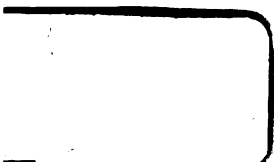
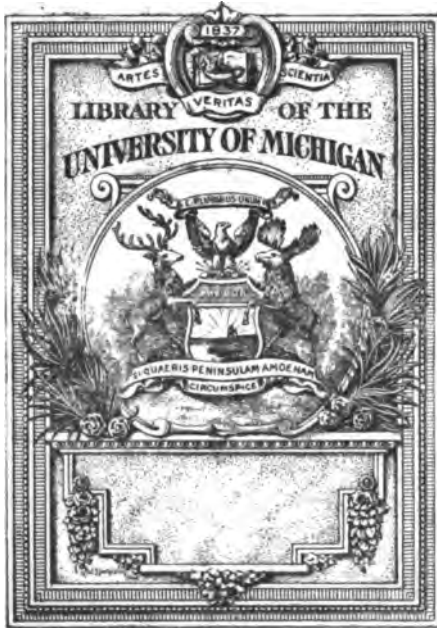


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A HISTORY

OF

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POLITICAL PARTIES

IN THE

UNITED STATES

IN

THREE VOLUMES.

VOLUME I.

BY

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ATHENS, OHIO,
OHIO PUBLISHING CO.,
1885.



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In the Office of the Librarian of Congress, at Washington.

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B.

PREFACE.

THIS book is written, primarily, for the teacher who has not had the advantage of a higher education. Believing, as the author does, that the history of the United States is second in importance to no subject taught in the public school, it has seemed to him desirable that books should be put within the reach of public school teachers, the study of which would enable them to teach the subject intelligently. Until normal school training is required of American teachers, a considerable part of their training must be obtained through private study. To help them to prepare themselves to teach United States History is the primary object of this book. The author has aimed to treat his subject in such a way that the thoughtful reader, without much previous knowledge of it, could get some insight into the causes that have determined the political history of the country. For this reason, everything that is merely episodic in its nature, such as Burr's expedition against New Orleans, has been omitted. The author has wished to keep the attention of the reader concentrated on those phases of history which it is important for American citizens to know in order that they may perform their duties as American citizens intelligently.

He has hoped also that the book might commend itself to some of that large class of Americans—business

men as well as professional men—who are beginning to realize that the present has its roots in the past, and that there is no way to understand the present except by studying the past.

With the hope that here and there the book might find a reader who would wish to examine for himself the grounds of its statements, the author has sought to give enough references to enable such readers to satisfy themselves.


Of his aim in another particular, he may, perhaps, be permitted to speak: That the book contains mistakes of fact as well as of inference, will doubtless be found to be true; but he confidently believes that it is free from mistakes that are due to any bias in favor of any individual or of any party.

Of the authorities he has consulted and to whom he is under obligations, he wishes to make special mention of Alexander Johnston's articles in Lalor's Cyclopaedia, and of Henry Adams' History of the United States.

Ohio University, Athens, Ohio,

June 24, 1895.

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THE HISTORY
OF
POLITICAL PARTIES IN THE
UNITED STATES.

CHAPTER I.

WITHOUT A GOVERNMENT.

I PROPOSE to write an outline of the history of political parties in the United States. I wish to describe the great currents of thought and action in our political life, and the forces that have determined their direction. I wish to describe the forces that have made the Mississippi and Ohio and Missouri in our history, leaving to larger books the detailed and microscopic study of the little streams which have resulted from comparatively unimportant causes.

Purpose of this book.

From such a point of view, we may say that the history of political parties in this country begins with the Federalists.

The first question to ask of every political party is, What is it trying to do? What public want does it seek to satisfy? What motive influences the men that belong to it to associate together in a political organization? Let us put this question to the Federalist party; let us ask what it was organized to do.*

To this question it is possible to give a definite answer. From the adoption of the Articles of Confederation in 1781 to the organization of the government under our present constitution in 1789, we were without a government. "Without a government! Did not Congress meet every year and pass laws, and levy taxes, and send ministers to foreign countries, and seek to make treaties with them?" Yes, it did all this and much more.

But a body may pass laws, and levy taxes, and make treaties without being a government. If you wish to determine whether an organization really constitutes a government, you can apply a simple, and at the same time, an infallible test. Ask what happens in case any one on whom its so-called laws operate, or upon whom its taxes are levied, refuses to obey the law, or to pay the tax. If the body that passed the law or levied the tax, can do nothing about it, if it can only remonstrate, it can pass all the laws and levy all the taxes it likes. It is not a government. A law that I can obey or not, is not a law; a tax that I may

Object of political parties.

What constitutes a government?

*See Political Science Quarterly, Vol. VI., page 593.

pay or not, is not a tax. The one is a suggestion or a piece of advice, and the other a request for the payment of money. It was Madison who said "A sanction is essential to the idea of law, as coercion is to that of government." And Washington, in a circular letter which he addressed to the governors and presidents of the states in 1783, declared that one of the things which was essential to the very existence of the United States as an independent power, was that there must be an indissoluble union of all the states under a single federal government, *which must have power to enforce its decrees; since without such power it would be a government only in name.*

I say, therefore, that the Congress of the Confederation was not a government. No one paid any attention to its so-called laws unless he chose; every one did as he pleased about paying its taxes. The states on whom these requests, or requisitions, as they were called, for money were made, had indeed solemnly agreed to pay them, when they assented to the Articles of Confederation. But since these requisitions were nothing but requests, the states could break their promises and disregard them.* The result was that of \$6,000,000 called for by Congress from 1782 to 1786 only \$1,000,000 had been paid at the end of March, 1787.

Character of
the Congress
of the
Confederation.

*Madison characterized the requisitions of Congress as mere calls for voluntary contributions.

It will require a vigorous effort of the imagination to enable us to realize the terrible condition of a nation which has no national government. More than anything else, it reminds me of a mind, a soul, an intelligence, a thinking, feeling, conscious, personality, which here in this world should somehow get detached from its body without losing any of the desires natural to it in its ordinary state. Think of such an intelligence, unable to communicate with its friends, unable to gratify its desire for knowledge, unable to see the beauties of the world of nature and of art, and deprived even of the poor boon of giving expression to its despair and you will be able to form some idea of the condition of a nation without any national government. Fitly did Hamilton say: "A nation without a national government, is an awful spectacle." Unlike the disembodied intelligence of which I have spoken, the nation had indeed an organ through which it could express its wishes, but none through which it could execute them. It had to sit with its hands folded and see the states violate its solemn treaties, and bring upon it the contempt of the civilized world. And when the state refused to pay the taxes which the government asked for in order to pay the interest on the money which had been lent us in our struggle for independence, it was powerless to compel them.

What is the explanation of this fact? Why was it that the men of the Revolution went to the trouble of

Condition of a nation without a government.

creating an organization with every attribute of a government, except the all-essential one of power to execute its will? The answer is simple: *The people did not look upon themselves as a nation; they had not attained to national self-consciousness.* The people of each state, looking upon their state as their country, regarded every government but the state government as foreign. Another of the things which Washington in the circular letter of which I have already spoken, declared was essential to the very existence of the United States as a nation, was a willingness on the part of the people to sacrifice some of their local interests to the common good, a feeling that they were fellow citizens of a common country. But the people of the various states were not willing to do this; they did not regard one another as citizens of a common country. The love of the union which seventy-five years later had become a passion that men were willing to die for, hardly existed then. One of the truest patriots of New England spoke on the floor of the Massachusetts House of Deputies of the Congress of the United States as a foreign government.* Accordingly, the men of the Revolution wished to make it impossible for Congress to imitate the example of England and play the tyrant. But if you

Why were the
Articles of
Confederation
adopted?

* At one time the delegates to Congress from Massachusetts were ordered to write to the Governor as often as once a fortnight, and at another a committee of the legislature was appointed to correspond with the delegates, who were expected to be minute in their accounts of what was done.

wish to make an abuse of power impossible, you must grant no power to be abused. This is why the United States, from 1781 to 1789 tried to govern with a government that had no power to govern. The result was that by 1787 it had become clear to all thoughtful men that the nation was confronted with these alternatives; it must either give itself a real government or sink into anarchy; it must take the risk of arming its so called government with power, or sink, in the language of Washington, into wretched and contemptible fragments of empire. To create a real government was the work that called the Federalist party into existence.

We do not need to be told by history that before our forefathers determined to make fundamental changes in their government, they tried to modify the Articles of Confederation so as to make it possible to get along with them. The conservatism of men of Anglo-Saxon blood, their distrust of untried experiments in matters of government would be sure to find expression in attempts to modify the existing system, hopelessly and irretrievably bad as it was, before radical changes were resolved on. We could also anticipate, in a rough and general way, the sort of modifications they attempted to make. The defect in the system that made it a glaring impossibility for it to live, was its failure to provide any means for raising money. The nation owed money; it could provide none to pay it. It had necessary current expenses; it could provide no means of meeting them. Naturally, there-

fore an attempt was made to patch up the existing system in such a way as to make it possible to raise money. In 1781, before the Articles of Confederation had been ratified by all of the states, Congress passed a resolution recommending to the several states the indispensable necessity of vesting in Congress a power to levy a duty of five per cent on imports, the money to be used in paying the debts incurred in the Revolution, and the power to cease when these debts were paid.

Attempts to amend the Articles of Confederation.

But since the Articles of Confederation were framed on the theory that the states were independent and sovereign, and that their confederation was a sort of league or treaty into which each of them had voluntarily entered, no new article could be added without the consent of all of the states. To add a new article, was, on the prevailing theory, to modify the treaty, and we cannot modify a treaty without the consent of all the parties to it. When, therefore, Rhode Island refused to consent to the article, the scheme failed.

In 1783, a new proposition was submitted to the states. They were asked to give Congress the power to levy a duty of five per cent on imposts for twenty-five years, the money to be used in paying the interest—not the principal—on the Revolutionary debt as it became due. Congress hoped that in twenty-five years they could sell western land enough to pay the principal, and they asked the states to provide “supplementary funds” to meet current expenses.

By February, 1786, nine of the states had consented to the proposed article in such terms that Congress could act on it at once as soon as the other four consented. At the urgent request of Congress, three of the remaining four consented to it during the course of the year, but as the fourth, New York, qualified her consent with impracticable conditions, this plan also failed.

The refusal of New York to grant the impost decided the fate of the Confederacy. A government that cannot pay its debts, that cannot borrow money, that cannot provide for its current expenses, will not long keep up the farce of pretending to be a government, but whether even this would have sufficed to make the states abandon the wretched Confederation, it is impossible to say. The refusal of Rhode Island to assent to the article proposed in 1781, and of New York to the one proposed in 1783, with the reluctant consent of the other states, were only symptoms of a state of society more closely bordering on anarchy than any other this country has ever seen.

Deluded as men are ever prone to be by names, many people imagined that with liberty secured, all the evils from which they suffered would vanish. Ignorant of the fact that the excellence of a government consists largely in the means it provides that frugality and industry shall receive their due reward, there was a strong party in most of the states that looked to the government for measures to do away

Paper money
party; causes
that led to it.

with the necessity for these virtues. In spite of their experience with the paper money of 1779, when flour had sold for a dollar a pound and a hat for fifty dollars, this party insisted that the state should make a lot of money and wipe out its debts at once. How absurd, they said, to toil till the bones are weary and the muscles ache when the state can so easily add to the wealth of the country by the manufacture of paper money. When we know that in seven states this party carried the day, and that in four others it was a strong minority, we can more clearly understand why the states paid so little attention to the requisitions of Congress, and why they were so reluctant to authorize the five per cent duty. For the great majority of the men who suffered from this paper money mania were deluded because they wished to be. They had been greatly impoverished by the Revolution. Their property had been seized by both armies and their commerce almost destroyed by the fleets of Great Britain. But the close of the war found them with very absurd ideas as to the immediate financial future of the country. Many of them supposed that Europe was about to inundate the country and thus raise the price of lands wonderfully. Deluded by these hopes and relying on the supposed value of the government securities which they possessed, and on their calculations as to the value of the produce of their soil when all restrictions were removed from trade, they went heavily in debt, and soon became hopelessly involved.*

*See Marshall's *Life of Washington*, vol. V, 87-9.

The same causes that led to the paper money mania produced other effects of a kindred character. Where ever the debtor party was in power, laws were passed affording facilities for the payment of debts or suspending their collection; and remitting taxes, as well as for the manufacture of paper money. The result was a lack of confidence in the government which almost paralyzed business. So little confidence was felt in the government of the various states that in many of them owners of public securities had to lose from fifty to seventy-five per cent. So great was the fear that laws would be passed releasing men from the obligation to pay their debts, that in some states the notes of those whose ability to pay was undoubted, could not be negotiated except at a discount of from thirty to fifty per cent.

Laws passed by paper money party.

In New Hampshire the influence of the debtor class induced the legislature in 1785 to pass a law making every sort of property a legal tender at an appraised value. But this only increased the distress. Credit could not be had when debts were to be paid in such a medium of exchange. This led to the calling of a convention which urged the government to issue paper money. While the legislature was considering this request, a body of armed insurgents assembled at the seat of government and demanded immediate compliance with the request of the convention. When General Sullivan, the president,

Insurrection in New Hampshire.

undertook to expose the absurdity of their demands, he was interrupted with loud clamors for "paper money," "an equal distribution of property," "the annihilation of debts," and "a release of taxes." The insurrection was suppressed without difficulty, but it was significant of the tendency towards anarchy.

But it was the conduct of the debtor class in Massachusetts which more than everything else awoke the country to a realization of its condition. The burden of debt was particularly heavy Shays' rebellion in that state. At a time when business was almost at a standstill, it is estimated that there was an aggregate equivalent of a tax of more than \$50 on every man, woman and child in the state. Enraged at the lawyers and judges who were fattening on their distress, the debtor class, in 1786, surrounded the court house in seven different counties, and in a number of instances prevented the courts from sitting. In December of that year, under the leadership of Daniel Shays, they had an army of fifteen hundred men in the field, and had it not been that Bowdoin, an energetic, statesmanlike man, was governor of the state, the insurrection might have terminated disastrously.

But what gives it its special importance in history is that it made thoughtful men everywhere realize the absurdity of looking any longer to the Confederation for any of the functions of government. When the news of the insurrection reached Congress in the fall of 1786, and when the

Action of congress with reference to Shays' rebellion.

danger that the turbulent elements of society in New England might unite their forces and threaten the whole country, stared them in the face, they could do nothing but *request* the states to raise a body of troops. And as though this was not a sufficiently emphatic confession of their utter impotence, they did not even dare to say what the troops were to be used for, but pretended that they were wanted to protect western settlers against the Indians! That vote proclaimed the nothingness of Congress in terms that no one could misunderstand. With no power to execute laws, with no power to enforce the observance of treaties, with no power to collect taxes, with no means of paying its debts or providing for its current expenses, with no power to raise troops, with no power to use them when raised to protect a state from insurrection, it became clear that the experiment of the Confederation had failed; it became clear that if we expect a government to discharge the functions of government, we must give it power to govern. When this became clear, a party was organized to give the country a government. But the first thing to be done was to give it a constitution which would make a government possible.

QUESTIONS.*

1. William G. Sumner (in his *Life of Alexander Hamilton*) says: "The Union was, from the start, at war with the turbulent,

*Many of the questions on this and subsequent chapters are not answered in the book. The student is, however, strongly urged to seek the answers to them because of the light they throw on the subject of it.

anarchistic elements which the Revolution had set loose;" explain and illustrate.

2. He says also: "The growth from a point at which some states united, up to the point at which there was a United States, constitutes the history of the Union;" explain and illustrate.

3. The Connecticut act of 1776, in which the charter of that state was established as a constitution, contained the following statement: "This republic is, and shall forever remain, a free and independent state;" what does it show?

4. The constitution of Massachusetts, adopted in 1780, contains the following article: "The people of this commonwealth have the sole and exclusive right of governing themselves as a free, sovereign and independent state;" what does it show?

5. The constitution of South Carolina, adopted in 1778, contained the following article: "That the style of this country be hereafter the state of South Carolina;" what does it show?

6. A large number of the public men of the Revolutionary period, Washington among them, used the word "country," in speaking of their state; what does it show?

7. The text asserts that the Articles of Confederation were framed on the theory that the states were independent and sovereign; were they really sovereign? What constitutes the sovereignty of a people? Is Canada sovereign? Switzerland?

8. What work was the Federalist party organized to do?

9. Was the Congress of the confederation a government?

10. What was meant by "requisition?"

11. What is meant by "national self-consciousness?"

12. What changes were proposed in the Articles of Confederation, and why were they not adopted?

13. What did the debtor classes in the several states attempt to do and why?

14. What did Congress do when they heard of the rebellion in Massachusetts?

CHAPTER II.

THE REVOLUTION OF 1787.

IT WOULD be interesting, if it were possible, to trace from the start the steps that led to the calling of the Federal Convention. John Fiske thinks it grew out of a scheme of Washington's for connecting the east and the west by means of inland navigation.

It is certain that no man in the country realized more clearly than Washington the importance of union. He knew that the war had been needlessly prolonged

because there had been no central government strong enough to call out the resources of the country; and when the war was over he was far from thinking that the dangers that had threatened the country from its impotent government were at an end. "It is clearly my opinion," he wrote to Hamilton in 1783, "unless Congress have powers competent to all general purposes, that the disasters we have encountered, the expense we have incurred, and the blood we have spilt, will avail us nothing." He knew that the great obstacle in the way of conferring competent powers on Congress was the feeling that it was a foreign government. It seemed to him, therefore, a matter of the first importance to bind the east and the west together by inland navigation. Make the various parts

Washington's
plan for binding
the east and west
together.

of the country manifestly one in interest was his thought; bind them together in an organic commercial whole, and they will soon seem to themselves one politically; the sentiment of union will soon be developed. At a time when the south and west were in a ferment about the free navigation of the Mississippi, he wrote: "I may be singular in my ideas, but they are these: That to open a door to, and make easy the way for those settlers to the westward, * * before we make any stir about the navigation of the Mississippi, and before our settlements are far advanced towards that river, would be our true line of policy." In consequence of his efforts, a company was organized in 1785 for extending the navigation of the Potomac and James rivers, and he was made president of it.

But when John Fiske asserts that this led to the meeting of commissioners from Maryland and Virginia in 1785, he goes beyond the evidence. Washington's published correspondence makes no mention of the visit of the commissioners, nor has any evidence been brought forward to show a direct connection between his scheme for binding the east and the west in a commercial whole, and the meeting, which was the first link in the chain of events, that led directly to the constitution of the United States. Perhaps Lodge's assertion: "It (Washington's canal scheme) helped among other things to bring Maryland and Virginia together," is as far as we shall ever be able to go. But whatever brought them together, their meeting was

The steps that led to the Annapolis convention.

the first step towards the constitution of the United States.

The commissioners from those states met to form a compact between Virginia and Maryland for the regulation of the trade upon the Potomac and Pocomoke rivers, and the Chesapeake Bay. A compact was agreed upon to be submitted to the legislatures of their respective states. In the course of their discussions, the commissioners saw that it was desirable for the two states to have a uniform system in all that pertained to currency, duties, and commercial matters in general. They accordingly recommended that each year two commissioners should be appointed to report upon the details of a system for the next year.

The legislature of Maryland approved of the compact made by their commissioners. In considering the proposed commercial commission, they saw that it was desirable for Delaware and Pennsylvania to agree with Maryland and Virginia on a uniform commercial system. In their report to Virginia, therefore, they recommended that Delaware and Pennsylvania be invited to send commissioners to the conference. And would it not be well, continued the Maryland report, to invite commissioners from all the thirteen states to attend the conference?

James Madison was a member of the Virginia legislature, and the report from Maryland gave him an opportunity that he was eager to improve. He realized vividly the need of a stronger central government and had al-

ready prepared a motion recommending a convention of the thirteen states. It had been laid on the table. But when the report from Maryland was presented, it was taken from the table and passed.

The resolution was passed January 21, 1786. It provided that commissioners from Virginia should meet such commissioners as might be appointed by the other states "to take into consideration the trade of the United States; to examine the relative situation and trade of the said states, to consider how far a uniform system in their commercial regulations may be necessary to their common interest and their permanent harmony; and to report to the several states such an act relative to this great object, as when unanimously ratified by them, will enable the United States in congress assembled effectually to provide for the same."

The commissioners appointed by Virginia in the circular letter which they sent to the several states proposed that the convention should be held in Annapolis in September, 1786. It is doubtful whether anything would have come of the proposal, had not New York defeated the scheme to give Congress the power to levy an impost of five per cent for twenty-five years. The action of New York certainly had one important result: the representation of New York at the convention. When the legislature of that state rejected the revenue system, Alexander Hamilton and his friends exerted themselves to the utmost to secure the appoint-

ment of commissioners from New York. They succeeded, and Hamilton himself was appointed as one of them.

The convention met at Annapolis in September, 1786. As only five states were represented it did not venture to transact any business. Before adjourning,

What did the Annapolis Convention do?

however, on motion of Hamilton, the convention voted to recommend the states to send delegates to a constitutional convention to be held in Philadelphia on the second Monday of the following May, "to take into consideration the situation of the United States; to devise such further provisions as shall appear to them necessary to render the constitution of the Federal government adequate to the exigencies of the union; and to report such an act for that purpose to the United States in Congress assembled as when agreed to by them, and afterwards confirmed by the legislature of every state will effectually provide for the same."

The Articles of Confederation were supposed to be framed in harmony with the prevailing opinion that the states were independent and sovereign; that the confederacy was only a league of friendship; and that when the states entered into it they lost none of the sovereignty and independence which, as they supposed, belonged to them before 1781, and which

Supposed theory of the Articles of Confederation.

belongs to all independent nations. In enumerating the defects of the Confederacy,

Madison said that the federal system was in fact "nothing more than a treaty of amity, of commerce, and of alliance between independent and sovereign states." Nevertheless, the Articles of Confederation differed from an ordinary treaty in two particulars: first, they provided for a congress which was really nothing more than a "council of advisers;" and second, they contained an agreement to the effect that each state would faithfully execute its recommendations.

Since the Articles of Confederation were supposed to be a league or treaty of friendship between independent states or nations, they provided that the consent of all the states was necessary to their amendment. They provided, also, that the proposed amendment should be recommended by Congress.

But the motion offered by Hamilton and passed by the Annapolis convention, as we have seen, proposed that amendments to the Articles of Confederation should be recommended by a federal convention. Through the influence of Hamilton in New York, and Bowdoin in Massachusetts, this difficulty was to some extent obviated. The delegates in Congress from New York and Massachusetts moved that that body recommend the convention. Congress voted that it was expedient that on the second Monday of May, 1787, a convention of delegates appointed by the states, should be held in Philadelphia "for the sole and express purpose of revising the Articles of Confederation."

Any changes in the Articles of Confederation which could fairly be called a revision of them had to leave two

Two fundamental features of the Articles of Confederation.

of its provisions untouched: first, that each state should have one vote and no state more than one; second, that those changes should receive the assent of every state before going into effect for any of them. To make a constitution providing that some states should have more power in the government than others, would strike at the fundamental principle of the confederacy—that the states were independent and sovereign, and, as such, on a footing of perfect equality. To make a constitution providing that it should go into effect when adopted by any number less than the whole would be to assume that *all* of the people of the thirteen states could be controlled by a part; that in some respects, at least they constituted *one* people, and that the opinion that they were thirteen peoples was false.

But when the Convention met it was evident, from the beginning, that all of the states would not adopt any constitution it might make. Rhode Island had sent no delegate, and even on the supposition that all the other states

Why did the convention decide to disregard the article?

could be induced to adopt it, which was very unlikely, there was every reason to suppose that Rhode Island, pursuing the selfish narrow policy that had directed her course since the close of the Revolution, would reject it. Moreover, the people of the large states felt the injustice of allow-

ing the small states to have as much power in the government as they had. To give to Rhode Island as much power as to Massachusetts, and to Delaware as much as to Virginia, seemed absurd. Added to all this was the fact that the statesmen of the Convention saw that the radical difficulty with the government of the Confederation was that it dealt with *states*, not with individuals. It had no direct relations with individuals. It could reach them only through the roundabout and uncertain way of the state legislatures. If it wanted money it had to ask the states to tax their citizens; if it wanted troops it had to ask the states to raise them. On the principle of the Confederation there was no way of remedying this. On this principle, as we have so often seen, the states were supposed to be independent and sovereign. But no state that claimed to be sovereign could permit an outside or foreign government to come within its territory and control its inhabitants, without admitting that its sovereignty was nothing more than a shadow.

These various reasons determined the ablest men in the Convention to disregard the Articles of Confederation from the start. They determined to make a constitution providing for a government, first, that acted directly on the people of the various states; second, that gave to the states power in proportion to wealth or population, or both; and third, that should be organized as soon as the constitution

Revolutionary
action of the
Convention.

had been adopted by some number less than the entire thirteen. This was nothing less than to propose a revolution, radical and fundamental. The states that adopted the constitution they proposed to make were to abandon their claim to independence and sovereignty; were to permit an outside power to enter their territories and compel their inhabitants to do its will; were to give up their claim to equality in the general government; and the states that refused to adopt it, provided it had been adopted by the number agreed on by the Convention, were, without their consent, to have the so-called government under which they lived, the government of the Confederation, destroyed. To propose this, I repeat, was to propose not merely a radical and fundamental change in the government of the states; it was to propose a revolution, a change not in accordance with the constitution. If the Convention had *first* resolved "that any mere revision of the Articles of Confederation would fail to meet the case, that a government must be provided for having direct relations with the people of the states, and that the necessities of the situation left no alternative but to say that a constitution providing for such a government should go into effect when it had been adopted by some number less than the whole of the states"—if the Convention had first resolved on this, and then applied in a legal way to their masters, the people of the various states, for authority to make such a constitution, and if this authority had been granted, their

action in framing such a constitution would have been constitutional, as that of the states would have been in adopting it. However profound the change in the government the constitution they proposed to make might provide for, it would not have been a revolution, because, in the case supposed, it would have been a change in accordance with the constitution. The Congress of the Confederation had a right to recommend the legislatures of the various states to authorize their delegates to make such a constitution, and their legislatures had a right to authorize it. If Congress had so recommended and the states had so authorized, the convention would then have acted in accordance with the Articles of Confederation in transforming the character of the government. Sent to Philadelphia though they had been for "the sole and express purpose of revising the Articles of Confederation," they would have acted in an entirely legal way in disregarding their original instructions, because, in the case supposed, they had asked for new instructions and got them.

But when, without such instructions, they disregarded the Articles of Confederation, their action was revolutionary, and every state that adopted the constitution, sanctioned their action and became a party to it. Every such state said that the theory of the Confederation, that the states were independent and sovereign, was false. For, according to the new constitution, the states were not equal. In the house of representatives

the states were to be represented in proportion to their population, and in voting for president, their power was to be in nearly the same ratio. The government called into being by the new constitution did not, like the Congress of the Confederation, stop at the sacred boundary lines of the states. It boldly crossed the Rubicon; it entered the territory of the states and was declared by the constitution within certain limits, and for certain purposes, the supreme authority there. Most decisive of all, every state that voted for the constitution declared that, in a matter of fundamental importance, a certain majority—nine was the number agreed upon by the convention—could act for the whole. Nine states, said the constitution, and every state, that voted for it, said the same thing, could destroy the government of the entire thirteen. If, in a matter of such moment, a certain majority could act for the whole, why not in any matter? Before the adoption of the constitution the states might put on the airs of sovereignty without making themselves ridiculous. But when they adopted it they tacitly confessed that the crowns of which they had boasted were but the creations of ambitious dreams, for they themselves had acknowledged the supremacy of the real sovereign.*

Many members of the Convention knew very well that their action was revolutionary. Patterson, of New

*See Burgess' Political Science, vol. 1, chapter II, pp. 98-108.

Jersey, said, "We ought to keep to our limits or we shall be charged with usurpation." Patterson's speech.

* * * We have no power to go beyond the federal scheme. A confederacy supposes sovereignty in the members composing it, and sovereignty supposes equality. If we are to be considered as a nation, all state distinctions must be abolished, the whole must be thrown into hotchpot, and when an equal division is made there may be equality of representation." He urged that if the confederacy was radically wrong, it was the duty of the members of the Convention to return to their states and obtain larger powers instead of assuming them without warrant. The friends of the constitution acknowledged in substance the truth of his contention. Gouverneur Morris declared that the Convention was unknown to the confederacy. In tones that must have grated upon the advocate of state sovereignty, he declared that the one people of the United States were the supreme authority, and that in case of an appeal to them, the federal compact might be altered by a majority of its citizens, precisely as the constitution of a particular state may be by a majority of its citizens. Randolph said, "When the salvation of the republic is at stake it would be treason to our trust not to propose what we find necessary." And Wilson said: "We must, in this case, go to the original powers of society. The house on fire must be extinguished Speech of Wilson. without a scrupulous regard to ordinary rights." That was the situation in a nutshell. The

house was on fire, but to say that to extinguish it the Convention must go to the original powers of society was to say that the people of the thirteen states constituted *one* American people, not merely geographically, but politically, and that this was the sovereign whose word was law, and whose dispensing power was absolute.

QUESTIONS.

1. In the ratification of the constitution by the Virginia convention in 1788, this sentence occurs: "That the powers granted under this constitution being derived from the people of the United States may be resumed by them whenever the same shall be perverted to their injury or oppression." In what sense was the phrase "people of the United States" evidently used? Explain the significance of its use in such a sense.

2. In the Pennsylvania convention in 1787, James Wilson said: "My position is, that in this country the supreme, absolute and uncontrollable power resides in the people at large; that they have vested certain proportions of this power in the state governments; but that the fee simple continues, resides and remains with the body of the people." What did he mean by the "people at large?" State accurately the relation between the "people at large," and, first, the general government, and, second, the state governments?

3. Why did Washington wish to connect the East and the West by means of canals?

4. State the steps that led to the calling of the Annapolis convention.

5. What did the Annapolis convention do?

6. How did the Articles of Confederation provide for their own amendment?

7. What characteristics of the confederation had to remain in any system which could be called a revision of its articles?

8. What led the Convention to disregard them?

9. What constitutes a revolution?

10. Was the Federal Convention a revolutionary body? State your reasons for your answer.

11. Did they assume to be sent to Philadelphia by the American people to make a constitution?

12. How might they have made their action constitutional?

13. Were Patterson and Wilson both right in their contentions?

14. Explain the apparent contradiction?

15. How does the constitution provide for its own amendment? What does that show as to the nature of the American government?

16. If Rhode Island and North Carolina had not adopted the constitution would the general government have had the right to compel them to do it?

17. Burgess says that the Philadelphia Convention "really exercised constituent powers when it framed an entirely new constitution, designated the bodies who should ratify it, and fixed the majority necessary for ratification." What does he mean by "constituent powers?" Is his statement correct?

CHAPTER III.

SOME CHARACTERISTICS OF THE NEW CONSTITUTION.

BUT WHILE the members of the Convention were divided on the question as to whether they should frame a constitution that they had no legal right to make,

there was one question on which they were a unit. If there was a man in the Convention who did not believe that a

democracy was an impossible form of government, he was discreetly silent. On this point, men like Madison, who, excepting Jefferson, had more to do with organizing the Republican (Democratic) party than any other man, and Elbridge Gerry, Democratic vice-president in Madison's second term, and Dickinson, afterwards a prominent Republican (Democrat) in Delaware, and George Mason, whose devotion to state sovereignty was so strong that he would not sign the constitution and opposed it in the Virginia convention with all his might, were in perfect accord with Alexander Hamilton, from whom they afterwards came to differ as widely as the poles.* Said Elbridge Gerry: "The evils we experience flow from the excess of democracy." Said George Mason: "We have been too democratic." Said Edmund Randolph: "Every one admits that the evils under which

*It is scarcely necessary to say that the present Democratic party was originally called Republican.

the United States labor have their origin in the turbulence and follies of democracy." And Madison, in words that ought to be treasured in the memory of every American voter: "In future times, a great majority of the people will not only be without landed, but any other sort of property. These will either combine under the influence of their common situation, in which case the rights of property and public liberty will not be secure in their hands—or, what is more probable, they will become the tools of opulence and ambition; in which case there will be equal danger on another side."

Said Roger Sherman: "The people should have as little to do as may be about the government. They want information and are constantly liable to be misled." Said General Pinckney: "An election of either branch by the people, scattered as they are in many states, is totally impracticable. I differ from gentlemen who think that a choice by the people would be a better guard against bad measures, than by the legislatures. A majority of the people in South Carolina were notoriously for paper money, as a legal tender; the legislature had refused to make it a legal tender. The reason was that the latter had some sense of character, and were restrained by that consideration."

So undemocratic was the Convention that there were many who opposed the election of the house of representatives by the people. Elbridge Gerry was emphatic in his opposition. "The people do not want virtue," said he, "but are the dupes of pretended patriots."

The government, therefore, which the convention wished to provide for ~~was~~ was a republic, not a representative democracy. They wished to provide for a government in which the power of the people would be exhausted in choosing some of the men who were to administer it and who were to execute its laws. They wished to have a government "that should rest on the solid foundation of the people." But the idea that the people should elect all of the officers of the government, representatives, senators, executive, members of the Supreme Court, still more, that the officers of the government should be guided by anything but the constitution and their own judgment, was entirely foreign to the Convention. In 1789, when the constitution had gone into effect, and the question of amendments to it was being discussed, one was offered asserting an express right in the people to instruct their representatives. It is safe to say that such a proposition would have found no favor in the Convention.

We shall see more clearly the real nature of the government, which the Convention intended to create, if we look at the constitution in the light of proposals strongly advocated by some of its members. Some of them wanted the power of the people limited to the election of the members of the state legislatures; the state legislatures to choose members of the lower house of Congress; the lower house, the senate, and the two houses, the executive. So universal was the distrust of

a democracy that the wish to refine popular appointments by successive filtrations,* was unanimous, the only difference arising as to the extent to which this process of filtration should be carried. We know that in fact the constitution did limit the direct power of the people to the election of members of the house of representatives and presidential electors, although through what we may call the democratization of the government, they now practically elect the President, and exert an increasingly strong influence over the election of senators.

The first outline of the present constitution was introduced by Edmund Randolph, governor of Virginia, though Madison was its chief author. The Virginia plan, as it was called, provided for a government with a legislative body of two ^{The Virginia plan.} houses in both of which the people were to be directly represented. Instead of giving each state one vote and no state more than one, the Virginia plan did not recognize the states. Each state was to be represented in both houses in proportion to its wealth or population. As it made states powerful in proportion to their wealth or population, the delegates from the larger states favored it, while those from the small states opposed it.

Patterson, of New Jersey, proposed a plan more acceptable to the small states. His plan proposed a mere modification of the Articles of Confederation. Congress

*This remark was made by Madison.

The New Jersey plan. was to consist of one body as under the Articles, and each state was to have a single vote. It provided for an executive council to be chosen by Congress, and for a federal judiciary. It also proposed to give Congress the power to regulate foreign and domestic commerce, to levy duties on imports, and internal taxes, in the form of a stamp act. But the radical defect of this plan was identical with that of the confederation. Congress would still deal with states and not with individuals. It might pass laws for the regulation of commerce; it might levy duties upon imports and impose internal taxes; it might make treaties with foreign countries; but the states could do as they pleased about executing its laws or collecting its taxes, or requiring their citizens to observe its treaties. A government according to Patterson's plan would still be a "government by supplication."

Objection to the Virginia plan. But while the delegates from the small states could not controvert this, they in turn planted themselves on a fact which was equally undeniable; that the Virginia plan was revolutionary, and that it put the small states at the mercy of the large states. Patterson said that "there was no more reason that a great individual state, contributing much, should have more votes than a small one, contributing little, than that a rich individual citizen should have more votes than an indigent one. Give the large states an influence in proportion to their magnitude, and what will

be the consequence? Their ambition will be proportionally increased, and the small states will have everything to fear. Let the large states unite if they please, but let them remember that they have no authority to compel the others to unite. Shall I submit the welfare of New Jersey with five votes in a council where Virginia has sixteen? I will never consent to the proposed plan. I will not only oppose it here, but on my return home will do everything in my power to defeat it there. Neither my state nor myself will ever submit to such tyranny."

James Wilson, of Pennsylvania, asked in reply why 180,000 men in one part of the country should have as much power in the national legislature as 750,000 in another part? "The gentleman from New Jersey is candid. I will be equally candid. I will never confederate on his principles."

Objection to the Virginia plan.

Neither side would yield; the Convention seemed on the verge of dissolution. At last the delegates from Connecticut suggested a compromise. Let the national legislature consist of two houses, they said. Let each state have a single vote in one, and let them be represented in proportion to their population in the other. This compromise was bitterly opposed by the delegates from the large states. The question was really decided by the votes of Elbridge Gerry and Caleb Strong, of Massachusetts. By dividing the vote of that state, there were five in favor of the com-

Connecticut compromise.

promise, and four against it.* Their reasons for their votes are instructive. "We are neither the same nation, nor different nations," said Gerry. "We ought not, therefore, to pursue the one or the other of these ideas too closely. If the Convention did not agree upon a compromise a secession would take place and some foreign sword would do the work." And Strong: "It is agreed on all hands that Congress are nearly at an end. If no accommodation takes place the Union must soon be dissolved." To prevent a dissolution of the Union, Strong and Gerry prevented the vote of one large state, Massachusetts, from being cast against the compromise which gave all the states the same amount of power in one of the houses of Congress.

This was the first great compromise of the constitution: that which made the states equal in power in the senate. The next provided that five slaves should be counted as three persons in determining the number of representatives to which a state was entitled. Here again it was the "logic of facts," not the logic of principle that decided the question. Gouverneur Morris' speech was unanswerable. "Slavery is a nefarious institution," he said. "It is the curse of heaven on the states where it prevails. Upon what principle is it that slaves shall be computed in the representation? Are they men?"

* Rhode Island sent no delegates to the Convention; those from New Hampshire had not yet arrived; and those from New York were absent.

Then make them citizens and let them vote. Are they property? Why, then, is ^{Gouverneur Morris on slavery.} no other property included? The admission of slaves into the representation, when fairly explained, comes to this, that the inhabitant of Georgia and South Carolina who goes to the coast of Africa, and, in defiance of the most sacred laws of humanity, tears away his fellow creatures from their dearest connections and damns them to the most cruel bondage, shall have more votes in a government instituted for protection of the rights of mankind than the citizen of Pennsylvania or New Jersey, who views with a laudable horror so nefarious a practice. He would sooner submit himself to a tax for paying for all the negroes of the United States, than saddle' posterity with such a constitution." That was the logic of principle.

But the task set the Convention was not to make an ideal constitution for ideal people, but to make a constitution for the people of the thirteen states. Nor was their task to make an ^{Problem before the Convention.} ideal constitution for the thirteen states, but to make one which they would accept. To make a good constitution which they would not accept, was to leave them without any, and that meant anarchy. That was "the logic of facts," and it was that to which Rutledge, of South Carolina, gave expression when in discussing the third compromise he said: "Religion and humanity had nothing to do with this question. Interest alone is

the governing principle with nations. The true question at present is, whether the Southern states shall or shall not be parties to the Union." That was the question, when provisions concerning slavery were under consideration. The logic of principle was unanswerable, but the logic of facts is always decisive with practical men when practical questions are under consideration. The Convention therefore agreed that five slaves should count as three citizens in determining the number of representatives to which a state was entitled.

This was a compromise between the North and the South, but the third compromise, which forbade Congress to prohibit the slave trade for twenty years, was a compromise between the New England commercial states and North and South Carolina and Georgia. The New England states wished Congress to have power to pass navigation acts by a simple majority. They had realized the ruinous results of allowing the states to have power to regulate commerce. . But the Southern states were unwilling that Congress should have power to pass navigation acts by a simple majority. They were afraid that the commercial states would get control of their carrying trade, and charge exorbitant freights on their rice, indigo and tobacco. Three of them, however, were determined not to relinquish the slave trade. Rutledge said: "If the Convention thinks that North Carolina, South Carolina

Rutledge on slavery.

Compromise between commercial states and three southernmost states.

and Georgia, will ever agree to the plan, unless their right to import slaves be untouched, the expectation is vain. The people of those states will never be such fools as to give up so important an interest." The New England states, accordingly, made a concession to the three southernmost states, without which it is reasonably certain the constitution would never have been adopted, and they, in turn, made a concession to the commercial states. They agreed that Congress should have power to regulate commerce by a simple majority, and the commercial states agreed that the slave trade should not be prohibited for twenty years.

James Bryce calls attention to the fact that there are several remarkable omissions in the constitution. It contains no specific grant of power to the national government to coerce a rebellious state. Nothing is said as to the right of a state to secede, nothing as to the doctrine of state sovereignty. These omissions are significant. The Convention framed a constitution by the adoption of which thirteen peoples, imagining themselves independent and sovereign, really acknowledged themselves to be but parts of a single political whole. But they did it unconsciously. They continued to think of themselves as sovereigns who had not abdicated their thrones, but who permitted an agent to exercise some of their functions for them. If the constitution had contained a definite statement of the actual fact; if it had said that

Compromise
between
nationalism
and state
sovereignty.

to adopt it was to acknowledge the sovereignty of the one American people, no part of which could sever its connections from the rest without the consent of the whole, it would probably have been rejected by every state in the union. These omissions we may call a fourth compromise, the compromise between state sovereignty and nationalism.

Without these compromises, as we have so often seen, the constitution would not have been adopted. But it is important to note that all of them except the first—that gave all the states the same power in the

Denationalizing
tendencies
of these
compromises.

Senate—proved to be denationalizing forces. The adoption of the constitution gave to the United States a government, substituted for the powerless jabbering Congress of the Confederation, a government with power to enforce its laws and compel its citizens to observe its treaties. It gave to the unity of the American people, which under the Confederation had been a mere idea, an objective existence among the institutions of the world. It came into contact with every citizen in the land, and tended to make him feel that the American government was *his* government, tended to make the idea of patriotism reach beyond the boundaries of the state, and give it a really national significance. But these compromises tended to perpetuate that feeling of separateness and isolation, that state selfishness or state patriotism, the prevalence of which made the period between 1783 and 1787 a danger-

ously critical period in American history. Separately, these compromises would have been comparatively harmless. But working together, they seriously threatened the existence of the union in 1820, 1833, and in 1850, while in 1861 they plunged the country into one of the most terrible civil wars known to history. That civil war was the price which the American people paid for their lack of national patriotism in 1787. With national patriotism enough to have had at heart the highest ultimate good of the whole American people, the Convention would have framed, and the states would have adopted, a constitution without these compromises. But the actual alternatives were a constitution with these denationalizing elements or anarchy. The work which national patriotism might have done peacefully and without loss, in 1787, was done at a terrible cost in the civil war. The constitution which was intended to be the great national charter of a free people is no longer disfigured by clauses recognizing slavery. The three* slavery clauses were blotted out of it by the blood of the men who fell in that terrible struggle. It is still silent as to secession and state sovereignty. But in the lurid light of the civil war, that silence is no longer misinterpreted. All men now admit that practically if not theoretically—we think practically *and* theoretically—when the people of the thirteen states adopted the constitution

*The third was the clause which provided for a fugitive slave law.

of 1787, they acknowledged the unity and sovereignty of the one American people.

The radical defect of the Confederation was its inability to execute its laws. The attention of the Convention was, therefore, early directed to some means of remedying this. The Virginia plan, as introduced by Randolph, proposed to give to Congress the power to veto all unconstitutional laws passed by the states, and all laws conflicting with treaties made in accordance with it, and to compel by force any state to do its duty as defined in the constitution.

The power to veto unconstitutional laws was at first agreed to by the Convention without dissent. Indeed, even this did not go far enough to satisfy some of its members. Charles Cotesworth Pinckney moved that the national legislature should have authority to negative all laws passed by the states which they should judge to be improper. Radical as this motion was, it was seconded by Madison, and advocated by some of the ablest men in the Convention. It received however, the votes of but three states, Virginia, Massachusetts and Pennsylvania.

But upon maturer reflection, the Convention decided that the states could be kept from violating the constitution and treaties and laws of the United States by means less offensive to the people. They decided to incorporate in the constitution a clause providing that the constitution and the laws and treaties made in accordance with it,

should be "the supreme law of the land," and that the judges in every state should be bound thereby "anything in the constitution or laws of any state to the contrary notwithstanding."

The substance of this clause was introduced by Patterson, in the plan which was intended to leave the principle of the confederation untouched. And no wonder, for it was substantially a repetition of the "promise" made by the states in the Articles of Confederation, to "abide by the determinations of the United States in Congress assembled." Under the government of the Confederation, this promise had been of no value for the Confederation had no power to compel the states to keep it. But the creation of a national executive and judiciary made this clause in the constitution mean exactly what it said. The constitution provided that the judicial powers should extend to all cases in law and equity arising under it, or the laws and treaties made in accordance with it. When, therefore, Congress or the legislature of a state passes a law which any one considers as encroaching upon his rights as guaranteed by the constitution, he can refuse to obey it on the ground that it is unconstitutional. The case so arising comes before the federal courts, and if they in the last resort declare the act unconstitutional, it is null and void so far as the particular case before them is concerned.

There is nothing in the constitution to prevent the continued enforcement of the nullified law in all other

cases that are not brought before the federal courts. But the decisions of the Supreme Court are so universally respected that they have "the force of a general rule," and no executive attempts to enforce a law in any case in which they have been pronounced unconstitutional.*

Americans who are familiar with no constitutional system but their own, are apt to look upon this as a matter of course, but Burgess has shown us that this is far from being the case. "In England, France and Germany," he tells us, "such an effect is scarcely thought of. We have seen however, that the supreme court of England, France and Germany might deal with a particular case just as the Supreme Court of the United States deals with it, and that the legislatures of these respective States have only about the same powers of coercion over those courts that the Congress of the United States possesses. What, then, is it which causes this all important generalization to be made immediately and unconditionally from a special decision of the Supreme Court of the United States, when such a generalization is scarcely dreamed of anywhere else?"

"We must go back of statutes and constitution for the explanation. Back of these, however, there lies nothing in the domain of political science but public opinion." It is, then, the feeling of the American people that law must rest upon reason and justice, that the constitution is a

*See Burgess' Science and Constitutional law, vol. II, p. 327.

Burgess on Supreme Court of the United States.

more reliable statement of the principles of reason and justice, than mere legislative acts, and that the judiciary is a more trustworthy interpreter of those principles than the legislature—it is this feeling which has given such authority to the interpretation of the constitution by the Supreme Court. This feeling “has been awakened and developed by the fact that the political education of the people has been directed by the jurists rather than the warriors or the priests; and it is the reflex influence of this education that upholds and sustains, in the United States, the aristocracy of the robe. I do not hesitate to call the governmental system of the United States the aristocracy of the robe; and I do not hesitate to pronounce this the truest aristocracy for the purposes of government which the world has yet produced.”*

QUESTIONS.

1. What is the difference between a republic and a representative democracy? Which did the Convention aim to provide for?
2. How do you account for the pronounced anti-democratic tendencies of men like James Madison and Elbridge Gerry?
3. Specify the various features of the constitution which show that it provides for a republic rather than a representative democracy.
4. Our governmental system is in fact much more democratic than the framers of the constitution intended it to be. State the reasons.
5. Contrast the Virginia and New Jersey plans.
6. What was the Connecticut compromise?

* Burgess' Political Science and Constitutional Law, vol. II, p. 360.

7. Did the constitution, as Gouverneur Morris asserted, put a premium on slavery?

8. What was the compromise between the commercial states, and North and South Carolina, and Georgia?

9. State the three slavery clauses in the constitution.

10. Did the fugitive slave clause in the constitution authorize the capture of fugitive slaves, prior to the passage of a fugitive slave law?

11. When was the first fugitive slave law passed?

12. What was the compromise between state sovereignty and nationalism?

13. Which of the compromises proved to be denationalizing forces, and why?

14. What effect did the civil war have on the compromises of the constitution?

15. How did the Convention at first propose to prevent the states from passing unconstitutional laws?

16. What provision did they finally make to prevent it?

17. What does Burgess mean when he calls the aristocracy of the robe the governmental system of the United States?

CHAPTER IV.

THE ANTIFEDERAL PARTY.

THE Convention finished its work in September. The constitution was published in the newspapers of Philadelphia about the middle of the month, and then the contest between the Federalists and the Antifederalists began.

The programme of the Antifederalists was purely negative. Like the Irishman, who said he was "agin the government," when he was asked as he landed in New York what political party he belonged to, they were opposed to the constitution, and that was the only plank in their platform.

Programme
of the
Antifederalists.

We must be careful not to confuse them with the Republicans or Democrats who began to exist as a party about 1791. The questions at issue between the two parties in 1791 were entirely different from the single question which divided the Federalists and Antifederalists in 1787. Shall the constitution be adopted? That was the one question at issue between the Federalists and the Antifederalists in 1787. But the questions that divided the Federalists and Antifederalists and Republicans in the administrations of Washington and Adams related to matters of finance and foreign affairs, and the proper interpretation of the

Antifederalists
and Republicans.

constitution. Indeed, two eminent men, Jefferson and Madison, were Federalists in 1787 and Republicans in 1791. They were Federalists when to be a Federalist meant to believe in the adoption of the constitution; they were Republicans when to be a Federalist meant to believe in Hamilton's financial policy, and in an interpretation of the constitution which tended, they believed, to the undue centralization of the government.

We may divide the Antifederalists into three great classes. The first class was composed of men of the type of Patrick Henry, Luther Martin, George Mason, and

Three classes of Antifederalists. Rawlin Lowndes. Feeling intensely that their state was their country, and governed rather by feeling than by intellect, these

men could not endure the thought that their state should submit to a government external, and therefore foreign to them. "What gave the Convention the right to say we the people, instead of we the states?" asked Patrick Henry. Seeing in the confederation a form of government in which the states were independent and sovereign, in which they submitted to no compulsion, they forgot its terrible defects, and lauded it as the most perfect government in the world. Jefferson, who be it remembered, was

Those who feared the constitution would overthrow the state governments. not an Antifederalist, said that to compare the government of the confederation with the governments of the countries on the continent of Europe was like comparing heaven with hell.

Jefferson was in France when he said that. His mind was

haunted by the thought of the suffering peasants of France, doomed by despotism to a life of unrequited toil. His countrymen were free; and to be free seemed to him in the presence of the victims of French despotism, the perfection of political blessedness. He forgot, and so did Antifederalists like Patrick Henry, that liberty protected by law is the only liberty possible to men; that liberty unprotected by law is nothing but anarchy, and that anarchy inevitably results in tyranny.

Antifederalists of this class objected to the constitution because they were afraid the government it provided for would abuse its powers. But the history of the confederation had shown that the only way to make an abuse of power impossible is to grant no power to be abused.

The second class opposed the constitution primarily because of pecuniary considerations. I have already spoken of the paper money epidemic that spread over the country. That delusion, as we have seen, bade fair to take the country by storm in 1786. It captured the legislatures of seven states outright, and entrenched itself in such strong minorities in four others, as to leave those who were able to think straight in mortal terror of the results of the next election. Now every advocate of paper money in the country was opposed to the constitution, because it forbade any state to make anything but gold and silver a legal tender for the payment of debt.

Those who opposed the constitution for pecuniary reasons.

There was another class who had pecuniary reasons for opposing the constitution. When the Revolutionary

war broke out, large sums of money, especially in the South, were due to British subjects. Under the government of the confederation, no power outside of the state could compel the payment of them, whatever treaties might be made. But the new constitution as we know provided that itself, and laws and treaties made in accordance with it, should be the supreme law of the land. And the treaty made with Great Britain at the close of the Revolution, provided for the payment of the debts due to English citizens.

The debtor classes in general tended instinctively to oppose the constitution. We have seen that under the government of the Confederation, whenever they got control of the state, they passed laws remitting taxes, affording facilities for the payment of debts, or suspending their collection, as well as for the manufacture of paper money. The party that opposed them, that insisted on the payment of debts, public and private, always wished to strengthen the powers of the central government while debtor classes as invariably opposed it. Oliver Ellsworth, of Connecticut, said in the Convention, "The prevailing wish of the people of the Eastern (New England) states is to get rid of the public debt, and the idea of strengthening the national government carries with it that of strengthening the public debt." Before the constitution was framed, therefore, the material was ready for the organization of the two parties—the one to secure and the other to prevent its adoption. It was not this or that pro-

vision in it which especially aroused the antagonism of the majority of those that opposed it. Its fundamental vice in their eyes was that it intended to create a government—that it intended to put an end to that license of the confederation which was so rapidly degenerating into anarchy.

There was a third class, small in number, but very influential, whose primary motive in opposing the constitution was ambition. Demagogues like George Clinton, of New York, with no end in view but the advancement of their own personal interests, opposed the constitution, because like Cæsar they preferred to be first in their own state, to being Those who opposed it through ambition. second in any other government. Anything, therefore, that tended to diminish the importance of their state, tended to diminish the importance of the theatre upon which they hoped to act a conspicuous part.

These various classes made the Antifederalists a very formidable party. For a considerable time, the friends of the constitution were in grave doubt whether its enemies would not succeed in preventing its adoption in Massachusetts, New York, Virginia, Rhode Island, and North Carolina. That they failed to do it is probably due to the effect produced by Shays' insurrection. That event, as we have seen, created a profound impression on the people of the entire country. It gave them an unpleasant feeling of insecurity. Like the flash of lightning that enables the belated traveler to see that he is walking

on the brink of a precipice, it burned into the minds of thoughtful men the fact that they were on the very verge of anarchy. But notwithstanding this, Massachusetts,

Effect of Shay's rebellion.

which had been the theatre of the insurrection, and which had suffered terribly from the inability of the confederation to regulate commerce, ratified the constitution by a majority of only nineteen out of a total of three hundred and fifty-five votes. Small as the majority was, it was obtained only through the exercise of great tact on the part of the Federalists. The convention was induced to ratify it

The constitution in Massachusetts.

only when it was agreed to accompany their ratification by urgent recommendations of amendments by means of which the liberties of the people could be more effectually secured.

In New York, the constitution was ratified only through the exertion of the transcendent abilities of Alexander Hamilton. When the convention met, he found himself the leader of a minority of nineteen against a majority of forty-five. "Two-thirds of

In New York.

the convention, and four-sevenths of the people are against us," he wrote. But he was, indeed, as Jefferson afterwards termed him, "the Colossus of the Federalists." He did not approve of the constitution. He rightly said that in the federal Convention no man's ideas were more remote from the plan than his own were known to be. But believing that the alternatives were anarchy and convulsion on the one

hand, and a chance of good on the other, believing moreover that the fate of republican government for all time was at stake, he advocated its adoption with all the energy of which his ardent nature was capable. "With an eloquence," says John Fiske, "scarcely equaled before or since until Webster's voice was heard," Hamilton argued week after week until at last the leader of the Antifederalists, Melancthon Smith, declared that he was convinced of the merits of the constitution, and that he intended to vote for it. When the decisive vote was taken, there was a majority of three for the constitution out of a total of fifty-seven. Small as the majority was, the Federalists had to pay a dangerously high price for it. They were obliged to recommend that a circular letter be sent to all the states recommending another Federal convention to consider amendments to the constitution.

In Virginia, the result seemed more doubtful than it had done in any other state except New York. The abilities of the two parties in the convention were about equal. If, on the one side there were James Madison, Edmund Randolph, John Marshall and George Wythe; on the other, there were *In Virginia.* Richard Henry Lee, William Grayson, George Mason, and most formidable of all, the great orator of the Revolution, Patrick Henry. The Federalists however, had the aid of the overshadowing influence of Washington. That probably decided the result. On the final vote, out of a total of one hundred and sixty-eight

votes, the constitution received a majority of ten. A change of ten votes in Massachusetts, two in New York, and six in Virginia would have prevented the adoption of the constitution in each of those states. What the final outcome would have been in such an event it is impossible even to conjecture. This much at least, it seems safe to say: Had any one of those states rejected the constitution, it would almost certainly have been rejected by more than four states.

In North Carolina, the constitution was rejected by a large majority, and in Rhode Island no convention was called to consider it.

When the constitution was adopted by eleven states, the Antifederalists attempted to get another Federal convention called in harmony with the recommendation of the convention in New York. If there had been systematic, concerted action in this direction, it seems impossible to doubt that they would have succeeded. The powerful minorities in Massachusetts, New York and Virginia, to say nothing of other states, combined with the majorities in Rhode Island and North Carolina, could certainly have effected this. But the antagonism of the party to national ideas, the emphasis which it laid upon the idea of the state as the country of its citizens, seems to have been an obstacle in the way of concerted action between the leaders of the party in different states. Indeed, to have admitted the necessity of such con-

The Antifederalists after the adoption of the constitution.

certed action, would have been to admit a community, if not an identity, of interests, which was inconsistent with their fundamental principle. For how could it be necessary for the Antifederalists in the various states to act as *one* party, to pursue a *common* end, unless they had identical interests? And how could they have identical interests, if the name America had only a *geographical* significance?

When, in 1789, the attempt to secure another Federal convention failed, the Antifederalists ceased to exist as a party. That large numbers of them remained hostile to the new government is altogether probable. But their leaders seem for the most part to have taken the patriotic stand announced by Patrick Henry in the Virginia constitution: "If I shall be in the minority," he said, "I shall have those painful sensations which arise from a conviction of being overpowered in a good cause. Yet I will be a peaceable citizen. My head, my hand, my heart shall be free to retrieve the loss of liberty and remove the defects of the system in a constitutional way. I wish not to go to violence, but will wait with hopes that the spirit which predominated in the Revolution is not yet gone, nor the cause of those who are attached to the Revolution yet lost. I shall, therefore, patiently wait in expectation of seeing this government so changed as to be compatible with the safety, liberty and happiness of the people." It is pleasant to be able to say that in a few years Patrick Henry came to see that the cause of

those who were attached to the Revolution was not lost when the constitution was adopted; that it was not necessary to change the constitution in order to have a government compatible with the safety, liberty and happiness of the people.

QUESTIONS.

1. What was the programme of the Antifederalists?
2. Why should not the Republicans be confused with them?
3. Enumerate the three classes of which they were composed.
4. Contrast the character of the leading Antifederalists in Virginia with those in the northern states.
5. How do you account for it?
6. Give an account of the struggle over the constitution in Massachusetts, New York and Virginia.
7. By what majorities was it carried in those states?
8. There were three other states in which the Antifederalists were a strong party. Name them.
9. In what section of the country were the Antifederalists stronger?

CHAPTER V.

ALEXANDER HAMILTON.

WITH the adoption of the constitution the first chapter in the history of the Federalists closed. But the men who fought its first battle did not, like the Anti-federalists, lay down their arms when the victory was won. They had, indeed, consisted of very different classes, and they had been influenced by very different motives. Among them were the commercial class, chiefly from New England, who wished to have the constitution adopted because it proposed to create a government with power to regulate commerce, and because it prohibited the states from making anything but gold and silver a legal tender for the payment of debts. There were also the creditor classes, who had seen with dismay the tendencies of the states to repudiate all debts, public and private, and who hoped that a government with power to collect taxes would pay its debts, and check the repudiating propensities of the states. There were the planters of the South who looked to the new system to put an end to the financial depression, from which they, in common with all the owners of property in the country, had suffered. There was also a class deserving of special mention, because of the influence which they exerted on the future of the

party, the class who had been most reluctant to separate from Great Britain—some of them, perhaps, had never been willing that the country should declare itself independent, but had pretended to be in order to save their estates from confiscation—the class who were ardent admirers of the British form of government, and who had most distrust of a government which derived its powers from the people.* Last but not least in importance, there was the small class whose hatred of anarchy made them, like Hamilton, regard a nation without a rational government, as an awful spectacle; the class whose national patriotism made them want a home, so to speak, for their feeling of nationality. These were the components of the Federal party when it won its first victory.

*“The Federal Convention was the work of the commercial people in the seaport towns, of the planters of the slave-holding states, of the officers of the revolutionary army, and the property holders everywhere. And these parties could never have been strong enough of themselves to procure the general adoption of the instrument which they matured, had it not been that the open insurrection in Massachusetts, and the assemblages threatening to shut up the courts of justice in other states, had thrown the intermediate body of quiet citizens of every shade of opinion, in panic all on their side. It was under the effect of this panic that the delegates had been elected, and that they acted. * * * Among the Federalists * * * were to be found a large body of the patriots of the revolution, and a great number of the substantial citizens along the line of the seaboard towns and populous regions. * * * But these could never have succeeded in effecting the establishment of the constitution had they not received the active and steady co-operation of all that was left in America of attachment to the mother country, as well as of the moneyed interest, which ever turns to strong government, as surely as the needle to the pole.” John Adams’ Works, vol. I, pp. 441–443.

Callender expressed the same opinion as to the influence of Shay’s rebellion when he said that the constitution “was crammed down the gullet of America.”

Could they stand side by side when its next battle was fought?

The second great question which the Federalists attempted to answer was, "Shall the financial policy recommended by Alexander Hamilton be adopted?" Before this question came before the country, the Federalists had indeed accomplished work of great importance under the new constitution. They had organized the government, having provided for a Secretary of State, of War, of the Treasury, and for an Attorney-General.* They had provided temporarily for the pressing needs of the treasury by imposing a duty on imports. They had put through Congress twelve amendments, ten of which became incorporated into the constitution. Most important of all, they had passed a Judiciary Act, one section of which provided that in all cases where the powers of the general government were called in question and the decision was unfavorable to them, an appeal might be taken from the courts of the state to those of the United States, thus making the courts of the general government the ultimate judge of its powers, and depriving the states of all power of effective resistance.

But though the discussion of these measures, and the votes upon their passage showed wide differences of opinion, there was not that organized opposition to them

*These offices were filled by Thomas Jefferson, Alexander Hamilton, Henry Knox and Edmund Randolph, respectively.

which was necessary to make them party questions ; the opponents of them had not organized themselves into a party for the accomplishment of definite ends. When it is said that they were passed by the Federalists, no more is meant than that the majorities in favor of them were composed for the most part of those who had been elected to Congress as friends of the constitution. [For until Hamilton submitted his financial policy to Congress a dead issue was the only test of Federalism.] Up to that time to be a Federalist meant to prefer the constitution to the Articles of Confederation. But when men had made up their minds as to this financial policy, Federalism acquired a new meaning; it meant to be a believer in this financial policy.) And the significant thing to note is that some of the men who led in the opposition to Federalism in the second period of its history had been ardent Federalists before. Why was this? Why was it that those who had agreed when the question was as to the adoption of the constitution were unable to agree when the question was as to the adoption of this financial policy? Why was it that they not only disagreed, but, as we shall see, so radically, that each party felt that the other was an enemy to the country? To understand this, we must make some attempt to understand the greatest political genius which this country has so far produced, Alexander Hamilton.

The life of this remarkable man reads almost like a

romance. Intellectually, we may almost say that he never had a boyhood. At Summary of Hamilton's life. seventeen, we find him writing anonymous pamphlets of such ability that they were attributed to the most eminent men in New York; at twenty-three, in the midst of the occupations and diversions of the camp, he found time to write a profound letter on the financial affairs of the Confederacy; at twenty-five he traced with such accuracy the defects of the miserable government of the Confederation that scarcely anything remained to be added, and sketched an outline of a constitution bearing a remarkable resemblance to the one adopted seven years later; at twenty-six, a member of Congress; at thirty, of the Federal Convention; at thirty-two, Secretary of the Treasury, and from then until his untimely death at the early age of forty-seven, the life and soul of the Federal party.

I know of no way in which one can get a more vivid idea of his wonderful ability than to see how constantly Washington turned to him for advice, not merely while it was his official duty, as Secretary of the Treasury, to give it, but when he had ceased to be a member of the cabinet. Scarcely any sub- His influence upon Wash- ton. ject of importance presented itself to Washington after Hamilton had left his cabinet that he did not call upon Hamilton. Would Hamilton give him his opinion of Jay's treaty? Would he suggest the subjects he thought the President should treat of in his

speech to the two Houses of Congress? Would he examine the draft of the President's farewell address and submit such changes and additions as seemed to him desirable?—are samples of the requests which this remarkable judge of men was constantly making of Hamilton.

The two men indeed were almost perfectly fitted to work together. Each supplemented the defects of the other. Washington's mind worked slowly, but his conclusions once reached were remarkable for their soundness. Hamilton, on the other hand, was marvelously quick, but his judgment was in danger of being carried away by the ardor of his temperament. Washington was by no means remarkable for originality. His great power was displayed not in originating new ideas and expedients, but in determining their value when originated by others. Hamilton, with the possible exception of his great antagonist, Thomas Jefferson, was the most original political genius, the most fertile in ideas and expedients, the country has produced. In their temperaments, also, as well as in their intellectual character, the two men were almost perfectly adapted to work together successfully. Upon a temper less firm than Washington's, Hamilton's ardor might have exercised undue influence; but upon the self-poised character of Washington, it spent its force as vainly as the waves of the Mediterranean upon the rocks of Gibraltar.

This young man of thirty went to the Federal Convention with sharply defined and positive opinions, not

merely as to the disease from which the country was suffering, but as to the appropriate remedy. He believed that the disease was democracy, and that the organs through which it had diffused its poison into the life of the nation were the state governments. To restore the patient to health he believed heroic treatment was necessary. Any treatment that did not remove the cause of the disease, that did not apply the knife to democracy, would, he believed, result in ultimate failure.

His opinion of democracy.

In a great speech six hours long, he urged the Convention to frame a constitution completely subordinating the government of the states to the general government. The constitution that he proposed, provided for an aristocratic republic, by requiring a certain amount of real property as a qualification for voting for President and Senators. The President and Senators were to hold office during good behavior. The state governments were to be subordinated to the general government by vesting in the President the appointment of the governors of the states and by giving to them the power of absolute veto in all state legislation.

His speech in the Convention.

