

**The Presidential Newspaper as an Institution of  
Early American Political Development:  
The Case of Thomas Jefferson and the Election of 1800**

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March 1, 2007  
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## Introduction

In the study of American political development, the role of political newspapers in nineteenth century America has been largely underappreciated. From 1800 to 1860 in particular, the era of the presidential newspaper, partisan newspapers were a fundamental part of American political life at the mass communications level. They articulated party orthodoxy and positions, mobilized partisans, promoted and defended favored candidates, officials, and policies, and attacked opponents and their positions. In doing so, the partisan press regularly addressed fundamental principles of American democratic theory, in the process spreading those principles—and the public discourse over them—across the country, thereby helping to embed them in the national consciousness.

Probably because their functions were so different from the “fair and balanced” journalistic ideal of today, the partisan newspapers that dominated the early decades of the American republic have not received nearly the scholarly attention they deserve.<sup>1</sup> This paper seeks to demonstrate the richness of these papers as a source of scholarly inquiry by focusing on how one such newspaper, the Washington, D.C. *National Intelligencer*, was used by Thomas Jefferson and his allies to promote his candidacy for the presidency in the election of 1800. In the process, the newspaper articulated many of the principles of Jeffersonian republicanism that have played such an important role in American political theory.

From 1800 to 1860, every American president was connected with a political newspaper that was published in Washington, D.C., and that was considered, to varying

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<sup>1</sup> See, e.g., noted journalism historian Frank L. Mott’s description of the partisan press of this time as “disgraceful” and representing the “‘Dark Ages’ of American journalism.” *American Journalism: A History of Newspapers in the United States through 260 Years: 1690 to 1950* (New York: Macmillan, 1950), 169.

degrees, to represent the views of the president and his administration.<sup>2</sup> These newspapers circulated far beyond the capital via the U.S. postal system, providing political cues to the party elite, informing interested citizens, and providing political commentary for other friendly newspapers throughout the country to reprint—and elaborate upon—for their own readers.

The first of these presidential newspapers was the *National Intelligencer*, which began publication in 1800 just as its chief sponsor, Thomas Jefferson, was on the verge of (s)election to the U.S. Presidency. This case study focuses on the short but critical period from the end of October, 1800, when the *Intelligencer* began being published, to the first week of March, 1801, when Jefferson was inaugurated president.<sup>3</sup>

### **Political Newspapers of the Nineteenth Century**

Most American newspapers in the nineteenth century were not “newspapers” as we understand them today. Rather than trying to provide their readers with a wide, fairly objective range of information about current events, these newspapers had a very different mission. They were engaged in sheer partisan politics, reporting and commenting on national political affairs from a particular political viewpoint, on behalf of a particular party or political figure. They had this focus because that is what their sponsors, the political parties and their leaders, wanted them to do.

Political newspapers in the nineteenth century were the heart of national politics, the “political system’s central institution,” as Jeffrey Pasley has described them. These

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<sup>2</sup> Mel Laracey, *Presidents and the People: The Partisan Story of Going Public* (College Station: Texas A&M University Press, 2002).

<sup>3</sup> The *Intelligencer* was published three times a week; issues were four pages in length. Each page was about 20 inches wide by about 30 inches long, and had 6 columns printed in 6-7 point font. Most of the paper was filled with official government notices, verbatim reports of Congressional floor speeches, political news from abroad, excerpts from literary works, and commercial advertisements. From one to three pages of each issue was devoted to the political news and commentary examined in this study.

papers and their editors “were purposeful actors in the political process, linking parties, voters, and the government together, and pursuing specific political goals.”<sup>4</sup> The most prominent and effective partisan newspapers were subsidized through the award of contracts to publish “By Authority” new federal government legislation, decrees, and notices.<sup>5</sup> Political messages in a party’s main newspaper circulated quickly throughout the country by being reprinted in other friendly party papers, which received all newspapers postage-free under federal law.<sup>6</sup> In 1800, a federalist newspaper editor wrote scathingly of how, “with much punctuality and rapidity, *the same opinion* has been circulated” throughout the country via the republicans’ newspapers, so that a “perfect union of opinion was established.”<sup>7</sup>

The reason for this perceived power of the media was that, as another observer explained in 1800, while “a large part of the nation reads the Bible, all of it assiduously peruse the newspapers. The fathers read them aloud to their children while the mothers are preparing the breakfast.”<sup>8</sup> Even those who could not read, or could not afford a newspaper subscription themselves, could still be exposed to the contents of the papers. Newspapers were shared and passed around, and could be found at public gathering places such as post offices, inns and taverns, where they were often read aloud.<sup>9</sup> Word of

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<sup>4</sup> Jeffrey L. Pasley, “*The Tyranny of Printers*” *Newspaper Politics in the Early American Republic* (Charlottesville: University Press of Virginia, 2001), 3.

