“So Palpably in the Teeth of the Constitution as to Shew They Mean to Pay no Respect to It”:
How the Oft Overlooked Republican Response to the Sedition Act Effected the Election of 1800

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Abstract

This thesis examines the often overlooked local Republican newspaper network in the aftermath of the passing of the Alien and Sedition Acts and the buildup to the election of 1800. Most newspapers in the Early Republic were Federalist, but after the passing of the Alien and Sedition Acts, Republican newspapers began to spring up in greater numbers and with choicer words for various Federalist injustices. Most historians tend to ignore local newspapers and instead focus on national newspapers and national trends, but this thesis looks at regional newspapers across Pennsylvania to examine the various methods they used to keep the Sedition Act firmly in the minds of their readers. These newspapers often used pieces of “communal literature,” such as petitions and editorials aimed at their readership to establish “imagined communities” among their subscribers. For instance, a certain newspaper in Philadelphia printed several petitions against the Sedition Act from neighborhoods and towns surrounding Philadelphia over a period of several months, in order to establish that Republicans in the area were strong and united in their opposition to the Sedition Act. Petitions were not the only piece of communal literature—there were also editorials aimed at local populations, as well as toasts and elegies to Republican heroes. In this way, the newspapers were able to establish “imagined communities,” to strengthen the local Republicans.

This dissatisfaction with the Alien and Sedition Act extended, in various stages, from their initial passing in June and July of 1798 all the way to the election of 1800. The first stage appeared to end with the Kentucky and Virginia Resolutions—the disastrous documents that represented a nadir for national Republicans in general. Yet, after the Resolutions, local Republican newspapers began to shift attention away from them and back to the Alien and Sedition Acts. In the year and several months between the Resolutions and the trial of Thomas Cooper, a printer from Northumberland, Pennsylvania indicted under the Sedition Act, local Republican newspapers rallied and fomented anger against the Alien and Sedition Acts. Again, this included petitions, editorials, and memorials, some of which were oriented towards the important gubernatorial elections of 1799. Finally, the trial of Thomas Cooper in April of 1800 re-galvanized Republican anger towards the Sedition Act, and this momentum carried over into the election of 1800. The Cooper trial offered Republican newspapers an opportunity to rehash the unconstitutionality and immorality of the Sedition Act. In the summer months after the trial, Republican newspapers tended to offer analysis of the illegal and immoral nature of the trial and the Sedition Act in general. By election season, this gave way to articles pinning the blame on the Sedition Act and unconstitutional trials on Adams, and vindicating Cooper, Jefferson, and other Republicans as the defenders of freedom. Republican newspapers used the Sedition Act and its prosecutions to inflame the electorate and make potential voters concerned over the state of their rights. The Sedition Act has a momentous effect on the Republican calculus heading into the election of 1800.
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Thesis Introduction

The Alien and Sedition Acts

The Alien and Sedition Acts generated an incredible controversy at the time of their passing, due to the contentious powers they granted the Federal Government. What are known as the "Alien and Sedition Acts," were actually four separate acts, passed in June and July of 1798, that gave the federal executive unlimited power over foreign nationals in the United States while also criminalizing speaking ill of the government. Somewhat surprisingly, most of the public did support the Acts after their passing, because the ruling Federalist party successfully convinced people that the situation in the United States mirrored that of post-revolutionary France, and therefore the need to crack down on Republican "Jacobinism" necessitated the Alien and Sedition Acts. The Republicans quickly mounted a response, culminating in the Kentucky and Virginia Resolutions of 1798, which protested the implementation of the Acts in constitutional and moral terms, while also promising their respective states would refuse to implement them. These resolutions were abject failures, with regard to both politics and public opinion. Thomas Jefferson's insistence on utilizing the radical nullification and compact theories of the Constitution, implying that any state had the right to "nullify" a law and declare it constitutionally null and void, isolated Kentucky and Virginia among state legislatures, and pushed a public fearful of violent revolution even further into the arms of the Federalists. The results of the elections of 1798-1799 vindicated the Federalists and scared the Republicans – the Federalists had made impressive inroads in traditionally Republican strongholds of the South, and had nearly complete control of the government. A year later, however, in the Presidential elections of 1800, the Republicans
won a stunning victory. There are numerous reasons for this surprising political turnaround, but this thesis examines the Alien and Sedition Act, and their changing impact over time.

This thesis examines Republican newspapers in the period of 1798-1800 in the state of Pennsylvania, also home to the nation's capital. Most other histories, discussed below, see the Alien and Sedition Acts as antecedents to the election of 1800, rather than directly affecting it. This thesis reframes the timeline and examines local newspapers to show how the Alien and Sedition Acts did have an effect on the election of 1800. In the early republic, newspapers tended to be extremely partisan. There are a few exceptions, but most newspapers, even if they appeared to be objective, actually had some kind of one-sided twist. For instance, while most newspapers printed fiery, unabashedly partisan editorials, some refrained from overt editorializing at all, printing only legislation without commentary as well as seemingly objective news. How could non-editorializing newspapers be described as partisan? Their selection of news, as well as the pieces they chose to print from state and federal legislatures clearly serves an agenda. It was not uncommon for state legislatures to print the speeches from their floors in their entirety, and naturally these speeches were biased towards the party of the speechmaker. Newspapers that claimed objectivity, such as the Farmer's Register of Chambersburg, Pennsylvania, printed speeches in lieu of editorials, to the same effect. Examining newspapers shows how the Alien and Sedition Acts were still prominently on the minds of the electorate on the eve of the election, and how many Republican newspapers turned them into a hot button issue.

Examining the printing of community oriented print items, such as petitions, is an important part of this thesis, because of the importance these communal printed pieces had in creating “imagined

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communities.” In the initial and oft overlooked wave of anger after the passing of the Alien and Sedition Acts, Republican newspapers printed various petitions decrying the Acts. The frequency and location of these petitions was extremely important, because using them, Republican newspapers were able to create an “imagined community” among their subscribers. “Imagined community” is a term coined originally by Benedict Anderson to refer to nationalist communities, but I use it to refer to local communities created around a political party. At the time, the nation’s capital, Philadelphia was a fractured city mostly under control of the Federalists. By consistently showing that there was Republican support in the immediately surrounding towns, one Republican newspaper was able to create an “imagined community” among Republicans, reassuring them of their political beliefs in a contentious and politically divided area. It is nearly impossible to be part of a political party if one feels alone or isolated among one’s neighbors and peers, and newspapers helped stifle that feeling of loneliness by keeping local Republicans connected. Petitions were not the only printed items that created these “imagined communities.” Other types of articles, like legislation, or even closer to the election, direct calls to action, also highlighted the local community of Republicans, and created imagined connections between them.

**Historiography**

This thesis falls at the intersection of three areas of the history in the Early Republic – those historians concerned with the Alien and Sedition Acts, specifically the Republican response to the Acts, those concerned with the elections of 1800, and those historians concerned with newspapers in the Early Republic. Individual historians and schools of histories have long offered numerous interpretations of Republican resistance to the Alien and Sedition Acts, and its impact on the elections of 1800. But, topics are not fixed and bound, but often overlap. For instance, books or articles
concerned with the election of 1800 tend to include a detailed description of the Alien and Sedition Acts, but often treat them as precursors to the election, as part of the general history of the Republic, and not actually directly impacting the actual election.

Historians of the Alien and Sedition Acts, specifically the Republican response, offer varied accounts of the role that the Alien and Sedition Acts had on the election of 1800. Scholarly attention has been divided about how to account for two contradictory positions – the utter political failure of the Kentucky and Virginia Resolutions, juxtaposed with the eventual unpopularity of the Alien and Sedition Acts. Historians such as Dumas Malone, the foremost biographer of Jefferson in the early to mid-20th century, have often been more interested in the Virginia and Kentucky Resolution, and therefore did not extend their studies to include popular resentment of the Alien and Sedition Acts, assuming by omission that they did not have a significant impact on the elections. However recently, some historians have challenged this assertion, noting that even though the Virginia and Kentucky acts were extremely damaging to the Republicans, and initial support for the Alien and Sedition Acts was high, eventually the populace did come to resent the Alien and Sedition Acts. These historians are concerned with national politics. I, however, draw a parallel timeline, more focused on the local level, which demonstrates how locally Republicans pushed back against the Alien and Sedition Acts from their passing through the election.

Historians concerned with the elections of 1800 have tend to have a fairly benign approach towards how the Alien and Sedition Acts affected the elections of 1800. While all historians include a description of the Alien and Sedition Acts, many of them see no direct link between them and the election of 1800. For instance, America Afire: Jefferson, Adams and the Revolutionary Election of 1800

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includes chapters about the Alien and Sedition Acts, but places them in a different section than the actual election, and frames them as antecedents and context in the overall election, rather than factors in the actual Election itself.\textsuperscript{3} James Roger Sharp’s \textit{The Deadlocked Election of 1800} represents a different problematic archetype in scholars’ approach to the Republican response to the Alien and Sedition Acts – a fixation on the Virginia and Kentucky Resolutions, while ignoring smaller responses by local Republicans throughout the union. Sharp frames the Virginia and Kentucky Resolutions as “The Republican Response,” and the Federalists’ successful repudiation of the Resolutions as “The Federalist Counterattack.”\textsuperscript{4} Sharp is correct insofar that the Virginia and Kentucky Resolutions placed the Republicans on very precarious grounds in 1799, but is wrong in stating that \textit{all} response to the Alien and Sedition Act damaged their cause, as it overlooks the more local responses.

Susan Dunn’s \textit{The Election Crisis of 1800 and the Triumph of Republicanism} is an archetype of some of the most standard approaches to narrating the connection between the Alien and Sedition Acts and the election of 1800. While she mostly focuses on the Kentucky and Virginia Resolution, Dunn does mention that the Federalists’ attempts to stifle the free press galvanized the nation, and heavily implied that it was a source of controversy until the election.\textsuperscript{5} Dunn does bring up Thomas Cooper’s trial in passing, but does not expound on it. In essence, Dunn implicitly suggests that there was a connection between the Alien and Sedition Acts and the elections of 1800, but never explicitly draws that link using primary sources.

Edward Larson in \textit{A Magnificent Catastrophe} is one of the few historians who nearly draws a direct link between the Alien and Sedition Acts and the election of 1800. Rather than limit his


\textsuperscript{4} Roger Sharp, \textit{The Deadlocked Elections of 1800}, 44-72

discussion of the Acts to 1798 and early 1799, like most historians, he stretches his section about the Alien and Sedition well into 1800, culminating in the trial of Thomas Cooper, which riveted the nation. Larson also mentions partisan political newspapers and their tendency to attack Adams on topics such as the Quasi-War with France and the standing army, but does not mention anything about the Alien and Sedition Acts. He directly links the Sedition Act to the election of 1800 by describing the coverage of the scandal that was Thomas Cooper's trial, but no more than that.⁶

There exists a different, but tangentially related field of history that comes into play in my thesis – the history of newspapers in the Early American Republic. Although these tend to ignore the elections of 1800, they naturally grapple with the greatest challenge to a free press in Early American History – the Alien and Sedition Acts. And even though the election of 1800 isn't mentioned, these histories have unearthed a fascinating connection between the Alien and Sedition Acts and the election of 1800, because several of them credit the Alien and Sedition Acts with the creation of partisan Republican newspapers in the United States. The assertion that the Alien and Sedition Acts created partisan opposition newspapers is important, because regardless of if the Alien and Sedition Acts were mentioned in articles, they had a hand in galvanizing the press and laying the groundwork for the Republican victory.

Although they utilize different source material and historical perspectives, and come from vastly different historical eras, John C. Miller in Crisis in Freedom, published in 1951, and Jeffrey L. Pasley in the Tyranny of Printers, published in 2001, both identified the Alien and Sedition Acts as a critical factor in the explosion of Republican newspapers between 1798 and 1800. Miller writes “If the purpose of the Sedition Act has been to multiply Republican newspapers and to increase vastly their

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circulation, it was an unqualified success.” Pasley goes even further, and credits the Alien and Sedition Acts with creating the heavily partisan news climate of the 19th century, because they “convinced many printers that there was no place for an honest printer who followed the traditional nonpartisan approach.” While it is debatable whether a truly nonpartisan approach was ever widespread, the Alien and Sedition Acts polarized papers greater than anything before, and led to an upswing in Republican newspapers.

**Final Introduction**

The debate surrounding the Alien and Sedition Acts was an opportunity for Republican printers to advance themselves and their party. They kept the Acts fresh in the mind of their readership, and when an opportunity to use the Cooper trial as political fodder before the election arose, they took it with gusto. Despite the fact that most scholars do not directly link the Alien and Sedition Acts and the election of 1800, this thesis establishes a timeline that does not contradict them, but rather, adds to the accepted understanding of the elections of 1800. Local newspapers existed on a different plane than the national responses to the Alien and Sedition Acts, and by focusing mostly on them, one sees a parallel timeline emerge. This timeline, beginning at the passing of the Alien and Sedition Acts, influenced by the Kentucky and Virginia Resolutions and the Cooper trial, and ending with the presidential election, shows a consistent pattern of Republicans rallying around opposition to the Acts, particularly the Sedition Act. By combining different historiographies and examining new evidence from local newspapers in various locations around Pennsylvania, I have created a new timeline and new understanding of some of the factors influencing the election of 1800.

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Part I: The Passing of the Alien and Sedition Acts to the Kentucky and Virginia Resolutions

Background

The summer of 1798 was sweltering in Philadelphia. As the temperatures reached into the triple digits, the political climate also boiled. Tensions with France over the XYZ affair, begun over unpaid war debts had finally reached a breaking point, and on July 7, 1798, Congress rescinded all treaties with France, effectively plunging the United States and France into a war. Since France and the United States never actually engaged in open combat, only in limited naval engagements, it would later be known as the "Quasi-War." At the time, however, tensions in Philadelphia, the nation's capital, were extremely high.

