

“FURTHER CONCESSIONS CANNOT BE ATTAINED”: THE JAY-GRENVILLE TREATY
AND THE POLITICS OF ANGLO-AMERICAN RELATIONS, 1789-1807

by

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Introduction: “Hopes for constructing an improved world order.”

In late September 1793 the British privateer *Oporto* intercepted the American brig *Birmingham* in the North Sea. Though her papers gave British-allied Amsterdam as her destination, the privateer’s commander Charles Hamilton suspected the brig’s cargo of belonging to émigré planters of French Saint-Domingue residing in the brig’s home port of Baltimore. One young foremast sailor in the American ship’s crew reported hearing Bordeaux named as the true destination, and claimed that while lading in Baltimore “Frenchmen had come on board almost daily to see the cargo.” Hamilton also rested his case on the brig’s lack of certain required papers such as a muster roll, and several other relatively minor discrepancies. Unfortunately for Hamilton, the brig’s master William Foster proved quite adept at orchestrating prize court cases. Foster immediately filed a complaint that the privateer’s owner had bribed the young foremast sailor to give false testimony and offered him a bribe of £300 to make a like statement. He also accused the prize crew of theft from the cargo and having, “by their negligence and misconduct, occasioned... considerable damage.” Foster produced copious documentation, including twenty-nine bills of lading and eight affidavits naming various American, Dutch, and British citizens as the cargo’s owners and consignees.¹

In the face of strong evidence the captors’ legal counsel advised them to request release of the *Birmingham*, maintaining only their claim to her cargo. But Foster refused to receive his vessel alone, protesting in a formal court brief that doing so would constitute breach of contract. Foster produced such numerous, lengthy and detailed responses to each of the captors’ claims, briefs and motions that the captors accused him of spurious tactics to muddy the legal waters. In early March 1794 London’s High Court of Admiralty largely accepted Foster’s case, releasing

¹ Papers relating to the brig *Birmingham* [William Foster, master], British Public Records Office, High Court of Admiralty record group 45, vol. 17 [hereafter cited HCA 45/17].

the vessel and American produce among her cargo with an order that the captors pay the full costs and damages claimed. The court retained the French colonial produce among the cargo, but ordered the captors to support their claim of its enemy ownership with further proofs. The tenacious Foster immediately appealed for restoration of the entire cargo. The captors' response complained of Foster's conduct, calling his defense "irregular and oppressive" on account of his "bringing forward of petitions and loading the cause with a variety of extraneous papers." In late April 1795 a second High Court hearing ruled against Foster, condemning the contested portions of the cargo. Undeterred, the American filed a second appeal. Four years later, in May 1799, the Lords Commissioners of Appeals overturned the ruling, restoring the cargo's full value.²

Foster's case is illustrative of the often costly, painful and difficult manner in which the French Revolutionary and Napoleonic Wars engulfed Americans through their global commerce. On 1 February 1793 Revolutionary France declared war on Great Britain, expanding a conflict already raging on the European continent to every corner of the oceans. Some ten weeks later President George Washington formally proclaimed American neutrality, in spite of the United States' military alliance with France dating to 1778. To the chagrin of the Parisian revolution's most enthusiastic American admirers, Washington interpreted the alliance treaty very narrowly, noting that it obligated protection of French colonies in defensive wars only. The proclamation, which forbade Americans from "committing, aiding, or abetting hostilities against any" nation, dashed French hopes of treating U.S. ports as bases of operation for their war ships. The French Republic's first minister to the United States, 'citizen' Charles Genêt, had recently landed in Charleston. He immediately began authorizing willing U.S. citizens to serve France as privateers, and also instructed his consuls to process and sell enemy prizes French vessels brought into their ports. Unlike Washington, Genêt interpreted the 1778 treaties broadly and insisted that they

² *Birmingham papers*, HCA 45/17.

implicitly assured France of such assistance. By August Genêt's defiant continuation of these practices had made him so obnoxious to the Washington administration that even pro-French Secretary of State Thomas Jefferson acquiesced in the President's request for his recall.³

Americans of radical republican sentiment gave Genêt a rapturous welcome. Those more skeptical of France's increasingly chaotic revolution hoped to remain free of any involvement in Europe's conflict, minimizing the risk of domestic upheaval. Unfortunately a British order of the king-in-council issued on 8 June 1793 shattered any hope that neutral American vessels might profit from the war while the nation remained entirely unaffected. George III's Privy Council instructed commanders of His Majesty's ships to seize neutral cargos of grains bound to French ports. British authorities would then either purchase the foodstuffs at market prices or release them on bond for onward voyages to friendly ports. Jefferson protested the order as an "unequivocal infringement of neutral rights." Britain's minister in Philadelphia George Hammond cited established legal writers to argue that "reasonable hope" of reducing an enemy to surrender through starvation permitted temporary classification of foodstuffs as contraband. Ultimately the Provisions Order, as it became known, caused American merchants considerable inconvenience but little material loss. More egregious and largely uncompensated abuses resulted from a second order dated 6 November 1793, authorizing vessels participating in Vice-Admiral Sir John Jervis and General Sir Charles Grey's campaign against the French Leeward

³ For details on the debate over neutrality, particularly the essays Alexander Hamilton and James Madison exchanged under the pseudonyms 'Pacificus' and 'Helvidius,' see William R. Castro, *Foreign Affairs and the Constitution in the Age of Fighting Sail* (Columbia: University of South Carolina Press), 2006; Article twenty-one of the 1778 Treaty of Amity and Commerce prohibited Americans from accepting commissions as privateers in the service of France's enemies; article twenty-two prohibited France's enemies from equipping ships or selling prizes in U.S. ports. Revolutionary authorities viewed the two articles together as implicitly granting such aid to France. For details of the Genêt mission see Harry Ammon, *The Genet Mission* (New York: Norton, 1973). For Genêt's political significance in America see Ammon, "the Genet Mission and the Development of American Political Parties," *Journal of American History* 52, no. 4 (March 1966): 725-41.

Isles to seize any vessel laden with enemy produce, regardless of the vessel's registry or cargo's ownership. British forces seized and condemned more than three-hundred American ships.⁴

A new order-in-council dated 8 January 1794 replaced the earlier measures, returning British rules for restriction of neutral trade to their historic norms. Even still, British rules fell far short of the liberal practice enshrined in article twenty-three of the 1778 Franco-American treaty that neutral-flagged vessels protected any cargo from capture—the Dutch originated liberal principle that ‘free ships make free goods.’ News of seizures in the West Indies reached American ports during the spring of 1794, causing public outcry in a nation still sensitive to any insult from its former mother country. Convening in the first week of March, the U.S. Congress soon began considering military and naval measures, a trade embargo, and other such legislation. Despite encouragement from leading Federalist Senators to attempt diplomacy, Washington remained convinced that Britain intended war until the arrival in early April of a dispatch from U.S. minister Thomas Pinckney in London confirming repeal of the controversial orders. Assurances that William Pitt's ministry welcomed negotiation convinced the President to appoint a special envoy. Washington nominated Supreme Court Chief Justice John Jay, an experienced diplomat whom the Senate confirmed by a two-thirds majority in mid-April.⁵

The emerging opposition party—self-identified ‘republicans’ coalescing around the leadership of Thomas Jefferson and Congressman James Madison—objected to Jay as a partisan

⁴ Citing in particular Swiss jurist Emmerich de Vattel, Hammond argued that French universal conscription laws rendered as *de facto* contraband any cargo of foodstuffs bound to ports controlled by revolutionary authorities. For details of the controversial orders-in-council see Charles Ritcheson, *Aftermath of Revolution: British Policy Toward the United States, 1783-1795* (New York: Norton, 1971; first published Dallas: Southern Methodist University Press, 1969), 275-88. Both will henceforth be referred to by their short-hand titles, the Provisions Order and the November Order.

⁵ The 8 January 1794 order-in-council subjected to capture neutral goods bound to any port under close blockade, owned by enemy citizens, deemed contraband of war, or bound directly from one enemy port to another in contravention of Britain's ‘Rule of War of 1756.’ For text the Provisions and November orders, and similar acts of the British and other governments see *Message from the President transmitting copies of all Acts, Decrees, Orders and Proclamations affecting the commercial rights of neutral nations issued since 1791* (Washington: Government printing office, 1808); For details on the war crisis of 1794 see Stanley Elkins and Eric McKittrick, *The Age of Federalism* (New York: Oxford University Press, 1993), 375-404.

choice. They suspected him of antipathy to France and excessive devotion to eastern mercantile interests. Jay's willingness to exchange temporary suspension of American claims to navigation rights along the Mississippi River for commercial concessions from Spain had alienated Westerners in 1785. His known antipathy toward slavery alarmed Southerners still hoping to gain compensation for the runaways British forces emancipated during the Revolutionary War. The opposition press and the nation's growing network of democratic-republican societies expressed concern at the choice. Most did not even await Jay's departure, let alone his return, to begin vocalizing skepticism as to the fruits of his mission. Jay reached London in June 1794, only shortly after Britain's Foreign Secretary Lord William Grenville received dispatches from America alerting him to the full extent of the crisis. Relative economic liberals, Grenville and his cousin and ally William Pitt looked favorably on the American overtures for a commercial treaty and wished to avert war. Negotiations proceeded steadily in a cordial spirit, producing a provisional agreement by November. The terms satisfied every *sine qua non* of Jay's instructions, including indemnification for American losses under the late orders-in-council and handover of British-occupied forts in the Northwest Territory. The treaty also accorded with Jay's instructions in not contradicting preexisting obligations to France as the Washington administration interpreted them.⁶

⁶ Various 'democratic-republican' societies sprung up nationwide from the spring of 1793 onwards. Modeled both on French Jacobin clubs and on American Sons of Liberty groups, the societies formed committees of correspondence to exchange information nationwide regarding events in Europe, Philadelphia and elsewhere. Part debate clubs, part philosophical societies, and part political action committees, defining the groups and tracing the extent of their influence is difficult. The short-lived movement largely ran its course by mid-1795, at least in part due to the open hostility of President Washington, who viewed them as illegitimate attempts to exert non-electoral pressure upon the government. See Laura Foner and Elizabeth Vandepaer, *The Democratic-Republican Societies, 1790-1800: A Documentary Sourcebook of Constitutions, Declarations, Addresses, Resolutions, and Toasts* (New York: Praeger, 1976); For details of Jay's 1785 negotiations with Spanish minister Don Diego Gardoqui see Walter Stahr, *John Jay: Founding Father* (New York: St. Martin's, 2005), 212-7; On Jay as a figure in inter-sectional politics see Richard B. Morris, "John Jay and the New England connection," *Proceedings of the Massachusetts Historical Society* 80 (1968): 16-37; British forces retained possession of several posts in territory ceded to the United States in the 1783 Treaty of Paris in retaliation for various state laws preventing British creditors from suing for collection of pre-war debts owed to them, also in contravention of the peace treaty. Ritcheson, *Aftermath of Revolution*, 49-90; Despite the author's over-estimation of the greater pressure Jay might have exerted, the most

The first ten articles of the Jay-Grenville Treaty settled various outstanding points of diplomatic tension, operating in perpetuity or until fully executed. Most importantly these established jointly appointed arbitral committees to settle various boundary disputes, indemnify American merchants, and compensate British creditors for unpaid debts predating U.S. independence. The remaining eighteen articles contained commercial terms operative for ten years or two years after the cessation of war in Europe. These liberalized trade across the British North American border, permitted Americans to trade directly between their home ports and the British East Indies, and admitted American vessels of up to seventy-tons to the British West Indies [though without the right to subsequently re-ship goods to Europe]. The treaty also granted mutual ‘most favored nation’ status, assuring the ships of each nation the lowest rates of duty levied against foreign vessels in the ports of the other—this privilege extended to the ports of Britain’s European dominions such as Hanover. Grenville viewed these terms as very generous—indeed, economic traditionalists within Britain criticized him for granting them. In exchange Jay agreed to a list of items considered contraband of war more expansive than Americans preferred. He also agreed to defer further discussion of the ‘free ships’ rule for the life of the treaty. These concessions temporarily set aside American insistence on liberal maritime legal standards.⁷

Copies of the treaty reached Philadelphia shortly after the adjournment of Congress in early March 1795. Since the new Congress would not convene until December, Washington called a special Senate session to begin in June. Behind closed doors and under a self-imposed gag rule, Senators engaged in three weeks of fierce debate. Republicans objected to the expanded

detailed account of Jay and Grenville’s negotiations is still Samuel Flagg Bemis, *Jay’s Treaty: a Study in Commerce and Diplomacy* (New York: MacMillan, 1923).

⁷ For an abstract of the treaty’s terms see appendix. On the treaty and Britain’s economic traditionalists see Bradford Perkins, “Lord Hawksbury and the Jay Treaty negotiations,” *Mississippi Valley Historical Review* 40, no. 2 (Sept., 1953): 291-304.

contraband list, limitations on assistance Americans could offer French war ships, lack of compensation for slaves, and various other terms. Despite their recalcitrance a two-thirds majority approved all but the twelfth article on 24 June. Five days later Virginia Republican Steven Masons defied the gag rule and passed a copy of the treaty to the new French minister Pierre-August Adet. Its terms soon appeared with unfavorable commentary in Benjamin Franklin Bache's rabidly republican *Aurora Daily Advertiser*, sparking waves of popular protest. These events coincided with the arrival of news that a new order-in-council had temporarily resumed British grain seizures. Hammond justified the order on the ground that the treaty's eighteenth article listed foodstuffs as contraband in certain instances, but failed harvests and bread riots in England seemingly motivated the measure.⁸

Public meetings nationwide petitioned the President not to ratify. Others encouraged him to do so. Partly on the advice of Jefferson's successor Edmond Randolph, Washington delayed a decision to await revocation of Britain's recent order-in-council. Matters changed dramatically when Hammond delivered to Oliver Wolcott, the virulently Federalist Secretary of War, an intercepted dispatch from former French minister in Philadelphia Joseph Fauchet. The letter criticized Washington's administration as monarchist, calling Republicans "the patriotic party" and appearing to imply that Randolph had accepted bribes to promote French interests. Incensed, the President shared Fauchet's dispatch with the entire cabinet and demanded an explanation of Randolph, who promptly resigned. Washington also signed the treaty in mid-August without further news of the British order, partly due to the now suspect nature of Randolph's advice. The widely revered executive's signature did not immediately quiet contention, but along with three other causes it turned the tide of debate. Between mid-July 1795 and January 1796, Alexander

⁸ For an account of the ratification debate focusing on the difficulty of walking the diplomatic tightrope between Britain and France see Alexander DeConde, *Entangling Alliance: Politics and Diplomacy under George Washington* (Durham, NC: Duke University Press, 1958), 110-40.

Hamilton and New York Senator Rufus King produced under the pseudonym ‘Camillus’ thirty-eight forceful pro-treaty essays. Their efforts received timely aid from the conclusion of two unrelated treaties. In the first, signed at Ft. Greenville in August 1795, Gen. Anthony Wayne pacified the Western Confederacy of native tribes and opened the Northwest Territory to settlers. In the second, signed in late October at the Spanish court in Madrid, Thomas Pinckney and Don Manuel de Godoy secured terms for Americans to navigate the Mississippi and use New Orleans as a commercial port of entry. Along with the handover of the Western posts and commercial concessions Jay had secured, these treaties offered lucrative opportunities over every horizon.⁹

By early 1796 public sentiment seemed increasingly to favor execution of the once-hated treaty, but opposition leaders in the House of Representatives remained implacable. Though Congress convened in early December 1795, Washington withheld his request for funds to execute the treaty until the following March. The delay allowed shifting public opinion time to mature. When finally presented, Edward Livingston of New York met the President’s request with a motion demanding submission of Jay’s confidential instructions and dispatches. Two weeks of debate ensued. Republicans set the House’s Constitutional right to regulate commerce against Federalist insistence on the exclusivity of executive and senatorial treaty-making powers. Though Washington declined to comply, the motion’s overwhelming victory by a two-thirds majority seemed ominous for advocates of appropriations bill. House debate on that measure consumed an entire month. But as public petitions arrived increasingly favoring the treaty, and as pro-treaty speeches from Federalist stalwarts turned the tide on the House floor, the Republican majority dwindled. A final vote on the last day of April produced a slender two-vote majority for

⁹ For the Treaty of Greenville see Francis Paul Prucha, *American Indian Treaties: The History of a Political Anomaly* (Berkeley: University of California Press, 1994), 89-100; For the importance of the treaty with Spain see Samuel Flagg Bemis, *Pinckney’s Treaty: a Study of America’s Advantage from Europe’s Distress, 1783-1800* (Baltimore: Johns Hopkins University Press, 1926).

appropriations, finally resolving three-years of crisis in an effective Anglo-American treaty. Sadly this outcome did not resolve partisan differences.¹⁰

Depending on perspective, the Jay-Grenville Treaty might appear at least partly responsible for producing the outcomes both its promoters and detractors prophesied. A decade of remarkable and wide-spread prosperity followed its ratification, U.S. exports more than doubling in value under its operation. Some two-thirds of American trade involved a British port somewhere in the world at some stage of its voyage. Much of the remainder benefitted from the expanded [if imperfect] protection the treaty granted U.S.-flagged vessels. Unfortunately the treaty also—rightly or otherwise—alienated authorities in Paris. Partly as a result of Jay’s then-ongoing mission in London, a Committee of Public Safety decree dated 18 November 1794 essentially reneged on the Franco-American treaty’s ‘free ships, free goods’ commitment. A second decree the following January exempted American vessels, but this reprieve lasted only sixteen months. Following the House appropriations vote the newly established Executive Directory announced on 2 July 1796 French intent to subject neutral nations to whatever treatment they accepted from Britain. Thereafter French ships, particularly privateers in the West Indies, preyed on American vessels at considerable cost.¹¹

French distrust deepened further after Washington recalled James Monroe, the popular U.S. minister in Paris, for his open criticism of the Jay-Grenville Treaty. In November 1796 the

¹⁰ For the Republican fight against the treaty in Congress see Andrew Burstein and Nancy Isenberg, *Madison and Jefferson* (New York: Random House, 2010), 296-312. Also see Jack N. Rackove, *James Madison and the Creation of the American Republic*. Library of American Biography, series editor Mark C. Carnes (Third edition, New York: Longman, 2007), 137-46.

¹¹ For the best summary of improved Anglo-American relations under the treaty’s operation see Bradford Perkins, *The First Rapprochement: England and the United States, 1795-1805* (London: Cambridge University Press, 1955). For more on the economic benefits of Anglo-American trade see chapters two and three; the November 1794 decree excluded from French commitment to the ‘free ships’ rule vessels of any nation failing to insist in its treaties that its flag cover ad protect French goods. For details of this and subsequent rules see *Acts, Decrees, Orders and Proclamations*. For the effects of those decrees see Greg H. Williams, *The French Assault on American Shipping, 1793-1813: a History with Comprehensive Records of Merchant Marine Losses* (Jefferson, NC: McFarland and Co., 2009).

Directory refused to receive Monroe's replacement, Charleston Federalist Charles Cotesworth Pinckney. Recently inaugurated President John Adams's decision in March 1797 to send two extraordinary peace envoys to join Pinckney in Paris resulted in the infamous 'XYZ affair.' French foreign minister Charles Maurice de Talleyrand-Périgord demanded a personal bribe and a large loan to France as the price of initiating negotiations. Publication of the incensed envoys' dispatches in American resulted in two years of undeclared naval conflict with France. The so-called 'Quasi-War' reinforced Republican convictions that pro-British monarchist conspirators lurked behind all Federalist policy, particularly the Jay-Grenville Treaty and draconian 'Alien and Sedition Acts' of 1798. Those latter measures squandered much of the popular good will Federalists enjoyed at the height of the Franco-American crisis, contributing to Jefferson's narrow defeat of Adams in the presidential election of 1800.¹²

News of a peace convention signed in Paris reach America just too late to aid Adams's reelection campaign. Jefferson took his oath of office in March of 1801 as convinced as ever that the Jay-Grenville Treaty had prostrated a free republic before a monarchist overlord, abandoning truly republican foreign policy principles. In mid-1803 he appointed Monroe as minister to London, fresh from his successful negotiation of the Louisiana Purchase in Paris. Though Napoleon's rise to power had dulled much of Monroe's pro-French sentiment, he remained *persona non grata* in London for his earlier criticism of Jay. With the exception of a brief trip to Madrid during 1805, he remained in England for four unhappy years. Monroe gained no traction in talks with a series of short-lived Foreign Secretaries regarding British impressment of seamen

¹² For Franco-American relations around the turn of the nineteenth century see Alexander DeConde, *The Quasi-War: the Politics and Diplomacy of the Undeclared War with France, 1797-1801* (New York: Scribner, 1966). Also see Ralph Adams Brown, *The Presidency of John Adams* (Lawrence: University Press of Kansas, 1975), 149-75.

from American vessels. He nevertheless admitted to Madison in July 1804 that “our commerce has never enjoyed in any war as much freedom and favor with the government as it does now.”¹³

One month later Britain’s Foreign Minister Lord Harrowby informed Monroe of his government’s willingness to extend operation the Jay-Grenville Treaty until two years after war in Europe should cease. The U.S. minister could only answer that he possessed no authority to agree to such. Thus, the treaty responsible for the “freedom and favor” American commerce enjoyed expired in November 1804. The following May the Lords Commissioners upheld an earlier prize court ruling against the brig *Essex*, condemned at Nassau in 1799 for carrying a cargo of Barcelona wine to Havana via Salem. Admiralty judge Sir William Grant ruled payment of U.S. customs alone insufficient proof of *bona fide* neutral ownership, closing the ‘broken voyage’ loophole through which American merchants had so profitably evaded the Rule of ’56 under the operation of the Jay-Grenville Treaty. Monroe and Maryland’s William Pinkney entered negotiation for a new treaty against a backdrop of rising British seizures of American goods and sailors, and with inflexible instructions from James Madison. They found then Prime Minister William Grenville’s short lived ‘Ministry of All the Talents’ willing to give no better terms than Jay had secured a decade earlier—terms Monroe ironically accepted in a draft treaty in November 1806 and which Jefferson and Madison refused to even submit to the Senate for consideration. While not its sole cause, the Jefferson administration’s refusal to renew imperfect terms of amity and commerce with Britain contributed to an escalating cycle of tension, culminating in the War of 1812. Though no longer so enamored of France, Jeffersonians remained implacably hostile to any compromise on liberal principles of neutral rights with

¹³ James Monroe to James Madison, 1 July. Stanislaus Murray Hamilton, ed., *The Writings of James Monroe* (New York: G. G. Putnam’s, 1900), 4:218-22.

Europe's most resolute anti-republican monarchy. The Jay-Grenville Treaty represented a regrettable abomination—a mistake they would not repeat.¹⁴

This dissertation begins addressing some of the central themes and questions of Anglo-American relations during the treaty's lifespan in an unusual manner. Employing social history methodology, chapter one uses admiralty court records to explore British treatment of American-claimed property and describe merchants' experiences. Emphasizing in particular the work of the article VII compensation commission, the chapter argues that British authorities made full, fair, and even generous [if tardy] restitution for earlier maritime depredations. Admiralty casebooks also indicate a considerable improvement in British treatment of American vessels following ratification of the treaty. In the only book-length study addressing the Jay-Grenville Treaty's operation Bradford Perkins asserts that the article VII commission's "success reflected credit on all concerned." He praises British government for accepting "in good grace the huge and unanticipated sum charged against her, even though many of the awards were for provisions seizures brought within the jurisdiction of the commission by the long delay in American ratification." Though he presents clear evidence of Anglo-American rapprochement, a detailed survey of prize court cases after 1795 might have led to even stronger conclusions as to the treaty's merits. Instead Perkins is cautious. "Far from being completely satisfactory," he says with regard to its terms on maritime law and neutral rights, the treaty "nevertheless was the first proof that [the U.S.] was important enough to secure any concessions from a major power."¹⁵

The only published work addressing prize cases in relation to the treaty is Joseph Fewster's study of seizures made off Martinique during the Grey-Jervis expedition. Focusing

¹⁴ Monroe reported his conversation with Harrowby in a dispatch to Madison dated 7 August 1804. *Ibid.*, 4:228-36; For details of Monroe and Pinckney's mission see Donald Hickey, "The Monroe-Pinkney Treaty of 1806: A Reappraisal," *William and Mary Quarterly* 44, no. 1 (January, 1987): 65-88.

¹⁵ Bradford Perkins, *The First Rapprochement: England and the United States, 1795-1805* (London: Cambridge University Press, 1955), 142, 5.

primarily on the length of time American claimants waited for compensation, Fewster concludes that the cases reveal “how well founded were Jay's fears about the delays and expense of litigation.” Nevertheless, he also suggests that in the years after ratification “Grenville’s measures to reform vice-admiralty courts in the [West Indies] shows that the lessons of the Martinique episode had not been forgotten and that British ministers had a genuine desire to remedy American grievances.” By offering a larger sample extending to cases arising later and over a wider geographic radius, chapter one builds upon Fewster’s article to show just how dramatically American fortunes in British admiralty courts improved—delays notwithstanding.¹⁶

Greater guarantees against seizure and expanded commercial concessions within Britain’s vast empire enabled American merchants to realize unprecedented profits during the decade to 1805. Many merchants perceived the lucrative opportunities offered and supported the treaty immediately. Others reacted ambivalently, while some joined the chorus of public protests against ratification. But, not surprisingly given the positive view of the treaty established in chapter one, merchants generally warmed to its terms and supported ratification sooner and more enthusiastically than their fellow citizens. David Booth’s unpublished 1957 doctoral dissertation observes that while “some merchants... desired a diplomatic mission” in 1794, “it was not until later, when the treaty’s terms became known, that the full force of the mercantile interference was manifested on behalf of the treaty.” Booth’s study largely focuses on the Constitutional implications of the ratification debate within the federal government, paying scant attention to public discourse. While scholarship on the emergence of the ‘first party system’ and American political culture is quite vast, only Todd Estes has devoted an entire monograph to public involvement in the Jay-Grenville Treaty debate. He argues that “because both sides appealed

¹⁶ Joseph M. Fewster, “The Jay Treaty and British Ship Seizures: The Martinique Cases,” *William and Mary Quarterly* 45, no. 3 (July, 1988): 451.

directly to the people in an open effort to shape and mobilize public opinion” the treaty debate helped to “legitimize popular politics.” Thus the process “did more than solidify partisan divisions and rivalries: it altered the entire political system within which the nascent parties operated.” Despite its many merits Estes’ study makes only passing mention of the particular role merchants played in the process.¹⁷

As the conclusion of chapter two briefly shows, economic and maritime historians have expressed interest in the treaty’s pecuniary significance to American merchants, largely agreeing that it proved highly profitable. But economic historians rarely address political culture. Likewise, the long-term value of specific diplomatic measures to particular interest groups do not automatically command the attention of historians like Estes making broader observations as to the evolution of political culture. William Nesbit Chambers’ case study of party development during the Early Republic era identifies the treaty as the first nationwide partisan contest. He asserts that, “after their early hesitations, Federalist leaders made the treaty a party measure. Various mercantile and investing groups saw concrete advantages in its terms, as did western land speculators.” Chambers notes, for example, that only one of North Carolina’s twelve Congressmen supported the treaty, “and he represented the commercial town of Fayetteville... [on] the Cape Fear River.” He describes the party divide as more than a simple contest between agricultural and urban districts. While “the seaboard and urban areas where mercantile interests continued to lean Federalist,” the party’s success did depend heavily “on a strong subsoil of agriculturalists” including smaller-scale farmers “in areas where most of the crop was produced for... the export market.”¹⁸

¹⁷ David Booth, *The Constitutional and Political Aspects of the Jay Treaty, 1794-1796* (PhD diss., University of Virginia, 1957), 426; Todd Estes, *The Jay Treaty Debate, Public Opinion, and the Evolution of Early American Political Culture* (Amherst: University of Massachusetts Press, 2006), 212-3.

¹⁸ William Nisbet Chambers, *Political Parties in a New Nation, 1776-1809: An American Experience* (New York: Oxford University Press, 1963), 79, 119-20.

Chambers' study—one of the foundational works on the formation of the 'first party system'—established an outline of the American political landscape at the turn of the nineteenth century which subsequent scholars have expanded but altered relatively little. Political scientist John Hoadley added detailed statistical models charting voting patterns in elections and within Congress, revealing the emergence of distinctly partisan habits quite early during the 1790s. Hoadley calls the treaty a culmination “of negotiation over a number of concerns,” not only in transatlantic diplomacy but within domestic politics. He summarizes it as granting “favorable trade status to Britain at the expense of France,” and calls Republican opposition “the predictable product of [appointing] a Federalist envoy.” Rudolph Bell's study of Congressional voting patterns confirms Hoadley's findings, calling the treaty debate “the beginning point for national party machinery.” Bell shows that the fourteen House members who voted with Republicans on the motion for submission of Jay's papers but against them on appropriations all represented more or less commercial districts. Maryland's three “crossover” delegates present a typical case, “representing area's... most affected by rapidly expanding commercial activity.”¹⁹

James Sharp does not question Hoadley and Bell's findings on voting patterns but takes issue with their nomenclature. He asserts that both Federalists and Republicans viewed themselves as patriots possessing “a corner on truth [that] did not allow for the development of conventional political parties.” Sharp insists on the term ‘proto-parties’ and views the treaty debate as primarily belonging to “deep-seated and enduring sectional conflict” between Eastern and Southern states. Despite differing interpretations of party development, Sharp shares earlier scholars' view that the treaty set merchant interests politically against more agrarian impulses.

¹⁹ John F. Hoadley, *Origins of American Political Parties, 1789-1803* (Lexington: University Press of Kentucky, 1986), 136; Rudolph Bell, *Party and Faction in American Politics: the House of Representatives, 1789-1801* (Westport, Conn.: Greenwood Press, 1973), 24-5, 149.

“Federalists,” he states, “attempted to counter the torrent of popular opposition by enlisting merchants and others who had a vital stake in trade with Great Britain.”²⁰

Despite widely acknowledging the importance of merchant support to the Federalist Party and the centrality of the Jay-Grenville Treaty to the emergence of parties, no scholar of early American politics has produced a focused study of merchant influence on the ratification debate. Stephen Kurtz’s chapter on the Federalist campaign to secure appropriations comes closest, though his narrative is one of ‘top-down’ centrally directed activity. According to Kurtz, Hamilton decided “to organize protest meetings and petition Congress,” motivated by a conviction “that the public might be safely split and dealt with in segments.” Thus the arch-Federalist political strategist’s “primary concern was to move merchants, brokers, and bankers to protest; the rest would either follow or find their mumblings drowned.” Chapter two provides a more balanced study, presenting merchants’ political influence as authentic and original. From the papers of various Philadelphia merchant families the chapter partially reconstructs the range of opinions merchants expressed on the treaty, and the actions they took for and against it. Although the sample size is small, Philadelphia merchants lived in the nation’s capital and within a politically contested state constituting a sectional middle ground—or in modern parlance, a ‘swing state.’ Thus letters between Philadelphia merchants and their correspondents nationwide offer a representative survey. To expand this view the chapter also employs the papers of George Washington, who as the symbolic and actual center of the ratification process conducted extensive correspondence with many parties. Chapter two reveals the relatively favorable views

²⁰ James Roger Sharp, *American Politics in the Early Republic: the New Nation in Crisis* (New Haven, Conn.: Yale University Press, 1993), 135, 133, 119-20.

of the treaty held by those most interested in, affected by, and equipped to judge it. This builds on the positive view of its terms already established.²¹

Regardless of differing views on the fairness or value of its terms, no historian of the Early Republic doubts the Jay-Grenville Treaty's immense domestic political significance. Following the partial reevaluation of the treaty's historiographical reputation offered in chapters one and two the remaining chapters address its American political context. This begins in chapter three with an exploration of its relationship to the Federalist—specifically Hamiltonian—vision of political economy. Despite never holding any formal diplomatic office, the first Secretary of the U.S. Treasury so influenced Anglo-American relations that Samuel Flagg Bemis suggested scholars refer to 'Hamilton's Treaty.' But despite such recognition of his central role scholarly understandings of Hamilton's goals in promoting the treaty largely conform to one of four varieties of misconception. The first, and most unfair, accepts his rivals' characterization of a proactive anglophile. Bemis's otherwise excellent monograph makes too much of Hamilton's back-channel conversations with Hammond, claiming that in assuring the British minister of Washington's determination not to join any armed neutrality league he decisively undermined Jay's bargaining position before talks even began. While defining the treaty as an acceptable compromise, Bemis views more extensive commercial concessions as realistically obtainable. Alexander DeConde is even less generous, presenting Hamilton as an instinctual Francophobe whose influence rendered the United States a *de facto* British satellite at the expense of the "embarrassing" Franco-American alliance. The strongest condemnation of Hamilton comes from Jefferson biographer Julian Boyd, who claims that his conversations with British agent George Beckwith between 1789 and 1791 bordered on treason. Boyd believes that Hamilton aimed to

²¹ Stephen Kurtz, *The Presidency of John Adams: the Collapse of Federalism, 1795-1800* (Philadelphia: University of Pennsylvania Press, 1957), 59.

undermine the Secretary of State and engineer an Anglo-American alliance. To some extent such interpretations all portray the Jay-Grenville Treaty as a fruition of pro-British partisan designs.²²

The second variety of mischaracterization juxtaposes the first, implicitly defining Hamilton's foreign policy as serving some kind of self-evident national destiny. Helene Johnson Looze calls him a visionary "nation builder" who correctly perceived that future independence and prestige necessitated economic stability. This in turn hinged upon Anglo-American trade as "the most productive source of national wealth." Gilbert Lycan's similarly glowing narrative overstates Hamilton's influence as "the chief author of United States foreign policy from 1791 to 1798." Lycan states that "mutual interests, both material and ideological, called for Anglo-American cooperation; Hamilton undertook the enormous task of bringing both nations to an awareness of their interdependency." Like Hamilton's more adulatory biographers, Looze and Lycan portray an Olympian statesman, singularly capable of perceiving the republic's only possible future interests. Not viewing his economic vision as one of numerous possible political economies, neither scholar explores the relationship of foreign policy to his broader ideology.²³

The third misconception of Hamilton involves an overstatement of his interest in national military strength. Jerald Combs calls the Jay-Grenville Treaty "the battleground of the Founding

²² Samuel Flagg Bemis, *Jay's Treaty: a Study in Commerce and Diplomacy* (New York: MacMillan, 1923), 270. While Jay's detailed narrative of the Jay-Grenville negotiations is remains the standard account, Jerald Combs and others have questioned how Hamilton's statement to Hammond actually affected Jay's leverage; DeConde, *Entangling Alliance*; Boyd, Julian P. *Number 7, Alexander Hamilton's Secret Attempts to Control American Foreign Policy, with supporting documents*. Princeton, N. J.: Princeton University Press, 1964; For a slightly more recent work of this type see Albert Hall Bowman, *The Struggle for Neutrality: Franco-American Diplomacy During the Federalist Era* (Knoxville: University of Tennessee Press, 1974). Bowman echoes DeConde's characterization of Anglo-American trade as neo-colonial exploitation. While he blames French attempts to draw the U.S. into Europe's war as much as Hamilton's influence for the demise of the alliance, Bowman also accepts Bemis's over-statement of the Treasury Secretary's impact on Jay's mission.

²³ Helene Johnson Looze, *Alexander Hamilton and the British Orientation of American foreign policy, 1783-1803* (The Hague: Mouton, 1969), 110-1; Gilbert L. Lycan, *Alexander Hamilton and American Foreign Policy: A Design for Greatness* (Norman: University of Oklahoma Press, 1970), 175-6; The best-known biographical deification of Hamilton is John Torrey Morse, *The Life of Alexander Hamilton* (Boston: Little, Brown, and Co., 1876). Also see Henry Cabot Lodge, *Alexander Hamilton* (1898; repr., introduction by Mary-Jo Kline. Broomall, PA: Chelsea House, 1997) and Henry Jones Ford, *Alexander Hamilton* (New York: C. Scribner's Sons, 1920).

Fathers,” portraying the nation’s future course as anything but inevitable and Hamilton as neither a duplicitous Anglophile nor the all-seeing prophet of liberal economics. Combs argues that where other founders “sought individual liberty, Hamilton sought national glory.” He adopts P.G.M. Dickson’s theory of the ‘fiscal-military’ state, claiming that for Hamilton economic development promised a means to national power rather than vice versa. Combs explains the treaty as part of a calculated geopolitical strategy to utilize British power in exploiting and surpassing lesser regional powers, France and Spain. Gerald Stourzh likewise interprets Hamilton’s interest in an energetic government as stemming primarily from his focus on foreign security threats. Such views reflect rising scholarly fear of the ‘National Security State’ at the height of the Cold War. In that climate Hamilton’s legacy as an early proponent of a professional military infrastructure garnered suspicion. The most notable scholar of Federalist military policy, Richard Kohn, calls Hamilton “the personification of American militarism.” While Kohn praises Federalists for creating a necessary professional military core around which to mobilize militias, he also claims that Hamilton “lusted for command” and that “no one posed a greater danger to the nation’s emerging military traditions.” In a more recent work William Nester states of *The Hamiltonian Vision* that “some Americans in the early republic understood better than others that wealth is the bottom line of all hard power. Nester, like Combs, thus views Hamilton’s desire to “stimulate a commercial, financial, technological, and industrial revolution” as a function of his geopolitical and security concerns.²⁴

²⁴ Jerald A. Combs, *The Jay Treaty: Political Battleground of the Founding Fathers* (Berkeley: University of California Press, 1970), 33. For the ‘fiscal-military state’ concept see P. G. M. Dickson, *The Financial Revolution in England: a Study in the Development of Public Credit, 1688-1756* (New York: St. Martin’s Press, 1976); Gerald Stourzh, *Alexander Hamilton and the Idea of Republican Government* (Stanford, CA: Stanford University Press, 1970); Richard M. Kohn, *Eagle and Sword: the Federalists and the Creation of the Military Establishment in the United States, 1783-1802* (New York: Free Press, 1975), 252-5, 272-3. Also see Douglass Adair, *Fame and the Founding Fathers: Essays by Douglass Adair*, ed. Trevor Colbourne (New York: Norton, 1974), 252-5; William Nester, *The Hamiltonian Vision, 1789-1800: the Art of American Power in the Early Republic* (Washington, DC: Potomac Books, 2012), 159.

Scholars err in over-stating Hamilton's imperial-military vision, if not in identifying the 1790s as a decade of very real ideological disagreement over the emerging republic's future. The final misconception involves an over-statement of ideological consensus. Daniel Lang describes the revolutionary era as one of gradual evolution toward a more liberal international legal. He argues that both parties shared commitments to peace and free trade, differing only in their estimations of American geopolitical power and best means for establishing these principles. Similarly Lawrence Kaplan identifies a 'consensus of 1789' lasting into the nineteenth century. He argues that Jefferson and Hamilton "both paid tribute to the wisdom of their own early counsels: namely, the support of a strong central government capable of maintaining freedom from European entanglements and profits from European commerce." Thus scholars increasingly view early American foreign policy debate as one of realist versus liberal-idealist emphasis within the context of a broad consensus. The most recent study of Hamilton's foreign policy influence is entirely constructed around an over-labored comparison to Nicoló Machiavelli. While such interpretations do not deny the bitterness of the Jay-Grenville Treaty debate, they do limit discussion of it as indicative of fundamentally conflicting theories of political economy.²⁵

Trends among diplomatic historians mirror scholarship on domestic American politics. Earlier generations of 'Progressive' historians described Hamilton as a reactionary advocate for the interests of a narrow anti-democratic propertied class, while their Conservative critics presented him in various ways as a savior of the republican Constitution. More recent scholarship reflects the lasting political stability and ideological consensus of the late twentieth century United States. In his analysis of Hamilton's theory of statecraft political scientist Peter

²⁵ Daniel G. Lang, *Foreign Policy in the Early Republic: The Law of Nations and the Balance of Power*. Political Traditions in Foreign Policy Series (Baton Rouge: Louisiana University Press, 1985); Lawrence Kaplan, *Entangling Alliances With None: American Foreign Policy in the Age of Jefferson* (Kent, Oh.: Kent State University Press, 1987), 78; John Lambertson Harper, *American Machiavelli: Alexander Hamilton and the Origins of U.S. Foreign Policy* (New York: Cambridge University Press, 2004).

McNamara rejects the image of a principled Smithian liberal possessing a clear and universally applicable theory of political economy. McNamara claims that Hamilton lacked any interest in formulating such, committing ideas to writing only when necessary to advance unique policies addressing specific American problems. McNamara is correct in identifying Hamilton's gifts as those of an administrator and lawyer rather than political theorist. But this should not obscure the consistent importance in his policy and writing of several central principles to which his political rivals remained implacably opposed during his lifetime. Chapter three analyzes Federalist defense of the treaty within a broader consideration of Hamilton's commitment to a capital-rich diversified economy actuated by a modern financial sector. He viewed such an economy as the strongest foundation for an egalitarian republican society. Both parties understood their ongoing conflict as a battle for the nation's future between this vision and Jefferson's agrarian republic. Within this context foreign policy possessed significant but derivative importance. To Hamiltonian Federalists the Jay-Grenville Treaty represented only one element in a wider agenda designed to create a clearly articulated and explicitly republican political economy.²⁶

Chapter three concludes with a brief survey of economic historians' work, suggesting that the Federalist vision for the Jay-Grenville Treaty proved accurate and largely successful. By the early nineteenth century an emerging financial sector mobilized the seed-wealth of American commerce much as Hamilton anticipated. This process challenged alternative conceptions of republican political economy. Drew McCoy claims that during the early 1780s American leaders largely shared an assumption "that a republican form of government was particularly precarious because it could succeed only in an extraordinary society of distinctively moral people... [All] were acutely aware of the moral dimension of economic life." McCoy charts the emergence of

²⁶ For a summary of Hamilton's evolving historiographical reputation see Stephen F. Knott, *Alexander Hamilton and the Persistence of Myth* (Lawrence: University Press of Kansas, 2002); Peter McNamara, *Political Economy and Statesmanship: Smith, Hamilton, and the Foundation of the Commercial Republic* (DeKalb, Ill.: Northern Illinois University Press, 1998).

two distinct systems of political economy. Revolutionary era commentary on theories of political economy paid much attention to commerce, widely viewed as essential to promoting industrious habits and keeping citizens from barbarity and idleness. Americans also took from Montesquieu, Smith, and others a firm belief that liberal trade promoted peace, which in turn reduced tyranny. This notion infused foreign policy debate with added significance: “No foreign markets, no industrious republicans; it was that simple.” But meeting the geopolitical challenges of independence proved less simple. By the mid-1780s faith in the liberalizing potential of agricultural produce had proved optimistic. Disappointment at the continuation of colonial-era trade imbalances led some to blame on uncontrolled appetites for ‘luxury’ manufactured goods dissipation of agriculture’s power to entice and coercive. Men of this mind “fretted over mounting evidence that their countrymen were a corrupt and extravagant people incapable of sustaining a republican system.” But others “never doubted that Americans were a commercial people whose virtue could not be measured in classical terms” such as Spartan self-denial or civic disinterestedness. These dissenters promoted as positive bulwarks of virtue the tastes for ‘luxury’ alone able to inspire development of domestic industry and manufacturing.²⁷

The Federalist-Jeffersonian divide largely evolved along the lines McCoy outlines. Bruce Ragsdale’s work on the Virginia gentry during the Revolutionary era describes how planters struggled desperately without success to disentangle their economy from the inherent constraints of cash-crop monoculture. Frustration and anger led many to blame the corrupting influence of merchant-creditors, to believe that British Navigation Acts artificially deprived them of their produce’s true value, and to embrace the free trade agrarianism McCoy identifies. Like so many of his peers, Jefferson struggled with lifelong debt, much of it inherited. This partly explains his

²⁷ Drew McCoy, *The Elusive Republic: Political Economy in Jeffersonian America* (Chapel Hill: Published for the Institute of Early American History and Culture, Williamsburg, Va., by the University of North Carolina Press, 1980), 5, 7, 84, 94-6.

firm belief that justice prohibited living republican citizens from contractually obligating future generations with public debts. Herbert Sloan calls this philosophy “pay as you go” government. He portrays “a Jefferson implacably opposed to the world of debts and high finance and corruption introduced in Britain after the Glorious Revolution of 1688 and then, to all appearances, recreated by Hamilton in the United States after 1790.”²⁸

Like their Federalists rivals, Jeffersonian Republicans viewed the Jay-Grenville Treaty as inextricable from a wider host of interrelated principles. Most American foreign policy historians sympathize with Republican diplomacy as noble in its intent if not always perfectly practical. Peter and Nicholas Onuf argue that while Republican leaders sought with considerable eventual success to extend the logic of liberal constitutionalism to the sphere of international law and diplomacy, Federalists accepted the old world’s broken balance of power system. Thus “the Jay Treaty decisively thwarted Jeffersonian hopes for constructing an improved world order.” The treaty appeared to Republicans as a threat not only to their principled ends but also their favored means for achieving them. With Jefferson’s encouragement Madison repeatedly sponsored measures in Congress designed to reduce coercively American dependence on British trade and promote multilateral liberal commerce. In his summary of early U.S. foreign policy Paul Varg condemns the Jay-Grenville Treaty as an abrogation of this vision and a virtual capitulation to British interests. Reaming off a catalogue of its failings, he states that it “ignominiously surrendered” the ‘free ships’ principle, “deprived the United States of a useful defensive weapon” in its prohibition of debt sequestration, and “surrendered the power to stimulate the

²⁸ Bruce Ragsdale, *A Planters' Republic: The Search for Economic Independence in Revolutionary Virginia* (Princeton: Princeton University Press, 2001). A similar but more flawed study is T. H. Breen, *Tobacco culture: the Mentality of the Great Tidewater Planters on the Eve of Revolution* (New York: Rowman and Littlefield, 1996). For views of planter politics from the perspective of their rivals see James H. Broussard, *The Southern Federalists, 1800-1816* [Baton Rouge: Louisiana State University Press, 1974]; Herbert Sloan, *Principle and Interest: Thomas Jefferson and the Problem of Debt* (New York: Oxford University Press, 1995), 5.

growth of an American merchant marine” in precluding future duty increases on British ships and goods.²⁹

Few historians are quite so unambiguous. Most acknowledge the treaty as a compromise of at least some value. But most do sympathize with the Jeffersonian view as belonging to the upward liberal arch of future history, and to a comprehensive republican system of political economy and diplomatic theory. In contrast the Federalist impulse produced what appears as a cynical treaty in the European tradition of *real politik*. Such views overlook those themes in Hamiltonian thought discussed in chapter three, which describes the treaty not as a geopolitical maneuver so much as a means to the creation of a dynamic, diversified, meritocratic republican economy. Given the interdependent importance of financial institutions and Anglo-American trade to this vision it is unsurprising that anti-banking rhetoric pervaded Republican opposition to the treaty. McCoy identifies a common fear among Republicans that “sudden fortunes acquired through the manipulation and chicanery of speculators and stockjobbers... [would] undermine the integrity of republican culture.” Chapter four focuses on Madison’s leadership, with Jefferson’s quiet support, of nascent anti-administration forces in Congress. A survey of House debates, private political correspondence, and various others sources locates anti-treaty sentiment firmly within ongoing battles over political economy and finance. When considered in this light, Jeffersonian views as expressed during the 1790s do not so clearly represent the rising tide of future history. While the later Jefferson and Madison administrations refused to renew the Jay-Grenville Treaty, Republicans after the War of 1812 barely paid lip-service to their party’s earlier views on finance. Robert E. Wright even suggests that Republican-chartered banks expanding and democratizing the credit market partially accounts for the Federalist Party’s

²⁹ Peter and Nicholas Onuf, *Federal Union, Modern World: The Law of Nations in a World of Revolutions, 1776-1814* (Madison, WI: Madison House, 1999), 161; Paul Varg, *Foreign Policies of the Founding Fathers* (East Lansing: Michigan State University Press, 1964), 100.

decline. To some extent, then, Jeffersonians opposed the Jay-Grenville during the 1790s on the grounds of a worldview that later events proved flawed.³⁰

Chapters three and four together establish the Jay-Grenville Treaty debate as one of immense significance to the development of the Early American Republic, drawing conclusions differing slightly from those of many other historians. Chapter five then discusses public engagement with that debate through the medium of newspapers. Federalist Party antipathy to democratic sentiment is a well established historiographical theme. In his acclaimed survey, *The Rise of American Democracy*, Sean Wilentz sympathetically summarizes Democratic-Republican societies' characterizations of Federalists as "a privileged few [who took] it upon themselves to serve as the nation's leaders; these men used their privileges to sustain themselves in grandeur at the expense of 'the poor commonality' and subjected the rest of the people with pretension, ridicule, and false noblesse as well as political force." In his globally-focused history of late eighteenth century America Larry Tise describes Federalist-era political trends as a "retreat from liberty." He argues that while the American Revolution spoke a radical language of liberty "by 1800 what can only be called the American counterrevolution had reached full tide... So subtle was the shift that almost no one at the time recognized or understood what had taken place. Americans only knew, if they were among the original friends of liberty, that they were no longer welcome." Tise, who even calls Jefferson "the most radical counterrevolutionary," celebrates Mercy Otis Warren's radical history of the Revolution, published in 1805. He implicitly shares Warren's view of the Jay-Grenville Treaty, summarizing her narrative that

³⁰ McCoy, *Elusive Republic*, 85; Robert E. Wright, "Bank ownership and lending patterns in Pennsylvania and New York, 1781-1831," *Business History Review* 73, no. 1 (1999): 40-60. Also see Robert E. Wright, *One Nation Under Debt: Hamilton, Jefferson, and the History of What We Owe* (New York: McGraw-Hill, 2008), 237-67.

“Washington shockingly entered into a treaty with America’s archenemy, thereby obliterating amity with a French people struggling for freedom and the equal rights of man.”³¹

Such sentiments reflect a desire to interpret the American Revolution as a groundswell of social, economic, and political radicalism. Doing so necessitates a description of American politics during the 1790s at least as insufficiently popular or worse, as counterrevolutionary and repressive. This narrative fails to note that, while less broadly democratic than more celebrated later periods, the United States did boast the world’s most stable, responsive, and inclusive electoral landscape. Political discourse conducted publically in the pages of newspapers and pamphlets provided the lifeblood of this nascent democracy. Wilentz questions the authenticity of such organs, calling even the Republican *National Gazette* [established through Jefferson’s patronage] “a vehicle that traveled from the top down, closely watched by men who thought themselves as the country’s natural leaders.” But recent work on the Early American press, particularly Marcus Daniel’s *Scandal and Civility*, dismisses such cynical appraisals. Daniel contends that newspapers “played a critical role in the creation and expansion of an American public sphere.” He further suggests that “through the medium of the press Americans (including many of those excluded from formal rights of citizenship...) became steadily more conscious of their place in a broader but often distant national political debate.”³²

³¹ Sean Wilentz, *The Rise of American Democracy: Jefferson to Lincoln* (New York: W.W. Norton, 2004), 69-70; Larry Tise, *The American Counterrevolution: Retreat from Liberty, 1783-1800* (Mechanicsburg, Pa.: Stackpole Books, 1998), xlviii, 495. The notion that the Declaration of Independence and Revolution represent a fundamentally different political impetus than the Constitution is now a pervasive historiographical orthodoxy. Gordon Wood calls the Constitution, “the Triumph and End of American Ideology.... By attempting to confront and retard the thrust of the Revolution with the rhetoric of the Revolution, the Federalists fixed the terms for the future discussion of American politics.” Gordon Wood, *Creation of the American Republic, 1776-1787* (Chapel Hill: University of North Carolina Press, 1969), 562. John Ferling comments similarly, “here then was the formula through which to save the Union, preserve independence, and achieve the dreams of republicanism implicit in the American Revolution. But it would come at a steep price: henceforth, the fulfillment of other, more radical, sentiments... of which future generations might dream would come only slowly, if they came at all.” John Ferling, *A Leap in the Dark: the Struggle to Create the American Republic* (New York: Oxford University Press, 2004), 273.

³² Wilentz, *Rise of American Democracy*, 50; Daniels suggests that histories “relying on a restricted body of elite texts” offer a limited understanding of the American political landscape in the late eighteenth century. He argues convincingly that “political ideas are embedded in political practice, and in order to determine what they

According to Daniel, newspapers played a crucial role in the political life of the Early American Republic, informing, forming, and disseminating public opinion. The number of regularly published American newsheets exploded during the second half of the eighteenth century, increasing from barely a score in 1760 to more than 230 circulating in excess of 200,000 copies a week by 1800. Americans read newspapers for information such as shipping news, reprinted state and national legislative debates, and the latest details from Europe. But more importantly they read them for their ideological perspective. Early Republic printer-editors differed from the professional journalist of later generations, with their ethical code requiring strict factual accuracy. Unapologetically partisan printers of this earlier period did not distinguish between news and editorial-opinion pages, or even dream of doing so. Early Americans understood the choice and consumption of news sources as inherently political acts. They often shared the cost of subscriptions, reading their news aloud together in the tavern, home, courthouse, church, store, or marketplace. They looked at their local post office with interest on mail day to see which paper neighbors received.³³

mean, we need to know as much as possible about who is using them, whom they are designed to persuade, and the political context within which they are being used.” Such a view is impossible without accounting for and acknowledging as legitimately democratic newspaper-based discourse. Marcus Daniel, *Scandal and Civility: Journalism and the Birth of American Democracy* (New York: Oxford University Press, 2009), 6-7, 17. For similar commentary see Robert Gross and Mary Kelly, *An Extensive Republic: Print, Culture, and Society in the New Nation, 1790-1840* (Chapel Hill: University of North Carolina Press for the American Antiquarian Society, 2010). For connections between political parties and the most prominent newspaper editors see Culver H. Smith, *The Press, Politics, and Patronage: The American Government’s Use of Newspapers, 1789-1875* (Athens: University of Georgia Press, 1977), 1-23.

³³ William David Sloan and Julie Hedgpeth Williams, *The Early American Press, 1690-1783* (Westport, Conn.: Greenwood Press, 1994), 147-197. For further details on the exponential growth of newspaper circulating during this era see Kielbowicz, *News in the Mail: the Press, Post Office, and Public Information, 1700-1860s* (New York: Greenwood Press, 1989), 31-56 and Alfred McLung Lee, *The Daily Newspaper in America* (New York: Macmillan Company, 1939), 15-42; For discussion of the consciously political nature of reading in the Early Republic newspapers see Thomas C. Leonard, *News for All: America’s Coming-of-Age with the Press* (New York: Oxford University Press, 1995) and William J. Gilmore, *Reading Becomes a Necessity of Life: Material Culture in Rural New England, 1780-1835* (Knoxville: University of Tennessee, 1992); For discussion of printers’ professional ethos in the Early Republic era see Stephen K. Knowlton and Karen L. Freeman, *Fair and Balanced: a History of Journalistic Objectivity* (Northport, Al.: Vision Press, 2005).

Perhaps more than in any subsequent era, Early Republic newspapers represented the beliefs and political perspectives of their readers. Few newspapers survived more than two years of circulation. While mismanagement or logistical problems might aid the decline of failing journals, demand typically played the decisive role. Americans subscribed for explicitly partisan content; popular content accumulated readers and thrived. Early Republic newspapers mirror closely the political process unfolding in both the federal and state capitals. Federalist and Republican journals discussed domestic and foreign events within the context of ideological frameworks identical to those of local and national party leaders. Readers participated in the same vein. Therefore a survey of the most circulated, longest operating, and commonly reprinted newspapers reveals the importance of cohesive ideologies not only to national party leaders but to an array of citizens far wider than the formal electorate. Early Republic newspapers prove the popular nature of partisan conflicts which might otherwise appear abstract, remote, or elitist. Chapter five surveys discussion of foreign policy questions from the outbreak of war in 1793 to the Franco-American peace in 1801 as conducted in the most popular newspapers. This survey reveals that, just as in Congress, the Jay-Grenville Treaty assumed a symbolic significance inextricable from a host of connected subjects—imagined or actual. The debates explored in chapters three and four do not, therefore, represent ‘top down’ politics anymore than do newspapers themselves. No treaty until that signed at Versailles in 1919 would so occupy, absorb, and animate the American public.³⁴

Chapter one, then, presents new evidence for reevaluating the merits of several of the Jay-Grenville Treaty’s terms hereto viewed almost universally as inadequate. Chapter two builds on this analysis with a study of merchant involvement in the ratification debate. It argues that if

³⁴ For the role of newspapers in the Early Republic politics see Jeffrey L. Pasley, *The Tyranny of Printers: Newspaper Politics in the Early American Republic* (Charlottesville: University of Virginia Press, 2001) and Donald H. Stewart, *The Opposition Press of the Federalist Period* (Albany: State University Press of New York, 1969).

not immediately universally enthusiastic, merchants did collectively warm to the treaty sooner than other citizens. Chapter three explores the central role the treaty occupied in a cohesive and explicitly republican vision of political economy Hamiltonian Federalists propagated—one based on the vital importance and egalitarian operation of financial markets. It suggests that this vision, including the profits realized through the treaty's operation, largely anticipated later events. Chapter four then describes the correspondingly hostile view Jeffersonians took of the treaty, based on the corruption they then believed banks must produce in republican societies. Chapter five broadens the narrative of the previous two chapters, showing from an examination of the Early Republic's vibrant print culture that the questions of political economy and foreign policy previously outlined very much occupied the popular mind. Collectively these five studies attempt a partial rehabilitation of the Jay-Grenville Treaty's historiographical reputation, as well as that of the Hamiltonian Federalists in negotiating and promoting it.