<sup>5</sup> Culver H. Smith, *Press, Politics, and Patronage: The American Government’s Use of Newspapers, 1789-1875* (Athens: University of Georgia Press, 1977).

<sup>6</sup> Paul Starr, *The Creation of the Media: Political Origins of Modern Communications* (New York: Basic Books, 2004), 87-91; Pasley, *Tyranny of Printers*, 8-9; 77; 196-197; Laracey, *Presidents and the People*, 47-48. Postal delivery rates for newspaper subscriptions were also heavily subsidized under federal law. A letter cost one dollar to mail, while the rate for a newspaper was one and a half cents. Smith, *Press, Politics, and Patronage*, 6-9.

<sup>7</sup> quoted in Laracey, *Presidents and the People*, 58-59.

<sup>8</sup> Pierre Dupont de Nemours, quoted in Laracey, *Presidents and the People*, 49.

<sup>9</sup> Laracey, *Presidents and the People*, 48. One newspaper found that 506 persons in 107 families were sharing the issues that had been sent to one post office. Thomas C. Leonard, *News for All: America’s Coming-of-Age with the Press* (New York: Oxford University Press, 1995), 15.

mouth, of course, would have helped spread the information too. Thus, by 1800, American politicians and newspaper publishers had created an effective chain of mass political communication that reached most of the country, and that continued to be expanded at a rapid rate as the newspapers proved their worth as indispensable tools of political persuasion and organization.<sup>10</sup>

### **Thomas Jefferson and the *National Intelligencer***

The *National Intelligencer* was the first political newspaper that was connected directly to a president. In 1800, with the strong encouragement of Thomas Jefferson, but before the results of the upcoming presidential election could be known, Samuel Smith, the publisher, owner, and editor of the *Intelligencer*, moved from Philadelphia to Washington, D.C. to establish the paper.<sup>11</sup> Jefferson's encouragement to Smith was part of the effort of the republicans to establish a supportive chain of newspapers across the country in preparation for the upcoming national elections.<sup>12</sup> As Jefferson had put it in a 1799 letter to James Madison, the press was to be the "engine" in their effort to free America from the grip of federalism.<sup>13</sup>

The links between Jefferson and the *Intelligencer* were strong. He was in close social contact with Smith and his wife, who dined frequently at the White House and

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<sup>10</sup> See Starr, *Creation of the Media*, chapter 3; Pasley, *Tyranny of Printers*, chapter 9; Richard L. Rubin, *Press, Party, and Presidency* (New York: W.W. Norton, 1981), chapter 2. For an unrealistically constrained view of the role of the political press at this time, see Joanne B. Freeman, *Affairs of Honor: National Politics in the New Republic* (New Haven: Yale University Press, 2001), 131-137.

<sup>11</sup> Jefferson by 1800 already knew well the value of political newspapers, and so, win or lose in the upcoming election, would have wanted a paper in the new capital to promote the cause of republicanism. In 1791, he, Madison, and others supported the establishment of a newspaper, the *National Gazette*, to counter the influence of the *Federal Gazette*, which had been established by Alexander Hamilton to promote federalist causes. Jefferson later asserted that the republican *National Gazette* had "saved our Constitution which was galloping fast into monarchy." Quoted in Laracey, *Presidents and the People*, 52.

<sup>12</sup> See Pasley, *Tyranny of Printers*, chapter 7.

<sup>13</sup> Quoted in Cunningham, *Jeffersonian Republicans*, 129.

visited Jefferson at Monticello at least once.<sup>14</sup> He solicited political allies to write anonymous commentaries for the paper, sent material to Smith with the recommendation that it be published in the *Intelligencer*, and even authored several such commentaries himself.<sup>15</sup> Jefferson's allies in Congress helped Smith get critical, and lucrative, government printing contracts that ensured the financial survival of the *Intelligencer*.<sup>16</sup>

The special character of the *Intelligencer* was demonstrated publicly on the first day of Jefferson's presidency. Although Jefferson had delivered his inaugural address in a barely audible voice, the text of the address was readily available that day in the capital—and soon throughout the country. Smith had printed the speech in a special edition of the *Intelligencer*, using the advance copy he had received from Jefferson.<sup>17</sup>

The paper was widely considered in Washington to reflect the views of Jefferson and his republican party. When a Pennsylvania politician wrote Vice President Aaron Burr in October 1801 to inquire whether the *National Intelligencer* could be considered a “reliable” guide for Jeffersonian republicans, Burr wrote back to say that the *Intelligencer* had the “countenance and support of the administration,” and that the paper's

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<sup>14</sup> William E. Ames, *A History of the National Intelligencer* (Chapel Hill: The University of North Carolina Press, 1972), 36, 41.

