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Nancy M. Merz
College of William & Mary - Arts & Sciences

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THE XYZ AFFAIR AND THE CONGRESSIONAL ELECTION
OF 1799 IN RICHMOND, VIRGINIA

A Thesis

Presented to

The Faculty of the Department of History
The College of William and Mary in Virginia

In Partial Fulfillment

Of the Requirements for the Degree of
Master of Arts

by

Nancy M. Merz

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APPROVAL SHEET

This thesis is submitted in partial fulfillment of
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Nancy M. Meis
Author

Approved, February 1973

Charles T. Cullen
Charles T. Cullen

Richard Maxwell Brown
Richard Maxwell Brown

William C. Stinchcombe
William C. Stinchcombe

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ABSTRACT

The purpose of this study is to examine the impact of national issues upon local politics in the late 1790's. Although the majority of Virginians voted Democratic-Republican, an unusually high number of Federalists, including John Marshall, were elected to state and federal offices in 1799. Marshall's election to Congress from the Richmond City Congressional district reveals the lingering impact of the XYZ dispatches on voter consciousness. He had been one of the ministers insulted by the French government in what became known as the XYZ affair and was regarded as a national hero when he returned to the United States in 1798. The wave of patriotism caused by the release of the XYZ dispatches benefited the Federalists (and Marshall in particular) because people identified the government with the administration. The Republicans were hurt by their status as an opposition party because the concept of party was unacceptable to most people in the eighteenth century and the Republicans were regarded as anti-government rather than anti-administration. Despite Republican attempts to stress the internal threat of the Alien and Sedition laws the Republicans remained on the defensive throughout the campaign. The belief that the nation was in danger increased interest in the election and drew an unusually high number of men to the polls to show their support for the national government. The Federalist gains were not an endorsement of party policies but reflect the decisive influence of national issues upon voting behavior.

THE XYZ AFFAIR AND THE CONGRESSIONAL ELECTION
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I

The decade of the 1790's was a period of intense political conflict which led to the emergence of a party system in the United States, contrary to the intentions of the Founding Fathers.¹ Despite their belief that conflict was undesirable and unproductive Americans found it expedient to create parties in response to Federalist administration policies in domestic and foreign affairs. Political parties first appeared on the national level, originating as an opposition party within Congress to Treasury Secretary Alexander Hamilton's fiscal program in the early 1790's. As the Democratic-Republicans (or Jeffersonians) became more organized their attacks on the administration or Federalist party were based more and more on foreign than domestic policies.² Historians have stressed the impact of foreign affairs upon party development in the second half of the decade, arguing that the Jay

¹Richard Hofstadter, *The Idea of a Party System: The Rise of Legitimate Opposition in the United States, 1780-1840* (Berkeley, 1969), pp. vii-ix.

²Noble E. Cunningham, jr., *The Jeffersonian-Republicans: The Formation of Party Organization, 1789-1801* (Chapel Hill, 1957); Joseph Charles, *The Origins of the American Party System* (New York, 1961).

Treaty controversy of 1795, the XYZ affair in 1797, and the Quasi-War with France, 1797-99, dominated and reshaped domestic politics. One wrote, "It is impossible to separate foreign and domestic relations in this period for in an epoch of war and revolution all problems wear a double aspect."³

The Federalists were in a minority in Virginia throughout the Early National period partly because Thomas Jefferson and James Madison were the leaders of the opposition and their influence in Virginia remained great. Despite her allegiance to the Democratic-Republican party, however, in the elections of 1799 Virginia elected an unusually high number of Federalists to state and national offices. The Federalist minority in the state legislature made substantial gains and eight Federalists were elected to Congress, double the number in the previous session.⁴ One explanation for this phenomena has been the lingering influence on public sentiment of the XYZ dispatches.⁵ Some historians claim that the increased strength of the Federalist party in the Virginia election resulted

³Charles, Origins, p. 122.

⁴Manning J. Dauer, The Adams Federalists (Baltimore, 1968), p. 236.

⁵Ibid., p. 238.

simply from more party activity and organization,⁶ although one historian argued that Federalist gains were a natural product of the developing political system because voters decided on candidates on the basis of issues rather than personality or prestige.⁷ These analyses, however, regard the Federalists's gains as an endorsement of the party's policies and view the period as one in which party lines are being drawn. The author of a recent study on nationalism during this period argued that party lines were disintegrating rather than crystalizing.⁸

The Richmond Congressional district offers a good area for a study of the 1799 Virginia election and Federalist gains in Virginia. A Federalist won this election although before and after the election a locally prominent Republican represented the district. As the state capital Richmond was at the center of controversial issues raised during the election, namely, the Alien and Sedition laws and the Virginia Resolutions

⁶Cunningham, Formation, p. 150, stresses increased party activity while Lisle Rose in Prologue to Democracy: The Federalists in the South, 1789-1800 (Lexington, Ky., 1968), argues that Federalist gains resulted from developing party organization and preceded the French Crisis of 1797-98.

⁷Richard Beeman, "The Old Dominion in the New Nation," unpublished Ph.D. dissertation, University of Chicago, 1968.

⁸John W. Kuehl, "The Quest for Identity in an Age of Insecurity: The XYZ Affair and American Nationalism," unpublished Ph.D. dissertation, University of Wisconsin, 1968, p. 307.

which the General Assembly passed in December 1798. The city was also the residence of some well-known Federalists, particularly John Marshall, who, as one of the American ministers to France during the XYZ affair, was the recipient of much attention upon his return from Paris. Thus, an analysis of the Richmond Congressional election ought to provide valid assessments of the role of national issues and their influence on political party development during this period.

II

Because Alexander Hamilton's system depended on British trade, the initial party conflict was closely related to foreign policy decisions. The French Revolution made party differences more intense by creating a set of ideological passions between "republicans" and "monarchists" which polarized the leaders. The Republicans used the Jay Treaty to slur the Federalists with the "monarchist" label and charged that they sought reunion with Great Britain.⁹ As friends of France the Republicans tried to identify themselves as true republicans and to establish a moral basis for their opposition. Despite their republican virtue, however, the Democratic-Republicans were weakened by their position as an opposition party. The concept of party was almost non-existent in eighteenth-century American thought and an opposition party was generally considered a faction with no

⁹Harry Ammon, "Agricola Versus Aristedes: James Monroe, John Marshall, and the Genet Affair in Virginia," Virginia Magazine of History and Biography, LXXIV (1966), pp. 312-20.

legitimate basis for support.¹⁰ Although support for the Democratic-Republicans grew, party allegiance was another matter. The habit of deference which characterized the eighteenth-century was eroding during this period but it still retained a major influence upon political behavior.¹¹ Although Virginia had a freehold qualification for voting many were entitled to vote because of the loose definition of freehold.¹² Despite the broad base of Virginia politics, however, political power remained concentrated in a few hands. A few families dominated local government and exercised great power within each county with little outside interference.¹³ The deference of the voters allowed this political elite to rule and the same men were often re-elected to office.

On rare occasions national issues were sufficiently

¹⁰Hofstadter, Idea of a Party System, pp. 1-16.

¹¹J.R. Pole, "Historians and the Problem of Early American Democracy," American Historical Review, LXVII (1962), pp. 626-46.

¹²Chilton Williamson, American Suffrage from Property to Democracy, 1760-1860 (Princeton, 1960), p. 224.

¹³Charles S. Sydnor, American Revolutionaries in the Making (New York, 1952), pp. 78-93. Originally published as Gentlemen Freeholders.

intense to disturb the traditional pattern.¹⁴ The highly emotional and dramatic issues raised by foreign policy in the late 1790's produced such an occasion. When John Adams became President in 1797 he inherited a deepening crisis with France that dominated his administration. During the closing days of the Washington administration Charles Cotesworth Pinckney was sent to France as minister plenipotentiary. Pinckney's task was especially difficult because American commerce was suffering from French depredations at this time. In 1797 news arrived that the French refused to receive Pinckney and had expelled him from France as well. Despite this and the fact that France was continuing a limited maritime war against the United States, President Adams attempted negotiations and sent a bipartisan mission to France. Federalist John Marshall and Republican Elbridge Gerry were sent to join Pinckney in an effort to ameliorate Franco-American relations.¹⁵

When the American envoys arrived in Paris in late September 1797, the foreign minister Talleyrand refused

¹⁴Anthony J. Upton, "The Road to Power in Virginia in the Early Nineteenth-Century," Virginia Magazine of History and Biography, LXII (1954), p. 279

¹⁵Dauer, Adams Federalists, pp. 119-129; Alexander DeConde, The Quasi-War: The Politics and Diplomacy of the Undeclared War with France, 1797-1801 (New York, 1966), pp. 8-36.