Chapter One

“Truly French property covered and protected by American citizens”: American merchants in British prize courts during the Jay-Grenville Treaty era

In the second novel of Patrick O’Brian’s celebrated Aubrey-Maturin series, the hero, Capt. Jack Aubrey, receives news he had long dreaded from Britain’s Board of Admiralty regarding an unfavorable decision given in a prize court case. “It will be about the two neutrals that were on appeal,’ he said, breaking the seal at last. ‘I am almost afraid to open it. Yes: just so. Here is my lee-shore. The verdict is reversed: I am to pay back eleven thousand pounds. I do not possess eleven thousand pence.’” Later Aubrey explains to his fiancé that he had captured the Sicilian vessels making for Marseilles laden with brimstone—contraband of war—carrying apparently false papers giving their destination as Copenhagen. “They have to have [brimstone] to make gunpowder. So I sent both vessels to Port Mahon, where they were condemned out of hand as lawful prize of war, a glaring breach of neutrality; but now at length they have appealed, and the court has decided... that their masters’ tale of merely taking shelter from weather was true. Weather! There was no weather. Scarcely a ruffle on the sea...” O’Brian’s narrative accurately reflects the reality that seizure of neutrals often proved a regrettable gamble for British officers, who complained bitterly at the frequency with which court rulings went against them. Rear-Adm. John Jervis, the first Earl St. Vincent, claimed with some exaggeration in 1806 that “where one captain makes a fortune by the capture of neutrals, ten are ruined.”¹

Universal agreement regarding acceptable grounds for the lawful condemnation of neutral property eluded maritime states into the twentieth century. Naturally, strong naval powers frequently at war viewed the question very differently to weaker nations more often playing the

¹ Patrick O’Brian, *Post Captain* (1972; repr., New York: Harper Perennial, 2009), 59, 61; St. Vincent quoted in Richard Hill, *The Prizes of War: The Naval Prize System in the Napoleonic Wars, 1793-1815* (Stroud, UK: Sutton Publishing, 1998), 21.

role of neutral commercial middle-man. The earliest widely accepted articulation of maritime codes dates to late eleventh century Aragon. The *Consolato del Mare* distinguished for the first time between enemy and friendly property, establishing the general rule that enemy goods were liable to capture, and neutral goods exempt from capture wherever found. This rule defines a cargo's legal status by the citizenship or domicile of the owner. After the mid-seventeenth century Dutch authorities attempted to protect their nation's diverse commercial interests by asserting the exemption from seizure of all property, regardless of ownership, onboard neutral vessels. This more liberal doctrine that 'free ships make free goods' gained permanent adherence from very few nations. The *Consolato* remained the only widely approved rule—though controversies over its precise limits, such as definitions of contraband, abounded. During the Seven Years' War Louis XV of France attempted to exploit a loophole in the *Consolato* rule by permitting Dutch merchants to convey French colonial produce directly to Europe as neutral property. George II of Britain issued the 'Rule of War of 1756' in response, prohibiting neutrals from engaging in any trade closed to them under peacetime regulations. The rule became standard British practice but never gained approval from any other maritime state.²

Following independence the U.S. promoted 'free ships' doctrine and denounced the Rule of '56. This position unsurprisingly gained no diplomatic traction whatsoever with Britain. Instead, when Europe returned to war in 1793 American merchants merely sidestepped the rule through the practice of broken voyage, temporarily importing the colonial produce of Britain's enemies to U.S. ports before transshipment to Europe as *bona fide* neutral property. U.S. duty drawbacks of up to thirty-three percent heavily incentivized the practice. Until new rules

² For discussion of the *Consolato del Mare* and 'free ships' doctrine see George B. Davis, *Outlines of International Law: An Account of its Origins and Sources of its International Historical Development* (London: Sampson, Row, Marston, Searle, and Rivington, 1888), 276-309; For the Rule of '56 and the doctrine of 'broken voyage' see Bradford Perkins, *The First Rapprochement: England and the United States, 1795-1805* (1955; repr., Berkeley: University of California Press, 1967), 70-89 and John Bassett Moore, *Digest of International Law* (Washington: Government Printing Office, 1908), 7:382-91.

expanded the use of naval blockades into a tool of systematic economic warfare in 1806, British disruption of the American carrying trade depended upon proving either the presence of contraband goods or enemy ownership of the cargo. Like the fictional Capt. Aubrey, many British captors found these particular points very difficult to establish to the satisfaction of prize court justices. But that is only part of the story. Neutral merchants also experienced extreme hardship, even in cases where courts eventually ruled in their favor.³

Such proved the experience of Benjamin Calley, master of the American schooner *Two Brothers*. The vessel arrived in Jacmel, the French republican stronghold of southern St. Domingue, in late September 1795 laden with lumber and provisions. Calley sold the goods to French buyers before acquiring a return cargo of coffee, cotton, and sugar consigned to his employers, Newburyport merchants George Searle and Joseph Tyler. Shortly after her departure in mid-October the British privateer *Pallas* overtook and captured the schooner. The British commander, Timothy Conyers, believed that Calley planned to carry his cargo along the coast to Les Cayes in violation of the Rule of '56. He carried the *Two Brothers* toward Nassau, New Providence, along with two other neutral prizes, the *Dolphin* and the *Sydney*. On the final night of a nearly two-week voyage the four vessels encountered a mighty gale as they entered Bahaman waters. Prize master Henry Towers and his crew battled until dawn to keep the *Two Brothers* off the rocks at remote Auckland Keys, even releasing Calley and his men from the brig to assist. Despite their efforts the gale forced all hands to abandon ship and make for the shore. Another vessel nearby rescued the crew and prisoners who abandoned the *Sydney*, but Conyers and all hands onboard both the *Pallas* and the *Dolphin* perished. Wreckers recovered part of

³ For early U.S. policy on these issues see Vernon G. Setser, *The Commercial Reciprocity Policy of the United States, 1774-1829* (1937; repr., New York: Da Capo press, 1969).

Calley's cargo, which the Nassau vice-admiralty court valued at £1,600 before awarding a two-thirds share to the salvagers.⁴

In late October Calley filed a compensation claim against the owners of the *Pallas*, James Clayton White and Joseph Harries of Kingston, Jamaica, in the vice-admiralty court there. The American master's libel audaciously cited the late Conyers as witness against himself, claiming that he had viewed the schooner's papers as authentic and only agreed to seize her under pressure from his officers and crew. Calley also blamed the prize crew for loss of his vessel, accusing them of poor seamanship, general carelessness, and premature abandonment. In response Towers accused Calley of brazenly and distastefully fabricating the late Conyers's statement, and defended his own efforts by noting that the storm had overwhelmed two vessels with much larger crews. White and Harries insisted that the schooner had forfeited any claim to neutrality, but in March 1796 the court ordered them to pay the American claimants £2,123, 15s compensation for unlawful capture. Unsatisfied with a sum below their property's market value, Searle and Tyler appealed. Fifteen months later the Lords Commissioners of Prize Causes in London upheld the original ruling. The unfortunate claimants failed to secure payment from the captors even of the unsatisfactory sum. In July 1798 they filed a claim with the compensation commission established under article VII of the Jay-Grenville Treaty, hoping to obtain payment directly from the British government and perhaps even a more adequate award. The following January, more than five years since the schooner's loss at sea, the commissioners dismissed the

⁴ American merchants often sold their outbound cargo and acquired their return cargo at several separate ports, but sale at a non-U.S. port of cargo taken on at another constituted coastal or inter-colonial trade. Papers relating to the schooner *Two Brothers* [Benjamin Calley, master], Records of the American Claims Commission, British Public Records Office [hereafter PRO], Foreign Office series 304, vol. 2 [hereafter cited FO 304/vol.].

case, stating that “the claimants have not attempted due diligence to enforce the effect of the said decree... they are not entitled to the benefit of the treaty.”⁵

Searle and Tyler apparently lacked sufficient local connections to pursue their interests effectively in Kingston. Calley did not even remain in Jamaica long enough after filing the initial claim to give a full deposition—a fact White and Harries cited as an admission of the weakness of his case. It is more likely that Searle and Tyler simply could not afford to maintain a factor indefinitely in a port where they conducted no other business. Prize court justice cost precious time, effort, and money. The neutral claimants in this particular case suffered an unusual degree of hardship. Ordinarily court authorities held contested property until the conclusion of a trial and simply released it to the successful party. Loss of the *Two Brothers* at sea forced the American claimants into the unenviable position of seeking compensation from unreliable and uncooperative parties.⁶

Formal trials in properly constituted courts codified and legitimized the seizure of enemy property, distinguishing war at sea from piracy. Britain’s High Court of Admiralty in London and a series of vice-admiralty courts in various colonial locales evaluated cases against international law as codified by the most widely accepted legal theorists, prior jurisprudence, and current treaties. In theory, and generally in practice, the High Court operated in strict independence from Board of Admiralty strategy and government policy. Vice-admiralty courts varied in quality and proved more susceptible to corruption, not infrequently earning reputations

⁵The term ‘libel’ applies to the legal document filed in an admiralty court by a captor that the claimed property constituted lawful prize; *Two Brothers* papers, PRO FO 304/2; Account books of the claims commission established under article VII of the American treaty, PRO FO 304/26; Prize judges and other court personnel drew small salaries but earned most of their income from fees charged on individual processes such as interlocutory decrees, appraisals reports, or prize auctions. Such costs mounted quickly for both captors and claimants, who also necessarily retained professional prize agents and lawyers to prepare and present their cases. Judge’s fees, registrar and sale fees, marshal’s fees, crier’s fees, unlading costs, advocate general’s fees, cargo storage costs, appraisal fees, etc. routinely accounted to up to a third of the value of the contested property. Even when courts restored a claimant’s goods they seldom order the captor to compensate legal expenses.

⁶ *Two Brothers* papers, PRO FO 304/2.

for irregular and hawkish decisions. Even when cases enjoyed fair and honest treatment the prize process for neutral property caught up in a cumbersome pre-modern bureaucracy entailed considerable expense and frustration. The Lords Commissioners offered the only recourse for reversing rulings. Securing a reading and receiving an eventual decision required years of patience. The hundreds of American merchants who suffered loss of revenue, experienced great stress, and bore the costly overheads of a protracted appeal would have felt little sympathy for naval officers in Jack Aubrey's position.⁷

Regardless of claimants' frequent protests of unrestrained abuses, neutral property involved in enemy trade often presented prize court justices with tasks of unenviable complexity. Neatly defining the precise national status of a particular cargo, its owner or consignee often depended as much upon subjective judgment as documentable fact. Intricate and extensive personal networks lay at the heart of all maritime commerce. Such networks, which form an increasingly prominent theme in scholarly literature on the Atlantic World, created the legal grey areas which inspired prize cases against neutrals. Maritime traffic had always provided the economic and information conduits binding Atlantic empires together. The merchant networks controlling that traffic frequently not only transected ethnic boundaries but quite commonly flouted the legal barriers between theoretically exclusive mercantilist imperial systems. Recent scholarship reveals the fluidity with which goods and ideas moved across a surprisingly ethnically integrated greater Atlantic region. Dutch economic historian Victor Enthoven claims that in contrast to the old understanding of largely exclusive economic spheres "the Atlantic was not so much characterized by *compartmentalization* as by *openness*." In an impressive case-study of this historical reality Michael Jarvis shows how familial connections between clannishly

⁷ For a complete description of Britain's admiralty court system see Richard Hill, *The Prizes of War: The Naval Prize System in the Napoleonic Wars, 1793-1815* (Stroud, UK: Sutton Publishing, 1998).

inter-married Bermudans extended their influence to all corners of the western Atlantic through successive waves of outmigration. Jarvis describes the importance of “the family matrix” in providing the “trust, reciprocity, and mutual interest” upon which commerce depends. Members of merchant families often settled in foreign ports and culturally integrated. Transplanted communities maintained ethnic ties to their homelands but, as domiciled citizens in their new nations, transacted business on the same legal footing as natives. Jan Parmentier describes how Irish merchants in Flanders linked the southern Netherlands not only to their homeland but also “to the commercial network of the Irish diaspora in continental Europe more generally.” Defining the point at which foreign factors legally became domiciled residents constituted a difficult proposition in a world lacking the distinct bureaucratic structures governing migration in modern nation-states.⁸

As the continual yet unsuccessful revision of regulations such as Britain’s Navigation Acts indicates, commercial practices violating the dictates and logic of mercantilist legislation proved maddeningly irrepressible for imperial authorities. Illicit inter-imperial trade presented an even greater and almost equally prevalent challenge during wartime. Declarations of war theoretically bound every subject of a belligerent power, but governments struggled to enforce rules which contradicted their subjects’ economic interests. Conveyance of goods through neutral ports under the legal cover of temporary transfer to neutral middlemen allowed peacetime avenues of trade to continue, often virtually unabated. Thomas Truxes highlights the difficulty of

⁸ April Lee Hatfield, “Mariners, Merchants, and Colonists in Seventeenth-Century English America,” in Elizabeth Mancke and Carole Shammas eds., *Creation of the British Atlantic World* (Baltimore: Johns Hopkins University Press, 2005), 139-59; Charles Steffen, “The Rise of the Independent Merchant in the Chesapeake: Baltimore County, 1660-1769,” *Journal of American History* 76, no. 1 (June, 1989): 9-33; Cathy Matson, *Merchants and Empire: Trading in Colonial New York* (Baltimore: Johns Hopkins Press, 1998); David Hancock, *Citizens of the World: London Merchants and the Integration of the British Atlantic Community, 1735-1785* (Cambridge: Cambridge University Press, 1995); Johannes Postma and Victor Enthoven, *Riches From Atlantic Commerce: Dutch Transatlantic Trade and Shipping, 1585-1817*, *The Atlantic World: Europe, Africa and the Americas, 1500-1830* vol. 1 (Boston and Leiden: Brill, 2003), 390; Jan Parmentier, “The Irish Connection: The Irish Merchant Community in Ostend and Bruges during the late Seventeenth and Eighteenth Centuries,” *Eighteenth-Century Ireland* 20 (2005): 31-54.

stamping out such practices in the case of the *Recovery*, a New York-registered vessel condemned at Kingston, Jamaica during the Seven Years' War for trading French sugar through neutral Spanish St. Domingo. The Lords Commissioners eventually restored the vessel. Truxes concludes that "as repellant as trade with the enemy, direct or indirect, may have been... attorneys for the captors were unable to prove that the [vessel's] captain or the owners' agent had made contact with French merchants. Case closed." Establishing effective and diplomatically acceptable rules preventing neutrals from covertly conducting enemy trade caused belligerent authorities continual headaches. British efforts to limit the continuation of French colonial trade through American intermediaries created one of the most enduring challenges in Anglo-American relations during the French Revolutionary and Napoleonic Wars.⁹

For many American merchants the French declaration of war against Britain in February 1793 instantly transformed the legal status of long established commercial patterns, exposing their property to the suspicions of belligerents that it belonged in reality to enemy subjects. In some cases the declaration adversely affected vessels already many months at sea. The Nantucket whaler *Ospray* sailed to Dunkirk in February 1792, disposing of a cargo of beef, pork, oil, and lumber before acquiring papers authorizing a voyage in French-controlled whaling grounds off Brazil. After harvesting some 700 barrels of oil by May 1793 Benjamin Paddock, the vessel's master, made for France only to be captured in the English Channel by the British sloop-of-war *Spitfire* and carried into Guernsey for trial. The case reveals how the war complicated and compromised the diverse interests of Americans accustomed to conducting business on both sides of the channel. William Rotch, a Massachusetts merchant then residing at Gracechurch Street in London, entered a claim of ownership for the *Ospray*. A veteran of the whaling trade,

⁹ For discussion of Britain's oft-violated commercial regulations see John J. McCusker and Russell R. Menard, *The Economy of British America, 1607-1789* (Chapel Hill: University of North Carolina Press, 1985), 35-50, 161-4; Thomas M. Truxes, "Transnational Trade in the Wartime North Atlantic: The Voyage of the *Snow Recovery*," *The Business History Review* 79, no. 4 (winter 2005): 751-80.

Rotch co-owned an expansive operation with his son-in-law Samuel Rodman and son Benjamin. Rotch understood well the dangers of wartime commerce, having lost a staggering twelve vessels worth more than \$60,000 during the Revolutionary War. In 1785 Rotch attempted to negotiate permission from the Board of Trade in London for American whalers facing economic ruin amid the post-war depression to enter the British whaling trade. When Lord Hawkesbury, the anti-American economic traditionalist Board of Trade president, refused permission, Rotch moved on to Paris and successfully negotiated American entry into the French trade. Rotch conducted business primarily based in Dunkirk for the next nine years. Benjamin resided in Dunkirk at the outbreak of hostilities. The captured whaler's papers listed him as consignee, and his name also appeared on the official papers authorizing her voyage in a French whaling ground. Both men claimed neutral citizenship as Americans and sought restoration of their property, but the elder Rotch nevertheless played matters safe by naming only himself and Rodman as claimants. He denied that Benjamin directly owned any part of the cargo, attempting to distance the goods legally from the party then longest resident in France. Phillip Durham, commander of the *Spitfire*, claimed in his formal libel that Benjamin Rotch had a clear interest in the voyage and that both father and son had compromised their neutral citizenship.¹⁰

The American presence in French whaling grounds preceded the war and therefore did not violate the Rule of '56. But to establish neutral immunity the claimants needed to prove their national status. William Rotch attested under oath that neither he nor his son had ever resided in France for any period exceeding a year. When the case reached a hearing in November 1793 the High Court sided with the captor, condemning both vessel and cargo on the grounds that by conducting a voyage both beginning and ending in a French port the claimants had participated

¹⁰ Papers relating to the whale ship *Ospray* [Benjamin Paddock, master], PRO, High Court of Admiralty case books, HCA series 45, vol. 17 [hereafter cited HCA 45/vol.]; For details on Rotch and other Americans' entry into the French whaling trade see Alexander Starbuck, *History of the American Whale Fisher from its Earliest Inception to the Year 1876* (1878; repr., New York: Argosy-Antiquarian, 1964), 1:77-92.

in an internal French trade and thereby assumed domicile. Rotch appealed to the Lords Commissioners who, in March 1795, restored only the one-third of the property's value claimed by Samuel Rodman and the American sailors among the crew. By upholding Rotch's portion as lawful prize the Lords made a rather arbitrary distinction between closely related partners in the same merchant house temporarily resident on opposite sides of the Atlantic. Nevertheless, Rotch's long involvement with an internal French trade did present strong grounds for viewing his neutral status as compromised.¹¹

British disruption of neutral commerce seems even less arbitrary in cases where Americans transacted business directly with public authorities, aiding the French war effort. Such was the case with the Baltimore-registered ship *Sally*, seized by the British privateer *Ranger* making for Havre de Grace in April 1793 with a cargo of flour. The vessel belonged to James Clarke of Baltimore and bills of lading named as consignee a Havre-based agent of the Philadelphia firm Conyngham, Nesbit, and Co. Every party named in the ship's papers claimed U.S. citizenship, but John Lievre, captain of the *Ranger*, viewed the flour as enemy contraband based on strong evidence of a planned transfer to French authorities. Written instructions from Clarke to the vessel's master, John Griffith, directed him to approach the mayor of Havre upon his arrival. Clarke explicitly acknowledged the risk of conveying such goods, warning Griffith to "act with great caution" and attempt to sell the goods to British authorities if captured rather than risk a probably futile prize trial.¹²

In September 1792 French minister of foreign affairs Charles François Lebrun instructed his minister in Philadelphia, Jean de Ternant, to request cargos of provisions "in abatement of the debt of the United States towards France." Ternant secured a line of credit from Treasury

¹¹ *Ospray* papers, PRO HCA 45/17.

¹² Papers relating to the ship *Sally* [John Griffith, master], PRO FO 304/7; For discussion of French government attempts to import grain from the U.S. see Albert Hall Bowman, *The Struggle for Neutrality: Franco-American Diplomacy During the Federalist Era* (Knoxville: University of Tennessee Press, 1974), 56-75.

Secretary Alexander Hamilton and assured Lebrun that he would employ the money shipping grain to his starving homeland or to St. Domingue through American middlemen. Lievre found among Griffith's papers a letter from Ternant to the mayor of Havre instructing him to receive grain shipments from the bearer and make any necessary additional payment on government account. A second dispatch from Ternant informed Lebrun that he had arranged for the Philadelphia merchants, "already known to the ministers by their former operations for France," to ship flour on behalf of the government but under the protection of U.S. colors. Not only did the combined weight of these papers make any claim to neutral ownership conspicuously fictive, but Griffith acknowledged under oath the mayor of Havre as the cargo's true consignee. The High Court released the vessel as Clarke had no direct connection to the cargo, though the Baltimore ship-owner of course lost the projected income his voyage would have earned. The cargo's owners fared much worse. The High Court condemned the cargo in October 1793 as having "belonged at the time of capture to the enemies of the Crown of Great Britain." Conyngham and Nesbit sought compensation for the goods through the remainder of the decade but without success due to the rare and damning clarity of evidence against them. It is unclear why Griffith retained such incriminating documents among the ship's papers. Neutral officers typically destroyed such papers when faced with capture, although Griffith, making his first ever voyage as master, may have lacked the experience or coolness to think of doing so. The *Sally* case is more significant, therefore, as an example of the level of proof necessary for British courts to condemn neutral-claimed cargos as enemy property outright. Merchants subject to the expense and costs of lengthy proceedings felt themselves mistreated, often with justification. Nevertheless, appellate courts favored neutral claimants over captors at least as often as not.¹³

¹³ *Sally* papers, PRO FO 304/7; Claims commission account books, PRO FO 304/26.

Despite the difficulty for British captors of proving the enemy status of neutral-claimed goods, American merchants did suffer considerable mistreatment early in the war due to two extraordinary orders of the King-in-Council. The first, dated 8 June 1793, countered French efforts to alleviate food shortages with shipments of American flour such as that carried in the *Sally* by reclassifying grain-based foodstuffs as contraband of war. U.S. Secretary of State Thomas Jefferson vehemently protested the policy, calling it “so contrary to the law of nations that nothing more would seem necessary than to observe that it is so.” American protests resulted in virtual repeal of the rule the following year, though not before numerous merchants lost much property to temporary detention, permanent condemnation, or forcible purchase at rates they deemed insufficient. A second and more egregious order dated 6 November 1793 related to an amphibious expedition against the French Leeward Isles under the joint command of Vice-Admiral Sir John Jervis and General Sir Charles Grey. The Admiralty instructed Jervis and Grey to seize any neutral vessel carrying enemy colonial produce in order to prevent the wealth of France’s sugar islands evading capture. Jervis and Grey enforced the order with startling rapacity, seizing more than three hundred American vessels and hastily condemning them in an unauthorized temporary vice-admiralty court. Despite its repeal in January 1794, operation of the ‘November Order’ caused outcry in America.¹⁴

Public calls for a declaration of war reached fever-pitch by mid-1794. President George Washington remained calm and cautious, dispatching Chief Justice John Jay to London where he negotiated a treaty of amity and commerce with Lord William Grenville. The Jay-Grenville

¹⁴ Jefferson to Thomas Pinckney, 7 September 1793. *American State Papers: Documents, Legislative and Executive, of the Congress of the United States: Foreign Relations* (Washington: Gale and Seaton, 1833), 1:239 [hereafter cited *ASPFR*]; Instructions to His Majesty’s ships, 8 June and 6 November 1793. *ASPFR*, 1:264. (Henceforth the two 1793 orders-in-council will be referred to by their commonly used shorthand titles, the Provisions Order and the November Order); For details of the Jervis-Grey expedition see Michael Duffy, *Soldiers, Sugar, and Seapower: The British Expeditions to the West Indies and the War Against Revolutionary France* (Oxford: Clarendon Press, 1987), 41-156.

Treaty angered critics in the U.S. by accepting the Rule of '56 and British definitions of contraband, and making no statement on the question of impressment. But the treaty also met several key demands, including compensation for property condemned under the November Order. Article VII established a five-member mixed British-American commission to consider cases not compensated by the Lords Commissioners and make restitution from the British public purse. Virtually every American who suffered loss under the objectionable orders-in-council eventually gained indemnification, as did several in non-related cases. During the decade of its operation the treaty provided the legal basis for an increasingly profitable neutral carrying trade, which sustained a period of widespread American prosperity. The treaty agreed a relatively narrow list of contraband items, which included foodstuffs in only certain circumstances, as the only legal basis for condemnation of *bona fide* neutral cargo. It thereby implicitly permitted broken voyage practice, reaffirming goods transshipped via U.S. ports under nominal transfer to neutral ownership as untouchable. Claims that residence of American factors in enemy ports amounted to assumption of domicile once again became the only legal grounds for condemnation of non-contraband property. During the ensuing decade, British captors experienced greater difficulty than ever in establishing such claims to the satisfaction of the courts.¹⁵

The prevailing historiographical tone regarding the Jay-Grenville treaty does not reflect the improved though imperfect standing its terms granted to American goods in British courts. Scholars have, consciously or otherwise, largely perpetuated the negative views of its domestic critics. This is perhaps unsurprising since no scholar has ever surveyed actual prize case proceedings from the years following ratification in any detail. Samuel Flagg Bemis views it as a relatively reasonable compromise. But he also castigates Jay and his allies for sacrificing

¹⁵ For the most detailed study on the treaty's negotiation and ratification process see Samuel Flagg Bemis, *Jay's Treaty: a Study in Commerce and Diplomacy* (New Haven: Yale Press, 1923); In addition to limiting contraband items to an enumerated list, Article XVIII stipulated that seized contraband would "not be confiscated, but the owners thereof shall be speedily and completely indemnified." For the treaty's text see *ASPFR*, 1:520-25.

American ideals too readily, believing them prepared “[in order] to preserve peace and national credit... to acquiesce in a complete reversion or suspension of the liberal principles” at the heart of U.S. diplomatic philosophy. Few historians have directly challenged this assertion. Many have given far more damning appraisals. Bradford Perkins and Charles Ritcheson take the most positive views, both highlighting the decade of cordiality and commercial growth the treaty wrought in Anglo-American relations. However, both also explicitly label its terms on neutral rights as inadequate and attribute later benefits to the goodwill engendered rather than the document’s specific terms. Ritcheson states that these triumphs were earned “by acquiescing for a limited time in practices which the strongest efforts, even war, could not have overturned.”¹⁶

No historians since Perkins and Ritcheson have taken such positive views of the treaty. Morrell Heald and Lawrence Kaplan call “the price for accommodation with Britain... ultimately too high—subordination to its economy, and acquiescence in its war of attrition with France.” Paul Varg, like Kaplan, sympathizes with the treaty’s critics, defining it as a capitulation not only to British interests but also to the foreign policy of one domestic party over that of the other. Peter and Nicholas Onuf are similarly hostile, arguing that while Jeffersonian Republicans sought with considerable eventual success to extend the logic of American liberal constitutionalism to the sphere of international law and diplomacy in order to construct “an improved world order,” Federalists accepted the logic of old, broken balance of power system. These basic objections appear in similarly negative though generally more subtle terms in most studies addressing the treaty. A survey of prize cases from the years following ratification provides a contrastingly positive picture. Trends reveal a considerable sea-change in British jurisprudence, not only as a result of the general spirit of goodwill which Perkins identifies, but on account of specific terms

¹⁶ Bemis, *Jay’s Treaty*, 217; Perkins, *The First Rapprochement*; Charles Ritcheson, *Aftermath of Revolution: British Policy Toward the United States, 1783-1795* (1969; repr., New York: Norton, 1971), 332.

committing Britain to both compensate former abuses and to permit more liberal interpretations of broken voyage doctrine in future.¹⁷

Prior to negotiation of the Jay-Grenville Treaty many American merchants did suffer considerable losses as a result of the Provisions and November Orders, and to a lesser extent through British efforts to limit their ability to circumvent the Rule of '56 through broken voyage transshipment. Not infrequently merchants faced the hardship of at least temporary property loss in multiple cases simultaneously. Philadelphia's John Godfrey Wachsmuth, a descendent of German immigrants, and Etienne Dutilh, a naturalized French Huguenot, submitted appeals for the restoration of goods from British captors in no fewer than five separate cases during a two-year period from June 1793. One of those cases began in early December of that year with the capture of the 300-ton brig *Sampson* off the south coast of Cuba. The vessel had been bound for Baltimore from St. Domingue with a cargo of sugar, coffee, various dry goods, and more than £1,700 in specie. In addition to her forty-man crew the *Sampson* also conveyed fifteen passengers including Amant Morin, a French-born U.S. citizen who served as factor for Dutilh and Wachsmuth in Port-au-Prince. Morin carried a further £1,220 in British coin, as well as seventy Spanish gold dollars—a king's ransom sufficient to encourage any captor to try his fortunes in prize court. Commander Bartholomew Rowley of the British frigate *Penelope* carried the brig to Kingston where her master, Revolutionary War hero Joshua Barney, submitted a claim for release of the vessel and cargo as his neutral property. Dutilh and Wachsmuth entered a similar a claim for Morin's confiscated money.¹⁸

¹⁷ Morrell Heald and Lawrence Kaplan, "The Neo-Colonial Impulse: the United States and Great Britain, 1783-1821," in *Culture and Diplomacy: The American Experience*, Heald and Kaplan, eds. (Westport, Conn.: Greenwood Press, 1977), 46-66; Lawrence Kaplan ed., *The American Revolution and a "Candid World"* (Kent, Oh.: Kent State University Press, 1977), 151-52; Paul Varg, *Foreign Policies of the Founding Fathers* East Lansing: Michigan State University Press, 1964), 100; Peter and Nicholas Onuf, *Federal Union, Modern World: The Law of Nations in a World of Revolutions, 1776-1814* (Madison, WI: Madison House, 1999), 161.

¹⁸ Papers relating to the brig *Sampson* [Joshua Barney, master], PRO FO 304/15.

After a close call with a British privateer on his previous voyage necessitating liberation of his vessel by force Barney had fitted the *Sampson* with sixteen guns. Several weeks prior to her capture she had sailed along the St. Domingue coast between Cape Francois and St. Marc's in company with several vessels conveying French troops—an act Rowley viewed as direct naval service to the enemy. In addition to the presence of numerous French merchants and planters whom he suspected part-owners of the cargo, Rowley also discovered letters among the ship's papers suggestive of connections between Barney and local French authorities. One letter from a St. Domingue émigré in Baltimore urged his brother to sell up and leave, directing him to take passage aboard Barney's heavily armed and thereby relatively safe vessel. Other letters gave Barney power of attorney to receive liquidated assets in the colony on the signatory's behalf. One instructed the writer's local factor to ship goods with the captain without giving him to understand their true owner and openly discussed the uses of an American middle-man for the precise purpose of establishing the legal protection of temporary neutral ownership. A yet more potentially damning letter from another French gentleman in Baltimore directed the colony's treasurer to reimburse Barney for a cargo previously shipped directly to local French authorities. Barney initially gave no account of the reasons for his voyage along the coast, only reluctantly admitting as part of the appeal process four years later that he had sailed in pursuit of Léger Félicité Sonthanax, the republican civil commissioner, who had promised to settle debts totaling \$30,000 but struggled to raise the money. Payment of that debt would account for the specie found on board, though the papers Barney submitted rather conspicuously failed to do so.¹⁹

On the grounds of fairly clear involvement with St. Domingue's French administration, Jamaica's vice-admiralty court condemned the *Sampson*, her cargo, and Dutilh and Wachsmuth's specie in April 1794. Both parties entered appeals, which took until May 1799 to gain rulings

¹⁹ *Sampson* papers, PRO FO 304/15.

from the Lords Commissioners. Given the strong evidence of direct French interest in the cargo the Lords unsurprisingly upheld the original verdict. Barney, Dutilh and Wachsmuth then appealed to the Jay-Grenville Treaty's article VII claims commission. After a further four-year delay the commission finally awarded compensation totaling nearly £25,000—the largest payment made in any single case. The claimants waited an entire decade for the restoration of their property. In his initial claim filed in Jamaica Barney had complained that detention of his vessel cost him an estimated “sixty [Spanish] dollars per day,” in addition to “a further loss arising from the interest of money... the probable fall of markets, and the total failure of an intended voyage to Europe.” Though probably overstated, Barney's protest reflects the real and considerable costs invariably attending the prize process. Ultimately, though, the *Sampson* case is more significant for the full restoration the claims commission granted despite considerable evidence supporting Rowley's libel. By consigning the goods to a party not formally a public officer of the French colonial government Barney eventually succeeded in protecting his property from classification as contraband, establishing it as exempt neutral property under permissible use of broken voyage practice.²⁰

Another appeal involving Wachsmuth began three months before capture of the *Sampson* when the same Samuel Rowley seized the ninety-ton New York-registered brig *Echo* one day out of Miragoâne, St. Domingue, bound for her home port. In late October 1793 Wachsmuth claimed three eighths of the cargo of molasses, sugar, and coffee. New York merchants Cornelius Westphal, a Hamburg native, and Savoy-born Frenchman Saturn Bernard Garrick claimed the remainder along with the vessel. At the time of the brig's capture Garrick resided temporarily in Miragoâne, acting as resident factor for his partnership with Westphal. A native and resident of the French colony, Jean Chaubaud, travelled aboard the vessel as a company agent. The ship's

²⁰ *Sampson* papers, PRO FO 304/15.

papers, the company's formal claim, and the deposition of the vessel's master, William Nicoll, all indicated that the Frenchman owned no part of the cargo. First mate Archibald Black explained Chaubaud's role as that of an "interpreter," while the man himself swore that he travelled only "in the capacity of a passenger" without knowledge of which parties owned what portion of the cargo.²¹

Despite the appearance of her papers Rowley suspected the American brig of conveying goods actually belonging to one or several enemy subjects. Nicoll and Black each claimed a few bags of coffee. While officers commonly invested in small volumes of goods to import on their account, the ship's cook attested that in this instance Garrick had granted the coffee as gifts along with "two or three dollars" to ensure that the men would "say nothing regarding the goods onboard." Two other foremast sailors who also lacked any financial interest in the voyage likewise contradicted Chaubaud's testimony. The first claimed to have "seen him while at Miragoâne carry money on shore and purchase produce," while the second understood him to be a Westphal and Co. partner rather than a mere hired functionary. Westphal's instructions to Chaubaud discussed the risk of capture, directing him to take care "not to ship a single pound of French property onboard." But others of the ships papers made very clear Westphal's intention of transshipping the cargo to France. Given the French ethnicity of several of the claimants, the ongoing residence of one in St. Domingue, and the suspicious lack of uniform testimony as to Chaubaud's interest in the voyage, the British vice-admiralty court in Kingston condemned vessel and cargo as lawful prize in March 1794. The Lords Commissioners declined to reverse the ruling two years later. The claimants—all U.S. citizens—routinely conducted French colonial

²¹ Papers relating to the brig *Echo* [William Nicoll, master], PRO HCA 45/23.

trade through broken voyage practice. But in this instance they failed to satisfactorily maintain the necessary legal veneer of neutrality.²²

The extensive transnational nature Wachsmuth and Dutilh's business and ethnic diversity of the personal networks they utilized continued to create legal problems for them. Even still, the Philadelphia merchants clearly fared better in British courts after ratification of the Jay-Grenville Treaty. In late June 1795 the British privateer *Manchester* intercepted Wachsmuth and Dutilh's 500-ton snow *Hannibal* twenty-one leagues from the coast of Ireland making for Amsterdam with a cargo of sugar, coffee, cocoa, and cotton from Surinam. At the time Britain remained at peace with the Batavian Republic, France's puppet state in the Netherlands. The privateer's commander, John Holmes, held the *Hannibal* at sea for a month, continuing to cruise for other prizes and awaiting the imminent declaration of hostilities. In late July the *Manchester* encountered the frigate HMS *Lively* and fled, perhaps fearing impressment of his crew. The American vessel's voyage did not violate the Rule of '56. But upon inspecting her papers Capt. John Garlies of the *Lively* concluded that Dutilh's eighteen month residence in Amsterdam established domicile, making him legally a subject of a now-enemy state. Garlies sent the *Hannibal* in to London for trial. In October the High Court of Admiralty released her and portion of the cargo claimed as Wachsmuth's property. The portion belonging to Dutilh the court released only on payment of a £2271, 10s bond.²³

Dutilh travelled to Amsterdam in July 1793 to oversee the sale of two cargos. Scarcity of credit made conducting business through the firm's usual local correspondents difficult, forcing him to remain longer than planned. Company property involved in French and Spanish prize court cases also demanded his attention. In appealing for release of his goods shipped onboard

²² *Echo* papers, PRO HCA 45/23.

²³ Papers relating to the snow *Hannibal*, [Christopher Clouser, master], PRO FO 304/8.

the *Hannibal* Dutilh denied that he had established domicile, claiming to have conducted company business only through local correspondents wherever regulations required Dutch citizenship. At a supplemental hearing in March 1797 the High Court of Admiralty rejected Dutilh's testimony and various papers as insufficient proof of his neutral status. The Lords Commissioners reversed the ruling fifteen months later subject to submission of further evidence. Dutilh duly provided every bill of sale and lading pertaining to the *Hannibal*, affidavits from associates attesting to his permanent residence in Philadelphia, a notarized statement sworn by eighteen different Dutch merchants describing the temporary nature of his sojourn in Amsterdam, statements from seamen employed on company vessels, and Dutch clearance papers for numerous vessels which had sailed as registered neutrals.²⁴

Despite the enormous volume of documentation Dutilh provided in support of his claim he failed to allay the suspicions aroused by his direct family ties in Amsterdam. Etienne did much of his business in that port through "the [Dutch] house of Jean Francois and Jacob Dutilh," though he vehemently denied having "any connection [to] or co-partnership" in the firm. Court records do not make clear the precise relationship of Etienne to Jacob Dutilh, but the two must certainly have been cousins if not brothers. The *Hannibal*'s cargo had been consigned to Francois and Dutilh, though it would have remained Etienne's property until it cleared customs as neutral goods. The Lords Commissioners ultimately rejected Dutilh's further proofs, upholding the High Court's view of his compromised national status. Undeterred, Dutilh turned to the article VII commission, which in June 1803 awarded him £2,094 6s, 3d—£600 less than the bond he had paid in October 1796. The commission's choice to compensate Dutilh at all is

²⁴ *Hannibal* papers, PRO FO 304/8; The *Hannibal* case is also interesting due to a claim from the King's proctor for ownership of the condemned cargo as a 'droit of the Crown.' The vessel had been improperly seized prior to a formal declaration of hostilities and therefore fell into one of several categories of condemned enemy property which devolved to Crown ownership. Other categories included salvaged and recaptured property or prize money that went unclaimed. Hill, *Prizes of War*, 84-93.

significant. Through four separate hearings the High Court and Lords Commissioners concluded that Dutilh's family ties in Amsterdam did indicate *de facto* partnership in Dutch firm and thereby legal domicile. Granting a sum below his original bond suggests some ambivalence on the commission's part toward the case. And yet not only did the body award compensation, but it did so even though article VII did not technically cover the terms of the case.²⁵

After ratification of the Jay-Grenville Treaty British courts released property in some cases of American merchants with even longer residences in and more conspicuous to enemy territory than that of Dutilh in Amsterdam. Capt. Charles Fahie of the HMS *Woolwich* intercepted Boston merchant Martin Bicker's 250-ton brig *Neptune* off Dutch Saba in December 1794 bound for Charleston from Bordeaux. The brig had cleared Boston the preceding December with a cargo of wood staves intended for a British buyer on the Isle of White. A French frigate captured her in the English Channel and carried her into Brest, where authorities forcibly purchased the staves and detained her for the next seven months. The vessel's master, Andrew Woodbury, finally secured clearance papers in August 1794 through James Thayer, an American merchant in Bordeaux. The *Neptune* sailed in ballast to that port, loaded a cargo of wine and vinegar, and departed for Charleston. Fahie seized her during the course of that voyage, sending her as suspected French property to the vice-admiralty court of the British Virgin Islands. The court released Bicker's vessel but retained the cargo as enemy goods on account of Thayer's almost continual residence in France since mid-1792.²⁶

It took Thayer until 1803 to establish on a second appeal reading his neutral status to the satisfaction of Lords Commissioners. He eventually demonstrated the legitimacy of his neutral business in Europe as local factor for the trading house he co-owned with his brother William.

²⁵ Ibid.; Claims commission account books. FO 304/26.

²⁶ Papers relating to the brig *Neptune*, [Andrew Woodbury, master], PRO FO 304/11.

Thayer had lost a cargo of Mediterranean goods in August 1793 when a French fort near St. Laurent-la-Vernède mistakenly sank the neutral vessel conveying them. After a four-month ordeal he secured compensation from French authorities before proceeding to London where he arranged several shipments of American pearl- and pot-ash to Havre de Grace. Since the goods did not consist of contraband Thayer felt safe transshipping the cargoes to France via London. Unfortunately Commander John Murray of the sloop-of-war HMS *Weasel* seized his second shipment in the Thames estuary, viewing the property not as contraband or a violation of the Rule of '56 but as the property of a domiciled French resident. Thayer arranged for the cargo of Bordeaux wine onboard the *Neptune* as he awaited the arrival of this ill-fated cargo. Limping though a sequence of legal complications, Thayer faced hardship at French hands one moment and British the next. He assured the Lords Commissioners that his various misfortunes accounted for his lengthy residence in Bordeaux and that he never intended to remain, naturalize, or assume domicile. Despite the length of his residence and extent of his business in France the American claimant did, as did so many others following ratification of the Jay-Grenville treaty, eventually receive full compensation on appeal.²⁷

Far from every case overturned by the Lords Commissioners or article VII commission after 1795 involved such complex circumstances as Thayer's ordeal. Many claimants possessed every right to compensation and ought to have received it far sooner. One case of clear neutral immunity began in May 1793 when the British privateer *Mary* captured the 120-ton American snow *Sukey* bound with a cargo of foodstuffs for Port-au-Prince from Philadelphia. The British commander, John McIvor, suspected one or several of the vessel's fourteen French passengers of part-interest in the cargo. First mate Edward Duran and foremast sailor George Clark both named the vessel's French supercargo—a Monsieur I. B. Pelissier—as the true owner, and claimed to

²⁷ *Neptune*, papers, PRO FO 304/11.

have seen him preparing to destroy the ship's papers prior to capture. Clark also understood that the vessel carried two registers—one French and one American—in contravention of international law. Bills of lading listed the cargo's owner as Pierre Le Maigre, a French resident of Philadelphia who had shortly before the voyage transferred ownership of the vessel to her master, naturalized French-American Anthony Andaule of Philadelphia. These cumulative indications of probable interest in the cargo on the part of French citizens, as well as several technical irregularities with her papers, led the British vice-admiralty court of Kingston to condemn the *Sukey*.²⁸

Unfortunately for McIver his own case also contained irregularities, primarily his refusal to allow Andaule to accompany the prize to Jamaica as standard practice dictated—a step he likely took in the hope of avoiding the cost and delay of defending against an appeal. Rather than send Andaule to Jamaica with his vessel as international law required McIver kept the French master onboard the *Mary* for three days before transferring him to a passing vessel bound for Cape Franchoise. McIver's irregular and unlawful conduct inspired intervention from Secretary of State Thomas Jefferson. In late June Jefferson issued a formal protest to George Hammond, Britain's minister in Philadelphia, and instructions to Thomas Pinckney, the U.S. minister in London, to “make this the occasion of obtaining from [Britain's] government general orders for their West India colonies to watch with vigilance over violations of this kind.” Andaule finally reached Jamaica in late October, too late to prevent condemnation of the vessel. He did enter an appeal, submitting proofs of Le Maigre's naturalization as a U.S. citizen in 1779 and Boston merchant George Makepeace's ownership of the cargo. In May 1798 the Lords Commissioners overturned the ruling pending submission of further proofs. The claimants then produced several notarized documents predating the capture, including a certificate from the British consul in

²⁸ Papers relating to the snow *Sukey* [Anthony Andaule master], PRO FO 304/14.

Boston indicating that Le Maigre had acted only under power of attorney for Makepeace and owned no share in the property. It is unclear from court records why the claimants did not submit such strong evidence at an earlier date. Although the cargo would have immediately become enemy French property upon their unloading and sale to Le Maigre's uncle in St. Domingue, the papers satisfied the requirements of broken voyage doctrine as permitted under the Jay-Grenville Treaty. The Lords Commissioners accordingly reversed the ruling. When McIver failed to remunerate Makepeace the article VII commission did so instead, awarding him nearly £2,000.²⁹

The article VII claims commission represents the centerpiece of Jay's mission to diffuse the war crisis of 1794. The largest volume of its awards compensated the worst excesses of the Jervis-Grey expedition and fully established the narrower definitions of legal blockades agreed in the treaty's eighteenth article. The experience of Boston merchant Josiah Knapp is typical in that regard. Commander John Salisbury of the British frigate *Beaulieu* intercepted Knapp's ninety-eight-ton sloop *Ranger* making for Martinique with a cargo of foodstuffs. Jervis's kangaroo prize court at Barbados summarily condemned the vessel within three weeks for breach of blockade, though her master, Ebenezer Grove, had not received warning in approaching the French colony or known of the blockade prior to departing Boston. As the *Ranger* awaited trial Knapp lost a second vessel, the 112-ton schooner *Mary*, seized off Mole St. Nicholas bound for Jeremie, St. Domingue, with a cargo of French wine belonging to the hapless Wachsmuth and Dutilh. Papers belonging to the *Ranger* show that Knapp and each of the cargo's two other part-owners had taken out insurance policies at £12 premiums providing up to a £350 compensation for losses but

²⁹ Thomas Jefferson to George Hammond, and Jefferson to Thomas Pinckney, 26 June 1793. John Catanzariti, ed., *Papers of Thomas Jefferson* (Princeton: Princeton University Press, 1995), 26:375-7, 379-80 [hereafter cited *PTJ*]. Jefferson wrote on the case to Hammond: "I trust that your Government will make a point of bringing [McIver] to justice, if the case should really prove to be as it is represented, in order to ensure to the commerce and navigation of peaceable nations that freedom from interruption to which they are entitled. Your interposition cannot but be the more effectual in the present case, as the principal owner of the cargo is a long-established and well-known-merchant of reputation of this place, and it would be easy for you to satisfy yourself in the most perfect manner of the property of the vessel and cargo."; *Sukey* papers, PRO FO 304/14; Claims commission account books, FO 304/26.

excluding liability in any case of “forfeiture, plunder, or restraint from any of the powers who are or may be at war.” Comprehensive policies cost far higher premiums, eroding profit margins to such a degree that many merchants preferred to take their chances. The loss of multiple vessels simultaneously to lengthy court processes could ruin all but the wealthiest. Not until June 1798 did the Lords Commissioners order Capt. Francis Roberts, captor of the *Mary*, to repay the claimants her full value. Knapp waited even longer to receive compensation for the *Ranger*, eventually gaining £2,806 from the commission in June 1803.³⁰

Cases such as the *Ranger* and *Mary* represent the egregious depredations that caused the Anglo-American war crisis of 1794. Compensation of such captures hardly represented liberality on Britain’s part. But in numerous other cases the commission compensated claimants with far weaker legal grounds for optimism than George Makepeace and Josiah Knapp. In May 1803 the commission settled two separate appeals from John Waters of Salem in a single payment of £522, 10s, 16d. The first case involved the thirty-four-ton sloop *Amelia*, seized in January 1794 by a British vessel blockading Martinique despite making no attempt to approach that island during a voyage home from French St. Lucia. Waters had every right under international law and the Jay-Grenville Treaty to compensation for the *Amelia*, which represented a typical case of abuse under the November Order. Waters’s second appeal involved the sixty-three-ton schooner *Aurora*, which Capt. Francis Farrington Gardiner of the frigate HMS *Iphigenia* seized in the harbor of British-occupied St. Marc’s, St. Domingue, in November 1794. Waters and his brother Joseph had purchased the vessel in Boston the previous month and claimed ignorance of her

³⁰ Comprehensive insurance premiums for American merchants during typically fluctuated at around twenty per cent of vessel and cargo’s value, peaking at an astronomical thirty-three per cent in mid-1798 due to the activities of French privateers. Such rates encouraged merchants to risk voyages without insurance, or purchase less comprehensive policies, rendering subsequent condemnations in prize cases quite devastating. William Winter, *Marine Insurance: It’s Principle and Practice*, 3rd ed. McGraw-Hill Insurance Series (New York: McGraw-Hill, 1952), 1-30; William James, *The Naval History of Britain from the Declaration of War by France in 1793 to the Ascension of George IV* (1902; repr., Uckfield, Sussex: Naval and Military Press, 2004), 1:239-45; Papers relating to the schooner *Ranger*, [Ebenezer Grove, master], PRO FO 304/14; Papers relating to the schooner *Mary*, [Simon Hussey, master], PRO HCA 45/23; Claims commission account books, FO 304/26.

prior history. Gardiner's libel named her as a British-owned vessel captured by the infamous Capt. Bompard of the French frigate *Embuscade*—escort to the lightning-rod French envoy Charles Genêt. Bompard captured several British vessels off the U.S. coast during the summer of 1793, selling them as prizes with the assistance Charleston's French consul without trial in any properly constituted court. The vice-admiralty court of Jamaica ruled the *Aurora* a lawful recapture in January 1795, awarding one-eighth of her value to Gardiner as salvage and holding the remainder in trust for the rightful owner. International law clearly defined the *Aurora* as an improperly transferred vessel liable to recapture. The commission's grant of compensation for her loss certainly exceeded in generosity the requirements of the treaty's seventh article.³¹

The claims commission proved equally generous in numerous cases requiring liberal interpretations of domicile and neutral status. One such a case began late December 1793 when Capt. John Hills of the frigate HMS *Hermione* examined the brig *Eagle* in the harbor of British-occupied Mole St. Nicholas. The brig's papers listed Charleston merchants James and Edward Penman as owners of her cargo of claret wine. The vessel belonged to John Titus Morgan of Boston. Hills let the vessel proceed, allowing her master Hugh Manning to sell the cargo through

³¹ Papers relating to the schooner *Amelia* [John Waters, master], PRO FO 304/1; Claims commission account books, PRO FO 304/26; Rather than risk carrying captured British prizes to home ports in the West Indies, French consuls acted as prize courts and condemned property in American ports. Genêt claimed that the 1788 Franco-U.S. Consular Convention granted French consuls the right to establish courts and exercise such jurisdiction. He also claimed that Article XVII of the 1778 Treaty of Amity and Commerce granted the privateers of each party the right to treat the ports of the other party as *de facto* home ports. For text of the Treaty of Alliance and Treaty of Amity and Commerce see Richard Peters, ed. *Public Statutes at Large of the United States of America* (Boston: Charles C. Little and James Brown, 1846), 8:6-31. For text of the Franco-American Consular Convention see U.S. Department of State, *Treaties and Conventions Concluded Between the United States of America and Other Powers Since July 4th 1776* (Washington, DC: Government Printing Office, 1889), 316-21. Louis XVI's government had negotiated such expansive consular prerogatives in a convention agreed with Benjamin Franklin in 1784, but Congress refused to ratify it. The terms Thomas Jefferson secured in 1788 were not so generous. See Merrill D. Peterson, *Thomas Jefferson and the New Nation: A Biography* (New York: Oxford University Press, 1970), 368-9. Britain's minister in Philadelphia, George Hammond, protested the condemnation of British property by the French consul in Charleston during the early months of 1793. The Washington administration agreed with Hammond and Jefferson, now Secretary of State, filed a formal complaint against the practice. See Jefferson to Jean de Ternant, 15 May 1793. *ASPFR*, 1:147-50. On 18 February 1794 in the case of *Glass vs. Sloop Betsey*, Chief Justice John Jay's Supreme Court ruled that foreign consuls could not exercise such acts of sovereignty unless expressly permitted by treaty. See Meava Marcus, ed. *Documentary History of the Supreme Court, 1789-1800. Volume Six: Cases, 1790-95* (New York: Columbia University Press, 1998), 247-9. Also see William Casto, *Foreign Affairs in the Age of Fighting Sail* (Columbia, SC: University of South Carolina Press, 2006), 36-43.

local house Dubourg and Brandie before acquiring a return cargo of coffee. Upon her attempted departure Hills again examined the brig's papers, which included a bill drawn up in Charleston by one Benjamin Desroche on authority of St. Domingue planter Madame J. Tardieu for coffee to the value of £3,300. French-born Charleston resident Guy Jeffrey traveled aboard the *Eagle* as supercargo and agent for Tardieu, leading Hills to view the cargo as French property and send the vessel to Kingston for trial. The court released the vessel but seized her cargo, granting Hills permission to sell the perishable goods on behalf of the court, which according to standard practice retained the proceeds until ruling in the case. Hills's prize agent sold the cargo for £1640, 12s, 6d—a sum the claimants protested as insufficient.³²

Depositions from several of the American vessel's foremast sailors supported the captor's libel, stating their universal understanding that the cargo belonged to French citizens. Hills also emphasized discrepancy between the bills of lading, listing St. Domingue as the intended destination, and the vessel's sea letter, which named Dutch St. Eustatius. Finally three letters among the ship's papers from Charleston-resident St. Domingue émigrés Charles Le Place and M. Denoye introduced Manning to various merchants in French-held Jacmel. One stated that Penman and Co. has "rendered here the most eminent service to the refugees of this city." The Penmans requested release of the property, arguing that they intended the false sea letter to deceive French privateers preying upon trade with British ports. Regardless, the Kingston vice-admiralty court condemned both vessel and cargo in March 1794 as enemy trade. American interpretation of broken voyage permitted such voyages, but prior to ratification of the Jay-Grenville Treaty they fell into a grey area of British jurisprudence between the Rule of '56 and *bone fide* neutral status. Jeffrey had served seven years as a French naval officer. Subsequently he resided for some time at Cape Francois before having relocated to Charleston and taken U.S.

³² Papers relating to the brig *Eagle* [Hugh Manning, master], PRO FO 304/16.

citizenship in June of the preceding year. Since Hills had seized the vessel under the November Order the case fell under the terms of article VII. After enduring the tortuous appeal process Penman and Co. received £3050, 15s, 3d from the claims commission in February 1804. British courts might well have condemned the *Eagle* without the November Order as an impermissible evasion of restrictions on the enemy's colonial trade. The Jay-Grenville Treaty's guarantees of compensation for all such cases assured the Penmans of success, eventually. But the treaty also ensured that in future such use of broken voyage practice would satisfy British courts of neutral immunity—even in cases requiring generous acceptance of neutrality on the basis of recent naturalization.³³

The contrast between the fate of vessels such as the *Aurora* and *Eagle* after ratification of the Jay-Grenville Treaty and the whaler *Ospray* earlier in the war is stark. The same questions regarding the uncertainty of precise ownership due to irregular papers or the national status of interested parties continued to arise. From 1796 onward, however, British authorities overwhelmingly admitted more liberal definitions of neutral status, blockade practices, and the use of broken voyage. The claims commission's complex and painstaking work of reviewing hundreds of claims took time, including a hiatus of several years due primarily to an impasse within the even more contentious article VI commission. But ultimately the body resolved what had been the major cause of the 1794 war crisis, adequately compensating most of the merchants who had suffered under the obnoxious November Order. Of 307 claims listed in commission account books 281 eventually received compensation payments exceeding a total value of £1,000,000. The commission's work vindicates the Jay-Grenville Treaty and stands as a symbol of Anglo-American détente during the decade of its operation.³⁴

³³ *Eagle* papers, PRO FO 304/16; Claims commission account books, PRO FO 304/26.

³⁴ Article VI created an itinerant U.S.-based commission to pursue the claims of British creditors still awaiting payment of debts predating independence. When the process broke down in July 1798 the British

Mutual ratification of the treaty in 1795 led to a marked shift in British prize court jurisprudence. Under amended Admiralty orders British commanders submitted fewer American vessels for trial. Of those cases which did arise, vice-admiralty courts—including those most guilty of egregious rulings during the preceding three years—condemned a smaller percentage. Furthermore most of the relatively few American vessels condemned at initial trials gained restoration on appeal. This development confirmed the hopes and expectations of the treaty’s negotiators. Shortly after Jay’s departure from London in the spring of 1795 Lord Grenville wrote to him mentioning among other points legislation then under consideration in Parliament for reducing the number of vice-admiralty courts in the West Indies. Grenville expressed his hope that “the regulation will not stop there, but that the effect of it may render the practice of those which still remain more correct and cautious than I fear it has hitherto been.”³⁵

A survey of cases arising in the vice-admiralty court at Mole St. Nicholas during the later 1790s offers an excellent view of American merchants’ changed fortunes. By early 1797 the Mole represented the most secure of a dwindling number of British coastal toeholds in the former French colony—the last bastion of a temporarily successful occupation launched three years earlier. British forces remained in St. Domingue until mid-1798, using the Mole as a base from which to prey upon enemy commerce. American merchants faced great difficulty in attempting to maintain consistent and legally watertight paperwork while trading with a colony with a continually shifting geopolitical landscape. But despite this reality, and despite the growing number of total cases processed in the British vice-admiralty court at the Mole, the volume of American vessels submitted and the number actually condemned both declined. In a

government blamed American recalcitrance and withdrew its representatives from both commissions in protest. Perkins, *First Rapprochement*, 116-9; Claims commission account books, PRO FO 304/26-28.

