THE REIGN OF WITCHES

THE STRUGGLE AGAINST THE
ALIEN AND SEDITION LAWS

by ELIZABETH LAWSON

With an introduction by WILLIAM L. PATTERSON

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AND SEDITION LAWS: 1798-1801

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Introduction

Special to The New York Times, *June 17, 1949*

WASHINGTON, June 16.—This country is experiencing a wave of hysteria as a result of current spy trials and loyalty inquiries, President Truman suggested today.

The President likened the current situation . . . to the troubled atmosphere engendered in the early days of the Republic by the alien and sedition laws.

"Mr. President" [a reporter asked], "an awful lot of fine people are being branded as Communists, Reds, subversives and what not these days. Do you have any word of counsel you could give on this rash of branding people?"

Yes, yes, he had given it once before, said Mr. Truman. He suggested that the reporters read the history of the Alien and Sedition Acts in the Seventeen Nineties, under almost exactly the same situation. They would be surprised at how almost exactly parallel the cases are when they read how they came out.

Yes, the very wording of the Sedition Act of 1798 resembles the wording of the Smith Act of today.

"If any person shall write, print, utter, or publish . . ," read the Sedition Act of a century and a half ago.

"It shall be unlawful for any person," reads the Smith Act of 1940, "to advocate, abet, advise, or teach . . . to print, publish, edit, issue, circulate, sell, distribute, or publicly display any written or printed matter advocating, advising, or teaching. . . ."

This pamphlet uncovers a new and graphic picture of the people's struggles, under the leadership of Thomas Jefferson, against the Alien and Sedition Acts of the eighteenth century—as Jefferson said, the battle against "the reign of witches." Those were decisive moments in a sorely harassed people's fight to advance democracy. It was an era of warmongering and the building of a vast war machine. It was a day when slander flourished against democratic movements and governments abroad, particularly against the great French Republic. It was the first heyday of the "foreign agent" smear. It was a time of hysteria, artificially induced by a desperate ruling class, against the foreign born. It was a period of deportations. It was a season of political coercion and economic reprisals, when every courageous man and woman faced the possibility of prison, dismissal from employment, and the cutting off of every normal source of livelihood. It was an era of packed juries, of arrogant judges disdainful of the Bill of Rights, of long jail sentences, of bail denied. It was a day when spies and informers were at a premium. Those were the years of concentrated attack upon the First Amendment, with its guarantees of free speech, press, assemblage and petition. "The First Amendment," as the author of this pamphlet writes, "was the Sedition Act's first victim."

It was, in short, an era which set a pattern for today. The people's victory also sets a pattern that will and must be followed.

That last decade of the eighteenth century is rich in lessons for those of us who now are desperately seeking to safeguard the Constitutional heritage of the people and to mobilize them against the greatest array of reactionaries this country has ever seen. This pamphlet presents a study in the strategy and tactics of such struggles. John Foster Dulles, a foremost political adviser, admits that our government is engaged in a tidal wave of "artificial hysteria." The ruling class is making a supreme effort to halt progressive thought; it resorts to loyalty oaths and loyalty tests, to the terrorism of the Un-American Activities Committee, to the Smith Act and the McCarran Act. It resorts to prison sentences against those who will not swallow the orthodox in foreign policy or the status quo at home. Worst of all, it resorts to a terrible war which menaces the future of all mankind. For just such reasons were the old Alien and Sedition laws forced upon a protesting people.

With this pamphlet, the past is linked to the present with clarity and vision. From the arsenals of yesterday, we may still requisition weapons for today.

The old Alien and Sedition laws were smashed. Those who formulated them and those who enforced them were sent to the political graveyard.

Today the money power, against which the immortal Abraham Lincoln warned us, is enthroned—a money power more far-reaching, more unscrupulous than in Jefferson's or in Lincoln's day—a money power whose last resort is the utter destruction of our democratic heritage. It can gain no permanent victories. Hitler, Mussolini, and Hirohito failed before them. The hour is too late for a victory of terror. But it can do immeasurable damage with its atomic bombs and its concentration camps unless the people are rallied for the final victory.

The victims of the gag laws must be freed; they will be freed by the organized power of the people. This will of course not be done by President Truman, who called attention to the similarity between the current repression and the repression of the 1790's. Who more than he is responsible for this era of repression?

Those who want war can and must be forced to accept peace. Those who want racial and religious hatreds will be forced to accept a people's democracy. Those who have enacted the Smith and McCarran Acts, the gag laws of today, will see them repealed by the weight of a people's movement, and the judges who enforced them reduced to the ignoble status that is theirs of right.

For us, too, the prediction of Thomas Jefferson will be fulfilled. If we will carry a message to a people who seek the truth through the fog of lies and the wild hysteria by which they have been surrounded, we too "shall see the reign of witches pass over, their spells dissolved, and the people recovering their true sight, restoring their government to its true principles."

—William L. Patterson

The Reign of Witches

To the rhythm of hammers, a gallows was rising swiftly against the Pennsylvania sky, where a farmer-turned-auctioneer who had led a struggle against a tax on homes was sentenced to hang for treason. In far-off Virginia, in that same month of May, 1800, a federal court opened the trial of a pamphleteer who had spoken against an unjust war. In a Connecticut jail, an editor lay, a veteran of 1776, now a fighter for peace, indicted by a grand jury whose foreman had been a British Tory. A mechanic who had erected a liberty pole was in prison in Massachusetts. A scientist in Pennsylvania had flung out to a courtroom the truth that "those who express a sentiment of opposition must do it in fear and trembling"; now he too was serving sentence. And in Vermont, a printer defiantly wrote his wife: "A dungeon and conscious innocence, exceeds a palace and corroding guilt."

Only a quarter of a century before, the Declaration of Independence had proclaimed to the world that "Governments are instituted among men, deriving their just powers from the consent of the governed."

Only nine years before, the people had amended the Constitution with a Bill of Rights, the first article reading: "Congress shall make no law abridging the freedom of speech or of the press; or the right of the people peaceably to assemble and to petition the Government for a redress of grievances."

But since the summer of 1798, four laws had stood like a great blot upon the statute books of the United States. Three of these, the Alien Acts, were thrusts against the foreign born. One, the Sedition Act, was aimed against every progressive voice, against any and all criticism of government measures or officials. In the course of enforcing these acts, the government tore the Bill of Rights to shreds.

But less than three years after the acts had been passed, the people hailed their end, and rejoiced in the downfall of the Federalist Party that had fathered them. They saw the doors of prisons swing open, and the remaining victims of these laws walk through the gates, free. They watched impeachment proceedings against judges who had imposed sentence. Thomas Jefferson's prediction had come true. "We shall see the reign of witches pass over," he had assured a friend, "their spells dissolved, and the people recovering their true sight, restoring their government to its true principles."[1]

And the people celebrated their victory in a song: "The reign of terror is no more!"

This pamphlet is the story of those years. It is the tale of how a reactionary administration pressed our country into an undeclared naval war; how, under cover of war hysteria, it pushed through Congress some of the most repressive laws in our history; how, in order to feed its growing war machine—an "army without an enemy," Jefferson called it,[2]—built for internal suppression, it bled the people in taxes.

It is also the story of how the people rose in wrath, created their popular political societies and their own political party, fought every encroachment upon their liberties, every new persecution, and at the polls so decisively rejected the reactionary party that it never returned to power.

The New Exploiters

Our story needs a prologue:

The coalition of classes that had won independence from England had quickly split asunder. The common enemy was defeated on the battlefield. Having burst the bonds of many of the restrictions which England had imposed, the propertied classes of the United States were now free—free not only to trade, but to exploit to the full the workers, farmers, and slaves at home.

The years which followed the Revolution were years of bitter discontent for the people who had borne the fighting. They had hoped for peace, work, and a share in the vast unsettled lands to the West. But the bankers and speculators planned otherwise.

The bonds which had been given to soldiers of the Revolution for their services, and to small farmers and merchants for goods sold to the Continental Congress, were bought up for a fraction of their value by speculators. Now the newly established Congress of the United States paid these debts without differentiating between original holders and speculators, thus centralizing immense wealth at one stroke in a few hands.

Equally a blow to the hopes of the people was the law governing the sale of the western lands. These were sold in large lots, at public auction, where the price was bid up by the wealthy.

Even in the East, the independent farmers were fast losing their land to the speculators and bankers who held the mortgages. In 1786, fifteen hundred rebellious Massachusetts farmers, under the leadership of Daniel Shays, shut down the courts that were ordering foreclosures. Armed forces wielded by the state crushed the rebellion.

Thus the new exploiters drew the sword against the people of their nation. Frightened by spreading unrest, the rulers determined to preserve their status against all further mass movements. In the Constitutional Convention which met in 1787, they created an instrument to guard themselves against the "excesses" of democracy. They framed a Constitution which was basically a document for those with property. But an alert population forced them to incorporate into the Constitution many of those aims for which the masses had fought through eight years of revolutionary war. These concessions included provision for an amendment procedure. The crowning democratic victory in the fashioning of the Constitution was the incorporation of a Bill of Rights—the first ten amendments.

The amendments guaranteed freedom of speech, press, assembly and petition; the right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures; the right to trial by a jury of one's peers, and other rights of the accused; the right to be free of excessive bail and cruel and unusual punishments. The masses had won a victory —for the moment.

The struggle of classes was to extend beyond domestic issues. In Europe, events occurred which were to set the opposing parties of the United States at daggers for almost a decade.

The French Revolution

The ruling classes of all the world opposed the democratic unfolding of the great French Revolution, begun in 1789. By 1793 England, Spain, and Holland were at war with France to restore the French monarchy. In part, the war was caused by rivalry for trade and colonial possessions; in part, it was dictated by hatred for revolutionary principles. This hatred grew more intense when, towards the end of 1793, the peasants, laborers, artisans, and small merchants, represented by the Jacobins* in the National Assembly, seized for themselves the fruits of the revolution, of which the big capitalists were attempting to deprive them.

In this conflict, the natural place of the big merchants, bankers, shippers, and speculators of the United States was beside the monarchies headed by England. Here, too, many factors were interwoven. The big shippers and merchants were still largely dependent on English capital for investment, on English credit, and on English imports. The imports from England outweighed in value those from any other country, and the duties were a mainstay of the United States Treasury. United States reactionaries counted on England to help prevent the occupation of the western land by small independent farmers by maintaining her forts there in violation of the peace treaty. For England herself wanted that land.

Most ominous of all to the wealthy, the revolution in France was lighting once more the democratic flame in the United States. As naturally as the men of wealth gravitated to the side of England, so did the masses to the side of France. "All the old spirit of 1776 is rekindling," wrote Jefferson in 1793.[3]

* So called because their first meeting took place in a convent of the Jacobin friars in Paris.

That year saw the first Democratic-Republican society appear in the United States, the German Republican Society of Philadelphia. The people must have unity and organization. "Solitary opinions," said a resolution of this first popular club, "have little weight with men whose views are unfair, but the voice of the many strikes them with awe."[4]

These organizations were political clubs, born of the people's deepest needs: to stem reaction at home, to assist the struggle for freedom abroad. They were international in spirit; similar societies existed in England, Ireland, Scotland, Germany, Switzerland, Italy, and Canada.

