarkably free from danger; the worst perils encountered were from rattlesnakes and bears. The murderous Sioux were not seen; and when, August 11, Lewis reached the end of river navigation, and found himself at the base of the mountains that divided the waters of the Missouri from those of the Columbia, his greatest anxiety was to meet the Indians who occupied the line of passage. His troubles rose from the poverty, rather than from the hostility, of these tribes. They supplied him with horses and with such provisions as they had, and he made his way peacefully down the western slope until he could again take canoes. November 7 the explorers reached the mouth of the Columbia River, and saw at last the ocean which bounded American ambition. There they were forced to pass the winter in extreme discomfort, among thievish and flea-bitten Indians, until March 26, 1807, they could retrace their steps.

Creditable as these expeditions were to American energy and enterprise, they added little to the stock of science or wealth. Many years must elapse before the vast region west of the Mississippi could be

brought within reach of civilization. The crossing of the continent was a great feat, but was nothing more. The French explorers had performed feats almost as remarkable long before; but, in 1805, the country they explored was still a wilderness.

Great gains to civilization could be made only on the Atlantic coast under the protection of civilized life. For many years to come, progress must still center in the old thirteen States of the Union. The expeditions of Lewis and Pike returned no immediate profits; but in the city of New York men were actively engaged in doing what Lewis could not do — bringing the headwaters of the Western rivers within reach of private enterprise and industry. While Lewis slowly toiled up the Missouri River, thinking himself fortunate if he gained twenty miles a day against the stream, the engine which Robert Fulton had ordered from the works of Watt and Bolton in England had been made, and Fulton returned to New York to superintend its use. With the money of Chancellor Livingston he began to construct the hull of his new steamboat and adjust it to the engine.

The greatest steps in progress were often unconsciously taken, and Fulton's steamboat was an example of this rule. Neither in private talk nor in the newspapers did his coming experiment rouse much notice. To the public, Fulton's idea, though visionary, was not new. Indeed Fulton stood in imminent danger of being forestalled by rivals. In 1804 Oliver Evans experimented with a stern-wheel steamboat on the Delaware River, while at the same time John C. Stevens was experimenting with a screw-propeller on the Hudson. Nothing practical had as yet come from these attempts. The public seemed to regard them as matters which did not concern it, and the few thousand dollars needed to pay for a proper engine and hull could with difficulty be wrung from capitalists, who were derided for their folly. Fulton worked with better support than his predecessors had enjoyed, but with little encouragement or show of interest from the press or the public.

So far as concerned activity of mind, politics still engrossed public attention. The summer of 1806, quiet and prosperous as it seemed, betrayed uneasiness — a mysterious political activity, connected with no legitimate purpose of party. Except in Connecticut and Massachusetts, the Federalists, as an organized body, could hardly be said to exist. Democrats, Republicans, and Federalists were divided for the moment

rather by social distinctions than by principle; but the division was not the less real. Every year added strength to the national instinct; but every year brought also a nearer certainty that the denationalizing forces, whether in New England under Timothy Pickering, or in Virginia under John Randolph, or in Louisiana under some adventurer, would make an effort to break the chain that hampered local interests and fettered private ambition. Under a Virginia President and a slave-owning majority of Congress, the old anti-national instinct of Virginia was paralyzed, and the dangers to rise from it were postponed; but the freer play was given to the passions of Boston and New Orleans — to the respectable seditiousness of Timothy Pickering and the veneered profligacy of Aaron Burr. The time had come when Burr was to bring his conspiracy to the test of action, and to try the strength of a true democracy. During the autumn of 1806, Burr's projects and movements roused a sudden panic, less surprising than the tolerance with which his conspiracy had been so long treated by the President and the press.



## CHAPTER THIRTY-SEVEN

### *Burr's Schemes*

WHEN BURR ceased to be Vice-President of the United States, March 4, 1805, he had already made himself intimate with every element of conspiracy that could be drawn within his reach. The list of his connections might have startled Jefferson if the President's easy optimism had not been proof to fears. In London, Burr's friend, Colonel Williamson, confided his plans to Pitt and Lord Melville. At Washington, the British minister, Merry, wrote to Lord Mulgrave in support of Williamson's negotiation. The creole deputies from New Orleans were Burr's friends, and Derbigny was acquainted with 'certain projects' he entertained. General Wilkinson, Governor of the Louisiana Territory, whose headquarters were at St. Louis, closely attached to Burr almost from childhood, stood ready for any scheme that promised to gratify inordinate ambition. James Brown, Secretary of the Territory, was Burr's creature. Judge Prevost, of the Superior Court at New Orleans, was Burr's stepson. Jonathan Dayton, whose term as a Senator ended the same day with Burr's Vice-Presidency, shared and perhaps suggested the 'projects.' John Smith, the Senator from Ohio, was under the influence of Burr and Dayton. John Adair of Kentucky was in Wilkinson's confidence. The Swartwouts in New York, with the 'little band' who made Burr their idol, stood ready to follow him wherever he might lead. In South Carolina, Joseph Allston, the husband of Theodosia Burr, might be induced to aid his father-in-law; and Allston was supposed to be the richest planter in the South, worth a million of dollars in slaves and plantations. The task of uniting these influences and at a given moment raising the standard of a new empire in the Mississippi Valley seemed to an intriguer of Burr's metal not only feasible, but certain of success.

After the parting interview with Merry in March, 1805, when they arranged terms to be asked of the British Government, Burr went to Philadelphia, and in April crossed the mountains to Pittsburgh, on his way to New Orleans. Wilkinson was to have joined him; but finding that Wilkinson had been delayed, Burr went on alone. Floating down the Ohio, his ark lashed to that of Matthew Lyon, he first stopped a few hours at

an island about two miles below Parkersburg, where an Irish gentleman named Blennerhassett lived, and where he had spent a sum, for that day considerable, in buildings and improvements. The owner was absent; but Mrs. Blennerhassett was at home, and invited Burr to dinner. The acquaintance thus begun proved useful to him. Passing to Cincinnati, he became, May 11, 1805, a guest in the house of Senator Smith. Dayton was already there; but Wilkinson arrived a few days later, after Burr had gone on by land to Nashville. Wilkinson publicly talked much of a canal around the Falls of the Ohio River, to explain the community of interest which seemed to unite himself with Burr, Dayton, and Senator Smith; but privately he wrote, May 28, to John Adair, soon to be Breckinridge's successor as Senator from Kentucky: 'I was to have introduced my friend Burr to you; but in this I failed by accident. He understands your merits, and reckons on you.' Prepare to visit me, and I will tell you all. We must have a peep at the unknown world beyond me.'

Meanwhile, Burr reached Nashville in Tennessee, where he was received with enthusiastic hospitality. Everyone at or near the town seemed to contend for the honor of best treating or serving him. Dinners were given, toasts were drunk; the newspapers were filled with his doings. No one equaled Andrew Jackson in warmth of devotion to Colonel Burr. At all times of his life Jackson felt sympathy with a duelist who had killed his man; but if his support was enlisted for the duelist who had killed Hamilton, his passions were excited in favor of the man who should drive the Spaniards from America; and Burr announced that this was to be the mission of his life. As Major-General of the Tennessee militia, Jackson looked forward to sharing this exploit.

After spending a week or more at Nashville, Burr descended in one of General Jackson's boats to the mouth of the Cumberland, where his ark was waiting; and June 6 he joined General Wilkinson at Fort Massac — a military post on the north shore of the Ohio River, a few miles above its junction with the Mississippi. The two men remained together at Massac four days, and Burr wrote to his daughter, Mrs. Allston: 'The General and his officers fitted me out with an elegant barge — sails, colors, and ten oars — with a sergeant and ten able, faithful hands. Thus equipped, I left Massac on the 10th June.' Wilkinson supplied him also with a letter of introduction to Daniel Clark, the richest and most prominent American in New Orleans. Dated June 9, 1805, it announced that the bearer

would carry secrets. 'To him I refer you for many things improper to letter, and which he will not say to any other.'

While Burr went down the river to New Orleans, Wilkinson turned northward to St. Louis, where he arrived July 2. He was in high spirits and indiscreet. Two of his subordinate officers, Major Hunt and Major Bruff, afterward told how he sounded them — and Major Bruff's evidence left no doubt that Wilkinson shared in the ideas of Burr and Dayton; that he looked forward to a period of anarchy and confusion in the Eastern States as the result of democracy; and that he intended to set up a military empire in Louisiana. Already, June 24, he had signed Lieutenant Pike's instructions to explore the headwaters of the Arkansas River. Adair, certainly in the secret, believed the object of this expedition to be the opening of a road to Santa Fé and to the mines of Mexico. Every recorded letter or expression of Wilkinson during the spring and summer of 1805 showed that he was in the confidence of Burr and Dayton; that he gave them active aid in their scheme for severing the Union; and that they in their turn embraced his project of Mexican conquest.

Burr reached New Orleans June 25, 1805, and remained a fortnight, entertained by the enemies of Governor Claiborne and of the Spaniards. According to the story afterward told by Wilkinson on the evidence of Lieutenant Spence, Burr on his arrival in Louisiana became acquainted with the so-called Mexican Association — a body of some three hundred men, leagued together for the emancipation of Mexico from Spanish rule. Of this league Daniel Clark afterward declared that he was not a member; but if his safety as a merchant required him to keep aloof, his sympathies were wholly with the Association. After Burr's arrival, and under his influence, the scheme of disunion was made a part of the Mexican plan; and these projects soon became so well known in New Orleans as to reach the ear of the Spanish agents and excite their suspicions, until Clark two months later complained to Wilkinson that Burr's indiscretion was bringing them all into danger.

No plea of ignorance could avail any of Burr's friends. His schemes were no secret. As early as August 4, 1805, more than a month before Daniel Clark sent his warning to General Wilkinson, the British minister was so much alarmed at the publicity already given to the plot that he wrote to Lord Mulgrave a panic-stricken letter, evidently supposing that the scheme was ruined by Burr's indiscretion:

He or some of his agents have either been indiscreet in their communications, or have been betrayed by some person in whom they considered that they had reason to confide; for the object of his journey has now begun to be noticed in the public prints, where it is said that a convention is to be called immediately from the States bordering on the Ohio and Mississippi for the purpose of forming a separate government. It is, however, possible that the business may be so far advanced as, from the nature of it, to render any further secrecy impossible.

The French minister was hardly less well informed. February 13, 1806, Turreau wrote to his Government:

This division of the confederated States appears to me inevitable, and perhaps less remote than is commonly supposed; but would this event, which England seems to favor, be really contrary to the interests of France? And, assuming it to take place, should we not have a better chance to withdraw, if not both confederations, at least one of them, from the yoke of England?

That Burr should have concealed from his principal allies — the creoles of New Orleans — plans which he communicated so freely elsewhere was not to be imagined. Burr remained only about a fortnight at New Orleans; then returned on horseback through Natchez to Nashville, where he became again the guest of Andrew Jackson. He passed the month of August in Tennessee and Kentucky; then struck into the wilderness across the Indiana Territory to St. Louis in order to pass a week more with General Wilkinson and Secretary Brown. He found Wilkinson discouraged by the rebuffs he had met in attempting to seduce his subordinate officers and the people of the Territory into the scheme.

Burr reached St. Louis September 11, 1805; he left it September 19, for Vincennes and the East. Two months afterward he arrived at Washington and hurried to the British Legation. His friend Dayton, who had been detained by a long illness in the West, had arrived and made his report to Merry only two days before.

The conspiracy counted on the aid of Great Britain, which was to be the pivot of the scheme; but Burr's hopes were blasted by learning from Merry that no answer had been received from the British Government in reply to the request for money and ships.

From Pitt, besides the naval force, Burr wanted a credit for one hundred and ten thousand pounds, to be given in the names of John Barclay

of Philadelphia and Daniel Clark of New Orleans. In his report to Merry on the results of the Western tour, he said no more than he had a right to say, without violent exaggeration. He barely hinted at complicity on the part of Wilkinson, Smith, Adair, and Andrew Jackson. He gave Merry clearly to understand that the heart of his plot was not in the Ohio Valley, but at New Orleans. He laid little weight on the action of Kentucky or Tennessee; with him, the point of control was among the creoles.

Mr. Burr stated to me — what I have reason to believe to be true from the information I have received from other quarters — that when he reached Louisiana he found the inhabitants so impatient under the American Government that they had actually prepared a representation of their grievances, and that it was in agitation to send deputies with it to Paris. The hope, however, of becoming completely independent, and of forming a much more beneficial connection with Great Britain, having been pointed out to them, and this having already prevailed among many of the principal people who are become his associates, they had found means to obtain a suspension of the plan of having recourse to France.

One more argument was pressed by Burr, for no one knew better than he the use to which New England might be put.

He observed — what I readily conceive may happen — that when once Louisiana and the Western country became independent, the Eastern States will separate themselves immediately from the Southern; and that thus the immense power which is now risen up with so much rapidity in the Western Hemisphere will, by such a division, be rendered at once formidable.

Whatever may have been Merry's sympathies or wishes, he could do no more than report Burr's conversation to Lord Mulgrave with as much approval as he dared give it. Meanwhile, Burr was thrown into extreme embarrassment by the silence of Mulgrave. Burr's report showed that the creoles in New Orleans, with Daniel Clark as their financial ally, were induced to countenance the conspiracy only because they believed it to be supported by England. Without that support, Burr could not depend on creole assistance. Had he been wise, he would have waited; and perhaps he might in the end have brought the British Government to accept his terms. If Pitt intended to plunder American commerce and to kidnap American citizens, he must be prepared to do more; and Burr

might calculate on seeing the British Tories placed by their own acts in a position where they could not afford to neglect his offers.

Burr stayed a week in Washington; and although the object of his Western journey was so notorious that even the newspapers talked about it, his reception at the White House and at the departments was as cordial as usual. About December 1, 1805, he returned to Philadelphia, where he began the effort to raise from new sources the money which till then he hoped to provide by drafts on the British Treasury. The conspirators were driven to extraordinary shifts. Burr undertook the task of drawing men like Blennerhassett into his toils, and induced Dayton to try an experiment, resembling the plot of a comic opera rather than the seriousness of historical drama.

December 5, 1805, three days after Burr had returned to Philadelphia from his unsatisfactory interview with Merry, the Marquis of Casa Yrujo received a secret visit at his house in Philadelphia from Jonathan Dayton, whom he had known at Washington as the Federalist Senator from New Jersey. Dayton, in a mysterious manner, gave him to understand that the Spanish Government would do well to pay thirty or forty thousand dollars for certain secrets; and finding the Marquis disposed to listen, Dayton recited a curious tale.

This secret [said he] is known at the present moment to only three persons in this country. I am one of them; and I will tell you that, toward the end of the last session and near the end of last March, Colonel Burr had various very secret conferences with the British minister, to whom he proposed a plan not only for taking the Floridas, but also for effecting the separation and independence of the Western States — a part of this plan being that the Floridas should be associated in this new federative republic; England to receive as the price of her services a decisive preference in matters of commerce and navigation, and to secure these advantages by means of a treaty to be made as soon as she should recognize this new republic. This plan obtained the approval of the British minister, who sent it and recommended it to his Court. Meanwhile, Colonel Burr has been in New Orleans, in the Mississippi Territory, in the States of Tennessee, Kentucky, and Ohio, to sound and prepare their minds for this revolution. In all these States he has found the most favorable disposition, not only for this emancipation, which the Western States evidently desire, but also for making an expedition against the kingdom of Mexico. This is an idea that occurred to us after sending the first plan to London; and having given greater extension to the project,

Colonel Burr sent to London a dispatch with his new ideas to Colonel Williamson — an English officer who has been many years in this country, and whose return he expects within a month or six weeks. The first project was very well received by the English Cabinet, and more particularly by Mr. Dundas, or Lord Melville, who was the person charged with this correspondence; but as he had reason to fear dismissal from office for causes well known through the debates of Parliament, this plan has suffered some delay; but Mr. Pitt has again turned his attention to it.

On the strength of this information Dayton seriously proposed to terrify Yrujo and Don Carlos IV into paying the expenses of Burr's expedition. An idea so fantastic could have sprung from no mind except Burr's; but, fantastic as it was, he pursued it obstinately, although by doing so he betrayed to Spain the followers whom he was striving to inveigle into an imaginary assault on Spanish empire. Dayton asserted that the revolution would begin on the appearance of the British squadron off the coast of West Florida in February or March, 1806; that to make this revolution more popular, after the Floridas were taken, the expedition against Mexico would be attempted; that they feared no opposition from a Government so weak as the Federal; that the United States troops were all in the West, and that Colonel Burr had caused them to be sounded in regard to the expedition against Mexico; that they were all ready to follow him, and he did not doubt that there existed in them the same disposition to sustain the rights of the Western States, in which they lived, against the impotent forces of the Federal Government; that Mexico was to be assailed, in co-operation with the English fleet, by troops to be disembarked at Tampico or thereabout; and that the revolutionized Spanish possessions would be made republics.

To reveal such a plan was to destroy its chance of success; and in thus presenting himself before the Spanish minister, Dayton appeared as a traitor, not only to the Union, but also to the conspirators with whom he was engaged. Such a character was not likely to create confidence. Yrujo instantly saw that Burr stood behind Dayton; that England could not have encouraged the conspiracy, for, had she done so, the conspirators would never come to beg a few thousand dollars from Spain; and that the Mexican scheme, if it ever existed, must have been already abandoned or it would not have been revealed. Dismissing the ex-Senator with civility and a promise to talk with him further, Yrujo wrote to his Govern-

ment a long account of the interview. He pointed at once to Clark as the person through whom Burr drew his information about Mexico. Yrujo was perplexed only by Jefferson's apparent blindness to the doings in the West. The Marquis was a Spaniard; and for twenty years the people of the United States had talked of Spaniards with contempt. Even Jefferson freely assumed their faithlessness and paltriness; but surely if Yrujo had cared to concentrate in a few words his opinion of American political character, no American could have wondered if these few words, like a flash of lightning, left no living thing where they struck. In a few days more, Dayton made a clean breast, admitting that England had disappointed Burr's expectations and that Burr had authorized the offer to sell his services to Spain.

I have had with him two very long conferences [wrote Yrujo three weeks later], in which he has told me that . . . Colonel Williamson, who was sent to London with the plan for the British Ministry, not finding Mr. Pitt so warm as Lord Melville for the project of raising the Western States, had turned to plans in that capital, and showed, by the want of exactness in his correspondence, that he was not following up the object with the same zeal as at first he undertook it; that in consequence they were disposed to dispatch to London a New York gentleman named Warton, well known for his intimacy with Burr, but that on the verge of his departure another plan suggested itself to Burr, which he seems rather inclined to execute. This plan, excepting the attack on the Floridas, has the same object, which he, as well as his chief friends, hope may be put in execution even without foreign aid. For one who does not know the country, its constitution, and, above all, certain localities, this plan would appear almost insane; but I confess, for my part, that in view of all the circumstances it seems to me easy to execute, although it will irritate the Atlantic States, especially those called central — that is, Virginia, Maryland, Delaware, Pennsylvania, New Jersey, and New York. It is beyond question that there exists in this country an infinite number of adventurers, without property, full of ambition, and ready to unite at once under the standard of a revolution which promises to better their lot. Equally certain is it that Burr and his friends, without discovering their true object, have succeeded in getting the good-will of these men, and inspiring the greatest confidence among them in favor of Burr.

The 'almost insane' plan which Dayton unfolded to the Spanish minister was nothing less than to introduce by degrees into the city of Washington a certain number of men in disguise, well armed, who, at a



signal from Burr, were to seize the President, Vice-President, and the President of the Senate — the substitute always named at the beginning of each session, in case of the death, illness, or absence of the two first. Having thus secured the heads of government, the conspirators were to seize the public money deposited in the Washington and Georgetown banks, and to take possession of the arsenal on the Eastern Branch. Burr hoped by this blow to delay or paralyze opposition, and perhaps to negotiate with the individual States an arrangement favorable to himself; but in the more probable case that he could not maintain himself at Washington, he would burn all the national vessels at the Navy Yard, except the two or three which were ready for service, and embarking on these with his followers and the treasure, he would sail for New Orleans and proclaim the emancipation of Louisiana and the Western States.

Wild as this scheme was, it occupied Burr's mind for the rest of the winter, and he made many efforts to draw discontented officers of the Government into it. He sounded Commodore Truxton, without revealing his whole object; but to William Eaton, the hero of Derne, he opened himself with as much confidence as to Merry and Yrujo. Eaton was at Washington in January and February, 1806, sore at the manner in which his claims were treated by Congress, and extravagant in ideas of his own importance. To him Burr laid open the whole secret, even in regard to the plan for attacking Washington. The story was the same which had been told to Merry and Yrujo. He spoke of Wilkinson as his second in command; of his son-in-law, Allston, as engaged in the enterprise; and of New Orleans as the capital of his Western Empire, whence an expedition would be sent for the conquest of Mexico. The line of demarcation was to be the Alleghany Mountains; and although he expressed some doubts about Ohio, he declared himself certain of Kentucky and Tennessee.

Meanwhile, the Government asked no questions. Denunciation of Burr and Wilkinson was dangerous; it was tried again and again with disastrous results. Major Bruff, at St. Louis, who suspected the truth, dared not bring such a charge against his superior officer. So thick an atmosphere of intrigue, especially in Spanish matters, was supposed to pervade the White House; men's minds were so befogged with public messages about a Spanish war and secret messages about peace, with John Randolph's furious charges of duplicity and Madison's helpless silence under these charges — that until the President himself should say the

word, Burr, Wilkinson, Dayton, and their associates were safe, and might hatch treason in the face of all the world.

President Jefferson had already too many feuds on his hands, and Burr had still too many friends, to warrant rousing fresh reprisals at a time when the difficulties of the Administration were extreme. The President continued to countenance Burr in public, alleging in private that the people could be trusted to defeat his schemes. Doubtless the people could be trusted for that purpose, but they had instituted a government in order to provide themselves with proper machinery for such emergencies, and the President alone could set it in action. General Eaton made an attempt to put the President on his guard. He first consulted two leading Federalist Congressmen — John Cotton Smith and Samuel Dana — who advised him to hold his tongue, for his solitary word would not avail against the weight of Burr's character. Nevertheless, in March, 1806, he called at the White House and saw the President.

After a desultory conversation, in which I aimed to draw his attention to the West, I took the liberty of suggesting to the President that I thought Colonel Burr ought to be removed from the country, because I considered him dangerous in it. The President asked where he should send him. I said to England or Madrid. . . . The President, without any positive expression in such a matter of delicacy, seemed to think the trust too important, and expressed something like a doubt about the integrity of Mr. Burr. I frankly told the President that perhaps no person had stronger grounds to suspect that integrity than I had; but that I believed his pride of ambition had so predominated over his other passions that, when placed on an eminence and put on his honor, a respect to himself would secure his fidelity. I perceived that the subject was disagreeable to the President; and to bring him to my point in the shortest mode, and in a manner which would point to the danger, I said to him, if Colonel Burr was not disposed of, we should in eighteen months have an insurrection, if not a revolution, on the waters of the Mississippi. The President said he had too much confidence in the information, the integrity, and attachment of the people of that country to the Union, to admit any apprehension of that kind.

If the President had confidence in the people of New Orleans, he had not shown it in framing a form of government for them; and if he admitted no apprehensions in March, 1806, he admitted many before the year closed. In truth, he deceived himself. That he was afraid of Burr

and of the sympathy which Burr's career had excited was the belief of Burr himself, who responded to Jefferson's caution by a contempt so impudent as to seem even then almost incredible. Believing that the President dared not touch him, Burr never cared to throw even a veil over his treason. He used the President's name and the names of his Cabinet officers as freely as though he were President himself; and no one contradicted or disavowed him. So matters remained at Washington down to the close of the session.

## CHAPTER THIRTY-EIGHT

### *Burr's Preparations*

**T**HE DEATH OF PITT destroyed all immediate possibility of drawing England into conspiracy with Burr — if indeed a possibility had ever existed. The attempt to obtain money from Spain was equally hopeless.

Burr was also ruined. He could not return to New York, where an indictment hung over his head. Conspiracy was easier than poverty; but conspiracy without foreign aid was too wild a scheme for other men to join. Jefferson might at that moment have stopped Burr's activity by sending word privately to him and his friends that their projects must be dropped; but Jefferson, while closing every other path, left that of conspiracy open to Burr, who followed it only with much difficulty. In order to retain any friends or followers, he was obliged to deceive them all and entangle himself and them in an elaborate network of falsehood. Dayton alone knew the truth and helped him to deceive.

Finding Yrujo obstinate in refusing to advance money, Burr tried to alarm him by pretending to take up again the scheme of attacking Florida and Mexico. June 9, 1806, Yrujo wrote another long dispatch on the subject. Burr, he said, had suddenly ceased to visit him as frequently as usual, and Dayton had explained the coldness as due to Burr's belief that the new Administration in England would be more liberal and zealous than that of Pitt. Dayton added that Burr was drawing up new instructions for Williamson; that he had even decided to send Bollman to London to invite co-operation from the British Government in an attack on the Spanish possessions. Dayton professed to have acted as the protector of Spain from Burr's unprincipled ambition.

Godoy and Cevallos were hardly so imbecile as to pay for creating at New Orleans a new American empire more dangerous to Spanish possessions than the peaceful republic over which Jefferson presided at Washington. Don Pedro Cevallos read Yrujo's dispatches with great interest. At first he even hinted that if the United States were bent on forcing a war with Spain, these adventurers, in case of actual hostilities, might be made useful; but this suggestion was accompanied by many warnings to Yrujo not to commit himself or to contribute money, and

at last by a flat announcement that the King would not in any way encourage Burr's designs.

The conspirators were in a worse position as regarded England. By a fatal stroke of ill-luck, Merry's dispatch of November 25, 1805, written to be read in secrecy by the Tory Lord Mulgrave, was received at the Foreign Office February 2, 1806, ten days after Pitt's death, and was probably opened by Charles James Fox — almost the last man in England to whom Merry would have willingly shown it. The only answer received by Merry reached Washington about June 1, 1806, and consisted in the dry announcement that His Majesty had been pleased to listen favorably to Mr. Merry's request for a recall, and had appointed the Honorable David Montague Erskine as his successor.

Merry complained piteously that he had never suggested a wish to be recalled, that he had indeed the strongest desire to remain, and felt himself greatly aggrieved at his treatment; but Fox was remorseless, and Merry could only prepare for Erskine's arrival. Smarting under this sudden reproof, Merry held his parting interview with Burr. Doubtless it was as little cheerful on one side as on the other.

After receiving this rebuff from England, Burr and Dayton needed singular impudence to threaten Yrujo with the terror of Charles James Fox; but impudence had become their only resource. Every step taken thenceforward by the conspirators was taken by means of a new imposture; until at last they became petty swindlers who lived from day to day by cheating each other. How flagrant their imposture was has been partly shown in their attempt to deceive Yrujo; but their treatment of Wilkinson was far more dishonest.

Toward the end of July, 1806, Burr had accomplished all that could be done in the East, and prepared to begin his campaign to New Orleans. By strenuous efforts money had been raised to set the subordinate adventurers in motion. Among these were Erick Bollman, famous for an attempt to rescue Lafayette from confinement at Olmütz; a French officer named De Pestre, or Dupiester; Samuel Swartwout, a younger brother of Robert; and finally young Peter V. Ogden, a nephew of Dayton. The time had come when each actor must take his place, and must receive orders as to the rôle he was to play.