³⁵ Lord William Grenville to John Jay, 11 May 1795. Henry Phelps Johnston, *Correspondence and Public Papers of John Jay, 1763-1826* (New York: G.P. Putnam’s Sons, 1890-93), 4:173-6; John Raithby, *Statutes Relating to the Admiralty, Navy, Shipping, and Navigation of the United Kingdom* (London: Eyre and Strathan, 1823), 645-8.

random sample of seventy cases heard between April 1797 and August 1798 forty-one dealt with non-American property, involving either enemy property or the vessels of other neutrals such as Denmark. Of twenty-nine cases involving American claims only six resulted in the uncompensated condemnation of both vessel and cargo; in seven the court condemned only part of the cargo, while twelve resulted in acquittal. The remaining four involved salvage cases of vessels recaptured from French privateers. The specific details in many of the cases typify the strong legal basis necessary for successful libels against American property in British admiralty courts by the late 1790s.³⁶

High Court of Admiralty casebooks reveal the same pattern. Appeals took three or four years to reach the Lords Commissioners at Whitehall. A typical volume of the casebooks documenting appeal hearings dating to 1798 contains forty-two total cases of captures made no later than December 1794. Thirty-five related to American-claimed property, twenty-seven of which involve seizures made under the November Order. All but one of the thirty-five condemnations the Lords Commissioners reversed in the wake of the Jay-Grenville Treaty. The lone exception subsequently received compensation from the article VII claims commission. A typical volume of appeals heard during 1801 involves captures made during 1797-98 and includes only ten cases of American-claimed property, six of which received acquittal. In contrast, more than two-thirds of the cases deal with vessels belonging to other neutral states.³⁷

One particularly interesting case involving property liable for condemnation under several points of law underscores the ways in which Anglo-American détente improved the fortunes of American merchants, despite the many hardships they nonetheless endured during the

³⁶ Perkins, *First Rapprochement*, 44-59; For Britain, French St. Domingue, and the Haitian Revolution see David Geggus, *Slavery, War, and Revolution: the British Occupation of Saint Domingue, 1793-98* (New York: Oxford University Press, 1982) and Laurent Dubois, *Avengers of the New World: the Story of the Haitian Revolution* (Cambridge, Mass.: Harvard University Press, 2004); Sample taken from case summaries found in PRO HCA 45/50. The sample size represents roughly a quarter of the total cases processed during the period.

³⁷ PRO HCA 45/24 and 33.

appeal process. In July 1795 the thirty-eight gun frigate HMS *Revolutionaire* intercepted the 179-ton snow *Harmony* making for Nantes. Capt. Francis Cole sent the vessel into Plymouth as suspected enemy property. The cargo's consignee George William Murray, a partner in New York-based family firm Robert Murray & Co., had resided in Nantes since early 1794. The High Court released the five-eighths of the cargo belonging to various other American claimants but condemned the Murrays' portion, defining George as a domiciled enemy subject.³⁸

James Valentine Murray, the family's London-based factor, explained George's presence in France as relating to legitimate company business unfortunately complicated due to refusal of republican authorities to render timely payment for goods received in numerous instances. During the years between capture of the *Harmony* and the Lords Commissioners' appeal ruling in March 1800, George continued to reside primarily in France. Like many American merchants he salivated over the profits available in desperate wartime markets, despite the attendant risks. In late 1795 George optimistically described the detention of several company cargos by the British courts as "a temporary inconvenience only." He expressed confidence "that the state of markets in Europe suggests some operations which would be highly advantageous," but his optimism proved unfounded. Two further cargos and one company-owned vessel were seized as suspected French property the following year. By mid-1799 the family's fortunes had suffered permanent damage. George's older brother Charles, a London lawyer, informed the court that both George and another brother, James, found themselves unable to return home because, "creditors having thrown Robert Murray into confinement, the other partners are unwilling to expose themselves to like violence." Charles and James could not return home until either French authorities or British admiralty courts restored some of their family's losses.³⁹

³⁸ Papers relating to the snow *Harmony* [William Bool, master], PRO FO 304/8.

³⁹ *Harmony* papers, PRO FO 304/8.

Affidavits and other documents submitted in support of the appeal acknowledged that of the five Murray brothers only the eldest, John, had immigrated to America prior to 1783. Under British law the younger brothers technically remained the king's subjects and their property might simply have been condemned as belonging to Britons trading illicitly with His Majesty's enemies. Regardless of their status, including George's possible French domicile, the company had also dealt directly with enemy authorities, exposing their cargos to classification as contraband even under the limitations established in the Jay-Grenville Treaty. The Lords Commissioners upheld the original ruling, leaving George to appeal to the claims commission. Remarkably the Murrays received a generous award exceeding £5,600 in August 1803—hopefully sufficient to satisfy at least some of their creditors.⁴⁰

The Murray's ordeal presented a case of some complexity, which accounts for the Lords Commissioners' reluctance to overturn the original ruling. By the late 1790s American claimants rarely faced such protracted appeals processes and almost invariably saw their property restored—even in the West Indies. In late March 1798 Joseph Duval, commander of the British privateer *General Juricoe*, seized the Baltimore-registered schooner *Polly* off Mole St. Nicholas on account of her cargo of coffee, sugar, and cotton acquired at Gonaives, St. Domingue. Duval viewed the cargo's enemy ownership as so transparent that he supported his libel against the vessel only with copies of her papers, not bothering to question a single crewmember. The papers clearly showed the entire cargo to consist of French colonial produce consigned for immediate trans-shipment to France. Thomas Harris, master of the *Polly*, claimed ownership of the vessel, and part-ownership of the cargo along with six other Baltimore men who all claimed U.S. citizenship. The schooner's outward cargo had netted \$10,606 in Gonaives. Reinvested in coffee and sugar Harris could expect to more than double that sum upon reaching Europe. In

⁴⁰ Claims commission account books, PRO FO 304/26.

hundreds of similar voyages each year American investors capitalized on the booming re-export trade permitted under the Jay-Grenville Treaty. At a hearing in early May the vice-admiralty judge at Mole St. Nicholas released the *Polly* and six-sevenths of her cargo, condemning only the portion claimed by Marcus McCausland—an Irishman who had emigrated since 1783 and remained in British eyes a subject the king. This judgment explicitly acknowledged the cargo as enemy trade, in which His Majesty’s subjects could not legally participate during wartime. Neutral Americans, in contrast, continued the enemy’s colonial trade by proxy under the very noses of British commanders with the protection of British courts. The week following release of the *Polly* the same judge ruled in favor of American claimants seeking release of the eighty-ton schooner *William*. Capt. John Loring of frigate HMS *Proselyte* had seized the New York-registered vessel in late March making for blockaded Gonaives despite the ship’s papers listing British Montego Bay, Jamaica as her destination. Loring suspected the four French women planters onboard the vessel of ownership of the cargo, which he called “truly French property covered and protected by American citizens, adherents to the enemies of His Majesty.” Both circumstantial and documentary evidence gave credence to Loring’s libel, which four years earlier would almost certainly have succeeded. But in 1798 the vessel’s master, Isaac Burr, and his partner William Fitch and William Johnston successfully claimed joint ownership, recovering the property within six weeks of capture.⁴¹

The *Polly* and *William* cases typify the more liberal treatment American vessels enjoyed in British courts by the late 1790s, even in instances which more hawkish courts would likely have condemned out of hand a few years earlier. The rare cases that did result in condemnation usually involved flagrant violations of the Jay-Grenville Treaty’s agreed rules, further

⁴¹ Papers relating to the schooner *Polly*, [Thomas Harris, master], PRO HCA 49/55; Papers relating to the schooner *William* [Isaac Burr, master], PRO HCA 45/56.

underscoring the relative latitude American merchants enjoyed. In one such case the sloop-of-war HMS *Rattler* and armed schooner HMS *Marie Antoinette* captured the Baltimore-registered sloop *Huldah* off Gonaives in early April 1797. The American vessel's cargo primarily consisted of flour, but also several thousand swords, sabers, cutlasses, and scabbards which Lt.-Comm. Richard Horsley of the *Marie Antoinette* called "military and warlike stores." The sloop's master, James Mills, described the purported contraband as "machetes, a species of knife not mounted as swords or sabers, generally used in tropical countries for cutting hedges, etc." Unfortunately Mills failed to adequately explain why the supposedly agricultural tools he insisted "cannot be considered as implements of war" required military-style scabbards. In mid-July the St. Nicholas Mole vice-admiralty court condemned the swords and cutlasses as contraband and the vessel for participation in enemy trade. Even still, the court released the non-contraband portions of Mills' cargo as neutral property in accordance with most standard interpretations of international law. Indeed, in applying such rules to American claims British courts actually exceeded the guarantees given in article XVII of the Jay-Grenville Treaty. Even Alexander Hamilton, the treaty's most effective apologist, had commented to George Washington in July 1795 his regret that that article did not "stipulate with regard to contraband goods what has been stipulated with regard to enemy's goods, to wit, that the contraband only should be detained." Despite this shortcoming British courts seem to have almost universally applied more liberal standards anyway.⁴²

In a similar case the sloop-of-war HMS *Drake* intercepted the schooner *Experiment* in September 1797 bound for Léogâne with a cargo including large quantities of hemp, twine, and canvass sail cloth, as well as two-hundred oars of the kind used for naval small boats. The items

⁴² Papers relating to the schooner *Huldah*, [James Mills, master], PRO HCA 45/50; Alexander Hamilton, 'Remarks on the treaty of amity and commerce and navigation lately made between the United States and Great Britain,' New York, 9-11 July 1795. Harold Coffin Syrett and Jacob Ernest Cooke, eds. *The Papers of Alexander Hamilton*. (New York: Columbia University Press, 1961-87), 18:440.

clearly constituted contraband naval stores liable for seizure when bound to an enemy port. The ship's papers made no mention of the goods, all of which the boarding party discovered well concealed among the other cargo. Instructions found among the ship's papers from owner Jonathan Davenport directed supercargo John Richardson as to the best methods for dealing with the republican authorities of French St. Domingue. The schooner's master, John Batton, claimed that the twine, hemp, and canvas belonged to the vessel for repairing sails and making bags to contain the return cargo of coffee. The oars he represented as a personal investment for sale on his own account, though certainly not "to the enemies of His Britannic Majesty." Batton's suspiciously convenient explanations for the absence of each questionable item from the vessel's papers did not fool the British judge who heard the case. The volume of twine, hemp, and canvas far exceeded the schooner's requirements, and Batton could have found no buyer for the oars at Gonaives but enemy subjects. The court condemned vessel and cargo.⁴³

The *Huldah* and *Experiment* cases typify the water-tight legal basis necessary for successful libels against American property in British courts by the late 1790s. The liberal rulings and generous though tardy compensation which the article VII commission provided, combined with the extensive re-export trade fostered by British acceptance of broken voyage, strongly vindicate the Jay-Grenville Treaty against its detractors. A survey of prize court cases involving American merchants reveals the often contradictory realities of neutral trade. Americans profited immensely from booming commerce at a time of extremely high prices in Europe. They also faced the threat of costly delays and significant personal hardship even in instances of clear innocence which would eventually meet with full compensation. But for all the challenges and significant material loss, the outlook during the decade after ratification of the treaty proved far brighter than in the years following its expiration in 1805. It is in light of this

⁴³ Papers relating to the schooner *Experiment*, [John Batton, master], PRO HCA 45/52.

reality that historian Charles Ritcheson rightly concludes that “the anomaly [in Anglo-American relations] is not Lord Grenville’s treaty with Mr. Jay, but the war of 1812.”⁴⁴

⁴⁴ Ritcheson, *Aftermath of Revolution*, 359.

Chapter two

“As good a one as we ought to expect”: merchant opinion and ratification of the Jay-Grenville Treaty, 1794-6

While several scholars have described the political process of ratifying the Jay-Grenville Treaty, none has given sufficient attention to the role merchants played in the process. This omission deprives historians of an important perspective on the treaty's terms. Chapter one has suggested that the historiographical record on the treaty overstates criticism of its maritime-legal terms. If this assertion is correct, it would make sense to find those Americans most equipped to understand those terms, and to foresee their value, most vocally advocating ratification. Evidence strongly suggests as much, indicating that even if they did not universally celebrate every detail of the treaty immediately, merchants did overwhelmingly warm to the idea of ratifying and executing far sooner than the mass of their fellow citizens. More importantly, many played leading and decisive roles in encouraging the nation's leaders to ratify and execute it.

In late April 1796, as debate over funding for the Jay-Grenville Treaty continued to rage in the House of Representatives, French-American Baltimore shipping agent Paul Bentalou wrote to his countryman and fellow Republican Stephen Girard. He commented that the opinions of Philadelphia merchants, of which Girard had recently apprised him, “seem to stand perfectly in line with the rest of the commerce of the United States on the great constitutional question agitating the immediate representatives of the people.” In labeling the lower chamber more fundamentally responsive and democratic than the Senate and Presidency, Bentalou vented his frustration at dwindling hopes that Republicans might block execution of the treaty. During the ten months since ratification in the Senate a once solid anti-treaty House majority had dissipated. Disgruntled irreconcilables continued to insist that the popular will disapproved of the treaty, and that its triumph reflected disproportionate, corrupt and illegitimate Federalist influence. Bentalou

went on to vent “that there is not a worse businessman than the republican, who always blinded by his own interests would sacrifice to his selfishness the most inalienable rights and sacred privileges of man.” He lamented that “men appear to have changed beyond recognition,” yet professed hope that “the present madness will evaporate.” Bentalou reported that already “the arrogant tone of our ‘merchants and traders’ has provoked opposition meetings,” inspiring him to hope that the voice of their constituents might yet convince House members to “remain true in their principles in spite of all the clamors of commerce and the faction of ‘paperocracy.’”¹

Such characterizations of pro-treaty advocates and their influence on public opinion typify opposition commentary. After attending the Senate’s June 1795 special session to discuss the treaty, South Carolina’s Pierce Butler toured the Eastern United States. In October he wrote home to state appellate court justice Aedanus Burke commenting on the pervasive influence of “[Alexander] Hamilton and his faction” on public debate. He claimed that “these men have in the monied and part of the commercial interest a strong party leaving nothing undone to suppress the great body of the [people].” But, like Bentalou, Butler optimistically perceived signs that the actions of “men determined to make all yield to their aggrandizement and monopoly of power... [and] suppress general sentiments of dissatisfaction” had caused many former “good friends of funding and the bank” to change their views. He reported that “in whatever society I mixed with... seven eighths of the people not only opposed the treaty, but [are] disgusted with the administration.” He wrote in similar terms a week later to Georgia governor George Matthews, reflecting that “this class of men have long been a dead weight on a fair construction of the Constitution... whatever appears to them to weaken the security and interest of a funded debt, or interfere with bank speculations, is sure to have their decided opposition.” Butler defined the

¹ Paul Bentalou to Stephen Girard, 24 April 1796. Stephen Girard papers, series 2, microfilm reel 5, American Philosophical Society, Philadelphia [hereafter APS]. For biographical detail see John B. McMaster, *Life and Times of Stephen Girard, Merchant and Mariner*, (Philadelphia: J.B. Lippincott, 1918).

Jay-Grenville Treaty debate as no more than “a continuation of this system some time since contrived.”²

Laying aside the cynical and conspiratorial motivations they ascribed, Bentalou and Butler correctly identified the influence of “merchants and traders” or a “monied interest” as essential to the evolution of public opinion toward the treaty. The initial furor of hostility following publication of its terms in late June 1795 dissipated. By the spring of 1796 majority sentiment seemed to favor execution. Resolutions, petitions, and instructions from public meetings and groups of citizens poured in to Congress, to the President, and directly to individual representatives. Not surprisingly, those most economically interested in the debate played a decisive role in its outcome. Merchants did not comprise a uniform group ethnically, philosophically, or economically. Some, like Girard and Bentalou, harbored strong Republican sentiments and remained steadfastly opposed to a treaty that seemed to draw Americans closer to monarchist Britain at France’s expense. Others immediately embraced the treaty with genuine enthusiasm. Most merchants’ initial reaction likely lay between these extremes. But regardless of their first response, a majority of merchants did come to view it as a potentially lucrative compromise—even if only as the preferable alternative to war. Pro-treaty merchants played a demographically disproportionate role in organizing the meetings and petitions that turned the tide of public debate, ultimately influencing events in Congress directly. The opinions of influential individual merchants also heavily influenced the office-holders most important to the ratification process, George Washington included.

² Pierce Butler to Judge Burke and George Matthews, 10 and 17 October 1795. Pierce Butler letterbook, 1787-1821, vol. 2, Historical Society of Pennsylvania [hereafter HSP]. For the more on Butler see Malcolm Bell Jr., *Major Butler’s Legacy: Five Generations of a Slaveholding Family* (Athens, University of Georgia Press, 1987); An Irish-born republican of radical sympathies, Burke served as South Carolina’s Supreme Court Chief Justice from 1796-99. John C. Meleney, *The Public Life of Aedanus Burke: Revolutionary Republican in Post-Revolutionary South Carolina* (Columbia: University of South Carolina Press, 1988).

When President Washington nominated John Jay as peace envoy to Britain in April 1794 many merchants likely shared the sentiments of Samuel Coates, who commented approvingly to Newburyport associate Moses Brown on the conduct of New England Congressmen. Brown replied that Coates “cannot approve of their conduct higher than I do. I think they have acted with great wisdom and prudence, and I hope they will be able to prevent a war which must have distressed us without any prospect of gain.” He praised in particular the defeat of proposals to coerce Britain through sequestration of private debts and potentially real property. Adoption of the measure, Brown believed, would have left “us as a nation accountable for all the British merchants’ bad debts. In that case [the federal government] might well pay us for all our vessels and perhaps have as much due after as they were ever able to get.” In other words, Brown felt far greater confidence in Jay’s chances of securing compensation to merchants defrauded under British orders-in-council than he did of any party receiving payment in full from long-delinquent American debtors. Diplomacy and compromise seemed the more sensible course. At least one of Coates’ employees agreed. William Vicary, master of a Coates family vessel, wrote in June from Hampton Roads, Virginia of his “sincere wish” for peace. Approving Jay’s appointment, Vicary commented that he had “never heard of any nation engaging in a war by which the community in general gained.” Like so many merchants, the Coates family and their associates stood to gain more from peace and lose more in war than most.³

Americans received little intelligence of Jay’s progress in London during the fall and winter of 1794-5. Public debate and private comment on diplomatic affairs hushed to a whisper, though this did not indicate any reduction in the fervor of partisan feeling. The draft treaty

³ Moses Brown and William Vicary to Samuel Coates, 12 May and 6 June 1794. Coates and Reynell family papers, series 2, box 25/9 and 10, HSP. Orphaned as a young boy and raised by his uncle, Coates was a self-made merchant whose business survived the Revolution and flourished after Independence. A wealthy and innately conservative Federalist, Coates was also a celebrated philanthropist. Stephen N. Winslow, *Biographies of Successful Philadelphia Merchants* (Philadelphia: James K. Simon, 1864), 192-5. For Brown see Edgar Stanton Maclay, *Moses Brown, Captain U.S.N.* (New York: Baker Taylor Co., 1903).

reached the United States in late March 1795, its terms still secret. Party sentiment immediately revived nationwide when Washington called a closed-doors Senate session for the last three weeks of June. A week before the session convened, Thomas Fisher, a shipping firm apprentice in Baltimore, reported to his father on a recent tour of the partially-constructed federal city on the Potomac. Thomas noted that the bridge over the river had “already given way, or at least twisted out of shape,” either due to its builders’ incompetence, or else because “we may suspect them of being democrats who did not desire that the union of America be very permanent.” Such jests indicate the depth and seriousness of partisan spirit, despite Fisher’s levity. Few on either side of the divide in Congress or beyond felt assured that their rivals wished to uphold the Constitution. Perhaps unsurprisingly in light of the family’s Federalist proclivities, Thomas’s father enthusiastically praised the Jay-Grenville Treaty’s terms upon their publication. Miers Fisher, a prominent Philadelphia lawyer, informed his son in late June that he deemed it, “excluding the 12 article... very beneficial.” He noted with particular satisfaction that “strict fidelity to our engagement with France is provided for... and preservation of our neutrality [thereby] rendered probable.” Miers did not consider the treaty lopsided or a tool of party politics. He commented that “independent nations will never adhere to any engagement which is found to operate against them,” and that treaties by their nature require “mutual benefits nearly equal in value on both sides and mutual forbearance of natural equal rights.” In this vein Fisher expressed hope that the terms might prove, as they appeared to him, “well compounded for the purpose of durability.”⁴

Federalist leanings and hostility toward democratic radicals did not universally translate to immediate enthusiasm for the treaty, even among Fisher’s elite peers. Elizabeth Meredith, the

⁴ Thomas Fisher, Jr. to Miers Fisher, 31 May 1795, and reply 29 June. Fisher family papers, series 1, box 3/7 and 4/9, HSP. Son of late colonial era merchant Joshua Fisher, and father of future merchants, Miers made his living in law and also served in the Pennsylvania legislature but remained very close to the city’s mercantile community. Henry Simpson, ed., *The Lives of Eminent Philadelphians, Now Deceased* (Philadelphia: William Brotherhead), 359-64.

wife of successful tanner and leather merchant Jonathan Meredith, commented on the prevailing air of contention to her son David, then the resident factor in Bordeaux for his own partnership. Following the Senate's adjournment, Elizabeth mused that "discord seems to show its baleful aspect in our city." She called local Republican printer Benjamin Franklin Bache and physician Michael Leib "the first horses in the political team," offering snidely that "not being able to obtain any part of honor or profit themselves, they are angry with all those who can. Our President (of whom the world cannot contain a better character) is frequently abused in [Bache's] paper." Despite her distaste for radicals of such ilk and approval of Washington, Elizabeth expressed uncertainty regarding the treaty. She noted that "Mr. Jay's transactions... have not met the approbation of the public mind, and the discontents burnt him in effigy." Though not approving of such tactics, she also noted that "few are pleased with the execution of his mission, and fear seems to be the leading feature in the face of our leading citizens." David's partner Robert Andrews similarly reported that "the treaty is much disliked... Great tumults have arisen and addresses have been made to the President from different quarters of the Union praying that the treaty may not be carried into effect." Andrews did not offer an opinion of his own.⁵

Such initial reluctance to offer strong opinions when commenting on the treaty seems more common of merchants than the Fishers' immediate approval. Most expressed concern primarily with the disruption the treaty debate wrought in the business cycle. In early June tobacco merchant William Hight informed William Ewing, master of his sloop *Rainbow*, that the mercantile community eagerly anticipated the Senate's session and remained "very impatient to

⁵ Elizabeth Meredith and Robert Andrews to David Meredith, 12 and 27 July 1795. Jonathan Meredith papers, series 2: David Meredith, box 7/5, HSP. For Jonathan Meredith's economic success and hostility toward radicalism see Charles S. Olton, *Artisans and Independence: Philadelphia Mechanics and the American Revolution* (Syracuse, NY: Syracuse University Press, 1975), 15; Second generation German-American, Leib was a physician who served as a Patriot surgeon to the Pennsylvania militia during the Revolution. Following his participation in the formation of Philadelphia's first democratic-republican society in 1793 politics became his primary passion and occupation. John A. Garraty et al, ed., *American National Biography* (New York: Oxford University Press, 1999), 13:442-4. For Benjamin F. Bache see chapter 5 of this dissertation.

know [their decision], so we may form some judgment of future events.” He conveyed to Virginia planter John Johnston that he daily expected to see the treaty and his hope that “from this our merchants will be able to form some better judgment how to dispose of their shipping.” Hight also expressed hope that the news “will be in favor of your tobacco.” He discussed falling prices several days later, ascribing them to declining French markets but also political uncertainty. He ruefully acknowledged that “at present nothing can be done as to sales.” Following the treaty’s publication Hight informed another correspondent that its terms “meet with general dislike.” He discussed citizens’ meetings in New York, Boston, and Philadelphia that had petitioned Washington “not to sign the treaty.” A few weeks later he passed on to fellow merchant Robert Gamble rumors that Washington would “take the opinion of the federal courts as to the constitutionality of the treaty,” adding simply that “the more it is explained, the more it is reprobated here.”⁶

None of Hight’s reports included his own opinions, though all painted a purely negative picture of the public reaction. Such comments as he did offer indicated only a desire for a peaceful return to steady business. He complained to lawyer Thomas Cummings in mid-August that “we have been in such a ferment for some time respecting Jay’s treaty that little business [is done].” In light of recent reports that Washington had signed it he hoped that “perhaps business will again engage [merchants’] attention.” Hight summarized his and other merchants’ ambivalence a few days later, telling another correspondent of the late “warm work here respecting Jay’s treaty. Every well informed person I have spoken to on that subject reprobated it

⁶ William Hight to William Ewing, 2 June 1795, John Johnston, 9 and 18 June, James Lackwood, 25 July, Robert Gamble, 25 July, William Hight letterbook, 1795-6, HSP. The author failed to obtain any biographical information on Hight. The letterbook held at the HSP appears to be the only significant extent record from his life.

as very disadvantageous... there is none here in favor of it [except] for a fear a rejection of it might lead to war.”⁷

Merchant correspondence generally supports Hight’s perception that a desire to maintain peace—almost at any cost—constituted the major impetus for those not vocally condemning the treaty during the summer of 1795. But he erred in suggesting that every well-informed and interested party disapproved. After considering the treaty Benjamin Chew, Jr.—heir to one of Philadelphia’s most established mercantile families—wrote to his uncle Samuel in Baltimore ascribing opposition to the treaty so vocally expressed “from Portsmouth to Charleston” to the nefarious work of “a junto in most of the principle towns.” Benjamin, Jr. particularly scorned a widely circulated speech from South Carolina’s Chief Justice John Rutledge, asking “is this the language or sentiment of sanity or downright frenzy?” Such men, he claimed, whipped up crowds at meetings to reject any “cool consideration or discussion of the treaty or its real merits.” Nevertheless, Benjamin, Jr. dared “venture to pronounce its advantages or disadvantages to the United States not obvious to many who have read it,” and suspected that “thousands condemn it who... are strangers to its contents.” He insisted that “to be a competent judge one must not only have an extensive share of commercial knowledge, but must be well versed in the law of nations and in [existing] treaties.” Possessing such knowledge, Benjamin, Jr., confidently concluded that while he wished “the treaty had been better for us,” its commercial privileges at least equaled those Britain “has granted to others.” Furthermore, “war with England, from a state of surprising prosperity, would distress and impoverish us.” Like Hight, Chew feared war more than any alternative as disastrous for business. But he also celebrated the treaty on its inherent, if modest, merits. Chew further suspected that his views reflected true popular sentiment. He

⁷ William Hight to Thomas Cummings Esq., 17 August 1795, and William Ellis, 19 August. Hight letterbook, HSP.

commented to his uncle that “if the meetings in other places have been composed of individuals such as ours... their resolves ought not to be considered to have much weight or to express the sense of opinion of the people in general.”⁸

Other merchants expressed similar skepticism regarding the representative value of anti-treaty protests. Quaker merchant Levi Hollingsworth assured a London correspondent in November 1795 that it “meets with general approbation of the good people of America, a few turbulent spirits excepted—which will be met with in all free governments.” He claimed that article XII had constituted “the only exceptionable part with our merchants and men of rational minds.” In contrast “the mobs of Boston, New York, and Charlestown were stimulated by a few designing men and prompted by... the influence of Mr. Genêt.” Hollingsworth dismissed the oppositional leaders’ protests as “truly insignificant” but commented that “by associating the lower order of the people with them, who are actuated on by a momentary impulse, they appeared numerous.” Elitist tone appeared commonly in the correspondence of such influential men most materially interested in ratification. Shortly before news of Washington’s ratification reached the public William Bartlett of Newburyport reported to Samuel Coates that the “great smoke” the treaty inspired “is almost extinguished.” He asserted that those who opposed “the treaty are those that have been uniformly against the federal government.” Such men “seldom [approve] any public good, have no wish to own their debts, nor what they owe the public in general.” Bartlett called these malefactors “unprincipled men,” contrasting them negatively with Newburyport’s mercantile community, more than eighty of whom had already signed a pro-

⁸ Benjamin Chew, Jr. to Samuel Chew, 7 July 1795. Chew family papers, series 4: Benjamin Chew, Jr., box 55/1, HSP. For detail on the Chews see Simpson, *Eminent Philadelphians*, 202-4. Also see Thomas M. Doerflinger, *A Vigorous Spirit of Enterprise: Merchants and Economic Development in Revolutionary Philadelphia* (Chapel Hill: University of North Carolina Press, 1986), 44, 255.

treaty petition. He added that “the treaty [is] as good a one as we ought to expect, and as good a one as we have with any nation whatever, if not better.”⁹

Bartlett possessed rare certainty given the complexity of Anglo-American affairs. Even opinions expressed within otherwise firmly Federalist families lacked uniform approval. The treaty question seems, at least initially, to have divided Baltimore merchants Jesse and Thomas Hollingsworth, Levi’s brothers. Shortly after Senate ratification Thomas despaired of any chance of “getting the present crop [of flour] to any desired market.” He raged that “our late treaty (if I may call it so) admits of seizing our property on the slightest pretence... I can see nothing less than a non-importation law instead of such a treaty of amity to do justice.” As the President continued to weigh his options in mid-August 1795, Thomas confidently predicted that in a forthcoming Philadelphia meeting “your citizens will concur with those in general in their opinion respecting the treaty.” He commented with hope that if Washington had “not yet ratified it, there can be very little danger of it now.” Thomas apparently viewed the document as useless, griping that “treaties [are] needless with that nation whose haughtiness will ever lead them to act as they please toward” the defenseless. Despite such doubts Thomas’s own brother and partner stated with obvious satisfaction to Levi two weeks later that “the racket about the treaty seems to subside, your merchants having given the opposition a death blow.” Another brother, Stephen, informed Levi that in his city of Richmond public furor “has been equal to those petitions with you respecting the late treaty.” Nevertheless he hoped “the people in both instances will quietly acquiesce as soon as the business is fixed and fitted by those who are appointed.” Stephen, partner in the firm Hollingsworth, Johnson, and Co., grieved for “the embarrassments the trade

⁹ Levi Hollingsworth to Philip Sampson, 7 November 1795. Hollingsworth family papers, series 2: outgoing correspondence, vol. 3, HSP. Levi’s grandfather and great-father belonged to the first group of Quaker settlers travelling to the New World with William Penn in the late 17th century. Third-generation merchants with ties to the Chesapeake as well as Pennsylvania, the Hollingsworths were a very influential family. Simpson, *Eminent Philadelphians*, 539-42. Also see Doerflinger, *Vigorous Spirit of Enterprise*; William Bartlett to Samuel Coates, 16 August 1795. Coates papers, 2:26/11, HSP.

of our country is laboring under.” His anticipation “that things are at their worst and that we shall soon have a favorable change” implied an expectation that the treaty would work such.¹⁰

Though a minority in his own family and among merchants as a broader group, Thomas Hollingsworth’s initial skepticism regarding the Jay-Grenville Treaty’s value did not make him an extreme outlier. One associate of Samuel Coates, a Mr. Alexander McGregor of Lancaster County, Pennsylvania professed regret at seeing “your name attached to an address recommending the ratification of what I call a bill of sale of our liberty.” Despite acknowledging the stagnation of business resulting from pandemic fear of Anglo-American war, McGregor stated that Washington’s “having signed has only uncloaked him. The people surely will not tamely submit to be dictated to by one man against their almost unanimous will.” Not surprisingly merchants trading with France tended to share McGregor’s views more those trading with Britain. Assistant Treasury Secretary Tench Coxe received a letter from his brother Daniel, then the family’s resident factor in Bordeaux, claiming that “Americans in this country have but one opinion on the subject of the treaty.” His transactions convinced him that virtually all viewed the treaty as the next of a sequence of measures “humiliating our government without ensuring a single advantage which we did not before possess in as great if not greater degree.” Such bitterness, common in public meetings during the summer and fall of 1795, appeared also in the correspondence of merchants. But as time passed they collectively favored ratification more firmly—a shift that occurred sooner than within the population at large.¹¹

¹⁰ Thomas Hollingsworth, Jesse Hollingsworth, and Stephen Hollingsworth to Levi Hollingsworth, 27 July, 15 and 29 August, and 15 September 1795. Hollingsworth papers, 1:54/12 and 55/2, 4 and 6, HSP;

¹¹ Alexander McGregor to Samuel Coates, Lexington, PA, 22 September 1795. Coates papers, 2:26/9, HSP; Daniel Coxe to Tench Coxe, 31 August 1795. Coxe family papers, series 2: Tench Coxe, 1638-1885, box 48/10, HSP. Daniel actually overstated the universal disapprobation for the treaty among Americans in France. U.S. Minister James Monroe discovered their sentiments to be divided at a July Fourth celebration in Paris the following year when his toast to the President inspired a near-riot among the treaty’s supporters and detractors. Harry Ammon, *James Monroe: The Quest for National Identity* (New York: McGraw Hill, 1971), 139-40.

Many merchants increasingly viewed men determined to prolong debate as dangerous malefactors, not the treaty's apologists. John Henry, for example, rejected hostility toward the treaty as a pro-British counter coup, warning that its defeat threatened subjection to France. He professed having felt pain in seeing "remarks in the papers against the President," and feared that opposition agitators in the House plotted "to plunge us into a war." Henry also believed the opposition desired a "contemptible... connection with France" liable to "destroy freedom of deliberation both in the legislature and executive of our government." Despite occasional ambivalence regarding specific terms, men of Federalist sympathies increasingly viewed the treaty in the context of a larger narrative of the President standing as a bulwark against the chaos House Republicans threatened. In December 1795 Samuel Chew sent copies of the Maryland legislature's pro-treaty resolutions to his nephew Benjamin, Jr., who delivered them to the President in person. According to Chew, Washington "read them twice... his eyes glistening with pleasure."¹²

The glimmer in Washington's eye doubtless reflected his relief at signs of shifting opinion. Within two weeks of the treaty's publication he began to receive private letters and public petitions urging him to withhold his signature. One anonymous correspondent signing himself 'Thy truest friend, H' reported from a recent tour of the Eastern states that "the treaty has been a constant subject of the people's reprobation—particularly of men concerned in trade." Expressing pleasure at Washington's hesitation to ratify, the unnamed 'friend' warned against the influence of "enemies, many of [whom] were never friends to the interests of America—who

¹² John Henry to Tench Coxe, 16 September 1795. Coxe family papers, 2:48/11, HSP. Harold Hutchinson, *Tench Coxe: a Study in American Economic Development* (1938; repr., New York: Da Capo Press, 1969); Benjamin Chew Jr. to Samuel Chew, 10 Dec 1795. Chew papers, 4:55/1, HSP; On 30 November Washington wrote to Maryland state senator John Eager Howard, who had furnished him with copies of the same legislative resolutions of approval Chew had already presented to him. Washington assured Howard that he read the resolutions "with pleasure, for while I am resolved that no misrepresentations, falsehoods or calumny shall make me swerve from what I conceive to be the strict line of my duty... it is grateful to my feelings to find so respectable a body appreciating my motives." John C. Fitzpatrick, ed., *The Writings of George Washington, from the Original Manuscript Sources, 1745-1799* (Washington, D.C., 1940), 34:278-9 [hereafter cited *GW*].

preach up the excellence of the proposed treaty and brand men who will not agree with them as enemies to good government.” Upon reflection of its terms the correspondent felt “that it would be better for [us] to give up claims for losses by British depredations... than to agree to the proposed treaty.” While not wishing to impugn his patriotism the writer stated that John Jay “must want both political and mercantile information, or he never would have agreed to such.”¹³

Doubtless ‘H’ attended various public meetings discussing the treaty, such as the one held at Faneuil Hall, Boston whose committee of ‘selectmen’ sent Washington one the earliest public petitions. The subscribers worried that Jay-Grenville Treaty would prove “highly injurious to commercial interests... derogatory to national honor and independence, and dangerous to peace.” The selectmen particularly resented the submission of indemnification claims to regular British courts prior to the article VII commission since in the former Americans could exert no “voice in the final determination” of cases. They also questioned the value of apparent concessions in European, Asian, and West India ports, dismissing the entire compact’s purported reciprocity as “merely nominal and delusive.” Two days later Washington received dissenting resolutions from more than two hundred signatories stating their dissatisfaction at the earlier statement having “been represented as expressing the unanimous sentiments of the merchants and other inhabitants” of Boston. Though Washington hesitated over the treaty another month, by mid-July his private letters already showed a growing inclination to ratify. His reluctance likely stemmed less from his view of the treaty’s merits than from his desire to await a change in the popular mood. Dissenting pro-treaty petitions affirmed him in this resolution.¹⁴

Washington’s reply to the selectmen respectfully but firmly disavowed any intention of bowing to majority opinion against his own judgment. He professed that “in every act of my

¹³ Anonymous to George Washington, 13 July 1795. Papers of George Washington, series 4: general correspondence, 1697-1799, Library of Congress [hereafter PGW LOC. All subsequent citations from this collection belong to series 4].

¹⁴ Selectmen of Boston, and Boston Citizens to Washington, 13 and 15 July 1795, PGW LOC.

administration, I have sought the happiness of my fellow citizens,” endeavored to “overlook all personal, local, and partial considerations... and to consult only the substantial and permanent interests of our country.” Washington reminded petitioners that the Constitution located treaty making power with the executive and Senate. He stated in closing that despite his “most lively gratitude for the many instances of approbation from my country, I can no otherwise deserve it than by obeying the dictates of my conscience.” This statement set the pattern for Washington’s replies to anti-treaty petitions. In late August he replied to Noble Wimberley Jones, an elder statesman of Savannah, acknowledging receipt of anti-treaty resolutions from a public meeting. Washington assured Jones that while “nothing could have afforded me a greater pleasure than to have found my decision consistent with the wishes of all my fellow citizens,” he defended his approval of the treaty as reflecting his “sincere desire to promote and secure the true interests of my country.” The same day he issued a similar response to Virginia legislator Thomas Newton, Jr., regarding a meeting held at Norfolk. Washington insisted that “on subjects so complex... a diversity of opinion was to have been expected.” He stated that while he regretted to learn “that the wishes of a part of my fellow citizens have been contravened, if the purity of my intentions ever entitled me to their approbation it has not been forfeited [now].”¹⁵

Along with numerous other factors Washington seems to have chosen to sign in part from a conviction that those most interested in and informed viewed the treaty with less general hostility than the population at large. By the end of August 1795 committees appointed at various meetings from Georgia to New Hampshire had sent more than thirty anti-treaty petitions.

Geographically, Southern and interior regions farther from Federalism’s Eastern and seaboard

¹⁵ In most of the relatively few instances Washington responded to anti-treaty petitions at all, he sent only a single-paragraph note with a copy of his letter to the Boston selectmen appended. For discussion of his decisive role in the treaty debate see Todd Estes, “The art of Presidential leadership: George Washington and the Jay Treaty,” *The Virginia Magazine of History and Biography* 109, no. 2 (2001): 127-158; Washington to the Boston selectmen, 28 July 1795. *WGW*, 34:252-53; Washington to Noble W. Jones and Thomas Newton Jr., August 31, 1795, *PGW LOC*.

heartland accounted for a disproportionate volume of those petitions—Georgia and South Carolina alone producing roughly one third. Many petitioners explicitly identified themselves as representing agricultural and frontier interests against a treaty serving only Eastern and commercial ends. In late August citizens of interior Amelia County, Virginia claimed as the particular “duty of the agricultural parts of the union to express their sense of the probable effects of an instrument so novel.” Another meeting in Lexington, Kentucky complained that “the local interests of western America seem indeed to be particularly affected by the treaty,” and that so long as Spain retained New Orleans mutual navigation rights along the Mississippi could have “no meaning but that which is favorable to the king of Great Britain.” While such statements from meetings in similar regions constitute the majority of petitions, the largest anti-treaty meetings naturally occurred in more populous seaboard cities. William Shippen—a son of a very prominent merchant clan—delivered anti-treaty resolutions to Washington in late July from a meeting reportedly attended by at least five hundred men. Some six hundred citizens of Baltimore signed resolutions in late July condemning the treaty on numerous scores, including that only “after much [legal] expense... and much injury from the deprivation of their capital, is compensation procured for our suffering merchants unjustly deprived of their property.”¹⁶

The resolutions and petitions Washington received during the three months following the Jay-Grenville Treaty’s publication suggest a strong majority sentiment against it in the South and West, and at least widespread displeasure along the eastern seaboard. The President possessed ample grounds for concluding that Americans widely viewed the measure with implacable hostility. But in fact he very quickly settled upon a conviction that the tide of anger would subside. Barely two weeks after receiving the earliest protests he commented to Alexander

¹⁶ Citizens of Philadelphia, Baltimore, Amelia County, Virginia, and Lexington, Kentucky to Washington, 26 and 30 July, 28 August, and 10 September 179, PGW LOC. For the Shippens see John W. Jordan, ed., *Families of Colonial and Revolutionary Pennsylvania: Genealogical and personal Memoirs* (New York: Lewis Publishing, 1911) 1:96-109.

Hamilton that, the Senate having voted to ratify, “something more imperious than has yet appeared must turn up to occasion a change.” Nevertheless Washington felt it “desirable to ascertain, if possible, after the paroxysm of the fever is a little abated, what the real temper of the people is concerning it.” That task he viewed as impossible while “the cry against the treaty is like that against a mad dog and everyone seems engaged in running it down.” The President complained that Jay’s achievement received “the most tortured interpretation, and that the writings against it (which are very industriously circulated) are pregnant of the most abominable misrepresentations.” Apparently unaware that Hamilton had authored it, he praised the recently published first ‘Camillus’ essay. From this auspicious beginning Washington expected later essays to defend the treaty “in a clear, distinct and satisfactory manner.” But he worried that “if measures are not adopted for its dissemination, a few only will derive lights from the knowledge or labor of the author.”¹⁷

Washington’s comments indicate a clear desire that Federalists should act to shift public opinion in favor of the treaty, and a perhaps wishful belief that popular protests did not actually represent “the real temper of the people.” Two factors seem particularly to have convinced him of this latter point. Firstly, counter-resolutions and petitions almost invariably published alongside protests from meetings in coastal cities, and secondly, private correspondence from individuals claiming that an activist minority assiduously stirred up artificially unrest. Merchants almost exclusively produced both. In Boston, for example, in addition to the dissenting signatures circulated against the selectmen’s report, the Chamber of Commerce issued a set of counter-resolutions in August 1795. The statement approved Senate ratification on the grounds that the treaty “settles, in a fair and amicable manner, points of difference between the two nations.” Despite a few regrettable compromises, a majority of Boston chamber members

¹⁷ Washington to Alexander Hamilton, 29 July 1795. *WGW*, 34:262-64.

believed that “when considered collectively, the tendency of the treaty must be to promote and extend, rather than to injure and restrain, our commerce.” The most widely reported and influential meeting of this type meeting occurred in Philadelphia, producing an address which four hundred and twelve ‘merchants and traders’ signed [including Samuel Coates to the chagrin of Alexander McGregor]. The statement asserted a unique right to comment on the treaty since “our interests are more immediately concerned than those of any other class... as well on account of the indemnity therein stipulated for past losses as for the security we apprehend it will give.” The signatories believed that, “whatever its faults, the treaty’s benefits “greatly outweigh all the objections.”¹⁸

In contrast to the evasive coolness with which Washington met anti-treaty resolutions, he responded with warmth to statements of support. He thanked Philadelphia’s ‘merchants and traders’ for their expressed “confidence in the constituted authorities, and the concurrence of your opinions with their determinations on this highly important subject.” Rather than dismiss their petition as interesting but not determinative in his thinking, Washington assured the subscribers that “such sentiments proceeding from men whose interests are more immediately concerned than those of any other class... cannot fail to strengthen that just confidence in the rectitude of public measures.” He wrote similarly to former Secretary of War Henry Knox the following month, professing his “great pleasure” at receiving a letter describing “the favorable disposition of the people generally in your hemisphere relative to the treaty.”¹⁹

¹⁸ For contrasting opinion on Washington’s passive or active in politics generally and the treaty debate in particular see [for the former view] Forrest McDonald, *The Presidency of George Washington* (Lawrence: University Press of Kansas, 1974) and [for the latter] John E. Ferling, *The First of Men: A Life of George Washington* (Knoxville: University of Tennessee Press, 1988); ‘Proceedings of the Boston Chamber of Commerce,’ 11 August 1795. *The American Remembrancer, or, an Impartial Collection of Essays, Resolves, Speeches and etc.* (Philadelphia, 1795), 1:129-30; ‘Address of the subscribers, merchants and traders of Philadelphia,’ 22 August 1795. *Ibid.*, 122-5.

¹⁹ Washington to the citizens of Philadelphia, 20 August 1795, and Henry Knox, 20 September 1795. *GW*, 34:278-8 and 310-1.

The President's correspondence consistently showed such interest in support for the treaty expressed anywhere, but particularly in mercantile districts. Throughout the public furor private letters from merchants assured Washington of the artificial nature of opposition protest. A letter arrived at Mt. Vernon signed 'a friend of the people' two days prior to Washington's receipt of widely circulated anti-treaty resolutions from Baltimore. The correspondent had clearly attended the meeting and dismissed the resolutions as the work of men drawn from "that order in society who are completely unqualified for want of information to examine the subject on which they judged with such hasty decision." Like Washington the correspondent viewed the opinions of men acquainted with mercantile affairs in a different light to those of other citizens. Five weeks later, with the treaty signed and anger subsiding, Georgetown merchant William Deakins, Jr. assured Washington that "the inhabitants of this town and country, a very few excepted, are in favor of the treaty." Momentary though noisome opposition he ascribed to the work of anti-government men who "take pains to spread poison in the minds of our peaceable and uninformed citizens." Deakins did not doubt that with time "the great body... will think right, and the present violent [detractors] must sink and lose the confidence of the people."²⁰

Clearly merchants collectively arrived at more favorable views of the treaty far sooner than most Americans. If by the end of 1795 they did not uniformly approve the treaty's terms as positively good, most feared a disruption of business without normalized relations with England and only the most dogmatic desired further controversy on the question. Letters written during the first three months of 1796 contain only sparing references to the subject. When the House appropriations debate flared up in April merchants seemed to view the event as a tiresome distraction at best. Micajah Davis of Richmond bemoaned "the subject of the treaty reviving old

²⁰ Anonymous and William Deakins Jr. to Washington, 28 July and 3 September 1795, PGW LOC. The anonymous 'friend' did not expressly identify himself as a merchant, but his comments imply as much.

coals, which had gone out.” Davis felt the time for such contention had passed, noting that while “many seemed to find fault with it before it was ratified, yet it appears that their sentiments are materially altered.” Anecdotally he believed “that in the coastal ports nine tenths of the people are for the thing.” Persistence in opposition on the part of House Republicans Davis felt likely to cost them “many of their best friends in their seaport districts.” According to him a large meeting of Richmond citizens had voted two-to-one in favor of appropriations. Davis viewed both local and national opposition as the agitating work of a vocal minority. While this activist faction seemed intent upon using “every endeavor to gain petitioners against it,” he hoped the House would adhere to “those independent industrious citizens who have no... old British debts to pay but sincerely desire this country’s prosperity.” John Pearson of Newburyport also viewed a renewed debate as more likely to harm than advance national interests. He reported that “merchants and tradesmen are much alarmed respecting our political affairs and hope our government will remain firmer to support our nation than [we] fear.” Pearson optimistically though with trepidation ventured that “division in the House [might] answer some valuable purpose to strengthen the government; good is sometimes brought out of evil and order out of confusion.”²¹

Even many once skeptical merchants softened their views by the spring of 1796. Thomas Hollingsworth—formerly the lone dissenter on the treaty in an otherwise Federalist family—underwent such a change. Commenting to his brother Levi in March of his sorrow at “the trifling bickering in Congress,” he deemed the body’s proceedings “destructive to their dignity both at home and abroad, [having] much the appearance of anarchy.” Letters signed ‘Thomas and Jesse Hollingsworth’ celebrated an address from Philadelphians to the House, “which we are glad to

²¹ Micajah Davis and John Pearson to Samuel Coates, 25 and 26 April 1796. Coates papers, 2:27/2, HSP. For some details on the life and business of John Pearson see John James Currier, *The History of Newburyport, 1763-1905* (Newburyport: published by author, 1905), 1:183-4, 303.

hear has been so generally signed by your merchants and traders.” A similar message, “or rather instruction,” they reported “a very large majority of the mercantile characters of our town” having approved, directing “[Samuel] Smith to vote for appropriations.” The Baltimore Hollingsworths also noted the circulation of a “counter protestation” on the part of men “so neglected by the merchants... that they have declined bringing [it] forward.” Thomas and Jesse hoped that the impressive collection of more than six hundred signatures might “impress [Philadelphia] citizens with a favorable opinion of our town when they see the respectability of the petitioners.” To underscore the lack of public appetite for further debate they added that Baltimore merchants might have gathered twice as many signatures “if we had decided to take the lower class.” In spite of their Republican Congressman Thomas and Jesse remained convinced that Baltimore “is truly federal and our citizens are republicans.” After initial public hostility to the treaty—including on Thomas’s own part—“it is found we are now friendly to order and good government.” He hoped “that such measures will have the desired effect as to produce a final ratification of the treaty, peace, quietness, and restoration of property to our citizens—and a final check to the [Albert] Gallatin party and all friends of disorder.”²²

Whatever Philadelphians generally thought of the Baltimore petition it did please and impress Levi Hollingsworth. He commented days later to Wilmington merchant Francis Partridge that “the different memorials from Baltimore, New York, Lancaster, and etc.” ought to cause “some of the present majority of Congress to change sentiments.” Levi confidently asserted that majority opinion now supported the treaty, stating that “most of these places have instructed their delegates to vote for the appropriations, and also declared their sentiments on treaty making power in favor of President and Senate.” Nationwide, he claimed, nine-tenths of

²² Thomas and Jesse Hollingsworth to Levi Hollingsworth, 22 March and 18 April. Hollingsworth papers, 1:57/10 and 12, HSP.

“all the independent and respectable citizens” favored execution of the treaty. Levi urged his correspondent to “forward your memorial or instructions as soon as possible,” and to address it to Delaware Senator Henry Latimer, since the state’s Representative John Patten had taken ill and, worse still, “is of the opposition party on all questions so far taken.” Several of Levi’s other correspondents also engaged themselves circulating petitions to move the House. George Kennand of Duck Creek, Maryland reported himself “happy to find the measures of our worthy President and Senate so well approved” in his town. He found the citizenry to his satisfaction “fully convinced of the great advantages derived by the treaty, and the bad consequences of not ratifying.” Some ninety-five of the village’s roughly one-hundred citizens signed a petition to Congress. Not satisfied, the treaties friends “put two or three [further] petitions on foot through this neighborhood.” From the response he concluded that local “farmers are doubtless for it.”²³

Benjamin Chew, Jr., painted a similar picture of opinion in the Delaware Valley, informing his uncle Samuel in March 1796 of the House’s motion calling on Washington to submit Jay’s confidential papers. He stated that most observers “suppose that after finding much fault with the treaty the [Republican] party will not be hardy enough to withhold the means to carry into execution.” Chew doubted a sufficiently large majority of members wished to “make themselves responsible for the consequences” of defeating the treaty—particularly disruption of plans for handover of the Western forts, which “would draw on them public execration.” After Washington refused the House request Chew exulted that “in no act of his life [has] he appeared greater than on this business.” He repeated his conviction that Republicans likely possessed strength to do no more than, “after discussing and abusing the treaty,” adopt resolutions respecting the lower chamber’s constitutional prerogatives in the hope of returning to the

²³ Levi Hollingsworth to Francis Partridge and George Kennand to Levi Hollingsworth, 21 April 1796. Hollingsworth papers, 1:57/13, HSP.

question “at a future date when they have not a Washington to contend with.” Over the ensuing weeks he kept his uncle abreast of progress, affirming with pleasure the news that once House debate began in earnest numerous members “who joined [the opposition] in their former resolutions will vote against them.”²⁴

The expressed will of apparent popular majorities naturally exerted more direct influence over the House of Representatives than over a second-term President already privately determined to retire. The disproportionate number of pro-treaty voices among America’s merchants played a vital role during the summer of 1795 by steeling Washington’s resolve in favor of ratifying a potentially unpopular measure. The following spring merchants provided the loudest voices among increasingly general calls for enactment of the once hated document. The same day the House formally requested publication of Jay’s confidential dispatches the *Gazette of the United States* printed pro-administration toasts given in Newburyport at a merchant-dominated celebration of Washington’s Birthday. A large crowd raised glasses to John Jay and expressed hope that “speedy and honorable indemnity” for property would “soon evince the merits of the treaty and silence its critics.” The follow day’s *Gazette* reported similar toasts from meetings in Virginia, including a “numerous and brilliant assemblage of some of the most respectable citizens of [Richmond].”²⁵

Noah Webster’s *American Minerva* reported in mid-April that due to House deliberations and non-fulfillment of the treaty “merchants are very much alarmed and markets... considerably affected.” Webster described the United Insurance Company temporarily ceasing to underwrite shipping and “the business of commerce [having] stopped at Philadelphia” as accounting for a twenty percent drop in provisions prices. He accused the House majority of “throwing obstacles

²⁴ Benjamin Chew Jr. to Samuel Chew, 24 and 31 March, and 17 April 1796. Chew papers, series 3: Samuel Chew, box 54/16, HSP.

²⁵ *Gazette of the United States*, 4 and 5 March 1796.

in the way of the treaty” and thereby causing “a total stagnation of mercantile business.” Such events harmed all Americans, and Webster warned that “the moment shipments cease our produce falls one-hundred percent... ruin awaits the multitude of our merchants, our seamen will be dismissed, and all classes of laborers will find their wages sink to a trifle.” This commentary preceded a report of a New York merchants’ meeting held at the Tontine Coffee House. State Assembly Speaker Gulian Verplanck presided, and the meeting produced resolutions declaring “that it deeply concerns commerce, agriculture, peace and of the United States that provision be made for the treaty.” The signatories declared the combined value of the Jay-Grenville Treaty and the treaties with Spain and Algiers “of greatest interest to this young and rising country, affording a prospect of durable peace and uninterrupted progress to maturity and strength.” Finally the meeting voted to circulate their address as a petition and to appoint “a committee for corresponding with the other trading towns in the United States” on the subject.²⁶

New York Senator Rufus King informed Hamilton that within barely a day of circulation the document bore the signature of “almost every merchant and trader in the city.” He added that “a counter petition has been very industriously carried through the city, and though very few merchants, traders or principle mechanics have signed, it will show a long catalogue of names.” Four days later King exulted that the signatories now numbered above 3,200—“within 300 of the highest poll ever collected in this city.” Similar resolutions emanated from merchant meetings in other port cities. One meeting of “merchants, underwriters and... several classes of citizens” in Faneuil Hall produced an address whose subscribers “waited with anxious expectation to see the necessary measures adopted for carrying [the treaty] into operation.” The statement emphasized compensation offered in the treaty for property taken from “merchants of the United States,” and the need to protect “the principle part of their remaining fortunes, the safety of which will be

²⁶ *American Minerva*, 19 April 1796.

materially affected by refusal or neglect to comply” with the treaty. “Besides their particular interests as merchants, mechanics and traders,” the signatories professed a general “interest in the preservation of peace, on which the prosperity of this country depends.” Resolutions from a meeting in Newburyport reportedly gained the signatures of “more than four hundred persons within a few hours.” Other ‘trading towns’ produced similar statements.²⁷

Pro-treaty petitions did not go unchallenged, just as the previous summer’s wave of protest had not lacked for dissenters. Republican meetings expressed equal certainty that the Jay-Grenville Treaty would not benefit commerce or compensate merchants. One meeting in Petersburg, Virginia called on the House to refuse appropriations for the treaty and urged all Americans to express outrage at “the refusal of the president to lay before the House of Representatives the documents called for.” A memorial from Charleston merchants lamented that “on account of the depredations committed by the British on their vessels and property... they have been deprived of a great part of their property.” Appealing for direct indemnification from the federal government, the petition complained that article VII promised only “a relief so distant [we] cannot help reflecting on it with pain.”²⁸

Nevertheless, by the spring of 1796 the majority of public petitions and resolutions expressed pro-treaty sentiment. The official records of Congressional debates show that Pennsylvania Representative Thomas Hartley presented a petition from more than six hundred Philadelphia merchants to the House on 21 April, along with another bearing the names of at least eight hundred “other citizens.” The following day he presented two similar petitions bearing

²⁷ Rufus King to Alexander Hamilton, 20 and 24 April 1796. Harold Coffin Syrett and Jacob Ernest Cooke, eds., *The Papers of Alexander Hamilton* (New York: Columbia University Press, 1974), 20:124-5 and 136-7; *Massachusetts Mercury*, 26 April 1796; *Newburyport Impartial Herald*, 26 April 1796; For additional merchant meetings and petitions see Hartford’s *American Mercury*, 25 April, *American Minerva*, 27 April, and Baltimore’s *Federal Gazette*, 28 April 1796.

²⁸ *Charleston City Gazette*, 4 and 5 May 1796; For more on anti-treaty meetings and opposition politics during the appropriations debate see Alfred Young, *The Democratic Republicans of New York: the Origins, 1763-1797* (Chapel Hill: University of North Carolina Press, 1967), 445-67.

109 and 183 signatures respectively. The same day New Jersey's Isaac Smith tabled a petition from Trenton bearing 183 names. These did not go unanswered. Pennsylvania's John Swanwick and Frederick Muhlenberg brought counter petitions from Philadelphia with a combined 2,300 signatures. But as the debate continued the volume of pro-treaty petitions and number of their subscribers grew. Five days later Samuel Smith—himself a merchant though at least nominally a Republican—presented an implicitly pro-treaty appeal from more than four hundred “mechanics and manufacturers” of Baltimore, urging the House to consider “the treaties before them uninfluenced by any other considerations than the public good.” Later the same week Smith read aloud to the House instructions sent to him from 197 inhabitants of Baltimore County to vote for appropriations [presumably those Thomas and Jesse Hollingsworth so celebrated]. The following day Theodore Sedgwick brought forward resolutions from the recent meeting at Faneuil Hall with an appended letter claiming that in excess of 1,800 ‘merchants and traders’ had voted in favor of the address.²⁹

These references only record those petitions mentioned in debate on the House floor, far from a majority of the total submitted. The Republican opposition proved as reluctant to view these statements as genuine expressions of the popular will as Federalists had been the previous year. A bitterly discouraged James Madison informed Thomas Jefferson several weeks after passage of the appropriations bill that “petitions in favor of the treaty still come in from distant places.” The opposition leader commented cynically that “the name of the President and the alarm of war have had a greater effect than were apprehended on one side or expected on the other.” What he perceived as Federalist machinations regretfully meant that “a crisis which ought to have fortified the Republican cause” had instead “left it in a very crippled condition.”