to receive the ministers officially and would only meet with them informally. During October three unofficial agents of Talleyrand approached the Americans and demanded a gratuity for the foreign minister, an indemnity for American criticism of France, and a loan to the French government as prerequisites for negotiation. Although the Americans were willing to discuss the idea of a loan the Directory still refused to receive them prior to payment.¹⁶ In January 1798, the Americans presented a statement defending the American position, to which Talleyrand delayed giving an answer while he continued private talks with Gerry in the hope of dividing the mission. When Gerry approached Marshall and Pinckney with France's renewed demand for a loan, the deteriorating relations between Gerry and the two Federalists became even more strained. Both Marshall and Pinckney were adamantly opposed to a loan.¹⁷

When the French finally replied Talleyrand accused the Federalist ministers of being partisan to Great Britain and hostile to France. The French Directory would only consent to negotiate with a friendly envoy, namely Gerry. In April the American ministers denied

¹⁶DeConde, Quasi-War, pp. 46-52

¹⁷Ibid., pp. 52-55.

the French charges and made a final futile attempt at serious negotiation. The division within the American delegation was now apparent and Marshall and Pinckney decided to leave Paris. Despite the fact that Gerry lacked the authority to negotiate as an individual he remained in Paris in the sincere belief that his presence would avert war. On April 24, 1798, Marshall sailed for America while Pinckney received permission to remain in the south of France with his ill daughter.¹⁸

The American government anxiously awaited news from the French mission. The tension over whether there would be war or peace was evident in Congress when the Lyon-Griswold brawl disrupted the House of Representatives in January 1798.¹⁹ The first dispatches had arrived from the envoys in March 1798 and confirmed the administration's suspicion that the mission was not succeeding. Initially Adams did not intend to release the dispatches because he feared that it would lead to war, but Republican Congressmen suspected Federalist deceit and pressured the President to send the dispatches to Congress. Adams complied

¹⁸Ibid., pp. 56-59.

¹⁹See John C. Miller, Crisis in Freedom: The Alien and Sedition Acts (Boston, 1951), pp. 102-04 for an account of the brawl.

on April 3, 1798. Republican attempts to quiet their partisan's demands for publication of the dispatches was futile and the House ordered their public release on April 6.²⁰

As Adams had expected, public reaction was violently anti-French. Alexander Hamilton believed that the Spirit of patriotism inspired by the release of the dispatches would cause Republicans to be regarded by the people in the same manner as the Tories during the Revolution.²¹ Although the public response did not go quite that far, people expressed great hostility to France even in heavily Republican areas. "You would be astonished," wrote one Virginian to Republican Senator Henry Tazewell, "to know the change of opinion which has occurred; some of the late assembly in the Counties above Petersburg are now equally zealous on the other side. They go much further than I should be willing to go."²²

The Federalists took immediate advantage of public sentiment to push their defense program through Congress

²⁰Dauer, Adams Federalists, pp. 141-42.

²¹Alexander Hamilton to Rufus King, June 6, 1798, in Henry C. Lodge, ed., The Works of Alexander Hamilton (New York, 1904), X, p. 291.

²²Jonathan Nivison to Henry Tazewell, Norfolk, April 28, 1798, Tazewell Papers, Virginia State Library.

in the late spring. This included an increase in the army and navy, an embargo against French ships, and a direct property tax on land, houses, and slaves to finance the defense measures. Congress also passed a naturalization act, lengthening the residency requirement from five to fourteen years, two acts concerning aliens, and a sedition act. These acts reflected more than nativist sentiment. The Naturalization law was devised to reduce Republican strength among Irish immigrants and the extreme High Federalists hoped that the Alien and Sedition laws would intimidate or silence their critics as well as French agents and emigres.²³ The Republicans believed these laws were aimed at the destruction of their party and viewed the acts as threats to liberty. The Republicans claimed that the Sedition law, which made it a crime to speak or print "seditious libel" against the government of the United States, was unconstitutional because of their own partisan interests.²⁴ The initial response of many

²³James Morton Smith, Freedom's Fetters: The Alien and Sedition Laws and American Civil Liberties (Ithaca, 1956).

²⁴Leonard W. Levy, Legacy of Suppression: Freedom of speech and Press in Early American History (Cambridge, 1960), pp. 246-48.

Republicans, however, was one of hopelessness rather than attack. Several Republican representatives left Congress, realizing the futility of their opposition to Federalist measures in the existing climate of public opinion.²⁵

On June 16, 1798, in the middle of the public furor over the XYZ dispatches, John Marshall arrived in New York. Although the date of his arrival had been unknown news of his arrival quickly spread and when Marshall reached Philadelphia three corps of the city's cavalry rode out to escort the diplomat into the town. Since the other ministers had remained in Europe, Marshall received the country's praise for the ministers' refusal to bow to the French demands. Bells rang until late into the night and crowds of people gathered and followed the procession, showering Marshall with praise for his conduct in France and congratulating him for his safe return.²⁶

Marshall continued to be toasted and feted en route to his home in Richmond. The Virginia newspapers faithfully reported the numerous receptions given Marshall as he journied homeward. A typical account

²⁵Thomas Jefferson to James Madison, April 28, 1798, Jefferson Papers, Library of Congress.

²⁶Albert J. Beveridge, The Life of John Marshall, (Boston, 1916), II, pp. 343-50.

observed that Marshall was greeted "with the greatest attention and politeness" and was given an entertainment which many citizens attended.²⁷ Most towns honored him with a banquet where sixteen rounds of toasts were given, "dictated by gratitude and true Federalism."²⁸

Richmond hailed the returning hero with similar festivities. One of the numerous speeches printed in the Richmond newspapers claimed that "when future generations peruse the history of America, they will find the name of Marshall on its sacred page as one of the brightest ornaments of the age in which he lived."²⁹ The Richmond Virginia Gazette and General Advertiser listed the series of toasts presented at the feast which praised President Adams and other New England Federalists as well as the Virginians Marshall and Washington.³⁰ Large numbers of townspeople participated in the celebration and at the end of the day conducted "the man of the people . . . to his own door, under a band of marching music," and gave shouts of "huzza."³¹

²⁷Columbian Mirror and Alexandria Gazette, August 6, 1798, p. 3, c. 1.

²⁸Ibid.

²⁹Virginia Gazette and General Advertiser (Richmond), August 14, 1798, p. 2, c. 1.

³⁰Ibid., p. 3, c. 3.

³¹Ibid.

III

Virginia Federalists were quick to realize the political gains which could be wrested from this unprecedented burst of nationalism. The 1796 election had been damaging to the Virginia Federalists. Leven Powell was the only elector for John Adams who had won in Virginia and his election reflected personal influence rather than support of Federalism. In fact, most of the Federalist candidates found Adams to be a liability during the campaign and tried to "support" him as unobtrusively as possible.³² Thomas Griffin, the Federalist elector from Richmond suffered an overwhelming defeat in 1796. The following year Marshall had complained that the Republican party had "laid such fast hold of the public mind in this part of Virginia that an attempt to oppose it sinks at once the person who makes it. The elections for the state legislature go entirely against the Federalists who are madly and foolishly as well as wickedly styled a British party."³³

³²Beeman, "Old Dominion in the New Nation," pp. 268-69.

³³Marshall to Charles Lee, Richmond, April 20, 1797, Adams Papers, Massachusetts Historical Society. On microfilm at the Institute of Early American History and Culture.

As early as August 1798 George Washington urged prominent Federalists, including John Marshall, to run for office in the Congressional elections to be held in April 1799. Washington asked his nephew Bushrod to bring Marshall to Mount Vernon so that the former president could talk to them about the political situation of the country. When they arrived in late August 1798 George Washington pressed both men to run for Congress; Marshall from the Henrico or Richmond City district and Bushrod from Westmoreland county. At first they were reluctant to concede to Washington's request because they thought it would interrupt their legal practice; and disrupt their family lives.³⁴ Marshall's reluctance was no doubt genuine since politics offered no financial reward and even burdened one with additional expenses.³⁵ Marshall's financial affairs had already suffered in several speculation

³⁴Marshall to James K. Paulding, Richmond, April 4, 1835, copy on file in The Papers of John Marshall, Institute of Early American History and Culture. Hereafter cited as Marshall Papers; George Washington to Bushrod Washington, August 27, 1798, in John C. Fitzpatrick, ed., The Writings of George Washington, (Washington, 1941), XXXVI, pp. 419-20; Recollection of Bushrod Washington in "The Autobiography of Martin Van Buren," John C. Fitzpatrick, ed., Annual Report of the American Historical Association for the Year 1918, (Washington, 1920), p. 176.