Of all Burr's intimates, Wilkinson was not only the most important, but also the most doubtful. He had hung back and had made conditions.

Since October, 1805, nothing had been heard from him, and his last letter had contained objections 'deemed very silly.' At last a letter, dated May 13, arrived. This letter never saw the light; afterward, at the trial, Wilkinson challenged its production, and accused Burr of falsehood in asserting that it had been destroyed at Wilkinson's request or with his knowledge. Only one conclusion might be taken as certain in regard to its contents — they did not suit the situation of Dayton and Burr.

Dayton's reply was dated July 24, 1806, and was sent by his nephew, Peter V. Ogden, to Wilkinson.

It is now well ascertained that you are to be displaced in next session [wrote Dayton, working on his old friend's pride and fears]. Jefferson will affect to yield reluctantly to the public sentiment, but yield he will. Prepare yourself, therefore, for it. You know the rest. You are not a man to despair, or even despond, especially when such prospects offer in another quarter. Are you ready? Are your numerous associates ready? Wealth and glory! Louisiana and Mexico!

Together with this exhortation from Dayton, Burr sent a cipher dispatch, afterward famous as the key to the whole conspiracy. Published at different times with varying versions, as suited Wilkinson's momentary objects, the correct reading probably ran very nearly as follows:

July 29, 1806. Your letter, postmarked 13th May, is received. At length I have obtained funds, and have actually commenced. The Eastern detachments, from different points and under different pretenses, will rendezvous on the Ohio 1st of November. Everything internal and external favors our views. Naval protection of England is secured. Truxton is going to Jamaica to arrange with the admiral on that station. It will meet us at the Mississippi. England, a navy of the United States, are ready to join, and final orders are given to my friends and followers. It will be a host of choice spirits. Wilkinson shall be second to Burr only; Wilkinson shall dictate the rank and promotion of his officers. Burr will proceed westward 1st August, never to return. With him goes his daughter; the husband will follow in October, with a corps of worthies. Send forthwith an intelligent and confidential friend with whom Burr may confer; he shall return immediately with further interesting details; this is essential to concert and harmony of movement. Send a list of all persons known to Wilkinson west of the mountains who could be useful, with a note delineating their characters. By your messenger send me four or five commissions of your officers, which you can borrow under any pre-

tense you please; they shall be returned faithfully. Already are orders given to the contractor to forward six months' provisions to points Wilkinson may name; this shall not be used until the last moment, and then under proper injunctions. Our object, my dear friend, is brought to a point so long desired. Burr guarantees the result with his life and honor, with the lives and honor and the fortunes of hundreds, the best blood of our country. Burr's plan of operation is to move down rapidly from the Falls, on the 15th of November, with the first five hundred or a thousand men, in light boats now constructing for that purpose; to be at Natchez between the 5th and 15th of December, there to meet you; there to determine whether it will be expedient in the first instance to seize on or pass by Baton Rouge. On receipt of this, send Burr an answer. Draw on Burr for all expenses, etc. The people of the country to which we are going are prepared to receive us; their agents, now with Burr, say that if we will protect their religion, and will not subject them to a foreign Power, that in three weeks all will be settled. The gods invite us to glory and fortune; it remains to be seen whether we deserve the boon. The bearer of this goes express to you. He is a man of inviolable honor and perfect discretion, formed to execute rather than project, capable of relating facts with fidelity, and incapable of relating them otherwise; he is thoroughly informed of the plans and intentions of Burr, and will disclose to you as far as you require, and no further. He has imbibed a reverence for your character, and may be embarrassed in your presence; put him at ease, and he will satisfy you.

Had Burr and Dayton not felt strong reason to doubt Wilkinson's course, they would not have invented a tissue of falsehoods such as these letters contained. So far as concerned Wilkinson's future conduct, no one could deny that this gross deception set him free from any ties that might have previously bound him to Dayton or Burr.

Furnished with these and other letters almost equally compromising, Ogden and Swartwout, at the end of July, started on their way. Swartwout was directed to see Adair in Kentucky, and to deliver to him dispatches, the contents of which have never been made known, but were doubtless identical with the letters to Wilkinson. At the same time Erick Bollman started by sea with similar dispatches for New Orleans.

Early in August Burr followed, taking with him his daughter, Mrs. Allston, and his chief of staff, Colonel De Pestre. After crossing the mountains he threw aside ordinary caution. At Canonsburg, about fifteen miles beyond Pittsburgh, he stopped at the house of an old friend, Colonel Morgan, and there so freely asserted the imbecility of the Federal

Government and the certainty of a speedy separation of the Western States from the Eastern that Morgan thought himself bound to give President Jefferson a warning.

The conversation at Canonsburg took place in the afternoon and evening of August 22. A few days afterward, Burr arrived at Blennerhassett's island, where he found the owner waiting with enthusiasm to receive him. Of all the eager dupes with whom Burr had to deal, this intelligent and accomplished Irish gentleman was the most simple. After wasting half his property on his island, he discovered that he had left himself not more than thirty or forty thousand dollars to live upon; and this small property was invested in funds which produced so little as to leave him always embarrassed. He wished ardently to make his fortune by some bold speculation; and Burr had no more pressing necessity than to obtain the funds which Blennerhassett burned to invest. Burr said to Blennerhassett in effect what he said to Wilkinson; but Blennerhassett was less able than Wilkinson to detect falsehood. The actual speculation which was to make Blennerhassett's fortune seemed certain of success.

Burr had invented more than one way of getting money; and among his various expedients none was more ingenious than that of buying a certain Spanish claim, known as the Bastrop Grant, covering an immense district on the Red River, and supposed to be owned in part by one Lynch in Kentucky. Burr had undertaken to buy Lynch's interest for forty thousand dollars, of which only four thousand or five thousand dollars need be paid in money; and he persuaded Blennerhassett that, on the most moderate estimate, they could reap from it the profit of a million. Blennerhassett was assured that before the end of the year Louisiana would be independent, with Burr for its ruler, under the protection of England. Wilkinson and the United States Army were pledged to accept the revolution and to support Burr. Tennessee was secured; and though Kentucky and Ohio were doubtful, they would end by following Tennessee. The Government at Washington would fall to pieces, and the new empire under a stronger government would rise at once to power. Then Bastrop's Grant would take character; its actual cheapness was due to doubts as to its validity: but the moment its validity was decided by the new Government, all those members would be interested in it, the value of the grant would become enormous; emigration would be directed to the spot and Blennerhassett's fortune would be vast. He would,



meanwhile, go at once as minister to England, with Erick Bollman for secretary of legation.

In an incredibly short time Blennerhassett's head was turned. Unluckily for him, his wife's head was turned even more easily than his own; and the charms of Theodosia Allston, who became a guest at the island, dazzled the eyes of both. Before Burr had been two days in the house, Blennerhassett was so enthusiastic a supporter of the scheme that he set himself to work, under Burr's eye, to publish a series of essays in order to show the State of Ohio that disunion was an infallible cure for all its natural or acquired ills. The first of these essays was quickly finished, taken to Marietta, and printed in the *Ohio Gazette* of September 4 under the signature 'Querist.'

September 2, before the 'Querist' appeared, Burr continued his journey down the river to Cincinnati, where he arrived September 4, and remained a few days with Senator Smith, talking freely about the impotence of the Government, the rights and wrongs of the Western people, and their inducements to set up a separate empire. September 10 he crossed the river to Lexington in Kentucky, and shortly afterward went to Nashville in Tennessee.

Owing chiefly to the friendship of Andrew Jackson, the town of Nashville was strongly attached to Burr, and was supposed to favor the disunion scheme. Tennessee was the only State which Burr always claimed positively as his own. Whether he had better grounds for his confidence in Jackson than for his faith in Wilkinson and Daniel Clark might be doubted; but Tennessee was at least vehement in hatred of the Spaniards. The Spaniards were pressing close against Wilkinson's little force at Natchitoches, and Burr made use of the threatened war in order to cover his own scheme. September 27 a public dinner was given to him at Nashville, and Jackson offered as a toast the old sentiment of 1798: 'Millions for defense; not a cent for tribute.' A few days later Burr returned to Kentucky; and within a week suddenly appeared in the newspaper at Nashville a strange proclamation signed 'Andrew Jackson, Major-General Second Division,' and dated October 4, 1806, in which the brigade commanders were ordered to place their brigades at once on such a footing as would enable them on the shortest notice to supply their quota 'when the Government and constituted authorities of our country' should require them to march. This unauthorized step was

commonly supposed to be taken in the interest of Burr's conspiracy, and compromised Jackson gravely in the eyes of the Government at Washington.

Meanwhile, Theodosia Allston and her husband had been left in charge of the Blennerhassetts, while Blennerhassett himself behaved as though he were a village schoolboy playing the part of chieftain in an imaginary feudal castle. He went about the country raising recruits and buying supplies, chattering to every young and active man he met about the expedition which was to make their fortunes. He confided in his gardener, a simple, straightforward fellow named Peter Taylor, 'that Colonel Burr would be king of Mexico, and that Mrs. Allston would be queen of Mexico whenever Colonel Burr died.' He added that Burr 'had a great many friends in the Spanish territory; two thousand Roman Catholic priests were enlisted in his corps; that those priests and the societies which belonged to them were a strong party; that the Spaniards, like the French, had got tired of their government and wanted to swap it; that the British were also friends to this expedition; and that he was the very man who was to go to England on this piece of business for Colonel Burr.' When at the subsequent trial Taylor told this tale, the world was incredulous, and insisted upon disbelieving his story; but Blennerhassett's papers proved the extent of his delusion. By common consent the Blennerhassetts and Allstons agreed that Theodosia was to inherit the empire from her father; but doubts existed whether Allston could take the crown as Theodosia's husband. 'I will win it by a better title,' he cried — 'by my deeds in council and in field!' Mrs. Blennerhassett was impatient to exchange her solitary island for the court of her young empress; and Blennerhassett longed to set sail as minister for England with Erick Bollman for secretary of legation. Under the influence of this intoxication, Blennerhassett offered to advance money to the extent of all his property for Burr's use if Allston would give him a written and sealed guaranty to a certain amount; which Allston did.

Leaving his wife at the island, while fifteen boats were building at Marietta and kilns for baking bread were constructed on the island itself, Blennerhassett went with the Allstons down the river to Lexington, and there rejoined Burr on his return from Nashville, about October 1. No time had been lost. The boats building at Marietta would carry about five hundred men; others to be built elsewhere would carry five hundred

more. Recruiting went rapidly forward. Finally, the purchase-money for Lynch's interest in Bastrop's Grant, about four or five thousand dollars, was paid; and Blennerhassett congratulated himself on owning a share in four hundred thousand acres of land in the heart of Louisiana.

To communicate with his friends in New York and Philadelphia, Burr sent De Pestre October 25, with directions to report the movements of the Western conspirators to the Marquis of Casa Yrujo, as well as to Swartwout and Dayton. After De Pestre had visited New York, he returned to Philadelphia, and December 13 again called upon Yrujo.

He told me [reported Yrujo] that he had seen Mr. Swartwout in New York, whom he had informed of Burr's wish that he, as well as Dr. Erwin, Colonel Smith, and Captain Lewis, who was captain of the merchant ship *Emperor* and brother of the captain of Miranda's vessel the *Leander*, should set out as soon as possible for New Orleans. Likewise he instructed him, on the part of the colonel, that the youths enlisted to serve as officers should set out as soon as possible for their posts. These, my informant told me, are different. Some two or three of them, the quickest and keenest, go to Washington to observe the movements of Government, to keep their friends in good disposition, and to dispatch expresses with news of any important disposition or occurrence. Three go to Norfolk to make some dispatch of provisions. A good number of them will go direct to Charleston to take command as officers, and see to the embarkation of the numerous recruits whom Colonel Burr's son-in-law has raised in South Carolina. He himself will then have returned there from Kentucky, and will embark with them for New Orleans. The rest will embark directly for that city from New York.

Yrujo could not see the feebleness of the conspiracy. So far as he knew, the story might be true; and although he had been both forewarned and forearmed, he could not but feel uneasy lest Burr should make a sudden attack on West Florida or Texas. The Spanish minister was able to protect Spanish interests if they were attacked; but he would have preferred to prevent an attack, and this could be done by the United States Government alone.

The indifference of President Jefferson to Burr's movements astounded many persons besides Yrujo. 'It is astonishing,' wrote Merry in November, 'that the Government here should have remained so long in ignorance of the intended design as even not to know with certainty at this moment the object of the preparations which they have learned are now making.'

Merry would have been still more astonished had he been told that the President was by no means ignorant of Burr's object; and Yrujo might well be perplexed to see that ignorant or not, the President had taken no measure for the defense of New Orleans, and that the time had passed when any measure could be taken. The city was in Wilkinson's hands. Even of the five small gunboats which were meant to be stationed at the mouth of the Mississippi, only one was actually there. That Burr and Wilkinson should meet resistance at New Orleans was not to be imagined. Yrujo saw no chance of checking them except in Ohio and Kentucky.

## CHAPTER THIRTY-NINE

### *Escape Past Fort Massac*

**H**AD BURR SUCCEEDED in carrying out his original plan of passing the Falls of the Ohio as early as November 15, he might have reached New Orleans with all his force; but he made too many delays and tried too far the patience of Ohio. October 1 he returned from Nashville to Lexington, where he was joined by Blennerhassett and Allston. From that moment he was beset by difficulties and growing opposition.

As yet the Government at Washington had not moved, and Burr freely said that his military preparations were made with its knowledge and for the probable event of war with Spain; but he had not foreseen that these tactics might rouse against him the class of men from whom he had least reason to expect opposition. In Kentucky a respectable body of old Federalists still existed, with Humphrey Marshall at their head. The United States District Attorney, Joseph H. Daveiss, was also a Federalist, left in office by Jefferson. Burr's admirers were Republicans, so numerous that the President shrank from alienating them by denouncing Burr, while they in their turn would not desert Burr until the President denounced him. The Federalists saw here a chance to injure their opponents, and used it.

As early as the year 1787, Governor Mirò, the Spanish ruler of Louisiana, tried to organize a party in Kentucky for establishing an independent empire west of the Alleghanies under the protection of Spain. His chief agent for that purpose was James Wilkinson. The movement received no popular support, and failed; but during the next ten years the Spanish governors who succeeded Mirò maintained relations with Wilkinson and his friends, always hoping that some change in American politics would bring their project into favor. Godoy's policy of conciliation with America crossed these intrigues. His treaty of 1795 did much to neutralize them, but his delivery of Natchez in 1798 did more. The settlement of boundary came at a moment when Kentucky, under the lead of Jefferson and Breckinridge, seemed about to defy the United States Government, and when the celebrated Kentucky Resolutions promised to draw the Western people into the arms of Spain. Talleyrand's indignation at

Godoy's conduct was not more acute than the disgust felt by the Spanish officials at New Orleans.

The Spanish intrigues among the Republicans of Kentucky were not wholly unknown to the Federalists in that State; and as time went on, Humphrey Marshall and Daveiss obtained evidence warranting an assault on the Republicans most deeply implicated. The attempt was a matter of life and death to the Spanish pensioners; and in a society so clannish as that of Kentucky, violence was not only to be feared, but to be counted upon. Daveiss took the risks of personal revenge and laid his plans accordingly.

Burr's appearance on the Ohio and at St. Louis in Wilkinson's company during the summer of 1805 called attention to the old Spanish conspiracy and gave Daveiss the opportunity he wanted. As early as January 10, 1806, while Burr was still struggling at Washington to save his plot from collapse for want of foreign aid, and while John Randolph was beginning his invectives in Congress, the district attorney wrote to the President a private letter denouncing the old Spanish plot and declaring that it was still alive. 'A separation of the Union in favor of Spain is the object *finally*. I know not what are the means.' Assuming that Jefferson was ignorant of the facts, because he had 'appointed General Wilkinson as Governor of St. Louis, who, I am convinced, has been for years, and now is, a pensioner of Spain,' Daveiss asserted his own knowledge and contented himself with a general warning.

February 10, Daveiss wrote again calling attention to Burr's movements during the previous summer and charging both him and Wilkinson with conspiracy. At about the time when these letters arrived, the President received another warning from Eaton. The air was full of denunciations, waiting only for the President's leave to annihilate the conspirators under popular contempt. A word quietly written by Jefferson to one or two persons in the Western country would have stopped Burr short in his path and would have brought Wilkinson abjectly on his knees. A slight change in the military and naval arrangements at New Orleans would have terrified the creoles into good behavior and would have made Daniel Clark denounce the conspiracy.

The President showed Daveiss's letter to Gallatin, Madison, and Dearborn; but he did not take its advice, and did not, in his Cabinet memorandum of October 22, mention it among his many sources of information.

February 15 he wrote to Daveiss a request to communicate all he knew on the subject. No other acts followed, nor was either Wilkinson or Burr put under surveillance.

Perhaps this was what Daveiss wished; for if Jefferson pursued his course much further, he was certain to compromise himself in appearing to protect Burr and Wilkinson. Daveiss not only continued to write letter after letter denouncing Wilkinson to the President, without receiving answer or acknowledgment; he not only made a journey to St. Louis in order to collect evidence, and on his return to Kentucky wrote in July to the President that Burr's object was 'to cause a revolt of the Spanish provinces and a severance of all the Western States and Territories from the Union, to coalesce and form one government' — but he also took a new step, of which he did not think himself obliged to inform the President in advance. He established at Frankfort a weekly newspaper, edited by a man so poor in character and means that for some slight gain in notoriety he could afford to risk a worthless life.

July 4, 1806, appeared at Frankfort the first number of the *Western World* — a weekly newspaper edited by John Wood. The society of Kentucky was alarmed and irritated to find that the *Western World* seemed to have no other object for its existence than to drag the old Spanish conspiracy to light. Passions were soon deeply stirred by the persistency and vehemence with which this pretended Republican newspaper clung to the subject and cried for an investigation. Wood had no fancy for being made the object of assassination, but he was given a fighting colleague named Street; and while Wood hid himself, Street defended the office. In spite of several attempts to drive Street away or to kill him, the *Western World* persevered in its work, until October 15 it published an appeal to the people, founded on Blennerhassett's 'Querist' and on the existence of a Spanish Association. Meanwhile, two men in high position dreaded exposure — Judge Sebastian, of the Court of Appeals of Kentucky, and Judge Innis, of the United States District Court.

Daveiss was right in thinking the Spanish conspiracy of 1787-1798 closely allied with Burr's conspiracy of 1805. In striking at Sebastian and Innis, he threw consternation into the ranks of Burr's friends, all of whom were more or less familiar with the Spanish intrigue. Senator Adair, bolder than the rest, stood by Wilkinson and defied exposure; but

the greater number of Wilkinson's accomplices were paralyzed. Daveiss gave them no respite. In October Burr's appearance in Kentucky offered a chance to press his advantage. Jefferson's persistent silence and inaction left the energetic district attorney free to do what he liked; and nothing short of compromising the Administration satisfied his ambition.

Burr passed the month of October in Kentucky; but his preparations were far from complete. The delay was probably due to the time consumed in getting Blennerhassett's money. At last Burr paid to Lynch the purchase-money of four or five thousand dollars for Bastrop's Grant. He had already ordered the construction of boats and enlistment of men at various points on the Ohio, and especially at Marietta, near Blennerhassett's island; but he waited too long before beginning operations on the Cumberland, for not till November 3 did Andrew Jackson at Nashville receive a letter from Burr, enclosing three thousand dollars in Kentucky bank-notes, with orders for the building of five large boats, the purchase of supplies, and the enlistment of recruits — all of which was promptly undertaken by Jackson, but required more time than could be spared by Burr.

Meanwhile, Burr's affairs were going ill in the State of Ohio. Blennerhassett's foolish 'Querist,' and the more foolish conversation of both Blennerhassett and Burr, combined with the assaults of the *Western World*, drew so much attention to the armaments at the island that Mrs. Blennerhassett, left alone while her husband was with Allston and Burr in Kentucky, became alarmed, and thought it necessary to send them a warning. October 20 she wrote to Burr that he could not return with safety. Thinking the note too important to be trusted to the post and ignorant of Burr's address, she sent her gardener, Peter Taylor, on horseback, through Chillicothe, to Cincinnati, with orders to ask Senator Smith for the address. Taylor reached Cincinnati October 23, after three days of travel, and went, according to his mistress's orders, directly to Senator Smith's house, which was in the same building with his store — for Smith was a storekeeper and army contractor. The Senator was already too deeply compromised with Burr and his courage had begun to fail. At first he denied knowledge of Burr or Blennerhassett. In Taylor's words, 'He allowed he knew nothing of either of them; that I must be mistaken; this was not the place. I said, "No; this was the right place — Mr. John Smith, storekeeper, Cincinnati."' In the end. Smith took



him upstairs, and gave him, with every injunction of secrecy, a letter to be delivered to Burr at Lexington. Taylor reached Lexington October 25, found Burr, delivered his letters, and candidly added: 'If you come up our way the people will shoot you.' The following Monday, October 27, the gardener started on his return, taking Blennerhassett with him and leaving Burr at Lexington to face the storms that threatened from many quarters at once.

The impossibility of returning to the island was but one warning; another came from Senator Smith, who dreaded exposure. The letter he sent by Peter Taylor, dated October 23, affected ignorance of Burr's schemes and demanded an explanation of them. October 26 Burr sent the required disavowal:

I was greatly surprised and really hurt [said Burr] by the unusual tenor of your letter of the 23d, and I hasten to reply to it, as well for your satisfaction as my own. If there exists any design to separate the Western from the Eastern States, I am totally ignorant of it. I never harbored or expressed any such intention to anyone, nor did any person ever intimate such design to me.

From that moment to the last day of his life, Burr persisted in this assertion, coupling it always in his own mind with a peculiar reservation. What he so solemnly denied was the intention to separate the Western States 'by force' from the Eastern; what he never denied was the plan of establishing a Western empire by consent.

October 22, while Burr was at Lexington, President Jefferson held a Cabinet council at Washington. The result of this Cabinet discussion, extending from October 22 to October 25, was merely an order to John Graham, Secretary of the Orleans Territory, to stop in Ohio and Kentucky on his way westward and inquire into Burr's movements.

Graham, following orders received from Madison, reached Marietta about the middle of November, when Burr should have already begun his movement, according to the original plan. Blennerhassett, who had been told by Burr that Graham was concerned in the plot, welcomed him with great cordiality and talked much more freely than wisely. The information which crowded on Graham at Marietta led him to go at the end of November to Chillicothe, where the Legislature was in session, and where he caused a law to be passed, December 2, empowering the Governor to use the militia against the conspirators. Had this measure,

or one equally energetic, been taken by the President three months earlier, it would have put an end to Burr's projects before they were under way, would have saved many deluded men from ruin, and would have prevented much trouble at New Orleans; but Graham's progress was not quite so rapid, even though late, as it should have been.

November 25, 1806, was a date to be remembered in the story of Burr's adventures. On that day at Washington the Government at length woke to action. An officer, bringing dispatches from General Wilkinson at Natchitoches, presented himself at the White House with news so startling that Jefferson immediately called his Cabinet together. Another memorandum in the President's handwriting recorded the action taken:

November 25. Present at first the four heads of department; but after a while General Dearborn withdrew, unwell. Dispatches from General Wilkinson to myself of October 21, by a confidential officer (Lieutenant Smith), show that overtures have been made to him which decide that the present object of the combination is an expedition by sea against Vera Cruz; and by comparing the contents of a letter from Cowles Meade to the Secretary of State, with the information from Lieutenant Smith that a Mr. Swartwout from New York, brother of the late marshal, had been at General Wilkinson's camp, we are satisfied that Swartwout has been the agent through whom overtures have been made to Wilkinson. We came to the following determinations — that a proclamation be issued (see it), and that orders go as follows: To Pittsburgh, if we have a military officer there; . . . Marietta, Mr. Gallatin is to write to the collector; . . . General Dearborn to write to Governor Tiffin, . . . and to write to General Jackson, supposed to be the general of the brigade on the Virginia side of the river; . . . Louisville, General Dearborn to write to the Governor of Kentucky; . . . Massac, General Dearborn to give orders to Captain Bissell of the same tenor, and particularly to stop armed vessels suspected on good grounds to be proceeding on this enterprise, and for this purpose to have in readiness any boats he can procure fitted for enabling him to arrest their passage; Chickasaw Bluffs, give same orders as to Bissell; New Orleans, General Wilkinson to direct the station of the armed vessels; and if the arrangements with the Spaniards will permit him to withdraw, let him dispose of his force as he thinks best to prevent any such expedition or any attempt on New Orleans, or any of the posts or military stores of the United States. (He is also to arrest persons coming to his camp and proposing a concurrence in any such enterprise, and suspected of being in camp with a view to propagate such propositions. This addition is made by General Dearborn with my approbation.)

The orders were remarkable chiefly for the power they trusted in the hands of Wilkinson and the confidence they showed in his good faith. Yet nothing could on its face be more suspicious than his report. The idea that Burr's expedition could be directed against Vera Cruz was unreasonable and contrary to the tenor of the President's information from all other sources. A moment's thought should have satisfied the President that Wilkinson was deceiving him and that the city of New Orleans must be the real point of danger. In truth, Wilkinson's letters suppressed more than they told, and were more alarming than the warnings of Eaton or of Daveiss; for they proved that Wilkinson was playing a double part. No measure that promised safety could be taken which would not require an instant removal of Wilkinson and a vigorous support of Claiborne at New Orleans.

November 27, 1806, the same day with Dearborn's letter, the proclamation was issued. Without mentioning Burr's name, it announced that sundry persons were conspiring against Spain, contrary to the laws; it warned all persons whatsoever to withdraw from such conspiracy; and it directed all officers, civil and military, of the United States to seize and detain all persons and property concerned in the enterprise.

The last chance of stopping the conspirators before they could enter the Mississippi was at Fort Massac. Beyond that point they could not easily be molested until they should reach a country more friendly than Ohio or Kentucky to their purposes; but the President had reason to suppose that his proclamation came in ample time to stop the conspirators while they were still on the Ohio River.

The Governor of Ohio, without waiting for the proclamation, acted promptly. On Graham's request, the necessary law was passed and measures were taken to seize Burr's boats at Marietta. The boats and supplies were brought by Burr's men to Blennerhassett's island; but finding that militia were about to take possession of the island itself, the conspirators, with Blennerhassett in their company, at midnight of December 10-11, fled down the river — a half-dozen ill-fitted boats, with thirty or forty men — and passed the Falls of the Ohio at about the time when Burr and Adair entered Nashville.

Graham, leaving Ohio, reached Kentucky December 22, and induced the Governor and the Legislature, December 24, to follow the example of Ohio; but he lost much time between Chillicothe and Frankfort, so that

even after driving Burr from Ohio to Kentucky, and from Kentucky to Tennessee, the quickest pursuit could not prevent the conspirators from taking their path down the Cumberland. Graham in Ohio heard nothing of Burr's doings in Tennessee, although since November 3 Jackson's close friend, Patton Anderson, was scouring the country round Nashville for recruits and had raised a company of seventy-five men. As Burr went farther South, the secrecy of his intimates became more closely guarded and their movements more obscure.

Burr and Adair reached Nashville December 14, and went directly to the river, where their boats were building. By that time Burr was well trained in the comedy he had within the last month so often played. Senator Smith of Ohio began it October 23, by writing the request that Burr's design should be 'candidly disclosed,' because Smith had fears that it might interrupt the tranquillity of the country. A month later Henry Clay made the same request. No sooner did Burr reach Clover Bottom, where his boats were building under Andrew Jackson's charge, than he found himself required to repeat the familiar formula. Jackson, in company with General Overton as his witness, soon appeared at Clover Bottom, and intimated as plainly as had been done by John Smith and Henry Clay that his own credit required a disavowal of designs against the Union. Burr, with his usual dignified courtesy, instantly complied; and his denials were accepted as satisfactory by Jackson.