The Convention did not approve of his plan, but his ardent temperament made it impossible for him not to hope that his ideas might, to some extent, be finally embodied in the new system. "You have made a good constitu-

His opinion as to the influence of construction and precedent upon the constitution.

tion," remarked one of Gouverneur Morris' friends to him after the adjournment of the Convention. "That," replied Morris, "depends on how it is construed." No one realized that more clearly than Hamilton. He knew that as, on the one hand, powers actually conferred may become obsolete through disuse, so the liberal construction of its powers might give to them a scope greater than those who framed it intended. In his speech in the Convention he said whatever the powers conferred on the general government, "if it preserves itself, it must swallow up the state governments, otherwise it would be swallowed up by them." After the constitution had been adopted, he wrote a brief paper in which he said: "The object of a good administration should be to acquire for the Federal government more consistency than the constitution seems to promise for so great a country. *It may then triumph altogether over the state governments, and reduce them to an entire subordination, dividing the large states into simpler districts. The organs of the general government may also acquire additional strength.*" *

These opinions, frankly avowed in the Convention and doubtless freely repeated in private conversation, had an important influence on American history. Up to the time of the adoption of the constitution, James Madison, of Virginia, had worked side by side with Ham-

* Italics are mine.

ilton in the cause of good government. During those miserable years of the Confederation they had co-operated in the effort to promote every measure that held out any hope of conferring adequate powers upon Congress. Together they had worked to secure the Federal Convention, and when it met, although they differed widely in their ideas of government, they had co-operated in securing a constitution which proposed to substitute a real government for the powerless Congress of the Confederation. Together, assisted by Jay, after the Convention adjourned, they wrote the *Federalist*, that remarkable series of essays explaining and advocating the constitution, still used in some of our colleges as a text-book. (But shortly after Hamilton became Secretary of the Treasury, he and Madison began to pursue different paths. When Hamilton outlined his financial policy, Madison, then in the House of Representatives, began to oppose it, and before two years had passed away, Hamilton's measures met with little opposition more pronounced and emphatic than they received from his old political and personal friend.) When Madison was an old man he explained the reason. "I deserted Colonel Hamilton," he said, "or rather he deserted me; in a word, the divergence between us took place from his wishing to *administration*, or rather more properly to administer the government into what he thought it ought to be; while, on my part, I endeavored to make it con-

Hamilton and Madison.

Madison's explanation of their divergence.

form to the constitution as understood by the Convention that produced and recommended it, and particularly by the State conventions that adopted it." As to the original cause of the divergence, Madison was probably right, at least, to some extent—but to understand the extent of it, especially to understand the bitterness with which the two men came to regard each other, to understand why Hamilton in the latter part of 1791 came to believe "that Mr. Madison, co-operating with Mr. Jefferson, is at the head of a faction decidedly hostile to me and my administration; and actuated by views, in my judgment, subversive of the principles of good government, and dangerous to the union, peace and happiness of the country,"* Madison's explanation is insufficient. Perhaps some light may be thrown on this subject by a study of the diary of a forgotten senator from Pennsylvania, written the first two years of Washington's first administration.

QUESTIONS.

1. State the various elements of which the Federalist party was composed.
2. Were the southern planters as solidly Federalists as the property owners of the country in general?
3. What light does the Virginia convention throw on this question?
4. Do you see any explanation of the fact that the admirers of the British constitution were universally Federalists?
5. Why is it important to remember that they were?
6. What was the Judiciary Act of 1789, and in what did its importance consist?

* Hamilton's letter to Carrington in 1792.

7. What did Hamilton think of democracy?
8. What kind of a constitution did he propose in the Convention?
9. How did he think the constitution might be changed, practically, without amendment?
10. Has it, in fact, been so changed?
11. What officer in the American government exercises most influence on the course of legislation?
12. Is it the constitution, or usage and precedent that gives him that power?
13. How did Madison explain his divergence from Hamilton?
14. If you think Madison was truthful—as everyone does—would you accept his statement on this point as entirely conclusive? Give your reasons for your answer.
15. What two periods in the history of the Federalist party have so far been spoken of?

CHAPTER VI.

A FORGOTTEN DEMOCRAT.

TO UNDERSTAND how men like Madison, who had been conspicuous for their Federalism when to be a Federalist meant to believe in the adoption of the constitution, came to co-operate in the organization of a party opposed to Federalism, when to be a Federalist meant to be in favor of Hamilton's financial policy, we must try to understand their environment. For Madison would never have opposed the measures of Hamilton so systematically and persistently as he did after 1791, had it not been for the nature of the influences brought to bear upon him. The men with whom he walked and talked, who wrote letters to him and to whom he wrote in reply, who visited him and whom he visited, the men above all upon whose approval he was obliged to depend for promotion, gave a certain *set* to his mind, a certain *direction* to his attention. They predisposed him to see all the difficulties on one side of the various questions that arose in their full force, and to minify those on the other. They put him on the alert for every attempt to enlarge the scope of the powers conferred upon the general government by construction; for every attempt to "administration" the government from what it was intended to be to a government

The influence of environment upon Madison.

with larger powers. To understand, therefore, the nature of the influences exerted upon him, it is desirable to understand these men—to realize as clearly as we can, their attitude towards political questions—what they hoped and what they feared from the government.

This is the more worth while because, in the first place, the influences they exerted upon Madison were exerted also upon a man of greater force—Thomas Jefferson, a man whose temperament and cast of mind would probably have decided him to oppose the measures of Hamilton independently of such influences, although it is quite impossible to imagine him the leader of a forlorn hope. In the second place, when we understand these influences, we shall see the material that was already for organization into an anti-Hamiltonian party. To this end, I propose to cite numerous quotations from the diary of William Maclay, Senator from Pennsylvania from 1789 to 1791. This diary was written with no thought of publication. Every line of it contains intrinsic evidence of being the expression of the author's sincere opinions. These opinions do indeed represent only one of the two phases then dominant in the political thinking of Virginia; her antagonism to a strong central government, her jealousy of every assumption of federal power. The peculiar opinions known as Virginia Republicanism, opinions with which we shall hereafter become acquainted, found no expression in Maclay's diary. But

Why important to understand Madison's environments?

these opinions, as we shall see, chiefly diverged from the Democracy of which Senator Maclay was so vigorous an exponent, *so long as it was not in power*, in matters of foreign policy.

Democracy and Virginia Republicanism.

So far as domestic affairs were concerned, the Democracy of Maclay and the Republicanism of Virginia were in substantial agreement as long as they were an opposition merely. When the one party of which they were the component elements got possession of the government, the question had then to be settled, as we shall see, as to which of the two was to determine its policy; whether the government was to be administered in harmony with the ideas of Democracy, or whether it should follow the path marked out by Virginia Republicanism.

One further preliminary remark is necessary: I shall cite quotations from his diary, ranging over the entire two years of his senatorial service. I shall therefore, depart from a chronological order, stating his opinions on matters which we have not yet reached in the course of our story in order that the nature of the influences that were hostile to the policy of the new government may be presented in a single view.

April 25, 1789, he records Vice President John Adams as saying, "Gentlemen, I do not know whether the framers of the constitution had in view the two kings of Sparta or the two consuls of Rome when they framed one to have all the power while he held it, the other to do nothing."

Vice President Adams on titles.

April 30: "The Senate returned to their chamber after service, found and took up the address.* Our Vice-President called it his Most Gracious Speech. I looked all around the Senate. * * * I must speak or nobody would. "Mr. President, we have lately had a hard struggle against kingly authority. The minds of men are still heated; everything related to that species of government is still odious to the people. The words prefixed to the President's speech are the same that are usually placed before the speech of his Britannic Majesty. I consider them improper." May 5: "Title selected for our President was 'Elective Majesty.'" May 7: "There are three ways," said our Vice President, "in which the President may communicate with us; one is personally. If he comes here we must have a seat for him. In England it is called a throne." May 14: "Through all this base business (about titles) I have endeavored to mark the conduct of General Washington. I have no clue that will lead me fairly to any just conclusions as to his sentiments."

June 5: "Levees may be extremely useful in old countries where men of great fortunes are collected, as they may keep the idle from ^{Washington's} levees, being much worse employed, but here I think they are hurtful. * * * Indeed, from these

*He refers to the address of the President at the opening of the two houses of Congress. Instead of sending a message to Congress at the opening of that body, the first two presidents delivered an address.

small beginnings I fear we shall follow, nor cease till we have reached the summit of court etiquette, and all the frivolities, fopperies and expenses practiced in European governments. I grieve to think how many individuals are aiming at these objects with unceasing diligence.”*

June 14: “My mind revolts in many instances against the constitution of the U. S. I am afraid it will turn out

*The account given of Washington's levees by Sullivan, in his Familiar Letters, enables us to understand why Democrats like Maclay did not take kindly to them. “Washington devoted one hour,” says Sullivan, “every other Tuesday, from three to four, to these visits. He understood himself to be visited as President of the United States, and not on his own account. He was not to be seen by anybody and everybody, but required that everyone who came should be introduced by his secretary, or by some gentleman who knew himself. * * * At three o'clock or at any time within a quarter of an hour afterwards, the visitor was conducted to the reception room from which all seats had been removed for the time. On entering, he saw the tall, manly figure of Washington clad in black velvet; his hair in full dress, powdered and gathered behind in a large silk bag; yellow gloves on his hands, holding a cocked hat with a cockade in it, and the edges adorned with a black feather about an inch deep. He wore knee and shoe buckles, and a long sword, with a finely wrought and polished steel belt which opened at the left hip; the coat worn over the sword so that the belt and the part below the folds of the coat behind were in view. The scabbard was white polished leather. He stood always in front of the fireplace with his face towards the door of entrance. The visitor was conducted to him, and he required to have the name so distinctly pronounced that he could hear it. * * * He received his visitor with a dignified bow, while his hands were so disposed as to indicate that his salutation was not to be accompanied with shaking hands. This ceremony never occurred in these visits even with his most near friends, that no distinction might be made. As visitors came in they formed a circle around the room. At a quarter past three the door was closed. He then began on the right and spoke to each, calling him by name and exchanging a few words. When he had completed his circuit, he resumed his first position. The visitors approached him in succession, bowed and retired. By four o'clock this ceremony was over.”

Long after the death of Washington, Jefferson wrote, “I was ever persuaded that a belief that we must at length end in some-

the vilest of all traps that ever were set to ensnare the freedom of an unsuspecting people. Treaties passed by the executive of the United States are to be the law of the land. To cloak the executive with legislative authority is setting aside our modern and much boasted distribution of power into legislation, judicial, and executive. It contradicts all the modern theory of government and in practice must be tyranny.”

Treaty provisions of the constitution.

June 16: “Grayson (of Virginia) made a speech on the Judiciary Bill.* “The matter predicted by Mr. Henry (Patrick) is now coming to pass; consolidation is the object of the new government and the first attempt will be to destroy the Senate, as they are the representatives of the state legislatures.”

Judiciary act.

June 17: “I opposed this bill from the beginning. It certainly is a vile law system, calculated for expense and with a design to draw by degrees all law business into the Federal courts. The constitution is meant to swallow all the state constitutions by degrees, and thus to swallow by degrees all the state judiciaries.

Of all the members of the House, the conduct of Patterson has surprised me most. He has been character-

thing like a British constitution, had some weight in his adoption of the ceremonies of levees, birthdays, pompous meetings with Congress, and other forms of the same character, calculated to prepare us gradually for a change which he believed possible, and to let it come on, with as little shock as might be to the public mind.”

*See page 65.

ized to me as a staunch Republican man and genuine Whig. Yet he has in every Republican question deserted us and in some instances betrayed us." (Note the use of the word "Republican" as a party epithet.)

Sept. 18: "By this and yesterday's papers France seems travailing in the birth of freedom. God give her a happy delivery. Royalty and nobility and the vile pagantry by which a few of the human race lord it over and tread on the necks of their fellow-mortals seem likely to be demolished with their kindred Bastille which is said to be laid in ashes. Ye Gods! with what indignation do I think of the late attempts of some creatures among us to revive this vile machinery! O Adams, Adams, what a wretch art thou!"

French Revolution.

Jan. 12, 1790: "I made an unsuccessful motion when it was proposed, that the whole Senate should wait on the President with answer to the speech.* First, I wished for delay that we might see the conduct adopted by the House of Representatives. I thought it likely they would do the business by committee. I wished to imitate them. I, as a Republican, was, however, opposed to the whole trick of echoing speeches."

Jan. 14: "It is evident from the President's speech that he wishes everything to fall into the British mode of business. *I have directed the proper officers to lay before*

*He refers to a custom in the first three administrations of framing an answer to the president's speech on opening the two houses of congress. Each house made its own answer.

you, etc. The compliments for him and business for them. He is but a man, but really a good one, and we can have nothing to fear from him; but much from the precedent he may establish."

"The extraordinary rise of certificates (of the public debt) has been remarked for some time past. This could not be accounted for neither in Philadelphia nor elsewhere. But the report from the Rise in the value of certificates. treasury explained it all. Hamilton recommends indiscriminate funding and in the style of a British minister, has sent down his bill.* 'Tis said that a committee of speculators could not have framed it more for their advantage. It has occasioned many serious faces. I feel so struck of an heap, I can make no remark on the matter." (These certificates had depreciated to 20, 16, 12 and even 7 cents on the dollar.)

Jan. 15: "The business of yesterday will, I think damn the character of Hamilton as a minister forever. It appears that a system of speculation for the engrossing of certificates has been carrying on for some time. Whispers of this kind come Maclay's opinion of Hamilton. from every quarter. Dr. Elmer told me that Mr. Morris† (Robert) must be deep in it, for his partner, Mr. Constable of this place, had one contract for more than \$40,000 worth. There is no room to doubt that a connection is spread all over the continent in this

*See page 91.

†He was a Senator from Pennsylvania.

...as he came up he pass
with very large sums of n
way to North Carolina for purposes of sp
tificates. Wadsworth has sent two small
southern states on the same errand. I
members of Congress are deeper in this bu
others. Nobody doubts but all connect
from the treasury."*

March 22: "I went with Mr. Wynko
Carroll of Carrollton; we got on the subject
Carolina having *instructed* their representati

hint have gone from here, said:
on this measure? This quest

Instruction of
senators by state
legislature.
following train of ideas in my
simmons is gone to prevent a similar mea
sylvania, and I am suspected of having g
set such a measure going. Perhaps som
kind may be alleged against me with justi
trine of instruction may certainly be carri
be in effect the tribunitial veto of the]
reduce us to the state of a Polish diet. But it
Perhaps the best way is f

to be expected that a federal law passed directly against the sense of a whole state will ever be executed in that state? If the answer is in the negative, it is clearly better to give the state an early legislative negative than finally let her use a practical one which would go to the dissolution of the union."

March 30: "The bill for the military establishment took up the rest of the day and was finally committed to seven members. This bill ^{Tendencies of the new government.} seems laying the foundation of a standing army."

April 15: "Infatuated people that we are! The first thing done under our new government was the creation of a vast number of offices and officers. A treasury detailed into as many branches as interest could frame. A Secretary of War with a host of clerks, and above all a Secretary of State, and all these men labor in their separate vocations. Hence, we must have a mass of national debt to employ the treasury; an army for fear the department of war would need employment. Foreign engagements, too, must be attended to keep up the consequence of that Secretary. The next cry will be for an admiralty. Give Knox his army and he will soon have a war on hand; indeed, I am clearly of the opinion that he is aiming at this even now, and that, few as the troops that he now has under his direction, he will have a war in less than six months with the southern Indians." (Entirely unprovoked by the Indians, of course!)

April 26: "We did not continue in our seats for more than three-quarters of an hour till King moved an adjournment. Modesty by degrees begins to leave. We used to stay in the Senate till about two o'clock whether we did anything or not, by way of keeping up the appearance of business.

Laziness of the Senate.

But even this we seem to be getting over." (Members of congress were paid five dollars per day and thrifty Senator Maclay thought they ought to put in full time so as to earn their money. The same criticism was general in Virginia, as one of Washington's correspondents assured him.)

April 27: "Langdon, of New Hampshire, wants to make the assumption of state debts the condition of removing Congress. He avowed in the most unequivocal manner that consolidation of the different governments was his object in the matter."

May 1: "The assumption of state debts would have completed the pretext for seizing every resource of government and subject of taxation in the union, so that even the civil lists of the respective governments would have to depend on the federal treasury."

May 5: "Baron Steuben is supported in a demand of near six hundred guineas a year. In fact, to overwhelm us with debt is the endeavor of every creature in office, for fear, as there is likely to be no war, that if there should be no debt to be provided for, there would be no business for the general government with all this

train of officers. The sooner no business, the better."

May 6: "I joined the committee on the bill for the salaries of ministers, plenipotentiaries, *charge d'affairs*, etc. I bore my most pointed testimony against this kind of gentry; declared I wished no political connection with any other country. Our commercial intercourse could be well regulated by consuls who would cost us nothing."

Maclay on ministers to foreign countries.

December 14: "If there is treason in the wish I retract it, but would to God this same General Washington were in heaven! We would not then have him brought forward as the constant cover to every unconstitutional and un-republican act."

December 31: "A system is daily developing itself which must gradually undermine and finally destroy our so much boasted equality, liberty and republicanism—high wages, ample compensations, great salaries to every person connected with the government of the United States. The desired effect is already produced; the frugal and parsimonious appointments of the individual states are held in contempt. Men of pride, ambition, talents, all press forward to exhibit their abilities on the theatre of the general government—Grade first. Second grade—To create and multiply officers and appointments under the general government by every possible means in the diplomacy, judiciary and military. This

Extravagance of the new government.

Presidential
patronage.

is called giving the President a respectable patronage—which I take to mean no more and no less than that the President should always have a number of lucrative places in his gift to reward those members of Congress who may promote his views, or support his measures, more especially if by such conduct they should forfeit the esteem of their constituents. We talk of corruption in Great Britain. I pray we may not have occasion for complaints of a similar nature here. *Respice finem* as to the third.”

Jan. 27, 1791: “When the matter of no discrimination was carried in Congress, in the first session, I could hardly suppress the thought that some persons wished to destroy the confidence between us and France, and bring us back to the fleshpots of British dependence.”

France and
England.

Feb. 1: “This day I had much to say against the report of a committee, which went to declare war against the Algerines. It is not a suspicion that the designs of the court are to have a fleet and army.

Maclay on
war with Al-
giers.

The Indian war is forced forward to justify our having a standing army, and eleven unfortunate men, now in slavery in Algiers, are the pretext for fitting out a fleet to go to war with them. While fourteen of those captives were alive, the barbarians asked \$35,000 for them; but it is urged we should expend \$500,000, rather than redeem these unhappy men.” (It seemed poor economy to Senator Maclay to spend

\$500,000 in compelling the Algerines to give up the American citizens, rather than pay \$85,000 as a ransom !) "I vociferated against the measure and I suppose offended my colleagues. This thing of a fleet has been working among the members all the session."

Feb. 11: "The obnoxious clause in the Excise Bill was the putting it in the power of the President to form districts by cutting up the states, so as to pay no respect for their boundaries. King (Rufus) declared "we had no right to pay any more Excise. attention to the state boundaries than to the boundaries of the Cham of Tartary." Annihilation of the state governments is undoubtedly the object of these people. The late conduct of the state legislatures has provoked them beyond bounds. With these two engines, an army and a navy, and the collateral aid derived from a host of revenue officers, farewell freedom in America!"

In almost every important particular, these extracts indicate the attitude of the Republican party organized in 1791 and 1792 by Jefferson and Madison in opposition to the party of Hamilton. A morbid dislike of titles and presidential levees and speeches and of everything that savored in the remotest degree of monarchy; a morbid distrust of the general government, a disposition to consider all its acts not from the point of view of their expediency, but of their capacity to enhance its power and importance, to

Relations between Mac-
lay's opinions
and the creed
of the Repub-
lican party.

consider its very moderate and modest military establishment as evidence of an intention to create a standing army, its Indian and Algerine wars as waged not to defend America against the outrages of savages and pirates, but in order to fasten a permanent debt on the country and supply the means of corrupting Congress; an intense dislike of a navy as a natural foe to liberty; a disposition to regard France as representing liberty, and England, tyranny; above all, a disposition to regard the general government as a foreign government, and, therefore, to consider anything that looked like an encroachment on its part upon the state governments, as an attack upon liberty,—all these were eminently characteristic of the Republican party, and were probably characteristic of the majority of the American people in 1790 and 1791.

The attitude of Senator Maclay towards Hamilton's financial policy was also characteristic of the Republican party. Not a line did the good senator write in commendation of the fact that Hamilton's policy at least restored the credit of the country. That feature of it was entirely concealed by two facts: (1) That it might be used as a means of corrupting members of Congress, and (2) that it had an undoubted tendency to strengthen the general government. Better a thousand times he seems to say, that the debt of the government should not be paid, that it should not keep faith with its creditors,

Ground of objection to Hamilton's financial policy.

than that it should furnish the means of corrupting Congress, and of increasing the power of the central government.

In three other particulars these extracts are worthy of careful note. They show that the independence and sovereignty of the state still seemed a living fact to their author. He could scarcely conceive that a federal law "passed directly against the sense of a whole state could ever be executed in that state." They show also that though he disliked the general government exceedingly, he acquiesced in it as necessary, and aimed only to confine its action within such limits as to prevent it from encroaching upon the states. Finally, they show that if he and those who thought with him had a morbid fear of the general government, that Hamilton was not the only Federalist who had a morbid distrust and dislike of the governments of the states. Indeed, the spring of all the bitterness and intensity of party passion that soon set the American people beside itself, was this: Each party regarded as the paramount and supreme necessity what the other regarded with morbid distrust and fear. Experience has shown that neither the state nor the general governments, as their powers are determined by the constitution, are to be regarded with distrust and suspicion. But the Americans of 1790 had no experience to guide them.

QUESTIONS.

1. How does one's environment influence his opinions?
2. Why is it especially important to understand Madison?

3. What was the difference between Northern Democracy and Virginia Republicanism?
4. Why, in your opinion did Maclay find Adams' opinions on titles offensive?
5. Why do you think he objected to Washington's levees?
6. How did Jefferson explain Washington's ceremony?
7. Why did Maclay object to the treaty clauses of the Constitution?
8. Do you know any attempt made by the Republicans in Washington's second administration in harmony with this objection?
9. What was the Judiciary act and why did he object to it?
10. Why did he object to Washington's speeches and the answers made by the two houses of Congress?
11. What were the certificates of which he spoke and what was the extent of their depreciation?
12. Why was he in favor of instructing Senators?
13. What did he think of the new government?
14. What did he think of sending ministers to foreign countries? Of the extravagance of the government? Of the excise? Of war with Algiers?
15. What was his opinion of state sovereignty?

CHAPTER VII.

THE FEDERALIST FINANCIAL POLICY.

THE LOVE of justice, stability and order was the leading trait in the political character of Alexander Hamilton. It was this that led him to wish to subject the government of the states to the Federal government: The experience of the confederation, he thought, had proved that they could not be trusted to do justice, to promote stability, and to preserve order. In many of the states, during the period of the confederation, the owners of state debts had to lose from ten to seventeen shillings in the pound because the state government refused to enact laws which would insure justice to the holders of their securities. The same trait led him to desire an aristocratic republic. He thought none but property holders could be trusted to do justice to the rights of property.

Leading trait in Hamilton's character.

The objects of his financial policy were clearly stated in his first report upon the public credit, submitted to Congress in January, 1795, the report which Senator Maclay said would damn his character as a Secretary forever.

Object of his financial policy.

He says: "To justify and preserve the confidence of the most enlightened friends of good government; to promote the increasing respectability of the American name;

to answer the calls of justice; to restore landed property to its due value; to furnish new resources both to agriculture and commerce; to cement more closely the union of the states; to add to their security against foreign attacks; to establish public order on the basis of an upright and liberal policy;—these are the great and invaluable ends to be secured by a proper and adequate provision at the present period for the support of the public credit.”

The clauses which I have italicized state the leading objects which he had in view. Men as fair as Madison undoubtedly believed that he had another object more fundamental than any of them—the *administration* of the government from what the Convention intended it to be, to what he wished it to be. But I find no convincing evidence that this is so. Alarming as Hamilton's interpretation of the constitution seemed to Jefferson and Madison, the student of history must remember that in almost every important particular his interpretation has been borne out by the decisions of the Supreme Court of the United States. That Hamilton was intent upon vindicating for the general government every power conferred upon it by the constitution is certainly true, but no more than that can be safely asserted. The quotations made from him on a preceding page may indeed seem to contradict this.* But what he thought desirable is not to be taken as evidence of what he actually attempted to do.

Hamilton's interpretation of the Constitution and the decisions of the Supreme Court.

* See page 70.

Sumner truly says : "The contest with anarchy and repudiation was the great work which went to the making of the nation at the end of the last century, and Hamilton was one of the leading heroes in it."

One of the means which he employed was the introduction of a policy which arrayed on the side of government and stability, and order, a large part of the wealth of the country. We know how feeble was the sense of public honor at that time; we know that there was a strong paper money party in most of the states; that the states would neither provide for their own debts nor those of the Confederation; that many of them passed laws providing for the stay of legal proceedings for the collection of debts and for the suspension of taxes. We have seen a powerful rebellion break out in Massachusetts whose object was the enthronement of anarchy. The question which confronted the new government was, Could this disintegrating, repudiating, anarchistic spirit be successfully encountered? It had to answer that question successfully in order to live, and to help it to do it was the great object of Hamilton's financial policy. He felt that if he could array the wealth and the intelligence of the country upon the side of the government; if he could concentrate the interest and the energies of the influential classes upon a single object, focus them upon a single point, the victory would be sure.

Hamilton's financial policy and the tendency to anarchy.

To this end, he recommended (1) the payment of the foreign debt in full; (2) the payment of the domestic debt in full, interest and principal to those who held the certificates of debt, whether original holders or not; (3) the assumption of the debts of the states, incurred during the Revolutionary war; (4) an excise on distilled spirits; (5) the incorporation of a national bank; (6) a protective tariff.*

Hamilton's
recommendations.

There were no differences of opinion in Congress as to what should be done about the foreign debt. All agreed that it must be paid in full. The action of the various state legislatures during the period of the Confederation does indeed plainly show that they were ready enough to find excuses for not paying it if they could. The unanimity, therefore, with which the proposition to pay it was agreed to by Congress rather indicates the difficulty of finding plausible reasons for evading these obligations than the existence of a strong public opinion in favor of meeting them.

But when the second question arose—as to the payment of the domestic debt in full to those who held the certificates of debt—there were plausible reasons enough for opposing it. The men who held them were not for the most part those to whom they had been

* The first three recommendations were made in the report submitted in January, 1790; the fourth and fifth were made about the close of the year; the sixth about a year after the fourth and fifth.

originally given. The original holders were old soldiers and men who had furnished the armies of the Revolution with supplies for carrying on the war. They had sold them to their present holders at a terrible discount, sometimes as low as one-sixth of their face value. Why should the government give them more? Because it had agreed to do it, replied the friends of Hamilton, because not to do it would be a breach of contract. The government had *promised* to pay the original holders of the certificates, or those to whom they might be assigned, their face value, and on the strength of that promise, speculators had taken the risk of their being paid, and bought them. Moreover, no one could say, they argued, that the speculators had not paid all they were worth at the time they bought them. Before the constitution was adopted, above all before there was any plan to revise the Articles of Confederation, the risk that these certificates would never be paid at all, either in whole or in part, was certainly very great. These considerations carried the day. The bill to provide for the payment in full of the owners of the certificates of debt passed both Houses by a large majority.

The debate showed that Madison was beginning to diverge from Hamilton. He had no sympathy with the repudiating spirit of the Confederation. The proposition, therefore, to scale down the public debt, received no support from him. His proposition was to pay the

Arguments for
and against dis-
crimination.

holders of the public debts what they had paid for them, in case they had bought them, and pay the balance of the principal to the original holder. But this would fail to accomplish the object which many of those who opposed Hamilton's recommendation had at heart, the wiping out of a considerable part of the principal of the public debt. It accordingly received the vote of but thirteen members of the House, and of those thirteen it is a significant fact that nine were from Virginia.*

No sooner was this bill disposed of than a bill was introduced providing for the assumption of those debts of the states incurred during the Revolutionary war. Hamilton had recommended this in his report on the ground of justice and expediency. The debts incurred by the states, he said, were really incurred in defense of the whole country and it was, therefore, but just that the nation should bear the burden. Moreover it would be better for the nation to pay them, because in that way conflicting systems of taxation between the state and the general government would be avoided. The constitution required that the taxes imposed by the general government should be uniform throughout the country. But if the revolutionary

Madison's proposition.

Hamilton's object in recommending assumption.

*Fisher Ames' remarks about Madison in a letter to a friend about this time, are suggestive: "He (Madison) is not a little of a Virginian, and thinks that state the land of promise; but is afraid of their state politics and of his popularity there more than, I think, he should be. He is our first man."

debt of the states were to be paid by them, one state would tax one set of articles and another another set. It would therefore be difficult, if not impossible, for the government to select such objects of taxation as to avoid conflicting with the systems of taxation adopted by some of the states. He had another reason, which had great weight with him, that he did not mention in his report. He knew that the assumption of the debts of the states would weaken the influence of the states and increase that of the general government; that it would transfer the interests of the creditors of the states, from the states to the United States.

But though he did not mention this, his opponents were perfectly well aware of it. We remember that Maclay said that assumption would complete the pretext for seizing every resource of government, so that even the civil lists would have to depend on the federal treasury. Such remarks were not confined to the privacy of diaries. Stone, of Maryland, said that the law would effect the consolidation of the government. The other side was not equally frank. But in their letters to each other, Federalists avowed their opinions. George Cabot, for example, a leading Massachusetts Federalist, said that the powers which must be exercised by the states in providing for their own state debts were such as belonged to a supreme government only, and could not be intrusted to subordinate ones. He declared that he had settled it as an irrefragable truth that the national government could

~~the~~ government depended upon
was a bitter fight. Sedgwick, of Massa
warned the House of the dangerous cons
prehended in his state from a failure to

The condition of Massachusetts
have been deplorable in the extreme, if
to pass. We have seen that Shay's insu
casioned by the mountain of debts and t
crushing the people of the state. But bel
of the constitution, the legislature of th
posed a tariff on imported articles, and th
materially to less^{en} the burden of tax
adoption of the constitution deprived it
and made it almost impossible for the
debts. At last, owing to a bargain betwee
Jefferson, the measure became a law.

There had been a determined strugg
over the location of the
Bargain between
Hamilton and
Jefferson. United States. The memb
from the eastern and middl
it in a northern city, and as they were

introduce terror into the House, but if they were well founded he thought it his duty," and Jackson, of Georgia, said that "this will blow the coals of sedition and injure the union." The southern members were anxious to have the capital located on the Potomac. It occurred to Hamilton to use their wish as a means for getting votes for assumption. He himself had not a particle of state or sectional attachment. When he saw his measure in danger, he asked Jefferson to give it his influence, and agreed, in case it was done to use his influence with some northern members to induce them to vote for a southern location of the capital. The bargain was made. Jefferson induced two Virginia members to vote for assumption and Hamilton persuaded a few northern men to vote for a southern capital. Congress, therefore, voted to locate the national capital on the Potomac and to assume state debts to the amount of \$21,000,000. Madison was one of the steady and persistent opponents of assumption.

The action of Maryland, Virginia and North Carolina with reference to assumption is suggestive. In Maryland, a resolution that it was dangerous to the state governments was defeated only by the vote of the Speaker of the House. The Assembly of Virginia denounced it as repugnant to the constitution of the United States, giving to it the exercise of a power not granted to the general government, "and intended to concentrate and perpetuate a large moneyed interest, which would produce a prostration of agriculture at the feet of commerce,

or a change in the present form of the Federal government, fatal to the existence of American liberty." North Carolina also denounced it violently.

The passage of this bill made more taxes necessary. The taxes imposed by Congress had provided for the existing needs and obligations of the government. Where was the money to come from? In answer to this question, Hamilton sent in a new report, recommending an excise on distilled spirits. Here again, Hamilton had political as well as financial objects in view. He not only wished to raise necessary taxes, but to do it in such a way as to strengthen the general government and vindicate for it the powers conferred upon it by the constitution. He wished to break down the idea of state sovereignty. He knew that the tax would meet with strong opposition. Many of the states did indeed impose excises on various articles, and no one made any objection to it. But in the minds of the people of that time, there was an enormous difference between an excise laid by the state and one laid by the United States. An excise laid by the state was like any other tax. It was imposed by the people upon themselves. But an excise imposed by the general government was a tax imposed by a foreign government. The general government was not their government, and although the constitution gave it the right to impose excises, it was none the less an invasion of the sovereignty of the states. Jefferson voiced the sentiment of a large part of the American people

when he said: "The excise law is an infernal one. The first error was to admit it by the constitution, the second, to act on that admission." But Hamilton was in the zenith of his power and influence, and in spite of all opposition the measure became a law.

The day after Hamilton submitted his report recommending an excise, he sent another recommending the incorporation of a national bank. It is not necessary for us to go into details as to the proposed measure. Suffice it to say that as in all the preceding cases he had political as well as financial Hamilton recommends a national bank. objects in view. He wished to have an institution from which the government could borrow money in times of emergency, which would facilitate exchanges between different parts of the country, and which would increase the amount of money in circulation. These were some of his financial objects. But he also wished to array upon the side of the government all the wealthy men whose pecuniary interest in the bank would give them a pecuniary interest in supporting the government. Most of all, he wished to vindicate for the government what he conceived to be the implied powers of the constitution. Henry Clay once said that precedents are the habits of nations. Hamilton was well aware of this. He wished the young nation to form the habit of employing any means to reach an end which the constitution authorized it to reach, whether those means were specifically authorized or not, provided they were not

prohibited. Though the bill was strongly opposed, first in the House of Representatives by Madison, and afterwards in the cabinet by Jefferson and Randolph, it became a law.

We remember that in the Federal Convention Hamilton made an elaborate argument for a constitution providing for an aristocratic republic and a central government, to which the governments of the states were to be completely subordinated. It is interesting to note the relations between these ideas and his financial policy. The payment of the domestic debts to those who held certificates of debt, the assumption of state debts, the incorporation of the national bank, did not make the government an aristocratic republic. But they did give to many of the wealthy and intelligent men of the country a direct pecuniary interest in the support of the government. The law imposing an excise on whisky did not subordinate the state governments to the general government. But it gave to thoughtful men a striking object lesson of the power of the new government. It made them realize that the new government had power to collect taxes as well as levy them, and that the claim of state sovereignty was but the boast of a child who had not measured himself with the world. The implied powers vindicated for the government by Hamilton in the incorporation of the national bank did not subordinate the governments of the states to that of the United States.

Hamilton's
speech in the
Convention
and his finan-
cial policy.

But the incorporation of the national bank did show that the powers of the general government were capable of indefinite expansion. When we realize how enormously the powers of the general government have in fact been increased, through the doctrine of implied powers,* we have no reason to be surprised that the opponents of Hamilton regarded the doctrine as tending to put the powers of the states at the mercy of the general government.

QUESTIONS.

1. What was the leading trait in Hamilton's character?
2. What were the objects of his financial policy?
3. What, according to Professor Sumner, was the great work that went to the making of the nation at the end of the last century?
4. What were the various measures of Hamilton's financial policy?
5. Why, in your opinion, did Madison favor discrimination?
6. What political object had Hamilton in recommending assumption, and why was it so violently opposed?
7. By what means was the measure finally carried?
8. It is often said that Madison's opposition to Hamilton was due to Jefferson's influence; does this chapter throw any light on that, and if so, what?
9. What was Hamilton's object in recommending a national bank? An excise?
10. State the relation between Hamilton's financial policy and his speech in the Convention?

*See Woodrow Wilson's Congressional Government, pp. 21-22.

CHAPTER VIII.

THOMAS JEFFERSON.

ALTHOUGH Washington's cabinet consisted of but four men, no other cabinet in American history has contained so large a number of men of the first order of ability; for Hamilton was not the only remarkable man in it. The Secretary of State, Thomas Jefferson, was also a political genius, and, like Hamilton, he impressed his individuality so powerfully upon the institutions of the country that his personality is a question of the first importance to the student of our history.

It would be difficult to find two men more perfectly devoted to what they conceived the welfare of the country, and at the same time more unlike than Hamilton and Jefferson. The leading trait of Hamilton, we have seen, was his love of justice, stability and order; the leading trait of Jefferson was his love of liberty and his belief in its practicability to a greater extent and on a larger scale than the world had ever seen. The one thought the supreme need of society was a government strong enough to do justice and preserve order; the other regarded liberty, and a government too weak to interfere with it, as the supreme political good. The one regarded anarchy as the greatest enemy of society; the other saw in tyranny its greatest foe.

Contrast between Hamilton and Jefferson.

Hamilton was also devoted to liberty. But he thought it impossible unless it was under the protection of a strong government. Jefferson was also a friend to stability, but he believed that the intelligent self-interest of men was a sufficient guarantee of it. The one thought it better to risk the tyranny of a strong central government than to put order and stability in jeopardy. The other would risk the anarchical tendencies of a weak central government rather than endanger liberty.

Almost every act of Jefferson's public life may be traced, more or less directly, to his love of liberty. His bills in the Virginia House of Burgesses to abolish the laws of entail and primogeniture, and to provide for the gradual emancipation of slaves; his efforts in Congress to have slavery prohibited in all the territories of the United States, anticipating by seventy years the platform upon which the present Republican party first stood, had their origin in this characteristic. As soon, therefore, as Jefferson understood the trend of Hamilton's financial policy, when he saw how it tended to strengthen the central government, it was impossible for him not to oppose it.

Influence of Jefferson's love of liberty upon his political career.

He did indeed, as we have seen, lend his influence to the passage of one of its measures, but that was because he did not understand its tendencies. When he arrived in March, 1790, at the seat of government, and entered upon the duties of his office, the laws providing for the payment of the

Why he gave his influence for assumption.

foreign and domestic debts had already passed, and Congress was angrily debating the bill for assumption. He heard on all sides threats of dissolution, and rightly came to the conclusion that the Union was in danger. So while he was of the opinion, as he said, "that Congress should always prefer letting the states raise money in their own way," when it could be done, yet in that instance he saw "the necessity of yielding to the cries of the creditors in certain parts of the country for the sake of union," and "to save us from the greatest of all calamities, the total extinction of our credit in Europe." Accordingly, he consented to use his influence for assumption in consideration of the location of the capital on the Potomac.

But when he came to see the trend of Hamilton's financial policy, he regretted his act as he never did any other in his political career. By the time the whole country began to see the outlines of Hamilton's policy, it provoked the antagonism of a well organized political party, and Jefferson was its leader. But before stating its creed, it is desirable to summarize the arguments presented by Hamilton and Jefferson, the one for, the other against, the constitutionality of the bill providing for a national bank.

When the bill was before the House of Representatives, Madison made a strong speech in opposition to it on the ground that it was unconstitutional. Impressed by these arguments, when the bill was submitted to him, Washington

His opinion of the constitutionality of the bill to incorporate a bank.

called on Jefferson and Hamilton for their written opinions. Jefferson's opinion began as follows: "I consider the foundation of the constitution as laid on this ground, that all powers not delegated to the United States by the constitution, nor prohibited by it to the states, are reserved to the states or to the people. To take a single step beyond the boundaries thus specially drawn around the powers of Congress, is to take possession of a boundless field of power, no longer susceptible of any definition."

He then attempted to show that the power to incorporate a bank was not one of the powers conferred upon Congress by the constitution, because (1) it was not one of the specially enumerated powers. The constitution gives Congress the power to impose taxes, borrow money, regulate commerce, declare war, etc., but does not say that it can incorporate a bank. Hence, (2) if the power was conferred at all, it must be capable of being deduced by a fair method of interpretation from one or the other of the two general clauses in the section enumerating the powers of Congress. But it cannot be inferred from the first, which authorizes Congress "to levy taxes to provide for the general welfare of the United States," because "the levying of taxes is the *power*, and the general welfare the *purpose* for which the power is to be exercised. They are not to levy taxes *ad libitum for any purpose they please*; but only to *pay the debts or provide for the welfare of the Union*. In like manner, they are not to do

anything they please to provide for the general welfare, but only to *levy taxes* for that purpose." Nor can it be inferred from the second general clause, which provides that Congress shall have power to "make all laws which shall be necessary and proper" for carrying into effect the enumerated powers, because they can all be carried into execution without a bank. But if they can, a bank is not necessary, and consequently not authorized by this clause. In brief, Jefferson interpreted this clause as if it had been written as follows: And Congress shall have power to pass all laws which shall be *absolutely* and *indispensably* necessary for carrying into effect the foregoing powers.

Hamilton's argument was based on the principle that power to do a thing implies power to use appropriate means. To say that Congress had power to achieve certain ends and yet was prohibited from using the fittest means unless they were absolutely necessary, or had been specifically granted, he regarded as an absurdity. From his point of view, to prove the constitutionality of the bill providing for a bank, no more was necessary than to show that a bank would be useful in borrowing money or collecting taxes. If it was a convenient means of executing any of the powers conferred upon Congress, and had not been prohibited by the constitution, it was constitutional.

Hamilton's
opinion.

It should be carefully noted that Hamilton's opinion was not based on the "necessary and proper" clause. If the constitution had contained no such clause, the constitutionality of the bill, he contended, would have been just as clear and undoubted. The principle that governments, like all other human agents, can only do things by employing appropriate means was too self evident to make it necessary for the constitution to say so, and that was the entire meaning of the "necessary and proper" clause. But since the clause is there, it can only receive its true interpretation in the light of this self evident principle. Hamilton's reasoning convinced Washington and the bill became a law.

The opinions of Hamilton and Jefferson were in perfect harmony with their political characters. Jefferson wished to have a weak central government and if the constitution had been interpreted in harmony with his "opinion" he would have had it. Hamilton wished to have a strong central government, and to the practical acceptance of his "opinion," it is due that the government of the United States exercises such large powers. If one wishes to realize the great part that has been played in American history by Hamilton's doctrine of implied powers, he has only to bear in mind that our acquisitions of foreign territory, our laws for internal improvement and our tariff legislation receive their only defense from that doctrine. Hamilton contended that it was necessary to

Influence of
doctrine of im-
plied powers.

the very existence of the national government that Jefferson's interpretation should be exploded. How far he was right, we shall see more clearly hereafter. But one thing is already clear: If Jefferson's "opinion" had been made the rule of Congressional action, the American government with which we are acquainted would never have existed.

QUESTIONS.

1. Draw a contrast between Hamilton and Jefferson.
2. Trace the influence of Jefferson's love of liberty upon his political career.
3. Do you see any relation between Jefferson's love of liberty and the embargo legislation of his second presidential term?
4. Why did he use his influence for assumption?
5. State in detail his opinion as to the constitutionality of the national bank.
6. What are the two general clauses of the constitution?
7. State Hamilton's opinion as to the constitutionality of the national bank.
8. What do you understand to be the doctrine of the implied powers of the constitution?
9. State in as much detail as you can the influence it has exerted upon the course of American history.

CHAPTER IX.

JEFFERSONIAN REPUBLICANS.

PRECEDING chapters have enabled us to see that with the passage of the law providing for the incorporation of the bank, the Federalists had answered three great questions: (1) Should the country have a real government? (2) Should Hamilton's financial policy be adopted? (3) Should the constitution be so interpreted as to enlarge the powers of the general government.

We are now in a position to see that there was no necessary inconsistency in being a Federalist, when the Federalists were working for the adoption of the constitution, and in not being a Federalist when they were trying to effect the adoption of Hamilton's

Was Madison inconsistent?

financial policy, and advocating his doctrine of implied powers. One of Madison's biographers thinks that Madison was guilty of great inconsistency because he was a Federalist in 1789, and a Republican in 1791. "There had been no change of political principles," says Mr. Gay, "neither in the party he had left or the party he had joined; but each was striving with all its might to adapt the old doctrine to the altered condition of affairs under the new union. The change was wholly in Mr. Madison. That which

had been white to him was now black ; that which had been black was as the driven snow." *

This is an unjust and inaccurate statement of the case. The party he left was advocating the adoption of the constitution when he was a member of it. When he began to oppose it, it was advocating such an interpretation of the constitution as would enlarge the powers of the general government to an extent dangerous, in his opinion, to the liberties of the country. A man could surely believe in the adoption of the constitution, and at the same time believe that Hamilton's interpretation of it was incorrect.

Nor is it more true to say that there was no change in the party that Madison joined. The party that Madison "joined" had no existence until it was organized by himself and Jefferson. It was the single aim of the Antifederalists to prevent the adoption of the constitution. But not a line in the private correspondence of the leaders of the Republican party, to say nothing of their speeches, is in evidence to show that they had any aim but to preserve the general government in "all its constitutional vigor" and to "support the state governments in all their rights." †

The Federalists called their opponents Antifederalists, and Federalist historians have done the same thing. But we know nothing of Madison that justifies us in believing that he would not have exerted himself as vigorously to

*Life of Madison, American Statesman Series, page 191.

† Jefferson's first inaugural address.

preserve the constitution in 1792 as he did to have it adopted in 1787. There was indeed a change in him, but it was a change growing out of, and dependent upon, circumstances. In 1787, he had a vivid sense of the dangers of anarchy. It was natural, therefore, that he should concentrate his thoughts on means of preventing it. In 1792, he had a vivid sense of the dangers of an undue centralization of power. It was equally natural that he should concentrate his thoughts on means of preventing it. As his fear of anarchy grew out of his experience of the Confederation, so likewise his fear of undue centralization grew out of his knowledge of Hamilton and his opinion of the tendency of his financial system.

It is indeed true that those who had been Antifederalists generally became members of the new Republican party. Those who had been Antifederalists for pecuniary reasons, because they wished to have paper money, or to avoid the payment of debts, instinctively opposed Hamilton's financial policy. The vital nerve of that policy was the principle that the nation must fulfil its contracts in order that justice might be done and its credit preserved. But this class of Antifederalists consisted of men whose sympathy with the debtor classes made them disregard the importance of the public credit.

Some Antifederalists became Republicans.

Those Antifederalists, also, who opposed the constitution because they believed it would prove dangerous to the liberties of the country, naturally joined the

Republican party. A man whose devotion to liberty made him prefer the powerless Confederation to the new constitution would naturally prefer the constitution as Jefferson understood it, to the constitution as Hamilton understood it. ♣

But while many Federalists became Republicans, many Antifederalists became Federalists. The Federalists, in 1789, as we have seen, consisted of two elements; a national element, who felt that they were Americans, first of all and who wished their country to have such a government as would enable her to take her place among the nations of the world; and a commercial element, who wished to have a government strong enough to make and execute laws which would enable them to do business profitably. Hamilton's financial policy made a strong appeal to this element. The men with money enough to speculate in government certificates, to buy state securities and bank stock, had the the greatest pecuniary interest in Hamilton's policy, and they constituted the commercial class. This explains why it was that many who were Antifederalists before the adoption of the constitution afterwards became Federalists. They belonged to what we may call the commercial wing of the Federalists. They cared little or nothing about the nation as such. But when they found that a strong central government could pass laws which would enable them to make money, they were in favor of it. Massachusetts, Rhode Island, New

But others became Federalists.

Hampshire and New York were strongholds of Antifederalism. But when they found what a good thing the government was from a business point of view they became Federalists.

We are now in a position to understand an important fact in American history. From the very organization of the Republican party, the two great political parties were chiefly sectional.

Were the Antifederalists a sectional party?

The Antifederalists were not a sectional party. Of the six states in which it was strongest, four, Massachusetts, Rhode Island, New Hampshire and New York were in the north, and two, Virginia and North Carolina, were in the south. But the Republican party was a southern party, and the Federalist party, after the adoption of the constitution, was a northern party. Topsy's remark, "sich good times and me not in 'em," suggests the explanation. Hamilton's financial policy made good times for the commercial Federalists who were chiefly in the North, but the planters of the South had no such direct and immediate pecuniary interest in it, and, therefore, they opposed it.

with
the
Federalists

This throws light on another important fact. The Republican minorities in the northern states and the Republican majorities in the southern states were composed of widely different classes. The lawyers, the clergy, almost all of the wealth and culture and intellect of the North were in the Federalist party. But in the South precisely the reverse was

Union of northern Democrats and southern aristocrats.

true. The small Democratic farmers of the North and the aristocratic planters of the South combined against the Federalists under the leadership of Hamilton. Now, this union of northern Democrats and southern aristocrats was not the result of common ideas as to the proper object and scope and methods of government. The one tie that united them was pecuniary interest. Both classes were in debt, neither class derived more than an indirect benefit from Hamilton's financial policy, while each felt the pressure of a system that insisted with such emphasis on the payment of debts. "A common reluctance to pay, a common dread of taxation, a common envy of the more fortunate moneyed class, whose position had been so palpably improved by the funding of the public debt—though little more so, in reality, than the position of everybody else—made both farmers and planters" join in clamors against Hamilton's system.*

While such considerations enable us to understand the general grouping of political parties at the close of Washington's first administration, there is one fact that they do not entirely account for, and that is the passion with which the party warfare was waged. Each party looked upon the other as deadly enemies to the best interests of humanity; each felt that upon the success of its principles depended the welfare of the race. The Republicans, in the opinion of the Federalists, were only Antifederalists with a more

Federalist opinion of the Republicans.

*Hildreth, IV., p. 350.

respectable name. Unable to prevent the adoption of the constitution, they were trying to destroy it by opposing the measures without which it could not endure, or, if that was impossible, to construe it in such a way as to deprive it of all value. They hated the constitution, the Federalists believed, because they hated government. Government made them pay their debts, compelled them to pay taxes to carry out its contracts, restrained them from the license of anarchy. In contending against the Republicans, the Federalists felt that they were fighting with anarchists for justice and law and order, and the very existence of organized society.

But if the Federalists regarded the Republicans as anarchists, the Republicans in turn regarded their opponents as monarchists. We re-
Republican opinion of the Federalists.
member what Senator Maclay thought of the efforts of John Adams to give the President what he regarded as proper titles; he regarded them as attempts to revive royalty and nobility and the vile pageantry by which a few of the human race had lorded it over and trodden upon the necks of their fellow mortals. If we substitute for Maclay a large part of the American people, and for John Adams the Federalists, we can easily see how the Republican party came to exist, and why it hated its opponents with such intensity. They were on the hunt for monarchists and they found them everywhere. In Washington's levees and in the speeches which he addressed to Congress, they saw forms and ceremonies which were in-

tended to familiarize the people with the idea of monarchy. In Hamilton's funding system they perceived an intention to perpetuate the public debt that means might always be at hand for corrupting members of Congress, and transforming the government into a monarchy with "kings, lords and commons." When it was proposed (in 1792) to put on one side of the gold and silver coins a representation of the head of the President of the United States, they thought it would be received as a stamp of royalty. In the doctrine of implied powers, they read a determination to encroach upon, or explain away the limited powers of the constitution in order to make it a stepping stone to monarchy. When the Federalist Sedgwick (in 1794) urged an increase in our military force at a time when there was imminent danger of war with England, Madison was sure that Hamilton was his prompter, and that one of his objects was that of "turning every contingency into a resource for accumulating force in the government." When after three years of patient endurance of the lawless resistance to the collection of the excise in western Pennsylvania, the government at last in 1794 sent fifteen thousand men to crush the Whisky Rebellion, Jefferson said "that it answered the favorite purpose of strengthening government, and increasing the public debt." When Wayne gained his decisive victory over the Indians in 1794, after St. Clair's terrible defeat, the Republicans would not unite in congratulations upon it because they believed that the war was un-

necessary, that it had been waged to increase the national debt and strengthen the government. When the administration in 1793 refused to permit Genet to rush the country headlong into war with England, Republicans were sure that it was because they sympathized with monarchical England, in her war with Republican France. When John Adams, on occasion of the yellow fever in Philadelphia, suggested that Congress authorize the President to postpone the meeting of Congress, should circumstances make it desirable, Madison looked upon it as an attempt to get the prerogative for proroguing the legislature. When the Federalists in 1798 voted a provisional army in consequence of the publication of the X. Y. Z. dispatches, Madison said that it was a universal truth that the loss of liberty at home was to be charged to provisions against danger, real or pretended, from abroad. Firm in the belief that the underlying aim of the Federalists was to accumulate as much power as possible in the general government, the first question which the Republicans asked themselves when their opponents proposed any measure was not—Is it wise? Is it expedient? But, can it be used as a precedent for extending the powers of the government? In 1792, Fisher Ames, a Massachusetts Federalist, then a member of the House of Representatives, said: "We have near twenty anti-dragons watching the tree of liberty and who consider every strong measure and almost every ordinary one as an attempt to rob it of its fair fruit. We hear inces-

santly from the old foes of the constitution—“This is unconstitutional, and that is, and indeed what is not? I scarce know a point which has not produced this cry, not excepting a motion for adjourning.” Believing that the Federalists were bent on introducing monarchy, the Republicans opposed these measures, step by step, and point by point with the passionate energy of men who felt that they were making the last stand for the liberties of the human race. The Federalists, realizing that such opposition, if successful, could have but one outcome, the utter overthrow of all effective government, naturally supposed that to be its aim. And so the fight went on; each side supposing themselves to be the champions of the constitution, and that their antagonists meant to overthrow it. The longer it continued, the bitterer it became until men in the two parties who had been old personal friends ceased to speak to each other. If the two sides could only have got together, one cannot help thinking, if each could have made the other understand his position, the cause of good government would have been a great gainer.

QUESTIONS.

1. What three great questions had the Federalists answered by the close of Washington's first administration?
2. Contrast the object of the Federalist in 1789 with their object in 1791.
3. What classes of Antifederalists became Republicans and what Federalists?
4. Explain the sectional character of the Federalist and Republican parties.

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5. What, in the opinion of the Federalists, was the object of the Republicans?
6. What, in the opinion of the Republicans, was the object of the Federalists?
7. To what extent was either of them right?

CHAPTER X.

THE FRENCH REVOLUTION.

WHILE the struggle between the Federalists and Republicans was going on in this country, the champions of power and the champions of freedom were engaged in a life-and-death struggle in France. For years the finances of the French government had been in a wretched condition.

The convoca-
tion of the
States-General.

The long and unnecessary wars of the monarchy, the extravagance of the court and nobility had imposed upon the common people a burden that they were unable to bear. They had to pay the greater part of the taxes, but when they had been taxed to their utmost capacity, the government found itself without the means of indulging in its customary extravagance. What was to be done? Finance minister after finance minister had been able to point to but one way out of the difficulty—increased taxation of the privileged classes, the nobles and priests. But these classes obstinately and stupidly refused to help the State out of the difficulty, created to a great extent by their own extravagance. In consequence of the emergency, it was finally decided to call a meeting of the States-General—representatives of the three great orders in France—nobles, priests and commons.

The news that there was to be a meeting of the States-General sounded in the ears of the common people like the voice of hope to the dying. Under the reign of Louis XV they had seen justice bought and sold as though it were an ordinary article of commerce. They had seen the money coined Oppression of the peasantry. out of their very life blood, squandered in presents to the profligate and abandoned, and paid in absurdly high salaries to civil and military officials, who made no pretense of performing the duties of their offices. It is said that Louis XV probably spent more money on his pleasures than was spent during his reign in any department of state. They saw, says Alison, "the most important operations of agriculture" fettered or prevented by the game laws and the restrictions intended for their support. Game of the most destructive kind, such as wild boars and herds of deer were permitted to go at large through spacious districts without any enclosures to protect the crops. Numerous edicts existed which prohibited hoeing and weeding lest the young partridges should be disturbed; mowing hay lest the eggs should be destroyed; taking away the stubble lest the birds should be deprived of shelter. They had to "grind their corn at the landlord's mill, press their grapes at his press, bake their bread in his oven," and then pay what he asked for the privilege. In some provinces they had not even the right to use hand mills without paying for it, and the nobles had the power to sell to the

wretched peasants the right of bruising buckwheat and barley between two stones.

This robbery under the guise of law was made all the harder to bear through the insupportable insolence and arrogance of the robbers. "It was quite usual," we are told, "for the young noblesse of that day to run down the canaille of the streets, and to insult the wives of the burgeoise to their husbands' faces." About the middle of the eighteenth century, a grand seigneur thought it a great grievance that Louis XV should have rebuked him for indulging in the amusement of shooting peasants.

But the twenty-five millions of the French commons "who counted as nothing in France," and who looked forward with such hopefulness to the meeting of the States-General, were themselves divided by a chasm almost as wide as that which separated the nobles from them. An aristocracy of riches and culture had gradually grown up, composed of professional and business men, and although it was the most intelligent and enlightened part of the State, it was thoroughly imbued with the aristocratic spirit of the nobles, and regarded the toiling multitudes below it with the utmost contempt.

Roughly speaking, then, we may say that the French people prior to the Revolution was composed of three elements; the first composed of tillers of the soil whose food in some districts was chiefly grass and the barks of trees, and who hated with inexpressible intensity the

Classes of which the French people were composed prior to the revolution.

rapacious, grasping, grinding, tyrannical nobles who doomed them to such a life—and the artisans and workmen of the cities, supplied with the bare necessities of life and loathing the aristocratic commoners who employed them as the cause of all their wretchedness; the second, of aristocratic commoners consisting of professional and business men, despising the people below them, and hating the arrogant and insolent nobles, who assumed to be above them; and the third of nobles, clerical and lay, the great majority of whom were infamous, or would have been at any other time, for their dissoluteness and profligacy and extravagance.

In May, 1789, the States-General met at Versailles. When they met the last time, more than one hundred and seventy years before, the three bodies of which it was composed—nobles, priests and commoners—had voted separately so that any two had a veto on the proceedings of the other. But France had been taught by Rousseau that all men are equal; and the commoners, who outnumbered the other two bodies, refused to transact any business unless the nobles and priests would meet with them and vote as one body. When these obstinately and persistently refused, the commoners declared themselves the National Assembly of France, and as such proceeded to make a constitution.

When the nobles and priests saw that they could not prevent the action of the commoners, they joined that

Struggles between the commons and the other two orders.

body after it had assumed to be the representatives of the people. Before the assembly began to make a constitution, they made a declaration of the rights of man. They declared among other things that all men are born free and equal; that sovereignty resides in the nation; that the natural rights of man can be limited only in such a way as to secure the same rights to others; that all men are entitled to religious freedom, and the freedom of speech and the press; that no one can be deprived of property save when necessity demands it, and then only in a legal way, and upon condition that he receives just compensation previously determined.

It followed up this declaration with the abolition of such institutions as were inconsistent with it. Nobility, peerage, hereditary distinctions of orders—every institution which was out of harmony with the doctrine of the liberty and equality of the rights of man, was swept away. It framed a constitution providing for a single chamber with supreme legislative authority, and a limited monarch with only a suspensive veto.

If the Revolution could have stopped here, if the French monarch could have summoned the magnanimity to take the position of a constitutional king, if the French nobles, disregarding the habits and traditions of centuries, could have acquiesced in the abolition of institutions which

Declarations of rights of man.

Abolition of nobility, etc.

Conditions essential to success of this Revolution.



had permitted them to fatten on the blood of the people; if the monarchs and nobles of neighboring States could have seen the destructive work of the French National Assembly without any fear for their own institutions; if the French common people with the bitter hatred engendered by centuries of cruel oppression in their hearts, and with their utter ignorance of government, could have been reasonable in their demands and expectations, the terrible convulsion which carried fire and sword all over Europe, and which threatened our own government with destruction, would never have taken place.

But the co-operation of these various causes brought about a new revolution. The Revolution of 1789 was the work of the intelligent middle classes—who were chiefly represented in the commons Revolution of 1791-3. of the States-General and who were the soundest part of the French State; and the constitution, framed by the National Assembly, put the power of the State chiefly in their hands. The Revolution of 1791-3 was the work of the ignorant multitude, and if one wishes to see what sort of a government a really popular government may sometimes be, he will do well to study with great care this later French Revolution.

Of the various agencies upon whose conduct the permanency and success of the first revolution depended, the French king, the French nobles, the kings and nobles of foreign countries, the Character of Louis XVI. French common people, it was more nearly

possible for Louis XVI of France to act the part required by the situation than for any of the others. If his power to see what the best interests of France required, and his ability to act upon his perceptions had been equal to his desire to serve his people, little would have been wanting which he could have done to insure the permanence of the Revolution of 1789. But feeble in intellect and weak in will he could not act the part assigned to him by destiny as the condition of preventing the most terrible Revolution known to history. He could not free himself from the traditions of his Bourbon ancestors, and he could not follow out any consistent line of policy. The result was that a crisis which imperatively demanded boldness and firmness and energy, found only vacillation and hesitation and weakness.

But it was the conduct of the French nobles, and the nobles and monarchs of foreign countries, notably those of Prussia and Austria, that contributed most powerfully to the overthrow of the Revolution of 1789. The monarchies and aristocracies of Europe were naturally alarmed at its principles. If its principles were true and right, they themselves were an anachronism with no right to be. And in every court in Europe there were plenty of French nobles to stimulate their fears and urge the necessity of restoring Louis XVI to the position as absolute monarch from which he had been deposed by the constitution of 1789. The sovereigns of Austria and Prussia met in August,

Alliance of Austria and Prussia against France.

1791, at Pilnitz, and agreed upon a plan for a coalition against France, solemnly protesting that on the fate of Louis XVI depended the fate of the monarchies of Europe. At the same time, an army of French nobles, who had been emigrating from France in a steady stream since the summer of 1789, collected on the banks of the Rhine.

It was impossible for Louis, who had in vain attempted to escape from the country of which he was the nominal ruler, not to sympathize with the purpose of Austria and Prussia. It was im-

Manifesto of the Duke of Brunswick.

possible for him to make no effort directly or indirectly to assist in achieving that purpose. It was also impossible for the French people, passionately and fiercely jealous of their newly found liberties, not to suspect his intriguing with them even more than he did. Accordingly, when the armies of Prussia and Austria drove the demoralized and undisciplined troops of France out of Belgium and invaded France; when their commander, the Duke of Brunswick, issued a manifesto commanding Paris instantly to submit to its King, if it would avoid being "razed to the earth," declaring that the Legislative Assembly, the National Guards, and the municipal authorities would be held answerable for whatever occurred, the people of Paris became delirious with passion. Their enemy, the enemy of the rights of man, was on the soil of France, and within the city their treacherous king still sat in the palace of the Tuilleries. In the war which they felt to be the war

of kings against France, they believed that their king was on the side of kings against his own country. The king was deposed; the prisons of the city were filled with multitudes suspected of being unfriendly to liberty; and the will of the Parisian mob became more and more the only law for the government of France. As the Austrian and Prussian armies approached nearer and nearer, the passions of the mob became more and more uncontrollable. On the 10th of September they tore open the prisons of the city and began a work of butchery, nor did they stop till they had murdered eleven hundred men.

September
massacre.

The National Convention which was summoned when the king was deposed, proclaimed France a republic, and declared its hostility to any people which should permit itself to be ruled by a king, or should maintain an order of nobility. It also offered assistance to any people that would arise against its despots. It brought Louis XVI before it, condemned him to death, and in less than a month and a half from the beginning of his trial, "the descendant of a hundred kings" was guillotined near the broken statue of one of his own ancestors.

France pro-
claimed a re-
public.

By this act, the Convention threw down the gauntlet at the feet of every monarch of Europe, and before the end of the year, the "war of armed opinions" began—on the one side, England and Spain, and Portugal and Austria, and

Prussia and Russia, representing authority—
on the other, France, representing the prin- ^{War with all}
ciples of the Revolution, “a new religion” ^{Europe.}
for which hundreds of thousands of Frenchmen were
willing to die. At this juncture, Genet, the minister of
the “terrible republic” to the United States landed at
Charleston, and the question had then to be decided
whether France, in the war of the people against kings,
was to be joined by her old ally, or whether she was to
stand the onset of all Europe unaided.

When the king was deposed, and the republic de-
clared in consequence of the invasion of France and the
manifesto of the Duke of Brunswick, the revolutionists
realized that one of the foes with which the new order of
things was likely to have to contend, was
the wealthy inhabitants of Paris. Robes- ^{Wealthy citizens}
pierre accordingly appeared before the As- ^{of Paris: Robes-}
ssembly on August 17 and demanded the passage of two ^{pierre's proposi-}
laws: one authorizing the municipality to arrest whom- ^{tion in 1792.}
soever they pleased as a suspect; the other, establishing
a revolutionary tribunal in Paris, for the special purpose
of trying those whom the municipality should arrest.
This idea, that the wealthier classes in France could be
kept from open resistance to the Revolution only by es-
tablishing a system of terror, had begun to bear fruit
when Genet arrived in the United States in the spring of
1793.

It had indeed borne fruit in the September massacre of which I have already spoken. A word from the revolutionary leaders would probably have stopped that butchery. But they believed that it was better that eleven hundred men should be murdered in prison—especially when they were guilty of the crime of opposition to the Revolution—than that France should be convulsed in a civil war, at the same time that she was encompassed on all sides with foreign enemies.

But it was not till the fifth of September 1793, that, in the terrible language of Barère, "terror was decreed to be the order of the day." The revolutionary tribunal which Robespierre had demanded in August, 1792,

had indeed been some months in existence, and many persons, guilty of no crime but of opposition to the Revolution, and of military failure, had been doomed by it to the guillotine. But in September, the guillotine was set to work, not to punish offenses of any kind, political or military, but in order to frighten into acquiescence those who were opposed to the course of the Revolution. From the first of April, when this tribunal was organized, until "terror became the order of the day," in the following September, sixty-six persons were guillotined. But when the system of terror was established, the activity of the guillotine was quickened. On September 22, the revolutionary tribunal was divided into four sections so that it could try more prisoners, and on October 29, on motion of Robespierre,

Terror decreed
the order of the
day.

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the Presidents were authorized to stop any trial after it had continued three days and ask the jury if they had made up their minds. These two changes increased the activity of the guillotine wonderfully. In October, fifty, in November, fifty-eight, in December, sixty-nine, in January, seventy-one, in February, seventy-three, in March, one hundred and twenty-seven, in April, two hundred and fifty-seven, in May, three hundred and fifty-eight, in the first nine days of June, one hundred and twenty-two, were sacrificed as victims to the system of terror. On June 10, 1794, a decree was passed depriving prisoners on trial of counsel, and in other ways making it possible for the revolutionary tribunal to work more rapidly. Between June 10, and July 27, when Robespierre was overthrown, only seven weeks, thirteen hundred and seventy-six persons were sent to the guillotine!