³⁵Upton, "Road to Power," VMHB, LXII (1954), p. 275.

ventures and he had not yet been paid in full for his diplomatic service. He needed the income from his legal practice.³⁶ which he now intended to resume.³⁷ On September 5, while at Mount Vernon, Marshall wrote Secretary of State Timothy Pickering the second letter in a month stressing his financial need.³⁸ Washington, meanwhile, remained adamant in the face of Marshall's objection and argued that the importance of the crisis demanded that Marshall place public before private interest. Finally both Marshall and Bushrod Washington conceded to the former president's wishes and "returned to Richmond with feelings of great anticipation."³⁹ Fortunately, Marshall soon received word that his payment for the French mission would be forthcoming.⁴⁰

Marshall was challenging the incumbent and a member of a locally prominent family, Republican John

³⁶Beveridge, Marshall, II, pp. 202-11, 378.

³⁷Marshall to William Crawford, September 26, 1798, Cabell Papers, College of William and Mary.

³⁸Marshall to Pickering, Mount Vernon, September 5, 1798, Pickering Papers, Massachusetts Historical Society, On microfilm at the Institute of Early American History and Culture.

³⁹Bushrod Washington in "Autobiography of Martin Van Buren," Fitzpatrick, ed., Annual Report of the AHA . . . 1918, p. 178.

⁴⁰Pickering to Marshall, Trenton, September 4, 1798, Pickering Papers.

Clopton. Before his election to Congress in 1795, Clopton had served in the Virginia House of Delegates from 1788-1791 representing his home county of New Kent.⁴¹ He was then twice elected to Congress from the Richmond City district and later held it from 1801 until his death in 1812.⁴² Clopton typified the gentleman politician depicted by Charles S. Sydnor in his study of eighteenth-century Virginia politics and as a member of the gentry he received the deference and respect of the common folk.⁴³ In Virginia the leading men in a county usually had a "connection or interest" which formed a coalition in support of a candidate. Clopton had a well-organized "connection" in his district which he had nurtured since his first election to Congress.⁴⁴ He corresponded regularly with several men in Richmond to keep them informed of developments at the nation's capital and these men circulated news and information to Clopton's

⁴¹Earl G. Swem and John W. Williams, A Register of the General Assembly of Virginia, 1776-1918 (Richmond, 1918), pp. 31-35.

⁴²Dictionary of American Biography, Dumas Malone, et. al. eds., (New York, 1946), Centennary edition, IV, pp. 230-31.

⁴³Sydnor, American Revolutionaries, pp. 60-73.

⁴⁴Upton, "Road to Power," VMHB, LXII (1954), p. 263.

constitutents. From these contacts, Clopton in turn received reports about the activities of his political foes.⁴⁵

Ordinarily, Federalists had little reason to be optimistic at election time but in 1798 public reaction to the XYZ dispatches and Marshall's prestige raised their hopes. Marshall was well-known as a lawyer and a supporter of the Federalist administration before he left for France in 1797.⁴⁶ Despite the unpopularity of Federalism in Virginia Marshall enjoyed repeated successes at the polls and served in the Virginia House of Delegates from Henrico county (one of the five counties which composed the Richmond City Congressional district) for 1787-1788 and then from Richmond City in 1790 and 1795-1797.⁴⁷ His ability to draw votes was such that when Thomas Jefferson heard that Marshall might run for Congress in 1792 Jefferson suggested to James Madison that it would

⁴⁵Ibid.

⁴⁶ Marshall was also one of the few Virginia Federalists to support the Washington administration during the Jay Treaty controversy in 1796. See Beveridge, Marshall, II, pp. 120-21.

⁴⁷ Swem and Williams, A Register of the General Assembly of Virginia, pp. 26-34.

be best if Marshall were made a judge.⁴⁸ Now that Marshall had risen to national prominence he was even more of an asset to the Virginia Federalists. They were jubilant over his candidacy and expressed confidence in his victory over Clopton. Heartened by the public response to the XYZ dispatches and Marshall's candidacy, new candidates appeared throughout the state causing one Richmond Federalist to anticipate "a very general change in the representation" which would make it much better "both for the talents, Virtue, and Federalism than heretofore - Worse, in all these particulars, it can not well be. But the acquisition of Marshall and [Bushrod] Washington are points of vast magnitude and importance."⁴⁹

If the Virginia Federalists were to capitalize on the wave of patriotism provoked by the release of the dispatches, they had to turn favorable public sentiment into concrete political gain. The result was a sharp increase in party activity.⁵⁰ "The conflict of parties in this state is extremely ardent," Marshall reported,

⁴⁸Jefferson to Madison, June 29, 1792, Jefferson Papers, LC.

⁴⁹John Hopkins to Oliver Wolcott, jr., Richmond, September 14, 1798, Oliver Wolcott Papers, Connecticut Historical Society, on file at the Marshall Papers.

Cunningham, Formation, p. 150; Rose, Prologue, p. 218.

"considerable efforts are making to change essentially our delegation and I am not without hope that in some instances these efforts will be successful."⁵¹

Secretary of State Timothy Pickering hoped to exploit the XYZ furor and ordered federal agents to distribute eighteen hundred copies of the XYZ dispatches throughout Virginia.⁵² B. Henry Latrobe commented on the Federalist activity to Jefferson and reported that besides the XYZ pamphlet the Federalists were spreading the Henrico district with Federalist speeches and 500 copies of an anti-French terror tract entitled "The Cannibal's Progress, or the Dreadful Horrors of the French Invasion," which was claimed to be an account of the French invasion of Germany in 1796.⁵³

The Republicans' initial reaction to the XYZ furor was political retreat. Jefferson complained about the numerous Republicans who left Congress in the spring of 1798 and blamed their absence for the passage of the Federalist defense program.⁵⁴ The Republican leaders

⁵¹Marshall to Pickering, Richmond, October 1, 1798, Pickering Papers.

⁵²Pickering to Marshall, July 24, 1798, ibid.

⁵³B. Henry Latrobe to Jefferson, Richmond, September 22, 1798, Jefferson Papers, LC; Anthony Aufrere, "The Cannibal's Progress, or the Dreadful Horrors of the French Invasion," Philadelphia, 1798.

⁵⁴Jefferson to Madison, April 26, 1798, Jefferson Papers, LC.

realized that the Federalists would make a serious attempt to make political gains in the next election and a strong counteroffensive was needed. As early as July 1798 Henry Tazewell told Jefferson that Madison should be urged to run for office because of the Federalist political threat.⁵⁵ Although the dispatches had silenced or at least mitigated Republican opposition during the summer of 1798 the Jeffersonians slowly tried to recover from their political setback in the fall. "French principles are very much out of fashion," wrote one Richmond resident. "But for the Alien and Sedition Acts, at which certain characters make a loud Clamour the opposition would I believe not know at what to raise Bugbears."⁵⁶ The Republicans found it necessary to wage a vigorous campaign against the Federalist threat, much to the chagrin of some Virginia Federalists who expected the XYZ papers to stifle Republican criticism. The Republican leaders, one Federalist complained, were "indefatigable . . . more industrious and violent as their party lessen and lose ground."⁵⁷

From Philadelphia Clopton noticed the public anxiety aroused by the French negotiations and tried

⁵⁵Henry Tazewell to Jefferson, July 5, 1798, ibid.

⁵⁶John Hopkins to Oliver Wolcott, jr., Richmond, September 14, 1798, Wolcott Papers.

⁵⁷Ibid.

to divorce himself from a Francophile position. In March 1798 he drafted a circular letter which stressed his allegiance to his native country and disclaimed any foreign influence upon him. He was, he claimed, "wholly exempt" from any ties "with any part of Europe or a single individual within it, there can be no incitement to betray me into a dereliction of those sentiments of love for this my native land."⁵⁸

Despite the advantages that the Federalists received from the release of the XYZ dispatches Marshall was aware of Federalist vulnerability on the Alien and Sedition laws and recognized their potential use as a campaign weapon against his party. As early as August Marshall observed that "France will be given up and the attack upon the government will be supported by the alien and sedition laws."⁵⁹ Clopton had been part of the Republican exodus from Congress which had annoyed Jefferson,⁶⁰ and he and Marshall arrived in Richmond the same week in August 1798. Clopton had opposed the Alien and Sedition acts before he left Congress. The

⁵⁸John Clopton to _____, March 24, 1798, Clopton Papers, Duke University.

⁵⁹Marshall to Pickering, Richmond, August 11, 1798, Pickering Papers.

