

The Alien and Sedition Acts of 1798:

Reasons, Reactions and Results

A Research Paper

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Kenneth Charles Murr  
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Saint Meinrad College  
St. Meinrad, Indiana



## TABLE OF CONTENTS

CHAPTER I: BACKGROUND TO REPRESSION.....	1
CHAPTER II: FEDERALISM AND THE ALIEN AND SEDITION ACTS.....	5
CHAPTER III: STATES' RIGHTS AND THE KENTUCKY AND VIRGINIA RESOLUTIONS.....	15
CHAPTER IV: THE 1800 ELECTION: THE DEATH OF A PARTY.....	24
FOOTNOTES.....	35
APPENDIX I: THE ALIEN AND SEDITION ACTS	
NATURALIZATION ACT.....	39
ALIEN ACT.....	42
ALIEN ENEMIES ACT.....	44
SEDITION ACT.....	45
APPENDIX II: THE KENTUCKY AND VIRGINIA RESOLUTIONS	
KENTUCKY RESOLUTIONS OF 1798.....	47
VIRGINIA RESOLUTIONS OF 1798.....	52
BIBLIOGRAPHY.....	54

## CHRONOLOGY OF EVENTS

November 19, 1794	Jay's Treaty signed in London, leading to the deterioration of relations with France
January 29, 1795	Naturalization Act passed requiring five years residence and renunciation of alliances and titles of nobility.
September 17, 1796	Washington's Farewell Address
March 4, 1797	John Adams inaugurated
October, 1797	American envoys arrive in Paris
April 3, 1798	XYZ Affair reported to Congress
April 30, 1798	Navy Department created
May 21, 1798	Benjamin Stoddert appointed as the first Secretary of the Navy
June 18, 1798	Naturalization Act passed raising the residence requirement to fourteen years
June 25, 1798	Alien Act passed
July 6, 1798	Alien Enemies Act passed
July 13, 1798	George Washington accepts post as commander-in-chief of the army
July 14, 1798	Sedition Act passed
November 16, 1798	Kentucky Resolutions adopted
December 24, 1798	Virginia Resolutions adopted
1798-1799	Congressional elections win a strong majority for the Federalists
February 22, 1799	Kentucky Resolutions adopted, reasserting the Resolutions of 1798
March 18, 1799	Adams nominates a new minister to France. The Senate refuses to approve him, but consents to a substitute of a three-man commission to go.
October, 1799	After much delaying, the American commission to France leaves.
December 14, 1799	George Washington dies

September 30, 1800 American mission signs a commercial convention with France by which each party reserved its rights regarding treaties, etc.

March 4, 1801 Thomas Jefferson inaugurated as President of the United States. John Adams goes into retirement.

## CHAPTER I: BACKGROUND TO REPRESSION

For the most part, foreign affairs dominated the four years of John Adams' presidency. The young United States was caught in the middle of a struggle between France and England, so that "from 1793 to the War of 1812, whatever was gained in better relations with one belligerent was usually offset by a worsening of relations with the other."<sup>1</sup> The recent Jay Treaty, a commercial pact with England,<sup>2</sup> thus began a worsening of relations with France. Somehow, the Directory in France<sup>3</sup> wanted to force the United States into abandoning the treaty with England.

James Monroe, who had been the American minister to France, was recalled by the Adams' administration, and Charles Cotesworth Pinckney was sent over to France to replace him. The Directory, however, disapproved of this action and refused to accept the newly appointed minister. Apparently, the United States was supposed to "obey the edicts issued by Paris or suffer the consequences of France's displeasure."<sup>4</sup> Despite France's refusal, John Adams continued to rely mainly on diplomacy and, in 1797, he sent a commission to France to demand the halt of the French plundering of American ships and to insist on some payment for the losses already incurred at the hands of French privateers. The commission was made up of Elbridge Gerry, Charles C. Pinckney, and John Marshall.

When the commission arrived in France, they were not received officially by Talleyrand, the French foreign minister. Instead, Talleyrand sent three agents in his place, who were later designated as X, Y and Z in the correspondence released to Congress by Adams. These agents demanded from the American envoys a total of £50,000 as a gift, plus a promise of a large loan later on, and the disavowal of certain passages in President Adams' message to Congress which were considered as offensive to the French. Although the envoys had been prepared to pay a small gift to get negotiations underway, Talleyrand's demands were simply too high. In protest, Marshall and Pinckney left France immediately, but Gerry stayed there in order to keep some sort of diplomatic link open between the two nations.

Back in America, John Adams, having received correspondence from the envoys concerning the mission there, informed Congress that negotiations with France had been broken off. At the same time, he asked Congress for appropriations to strengthen the American military defenses, both the army and the navy. Before taking any action, however, both parties in Congress, with the Republicans being the more vocal, demanded to see the correspondence that had so upset the President. Adams responded quickly by releasing the correspondence to Congress as requested, and "the French government stood revealed as having treated the United States with the contempt it usually displayed toward a third-rate power it was about to revolutionize."<sup>5</sup> Beginning in the Congress itself, war fever

swept across the country, with Americans everywhere rallying around the slogan "Millions for Defense but not one cent for Tribute."

President Adams and the Federalist majority in Congress began to prepare the country for what seemed to be an inevitable war with France. The size of the army was increased substantially, with George Washington, who had been called from retirement, as the commander. Despite Adams' protestations, Alexander Hamilton was appointed second in command at Washinton's request. The Department of the Navy was created, and frigates, long in planning, were finally rushed to their completion. The country, indeed, was ready to go to war.

In the midst of the confusion of a young nation preparing itself for its first major war since the Revolution, the Federalists in Congress perceived their chance to strike back at the Republicans who threatened to weaken or even destroy altogether the Federalists' control of the federal government. The Republican ranks had been strengthened and enlarged by immigrants, who generally tended to become Republicans after attaining United States citizenship. Further, the Republican press had been lashing out at Federalists for years, labeling them as monarchists who could be dangerous to the very ideals of the young republic. Toleration of the opposition was not yet a part of the American political system, and the Federalist Alien and Sedition Acts of 1798 were a good example of this lack of toleration.

Their enemies had allies who could write

and speak in the style of professional agitators. The Federalist defense took shape in a series of laws which temporarily threatened to crystallize into a policy of threatening immigration.<sup>6</sup>

This so-called defense threatened more than immigration. It also threatened some of the very ideals of the young republic. Further, it spelled the beginning of the end for the Federalist party as one of the major parties in the United States, as shall be seen later in this paper.



## CHAPTER II: FEDERALISM AND THE ALIEN AND SEDITION ACTS

With the United States still officially at peace with France, but with war seemingly imminent, the Federalist-controlled fifth Congress passed measures designed to prepare the homefront for war. The first of these measures was a package of three laws which have become known under the general name of the Alien Acts of 1798. The second and more controversial of these measures was the Sedition Act of 1798.

The first of the laws dealing with aliens was enacted on June 18, 1798 and was entitled "An Act supplementary to and to amend the act, intituled 'An Act to establish uniform rule of naturalization;' and to repeal the act heretofore passed on that subject."<sup>7</sup> The main objective or thrust of this law was to increase the time of residence required for naturalization to fourteen years (instead of five as established by the law of January, 1795). Further, the new law required that all aliens report and register to appointed officials within forty-eight hours after their arrival in the United States. If an alien failed to make such a report, he could be fined by any magistrate or justice, who would then register the alien. Finally, this new law provided that aliens, who were natives of a nation with whom the United States was officially at war, could not be naturalized until that conflict had ended.

Another alien law, entitled "An Act concerning Aliens,"<sup>8</sup>

was enacted on June 25, 1798. This law, "patterned upon a British statute of the same designation,"<sup>9</sup> provided the President with the power to deport any alien that he judged to be "dangerous to the peace and safety of the United States." Any alien who refused to leave the United States within the time limit specified by the presidential order could, upon conviction, be placed in prison for a maximum of three years and could never become a citizen of the United States. There was, however, a way out for the aliens provided by the new law. If such an alien could prove to the satisfaction of the President that he was not a danger to the United States, then that alien could be granted a "license" by the President. This license usually set a time limit for the alien to prove himself, designated a specific place where the alien could stay, and provided that the alien enter into a bond in a sum to be decided by the President. Further, this license could be revoked at any time by the President if he judged it to be a necessary action for the public safety of the United States. Also, this law provided the President with the power to remove any alien from prison and to have him sent out of the United States, if, in the opinion of the President, public safety required the speedy removal of such alien. If any deported alien returned to the United States without the President's permission, and was thus convicted, he could be imprisoned as long as deemed necessary for the public safety. Lastly, the act limited itself by providing that this law would be in force for only two years from the date of its enactment.

The last of the Alien Acts was "An Act respecting Alien Enemies"<sup>10</sup> which was enacted on July 6, 1798. This act, more than any of the others, was a war measure. It provided that, in case of any declared war or invasion by another country, any aliens who were natives of the hostile nation and who were not yet naturalized, could be "apprehended, restrained, secured and removed, as alien enemies." Further, this law gave the President full power to decide who should be removed and how to handle those restrained under the law. Finally, the law provided the President with the power to establish any other regulations he deemed necessary for the public safety.

These three laws, then, made up what is now called the Alien Acts of 1798. Probably the most significant idea contained in the acts themselves was the tremendous amount of power entrusted to one man, the President of the United States. In effect, the Alien Acts gave the President alone power to decide who would be allowed to become a citizen of the United States and who would not. Truly, this power could be a very important source of control in a country that was still growing and forming itself.

On July 14, 1798, the Federalists, under the maxim that "Government should be a terror to evildoers,"<sup>11</sup> enacted "An Act for the punishment of certain crimes against the United States."<sup>12</sup> This law, known as the Sedition Act of 1798, passed the fifth Congress by the slim margin of three votes (forty-four ayes to forty-one nays), with only two aye votes

coming from south of the Potomac.<sup>13</sup> Section 1 of this act states that anyone found guilty of participating in any "insurrection, riot, unlawful assembly, or combination" against the United States are guilty of high misdemeanors. Those thus convicted would then be subject to a fine not to exceed five thousand dollars and to imprisonment for not less than six months nor more than five years.