On Jackson's part this conduct was peculiarly surprising, because more than a month before he had written to Governor Claiborne at New Orleans a secret denunciation of Burr and Wilkinson, couched in language which showed such intimate knowledge of Burr's plans as could have come only from Burr himself or Adair. In accepting Burr's disavowals, December 14, Jackson did not mention to Burr his denunciatory letter written to Claiborne, November 12, in which he had said, 'I fear treachery has become the order of the day.' Like Senator Smith, he was satisfied to secure his own safety; and upon Burr's denial of treasonable schemes, Jackson, although he did not write to Claiborne to withdraw the secret charges, went on building boats, providing supplies, and enlisting men for Colonel Burr's expedition. His motives for this conduct remained his own secret.

At last some unmentioned friend brought to Burr a secret warning that the State authorities must soon take notice of his armaments. The

authorities at Nashville could no longer delay interference, and Burr was made to understand that his boats would be seized and that he was himself in danger unless he should immediately escape; but between December 19 and 22 he was undisturbed. The announcement that Graham was expected to arrive December 23 probably decided his movements; for on the 22d he hastily abandoned all except two of his boats, receiving back from Jackson seventeen hundred and twenty-five dollars and taking the two boats and other articles for his voyage. Jackson afterward declared that he suffered in the end a loss of five hundred dollars by a note which Burr had induced him to endorse and which was returned from New York protested. Without further hindrance Burr then floated down the Cumberland River, taking with him a nephew of Mrs. Jackson, furnished by his uncle with a letter of introduction to Governor Claiborne — a confidence the more singular because Governor Claiborne could hardly fail, under the warnings of General Jackson's previous secret letter, to seize and imprison Burr and everyone who should be found in his company.

Thus, by connivance, Burr escaped from Nashville three days after news of the President's proclamation had arrived. The Government had two more chances to stop him before reaching Natchez. He must join Blennerhassett and Comfort Tyler at the mouth of the Cumberland, and then move down the Ohio River past Fort Massac, garrisoned by a company of the First Infantry, commanded by a Captain Bissell. Having passed Massac, he must still run the gantlet at Chickasaw Bluff, afterward called Memphis, where another military post was stationed. The War Department sent orders, November 27, to the officers commanding at Massac and Chickasaw Bluff to be on their guard.

December 22, Burr left Nashville, while Adair at about the same time started for New Orleans on horseback through the Indian country. At the mouth of the Cumberland, Burr joined Blennerhassett, who had with him the boats which had succeeded in escaping the Ohio militia. The combined flotilla contained thirteen boats, which carried some sixty men and as many stand of arms, the arms being stowed in cases as cargo. December 25, Burr sent a note to Captain Bissell announcing that he should soon reach Fort Massac on his way South and should stop to pay his respects. Bissell had received neither the President's proclamation nor the orders from the Secretary of War. As an old friend of Burr, he sent a cordial welcome to the party. In the night of December 29 the

boats passed the fort and landed about a mile below. The next morning Captain Bissell went in his own boat to pay his respects to Colonel Burr, who declined invitations to breakfast and dinner, but asked a furlough of twenty days for a Sergeant Dunbaugh, who had been persuaded to join the expedition. Bissell gave the furlough December 31, and Burr's party at once started for the Mississippi. Five days afterward, January 5, Bissell received a letter, dated January 2, from Andrew Jackson, as Major-General of Tennessee militia, warning him to stop any body of men who might attempt to pass if they should appear to have illegal enterprises in view. The President's proclamation had not yet reached Fort Massac, nor had Captain Bissell received any instructions from Washington.

Burr for the moment escaped, and everything depended on the action of Wilkinson. Dayton and the other conspirators who remained in the Eastern States thought it a matter of small consequence whether Burr carried with him a party of sixty men or of six hundred. Doubtless the unexpected energy shown by the people and the legislatures of Ohio and Kentucky proved the futility of attempting to revolutionize those States; but if Wilkinson were true to Burr, and if the city of New Orleans should welcome him, it remained to be seen whether the Government at Washington could crush the rebellion. A blockade of the Mississippi was no easy affair and slow in its results; England, France, and Spain might have much to say.

Nearly three years had elapsed since December 20, 1803, when the Spanish Governor surrendered Louisiana to the United States, and the history of the Territory during that time presented an uninterrupted succession of bickerings. The Government at Washington was largely responsible for its own unpopularity in the new Territory, its foreign and domestic policy seeming calculated to create ill-feeling, and, after creating it, to keep it alive. The President began by appointing as Governor of Louisiana a man who had no peculiar fitness for the place. Claiborne, in contrast with men like Wilkinson, Burr, and Daniel Clark, rose to the level of a hero. He was honest, well-meaning, straightforward, and thoroughly patriotic; but these virtues were not enough to make him either feared or respected by the people over whom he was to exercise despotic powers; while Claiborne's military colleague, Wilkinson, possessed fewer virtues and a feebler character. The French Prefect, Laussat,

who remained for a time in New Orleans to protect French interests, wrote his Government April 8, 1804, an interesting account of the situation as seen by French eyes:

It was hardly possible that the Government of the United States should have made a worse beginning, and that it should have sent two men (Messrs. Claiborne, Governor, and Wilkinson, General) less fit to attract affection. The first, with estimable private qualities, has little capacity and much awkwardness, and is extremely beneath his place; the second, already long known here in a bad way, is a flighty, rattle-headed fellow, often drunk, who has committed a hundred impertinent follies. Neither the one nor the other understands a word of French or Spanish. They have on all occasions, and without delicacy, shocked the habits, the prejudices, the character of the population.

Claiborne began his sway, assuming that the creoles were a kindly but ignorant and degraded people, who must be taught the blessings of American society. The creoles, who considered themselves to be more refined and civilized than the Americans who descended upon them from Kentucky and Tennessee, were not pleased that their language, blood, and customs should be systematically degraded, in defiance of the spirit in which the treaty of cession had been made. Their anger was not without an element of danger. England and France could safely defy public opinion and trample on prostrate races. Their empire rested on force, but that of Jefferson rested on consent; and if the people of New Orleans should rebel, they could not be conquered without trouble and expense, or without violating the free principles which Jefferson was supposed to represent.

The colonists in Louisiana had been for a century the spoiled children of France and Spain. Petted, protected, fed, paid, flattered, and given every liberty except the rights of self-government, they liked Spain and loved France, but they did not love the English or the Americans; and their irritation was extreme when they saw Claiborne, who knew nothing of their society and law, abolish their language, establish American judges who knew only American law, while he himself sat as a court of last resort, without even an attorney to advise him as to the meaning of the Spanish law he administered. At the same time that as judge he could hang his subjects, as intendant he could tax them, and as governor he could shoot the disobedient. Even under the Spanish despotism,

appeal might be made to Havana or Madrid; but no appeal lay from Claiborne's judgment-seat.

Before this temporary system was superseded, the creoles already yearned for a return to French or Spanish rule. They had but one hope from the United States — that, in the terms of the treaty, Louisiana might be quickly admitted into the Union. This hope was rudely dispelled. Not only did Congress treat their claims to self-government with indifference, but the Territory was divided in halves, so that it must be slower to acquire the necessary population for a State; while as though to delay still longer this act of justice, the growth of population was checked by prohibiting the slave-trade. Years must pass before Louisiana could gain admission into the Union; and even when this should happen, it must be the result of American expansion at creole expense.



## CHAPTER FORTY

### *Collapse of the Conspiracy*

FOR SEVERAL DAYS after Wilkinson's arrival at New Orleans he left the conspirators in doubt of his intentions. No public alarm had yet been given; and while Colonel Cushing hurried the little army forward, Wilkinson, November 30, called on Erick Bollman and had with him a confidential interview. Not until December 5 did he tell Bollman that he meant to oppose Burr's scheme; and even then Bollman felt some uncertainty. December 6 the General at length confided to the Governor his plan of defense, which was nothing less than that Claiborne should consent to abdicate his office and invest Wilkinson with absolute power by proclaiming martial law.

Considering that this extraordinary man knew himself to be an object of extreme and just suspicion on Claiborne's part, such a demand carried effrontery to the verge of insolence; and the tone in which it was made sounded rather like an order than like advice.

Claiborne mildly resisted the pressure, with much good temper refusing to sanction either the impressment of seamen, the suspension of the writ of habeas corpus, the declaration of martial law, or the illegal arrest of suspected persons, while he insisted on meeting the emergency with the ordinary means at his disposal. Wilkinson was obliged to act in defiance of his advice.

Sunday, December 14, arrests at New Orleans began. Bollman was first to be seized. Swartwout and Ogden had been arrested at Fort Adams. These seizures, together with that of Bollman's companion, Alexander, and Wilkinson's wild talk, spread panic through the city. The courts tried to interpose and applied for support to Governor Claiborne. The Governor advised Wilkinson to yield to the civil authorities; but Wilkinson refused, thus establishing in the city something equivalent to martial law. He knew, or believed, that both Judge Workman and Judge Prevost were engaged in the conspiracy with Burr, and he was obliged to defy them or to risk his own success. The only effect of the attempt to enforce the writ of habeas corpus in favor of the prisoners was to draw out what had been hitherto concealed — Burr's letter of July 29. Not until December 18 did Wilkinson send a written version of that letter

to the President. In order to warrant the arrests of Swartwout and Ogden, Wilkinson, December 26, swore to an affidavit which embodied Burr's letter.

This step brought the panic in New Orleans to a climax. Wilkinson's military measures were evidently directed rather against the city than against Burr. His previous complicity in the projects of Burr was evident. His power of life and death was undisputed. Every important man in New Orleans was a silent accomplice of Burr, afraid of denunciation, and at Wilkinson's mercy. He avowed publicly that he would act with the same energy, without regard to standing or station, against all individuals who might be participants in Burr's combination; and it would have been difficult for the best people in New Orleans to prove that they had no knowledge of the plot or had given it no encouragement. The creole gentlemen began to regret the mild sway of Claiborne when they saw that their own factiousness had brought them face to face with the chances of a drumhead court-martial.

Wilkinson's violence might have provoked an outbreak from the mere terror it caused, had he not taken care to show that he meant in reality to protect and not to punish the chief men of the city. After the first shock, his arrests were in truth reassuring. The people could afford to look on while he seized only strangers, like Bollman and Alexander; even in Swartwout and Ogden few citizens of New Orleans took much personal interest. Only in case the General had arrested men like Derbigny or Edward Livingston or Bellechasse would the people be likely to resist; and Wilkinson showed that he meant to make no arrests among the residents and to close his eyes against evidence that could compromise any citizen of the place.

Had Wilkinson been satisfied to secure the city without magnifying himself, he might perhaps have won its regard and gratitude; but he could do nothing without noise and display. Before many days had passed he put an embargo on the shipping and set the whole city at work on defenses. He spread panic-stricken stories of Burr's force and of Negro insurrection. He exasperated the judges and the bar, alienated Claiborne, and disgusted the creoles. Nothing but a bloody convulsion or an assault upon the city from Burr's armed thousands could save Wilkinson from becoming ridiculous.

January 12, 1807, the Legislature met. Probably at no time had

Burr's project received much avowed support, even among those persons to whom it had been confided. Men of wealth and character had no fancy for so wild a scheme. The Legislature was under the influence of conservative and somewhat timid men, from whom no serious danger was to be expected, and whose fears were calculated to strengthen rather than to weaken the Government; yet it was true that Burr had counted upon this meeting of the Legislature to declare Louisiana independent and to offer him the Government. He was to have waited at Natchez for a delegation to bring him the offer; and he was supposed to be already at Natchez. The city had been kept for a month in a state of continual alarm, distracted by rumors, and expecting some outbreak from day to day, assured by Wilkinson that Burr with seven thousand men might appear at any moment, with a Negro insurrection behind him and British ships in the river, when suddenly John Adair rode into town and descended at the door of Madame Nourage's boarding-house. Judge Prevost, Burr's stepson, was so indiscreet as to announce publicly that General Adair, second in command to Burr, had arrived in town with news that Burr would follow in three days, and that it would soon be seen whether Wilkinson's tyranny would prevail. The same afternoon Lieutenant-Colonel Kingsbury of the First Infantry, at the head of a hundred and twenty men, appeared at the door of the hotel and marched Burr's second in command to prison. Adair afterward claimed that if he had been allowed forty-eight hours no one could have arrested him, for he had more friends in New Orleans than the General had; but even he must have seen that the conspiracy was dead. For a moment his arrest, and a few others made at the same time, caused excitement, and Wilkinson ordered detachments of troops to patrol the city; but thenceforward confidence began to return and soon the crisis passed away, carrying with it forever most of the discontent and danger which had marked the annexation of Louisiana. If New Orleans never became thoroughly American, at least it was never again thoroughly French.

Unfortunately for Wilkinson's hopes of figuring in the character of savior to his country, Burr's expedition met with an inglorious and somewhat ridiculous end before it came within sight of Wilkinson or his command. After leaving Fort Massac, the little flotilla entered the Mississippi, and in a few days reached Chickasaw Bluffs, where a small military post of nineteen men was stationed, commanded by a second

lieutenant of artillery, who had received no more instructions than had been received by Captain Bissell. So far from stopping the flotilla, Lieutenant Jackson was nearly persuaded to join it, and actually accepted money from Burr to raise a company in his service. January 6, leaving Chickasaw Bluffs, the flotilla again descended the river until, January 10, it reached the mouth of Bayou Pierre, about thirty miles above Natchez. There Burr went ashore, and at the house of a certain Judge Bruin he saw a newspaper containing the letter which he had himself written in cipher to Wilkinson July 29, and which Wilkinson had published December 26.

From the moment Burr saw himself denounced by Wilkinson, his only hope was to escape. The President's proclamation had reached the Mississippi Territory; Cowles Meade, the acting governor, had called out the militia. If Burr went on he would fall into the hands of Wilkinson, who had every motive to order him to be court-martialed and shot; if he stayed where he was, Cowles Meade would arrest and send him to Washington. Moving his flotilla across the river, Burr gave way to despair. Some ideas of resistance were entertained by Blennerhassett and the other leaders of the party; but they were surprised to find their 'emperor' glad to abdicate and submit. January 17, Burr met Acting-Governor Cowles Meade and surrendered at discretion. His conversation at that moment was such that Meade thought him insane. January 21 he caused his cases of muskets, which had been at first secreted in the brush, to be sunk in the river. After his surrender he was taken to Washington, the capital of the Territory, about seven miles from Natchez. A grand jury was summoned, and the Attorney-General, Poindexter, attempted to obtain an indictment. The grand jury not only threw out the bill, but presented the seizure of Burr and his accomplices as a grievance. The very militia who stopped him were half inclined to join his expedition. Except for a score of United States officials, civil and military, he might have reached New Orleans without a check.

Fortunately neither the civil nor the military authorities of the National Government were disposed to be made a jest. The grand jury could grant but a respite, and Burr had still to decide between evils. If he fell into Wilkinson's hands he risked a fate of which he openly expressed fear. During the delay his men on the flotilla had become disorganized and insubordinate; his drafts on New York had been returned

protested; he knew that the military authorities at Fort Adams were determined to do what the civil authorities had failed in doing; and his courage failed him when he realized that he must either be delivered to President Jefferson, whom he had defied, or to General Wilkinson, whom he had tried to deceive.

February 1, 1807, after sending to his friends on the flotilla a note to assure them of his immediate return, Burr turned his back on them, and left them to the ruin for which he alone was responsible. Disguised in the coarse suit of a Mississippi boatman, with a soiled white-felt hat, he disappeared into the woods, and for nearly a month was lost from sight. Toward the end of February he was recognized in a cabin near the Spanish frontier, about fifty miles above Mobile; and his presence was announced to Lieutenant Gaines, commanding at Fort Stoddert; near-by. Gaines arrested him. After about three weeks of confinement at Fort Stoddert, he was sent to Richmond in Virginia. In passing through the town of Chester, in South Carolina, he flung himself from his horse and cried for a rescue; but the officer commanding the escort seized him, threw him back like a child into the saddle, and marched on. Like many another man in American history, Burr felt at last the physical strength of the patient and long-suffering government which he had so persistently insulted, outraged, and betrayed.

At last Jefferson was obliged to raise his voice against Burr's crimes. Thenceforward a sense of having been made almost a party to the conspiracy gave a sting of personal bitterness to the zeal with which he strove to defend Wilkinson and to punish Burr. Anxiety to excuse himself was evident in the Message which he sent to Congress January 22, in response to Randolph's resolution of January 16.

Some time in the latter part of September [he said], I received intimations that designs were in agitation in the Western country, unlawful and unfriendly to the peace of the Union, and that the prime mover in these was Aaron Burr.

He had received such intimations many times, and long before the month of September.

It was not till the latter part of October that the objects of the conspiracy began to be perceived.

Absolute truth would have required the President to say rather that it was not till the latter part of October that inquiry on his part began to be made.

A conspiracy against the Union existed; the President communicated Burr's cipher letters; he proclaimed Burr's expectation of seizing upon New Orleans, as well as the panic prevailing there; and he approved Wilkinson's arrest of Bollman and Swartwout. Finally, the Message spoke of the people in New Orleans in a tone of confidence quite different from that of Wilkinson's dispatches, communicated with the Message itself.

The Senate interpreted the Message in the sense it was doubtless meant to bear — as a request from the President for support. Bollman and Swartwout, who would arrive in Washington within a few days or hours, had been illegally arrested, and they, as well as the other conspirators, could not without special legislation be held longer in custody. Giles at once introduced a bill suspending for three months the writ of habeas corpus with respect to such persons; and the necessity of this measure seemed so obvious to the Senate that the rules were suspended by unanimous consent and the bill was passed on the same day through all its stages. Bayard alone voted against it.

Monday, January 26, the bill was brought before the House, and Eppes of Virginia, the President's son-in-law, immediately moved its rejection. The debate that followed was curious, not only on account of the constitutional points discussed, but also on account of the division of sentiment among the President's friends, who quoted the Message to prove that there was no danger to public safety such as called for a suspension of habeas corpus, and appealed to the same Message to prove the existence of a more wanton and malignant insurrection than any that had ever before been raised against the Government.

The bill was accordingly rejected by the great majority of one hundred and thirteen to nineteen. On the same day the Attorney-General applied to Judge Cranch of the District Court for a warrant against Bollman and Swartwout on the charge of treason, filing Wilkinson's affidavit and a statement given under oath by William Eaton in support of the charge. The warrant was issued; Bollman and Swartwout at once applied to the Supreme Court, then in session, for a writ of habeas corpus. February 13, Chief Justice Marshall granted the writ; February 16 their

counsel moved for their discharge; and February 21 the Chief Justice decided that sufficient evidence of levying war against the United States had not been produced to justify the commitment of Swartwout, and still less that of Bollman, and therefore that they must be discharged. Adair and Ogden, who had been sent to Baltimore, were liberated by Judge Nicholson.

The friends of the Administration, exasperated at this failure of justice, again talked of impeaching the judges. Giles threatened to move an amendment of the Constitution taking all criminal jurisdiction from the Supreme Court. Meanwhile, Randolph and the Federalists assailed Wilkinson, and by implication the President. They brought forward a resolution declaring the expediency of making further provision by law for securing the privilege of habeas corpus; and in the warm debate raised by this maneuver John Randolph made himself conspicuous by slurs upon Wilkinson, whom he did not scruple to charge with double treason — to the Constitution and to Burr. By a close vote of sixty to fifty-eight this resolution was indefinitely postponed; but the debate showed the settled drift of Randolph's tactics. He meant to attack the President by attacking Wilkinson; and the President could no longer evade responsibility for Wilkinson's acts. To be thwarted by Chief Justice Marshall and baited by John Randolph; to be made at once the scapegoat of Burr's crimes and of Wilkinson's extravagances — was a fate peculiarly hard to bear, but was one which Jefferson could not escape.

Thenceforward the situation changed. What seemed to be the indictment and trial of Burr became, in a political point of view, the trial of Wilkinson, with John Randolph acting as accuser and President Jefferson as counsel for the defense, while Chief Justice Marshall presided in judgment. No more unpleasant attitude could be readily imagined for a man of Jefferson's high position and pure character than to plead before his two most formidable and unforgiving enemies as the patron and protector of a client so far beneath respect. Driven by forces which allowed no choice of paths, he stood by the man who had saved him; but in order to understand precisely what he effected in sustaining Wilkinson, Americans must look in the archives of the King of Spain for knowledge of facts disbelieved by the President of the United States.

According to appearances [wrote Yrujo January 28, 1807], Spain has saved the United States from the separation of the Union which menaced

them. This would have taken place if Wilkinson had entered cordially into the views of Burr — which was to be expected, because Wilkinson detests this Government, and the separation of the Western States has been his favorite plan. The evil has come from the foolish and pertinacious perseverance with which Burr has persisted in carrying out a wild project against Mexico. Wilkinson is entirely devoted to us. He enjoys a considerable pension from the King. With his natural capacity and his local and military knowledge, he anticipated with moral certainty the failure of an expedition of this nature. Doubtless he foresaw from the first that the improbability of success in case of making the attempt would leave him like the dog in the fable with the piece of meat in his mouth; that is, that he would lose the honorable employment he holds and the generous pension he enjoys from the King. These considerations, secret in their nature, he could not explain to Burr; and when the latter persisted in an idea so fatal to Wilkinson's interests, nothing remained but to take the course adopted. By this means he assures his pension; and will allege his conduct on this occasion as an extraordinary service, either for getting it increased or for some generous compensation. On the other hand, this proceeding secures his distinguished rank in the military service of the United States and covers him with a popularity which may perhaps result in pecuniary advantages, and in any case will flatter his vanity. In such an alternative he has acted as was to be expected; that is, he has sacrificed Burr in order to obtain, on the ruins of Burr's reputation, the advantages I have pointed out.

Whether Yrujo was right in his theory of Wilkinson's motives might be doubted, but on one point he could not be mistaken. The General-in-Chief of the United States Army was in the employment of Don Carlos IV; he enjoyed a pension of two thousand dollars a year in consideration of secret services, and for twenty years the services had been rendered and the pension had been paid.



## CHAPTER FORTY-ONE

### *Session of 1806-1807*

**J**EFFERSON'S EFFORT to suppress the scandal of Burr's disunion scheme had its source in motives both pure and generous. Distressed by the factiousness of the last session, he could feel no wish more ardent than to restore harmony to his party. The struggle for the succession threatened to tear from his brows the hard-won laurels which were his only pleasure, and the reward for infinite labors and mortifications. Reunion in a common policy, a controlling impulse, was the motive of his gentleness toward Randolph and the Virginia schismatics, as it was that of his blindness to the doings of Burr.

The Annual Message of December, 1806, was intended to unite the party on a new plane of action, and to prepare the way for Madison's gentle rule. Almost ignoring foreign politics, Jefferson recommended Congress to abolish the slave-trade, begin a system of national roads and canals, found a national university, fortify the coasts, and organize the national militia; and had Congress been able or willing to follow promptly his advice, many difficulties would have been overcome before the year 1810 which seemed even twenty years later to bar the path of national progress. Congress, indeed, never succeeded in rising to the level of Jefferson's hopes and wishes; it realized but a small part of the plan which he traced, and what it did was done with little system. The slowness with which political movement lagged behind industrial and social progress could be measured by the fate of President Jefferson's scheme of 1806 for crowning the fabric of Republican government. Not by means of the Government, or by virtue of wisdom in the persons trusted with the Government, were Jefferson's objects destined at last to be partially attained.

To some extent the President, his Cabinet, and the Senate had become converted to Federalist views; but the influence of Randolph and of popular prejudices peculiar to Southern society held the House stiffly to an impracticable creed. Whatever the North and East wanted, the South and West refused. Jefferson's wishes fared no better than the requests of the State and city of New York; the House showed no alacrity in taking up the subject of roads, canals, or universities. The only in-

novation which made its way through Congress was the Act of February 10, 1807, appropriating fifty thousand dollars for the establishment of a coast survey, for this was an object in which the Southern States were interested as deeply as the Northern. Even the Senate's appropriation for beginning the Cumberland Road was indefinitely postponed by the House.

This jealousy of Government could not without ill-temper be so severely enforced. Randolph's manners were unconsciously imitated by the men who imitated his statesmanship, and the Southern Republicans treated their Northern allies with autocratic harshness as offensive as that of Randolph. The Federalist members, for the most part able to hold their own and even to return such treatment with manners still more arrogant, enjoyed the irritation of Democrats like Sloan and Smilie, Bidwell and Varnum. Yet although the Federalists were not sorry to see the Pennsylvania Democrats ground under the heel of Virginia, they were surprised to find how rapidly the sectional spirit increased in the Southern States when slavery was in question. The debate on the abolition of the slave-trade startled Democrats and Federalists alike.

The paragraph in the President's Message which related to the slave-trade was regularly referred to a special committee. Peter Early of Georgia was chairman, while Thomas Mann Randolph of Virginia, John Campbell of Maryland, Thomas Keenan of North Carolina, and three Northern representatives completed the number. Early took the subject promptly in hand, and December 15, 1806, reported a bill, which was referred to the House in committee, and came up two days afterward for debate. The bill declared the importation of Negroes as slaves unlawful; imposed a fine on the importer, with forfeiture of ship and cargo; and authorized the President to employ the armed vessels of the United States in enforcing the law.

Under the Act which prescribed rules for forfeiture, the cargo of a forfeited vessel was to be sold on behalf of the United States Government. The cargo of a slave-ship consisted in Negroes. Under Early's bill, every Negro imported thenceforth into the country became forfeit to the United States, and must be sold by the United States Government to the highest bidder.

The Pennsylvania Democrats, imbued with Quaker principles in regard to slavery, could scarcely be expected to approve of a policy which

made the Government an owner and trader in slaves. The New Englanders, though the slave-trade had been to a great extent a Rhode Island interest, were little inclined to adopt a law under which any cargo of Negroes that might be driven on their coast must be sold at public auction in the streets of Newport or Boston; and perhaps even some of the Southern members might have admitted that the chance of collusion between importers and buyers was a serious objection to the bill. No one could suppose that such a measure would pass without strenuous opposition, and no one could have felt surprise at seeing Sloan of New Jersey immediately rise to offer an amendment providing that every forfeited Negro should be entitled to freedom.

Upon this amendment a debate began which soon became hot. Early took the ground that without his provision for forfeiture and sale, the law would be ineffectual; that no man in the South would inform against the slave-dealer if his act were to turn loose a quantity of savage Negroes on the public at large.

The Southern members supported Early, and the Northern members knew not what to propose. The Negroes could not be returned to Africa, because they were all brought from the interior, and the coast tribes would re-enslave or massacre them. Pennsylvania and Ohio were little more anxious than Virginia to receive such citizens. Binding them to masters for a term of years was suggested, but objections were made on both sides.

The debate was adjourned, resumed, adjourned again; and although the Northern speakers were forbearing, the Southern members more and more lost their temper.

The Pennsylvania philanthropists had assumed that they could at least follow Jefferson in holding slavery to be an evil and the slave-trade to be a violation of human rights; but even these points were no longer conceded.

'All the people in the Southern States,' continued Early, 'are concerned in slavery. It is not, then, considered as criminal. . . . I will tell the truth — a large majority of people in the Southern States do not consider slavery as even an evil.'