The undoubtedly incomplete records that have come down to us show that by the end of 1798, forty-two such societies had been organized in the original thirteen states. They bore many names—Republican Society, Democratic Society, Constitutional Society, Democratic-Republican Society, Society of United Freemen, Madisonian Society, Franklin Society, Patriotic Society, True Republican Society, and, remembering the Revolution, Committee of Correspondence.[5] The Tammany Societies, which existed in all of the states as fraternal groups, were rapidly drawn into the same political current.

The clubs came into existence first in the shipping centers along the coast, then among the farmers East and West. In the cities they were composed for the most part of craftsmen. The most authoritative study that has been made shows that of the 206 members of the Democratic Society of Philadelphia whose occupations can be identified from the city directory, 103 were craftsmen. These were tanners, blacksmiths, saddlers, painters, shotmakers, tailors, cordwainers, carpenters, hatters, boot and shoemakers, makers of spinning wheels, silversmiths, coppersmiths, hucksters, scriveners, coachmakers, bricklayers, engravers, ironmongers, and bakers. In addition to the 103 listed as craftsmen, the so-called "maritime group" in the Society, numbering 21, included carpenters, riggers, wrights, and boat-builders—artisans or wage-workers connected with shipping. There were also six printers. Keepers of small commercial establishments, such as tobacconists and innkeepers, were found in the ranks.

Thus the identifiable members of the society were overwhelmingly of the poorer people. Those whose occupations cannot be identified today—and this group forms 35.6 per cent of the total—were undoubtedly also of this stratum.[6] Cartmen or draymen, street hawkers, casual laborers, wage-workers in factories were for the most part members or supporters of these progressive clubs.

The program of the clubs encompassed the fight for civil liberties, an end to warmongering, distribution of the western lands in small parcels, universal white manhood suffrage, reform of the penal laws, free schools and libraries, the rights of women.* The societies spread Democratic-Republican newspapers and pamphlets, electioneered for progressive candidates, fought against standing armies and for reliance on the militia, helped send relief to revolutionary France.

Through a network of correspondence committees, the Democratic-Republican societies assisted and enlightened one another, and helped to lend to many diverse groups oneness of purpose on the most important issues of the day. In citizens' county meetings and in militia units, they brought their program forward and made it acceptable far beyond the ranks of their own membership.

To the ruling classes, the Democratic-Republican societies spelled danger. "These little whirlwinds of dry leaves and dirt portend a hurricane," said a Federalist.[7]

The Birth of Parties

Unrest and popular organization at home and revolution abroad hastened the crystallization of political parties in the United States. By 1794, two parties were well defined. That year Jefferson resigned his post as Secretary of State, partly to make more widely known his dissatisfaction with existing government

* Not all of these demands were agreed upon by all of the Democratic-Republican Societies. The programs of the various clubs differed greatly. Furthermore, not all of the demands of the clubs became part of the program of the Democratic-Republican Party.

policies, chiefly to take charge of welding into a national organization the opposition forces, with their roots in the Democratic-Republican societies.

In the camp of the Federalists there enlisted most of the men of riches, boasting loudly that they were the destined rulers of the country. These were the shippers, the big merchants, the manufacturers, the bankers, the speculators, the big northern landholders employing labor in a variety of forms, and the wealthiest of the southern slaveholders. Jefferson analyzed this group as consisting of "1. The old refugees and tories. 2. British merchants residing among us, and composing the main body of our merchants. 3. American merchants trading on British capital. Another great portion. 4. Speculators and holders in the banks and public funds. 5. Officers of the federal government with some exceptions. 6. Office-hunters, willing to give up principles for places."[8]

This reactionary grouping found its organizations ready at hand. The wealthy could be rallied at a moment's notice. The Federalists controlled most of the press. The Chambers of Commerce were at their beck and call. The clergy were, for the most part, hot in pursuit of democrats. The major colleges and universities were centers of Federalism; at election time they bestowed doctors' degrees on Federalist candidates—only to discover that the people cared not a hoot for their degrees and their honors. The army was under command of Federalist officers, whose ranks were carefully scrutinized to keep out the political opposition.* The Society of the Cincinnati, an organization of former officers of the Revolution, barred the rank and file of 1776, and was outspokenly Federalist in sympathy. Federal offices, and, in states and cities where Federalists were in

* Chauncey Goodrich, a prominent Connecticut Federalist, wrote to Oliver Wolcott, Secretary of the Treasury, in 1798: "Some of our friends suspect a concert to get as many [Democratic-Republicans] as they can into the army. Be that as it may, every one of them ought to be rejected, and men only of fair property employed in the higher and most confidential grades." (George Gibbs, ed., *Memoirs of the Administrations of Washington and John Adams*, Vol. II, p. 105, Printed for the Subscribers, New York, 1846.)

control, the lower offices as well were gifts to be dispensed by Federalists.

These were the people who plotted to curtail, and eventually to abolish, those popular rights which they regarded as unfortunate by-products of the Revolution.

In the opposing political camp there marched, for the most part, the small independent farmers, the most important numerical base of this group; the farm tenants; the indentured servants on farms and in cities; the artisans and mechanics; the small shopkeepers; the embryo wage-working class with its beginnings in the centers of shipping and commerce; and a large number of professional people. With them there traveled for a time the majority of southern slaveholders. Those merchants who were independent of England, either because they operated with their own capital or because their trade was with France and the French West Indies, were also part of the Democratic-Republican coalition, as were the manufacturers of goods which were in competition with England—iron, tobacco, sugar.

Slaveholders and Slaves

What brought the slaveholders into this alliance?

The largest of the slaveholders were Federalists.* Fear of slave revolts, fear that vast lands might be used for the public welfare, and a genuine hatred of democracy brought them to the side of the big merchants and large northern landholders. But the majority of the slaveholders—and these included many of the very wealthy—were Democratic-Republicans. They, too, wanted the land of the West. True, they wanted it, not for small farms, but for slave plantations; yet want it and need it they did, and they resented the interference of the English in their expansion.

Of the pre-war debt to England, the slaveholders owed the

* South Carolina was the center of southern Federalism. This can be accounted for partly by the weight of Charleston's merchants in state politics. (See U. B. Phillips, "The South Carolina Federalists," *American Historical Review,* Vol. XIV, April and July, 1909.) John Marshall, an outstanding Federalist, whom Adams appointed Chief Justice of the Supreme Court, was a Virginian.

greatest share and so fought her renewed attempts to collect these debts. More dependent on England for the sale of their products than was the North, the planters were bitter over the English practice of selling her manufactures to the South at high prices, and setting low prices on imported southern goods.

To their temporary allies—the farmers, artisans, workers—the slaveholders were forced to make concessions very foreign to the nature of slavery. They were constrained to accept a program that placed civil rights high on the list of its demands. And in opposing England, they ranged themselves of necessity on the side of France.

And the slaves?

Neither party espoused the cause of the slaves, although the triumph of the democratic forces in 1801 was to work objectively in their interests. The slaves were for the Democratic-Republicans, but the Democratic-Republicans turned their backs on the slaves. The weight of the slaveholders in the coalition sealed the lips of all but the boldest party leaders on this question.*

Many issues—disposition of the lands, methods of paying the national debt, democratic liberties, foreign policy—had already divided the two coalitions of classes which had at last bred two distinct political parties. Now a new problem arose. The federal government increased taxes. The Democratic-Republicans fought the taxes, particularly those that fell most heavily on the poor. And the Federalists used armed force to crush that opposition.

The Whiskey Rebellion

Most unpopular of all the taxes was that on whiskey. Farmers on the frontier found it difficult to get their grain to market because of poor roads; in the compressed form of whiskey, their produce could be transported more easily, and for them whiskey became a crude medium of exchange. When the government

* Because of the vast importance of the slavery question even at this early period, a more extended analysis of its relations to the two political parties will be made later in this pamphlet.

placed a direct tax on whiskey, it did so in full knowledge that this tax would fall almost exclusively on the frontier farmers.

In Pennsylvania, in 1794, farmers defied the collectors of the whiskey tax, stoned them, and burned their quarters; they resisted the arrest of farmers' leaders, and began to collect arms. Assembling 15,000 militia—more men than Washington had ever had under arms at one time—Alexander Hamilton, as Secretary of the Treasury, and determined to collect the tax and demonstrate the power of the federal government, led his forces against two hundred farmers. Having captured eighteen men who failed to escape the troops, Hamilton brought them back to Philadelphia and marched them the length of Market Street, guarded by soldiers. On their hats or foreheads the prisoners bore a placard with the word "Insurgent." Hamilton demanded the death penalty for the two men convicted of treason, but mass indignation forced Washington to pardon them.

Popular fury flared again the following year with the return from England of John Jay, prominent Federalist, who had agreed upon the terms of a treaty. Sent abroad ostensibly to discuss United States grievances, Jay surrendered through the treaty virtually all contested rights of his country. The Jay treaty sold the interests of the new nation at the behest of the wealthy classes of the United States dependent on foreign capital.

Fearful of making the treaty known, the Senate ratified it in secret and voted not to publish it. But the Philadelphia *Aurora,* most important of the opposition newspapers, having obtained a copy from a Democratic-Republican Senator, printed the text. Bitter at the government's betrayal of their interests, the people distributed handbills exposing the treaty. It was, they said, a plot to starve France and enable England to destroy her. They hanged John Jay in effigy. Before the English embassy they burned copies of the treaty; before the French, they held demonstrations of friendship. In town after town, mass meetings consigned the treaty to the flames.

Such was the state of things in 1797 when John Adams came to the Presidency. His accession was a triumph for Federalist reaction, and the Federalists made the most of it.

Clearly, in order to perpetuate themselves in power, the wealthy classes needed the weapon of repression. But there must be an excuse, a pretense. France would serve the rulers with this excuse—not the actualities of the French scene, but a dreadfully distorted picture of French domestic policies and a carefully prepared hoax of a French invasion. The Federalists, said a Democratic-Republican in Congress, wished to "excite a fervor against foreign aggression only to establish tyranny at home."[9]

Federalist Warmongering

In 1797, Adams sent a mission to France to discuss differences between the two countries. Even while the envoys were still under sail, the more rabid Federalists, led by Hamilton, sought to render their success impossible by constant talk of war. From the first days of the peace mission, Federalist Congressmen worked to heighten the war fever.

Early in 1798, Adams was able to announce to Congress that the mission had failed. The envoys had not been received by the government of France; but in Paris they had been approached by three Frenchmen—referred to by the mission as X, Y, and Z—who claimed they came from Foreign Minister Talleyrand. They demanded a bribe for Talleyrand and a large loan for France.