The machinery which furnished this terrible tribunal with material was simple. Paris was divided into sections in each of which was a revolutionary committee, "purified," to use the significant phrase of the period, from time to time of all but the most radical revolutionists. These committees employed three means of "maintaining the terror" in their sections; guarantee cards, denunciations and the law of the suspects. The guarantee cards were issued by the revolutionary committees and contained a full history of the person to whom they were issued, especially since 1789. Any one who heard a citizen

The terror in Paris.

make a remark unfriendly to the Revolution, or suspected him of being unfriendly to it, could go to the nearest revolutionary committee and denounce him. The denounced person was generally sent to prison, while the denouncer received a further protection in that the revolutionary committee wrote on his guarantee card that he was a good citizen, in this way offering him inducements to denounce as many persons as possible. Finally, the law of the suspects made any one of noble birth, or who had held office before 1789; any one who had been in any way connected, whether by relation or service, with the nobles who had emigrated from France in consequence of the Revolution; any one who could not show that he had made some sacrifice to the cause of the Revolution; in a word, any one who might be supposed for any reason to be discontented with the new order of things,—liable at any moment to be summoned before a revolutionary committee and sent to prison.

Arrests made by these committees were at once reported to a committee of the Convention called the Committee of General Security, which had charge of the police of the whole country.

It could order the arrest of any individual in France, and have him brought to Paris. It had control of the prisons of Paris and selected those who were to be tried by the revolutionary tribunal, and executed those whom it sentenced to death. This selection

Committee of
general se-
curity.

of victims was at first made with great care, and those only were chosen who had made themselves prominent by their opposition to the Revolution. But when the system of terror was established, the selection of victims became a matter of accident and caprice, the primary object being to appease the terrible hunger of the guillotine with a certain number of victims each day. Friends of prisoners often saved the lives of those in whom they were interested by bribing the clerks of the Committee of General Security to keep the names of their friends where they would not be likely to attract the attention of the public accuser. The unfortunate victims brought before the tribunal were generally sentenced to death, although in the early days of the terror they seem to have had a fair trial. But after the decree of June 10, their trials were mere mockeries. Upon a hint from the judge, the jury declared itself convinced and immediately brought in a verdict of guilty.

While Paris was in this way terrorized into acquiescence in the course of the Revolution the same means were employed to prevent opposition to it throughout the provinces of France. By a ^{Deputies on} ~~mission.~~ decree of April 30, 1793, deputies on mission from the Convention to the provinces—there were then eighty-two of them—were granted unlimited power to do whatever seemed to them calculated to promote the public good. At the end of June, their number was greatly increased, and when the system of terror had

become established in Paris, they were specifically authorized to imprison any one at will, and have them tried for their lives by the ordinary courts, or by revolutionary tribunals organized after the pattern of the terrible tribunal of Paris, according as seemed to them desirable. But, not only the lives, but the property of the people of the provinces over which they ruled with such an iron hand were absolutely at their disposal. They could confiscate it to the service of the State, and appeals from their decisions were always rejected. They were to secure acquiescence in the course of the Revolution; without bloodshed, if possible, but to secure it at any rate, cost what it might.

This pale abstraction had a terrible illustration at Lyons. The revolutionary commission of that city had not sent to the guillotine more than five victims daily between the 9th of November and the 4th of December. This did not make "terror the order of the day," to an extent satisfactory to the deputies on mission there. On December 4, sixty individuals were shot in a single batch, and the next day two hundred and eight more met the same fate. Guillotining and fusillading, as such shooting was called, continued throughout the first half of December, and on December 21, Lyons was reported "peaceful," and purified of those who were opposed to the Revolution! At Marseilles and Bordeaux and most of all at Nantes, similar tragedies were enacted. The province of La Vendee,

Terror in the
provinces.

in which Nantes is situated, received terrible punishment for daring to rebel against the Revolution. An army was ordered in January, 1794, to march up and down the district and arrest suspects, and burn all the villages on their route. For two or three months these "infernal columns," moved up and down the district leaving a trail of blood and ashes to mark their path. At Nantes the ingenuity of the deputy, in whose hands lay the lives and the property of the people of the city, was taxed to the utmost to devise means of ridding the world of those who had been guilty of the terrible crime of opposing the Revolution. The guillotine worked fast, but it was unable to make any appreciable difference in the number of those who crowded the prisons of the city. It was necessary to resort to new methods—those who had revolted against the Revolution, or who were suspected of having done so, were taken outside of the city and shot in batches. It is estimated that eighteen hundred perished in this way. The accidental drowning of ninety priests on November 16 who had been confined in an old hulk on the Loire, through the overcrowding of the prisons, suggested to Carrier, to whom belongs the infamous reputation of having been responsible for the despotism at Nantes, another way of striking terror into those who dared to oppose the course of the Revolution. In the next few weeks it is estimated that at least seventeen hundred and seventy-seven persons were drowned in the Loire. Most of them were drowned in

the hulks of old vessels, which were sunk after they were filled with these unfortunate wretches; but, as if for the sake of variety, Carrier had some of them bound hand and foot and thrown into the river.

These deputies on mission were the agents of the Committee of Public Safety. Great Committee of Public Safety, a committee of the Convention which was absolute master of France during the Reign of Terror. The revolutionary committees of Paris, the Committee of General Security, the deputies on mission were all but so many means which the Committee of Public Safety employed to compel France to do its will and acquiesce unhesitatingly in the course of the Revolution. This committee recalled Carrier because of his atrocities. But it did not disapprove of his objects, nor of his methods in a general way. It was not the character of his methods but their details to which they objected. It was not that he had killed hundreds but that he had killed thousands, and these in an unnecessarily brutal way. It was one great object of Robespierre when he became a member of the Great Committee to make it absolute master of France. The deputies on mission were nominally deputies of the Convention, but really as we have seen, agents of the Great Committee. The Committee of General Security was the agent through which they kept Paris in awe and was one of the means through which they maintained the Terror throughout France. During the period of the

Terror it is scarcely an exaggeration to say that the lives and property of every man in France lay absolutely at the mercy of the Great Committee, and the means by which it wielded this despotism was terror. France submitted to it because the great majority of Frenchmen realized that only a government which wielded the entire resources of the country could cope with the enemies which surrounded her on every side.* So much it has seemed necessary to say that the influence of the French Revolution in American politics may be more clearly understood.

QUESTIONS.

1. What did the States-General represent?
2. When were they convoked and for what purpose?
3. Give some details that illustrate the oppression of the peasantry.
4. State and describe the three classes into which the French people were divided in 1789.
5. Describe the struggle that took place in the States-General and state its results.
6. Contrast the action of the States-General with that of the Federal Convention.
7. Mention some characteristics of the constitution adopted in 1789.
8. In what did the French Revolution of 1789 consist?
9. Why is it called a revolution?
10. Explain the various causes that led to the Revolution of 1791.
11. Why is it called a revolution?
12. Why did Austria and Prussia enter into an alliance against France?

*This theory is ably advocated by H. Morse Stephens, to whose volumes on the French Revolution I am greatly indebted.

13. What was the manifesto of the Duke of Brunswick and to what result did it lead?

14. What body was summoned to rule France when the King was deposed?

15. How do you account for its conduct in offering to assist any people in Europe that wished to recover their liberties?

16. In what did it result, and why?

17. How did Robespierre purpose to make the wealthier classes in Paris acquiesce in the course of the Revolution?

18. Explain the phrase "Terror was decreed to be the order of the day."

19. What was the Revolutionary Tribunal and how was its activity increased in September 22, and October 29?

20. What caused the men to be thrown into prison who were brought before this tribunal?

21. Describe the relation between the Revolutionary Committees and the Committee of General Security, and the Committee of Public Safety.

22. Who were the deputies on mission?

23. What power did they have during the period of the terror and how did they use it?

24. Why did Frenchmen submit to the despotism of the Committee of Public Safety?

CHAPTER XI.

THE FRENCH REVOLUTION IN AMERICAN POLITICS.

YOU remember how keen was the sympathy of good Senator Maclay with France. France is struggling to be free. * * * God grant that she may be successful. And you remember the issue which seemed to him at stake in the struggle. "Royalty, nobility, and the vile pagantry by which a few of the human race lorded it over their fellow mortals seems likely to be demolished with their kindred Bastile."

Maclay on
the French
Revolution.

With such a conception of the issue, it is easy to see how men of different temperaments in this country would regard it. Men of Hamiltonian temper, in whom the love of stability and order was the predominant passion, who regarded anarchy Hamilton. as the most dangerous enemy of society and who wished to have a strong central government to prevent it, would be sure to see in the French Revolution an illustration of the natural tendency of democracies. Hamilton said to Edmund Randolph in the fall of 1793: "Sir, if all the people in America were now assembled and were to call on me to say whether I am a friend to the French Revolution, I would declare that I hold it in abhorrence." As Lodge puts it: "He

beheld in France the embodiment of the two forces hateful to him above all others, anarchy and tyranny. He believed the French Revolution to be little less than a crusade against religion, property, organized society and the ordered liberty which he prized more than life itself, while in the foe of France, he saw a kindred people, a strongly governed State, and the sternly temperate freedom in whose principles he had been nurtured.”*

But men of the temperament of Jefferson would be too sure to see it in an entirely different light. The man who said of the wretched government of the Confederation that to compare it with the governments on the continent of Europe, was like comparing heaven with hell, would be sure to concentrate his attention on one great fact, it was a struggle between institutions in which the tyranny and oppressions of centuries had entrenched themselves and the right of self government, the right which he believed to be essential to the progress of the human race. “God send,” he wrote in 1792, “that all the nations who join in attacking the liberties of France, may end in the attainment of their own.” And in speaking of the September massacre, he wrote: “In the struggle which was necessary many guilty persons fell without the form of a trial, and with them, some innocent. These I deplore as much as anybody, and shall deplore some of them to the day of my death. But I deplore them as I should have done

*Studies in American History, p. 182.

had they fallen in battle. It was necessary to use the arm of the people, a machine not so blind as balls and bombs, but blind to a certain degree. * * * The liberty of the whole earth was depending on the issue of the contest, and was ever such a prize won with so little innocent blood? My own affections have been deeply wounded by some of the martyrs to this cause, but rather than it should have failed, I would have seen half the earth desolated; were there but an Adam and Eve left in every country, and left free, it would be better than it is now."

And Gallatin writing to an intimate friend February 1, 1794, when the Reign of Terror was at its height, said: "France at present offers a spectacle unheard of at any other period. Enthusiasm there produces an energy equally terrible and sublime. All those virtues which depend upon social or family affections, all those amiable weaknesses, Gallatin. which our natural feelings teach us to love or respect, have disappeared before the stronger, the only, at present, powerful passion, the *amor patriæ*. I must confess my soul is not enough steeled, not sometimes to shrink at the dreadful executions which have restored at least apparent internal tranquility to that republic. Yet, upon the whole, as long as the combined despots press upon every frontier and employ every engine to destroy and distress the interior parts, I think they, and they alone, are answerable for every

act of severity or injustice, for every excess, nay, for every crime which either of the contending parties in France may have committed."

The pecuniary interests of the followers of Hamilton and Jefferson tended to strengthen the sympathies

Pecuniary interests of Republicans and Federalists. of the one party with England, of the other with France. We have seen that the financial policy of Hamilton was most profitable to the commercial class, and that therefore they were Federalists. But the same class had the strongest reason for wishing to preserve peace with England. War with England meant the destruction of their commerce. But the south, where as we have seen, the Republican party was strongest, hoped for positive pecuniary benefits from war with England. Many men in that section, as we know, had owed large sums of money to England since the outbreak of the Revolution, and they knew that war would postpone the payment of them, even if its chances did not enable them to escape the necessity of paying them altogether.

If we keep these two facts in mind, that the temperament of the followers of Jefferson inclined them to sympathize with France rather than England, and that their pecuniary interests tended in the same direction, while the temperament of the followers of Hamilton led them to sympathize with England and their pecuniary interests tended the same way, we shall be in a position to understand one of

Influence of foreign affairs on American politics.

the great currents of American history for the next eight years, if not indeed, for the next twenty-two. For the next eight years our foreign relations were the burning question in American politics, and for the following fourteen, they were one of the questions in reference to which party lines were drawn. Throughout this entire period, the attitude of the two political parties was chiefly determined by the causes we are considering. From 1793 till 1815, the Federalists on the whole sympathized with England because of their temperament and their pecuniary interests; from 1793 till 1800, the Republicans favored France for similar reasons. From the latter period till 1815, we cannot characterize the attitude of the Republicans towards France in the same definite and unqualified way. But we shall find reasons for believing that it was at least indirectly due to the causes that were in operation in 1793.

Of course, gratitude to the French because of their assistance to us in the Revolutionary war, and hatred to England were additional weights, inclining the people all over the country more or less strongly to France, according to their temperament.

These considerations will give us some idea of the crisis which the country entered when the French minister, Edmond Genet, landed at Charleston in April, 1793. Although only twenty-eight years old, he had already succeeded in revolutionizing Geneva and annexing it to the French

Character of
Genet.

republic. To accomplish a similar object in the case of the United States, to make it completely subservient to the interests of France, was the real object of his mission. Nor did he undertake it for the mere purpose of aggrandizing France. He was an incarnation of one phase of the French Revolution, and with all the fervor of his French nature he believed that the cause of France was the cause of the human race. He, himself, said that he loved his country passionately; that he adored the cause of liberty; that he was ready to sacrifice his life for it; and that it appeared inconceivable to him that all the enemies of tyranny, that all virtuous men did not march with France to the combat. To love liberty seemed to him to love France; to be devoted to France was to be devoted to liberty, to espouse the cause of France, was to espouse the cause of humanity.

The instructions which he received from his government when he was sent to this country as minister, throw a flood of light on his diplomatic career, a career which has been well characterized as the most remarkable in all the annals of diplomacy. If the conduct of the American government was "timid and wavering," he was charged "to take such steps as will appear to him the exigencies may require, to serve the cause of liberty and the freedom of the people," "in expectation that the American government will finally determine to make common cause with us."* The meaning of this sentence is clear. He

Genet's Instructions.

* Italics are mine.

was to take such steps as the circumstances rendered necessary *in order* that the American government might determine to make common cause with France. But what did he propose to do to induce a "timid and wavering" government to make common cause with her? If we study this question in the light of his career in this country, the answer becomes clear; if he found the government timid, he intended to enlist the American people so strongly on the side of France as to compel it to take sides with her, or be overthrown.

Another paragraph in his instructions is also suggestive. He was instructed that it was the wish of France that a new treaty might be made with the United States, upon a basis more "*liberal* and more *fraternal* than that of 1778." But as the timidity of certain members of the Federal government might make that difficult, he was instructed to "draw every advantage which the provisions of the subsisting treaty secure to the republic, until a new treaty compact has more clearly and fully defined and enlarged them." He was therefore "expressly enjoined to make himself thoroughly master of the sense of the treaty of 1778, and to be watchful in the execution of the articles which are favorable to the commerce and navigation of the French republic."

This, then, was his task: *Eventually* to negotiate a treaty with this country more liberal than that of 1778, a treaty which would commit the United States to making common cause with France; *immediately* to draw every advantage Genet's task.

which the provisions of the treaty of 1778 could be made to secure to the French republic, and he intended to compel the government, if he found it unwilling, first, to submit to his interpretation of the treaty, and later to make such a treaty as France desired, by enlisting the sympathies of the people so strongly on the side of France, that it would have to choose between complying with his wishes and destruction.

In the year 1778, the United States made two treaties with France, a treaty of alliance and a treaty of commerce. The treaty of alliance was by its *Treaties of 1778* terms "eventual and defensive." Its "essential and direct end" was stated to be the maintenance of the liberty, sovereignty and independence of the United States." These articles and the general scope of the treaty make it evident that, with the exception of the eleventh article, the intention was to limit the treaty to the war for independence which the United States were then waging. But by the terms of that article, the United States "guaranteed from the present time (1778) and forever," "the possessions of the crown of France in America."

The treaty of commerce was, by its terms, to be perpetual. By its nineteenth section, it provided for free entrance to prizes made by either party into the ports of the other, but cruisers belonging to an enemy were not to be permitted to remain in the ports of the other; by the twenty-fourth section, that the privateers of a nation at

enmity with either of the contracting parties should not be permitted to fit their ships, or sell their prizes in the ports of the other; and by its thirty-first, that each of the contracting parties was to have the liberty of having consuls in the ports of the other. These were the articles which Genet was in effect instructed to construe in the sense most favorable to France, and in order to induce or compel a "timid and wavering government" to consent to his interpretation, he was to array the American people on the side of France.

From the beginning of his career in this country Genet made two facts clear; first, that his business here was primarily with the American people; and second, that he did not intend to confine ^{Genet at Charleston.} his efforts in behalf of "liberty, fraternity and equality" to even the most liberal interpretation of the treaties of 1778. Instead of landing at Philadelphia, the seat of government, he landed at Charleston April 8 and proceeded to Philadelphia by land. He knew that France was most popular in the South, and he wished at the start to give the government a vivid impression of the depth of the people's sympathy for France. Without waiting for the formality of presentation, he began at once to conduct himself not like a foreign minister, but like a sovereign in his own empire. The treaty of commerce provided that France could have consuls in the ports of the United States. With that as a warrant (?) Genet commanded each French consul in the United States to

act as a court of admiralty to try and to condemn any prizes that French cruisers might bring to port. The treaty provided that privateers of an enemy of France should not be permitted to fit out prizes in the ports of the United States, or bring them there. Genet construed that as a permission to France to do it. He immediately bought two swift sailing vessels, equipped them as privateers, manned them with Americans, and sent them out to capture British merchantmen. The frigate in which he came from France, L'Ambuscade, captured a British vessel, "The Grange," in American waters on her way to Philadelphia. The inscriptions on her masts showed that he meant to employ every means to excite the American people to the French fever heat of enthusiasm. On her foremast was inscribed, "Enemies of equality, change or tremble;" on her main mast, "Free people, you see in us brothers and friends;" on her mizzen mast, "We are armed to support the rights of men." The colors of England were reversed and the flag of France was flying, as if in triumph above them.

Genet's journey to Philadelphia was one long ovation. At every town Republicans poured out in hundreds, shouting themselves hoarse as they escorted him to the best hotels and entertained him with civic feasts. As he neared Philadelphia men on fast horses were stationed along the road to give the city timely information of his approach. When he reached Gray's Ferry, thousands of Philadelphians

His journey to Philadelphia.

took possession of him and carried him in triumph to the town. The next day he received addresses from the German and French Republicans and from many citizens in Philadelphia, and the day after he was presented to Washington as the minister from the French republic to the United States. His reception by Washington was in marked contrast with his reception by the people. But to understand the attitude of Washington, we must follow the deliberations of the government from the time the news of the war between France and England reached the United States until Genet's arrival in Philadelphia.

As soon as the news of the declaration of war by France against England reached the United States, (April 15, 1793), Washington hastened from Mount Vernon to Philadelphia and sent to the members of his cabinet a series of questions prepared by Hamilton upon which their opinions were to be given at a cabinet meeting the next day.

Should a proclamation be issued for the purpose of preventing interferences of the citizens of the United States in the war between France and Great Britain? Should it contain a declaration of neutrality? Should a minister from the Republic of France be received? If received, should it be absolutely or with qualification? Were the United States obliged by good faith to consider the treaties heretofore made with France as applying to the present situation of the parties? Might they renounce them or consider them suspended till the gov-

Cabinet discussions.

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X

ernment of France should be established? Suppose the treaties binding, what was the effect of the guarantee clause? Did it apply to a defensive war only, or to an offensive as well as a defensive war? Was the war in which France was engaged an offensive or a defensive war? Did any article of either of the treaties prevent British ships of war, other than privateers, from coming into the ports of the United States?

The cabinet unanimously agreed that a proclamation of neutrality should be issued; that Genet should be received; and that it was not expedient to call a special session of Congress. But Hamilton and Knox held that Genet should be received with an express reserve of the question as to whether the treaties should be suspended. Jefferson, with whom Randolph inclined to agree, thought the treaties as binding with the republic, as they had been with the monarchy. Hamilton also contended that in case the treaties were considered binding, the guarantee clauses did not apply to an offensive war such as France was then waging against England, while Jefferson declined to give an opinion on the ground that it was not then necessary to decide that question.

The proclamation as issued declared the disposition of the United States to pursue a friendly and impartial conduct toward all the belligerent powers, as required alike by duty and interest. It exhorted and warned the citizens of the United States to avoid all acts which might in any man-

Proclamation
of neutrality.

ner tend to contravene such a disposition ; and declared that the government would not only not interfere to protect any citizen, who might expose himself to punishment under the law of nations by aiding or abetting any of the belligerents, but that it would cause all such acts to be prosecuted in the courts of the United States, so far as they came within their cognizance.

At a cabinet meeting called to consider the privateering commissions issued by Genet, and the prizes condemned by French consuls, it was unanimously decided that they were not authorized either by the treaties between France and the United States, or by the laws of nations, and were, therefore, void. It was also agreed that "The Grange," the vessel captured by "L'Ambuscade" within American waters should be restored. But the cabinet was unable to agree when the question arose as to what should be done with the privateers fitted out by Genet. Hamilton contended that as these captures were violations of the proclamation of neutrality that had been issued, the vessels taken should be restored to their owners; otherwise the United States would become a party to the injury inflicted on Great Britain. Jefferson argued, that if the captures were illegal—whether they were or not he declined to say—it was for the courts to say so, and in case they were, to order a restoration of the property.

When Genet presented his credentials, Washington spoke to him of the friendship of the United States

Genet's presentation to Washington; his construction of the treaty.

for France. But not a word did he say about the French Revolution. With a mind disposed to go direct to facts and not to stop with a formula, it was becoming more and more a question with Washington whether wholesale butchery by the guillotine and the propagandism of anarchy by the bayonet, even when done in the name of liberty, fraternity and equality, were, after all, so much preferable to the old despotism of France. Genet was very indignant, but what offended him most of all was that certain medallions of "Capet" (Louis XVI) and his family were in the President's parlor. He protested vehemently against the proclamation of neutrality, and the decision of the cabinet on the subject of privateers. He argued that the provision of the treaty that France might bring her prizes into American ports, implied that France might control such prizes and dispose of them; and that the clause in the treaty forbidding either party to allow the enemies of the other to fit out privateers in the ports of the other, must be understood as implying a mutual right in the parties themselves to fit out privateers in each other's ports.

Nor did he confine himself to protests. Persisting in the policy upon which he entered at Charleston, foreign minister though he was, he continued to act on his own interpretation of the treaty in defiance of the expressed wishes of the government. The government was, in-

His practical defiance of the government.

deed, "timid and wavering" to the last degree from his point of view. But he believed that he could compel the government to accede to his wishes by the force of public opinion, and he lost no opportunity to arouse it. When he was told that two American citizens, Henfield and Singleterry by name, who had enlisted in one of the privateers which he had fitted out at Charleston were arrested in accordance with a decision of the cabinet, he replied with a burst of indignation. "The crime laid to their charge," he said (June 1), "the crime which my mind cannot conceive and which my pen almost refuses to state, is the serving of France, and the defending with her children the common and glorious cause of liberty." When he was told (June 8) that the granting of military commissions within the United States by any foreign authority, especially to American citizens, was illegal, he declared that the right had been given by the treaty of 1778. He dared to tell the President of the United States, through his Secretary of State, that in taking upon himself the decision of such a question he was exceeding his powers. "As long as the states in Congress assembled," he said, "shall not have determined that this solemn engagement should be not performed, no one has a right to shackle our operations." He did, however graciously add that he had shown some deference to the American government. "I have instructed the consuls," he said, "not to grant titles to Americans commissioning privateers except to

He lectures
Washington on
his constitution-
al duties.

such captains as shall obligate themselves under oath and security to respect the territory of the United States and the political opinions of the President, until the representatives of the sovereign"—he meant the representatives of the people in Congress—"shall have confirmed or rejected them." He said that every obstruction by the government of the United States to the arming of French vessels was an attempt on the "rights of man," and a violation of the system of neutrality. "For if our merchant vessels are not allowed to arm themselves when the French alone are resisting the league of all the tyrants against the liberty of the people, they will be exposed to inevitable ruin in going out of the ports of the United States, which is certainly not the intention of the people of America. Their fraternal voice has resounded from every quarter around me and their accents are not equivocal—they are pure as the hearts of those by whom they are expressed."

Here is a plain intimation of the nature of the question at issue between Genet and the American government. *Should the legally constituted authorities of the country decide the attitude which the United States were to take towards France and England, or was the minister of a foreign nation at the head of a French faction to decide it for them? Should the President of the United States keep the oath he had solemnly taken, should he execute the laws and treaties as he understood them, or was a foreigner to defy*

Real question
at issue.

the government and act on his own interpretations? That was the question which Genet was trying to answer, and that was what he had in mind when he contrasted the commands of Washington with the intention of the people of America. And when he said that the accent of their fraternal voice, which had resounded from every quarter, was not equivocal, he intended to insinuate that France would accomplish in the United States what she had done in every other neutral or friendly country in which her revolutionary envoys had enjoyed freedom of speech, overthrow the constituted authorities in favor of the "principles of the revolution."

With any other man as President, he would in all probability have succeeded. It is more than doubtful if any other man could have kept his ground when such a tornado of French enthusiasm was sweeping over the country. As it was, the issue seemed for a considerable time in doubt. When the cabinet was debating what could be done to restrict Genet to his legitimate functions, the most prominent citizens of Philadelphia, including the governor of Pennsylvania, were attending civic feasts given in his honor, each plunging a knife into the head of a pig to indicate their approbation of the fate that had overtaken the unfortunate King of France.

The Republican papers quite generally took sides with Genet. In July, 1793, the *National Gazette*, edited by Freneau, a clerk employed by Jefferson in the department of state, upheld him, as Republican press. we shall see, in the most flagrant act of defi-

ance of which he was guilty. The *General Advertiser*, another Republican paper published at Philadelphia, said: "It is no longer possible to doubt that the intention of the executive of the United States is to look upon the treaty of amity and commerce, which exists between France and America, as a nullity, and that they are prepared to join the league of kings against France." That put the matter before the American people precisely as Genet wished to have it. He wished to create the impression that the government must bend to his wishes, or be regarded by its citizens as joining the league of kings against France. The tone of the Republican papers of Philadelphia was followed by those of New York and Boston, and indeed by the Republican press generally.

But the supporters of Genet did not confine their attempts to break down their government in the interest of a foreign power, to newspaper articles. Within two weeks after his arrival in Philadelphia (May 30), a "Democratic Society" was formed in that city in imitation of the famous Jacobin Club of Paris, and before the summer was half gone there were Democratic societies in nearly every state in the Union. In a circular sent out by the parent society in July, the fate of America was declared to depend on the fate of France. If the league of kings succeeded in murdering liberty in France, they would not long permit it to survive in America.

Democratic societies.

Indeed, the enthusiasm created by the republic of

France seemed to deprive a large part of the people of the power of sober judgment. As McMaster puts it, "both men and women seemed for the time to have put away their wits and gone mad with republican enthusiasm. Their dress, their speech, their daily conduct, were all regulated on strict Republican principles. There must be a flaming liberty cap in every house; there must be a cockade in every hat; there must be no more use of the old titles, Sir, and Mr., Dr. and Rev. It is time, exclaimed one of those ardent Republicans, it is time the use of these diabolical terms ceased. They are offensive to Republican ears. We cannot open a letter but we are addressed as Dear Sir. We cannot go into the courts but we hear "his Worship, the Mayor," or "his Honor, the Judge." We cannot attend the Legislature, to see what the servants of the people are about, but we hear on every side, "his Excellency, the Governor," or "his Excellency, the President," or "the Honorable Gentleman who spoke last." Let us stop this, go to France for a Republican lesson, put aside the absurd epithets of Mr. and Sir, and use the "social and soul-warming term citizen." At New York, a newspaper editor made haste to beg his friends to address him henceforth as citizen, and not as Mr., which was a short form of "Master." At Boston every man was soon calling his neighbor Citizen and his wife Citess. The word appeared scrawled on the letters dropped at the post-office; it stood at the head of memorials or

addresses sent up to the Governor, and before the names of public characters mentioned in the *Gazette*. It was used in the notices of deaths and marriages. Tradesmen put it on their bills. It fell from the lips of judges as they sat on the bench.”*

But there was one immovable obstacle in the path of Genet and his supporters, and that was Washington. Realizing that his popularity was a tower of strength to the government, some of the Republican papers attempted

to break it down. They said that he was fast debauching the country, that he was seeking a crown, that he was hypocritically passing himself off as an honest man. One of them went so far as to publish a pasquinade called the funeral of Washington, in which he was represented as placed upon a guillotine in parody of Louis XVI, of France. Nor did they cry in the wilderness. It is said that there were ten thousand men in Philadelphia threatening day after day to drag him out of his house, and make him resign or declare for France.

It is easy to understand the effect of all this upon such a temperament as Genet's. It emboldened him to persist in the line of policy marked out for him by his government, and made him confident that he would succeed in the end. The envoys of revolutionary France had usually suc-

*Vol. II, pages 91-2. This curious freak was the rage when Genet came to the country. It shows what plastic material lay ready to his hand.

ceeded in making her friendship as dangerous as her enmity to any government to which they were sent. His support in the United States made him believe that the result here would eventually be the same—that he would be able either to convert the government to the principles of the revolution, or overthrow it.

Accordingly he acted, in the language of Jefferson,* “as co-sovereign of the territory, armed vessels, levied men, gave commissions of war independently” of the government and in direct opposition to its orders and efforts. When it forbade its citizens to arm and engage in the war, he undertook to arm and engage them. When it forbade vessels to be fitted in the ports of the United States for cruising on nations with whom the United States were at peace, he commissioned them to fit and cruise. The “Citizen Genet” and “Sans Culottes,” having been fitted out at Charleston (though without permission of the President, yet before it was forbidden), the President only required them to leave our ports, and did not interfere with their prizes. Instead, however, of their quitting our ports, the “Sans Culottes” remained and the “Citizen Genet” went out only to cruise on our coast, and defy the authority of the government by returning into port again with her prizes. Though in a letter early in June the final determination of the President was communicated, that no future armaments in American ports

* Letter to Gouverneur Morris, minister to France, August 16, 1793, asking his recall.

should be permitted, privateers were afterwards equipped and commissioned in Charleston, Savannah, Boston, and an attempt was made to equip one in New York.

But perhaps his most flagrant defiance of the government occurred in the case of the "Little Sarah." The

"Little Sarah" was an English vessel, which
Little Sarah. was captured by the French frigate "L'Am-
buscade" and sent into Philadelphia. There, under the very eyes of the Federal government, Genet undertook to equip her as a privateer and send her to cruise against British vessels. Washington was then at Mount Vernon. Hamilton suspected what Genet was doing, and reported his suspicions to the cabinet. The cabinet ordered an investigation, and when the facts were discovered, Governor Mifflin was called on to interfere. He sent Dallas, his secretary of state, to beg Genet to detain the vessel, to avoid the necessity of resorting to force. Genet fell into a passion and threatened to appeal from the President to the people, the real sovereign, as he said, in this country. Jefferson also went to him and besought him to avoid the necessity of an appeal to force. Again he indulged in violent language, refused to promise anything, but at length condescended to say that though the vessel intended to drop down the river, it was not with the intention of sailing. Upon this hint, Jefferson suggested that Governor Mifflin dismiss his militia, and as soon as it was done, the vessel was sent to sea, in defiance

of the government, to cruise against the vessels of Great Britain.

The *National Gazette*, edited by it remembered by one of Jefferson's clerks, openly defended Genet in this act of defiance. He had acted "too honestly," it said; "he was too accommodating for the sake of the peace of the United States." The interference with the *Little Sarah* was the result of "a British construction of the treaty with France, at the hazard of involving us in a contest with our ally." "The militia of Philadelphia seem to be made the tools of design and dishonor."—Governor Mifflin had ordered out one hundred and twenty men for the purpose of taking possession of the vessel, when Genet so peremptorily refused to promise Dallas that the vessel should not sail.—"They were to hold her in possession for Britons, contrary to treaty; and to give mortification and insult to our allies. Will they submit to be the instruments of revenge for Britons? Have they forgotten the circumstances of the late Revolution? Let it not be said of them that they were the tools of ministerial policy, to harass and distress the saviors of our country. The minister of France will, I hope, act with firmness and with spirit. The people are his friends or the friends of France. She will have nothing to apprehend, *for as yet* the people are the sovereign of the United States. Too much complacency is an injury done his cause, for as every advantage is already taken of France, not by the

National Gazette supports him in his defiance of the government.

people, further condescension must lead to further abuses. If one of the leading features of our government is pusillanimity, when the British Lion shows his teeth, let France and her minister act as become the dignity and justice of their cause and the honor and faith of America." *

While he was thus setting the government at defiance, he continued to lecture the President of the United States on his constitutional duties. In a letter written about the middle of June, he told the President that he ought not to have taken it upon himself to decide whether certain payments to France should be advanced or not, but that it was his duty to consult Congress. About a week later he told him that Congress ought already to have been occupied with questions which he had been too hasty in deciding. September 18, he said the President had no right to decide questions which the constitution expressly reserved to Congress.

Washington re-
quests Genet's
recall.

* Jefferson's Anas record, May 23, '93, a conversation between himself and Washington respecting this paper: "He (Washington) adverted to a piece in Freneau's paper of yesterday; he said he despised all their attacks on him personally, but that there never had been an act of the government, not meaning in the executive line only, but in any line, which that paper had not abused. * * * He was evidently sore and warm, and I take his intention to be, that I should interpose in some way with Freneau, perhaps withdraw his appointment of translating clerk to my office. But I will not do it. His paper has saved our constitution, which was galloping fast into monarchy, and has been checked by no means so powerful as that paper."

The affair of the "Little Sarah" undoubtedly contributed materially to bringing matters to a climax. His threat to appeal to the people against Washington, helped to bring the more sober part of the people to their senses. The popularity which made his mission a dangerous menace to American institutions, began to wane. Moreover, it precipitated a determination which would doubtless have been reached sooner or later, to ask the French Government to recall him. This was resolved on early in August, and about the middle of the month, Jefferson wrote to Gouverneur Morris, giving an account of Genet's performances and asking his recall.* A copy of the letter was also sent to Genet.

But this letter by no means terminated the enterprises of this energetic and hot-headed Frenchman. He repeated his lectures as to the constitutional duties of the President—said that it was for the representatives of the American people, and not for a single man to exhibit accusations against him, ^{He appeals to the people.} and declared that he was about to have printed all his correspondence with Jefferson, his instructions and those of his consuls, "in order that the American people whose esteem is dearer to me than life, may judge if I have been worthy or not of the fraternal reception which it deigned to give me." He carried out his threat; he published his correspondence; he made his appeal to the people.

*See page 161.

The results of his appeal were not encouraging. Nevertheless he continued to act as "co-sovereign" of the country. In the latter part of the year, he planned a hostile expedition against the Floridas from South Carolina and Georgia, and one against New Orleans from Kentucky. Early in 1794, Washington decided to hold no further intercourse with him, but about this time, the news of his recall was received.

As Congress was not in session until his career was nearly over, the two parties had no opportunity to put themselves on record with reference to him in an official way, until public opinion had veered around to the support of Washington and the policy of neutrality. But that the masses of the Republicans sympathized with him was a notorious fact. Though leaders like Jefferson and Madison felt obliged to repudiate him, they never failed to distinguish between France and her minister. In a letter to Madison in August, 1793, Jefferson laid down what he conceived to be the proper policy of the Republicans: "I believe it will be true wisdom in the Republican party to approve unequivocally of a state of neutrality; to abandon Genet entirely, with expressions of strong friendship and adherence to his nation, and confidence that he has acted against their sense. In this way, we shall keep the people on our side by keeping ourselves in the right." When Congress met, this advice was followed out to the letter. The Republican majority in the House approved of the proclamation and

disapproved of Genet, though without any warmth. It was not the fault of the Republicans, that in the fourth year of its existence, the government was not broken down by a hot-headed enthusiast in behalf of a government, which must be pronounced the most absolute despotism of modern times.

QUESTIONS.

1. What did Hamilton think of the French Revolution and why?
2. What did Jefferson say about the September massacre, and Gallatin about the Reign of Terror? Account for their opinions.
3. How did the pecuniary interest of the Federalists and Republicans affect their opinions?
4. Describe the influence of foreign relations upon American politics from 1783 until 1815.
5. Describe the character of Genet.
6. What did his instructions direct him to do, and how did he propose to do it?
7. Describe the treaties of 1778 between France and the United States.
8. Show how Genet interpreted them.
9. What questions did Washington submit to his cabinet when the news of the war between France and England reached the United States, and by whom were they prepared?
10. What differences of opinion appeared in the cabinet?
11. What proclamation did Washington issue? Had he a constitutional right to issue it?
12. Describe Genet's treatment of Washington.
13. What was the real question at issue between Genet and the government?
14. What prevented Genet from succeeding?
15. Describe the attitude of the Republican press.
16. What were the Democratic societies and for what were they organized?

17. Describe the republican craze that swept over the country.

18. Explain the attempts that were made to break down the popularity of Washington.

19. Describe the case of the "Little Sarah."

20. Did Genet make his threatened appeal to the people? If so, how, and what was the result?

21. If Genet had succeeded in his efforts, what effect would this success have had upon the government?

22. In a message to Congress in December, 1793, Washington said that Genet's performances had "tended to involve us in war abroad and in discord and anarchy at home." Explain.

CHAPTER XII.

RELATIONS WITH ENGLAND.

THE close of the Revolutionary War left Great Britain and her former colonies in a state of mutual irritability, which unfortunately, the circumstances of the time presented abundant opportunities to increase. According to the colonial European colonial system. system then practiced by every country in Europe, the mother country compelled her colonies to trade with her. They looked to her for protection, and she in turn, compelled them to give her the profits of their trade.

The colonial system of England naturally resulted in changing profoundly the commercial relations of the United States to that country after the close of the war. While the United States were colonies, they enjoyed unrestricted trade with other English colonies, but when they became independent, England at once, and naturally, from her point of view, began to impose restrictions upon their trade, where she did not prohibit it altogether. Commercial relations with England after the Revolution. To the people of this country this seemed a piece of pure vindictiveness. Failing to place themselves at the point of view of England, they regarded what was really a quite modified form of her colonial system—modified because of inex-

orable circumstances in favor of the United States, as a wanton infliction of injury.

Opportunities for misunderstanding on the part of England were also not wanting. In the treaty of peace at the close of the Revolution, the United States agreed to *recommend* the states to repeal the laws confiscating the estates of tories. Though it was well

Breaches of the treaty of peace.

understood at the time that Congress had only recommendatory power, England chose to forget it. And while Congress kept faith with England by recommending action in harmony with the treaty, England chose to regard the failure of the states to comply with the recommendation as a breach of it. Accordingly, she still kept possession of the northwest posts, and persistently refused to make compensation for the negroes carried away at the close of the war. Not only did she keep possession of the posts; she exercised sovereignty over the immediately surrounding territory and on numerous occasions, indicated a disposition to retain them permanently. This was sufficiently irritating. But it was made much more so by the fact that she was suspected of using opportunities which she possessed by violating her treaty to stir up the Indians against us.

Whether she did or not, and if so, to what extent, are matters into which we need not here inquire. Taking human nature as we find it, it would have been natural for her agents to do it, and, in any case, inevitable, for the people of this

England and the Indians.

country to suspect them of doing it. Further, Americans suspected her of inducing Portugal to make a treaty with Algiers that let her pirates out of the Mediterranean, and permitted them to capture defenseless American vessels in the Atlantic by the score.

Such in general were the relations between this country and England when the French Revolution put every monarchy in Europe to the necessity of defending itself against the new theory of the Rights of Man, backed by the soldiers of France. To the monarchs of Europe the French seemed outlaws. What respectable and conservative people in this country today think of anarchists, the conservative people of Europe thought of the French. But the people of this country were notorious sympathizers with France. The attitude of England toward France, therefore, naturally increased the irritation of this country towards England; the attitude of the United States toward France, naturally increased the irritability of England toward this country.

These various causes put the two countries in such a position with reference to each other, as would have made it difficult under any circumstances, to avoid a collision. But this difficulty was increased immeasurably by the fact that England, and the other countries at war with France, took an attitude towards her, to which the United States could not consent without, in effect, joining them in the war against France. Regarding the French Revolution

Treaty between
Russia and Eng-
land in 1793.

as anarchy, and the French as outlaws against the human race, England and Russia made a treaty in 1793 in which they in effect agreed to ignore all the rules and usages of international law, in their warfare against them, and to compel other nations, to do the same. Accordingly, they began to put in practice a system that was intended to starve out the French, and compel them to submit. During the summer of 1793, England made six treaties with different nations, stipulating that the contracting parties should stop all provisions going to France. In June of that year, England gave instructions to her ships of war to stop all neutral vessels laden with flour, corn, or meal bound to the ports of France, and send them into British ports. The provisions were to be purchased by the government, and the ships released when they had given security not to go to any country not in amity with Great Britain.

England provision order.

Whether the United States would have been bound to submit to such regulations, if they had taken the English view of the French Revolution, is a question into which we need not now inquire. The government of Denmark made an able argument against the English-Russian system, on the supposition that the view on which it was based was correct. But with the American view of the French Revolution there was but one thing to be done: Protest against the English provision order, and in the last resort, make the protest effective by some sort of forcible appeal to the self-interest of England.

Before this difficulty was adjusted, England added to the grievances of which this country complained, by what the United States regarded as a new invasion of their rights. In time of peace, France enforced the colonial system as vigorously as any country in Europe. But when she was engaged in war with England, she was obliged to open the ports of her colonies to the commerce of all the world. England's supremacy at sea would have made the enforcement of the system a positive contribution to her own resources. Moreover, it would have prevented her colonies from buying what they needed, and would have deprived them of a market for their surplus produce. Accordingly, when she was engaged in war with England, France abandoned for the time her colonial system, since the fleets of England made it impossible for her colonies to trade with her.

In 1756, England began to put in practice a principle which was thereafter known as the Rule of the War of 1756—that trade which was unlawful in peace was unlawful in war. Regarding the temporary abandonment of her colonial system on the part of France as an attempt to protect herself against the British fleet, England determined not to Rule of the War of 1756 submit to it. She declared that a trade that was illegal in time of peace was illegal in time of war, and that vessels were liable to confiscation that engaged in it. On the top of the provision order then, of June, 1793, in November of that year England

issued an order in council based on the Rule of the War of 1756, prohibiting all neutral trade with French colonies which was not legal in time of peace.

As if all this were not enough, England was actively engaged in searching American ships for British seamen.

It would have been an outrage on the American flag to which this country could scarcely have submitted without compromising the national dignity, if this search had been so conducted, as to make it manifest that the impressment of British seamen was the only object. But as a matter of fact, American seamen were often impressed on the pretext that they were of English birth, and under such circumstances as to justify Americans in believing that the government of England did not disapprove of it.

It is interesting to compare the attitude of this country towards England and France respectively, in 1793. Genet was endeavoring to compel the United States to permit him to carry out a policy, submission to which would have been equivalent to our taking part in the war against England. England entered upon a policy which, if submitted to by the United States, would have been equivalent to our taking part in the war against France. We have seen how the government dealt with France; how did it deal with England?

I have said that with the American view of the French Revolution, there was but one thing to do about the British provision order of June—protest and, in the

Impressment of
American sea-
men.

last resort, make the protest effective by some sort of forcible appeal to the self-interest of England. The phrase, "some sort of forcible appeal to the self-interest of England," may seem a clumsy and weak circumlocution for the simple and strong word "war." But it is not so. If we are careful to distinguish the wishes and threats of many Republicans, from the policy of the Republican leaders, we shall understand that war with any nation was no part of the Republican programme. Undoubtedly there were many Republicans who talked, and a considerable number who wished, a war with England. But it was the dread of centralization, the attachment of a large majority of the people to the states, and the fear that the general government would absorb them, that called the Republican party into existence. Anything, therefore, that tended to increase the power of the central government would be sure to provoke their opposition.

But war inevitably has that tendency. War creates debts, and debts, the Republicans believed, make it possible to corrupt a government. War makes navies desirable, and, as we shall see, the ^{Republican} dread of war. Republicans believed that navies are fraught with dangers to liberty. Worse than all, a nation engaged in war may find it necessary to employ all its resources, regardless of constitutional limitations, or be beaten. For these reasons, Republican leaders like Jefferson, Madison and Gallatin, had no thought of war.

In a celebrated report on commerce submitted to

Congress in December, 1793, Jefferson intimated what he conceived to be the true foreign policy of the country.

Jefferson's substitute for war. Ostensibly, the report with its recommendations dealt with commercial matters only.

If any nation imposed high duties upon American products, or prohibited them altogether, or permitted their importation only in American vessels, Jefferson recommended that we treat them in the same way. He believed that Great Britain could be compelled to remove her burdensome restrictions upon American commerce, by having the same burdens imposed upon her own. But he was far from thinking that his panacea for commercial ills was good for nothing else. In scores of letters, before and after this time, he stated that in the power to regulate commerce, the government possessed the means of righting its wrongs without resorting to war. In March, 1793, he wrote to Madison: "The idea seems to gain credit that the naval powers combining against France, will prohibit supplies, even of provisions, to that country. Should this be formally notified, I suppose that Congress would be called, because it is a justifiable cause of war, and as the executive cannot decide the question of war on the affirmative side, neither ought it to do so on the negative side, by preventing the competent body from deliberating on the question. But I should hope that war would not be their choice. *I think it will furnish us a happy opportunity of setting another precious example to the world, by showing that nations may be*

brought to do justice by appeals to their interests as well as by appeals to arms. I should hope that Congress, instead of a declaration of war, would instantly exclude from our ports all the manufactures, produce, vessels and subjects of the nations committing this aggression, during the continuance of this aggression, and till full satisfaction is made for it."* In a letter to his daughter, written six days after his report was submitted to Congress, he predicted the Republican policy: "Our affairs with England and Spain have a turbid appearance," he said. "The letting loose the Algerines on us which has been contrived by England, has produced a peculiar irritation. *I think Congress will indemnify themselves by high duties on all articles of British importation.*" †

Early in January, Madison offered a series of resolutions in the House of Representatives, proposing restrictions on British commerce in harmony with Jefferson's recommendation. The first ^{Madison's commercial resolution.} resolution, asserting the general principle of retaliation, was carried by a vote of fifty-one to forty-six. Before the rest of them came to a vote they were superseded by the passage (March 26) of a joint resolution laying an embargo on ships in American ports. April 7, the Republican theory of foreign relation was at last set forth without any ambiguity in a motion to discontinue all commercial intercourse with Great Britain

* Works, vol. III, page 519. Italics are mine.

† Italics are mine.

after November 1, until she should surrender the western posts, and compensate American citizens for the losses inflicted by her anti-neutral attacks upon their commerce.

In the long debate upon these various propositions, four facts are worthy of special note : (1) that although it was the commerce of New England that especially suffered at the hands of England, the representatives of that section almost to a man opposed the measures that were ostensibly proposed primarily for its protection ; (2) that the representatives of the South, which had very little commerce, were almost as unanimously in favor of them ; (3) that the policy of the Federalists was to adjust the difficulties between the two countries by negotiation if possible, but, in the meantime, to make preparations for war ; (4) that the Republicans not only disagreed with the Federalists as to the method of ultimate decision, and as to the preparation that should be made for war, but also as to the policy of negotiation.

As to the first and second points, it would not be correct to say that the opposing interests of the two sections were the direct and immediate cause of the differences between Federalists and Republicans. Men like Madison did not favor commercial restrictions, because it was the commerce of New England instead of that of Virginia which would be hampered by them. It is indeed true, that if Virginia had been a commercial state, if the business of large numbers of her people would have suffered heavily through commercial restrictions, the attitude of

Jefferson and Madison towards the policy would probably have been different. In all their reflections upon the subject, there would have stood in the foreground of their thoughts, the fact of this inevitable loss to their constituents, and they would have been compelled thereby to scrutinize more closely the arguments by which they convinced themselves, that this loss would eventually be made good. Their contention was that the political interests of the country would be promoted by close commercial relations with France, rather than with England. But even upright men can more easily convince themselves that it is the duty of strangers to make pecuniary sacrifices for what they consider to be the good of the country, than that it is the duty of themselves or their friends.

Of course, the greater readiness of the Federalists to go to war was in part due to the fact that they were not so frightened by the thought of a strong central government. Hamilton's enemies, indeed, repeatedly charged him with desiring to bring on a war for the sake of strengthening the government. That charge is groundless. He was too much of a statesman not to see how disadvantageous, if not disastrous, a war would be to the young nation. But we may be sure that its tendency to strengthen the government was no part of his reasons for objecting to it. He knew, as did all other intelligent Americans, that war would lay a heavy burden on the new government, that

Why were Federalists more ready to go to war?

it would disarrange its finances, interrupt its prosperity, and that when there was so little national patriotism it might seriously endanger its stability. But he believed there were worse things than war, and one of them was submission to insults that would deaden the feeling of national honor.

The attitude of the Republicans towards negotiation with England was probably due, to a considerable extent, to their fear that a negotiation might succeed. In their entire confidence that they could compel respect for the rights of the United States by commercial restrictions, they did not wish to hamper the country by a treaty. The best treaty the country could obtain, they felt sure, would not be favorable, and some of its provisions, they feared, would make it impossible for the country to use its most powerful weapon. There was, also, a sentimental reason which had great influence with the masses of the party, and was not without influence upon its leaders. France, their old friend, was fighting for liberty; England, their old enemy, was fighting for despotism; to make a treaty with England was to make a treaty with the enemy of France and of liberty.

The extent to which the "revolutionary madness" of France had infected the people of this country was clearly shown by the influence of purely sentimental considerations on the debate. As Tracy said, "this discussion"—on Madison's resolutions—"has assumed an ap-

Republican attitude towards negotiation.

pearance which must be surprising to a stranger and painful to ourselves. The Congress of the United States is seen deliberating, not upon the welfare of our own citizens, but upon the relative circumstances of two European nations, and this deliberation has not for its object the relative benefit of their markets to us, but which form of government is best and most like our own, which people feel the greatest affection for us, and what measures we can adopt which will best humble one and exalt the other."

But Washington was unmoved by such considerations. Aiming only at the welfare of the country, he paid no heed to the clamor Jay sent to England. of parties and of partisans. He decided to make a trial of negotiations before making the perilous appeal to arms. In April, 1794, he nominated John Jay, Chief Justice of the Supreme Court, as envoy extraordinary to England. The Senate confirmed the nomination, and Jay went to England for the special purpose of attempting to settle the difficulties between the two countries by negotiation.

The Republicans persisted in pushing their policy of commercial restrictions. The bill to prohibit all intercourse with Great Britain, passed the House, but was defeated in the Senate by the casting vote of John Adams. This action of the Senate called forth a letter from Jefferson, which showed the democratic drift of Republican sentiment: "This Jefferson on the Senate. body" (the Senate), he wrote to Madison,

“was intended as a check on the will of the representatives, when too hasty. They are not only that, but completely on the will of the people also, and, in my opinion, are heaping coals of fire not only on their persons but on their body as a branch of the legislature. * * * It seems that the opinion is fairly launched into the public that they should be placed under the control of a more frequent recurrence to the will of their constituents. This seems requisite to complete the experiment whether they do more harm than good.”

It was in this session that the beginnings of the United States navy were made. The question was whether to fit out a squadron and send it to the Mediterranean to keep the Algerine pirates from preying on our commerce, or whether money should be appropriated to buy a peace. It was finally decided, January 2, to do both, to purchase a peace and provide a naval force. The first Committee of Ways and Means ever appointed by the House of Representatives, was appointed to consider the ways and means for supporting the naval force which they might recommend as desirable. Such questions had before this been referred to the Secretary of the Treasury. This committee recommended the building of four frigates. The bill as passed provided for six. But the opposition succeeded in adding a clause to the effect that proceedings should be suspended in case of a peace with Algiers, for the purpose of which a million dollars was appropriated.

Beginnings of a navy.

The grounds of the Republican opposition to the creation of a naval force were clearly stated by William Branch Giles, of Virginia. The policy of creating a navy "involved a complete dereliction of the policy of discharging the principal of the public debt." "To increase her navy and decrease her debt" "exceeded the ability of any nation." "It was the most expensive of all the means of defense, and the tyranny of governments consists of the expensiveness of their machinery." "The system of governing by debts he conceived, the most refined system of tyranny." "There is no device which facilitates the system of expense and debts so much as a navy, and he declared that he should value his liberty at a lower price than he now did if this policy should obtain." This was orthodox Republican doctrine; whether it was in harmony with the best interests of the country, the history of the war of 1812 will show.

Republican opposition to it.

Perhaps the most important act of this session was the neutrality or foreign enlistment Act, which was passed June 5, 1794, to furnish a basis upon which the judiciary could act in preventing the citizens of the United States from violating neutrality. It is gratifying to American pride to know, that though it was the first act of the kind that was ever passed, it has since been imitated in the legislation of most European States.

Foreign enlistment act.

QUESTIONS.

1. Describe the colonial systems of Europe one hundred years ago.
2. What effect did the independence of the United States have upon their commercial relations with England?
3. What were the difficulties between the two countries in 1793?
4. What did Russia and England agree to do in a treaty made in 1793?
5. What was the English provision order?
6. What would submission to it have been equivalent to?
7. Why did France relax her colonial system when she was engaged in war with England?
8. What was the rule of the war of 1756?
9. Was it just from the European point of view?
10. What order in council did England issue in November, 1793?
11. What was the Republican substitute for war?
12. Why did they object to war?
13. What did Jefferson recommend in his report on commerce?
14. What were Madison's resolutions?
15. What were the noteworthy features in the debate upon them?
16. For what purpose did the Federalists recommend a navy?
17. Why did the Republicans oppose it?
18. What was the foreign enlistment Act?

CHAPTER XIII.

JAY'S TREATY.

THE PRECEDING chapter has told of the injuries inflicted upon the United States by England in detaining ships laden with provisions for France, and in enforcing the rule of the war of 1756. In addition to these, the United States justly ^{Objects of Jay's mission.} complained of the British doctrine of blockade, which England had been enforcing against this country since the outbreak of the war with France. The same day the famous provision order was issued (June 8, 1793), English ships of war and privateers were commanded to capture a ship anywhere on the high seas whose papers showed that she was on the way to a port declared to be blockaded, provided the declaration of the blockade was known in the country from which she sailed before the time of her departure. To obtain redress for these grievances, to prevent their recurrence in the future, to adjust the points of difference growing out of the treaty of peace, were the primary objects of Jay's mission. If he was successful in these, he was to endeavor to negotiate a commercial treaty, but no treaty was to be made which was not consistent with our obligations to France.

He reached England in June, 1794, and succeeded

in negotiating a treaty in November. Of the various American claims, the treaty satisfied but one. The Northwestern posts were to be surrendered on or before June 1, 1796, but no compensation was to be made for their previous detention. Three commissions were provided for: one, to settle the Northeast boundary; another, to fix the amount of debts due to British citizens which the obstruction of justice had made it impossible to collect, and which were to be paid by the United States; a third, to determine the amount due from Great Britain to citizens of the United States, for illegal captures and confiscations.

But Jay was unable to induce Lord Grenville, the English negotiator, to agree that provisions should in no case be regarded as contraband of war. On the contrary, the treaty clearly implied that provisions might in some cases be contraband, but provided that when they were taken as such they should be paid for. Nor was he able to secure an abandonment of the rule of the war of 1756, or of the so-called right of impressment.

It must be acknowledged that there were serious difficulties in the way of yielding the right to impress British sailors when they were found on board of American ships. England owed her greatness to her supremacy on the sea. But if British sailors could evade the duty of serving on British vessels of war by engaging in American vessels,

it seemed to English statesmen that that supremacy was seriously endangered. They were willing to admit that in exercising the right of impressing British seamen, injury had sometimes been inflicted, in that American born sailors had been mistaken for British citizens. But they contended that an abuse of the right was no sufficient reason for abandoning it, least of all when England was engaged in a war in which it was of the utmost importance for her to have command of all her resources. There was indeed, in one point, a fundamental difference between the American and the British view. England contended that a man had no right to renounce his allegiance—that a man who was once a citizen could never become an alien, while the United States contended that a man born in any country, could by process of naturalization, become a citizen of the United States. In exercising the so-called right of impressment, then, England might claim the services of a British-born sailor who was a citizen of the United States in accordance with their laws. But whatever the abstract merits of the question, England would not renounce the right of searching American vessels for British sailors, nor would she acknowledge the principle that the goods of an enemy are safe on the vessels of a neutral.

The treaty provided that Americans should not accept commissions from the enemies of England against England, nor English from the enemies of America against America, and that citizens of either country, ac

cepting such commissions were to be regarded as pirates. It also provided that privateers of an enemy of either England or America should not be allowed to arm their ships, or sell their prizes in the ports of the other, but that ships of war of each of the contracting parties should be hospitably received in the ports of the other, and permitted to sell their prizes there. But it provided that none of its articles should be construed contrary to previous treaties of either party with other nations.

The best argument that has ever been made for the treaty was made by Jay when he transmitted it to the department of state. There "was no reason to believe or conjecture," he said, "that one more favorable to us was attainable." A treaty which implied that provisions might sometimes be contraband of war, which secured no compensation for the negroes carried away at the close of the war, or indemnity for injuries suffered through the wrongful detention of the northwestern posts, which tacitly admitted the right of search, and of impressment, and the right to prevent any trade with the colonies of a nation engaged in war, which that nation did not allow in time of peace, might be preferable to war, but it would be difficult to defend it on any other grounds.

Bad as these features of the treaty were, they were by no means the worst in the eyes of the Republicans. In every disputed point, it rendered the French interpretation of the treaties between France and the United States im-

Defects of the
treaty.

possible to this government. Genet had said that these treaties gave France the right to fit out privateers, and sell prizes in American ports; this treaty forbade it. Genet had claimed the right to give American citizens commissions against England; this treaty said that Americans accepting such commissions, were to be regarded as pirates. Worst of all, the treaties between France and the United States provided that the goods of an enemy on board the vessels of a friend were safe, while Jay's treaty made the goods of an enemy on board the vessel of a friend, liable to capture. In other words, at the time when France, in the opinion of the Republicans, was fighting with the whole of Europe, in behalf of liberty and the right of self-government, France—who had assisted us generously in our struggle for independence and had voluntarily bound herself not to capture the goods of an enemy when found on board American vessels—this treaty gave England the right to capture French goods on American vessels.

Jay reached New York in the latter part of May and from that time till July 2, when the treaty was published in the democratic "Aurora," of Philadelphia, the eagerness of the country to learn its Opposition to it. contents was intense. A large number of the people would have condemned a good treaty, but when they found that a treaty had been made which seemed, to their prejudiced eyes, to yield everything to England, a mighty wave of indignation swept over the

country. From Boston to Savannah meetings were held and resolutions were passed, urging the President not to sign it. Hamilton was stoned at a public meeting while attempting to defend it. Jay was repeatedly burned in effigy, and one society regretted that there was no guillotine in this country for his benefit. In Philadelphia, a copy of the treaty was burned before the British minister's house; in Charleston, after a meeting at which the treaty had been denounced, the flag of Great Britain was dragged through the streets, and burned before the house of the British consul.

But Washington, the "unparalleled executive," was still President. And having decided that the choice lay between that treaty, bad as he thought it, and war, he decided to sign it, in spite of the fact that England had repeated her provision order, and was thus again treating provisions as contraband of war. Having already received the votes of twenty Senators, a bare constitutional majority, he signed it and promulgated it as the law of the land.

But it had a dangerous gauntlet to run before it was definitely settled that it was to be the law of the land.

Pursuing the same course they had taken when Genet was trying to drive the government into submission to the will of France, the Republican papers denounced Washington more bitterly than ever. The "Aurora" charged him with violating the constitution, declared that Louis XVI had never

Republican press
attacks Wash-
ington

dared to heap such insults upon his subjects as Washington had upon the American people, by making a disgraceful treaty with a nation whom they despised. One writer declared that he had overdrawn his salary; another, that he had gone back to private life at the close of the war because the government offered no position that could satisfy his ambition; that his life of seclusion, his levees, his returning no visits, his state and his ceremony, his unrepubli- can habits, in a word, gave the lie to his oath to defend the constitution, the object of which was to provide a Republican form of government.

All this was preliminary to a determined and persistent effort on the part of the House of Representatives to defeat the treaty, which had already been proclaimed as the law of the land. In a House of Representatives and the treaty. letter to Rutledge, after denouncing it as an execrable thing, Jefferson said: "I trust the popular branch of the legislature will disapprove of it, and thus rid us of this infamous act, which is really nothing more than a treaty of alliance between England and the Anglomen of this country, against the legislature and the people." The Republicans had a double motive in wishing the House of Representatives to rid the people of it; they not only wished to defeat what Jefferson called the alliance between England and the Anglomen, but also to extend the power of the House of Representatives. They felt that the great danger to Republican institutions in this country lay in the Executive. With this idea they

wished to enlarge the power of the House of Representatives, "the popular branch of the legislature," as much as possible. Under the influence of these two motives, they entered upon what proved to be one of the fiercest struggles in which the two parties ever engaged.

The fight began (March 2, 1796), with a resolution offered by Edward Livingston, of New York, calling on the President for Jay's instructions and all the correspondence and documents relating to the treaty, excepting such as any existing negotiation might make it improper to disclose.

Livingston's
resolution.

In the debate upon this resolution, Albert Gallatin of Pennsylvania, arose to a position of real leadership in the Republican party. In a speech of great ability, he set forth the Republican theory of the treaty clauses of the constitution with a clearness and force that left nothing to be desired. Jefferson declared that it was worthy of insertion in the Federalist as the only rational commentary upon that part of the constitution. Gallatin contended that a treaty made by the President, by and with the advice and consent of two-thirds of the Senate, is inchoate, that it does not become the law of the land until it receives the sanction of the House of Representatives. "To construe the constitution consistently, we must attend to all the sections of it. To interpret particular clauses of it by themselves, invites absurdities. By one section, it is declared that a treaty is the supreme law of

Gallatin's
speech.

the land, that it operates as a law; yet it is to be made by the President and Senate only. Here will be an apparent contradiction; for the constitution declares that the legislative power shall be vested in the three branches. By this construction there would appear to be two distinct legislatures." "If still it is insisted that treaties are the supreme law of the land, the constitution and laws are also; and, it may be asked, which shall have the preference? Shall a treaty repeal a law or a law a treaty? Neither of these can be done. A law cannot repeal a treaty because a treaty is made with the concurrence of another party—a foreign nation—that has no participation in framing the law." "A treaty made by the President and Senate cannot repeal a law, because the House of Representatives have a participation in making the law. It is a sound maxim in government, that it requires the same power to repeal a law that enacted it. If so, it follows that laws and treaties are not of the same nature"—that treaties are not laws and do not have the force of laws until they have received the sanction of both Houses of Congress. "Gentlemen had dwelt much on the clause of the constitution which declares that the constitution, laws and treaties made in accordance with it, are the supreme law of the land. But they had neglected to read the whole of the clause, and had thereby missed its obvious meaning. The intention was not to compare the constitution, laws, and treaties *with each* other, but with the constitution and laws of the particular states; to de-

clare whether the constitution, laws and treaties of the general government—or the laws and constitution of the states, are supreme, in case of clashing powers.” Livingston’s resolution was carried by a large majority. Washington declined to give the papers on the ground that the power of making treaties is vested exclusively in the President by and with the advice and consent of the Senate, and that it was the duty of the House of Representatives to make all necessary provisions for carrying them into effect. A few days later (April 7), the House passed a resolution by a vote of fifty-seven to thirty-five declaring that it claimed no agency in making treaties, but that it claimed the right to deliberate upon the expediency of carrying into effect a treaty which contained regulations on the subjects which the constitution had committed to their care.

All this was preliminary skirmishing. The fight began in earnest (April 15), when the Federalists offered a resolution declaring that provision ought to be made

Fisher Ames’
speech.

for carrying the treaty into effect. It was in this debate that Fisher Ames made the great speech of his life. So feeble that he was hardly able to stand, he disregarded the advice of his physician, and determined to make an effort in behalf of what he regarded as the salvation of his country. He declared that the question which the house was debating was, “ Shall we break the treaty, shall we violate a solemn engagement into which the nation has en-

tered? With solemn emphasis he urged that a government wantonly refusing to fulfill its engagements, corrupts its citizens. "Will the laws continue to prevail in the hearts of the people, when the respect that gives them efficacy is withdrawn from the legislators. To weaken government and to corrupt morals are effects of a breach of public faith not to be prevented." But it was when he portrayed the horrors that would be sure to follow a rejection of the treaty, that he moved his audience to tears. To reject the treaty was to reject the forts, and to reject the forts, was to involve the frontiers in all the horrors of an Indian war. "We light the savage fires, we bind the victims. This day, we undertake to render account to the widows and orphans, whom our decision will make—to the wretches that will be roasted at the stake." But war with the Indians was not the only or the worst result which seemed to Fisher Ames an inevitable result of rejecting the treaty. War with England, anarchy and confusion at home, would be, he believed, its inevitable results. "Even the minutes I have spent in expostulating," he said, in closing, "have their value, because they protract the crisis, and the short period in which alone we may resolve to escape it. Yet I have, perhaps, as little personal interest in the event as anyone here. There is, I believe, no member who will not think his chance to be a witness of the consequences greater than mine. If, however, the vote should pass to reject, and a spirit should rise, as it will, with the public disorders to

make confusion worse confounded, even I, slender and almost broken as my hold on life is, may outlive the government and constitution of my country."