The Southerners, who insisted that their knowledge and experience should guide the House on a matter which they then preferred to consider local, chafed under the patient stolidity of Quaker conscientious-

ness, but submitted, rather in defiance than in conciliation, to throw the bill into Northern hands. The recommittal was ordered January 8, 1807, by a vote of seventy-six to forty-six; January 20 the new bill was reported, and the struggle began again as at first. January 28 the Senate sent down a bill of its own for the same purpose. The Senate debates during the session were not reported, and those of the House were reported only in part, and briefly; but by some means the Senate was persuaded to introduce one rigorous provision into its bill, prohibiting the coastwise domestic slave-trade in vessels of less burden than forty tons, so that small craft found at sea with cargoes of slaves could not escape under pretense of being engaged in the domestic slave-trade.

The House hesitated painfully between Pennsylvanian and Virginian influence. Very rarely did the Pennsylvanians assert themselves, and they did so with great moderation; but they were conscientious men, and they had behind them not only the moral support of Jefferson, but also the steady influence of Secretary Gallatin, whose determined hostility to slavery and the slave-trade was proved at every moment of his public life. The Pennsylvania bill provided that the forfeited Negroes should be indentured for a term of years in some free State or Territory. The proposition seemed reasonable in itself, and calculated to give no offense to the South; but Early declared that the inhabitants of the Southern States would resist this provision with their lives. 'We want no civil wars, no rebellions, no insurrections, no resistance to the authority of the Government. Give effect, then, to this wish, and do not pass this bill as it now stands.'

Even Pennsylvania patience was disturbed by an outbreak so extravagant. Smilie, who was Irish by birth, obliged Early to take back and explain away his words; but the flash of temper answered its purpose — Early carried his point. Throughout the struggle the Southern Representatives took the ground that the subject belonged to them; that they were well aware of the defects in the bill; that they did not expect wholly to stop the trade, although they wished to do so; but that any stronger measure would revolt public opinion in the South and would leave the trade open, because no one would venture to enforce the Act. Under such circumstances, seeing that in any case the trade would continue, the Pennsylvanians naturally argued that if only in order to assert a principle, the law should be made severe; but they were abandoned by the New

Englanders, and beaten. The House ended by leaving to each State the decision as to the fate of the forfeited Negroes; and at length, February 13, weary of the interminable dispute, the House adopted the Senate bill with some amendments.

Hitherto John Randolph had taken little part in the debate; he voted steadily with the Southern Representatives, but his well-known anti-slavery theories kept him quiet. His silence did not last. The Senate disagreed to one of the amendments which had passed the House; a committee of conference reported, and the bill came up again on their report. In a final debate the Southern members attacked the prohibition of the coastwise trade, the whole measure being thus in their eyes vitiated. Early declared that the Act would not prevent the introduction of a single slave; Randolph asserted that the coastwise prohibition touched the right of private property: 'He feared lest, at a future period, it might be made the pretext of universal emancipation; he had rather lose the bill, he had rather lose all the bills of the session, he had rather lose every bill passed since the establishment of the Government, than agree to the provision contained in this slave-bill. It went to blow up the Constitution in ruins.' He prophesied that if ever the time of disunion between the States should arrive, the line of severance would not be between Eastern and Western, but between slaveholding and non-slaveholding States. He said that if ever the time should come when the South should have to depend on the North for assistance against the slaves, he should despair. 'All he asked was that the North should remain neutral; that it should not erect itself into an abolition society.' The vehemence of the Southern orators was in this instance natural, for the coastwise prohibition cut far more deeply into the constitutional rights of slave-owners than all the other provisions of the bill which they had so obstinately and successfully resisted; yet on the division they were beaten by the large majority of sixty-three to forty-nine. New York, which cared little for the slaves, cared less for the Constitution, and reversed its former vote. The Senate bill, February 26, 1807, was sent to the President.

The disasters of the Southern, or what was afterward known as the States-rights, party were largely due to temper: The habit of command, giving self-confidence and vigor of will, opened a boundless field for extravagances. The strength of men like Randolph and Early was their chief weakness; they had every sense except the sense of proportion.

The molehill which tripped them seemed as serious an obstacle as the distant mountain range, where a false step would dash them to fragments; and when at last they reached the mountain range, with its impassable chasms, where temper was helpless, they saw in it only a molehill. That men like Sloan, the butt of the House, and like Smilie and Findley, the ordinary Representatives of an intellectual mediocrity somewhat beneath the Pennsylvanian average, should habitually end in carrying their points, in singular and unexpected ways, against the ablest leaders of New England Federalism and the most gifted masters of Virginian oratory; that they should root up everything in their path, and end by giving to the whole country the characteristics of their own commonplace existence — was partly due, not to their energy or their talents, but to the contempt which their want of genius inspired. Not their own wisdom, but their antagonists' errors, decided the result, and overthrew successively Church and State in New England and a slave-owning oligarchy throughout half the continent. The Southern gentry could not learn patience. John Randolph, in many respects the most gifted man produced by the South in his generation, and certainly the one who most exaggerated the peculiar qualities and faults of his class, flung away the advantages of every success by attempting to punish his opponents — as though the hare had stopped in his race to beat the tortoise with a whip. Punishment of Pennsylvania Democrats was waste of time and strength; sarcasm did not affect them; social contempt did not annihilate them; defeats made no impression upon them. They had no leaders and no well-defined policy, but they gravitated like inert weights to an equilibrium. What they wanted they were sure in the end to get.

Randolph's disappointment in regard to the slave-bill was but a single example of a law. After domineering over the House during the whole session and impressing his own character upon its acts, he attempted at the end to coerce it into a quarrel with the Senate. A bill for repealing the salt-tax and continuing the Mediterranean Fund was sent to the Senate, and the Senate sent it back with an amendment which reduced the duty on salt from twenty cents a bushel to twelve cents, without wholly abolishing it. Usage and courtesy required that a committee of conference should be appointed; but Randolph insisted that the House should abruptly adhere to its original bill, and he carried his point by the large majority of ninety-three to twenty. The Senate accepted the

challenge and in its turn voted to adhere. The bill was lost; and while the salt-tax continued in force, producing some five hundred thousand dollars, the Mediterranean Fund, producing one million two hundred thousand dollars, must expire by limitation. Congress reached this point February 26, the same day when the slave-bill was passed against Randolph's protest.

The Pennsylvania members allowed themselves to be drawn into this step; but they had hardly given their votes before waking to their mistake. The next day a committee was moved to reconsider the subject; and in spite of Randolph's remonstrances, the motion was carried by sixty to forty, every Pennsylvanian changing his vote. Randolph, exasperated to the last degree, attempted to block the measure by obstinacy. When the new bill was taken up in Committee of the Whole House February 28, he consumed the day in dilatory motions, calling the yeas and nays until he could no longer induce one-fifth of the members to support him in asking for them. The House sat until half-past one in the morning; and when at last the bill came to a vote, Randolph and his friends left the House without a quorum. After several counts, a quorum was reported, and the bill was passed; but the yeas and nays were not taken, and many suspicions were expressed that a quorum was not actually present. Nevertheless, the Pennsylvanians won their victory; the bill became law at the last moment of the session. Randolph's conduct ended in destroying his own influence; and the Pennsylvanians felt that the time had come when an alliance with the Democrats of New England against the oligarchy of Virginia could no longer be postponed.

This was the situation at Washington when, on the last day of the Ninth Congress, a messenger arrived from England bringing from Monroe and Pinkney a treaty of commerce. The President's attempt to unite his party on a liberal domestic policy had not succeeded; and many years were to pass before Congress should see another session devoted to domestic affairs.

## CHAPTER FORTY-TWO

### *The Berlin Decree*

WHILE THE SUMMER OF 1806 was passing in America, carrying Burr and his insane projects to failure, General Armstrong in Paris was watching the progress of another adventurer, whose plans were as dark as those of Burr, but whose genius was of a very different order. Ulm capitulated October 17; the battle of Trafalgar was fought October 21. Napoleon was thenceforward master of the Continent, and England of the ocean. December 2, Napoleon won the decisive battle of Austerlitz, and December 26 he signed the Treaty of Pressburg which humbled Austria.

The wit of man often lagged behind the active movement of the world; but never had diplomatists a harder task than to keep abreast of Napoleon. Other men had moments of repose; but Napoleon's mind seemed never to rest. His schemes were developed, and swept over Europe like so many storm-centers. His plans sometimes succeeded and sometimes failed, but the success or the failure equally implied a greater effort behind; and while Armstrong and his brother diplomatists speculated about the Emperor's motives in pursuing one object, the Emperor was already devising and using new machinery for gaining another. At the close of the war with Austria, Armstrong needed to learn whether Napoleon still wanted money, whether Talleyrand favored the sale of Florida, whether the Treaty of Pressburg had or had not left American affairs where they were; and none of these questions could be answered except by Napoleon himself, who was already far advanced in schemes which no one could fathom, and which largely depended for their success on the skill with which he could conceal them from Jefferson.

Armstrong could only wait. For the moment, while Napoleon was struggling with the confusion of his finances, he held Florida in reserve as a resource for extremity. Armstrong was officially or semi-officially told that the Emperor supposed the whole matter of the Spanish-American dispute to be regularly before him by consent of both parties.

Armstrong had heard not a word from his Government. While the minister was listening to these whispers of imperial policy at Paris, Madison had but begun to write the instructions which were in effect an acceptance of Talleyrand's proffered terms. The long-delayed 'Two-



Million Act' received the President's signature February 13, 1806; but not until March 13 did Madison sign the instructions which contained the project of a convention.

The packet sailed at once; and after a voyage of the usual length arrived in France in time to bring the dispatches, May 1, to Armstrong's hands. No apparent change had then taken place in the Emperor's plans; but during the three months of labor since his return from Austria he had succeeded in restoring order to his finances and was richer than ever before. The Spanish Government sent to Paris a certain Señor Izquierdo as special agent to make a financial arrangement with Napoleon; and through him much business was done unknown to the department over which Talleyrand presided. In short the situation had changed, although no one, even among the Emperor's immediate household, knew what had taken place.

In pursuance of the secret memorandum in Talleyrand's handwriting, Armstrong, May 1, sent a note to the Foreign Office in the language of his instructions. Talleyrand acted promptly; May 2 he carried Armstrong's note to Napoleon's closet. Without discussing the matter the Emperor said: 'I have some papers in relation to that business which you have not seen.' The next day these papers were given to him. They consisted in maps and charts of the Floridas, with many arguments to prove their military and naval importance to Spain, and a formal declaration from Don Carlos IV that on no account would he consent to alienate them either by sale or otherwise.

Talleyrand immediately sent for the American minister and told him what had occurred. Only a few weeks before, with equal appearance of seriousness, Armstrong had been assured that the whole matter was in the Emperor's hands by the request of the Spanish Government. May 3 he was suddenly told that King Charles would on no account consent to alienate Florida. If the first story were true, the second must be false.

With so many different persons and interests involved in the Floridas and the claims, Armstrong might feel confident that a single rebuff from the Emperor would not end the matter. After a few weeks Talleyrand quietly instigated the American minister to renew his request, which was done by a note of May 25; and May 28 Armstrong received in reply an official assurance of 'His Majesty's wishes to see the controversy amicably terminated, and his readiness to lend himself to that

object.' Talleyrand was not only in earnest but in haste; for on the same day, May 28, he wrote to M. de Vandeuil, who was in charge of the French Embassy at Madrid, a cautious letter of instructions. The United States Government, he said, seemed disposed to renew negotiations with Spain. He ran over the points in dispute, and sketched the outlines of an arrangement, including the cession of West Florida.

Vandeuil was intimate with G. W. Erving, the American chargé at Madrid; and with friendly zeal he entered into the negotiation. Taking Talleyrand's dispatch and Armstrong's note, a copy of which was enclosed for his guidance, he went to the Prince of Peace, with whom he had a long conversation June 18, 1806.

'To tell your Excellency the truth,' he wrote the next day to Talleyrand, 'I ought to inform you that the Prince of Peace appears to me to hold pronounced opinions excessively opposed to the conciliatory views which I should have wished to find in him.'

Vandeuil was obliged to urge the Emperor's wish for a reconciliation and the advance made by Armstrong at Paris. Thereupon Godoy suddenly changed his tone. 'At bottom,' said he, 'we are quite ready to see where they want to come out; you may assure your Court of that.' Vandeuil thanked him, and added that he hoped the Prince would be pleased to have the matter negotiated at Paris. 'Well, granted again!' answered Godoy; 'I see no inconvenience in consenting to that.' 'Your Excellency authorizes me to inform M. de Talleyrand by my first dispatch?' 'By your first dispatch.'

Vandeuil was convinced that the Prince spoke the truth, and he hurried to tell Erving. The American chargé, though far from friendly to Spain, believed that Godoy was honest; and he hastened to notify Armstrong. Armstrong had no doubt that all was well and lost no time in consulting Talleyrand, who had every motive to feel sure of success. The Spanish imbroglio seemed on the verge of a friendly settlement.

Suddenly occurred one of the scenes of melodrama to which the Emperor's servants were accustomed. When Talleyrand brought Vandeuil's dispatch to his master, Napoleon broke into a passion. Rebuking Talleyrand sharply for having pressed the matter in its first stages, he threatened to degrade and punish Vandeuil; and he ordered Talleyrand not only to reprimand his subordinate in the severest manner, but himself to meddle no more with the subject. His orders were instantly fol-

lowed with the blind obedience which marked the Emperor's service. Vandeul was still congratulating himself on his success and waiting for a letter of approval from Paris, when a dispatch arrived which shivered his diplomatic triumph. Without a word of explanation, Talleyrand administered the reproof he had been ordered to give. Vandeul was told that he had gone altogether beyond his instructions:

To cause the negotiations of these two Governments to be opened under His Majesty's eyes would be to associate him in all their quarrels and to render him more or less responsible for the results. He will see with pleasure the return of a good understanding between the two countries; but they alone can judge what means of reconciliation suit their respective interests.

Probably for the first time, July 12, 1806, Talleyrand learned that Napoleon had a general plan which was inconsistent with complete reconciliation between Spain and the United States; yet he could no longer doubt that the same general plan had controlled the Emperor's conduct at least as far back as May 1. From this reticence he might infer that his own fall approached. Another proof that his credit waned came in a form more gracious, but not less convincing. Napoleon conferred on him an Italian principality. The ex-Bishop of Autun became Prince of Benevento.

September 25, 1806, the Emperor returned to Germany to begin a war with Prussia which was to lead him far. His departure put an end to whatever hopes Armstrong still cherished, while it left the United States in a mortifying attitude. After having been defied by Spain, Jefferson found himself deluded by France. No imagination could conceive the purpose for which Napoleon meant to use the United States Government; but that he had some scheme, to which President Jefferson must be made subservient, was clear. Armstrong tried in vain to penetrate the mystery. Whatever it might be, it was as yet hidden in the recesses of Napoleon's mind.

Nothing remained but for Armstrong to inform the President of all the facts connected with the failure of his negotiation, and then to wait at Paris, with what patience he could command, for the moment when Napoleon should consent to reveal the meaning of these mysterious maneuvers. Yet in diplomacy as in war, nations were commonly lost when they allowed Napoleon to take the initiative and to choose his own

time and place for attack. The United States Government had every reason to be on its guard.

Napoleon reached the battlefield of Jena October 14, 1806, and crushed the Prussian army. October 27 the conquering French battalions made a triumphal entry into Berlin. November 25 — the day so frequently occurring in the story of Burr's conspiracy, when Jefferson received General Wilkinson's dispatch, and when Wilkinson himself reached New Orleans — the Emperor Napoleon left Berlin for Poland and Russia. Before leaving Berlin he signed a paper destined to become famous throughout the world under the name of the Berlin Decree. This extraordinary mandate, bearing the date of November 21, 1806, began by charging that England disregarded the law of nations. She made non-combatants prisoners of war; confiscated private property; blockaded unfortified harbors and mouths of rivers, and considered places as blockaded though she had not a single ship before them — even whole coasts and empires. This monstrous abuse of the right of blockade had no other object than to raise the commerce and industry of England on the ruin of the commerce and industry of the Continent, and gave a natural right to use against her the same weapons and methods of warfare. Therefore, until England should recognize and correct these violations of law, it was decreed — (1) That the British Isles were in a state of blockade; (2) that all intercourse with them was prohibited; (3) that every Englishman found within French authority was a prisoner of war; (4) that all British property, private as well as public, was prize of war; (5) that all merchandise coming from England was prize of war; (6) that half the product of such confiscations should be employed to indemnify merchants whose property had been captured by British cruisers; (7) that no ship coming from England or her colonies should be admitted into any port; (8) that every vessel trying to elude this rule by means of false papers should be confiscated.

This decree, which cut the roots of neutral rights and of American commerce with Europe, was published at Paris in the *Moniteur* of December 5, 1806. At the same time news arrived that Hamburg, and nearly all the north coast of Germany along the German Ocean and the Baltic, had fallen into Napoleon's hands or was certain soon to become his prey. When Armstrong, watching with keen interest the rapid progress of French arms, took up the *Moniteur* which contained the Berlin Decree,

he might well have started to his feet with the cry that at last he understood what the Emperor would be at. A part of the enigma which had perplexed diplomacy was explained, and what was not yet revealed might vaguely be divined.

The year 1806 closed, leaving President Jefferson at the mercy of battles soon to be fought in the most distant corner of Germany, where the Emperor Alexander of Russia was gathering his forces for a conflict more terrible than Europe had yet seen.

## CHAPTER FORTY-THREE

### *Monroe's Treaty*

**W**HILE ARMSTRONG coped with Napoleon in Paris, Monroe enjoyed a brief moment of sunshine on the other side of the Channel. After his diplomatic disasters he might think himself happy, though he only threw from his own shoulders upon those of Armstrong and Bowdoin the Florida negotiation which had thus far injured the reputation of every man connected with it; but he had double cause of rejoicing. He not only escaped from Talleyrand and Godoy, but also from William Pitt, whose body he saw carried amidst the pompous mournings of London in funeral state to Westminster Abbey, and left in solemn grandeur by the side of his great father. Pitt died January 23, 1806, exhausted by the anxieties of office.

Old King George, knowing no Tory competent to succeed Pitt or capable of controlling Parliament, summoned Lord Grenville and submitted to Charles James Fox. Grenville became First Lord of the Treasury; Fox took charge of the Foreign Office; Erskine became Lord Chancellor; Sidmouth, Lord Privy Seal. The union of different party chiefs was so general as to give the Ministry the nickname of All the Talents. By February 7 the revolution was completed.

In a few days Monroe wrote home that he had enjoyed his first interview with the new Secretary, 'who in half an hour put me more at my ease than I have ever felt with any person in office since I have been in England.' Fox said little, but held out hopes; and Monroe had so long been left without even hope to nourish him that he gladly fed upon the unaccustomed diet. Nevertheless, more than a month passed before he ventured to make formal application for an order to suspend the seizure and condemnation of American vessels under the rule established by Pitt and Sir William Scott. At length, April 17, at the Queen's drawing-room Fox took the American minister aside and announced himself ready to begin negotiation and to pursue it without delay till it should be concluded. He said that no trouble need be feared about the colonial trade, but that there would be objections to making payments for property already taken; meanwhile the seizures and condemnations were to be stopped.

The first of May arrived. Three months had passed since the new Ministry took office, yet nothing had been publicly done to satisfy the United States. The reason was well known. Fox was obliged to overcome many kinds of opposition both in and out of the Cabinet. The West Indian colonies, the royal navy, the mercantile shipping interest, the Tory country gentlemen, and the Court were all opposed to concessions, and only the Treasury favored them. To increase Fox's difficulties, news began to arrive from the United States of the debate in Congress on the Non-Importation Act, of the loose talk of Congressmen and the vapourings of the press; and to crown all came the story that the mob of New York had taken the punishment of Pierce's manslaughter into its own hands. The English people honestly believed the Americans to be cheating them in the matter of the colonial trade; they suspected that their Yankee cousins were shrewd, and they could plainly see that Jefferson and Congress were trying to hide behind the shadow of Napoleon. Non-importation and commercial restriction had no other object than to give England the alternative of surrendering either to France or to America what she believed to be the price of her existence without the chance of fighting for it. Two-thirds of the British people understood the Non-Importation Act as a threat — as though the Americans said, 'Surrender to us your commerce and your shipping, or surrender your liberties to France.'

Whatever were the faults or sins of England, they were at least such as Americans could understand. Her Government was guided, as a rule, by interests which were public, permanent, and easily measured. The weight of interests which had driven Pitt into his assault on American commerce was not lessened by the death of Pitt or by the return of Lord Grenville to power. On every side Fox found these interests active in opposition and earnest in pressing arguments against concession. Englishmen were used to giving and receiving hard blows. Seldom long at peace, they had won whatever was theirs by creating a national character in which personal courage was as marked a quality as selfishness; for in their situation no other than a somewhat brutal energy could have secured success. They knew what to think of war, and could measure with some approach to exactness its probable costs and returns, but they were quite unused to being conquered by peace; and they listened with as much contempt as anger to the American theory that England must

surrender at discretion if Americans should refuse any longer to buy woolen shirts and tin kettles. Englishmen asked only whether America would fight, and they took some pains to make inquiries on that point; but it happened that of all the points in question this, which to Englishmen was alone decisive, could be answered in a syllable: No! America would not fight. The President, Congress, the press of both parties in the United States agreed only in this particular. The contest with France had made all Europe violent and brutal; but England could boast that at the sound of British cannon the chaos had become order, that the ocean had been divided from the land, and as far as the ocean went, that her fleets made law. Two Powers only remained to be considered by Great Britain — Russia and the United States. Napoleon showed an evident intention to take charge of the one; England thought herself well able to give law to the other.

Against such public inclination toward measures of force Fox struggled as he could, without united support even in the Cabinet. Men like Lord Sidmouth were little inclined to risk the fate of the new Administration by concessions to America; and the Tories, led by Canning and Spencer Perceval, profited by every English prejudice in order to recover their control of the Government. Fox could carry his point only by adopting half-measures. Instead of procuring a new judicial decision or issuing an Order in Council, as had been done in previous times, for replacing American commerce in its old privileges, he caused Government to adopt a measure intended to produce the same effect, but resting on a principle quite as objectionable to Americans as the Rule of 1756 itself had ever been. May 16, 1806, the ministers of neutral Powers were notified that the King had ordered a blockade of the whole French and German coast from Brest to the River Elbe, but that this blockade was to be strict and rigorous only between Ostend and the Seine; while elsewhere neutral ships should not be liable to seizure in entering or leaving the blockaded ports except under the usual conditions which made them seizable in any case. Under this blockade an American ship laden in New York with sugar, the product of French or Spanish colonies, might sail in safety for Amsterdam or Hamburg. Monroe wrote: 'It seems clearly to put an end to further seizures on the principle which has been heretofore in contestation.'

English statutes, like English law, often showed peculiar ingenuity in



inventing a *posteriori* methods of reaching their ends; but no such device could be less satisfactory than that of inventing a fictitious blockade in order to get rid of a commercial prohibition. Interminable disputes arose in the course of the next few years in regard to the objects and legality of this measure, which came to be known as Fox's blockade, and as such became a point of honor with England; but its chief interest was its reflection of the English mind. To correct a dangerous principle by setting an equally dangerous precedent; to concede one point by implication, and in doing so to assert another not less disputed; to admit a right by appearing to deny it; and to encourage commerce under the pretense of forbidding it — was but admitting that the British Government aimed at illegitimate objects. America had always contested the legality of paper blockades as emphatically as she had contested the Rule of 1756, and could no more submit to the one than to the other, although in this case the paper blockade was invented in order to conciliate and satisfy her.

Monroe made no further progress. Whenever he saw Fox the subjects in dispute were discussed; but news arrived that the Non-Importation Act had passed both Houses of Congress, and the difficulty of obtaining favors was increased by the attempt at compulsion. Fox showed less and less willingness to concede principles, although he did not, as Monroe feared, declare that the Act relieved him from any promises he might have made or from the fulfillment of any hopes he might have held out. Thus the matter stood, balanced almost equally between opposite chances, when, May 31, 1806, news arrived from America that Monroe's powers were superseded by the appointment of a special mission, in which he was to be associated with William Pinkney of Maryland.

The blow to Monroe's pride was great and shook his faith in the friendship of Jefferson and Madison. Three years had elapsed since he had himself been sent abroad to share Livingston's negotiations, and he had the best reason to know how easily the last comer could carry away the prizes of popularity. The nomination of a colleague warned him that he had lost influence at home, and that Jefferson, however well disposed, no longer depended on him. This was in substance the truth; but other and graver troubles were revealed in part to Monroe's eyes when William Pinkney arrived in London June 24, bringing with him the new instructions which were to become the foundation of the treaty.

These instructions began by treating the Non-Importation Act as at once a domestic and a foreign regulation, a pacific and a hostile act, a measure with which England had no right to be angry and one which was calculated to anger her — strictly amicable and at the same time sharply coercive. After this preamble, in which the threat was clearer than the explanation, followed an order precluding the possibility of successful negotiation. Monroe was to begin by imposing an ultimatum. The British Government must expressly repudiate the right and forbid the practice of impressment, or not only could no treaty be made, but the Non-Importation Act should be enforced. 'So indispensable is some adequate provision for the case that the President makes it a necessary preliminary to any stipulation requiring a repeal of the Act shutting the market of the United States against certain British manufactures.'

Besides this condition precedent, the instructions prescribed as another ultimatum the restoration of the trade with enemies' colonies on its old foundation and indemnity for the captures made under Sir William Scott's late decisions. Three ultimata, therefore, were fixed as conditions without which no treaty could receive the President's assent or procure a repeal of the Non-Importation Act. The numerous requests to be further made upon Fox concerned many different points in dispute — contraband, blockade, discriminating duties, immunity of neutral waters, East and West Indian trade, and trade with Nova Scotia; but these were matters of bargain, and the two negotiators might to some extent use discretion in dealing with them. Yet every demand made by the United States required a corresponding concession from England, for which no equivalent could be offered by the American negotiators except the repeal of the Non-Importation Act.

Monroe knew that Jefferson had ever strongly opposed any commercial treaty with Great Britain, and that he never spoke of Jay's treaty except with disgust and something like abhorrence. Again and again Jefferson had said and written that he wished for no treaty; that he preferred to rely on municipal legislation as his safeguard against attack; and that he would not part with this weapon in order to obtain the doubtful protection of an agreement which England could always interpret to suit herself. Pinkney could add that Jefferson, as everyone in Washington was aware, had been unwillingly driven into the present negotiation by the Senate, and that as the measure was not his its success would hardly

be within his expectation; that it would embarrass his relations with Napoleon, endanger if not ruin the simultaneous negotiation for Florida, and exalt Monroe, the candidate of Randolph, at the expense of Madison, who was already staggering under the attacks of his enemies.

Monroe was well informed of the efforts made to raise or to depress his own fortunes at Washington, and could see how easily his rival, the Secretary of State, might play a double part. Nothing could be simpler than such tactics. Madison had only to impose on Monroe the task of negotiating a treaty under impossible conditions. If the treaty should fail, the blame would fall upon Monroe; if it should succeed, the credit would be divided with Pinkney. No one could suppose that Madison would make any great effort to secure the success of a negotiation when success might make the negotiator the next President of the United States.