⁶⁰Jefferson to Madison, April 28, 1798, Jefferson Papers, LC.

same day Marshall was honored with a banquet Clopton also was given one at which he received much praise for his opposition to the "tyrannical" Alien and Sedition laws.⁶¹

Marshall knew that many Virginians shared Clopton's opinion on the laws and observed that many "well meaning men" regarded the laws as unconstitutional. Although he believed that some men were "seriously uneasy on this subject" and did not doubt the sincerity of their motives Marshall also believed that many opposed the laws out of their "implacable" hatred for the federal government.⁶² "If these bills did not exist," Marshall wrote, "the same clamor would be made by them on some other account."⁶³

⁶¹Virginia Gazette and General Advertiser (Richmond), August 14, 1798, p. 3, c. 2-3.

⁶²Marshall to Pickering, Richmond, August 11, 1798, Pickering Papers.

⁶³Ibid.

IV

The Federalists launched their Virginia campaign for the Congressional elections in September 1798, seven months before the elections were to take place. Early in September the Richmond newspapers published a series of questions addressed to Marshall regarding his qualifications for office.⁶⁴ These questions were probably written with Marshall's knowledge and even may have been written by him.⁶⁵ Since Marshall realized that the Alien and Sedition laws were a political liability for the Virginia Federalists he wanted his opposition to them recorded. The questions were obviously of Federalist origin because of the sympathetic manner in which they were phrased. Marahall was asked if he did not profess himself an American "attached to the genuine principles of the Constitution."⁶⁶ Also, did he think an alliance was necessary for the

⁶⁴Columbian Mirror and Alexandria Gazette, October 11, 1798, p. 2, c. 2. Reprinted from the Richmond newspapers.

⁶⁵Beveridge, Marshall, II, p. 286.

⁶⁶Columbian Mirror and Alexandria Gazette, October 11, 1798, p. 2, c. 2.

interests of the United States. Did Marshall favor either an offensive or defensive alliance with Great Britain or advocate a "closer connection with her?"⁶⁷ Another question allowed Marshall to defend administration policy by asking whether the burden of responsibility for the crisis with France was on the the Federalist administration or the French government. Finally, did Marshall advocate the Alien and Sedition bills? And would he urge their repeal if elected?⁶⁸

In his reply to these questions Marshall stated that his response stemmed from the belief that "every citizen has a right to know the political sentiments of the man who is proposed as his representative."⁶⁹ After he had affirmed his attachment to the Constitution Marshall turned to the subject of alliances. There was, he declared, no reason for the United States to form an alliance with any foreign nation, nor did he desire any alliance with Great Britain or a "closer connection" to her. America should not, he stressed, form any permanent political connection with any nation. Yet, he asserted, should the Quasi-War

⁶⁷Ibid.

⁶⁸Ibid.

⁶⁹Ibid., p. 2, c. 2-3.

continue "it would be madness and folly not to endeavor to make such temporary arrangements as would give us the aid of the British fleets to prevent our being invaded."⁷⁰

Marshall supported the government's French policy and stated that "unless we would have relinquished the rights of self-government" the administration could have done nothing to preserve peace with France. The primary object of France had been "domination over others," he wrote, and any friendly attitude exhibited by her toward the United States had been expressed in the hope of "involving us in her wars, as a dependent and subordinate nation."⁷¹

Finally, Marshall repudiated the Alien and Sedition laws. He claimed that he would have opposed their passage if he had been in Congress at that time. But, he continued, "I do not think them fraught with all those mischiefs which many gentlemen ascribe to them."⁷² He opposed the laws as "useless" and "calculated to create unnecessary discontents and jealousies at a time when our very existence as a nation may depend on our union," a significant reference to domestic harmony.

⁷⁰Ibid., p. 2, c. 3.

⁷¹Ibid.

⁷²Ibid.

Had the laws been opposed on these principles by men "not suspected of intending to destroy the government," they would never have passed. Marshall promised to respect the wishes of his constituents concerning the repeal of the laws and assured the people that he would oppose their revival.⁷³

In this last answer Marshall successfully avoided the question of the constitutionality of the laws while he publicly registered his opposition to them. The Republicans were quick to notice this omission and on October 12 a second set of questions from a Freeholder appeared in a Richmond newspaper.⁷⁴ Unlike the earlier ones, these questions reflected a Republican inspiration and asked Marshall to clarify the answers he had given in September. Did he consider the Alien and Sedition acts constitutional? and if so, how could he reconcile this position with liberty? Did he not fear the growth of executive authority and its threat to freedom? Finally, did he approve of the Jay Treaty?⁷⁵

A Republican answered these questions in the same issue.⁷⁶ It is fair to presume, "Another Freeholder"

⁷³Ibid., p. 2, c. 3-4.

⁷⁴Virginia Argus (Richmond), October 12, 1798, p. 3, c. 3.

⁷⁵Ibid.

⁷⁶Neither Marshall nor any other Federalist answered these questions.

explained, that Marshall considered the Alien and Sedition laws constitutional and had remained silent because he feared his opinion would be unacceptable to the citizens in his district. Since Marshall had declared that he would oppose their renewal he implied that they were constitutional or else "he would not wish to see such precedents pass off without impeachment; it would be certainly running the risque of affording authority for the revival of them at some future time."⁷⁷

The Republicans campaigned defensively in reaction to the Federalists' September offensive by publishing their own set of questions to elucidate the views of John Clopton. This piece appeared in the format of two Freeholders discussing Clopton's re-election. Clopton, they stated, opposed the Alien and Sedition bills because they were unconstitutional and he merited re-election on the basis of his commitment against British influences and support of revolutionary France, though not, it was carefully noted, at the expense of the United States government.⁷⁸

Then on October 9, a Federalist article appeared accusing Clopton of seditious libel. The author, under

⁷⁷Virginia Argus (Richmond), October 12, 1798, p. 3, c. 4-5.

⁷⁸Virginia Gazette and General Advertiser (Richmond), October 2, 1798, p. 3, c. 4.

the pseudonym "Buckskin" charged Clopton with an "attachment to an insulting foreign nation, jealousy of his own government, and a wish to excite fears and discontent in the minds of others."⁷⁹ According to "Buckskin," Clopton was guilty of inciting "fears and discontent" through his circular letters, as well as private ones "too violent to be made Circular."⁸⁰ Another private letter in particular, claimed "Buckskin," called the "President of the United States a traitor - says he is grasping at absolute power - that he has bribed a majority of the House of Representatives."⁸¹ Clopton, realizing the serious nature of the charge sent an immediate denial to the Virginia Gazette to vindicate himself.⁸² "Buckskin," however, continued to claim that the letter he mentioned was authentic and in the possession of William Pollard of Hanover county. But Pollard supported Clopton and denied that he had received a letter denouncing President Adams.⁸³

Meanwhile Secretary of State Timothy Pickering learned of this exchange in the Richmond newspapers and

⁷⁹Ibid., October 9, 1798, p. 2, c. 1.

⁸⁰Ibid.

⁸¹Ibid.

⁸²Ibid., October 16, 1798, p. 2, c. 1.

⁸³Ibid.

began steps which could have been disastrous for Virginia Federalists if carried out. Pickering, in accordance with his high-Federalist principles and industrious nature, was scrupulously searching the nation's newspapers for any hint of seditious libel. When he became aware of the charge against Clopton he wrote to Richmond Federalist Edward Carrington about Clopton's alleged correspondence with Pollard. Pickering explained that he thought the letter "ought to be examined with a view to the prosecution of the writer. Such infamous and mischevious language ought not to pass unnoticed. I wish you, if possible, to obtain from Mr. Pollard the original letter."⁸⁴

Carrington replied that Pollard had already upheld Clopton's denial and since there was no evidence to support "Buckskin's" charge he strongly advised Pickering to cease from proceeding any further against Clopton.⁸⁵ It is likely that Marshall, who was Carrington's brother-in-law, instructed Carrington to write this letter when Marshall learned of Pickering's intention. This ended the matter. Marshall, of course, realized that any prosecution of Clopton would be

⁸⁴Pickering to Edward Carrington, Trenton, October 23, 1798, Pickering Papers.

⁸⁵Carrington to Pickering, Richmond, October 30, 1798, ibid.

disasterous for the Federalist party and particularly for his own candidacy. The Alien and Sedition laws were already a major issue and Marshall had publicly denounced them. The prosecution of his Republican opponent during the campaign would have aroused strong public opposition and probably would have destroyed Federalist chances in Virginia. The campaign had gained momentum by late October and party conflict was quite intense. "It requires to be in this part of Virginia [Richmond]," wrote Marshall, "to know the degree of irritation which has been excited and the probable extent of the views of those who excite it."⁸⁶ To have proceeded against Clopton would have aroused animosity and encouraged party strife, something Marshall believed would work against the Federalists. "The whole malignancy of Antifederalism not only in this district where it unfortunately is but too abundant but throughout the state, has become uncommonly active and considers itself as peculiarly interested in the reelection of the old member."⁸⁷

Marshall decided that to appear in print personally would only invite abuse and he now declined to answer

⁸⁶Marshall to Pickering, Richmond, October 22, 1798, ibid.