When he sat down, there was scarcely a dry eye in the House. John Adams sat weeping in the gallery and ejaculating, "My God! how great he is." His speech, backed by the letters and petitions, which were pouring into the House, decided the question, and the resolution to carry the treaty into effect passed by a vote of fifty-one to forty-eight.

Appropriations were made in this session of Congress for carrying into effect treaties made with Spain and Algiers in 1795. The treaty with Spain was negotiated by Thomas Pinckney. It provided for a free navigation of the Mississippi to both parties throughout its entire extent. It also gave to the Americans a right of deposit at New Orleans for three years, at the end of which time, the right was either to be continued at the same place or at some other convenient point on the bank of the river. By the treaty with Algiers, the United States agreed to pay \$763,000, besides a yearly tribute in slaves of the nominal value of \$24,000, in consideration of the release of the American captives and of peace for the future. The impatience of the Dey of Algiers at not receiving his money soon enough, seemed to make it desirable to pacify him with the promise of a frigate, which made the treaty cost another hundred thousand dollars.

Treaties with
Spain and
Algiers.

QUESTIONS.

1. State the object of Jay's Mission.
2. Mention the important points of the treaty and point out its defects.
3. State the British defense of impressment.
4. Describe the opposition to the treaty.
5. Why did the Republicans wish the House of Representatives to refuse appropriations to the treaty?
6. Why was the Senate more obnoxious to the Republicans than to the Federalists?
7. What was Livingston's resolution?
8. State Gallatin's view of the relation of the House of Representatives to treaties.
9. Upon what point did Fisher Ames lay most stress?
10. What were the important provisions of the treaties with Spain and Algiers?
11. Why was the right to navigate the Mississippi such an important matter to the people of the West and South?

CHAPTER XVII

THE WHISKY INSURRECTION.

WE HAVE seen that Hamilton's financial policy aimed to increase the stability and strengthen the authority of the Union, as well as restore its credit and provide it with a revenue. With these ends in view, as we have seen, he recommended an excise on distilled spirits as a means of providing the extra revenue rendered necessary by the assumption of state debts.

Of all forms of taxation, probably none was then so unpopular among English and Americans as an excise. Dr. Johnson's famous definition, "a hateful tax, levied upon commodities, and adjudged not by the common judges of property, but by wretches hired by those to whom excise is paid," well described the general feeling of the people in this country as well as in England. The Continental Congress in its address of 1774 to the people of Canada, laid special stress on the fact that in being subject to England, they were subjected "to the imposition of excises, the horror of all free states."

In addition to this an excise laid on the people of the states by the general government seemed like a tax imposed by a foreign government. The Congress of the Confederation, as we know, had no power to lay taxes on

Prejudice
against an ex-
cise.

the people, and this power was withheld from it because the states regarded it as a foreign government. When Congress humbly requested the legislatures of the states to tax their citizens, its attitude, cap in hand, in the presence of its masters, was one which the immense majority of the people thought entirely proper. The new constitution had provided for a radical change in this relation. It authorized the government which it created—not to go to the states as a beggar and ask for money—but as a monarch with power to compel obedience to his commands. It could indeed exercise this power only as directed by representatives whom the people had chosen. The power behind the throne was the whole American people. They were the real sovereign, and the general government was but the organ through which they acted, the agent that gave expression to their will.

But in the nature of the case it was impossible for this change in their constitution to produce any immediate change in the feelings of the people. The new constitution said that it, and laws and treaties made in accordance with it, should be the supreme law of the land, but so in substance said the old. The Articles of Confederation declared that every state should abide by the decision of the United States in Congress assembled, in reference to all the questions submitted to them by the Confederation. But in spite of this declaration, the sovereign states had disregarded the decisions of Congress whenever they pleased. What was

Effect of adoption of the constitution on the feelings of the people.

to prevent their doing the same under the new government? There were, to be sure, in the new government an executive and a judiciary which had been wanting in the old. But was anyone foolish enough to suppose that this executive would dare enforce a law against the wishes of a sovereign and independent state? Senator Maclay, we remember, thought the very idea preposterous, and there is little doubt that in this, as in many other respects, he correctly represented the feelings of a large majority of the people. For what means could it employ? It had no standing army, and men of their way of thinking meant to take good care that it did not get one. And was it reasonable to suppose that militia would march against their fellow citizens and compel them to obey an unpopular, and, from their point of view, unjust law? The power of the executive depended entirely on the will of the people, and what reason was there to suppose that the people would go to the aid of the executive against themselves?

To put an end to such ideas, to make every man in the United States understand that the new government had power to compel obedience to its laws, to make them feel that the laws of the general government were not mere pieces of advice, suggestions to do this and not to do that, but commands that must be obeyed, was Hamilton's great political object in recommending an excise. Until this question was settled, he knew that the question as to whether

Hamilton's
object.

there was or was not a government was still undecided. He knew that the existence of a House of Representatives, Senate, President, Supreme Court, and all the governmental machinery that might be devised, did not of themselves prove that the new Constitution had created a government. *Had it power to compel obedience to its laws?* That was *the* question, upon the answer to which depended the decision as to whether the new constitution was merely a revised edition of the Articles of Confederation, or whether it had created a real government for the American State.

Hamilton knew that this transcendently important question must be decided sometime, and it seemed to him highly desirable that the decision should be reached as soon as possible. In a long letter to Washington, Jefferson objected to the excise as "committing the authority of the government in parts where resistance is most probable and coercion least practicable." Hamilton in reply * admitted that this objection had some weight. "It must be confessed," he continued, "that a hazard of this nature has been run; but if there were motives sufficiently cogent for it, it has been wisely run." After stating his financial reasons, he added this important paragraph: "Other reasons co-operated in the minds of some able men to render an excise at an early period de-

* Washington did not send Jefferson's letter, but stated its various points in order, and forwarded them to Hamilton as expressions of opinion in Virginia upon the policy of the government, and asked him to reply to them.

sirable. They thought it well to lay hold of so valuable a resource of revenue before it was generally preoccupied by the state governments. They supposed it not amiss that the authority of the national government should be visible in some branch of internal revenue, lest a total non-exercise of it should beget an impression that it was never to be exercised, and next, that it ought not to be exercised. It was supposed, too, that a thing of the kind could not be introduced with a greater prospect of easy success than at a period when the government enjoyed the advantage of first impressions, when state factions to resist its authority, were not yet matured, when so much aid was to be derived from the popularity and firmness of the actual Chief Magistrate.*

With these ends in view, he caused a bill laying an excise on distilled spirits to be introduced in Congress in 1790. It was defeated, but a bill with substantially the same provisions, passed about the middle of the next year.

The law created widespread dissatisfaction, especially in Virginia, North Carolina and Pennsylvania. In the western counties of all these states, beyond or among the Alleghanies, it seemed to the people not merely an invasion of their rights, but a tyrannical imposition. They were three hundred miles or more from the sea with very few roads and these bad. They had to convert their grain into whisky,

Dissatisfaction
with the ex-
cise.

* Hamilton's Works, vol. IV, page 256.

since it was impossible to carry so bulky an article as corn so great a distance on such bad roads with profit. Whisky was the money of the community as there was a great scarcity of coin.

Nevertheless, little open resistance was made to the law in Virginia and North Carolina. But in Pennsylvania, under the leadership of some able men, one of whom was Albert Gallatin, the enemies of the law determined to attempt to prevent its enforce-^{Pittsburg}ment. They were urged to do this by the ^{meeting.} *National Gazette*, a Republican paper edited, it will be remembered by Freneau, a clerk employed by Jefferson in the department of state. At a meeting at Pittsburg in August, 1792, they declared that they would treat as enemies all persons who accepted an office for the collection of the tax. September sixth, they gave a practical illustration of their meaning by tarring and feathering a revenue officer.

Congress had passed an act in May preceding, giving the President power to use militia in executing the laws of the Union and suppressing insurrections. Hamilton told the President when he gave him an account of the Pittsburg meeting that he thought the time had come to employ the power which that law had put into his hands. "If this is not done the spirit of disobedience will naturally extend, and the authority of the government will be prostrated." Late in September, the President accordingly issued a proclamation stating that the oppo-

sition to laws passed in accordance with an express provision of the constitution was "dangerous to the very being of government," exhorting all persons to desist from unlawful combinations, and charging magistrates to bring infractors of law to justice. He also ordered Randolph, the Attorney-General, to prosecute those who had been concerned in the Pittsburg meeting, but it was found that they had committed no offense for which they could be indicted. Throughout the year 1793, the policy of intimidation agreed upon at the Pittsburg meeting was followed and a number of men were tarred and feathered.

But the Whisky Insurrection, so called, really began in July, 1794. One ground of objection to the law was that a person accused under it had to go to Philadelphia, a distance of several hundred miles, in order to be tried.

Whisky Insurrection begins. Congress passed an act June 5, 1794, removing this grievance, by providing that offenders against the internal revenue law might be tried by state courts. But before this law could be taken advantage of, the United States marshal received some fifty writs to serve on persons in western Pennsylvania, summoning the defendants to Philadelphia. When, in company with the inspector of the district, General Neville, he undertook to serve them in Alleghany county, the cry was raised, "the Federal sheriff is taking away people to Philadelphia," and he was fired upon by a body of armed men. They captured the

marshal and would not release him until he had promised to serve no more writs west of the Alleghanies. The inspector fled for his life down the Ohio river, and went thence by a circuitous route to Philadelphia. In two days (July 15-17), the execution of the law was stopped. A mass meeting was called at Braddock's field August 1, at which some 7,000 men were present, and preparations began to be made to array the whole force of the insurgent counties against the United States. The question had then to be answered: Was the constitution of the United States a revised edition of the Articles of Confederation; could its laws be defied at pleasure, or had it called a real government into existence?

Washington called for the opinion of his cabinet as to the course proper to be pursued in the crisis. The opinion of the Secretary of State, Edmund Randolph, is profoundly significant. "A Randolph's opinion as to calling out the militia. calm survey of the situation of the United States," he said, "banishes every idea of calling the militia into immediate action." A radical and universal dissatisfaction with the excise existed in the western counties of Pennsylvania, and a number of adjacent counties in that state and in Virginia were infected with it. If the attempt were made to enforce the law, these elements might be joined by the disaffected classes generally. Now, Governor Mifflin, of Pennsylvania, having declared his opinion that the available militia of the state would be unequal to the task of suppressing the insurrection,

who could tell whether the militia of other states would serve? The insurgents might call in the aid of the British, with a British war and the dissolution of the Union as the result. The parties in the country were highly inflamed, and "one character alone could keep them in awe; and if the sword be drawn it will be difficult to restrain them."

From the point of view of a generation that thinks as little of openly resisting the laws of the United States as it does the laws of nature, this "opinion" of Grounds for it. Randolph's seems absurd. But that respect for law in this country which makes it irresistible, had a beginning. It did not exist in the period of the Confederation. How was Randolph to know that in five short years it had so far developed that it could be relied on as a means of coercing rebellious citizens? Nor was he the only prominent man who doubted whether the militia could be relied on. When Governor Mifflin was requested to call out the militia of the state, he declined to do it. He believed that such a step would result in strengthening the revolt, as he doubted whether the militia of the state would "pay a passive obedience to the mandates of the government." And when Washington issued a requisition on the Governors of Pennsylvania, New Jersey, Maryland and Virginia for 13,000 men,* Mifflin felt so doubtful of the result that he traveled over the state and employed his great eloquence to secure the

*The number was afterwards raised to 15,000.

quota of Pennsylvania. If, in spite of the exertions of Mifflin, it be said that in his case and that of Randolph the wish was father to the thought, since they were both Republicans, that certainly will not be said of Hamilton. And yet he said in a letter written to Sedgwick in 1799: "In the expedition against the western insurgents, I trembled every moment lest a greater part of the militia should take it into their heads to return home rather than go forward."* The truth is that there was probably not an intelligent man in the country who was not, more or less, doubtful as to the result. They had seen the utter contempt which the people had shown for the laws of the Congress of the Confederation; they had seen the government of the French monarchy crumble to pieces, because the French soldiers would not obey orders when they were commanded to attack insurgents. How was any one to know that the result would not be the same in the United States? It is certainly true that Hamilton had more hope of a favorable result than Randolph. But the difference between him and Randolph lay rather in his clear perception of the truth that *not* to suppress the insurrection was to return to the anarchy of the Confederation. A suppression of the rebellion or anarchy; these as he plainly saw, were the alternatives. The suppression of the insurrection with such a popular executive as Washington he

*J. C. Hamilton, *History of the Republic of the United States*, vol. VII, p. 278.

doubtless regarded as probable. But whether probable or not he knew that anarchy was the absolutely certain result of a failure to do it. Agreeing with his great contemporary in France, Mirabeau, that the great end of government was the maintenance of order, he saw that however great the risk, it must be made since everything depended on it. The question at issue, as he himself said, plainly was, "Shall the majority govern or be governed? Shall the nation rule or be ruled? Shall the general will prevail or the will of a faction? Shall there be government or no government?"*

He, therefore, urged that the militia should be called out and that the force should be so imposing, if attainable, as "to frighten from opposition, save the effusion of blood of citizens, and secure the object to be accomplished." Washington followed Hamilton's advice; fifteen thousand men were called out and their appearance crushed the insurrection without the necessity of fighting a single battle. But two men were killed and those in personal conflict with the soldiers, for which the latter received punishment.

The Whisky Insurrection marks an important epoch in the history of the United States. In 1787, the Federal Convention framed a constitution providing for an organization to be called a government. In 1789, this so-called government was created. But the question as to whether it

Hamilton's
opinion.

Epochal charac-
ter of Whisky
Insurrection.

* Hamilton's Works, IV, 16. A series of essays addressed to the people of the United States.

was in fact what it claimed to be was not settled until the short-lived Whisky Insurrection was suppressed. Then it became clear that the laws of the government were not mere pieces of advice but commands that must be obeyed. Alexander Johnson calls attention to the contrast between the debates in Congress before and after the Whisky Insurrection. "Before 1794," he says, "there is in many of the speakers almost an affectation of voluntary obedience to Federal laws, and of monition to others not to provoke resistance. After this year, this characteristic disappears almost entirely, and the debates have no longer the background of possible club law."*

QUESTIONS.

1. In his life of Madison, Rives† quotes Hamilton as saying at a cabinet meeting, "A government can never be said to be established until some signal display has manifested its power of military coercion." Was Hamilton right?

2. Washington wrote a letter to Henry Lee, commander of the forces against the Whisky Insurrection, containing the following paragraph: "No citizen of the United States can ever be engaged in a service more important to his country. It is nothing less than to consolidate and to preserve the blessings of that revolution, which at much expense of blood and treasure, constituted us a free and independent nation." Explain and justify this strong language.

3. Conway, in his life of Edmund Randolph, page 243 says: "When insurrection flamed out on the Ohio, the British party attributed it to the seditious influences of the societies

*Lalor's Cyclopædia of Political Science, Political Economy and United States History, vol. III, page 1111.

†Vol. III, 452.

(Democratic,) the French party to machinations of the English." Account for such conflicting explanations.

4. In a letter to Madison written December 28, 1794,* Jefferson said: "I expected to have some justification of arming one part of society against another; of *declaring a civil war before the meeting of that body* which has the sole right of declaring war; of *being so patient at the kicks and scoffs of our enemies, and rising at a feather against our friends*; of adding a million to the public debt and deriding us with recommendations to pay it if we can." Account for Jefferson's dissatisfaction with the conduct of the administration in suppressing the Whisky Insurrection, and discuss the italicized clauses.

5. Henry Adams (in his *Life of Gallatin*, page 175) says "The Hamiltonian doctrine was that the United States should be a strong government, ready and able to maintain its dignity abroad and its authority at home by arms; Mr. Gallatin maintained that its dignity would protect itself if its resources were carefully used for self development, *while its domestic authority should rest only on consent.*" Discuss the clause in italics; can *authority rest on consent*?

6. Contrast the conduct of the government with reference to Shays' Insurrection and the Whisky Insurrection. What does the contrast show?

7. Describe the prejudice of English and Americans against an excise.

8. Contrast the attitude of the Congress of the Confederation with that of the government created by the constitution towards the people of the states?

9. Why did they not appreciate the change?

10. What was Hamilton's object in recommending an excise?

11. When did the Whisky Insurrection begin and under what circumstances?

12. What was Randolph's opinion as to the propriety of calling out the militia?

13. State the facts upon which his opinion was based.

14. What was Hamilton's opinion and why?

*Works, vol. IV, pages 110-113.

15. He is accused by his enemies of having purposely incited the Whisky Rebellion; suppose the charge true, do you think he was justified in doing it?

16. What do you think would have been the consequence if a man of indecision, like Buchanan, had been President in 1794?

17. In what respect does the Whisky Insurrection constitute an epoch in the history of the United States?

CHAPTER XV.

MONROE IN FRANCE.

JOSEPH FAUCHET, who succeeded Genet as minister from France to this country, comported himself with comparative propriety. He did, indeed, take sharp issue with the United States in its interpretation of the treaty of 1778. But it is difficult not to believe that in this instance

Fauchet on the treaty of 1778.

France had a good case. The 19th article of that treaty said that no shelter should be given in the ports of the United States or France "to such ships as shall have made prizes of the subjects, people, or property of either of the parties." The United States construed the clause as though it read, "To such ships as shall *bring in* their prizes." Fauchet insisted on construing it literally, and also urged that "capturing vessels" meant the whole fleet, and not the particular vessels that had made the capture.

But Adet, who succeeded Fauchet, in the summer of 1795, did not conduct himself with so much moderation.

In a letter written shortly after his arrival in this country (September 28, 1795), he complained bitterly that the United States did not take effective measures to prevent England from seizing American vessels laden with provisions for the

Adet's letter to Pickering.

ports of France. He quoted to Timothy Pickering, who had succeeded Edmund Randolph, as Secretary of State, the following passage in a letter from Jefferson to Pinckney, September 7, 1793: "This act, too, tends directly to withdraw us from the state of peace in which we are wishing to remain. It is an essential character of neutrality to furnish no aids (not stipulated by treaty) to one party which we are not equally ready to furnish to the other. If we permit corn to be sent to Great Britain and her friends, we are equally bound to permit it to France. To restrain it would be a partiality which might lead to war with France. And between restraining it ourselves, and permitting her enemies to restrain it unrightfully is no difference. She would consider this as a mere pretext of which she would not be the dupe and on what honorable ground could we otherwise explain it? Thus we should see ourselves plunged by this unauthorized act of Great Britain, into a war with which we meddle not and which we wish to avoid, if justice to all parties and from all parties will enable us to avoid it." And then he ventured to characterize the conduct of the United States in the following language: "It cannot, therefore, be doubted that the French Republic has a right to complain if the American government suffers the English to interrupt the commercial relations which exist between her and the United States; if, by a perfidious condescension, it permitted the English to violate a right, which it ought to defend for its honor

and its interest ; if, under the cloak of neutrality, it presented to England a poignard to cut the throat of its faithful ally; if, in fine, participating in the tyrannical and homicidal rage of Great Britain, it concurred to plunge the French people into the horrors of famine."

But notwithstanding the insolent tone of this letter, he had profited by Genet's experience. He had learned

Attempts to influence the presidential election.

that he could not drive the American government out of the path it wished to pursue, and that the people could not be alienated from the government they had chosen. He, therefore, resolved to employ different measures to reach the same end. He resolved to take a hand in the presidential election. His plan was to frighten the people with the danger of a war with France, and then tell them that the way to avert it was to elect Jefferson president. Accordingly, he wrote letter after letter to the American Secretary of State, and sent at the same time a copy to be published in the Democratic *Aurora*. In the space of three weeks, four of his articles appeared in that paper, the manifest object of which was to influence the presidential election. The first reported a decree of the French government to the effect that France would treat the ships of neutrals in precisely the same way in which they permitted themselves to be treated by England. In other words, if the Americans permitted England to search, capture, and confiscate their ships, France would also search, capture, and confiscate their

ships. The fourth, after speaking of his government as "terrible to its enemies but generous to its allies," demanded the fulfillment of the treaty to which the United States owed their existence as a nation, and closed with praising the sentiments of Jefferson.

In the meantime, Monroe was perpetrating a series of diplomatic feats in France almost as remarkable as those of which Genet had been guilty in this country, although of quite a different character.

He had gone to France as minister in 1794 Recall of Gouverneur Morris. to take the place of Gouverneur Morris, who had not been satisfactory to the French revolutionists because of his evident lack of sympathy with their excesses. To Gouverneur Morris, deeds had seemed of more importance than words, and the cloak of "Liberty, Fraternity and Equality" which the French Revolution had thrown around its odious and blood-thirsty despotism had not to his mind changed its character. But Monroe was of a different temperament. He was an extreme sympathizer with France. He had opposed Jay's mission, and he went to France, as his whole career there shows, not so much to represent Monroe's object. the United States in that country, as to promote what seemed to him the cause of the people against the "conspiracy of kings;" and to promote the cause of the people was, in his view, to bring the United States and France into the closest possible relations. In speaking of Genet, Hildreth says, he was filled with "an

enthusiasm aggravated to the highest pitch by the union of the kings and aristocracies of Europe against the French Republic, and potent enough to drive even wise men into madness." Whoever wishes to understand that sentence should study Monroe's career in France.

He had been authorized by his instructions to declare the sincere wishes of the President and the people for the success of the French Revolution, and was told that

His address to
the National
Convention.

while he went to France to strengthen our friendship with that country, he was not to betray the dignity of the United States, or show the most remote mark of undue complaisance. Shortly after his arrival in Paris, he wrote a letter to the French National Convention, requesting them to fix the day and prescribe the mode by which he should be acknowledged as the representative "of their ally and sister Republic." Two days later, he presented a florid address in the hall of the National Convention. Forgetting as Randolph wrote him, in reply to the letter in which he gave an account of this, the neutrality of the United States, the jealousy of allied powers, the sound reasons England had for suspecting the American people of breaches of faith in favor of the French, the desirability of doing nothing to excite unnecessary suspicion, he opened his heart as though private affections and opinions were the only points to be considered. He told the government of the most absolute despotism of modern times, a despotism as absolute as any known to history, that it

was similar to the government of the United States, that both cherished the same principles and rested on the same basis—the equal and inalienable rights of man. And he had the hardihood to say to the government whose hands were reeking with the blood of the citizens of France, that “the wisdom and firmness of her councils unite equally in securing the happiest results.”

. As soon as Monroe was publicly recognized, he found himself beset by Americans, hoping through him to receive compensation for injuries which they had suffered at the hands of the French Republic.

Some of them had been injured by the embargo at Bordeaux, by which a hundred

American grievances at the hands of France.

American vessels had been detained for more than a year. Some had claims upon the Republic for supplies sold to the Government of San Domingo. Some had brought in cargoes for sale and had been detained upon one pretext or another; and others had received injuries not merely in violation of the general principles of international law, but of specific articles of the treaties of 1778. In a letter addressed to the Committee of Public Safety September 3, 1794, he urged the case of the last class on a ground that at least must be conceded to be unique. Misunderstanding his instructions in a remarkable way, he said “that he was not instructed to complain of or request the repeal of the decree authorizing a violation of the articles of the treaty which secured the mutual right of carrying enemy goods and enemy passengers. On the contrary, I

Monroe's letter to the Committee of Public Safety.

well know that if upon consideration, after the experiment made, you should be of the opinion that it produces any solid benefit to the Republic, the American Republic and my countrymen in general will not only bear it with patience but with pleasure." But, true to his idea that the great object of his mission was to advance the cause of the "rights of man," he endeavored to convince them that it would be more beneficial to France to repeal the decrees, as though that were the only matter of interest to the United States. Called on by a committee of the French government to learn whether funds could be obtained from the United States for carrying on the war against the enemies of France, he replied that he had no authority to answer that question. But he was sure that if it was in the power of the United States such aid would be rendered. And then he plainly stated his opinion that such aid would be the more certainly given, if France would guarantee to make no peace with England or Spain, as long as the complaints of the United States against them had not been settled. In a letter to the Department of State, he said that the partiality of France for the United States was so great that if France could decide whether the United States should go to war with England, "they would leave us to act in that respect according to our wishes. And I am likewise persuaded, if we embark in the war, they will see us through it. I have some hope, if we do not, and especially if we aid them, in the article of money, that they will support as

far as they are able our demands upon Spain and England." His instructions had authorized him to say that the motives of Jay's mission were to obtain "compensation for our plundered property and restitution of the posts," and also to declare that Jay was "positively forbidden to weaken the engagements between America and France." With this as authority, he ventured to assure the French government that Jay's mission "was strictly limited to demanding reparation for injuries." But when he learned that Jay had actually negotiated a treaty, he felt obliged to give the French Committee of Public Safety the information (December 27), and promised to give them a copy of the treaty as soon as he got possession of it. Six weeks later (February 12, 1795), he wrote that if the United States could keep the confidence of the French Republic unimpaired, "by accurate penetration" he was confident that there was "no service within its power that the French Republic would not render to us." Before they heard of Jay's treaty the indications of this disposition were extremely strong; "for at that time I had reason to believe that it contemplated to take under its care and provide for our protection against Algiers; for the expulsion of the British from the western posts, and the establishment of our right with Spain to the free navigation of the Mississippi, to be executed in the mode we should prefer, and upon terms perfectly easy to us, terms in short, which sought only the aid of our own credit to obtain from our bank an inconsiderable sum to

be laid out in the purchase of provisions within our own country, and to be reimbursed, if possible, by themselves. But by that intelligence this disposition was checked. I am still inclined to believe that if the arrangement with England, or the negotiation with Spain, should fail, it is possible to accomplish the whole through the means of this Government."

Shortly after signing the treaty, Jay had written to Monroe promising to communicate its principal points. Monroe sent a confidential person to Jay to obtain such information of the treaty as Jay might see fit to give, since it was of the greatest consequence, so Monroe wrote, to remove all doubts on the part of the French Government as to its contents. "It is necessary, however, to observe that as nothing will satisfy this government but a copy of the instrument itself and which, as our ally, it thinks itself entitled to, it will be useless for me to make it any new communication short of that." Jay's reply, February 5, 1795, presents an admirable light in which to study the career of Monroe. "You must be sensible that the United States have an unquestionable right to make any pacific arrangements with other powers, which mutual convenience may dictate, provided these arrangements do not contradict or oppugn their prior engagements with other States. Whether this adjustment was consistent with our treaty with France, struck me as being the only question which could demand or receive the

Monroe wishes to communicate Jay's treaty to the Committee of Public Safety.

consideration of that republic, and I thought it due to the friendship subsisting between the two countries, that the French Government ^{Jay's letter to Monroe.} should have without delay the most perfect satisfaction on that head." He then stated that he had already given what he had hoped would be satisfactory information on that point, and then quoted the clause in the treaty, which provided that nothing in it should be construed contrary to existing engagements with other sovereigns or States. "Considering that events favorable to our country could not fail to give you pleasure"—was he intentionally sarcastic?—"I did intend to communicate to you concisely some of the most interesting particulars of this treaty, but in the most perfect confidence, as that instrument has not yet been ratified, nor received the ultimate forms necessary to give it validity. As further questions respecting parts of it may yet arise, and give occasion to further discussions and negotiations, so that if finally concluded at all it may then be different from what it now is, the impropriety of making it public at present is palpable and obvious. * * * It does not belong to ministers who negotiate treaties to publish them even when perfected, much less treaties not yet completed, and remaining open to alteration or rejection. Such acts belong exclusively to the governments who form them. I cannot but flatter myself that the French government is too enlightend and reasonable to expect that any consideration ought to induce me to overleap

the bounds of my authority, or be negligent of the respect which is due to the United States. That respect, and my obligation to observe it, will not permit me to give without the permission of this government a copy of the instrument in question to any person, or for any purpose; and by no means for the purpose of being submitted to the consideration and judgment of the councils of a foreign government, however friendly." But what seemed "palpable and obvious" to Jay, was not obvious to Monroe; expectations which Jay thought the French government too enlightened and reasonable to entertain, were entertained by Monroe. For he had "gained such an insight into their councils" "as to be satisfied" that all our great material objections so far as they were connected with this republic were more easily to be removed by a frank and liberal deportment, than a cool and reserved one." Nor did he "see any condescension in such a line of conduct." "On the contrary between nations allied as we are, I deem it the most magnanimous as well as the soundest policy." When at last he finally received a slight sketch of the treaty he at once submitted it to the Committee of Public Safety. Writing to the Department of State September 10, 1795—he had received no letter from Randolph since May 31, and therefore did not know that Jay's treaty had already been ratified—he was still of the opinion that a "timely and suitable attempt" could engage the aid of France "in support of our claims upon England," "upon fair and honorable

terms." Nor did he see any objections to such an arrangement." If we were at war with England, none would be urged by any one—if then, remaining at peace, another country is willing to give us the fortunes of its arms, in support of our claims against a common enemy, ought we to decline an arrangement which would be adopted in war, especially when it is considered that peace is the lot we prefer, and that our success depends upon its success? But can we accomplish what we wish by the fortunes of France, by any kind of negotiation we can set on foot, without any effort of our own; and if such effort is made, of what kind must it be? To this I can give no answer, other than by referring you to my former letters on that head. But to secure success by embarking this government with full zeal in our behalf, and striking terror into England, it will be necessary to lay hold of her property within the United States, take the posts, and even invade Canada. This would not only secure to us completely our claims upon Britain and especially, if we likewise cut up her trade by privateers; but, by making a decisive and powerful diversion in favor of France, promote, and very essentially, a general peace." From this letter, it is again evident that Monroe did not regard himself as a minister bound to consider the interests of his own country alone. He argued in favor of strong measures against England because, among other reasons, it would create a "decisive and powerful diversion in favor of France."

Monroe proposes the invasion of Canada.

But when at last Monroe received a letter from Timothy Pickering, December 1, informing him that the treaty had been ratified by the Senate, and signed by the President, and instructing him as to the defense of it,

Explanation of
Monroe's career
in France.

which he was to make to the French Government, he was placed in an embarrassing position. Filled with the enthusiasm for "liberty, fraternity, and equality," which was "potent enough to drive even wise men into madness," it had been impossible for him to take any but the French view of the relations between the United States and England, or to interpret his instructions from any but that point of view. From such a point of view, he had honestly believed that the object of Jay's mission was to demand satisfaction for injuries. With his passionate wish for France's success, with his intense feeling that she and the United States alone represented the cause of liberty against kings, he had naturally taken the government of France into his entire confidence, and done all that he could do to prepare her to fight the battles of the United States which he was sure would have to be fought by some one. His instructions had reminded him to keep steadily in view the fact that he was to maintain the self-respect of his own government. But were not France and the United States the two republics of the world, each founded on the doctrine of the inalienable rights of man? For one of these to accept favors of the other was no more to do violence to its self respect from Monroe's

point of view, than it is for a sister to accept favors from her brother. They were allies not merely by treaty, but in spirit, each engaged in a holy crusade for liberty. It was in such a spirit that Monroe had entered upon his mission, and attempted to do its work. But when he was confronted with the fact that to demand reparation for injuries was not the sole object of Jay's mission, when he was informed that a treaty had been made, and when he learned that it had been ratified by the Senate, and signed by the President, when he realized that he had been unwittingly deceiving the French Government, and unintentionally misrepresenting the object of Jay's mission, it was impossible for him to see that the source of it all lay in his own enthusiasm, in his inability to take a cold, judicial, impartial view of his instructions, and of the relations between the United States and England on the one hand, and the United States and France on the other. He believed that his own government had willfully deceived him in order that he in turn might deceive France. He accordingly refused to obey his instructions ; with the case of the United States before him, he refused to state it until the middle of February, 1796, and then only because the French minister of Foreign Affairs informed him that since the ratification of Jay's treaty, the Directory regarded the alliance between France and the United States as at an end, and that Adet was about to be recalled, and that a special minister

was about to be sent to the United States to make this announcement.

Then at last Monroe apparently began to realize that he was, in truth, the minister of the United States. He defended Jay's treaty, and replied to all the charges brought against the United States by the French Government. But his zeal was too tardy to satisfy his own government, especially when it had been preceded by such an inability to really separate the interests of France from those of his own country. Washington accordingly decided to recall him, and in September, 1796, Charles C. Pinckney was appointed in his stead. Perhaps the sharpest criticism on his career in France ever made is found in a paragraph in Washington's Farewell Address given to the American people the very month in which he recalled Monroe. "Constantly keeping in view

Washington's
farewell ad-
dress.

that 'tis folly in one nation to look for disinterested favors from another, that it must pay with a portion of its independence for whatever it may accept under that character; that by such acceptance, it may place itself in the condition of having given equivalents for nominal favors, and yet with being reproached with ingratitude for not giving more, there can be no greater error than to expect or calculate upon real favors from nation to nation. 'Tis all illusion which experience must cure, which a just pride ought to discard."

QUESTIONS.

1. How did France interpret the nineteenth article of the treaty of 1778?
2. How did Adet attempt to influence the presidential election?
3. Why was Gouverneur Morris recalled from France?
4. What seems to have been Monroe's object?
5. Describe his address in the hall of the French National Convention.
6. What did he say to the French government about its infraction of the treaty with the United States?
7. What did he endeavor to persuade the United States to do with reference to the war between France and England?
8. How did he purpose to secure protection against Algiers and get possession of the western posts?
9. Why did he wish to communicate Jay's treaty to the French government?
10. Draw a parallel between Jay and Monroe.
11. Account for his conduct in France.
12. Why did he refuse to state the American view of Jay's treaty?
13. When was he recalled, and why?
14. What seems to have been Washington's opinion of him?
15. Shortly after Monroe's recall, Gallatin wrote to his wife as follows: "The time they chose to recall Monroe, was when from his correspondence they had reason to believe he had succeeded in allaying the resentment of the French. Then, thinking they had nothing to fear from France, and that they had used Monroe so as to obtain every service that he could render, they recalled him with the double view of giving to another person the merit of terminating the differences and throwing upon him the blame, if any, that existed before." Discuss and explain.

CHAPTER XVI.

THE EXTRA SESSION OF 1797.

In the presidential election of 1796, Jefferson received sixty-eight and John Adams seventy-one votes. Adams was therefore elected President, and Jefferson Vice-president. When Adams was inaugurated in March, 1797, our relations with France were in a very critical condition. The conduct of the Republicans in the United States and of Monroe in France, had borne their natural fruits. Charles C. Pinckney reached Paris as Monroe's successor in December, 1796. The day after his arrival (December 9) he and Monroe waited upon De La Croix, the French minister of foreign affairs, Pinckney presenting his credentials and Monroe his letters of recall. These the minister promised to submit to the French Directory, and to send Pinckney and his secretary "letters of hospitality," without which, according to the laws of France, no stranger could remain in Paris. A few days later (December 12) De La Croix notified Monroe that the Directory would not receive another minister from the United States until the grievances of which France complained were redressed. "But this breach," he added, in the style of Genet, "did not oppose the continuance of affection between the French Republic and the American

France rejects
Pinckney.

*people**, which is grounded on former good offices and reciprocal interests, an affection which you have taken pleasure in cultivating by all the means in your power."

Pinckney at once wrote to De La Croix inquiring if it was the wish of the Directory that he should leave France immediately, or whether he should remain till he heard from the United States. De La Croix replied verbally, through Pinckney's private secretary, that, since the recall of Monroe, the Directory acknowledged no American minister. As to his going or staying the Directory would decide. February 3, 1797, he was finally notified that he was rendering himself liable to arrest by having stayed in Paris nearly two months in violation of the law forbidding strangers to stay there without "letters of hospitality." Pinckney at once asked for his passport and left for Holland.

When Monroe presented his letters of recall (December 20), to the Directory, he again declared that the principles of the French Revolution were the same as those of the American Revolution. He assured the Directory that it was with the most "heartfelt satisfaction that he beheld victory and the dawn of prosperity upon the point of realizing under the auspices of a wise and excellent constitution, all the great objects for which in council and in the field they had so long and so nobly contended." The President of the Directory replied as follows: "By presenting this

Monroe's farewell speech to the Directory.

* Italics are mine.

day to the Executive Directory your letters of recall, you offer a very strange spectacle to Europe. France, rich in her freedom, surrounded by the train of her victories, and strong in the esteem of her allies, will not stoop to calculate the consequences of the condescension of the American government to the wishes of its ancient tyrants. The French Republic expects, however, that the successors of Columbus, Raleigh and Penn, always proud of their liberty, will never forget that they owe it to France. They will weigh in their wisdom the magnanimous friendship of the French people, with the crafty caresses of perfidious men, who meditate to bring them again under a foreign yoke. Assure the good people of America, Mr. Minister, that, like them, we adore liberty; that they will always possess our esteem, and find in the French people that Republican generosity, which knows how to grant peace as well as to cause its sovereignty to be respected. As for you, Mr. Minister Plenipotentiary, you have combated for principles. You have known the true interest of your country. Depart with our regret."

Adams differed from the leading members of his cabinet as to the course that should be pursued when Pinckney was insultingly driven from France. Timothy Pickering and Oliver Wolcott, Secretaries of State and of the Treasury, respectively, thought that the United States had done enough; that to yield to the demands of France was to

Hamilton urges that a special envoy should be sent to France.

surrender national independence. Fortunately, Hamilton agreed with Adams in thinking that a special envoy should be sent to France. The decision of the French Directory not to receive another American minister until the grievances of which France complained were redressed, could not mean, Hamilton argued, that they would not receive a special envoy. Moreover, if they did refuse to receive him, it would be well to have sent him since the people would thereby be convinced that the government had done all that it could to make peace with France. By such arguments, Hamilton succeeded in breaking down the opposition of Pickering and Wolcott.

Congress assembled in special session on May 13, according to the President's proclamation. In his opening speech the President called special attention to the insidious attempts of the President of the French Directory, in his farewell speech to Monroe, to separate the American people from their government. "Such attempts," he said, "ought to be repelled with a decision which shall convince France and the world that we are not a degraded people, humiliated under a colonial spirit of fear and sense of inferiority, fitted to be the miserable instruments of foreign influence, and regardless of national honor, character and interest." At the same time, he declared his intention to send a new mission to France, since neither the honor nor the interest of the country forbade them to repeat their advances. But he urged Congress to create a navy

Adams' speech
to Congress.

and to fortify the harbors of the United States, and to pass laws authorizing merchant vessels to arm in their defense.

The attitude of the Republicans towards France, as appeared in the debate on the President's speech, bore a

Opinions of
Cabot and
Nicholas con-
trasted.

curious likeness to that of the Federalists towards England. George Cabot, a leading and representative Federalist, wrote to Oliver Wolcott on April 13, 1797, as follows: "He (Liancourt, a Frenchman travelling in this country) said the power of England was at an end. I rejoined, that all the civilized world would have cause to mourn if this should be true, *for they would then be obliged to fight against France or to give up their independence.*" In the debate on the President's speech, Nicholas, a zealous Republican from Virginia, after declaring that the insult to Pinckney was not so great after all, said: "It might, perhaps, be the opinion of some, that he was improperly influenced by party zeal in favor of the French. * * * But where was the proof of the charge? On his first coming into this House, the French were embroiled with all their neighbors, who were endeavoring to tear them to pieces. Knowing what had been the situation of this country when engaged in a similar cause, he was anxious for their success. And was there not reason for this anxiety, when a nation contending for the right of self-government was thus attacked? *Especially since it was well known that if the powers engaged against France had been successful, this country would have been their next object?* Had they

not the strongest proof in the declaration of one of the British colonial governors, that it was the intention of England to declare war against America in case of the successful termination of the war against France?" He concluded his speech by declaring that in ratifying Jay's treaty the United States had abandoned the position of neutrality, and given France just cause for complaining.

The same contrast appeared in connection with the subject of impressment, the Federalists minifying, and the Republicans exaggerating, the extent to which American citizens suffered by it.

But the great speech of the session was made by Robert Goodloe Harper, a leading Federalist from South Carolina. He declared that the real Robert Goodloe Harper's speech. ground of the dissatisfaction of France with Jay's treaty was not this or that article of the treaty, but the treaty itself—the fact that the United States had made any treaty with England. She was angry because it had defeated her plan of drawing America into the war, and the whole object of her present policy was to compel the United States to renounce it. She hoped to succeed because she believed that the people of this country were weak, pusillanimous, too much devoted to gain to regard the honor of their country, too distrustful of their government to defend it, too much exasperated with England to consent to that co-operation which must necessarily grow out of resistance to France. She had seen them submit with patience to the insults and out-

rages of three successive ministers, for the very least of which she would have sent the minister of any nation out of the country, if not to the guillotine. The conduct of members of the House had confirmed her in the erroneous opinion that there was a party in the very bosom of the government devoted to her interests. What could France infer from the conduct of Republicans in the House, but that they were a party devoted to her views, when she saw them constantly opposing measures on the ground that they would be hurtful or displeasing to her ; constantly supporting those plans which she was desirous of seeing supported? With such facts before her, what could she conclude but that though they were unable to shape the policy of the government, they would be ready and able so to clog its operations as to prevent it from employing vigorous measures against her? She no doubt did believe that she had nothing to do but press hard on the government in order to lay it, bound hand and foot, at the feet of the party friendly to her, by means of which she might then govern the country. . Misunderstanding the exultation of Americans over her victories, and their sorrow for her defeats, she saw in them nothing but proofs of a slavish devotion to herself, which would make them incapable of asserting their own rights, if it had to be done at the risk of her displeasure. She did not know, nor could she be made to understand, that it was the cause of liberty in which she was thought to be struggling, that inspired this en-

thusiasm, and that if she abandoned the principles she professed, these generous well wishers would be found among the firmest of her opposers. Supposing resentment against England to be far more deeply rooted and more universal than it really was, she relied on it as a certain means of preventing any union of interests and operations between the United States and England, however recommended by policy, or required by necessity. In these delusions she was confirmed, not only by the conduct of persons in this country, but it was to be feared by the behavior of some of our own citizens in her own country, who had forgotten the trust reposed in them, and the situation in which they were placed, and had allowed themselves to pursue a course of conduct calculated to confirm France in all her unfounded and injurious opinions respecting this country. Supposing, therefore, that the people of this country were unwilling to oppose her, and the government unable, that they would prefer peace with submission to the risk of war; that a strong party devoted to her would hang on the government, and impede all its measures of reaction; and, if by her aggression, Americans should find themselves in a position where they would have to choose between war with England and war with her, that their hatred of England would make them prefer the former, she had resolved on the measures she was then pursuing, the object of which was to make them renounce the treaty with England and enter into a quarrel with her,—“in

fine, to effect by force and aggressions, that which she had attempted in vain by four years of intriguing and insidious policy."

Such being her objects, could she be induced to renounce them by trifling concessions of this, that, or the other article of a treaty? To suppose that she could was a delusion which rendered gentlemen blind to the herculean strides of her ambition, "which aimed at nothing less than the establishment of a universal empire or universal influence, and had fixed upon this country as one of the instruments for accomplishing her plan."

This remarkably accurate description of the policy of the French government apparently exerted no influence on the opposition. An answer echoing the sentiments of the President's speech was carried only by a small majority.

During the extra session of Congress, acts were passed prohibiting the fitting out of privateers against nations with whom the United States were at peace, or against citizens of the United States; forbidding the exportation of arms and encouraging their importation; appropriating \$115,000 for the further fortification of American harbors; apportioning to the states 80,000 militia to be ready to march at a moment's warning; and authorizing the completion and equipment of the three new frigates, the "United States," "Constitution," and "Constellation." The Republicans opposed most of these measures. Be-

Acts of the
extra session.

sides their oppositon to all measures that looked toward war, they were opposed to all measures that tended to increase the expenditures of the government because of their habit of considering every measure, not from the point of view of expediency, but from the point of view of its capacity to be used as a precedent in undermining the liberties of the people.

This characteristic was strikingly shown in a persistent and bitter attempt in the regular session of Congress to defeat appropriations to support American ministers at the courts of Berlin and Portugal. One would naturally suppose that the primary question would have been whether the usefulness of ministers at those courts was likely to justify the expense. That question was, of course, raised by the opposition, but it was not considered on its merits. Nicholas, who opposed the appropriation with all his might, "thought it necessary to take a view of this subject not only from the increase of expense, but from a variety of other considerations. He conceived it to be a duty they owed to themselves and their constituents, as well to secure liberty, as to perpetuate the constitution itself, that the President, who had the power of making appointments, should be kept from extending the power beyond what the nature and wants of the government absolutely required." But the attitude of the Federalists was equally strained and unnatural. They also could not consider the question on its merits, but connected it

Debate on appropriations for ministers to Prussia and Portugal.

in their minds with questions of transcendent importance because of its possible influence as a precedent. In the same debate, the Federalist, Harper, said: "It is my firm and most deliberate opinion that the amendment now under consideration to refuse appropriations for the ministers to Portugal and Prussia, and the principle to which it belongs, lead directly to the introduction of anarchy and revolution in the country, and if not steadily opposed must sooner or later produce that effect."

From such different points of view, it was natural for the Republicans to underestimate the need of increased taxes, and the Federalists to overestimate it. The one party was willing to run the risk of embarrassing the government in the interests of liberty; the other, of imposing unnecessary burdens on the people in the interests of order and good government. But in spite of the opposition of the Republicans, laws were passed increasing the duty on imported salt, and imposing stamp duties. All schemes of internal taxation, as we have seen, were especially obnoxious to the Republicans. They did violence to the very strong feeling of state patriotism which was especially characteristic of this party. The feeling that the state was the country of its citizens, made all schemes of internal taxation by the federal government seem like taxation by a foreign power. Accordingly, they succeeded in postponing the operation of the new stamp act till January, 1798, and afterwards till the following June.

Before the close of the special session, John Marshall, Elbridge Gerry and Charles Cotesworth Pinckney were appointed envoys extraordinary to France.

QUESTIONS.

1. Why, in your opinion, did France reject Pinckney?
2. Contrast the tone of Monroe's farewell speech with the treatment Pinckney received. How do you account for it?
3. Speaking of Monroe, Washington said: "There is abundant evidence of his being a mere tool in the hands of the French government, cajoled and led away always by unmeaning assurances of friendship." Do you think he was right?
4. What was there in the speech of the President of the Directory to Monroe that indicated that France still meant to pursue the policy that Genet had undertaken to carry out in the United States?
5. Were Hamilton and Adams on friendly terms?
6. Why did Hamilton urge a special mission to France?
7. Contrast the opinions of Cabot and Nicholas.
8. What did Harper try to prove? Was he right? Mention the facts that seem to you to support or overthrow his opinion.
9. What did Senator Maclay say in his diary in harmony with the position taken by the Republicans as to appropriations for ministers to Prussia and Portugal?

CHAPTER XVII.

THE X., Y. AND Z. MISSION.*

THE selection of the envoys had been a matter of great interest ever since it was decided to make another effort to preserve peace with France. The problem that the President had to solve was not merely to find men whose characters and abilities fitted them for the difficult and delicate work which was to be done, but to find such men in whom the two parties had confidence. This was a difficult task. So general and decided was the partiality of the public men of the time, either for England or France, that it was almost impossible to find a man who was acceptable to one party, in whom the other had confidence.

But the President's selection was fairly satisfactory to both parties. John Marshall and C. C. Pinckney were both moderate Federalists, and Elbridge Gerry was a moderate Republican. Jefferson wrote to him that his nomination "gave me certain assurance that there would be a preponderance in the mission, sincerely disposed to be at peace with the French government and nation." Such a statement from such a man would seem to be conclusive proof

Jefferson's letter to Gerry.

*So called because the letters X, Y, and Z, were substituted for the names of the unofficial agents of Talleyrand in the report transmitted to Congress.

that the President had selected envoys, a majority of whom had no undue partiality for England.

They met in Paris October, 1797, and at once notified Talleyrand, the French minister of Foreign Affairs, of their arrival and requested him to appoint a day for an interview. He replied that he was occupied with a report upon American affairs which was to be submitted to the Directory, and that he could not grant an interview until it was finished. A few days later (Oct. 18), an unofficial agent from Talleyrand, M. Hottinguer (designated as X. in

The Directory demands a bribe and a loan to France.

the dispatches transmitted to Congress), told them that the Directory were exceedingly irritated at some passages in the President's speech, and that these passages would have to be softened before the envoys could be received. But this was not all. So outraged were the Directory in behalf of France that a bribe of \$240,000 for themselves, and a considerable loan to France was necessary to soothe their wounded feelings. A few days later, two more unofficial agents, M. Bellamy and M. Hauteval appeared. Bellamy read the President's speech and enlarged upon the resentment it had occasioned, and upon the "satisfaction" that was an indispensable preliminary, as he said, to any negotiation. "But I will not disguise from you," he continued, "that this satisfaction being made, the essential part of the treaty remains to be adjusted; you must pay money, you must pay a great deal of money."

Hottinguer told them that since the peace with the emperor of Austria, the Directory had taken a higher and more decided tone with respect to the United States and all other neutral nations than before; that they had resolved to have no neutrals—that nations who did not aid them should be treated as enemies. He enlarged on the power and violence of France, and urged the danger of the United States. The envoys answered that all Americans deprecated a war with France; but that their then situation was more ruinous than a war; that their commerce was plundered unprotected, but that if war was declared, America would seek the means of protection. Hottinguer returned to the subject of money. Said he, "Gentlemen, you do not speak to the point. It is money; it is expected that you will offer money." The Americans replied that they had spoken to that point very explicitly; they had given their answer. "No," said he, "you have not; what is your answer?" "It is 'No, no, not a sixpence.'"

Hottinguer said that nothing could be done in France without money; that one of the members of the Directory was in the pay of the privateers; that Hamburg and other European states had been compelled to buy a peace, and that it would be for the interest of the United States to do so. He enlarged again on the danger of a breach with France, on her irresistible power. The envoys replied that no nation esteemed her power more highly than the United States, or wished more ardently

France resolves to have no neutrals.

to be at peace with her. But there was one object still dearer to the Americans than the friendship of France, and that was their national independence. America had taken a neutral position; she had a right to take it. No nation had a right to force her out of it. To lend money to a belligerent power abounding in all the requisites of war but money, was to relinquish her neutrality and take part in the war. To lend this money under the lash and coercion of France was to relinquish the government of herself and submit to a foreign government imposed upon her by force. She would at least make one vigorous struggle before she thus surrendered her independence.

To lend money under coercion a relinquishment of independence.

A day or two later (October 30), Bellamy (designated Y in the dispatches), called the attention of the envoys to the situation of the United States, and to the force that France was capable of bringing to bear upon them. He warned the Americans that the fate of Venice might befall the United States. "You may believe," he said, "that in exposing to your countrymen the unreasonableness of the demands of this Government, that they will unite in representing them. You are mistaken. You ought to know that the diplomatic skill of France, and the means she possesses in America, are sufficient to enable her with the French party in America, to throw the blame which will attend the rupture of these negotiations on the Federalists, as you term yourselves, but on the British party, as France

Diplomatic skill of France.

terms you, and you may rest assured this will be done." The envoys replied with equal freedom. They said that the United States had given the most unequivocal proof of their friendship for France when almost the whole of Europe—Austria, Germany, Prussia, Russia, Spain, Sardinia, Holland and Britain—was leagued against her. But what was the conduct of France? "Wherever our property can be found she seizes and takes it from us; unprovoked, she determines to treat us as enemies and our making no resistance produces no diminution of hostility against us. She abuses and insults our government, endeavors to weaken it in the estimation of the people, recalls her own ministers, refuses to receive ours, and when extraordinary means are taken to make explanations, * * * the envoys who bear them are not received. They are not permitted to utter the amicable wishes of their country, but in the haughty style of a master, they are told that unless they will pay a sum to which their resources scarcely extend, they may expect the vengeance of France, and, like Venice, be erased from the list of nations."

Two days later (November 1), the envoys decided to hold no more indirect intercourse with the government. On the eleventh of the month, they wrote to Talleyrand reminding him of his promise to make known the decision of the Directory as soon as he had submitted his re-

The envoys resolve to hold no more indirect intercourse with Talleyrand.

port on American affairs. Ten days later, having received no answer, they sent Pinckney's private secretary, Major Rut-

ledge to inquire of Talleyrand whether he had submitted the letter to the Directory, and whether they might expect an answer. Talleyrand replied that he had submitted the letter, and that he would give the envoys notice, when the Directory had instructed him as to the course he was to pursue. In the meantime, Hottinguer and Bellamy made repeated efforts to draw the envoys into further discussions. They, however, persisted in their resolution. But when Gerry, who had met Talleyrand in the United States, and to whom that minister had shown some civilities, said in the presence of Bellamy that he should like to wait on Talleyrand for the purpose of inviting him to dine, Bellamy at once proposed to accompany him. He improved his opportunity by again urging the importance of giving the bribe to the Directory and making the loan to France. He said that if nothing could be done by the envoys, arrangements would at once be made to ravage the coasts of the United States. Gerry replied that France might ravage their coasts but that she could never subdue them. When they reached Talleyrand's office, Gerry remarked that Bellamy had just stated certain proposition as coming from Talleyrand. The latter replied that the information given by Bellamy was correct, and that he himself would state it in writing. He at once made a memorandum, stating the form of the proposed loan, but after he had shown it to Gerry, he burned it. The "fee usual in diplomatic transactions," he did not mention, doubtless from motives of delicacy.

The envoys finally (Dec. 19), decided to prepare a letter to Talleyrand, discussing the differences between the two countries, precisely as though they had been accredited. The letter was written by Marshall, and every line of it bears the stamp of the great intellect and strong personalty of the man who afterwards became famous as the Chief Justice of the Supreme Court. In a clear, cold, but absolutely conclusive way, he stated the case of the United States. He stated that on the 9th of May, 1793, *before* the British provision order, the National Convention passed a decree, one paragraph of which was as follows: "The French ships of war and privateers may stop and bring into the ports of the Republic, such neutral vessels as are loaded, in whole or in part, with provisions belonging to neutrals and destined for enemy's ports, or with merchandise belonging to enemies;" that a large number of American vessels were detained for a long time at Bordeaux without any motive for their detention being assigned; that on July 2, 1796, the Directory had decreed "that all neutral or allied powers shall without delay be notified that the flag of the French republic will treat neutral vessels, either as to confiscation, searches or captures, in the same manner as they shall suffer the English to treat them;" that on March 2, 1797, considering Jay's treaty as making concessions to England, which, by the treaty of 1778, France was entitled to, it proceeded to modify that treaty by declaring

Letter of the
envoys to
Talleyrand.

that enemy's goods in American vessels, were liable to confiscation, and that merchandise, *not sufficiently proved to be neutral*, was also liable to confiscation; and by subjecting to punishment as a pirate any American seaman found on the ships of the enemies of France, whether he was there by his own consent, or whether he was forced to be there through menace or actual violence; that this decree also exacted papers from Americans which the treaties between the two nations had been supposed to render unnecessary, and which, accordingly, their vessels could not be supposed to possess. How at variance many of these decrees were with the laws of nations, to say nothing of the laws of humanity; how inconsistent with the treaties between the United States and France; how ruinous to the interests of the United States, this paper showed with a conclusiveness that made a fair reply impossible, but, at the same time, with a dignity and good temper that would seem to compel a manifestation of those qualities in return.

Before this letter was sent, the French made a new attack upon the commerce of neutrals, an attack more violent and outrageous than any of its predecessors. It forbade the entrance into any port of France of any vessel, which at any previous part of her voyage had touched at any English port, or the port of any colony of England, and declared that all vessels were liable to confiscation that had on board any merchandise, which was the produce of England or her colonies, no matter to whom it belonged.

After waiting in vain for nearly a month for a reply to their letter, the envoys decided to ask for a joint interview with Talleyrand. He granted the request. During

Interview of
the envoys
with Talley-
rand.

the course of the interview, he insisted on a loan as an indispensable condition of adjusting the difficulties between the two countries. Marshall replied that a loan to France would be inconsistent with the neutrality which the United States had struggled so hard to maintain. If America were actually in league with France, all that could be expected of her would be to furnish money. To furnish money, therefore, would be, in fact, to make war. Talleyrand insisted that the loan might be made secretly. But Marshall replied that under the American form of government, such a thing was out of the question.

Talleyrand finally decided to reply to the letter of the Americans. With a case to defend that was indefensible, he substituted assertion for fact, and insult for argument.

Talleyrand's re-
ply to the letter
of the envoys.

He declared that it was an incontestable truth that the United States were the first aggressors, that the grievances of which they complained were necessary consequences of wrongs, which the United States had inflicted on France. He insinuated that the courts to which matters interesting to France had been referred, had been subject to a "secret influence;" and declared that deception had been practiced on France in reference to the mission of Jay, who had been

sent to London solely, as it was then said, "to negotiate arrangements relative to the depredations" upon American commerce by Great Britain. He asserted that in the treaty negotiated by Jay the United States had made to England "concessions the most unheard of; the most incompatible with the interests of the United States; the most derogatory to the alliance which existed between the said states and the French republic," and that the latter was, therefore, perfectly free, in order to avoid the inconveniencies of the treaty, to avail itself of the preservative means with which the laws of nature, the law of nations and prior treaties, furnished it. In the face of the fact that after one American minister had been driven from France, the United States had sent three envoys extraordinary, and that these had waited six months, knocking in vain at the door of the Republic for admission, subjected meanwhile to propositions insulting to themselves and dishonorable to their country, Talleyrand had the audacity to declare that the United States had omitted nothing to prolong the misunderstanding. As though that were not audacious enough, he dared to add that it was probably for that reason that it was thought proper to send to France as envoys "persons whose opinions and connections" were "too well known to hope from them dispositions sincerely conciliatory." "It is painful," he continued, "to be obliged to make a contrast between this conduct and that which was pursued, under similar circumstances, towards the cabinet of St.

James. An eagerness was then felt to send to London ministers well known for sentiments corresponding with the objects of their mission. The republic, it would seem, might have expected a like deference." But he did not show the boundlessness of his impudence and audacity until he said that the Directory was disposed to treat with that one of the three, whose opinions were presumed to be more impartial.

The interest of the reply made by the envoys, tempts one to quote from it extensively, but we have room but for three short extracts. In reply to Talleyrand's insinuation that the courts of the United States were corrupt,

they said: "The undersigned regret, Citizen Minister, that your researches concerning the United States have not extended to their courts. You would have perceived and admired their purity. You would have perceived that America may repose herself securely on the integrity of her judges, and your justice would have spared the insinuations concerning them which closed that part of your letter." Replying to his charge that the English sympathies of two of them unfitted them to be ministers to France, they said: "The opinions and relations of the undersigned are purely American, unmixed with any particle of foreign tint. If they possess a quality on which they pride themselves, it is an attachment to the happiness and welfare of their country; if they could, at will, select the means of manifesting that attachment, it would be by ef-

Reply of the envoys.

fecting a real and sincere accommodation between France and the United States on principles promoting the interests of both, and consistent with the independence of the latter. All who love liberty must admit that it does not exist in a nation which cannot exercise the right of maintaining neutrality. If opinions and relations such as these, are incompatible with 'dispositions sincerely conciliatory,' then indeed has the Federal government chosen unfit instruments for the expression of its pacific disposition." In reply to Talleyrand's proposal to treat with Gerry, to the exclusion of the other two, they said: "The result of a deliberation on this point is that no one of the undersigned is authorized to take upon himself a negotiation, evidently intrusted by the tenor of their powers and instructions to the whole; nor are there any two of them who can propose to withdraw themselves from the task committed to them by their government while there remains a possibility of performing it."

Disregarding this paragraph, the very day the letter was presented, Talleyrand wrote a note to Gerry, whose object was to bow Pinckney and Marshall out of the French Republic. "I suppose, sir," he said, "that Messrs. Pinckney and Marshall have thought it useful and proper in consequence of the intimations given in the end of my note, and the obstacles which their known opinions interposed to the desired reconciliation, to quit the territory of the Republic. On this supposition, I have the honor to

Marshall and
Pinckney dis-
missed.

point out to you to the fifth or seventh of this decade to resume our reciprocal communications." Gerry weakly consented to remain, although he insisted that he had no power to treat independently of his colleagues; that he could only confer informally and communicate the results to the United States. He afterwards excused himself for remaining on the ground that Talleyrand had repeatedly threatened that his leaving Paris would be the signal for an immediate declaration of war by France against the United States.

But Gerry's consenting to remain did not relieve the country of repeated insults in the persons of his two colleagues. Notwithstanding Talleyrand's desire to have Marshall leave, he was unable to obtain a passport and safe conduct until he had been subjected to repeated indignities. And it was only with great difficulty that Pinckney could get permission to stay for a few months with a sick daughter, in the south of France.

QUESTIONS.

1. Why was the selection of envoys for the French mission a matter of so much difficulty?
2. Explain the name by which the mission is generally known.
3. Give some account of the men appointed as envoys.
4. Do you know what the passages in the President's speech were that gave offense to the Directory?
5. What demands were made of the envoys as a condition of their reception?
6. What sort of insult does one country give to another when the former refuses to receive the ministers of the latter?

•7. What was the origin of the patriotic cry in America: "Millions for defense but not a cent for tribute?"

◀8. The envoys said that to lend money to a belligerent power was to relinquish neutrality. Were they right?

9. Also, that to do it under compulsion was to relinquish their sovereignty. Was that true?

10. Talleyrand's agents threatened the United States with the fate of Venice; what was the fate of Venice?

11. What light does this mission throw on the speech of Robert Goodloe Harper, of which an account has been given in a preceding chapter.

CHAPTER XVIII.

A PROVINCE OF FRANCE OR AN INDEPENDENT NATION—WHICH?

IT IS essential to a clear understanding of the history of political parties in this country for the next few years, to obtain a vivid realization of the nature and extent of the insults and outrages, to which the United States were subjected at the hands of France. We have seen how one French minister defied the government, and attempted to compel it to take part with France in her war with England; how another, profiting so far by the experience of his predecessors as to realize the impossibility of driving the government out of the path of neutrality, so far forgot the proprieties of his office, and the respect due to the constituted authorities, as to publish article after article in a Republican paper with the object of influencing the presidential election. We have seen how one minister of the United States was insultingly driven from France, and how this country, in spite of the assertion by the French government that France would never receive another minister till the grievances of which she complained were redressed, sent three envoys extraordinary for the purpose of settling, if possible, in an amicable way, the difficulties between the two countries.

Conduct of
French ministers
of the United
States and treat-
ment of Ameri-
can ministers in
France.

We have seen these envoys patiently waiting, hat in hand, at the door of the French republic, knocking in vain for admission; we have seen them in their intense anxiety to preserve peace, ignore these insults and, contrary to diplomatic usage, write a letter to the government that had refused to receive them—as a man bent on peace, might go to the house of his enemy and, after waiting in vain for him to open the door, go to the window and shout through it in mild and conciliatory language, the message of peace he had come to bring; we have seen the dignified and convincing, and yet passionless way in which they stated the case of the United States, and the false and insulting reply made by the French minister of foreign affairs; we have seen the envoys, still bent on preserving peace between the two countries, ignoring his insults, and declaring in reply that they were ready to do anything not inconsistent with the interests and the independence of the United States, in order to restore cordial relations between the two countries, that unless the United States could do as they pleased about maintaining a position of neutrality, they were not independent, and that for France to demand them to give up their neutrality as a condition of peace, was in effect to say that the only terms upon which she would be at peace with them, was that they should renounce their sovereignty and independence and become a province of France; we have seen Talleyrand bowing the two Federalist envoys out of the republic and yet subjecting one of them to

insulting indignities before giving him the passport without which he could not leave France, and giving the other with manifest reluctance permission to remain a few months in France with a sick daughter—all this we have seen, but it by no means completes the list of insults and outrages to which the United States were subjected at the hands of France.

But before attempting, not to complete the list, but to make it less incomplete, at the risk of unnecessary repetition, we must again call attention to the nature of the question which was at issue between the two countries, and had been since Genet landed at Charles-
Nature of the question at issue. ton in the spring of 1793. That question was essentially this: Should the United States rule themselves, or should they be ruled by France? Was there, on this side of the Atlantic, an independent and sovereign American State, or was there in effect, a province of France, amusing itself in child-like fashion—with the forms and airs of sovereignty? For several months, as we have seen, Genet, acting on the theory that the United States was a province of France, conducted himself as “co-sovereign” of the country. The government determined one way, and he, the representative of France, not only determined another, but acted on his determination. The government said that the United States were and wished to be neutral in the war between England and France; he, in effect, said that they were not neutral, and employed to some extent the resources of the country,

—and plainly hoped to be able to employ them all eventually—on the theory that they were not. When the French agent was overthrown through the popularity and firmness of Washington, Explanation of the conduct of Genet and Adet. France by no means abandoned the purpose of bending the United States to her will, of making the country in effect a French province. Genet's experience only made her realize the necessity of resorting to other methods. As she could not array the people against their government, the easiest way of accomplishing her designs seemed to be to exert her influence to put the government in the hands of men, whom she supposed herself able to control. This was why Adet openly attempted to win votes for Jefferson in the presidential election of 1796.

But when Jefferson was beaten, and the government was continued in the hands of what France chose to consider the British party, she determined to resort to more violent methods to gain her Policy of France after the defeat of Jefferson. ends. Adet had attempted to convince the people through the columns of the *Aurora* that they must elect Jefferson if they would avoid war with France. After the defeat of Jefferson the policy of the French was to make the government believe that it must choose between war with France, and submission to the will of France. France felt confident that the American people, to use an expression afterwards made famous by Josiah Quincy, could not be kicked into war with her. If she

could convince the government that its choice was narrowed between an impossibility, and submission to her will, she felt sure of accomplishing her purpose. This is why one American minister was driven from France; why the three envoys were kept waiting for admission six months in the ante-room of the French republic, and why two of them, supposed to be less manageable than the third, were finally dismissed.