<sup>15</sup> In “Decline of the Official Press in Washington,” *Journalism Quarterly* 33 (summer, 1956), 335-341, Frederick B. Marbut reported he had found several *National Intelligencer* articles whose language was “practically identical” to the language of letters Jefferson sent to Smith. On this point, see also Noble E. Cunningham, Jr., *The Jeffersonian Republicans in Power: Party Operations, 1801-1809* (Chapel Hill: University of North Carolina Press, 1963), 253-274, especially 261-263; and Joyce Appleby, *Thomas Jefferson* (New York: Times Books, 2003), 47. Ames, in *History of the National Intelligencer*, at 39, states that, “As Jefferson admitted, contact between him and Smith was frequent and undoubtedly much information was given to the *Intelligencer* through conversation. Existing records also indicate that Jefferson used the *Intelligencer* not only to give the official point of view on issues but also to place before the newspaper's readers points of view he thought were important to be considered.”

<sup>16</sup> Ames, *History of the National Intelligencer*, 29-33.

<sup>17</sup> Laracey, *Presidents and the People*, 59. The *Intelligencer* explained that Jefferson had given the newspaper an advance copy of the speech so that it could be published on the day of his inauguration, and noted that the day's issue had been “published at an earlier hour than usual” to “communicate to our subscribers the earliest account of the interesting proceedings of this morning.” In its next issue on March 6, 1801, the *Intelligencer* crowed that, “So great was the demand for this address and so considerable the number of citizens surrounding the office in expectation of its appearing that the Press could scarcely keep pace with it. Already thousands have read it . . . .”

“explanations of the measures of government and of the motives which produce them are, I believe, the result of information and advice from high Authority.”<sup>18</sup> When she was in New York in 1803 and hearing rumors about the Louisiana Purchase, Smith’s wife, Margaret Bayard Smith, wrote her husband for news, saying, “I long to see your enunciation of this matter [in the *National Intelligencer*] and to ascertain what is true. Everyone seems to rely on what you assert as the truth . . . .”<sup>19</sup>

If the *Intelligencer* was widely understood to be speaking on Jefferson’s behalf, then what it said while serving as his political newspaper merits serious scholarly attention. There is no better place to start than at the beginning: the presidential election of 1800.

### **The Extraordinary Presidential Election of 1800**

As the presidential election of 1800 approached, Thomas Jefferson and his republican allies thought the election “might well be the last opportunity to save the Constitution and the union.”<sup>20</sup> They faced a desperate federalist opposition that seemingly would do anything, including prosecuting its political enemies for sedition, to stay in power. Federalists, likewise, thought the election was all that stood between the country and the horrors of the French Revolution.

The election process itself was complicated, unfolding in different states in different ways over a span of several months—from May to December—in 1800.<sup>21</sup> In

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<sup>18</sup> Quoted in Cunningham, *Jeffersonian Republicans in Power*, 259; Laracey, *Presidents and the People*, 60. See generally Cunningham, chapter 10 and Laracey 58-63.

<sup>19</sup> Margaret Bayard Smith, *The First Forty Years of Washington Society* (New York: Charles Scribners Sons, 1906), 40.

<sup>20</sup> James Roger Sharp, *American Politics in the Early Republic: The New Nation in Crisis* (New Haven: Yale University Press, 1993), 228.

<sup>21</sup> James E. Lewis, Jr., “‘What Is to Become of Our Government?’ The Revolutionary Potential of the Election of 1800,” in James Horn, Jan Ellen Lewis, and Peter S. Onuf (Charlottesville: University of Virginia Press, 2002), 13.

ten of the sixteen states, state legislatures chose presidential electors. In another five states, electors were chosen via the popular vote. One state, Tennessee, used a combination of the two methods.<sup>22</sup>

When all the Electoral College votes were counted up, the republican ticket of Thomas Jefferson and Aaron Burr had won a majority of the votes over their federalist opponents, John Adams, the incumbent president, and Charles Cotesworth Pinckney of South Carolina. The only problem, however, was that Jefferson and Burr had each received the same number of Electoral College votes. Unlike their federalist opponents, who had anticipated this possibility in their Electoral College voting, republicans had failed to arrange the withholding of at least one of their votes for Burr so as to secure the presidency for the party's acknowledged presidential candidate, Jefferson.<sup>23</sup>

The Constitution provided that, in such cases, the House of Representatives would select the president. It further provided that voting in the House would be by state, with each state having one vote. Unfortunately for republicans, they only controlled eight of the sixteen state House delegations in the outgoing, "lame duck" Congress. Six delegations were controlled by federalists, and two were divided equally. This situation, of course, opened up any number of options for federalists, ranging from trying to select someone else besides Jefferson president (most famously, Aaron Burr) to allowing the deadlock to persist until—and even beyond—the expiration of John Adams' term on March 4, 1801. Finally, though, on February 17, 1801, several federalist representatives

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<sup>22</sup> Sharp, *American Politics in the New Republic*, 243.