⁸⁷Marshall to Pickering, Richmond, October 15, 1798, ibid.

his critics. "The jacobin presses which abound with us and only circulate within this state teem with publications of which the object is to poison still further the public opinion and which are leveled particularly at me."⁸⁸ Several days after he wrote this complaint Marshall reported to Pickering that the Secretary's letter to the people of Prince William county condemning Eldridge Gerry's conduct in France, "will probably for a short time relieve me from abuse by substituting yourself as the object at which malevolence will for a time direct its shafts."⁸⁹

Marshall's renunciation of the Alien and Sedition laws had incurred the wrath of many Northern Federalists. His answers to the "Freeholder" in September led many Federalists to express their concern that "Marshall's politicks will not prove sound according to New England ideas."⁹⁰ Pickering, however, defended the Virginian and assured Marshall's Federalist critics that it was merely an "electioneering trick" and did not mark a betrayal of Federalist principles. "Rely upon it, my dear sir," Pickering continued, "that

⁸⁸Ibid.

⁸⁹Marshall to Pickering, Richmond, October 22, 1798, ibid.

⁹⁰George Cabot to Pickering, October 31, 1798, ibid.

General Marshall is incapable of doing a dishonorable act."⁹¹ One wonders, however, about Pickering's concept of honor.

Some New England Federalists did not share Pickering's confidence. In one of his vituperative letters, Fisher Ames complained that "Federalists are forever hazarding the cause by needless and rash concessions. John Marshall, with all his honors in blossom and bearing fruit, answers some newspapers' queries unfavorable to these laws" which denies the soundness of his Federalism. "No correct man - no incorrect man even," Ames continued, "whose affections and feelings are wedded to the government, would give his name to the base opposers of law, as a means for its annoyance." Marshall had done this, he claimed. "Excuses may palliate, - future zeal in the cause may partially atone, - but his Character is done for. . . . False Federalists, or such as act wrong from false fears, should be dealt with as strongly by, if I were Jupiter Tonans. . . . The moderates are the meanest of cowards, the falsest of hypocrites."⁹²

Despite Ames' acid description of Marshall as a "false Federalist," his political allegiance was

⁹¹Pickering to Theodore Sedgwick, Trenton, November 6, 1798, ibid.

⁹²Fisher Ames to Christopher Gore, December 18, 1798, in The Works of Fisher Ames, Seth Ames ed., (Boston, 1834), II, pp. 245-46.

Federalist. Just as Virginia Republicans did not necessarily support the Republican leadership in Congress, Virginia Federalists did not necessarily support the Hamiltonian program.⁹³ A conscious distinction was made between high or Hamiltonian Federalists and the moderate or Adams Federalists. In the pithy words of one New England Federalist "the Virginia Federalists are halfway Jacobins."⁹⁴ The Republicans noted the difference and parodied it along with an attack on Marshall's position on the Alien and Sedition acts. An item in the Richmond Argus commented upon the various kinds of Federalism which were appearing, including an "Astronomical Federalism," an "Anatomical Federalism," and a "Lockjaw Federalism." "So many kinds of Federalism have sprung up of late," the author observed, "that it would require a very skillful expositer to determine the precise meaning to be affixed to each."⁹⁵

The betrayal of American independence was a common theme of anti-Federalist propaganda. The Republicans exploited American antipathy toward Great Britain,

⁹³Beeman, "Old Dominion in the New Nation," pp. 249-54.

⁹⁴Benjamin Goodhue to Pickering, Brookline, October 16, 1798, Pickering Papers.

⁹⁵Virginia Argus (Richmond), November 27, 1798, p. 2, c. 3-4.

branding the Federalists as a British party. This charge took on particular significance during the Quasi-War when many feared that informal naval cooperation with Great Britain against France would result in an alliance.⁹⁶ During the campaign the Republicans played upon this fear of a British alliance.

"Publications calculated . . . to incite an apprehension of Britain as our natural enemy are appearing every day," Marshall complained in October. "There are very many indeed in this part of Virginia who speak of our government as infinitely more formidable and infinitely more to be guarded against than the French Directory."⁹⁷

The Virginia Argus printed a political fable on this subject for the freeholders of Hanover county in late November warning them of the consequences of a British alliance. "There was a fountain once," it explained, that "entered into an alliance with a distant torrent to overrun and destroy the pax and comfort of this little Republic."⁹⁸ The Fountain joined with the torrent after its "price" was found and then became merged with the torrent. The fable ends

⁹⁶Bradford Perkins, The First Rapprochement: England and the United States, 1795-1805 (Philadelphia, 1955), pp. 96-99.

⁹⁷Marshall to Pickering, Richmond, October 22, 1798, Pickering Papers.

⁹⁸Virginia Argus (Richmond), November 27, 1798, p. 2, c. 3-4.

with this caveat: "Oh ye people of the Fountain, seek a purer stream and you who seek for real value, abandon a nominal price."⁹⁹

One of the attacks against Marshall which contained this theme was written by John Thompson of Fredericksburg. Using the pseudonym "Curtius" Thompson's criticism of Marshall first appeared in a series of letters in the newspapers and was later printed in pamphlet form. "Curtius" explained that he proposed to reveal the "insincerity and art" of which Marshall was guilty. He accused the Federalists of planning to reunite with Great Britain and restore the United States to their former colonial status.¹⁰⁰

There is a party in this country formidable from their numbers and still more formidable from their wealth, who have long endeavored to restore us to the abject and miserable condition of British colonies, or at least to draw us into so close a connection with Britain as to secure to her the command of our councils and to render our independence only a shadow and a name.¹⁰¹

⁹⁹Ibid.

¹⁰⁰"Letters of Curtius," [by John Thompson] (Richmond, 1798). Little is known of John Thompson other than he was a gifted political writer who died quite young. See Beveridge, Marshall, II, p. 396 2n.

¹⁰¹Ibid.

"Curtius" claimed that Marshall had deliberately evaded the question of an alliance with Great Britain when he renounced the idea of a permanent alliance with Europe. Any treaty or alliance, stressed "Curtius," would be at the expense of American honor and independence. He identified the Federalist government with Great Britain, regarding it as corrupt, oppressive, and monarchical.¹⁰² In his fourth letter "Curtius" criticized Marshall's obscure and evasive remarks on the constitutionality of the Alien and Sedition laws. His silence, "Curtius" asserted, was due to the "pernicious influence of party spirit" since "it's hardly possible to believe that [he] can be seriously of the opinion that these flagrant usurpations are constitutional laws."¹⁰³

Marshall refused to answer "Curtius" personally but several of his supporters came to his defense. One, using the name "Hodge" responded in poor English and colloquialisms, praising Marshall's personal qualities and patriotism.¹⁰⁴ Another of Marshall's defenders, "Procopious," emphasized Marshall's lack

¹⁰²Ibid.

¹⁰³Ibid.

¹⁰⁴Virginia Gazette and General Advertiser (Richmond), December 11, 1798, p. 2, c. 2-3.

of partisanship. "But, praise, for this honor, and I may add for the safety of my country, there is a portion of its inhabitants who have not degraded themselves by party spirit . . . and among these venerable patriots I enroll our fellow citizen, and your friend, John Marshall."¹⁰⁵ "Curtius," he claimed had "dwindled" a majority of the country into a "party."¹⁰⁷ Accusing "Curtius" of jealousy and egotism, "Procopious" continued that he would not stoop to answer all of "Curtius's" accusations but concentrated instead upon Marshall's personal characteristics.¹⁰⁷

Clopton waged a vigorous campaign for his re-election. He sent out numerous circular letters from Philadelphia to his friends in the Richmond area in late December 1798 through January 1799. These were private, not printed, circular letters, written to certain individuals within his Congressional district who were expected to pass them around to Clopton's constituents. Three letters were sent to New Kent county (James Apperson, Richard Apperson, and William Chamberlayne), two to Hanover county (John C. Littlepage,

¹⁰⁵Virginia Gazette and Extraordinary (Richmond), December 25, 1798, p. 1, c. 1-2.

¹⁰⁶Ibid.