But, as the letter of the envoys to Talleyrand has already shown, France by no means relied on the means employed by her ministers in the United States, and on the pressure she was able to bring upon the government through her treatment of American ministers in France, for the attainment of her ends. The first decree mentioned in the letter of the envoys, the decree passed, be it remembered, in May, 1793, before the British provision order—ordering French ships of war and privateers to bring into the ports of the republic, neutral ships, laden with merchandise belonging to enemies, or with provisions bound for the ports of enemies, was probably no part of the system, afterwards developed, to compel the United States to do the will of France. In the then situation of the French republic, engaged in a desperate struggle with nearly the whole of Europe, that decree was doubtless regarded by the French National Convention, which then governed France, as a desperate measure rendered justifiable and necessary, by the desperate position of France. A govern-

Explanation of
the anti-neutral
decree of 1793.

ment which had already fabricated all the machinery of the Terror, which a few months later declared "terror to be the order of the day," which in defiance of the laws and usages of all civilized countries condemned thousands of its citizens to the guillotine, that there might be no opposition to the course of the Revolution, would naturally not hamper itself in its dealings with neutrals, by treaties and principles of international law. As the lives and property of her citizens seemed to France trifles not worth considering in comparison with the maintenance of the Revolution, it is easy to see that she would not shackle her limbs with treaties and cobwebbed principles of international law in her desperate struggle to introduce a new era into the history of the world—the era of "liberty, fraternity and equality."

But when the next decree mentioned by the letter of the envoys was passed, the decree of July, 1796, the issue of the struggle between France and the rest of continental Europe was hardly a ^{The decree of 1796.} matter of doubt. The sublime energy of France had already made it clear that the question was not, whether continental Europe would conquer France, but, whether France would conquer continental Europe. The decree of 1796, therefore, was in no sense a desperate measure of a desperate people. It was aimed directly at the United States, and like the decree of March, 1797, it was a part of the system whose object was to compel the United States, in spite of the treaty they had made

with England, to take a position of helpless dependence on France.

In accordance with the last decree, numerous captures were made of American vessels. The French tribunals, whose duty it was in the first instance to determine the legality of these prizes, were composed of men many of whom had a pecuniary interest in the privateers which had brought in the prizes, and who were, therefore, interested in condemning them. If an appeal was taken to a higher court, the law officer of the government was authorized to refer the whole matter to the minister of justice, that the opinion of the government might be taken; and he decided the case, not in accordance with treaty provisions, or principles of international law, but with the policy of the government at the time. In other words, the *more* the French government wished to make the United States feel the danger of a war with France, the more certain was the decision that the American vessel had been justly captured, and was the prize of her captor.

But, as if to throw a net around American vessels so unfortunate as to cross the path of French privateers and ships of war that would permit none to escape, this decree authorized French ships of war and privateers to capture all vessels not having a *role d'equipage*, that is, articles, containing a list of the crew, signed by themselves, and countersigned by some public officer, or a national sea letter, as a proof of the nationality of the ves-

sel. This practically put every American vessel at the mercy of French privateers and ships of war. No such thing as a *role d' equipage* was required by American law, and no American vessel was provided with it. Nor had France thought of insisting upon it in the case of American vessels until it became a part of her policy to bend the United States to her will. The requirement of a national sea letter as the proof of the nationality of vessels was a direct violation of the treaty between France and the United States. That treaty specified the form of passport, which was to serve as a proof in time of war, of the nationality of the vessels of the two countries. But the French justified their requirement of a sea letter on the ground that Jay's treaty had abrogated the treaty between France and the United States, and, therefore, made its specification of a passport for the vessels of the two countries a nullity. The clause of the decree, providing for punishment as pirates of any Americans found on board British vessels, whether they had been forcibly impressed or not, was an outrage upon which comment is unnecessary. But it is worthy of remark that the Republican papers which had found no language strong enough in which to characterize the British practice of impressment, had not a word to say against the French decree which so far surpassed it in atrocity. Joel Barlow, an American then in Paris, who was in hearty sympathy with the policy which France was pursuing towards his own country, wrote to his brother-in-law in the

United States, of this decree, as follows: "It was intended to be little short of a declaration of war." "The government here was determined to fleece Barlow's letter. you to a sufficient degree, to bring you to your feeling in the only nerve in which your sensibility lay, which was your pecuniary interest." But what was probably merely a matter of opinion with Barlow, became a certainty when the consul-general of the United States complained of the condemnation of two American vessels on the ground that they had no *roles d'equipage*. To this complaint, Merlin, the French minister of justice, who was also a speculator in privateers, replied: "Let your government return to a sense of what is due to itself and its true friends, become Merlin's statement. just and grateful, and let it break the incomprehensible treaty which it has concluded with our most implacable enemies, and then the French republic will cease to take advantage of this treaty, which favors England at its expense, and no appeals will then, I can assure you, be made to any tribunal against injustice."

But the most outrageous attack made by the French government upon American commerce was not mentioned Decree of 1798. by the envoys in their letter to Talleyrand, since it was not passed until after the letter was written. In utter disregard, not only of the treaties between the United States and France, but the principles of international law, this decree (Jan. 18, 1798) forbade any vessel,

which at any part of her voyage, had touched at an English port, or of any of her colonies, to enter a French port, and declared that any vessel which had on board merchandise which was the produce of England or her colonies, no matter who was the owner of it, was liable to confiscation.

From the point of view of an American of the present day, who looks upon his country as the most powerful in the world, the interpretation here given of the conduct of

Talleyrand's
opinion of the
United States.

France may seem difficult to believe. But in considering the matter two things must be constantly borne in mind. The first is that the United States had but just entered the great family of nations and were by no means regarded as a first-class power. Talleyrand, who was a refugee in America in the period of the Terror in France, told the Directory on his return, so Pinckney was informed, that the United States were of no more consequence than Genoa, and needed to be treated with no greater ceremony.

The second point was clearly stated by Hamilton. "There are," he said "currents in human affairs, when events, at other times little less than miraculous, are to be considered as natural and simple." That France, from 1793 to 1800, should think of reducing the United States to a position of helpless dependence upon her was the most natural thing in the world. A country which in 1793 was at war with all Europe, and which by 1795 had

compelled all of her enemies except Austria and England to make peace with her, would find it hard to believe that the "enemies of liberty, fraternity and equality" in the United States would be able to oppose her will.

QUESTIONS.

1. What was the nature of the question at issue between the United States and France from 1793 to 1800?

2. Compare the word "State" as used in this chapter with the same word in a quotation made from Burgess on page 50, and state its meaning?

3. Give the names of the men who were ministers from France to the United States from 1793 to 1800, and give an account of their conduct.

4. Contrast the letter written by Lord Sackville-West in 1888 with the letters published by Adet in the *Aurora* in 1796, and the conduct of the government with reference to the former with its conduct with reference to the latter.

5. How do you explain the difference?

6. Give the substance of the various decrees issued by France relating to the United States from 1793 to 1798, and explain their object.

7. Compare the decree of January, 1798, with the famous Berlin decree afterwards issued by Napoleon in 1806.

8. What was Talleyrand's opinion of the United States in 1798?

9. Account for it.

10. A member of the French council of five hundred in 1797 made a speech in which he said: "*It is not Pinckney whom they (the government) repulse. It is the government of which he is the minister and the organ.* And what have we been doing? Our agents at St. Domingo announce to the minister of marine, that having no other financial resources, and knowing the unfriendly dispositions of the Americans, they had, to avoid perishing, armed privateers; that already eighty-seven corsairs were at sea; and that for three months the administration had subsisted, and individuals had been enriched by the product of their prizes.

That the revolting conduct of the Americans and the indirect evidence of the intentions of the government, made it their duty to order reprisals. *Corsairs against a friendly nation! Reprisals! When we are the assailants! Reprisals towards a nation which has not taken one of our vessels!* Wealth acquired by the confiscation of the vessels of a people with whom treaties unite us; from whom no declaration of war separates us. What is the pretext? The treaty with Great Britain! *Are we then the sovereigns of the world? Are our allies only our subjects, who cannot form treaties at their will?*" Explain and comment upon the italicized passages.

CHAPTER XIX.

THE ALIEN AND SEDITION LAWS.

ABOUT the middle of March (March 19), the President sent to Congress a message informing them of the conclusion he had reached from a careful consideration of the contents of the dispatches from our envoys in France, which had been received about two weeks before. He told Congress that although nothing had been left undone which honorably could have been done, he saw no reason to expect that the envoys could accomplish the objects of their mission on terms compatible with the honor and essential interests of the United States; and that nothing further could be attempted without abandoning the principles for which the country had uniformly contended, and which lay at the basis of its national sovereignty. He therefore urged them to adopt measures for the protection of our commerce and citizens; "for the defense of any exposed portions of our territory; for replenishing our arsenals, establishing foundries and military manufactories, and to provide such efficient revenue as will be necessary to defray extraordinary expenses, and supply the deficiencies which may be occasioned by depredations on our commerce." He also informed them that he had cancelled the instructions to collectors not to permit private armed vessels to sail.

President's message to Congress.

The effect of this message upon the Republicans was natural. Filled with the belief that the Federalists were bent on every pretext for accumulating power in the government, they were not inclined to take the word of John Adams for the necessity of these warlike preparations and heavy expenditures. In a letter to Madison, Jefferson declared that the President's "insane message" was identical with war, and that he could see nothing in favor of it "resulting from views either of interest or honor strong enough to impose even on the weakest mind." The only explanation he was able to give of "so extraordinary a degree of impetuosity" was by supposing it to be due either to the desire to establish a monarchy, or to effect the separation of the states. He thought that Congress should pass a law prohibiting the sailing of private armed vessels as the President had withdrawn his prohibition, and then adjourn, since to do nothing and to gain time was everything.

Jefferson's opinion of the message.

The Republican members of Congress sympathized with Jefferson, and the effect of their conduct upon the Federalists was equally natural. Firm in the conviction that the Republicans were only Antifederalists in disguise, that their desire and aim was to break down the constitution, the Federalists thought that it was the policy of their opponents to keep the country unarmed, and thus compel the government to accept such terms as France might choose to impose. Utterly failing to com-

prehend the point of view of their opponents, the Federalists believed that the Republicans were ready to subject the country to any degree of humiliation that might result either in overthrowing the constitution or in humbling the administration so as to destroy its prestige in the eyes of the people. Nor was this opinion confined to a few extremists like Robert Goodloe Harper and Harrison Gray Otis. In a letter to Lafayette, written the latter part of 1798, Washington wrote: "A party exists

Washington's
opinion of the
Republicans.

in the United States formed by a combination of causes, which opposes the government in all its measures, and is determined, as all its conduct evinces, by clogging its wheels, indirectly to change the nature of it, and subvert the constitution."

Immediately after the receipt of the President's message the House passed a bill making appropriations for the equipment of the three national frigates

Debate upon
Spriggs' resolutions.

which had been authorized at the late session. A few days later (March 27), the policy of the opposition was developed in three resolutions offered by Spriggs, of Maryland. The first declared that it was not expedient for the United States to resort to war against the French republic; the second, that the arming of merchant vessels ought to be restricted; the third, that adequate provision ought to be made for the protection of our seacoast and for the internal defense of the country. The

House at once entered upon a heated debate of these resolutions. But before the debate was over the Federalists gave an unanswerable reply to one of the arguments of their opponents. Gallatin had said: "There was one circumstance very unaccountable in this business. The President informed the House that he had received certain papers and says, I have considered these papers; I have deliberated upon them; I have not sent them to you, but require you to act on them. I call upon you to take energetic measures, and request that you will provide sufficient revenue—the House has thus been obliged to take up the subject in the dark." To this insinuation the Federalists replied (March 30), by moving that the President be requested to communicate to the House the dispatches that had been received from the envoys to the French republic. The motion was carried; the dispatches were made public, and their contents overwhelmed the opposition with astonishment and filled the immense majority of the American people with indignation. The *Aurora* and some other opposition papers did indeed argue that it was better to pay the bribe the Directory had demanded than run the risk of war. The country had purchased peace of the Indians and Algiers, why not purchase it of France? But all of the independent papers, among them some that had leaned strongly towards the Republicans, at once

Gallatin's
speech.

Reply of the
Federalists.

Republican and
independent
press

became earnest advocates of the policy of the President. From all parts of the country addresses came in showers commending his attitude, and making him feel for the first and only time in his life that he was a really popular man.

The effect of this torrent of popular indignation was quickly manifest in Congress. Spriggs' resolutions were abandoned; a bill for the procuring of additional armed vessels was passed; a naval department was created, and the President was authorized at any time within three years in the event of a declaration of war against the United States or actual invasion of their territory by a foreign power, or imminent danger of such invasion, to enlist ten thousand men to serve for a term not exceeding three years.

While many members of the opposition bent before the storm, a few of them going over to the Federalists, some of them declining to vote, some of them going home, their leaders—Jefferson, in his private correspondence, and Gallatin and Nicholas and Livingston in the House—steadily opposed every measure that looked towards war. Utterly unable to appreciate their motives, the Federalists determined to crush an opposition, which was aimed, they believed, at the very life of the nation. They passed an Alien Law, which empowered the President of the United States to send out of the country any

Measures passed
by Congress.

alien whom he regarded as a suspicious person. Believing that the French had Allen Law. emissaries in the country, who were trying to create divisions among American citizens, fearing that the fate that had overtaken Venice and Switzerland and Rome (whose governments had been overthrown by agents of the French), would befall this country unless vigorous measures were taken to prevent it, the Federalists stained the statute books of American history with the outrageous law, that put the right of aliens to reside in this country at the mercy of the President of the United States. All that he had to say was, "I regard you as a suspicious person, leave the country," and the alien so addressed must do it, or submit to fine and imprisonment. It was to no purpose that the Federalists were told by Gallatin, that since the Whisky Insurrection nothing had been seen but a cheerful submission to the laws; that an attachment to the constitution and a sense of the happiness enjoyed under it were universal. The heated minds of the excited Federalists were haunted by images of plots and conspiracies to upset the government, and, in order to save the government, it seemed to them essential that the plotters and conspirators should be brought within the reach of the law. In the form in which the Alien bill passed the Senate it was still more tyrannical. The Senate bill provided that any alien, who returned after having been

banished from this country, should be liable to imprisonment and hard labor for life.

Gallatin called the methods of the Federalists a system of alarm "which day after day brings forth motions calculated to spread fears of imaginary dangers; which one day produces an Alien bill; in the next, attempts to introduce an unconstitutional Sedition bill, and finally, wants military associations of one part of the people in order to suppress a supposed disaffection of the rest of the community." The Federalist system at this time certainly was a system of alarm. But it was invented because they were themselves so thoroughly alarmed that they regarded it as necessary to the salvation of the country, not, as Gallatin believed, for mere party purposes, in order to strengthen the Executive.

But in order to save the country, it was not enough, they thought, to provide for its defense against alien emissaries who might be found within it. In the crisis of extraordinary difficulty and danger which, in their opinion, the country had reached, it was necessary to put into the hands of the government a weapon with which it might defend itself against its own seditious citizens. Accordingly, they passed the famous, or rather the infamous, Sedition Law. In order to understand the spirit of which that law was the expression, it is desirable to study not merely the form which it received at its passage, but

The object of the Federalist system.

The Sedition Law.

the form in which it was introduced. As originally introduced, the first section declared that the people of France were enemies of the United States, and that adherence to them, giving them aid and comfort, was punishable with death. The fourth provided that any person who, by writing, printing, publishing or speaking, should attempt to justify the hostile conduct of the French, or to defame and weaken the government of the United States by any declaration or expressions, which tended to induce a belief that the government or any of its officers were influenced by motives hostile to the constitution, or to the liberties or happiness of the people, might be punished by a fine or imprisonment.

But the fanaticism of the Federalists, intense as it was, had not reached such a point of madness as to permit them to pass the bill in that form. Fortunately there was still enough hostility to tyranny among them, enough of devotion to individual liberty to cause them to strike out the first and fourth sections altogether. Hamilton, whom no one would accuse of undue devotion to individual liberty, objected to the bill as soon as he saw it in print. "Let us not establish tyranny," he said; "energy is a very different thing from violence. If we make no false step we shall be essentially united, but if we push things to extremes we shall then give to faction body and solidity."

But it is a fact of great interest to note that there were twelve men in the Senate, who voted for the bill with

the fourth section as above described, while only six voted against it, and that it was defeated in the House by the casting vote of the Speaker. Had the bill become a law in that form, it would not only have been possible for the Federalists to entirely silence the Republican press, but the intentional vagueness of its language would have made it possible for them to treat as crimes every form of opposition to their measures. If it was a crime to say or write that the Federalists were influenced by motives hostile to the constitution, that their aim was by interpretation and precedent to make it provide for a stronger government than the men who framed it intended, it was a crime to say what almost every Republican believed with passionate intensity. It is instructive to note that when Livingston declared that the principle of the Alien bill "would have disgraced the age of Gothic barbarity," the Federalist, Otis, declared that this very remark was "evidence of seditious disposition." And if this speech had been delivered anywhere but on the floor of Congress, it would have been a crime in accordance with the bill as it passed the Senate, and would have passed the House had the vote of the Speaker been cast in its favor.

As the bill finally became a law, it certainly went far enough towards establishing a tyranny. The first section made it a high misdemeanor, punishable by fine, not exceeding \$5,000, and imprisonment from six months to five years, "for any persons unlawfully to combine and

conspire together with intent to oppose any measures of the government of the United States, directed by proper authority, or to impede the operation of any law of the United States, or to intimidate or prevent any person holding office under the government of the United States from executing his trust," or, with similar purpose, "to commit, advise, or attempt to procure any insurrection, riot, unlawful assembly or combination."

The second section provided for a fine of not more than \$2,000, and imprisonment for not more than two years, of any one who printed or published any false, scandalous and malicious writings against the government of the United States, or either house of Congress, or the President, with intent to defame them, or to bring them into contempt or disrepute, or to excite against them the hatred of the good people of the United States, or to stir up sedition, or with intent to excite any unlawful combination for opposing or resisting any law of the United States, or any lawful act of the President, or to excite generally to oppose or resist any such law or act, or to aid, abet or encourage any hostile designs of any foreign nation against the United States. To these two sections, two more were added, on motion of the Federalist, James Asheton Bayard, of Delaware. These provided that the truth of the matter stated might be given in evidence as a good defense.

It has been said that there was great provocation for the passage of the act—that the falsehood, calumny and

shameful abuse in which editors indulged with a freedom which it is almost impossible to conceive for any one who has not waded through the party filth of the time—go far towards justifying it. But to this the conclusive reply is that the coarseness and virulence and indecency of party warfare were by no means monopolized by the Republican press. And no intelligent student of history supposes that the intention of the Sedition Law was to impose any restraint upon Federalist editors. No; it was not coarseness and abuse and indecent attacks as such, that the Federalists objected to, but to coarseness and abuse when they were the objects of them. And it was one chief purpose of the Sedition Law to prevent attacks upon the authors of it.

The object of the law is clearly shown by the character of the prosecutions that were based upon it. Among the offenses for which Lyon, Republican member of the House of Representatives from Vermont, was punished, was his assertion that "every consideration of the public welfare was swallowed up in a continual grasp for power (by the President), and unbounded thirst for ridiculous pomp; foolish adulation and selfish avarice." Thomas Cooper was fined \$400 and imprisoned six months for saying that in 1797 the President was "hardly in the infancy of political mistake." Then, he went on—the President had not said that a Republican government might mean anything; had not

Real object of the Sedition Law.

Prosecutions under the Sedition Law.

signed the Alien and Sedition Laws; had not saddled a standing army and a permanent navy upon the country; had not brought its credit so low as to borrow money at eight per cent., etc. Frothingham was fined and imprisoned for accusing Hamilton of attempting to buy the *Aurora* in order to suppress it in the interests of the Federalists.

In truth, these measures were eminently characteristic of the Federalists. The Federalists believed that they and they alone had at heart the best interests of the country. They believed that their opponents were a French party, not merely admirers, but devoted to the interests, of France; they believed that the Republicans made a mere pretense of devotion to republicanism, that they might with better hopes of success, carry on their war against the constitution in the interests of France and anarchy. The Alien and Sedition Laws were the direct results of these beliefs. Believing that they were on the verge of a war with France, a war forced upon them by France because they would not permit the country to take a position of helpless and absolute dependence upon her, it seemed to them but the simple dictate of self-preservation to give the government the power to protect itself against the emissaries which they were certain the great Propagandist of Anarchy was sending among them. Believing also that the Republicans were a French party, and that they would repeat the attempt they had made in the case of the Whisky Insurrection, only on a larger scale, on the

first opportunity, it seemed to the Federalists essential that the government should have the power to nip such attempts in the bud; that it should not be obliged to wait for sedition to organize its forces before it could strike it down. To prevent the anarchy that would result from the successful efforts of hostile aliens and seditious citizens, the Federalists laid violent hands on the constitution, and showed their lack of sympathy with the American attempt at 'self-government. It has been well said that they had got out of humor with the "new rage for calling in the sovereign people, and playing government as it were, in the street," and the Federalists were out of humor with the people because they believed that government by the people would result in anarchy.

Federalists' opinion of government by the people.

But these laws were characteristic of the Federalists, not only in what they aimed to accomplish directly, by means of them, but in what they hoped to accomplish indirectly. We have seen that the Federalists resolved to enlarge the powers of the central government by construction and precedent. In 1798 it was a question in dispute between Federalists and Republicans as to the crimes over which the Federal courts had constitutional jurisdiction. The Republicans contended that the Federal courts had jurisdiction over those crimes only, which were expressly enumerated in the constitution—treason, counterfeiting United States coin or securities, piracies

Division of opinion as to jurisdiction of United States courts.

and offenses against the laws of nations. The Federalists, on the contrary, claimed that offenses which are crimes, not because they are violations of any law which has been enacted—statute law—but are crimes because they are violations of laws, based on custom—common law—also come under the jurisdiction of the Federal courts. In 1798 libel was still a common law offense. From the point of view of the Republicans, therefore, the Sedition Law was a dangerous precedent, since it brought within the jurisdiction of the Federal court offenses, which, in their opinion, the constitution had left exclusively under the jurisdiction of the courts of the states.

In the closing weeks of the session, a number of important laws were passed in contemplation of hostilities, if not of war, with France. Our merchant vessels were authorized to arm and forcibly repel the assaults of the French (June 25); appropriations were made for distributing arms among the states (July 6); the treaties between France and the United States were declared no longer binding on the United States (July 7); and the President was authorized to issue letters of marque and reprisal against France (July 9). To meet the extraordinary expenses thus incurred, a direct tax of \$2,000,000 was laid and the President was authorized to borrow \$2,000,000 in anticipation of it, and \$5,000,000 more.

QUESTIONS.

1. Account for Jefferson's opinion of the President's message.

2. Why do you suppose he thought its object was either to establish a monarchy, or effect a separation of the states?
3. What was Washington's opinion of the Republicans?
4. What were Spriggs' resolutions?
5. What position was taken by the Republican press when the dispatches were published?
6. What was the difference between paying a tribute to the Algerines and giving a bribe to France?
7. What was the Alien Law?
8. In what form did it pass the Senate?
9. What were the provisions of the Sedition Law?
10. What did the first and fourth sections of the bill, as originally introduced, provide?
11. What votes were cast for the bill in the form in which it was introduced?
12. Could the Republicans have made any opposition whatever to Federalist measures, which the Federalists might not honestly have characterized as due to motives hostile to the constitution, if the bill had passed in that form?
13. What evidence does the Sedition Law give that the Federalists feared a popular uprising in behalf of France?
14. In what way were the Alien and Sedition Laws characteristic of the Federalists?
15. What differences of opinion existed between Federalists and Republicans as to the jurisdiction of the Federal courts?
16. What is the difference between statute and common law?

CHAPTER XX.

THE KENTUCKY AND VIRGINIA RESOLUTIONS.

MANY years after the passage of the Alien and Sedition Laws, Jefferson said that he believed them as palpably unconstitutional, as if Congress had passed a law requiring every one to bow down and worship a golden calf. He was equally clear as to their object; he considered them as merely "an experiment on the American mind to see how far it will bear an avowed violation of the Constitution. If this goes down, we shall immediately see attempted another act of Congress, declaring that the President shall continue in office during life, reserving to another occasion the transfer of the succession to his heirs, and the establishment of the Senate for life."

Jefferson on the
Allen and Sedi-
tion laws.

We are told by one author (McMaster, vol. I, page 419), that the fact that Jefferson ever wrote such folly, is of itself enough to deprive him of every possible claim to statesmanship. Whether Jefferson was or was not a statesman is a question which we are not obliged to discuss. But if no one could be a statesman in 1798 without having a tolerably correct estimate of the aims of his political opponents, then there were no statesmen at that time. If Jefferson, and Madison, and Gallatin cannot be considered statesmen because they thought the Federal-

ists wished to destroy the constitution in the interests of monarchy, Washington, and Hamilton, and Fisher Ames cannot be considered statesmen because they thought the Republicans wished to destroy the constitution in the interests of anarchy. In truth, it was a time of such political madness that clear, temperate, sober, steady thinking was almost impossible. That this was quite as true of the Federalists as of the Republicans, this story has abundantly shown. If further proof is desired, it is found in the fact that, with the exception of John Marshall, every leading Federalist, Washington included, entirely approved of the Alien and Sedition laws. Indeed, Fisher Ames questioned the soundness of John Marshall's Federalism because he did not approve of them.

With such opinions of the Alien and Sedition Laws, it was natural for Jefferson and those who agreed with him to take steps to prevent the carrying out of what they regarded as the the Federalist programme. Accordingly, in the autumn of 1798, he and Wilson C. Nicholas and George Nicholas, of Kentucky, discussed the question as to what it was best to do. Jefferson expressed an earnest wish that Kentucky should unite with Virginia in protesting against the constitutionality of the two odious laws. George Nicholas at once offered to introduce resolutions protesting against them, if Jefferson would frame them. Jefferson agreed to do it, but exacted from his friends a pledge that they would never reveal the fact that he was the author of the resolutions. He wrote

them, and with some modification they were passed by the Kentucky legislature almost unanimously. Later in the year Madison wrote a series of resolutions of the same character which were passed by the legislature of Virginia.

The resolutions of Madison were not so extreme as those written by Jefferson, and for that reason it seems desirable to consider them first. The following is the important paragraph of the Virginia resolutions: "This Assembly doth explicitly and peremptorily declare that it views the powers of the Federal government as resulting from the compact to which the states are parties, as limited by the plain sense and intention of the instrument constituting that compact, as no further valid than they are authorized by the grants enumerated in that compact; and that in case of a ^{Virginia resolutions.} deliberate, palpable and dangerous exercise of other powers, not granted by the said compact, the states, who are the 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."

The significance of the entire paragraph depends upon the meaning given to the word "interpose." Did Madison mean that each individual state had a right to interpose in the sense that, as a sovereign power, it could declare null and void ^{Meaning of interpose.} within its boundaries, every law that it re-

garded as a deliberate, palpable and dangerous exercise of powers not granted to the general government by the constitution? If so, his theory was nothing but nullification, with its ugly features a little disguised by the generality and vagueness of the language in which it was expressed. But he himself has told us emphatically that that was not his meaning. In 1831, when the question of nullification was being hotly discussed, Calhoun tried to commend it by showing, or seeking to show, that it was taught by the Virginia and Kentucky resolutions. Madison protested. He said that Virginia did not contend that a single state had the constitutional right to forcibly prevent the execution of a law of the United States. ~~N~~The state inter-

Madison's explanation of it.

position for which Virginia contended, he urged, was that provided for by the constitution. The constitution provided for the calling of a convention either by congress or by two-thirds of the states. The decision of such a convention, representing as it would have done the sovereign American people, the power that made the constitution and could unmake it, would have been final as to the constitutionality of the Alien and Sedition laws when ratified by the legislature of three-fourths of the states as provided for in the constitution. That, said Madison, was what the Virginia resolutions meant by "interpose."

To doubt Madison's interpretation would by no means be an impeachment of his veracity. Any one

who has given any attention to the nature of memory will have no difficulty in understanding that Madison might have been mistaken as to the meaning and object of the resolutions, which he himself had written more than thirty years before. But there is nothing in the resolutions which is inconsistent with his interpretation. The interpretation contended for is claimed for the "states.*" The singular term is never used. The resolutions did indeed affirm that the constitution is a compact between separate and sovereign states. If this doctrine were true, the constitution would be a sort of treaty, and a state would be justified in renouncing its obligations when the Constitution was infringed by any other.

But though the right of secession could be based on such a view of the constitution, the right of nullification could not. To say that a state had a right, under certain circumstances, to set aside a treaty, was one thing; to say that it had a right, while it professed to be bound by the

*But Madison's interpretation is difficult to reconcile with a passage in a letter which he wrote to Jefferson in 1798. "Have you ever considered thoroughly," he says, "the distinction between the power of the *State* and that of the *legislature* on questions relating to the federal pact? On the supposition that the former is clearly the ultimate judge of infractions, it does not follow that the latter is the legitimate organ, especially as a convention was the organ by which the compact was made. This was a reason of great weight for using general expressions, that would leave to other states a choice of all the modes possible for concurring in the substance, and would shield the General Assembly (of Virginia) against the charge of usurpations in the very act of protesting against the usurpations of Congress."

treaty to oppose the authority created by it, was quite another.

The nine resolutions drawn by Jefferson were more radical and unequivocal. The first declared that the constitution was a compact; "that to this compact each state acceded as a state, and is an integral party, its co-states forming as to itself, the other party; that the government created by this compact was not made the exclusive or final judge of the powers delegated to itself, since that would have made its discretion, and not the constitution, the measure of its powers; but that as in all other cases of compact among parties having no common judge, each party has an equal right to judge for itself, as well of infractions as of the mode and measure of redress."

The first of the Kentucky resolutions as drawn by Jefferson.

Here the meaning is too plain to allow any legerdemain of interpretation to put it out of sight; the constitution is a compact; each state acceded to it as an integral party; and each party, that is, each state, has a right to decide when the compact has been broken, and what shall be done when it has been. But the meaning of the resolution is not only clear but the process by which some of its most important conclusions were reached, is equally clear. Jefferson concluded that the general government which was created by the constitution, was not made the exclusive or final judge of its powers. But what led him to such an all-important conclusion? *Not the study of the constitution. This champion of strict*

construction based his belief, that each state had an equal right with the general government to judge when the constitution had been violated, and what redress it should demand under such circumstances, upon a consideration of the consequences of supposing that the decision of the general government as to the extent of its powers, was final —“that would have made its discretion, and not the constitution, the measure of its powers.”

The second resolution asserts that the Federalist doctrine that the courts of the general government had jurisdiction over common-law crimes violates the amendment to the constitution that declares that “the powers not delegated to the United States by the constitution, nor prohibited by it to the The second. states are reserved to the states or to the people respectively,” and that the Sedition Law, which was based upon it, is unconstitutional.

The third asserts that since no power over the freedom of religion, freedom of speech, or freedom of the press was delegated to the United States by the constitution, nor prohibited by it to the states, the Sedition Law, “which does abridge the freedom of the press is not law, but is altogether void, The third. and of no force.”

The fourth declares that since no power over alien friends has been delegated to the United States by the constitution, nor prohibited by it to the states, the Alien Law “which assumes The fourth. powers over alien friends not delegated by

the constitution, is not law, but is altogether void and of no force."

The fifth asserts that to remove aliens is equivalent to a prohibition of their immigration, and is, therefore, a violation of the clause in the constitution which declares that the migration or importation of such persons as any of the states now existing shall think proper to admit, shall not be prohibited by Congress prior to the year 1808.

The sixth declares that the imprisonment of a person on his failure to obey the simple *order* of the President to leave the country, is contrary to that amendment of the constitution that provides that "no person shall be deprived of liberty without due process of law ;" that the same act which undertakes to "authorize the President to remove a person out of the United States who is under the protection of the law, on his *mere* suspicion, without accusation, without jury, without public trial, without confrontation of the witnesses against him, without having witnesses in his favor, without defense, without counsel," is contrary to the amendment of the constitution which provides that in all criminal prosecutions, the accused shall enjoy the right of public trial by an impartial jury, to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him, to have compulsory processes for obtaining witnesses in his favor, and to have the assistance of counsel for his defense ;

that the same act in transferring the power of judging from the courts, to the President, violates that article of the constitution that provides that the judicial power of the United States shall be vested in courts, and that this transfer of judicial power is to "that magistrate of the general government who already possesses all the executive, and a negative in all legislative powers."

The eighth recommends that a committee of conference and correspondence be appointed, and asserts that "this commonwealth" (it will be borne in mind that these resolutions were written on the supposition that they would be passed by the legislature of Kentucky), "is determined, as it doubts not its co-states are, to submit to undelegated, and, consequently unlimited powers, in no man, or body of men on earth; 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."

The eighth.

The ninth authorizes the committee of conference and correspondence to communicate with any one who may be appointed for such a purpose by any one or more of the states.

An analysis of these resolutions, written again be it said, on the supposition that their author was the mouth-piece of the legislature of Kentucky, shows that they consist of three parts; the first lays down the proposition that since the constitution is a compact between the states to which each state acceded as an integral party, each state has a right to judge (1) when the constitution has been violated, (2) what sort of redress the nature of its violation calls for. In the second, third, fourth, fifth, sixth and seventh, Kentucky as a party to the compact, decides that several specified clauses of the constitution have been violated by the Alien and Sedition Laws. In the eighth, the redress is specified, which different infractions of the constitution call for. In case of an *abuse* of delegated powers, a change in the members of the government is the rightful remedy. But in case of an assumption of powers not delegated, the very case which had actually arisen according to the resolutions, a nullification of the act by the sovereign states is the constitutional remedy.

If this analysis is correct, to contend that the same interpretation should be given to the resolutions drawn by Jefferson, that Madison gave to those drawn by himself, is impossible. As plainly as language can say it, Jefferson says that each state has a right to judge when the constitution has been violated and what redress shall be had; that—supposing himself to be the mouthpiece of

Analysis of the resolutions.

Kentucky—the instrument of the first order in which particular and that of such regulations and laws of individual states in the several states. It is in Alexander Johnson's view that the Jeffersonian doctrine "stands in no way" that there were but two parties in the "country" the only and ^{sole} ~~the~~ ^{the} federal government, is it in reference to the specific and carefully chosen language of Jefferson. It is indeed true as Johnson asserts that the state sovereignty doctrine of Jefferson was formulated as a shield of protection for the individual, while in the hands of Calhoun it was to be a "shield of protection for a section and its slavery." But I deny that this distinction is "trivial." If a state is sovereign for one purpose, it is a contradiction to say that it is not sovereign for any purpose whatever. If it can, in the exercise of its sovereignty, set aside one law, it can set aside any. If it can set aside unconstitutional laws like the Alien and Sedition Laws in the interests of the individual, it can for the sake of slavery (or could) set aside constitutional laws. It cannot be sovereign when the setting aside of unconstitutional laws is in question, without being sovereign when the setting aside of constitutional laws is in question. It cannot have sovereign power to do right without having sovereign power to do wrong.

*Cyclopaedia of Political Science, Political Economy and United States History; article on Kentucky and Virginia Resolutions.

The best defense to make of Jefferson, as the author of the Kentucky resolutions, is not to contend that they do not mean what they say. The truth is, that when Jefferson wrote them, he believed that liberty was being driven to its last stronghold. He believed that the Federalists were bent on carrying out a programme, which unless arrested at the beginning, would drive the states into revolution and blood, and furnish the enemies of humanity with a new pretext for calumnies against Republican government. Failing to realize that the only barrier that can be erected against such schemes must be found in devotion to liberty, he himself forged in the very resolutions that were written to defend it, the most effective weapon that has been used in the last hundred years against Republican government. The civil war, which was the logical outcome of the doctrine of the Kentucky resolutions, was a tremendous struggle to determine whether "government of the people and by the people" can endure.

But it is unjust to Jefferson to say that the doctrine of these resolutions was his abiding sober thought as to the proper remedy for violations of the constitution. He stated his abiding thought on the matter in a letter written a few years before his death to Justice Johnson: "The ultimate arbiter," he said, "is the people of the union, assembled by their deputies in convention, at the call of Congress, or of two-thirds of the

states. Let them decide to which they mean to give an authority claimed by two of their organs."

QUESTIONS.

1. What did McMaster say about Jefferson as a statesman and how would you reply to it?
2. Why, in your opinion, was Fisher Ames disposed to regard approval of the Alien and Sedition Law as a test of the soundness of one's Federalism?
3. Who was Fisher Ames? Do you recall any speech of his?
4. Why did Jefferson wish to conceal his authorship of the Kentucky resolutions? Do you recall any other instance in his history when he seemed unwilling that the public should know his relation to important measures?
5. Give the substance of the most important paragraph in the Virginia resolutions?
6. How did Madison explain the meaning of "interpose"?
7. Can you reject his explanation without impeaching his veracity?
8. Reconcile his explanation with the paragraph quoted in the letter to Jefferson.
9. What follows from the opinion that the constitution is a compact?
10. What is the difference between nullification and secession?
11. Could a state be supposed to have the right of secession without the right of nullification?
12. State the substance of the first of the Kentucky resolutions as drawn by Jefferson?
13. Point out carefully the nature of the reasoning by which its conclusions were reached.
14. Jefferson objected that to make the general government the final judge of its powers, was to make its *discretion* the measure of its powers; *did not his theory make the discretion of the states the measure of its powers?*

15. If the doctrine of this resolution were true and were acted on as such, what would be the difference between the constitution and the Articles of Confederation ?

16. What is Alexander Johnston's interpretation of this paragraph ?

17. What do you think of his interpretation ?

18. What seems to have been the abiding thought of Jefferson on this subject ?

19. What do you think of the reasoning of the second, third fourth, fifth and sixth resolutions ?

CHAPTER XXI.

DOWNFALL OF THE FEDERALIST PARTY.

OUR STORY has already told of the tornado of indignation that swept over the country on the publication of the X., Y. and Z. dispatches, and of the energetic measures passed by Congress in June and July, 1798. The news seems to have taken Talleyrand and the French government completely by surprise. That a "backwoods nation" of 5,000,000 people would dare to throw down the gauntlet at the feet of the conquerors of continental Europe was a possibility upon which they had not reckoned. Effect upon France of the energetic measures of the United States. The Directory at once changed their attitude. They assured Gerry that they were eager to preserve peace between the two republics. They no longer demanded satisfaction for the language of Adams' message. They declared that they did not wish the United States to break Jay's treaty; they issued circulars forbidding the further capture of American vessels; they released American seamen, and, in August, declared in a semi-official way, their readiness to receive a new American minister, provided his political opinions were acceptable.

In his message to Congress in December, Adams asserted that the "pretension" on the part of the French to prescribe the qualifications which a minister of the

United States should possess was inadmissible, and declared that to send another minister "without more determinate assurances that he would be received

Vans Murray
nominated to
France.

was an act of humiliation to which the United States ought not to submit." But he gave it as "his deliberate and solemn opinion, that whether we negotiate with her or not, vigorous preparations for war will be alike indispensable." Long before this, however, Talleyrand had given the most "determinate assurances" that an American minister would be received. In his message in June, we remember, Adams had said that he "would never send another minister to France without assurance that he would be received as the representative of a great, powerful, and independent republic." Accordingly, on September 28, 1798, Talleyrand caused the resident American minister at the Hague, William Vans Murray, to be assured that "whatever plenipotentiary the government of the United States might send to France, in order to terminate the existing difficulties between the two countries, he would undoubtedly be received with the respect due to the representative of a free, independent and powerful nation." Adams took him at his word. Without even hinting his intention to his cabinet, to say nothing of asking their advice, on February 18, 1799, he nominated Murray as minister to France.

This precipitate action, which was undoubtedly the occasion of the downfall of the Federal party, grew out

of the relations between John Adams and the Hamiltonian Federalists. Hamilton and Adams began their respective careers under the constitution, the one as Secretary of the Treasury, the other as Vice-president, with a lack of confidence in each other. Hamilton suspected Adams of being unfriendly to Washington. He believed that Adams had been among the number in Congress, who, at one period in the Revolution, had been willing to supersede Washington and appoint ^{Adams and} Gates in his stead. ^{Hamilton.} Though this feeling was so far overcome as to induce him to prefer the election of Adams as Vice-president, it left a sediment behind in the form of a distrust of him, and an unwillingness to see him elected by a very large majority. He accordingly used his influence to diminish the number of votes for Adams.

Adams heard of this and was naturally inclined to complain that he appeared before the world as the choice of a minority of the electors, when but for the influence of Hamilton he would have received a decided majority. As Vice-President during Washington's two administrations, Adams had repeatedly given the casting vote in favor of measures that had originated with Hamilton. Nevertheless, the relations between the two men were never cordial. It was impossible that they should be. Their tempers and characters were such that they were sure to come into antagonism. Hamilton's ardor, ability, self-assertiveness, and devotion to the public good com-

binéd with a remarkable capacity to impress himself upon men, had made him, by the close of Washington's second term, the real leader of the Federal party. When Jefferson was an old man, Van Buren visited him at his home at Monticello. In the course of their numerous conversations about political parties, Van Buren observed that in speaking of the Federalists, Jefferson always spoke of Hamilton. Instead of saying the Federalists did this and that, he always said Hamilton did this and that, attributing to him the authorship of their entire policy. Van Buren asked him the reason. Jefferson smiled and said that the Republicans never had any doubt that the policy of their opponents was directed by Hamilton. The researches of history have fully confirmed Jefferson's opinions. Every important measure of the Federalists during Washington's two administrations bore the stamp of Hamilton's personality. Washington himself, as we have seen, constantly looked to him for advice. The members of Washington's cabinet who were appointed after its first members resigned, owed their elevation largely to his influence, and habitually relied on him for advice and suggestions. The natural inclination of weaker men to lean on a strong man, impelled them in the critical and difficult positions in which they often found themselves, to turn to a man who always had time to think out a clear and definite policy for every emergency, and support it by powerful reasons. In this way, Hamilton exerted almost as much

influence on the policy of Washington's administration after he left the cabinet, as he did while he was a member of it.

John Adams had many of the characteristics of Hamilton. He was as ardent, as self assertive, as much devoted to the public good, as little capable of being guided by the will of another, as Hamilton. Like Hamilton he was quick in his decisions, fertile in resources, and of untiring industry. But Characteristics of Adams. unlike Hamilton, he was not remarkable for the power of impressing himself upon men. Moreover, there were positive reasons why the members of his cabinet were at least indifferent to him, if not more than that, from the beginning. They were in perfect sympathy with Hamilton, and that was Hamilton's attitude. In the election that resulted in making Adams President, Hamilton used his influence to make Thomas Pinckney President, instead of Adams. As the constitution then stood, two men were voted for by each presidential elector, as President. The one who received the highest number of votes became President, and the one the next highest, Vice-president. Hamilton had urged all the New England electors to vote for Pinckney as well as for Adams, because he knew that some of the electors in the Southern states would vote for Pinckney who would not vote for Adams, since the former was a southern man, and, in this way, Pinckney would be elected President over Adams.

This came to the knowledge of Adams and made him very indignant. It would be impossible in so short a space, to draw one side of his **Adams' vanity.** character more clearly than he himself did in a paragraph of a letter which he wrote on this occasion. "But to see such a character as Jefferson," he wrote March 30, 1797, to Henry Knox, "and much more such an unknown being as Pinckney, brought over my head, and trampling on the bellies of hundreds of other men infinitely his superiors in talents, services and reputation, filled me with apprehensions for the safety of us all. It demonstrated to me that if the project succeeded, our constitution could not have lasted four years. We should have been set afloat and landed, the Lord knows where. That must be a sordid people indeed, a people destitute of a sense of honor, equity and character, that could submit to be governed, and see hundreds of its most meritorious public men governed by a Pinckney, under an elective government." For a man who took himself so seriously as to use such language as this in speaking of Pinckney and Jefferson, to get along without friction with his cabinet, would have been difficult if they had agreed with him on questions of public policy. But they did not. Their opinions differed widely from his in matters of fundamental importance. Moreover, because of the precedents established in Washington's two administrations, they did not look upon their office in the light in which it is univer-

sally regarded now. They regarded themselves, not as advisers of the President, who were in duty bound to defer to his decisions, however contrary to their judgment it might be, but as having a share of executive power. Timothy

Opinions entertained by members of the cabinet of their positions.

Pickering showed this very clearly in a letter to Hamilton written in 1798. "Internal politics and our exterior relations," he said, "may be deeply affected by the character and principles of the President and *Secretary of State*." Now this opinion which Pickering, as stern and unbending a man as Andrew Jackson, entertained of his office, an opinion which was shared by his colleagues, was sure to lead them into collision with Adams. For they differed from him almost as radically as he himself did from Jefferson. He was one of the few public men of his time who was absolutely without foreign bias. When he was presented to George III, of England, in 1785, he said to that monarch, "I must avow to your majesty that I have no attachment save to my own country." The old Revolutionary spirit was strong within him in 1797. He wrote to his wife, "I would not have my son go as far as Mr. Jay, and affirm the friendly disposition of that country (England) to this. I know better. I know

Adams' opinion of France and England contrasted with that of his party.

their jealousy, envy, hatred and revenge covered under pretended contempt." But he cared just as little for France. Not deluded by names, he had early seen that the French Revolution had nothing in common with the

Revolution in his own country. In a letter to his wife in 1798, he said that if he thought of nature as Franklin did, he should regard her as "a kind of French Republic, cunning and terrible, but cruel as the grave, and as unjust as the 'Tempter and Tormentor.'" The preceding year he said, "I should dread his kindness (John Bull's) as much as French severity, but will be the dupe of neither." But a large number of leading Federalists by no means extended their dislike to England and France in the same impartial and even-handed way. We remember what Cabot thought of the war that England was waging with France. He thought that it was in behalf of the civilized world, and that if she failed, the rest of the world would have to fight or give up their independence. And this was about the view of the two leading members of Adams' cabinet, Timothy Pickering and Oliver Wolcott. Under such circumstances to expect harmony between Adams and his cabinet was to expect the impossible.

It was after Congress adjourned in July, 1798, that the first collision between Adams and his cabinet occurred. As President of the United States, it was Adams' duty to appoint the officers of the provisional army which Congress had provided in the closing days of its session. As to who should be put at the head of it, there was little occasion for the exercise of discretion—the whole country instinctively turned towards Washington. De-
ferring to this universal wish apparently, rather

Washington appointed commander-in-chief of the provisional army.

than to any strong desire of his own, Adams appointed Washington to the position of Lieutenant-General and Commander-in-chief of the Army, and the Senate unanimously confirmed him.

When Washington accepted the nomination he was perfectly well aware of the relations between Adams and Hamilton. He knew, moreover, that it was Hamilton's wish to be second to him in command, and that it was the judgment of a large number of influential Federalists that his abilities entitled him to the position. John Jay and Timothy

Conditions under which he accepts the appointment.

Pickering had strongly urged the desirability of giving Hamilton this appointment. In this estimate of Hamilton, Washington himself concurred. He accordingly accepted the appointment as Commander-in-chief under two conditions: (1) That the chief line and staff officers should be such as he confided in; and (2) that he should not be called into the field until the situation of the country made it indispensable.

Adams at once submitted Washington's letter of acceptance to Congress, and also a list which had been arranged by Washington, naming Hamilton, C. C. Pinckney and Knox as Major-Generals, and in that order.

As soon as the extra session was over, the President hastened to his home in Quincy. Hardly had he arrived there, when he found that the question as to who was to be second in command was still in dispute. The

Dispute over the precedence of the Major-Generals. friends of Hamilton were claiming the position for him on the ground that his name stood first on the list of Major-Generals.

But many of the New England papers urged that the position belonged to Knox because of the higher rank he had held in the Revolutionary war. Adams, as a New Englander, who liked Knox, a New England man, and strongly disliked Hamilton, preferred to give the position to Knox. But the friends of Hamilton in and out of the Cabinet were determined to prevent this if possible. McHenry, Secretary of War, sent letters to Adams, which had been drafted by Hamilton himself, the objects of which were to reconcile Knox to a subordinate position, and induce Adams to announce that the order was to be Hamilton, Pinckney, and Knox. These letters made Adams angry. "There has been too much intrigue in this business," he said, "with General Washington and me." He ordered that the commissions of the three Major-Generals should be made out in such a way as to put Knox first, Pinckney second, and Hamilton third. But this called out a letter from Washington in which he stated that he should regard such an arrangement as a violation of the condition upon which he had accepted his appointment, and threatened to resign. To this letter Adams yielded with as much grace as he could, and appointed Hamilton second in command.

The effect of this successful attempt to thwart the wishes of Adams, and compel him as President to do

what he did not wish to do, was not only to embitter him more strongly than ever against Hamilton and plant in his mind seeds of distrust towards his Cabinet, but also to discipline him to a policy which might result in the aggrandizement of his personal enemy. That Adams was too much of a statesman not to have pushed the preparations for war with the utmost vigor, if war had seemed to him probable, cannot be questioned. But the successful attempt to force him to make Hamilton second in command, certainly tended to cause him to minify, rather than magnify, the probability of war. "One thing I know," he wrote to McHenry in October, "that regiments are costly everywhere, and more so in this country than any other under the sun. If this nation sees a great army to maintain without an enemy to fight, there may arise an enthusiasm that seems little to be foreseen. At present, there is no more prospect of seeing a French army here than in heaven."

Effect of making Hamilton second in command above Adams.

But these were by no means the chief considerations that led Adams away from the warlike designs of the Hamiltonian Federalists. Although he was a Federalist, he stood at least half way between Hamilton and Jefferson. "The crisis," which continually haunted the mind of Hamilton, and his followers, a crisis in which the ignorant masses would attempt to inaugurate a French Revolution in this country, never troubled him. The difference between

Adams did not believe in the "crisis."

the two men in this respect is well illustrated by their attitude towards the Alien Law. Adams approved of it, but in his hands it was a dead letter; he sent no alien out of the country. Hamilton, on the contrary, declared that the majority of them ought to be sent away. Since Adams apprehended no crisis he did not feel the need of strengthening the government. Although Hamilton was too much of a statesman not to see that war was an evil which it was incumbent on the country to avoid, if it could be done with honor, there is no reason to doubt that war had to his mind compensating advantages; it would result in strengthening the government and in so calling out the military resources of the country as to make a revolution impossible. We have seen that at the adoption of the constitution, Hamilton's distrust of popular government had made him doubtful of the stability of the government which it had called into existence. And though the issue of the Whisky Insurrection might have taught him that respect for its authority was general, the terrible convulsions in France had more than neutralized the lessons of the Whisky Insurrection; they had seemed to him an awful and never-to-be-forgotten object lesson of the folly of expecting anything but injustice and practical anarchy from a government by the people.

The desirability of setting this point in a clear and strong light makes it useful, perhaps, to call attention for a moment to an insignificant insurrection, which broke out in

Fries' insurrection.

Pennsylvania in 1799. In the preceding year, it will be remembered, Congress levied a direct tax. One of the things on which it was to be levied was houses, arranged in certain classes, and one of the means prescribed for making the classification was a measurement of the windows. Opposition to it in certain counties in Pennsylvania culminated in a riot, and when thirty rioters were arrested, they were rescued by a man named Fries at the head of fifty armed horsemen. For this offense Fries was tried and condemned to death, and when he was pardoned by Adams, it seemed to Hamilton and to many leading Federalists that Adams had been guilty of a gross and culpable breach of trust. They were constantly judging of tendencies in this country by the analogies furnished by France. They believed that Fries' insurrection was only a sign of the anarchical tendencies of democracy, and that the only way the unruly giant could be kept from overturning the State was by being kept down by the strong hand of authority. When, therefore, Adams, whose brain was not affected by the intoxication of Anti-French fanaticism, pardoned Fries, it seemed to many of the leading Federalists almost a treasonable breach of trust.

It was this fever of Anti-French fanaticism in the Hamiltonian Federalists that caused their divergence from Adams on the question of which men-

English sympathies of the Hamiltonian Federalists.

tion has already been made. In 1798, as we have seen, the only power in Europe

that opposed France was England. England therefore, had come to seem to the followers of Hamilton the champion of law, order, religion, and everything that was good. They forgot her anti-neutral orders in council, her impressment of American seamen, her selfish colonial policy, or remembered them only to apologize for them. The one fact that entirely filled the field of their consciousness was that England alone had not succumbed before the Great Propagandist of Anarchy. Precisely as the Republicans had opposed the mission of Jay in 1794, because, from their point of view, negotiation with England was negotiation with the enemy of liberty, with the coalition of kings against the people, so in 1798 there were many leading Federalists to whom negotiation with France seemed like negotiating with the Incarnate Principle of Evil against the champion of law, order and religion. And with the same propriety with which the Republicans in 1793 might be characterized as a French faction, many leading Federalists in 1798 might be characterized as an English faction. The Hamiltonian Federalists believed that the one question which France asked when she was on the point of making a treaty was not whether its stipulations, if observed by her, would promote her ends, but whether *agreeing* to observe them would do so. Correctly believing that the one purpose which had influenced France in all her intercourse with this country was the overthrow of the government, they thought that to gain time and restore her

injured credit in the United States, she would agree to any treaty that seemed likely to promote her ends.

Moreover, they believed that after one American minister had been driven out of France and the three special envoys still more grossly insulted, the time had come for the United States to stand on their honor. If diplomatic intercourse was to be resumed between the two countries, it was for France to take the initiative. It was not enough for her to indicate in a lordly way her readiness to receive an American minister—to say, in effect that if the United States should send a minister he should not be subjected to threats of interference from the police, or refused recognition except on insulting and dishonorable conditions. She herself should send a minister to this country to close the breach which she had opened. If she refused, if she persisted in her attitude of hostility, if war resulted, it would decrease the probability of a revolution in this country and cure the people of their almost fatal partiality for France. So reasoned the Hamiltonian Federalists. When, therefore, the President sent a message to the Senate nominating Vans Murray as minister to France, their indignation was boundless. Pickering wrote to Hamilton, “we have

Effect of the French mission on the Hamiltonian Federalists.

all been shocked and grieved at the nomination of a minister to negotiate with France. I beg you to believe that it is wholly *his* (the President's) own act, without any participation or communication with any of us.” And

Sedgewick, also to Hamilton: "Had the foulest heart and the ablest head in the world been permitted to select the most embarrassing and ruinous measure, perhaps it would have been precisely the one which has been adopted. In the dilemma to which we are reduced, whether we approve or reject the nomination, evils only, certain, great, but in extent incalculable, present themselves." These statements, strong as they are, did but voice the indignation of the Hamiltonian wing of the party. By processes which it would take a psychologist to unravel, they had come to feel that Adams had no political right to defy their will. Regarding themselves as leaders of the party, they felt that they had a right to define its policy, and that the, in a sense, accidental fact, that Adams was President, gave him no right to change it.

But no clearer light can be found in which to view the effect of Adams' French mission upon the Hamiltonian Federalists, and thereby to study their political character, than two letters written by George Cabot to Hamilton. "Cabot," says Henry Adams, Cabot's letters to Hamilton. "was considered the wisest head in his party, to whose rebuke even Hamilton was forced to bow." A special significance, therefore, may justly be attached to his opinions. "For myself," he says in a letter written in August, 1800, "I often declare that the mission to France, though impolitic, unjustifiable, dangerous and inconsistent; the expulsion of *able, upright and faithful* officers * * * though a ruinous

precedent; the pardon of Fries though a sacrifice of the safety as well as dignity of the state, * * * that all these would not induce me to oppose the President's re-election, *if I did not view them as evidence, explained and confirmed by other evidence, that he has abandoned the system he was chosen to maintain, and that he is likely to introduce its opposite, with all its pernicious consequences, as fast as he can, and as far as his influence will go.*" But what was the system which Adams was chosen to maintain and which Cabot found evidence that he had abandoned? That appears from another letter written by the same to the same. In this letter, Cabot was speaking of the pamphlet which Hamilton had just written about Adams and of which mention will be made later. "They (certain Federalists) expected you would have analyzed him so effectually as to prove that he is and must be but little attached *to the support of the public credit and the rights of property*; in a word, that *war with England, privateering, and paper money*, with all their baneful appendages and consequences, are viewed by him, not as evils to be deprecated, but resources to be preferred to that stable condition aimed at by the Washington system which he hates, and which he has been constrained by circumstances to support." Here we have what we may call a full length portrait of the Hamiltonian Federalists in 1798, 1799 and 1800, in outline at least. Adams thought it better to waive the point of honor and take Talleyrand at his

word, and send another mission to France; he thought that he might safely follow the example of Washington in dealing with the leaders of the Whisky Insurrection, and pardon Fries; he decided to demand the resignation of members of his cabinet who had endeavored persistently to thwart his policy rather than assist in carrying it out, and, *therefore*, he had abandoned the Washington system; *therefore*, he was no longer attached to the support of the public credit and the rights of property; *therefore*, he regarded war with England, privateering, and paper money, not as evils to be deprecated, but as resources to be preferred to the system of Washington! Anyone who wishes to get a vivid realization of the condition of things that caused an attempt to preserve peace to result in the downfall of the party to which the President who made it belonged, should make a careful study of this "therefore." The temper of mind which made a bridge from such facts to such a conclusion, was totally unfit to be trusted with the administration of the government. It was bound to play the part of a Don Quixote. That Adams refused to play such a part, that his vision was too clear and his judgment too free from the prejudices of the time to make him regard windmills as serious menaces upon the government, is the reason that the Hamiltonian Federalists attacked him, and that he, and the great party to which he belonged, were beaten in 1800.

We have seen that in February, 1799, Adams startled

the country by nominating Vans Murray as envoy to France. Further reflection enabled him to see that Murray was not a sufficiently important person to be intrusted with such an important mission alone. Accordingly, before the Senate acted on his nomination, he nominated three persons, Chief Justice Oliver Ellsworth, Patrick Henry, and Vans Murray, to be joint commissioners to France. Henry declining, Governor Davie, of North Carolina, was appointed in his stead.

The details of the story, how the friends of Hamilton in and out of the cabinet, undertook to thwart the President, how in their fondness for Quixotic enterprises, they tried to prevent John Adams, of all the men in the world, from doing what he conceived to be his duty, need not detain us here. As some of their reasons for delaying the departure of the commissioners had some ground, Adams did not order the commissioners to sail until October. But on the morning of October 16, without consulting his cabinet, he ordered that their instructions should be put in final shape, and that a frigate should be got in readiness to take them not later than November 1. They sailed on November 5.

That this mission to France inflicted a fatal wound on the Federalist party, proved, as we have seen, that it was time for it to die. It had been a great party, and it had done a noble work. It ^{Work of the} ~~Federalists.~~ found the country without a government; it created one. It converted the lifeless letter of the con-

stitution into a living system of government. It "touched the dead corpse of public credit and it sprang into life." It kept the country in the straight and narrow path of neutrality when to depart from it would have been fatal to the young government. But its work was done. With little faith in the possibility of Republican government to begin with, that faith had grown less and less until its leaders had come to think that the one hope of realizing it lay in war with France. An idea so un-American, so utterly out of harmony with the spirit of American institutions, made the party that entertained it unfit to be longer trusted with the destinies of the young republic.

Fortunately for the country the official leader of the party was a strong man. When our minister had been driven from France he did not allow a sense of national dignity to prevent him from sending three special envoys there. When these in turn had been insulted, he did not permit fear of France to cause him to forget what was due the country. The man who had defied England in 1775, was ready to defy the conquerors of continental Europe in 1798. But to refuse to send a minister after France had so emphatically declared her wish to receive one, to go to war for a mere point of etiquette, was not consistent with his ideas of the public interests. But when he sent the mission, he split the party into two irreconcilable factions, and made his own reelection impossible.

His action, as we have seen, subjected him to the

fiercest and most vindictive criticisms from the leaders of the party. Hamilton wrote a pamphlet criticizing him in terms that fairly exposed him to punishment under the Seditious Libel Law. But his own verdict upon his conduct is the verdict of history. In a letter to James Lloyd, written in 1808, he said: "I will defend my mission to France as long as I have an eye to direct my hand, or a finger to hold my pen. They were the most disinterested and meritorious actions of my life. I reflect upon them with so much satisfaction that I desire no other inscription over my gravestone than, 'Here lies John Adams, who took upon himself the responsibility of peace with France in the year 1800.'"

Judgment of history upon Adams' French mission.

QUESTIONS.

1. Enumerate the measures passed by Congress in reference to France in June and July, 1798.
2. What effect did they produce upon the French government?
3. Whom did Adams nominate as a minister to France in February, 1799, and under what circumstances?
4. What was the attitude of Adams to Washington during the Revolutionary war?
5. Can you account for it?
6. What did the Republicans think of Hamilton's relation to the policy of the Federalists?
7. Compare Hamilton and Adams.
8. What opinion did the members of Adams' cabinet entertain of their offices?
9. How did they come to have such an opinion?
10. Compare Adams' opinion of England with that of some other leading Federalists.

11. To what position was Washington appointed and on what condition did he accept the appointment?

12. What was it that tended to disincline Adams towards war with France?

13. What was the "crisis" in which the Hamiltonian Federalists believed?

14. How do you account for their belief?

15. What was Fries' Insurrection, and why did some Federalists attach so much importance to it?

16. Compare the attitude of many Federalists towards the French mission in 1799, with the attitude of the Republicans towards Jay's mission in 1794.

17. Do you think there was as much reason for the French mission as there was for the mission of Jay?

18. If Adams had refused to send ministers to France and war had resulted, do you think the war of 1812 would have been fought?

19. Do you think a war with France in 1799 would have been as unpopular in the South as the war of 1812 was in New England?

20. What influence do you think a successful war with France would have had upon the history of political parties in this country?

21. Who was Cabot?

22. Analyze at length his two letters to Hamilton?

23. His second letter speaks of the opinion of "certain Federalists;" show that the opinion was really his own.

24. What do these letters show as to the temper of the Hamiltonian Federalists?

25. Why was such a temper unfit to be trusted with the government?

26. Summarize the work of the Federalist party.

CHAPTER XXII.

THE REVOLUTION OF 1800.

OUR story has already told of the warlike measures passed in 1798, and of their effect upon the French government. In accordance with the law authorizing the President to give instructions to the commanders of public armed vessels to The quasi war with France. capture any armed French vessel, the United States frigate, the *Constellation*, captured a French frigate, *L'Insurgente* (February, 1799), after a three hours' pursuit and a fight in which the French frigate lost twenty killed and forty-six wounded, while the Americans had but one man killed and three wounded. About a year later, the same frigate gained a decided victory over the French frigate *La Vengeance*. During the summer also, a number of French privateers had been taken by American cruisers.

These victories undoubtedly increased the desire of the French government to restore friendly relations with the United States. When the envoys reached Paris (March, 1800), they were warmly received, and without delay they entered upon negotiations.

But a difficulty immediately appeared which threatened to break up the negotiation. The American envoys were instructed to insist upon the renunciation of

Negotiations
with France.

the old treaties, and also upon an indemnity for spoliations upon American commerce. These, they were instructed, were to be parts of any treaty that was to be negotiated with France, that could not be dispensed with. But the French commissioners were unwilling either to relinquish the treaties of 1778, or to pay indemnities. At last (August, 1800), the French offered this alternative: The old treaties with provisions for mutual indemnities, or a new treaty without indemnities.

The peremptory character of the instructions of the American envoys made it impossible for them to accept either of these offers. The situation in which they found themselves obliged them either to abandon the negotiation or make a temporary arrangement, which would enable the United States to leave the position of hostility it had taken towards France, and which the American government might approve or reject as they saw fit.

In October a convention was agreed upon, leaving the question as to the binding force of the old treaties—

Terms of the
convention.

which meanwhile were to be inoperative— and indemnities, to future negotiation; providing for the mutual restoration of all captured property, French or American, not already condemned by either party; and for the mutual payments of debts, whether they were owed by either of the governments or by individuals.

When the convention was submitted to the Senate, the Federalist Senators who had been opposed to the mission refused to ratify the article referring the binding force of the treaties and indemnities to future negotiations. Adams ratified the convention as it had been altered, although he preferred it, as he informed the Senate, in its original form.

When it was submitted to Napoleon, who was then at the head of the French government, he added a proviso to the effect that the expunging of the article relating to future negotiations should be understood as an abandonment of the claims of both sides, thus making the convention the equivalent of a new treaty without indemnities. In this form, it was finally ratified by the United States. To free itself from the embarrassments of the treaties of 1778, the American government gave up its just claims to indemnity for French spoliations on American commerce.

If the object of this story were to delineate the characters of the public men of the country rather than to follow the fortunes of its political parties, it would be necessary at this point to give a detailed account of the quarrels between Adams and his cabinet, and seek to measure out the proper portion of praise and blame. We should have to tell how Pickering, Wolcott and McHenry kept their positions under a President, whose plans and policy they were trying to defeat. We should have to tell how they imparted the knowledge, which

they possessed as the President's confidential advisers, to Alexander Hamilton, that the latter might use it in his bitter attack upon the former.

There is one point, however, of a semi-personal nature that we cannot avoid discussing: How far was the overthrow of the Federalists due to Adams' lack of tact, and how far to Hamilton's imperiousness? In discussing this question, two facts must be borne in mind: (1) It was Adams and not Hamilton upon whom the people had imposed the duty of determining the foreign policy of the government. Neither Hamilton nor his followers had a right to complain that Adams resisted the influence of the Hamiltonian Federalists; that he had a policy of his own, unless it was clear that his policy was unwise, that it did not tend to promote the well-being of the country. But (2) the testimony of history is unequivocal to the effect that Adams' objects were patriotic and his means wisely chosen. It is indeed, true, that he did a wise thing in an exceedingly unwise way. But when one is commenting on the lack of tact shown by Adams in deciding upon the French mission without consulting his cabinet, the question naturally arises whether he showed less tact in carrying out a wise policy than Hamilton did in attempting to force an unwise one upon him. If there is any doubt as to this, there can be none whatever as to the judgment displayed by Hamilton in making a bitter personal attack upon Adams.

Was Hamilton or Adams more responsible for the downfall of the Federalists?