Monroe could not doubt the President's coldness toward the treaty; he could not fail to see that the Secretary's personal wishes were rather against than for it; and when he studied the instructions he could not but admit that they were framed, if not with the intention, at all events with the effect, of making a treaty impossible. No harder task could well have been imposed than was laid upon Monroe. Not even when he had been sent to Madrid in defiance of Talleyrand and Godoy, to impose his own terms on two of the greatest Powers in the world, had his chance of success been smaller than when his Government required him to obtain from England, after the battle of Trafalgar, concessions which England had steadily refused when she was supposed to be drawing almost her last gasp. For a British Ministry to abandon the Rule of 1756 was to challenge opposition; to throw open the colonial trade was to invite defeat; but to surrender the so-called right of impressment was to rush upon destruction. No Minister that had ever ruled over the House of Commons could at such a moment have made a treaty without losing his place or his head.

If America wanted such concessions she must fight for them, as other nations had done ever since mankind existed. England, France, and Spain had for centuries paid for their power with their blood, and could see no sufficient reason why America should take their hard-won privileges without a challenge. Jefferson thought otherwise. In his opinion, all the three Powers would end by conceding American demands, not as a matter

of abstract right but for fear of throwing the United States into the arms of an enemy. The instructions to Monroe rested on this idea.

The claims which Monroe was to make as ultimata could not be conceded by England without opening the door to claims more sweeping still. In the same breath with which the President threatened England in case she would not adjure the right of impressment and the Rule of 1756, he added:

We begin to broach the idea that we consider the whole Gulf Stream as of our waters, in which hostilities and cruising are to be frowned on for the present, and prohibited as soon as either consent or force will permit us. We shall never permit another privateer to cruise within it, and shall forbid our harbors to national cruisers. This is essential for our tranquillity and commerce.

These were bold words, but not well suited to Monroe's task or likely to encourage his hopes. President Jefferson was not only bent upon forcing England to abandon by treaty the right of impressment and the control of the colonial trade; he not only asked for liberal favors in many different directions, which required the whole fabric of British legislation to be reconstructed, without equivalent on the part of the United States — but he had also 'begun to broach the idea' that he should dictate where England's line-of-battle ships might sail upon the ocean. Monroe knew how such language would sound to English ears strained to hear the distant thunders from Trafalgar, and how such words would look to English eyes, dim with tears, as they watched their hero borne through the shrouded streets of London to rest in his glory beneath the dome of St. Paul's. That England was inflated with her triumphs, mad in her pretensions, intolerable in her arrogance, was true. A people that had swept the ocean of enemies and held the winds and waves for subjects could hardly fail to go mad with the drunkenness of such stormy grandeur. The meanest beggar in England was glorified with the faith that his march was o'er the mountain waves and his home upon the deep; and his face would have purpled with rage at the idea that Jefferson should dare to say that the squadrons of England must back their topsails and silence their broadsides when they reached the edge of the Gulf Stream.

With this picture before his eyes, Monroe could feel no great confidence either in his own success or in the good faith of the President's instructions, which tied him to impossible conditions. Nevertheless, he

accepted the task; and as he had gone to Spain with the certainty of defeat and mortification, he remained in London to challenge a hopeless contest. As though to destroy his only chance of success, on the very day of Pinkney's arrival Fox fell ill. His complaint was soon known to be dropsical and his recovery hopeless. Two months passed, while the American envoys waited the result. August 20, 1806, Fox, being still unable to do business, appointed Lord Holland and Lord Auckland to carry on the negotiation in his place. No better men could have been selected. Lord Holland especially, Fox's favorite nephew and the most liberal of all Whig noblemen, was warmly disposed to make the negotiation a success; but much invaluable time had been lost, and Napoleon was on the eve of Jena.

The negotiation began in earnest August 27, but proved to be long and arduous. The two British commissioners, though courteous and friendly, stood in constant fear of the charge that they had surrendered vital English interests under American threats. They were especially hampered by the Admiralty, the atmosphere of which, as Lord Holland complained, made those who breathed it shudder at anything like concessions to the Americans; while the Treasury, though naturally still less yielding, listened willingly to every expedient that offered hope for the revenue. September 1 began the struggle over impressments; and from the outset Monroe saw that the American claim had no chance of success, while the case of the West Indian trade was almost equally desperate.

November 11 the American negotiators wrote home that they had decided to disregard their instructions and to abandon impressments — accepting, instead of a formal article on the subject, a note in which the British commissioners pledged their Government to exercise the strictest care not to impress American citizens and to afford prompt redress should injury be inflicted while impressing British seamen. Having thus made up his mind to violate instructions on the chief point of negotiation, Monroe found nothing to prevent his doing so in other respects. His progress under William Pinkney's influence was rapid; his good-nature, in the face of Lord Holland's difficult position, was extreme; and at the end of a few weeks, December 31, 1806, Jefferson's favorite diplomatic agent set his name to a treaty which, taking its omissions and admissions together, surpassed Jay's treaty in outraging Jefferson's prejudices and express desires.

That a people, like an individual, should for a time choose to accept a wrong, like impressment or robbery, without forcible resistance implied no necessary discredit. Every nation at one time or another had submitted to treatment it disliked and to theories of international law which it rejected. The United States might go on indefinitely protesting against belligerent aggressions while submitting to them, and no permanent evil need result. Yet a treaty was a compromise which made precedent; it recorded rules of law which could not be again discarded; and above all, it abandoned protest against wrong. This was doubtless the reason why Jefferson wished for no treaties in the actual state of the world; he was not ready to enforce his rights, and he was not willing to compromise them.

The treaty signed by Monroe and Pinkney December 1, 1806, was remarkable for combining in one instrument every quality to which Jefferson held most strenuous objections. The three ultimata were all abandoned; impressments were set aside under a diplomatic memorandum which rather recorded the right than restrained its exercise; no indemnity was obtained for the ravages made on American commerce in 1805; and in regard to the colonial trade, a compromise was invented which no self-respecting government could admit. Article XI of the treaty imposed the condition that West Indian produce, coming from French or Spanish colonies, and *bonâ fide* the property of United States citizens, might be exported from American ports to Europe on condition that it should have paid to the United States custom-house a duty of not less than two per cent *ad valorem*, which could not be returned in drawback; while European merchandise might in the same way be re-exported from the United States to the West Indies, provided it paid not less than one per cent *ad valorem* in duties to the American Treasury.

This provision was only to be compared with Article XII of Jay's treaty, in which Lord Grenville insisted and Jay agreed that the United States should export no cotton. Even Pitt had never proposed anything so offensive as the new restriction. He had indeed required that the American merchant whose ship arrived at Baltimore or Boston with a cargo of sugar or coffee from Cuba should unload her, carry the hogsheads and cases into a warehouse, and pass them through all the forms of the American custom-house; after which he must turn about and stow them again on shipboard — an operation which was usually reckoned as equivalent, in breakage, pilfering, and wages, to a charge of about ten

per cent on the value of the cargo; but he had not ventured to levy a duty upon them to be paid to the United States Government. One step more, and — as a clever London pamphleteer suggested — the British Government would require the American stevedores to wear the King's livery. Had it been stipulated that the custom-house payments should be taken as full proof of neutrality and complete protection from seizure, the American merchant might have found a motive for submitting to the tax; but the treaty further insisted that both goods and vessel must be in good faith American property — a condition which left the door open as widely as ever to the arbitrary seizures of British cruisers and to the equally arbitrary decisions of admiralty courts.

Bad as all this was, and contrary to Madison's instructions and Jefferson's private letters, it was not yet the worst. After Monroe had violated his orders — had abandoned the ultimata and accepted the commercial restrictions which the President disliked — when the four commissioners were about to sign the treaty, Monroe and Pinkney were startled to hear that the two Englishmen meant to append an explanatory note to their signatures. News of the Berlin Decree had reached England, and its gravity was at once recognized. The British negotiators formally notified Monroe and Pinkney that unless the American Government, before ratification, should give security that it would not recognize the Decree, His Majesty George III would not consider himself bound by the signatures of his commissioners. Signature under such a condition seemed rather the act of a suppliant people than of one which had not yet so much as bought the sword it should have used. Nevertheless Monroe signed.

Monroe was often called a very dull man. He was said to follow the influence of those who stood near him, and was charged by different and opposed politicians with having a genius for blunders; but either Jefferson or Madison might be excused for suspecting that no man on whom they implicitly relied could violate instructions, sacrifice the principles of a lifetime, and throw infinite embarrassments on his Government without some ulterior motive. They could not be blamed for suspecting that Monroe, in signing his treaty, thought more of the Federalist vote than he did of Madison's political promotion.

## CHAPTER FORTY-FOUR

### *Rejection of Monroe's Treaty*

**M**ONROE was singularly unfortunate in diplomacy. His disasters came, not in any ordinary form of occasional defeat or disappointment, but in waves and torrents of ill-luck. No diplomatist in American history, except Monroe and Pinkney, ever signed a treaty in flagrant contradiction to orders, and at the same time submitted to be told that the opposite party to the contract reserved a right to break it; but if any other man had taken such a step it would have answered for a lifetime, and his mortifications would have ended there. No one could assume that the British Ministry would care to do more, pending the ratification of its own treaty. Fox's successor, one of the most liberal Whig noblemen, having imposed on the United States terms which would have been hard as the result of war, with the addition that even these terms were conditional on a declaration of hostilities between the United States and France, the liberal Whigs might be supposed willing to wait for some new pretext before publicly tearing their own treaty to pieces.

If Monroe flattered himself that he had for the moment checked British aggression, he quickly learned his error. The treaty had been signed scarcely a week when a new Order in Council appeared, which surpassed any belligerent measure of the Tories. Beginning with the premise that Napoleon's Berlin Decree 'would give to His Majesty an unquestionable right of retaliation, and would warrant His Majesty in enforcing the same prohibition of all commerce with France which that Power vainly hopes to effect against the commerce of His Majesty's subjects,' the order added that King George felt himself bound 'to retort upon them the evils of their own injustice,' and therefore 'ordered that no vessel shall be permitted to trade from one port to another, both which ports shall belong to, or be in the possession of, France or her allies.' In other words, the Whig Ministers, ignoring their fresh treaty with the United States and even the note appended to it, declared that they would not wait for America to resent the Berlin Decree, but that United States vessels must in future, as a retort for that decree, be deprived of the right to sail from one European port to another. The custom had hitherto prevailed among American shippers of seeking a market according to ruling prices, partly perhaps at



Bilbao or Bordeaux, partly at some other French or Mediterranean port. Lord Howick's order of January 7, 1807, which cut short this coasting privilege, was a blow to American commerce sharper than the famous decision of Sir William Scott in the case of the *Essex*. Its apparent effect was to double the cost and risk of neutral commerce, while incidentally it asserted a right to prohibit such trade altogether.

From a Whig point of view Lord Howick's order violated the rules of political economy and common-sense; not to be defended or excused, it equaled in violence the aggressions of Pitt and in bad faith rivaled the deceptions of Napoleon. Yet this measure was the last act of a Ministry more liberal than England was destined to see again for twenty years. Hardly had Lord Grenville made this concession to Tory prejudice when the old King, nearly blind and on the verge of insanity, clinging to his prejudices with the persistence of age, seized the pretext of some small concession to the Roman Catholics and turned the Whigs out of his councils. March 26, 1807, Lord Grenville and Lord Howick announced to the two Houses of Parliament their dismissal from office.

If the friendly Whigs, after imposing on the United States such a treaty, had thought themselves still obliged to lop off another main limb of American commerce which Pitt had spared, the Tories were not likely to rest until they had put an end to American neutral commerce altogether. This result was foreshadowed by Spencer Perceval and Lord Castlereagh in their speeches on Lord Howick's order, and was the end to which the legislation and public opinion of England had pointed for years. The time for negotiation had gone by, and nothing remained for the United States but a trial of strength.

For this final test Jefferson was ready. Congress had placed in his hands powers which in his opinion were ample to protect American interests abroad and at home. On sufficient provocation he could exclude British ships-of-war from American waters, and if they should refuse to depart he might enforce the Non-Importation Act against British commerce. His conduct proved that he felt neither fear nor hesitation. He had never expected a satisfactory treaty from England, and he had good reason to know that Monroe's treaty, if Monroe should succeed in making one, must be worse than none. Early in February, 1807, arrived the dispatch from Monroe and Pinkney announcing that the two envoys had decided to depart from their instructions and to abandon the impress-

ment ultimatum. Madison replied, February 3, that no such treaty would be ratified, and that it would be better to let the negotiation quietly terminate, leaving each party to follow an informal understanding; but that if such a treaty should have been signed, the British commissioners should be candidly apprized of the reasons for not expecting its ratification. That Monroe's treaty, if he made one, would be rejected and returned without ratification to the British Government was certain long before it reached America.

On that point, as on the inflexibility of England, no doubt could exist. President Jefferson and Secretary Madison were as determined, in case of necessity, to attack British manufactures as Spencer Perceval and George Rose were bent upon cutting off American trade; but although the Americans fully meant to use commercial weapons against British aggression, they earnestly wished for a good working arrangement under which, without a treaty, peace and commerce could be secure. So far from challenging a rupture, they were anxious only to encourage cordial relations. Throughout the winter of 1806-1807 Jefferson made of his attachment to England a foundation for all his policy at home and abroad. Congress, under the security of Fox's friendship, left foreign affairs alone, and quarreled only about domestic matters; while General Turreau's temper was made more irritable by the attentions lavished upon David Montague Erskine, the new British minister, who, November 4, 1806, put an end to the adventures of Merry at Washington and began the easy task of winning popularity.

In the middle of February, at a moment when Americans expected daily the arrival of a British treaty marked by generous concessions, Napoleon's Berlin Decree reached the United States. Commerce was instantly paralyzed, and merchants, Congressmen, Cabinet, and President turned to Turreau, anxiously inquiring what was meant by this blockade of the British Islands by a Power which could not keep so much as a frigate at sea. Turreau could give them no answer. 'Your Excellency will readily believe,' he wrote home, 'that this circumstance does not put us in a better position here.' The influence of France in the United States was never lower than at the moment when England turned Lord Grenville and Lord Erskine out of power, in order to install Spencer Perceval and Lord Eldon at the head of a Tory reaction. Jefferson's objections to a British treaty would have had no weight with the Senate if

the treaty had been tolerable; the Berlin Decree and the Emperor's conduct in regard to Florida would have reconciled Madison to almost any British alliance. Turreau was so well aware of the danger that he exerted himself in remonstrances and semi-threats, and told one member of the Cabinet after another that 'at a moment when Europe, leagued together against the maritime tyranny of England, was laboring to throw off the yoke of that Power and to secure for all navigating nations freedom of commerce and the seas,' it was particularly improper for the United States to accept any treaty which did not expressly secure all disputed points, and that no treaty would be observed by England unless made under the auspices and by the guaranty of Napoleon.

In view of the recent fate that had overtaken Powers like Switzerland and Venice, which had put themselves under the auspices of Napoleon, this argument produced no conviction. Turreau might better have left to the English the task of repairing Napoleon's mistakes; but these mistakes had accumulated until it depended upon England alone whether the United States should join her in the war. Not only had the Emperor offended Jefferson and Madison by his peremptory stoppage of the Florida purchase — he had also declared war upon American commerce in a decree which Jefferson and Madison could not but suspect to be in some mysterious way connected with his sudden change of front toward Spain and Florida.

In this temper all parties waited for the news from England, which could not long be delayed; until March 3, 1807, the last day of the session, a rumor reached the Capitol that a messenger had arrived at the British Legation with a copy of the treaty negotiated by Pinkney and Monroe. The news was true. No sooner did Erskine receive the treaty than he hurried with it to Madison, 'in hopes that he would be induced to persuade the President either to detain the Senate, which he has the power by the Constitution to do, or to give them notice that he should convene them again.' Unlike Merry, Erskine was anxious for a reconciliation between England and America; he tried honestly and overzealously to bring the two Governments into accord, but he found Madison not nearly so earnest as himself.

At ten o'clock the same night the two Houses of Congress, when ready to adjourn, sent a joint committee to wait upon the President, who was unwell, and unable to go as usual to the Capitol. Doctor Mitchill, the

Senator from New York, a member of this committee, asked the President whether there would be a call of the Senate to consider the treaty. 'Certainly not,' replied Jefferson; and he added that 'the only way he could account for our Ministers having signed such a treaty under such circumstances was by supposing that in the first panic of the French imperial decree they had supposed a war to be inevitable, and that America must make common cause with England. He should, however, continue amicable relations with England, and continue the suspension of the Non-Importation Act.'

The Senators received this rebuff with ill-concealed annoyance. Jefferson's act in refusing to consult them about a matter so important as a British treaty — and one which from the first had been their own rather than the President's scheme — was another instance of the boldness which sometimes contradicted the theory that Jefferson was a timid man. To ordinary minds it seemed clear that the President needed support; that he could not afford single-handed to defy England and France; that the circle of foreign enemies was narrowing about him; and that to suppress of his own will a treaty on which peace and war might depend exposed him to responsibilities under which he might be crushed. Although the treaty was not yet published, enough had been said to make Senators extremely curious about its contents; and they were not pleased to learn that the President meant to tell them nothing and cared too little for their opinion to ask it.

The more closely the subject was studied, the more clearly it appeared that Monroe had to all appearance knowingly embarrassed the Administration by signing a treaty in contravention of the President's orders; but Jefferson added unnecessarily to his embarrassment by refusing the treaty before he read it. Tacit abandonment of impressments was the utmost concession that the President could hope from England, and even this he must probably fight for; yet he refused to consult the Senate on the merits of Monroe's treaty for a reason which would have caused the withholding of every treaty ever made with England. That the public should be satisfied with this imperious treatment was an extravagant demand. No act of Jefferson's Administration exposed him to more misinterpretation or more stimulated a belief in his hatred of England and of commerce than his refusal to lay Monroe's treaty before the Senate.

Madison, who rarely accepted either horn of a dilemma with much rapidity, labored over new instructions to Monroe which were to make the treaty tolerable, and called Gallatin and General Smith to his aid, with no other result than to uncover new and insuperable difficulties.

A few days later, news arrived that the Whigs had been driven from office and a high Tory Ministry had come into power. Nevertheless, Madison was allowed to perfect his new instructions to Monroe and Pinkney. May 20 they were signed and sent. Before they reached London, a British frigate had answered them in tones which left little chance for discussion.

## CHAPTER FORTY-FIVE

### *Burr's Trial*

**M**ARCH 30, 1807, in a room at the Eagle Tavern in Richmond, Aaron Burr was brought before Chief Justice Marshall for examination and commitment. Although Burr had been but a few days in the town, he was already treated by many persons as though he had conferred honor upon his country. Throughout the United States the Federalists, who formed almost the whole of fashionable society, affected to disbelieve in the conspiracy and ridiculed Jefferson's sudden fears. The Democrats had never been able to persuade themselves that the Union was really in danger, or that Burr's projects, whatever they were, had a chance of success; and in truth Burr's conspiracy, like that of Pickering and Griswold, had no deep roots in society, but was mostly confined to a circle of well-born, well-bred, and well-educated individuals, whose want of moral sense was one more proof that the moral instinct had little to do with social distinctions. In the case of Burr, Jefferson himself had persistently ignored danger; and no one denied that if danger ever existed, it had passed. Burr was fighting for his life against the power of an encroaching Government; and human nature was too simply organized to think of abstract justice or remote principles when watching the weak fight for life against the strong.

No part of Burr's career was more humorous than the gravity with which he took an injured tone and maintained with success that Jefferson, being a trivial person, had been deceived by the stories of Eaton and Wilkinson, until, under the influence of causeless alarm, he had permitted a wanton violation of right. From the first step toward commitment, March 30, to the last day of the tedious trials, October 20, Burr and his counsel never ceased their effort to convict Jefferson; until the acquittal of Burr began to seem a matter of secondary importance compared with the President's discomfiture.

Over this tournament the Chief Justice presided as arbiter. Blennerhassett's island, where the overt act of treason was charged to have taken place, lay within the Chief Justice's circuit. According as he might lean toward the accused or toward the Government, he would decide the result; and therefore his leanings were a matter of deep interest. That he

held Federalist prejudices and nourished a personal dislike to Jefferson was notorious.

The Attorney-General undertook to convict Burr of treason for the acts committed under his direction at Blennerhassett's island, although at the time when these acts were committed Burr himself was in Kentucky, two hundred miles away.

The task was difficult, and Burr's experience as a lawyer enabled him to make it more difficult still. He retained the ablest counsel at the bar. First of these was Edmund Randolph, prominent among the older Virginia lawyers, who had been Attorney-General and Secretary of State in President Washington's Cabinet. Edmund Randolph's style of address was ponderous, and not always happy; to balance its defects Burr employed the services of John Wickham, another Virginian, whose versatility and wit were remarkable. A third Virginian, Benjamin Botts, was brought into the case, and proved a valuable ally. Finally Luther Martin was summoned from Baltimore; and Martin's whole heart was with his client. In defending Justice Chase, Luther Martin had made a great name; but hatred for the Democrats and their President became a secondary passion in his breast. His zeal for Burr was doubled by a sudden idolatry which the sexagenarian conceived for Burr's daughter Theodosia, who came to her father's side at Richmond.

The Government was represented by no one of equal force with these opponents. John Breckinridge, the Attorney-General of the United States, died in December, 1806. January 20, 1807, President Jefferson appointed Caesar A. Rodney to the post. Although Rodney's abilities were respectable, he could hardly have wished to be confronted at once by the most important and difficult State prosecution ever tried under Executive authority. Rodney's duties or his health prevented him from attendance. He barely appeared at Richmond in the preliminaries, and then left the case in the hands of the district attorney, George Hay, who took his orders directly from Jefferson, with whom he was in active correspondence. To assist Hay the President engaged the services of William Wirt, then thirty-five years old, and promising to become an ornament to the bar; but in the profession of the law age gave weight, and Wirt, though popular, conscientious, admired, and brilliant in a florid style of oratory, suffered as a lawyer from his youth and his reputation as an orator. He was hardly more capable than Hay of conducting a case

which drew upon every resource of personal authority. The third counsel, Alexander McRae, Lieutenant-Governor of Virginia, was inferior both in ability and in tact to either of his associates. His temper irritated Hay and offended the Court, while his arguments added little strength to the prosecution.

The first object of the Government was to commit Burr for trial on the charge of treason as well as of misdemeanor; but Marshall promptly checked all hopes of obtaining aid from the Court. April 1 the Chief Justice delivered an opinion on the question of commitment, and took that opportunity to give the district attorney a warning. Declining to commit Burr for treason without evidence stronger than the affidavits of Eaton and Wilkinson, Marshall blamed the Executive with asperity for neglect of duty in providing proof of treason.

Accordingly Burr was committed only for misdemeanor, and five securities immediately offered themselves on his behalf. At three o'clock on the afternoon of April 1 he was again at liberty, under bonds for ten thousand dollars to appear at the next Circuit Court, May 22, at Richmond.

Punctually, May 22, the next act began. The question of commitment had been a matter of no great consequence; that of indictment was vital. Burr must be indicted, not merely for misdemeanor, but for treason; and to leave no doubt of success, the Government summoned a cloud of witnesses to appear before the grand jury. The town swarmed with conspirators and Government agents. The grand jury — containing some of the most respected citizens of Virginia — was sworn, and the Court instructed the clerk to place John Randolph as foreman. A long delay ensued. General Wilkinson, the most important witness for Government, was on his way from New Orleans; and while waiting his arrival from day to day, the grand jury took evidence and the Court listened to the disputes of counsel. The district attorney moved to commit Burr on the charge of treason, while Burr on his side moved for a subpoena *duces tecum* to be directed to the President, requiring him to produce certain papers in evidence. This motion was evidently part of a system adopted by the defense for annoying and throwing odium on the Executive — a system which Burr's counsel rather avowed than concealed, by declaiming against the despotism of Government and the persecution of which Burr was a victim.



A long argument followed. Hay, while admitting that the President might be generally subpoenaed as a witness, held that no need of a subpoena had been shown, and that in any case a subpoena *duces tecum* ought not to be issued. The Chief Justice, after hearing counsel on both sides, read June 13 an elaborate decision, which settled the point in Burr's favor.

Unless the President of the United States were raised above the rank of a citizen and endowed with more than royal prerogatives, no duty could be more imperative upon him than that of lending every aid in his power to the Judiciary in a case which involved the foundations of civil society and government. No Judiciary could assume at the outset that Executive duties would necessarily be interrupted by breaking Jefferson's long visits to Monticello in order to bring him for a day to Richmond.

In the midst of these controversies and irritations, June 15, General Wilkinson arrived. The audiences which in those days still crowded to the theater and laughed at the extraordinary wit and morality of the *Beggar's Opera*, found none of its possible allusions more amusing than the often-quoted line which seemed meant to point at James Wilkinson. 'That ·Jemmy Twitcher should peach me, I own surprised me. 'Tis a plain proof that the world is all alike, and that even our gang can no more trust one another than other people.' Wilkinson had not a friend; even Daniel Clark turned against him. To break him down, to prove by his own confession that he was a pensioner of Spain and an accomplice with Burr, was the known object of the defense; but the disgrace of Wilkinson would also discredit the President and shake the Administration which Wilkinson had saved. Whatever the consequences might be, Jefferson could not allow Wilkinson to suffer.

Such was the situation when the General was sworn and sent before the grand jury June 15, where his appearance, if his enemy could be believed, was abject.

Randolph ardently wished to indict the General at the same time with Burr; and while he strained every nerve to effect this purpose in the grand-jury room, Burr and his counsel in the courtroom moved for an attachment against Wilkinson for attempting to obstruct the free course of justice by oppression of witnesses. The district attorney resisted both attempts with all his authority; and June 24, to the disappointment of his enemies, Wilkinson escaped.

In the evidence taken by a Congressional committee in 1811 regarding Wilkinson, several members of the grand jury were called to testify; and their accounts showed that the motion to present General Wilkinson for misprision of treason was made by Littleton W. Tazewell and supported by Randolph and three or four other members of the grand jury. One witness thought that the vote stood nine to seven.

Narrow though the loophole might be, Wilkinson squeezed through it. The indictment of Burr was at length obtained. The conspirators, who had at first vehemently averred that Wilkinson would never dare to appear, and who if he should appear intended to break him down before the grand jury, were reduced to hoping for revenge when he should come on the witness-stand. Meanwhile, June 26, Burr pleaded not guilty, and the court adjourned until August 3, when the trial was to begin.

Thus far the President had carried everything before him. He had produced his witnesses, had sustained Wilkinson, indicted Burr, and defied Marshall's subpoenas. This success could not be won without rousing passion. Richmond was in the hands of the conspirators, and they denounced Jefferson publicly and without mercy, as they denounced Wilkinson and every other Government officer.

'As I was crossing the court-house green,' said an eye-witness, 'I heard a great noise of haranguing some distance off. Inquiring what it was, I was told it was a great blackguard from Tennessee, one Andrew Jackson, making a speech for Burr and damning Jefferson as a persecutor.'

All this work was but skirmishing. The true struggle had still to come. So long as the President dealt only with grand jurors and indictments, he could hardly fail to succeed; but the case was different when he dealt directly with Chief Justice Marshall and with the stubborn words of the Constitution, that 'no person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.' The district attorney was ready with a mass of evidence, but the Chief Justice alone could say whether a syllable of this evidence should be admitted; and hitherto the Chief Justice had by no means shown a bias toward the Government.