¹⁰⁷Ibid., January 1, 1799, p. 1, c. 1-2.

and Capt. Nicholas Syme), two to Richmond City (Doctor Foushee and Philip N. Nicholas) and one to Col. C. Travis in Williamsburg (which covered the more sparsely populated James City and Charles City counties).¹⁰⁸

In this group of letters Clopton discussed the Logan amendment before Congress. Dr. George Logan was a Philadelphia physician who had undertaken a private peace mission to France during the summer of 1798 and had incurred the wrath of the Federalists. The Logan Act, which Clopton opposed, became law in January 1799. The Act made it a crime for a private American citizen to correspond with a foreign government with the intention of influencing that government on any dispute it may have with the United States.¹⁰⁹ In his letters Clopton repeatedly stressed that this law was not a defense of executive authority as the Federalists claimed but a "spurious means of getting an addition to that Sedition bill."¹¹⁰

Clopton wrote John Littlepage that he doubted the Republicans had a sufficient majority to repeal the Alien and Sedition acts. He stressed the need for more

¹⁰⁸John Clopton, letters of December 23, 29, 30, 1798, January 1, 1799. Clopton Papers, Duke University.

¹⁰⁹Frederick B. Tolles, George Logan of Philadelphia (New York, 1953), pp. 153-202.

¹¹⁰Clopton to Chamberlayne, December 29, 1798, Clopton Papers, Duke.

Republican Congressmen by lamenting that the House's answer to President Adams' annual message to Congress was written and allowed to pass by the admirers of the administration.¹¹¹ When he was reporting Congressional activities to Chamberlayne, Clopton discussed a new bill before Congress which would grant bounties to the owners of American vessels that captured French ships. This bill, he pointed out, would not benefit anyone south of the Potomac although those states would have to pay a proportion of the bounties.¹¹²

Although Clopton emphasized the need for a Republican Congress to promote his section's interest, he concentrated on the unconstitutionality of the Alien and Sedition laws and their threat to civil liberty in his circular letters. This dramatic appeal made the campaign more than just a battle for his re-election but one fought on national issues.

During the fall the Republicans devoted all their energy in an attempt to recover the ground they had lost after the release of the XYZ dispatches. Despite Jefferson's confidence that "this disease of the

¹¹¹Clopton to Littlepage, December 23, 1798, ibid.

¹¹²Clopton to Chamberlayne, December 29, 1798, ibid.

imagination will pass over . . . indeed, the Doctor is now on his way to cure, in the guise of a tax gatherer,"¹¹³ the Republicans were not inactive while waiting for the medicine to take effect and used the Alien and Sedition acts as a broad domestic issue to divert attention from their now unpopular support of France. On November 16, 1798, the Kentucky legislature had passed a set of resolutions written by Jefferson which declared the Alien and Sedition acts unconstitutional and void. The Virginia legislature followed with a similar set of resolutions drafted by James Madison and passed on December 24.¹¹⁴ Copies of both sets of resolutions were printed for wide distribution to publicize the Republicans as defenders of liberty.¹¹⁵

While many Republicans believed that the Congress would have a Republican majority, they were still troubled by the impact of the XYZ dispatches. Despite the Republican effort to identify the unpopular Alien and Sedition laws with the Federalists, patriotic fervor burned strongly in January 1799 when Charles Cotesworth Pinckney received a favorable reception

¹¹³Jefferson to John Taylor, November 26, 1798, Jefferson Papers, LC.

¹¹⁴Harry Ammon and Adrienne Koch, "The Virginia and Kentucky Resolutions," William and Mary Quarterly, third series, V. (1948), pp. 745-76.

¹¹⁵DeConde, Quasi-War, p. 195.

in Petersburg, "heretofore considered as highly democratic."¹¹⁶

James Madison wrote Jefferson that he thought Marshall would be defeated but admitted that the "issue must be attended with some uncertainty."¹¹⁷ Another Republican, Henry Tazewell, seemed more confident that Marshall would be defeated and stated that Gerry's dispatches would "settle the point,"¹¹⁸ referring to Talleyrand's new peace overtures contained in the Republican's dispatches which Adams had sent to Congress on January 18, 1799.¹¹⁹

Other Republicans expressed more alarm at the possibility of Federalist success at the polls and urged Madison to run for the state legislature and add strength to the party ticket.¹²⁰ Contrary to Republican plans the Kentucky and Virginia Resolutions did not rally the states or the people against the federal government but had the opposite effect by

¹¹⁶William Heth to George Washington, Petersburg, January 12, 1799, Washington Papers, LC.

¹¹⁷Madison to Jefferson, January 25, 1799, Madison Papers, LC.

¹¹⁸Henry Tazewell to Littleton W. Tazewell, Richmond, January 22, 1799, VSL.

¹¹⁹DeConde, Quasi-War, p. 173.

¹²⁰Walter Jones, et. al. to Madison, February 2, 1799, Madison Papers, LC.

raising the spectre of disunion.¹²¹ Federalists realized this immediately. "Virginia," Fisher Ames observed, "is fulminating its manifesto against the federal government" and while the nature of the Virginia proceedings is not fully known, "the more absurd and violent the better. The less will it be in the power of the government to forbear proper measures or to adopt them by halves and more will the spirit of the Virginia Feds rise: for Feds there are even in Virginia."¹²²

Ames was correct in believing that the Resolutions would encourage the Virginia Federalists who now accused the Republicans to fostering disunion and usurping the rights of the people. The measures, one Federalist charged, threatened the stability of the union and were equal to "open hostility."¹²³ The Federalists based their assault on the legislative debates over the Resolutions and distributed the minority report against the Resolutions attributed to

¹²¹Ammon and Koch, "Virginia and Kentucky Resolutions," WMQ, third series, V pp. 145-76.

¹²²Fisher Ames to Christopher Gore, January 11, 1799 in Ames, Works, ed. Ames, II, p. 250.

¹²³Virginia Gazette and General Advertiser (Richmond), January 29, 1799, p. 3, c. 4.

Henry Lee.¹²⁴ A series of articles written by Lee appeared under the pseudonym "Plain Truth" during February and March 1799. The general theme of these articles was that national independence and individual liberty depended upon union.¹²⁵ "Plain Truth" wrote that the people, not the legislature, had the right to declare a law unconstitutional. He stressed that federal authority was derived from the people and thus represented them more accurately than the states. The Virginia and Kentucky Resolutions, he concluded, threatened to destroy the rights of the people and cause the dismemberment of the union. He claimed that Clopton and others who approved of the Virginia Resolutions were as guilty as its supporters in the state legislature although they were not directly responsible for its passage.¹²⁶

In February Clopton defended his support of the Virginia Resolutions in a circular letter. After he informed his constituents about Congressional business,

¹²⁴"Address of the Minority of the Virginia Legislature to the People of that State, containing a Vindication of the Constitutionality of the Alien and Sedition Laws," (Richmond, 1799). The report has also been attributed to Marshall, see Beveridge, Marshall, II, pp. 402-08.

¹²⁵Virginia Gazette and General Advertiser(Richmond), February 12, 1799, p. 2, c. 1-2.

¹²⁶Ibid., February 15, 1799, p. 3, c. 1-3, 19, p. 2, c. 1-2, 22, p. 2, c. 1, 26, p. 2, c. 1-2, March 1, p. 2, c. 1-3.

Clopton turned to a defense of himself against what he considered "injustices arising from calumny and misrepresentation" regarding his political conduct and principles.¹²⁷ He emphasized the idea that the Federalists had disrupted the balance of power between the branches of government. Since his entry into Congress, he claimed, "scarcely a season has passed but some great CONSTITUTIONAL question has been agitated" upon which "I have never knowingly deviated from the Constitution; but my votes were always such as I conscientiously believed were in support of the Constitution."¹²⁸ Clopton stated that he acted to

preserve those CHECKS AND BALANCES in the Constitution . . . I have not ceased to cherish a warm attachment to Republican principles, which were designed to be the vital springs of our free REPRESENTATIVE Government. . . . I have always believed that the permanance of civil liberty, and consequently the real happiness of my country at large, would greatly depend upon the preservation of that portion of power to the Representatives which has been assigned to them by the Constitution.¹²⁹

Clopton considered it his "sacred duty" to dissent from measures which he considered incompatible with

¹²⁷Clopton to John Allen, Philadelphia, February 22, 1799, Clopton Papers.

¹²⁸Ibid.

¹²⁹Ibid.

the distribution of powers as written in the Constitution. "I have thus acted . . . that every branch of Government might retain its due degree of energy so that NEITHER might accrue a greater proportion thereof than has intended to be given by the Constitution."¹³⁰

His enemies, Clopton argued, had maligned him for his adherence to the Constitution. For opposing the encroachment by the executive, he had been identified as an enemy of the government. "This," he declared, "is unfounded, equally unmerited calumny - equally unfounded, equally unmerited, but more malignant, is that which has brought forward the UNNATURAL charge against me, of a blind infatuated devotion to a foreign nation."¹³¹

The Virginia Resolutions worked against the Republicans and allowed the Federalists to exploit the patriotic fervor of the people by stressing the threat of disunion. After the elections one Republican commented that "last summer and fall the people glowed with indignation at the enactment of laws directly

¹³⁰Ibid.