<sup>23</sup> Sharp, *American Politics in the New Republic*, 247.

changed their votes to give Jefferson the votes of two more state delegations, thereby electing him president.<sup>24</sup>

### **The Strategic Uses of the *National Intelligencer***

How the *National Intelligencer* was used in 1800-1801 during the presidential campaign and subsequent electoral crisis provides fresh insights into the political thought and strategies of Thomas Jefferson and his republican allies as they sought to promote his election and their politics. The ways in which the paper was used during this period fall into three categories: Campaigning and Electioneering, Electoral Crisis Management, and the Promotion of Victory, Conciliation, and Republicanism.

In the first stage, the *Intelligencer* promoted Jefferson and attacked his federalist opponents. While the actual Electoral College voting was going on in the states, the newspaper reported the results as they trickled in and sought to persuade the electors in states that had not yet held their Electoral College vote to choose Jefferson. In the second stage, when the election landed in the House of Representatives, the *Intelligencer* was used to argue why only Jefferson ought to be named president, and to argue—stridently and ominously—against any other possible outcome. The third stage actually consisted of two aspects: conciliatory commentaries written earlier in anticipation of a Jefferson victory and then, after Jefferson had been selected president, celebratory commentaries framing the victory as a national triumph of the republican ideals of Jefferson and republicanism over the dark forces of federalism.

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<sup>24</sup> There are, of course, many accounts of the endgame. See, e.g., Sharp, *American Politics in the Early Republic*, chapter 12; and John E. Ferling, *Adams vs. Jefferson, The Tumultuous Election of 1800* (New York: Oxford University Press, 2004), chapter 12.

### *I. Campaigning and Electioneering*

From its beginning, the *National Intelligencer* was used as a tool for promoting the election of Thomas Jefferson to the presidency. These promotional activities took three forms: general attacks on Adams; arguments about why the Electoral College vote ought to favor Jefferson based on the results of the popular vote in state elections; and pro-Jefferson appeals directed to voters or presidential electors in particular states.

The very first issue of the paper, on October 31, 1800, carried on its front page a long attack against Adams signed “A Republican.” The essence of the attack was that, under the Adams administration, the constitutionally-ordained separation of powers between the president and Congress had been lost, leaving the country with a government that could no longer be called a republic. Rather than being the “servant of the legislature,” Adams had become “their master” by repeatedly pushing through Congress “by a small majority” measures such as the Treaty with Britain and the Alien and Sedition Laws that had been “when first proposed, rejected with disdain.”<sup>25</sup>

This first issue also carried long excerpts from a pamphlet that Alexander Hamilton had published a few weeks earlier that argued that John Adams was unfit to be reelected to the presidency. This extraordinary attack by the federalists’ most prominent leader against their own presidential candidate naturally was seized upon by republicans and circulated widely. The *National Intelligencer* prefaced the excerpts with a short, surprisingly mild note to its readers. The paper described Hamilton’s pamphlet as “replete with interesting political matter,” and said the extracts it was publishing had been “selected in such a manner as not only to excite but reward curiosity.”

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<sup>25</sup> Congress had been cowed by the President: “Such has been the mighty power of Presidential favour, such the dread of Presidential enmity, that Congress after Congress have exhibited the mournful spectacle of republican independence at the commencement of their sittings, and of servile submission at their close.”

Later issues of the *Intelligencer* carried on the attack against Adams in a variety of ways. The November 7, 1800 issue carried claims that Adams's propensity for making entangling treaties would lead to the loss of the country's peace and prosperity, that Adams had once said that the U.S. would eventually be a hereditary government, and that he had also said it would be no easier to govern the people of Europe by democracy than it would be to govern their cattle democratically. The November 28 issue reprinted an editorial from the *Boston Chronicle* which argued that Hamilton's anti-Adams pamphlet and a letter that Noah Webster had written in defense of Adams had both demonstrated Adams's unsuitability for the office of the presidency.<sup>26</sup>

By the time that the *National Intelligencer* began publishing, Jefferson and his supporters must have realized that they might have some difficulties in translating their apparent popular vote majorities in several states into actual Electoral College votes. This unease is apparent in the first two issues of the paper. The October 31 first issue of the paper carried an analysis of election results in recent voting for state legislators or members of Congress in Pennsylvania, New Jersey, Maryland, and Delaware. Even though only the Delaware results were complete, the analysis extrapolated from the partisan results to conclude that "the public spirit of those states, if fairly expressed," would give Jefferson three more Electoral College votes than Adams. Taking into account the likely voting in the other states, the analysis concluded, "in this event Mr. Jefferson would undoubtedly be President."