²⁹ Joseph Gales, ed., *The Annals of the Congress of the United States* (Washington: Gales and Seaton, 1834), 4th Cong. 1st sess., 1114, 1171, 1228, 1264.

Administration leaders naturally took a different view, celebrating the victory in Congress as a genuine triumph of the popular will thanks to the leadership of ‘the better sort’—the mercantile class in particular. Massachusetts Representative Fisher Ames felt ambivalence regarding public foment, commenting at the height of the appropriations debate that meetings and petitions represented “what Genêt threatened—an appeal to the public. Heaven knows what this court of appeals will do. At present the *vox populi* seems to be the *vox rationis*.” Ames demonstrated less reluctance ten days later, urging his colleagues in the House to fund the treaty on the basis of plentiful evidence that “the great interest and the general desire of our people [is] to enjoy the advantages of neutrality.” Upon receiving news of the appropriation bill’s passage John Jay wrote to Lord Grenville assuring him that “the treaty will go into operation, and be supported by a great majority of the people.” More importantly to Jay, that majority “comprised of the greater part of the men most distinguished by talents, worth, and weight.” Regardless of any conflicted emotions the fact inspired, both parties’ leaders perceived that the tide of opinion had turned.³⁰

Merchants’ letters written during and shortly after the appropriations debate reveal the intense interest most took in the course of events, and the role they played in deciding them. As Webster’s *Minerva* noted, mercantile activity slowed considerable amid the flurry of political activity and risk aversion attendant to an unstable legal landscape. Robert Henson, the American partner in the Glasgow-based firm Henson and Gardner, stated to one correspondent that “business and stocks seem to be at a standstill... on account of the present controversy in the House.” A letter he wrote the same day to an associate in London perfectly illustrates the role of geopolitical considerations in causing such lulls in economic activity. Henson instructed his

³⁰ James Madison to Thomas Jefferson, 22 May 1796. J.C.A. Stagg et al, eds., *The Papers of James Madison: Congressional Series* (Charlottesville: University of Virginia Press, 1989), 16:363-5; Fisher Ames to Thomas Dwight, 18 April 1796. Seth Ames, ed. *Works of Fisher Ames, With a Selection from his Speeches and Correspondence* (1854; repr., New York: Da Capo Press, 1969), 1:192, 2:37-71; John Jay to Lord William Grenville, 1 May 1796. Henry Phelps Johnston, ed., *Correspondence and Public Papers of John Jay, 1763-1826* (New York: G.P. Putnam's Sons, 1893), 4:209.

factor that “as to business between this place and yours, I think it will be best to decline it altogether for this season on account of the present unsettled state of things.” Thomas and Jesse Hollingsworth informed their brother that business in Baltimore “goes but slowly on at present; we are all awaiting the event in Congress.” The Hollingsworths again dismissed anti-treaty activity in somewhat elitist terms, lamenting that “a few artful men of some influence in the opposition have by their industry gained a part of the mechanics and others to join them.” But they did not doubt that merchants and “a great majority of the most respectable citizens are in favor of granting the supplies.” Even still, opinions remained varied. The Hollingsworths noted that “in some instances persons [otherwise] well disposed to the government are of opposite sentiments.” Most, though, appeared not to welcome renewed uncertainty. Miers Fisher wrote to his son Thomas that “the political discussion pending in Congress yet excites the sensibility of the people.” The tumult left him apprehensive but not entirely unhopeful. Fisher perceived signs that “things are ripening to a proper decision. Every day brings strength to the side of peace.” William Hight expressed similar nervousness and a little less hope, observing to one correspondent that the House debate “has occasioned much uneasiness in the mercantile interest here.” He reflected somberly that “should the measure be carried I know not what will be the consequence.” Hight elaborated further in another letter, expressing fear that if the treaty failed at the last hurdle “I am led to believe that few people will ship much from this port... until they learn what the people over the water think of our conduct in rejecting what had the ratification of the legal authority.” Despite his apparent lack of enthusiasm for the Jay-Grenville Treaty’s terms the preceding summer, Hight now shared the majority merchant view that its failure portended bad news for business. The President having ratified, Congress ought to fund.³¹

³¹ Robert Henson to William Galt and Messrs Nair and William Gordon, 22 April 1796. Robert Henson papers, vol. 20: Letterbook, 1795-1798, HSP; Thomas and Jesse Hollingsworth to Levi Hollingsworth, 23 April

Not every merchant viewed the weight of executive authority as sufficient in itself to commend the treaty to the American citizenry. David Meredith wrote home from Bordeaux prior to receiving news of the appropriation bill's final passage that while he felt "gratitude for the services Washington has rendered to his country, those services—eminent as they have been—should not nullify the faulty errors which even [he] has committed." David feared that too many Americans demonstrated a "blind attachment" to the President. He warned that "'measures and not men' should be the motto of every Republican.... Reverse the motto—you know the vile sycophants—and you have tyranny." While he did not doubt that Washington's errors sprang laudably enough from "too strong an inclination to preserve peace on any terms," David nonetheless labeled his support for the Jay-Grenville Treaty "highly impolitic and censurable." These opinions reflect David's passionate republicanism. His correspondence with friends and family make clear that the French revolution influenced him profoundly.³²

Other family members seem less unambiguous, generally expressing moderate Federalist sentiments even while raising doubts regarding the treaty. His mother Elizabeth told him that during the appropriations debate "the merchants of our city are totally at a loss how to proceed with respect to commerce." She viewed Britain as the primary cause of this confusion, lamenting that "our vessels are taken without plea in the very entrance of our harbor and carried into British ports," and complaining that His Majesty's government had "held out ideas to this country of their amity and good wishes... [but] evince those dispositions in injuring Americans' dearest interests." Despite clear skepticism regarding British goodwill, Elizabeth also fretted over the influence of opposition agitators. She complained that "our city is in great perturbation owing to a class of disappointed men who are called anti-Federalists... and very warm and improper

1796. Hollingsworth papers, 1:58/1, HSP; Miers Fisher to Thomas Fisher, Jr., 29 April 1796. Fisher papers, 1:4/10, HSP; William Hight to Robert Bolton, and to John Johnston, 18 April 1796. Hight letterbook, HSP.

³² David Meredith to Jonathan Meredith, 11 May 1796. Meredith papers, series 1: Jonathan Meredith, 1772-1811, box 1/1, HSP.

disputes and debates have taken place in the House. Elizabeth particularly regretted that discourse had “descended to personal abuse... issued without the most sever and scandalous reflections on our good President.” Such insults Washington bore, she said, “with angelic patience and composure.” She even referred to him as “more than man”—doubtless to David’s great distaste. Elizabeth stated that House Republicans “make the treaty with Great Britain the present bugbear,” implying that their restless spirits rather than a principled opposition to its particular terms animated their protests. The ambivalence arising from her conflicting support for Washington and distaste for British maritime practices—which had cost the family at least one vessel—is clear in Elizabeth’s letter informing David of the appropriation bill’s passage. She noted that the event “has left many discontented members of the community.” Feeling unqualified to judge the matter definitively, Elizabeth professed that “whether they are right or wrong is not in my power to determine.” She did nevertheless wonder why “a nation with whom we have formed a treaty... should continue in the almost daily habit of infringing our liberty, destroying our commerce, and violently plundering us.”³³

Many merchant firms and families shared Elizabeth Meredith’s frustration at the difficulty and uncertainty of conducting trade during the mid-1790s. But most dared to hope and some felt quite certain that the treaty would, if enacted, improve matters. Daniel Coxe reported to his brother from London en route home from Bordeaux that “the general disposition of this country and the government is highly pacific towards us.” He believed the treaty would last, observing that “their hands are too full, and the possibility of a war with [us] gives very general anxiety.” Most men dependent upon trade innately viewed peace and mutual Anglo-American goodwill as good for business. Jeremiah Brown, a Pennsylvania farmer, instructed Levi Hollingsworth to arrange for the sale of his grain shortly after Congress voted for appropriations.

³³ Elizabeth Meredith to David Meredith, 14 April and 17 May 1796. Meredith papers, 2:7/15 and 16, HSP.

He stated that “the dullness of the market has been one reason for my keeping it back,” adding optimistically that “I am in hopes as Congress has decided in favor of the treaty that flour will be brisker.” Another letter dated a few days earlier acknowledged receipt of news from Levi of the decisive House vote and similarly stated Brown’s “hope [that] flour will be brisker.” Yet another farmer confirmed hearing news that “the House... has got a majority in favor of making appropriations.” He clearly anticipated a rise in activity and corresponding price increases as a result. But since he owed an outstanding debt he instructed Hollingsworth that even “if the price of flour does not get up to 15 dollars a day or two before the draught is due, please do sell as much as will pay [it].” Such comments typify the common conviction among merchants that the treaty, whatever its flaws, improved the immediate and longer term economic outlook.³⁴

Many merchants also celebrated apparent improvement in the nation’s political prospects. Samuel Coates’s brother-in-law William Hartshorne wrote to him from Alexandria, Virginia in the fall of 1796, noting with satisfaction that Americans “are at last like to agree again in politics.” The former tumults Hartshorne ascribed to the agitations of the opposition party, whom he called “a strange kind of people—democrats in profession but very far from it in practice; they wish to do as they please in practice but restrain other people.” In contrast to such unsettling and unreasonable men he felt confident “that the President and government are approved by the most virtuous part of the country.” William Meredith wrote in September 1796 to his brother David that “peace and plenty reign in our country, and we are all uniting in extolling the administration of our government, which has secured these blessings. Washington has arrived at

³⁴ Daniel Coxe to Tench Coxe, 26 May 1796. Tench Coxe papers, 2:49/9, HSP; Jeremiah Brown, Jesse Hoops, and Abraham Ridgreave to Levi Hollingsworth, 9, 3, and 2 May 1796. Hollingsworth papers, 1:58/2, HSP.

the summit of glory.” The President’s recent announcement of his intent to retire William named as “the only circumstance in our political concerns which commands a sigh of regret.”³⁵

Historians largely affirm Meredith’s perspective on the improved fortunes of American commerce under the Jay-Grenville Treaty’s operation. John Forbes writes of wartime trade in Massachusetts that “whatever the reception of the Jay treaty in Boston, the effects of assured peace with England were immediately reflected in the trade figures. Customs collections for the port in 1795 increased from \$700,000 to a million and a quarter dollars and remained above a million for three years... ship arrivals in the port increased by about thirty per cent.” Frances Gregory, in her biography of Boston merchant Nathan Appleton, states that “every new declaration of war increased American trade and prosperity.” Conflict raised prices in Europe while increasing the belligerents’ dependence on neutral carriers to fill in for their decimated merchant fleets. “At the same time,” Gregory writes, “English mercantile houses, hit hard by depressions, granted liberal credits... so that English goods could be brought to America profitably.” While its terms fell short of the most liberal and full reciprocity, even after ratification of the treaty, Gregory shows that for countless enterprising men, “with clever management, the Anglo-American trade offered great opportunities.”³⁶

Though not always explicitly tied to the treaty itself this is a common theme among historians of merchants in the Early American Republic. James Fichter’s recent study of Anglo-American trade with Asia focuses on the gradual corrosion of the British East India Company monopoly—a process article XIII greatly expedited. While local officials had, as in the West Indies, frequently admitted American vessels to British Indian ports, Fichter shows that “the Jay

³⁵ William Hartshorne to Samuel Coates, 28 September 1796. Coates papers, 2:27/8, HSP; William Meredith to David, 19 September 1796. Meredith papers, 2:7/19, HSP. For a biographical sketch of William Meredith see Simpson, *Eminent Philadelphians*, 690-2.

³⁶ John D. Forbes, “European Wars and Boston Trade, 1783-1815,” *New England Quarterly* 11, no. 4 (Dec., 1938): 716; Frances W. Gregory, *Nathan Appleton: Merchant and Entrepreneur, 1779-1861* (Charlottesville: University of Virginia Press, 1975), 14;

Treaty gave the American merchant confidence that his ship would not be impounded by an overly zealous official.” Technical limits to the concessions granted, such as exclusion from Indian coastal trade and prohibitions on voyages from British Asian ports to those of other empires, proved utterly unenforceable. American merchants audaciously tested the boundaries of the new trade, even carrying goods directly to London with the eventual sanction of admiralty courts. Adding insult to injury for the East India Company, American merchants operated without the competitive disadvantages attendant to unwieldy monopoly company structures, allowing them to carry identical goods at an average twenty-five percent discount. Fichter concludes that such opportunities gave American “traders parity with the Company” and access to a trade that “helped lift [them] to affluence for the first time.” This in turn enabled “American capitalists to take part in the transatlantic financial system that would govern so much of the nineteenth century.” Kenneth W. Porter draws similar conclusions in his two-volume edited collection of the inter-married Massachusetts merchant clans, the Jacksons and Lees, asserting that the treaty played a central role in “increasing American prosperity” by providing “rights of trade in British ports of India previously enjoyed only as a [tenuous] favor.” Likewise, Samuel Eliot Morison’s *Maritime History of Massachusetts* describes the treaty as an undeniably pro-merchant measure conforming to a more general pattern. He argues in light of the Washington administration’s duty drawbacks, fishing bounties, tariff structures, and protection of the coastal trade that “no section or interest in the United States was so favored.”³⁷

³⁷ James Fichter, *So Great a Proffit: How the East-Indies Trade Transformed Anglo-American Capitalism* (Cambridge, Mass.: Harvard University Press, 2010), 176-80, 279; Kenneth Wiggins Porter, *The Jacksons and the Lees: Two Generations of Massachusetts Merchants, 1765-1844* (1937; repr., New York: Russell and Russell, 1967), 33; Samuel Eliot Morison, *Maritime History of Massachusetts, 1783-1860* (Boston: Houghton Mifflin, 1921), 165, 173-5. Morison does condemn the treaty’s specific terms as “renouncing neutral rights and commercial equality in humiliating terms,” and suggests that if not for the perceived infectious dangers of Jacobins radicalism New England merchants would have preferred hostility to Britain. Thus while he does portray the treaty as a measure with preponderant mercantile support, he identifies for negative anti-democratic rather than specific positive commercial reasons for that support.

Charles S. Campbell's overview of Anglo-American relations over the so-called 'long nineteenth century' identifies "several years of improved relations" following the treaty's ratification. He also speculates that "had Federalists occupied the White House during the critical years of 1803-12 it is probable that... the War of 1812 would not have come." Bustling trade contributed more than any other factor to this détente. Campbell notes that of exploding total value of U.S. exports from \$33,000,000 in 1794 to \$108,000,000 in 1807 roughly "one-third went to [Britain] alone." According to Herbert Heaton the figure exceeded one-half with the inclusion of the British West Indies, even before adoption of the treaty. Imports provide even more lopsided figures. In 1790 eighty-seven percent of the \$15,500,000 worth of manufactured goods paying *ad valorem* duties came from Britain. The treaty increased these trends and Heaton concludes that "until 1806 the course of Anglo-American trade... ran fairly smoothly." In 1805 American markets received nearly a third of all British exports—£11,000,000 of £38,000,000. Norman S. Buck's study of Anglo-American trade during the first half of the nineteenth century shows that while the relationship remained economically vital to both nations for many decades thereafter, the year of the treaty's expiration represents the proportional high watermark.³⁸

The two standard published compendiums of commercial data for the Early Republic era—Adam Seybert's *Statistical Annals* and Timothy Pitkin's *Statistical View of the Commerce of the United States*—support Buck's conclusions. American re-exports of sugar, coffee, spices, and cocoa increased respectively from twenty-one million lbs, thirty-four million lbs, twenty-four thousand lbs, and 1.2 million lbs in 1794 to 145.8 million lbs, forty-seven million lbs, four

³⁸ Like Morison, Campbell sees the treaty as positive overall but disparages its adequacy on questions of neutral rights, which he believes it "passed over in silence." Charles S. Campbell, *From Revolution to Rapprochement: the United States and Great Britain, 1783-1900* (New York: Wiley and Sons, 1974), 9-10; Herbert Heaton, "the American Trade," in *The Trade Winds: a Study of British Overseas Trade during the French Wars, 1793-1815*, C. Northcote Parkinson, ed. (London: George Allen and Unwin, 1948), 197-8, 214; Norman S. Buck, *The Development and Organisation of Anglo-American Trade, 1800-1850* (New Haven, Conn.: Yale University Press, 1925), 1-4.

million lbs, and seven million lbs in 1806. Tonnage employed in overseas commerce increased over the same period from 440,000 to 808,000. Importantly, while American merchants drew immense profits from re-exports, domestic produce never account for less than forty-five percent of total U.S. exports—which increased from an estimated value of \$48M to \$108M during this period. Thus the profits of trade did not represent ‘artificial’ growth concentrated in Eastern mercantile hands. Pitkin quotes favorably an 1830 House of Representatives commerce committee report, which rejected as “a superficial view of the causes” of increased prosperity the narrative that war in Europe alone accounted for American growth. The committee stated that “rich and increasing agricultural resources, the removal of all countervailing laws of the states, our commercial enterprise, and a foreign commerce without restrictions” all combined to stimulate growth as proportionally rapid between 1789 and 1793 as thereafter. Nevertheless, Pitkin does not deny the Jay-Grenville Treaty’s value, or the disastrous results of Jefferson’s refusal to renew it in 1804. When James Monroe and Thomas Pinckney negotiated a new treaty with Charles James Fox’s ministry two years later Jefferson rejected that also, “principally for the want of an express stipulation against future impressments.” Given the firm though unwritten assurances British negotiators gave to Monroe regarding future generosity on that subject, Pitkin condemns “the hasty rejection of this treaty—the best, no doubt, that could have been made at the time, as was Mr. Jay’s in 1794.” The Jefferson administration rejected further diplomacy in favor of alternative measures “commencing at the close of 1807, when the whole [American] commerce was at once withdrawn from the ocean—a commerce which in the three years immediately preceding exceeded” \$300M in each in total imports and exports.³⁹

³⁹ Timothy Pitkin, *A Statistical View of the Commerce of the United States of America* (1835; repr., New York: Johnson, 1967), 146, 371, 375-6; Adam Seybert, *Statistical Annals: Embracing Views of the Population, Commerce, Navigation, and etc. of the United States* (New York: Burt Franklin, 1818), 93, 317.

Little wonder, then, that American merchants largely either approved of the treaty upon its publication in 1795—innately understanding the profits it offered—or came around to the desirability of its ratification sooner than other citizens. Though even historians who approve the treaty as a good compromise have viewed its terms on maritime law as regrettably illiberal, the expansion of ‘broken voyage’ practice it permitted proved immensely valuable. As early as mid-1796 most merchants anticipated that value and decisively advocated for the treaty’s ratification.

Chapter three

“Profit is every hour becoming capital”: the Jay-Grenville Treaty and finance in Hamiltonian thought

Though admittedly representing a compromise and falling short of American liberal ideals, the Jay-Grenville Treaty’s maritime-legal terms protected neutral rights to a greater extent than its historiographical reputation reflects. It also offered lucrative opportunities to American merchants, who eventually almost universally gave it at least lukewarm support. Given these facts it is perhaps surprising that the treaty constituted the most fiercely contested political questions of the Early Republic era. Moreover it remained a controversial and powerful political symbol to its detractors long after its operation should have proved its value beyond doubt, and even after it had expired. The treaty represents what Jerald Combs coined “the battleground of the Founding Fathers,” though not only for the reasons his monograph suggests. Combs describes a difference over estimations of geo-political capabilities, emotionally charged with added meaning due to differing views of the French Revolution. This is not untrue. But Combs and other diplomatic historians fail to do full justice to the intimate relationship between the treaty and two competing theories of political economy. The two proto-parties vying for ascendance, and whose intensely differing visions for American life defined the 1790s, both understood the treaty as more than symbolically or tangentially related to their struggle. To fully comprehend the political turmoil surrounding a relatively brief diplomatic episode it is necessary to understand that its deep roots predate even American independence.¹

Throughout the spring of 1781 George Washington’s most valued aide-du-camp, Alexander Hamilton, pestered his reluctant superior to grant him the field command he had long

¹ Jerald A. Combs, *The Jay Treaty: Political Battleground of the Founding Fathers* (Berkeley: University of California Press, 1970).

coveted before the war ended and his opportunity to attain martial glory passed. Eventually the Continental Army Commander-in-chief granted Hamilton a light-infantry battalion, which he led in a stunning silent bayonet-charge against a crucial British redoubt at Yorktown in mid-October. The restlessly ambitious Hamilton earned his laurels. But the beginnings of his greatest contribution to the life of his adoptive nation may perhaps ironically be traced to those fretful months spent headquartered on the Hudson River. In late February 1781 Congress named Robert Morris as its first Superintendent of Finance. The legislature had also considered Hamilton—an economically literate natural administrator with some background in commerce. Two months later Hamilton offered Morris his thoughts on the best means to stabilize the nation’s credit and money supply in a lengthy letter, expanding in particular on the plans for a national bank he had drafted as early as November 1779. Around the same time he also began composing a series of essays diagnosing and prescribing solutions for the Union’s political and economic woes. Hamilton’s letter and his subsequently published ‘Continentalist’ essays articulated a mature and cohesive constitutional and economic philosophy.²

Hamilton celebrated Morris’ appointment, expressing confidence in the new Superintendent’s ability to procure any necessary loans. Only the influence of men such as Morris, known for “probity, abilities, and fortune,” could restore Congress’ creditworthiness “and inspire confidence in moneyed men” at home and abroad. Hamilton declared this task the “true battleground” of the Patriot cause. Examining in detail the ratio of revenues collected in Britain, France, and Holland to their circulating paper currency, he claimed that true national

² For the importance of Hamilton’s letter to Morris and ‘Continentalist’ essays see Thomas K. McCraw, *The Founder and Finance: How Hamilton, Gallatin, and Other Immigrants Forged a New Economy* (Cambridge, Mass.: The Belknap Press of Harvard University Press, 2012), 56-73. For Hamilton’s earliest notes on his bank proposal see Harold Coffin Syrett, ed., *The Papers of Alexander Hamilton* (New York: Columbia University Press, 1961), 2:234-51 [hereafter cited *PAH*]. The copy of his note surviving in Hamilton’s papers bears no date or designated recipient. It is unclear whether he ever addressed it to another party prior to his April 1781 letter to Morris. The ‘Continentalist’ essays first appeared in Samuel Loudon’s *New York Packet, and American Advertiser*.

wealth, “consisting in labor and commodities, is to be estimated by the sign of that wealth—its circulating cash.” Hamilton lamented that near-worthless Continental “cash is not a competent representative of the labor and commodities of the country.” A well managed system of public debt funding, he argued, would enable Congress to command resources in times of crisis far exceeding actual revenue, and to circulate notes and securities enjoying full public confidence. Hamilton then proceeded to lay out a twenty-point plan for chartering a national bank to mobilize public credit and fund the federal government—a blueprint for the Bank of the United States charter he drafted a decade later. Hamilton’s letter to Morris constitutes the earliest extant outline of his later financial system. But it is also much more. The letter has at its heart the socio-economic philosophy that guided Hamilton’s prodigious career, and which later caused him to view the Jay-Grenville Treaty so favorably.³

Hamilton’s confidence in Morris is indicative of his commitment to uniting the interests of wealthy men to the federal government, but not for any narrow ‘reactionary’ reasons. He looked to such a union for the mutual benefit of all Americans. As Hamilton noted with regard to his lack of hope for further loans from a revenue-starved French government, “the credit of the financier very much depends on his having such a resource in reserve.” The point is a truism, but its significance as a guiding light in Hamilton’s statesmanship cannot be overstated. He remained convinced all his life that the credit necessary for government stability in the face of fluctuating revenue streams depended upon the fortunes of private citizens, who would only lend their capital in exchange for “stronger inducements [and] the prospect of commercial advantages.” While Congress faced the immediate challenges of inflation and deficit spending, Hamilton viewed the nation’s underlying problem as “the want of a sufficient number of men with sufficient moneyed capitals to lend the sums required.” He assured Morris that his proposed

³ Hamilton to Robert Morris, 30 April 1781. *PAH*, 2:604-35.

government bond market and national bank could mobilize public debt sufficiently to ensure investors a healthy return. More importantly, his plan promised “the most beneficial influence upon [our] future commerce, and a source of national strength and wealth.” Hamilton’s vision hinged upon the encouragement of a healthy modern financial sector growing to rival London. This plan could not succeed without the private fortunes of wealthy investors, which Hamilton hoped to protect and increase. But in so doing he intended to foster broad economic growth to enhance the lots of all. National banks, he promised, “increase public and private credit... the latter facilitates and extends the operations of commerce among individuals. Industry is increased, commodities are multiplied, agriculture and manufactures flourish: and herein consists the true wealth and prosperity of a state.”⁴

Hamilton penned his six ‘Continentalist’ essays during the Yorktown campaign, expanding upon and making public the themes of his letter to Morris. In his first essay Hamilton suggested that the “extreme jealousy of power” common to all revolutions could produce “phobia of government” and anarchy no less harmful than the worst tyranny. Hamilton’s second and third essays warned that because the states exercised the most immediate and vital roles of government for the people, such as the administration of justice, they exerted the greatest draw on their loyalty. Thus local interests could easily incite the people’s jealousies against neighboring states, leading to conflict and even civil war. His fourth essay addressed the powers he deemed necessary to enable the confederation government to meet its prerogatives without direct reliance on fickle state legislatures. As in his letter to Morris, Hamilton stressed the importance of “uniting the influence and interest of the moneyed men with the resources of

⁴ Ibid.

government.” He also briefly listed among the necessary powers for regulation of trade the “right of granting bounties and premiums by way of encouragement.”⁵

After Yorktown, with the Patriot cause all-but secure, Hamilton’s final essays fittingly widened his focus on the nation’s economic future. His fifth essay argued that both history and the most astute theorists—David Hume in particular—attest to the value of “balance” [or in modern parlance, economic diversification]. Where American pioneers exploring new industries or avenues of trade found an enterprise to “exceed the influence and capitals of individuals,” Hamilton argued for government inducements to assist them. Thus many opportunities, “though accompanied with great difficulties in the commencement, would in the event amply reward the trouble and expense of bringing them to perfection.” Knowing that many would object to such measures as corrupt patronage Hamilton preemptively asserted “that in human society there is scarcely any plan, however salutary to the whole by the share each has in the common prosperity, but . . . will operate more to the benefit of some parts than of others.” Hamilton’s final essay expanded even further on the common economic good, warning that without uniform federal trade regulations states would compete for the lowest rates of duty to attract the cheapest imports and monopolize trade. States would most likely replace forfeited impost revenues with land taxes, which he viewed as more liable to “oppress the poor by raising the prices of necessaries.” Land taxes also threatened to drive the rural population into the frontier, raising the cost of labor and lowering revenue with disastrous macroeconomic results.⁶

The central economic principles of Hamilton’s letter to Morris and his ‘Continentalist’ essays remained constant throughout his later career—principles not the less clear for his lack of

⁵ ‘The Continentalist, No. 1,’ 12 July 1781. *PAH*, 2:604-35; ‘The Continentalist, No. 2,’ 19 July 1781. *PAH*, 2:654-7; ‘The Continentalist, No. 3,’ 9 August 1781. *PAH*, 2:660-5; ‘The Continentalist, No. 4,’ 30 August 1781. *PAH*, 2:669-74.

⁶ ‘The Continentalist, No. 5,’ 18 April 1782. *PAH*, 3:75-82; ‘The Continentalist, No. 6,’ 4 July 1782. *PAH*, 3:99-106.

interest in articulating them in a treatise on political economy. Hamilton did not desire increased federal power primarily to acquire national greatness through a ‘fiscal-military state’ but for ultimately social ends. He innately understood that a diversified economy fully exploiting America’s abundant natural and human resources offered the greatest opportunities for all to pursue life, liberty, property and their attendant happiness. Such an economy required at its center a healthy financial sector mobilizing accumulated wealth of individual investors as productive capital. Only such an economy offered the greatest possible material comfort for the largest proportion and widest societal cross-section of Americans; only such general prosperity could assure political stability. Tireless devotion to these abiding principles motivated Hamilton as he exerted greater and more lasting influence over national affairs than any other individual during his five years as Treasury Secretary.

Hamilton’s final state paper, submitted to Congress shortly before his retirement in January 1795, underscores the consistency of the vision he first articulated to Morris fourteen years earlier. Responding to calls for retirement of the public debt, Hamilton submitted a plan for gradual repayment over a thirty-year period that protected the federal government’s revenues and creditworthiness. But the report—probably his most underappreciated—is more than a glorified Treasury balance sheet. It also reveals Hamilton’s unswerving desire to encourage private capital and economic diversity for the universal good. The report concludes with reflections on the importance of a healthy financial sector to the national economy. Hamilton asserted that “credit... is among the principal engines of useful enterprise and internal improvement. As a substitute for capital, it is a little less useful than gold or silver in agriculture, commerce, [and] manufacturing.” He pointing to the reliance of industrious men in every economic sector upon private credit to establish, fund, and continue their enterprise. He then warned that harm to public finance threatened the entire national economy. Hamilton claimed that “if the [private] capital of

this country has become more adequate... it is because individuals have found new resources in the public *credit*—in the funds to which that has given value and activity.” Guarding this precious symbiosis required that “the United States observe with delicate caution the maxims of credit, as well toward foreigners as their own citizens,” so that Americans might continue to attract foreign capital sufficient to fund “every species of internal amelioration.” Hamilton admonished that any form of bad faith toward creditors threatened the nation’s entire economic superstructure since “credit is an *entire* thing... Wound one limb, and the whole tree shrinks and decays.” Injury to public credit fatal to the wider financial sector it supported could only lead to economic ruin and social deprivation.⁷

A proper understanding of the intimate connections in Hamilton’s thinking between wealth, property rights, a healthy financial sector, economic diversity, and the common good hardly constitutes groundbreaking scholarship; nor does emphasis of the importance of foreign—primarily British—trade to his fiscal system. But despite no lack of interest in Hamiltonian thought and statecraft, an adequate analysis of his defense of the Jay-Grenville Treaty focusing primarily on his central economic and social principles is lacking. Hamilton’s foreign policy throughout his term as Treasury Secretary consistently reflected and served his domestic agenda. Those views culminated quite logically in his preference for a negotiated peace and commercial treaty with Britain in 1794, and his subsequent defense of Jay’s achievements.

Hamilton’s first foray into the field of diplomacy occurred in a series of informal conversations with British agent Col. George Beckwith during the course of the Anglo-Spanish Nootka Sound Crisis, which lasted from October 1789 to January 1791. An aide to Royal

⁷ Hamilton chafed under opposition claims that his system of public finance amounted to a preference for perpetual debt and deficit spending. Thomas Jefferson told a friend that “the only difference between the two parties is that the republican one wish [the debt] would be paid tomorrow and the fiscal one with it to be perpetual, because they find it an engine to corrupt the legislature.” Quoted in Dumas Malone, *Jefferson and the Ordeal of Liberty: Jefferson and His Time, volume 3* (Boston: Little, Brown and Co., 1962), 35; ‘Report on a plan for the further support of public credit,’ 16 January 1795. *PAH*, 17:46-148.

governor of Canada Sir Guy Carleton, Beckwith made several trips to the United States to gauge official sentiment prior to the establishment of a British legation. Diplomatic historians generally focus on Beckwith's suggestion that Britain might request the right for troops to pass through American territory en route from Canada to the Pacific Northwest. Most view Hamilton's preference for granting such permission as evidence of his calculated long-term geopolitical designs. While not untrue such interpretations place insufficient weight on the pervasive economic undertones of Hamilton's comments, which reflected domestic goals far more fundamental in his thinking.⁸

Numerous critical scholars have since characterized Hamilton's dealing with Beckwith as those of a pliant sycophant. In fact his comments contained numerous forceful warnings of America's future economic might and threats as to the folly of British commercial hostility. During their first interview Hamilton famously stated his preference for a commercial "connection" with Britain on the ground that Americans "think in English, and have a similarity of prejudices and predilections." But he immediately followed this flattery with discussion of the United States as "a young and growing empire with much enterprise and vigor." He warned Beckwith that the rate of growth in the nation's manufacturing sector "will be proportioned to your conduct." Hamilton stated that British manufactured goods and American raw materials suited one another's markets, but warned that while governments can never "altogether change either the taste or the dispositions of a people, [their] influence may check or cherish [them]." He then expressed a desire for a commercial treaty establishing mutual free trade to the widest

⁸ For varying interpretations of Hamilton's conversations with Beckwith, none giving sufficient emphasis to Hamilton's domestic social and economic agenda, see Julian Boyd, *Number 7: Alexander Hamilton's Secret Attempts to Control American Foreign Policy, With Supporting Documents* (Princeton, NJ: Princeton University Press, 1964), Gilbert L. Lycan, *Alexander Hamilton and American Foreign Policy: a Design for Greatness* (Norman: University of Oklahoma Press, 1970), 110-31, Combs, *Jay Treaty*, 31-46, and John Lamberton Harper, *American Machiavelli: Alexander Hamilton and the Origins of U.S. Foreign Policy* (New York: Cambridge University Press, 2004), 63-84.

possible extent. Hamilton condemned the “spirit of your late navigation and regulating acts” as liable to produce conflict. Beckwith could not have mistaken the implication: Britain could not prevent the United States’ emergence as a diversified economic superpower, only chose to make that process mutually beneficial or unnecessarily painful. Hamilton did assuage Beckwith’s concerns over James Madison’s attempts to enact coercive anti-British duty rates, assuring him of Senate and administration opposition. But he did so from a conviction that such legislation promised only a short-cut to ruin. He preferred patient diplomacy leading to prosperity.⁹

Beckwith returned to New York in July 1790 with tensions over Nootka Sound on the brink of war. He raised the possibility to Hamilton of a temporary Anglo-American alliance against Spain. In response Hamilton repeated his desire for a commercial treaty, downplayed the thorny question of the Western posts, and encouraged Beckwith to direct diplomatic discourse through him rather than the more inimical Secretary of State, Thomas Jefferson. When the Anglo-Spanish crisis reached high tide President Washington preemptively sought his cabinet’s advice as to the best response to a prospective British request for passage of troops. Hamilton’s lengthy reply reflected the central motivations driving his irregular and questionable diplomatic operations. He urged Washington to seize an opportunity to reorient U.S. foreign relations with advantage, arguing that Americans owed Spain no obligation for negligible and self-serving assistance reluctantly offered during the War of Independence. While continued informal friendship with Spain offered no particular advantage, offending Britain threatened clear material harm through “dismemberment of the western country” and corresponding injury to “the commerce of the Atlantic states.” British victory over Spain—an absolute certainty in Hamilton’s mind—presented a hostile United States with the danger of exclusion from frontier

⁹ Hamilton pressed the importance in particular of access U.S.-flagged vessels to the British West Indies, which prefiguring the later terms of the Jay-Grenville Treaty’s twelfth article he suggested might be established “under certain limitations of [tonnage].” ‘Conversation with George Beckwith,’ New York, October 1789. *PAH*, 5:482-5.

trade, navigation of the Mississippi, and future access to New Orleans. It also threatened “a great diminution of the motives to establish liberal terms of commercial intercourse with [us].” In contrast, so long as the declining Spanish Empire retained the Mississippi and New Orleans eventual American acquisition of both remained certain.¹⁰

Jefferson biographer Dumas Malone accused Hamilton of “catering to small and relatively localized economic groups,” sacrificing the western frontier to the interests of Eastern merchants and financiers. In fact his approach to the Nootka Sound Crisis reflected his abiding commitment to a broad, inclusive and truly national economic vision—one his foreign policy preferences served rather than vice versa. So much is clear from a further interview with Beckwith conducted during the week following his letter to Washington. Hamilton renewed his advocacy for a commercial treaty, citing dovetailing economic interests such as Britain’s “great commercial capital and immense trade” and America’s lack of capital, demand for manufactures, and surplus of agricultural exports. He also once again coupled his reflections on the two nations’ potentially complimentary economic futures with implied threats, stating that its rapid growth promised to make the young republic’s “friendship or enmity” vital to the future security of British colonies in the region. On several occasions Hamilton emphasized the importance to Americans of navigation rights along the Mississippi and their inevitable acquisition of New Orleans. In one interview he observed that a population already exceeding three million made the United States “capable of considerable exertions, even [naval] ones, if from circumstances it became a measure of government to encourage them.” Hamilton viewed mutually beneficial commercial relations with the world’s primary manufacturing, financial, and military power as the surest practical means to fund and find markets for American commerce. Healthy returns on

¹⁰ George Beckwith report to Foreign Secretary Lord Richard Grenville, 25 October 1789. Douglas Brymner, ed. *Report on the Canadian Archives* (Ottawa: Brown and Chamberlain Printers, 1891), 121-9; Conversation with George Beckwith, 15 July 1790. *PAH*, 6:497; Hamilton to Washington, 15 September 1790. *PAH*, 7:36-57.

trade promised the capital necessary to invest in the economic diversification sure to bring widespread general prosperity. The correct understanding of his foreign policy is of a comprehensively national vision intended for the material benefit of all.¹¹

These sentiments explain Hamilton's opposition to proposed anti-British commercial discrimination. From experience administering the Treasury Department he knew better than any the broad value of British trade. In January 1791 Jefferson proposed exempting French vessels from alien tonnage duties in response to concessions granted to certain American goods in the celebrated *arrêts* of December 1789. Hamilton opposed this measure as disproportionate, questioning Jefferson's optimistic calculation of the temporary and therefore tenuous privileges. He maintained extensive and continual correspondence with customs collectors, merchants and other commercial men in order to gather the most complete, current, and accurate data possible regarding prices, duty rates and regulations enforced in foreign port. He accumulated vast documentation and meticulously catalogued the structure of American commerce. Eventually Hamilton compiled a detailed report on the comparative structure and values of British and French trade. Though never published, the report indicates the information he and Congressional Federalists used in approaching questions of commercial and foreign policy. It consists of several detailed analyses of trade with both nations in the various items most essential to the American economy by volume, including wheat, tobacco, shipping, and fish. The report is far from biased, acknowledging in several areas that French concessions held greater value than their British equivalents. But in light of the data gathered and plainly laid out Hamilton concluded that no ground existed for viewing British regulations as "particularly *injurious* or *unfriendly*... *compared* with other foreign powers." Indeed, duty rates on several items in British home ports

¹¹ Dumas Malone, *Jefferson and His Time, volume 2: Jefferson and the Rights of Man* (Boston: Little, Brown, and Co., 1956), 311; Conversations with George Beckwith, 26-30 September and 15-20 October 1790. *PAH*, 7:73-4, 111-5.

Hamilton characterized as “favorable and friendly to the United States.” France, in contrast, “previous to the [French] Revolution made fewer and less important discriminations.” Given the information at his command Hamilton felt assured that British retaliation to the coercive measures Republicans promoted “would prostrate the navigation of the United States more effectually than... [duty increases in] any other country.”¹²

This characteristically technical study demonstrated to Hamilton’s satisfaction that British regulations not only did less overall harm than his rivals claimed, but in some instances actually benefitted American trade and thereby the national economy. Having reached this conclusion he felt an equally characteristic frustration at Republicans’ inability or unwillingness to accept his arguments. At one cabinet meeting in late November 1791 a debate arose over whether to open negotiations with French Foreign Minister Jean de Ternant regarding a revised commercial treaty. Hamilton advocated immediate negotiation whereas Jefferson, as a result of his economically deterministic agrarian philosophy, preferred to let France take the initiative. The cabinet voted to initiate negotiation. When Jefferson presented a proposed draft treaty a month later Hamilton protested that it gave away too much on the basis of the State Secretary’s vastly optimistic appraisal of the value of French privileges. Jefferson supported his draft treaty with a report comparing British and French regulations that Hamilton viewed as ideologically motivated, poorly supported, and deeply flawed. Several months later in a letter Edward Carrington, the supervisor of U.S. revenue for Virginia, the Treasury Secretary famously vented

¹² See Secretary of State Thomas Jefferson to Congress, 17 January 1791. Walter Lowrie and Matthew St. Claire Clarke, eds., *American State Papers: Documents, Legislative and Executive, of the Congress of the United States: Foreign Relations* (Washington: Gale and Seaton, 1833), 1:109-11 [hereafter cited *ASPF*]. For Hamilton’s commentary on Jefferson recommendation see Hamilton to Jefferson, 11 January 1791. *PAH*, 7:423-4; A typical letter from Boston merchant and Federalist Senator George Cabot in late 1791 summarized his present understanding of the relative merits of American trade with the British and French West Indies. Cabot viewed the British exclusion of American vessels but greater consumption of American goods as roughly balancing the value of France’s open ports but with prohibitive duties on numerous items. He also noted that trade with the French colonies as more fluctuating, depending heavily on unreliable local relaxations of prohibitory regulations. Cabot to Hamilton, 18 December 1791. *PAH*, 10:389-95; ‘View of commercial regulations of France and Great Britain in reference to the United States, 1792-1793.’ *PAH*, 13:395-436.

his frustration at Madison and Jefferson's "womanish attachment to France." He expressed particular grief and confusion regarding his erstwhile ally's apostasy and apparent conversion to anti-federalism, as well as fear that Jefferson's infatuation with French philosophers recommended to him commercial policies certain to produce war with Britain. This tirade reveals Hamilton at his least objective and most desperate after months of hard political fighting. But underlying the indignation of a wounded ego is a more rational dissatisfaction based on his intimate knowledge of American commercial affairs. The objective value of trade with Britain, its importance to potential economic diversification, and the relative insignificance of French privileges made Hamilton intensely impatient with the Jeffersonian opposition.¹³

In spite of resistance the Treasury Secretary continued to explore avenues to growth and modernize the nation's economy—even in his rivals' native region. Hamilton hoped to establish a Virginia branch of the Bank of the United States to redress the Chesapeake's deficiency of liquid capital. A typical letter to Hamilton from William Heth, customs collector at Bermuda Hundred, Virginia, observed that commerce in the region "is carried on chiefly with foreign capital." In almost Jeffersonian terms Heth described the resident factors of British trading houses as "hardly deserving the name of merchants," being mere functionaries charged with the acquisition of local tobacco for export to Europe on the account "of their principals, with whom the profits of the trade, *of course*, center." Heth professed doubts that a bank could flourish in a region lacking an urban commercial-financial hub and suffering a chronic shortage of "circulating capital, there [being] but few moneyed men in the country." Hamilton hoped that a

¹³ For details on the cabinet debate over negotiations with France see *PAH*, 10:350, n. 1; For Jefferson's draft treaty and report to the cabinet see Paul Leicester Ford, ed., *The Writings of Thomas Jefferson* (New York: G.P. Putnam's Sons, 1895), 6:335-8 and 352-5 [hereafter cited *WTJ*]; Hamilton to Edward Carrington, 26 May 1792. *PAH*, 11:426-45.

branch bank might solve that shortage and keep more the region's agricultural wealth in local circulation, eventually fostering economic development and lowering cash-crop dependency.¹⁴

Despite their fervent desire for liberation from commercial dependency upon foreign creditors, most Chesapeake planters instinctively distrusted banks and opposed Hamilton's plan. None expressed this opposition in harsher terms than Jefferson. He wrote to Madison during the fall of 1792 calling Governor Henry Lee's plan to preempt the federal branch bank through preemptive charter of a state bank "not only inadequate, but objectionable." A state bank, he lamented, accomplished nothing but "planting... a source of poison and corruption." Jefferson somewhat hysterically declared the federal government constitutionally unauthorized to charter banks, therefore making the act of so doing within sovereign Virginia an unlawful imposition on the part of a "foreign legislature." Any Virginian assisting in such an imposition, "whether by signing notes, issuing or passing them, acting as director, cashier or any other office shall be adjudged guilty of high treason and suffer death accordingly." Jefferson dismissed less resistance as not "worthy of our state" and ineffectual.¹⁵

This extreme sense of political crisis and urgency based on vastly differing economic ideologies colored every discussion of foreign policy following the outbreak of Franco-British hostilities in February 1793. Both Hamilton and Jefferson, like most Americans, desired neutrality and looked for profits from wartime trade with both belligerents. Since seizure of enemy goods from the vessels of neutrals constituted the accepted practice of nations, both men also understood the need to accept some restrictions on American neutral trade. Yet they differed in their perception of abuses and the forcefulness of their protests. Following publication of the

¹⁴ William Heth to Hamilton, 28 June 1792. *PAH*, 11:584-8.

¹⁵ Jefferson to Madison, 1 October 1792. Somewhat uncharacteristically for the usually restrained and reflective Madison, his brief response to Jefferson's shocking suggestion implied complete approval, stating only: "Your objections to [the branch bank] seem unanswerable." John Catanzariti, ed., *The Papers of Thomas Jefferson*, (Princeton, NJ: Princeton University Press, 1970), 24:432-3.

June 1793 Provisions Order Hamilton wrote to George Hammond, the British minister in Philadelphia, calling the rule “a very harsh and unprecedented measure, which ... appears to be peculiarly directed against the commerce and navigation of the United States.” But despite his anger at specific excesses Hamilton maintained his focus on his broader economic goals. With Anglo-American tension ongoing Jefferson submitted to the cabinet in November a draft for Washington’s fifth annual address to Congress. Hamilton strenuously objected to his overly favorable comparison of French and British conduct toward neutral commerce, and his flawed estimation of the value of Franco-American trade. Calling popular enthusiasm for France “a serious calamity,” Hamilton urged the President not to echo such sentiments. Ultimately the Treasury Secretary prevailed and Washington’s address reflected his advice.¹⁶

In two essays published under the pseudonym ‘Americanus’ in early 1794 Hamilton countered calls for the United States to extend some form of assistance to France with warnings of a likely Anglo-American war and attendant economic ruin. His first essay responded in particular to opposition claims that the British dared not declare war against a nation on whose agricultural produce they relied so heavily. Hamilton felt less confident, pointing to the example of the War of Independence as evidence for the limited impact a loss of American trade threatened to British affluence. His second essay assured readers that maintenance of peaceful neutrality “will open to us a wide field of advantages, which even imagination can with difficulty compass.” In contrast, involvement in the destructive conflict threatened “a check to the progress of our prosperity.” Hamilton’s fears over the consequences of American involvement reflect his vision of an integrated, diverse national economy. He warned that “our agriculture would of

¹⁶ George Hammond to Lord William Grenville, 17 May 1793. *PAH*, 14:273-4; Hamilton’s conversation with George Hammond, 21-30 August 1793. *PAH*, 15:257; According to Jefferson’s account of the cabinet meeting Hamilton “said that the contrast drawn between the conduct of France and England amounted to a declaration of war. He denied that France had ever done us favors... and could demonstrate that Great Britain showed us more favors.” *WTJ*, 1:266-7. For the final version of the address with supporting documents see *ASPF*, 1:141-243.

course with our commerce receive a deep wound... Our mechanics would experience their full share of the common calamity.” Loss of trade also endangered federal revenue which could not be raised any other way without “imposing heavy burdens on the people.” Two months after publication of the ‘Americanus’ essays Hamilton wrote to Washington warning that opposition measures in Congress for anti-British duties at best represented a futile and empty gesture and at worst a plot to embroil the United States in the war. He objected to the proposed sequestration of British-owned debts in even stronger terms, calling such measures barbaric relics of antiquity. The House non-intercourse bill he condemned as likely only to exert “malignant influence upon our public and mercantile credit.” As their guiding principle Hamilton argued that Americans, “having a vast fund of materials for improvement in various ways, ought to invite into the channels of their industry the capital of Europe by giving to it inviolable security.” These foreign policy preferences continued to reflect Hamilton’s desire for broad-based domestic prosperity and his particular vision for achieving it.¹⁷

Despite his preference for continued and expanded Anglo-American commerce Hamilton chafed at British maritime seizures violating the limits of international law and firmly pressed the case for compensation. After two conversations with the Treasury Secretary in mid-April Hammond reported to the British Foreign Minister in London, Lord William Grenville, his “surprise at perceiving that he did not receive explanations [of the November Order] with the cordiality I expected, but entered into a pretty copious recital of the injuries suffered... and a defense of the consequent claim [for compensation].” Hamilton made equally emphatic statements regarding John Jay’s instructions, insisting on full compensation and surrender of the Western posts absolutely as *sine quibus non* of any subsequent negotiation for the long-desired

¹⁷ ‘Americanus’ 1 and 2, originally published in *Dunlap and Claypool’s American Daily Advertiser*, 31 January and 7 February 1794. *PAH*, 15:669-78 and 16:12-19; Hamilton to Washington, 14 April 1794. *PAH*, 16:266-79.

commercial treaty. Perhaps intentionally, critics lost sight of Hamilton's firmness on these points in their later assaults on the perceived limitations of the commercial privileges Jay secured. Ever the realist, the commercial terms he viewed as acceptably beneficial fell short of Jeffersonian demands for virtual repeal of the Navigation Acts. Hamilton's instructions stressed the importance of gaining even limited access for U.S.-flagged vessels to British colonial ports and the right to export some domestic manufactures directly to the home islands. He expressed absolute faith in the ability of American enterprise to force expansion of any concessions over time.¹⁸

Writing to Jay shortly before his departure for London Hamilton reiterated the importance of securing full satisfaction for seizures under the "atrocious" November Order. But, shifting from his previously firm position, he also opened the door to the possibility that "indemnification may be... more laxly dealt with if a truly beneficial treaty of commerce (embracing privileges in the West India islands) can be established." Hamilton suggested that in exchange for sufficiently valuable commercial terms and an agreement for full execution of the 1783 treaty the federal government might agree to compensate defrauded merchants directly. Clearly Hamilton had partially reconsidered this issue in light of how it might appear on a Treasury balance sheet. Additional and perpetual revenues from expanded Anglo-American trade and the economic growth resulting from access to new markets could not fail to dwarf the comparatively small cost of compensating merchants from the federal purse.¹⁹

Jay's dispatches from London reflect similar priorities, focusing to a considerable extent on the importance of increasing—however incrementally—American commercial access to

¹⁸ Conversations with George Hammond, Philadelphia, 15-16 April 1794. *PAH*, 16:281-7; For Hamilton's thoughts on Jay's instructions see Hamilton to Washington, 23 April 1794 and Hamilton to Edmund Randolph, 27 April 1794, and Hamilton's undated notes entitled 'suggestions for a commercial treaty.' *PAH*, 16:319-23, 346-9 and 357-8. For the final version of Randolph's instructions, which overwhelmingly reflect Hamilton's influence, see *ASPF*, 1:1:450-4.

¹⁹ Hamilton to Jay, 6 May 1794. *PAH*, 16:381-5.

Britain's global markets. The potential economic value of such privileges overshadowed almost every other consideration and justified nearly any legally reasonable concession. Jay's few letters during the negotiation process contained no details of his confidential negotiations. But when the process concluded he defended the treaty as securing the most generous commercial terms realistically possible. Despite its apparent limitations Jay had attempted to secure full reciprocity as the Jeffersonians understood the concept. His first draft treaty proposed mutual opening of all ports to every production of the other nation, permitting importation in the vessels of either. The final version of the treaty fell far short of this ambitious effort, limiting American access to the British West Indies to vessels of no more than seventy-tons and setting duty rates in British home ports and European dominions at 'most favored nation' status rather than the lower rates domestic vessels paid. But the treaty also admitted Americans to direct trade with the British East Indies—a privilege granted to no other nation. On the whole Jay viewed the terms as imperfect but good. In a typical letter to Connecticut Senator Oliver Ellsworth he stated that "further concessions on the part of Great Britain cannot... be attained" but noted Grenville's confidence "that some of the articles will be received as unequivocal proofs of goodwill."²⁰

Jay dispatched a copy of the treaty to Philadelphia in late 1794 but remained in Europe until the spring, fearing the perils of a winter passage. Early in the New Year U.S. minister to France James Monroe impetuously demanded a copy to share with republican authorities in Paris. Jay refused the request, rejecting Monroe's claim that the 1778 Alliance obliged such a courtesy. Having recently received reports of the Whiskey Rebellion in Pennsylvania Jay began to view the treaty as a political and economic alternative to Jacobins radicalism and his defense of it hardened. Acceptance or rejection increasingly presented, in his mind, a choice between

²⁰ John Jay, draft treaty of amity and commerce, 6 August 1794. *CPJJ*, 4:69-70; Jay to Oliver Ellsworth, 19 November 1794. *CPJJ*, 4:132-3.

material prosperity and ruinous chaos. Jay wrote to Washington in March 1795 defending in particular the generous access granted to the British East Indies as a remarkable “deviation from former policy,” as well as the more limited West Indies access. He stressed particularly the sensitive nature of challenging the entrenched and long-cherished Navigation Acts. Jay viewed the limited concessions as a vital “break [in the] ice.” He hoped that “to enlarge the aperture [in future] would be more easy... if we should be reasonably temperate and prudent.” In response to Randolph’s dissatisfaction regarding Article XII Jay highlighted the treaty’s stipulation “that the arrangement to succeed it shall have in view the *further extension* of commerce.” Echoing the tenor of Hamilton’s comments prior to his departure for London, Jay vindicated the treaty as making a significant crack in the foundations of Britain’s navigation laws. He did not doubt the ability of American goods and merchants to expand that crack and undermine the superstructure without the need for coercive measures.²¹

Following his return to the United States and his exposure to the full extent of opposition and fury Jay’s comments assumed a more exaggeratedly partisan tone. Writing to retired U.S. District Court judge James Duane in September 1795 he spoke of radical pro-French “Jacobin philosophers,” French agents exerting “influence in our councils,” anti-federalist opponents of the Constitution, “southern debtors,” and enemies of the funding system as an interconnected whole. Jay spoke of a treaty securing peace with Britain as thwarting the nefarious designs of each, but reserved particular ire for debt-laden Southerners advocating sequestration. He called them men with “little to lose and much to covet... who prefer spoil and plunder to patient industry and honest gains.” This telling comment reveals much of what Jay, like Hamilton, hoped the treaty would achieve—a steady increase in commercial, manufacturing, and

²¹ James Monroe to Jay and reply, 17 January and 5 February 1795. *CPJJ*, 4:154-7. For Jay’s comments on the Whiskey Rebellion see Jay to Washington, 25 February 1795. *CPJJ*, 4:160-2; Jay to Washington, 6 March 1795. *CPJJ*, 4:162-70.

agricultural industry sufficient to improve the material wealth of all. Jay's correspondence reflected this hope, and his despair at the prospect of defeat. When the House finally approved funding for the treaty in June 1796 a jubilant Jay wrote to George Hammond expressing relief. He also stated his hope that U.S. minister in London Rufus King might negotiate "a system more liberal" than the stricken twelfth article. With war constricting Britain's merchant fleet local authorities in the West Indies opened the islands to American merchants, but Jay feared loss of this trade and the domestic prosperity it fostered following the restoration of peace. He continued to hope that American enterprise and industry could exploit and expand any permanent fissure in the British navigation system. Jay commented to Hammond that so long as the two nations possessed "no just cause of complaint" against one another, "their commercial and friendly relations will operate freely and effectually, and the designs of those who aim at discord between them will prove abortive." By 1796 Jay viewed peace, national prosperity, and political harmony as interwoven issues and the treaty as a central to the entire superstructure.²²

Despite the limitations of the concessions it offered, and the regrettable necessity of accepting some belligerent rights to restrict neutrals, Federalists vigorously defended the treaty on basis of anticipated general economic benefits. During the Senate's closed-doors debate in June 1795 Hamilton commented to Rufus King on a rumor of the treaty's failure causing "considerable disquietude... among men of business of all descriptions." After the Senate voted to ratify Washington sought advice from his cabinet as to whether he should sign it. Hamilton identified four essential opposition arguments—speculation as to probable British bad faith, and complaints that it abrogated the Franco-American Alliance, abandoned liberal definitions of maritime rights, and exposed American commerce to unfair competition. His wide-ranging

²² Jay to James Duane, 16 September 1795. *CPJJ*, 4:191-4; Jay to George Hammond, 15 June 1796. *CPJJ*, 4:218-20.

analysis answered each in detail. He vindicated the treaty's maritime rules as entirely legal if unpleasant, demonstrated its compatibility with the letter of the 1778 Alliance, pointed to convincing indications of British good faith, and [most importantly] expressed confidence in the ability of American enterprise to make the most of any commercial opportunity.²³

Article III, for example, granted both nation's citizens mutual navigation and trading rights along American and Canadian internal waterways. Jeffersonians—ever fearful of 'corrupting' and malevolent British merchants—believed the article exposed the nation's frontier Indian trade to foreign monopoly. But Hamilton only perceived an opportunity, assuring Washington that opening British North America's far more extensive native trade heavily favored the United States' much larger population. He felt similar enthusiasm for Article XV, which permitted U.S.-flagged vessels to carry all legally permissible goods to Britain's European dominions. Hamilton called the rule an "innovation on the British navigation act and an important privilege to us." He expected nothing less than for American merchants and goods to exploit the advantage, leading to a considerable increase of domestic capital, the arrival of economically useful return cargos, and an explosion of impost revenues for the support of public financial institutions. Hamilton's cohesive commentary presented the treaty's two major achievements—maintenance of peace and expansion of commercial opportunities—as intimately related, offering safety and prosperity through their mutually reinforcing operation. Looking to a bright economic future Hamilton assured Washington that "peace... will enable us to make our way sufficiently fast in trade. War at this time would give a serious wound to our growth and prosperity." Even just a decade of profitable peace, he hoped, might find a stronger and richer

²³ Hamilton to Rufus King, 20 June 1795. *PAH*, 18:383; Washington sought Hamilton's advice despite the latter's recent retirement from office and return to private legal practice. The President continued to place considerable faith in Hamilton's judgment. 'Remarks on the treaty of amity and commerce and navigation lately made between the United States and Great Britain,' 9-11 July 1795. *PAH*, 18:404-54.