August 3 the Court opened its session and the trial began. Not until August 17 was the jury impaneled; and meanwhile a new figure appeared at Burr's side. Blennerhassett arrived in Richmond August 4, and was brought before the Court August 10. Blennerhassett had wakened to the

discovery that Burr was, after all, but a vulgar swindler. The collapse of Burr's courage when confronted by Cowles Meade and the Mississippi militia at Cole's Creek January 17; his desertion of Blennerhassett and his flight toward Spanish territory; the protest of the bills which he had drawn on pretended funds in New York, and which Blennerhassett had endorsed under Allston's guaranty; the evident wish of Allston to repudiate this guaranty as he had repudiated Burr; and the ruin which had fallen on Blennerhassett's property at the island — taught the Irishman how thoroughly he had been duped.

For a few days the trial went on undisturbed, while the Government put Eaton, Truxton, Peter Taylor, the Morgans, and a number of other witnesses on the stand to prove an overt act of treason at Blennerhassett's island; but nothing short of Blennerhassett's own confession could place the matter in a clear light, and Burr's chief fear was evidently that Blennerhassett should turn State's evidence. To prevent this, Allston was persuaded to pay the more pressing demands against Blennerhassett, and Burr exerted himself to conciliate him. On the other hand, Jefferson seemed to hope that he could be won over. Duane, of the *Aurora*, visited him in prison August 23, and offered to serve as an intermediary with the Government. Had matters gone as the President hoped, something might have come of this maneuver; but before further pressure could be employed, the Chief Justice struck the prosecution dead.

August 19, Burr's counsel suddenly moved to arrest the evidence. The Government, they said, had gone through all its testimony relating to the overt act charged in the indictment; it admitted that Burr was hundreds of miles distant from the scene; and as the district attorney was about to introduce collateral testimony of acts done beyond the jurisdiction of the Court, it became the duty of the defense to object.

For ten days this vital point was argued. August 31 the Chief Justice read his decision. Much the longest of Marshall's judicial opinions; elaborately argued, with many citations, and with less simple adherence to one leading thought than was usual in his logic — this paper seemed, in the imagination of Marshall's enemies, to betray a painful effort to reconcile his dictum in *Bollman's* case with the exclusion of further evidence in the case of Burr. To laymen, who knew only the uncertainties of law; who thought that the assemblage on Blennerhassett's island was such an overt act as might, without violent impropriety, be held by a

jury to be an act of levying war; and who conceived that Burr, although absent from the spot, was as principal present in a legal sense such as would excuse a jury in finding him guilty — an uneasy doubt could not fail to suggest itself that the Chief Justice, with an equal effort of ingenuity, might have produced equal conviction in a directly opposite result. On the other hand, the intent of the Constitution was clear. The men who framed that instrument remembered the crimes that had been perpetrated under the pretense of justice; for the most part they had been traitors themselves, and having risked their necks under the law they feared despotism and arbitrary power more than they feared treason. No one could doubt that their sympathies, at least in 1788 when the Constitution was framed, would have been on the side of Marshall's decision. If Jefferson, since 1788, had changed his point of view, the Chief Justice was not under obligations to imitate him.

If it be said that the advising or procurement of treason is a secret transaction which can scarcely ever be proved in the manner required by this opinion, the answer which will readily suggest itself is that the difficulty of proving a fact will not justify conviction without proof.

On the following day, September 1, District Attorney Hay abandoned the case, and the jury entered a verdict of 'Not guilty.' Hay instantly reported to Monticello the result of his efforts, and added criticisms upon Marshall: 'Wirt, who has hitherto advocated the *integrity* of the Chief Justice, now abandons him. This last opinion has opened his eyes, and he speaks in the strongest terms of reprobation.'

September 4, Jefferson replied in the tone which always accompanied his vexation:

Yours of the 1st came to hand yesterday. The event has been what was evidently intended from the beginning of the trial; that is to say, not only to clear Burr, but to prevent the evidence from ever going before the world. But this latter case must not take place. It is now, therefore, more than ever indispensable that not a single witness be paid or permitted to depart until his testimony has been committed to writing. . . . These whole proceedings will be laid before Congress, that they may decide whether the defect has been in the evidence of guilt, or in the law, or in the application of the law, and that they may provide the proper remedy for the past and the future.

Accordingly, although the trial for treason was at an end, the district attorney pressed the indictment for misdemeanor; and until October 19

the Chief Justice was occupied in hearing testimony intended for use not against Burr, but against himself. Then at last the conspirators were suffered to go their way, subject to legal proceedings in Ohio which the Government had no idea of prosecuting; while the President, mortified and angry, prepared to pursue Marshall instead of Burr. The Federalists, who always overrated the strength of party passions, trembled again for the Judiciary; but in truth nothing was to be feared. The days of Jefferson's power and glory had passed forever, while those of Marshall had barely begun. Even on the testimony, the President's case was far from being so clear as he had hoped and expected. His chief witness, Wilkinson, could only with difficulty be sustained; and the district attorney, who began by pledging himself before the Court to show the falsity of the charges which had been brought against the General, ended by admitting their truth.

The declaration which I made in court in his favor some time ago [wrote Hay to the President at the close] was precipitate; and though I have not retracted it, everybody sees that I have not attempted the task which I in fact promised to perform. My confidence in him is shaken, if not destroyed. I am sorry for it, on his own account, on the public account, and because you have expressed opinions in his favor; but you did not know then what you will soon know, and what I did not learn until after — long after — my declaration above mentioned.

The hint was strong. If Wilkinson were discredited, Jefferson himself was in danger. To attack the Supreme Court on such evidence was to invite a worse defeat than in the impeachment of Chase. Meanwhile the country had graver dangers to think about, and enemies at its doors who were not to be curbed by proclamations or impeachments.

## CHAPTER FORTY-SIX

### *The Chesapeake and the Leopard*

JUNE 22, 1807, while Jefferson at Washington was fuming over Chief Justice Marshall's subpoena and while the grand jury at Richmond were on the point of finding their indictment against Burr, an event occurred at sea, off the entrance to Chesapeake Bay, which threw the country into violent excitement, distracting attention from Burr and putting to a supreme test the theories of Jefferson's statesmanship.

That the accident which then happened should not have happened long before was matter for wonder, considering the arbitrary character of British naval officers and their small regard for neutral rights. For many years the open encouragement offered to the desertion of British seamen in American ports had caused extreme annoyance to the royal navy; and nowhere had this trouble been more serious than at Norfolk. Early in 1807 a British squadron happened to be lying within the Capes watching for some French frigates which had taken refuge at Annapolis. One or more of these British ships lay occasionally in Hampton Roads or came to the navy yard at Gosport for necessary repairs. Desertions were of course numerous; even the American ships-of-war had much difficulty from loss of men — and March 7 a whole boat's crew of the British sixteen-gun sloop *Halifax* made off with the jollyboat and escaped to Norfolk. The commander of the *Halifax* was informed that these men had enlisted in the American frigate *Chesapeake*, then under orders for the Mediterranean. He complained to the British consul and to Captain Decatur, but could get no redress. He met two of the deserters in the streets of Norfolk and asked them why they did not return. One of them, Jenkin Ratford by name, replied, with abuse and oaths, that he was in the land of liberty and would do as he liked. The British minister at Washington also made complaint that three deserters from the *Melampus* frigate had enlisted on the *Chesapeake*. The Secretary of the Navy ordered an inquiry, which proved that the three men in question, one of whom was a Negro, were in fact on board the *Chesapeake*, but that they were native Americans who had been improperly impressed by the *Melampus*, and therefore were not subjects for reclamation by the British Government. The nationality was admitted, and so far as these men were

concerned the answer was final; but the presence of Jenkin Ratford, an Englishman, on board the *Chesapeake* under the name of Wilson escaped notice.

The admiral in command of the British ships on the North American station was George Cranfield Berkeley, a brother of the Earl of Berkeley. To him at Halifax the British officers in Chesapeake Bay reported their grievances; and Admiral Berkeley, without waiting for authority from England, issued the following orders, addressed to all the ships under his command:

Whereas many seamen, subjects of His Britannic Majesty, and serving in his ships and vessels as per margin [*Bellona, Belleisle, Triumph, Chichester, Halifax, Zenobia*], while at anchor in the Chesapeake, deserted and entered on board the United States frigate called the *Chesapeake*, and openly paraded the streets of Norfolk, in sight of their officers, under the American flag, protected by the magistrates of the town and the recruiting officer belonging to the above-mentioned American frigate, which magistrates and naval officer refused giving them up, although demanded by His Britannic Majesty's consul, as well as the captains of the ships from which the said men had deserted:

The captains and commanders of His Majesty's ships and vessels under my command are therefore hereby required and directed, in case of meeting with the American frigate *Chesapeake* at sea, and without the limits of the United States, to show to the captain of her this order, and to require to search his ship for the deserters from the before-mentioned ships, and to proceed and search for the same; and if a similar demand should be made by the American, he is to be permitted to search for any deserters from their service, according to the customs and usage of civilized nations on terms of peace and amity with each other.

The order, dated June 1, 1807, was sent to Chesapeake Bay by the frigate *Leopard*, commanded by Captain S. P. Humphreys. The *Leopard* arrived at Lynnhaven on the morning of June 21; and Captain Humphreys reported his arrival and orders to Captain John Erskine Douglas of the *Bellona*, a line-of-battle ship, then lying with the *Melampus* frigate in Lynnhaven Bay, enjoying the hospitality of the American Government. The next morning, June 22, at four A.M., the *Leopard* made sail, and two hours later re-anchored a few miles to the eastward, and about three miles north of Cape Henry Lighthouse.

The *Chesapeake*, during the difficulties at Norfolk and afterward, lay in the Eastern Branch at Washington. The inefficiency of the Govern-

ment in doing those duties which governments had hitherto been created to perform, was shown even more strikingly in the story of the *Chesapeake* than in the conspiracy of Burr. The frigate *Constitution* had sailed for the Mediterranean in August, 1803. The Government knew that her crew were entitled to their discharge, and that the President had no right to withhold it. The country was at peace; no emergency of any kind existed. A single ship of about one thousand tons burden needed to be fitted for sea at a date fixed three years beforehand; yet when the time came and the *Constitution* ought to have reached home, the *Chesapeake* had not so much as begun preparation. Captain James Barron was selected to command her as commodore of the Mediterranean squadron; Captain Charles Gordon — a native of the eastern shore of Maryland, the youngest master-commandant on the list — was appointed as her captain. Both were good officers and seamen; but Gordon received his orders only February 22 and could not take command until May 1 — long after he should have reached Gibraltar. Such was the inefficiency of the navy yard at Washington that, although the Secretary of the Navy had the *Chesapeake* under his eye and was most anxious to fit her out, and although Gordon fretted incessantly, making bitter complaints of delay, the frigate still remained in the mechanics' hands until the month of May.

For much of this, Congress and the people were responsible, and they accepted their own feebleness as the necessary consequence of a system which acted through other agencies than force; but much was also due to the Administration and to the President's instincts, which held him aloof from direct contact with both services. Jefferson did not love the deck of a man-of-war or enjoy the sound of a boatswain's whistle. The ocean was not his element; and his appetite for knowledge never led him to criticize the management of his frigates or his regiments so long as he could shut his eyes to their shortcomings. Thus, while Wilkinson was left at his own pleasure to create or to stifle a rebellion at New Orleans, the crew of the *Constitution* were in a state of mutiny in the Mediterranean, and the officers of the *Chesapeake* were helpless under the control of the navy yard at Washington.

At length, in the earliest days of June, Gordon dropped down the Potomac. The *Chesapeake* was to carry on this cruise an armament of forty guns — twenty-eight eighteen-pounders and twelve thirty-two-



pound carronades; but owing to the shoals in the river she took but twelve guns on board at Washington, the rest waiting her arrival at Norfolk. The ship was still delayed in Hampton Roads. From June 6 to June 19, notwithstanding bad weather, the whole ship's company were hard-worked. The guns were taken on board and fitted; water was got in; spars and rigging had to be overhauled and stores for four hundred men on a three-years' cruise were shipped.

June 19, Captain Gordon considered the ship ready for sea, and wrote to the Commodore on shore, 'We are unmoored and ready for weighing the first fair wind.' Both Captain Gordon and Commodore Barron were aware that the decks were more or less encumbered and that the crew had not been exercised at the guns; but they were not warranted in detaining her on that account, especially since the guns could be better exercised at sea, and the ship was already four months behind time. Accordingly, June 21, Commodore Barron came on board, and at four o'clock in the afternoon the *Chesapeake* weighed anchor and stood down the Roads; at six o'clock she came to, dropped anchor, called all hands to quarters, and prepared to start for sea the next morning. From Lynnhaven Bay the *Leopard*, which had arrived from Halifax only a few hours before, could watch every movement of the American frigate.

At a quarter-past seven o'clock on the morning of June 22 the *Chesapeake* got under way with a fair breeze. Her ship's company numbered three hundred and seventy-five men and boys, all told, but, as was not uncommon in leaving port, much sickness prevailed among the crew, and by the doctor's order the sick seamen were allowed to lie in the sun and air on the upper deck. The gun-deck between the guns was encumbered with lumber of one sort or another; the cables were not yet stowed away; four of the guns did not fit quite perfectly to their carriages, and needed a few blows with a maul to drive the trunnions home, but this defect escaped the eye; in the magazine the gunner had reported the powder-horns, used in priming the guns as filled, whereas only five were in fact filled. Otherwise the ship, except for the freshness of her crew, was in fair condition.

At nine o'clock, passing Lynnhaven Bay, the officers on deck noticed the *Bellona* and *Melampus* at anchor. The *Leopard* lay farther out, and the *Bellona* was observed to be signaling.

At about half-past three o'clock, both ships being eight or ten miles

southeast by east of Cape Henry, the *Leopard* came down before the wind, and rounding to, about half a cable's length to windward, hailed, and said she had dispatches for the Commodore. Barron returned the hail and replied, 'We will heave to and you can send your boat on board of us.' British ships-of-war on distant stations not infrequently sent dispatches by the courtesy of American officers, and such a request implied no hostile purpose. British ships also arrogated a sort of right to the windward; and the *Leopard's* maneuver, although one which no commander except an Englishman would naturally have made, roused no peculiar attention. The *Leopard's* ports were seen to be triced up; but the season was midsummer, the weather was fine and warm, and the frigate was in sight of her anchorage. Doubtless Barron ought not to have allowed a foreign ship-of-war to come alongside without calling his crew to quarters — such was the general rule of the service; but the condition of the ship made it inconvenient to clear the guns, and the idea of an attack was so extravagant that, as Barron afterward said, he might as well have expected one when at anchor in Hampton Roads.

Barron went to his cabin to receive the British officer, whose boat came alongside. At a quarter before four o'clock Lieutenant Meade from the *Leopard* arrived on board, and was shown by Captain Gordon to the Commodore's cabin. He delivered the following note:

The captain of His Britannic Majesty's ship *Leopard* has the honor to enclose the captain of the United States ship *Chesapeake* an order from the Honorable Vice-Admiral Berkeley, Commander-in-Chief of His Majesty's ships on the North American station, respecting some deserters from the ships (therein mentioned) under his command, and supposed to be now serving as part of the crew of the *Chesapeake*.

The captain of the *Leopard* will not presume to say anything in addition to what the Commander-in-chief has stated, more than to express a hope that every circumstance respecting them may be adjusted in a manner that the harmony subsisting between the two countries may remain undisturbed.

Having read Captain Humphreys's note, Commodore Barron took up the enclosed order signed by Admiral Berkeley. This order, as the note mentioned, designated deserters from certain ships. Barron knew that he had on board three deserters from the *Melampus*, and that these three men had been the only deserters officially and regularly demanded by the British minister. His first thought was to look for the *Melampus* in the

Admiral's list; and on seeing that Berkeley had omitted it, Barron inferred that his own assurance would satisfy Captain Humphreys, and that the demand of search, being meant as a mere formality, would not be pressed. He explained to the British lieutenant the circumstances relating to the three men from the *Melampus*, and after some consultation with Doctor Bullus, who was going out as consul to the Mediterranean, he wrote to Captain Humphreys the following reply:

I know of no such men as you describe. The officers that were on the recruiting service for this ship were particularly instructed by the Government, through me, not to enter any deserters from His Britannic Majesty's ships, nor do I know of any being here. I am also instructed never to permit the crew of any ship that I command to be mustered by any other but their own officers. It is my disposition to preserve harmony, and I hope this answer to your dispatch will prove satisfactory.

Such an answer to such a demand was little suited to check the energy of a British officer in carrying out his positive orders. If Barron had wished to invite an attack, he could have done nothing more to the purpose than by receiving Berkeley's orders without a movement of self-defense.

Meanwhile, at a quarter-past four the officer of the deck sent down word that the British frigate had a signal flying. The lieutenant understood it for a signal of recall, as he had been half an hour away, and as soon as the letter could be written he hurried with it to his boat. No sooner had he left the cabin than Barron sent for Gordon and showed him the letters which had passed. Although the Commodore hoped that the matter was disposed of, and assumed that Captain Humphreys would give some notice in case of further action, he could not but feel a show of energy to be proper, and he directed Gordon to order the gun-deck to be cleared. Instantly the officers began to prepare the ship for action.

Had the British Admiral sent the *Bellona* or some other seventy-four on this ugly errand, Barron's error would have been less serious; for the captain of a seventy-four would have felt himself strong enough to allow delay. Sending the *Leopard* was arrogance of a kind that the British navy at that time frequently displayed. In 1804, when the Spanish treasure-ships were seized, the bitterest complaint of Spain was, not that she had been made the unsuspecting victim of piracy, but that her squadron had been waylaid by one of only equal force, and could not in honor

yield without a massacre which cost four ships and three hundred lives, besides the disgrace of submission to an enemy of not superior strength. In tonnage the *Chesapeake* was a stronger ship and carried a larger crew than the *Leopard*; and a battle on fair terms would have been no certain victory. That Captain Humphreys felt it necessary to gain and retain every possible advantage was evident from his conduct. He could not afford to run the risk of defeat in such an undertaking; and knowing that the *Chesapeake* needed time to prepare for battle, he felt not strong enough to disregard her power of resistance, as he might have done had he commanded a ship-of-the-line. To carry out his orders with as little loss as possible was his duty; for the consequences, not he but his Admiral was to blame. Without a moment of delay, edging nearer, he hailed and cried: 'Commodore Barron, you must be aware of the necessity I am under of complying with the orders of my commander-in-chief.'

Hardly more than five minutes passed between the moment when the British officer left Commodore Barron's cabin and the time when Barron was hailed. To get the ship ready for action required fully half an hour. Barron, after giving the order to clear the guns, had come on deck and was standing in the gangway watching the *Leopard* with rapidly increasing anxiety, as he saw that the tompions were out of her guns and that her crew were evidently at quarters. He instantly repeated the order to prepare for battle, and told Gordon to hurry the men to their stations quietly without drum-beat. Gordon hastened down to the gun-deck with the keys of the magazine; the crew sprang to their quarters as soon as they understood the order. Barron, aware that his only chance was to gain time, remained at the gangway and replied through his trumpet: 'I do not hear what you say.' Captain Humphreys repeated his hail, and Barron again replied that he did not understand. The *Leopard* immediately fired a shot across the *Chesapeake's* bow; a minute later another shot followed; and in two minutes more, at half-past four o'clock, the *Leopard* poured her whole broadside of solid shot and canister, at the distance of one hundred and fifty or two hundred feet, point-blank into the helpless American frigate. Before the gunner of the *Chesapeake* got to his magazine he heard the first gun from the *Leopard*, just as he opened and entered the magazine the *Leopard's* broadside was fired.

No situation could be more trying to officers and crew than to be thus stationed at their guns without a chance to return a fire. The guns of

the *Chesapeake* were loaded, but could not be discharged for want of lighted matches or heated loggerheads; and even if discharged, they could not be reloaded until ammunition should be handed from the magazine. Time was required both to clear the guns and to fire them; but the *Leopard's* first broadside was thrown just as the crew were beginning to clear the deck. The crew were fresh and untrained; but no complaint was made on this account — all were willing enough to fight. The confusion was little greater than might have occurred under the same circumstances in the best-drilled crew afloat; and the harshest subsequent scrutiny discovered no want of discipline, except that toward the end a few men left their guns, declaring that they were ready to fight but not to be shot down like sheep.

After enduring this massacre for fifteen minutes, while trying to fire back at least one gun for the honor of the ship, Commodore Barron ordered the flag to be struck. It was hauled down; and as it touched the taffrail one gun was discharged from the gun-deck sending a shot into the *Leopard*. This single gun was fired by the third lieutenant, Allen, by means of a live coal which he brought in his fingers from the galley.

The boats of the *Leopard* then came on board, bringing several British officers, who mustered the ship's company. They selected the three Americans who had deserted from the *Melampus*, and were therefore not included in Berkeley's order. Twelve or fifteen others were pointed out as English deserters, but these men were not taken. After a search of the ship, Jenkin Ratford was dragged out of the coal-hole; and this discovery alone saved Captain Humphreys from the blame of committing an outrage not only lawless but purposeless.

At eight o'clock, Barron called a council of officers to consider what was best to be done with the ship, and it was unanimously decided to return to the Roads and wait orders. Disgraced, degraded, with officers and crew smarting under a humiliation that was never forgotten or forgiven, the unlucky *Chesapeake* dragged her way back to Norfolk.

There she lay for many months. Barron's brother officers made severe comments on his conduct; and Captain Gordon and some of his fellow-sufferers joined in the cry. One of his harshest critics was Stephen Decatur. Public sentiment required a victim. The court-martial took place at Norfolk, on board the *Chesapeake* — his own ship, which recalled at every moment his disgrace. The judges were his juniors, with

the single exception of Captain John Rodgers, who was president of the court. Among them sat Stephen Decatur — a brilliant officer, but one who had still to undergo the experience of striking his flag and of hearing the world suspect his surrender to be premature. Decatur held strong opinions against Barron, and not only expressed them strongly, but also notified Barron of them in order that he might, if he pleased, exercise the privilege of challenging. Barron made no objection and Decatur unwillingly kept his place.

From January 4 to February 8 the court-martial tried charges against Barron, after which it continued until February 22 trying Captain Gordon, Captain Hall of the marines, and William Hook the gunner. The result of this long, searching, and severe investigation was remarkable, for it ended in a very elaborate decision that Barron was blameless in every particular except one. He had not been negligent of his duty; he was not to blame for omitting to call the crew to quarters before he received Captain Humphreys's letter; he did well in getting the men to quarters secretly without drum-beat: he did not discourage his men; he had shown coolness, reflection, and personal courage under the most trying circumstances; he was right in striking his flag when he did — but he was wrong in failing to prepare for action instantly on reading Admiral Berkeley's order; and for this mistake he was condemned to suspension for five years from the service, without pay or emoluments.

So far as the service was concerned, Barron's punishment was not likely to stimulate its caution, for no American captain, unless he wished to be hung by his own crew at his own yardarm, was likely ever again to let a British frigate come within gunshot without taking such precautions as he would have taken against a pirate; but though the degradation could do little for the service, it cost Barron his honor, and ended by costing Decatur his life.

## CHAPTER FORTY-SEVEN

### *Demands and Disavowals*

**F**OR THE FIRST TIME in their history the people of the United States learned, in June, 1807, the feeling of a true national emotion. Hitherto every public passion had been more or less partial and one-sided; even the death of Washington had been ostentatiously mourned in the interests and to the profit of party; but the outrage committed on the *Chesapeake* stung through hidebound prejudices, and made democrat and aristocrat writhe alike. The brand seethed and hissed like the glowing olive-stake of Ulysses in the Cyclops' eye, until the whole American people, like Cyclops, roared with pain and stood frantic on the shore, hurling abuse at their enemy, who taunted them from his safe ships.

President Jefferson was at Washington June 25, the day when news of the outrage arrived; but his Cabinet was widely scattered and some time passed before its members could be reassembled. Gallatin was last to arrive; but July 2, at a full meeting, the President read the draft of a proclamation, which was approved, and the proclamation issued on the same day. It rehearsed the story of American injuries and forbearance and of British aggressions upon neutral rights; and so moderate was its tone as to convey rather the idea of deprecation than of anger. The proclamation required all armed vessels of Great Britain to depart from American waters; and in case of their failing to do so, the President forbade intercourse with them, and prohibited supplies to be furnished them.

At the same Cabinet meeting, according to Jefferson's memoranda, other measures were taken. The gunboats were ordered to points where attack might be feared. The President was to 'Recall all our vessels from the Mediterranean, by a vessel to be sent express, and send the *Revenge* to England with dispatches to our minister demanding satisfaction for the attack on the *Chesapeake*; in which must be included — (1) a disavowal of the act and of the principle of searching a public armed vessel; (2) a restoration of the men taken; (3) a recall of Admiral Berkeley. Communicate the incident which has happened to Russia.' Two days afterward, at another Cabinet meeting, it was agreed that a call of Congress shall issue the fourth Monday of August (24), to meet the fourth

Monday in October (26), unless new occurrences should render an earlier call necessary.'

Even among earnest Republicans the tone of Jefferson's proclamation and the character of his measures were at first denounced as tame. John Randolph called the proclamation an 'apology.' Gallatin, who had hitherto thrown all his influence on the side of peace, was then devoting all his energies to provision for war. He was confident that England would give neither satisfaction nor security. Jefferson followed without protest the impulse toward war; but his leading thought was to avoid it. Peace was still his passion, and his scheme of peaceful coercion had not yet been tried. Even while the nation was aflame with warlike enthusiasm, his own mind always reverted to another thought. The tone of the proclamation showed it; his unwillingness to call Congress proved it; his letters dwelt upon it.

To Vice-President Clinton he wrote that, since the power of declaring war was with the Legislature, the Executive should do nothing necessarily committing them to decide for war in preference to non-intercourse, 'which will be preferred by a great many.' Every letter written by the President during the crisis contained some allusion to non-intercourse, which he still called the 'peaceable means of repressing injustice, by making it the interest of the aggressor to do what is just and abstain from future wrong.' As the war fever grew stronger, he talked more boldly about hostilities and became silent about non-intercourse; but the delay in calling Congress was certain to work as he wished and to prevent a committal to the policy of war. The young British minister, Erskine, wrote to the new Foreign Secretary of England, George Canning, only brief and dry accounts of the situation at Washington, but showed almost a flash of genius in the far-reaching policy he struck out.

The ferment in the public mind [he wrote July 21] has not yet subsided, and I am confirmed in the opinion . . . that this country will engage in war rather than submit to their national armed ships being forcibly searched on the high seas. . . . Should His Majesty think fit to cause an apology to be offered to these States on account of the attack of His Majesty's ship *Leopard* on the United States frigate *Chesapeake*, it would have the most powerful effect, not only on the minds of the people of this country, but would render it impossible for the Congress to bring on a war upon the other points of difference between His Majesty and the United States at present under discussion.



A single blow, however violent, could not weld a nation. Everyone saw that the very violence of temper which made the month of July, 1807, a moment without a parallel in American history since the battle of Lexington would be followed by a long reaction of doubt and discord. If the President, the Secretary of State, and great numbers of their staunchest friends hesitated to fight when a foreign nation, after robbing their commerce, fired into their ships-of-war and slaughtered or carried off their fellow-citizens — if they preferred ‘peaceable means of repressing injustice’ at the moment when every nerve would naturally have been strung to recklessness with the impulse to strike back — it was in the highest degree unlikely that they would be more earnest for war when time had deadened the sense of wrong. Neither England, France, nor Spain could fail to see that the moment when aggression ceased to be safe had not yet arrived.