The November 3, 1800, issue of the paper elaborated on the theme that partisan popular voting results ought to be reflected in the Electoral College voting. The paper

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<sup>26</sup> On the controversy generated by Hamilton's pamphlet, see Cunningham, *The Jeffersonian Republicans 1789-1801*, 229-230.

carried on its front page a long argument, entitled “Interesting View” and signed “Lycurgus,” that, because the “supreme law of a Republic is that the will of a majority should prevail,” Thomas Jefferson was entitled to the majority of Electoral College votes.<sup>27</sup> Lycurgus based his argument on the results of the most recent elections that had been held in each state for state or federal officers, and calculated that the results, if translated proportionately into Electoral College votes, would give Jefferson an 81-41 victory over Adams.

Lycurgus was implicitly acknowledging that the actual voting in the Electoral College was not going to reflect this clear (in his view) republican advantage in popular support. The problem for republicans was that the state selection processes for presidential electors often lagged behind current popular political tendencies, mainly because many states left the selection of presidential electors up to their legislatures which might have been elected as long as over a year ago<sup>28</sup>. After first stating that there did not appear to be the “least probability” of an Adams victory in the Electoral College, Lycurgus then considered precisely that possibility. It could occur, he said, due to a combination of eastern states giving no votes to Jefferson--despite the existence of “respectable republican minorities” there--and the federal minorities in other states being able to cast their votes for Adams.

Lycurgus then asked whether an Electoral College vote for Adams could make him the “real representative of the people?” It would not, he said, because he had just “demonstrated that the latest expression of the public mind is decidedly republican.” If

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<sup>27</sup> Lycurgus was a respected Greek orator and public official. See <http://www.encyclopedia.com/html/L/Lycurgus2.asp>

<sup>28</sup> Only five states chose their electors via popular election in 1800. They were: Rhode Island, Maryland, Virginia, North Carolina, and Kentucky. Noble E. Cunningham, Jr., *In Pursuit of Reason: The Life of Thomas Jefferson* (Baton Rouge: Louisiana State University Press, 1987), 227.

Adams were to nevertheless be elected president, Lycurgus argued, he would be confronted by a House of Representatives with a “vast majority” of republican members, and a Senate, “hitherto anti-republican,” that would be “shaken in its attachment to Mr. Adams.”

Lycurgus then closes his argument with a direct plea to those presidential electors who are “too honest to be the slaves of party.” Even if they had previously supported Adams and his measures, he says, they ought to acknowledge that Adams has “lost the confidence of his constituents” and no longer merits their support. He concludes by entreating the electors to pause before voting to consider that “one mistaken vote may hurry us into discord, plunge us into war, and despoil us of our freedom.”

The *Intelligencer* also served as a means of conveying political messages to the electorate of unusually contested states. In mid-1800, Alexander Hamilton had begun promoting a complicated presidential election strategy that involved urging federalists to support the federalists’ vice presidential candidate, Charles Cotesworth Pinckney, for the presidency instead of Adams.<sup>29</sup> Maryland and South Carolina, two states with substantial federalist support, were at the center of Hamilton’s efforts. In an effort to blunt the effort, the November 7 and 12 issues of the *Intelligencer* carried lengthy pleas to the voters of these states to not fall for Hamilton’s plan. Were Pinckney to be elected president, the *Intelligencer* warned, “Pinckney will be the nominal President, Mr. Hamilton will be the real one.”

So if voters thought their only choice was between Pinckney and Thomas Jefferson, the *Intelligencer* argued, they ought to vote for Jefferson. Jefferson’s “good

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<sup>29</sup> See Stanley Elkins and Eric McKittrick, *The Age of Federalism* (New York: Oxford University Press, 1993), 732-743; Cunningham, *Pursuit of Reason*, 228.

sense and moderation are best calculated to reconcile true Americans,” argued “Civis” in the November 7 issue of the paper. Moreover, argued “A Friend to Peace” in the November 12 issue, a president from one of the eastern states might place too much emphasis on commerce (that “extravagant spirit of trade”) which would produce “perpetual war, and war leads invariably to a loss of freedom.” Better, the writer argued, to choose a president from a southern state, because such agricultural states “are generally undisturbed by this active passion.”

The *Intelligencer* also weighed in on the developing electoral problem in Pennsylvania, where a republican house and a federalist senate were deadlocked over the method for choosing the state’s presidential electors. With republicans controlling the more numerous house, they naturally preferred a joint vote of the two houses for the electors. A November 14, 1800 essay by “A Friend of the People” surveyed the various modes that had been employed in other states, and concluded that Pennsylvania should use a joint vote of its two houses. Any other method, the essay argued, would produce a result that “will either express no opinion at all, or an opinion at war with the existing sentiments of the people.” This essay concludes with another populist-oriented warning about the potential illegitimacy of a president elected against the wishes of a majority of the people: “A president of the United States who is the representative of the people will be respected, beloved and obeyed by the people. A president who is not the representative of the people may be despised, hated and opposed.”