Amidst all this din lived one of the most famous and infamous printers in the United States, Benjamin Franklin Bache, grandson of the eponymous Benjamin Franklin. Bache printed the *Aurora General Advertiser*, first known simply as the *General Advertiser* when he began printing it in 1790. By 1792, he was one of the first unabashedly Republican printers, as most partisan printers were Federalist and by the mid-1790s, he had become the most important Republican printer in the United States, leading a mouthpiece for the party that was distributed all over the Republic.9

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The summer of 1798 had been difficult for Bache personally and financially. Federalist newspapers personally attacked him as a traitor, his newspaper's subscriptions shrank, and he had trouble recouping debts from the few subscribers he had. Additionally, in July, the Federalists proposed a Sedition bill squarely aimed at Bache, in order to criminalize his printed attacks on the Federalist Party. Bache had long been an opponent of the Federalists' tension with France and concurrent reconciliation with Britain, and his rhetoric only intensified over the summer. Impatient with delays in passing the bills, Federalists refused to wait to prosecute Bache, and the Department of Justice arrested him on June 26, on a charge of “libelling the President and Executive Government...” prior to the passage of the Sedition Act.  

The Alien and Sedition Acts

Background to the Acts Themselves

The Alien and Sedition Acts were born out of a time of fear. After witnessing the violent revolutions in France, and growing domestic unrest in the United States over taxes and the situation with France, some Federalists were convinced that a violent revolution was looming, and the only way to tackle it was to crack down on dissent. Many privately expressed that this was not the true reason for the Sedition Acts, “candidly admitting that they sought to suppress dissent, not because they were concerned about the crisis situation with France, but because they wanted to suffocate the Republican Party.”  

Publicly, however the party was nearly unanimous in stating the Alien and Sedition acts were necessary for public order. Initially, most of the country agreed with them.  

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What is known as the Alien and Sedition Acts are actually four separate acts, passed in June and July of 1798. The first three acts are known as the Alien Acts, while the fourth is the Sedition Act. The Alien Acts effectively stripped foreign nationals in the United States of any rights, and equally egregiously, the Sedition Act criminalized any and all dissent with the government, the Alien and Sedition Acts horrified the Republicans. Vice President Jefferson spoke for all Republicans in a letter to James Madison: “Among other enormities, it [the Sedition Act] undertakes to make printing certain matters criminal, tho’ one of the amendments to the Constitution has so expressly taken religion, printing presses, etc. out of their [the government's] coercion. Indeed this bill and the Alien bill both are so palpably in the teeth of the constitution as to shew they mean to pay no respect to it.” 13 Jefferson was disgusted an act that he saw as fundamentally unconstitutional.

The Response to the Alien and Sedition Acts in the News

The response to the Alien and Sedition Acts in newspapers was initially very one sided. Republican newspapers were few in number and circulation, while Federalist newspapers dominated the land. In the months prior to the election, Federalist newspapers printed screeds about “Jacobins” infiltrating the United States in order to form an insurrection. Soon, Jacobin became both a Federalist slur for Republican, while retaining the slur of devious infiltrator. 14 As the legislation was being discussed in Congress, Federalist newspapers increased their attacks on Bache and Republicans in General. One article began with: “The proposed law for the punishment of libels will have an excellent effect, and I hope its first operation will be upon the infamous Bache and his associates... while they

have been employed in euologizing a foreign country, the basest upon earth, have at the same time, with the utmost malignity, been vilifying their own..."\(^{15}\) A public that had been fearful of war with France for a year, and who had heard stories of the violent revolution, eagerly supported the Acts and agreed with Federalist defenses of them in newspapers. \(^{16}\)

In comparison to the Federalist response, the Republican response was fairly limited in quantity and quality. With the notable exception of the *Aurora*, Republican papers did not make a firestorm over the acts, but some had choice words. Most Republican newspapers simply reported their passing, without any opinions or comment. The closest the Washington, Pennsylvania, *Herald of Liberty* got to actually criticizing the acts at the time of their passing was a notice reading: “A Liberty Pole is erected in this town with the following inscription thereupon:

\[
\begin{align*}
1776 \\
\text{LIBERTY} & & \text{JUSTICE} \\
\text{THE CONSTITUTION INVIOLATE} \\
\text{No British Alliance} \\
\text{No Sedition Bill}
\end{align*}
\]

We hear that others have been erected at Blooming Grove, Montgomery, Goshen, Fishkill, etc.”

To understand the importance of this notice, one has to understand the meaning of a liberty pole in the political climate of the time. Not a symbol of the American revolution anymore, Liberty Poles were instead a Republican “rallying point of insurrection and civil war” as one Federalist newspaper put it.\(^{17}\) Indeed, the conflation of liberty poles, “Jacobinism” and insurrection was widely


\(^{16}\) Larson, *A Magnificent Catastrophe*, 34.

\(^{17}\) James Morton Smith, “The Federalist ‘Saints’ versus ‘The Devil of Sedition’: The Liberty Pole Cases of Deadham,
acknowledged by the Federalists. In one Massachusetts town, the erectors of a liberty pole were put on trial under the Sedition Act.\(^\text{18}\) Liberty poles became an incredibly hot button issue, as publicly erecting one was seen as lauding of Republicanism and “Jacobinism.” By announcing the erection of one in its own county, the \textit{Herald of Liberty} was issuing a rallying cry to Republicans. By announcing the erection of ones in other counties, the \textit{Herald} suggested strengthening of Republican sentiment against the Sedition Acts. Such announcements pointed to Republican foment on the ground in a perhaps more subtle and indirect way than an inflaming editorial.

The actual inscription on the liberty pole is also a fascinating insight into the Republican calculus. Although the Constitution was scarcely ten years old, Republicans were already hearkening back to it as something that was “inviolate. This was a deliberate strategy on the part of Republicans. Banking on leftover support for “The Glorious Cause,” as later historians would call it, Republicans hearkened back to those images that inspired America several decades earlier, in order to drum up sentiment against the Alien and Sedition Acts, suggesting that such Acts violated the Constitution, and that they as Republicans and Americans would never stand for any violation.

The Chambersburg \textit{Farmers' Register} was an interesting example of a response to the Alien and Sedition Act, because unlike many other newspapers, the \textit{Farmer's Register} refused to published opinion pieces or personal letters, and only published news columns and legislative proceedings. From examining many articles this appeared to be editorial policy, but no official records exist. The \textit{Register} did not publish notification of the actual passing of the Alien and Sedition Acts. Instead, the paper published a short notification that the Pennsylvania legislature would be gathered to discuss the Alien and Sedition Acts. While the notice starts out extremely dry and factual, its tone quickly becomes much

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\(^{18}\) James Morton Smith, “The Federalist 'Saints' versus "The Devil of Sedition"
more emotional: "...as the majority of our legislature are true Americans, there cannot be a doubt but that they will readily declare the acts alluded to unconstitutional and oppressive... proving to the world that they can support the liberties which our forefathers fought and bled for, a SEDITION BILL to the contrary nonwithstanding."19 This quotation bluntly stated that the Sedition Bill was unconstitutional.

Despite taking a very strong position on the matter, the article tries not to deviate from its objective news tone. There is very little narration and almost no editorial voice, except for when the article states "our forefathers fought and bled for." The predictions are framed as future news, not editorials, and the language is forceful. The article appears not to persuade, but rather to confirm already held beliefs. The one narrative turn, when the author states "our forefathers," is addressed to a community of people who can all relate to the same thing. This is the kind of article which would assure Republicans that they were on the right side of the political spectrum, and assuage any fears they might have had about Federalist domination of their politics and their rights. The Register wanted to let its readers know that they are safe in the hands of the legislature, which did not happen -- the Pennsylvania legislature did not declare the Acts unconstitutional, instead, it did the opposite.

The Trial of Mathew Lyon

The press received its first major story about the Sedition Act several months later, when Mathew Lyon, a sitting congressman from Vermont, was put on trial for violating the Sedition Act. Lyon was indicted for publishing a letter accusing Adams of "a continual grasp for power," in his newspaper, the Farmer's Liberty. Lyon would be found guilty and won the dubious honor of becoming

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the only member of Congress ever win reelection while in prison.\footnote{Bernard A. Weisberger, \textit{America Afire: Jefferson, Adams, and the Revolutionary Election of 1800}, (New York: Harper Collins, 2000), 215.} Naturally, the Federalist press attacked Lyon: “The notorious and despised Mathew Lyon has been indicted for treasonable expressions and libellous\[sic\] publications against the Government of the United States...”\footnote{“Intelligence Long Expected”, \textit{Porcupines' Gazette}, October 18, 1798. Accessed February 25, 2015.} Lyon was somewhat infamous, as he had already spat on a fellow congressman and gotten into an altercation involving a cane and a pair of tongs on the floor of Congress. Federalist papers never missed an opportunity to attack Lyon's character or to rehash previous incidents.

The far smaller Republican press could not mount a serious counterattack to defend against the criticism heaped upon Lyon by the Federalist press. The exception to this rule was the \textit{Aurora}, now edited by William Duane, as Bache had died in September. On November 1\textsuperscript{st}, 1798, before any new information about Lyon's trial emerged, the byline of the \textit{Aurora} contained this tidbit: “\textit{Mathew Lyon of Vermont has had the honor of being the first victim of a law framed directly in the teeth of the Constitution of this federal republic},” echoing the words used by Thomas Jefferson in a private letter to James Madison to describe the law.\footnote{ed. William Duane, “\textit{Mathew Lyon},” \textit{The Aurora General Advertiser} November 1, 1798. Accessed April 19, 2015.} While it is highly unlikely Duane would have had access to the letter itself, both he and Jefferson were based in Philadelphia, and Jefferson may have repeated these words -- they are lyrical. The \textit{Aurora} would continue to publish articles defending Lyon and decrying the Sedition acts for the next several months. On the other hand, the \textit{Herald of Liberty}, relayed the news about Lyon without editorializing, merely relaying that he was arrested, convicted, and sentenced.\footnote{John Israel, “\textit{Worcester, Oct 17},” \textit{The Herald of Liberty}, November 5, 1798. Accessed April 20, 2015.} Most Republican newspapers responded like the \textit{Herald of Liberty}.

One relevant tidbit about Lyon's trial, was a letter that made its way throughout Pennsylvania, authored by Lyon himself. This letter appeared in no less than four Republican newspapers in
Pennsylvania, all within two weeks of each other. 24 This letter, in an unusual turn for Lyon, was not extremely fiery, and did not even openly attack the Federalists. Perhaps concerned over his recent conviction under the Sedition Act, it appears Lyon toned down his rhetoric, and the newspapers followed his lead. The closest his letter gets to openly criticizing the Federalists is when Lyon describes his appalling conditions in jail. In addition, Lyon noted that he had predicted before its passing, that the Sedition Act would be used to silence him and other politicians. 25 While this reflection was only mentioned in passing in the midst of a very long letter, the fact that Lyon had correctly guessed the Acts could be used to suppress the opposing party was a nod towards hypothetical Federalist despotism becoming reality. Even without openly stating it, Lyon and Republican presses could warn their readers about Federalist tyranny, further stoking fears of unconstitutionality and the loss of rights. If Lyon had correctly predicted that the Federalists would take away some democratic rights, by using the Sedition Act as a tool to prevent politicians from speaking to their constituents, who knew how far Federalists would go in tampering with democracy?

The Kentucky and Virginia Resolutions

The Resolutions Themselves

The political landscape completely changed several months after the Alien and Sedition Acts, when the official Republican response, the Kentucky and Virginia Resolutions, were published by their respective state legislatures in November and December of 1798. Authored anonymously by Thomas Jefferson and James Madison, the resolutions were intended to be the Republican response to the

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Federalist Alien and Sedition Acts. The Resolutions were a point by point takedown of the Alien and Sedition Act, most centered on claims of unconstitutionality, not limited to the First Amendment. They suffered, however, because the radical “compact theory” of the Constitution put forth by Jefferson, which inflamed Federalists and isolated moderates.26

Jefferson and Madison authored the Kentucky and Virginia Resolutions separately, and while Jefferson had plans to send a copy of the resolution to Madison before submitting it to the legislature, that did not happen. A devoted follower of the compact theory of Constitutionality, Jefferson insisted on putting it in the Kentucky resolution. The compact theory is a theory of the Constitution that surmises that the states had signed onto the Constitution as members of a compact or contract, and that since they are the principal benefactors and representatives of that contract, individual states can choose to nullify laws based on what they feel is unconstitutional. Before the writ of judicial review, established in 1803 by the Supreme Court, there was no way to determine constitutionality of laws passed by Congress. Therefore, according to Jefferson, any individual state can declare a law unconstitutional, and make it null and void. The Kentucky legislature found this position too radical, however, and instead amended Jefferson’s draft to make it apparent that they were only declaring the Alien and Sedition Acts void within the borders of Kentucky.27

James Madison, on the other hand, refused to declare the laws null and void in the Virginia Resolution. While his personal thoughts on the compact theory were mixed, Madison saw the inherent contradiction in both intra and interstate unilateral nullification – how can one hope to maintain a Union if the federal legislature is always subservient to the states? Or, if one only accepts nullification within a single state, how can one have a unified country with potentially radically different legal

codes? Although Madison did believe in nullification, as it was a fairly widely held theory of the time, he believed in a different kind of nullification, where a multitude of states, perhaps even a majority, united to declare a law unconstitutional, and refused to include nullification in the Virginia resolutions. Additionally, his thoughts on the matter changed extensively over time.  