With all of Adams' vanities and faults—and he had plenty of both—no admirer of Hamilton will venture to assert that any act of Adams' administration was as ill-judged and unwise as that attack of Hamilton's. It is true, that the pamphlet, whose main object was to show the unfitness of Adams to be President, concluded with a recommendation to the Federal electors to vote for him. But that only showed the folly of writing it. It is also true that it was only intended for distribution among a few confidential friends. But how could Hamilton be sure that the thing would not happen which did happen—that the Republicans would not get possession of it and spread it broadcast over the country? No, the services which Hamilton rendered the country from 1789 to 1797 were of the highest order—greater perhaps than were rendered by any other man, not excepting Washington. But in 1798, the "crisis" in which he believed that the friends of order and stability, of government and law, would have to defend themselves against anarchists, seemed so imminent, that the supreme duty of the hour appeared to him to be to take measures to avert it, and the surest way to avert it, to make war on France. Like Fisher Ames, he believed that peace in general was a good thing, not peace with France. To be at peace with France was to be at peace with the enemy of all government.

The opposition of the Hamiltonian Federalists probably defeated Adams. As he lacked only eight votes of

receiving as many as Jefferson and Burr, it seems safe to assume that, had it not been for the hostility of Hamilton and his friends, he would have been re-elected.

But the election did not decide who was to be President. As we know, the constitution then required that two men should be voted for, for President, and the one receiving the highest number of votes became President, and the one the next highest number, Vice-president. As both Jefferson and Aaron Burr had the same number of votes, the House of Representatives had to choose between them.

The House of Representatives was then under the control of the Federalists. That party, therefore, found itself in a strange situation, the situation of having the duty to decide which one of two hated antagonists should be President, for, by the constitution, the vote for President cast by the House of Representatives had to be cast by states for one or the other of the two candidates who had received the highest number of votes.

It has been one object of this story to show that the leaders of the Federalists looked upon their antagonists as opponents of all government, as fanatical doctrinaires, ready, in spite of the experience of the Confederation, to try the absurd experiment of undertaking to govern without a government; as wicked enemies of the public credit, and ready, like the French revolutionists, to cut all the bonds that held society together; as friends of

Federalists
have to choose
between Burr
and Jefferson.

France and enemies of England because the one represented anarchy, and the other government in the great contest going on in Europe. If this is clear, it will be easy to see the temptation to which their opportunity subjected the Federalists. Should they elect Jefferson, whom they regarded as the very life and soul of doctrinaire anti-Federalism and anarchic, French-revolution Jacobinism? ^{Federalists' hatred of Jefferson.}

It is hardly too much to say that the Republican House of Representatives in 1865 would scarcely have loathed the idea of making Jefferson Davis President of the United States more intensely, than did the Federalist House in 1800, the idea of making Thomas Jefferson President. Should they disregard the constitution? Should they prevent an election of either Jefferson or Burr, and compel a new election by the people, in the hope that in the chances of politics they might have better luck at the next election, and in the certainty that the government in the meantime would be administered by a man of their own party? To do that was to make war upon the very principle that had called the Federalist party into existence, the principle of deference to legally constituted authorities, of respect for government. Should they elect Aaron Burr, the unprincipled demagogue, the man whose one purpose in life was to promote the interests of Aaron Burr?

These were the alternatives between which they had to choose, and when we understand the situation, we

shall not wonder that they hesitated between them. We shall not be surprised to learn that there were Federalists who believed that the gravity of the emergency justified and demanded heroic treatment—treatment no less heroic than that of setting aside the constitution for the sake of what they believed to be the principle of the constitution—cutting off a limb to save a life—preventing an election, that the government might not pass into the hands of men who would use their opportunity, as the Federalists believed, to destroy the constitution. We shall wonder still less that many leading Federalists deliberately concluded that even Aaron Burr, bad and unprincipled as he was known to be, was to be preferred as President, to a man who embodied, as they believed, all that was bad in politics.

As soon as it was known that the election was to devolve upon the House of Representatives, the Federalist newspapers began to discuss this alternative; either to prevent a constitutional election by balloting without a choice till the 4th of March, or to elect Burr. In the event of the former, it was proposed to pass a law making the Chief Justice of the Supreme Court or the Secretary of State, President *pro tem*. But this wild measure, as Gouverneur Morris called it, was given up before the middle of December, and then they began to think seriously of taking up Burr. They believed him to be “ambitious, selfish, profli-

Federalists'
opinion of
Burr.

gate;" they thought his ambition the worst kind, they believed that his "selfishness excluded all social affections," and that his "profligacy defied all decency and was unrestrained by any moral sentiments." They regarded him as a bankrupt both in character and property, but they feared "as much from the sincerity of Jefferson, as from Burr's lack of character." They thought that Jefferson was an enemy of the measures that had given the country all it possessed of national character, prosperity, and respectability; that he was a "sincere and enthusiastic Democrat," persevering in the pursuit of his object," but unscrupulous as to the means of attaining it; that he was devoted to the views of those men in his state whose unceasing purpose it had been and was, as they said, "to reduce *in practice* the administration of the government to the *principles* of the old Confederation;" that he was "servilely devoted to one foreign nation, under any form of government, and pursuing any system of measures however hostile to this country, and unrelentingly hostile to another nation," and these the two nations with which the closeness of our relations made it most important to preserve an exact neutrality.* With such an opinion of the two men, they thought it best to support Burr, especially since they hoped in this way to detach him from his party, or at least to sow the seeds of dissension between its northern and southern wings.

* See letter of Sedgewick to Hamilton, *Hamilton's Works*, VI, p. 511.

But there was one man in the party, who held a decidedly different opinion, and that man was Hamilton. The madness that had deprived him of his judgment in his quarrel with Adams had left him, and he was again the clear-headed statesman ready to subordinate every private consideration to the public good. He and Burr were nominal friends while Jefferson was his bitter, personal enemy. But believing that the country would be safer with Jefferson as President than with Burr, he wrote letter after letter to his friends in the House of Representatives entreating them to vote for Jefferson. To Bayard, of Delaware, he wrote, "For Heaven's sake, my dear sir, exert yourself to the utmost to save our country from so great a calamity;" to Sedgwick, "I beg of you, as you love your country, your friends, and yourself, to reconsider dispassionately the opinion you have expressed in favor of Burr." In another letter to Bayard, "If the party shall, by supporting Mr. Burr as President, adopt him for their official chief, I shall be obliged to consider myself an isolated man. It will be impossible for me to reconcile with my notions of honor or of policy, the continuing to be of a party which will have disgraced itself and the country." He exerted himself particularly with Bayard, who, as the single representative of Delaware, could cast the vote of the state for Jefferson, which, with the votes that Jefferson was sure to receive from Republican states, would make him President.

*Hamilton was
his influence for
Jefferson.*

But when the balloting began (Feb. 11), it seemed that the efforts of Hamilton had been exerted to no purpose. The six Federalist states, New Hampshire, Massachusetts, Rhode Island, Connecticut, Delaware and South Carolina voted for Burr; Vermont and Maryland cast no vote since half of the representatives of each state were Federalists and they voted for Burr; and the other eight states voted for Jefferson. The balloting continued for a week with no change in the result. But Bayard, impressed by the arguments of Hamilton, at last declared in a caucus of the Federalists, that he had decided to vote for Jefferson. "You can not well imagine," he afterwards wrote to Hamilton, "the clamor and vehement invective to which I was subjected for several days. We had several caucuses. All acknowledged that nothing but desperate measures remained, which several were disposed to adopt, and but few were willing openly to disapprove. We broke up each time in confusion and discord, and the manner of the last ballot was arranged but a few minutes before the ballot was given." On this ballot—the 36th—the Federalists from Vermont, Maryland and Delaware put in blanks, so that the Republicans of the two former cast the votes of their state. This gave Jefferson the votes of ten states and made him President, while Burr became Vice-President, according to the constitution.

Bayard decides
the election of
Jefferson.

With the election of Jefferson, the sceptre passed

from the Federalist party never to return. It has been customary to attribute its downfall to the Alien and Sedition laws, to divisions among the Federalists themselves, and to the direct taxes rendered necessary by the preparations for the war with France. But, as Hildreth says, these measures only contributed to determine the precise moment of the event, which, under any circumstances, could not have been long deferred.

It is by no means clear that the Federalists were a majority of the people at the time of the adoption of the

Federalists
probably in a
minority during
the period of
their supremacy.

constitution. If they were, it was due to the panic in which many men had been thrown by the imminent danger of anarchy.

But when the two parties became organized under the constitution, when the Anti-federalists were succeeded by the Republicans, it is clear that the latter were, and continued to be, in the majority. At no time from 1793 on, excepting the brief period when the X, Y and Z indignation made the Federalists a really popular party, were the Federalists in the majority in the House of Representatives. Washington was a Federalist. But his election as President had no party significance. Adams owed his election to the fact that party discipline had not been perfected. Two Republican electors, one in Virginia, and the other in North Carolina, voted for Adams. Had those two votes been given to Jefferson, he would have been elected.

Nor is it difficult to see why the Federalists were in

a minority. If it is true, as Hildreth says, that they "represented the experience, the prudence, the practical wisdom, the discipline, the conservative reason" of the country, it is also true that they represented its conservative *prejudices*. The party that passed the Alien and Sedition laws, that wanted an army in 1798, not only because of the probability of a war with France, but because of the supposed probability of insurrection and rebellion at home; the party whose leaders regarded acts of John Adams of which history emphatically approves as evidence of a ruinous change of system on his part, that preferred the election of Burr to the election of Jefferson, had a fundamental weakness somewhere. What that weakness was this story has tried to make clear. It was excessive distrust of a popular form of government, an altogether unfounded fear that there were elements in this country similar to those in France which, if not kept down by the strong arm of the law, would produce a French Revolution in this country. It was this distrust of the people, this fear of anarchy, that lay back of the Alien and Sedition Laws, of the quarrels between the Federalists, and of their readiness to incur unnecessary expenses in raising armies and equipping navies.

But it is more important to note that it was this distrust of the people that made the people distrust it; that made it inevitable that the people should hurl it from power sooner or later. The continued supremacy in a Republican gov-

Explanation of the fact.

Consequences of Federalist distrust of popular government.

ernment of a party that does not thoroughly believe in Republican government is an impossibility. This disbelief in Republican government is bound to show itself in laws that alienate and exasperate its friends. In truth, the Federalists were trying to swim against the irresistible tide of destiny. The character, education, mode of life and environment of the masses of the American people, inevitably made them believe what the Federalist leaders did not believe, that society has a capacity to govern itself. As Henry Adams puts it, Federalism was but a half-way house between the European past and the American future, and in 1800 the American future had come.

It should be carefully noted that the Federalist distrust of democracy was entirely natural. In what chapter of history had Jefferson and Gallatin read that democracy tends to promote the well-being of man? Where had it ever been found consistent with order and respect for law?*

The horrible excesses of the French Revolution seemed to be but a new confirmation of the truth apparently taught by all history—that a government by the people is a government by the worst classes of society. And this was the profound conviction of the Federalist leaders. “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 prac-

*Cf. Henry Adams, Vol. I., p. 75.

ticing upon its follies. This is ordained for democracies." George Cabot wrote in 1804, "We are Democratic altogether and I hold democracy in its natural operation to be the government of the worst." Nor was this opinion confined to the private correspondence of the Federalists.

Dennie's Portfolio, a Federalist paper, contained a paragraph in 1803, which was reprinted, Henry Adams tells us, by Federalist newspapers all over the country. "A democracy," it said, "is scarcely tolerable at any period of national history. * * * It is on its trial here, and the issue will be civil war, desolation and anarchy."

But these croakers were not in harmony with the American people. When Jefferson wrote in 1800, "I have sworn upon the altar of God, eternal enmity against every form of tyranny over the mind of man," he did but voice the sentiment of the great majority of his countrymen. To a stimulus to exertion such as was never before applied to any people, the Americans responded with an energy that developed a consciousness of power which gave the lie to all the dogmas of the past. When the Federalists said that democracy was the government of the worst, they were but preachers of a creed which in 1800 was already outworn in America.

Many years afterwards Jefferson said that the election of 1800 was as real a revolution as was the revolution of 1776. He was right. But he was mistaken as to the nature of the revolution. ^{Revolution of 1800.} He believed that it was a revolution in

which power passed from a party that wished to establish a monarchy to one that was opposed to a monarchy. But it is doubtful if there was a single man of any note in the Federalist party who had any such wish. There were doubtless some who would have preferred that form of government, if the temper of the American people had made it expedient to try it. But they knew that the American people would not submit to a monarchy. The contrast, therefore, between the Federalists and the Republicans was not that between monarchists and those who were opposed to monarchy, but between those who did not heartily believe, and those who did, in the success of the American experiment. In 1801, for the first time in the history of the country, the party in power did intensely and enthusiastically sympathize in what we have come to call American ideas. The followers of Jefferson were profoundly convinced of the truth of the theory on which the American Constitution is based—that man is capable of self-government. That is why their accession to power was an event of such importance in the history of the world.

QUESTIONS.

1. What warlike measures were passed in June and July, 1798?
2. What effect did they have upon the French government?
3. What was the outcome of the naval conflicts between France and the United States?
4. Were the United States and France at war with each other?

5. What converts a state of hostility into a state of war?
6. Is an act of Congress always necessary to make a state of war?
 7. What instructions were given to the envoys to France?
 8. What convention was agreed upon, and why?
 9. In what form was it finally ratified by both countries?
10. Do you think that the Americans who sustained losses because of French spoliations, had a just claim on their own government after the ratification of that convention?
 11. Was Hamilton or Adams more responsible for the downfall of the Federalists?
 12. Explain why it was that the Federalists had to vote for Jefferson or Burr?
 13. State at length the Federalist opinion of Jefferson and of Burr.
 14. Why did the Federalists decide to support Burr?
 15. Why did Hamilton use his influence in behalf of Jefferson?
 16. How was it that Bayard was able to decide the election of Jefferson?
 17. Show that the Federalists were probably in a minority during the greater part of the twelve years that they were in power.
 18. The text says that they represented the conservative prejudices of the country. Explain.
 19. Show that a party that distrusts the people must be overthrown in a popular government sooner or later.
 20. In what did the so-called revolution of 1800 consist?
 21. Contrast the meaning of "revolution" in the above sentence with its meaning in the chapter entitled "The revolution of 1787."

CHAPTER XXIII.

JEFFERSON AS A STATES-RIGHTS REPUBLICAN AND JEFFERSON AS A DEMOCRAT.

THE man who took the oath of office as President of the United States in 1801, believed that his administration was to introduce a new era in the history of the world. For the first time, as he believed, men were to see a government for the sake of the governed. When government was devoted to such a purpose he believed that its customary incidents, armies, navies, national debts, banking systems, internal taxes, wars—could be entirely dispensed with. The confident optimism and serene disregard of the teachings of the past which were so characteristic of Americans found their perfect expression in Jefferson, and in the selfishness of the governing classes Jefferson saw a satisfactory explanation of the miseries of mankind.

Jefferson's optimism.

It never occurred to him that his administration should signalize itself *merely by its rigid and consistent adherence to a strict construction of the constitution*. As Hamilton hoped to increase the powers conferred upon the government by the constitution through construction, so Jefferson, consciously or unconsciously, aimed to decrease them by disuse.

The changes which Jefferson hoped in this way to

make in the constitution related both to foreign and domestic matters. Regarding the state governments as the guardians of the liberties of the people, he thought the general gov-

Jefferson's theory of the proper work of the Federal government.

ernment should exercise none of the powers conferred upon it by the constitution, the exercise of which tended to increase its powers at the expense of those of the states. He did, indeed, use language which implied that he thought that the *constitution* had intended to confine the general government to foreign affairs, leaving all matters of domestic concern to the states. In an important letter to Gideon Granger in 1800, he said: "The true theory of our constitution is surely the wisest and best, that the states are independent as to everything within themselves, and united as to everything respecting foreign nations. Let the general government be reduced to foreign concerns only, and let our affairs be disentangled from those of all other nations, except as to commerce, which the merchants will manage the better, the more they are left free to manage for themselves, and our general government may be reduced to a very simple organization and a very inexpensive one—a few plain duties to be performed by a few servants." Twenty-one years later, in 1821, he repeated the same idea, although in not quite so unqualified a form: "The people to whom all authority belongs have divided the powers of government into two distinct departments, the *leading** characters of

* Italics are mine.

which are foreign and domestic ; and they have appointed for each a distinct set of functionaries. These they have made co-ordinate, checking and balancing each other, like the three cardinal departments in the individual states—each equally supreme as to the powers delegated to itself, and neither authorized ultimately to decide what belongs to itself or to its copartner in government. As independent, in fact, as different nations, a spirit of forbearance and compromise, therefore, and not of encroachment and usurpation is the healing balm of such a constitution.” Three years later, in 1824, he expressed the same opinion: “The Federal is in truth our foreign government, which department alone is taken from the sovereignty of the separate states.”

But Jefferson was not in the habit of expressing himself with scientific accuracy, and the evidence makes it clear that he did not mean what an accurate writer would have meant by such language. For he expressed the same idea in 1787 in speaking of the sort of constitution he thought the country ought to have, although in the same letter he expressed his disapproval of the constitution. “My own general idea was,” he wrote in 1787, “that the states should severally preserve their sovereignty in whatever concerns themselves alone, and that whatever may concern another state or any foreign nation, should be made a part of the Federal sovereignty.”

It is clear, therefore, that in saying that the general government was the foreign, and the state governments

the domestic, branch of our governmental system, he was not expounding his theory of what the framers of the constitution intended them to be. His purpose was to state his idea of what they ought to be, and of what, by precedent and construction, they could be made to be. The quotation already made from him about the time of the Whisky Insurrection is a further confirmation of this conclusion. He said, it will be remembered, that the excise tax was an infernal one; that the first error was to admit it by the constitution; the second, to act on that admission. In other words, that the framers of the constitution had made the mistake of conferring upon the general government the power of laying an excise was no reason why those who administered the general government should use the power conferred upon it. For, as Jefferson believed, the laying of such a tax was the exercise of a power that tended to aggrandize the general government at the expense of the states.

If now we seek to mark off in a general way the field into which Jefferson thought the general government ought not to enter, whether the constitution gave it the right so to do or not, the quotations already made from him combined with a passage in his inaugural address, enable us to do it. *Except* to encourage commerce and agriculture, and diffuse information—these exceptions were made in his inaugural—the general government should undertake no domestic functions: these should be left to the states.

With the above trifling exceptions, the whole function of the general government was confined to the management and control of our foreign affairs.

Jefferson's theory of foreign "concerns."

"Let the general government be reduced to foreign concerns," he had written to Granger. But what was his theory of foreign concerns? His private correspondence contains the answer to this question. In a letter to Thomas Paine, written a few days after his inauguration, he said: "Determined as we are to avoid, if possible, wasting the energies of our people in war and destruction, we shall avoid implicating ourselves with the powers of Europe, even in support of principles which we mean to pursue. We believe we can enforce these principles as to ourselves by peaceable means, now that we are likely to have our public counsels detached from foreign views." But how were we to enforce our principles by peaceable means? A letter to a Dr. Logan written a few days later, contained the answer: "Our commerce is so valuable to them," he wrote, "that they will be glad to purchase it when the only price we ask is to do us justice. I believe we have in our hands the means of peaceable coercion; and that the moment they see our government so united as that we can make use of it, they will, for their own interest, be disposed to do us justice." *

This, then, was the Republican theory of "foreign concerns." If other nations insulted us, if they made in-

*See page 176.

vasions upon our rights, Congress should impose restrictions upon their commerce or prohibit it altogether, until they ceased to insult us, and made suitable provisions for indemnity. In a word, instead of a barbarous and brutal appeal to arms, Jefferson proposed to substitute commercial restrictions as a means of bringing offending nations to their senses.

The readers of this history are familiar with the reasons that led Jefferson to these opinions. Jefferson hated armies, navies, banking systems, internal taxes, wars, because he loved liberty, and he loved liberty because he thought he saw in over-government the root of most of the ills that afflict mankind. It had been one of his cardinal objections to Hamilton that his funding and banking system had furnished the means of corrupting Congress, and he believed that the armies and navies that the Federalists were so eager to have had a double object in view: (1) To fasten a permanent debt upon the government, and thus perpetuate the means of corrupting Congress; and (2) to have ready at hand a force which the Federalists might employ in putting down all opposition to their measures. The same reason led him to believe that the general government ought not to impose internal taxes, and that it ought to confine itself to foreign "concerns." He was a States Rights Republican—and he was a States Rights Republican not only because he was inclined like most of the Americans of his time to look upon the state as

the country of its citizens, but also because he thought the liberties of the people would be less endangered, their interests better promoted by the states, than by the general government. He was opposed to war not only because of its waste of life and money, but because of its hostility to liberty. War would lead to armies and navies and a national debt and banking systems; war would make it necessary for the general government to exercise doubtful constitutional powers. War would tend to centralize and monarchize the government, and so assimilate this country to the rest of the countries of the world.

Jefferson was a States Rights Republican *because* he was a philanthropist and a Democrat, and his theory of commercial restrictions had the same origin. In other words, *his philanthropy and Democracy were deeper and more fundamental than his States Rights Republicanism.* There were therefore, two questions which Jefferson had to answer before he could prove that his Republicanism and his Democracy could dwell together in peace: (1.) Could the general government, in confining its domestic functions to the promotion of commerce and agriculture and the diffusion of knowledge, do all the things that the interests of the people demanded? Might it not find itself in a position in which it would have to choose between a sacrifice of the theories of Republicanism, and a sacrifice of the imperative interests of the people? (2.) Could for-

Two questions
which Jefferson
had to answer.

eign nations be forced to respect our rights by commercial restrictions? Would commercial restrictions serve as an effective substitute for war? If his theory failed to answer both of these questions, it would prove itself a mere dream like Plato's Republic or More's Utopia. The history of his two administrations will show what success it had in answering them.

QUESTIONS.

1. What is the difference between States Rights Republicanism and Democracy?
2. The text says that Jefferson's Democracy was deeper than his Republicanism; explain.
3. What was Jefferson's theory of the proper work of the government?
4. Compare the quotation made in the text from the letter written in 1821, with the Kentucky resolutions.
5. Do you think that Jefferson hoped to change the constitution, and, if so, how?
6. Compare him with Hamilton in this respect.
7. What was his theory of foreign "concerns?"
8. In what memorable instance in Washington's administration did the Republicans seek to put this theory into practice?
9. Show that Jefferson's opinions were rooted in his love of liberty.
10. State clearly the two questions which Jefferson had to answer before he could prove that his theories of government were practicable.
11. In 1802 Hamilton wrote to Rufus King as follows: "The prospects of our country are not brilliant. The mass is far from sound. At headquarters a most visionary theory presides. No army, no navy, no *active* commerce; national defense not by arms but by embargoes, prohibitions of trade, etc.; as little government as possible within; these are the pernicious dreams which as far and as fast as possible will be attempted to be realized." How far was Hamilton right in his estimate of Jefferson's theories?

CHAPTER XXIV.

GALLATIN'S FINANCIAL POLICY.

A FEW days before his inauguration, Jefferson wrote a letter, in which he said that he hoped that the body of the nation, even that part which French excesses forced over to the Federal side, would join the Republicans, leaving only those who were pure monarchists, and who would be too few to form a sect. This hope exerted an important influence upon his policy during the eight years of his two administrations.

Extreme partisans on both sides were dissatisfied with his inaugural. No wonder; for one of its objects seemed to be to prove that there was no difference between them. "Let us unite with one heart and one mind," he had said; "let us restore to social intercourse that harmony and affection, without which liberty and even life itself are but dreary things. And let us reflect, that having banished from our land that religious intolerance under which mankind so long bled and suffered, we have yet gained little, if we countenance a political intolerance as despotic, as wicked, and capable of as bitter and bloody persecutions. During the throes and convulsions of the ancient world, during the agonizing spasms of infuriated man, seeking through blood and slaughter his long lost

Jefferson's In-
augural ad-
dress.

liberty, it was not wonderful that the agitation of the billows should reach even this distant and peaceful shore; that this should be more felt and feared by some and less by others; that this should divide opinions as to measures of safety. But every difference of opinion is not a difference of principle. We are all Republicans, we are all Federalists." Jefferson knew very well that this kind of talk was not what the extreme partisans of his own party expected. About the end of March he wrote, "I am sensible how far I should fall short of effecting all the reformation which reason would suggest and experience approve, were I free to do whatever I thought best; but when we reflect how difficult it is to move or inflect the great machine of society, how impossible to advance the notions of a whole people suddenly to ideal right, we see the wisdom of Solon's remark, that no more good must be attempted than the nation can bear, and all will be chiefly to reform the waste of public money, and thus drive away the vultures who prey upon it, and improve some little on old routines."

Whatever the motive of Jefferson's conduct, whether his conduct was due to the mere desire to gain popularity, or to the patriotic wish to bring over the great mass of the Federalists to what he conceived to be the right side, or whether, as is most probable, to a mixture of both, it prevented him from attempting to give immediate effect to the "revolution of 1800," save in improving "some little on old

How far Jefferson attempted to put in practice the revolution of 1800.

routines," and in reforming the "waste of the public money." As far back as the time of Senator Maclay, as we know, Republicans had condemned the levees and speeches of Washington as savoring of monarchy, and our diplomatic establishment as unnecessarily expensive. To do away with the levees, therefore, to communicate with Congress by message, to reduce the diplomatic establishment, was, in the eyes of Jefferson, an "improvement on old routines" which would not antagonize the "Republican Federalists," whom he hoped to win over to his party. And he knew very well that any reform in the waste of public money would be popular with the great majority of the American people, no matter which party they belonged to. Accordingly, his great Secretary of the Treasury, Albert Gallatin, was allowed to give complete expression to the "revolution of 1800," so far as it could be done in the management of the finances.

Republicans had constantly charged that Hamilton and the Federalists regarded a national debt as a national blessing; Gallatin and the Republicans, on the contrary,

Comparison
between Ham-
ilton and Gal-
latin.

regarded a national debt as a pillar of corruption. Both Hamilton and Gallatin had political as well as financial ends in view. Hamilton's political aim was to tie the rich and influential all over the country to the support of the general government by pecuniary interest. The political aim of Gallatin was to free the limbs of the young republic from every weight that tended to prevent them

from developing into the symmetry and proportion of an ideal state. Hamilton, with too low an estimate of human nature, thought the only way men could be induced to serve the State was by making it their pecuniary interest to do so ; Gallatin, with too high an estimate of human nature, thought that one of the chief dangers of the State lay in warping men's natural desires to serve it by appeals to their pecuniary interests.

Regarding a national debt as a pillar of corruption, Gallatin based his financial system on the principle that the expenditures of the government must be so related to its income as to enable it to pay the national debt in as short a time as possible, without imposing too heavy a burden on the people in the shape of taxes, and without having recourse to taxes that the general government ought not to lay. He estimated that the government could apply \$7,300,000 a year to the payment of its debts, and he calculated that the whole of it, interest and principal, would be paid in sixteen years, if this sum yearly were devoted to that purpose. Proposing that this sum should be applied by law to this object, it remained to decide what further expenses should be indulged in, and how the revenue should be raised.

Details of Gallatin's financial system.

The net receipts from customs, lands and postage he calculated at \$9,950,000 for the year. In addition to this, the internal taxes laid by the Federalists amounted in all to \$650,000, which made an income of \$10,600,000,

or \$3,300,000 more than the sum to be devoted to the payment of the debt.

But internal taxes, as we know, were not in harmony with Republican theories. Gallatin, therefore, proposed to sacrifice the revenue obtained from this source, leaving but \$2,650,000 for the entire expenses of the government. Of this sum he proposed that \$930,000 should be devoted to the support of the army and \$670,000 to the support of the navy.

When Henry Dearborn and Robert Smith, Secretaries of War and the Navy, respectively, accepted this scheme with unimportant modifications, and Congress embodied it in laws, it became clear that Jefferson's theory of government was actually to be put in practice. That theory was, as we know, that the general government was the foreign branch of our governmental system, its only domestic functions consisting in the promotion of agriculture and commerce, and the diffusion of information; and that its management of "foreign concerns" should proceed on the theory that nations could be compelled to respect our rights by commercial restrictions. Evidently, a government whose entire domestic expenses, excepting the postoffice, were estimated at \$750,000—\$1,900,000 was the sum finally agreed on for the army and navy—including the cost of the collection and disbursement of the revenues, could scarcely be said to attempt the discharge of any domestic functions. And a government whose army and navy were to be supported

by \$1,900,000 a year, at a time when all signs pointed to a speedy renewal of the terrible convulsions in Europe, when Spain still owned the Mississippi river and the Floridas; when Napoleon was suspected of having bought Louisiana; when English ships were impressing American seaman by the score,—evidently did not expect to cause its rights to be respected by force.* Evidently, also, the two questions, which, as we saw in the last chapter, Jeffersonian Republicanism had to answer before it could prove itself a practical system of government, were in a fair way of being brought to a speedy test. If Napoleon had bought Louisiana, if the people of the West had to get his consent before taking their commerce through the mouth of the Mississippi, an embroilment with France was almost sure to follow. Europe would then have a chance to learn whether the young republic beyond the Atlantic would be able to avoid the terrible scourge of war by having recourse to peaceable coercion, and whether a government could exist whose domestic functions consisted in promoting agriculture and commerce, and diffusing information.

To a temper less sanguine than Jefferson's, it would have seemed a bad omen that before the first half year of his administration had expired, he found a war on his hands which his theories were powerless to deal with. Following the custom of Europe, the United States had

*See Henry Adams, Vol. I, p. 241.

paid in the preceding ten years more than two million dollars in the form of what amounted to tribute to the four pirate states, Morocco, Algiers, Tunis and Tripoli. About two months and a half after Jefferson's inauguration, the Pacha of Tripoli demanded more than he had agreed to accept in a treaty negotiated in 1796, and, when his demand was refused, declared war. Thus, without any responsibility of his own, Jefferson found himself obliged to use the much decried little navy created by the Federalists in defending the commerce of the country against a power upon whom peaceable coercion could not be brought to bear. But he did not fail to improve the opportunity to emphasize his strict construction theories. He sent a small squadron of frigates into the Mediterranean with orders to protect American commerce, but not to go beyond the line of defense, since Congress alone could declare war. A fight between an American frigate and a Tripolitan cruiser furnishes a somewhat curious illustration of the difference between "defending American commerce," and waging war. The American captured her enemy, killed twenty of her men and wounded thirty more. But after completely dismantling the captured vessel, cutting away her masts and throwing her guns overboard, she was dismissed with the survivors of her crew as Congress had not declared war!

Such consolation as Jefferson could get out of such adherence to his theories was open to him. But a less

confident man would have asked himself whether other nations than the Barbary pirates, upon whom his theory of foreign concerns could not be brought to bear, might not insult the United States, and whether in any case his theory could be relied on with perfect certainty. For this theory of foreign "concerus" was the keystone of the arch of Jeffersonian Republicanism. If that failed armies, navies, internal taxes, banking systems, liberal constructions of the constitution,—the whole troop of Federalist heresies and corruptions which the Republicans had never tired of denouncing, would be the inevitable result. If this theory could not stand the test of trial, the foundation principle of Gallatin's financial system—that the national debt, being a pillar of corruption, the expenses of the government must be so arranged as to permit its speedy payment—was gone, and the denunciations which Republicans had poured upon Hamilton because a national debt had not seemed to him the worst of national calamities, would be proved to have had no grounds. In truth, the issue between Hamilton and Gallatin, Federalism and Jeffersonian Republicanism, in one of its phases might have been narrowed down to this: Might not a nation as well as an individual have to choose debt as the least of all possible evils? Had the world advanced so far towards the millenium that a nation could work out its political salvation—devote itself in the most intelligent way to the advancement of the highest interests of its citizens—without going in

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debt? The history of the next three administrations will give us the answer to this question.

QUESTIONS.

1. Jefferson drew a contrast between the Republican and monarchical Federalists. What did he mean?

2. What was one of the leading objects of Jefferson's inaugural?

3. To what extent did Jefferson attempt to give expression to the principles of the revolution of 1800, and why?

4. Compare the objects of Hamilton and Gallatin in their financial systems.

5. Show how the details of Gallatin's financial system were related to the political objects which he had in view.

6. Henry Adams says: "Gallatin's economics turned on the question whether the national debt or the risk of foreign aggression were most dangerous to America." Is he right?

7. Why did Gallatin propose to dispense with the internal taxes?

8. What amount of money did Gallatin propose to devote to the domestic functions of the government?

9. What was the Republican theory of the domestic functions of the government?

10. What sum did Gallatin propose to devote to the army and navy?

11. What was the Republican theory of foreign "concerns?"

12. What was Jefferson's theory of the relation between the United States and Tripoli, when Tripoli declared war against this country?

13. Discuss the practical outcome of his theory.

14. Could Tripoli be at war with the United States without the United States being at war with Tripoli?

15. What is the meaning of the clause in the constitution which says that Congress shall declare war?

16. What was the keystone of the arch of Jeffersonian Republicanism, and why?

CHAPTER XXV.

JEFFERSON'S FIRST MESSAGE.

IN stating his reasons, in a letter addressed to the President of the Senate, for substituting a message for the speech with which the first two Presidents had opened Congress, Jefferson showed his desire to conciliate the moderate Federalists. He did not wish to exasperate the friends of Washington and Adams by saying that in making speeches to Congress they had been imitating the king of England, and paving the way for the introduction of monarchy into this country. Ignoring the real reason, he said that he had had principal regard to the convenience of the legislature, to the economy of their time, and so on. The same characteristic appeared repeatedly in the message itself. The Republicans were opposed on principle, as we know, to internal taxes. But when Jefferson recommended their repeal, he did it on grounds which neither of his predecessors would have hesitated to take, provided they had agreed with him as to the facts. "Weighing all probabilities of expense," he said, "as well as of income, there is reasonable ground of confidence that we may now safely dispense with all internal taxes, and that the remaining sources of revenue will be sufficient to provide for

Jefferson's reasons for substituting a message for a speech, and for recommending internal taxes.

the support of government," and to pay the interest and principal of the public debt within a shorter period than had been expected. Washington and Adams would have been unwilling to recommend internal taxes if they had thought them unnecessary.

In the paragraph immediately following, Jefferson showed his hand most clearly. "These views," he said, "of reducing our burdens are formed in the expectation that a sensible and at the same time a salutary reduction may take place in our habitual expenditures. For this purpose, those of the civil government, the army and the navy, will need revisal. When we consider that this government is charged with the external and mutual relations only of these states; that the states themselves have principal care of our persons, our property and our reputation, constituting the great field of human concerns, we may well doubt whether our organization is not too complicated, too expensive; whether offices and officers have not been multiplied unnecessarily, and sometimes injuriously to the service they were meant to promote." In other words, there had been an unnecessary multiplication of offices, because of the erroneous Federalist theory of the functions of the general government. Supposing that the general government had domestic functions to perform, that it had more than foreign "concerns" to attend to, that the state governments were not the domestic branch of our governmental system, the Federalists had multiplied

offices to undertake work with which the general government had nothing to do. But he did not state what was, to his own mind, the strongest argument against it. He did not object to the Federalist theory of government because it endangered liberty, and tended toward monarchy, but because it was ~~unnecessarily expensive~~. ✓
"Among these (officials) who are dependent on executive discretion, I have begun the reduction of what was deemed unnecessary. The expenses of diplomatic agency have been considerably diminished." After suggesting that Congress should pass in review the offices that had been established by law, he continued: "Considering the general tendency 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 whole residue of what it was instituted to guard." Of course, such talk was popular, and no one knew it better than Jefferson. But if lack of economy had been his sole ground of objection to Federalist administrations, he would have had a poor case against them. The current expenses of the government in 1800, including the expenses of the *quasi* war with France, were only about \$7,000,000; and the average annual expenditures for the preceding ten years, including

payments on account of the public debt, had been about \$9,000,000. In truth, it was not so much the extravagance, as the tendency of Federalist measures, to which Jefferson objected. To restrict the power of the government, not to reduce taxes, was his supreme purpose.* But in order to get the consent of moderate Federalists to restricting the power which their party had exercised, he tried to convince them that it had been guilty of unnecessary taxation.

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

Jefferson on
the Judiciary
system.

The least objectionable thing about the judiciary system from the point of view of the Republicans was its expensiveness. If they were right, it was radically wrong—wrong

Republican
theory of the
Judiciary.

*See Henry Adams' History of the United States, Vol. I, p. 243.

not here and there, and in details, but fundamentally. The very conception of the Supreme Court, as it appeared in the constitution, was at war with the Republican theory. In Jefferson's own language, it was unelected by, and independent of, the nation. In 1800, the people declared that they disapproved of the administration of John Adams. But the constitution gave him the power of appointing a Chief Justice of the Supreme Court—John Marshall—who interpreted it in accordance with Federalist ideas for thirty-four years after the Federalists had been overthrown. From the Republican point of view, a constitution which permitted such things did not so much provide for government of the people by the people, as for government of the people by rulers whom the people had chosen. Between such a constitution, and a constitution which invested the power of appointment in a hereditary ruler, there was of course a difference; but, from the Republican point of view, this difference was not essential. The constitution permitted a Chief Justice, who had been appointed by a President elected by one generation, to interpret it for another—for a generation that emphatically disapproved of the President and of the man whom he had appointed. What difference did it make to the people for whom John Marshall interpreted the constitution whether the power to whom he owed his appointment was a hereditary ruler, or a President elected by another generation of people? What difference did it make to the people in 1801, that the power to whom he owed his appointment

was a man chosen by themselves, since they had come to disapprove of their own judgment in 1796? When they changed their minds, could they not give expression to it? Were they to be bound indefinitely by their own mistakes, to be compelled to follow their less enlightened rather than their more enlightened decision? To say that they were, was to use the language of the constitution of the United States, but not of the theory of Republicanism. The only way, therefore, from the Republican point of view, to reform the Supreme Court, was to reform it out of existence, as it was then constituted. To leave the Supreme Court as the constitution left it, and attempt to meet the difficulty by passing a law providing for such an increase in the number of judges as would make the majority Republican; or to impeach enough of them so that those appointed in their stead would make it Republican, would not solve the problem. Any solution of the problem which left the Supreme Court free to interpret the constitution, as it liked, whether the people approved of its interpretation or not, was unrepblican. There was indeed but one Republican solution. Amend the constitution so as to provide for the removal of judges by the President on address of both Houses of Congress. Such an amendment would put the government in all three departments under the direct control of the people, and that was what Republicanism demanded. That not a hint of this appeared in Jefferson's message

makes one wonder whether he was not trying to effect a revolution which none but the initiated would suspect of being revolutionary.

Nor can his silence on this point be explained by the supposition that he did not realize the danger. His private correspondence shows that he realized it vividly. At the very time that he was asking Congress to consider whether the judiciary system was not unnecessarily expensive, he was writing to his friends about its hostility to Republicanism. "They (the Federalists) have retired into the judiciary as into a stronghold," he wrote to John Dickinson in December, 1801. "There the remains of Federalism are to be preserved, and fed from the treasury, and from that battery all the works of Republicanism are to be beaten down and erased." Eighteen years later, he declared that this prediction was being fulfilled. "The nation declared its will" (in 1800), he wrote to Judge Roane in 1819, "by dismissing functionaries of one principle and electing those of another, in the two branches, executive and legislative, submitted to their election. That, therefore, has continued the reprobated system, and although new matter has been occasionally incorporated into the old, yet the leaven of the old mass seems to assimilate to itself the new * * and we find the judiciary on every occasion, still driving us into consolidation." But he neglected to say that when he ruled his party with an absoluteness never surpassed by any President of the United States

except Andrew Jackson, no word of recommendation escaped his lips to change the constitution so as to make it possible to give expression in all departments of the government to the "revolution of 1800."

If it be said that his silence in 1800, was due to the obvious fact that his party was not then strong enough to carry an amendment to the constitution, that explanation fails to account for his silence concerning the Judiciary Act of 1789. Not even the Alien and Sedition laws struck a more powerful blow at the theory of Republicanism than did that law. It provided, as we know, that in cases before the state courts where the powers of the general government were involved, and the decision had been unfavorable to them, an appeal might be taken to the Supreme Court. But that made the state judiciaries subordinate to the Federal judiciary, made the Federal government the final judge "of the extent of the powers delegated to itself." And yet Jefferson left on the statute books of the United States this law, when a word from him would have erased it, which, from his point of view, made "the discretion" of the general government, and not "the constitution, the measure of its powers." To have spoken that word would indeed have been to raise a tempest of indignation such as few Presidents have ever encountered. But, as the sequel will show, Jefferson was a man of courage. And if the difference between Federalism and Republicanism was as vital as he insisted, if the hopes of the world depended on realizing the Re-

publican ideal, would it not have been wiser to encounter the storm rather than permit the continuance of a law which, was gnawing away at the vitals of Republicanism, in the very hour of its apparent triumph?*

Whatever the cause of his silence, that silence was one of the great forces of American history. That he was sincere in his Republicanism, that it was the ruling passion of his life, ought not to be questioned to-day by any competent student of history. Indeed, it is probable that it was precisely because of his devotion to the people that he was guilty of such apparent inconsistencies. To put as much power as possible in the hands of the people, was the great aim of his public life. If he had been the radical doctrinaire, the fanatical visionary, his opponents thought him, he would have risked everything to secure his complete ideal. But, as he was a statesman, it seemed to him wiser to take some steps toward the realization of his ideal than to go in the contrary direction because he could not reach his goal.

In speaking of the portion of the judiciary system recently erected, he referred to a law passed by the Federalists in 1801 (February 13). Before its passage the judiciary system consisted of Judiciary Act of 1801. one Supreme Court with six judges, and of fifteen District Courts, each having a single judge. The United States was divided into three circuits. The judges of the Supreme Court held two terms a year at

*Cf. Henry Adams, I, 254-261.

Washington, and twice a year made the tour of their circuits. The law of 1801 provided for one Supreme Court of five judges, when the first vacancy occurred; six Circuit Courts, each having three judges, excepting one circuit which was to have but one; and twenty-three District Courts, each with a single judge as before. The increased expense caused by the new law amounted to about thirty thousand dollars a year. To save this expense was the point to which Jefferson called attention as the reason for repealing it.

QUESTIONS.

1. What reason did Jefferson assign for substituting a message for the speeches which his predecessors had delivered to Congress? What was the true reason?
2. What reason did he assign for recommending the repeal of internal taxes? What was the true reason?
3. Jefferson said that the general government was charged with the external and mutual relations only of the state. What did he mean?
4. What was his strongest objection to the Federalist theory of government?
5. Why did he not state it?
6. What objection did Jefferson make to the judiciary system in his message? What in his private correspondence?
7. Why did he not state his whole thoughts in his message?
8. Show that the judiciary system of the United States is not in harmony with Democracy.
9. How would it have to be reformed to make it so?
10. What was the Judiciary Act of 1789, and in what way was it inconsistent with the opinions of Jefferson?
11. Why did not Jefferson recommend its repeal?
12. What was the Judiciary Act which was passed in 1801?

CHAPTER XXVI.

NORTHERN DEMOCRATS AND SOUTHERN REPUBLICANS.

THE Congress which met in December, 1801, passed three important laws: One, providing for an annual appropriation of \$7,300,000 to be devoted to the payment of the public debt; another, repealing the internal taxes: a third, repealing the Judiciary Act, passed in the last month of Adams' administration. Three important laws. The first two it is unnecessary to say, were a part of Gallatin's financial policy. That policy, as we know, aimed to accomplish political objects which might justly be said to be revolutionary in their character. But as the message of the President had recommended these measures on financial grounds only, it was on these grounds only that they were advocated by his followers in Congress. Measures which were a part of a system which was intended to give the United States a unique place in the history of the world, and Jefferson's administration a unique place in the history of the United States, were defended on the sole ground of their expediency from a financial point of view. It is probable, indeed, that a majority of the men who voted for them were influenced by nothing but financial considerations. As Jefferson was both a States Rights Republican and a Democrat, his party was composed of States Rights Republicans and Democrats.

But while Jefferson united both characters in himself, many of his followers, particularly in the north, were Democrats without being Republicans. His followers in the north agreed with him in his estimate of the political capacity of the people, in desiring to abolish all property qualifications for voting, and in opposing all aristocratic ceremonies, but they did not agree with him in regarding banking systems and national debts as tending towards monarchy, or in thinking that the general government was the foreign branch of our governmental system. They were opposed to the Federalists because the Federalists were aristocratic and conservative; they were followers of Jefferson because he was democratic and progressive, because he wished to put as much power as possible in the hands of the people, but *not* because they were in sympathy with, or even understood his peculiar ideas as to the functions of the national and state governments.

Followers of
Jefferson, States
Rights Republicans
and Democrats.

A perception of this fact undoubtedly had something to do with the reticence of Jefferson and those of his followers who were in his confidence, as to the ultimate scope of his measures. He and they felt that the strongest, if not indeed the only recommendation of Gallatin's financial policy to many of Jefferson's followers, was that it proposed to pay the debt quickly and at the same time tax the people lightly.

The same influence made itself felt in the debate on the repeal of the Judiciary Act. The administration

leader in the House, William Branch Giles, was an extreme Republican. But those who heard his speech in the judiciary debate were by no means made acquainted with the attitude

Giles' speech on the repeal of the judiciary.

of the Republicans towards the judiciary. His speech was rather a bitter arraignment of the Federalists, than an exposition of the policy of his own party. He began by saying that men have always been divided as to the best form of government to enforce obedience and insure happiness, some preferring monarchy, and others a republic. It was to differences of opinion on this point that the two political parties owed their origin. In order to increase the power of the Executive, the Federalists wished to place in the hands of the President all the patronage it was possible to create for the purpose of protecting him "against the full force of his constitutional responsibility to the people." The Republicans, on the contrary, "contended that the doctrine of patronage was repugnant to the opinions and feelings of the people, * * * and that the highest energy the government could possess would flow from the confidence of the mass of the people, founded upon their own sense of their common interests." Hence, the Federalists relied on "patronage or the creation of partial interests for the protection and support of government." To this end, the debt of the United States was funded, and the state debts were assumed, a war with the Indians was made an excuse for creating

an army, one with Algiers, for creating a navy ; the expenses of this system made more taxes necessary, and then, more patronage. The difficulties with France had enabled the Federalists to develop their system most fully, by furnishing an excuse for expenses on a still larger scale. But when, in 1800, they began to suspect that they had pushed their principles too far, "it was natural for them to look out for some department of the government in which they could intrench themselves in the event of an unsuccessful issue of the election, and continue to support those favorite principles of irresponsibility which they could never consent to abandon." The judiciary department presented itself as best fitted for this object, since the judges held their office by indefinite tenures, and were further removed from any responsibility to the people than either of the other departments.

This was a radical abandonment of the doctrine of the inaugural—"We are all Republicans, we are all Federalists"—but it was a clear statement of the Republican theory of their opponents. But the speech contained not a hint of the Republican theory of the judiciary excepting the statement that the "new organization of the courts," "tended to produce a gradual demolition of the state courts."

The next day, Bayard, of Delaware, the Federalist leader in the House, rose to reply. Denying Giles' ac-

count of the origin of party divisions in this country, he said: "Our views as to the ^{Bayard's reply} powers which do and ought to belong to the general and state governments are the true sources of our divisions. I coöperate with the party to which I am attached because I believe their true object and end is an honest and efficient support of the general government in the exercise of the legitimate powers of the constitution. I pray God I may be mistaken in the opinions I entertain as to the designs of gentlemen to whom I am opposed. These designs I believe hostile to the powers of this government. State pride extinguishes a national sentiment. Whatever is taken from this government is given to the states." As Giles had stated the Republican theory of what the Federalists had done, Bayard stated the Federalist theory of what the Republicans proposed to do. He asked why Giles had said that the government seized the first moment which presented itself to create a dependent moneyed interest. "Did he mean to denounce the funding system as one of the Federal victims marked for destruction?" "Why has the present subject been combined with the army, the navy, the internal taxes and the Sedition Law? Was it to involve them in one common odium, and consign them to one common fate? Are gentlemen aware of the extent to which it is designed to lead them? They are now called on to reduce the army, to diminish the navy, to abolish the mint, to destroy the in-

dependence of the judiciary, and will they be able to stop when they are next required to blot out the public debt, that hateful source of moneyed interest and aristocratic influence? Be assured we see but a small part of the system which has been formed. * * * If they can carry the people with them, their career will not be arrested while a trace remains of what was done by the former administration."

"If you pass the bill upon your table (to repeal the judiciary), the judges have a constitutional right to declare it void. I hope they will have the courage to exercise that right. * * * The constitution may have its enemies, but I know that it has also its friends. * * * There are many, very many, who believe, that if you strike this blow, you inflict a mortal wound on the constitution. * * * Will gentlemen risk civil dissension, will they hazard the welfare, will they jeopardize the peace of the country to save a paltry sum of money—less than thirty thousand dollars?"

One who wishes to learn the whole explanation of Jefferson's reticence with respect to the nature of the revolution which he thought he was introducing, should make a careful study of this speech. In it will be found a forcible statement of all that the Federalists feared as the result of Republican supremacy. Extreme Federalists believed that the Republicans intended, piece by piece, to destroy the work of the preceding administrations—funding system,

Federalist
opinion of the
Republican
program.

army, navy, judiciary system, and practically the constitution, since the Federalists believed that the Republicans intended so to emasculate it by interpretation as to deprive it of all value.

But a large part of Jefferson's following in the north was as decidedly opposed to this as the Federalists. Conservative men all over the country whom the aristocratic character of Federalism, combined with its distrust of the people, its consequent *Conservatism*. readiness to raise armies, impose heavy taxes, and pass Alien and Sedition Laws, had driven from its ranks, were attached to the existing system. They had voted for Jefferson, because they were opposed to Federalist taxes, because they disliked the Federalist spirit, because they distrusted a party that distrusted the people, but not because they disapproved of the system of government that the Federalists had created. If they had believed that the alternatives were the Federalist system as such, or some new untried system, they would have taken sides with the Federalists. But they held the balance of power, and in order to keep them in the ranks of the Republicans, it was necessary to keep in the background the principles of the so-called revolution of 1800.

In the light of these considerations, the action of Congress with reference to the navy is significant. Michael Leib, a Pennsylvania Republican, moved that a

Leib's motion
to abolish the
navy.

committee be appointed to consider the question of abolishing the navy. When, on motion of the Federalist, Roger Griswold, the question came before the House for discussion, Leib withdrew his motion.

The Federalists appreciated the situation. "The President's party in Congress," Bayard wrote to Hamilton "is much weaker than you would be led to judge from the printed state of the votes. Here we plainly discern that there is no confidence, nor the smallest attachment prevails among them. The spirit which existed at the beginning of the session is entirely dissipated; a more rapid and more radical change could not have been anticipated. An occasion is only wanting for Virginia to find herself abandoned by all her auxiliaries, *and she would be abandoned upon the ground of her inimical principles to an efficient federal government.*"*

Bayard's letter
to Hamilton.

In order to maintain Republican supremacy, the auxiliaries of Virginia must not be antagonized, but they would not submit to an attack upon an efficient federal government. But how was the "revolution of 1800," which, in the mind of Jefferson, was to make the general government nothing but the foreign branch of our governmental system, to be carried out without an attack upon the federal government?

From the point of view we have now reached, we

* Italics are mine.

can understand why so able a historian as Von Holst pronounces Jefferson a cross between a statesman and a demagogue. If such a man can hold such an opinion, it is easy to see how Jefferson's ^{Von Holst on Jefferson.} enemies would regard him. In the letter to Bayard written in 1801, from which I have already quoted, Hamilton said: "Nor is it true that Jefferson is zealot enough to do anything in pursuance of his principles which will contravene his interest or his popularity. 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 man who did it."

As an estimate of Jefferson this is certainly erroneous. It was not true that he sacrificed his principles for the sake of popularity. On the contrary, he sought popularity for the sake of his principles. To Jefferson, the Golden Age was in the future. How to bring it a little nearer, how to strike off the fetters which had bound men so long politically and intellectually, how to throw open the doors that guard the treasures of art and science to man as man, without regard to birth or social position, that seemed to Jefferson the noblest object of human endeavor. He had just led Republicanism to a great victory. Monarchism, that enemy of progress and liberty, had been put to flight. To make that victory

decisive, to win over the rank and file of the enemy, to make impossible and hopeless a successful attack of the stronghold in which Republicanism had intrenched itself, above all, to gain as much power as possible for the people, seemed to his sanguine temperament another long stride toward the Golden Age of the world.

Under some circumstances this attitude would have exerted less influence. If there had been in Congress a man of great ability, without Jefferson's devotion to the people, but with as much devotion as Jefferson to States Rights Republicanism, and with a clear perception that if its victory over the advocates of a strong central government was to have any value, its doctrines must be carried out, the history of the country might have taken a very different course. But the only man of first rate ability in either House on the Republican side was John Randolph, and his eccentricities and inconsistencies made it impossible for him to bring about a "substantial reform" in the government. It is not to be denied, however, that Jefferson's love of popularity for its own sake had something to do with his policy. As his character was a strange mixture of lofty, impracticable idealism, and hard, shrewd common sense, so his policy was in part the outcome of the most ardent devotion to the cause of progress, and, in part, to the much more common desire to be the popular leader of his party to a triumphant and decisive victory.

In the debate on the bill repealing the Judiciary Act, John Randolph ventured a step beyond any of his

party associates. "If the intent of this bill is to get rid of the judges," he said, "it is a perversion of your power to a base purpose; it is an unconstitutional act;" "it is a mode of doing indirectly what the constitution forbids to be done directly. It is not on account of the paltry expense of the new establishment that I wish to put it down. No, sir! It is to give the deathblow to the pretension of rendering the judiciary a hospital for decayed politicians; to prevent the state courts from being engulfed by those of the Union; to destroy the monstrous ambition of arrogating to this House the right of evading all the prohibitions of the constitution and holding the nation at bay."* If his party had fully developed the ideas merely hinted at here, it would have been consistent with its past. But consistency would have required a remodeling of the Supreme Court, and that would have driven out of the Republican party all men of conservative habits of thought. Consistency and certain defeat, inconsistency and possible victory, were the alternatives submitted to Republicanism.

QUESTIONS.

1. What three important laws were proposed by the Congress which met in December, 1801, and what was their connection with Republicanism?
2. Of what two classes were Jefferson's followers composed?
3. Give a detailed account of Giles' speech and of Bayard's reply.
4. What was the Federalist opinion of the intentions of their antagonists?

*Annals of Congress, 1802-1803.

5. Who besides the Federalists were opposed to radical changes in the government?
6. Give an abstract of the letter written by Bayard to Hamilton in 1802 and point out its significance.
7. What characteristic of the American people stood in the way of an attempt to realize the ideals of Jeffersonian Republicanism?
8. Why did Leib withdraw his motion to appoint a committee to consider the question of abolishing the navy?
9. What alliance was necessary to keep the Republican party in power?
10. Who is Von Holst?
11. What does he say of Jefferson? Mention some facts in Jefferson's life that may have led to the opinion?
12. Why was Jefferson so desirous of popularity?
13. Compare him and Hamilton and Washington in this respect.
14. What do you know of John Randolph?

CHAPTER XXVII.

THE PURCHASE OF LOUISIANA.

THE territory of Louisiana had been ceded to Spain by France in 1762. As the country on both sides of the mouth of the Mississippi was a part of it, Spain claimed, and for a long time exercised, the right to exclude all foreign ships from that river. She would not make a treaty with the United States in 1780-2, because Jay, our foreign minister, insisted on her giving the United States a right to the free navigation of it. In 1784 another attempt was made to make a treaty with Spain. Her minister, Gardoqui, was willing enough to make a commercial treaty, provided the United States would give up all right to navigate the Mississippi below the Yazoo river, which was the northern boundary of the Louisiana territory on the east side of the river. After a year of unavailing arguments, Jay advised Congress to make a treaty giving up the navigation of the Mississippi for twenty-five years. This recommendation made the people of Kentucky very indignant. Separated from the Atlantic by the Alleghany mountains, the right to navigate the Mississippi was absolutely essential to their prosperity. Franklin's metaphor that the mouth of the Mississippi was the front door of the west did but represent the truth. When the

Attempts to secure the right to the free navigation of the Mississippi.

people of Kentucky heard of the treaty which proposed to shut them out from their own front door for twenty-five years, they threatened to secede and ask the protection of Great Britain. Their threats and remonstrances prevented the ratification of the treaty and the question was left unsettled. In 1793 another unsuccessful attempt to secure the free navigation of the Mississippi was made. Genet was only prevented from sending an army of Kentuckians to capture New Orleans by the actual presence of United States troops. Sympathy with France and gratitude to her for her services were only half of the reason for the readiness of Kentuckians to engage in this enterprise. The other half was their determination to secure the right to the free navigation of the Mississippi. The perception of this probably had something to do with the treaty negotiated in 1795, in which Spain conceded the right which the people of the West were so obstinately determined to have.

This brief sketch will make it easier to appreciate the effect of the news that Spain had retroceded the Louisiana territory to France. If it had been difficult to secure the right to navigate the Mississippi from weak Spain, how much more difficult it would be to obtain it from powerful France. April 18, 1802, Jefferson wrote to the American minister to France, Robert Livingston, as follows: "The cession of Louisiana and the Floridas by Spain to France works most sorely on the United States. It

Retrocession of
Louisiana.

completely reverses all the political relations of the United States, and will form a new epoch in our political course. * * * There is on the globe one single spot the possessor of which is our natural and habitual enemy. It is New Orleans, through which the produce of three-eighths of our territory must pass to market. * * * France, placing herself in that door, assumes to us the attitude of defiance. Spain might have retained it quietly for years. * * * The day that France takes possession of New Orleans * * * seals the union of two nations, who, in conjunction, can maintain exclusive possession of the ocean. From that moment we must marry ourselves to the British fleet and nation.”*

The excitement caused by the retrocession increased when the news came that the Spanish governor at New Orleans, Morales, had withdrawn the right of navigation given by the treaty of 1795. A Senator from Pennsylvania, James Ross, introduced resolutions authorizing the President to call out 50,000 militia and take possession of New Orleans. These resolutions were not carried. But an appropriation of \$2,000,000 was made for the purchase of New Orleans, and the Floridas†, and, in January, 1808, Monroe was sent as minister to France to co-operate with Livingston in effecting the purchase.

For some inscrutable reason, Napoleon, who was

*Works, IV, pp. 431-432.

†State Papers, II, 540.

then First Consul of France, was ready to sell to the United States not only New Orleans, but the whole of the vast province of Louisiana. Before Monroe reached France, one of Napoleon's ministers offered to sell it to Livingston. April 30, 1803, a few days after the arrival of Monroe, Livingston and Monroe, on behalf of the United States, and Barbè Marbois, on behalf of France, signed a treaty by which France ceded the territory to the United States, in consideration of the sum of \$15,000,000, one-fourth of which was to consist of the assumption by the United States of \$3,750,000 worth of claims, which American citizens had against France.

As soon as the treaty reached Jefferson, he thought of his theories of the constitution. He at once drew up an amendment and submitted it to his cabinet. He explained his theory in a letter to Breckinridge written a month or two later. "They, (Congress) I presume, will see their duty to the country in ratifying (the treaty) and paying for it, so as to secure a good, which would otherwise probably never again be in their power. But I suppose they 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.**

Constitutional difficulties.

*Italics are mine.

The executive, in seizing the fugitive occurrence which so much advances 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. It is the case of a guardian investing the money of his ward in purchasing an important adjacent territory, and saying to him when of age, 'I did this for your good; I pretend to no right to bind you; you may disavow me, and I must get out of the scrape as I can; I thought it my duty to risk myself for you.' But we shall not be disavowed by the nation, and their act of indemnity will confirm and not weaken the constitution, by more strongly marking out its lines."

The cabinet did not approve of Jefferson's idea. But he was unwilling to abandon it. Besides the letter to Breckinridge, written August 12, he wrote another to Paine, August 25. He drew up a new amendment, which he sent to members of his cabinet. He explained his views in a long conversation to Wilson Cary Nicholas, then a Senator of the United States, who had vigorously supported the Virginia Resolutions of 1798. But even he wrote Jefferson, defending the constitutionality of the treaty of annexation. In Jefferson's reply (September 7,

1803), he spoke his last words on the subject: "I am aware," he said, "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 in your construction. * * * I had rather ask an enlargement of power from the nation when 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 boundless. If it is, then we have no constitution." But after so clearly stating that the annexation of Louisiana without express authority from the people made blank paper of the constitution, he said: "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."*

*Works, IV, 505.

Whoever wishes to note all the features of the many-sided author of this letter, should study this last sentence carefully. It was impossible for Jefferson to attempt to force a policy upon an unwilling party. The part he hoped to play in history, he could act only with a great party behind him. And so the man who in 1792, insisted so strenuously on "lacing up" the powers of the government strictly within the "enumerated powers," and in 1798, protested so vigorously against a construction which swept away all "ramparts against the passions of a majority in Congress," in 1803, two years after the great revolution which had turned the monarchists out of office, "acquiesced with satisfaction" in an interpretation of the constitution, which he himself declared made "blank paper" of it.

We have seen that Jefferson was both a Democrat and a State's Rights Republican. How sincerely he was both, his conduct with reference to the purchase of Louisiana shows. If he had been only a Democrat, he would not have exerted himself so strenuously to have the annexation authorized by a special amendment of the constitution. If he had been only a Republican, if his conduct had been governed entirely by Republican theories of the constitution, he would not have consented to the annexation without special authorization. Being both a Democrat and a Republican, he annexed the territory, and tried to do it in such a way as to do no violence to the theories of Republicanism. But when his party

refused to co-operate with him in securing a special amendment of the constitution, he proved that his Democracy was deeper than his Republicanism, by trampling upon his Republican theories in order to secure a great good for the people.

We have seen that Republicanism had two questions to answer before it could prove itself a practical system of government. The first of them Republicanism and Democracy. received a conclusive answer in the purchase of Louisiana. That question was, "Could the government, confining itself within the narrow limits marked out for it by Republicanism, do all the things that the interests of the people demanded?" Might it not find itself in a position in which it would have to choose between sacrificing the interests of the people, and sacrificing the theories of Republicanism? That was the position in which the government was placed by the opportunity to purchase Louisiana. The interests of the people imperatively demanded what it had no right to do if the theories of Republicanism were true.

For this reason the debate upon the Louisiana treaty marks an epoch in the history of the country. The Federalists opposed the treaty on the ground that it was unconstitutional. They contended, as Jefferson did, although they did not know it, that the constitution made no provision for incorporating foreign nations into the union. The

The epochal character of the Louisiana debate.

Republicans contended that Congress was authorized to make all needful rules and regulations concerning the Louisiana territory, precisely as though it formed a part of the original territory of the United States. But the significant fact is that Republicans, as well as Federalists, agreed that the United States could acquire foreign territory. The Federalists maintained that such territory must forever remain in the form of a province or colony, unless the constitution were amended; the Republicans, that it became assimilated to the territory mentioned in the constitution, and should be treated in like manner. The position of the Republicans made the Louisiana debate an epoch of the first importance in the history of the country. To call the Federal government merely the foreign department of our governmental system was impossible if it had a right to acquire a territory, greater in area than the original territory of the United States, and convert it into states on an equal footing with the other states of the Union, as fast as the number of its inhabitants made it proper to do so.

The acquisition of the territory led to further violations of the theories of Republicanism. What provision was the United States to make for the temporary government of the territory? The Senate attempted to make a partial answer to this question in a bill to authorize the President to take possession of it. The object of the bill was to provide a government for the territory between the time when the United States should take possession of

it, and the time that Congress should provide a temporary government for it. The bill put the President of the United States in place of King Charles of Spain; gave to Jefferson the same absolute power of appointing territorial officers that the Spanish king possessed—legalized, in short, on the soil of the United States a government which was, as Thomas H. Benton afterwards said, an “emanation of Spanish despotism,” in which the people not only had no political rights, but were liable to punishment for presuming to meddle with political subjects. In reply to objections of the Federalists, John Randolph laid bare the vital spot of the situation: “Gentlemen will see the *necessity*,”* he said, “of the United States taking possession of the country in the capacity of sovereigns, in the same extent as that of the existing government of the province.”† The bill became a law October 31.

The law that provided a territorial form of government for Louisiana did equal violence to the theories of Republicanism. It provided for a Governor and Secretary, the former to hold office for three years, the latter for four, both to be appointed by the President; for a legislative council of thirteen members to be appointed by the President without consulting the Senate, and to be convened and prorogued by the Governor whenever he might deem it expedient; and for judicial officers, also appointed by the President, who were to hold office for

*Italics are mine.

† Annals of Congress, 1803-1804, 500.

four years. It contained three important provisions relating to slavery: (1) No slave could be imported from any foreign country; (2) no slave could be taken into the territory from the United States who had been imported since May 1, 1798; (3) no slave could be taken into the territory, directly or indirectly, except by an American citizen, who went there to settle, and not even by him unless he was "the *bona fide* owner of such slave."

Many Republicans opposed the bill. Michael Leib, a Pennsylvania Republican, characterized the power conferred by it on the Governor as "royal;" Nathaniel Macon, of North Carolina, Speaker, declared that it established a species of government unknown to the laws of the United States; G. W. Campbell, of Tennessee, said that it established a "complete despotism," that it did not "evinced a single trait of liberty," but Eustis, of Massachusetts, showed the real nature of the dilemma in which Republicanism was placed. To attempt to extend the provisions of American institutions to the people of Louisiana, he said, was to pursue a "vain theory." "I am one of those who believe that the principles of civil liberty cannot suddenly be ingrafted on a people accustomed to a regimen of a directly opposite hue. The approach of such a people to liberty must be gradual." Facts, he said, must decide the question, otherwise liberal and praiseworthy sentiments might operate in-

*Annals of Congress, 1803-1804, 1294-1296.

juriously on those they were intended to benefit. The Republican Congress and the Republican President were men of too much common sense to be consistent and so the bill became a law in March, 1804.