United States able to resist any external threat and establish “any just pretensions to greater commercial advantages as we may enjoy.”²⁴

Hamilton’s comments to Washington prefigured the more extended commentary offered in the thirty-eight ‘Camillus’ essays he co-authored with Rufus King in anticipation of the House debate over funding. Eventually exceeding one hundred thousand words, the essays represent Hamilton’s most extensive and significant writings besides *The Federalist*. Early Republic scholars not directly interested in foreign affairs typically grant the somewhat dry and technical essays sparse treatment. In so doing they overlook the significance of ‘the defense’ as a valuable insight into Hamilton’s wider social and economic philosophy—particularly regarding the importance of economic diversification and private capital in assuring national independence and prosperity. As always his foreign policy goals derived from these principles, not vice versa.²⁵

Hamilton’s choice of the dauntless Gaul-fighting ‘Camillus’ as a pseudonym epitomizes his self-image as a voice of reason in a wilderness of confusion. But regardless of this histrionic choice of *nom de plume* the essays offered an astute vision of the nation’s economic future. Hamilton aimed to allay a host of concerns regarding the treaty, from its possible violation of international law to its purported abrogation of the French alliance. Most importantly, he assured readers that the treaty would “promote our general welfare” without extending any greater advantage than the U.S. might or already did offer to other nations. By establishing Anglo-American commercial relations on a fixed legal basis the treaty not only settled existing “sources of collision,” but quite probably provided the “foundation of further and more extensive

²⁴ Ibid.

²⁵ Hamilton’s productivity in authoring the ‘Camillus’ essays while rebuilding his legal practice only months after leaving the Treasury Department is remarkable. Often over-looked and little read on account of their overly-technical dryness, the essays are second only in Hamilton’s life to the *Federalist* for their influence, significance, and achievement. Republican counterparts including New York chancellor Robert Livingston utterly failed to match him, and Madison—still licking his wounds from the ‘Pacifcus-Helvidius’ exchange—declined. Jefferson famously urged his protégé to answer Hamilton. Bestowing upon his hated rival what has become his best known epithet, Jefferson called him “a colossus to the anti-republican party. Without numbers, he is a host within himself.” Ron Chernow, *Alexander Hamilton* (New York: Penguin, 2004), 493-7.

arrangements.” In contrast the coercive commercial measures opposition leaders promoted promised nothing but a destructive war certain to “essentially destroy our trade, navigation, and mercantile capital... arrest our present rapid progress to strength and prosperity... [and] throw us back into a state of debility and impoverishment.”²⁶

Hamilton’s opening ‘Camillus’ essays prefaced his commentary on the treaty’s particulars with unambiguous assertions of its certain benefits to the nation’s general economic well-being. Similar passing observations on the nature of national wealth, peace, prosperity, and happiness also pervaded the more specifically focused later essays. His seventh essay celebrated the anticipated handover of the long contested Western posts under Article II. Critics complained that Jay had secured nothing more than a breakable promise of a distant future event, granted on the grace of a crumbling power from which Americans might simply seize the posts. Hamilton painted a very different picture of a strong Britain resting on a bedrock of private wealth drawn from commerce, able to fight indefinitely. He called Jeffersonian characterizations of Britain “exaggerated and false,” noting that while “she owes an immense debt, on the other she possesses an immense credit.... How long it may last, how far it may go is incalculable.” Far from facing imminent collapse, Hamilton asserted that “most men of property cling to the government” and influenced the majority of men in Britain’s “farming interest... and other industrious classes” to do likewise. Despite the war British manufacturing remained in “a comparatively flourishing condition [and] commerce continues to be immense.” In contrast, despite territorial acquisitions and military victories Hamilton perceived France’s national strength diminishing. The recently conquered Netherlands he called “an artificial power; her life

²⁶ According to Plutarch, Marcus Camillus led Roman forces to a stunning victory over the city of Veii in the early fourth century B.C. but subsequently angered political rivals by opposing certain economic measures he thought ill-advised and illegal. Despite his triumphs Camillus was banished only to be recalled later to fend off a Gallic invasion. Bernadotte Perrin, trans., *Plutarch’s Lives* (London: W. Heinemann, 1914), 2:93-207; ‘The Defence,’ no. 1 and 2. *PAH*, 18:475-89, 493-501.

and strength were in her credit—this perished with her reduction.” Clearly Hamilton defined military and geopolitical strength as factors of financial and economic health, not the reverse.²⁷

The tenth ‘Camillus’ expanded on Hamilton’s comments to Washington regarding the mutual opening of trade along North American waterways. Hamilton saw no cause for fear of commercial competition, offering a stark contrast to the fearfully combative logic behind James Madison’s repeated attempts to promote coercive duties. He asserted that “it is almost always mutually beneficial for bordering territories to have free and friendly intercourse.” This not only fostered “the advantages of an interchange of commodities for the supply of mutual wants and... reciprocal creation of industry” but also acted to prevent “jealousy, collision, and contest.” Hamilton questioned the efficacy of artificially restricting economic activity since “proximity of territory invites trade; bordering inhabitants, in spite of every prohibition, will endeavor to carry it on.” He preferred the traditional U.S. policy of seeking “free intercourse with all the world,” boasting that Americans “have... nothing to fear from the unrestrained competition of commercial enterprise.” Where Jeffersonians instinctively perceived new opportunities for predatory British merchants to ensnare vulnerable Americans in cyclical debt, Hamilton celebrated the loosening of mercantilist regulations, “every relaxation of [which] paves the way for other and further relaxations.” He then lamented as a defeatist and retrograde contrast the “regulation, restriction, [and] exclusion” promoted in Congress by rivals he labeled “love-sick partisans of France,” in whose designs “free trade with all the world [has] dwindled to trade with her dominions.”²⁸

Hamilton defended the Article VI compensation commission for British creditors as indirectly vital to the nation’s economic health. He stated that anyone possessing “a due sense of

²⁷ ‘The Defence’ no. 7. *PAH*, 19:115-24.

²⁸ ‘The Defence’ no. 10. *PAH*, 19:172-86.

the sacred obligation of a just debt” understood the danger of laws “infringing the rights of creditors... [to] morals, the general security of property, [and] public as well as private credit.” Interference with the repayment of “the vast credits” British merchants and financiers routinely extended to clients overseas risked not only the hostility of their government but also the hope of future loans. British credit did not represent a corrupting neo-colonial influence to Hamilton but a liberating means to economic development. Numerous New York Republicans, particularly Hamilton’s erstwhile friend Brockholst Livingston, pseudonymously published concerns that Britain’s preponderance of commercial capital placed American merchants at an insurmountable disadvantage in any mutually open market. In contrast Hamilton argued that if Americans maintained their collective creditworthiness British capital, “which is represented as our rival, could be brought into action for our benefit.” He did not doubt that American merchants, if able to command capital at equal cost to European rivals, enjoyed such additional advantages from their affordable goods and cost-effective operations that virtually assure their success. If Livingston’s logic held water, Hamilton reasoned, “we ought to have no commerce... with any nation which has more commercial capital than ourselves.”²⁹

Hamilton reserved perhaps his strongest language for his defense of articles IX and X, which guaranteed British and U.S. citizens the right to own property in the other’s territory and prohibited sequestration. He claimed to lack sufficient “powers of language” to express “the abhorrence I feel at the idea of violating the property of individuals” who had invested capital on the “faith of our government and laws.” Abandonment of that faith through sequestration of British-owned real property or liquid assets portended “a war upon credit, eventually upon property, and upon the general principles of public order.” Such “invasions of right,” Hamilton feared, must prove “fatal to credit,” destroying his revenue system and thereby necessitating

²⁹ ‘The Defence’ no. 14. *PAH*, 19:245-56; ‘The Defence’ no. 11. *PAH*, 19:186-99.

“more enormous depredations for a substitute.” He described foreign-owned property—particularly capital—as “a deposit of which the society is trustee,” and defined the protection of property as a government’s most sacred obligation. Even leaving aside the dictates of justice and honor, Hamilton did not doubt that involvement of private capital and property in national disputes must destroy foreign investment and cripple economic progress. His twenty-first ‘Camillus’ labeled sequestration “a slow poison conducing to a sickly habit of commerce.” Worse still the confiscation of at most five million pounds sterling worth of American debts amounted to little more than a nuisance to “a nation that can, at pleasure, raise by loan twenty millions.” As ever, while Jeffersonians perceived in Britain’s national debt the seeds of imminent decay Hamilton identified it as a source of strength, funding military operations and sustaining a financial sector capable of encouraging extensive commerce. This blessing did not only extend to Britain’s own merchants. He reminded readers that since the earliest colonial times credit extended from London had “been the animating principle of our foreign commerce.” No other financial market in the world could offer the same professional expertise, accumulated capital, and economy of scale. In the short term, therefore, British trade and credit necessarily assured the most profitable outlet for American goods and most certain means of funding domestic development. Over the long term Hamilton looked to the emergence of domestic financial institutions to liberate American merchants from British markets, allowing them to pursue new horizons should they prove more profitable.³⁰

The ‘Camillus’ essays reveal Hamilton not as the myopic Anglophile of opposition caricature but as a globally-minded liberal economist devoted to a vision of domestic prosperity incorporating all Americans. Political Scientist Peter McNamara correctly observes that scholars cannot systematize Hamilton’s thought into a universal political economy without speculative

³⁰ The Defence’ no. 17, 18, 19 and 21. *PAH*, 19:279-94, 299-305, 318-24, and 365-74

elaboration. Nevertheless his commitment to the broad economic benefits of private liquid fortunes mobilized through a robust modern financial sector is very clear. He never expanded this or any other principle into an abstract work of political theory, and Federalist leaders did not share a completely uniform ideology. But Hamilton's ideas certainly exerted greater and more formative influence over his political allies than those of any other contemporary. The Federalist campaign for ratification of the Jay-Grenville Treaty as vital for peace and prosperity bore unmistakably Hamiltonian hallmarks. The speeches and writings of prominent Federalists with regard to the treaty indicate just how far Hamilton's views prevailed.

No Congressional Federalist proved a more like-minded, consistent and useful ally to Hamilton than Rufus King, co-author of the 'Camillus' essays. The Senator from New York had championed efforts to improve federal credit and revenue since his years in the Continental Congress. King also promoted the establishment of domestic financial institutions, helping to organize the Bank of New York in 1784, becoming its second largest shareholder and serving as a director after 1791. After helping to guide the Bank of the United States through the Senate he also served for two years as one of its first directors. Like Hamilton he desired a funded national debt in order to unite the interests of wealthy men with those of the federal government. But while King viewed the business of high finance as the preserve of qualified experts, he desired a bank able to benefit all Americans. When the bubble created by the initial release of Bank stock burst during the late summer of 1791 King commented to Hamilton that the event "may have some good effects." He complained that speculative fever led to "mechanics deserting their shops, shop keepers sending their goods to auction, and not a few of our merchants neglecting the regular and profitable commerce of the city." He hoped that the experience might "operate to deter our industrious citizens from meddling in future with funds, and teach them to be content with their proper vocations." King's comments have an elitist ring to modern readers, but he

intended no disdain toward working men. On the contrary, he sought their best interest through the emergence of a properly managed financial sector free of the destructive influence of uninformed and overly expectant investors. His letter to Hamilton concluded with the hope that “the present agitation will render [the Bank] cautious, but they will not... withhold those accommodations which may be made with safety.” Such steady application of capital did not offer immediate riches for any and all investors but would assure the broadest possible economic growth. A year later King wrote to Gouverneur Morris in Paris commenting on the Bank’s beneficial impact during its first year of operations. He celebrated the growing ability of domestic creditors to replace British capital in American enterprise and predicted imminent nationwide booms in both agriculture and industry. King rejoiced at hearing “of companies formed and forming in all the states for the improvement of our inland navigation, and thus more lands will become as valuable as those nearest to our principle markets.” In sum he considered Americans rightly “to be the happiest people in the world. Our government is established. It performs as much as its friends promised, and its administration has evidently advanced the prosperity of its citizens.”³¹

The similarity of King and Hamilton’s social and economic visions is evident in the unified voice of their ‘Camillus’ essays. King’s ten contributions to the series specifically address the treaty’s commercial terms and contain numerous indications of his wider ideology. He acknowledged the “total abolition of restraints and regulations” as the most desirable and beneficial path for the commerce of all nations. Unfortunately, despite American appeals for liberalization restrictive systems remained “so deeply rooted and so extensively prevalent” as to permit only gradual progress through partial relaxations. King highlighted the universal

³¹ For King’s role in various domestic political battles of the early 1790s see Robert Ernst, *Rufus King: American Federalist* (Chapel Hill: University of North Carolina Press, 1968), 156-80; King to Hamilton, 15 August 1791. *PAH*, 9:59-61; King to Gouverneur Morris, 1 September 1792. Ernst, *Rufus King*, 171.

American desire since independence for a treaty, and the failure of commercial threats to achieve such. He asserted that Jay had secured terms constituting “a wider breach in the British commercial system than has ever before been made.” His second essay compared the treaty to the French *arrêt* of 1784, finding “no support for the assertion that France has been less exclusive or more liberal... than Britain.”³²

King’s most detailed discussion of the economic philosophy pervading his support for the treaty appeared in the twenty-sixth essay, celebrating commercial access to the British East Indies. He noted that the mercantilist regulations relaxed in the treaty excluded any traders not representing the East India Company, Britons included. King believed that history amply demonstrated that wherever free and fair competition occurred “between individuals and [monopolistic] corporations, the superior economy, enterprise, zeal, and perseverance of the former” always prevailed. The East India Company’s charter included numerous obligations compromising its efficiency, such as the limitation of its exports to purely British goods. American merchants remained free under the treaty’s terms, King argued, to adopt such flexible business models as the market recommended. King reflected Hamiltonian principles in asserting that wherever fair and open competition occurred “the superior economy, enterprise, zeal, and perseverance” of individual merchant enterprises would invariably “make them an overmatch for” monopoly trading companies. This analysis reveals a sophisticated understanding of the value of cheap imports. Jeffersonians worried about the corrupting socio-political influence of manufactured ‘luxuries.’ Mercantilist authorities such as the British Board of Trade aimed to protect domestic producers from foreign competition. ‘Camillus’ understood that low prices benefited consumers and freed capital for investment in economic fields where Americans

³² The Defence’ no. 23, 24, 29, 30 and 34. Henry Cabot Lodge, Ed., *The Works of Alexander Hamilton*. Constitutional edition, 12 volumes (New York: Putnam and Sons, 1904), 5:476-91, 6:3-21, 76-88, 88-99, 140-7 [hereafter cited *WAH*].

enjoyed greater natural advantages. King knew that European manufacturers could never offer prices lower than those for Asian goods due to “the cheapness of subsistence and the immense population of India.” The greater efficiency of American merchants than the East India Company combined with access to Britain’s European dominions promised a sizeable re-export market in South Asian goods. Access to British India therefore offered a two-fold economic benefit—both requiring America’s nascent financial institutions to play an essential role. Affordable credit offered in domestic markets would enable American merchants to give the lowest priced imports to consumers and to undercut their foreign rivals in European markets. American banks could then mobilize capital gained abroad and saved at home into other productive endeavors.³³

Other prominent Federalists also discussed both Hamilton’s financial policies and the Jay-Grenville Treaty in terms indicating a considerable degree of shared economic logic. Congressional Representative for Massachusetts Fisher Ames shared Hamilton’s belief that a strong financial class would ensure economic growth and bolster the federal government. Following passage of the assumption bill he wrote to his friend and political ally Thomas Dwight exulting at the prospect that the measure would “restore a great sum to circulation, raise credit and the price of paper ... [and] produce good humor among the creditors.” He perceived that very process in action only a few months later, remarking that “the late surprising rise of public stock is supposed to be owing in part to [Hamilton’s] report” on creation of a national bank. Ames viewed the nation’s increasing prosperity and the domestic financial institutions Hamilton promoted as symbiotic. Consequently he looked unfavorably on any policy threatening to restrict economic activity and thereby capital. When Madison reintroduced proposals for coercive duties against British trade Ames accused Republicans of greater commitment “to their passions than to

³³ ‘The Defence’ no. 26 and 27. *WAH*, 6: 6:32-58.

their interests.” He commented to Dwight that “what we have is great, and what we hope is immense, yet many are ready to put all to the hazard by a war of regulations.”³⁴

Ames hoped to see America’s domestic capital—so increased through overseas trade—mobilized through nationally-minded financial institutions. In late 1791 Ames wrote to his friend George Richard Minot, expressing satisfaction with the Bank’s early operations. He noted with pleasure that its stock “is chiefly held in New York and Massachusetts,” a fact he called “a favorable circumstance” certain to give the Bank “a more national cast.” Ames elaborated on this theme a month later, contrasting the political economy of northern states with that of the slave-owning South. The rule of law characterized the former, permitting and protecting “trade, money, credit, and industry, [each of] which is at once cause and effect of the others.” As a result of general prosperity “men of sense and property, even a little above the multitude, wish to keep the government in force enough to govern.” In contrast to the broad support for government and order resting on a solid foundation of economic diversification, Ames characterized Southern planters as a ruling elite who treated the law as “their coat of mail—it keeps off the foreigners, their creditors, and at the same time it governs the multitude and secures negroes.” Fear of external threats to their local hegemony accounted for what Ames interpreted as widespread anti-federalist sentiment among Southern planters. Like Hamilton Ames viewed diverse economic development and a strong financial sector as the solution for political division. While “a debt-compelling government is no remedy to men who have lands, Negroes, and debts but neither trade nor credit, nor cash, nor the habits of industry,” Ames did not doubt that “peace will enrich

³⁴ Fisher Ames to Thomas Dwight, 8 August and 23 December 1790, and 26 April 1791. Seth Ames, ed. *Works of Fisher Ames, With a Selection from his Speeches and Correspondence* (1854; repr., New York: Da Capo Press, 1969), 1:88, 90, and 98 [hereafter cited *WFA*].

our southern friends. Good laws will establish more industry and economy. The peculiar causes of discontent will have lost their force with time.”³⁵

Despite seriously ailing health Ames turned the tide of the House debate over treaty appropriations with a widely praised speech resting on Hamiltonian principles. He exclaimed of the treaty’s unreasoning opponents that “if a treaty left King George [only] his island it would not answer, not if it stipulated he pay rent for it.” Any rift with Britain endangered the commerce Federalists hoped would drive diverse economic development. Ames asked whether “it is possible for any real American to look at the prosperity of this country without some desire of its continuance?” Whatever its limitations the treaty promised to preserve the nation’s neutrality, “by which our citizens are gaining everything.” Ames urged the House to appropriate funds in order to secure peace “and diffuse the spirit of confidence and enterprise that will ensure its prosperity. The progress of wealth and industry is wonderful, [though] some will think too rapid.” For Federalists of a Hamiltonian persuasion such progress could not come rapidly enough. Ames exulted that America’s “field for exertion is fruitful and vast,” and, if preserved, “peace and good government” could not but enable “the acquisitions of our citizens” to operate “as instruments of their future success.... Profit is every hour becoming capital. The vast crop of our neutrality is all seed and wheat, and is sown again to swell almost beyond calculation.” The fruits of this liquid capital proved such, Ames sang, that “in this progress what seems to be fiction is found to fall short of experience.”³⁶

Other prominent Federalists in the House defended the treaty in similar terms. William Loughton Smith of South Carolina’s influential speech later circulated during the 1796 election campaign as a pamphlet entitled *The Eyes Opened, or The Carolinians Convinced*. Smith asked

³⁵ Ames to George Richard Minot, 30 October and 30 November 1791. *WFA*, 1:99-106.

³⁶ Winfred Bernhard, *Fisher Ames: Federalist and Statesman, 1758-1808* (Chapel Hill: University of North Carolina Press, 1965), 257-75; Joseph Gales, ed., *The Annals of the Congress of the United States* (Washington: Gales and Seaton, 1834), 5:1239-64.

why Congress would not welcome the return of the frontier posts and indemnification for despoiled merchants “without bloodshed, without disturbing our peace, and without even checking the wonderful progress not only of our commerce but of our general prosperity.” He rejected Republican characterization of the treaty as a partisan tool of wealthy Easterners, arguing that various articles offered benefits valued disparately in different regions. While privileges in the East Indies benefitted heavily commercial areas such as the Northeast, Westerners celebrated access to the Canadian fur trade. Federalists viewed the diverse paths to national economic growth the treaty offered as a means to strengthen and stabilize the Union. Claiming a broader understanding of national interests for his party than the opposition, Smith stated that “in a treaty for the union the accommodation of every part of it is to be considered.”³⁷

Massachusetts Federalist Benjamin Goodhue, chairman of the committee on commerce and manufactures, called free and open trade across the Canadian border “a great advantage to this country... Having this advantage, can it be doubted that we have not the industry and enterprise to improve it?” In Canada or any market Goodhue felt certain that Americans “when put on equal footing with others will make their way equal with any people on earth.” He expressed the same optimism regarding the East Indies, asserting that “by our superior enterprise, industry, and economy we shall not only supply our own wants but those of the West Indies and Europe, in a great measure, with India articles.” Goodhue emphasized that the United States granted no new privileges in the treaty but merely formalized existing rates of duty for a fixed term. He expressed consternation that the same men who for years had so loudly complained that Britain “refused to enter a commercial treaty with us” now attempted to derail the measure. Failure to enact the treaty, Goodhue warned, would at very least leave \$5,000,000

³⁷ William L. Smith, *The Eyes Opened, or, The Carolinians Convinced* (New York: J. Rivington, 1795), 38-41.

of lost property uncompensated, and likely lead to further losses in a destructive war as a result of which Americans could hardly “expect to get a better peace... than we have now.”³⁸

In his House speech Connecticut’s James Hillhouse called the treaty “as good as we had a right to expect.” He also joined his Federalist colleagues in defending the justice of various criticized articles such as that prohibiting sequestration. He warned that the “loss of credit and consequent injuries that would arise” from such an abuse of property threatened “losses ten times the amount” gained. Most importantly he feared that any measures damaging financial markets must prove utterly “ruinous to our most enterprising, promising young men—the rising hopes of our country, most of whom begin in the world with little more than abilities to do business and a fair character.” To such men, Hillhouse stated, “credit is ready money... It is their stock and trade, and puts them upon an equal footing with the great capitalist.” He condemned legislative violations of property as certain “to throw business into the hands of moneyed men.” Hillhouse perhaps visualized Jeffersonian planters as he observed that “credit is of no use—nay, it is an injury to the spendthrift because he would abuse it, as he does money or other property. But to a prudent man credit is of vast importance.” These comments encapsulate the humanitarian, even ‘progressive,’ tenor of Hamiltonian economic thought. Hillhouse’s cash-poor, talent-rich young man might have been Hamilton himself.³⁹

Federalist commentators outside Congress expressed similar sentiment, defending financial markets as positive social goods and the Jay-Grenville Treaty as vital to their health. New York newspaper editor Noah Webster produced a series of pro-treaty essays during the summer of 1795 under the pseudonym ‘Curtius.’ In addition to familiar analysis of specific terms, such as the presumed advantages to American merchants of open commerce along the

³⁸ *Annals of Congress*, 5:1053-9.

³⁹ *Annals of Congress*, 5:1077-94.

Canadian frontier and in British India, Webster also explored the treaty's significance to public and private credit. He argued that proscription of sequestration primarily favored Americans "because it tends directly to foster and strengthen the credit of the United States, both public and private—a circumstance of the utmost moment to our prosperity as an infant nation." Webster asserted that "through the force of public credit our government has attained its present stability" and the "means of acting with efficacy." He called credit "the invigorating principle of this country." Webster might well have spelled it 'principal.' Continued improvement of domestic financial markets offered "much greater power of self-defense than the little perfidious and exploded resource of confiscating debts." Even more importantly than public debt, Webster remarked on the vital importance of "private credit... in a country that has so little capital." Americans enjoyed the blessing of "immense territories of waste land to clear and settle, and an abundance of raw materials for nurturing the manufacturing and mechanic arts. But to nurture these ends requires an unceasing supply of capital or credit." In such circumstances he believed that "no people upon Earth have so many inducements... to declare unequivocally that the claims of their creditors shall always be deemed sacred in peace and war."⁴⁰

Jeffersonians feared that British agents planned to exploit the treaty to buy controlling interests in American banks—speculation Webster condemned as pure fantasy. Not only did bank charters almost universally prohibit foreign share holders from electing or acting as directors, but such designs hardly represented the most efficient means for "disruption of our government." Webster dismissed as "flowing from a peevish captious disposition" opposition complaints that mutual property guarantees did not benefit Americans, who owned virtually no land, debts, or other assets in Britain. He mocked in response that "it may as well be objected that we should not trade with Great Britain at all because her exports to this country exceed

⁴⁰ Noah Webster, 'Curtius.' *American Minerva*, 24 July 1795.

imports from it,” though Webster well knew that many Jeffersonians claimed as much. They also insisted that debt and corruption placed Britain under the imminent risk of collapse and revolution, and that the adoption of coercive regulations or firmer diplomacy must have secured fully reciprocal access to every British port at domestic rates of duty. Webster echoed Hamilton in rejecting this narrative, defining chaos-ravaged France as more liable to collapse. British commerce and capital continued “to exceed that of any other country,” granting political strength and social blessings not only domestically but in America also. Webster exclaimed that “in no country on Earth do American merchants find more good faith, fair dealing, and convenient credit than among British merchants; no creditors are more indulgent, and no country funds extensive credit more useful to the United States.” The specter of dastardly British plots to control U.S. banks and ensnare American consumers in cyclical debt—invariably reflecting Anglophobic anti-finance sentiment more than reality—appealed to radical Jeffersonians through Andrew Jackson’s later presidency and beyond. Hamiltonian articulations of the positive and universal benefits of a healthy financial sector prevailed in the Jay-Grenville Treaty debate but would not always do so in future.⁴¹

Economic historians overwhelmingly describe American development and growth in ways that implicitly or explicitly vindicate the Hamiltonian defense of the Jay-Grenville Treaty. Douglass North calls Hamilton’s financial policies prior to 1793 “the monetary and fiscal underpinnings of the new nation,” and identifies overseas trade as the basis of economic growth from that year until 1807. Pointing to urban growth, increasing market connectedness of the rural interior, signs of rising general affluence, and increased investment in commerce by artisans of modest means, North claims a vast host of associated industries benefitted from increased trade. As a result this era marks the beginnings of an integrated national economy built upon efficient

⁴¹ Noah Webster, ‘Curtius.’ *American Minerva*, 24 July and 5 August 1795.

division of labor. North notes that “the emergence of a pattern of regional specialization,” such as the South’s increased cotton production, “reflected a more efficient utilization of resources.” In contrast he calls the “shift of resources out of foreign and carrying trade into manufacturing” after 1807 as a result of restrictive legislation “an inefficient utilization of labor and capital.”⁴²

Gilbert Fite and Jim Reese express greater ambiguity, noting that the U.S. enjoyed a favorable balance of trade in only five of the seventy years from 1790 to 1860 and accumulated a net trade deficit exceeding \$2 billion. While profits from the re-export trade, “the very liberal terms” of British credit, and foreign investment in American securities almost offset the trade deficit to provide an even net balance of payments, Fite and Reese emphasize long-term development of a balanced domestic economy as the true bedrock of sustainable wealth. They call reliance on imported manufactured goods and capital “continuation of a colonial type of economy.” Fite and Reese celebrate Hamilton’s desire to improve the nation’s balance of trade through cultivation of domestic capital and manufacturing as the correct path to true prosperity, implicitly rejecting Jefferson’s preference for expanding agricultural exports. Lance Davis *et al* present a similar narrative of American development but define the commercial boom of the Federalist era as more unequivocally useful. They state that “the performance of an economy depends upon the volume of factors of production [land, labor, and capital] available per member of the population.” Davis *et al* then discuss the massive increase in circulating wealth the re-export trade inspired. They find thirtyfold growth in re-exports and fourfold growth in the freight earnings of American vessels. This amounted to “a value equal to about \$7 for every man,

⁴² Douglass North, *The Economic Growth of the United States, 1790-1860* (Englewood Cliffs, NJ: Prentice hall, 1961), 46-57.

woman and child in the United States.” This represented, “in the context of per capita national product levels, an enormous value.”⁴³

Both Fite and Reese and Davis *et al* view income from trade during the French Revolutionary Wars trade as the seed for later more sustainable industrial development. Douglas Irwin takes a similar view from a different angle in contrasting the Jeffersonian approach to tariffs as a tool for attaining reciprocal commercial treaties with Hamilton’s desire for non-confrontational tariffs strictly for revenue generation. He suggests that only the capital and cash reserves accumulated during a decade of Federalist government prevented the failed coercive measures attempted after 1807 from causing greater economic damage. Irwin claims that through restrained avoidance of diplomatic “pitfalls the Washington administration helped put the nation on a sound economic basis.” But the Federalist emphasis on steady, stable overseas trade did not only increase the nation’s wealth and revenue reserves. Elding and Kaplanoff argue that the fiscal structure of Hamilton’s program provided a fairer, less burdensome and more efficient taxation system than existed during the Articles of Confederation era. Though many historians point to the Whiskey and Fries’s Rebellions of 1794 and 1799 as evidence of widespread opposition to heavy tax burdens, Elding and Kaplanoff emphasize the isolated nature of these instances and conclude that the most remarkable aspect of “the Federalist’s fiscal regime is the way it managed to raise so much revenue with so little protest.” Thus the Hamiltonian program provided a double benefit for ordinary Americans, encouraging domestic growth while raising revenue in the most sustainable and least invasive tax structure possible.⁴⁴

⁴³ Gilbert C. Fite and Jim E. Reese, *An Economic History of the United States* (Boston: Houghton Mifflin Co., 1959), 128-50, 233-70; Lance E. Davis, Richard A. Easterlin, and William N. Parker, et al, *American Economic Growth: An Economist’s History of the United States* (New York: Harper Row, 1972) 25-6.

⁴⁴ Douglas A. Irwin, “Reciprocity or revenue?: Founding feuds over early U.S. trade policy,” in *Founding Choices: American Economic Policy in the 1790s*, Douglas A. Irwin and Richard Sylla, eds. (Chicago: University of Chicago Press, 2011), 88-120; Max M. Edling and Mark D. Kaplanoff, “Alexander Hamilton’s fiscal reform:

Economic historians do not universally view the re-export trade so intimately tied to the Jay-Grenville Treaty's legacy as unambiguously positive. Howard Ross Smith claims that the artificial profitability of shipping during Europe's long war drew investment capital into that field at the cost of retarding industrial development. He views an "obvious dependence upon the state of trade" as "reason enough for statesmen being somewhat alarmed. The 'privilege' of being the principle neutral carrier in a world at war... [had] certain drawbacks." Smith condemns the Jay-Grenville Treaty as one such negative consequence, claiming that it "awarded to England almost complete trade freedom" in exchange for only the most restricted privileges. He views the treaty, and the economic structure it encouraged, as benefitting only a narrow class of Eastern investors largely dependent upon British credit. Southern agrarians opposed the treaty due to its granting insufficient privileges for their goods. In a similar vein Donald Adams claims that the Eastern-centric re-export trade did not stimulate broad domestic development. He suggests that the growth rates of domestic exports and gross domestic product [GDP] consistently kept pace over the entire antebellum era but lagged slightly during the 1790s. This would indicate slower growth of domestic exports during that decade due to overreliance on re-exports, which operated to the benefit of only a few. Adams's data reveals 1792 as the peak year between 1789 and 1815 for per capita domestic exports. He also points to rising import prices as suggestive that shippers' profits came at the ultimate cost of American consumers. Contemporary accounts of widespread prosperity he questions as anecdotal evidence from individuals "ignorant of aggregate data" and reflecting the prejudices of a "mercantile-oriented society."⁴⁵

transforming the structure of taxation in the early republic," *William and Mary Quarterly* 61, no. 4 (Oct., 2004): 713-44.

⁴⁵ Howard Ross Smith, *Economic History of the United States* (New York: The Ronald Press, 1955), 84-98; Donald R. Adams, Jr., "American Neutrality and Prosperity, 1793-1808: A Reconsideration," *Journal of Economic History* 40, no. 4 (Dec. 1980): 713-37. Adams relies on the earlier work of Paul David, who calculated the correspondence of GDP to domestic exports from U.S. independence to 1840. Paul A. David, "The Growth of Real

In contrast to Adams, Claudia Golden and Frank Lewis's study published the same year argues that neutral trade did provide a broad economic stimulus. Focusing on data sets suggestive of personal income rather than real export values they calculate that "improved trading conditions led to an increase in the per capita income growth rate of about a quarter of a percentage point." But however calculated and whatever the results, estimations of profits from overseas trade alone can only partially address the success or failure of Hamilton's economic vision. Even if, as Adams asserts, few Americans shared directly in the profits of neutral trade, nothing precluded them from enjoying the benefits of increased domestic capital. Louis Hacker accuses many economic historians of implicitly presenting the trade boom of the 1790s as a historical accident of Europe's war rather than an opportunity intentionally and carefully exploited through sound financial policy. He insists that the intimate connection between "domestic and foreign policy—funding, a revenue, and a national bank in one part and neutrality as war raged in the other—underwrote and ensured survival and the beginnings of economic growth and prosperity." Unlike Fite and Reese, Hacker presents data suggestive of a favorable balance of payments, claiming that during the decade of Federalist government the United States paid off \$2.5 in foreign debt in addition to exporting at least \$15 million "to meet interest and profits on federal bonds and investments in American companies." He claims that foreign specie imported through trade increases the nation's total circulation from \$9 million to \$20 million. As a result, "American capital eagerly embarked on promotions... by 1800 there were 34 banks, of which 27 were established after 1789." For a retrospective on the fruits of the Federalists' symbiotic trade and financial policies Hacker quotes the Earl of Liverpool 1820 statement to

Product in the United States Before 1840: New Evidence, Controlled Conjectures," *Journal of Economic History* 27, no. 2 (June 1967): 151-97.

Parliament that since independence the United States had grown “in wealth, commerce, [industry], population, and strength, more rapidly than any nation in the history of the world.”⁴⁶

Hacker correctly identifies the absolute importance of a healthy financial sector and stable overseas trade to every element of Hamilton’s economic thought. Thus it is impossible to validate adequately or discredit the Federalist defense of the Jay-Grenville Treaty without considering how effectively domestic financial institutions mobilized the capital accumulated during the ‘golden age’ of American shipping and trade. Curtis Nettels’s economic history of the early national period emphasizes this connection between trade, finance, and development. Like Hacker he finds no evidence for a net imbalance of payments, pointing out that annual trade with the European continent typically generated a surplus equal to and thus offsetting the deficit with Britain. Nettels argues that Americans used profits from exports to Europe to purchase higher quality British goods at lower prices—hardly indicative of exploitative neo-colonial trade patterns. More importantly he explores the connections between the Federalist-era trade boom and long-term domestic development, pointing to examples such as Stephen Girard’s \$1,200,000 re-capitalization of the former Bank of the United States following expiration of its charter 1811. Nettels claims that the industrial growth experienced after 1815 depended heavily on Hamilton’s earlier financial reforms. Assumption and debt funding created “a vast increase in the paper wealth of the country—of credit resources, of currency available for business,” expanding domestic economic activity connecting larger areas of the interior to the market economy. Nettels downplays Jefferson’s ‘Revolution of 1800,’ pointing to the party’s later acceptance of

⁴⁶ Claudia D. Goldin and Frank D. Lewis, “The Role of Exports in American Economic Growth during the Napoleonic Wars, 1793-1807,” *Explorations in Economic History* 17, no. 1 (1980): 6-25; Louis M. Hacker, *The Course of American Economic Growth and Development* (New York: John Wiley and Sons, 1970), 55-69.

banks, industry, and other Federalist policies. Thus Jeffersonians benefitted from the fruits of Hamilton's earlier work, inheriting economic success inspired by policies they once opposed.⁴⁷

Scholars of early American finance overwhelmingly echo Nettels's narrative, viewing the operations of the Bank of the United States in a positive light and pointing to the economic difficulties following expiration of its charter. Edward Kaplan highlights its role as a *de facto* central bank. Through its primary function as a bank of deposit and discount for the federal government the B.U.S. accumulated large holdings of state and local bank notes. By recalling or holding these notes the bank acted to constrict or ease market liquidity, ensuring stable growth but preventing over-expansion. Defeat of a re-charter bill in 1811 not only "meant the immediate loss of \$7 million... invested in Bank stock by foreigners" but also the institution's stabilizing market influence. As a result "between 1811 and 1816 the number of state banks increased from eighty-eight to 246... [and] banknote circulation increased from \$28 million to \$68 million." Inflation led to currency collapse and declining revenues necessarily followed. Eventually state banks ceased to issue credit altogether as the nation's financial markets buckled under the pressures of a devastating war. Congress turned to the printing press for funds. Eventually the loss of revenue from impost duties forced a return to more burdensome excise taxes.⁴⁸

David Cowen believes that the B.U.S. conducted many of the functions of a modern central bank. Through careful analysis of its balance sheets and minutes he concludes that "by the mid 1790s [it] was coordinating lending policies across its own countrywide branch network, most likely in consultation with" the U.S. Treasury. Robert E. Wright similarly suggests that both the direct and indirect influence of early financial institutions revolving around the B.U.S. advanced national prosperity. He praises Hamilton's efforts as Treasury Secretary to establish a

⁴⁷ Curtis P. Nettels, *The Emergence of a National Economy* (New York: Holt, Reinhart and Winston, 1962), 109-29, 230-41.

⁴⁸ Edward Kaplan, *The Bank of the United States and the American Economy* (Westport, Conn.: Greenwood Press, 1999), 20-47.

national unit of account, central bank, market for government securities, and solid revenue base. “Finally,” Wright finds, “a private financial services sector composed of banks, insurance companies, and brokerages developed. Resting on the solid base provided by the first four innovations, those new financial markets and institutions drove early U.S. economic growth.” Despite the damage expiration of both the first and second B.U.S. charters caused Wright concludes that the nation’s private financial markets proved strong enough to continue providing the necessary liquidity for widespread economic growth—albeit with chronic cycles of ‘boom and bust’ accentuated by the lack of a central institution. Richard Sylla agrees, charging that Hamiltonian policies “injected tens of millions of dollars of high-grade debt and equity securities” into American markets at a crucial moment. These attracted “a growing list of local securities” in commercial centers across the nation, enticing foreign investors and “thereby transferring capital to the United States.” Without Hamilton’s timely policies, Sylla concludes, “capital markets would most likely have emerged and developed much more gradually,” denying Americans the “great advantage, both economic and political,” of possessing “modern capital markets virtually from the nation’s founding.”⁴⁹

Kaplan, Cowen, Wright, and Sylla reflect the dominant view of financial historians, attributing the early growth of American finance to Hamilton’s policies, actuated by private capital accumulated largely through foreign trade. All attest to the importance of that capital to subsequent industrial, agricultural, commercial, and infrastructural development as the U.S. economy emerged through the nineteenth century as the largest and most affluent in the world. More importantly that economy enjoyed greater levels of upward social mobility than any other. Thanks largely to the nation’s emergence as an advanced industrial superpower, every successive

⁴⁹ David Cowen, *Origins and Economic Impact of the First Bank of the United States, 1791-1797* (New York: Garland, 2000), 238; Robert E. Wright, *The First Wall Street: Chestnut Street, Philadelphia and the Birth of American Finance* (Chicago: University of Chicago Press, 2005), 67; Richard Sylla, “Financial Foundations: Public Credit, the National Bank, and Securities Markets,” in *Founding Choices*, Irwin and Sylla, eds., 55-88.

generation of Americans into the latter half of the twentieth century enjoyed a better quality of life than the one preceding—the poorest included. While they could not have envisioned the scale and technological reality of such growth, the Federalists who defended the Jay-Grenville Treaty expected as much. They viewed the most profitable avenues of maritime commerce, which the British Empire happened at that time to provide, as vital to the creation of seed wealth and maintenance of public and private credit. Their vision for the fledgling republic’s future—their theory of political economy—depended more than anything on healthy financial institutions to mobilize that wealth. Only such an economy could enable unimaginable innovation. During the 1790s at least, Jeffersonian agrarians feared such an economy deeply. Thus while the Jay-Grenville Treaty possessed considerable potential influence over the nation’s near-term development, it assumed symbolic significance even greater.⁵⁰

⁵⁰ For a positive articulation of American economic development since the Early Republic era see John Steele Gordon, *An Empire of Wealth: the Epic History of American Economic Power* (New York: Harper Perennial, 2005). The appendix to the Harper Perennial edition features a strong introductory essay on American business historiography. Gordon observes that “many of the ‘classics’ of American business and economic history suffer from a profound animus on the part of the authors toward the economic system of the United States.” For example, the fact that virtually all Americans’ life expectancy, income, literacy, social mobility, and material wealth consistently increased throughout the nineteenth century is not clear from most ‘Gilded Age’ scholarship. This explains why, though Hamilton’s vision largely prevailed in fact, Jefferson remains the historiographical hero.

Chapter four

“That insidious instrument”: Jeffersonian ideology and Republican opposition to the Jay-Grenville Treaty

In May 1806 Secretary of State James Madison penned instructions for William Pinkney and James Monroe to guide them in negotiating a satisfactory replacement for the expired Jay-Grenville Treaty. Madison directed his envoys, given “the vast importance of the colonial trade,” to insist “that the neutral right on this subject be provided for in terms more explicit than are used in the article under review.” This stipulation reflects the whole tenor of the instructions. Madison insisted upon full commercial reciprocity, rejection of Britain’s Rule of ‘56, protection against impressment for U.S. citizens, a narrow definition of contraband, and numerous other points with little chance of success. His instructions remained true to a decade of unwavering opposition to the Jay-Grenville Treaty as a shameful capitulation on neutral rights at sea. But he did not castigate quite every article. Madison directed the envoys to seek “indemnification for past wrongs” and named as acceptable modes for such either a lump payment to the U.S. government or “establishment of a board analogous to [article VII].” Apparently Madison saw no connection between the former treaty’s adequate indemnification and the spirit of compromise over maritime rights he so deeply resented.¹

Monroe’s public opposition to the Jay-Grenville Treaty a decade earlier had resulted in his recall as minister to France. In one letter to Madison he called the treaty “extremely unfavorable and disgraceful” and advocated occupation of British colonies such as Bermuda to force fairer terms. By 1806 three years of experience as U.S. minister in London afforded him greater perspective. Knowing that insistence upon each of Madison’s *sine quibus non* would

¹ James Madison to William Pinckney and James Monroe, 17 May 1806. Gaillard Hunt, ed., *The Writings of James Madison* (New York: G. G. Putnam and Sons, 1900), 7:375-95 [hereafter cited *WJM*].

derail negotiations immediately, Monroe partially disregarded them. Negotiations concluded on New Years' Eve 1806, producing a draft treaty ironically similar to the predecessor he had so bitterly denounced. It made no mention of impressment, named as contraband numerous items Americans viewed as exempt, and implicitly accepted the Rule of '56. After reviewing a copy of the treaty a month later Madison and President Thomas Jefferson rejected it without even consulting the Senate. The Secretary of State ruefully assured the envoys that he appreciated the difficulty of their task and that it pained the President "to withhold from [your] joint work the sanction which was expected." Allowing the treaty to expire with no successor constituted a major foreign policy shift. Republicans spent the ensuing seven years proving various unilateral coercive mechanisms utterly incapable of bringing recalcitrant belligerents to heel.²

It is impossible to state with certainty the draft treaty could have permanently averted a second Anglo-American war or would not have caused further conflict with France. But without a treaty nothing bound British authorities to any mutually established interpretations of maritime law. In contrast, the Jay-Grenville Treaty's successful operation provided an example of the liberalization and economic prosperity compromise could secure. Unfortunately Jeffersonians viewed such compromise as neither necessary nor desirable. Obsessively recalling the successful 1765 Stamp Act embargo, American agrarians elevated the power and utility of commercial coercion to an article of faith. Republicans assumed power in 1801 as committed as ever to this strategy. The preceding two decades of American diplomatic experience only seemed to confirm their republican instincts and foreign policy principles.

² Monroe to Madison, 8 September 1795. Stanislaus Murray Hamilton, ed., *The Writings of James Monroe* (New York: G. G. Putnam's, 1899), 2:347-59. In the same letter Monroe complained that article X, prohibiting sequestration of British-owned debts in the U.S. "deprives us of our principal weapon of defense."; Madison to Pinckney and Monroe, 3 February 1807. *WJM*, 7:395-404; for Monroe's missions in Paris and London see William Penn Cresson, *James Monroe* (Chapel Hill: University of North Carolina Press, 1946), 127-54, 198-229.

American negotiators in Paris during the Revolutionary War attempted to secure a treaty granting continued trade privileges with British colonies in exchange for low duty rates in U.S. ports. John Adams's 1775 model treaty established the negotiation of liberal commercial treaties as a foundational goal of U.S. foreign policy. Economic liberal William Petty, the Earl Shelburne, who served briefly as Prime Minister between July 1782 and April 1783 favored continued access for American ships and goods to Britain's colonies. Unfortunately, opposition from traditionalist defenders of the Navigation Acts such as Board of Trade President Charles Jenkinson, the Lord Hawkesbury, brought down Shelburne's government. The new ministry headed by Charles James Fox and Lord Frederick North withdrew the liberal commercial treaty Shelburne had offered. Instead Parliament authorized the Crown to regulate Anglo-American trade through annually renewable orders-in-council. George III's privy council prohibited Americans from carrying British produce or trading in colonial ports, and granted access to the home islands only on 'most favored nation status' rather than at parity with British vessels.³

Despite this disappointment American leaders hoped their nation's abundant resources would soon entice more liberal terms. Jefferson, then serving as the U.S. minister to France, wrote optimistically to his young protégé James Monroe in November 1784 that whenever Europe next experienced war continental belligerents "will be glad to ensure our neutrality and friendly dispositions by a just treaty. Such a one or none is our business." But British refusal to even discuss such terms combined with the memory of the successful Stamp Act boycott to convince Jefferson that positive inducements alone could not move authorities in London. That

³ Charles Ritcheson, *Aftermath of Revolution: British Policy Towards the United States, 1783-1795* (Dallas: Southern Methodist University Press, 1969), 1-18; James Madison summarized congressional priorities for a potential commercial treaty with Britain in May 1783, stating that "the objects most at heart are, first, a direct trade between this country and the West Indies, second, a right of carrying between the latter and other parts of the British Empire, thirdly, a right of carrying from the West Indies to other parts of the world." In exchange the U.S. offered "equal privileges with our own citizens." Madison remained committed to this vision as the only acceptable basis for an Anglo-American commercial treaty for the remainder of his public life. James Madison to Thomas Jefferson, 13 May 1783. William T. Hutchinson et al, eds., *The Papers of James Madison: Congressional Series* (Chicago: University of Chicago Press, 1971), 7:39-42 [hereafter cited *PJMCS*]

would require “enforcement of the resolutions of Congress proposing that there should be no trade where there is no treaty.” Jefferson condemned British merchants as “deaf to every principle of common sense,” arrogantly assuming that Americans would allow them “to keep all the carrying trade and attempt no act of retaliation.” He wrote to Madison the following spring that “nothing will bring [the British public] to reason but physical obstruction applied to their bodily senses. We must show that we are capable of foregoing commerce with them.” Where Alexander Hamilton viewed British manufactured goods as economically useful items of unique price and quality, Jefferson dismissively commented that “we have all the world besides to supply us with gewgaws.” British dependence on American goods, on the other hand, he defined as almost absolute, claiming that “our tobacco so well suits the habits of their people [that] they must have from whatever place we make its deposit.”⁴

Jefferson viewed the entire structure of U.S.-British trade as artificially inequitable, exploitative, and unreflective of American agriculture’s true value. In January 1786 he famously described the debts of colonial Virginians to Jean Nicolas de Meusnier as “hereditary from father to son for many generations, so that the planters were a species of property annexed to certain mercantile houses in London.” The root of this culture he ascribed to British merchants, who enjoyed such vast profits from the tobacco trade that in order to increase their consignments they initially offered “good prices and credit to the planter until they got him more immersed in debt than he could pay.... They then reduced the prices given for his tobacco so that, let his shipments be ever so great and his demand of necessaries ever so economical,” the debt remained. This statement reflects Jefferson’s fundamental view of mercantile credit—drawn heavily from his lifelong struggle with debt—as a mechanism for corrupt and idle financiers to appropriate

⁴ ‘Gewgaw’ is a Middle English word for an implicitly unnecessary decorative trinket. Thomas Jefferson to James Madison, 11 November 1784. Julian P. Boyd, ed. *The Papers of Thomas Jefferson* (Princeton, NJ: Princeton University Press, 1953), 7:508-13 [hereafter cited *PTJ*]; Jefferson to James Madison, 16 March 1785. *PJMCS*, 8:247-250.

agricultural wealth. The preceding year he had expressed eagerness to Nathaniel Tracy that “every discouragement should be thrown in the way of men who undertake to trade without capital.” Such merchants, he believed, “do not go to the market where commodities are to be had cheapest, but where they are to be had on the longest credit.” Far from Hamilton’s vision of generous credit as an economic boon Jefferson perceived only a burden upon consumers who ultimately paid the price of “bankruptcies occasioned by such commercial adventurers.” He denied the rights of merchants “to enter on a calling by which it is at least ten to one he will ruin many better men than himself.”⁵

Jefferson’s views on British mercantile credit reflect his Anglophobic tendencies, but also the rigid views on finance he held at least into the early nineteenth century. Hamilton saw trade as a source of seed-wealth for cultivating domestic financial institutions capable of encouraging diverse development; Jefferson viewed an agricultural export economy as an end in itself. He feared the emergence of a ‘corrupting’ financial sector—a sentiment echoing his favorite Enlightenment philosophers. Jean Jacques Rousseau, for example, declared that “finance is a slavish word, unknown in the city-state. In a country that is truly free, the citizens do everything with their own arms and nothing by means of money.” Rousseau advocated a society of common interest resting on the performance of civic duties such as militia service. He denounced “the avid quest for profits” as productive only of “softness and love of ease.” Jefferson’s views on American repayment of pre-Revolutionary debts to British merchants reflect similar principles. Like Hamilton he advocated removal of every legal barrier to their repayment, but for very different reasons. In 1786 he professed an expectation to his lawyer Archibald Stuart that “good

⁵ Jefferson to Jean Nicolas de Meusnier, 24 January 1786. Paul Leicester Ford, ed., *The Works of Thomas Jefferson*. Federal edition (New York: G. G. Putnam and Sons, 1904), 5:3-32; Jefferson to Nathaniel Tracy, 17 August 1785. *PTJ*, 8:398-9. In a similar letter to Thomas Pleasants Jefferson despaired that “fashion and folly” continued to bind Americans in “vassalage to Great Britain.” He wished that consumers “might be restrained from taking on credit the gewgaw held out in one hand by seeing the keys of a prison in the other.” Jefferson to Thomas Pleasants, 8 May 1786. *PTJ*, 9:472-3.

will arise from the destruction of our credit,” by which he meant a declining American appetite for goods purchased without full payment. He hoped that men forced to repay their debt in full “would then see a poison painted on everything he wished but had not ready money to pay for.” Nothing else could “restrain our disposition to luxury and the loss of those manners which alone can preserve republican government.”⁶

Jefferson discussed the circulation of bank notes and other forms of paper currency in similar terms. Hamilton hoped that substituting reliable securities and notes for hard currency might more than treble the ratio of liquid capital to specie reserves. Jefferson perceived in such transactions only dangerous speculation, corrosion of republican virtues such as self-discipline, and an invitation to corruption. He viewed Britain as the archetype of anti-republican corruption and could think of no worse model for the United States. Responding to news of financial downturn in London, Jefferson commented to Edward Carrington in May 1788 that the apparent fire might end “in the general conflagration of all their paper. If not now, it must ere long.” He expressed perfect confidence that with a stock of specie he estimated at twenty million pounds sterling and “three or four hundred million of circulating paper, public and private,” any serious crisis must necessarily cause “the whole residuary fabric [to] vanish into air and show that paper is poverty; that it is only the ghost of money and not money itself.” Jefferson’s view of the role of foreign trade in American economic development could hardly have differed more drastically than that of Hamilton. He sought only commercial relations conforming to his idea of full reciprocity and assuring American agricultural produce of prices he deemed fair—i.e., sufficient

⁶ Jean Jacques Rousseau, *The Social Contract and Discourses*, ed. Ernst Rhys, translated with introduction by George D. H. Cole (New York: E. P. Dutton and Co., 1913) 82; Jefferson to Archibald Stuart, 25 January 1786. *PTJ*, 9:217-9.

to supply the nation's need for specie and free Americans from dependence on credit or paper money. Development beyond that level constituted not wealth but corruption ruinous to liberty.⁷

Madison shared Jefferson's frustration with the structure of Anglo-American trade. He wrote despairingly to him in the fall of 1783 that "the ready admission [Britain] found into our commerce without paying any price for it has suggested the policy of aiming at the entire benefit of it." The importance to American producers of commanding access to foreign markets in exchange for their goods partly inspired Madison's push to reform the Articles of Confederation. He noted that "the supposed contrariety of interests among the States and the impotence of the federal government are urged by [British] pamphleteers as "assurances against the threat of American [commercial] retaliation." Like Jefferson, he perceived a uniquely stubborn British resistance to trade liberalization and claimed that other European powers seemed "to have more honorable views towards our commerce." As a member of the Virginia legislature during the mid-1780s Madison grew disillusioned with the various states' failure to coordinate commercial policy. He wrote to Jefferson in 1785 that "the more suffering States are seeking relief from partial efforts which are less likely to obtain it than to drive their trade into other channels." Pennsylvania, he stated, had enacted "a catalogue of duties on foreign goods and tonnage which could scarcely be enforced against the smuggler if New Jersey, Delaware and Maryland were to co-operate." He wrote several months later that "the necessity of harmony in the commercial regulations [is] every day more apparent."⁸

Madison did not fully share Jefferson's extreme aversion to financiers and paper money. He never opposed the establishment of banks with equal zeal, and eventually accepted their necessity far sooner. Nevertheless, Madison held fundamentally agrarian views on finance in

⁷ Jefferson to Edward Carrington, 27 May 1788. *PTJ*, 13:208-9.

⁸ Madison to Jefferson, 20 September 1783, 3 October 1785, and 22 January 1786. *PJMCS*, 7:352-4, 8:373-6, 472-81.

comparison to Hamilton. He looked upon ‘speculative’ trading in government notes as a dangerous and idle pursuit more likely to invite collective ruin than prosperity. And while not utterly inimical to the growth of domestic industry he did view agriculture as the bedrock of American wealth. Madison shared Jefferson’s absolute faith that the fecundity of America’s soil exceeded the nation’s need for wealth and specie, or would do so if its produce received a fair price. He also preferred the nation’s money supply to function as a proxy for specie in the narrowest possible fashion. Writing in early 1780 Madison argued that money’s value depended upon people’s confidence in the government’s ability to redeem it on request. He criticized Congress for issuing higher-interest long term Loan Office certificates to redeem existing inflated paper currency. Madison protested the move as a new and greater expense assumed in the name of debt reduction. He complained that “in order to raise the value of our money, which depends on the time of its redemption,” Congress only delayed redemption to a less certain future date.⁹

As with Hamiltonian Federalism it is impossible to separate Jeffersonian foreign policy goals—centering on the primary importance of fully reciprocal commercial treaties—from wider theory of political economy. Republicans believed that corrupting ‘stockjobbers’ centered on the Bank of England had subverted the British constitution, rendered George III deaf to his subjects and thereby necessitated American independence. Without a liberal commercial treaty British trade regulations functioned as ‘artificial’ constraints diverting American yeomen’s wealth into

⁹ James Madison, ‘Money,’ circa Sept. 1779-March 1780. *PJMCS*, 1:302-10; Ralph Ketcham, *James Madison* (Charlottesville: University Press of Virginia, 1990), 144-73, 304-336; As a Virginia legislator during the 1780s, Madison pushed for sound fiscal policy. He opposed populist calls to repeal direct taxes and meet the specie shortages with inflationary tactics. One letter to Jefferson complained that “impolitic” tax reductions “are bitterly tasted now. Our treasury is empty, no supplies have gone into the federal treasury, and our internal embarrassments torment us exceedingly.” Later Madison voted for a bill to permit substitution of tobacco for payment of taxes owed in specie “against every general principle I have embraced,” as he told George Washington, out of “fear that some greater evil under the name of relief to the people would be substituted... the original object was paper money.” In opposition during the 1790s Madison proved unable or unwilling to distinguish between the dangers of un-backed printed currency and the economic value of fully funded tradable public securities. Both seemed too far from simple specie. Madison to Jefferson, 4 December and George Washington, 24 December 1786. *PJMCS*, 9:189-92, 224-6.

the banks and public coffers of a corrupt monarchy. Such subservience, they feared, risked corrosion of republican virtues, as did the prospect of replacing foreign credit with a domestic financial ‘aristocracy’ liable to subvert the U.S. Constitution. Only fully reciprocal liberal trade offered the certainty of sufficient specie wealth to protect virtuous citizens from the temptations of credit and evils of paper speculation. These deep-rooted and inextricable principles drove Madison and Jefferson to advocate commercial coercion against Britain during the early 1790s, and later to revile the Jay-Grenville Treaty as antithetical to their preferences.¹⁰

After adoption of the new constitution efforts to force Britain into a liberal commercial treaty through coercive counter-measures formed the most consistent policy commitment of the emerging Jeffersonian faction in Congress. In early April 1789 Madison proposed a revenue bill in the House of Representatives, continuing the Confederation era five percent *ad valorem* duties on all imports with the addition of tonnage duties discriminating in favor of nations sharing commercial treaties with the United States. Madison framed the bill as a simple revenue measure, professing his general preference for “a very free system of commerce” and declaring exclusionary commercial barriers “generally unjust, oppressive, and impolitic.” But he also pointed with regret to British dominance of American overseas trade as the disproportionate consequence of “artificial causes.” Entrenched commercial habits, “similarity of language and customs,” and the distorting influence of the Navigation Acts all combined, Madison claimed, to retain for British merchants a share of the tonnage clearing U.S. ports “exceeding its natural boundaries.” He felt it only proper to adopt measures liable to ensure that “nations in treaty with us draw some advantage from our alliance, and thereby impress those powers that have refused

¹⁰ Lance Banning, *The Jeffersonian Persuasion: Evolution of a Party Ideology* (Ithaca, NY: Cornell University Press, 1978), 21-90; J.C.A. Stagg, *Mr. Madison’s War: Politics, Diplomacy, and Warfare in the Early American Republic, 1783-1830* (Princeton, NJ: Princeton University Press, 1983), 3-47; For discussion of revolutionary American notions of power, liberty, monarchy, and corruption see Bernard Bailyn, *The Ideological Origins of the American Revolution* (Cambridge, Mass.: Belknap Press of Harvard University, 1967), 55-93.

to treat with us with the advantages to be drawn from reciprocity.” Madison revealed his agrarian tendencies in calling produce of the soil “the great staple of America.” While other nations held matchless advantages in manufacturing, the cheapness and limitless extent of American land afforded “as much a monopoly in [agriculture] as any nation has in any article whatsoever.” Madison believed absolutely that the price, quality, and quantity of American produce must secure the lion’s share of Europe’s market agricultural imports, unless unfairly restrained.¹¹

Madison understood the workings of British finance as fundamental to this commercial imbalance. He assumed the familiarity of his fellow Congressmen with the tendency of “cities, companies, or opulent individuals [to] engross business from others by having had uninterrupted possession of it, or by the extent of their capital being able to destroy competition.” He offered the analogy of “two commercial cities, one possessed of superior capital and long habits of business while the other is possessed [only] of every natural advantage.” He then inquired rhetorically whether “is it possible that the latter should carry on any successful competition with the former?” Many of the nation’s exports to the European continent, Madison stated, travelled via London in British vessels. Consequently “trade, being constrained to an artificial channel, is not so advantageous to America as direct intercourse.” Liberation of American agricultural exports from harmful trade patterns resting on “the force of habit and other conspiring causes” demanded drastic action, which Madison proposed in his discriminatory tonnage duties. Initially Madison only met with opposition from a handful of New York representatives. John Laurence objected that in curtailing Anglo-American trade “we lessen our revenue in order to pay tribute to our allies.” He warned that the measure would “engage us in commercial hostilities.”