The people were deeply excited, commerce for the moment was paralyzed, no merchant dared send out a ship, and the country resounded with cries of war when the *Revenge* sailed, bearing instructions to Monroe to demand reparation from the British Government. These instructions, dated July 6, 1807, were framed in the spirit which seemed to characterize Madison’s diplomatic acts. Specific redress for a specific wrong appeared an easy demand. That the attack on the *Chesapeake* should be disavowed; that the men who had been seized should be restored; that punctilious exactness of form should mark the apology and retribution — was matter of course; but that this special outrage, which stood on special ground, should be kept apart and that its atonement should precede the consideration of every other disputed point was the natural method of dealing with it if either party was serious in wishing for peace. Such a wound, left open to fester and smart, was certain to make war in the end inevitable. Both the President and Madison wanted peace; yet their instructions to Monroe made a settlement of the *Chesapeake* outrage impracticable by binding it to a settlement of the wider dispute as to impressments from merchant vessels.

‘As a security for the future,’ wrote Madison, ‘an entire abolition of impressments from vessels under the flag of the United States, if not already arranged, is also to make an indispensable part of the satisfaction.’

Among the many impossibilities which had been required of Monroe during the last four years, this was one of the plainest. The demand was

preliminary, in ordinary diplomatic usage, to a declaration of war; and nothing in Jefferson's Presidency was more surprising than that he should have thought such a policy of accumulating unsettled causes for war consistent with his policy of peace.

Hitherto the British press had shown no marked signs of the insanity which sometimes seized a people under the strain of great excitement, but the *Chesapeake* affair revealed the whole madness of the time. August 6, the *Morning Post* published an article strongly in favor of Berkeley and war. 'Three weeks' blockade of the Delaware, the Chesapeake, and Boston Harbor would make our presumptuous rivals repent of their puerile conduct.' August 5 the *Times* declared itself for Berkeley, and approved, not only his order, but also its mode of execution. The *Courier* from the first defended Berkeley.

In the face of a popular frenzy so general, Monroe was satisfied to let the newspapers say what they would while he waited his instructions. A month passed before these arrived. September 3, Monroe explained the President's expectations — that the men taken from the *Chesapeake* should be restored, the offenders punished, a special mission sent to America to announce the reparation, and the practice of impressment from merchant vessels suppressed. Canning listened with civility, for he took pride in tempering the sternness of his policy by the courtesy of his manner. He made no serious objection to the President's demands so far as they concerned the *Chesapeake*; but when Monroe came to the abandonment of impressment from merchant vessels, he civilly declined to admit it into the discussion.

Monroe wrote the next day a note, founded on his instructions, in which he insisted that the outrages rising from impressment in general ought to be considered as a part of the *Chesapeake* affair; and he concluded his argument by saying that his Government looked on this complete adjustment as indispensably necessary to heal the deep wound which had been inflicted on the national honor of the United States. After the severity with which Monroe had been rebuked for disregarding his instructions on this point barely a few months before, he had no choice but to obey his orders without the change of a letter; but he doubtless knew in advance that this course left Canning master of the situation. The British Government was too well acquainted with the affairs of America to be deceived by words. That the United States

would fight to protect their national vessels was possible; but everyone knew that no party in Congress could be induced to make war for the protection of merchant seamen. In rejecting such a demand, not only was Canning safe, but he was also sure of placing the President at odds with his own followers and friends.

A fortnight was allowed to pass before the British Government replied. Then, September 23, Canning sent to the American Legation an answer. He began by requesting to know whether the President's proclamation was authentic, and whether it would be withdrawn on a disavowal of the act which led to it; because, as an act of retaliation, it must be taken into account in adjusting the reparation due. He insisted that the nationality of the men seized must also be taken into account, not as warranting their unauthorized seizure, but as a question of redress between Government and Government.

Canning closed by earnestly recommending Monroe to consider whether his instructions might not leave him at liberty to adjust the case of the *Chesapeake* by itself:

If your instructions leave you no discretion, I cannot press you to act in contradiction to them. In that case there can be no advantage in pursuing a discussion which you are not authorized to conclude; and I shall have only to regret that the disposition of His Majesty to terminate that difference amicably and satisfactorily is for the present rendered unavailing.

In that case His Majesty, in pursuance of the disposition of which he has given such signal proofs, will lose no time in sending a Minister to America, furnished with the necessary instructions and powers for bringing this unfortunate dispute to a conclusion consistent with the harmony subsisting between Great Britain and the United States; but in order to avoid the inconvenience which has arisen from the mixed nature of your instructions, that minister will not be empowered to entertain, as connected with this subject, any proposition respecting the search of merchant vessels.

Monroe replied, September 29, that his instructions were explicit and that he could not separate the two questions. He closed by saying that Canning's disposition and sentiments had been such as inspired him with great confidence that they should soon have been able to bring the dispute to an honorable and satisfactory conclusion. With this letter, so

far as concerned Monroe, the *Chesapeake* incident came to its end in failure of redress.

For a thousand years every step in the progress of England had been gained by sheer force of hand and will. In the struggle for existence the English people, favored by situation, had grown into a new human type — which might be brutal, but was not weak; which had little regard for theory, but an immense and just respect for facts. America considered herself to be a serious fact and expected England to take her at her own estimate of her own value; but this was more than could reasonably be asked. England required America to prove by acts what virtue existed in her conduct or character which should exempt her from the common lot of humanity or should entitle her to escape the tests of manhood — the trials, miseries, and martyrdoms through which the character of mankind had thus far in human history taken, for good or bad, its vigorous development. England had never learned to strike soft in battle. She expected her antagonists to fight; and if they would not fight, she took them to be cowardly or mean. Jefferson and his Government had shown over and over again that no provocation would make them fight; and from the moment that this attitude was understood, America became fair prey. Jefferson had chosen his own methods of attack and defense; but he could not require England or France to respect them before they had been tried.

Contempt, mingled with vague alarm, was at the bottom of England's conduct toward America; and whatever the swarm of newspaper statesmen might say or think, the element of alarm was so great that the Tory Ministers, although they might expect war, did not want it, and hoped to prevent it by the very boldness of their policy. Even Canning was cautious enough to prefer not to give America occasion for learning her strength. He meant to clip her wings only so far as she would submit to have her wings clipped; and he not only astonished but disgusted the overzealous politicians who applauded Admiral Berkeley, by disavowing the Admiral's doctrines of international law and recalling the Admiral himself. The war faction broke into a paroxysm of rage when this decision became known, and for a time Canning seemed likely to be devoured by his own hounds, so vociferous was their outcry.

Canning was obliged to defend himself, and under his promptings a

long reply to his critics was written for the *Morning Post* — a newspaper version of the instructions carried by his special minister to Washington. He excused his treatment of Admiral Berkeley on the ground that lawyers recognized no right of search in national ships. The excuse was evidently feeble. The law, or at least the lawyers, of England had hitherto justified every act which the Government had chosen to commit — the seizure of the Spanish treasure-ships in 1804, accompanied by the unnecessary destruction of hundreds of lives; the secret seizure of the larger part of American commerce in 1805, by collusion with the Admiralty judges; the paper blockade of Charles James Fox in 1806; the Order in Council of January, 1807, by which Lord Howick cut off another main branch of neutral commerce with which England had no legal right to interfere; finally, the lawyers justified the bombardment of Copenhagen as an act of necessary defense, and were about to justify a general control of all neutral commerce as an act of retaliation. To suppose that law so elastic or lawyers with minds so fertile could discover no warrant for Berkeley's act was preposterous. To neutral commerce England had no legal right; yet she took it and her lawyers invented a title. To her citizens and seamen she actually had a legal right, recognized by every court in Christendom; and if, after a fair demand on the neutral Government, she found that her right could be satisfied only by violating neutral jurisdiction, the lawyers, in view of all their other decisions, must hold that such violation was a matter of expediency and not of law. Canning's critics, in reply to his assertion that the lawyers would recognize no right of search in national ships, could fairly say that he was alone to blame — he should have ordered them to find it.

In truth, Canning disavowed Admiral Berkeley, not because the lawyers were unable to prove whatever the Government required, but because the right of searching foreign ships-of-war was not worth asserting and would cost more than it could ever bring in return. Besides this obvious reason, he was guided by another motive which would alone have turned the scale. Perceval had invented a scheme for regulating neutral commerce. This measure had begun to take a character so stern that even its author expected it to produce war with the United States; and if war could be avoided at all, it could be avoided only by following Erskine's advice, and by sending to America, before the new Orders in Council, an apology for the attack on the *Chesapeake*.

## CHAPTER FORTY-EIGHT

### *The Orders in Council*

**T**HE ORDERS IN COUNCIL of November 11, 1807, gave an impulse so energetic to the history of the United States; they worked so effectually to drive America into a new path and to break the power and blot out the memory of Virginia and Massachusetts principles — that every detail of their history was important. Englishmen were little likely to dwell on acts of which even at the time England was at heart ashamed and which she afterward remembered with astonishment. To Americans alone the statesmanship of Spencer Perceval and George Canning was a matter of so much interest as to deserve study.

At the close of the year 1806, American merchants might, as always before, send cargoes of West Indian produce to any port on the Continent not blockaded, provided they could satisfy British cruisers and courts that the cargo was in good faith neutral — not French or Spanish property disguised. January 7, 1807, Lord Howick issued the Order in Council which, under pretense of retaliation for Napoleon's Berlin Decree, cut off the coasting rights of neutrals. After that time the American merchant might still send a ship to Bordeaux; but if the ship, finding no market at Bordeaux, should resume her voyage and make for Amsterdam or the Mediterranean, she became fair prize.

In Parliament, February 4, Spencer Perceval attacked the Whig Ministry for not carrying the principle of retaliation far enough. Two objects were to be gained, said Perceval from the Opposition bench: the first and greatest was to counteract the enemy's measures and protect English trade; the second was to distress France. Howick's order neither did nor could effect either object; and Perceval called for a measure which should shut out colonial produce from France and Spain altogether, unless it came from England and had paid a duty at a British custom-house to enhance the price. If Lord Howick's principle of retaliation was good for anything, Perceval contended it was good to this extent; and as for neutrals, there was no necessity for consulting them — all they could reasonably expect was a notice.

The Whigs naturally replied to Perceval that, before further punishing America for the acts of France, America should be allowed time to assert

her own rights. This suggestion called out Lord Castlereagh, who frequently spoke the truth in ways inconvenient to his colleagues and amusing to his enemies. In this instance he admitted and even accented a point which became afterward the strongest part of the American argument. He ridiculed the idea of waiting for America to act, because notoriously the Berlin Decree had not been enforced against American commerce.

Napoleon's Berlin Decree of November 21, 1806, had remained till then almost a dead letter. The underwriters at Lloyds', alarmed at first by the seizures made under that decree, recovered courage between April and August, 1807, so far as to insure at low rates neutral vessels bound to Holland and Hamburg. This commerce attracted Napoleon's notice. August 19 he threatened his brother Louis, King of Holland, to send thirty thousand troops into his kingdom if the ports were not shut; August 24 he sent positive orders that his Decree of Berlin should be executed in Holland; and in the last days of August news reached London that a general seizure of neutral vessels had taken place at Amsterdam. From that moment no ship could obtain insurance and trade with the Continent ceased. Soon afterward the American ship *Horizon* was condemned by the French courts under the Berlin Decree, and no one could longer doubt that the favor hitherto extended to American commerce had also ceased.

These dates were important, because upon them hung the popular defense of Perceval's subsequent Orders in Council. No argument in favor of these orders carried so much weight in England as the assertion that America had acquiesced in Napoleon's Berlin Decree. The President had in fact submitted to the announcement of Napoleon's blockade, as he had submitted to Sir William Scott's decisions, Lord Howick's Order in Council, the blockade of New York, and the custom of impressment, without effectual protest; but the Berlin Decree was not enforced against American commerce until about September 1, 1807, and no one in America knew of the enforcement or could have acted upon it before the British Government took the law into its own hands.

The month of September passed, and the British Ministry was sufficiently busy with the bombardment of Copenhagen and the assault on the *Chesapeake*, without touching neutral trade; but October 1, Lord Castlereagh wrote a letter to Perceval, urging retaliation upon France in

order to make her feel that Napoleon's anti-commercial system was useless and in order to assert for future guidance the general principle that England would reject any peace which did not bring commerce with it. The idea, presented by Castlereagh, was clear and straightforward — the double-or-quits of a gambler; and however open to the charge of ignorance or violence, it was not mean or dishonest.

By the end of October, all the Cabinet opinions were in Perceval's hands and he began the task of drafting the proposed orders. His original draft contained an elaborate preamble, asserting that Napoleon's decrees violated the laws of nations, which Perceval broadly maintained were binding on one belligerent only when the obligation was reciprocally acknowledged by the other; that neutrals had not resented and resisted the outrage, 'nor interposed with effect for obtaining the revocation of those orders, but on the contrary the same have been recently reinforced'; that Lord Howick's retaliatory order had served only to encourage Napoleon's attempts; that His Majesty had a right to declare all the dominions of France and her allies in a state of blockade; but, 'not forgetting the interests of neutral nations, and still desirous of retaliating upon the commerce of his enemies with as little prejudice to those interests' as was consistent with his purpose, he would for the present prohibit only trade which neutrals might be disposed to pursue in submission to the French decrees, and require that such trade should pass to or from some British port.

Then followed the order, which prohibited all neutral trade with the whole European seacoast from Copenhagen to Trieste, leaving only the Baltic open. No American vessel should be allowed to enter any port in Europe from which British vessels were excluded unless the American should clear from some British port under regulations to be prescribed at a future time.

This draft was completed in the first days of November and was sent to Lord Bathurst, President of the Board of Trade, who mercilessly criticized the preamble and treated his colleague's law with as little respect as though Bathurst were an American.

The proposed order, Bathurst argued, not only restricted the neutral trade still further than had been done by Napoleon, but risked war with Russia and America without materially hurting France; he added an argument which struck at the foundation of Perceval's policy:



The object of the proposed order, though general, is in fact nothing but the colonial trade carried on through America; and by making it general we unite Russia in defense of a trade with which she has no concern or any interest to defend. As far as America is concerned, it must be expected she will resist it; and an American war would be severely felt by our manufacturers, and even by the very class of merchants now so eager for some measure of relief. We might, therefore, have to fight for a rule of war, new, the policy of which would be questionable, to support an interest which would be the first to suffer by the war — against two countries, one of which the order unnecessarily mixes in the question, and with both of which we have great commercial relations.

According to the public and private avowals of all the Ministry, the true object of Perceval's orders was, not to force a withdrawal of the Berlin Decree so far as it violated international law, but to protect British trade from competition. Perceval did not wish to famish France, but to feed her. His object was commercial, not political; his policy aimed at checking the commerce of America in order to stimulate the commerce of England. The pretense that this measure had retaliation for its object and the vindication of international law for its end was a legal fiction, made to meet the objections of America and to help Canning in maintaining a position which he knew to be weak.

After conferences, not only with his colleagues in the Cabinet, but also with George Rose, Vice-President of the Board of Trade, with James Stephen, who was in truth the author of the war on neutrals, and with a body of merchants from the City — at last, November 11, 1807, Spencer Perceval succeeded in getting his General Order approved in Council. In its final shape this famous document differed greatly from the original draft. In deference to Lord Bathurst's objections, the sweeping doctrine of retaliation was omitted, so that hardly an allusion to it was left in the text; the assertion that neutrals had acquiesced in the Berlin Decree was struck out; the preamble was reduced, by Lord Eldon's advice, to a mere mention of the French pretended blockade and of Napoleon's real prohibition of British commerce, followed by a few short paragraphs reciting that Lord Howick's order of January 7, 1807, had 'not answered the desired purpose either of compelling the enemy to recall those orders or of inducing neutral nations to interpose with effect to obtain their revocation, but on the contrary the same have been recently enforced with increased rigor'; and then, with the blunt assertion that 'His Majesty,

under these circumstances, finds himself compelled to take further measures for asserting and vindicating his just rights,' Perceval, without more apology, ordered in effect that all American commerce, except that to Sweden and the West Indies, should pass through some British port and take out a British license.

The exceptions, the qualifications, and the verbiage of the British Orders need no notice. The ablest British merchants gave up in despair the attempt to understand them; and as one order followed rapidly upon another, explaining, correcting, and developing Perceval's not too lucid style, the angry Liberals declared their belief that he intended no man to understand them without paying two guineas for a legal opinion, with the benefit of a chance to get a directly contrary opinion for the sum of two guineas more.

The general intention, however confused, was simple. After November 11, 1807, any American vessel carrying any cargo was liable to capture if it sailed for any port in Europe from which the British flag was excluded. In other words, American commerce was made English.

This measure completed, diplomacy was to resume its work. Even Canning's audacity might be staggered to explain how the Government of the United States could evade war after it should fairly understand the Impressment Proclamation of October 17, the Order in Council of November 11, and the instructions of George Henry Rose — who was selected by Canning as his special envoy for the adjustment of the *Leopard's* attack on the *Chesapeake*, and who carried orders which made adjustment impossible. Such outrages could be perpetrated only upon a helpless people. Even in England, where Jefferson's pacific policy was well understood, few men believed that peace could be longer preserved.

## CHAPTER FORTY-NINE

### *No More Neutrals*

**T**HE CURTAIN was about to rise upon a new tragedy — the martyrdom of Spain. At this dramatic spectacle the United States Government and people might have looked with composure and without regret, for they hardly felt so deep an interest in history, literature, or art as to care greatly what was to become of the land which had once produced Cortés, Cervantes, and Murillo; but in the actual condition of European politics their own interests were closely entwined with those of Spain, and, as the vast designs of Napoleon were developed, the fortunes of the Spanish Empire more and more deeply affected those of the American Union.

General Armstrong waited impatiently at Paris while Napoleon carried on his desperate struggle with the Emperor Alexander amid the ice and snows of Prussia. After the battle of Eylau, the American minister became so restless that in May, 1807, he demanded passports for Napoleon's headquarters, but was refused. Had he gone as he wished, he might have seen the great battle of Friedland, June 14, and witnessed the Peace of Tilsit, signed July 7, which swept away the last obstacle to Napoleon's schemes against Spain and America. After the Peace of Tilsit, Armstrong could foresee that he should have to wait but a short time for the explanations so mysteriously delayed.

Except Denmark and Portugal, every State on the coast of Europe from St. Petersburg to Trieste acknowledged Napoleon's domination. England held out; and experience proved that England could not be reached by arms. The next step in the Emperor's system was to effect her ruin by closing the whole world to her trade. He began with Portugal. From Dresden, July 19, he issued orders that the Portuguese ports should be closed by September 1 against English commerce or the Kingdom of Portugal would be occupied by a combined French and Spanish army. July 29 he was again in Paris. July 31 he ordered Talleyrand to warn the Prince Royal of Denmark that he must choose between war with England and war with France. That the turn would next come to the United States was evident; and Armstrong was warned by many signs of the impending storm.

Napoleon's orders forced the King of Denmark and King Louis of Hol-

land to seize neutral commerce and close the Danish and Dutch ports. The question immediately rose whether United States ships and property were still to be treated as exempt from the operation of the Berlin Decree by virtue of the Treaty of 1800; and the Emperor promptly decided against them.

A few days afterward, General Armstrong received officially an order from the Emperor which expressly declared that the Berlin Decree admitted of no exception in favor of American vessels; and this step was followed by a letter from Champagny, dated October 7, to the same effect. At the same time the Council of Prizes pronounced judgment in the case of the American ship *Horizon*, wrecked some six months before near Morlaix. The Court decreed that such part of the cargo as was not of English origin should be restored to its owners; but that the merchandise which was acknowledged to be of English manufacture or to come from English territory should be confiscated under the Berlin Decree. To this decision Armstrong immediately responded in a strong note of protest to Champagny, which called out an answer from the Emperor himself.

Reply to the American minister [wrote Napoleon to Champagny November 15] that, since America suffers her vessels to be searched, she adopts the principle that the flag does not cover the goods. Since she recognizes the absurd blockades laid by England, consents to having her vessels incessantly stopped, sent to England, and so turned aside from their course, why should the Americans not suffer the blockade laid by France? Certainly France is no more blockaded by England than England by France. Why should Americans, not equally suffer their vessels to be searched by French ships? Certainly France recognizes that these measures are unjust, illegal, and subversive of national sovereignty; but it is the duty of nations to resort to force and to declare themselves against things which dishonor them and disgrace their independence.

Champagny wrote this message to Armstrong November 24, taking the ground that America must submit to the Berlin Decree because she submitted to impressments and search.

As a matter of relative wrong, Napoleon's argument was more respectable than that of Spencer Perceval and George Canning. He could say with truth that the injury he did to America was wholly consequential on the injury he meant to inflict on England. He had no hidden plan of suppressing American commerce in order to develop the commerce of

France; as yet he was not trying to make money by theft. His Berlin Decree interfered in no way with the introduction of American products directly into France; it merely forbade the introduction of English produce or the reception of ships which came from England. Outrageous as its provisions were, 'unjust, illegal, and subversive of national sovereignty,' as Napoleon himself admitted and avowed, they bore their character and purpose upon their face, and in that sense were legitimate.

The story of Toussaint and St. Domingo was about to be repeated in Spain. The throne of Don Carlos IV crumbled, almost without need of a touch from without. France had drawn from Spain everything she once possessed — her navy, sacrificed at Trafalgar to Napoleon's orders; her army, nearly half of which was in Denmark; her treasures, which, so far as they had not been paid in subsidies to Napoleon, were shut up in Mexico. Nothing but the shell was left of all that had made Spain great. This long depletion had not been effected without extreme anxiety on the part of the Spanish Government. At any time after the Prince of Peace returned to power in 1801, he would gladly have broken with France, as he proved in 1806. For a single moment the King yielded to Godoy's entreaties. When the fourth European coalition was formed against Napoleon and Prussia declared war, the Prince of Peace was allowed to issue, October 6, 1806, a proclamation calling the Spanish people to arms. October 14 the battle of Jena was fought and the news reaching Madrid threw the King and Court into consternation; Godoy's influence was broken by the shock; the proclamation was recalled and the old King bowed his head to his fate. Had he held firm and thrown in his fortunes with those of England, Russia, and Prussia, the battle of Eylau might have stopped Napoleon's career; and in any case the fate of Spain could not have been more terrible than it was.

Napoleon laughed at the proclamation, but he knew Godoy to be his only serious enemy at Madrid. He took infinite pains and exhausted the extraordinary resources of his cunning, in order to get possession of Spain without a blow. To do this, he forced Portugal into what he called a war. Without noticing Godoy's offense; immediately after the Peace of Tilsit, as has been already told, the Emperor ordered the King of Portugal to execute the Berlin Decree. Unable to resist, Portugal consented to shut her ports to English commerce, but objected to confiscating

British property. Without a moment's delay, Napoleon, October 12, ordered General Junot, with an army of twenty thousand men, to enter Spain within twenty-four hours and march direct to Lisbon; simultaneously he notified the Spanish Government that his troops would be at Burgos, November 1; and that this time 'it was not intended to do as was done in the last war — he must march straight to Lisbon.'

After the Peace of Tilsit, no Power in Europe pretended to question Napoleon's will, and for Spain to do so would have been absurd. King Charles had to submit, and he sent an army to co-operate with Junot against Portugal. The Emperor, who might at a single word have driven King Charles as well as the King of Portugal from the throne, did not say the word. Godoy's proclamation had given France cause for war; but Napoleon took no notice of the proclamation. He did not ask for the punishment of Godoy; he not only left the old King in peace, but took extraordinary care to soothe his fears. On the same day when he ordered Junot to march, he wrote personally to reassure the King: 'I will concert with [Your] Majesty as to what shall be done with Portugal; in any case the suzerainty shall belong to you, as you have seemed to wish.' Yet four days later, he ordered another army of thirty thousand men to be collected at Bayonne, to support Junot, who had no enemy to fear. That his true campaign was against Spain, not against Portugal, never admitted of a doubt.

Junot entered Spain October 17, while Napoleon at Fontainebleau forced on the Spanish agent, Izquierdo, a treaty which might keep King Charles and Godoy quiet a little longer. This document, drafted by Napoleon himself, resembled the letter to Toussaint and the proclamation to the Negroes of St. Domingo, with which Leclerc had been charged; its motive was too obvious and its appeal to selfishness too gross to deceive. It declared that Portugal should be divided into three parts. The most northerly, with Oporto for a capital and a population of eight hundred thousand souls, should be given to the Queen of Etruria in place of Tuscany, which was to be swallowed up in the Kingdom of Italy. The next provision was even more curious. The southern part of Portugal, with a population of four hundred thousand souls, should be given to the Prince of Peace as an independent sovereignty. The central part, with a population of two millions and Lisbon for a capital, should be held by France subject to further agreement. By a final touch of dissimulation

worthy of Shakespeare's tragic invention, Napoleon, in the last article of this treaty, promised to recognize Don Carlos IV as Emperor of the two Americas.

Meanwhile, Junot marched steadily forward. He was at Burgos on the day fixed by Napoleon; he established permanent French depots at Valladolid and at Salamanca. Leaving Salamanca November 12, he advanced to Ciudad Rodrigo, and after establishing another depot there, he made a rapid dash at Lisbon. The march was difficult, but Junot was ready to destroy his army rather than fail to carry out his orders; and on the morning of November 30 he led a ragged remnant of fifteen hundred men into the city of Lisbon. He found it without a government. The Prince Regent of Portugal, powerless to resist Napoleon, had gone on board his ships with the whole royal family and court, and was already on his way to found a new empire at Rio Janeiro. Of all the royal houses of Europe, that of Portugal was the first to carry out a desperate resolution.

Napoleon's object was thus gained. December 1, 1807, Junot was in peaceable possession of Lisbon and French garrisons held every strategical point between Lisbon and Bayonne.

At the same time a new army of some twenty thousand men was hurried across France to take the place, at Bayonne, of Dupont's army, which was to enter Spain. November 13, the Emperor ordered Dupont to move his first division across the frontier to Vittoria; and on the same day he dispatched M. De Tournon, his chamberlain, with a letter to King Charles at Madrid, and with secret instructions that revealed the reasons for these movements so carefully concealed from Spanish eyes:

You will also inform yourself, without seeming to do so, of the situation of the places of Pampeluna and of Fontarabia; and if you perceive armaments making anywhere, you will inform me by courier. You will be on the watch at Madrid to see well the spirit which animates that city.

Napoleon's orders were in all respects exactly carried out. December 1, 1807, Junot was in possession of Portugal; Dupont was at Vittoria; twenty-five thousand French troops would, by December 20, hold the great route from Vittoria to Burgos, and in two days could occupy Madrid. The Spanish army was partly in Denmark, partly in Portugal.

All these measures being completed by November 15, the Emperor left Fontainebleau and went to Italy. His mind was intent on Spain and

the Spanish colonies, with which the questions of English and American trade were closely connected. Spencer Perceval's Orders in Council had appeared in the *London Gazette* of November 14, and had followed the Emperor to Italy. Some weeks afterward war was declared between England and Russia. No neutral remained except Sweden, which was to be crushed by Russia, and the United States of America, which Napoleon meant to take in hand. December 17, from the royal palace at Milan, in retaliation for the Orders in Council and without waiting to consult President Jefferson, Napoleon issued a new proclamation, compared with which the Berlin Decree of the year before was a model of legality.