The Kentucky resolution was not only about nullification. Jefferson’s critique of the Alien and Sedition Act detailed exactly what made the Alien and Sedition Act unconstitutional, noting the First Amendment expressly forbade them, and that they were a grave overstepping of the “Necessary and Proper Clause,” which stated that Congress had the right to enact anything in order to carry out the powers vested in it by the Constitution. Jefferson, like many still do today, felt this meant that all other powers were delegated to the states. Jefferson also appealed to other states to join him in his protest. Madison’s Virginia resolution was even more conciliatory, appealing to the natural right of free speech, and expressing a “warm attachment to the Union of the States.” Nevertheless, the main takeaway both for other states and in the eyes of the public, was Kentucky’s repeated declaration that the Alien and Sedition Acts were “altogether void, and of no force.”

As was customary in the day, especially since both Kentucky and Virginia had called for their participation, other state legislatures responded to the Resolutions. Their responses were overwhelmingly negative. By February 1st, 1799, Pennsylvania had completely shot down the Kentucky resolutions and instead offered counterproposals in favor the Alien and Sedition laws. New Jersey outright rejected the Kentucky Resolutions on January 20th, 1799, and on March 5th, New York even sent a reply to the legislatures of Kentucky and Virginia, ridiculing them for threatening to

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28 Malone, Jefferson and the Ordeal of Liberty, 404.
destroy the Union. North Carolina's House of Representatives, which had declared that the Alien and Sedition Acts were unconstitutional, refused to sign on with Kentucky and Virginia because of nullification. Even Aaron Burr, the Republican leader in New York, wrote that despite having good intentions "in the honest love of Liberty, [the Kentucky and Virginia Resolutions] had gone A LITTLE TOO FAR." The responses of other states were politically disastrous to Republicans. On the national level, any Republican complaints about unconstitutionality were drowned out by other states claiming that Kentucky and Virginia were attempting to destroy the Union.

Newspapers' Responses to the Kentucky and Virginia Resolutions

Federalist newspapers printed these responses with glee— they had no need to generate original content to attack the Republicans, state legislatures had done it for them. Claypoole's Advertiser printed the Pennsylvania resolutions, but the Philadelphia Gazette also printed the response of Delaware, and while it did not print the response of New York, the Philadelphia Gazette noted that the Kentucky Resolutions "required something more than barely dismissing them," and praised Albany for doing exactly that. The Gazette of the United States even purported to have inside information from Virginia that "the Kentucky Resolutions are part of a converted plan to embarrass, the measures of Government, and dismember the Union."

Historians have generally viewed the overwhelming negative response to the Kentucky and Virginia resolutions both from other states as proof of the failure of the Republican response to the

33 Update from Albany, Philadelphia Gazette, March 4 1799.
The success or failure of the Kentucky and Virginia Resolutions depended on how they were received throughout the country... The results could hardly have been more disheartening.\textsuperscript{35} James Roger Sharp, further details how both Federalist newspapers and Federalist legislatures attacked Republicans, while rumors of Republican rebellion emanating from the South swirled. John Nicholas, a prominent Republican from Virginia, wrote a letter in 1799 denouncing the entire Republican Party while claiming that Republicans were storing arms in Virginia for an insurrection. While this letter was discredited by his own family, Nicholas' letter added fuel to the fire, and so “the Republicans in Virginia and Kentucky saw themselves in a particularly vulnerable and precarious position. And, because of this, they attempted to walk a tightrope between defending themselves against a perceived usurpation of Federal government and not appearing to be acting irresponsibly.”\textsuperscript{36}

Bernard A. Weisberger takes a similar, but more nuanced approach to the effect of the Kentucky and the Virginia Resolutions, insofar that their overall effect was a net negative, but they may have brought long term positives. As Weisberger writes: “So the Virginia and Kentucky Resolutions became important as they were the kickoff of the Republican 1800 “campaign,” such as it was... In 1799 the resolutions were actually counterproductive. They opened up fears of disunion, even if ill-founded, that worked against efforts to repeal the Alien and Sedition Acts, which might have had a chance.”\textsuperscript{37} Weisberger is saying that the Resolutions’ insistence on unconstitutionalities against individuals planted the idea of states’ and individual rights in the minds of the people. These ideas would end up being critical to the election of 1800. The immediate effect of the resolutions, however,


\textsuperscript{36} Roger Sharp, \textit{The Deadlocked Election of 1800}, 62-63.

were disastrous. Weisberger also notes that the Republicans lost seats in Congress and local
governments in the limited elections of 1799. At the time of their passing, however, the Resolutions
were completely negative. Republicans at large could not even begin to defend them, and Federalists
crucified them.

The Kentucky and Virginia Resolutions were the only official, national response to the Alien
and Sedition Acts. Therefore, historians who criticize the national Republican response, and claim they
had no positives, to the Alien and Sedition Acts (the Kentucky and Virginia resolutions) are absolutely
correct. The Resolutions were completely misplaced at the time, scaring moderates and providing
support for the Federalist claims of Republican insurrection. Even Jefferson would later admit that
perhaps the Resolutions were too alienating.\textsuperscript{38} However, long overlooked by other historians has been
the unofficial, not-national Republican response to the Alien and Sedition Acts by smaller newspapers.
In the years after the Alien and Sedition Act, regional Republican newspapers began to speak up in
greater numbers across the United States. Spurred by what they saw as an attack on their fundamental
rights, these printers began to speak out against the Alien and Sedition Acts. Historians in general have
not addressed these local printers, which is what I aim to do.

Even in these incredibly negative times for Republicans at the national level, some newspapers
continued to defend the Republican cause. The \textit{Farmer's Register} of Chambersburg, in South Central
Pennsylvania, published three articles decrying the Sedition Act in December of 1798, after only
publishing sporadic ones in the months prior. These cluster of articles were completely legalistic pieces
– one was the actual Kentucky Resolution itself, another was an account of selections from the
Constitution presented by Republicans in Congress, and the third was a petition against the Sedition

\textsuperscript{38} Roger Sharp, 64.
The Farmer's Register's account of the Kentucky Resolutions was the prominent news item of the week. The Kentucky Resolution, prefaced by a transcript of a speech by Governor James Garrard, occupied the entire front page of its December 12 edition. Garrard's speech was clearly meant to be reprinted — although it was addressed to the legislature of Kentucky, it calls for support from people all over the Union, and tries to dispel some rumors about the nature of Kentucky’s protest — Garrard addressed Federalist accusations about disunion head on. Anticipating the reaction to the Kentucky resolutions, Garrard firmly stated that Kentucky had no intentions to withdraw from the Union, and instead, was attempting to save it, because: “Any violation of the Constitution once acquiesced in, subverts the great palladium of our rights, and no barrier remains to oppose the introduction of despotism.” The fact that Garrard states “once acquiesced in,” is very important, because it implies that nullification is the safeguard of rights. Garrard is stating that Kentucky, and indeed all true Republicans, are complicit in the violation of the Constitution if they refuse to act against it. He follows this up by calling for Republicans to decry the sedition act, while supporting the Federal Government, so long as it does not violate the Constitution. Garrard walks the tightrope between reassuring Republicans that Kentucky do not attempt to destroy the Union, while at the same time protesting rights, by professing to save the United States.

The other two articles published by the Farmers' Register in December of 1798 shift attention away from nullification, and instead towards the violations of the Constitution by Federalists, in a move from a defensive posture to a counterattack. The petition, from the adjoining Cumberland county, is laid out in clear and simple terms — that the Sedition law is in “direct opposition to both the spirit and

39 David Garrard “Highly Important: Kentucky Legislature,” The Farmers’ Register, December 12, 1798.
letter of an express clause in the Constitution which says...” and that the petitions consider the law “calculated to put a stop to the people saying any thing whatever about their government...” 40 Even immediately after the passing of the Kentucky and Virginia Resolutions, Republicans were already framing a debate about infringements of the rights of individuals, not only the rights of states. This discussion about the unconstitutionality and the general immorality of the Alien and Sedition Acts would be expanded by Republican newspapers all across the country in the next year.

40 “To the Senate and the House of Representatives of the United States,” The Farmers’ Register, December 26, 1798.
Part II: From the Kentucky and Virginia Resolutions to Just

Before Thomas Cooper’s Trial

Background

The period between the Kentucky and Virginia Resolutions and the trial of Thomas Cooper has long been overlooked in regard to the visibility and importance of the Alien and Sedition Acts. After the initial furor over the trial of Mathew Lyon and the passing of the Kentucky and Virginia Resolutions ended, it seemed to be the end of public scrutinization of the Alien and Sedition Acts. The official Republican counterattack to the Alien and Sedition Acts, the Kentucky and Virginia Resolutions, failed miserably, and Republicans had to acknowledge defeat and give up on the acts, or risk pushing a wary populace further into the arms of the Federalists.

Despite the failure of the national Republican response, local newspapers throughout the Union continued to print articles about the Alien and Sedition Act, ensuring it remained an important topic in the minds of their readers. Rather than back down after the Kentucky and Virginia Resolutions, newspapers stepped up the offensive in the early months of 1799. Whether this was through printing news, petitions, or fiery editorials depended on the newspaper, but seemingly all Republican newspapers kept the Alien and Sedition Acts front page news until March of 1799. While this coverage waned in the spring and summer months of 1799, the Alien and Sedition Acts were still frequently brought up in other contexts alongside other Federalist schemes. And when the local gubernatorial and senate elections of 1799 were held, Republican newspapers attempted to restart Anti-Sedition Act feelings to bolster their candidates, and brought the Sedition Act back into the pages of their newspapers. The momentum generated by the resurgence in articles during the campaign season of
1799 carried over into the trial of Thomas Cooper and the subsequent presidential election.

The publishers also had a personal reason for keeping the Alien and Sedition Acts important news. The Acts directly targeted publishers and continued to threaten them. Jeffrey L. Pasley, a historian of American Newspapers, argues that: “The Sedition Act “failed” by transforming a large number of printers into something more than simple pliers of the printer’s trade. The Federalist repression convinced many printers that there was no place for an honest printer who followed the traditional nonpartisan approach. Simultaneously, the growth of political parties opened new roles for printers that validated the claims that all American artisans felt they had to equal rights.” While it is debatable whether there ever was a “traditional nonpartisan approach,” the idea of printers being personally attacked and fighting for their rights may partially explain their continuing crusade against the Alien and Sedition Acts.

Pennsylvania was an interesting state for several reasons -- it was politically divided, and it was one of the few swing states of the time. Pennsylvania proved important in the presidential elections of 1796, also between Adams and Jefferson, as it was one of the few successes for the Republicans. It was the only state with the current format for presidential elections, where the election was done by popular ballot, and the winner of the state received all of its Electoral College votes. In 1800 Pennsylvania reverted to the format used by most of the union, having the state legislature determine Electoral College seats in whichever way they chose. In 1796, however, the Republicans mounted a massive public relations campaign against the Federalists in Pennsylvania, and in a nail-biter of a race, were able to win the state by less than two hundred votes.

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Pennsylvania was also a state politically divided between the West and the East, similar to today. The Western, rural portion of the state, colloquially now known as “Pennsletucky,” was indeed in some ways politically closer to Kentucky and Virginia than Philadelphia. It was far more Republican, and in 1796, the West of the state voted almost exclusively for Jefferson. The relationship of the Western part of Pennsylvania with Kentucky will be important later in this thesis, as certain Pennsylvanian newspapers published articles from Kentucky, emphasizing the connections between the residents of the two regions. The eastern part of Pennsylvania was mostly Federalist on the other hand, and voted for Adams in 1796, with the notable exception of Philadelphia, in which a majority voted for Jefferson. The single most important Republican newspaper, the mouthpiece for the Republican Party, the *Aurora*, was based in Philadelphia. Pennsylvania was as thoroughly split between the Federalists and the Republicans as any state in the Union. The varied content of Pennsylvania’s regional newspapers reflected the political climate of the location in which the newspaper was published. Elections were always extremely close in Pennsylvania, and so Republican newspapers were extremely important for persuading potential voters as well as shoring up support among the party faithful, who were sometimes trapped in areas where they were the minority.

**Imagined Communities**

Republican newspapers adopted many techniques to appeal to supporters and convince people on the fence, from fiery op-eds, to reprinting news from other states, to notices of petitions and legislative acts. These articles helped to create an imagined community which was both strengthened and influenced by the newspapers. The idea of an “imagined community” was first created by Benedict

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43 Map of Presidential Counties in the election of 1796
http://upload.wikimedia.org/wikipedia/commons/9/99/PresidentialCounty1796.gif
Anderson to describe the creation of nationalism. Anderson described nations as imagined communities, bound together by arbitrary, imposed factors.\footnote{Benedict Anderson, \textit{Imagined Communities: Reflections on the Origin and Spread of Nationalism} (ACLS Humanities Book, 2006) accessed at \url{http://quod.lib.umich.edu/cgi/t/text/text-idx?c=acls;idno=heb01609} on February 19, 2015, Page 7.} Anderson, too, was interested in newspapers, but for other reasons – he deduced that nation-building and the rise of the modern nation was only really possible when there was a mode of written communication in the popular vernacular that was easily disseminable.