The more controversial part of the Sedition Act was contained in Section 2 of the law. This part of the law dealt with sedition against the government of the United States, either House of the Congress, or the President, whether that sedition be "written, printed, uttered or published." Any person convicted of such sedition in any court of the United States would be subject to a fine of not more than two thousand dollars and imprisonment not to exceed two years. Section 3 of the Act, however, made this sedition law one of the most liberal laws at that time concerning libel, for it "made truth a defense, made the jury judge of the fact of libel, and required proof of malicious intent."<sup>14</sup> Finally, the act set March 3, 1801, as the expiration date for the law.

"Like the deportation policy, it [the Sedition Act] was mainly due to the fear of radicalism."<sup>15</sup> Unlike the Alien Acts, however, the power of the Sedition Law was placed mainly in the hands of the courts of the United States, instead of in the hands of the President alone.

In general, the Alien and Sedition Acts of 1798 were enforced only sparingly. Insofar as the Alien Acts were

concerned, enforcement was at the bare minimum, even though many aliens left the United States while they were in effect. "There are indications, if not proofs, that a considerable number of aliens, anticipating the enforcement of the law, left the country."<sup>16</sup> The majority of those leaving then were Frenchmen who anticipated, as did most of the country at the time, that France would soon be at war with the United States. Thus, it was generally a matter of leaving voluntarily before they were expelled by the United States government unvoluntarily.

Enforcement of the Sedition Law, however, was yet another matter, despite the fact that it "authorized no administrative enforcement procedures."<sup>17</sup> In all, the administration brought fifteen indictments for seditious libel before the courts, but only ten of them resulted in convictions (among those convicted were three of the most prominent Republican newspaper editors in the country). As one would probably guess, the road from indictment to conviction was never a smooth one for the courts.

Charges of unfairness were numerous. They turned chiefly upon the alleged packing of the juries, the construction of the law by the courts, and the general deportment of the judges at the trials.<sup>18</sup>

In effect, the Alien and Sedition Acts of 1798 were party measures on the part of the Federalists, who constituted a majority in both Houses of Congress at that time. The Federalists were men of their time in 1798. They realized, and some even hoped for, that war was imminent with France,

and truly united effort, they believed, depended on total unity within the United States. They also knew that, if something was not done soon, they would soon find themselves out of power in the federal government. Thus, they argued for the Alien and Sedition Acts "out of a reasonable mixture of conviction and self-interest."<sup>19</sup> The Federalists in Congress did not think that the Acts were extremely harsh, especially considering the alternatives of a possible split within the United States at a time of war. Not all Federalists, however, were totally in favor of the Acts. In fact, one newspaper that supported the Federalists once wrote: "It is patriotism to write in favor of our government—it is sedition to write against it."<sup>20</sup> Generally, though, all Federalists backed the Acts and hoped that they would be effectively enforced.

After much careful deliberation, one famous and influential Federalist came out in favor of the Alien and Sedition Laws. George Washington gave all the laws his "blanket approval".<sup>21</sup> His reasons were numerous. One reason was his experience in the past of being attacked (mostly without provocation) by the Republican papers and by Republican politicians themselves. Another reason was his love for order. Washington feared that the splits caused by the constant lashing of the government could destroy the young nation, and the Sedition Law provided a means for controlling this. Finally, Washington approved of the laws because of his hatred of factions. In his farewell address, he had warned against the development of political parties in the United

States. Despite this warning, however, factions and parties had continued to grow during the Adams administration. In the Sedition Act, Washington hoped for the gradual unification of the parties, which he believed would assure the strength of the young nation. When a man of Washington's stature and influence backed the Acts, many Federalists who had been a little slow in backing the Acts came out more strongly in favor of these laws.

Alexander Hamilton was another Federalist who strongly advocated the broad usage of the powers provided by the new laws. Hamilton feared for the future of the Federalist party in the federal government, and, in the Alien and Sedition Acts, he perceived a chance for his party to keep a firm grasp on its power. Thus, he became the leading advocate of their enforcement. After a while, Hamilton began to be dismayed by the fact that Adams had not executed the laws in a more vigorous manner. So badly did he want these new laws to be used that he went to the Speaker of the House of Representatives and advised him that "if the President requires to be stimulated, those who can approach him ought to do it."<sup>22</sup>

Many other Federalists also advocated and commended the new laws, including Senator James Lloyd of Maryland and Representative Robert G. Harper of South Carolina, who had collaborated in the drafting and initiation of the legislation in their respective Houses of Congress. But the one man who was in a position to make the laws more of a threat to all concerned was apparently not quite ready to do so. This man

was John Adams, President of the United States at the time of the passage and enactment of the new laws. In his hands was the power to make these new laws an effective weapon in the battle against faction, and in particular against the Republicans. Yet he was content to let the laws alone, at least for the moment.

Two things about Adams show that he did in fact approve of the Alien and Sedition Acts. First of all, Adams' approval is shown by the fact that he did indeed sign the bills into law. It is obvious, especially in the case of the Sedition Act which passed only by a margin of 44-41, that Congress would not have been able to get the two-thirds majority necessary to override a veto by the President, if Adams had not chosen to give the laws his signature. Thus, at least by not stopping the enactment of the laws, Adams showed his approval of them. A second thing that points to Adams' approval was his comments on the freedom of the press and his convictions about the entry of aliens. In regard to Adams' feelings about the press:

John Adams. . . had long argued that "license of the press is no proof of liberty". . . "There is nothing in the world so excellent that it may not be abused. . . When a people are corrupted, the press may be made an engine to complete their ruin."<sup>23</sup>

Thus, Adams seems to have been convinced that complete freedom of the press could be a danger to the young nation. From this it follows that he would approve of something like the Sedition Act which put controls on that press and kept it



from disrupting the nation.

Adams was also suspicious of America's policy of accepting aliens so easily.

He agreed in principle that America's too easy admission of strangers to the privileges of citizenship was a fault, which had contributed to tumbling the "friends of government from power."<sup>24</sup>

Whether Adams disapproved of the United States' lenient naturalization laws because of his love of country or because of his fear of losing power is not evident. A combination of both seems to have been the case. But one thing is apparent from this, Adams did approve of the tightening of restrictions on aliens entering the United States.

Further, Adams believed both the Alien and Sedition Laws to be completely within the limits of the Constitution, something that would be challenged many times before the laws expired. Finally, concerning the need for such legislation, Adams wrote to the Boston Patriot ten years later: "I knew there was need enough of both, and therefore I consented to them."<sup>25</sup>

Despite the fact that he approved of the new laws and saw a need for them, John Adams never really tried to enforce the Acts. In the case of the Alien Acts, he was contented to let them work for themselves, as they did. Many Frenchmen, fearing their enforcement, fled the United States. As to the Sedition Law, Adams left its enforcement to others, such as his Secretary of State Timothy Pickering of Pennsylvania, and to the federal judges.

Even though the new laws were not vigorously enforced, the fact remained that they existed, and this was threat enough to excite much controversy in the United States.

While organizing defense and drumming up war enthusiasm, the Federalists did not neglect enemies at home. The Naturalization, Alien, and Sedition Acts of 1798 were aimed at domestic disaffection as much as foreign danger. These laws provoked the first organized states rights movement under the Constitution.<sup>26</sup>

It is this movement that will be the subject of the next section of this paper.

### CHAPTER III: STATES' RIGHTS AND THE KENTUCKY AND VIRGINIA RESOLUTIONS

With the Alien and Sedition Acts becoming law, the Republicans sensed a definite threat to their existence as a part of the young United States government.

Clearly, the Federalists were closing the avenues of ordinary political propaganda to their enemies in the crucial years before the presidential election of 1800. If the Republicans were to be silenced, they could not win. Secondly, there was acute fear that these laws revealed a move on foot to alter the structure of the Republic in order to establish a monarchy in its place.<sup>27</sup>

Thus, the Republicans, at least in their own minds, had to fight a life and death battle not just for their own existence but for the very existence of the young nation that many of them had worked so hard to build. Many Republicans were ready to form armed resistance against the federal government, and indeed many plans were made to do so. But two of the most prominent Republicans in the country, Thomas Jefferson and James Madison, sought a more peaceful type of resistance. The result of their search was the Kentucky and Virginia Resolutions of 1798.

On November 16, 1798, the state legislature of Kentucky adopted a series of nine resolutions dealing with the Alien and Sedition Acts. The Resolutions were secretly authored by Thomas Jefferson, who kept his connection secret for fear

of prosecution under the Sedition Law he was protesting. John Breckinridge, then, introduced and sponsored the Resolutions through their passage in the state legislature.

"The Kentucky Resolutions formulated the explicit doctrine that the Union is a compact among the states."<sup>28</sup> This so-called "Compact Theory" of the Constitution was something new on the American scene in 1798, and Jefferson was very careful to define exactly what he meant by it. Every resolution contained in the Kentucky Resolutions of 1798 depended to a greater or lesser degree on this compact theory, which was defined by Jefferson in the Resolutions like this:

Resolved, that the several States composing the United States of America, are not united on the principle of unlimited submission to their general government; but that by compact under the style and title of a Constitution for the United States and amendments thereto, they constituted a general government for special purposes, delegated to that government certain definite powers, reserving each State to itself, the residuary mass of right to their own self-government. . . That to this compact each State acceded as a State, and is an integral party, its co-States forming, as to itself, the other party.<sup>29</sup>

In this compact, Jefferson argued, only certain powers were delegated to the federal government. When these limits were overstepped by the federal government, each state, or party to the compact, had the right to judge "as well of infractions as of the mode and measure of redress."

Based on these arguments, the Kentucky Resolutions proceeded to declare the Sedition Act void, because the federal government had overstepped its powers. Next, the

Jeffersonian document offered another reason for declaring the Sedition Act void, a reason that meant more to Jefferson. "To Jefferson the most cherished element of the Constitution was the Bill of Rights."<sup>30</sup> The Kentucky Resolutions argued that the Sedition Act was against the rights of freedom of speech and of the press, and therefore must necessarily be deemed null and void.