Consciously or unconsciously, Eustis characterized with great accuracy the theories of Jeffersonian Republicanism. They were, indeed, "liberal and praiseworthy sentiments" of the most exalted character. They were formulated by men who believed with intense enthusiasm that to put them in practice would be to introduce a new era into the history of the world. But the logic of events often plays sad havoc with the theories of men. The inexorable logic of facts compelled the government first to choose on the one hand between adhering to the theories of Republicanism and injuring the American people; and on the other, trampling upon those theories for the sake of the people they were intended to benefit; and then, to choose between loyalty to the principles of Republicanism, and an intelligent regard to the best interests of the people of Louisiana. If precedents *are* the habits of nations, Henry Adams is right when in speaking of the Louisiana legislation, he says: "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

*Annals of Congress, 1803-1804, 1055-1063.

people themselves till they should think nothing necessary but what was good."*

In this session of Congress the twelfth amendment of the constitution, providing that in future presidential elections the persons voted for as President and Vice President respectively, should be designated in the ballots of the electors, was introduced. The proposed amendment, having received the affirmative vote of two-thirds of both Houses, was sent to the States. It was ratified by all of the seventeen except Massachusetts, Connecticut and Delaware.

QUESTIONS.

1. Why was the navigation of the Mississippi so important to the United States?
2. Give some account of the efforts of the United States to secure it.
3. Why did the United States object to the cession of Louisiana to France?
4. How did Jefferson propose to amend the constitution, and why?
5. Give an account of his efforts to secure a constitutional amendment.
6. Why did he not attempt to force his idea upon his party?
7. Did Jefferson annex Louisiana as a Democrat or as a States Rights Republican?
8. Show the conflict between the two, (1) in the case of the purchase of Louisiana, and (2) in the case of its government.
9. In what respect did the debate on the Louisiana treaty mark an epoch in the history of the United States?
10. What is the significance of the quotations made from Randolph and Eustis?

*Vol. II, 130.

CHAPTER XXVIII.

THE NORTHERN CONFEDERACY.

THE administration of Jefferson was very popular from the beginning. His conservatism, in comparison with the expectations that had been formed of him, his conciliatory methods, and later, Gallatin's able management of the finances, combined with the influence exerted by the undoubted fact that he was in thorough sympathy with American ideas, caused the rank and file of his opponents to desert to him in a steady stream. In the spring of 1801, Rhode Island went Republican, and all the other New England states showed Republican gains. Excepting Delaware, every state outside of New England was under the control of the Republicans, and even Delaware elected a Republican governor. In the eighth Congress there were about twenty-five Republican Senators and one hundred Representatives, while there were only nine Federalist Senators and thirty-nine Representatives.

This great strength apparently led Jefferson to think that an attack on the Supreme Court might be ventured.

In January, 1803, he sent a message to the House of Representatives, the object of which was to show that Judge John Pickering, of the District Court of New Hampshire, should be

Popularity of Jefferson.
Impeachment of Pickering.

impeached. The House was obedient, and before the session closed, Joseph Nicholson and Randolph were sent to the bar of the Senate to impeach Pickering of high crimes and misdemeanors. When the trial took place the evidence showed that his misdemeanors were due to insanity. The Republican Senate was placed in a dilemma. The Federalist Judiciary Act of 1801, which the Republicans had repealed, provided in one of its sections, the 25th,* for just such cases. It provided that when a district judge became unable to attend to his duties the Circuit Court should fill his place with one of its members so long as his disability continued. The Republicans were obliged either to reënact so much of the Federalist Judiciary Act, and thereby confess that their wholesale repeal of it was a mistake; or vote to convict an insane man guilty of high crimes and misdemeanors—a manifest violation of the principles both of law and of justice; or permit a man to remain in office who was totally unable to perform its duties. As they decided to take the second horn of the dilemma, there would seem to have been an excellent opportunity to establish the precedent that the “misdemeanors” spoken of in the Constitution as a cause for impeachment might mean nothing criminal, might mean nothing more than that, in the opinion of two-thirds of the Senate, the impeached officer had characteristics undesirable in one who held his office. As that was the precise reason for Pick-

*Annals of Congress, 1801.

ering's removal from office, the Republicans might have made his conviction the occasion of establishing a precedent, which would have brought the Judiciary of the United States into harmony with Republican ideas. Such a Judiciary could not have presented the anomaly—from the point of view of the Republicans—of a Federalist Chief Justice expounding the constitution in harmony with Federalism, thirty-four years after the Federalists were overthrown. But some reason, probably fear of conservatives, prevented the Republicans from attempting to make the impeachment of Pickering such a precedent. Nevertheless, they showed their courage by attacking another Federalist judge. The very day they voted Pickering guilty (March 12, 1804), the House decided, by a vote of 73 to 32, that Samuel Chase, of Maryland, a judge of the Supreme Court, should be impeached.

The immediate occasion of his impeachment was a charge which he made to the Baltimore grand jury.

“Where law is uncertain, partial or arbitrary,” he said in that charge, “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 six-

Impeachment of
Chase.

teen 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 it will rapidly progress until peace and order, freedom and property, shall be destroyed."*†

This attack upon the Supreme Court, together with the annexation of Louisiana, was too severe a strain on the feeble loyalty of some influential men in the Federalist party. That party it will be remembered, consisted of two elements, a national and a commercial element. The latter had always greatly preponderated, and more than ever since Plan to secede from the union. the death of Washington, and the retire-

*Annals of Congress, 1804-1805, 673-676.

†Jefferson's characteristic caution showed itself in that he did not venture to take the responsibility for the impeachment of Chase by recommending it in a message to Congress as he had done in the case of Pickering. When he read a report of Chase's charge, he wrote to a prominent Republican, Joseph Nicholson, suggesting that the latter should move the impeachment of Chase.

ment of Adams, Jay and Hamilton into private life. Not appreciating the importance of the right to navigate the Mississippi, since it was of little consequence to New England, they regarded the purchase of Louisiana as a party move, made to perpetuate the rule of the South (with its negro representation) and West over New England. With the perpetual rule of the South, as they thought, staring them in the face, with the government in the hands of a party which believed in Democracy—which they regarded as the equivalent of “mobocracy”—and ready, as they believed, to construe the constitution in any way by means of which its interests might be promoted, with one judge just found guilty by a party vote in the Senate, and another impeached and a prospect for a general assault upon the Supreme Court, they felt that something must be done if they would save themselves from the tyranny of Democracy, and the consequent chaos of anarchy. As the Kentucky and Virginia Resolutions were the protest of Jefferson and Madison against the unconstitutionality and tyranny of the Alien and Sedition Laws, so a *plot to secede from the Union* was the protest of leading New England Federalists against what they regarded as the unconstitutional and tyrannical legislation of the Republicans. Of the six senators from Massachusetts, Connecticut and New Hampshire, four of them were in hearty sympathy with the plot—of which, indeed, Timothy Pickering, one of the senators from Massachusetts was conspicuous as a leader. Their plan was to

make New York the centre of the new confederacy, which they hoped to accomplish by the aid of Aaron Burr. They wished to make Burr governor of New York, in order that he might use his power and influence in that position to bring New York into the confederacy of which he was to be the leader.

According to this programme Burr was nominated for governor of New York, and received the votes of many Federalists, Republican though he was. But Alexander Hamilton, then as always a statesman, aware of the transcendent importance of the result, exerted himself to the utmost to prevent the election of Burr. Burr was defeated and the conspiracy collapsed.*

This defeat led Burr to the determination to kill Hamilton. About the first of July, 1804, he challenged Hamilton to fight a duel. Hamilton accepted the challenge but for reasons connected with matters of business, he asked that the duel be postponed a few days. In the interval, Hamilton in-
Duel between Burr and Hamilton.
vited to his house a Mr. Smith, a son-in-law of John Adams, and his wife. During the course of a conversation, Hamilton said to Smith, who knew of the approaching duel, "You will go to Boston; you will see the principal men there. Tell them from *me* as my request, for God's sake, to cease these threatenings, and

*For the evidence of this conspiracy see Adams' New England Federalism.

conversations about the dissolution of the Union. It must hang together as long as it can be made to."*

To make the Union hang together as long as possible—that had been the great purpose of Hamilton's public life. To this end he had worked with tireless energy to make his bitterest enemy President; to this end, he had stood a second time across the path of the unscrupulous adventurer, who felt that the only road to the goal of his ambition lay over the body of his prostrate foe. They met July 11, 1804, in a beautiful valley on the banks of the Hudson. Hamilton threw away his fire, but Burr fired after aiming deliberately; and his great antagonist fell mortally wounded.

The trial of Judge Chase took place early in 1805. An effort was made by some of the Republican managers to make the impeachment of an officer equivalent to an investigation into the manner in which he had discharged the duties of his office, and into his qualifications to hold it. Conviction on this theory would not imply criminality; it would mean nothing more than that in the opinion of two-thirds of the Senate, the interests of the country would be served by removing the convicted officer from his office. We have seen already that this theory of impeachment was what Republicanism demanded. But that conservatism of which Jefferson stood in awe, made some of the Republican managers of the trial recoil

Trial of Judge Chase.

*J. C. Hamilton, History of Republic, VII, 823.

from the theory required by their party. There were twenty-five Republicans in the Senate, and of these the vote of twenty-three was necessary to conviction. But the managers knew that some of the Northern Democrats were almost as hostile to the Republican theory of the judiciary as the Federalists. Accordingly Joseph H. Nicholson, one of the Republican managers repudiated what had been given out as the Republican theory. "If declarations of this kind have been made, in the name of the managers I here disclaim them. We do contend that this is a criminal prosecution for offenses committed in the discharge of high official duties."

The result showed that Jefferson's instinct in 1801 was sound. The charges against Chase were made in eight articles.

The largest vote on any of them was nineteen. The animus of the Republicans was clearly shown by a motion made by John Randolph in the House of Representatives. Randolph moved to submit to the states the following amendment to the constitution: "The judges of the supreme and all other courts of the United States shall be removed by the President on the joint address of both Houses of Congress."* The motion was carried by a strict party vote as it should have been, since it was in perfect harmony with the theories of Republicanism. But it was becoming more and more clear to Republican leaders that the inexorable condition of

*Annals of Congress, 1804-1805, 1213.

Republican success was that Republicanism should be false to its theories. In 1820, Jefferson wrote of the Judiciary of the United States: "having found from experience that impeachment is an impracticable thing, * * * they consider themselves secure for life."* That impeachment was an "impracticable thing" for Republican purposes, Republicans as well as Federalists learned in the trial of Judge Chase. The reason why it was impracticable was that there were Republicans who preferred the constitution as the Federalists construed it, to the constitution as their own party construed it. What an important influence this fact has exerted upon American institutions and American history, Burgess has told us in a paragraph already quoted.† The governmental system of the United States is the aristocracy of the robe because the Judiciary is independent, because it stands above the changes and fluctuations of parties. If Randolph's amendment had become a part of the constitution, it is doubtful if the people in general would have any more respect for the decisions of the Supreme Court than they now have for the editorials of the party press. The old Federalist party lay dying in 1805. Those who stood in tears by its bedside might have gathered some consolation from the fact that without the weapons that had been snatched from its dying hands, the stalwart young conqueror could not, henceforth, maintain his power.

Works, VII, 192.

*See page 50.

QUESTIONS.

1. Account for the popularity of Jefferson's first administration.
2. For what was Pickering impeached?
3. State the clause in the constitution relating to impeachment.
4. What was the objection to applying it to such a case as Pickering's?
5. Why did not the Republicans re-enact the substance of the 25th section of the Judiciary Act of 1801?
6. Why did they not attempt to make a precedent of Pickering's case so as to reform the Judiciary in accordance with Republican ideas?
7. In what respects is the Judiciary not in harmony with the theories of Jeffersonian Republicanism?
8. Why did Chase object to universal suffrage?
9. What did he mean by "mobocracy"?
10. Whom did he mean by our great reformers, and what were "the modern doctrines" of which he spoke?
11. Why did not Jefferson recommend the House of Representatives to impeach Chase?
12. Give an account of the plot to secede from the union, and mention the circumstances that led to it.
13. Do you recall any other occasions in the history of the country before 1804, when threats of secession were made?
14. Why was not Chase convicted?
15. Point out the bearing of his acquittal on the development of American institutions.
16. State the substance of the quotation made from Burgess.

CHAPTER XXIX.

WEST FLORIDA.

JAY'S treaty determined the foreign relations of the United States for the next ten years. That treaty, as we know, brought the United States to the verge of war with France, and indeed led to actual hostilities between the two countries. As England and France were at war, the attitude of France naturally determined the attitude of England; the enemy of France was the friend of England. When Jefferson became President, he took great pains to dispel the idea that he was in any sense the special friend of France. For "Republican France," he admitted he might have felt some interest. But, "assuredly," he said, "there is nothing in the present government of that country which could naturally incline me to show the smallest undue partiality to it at the expense of Great Britain, or indeed of any other country."*

When the news reached this country that Spain had retroceded to France the Louisiana territory, Jefferson began to cultivate the English minister to the United States with great assiduity. As strong as was his desire for peace, he thought that disputes about the navigation of the Mississippi might lead to a war with France, and

*Thornton (British minister) to Grenville, March 7, 1801; MSS. British Archives, Henry Adams, II, 34.

in that event he wished to have England as an ally. The purchase of Louisiana brought this courtship of England to an abrupt close.

In the treaty in which the terms of the purchase were agreed upon, the boundaries of the territory were not defined. All that it contained on this point was that "Louisiana, with the same ^{Boundaries of Louisiana.} extent that it now has 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," was ceded to the United States. Livingston asked Talleyrand what the eastern boundary was. "I do not know," answered Talleyrand; "You must take it as we received it." "But what did you mean to take?" persisted Livingston. "I do not know," Talleyrand repeated. "Then you mean we shall construe it in our own way?" "I can give you no directions," replied Talleyrand. "You have made a noble bargain. I suppose you will make the most of it."† Livingston determined to make the most of it.

Before the treaty which closed the French and Indian war, in 1762, France owned nearly all of the North American continent. By that treaty, France divided her vast possessions in North America, called Louisiana, between England and Spain, giving to England Canada, Florida, and all of Louisiana east of the Mississippi, ex-

*The paragraph was copied from the treaty of retrocession between France and Spain.

†State Papers, II, 561.

cept the Island of New Orleans ; and to Spain the Island of New Orleans and all of the original province of Louisiana west of the Mississippi. By a treaty made between France and Spain in 1800, Spain "retroceded" to France the province of Louisiana; in other words, the Island of New Orleans, and all of the original province of Louisiana, west of the Mississippi, which Spain had received from France in 1762. This was the understanding between France and Spain. It was also as we shall see, Livingston's understanding, at least for a time.

The part of Louisiana, east of the Mississippi, which Great Britain received from France in 1762, was united by her to Florida, and the whole of Florida thus established was divided into two territories, separated by the Appalachicola, called East and West Florida.* These two territories, East and West Florida, were ceded by Great Britain to Spain in 1783, so that Spain was the owner, not only of the province of Louisiana west of the Mississippi, and the Island of New Orleans east of that river, *through the cession of France in 1762*, but of East and West Florida, *through the cession of England in 1783*. When, therefore, Spain agreed to "retrocede" the province of Louisiana, she meant and France understood her to mean, to cede *back* to France the territory which she had received *from* France in 1762. When Talleyrand

*West Florida was bounded on the north by the thirty-second degree of north latitude, on the east by the Appalachicola, on the south by the Gulf of Mexico, on the west by lakes Maurepas and Pontchartrain and the Mississippi.

told Livingston that he did not know what the eastern boundaries of Louisiana were, he was acting under the instructions of Napoleon, who for reasons of his own, wished to leave the Americans in doubt as to the extent of the territory they had bought. "If an obscurity did not already exist," Napoleon had said, "it would perhaps, be good policy to make one." At the time Talleyrand professed such ignorance, he had in his desk a copy of the instructions which he had himself given to the French officer who was to take possession of the Louisiana territory for France. In that paper the boundaries of the territory were carefully and clearly stated, and West Florida was *not* a part of it.

Livingston, himself, was for a considerable time of the opinion that West Florida was not a part of the territory retroceded by Spain to France. February 18, 1803, he wrote to Madison:

Livingston
claims West
Florida.

"The essential fact is that the Floridas are not yet ceded."* (The retrocession was made, it will be remembered in 1800.) March 3, "The Floridas are still in the hands of Spain."† March 11, "If they (the French) do not get the Floridas, they will put the less value on New Orleans."‡ April 13, in a letter detailing a conversation with the French minister about the purchase

* State Papers, II, 533.

† State Papers, II, 538.

‡ State Papers, II, 545.

of Louisiana, he wrote: "I asked him (Marbois) in case of a 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."* May 12, "I am satisfied that if they (the French) could have concluded with Spain, we should also have had West Florida."† But, May 20, only eight days later, he wrote: "The sum of this business is to recommend to you in the strongest terms * * * to insist upon this (West Florida) as a part of your right, and to take possession at all events to the River Perdido. I pledge myself that your right is good."‡ What had happened in eight days to make such a change in his opinions? The last letter quoted from contains a passage that explains the change: "The moment I saw the words of the treaty of Madrid" (the treaty of retrocession from Spain to France, the paragraph from which, defining the limits of Louisiana was incorporated into the treaty between the United States and France) "I had no doubt that it" (the cession from Spain to France) "contained all the country that France possessed by the name of Louisiana, previous to their cession to Spain, except what had been conveyed by subsequent treaties. * * * That my construction is right is fairly to be inferred from the words of the treat-

* State Papers, II, 503.

† State Papers, II, 558.

‡ State Papers, II, 561.

ies and from * * * the Spanish minister's letter to Mr. Pinckney, in which he expressly says that France had recovered Louisiana, as it formerly belonged to her, saving the rights of other powers."

The words of the treaty which wrought such a change in Livingston's mind, have already been quoted; Louisiana was "retroceded" "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." By ignoring the significance of *retro* in *retroceded*, and the understanding between Spain and France as to the territory which the one had ceded to the other, by ignoring the understanding which he, himself, had expressed in half a dozen letters that West Florida was *not* a part of Louisiana, Livingston was able to base a technical, legal claim to West Florida upon the clause, "that it had when France possessed it." Up to 1762, West Florida had been a part of Louisiana; it was included in it when France possessed it; and, barring the significance of "retro" in "retroceded," and the fact that Spain and France and the United States understood that Louisiana did not include West Florida, Livingston might with some show of reason, pledge himself that the right of the United States was good. These were, indeed, awkward exceptions, so awkward, that he was obliged "at last," as one writer puts it, "to maintain that Spain had retroceded West Florida to France with-

out knowing it, that France had sold it to the United States without suspecting it and that the United States had bought it without paying for it." But Jefferson and Madison and the whole South were anxious to get possession of West Florida. Accordingly, Jefferson stated in a letter to Madison (Aug. 25, 1803), his opinion that "our right" to it was "substantial."* The next year (April 15, 1804), Monroe, our minister to Spain, was instructed to insist upon our right to West Florida as "a *sine qua non*, and no price to be given for it."†

That decision accounted for the sudden termination of Jefferson's attentions to the minister of England. When France owned Louisiana he wished to have England's help in getting possession of New Orleans. After France ceded Louisiana, he wished to conciliate Napoleon, since Napoleon could influence Spain to give up West Florida. The wish to conciliate Napoleon was a powerful influence in shaping the character of Jefferson's second administration.

October 24, John Randolph, the Republican leader in the House of Representatives, declared on the floor of the House that West Florida had been bought by the United States. November 30, he introduced a bill which stripped of all verbiage, and put in plain

Mobile Act. English, annexed West Florida to the United States. The bill finally passed both

* Works, IV, 503.

† Jefferson to Madison, July 5, 1804; Works IV, 550. State Papers, II, 627.

Houses and was signed by the President, February 24, 1804.

The effect of this upon Spain can be readily imagined. The Spanish minister to the United States, Don Carlos Martinez Yrujo, with the Mobile Act in his hands, told Madison that he Spain resents it. was a party to an "infamous libel," and declared that the law invaded the sovereignty of Spain. The troops of Spain made incursions from West Florida and Texas into the United States, captured American citizens, and took possession of their property.* In open violation of her treaty with the United States, she seized American ships and plundered American commerce. When the representative of the United States at Madrid, George W. Erving, remonstrated against this, the Spanish minister said "that Spain could not allow American ships to carry English property." "But we have a treaty which secures us that right," replied Erving. "Certainly," returned the Spaniard, "I know you have a treaty for I made it with Mr. Pinckney." But, he said, his government did not intend to respect that part of the treaty any longer! "You may choose either peace or war," he continued, "'tis the same 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

* State Papers, II, 682, 695.

for you; and then the peace which will be made in Europe will leave us two at war.”*

This was the natural result of claiming a territory which belonged to Spain—defiance. The only natural reply to it was war. But to go to war with Spain was to go to war with Napoleon. When Monroe wrote from Spain to General John Armstrong, who had succeeded Livingston as minister to France, expressing his opinion that if the United States took a firm position toward Spain, France would use her influence in behalf of the United States, he was quickly undeceived. Armstrong asked, “What would be the course of this government (France) in the event of a rupture between us and Spain?” The answer was emphatic: “We must take part with Spain.”† As we know, Jefferson had a horror of war. But, in spite of this, when the news of Spain’s defiance reached the United States he strongly inclined to

Jefferson in-
clines to war. war. England was at war with France and Spain, and he thought that if the United States declared war against Spain—which would be equivalent to declaring war against France, England would stipulate with the United States not to make a treaty until West Florida was acknowledged to be a part of the Louisiana purchase. Four times during August, and again in September, he wrote to Madison urging this

* Erving to Madison, December 7, 1805, MSS. State Department Archives.

† State Papers, II, 636.

idea.* In October, the question was discussed at a meeting of the cabinet, but nothing was decided.

Why, it may be asked, did not Jefferson test his theory of commercial restrictions as a substitute for war? Why did he not attempt to compel Spain and France to respect what he regarded as the rights of the United States, by excluding their ships from American ports? Because he realized that it would be unavailing. The truth is, that Jefferson's theory of commercial restrictions as a substitute for war, was formed with special reference to England. In a letter to Edward Rutledge, written in 1797,† he said that the favorite engine of the Republicans when England insulted us was commercial regulations. But when France insulted us, "*as we have no commerce with France the restriction of which would press on them, they (the Republicans) wished for negotiation.*" In a word, if any nation besides England insulted the United States, even Jefferson, with all of his devotion to peace had no remedy to propose but war, fatal as it would prove to his theory of the proper functions of the general government.

About the middle of November, 1805, the Administration decided upon a Spanish policy. The preceding month the news reached the United States that Great Britain, Austria and Russia had united against Napoleon. In the face of

The new Spanish policy.

* Works, IV, 583, and Jefferson MSS.

† Works IV., p. 190.

such a coalition it seemed to Jefferson impossible for Napoleon to fight his way to a peace in less than two years. "This new turn of affairs, therefore," as Jefferson wrote to Madison, "gives time to make another effort for peaceable settlement." We have seen that Monroe was instructed to insist upon the right of the United States to West Florida, and "no price to be given for it." Monroe had insisted. But the emphasis with which Spain denied the "rights of the United States," convinced even Jefferson, sanguine as he was, that to demand West Florida of Spain with or without bluster, would be futile as long as Spain was backed by Napoleon. It was the object of the new policy to detach Napoleon from Spain; or rather, not simply to detach him but to make him throw his weight into the scale on the side of the United States. In Jefferson's language, "The extension of the war in Europe leaving us without danger of a sudden peace, depriving us of the chance of an ally, I proposed we should address ourselves to France, informing her it was a last effort at amicable settlement with Spain, and offer *to her*,* or through her, a sum of money for the rights of Spaineast of Iberville, say the Floridas." "The first (money) was to be the exciting motive with France, who will be glad also to secure us from going into the scale of England."† This then was the plan: In effect, to bribe France to compel Spain to give up East and West Flor-

*Italics are mine.

†Cabinet Memoranda, Jefferson MSS.

ida, with a threat, in the background, of war, and alliance with England in case France refused.

About two months before the Spanish policy was decided on, news reached the United States that England was making war on American commerce. Our story has already told of the attack which England made on the commerce of the United States in November, 1798.

Early in 1794, the order commanding it was revoked and a new one was issued. The new order only prohibited American vessels from trading directly between any port in the French West Indies, and any port in Europe. This order remained in force four years. In 1798, a new order added to the French West Indies the colonies of Holland and Spain, and neutrals were prohibited from trading directly between these colonies and Holland, Spain and France. But what constituted direct trade? If an American vessel carried sugar and coffee from Martinique or St. Domingo to Boston, must her owner unload her cargo, and pay the duty on it, in order to make the trade between the French West Indies and France indirect? The British High Court of Admiralty answered that question in 1800. The Court decided that an American vessel the *Polly*, loaded with sugar and cocoa for Bilbao, which she had brought from Havana, was not engaged in direct trade between Spain and her colonies, *because her cargo had been unloaded in the United States, and the duty had been paid*, before the ship started on a new voyage to Spain. The principle

upon which this decision was based had been announced by the English judge, Sir William Scott, the year before. "By importation," he said, "the produce became part of the national stock of the neutral country; the inconvenience of aggravated delay and expense was a safeguard against this right becoming a special convenience," to the country with which England was at war. Doubtless the British government supposed that the "inconvenience of aggravated delay and expense" would prevent such a trade from being especially profitable to the United States. They were mistaken. In 1803, when the war in Europe was renewed, American merchants began again to trade between the belligerents and their colonies. In two years almost the entire carrying trade of Europe was in their hands. "The merchant flag of every belligerent," says McMaster, "save England, disappeared from the sea. France and Holland absolutely ceased to trade under their flags. Spain for a while continued to transport her specie and her bullion in her own ships protected by her men-of-war. But this, too, she soon gave up, and by 1806 the dollars of Mexico and the ingots of Peru were brought to her shores in American bottoms."*

This unexpected result was exceedingly unsatisfactory to England for two reasons: (1) It completely warded off the blow which she aimed to strike her enemies through their colonies. The Rule of 1756

*History of the People of the United States, III, 225.

was intended to weaken her enemies by crippling their colonies. Under the modification of it made by her orders in council, the colonies of her enemies were more prosperous in war than they had ever been in time of peace. At an immense cost she had built up a fleet which swept the merchant marine of her enemies from the sea. Of what avail was it, if the merchant marine of the United States supplied the wants of her enemies and their colonies as effectually in time of war as their own marine had done in time of peace? But (2) the orders in council of England as interpreted by her courts were building up the resources of her most formidable commercial rival, the United States, and that at the expense of her fleet. At a time when England was struggling for her life with the greatest military genius of modern times, backed by the resources of a large part of continental Europe, thousands of her sailors were deserting every year to serve on American vessels, because the profits of American trade enabled Americans to give them better pay, and better food.

The English Court of Admiralty proved equal to the occasion. Flatly reversing his decision in the case of the "Polly," in the case of the "Essex," July 23, 1805, Sir William Scott ruled that Rule of 1756. the unloading of her cargo and the payment of a duty were not sufficient evidence that the neutral vessel intended to terminate her voyage in an American port. If the neutral vessel sailed from

Martinique to Charleston in order to go to London, it was direct in intent, and the landing of her goods, and the payment of a duty did not prevent it from being direct in fact.

The effect can be imagined. With a single stroke of the pen Sir William Scott endangered three millions of dollars worth of American property. Thousands of merchants who supposed themselves to be prosperous suddenly found themselves face to face with ruin. From Charleston to Boston a cry of indignant anger went up at this outrageous invasion of the rights of neutrals.

We have seen that during the summer and a part of the autumn of 1805, Jefferson was strongly inclined to a war with France and Spain, with England as an ally. One would naturally suppose that the news that England was capturing American vessels by the score, not only without warrant, but in violation of the decisions which her own courts had rendered but four years before, would have driven all thought of an English alliance out of his head. But both he and Madison were so eager for England's help in case of a war with France and Spain, that they seemed to think it best to pocket her insults in silence. The English minister to the United States, Anthony Merry, wrote to his government: "Although I have seen Mr. Madison twice since the attention of the public has been so much engaged with this subject"—the British attack upon American commerce—"he has not thought proper to mention it to me." When

Merry saw Jefferson, Jefferson talked freely, almost confidentially about the Spanish difficulties and the prospect of a war with Spain, but said not a word about the outrages which were an exact repetition of those on account of which his party had denounced the Federalists for not going to war in 1793.

Certainly these outrages were serious enough to have attracted his attention, especially since they were an abrupt departure from the policy which Great Britain had been pursuing for the preceding ten years. If he had seen fit to imitate the example of Washington in a similar crisis, he would not have allowed the desire to gain West Florida to prevent him from protesting promptly and vigorously against this attack upon the rights of America. In doing so, he would not only have had regard to the national honor, but he would have taken a step towards the realization of those American ideals which he so fondly cherished. The rule of 1756 was based on an utterly un-American idea—that colonies exist solely for the good of the mother country; that in making laws for them regard should be had not to their interests, but to the interests of the mother country. How un-American this was no one knew better than the author of the Declaration of Independence. "If your colonial theory were true," Jefferson might have said to England, "if colonists were so many cattle to be disposed of absolutely as the mother country may direct, your Rule of 1756 might be well founded. But from the

American point of view, it is an attempt to enforce in war, a wrong which we are unable to prevent in peace—an attempt to which this country cannot submit without being false to the idea that underlies its existence as a nation. The American government is based on the principle that governments derive 'their just powers from the consent of the governed.' Your colonial theory, and your Rule of 1756 are based upon the principle that 'might makes right,' that the power of the mother country gives it the right to dispose of its colonists without regard to their interests."

QUESTIONS.

1. Why did France wish to leave the United States in doubt as to the extent of the Louisiana territory?
2. How did Spain get possession of West Florida?
3. State and criticize Livingston's reasoning to show that West Florida belonged to the United States.
4. What was the Mobile Act and what effect did it have on Spain?
5. Why did not Jefferson recommend commercial restrictions against Spain and France?
6. Why was he disposed to seek an alliance with England?
7. What was the Rule of the War of 1756?
8. State and discuss the principle upon which it was based.
9. In 1805, Madison wrote a letter to Jefferson containing the following passage: "If she (France) should persist in disavowing her right to sell West Florida to the United States, *and above all can prove it to have been the mutual understanding with Spain that West Florida was no part of Louisiana,** it will place

*Italics are mine.

our claim on very different ground—such probably as would not be approved by the world, and such certainly as would not with that approbation be maintained by force. If our right be good against Spain at all, it must be supported by those rigid maxims of technical law which have little weight in national questions generally, and none at all when opposed to the principles of universal equity." Discuss it.

10. September 30, 1805, Madison wrote to Jefferson: "At Paris, I think Armstrong ought to receive instructions to extinguish in the French government every hope of turning our controversy with Spain into a French job, public or private." What did he mean? Was his subsequent action in harmony with this statement?

CHAPTER XXX.

CONQUERING WITHOUT WAR.

THE presidential election of 1804 had resulted in an overwhelming victory for the Republicans. Jefferson and George Clinton received one hundred and sixty-two out of a total of one hundred and seventy-six votes. But this victory of the Republicans was not a victory for Republicanism. According to Republicanism, the general government had no domestic functions to perform, it was only the foreign branch of our governmental system. But the doctrine of State's Rights had never in any Federalist administration been more completely disregarded than in the purchase of Louisiana, and in the laws providing for taking possession of it, and for its government. The great Republican victory, therefore, was only a proof that large numbers of men who had been Federalists in 1800 believed that Jefferson was sincere when he said that every difference of opinion was not a difference of principle—that there was not, after all, any radical difference between Federalism and Republicanism. His second administration undeceived them. In his second administration, Jefferson proved the strength of his conviction that at least, in some cases, commercial restrictions could be relied on as a substitute for war. The issue of his attempt to put this

theory into practice, decided the fate of Jeffersonian Republicanism. By the close of his first administration, there was nothing left of it except its theory of foreign concerns; by the close of his second, that also was gone.

Foreign ministers to the United States were familiar with Jefferson's aversion to war. Louis Marie Turreau, the first minister from France to the United States since Adet's recall, had hardly been in the country six months before he was able to state with great accuracy the policy and aims of the government. July 9, 1805, he wrote a dispatch to Talleyrand containing the following paragraph: "The Federal government * * * will avoid every serious difference which might lead to aggression, and will constantly show itself an enemy to war. But does the system of encroachment which prevails here agree with a temper so pacific? Certainly not, at first sight; and yet, unless circumstances change, the United States will succeed in reconciling the contradiction. To conquer without war is the first fact in their politics."

Turreau himself was teaching Jefferson that the policy of conquering without war had its inconveniences, even in case it was successful. Three times during his first year at Washington he dared to transmit the commands of Na-^{Napoleon's com-}mands. poleon to the President of the United States.

The President was urging certain claims of the government against the court of Spain; Napoleon, through Turreau, told him he must abandon them. When General Moreau was on the point of visiting the United States, Turreau, obeying the orders of Napoleon, wrote Madison that his (Moreau's) arrival and residence in the United States "should be marked by no demonstration which passes the bounds of hospitality."* When Napoleon learned that a bill, introduced at the suggestion of Madison through the influence of Turreau, providing that no trade, whether armed or unarmed, should be carried on by Americans with San Domingo—had failed to pass, he was in a great rage. San Domingo was a French colony which had thrown off the yoke of France and Napoleon was unable to subdue it. Wishing to get the help of the United States, he had directed Turreau to request the American government to stop all American trade with San Domingo. When Napoleon learned that the bill, introduced through complaisance to him, had failed to pass, he ordered Talleyrand to say to Armstrong that the trade was "shameful," and that it was "time" for it "to stop." Talleyrand wrote Armstrong, that this system "must last no longer," and Turreau, in a note to Madison, repeated the phrase "must last no longer."†

This time Congress was obedient. The last day of

*MSS. State department Archives.

†State Papers, II, 726.

February, 1806, Jefferson signed a San Domingo bill, which stopped all trade for a year with every port in San Domingo which was not in the hands of the French. Nor can the disgrace of the bill be laid at the door of the administration alone. Jefferson transmitted Napoleon's command to Congress, so that when the House of Representatives and the Senate passed it, they knew that they were obeying the commands of Napoleon.

To a temper less sanguine than Jefferson's, such experiences would have seemed ominous of the disaster that was to overtake his foreign policy. But had he not in four years brought the party of Washington, and Hamilton, and John Adams to his feet? Had he not in the face of all the experience of the past, shown that Democracy was a practicable form of government? In the sunshine of such popularity, with such a consciousness of power, it is hardly to be wondered at that he felt that he could prove a match for Napoleon in the end, and that he could humor, without loss of dignity, Napoleon's passion for command for the sake of the great objects at which he aimed. Although the United States was defied by Spain, bullied by France, insulted and robbed by England, Jefferson had no thought of war, but had just as little thought of giving up West Florida. Jefferson and Madison did not indeed continue to humiliate the nation by submitting to the new outrages of the British government in silence, or with a mildness of protest that was not much better. But the change was not due to a stronger

determination to cause Great Britain to respect the rights of the United States, but to the fact that Jefferson and Madison had come to believe that they could get West Florida without England's help.

Shortly after the meeting of the cabinet in which it was decided to attempt to get West Florida through the influence of France, a dispatch was received from

Armstrong's
dispatch. Armstrong indicating that France was willing to act the part which the United States wished to assign her. The dispatch narrated

that an unofficial agent had brought an unsigned memorandum from Talleyrand to the American minister, advising him to write another note to Spain, warning her of the consequences of persisting in her course, and encouraging her to join with the United States in referring the matters in dispute to Napoleon. "The more you refer to the decision of the Emperor, the more sure and easy will be the settlement." If Spain would consent to part with the Floridas, as she doubtless would at the Emperor's request, France proposed that the United States should pay Spain ten million dollars—finally reduced to seven, less the three million dollars worth of claims, which the United States had against Spain for spoiliations upon American commerce.*

It is amusing to see how quickly the British minister (Anthony Merry) was made to feel the effect of this dis-

*Armstrong to Madison, Sept. 10, 1805.

patch upon the government. It was received about the middle of November. December 2, he wrote to his government: "I am sorry to add that those public prints which are considered as the organs of the government (of the United States) have of late lost sight of their complaints against Spain, with a view, as may be suspected, to excite and direct the whole national indignation against Great Britain." One can hardly help suspecting that those "public prints" had been losing sight of their complaints against Spain for just about two weeks! "I have been sorry," he continued, "to find in my recent conversations with Mr. Madison that he has treated the subject in a much more serious light than he had at first represented it to me." The "more serious light" of course, was the effect of Armstrong's dispatch. That dispatch seemed to Jefferson and Madison to bring the goal of their hopes in sight. The prize so eagerly coveted, for the sake of which they had smiled upon England while she was robbing American ships and impressing American seamen, and held out their hands to France while she was upholding Spain in her insulting defiance was at last, as they thought, within their grasp. Jefferson wished to make sure of it by sending to Armstrong on the spot, without waiting for the action of Congress, instructions authorizing the payment of the first installment of two million of dollars. But he was overruled. The money which was to "induce" France to "coerce Spain" to sell to the United States prop-

erty which the United States claimed to have bought, had to be voted. But as the Republicans had an overwhelming majority in both houses of Congress, Jefferson had no doubt that Congress would vote the money without hesitation.

But the method which he chose to use in bringing his policy before Congress was precisely the one which was best calculated to arouse the antagonism of men who were unwilling to be moved here or there, as the will of another might direct, like so many men on a chessboard. He recommended two policies,

Jefferson's two messages.

an "ostensible" and a "real" one. The ostensible policy, the object of which was to correct the impression in Europe that "our government was on Quaker principles," ready to turn the left cheek when it had been smitten on the right, was stated in his annual message ; the real one, in a separate message communicated to Congress three days later. The passage in the annual message relating to the foreign relations of the United States stated the wrongs of the country in a very vigorous manner. "Since our last meeting," it read, "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, some with illegal 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 har-

bors, under color of seeking enemies, has also been 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 in the usage or acknowledgment of nations. * * * With Spain our negotiations for a settlement of differences have not had satisfactory issue. * * * Inroads have recently been made into the territories of Orleans and the Mississippi; our citizens have been seized and their property plundered in the very parts of the former which had actually been delivered up by Spain, and this by the very officers and soldiers of that government. * * * 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." Right upon the heels of this warlike message came the secret message breathing an entirely different spirit. It recommended an entirely different course and without directly asking for money, it stated that "the course to be pursued will require the command of means which it belongs to Congress exclusively to yield or to deny."

If Jefferson's self confidence had permitted him to doubt that Congress would carry out his plans, he could hardly have seen with satisfaction that his secret mes-

sage was referred to a committee of which *John Randolph*. John Randolph was chairman. During the thirty-five years of the wayward, erratic, impulsive public life of John Randolph, the one principle to which he clung with most consistency was States' Rights. He believed the doctrines of the Kentucky and Virginia Resolutions with an intensity that excluded every shade of doubt. Virginia was to him his country, and for the sake of her, and to repel any invasion of her rights, he was ready to take up arms against what always seemed to him a foreign government—the government at Washington. The overthrow of the Federalists was to him also a revolution, a revolution in which his "country" would assume the position that belonged to her as an independent and sovereign state, no longer lorded over by what was in part her own creature.

He had, indeed, exerted his influence in behalf of the centralizing measures of Jefferson's first administration. But there were a number of indications that he and some of his friends, who afterwards called themselves "old Republicans," could not so easily as Jefferson forget the principles they had advocated in opposition. "Of what consequence is it," he asked in a speech early in 1805, "that a man smiles in your face, holds out his hand, and declares himself the advocate of those political principles to which you are also attached, when you see him acting with your adversaries upon other

principles, which the voice of the nation has put down, never to rise again in this section of the globe?"

But there were special and particular reasons which would have led a cautious man to doubt that the West Florida policy would meet with the approval of Randolph. As Madison was Secretary of State, Randolph was sure to regard it as, in an especial sense, Madison's policy. But Randolph disliked Madison. "In Randolph's opinion," says his biographer, "Madison was * * a colorless semi-federalist, an intriguer with northern democrats and southern speculators, one who never set his face firmly against an intrigue or a job."* The very fact, therefore, that a measure was recommended by Madison inclined Randolph to oppose it. But apart from all this, a man of the temper of Randolph, self-asserting, aggressive, imperious, who had himself moved but two years before to erect West Florida into a revenue district of the United States, would have found it hard to vote for money to "induce France" to compel Spain to cede it to the United States.

As soon as Jefferson's secret message was referred to a committee, Randolph called on the President and asked what it meant. Jefferson told him that an appropriation was wanted for the purchase of Florida. He told the President "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

* Adams' Randolph, 161.

his 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." * He went to Madison and 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." "From the moment I heard that declaration," Randolph said afterward, "all the objections I originally had to the procedure were aggravated to the highest possible degree. I considered it a base prostration of the national honor to excite one nation by money to bully another nation out of its property." In that spirit he fought the measure, which was introduced to carry out the West Florida policy, with all his power. But he only succeeded in delaying its passage until the middle of January, when it was sent to the Senate which passed it early in February. The delay of two months defeated the object which the measure was intended to accomplish. Long before the dispatch from Madison to Armstrong, authorizing the bargain with France reached Paris, Napoleon's offer to induce Spain to give West Florida to the United States, had served its most important purpose ; it had caused the United States to

* Articles by Randolph in *Richmond Enquirer*, August, 1806.

take the first step towards practical alliance with him. He hoped eventually to lure the United States into a position where war with England would be a necessity.

Within three weeks from the time Armstrong's dispatch arrived, the "National Intelligencer," the organ of the Administration, republished Madison's speech in behalf of commercial restrictions against Great Britain, delivered in 1794, when England ^{Policy towards England.} was making the same war upon American commerce under the rule of 1756, that she was making then. Bills providing for restrictions in British commerce were introduced in both the Senate and the House, and in March (1806), the House began the debate on the policy of commercial restrictions.

It was in this debate that John Randolph delivered the great speech of his life. A peculiar interest attaches to it because it was, in a sense, the passion-^{Randolph's speech.}ate protest of the spirit of "old Republicanism" against its betrayal by its friends. He contrasted the attitude of the administration towards England with its attitude towards France and Spain. "It will be time enough to vindicate the violation of our flag upon the ocean, when they shall have told us what they have done in resentment of the violation of the actual territory of the United States by Spain—the true territory of the United States, not your new-fangled country over the Mississippi, but of the good old United States, part of Georgia, of the old thirteen states, where citizens have

been taken not from our ships, but from our actual territory." He spoke the language of "old Republicanism" when he said: "I will never 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." And also, "I declare in the face of day that this government was not instituted for offensive war. * * * As in 1798, I was opposed to this species of warfare because I believed it would raze the constitution to its very foundation, so in 1806, I am opposed to it and for the same reason."

He protested against the undue influence of the Executive precisely as the Republicans had done in the administrations of Washington and Adams. "Do what you will, every measure short of war, and even the course of hostilities, depends upon him. * * * You give him money to buy Florida, and he purchases Louisiana."

He stated that France and England had changed their parts since 1793, and that to take sides with France in 1806 was to take sides with the enemy of liberty. "Gentlemen talk of 1793. They might as well go back to the Trojan war. What was your situation then? Then every heart beat high with sympathy for France, for *Republican France*. * * * It was a noble and generous sentiment, which nations like individuals, are none the worse for having felt. They (the American people)

were ready to make great sacrifices for France. And why ready? Because she was fighting the battles of the human race against the combined enemies of liberty, because she was performing the part which Great Britain now, in fact, sustains, forming the only bulwark against universal dominion. * * * Then England was combined in what has proved a feeble, inefficient coalition, but which gave just cause for alarm to every friend of human freedom. Now the liberties of the human race are threatened by a single power, more formidable than the coalesced world, to whose utmost ambition, vast as it is, the naval power of Great Britain forms the only obstacle."

He declared that the aggressions of Spain were to all intents and purposes the acts of France. "But, sir, why do I talk of Spain? There are no longer Pyrenees. There exists no such nation, no such being exists as a Spanish king or minister. * * * You know that you have no difference with Spain; that she is the passive tool of a superior power, to whom at this moment you are crouching. Are your differences indeed with Spain? And where are you going to send your political panacea, resolutions and handbills excepted, your sole arcanum of government, your king and cure all? To Madrid? No, you are not such quacks as not to know where the shoe pinches—to Paris. You know at least where the disease lies and there you apply the remedy."

With bitter scorn he taunted the administration

with the secrecy in which they felt obliged to veil their Spanish policy. "When the nation anxiously demands the result of your deliberations, you hang your head and blush to tell. You are afraid to tell. Your mouth is hermetically sealed. Your honor has received a wound which must not take air. Gentlemen dare not come forward and show their work, much less defend it in the presence of the nation."

He would treat with Great Britain. "With her you have not tried negotiation and failed, totally failed, as you have with Spain, or rather, France; and, wherefore, under such circumstances this hostile spirit to the one, and this—I will not say what—to the other?"

He exposed the real nature of the wretched Spanish business in spite of the fact that the injunction of secrecy still rested upon it. "I will not propitiate any foreign nation with money. * * * I will send her (Great Britain) 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 formerly acknowledged at the peace of 1783."

But his opposition was unavailing. Spain "pirated upon our commerce," invaded our territory, captured our citizens, and we did nothing. Napoleon gave us commands, and we obeyed them. The United States wanted West Florida, and that was the only way to get it, without war. England made war upon our commerce,

and we refused to import certain articles of British manufacture after November 1, 1806. Napoleon had scored one point in his game with Jefferson. He had got the United States to take a step toward hostilities with England. As a measure of retaliation, it was, indeed, ridiculously weak—"a dose of chicken broth to be taken nine months hence," as John Randolph termed it. But weak as it was, it was a measure of retaliation. The same skill and management, Napoleon might hope, would lead the United States to employ strong measures in the course of time.

QUESTIONS.

1. How would you interpret Jefferson's majority in 1804?
2. What commands did Napoleon give to Jefferson, and why did Jefferson obey them?
3. Give the substance of the dispatch which the government received from Armstrong in the latter part of 1805.
4. What influence did it exert upon the policy of the United States toward England and why?
5. What means did Jefferson employ to bring his Spanish policy before Congress?
6. Explain the paragraph quoted from the speech made by Randolph early in 1805.
7. April 12, 1807, Joseph H. Nicholson, a prominent Maryland Republican, wrote a letter to Monroe containing the following passage: "There is a portion who yet retain the feelings of 1798, and whom I denominate the old Republican party. * * * It is said they have not his (Jefferson's) confidence, and I lament it. You must have perceived from the public prints that the most active members in the House of Representatives are new men. * * * These are styled exclusively the President's friends." Who were the "Old Republicans?" Account for the fact that they no longer enjoyed the confidence of the President.

8. Enumerate the passages quoted from Randolph's speech which seem to be in a special sense an exposition of the doctrines of "Old Republicanism."

9. What did Randolph mean by "There are no longer Pyrenees?" Also, "Your king and cure all?"

CHAPTER XXXI.

THE BERLIN DECREE AND THE ATTACK ON THE CHESAPEAKE.

IF refusing to buy certain articles of British produce was likely to produce any effect on England, there were certainly strong reasons for the Non-importation Act. The Rule of Impressment 1756 was but one of several outrages inflicted by England in 1805, any one of which ought to have been intolerable. Since Pitt's return to power (1804), the practice of impressment had been enforced more vigorously than ever. Great Britain assumed that every seaman who could not prove that he was a native born American, was an English subject. In the words of Basil Hall, a young midshipman who served on the British frigate "Leander," in 1805, British officers impressed every American 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." Sometimes they did not leave sailors enough on the American vessel to man her. Sometimes they impressed men whose dialect proved that they were not British born. An American dared not leave port without a certificate of citizenship describing his "eyes and

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nose and mouth and chin, the color of his hair and complexion, and the marks and scars about his person—like the advertisement of a runaway slave.”* John Quincy Adams heard a British lieutenant threaten to take a native of Charlestown, Massachusetts, from an American vessel because the lieutenant chose to think that the person of the sailor did not accurately correspond to the description contained in his certificate of citizenship.† For a number of years after 1804 these impressments averaged about one thousand a year.‡

*New England Federalism, 179.

†That we may get a more vivid appreciation of the practical workings of impressment, I quote at length from the deposition of one Isaac Clark, a citizen of Massachusetts, sworn to before a justice of the peace. “I had a protection (a certificate of citizenship) from the customhouse in Salem, which I showed to Captain Elliott; he swore that I was an Englishman, tore my protection to pieces before my eyes, and ordered me to go to work. I told him I did not belong to his flag, and I would do no work under it. He then ordered my legs to be put in irons, and the next morning ordered the master-at-arms to take me on deck and give me two dozen lashes; after receiving them, he ordered him to keep me in irons, and give me one biscuit and one pint of water for twenty-four hours. After keeping me in this situation one week, I was brought on deck, and asked by Captain Elliott if I would go to my duty. On my refusing, he ordered me to strip, tied me up a second time, and gave me two dozen more, and kept me on the same allowance another week—then ordered me on deck again, asked if I would go to work. I still persisted that I was an American; and that he had no right to command my services, and I would do no work on board his ship. He told me he would punish me until I was willing to work; and gave me the third two dozen lashes, ordered a very heavy chain put round my neck, fastened to a ring-bolt in the deck and that no person except the master-at-arms should speak to me, or give me anything to eat or drink, but one biscuit, and one pint of water, for twenty-four hours until I would go to work. I was kept in this situation for nine weeks, when being exhausted by hunger and thirst, I was obliged to yield.” The Olive Branch 209-210.

‡The larger part of the sailors impressed were British born. Gallatin calculated that American tonnage increased at the rate

But this was far from completing the list of British outrages. Many of the harbors of the United States were blockaded by British frigates. Basil Hall, whose frigate, the

British blockade
of American
ports.

"Leander," was one of the three which blockaded New York in 1805 and 1806, gave an account of their methods. "Every morning at daybreak," he said, "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." This search was made not merely for British (?) sailors but for any sort of evidence that might serve to justify the capture of the ship. To this end, private letters were opened without scruple, and on the flimsiest evidence, vessels were captured and sent to Halifax for trial, to be detained for months at great expense and with great injury to their cargoes, even when they were fortunate enough to escape confiscation. The brutal recklessness of these British frigates received a terrible illustration in 1806. April, 1806, the "Lean-

of about seventy thousand tons a year after 1803. Four thousand two hundred men were required to supply this yearly increase, of whom he estimated that twenty-five hundred were British. Many of these had deserted from the British service. Works I, 335.

der" fired a shot to stop a vessel without taking the trouble to note that a coasting sloop was in range. The shot struck a brother of the sloop's captain, John Pierce by name, and killed him instantly. Certainly, if refusing to buy British produce would take the place of war, no one could deny that the time for such refusal had come.

Napoleon did not allow himself to be outdone by England in her attacks upon the rights of the United States. Shortly after he had refused to keep his promise to the United States relative to the Floridas, Talleyrand, under his direction, wrote a dispatch to the French minister at Washington. The dispatch aimed to suggest to Turreau a line of conduct which would tend to prevent Jefferson from taking sides with England. "Take care, sir," ran the dispatch (July 31, 1806), "to maintain the United States in the views of conciliation with which the events of the last campaign may have inspired them." The events of the last campaign had enabled Napoleon to take long strides towards the mastery of continental Europe. Turreau was to make the United States understand that it was not safe for them to become the enemy of Napoleon.

Napoleon was playing a bold game. Through the promise of the Floridas, he had induced the United States to pass the Non-importation Act. But when Berlin decree. the dispatch was written that Act had not not yet gone into effect and it was doubtful if it ever would. Our ministers to England, William

Pinkney and James Monroe—Pinkney had been associated with Monroe in May—were endeavoring to negotiate a treaty, and they seemed in a fair way to succeed. A treaty with England in 1806 would have had the same effect as Jay's treaty in 1794; it would have made the United States and France enemies. Early in the year (1807) when Americans were expecting the arrival of a treaty with England, the news of Napoleon's Berlin decree reached the United States. That decree, issued November 21, 1806, declared the British Islands in a state of blockade, prohibited all trade with them; made prize of war of all merchandise, the product of England or her colonies; and declared that no ship which had touched at any English port, should be admitted into the ports of France or her allies.

This decree reached England when Monroe and Pinkney were on the point of signing a treaty. In negotiating it, the American ministers had gone contrary to their instructions. *Monroe's treaty.* They had been instructed to make no treaty in which the assumed right of impressment was not formally abandoned. But the English commissioners would not consent to such a treaty. They declared that in such a critical period in the history of the country, no English minister would dare to make a treaty in which that right was abandoned. The Americans had to choose between a treaty without an article giving up the right of impressment, and no

treaty at all. They decided to follow the example of Jay and accept the best terms they could get; especially since they were assured that the naval officers of Great Britain should receive special instructions to exercise the utmost caution in impressing British seamen on American ships. If, in spite of this, sailors of American birth should be impressed, prompt redress would be given as soon as the government was informed of it.

When the Berlin decree reached England, the British commissioners hesitated. Next to Great Britain the United States was the greatest commercial power in the world. If the United States submitted to Napoleon's decree, nearly all the British merchandise, which that country had been taking to the continent of Europe, would be left unsold in Great Britain. The submission of neutral nations—of which the United States was the chief—to the Berlin decree, might compel Great Britain to choose between eventual submission and retaliation. She could not wage war without resources, and if her markets were taken from her, these would be destroyed. But to retaliate upon Napoleon, to prevent neutral ships from trading with France or her allies, would be to interfere with neutral trade in the same illegal and high-handed way in which Napoleon proposed doing in his Berlin decree. The English commissioners finally decided to sign the treaty. But they appended a protest against the Berlin decree, reserving to the British

government the right of retaliation in case neutral nations submitted.

That "self-preservation is the first law of nature," is as true of nations as of individuals, and Great Britain was fighting for her life. Although a large part of the continent of Europe was at the feet of Napoleon, Great Britain's navy enabled her to hold him at bay. The annihilation of the fleets of France and Spain at the battle of Trafalgar made the invasion of England impossible. That event caused Napoleon to devote his genius to devising new plans for the destruction of his enemy. The promulgation of the Berlin decree was one of the moves in the new game. Its object was to starve out his enemy by cutting off the resources upon which his strength depended. If England could only defend herself against this new attack by retaliation, retaliation was justifiable. If the choice lay between retaliation and destruction, it would have been absurd for her to allow herself to be so entangled in the meshes of international law, as to yield to Napoleon without a struggle.

But manifestly she had no right to retaliate at the expense of neutral nations until, by submitting to the Berlin decree, they allowed themselves to become parties to the plan of Napoleon. In the *New order*, protest against the decree which the English commissioners appended to the treaty, they declared that "His Majesty might probably be compelled, however reluctantly, to retaliate in his just defense, if neutral

nations, contrary to all expectation, should acquiesce in such usurpations." Here, retaliation is put upon its proper ground—the failure of neutral nations to defend themselves against the usurpations of Napoleon. But in spite of this explicit statement, Great Britain did not wait to see what the United States would do. Precisely a week later—months before England learned or could learn what the United States intended to do—an Order in Council was issued based on the right of England to retaliate. It prohibited all neutral trade between two ports, both of which were in possession of France or any of her allies, on the ground that the King of England felt "himself bound" "to retort upon them (his enemies) the evils of their own injustice."* This was a terrible blow at the commerce of the United States. It compelled American vessels to dispose of their entire cargo in a single city, and buy a return cargo there or return without any. Still worse, it compelled them to dispose of their cargo in the first port in which they anchored, and so to take whatever they could get for it.

Right on the heels of a treaty, which attempted to put the commerce of the two countries on something approaching an equitable basis, came the Order in Council of January 1, 1807, a more outrageous violation of the rights of neutrals than Great Britain had been guilty of since the United States became a nation. Bad as this was it was by no means the worst thing in connection

*State Papers, III, 5.

with the new Order. The Order declared that the Berlin decree gave "his Majesty," "an unquestionable right" to enforce "the same prohibition of all commerce with France, which that power vainly hoped to effect against the commerce of his Majesty's subjects." The King of England refrained from prohibiting all commerce with France and her allies, only through that forbearance and moderation which "had at all times distinguished his conduct."* Americans had reason to suppose that the commerce still left them was hanging by a frail thread when it depended upon the generosity of England.

Jefferson rejected the treaty negotiated by Pinkney and Monroe, on his own responsibility. It not only did not provide for the abandonment of impressment, but it proposed to take from the United States what Jefferson regarded as his keenest weapon against England. It provided that no restrictions should be imposed on the commerce of England, which did not extend to all other nations. Jefferson, therefore, refused to submit it to the Senate. He did not feel as Washington did in 1794, that the alternatives were war or a treaty of which he did not approve. If it was necessary to resort to hostile measures, he believed that commercial restrictions would bring Great Britain to terms.

Jefferson re-
jects the
treaty.

Although Great Britain claimed and exercised the right to impress British sailors on American merchant

*Erskine to Madison, State Papers III, 158.

vessels, she did not claim the right to search the national vessels of the United States. American national vessels, she admitted, represented the sovereignty of the nation. To search them against the will of their commander was equivalent to a hostile invasion of the territory of the United States. But the disregard of England for the rights of the United States was steadily increasing. In 1804, thirty-nine American vessels had been captured by the British; in 1805, one hundred and sixteen, and in 1807, one hundred and ninety-four. These numbers are fair indices of the rising spirit of British aggression. The battle of Trafalgar in 1805, had made England mistress of the ocean, and she showed a constantly increasing disposition to assert her supremacy by making her will the measure of the naval rights of neutrals. Accordingly, Berkeley, the admiral in command of the British ships on the North American station, issued an order in June, 1807, commanding the captains of the frigates under his command to search the American frigate "Chesapeake" for deserters from certain frigates when they met her without the limits of the United States. In obedience to this command, the British frigate "Leopard" hailed the "Chesapeake" June 22, 1807.

The captain of the "Leopard" sent an officer to the "Chesapeake" with a note announcing that in accordance with the command of Admiral Berkeley, which he inclosed—he was about to search the "Chesapeake" for deserters. The captain of the "Chesapeake," Commo-

dore Barron, replied that no such men as those described in Admiral Berkeley's order were on board, and that no officers but his own should muster his crew. The "Leopard," after firing a couple of shots across the bow of the "Chesapeake," replied with a broadside of solid shot at the American frigate, which was not more than two hun-

The Leopard attacks the Chesapeake.

dred feet away. The action of the "Leopard" took the "Chesapeake" by surprise. Her guns were not ready for action. Some of them were not even on their carriages. The matches were not in their places; the loggerheads were cold. A crowd of men and boys, around the magazine, were clamoring for matches and loggerheads, while broadside after broadside was poured into the helpless frigate. Unable to make any resistance, the "Chesapeake" hauled down her flag after three of her men had been killed and eighteen wounded. The only gun fired by the American during the action was by means of a live coal brought from the cook's galley. When the "Chesapeake" struck her flag, several British officers were sent on board, who mustered the crew of the ship. Four men were taken to the "Leopard," three of whom were native Americans, who had deserted from a British frigate upon which they had been compelled to serve.

The news of this insult to the nation sent a thrill of indignation throughout the country. "But one feeling pervades the nation," wrote Joseph Nicholson to

Gallatin; "all distinctions of Federalism and Democracy are vanished. * * * I trust in God the 'Revenge' is going out to bring Monroe and Pinkney home."* Almost every town and city in the United States passed resolutions denouncing the attack on the "Chesapeake" as a wanton and dastardly outrage. Even the Federalists of Boston, after a few days of hesitation, resolved that the unprovoked attack on the "Chesapeake" was a "wanton outrage," "a direct violation of our national honor," and an "infringement of our national rights and sovereignty."

True to his policy of peace, even this insult did not make Jefferson think of war. He issued a proclamation requiring all British armed vessels within American waters to leave, and forbidding all others to enter unless driven in by an enemy or rough weather. "This," he said "will leave Congress free to decide whether war is the most efficacious mode of redress in our case, or whether we might not teach Europe that that there are peaceable means of repressing injustice by making it the interest of the aggressor to do what is just."† Early in July, instructions were sent to Monroe to demand reparation for the attack on the "Chesapeake," and requiring him to demand the entire abandonment of the assumed right of impressment as an "indispensable part of the satisfaction."

Jefferson's
proclamation.

* Adams' Randolph, 360.

† Work, V. 114.

Without waiting to hear from the United States, the British government promptly disavowed the attack upon the "Chesapeake." A month or two later (October 16), the King of England issued a proclamation which ought to have enabled the American government to see the disavowal in its proper light. On the alleged ground "that great numbers of mar-
The British Impressionment Proclamation.
iners and seafaring men, our natural born subjects, have been enticed to enter into the service of foreign states," and were actually serving in their national ships as well as in their merchant vessels, the proclamation was issued ordering such seamen to return home. It ordered British naval officers to take those who might be found upon merchant vessels, and to require the commanders of foreign national vessels to give up British subjects in order that the British government might be furnished with the proper evidence upon which to demand redress for the detention of its subjects. It also gave warning that naturalization could not divest British subjects of their allegiance or relieve them of their duties.

This proclamation may be regarded as a sort of footnote to the disavowal of Admiral Berkeley. The only mistake made by Berkeley, the proclamation intimated, was in taking the law into his own hands. Hereafter, the British government, with the British navy behind it, would demand redress of such States as permitted British subjects to serve in their national vessels.

The mission of George Rose put the matter in a still clearer light. When Monroe, in obedience to his instructions, insisted that Great Britain should abandon the right of impressment as part of the reparation for the "Chesapeake" outrage, the British minister, George Canning, replied with an insulting sneer. In acknowledging the independence of the United States, he said, "Great Britain had not abdicated her rights as a naval power, unless it could be shown that there were express stipulations, by which the ancient and prescriptive usages of Great Britain, founded in the soundest principles of natural law, though still enforced against other independent nations of the world, were to be suspended whenever they might come in contact with the interests of the American people."* Since Monroe's instructions would not permit him to consider the case of the "Chesapeake" apart from the general subject of impressment, Canning said he would send a special minister to Washington. Accordingly George Rose was sent on a special mission to the United States for the ostensible purpose of offering reparation for the Chesapeake outrage.

He began his career of insult before he landed. He knew that Jefferson's proclamation of the preceding July expressly excepted armed vessels bearing public ministers. But he chose to forget it, and waited two weeks in his frigate in Hampton Roads, until special

*State Papers, III.

permission to land was sent him. From the nature of his instructions it would be difficult to suppose that the United States was the aggrieved party. He was not to begin negotiations until the United States had recalled Jefferson's meek proclamation. When this was done he was instructed to say that Admiral Berkeley had been recalled,* that the Americans taken from the "Chesapeake" would be discharged; and that suitable provision would be made for the widows and orphans of the men who had been killed. But in order that this reparation might be made—the discharge of the American sailors, and provision for the widows and children of the men murdered on the "Chesapeake"—the United States must make certain concessions. The American government must formally disavow Commodore Barron's conduct in encouraging desertion; keeping deserters in his ship; and denying that they were there. (Three of the men taken by the "Leopard," it will be remembered, were native born Americans, who had deserted from a British ship on which they had been impressed). If the United States government would thus punish the commander of the "Chesapeake" for not obeying the command of the Captain of the "Leopard," and if it would "solemnly" express certain other disavowals, his majesty would have a satisfactory pledge that the recurrence of similar causes would not make it necessary for the British government to authorize such attacks as Berkeley had ordered with-

*He was recalled in order to be placed in a better station!

out authority. In other words, if Commodore Barron was punished, and the British government, in effect, assured that the American government would punish other naval officers for similar conduct, *then and then only* would reparation be made for the attack on the "Chesapeake," and satisfactory assurance be given to the United States that similar attacks would not be made in future ! That was the apology which the British minister came to make for the unprovoked attack of a British frigate on a national vessel of the United States !

How Rose obeyed his instructions, how on his first interview with Madison he said that nothing could be done till the proclamation was recalled, how Jefferson and Madison through Robert Smith, the Secretary of the Navy, begged him to do something without obliging the President to seem to disregard the national honor, and without compromising his popularity, how the President offered to recall the proclamation if Rose would make an informal disclosure of the "reparation" he was authorized to make, how Rose agreed to it provided the proposition was recalled in terms such as he himself agreed to, how this condition was accepted and a proclamation of recall was offered to Rose and accepted, and how at last, the American government learned what kind of an "apology" they had begged for on their knees from the British minister—all this is a shameful story. But it was part of the price of the policy of peace. Better a hundred times that some thousands of Americans had gone

to their graves a little earlier than that the nation should have been degraded by begging for an apology which was a keener insult than the outrage for which it was to be offered.

QUESTIONS.

1. What was the theory and what was the practice of England with regard to impressment?
2. State the substance of the Berlin Decree.
3. To what extent was it a violation of the principles of international law?
4. What was its object?
5. What influence did it have on the English Commissioners and why?
6. Discuss the English Order in Council issued January 7, 1807.
7. Why did Jefferson reject the treaty?
8. Do you think Jefferson acted wisely in rejecting it?
9. Why did not England claim the right to search the national vessels of the United States?
10. What course ought the United States to have pursued with reference to the attack on the Chesapeake?
11. What did it do?
12. What was the significance of the British Impressment Proclamation?
13. What instructions did Rose receive?
14. What do you think of the conduct of the administration with reference to Rose?

CHAPTER XXXII.

THE ORDERS IN COUNCIL AND THE MILAN DECREE.

THE Berlin Decree, in so far as it violated the general principles of international law, was almost a dead letter. At the time it was issued, France had hardly so much as a frigate in blue water. When, therefore, Napoleon decreed the British Islands in a state of blockade, and prohibited all commerce with them, the significance of it lay chiefly in the readiness which it showed on his part to imitate England in her violation of international law. In forbidding all trade in English merchandise, and in declaring that no vessel coming directly from England or English colonies should be admitted into any French port, the Berlin Decree grossly violated the treaty of 1800 between the United States and France, but it violated no general principle of international law. Any State has the right to forbid any foreign commerce whatever to be brought into its ports. When therefore the news of the Berlin Decree reached the United States, the burning question was not, Would Napoleon enforce the blockade of the British Islands in violation of international law, but, Would he prohibit American trade in English merchandise, and capture American ships in French ports coming from England, in violation of the treaty of 1800?