The imagined communities described here were of a somewhat different sort. Benedict’s imagined communities are unified over a specific language or culture, whereas what united the communities I investigate was a dedication to, or at least an interest in a certain political philosophy. While these communities were rooted in politics, this philosophy meant sometimes laying claim to cultural icons, especially in the race to be a “true American.” For instance, as mentioned in a previous section, the liberty pole was an icon from the American Revolution, scarcely 15 years ended, which had been claimed by the Republicans and loathed by the Federalists. What once had been a universally beloved symbol of freedom and liberty became a hugely contentious issue. These communities were built based on similar political feelings, and they were fueled in part by what the Republican press made an important political issue – the Alien and Sedition Acts. I deem them “imagined,” because in many cases, specifically in Eastern Pennsylvania, the participants in the community never actually met or interacted with each other, like in Anderson’s original definition. Republican newspapers appealed only to a subset of a region’s population. They were not for everyone in a specific town, they were instead for a specific set of people in a region, people who might never even meet each other. There was no physical, interacting community that ever actually met that was served by these newspapers, instead, the newspapers crated their own communities. The various types of articles both created an
imagined community and in turn are strengthened and influenced by it.

The newspapers, and the imagined communities they developed, were created in the first place to make Republicans feel as they were not isolated in their respective towns, counties, and regions. It was all well and good knowing that there was an amorphous party out there known as the “Republicans,” but without the comfort of local support, it would be extremely difficult to go against the grain of neighbors and companions. These newspapers situated themselves as local voices carrying national news in order to foster a sense of community among Republicans.

**Case Study #1: The *Universal Gazette***

The *Universal Gazette*, of Philadelphia, was one such Republican newspaper, which seemingly attempted to create an imagined community among local Philadelphia Republicans. More locally oriented and less vitriolic than the *Aurora*, The *Universal Gazette* contained more local news than the *Aurora*, and from investigating many issues between 1798 and 1800, it appears that the *Universal Gazette* refused to print editorials, only news and legislation. This suggests that part of *The Universal Gazette*’s modus operandi was to be as objective as possible, as evidenced by the years it refrained from taking an editorial tone except for when absolutely necessary to explain the news, and simply did not print any opinion pieces. Occasionally, however, the editor’s intense dissatisfaction with the Alien and Sedition Acts shown through.

**The Use of Petitions to Create an “Imagined Community.”**

Between December of 1798 and March of 1800, *The Universal Gazette* printed no less than nine petitions and letters from various legislatures, governing bodies, or local councils decrying the Alien and Sedition Acts. These petitions and “memorials” as they were called, were mostly directed at
Congress, the Executive Branch, or the Federal Government in general and originated in locations of varying distance, from nearby neighborhoods and counties, to Suffolk County in New York and Richmond, Virginia. These petitions fit incredibly well with the idea of creating an imagined community of Republicans around Philadelphia, because the local ones reassured Republicans that they were not alone in Philadelphia and were part of a local group of concerned citizens, while the more far-off ones reignited support and reminded Republicans that they were part of a national movement to change the country.

The *Universal Gazette* started printing petitions against the Alien and Sedition Acts in December 1798, perhaps not coincidentally during the furor surrounding the Kentucky and Virginia Resolutions, in order to divert attention away from them and back to the Sedition Act. In December of 1798 and January of 1799, the *Gazette* printed three separate petitions, all explicitly against the Alien and Sedition Acts and all from local Philadelphia communities – on December 27th it printed a petition from the Northern Lights section of Philadelphia, while on January 17th and 24th it printed petitions from Chester and Montgomery Counties, respectively.45

Aside from their proximity to Philadelphia, all the petitions share formal characteristics. They all begin with a notice that a meeting occurred to decide the petition. In one case, it appears this was an editorial decision, as above the petition from Montgomery County, the editor placed a note stating that "Agreeable to notice given, a respectable number of Citizens from different parts of Montgomery County, met at the house of Michael Broad on Saturday, the Fifth of January, 1799; for the purpose of taking into consideration the propriety of forming a MEMORIAL to Congress, praying them to repeal

the Alien and Sedition Acts. " The other two petitions, however, actually included a notice that a physical meeting occurred in the actual petitions themselves! In two cases, rather than immediately delve into their grievances and demands, the petitioners themselves felt it was important to include a notice that a physical meeting occurred. By explicitly stating this, the petitioners were linking these physical meetings and themselves to an imagined community of Republicans in greater Philadelphia. The imagined community itself did not have physical meetings consisting of its entire membership, so these smaller ones served as stand-ins, and the petitions were their transmissions to the greater community. This is also reinforced at the end, as each petition contains a list of the names of the respected citizens from their areas who have signed on. By signing on, they actively joined the local and national Republican community.

The three petitions themselves are remarkably short and to the point in comparison with many of the other memorials and petitions printed in the Universal Gazette. They all state in some form that they consider the Alien and Sedition Acts both unconstitutional and destructive towards individual liberties. Although there is no mention of "natural rights," all three mention the "rights of the people," separate from the Constitutional argument, and have their basis in enlightenment thinking about the natural rights of man. The petition from Northern Liberties is a little more thorough than the others, as it explicitly and clearly states what the others seem to be implying -- that the Alien and Sedition Acts are unconstitutional because they impede the rights of the people as well as the democratic process. Analyzing it offers key insights on the thought processes and logical reasoning of the local Republicans who wrote it.

The petition starts out with the aforementioned paragraph about a public meeting for the various

46 "Petition from Montgomery County," The Universal Gazette.
residents of the county, which was important because it firmly situated the residents of Northern Lights in the local community of Republicans. Next off, it has two paragraphs containing parallel arguments justifying their assembly. The first one is a purely Constitutional argument, declaring their right to peaceably assemble. The second, on the other hand, declares their duty to assemble: “And whereas it is expedient and useful for the people immediately to assemble when any grievance exists, in order to obtain prompt redress and in order that silence might not lead in favor of unjust and oppressive laws.”

The language implying duty in the face of injustice, as well as general civic duty, again harkens back to the American Revolution while also playing into the idea of what a “true citizen” of America should do. In the fledgling democracy, active participation in political life was not only encouraged, but considered necessary to be an upstanding member of society. The Republicans were not only defending their rights to assemble, but asserting themselves as true Americans and patriots.

The petition also makes use of parallel arguments when attacking the actual Alien and Sedition Acts as well, and again, the first argument is Constitutional while the second is more general. The Constitutional argument is not as fleshed out as the general argument – the petition simply states that the Acts are unconstitutional, and moves on. Rather than expound on its alternative theory of Constitutionality, it merely states it, and then in the general argument justifies it. After stating that even though the law does not contain explicit language preventing citizens from speaking their mind, that is how it is being implemented. According to the author of the petition: “And whereas encroachment upon the rights of the people, of whatever nature and under whatever pretence [sic] ought to be ferociously guarded against and instantaneously corrected as the nature of the case will admit.” Had there not been a paragraph interjecting, it is entirely possible that this sentence could have

referred to constitutionally guaranteed rights, but it clearly refers to the more amorphous rights mentioned in the preceding paragraph. This is further confirmed by the next paragraph which states: “That considering the Alien and Sedition acts as contrary to the true letter of the constitution and as destructive to the rights of the people.” There is a clear separation between merely unconstitutional and destructive to individual rights, so even if one does not accept the Acts as unconstitutional argument, they are still wrong.

It might seem odd today that there was a difference between “unconstitutional” and “destructive to the rights of the people,” but several factors were different at the time. One, the Constitution was relatively recent, and the document it replaced had failed. In the previous section, the Republicans had to claim the “Constitution inviolate,” as if it were in doubt. There were also debates about what unconstitutionality was and how it could be recognized. The sanctity of the Constitution, and the interpretation of the first amendment as universal was not as it is today. Palsey explains this further: “The Federalists were on solid legal ground in claiming that the Sedition Act did not abridge the First Amendment, since the leading jurists of the time defined freedom of the press as freedom from prior restraint. Animated by what might be termed an alternative, popular Constitutionalism, young printers clung to their own vision of the First Amendment as absolutely protective of political publishing.”48 Given that the Constitution was not necessarily on their side, the petitioners felt they had to appeal to something higher, to something which was considered unbendable – the natural rights of man, and the common decency of their fellow men. They were creating a community through a shared commitment to guaranteeing the right to speak and print that would always be guaranteed under the Constitution, because it was simply the right thing to do. This community was also partially dedicated to putting

48 Palsey, The Tyranny of Printers, 148
forth a new interpretation of the Constitution and a new relationship with the first amendment, one that benefited both printers and ordinary citizens alike. The petition ends with a list of names of the petitioners, and their boroughs, reinforcing the idea of a community dedicated to the rights of all.

Moving on from these three local petitions, the *Universal Gazette* would continue to print petitions and memorials from legislatures and communities throughout the land. One of these was the Kentucky Resolutions of 1799, the response to other states' responses to the Kentucky Resolutions of 1798.49 These are considered of little importance historically, as they were not transmitted to other state legislatures, and their passing was overshadowed by the death of George Washington in December of 1799. Clearly, the *Universal Gazette* did not print things based on their national significance – they printed them based on their usefulness to the Republican cause and perhaps unintentionally, contributed to the creation of a national Republican community that stretched from Kentucky to New York.

One of the other petitions from outside of Pennsylvania originated in Suffolk County, New York. The Suffolk County “memorial” as it is titled, is very long, while at the same time very calm. Despite its even tone, it is more fleshed out than the other petitions, and has more extensive Constitutional argument. It not only details where the Alien and Sedition Acts violate the Constitution, but illustrates a chain of events whereby the laws could subvert the government and the entire court system, therefore necessitating the alternative Constitutional interpretation described by Palsey.50 It seems that this petition partially reflects where it came from – a much more traditionally Federalist state than Pennsylvania. It is likely that petitioners in New York could not afford to be as fiery as the petitioners in Pennsylvania, as they were at a greater risk of isolation and reprisals under the Sedition Act, so they were more legalistic in rhetoric and context. Surprisingly, however, the Republicans did

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win New York for the first time in 1800, in an unbelievable coup that tipped the scales of the election, due to the shrewd politics of Aaron Burr, the leading Republican in New York.51

Printing and discussing petitions were not the only tactic that the Universal Gazette used in its fight against the Sedition Act. They also used legislation – specifically printing updates from Congress about the fight against the Sedition Bill. Again, these lacked evident editorial voice, and merely described events, but the actual rhetoric used both in Congressional debates and in the myriad of bills filed in Congress in pyrrhic attempts to repeal the Sedition Act, was so strong they almost created an editorial tone themselves. An account of a bill filed by Representative Nathaniel Macon (R-NC) exemplifies this. The article describes how Macon himself recalled, at the state ratification of the Constitution, that nearly all the signatories, both Federalist and Republican, agreed on the First Amendment in order to prevent things like the Sedition Act. According to Macon, they were so fearful of the potential for a Sedition Act all the signers additionally agreed on the tenth amendment to make its unconstitutionality more apparent. Macon then went on to describe why the liberty of the press is so important, noting that it is the only thing which makes the President and other elected officials liable to the people.52 Even though Macon probably knew the bill would fail in the Federalist controlled House of Representatives, he used his personal experience with the Constitution to advance the “alternative, popular constitutionalism,” which Palsey described earlier, and subsequently attack the Sedition Act. As the Universal Gazette was in the nation’s capital, Samuel Harrison Smith could use his paper’s physical location to help spread senators’ diatribes against the Acts.

Case Study #2: The *Herald of Liberty*

The *Herald of Liberty*, a Republican paper based in Washington, Pennsylvania, also extensively covered the Alien and Sedition Acts in the period between January 1799 and April of 1800. While its coverage was also concentrated in early 1799, and slacked off a bit following February 1799, it picked up again in November of 1799, and continued into the new year and later, the election cycle. In general, the *Herald of Liberty* took a much stronger editorial tone than the *Universal Gazette*—even news articles often contained a partisan bent from the editor. It also seemed less concerned with creating a local community of Republicans. While the initial coverage after the passing of the Kentucky and Virginia from the *Universal Gazette* was decidedly local and calm, the *Herald of Liberty* went on the attack from the get-go.

While the *Herald of Liberty* did mention petitions, it did so in a much different way than the *Universal Gazette*. Rather than reprint petitions in their entirety, the *Herald* tended to simply give small notice of their passing, or include these notices in larger articles.\(^5\) Instead, it devoted more pages to vitriolic editorials attacking the Alien and Sedition Acts. One such editorial was “An Apology for the Alien and Sedition Act,” published on February 18, 1799.

**Editorials in the *Herald of Liberty***

“An Apology for the Alien and Sedition Acts,” symbolized some of the partisan invective that dominated newspaper politics of the time, that I have termed a “stump speech article,” in that to the modern reader, it far more mirrors a fiery partisan speech than an editorial, and was perhaps meant to be read aloud. Reading it as though it were a stump speech, in the way its tone starts out softly but

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grows and grows to hysterical proportions, allows the reader to fully appreciate its impact.

The first paragraph of the article is relatively calm and bland, both in form and tone, with no capitalization or bolding. Compared to other paragraphs, it is relatively restrained, as the article has just begun, and the tone is still very calm. Something, however appears to be amiss. It notes that historically certain clans and wealthy families have shaped the societies. But then, in a twist, it says that the article will not undercut, but instead support the “self evident” truth that the elite should shape society. Using language that mirrors the Constitution, it in fact flips the Constitution. This sarcasm is incredibly subtle, and in some ways, it is very close to private Federalist arguments, but as the article continues its sarcasm and anger builds. By the third paragraph, the article’s satirical nature is much more obvious. The third paragraph makes the claim that because praise is nicer than blame, the common people should never blame or reprobate their elected officials, and instead only praise them. Since they have higher social standing, and have natural rights afforded to them by their office, wouldn't it be so much nicer if they were only praised? This argument is clearly facetious, and flies in the face of the basics of democracy, but the next, and penultimate paragraph is where the article truly goes off the rails.