Considering [began the preamble] that by these acts the English Government has denationalized the ships of all the nations of Europe; that it is in the power of no Government to compound its own independence and its rights — all the sovereigns in Europe being jointly interested in the sovereignty and independence of their flag; that if, by an inexcusable weakness, which would be an ineffaceable stain in the eyes of posterity, we should allow such a tyranny to pass into a principle and to become consecrated by usage, the English would take advantage of it to establish it as a right, as they have profited by the tolerance of Governments to establish the infamous principle that the flag does not cover the goods, and to give to their right of blockade an arbitrary extension, contrary to the sovereignty of all States —

Considering all these matters, so important to States like Denmark, Portugal, and Spain, whose flags had ceased to exist, and of whose honor and interests this mighty conqueror made himself champion, Napoleon decreed that every ship which should have been searched by an English vessel, or should have paid any duty to the British Government, or should come from or be destined for any port in British possession in any part of the world, should be good prize; and that this rule should continue in force until England should have 'returned to the principles of international law, which are also those of justice and honor.'



## CHAPTER FIFTY

### *The Embargo*

**O**CTOBER 29, 1807, Monroe left London; and November 14, the day when the Orders in Council were first published in the official *Gazette*, he sailed from Plymouth for home.

Nearly five years had passed since Monroe received the summons from Jefferson which drew him from his retirement in Virginia to stand forward as the diplomatic champion of the United States in contest with the diplomatists of Europe; and these five years had been full of unpleasant experience. Since signing the Louisiana treaty, in May, 1803, he had met only with defeat and disaster. Insulted by every successive Foreign Secretary in France, Spain, and England; driven from Madrid to Paris and from Paris to London; set impossible tasks, often contrary to his own judgment — he had ended by yielding to the policy of the British Government and by meeting with disapproval and disavowal from his own. As he looked back on the receding shores of England, he could hardly fail to recall the circumstances of his return from France ten years before. In many respects Monroe's career was unparalleled, but he was singular above all in the experience of being disowned by two Presidents as strongly opposed to each other as Washington and Jefferson, and of being sacrificed by two Secretaries as widely different as Timothy Pickering and James Madison.

October 26, Congress assembled in obedience to the President's call. An unusually large number of members attended on the opening day, when for the first time the House was installed in a chamber of its own. After seven years of residence at Washington, the Government had so far completed the south wing of the Capitol as to open it for use. A covered way of rough boards still connected the Senate Chamber in the north wing with the Chamber of Representatives in the southern extension of the building, and no one could foresee the time when the central structure, with its intended dome, would be finished; but the new Chamber gave proof that the task was not hopeless. With extraordinary agreement everyone admitted that Jefferson's and Latrobe's combined genius had resulted in the construction of a room equal to any in the world for beauty and size. The oval hall, with its girdle of fluted sand-

stone columns draped with crimson curtains, its painted ceiling, with alternate squares of glass, produced an effect of magnificence which was long remembered. Unfortunately, this splendor had drawbacks. Many and bitter were Randolph's complaints of the echoes and acoustic defects which marred the usefulness of the Chamber.

That Randolph should feel no love for it was natural. The first scene it witnessed was that of his overthrow. Macon, who for six years had filled the chair, retired without a contest, dragged down by Randolph's weight; and of the one hundred and seventeen members present, fifty-nine, a bare majority, elected Joseph Bradley Varnum of Massachusetts their Speaker; while the minority of fifty-eight scattered their votes among half a dozen candidates. Varnum, ignoring Randolph, appointed George Washington Campbell of Tennessee Chairman of the Ways and Means Committee.

October 27, the President's Message was read.

The love of peace [it began], so much cherished in the bosoms of our citizens, which has so long guided the proceedings of their public councils and induced forbearance under so many wrongs, may not insure our continuance in the quiet pursuits of industry.

An account of Monroe's negotiation and treaty followed this threatening preamble; and the warmest friends of Monroe and Pinkney could hardly find fault with the President's gentle comments on their conduct.

After long and fruitless endeavors to effect the purposes of their mission and to obtain arrangements within the limits of their instructions, they concluded to sign such as could be obtained and to send them for consideration; candidly declaring to their other negotiators, at the same time, that they were acting against their instructions, and that their Government, therefore, could not be pledged for ratification.

The provisions of the proposed treaty proved to be, in certain points, 'too highly disadvantageous,' and the minister had been instructed to renew negotiations. The attack on the *Chesapeake* followed, aggravated by the defiant conduct of the British commanders at Norfolk. Lord Howick's Order in Council had swept away by seizures and condemnations the American trade in the Mediterranean. Spain, too, had issued a decree in conformity with Napoleon's Decree of Berlin. Of France alone no complaint was made, and the President could even say that

commerce and friendly intercourse had been maintained with her on their usual footing. He had not yet heard of the seizures made two months before, by Napoleon's order, in the ports of Holland.

In the face of these alarming events, it had been thought better to concentrate all defensive resources on New York, Charleston, and New Orleans; to purchase such military stores as were wanted in excess of the supply on hand; to call all the gunboats into service and to warn the States to be ready with their quotas of militia. 'Whether a regular army is to be raised, and to what extent, must depend on the information so shortly expected.'

If this language had the meaning which in other times and countries would have been taken for granted, it implied a resort to measures of force against foreign aggressions; yet neither the President nor his party intended the use of force, except for self-defense in case of actual invasion. The Message was, in reality, silent in regard to peace and war. The time had not yet come for avowing a policy; but even had the crisis been actually at hand, Jefferson would not have assumed the responsibility of pointing out a policy to Congress. The influence he exerted could rarely be seen in his official and public language; it took shape in private, in the incessant talk that went on, without witnesses, at the White House.

So far as concerned foreign relations, no one could say with certainty whether the Annual Message leaned toward war or toward peace; but Gallatin's Report, which followed November 5, could be understood only as an argument to show that if war was to be made at all, it should be made at once. The Treasury had a balance of seven or eight millions in specie; the national credit was intact; taxes were not yet reduced; the Bank was still in active existence; various incidental resources were within reach; the first year of war would require neither increase of debt nor of taxation, and for subsequent years loans, founded on increased customs duties, would suffice. Calmly and easily Gallatin yielded to the impulse of the time, and dropping the objects for which — as he said — he had been brought into office, took up again the heavy load of taxation and debt which his life had been devoted to lightening. No one could have supposed, from his language in 1807, that within only ten years he and his party had regarded debt as fatal to freedom and virtue.

If Gallatin was so willing to abandon his dogma, the Federalists might

at least be forgiven for asking why he had taken it up. For what practical object had he left the country helpless and defenseless for six years in order to pay off in dribblets the capital of a petty debt which, within much less than a century, could be paid in full from the surplus of a single year? The success of his policy depended on the correctness of Jefferson's doctrine, that foreign nations could be coerced by peaceable means into respect for neutral rights; but Gallatin seemed to have already abandoned the theory of peaceable coercion before it had been tried.

The same conflict of ideas was felt in Congress, which had nothing to do but to wait for news from Europe that did not arrive. The month of November was passed in purposeless debate. That the time had come when some policy must be adopted for defending the coasts and frontiers was conceded, but no policy could be contrived which satisfied at once the economical and the military wants of the country. In this chaos of opinions, Jefferson alone held fixed theories; and as usual his opinions prevailed. He preferred gunboats to other forms of armament, and he had his way.

The *Chesapeake* disaster riveted the gunboat policy on the Government. Nearly everyone, except the Federalists, agreed in Randolph's unwillingness to vote money for the support of a 'degraded and disgraced navy.' Robert Smith made no apparent attempt to counteract this prejudice; he sacrificed the frigates for gunboats.

When Congress took up the subject of naval defense, gunboats alone were suggested by the Department. November 8, Robert Smith wrote to Doctor Mitchill, Chairman of the Senate Committee on Defenses, a letter asking for eight hundred and fifty thousand dollars to build one hundred and eighty-eight more gunboats in order to raise the whole number to two hundred and fifty-seven. A bill was at once introduced, passed the Senate without a division, and went to the House, where the Federalists sharply assailed it. Randolph ridiculed the idea of expelling by such means even so small a squadron as that which at Lynnhaven Bay had all summer defied the power of the United States. Josiah Quincy declared that except for rivers and shallow waters these gunboats were a danger rather than a defense; and that at all times and places they were uncomfortable, unpopular in the service, and dangerous to handle and to fight. Imprisonment for weeks, months, or years in a ship-of-the-line was no small hardship, but service in a coop not wide enough to lie

straight in, with the certainty of oversetting or running ashore or being sunk, in case of bad weather or hostile attack, was a duty intolerable to good seamen and fatal to the navy.

All this and much more was true. Fulton's steamer, the *Clermont*, with a single gun would have been more effective for harbor defense than all the gunboats in the service, and if supplemented by Fulton's torpedoes would have protected New York from any line-of-battle ship; but President Jefferson, lover of science and of paradox as he was, suggested no such experiment. By the enormous majority of one hundred and eleven to nineteen, the House, December 11, passed the bill for additional gunboats. A million dollars were voted for fortifications. In face of a probable war with England, such action was equivalent to inaction; and in this sense the public accepted it.

While Congress wrangled about systems of defense almost equally inefficient — gunboats and frigates, militia and volunteers, muskets, movable batteries, and fixed fortifications — the country listened with drawn breath for news from England. Time dragged on, but still the *Revenge* did not return. About the end of November, dispatches dated October 10 arrived from Monroe, announcing that Canning refused to couple the *Chesapeake* affair with the impressment of merchant seamen; that he was about to send a special envoy to Washington with the exclusive object of settling the *Chesapeake* affair; that Monroe had taken his final audience of King George, and that William Pinkney was henceforward sole Minister of the United States in London. Of the treaty not a hope seemed to exist. Monroe's return was ominous of failure.

December 14, against strong remonstrances from the merchants, the Non-Importation Act of April 18, 1806, went into effect. The exact amount of British trade affected by that measure was not known. All articles of leather, silk, hemp, glass, silver, paper, woolen hosiery, ready-made clothing, millinery, malt liquors, pictures, prints, playing-cards, and so forth, if of English manufacture, were henceforward prohibited; and any person who had them in his possession incurred forfeiture and fine. The measure was in its nature coercive. The debates in Congress showed that no other object than that of coercion was in the mind of the American Government; the history of the Republican Party and the consistent language of Jefferson, Madison, and the Virginian school proclaimed that the policy of prohibition was their substitute for war.

England was to be punished, by an annual fine of several million dollars, for interference with American trade to the Continent of Europe.

Two days after this law went into effect, Madison received from the British Government a document which threw the Non-Importation Act into the background and made necessary some measure more energetic. The King's proclamation of October 17, requiring all British naval officers to exercise the right of impressment to its full extent over neutral merchant vessels, was printed in the *National Intelligencer* of December 17; and if Sir William Scott's decision in the case of the *Essex* required the Non-Importation Act as its counterpoise, the Impressment Proclamation could be fairly balanced only by a total cessation of relations.

By common consent an embargo was the proper measure to be taken in the face of an expected attack on commerce. On reading the news from France and England, everyone assumed that an embargo would be imposed until the exact nature of the French and British aggressions should be learned; but safe precedent required that the law should restrict its own operation within some reasonable limit of time. An embargo for thirty or sixty days, or even for three months, might be required before reaching some decision as to peace or war.

On a loose sheet of letter-paper, which happened to bear the address of General Mason, the President wrote a hasty draft of an Embargo Message to Congress. After referring to Armstrong's dispatch announcing the Emperor's decision to enforce the Berlin Decree, Jefferson's draft noticed the threatened orders of England: 'The British regulations had before reduced us to a direct voyage to a single port of their enemies, and it is now believed they will interdict all commerce whatever with them.'

Unfortunately, no official document could be produced in proof of the expected British interdict, and mere newspaper paragraphs could not be used for the purpose. To avoid this difficulty, Madison wrote, in pencil, another draft which omitted all direct mention of the expected British order. He proposed to send Congress the official letter in which the Grand Judge Regnier announced that the Berlin Decree would be enforced, and with this letter a copy of the British Impressment Proclamation as printed in the *National Intelligencer*. On these two documents he founded his draft of a Message.

The Cabinet, every member being present, unanimously concurred in the recommendation to Congress; but at least one member would have

preferred that the embargo should be limited in time. The Cabinet meeting was held in the afternoon or evening of December 17, and early the next morning Gallatin wrote to the President suggesting a slight change in the proposed measure, and adding a serious warning which Jefferson would have done well to regard:

I also think [said Gallatin] that an embargo for a limited time will at this moment be preferable in itself and less objectionable in Congress. In every point of view — privations, sufferings, revenue, effect on the enemy, politics at home, etc. — I prefer war to a permanent embargo. Governmental prohibitions do always more mischief than had been calculated; and it is not without much hesitation that a statesman should hazard to regulate the concerns of individuals, as if he could do it better than themselves. The measure being of a doubtful policy, and hastily adopted on the first view of our foreign intelligence, I think that we had better recommend it with modifications, and at first for such a limited time as will afford us all time for reconsideration, and if we think proper, for an alteration in our course without appearing to retract.

To this remarkable letter the President immediately replied by summoning the Cabinet together at ten o'clock in the morning. No record of the consultation was preserved; but when the Senate met at noon the Message was read by the Vice-President as it had been shaped by Madison. The suggestion of Gallatin as to a limit of time had not been adopted.

The Senate instantly referred the Message to a committee of five, with General Smith and J. Q. Adams at its head:

We immediately went into the committee-room [recorded Senator Adams in his *Diary*], and after some discussion, in which I suggested very strong doubts as to the propriety of the measure upon the papers sent with the President's Message, I finally acquiesced in it as a compliance with the special call for it in the Message. I inquired whether there were other reasons for it besides the diplomatic papers sent with the Message, as they appeared to me utterly inadequate to warrant such a measure. Smith, the Chairman, said that the President wanted it to aid him in the negotiation with England upon which Mr. Rose is coming out, and that perhaps it might enable us to get rid of the Non-Importation Act. I yielded. But I believe there are yet other reasons, which Smith did not tell. There was no other opposition in committee.

Senator Adams was right in believing that other reasons existed; but although the *National Intelligencer* of the same morning had published

the warnings of British newspapers — doubtless in order to affect the action of Congress — no one of the Republican Senators seemed to rely on the expected British order as the cause of the embargo. In foreign affairs Jefferson maintained the reserve of a European monarch. He alone knew what had been done or was doing, and on him rested the whole responsibility of action. The deference paid by the Senate to the Executive in matters of foreign policy seemed patriotic, but it proved fatal to one Senator at least, whose colleague had grievances to revenge. When the committee, after a short deliberation, reported an Embargo Bill, and some of the Senators appealed for delay, Adams, who was chafing under the delays which had already lowered the self-respect of Government and people, broke into a strenuous appeal for energy. 'The President has recommended the measure on his high responsibility. I would not consider, I would not deliberate; I would act!' The words were spoken in secret session, but Senator Pickering noted them for future use. Among the antipathies and humors of New England politics, none was more characteristic than this personal antagonism, beginning a new conspiracy which was to shake the Union to its foundations.

The Senate agreed with the committee that if an embargo was to be laid, it should be laid promptly; and the bill, probably drawn by the President, passed through its three stages on the same day, by a vote of twenty-two to six. Within four or five hours after hearing the Message read, the Senate sent its Embargo Act to the House.

Meanwhile, the House also had received the President's Message, and had, like the Senate, gone at once into secret session. On receiving the Senate bill the House began a long and warm debate, which continued all day, and was not concluded on Saturday, December 19, when the House adjourned over Sunday.

The loss of this debate was unfortunate; for no private citizen ever knew the reasons which Congress considered sufficient to warrant a strain of the Constitution so violent as a permanent embargo implied. The debate was certainly dramatic: it was not only the first great political crisis witnessed in the new scenery of the Representatives' Chamber, but it also brought John Randolph forward in an attitude which astonished even those who had witnessed the Virginian's growing eccentricity. On Friday, Randolph 'scrambled' with Crowninshield for the floor, eager to force on the House a policy of embargo which he had again and again



recommended as the only proper measure of national defense. On Saturday he rose again, but only to denounce his own measure as one that crouched to the insolent mandates of Napoleon and led to immediate war with England. The cry of French influence, raised by him and by the Federalist members, began on that day, and echoed in louder and louder tones for years.

On Monday, December 21, the debate closed, and the House consumed the day in voting. Amendment after amendment was rejected. Most significant of all these votes was the list of yeas and nays on the question of limiting the embargo to the term of two months. Forty-six members voted in the affirmative; eighty-two in the negative. The New England and Pennsylvania Democrats obeyed the wishes of Jefferson and riveted a permanent embargo on the people, without public discussion of the principle or explanation of the effect which was expected from a measure more trying than war itself to patriotism. The bill then passed by a vote of eighty-two to forty-four.

Thus the embargo was imposed; and of all President Jefferson's feats of political management, this was probably the most dexterous. On his mere recommendation, without warning, discussion, or publicity, and in silence as to his true reasons and motives, he succeeded in fixing upon the country, beyond recall, the experiment of peaceable coercion. His triumph was almost a marvel; but no one could fail to see its risks. A free people required to know in advance the motives which actuated Government and the intended consequences of important laws. Large masses of intelligent men were slow to forgive what they might call deception. If Jefferson's permanent embargo should fail to coerce Europe, what would the people of America think of the process by which it had been fastened upon them? What would be said and believed of the President who had challenged so vast a responsibility?

## CHAPTER FIFTY-ONE

### *The Mission of George Rose*

DECEMBER 22, Jefferson signed the Embargo Act; four days afterward George Rose arrived at Norfolk. The avowed object of his mission was to offer satisfaction for the attack upon the *Chesapeake*; the true object could be seen only in the instructions with which he was furnished by Canning.

These instructions, never yet published, began by directing that in case any attempt should be made to apply the President's proclamation of July 2 to Rose's frigate, the *Statira*, he should make a formal protest, and if the answer of the American Government should be unsatisfactory or unreasonably delayed, he should forthwith return to England. Should no such difficulty occur, he was on arriving at Washington to request an audience of the President and Secretary of State and to announce himself furnished with full powers to enter into negotiation on the *Chesapeake* affair, but forbidden to entertain any proposition on any other point.

After explaining that the disavowal and recall of Admiral Berkeley had taken away the excuse for interdicting free communication with British ships and that thenceforward the interdict became an aggression, Canning directed that if the request be refused, Rose should declare his mission at an end; but supposing the demand to be satisfied, he was to disavow at once the forcible attack on the *Chesapeake*.

This disavowal and the removal of Berkeley from command were to be the limit of concession. The circumstances of provocation under which Berkeley had acted greatly extenuated his procedure; 'and His Majesty therefore commands me to instruct you peremptorily to reject any further mark of His Majesty's displeasure toward Admiral Berkeley.'

The remainder of Canning's instructions admits of no abridgment:

You will next proceed to state that after this voluntary offer of reparation on His Majesty's part, His Majesty expects that the Government of the United States will be equally ready to remove those causes of just complaint which have led to this unfortunate transaction.

His Majesty requires this, not only as a due return for the reparation which he has thus voluntarily tendered, but as indispensable to any well-founded expectation of the restoration and continuance of that harmony and good understanding between the two Governments which it is equally the interest of both to cultivate and improve.

However much His Majesty may regret the summary mode of redress which has been resorted to in the present instance, it cannot be supposed that His Majesty is prepared to acquiesce in an injury so grievous to His Majesty as the encouragement of desertion from his naval service.

The extent to which this practice has been carried is too notorious to require illustration; but the instance of the *Chesapeake* itself is sufficient to justify the demand of adequate satisfaction.

The protestation of Commodore Barron is contradicted in the face of the world by the conviction and confession of one of those unhappy men who had been seduced from his allegiance to His Majesty, and to whom Commodore Barron had promised his protection.

His Majesty, however, does not require any proceeding of severity against Commodore Barron; but he requires a formal disavowal of that officer's conduct in encouraging deserters from His Majesty's service, in retaining them on board his ship, and in denying the fact of their being there; and he requires that this disavowal shall be such as plainly to show that the American Government did not countenance such proceedings, and to deter any officer in their service from similar misconduct in future.

He requires a disavowal of other flagrant proceedings — detailed in papers which have been communicated to you — unauthorized, His Majesty has no doubt, but with respect to which it ought to be known to the world that the American Government did not authorize and does not approve them.

You will state that such disavowals, solemnly expressed, would afford to His Majesty a satisfactory pledge on the part of the American Government that the recurrence of similar causes will not on any occasion impose on His Majesty the necessity of authorizing those means of force to which Admiral Berkeley has resorted without authority, but which the continued repetition of such provocations as unfortunately led to the attack upon the *Chesapeake* might render necessary, as a just reprisal on the part of His Majesty.

And you will observe, therefore, that if the American Government is animated by an equally sincere desire with that which His Majesty entertains to preserve the relations of peace between the two countries from being violated by the repetition of such transactions, they can have no difficulty in consenting to make these disavowals.

This consent is to be the express and indispensable condition of your agreeing to reduce into an authentic and official form the particulars of the reparation which you are instructed to offer.

Rose came, not to conciliate, but to terrify. His apology was a menace. So little was the President prepared for such severity that, from the moment of his consent to treat the *Chesapeake* affair by itself, he rather

regarded the mission and reparation as a formality. So completely had Monroe been beguiled by Canning's courteous manners that no suspicion of the truth crossed his mind or crept into his dispatches. No prominent American, except Giles, ventured to hint that this mission of peace and friendship was intended only to repeat the assertion of supremacy which had led to the original offense.

Rose's first act after arriving in Hampton Roads was to notify the President that he could not land until assured that the proclamation of July 2 would not be enforced against his ship. Canning had been already officially informed that the proclamation expressly excepted vessels on a service like that of the *Statira*, as he might have seen for himself by a moment's inquiry; but his instructions were written to suit the temper of Tory constituents. Rose was obliged to wait from December 26 until January 9 before leaving his ship, while messengers carried explanations and notes between Norfolk and Washington.

Monroe, who sailed from England a day later than Rose, reached Washington December 22. Rose arrived only January 14. January 16 he was received by the President and made no complaint of the mode of reception. In the four years that had passed since Merry's arrival, Jefferson had learned to be less strict in Republican etiquette; but although Rose suffered no indignity at the White House, he found much to disapprove in the Government. January 17, in a dispatch to Canning, he mentioned that Congress contained one tailor, one weaver, six or seven tavern-keepers, four notorious swindlers, one butcher, one grazier, one curer of hams, and several schoolmasters and Baptist preachers.

The most aristocratic American of the twentieth century will probably agree with the most extreme socialist in admitting that Congress, in 1808, might with advantage have doubled its proportion of tailors, butchers, and swindlers, if by doing so it could have lessened the number of its conspirators. To the latter class belonged Senator Pickering, whose power for mischief and whose appetite for intrigue combined to make him a valuable ally for Rose. Within forty-eight hours after Rose's arrival, the Senator from Massachusetts had fallen under the fascination of the British envoy's manners and conversation.

Saturday, January 16, before meeting Senator Pickering at dinner, Rose had delicately explained to Madison that the President's *Chesapeake* proclamation was likely to prove a stumbling-block. In conversa-

tions which consumed another week he urged its withdrawal, while Madison replied that the exclusion of British ships was not a punishment but a precaution, that the *Leopard's* attack was but one of its causes, and that it was a measure taken in the interests of peace. Argument against Canning's positive instructions answered no purpose. Rose could not give way, and when he had been one week in Washington, January 21, the negotiation was already at a standstill. There it would under any other Administration have been permitted to remain. Rose had come to offer an apology and to restore the captured seamen. He had only to do this and go home.

January 26, he wrote to the Secretary a note, in courteous language announcing himself authorized to express the conviction — which he certainly could not have felt — that if the proclamation were withdrawn, he should be able 'to terminate the negotiation amicably and satisfactorily.' Madison sent no answer to the note, but kept the negotiation alive by private interviews. January 29, Rose suggested the idea of his friendly return to England with a representation of the difficulty. Madison reported this suggestion to the President, who, on the following Monday, February 1, decided against the idea, preferring to yield the point of dignity so far as to offer a recall of the proclamation, conditional upon an informal disclosure by Rose of the terms in which the atonement would be made.

Throughout this tortuous affair Rose stood impassive. He made no advance, offered no suggestion of aid, showed no anxiety. Republicans and Federalists crowded about him with entreaties and advice. Rose listened in silence. Amateur diplomacy never showed its evils more plainly than in the negotiation with Rose.

In obedience to the President's decision, Madison yielded to the British demand on condition that the Executive should not be exposed to the appearance of having yielded. In a 'secret and confidential' dispatch dated February 6, 1808, Rose explained to Canning, with evident uneasiness, the nature of the new proposal:

The proposition made to me by Mr. Madison at the close of our conference of yesterday was that he should put into my hands a proclamation recalling the original proclamation, sealed and signed by the President, bearing date on the day of adjustment of differences, and conceived in such terms as I should agree to; that on this being done we should proceed

to sign the instruments adjusting the reparation. I answered that positive as my instructions were to the effect I had invariably stated to him, such was the knowledge I had of the disposition of His Majesty's Government to act with the utmost conciliation toward this country that I would attempt the experiment, but premising distinctly that it must be made unofficially through the whole of it.

On the evening of February 5, Rose and Erskine went to the house of the Secretary and a draft of the proposed proclamation was there offered to them and accepted. The next day, at the Department, Rose delicately began to reveal the further disavowals he was instructed to demand. Even then he seemed ashamed to betray the whole, but delayed and discussed, knowing that he had done too much or too little for the objects of his mission. Not until after repeated interviews did he at last, February 14, mention 'with an apology for omitting it before, when he intended to do it,' that a disavowal of Commodore Barron would be required. February 16, Madison closed these informal interviews with the dry remark that the United States could not be expected to 'make, as it were, an expiatory sacrifice to obtain redress or beg for reparation.'

February 22, only a few days after the rupture of negotiation, the Milan Decree arrived and was published in the *National Intelligencer*. This violent act of Napoleon did much to divert popular indignation from England. Under the influence of this good fortune, Rose so little feared war as a consequence of his failure that he speculated rather as to the policy of accepting the United States as an ally.

March 5, Madison at last sent his reply to Rose's note of January 26. After repeating the reasons which forbade a withdrawal of the President's proclamation, the Secretary closed by informing Rose that the President 'has authorized me, in the event of your disclosing the terms of reparation which you believe will be satisfactory, and on its appearing that they are so, . . . to proceed to concert with you a revocation of that act.' Rose waited till March 17, as though hoping for some further overture, but finally replied, 'It is with the most painful sensations of regret that I find myself . . . under the necessity of declining to enter into the terms of negotiation which by direction of the President you therein offer.'

Rose's professions of regret were doubtless sincere. Apart from the wish felt by every young diplomatist to avoid the appearance of failure, Rose could not but see that his Government must wish to be relieved of

the three American seamen imprisoned at Halifax, whose detention, admitted to be an act of violence, must become a festering sore in the relations of the two countries. That the American Government meant to profit by it was evident. By leaving the *Chesapeake* affair unsettled, Rose played into the hands of a national party. For the first time since 1794 language began to be used to a British minister in the United States which he could not hear without loss of dignity or sense of discredit. The word 'war' was semi-officially pronounced.

Senator Giles and other Republican leaders avowed readiness for war with England. Before Rose's departure, the new policy had become defined. Its first object was to unite America in resisting England and France; the second, to maintain the embargo till the country should be ready for war.

With these ends in view the Administration threw aside the *Chesapeake* affair as a matter which concerned England rather than America. Madison notified Erskine that the subject had lost its consequence and that if England wished a settlement she must seek it.

From that moment all eyes turned toward the embargo. The President had chosen his ground. Unless his experiment succeeded, he might yet be forced into the alternative of a second submission or war.





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