Having argued the invalidity of the Sedition Act, Jefferson then switched his attention to the Alien Acts. As in the case of the arguments against the Sedition Law, Jefferson offers more than one reason for declaring the Alien Laws to be void. First, since aliens are under the jurisdiction of the state in which they live, Jefferson argued, and since the federal government was never delegated any power over aliens by the Constitution, then the Alien Acts too are void and "of no force." For his second argument against the laws, Jefferson turned again to the Constitution, this time to the clause which states that "migration or importation of such persons as any of the states now existing shall think proper to admit, shall not be prohibited by the Congress prior to the year 1808." This clause, originally meant to refer to the slave trade, was then used by Jefferson as another reason for declaring that the Alien Acts were indeed void.

In the rest of the resolutions, Jefferson treats a variety of subjects dealing with the exercise of power by the federal government. Imprisonment of those under the protection of the states, namely aliens, just because of a

presidential order is also unconstitutional, argued the document. This, along with the deportation of aliens by presidential decree, goes against the part of the Constitution which states that "no person shall be deprived of liberty without due process of law." Further, Jefferson wrote that the transferring of power of judgment from the courts to the president was also unconstitutional.

Next, the Resolutions state that a copy of the resolutions, once adopted, should be sent to Congress along with a call for the repeal of the Alien and Sedition Acts. Further, the governor of Kentucky was authorized and urged to send copies of the resolutions to other state legislatures so that they too could understand and, hopefully, agree with them. Since the main purpose of the Resolutions was "to start a wave of protest,"<sup>31</sup> Jefferson offered some conclusions that, he thought, would result if other states did not follow Kentucky's lead. If something is not done now, he argued, the federal government may feel free in the future to overstep its boundaries, allowing the President to become a virtual dictator. The "Kentucky Resolutions of 1798. . .described constitutions as the chains to bind rulers."<sup>32</sup> It was up to the states, according to Jefferson, to make sure that the Constitution of the United States remained as a limit to the growth of the federal government's power. In 1799, Jefferson expressed his opinion on this matter in a letter to Elbridge Gerry, in which he said: "I am not for transferring all the powers of the States to the General Government, and all those

of that government to the executive branch."<sup>33</sup> Jefferson then offered a final plea to other states to react, and expressed confidence that the other states would concur with the Kentucky Resolutions and would declare the Alien and Sedition Acts to be void.

At the same time that Jefferson was working on his resolutions for the Kentucky legislature, James Madison was working on a set of resolutions to be submitted to the Virginia legislature by John Taylor. These resolutions were adopted by the Virginia legislature on December 24, 1798. Jefferson and Madison collaborated together in forming the Kentucky and Virginia Resolutions, and the two sets of resolutions were very much alike, especially in purpose. Despite the fact that "Jefferson was more uncompromising and militant than was Madison,"<sup>34</sup> the arguments of the Virginia Resolutions were basically the same as those in the Kentucky Resolutions, with the wording being more carefully prepared and much less radical.

The Virginia Resolutions began by reaffirming the legislature's loyalty to the United States Constitution, to the federal government as it was defined by that Constitution, and to the several states that had joined in to form the Union. Madison then went on to say that the different states must watch over the federal government to be sure that that government did not go against the Constitution. Again in the Virginia Resolutions, the compact theory of the Constitution was stated and acted as the basis for the resolutions that

followed.

Madison went on to express his regret, and that of the Virginia legislature,<sup>35</sup> that the federal government had seen fit to take on the powers it had, namely in the Alien and Sedition Acts. Madison saw this as a possible precedent which may have led to the gradual usurpation of all power by the federal government until the young republic was replaced by a monarchy. Because of this fear, the Resolutions go on to "PROTEST" the Alien and Sedition Acts. The Alien Acts were protested on the grounds that the federal government had no jurisdiction over aliens. The Sedition Act was protested on the grounds that it violated the freedoms granted to all Americans by the Constitution itself. Madison then concluded his document with an appeal to the other states to concur with these resolutions and to declare that "the acts aforesaid are unconstitutional."<sup>36</sup>

Both the Kentucky and the Virginia Resolutions ended with an appeal for other states and persons to respond. Neither Jefferson nor Madison had to wait very long for this response. For the most part, Kentucky and Virginia found themselves standing alone, as the few states that did reply did so in opposition to the two sets of Resolutions.

One response that came from another state was that of the Massachusetts State Legislature, one dominated by the Federalists. Its response was in the form of an address, dated February 9, 1799. This address, which was accepted by the Massachusetts House on February 13th, defended the questioned



constitutionality of the Alien and Sedition Acts and then questioned the constitutionality of the Kentucky and Virginia Resolutions. It emphasized that proper procedures(those provided by the Constitution) were the only correct courses open to fight the new laws, with state nullification not being one of these courses. Further, it emphasized the common union of the several states, a union that was "indissoluble."<sup>37</sup>

State legislatures were not the only ones to answer the Resolutions. The Federalists throughout the country were outraged by the documents of Kentucky and Virginia. Many of them "replied heatedly that there was no 'right' to sedition and therefore no infringement of a right."<sup>38</sup> George Washington was anxious for the safety of the young nation, since he attributed the Kentucky and Virginia Resolutions to a Jacobin conspiracy in the United States(he did not know, as with the rest of the Federalists, that Thomas Jefferson and James Madison were the real authors of the documents).<sup>39</sup> John Adams' wife, Abigail Smith Adams, referred to the documents as "the mad resolutions of Virginia and Kentucky."<sup>40</sup>

Many of the Federalists feared that the Resolutions were a plea for insurrection, and many were quite willing to use the army to quickly crush the opposition. When the Virginia militia was called up in 1799, it looked like the Federalists might have been correct. Adams reacted quickly and decisively and an actual confrontation was avoided. After the callup of the Virginia militia, however, Federalists, including Alexander Hamilton as the most prominent, began to advocate

even stronger laws against sedition,<sup>41</sup> but this too was avoided.

With the unfavorable responses continuing to plague the resolutions, the Kentucky legislature adopted a second set of resolutions on February 22, 1799. These new resolutions reaffirmed the principles of the 1798 resolutions and added a new clause, which introduced "the dread word 'nullification'"<sup>42</sup> to the American scene. The new resolutions were adopted out of a fear that silence on the part of Kentucky may have been construed by the other states as agreement with the defenses of the Alien and Sedition Acts advanced by other legislatures.

The Resolutions of 1799 ended with a declaration that the Commonwealth of Kentucky, as a party to the federal compact, would continue in the future to oppose by Constitutional means any attempt by the government to violate that compact. With these ideas stated, the new Resolutions<sup>43</sup> closed with a solemn protest against the constitutionality of the Alien and Sedition Laws.

Despite this reaffirmation by Kentucky, however, responses to the Kentucky and Virginia Resolutions of 1798 continued to come with varying degrees of indignation. Every state from Maryland north made a reply to the resolutions, with the major differences being the degree of indignation expressed. All agreed that the constitutional principles, as set forth in the Resolutions, were wrong. Moreover, all argued that the judiciary branch of the government should be

the one to judge on the constitutionality of the Alien and Sedition Acts.

In late February, 1799, the state of Rhode Island adopted and sent a series of its own resolutions to the state legislature of Virginia.<sup>44</sup> This set of resolutions, like others before, began by stating that the judiciary branch should decide on the constitutionality of the laws. Further, this document stated that, in the opinion of the people of Rhode Island, the Alien and Sedition Acts were well within the powers granted the federal government. The resolutions ended with a plea to Virginia to examine the possible evil results of resolutions such as those of the Virginia legislature.

On June 15, 1799, New Hampshire adopted a resolution on the Kentucky and Virginia Resolutions.<sup>45</sup> Once again, this resolution declared that it is not the states' role to determine constitutionality but the judiciary branch's role. Further, the resolution declared that the Alien and Sedition Acts were not only constitutional but also "highly expedient."

Thus, the stage was set for a battle over the constitutionality of the Alien and Sedition Acts and of the Kentucky and Virginia Resolutions. It was a losing battle for the Federalists, as the Republicans began to portray them as destroyers of freedom and liberty. The battle continued throughout 1799 and right into the presidential election year of 1800, and indeed played a role in the events of that year.

#### CHAPTER IV: THE 1800 ELECTION: THE DEATH OF A PARTY

The battle for the 1800 presidential election was really begun in 1798, with "the Virginia and Kentucky Resolutions" being "the opening gun of the campaign."<sup>46</sup> One party, the Federalists, ran on the record of the previous administration of John Adams; the other, the Republicans, condemned that record and called for a re-examination of the values underlying the foundation of this country. To say the very least, the Federalists were in trouble. Nearly every action of the Adams administration was questioned and criticized by the Republicans, either in addresses to state legislatures or in the press. Even within the Federalist party itself there was open dissension and even hostility against the election of the Federalist candidate, John Adams.

After the Cuban missile crisis of October, 1962, President John F. Kennedy often said of himself, "All I want them to say about me is what they said about John Adams, 'He kept the peace.'"<sup>47</sup> John Adams, like Kennedy, considered one of his greatest accomplishments as President to be the keeping the United States out of a costly war, costly both in terms of money and manpower. Adams, however, found himself being severely criticized by members of his own Federalist party in 1800 for keeping the peace. The Adams administration had taken all the necessary steps to prepare the young

country for a war if it came—the increase in the size of the army, the establishment of the Department of the Navy—but no declaration of war was forthcoming from either side. A few years earlier, the Federalists in Congress, with Adams' approval, had chosen to wait for France to declare war, which it seemed she would. But France spoiled their plans and refused to declare war, and this frustrated many of the Federalists. Many of them began to openly advocate a declaration of war on the part of the United States, but Adams was not ready for this.