¹¹ Joseph Gales, ed., *The Annals of the Congress of the United States* (Washington: Gales and Seaton, 1834), 1st Cong. 1st sess., 106-8, 116-9, 189-94.

Laurence moved unsuccessfully to erase proposed distinctions between foreign vessels. Madison attributed the attempt to “the spirit of this city, which is steeped in Anglicism.”¹²

Unfortunately for Madison the Senate seemed to share that spirit, returning the bill in mid-June with reduced *ad valorem* duties and stripped of tonnage discrimination. During two weeks of debate future Federalist stalwarts such as Theodore Sedgwick and Fisher Ames of Massachusetts spoke out against coercive duties, calling them unwise and likely ineffective. John Page of Virginia typified the Jeffersonian response in declaring himself “too confident of success to dread a commercial war.” A twelve-vote House majority eventually approved Senate amendments. Speeches supporting the altered bill explained Britain’s share of American trade with reference to the greater availability of affordable mercantile credit in London. Madison viewed this argument with contempt, not seeing British finance as an essential aid enabling American produce to reach foreign markets at affordable rates. Rather, British credit belonged to a restrictive monopoly designed to “enrich her merchants, who stand between [us] and the consuming nations of Europe.” Madison professed no fear of “a commercial contest,” anticipating only “salutary” social consequences from the loss of imports Americans would fare “better without than with.” In contrast he expected British colonies to starve and domestic industry to cease without American foodstuffs and raw materials. The production of British “articles of luxury,” Madison asserted, “being the work of the indigent, may be regarded as necessaries to the manufacturing party.” Thus he portrayed the structure of Anglo-American trade as an artificial monopoly sustained through cheap credit and inequitable regulations for the

¹² *Annals of Congress*, 1st Cong. 1st sess., 189-4, 211-2; James Madison to Thomas Jefferson, 9 May 1789. *PJMCS*, 12:142-4.

purpose of occupying Britain's urban poor in the production of 'luxury' goods superfluous to the needs of virtuous agrarian citizens across the Atlantic.¹³

Shortly after the failure of Madison's tonnage discrimination resolutions the House asked the Treasury Secretary to prepare his 'Report on Public Credit,' which he submitted in January 1790. Hamilton anticipated consolidation of the much of debt's interest yields in the hands of relatively few financial elites—a plan utterly contrary to the Jeffersonian vision of an agrarian republic free of debt burdens and the destructive influence of unrestrained financiers. Jefferson wrote to Madison shortly before his departure from Paris reflecting on the principle that living men inherited the right to possess their lands from nature for the course of their lives only. He argued that “no man can by *natural right* oblige [subsequent generations] to the payment of debts contracted by him. If he could, he might during his own life eat up the usufruct of the lands for several generations to come, and they would then belong to the dead.” Madison and Jefferson wished to honor American debt, but hoped to see the whole retired as soon as possible. They balked at the prospect of a long-term debt intended to encourage and benefit a financial class with steady yields.¹⁴

Much Congressional opposition to funding and assumption sprang from fears that the plan promised to benefit financiers at the expense of citizen-farmers. New Hampshire representative Samuel Livermore distinguished between foreign debts on specie loaned “by disinterested persons, not connected to or benefitting from the revolution, at low rates of interest” [meaning French allies], and domestic debts against paper money rarely still in the hands of the original owners whose goods and services they represented. “Money lent in this depreciating state,” he argued, represented not “the spirit of patriotism” but “mere speculation in public

¹³ *Annals of Congress*, 1st Cong. 1st sess., 609-14, 632-43; Richard Peters, ed. *Public Statutes at Large of the United States of America* (Boston: Charles C. Little and James Brown, 1845), 1:27-28; Madison to Jefferson, 30 June 1789. *PJMCS*, 12:267-72.

¹⁴ Jefferson to Madison, 6 September 1789. *PTJ*, 15:392-7.

securities.” James Jackson similarly railed against Hamilton’s willingness to reduce arbitrarily the yield on government debt from six to four percent while refusing to distinguish between original holders “and those who... have merely speculated.” Madison followed these speeches with a proposed amendment to the funding bill granting holders of transferred notes the highest market price [roughly fifty cents on the dollar] while reserving the face value’s balance for the original owner. In defense of the rights of governments to make corrective adjustments in financial markets he raised the specter of the infamous ‘South Sea bubble’—an analogy South Carolina’s William Loughton Smith testily dismissed as “totally inapplicable.” Madison explicitly rejected Hamilton’s notion that a funded debt could inspire beneficial development, declaring his regret at “the weight and duration of the burdens to be imposed, having never been a proselyte to the doctrine that public debts are public benefits.” The amendment eventually failed after a two-week debate, throughout which pro-discrimination speakers employed consistently used the term ‘speculator’ as a bye-word for non-productive economic parasite.¹⁵

The same logic pervaded Madison’s approach to federal assumption of state debts. He introduced numerous amendments designed to kill the bill. Much of the ensuing debate focused on the economic value of financial investors. Pennsylvanian Thomas Fitzsimons commented favorably on the prospect of foreign investors purchasing U.S. debt, which he felt promised an influx of specie that could offset the cost of ongoing national interest payments. Madison rose immediately to challenge the assertion, complaining that “foreigners speculating in our funds would induce a spirit of luxury.” He warned of “the pernicious consequences of credit” and that past experience “does not justify the supposition that an influx of money would be employed in agricultural pursuits.” Madison’s private correspondence during the assumption and funding debates further reveal his growing political faction’s ideological concerns. A typical letter from

¹⁵ *Annals of Congress*, 1st Cong. 2nd sess., 1185-93, 1233-38.

Virginia Assemblyman Henry Lee claimed that “funding systems belong to arbitrary governments [and] are not congenial to the true spirit of general, common freedom. They are an excellent means to change the latter into the former.” Lee recited a familiar Jeffersonian narrative of the British financial system as designed to fund endless war through loans from corrupt Crown hangers-on. Such systems he called “suitable only to nations whose situation, genius, and habits direct them to commercial pursuits, and which must terminate in national bankruptcy.” Lee asserted that “our commerce ought to be considered only as the hand maid of our agriculture.” He expressed hope that “the preeminence of [agriculture] will be ever distinguished by all the regulations of our general government.” Madison concurred.¹⁶

Shortly after securing an initial two-vote majority against assumption in mid-April 1790 Madison revived his plan for discriminatory tonnage duties with a speech rich in agrarian logic. He repeated his confidence that Americans could “better do without Great Britain than she can do without us,” optimistically predicting that Franco-American commerce could provide “three times the benefit.” Madison’s speech contained the same denunciations of ‘luxury’ he had employed in opposition to the funding bill. He clearly viewed efforts to liberate American trade from perceived British shackles and to prevent connections between the government and financial institutions as two phalanxes in the same war. Other Jeffersonians gave similarly emotive speeches. John Page, for example, called pro-administration rejection of discrimination “pusillanimity founded in folly and injustice.” Theodore Sedgwick dismissed the proposal as a provocative and “impotent measure of passion.” He and his allies again stripped the bill of its discriminatory elements in June, leaving Madison’s faction deeply frustrated. Jefferson wrote to Edward Rutledge in early July of his shared “indignation at the trammels imposed on our

¹⁶ *Annals of Congress*, 1st Cong. 2nd sess., 1345-74; Henry Lee to Madison, 4 March 1790. *PJMCS*, 13:87-91.

commerce with Great Britain.” He affirmed his correspondent’s preference for treaties of short duration, stating with confidence that “our situation is too changing and too improving to render an unchangeable treaty expedient.” Jefferson pointed to various attempts at imposing “effectual restrictions” against Britain and stated that Rutledge “will see by the debates of Congress that there are good, bold, and sensible men who publicly avow these sentiments.” By implication he labeled opponents of coercion cowardly and malevolent—a reality which alone could account for the failure to act decisively from such a position of national strength.¹⁷

By the time Congress adjourned at the end of July 1790 the Treasury Secretary had gained the political ascendancy. His supporters had staved off another attempt to enact commercial coercion, thereby protecting the revenues necessary for his financial program. And he had secured the necessary votes for debt assumption in the famous ‘dinner table bargain’ over the location of the permanent federal capitol. Madison and Jefferson’s acceptance of the bargain reflects their desire to see American debts honored and retired. But they remained concerned about the new financial system’s long-term impact. In August Jefferson wrote to Washington regarding an attempted purchase by private investors of a U.S. debt to France, which the federal government’s Dutch bankers had acted to prevent. The Secretary of State praised the bankers for demonstrating “a proper regard for the credit of the United States,” which he feared sale of the debt to “private speculators” would have damaged. But he also warned against “too great and dangerous confidence in them,” commenting that they surely preferred not to see U.S. debts to France broken up and sold off to third parties since that would “take out of their hands or at least to divide with them the profits of transferring the French debt to Amsterdam, an object of first-rate magnitude to them.” Reluctantly the Secretary of State acknowledged that the loan had

¹⁷ *Annals of Congress*, 1st Cong. 2nd sess., 1611-34, 1713-14, 1753-54. Madison’s “reciprocity” proposal prohibited foreign vessels to carry any item which American vessels could not carry to the ports of the nation in question; Jefferson to Edward Rutledge, 4 July 1790. *PTJ*, 16:600-1.

proved “useful to the United States, and though unauthorized... should be confirmed.” He added his hope that the recently adopted funding law might to mitigate the need for “such an expedient at any future time.” Jefferson innately distrusted loans as mechanisms for servicing debts, preferring retirement out of government revenues as directly as possible. Hamilton used loans to extend the national debt’s lifespan, thus keeping in circulation the liquid capital government notes represented. Jefferson viewed every new loan as an opportunity for greedy ‘speculators’ to corrupt the federal government.¹⁸

The new congressional term in December brought fresh efforts to enact commercial coercion. Jefferson reported to President Washington on Gouverneur Morris’s recent informal mission to London, advising against further attempts to negotiate for concessions he believed the U.S. could secure unilaterally. He requested immediate submission of his recommendations to Congress but Washington withheld the report until mid-February 1791. When it did reach the House, Madison seized the opportunity to cite it along with Jefferson’s ‘Report on Tonnage Law’ in proposing discriminatory duty increases designed to simultaneously retire the debt and coerce Britain. Shortly thereafter Jefferson wrote to Kentucky lawyer James Innes expressing hope that Madison’s measure might finally “force Britain to come forward in fair treaty.” Jefferson called Madison’s proposal “interesting to our agriculture” but he did not see coercive duties as a merely pragmatic matter to materially benefit American farmers. Jefferson reflected on the nation’s good fortune “that our first executive magistrate is purely and zealously republican” but warned that “we cannot expect all his successors to be so.” He expressly defined reciprocal commercial relations as vital to the process of “establishing principles and examples which may fence us against future heresies.” Jefferson continued to worry that commercial vassalage to a monarchist nation of corrupt ‘stock-jobbers’ risked serious harm to the republic’s

¹⁸ Thomas Jefferson, ‘opinion on foreign debt,’ 26 August 1790. *PTJ*, 17:325-30.

moral and political fabric. When the House failed to even take up Madison's motion on account of its preoccupation with Hamilton's bill to charter a national bank those fears only grew.¹⁹

A bill chartering the Bank of the United States [B.U.S.] passed the Senate with little difficulty in late January 1791. When it reached the House Madison rallied the opposition with cries against its constitutionality. Bank supporters such as Ames, Sedgwick, and Elbridge Gerry deftly exposed the flaws in Madison's logic. The beleaguered Virginian even suffered the ignominy of New Jersey's Elias Boudinot quoting his own *Federalist No. 44* against him, wrongly supposing Hamilton to have been its author. In response Madison warned of an exodus of American specie resulting from federally subsidized credit funding imports. Rejecting the notion that specie payments allowed items "of equal value to be imported in return," he gloomily predicted that "in the present habits of this country returns would not be in items of permanent use." He continued to couple his lamentations regarding the decadent and corrupting structure of transatlantic trade with warnings against emulation of the anti-republican Bank of England—an institution designed to serve the needs of a monarchist state which "favored the concentration of wealth and influence at the metropolis." Madison made his mental association of Hamilton's financial system and his hostile understanding of the British economy and state very clear. The draft veto message he prepared at Washington's request in case the President chose to reject the bill stated that the government ought to "dispense its benefits to individuals with as impartial a hand as the public interest will permit." Such central banks, Madison claimed, must operate "unequally to individuals holding different denominations of public stock and willing to become subscribers." The prospect of an intimate connection between bank shareholders and the federal government's vital operations disturbed Jeffersonians. Thomas Pleasants, Jr., wrote to Madison

¹⁹ *Annals of Congress*, 1st Cong. 2nd sess., 1488, 2015-19; Jefferson to James Innes, 13 March 1791. *PTJ*, 19:542-3.

expressing concern that “the moneyed interest—speculators in the public securities—seem to have obtained too great an influence.” He expected this corrupt class to alter the republic’s political economy, Pleasants warned that “to support their luxury, idleness, and extravagance, the bulk of the people must be loaded and oppressed with taxes” likely to disproportionately affect Southern producers due to the concentration of government securities “in the great trading towns to the north.”²⁰

Such language echoed that of many Republican speakers in Congress. James Jackson protested that federal sponsorship of ‘stockjobbers’ promoted the welfare only of Northeastern cities at the expense of other states which “might as well be out of the union for any advantages they will receive.” Michael Stone of Maryland seconded Jackson’s comments, lambasting the bank bill as an Eastern conspiracy to “raise the value of continental paper,” the overwhelming majority of which had already “travelled eastward of the Potomac.” He also claimed that the entire federal tax system functioned as “bounties on home manufacturers” overwhelmingly based in Eastern states, commenting that few could “wonder that they should endeavor to strengthen the hands of a government by which they are so peculiarly benefitted.” Bank supporters such as Boudinot protested that opposition speakers perceived a non-existent conflict, arguing that farmers only raised their crops for markets which would not exist without manufacturing centers, merchants, financiers, and banks. While in theory Jeffersonians accepted the mutuality of farmer and mercantile interests, they remained unable or unwilling to comprehend the relationship between the simple act of merchants carrying goods to market and the more mysterious operations of high finance. Several months after Washington signed the bill into law Jefferson

²⁰ Madison wrote in January 1788 that “no axiom is more clearly established in law or in reason that wherever the end is required, the means are authorized.” Gary Wills, ed. *The Federalist Papers*, by Alexander Hamilton, James Madison, and John Jay (New York: Bantam Classics, 1982), 229; *Annals of Congress*, 1st Cong. 2nd sess., 1944-52; Madison, ‘draft veto of the bank bill,’ 22 February 1791. *PJMCS*, 19:395-6; Thomas Pleasants, Jr., to Madison, 4 March 1791. *PJMCS*, 19:402-4.

wrote to fellow Virginian Edmund Pendleton commenting on “the rapidity with which subscriptions to the bank were filled.” In his eyes the “delirium of speculation” then remained “too strong to admit sober reflection. It remains to be seen whether in a country whose capital is too small to carry on its own commerce, to establish manufactures, erect buildings, etc., such sums should have been withdrawn from these useful pursuits to be employed in gambling.” Jefferson fretted that the Treasury Secretary had “forced on the public a paper circulation for which they will be paying seven per cent per annum, [while] banishing as many millions of gold and silver for which they would have paid no interest.” Where Hamilton saw a mobilization of liquid capital productive of wealth Jefferson saw only decreased ratios of real money to fictive.²¹

Passage of the Federal Bank Act represents the high watermark for Hamilton’s fortunes. During bank bill fight opponents of his financial system coalesced into a more organized and self-conscious ‘republican’ party. Between November 1791 and December 1792 Madison produced eighteen essays for Phillip Freneau’s *National Gazette*, which amounted collectively to proto-party manifesto. One essay discussed the dual danger of either excessive or insufficient consolidation of power in the central government. Regarding the former Madison warned that “the incompetence of one legislature to regulate all the various objects belonging to the local governments would force a transfer of many of them to the executive department,” resulting in “so great an accumulation of powers as might by degrees transform him into a monarch.” He viewed the B.U.S. as precisely such a power. A later essay distinguished between despotic governments granting charters of liberty and free peoples granting their governments charters of limited power. He warned that “the most systematic governments are turned by the slightest impulse from their regular path when the public opinion no longer holds them in it.” As a

²¹ *Annals of Congress*, 1st Cong. 2nd sess., 1967-88; Jefferson to Edmund Pendleton, 24 July 1791. *PTJ*, 20:669-70.

cautionary example he cited “the executive magistrate of Great Britain exercising... legislative power over the West-India commerce.” As always Madison defined fully reciprocal liberal trade as man’s universal best interest. Despots monopolized and restricted trade; submission to such injustice demeaned and undermined free republics.²²

An essay addressing the question of parties—an “evil” Madison called “unavoidable” in political societies—corresponded to his more famous reflections in the tenth *Federalist*. He briefly listed several essential principles for limiting parties’ destructive influence, including “withholding unnecessary opportunities from a few to increase the inequality of property by an immoderate, and especially an unmerited, accumulation of riches.” Madison also urged the importance of “abstaining from measures which operate differently on different interests, particularly such as favor one interest at the expense of another.” Subsequent essays contrasted the British and American constitutions, celebrating the latter’s greater genius in separation of powers. Madison urged a careful maintenance of the balance of local and federal authority, which demanded “moderation in the exercise of the powers of both, and abstinence from such as might nurse present jealousies or engender greater.” He clarified the powers he had in mind by quoting Montesquieu’s claim that all governments rested on fear, honor, or virtue. Madison claimed that these corresponded respectively to absolutist states, limited monarchies, and republics. The first kind invariably depended on “permanent military force,” while the last “derives its energy from the will of society.” The second kind—including Britain—relied on “corrupt influence, substituting the motive of private interest in place of public duty [and] converting its pecuniary dispensations into bounties to favorites or bribes to opponents.” Madison called such governments “impostors” and exclaimed “it is happy and honorable for the

²² Madison, ‘consolidation’ and ‘charters,’ *National Gazette*, 3 December 1791 and 18 January 1792.

United States if they never mimic the costly pageantry of its form, nor betray themselves into the venal spirit of its administration.”²³

Later essays contained various reflections on questions of political economy. Madison celebrated agriculture as “pre-eminently suited to the comfort and happiness of the individual” and essential to producing the self-sufficient citizenry he considered “the strongest bulwark of public safety.” He insisted that pursuits less favorable “to vigor of body, to the faculties of the mind, or to the virtues or the utilities of life, instead of being forced or fostered by public authority, ought to be seen with regret.” An essay discussing industries catering to men’s fashions—which he called “the most precarious of all occupations”—elaborated on the regretful aspects of such work. Since sudden changes in taste could leave thousands without employment almost overnight, Madison viewed these industries as “the least desirable in a free state.” Economic development of this kind cultivated “servile dependence of one class of citizens on another,” necessarily undermining the foundations of a free society. Madison considered government promotion of such industry the antithesis of republicanism. In an essay on property he attacked Hamilton’s interest in promoting manufacturing and finance, asserting that “personal liberty is violated by arbitrary seizures of one class of citizens for the service of the rest.” He denounced “unequal taxes” designed to “oppress one species of property and reward another.” Madison also decried governments “where the keenness and competitions of want are deemed an insufficient spur to labor.”²⁴

Together the essays indicate the consistency and depth of Jeffersonian opposition to Hamilton’s financial-industrial vision and the structure of Anglo-American commerce funding it. Members of this rapidly crystallizing political party referred to themselves as Republicans.

²³ Madison, ‘parties,’ ‘government of the United States,’ and ‘spirit of governments,’ *National Gazette*, 23 January, and 4 and 18 February 1792.

²⁴ Madison, ‘republican distribution of citizens,’ ‘fashion,’ and ‘property,’ *National Gazette*, 3, 20, and 27 March 1792.

Labeling their rivals ‘anti-republican’ monarchists they fretted constantly over signs of creeping corruption undermining free government. Jefferson wrote to Washington in September 1792 regarding apparent Treasury Department influence in Congress and usurpation of legislative prerogatives. Jefferson deeply regretted the ‘dinner table bargain’ and claimed that Hamilton “duped and made [me] a tool for forwarding his schemes, not then sufficiently understood.” He claimed to have never attempted to influence the legislature or any executive department beside his own, even through the indirect influence over his friends in Congress [an assertion his private correspondence proves false]. Jefferson denounced Hamilton’s “system [as] flowing from principles adverse to liberty... calculated to undermine and demolish the republic by creating an influence of his department over the legislature.” He argued that funding and the bank passed Congress with support from “the very persons who, having swallowed his bait, were laying themselves out to profit by his plans.” The votes of such men he no longer viewed as those of popular representatives, “but of deserters from the rights and interests of the people” who held “nothing in view but to enrich themselves.” Jefferson called Hamilton’s claim in his ‘Report on Manufactures’ that governments have every right and power necessary for the people’s welfare but none to act against it “a sham limitation of the universality of this power to cases where money is employed.” He warned that “the object of these plans is to draw all the powers of government into the hands of the general legislature,” then employ new financial machinery to corrupt a legislative majority “for the purpose of subverting the principles of the constitution.”²⁵

Despite his protestations of respect for legislative independence Jefferson participated fully in attempts to bring Hamilton to heel after Congress reconvened in November 1792. When the Treasury Secretary requested a \$2,000,000 appropriation in mid-December to repay B.U.S. purchase of government securities, William Branch Giles called for full accounts of outstanding

²⁵ Jefferson to Washington, 9 September 1792. *PTJ*, 24:351-9.

government loans. When Hamilton complied shortly before the New Year Madison noted a sizeable Treasury surplus and questioned the need for any further loan. A month later Giles introduced new resolutions—which Jefferson likely drafted—calling for detailed reports on the Treasury Secretary’s dealings with regard to loan negotiation, debts to France, the B.U.S., the fiscal surplus, and debt sinking fund. The Virginians hoped to create a cloud of suspicion over Hamilton lasting through the legislature’s next long recess. To their chagrin, he fulfilled their requests after three weeks of furious work. Predictably his detailed reports failed to satisfy. Giles renewed the offensive with nine resolutions of censure in late February, accusing Hamilton of unconstitutional excesses and “indecorous” conduct toward the House.²⁶

Debate over Giles’s motions assumed an unmistakably ideological nature. Republican speeches dripped with anti-finance rhetoric often irrelevant to Hamilton’s reputed conduct. Pennsylvania Representative William Findley’s tirade against the B.U.S. strayed sufficiently far from the subject for speaker John Trumbull to call him to order. Findley complained that Hamilton’s voluminous reports obfuscated his dealings. Robert Barnwell of South Carolina retorted contemptuously that they cast “so much light on the Secretary’s fiscal operations that if any member cannot see it must be owing to the glare being too strong for his eyes.” John Mercer of Maryland virtually admitted as much of his own financial literacy when he professed that the reports left him “more at a loss than ever to account for [Hamilton’s] conduct.” He complained that “sums appropriated to reduce the public debt were not applied to that purpose.” But his and other Republican speeches demonstrated an innate suspicion of Hamilton owing more to the nature of his policy goals than the adequacy of his accounting. Republicans sought to define

²⁶ For Jefferson’s involvement in Congressional attacks on Hamilton see Banning, *Jeffersonian Persuasion*, 126-78; *Annals of Congress*, 2nd Cong. 2nd sess., 749-50, 755-60, 835-36; In 1895 Jefferson papers editor Paul L. Ford discovered copies of the resolutions in Jefferson’s hand apparently predating their introduction to Congress. Most Jefferson scholars view him as at least their likely author, though his most enthusiastic biographer Dumas Malone downplays the possibility. For details on the scholarly controversy see Jon Catanzariti, ‘editorial note,’ *PTJ*, 25:280-92.

Treasury prerogatives in the most limited manner possible. Madison argued that the legislation creating his department clearly limited Hamilton's prerogatives to "superintending regular and ordinary collection of the revenue, and granting warrants for monies issued from the Treasury." The management of loans, "as an occasional and extraordinary resource," he believed Congress had "left to be provided for by particular laws for the purpose." Authority for execution of those laws remained with the President, since the legislature would never have "delegated so great a power to a man in whom the people had less confidence than they so justly reposed in the chief magistrate." Findley made the ideological undertones of these objections more explicit when he asserted that if in the course of the legislature's "most sacred charge" of appropriating funds "[we] are made to bend to the will or projecting policy of a financier, there is an end to all security and confidence." Despite such implacable hostility from the most virulent Jeffersonians Federalists still enjoyed a sufficient House majority at that time to defeat the resolutions.²⁷

Unsurprisingly, Jefferson attributed the defeat to corruption rather than the propriety of Hamilton's conduct. He wrote to his son-in-law Thomas Mann Randolph complaining of "the character of the present House, one third of which is made up of bank directors and stockjobbers." Another third he dismissed as "persons blindly devoted to party... too indulgent to pass a vote of censure." Jefferson scholar Jon Catanzariti calls the debate "the high point of the first phase of political conflict between Republicans and Federalists," defining the 'second phase' as beginning with the outbreak of war between Britain and France. But this periodization is somewhat arbitrary. Madison's efforts to promote coercive duties against British trade

²⁷ *Annals of Congress*, 2nd Cong. 2nd sess., 900-63; Giles' motions were also partly a result of Hamilton's affair with Maria Reynolds, whose husband blackmailed him. The affair did not become public until 1797, but during the spring of 1792 Maria's husband increased pressure on Hamilton by spreading rumors that he possessed notes in his hand proving financial wrong-doing within the Treasury. While no such notes existed, Republicans required little encouragement and seized upon the unsubstantiated rumors. Chernow, *Hamilton*, 409-30. They were also possibly an attempt to influence congressional elections in Virginia postponed until 18 March. Norman K. Risjord, *Chesapeake Politics, 1781-1800* (New York: Columbia University Press, 1978), 422.

remained central to Republican strategy through and beyond the Jay-Grenville Treaty debate. More importantly the anti-finance undertones and ever-present fear of ‘corruption’ never disappeared from Republican rhetoric. Indeed, just as Hamiltonians viewed the potential bounties of wartime Anglo-American commerce as seed-capital for economic and financial modernization, Jeffersonians viewed inequitable commercial ties to ‘monarchical’ Britain and its corrupting credit as fatal to republican virtue. These concerns defined foreign policy debates after 1793 to a far greater extent than any new geopolitical considerations.²⁸

By the time the new Congress convened in early December the controversial career of French minister ‘citizen’ Charles Genêt had further polarized political sentiment. Not coincidentally Jefferson chose that moment to submit a ‘Report on the Privileges and Restrictions on the Commerce of the United States,’ which he had withheld in anticipation of a favorable occasion for almost two years. The Secretary of State carefully arranged his commentary and data to accentuate perceived British injustices. Shortly thereafter he resigned, retiring to Monticello and leaving the fight to Republicans in Congress. Madison followed the report in January 1794 with his fourth attempt to establish coercive duties. In addition to higher *ad valorem* and tonnage duties on trade with nations not in commercial treaty with the U.S. he proposed exclusion of all trade with ports not open to American vessels. If Britain continued to refuse a liberal treaty, the measures promised to price its exports out of the American market and cut off trade with its West Indian colonies altogether. Madison professed his usual faith in the power of American “necessaries of life” to exert greater diplomatic leverage than British “luxury” manufactures. He also dismissed Federalist warnings that his resolutions “that they might deprive us of the aid of the British capital and credit necessary to the prosecution of our commerce.” He viewed such retaliation as harmful to British interests and therefore unlikely, but

²⁸ Jefferson to Thomas Mann Randolph, 3 March 1793. *PTJ*, 25:313-4.

added for good measure his conviction that “more use is made of [British credit] at present than is either necessary or beneficial.” Madison called the level of credit extended to both American consumers and merchants “excessive and injurious.” He perceived a contradiction in the Federalist position. He claimed that if he accepted Federalist “doctrine that a funded debt and banks of discount are equivalent to active capital,” the problem of mercantile credit must disappear since “paper of the two kinds [exceed] one hundred millions of dollars, whilst the amount of our exports or our imports does not exceed one fourth of that capital.” Of course Madison did not accept that premise. Fictive paper money excluded, he nevertheless believed that the nation’s “increasing population and wealth” did provide “real mercantile capital to a very respectable amount.” Madison did not doubt that if British creditors withdrew their capital, domestic or other foreign capital would “occupy the vacancy.” But even if that projection proved false he believed the event would prove “rather salutary than disadvantageous.” In sum, as long as Americans produced goods “wanted by other nations” and wanted their goods in return, “the means of effectuating an exchange will be found.” Republicans believed that if Congress permitted agricultural produce to command a fair market price in defiance of exclusionary regulations, Americans neither needed nor should desire any other engine of economic progress. The Federalist’s preferred engine of paper capital they viewed as fictive and counter-productive.²⁹

William Loughton Smith of South Carolina led the Federalist assault on Madison’s motions armed with copious statistics Hamilton provided attesting to the value of British trade. He rejected Madison’s optimistic appraisal of the nation’s domestic capital and the artificial influence of British credit. He argued that since “trade has hitherto been left to find its own

²⁹ Walter Lowrie and Matthew St. Claire Clarke, eds., *American State Papers: Documents, Legislative and Executive, of the Congress of the United States: Foreign Relations* (Washington: Gale and Seaton, 1833), 1:300-4; *Annals of Congress*, 3rd Cong. 1st sess., 366-95.

channels the presumption is that it has flowed into those where its natural relations and best interests have led.” Other Federalists offered familiar arguments as to the risky nature of coercive duties and the impropriety of offering material benefits to France for purely emotional reasons. Richard Bland Lee—a rare pro-administration Virginian—reversed the standard Republican narrative in castigating government “interference in the pecuniary affairs of individuals” as utterly inconsistent “with civil liberty.” In response Madison submitted data from Jefferson’s final report as Secretary of State celebrating the value of privileges France extended. He also dismissed Federalist arguments based on merchant opinions, warning that with so many American merchants “trading on British capital, or enjoying the profits of British consignments, that there might not be an American opinion.” This comment underscores the connection in Madison’s mind between inequitable commercial relations and the corrupting influence of finance—particularly British finance. Other Republican speeches reflected identical logic. John Nicholas, for example, argued that only the weight of historical and financial ties to Britain had prevented American merchants from forcing their way into new and more profitable markets. In perfectly orthodox Jeffersonian terms he described the colonial history of “large trading companies” sending resident factors to America “who sunk large sums in the hands of farmers to attach them to their stores, by which means competition was precluded.”³⁰

During the five years following ratification of the Constitution the structure of Anglo-American trade and the appropriate role of finance in a republican society proved the most controversial and enduring political battlegrounds. Careful analysis reveals the inextricable connections between these issues in both parties’ core ideologies. Federalists and Republicans alike felt that the constitution’s very survival rested on these questions. It is therefore

³⁰ Federalist arguments against Madison’s motions conformed very closely to the data and logic Hamilton set out in his unpublished report on privileges and duties discussed in the preceding chapter. *Annals of Congress*, 3rd Cong. 1st sess., 175-90, 209-72, 388-95.

unsurprising that the Anglo-American war crisis of 1794 and the commercial treaty it produced caused such bitter contention. The House voted in early February to defer debate on Madison's coercive duties until mid-March, but by that time news of Britain's obnoxious order-in-council of 6 November 1793 had substantially altered the landscape. While committed Jeffersonians such as William Branch Giles promoted the coercive duties as "the best ground for negotiation of peace," a clear majority of representatives at least temporarily favored preparation for a military response. Federalists dismissed prohibitory duties as ineffectual under the circumstances. They preferred a specific and proportionate response to British depredations and voted to table Madison's motions as reflecting a broader agenda with little relation to the crisis at hand.³¹

Theodore Sedgwick introduced a bill to fund fifteen regiments of federal troops through new taxes, and another authorizing Washington to declare a renewable temporary embargo to prevent American vessels from sailing into harm. Moderate New Jersey Federalist Jonathan Dayton introduced a separate motion for temporary sequestration of British-owned debts within the U.S., presenting the move as a defensive response to British depredations and potentially a source of funds to indemnify injured merchants. While these bills ostensibly resonated with Madison's longstanding campaign for commercial coercion, their connection in that instance to increased military spending caused Republicans to balk and oppose them. At the height of the crisis Jefferson wrote to Madison expressing concern over Sedgwick's bills. He doubted that "the monocrats and paper-men in Congress want war" but wished to increase "armies and debts." Jefferson hoped "the sound part of Congress" could defeat these designs but feared "that in questions of expense, where members may hope jobs for themselves or their friends, [enough] will be debauched... to turn the decision." Just as the Federalist majority seemed poised to

³¹ *Annals of Congress*, 3rd Cong. 1st sess., 418-31, 449-520.

approve all three measures Rufus King received back-channel assurances of British willingness to negotiate a settlement. Washington appointed John Jay peace envoy to London.³²

Fearing that continuation of retaliatory measures might undermine Jay's mission Federalists dropped their support for the sequestration and embargo bills. Republicans still hoped to entirely restructure Anglo-American trade on liberal principles—an object they doubted Jay's ability to achieve. Despairing of any immediate hope for adoption of coercive duties, Madison and his allies began advocating for the sequestration and embargo bills they had so recently opposed. Abraham Clark of New Jersey also introduced a non-intercourse bill to operate exclusively against British dominions until American merchants received indemnification. Madison added an amendment to the bill delaying its operation until November. Ostensibly this allowed the British government time to forestall the measure with full indemnification. In reality the barely six-month delay granted insufficient time for Jay to reach London and conduct negotiations, enabling Madison to credit the threat of coercion for any concessions granted. William Branch Giles's accusation that turn-coat Federalists acted "under British influence and interest" typifies the ideologically charged debate over the motions. Embargo renewal and non-intercourse passed the House in mid April, while sequestration failed. The Senate split evenly with thirteen votes each way over non-intercourse, requiring Vice-president John Adams to cast the deciding vote against. James Monroe lamented the failure of the bill in a letter to Jefferson, calling it "the most mature and likely to succeed of all the propositions respecting Great Britain." Unwilling to consider that the bill could fail on its merits he commented bitterly that "its fate

³² Sedgwick's defense resolutions conform almost exactly to a program laid out by Hamilton in a letter to Washington dated 8 March 1794. See *PAH*, 16:130-6; *Annals of Congress*, 3rd Cong. 1st sess., 504-56; Jefferson to Madison, 3 April, 1794. *PTJ*, 28:49-50.

may be ascribed to an executive maneuver.” In Monroe’s estimation Congress adopted “the most submissive measure that could be devised to court her favor and degrade our character.”³³

Despite defeating Clark’s non-intercourse bill the Senate did extend the embargo only for Washington to suspend it prior to expiration as Jay prepared to depart for London. This further use of executive prerogative to defeat measures approved in the popularly elected House increased Jeffersonian outcry against ‘monarchical’ collusion with British credit and further heightened the factional divide within Congress to the point of virtual gridlock. During the remainder of the session Republicans revived embargo, non-intercourse, and sequestration measures in various forms; Federalists offered bills for the federal government to indemnify merchants in the event that Britain refused and also revived Sedgwick’s defense bill. Months of argument produced only half-measures granting Washington discretionary authority to suspend trade during a crisis and raise new regiments only in the event of actual hostilities. Madison complained to Jefferson shortly before the session adjourned in June that “every attack on Britain through her commerce is at once discomfited and all the taxes... are carried by decided majorities.” Worse still, with Senate and presidential approval “the plan for a large army... will probably succeed.” Madison commented ruefully that “the influence of the executive on events... and the public confidence in [him] are an overmatch for Republicanism.” He viewed the party’s position in the Senate as “completely wrecked” and in the House dramatically worse than at the opening of the session. Madison, Jefferson, and their allies all seemed to view Jay’s

³³ *Annals of Congress*, 3rd Cong. 1st sess., 562-603. James Monroe to Jefferson, 4 May 1794. *PTJ*, 28:69-71. A week after failure of the non-intercourse bill Monroe introduced a Senate motion to prevent any British creditors from receiving payment on pre-Revolutionary War American debts as guaranteed in article four of the 1783 Treaty of Paris. The more extreme measure garnered only two votes—that of Monroe and his Virginia colleague John Taylor.

mission as part of a broader anti-republican reaction by a corrupt, moneyed, aristocracy determined to replace the constitution with monarchy.³⁴

Events during Congress's summer recess and Jay's residence in London only heightened Republican paranoia. When Washington, partly at Hamilton's behest, called up an army as large as the force he had commanded at Yorktown to quell Pennsylvania's Whiskey Rebellion, Jeffersonians perceived the anti-democratic impulse of military autocracy. At the same time revolution in Paris continued apace to the delight of French-style democratic-republican societies within the United States, whose emergence heightened Federalist fears of bloody mob rule spreading across the Atlantic. These partisan divisions pervaded every debate when Congress reconvened in November 1794. The House began with an entire week of discussion over how to word its response to Washington's opening message. The initial draft explicitly approved of Jay's appointment. Madison moved for more qualified wording expressing only general support for a policy "of peace with all nations," omitting what he viewed as preemptive affirmation of the envoy's still-unknown progress. Federalists bristled at the implied censure of Washington's foreign policy, which Republicans certainly intended. The question proved so divisive that the final draft made no mention of Jay's mission at all. The House then spent four further days in bitter debate over Washington's reference to the role of "self-created societies" in the Whiskey Rebellion. Republicans resented the this thinly veiled condemnation of societies as subversive, but a two-vote pro-administration majority successfully inserted an approval of his language. Given this legislative stalemate it is unsurprising that House avoided any question touching upon commercial policy, preferring do battle over any prospective British treaty once published.³⁵

³⁴ *Annals of Congress*, 3rd Cong. 1st sess., 613-82, 709-39; Madison to Jefferson, 25 May 1794. *PTJ*, 28:84-5.

³⁵ Stanley Elkins and Eric McKittrick, *The Age of Federalism* (New York: Oxford University Press, 1993), 375-406, 451-88; For a pro-Jeffersonian account of events during the summer of 1794 see Thomas P. Slaughter, *The Whiskey Rebellion: Frontier Epilogue to the American Revolution* (New York: Oxford University Press, 1986). For

Congress had a long wait. Prior to the treaty's arrival in March 1795 rumor and imagination ran wild. In mid November Monroe's uncle, Joseph Jones, reported to Madison having heard that "Mr. Jay's representation was not in the style of firm demand for compensation for injuries done to our citizens but rather supplicating the benevolence of his Britannic Majesty for relief." Jones professed ignorance of Jay's "powers or instructions" but commented that Grenville's known statements indicated "palpable evasion of justice or rather a dishonorable denial of it." The cumulative weight of such rumors commended to Madison their probable truth—though he needed little convincing. He stated to Jefferson in February 1795 that news "gleaned from the imperfect scraps of private letters [indicate] that the bargain is much less in our favor than might be expected from the... justice of our demands." Despite noting that "it is wrong to prejudge" he did just that, stating his suspicion "that Jay has been betrayed by his anxiety to couple us with England, and to avoid returning with his finger in his mouth."³⁶

Upon reviewing the treaty's terms Washington foresaw the coming storm of protest. He called a special closed-door Senate session to convene the second week of June and in the meantime showed the treaty only to his cabinet. Republican leaders remained ignorant of its specifics through the spring but continued to hear disturbing rumors. Two weeks after its arrival Tench Coxe reported to Jefferson from what reports he could glean that British government had been "disposed to procrastinate, temporize, and if possible to pass the unpleasant cup." He believed that the treaty lacked "solid tokens of friendship." News arriving in May of Britain's temporary resumption of grain seizures heightened opposition skepticism. Shortly before the special Senate session convened Jefferson wrote to Monroe that Hamilton—"the servile copyist of Mr. Pitt"—had dramatized the specter of "alarms, insurrections and plots against the

a more sympathetic view of the administration see Forrest McDonald, *The Presidency of George Washington* (Lawrence: University Press of Kansas, 1972); *Annals of Congress*, 4:897-947.

³⁶ Joseph Jones to Madison, 16 November 1794. *PJMCS*, 15:382-3; Madison to Jefferson, 15 February 1795. *PTJ*, 28:265-6.

Constitution” in order to enhance his grip on power. As a result “the freedoms of association, conversation, and press... have been attacked under the form of a denunciation of the democratic societies”—an action Jefferson hyperbolically claimed “even England, as boldly as she is advancing [toward] absolute monarchy, has not yet attempted.” Defining such tactics and the intentional expansion of public debt as quintessentially British forms of government, he wailed that their “mimicry here is too humiliating to excite any feeling but shame.” With no apparent shift in thought sequence Jefferson added that he remained “uninformed what is Mr. Jay’s treaty, but we see that the British piracies have multiplied upon us lately more than ever.” The same day Jefferson wrote this letter Madison received a report from House clerk John Beckley of a rumor “that Hamilton invested £100,000 Sterling in the British funds whilst he was Secretary of the Treasury, which sum is still held by a banking house in London to his use and interest.” Beckley’s source, Commodore James Nicholson, claimed to possess proof of the accusation and threatened to “instantly publish the circumstances if Hamilton’s name is at any time brought up as a candidate for any public office.” Thus, on the eve of the Jay-Grenville Treaty debate Jeffersonians remained as suspicious as ever of the pervasive anti-republican threat their pro-British ‘moneyed’ rivals seemed to pose.³⁷

The Senate approved the treaty in late June, excluding the twelfth article. Henry Tazewell of Virginia and Pierce Butler of South Carolina kept Madison informed of proceedings through steady correspondence. Aaron Burr led Republican proposed resolutions to renew negotiations on no fewer than nine articles. He moved to strike out entirely article XV, which granted mutual ‘most favored nation’ status and thereby precluded the adoption of coercive duties during the treaty’s lifespan. Subsequent motions aimed to remove articles IX and X as unconstitutional

³⁷ Tench Coxe to Jefferson, 20 March and Jefferson to Monroe, 26 May 1795. *PTJ*, 28:309-10, 359-62; John Beckley to Madison, 25 May 1795. *PJMCS*, 16:9-13.

invasions of the right of states to sequester foreign-owned property including debts. Burr's motion on this point denounced the treaty as an abrogation of the nation's sovereign right to enact regulations "which might better the condition of commerce." Senate Republicans objected to the entire document as an executive usurpation of legislative authority over commercial affairs. Their protests availed nothing against the upper chamber's solid Federalist majority. The opposition's hope now lay in the House and public opinion. The treaty fight began in earnest as the Senate adjourned, when Virginian Stevens Mason leaked a copy to Benjamin Franklin Bache for publication in his Philadelphia *Aurora*. Public demonstrations ensued. Both sides claimed popular support.³⁸

Throughout the summer and fall of 1795 Republican leaders exchanged opinions on the treaty and eagerly consumed reports of the public response. Tench Coxe's comment in late July that "the spirit of this treaty, commercial and political, is as rigidly selfish as the Navigation Act" typifies Jefferson's correspondence. A week later Madison wrote to Jefferson assuring him that events at one public meeting in New York "were not exactly as represented to you. Republicans were never outnumbered, and the vote of a very full meeting was finally unanimous in remonstrating against the treaty." Jefferson told an Italian correspondent, Philip Mazzei, that the treaty "has excited a more general disgust than any public transaction since the days of our independence." In the letter to Madison in which he so famously called Hamilton "a colossus to the anti-republican party," Jefferson went on to define the treaty as a corrupt British-monarchist conspiracy. He claimed that "the merchants were certainly (except those of them who are English) as open-mouthed at first as any," and accused "Hamilton, Jay, etc." of their "boldest act

³⁸ Article XII limited access to the British West Indies to American vessels of seventy tons or less. Opening the British West Indies to American vessels had been a major object of U.S. diplomacy since 1783, but wartime disruption of British shipping had caused local colonial authorities to so completely suspend or disregard the Navigation Acts that by 1795 the proposed tonnage limitation seemed more costly than the value of the privilege granted. Federalists Senators correctly perceived that in the short term trade would fare better without the article. *Annals of Congress*, 3rd Cong. 1st sess., 857-62.

ever ventured to undermine the constitution.” Jefferson claimed that having “lost their majority in one branch of the legislature” the Federalists used the Senate and executive to pass legislation “under color of a treaty, which shall bind up the hands of the adverse branch from ever restraining the commerce of their patron-nation.”³⁹

Jefferson urged his protégé to produce a response to ‘Camillus’ but, still smarting from an earlier exchange of essays with Hamilton, Madison preferred to do battle in Congress. His most significant contribution to the public debate prior to the House debate on funding came in the form of his widely circulated ‘Petition to the General Assembly of the Commonwealth of Virginia.’ The petition repeated numerous familiar complaints against the treaty’s unequal operation and degrading capitulation to British interests—such as article III, which “under a semblance of reciprocity abandons to the superiority of the British capital the advantage [belonging] to the United States in the fur trade.” Madison claimed that even in the weakened form eventually adopted the discriminatory tonnage duties he proposed in 1789 had increased American shipping profits and export prices. He warned that if “this protection is relinquished and Congress is prohibited from substituting any other, British capital... may be expected, in whatever hands operating, to give the preference to British bottoms.” Thus Madison returned to his familiar portrayal of British credit as a tool for corrupting American merchants and securing shipment of American produce in British vessels at depressed prices.⁴⁰

The Republican narrative of the Jay-Grenville Treaty as a consummation of the ‘corrupt’ ‘British party’ counter-revolution is even more explicit in a letter Madison penned to Jefferson

³⁹ Coxe to Jefferson, 30 July, Jefferson to Philip Mazzei, 8 September and to Madison, 21 September 1795. *PTJ*, 28:421-2, 456-6, 475-7.

⁴⁰ Hamilton and Madison exchanged essays under the pseudonyms ‘Pacificus’ and ‘Helvidius’ following Washington’s neutrality proclamation in 1793. Commentators including Madison universally acknowledged that Hamilton prevailed in the battle. See William R. Casto, *Foreign Affairs and the Constitution in the Age of Fighting Sail* (Columbia, SC: University of South Carolina Press, 2006); Madison, ‘Petition to the General Assembly of the Commonwealth of Virginia,’ 12 October 1795. *PJMCS*, 16:95-104.

shortly after drafting the petition. He forwarded an extract of a letter from Monroe stating that the only American merchants in Paris were “a set of New England men connected with Britain and [trading] upon British capital.” Monroe regretted that in spite of their “hostility to the French revolution” the men and their business “thrive upon the [reputation] which the efforts of men in other quarters gain the American name here.” He then transitioned seamlessly from the corrupting influence of British capital into comments on the corrosive effects of commercial vassalage. In reference to ratification of the treaty he asserted that if the “we bear this aggression from England without an immediate [response]... we shall certainly lose our estimation here.” He recommended sequestration of British property and “prohibition of her [imports]—which I wish was perpetual.” Just days before receiving a copy these comments Jefferson drafted some notes of a similar tone in response to an enquiry from German historian Christoph Ebeling as to the origins of American political parties. He described the “anti-republican party” as consisting of “old Tories, British merchants residing among, American merchants trading on British capital, speculators and holders in the banks and public funds, officers of the federal government with some exceptions, [and] office-hunters willing to give up principles for places.” Republicans he described simply as “the entire body of landholders throughout the United States.”⁴¹

Republican leaders continued to view the various influences of British capital at home and abroad as inseparable from the central question. To their chagrin, by the time Congress reconvened in December the tide of public opinion increasingly favored ratification. Nevertheless, Jeffersonians in the House remained determined to fight ratification to the last ditch, even attempting a preemptive move against the treaty’s central purpose before Washington formally requested funds to enact its terms. In January 1796 Samuel Smith of Maryland

⁴¹ Monroe to Madison, 30 June and Madison to Jefferson, 18 October 1795. *PJMCS*, 16:32-3, 104-5; Jefferson, ‘Notes on the Letter of Christoph Daniel Ebeling,’ 15 October 1795. *PTJ*, 28:506-10.

proposed regulations limiting foreign vessels to importing only their own nation's produce to U.S. ports—the only form of restriction the Jay-Grenville Treaty did not preclude. Smith declared such protection for American shipping “more essentially necessary than ever... as when the treaty should be in force it must receive a severe shock.” Madison and freshman Pennsylvania Representative John Swanwick spoke passionately for the measure, but a majority voted to defer the debate indefinitely.⁴²

President Washington finally submitted a formal request to the House for funds to enact the Jay-Grenville Treaty in March 1796, a full year after he first received it. New York Republican Edward Livingston immediately responded with a motion requesting copies of all papers relating to its negotiation, even daring to imply a willingness to consider impeachment proceedings. Numerous Republicans spoke at length in robustly democratic language of the importance and constitutional prerogatives of the most government's most representative body, including complete authority to regulate trade. Federalists responded that treaties constituted contracts binding even on the House's legislative prerogatives—the authority to regulate trade did not, they argued, abridge the executive's responsibility for foreign affairs where treaties possessed a commercial nature. But Jeffersonians had championed the House's right to unilaterally regulate Anglo-American trade for too long to accept such arguments. Republicans secured a twenty-five vote majority in favor of Livingston's motion, but the victory proved hollow as Washington merely responded with a terse message refusing to comply. Several further days of debate produced two motions of implicit censure asserting the House's absolute

⁴² According to Bradford Perkins the main cause of shifting opinion was Thomas Pinckney's draft treaty with Spain, which secured navigation of the Mississippi and the right of deposit at New Orleans. This prospect, combined with the Jay-Grenville Treaty's promise of British withdrawal from the frontier posts promised to open the western frontier to American settlers without the need of war against any power but Indian nations. Perkins, *First Rapprochement*, 30-43. Aurora, 25 June 1795; *Annals of Congress*, 4th Cong. 1st sess., 195, 245-69.

right to debate the contents and judge the merits of any treaty the executive requested appropriations to enact.⁴³

Jefferson had written to Giles in late December enquiring as to progress in the House and commenting on former Secretary of State Edmund Randolph's recent pamphlet defending his conduct. Though never believing the accusation that Randolph accepted French bribes, Jefferson did reflect of his apparently lukewarm republicanism that "he has generally given his principles to the one party and his practice to the other." Implicitly noting the impact of his own absence from Philadelphia he claimed that "had [Randolph] been firm to the principles he professed in 1793, the President would have been kept from a habitual concert with the British and anti-republican party." Giles delayed a response until late March 1796, awaiting some "decisive event" seeming to indicate "the probable course" of events in the House. Despite the recent vote in favor of Livingston's motion, by which the House asserted its "constitutional rights... in checking treaty making power," Giles remained pessimistically convinced that a majority would vote to fund the treaty. His reply echoed Jefferson's comments on the corrupt influences pervading the government and surrounding the President. In debating Livingston's motion, Giles stated, members he later called "partisans of despotism" had "assumed a most authoritative tone, and without equivocation enthroned treaty making power in a despotism complete." He made the connection between the supposed party of 'monarchy' explicit in a concluding comment on Thomas Pinckney's "very ably managed" negotiations in Spain, which he remarked "proves that the British exchequer has not monopolized all the talents of the U.S." Joseph Jones wrote with similar sentiment to Madison, saying that he had "always feared the consequences of undefined powers in the executive... which might be made the cloak to cover bad and dangerous designs." Viewing corruption as a nearly infeasible danger, he reflected "that even the best men in office

⁴³ *Annals of Congress*, 4th Cong. 1st sess., 394, 400-1, 425-64, 593-601, 759-83.

are but too apt to ... grasp [all] they can cleverly get into their clutches.” Madison wrote to Jefferson the following week calling the President’s “absolute refusal... as unexpected as the tone and tenor of the message are improper and indelicate.” As worried as ever over the Federalist’s anti-democratic usurpations of executive authority he professed “little doubt that the message came from New York” [meaning Hamilton], and constituted an “experiment... at the hazard of the President, to save the faction against the representatives of the people.”⁴⁴

As Republicans reeled from the disappointment and shock of Washington’s message a Senate naval appropriations bill came up in the House. Speeches made on both sides underscore the intimate relationship of commercial policy to other central elements of increasingly rigid party ideologies. Federalist urged passage of the bill as a trifling investment to protect essential federal revenue drawn from commerce. John Williams, a representative of western New York, typified Republican logic in transitioning directly from budgetary and strategic objections regarding the frigates’ expense and futility to broader agrarian principles. He asserted that “the true interest of this country is agriculture. Anything taken from [it] and given to commerce is taken from the greater and given to the less.” Reflecting the convictions underpinning Jeffersonian commitment to commercial coercion, he insisted that if Americans possessed “not a single ship” foreign merchants would still arrive in droves for their produce. While insufficient to block the bill, such arguments helped convince House members to considerably weaken it.⁴⁵

⁴⁴ On 28 July 1795 British minister George Hammond delivered to Treasury Secretary Oliver Wolcott a copy of an intercepted dispatch from French minister Joseph Fauchet to the Ministry of Foreign Affairs in Paris. The letter appeared to intimate that Edmund Randolph had revealed sensitive information to Fauchet, and had sought a personal bribe. At that time Washington was following Randolph’s advice to withhold ratification of the Jay-Grenville Treaty until Britain repealed its 25 April 1795 order-in-council reviving seizure of grain shipments to France. Shortly after receiving Wolcott’s intelligence Washington changed course and signed the treaty before forcing Randolph to resign. It took the disgraced former secretary a year to clear his name. Elkins and McKittrick, *Age of Federalism*, 424-31; Jefferson to Giles, 31 December 1795 and reply 26 March 1796. *PTJ*, 28:565-7, 29:45-9; Joseph Jones to Madison, 25 March and Madison to Jefferson, 4 April 1796. *PJMCS*, 16:279-80, 285-7.

⁴⁵ Republican opposition stripped the original bill of its provision for acquisition of federal timber lands and a government navy yard. The version finally adopted required the three newest frigates to be stored unmanned in dry docks upon completion. *Annals of Congress*, 4th Cong. 1st sess., 869-93; Craig Symonds, *Navalists and*

For the most ideologically committed agrarians fear of standing armies and navies, suspicion of executive authority, exclusive commitment to liberal trade agreements, hostility to financial institutions and particularly British credit, and opposition to the treaty formed a cohesive political worldview. By the time the House turned to debate the President's formal request for appropriations to fund the Jay-Grenville Treaty, Republicans had come to view the document as inextricably connected to this host of wider issues. Madison's opening speech attacked the ten-year commercial compact as unnecessary and reprehensible. He characterized its terms as back-door mercantilist regulations, highlighting several valuable U.S. exports such as fish and flour enumerated as potential contraband in article XVIII but exempted from seizure in several earlier British treaties with other neutrals. But his fiercest assaults focused on the treaty's preclusion of coercive measures Madison remained convinced could unilaterally secure more liberal commercial terms. He denied the necessity of any treaty "to induce Britain to receive our raw materials and sell us her manufactures," and asked pointedly of article X's prohibition of sequestration why the treaty failed to make "property on the high seas... secure by like stipulation?" He repeated the claim from his petition to Virginia that even the limited tonnage discrimination adopted in 1789 had increased American shipping and that only the fear of further restrictions had prevented retaliatory tonnage duties in British ports. Granting 'most favored nation' status without securing full access to British colonies on terms of parity with British vessels nullified that threat for a negligible gain. Should any other power subsequently extend such privileges in exchange for preferential duty rates in American ports, the treaty bound the U.S. to grant the same rates to Britain without securing like concessions. Thus, to Jeffersonians,

Antinavalists: Naval Policy Debate in the U.S., 1785-1827 (Newark, NJ: Associated University Presses, 1980), 46-9; Ian Toll, *Six Frigates: The Epic History of the Founding of the U.S. Navy* (New York: W.W. Norton and Co., 2006), 1-65.

the treaty formalized the inequitable monopoly over American exports that Britain's monarchist bureaucracy and mercantile credit had sought since colonial times.⁴⁶

Madison's Republican colleagues followed with equally impassioned speeches criticizing every detail of the treaty. They also reserved their greatest ire for those articles precluding the possibility of commercial coercion. They questioned British good faith, dismissing as inadequate the mechanisms provided for indemnification and pointing to the irony of the treaty's prohibition of truly effective methods for securing such. John Swanwick complained that article VII fixed the compensation commission in London, subjecting claimants to prohibitively costly and protracted transatlantic legal proceedings. Regardless of its meeting place Giles doubted the likelihood of any indemnification resulting from a process "very much dependent upon the temper of [British] courts." Gallatin echoed Giles's concern, predicting that article VII's requirement that claimants exhaust the ordinary appeals process before filing with commission empowered British admiralty courts to declare every seizure made under the controversial orders-in-council entirely legal and thereby nullify the provision.⁴⁷

Republicans not only doubted the Jay-Grenville Treaty's provision for adequate compensation for past depredations, but also portrayed its compromises over maritime rights as a virtual revival of the objectionable order-in-council responsible for the original war crisis. In attacking article XVIII's enumeration of contraband articles John Nicholas virtually quoted Jefferson's formal protests against the Provisions Order. He claimed the article "abandoned every principle of law" and justified "the rapine" of American commerce. Nicholas also worried that France might well view submission to British definitions of belligerent prerogative as "covert assistance to her enemy," thereby substituting one diplomatic crisis for another. He went

⁴⁶ *Annals of Congress*, 4th Cong. 1st sess., 976-87.