¹³¹Ibid.

violating their Constitution . . . and were resolved to repeal the injuries their liberties had suffered."¹³²

But the Republicans sowed the seeds of their own defeat for:

the handle that was made of the Measures of the last assembly has had its desired effect in alarming the people. The federalists have excited a belief that the legislature intended, and that their measures, led to, disunion. The people fearing disunion as the worst of evils have thought it better even at the risk of bad laws, to elect men who would never consent to a dissolution of the federal compact.¹³³

By February Jefferson realized that the Virginia and Kentucky Resolutions had placed the Republicans in a vulnerable position and advised a cautious and patient policy. "Anything like force would check the progress of public opinion and rally them round the government," he wrote Edmund Pendleton. "If we can keep quiet, therefore, the tide now turning will take a steady and proper direction."¹³⁴ About this time, however, the fear of disunion was fed by rumors that the state legislature had stored arms in the Richmond

¹³²Joseph Cabell to David Watson, Warminster, June 7, 1799, "Letters to David Watson," Virginia Magazine of History and Biography, XXXIX, (1929), pp. 263-64.

¹³³Ibid.

¹³⁴Jefferson to Edmund Pendleton, February 14, 1799, Jefferson Papers, LC.

armory and planned a revolt against the national government. Although the charge is unfounded it had wide circulation at the time and many people accepted it as true.¹³⁵

As the April election drew nearer party activity accelerated. John Taylor, the noted Republican from Caroline county, entreated Madison to run for the state legislature against Patrick Henry because he believed that the public sentiment of Virginia was "at a crisis."¹³⁶ Taylor vent his wrath on Henry for having the audacity to support Marshall, "the inveterate enemy of Mr. Jefferson," and to aid in Marshall's election by writing a letter in support of the Federalist candidate. Madison must offer himself as a candidate, Taylor declared, because "Virginia is the hope of Republicans throughout the Union."¹³⁷

The letter referred to by Taylor is one alledgedly written by Henry to Archibald Blair. In it Henry is said to have praised Marshall extravagantly and told Blair to "tell Marshall I love him, because [in France] he felt and acted as a republican, as an American. . . .

¹³⁵Ammon and Koch, "Virginia and Kentucky Resolutions," WMQ, third series, V, p. 163.

¹³⁶Taylor to Madison, March 4, 1799, Madison Papers, LC.

¹³⁷Ibid.

I really should give him my vote for Congress, preferably to any citizen in the state at this juncture, one only excepted [Washington]."¹³⁸ According to Beveridge, Henry's letter "won the election" for Marshall. It was passed from hand to hand and "almost worn out by constant use."¹³⁹ Regardless of whether Henry's letter won the election the sentiments it expressed reflect public opinion.

As the campaign drew to a close both Federalists and Republicans used the traditional electioneering devices such as "treating" the voters to food and drink before the election. Most candidates during this period tried to operate between the two extremes of insulating themselves from the voters and "mingling" with them too much.¹⁴⁰ Marshall was a man of casual manners who probably did not remain aloof from the electorate. Beveridge cites one story which he considers to be characteristic of Marshall in which the Federalist supposedly danced around a bonfire with his constituents at a rally at Hanover county.¹⁴¹

¹³⁸Henry to Blair, January 8, 1799, quoted in Beveridge, Marshall, II, p. 412.

¹³⁹Ibid., p. 413.

¹⁴⁰Sydnor, American Revolutionaries, p. 51.

¹⁴¹Beveridge, Marshall, II, p. 409.

It does seem unlikely, though, that he spent thousands of dollars on barbeques as charged by the Republicans.¹⁴² Although he had been paid for the French mission in October 1798,¹⁴³ he was in need of money and could have hardly have afforded to spend such an amount on the campaign.

The Virginia Congressional election occurred on April 24, 1799.¹⁴⁴ During the day several disturbances within the city of Richmond were reported and one resident it as one of the most "riotous elections" ever held in Virginia.¹⁴⁵ A "barrel of whiskey with the head knocked in" stood beneath a tree on the courthouse green for all to share (though the donor is unknown). As was the custom both candidates were present as the poll was taken and observed as each voter presented himself before the election officials and cast his vote vive voce. As each man voted shouts of approval or disapproval rang out.¹⁴⁶

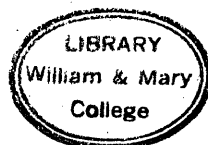
¹⁴²Ibid.

¹⁴³Ibid., p. 372n.

¹⁴⁴Virginia Gazette and General Advertiser (Richmond), April 26, 1799, p. 3, c. 1.

¹⁴⁵Proceedings and Debates of the Virginia State Convention of 1829-1830 (New York, 1971), I, p. 425. Reprint of the 1830 Richmond edition.

¹⁴⁶Beveridge, Marshall, II, pp. 413-15.



Marshall won with a close majority of 108 votes.¹⁴⁷ The counties of Hanover, Henrico, Charles City, James City, and New Kent made up the Richmond Congressional district. Election returns from only three of the five counties survive:

	<u>Marshall</u>	<u>Clopton</u>
Hanover	310	317
Henrico ¹⁴⁸	299	250
New Kent ¹⁴⁹	<u>162</u>	<u>137</u>
Total	771	704

Clopton won in only one county, Hanover, with a narrow margin of 7 votes while Marshall led in the rest with majorities of 48 in Henrico, 25 in New Kent, 30 in Charles City,¹⁵⁰ and 12 in James City.¹⁵¹

Marshall was one of eight moderate Federalists elected to the House of Representatives from Virginia, double the number in the previous Congress.¹⁵² Fifteen to sixteen more Federalists were elected to the Virginia

¹⁴⁷Edward Carrington to George Washington, Richmond, April 25, 1799, Washington Papers, LC.

¹⁴⁸Virginia Gazette and General Advertiser (Richmond), April 26, 1799, p. 3, c. 1.

¹⁴⁹Ibid., April 30, 1799, p. 3, c. 3.

¹⁵⁰Ibid., April 26, 1799, p. 3, c. 1.

¹⁵¹Calculated on the basis of other returns.

¹⁵²Dauer, Adams Federalists, pp. 233-37.

legislature raising the Federalist minority to about 65 members, one-third of the legislature.¹⁵³ The outcome of the 1799 elections surprised the Republicans. Jefferson wrote that the Virginia elections "have astounded everyone" and continued to claim that it was a result of an "accidental combination of circumstances" which did not hurt the progress of the Republican cause.¹⁵⁴ Despite his optimism Jefferson does seem to be somewhat shaken by the election. He wrote to another that "the congressional elections, as far as I have heard them, are extremely to be regreted. I did expect [Leven] Powell's election; but that [Henry] Lee should have been elected, and [John] Nicholas hard run marks a taint in that part of the state I had not expected [northeastern Virginia]."¹⁵⁵

¹⁵³Norman K. Risjord, "The Virginia Federalists," Journal of Southern History, XXXIII (1967), pp. 503-04.

¹⁵⁴Jefferson to Tench Coxe, May 21, 1799, Jefferson Papers, LC.

¹⁵⁵Jefferson to Archibald Stuart, May 14, 1799, in Paul Leicester Ford, ed., The Works of Thomas Jefferson (New York, 1905), IX, p. 67.

V

The Richmond election had been close and bitter. The candidates had based their appeal on the issues of foreign policy and union and the ensuing debate had helped arouse interest in the election. Although foreign policy had been a campaign issue since 1795¹⁵⁶ the wave of patriotism after the release of the XYZ dispatches increased its importance. By focusing upon foreign affairs the Federalists were able to identify their political opponents with a foreign power. The Republicans, in response, took up the theme of "national security" and stressed the internal threat of the Alien and Sedition laws in their campaign literature. The concentration on these laws should not imply that other issues such as taxation did not motivate the voter but that the Republicans needed an issue to counteract Federalist charges of treason. The action of Virginia's state legislature in passing the Virginia Resolutions against these laws made her citizens particularly aware of these ideological issues. This act, in turn, kept alive the wave of patriotism provoked by the

¹⁵⁶ Charles, Origins of the American Party System; Ammon, "Agricola Versus Aristedes," VMHB, LXXIV, pp. 312-320.