The United States and its people were not at the moment aware of the internal changes in France. Although that nation still represented a far higher stage of democracy than England and the rest of Europe, the downfall of the Jacobins in 1794 and the establishment of the Directory had signaled the end of the power of the petty owners—the peasants and small merchants—allied with the workers, and the restoration of big capitalist domination. In addition, besides representing a degree of political reaction compared with the period of Jacobin rule, the Directory was financially corrupt.*

* "From the middle of 1793," says A. L. Morton, the British historian, "to the middle of 1794—that is, to the overthrow of the Jacobins—was indeed the heroic age of the Revolution. After Thermidor power was assumed by the Directory, rep-

The story of the mission unleashed a hysterical outburst against France, which the Federalists consciously utilized. "Peace is a vain word, that would still deceive and divide," wrote Fisher Ames, a prominent Federalist.[10] President Adams demanded that Congress prepare armed defense, although Federalist leaders knew that France, fighting a powerful enemy, was anxious to preserve peace with the new world. The United States now opened an undeclared naval war against France, which continued for more than two years. The navy, acting under instructions to capture French vessels that interfered with United States trade, seized about 85 ships. Congress trebled the size of the army, called up enlistments for three years, authorized the President to borrow seven million dollars at eight per cent—an unheard-of rate—and levied heavy new taxes. Washington, in retirement, was appointed to head the army.

Yet there was no cause for alarm. The government of the United States, writes a leading historian, "could have had no genuine fear that there would be French military operations on this side of the Atlantic until France had first broken Britain's control of the sea. If France found it difficult to invade Britain, how much more so would it have been to reach America and to maintain French forces here against the British fleet!"[11] Adams himself wrote privately: "At present there is no more prospect of seeing a French army here, than there is in Heaven."[12]

Rumors and Alarms

Now began years in which the ruling class, served by Congress, press, and pulpit, dreamed up scare upon scare of French attack. As each hoax was exploded, a new one was blown up, to explode in its turn. Yet they sufficed. In this period of comparative weak-

resenting all the most disreputable sections of the bourgeoisie, the land speculators, currency crooks and fraudulent army contractors. Yet the Revolution left many permanent gains, above all the division of the great feudal estates and the smashing of all restraints on the development of trade and industry. The settlement of the agrarian question gave a firm basis for any government that was opposed to the return of the Bourbons and the nobility." (*A People's History of England*, pp. 353-54, Lawrence and Wishart, London, 1948.)

ness of the United States, few even among the wealthy desired open warfare with another country. They wanted, rather, a state of "mitigated hostility,"[13] as they themselves expressed it, under cover of which an army and navy could be built, and the people cheated of democracy. "Though I do not wish Congress to *declare war,* I long to see them wage it," wrote a Federalist of Massachusetts, saying in the same letter: "Nor do I see why attempts should not be made to go every proper length in Congress, as no time seems to promise such success to rendering the Jacobin members obnoxious before another election."[14] "I see much to be gained, and nothing lost, by putting the country in a state of war," wrote another Federalist, and went on to explain that in the event of peace "we lose the advantage of enforcing the act against alien enemies."[15]

That the main purpose of the army was to crush the people at home, the Federalists privately admitted and publicly denied. "Nobody has thought it prudent to say," wrote Oliver Wolcott, Secretary of the Treasury, in a personal letter, "that the army is kept on foot to suppress or prevent rebellions."[16]

Diligently the Federalists pumped air into the war balloon. The days and nights were electric with rumors. One day, a Federalist newspaper, *Porcupine's Gazette,* reported that the French had landed at Charleston and begun to plunder the countryside.[17] On another day, two New York papers chronicled the French invasion of Florida; later, one of these same papers said that the French forces from all over the United States were gathering at New Orleans.[18] President Adams caused the publication of letters he had received, outlining a French plot to burn Philadelphia; not everyone noticed that the letters were anonymous. Jefferson thought it probable that they were written by "some of the war men."[19]

Imaginary Conspiracies

In the same year that saw Adams' envoys sail for France, a book by John Robison was published in Edinburgh, entitled *Proofs of a Conspiracy*—a fanciful tale, purporting to be the truth, of an organization called the Bavarian Illuminati, whose aim was to subvert all government, religion, and morality, and which was responsible for the French Revolution. Robison's book was rushed to press in the United States, as was another on the same subject, by Augustin Barruel. These books became the basis for sermons and newspaper articles, in which the Democratic-Republicans were pictured as working secretly for the triumph of a vast international underground conspiracy.

"It has long been suspected," said the Reverend Jedediah Morse, "that secret societies, under the influence and direction of France, holding principles subversive of our religion and government, exist somewhere in this country. We have in truth secret enemies whose professed design is to subvert and overturn our holy religion and our government."[20] "Their principles," he said, speaking of the Illuminati, "are avowedly atheistical. They abjure Christianity—justify suicide—advocate sensual pleasures —decry marriage, and advocate a promiscuous intercourse among the sexes."[21]

Now there was, in fact, a Society of the Illuminati, formed in 1776 in Bavaria, for intellectual discussion, and which included the Duke of Brunswick, the poet Goethe, and a number of prominent educators and philosophers.[22]

Federalists also boomed the sale of Anthony Aufrere's book, *The Cannibal's Progress: or the Dreadful Horrors of the French Invasion, as Displayed by the Republican Officers and Soldiers, in their perfidy, rapacity, ferociousness and brutality, exercised towards the innocent inhabitants of Germany.*

The Federalists' structure of lies had now been raised so high that from behind it they were able to strike at the heart of civil liberties with the most cherished of Federalist schemes—the Alien and Sedition Acts.[23] These, indeed, had been the end and aim of the war fabrications. In the summer of 1798, with one of the repressive bills already made into law and three others pending, the *Gazette of the United States,* unofficial organ of the Federalist Party, declared that in case of war, "traitors and sedition-mongers, who are now protected and tolerated, would then be easily restrained or punished." [24]

First Congress rushed through laws against the foreign born. A Democratic-Republican Congressman denounced them in the House as "a sacrifice of the first-born offspring of freedom."[25]

The Alien Acts

The Alien Acts were three in number. One increased the period of residence for naturalization from five to fourteen years. Aliens already in the country were required to register.

The second Alien Act permitted the President to deport, without trial, any alien—not necessarily from an enemy country—or to intern him. This section of the Act read: "It shall be lawful for the President at any time during the continuance of this act, to order all such aliens as he shall judge dangerous to the peace and safety of the United States, or shall have reasonable grounds to suspect are concerned in any treasonable or secret machinations against the government thereof, to depart out of the territory of the United States."

The third Alien law was the Alien Enemies Act. It permitted the President to deport any enemy alien in time of war or threat of war.

Still more vicious laws against immigrants were proposed. One member of the House brought in an amendment to prevent anyone becoming a citizen except by birth; another amendment provided that no one not then a citizen could hereafter hold federal office.[26]

Why did the Federalist Party so sharply attack the foreign-born? Most immigrants were workers, artisans, mechanics, day laborers, farmers. Many were refugees from tyranny abroad; some had fled prison and the gallows in Europe. Inevitably, they found their home in the Democratic-Republican Party, joining their aspirations with those of native-born progressives.*

* The Federalists also resorted to anti-Semitism. (See Morris U. Schappes, "Anti-Semitism and Reaction, 1795-1800." Publications of the American Jewish Historical Society, No. XXXVIII, Part 2, December, 1948. See also Schappes, *Documentary History of the Jews in the United States*, Documents 51, 52, 54. Citadel Press, New York, 1950.)

In part, the Alien Acts were directed against the French. More particularly, the acts were aimed at the Irish, who had come here in large numbers because of English-created famine and oppression in Ireland. After England crushed the Irish rebellion of 1798, Irish immigration swelled to a flood. Many of the arrivals were members of the United Irishmen, dedicated to ending British rule in Ireland—an objective which the Federalists heartily damned and the Democratic-Republicans heartily espoused. In Pennsylvania, large numbers of German immigrants were active in the Democratic-Republican clubs. Immigrants from all countries entered the ranks of political progress.

The Alien Acts served yet another purpose—to smear the Democratic-Republican Party and its leaders as agents of a foreign power, France. The party was said to have its headquarters in Paris; democratic forces everywhere were said to be operating with French gold.

Painting the picture with wild strokes of the brush, the Federalists delineated secret groups in the United States preparing to assist by armed uprising an oncoming French invasion. After that would follow the nationalization of women, and the massacre of men, women, and children. Priests, in particular, were marked for slaughter. "The destruction of the Clergy in all countries is evidently a part of the French system," said the Rev. Morse. "In France the Clergy have been plundered, imprisoned, banished, or inhumanly massacred."[27]

The chief "French agent" was Thomas Jefferson.

The Sedition Act

The passage of the Sedition Act followed the passage of the last of the Alien Acts by eight days. It read:

"If any person shall write, print, utter, or publish any false, scandalous, and malicious writings against the government of the United States, or either House of the Congress, or the President, with intent to defame 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 to excite any unlawful combinations therein, for opposing or resisting any law of the United States, or any act of the President, done in pursuance of any such law, or to resist, oppose, or defeat any such law or act, or to aid, encourage or abet any hostile designs of any foreign nation against the United States, their people or government, then such person, being thereof convicted, shall be punished by a fine not exceeding two thousand dollars, and by imprisonment not exceeding two years.

"If any person shall be prosecuted under this act, it shall be lawful for the defendant to give in evidence in his defense, the truth of the matter contained in the publication charged as a libel."

It was the aim of the wealthy classes, through the Sedition Act, to illegalize every criticism of government acts or government officials, to drive the Democratic-Republican Party underground, and to perpetuate the Federalist Party in office.

"The plan of the leaders of the [Federalist] faction," said Tom Paine in after years, "was to overthrow the liberties of the New World. He that picks your pocket always tries to make you look another way. That no investigation might be made into its conduct, it [the Administration] intrenched itself within a magic circle of terror, and called it a Sedition Law. The pretended Sedition Law shut up the sources of investigation. The object was the overthrow of the representative system of government."[28]

The right of the accused to present "the truth of the matter" meant, under the specific circumstances in which the Sedition Act was administered, precisely nothing. The right to print an accusation, and to be free of punishment if the accusation could be proved, was one for which the people had long contended. Such a right made possible some degree, at any rate, of popular criticism. But Federalist judges rendered this concession a mockery by refusing to separate fact from opinion, and trying both. An opinion about the desirability of a law, or the competence of an official, is—an opinion. A libel was, in fact, whatever the Federalists chose to say it was.

How could a defendant, indeed, "prove" the Alien Acts unjust, the new taxes burdensome, the President unresponsive to majority will? "If one man should say of another that he stole a horse," said defense counsel at the trial of James Thomson Callender in 1800, "the assertion, if true, could be demonstrated to be true. But what sort of evidence would be necessary to prove that the reign of Mr. Adams had been one continued tempest of malignant passions? The circumstances to which the writer might allude, and which satisfied his mind that Mr. Adams was intemperate and passionate, would only prove to a man of different political complexion, that he was under the influence of a patriotic sensibility."[29]

Still more difficult, how could a defendant prove such a point to a judge and jury chosen by Federalists from among Federalists?