⁴⁷ *Annals of Congress*, 4th Cong. 1st sess., 992-1003, 1029-33.

on to discuss numerous items listed as potential contraband in explicitly agrarian terms, complaining at the disproportionate number of American staples included. Giles likewise condemned the contraband list as an abandonment of ‘free ships’ doctrine in favor of “principles most fatal to the liberty of commerce.” He also called it a *de facto* contract “to supply [the British] exclusively with naval stores whenever they are at war.” In addition to defining the treaty’s purported limitations of belligerent prerogatives as an actual expansion, Republicans dismissed safeguards against future depredations as empty shells. Nicholas mocked article XIX’s requirement that the British commanders deposit bonds of surety against unlawful conduct. He declared the “daily outrages to our commerce... full proof that [its] safety must have been poorly provided for, or that the execution of the treaty was not expected.” His fellow Virginian Andrew Moore returned to the theme of commercial coercion as the only mechanism certain to guarantee neutral rights. He lamented the House’s failure to enact the measures proposed prior to Jay’s departure and cast British insistence that the treaty preclude such legislation in future as anything but an unhappy coincidence.⁴⁸

In light of the treaty’s apparently inadequate safeguards against maritime depredations Republicans objected all the more to article X’s prohibition of sequestration. Like Madison, Swanwick complained of the loss of a just, legitimate, and effective policy tool—particularly in the event that the spoliations commission failed to grant adequate compensation. Giles protested that while the treaty prohibited sequestration it implicitly sanctioned privateering, thereby permitting at sea the same property theft it condemned ashore. William Findley highlighted article X’s binding nature even in the event of Anglo-American war, complaining that it permitted Britain to “take all our vessels before we could make any reprisals at all.” Findley went on to frame his objection to the article in broader Jeffersonian terms, asserting that

⁴⁸ *Annals of Congress*, 4th Cong. 1st sess., 1011-15, 1040-41, 1122, 1188-98.

American exports, “being of the first necessity, must be had... It is not so with respect to British exports.” Since British goods largely constituted useless ‘luxury’ items foisted onto American consumers through the mercurial operation of corrupting credit, Findley viewed the surrender of sovereign rights such as sequestration as unnecessary sacrifices offered to sustain essentially harmful commercial ties. This frustration pervaded his concluding warning that the British “are an artful people... No nation was ever in their power that escaped without injury.”⁴⁹

Gallatin decried the entire treaty as placing American commerce “in a more disadvantageous position than it was before.” Giles characterized it as lopsided commercial bondage in which Americans “granted almost every advantage we had to bestow and are still shut out of the West India trade.” Jeffersonians perceived no middle ground between the sweepingly liberal commercial reciprocity they had sought since 1789 and neocolonial bondage to corrupt monarchy and its army of financial ‘stockjobbers.’ Giles explicitly identified the prohibition of every coercive measure proposed during the previous seven years as “complete evidence of British interference.” John Heath of Virginia labeled the treaty “a mere amelioration of our old state of taxation without representation.” Findley warned that its commercial articles “increase that connection with Britain which is already too great.” Francis Preston, another Virginian, regretted that it prevented future opportunities to determine with certainty “whether we could do better without [British] manufactures, or they without our commerce.” He urged the House to reject the treaty and “finally close our intercourse with Britain, instead of drawing closer the bands of a friendship which I am sorry to say has already had too much influence.”⁵⁰

Federalist speakers defended the treaty with equally impassioned arguments substantively similar to those Hamilton and King presented in their ‘Camillus’ essays. They called

⁴⁹ *Annals of Congress*, 4th Cong. 1st sess., 992-1003, 1035-7, 1110-2, 1188.

⁵⁰ *Annals of Congress*, 4th Cong. 1st sess., 1047, 1064, 1112, 1234-5.

compromises over maritime rights balanced and rational, dismissing Republican claims of the treaty's lopsidedness and praising its preservation of peace and mutually profitable trade. Numerous pro-treaty speakers also identified the centrality of Jeffersonian views on British finance to opposition logic. Massachusetts Federalist Samuel Lyman, for example, questioned Republican confidence in the power of commercial coercion as resting upon "exalted ideas of our national importance." Declaring his confidence in the branches of government which had already approved the treaty he asked rhetorically whether "the President has, after twenty years of patriotism, become a traitor? Or has a majority of our Senate been corrupted with British gold?" Though doubtless not intended to impugn Washington's character the collective logic of opposition speeches against the treaty as a tool of executive usurpation implied as much. Three weeks of grueling debate rarely strayed far from such ideological undertones. Only by bringing the more popular treaty with Spain up for vote on the same day did Federalists secure a narrow three vote victory, finally enacting the Jay-Grenville Treaty in U.S. law at the end of April 1796 after more than a year of conflict.⁵¹

Opposition speeches overwhelmingly focused on the treaty's failure to grant Republican definitions of full reciprocity. Few speakers seemed to deem necessary or wise more than a few passing and oblique references to the threat of British corruption. Swanwick began his speech with an effort to downplay alarmist undertones, denying that Republicans intended to charge the President with corruption and professing veneration for "the gallant hero who fills with so much dignity the chair of state." Yet Jeffersonian suspicion of the destructive nature of Hamiltonian finance never lay too far from the surface. Moments later Swanwick defined the debate's central question as how the House could fund an implicitly unprofitable treaty when "our treasury is empty, when we are called upon to pay five millions to the Bank, and when no gentleman hath

⁵¹ *Annals of Congress*, 4th Cong. 1st sess., 987-90, 1282-91.

resources to suggest but borrowing.” These themes appear more directly in private correspondence. Madison’s first letter to Jefferson after passage of the funding bill updated him on Congressional proceedings and called the entire process “the most worrying and vexatious I ever encountered.” He expressed disappointment at “unsteadiness, follies, perverseness, and defections among our friends,” but attributed the defeat ultimately to Federalist manipulation of public opinion. Madison complained of artificial “means practiced for stirring up petitions” supported by “the banks, British merchants, and insurance companies at work in influencing individuals, beating down the prices of produce.” Unable to see any popular majority favoring Federalist policies as legitimate, he concluded with despair that in the present climate “an appeal to the people on any pending measure can never be more than an appeal... to the banks, merchants, and dependents and expectants of the government.” Madison wrote again three weeks later noting that “petitions in favor of the treaty still come in from distant places.” He reflected ruefully that Federalists used “the name of the President and threat of war to great effect... a crisis which ought to have been so managed as to fortify the Republican cause, has left it in a very crippled condition.” Madison also enclosed extracts of a letter from Monroe in Paris warning of rising anti-American sentiment due to the treaty and even the once unthinkable possibility of war. These remarkable reversals of fortune he viewed as “consequences of what has been affected by the British party here.”⁵²

After Congress adjourned Jefferson wrote to Monroe with his reflections on the session, which he viewed as an unmitigated disaster for the cause of popular government. Proceedings confirmed to him “the truth of what I always observed to you, that one man [Washington] outweighs them all in influence over the people, who have supported his judgment against their

⁵² *Annals of Congress*, 4th Cong. 1st sess., 991; Madison to Jefferson, 1 and 22 May 1796. *PTJ*, 29:93-4, 108-9.

own and their representatives.” Jefferson could only see defeat as evidence of politically, morally, and economically disastrous corruption. He summarized the nation’s standing in the bleakest of terms, stating that “our public debt increases about a million of dollars a year... we are completely saddled and bridled, and the bank is so firmly mounted on us that we must go where they will guide.” Bank directors seized this moment of strength to issue a resolution stating that as “national property [is] increased in value they must by an increase of circulating medium furnish an adequate representation of it, and by further additions of active capital promote the enterprises of our merchants.” Utterly rejecting Hamiltonian economic logic Jefferson suggested that such fiscal and financial maneuvers did not facilitate substantive growth. He claimed that prices of “imported commodities are raised about fifty per cent by the depreciation of the money.” The people, Jefferson believed, paid the price for such manipulation. He reported that “mechanics” earned “from a dollar to a dollar and a half a day, yet are much worse off than at old prices.” Thus, Jefferson described the congressional session defined by passage of the Jay-Grenville Treaty in familiar terms as the work of ‘speculating’ autocrats who enriched themselves through financial chicanery as they condemned helpless urban workers to rising poverty.⁵³

Jefferson’s views suspicion notwithstanding, the liquid capital America’s emerging financial institutions mobilized did foster economic growth. The lucrative boon overseas trade enjoyed under the Jay-Grenville Treaty played an appreciable role in that process. But the treaty also produced the rift with France Republicans had feared, eventually leading to the so-called Quasi War. Frustration at the Federalist ascendancy and its apparent fruits encouraged Madison to retire to Montpelier after the fourth Congress concluded its final term. In spite of numerous

⁵³ The resolution mentioned, issued by the B.U.S. Board of Directors on 21 April 1796, called for the payment of all outstanding government obligations to the bank and appropriations for those coming due in the current year. The statement suggested that in so doing Congress would expand the nation’s money supply and liquid capital to keep pace with growth. Jefferson to Monroe, 12 June 1796. *PTJ*, 29:123-5.

defeats the vocal Republican minority continued to raise cries against signs of creeping monarchy, corrupt ‘stockjobbers’ and the odious treaty. During a debate over increases to military spending in June 1797 Harrison Gray Otis warned of national ruin “if merchants and insurers were to lose their capital by [French] spoliations.” Republican responses typified the opposition ethos. Joseph Bradley Varnum of Massachusetts defiantly asserted that the economic hardship detailed in the petitions Federalists brought before Congress “are produced more by the overbearing spirit of speculation in this country than by depredations.” Swanwick protested that funding new fortification through further issue of government securities would serve only to “increase stock and, of course, debt.” He demonstrated an instinctive suspicion of financial markets in claiming that loans appearing on face value to cost six percent interest “in fact [cost] nine or ten because the stock is sold greatly below par.” Debating funds for completion of the 1794 Navy Act frigates several days later Giles denounced a naval establishment as “a great evil for this country.” In quintessentially Jeffersonian terms he claimed that America’s “great interest lies in the soil.” He resented the prospect of “the vitals of our country being drawn together for the purpose of protecting [merchants].” Republicans resented Federalist financial and military policies they viewed as costly burdens weighing down virtuous citizen-farmers with taxes and fictive paper capital, all to pay the price of an obnoxious treaty.⁵⁴

When Jeffersonians finally ousted their Federalist rivals in the so-called ‘Revolution of 1800’ they interpreted their triumph as a popular reaction to the encroachments of monarchy and corruption they had warned of for more than a decade. Madison began his tenure as Secretary of State in March 1801 deeply convinced that Anglo-American relations rested on a rotten foundation. In July he directed U.S. minister in London Rufus King to protest a laundry list of offenses. These included impressment, unrestrained depredations, “the violation of all principle,

⁵⁴ *Annals of Congress*, 5th Cong. 1st sess., 268-78, 315-24, 382.

rules, and decorum” in vice-admiralty courts, “the difficulties, delay, and ruinous expense” of appealing to the High Court of Admiralty, and “numerous instances in which insult has been added to injury during the seizure and condemnation of our vessels.” He condemned the Jay-Grenville Treaty as an insufficient guarantee of liberal conduct, claiming that “the value of property seized and condemned since 1794 in violation of [it] must amount at a moderate computation to some millions of dollars.” Republican faith in the coercive power of American agriculture remained unwavering. In September President Jefferson instructed Madison that U.S. minister to France Robert Livingston should profess “every disposition toward perfect friendliness and free commerce.” He went on to state that “we trust, without a treaty, to the mutual interests of the two countries for dictating the terms of our commercial relations, not doubting that on the expiration of the British treaty we shall probably do the same with that nation.”⁵⁵

Jefferson and Madison never indicated any intention of renewing even a close approximation of the Jay-Grenville Treaty. In fact the experience of directing transatlantic diplomacy only deepened Madison’s convictions as to the inequitable reality of Anglo-American commerce. As the prospect of Franco-British peace loomed in late 1801 he worried that Parliament’s ‘countervailing duties’ of 1797 would cripple American merchants suddenly exposed to competition with the vessels of former belligerents. He complained that the Board of Trade calculated its complex series of *ad valorem* duties according to British rather than

⁵⁵ Madison to Rufus King, 24 July and 10 December 1801, and Jefferson to Madison, 12 September 1801. Robert J. Brugger, ed., *Papers of James Madison: Secretary of State Series* (Charlottesville: University of Virginia Press, 1986), 1:464-70, 2: 105-6 [hereafter cited *PJMSS*]; Parliament adopted new duties designed to equalize rates American vessels paid in British ports to those British vessels paid in the U.S. Mutual ‘most favored nation’ status provided for in article XV of the Jay-Grenville Treaty allowed either nation to charge lower duties than the other, but not to raise them higher. Thus the treaty prohibited enactment of coercive duties in the U.S. but left the British government free to increase the duties American vessels had paid in its ports since 1783 at the lowest rates offered to the ships of any foreign nation. Of course the British might have raised duties on American ships to any rate at any time prior to signing the treaty, which constituted a binding commitment to parity. For details see Perkins, *First Rapprochement*, 150-3.

American prices, “which are more than ten times as high.” Madison directed King to request a fairer ten percent flat rate but advised that strategy only due to the impracticality of his preferred option—imposition of “duties on foreign vessels, [which] if carried to an amount materially relieving our navigation would be construed as an indirect violation of the treaty.”⁵⁶

As the Jay-Grenville Treaty neared expiration Jeffersonians continued to perceive British chicanery as the source of manifold commercial woes. In July 1803 U.S. Consul in Glasgow John Murray wrote to Madison regarding ships papers delivered to him in conformity with congressional legislation for the protection of American seamen. He commented that most of the papers ought to be “illegal as the property of the vessels is obviously vested in British subjects.” He went on to describe British merchants jealous to acquire “the great profits derived [from] American shipping,” whose resident factors naturalized as citizens in order to “become ship owners.... Thus by our own laws has one of the greatest sources of wealth to Americans—the profits of navigation—been almost entirely monopolized by the avidity of British merchants.” Murray lamented that “hardly a vessel bound for the U.S. does not carry partners to establish new houses.” He urged “legislative interference” as the only means to break the “ruinous monopoly.” James Monroe assumed the role of minister to Britain in April 1803 determined to gain concessions through the threat of such “legislative interference.” He reported to Madison in November that an inaccurate local newspaper report that the American minister seemed unwilling to negotiate a new treaty had recently “produced much sensation in the commercial world, and furnishes proof that any collision with us would be deemed a real misfortune to the nation.” He wrote again two weeks later stating his conviction that “we had better make no treaty at present; we can get everything without one that we could with.”⁵⁷

⁵⁶ Madison to King, 10 December 1801. *PJMSS*, 1:299-301.

⁵⁷ *Public Statutes at Large of the United States of America* (Boston: Little, Brown and Co., 1845), 2:203-4; Murray to Madison, 14 July and Monroe to Madison, 16 and 25 November 1803. *PJMSS*, 5:179, 6:55, 93-5.

Madison shared Monroe's optimism. Three months later he completed a model convention to guide the U.S. minister in his conversations with British officials. The draft dealt only with the points of maritime law covered in the second half of the Jay-Grenville Treaty. Other "important objects which may be thought to invite convention" Madison preferred to leave for later discussion. By implication he rejected John Jay's conviction that attainment of profitable commercial terms necessitated compromise contested liberal legal principles. Madison authorized Monroe to guarantee the return of Royal Navy deserters and suppression of American contraband exports. But the other articles provided for the immediate release of impressed seamen, set strict limits on contraband and the use of blockades, increased accountability for prize courts proceedings, and explicitly negated the Rule of '56. Madison's view of any terms short of the most liberal ideals as *de facto* neo-colonial vassalage could not have been more apparent. Regarding impressment he commented that "if [British] municipal law can operate on persons in foreign vessels on the high seas it may equally be enforced against articles of property exported in violation of such... Thus every commercial regulation in time of peace as well as in time of war would be made mandatory on foreigners and their vessels." Only the coercive might of agricultural 'necessities' could counteract such hegemonic designs.⁵⁸

Unfortunately Monroe's optimism proved unfounded. Almost a year after sending the model convention Madison expressed frustration at "the procrastinations of the British ministry in meeting you effectively on the subjects proposed." Such intransigence would likely "produce discontinuance of the liberal but unavailing example given to Britain by the regulation of commerce on our side." Prospects darkened further two months later when the Lords Commissioners upheld the condemnation of the brig *Essex*, restricting the 'broken voyage' loophole so loosened since ratification of the Jay-Grenville Treaty. Madison responded to the

⁵⁸ Madison to Monroe, 5 January 1804. *PJMSS*, 6:95-6, 7:282-306.

ruling in January 1806 with a dense and lengthy pamphlet on neutral rights, personally providing a copy for every Congressman. He asserted that neither authoritative legal theorists nor the courts of any nation but Britain upheld the Rule of '56. The pamphlet represents Madison's most complete statement on maritime-legal and commercial principles as he approached Monroe's instructions for treaty negotiations. He denied the legal right of any "one or more nations to control the commerce between any of the others." He acknowledged as lawful limitations to neutral trade in wartime only the belligerent right to interdict an enemy's trade in a small number of strictly defined contraband goods and to blockade specific locations with sufficient force. Madison's sensitivity to the threat of tyranny remained as sharp as ever. He argued that if belligerents could restrict neutral participation in an enemy's colonial trade only logistical considerations prevented them from controlling a neutral's internal commerce also. Reflecting Enlightenment principles Madison asserted that "the progress of the law of nations, under the influence of science and humanity, is mitigating the evils of war and diminishing the motives to it by favoring the rights of those remaining at peace." His most fundamental objection to the *Essex* ruling grew from this point. Madison protested that the Rule of '56 acted to suppress "new trade, [which] though opened during a war is not opened *on account* of [it] but on considerations which would produce the same measure if no war existed."⁵⁹

Jeffersonians, as they had since the 1780s, defined any movement toward commercial liberalization as a response to the innate justice of the cause, irrepressible urge of men toward liberty, and irresistible economic power of agriculture. Restrictions such as the Rule of '56 belonged to a reactionary world of tyranny, monarchy, corrupting finance, and military

⁵⁹ Madison to Monroe, 6 March 1805. *PJMSS*, 9: 107-14; Madison, "British restrictions on American commerce," 27 January 1806. *ASPFR*, 6:603-21; Bradford Perkins, *Prologue to War, 1805-1812: England and the United States* (Berkeley: University of California Press, 1961), 79-82; Madison to Monroe, 24 September 1805. Hall, *WJM*, 7:190-2; Ketcham, *James Madison*, 441-4; Madison, "An Examination of the British Doctrine which Subjects to Capture a Neutral Trade Not Open in Time of Peace." Hall, *WJM*, 7:203-375.

establishments. Opposed to this fatal combination stood reciprocity, republican virtue, the yeoman farmer, and citizen militias. The Jay-Grenville Treaty represented an instrument of the former forces. The Jefferson administration never intended to approve any terms in the least resembling what Madison had once called on the House floor “that insidious instrument.” The justice of American claims to liberal treatment at sea and full commercial reciprocity required no such compromise. If Britain would not agree to them she could be made to do so.⁶⁰

⁶⁰ Madison commented to Jefferson amidst the growing Franco-American war clouds of early 1798 that the Jay-Grenville Treaty placed “such difficulties in the way of an adjustment that nothing but the most cordial dispositions on both sides can overcome.” Not only did he doubt that President John Adams possessed such a disposition, but he expressed fear two weeks later that France could not realistically be expected to “acquiesce under the advantage which that insidious instrument gives to her enemy.” Madison to Jefferson, 21 January and 15 February 1798. *PJMCS*, 17:69, 77-9.

Chapter five

“Pregnant with portentous evils”: the Jay-Grenville Treaty and popular democracy in the Early Republic-era press

In early April 1799 Boston Federalist printer Benjamin Russell celebrated news of commodore Thomas Truxtun’s recent victory over the French frigate *L’Insurgente*. One issue of his influential journal, the *Columbian Centinel*, repeated an account of the battle from an officer of the aptly named schooner *Alexander Hamilton*. According to the undoubtedly fictional report, one twenty-four pound ball from the USS *Constellation* struck the French vessel aft, killed eleven men and dismounted a gun on its journey to the fore section. Russell claimed that a French officer presented the ball to his captain, “observing that it was in vain to contend with a ship that carried such heavy metal.” This incredible account not only contradicts official reports of the battle but unapologetically defies the laws of physics. That Russell felt no compunction in printing it is telling. Equally telling is that rival Republican editors printed contradictory accounts no less obviously fabricated. Another Boston printer, Thomas Adams, placed Truxtun’s official report of the battle in his *Independent Chronicle* immediately adjacent to a list of every known American vessel awaiting trial in Britain’s vice-admiralty court at Nassau. He also reproduced an anonymous report claiming that “the French sailors on board the *Insurgente* were leaning on their elbows admiring the beauty of the *Constellation*, while their officer hailed her as a friend—they were answered with a broadside from a battery of 24-pounders, double shotted.”¹

¹ *Columbian Centinel*, 6 April 1799. Benjamin Russell began his career as an apprentice to the Patriot printer Isaiah Thomas. He set up independently with John Fenno as his assistant shortly before the 1787 constitutional convention. The *Centinel* led the charge for ratification in New England, ingratiating Russell to leading regional Federalists. Russell’s earlier radicalism declined in the wake of the French revolution’s bloody excesses. He remained one of the most widely reprinted conservative editors for nearly four decades. Frank Luther Mott, *American Journalism: A History, 1600-1960*. Third edition (New York: Macmillan Company, 1962), 31-3; *Independent Chronicle*, 25 March 1799. Thomas Adams purchased the patriot bi-weekly *Independent Chronicle* in 1784. He resented the Bay State’s politically powerful wealthy elite and gravitated toward Jeffersonianism. For more detail on the opposition press during the 1790s see Jeffrey L. Pasley, *The Tyranny of Printers: Newspaper Politics in the Early American Republic* (Charlottesville: University of Virginia Press, 2001).

Adams and Russell's contrasting narratives, with their highly improbable details, speak to the role of American newspapers during the Early Republic era. As the new federal government took shape an increasing number of policy questions linked the interests of citizens physically if no longer politically and conceptually remote from one another. Federal politics fostered the nascent national consciousness born during the Revolution. This process played out more than anywhere else in the pages of American newspapers—the most speedy and effective eighteenth century medium for conveying information and exchanging opinion. Readers sought eagerly news of legislative and other political proceedings from their state but also the national capital. They also followed closely geopolitical events in Europe. Reports of these happenings, often reprinted from other newssheets, filled the pages of papers nationwide; the concept of strictly local newspapers did not evolve until decades later. This seems somewhat counter-intuitively to post-modern minds, which expect to see all forms of localism declining with time as communications improve. Regardless, Americans during the 1790s engaged in a rambunctious democratic process through purchasing, reading, and contributing to their newspapers. They thereby conceived of themselves as located within an inter-connected political ecosystem stretching from their front doors to the farthest European battlefield.²

Thus, the ideological battles waged over Jay-Grenville Treaty as outlined in chapters three and four very much captured the popular imagination. Like their state and national representatives, American citizens did not approach the treaty in a vacuum. It formed only the next [if much grander] event in a sequence of internationally significant occurrences stretching back through the fall of the Bastille to their own war for independence and the colonial era beyond. The treaty's divisive impact therefore reflects not just an elite 'top down' political

² Federalist printer Noah Webster summarized the role of newspapers well in late 1793. He stated in the inaugural volume of his New York-based *American Minerva* that “newspapers are not only vehicles of what is called *news*; they are common instruments of social discourse by which the citizens of this vast republic constantly debate with each other.” *American Minerva*, 9 December 1793.

dialogue but also a very real public ambivalence toward the French Revolution's meaning and significance within the context of the United States' unfolding diplomatic and domestic history.

The radicalizing impact of European affairs reached fever pitch with the arrival in April 1793 of the newly declared French republic's first minister to the U.S., 'citizen' Charles Genêt. The controversial diplomat reached the United States at roughly the same time as news of France's declaration of war against Britain and only weeks after reports of Louis XVI's execution. The confluence of events seemed to present Americans with stark choices, not merely for foreign policy but for the nature of their own republic. Arch-Federalist editor John Fenno printed reports in his *Gazette of the United States* of public mourning in American cities as an intentional contrast to Republican jubilation over the arrival of Genêt. One correspondent commented that "a revolution cemented with such torrents of blood—much of it unnecessarily shed—can hold but slender hope for the future happiness of a nation." Another lamented that "the foul fiends of anarchy and confusion have seized the reins of government." In contrast Phillip Freneau's *National Gazette* stated that the public fanfare expected to welcome Genêt would "demonstrate the patriotic character of our citizens and the interest they take in the noblest of all causes, the success of our French allies." Freneau defended the French cause against the growing clamor of American skeptics, emphasizing "the expenses of his luxurious court" and other tyrannical crimes implicitly worthy of death. Republican editors encouraged readers to associate the French republic's cause with America's own revolution. A letter in one issue of the *National Gazette* signed 'the spirit of 1776' accused Federalists of "forgetting that the interposition of France saved us from the chains England had forged for us, or they would not dare to call our faithful allies 'cutthroats.'"³

³ *Gazette of the United States*, 6, 17 and 20 April 1793; Fenno established the *Gazette* in 1789 when Alexander Hamilton lured him to Philadelphia with a contract to print government materials. Married into Boston's merchant elite, Fenno naturally imbibed his mentor Benjamin Russell's views on social order and constitutional

George Washington's proclamation of neutrality in late April 1793 only accentuated opposition notions that the administration sympathized with monarchy, hated republicanism, and exposed the government to corruption. An open letter to Washington in the *National Gazette*, which Freneau almost certainly authored, questioned the notion that 'duty' necessitated impartial neutrality, asserting the existence of "an implied obligation to assist the weak against the strong, the oppressed against the oppressor...." Due to deep fear of military spending few Jeffersonians advocated involvement in the war. But they protested that Washington's decision to prevent French warships from bringing captured prizes into U.S. ports denied an ally the benefit of a central provision of the 1778 Treaty of Alliance. Men such as Benjamin Franklin Bache, editor of Philadelphia's *Aurora General Advertiser*, led calls for a more pro-French interpretation of neutrality. In response Federalists argued that the treaty guaranteed assistance in defensive wars only and that the execution of its French signatory, Louis XVI, voided the contract regardless. Fenno's *Gazette* welcomed Washington's declaration with pointed comments celebrating the "important situation [in which] this country is placed! Separated from Europe and disentangled from its politics, at peace with the world, rivals for our commerce beckoning our ships from every shore."⁴

government. His first issue of the *Gazette* proclaimed his intent to "by every exertion endear the general government to the people." The *Gazette* remained a semi-official administration mouthpiece throughout the 1790s; *National Gazette*, 10, 17 and 20 April 1793. A Revolutionary War privateering veteran and virulent Anglophobe of French descent, Phillip Freneau had established himself as a prominent poet and radical republican by the early 1790s. Thomas Jefferson attracted James Madison's old college friend to Philadelphia with a salaried position as a State Department clerk, but his real work was to establish a counterweight to Fenno's paper. Freneau remained in Philadelphia only until Jefferson's retirement in 1794, but his paper survived until 1803 under the management local printer Andrew Brown. Culver H. Smith, *The Press, Politics, and Patronage: The American Government's Use of Newspapers, 1789-1875* (Athens: University of Georgia Press, 1977), 12-23.

⁴ *Gazette of the United States*, 11 May 1793; John Quincy Adams laid out the Federalist arguments against Republican interpretations of the 1778 Treaty of Alliance with particular clarity under the pseudonym 'Marcellus' in the *Columbian Centinel*, 22 May, 1793; *National Gazette*, 15 May 1793; Benjamin Bache's response to 'a farmer,' *Aurora General Advertiser* 20 June 1793. Bache, a favorite of his famous namesake, witnessed his maternal grandfather's late-age struggles against Philadelphia's political establishment and inherited his growing radicalism. Bache's *Aurora* became a mouthpiece for his vitriolic attacks against the Federalist 'aristocracy' and continued to operate as the nation's leading opposition paper after Bache's death in the 1798 yellow fever epidemic under the direction his Irish émigré assistant William Duane. Pasley, *Tyranny of Printers*, 79-104.

Upon arrival in Charleston Genêt began issuing letters of marque for U.S. citizens to engage in privateering on behalf of France. He also authorized French consuls to adjudicate prize cases in accordance with his interpretation of the 1778 treaty but in defiance of Washington's proclamation and of international law regarding legitimate prize trials. Reactions to Genêt conformed overwhelmingly to partisan preference. One widely reprinted column from Fredericksburg's Federalist *Virginia Herald* warned that Americans privateering under French colors acted imprudently and would "jeopardize the peace and prosperity of this county by bringing into suspicion the sincerity of the President's proclamation. Patriots will abhor such a conduct." A similar statement from a public meeting of Philadelphia merchants circulated in several Federalist papers shortly after Genêt's arrival in the capital, calling for "unoffending conduct towards all the world" and pledging themselves "to discountenance in the most pointed manner any contrary disposition in others." Federalists did not only worry that pro-French radicals risked foreign policy complications through privateering but also that public enthusiasm for Genêt represented a much larger and more dangerous trend. One Fenno correspondent in Boston commented in a letter reporting pro-neutrality resolutions adopted in Faneuil Hall that "Genêt's [lack of] respect for the government is eminently conspicuous."⁵

Opposition papers chafed at perceived insults to the French republic. Furor over the commission of privateers climaxed when Genêt's escort frigate *L'Embuscade* intercepted the British vessel *Little Sarah* at the mouth Delaware in mid-May, carrying her back to Philadelphia as a prize. Forbidden from condemning and selling her on American soil, Genêt secretly commissioned her the privateer *Petit Democrat* and rushed her to sea in defiance of U.S. government orders. This proved a pyrrhic triumph for the erratic French minister, utterly

⁵ 'Neutrality' reprinted from the *Virginia Herald* in the *Gazette of the United States*, 25 May 1793; *Newport Mercury*, 28 May 1793; *Gazette of the United States*, 31 July 1793.

alienating Washington and leading to a request for his recall to Paris. Secretary of State Thomas Jefferson defended Genêt as long as he felt able. Newspaper discussion of the incident reflected the cabinet's private debates. Pro-administration journals warned that toleration of such contempt for public authority open the door to mob rule and the guillotine. Barzillai Hudson and George Goodwin's *Connecticut Courant* indignantly reported that Genêt had instructed the *Petit Democrat*'s commander to resist arrest with force if necessary. They asserted that Genêt's actions gave him "little claim on the friends of peace, good order, and national happiness."⁶

The most influential Republican newspapers loudly approved the French minister's actions. An open letter to Washington from 'A Citizen' printed in Charleston's *City Gazette* protested the arrest of local merchant Gideon Olmstead for fitting out one of his vessel as the privateer *Citizen Genêt*. The letter exclaimed that punishment of "a citizen for legally fighting against a perfidious nation that despises our government, depresses our trade, and wantonly tramples on treaties, is a measure incompatible with every principle of Republicanism." The pseudonymous essayist 'Alcanor' echoed those sentiments in Freneau's *National Gazette*, calling the Olmstead case "an instance of outrage" and an unlawful harassment of French property. He also condemned administration treatment of the *Petit Democrat* as "arbitrary measures, intriguing conduct, and dark policy totally inconsistent with the generous sentiments... that should define a republic." Following Washington's request for Genêt's recall to France the rejected minister toured the East appealing directly to the American people. Republican crowds flocked to celebrate him while Federalists expressed outrage. New York Federalist William Willcocks directly attacked Genêt's distinction of the administration and American people as

⁶ *Connecticut Courant*, 19 August 1793. Like Benjamin Russell in Boston, Barzillai Hudson and George Goodwin emerged as Federalist acolytes during the ratification debate. Their Hartford-based journal remained regionally and nationally influential even after the Federalist Party's political demise. See J. Eugene Smith, *One Hundred Years of Hartford's Courant: From Colonial Times through the Civil War* (New Haven: Yale University Press, 1949), 59-79.

separate entities, arguing in the *Daily Advertiser* that “by the laws and constitution of our country all the powers of government have been consigned to our representatives—they virtually constitute and *are the people*.” For editors and readers of both parties Genêt’s actions raised questions extending beyond specific points of law to the very nature of American government and society.⁷

When news of British restrictions on neutral trade reached American ports during the summer of 1793 partisan journals addressed the issue within the framework already established with regard to privateering. Republicans portrayed Britain as America’s ancient antagonist and the most egregious violator of maritime law. Phillip Freneau called British interference with American grain exports “so gross a violation of that respect due to neutral powers that... we may very shortly expect our sea ports will be plundered under pretext of searching for French property.” Freneau and other Republican editors praised Madison’s renewed attempts to adopt coercive duties. They also advocated retaliatory sequestration of British-owned debts. Federalist editors called for restraint, disparaging the wisdom of commercial coercion. One correspondent informed Fenno that West Indian waters teemed with British privateers searching for American vessels conveying French property. Reporting the specific case of an American captain detained twenty days at St. Kitts for carrying French sugar, he raised with regret the probability “that this procedure by the British will be painted in strong colors by a certain class of malcontents amongst us.” Fenno’s associate observed preemptively the American’s troubles resulted “from his prevarication and putting the captors to the utmost difficulty in proving the property.” Federalist editors certainly disapproved of British actions and called publically for an appropriate

⁷ *City Gazette*, 12 July 1793; *National Gazette*, 17 July 1793; *New York Daily Advertiser*, 8 August 1793. Established by printer Francis Childs, the *Advertiser* contained very little direct political commentary but was the most prominent Federalist-owned newsheet in New York City prior to Noah Webster establishing the *Minerva* in late 1793. Peter R. Eisenstadt and Laura-Eve Moss, eds., *Encyclopedia of New York State* (Syracuse, NY: Syracuse University Press, 2005), 1055.

federal government response. They also seized every opportunity to highlight similar French depredations. Fenno complained that despite the protests of American “Jacobins” against “insults from a few rascally [British] privateers, the same class who are deafening the public ear would stoop to the most degrading insults from Frenchmen.”⁸

Most importantly to Federalist journals overreaction to British injustice endangered the considerable profits Anglo-American commerce provided. In September Benjamin Russell exultantly contrasted minor difficulties over neutral rights with the general state of a nation in which “the husbandman finds a high price and increasing demand for the products of his toil, [and] the merchant visits every corner of the globe in successful pursuit of gain... His ships alone can supply the bread that feeds, or the apparel that covers [the nations of Europe].” A few months later the *Centinel* recounted the ordeal of the brig *William*, whose captain endured searches from three separate British privateers en route from the West Indies to Boston. The report took pains to state that British officers “treated Captain Sprague with the greatest of politeness.” Russell warned against disproportionate and unbalanced outrage over the misdeeds of a few individuals, pointedly observing that “French privateers [also] carry American vessels into their ports and detain them for examination.”⁹

Opposition newspapers reacted less stoically to British interference. They trumpeted French amity and accused the administration of condoning British depredations. A contributor to Boston’s *Independent Chronicle* compared Washington’s tolerance of British outrages to his impatience with Genêt. Responding to Russell’s comment in the *Centinel* that “no difficulty has arisen from the consuls of other nations,” one *Chronicle* reader protested that “notwithstanding the innumerable impositions on our navigation... the consuls of [Britain] have not had any

⁸ *National Gazette*, 19 June 1793; *Gazette of the United States*, 3 July and 24 August 1793.

⁹ *Columbian Centinel*, 7 September and 18 December 1793.

representation made to them on the subject.” An essay in the next issue compared at length “the most beneficial consequences” of the French alliance against the continual insults suffered from Britain. The commentator also questioned the Federalist narrative regarding the profitability of Anglo-American trade, urging readers to consider upon which belligerent the U.S. “might rely with the most confidence for assistance and protection.” He traced British hostility to the Revolutionary War, defining recent depredations as only the latest manifestation of ongoing commercial hostility. The essayist approved of Madison’s proposed coercive duties, complaining that since 1783 “by the pusillanimity of the government we have lost [our] carrying trade.” Echoing the arguments of Congressional Republicans in favor of coercion he went on to assert that “the principle profit of American trade since the peace has arisen from France.... While the English are exercising every species of insolence, embarrassing our navigation, we are in a state of ‘impartial neutrality.’” Federalists viewed such neutrality as pragmatic profit maximization; Republicans saw only commercial vassalage to an illiberal monarchy.¹⁰

When British minister George Hammond issued formal notice of the Provision Orders in January 1794 John Fenno’s initial report assured readers that “matters [are] in train to ascertain facts and affect redress to injuries.” Federalist editors largely avoided sensationalist rhetoric. Fenno showed no such caution two days later in reprinting a letter from London attributing insurances rates for American vessels exceeding ten percent to Barbary pirates and various French abuses. Fenno seized the opportunity to attack Madison’s proposals and promote the recently introduced naval bill, complaining that “when regulations are near lost, [Madison] cries *protect trade*. When the Algerines are to be kept at arm’s length, he cries *trade is not worth such expense*.... The protection of our trade by frigates is not worth half what it will cost in insurance and redemption of captives if we have no frigates.” The following month a Boston merchant

¹⁰ *Independent Chronicle*, 2 and 5 December 1793.

wrote to Fenno praising South Carolina representative William Loughton Smith's speeches against Madison's coercive measures. In contrast to Anglo-American commerce, which he implicitly viewed as well worth the cost of occasional restrictions, the correspondent characterized Franco-American trade as a valueless risk. He asserted that "merchants have suffered greatly from the detention of our vessels in France and will not continue to send [them] to that country from which there is no return." Other Federalist papers such as the *Connecticut Courant* reinforced those relative value judgments by placing reports of British abuses alongside those of American vessels temporarily embargoed at Bordeaux. The *Courant* proclaimed the difficulty of stating "from what quarter we receive the greatest injuries." But when Hudson and Goodwin received an unsubstantiated rumor in March 1794 that the Board of Admiralty had ordered British captains to release and compensate American vessels, their eagerness in publishing the news suggested no such ambivalence. Despite noting the report's undocumented nature the *Courant* assured readers that "it comes from a reliable quarter." Federalist journals rushed to embrace news of improved British policy, just as they equivocated in reporting rumors of British abuse and grasped greedily at evidence of French infidelity.¹¹

Eventual confirmation of repeal brought little satisfaction to Republicans since the news coincided with Washington's appointment of John Jay as special envoy to London. Opposition newsheets continued to print reports of British depredations with unambiguous hostility. One captain arriving from St. Vincent in April 1794 informed Bache's *Aurora* "that all American vessels bound to or from a French port are liable to condemnation." Another correspondent labeled Jay's appointment an effort to undermine Madison's proposed coercive measures, accusing Washington of actively supporting "a tottering minority" which preferred submission to

¹¹ *Gazette of the United States*, 23 and 25 January, 13 February, and 5 March 1794; *Connecticut Courant*, 10 March 1794.

monarchical Britain over the threat of democratic majority rule. A subscriber in Maryland expressed anger that Congress intended to lift the thirty-day embargo in support of Jay's mission. He insisted that only when "the English agree to do us justice will it then be time to remove the embargo." As Jay prepared to depart for London a letter to Thomas Greenleaf printed in his *New York Journal* professed shame at American tolerance of the "daring insults committed upon the high seas against the sons of freedom by that proud and haughty nation, Great Britain.... Where, oh where, is the spirit of '76?" Like his peers Greenleaf printed news of British seizures in every issue, expressed doubt regarding Jay's chances of success, and protested suspension of the thirty-day embargo. He proclaimed in one issue that "it is the duty of nations to demand their rights" and inquired, "when Great Britain in the most open and infamous manner violates every principle of law, where is the occasion for this delicacy?"¹²

Following Jay's departure Republican newspapers continued to highlight every perceived British transgression, inferring from them the utter futility of his mission. One *Philadelphia Gazette* report informed readers of the ongoing detention on board the frigate HMS *Thisbie* of several Americans captured en route to France. The captives included Mr. John Elberson, whom the *Gazette* indignantly referenced as "one of the pillars of this port." The next day's *Aurora* placed the news alongside reports of several similar cases, commenting that in spite hopes in some quarters that repeal of the November Order signaled "a happy change of policy toward us... the contents of today's paper alone ought to be sufficient to open the eyes of Americans." Not surprisingly Bache seized upon any report of Jay's progress in London as further evidence of

¹² *Aurora General Advertiser*, 25 and 28 April and 12 May 1794; Jeffersonian printer Thomas Greenleaf established the semiweekly *New York Journal and Patriotic Register* within a month of Webster's first *Minerva*. He strengthened his position as the city's leading opposition voice with the launch of his daily *Argus* in May 1795. The *Argus* operated until 1800 and contributed significantly to Jeffersonian electoral success in that year, although Greenleaf died in 1798 with a federal case against him under the Sedition Act of that year pending. Joel Tebbel, *The Compact History of the American Newspaper* (New York: Hawthorne Books, 1963), 70-71; *New York Journal and Patriotic Register*, 26 April and 10 May 1794.

British intransigence and the envoy's impotent obsequiousness. In September he commented snidely on news of Jay's formal introduction to George III and first formal dinner with Lord Grenville, quipping that "if to make two bows and eat one dinner a whole month is necessary, a year at least must elapse before our claims are totally stated and a century until they are finally adjusted."¹³

Republican cynicism contrasted with Federalist efforts to promote a conciliatory spirit. One letter to the *Minerva* written as Jay sailed for England informed Noah Webster of British Admiralty orders to reduce delays in prize cases. The correspondent expressed utmost faith that claims for American property "will in future move better than they have done." Comment from Webster in an adjacent column lambasted 'Jacobins' for continuing to demand sequestration of British property despite repeal of the controversial orders-in-council. The *Minerva* condemned the "disgraceful swindling game" conducted in British courts, but nevertheless affirmed administration restraint. Webster predicted that "this business will yet be a complete triumph of moderation over hasty intemperate rashness... for every day proves violent measures to be less and less." Fenno likewise assured readers of improving British sentiment, printing a letter from a correspondent in London stating that Lord Grenville "wished well to America and desired that the utmost harmony should subsist between the two countries." *Gazette of the United States* also prepared the ground for Jay with implicit justifications of the belligerent prerogatives any treaty would require him to recognize. Fenno reprinted one column from the *Bermuda Gazette* endeavoring to correct "the impression that a thousand or two [American seamen] are here starving and without friends" by insisting that "only two or three *real* American vessels have

¹³ *Philadelphia Gazette*, 24 July 1794; *Aurora General Advertiser*, 25 July and 5 September 1794.

been condemned.” Few Republican journals granted the least acceptance to any distinction between American-claimed and *bona fide* American property.¹⁴

The earliest reports of a provisional treaty agreement reached the United States during the early fall of 1794. Benjamin Russell assured readers of his *Columbian Centinel* on the basis of numerous reliable sources that the prospective treaty constituted “sufficient cause for congratulation to the friends of peace and the happiness of our country!” But when Jay appeared to delay his return Republican editors leapt to presume the treaty’s inadequacy. A typical *New York Journal* report of British cases against American-claimed property complained that “lawless spoliations of our commerce are suffered to continue with impunity.” Farther down the page Greenleaf questioned Federalist presumption of Jay’s success, stating that his correspondents indicated that the envoy had secured only the right for Americans to appeal for compensation of losses under the order-in-council. Greenleaf asserted that Jay “might and ought to have been home by now.” He accused Federalist journals of preemptively crowning his achievements with laurels for political gain ahead of forthcoming elections. These telling comments reveal Republican convictions long predating publication of the treaty that indemnification alone constituted an insufficient basis for peace. Opposition editors and their readers, like their representatives in Congress, clamored for a level of commercial reciprocity they felt assured diplomatic compromise could not secure. A similar essay in the *Aurora* preemptively dismissed hopes of gain from Jay’s mission on the basis of comparative British and French attitudes towards neutral commerce, claiming that France embargoed American vessels in Bordeaux of necessity “to feed their starving fellow-citizens.” In contrast, the pseudonymous commentator claimed that “impressed seamen and our plundered and prohibited merchants” discredited Federalist claims of Britain’s “profuse goodly friendship for us.” Fenno dismissed

¹⁴ *American Minerva*, 1 April 1794; *Gazette of the United States*, 1 and 19 May 1794.

such protests as the words of ‘Jacobin’ malcontents. He greeted confirmation of Jay’s return with a report of the New York Union Society celebration, at which revelers toasted Jay’s health, “peace throughout the world,” the success of France against her enemies, and “moderation and firmness to the councils of the American union.” The report clearly implied that all true patriots, republicans, and friends of France wished for peace, which only the treaty could ensure.¹⁵

Public discourse regarding the treaty continued in ignorance of its actual terms until Virginia Senator Stevens Mason leaked a copy to Bache in late June. Masons’ selective summary of the treaty for the *Aurora* represents in microcosm the entire course of debate on the subject. His brief commentary of each article assiduously evaded every positive point. Mason’s comment on the seventh article stated only that “the United States are to refund the value of English prizes taken in our waters, or by privateers fitted out in our ports,” refusing to even mention creation of the corresponding indemnification commission. News arriving several days later of British interception of several shipments of American grain to France served to confirm Republican prejudices as to the treaty’s corrosive influence on neutral rights. Bache asked his readers rhetorically whether Americans “mean to surrender our sovereignty and submit to every imposition... and are we ready to sign a carte blanche for them to [plunder] as they please?” Sensitivity to the dangers and insults of monarchy remained at the forefront of Republican thinking. Bache also asked readers whether they “would become the dupes of his British majesty.” Thomas Greenleaf painted an equally bleak picture, protesting melodramatically in his *Argus* that “the interests, present as well as future, of Great Britain have been the sole concern of both negotiators.” He poured particular scorn on the treaty’s capacity to either compensate past or prevent future British depredations. Greenleaf dismissed Federalist claims that article VII

¹⁵ *Columbian Centinel*, 11 October 1794; *New York Journal*, 7 January 1795; *Aurora General Advertiser*, 27 April 1795; *Gazette of the United States*, 30 May and 1 June 1795.

provided “fair compensation for British spoiliations” as an “impudent and wicked assertion. No man ever expects a shilling, and the best supported claims were offered for sale, for little or nothing on the pound, as soon as the treaty appeared.”¹⁶

Federalist editors celebrated the treaty’s terms and Jay’s achievements. Announcing his election as governor of New York shortly after publication of the treaty, Webster called Jay “a true patriot” and stated confidently that “from his former services we may anticipate peace, prosperity, and happiness under his administration.” He offered a more detailed defense in a series of essays published under the pseudonym ‘Curtius.’ Webster expressed confidence in the article VII claims commission as the fair and certain method to compensate American merchants without resorting to war. He also vindicated the compromises made on maritime law, affirming belligerents’ right to search neutral vessels for enemy goods and contraband. He stated unambiguously that “the papers of neutral vessels are not always to be relied upon. We all know that the subjects of nations at war procure neutral vessels to cover property of their own. This happens every day.” The *Courant* reprinted contrasting comment on the treaty from various journals giving the most weight to Philadelphia’s *American Daily Advertiser*, whose editor John Dunlap stated jubilantly that “the seeds of dissension, which had been so plenteously sown, are now removed.” Dunlap celebrated access to “the East India trade, which will afford such valuable employment to our large commercial capital,” as well as the “imprejudicial tribunal” established in article VII, all achieved without conflict “in the smallest degree with the obligations and entanglements contracted with [France].” Federalists placed particular emphasis on the profits the treaty promised to American commerce. One anonymous letter written for Alexander Young and Thomas Minns’ Boston *Massachusetts Mercury* asserted that “the very

¹⁶ *Aurora General Advertiser*, 30 May, 4 and 29 June, and 3 July 1795; *The Argus, or Greenleaf’s New Daily Advertiser*, 27 July 1795.

peace of our country, happiness of our families, and our future prosperity” depended upon ratification of the treaty. Its detractors, the writer remarked, “were determined to oppose the treaty before they knew a single article of it,” and he therefore hoped that “little attention will be paid to their declamations now.” Three weeks later a contributor signing himself ‘A True Republican’ similarly stated that war with Britain could avail nothing while risking all. In the event, he warned, “the merchant would be ruined, the produce of the farmer would rot upon his hands... and thousands of industrious laborers would be put out of employment.” In contrast, an adjacent letter from ‘a gentlemen of Philadelphia’ called the treaty “valuable, as it adjusts old disputes without contention and affords new security for the enjoyment of commercial privileges [formerly] held at the pleasure of either party.”¹⁷

Republican journals continued to deny any hope that the treaty might curb British caprice at sea or produce any national blessings. A typical piece in Greenleaf’s *Argus* signed ‘A Native American’ raised the familiar specter of monarchy, asking how any Federalist essayist could reasonably account for “the piratical depredations on our commerce... and the continued violence to our seamen, almost daily torn from the protection of our neutral flag to support with their lives the sinking cause of DESPOTISM in the Old World?” Republicans utterly rejected any defense of Jay’s compromise on maritime rights, viewing the concessions made as *de facto* vassalage. Public meetings issued resolutions of protests echoing opposition essayists. One anti-treaty meeting in Elizabethtown, New Jersey, rejected the perceived Federalist belief “that the unequal conciliations made by America to Great Britain are the necessary price of peace with her.” Resolutions adopted denied vehemently “that by this treaty we shall be more secure in our

¹⁷ *Minerva*, 6 June and 22 July 1795. Webster’s ‘Curtius’ essays appeared between 18 and 31 July 1795; *Dunlap’s American Daily Advertiser* reprinted in the *Connecticut Courant*, 6 July 1795; *Massachusetts Mercury*, 7 and 24 July 1795. The *Mercury* ran from 1794 until the late 1820s. Renamed *The New England Palladium* in 1801 the paper became the primary voice of the Federalist Party in opposition, remaining influential even after the party effectively ceased to exist. See David Hackett Fischer, *The Revolution of American Conservatism: The Federalist Party in the Era of Jefferson* (New York: Harper and Row, 1965), 129-49.

commerce... or our seamen less exposed to insult than heretofore, unless we wholly relinquish all trade with [Britain's] enemies." A column in Philadelphia's *Independent Gazetteer* signed 'Americanus' lamented that the treaty bound a republic in *de facto* alliance to a monarchy and "sacrifices to that connection past injuries, reparations for wrongs, and the most essential commercial interests that an independent nation can yield." In a later issue the essayist 'Salut' denied any prospect of improved commercial prospects, asserting that "England will never stipulate with us upon terms of reciprocal advantage, and were we to dispatch a thousand Jays to His Majesty's court for the fabrication of a thousand treaties, they would all be repugnant to [our] interests."¹⁸

As House Republicans launched a last-ditch effort to block execution of the treaty during the spring of 1796 public petitions and resolutions flooded into Philadelphia from every corner of the nation. One of the most widely reported anti-treaty meetings occurred in late April, with French émigré Stephen Girard among the most prominent participants. The majority declared the treaty harmful to "the peace, independence, and liberties of our country... [being] unequal in its stipulations, and offering insult instead of redress." While expressing sympathy for merchants in need of indemnification, anti-treaty Philadelphians proclaimed themselves unable to "consent to surrender our national rights to secure compensation for those losses." At a New York City meeting held two days later a crowd the *Argus* described as "very numerous" denounced the treaty as "highly impolitic, disgraceful, and prejudicial to the true interests of the country." The resolutions further added that the treaty "in a variety of instances invades upon the delegated powers of the House of Representatives, and infringes upon the rights and privileges of the

¹⁸ *Argus*, 6 and 21 August 1795; *Independent Gazetteer*, 15 July 1795. The fiery radical English-émigré Eleazer Oswald established the *Gazetteer* in 1782 as a Patriot newsheet. It ran weekly or semi-weekly under various titles until 1796 as an unapologetic organ, though Oswald relinquished control in 1792 to join the French Republican Army. *Early American Newspapers: Selected Newspaper Descriptions by State* (New York: Readex Microprint Corporation, 1983), 30.

people.” Republicans invariably employed democratic language to frame the treaty as a reactionary coup against the government’s most accountable and responsive branch. But Federalist-dominated meetings also cited constitutional prerogatives in casting their rivals as a usurping minority. One citizens’ gathering in Accomack County, Virginia censured their state legislature for having discussed the treaty, an act they deemed not “consistent with order” and tending to “interfere in the execution of those powers and duties exclusively assigned to the United States government.” In reporting one anti-treaty petition circulating in Delaware New York’s *Herald* noted that despite pedantic insistence on House prerogatives “not a word is said about the constitutional rights of the other branches.” The editor did not doubt that if a Republican “President should succeed Gen. Washington and the House should be Federal, these people would change their tone and support *his* constitutional rights against the House.”¹⁹

But for Federalist citizens as for their representatives the treaty’s economic value remained the primary question. One meeting in Georgetown, Maryland urged the House to enact the treaty, fearing that if they did not “the national character for good faith may be injured, and our peace and [commercial] happiness interrupted.” A widely circulated petition from western Pennsylvania reminded the House that by regaining the frontier posts and acquiring navigation rights on the Mississippi “the treaties lately concluded with Great Britain and Spain open to America the prospect of great prosperity, particularly interesting to the inhabitants of the western country.” As the House approached a final vote on the appropriations bill Federalist journals printed alarmist prophesies as to the consequences of rejection. One Rhode Island merchant wrote to Fenno hysterically calling a prospective Republican victory “more pregnant with portentous evils than any [event] that has ever occurred to our country.” He claimed that “the

¹⁹ Philadelphia meeting reported in the New Haven *Connecticut Journal*, 27 April 1796; *Argus*, 23 April, 1796; Accomack meeting reported in Charleston’s *Columbian Herald*, 4 March 1796; New York *Herald; a Gazette for the Country*, 27 April 1796.

great body of the people in this state” supported the treaty as vital to the general welfare. Fenno insisted that such sentiment represented the national majority, commenting that “meetings and petitions in favor of carrying the British treaty into effect are more numerous than have ever been the case on other occasions... the people consider their ALL at stake.” Federalists nationwide used similar language to counter Republican claims that the treaty served only the interests of a corrupt Anglophile minority. One memorial from a Boston meeting admonished Congress to “prefer PEACE and PROSPERITY to war and distress!” The *Courant* printed an anonymous letter from “a very respectable gentleman in Virginia” stating that “every friend to the peace, happiness, and prosperity of our country in this part of the world is waiting with hope and the greatest anxiety to hear that the Federal legislature has enacted the necessary laws.”²⁰

Republicans remained unmoved, dismissing the treaty as a conspiracy to bless the administration’s British allies at the citizen-farmer’s expense. One Greenleaf correspondent accused Washington of betraying his commitment to “impartial neutrality... agreeable to the *modern law of nations*.” The writer, signing himself ‘a Republican,’ argued that international law did not permit the seizure of items “expressly declared not contraband” under neutral colors. He claimed that merchants had taken Washington’s proclamation as “a strong guarantee” of support for ‘free ships’ doctrine, on the basis of which Americans had “ventured property” only to suffer egregious abuse. The irate Republican accused Federalists Senators of “pursuing their British system of politics and giving into the hands of those pirates a right to capture our vessels on *ancient law*.” Republican editors, their readers and correspondents viewed the treaty as a brazen tool of mercantilist oppression designed to return America to colonial status. They also perceived a conspiracy to undermine republican France. Thus the treaty simultaneously brought to heel the

²⁰ Georgetown meeting reported in *Claypool’s American Daily Advertiser* (Philadelphia), 22 April 1796; *Pittsburgh Gazette*, 28 March 1796; *Gazette of the United States*, 6 May 1796; *Courant*, 2 May 1796.

world's two beacons of liberty—a stunning triumph for the forces of aristocratic reaction. In this context true Republican stalwarts defined the French Directory's July 1796 decree formally renouncing 'free ships' doctrine as a proportionate and just response to unilateral abrogation of 1778 Treaty of Alliance. The pseudonymous essayist 'Paulding' characterized Washington's policy towards France in the *Aurora* as "baseness, hypocrisy, and perfidy," claiming with a rhetorical flourish that the President sent Jay to London as "a missionary to manifest our repentance for being independent." He justified French actions as a response to this antecedent betrayal, declaring that "their contempt and barbarity [are] equal to our prostitution."²¹