The next paragraph is where the article makes it clear that it is a drippingly angry satire. If it were a stump speech or a sermon, this would be the point where the speakers' voice would reach a fever pitch, where he would be practically spitting on the front row. Even a cursory examination of the emphasized words in the paragraph reveals the author's fury: “thinking, think, THINK, gag, in silence.” Ignoring the rest of the content of the paragraph, just the emphasized words tell a narrative, exhorting the reader to THINK, while warning of what will happen if they are gagged or sit in silence. The sentences themselves also make the sarcasm clearer: "The multitude have preposterously

concluded that every man should think for himself; how such a glaring faux pas could have the sanction of rational beings, I can never surmise." The more subtle point is that the sentence is a contradiction—the definition of rational being is that to an extent, they can think for themselves. The more obvious sarcasm is that it is utterly preposterous, of course every man should be free to think for himself—that is the basis for not only the Constitution, but for nearly all of enlightenment philosophy.

The final sentence of this paragraph is the most extreme point of both the form and the argument: "And should this dignified class THINK proper to gag the articulate organs of their constituents... [the constituents] should suffer in silence." There can be no mistaking the author's point at this time—the Alien and Sedition Acts are the work of an aristocracy bent on destroying the rights of the lower classes. While he ostensibly spins it as positive, no one reading could possibly stand to go along with it. The capitalization on certain words only promotes shock and horror when the reader finally realizes the dastardly plot the Federalists have planned.

This kind of intense rhetoric replete with capitalization and other literary tropes was a marked contrast from the Universal Gazette. Not only was it meant to bring a local community together, it was clearly meant to ignite passions and inflame the electorate—just as a stump speech would. This article was a more emphatic call to action. In fact, this kind of article might inspire a local community to make more petitions, or band together to write their congressman. In a more Republican stronghold than the nation's capital, Republican printers could afford to rally the majority Republican local population. The notion that this article was a call to action sheds a new light on the idea of printers themselves feeling personally threatened, and eventually, the Herald of Liberty would make explicit calls for Republican action and support. In the early months of 1799, this kind of intense rhetoric, coupled with regular

updates from Philadelphia, Kentucky, Virginia, and around the Union helped keep the readers of the *Herald of Liberty* heavily invested in the Alien and Sedition Acts.

As winter turned to summer, the fiery op-eds aimed at the Sedition Act disappeared from the bylines of the *Herald of Liberty*. But, the Sedition act itself did not disappear from its pages. The newspaper continued to publish proceedings from Congress mentioning the Sedition Act, particularly attempts to repeal it, as well as general editorials attacking the Federalists. For instance, one article detailed exorbitant Federal spending, and at the very end, claimed they were attempting to “hide themselves from explanation behind the hedge of the SEDITION ACT.”57 Another article detailed Federalist subversion of the Constitution in general, and predictably mentions the Sedition Act, before harkening not to the Constitution, but to the Declaration of Independence.58 This subtle difference shows how the Republicans intended to harken back to the Revolutionary War in their fight against the Alien and Sedition Acts. By calling back to the Declaration of Independence, they paralleled the symbolic erection of putting up liberty poles as a symbol of the American Revolution. Palsey again explains the Republican fascination with not only the Constitution, but also the Declaration of Independence: “...they [the Republican opposition] began to emphasize the egalitarian ideals of the early part of the Revolution and began to see and present those ideals as yet unconsummated. Beginning in the late 1790s quotations and citations from the opening paragraphs of the Declaration of Independence became a staple of the Republican press...”59 In their repeated calls to the Constitution, but even more explicitly by recalling the Declaration of Independence, Republican printers painted Federalists as tyrannical initiators of a Sedition Act, very similar to Great Britain.

59 Palsey, *The Tyranny of Printers*, Page 148
Elegies to Republicans in the Herald of Liberty

In the fall of 1799, from September to December, an altogether different kind of article began to appear— one memorializing Republican individuals for their sacrifice and virtuous qualities, while at the same time assailing the Sedition Act. It is highly likely that these were related to the critical gubernatorial elections of 1799. From September to December, five of these articles appeared, and while only two of them explicitly mention the elections, the rest appear to be politically motivated. These articles would pop up again during the trial of Thomas Cooper, and the subsequent, extended Presidential election season. The gubernatorial elections of 1799 was absolutely critical for the election of 1800. According to Edward J. Larson: “Looking ahead to 1800 presidential election in light of the 1799 governor's race, America's flagship Federalist newspaper Gazette of the United States, predicted 'The effects then of the election of governor will be incalculable.' The governor's role in the presidential election might be substantial because Pennsylvania did not at this time have a set method of picking its electors fixed in law, and the governor could therefore have a significant role in designing that process. Determining how events played out, he might even be a kingmaker.”60 The increasingly fiery rhetoric surrounding the election mirrored its importance.

In September of 1799, the Herald published an article consisting of questions directed at the Federalist candidate for governor, James Ross. Among the accusations that he refused to toast the Constitution, and secretly supported the British, was that “upon your return from Kentucky, during the opposition to the Alien and Sedition-laws in that state... declare that they [the People of Kentucky] were just as the people of this Western Country – would REBEL if they DARE – thereby calling the greatest odium upon the people of this country...”61 Republicans in Western Pennsylvania grouped

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60 Larson, A Magnificent Catastrophe, 57.
61 ed. John Israel,”To Mr. James Ross,” Herald of Liberty, September 16, 1799.
themselves into “Western People,” and were positively outraged at what they saw as an accusation of treason. “Pennsletucky” as a political term was never clearer.

In November, the Herald published a document describing a meeting of Republicans in Noblesburg celebrating their recent victories in the county elections, their toasts, and how many cheers those toasts received. For instance it started off with “1. The Constitution of the United States – may it ever stand inviolable. (6 cheers)” and ended with “Thomas Jefferson and the patriotic minority who boldly voted against the Alien and Sedition Bills (9 cheers).” However, one toast received far and away more cheers than the rest: “8. May Thomas Jefferson be our succeeding President (12 cheers).”62 A full year before the election, Republicans were already envisioning the presidency for Thomas Jefferson, and associating his name with leading the charge against the Sedition Act, and defending the Constitution. After the trial of Thomas Cooper made the Alien and Sedition Act front page news again, and the elections neared, Jefferson's name would become even further linked to the Acts and the Presidency.

Case Study #3: The Carlisle Gazette

The Carlisle Gazette was another local newspaper, this time situated in Central Pennsylvania, slightly west of Harrisburg, nearly exactly in the middle of Philadelphia and Pittsburgh. Like the other two newspapers, it extensively covered the Alien and Sedition Acts until March of 1799. Much like the Universal Gazette, the Carlisle Gazette published legislation, and speeches on the floor of Congress to make its point. For instance, on February 6th 1799, the Carlisle Gazette published a long list of grievances from Republican members of Congress, which concluded with protests against the Alien

and Sedition Acts. The Congressmen's protests were extremely measured and respectful, especially in comparison with some of the other fiery invective that took place on the floor of Congress.

Unlike the other newspapers, however, coverage of the Acts completely stopped until August of 1799, when the newspaper published a July 4th toast celebrating Republicans and denouncing the Sedition Act. As the gubernatorial race heated up, so too did the coverage in the Carlisle Gazette. On October 2nd, the Carlisle Gazette reprinted from the Herald of Liberty a list of questions aimed at the aforementioned James Ross, the gubernatorial candidate.63 Several more articles appeared in October and November attacking the character of Ross and other candidates, by questioning their allegiance to the Sedition Acts. Again, however, the Carlisle Gazette's coverage of the Alien and Sedition Acts ceased until the following March, when they covered the Acts extensively because of the trial of Thomas Cooper and the upcoming presidential election.

A Note About the Aurora

The Aurora is the shining example of a Republican newspapers in the United States – it was well established at the time of the Alien and Sedition Act, and had a national readership. The reason I have not included it here is twofold, however. One is that its history is well documented, and secondly, a great deal of this thesis is dedicated to proving local connections and local histories. A newspaper designed for a national audience clearly does not have the same local histories, and it belongs in a rundown of national history, rather than local.

Because the Aurora was the first prominent national Republican newspaper and still one of very few at the passing of the Alien and Sedition Act, often served as the national mouthpiece for the

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Republican party, and was originally edited by a prominent firebrand, historians have tended to fixate on it as one of a handful of Republican newspapers in the United States, and the only important one in Pennsylvania. In essence, the *Aurora* and its few national compatriots tend to be treated as the exception, not the rule. Still, however, most historians have not examined the direct relationship between the *Aurora* and the election of 1800.  

Part of this thesis, however, is to prove that the *Aurora* was not an anomaly, and that smaller Republican newspapers also took on the cause of the election of 1800, in part by publishing declarations against the Sedition Act.

**Conclusion to the Section**

In this section, we have examined how three Republican newspapers treated the Alien and Sedition Acts in between the passing of the Kentucky and Virginia Resolutions and the trial of Thomas Cooper. Instead of folding after the Kentucky and Virginia Resolutions, they rallied the troops, and most newspapers attempted to keep anti-Sedition Act sentiment high. When an opportunity to use the Sedition Acts against local candidates in the gubernatorial elections rose, all newspapers took it. While each newspaper was different in how and when it assailed the Sedition Act, all three newspapers contributed in some way to the Republicans’ effort against the Alien and Sedition Acts, and in some cases, began to look ahead towards their campaign in 1800.

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64 Larson, *A Magnificent Catastrophe*, 222.
Part III: The Thomas Cooper Trial to the Election of 1800

Introduction

The Thomas Cooper trial and the Sedition Act were inexorably linked Vis a Vis the elections of 1800 because the trial renewed interest in the Sedition Act right before the election, turning it into an important issue. When the Thomas Cooper trial began, the Sedition act had already begun to fade from the front page. While the Sedition Act, was still present in the national memory, it was consigned to the back pages, together with condemnations of other unconstitutional Federalist projects. As the actual act was almost two years old, it was no longer hard hitting news. That completely changed with the trial, which began in April of 1800, just months before the election. It is unclear why the Federalists pursued a course of action that brought the Sedition Act back onto the national stage with a fresh crop of high profile prosecutions in 1800. But, it supplied Republican papers with ammunition to rally around a cause and paint the election as an almost revolutionary struggle for fundamental rights.

The Cooper Trial

Thomas Cooper was an author and printer from Northumberland, Pennsylvania, known for his nuanced, thoughtful political commentary, as well as his sharp wit and penchant for comparatively gentle but also pointed satire. He published a newspaper, the Northumberland Gazette, but was perhaps better recognized for his anthology of political editorials culled from the Northumberland Gazette, aptly titled Political Essays. It was this anthology that made him famous across several states,

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and that ultimately resulted in his prosecution under the Sedition Act.

*Political Essays* is composed of articles and personal thoughts from the *Northumberland Gazette*, starting in April 14, 1799. A slim volume, it contained articles about many of the important political topics of the day, from separation of Church and State, to the tensions with France and Britain. It only contained one article directly concerned with the Sedition Act which strongly decried the act. The article contained the usual attacks on the Sedition Act, that it was tyrannical, tampering liberty, unconstitutional, and protected the ruling body from the will of the people, but also contained some more unique and intelligent insights. For instance, Cooper states that “still more difficulty attaches to an indictment for opinion. Who can prove an opinion to be true? ... under this law, twelve ignorant men in one county may cause a fellow-citizen to be imprisoned, for what juries in every other county might dismiss him with praise!”66 Not only is this an important objection, it *also* turns the Federalist rhetoric of disunion, the claim that Republicans were attempting to destroy the Union through the Kentucky and Virginia Resolutions as well as open rebellion, on its head. Cooper instead makes it seem like the *Federalists* were attempting to destroy the Union through laws that were so open for interpretation, they could lead to totally separate basic legal systems in different parts of the country. This subtle legal insight distinguished Cooper from most popular political writers of the day, who did not make such thoughtful arguments.

Cooper’s angry invective against the Sedition Act was not typical of most of the pamphlet. Indeed, for the time, Cooper was relatively objective and sober in most of his writings. For instance, the first essay is a denouncement of the President’s decision to declare a fast day, but he includes an equally long counterpoint from a reader, that makes a fairly compelling case against Cooper’s own

arguments. Indeed, by the end, Cooper seems wrong. Another even-handed piece is a letter from a farmer who is confused about political terms, and saddened by the insults permeating politics, such as “Jacobin.” A reader sympathizes with him, and writes a short glossary of terms so that his fellow citizens may better understand them. This piece is slightly biased towards the Republicans, but still falls into a fairly objective category, and the author even states “There certainly are violent men on both sides; there certainly are in this country, some men, even of consequence, who are favourers of monarchy; there may be others, too, too apt to think of the French Directory.” The anonymous author admits that both sides, Republicans and Federalists, have men who are too partial to their respective foreign causes.

Despite Cooper's relative rhetorical restraint and even recalcitrance compared to many of his compatriots, the Federalists wanted to use him as an example. When his work made its way to the capital, Philadelphia, Timothy Pickering, the Secretary of State, showed it to Adams, hoping to rile up the President’s temper. For some reason, Adams claimed that it was a “meaner, artful, more malicious libel” than any other more openly angry or critical pieces aimed against him. Perhaps this was because Cooper’s writing was subtler and dependent on argument, not emotion, Adams was furious that people would not see the underlying intent, which was to attack him and the Sedition Act. In any case, at Adams request, the Pennsylvania federal attorney, William Rawle arrested him on April 9th, 1800, and Cooper's trial began in Philadelphia, on April 17th, 1800.