Very late in 1798, Adams began to receive some inklings that the Directory in France might have been ready to reopen diplomatic relations in hopes of restoring peace between the two countries. Immediately, Adams responded by submitting the nomination of William Vans Murray as peace commissioner to that country. The Senate, however, refused to approve the nomination and a Federalist split was widened even more. The hawks, led by Alexander Hamilton in the Senate, demanded an immediate declaration of war against France. The doves, led by John Adams himself, did everything they could to avert such a war. The people of the United States were willing, at that time, to accept a declaration of war, as many of the Federalists knew, but Adams chose to put his reelection on the line in order to avoid such a costly and, as he thought, unnecessary war with France. It virtually ended any chance at reelection for Adams.

Adams' decision to seek an understanding with France had frustrated Hamilton's ardent desire for war, and a bitter factional struggle within the ranks of Federalism was hastening its downfall.<sup>48</sup>

The Federalists were indeed in trouble, and the election was not going to wait for them to settle their differences. Both candidates were ready for the fight for election, but it seemed that Jefferson and the Republicans held the better hand in 1800. While the Federalists were losing popularity and falling apart from within, the Republicans were growing in popularity and were bound together on the all-important mission of defeating John Adams.

The issues of the 1800 campaign were many, but the major points of the Republican barrage on the Adams' administration were summed up in a series of resolutions adopted by the Republicans in Dinwiddie County, Virginia in November of 1798. These resolutions, published in the Richmond Examiner on December 6, 1798, point out the issues that the Republican party made in its campaign. The resolutions expressed opposition to six aspects of the Federalist administration of John Adams, which were:

(1) Standing armies. . . (2) great naval armament. . . (3) an alliance with any nation on earth. . . (4) increasing the national debt. . . (5) the alien act as "unnecessary, repugnant to humanity, and contrary to the constitution". . . (6) the Sedition Act as "a daring and unconstitutional violation of a sacred and essential right, without which, liberty, political science and national prosperity are at an end."<sup>49</sup>

One of the main issues of the campaign, as illustrated

by the resolutions of Dinwiddie County, was the war fever against France that had been going on over the previous few years of the Federalist administration. The conflict between France and England had caught the United States, for all practical purposes, in the middle, with the country divided on which of the two other nations the United States would support. Favoring a policy that was basically pro-British, the Federalists were arraigned by the Republicans as pro-British monarchists who only wanted to overthrow constitutional democracy in the United States in order to establish a monarchy in its place. Favoring a policy that was more pro-French, the Republicans were accused by the Federalists of being French Jacobins who only wanted to make the United States "a fighting ally of the French Republic."<sup>50</sup> After the XYZ Affair in 1798, the country had been pretty much unified in its demands for war with France. By the time that the 1800 election rolled around, however, the "fever" had died down to a large extent and more of the people were willing to listen to the Republican criticism of the Federalist war policies. Many Americans were getting quite tired of the long, drawn out conflict with France and were ready for something new, which the Republicans were doing their best to provide.

Another of the big issues of the 1800 election campaign had grown out of the United States' war policy against France. In their efforts to prepare the country for war in every way, the Federalist Congress had passed the Alien and

Sedition Acts, and the ensuing fight over these acts provided a lively grounds for debate in the 1800 campaign.

Already on the defensive in explaining the continuation of an expensive war that seemed to have accomplished its main objectives, the Federalists found themselves, on the eve of a presidential election, arraigned as enemies of American freedom.<sup>51</sup>

The "political witch hunt of the Alien and Sedition Acts"<sup>52</sup> had failed to quell the opposition, as had been hoped by many of the Federalists. Quite the contrary, they served to instigate much dissension against the administration that had enacted such a set of laws. Despite the increase in enforcement of the Sedition Law as the 1800 election drew near, Republican opposition increased, and much of it was against the very laws that were meant to silence them. In effect, the Alien and Sedition Acts provided grounds for more opposition, possibly more than the Federalists could handle. The Republicans, using the Alien and Sedition Acts as a political weapon, pictured the Federalists as suppressors of freedom. According to the Republicans, the Federalists wanted to quell all dissension and opposition so that they alone could stay in power and eventually set up their monarchy. On the other side, the Federalists tried to gloss over the Acts by calling them war measures, which had been necessary in case the United States had been forced to go to war with France. The American people, however, were reluctant, to say the very least, to let the Federalists off the hook so easily. The title of suppressors of freedom was probably the hardest one



the Federalists had to fight in 1800, and one that they were never able to fully destroy.

While the Federalists were trying to gloss over their "festering sore,"<sup>53</sup> the Republicans did their best to pour salt into the wound. In 1798, the Kentucky and Virginia Resolutions had proven to be an effective means of uniting the Republicans into a party determined to overthrow the Federalists. The two sets of resolutions became, for the most part, campaign documents, questioning not only the constitutionality but also the morality of the suppressive Alien and Sedition Laws. As such, the Resolutions proved to be one of the most effective weapons of the 1800 campaign and election.

Not only was public opinion brought into sympathy with the Republicans, but they gained the support of certain important and nominally independent leaders who became disillusioned by the laws against civil liberties.<sup>54</sup>

One such leader was Elbridge Gerry, who had been one of the American envoys involved in the XYZ Affair, and who came out in support of Jefferson in 1800. When such men as this supported Jefferson, many others in the country sat up and took notice. There was really no way that the Federalists could make up for such switches in support. Many of those involved in choosing electors for the 1800 election took into consideration the switch of several top men in the country.<sup>55</sup>

Since 1798, the Republicans had worked hard to keep the issue of the Alien and Sedition Acts alive by means of

petitions of protest in as many towns, cities and counties as possible. The result was that the issue of the Acts, from the Republican point of view, was still fresh on the mind of the American people in 1800. This too proved to be an effective weapon as the years passed. Had the Republicans failed to do this, the issue probably would have died out, and any attempts to revive it might easily have failed. If this had happened, the Republicans would surely have had a much more difficult time in getting elected, if they could have done it at all.

Thus, in the final analysis, the mistakes of the Federalists during the previous four years proved to be as effective a weapon in the campaign as the Republicans' good moves. The Alien and Sedition Acts, passed in 1798 with high hopes, turned out to be a hot issue in the campaign, and one that could easily be attacked by the Republicans. Further, the Federalists made the worst mistake a party can make in an election year, they found their party split in two over the war issue.

Whereas the Republicans scrupulously observed all the rules for winning the election, the Federalists displayed an equally impressive genius for doing the wrong thing at the wrong time.<sup>56</sup>

In the 1800 election, the means of choosing electors varied from state to state. Ten states chose their electors in their state legislatures. Of those ten, which included all of New England, six cast their vote entirely for Adams, three for Jefferson and one state split its vote (Pennsylvania).

Five states chose their electors by means of popular election, two by general ticket and the other three by districts. Of these five, two went completely for Jefferson and only one for Adams, with two of them splitting their votes. One state, Tennessee, used a combination of methods and gave all of its electors to Jefferson. In the states that chose their electors in the legislatures, Adams fared much better than Jefferson, receiving fifty-two votes to Jefferson's thirty-two. In the states that chose their electors by popular election, however, Jefferson did the better, with thirty-eight votes to Adams' thirteen. Jefferson's predominance in these states seems to evidence the fact that the Republicans had succeeded in getting the public on their side by pushing the issues of the war with France and especially the Alien and Sedition Acts. The following chart gives the state-by-state distribution of the vote, and gives the method of choosing electors in each state.<sup>57</sup>

State	Method	Adams	Pinckney	Jefferson	Burr	Jay
New England						
New Hampshire	L	6	6	-	-	-
Vermont	L	4	4	-	-	-
Massachusetts	L	16	16	-	-	-
Connecticut	L	9	9	-	-	-
Rhode Island	P/G	4	3	-	-	1
Middle States						
New York	L	-	-	12	12	-
New Jersey	L	7	7	-	-	-
Pennsylvania	L	7	7	8	8	-
Delaware	L	3	3	-	-	-
Upper South						
Maryland	P/D	5	5	5	5	-
Virginia	P/G	-	-	21	21	-
North Carolina	P/D	4	4	8	8	-
Lower South						
South Carolina	L	-	-	8	8	-
Georgia	L	-	-	4	4	-

State	Method/Adams/Pinckney/Jefferson/Burr/Jay					
West						
Kentucky	P/D	-	-	4	4	-
Tennessee	C	-	-	3	3	-
TOTALS		65	64	73	73	1
Methods:	L--by legislature	P--by popular vote				
	C--combination	G--general ticket				
		D--district system				

The sectional distribution of the vote was obvious, and two things were evident from this. First, the Federalists were already being compressed into the New England states, the first step in the slow death of the party. Secondly, the Republicans showed that they were more of a nationwide party than the Federalists, a fact that was instrumental in the endurance of the Republican party and the lack of endurance of the Federalist party. The Republicans had captured the South and the new West, and also had captured the pivotal state of New York, a fact that completely turned the election around. The Federalists were out, and for good.

Many historians have named the election of 1800 as the "Revolution of 1800," and for good reason. True, there was no bloodshed or insurrections that usually accompany our idea of a revolution. But the election of 1800 was a revolution in its truest sense, the complete change of the government. The 1800 election was the first time that the presidency switched from the hands of one party into the hands of another, opposite party, a switch that many had thought to be impossible. Further, 1800 brought to the White House a whole new political philosophy, that of Thomas Jefferson. The Federalists, who sought a more powerful federal

government, were out, and the Republicans, who advocated more power to the states(as illustrated in the Kentucky and Virginia Resolutions), were elected.

Still, in another sense similar to the idea of revolution, the elction of 1800 can be viewed as a necessity. By 1800, the United States was ready for someone like Thomas Jefferson. The country was getting tired of the war with France, and Jefferson promised an end to that. The country was afraid of a too-powerful federal government, and Jefferson promised an end to that too. In a very real sense, Jefferson was just the man the country was looking for in 1800. Further, the election of 1800 was a necessity for the future of American political parties. Another term for the Federalists could have made them more of an establishment in the White House, and would make any takeover by another party much more difficult in the future. Further, a Republican defeat in 1800 could have ruined the Republican party. They had already been the opposing party for eight years, eight years when toleration of the opposition was unheard of. In 1800, there were enough Federalists who wanted to use any method open to them to destroy the opposition, and four more years may have given them that opportunity. But revolution or necessity or both, the Republicans were finally in control of the federal government's executive branch, and it was now merely a matter of time until the Federalist party died out altogether.