The *Intelligencer* then closely followed and reported on events in Pennsylvania as the struggle over the mode of selection continued in that state for two more weeks.<sup>30</sup>

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<sup>30</sup> In addition to the October 31, 1800 issue previously discussed, election results were also printed in the November 21, 24, 26, and December 1 issues of the *Intelligencer*. The November 24 issue contained an

Eventually, the legislature brokered an arrangement in which the state's 15 electoral votes were split, with Jefferson receiving 8 and Adams 7.

The *Intelligencer* also served as a regular reporting service on the results of the state presidential elections as they became known.<sup>31</sup> Based on its tally of votes, the *Intelligencer* declared Thomas Jefferson the winner of the election on December 12. At the top of its front page, the paper carried this announcement:

We this morning published the following **SPLENDID INTELLIGENCE** in an *Extra to the National Intelligencer* which we reinsert for the information of our distant subscribers. We have this moment received information from Columbia (S.C.) that the **REPUBLICAN TICKET** for Electors has been carried by a majority of from 13 to 18 votes. Mr. **JEFFERSON** may, therefore, be considered as our future President. Friday Morning, 9 o'clock.<sup>32</sup>

Three days after this stirring news, the paper carried an unsigned piece that reads as if it might have been written by Jefferson himself. The essay begins triumphantly. "The storm, which has so long raged in the political world, has at length subsided. Parties have tried their strengths, and victory has crowned with success, in the Presidential election, the efforts of the **REPUBLICANS**." The writer says the election

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analysis of popular vote tallies for the most recent Pennsylvania House and Senate election, showing that Republicans had a 29,582 majority in the election. This result was proffered as a "clear test of the regard in which the voice of the majority hath been held on the recent questions in the Senate," which was resisting a joint vote. The December 1 issue carried a report "By a Gentleman, who left Lancaster (Pennsylvania) on the 26<sup>th</sup> ult. We learn that the Legislature had not then agreed on the mode of choosing Electors. No new proposition had been made since the rejection of the amendment of the Senate, as stated in our last." In a November 30, 1800 letter, Jefferson described the two person federalist majority in the Pennsylvania Senate as "immoveable." Quoted in Cunningham, *The Jeffersonian Republicans 1789-1801*, 231.

<sup>31</sup> The December 3, 1800 issue of the paper reported that the federal ticket of Electors was expected to win in Rhode Island, that the electors of Maryland had split their votes 5-5 for Jefferson and Burr, and that in North and South Carolina the legislatures both had republican majorities now. The December 8 issue used the results of the voting for the speaker of the house in the South Carolina legislature to infer that the "appointment of electors" would favor republicans. The same issue reported the results of Electoral College voting in Pennsylvania, Virginia, and Georgia.

<sup>32</sup> The paper also carried an excerpt from a letter from a republican supporter in South Carolina recounting their struggle. "The talk was arduous here; as we had heard two days ago of the deficient vote of Pennsylvania, and knew that the burthen lay now upon this state." Although the news from Pennsylvania had also "excited the spirits and efforts of the federalists," the writer said, the republicans had managed to carry the day.

was “auspicious to the destinies of the world.” For “while other nations, the victims of monarchical or aristocratical error, on similar occasions invariably appeal to the sword,” America had discharged with dignity this most fundamental of duties. “Every true American,” said the essayist, can proudly “present his own system to the old world as a cure for all her evils.”

The writer then moved to a discussion of how the “enemies of republicanism” were found in “two descriptions of individuals.” The first are “hostile to its spirit, because it tends to diffuse in equal masses those portions of power, which under different systems would be accumulated in the hands of a few.” The “second description consists of men of limited views and timid spirits, who make no allowance for the improved condition of the human race.” The first sort of men, the writer asserts, are “in general governed by their interests, while the second are subdued by their fears.” Therefore, the writer asserts optimistically, the second class of opponents will become supporters of republicanism once they have witnessed a “decisive manifestation of her triumphs” under the new government. The essay concludes with a call to republicans to avoid “unworthy resentment” toward their vanquished opponents and to prove to them that republicans “are ready to respect virtue and talent, wherever found.”

## *II. Electoral Crisis Management*

As we know, these reports of Jefferson’s election were premature, either by honest accident or perhaps motivated by the idea that promoting a façade of victory might somehow contribute to a real one. Following the December 15 victory statement, the *National Intelligencer* continued to carry a running tally of the known electoral votes so far. On December 17, the paper reported an incomplete tally showing Jefferson and Burr

with 66 and Adams and Pinckney with 51. More reports were published over the next two weeks, until on December 29 the paper reported the return from the last unreported state, Kentucky. Based on that information, the *Intelligencer* said without any other comment, “we are enabled to announce the total result as” 73 votes for Jefferson and Burr, 65 for Adams, and 64 for Pinckney.