The trial itself was a momentous event, and made front page news across the nation. Although Cooper probably knew going in that he had no chance of actually winning, he was determined to draw the trial out for as long as possible, exhaust all possible defenses, and place the Federalists as a whole

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67 Cooper, Political Essays, 22.
on trial. Cooper would not give up without a fight. Trained as a lawyer in England and familiar with the law in the United States, he represented himself, and started his defense by attempting to subpoena the President of the United States to give evidence and testimony at the trial. The judge immediately shot him down, as well as his other attempts to subpoena leading members of Congress, but Cooper was undeterred. He then pressed both the President and the State Department for evidence for his defense. Cooper's flourishing rhetoric and bold statements had hit their mark. He was going to turn this into a trial to rivet the nation, regardless of the outcome.

Going in, Cooper knew that the jury had been handpicked by a Federal marshal appointed by Adams. Nevertheless, he was determined to make a strong defense, if not to the jury, to the nation. The great trial lawyers of the day tended to use flowery and emotional speeches to sway juries, but Cooper would have none of it. Instead, he spoke factually and calmly, in an effort to contrast himself with the intense political rhetoric of the day. Cooper began his defense by positioning himself as a mere pawn in a political game between the Federalists and the Republicans. Cooper even acknowledged in his opening speech that the President himself had a hand in his arrest and picking of the jury. Cooper skirted with accusing the court of being political, but is very factual in his language, presenting political tampering with the judiciary not as a fixture of his trial, but of the court system in general. Cooper kept this language throughout his trial, both wary of being accused of contempt of court, and to position himself as the voice of reason. He then concluded the opening to his defense by acknowledging the necessity of "a certain degree of confidence in the executive Government of the country. But this confidence ought not to be unlimited, and need not be paid up in advance; let it be earned before it be reposed; let it be claimed by the evidence of benefits conferred..." Cooper conceded that the

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69 Hoffer, _The Free Press Crisis of 1800_, 82.
70 Thomas Cooper, _An Account of the Trial of Thomas Cooper of Northumberland_ (Philadelphia: John Bioren, April 1800) 18-19.
Federalists were indeed correct in asserting that the government did need some support from the people, but argued that the best way to ensure support was by earning it, not by mandating it with a Sedition Act.

Cooper went on to defend his publication of the articles in question, point by point. He framed the trial as a struggle of himself, a common man, versus the President of the United States, but took great pains to repeat over and over again, that it was not a personal struggle. Cooper always said that he criticizes the policy decisions of the President, not his personality. For instance: “In reply, I give credit to the intentions of the President. I say nothing of his private character, and I attack only the tendency of measures notorious to this world... that at the time I allude to, he [the President] was but in the infancy of political mistake [italicization Cooper's]... for have we advanced so far on the road to despotism in this republican country, that we dare not say our President may be mistaken?”71 Cooper characterized himself as an inquisitive citizen, questioning the policy decisions of the President for the countries sake. A successful conviction would only further divide the country and place the future of democracy in jeopardy.

Cooper then attempted to use Federalist newspapers, the Gazette of the United States in particular, to prove that Federalist newspapers tended to be free from prosecution, even though they attacked public figures with far greater vitriol than he did. Because these figures were not in power, however, Fenno (the publisher of the Gazette of the United States) could publish even more slanderous and spiteful things than Cooper with total legal impunity. Cooper then closed his defense with one more insistence that he had in fact spoken well of the president's character, and his only crime was criticizing Adams' policies, which could not be against the law.72

71 Cooper, An Account of the Trial of Thomas Cooper of Northumberland, 19.
The prosecuting attorney, William Rawle, did not have a very strong legal argument. He argued that Cooper's intention in publishing the articles, whether it was to defame the President or merely address his problems, did not matter at all, and instead what mattered legally was its effects. Yet, this was a precarious argument for several reasons. One was that Cooper's language was not nearly radical enough to actually warrant sedition or foment a rebellion; indeed, Cooper praised democracy and the United States, and his intention could have been to persuade potential voters. Rawle was implying democracy was unconstitutional, something which the Federalists had been careful to avoid. The second was that the article's actual effect was impossible to know. The article in question had been published scarcely a few months earlier, and no elections, rebellions, or major political events had happened since then. There had been no gauge of how Cooper's article had changed the political climate, so Rawle's argument was effectively moot. Nevertheless, Rawle knew the jury were Federalists, and merely had to stoke their partisan anger to get a conviction.73

Thomas Cooper Post-Trial

Cooper's trial was sensational news all over the country. It was attended by several leading members of Congress, and when Cooper and another printer, Charles Holt, who was tried a month before in Connecticut, were convicted and sent to jail, Republican newspapers depicted them as martyrs for the rights of all Americans, caught up in a tyrannical movement against freedom of the press. Holt and Cooper continued condemning their convictions from jail, and were released after several months to fanfare from the Republican press. Federalist newspapers also covered the convictions of Holt and Cooper, with a decidedly more positive spin, but it was Republican newspapers

who rallied around the two convicted printers, particularly the one whose trial was in the nation's capital. 74 This renewed vigor and anger about the Sedition Act carried into the election cycle.

The next time Cooper made news was in October of 1800, as Alexander Hamilton, the second in command of the Federalists, published a fifty five page pamphlet titled “Letter From Alexander Hamilton Concerting the Public Character and Conduct of John Adams.” The pamphlet was a scathing indictment of Adams, writing extensively about his “disgusting egoism,” and “vanity without bounds,” while predicting that “the government might totter, if not fall under... [Adam's] future auspices.” 75 Hamilton insisted that the pamphlet was only meant for Federalist leaders, and it was initially only distributed to them, but excerpts were leaked to the Aurora and the New London Bee, which immediately published them.

The Republicans could not have been happier, as the Federalist Party was crumbling just months before the election. Eager to add to the scandal and use it for political leverage, Cooper went to New York in an attempt to arrest Hamilton under the Sedition Act. The Aurora described this experiment as to “whether Republicanism is to be victim of a law, which Aristocracy can break through with impunity.” 76 Cooper was unsuccessful in gaining even an indictment against Hamilton, and the naked bias of the Sedition Act was free for all to see.

The Election

The method for choosing electors to the Electoral College in the Early Republic was not standardized. Each state had different methods of choosing electors, with the bulk of states appointing  

76 Dunn, Jefferson's Second Revolution, 164.
all their electors based on the elections by their respective legislatures. It would appear that this was unfair and not democratic, but for all states, the legislative elections also took place in 1800, so in effect, when citizens voted for a certain candidate, they were casting a vote for that party.\textsuperscript{77}

Pennsylvania’s method for choosing electors was a convoluted mess, right up until December of 1800. In 1796, it had elected voters based on direct popular election, but in 1800, Republicans and Federalists were divided as to how to appoint electors to the Electoral College. The legislative elections in Pennsylvania were set for October 21\textsuperscript{st}, and gave the Republicans the governorship and a majority in the State House, but the Federalists a majority in the State Senate. The Republican governor called a special meeting that began on November 5\textsuperscript{th} to determine how Pennsylvania would vote. This led to an impasse as the Federalists were able to block a direct popular vote, which the Republicans would probably win as they had in 1796. On November 8\textsuperscript{th}, Republicans in the House introduced a bill calling for a vote based on a direct majority of the Pennsylvania Congress, as was customary in most other states. Because there were far more State Representatives than State Senators, however, the Republicans would probably win that vote, so the Federalist controlled Senate would not approve a direct majority voting bill. Republicans introduced several other attempts at compromises that still heavily favored them, but the Federalists would not budge.

With the December 3\textsuperscript{rd} deadline to choose electors rapidly approaching, the Republicans were in crisis. Amazingly, no Federalist had broken ranks, and the Federalists made it plain that they were perfectly willing to let Pennsylvania not vote, as it would have no net effect on their chances to win the presidency. In the last week of November, on advice from leading national Congressmen, the Republicans agreed to split the 15 available votes, with the State House choosing 8 electors, and the

\textsuperscript{77} Bernard Weisberger, \textit{America Afire, Jefferson, Adam, and the Revolutionary Election of 1800} (New York, William Morrow, 2000), 244-247.
State Senate choosing 7. Predictably, the Republicans won all 8 votes from the House and the Federalists won all 7 votes from the Senate. In this critical period between October and December, public interest was at an all-time high, as rumors of conspiracies abounded and some people were even convinced that Pennsylvania would not vote. Petitions flooded from all over the state urging the legislature to reach a compromise, and people eagerly awaited news of what was to come.\footnote{Larson, \textit{A Magnificent Catastrophe}, 232-234.}

Pennsylvania's election season was long, drawn out, and for a few months, very involved. The intensity of Election Day stretched from October to the end of November, as people eagerly awaited news of if and how their votes would count. Newspapers added fuel to the fire, stoking people's passions and anxieties with editorials and memorials.

**Conclusion to the Introduction**

Newspapers responded to these factors in a variety of ways, but they all had noticeable parallels. In some form or another, the Cooper trial restoked passions about the Sedition Acts. The trial allowed for different types of articles to be showcased -- editorials, memorials, and even detailed legal descriptions. All of these types of articles contributed to strengthening the Republican cause. After the Cooper trial and the summer months, the newspapers tend to turn to reflective articles, looking at the damage that the Federalists had done, utilizing the Sedition Act and the Cooper trial as examples. This thesis uses two case studies to show the various types of articles that arose from the Cooper trial and election season, and how they impacted the election of 1800.
Case Study #1: The Cooper Trial and the Sedition Act in the *Herald of Liberty*.

**April-November 1800**

On May 12th, 1800, the *Herald of Liberty* published a notice that Charles Holt, the editor of the *New London Bee*, had been charged under the Sedition Act for speaking out against a standing army. As an addendum, it also stated that “The public were so much interested in this audacious stretch of power, that the court was under the necessity of removing from its ordinary place to the meeting house...”79 As mentioned previously, initially the prosecution of Holt and Cooper were linked in the news, as they were part of a wave of printers becoming martyrs for the Republican cause after their prosecutions under the Sedition Act. Several cases, but particularly these two brought the act back into the limelight.

**The Cooper Trial in the Herald of Liberty**

The coverage of the Cooper trial began in the *Herald of Liberty* in an odd way on May 5th, 1800— with a notice explaining why they had not provided any coverage during the actual trial itself. They had two reasons – one was a desire to not influence the trial, and the other was that the editor felt that Cooper needed no favorable newspaper coverage, as his defense stood on its own merit. This seems out of place for a newspaper in Washington County, and further research revealed that this was a stock article from the *Aurora*, which was used by newspapers from New York to Kentucky.80 It is perplexing that the most prominent Republican newspaper in the country did not offer coverage of the trial. Indeed, the Aurora itself didn't even offer *notice* of the trial as it was occurring, and the only

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mention of the trial in the newspaper was an advertisement for a full account of the trial at the Aurora's offices.\textsuperscript{81} This could be for several reasons, one perhaps was a moneymaking opportunity for the Aurora, but the most likely reason was that William Duane, the editor of the Aurora after Benjamin Bache, had been dragged before a special committee of Congress because he had published covert meetings of Congress. Duane had been indicted twice under the Sedition Act previously, and was able to escape conviction each time, but he felt as though there was no way to escape charges this time and went into hiding.\textsuperscript{82} He came out of sometime in the middle or end of May, 1800.\textsuperscript{83} During the actual trial itself it may be that many Republican newspapers suffered from a lack of coverage, because their main source of information was cut off, or they were afraid to publish because of potential prosecutions under the Sedition Act.

The actual coverage of the Cooper trial in the Herald of Liberty began with a small byline on May 12, 1800, about three weeks after the conclusion of the trial, stating that Cooper had been convicted, fined four hundred dollars and imprisoned for six months. This article was short and unremarkable, but a few weeks later, an equally short but much more alarming article was published. It was framed as an extract from a letter detailing goings on in Philadelphia pertaining to the Republican Party. Written as though the author was pressed for time and could only write snippets, the anonymous author brought a mixed bag of tidings:

"We calculate now with certainty upon the election of Mr Jefferson... We are lifted up here with the prospects that present themselves; the people have awakened from their slumber and have showed they can still assert their rights--...You printers ought to rejoice, not only because you have done so much good for your country, but for your own personal safety – Duane has come out of his hiding place – Cooper, the persecuted Cooper, is in the prison, but visited by his friends."\textsuperscript{84}

\textsuperscript{81} ed. William Duane, “Copies Available”, Aurora General Advertiser May 15, 1800.
It is unclear why printers should rejoice, but perhaps Duane leaving his hiding place was significant in that he no longer felt afraid of prosecution. The other news, however, is fascinating. The Republicans were already banking on Jefferson becoming President later in the year, and connecting the temerity, boldness, and martyrdom of printers with the success of the party and the personal integrity and assertion of rights Republicans stood for. Persecutions and threats under the Sedition Act, had begun to establish printers as Republican heroes scarcely a few months before the election.

In this very same issue, the *Herald* printed an extremely partisan and borderline seditious article, which was a parallel of prosecutions for sedition in Great Britain, under George III, enemy of the American Revolution, and prosecutions by Adams under the Sedition Act. It named George III and Adams in succession, as if to not only draw a parallel between the prosecutions, but also the leaders themselves. Finally, it continues with a list of actions Adams has committed, making him seem like a despot. This article continues the trend of painting printers as fighters for freedom against a tyrant, but is far more radical than any preceding it. It additionally harkened back to the American Revolution and the Declaration of Independence, as Republican printers often did. Jeffrey L. Palsey suggests that in many cases, printers claim that meant to extend the American Revolution that they saw as “yet unconsummated.” As the Union entered the critical summer months before the election, rhetoric was being ramped up, and the parallel published in the *Herald* falls strongly in this vein of crafting an explicit narrative that claimed the election of 1800 was the continuation of the American Revolution.