In September of 1800, the Republican state convention of

New Jersey had adopted an address to the people of that state.

In that address, the Republicans stated:

The present period of our national concerns is as important in its nature, and as eventful in its consequences, as the memorable epoch when the American people revolted from the oppressions of the British monarch. We are now called upon to elect a chief magistrate of this extensive country; and on this election depends the future happiness of America. When freed from foreign oppression, and privileged to choose our own rulers, it was presumed that the people of America would remain the peaceable cultivators of their fields, uninfluenced by the politics of European courts, and regardless of their destinies. But the experience of a few years has removed the pleasing delusion. . . Why do a party wish to destroy all opposition and enquiry—Are there men in our councils who wish to enslave us—whose conduct will not bear the test of examination?—And who wish to close the mouths of five millions of people, so lately freed from foreign despotism?<sup>58</sup>

The 1800 election provided the test that this document demanded, and the Republicans were satisfied because the conduct of those in power did not in fact "bear the test of examination." As far as the Republicans were concerned, that dream was back, and the oppressors were once again defeated.

## FOOTNOTES

### CHAPTER I:

<sup>1</sup>John C. Miller, The Emergence of the Nation, 1783-1815 (Glenview and London: Scott, Foresman and Company, 1972), p. 85.

<sup>2</sup>The Jay Treaty, concluded in 1794, arose out of the dissatisfaction of the United States over England's persistent violations of the 1783 Treaty of Paris. The terms of the treaty were primarily promises by England to observe the terms of the 1783 Treaty by establishing commissions to examine the problems.

<sup>3</sup>The Directory was the executive branch of the French Republic during the years 1795-1799. It was made up of five executives, and was coupled with a bicameral legislature.

<sup>4</sup>John C. Miller, Toward a More Perfect Union: The American Republic, 1783-1815 (Glenview, Illinois: Scott, Foresman and Company, 1970), p. 139.

<sup>5</sup>Ibid., p. 141.

<sup>6</sup>Marcus Lee Hansen, The Atlantic Migration, 1607-1860 (New York: Harper and Row, Publishers, 1961), p. 66.

### CHAPTER II:

<sup>7</sup>U.S. Statutes at Large, Vol. I, p. 566ff.

<sup>8</sup>Ibid., p. 570ff.

<sup>9</sup>Hansen, The Atlantic Migration, p. 67.

<sup>10</sup>U.S. Statutes at Large, Vol. I, p. 577ff.

<sup>11</sup>John C. Miller, The Federalist Era, 1789-1801 (New York: Harper and Brothers, Publishers, 1960), p. 235.

<sup>12</sup>U.S. Statutes at Large, Vol. I, p. 596-7.

<sup>13</sup>This can be mainly attributed to the strength of the Republican party in the South and the new West.

- <sup>14</sup>Miller, Federalist Era, p. 231.
- <sup>15</sup>William O. Lynch, Fifty Years of Party Warfare, 1789-1837(Indianapolis: The Bobbs-Merill Company, 1931), p. 74.
- <sup>16</sup>Frank M. Anderson, "The Enforcement of the Alien and Sedition Laws," Annual Report of the American Historical Association(1912), 115-116.
- <sup>17</sup>Leonard D. White, The Federalists: A Study in Administrative History(New York: The Macmillan Company, 1948), p. 441.
- <sup>18</sup>Anderson, "Enforcement," p. 125.
- <sup>19</sup>Marcus Cunliffe, The Nation Takes Shape, 1789-1837 (Chicago: The University of Chicago Press, 1959), p. 173.
- <sup>20</sup>Dumas Malone, "Jefferson as Political Leader," in Jefferson, pp. 148-156, ed. Adrienne Koch(Englewood Cliffs, New Jersey: Prentice-Hall, Inc., 1971), p. 154-5.
- <sup>21</sup>Marshall Smelser, "George Washington and the Alien and Sedition Acts," The American Historical Review, LIX(1954), p. 333.
- <sup>22</sup>Adrienne Koch, Power, Morals, and the Founding Fathers: Essays in the Interpretation of the American Enlightenment (Ithaca, New York: Cornell University Press, 1967), p. 65.
- <sup>23</sup>Daniel J. Boorstin, The Americans: The Colonial Experience(New York: Vintage Books, 1958), p. 331.
- <sup>24</sup>Edward Handler, America and Europe in the Political Thought of John Adams(Cambridge, Massachusetts: Harvard University Press, 1964), p. 180.
- <sup>25</sup>James Morton Smith, Freedom's Fetters: The Alien and Sedition Laws and American Civil Liberties(Ithaca, New York: Cornell University Press, 1956), p. 152.
- <sup>26</sup>Samuel Eliot Morison, The Oxford History of the American People, Vol. II: 1789 Through Reconstruction(New York: New American Library, a Mentor Book, 1972), p. 76.

### CHAPTER III:

- <sup>27</sup>Adrienne Koch, Jefferson and Madison: The Great Collaboration(New York: Alfred A. Knopf, 1950), p. 179.
- <sup>28</sup>Ibid., p. 188.



<sup>29</sup>Henry Steele Commager(ed.), Documents of American History(New York: Appleton-Century-Crofts, 1968), p. 178-82.

<sup>30</sup>Julian P. Boyd, "The Chasm that Separated Thomas Jefferson and John Marshall," in Jefferson, pp. 157-164, ed. Adrienne Koch(Englewood Cliffs: Prentice-Hall, Inc., 1971), p. 164.

<sup>31</sup>Malone, "Jefferson as Political Leader," p. 155.

<sup>32</sup>Daniel J. Boorstin, The Lost World of Thomas Jefferson (Boston: Beacon Press, 1972), p. 201.

<sup>33</sup>Gerry Stuart Brown, The First Republicans: Political Philosophy and Public Policy in the Party of Jefferson and Madison(Syracuse: Syracuse University Press, 1954), p. 78.

<sup>34</sup>Miller, Federalist Era, p. 240.

<sup>35</sup>Like Jefferson, Madison kept his authorship secret for almost a quarter of a century.

<sup>36</sup>Commager, Documents, p. 182-3.

<sup>37</sup>Massachusetts Legislature, "Massachusetts Legislature: Address on the Virginia and Kentucky Resolutions: 1799. In Senate, February 9, 1799," History of U.S. Political Parties, Vol. I: 1789-1860: From Factions to Parties, pp. 89-93, ed. Arthur M. Schlesinger, Jr.(New York: Chelsea House Publisher in association with R.R. Bowker Company, 1973).

<sup>38</sup>Page Smith, John Adams, Vol. II: 1784-1826(Garden City, New York: Doubleday and Company, Inc., 1962), p. 976.

<sup>39</sup>Smelser, "George Washington and the Alien and Sedition Acts," p. 322-334.

<sup>40</sup>Smith, John Adams, p. 998.

<sup>41</sup>Stephen G. Kurtz, The Presidency of John Adams: The Collapse of Federalism, 1795-1800(Philadelphia: University of Pennsylvania Press, 1957), p. 355-6.

<sup>42</sup>Koch, Jefferson and Madison, p. 201. The theory of nullification states that the states have the right to declare any federal law or action null and void if that law violates the compact of Union that the states voluntarily accepted.

<sup>43</sup>Commager, Documents, p. 183-4.

<sup>44</sup>Ibid., p. 184-185.

<sup>45</sup>Ibid., p. 185.

CHAPTER IV:

<sup>46</sup>Miller, Federalist Era, p. 251.

<sup>47</sup>Kenneth P. O'Donnell and David F. Powers, Johnny, We Hardly Knew Ye(New York: Pocket Books, 1973), p. 397.

<sup>48</sup>Don E. Fehrenbacher, The Era of Expansion, 1800-1848 (New York: John Wiley and Sons, Inc., 1969), p. 13-4.

<sup>49</sup>Noble E. Cunningham, Jr., "Election of 1800," History of American Presidential Elections, 1789-1968, Vol. I, pp. 101-134, ed. Arthur M. Schlesinger, Jr.(New York: Chelsea House Publishers in association with McGraw-Hill Book Co., 1971), p. 119-20.

<sup>50</sup>Miller, Toward a More Perfect Union, p. 136.

<sup>51</sup>Ibid., p. 153.

<sup>52</sup>Linda K. Kerber, "The Federalist Party," History of U.S. Political Parties, Vol. I: 1789-1860: From Factions to Parties, pp. 3-29, ed. Arthur M. Schlesinger, Jr.(Chelsea House Publishers in association with R.R. Bowker Company, 1973), p. 15.

<sup>53</sup>Smith, John Adams, p. 978.

<sup>54</sup>Brown, The First Republicans, p. 77.

<sup>55</sup>Ibid., p. 77-8.

<sup>56</sup>Miller, Toward a More Perfect Union, p. 158.

<sup>57</sup>Breakdown of States from: Kurtz, Presidency of John Adams, p. 412-3.

State-by-state breakdown of methods from: Neal R. Peirce, The People's President: The Electoral College in American History and the Direct-Vote Alternative(New York: Simon and Schuster, 1968), p. 310.

Electoral vote in each state from: Arthur M. Schlesinger, Jr.(ed.), History of American Presidential Elections, 1789-1968, Vol. I(New York: Chelsea House Publishers in association with McGraw-Hill Book Co., 1971), p. 310.

<sup>58</sup>Schlesinger, Elections, p. 135.

APPENDIX I: THE ALIEN AND SEDITION ACTS

1. An Act supplementary to and to amend the act, intituled "An act to establish an uniform rule of naturalization; and to repeal the act heretofore passed on that subject."