In none of the sedition trials was truth successfully argued in defense. The Federalists were determined to put their victims behind bars, and no case tried under the act resulted in acquittal.*

* It has proven impossible to state how many persons were tried for sedition from 1798 to 1801. Some prosecutions were carried out by the states, some by the federal government. Some cases were tried under the federal Sedition Act of 1798, some under the English common law of seditious libel, which the Federalists held to apply in the United States and to be under the jurisdiction of the federal as well as the state courts. Some cases were begun under the common law and concluded under the federal Sedition Act.

Not all those indicted for sedition were brought to trial. In two cases, those of Thomas Adams and Benjamin Bache, the death of the accused intervened. In the two cases against William Duane, Jefferson's accession to the Presidency resulted in quashing indictments not yet tried. At least two more were *nolle prossed*, one because the defendant was a widow who had inherited her husband's newspaper (the prosecution was then brought against her printing-plant foreman); another because of public outcry at the arrest of an elderly and much-loved figure, Jedediah Peck. The sedition case against John Daly Burk was dropped when he was ordered out of the country as an alien.

Frank M. Anderson says: "There appear to have been about 24 or 25 persons arrested. At least 15, and probably several more, were indicted. Only ten, or possibly eleven, cases came to trial. In ten the accused were pronounced guilty. The eleventh case may have been an acquittal, but the report is entirely unconfirmed." The report of this last case is based on a single reference in a newspaper. Anderson says also that "For eight or nine cases no information can be obtained beyond the fact of arrest for sedition." (See "The Enforcement of the Alien and Sedition Laws," Annual Report of the American Historical Association, 1912, p. 120 and n.)

The present author has been able to count eleven persons convicted of sedition

The legal basis of the Sedition Act was the seventeenth-century law of seditious libel, founded on the theory that political institutions are sacred and any criticism tends to disorder. In England and the colonies, the seditious libel law had been a dagger against all opposition. It was to destroy this weapon of reaction that the First Amendment was written into our Constitution. It was to destroy the guarantees of the First Amendment that the Sedition Law of 1798 was fashioned.[30] And this destruction of constitutional guarantees was conscious and deliberate, for Congress, debating the Act, rejected a resolution providing that nothing in it "ought to extend to abridge the freedom of speech and the press, or the right of the people peaceably to assemble and to petition the Government for a redress of grievances, as established by the Constitution of the United States."[31]

The political philosophy of the Sedition Act was that of Thomas Hobbes—that while government is a contract between the people and the government, the power of the government, once chosen, is absolute, and not to be questioned. The philosophy of the Democratic-Republicans was that the people may at all times question their rulers, and make demands for change. One of the best expressions of this theory was that by Anthony Haswell, himself one of the victims of the Sedition Act: "When the people have deputed, they are not defunct."[32]

The Fight for Repeal

From the day the Alien and Sedition Acts were passed until they died with the end of Adams' administration, the people never ceased to fight for their repeal. Meetings of Democratic-Republican Societies, county meetings, gatherings of the state militia, urged Congress to end these acts. "Congress is daily plied with petitions against the alien and sedition laws and standing armies," wrote Jefferson to a friend.[33] And in another letter

in this period, under either the common law of seditious libel or the federal Sedition Act, all but one case being related in this pamphlet.

he said: "Even the German counties of York and Lancaster, hitherto the most devoted [to the Federalists], have come about, and by petitions remonstrate against the Alien and Sedition laws, standing armies, and discretionary powers in the President."[34]

Progressive citizens took note of their candidates' stand on these laws. A poem "On the Alien Law" reminded the voters:

Strong on your memories impress the fact,
Elect not him who sanctioned this act.[35]

In November, 1798, the Kentucky legislature passed what is known in our history as the Kentucky Resolution, which Jefferson wrote in secret. With specific reference to the Alien Acts, the resolution declared that they deprived the foreign-born of liberty without due process of law, of a public trial before an impartial jury, of the right to be confronted with the witnesses against them, of the right to counsel.

The resolution stated: "If the acts before specified should stand, these conclusions would flow from them: that the general government may place any act they think proper on the list of crimes and punish it themselves: that they may transfer its cognizance to the President or any other person, who may himself be the accuser, counsel, judge, and jury, whose suspicions may be the evidence, his order the sentence, his officer the executioner, and his breast the sole record of the transaction: that a very numerous and valuable description of the inhabitants of these United States being by this precedent reduced as outlaws to the absolute dominion of one man, and the barrier of the Constitution thus swept away from us all, no rampart now remains against the passions and the powers of a majority of Congress, to protect from a like exportation or other more grievous punishment peaceable inhabitants who may be obnoxious to the views or marked by the suspicions of the President, or be thought dangerous to his or their elections or other interests, public or personal: that the friendless alien has indeed been selected as the safest subject of a first experiment, but the citizen will soon follow, or rather has already followed: for, already has a sedition act marked him as its prey."

James Madison presented a similar resolution which the Virginia legislature passed.[36] The Kentucky and Virginia resolutions were sent to all other state legislatures, and the debates which followed broadcast among the people the knowledge that a movement of resistance was under way.

The Reign of Terror

With the passage of the Sedition Act, there began a reign of terror in which homes of the opposition were invaded, presses destroyed, leaders beaten in the streets. "We had alien and sedition laws, spies and informers," wrote a Democratic-Republican editor later. "Our dungeons were converted into habitations for patriots. The press was arrested, and the tongue stood still."[37]

Economic coercion also came into play. Democratic-Republican newspapers could obtain no printing contracts from the government, or loans from the banks. Merchants were asked to refuse employment to draymen and mechanics in the opposition party[38] and manufacturers of war materials were urged to discharge Democratic-Republican artisans.[39] Dr. James Reynolds, an active Democratic-Republican, was dismissed from the Philadelphia Dispensary.[40] Insurance companies in New York and Philadelphia stopped business for a time before important elections, hoping to frighten the people; they circulated petitions among their creditors in cities where, Madison said, there was "scarce a trader or merchant but what depends on discounts."[41] One insurance company was boycotted because the political activities of its owner did not suit the Federalists.[42] A Boston paper later summed up this pressure: "Nothing would pass current without being stamped with Federalism. A man could hardly sell his bread, his milk, or his meat, without designating it Federal. If he wanted to hire a house, the first question asked would be: 'Are you a Federalist or a Republican?' If a tavern was advertised in the paper to be let, there would be a *nota bene* at the foot of it, 'None but Federalists need apply.'"[43] Long after the terror, Jefferson wrote: "No person who was not a witness of the scenes of that gloomy period, can form any idea of the afflicting persecutions and personal indignities we had to brook."[44]

Stool-pigeons were at a premium. The dreadful warning of Edward Livingston in Congress took on flesh: "What a fearful picture will our country present! The system of espionage being thus established, the country will swarm with informers, spies, delators, and all that odious reptile tribe that breed in the sunshine of despotic power. The hours of the most unsuspecting confidence, the intimacies of friendship, or the recesses of domestic retirement, afford no security. The companion whom you must trust, the friend in whom you must confide, are tempted to betray your imprudence; to misrepresent your words; to convey them, distorted by calumny, to the secret tribunal where suspicion is the only evidence that is heard."[45] And when the laws had been repudiated, a writer recalled: "Spies were employed to report every action and word. No public company was free from these hired slaves of tyranny. The tables of the virtuous were betrayed by their hypocrisy."[46] "I pray you," admonished Jefferson in a private letter in 1799, "always to examine the seals of mine to you, and the strength of the impression. The suspicions against the government on this subject are strong."[47]

Victims of the Alien Laws

No deportations took place under the Alien Act; this does not measure the havoc it created. One of the prime purposes of the Act, to smear the opposition as "foreign agents," was accomplished in full. How many intended immigrants put aside their plans and remained abroad no one can know. Nor can we know how many of the foreign-born already in our country curtailed or abandoned their political activities, nor how many fled.

"There are indications, if not proofs," writes Frank M. Anderson, "that a considerable number of aliens, anticipating the enforcement of the law, left the country on account of it. The archives of the Department of State contain abundant evidence that directly after the passage of the alien law large numbers of these French refugees* left the United States . . . there are indications that with some of them apprehension on account of the alien law was a factor in bringing about their departure."[48] We also have the word of Jefferson: "The threatening appearances from the Alien bills have so far alarmed the French who are among us, that they are going off. A ship, chartered by themselves for this purpose, will sail within about a fortnight for France, with as many as she can carry."[49]

John Daly Burk, editor of the *Time Piece,* was arrested in July, 1798. Born in Ireland, he was forced to flee because of his attempted rescue of a patriot being led to the gallows. He escaped to the United States disguised in women's clothing.

In New York, he made of the *Time Piece* an outstanding opposition organ. In the prevailing atmosphere of warmongering, Burk worked for peace. He characterized the perspective of war with France as "the most melancholy, ruinous and disastrous to Liberty, and the subject of demoniac satisfaction to Kings."[50]

On the basis of this and other writings, Secretary of State Timothy Pickering instructed the U. S. District Attorney for New York to gather evidence that would lead to Burk's deportation, or to his imprisonment for sedition, or, perhaps, to both. Pickering was eager for the kill. "If Burk be an Alien," he wrote, "no man is a fitter object for the operation of the Alien Act. Altho' Burk should prove to be an Alien, it may be expedient to punish him for his libels, before he is sent away."[51] Burk was arrested for sedition. Henry Rutgers, a wealthy merchant and the founder of Rutgers University, furnished bail. It was finally agreed, however, that Burk should be deported at once.

Burk did not leave the United States. Jefferson was making it known that Virginia would give asylum to victims of Federalist persecution and in his letter to the Irish-born Archibald Hamilton Rowan he promised that if Rowan's deportation were ordered, Virginia would protect him.[52] Burk went into hiding, first

* The French who left the United States in fear included not only French progressives, but monarchists who had fled the bourgeois revolution of 1789, Girondists who had fled the Jacobins, and adherents of slavery who had fled Haiti. The anti-French hysteria made no distinctions.

in New York and then in a Virginia town, until the Alien and Sedition laws were a memory.

World-wide renown in scholarship did not save immigrants from the threat of deportation. Joseph Priestley, a British scientist, was already known here upon his arrival in 1794 as one of the greatest scientists then living. Priestley had openly sided with the French Revolution, and when Edmund Burke attacked it on behalf of world reaction, he, like Tom Paine, wrote a reply. As a result his house in Birmingham was mobbed and burned to the ground, and Priestley fled the country, to be welcomed by the Democratic-Republicans and abused by the Federalists. Pickering urged his deportation, but the Federalists could not agree among themselves on the measure of danger they might expect from Priestley, and he remained. His invaluable scientific work in Pennsylvania was conducted in the midst of an incessant barrage of vilification.

Sedition Act Prosecutions

With the opening of the prosecutions under the Sedition Act, the Bill of Rights became, in effect, a nullity. Freedom of speech, press, petition and assembly were voided. Through biased jury selection, defendants were deprived of a trial by a jury of their peers. Bail was refused, or was set at impossible figures. Cruel and unusual punishments were meted out, for the victims were thrown into the worst prisons that could be found. Judges imposed long jail sentences and heavy fines, and those who helped collect money for the fines were in their turn persecuted.