**Thomas Cooper Post-Trial in the *Herald of Liberty***

A week later, the *Herald* printed a letter from Cooper himself, written from prison. Again

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originally published in the *Aurora*, it was remarkable for its temperance, which was no doubt a response to the fact that Cooper was in jail for publishing “seditious” material. Reading deeper into the letter, one can derive the points Cooper wanted to get across, by making Adams out to be the aggressor. Cooper starts off by thanking the Federalists of Northumberland, his hometown, for petitioning Adams to get him released. He notes that he is not attached to his lodgings, and he “should be very glad to quit them, if I could do so under circumstances of propriety to my own character.” The next paragraph is where the letter truly takes an ingenious turn: “But I am of the opinion with Mr Adams that 'repentance should precede forgiveness,' and until I receive myself and hear that Dr. Priestly has received a satisfactory acknowledgment of the impropriety of his conduct to me, I may be turned out from hence, but I will not leave this place under the acceptance of a favor from President Adams.”

Cooper's assertion that Adams should apologize to him, and not the other way around, is a delightful bit of subtle chicanery that both defends Cooper's name and indicts the Federalists without overstepping the bounds imposed on him by the Sedition Act. It also plays to the idea that Adam was a tyrant, which the Herald had mentioned in the parallel published earlier. The final paragraph of the letter cements Cooper’s credibility even further, and assails the Federalists even more. Cooper warns Republicans to be cautious of *internal* radicalism and rabble rousing. He notes that they must continue to interact with Federalists with “temperance and moderation,” as they always have, because if “those who may wish to profit by the too common credulity of honest intention,” attempt to seize on the anger towards Federalists, it could lead to fragmentation and outright rebellion. It is not clear whether Cooper means Federalist plants or actual people within the party, but in either case, he frames himself as the centrist, moderate voice to Adams' and disingenuous or radical Republicans. Cooper no doubt knew a

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letter to the *Aurora* would be widely reprinted all over the United States, and by putting himself squarely in the middle, he is able to appeal those Republicans who fancied themselves nonpartisan, but merely as defenders of individual rights, as well as people on the fence between Republicans and Federalists.

**The *Herald of Liberty* in Election Season**

The *Herald of Liberty* continued to print articles about the Sedition Act throughout the summer months and the fall, in the buildup to the election itself. These ranged from short stubs detailing new prosecutions under the Sedition Act, to long extended metaphors about the ship *Constitution*, to a several page long legal expose attacking Alexander Addison's legal defense of the Sedition Act. Addison was a Federalist judge who famously published a broadside that defended the Sedition Act, and the *Herald of Liberty* published an article slamming the broadside, arguing that Addison's defense amounted to a belief that common law trumped the Constitution, and deliberately ignored the intent of the “necessary and proper clause” as well as the Bill of Rights.  

88 The *Herald of Liberty* showed not only illegal prosecutions under the Sedition Act, but also used this opportunity to advance the alternative theory of Constitutionality that played more into the hands of printers and Republicans.

The next time Cooper was mentioned in the *Herald of Liberty* was several months after his letter, in an elegy, briefly in November of 1800. In an ode to great Republicans and their allies, including Thomas Jefferson, the French Republic, and the ancient Israelites, Cooper is mentioned first. In the pivotal month when the Pennsylvania legislature was choosing how to vote, Cooper is the first to be elegized as a hero of the oppressed.  

89 This short byline was merely a precursor to bigger news, as

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later that month a report was published that Cooper had gone to New York to demand the prosecution of Alexander Hamilton under the Sedition Act.

In November of 1800, the Herald of Liberty printed an article based off of letters from Cooper published in the New York City based American Citizen, which had covered the Cooper trial and also lionized Cooper. While the article cites the American Citizen, it is not a reprint from the American Citizen, it is merely based on an amalgamation of letters published in that newspaper.

The article in the Herald detailing Cooper's attempts to get Hamilton indicted was factual and thorough, but also scathing. It notes that to get an indictment against David Frothingham, a printer, Hamilton merely had to write a suggestive letter to the attorney general of New York, whereas courts have totally ignored Cooper. The editor admits that he is uncertain about the methods used by Cooper against Hamilton, but is sure that they were or will be unsuccessful, and so the Federalists must lead the charge against Hamilton, because “Hamilton must be prosecuted, convicted, and punished, or else the world will be convinced that the sedition law was merely intended to protect the President of a party, and that it had no force to protect the President of the United States.” Naturally, Hamilton was not prosecuted, and the Herald's point was proven. The Sedition Act was nothing more than a sham meant to illegally protect Adams as “president of a party” rather than as “President of the United States.”

By November of 1800, the trials of several printers, as well as the scandals surrounding the Sedition Act had made it an important topic in the election once more. In September, the Herald had run an article originally written by the Virginia Legislature, imploring citizens to vote Republican, by comparing Adams and Jefferson's qualifications to be president. The foremost charge against Adams

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91 Cooper and unknown, Herald of Liberty, November 11, 1800.
being reelected was the enactment of the Sedition Act under his watch. The Herald's dire rhetoric was ramped up in September and October and by November, had reached its peak explicitness in relation to the election. This is best indicated by a four part series the Herald of Liberty reprinted from November 3rd to the 24th, 1800, from the Carolina Gazette titled “On the Election of the President of the United States.” All three of the articles took up nearly an entire page of the newspaper, and the entire thing is dedicated to attacking Adams for his creation of the Sedition Act.

Part I of the series, published on November 3rd, 1800, set the stage for the rest of the articles. It notes that the author must be free to attack the Sedition Act, because “I never can suppose the authors to be so impolitic as to venture to enforce them [the Sedition Act] on the election of a President.” He then spend the rest of part one theorizing as to why the Sedition Act is unfitting of a president of the United States, and promises to continue to inform the reader. Part II starts where Part I left off, again promising more knowledge, and then delves into a history of sedition in Great Britain, to show the difference between a democracy and a monarchy/oligarchy, where the common people do not have the power to vote out illegal laws. It ends with “The object of the law passed by Congress in 1798 and called the Sedition Law, has been charged to, first, expressly and unequivocally to prevent that free investigation of our public measures which we supposed the constitution has secure to all our citizens.” Part III justifies this assertion first with the history of the act, and how it had been used to prosecute people unconstitutionally all over the United States. Section III ends by including a great deal of text from the actual Sedition Act itself, which is explained in both constitutional and enlightenment terms in Section IV. The author argues that constitutionally the government has no right to regulate

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92 “To the Citizens of Virginia,” The Herald of Liberty, September 1, 1800.
speech, *nor should it.* He makes one of the strongest cases yet seen for the alternative theory of Constitutionality, by lengthily explaining the word and the spirit of the Constitution. Even if one accepts that constitutionally the Sedition Act may be legal, the act goes against the author’s “dearly held beliefs,” that all men have the right to speak freely. He also argues that there is no defense for an accusation of Sedition, especially since the courts are frequently stacked by the President. 95

In this editorial series, reprinted in newspapers from Virginia to Pennsylvania and probably further north as well, the author pins both the passing and the implementation of the Sedition Act on Adams. The author frames it to highlight that Adams encouraged the act, Adams signed the act, Adams wrote letters to decide who attorney generals should indict, Adams picked the Judges and Juries who would enforce it, and ultimately, the blame falls squarely on Adams. By establishing the illegality and unconstitutionality of the Sedition Act anew, and then pinning the blame for it completely on Adams, right before an election, the author is able to frame Adams himself as a threat to the Constitution and the rights of all Americans. There is hardly a stronger argument for not choosing a president.

The Cooper trial kicked off a campaign of impassioned articles in the *Herald of Liberty* that advanced an alternate theory of Constitutionality that today we consider sacrosanct, while also pinning the blame for the Sedition Act and Cooper’s illegal trial squarely on Adams. Both of these points were brought up again and again in articles that were unstated and stated attempts to influence the results of the presidential election. Ultimately, one can see the generative electoral months of September to November as the culmination in the *Herald of Liberty’s* long crusade against the Sedition Act, dating back to shortly after its initial passing.

Case Study II: The Carlisle Gazette, April-November 1800

At the time of the passing of the Alien and Sedition Acts, the Carlisle Gazette did not cover them as extensively as its peers. The Carlisle Gazette covered them and the Kentucky Resolutions somewhat regularly until March of 1799, and then mention of the Acts completely ceased until the following April, as a result of the trial of Thomas Cooper. The Cooper trial appeared to spark renewed interest in the Acts for George Kline, the editor of the Carlisle Gazette, because from that point until the election, coverage of the Cooper trial and the nuances of the Sedition Act was even greater than in its initial coverage. Perhaps it was Carlisle's proximity to Northumberland that created the renewed interest, but either way, it is fascinating and critical that the Cooper trial and the subsequent election made the Sedition Act bigger news than the months after its initial passing. The fact that the Sedition Act was bigger news at the time of the Presidential election of 1800, than at its own passing, speaks volume as to how it affected the election.

Thomas Cooper Before and During His Trial in the Carlisle Gazette

Cooper's notoriety for his written word was established even before his trial, when the Carlisle Gazette published a letter by Joseph Priestly, a famous minister and ally of Cooper, defending him from the various accusations hurled at him by Federalist politicians and newspapers: "Massachusetts calls Mr. Cooper an English Jacobin, but this is merely a term of reproach. The principles that Mr. Cooper has maintained are clearly those of the American constitution. Whoever denies this either does not understand these principles, or is an enemy to them."96 Another letter, from a random subscriber, published a week later also defended Cooper from attacks, claiming that freedom of speech was

integral "from the commencement of the American Revolution."\textsuperscript{97} Even before Cooper was arrested, his speech was controversial enough to warrant attacks and corresponding defenses. It was clear the where the \textit{Carlisle Gazette} stood even before the trial started.

The \textit{Carlisle Gazette}'s coverage of the actual trial began on April 30\textsuperscript{th} with an article stating that Cooper had been indicted on April 23\textsuperscript{rd}, which then proceeded to give a full account of the trial, down to the written passages Cooper was indicted for, and Cooper's unsuccessful attempts to admit evidence with which to defend himself. It then showed the details of Cooper's sentencing. While the article was only one and a half short columns, it was longer and more detailed than \textit{The Herald of Liberty}'s and some other newspapers. The \textit{Carlisle Gazette} published an addendum two weeks later, on May 14\textsuperscript{th}, which stated that Cooper had the audacity to shake hands with a general of the army immediately after being convicted. This bold display angered Federalists, but the \textit{Gazette} complimented General Malon for treating "learning, talents, and integrity with respect."\textsuperscript{98} A week later, the Gazette published a list of toasts to famous Republicans, and "Thomas Cooper, of Northumberland, the man of universal science and liberty, suffering for truth under perversion of power."\textsuperscript{99} Whether it was Cooper's local celebrity or simply the infamy of the trial and Philadelphia's proximity to Northumberland, his trial was a rather heavily covered topic in the \textit{Carlisle Gazette}.

\textbf{Thomas Cooper After the Trial in the \textit{Carlisle Gazette}}

The importance of the Cooper trial in the minds of the Republican subscribers to the \textit{Carlisle Gazette} was strengthened during the summer months, when it published several articles exclusively about the Cooper trial, but which were clearly intended as universal lessons about Federalist tyrannies

\begin{footnotes}
\item \textsuperscript{97} ed. G. Kline, "For the Carlisle Gazette," \textit{Carlisle Gazette}, April 9, 1800.
\item \textsuperscript{98} ed. G. Kline, \textit{The Carlisle Gazette}, May 14, 1800.
\item \textsuperscript{99} ed. G. Kline, "ST. Tammany: Volunteers," \textit{The Carlisle Gazette}, May 21, 1800.
\end{footnotes}
and injustices, and to influence the upcoming election. Again, this kind of editorializing and extensive analysis did not happen during the *Carlisle Gazette's* coverage of the initial passing of the Sedition Act, so it is significant that it was included later. Both articles were published on June 25\(^{th}\). One was titled "A Law Case: For the Consideration of All Men and Parties," and explored parts of the unconstitutionally of the Cooper case, while the other article purported to be about a bill before the House of Representatives relating to an election committee, but was almost completely focused on the Cooper case.

The article regarding the election committee began with an interesting premise – it took issue with the committee that was proposed to preside over elections because it contained Judge Chase, the judge who presided over the Cooper trial. In order to establish that Judge Chase and his peers were not fit to lead any committee presiding over an election, it launched into a long, detailed, scathing reproachment of the entirety of the Cooper trial: "I sometimes attended their sittings and have witnessed the most arbitrary, high-handed, and tyrannical proceedings and decisions I believe have ever disgraced the judiciary of any country having the least pretensions to freedom."\(^{100}\)

The author backed up this assertion with extensive descriptions of all parts of the trial, complete with quotations from Judge Chase, in order to further establish how unfit the judge was. This fascinating article was important not only because it provided the *Carlisle Gazette* with an earth shattering expose of the Cooper trial, but because it directly linked the trial with the upcoming election. Its conclusion harkens back to the Revolutionary War, which the author states he saw firsthand, and uses the Cooper trial to establish that Judge Chase and his cronies are not fit to guard the sacred right of voting. Ultimately, this article links three of the Republican's biggest rallying cries to the upcoming election.

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election – the Cooper trial, the Revolutionary War, and the Constitution.