Section 1. Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That no alien shall be admitted to become a citizen of the United States, or of any state, unless in the manner prescribed by the act, intituled "An act to establish an uniform rule of naturalization; and to repeal the act heretofore passed on that subject," he shall have declared his intention to become a citizen of the United States, five years, at least, before his admission, and shall, at the time of his application to be admitted, declare and prove, to the satisfaction of the court having jurisdiction in the case, that he has resided within the United States fourteen years, at least, and within the same state or territory where, or for which such court is at the time held, five years, at least, besides conforming to the other declarations, renunciations and proofs, by the said act required any thing therein to the contrary hereof notwithstanding: Provided, that any alien, who was residing within the limits, and under the jurisdiction of the United States, before... [January 29, 1795]...may, within one year after the passing of this act—and any alien who shall have made the declaration of his intention to become a citizen of the United States, in conformity to the provisions of the act [of January 29, 1795], may, within four years after having made the declaration aforesaid, be admitted to become a citizen, in the manner prescribed by the said act,...And provided also, that no alien, who shall be a native, citizen, denizen or subject of any nation with whom the United States shall be at war, at the time of his application, shall be then admitted to become a citizen of the United States.

Section 2. And be it further enacted, That it shall be the duty of the clerk, or other recording officer of the court before whom a declaration has been, or shall be made, by any alien, of his intention to become a citizen of the United States, to certify and transmit to the office of the Secretary of State of the United States, to be there filed and recorded, an abstract of such declaration, in which, when hereafter made, shall be a suitable description of the name, age, nation, residence and occupation, for the time being, of the alien; such certificate to be made in all cases, where the declaration has been or shall be made, before the passing of this act, within three months thereafter; and in all other cases, within two months after the declaration shall be received by the court.

And in all cases hereafter arising, there shall be paid to the clerk, or recording officer as aforesaid, to defray the expense of such abstract and certificate, a fee of two dollars; and the clerk or officer to whom such fee shall be paid or tendered, who shall refuse or neglect to make and certify an abstract, as aforesaid, shall forfeit and pay the sum of ten dollars.

Section 3. And be it further enacted, That in all cases of naturalization heretofore permitted or which shall be permitted, under the laws of the United States, a certificate shall be made to, and filed in the office of the Secretary of State, containing a copy of the record respecting the alien, and the decree or order of admission by the court before whom the proceedings thereto have been, or shall be had: And it shall be the duty of the clerk or other recording officer of such court, to make and transmit such certificate, in all cases which have already occurred, within three months after the passing of this act; and in all future cases, within two months from and after the naturalization of an alien shall be granted by any court competent thereto:—And in all future cases, there shall be paid to such clerk or recording officer the sum of two dollars, as a fee for such certificate, before the naturalization prayed for, shall be allowed. And the clerk or recording officer, whose duty it shall be, to make and transmit the certificate aforesaid, who shall be convicted of a wilful neglect therein, shall forfeit and pay the sum of ten dollars, for each and every offence.

Section 4. And be it further enacted, That all white persons, aliens (accredited foreign ministers, consuls, or agents, their families and domestics, excepted) who, after the passing of this act, shall continue to reside, or who shall arrive, or come to reside in any port or place within the territory of the United States, shall be reported, if free, and of the age of twenty-one years, by themselves, or being under the age of twenty-one years, or holden in service, by their parent, guardian, master or mistress in whose care they shall be, to the clerk of the district court of the district, if living within ten miles of the port or place, in which their residence or arrival shall be, and otherwise, to the collector of such port or place, or some officer or other person there, or nearest thereto, who shall be authorized by the President of the United States, to register aliens: And report, as aforesaid, shall be made in all cases of residence, within six months from and after the passing of this act, and in all after cases, within forty-eight hours after the first arrival or coming into the territory of the United States, and shall ascertain the sex, place of birth, age, nation, place of allegiance or citizenship, condition or occupation, and place of actual or intended residence within the United States, of the alien or aliens reported, and by whom the report is made. And it shall be the duty of the clerk, or other officer, or person authorized, who shall receive such report, to record the same in a book to be kept for that purpose, and to grant to the person making the report, and to each individual

concerned therein, whenever required, a certificate of such report and registry; and whenever such report and registry shall be made to, and by any officer or person authorized, as aforesaid, other than the clerk of the district court, it shall be the duty of such officer, or other person, to certify and transmit, within three months thereafter, a transcript of such registry, to the said clerk of the district court in which the same shall happen; who shall file the same in his office, and shall enter and transcribe the same in a book to be kept by him for that purpose. And the clerk, officer or other person authorized to register aliens, shall be entitled to receive, for each report and registry of one individual or family of individuals, the sum of fifty cents and for every certificate of a report and registry the sum of fifty cents, to be paid by the person making or requiring the same, respectively. And the clerk of the district court, to whom a return of the registry of any alien, shall have been made, as aforesaid, and the successor of such clerk, and of any other officer or person authorized to register aliens, who shall hold any former registry, shall and may grant certificates thereof, to the same effect as the original register might do. And the clerk of each district court shall, during one year from the passing of this act, make monthly returns to the department of State, of all aliens registered and returned, as aforesaid, in his office.

Section 5. And be it further enacted, That every alien who shall continue to reside, or who shall arrive, as aforesaid, of whom a report is required as aforesaid, who shall refuse or neglect to make such report, and to receive a certificate thereof, shall forfeit and pay the sum of two dollars; and any justice of the peace, or other civil magistrate, who has authority to require surety of the peace, shall and may, on complaint to him made thereof, cause such alien to be brought before him, there to give surety of the peace and good behaviour during his residence within the United States, or for such term as the justice or other magistrate shall deem reasonable, and until a report and registry of such alien shall be made, and a certificate thereof, received as aforesaid; and in failure of such surety, such alien shall and may be committed to the common goal, and shall be there held, until the order which the justice or magistrate shall and may reasonably make, in the premises, shall be performed. And every person, whether alien, or other, having the care of any alien or aliens, under the age of twenty-one years, or of any white alien holden in service, who shall refuse and neglect to make report thereof, as aforesaid, shall forfeit the sum of two dollars, for each and every such minor or servant, monthly, and every month, until a report and registry, and a certificate thereof, shall be had, as aforesaid.

Section 6. And be it further enacted, That in respect to every alien, who shall come to reside within the United States after the passing of this act, the time of registry of such alien shall be taken to be the time when the term of residence

within the limits, and under the jurisdiction of the United States, shall have commenced, in case of an application by such alien, to be admitted a citizen of the United States; and a certificate of such registry shall be required, in proof of the term of residence, by the court to whom such application shall and may be made.

Section 7. And be it further enacted, That all and singular the penalties established by this act, shall and may be recovered in the name, and to the use of any persons, who will inform and sue for the same, before any judge, justice, or court, having jurisdiction in such case, and to the amount of such penalty, respectively.

Approved, June 18, 1798(U.S. Statutes at Large, Vol. I, pp. 566-569).

## 2. An Act concerning Aliens.

Section 1. Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it shall be lawful for the President of the United States at any time during the continuance of this act, to order all such aliens as he shall judge dangerous to the peace and safety of the United States, or shall have reasonable grounds to suspect are concerned in any treasonable or secret machinations against the government thereof, to depart out of the territory of the United States within such time as shall be expressed in such order, which order shall be served on such alien by delivering him a copy thereof, or leaving the same at his usual abode, and returned to the office of the Secretary of State, by the marshal or other person to whom the same shall be directed. And in case any alien, so ordered to depart, shall be found at large within the United States after the time limited in such order for his departure, and not having obtained a license from the President to reside therein, or having obtained such license shall not have conformed thereto, every such alien shall, on conviction thereof, be imprisoned for a term not exceeding three years, and shall never be admitted to become a citizen of the United States. Provided always, and be it further enacted, that if any alien so ordered to depart shall prove to the satisfaction of the President, by evidence to be taken before such person or persons as the President shall direct, who are for that purpose hereby authorized to administer oaths, that no injury or danger to the United States will arise from suffering such alien to reside therein, the President may grant a license to such alien to remain within the United States for such time as he shall judge proper, and at such place as he may designate. And the President may also require of such alien to enter into a bond to the United States, in such penal sum as he may direct, with one or more sufficient sureties to the satisfaction of the persons authorized by the President to take the same, conditioned for the good behavior of such alien during his residence in the United States, and not violating his

license, which license the President may revoke, whenever he shall think proper.

Section 2. And be it further enacted, That it shall be lawful for the President of the United States, whenever he may deem it necessary for the public safety, to order to be removed out of the territory thereof, any alien who may or shall be in prison in pursuance of this act; and to cause to be arrested and sent out of the United States such of those aliens as shall have been ordered to depart therefrom and shall not have obtained a license as aforesaid, in all cases where, in the opinion of the President, the public safety requires a speedy removal. And if any alien so removed or sent out of the United States by the President shall voluntarily return thereto, unless by permission of the President of the United States, such alien on conviction thereof, shall be imprisoned so long as, in the opinion of the President, the public safety may require.

Section 3. And be it further enacted, That every master or commander of any ship or vessel which shall come into any port of the United States after the first day of July next, shall immediately on his arrival make report in writing to the collector or other chief officer of the customs of such port, of all aliens, if any, on board his vessel, specifying their names, age, the place of nativity, the country from which they shall have come, the nation to which they belong and owe allegiance, their occupation and a description of their persons, as far as he shall be informed thereof, and on failure, every such master and commander shall forfeit and pay three hundred dollars, for the payment whereof on default of such master or commander, such vessel shall also be holden, and may by such collector or other officer of the customs be detained. And it shall be the duty of such collector or other officer of customs, forthwith to transmit to the office of the department of state true copies of all such returns.

Section 4. And be it further enacted, That the circuit and district courts of the United States, shall respectively have cognizance of all crimes and offenses against this act. And all marshals and other officers of the United States are required to execute all precepts and orders of the President of the United States issued in pursuance or by virtue of this act.

Section 5. And be it further enacted, That it shall be lawful for any alien who may be ordered to be removed from the United States, by virtue of this act, to take with him such part of his goods, chattels, or other property, as he may find convenient; and all property left in the United States by any alien, who may be removed, as aforesaid, shall be, and remain subject to his order and disposal, in the same manner as if this act had not been passed.