XYZ dispatches by introducing the spectre of disunion and intensified the feeling of crisis. The ideological debate had an important impact upon voter-consciousness for it increased an already highly charged emotional and psychological climate caused by the political and social instability of the 1790's. Virginians believed that something more important than matters of public policy were involved and saw their national existence endangered by foreign and domestic elements.¹⁵⁷

Marshall's narrow margin of victory reveals that the electorate was polarized by the Alien and Sedition laws on one side and the Quasi-War and the Kentucky and Virginia Resolutions on the other. But the threat of disunion within the context of nationalism inspired by the XYZ dispatches seems to have been the decisive factor, because the Republicans continued to be on the defensive for the whole campaign.

The Richmond election reflected support not for Marshall the Federalist but Marshall the national hero. Prior to the election a letter appeared in a Richmond newspaper addressed to Clopton from "One of his late Constituents from Hanover." The writer accused Clopton of deceiving his constituents and explained

¹⁵⁷John R. Howe, jr., "Republican Thought and Political Violence of the 1790's," American Quarterly, XIX, (1967), pp. 147-65.

that he would vote for Marshall because he was a man of integrity. He had become aware, the voter said, of certain omissions and distortions in Clopton's circular letters after his own perusal of the Philadelphia newspapers. Although he had only seen Marshall at Hanover court the Federalist was known as a "virtuous and able" man, even his enemies admitted this fact. He would be inclined to vote for Marshall, the voter continued, because he believed a change was necessary. His late reading revealed that France actively tried to ferment "division Amongst us in her favor against our own government."¹⁵⁸ Despite the new peace effort between France and the United States, "having threatened to discredit this very gentleman in the estimation of his countrymen his rejection must have a tendency to revive and encourage her hope of dividing and ruling us and may cause that prospect of reconciliation with which you flattered us to disappear again."¹⁵⁹

Because of the embryonic concept of party in eighteenth century thought the nationalism reflected in the Federalist gains is not an endorsement of

¹⁵⁸Virginia Gazette and General Advertiser (Richmond), April 12, 1799, p. 2, c. 1.

¹⁵⁹Ibid.

Federalism. Despite increased party activity each side based its opposition on a complete mistrust of the motives and integrity of the other and the concept of party was still unacceptable. The Federalists accrued the greatest benefit from this situation because most people identified the government with the administration.¹⁶⁰ The fear of faction became even stronger during this period of national crisis and the people felt a greater allegiance to the government. Apparently many people had not developed feelings of party allegiance and voted "federalist" in support of the government after being aroused by the issues concerning a national crisis. Such a person was George Gairdner, who, by his own admission was not usually interested in politics but felt compelled to urge a friend to vote for Marshall. After he had self-consciously admitted that his friend would think he had "turned politician," Gairdner defended his unusual request on the basis that it was a widespread belief that this was "the most momentous Election ever made in Virginia."¹⁶¹

Since Marshall was involved with the French mission he derived the greatest benefit from the XYZ dispatches.

¹⁶⁰Hofstadter, Idea of a Party System, p. 86.

¹⁶¹George Gairdner to Francis Jerdone, Richmond, March 24, 1799, Jerdone Papers, College of William and Mary.

He represented the nationalism excited by the release of the dispatches and many came out to vote for him because of his identification with XYZ. Gairdner probably expressed the thoughts of many when he urged his friend to vote for Marshall for it "behoves us all to do everything possible to promote the success of a Man who has done so much for the honor and Interest of the United States and of the Purity of whose motives None can doubt."¹⁶² Marshall's success had an added significance, Gairdner thought, because his defeat would have been a renunciation of his conduct in France. "Should he miss his Election," Gairdner continued, "what must those against whom his abilitys (sic) are to shield the Union, think,"¹⁶³

The drama of the issues and the XYZ affair drew men like George Gairdner to the election. The high percentage of voter participation reflects the interest taken in the election. Based on the 1800 census¹⁶⁴ (the accuracy of which is admittedly doubtful), voter participation was fifty percent in Hanover county, sixty-seven percent in Henrico, and fifty-eight percent

¹⁶²Ibid.

¹⁶³Ibid.

¹⁶⁴Return of the Whole Numbers of Persons within the Several Districts of the United States (Washington, 1802), p. 69.

in New Kent. The Congressional election of 1800 in Richmond City offers a good opportunity for comparison with the 1799 election (the 1797 returns have not survived). This special election, separate from the 1800 presidential election, was held in August, 1800 to replace Marshall after he left Congress to become Secretary of State. Since it came so soon after the 1799 election the electorate was relatively the same and since it occurred well before the presidential election that fall it was not unduly effected by the presidential race. Voter participation dropped to twenty-five percent in Hanover - half as much as in 1799; forty-two percent in Henrico - a decrease of twenty-five percent; and forty-nine percent in New Kent - only a drop of nine percent.¹⁶⁵

The 1800 election also reflected the decline in Federalist strength. The Republican candidate, Littleton Waller Tazewell, (Clopton had been given a state office in the interim between his defeat and the next regular election)¹⁶⁶ won over Federalist John Mayo with a majority of 350, three times that of Marshall's

¹⁶⁵Virginia Argus (Richmond), August 8, 1800, p. 3, c. 3. See Table I.

¹⁶⁶Dictionary of American Biography, IV, pp. 230-31.

victory.¹⁶⁷ Hanover went from forty-eight percent Federalist to thirty-three percent; Henrico from sixty percent to forty-four; and New Kent from fifty percent to thirty-eight.¹⁶⁸ This information suggests that many of those who cast Federalist ballots in 1799 did not turn out for the 1800 election. In 1800 the Federalists lost fifteen percent of their 1799 vote where voter participation dropped sixteen percent; and twelve percent where it dropped nine percent. Thus it would appear that Marshall's margin of victory in his close election came from men who usually did not vote in national elections. This non-voter phenomena which contributes disproportionately to partisan change¹⁶⁹ makes the Federalist gains deceiving for when voter participation decreased in 1800 so did Federalist strength.

The Virginia Congressional election does not reflect Federalist strength. In a sense the gains made by the Federalists were a result of party activity in so far as they involved increased interest in the election and drew people to the polls. It was not a direct result of party organization, nor did it

¹⁶⁷Virginia Argus (Richmond), August 8, 1800, p. 3, c. 3.

¹⁶⁸ See Table II.

¹⁶⁹ Angus Campbell, et. al., The American Voter, (New York, 1960), p. 263.

predate the war scare as Lisle Rose asserts. If this were so there would be a real growth in the number of men who identified with the Federalists as a party, but party affiliation proved to be less significant for the Congressional election of 1799 than the feeling of patriotism. Federalist strength drops off after the crisis period as does voter participation and interest in politics. As Kuehl has noted, the Federalist party capitalized on the XYZ dispatches because they represented the national government. He is misleading, though, when he asserts that Virginians cast off their allegiance to a party¹⁷⁰ for the concept of party was still unacceptable to a majority of the people and few were attached to a party. It was these people, uncommitted to any party, who voted Federalist to support the government during the XYZ crisis. Despite the ideological polarization which occurred over the Alien and Sedition laws, the XYZ dispatches blurred developing party lines and elected Federalists as supporters of the government. Although the election of 1799 appears an extremely partisan one in terms of activity and ideology the XYZ affair reveals that party

¹⁷⁰Kuehl, "Quest for Identity," p. 305.

lines were still quite fluid during this period. Party labels had little value for people who elected moderates in both parties.¹⁷¹ The wave of patriotism provoked by the release of the XYZ dispatches and Marshall's identification with them secured him the election.

¹⁷¹Ibid. Dauer, Adams Federalists, p. 237.

APPENDIX

TABLE I

VOTER PARTICIPATION

<u>County</u>	<u>1799</u>	<u>1800</u>
Hanover	627	304
Henrico	550	349
New Kent	299	250

COMPARATIVE VOTER PARTICIPATION

<u>County</u>	<u>1799</u>	<u>1800</u>	<u>Decrease</u>
Hanover	50%	25%	25%
Henrico	67%	42%	25%
New Kent	58%	49%	9%

TABLE II

1799

<u>County</u>	<u>Marshall</u>	<u>Clopton</u>	<u>Total</u>	<u>Federalist Majority</u>	<u>Percentage Federalist</u>
Hanover	310	317	627	-	48%
Henrico	299	251	550	48	60%
New Kent	162	137	299	25	50%

1800

<u>County</u>	<u>Federalist</u>	<u>Republican</u>	<u>Total</u>	<u>Republican Majority</u>	<u>Percentage Federalist</u>
Hanover	116	188	304	72	33%
Henrico	146	203	349	57	44%
New Kent	94	156	250	61	38%

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VITA

Nancy M. Merz

Born in New York City. A.B., Thomas More College,
Fordham University, 1971. M.A., College of William and
Mary, 1973.