Two days later, again without comment, the *Intelligencer* carried what was labeled an “Extract of a letter from Colonel Burr, to General Smith, dated New York, December 16, 1800.” The text of Burr’s statement is as follows:

It is highly improbable that I shall have an equal number of votes with Mr. Jefferson; but if such should be the result, every man who knows me ought to know that I should utterly disclaim all competition. Be assured that the federal party can entertain no wish for such an exchange. As to my friends, they would dishonor my views, and insult my feelings by a suspicion that I could submit to be instrumental in counteracting the wishes and expectations of the United States—and I now constitute you my proxy, to declare these sentiments if the occasion shall require.<sup>33</sup>

Although there was no comment on the tie when it was first reported officially in the *Intelligencer* on December 29, the paper had already carried a commentary in its December 24, 1800 issue on the possibility of a tie vote between Jefferson and Burr. This essay, the first of what would be five essays by “Aristides” on the subject of the presidential election, first reviewed the applicable provisions of the Constitution and concluded that, if there is a tie in the Electoral College voting, the “choice” of a President would “devolve upon the House of Representatives.” Aristides further noted that the vote

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<sup>33</sup> On Burr’s overall presidential machinations, see the works by Cunningham: *The Jeffersonian Republicans: The Formation of Party Organization, 1789-1801* (Chapel Hill: The University of North Carolina Press, 1957), 242-3; *Jeffersonian Republicans in Power*, 38-39 and 208-9; *Pursuit of Reason*, 232-4; and see also Bruce Ackerman, *The Failure of the Founding Fathers* (Cambridge: Harvard University Press, 2005), 101-104. John E. Ferling, *Adams vs. Jefferson: The Tumultuous Election of 1800* (New York: Oxford University Press, 2004), at 178 indicates Burr sent several letters to Jefferson and others. Only this one was published in the *Intelligencer* (and other papers across the nation, see Ackerman, *Failure of the Founding Fathers*, 102).

in the House would be by states, with a majority of nine states required to elect the president.<sup>34</sup>

The essay then stated bluntly that, in such an eventuality, “If the voice of the people of America be at all regarded, Mr. Jefferson will be preferred to Mr. Burr.” Clearly, Aristides argued, “the people and legislatures who chose the electors, as well as the electors themselves,” all voted “either mediately or directly, for Mr. Jefferson as President, and for Mr. Burr as Vice-President.”

Despite this indisputable fact, Aristides acknowledged what he could “scarcely believe:” that there were “some men even in our federal councils, if their professions be sincere, disposed to elevate Mr. Burr to the Presidency to the depression or exclusion of Mr. Jefferson.” The essayist then went on to examine why some federalists might be tempted to vote for Burr over Jefferson. Behind such thinking must be a cold political calculation by federalists:

The genuine motive of such an act, if it be designed, is probably this: The republicans have triumphed. The people are on their side. While this remains the case, the federal party, hitherto the sole depositaries of power, must give way to their rivals. Though compelled to surrender their power for a time, their unceasing efforts will be to regain it. The greatest obstacle, perhaps that could be opposed to such a hope, would be the elevation of Mr. Jefferson to the Presidency. . . . He, then above all other men, is to be feared. Let us then, they exclaim, at every hazard keep *him* from the Presidency.

Aristides dismisses this strategy curtly with the words “Short sighted policy! Visionary dream!” His essay concludes with the promise that in his next essay he will expose the “consequences of such an attempt.”

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<sup>34</sup> Aristides, also known as Aristides the Just, was an Athenian statesman and general famed for his high ethical standards. For a while, he was ostracized for opposing his government’s naval policies, but later returned to command the Athenian army. <http://www.encyclopedia.com/html/A/AristideGr.asp>

The second essay of Aristides appeared on the front page of the January 5, 1801 *Intelligencer*. The essay begins by noting that the event which Aristides had contemplated “has been verified by facts officially obtained,” which means there is a real possibility of the House of Representatives choosing Burr over Jefferson. Therefore, he says, “my present object is to present some of the consequences likely to ensue from such a preference; I say *some* of them; for were I to enumerate the whole, I should portray a picture too gloomy for any eye to contemplate without horror.” This statement may sound like hyperbole, but, as will be seen in the discussions of the later essays by Aristides and others that appeared in the *Intelligencer* during this crisis, it accurately foretold the tenor of the arguments and predictions that would be made by republicans during the electoral crisis.

Aristides in his second essay focused on the popular illegitimacy of the House of Representatives voting to make Aaron Burr president instead of Thomas Jefferson. Aristides argued first that Burr “would not possess the confidence of the people” because his election would not reflect the decided preference of the people, expressed in a constitutional form.”