Section 6. And be it further enacted, That this act shall continue and be in force for and during the term of two years from the passing thereof.

Approved, June 25, 1798(U.S. Statutes at Large, I, 570-572).



3. An Act respecting Alien Enemies.

Section 1. Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whenever there shall be a declared war between the United States and any foreign nation or government, or any invasion or predatory incursion shall be perpetrated, attempted, or threatened against the territory of the United States, by any foreign nation or government, and the President of the United States shall make public proclamation of the event, all natives, citizens, denizens, or subjects of the hostile nation or government, being males of the age of fourteen years and upwards, who shall be within the United States, and not actually naturalized, shall be liable to be apprehended, restrained, secured and removed, as alien enemies. And the President of the United States shall be, and he is hereby authorized, in any event, as aforesaid, by his proclamation thereof, or other public act, to direct the conduct to be observed, on the part of the United States, towards the aliens who shall become liable, as aforesaid; the manner and degree of the restraint to which they shall be subject, and in what cases, and upon what security their residence shall be permitted, and to provide for the removal of those, who, not being permitted to reside within the United States, shall refuse or neglect to depart therefrom; and to establish any other regulations which shall be found necessary in the premises and for the public safety: Provided, that aliens resident within the United States, who shall become liable as enemies, in the manner aforesaid, and who shall not be chargeable with actual hostility, or other crime against the public safety, shall be allowed, for the recovery, disposal, and removal of their goods and effects, and for their departure, the full time which is, or shall be stipulated by any treaty, where any shall have been between the United States, and the hostile nation or government, of which they shall be natives, citizens, denizens or subjects: and where no such treaty shall have existed, the President of the United States may ascertain and declare such reasonable time as may be consistent with the public safety, and according to the dictates of humanity and national hospitality.

Section 2. And be it further enacted, That after any proclamation shall be made as aforesaid, it shall be the duty of the several courts of the United States, and of each state, having criminal jurisdiction, and of the several judges and justices of the courts of the United States, and they shall be and are hereby respectively, authorized upon complaint, against any alien or alien enemies, as aforesaid, who shall be resident and at large within such jurisdiction or district, to the danger of the public peace or safety, and contrary to the tenor or intent of such proclamation, or other regulations which the President of the United States shall and may establish in the premises, to cause such alien or aliens to be duly apprehended and conveyed before such court, judge or justice;



and after a full examination and hearing on such complaint, and sufficient cause therefor appearing, shall and may order such alien or aliens to be removed out of the territory of the United States, or to give sureties of their good behaviour, or to be otherwise restrained, conformably to the proclamation or regulations which shall and may be established as aforesaid, and may imprison, or otherwise secure such alien or aliens, until the order which shall and may be made, as aforesaid, shall be performed.

Section 3. And be it further enacted, That it shall be the duty of the marshal of the district in which any alien enemy shall be apprehended, who by the President of the United States, or by order of any court, judge or justice, as aforesaid, shall be required to depart, and to be removed, as aforesaid, to provide therefor, and to execute such order, by himself or his deputy, or other discreet person or persons to be employed by him, by causing a removal of such alien out of the territory of the United States; and for such removal the marshal shall have the warrant of the President of the United States, or of the court, judge or justice ordering the same, as the case may be.

Approved, July 6, 1798(U.S. Statutes at Large, I, 577-578).

4. An Act in addition to the act, entitled "An act for the punishment of certain crimes against the United States."

Section 1. Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That if any persons shall unlawfully combine or conspire together, with intent to oppose any measure or measures of the government of the United States, which are or shall be directed by proper authority, or to impede the operation of any law of the United States, or to intimidate or prevent any person holding a place or office in or under the government of the United States, from undertaking, performing or executing his trust or duty; and if any person or persons, with intent as aforesaid, shall counsel, advise or attempt to procure any insurrection, riot, unlawful assembly, or combination, whether such conspiracy, threatening counsel, advice, or attempt shall have the proposed effect or not, he or they shall be deemed guilty of a high misdemeanor, and on conviction, before any court of the United States having jurisdiction thereof, shall be punished by a fine not exceeding five thousand dollars, and by imprisonment during a term not less than six months nor exceeding five years; and further, at the discretion of the court may be holden to find sureties for his good behaviour in such sum, and for such time, as the said court may direct.

Section 2. And be it further enacted, That if any person shall write, print, utter, or publish, or shall cause or procure to be written, printed, uttered or published, or shall knowingly and willingly assist in writing, printing, uttering or publishing any false, scandalous and malicious writing or

writings against the government of the United States, or either house of the Congress of the United States, or the President of the United States, with intent to defame the said government, or either house of the said Congress, or the said President, or to bring them, or either of them, into contempt or disrepute; or to excite against them, or either or any of them, the hatred of the good people of the United States, or to stir up sedition within the United States, or to excite any unlawful combinations therein, for opposing or resisting any law of the United States, or any act of the President of the United States, done in pursuance of any such law, or of the powers in him vested by the constitution of the United States, or to resist, oppose, or defeat any such law or act, or to aid, encourage or abet any hostile designs of any foreign nation against the United States, their people or government, then such person, being thereof convicted before any court of the United States having jurisdiction thereof, shall be punished by a fine not exceeding two thousand dollars, and by imprisonment not exceeding two years.

Section 3. And be it further enacted and declared, That if any person shall be prosecuted under this act, for the writing or publishing any libel aforesaid, it shall be lawful for the defendant, upon the trial of the cause, to give in evidence in his defense, the truth of the matter contained in the publication charged as a libel. And the jury who shall try the cause, shall have a right to determine the law and the fact, under the direction of the court, as in other cases.

Section 4. And be it further enacted, That this act shall continue and be in force until the third day of March, one thousand eight hundred and one, and no longer: Provided, that the expiration of the act shall not prevent or defeat a prosecution and punishment of any offense against the law, during the time it shall be in force.

Approved, July 14, 1798(U.S. Statutes at Large, I, 596-597).

APPENDIX II: THE KENTUCKY AND VIRGINIA RESOLUTIONS OF 1798

1. Kentucky Resolutions, November 16, 1798

I. Resolved, that the several States composing the United States of America, are not united on the principle of unlimited submission to their general government; but that by compact under the style and title of a Constitution for the United States and of amendments thereto, they constituted a general government for special purposes, delegated to that government certain definite powers, reserving each State to itself, the residuary mass of right to their own self-government; and that whensoever the general government assumes undelegated powers, its acts are unauthoritative, void, and of no force: That to this compact each State acceded as a State, and is an integral party, its co-States forming, as to itself, the other party: That the government created by this compact was not made the exclusive or final judge of the extent of the powers delegated to itself; since that would have made its discretion, and not the Constitution, the measure of its powers; but that as in all other cases of compact among parties having no common Judge, each party has an equal right to judge for itself, as well of infraction as of the mode and measure of redress.

II. Resolved, that the Constitution of the United States having delegated to Congress a power to punish treason, counterfeiting the securities and current coin of the United States, piracies and felonies committed on the high seas, and offenses against the laws of nations, and no other crimes whatever, and it being true as a general principle, and one of the amendments to the Constitution having also declared "that the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people," therefore also [the Sedition Act of July 14, 1798]; as also the act passed by them on the 27th day of June, 1798, entitled "An act to punish frauds committed on the Bank of the United States" (and all other their acts which assume to create, define, or punish crimes other than those enumerated in the Constitution), are altogether void and of no force, and that the power to create, define, and punish such other crimes is reserved, and of right appertains solely and exclusively to the respective States, each within its own Territory.

III. Resolved, that it is true as a general principle, and is also expressly declared by one of the amendments to the Constitution that "the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively or to the people;" and

that no power over the freedom of religion, freedom of speech, or freedom of the press being delegated to the United States by the Constitution, nor prohibited by it to the States, all lawful powers respecting the same did of right remain, and were reserved to the States, or to the people: That thus was manifested their determination to retain to themselves the right of judging how far the licentiousness of speech and of the press may be abridged without lessening their useful freedom, and how far those abuses which cannot be separated from their use should be tolerated rather than the use be destroyed; and thus also they guarded against all abridgement by the United States of the freedom of religious opinions and exercises, and retained to themselves the right of protecting the same, as this State, by a law passed on the general demand of its citizens, had already protected them from all human restraint or interference: And that in addition to this general principle and express declaration, another and more special provision has been made by one of the amendments to the Constitution which expressly declares, that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof, or abridging the freedom of speech, or of the press," thereby guarding in the same sentence, and under the same words, the freedom of religion, of speech, and of the press, insomuch, that whatever violates either, throws down the sanctuary which covers the others, and that libels, falsehoods, defamation equally with heresy and false religion, are withheld from the cognizance of Federal tribunals. That therefore [the Sedition Act], which does abridge the freedom of the press, is not law, but is altogether void and of no effect.

IV. Resolved, that alien friends are under the jurisdiction and protection of the laws of the State wherein they are; that no power over them has been delegated to the United States, nor prohibited to the individual States distinct from their power over citizens; and it being true as a general principle, and one of the amendments to the Constitution having also declared that "the powers not delegated to the United States by the Constitution, nor prohibited by it to the States respectively, or to the people," the [Alien Act of June 22, 1798], which assumes power over alien friends not delegated by the Constitution, is not law, but is altogether void and of no force.

V. Resolved, that in addition to the general principle as well as the express declaration, that powers not delegated are reserved, another and more special provision inserted in the Constitution from abundant caution has declared, "that the migration or importation of such persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the year 1808." That this Commonwealth does admit the migration of alien friends described as the subject of the said act concerning aliens; that a provision against prohibiting their migration is a provision against all acts equivalent thereto, or it would be

nugatory; that to remove them when migrated is equivalent to a prohibition of their migration, and is therefore contrary to the said provision of the Constitution, and void.