Unashamed jury packing was a feature of all the trials under the Sedition Act. The Federalist President appointed Federalist marshals, who in five of the states had power to summon the grand and petit juries, which were not then chosen by lot. The grand juries handed down indictments to be tried before petit juries which almost never included a Democratic-Republican, even in areas where a Federalist was a rare specimen and members of the opposition party were as many as fish in the sea. A historian of a much later era, himself unfriendly to Jefferson, wrote: "In these prosecutions, trial by jury in any real sense was not to be had."[53]

In every possible manner, court procedure was perverted to Federalist ends. The trials were hasty affairs. In one case, that of Callender, the accused was tried and convicted in one day. Defense counsel were so harassed from the bench, so often interrupted and sneered at, that on occasion they withdrew. Federalist judges seized the opportunity to make stump speeches.

The Jailing of a Congressman

No one, either Federalist or Democratic-Republican, could have foreseen that the first victim of the federal Sedition Act would be a member of Congress.

Matthew Lyon, born in Ireland, came to the United States as an indentured servant, and was sold to a farmer in exchange for two stags. His background of foreign birth, poverty, and hard toil was the cause of endless merriment to the Federalists, who dubbed him "ragged Mat, the Democrat."[54]

Lyon fought in the Revolutionary Army, serving with the Green Mountain Boys. After the war, he became an iron manufacturer. Elected to Congress from Vermont in 1796, he was foully attacked by Federalist fellow-members and by the Federalist press. Between his two terms of Congress, and largely in order to prevent his re-election, the Federalists struck at him with the Sedition Act.

A letter served as the basis of his indictment in 1798 and his trial in Rutland. Lyon had said that Adams had "unbounded thirst for ridiculous pomp, foolish adulation, and selfish avarice."[55] The letter, written before the passage of the Sedition Act, was printed later in the reactionary *Vermont Journal.*

Lyon's statement was subject neither to proof nor to disproof; yet under the Sedition Act his only defense was to prove his allegation.

A second count in the indictment was that Lyon had published in his paper, *The Scourge of Aristocracy,* a letter from the poet Joel Barlow, formerly of Connecticut, now living in France. Barlow had been shocked at the warlike tone of President Adams' message to Congress in November, 1797. "When we found him," Barlow wrote, "telling the world that although he should succeed in treating with the French, there was no dependence to be placed on any of their engagements, that their religion and morality were at an end, and it would be necessary to be perpetually armed against them, we wondered that the answer of both Houses had not been an order to send him to a mad house."[56]

It was enough to bring the Federalist wolves howling about the Vermont Congressman. This Lyon knew. Only a few days before he went to prison, he wrote in his paper: "Every one who is not in favor of this mad war, is branded with the epithet of Opposers of Government, Disorganizers, Jacobins, etc."[57] That Lyon had printed the Barlow letter before the Sedition Act was law did not worry the prosecution.

Of the grand jury, Lyon wrote from prison that its members had been "selected from the towns which were particularly distinguished by their enmity to me."[58]

The sentence, imposed by Judge William Paterson after a Federalist harangue, was four months in jail and a fine of $1,000.*

Cruel and Unusual Punishment

But more was to come. Lyon was not jailed in the county where he lived and was tried. Immediately after sentence, he was rushed forty miles on horseback to Vergennes, and placed in the dead of winter in a cell without heat and without glass on the windows.

The struggle for Matthew Lyon's freedom went on inside the jail and outside. Incarcerated, he wrote articles and letters, and addressed mass meetings that gathered outside the prison. Several thousand Vermont residents sent a petition for pardon to President Adams, who rejected it, saying: "Penitence before pardon."

* Since in that decade $200 was an average year's wage for a worker, the sum of $1000 was enormous. When the poet Philip Freneau entered the service of the State Department as translator, he received $250 a year.

But, still imprisoned and still impenitent, Lyon was overwhelmingly re-elected to Congress.

Now payment of the thousand-dollar fine became more urgent. If it were unpaid, Lyon would not arrive in Philadelphia to take his seat in Congress. Friends arranged a lottery to raise the money, and this led to a second arrest in Vermont.

On the day when Lyon's prison sentence was to expire, Senator Stevens T. Mason of Virginia arrived at Vergennes on horseback, carrying in his saddlebags the money for Lyon's fine, donated by southern members of the party. Galloping up to the doors of the jail, Mason found thousands of Vermont residents already gathered. Much in evidence were the veterans of 1776. Now a lively but friendly dispute ensued for the honor of paying the fine. A veteran called upon each man to place money on the stump of a large tree, and in a moment it was covered with silver.*

The jail doors opened, and Lyon, emerging, at once mounted a horse, crying out that he was on his way to Philadelphia. Along the entire route, his ride was a triumphal march; at every city, town, and crossroad, the people gathered to hail him.

The Federalists brought the wheel of persecution full circle in Vermont when they arrested Anthony Haswell for having advertised the lottery to pay Lyon's fine. Haswell, like Lyon, was a veteran of the Revolution; he was postmaster general of the state, and printer and editor of the *Vermont Gazette* at Bennington.

The Federalists had long hoped to silence Haswell. On September 8, 1798, before Lyon's trial, Haswell wrote in his paper: "The editor of the *Vermont Gazette,* has been and is threatened with prosecution under the sedition law: with tarring and feathering, pulling down his house, etc. We would only inform them that their threats are void of terror, that we shall conscientiously keep

* A third collection was prevented from reaching the Vergennes jail when the Rev. John C. Ogden, who had solicited funds in Philadelphia, was arrested on his way back to Vermont on the excuse that he owed Oliver Wolcott, Secretary of the Treasury, some money he had borrowed years before. (Claude G. Bowers, *Jefferson and Hamilton,* pp. 388-89, Houghton-Mifflin Co., Boston, 1925.)

our post, and neither court their visit nor shrink from their attack."[59]

When friends brought Haswell a lottery advertisement on behalf of their Congressman, he printed it gladly. It read: "Your representative is holden by the oppressive hand of usurped power in a loathsome prison, suffering all the indignities which can be heaped upon him by a hard-hearted savage. But time will pass away; the month of February will arrive, and will it bring liberty to the defender of your rights? No. Without exertion it will not. Eleven hundred dollars must be paid for his ransom."[60]

This, the Federalists said, was a libel on the marshal in charge of the Vergennes prison. The advertisement remarked, too, that the Tories of the Revolutionary War now had the confidence of the government, and this also was considered a libel. Haswell was tried at Windsor and sentenced to two months in jail and a fine of $200.

While Haswell was in prison, his daughter became fatally ill, but he was refused permission to go to her bedside. Yet he was able to write his wife: "A dungeon and conscious innocence, exceeds a palace and corroding guilt."[61]

That year of 1800, the citizens of Bennington postponed their Fourth of July celebration until July 9, when the printer-editor was to be released. They greeted him at the door of the jail, and he led the procession of two thousand through the town.

A Tory Indicts a Patriot

Haswell's contention that the Tories now stood well with the Federalists was borne out when a grand jury, having as its foreman a man who had served with the British during the Revolution, handed down an indictment against Charles Holt, editor of the New London, Connecticut, *Bee*. The *Bee* was a Republican voice crying in the wilderness of Federalist-gripped Connecticut. The Philadelphia *Aurora* wished its sister journal well, noting that it "rises under persecution, and the awakened people of Connecticut stretch forth their hands for the truths which it publishes."[62]

The charge against Holt was that by attacking the principle of a standing army, he had worked to prevent enlistments. "Are our sons," he had demanded, "to fight battles that a certain class of men may reap the spoil, or enlarge their power and fortunes upon our destruction?"[63]

Holt was tried in 1800 before Judge Bushrod Washington, and was sentenced to jail for three months and a fine of $200.

Journalists, editors, and printers composed the largest number of the victims of the Sedition Act, for the Federalist Party had a desperate fear of seeing the truth in print. The First Amendment was the Sedition Act's first victim.

The Federalists had hoped for a subservient press, and, by and large, they were not disappointed. The majority of newspapers were Federalist. For this there was much inducement, as the chief Federalist organs were subsidized by government printing contracts. The banks stood ever ready to assist a pro-administration journal in difficulties, and individual Federalists were generous with gifts of money to compliant editors.

There were other methods of holding the press in line. Daily, Pickering read the journals to find causes for indictments under the Sedition law. He constantly urged district attorneys to follow the press and start action against offenders.

The Fighting Press

As early as 1791, the progressives saw the need for a newspaper of national scope to oppose the Federalists, and the *National Gazette* was founded. Philip Freneau, poet of the Revolution, became its editor, and since no progressive paper could support itself, Freneau was given a job in the State Department under Jefferson. Although the *National Gazette* lived only two years, Jefferson was able to say: "His paper has saved our constitution which was galloping fast into monarchy, and has been checked by no one means so powerfully as by that paper."[64]

When Freneau's paper was suspended, the task of making the truth known fell chiefly upon the *Aurora,* of Philadelphia, edited by Benjamin Franklin Bache, grandson of Benjamin Franklin. Jefferson well knew the importance of the *Aurora.* When the Sedition Act was in the air, he wrote that "The object of that, is the suppression of the whig* presses. Bache's has been particularly named. That paper and also Carey's† totter for want of subscriptions. We should really exert ourselves to procure them, for if these papers fall, republicanism will be entirely brow beaten."[65]

The Federalists charged, with justice, that the *Aurora* was "the heart, the seat of life. From thence the blood has flowed to the extremities by a sure and rapid circulation, and the life and strength of the party have thus been supported and nourished."[66] A year after the Alien and Sedition Acts were passed, the *Aurora* editor could truly say that whatever freedom remained was due in large part to the Democratic-Republican press, which had done its work "in despite of open threats, of frequent danger, of the persecutions of power, and of unconstitutional laws."[67]

Thus it happened that the best loved and best hated of all the journalists of the day were the two editors of the *Aurora.*

The first was Benjamin Franklin Bache. On the day after Washington's retirement in 1797, Bache rejoiced in the *Aurora* that the Federalists could no longer use Washington's name for their own purposes. Promptly a crowd attacked the printing office, and type was hurled into the street. A few days later, an anti-democratic riot broke out. Windows and lamp-posts were smashed, and the statue of Benjamin Franklin was smeared with mud because he had helped achieve the alliance with France during the Revolution. There were renewed threats against Democratic-Republican editors.

Federalist fury flamed against Bache when he printed, on the front page of the *Aurora,* in 1798, a letter from Talleyrand to the envoys from the United States, then in France, making it clear that France did not wish war. Conciliation was the last thing the Federalists desired, and Bache's publication of this letter

* The Whig Party in England opposed the reactionary Tories.

† Matthew Carey, editor of the Philadelphia *Carey's United States Recorder.*

made their task more difficult. The Federalist newspapers raged, charging Bache with treason. "Is it treason," retorted another progressive editor, "to tell our fellow citizens that the French will settle our differences without war—horrid, bloody war, useful only to a few placemen and pensioners?"[68]

The Sedition Act was pending in Congress, but the Federalists could not wait to lay their hands on Bache. Two weeks before the bill was signed, Bache was arrested under the common law of seditious libel.