The domestic political significance of American involvement in Europe's struggle through the contrasting treaties only increased as elections approached. French minister Pierre Adet's formal notification of the July decree to Secretary of State Timothy Pickering recounted at length the entire history of Franco-American relations from the French perspective and appealed directly for the support of U.S. citizens. While the Republican press widely approved the letter upon its public reproduction, Federalist editors attacked the note as a brazen attempt to influence voters and Presidential electors against John Adams. One *Columbian Centinel* signed 'An Enemy of all Foreign Influence' sweepingly claimed that "since 1777 France has aimed at nothing less than the entire direction of our public affairs." Russell tied French depredations to a grand Jacobin plot intended to subvert constitutional government. He called the July decree an "insolent threat to plunder our commerce if we do not appoint a President who enjoys the confidence of France." Whether or not Adet intended his letter to influence the election, Adams prevailed and French seizures increased. Republican journals continued to define the generous spirit of the 1778 alliance as France's true policy and the mounting depredations as the bitter

²¹ *Argus*, 25 August 1796; 'Paulding' appeared originally in the *Aurora*, reprinted in the *Argus*, 30 August 1796.

fruit of the Jay-Grenville Treaty. Federalist writers responded in kind. “Is it generous to violate treaties with allies because they are disadvantageous,” one *Minerva* editorial inquired in January 1797. “Is it generous to capture our vessels or seize their cargoes... stripping at the same time the seamen of every penny of money and all their comfort?” In countless similar columns Webster and his associates denounced French betrayal while also taking pains to contextualize British captures and defend the Anglo-American treaty. One pseudonymous Fenno correspondent signed ‘Truth’ sought to correct the details reported in Republican newspapers of an American vessel detained in the West Indies. The writer cited the vessel’s captain as his source, denied claims of unlawful treatment, and asserted that “full investigation... would prove equally groundless if not malicious” all cases cited as examples of “tame submission to British insolence.” In conclusion ‘Truth’ inquired whether the disseminators of such fabrication would not “evidence their attachment more to their country’s honor and interest if they were alike watchfully incriminating the abuses we are continually receiving from another foreign nation?” The Federalist press certainly spared no effort in such vigilance. The *Columbian Centinel* reported that “swarms of [French] privateers” covered the West Indian seas and that “the condemnation of vessel and cargo is as certain as the capture.” Henry Barber’s *Mercury* directly contrasted French actions against the improved British policy following ratification of the Jay-Grenville Treaty, noting that that while “the English, it is known, do not capture American vessels... the French Directors have chosen to take the example of the English three years ago for their present conduct.”²²

Republican journals mirrored their Federalist rivals in presenting British misdeeds as more numerous and egregious than the wholly justified actions of France. Ebenezer Riley wrote a letter widely reprinted in Republican papers after the British privateer *Melpomene* carried his

²² *Columbian Centinel*, 30 November and 3 December 1796, 8 February 1797; *Minerva*, 4 January 1797; *Gazette of the United States*, 2 January 1797; *Newport Mercury*, 7 February 1797.

brig *Recovery* into Kingston. Riley claimed that the British “board every vessel, rob the people, and impress Americans.... Two thirds of the Americans [in Kingston] are brought in for trial, and nine tenths of them condemned.” One *Boston Gazette* report summarized reputed physical abuse and other insults in several British cases involving Americans. An adjacent satirical note recounted the fictitious sufferings of ‘Captain H’ at the hands of French captors, calling him “the most unfortunate man in the world.... For every American captain that is whipped by the English, the French whip Captain H to pay for it. I have seen accounts in the papers of Captain H having been whipped half a score of times.” While British actions appeared barbaric and unrestrained, Republicans portrayed the French as generous and their seizures as rare and reluctant actions. One Charleston *City Gazette* report recounted the detention of a local brig, the *Betsey*, traveling home from Liverpool. A French privateer intercepted the brig and the officer of a boarding party inspected her papers, finding them suspiciously incomplete. According to the *Gazette* the French officer informed the commander of the *Betsey* that “had he not known the vessel to be American he would have carried him in to port.” Where Republican journals did not deny French depredations they attributed them to the odious the Jay-Grenville Treaty. A plethora of letters indicates that many sympathetic readers shared their chosen newsheets’ perspective on the just nature of French actions. One subscriber to a Republican journal in Richmond asked why, “if the British continue to plunder and search American vessels trading to France, ought not France to take the same liberties with vessels trading to Britain?” A typical Bache correspondent lamented that “the British treaty, so much extolled by the enemies of republican principles, begins to bring forth fruits; bitter, it is true, but such as we ought to have expected....” One letter to the *Boston Gazette* noted that France’s decree against American vessels would remain in effect so as long as Britain upheld the Rule of 1756, which the Jay-Grenville Treaty accepted. An

editorial comment below expressed regret at Washington's approval of a treaty "which has destroyed the confidence of our republican friends."²³

When word arrived in March 1797 of the Directory's refusal to receive Charles Pinckney as the replacement U.S. minister for James Monroe, public reaction largely conformed to the partisan patterns already established. Federalist journals presented situation as analogous to the Anglo-American war crisis of 1794, denouncing French actions as unprovoked and calling for an effective response. One widely read Federalist essayist signed 'Leonidas' reviewed the course of Franco-American relations since the outbreak of war in Europe and complained that for years in the Republican press "the basest insults upon our government or neutral rights from France not only escaped censure but found dastardly advocates." A subsequent essay attacked Jeffersonian efforts to divert American commerce toward France, even going so far as to call the British orders-in-council of 1793 "in great measure an inevitable consequence of French influence." Having failed to divert American trade from its natural, profitable course, 'Leonidas' claimed that France sought to prop up its failing revolution "by swindling those who enter her ports to relieve her from famine and by plundering all those who dare not confide in her generosity or justice." Federalist editors universally portrayed France as a chaotic failed state driven through desperation to unjustifiable depredations and unprovoked betrayal of an unoffending ally. The *Massachusetts Mercury* reprinted one British report from Antigua in early March 1797 claiming that only the theft of American property at sea supplied French Guadeloupe and kept the colony from crumbling into anarchy. A letter from an American captain purported to confirm this

²³ *Centinel of Freedom*, 28 June 1797; *Boston Gazette*, 23 January and 6 March 1797. William Booker and James Franklin founded the *Gazette* in 1719, then only the second regularly published newsheet in English America. Benjamin Edes and John Gill purchased the paper in 1755. One of the most significant Patriot journals during the Revolution, the *Gazette* continued under Edes's direction as a voice of republican radicalism until 1798. *Early American Newspapers: Selected Newspaper Descriptions by State* (New York: Readex, 1983), 10; Letter to the *Virginia Gazette* reprinted in *Greenleaf's New York Journal*, 21 January 1797; *City Gazette*, 12 January 1797; *Aurora*, 1 February 1797.

assertion, claiming that almost inescapable privateers swarming near Guadeloupe “hardly endeavor to excuse their knavery by any pretense. Ask the pirates themselves if at any time during the war British cruisers molested American commerce in such a manner, and they cannot prove that there ever was such a time.” Through such reports Federalist journals implied that radical politics inevitably produced social and economic chaos—consequences American ‘Jacobins’ threatened to import.²⁴

While the Federalist press raised the specter of anarchy, Republicans worried that proposed increases to military spending threatened tyranny. Opposition journals continued to downplay any cause for offense in French actions and promote commercial coercion as a safer, cheaper, and more enlightened alternative to military spending. The *Boston Gazette* printed one letter from an American merchant in Kingston, Jamaica arguing that while he viewed French actions as “improper, unjust, and unmanly,” he also regretted that “our administration has given some cause for remonstrance.” The correspondent asserted confidently that a two-month embargo would “reduce the inhabitants here to the most painful extremity,” thus forcing a change of policy in Britain that would in turn produce better treatment from France. Republicans viewed the Federalist reaction as evidence of a monarchist military plot. A *Gazette* editorial complained in June as the special Congressional session debated Theodore Sedgwick’s defense bills that “the very men that bawled *peace* as a reason for the acceptance of a treaty that was universally accepted to be bad are now hallowing for war because the French are treating us as the British did then and do now.” When Adams appointed John Marshall and Eldridge Gerry to join Pinckney peace envoys to France, Republicans dismissed the move as a fig leaf designed only to offend the Directory and deflect blame onto France for starting the war Federalists coveted. One Greenleaf correspondent detected hypocrisy from men who had advocated

²⁴ *Columbian Centinel*, 20 and 31 May 1797; *Massachusetts Mercury*, 7 and 10 March 1797.

ratification of the Jay-Grenville Treaty on the basis that it averted war. He asked rhetorically, “now that it is war with France that is talked of, why such haughty language of equipping frigates?” Republicans answered their own question through accusations that the administration aimed to establish a *de facto* defensive alliance with Britain. A subsequent contributor to *Greenleaf’s Journal* labeled John Adams a notorious and self-professed admirer “of the British form of government.” He expressed skepticism regarding the new government’s commitment to true peace, calling Adams and his cabinet “avowed approvers of the late administration, and the British treaty—the manifest cause of the umbrage between [the U.S. and France]. I ask, under these circumstances, what probability is there of meeting with success?”²⁵

Despite opposition efforts and the initial success Republicans in Congress enjoyed in blocking defense measures, the tide of public opinion turned heavily toward the Federalists early in 1798 in the wake of news that the Directory had rejected the envoys. In the *Columbian Centinel* ‘Marcius’ declared that while “the olive branch [may] still wave on our land, it must also wave on the topmasts of our warships... peace without preparation is abused.” ‘Marcius’ attempted to reinforce the connection between naval preparedness and commercial success in a later issue, attacking Republicans who opposed funds for the frigate and misrepresented “arming to defend against unprovoked outrages... as an open declaration of hostilities.” He also cast French depredations as a threat to the entire nation in language designed to counter the logic of Jeffersonian agrarianism, warning that “when commerce falls agriculture must perish with it.” Calls for naval armament only increased following publication of the XYZ dispatches. Regarding Connecticut Federalist John Allen’s support for naval legislation in Congress, one *Courant* correspondent wished “that the same spirit could be roused in every member of the House. Unanimity in such just indignation... would soon put an end to the insults offered to our

²⁵ *Boston Gazette*, 1 May 1797; *Greenleaf’s New York Journal*, 21 June and 1 July 1797.

country.” Several weeks later a Philadelphia correspondent of Henry Barber’s *Newport Mercury* celebrated the adoption of defense legislation. Brushing aside Republican fears of unsustainable national debts the commentator asserted that “the capacity of the United States to defend its commerce is greater than most persons have believed.... A great trade will sustain a great navy.” The writer then transitioned seamlessly into comments reflecting his belief that French depredations represented a broader conspiracy against constitutional government, stating that only through the nation’s own “folly will we remain twenty years longer under the guardianship of any European nation. There is treachery in all foreign protection.”²⁶

Republicans continued to suspect a domestic aristocracy as the most likely source of treachery and constitutional corruption. Daniel Dodge’s Newark *Centinel of Freedom* warned that Adams intended “to plunge this country blindfolded into a war with France” and recited old arguments blaming the Jay-Grenville Treaty for intentionally causing the crisis. A true Jeffersonian, Dodge believed that anti-republican reactionaries intended to use war to bind the people under a burden of taxation sustaining an inflated military benefitting only them. He warned that involvement in the conflict would necessarily subject Americans to “expenses and derangements proportionate to those of the other powers.” A contributor to Boston’s *Independent Chronicle* signed ‘A Republican’ likewise painted the crisis as the work of a corrupt aristocratic elite dependent upon public coffers for its ill-gotten livelihood. The writer complained that while President Adams and his son John Quincy “have received from the public money 80 thousand dollars within two years” the nation had gained nothing besides “a war with France in some

²⁶ *Columbian Centinel*, 7 March and 4 April 1798. Treasury Secretary Oliver Wolcott used the pseudonym ‘Marcius’ several years later and may have been the author of this piece; *Connecticut Courant*, 14 May 1798; *Newport Mercury*, 10 July 1798. The weekly *Newport Mercury* dated to 1758 and enjoyed considerable regional influence in New England and some notoriety beyond. It became a partisan Federalist organ from Barber’s acquisition 1780 until its last issue in 1809. Barber died in 1800 but his faithful widow Ann continued publication for nine further years. Isaiah Thomas, *The History of Printing in America, with a Biography of Printers* (New York: Burt Franklin, 1810), 2:89-91.

measure aided by... his own imprudent speeches to Congress.” To Republicans, only Britain’s corrupting influence could account for such betrayal. In Bache’s *Aurora* ‘A Centinel’ claimed that Britain’s countervailing duty increases rendered “the protection of British trade and the importation of British manufactures an object repugnant to America,” and that only madmen or “treacherous Americans seeking to advance British interests” could continue to support the Jay-Grenville Treaty at the cost of war with France.²⁷

Republican journals continued to protest Federalist toleration of perceived British provocation contrasted with their calls for expensive naval measures in response to France. In April 1798 the *Independent Chronicle* reprinted a letter from an American captain to his employer written after losing his vessel in a British prize court. The distraught officer lamented “that our merchants have very little mercy to expect from the courts of vice-admiralty.... Is it possible that our government has grown so pusillanimous as not to take notice of such proceedings and devise some means of satisfaction?” Thomas Adams and other Republican editors promoted commercial coercion as the safest and most reliable means to that end. The next issue of the *Chronicle* carried a letter from an unnamed Pennsylvania Republican reeling off the usual denunciations of the Jay-Grenville Treaty before claiming that Federalists sought a British alliance in order that “our constitution may be made favorable to monarchial and aristocratical views.” The writer cautioned that “the mere circumstance of war will have a tendency that way. A state of war strengthens the hand of the executive....” He rejected Federalist justification of naval spending on the basis of projected commercial benefits, warning “that no navy was ever able to protect a trade completely.... Sea armaments always cost many times more than the profits of commerce.” Republican journals celebrated public meetings calling for peace in

²⁷ *Centinel of Freedom*, 27 March and 10 April 1798. Daniel Dodge, brother of Essex County’s Republican faction leader, established the *Centinel* in 1796. The journal rapidly gained considerable regional influence. Despite numerous management changes it remained a Jeffersonian mainstay for more than two decades. Pasley, *Tyranny of Printers*, 132-52; *Independent Chronicle*, 5 April 1798; *Aurora*, 5 April 1798.

similar terms. One statement adopted at a meeting in Caroline County, Virginia denounced war as “an evil of a moral and political magnitude.... War begets taxes and the people must pay them; war incurs debt and the people must redeem it; war makes a government stronger by making the people weaker.” The Virginians rejected French depredations as a *casus belli*, instead accusing the Jay-Grenville Treaty of having subverted American trade to virtual colonial status. The resolutions asked rhetorically whether the nation would enter a “war with France over the protection of British commerce? America! Who would not war with Britain on account of the seizure of her own products in her own vessels! If our own products are not worth a war, shall we fight for the products of Britain?”²⁸

While Republican newspapers bemoaned the corruption of free government, their Federalist rivals praised President Adams orders for U.S. men-of-war to meet French vessels with all necessary force. They rushed to crown with laurels any sign of the policy’s success. In November 1798 William Cobbett’s *Porcupine’s Gazette* contrasted the fruits of firm resolution favorably against the state of the Directory’s rejection of the envoys. Cobbett claimed popular support for naval measures and “the wisdom and firmness of the government” had produced “a release of American shipping and seamen with an order to all the ports in the republic to treat Americans well.” Cobbett’s optimism proved premature as France had only partially relaxed its detention of American vessels, but Federalist editors lauded government policy all the same. One letter from an American in Paris to the *Courant* exulted over the accounts “from home of a spirit truly worthy of the American name.... The attitude our people and government have taken has raised them in the opinion of the European world.” The jubilant expatriate contrasted American “forbearance and longsuffering” against “depredations that far exceeded anything that England

²⁸ *Independent Chronicle*, 3 and 7 May 1798; Caroline County resolutions reported in the *Centinel of Freedom*, 8 May 1798.

has ever done.” He urged Americans to silence domestic Jacobins and sustain the resolute spirit “that will beyond all doubt carry us through the dangers and difficulties that weak and wicked men have brought upon us.”²⁹

Republican editors placed more stock in a letter from another American in Paris—acclaimed poet and former U.S. consul in Algiers Joel Barlow. The outspoken radical spent several months in the French capital associating with men such as Thomas Paine. In late 1798 he wrote a letter accusing the administration of causing the Quasi-war and denouncing public anti-French rhetoric. Charles Holt’s New London *Bee* and many other Republican editors reprinted the letter with favorable comment. Barlow noted that “it is remarked here with great truth that there is more dirty calumny against France in America than in the London papers.” He urged President Adams to recall Pinckney and Marshall “and send Madison or Monroe to take their place.” Even as diplomatic tension flowered into undeclared Franco-American hostilities at sea Republicans continued to blame the Jay-Grenville Treaty for causing the crisis, issue warnings as to the dangers of British naval supremacy, and appeal for peace. One editorial in the *Independent Chronicle* signed ‘Democritus’ stated that Federalist enthusiasm for “every naval advantage the fortune of war has given to England” inspired him to reflect upon “the natural consequences that would follow from the destruction of Gallic maritime power.” Detailing those reflections in quintessential Jeffersonian terms, he commented on the notorious “monopolizing spirit of the British government” and warned that after a total defeat of French naval power “Britain would instantly tyrannize the commercial nations of the earth.” In his next issue Thomas Adams printed

²⁹ *Porcupine’s Gazette*, 5 November 1798. William Cobbett, a former British radical, spent some years in political exile in Paris during the early 1790s. Horrified by Robespierre’s excesses, he gravitated toward the Federalists after his arrival in Philadelphia and viewed the Jeffersonians as American Jacobins. From March 1797 until his return to England in late 1799 Cobbett published the pugnacious and unrestrained *Porcupine’s Gazette*. His withering editorials, often reprinted in other journals, provided a corresponding voice to the equally aggressive *Aurora* when partisan politics were at their most divisive. Mary Elizabeth Clark, *Peter Porcupine in America: The Career of William Cobbett* (New York: Beekman Publishers, 1974); *Connecticut Courant*, 17 December 1798.

resolutions adopted at a public meeting in Rutland County, Vermont protesting that “naval armament under exciting circumstances seems to us an unnecessary expense... exceeding all probable calculations of commercial profit.”³⁰

Like their leaders in Congress, Republican editors and subscribers did not view the war in strategic but rather ideological terms. Naval warfare meant taxes, which bred ‘aristocratic’ corruption of government; French naval defeat meant British hegemony, which meant commercial vassalage to the champion of global monarchy’s anti-republican reaction. When news arrived in April 1799 of Thomas Truxtun’s victory over *L’Insurgente* many Republican journals marginalized discussion of the battle. Charles Holt placed the most sparing account of the action alongside a lengthy pseudonymous essay signed ‘A Patriot of Seventy-five,’ which rehearsed old complaints that navies “cost more than our trade is worth.” The essayist also attacked hypocritical defenders of the Jay-Grenville Treaty for permitting British spoliations far more costly than the acts of French privateers. Daniel Dodge also granted the engagement only a sparse mention but devoted two columns to favorable commentary on Lucien Hauteval’s ‘letter to the American government and people.’ Better known as French Foreign Secretary Charles Tallyrand’s agent ‘Z,’ Hauteval portrayed the Quasi-war as the triumph of a cynical British plot to maneuver the United States into an anti-French naval alliance. Dodge worried that naval spending promised only to involve American’s in Europe’s endless wars as a British client-state. He highlighted Hauteval’s warning that the United States “cannot form a [navy] without the aid

³⁰ New London *Bee*, 28 November, 5 and 12 December 1798. Jeffersonian printer Charles Holt’s short-lived New London *Bee* operated from June 1797 only until 1802. It died in part due to opposition from local Federalist leaders, but for a short time did establish a somewhat influential Republican voice in the Federalist heartland. Holt gained the widest circulation of any New England opposition paper at the height of the Franco-American crisis and through the pivotal election of 1800. Benjamin Tinkham Marshall, *A Modern History of New London County, Connecticut* (New London, Conn.: Lewis Historical Publishing Co., 1922), 119; *Independent Chronicle*, 28 February and 4 March 1799.

of England and therefore it must act agreeably to the will of that power.... The final consequence would be the establishment of English tyranny.”³¹

The Federalist press greeted the Quasi-war with unbridled enthusiasm, reveling in a sharp rise of public support for the Adams administration. One letter to Minns and Young from a British correspondent in Barbados celebrated American naval success over lawless French privateers as a boon to the commerce of all nations. Noting the recent arrival the USS *United States* the writer stated that “whatever success attends commodore [John] Barry will but increase the public esteem which he already possesses.” But Federalists did not view the U.S. Navy’s significance as purely diplomatic or strategic. A correspondent of the *Newport Mercury* wrote to Henry Barber from Philadelphia regarding the “contemptuous eye” through which European powers previously perceived “our magnanimous forbearance and love of peace [as] pusillanimity.” Thanks to naval armament Barber’s correspondent perceived a new state of affairs. The fledgling navy, expanded with great industry from virtual non-existence to thirty-nine vessels, successfully protected commerce and had “completely frustrated [France’s] perfidious designs.” But more importantly, the commentator exultantly claimed that through undeniable naval success “domestic enemies have been entirely baffled and the government can count on the general support and affections of the people.” Naval triumph over the visible excesses of Jacobin lawlessness contained symbolic poignancy for Federalist stalwarts. Every cannon shot landed also scored a secondary victory over anti-naval radicals at home.³²

Unsurprisingly the prospect of peace polarized the American public as intensely as the reality of hostilities. When Adams responded French peace overtures in late February 1799 with the nomination of Maryland Federalist William Vans Murray as envoy many Republicans

³¹ ‘A Patriot’ appeared originally in the *Richmond Examiner*, reprinted in the *New London Bee*, 3 April 1799; *Centinel of Freedom*, 2 April 1799.

³² *Newport Mercury*, 26 February 1799; *Columbian Centinel*, 6 April 1799; *Massachusetts Mercury*, 9 April and 24 May 1799.

questioned his motives. William Duane called Adams's choice "irreconcilable" and asked whether a President "seriously desirous of accommodation would call his antagonist a rascal, scoundrel, and villain?" Federalist editors expressed skepticism of a contrary nature. William Cobbett dismissed Duane's report of Murray's nomination out of hand, quoting the President's statements as to the futility of further diplomacy and stating that he could not even consider the rumor as "within the compass of possibility." The *Newport Mercury* also dismissed the likelihood of diplomatic success, asserting that only arms "can protect our commerce from the voracious fangs of French pirates." Barber urged Americans to "rally round your government—look on Frenchmen with an eye of suspicion and prepare to meet them as enemies, with a sword."³³

Federalist editors questioned the sincerity of French overtures, taking pains to highlight ongoing depredations as proof of some further diplomatic ruse liable to produce only insult. Benjamin Russell reported in March 1799 the ordeal of the Newburyport schooner *Thankful*, whose commander suffered the anguish and indignity of witnessing his French captors "feast on his fowls, butter, peas, etc. while he was put on ship's rations and his people were forced to sleep in the hold." After recounting this outrage, Russell's correspondent asked rhetorically who could remain "ignorant of French falsehood and perfidy?" An item appearing in the adjacent column commented on the recently published letter of General Edme Etienne Desforneaux, Governor of Guadeloupe, hinting at French willingness to receive an American envoy. Russell dismissed the letter as "calculated either to induce [the U.S.] to relax in the vigorous [defense] measures so happily adopted... or to be made use of as a means of opposition by those among us still willing to justify the acts of these lawless depredators." Russell insisted that the navy alone could procure satisfactory peace terms, and attacked Republican complaints against the cost of defense

³³ *Aurora*, 2 March 1799; *Porcupine's Gazette*, 20 February 1799; *Newport Mercury*, 5 March 1799.

by claiming that “annihilation of the alliance with France... would be a valuable boon if acquired at five times the amount.” As with the Jay-Grenville Treaty, peace terms raised broad ideological concerns relative to domestic politics. Federalists hoped to dissolve the nation’s bonds to radical France as fervently as Republicans despised a perceived alliance with ‘monarchical’ Britain.³⁴

Republicans distrusted Adams, but most nevertheless hoped for restored relations with revolutionary France. Opposition editors worked assiduously to contrast French actions favorably against British depredations permitted under the Jay-Grenville Treaty, regularly featuring columns ironically headed ‘British amity’ reporting every perceived maritime abuse. The *Centinel of Freedom* printed news of Murray’s nomination as envoy alongside details of a British privateer’s seizure of the schooner *Vandyke* off Cuba, specifically noting that the American seamen “were treated with great barbarity.” Several months later, as Oliver Ellsworth and William Davie prepared to join Murray in Europe, new proprietor of the *Independent Chronicle* Ebenezer Rhodes placed a column praising “the vigilance of the United States ships of war” and professing his hope for Anglo-American friendship immediately adjacent to an unsympathetic report of the condemnation of an American schooner in Nassau. His next issue carried a letter from an American merchant who after receiving insults from officers of the HMS *Daphne* while sailing under Royal Navy convoy complained that “the British are worse enemies than the French.” Subsequent issues of the *Chronicle* followed with interest the merchant’s public appeals for diplomatic protest regarding his ordeal.³⁵

Temporary suspension of the claims commissions established under articles VI and VII of the Jay-Grenville Treaty coincided with the renewal of France-American peace talks. Republicans placed great emphasis on what they viewed as a symbolic contrast in events. Boston

³⁴ *Columbian Centinel*, 2 March 1799.

³⁵ *Centinel of Freedom*, 2 April 1799; *Independent Chronicle*, 23 and 26 September 1799.

merchant Benjamin Austin complained to Rhodes that “notwithstanding assurances that American trade should be hereafter secured, depredations have increased tenfold.” He went on to assert that while “all the blessings contemplated by the advocates of the treaty appear disputed,” the compact had indisputably caused “a serious controversy with France.” A similar editorial in the Charles Holt’s *Bee* signed ‘A Lover of Justice’ denounced sarcastically rulings in Kingston’s vice-admiralty court permitted under “Mr. Jay’s *blessed treaty of amity*.” Another editorial repeated common warnings that if Britain prevailed in Europe “we shall find our trade more restricted than by all the powers of Europe.” Holt noted that “accounts of British spoliations, detentions, impressments, and flagellations flow in apace,” and accused his Federalist “brother printers” of assaulting “French perfidy, piracy, and murders” while maintaining a conspicuous “studied silence upon the conduct of Britain?”³⁶

Federalist printers not only remained silent as to British seizures, but also continued to question the wisdom of sending envoys to France. In mid-November 1799 John Fenno Jr. celebrated a report of a further delay to the envoys’ departure. He tied the news explicitly to the instability of radicalism, speculating that the delay “was probably rendered indispensable on account of the daily ups and downs of that government, for the men who were in power at the time assurances were received are now perhaps in a dungeon.” Some Federalist journals expressed more circumspection. Benjamin Russell gave qualified support for the peace commission, admonishing readers that “it is better to be humble in our endeavors to avoid a ruinous war, than by stubborn pertinacity or unyielding animosity to provoke one.” But Russell nevertheless continued to justify British maritime policy relative to the actions of France. One letter to the *Centinel* in mid-October commented with regard to several recent high-profile

³⁶ *Independent Chronicle*, 10 October 1799. Austin adopted the pseudonym ‘Old South’ in ironical reference to the meeting house where Boston Federalists had proclaimed the expected benefits of the Jay Treaty; *New London Bee*, 9 October 1799.

condemnations of American-claimed property in British courts that “in time of war the citizens of nations least powerful at sea will make use of neutral flags to cover their property.... It must be admitted that a belligerent power has a right to arrest such property on the ocean.”³⁷

During the Anglo-American war crisis of 1794 Republicans in Congress advocated coercive measures such as sequestration in part to ensure that Jay’s diplomacy would not appear responsible for concessions granted. Likewise during the peace envoys’ sojourn in Paris Federalist journals celebrated the Quasi-war as a rousing success, portraying the navy as sole author of the improvement in American fortunes. In May 1800 a *Courant* report of a French cruiser detaining the brig *Neptune* sailing to London claimed that French officers inspected her papers and released her, directing the vessel’s master Gilbert Totten “to inform our friends in America that vessels laden with American property... would in future be respected by French cruisers.” The following month Hudson and Goodwin printed a letter from South Carolina Federalist Robert Goodloe Harper as their opening salvo in the Presidential election campaign. Harper described Jefferson’s faction as domestic enemies of constitutional government and adjured “all men of sense and reflection” to recall that so many of the measures Republicans had steadfastly opposed “have been approved by experience.” He went on to remind Americans of the “dreadful consequences” predicted from the Jay-Grenville Treaty and the fact that “our commerce has since its adoption flourished more than ever.” The British treaty and a firm response to France Harper presented as related elements of Federalist protection of the trade upon which all Americans relied. He stated with pride that “our navy, which [Republicans] cried

³⁷ *Gazette of the United States*, 12 October 1799. Fenno Jr. assumed control of his father’s paper following his death of yellow fever in 1798, somewhat poetically during the same epidemic which claimed Benjamin Franklin Bache’s life; *Columbian Centinel*, 30 and 23 October 1799.

out against as too expensive to be supported and too inconsiderable to do any good, has protected our commerce, raised our national character, and taught the French to respect our rights.”³⁸

Naturally the Republicans rushed to refute such Federalist chest-beating during the furious weeks of pre-election newspaper activity. One widely reprinted agrarian essay signed ‘A backcountry farmer’ appearing originally in the *Raleigh Register* accused Federalists of passing the cost of protecting British trade to American producers and failing to furnish proof that the actual value of the commerce defended exceeded the costs. The farmer denounced new taxes as “burdensome and extravagant,” and inquired as to “whose gains are protected by these naval armaments?” The essayist concluded in a familiar Jeffersonian tone that “the greater part of the carrying trade of this country is in the hands of British agents resident in our commercial towns, trading under the protection of our professed neutrality.” Opposition editors urged voters to defeat the aristocratic conspirators binding them to support British interests with their taxes and at the cost of war with republican France. They continued to expound upon these themes after pro-Jefferson electors secured a majority. A satirical *Bee* editorial signed ‘A forlorn Federalist’ attributed Jefferson’s electoral victory to administration leaders who “have led us into difficulties from which we cannot be extricated.” The commentary portrayed the Jay-Grenville Treaty as the root cause and very symbol of the Federalist Party’s crisis, saying “Ah, Jay! You have deprived us of your influence by imposing upon us a treaty which notwithstanding we have artfully attempted to conceal its faults as an accursed thing.” In contrast to the obvious evils of a British alliance the satirist viewed peace with France as a popular self-evident blessing. The ‘forlorn Federalist’ asked Adams rhetorically why he “did not suffer the envoys to depart with at least our external approbation? We lament that our overzealousness has deprived you of your office.”³⁹

³⁸ *Connecticut Courant*, 5 May and 2 June 1800.

³⁹ Reprinted in the *Independent Chronicle*, 6 October 1800; *New London Bee*, 5 November 1800.

News of the Convention of Mortefontaine, agreed with Napoleon's government after six months of difficult negotiation, reached America too late to influence the Presidential election of 1800 in Adams' favor. Its details only added to Federalist bitterness and frustration. The agreement failed to secure indemnification for French spoliations, which Timothy Pickering had instructed the envoys to insist upon as a prerequisite. Murray, Davie, and Ellsworth eventually dropped the point in order to secure formal abrogation of the 1778 alliance. Federalist editors rushed to condemn the perceived betrayal. Responding to rumors that the convention required French approval for any future Anglo-American treaty, John Fenno Jr. protested that "under such circumstances no man will be fool enough to say we are an independent nation." Following full publication of the terms several days later, Fenno accused France of unilaterally abandoning the mutual guarantees of 'free ships' doctrine agreed in 1778. Because the British never accepted such liberal rules, he argued, they therefore "governed themselves by the general law of nations" enshrined in the *consolato del mare*, which permitted belligerents to seize enemy property "wherever they found it on the high seas." He complained that in refusing indemnification France "contemptuously rejects our pretence to complaint." A *Columbian Centinel* correspondent reflected similarly that "it appears the advantage is all on one side and that our commissioners treated the United States as the aggressor." Noting that the convention abrogated the commercial treaty of 1778 without substituting an equivalent, the commentator inquired whether "citizens of the United States [will] enjoy in any of the French colonies privileges or immunities for their trade, navigation, and commerce?" The commercial privileges secured in the Jay-Grenville Treaty appeared to Federalists more valuable than ever in comparison. Federalist editors also seized the opportunity to place the British treaty's compromises over maritime rights into context. Ann Barber's *Newport Mercury* commented that in 1778 "France and America for their mutual convenience renounced a right which each possessed of checking the other's

commerce by search.” Resumption of those rights merely realigned both nation’s practice with prevailing legal norms and vindicated Jay’s acceptance of Britain’s right to do likewise.⁴⁰

Despite their earlier skepticism toward the Adams-appointed peace mission most Republican editors praised the convention, though cautiously. The *Independent Chronicle* approved its terms and took the opportunity to call New England Federalists a “bane to our country” and blame hard-line pro-British Federalist opposition to peace for the unfortunate Adams’ electoral defeat. The *Chronicle* ventured to hope that thanks to the President’s noble sacrifice “the designs of the British faction have been frustrated.” Several days after publication of the convention’s terms the Charleston *City Gazette* carried a glowing report of Oliver Ellsworth’s arrival in London. Peter Freneau’s correspondent commented upon “the success of his negotiations and the spirit of amity which seems to actuate them.” The writer hoped that the envoy’s presence in London might inspire article VII claims commission to resume its work, implicitly casting the entire Jay-Grenville Treaty in an unfavorable light.⁴¹

When the Senate formally ratified the convention in early February 1801, Republicans rejoiced. The *Centinel of Freedom* crowed that “the serenading of Federalists heard in the summers of ’98 and ’99 is now turned into sighs and hallow groans!” Charles Holt’s *Bee* denounced the Federalist senators who had struck out the second article calling for future negotiations on indemnification, preferring no mention of the issue to an article implicitly granting a concession rather than acknowledging a right. Holt professed his inability to “see into the policy of those wiseacres so spiteful to the convention as to wish to tear from it the one article most in our favor.” Striking a similar tone in a column backing Jefferson over Aaron Burr as the rightful President-elect, William Duane attacked the Jay-Grenville Treaty as the

⁴⁰ *Gazette of the United States*, 18 December 1800; *Columbian Centinel*, 27 December 1800; *Newport Mercury*, 6 January 1801.

⁴¹ *Independent Chronicle*, 29 December 1800; *City Gazette*, 27 and 31 December 1800.

centerpiece of a decade-long saga of Federalist anti-republican conspiracy. He claimed “the fatal treaty has basically surrendered our right of free trade to the caprice of Britain.” Duane framed the French convention in diametrical terms, viewing it as the surest grounds for protecting American commerce. The convention and Jefferson’s victory constituted in the minds of his supporters interconnected elements of a single unified triumph over an aristocratic counter-revolution. Jubilant Republican celebrations across the nation offered public speeches and toasts affirming this narrative, long reinforced in the pages of their newspapers.⁴²

Federalist journals also discussed the convention in the context of domestic affairs. One Fenno correspondent bemoaned the election of Jefferson as “the degradation of my country and overthrow, if not of her constitution and laws than, at least, of her morals and honor.” The commentator described the convention within the context of a domestic Jacobins assault on the Constitution, stating his belief “that we shall have to number the ratification of the new French treaty among the pernicious consequences of public delusion.” He supported the rejection of the second article, arguing that to discuss indemnification on any terms but inalienable right “sacrifices our citizens and twenty millions of their hard earned property, and renders us the submissive pigeon of Gallic cupidity.” Other Federalists demonstrated less implacable hostility to the convention in principle but still rejected the second article. A *Columbian Centinel* contributor hoped that the convention “will never be ratified unless the democrats consent to reasonable terms and modifications.” Republicans did consent. Both President Jefferson and the Senate eventually ratified the Convention in December 1801. The majority even of Federalist editors and their subscribers preferred peace with France to outright war, but they remained deeply uneasy at the electoral triumph of a faction they viewed as dangerous Jacobins.⁴³

⁴² *Centinel of Freedom*, 10 February 1801; *Bee*, 11 and 18 February 1801; *Aurora*, 10 February 1801.

⁴³ *Gazette of the United States*, 9 February 1801; *Columbian Centinel*, 11 February 1801.

Federalist foreboding proved largely justified, at least with regard to foreign policy. The Leaders of the Jefferson administration retained an intense distaste for the Jay-Grenville Treaty and a bitter memory of defeat in the battle over its ratification. Federalists sold the treaty in 1795-96 as a necessary if flawed compromise promising widespread material prosperity. Later events validated their claims. While the ability of the prospective treaty of 1806 to maintain peace and prosperity is not certain, the economic downturn and ultimate bloodshed at least partly attributable to Jeffersonian foreign policy are a matter of record. However else Federalists and Republicans differed, it is clear that a major foreign policy shift occurred in 1801—one ultimately measureable in blood and treasure. This shift did not, as Jerald Combs argues, stem from cabinet-level disagreement as to American geopolitical capabilities. Representative governments require a strong sense of popular support to enact and sustain major policy departures—in modern parlance, an electoral mandate. Jeffersonians believed that their ‘Revolution of 1800’ and its reaffirmation four years later granted such. They felt so because of widespread and longstanding popular interest in ideologically charged foreign policy debates. Far from representing the ‘top down’ pseudo-democracy Sean Wilentz describes, America’s newspapers during the Early Republic era facilitated a real public engagement with national issues. In so doing they directly and substantively impacted U.S. foreign policy.⁴⁴

⁴⁴ For publication information on all newspapers discussed in this chapter see Clarence S. Brigham ed., *History and Biography of American Newspapers, 1690-1820*. American Antiquarian Society (Cambridge, Mass.: Harvard University printing office, 1947).

Conclusion

“Such large and truly costly indulgences accorded to neutral commerce.”

During the months following the Jay-Grenville Treaty’s expiration in November 1804 British lawyer, abolitionist and later Parliamentarian James Stephen prepared a monograph on neutral trade entitled *War in Disguise*. Stephen signed the preface to his first edition on 18 October 1805, just three days before Admiral Horatio Nelson’s stunning victory over the Franco-Spanish fleet off Trafalgar. That event and Napoleon’s equally emphatic defeat of the Russian and Austrian armies at Austerlitz two months later completely altered European geopolitics. On land no power rivaled Imperial France from the Atlantic to the Urals, while Britain’s Royal Navy held sway at sea from pole to pole. Only thirty miles of salt water and its fleet separated Britain from an implacable foe. This, as Stephen wrote in the preface to his third edition in February 1806, “only made the maritime rights of England more important, and their immediate assertion more indispensably necessary than before to our safety and national existence.”¹

The book’s timely publication seemed to lend the force and seal of Providence to its argument. Paraphrasing an official pronouncement of the French Emperor, Stephen warned that “a single campaign, if disastrous to our allies, may realize some of the late threats of Bonaparte. He may acquire ‘a new line of coast, new ports, new countries,’ and then, he fairly tells us the consequence—‘the defeat of our confederates would be reflected back upon’ ourselves... though, I trust, he is mistaken in the insulting conclusion, that it would ‘insure our fall.’” Stephen clearly did not feel as confident of the contest’s outcome as he so defiantly professed. He devoted several hundred pages to warning his countrymen of mortal danger neutrals posed to national survival. Stephen called neutral trade “the secret conduits of a large part of those

¹ James Stephen, *War in Disguise, or, The Frauds of the Neutral Flags*. Third edition (London: C. Whittingham, 1806), vii.

imperial resources, the pernicious application of which... sustain the ambitions of France and prolong the miseries of Europe.” He complained that French revenues “appear scarcely to be impaired, much less exhausted, by her enormous military establishments and extensive enterprises, notwithstanding the ruin so long apparently imposed on her commerce.” As a result France—to the universal amazement of English commentators—escaped national “poverty, the ordinary sedative of modern ambition [and] common peacemaker between exasperated nations.”²

In theory and former practice naval superiority provided a double lever against Britain’s enemies, curtailing commerce and revenue even as it necessitated great expenditure for the defense of what little remained. Yet in 1805, despite Britain enjoying “maritime superiority more decisive” than ever, “we do not hear that the merchants of France or Spain are ruined.” Stephen called the continuation of enemy commerce in neutral vessels “the grossest invasion of our belligerent rights.” Americans trading with the West Indies claimed to carry their own fairly acquired property. But Stephen claimed that since the outbreak war they had routinely acquired “full cargoes of sugar and coffee” where previously they accepted “rum and molasses, the ordinary and ample exchange in [those] markets for the provisions and lumber of America.” He asserted that “the blindest credulity could scarcely give credit” to any explanation but the obvious truth, “that the flag of the United States... [is] used to protect the property of the French planter.” Stephen acknowledged the injustice of abuses committed under the November Order. But he also asserted that greater procedural regularity in West Indian admiralty courts would have produced justifiable condemnations in most cases, since then-inexperienced Americans attempted protection of French goods through practices “in general so gross.”³

² Stephen, *War in Disguise*, 2, 4-7.

³ *Ibid.*, 9-10, 17-21

Stephen insisted that the British government had never formally renounced the Rule of '56. The Jay-Grenville Treaty and January 1794 order-in-council, which repealed the Provisions and November Orders, subjected neutral-claimed enemy colonial produce to seizure only when carried directly to Europe. Subsequent prize court rulings interpreted these standards liberally, Stephen argued, for example accepting as legal any outbound cargo from neutral ports to enemy colonies in disregard of the Rule of '56. Nevertheless he did not view these precedents as abrogating the earlier standard. Stephen noted that while neutrals could appeal against British rules to the law of nations "the captor can have no rights but such as he derives from the sovereign." Thus if the crown chose to voluntarily suspend certain belligerent rights, no cases could possibly come up in admiralty courts challenging the less assertive standard and thereby potentially establishing it in law by precedent.⁴

Stephen also argued that neutral [particularly American] practice of 'broken voyage' so conspicuously lacked the mark of genuine property transfers as to constitute *de facto* violations of the Rule of '56. Regarding the Jay-Grenville Treaty he refused to speculate as to the "motives of His Majesty's government for granting such large and truly costly indulgences as were ultimately accorded to neutral commerce." Stephen particularly regretted that French decrees preemptively relaxing colonial regulations prior to the declaration of hostilities "were admitted by his Majesty's ministers in the discussions" with John Jay. Worse still the Lords Commissioners "adverted to them as one motive of the great indulgence shown to [American] claimants." This generosity toward neutrals partly responded, Stephen claimed, to their need to supply domestic markets with articles such as coffee and sugar. Thus Britain allowed direct trade between neutral ports and enemy colonies. Stephen lamented that, "had the neutral powers been influenced by justice and moderation, these concessions would have been satisfactory."

⁴ Stephen, *War in Disguise*, 21-5.

Unfortunately such forbearance opened the door for French merchants to protect their commerce through neutral re-exports. To guard against that possibility the Jay-Grenville Treaty's twelfth article prohibited Americans from re-exporting produce of the West Indies for the duration of the war. Stephen blamed American ratification of the treaty without that article to "the clamorous voice of the French agents," and of "selfish... merchants engaged in the new trade." Though its American critics viewed it as obnoxiously illiberal, Stephen described the treaty sans article XII as a lamentable capitulation leaving Britain without any "conventional arrangements for palliating the evils likely to arise" from the January 1794 order-in-council and Jay-Grenville Treaty. Instead, both operated "progressively... to a pernicious and dangerous extent."⁵

Optimistically hoping that "sagacious" American citizens would accept Britain's just right of self-defense, Stephen argued for various restrictions on 'broken voyage' practice. Perhaps thinking of the successful Federalist-orchestrated ratification campaign of 1795-6, he stated that America's unfettered press ensured that its population "cannot be kept in profound ignorance of the true nature of public events." Though he viewed it as unsatisfactory without article XII, Stephen cited the Jay-Grenville Treaty as cause for hope that compromise remained possible. Despite Americans' empathy for then-republican France "the moderation of Mr. Jay found a middle point of agreement," subsequent rejection of the twelfth article notwithstanding.⁶

Unless Stephen disingenuously professed such confidence in the hope of an American compromise, he failed to understand sentiment within the Jefferson administration. Republicans lacked much of their predecessors' inclination to view British maritime restrictions as anything but neo-imperial outrages. Prime Minister William Pitt's untimely death in January 1806 led to the appointment of a government under Grenville's leadership with his erstwhile rival Charles

⁵ Stephen, *War in Disguise*, 29, 35, 39-40.

⁶ *Ibid.*, 191-2.

James Fox serving as Foreign Secretary. James Monroe visited Fox for an initial interview in early February. After Monroe complained against increased seizures in the wake of the *Polly* decision, Fox indicated some willingness to suspend application of the precedent. The American minister informed Secretary of State James Madison that he viewed as “favorable... the prospect of arranging our affairs with this government, especially [respecting] our trade with the colonies of its enemies.” Both Grenville and Fox viewed the decision as an unwelcome complication. Standards for defining *bona fide* neutral transfer operating since 1794 may have encouraged re-exports to France, but they possessed the quality of simplicity. Neither man desired conflict with the United States. In a gesture of conciliation the ministry supported legislation to regularize American trade with the British West Indies for the first time since 1783—as article XII of the Jay-Grenville Treaty would have done if ratified. The American intercourse Act passed Parliament in July 1806. Unfortunately a new order-in-council adopted in May two months earlier forfeited any goodwill it might otherwise have engendered across the Atlantic.⁷

The new order, ironically designed as a clearer standard for restricting French trade less likely to offend neutral sensibilities, declared the entire French coast from Brest to the Elbe River under blockade. Few Americans believed even the Royal Navy capable of regularly policing an eight-hundred mile shore. A prospective blockade must therefore operate as intermittent and arbitrary interference with neutral trade, contravening international law. The order proved the first act in a sequence of events ultimately leading to the War of 1812. In mid-November Congressional non-importation legislation took effect. Originally presented in late March as a

⁷ James Monroe to James Madison, 12 February 1806. Stanislaus Murray Hamilton, ed., *The Writings of James Monroe* (New York: G. G. Putnam’s, 1900), 4:409-14; Bradford Perkins, *Prologue to War, England and the United States, 1805-1812* (Berkeley and Los Angeles: University of California Press, 1961), 101-4; For details on the ‘ministry of all talents’ see L.G. Mitchell, *Charles James Fox* (New York: Oxford University press, 1992) and Peter Jupp, *Lord Grenville, 1759-1834* (New York: Oxford University Press, 1985); For details and further reading on the economic war between Britain and Napoleonic France see Lance Edwin Davis and Stanley Engerman, eds., *Naval Blockades in Peace and War: an Economic History Since 1750* (New York: Cambridge University Press, 2006).

response to impressments and the *Essex* decision, the law prohibited some British imports but exempted the highest volume items. A week later Napoleon declared a ‘blockade’ from his field headquarters in Berlin, subjecting to confiscation any goods entering French or allied territory from or via a British port. Britain responded in January 1807 with a new order-in-council subjecting to capture any neutral vessel trading with ports from which French rules prohibited British merchants.⁸

The new order came one month after Monroe and William Pinkney negotiated their draft treaty with Lord Auckland and Lord Holland. Like its very similar predecessor the treaty fell short of American ideals, but the limitations it placed on belligerent prerogatives would likely have superseded the order if ratified. Following Jefferson’s rejection of the treaty in March 1807 little restrained British authorities from escalating their commercial war against France. A sequence of orders-in-council issued in November required neutrals from carrying any goods to French-controlled ports without first paying duties and obtaining a license in Britain. Napoleon declared in December that compliance with the rules rendered any vessel a *de facto* enemy. The same month Congress enacted an embargo, which Jefferson encouraged partly as a response to the *Chesapeake-Leopard* affair and partly as a unilateral alternative to the rejected draft treaty. As they had during the early 1790s, Republicans overestimated the coercive power of American agriculture and underestimated British tenacity. Though imperfectly enforced, the embargo reduced U.S. trade from a record high of \$108 million during 1807 to barely \$22 million the following year. The official value of domestic exports soon fell below \$10 million. Though dramatic, these declines did not inspire economic hardship in Britain as quickly as Jeffersonians

⁸ Despite its age the standard English-language account of Napoleon’s ‘blockade’ is still Eli F. Heckscher, *The Continental System: an Economic Interpretation*. Harald Westergaard, ed. (Oxford, Clarendon Press, 1922). For more a recent case study and or general account of French hegemony see Geoffrey James Ellis, *The Continental Blockade: the Case of Alsace* (Oxford, Clarendon Press, 1981) and *The Napoleonic Empire* (New York: Palgrave Macmillan, 2003).

imagined. Congress replaced the legislation in March 1809 with even less effective Non-intercourse Act, permitting trade with ports not under French or British control. Subsequent legislation weakened coercive legislation further, finally leaving only a standing threat to restore restrictions against the enemy of whichever belligerent fully acceded to the most liberal interpretations of neutral rights.⁹

Five years of attempts at coercive legislation achieved none of what Jeffersonians had long imagined possible through such measures. On 1 June 1812 President Madison requested Congress to declare war against Britain, closing the circle on a process begun twenty-three years earlier with his tonnage duty proposal in the House. Madison's war message dwelt at length on Britain's "novel [maritime] doctrines," particularly its "sweeping system of blockades, under the name of orders-in-council." He noted that Americans accepted the belligerent right to blockade closely specific enemy ports with sufficient and continually present squadrons. The system established for blockading France since 1806 rarely met those criteria. Despite the limitations of the Royal Navy's capabilities, Madison lamented that "the British government would neither rescind [it], nor declare its non-existence, nor allow its non-existence to be inferred and affirmed." He discussed other *casus belli*, including British support for native tribes along the American frontier. But his concluding remarks returned to his central theme, asking Congress to act in defense of "our seafaring citizens, still the daily victims of lawless violence."¹⁰

⁹ The most detailed account of the sequence of events leading to the War of 1812, and of the conflict's political history, is J.C.A. Stagg, *Mr. Madison's War: Politics, Diplomacy, and Warfare in the Early Republic, 1783-1830* (Princeton, NJ: Princeton University Press, 1983); In June 1807 the HMS *Leopard* violated U.S. sovereignty in firing upon then boarding a national warship, the USS *Chesapeake*, in search of British deserters. Spencer C. Tucker and Frank T. Reuter, *Injured Honor: The Chesapeake-Leopard Affair, June 22, 1807* (Annapolis, Md.: Naval Institute Press, 1996); For statistics see Walter Lowrie and Matthew St. Claire Clarke, eds., *American State Papers: Documents, Legislative and Executive, of the Congress of the United States: Commerce and Navigation*, 1:721, 738, 735, 789.

¹⁰ James Madison, address to the House and Senate, 1 June 1812. *American State Papers: Foreign Relations*, 3:405-7.

President Madison’s war message failed to mention that the Jay-Grenville Treaty—which William Pitt’s ministry had offered to extend—and the prospective agreement his own Secretary of State had negotiated both contained the limited definitions of blockade he described. James Stephen’s aggressive and illiberal monograph attests that ‘Mr. Jay’s treaty’ represented far from an utter capitulation to belligerent prerogatives. The rapturous reception and subsequent policy influence *War in Disguise* enjoyed contrast starkly with Grenville’s earlier willingness to defy Britain’s maritime-legal hawks. Most of the objectionable features Madison cited in his war message dated to orders issued the fall of Grenville’s government in March 1807. It is impossible to state with certainty that a treaty could have prevented enactment of the later orders-in-council. Nevertheless, the beneficial operation of the Jay-Grenville Treaty is quite clear. Though reviled by men who later cast it aside, it did limit belligerent prerogatives. British prize jurisprudence subsequently affirmed and expanded those concessions. But, as Stephen adroitly argued, these trends did not preclude a return to stricter rules. Freed from treaty stipulations to the contrary the Crown could and did reassert prerogatives laid aside in practice but not theory.

Like most conflicts the War of 1812 sprang from many causes. Some may have proved compelling enough to warrant hostilities without reference to maritime grievances. Destruction of Tecumseh’s Confederacy and permanent pacification of the trans-Appalachian West, for example, proved immensely valuable. But, as historian Donald Hickey observes, even at their worst maritime-legal disputes “never should have been considered a cause for war. Instead, Americans should have treated their losses... as the price of doing business in a world at war.” More significantly, Jefferson and Madison spurned the precedent of a treaty able to at least maintain lucrative commerce and defer diplomatic controversy to a less costly future date.¹¹

¹¹ Donald Hickey, *Don’t Give Up the Ship!: Myths of the War of 1812* (Urbana: University of Illinois Press, 2006), 25.

Appendix: Abstract of the ‘Jay-Grenville Treaty,’ 1795

[For full text of the treaty see Richard Peters, ed. *Public Statutes at Large of the United States of America* (Boston: Charles C. Little and James Brown, 1846), 8:6-31]

Article I.

“There shall be a firm, inviolable and universal peace, and true and sincere friendship...”

Article II.

Western posts to be returned by 1 June 1796. Americans may settle and trade in the region effective immediately.

Article III.

Inhabitants of British North America and the U.S. [including natives] free to cross the border between the two, and to trade freely with one another. Navigation of the Mississippi free to all; both parties mutually excluded from entering the other’s seaports and passing up into inland waters, or traversing inland waters all the way to the sea.

Article IV.

Boundary set by the mouth of the Mississippi to be clarified by survey [this moved the U.S. northern border up to the 49th parallel, above where it had been in theory].

Article V.

The border of Maine and Canada along the St. Croix River also to be clarified.

Article VI.

Five-member commission for compensating British creditors to be established in the U.S. and meet on an itinerant basis to better adjust claims. Compensation from U.S. purse; appeals process to the commission effective immediately.

Article VII.

Five-member commission for compensating American merchants for illegal maritime seizures to meet in London. Compensation from British purse; appeals to the commission permitted only where the highest regular court of appeal has refused to grant compensation.

Article VIII.

Salaries and other expenses of the commissions [except pay-outs] to be defrayed jointly.

Article IX.

U.S. and British citizens granted full and equal rights to own and sell land in both countries.

Article X.

Debts, shares, monies, public funds, or bank deposits cannot be sequestered in either country, even in the event of war.

Article XI.

Free navigation between Britain and the U.S. under the regulations outlined below.

Article XII.

American vessels of up to 70 tons free to import American produce to British West Indies at the same duty rates paid by British vessels on the same articles. Americans also free to import any produce of those islands currently permissible in British vessels, though not to re-export. The article will be in effect for two years after the close of the war, at which point discussions will be renewed as to neutral carrying rights and articles of enumerated contraband [i.e. concessions on 'free ships' principle are temporary].

Article XIII.

Americans admitted to trade with the British East Indies, though not the coasting trade, so long as articles are imported to the U.S. and not directly to Europe.

Article XIV.

Citizens of both nations free to conduct commerce, rent warehouses, etc. in the ports of the other.

Article XV.

Mutual most favored nation status granted, which permits Britain to raise duties in the home islands equal to the higher level of duty then paid by British ships in U.S. ports.

Article XVI.

Consulates to be established, etc.

Article XVII.

Prize trials to be granted without undue delay for vessels suspected of carrying enemy property and contraband, and only the enemy-owned portions of cargo to be condemned.

Article XVIII.

Contraband items listed with foodstuffs excluded, and rules for legal blockades established [warnings, effective forces present, etc.]

Article XIX.

Commanders of British privateers before receiving commissions to give bonds of fifteen hundred or three thousand pounds [depending on size of vessel] forfeit in case of illegal depredation.

Article XX.

Privateers belonging to other nations may not carry prizes taken from either signatory into the ports of the other.

Article XXI.

Citizens of either party may not accept commissions to privateer against the other in the name of a third state.

Article XXII.

No acts of reprisal will be ordered for grievances without prior diplomatic negotiation.

Article XXIII.

Both nations' ships of war welcome in the ports of the other. American vessels welcome in any British or colonial port in case of distress, though not to trade if otherwise not permitted.

Article XXIV.

Foreign privateers may not arm their vessels or sell prizes taken from either signatory nation in the ports of the other.

Article XXV.

Ships of war belonging to either nation may enter the ports of the other with prizes taken in order to purchase supplies but not to sell prizes. Ships of war may not take prizes within canon shot of the other party's coast.

Article XXVI.

Merchants of one nation conducting business in the other may continue their business in case of war between the two without loss or restriction, so long as their trade is otherwise legal.

Article XXVII.

Citizens of one party committing crimes in the other nation will be brought to justice/extradited.

Article XXVIII.

First ten articles of this treaty to operate permanently; subsequent articles, except the twelfth, to last 12 years, and the 12th to last two years after the conclusion of the present war.

London, 19 November, 1794.

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ABSTRACT

“FURTHER CONCESSIONS CANNOT BE ATTAINED”: THE JAY-GRENVILLE TREATY AND THE POLITICS OF ANGLO-AMERICAN RELATIONS, 1793-1805

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The Jay-Grenville Treaty, signed between Great Britain and the United States in 1795, resolved numerous outstanding diplomatic disputes and diffused a potential second Anglo-American war. It provided ten years of peace, and through new commercial opportunities materially aided a decade of remarkable American economic growth. Yet the treaty caused considerable political controversy in the United States. The compromise it involved on liberal principles of maritime law proved politically unpopular with instinctively Anglophobic Jeffersonian Republicans. Bitter memory of defeat in the treaty ratification later led President Thomas Jefferson to reject a second Anglo-American treaty in 1806, after the first had expired. Though not solely responsible, this decision led directly to the War of 1812.

Chapter one employs British records to show how far the Jay-Grenville Treaty improved the fortunes of American merchants in admiralty court proceedings. Chapter two uses personal papers of American merchants to examine their collective view of the treaty. Chapter three analyzes the importance of the treaty to Alexander Hamilton's theory of political economy, focusing particularly on finance and social mobility. Chapter four shows the very different theory of political held by Thomas Jefferson, explaining why the treaty proved so controversial despite its successful operation. Chapter five uses newspapers to describe popular engagement with the political issues outlined in chapters three and four, emphasizing the treaty's role in the emergence of American democracy.