“A Law Case: For the Consideration of All Men and Parties,” did not take issue with the Sedition Act itself, but instead attacked some parts of Cooper's trial, particularly that Cooper was not allowed to call John Adams to testify:

It cannot be that if Mr. Cooper were charged with Theft or Murder, instead of Sedition, and that if he believed Mr. Adam's testimony material necessary to his acquittal that it would have been denied to him...whence derived the authority exercised in this case by the Bench? Not certainly from the Constitution, nor from any existing Law of the Union... For if it were, every accusation would necessarily be a condemnation at their mere will and pleasure.101

This article is important because it brings a new angle to the Cooper trial while linking it to the upcoming election – the author frames it as Cooper vs. Adams, with Adams trampling all over Cooper's constitutional rights in several ways. First, the author establishes just how ridiculous the trial was – Cooper wasn't even allowed the rights he would have been had he been accused of murder, in an egregious and unconstitutional manner. There could be no doubt this was a sham trial. Second, the author makes it seem as though the whole trial was orchestrated by Adams for a conviction, and in order to ensure said conviction while also protecting himself from potentially damning question, Adams explicitly ordered the court to deny Cooper a fundamental right. The article thus implicitly asks, could this man possibly be fit to be a president?

The next time Cooper was mentioned in The Carlisle Gazette was two weeks later, in a four line local news article stating that he had been elected Major of Militia of Northumberland (from prison). His name appeared thusly: “Democratic Ticket, Thos. Cooper, friend to rights of Man.”102 From a paper that had been relatively benign about the Sedition Act, two years later, even in election results,

the name of the party was Democratic, and Cooper was given an epithet. Cooper was lionized again in a list of Republican “volunteers” a week later. As the election heated up, Republican societies from all over the country sent in these lists to stir party support. Cooper was a fixture on many of them.

**Election Season in the Carlisle Gazette**

As the election loomed closer and closer, and summer turned to spring, the focus appeared to shift away from Cooper specifically and more towards the Sedition Act in general. Cooper was still mentioned, and this trend appears to be a part of the continuation of the wave of anti-Sedition Act sentiment from his trial, but naturally the closeness of the election shifted the focus towards more general, legislative perspectives. The perspective shifted from being exclusively about Cooper to being about the Federalists and the Republicans in general, in order to have more relevance to the upcoming election. In early September, the *Carlisle Gazette* published two things about the Sedition Act. One was a fairly humorous allegory titled “Rough Waters,” about the ship Constitution teetering under the helm of Captain Adams, also published in the *Herald of Liberty* and reprinted from the *Baltimore American*. The second was an extremely long editorial dedicated to praising and defending Jefferson, which briefly mentions the Sedition Act, and counters by reiterating Jefferson's commitment to freedom of speech and freedom of religion. It was an article clearly meant to influence the upcoming election.

On October 22nd, 1800, on the day of the legislative election, the *Carlisle Gazette* published an article detailing the festivities surrounding Cooper's release from prison after the completion of his six month sentence. Eager to exploit an opportunity to rally at a crucial time before the election,

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Republicans organized a host of festivities and toasts which were then disseminated among the land. The title of the piece, “Public Opinion versus Unconstitutional Laws and Corrupt Magistrates” gives a good feel for the tone of the piece. This was an opportunity to revisit the injustices of the Cooper trial and use them to spur public opinion the day of the election. There were two lists, one of toasts, and the other of volunteers. The list of toasts contained passages advocating for the disempowering of “packers of juries”, and that “may a free country never again witness the disgraceful spectacle of a criminal sitting in judgment over oppressed virtue.” The point of the toasts was to highlight the various crimes the Federalists had committed, with particular notice given to unfair persecution under the Sedition Act.

After the toasts, came the volunteers, which were decidedly more positive. After tearing down the Federalists, the revelers clearly wished to raise the Republicans back up. The first and the third names should be familiar: “Thomas Cooper-- the favorite of Science, Wit, and Liberty – constant to each in spite of oppression,” and “Thomas Jefferson – the great assertor and restorer of the American character.” By praising these men in turn, and drawing a link between their causes explicitly, Republicans confidently declared Jefferson to be Cooper’s hero. Cooper was oppressed, while Jefferson is the great “assertor and restorer.” Together, they each will play a part in tearing down the Sedition act, just as the voters who were soon to go to the polls.

**Conclusion to the Section**

In both cases, the Cooper trial, and to a lesser extent, the Holt trial reestablished interest in the Sedition Act, which intensified and sharpened as anti-Adams and anti-Federalist over the summer of 1800. The different newspapers accomplished this differently. The *Herald of Liberty* contained scarcely

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any coverage of the actual trial of Cooper, but printed a letter from Cooper himself in prison in May 1800, and began printing partisan editorials about the Cooper trial and the Sedition Act, even after the legislative election, through November 1800. The *Carlisle Gazette* adopted a different tone. Earlier articles emphasized current objective coverage of the Cooper trial, but the *Carlisle Gazette* sharpened its rhetoric over the summer months, a trend which continued to the legislative elections in late October of 1800. After that, the election coverage was more about the nuances of how and if Pennsylvania would elect its delegates to the Electoral College. Interestingly, although both newspapers took different approaches in their initial coverage of the Cooper trial, they followed a similar general trend in its wake, crystallizing their anger at the Cooper trial and the Sedition Act in general over the summer months prior to the election. This is especially remarkable transition for the *Carlisle Gazette*, which previously had appeared to be more objective. This suggests that the upcoming election caused the *Carlisle Gazette* to partially abandon its prized objectivity, and adopt a more partisan tone than it had in order to sway the election in favor of the Republicans.

The intense rhetoric around the election cycle relating to the Cooper trial was not an accident. The uncertainty of how Pennsylvania was going to cast its electoral ballots raised the stakes on many levels. First, it extended the election cycle for another tense three months, when although many people had voted, they felt disenfranchised by the system, unsure if their vote was going to count. Second, the inability of the Pennsylvania legislature to reach a voting bill until the last week scared many people and made them distrustful of government authority, much in the same way of the Cooper trial. The four part expose' of the Sedition Bill published in November best exemplifies how this anti-establishment mentality intensified due to the legislature's stalling. People were unsure about the future of democracy, as they were confronted with yet another challenge to voting, in the democratic processes’ most critical time. As the author, and many others make plain in their mentioning of Sedition being the heir apparent
to the revolution against Britain, this anxiety about the future of democracy did not come out of nowhere. It had existed since the beginning of the United States, and the Sedition Act confirmed that the Republicans had to finish the Revolution, oust Adams, and ensure democracy.
Conclusion

In the annals of Early American History, the Alien and Sedition Acts and the elections of 1800 have always had a complicated relationship. Most historians treat the Acts as tangentially or indirectly related to the elections – important as antecedents in the bitter buildup to the election, but not directly related to the election itself. Some historians imply a strong connection, but do not attempt to prove a direct link between the Acts and the election. They settle for indirect implications instead. Dumas Malone, the foremost biographer of Jefferson, as well as famous historians of early America, such as Susan Dunn, limit their connections to indirect links. So far, I have only found one other historian, James Roger Sharp, who links the Alien and Sedition acts and the election, but only relating to the media frenzy surrounding the Thomas Cooper trial. He does not mention the outpouring of anger prior to the Cooper trial, and only picks up the narrative of popular anger against the Sedition Act as playing a role in the election in April-May of 1800. Instead, this thesis argues that popular Republican sentiment began relatively soon at the local level after the passing of the Alien and Sedition Acts, and continued until it directly effected the elections of 1800. The Cooper trial certainly helped foment anger against the Sedition Acts, and in some cases, was the beginning of popular resentment of the Sedition Act, but to ignore the antecedents to the Cooper trial is to miss the larger picture. Focusing exclusively on national trends has also contributed to ignoring these developments. Most historians do not look at regional newspapers, which show a parallel timeline to national events, one where the Alien and Sedition Acts are consistently protested and denounced right up until the election.

We have explored three important and distinct periods between the passing of the Alien and Sedition Acts and the election of 1800. Firstly is the period between the passing of the Acts and the
passing and dissemination of the Kentucky and Virginia Resolutions. This span served as a foreshadowing of what was to come, as each side was escalating with incendiary rhetoric and actions, and preparing for the long slog over the acts. The second period is between the Kentucky and Virginia resolutions and the start of the trial of Thomas Cooper. After the failure of the Kentucky and Virginia Resolutions, Republican newspapers doubled down, and later stirred and brewed popular resentment against the Sedition Act. Finally, the trial of Cooper reignited the passions against the Sedition Act, and created an avenue with which the Republicans channeled resentment against the Federalists, and continued to do so until the election.

The initial response among Republican newspapers to the passing of the Alien and Sedition Acts was rather small and meek, in part because there were fewer Republican newspapers, with the *Aurora* being a notable exception. Most Republican newspapers put some kind of negative spin on the passing of the Acts, but it was a far cry from the later petitions and editorials against the acts that were to common in the Republican press. This changed slightly with the first controversial trial surrounding the Sedition Act, that of Mathew Lyon, but still, the Republican press was fairly recalcitrant in speaking out against the Alien and Sedition, especially when compared with the incendiary language used by the Federalists. But, in October and November of 1798, a few months after the passing of the acts, petitions and protests began sporadically popping up. Again, the *Aurora* was the exception to this rule, vigorously defending Lyon at all costs. The passing of the Kentucky and Virginia Resolutions fundamentally changed the calculus of partisan response to the acts, however. It represented a low point for the Republican response – the party leaders had miscalculated population’s fear of revolution, and Federalists were able to paint the Republicans as insurgents and radicals, hell bent on tearing apart the United States. Even some Republicans began to fear civil war, and local newspapers could not even hope to defend the Resolutions. Instead, the local newspapers attempted to shift focus away from the
Kentucky and Virginia Resolutions, and back to the Alien and Sedition Acts.

The nadir for the Republicans was the Kentucky and Virginia Resolutions, but there was a glimmer of hope for the party in local newspapers. These regional newspapers began to print petitions and editorials decrying the unconstitutionality of the Sedition Act, perhaps purposefully ignoring the Kentucky and Virginia Resolutions. These petitions and editorials created a sense of local community and perhaps inspired a need for action, by creating a shared enemy in the form of the Alien and Sedition Acts. Coverage in the *Herald of Liberty*, the *Universal Gazette*, and others was universally extensive until the end of 1799. One newspaper even printed a toast that hoped and prayed for the election of Thomas Jefferson, because he was against the Sedition Act, an entire year before the election even took place. Although coverage naturally wanted in January and February of 1800, as the Acts became less recent, in the generative period discussed previously, Republicans laid the groundwork for the resurgence of anti-Sedition Act sentiment from April to November of 1800.

The lull in the coverage of the Sedition Act starting in January or February of 1800 was short lived. In March and April of 1800, the Federalists, under the directive of John Adams, indicted two printers, Charles Holt and Thomas Cooper, under the Sedition Act. Their trials, especially Cooper's, which was in the nation's capital of Philadelphia, and in which he attempted to subpoena Adams to appear as a witness, but instead gave an eloquent defense, were high profile events covered in newspapers all over the country. While some Republican newspapers lacked initial coverage, they made up for it in post-trial coverage. Although the trial took place in April, it was in May and June when coverage of the trial and anger against the Sedition Act became extensive, and it was over the summer when the disdain for the trial and the Sedition Act was channeled into direct sentiment against Adams and for Jefferson. Many newspapers began to frame Cooper and Adams as opponents, with Adams personally trampling on the rights of Cooper through the trial. The newspapers also
retroactively pinned the blame on Adams for the initial passing of the Sedition Act itself. By
November, a four part expose on the various unconstitutionalities of the Cooper trial, many of them
directly on Adams’ orders, had made its way from a newspaper in Virginia to Central Pennsylvania and
probably beyond. The Cooper trial and the Sedition Act had become hot button issues.

One of the central points in the debate about the Sedition Act was the immutability of the
Constitution – what did freedom of speech mean, and, is this document so morally perfect it should be
the deciding factor when determining whether a law was correct? The Constitution was not even ten
years old at the passing of the Alien and Sedition Acts, and the interpretation of the first amendment
was not ironclad, and “the leading jurists of the day defined freedom of the press as freedom from prior
restraint.”106 Printers used the Sedition Act to advance a theory of Constitutionality that benefited them
and the Republicans. Often, writers and speechmakers made parallel arguments about free speech
regarding Constitutionality and the “rights of man,” in classic enlightenment style. They used ideas
about natural rights and English Common law to advance their theory of Constitutionality.

Today, the immutability of the Constitution and the strict interpretation of the first amendment
is taken for granted, but in the immediate aftermath of the passing of the Sedition Act, Republicans felt
the need to publicly declare “The Constitution Involiate,” and defend a strict interpretation of the first
amendment. The debate regarding the Alien and Sedition Acts, and its impact on the election, was a
critical stepping point in creating the sanctity of the Constitution and the First Amendment which still
colors our political debate today. While this has given way to two competing theories, the “original
intent” and the “living document” theory, few dare question the concreteness of the first amendment
and the Constitution. All laws must be rooted in a fairly strict textual interpretation of the Constitution,

106 Palsey. 148.
regardless of their moral or ethical context. If a law contradicts the Constitution, the only way to pass it is to amend the Constitution itself.

The debate surrounding the Sedition Act was not the definitive moment that the United States embraced the Constitution and the Bill of Rights as its sacred foundation. The document before it failed, but at some point the Constitution and the freedoms guaranteed therein unequivocally became synonymous with the United States. It would be impossible to pinpoint the definitive moment that this occurred, but instead it appears to be a slow process that resulted in schisms and contentious debates. The controversy surrounding the Alien and Sedition Acts, the defense of the Constitution, and the subsequent effects of this defense on the elections of 1800 are where America moved towards embracing the Constitution as its bedrock. Critical parts of modern American society arose from these debates.
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