As news of the indictment spread, the fame of the *Aurora* spread with it. Bache expressed his thanks to subscribers, whom he had once had to beg for payment; now, he said, they were sending him money in advance.

Before his trial could take place, Bache died of yellow fever in the epidemic of 1798. His death occurred at midnight; before morning, a throwaway was on the streets, signed by his widow and promising that the *Aurora* would live.

It lived. William Duane, who married Bache's widow, became the second editor of the *Aurora,* and fell heir also to the bitter hatred of the Federalists. It was not long before he was beaten unmercifully by thirty men who forced their way into his office.

Right of Petition Denied

A visit in 1799, by Duane and three others, one a physician and one a printer, to the yard of St. Mary's Catholic Church in Philadelphia, to post a petition to Congress for repeal of the Alien Acts and gather signatures from home-going worshippers, resulted in physical assault on the petitioners. Yet it was the petitioners, not their attackers, who were charged with seditious riot. One of the group, Dr. James Reynolds, was charged with attempted murder. The case was heard in the Philadelphia Court of Oyer and Terminer.

For the defense, this was an opportunity publicly to denounce the Alien Acts, and plead the right of petition. For the prosecution, this was a chance to bait the foreign born, and the prosecuting attorney, Francis Hopkinson, made the most of it.

"Aliens," said Hopkinson, "have no right whatever to petition —if aliens do not like the laws of this country, God knows there are ways enough for them to go back again. The greatest evils this country has ever endured have arisen from the ready admission of foreigners to a participation in the government and internal arrangements of the country."[00]

And so on and on—not merely a speech to convict four defendants, but a call to division and hate among the people. But the jury apparently cared little for Hopkinson's venom, and after deliberating for thirty minutes, acquitted all four. In part, the acquittal was due to the fact that the case had not been tried in federal court.

A second attempt to put Duane behind bars was made in 1799. An indictment for sedition was brought against him under federal law, and the trial opened at Norristown. But it was postponed on a technicality, and before it could be reopened, Jefferson was in office.

Meanwhile, a special Senate committee had been appointed for the purpose of dealing with Duane. He had published in the *Aurora* a Senate bill whose usefulness to the Federalists depended on its being kept secret until, at the last possible moment before the election of 1800, it might be hastily passed. The purpose of the bill was to prevent the election of Jefferson even if the Democratic-Republican Party received a majority at the polls and in the electoral college. A congressional committee, with power to subpoena, would go into secret session immediately after the election and investigate charges of bribery and coercion to determine which ballots might be counted. The committee's composition would insure its being dominated by Federalists.

Bitter at the *Aurora's* exposure and thwarting of its plans, the Senate commanded Duane's appearance. But both attorneys whom Duane chose to defend him declined to appear on the ground that the Senate Committee's rules precluded any real defense, whereupon, Duane defied the Senate's order. The editor's arrest on a contempt charge was ordered, but the

Senators were sharply divided on the case, and it was never heard.

The Federalists were not finished with Duane. In 1800 he was again indicted under the Sedition Act, for criticism of the Senate. The election of Jefferson prevented the case from coming to trial.

Death cheated the Federalists of the person of Thomas Adams, owner and editor of the Boston *Independent Chronicle.* For his attacks on the Alien and Sedition laws, he was indicted by a federal grand jury in 1798. Soon afterwards, the State of Massachusetts indicted him, under the common law of seditious libel, for his vigorous demand that the state legislature approve the Virginia Resolution against these acts. The legislature's refusal, the *Chronicle* said, was a violation of the oath of office. "All which printing and publishing," declared the Massachusetts indictment, "hath a direct and manifest tendency to stir up uneasiness, jealousy, distrust, and sedition in the Commonwealth, to turn the affections, good will, and allegiance of the Citizens from the same."[70]

Before either trial could take place, Thomas Adams died. During his illness, Abijah Adams, younger brother of Thomas and the *Chronicle's* bookkeeper, was charged by the state of Massachusetts with having spread the libel by selling the paper. Tried before Judge Francis Dana in 1799, Adams was sentenced to serve thirty days. And one day there appeared before the double bars of his cell a giant of the Revolution of 1776—Samuel Adams, organizer of the Sons of Liberty and the Committees of Correspondence, moving spirit of the Boston Tea Party, now chief of the Democratic-Republican forces of Massachusetts. The fighter against the tyranny of England had come to greet the fighter against the new tyranny of the Federalists.

With the editor dying and the bookkeeper in jail, the *Chronicle* continued publication. "The Editor is on the bed of languishment," the paper said editorially, "and the Book-keeper in prison, yet the cause of liberty will be supported amid these distressing circumstances."[71] The paper was able to report "an unprecedented increase in circulation" after the arrests.[72]

In the case of the *Chronicle,* the Federalists had extended responsibility from editor and owner to bookkeeper. In the case of the *Argus* in New York, they extended responsibility from owner to all the journeymen and apprentices in the printing plant. In 1799, the *Argus* copied from another paper an extract from a letter written in Philadelphia, stating that Alexander Hamilton was at the bottom of an effort to buy the *Aurora* with a view to suppressing it. Thomas Greenleaf, first owner and editor of the *Argus,* was dead, and the paper had passed to his widow. The prosecution therefore tried David Frothingham, foreman of the printing office, under the common law of seditious libel. At the trial, the prosecutor declared every employee of the *Argus'* printshop guilty of libel. The sentence against Frothingham was four months in jail and a fine of $100.

Judge Chase's Bloody Circuit

Most relentless of all Federalist judges in hunting down political quarry was Samuel Chase of the United States Supreme Court, a man who had been expelled from the Continental Congress for using his knowledge of pending measures to get a corner in wheat. Long after the Alien and Sedition laws were bygones, the country was to hear reverberations of Chase's conduct in the Adams administration. In 1805, at Jefferson's suggestion, the House of Representatives brought impeachment proceedings against Chase before the Senate.* And the trial's managers told the Senate that by the proceedings the people "wish to teach a lesson of instruction to future judges, that when

* Chase was cleared because the Senate, one-third of whose membership is elected every two years to serve a six-year term, had changed less in composition through the democratic election sweep of 1800 than had the House. The Federalists met before the trial opened, and voted unanimously to uphold Judge Chase. In contrast, Alexander Addison, president of the Court of Common Pleas, in Pennsylvania, was tried before the Pennsylvania Senate in 1803, removed from office, and disqualified from holding any judgeship in the state. Addison had made Federalist stump speeches from the bench. "Witnesses have been brow beaten," said the prosecution at Addison's trial, "jurors intimidated, and counsel have been obliged to abandon their profession or leave the country." (*The Trial of Alexander Addison,* p. 149, Lloyd and Hembold, Lancaster, Pa., 1803.)

intoxicated by the spirit of party, they may recollect the scale of power may one day turn, and preserve the scales of justice equal."[73]

The misfortune of a trial before Justice Chase fell upon David Brown, a mechanic—the first victim of what has come to be known in our history as "Chase's Bloody Circuit." On Brown was visited the most savage punishment of all those meted out under the Sedition Act, for his doctrines contained the most consistent application of democracy.* The Federalists branded him the "wandering apostle of sedition."

At Dedham, Massachusetts, Brown had erected a liberty pole, and pinned to it a leaflet which read: "No Stamp Act,† No Sedition, No Alien Bills, No Land Tax; downfall to the Tyrants of America, peace and retirement to the President, long live the Vice-President [Jefferson] and the Minority."[74]

Examining Brown's writings, devoted in large part to demands that the unsettled lands be devoted to the public welfare, the Federalists found the following passage:

"They have sold the lands by fraud. Here is the one thousand out of the five millions that receive all the benefit of public property and the rest no share in it. All our administration is as fast approaching to Lords and Commons as possible—that a few men should possess the whole Country and the rest be tenants to the others. There always has been an actual struggle between the laboring part of the community and those lazy rascals that have invented every means that the Devil has put into their heads to destroy the laboring part of the community."[75]

On trial for sedition at Salem in 1799, Brown was asked by Judge Chase to give the names of subscribers to an intended edition of his writings. Refusing, he was sentenced to 18 months in jail and to a fine of $450. The jail sentence was longer than that of any other victim of the Sedition Act, and, lacking both money for the fine and wealthy friends to assist him, Brown

* It is for this reason that "liberal" historians withhold their sympathies from Brown. Bowers describes him as "irresponsible" and Miller calls him a "harmless radical."

† The reference is to the federal tax on stamped paper.

remained in jail two years. He was pardoned when Jefferson became President.

The Persecution of Science

Thomas Cooper, friend to Joseph Priestley and like him an outstanding scientist and a refugee from England, also felt the bite of Chase's vindictiveness. Cooper, trained in law and medicine as well as chemistry, settled in Pennsylvania, where, in the midst of many other activities, he edited the *Sunbury and Northumberland Gazette* and contributed to the *Aurora.*

Secretary Pickering wrote in a letter than he wished Cooper could be gotten rid of; it was regrettable that he had obtained citizenship.[76] But if the Alien Acts were impotent against Cooper, the Sedition Act remained, and when in 1799 the scientist answered a Federalist attack against him, an indictment was brought for sedition.

A Federalist had written to the *Reading Weekly Advertiser* commenting on Cooper's current political views; the writer recalled that Cooper had once asked Adams for an office. Cooper replied that the situation had changed; that Adams was at that time "hardly in the infancy of political mistake. Nor were we yet saddled with the expense of a permanent navy, or threatened with the existence of a standing army."[77]

This was made the basis for indictment. The trial took place at Philadelphia in 1800.

In spite of the Constitution's guarantee that a man accused shall enjoy the right to have compulsory process for obtaining witnesses in his favor, Judge Chase refused to take steps to have process served on several members of Congress to testify for the defense. It was Cooper's plan to present their testimony to prove the truth of his statements. Thus to the usual difficulty encountered under the Sedition Act, of proving that which is a matter of opinion and cannot be proved, and to the added difficulty of adducing such proof before hostile judges and juries, selected with a view to conviction, Justice Chase brought yet another obstacle—he blocked all attempts to obtain the witnesses who would attempt the utterly thankless task of proof!

Acting as his own counsel, Cooper attacked the Sedition Act, the packing of juries, the gags on the press.

"Who nominates the judges who are to preside? the juries who are to judge of the evidence? the marshal who has the summoning of the jury?" Cooper asked, and answered: "The President."

"In the present state of affairs," he went on, "the press is open to those who will praise, while the threats of the law hang over those who blame the conduct of the men in power. Those who express a sentiment of opposition must do it in fear and trembling."[78]

The prosecutor was pained. Cooper's defense, he exclaimed, was "extraordinary and unexampled. It is no less than to call into decision whether Thomas Cooper, the defendant, or the President is best qualified to judge whether the measures adopted by our government are calculated to promote the happiness of America."[79] That a President might be in error was clearly not an idea to be entertained.

Judge Chase was also pained. Charging the jury, he said: "The motives of the President, in his official capacity, are not a subject of inquiry with you. Shall we say to the President, you are not fit for the government of this country?"[80]

Chase was particularly severe with Cooper's attack on Adams' warmongering. And he concluded: "The evident design of the traverser was, to arouse the people against the President so as to influence their minds against him on the next election."[81] The opposition, it seemed, was correct when it charged the Federalists with having passed the Sedition Act in order to keep their party in power.