For nearly nine months it appeared that he intended

to respect his treaty with the United States. But about the first of September, an American ship, the "Horizon," was condemned for having violated the Berlin Decree, and about the middle of the month, the French Grand Judge, Regnier, officially announced that the Berlin Decree would be enforced without any exception.* The meaning of it was plainly stated in a letter from Champagny, who had succeeded Talleyrand as the French Minister of Foreign Affairs, to Armstrong. "All the difficulties," he said, "which have given rise to your reclamations, sir, would be removed with ease, if the government of the United States, after complaining in vain of the injustice and violations of England, took with the whole continent the part of guaranteeing itself therefrom."†

Champagny meant to tell Armstrong that Napoleon wished the United States to take part in his "Continental System" for breaking down England. This "Continental System," of which the Berlin Decree was a part, was a vast plan for conquering England by destroying her commerce, which Napoleon matured in 1806 and 1807. The "wet ditch," as he had contemptuously called the English Channel, had proved an impassable barrier to his armies. When in 1805 the combined fleets of France and Spain were beaten into fragments by the English fleet under Lord Nelson off the coast of Trafalgar, he

*State Papers, III, 244.

†State Papers, III, 248—November 24, 1807.

was obliged to abandon the plan of conquering England by invading her. But the determination to conquer her was as strong as ever. Since he could not reach his enemy in the open field he was obliged to change his tactics. The strength of England lay in her commerce. If he could cut off her commerce, this Sampson of the sea would become as weak as a child. To this end, he resolved to build a wall around the continent of Europe as far as English commerce was concerned. He resolved that the produce of England which had been finding an outlet on the continent of Europe should rot in English granaries and English warehouses.

The Berlin Decree was issued a few weeks after Napoleon had overwhelmed the Prussians at the battle of Jena. But powerful as he was, there were obstacles in the way of the complete effectiveness which he wished to give to the "Continental System." He was emperor of France, which extended from the Scheldt to the Pyrenees. He was king of Italy from the Alps to the Tiber. He was protector of the Rhenish Confederation, which extended from the Rhine to the Vistula, and whose military forces were in his hands. One of his brothers was king of Holland and another of Naples. Austria he had overwhelmed at Ulm and Austerlitz, and Prussia at Jena. But Russia was still unconquered. Until he could bend Russia to his will, his "Continental System" would lack that completeness which was necessary, as he thought, to make it in the highest degree effective against Eng-

land. The battle of Friedland made the Czar of Russia willing to beg for peace. The celebrated treaty of Tilsit, (July 7-9, 1807), dismembered Prussia, and made her in effect a mere province of France; created the kingdom of Westphalia out of certain provinces of Prussia; and most important of all, united France and Russia in the closest alliance. The Czar agreed to act as mediator to England, and to go to war with her, in case she refused his mediation.

Then, at last, Napoleon felt himself ready to bring the full power of his "Continental System" to bear upon his hated enemy. Except Denmark and Portugal, every State on the coast of Europe obeyed his will. Ten days after the peace of Tilsit, No more neutrals. he ordered the King of Portugal to close his ports against English commerce by September 1. July 29, the Crown Prince of Denmark was warned that he must choose between war with England and war with France. August 3, Armstrong wrote to Madison giving unmistakable signs of the storm that was coming: "Yesterday we had our first audience of the Emperor since his return to Paris. Happening to stand near the minister of Denmark, I overheard his majesty say to that minister, 'So, M. Baron, the Baltic has been violated.' The minister's answer was not audible to me, nor did it appear to have been satisfactory to the Emperor, who repeated, in a tone of voice somewhat raised and peremptory, 'But, sir, the Baltic has been violated.' From

Mr. Deyer he passed to myself and others, and lastly to the ambassador of Portugal, to whom, it is said, he read a very severe lecture on the conduct of his court. These circumstances go far to justify the whispers that begin to circulate, that an army is organizing to the south for the purpose of taking possession of Portugal, and another to the north for a similar purpose with regard to Denmark; and, generally, that having settled the business of belligerents with the exception of England, very much to his own liking, he is now on the point of settling that of neutrals in the same way. It was, perhaps, under the influence of this suggestion, that Mr. Deyer, taking me aside, inquired whether any application had been made to me with regard to the *projected union* of all the commercial states against Great Britain, and on my answering in the negative, he replied, 'You are much favored, but it will not last.'* In a diplomatic audience at Fontainebleau, October 14, Armstrong heard Napoleon declare that henceforth his will was to be the law of the world. "The House of Braganza shall reign no more," he said to the Portuguese minister. Then turning to the minister of the Queen of Etruria, he said, "Your mistress has her secret attachments to Great Britain, as you, Messieurs Deputies of the Hanse Towns are also said to have; but I will put an end to this—Great Britain shall be destroyed. I have the means of doing it, and they shall be employed. I have three hundred thousand

*State Papers, III, 243.

men devoted to this object, and an ally who has three hundred thousand to support them. I will permit no nation to receive a minister from Great Britain until she shall have renounced her maritime usages and tyranny; and I desire you, gentlemen, to convey this determination to your respective sovereigns."* In a word, there were to be no more neutrals. Napoleon meant to confiscate every American ship that violated his Berlin Decree.

Upon this as a pretext, England issued an Order in Council which struck at the roots of the sovereignty of the United States. The attack upon the commerce of the United States made by the order issued January 7, 1807, was not sweeping enough to satisfy the Tory ministry which went into office in April, 1807. Spencer Perceval, the Tory Chancellor of the Exchequer, had set forth his ideas of English policy in criticizing the January order. "You might turn the provisions of the French decree against themselves," he said, "and as they have said that no British goods should sail freely on the seas, you might say that no goods should be carried to France except they first touched at an English port. They might be forced to be entered at the custom house, and a custom entry imposed, which would contribute to advance the price and give a better sale in the foreign market to your own commodities." A few months after the government passed into the hands of the Tories, Per-

*Armstrong to Madison, October 15, 1807.

ceval's ideas began to assume a tangible form. Thirty-two years after the American colonies went to war with England, sooner than submit to have taxes imposed on them without their consent; twenty-four years after their independence was acknowledged, England issued an Order in Council which could only be defended on the ground that the United States were not a nation; that they were only a province of England. English November decree. November 11, 1807, England in effect repudiated the treaty of 1783. The Order in Council of that date prohibited all neutral trade with France or her allies unless it passed through British ports. By paying duties to Great Britain, and by the payment of certain additional fees American vessels would be permitted to trade with the continent of Europe. But if they wished to take a cargo home without exposing themselves to the risk of capture, they must again stop at a British port and pay another tax for the privilege. On one point the British ministry showed a surprising readiness to modify their order. When Pinkney remonstrated against the duty imposed on cotton, Canning gravely replied that since it was the wish of his government to consult the feelings as well as the interests of Americans as far as practicable, the exportation of American cotton to Europe would be entirely prohibited.*

The object of the Order was clearly stated in a let-

* State Papers, III, 207.

ter from Perceval to the Speaker of the House of Commons. "The short principle," he said, "is that trade from a British port or with a British destination is to be protected as much as possible." The British minister at Washington frankly avowed the same thing. "The object of these regulations," said Erskine, "will be the establishment of such a protecting duty as shall prevent the enemy from obtaining the produce of his own colonies at a cheaper rate than that of the colonies of Great Britain." As though to make this less offensive, Erskine added that America could indemnify herself at the expense of the foreign consumer for the advance of this duty.* In truth the object of this order was the same that had guided the policy of England towards the United States since 1804. The decision of the Court of Admiralty in 1805, the blockade of the coast from the Elbe to Brest in 1806, the Order in Council of January 7, as well as that of November 11, 1807, all had as their primary object the protection of British trade, and that, too, against the United States. The British President of the Board of Trade, in criticising the order before it was decided on, said: "The object of the proposed order, though general, is in fact nothing but the colonial trade carried on through America."

This, then, was their object: to build up the commerce of England at the expense of the United States. To accomplish this object the Order in Council substituted

* State Papers, III, 210.

the will of the Tory ministry of England for the principles of international law. The trade to the British dominions, to Sweden, Africa and Asia, and with the colonies of France, Spain and Holland was still left open. But even this fragment of commerce was conceded, not as a matter of right, but as a special indulgence from the King of England. A crisis in American history had come. If Jefferson had any substitute for war, the time to test its efficacy could not be postponed, if the United States meant to maintain their independence as a nation.

December 17, Napoleon issued from Milan his retaliatory Decree. "Observing," began the preamble, "the measures adopted by the British government, on the 11th of November last, * * * observing that by these acts, the British government denationalizes ships of every nation in Europe"—Napoleon decreed that every ship which should have been searched by an English vessel or should have paid any tax to the British government, or should sail from, or proceed to any port in the possession of England in any part of the world, should be "good and lawful prize," and that this decree should be rigorously enforced until England should have returned to the principles of the law of nations, "which are also the principles of justice and honor."* Armstrong remonstrated.

He told Napoleon's minister that England and France

* State Papers, III, 290.

had violated the rights of the United States in defiance of the principles of international law. But with Great Britain, he said the United States had no treaty providing rights in addition to those supposed to be guaranteed by the principle of international law. "Such was not their situation with France. With her a treaty did exist, * * * * a treaty sanctioned with the name and guaranteed by the promise of the Emperor that all its obligations should be inviolably preserved." The reply which Napoleon directed his minister to make is suggestive: "You must write to the American minister," he said to Champagny, * * * "that his Majesty treated with America independent and not with America enslaved; that if she submits to the King of England's decree of November 11, she renounces thereby the protection of her flag; but that if the Americans, as his Majesty cannot doubt without wounding their honor, regard this act as one of hostility the Emperor is ready to do justice in every respect."

Napoleon's reply to Armstrong had but one vulnerable point; he had not waited to see whether America would submit to the British order before issuing his Milan Decree. The only question which Napoleon had to answer in order to determine the justice of his Milan Decree, was, Would America submit? A vessel which paid a duty to the British government was certainly "denationalized." No matter what flag hung at the masthead, the vessel was to all intents and purposes a

British vessel, and the United States, if they acquiesced in the British order, were in effect a British province.

But in retaliating against England without consulting the United States, it must be admitted that Napoleon violated our rights in a merely technical sense. Why should a man who dealt with facts as he found them go through the form of waiting to see whether the United States would resist the British November order? A nation which had submitted to the robberies of Spain and England and the insults of France in 1805, to Fox's paper blockade in 1806, to the Order in Council in January, 1807, to an attack upon a national vessel five months later, and to the yearly impressment of hundreds of its citizens, was not likely to be goaded into war by one more insult, although the most outrageous in a long list.

QUESTIONS.

1. In what respect did the Berlin Decree violate the general principles of international law?

2. When was the Berlin Decree first enforced against the United States?

3. Why was its enforcement postponed so long?

4. How was Napoleon trying to conquer England?

5. Give the substance of the Order in Council issued by England in November, 1807.

6. Alexander Baring, afterwards a member of the House of Commons, said: "By attempting to confine the European trade of America to England, and by the avowal of an intention to tax that trade on its passage to the continent, we are returning to those principles, to which, even as a colony, she would not submit." Was he right?

7. What was the real object of England in all her attacks upon the commerce of the United States ?

8. What was the Milan Decree.

9. What right had Napoleon to use the phrase "America enslaved?"

CHAPTER XXXIII.

THE EMBARGO.

ARMSTRONG'S despatches, announcing the enforcement of the Berlin Decree, and English newspapers predicting a more sweeping attack upon American commerce, reached the United States in the first half of December 1807. December 17, Jefferson received a copy of the British Impressment Proclamation. He immediately called a meeting of his cabinet and submitted a first draft of a message to Congress, recommending an embargo on the ground of the Orders in Council predicted by English newspapers, as well as the official account of the enforcement of the Berlin Decree and the British Impressment Proclamation. But as the Order in Council was not officially known, Madison submitted another draft—omitting all direct mention of the expected British decree—which was adopted and sent to Congress the next day.

“The communications now made”—the letter of the French Grand Judge Regnier* and the British Impressment Proclamation—said the message, “showing the great and increasing danger with which our merchandise, our vessels and our seamen are threatened on the high seas and else-

The embargo
message

* See page 449.

where by the high powers of Europe, and it being of the greatest importance to keep in safety these essential resources, I deem it my duty to recommend the subject to the consideration of Congress, who will doubtless perceive all the advantages that may be expected from an immediate inhibition of the departure of our vessels from the ports of the United States."

No reader of this history needs to be told that these were not the decisive reasons with Jefferson. The Impressment Proclamation certainly foreshadowed increased activity in dragging American sailors out of American ships, and compelling them to fight the battles of Great Britain. The letter of Regnier left no doubt that trade in English merchandise with any port on the continent of Europe, would expose American vessels to great danger. But it was not to save American sailors and American ships that Jefferson recommended the embargo. He believed that he could compel the tyrant of the seas whom Napoleon had so far been unable to conquer, and the despot who was making his will the law for the continent of Europe, to respect the rights of the United States without firing a single gun. As Napoleon was trying to starve Great Britain into submission by building a wall around the continent of Europe to English commerce, so Jefferson expected to make the two despots respect the rights of the United States by building a wall around the United States to the commerce of the rest of the world.

A bill in accordance with Jefferson's recommendations was immediately introduced, and after a three days' debate in secret session, it passed both houses and became a law December 22. But as this law only laid an embargo on all registered or sea-letter ships and vessels in the ports of the United States, it left numerous openings for commerce with the outside world.

Embargo passed.

It did not restrain vessels engaged in the coasting trade. Nothing was easier than for a vessel to load with provisions for Boston or Charleston, and, once at sea, go wherever she liked. For such evasions, the law provided no punishment. Before the first of January, collectors were beset by captains asking for coasting licenses in exchange for ship registers. To meet this difficulty, a Supplementary Act was passed January 9, putting coasting and fishing vessels under heavy bonds, and making them liable to severe penalties in case of engaging in foreign trade, or entering a foreign port.

But the net which the two laws threw around commerce with the outside world was not tight enough to accomplish its object. By taking circuitous routes, commerce could go on as before. The trade with England through Canada, and with France through the Floridas was left untouched. If Jefferson's great weapon was to inflict on the two robbers all the injury of which it was capable, all commerce with the outside world, by land as well as by

Second supplementary act.

sea, must cease. To this end, a bill was introduced in February, the object of which, in the language of Barent Gardenier, was to stop up "every hole as big as a wheat straw," through which commerce with the rest of the world, by land or by sea, could be carried on. Schouler says (II, 160), that protection of private property was the real purpose of the embargo legislation.* This assertion is contradicted by scores of Jefferson's letters. In a letter to Dearborn (July 16, 1810), he said: "I have ever been anxious to avoid a war with England, unless forced by a situation more losing than war itself. But I did believe we could coerce her to justice by peaceable means, and the embargo, evaded as it was, proved it would have coerced her had it been honestly executed." † But if Jefferson's letters had been silent on the subject, the bill introduced in February and passed in March, would disprove Schouler's assertion. In debating the bill, Gardenier asked with great force "whether to prevent the farmers of Vermont from selling their pigs in Canada is calculated to increase or diminish our essential resources?" ‡

That the object of the embargo legislation can still be misconceived by a competent historian is, perhaps, the greatest tribute that has ever been paid to Jefferson's

* This statement is inconsistent with a number of other passages in his account of the embargo.

† Works, v, 529.

‡ Annals of Congress, 1807-1808, 1654.

remarkable power over men. In the same speech, Gardener said, "All our surplus produce shall rot on our hands. God knows what all this means! I cannot understand it. I see effects but I can trace them to no cause. * * * Darkness and mystery overshadow this House and the whole nation. We know nothing; we are permitted to know nothing. We sit here as mere automata; we legislate without knowing; nay, sir, without wishing to know why or wherefore." Jefferson knew why they legislated. It was to make commercial restrictions take the place of war.

Jefferson's influence was exerted in one quarter where it would not have been anticipated. It would hardly have been expected that the son of John Adams would have yielded his judgment to Thomas Jefferson. Speaking of the original embargo bill, John Quincy Adams said, "The President has recommended this measure on his high responsibility. I would not consider, I would not deliberate. I would act. Doubtless the President possesses further information, as will justify the measure." As a Senator of the United States, John Quincy Adams should have felt as "high" responsibility as the President. In view of the fact that the embargo and the measures connected with it and growing out of it, led the country closer to disunion than any other measure before 1860, it would seem that a good deal of deliberation would have been in order. One can hardly help wondering whether the zeal of the

Senator from Massachusetts, a zeal so little in harmony with the career of a man who was at all other times remarkable for his independence, was not due to a more or less conscious desire to prove the soundness of his recent conversion to Republicanism. But whatever the cause of it may have been, his support of the embargo was the greatest mistake of his public life. The greatest need of the country from 1807 to 1812 was Federalists who loved their country too much and understood England too well to allow their English sympathies to make them forget what was due to their own country. The lack of such Federalists, as we shall see, made the period from 1808 to 1815 one of the most critical in the history of the country. If John Quincy Adams had opposed the embargo, he might never have been President, but he would have been in a position to render the country more important service than he was able to do as President.

But it soon became evident that the second Supplementary Act left openings for foreign commerce. A shipper at Charleston applied for a clearance to carry five hundred hogsheads of New England rum to New Orleans. Wondering how it happened that there was so much New England rum at Charleston, the collector sent an inspector to investigate. The hogsheads were full of rice! The shipper intended to take the rice to Havana, exchange it for rum, and take that to New Orleans. He thought that the col-

Third Supplementary Act.



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lector at New Orleans would certify that the rum had been landed in the United States, as the law required. With this certificate he expected to release the bond which every vessel had to give in order to leave port. To meet such cases a third supplement to the embargo was passed (April 25). This act forbade sea-vessels to take on board any cargo whatever unless it was done in the presence of a revenue officer. All unusual collections of food and merchandise in ports adjacent to foreign territory were to be seized and held until bonds were given by their owners that they should not be carried out of the United States. No ship was to be permitted to sail to such ports without special permission from the President, nor to any port if the collector had reason to believe that the captain intended to evade the embargo laws. All ships and boats on lakes, rivers and bays were required to give collectors manifests of their cargoes, and proofs, within two months, that these cargoes had been landed in the United States. Certainly it was not the fault of Congress if commercial restrictions failed to make the two tyrants revoke their despotic decrees.

But Jefferson had a difficult problem to solve. Could he starve France and England into respecting the rights of the United States without starv-
insurrection. ing the United States into insurrection?

About the middle of April he was obliged to issue a proclamation, declaring that a number of persons in the neighborhood of Lake Champlain had com-



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bined to resist the embargo laws, and calling on the civil and military officers of the government to put down the insurrection.* Huge rafts of lumber were collecting near the boundary line, one of them said to be a half mile long, with a ball-proof fort, defended by several hundred men, prepared to set the custom house officers at defiance. This raft contained the surplus produce of Vermont for some time past. Jefferson had compelled the people of Vermont to choose between getting nothing for their labor and insurrection.

Early in May, Jefferson set about the difficult task of devising plans for supplying different parts of the country with those necessaries for which they had depended upon other parts of the country, without creating openings for the evasion of the embargo laws. He wrote to Gallatin, "The great leading object of the Legislature was, and ours in execution of it ought to be, to give complete effect to the embargo laws. They have bidden agriculture, commerce, navigation, to bow before that object, to be nothing when in competition with that. Finding all endeavors at general rules to be evaded, they finally gave us the power of detention as the panacea, and I am clear we ought to use it freely that we may, by a fair experiment, know the power of this great weapon, the embargo. Therefore, to propositions to carry flour into the Chesapeake, the Delaware, the Hudson and other *exporting* places, we should say boldly, 'It is not wanted

* Annals of Congress, 1808-1809, 580.



there for consumption, and the carrying it there is too suspicious to be permitted.' * * * When you are doubtful, consider me as voting for detention, being satisfied that individuals ought to yield their private interests to this great public object."* The same day he sent a circular to the governors of those States which did not produce wheat enough for their own consumption, asking them to give permits to merchants, in whom they had confidence, to bring in such amounts of flour as they, the governors, thought necessary. In accordance with this circular, Governor Sullivan, of Massachusetts issued permits before the middle of July authorizing merchants to import by water from other States fifty thousand barrels of flour and one hundred thousand bushels of corn, besides a large quantity of rice and rye. As soon as Jefferson heard of it, he wrote to Sullivan asking him not to give any more permits, "that we may not unnecessarily administer facilities to the evasion of the embargo laws." Sullivan replied that the seaport towns were supported almost entirely by bread from the Southern and Middle States; that the people of the interior depended for their fine bread and pastry on importations from the South, and that within three weeks after he had refused to issue permits, an artificial and actual scarcity would involve the State "in mobs, riots and convulsions pretendedly on account of the embargo." Open opposition soon appeared not in Massachusetts or

* Works, V, 287.



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New England alone, but along the whole Canadian border. But it did not diminish the energy of Jefferson. May 27, he wrote to Gallatin, "I do not wish a single citizen in any of the States to be deprived of a meal of bread, but I set down the exercise of commerce merely for profit, as nothing, when it carries with it the danger of defeating the embargo." July 12, "The declaration of the bakers of New York, that their citizens will be dissatisfied under the present circumstances of their country, to eat bread of the flour of their own State, is equally a libel on the produce and citizens of the state. * * * My principle is that the conveniences of our citizens shall yield reasonably, and their taste greatly to the importance of giving the present experiment so fair a trial that on future occasions our legislators may know with certainty how far they may count on it as an engine for national purposes."* When he heard of the evasions of the embargo laws by "fraud or force," in Newport, Portland, Machias, Nantucket and Martha's Vineyard, he wrote to the Secretary of the Navy: "As I do consider the severe enforcement of the embargo to be of an importance, not to be measured by money, for our future government as well as present objects, I think it will be admissible that during this summer all the gun boats, actually manned and in commission should be distributed through as many ports and bays as may be necessary to assist the embargo."†

*Works, v. 307-309.

†Works V., 316.



In the midst of these almost abnormally energetic attempts to enforce the embargo, while the daily lives of the masses of the people were controlled by the President of the United States to an extent without parallel in any other period of their history, while they were in effect, told what they could eat and what they could not eat, what they could buy and what they could not buy, what they could sell and what they could not sell, Jefferson received a letter from Gallatin containing the following paragraph: "I am perfectly satisfied that if the embargo must be persisted in any longer, two principles must necessarily be adopted in order to make it sufficient: First, that not a single vessel shall be permitted to move without the special permission of the executive; second, that the collectors be invested with the general power of seizing property anywhere, and taking the rudders, or otherwise effectually preventing the departure of any vessel in harbor, though ostensibly intended to remain there,—and that without being liable to personal suits. I am sensible that such arbitrary powers are equally dangerous and odious." But a restrictive measure like the embargo could not be enforced without the employment of means as strong as the measure itself.* Jefferson's reply is interesting: "I am satisfied with you," he wrote, "that if the orders and decrees are not repealed, and a continuance of the embargo is preferred to war (which sen-

*July 29, 1808, Gallatin's Works, I, 396.

timent is universal here), Congress must legalize all *means* which may be necessary to obtain its *end*. * * * I am clearly of opinion this law ought to be enforced at any expense, *which may not exceed our appropriations*."* Truly the policy of peace had led Jefferson into a strange position when, for the sake of it, he was willing to advocate the passage of odious, and dangerous, and arbitrary laws. He hated war because it led to a strong government and endangered liberty. But his substitute for war could only be made effective by the exercise of arbitrary, odious and dangerous powers.

Bad as all this was, it was probably not the worst effect of the embargo, from the point of view of Jefferson. So unpopular was it that it was rapidly endangering Republican supremacy. Gallatin wrote him that if the embargo was not raised before the first of October, there was an almost even chance that they would lose the Presidential election. And this in the face of the fact that but four years before Jefferson had received one hundred and sixty-two out of one hundred and seventy-six votes.

QUESTIONS.

1. Contrast the foreign policy of the Republicans with that of the Federalists.
2. Why was the embargo recommended?
3. What is an embargo?
4. Describe the various supplements to the embargo, and explain why they were passed.
5. Can you state any reasons which lead you to suppose that the embargo would be opposed by Napoleon?

*August 11, 1808, Works, V. 336.



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6. Can you mention any classes in England whom the embargo was likely to please?

7. How do you account for the fact that the members of the Republican party were willing to surrender their judgment to Jefferson?

8. What difficulty did the coasting trade present to the embargo?

9. Prove that the embargo was intended as a coercive measure.



CHAPTER XXXIV.

THE EFFECT OF THE EMBARGO UPON NAPOLEON, GREAT BRITAIN AND NEW ENGLAND.

BEFORE Congress adjourned in the spring of 1808, a law was passed authorizing the President to suspend the embargo laws in whole or in part, till twenty days beyond the next session of Congress, provided England or France or both had revoked their decrees in so far as they related to the commerce of the United States.

Madison wrote to Armstrong (May 2) urging him to use his "best endeavors" to give to this law "all the effect possible with the French government." Armstrong was to tell Napoleon that if he would recall his decrees, Great Britain would be obliged to restore to France the full benefit of neutral trade, or make "collisions with the United States inevitable."*

Armstrong's efforts resulted in complete failure. "We have somewhat overrated our means of coercing the two great belligerents," he wrote bluntly to Madison (Aug. 30). "The embargo is a measure calculated above any other to keep us whole and in peace; but beyond this you must not count upon it. Here it is not felt and in England it is

Napoleon's reply to the embargo.

*Annals of Congress, 1808-1809, 1677.



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forgotten.* Napoleon not only approved the embargo as a "generous determination of renouncing all commerce, rather than acknowledge the domination of the tyrant of the sea," but in a neighborly (?) way helped the United States to enforce it. He issued from Bayonne (April 17), a decree ordering the seizure of all American vessels in Spain, Italy, France and the Hanse Towns. When Armstrong remonstrated, Napoleon assured him that his decree was not unfriendly to the United States! Since the passage of the embargo laws, American vessels had no business in foreign ports. Those that pretended to be were either British vessels in disguise, or American vessels that had "denationalized" themselves by paying a duty to England. This friendly act enabled him to rob the United States of more than two hundred and thirty ships for the benefit of the French treasury. The Republicans generally approved of it. Vessels, they said, which had paid a tax to England deserved to be captured. The Federalists, on the other hand, denounced it as an outrage.†

*State Papers, III, 256. Pinkney, on the other hand, advised a continuance of the embargo. State Papers, III, 228.

†Napoleon's explanation at Bayonne, of his decree, to Robert Livingston, and Jefferson's comments upon it are interesting. "We are obliged to embargo your ships," said Napoleon; "they keep up a trade with England; they come to Holland with English goods; England has made them tributary to her. This I will not suffer. Tell the President from me, when you see him in America, that if he can make a treaty with England, preserv-



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That Napoleon should approve of the embargo was natural. The injuries inflicted by it upon his empire and its dependencies were not to be compared with those inflicted by his wars and his "Continental System." The question with him was not whether he suffered from the embargo, but whether England suffered more. When he was trying to conquer England by destroying her commerce, the embargo appeared to him as an ally. Next to war, and the exclusion of all British ships and merchandise from American ports, the United States could have pursued no policy so well calculated to assist him. Jefferson knew this. The dispatches of Armstrong had made him familiar with the plans of Napoleon. But to recommend

Napoleon's approval of the embargo.

ing his maritime rights, it will be agreeable to me; but that I will make war upon the universe, should it support her unjust pretensions. I will not abate any part of my system." "The explanation of his principles given you by the French Emperor, in conversation" wrote Jefferson to Livingston, "is correct as far as it goes. He does not wish us to go to war with England, knowing we have no ships to carry on that war. To submit to pay to England the tribute on our commerce, which she demands by her Orders of Council, would be to aid her in the war against him, and would give him just ground to declare war with us. He concludes, therefore, as every rational man must, that the embargo, the only remaining alternative, was a wise measure. * * * Had the Emperor gone further and said that he condemned our vessels going voluntarily into his ports in breach of his municipal laws, we might have admitted it rigorously legal, though not friendly. But his condemnation of vessels taken on the high seas, by his privateers, and carried voluntarily into his ports, is justifiable by no law, is piracy, and this is the wrong we complain of against him." Writings, v. 370.



the embargo with the knowledge that it tended to promote the plans of Napoleon was one thing; to do it with that end in view was quite another. Jefferson intended to make Napoleon serve his ends; he did not intend to serve the ends of Napoleon. In the game which both of them were playing each was trying to use the other. Napoleon was trying to make Jefferson help him break down what seemed to be the only serious obstacle in his path to the empire of the world. Jefferson hoped that Napoleon's "Continental System" would help him to compel Great Britain to respect the rights of the United States.

About the same time that Madison wrote to Armstrong, he wrote a similar letter to Pinkney, urging him also to give to the law authorizing the suspension of the embargo, "all the effect possible with the British government."

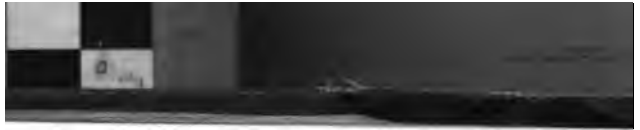
When Pinkney received the letter, the reverses which terminated with the island of St. Helena had begun. The attempt of Napoleon to seat his brother Joseph on the throne of Spain, to make that kingdom a province of France in name as well as in fact, had led to a patriotic and heroic uprising of the Spanish people. The memory of their former greatness animated them to sublime exertions. The ports of Spain and her colonies were thrown open to English commerce, and Napoleon's "Continental System," of which "extent and continuity were vital principles," according to Canning,



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was "broken into fragments, utterly harmless and contemptible." England was intoxicated with joy. Already in imagination she was exulting over the downfall of her hated enemy. She alone of all the powers of the world had successfully defied him, and that, too, when the continent of Europe was behind him. And was she now on the offer of a man whom she despised as the ruler of what she regarded as a nation of cowards, and hated as the ally in disguise of Napoleon—was she, on the offer of Jefferson, to recall her decrees against American commerce? Pinkney knew better. Nevertheless, he obeyed his instructions, but he could hardly have anticipated the insult to the American government of which his letter to Canning was to be the occasion. Canning insisted that Pinkney should make the offer of the American government in writing, apparently in order that the British minister might proclaim to all the world the low esteem in which the United States was held by England.

After the trite and insincere defense of the English decrees on the ground of retaliation, Canning said that England could not buy England's reply to the embargo. off the embargo if it were regarded as a measure of hostility, or complain of it, if it were regarded as an innocent municipal regulation. And then he proceeded to charge Jefferson with being a party to the plans of Napoleon. "The government of the United States," he said, "is not now to be informed that the Berlin Decree of November 21, 1806, was the practical



commencement of an attempt, not merely to check or impair the prosperity of Great Britain, but utterly to annihilate her political existence, through the ruin of her commercial prosperity; that in this attempt, almost all the Powers of Europe have been compelled more or less, to coöperate; and that the American embargo, though most assuredly not intended to that end (for America can have no real interest in the subversion of the British power, and her rulers are too enlightened to act from any impulse against the real interests of their country), but by some unfortunate concurrence of circumstances, without any hostile intention, the American embargo did come in aid of the 'blockade of the European continent' precisely at the very moment when, if that blockade could have succeeded at all, this interposition of the American government would most effectually have contributed to its success." With a condescension that was more insulting than his sarcasm he took occasion to express the friendly interest which Great Britain felt in the prosperity of the United States: "His Majesty would not hesitate to contribute in any manner in his power, to restore to the commerce of the United States its wonted activity; and if it were possible to make any sacrifice for the repeal of the embargo, without appearing to deprecate it as a measure of hostility, he would gladly have facilitated its removal, as a measure of inconvenient restriction upon the American people." But there was one paragraph more insulting to the government than Pink-



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ney himself knew, because he did not know the sort of "reparation" for the attack on the "Chesapeake," which Rose had been sent to the United States to make. "The undersigned is commanded, in conclusion, to observe that nothing is said in Mr. Pinkney's letter of any intention to repeal the proclamation by which the ships of war of Great Britain are interdicted from all those rights of hospitality in the ports of the United States which are freely allowed to the ships of his Majesty's enemies." This, he said, was nearly equivalent to direct hostility after the "willingness professed and the attempt made" to make due reparation for the attack on the "Chesapeake!"*

The ability and dignity of Pinkney's reply tempts one to quote from it at length. He showed with the clearness of demonstration that Pinkney's letter to Canning. England was left without a shadow of a pretext for enforcing her orders against this country after the United States had offered to withdraw the embargo on condition that the Orders in Council were revoked. He said, "that upon your own principles it would be extremely difficult to decline my proposal" since "your orders inculcate as the duty of neutrals" precisely what the withdrawal of the embargo against England and the enforcement of it against France would accomplish; that the proposal of the United States enabled "you to withdraw with dignity, and even with advantage what should

* State Papers, III, 232.

not have come between France and us; that its necessary tendency was to place us at issue with that power, or in other words, in the precise situation in which you have maintained we ought to be placed, if it should persist in its obnoxious edicts; that the continuance of our embargo, so modified, would be at least equivalent to your orders, for that, in their most efficient state, your orders could do no more as regards the United States, than cut off their trade with France, and the countries connected with her, and that our embargo remaining as to France and these countries would do exactly the same."

The effect of the embargo upon England might have been anticipated by a statesman whose opinions were determined by facts rather than temperament. We know that the policy of England towards the United States was shaped by the determination to depress a commercial rival; that the decision of her courts of Admiralty, her "paper" blockades, her Orders in Council all had as their primary object the prosperity of British commerce at the expense of that of the United States. Why did not the Administration consider that the interests that directed these attacks upon American commerce would be still more powerfully promoted by the entire withdrawal from the ocean of the merchant flag of the United States? But besides the shipping interests, another powerful class had a strong pecuniary interest in the continuance of the embargo—the British landowners. The price of wheat advanced more than a hundred per cent

in consequence of the embargo, and though this rise in price of one of the necessaries of life bore heavily on certain classes, these classes were precisely those whose influence counted for nothing in the British government—the inarticulate herd of British artisans. Thousands of British workingmen were doubtless reduced to the verge of starvation by the embargo, but of what avail was their dumb suffering when the cause of it swelled the wealth of the powerful ship owner and landlord? In still another respect, the embargo promoted British interests. England had complained, and with good reason, of the number of desertions from the British navy since the outbreak of the war with Napoleon. It was on this ground to a considerable extent, that she justified her practice of impressment. But the embargo not only stopped desertions from the British navy, but drove thousands of American sailors into the service of England through the lack of any occupation in their own country.

But the result of the embargo which received most attention from Jefferson in the closing months of his administration, was not its influence upon France and England. Early in January, 1809, in accordance with a report made by Gallatin, a law Enforcing act. was passed conferring upon the Executive more “odious,” “arbitrary” and “dangerous” powers than have ever been conferred by any law ever passed by an American Congress with the possible exception of the



Alien Law. This law, among other odious provisions, made it the duty of collectors, acting under directions to be given by the President, to seize any goods of home growth or manufacture which they might find in any kind of boat, or in any kind of vehicle going toward the sea or boundary line, and hold them till heavy bonds were given that they should not be taken out of the United States.

This Enforcing Act, as it was called, was more than the Federalists of New England could bear. We have seen how the foreign policy of Jefferson was warped by the desire to gain West Florida through the influence of Napoleon. That influence caused the President and the Republican Congress to close the ports of San Domingo to American commerce at the command of Napoleon, and meekly submit to the insults and robberies of Spain and the defiance of France, while they resented British outrages with a Non-importation act. But the Federalists, unaware of this influence, attributed the foreign policy of the government to an entirely different cause. They supposed it to be due to the same partiality for France, and hatred of England, that had exerted so powerful an influence upon the Republicans during the administrations of Washington and Adams. They believed that Jefferson did not wish to be on friendly terms with England. He had indeed, in 1806, seemed to imitate the example of Washington by sending Pinkney on a special

Federalist
theory of
Jefferson's
foreign policy.



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mission to London. But if he had wished his ministers to make a treaty, they said, he would not have hampered them with impossible conditions and irritated England with a Non-importation Act. He had instructed them to make no treaty in which the assumed right of impressment was not abandoned, because he knew that in the struggle in which England was engaged, it would be suicidal for her to abandon it. The same hostility to England, in the opinion of the Federalists, was shown in his management of the "Chesapeake" affair. He was justified, they said, in issuing his proclamation; but when England disavowed Admiral Berkely, the proclamation should have been recalled. To refuse to recall it was an act of hostility at which England might justly take offense. They did not know that Rose's mission had failed because the "reparation" which he had come to make, was more insulting than the original offense—that it consisted essentially in demanding an apology from the United States, and the punishment of Commodore Barron. They supposed that it had failed because Jefferson refused to recall his proclamation, and they attributed that refusal to the wish to put one more obstacle in the way of friendly relations with England. When he recommended the embargo, they believed that it was done at the command of Napoleon. It was not, they said, on account of the November Orders in Council, because they were not known when the embargo was recommended. No, it was only a "milder form of com-

pliance" with the demand of Napoleon, that the ports of the United States, "like those of his vassal states in Europe," should be closed against British commerce. It was to obey the command of the "modern Attila," as they considered him, "the most ruthless tyrant" that had "scourged the world since the Roman empire fell," that Jefferson was willing to have the grass grow on the streets of Northern cities and let their vessels slowly rot at their wharves. They forgot that the wheat and tobacco and cotton of the Southern planters lay unsold in their barns. In the blindness of their anger, they saw only the misery which the embargo was bringing to their own doors.

They contrasted the attitude of the Administration towards the two belligerents. England insulted us, violated our rights, and we replied with a Non-importation Act, an unfriendly proclamation and an embargo. France insulted us, violated our rights, and we replied with remonstrances, memorials, and protests. There were many of them who believed that the duty and interest of the United States alike required that England should not be placed simply on a footing of equality with her enemy. She was fighting, they believed, the battles of the civilized world. Fisher Ames could hardly speak of his children in the last months of his life, without expressing his fears that they were doomed to be subjects of Napoleon. Great Britain was "the last hope of the world." Her unscrupulous enemy, with the re-



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sources of continental Europe at his command declared that his will was to be the public law of the world. When England was struggling with such an enemy, should she permit herself to be hampered and fettered by principles of public law which her enemy despised? Should the United States raise a hue and cry about the search of their merchant vessels for deserters when those deserters were wanted to fight the battles of the civilized world? Were they under such circumstances to complain that native Americans themselves were sometimes impressed? Were they to insist on this and that right of neutrals when those rights were invaded by England in defense of the few nations, whom the colossal power of Napoleon had left in a state of neutrality?*

With such views of the foreign policy of the United States, and of the nature of the struggle between England and Napoleon, it is easy to realize to some extent, at least, the effect of the embargo, especially upon the Federalists of New England. Many of them felt that they were not only justified in evading the embargo laws, but that it was a crime not to evade them, if they could. And this feeling was shared to a great extent by men of all parties in New England. In a speech delivered in the

Effect of embargo legislation upon New England.

* See Pickering's letter to Governor Sullivan in 1808, *New England Federalism*, Fisher Ames' Works, and *Annals of Congress, 1808-1809*, especially speeches of Bayard, Pickering, Gardenier, Hillhouse and Josiah Quincy.

Senate in February, 1809, Bayard said, "We all know that the opposition to the embargo in the Eastern States is not the opposition of a political party or of a few discontented men, but the resistance of the people to a measure which they feel as oppressive and regard as ruinous."* When, therefore, the Enforcing Act was passed, all New England was soon echoing and re-echoing with protests and threats of resistance. An extract from the proceedings of the town of Augusta, in Maine, will give a fair idea of the resolutions passed by a hundred New England towns and cities. "The awful crisis has arrived when it becomes necessary for the friends of our independence to make a firm and decided stand—when it becomes all important to throw aside minor considerations, and unite for the common good; and when a sense of common danger draws us together to meet the approaching storm. With submission almost amounting to criminal apathy, we have suffered privations and restrictions never before expected of, or endured by, a free people. Now that even the means of subsistence is at hazard, and the sacred asylum of our dwellings is no longer held inviolable—silence would be a crime, and resistance would become a virtue of the first magnitude."† When the bill for enforcing the embargo was before the Senate, Hillhouse, of Connecticut, said, "In my mind the present crisis excites the most serious

* Annals of Congress, 1808-1809, 403.

† Olive Branch, 148.

apprehensions. A storm seems to be gathering which portends not a tempest on the ocean, but domestic convulsions. However painful the task, a sense of duty calls upon me to raise my voice, and use my utmost exertions to prevent the passage of this bill. I feel myself bound in conscience to declare, lest the blood of those who should fall in the execution of this measure may lie on my head, that I consider this to be an Act which directs a mortal blow at the liberties of my country, an act containing unconstitutional provisions to which the people are not bound to submit, and to which, in my opinion, they will not submit."*

This, then, was what Jefferson saw in the closing weeks of his administration as a result of his policy of peace: Napoleon approving it, England defying it, and New England on the verge of rebellion. He had meant it to work a revolution in the foreign policy of the country; he found it in danger of working a revolution in the government, and the overthrow of the union.

QUESTIONS.

1. What was the Bayonne Decree?
2. How did the Federalists and Republicans differ with respect to it, and why?
3. What is your opinion of it?
4. Account for Napoleon's approval of the embargo.
5. What effect did the Spanish uprising have on Napoleon's continental system?

* Annals of Congress, 1808-1809, 298.

6. What offer did Pinkney make to the British Government through Canning?

7. What was Canning's reply?

8. What reply did Pinkney make?

9. What did Pinkney mean when he said that the offer of the United States, if accepted by England, would place the United States in the position with relation to France, that England insisted she ought to take?

10. What classes in England were benefited, and what injured by the embargo?

11. Which were the more influential?

12. Describe the attitude of the Federalists towards the foreign policy of the administration and state how far you think it was justifiable.

13. What was the "Enforcing Act?"

14. What effect did it have on New England?

15. Do you think New England should have submitted to it?

16. What did Hillhouse mean by "my country?"

CHAPTER XXXV.

SUBMISSION OR WAR?

AFTER the rejection of Monroe's treaty, Monroe was inclined to sulk in his tent. He felt that the Administration had set him an impossible task, and rejected his treaty without due con-^{Presidential} sideration because he had gone contrary to election. his instructions. Monroe's attitude inclined most of the Republicans who were dissatisfied with the Administration, and especially those who disliked Madison—who was known to be Jefferson's candidate—to make Monroe their candidate for the presidency. It seemed likely for a time that the unpopularity of the embargo would lead to the defeat of Madison if the Federalists and Anti-administration Republicans could combine on a single candidate. But as Madison was selected by the Republican caucus, party discipline prevailed, and he was elected by 122 out of a total of 176 electoral votes. George Clinton was elected Vice-President.

Before the result of the election was officially known, Jefferson practically threw down the reins of government. When Congress met on ^{Jefferson and the} November 7, 1808, he acknowledged in his embargo. message that his "candid and liberal experiment"—offering to England and Napoleon to suspend the embargo

on certain conditions—"had failed." He said that it must "rest with the wisdom of Congress to decide on the course best adapted" to the existing state of things. Galatin, whom Madison intended to make his Secretary of State, urged Jefferson to recommend some positive course. But in vain. It was evident that the embargo could not be continued much longer, and Jefferson could not recommend its repeal. The theory of commercial restrictions as a means of coercion had been the dream of his life—his one great piece of constructive statesmanship. In all of his hopes for playing a great part in history in advancing the interests of the world, this theory had been an important element. He had hoped to be the philosophic statesman, the humanitarian ruler, whose destiny it was to prove to the world that the brutalities and barbarisms of war could be dispensed with. And now to admit that his life-long dream was, after all, only a dream! To admit that in spite of his efforts to save them from it, the American people must travel over the same road that had proved so fatal to the happiness and liberties of the race. To sign the death warrant of his favorite child—the offspring of all his philanthropic hopes! It was too much, and apparently the one great hope that animated him in the closing months of his administration was to be spared the humiliation of signing a repeal of the embargo. He could not bring himself to admit that his policy of peace had failed. "If we go to war now," he said, "I fear we may renounce

forever the hope of seeing an end of our national debt. If we can keep at peace eight years longer, our income, liberated from debt, will be adequate to any war, without new taxes or loans, and our position and increasing strength will put us *hors d'insulte* from any nation." "If we can keep at peace"—but how was that possible? How were the United States to remain at peace when the two greatest powers in the world insisted on making war upon them? Jefferson refused to say. In December, 1808, he said: "I have thought it right to take no part in proposing measures, the execution of which will devolve on my successor. I am therefore chiefly an unmeddling listener to what others say."

As he would formulate no plan that looked beyond the close of his administration, Madison and Gallatin were obliged to take the responsibility. Their plan was to continue the embargo till June 1, pass a total Non-intercourse Act against both France and England, providing for a suspension of it in favor of the one which might revoke her anti-neutral decrees, and, in the event of failing to secure such revocation, a special session of Congress, and a declaration of war against both powers. The Non-intercourse Act would remove England's "grievances" by placing her on an equality with France. England had complained of the Non-importation Act which had gone into effect in 1807, and of the proclamation issued by the President on account of the "Chesapeake" affair

Madison's
policy.

as unjustly discriminating against her in favor of Napoleon. With these complaints removed, Madison and Gallatin believed that England would revoke her orders when she saw that war was the alternative and that the "obstinate Emperor" would persist in his course so that war would take place with Napoleon, with England as an ally.

To prepare Congress for such a policy, Gallatin wrote a report which may be regarded as in a sense the message of the incoming Administration. The report was presented November 22 by G. W. Campbell, who was chairman of the committee to whom had been referred that part of the President's message which related to foreign affairs. It aimed to show that there was "no other alternative, but abject and degrading submission; war with both nations; or a continuance and enforcement of the embargo. * * * War with one of the belligerents only, would be submission to the edicts and will of the other; and a repeal in whole or in part of the embargo must necessarily be war or submission. * * * A partial repeal must, from the situation of Europe, necessarily be actual submission to one of the aggressors and war with the other."

As the measure finally decided on was partial repeal, it is important to consider the arguments by which Gallatin sought to prove beforehand that it was equivalent to submission. "It is said that the adoption of that

proposition"—to repeal the embargo except as to France and her allies, and England—"would restore our commerce with the native powers of Asia and Africa, and with Spain, Portugal, Sweden and Russia." Assuming it to be true, the effect of it "would be to open an indirect trade with Great Britain which, through St. Bartholomew and Havana, Lisbon, Cadiz, or Gottenburg, would receive, at prices reduced by glutted markets and for want of competition, all the provisions, raw materials for her manufactures, and other articles, which she may want. * * * A measure which would supply exclusively one of the belligerents would be war with the other." To supply Great Britain exclusively "can only be defended on the ground that France is the only aggressor, and that, having no just reason to complain of England, it is our duty to submit to her." That supposition being inadmissible, the painful alternatives were the continuance of the embargo, and a war with both Powers.

But a permanent embargo would "not properly be resistance; it would be withdrawing from the contest, and abandoning our indisputable right freely to navigate the ocean." The alternatives therefore, the report intimated, were not a permanent embargo, war or submission, but, a repeal of the embargo in the near future, war or submission. The chief reason for hesitation, since the choice ultimately lay between submission and war, was the necessity, if war were resorted to, of making

it at the same time against the two most powerful nations in the world.

The report concluded with recommending three resolutions. The first declared that the United States could not, without a sacrifice of their independence, submit to the edicts of Great Britain and France; the second, that it was expedient to exclude from the ports of the United States all the ships and goods of those Powers that violated the neutral rights of the United States; the third, that the country should at once be put in a more complete state of defense.*

The debate upon these resolutions continued nearly twenty days, and whatever it may have left ~~Debate upon it.~~ in doubt, one thing was clear; there was no war party in the country. Josiah Quincy, a bitter Massachusetts Federalist, in his first speech did indeed seem to lean to war. "The path of duty," he said, "is as distinct as the milky way. * * It is the path of active preparation—of dignified energy. It consists in taking the nature of things as the measure of the rights of your citizens, not the orders and decrees of imperious foreigners. Give what protection you can. Take no counsel of fear. Your strength will increase with the trial, and prove greater than you are now aware. But I shall be told that this may lead to war. I ask, Are we now at peace? Certainly not, unless retiring from insult be peace—unless shrinking under the lash be peace.

* Annals of Congress, 1808-1809, 514-521.

The surest way to prevent war is, not to fear it. The idea that nothing on earth is so dreadful as war, is inculcated too studiously among us. Disgrace is worse. Abandonment of essential rights is worse." But this warlike talk was not serious. Quincy believed, as Hildreth afterwards did, "that the two bugbears of abject submission on the one side, and on the other, war at the same time, with both France and England," had been "theatrically brought in, from opposite directions, to frighten Congress and the people into acquiescence in the embargo."* Quincy wanted no war, at least with England. His "path of duty" was a means of getting rid of the embargo. The Federalist theory being that the difficulties of the United States with England grew out of the partiality of the Administration for France, the Federalists wanted an abandonment of the embargo system, "root and branch." "Repeal the embargo and Non-importation Acts," they said; "rescind the proclamation," resist the French edicts, which first made war on our rights, and the difficulties with England would vanish, the Orders in Council would be withdrawn.†

But while the Federalists advocated what Gallatin called "abject and degrading submission," not a voice on the Republican side was raised in behalf of war. Admitting the reasoning of the Report, that the choice lay between war, embargo, and submission, they urged the

* Hildreth, VI, 98.

† Barent Gardenier, *Annals of Congress*, 1808-1809, 851.

continuance of the embargo, although the Report had shown that a permanent embargo was submission. The truth must be told; the Representatives of the American people in 1808 were afraid to declare war! The American people had been made to act the part of cowards so long that they had begun to think that the play represented the reality. As Troup, of Georgia, said, they had become so familiar with outrages that they ceased to be moved by them. "Two years ago you were willing to go to war to limit the right of search; you would have gone to war to prohibit the practice of impressment; you would have gone to war to overthrow the lawless system of blockade; you would have gone to war for the colonial trade; for the attack on the Chesapeake; two years ago you would have gone to war for the Orders in Council; and now that all these outrages, and more than these have accumulated on your head, until you are bowed down to the earth, you are content to beg a little commerce of England!" But in the same speech, Troup himself showed how lacking he was in all proper sense of the dignity and honor of the nation. "The people of this country," he said, "want peace as long as they can preserve it with honor. And do you think, sir, we are ready to plunge headlong into a ruinous war, naked and unarmed, to gratify a few bankrupt commercial speculators?"* Bent to the earth, as Troup said the nation was, by the load of British outrages, he could yet talk about the preserva-

* Annals of Congress, 1808-1809, 604-606.

tion of peace with honor! And the noteworthy fact is that his remark struck nobody as ridiculous. No one interrupted him amidst shouts of derisive laughter, to ask how a nation could talk about honor, which for three years had allowed itself to be insulted and outraged, and at last treated as a province with no rights save such as England and France might deign to grant.

At the close of the long debate, the three resolutions were carried. By a vote of one hundred and eighteen to two the House of Representatives said that the United States could not submit to the edicts of Great Britain and France without a sacrifice of their independence. But the debate which preceded the vote showed how little the vote meant. The Federalists believed that the embargo could be repealed, and no resistance offered to England without submission. The Republicans believed that to repeal the embargo without declaring war was submission, and while the opposition to the embargo in New England was making it more and more evident that embargo could not be enforced much longer, they were unwilling to declare war. Evidently Gallatin was right when he said "A majority will not adhere to the embargo much longer, and if war be not speedily determined on, submission will ensue."*

QUESTIONS.

1. Why was Jefferson so reluctant to abandon the embargo?
2. What was the policy of Madison and Gallatin?

* Gallatin to Nicholson, Dec. 29, 1808: Adams' Gallatin, 384.

3. Do you think it was wise?
4. The text calls Campbell's report the first message of the incoming administration. Why?
5. The report argued that the alternatives were abject and degrading submission, war with both France and England, and a continuance of the embargo; do you admit it?
6. Is submission of necessity "abject and degrading?"
7. Quincy argued that since the nation felt itself unable to fight both its aggressors at the same time, it might, without compromising its honor or its dignity, declare war against one of them—ignoring the other; do you agree with him?
8. If the United States had adopted Quincy's policy, which nation do you think it should have fought; France or England?
9. The report argued that a measure which would supply exclusively one of the belligerents would be war with the other; do you think so?
10. What were the three resolutions recommended by the report?
11. For what purpose was it written?
12. What was Quincy's theory of it?
13. What did the debate on it show?
14. What do you think of Troup's speech?

CHAPTER XXXVI.

SUBMISSION.

WHILE Madison and Gallatin were attempting to bring Congress to the point of repealing the embargo in favor of war, they were endeavoring to work on England through Erskine. They told Erskine that the alternatives open to the United States were embargo and war; that the people of the country were beginning to regard the embargo as too passive; and that America must be driven to endeavor to maintain her rights against the two greatest powers in the world, unless one of them should revoke her anti-neutral decrees. In that case, the United States would side with that one against the other, provided the other persisted in her war upon the commerce of the United States.* Madison hoped through Erskine to induce England to revoke her decrees when she saw that it would result in a war between the United States and Napoleon.

Before the vote on the resolutions recommended by Campbell's report had been taken, Gallatin presented his annual report on the finances (December 10, 1808). It amounted to a recommenda-^{Gallatin's annual report.}tion of war. He told Congress that even in case of war against both England and France, no in-

*Erskine to Canning, December 4, 1808.

Internal taxes were contemplated.* Internal taxes, as we know, had always been bitterly opposed by the Republicans. Gallatin told them that they need not hesitate to declare war through fear of internal taxes. He said that loans should be principally relied on and that the revenue derived from duties on imports would be amply sufficient, during long intervals of peace, not only to defray current expenses, but to pay the debts contracted in war.

In accordance with the policy of the incoming Administration, Smilie offered (January 7) in the House of Representatives a resolution declaring that a committee should be appointed to take into consideration the propriety of providing by law for an early meeting of the next Congress. It was distinctly understood that the extra session was contemplated for the purpose of declaring war. In the debate on the bill providing for the extra session on the fourth Monday in May, J. G. Jackson, Madison's brother-in-law, said: "I think, by passing this bill, we give the nation a pledge that it shall be the *ne plus ultra*, which shall give to foreign nations time to revise their conduct towards us, and will give them time to consider whether or not they will have war with us."†

If the Federalists had believed this, if through earnest conferences between the members of the Admin-

*Annals of Congress, 1808-1809, 1765.

†Annals of Congress, 1808-1809, 1095.

istration and the leaders of the Federalists, partisanship could have been subordinated to patriotism, if they could have been convinced of the sincere desire of the Administration to isolate the enemies of the United States so that the country might have but one enemy to fight, and that enemy Napoleon—the United States would have been spared a great humiliation, and a still greater danger. But they did not believe it. They believed that if war was declared against France and England, the war against France would be merely nominal, since France had no territory that we could attack without encountering the fleets of England. Many of them believed that the Administration had no idea of declaring war under any circumstances, that the proposed extra session for the purpose of declaring war was a mere trick to deceive the people, as Quincy declared in a speech as remarkable for its ability as it was for its bitterness.

Quincy told the House that it had been deceived when it passed the embargo laws, that coercion was its real object, and not precaution, as was pretended. He said that the proposed extra session had a similar object—that it was not intended that Quincy's speech. Congress should declare war under certain contingencies—that was a mere pretence; its real object was to delude the people into submitting to the embargo a little longer, that if the people would bear it, "this embargo will be continued, not only until next May, but until next September, yes, sir, to next May twelve

months;" "that it was intended to persevere in the measure until it effect, if possible, the proposed object." He declared that "it was never intended by Administration to do anything else effectual for the support of our maritime rights. Sir, I am sick, sick to loathing, of this eternal clamor of war, war, war, which has been kept up incessantly on this floor, now for more than two years. Sir, if I can help it, the old women of this country shall not be frightened in this way any longer. I have been a long time a close observer of what has been said and done by the majority of this House, and for one, I am satisfied that no insult, however gross, offered to us by either France or Great Britain, could force this majority into the declaration of war. To use a strong but common expression, it could not be kicked into such a declaration by either nation." If the majority meant war they would have prepared for it. What preparation had they made? They had built one hundred and seventy gun boats; they had in requisition one hundred thousand militia. "You talk of going to war against Great Britain with, I believe, only one frigate and five sloops of war in commission! And yet you have not the resolution to meet the expense of the paltry little navy which is rotting in the Potomac. * * * You go to war with all the revenue to be derived from commerce annihilated, and possessing no other resource than loans or direct or other internal taxes! You! A party that rose into power by declaiming against direct taxes and loans"!*

*Annals of Congress, 1808-1809, 1111-1114.

The sting of Quincy's taunts lay in their truth. After all the insults of England and France, the House could still vapor about the preservation of peace with honor! The next day (January 20), the bill for an extra session passed by a vote of eighty to twenty-six.

On the surface it looked as if the policy of Madison and Gallatin would be carried out to the letter. Their resolutions (recommended in Campbell's Report and intended to commit the House to embargo or war) had been passed by an overwhelming majority; Erskine was writing dispatch after dispatch to prove to his government that if they did not revoke their Orders in Council, the United States would declare war against them in June. But Madison and Gallatin committed one fatal blunder. For some reason, perhaps because they regarded it as derogatory to the dignity of the government not to enforce the embargo laws as long as they remained laws, perhaps because they wished to drive the people into preferring war through the very odiousness of the alternative, perhaps because they yielded to the spell of Jefferson's influence, who permitted himself to hope that if the embargo was rigorously enforced, England would be compelled to revoke her decrees—they urged the Enforcing Act of which a preceding chapter has given some account and which became a law January 9.

The discontent in New England at once rose to the point of danger to the Union. A few radicals like Pickering, Otis, Gore and Hillhouse were ready to resort to extreme measures

*Nullification in
New England.*

before. The passage of the Enforcing Act made their attitude infectious. When the legislature of Massachusetts met, a committee of the Senate to whom had been referred the numerous petitions relating to the embargo, at once (February 1) recommended a law to protect the people of the state against the "unreasonable, arbitrary and unconstitutional searches in their dwelling houses," authorized by the Enforcing Act. Such a law would have been equivalent to nullification. When Secretary Dearborn wrote (February 4) to Governor Trumbull, of Connecticut requesting him to select militia officers to aid the collectors in enforcing the embargo, Trumbull flatly refused. "Conceiving as I do," he said, "and, believing it to be the opinion of the great mass of citizens in this State that the late law of Congress for a more rigorous enforcement of the embargo is unconstitutional in many of its provisions, * * * my mind has been led to a serious and decided determination to refuse compliance with your request, and to have no agency in the appointments which the President has been pleased to refer to me." With New England in such a temper, many Republicans began to think that the alternative was not embargo or war, but an immediate and unconditional repeal of the embargo, or a dissolution of the Union.

All the laws required to carry out the policy of Madison had been passed except one. January 30, Wilson Cary Nicholas offered a resolution which contained the substance of the law yet to be passed if that policy was to pre-

Nicholas' resolution.

vail. Upon the fate of that resolution depended the questions as to whether the United States would submit or go to war. The resolution was as follows: "*Resolved*, As the opinion of this House, that the United States ought not to delay beyond — day of ——— to resume, maintain and defend the navigation of the high seas; and that provision ought to be made by law for repealing on the — day of ——— the several embargo laws, and for authorizing at the same time, letters of marque and reprisal against Great Britain and France, provided on that day their Orders or Edicts violating the lawful commerce and neutral rights of the United States shall be in force, or against either of those nations having in force such Orders or Edicts."

The resolution having been divided, Nicholas moved to fill the blank with the words "the first day of June." The debate began upon Debate on it. this motion that on June 1, the embargo laws should be repealed. From the beginning of the debate it was evident that the majority realized that the danger of rebellion in New England made it necessary that the embargo should cease and that the alternative was not embargo or war, but war or submission. With an earnestness that was pathetic, David R. Williams, of South Carolina, begged the representatives of New England to remember that they had a country. "You have driven us from the embargo. The excitements in the East render it necessary that we should enforce the em-

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cease on the 4th of March. Four days later, the second half of Nicholas' resolution was voted on. By a vote of fifty-seven to thirty nine, the same House which less than two months before had declared that the United States could not submit to the decrees of Great Britain and France without a sacrifice of their honor and independence, declared that they would not authorize letters of marque and reprisal, even if the decrees of Great Britain and France continued in force. That vote meant submission. The Non-intercourse Bill, introduced a few days later and passed the latter part of February, was only a thin veil to disguise from the American people the fact that their representatives had not courage enough to declare war. David R. Williams, whose passionate and patriotic protests against submission ought to rescue his name from oblivion, called the conduct of the House "contemptible cowardice."

It seems at first sight paradoxical that the section of country that suffered most from England's piracies upon our commerce should have been least disposed to resent them. But the paradox disappears when we learn that freights were so high that merchants could lose ten per cent by capture and still make money. Further, all the trade which the United States carried on with the colonies of Spain and France was due to the war between France and England. No matter how much England interfered with the trade between the United States and

Effect of embargo upon New England and the South.

the colonies of her enemies, so long as she permitted any, the United States had more than they might expect to have upon the return of peace. This was one of the reasons why the embargo was so much more unpopular in New England than it was in the South.

Another reason was the instantaneousness and directness of its action upon the shipping, and dependent interests of New England. The sailors, draymen, shipwrights and sea-captains who were suddenly thrown out of employment, the venders of pitch, tar, hemp, bacon and salt fish who found themselves with a greatly reduced market for their commodities, the ship-owners, who were deprived of their profits, knew the cause of their losses beyond a doubt.

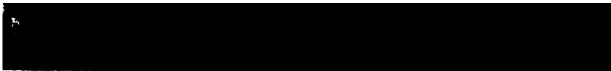
But the action of the embargo upon the planters of the South was neither instantaneous nor direct. The embargo made no change in their occupations. They planted and tended their cotton, rice, indigo and tobacco as in preceding years. And if, when autumn came, they found a reduced market for their produce, they were able to be in doubt as to the cause. The enforcement of the Berlin Decree, and the more rigorous Orders in Council had intervened since the last autumn, and who could tell how much influence they would have had, if there had been no embargo, in reducing the price of their produce.*

*Nevertheless, the South suffered more from the embargo than New England. There was no market for tobacco at any price, and wheat fell from two dollars to seventy-five cents a

The Non-intercourse Act closed the ports of the United States to all public and private ships of France and England; forbade all importations from England and France; and repealed the em-^{The Non-}intercourse Act. bargo, except as to Great Britain and France and their dependencies. It also authorized the President to suspend the law by proclamation and renew the trade with France or England in case either of these countries ceased to violate the rights of the United States, while it was to continue in force against the nation that persisted in enforcing its anti-neutral edicts. How much, or rather how little, it meant, the British minister saw clearly. He wrote to his Government that England would derive great advantage from it, as, with her command of the ocean, she could procure, through neutrals, any of the produce of the United States, besides the immense quantity which would be carried directly to Great Britain under various pretenses, while France could obtain but little, and that at great expense and risk.

Jefferson signed the bill March 1. Ten days later, he mounted his horse to ride through snow and sleet to Monticello, never again to appear on the scene where he

bushel. "Yankee" ingenuity enabled the New Englanders to ward off, to some extent, the blow of the embargo, but it fell upon the South with crushing force. Virginia was driven to the verge of bankruptcy. Jefferson himself was almost ruined by the measure with which he had tried to maintain the honor of the country.



The two great mistakes of Jefferson's administration.

had wielded such imperial influence for the preceding eight years. Looking over these years, it is easy to see the two great mistakes of his two administrations. The first was in allowing the desire to gain West Florida, through the influence of Napoleon to cause him not to resent the insults of Spain and the defiance of France. If he had yielded to the impulse which impelled him so strongly in the summer of 1805 to declare war on France and Spain, the overwhelming disaster of his second administration would never have been encountered. There would have been no English attacks upon our commerce, no embargo, and also, no war of 1812, no Hartford Convention. The mistakes, as well as the evils of men, live after them, and in the dangers and humiliations of the second war for independence, as the war of 1812 has been rightly called, the country was, in part, reaping the harvest which sprung from Jefferson's unfortunate policy with respect to West Florida. His second mistake, it hardly need be said, was his recommendation of an embargo, without limit as to time, especially when it was done under circumstances that made it possible for his enemies to believe that he was in league with Napoleon, against Great Britain and New England.

The complete and disastrous failure of the embargo settled the fate of Jeffersonian Republicanism. The dream of peace upon which its theory of foreign concerns was based was proved to be only a dream. The

brutal and barbarous weapons which Republicans had hoped to be able to dispense with, could not yet be thrown aside, if nations would protect themselves against insults. But when the day comes, as come it will, when war shall be a thing of history, it will be one of Jefferson's claims to recollection that he anticipated that day, that he strove by peaceable means to defend the rights of his country.

But after all, it is as a Democrat, not a States-Rights Republican, as a man who was devoted to the interests of the people and who believed in their capacity, that Jefferson lives, and will live in history. In spite of all his mistakes, it was fitly said of him in one of the stormy debates of January, 1809, that 'his acts ought to have induced all his former enemies to say "he has disappointed our expectations, and proved himself the supporter of that Declaration of Independence which was given to the world from his pen."'

QUESTIONS.

1. What was Madison's policy?
2. What influence did Madison seek to exert on Canning through Erskine?
3. What did Gallatin seek to show in his annual report?
4. What was the object of the extra session?
5. Why did Madison wish to put off the declaration of war?
6. What ground had Quincy for saying that Congress was deceived when it passed the embargo?
7. What did he think was the object of the extra session?
8. What warranted him in saying that the nation could not be kicked into a war?

9. The text says Madison and Gallatin committed one fatal blunder; what was it, and why did they commit it?
10. What produced the discontent in New England?
11. What was Nicholas' resolution and for what purpose was it offered?
12. What are letters of marque and reprisal?
13. Discuss the speeches of David R. Williams and Cook.
14. Describe the effect of the embargo upon New England and the South.
15. What was the Non-intercourse Act?
16. What were the two great mistakes of Jefferson's two administrations?
17. What rank do you think will be finally awarded him by History?
18. State at length the principles of Jeffersonian Republicanism, and tell how much was left of them at the close of Jefferson's second administration.



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