VI. Resolved, that the imprisonment of a person under the protection of the laws of this Commonwealth on his failure to obey the simple order of the President to depart out of the United States, as is undertaken by the said act entitled "An act concerning aliens," is contrary to the Constitution, one amendment to which has provided, that "no person shall be deprived of liberty without due process of law," and that another having provided "that in all criminal prosecutions, the accused shall enjoy the right to a public trial by an impartial jury, to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favour, and to have the assistance of counsel for his defense," the same act undertaking to authorize the President to remove a person out of the United States who is under the protection of the law, on his own suspicion, without accusation, without jury, without public trial, without confrontation of the witnesses in his favour, without defense, without counsel, is contrary to these provisions also of the Constitution, is not law, but utterly void and of no force. That transferring the power of judging any person who is under the protection of the laws, from the courts to the President of the United States, as is undertaken by the same act concerning aliens, is against the article of the Constitution which provides, that "the judicial power of the United States shall be vested in the courts, the judges of which shall hold their offices during good behavior," and that the said act is void for that reason also; and it is further to be noted, that this transfer of judiciary power is to that magistrate of the general government who already possesses all the executive, and a qualified negative in all the legislative powers.

VII. Resolved, that the construction applied by the general government(as is evinced by sundry of their proceedings)to those parts of the Constitution of the United States which delegate to Congress a power to lay and collect taxes, duties, imposts, and excises; to pay the debts, and provide for the common defense, and general welfare of the United States, and to make all laws which shall be necessary and proper for carrying into execution the powers vested by the Constitution in the government of the United States, or any department thereof, goes to the destruction of all the limits prescribed to their power by the Constitution: That words meant by that instrument to be subsidiary only to the execution of the limited powers ought not to be so construed as themselves to give unlimited powers, nor a part so to be taken as to destroy the whole residue of the instrument: That the proceedings of the general government under color of these articles will be a fit and necessary subject for revisal and correction at a time of greater tranquility, while those specified in the proceeding resolutions call for immediate redress.

VIII. Resolved, that the preceding Resolutions be transmitted to the Senators and Representatives in Congress from this Commonwealth, who are hereby enjoined to present the same to their respective Houses, and to use their best endeavors to procure, at the next session of Congress, a repeal of the aforesaid unconstitutional and obnoxious acts.

IX. Resolved, lastly, that the Governor of this Commonwealth be, and is hereby authorized and requested to communicate the preceding Resolutions to the Legislatures of the several States, to assure them that this Commonwealth considers Union for specified National purposes, and particularly for those specified in their late Federal Compact, to be friendly to the peace, happiness, and prosperity of all the States: that faithful to that compact according to the plain intent and meaning in which it was understood and acceded to by the several parties, it is sincerely anxious for its preservation: that it does also believe, that to take from the States all the powers of self-government, and transfer them to a general and consolidated government, without regard to the special delegations and reservations solemnly agreed to in that compact, is not for the peace, happiness, or prosperity of these States: And that, therefore, this Commonwealth is determined, as it doubts not its co-States are, tamely to submit to undelegated and consequently unlimited powers in no man or body of men on earth: that if the acts before specified should stand, these conclusions would flow from them: that the general government may place any act they think proper on the list of crimes and punish it themselves, whether enumerated or not enumerated by the Constitution as cognizable by them: that they may transfer its cognizance to the President or any other person, who may himself be the accuser, counsel, judge, and jury, whose suspicions may be the evidence, his order the sentence, his officer the executioner, and his breast the sole record of the transaction: that a very numerous and valuable description of the inhabitants of these States being by this precedent reduced as outlaws to the absolute dominion of one man, and the barrier of the Constitution thus swept away from us all, no rampart now remains against the passions and the powers of a majority of Congress, to protect from a like exportation or other more grievous punishment the minority of the same body, the legislatures, judges, governors, and counselors of the States, nor their other peaceable inhabitants who may venture to reclaim the constitutional rights and liberties of the State and the people, or who for other causes, good or bad, may be obnoxious to the views or marked by the suspicions of the President, or be thought dangerous to his or their elections or other interests, public or personal: that the friendless alien has indeed been selected as the safest subject of a first experiment, but the citizen will soon follow, or rather has already followed: for, already has a sedition act marked him as its prey: that these and successive acts of the same character, unless arrested on the threshold, may tend to drive these States into revolution

and blood, and will furnish new calumnies against Republican governments, and new pretexts for those who wish it to be believed, that man cannot be governed but by a rod of iron: that it would be a dangerous delusion were a confidence in the men of our choice to silence our fears for the safety of our rights: that confidence is everywhere the parent of despotism: free government is founded in jealousy and not in confidence: it is jealousy and not confidence which prescribes limited Constitutions to bind down those whom we are obliged to trust with power: that our Constitution has accordingly fixed the limits to which and no further our confidence may go; and let the honest advocate of confidence read the alien and sedition acts, and say if the Constitution has not been wise in fixing limits to the government it created, and whether we should be wise in destroying those limits; let him say what the government is if it be not a tyranny, which the men of our choice have conferred on the President, and the President of our choice has assented to and accepted over the friendly strangers, to whom the mild spirit of our country and its laws had pledged hospitality and protection: that the men of our choice have more respected the bare suspicions of the President than the solid rights of innocence, the claims of justification, the sacred force of truth, and the forms and substance of law and justice. In questions of power then let no more be heard of confidence in man, but bind him down from mischief by the claims of the Constitution. That this Commonwealth does therefore call on its co-States for an expression of their sentiments on the acts concerning aliens, and for the punishment of certain crimes herein before specified, plainly declaring whether these acts are or are not authorized by the Federal Compact. And it doubts not that their sense will be so announced as to prove their attachment unaltered to limited government, whether general or particular, and that the rights and liberties of their co-States will be exposed to no dangers by remaining embarked on a common bottom with their own: That they will concur with this Commonwealth in considering the said acts so palpably against the Constitution as to amount to an undisguised declaration, that the compact is not meant to be the measure of the powers of the general government, but that it will proceed in the exercise over these States of all powers whatsoever: That they will view this as seizing the rights of the States and consolidating them in the hands of the general government with a power assumed to bind the States (not merely in cases made Federal) but in all cases whatsoever, by laws made, not with their consent, but by others against their consent: that this would be to surrender the form of government we have chosen, and to live under one deriving its powers from its own will, and not from our authority; and that the co-States, recurring to their natural right in cases not made Federal, will concur in declaring these acts void and of no force, and will each unite with this Commonwealth in requesting their repeal at the next session of Congress.



2. The Virginia Resolutions, December 24, 1798

Resolved, That the Genral Assembly of Virginia doth unequivocally express a firm resolution to maintain and defend the Constitution of the United States, and the Constitution of this state, against every aggression either foreign or domestic; and that they will support the Government of the United States in all measures warranted by the former.

That this Assembly most solemnly declares a warm attachment to the union of the states, to maintain which it pledges all its powers; and that, for this end, it is their duty to watch over and oppose every infraction of those principles which constitute the only basis of that Union, because a faithful observance of them can alone secure its existence and the public happiness.

That this Assembly doth explicitly and peremptorily declare that it views the powers of the Federal Government as resulting from the compact to which the states are parties, as limited by the plain sense and intention of the instrument constituting that compact; and that, in case of a deliberate, palpable, and dangerous exercise of other powers not granted by the said compact, the states, who are parties thereto, have the right and are in duty bound to interpose for arresting the progress of the evil, and for maintaining within their respective limits the authorities, rights, and liberties appertaining to them.

That the General Assembly doth also express its deep regret, that a spirit has in sundry instances been manifested by the Federal Government to enlarge its powers by forced constructions of the constitutional charter which defines them; and that indications have appeared of a design to expound certain general phrases (which, having been copied from the very limited grant of powers in the former Articles of Confederation, were the less liable to be misconstrued) so as to destroy the meaning and effect of the particular enumeration which necessarily explains and limits the general phrases; and so as to consolidate the states, by degrees, into one sovereignty, the obvious tendency and inevitable consequence of which would be to transform the present republican system of the United States into an absolute, or, at best, a mixed monarchy.

That the Gneral Assembly doth particularly PROTEST against the palpable and alarming infractions of the Constitution in the two late cases of the "Alien and Sedition Acts," passed at the last session of Congress; the first of which exercises a power nowhere delegated to the Federal Government, and which, by uniting legislative and judicial powers to those of executive, subverts the general principles of free government, as well as the particular organization and positive provisions of the Federal Constitution: and the other of which acts exercises, in like manner, a power not delegated by the Constitution, but, on the contrary, expressly and positively forbidden by one of the amendments thereto,—a



power which, more than any other, ought to produce universal alarm, because it is levelled against the right of freely examining public characters and measures, and of free communication among the people thereon, which has ever been justly deemed the only effectual guardian of every other right.

That this state having, by its Convention which ratified the Federal Constitution, expressly declared that, among other essential rights, "the liberty of conscience and of the press cannot be cancelled, abridged, restrained or modified by any authority of the United States," and from its extreme anxiety to guard these rights from every possible attack of sophistry or ambition, having, with other states, recommended an amendment for that purpose, which amendment was in due time annexed to the Constitution,--it would mark a reproachful inconsistency and criminal degeneracy, if an indifference were now shown to the palpable violation of one of the rights thus declared and secured, and to the establishment of a precedent which may be fatal to the other.

That the good people of this commonwealth, having ever felt and continuing to feel the most sincere affection for their brethren of the other states, the truest anxiety for establishing and perpetuating the union of all and the most scrupulous fidelity to that Constitution, which is the pledge of mutual friendship, and the instrument of mutual happiness, the General Assembly doth solemnly appeal to the like dispositions of the other states, in confidence that they will concur with this Commonwealth in declaring, as it does hereby declare, that the acts aforesaid are unconstitutional; and that the necessary and proper measures will be taken by each for co-operating with this state, in maintaining unimpaired the authorities, rights, and liberties reserved to the states respectively, or to the people.

The above resolutions were taken from:

Henry Steele Commager(ed.), Documents of American History  
(New York: Appleton-Century-Crofts, 1968), pp. 178-183.

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