The verdict was guilty. Judge Chase set the sentence at six months, but he was of two minds about the fine.

"There is room to suspect," he said, "that in cases of this kind, where one party is against the government, gentlemen, who write for that party, would be indemnified against any pecuniary loss; and that the party would pay any fine which might be imposed on the person convicted. If the fine were only to fall on yourself, I would consider your circumstances; but, if I could believe you were supported by a party inimical to the government, and that *they* were to pay the fine, not you, I would go to the utmost extent of the power of the court."[82] Judge Chase apparently considered it part of his task as a Federalist appointee to milk the treasury of the opposition party. He finally set the fine at $400.

Chase lengthened the list of his legal errors when in the same month he presided at the second trial of John Fries, in Philadelphia.

Taxation and Resistance

The Federalists were building an army and navy. The armed forces, to be used against the people, were raised in consequence of the war hoax. Opposition to the war hoax was met with repressive laws; and now much money was needed for soldiers and for ships, and for an elaborate governmental apparatus to administer the repression. The rich and well-born, as they termed themselves, had no intention of paying the costs. They could so easily shift this burden to the people. Therefore, adding financial insult to political injury, Congress in 1798 decided upon a direct tax on land, houses, and slaves. So men with measuring-rods swarmed over Bucks, Northampton, and Montgomery counties in Pennsylvania in 1799, took up their stand before farmers' houses, and began measuring windows.

But the assessors were quickly and inhospitably surrounded. Here came the men of the household, threatening to shoot the assessors in the legs; at the upstairs windows appeared the women, to throw boiling water over their visitors and set the dogs on them.

The assessors called meetings in the courthouse and attempted to explain the law. But the farmers knew the law; they did not like the law, and they howled the assessors down.

Not even at a table in a tavern could the assessors have peace. Farmers approached them and delivered speeches that made their meals unpalatable. Most determined and outspoken of the farmers was John Fries—and so the Federalists tried him and condemned him to die.

Fries was the son of a farmer, and had turned to auctioneering. As an auctioneer he was known throughout frontier Pennsylvania. When assessors were seized by a company of militia assisted by the people, several persons were arrested, in retaliation, at Bethlehem. A group headed by Fries intervened and liberated them.

Federalist reprisals on a mass scale began in earnest. Infantry patrols and mounted soldiers searched the countryside for every man known to have resisted the assessors. Most of all they sought Fries. A grand jury declared that Fries, "being moved and seduced by the instigation of the devil,"[83] must stand trial for treason.

Defense counsel at the trial in Philadelphia asked why the indictment had not been brought under the Sedition Act. The answer was that the Sedition Act did not provide for the death penalty.

Inadvertently, the prosecution at the Fries trial has left us a vivid picture of the part played by county meetings and state militia at the time. "Discontents did exist," said the prosecution. "In several townships, associations of the people were actually formed, to prevent the assessors measuring their houses; this opposition was made at many public township meetings called for the purpose.

"Shortly before the election, there were meetings called in different parts of the county; there was one at which the militia officers were particularly to attend, which I understood was intended to prepare a ticket for the election. Sundry resolutions were passed; one was that petitions should be formed to obtain a repeal of the alien and sedition laws, and the land-tax act. The captains of the militia companies were to be served with a copy of each of these petitions; I was likewise informed that this was done, and a five-penny bit each paid freely for a copy, though the Germans love their money so well."[84] The sneer at the foreign born was routine; no trial was complete without it.

After a verdict of guilty had been brought in, it was discovered by the defense that before the trial one of the jurors had urged that Fries be hanged. A new trial was granted.

Fries's second trial, in Philadelphia in 1800, with Judge Chase on the bench, was so conducted that both attorneys for the defense withdrew, declaring the case prejudged. Trial and verdict consumed but two days; the sentence was death. Fries was pardoned by President Adams when the gallows had already been erected for his execution.

Rigged Trial in Virginia

From Philadelphia, Chase hurried to the trial in Richmond of James Thomson Callender, a Scottish refugee. Callender's pamphlet, *The Prospect Before Us,* had enraged the Federalists, for it examined the misdeeds of their administration in such detail that the conclusions were irrefutable. On the basis of this pamphlet, Callender was indicted under the Sedition Act.

The Prospect Before Us denounced the Alien and Sedition Acts, the prevailing warmongering, the measures obstructing the sale of western land to poorer settlers, the burdensome taxation of the poor.

"For the last ten years," wrote Callender, "our public transactions have often originated in false alarms, operating on the public mind like as many shocks of electricity." As each bugbear vanished, another was "carefully fostered into consequence."[85] "The whole plan of a standing army was to support the views of a party."[86]

Callender emphasized that through the high price of land, farmers would be forced onto the estates of the great proprietors. "The aristocracy wish to confine the people, as much as they can, to the Atlantic shore. By this compression of settlements, the monopoly of land by a few principal jobbers, and the facility of collecting taxes, are meant to be preserved. The golden apples of the west are once more guarded by the dragon."[87]

Callender's trial for sedition was a masterpiece of persecution, and the country was to hear much of it then and later, for the impeachment proceedings against Judge Chase were to rest heavily on his errors in the Callender prosecution. That trial, the impeachment declared, was marked by "manifest injustice, partiality, and intemperance," and by "the use of unusual, rude, and contemptuous expressions towards the prisoner's counsel," by "repeated and vexatious interruptions of counsel," and "an indecent solicitude for the conviction of the accused."[88]

Looking through Callender's book at Annapolis, Chase declared to a companion—according to that companion's later testimony in the Senate—that he would take the book with him to Richmond; and that "if the state of Virginia was not totally debased, if there was an honest jury to be found in that state, he would bring Callender to punishment."[89] (Chase told the Senate that he had meant this as a joke.) On his way to Richmond, the judge referred to Callender as a "damned rascal," and regretted that he "had not been hanged."[90]

Federalists were difficult to find in Virginia in 1800. Yet Callender faced a jury composed of Federalists only. It was obvious that it must have taken more than ordinary zeal to pack that jury, and later the fact was proved.

Before the jury was chosen, Chase demanded privately of the marshal: "Have you any of those creatures called democrats on the panel?" Chase then urged: "Look it over, sir, and if there are any of that description, strike them off."[91] This conversation took place in the presence of a member of the bar, who told the story later at Chase's impeachment trial.

Likewise, at the same impeachment proceedings, the clerk of the federal court in Richmond testified that only three Democratic-Republicans had been listed on the jury panel. One of these men got no notice, another was out of town, and the third was excused when he stated his opposition to the Sedition Act. Another juror, however, was forced to serve although he admitted he had already made up his mind that the writing was seditious. This did not excuse him, said Judge Chase; no juror should be excused "for light and insufficient causes."

Browbeating Defense Counsel

Defense counsel included the most distinguished attorneys in the state, among them the attorney-general of Virginia. Chase cut them short. He ordered them to sit down. One of them stalked out of court, refusing to continue.

Of Chase's treatment of defense attorneys, in this case as in others, the judge's impeachment trial was told: "Before *him* the counsel are always contumacious. The most accomplished advocates of the different states whose demeanor to his brethren is uniformly conciliatory and temperate, are to *him,* and to him only, obstinate, perverse, rude, and irritating. Contumacy has been found to exist only where he presided."[92]

One of Callender's attorneys, George Hay, said at the same hearing: "I was more frequently interrupted by Judge Chase on that trial, than I have ever been interrupted during the sixteen years I have practiced at the bar. The impression on my mind was, that to get through the argument, I should be subjected to more humiliation than any man vindicating another in a court of justice was bound on any principle to encounter."[93]

Although the laws of Virginia allowed bail for all noncapital offenses, Chase ordered Callender held in close custody. Again, by the state laws, a misdemeanor was never tried at the same term in which the indictment was handed down, but Chase rushed Callender to trial at once.

Nor would Chase grant postponement to allow the defense to bring forward witnesses who were many hundreds of miles away; nor would he hear the one witness who arrived in time to testify.

Trial and verdict consumed but one day. Callender was sentenced to nine months in jail and a $200 fine. In prison, he wrote the second volume of *The Prospect Before Us,* bearing on its title page the words of St. John: "And hell followed."

From Richmond, Chase pressed on to Newcastle, Delaware, where, according to the impeachment proceedings later, he "did stoop to the level of an informer." He refused to discharge a grand jury which had found no indictments, and told them that "a highly seditious temper had manifested itself in the state of Delaware, especially in the town of Wilmington, where lived a most seditious printer."[94] He began to name the printer, caught himself, but urged the grand jury to look into the matter. Further, he urged the district attorney to procure a file of this printer's newspaper. No action was taken.

Editors who copied "seditious" matter from other papers were among those tried. Thus William Durrell, of the Mt. Pleasant, New York, *Register,* was sentenced to four months in jail and a $50 fine for reprinting an item from the *New Windsor Gazette.* He alone of all the victims of the Sedition Act was pardoned by Adams before his term expired.[95]

New York State Federalists attempted to annihilate the right of petition. Jedediah Peck, surveyor and lay preacher, a member of the state legislature, was an old man known to every family in Otsego County. On his travels there in 1798, he took with him a petition for repeal of the Sedition Act.

A bench warrant went out for Peck. In handcuffs, he was started at midnight on a march to New York City, two hundred miles away. But the people of every town turned out with cheers for the aged prisoner. The case was *nolle prossed.*

Now and then, a thread of farce was woven into the tragedy. Luther Baldwin, a citizen of Trenton, was one of a crowd when in 1798 John Adams passed through. Hearing a salute fired, a companion remarked to Baldwin: "There goes the President, and they are firing at his ———." Baldwin replied that he did not care "if they fired thro' his ———."[96]

This, the Federalists felt, was but the prelude to the overthrow of all civil order, and New Jersey prosecuted for sedition under the common law. Baldwin got off with a fine of $100.

Never during the life of the Sedition Act was a Federalist brought to trial for attacks upon the Democratic-Republicans, not even upon the Vice-President, Jefferson. Yet the Federalists were venomous in their assaults. "I have been for some time," wrote Jefferson, "used as the property of the newspapers, a fair mark for every man's dirt."[97]

Not even the peaceful settlement of differences with France could stop the wheels of the Sedition Act.

"Peace Scares"

From the beginning of the Adams administration, repeated "peace scares" threatening to conciliate France and the United States had made the sleep of the Federalists restless. Not ready for war, not even desirous of full-scale war for the time being, they yet wanted nothing less than they wanted a definitive peace, for where then would they find support for their army and navy, their Alien and Sedition laws?

Thus when Elbridge Gerry, the only member of the Adams mission who had stayed on in France after the XYZ affair, returned in the fall of 1798 to report that the French government wished a peaceful settlement, the Federalists were alarmed.

Equally disturbing to the Federalists' dreams was the mission of Dr. George Logan of Philadelphia, who arrived in Paris shortly after Gerry's departure. Logan went on his own initiative as a private citizen to sound out the possibilities for peace. He returned with the same conclusion as Gerry. Federalist officials received him coldly and Congress abused him as a meddler. So Logan, like many another Democratic-Republican before him, took the story to the *Aurora.* As a prominent and much-respected citizen, Logan's word bore weight.

Now there grew deeper a fissure which had existed in Federalist ranks from the beginning of the Adams administration. One wing of the party looked for leadership to Adams, another to Hamilton. Adams' own cabinet was made up of Hamilton men. The big merchants, bankers, shippers, and speculators, more dependent on British capital than any other section, and more fearful of the people, stood behind Hamilton and a policy of continued hostility to France. The large landowners of the North, together with the middle group of merchants and farmers, not dependent on England, and resentful of taxes which they knew to be in the interest of the wealthiest commercial elements, leaned toward Adams and a degree of conciliation. The high command of the Federalist party called the Adams group the "Half-Federalists" or "Betweenites."[98] The Adams wing of the party realized more clearly than the Hamiltonians that their warmongering would get little support from the people; had not all the events of the decade proved this?

So, in 1799, Adams, to the consternation of the more rabid party leaders, sent another mission to France. And this mission concluded peace, despite desperate last-minute efforts at sabotage by Hamiltonian leaders.

But the Alien and Sedition laws remained, and that was not to be wondered at, for these laws had not been created for the sake of the war; rather, the war had been created for the sake of these laws. Only the complete rejection by the country of the Federalist Party could bring these acts to an end.

And in the election of 1800, the people broke the Federalist grip on the nation. The discredited party used terror at the polls. It plotted to cheat the people of the election through a special Congressional Committee that was to challenge the returns. The exposure of this plan in the *Aurora* killed the bill. When the election was thrown into the House, the Federalists ordered a number of their members to vote for Aaron Burr, and this plan succeeded to the extent of delaying the outcome until February 17.

Yet, despite all its schemes, the Federalist Party was rejected. Now the people could express their joy in a song:[99]

The gloomy night before us flies,
The reign of terror now is o'er;
Its gags, inquisitors, and spies,
Its herds of harpies are no more!

Rejoice! Columbia's sons, rejoice!
To tyrants never bend the knee,
But join with heart, and soul, and voice,
For Jefferson and Liberty.

Here strangers from a thousand shores,
Compelled by tyranny to roam,
Shall find, amidst abundant stores,
A nobler and a happier home.

Let foes to freedom dread the name;
But should they touch the sacred tree,
Twice fifty thousand swords would flame,
For Jefferson and Liberty.

From Georgia to Lake Champlain,
From seas to Mississippi's shore,
Ye sons of Freedom, loud proclaim—
"The reign of terror is no more."

The End of the Alien and Sedition Acts

The Sedition Act and the worst of the Alien Acts were swept away with the Federalist Party. So many and so urgent were the petitions to Congress to repeal them, even before Jefferson's election, that a House Committee had reported on the matter in February, 1799. But the Federalists were still in control, and the Democratic-Republican members, after bitter debate, were forced to drop the question. However, when on June 22, 1800, the act for the deportation of aliens lapsed, the Federalists were unable to obtain its extension.

In 1802 Congress wiped out the Federalists' naturalization law and restored the act of 1795, requiring five years' residence for citizenship.

The Alien Enemies Act, however, remains on the books to this day.

The Sedition Act was to expire on March 3, 1801. In January, the Federalists attempted to renew it; one member said he hoped to make the act perpetual. In lugubrious words they drew a picture of the fate that awaited the nation under a democratic government. "The House had been told on a former occasion," reported the Congressional proceedings, "that the sun of Federalism was about to set: he [the speaker] confessed that he viewed with horror the awful night that would follow."[100]

The Federalists expressed no regrets for the Sedition Act; they wished it had been used oftener, believing that "very material benefits would have flown from it had ten prosecutions been instituted where one has been; had three or four venal presses been crushed and silenced."[101] They hoped that the Sedition Act would protect them should they be forced, "by the imbecility of any future Administration, to commence an opposition against it."[102] Were the Federalists, in looking to the Sedition Act and the courts to assist them in the future as in the past, recalling that the Federalist-appointed judges, including Samuel Chase, would continue on the bench? Were they thinking of the Judiciary Act they had recently enacted, creating additional judgeships which Adams would fill with Federalists before he left office?

It is certain that they were. In December, 1799, when the war hoax had completely collapsed, Fisher Ames wrote to Wolcott: "The steady men in Congress will attempt to extend the judicial department. It is impossible, in this country, to render an army an engine of government, and there is no way to combat the state opposition but by an efficient and extended organization of judges, magistrates, and other civil officers."[103]

But the effort to renew the Sedition Act failed, and it died on the midnight before Jefferson was to take office.

Every victim of the act still in jail in 1801 was freed by Presidential pardon. Later Jefferson wrote: "I discharged every person under punishment or prosecution under the sedition law, because I considered, and now consider, that law to be a nullity, as absolute and as palpable as if Congress had ordered us to fall down and worship a golden image."[104]

The Issue of Slavery

And yet—this was not the end of the story, for the progressives of 1800 did not achieve for the United States full bourgeois democracy. Worst of all the limitations on democracy in Jefferson's era was the continued existence and growth of slavery.

Within thirty years after the triumph of the Democratic-Republican forces in 1800, civil liberty was once more a casualty, ground to powder by a new and fearfully repressive ruling class, the slaveholders. For it was the great weakness of the party of progress in that day, lacking as yet the class forces of manufacturers and wage-workers that could wipe out slavery, that it turned its back upon the Negro people. Only a small group of anti-slavery Democratic-Republicans in the North struggled against the system of human bondage. The party demanded civil rights—but stopped short of Negro rights. It proclaimed liberty and elevated slaveholders to leadership; it talked of the rights of man and sent troops to put down slave revolts. James Monroe, Democratic-Republican governor of Virginia, crushed the Gabriel rebellion in 1800 less than three months before the election that put Jefferson in the White House. Thirty-five leaders of that revolt were executed, more than all those jailed under the Sedition law. The statement of one of the slaves after capture, that "we had as much right to fight for our liberty as any men," did not save him from the gallows.[105]

The petition of free Negroes of Philadelphia to the House in January, 1800, for a law against the slave trade, repeal of the fugitive-slave act, and gradual emancipation, was answered with a resolution that such petitions "ought to receive no encouragement from this House."[106] Only one member voted against it.

Victims of the Sedition Act who in court challenged their accusers and upheld the principles of liberty, equality, and fraternity, complained later from prison that they had been jailed along with runaway Negroes.[107]

Democratic-Republican newspapers even in northern states felt no scruples against carrying notices of rewards for runaway slaves. Thus on August 16, 1800, the *Aurora* ran an indignant election appeal saying that under the Federalists, "we have seen liberty and equality held up to scorn." But turn the page, and read this advertisement: "Twenty Dollars Reward. Ran away from the subscriber about 1st June last, a Negro girl named Rach, about twenty years of age. She went off to Philadelphia with a free sister of hers named Betty. I will give the above reward to any person who will secure her so that I can get her again."

Before the burning question of slavery, the Democratic-Republican Party reined in. On many an occasion the party and its leaders, face to face with this question that would not be buried, turned violently against the very principles they espoused.

When Federalists charged the French in the United States with abetting slave uprisings,[108] the Democratic-Republicans retorted hotly that the revolts were the work of Federalists, done to discredit the opposition. Furthermore, desperately fearing the effect of events in Haiti on the slaves of the mainland, they charged the Federalists with assisting Toussaint L'Ouverture in the struggle of the island against France. This "charge" happened to be true, for the Federalists hoped in this way to add to the difficulties of the French government, and to gain the trade of Haiti for England or for the United States.[109] Adams reopened trade with the Island while the embargo against France was still in force, sent a consul-general to Toussaint, and furnished the rebel forces with supplies.

The progressives even went so far as to say that the Alien Acts, by keeping white people out of the South, made Negro plots more likely by increasing the proportion of the black population and intensifying the problem of policing the slaves.[110] Also, they made known their fears that the Abolitionists would use the Alien Act to deport slaves back to their country of origin. Thus a House member was apprehensive that "Congress would again be appealed to by the advocates for an abolition of slavery."[111] Therefore, ran this singular reasoning, the anti-democratic acts should be renounced in order that slavery might more safely continue.

Slave Revolts

The slaveholders had, indeed, cause for alarm. The last decade of the eighteenth century witnessed a vast increase in slave uprisings. The slaves were aware of the bustle of democratic activity all around them—the meetings of the Democratic-Republican clubs, the celebrations of the militia which toasted the principles of democracy, the scurrying about with petitions. They listened, appearing not to listen; they read newspapers and handbills, pretending that they did not know how to read*;

* "Peter Freneau [brother of Philip and editor of the *Charleston City Gazette*] discovered that nearly 200 copies of his republican newspaper were taken daily, from his printing office, by slaves." (Eugene P. Link, *Democratic-Republican Societies, 1790-1800*, p. 185, Columbia University Press, New York, 1942.)

and they let the white man's struggle leaven their own hopes for freedom. A leading United States diplomat wrote: "Certainly there are motives sufficiently obvious, independent of the contagion of Jacobinism, to account for an insurrection of the slaves; but I doubt not that the eternal clamour about liberty in V[irginia] and S[outh Carolina] both, has matured the event which has happened."[112]

And the slaves thrilled to the news of the uprisings in the French West Indies. How well they understood the principles of the French revolution is shown by the orders of Gabriel, leader of the great Virginia slave revolt of 1800, not to harm Frenchmen.[113]

The party of progress deprived itself of a magnificent source of strength, the Negro people. It tied its own hands. It diluted its principles and weakened its own struggles. Turn and twist as it would, the question of slavery still confronted it.

The Federalists were defeated and the Alien and Sedition laws were wiped out. But slavery lived and grew, and the slaveholders became the power that gripped the nation.

The Democratic-Republican struggle against Federalist tyranny failed on this one vital question; and this failure bred new and more terrible repressions. Once more a fight would be called for. This time it would bring forth four years of civil war.

* * *

Thirty-four years after the passage of the Alien and Sedition Acts, the House of Representatives, on January 20, 1832, voted to return the fines collected by the Treasury from the victims of the Act. The committee's report stated:

"The committee are of opinion that the law was unconstitutional, null and void, and that the mistake ought to be corrected by returning the fine so obtained.

"No question connected with the liberty of the press ever excited a more universal and intense interest. All that now remains to be done by the representatives of a people who condemned this act of their agents, to place beyond question that mandate of the constitution prohibiting Congress from abridging the liberty of the press, is to refund from the Treasury the fine thus illegally and wrongfully obtained."[114]

So the fines, with interest, were returned to the heirs of the victims—to the descendants of Lyon, of Cooper, of Haswell.

"The prosecutions of Lyon and Callender, of Cooper and Holt," said a writer of the time, "are the best commentary upon the Sedition law." And he prophesied that when all the arguments of Federalist judges were no longer remembered, the names of those whom they sentenced would "be quoted in support of the liberty of the press."[115]

Their names and their courage will never be forgotten.

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