Aristides rejects for two reasons the idea that a vote by the House of Representatives could be considered to express this “national preference.” The reasons raise classic issues of democratic representational theory in America. The first reason is that the current House of Representatives, “chosen two years ago” and on the “verge of political dissolution,” is “not the Representative of the people at this time.” Based on his projections of party affiliation of representatives in the new House that will take over on March 4, Aristides concludes that the new House will have a strong republican majority.

“From this view,” he concludes, the “*real representatives of the people* hold opinions absolutely in collision with their *present nominal representatives*.” His second reason is that in any event the House, in voting by state delegations to select the president, “would be the representative, not of the people, but of the states only.” Having demonstrated these facts, Aristides concludes his essay with the sincere hope that the “members of our federal councils” will not seriously consider any action that would “subvert the fair and decided expression of the national feeling.”

In his third essay on January 7, Aristides turns to his predictions of the consequences that would occur if neither candidate were able to muster the nine state majority needed to win. This seemed likely, he noted, since the state delegations were divided eight for republicans and six for federalists, with two delegations split evenly.<sup>35</sup>

Aristides argued that, if a deadlock were to persist after March 3, when the term of John Adams would end under the Constitution, the federal government would most likely be dissolved. He began his argument by asserting that, with no president or vice-president, after March 3 there would be no “legislative body, constitutionally organized and competent to the passage of laws,” because part of the legislative process is submission of legislation to the president. Furthermore, without a president or legislature, Aristides argued, all other government officers would automatically be removed or would at least be under no one’s control. Given this state of affairs, he argued, the federal government would either be dissolved outright or “continued in the hands of certain subordinate public agents.” In either event, such an abnormal situation would “destroy confidence, annihilate harmony, paralyze industry, and prepare the minds

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<sup>35</sup> Aristides asserted that in the new Congress that would take office on March 4, “there will be nine states republican, four federal, and three doubtful.”

of men for desperate events.” People would start to “apprehend evils of a darker hue,” which would “pave the way, if any events could pave the way, to convulsion and disunion.”

In his fourth numbered essay on January 21, Aristides reiterated his conclusion that the U.S. government would be dissolved in the event of a deadlock in the House of Representatives over the presidency. To dramatize the consequences of dissolution of the federal government, this essay was filled with long quotations from the essays in the Federalist Papers that had recounted the horrors that might occur if the states did not unite and instead fell into armed discord with each other.<sup>36</sup>

The Aristides essays were just one part of the effort that was being directed from the pages of the *Intelligencer* to get the House of Representatives to select Thomas Jefferson president. The overall strategy seems to have been to force the House of Representatives to choose between Jefferson and Burr, to the exclusion of any other option. The part of the strategy manifested in the Aristides essays was to declare that the failure of the House of Representatives to choose a president would throw the country into chaos.

Another aspect of this strategy was articulating the republican view of the constraints and consequences that, as a matter of constitutional law, flowed out of the crisis and mandated a particular solution. In other words, the lawyers had to get involved to tell everyone else what was and was not constitutionally permissible.

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<sup>36</sup> In an unnumbered one paragraph note in the February 16, 1801, *National Intelligencer*, Aristides warned again of the dire consequences that would result from the “*possible* event of no choice by our Representatives in Congress,” and then referred the reader to one of the Federalist Papers [now known as No. 7, by Hamilton] which was reprinted in the *Intelligencer* following Aristides’ note.

Once the possibility arose of the House deadlocking and being unable to select a new president by the end of John Adams' term on March 3, 1801, questions naturally came up about what would happen then. Because the Constitution did not explicitly address this point, there was no agreed upon answer. One obvious possibility was that Congress might be free to come up with some other selection procedure that, of course, might result in the naming of someone other than Jefferson or Burr president.

This was precisely the argument that was first raised publicly, in an essay by Horatius entitled "The Presidential Knot," that was published in two Federalist newspapers in the first week of January, 1801.<sup>37</sup> In that essay, Horatius provided one answer to the question of what should be done if Congress continued deadlocked until March 4. Horatius argued that the answer was found in section 1 of Article II of the Constitution, which authorizes Congress to provide for succession to the presidency the offices of the president and vice president are both vacant due to their "removal from office" or "death, resignation or inability to discharge the power and duties" of their offices. The looming crisis, he argued, amounted to the kind of "vacancy" that this provision in the Constitution was intended to—or at least should be interpreted to—cover. Therefore, he argued, Congress needed to pass a constitutionally valid new law that would specify who would become president if no one had been elected to the office in the normal, constitutionally prescribed manner.<sup>38</sup>

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<sup>37</sup> The full text and story of this essay is recounted in Ackerman, *Failure of the Founding Fathers*.

<sup>38</sup> In fact, Congress in 1792 had passed just such a law that was still in effect, but Horatius asserted that it was invalid because the successors named, the Senate President Pro Tempore and the Speaker of the House, were not actually "officials" who could constitutionally succeed to the presidency. He therefore recommended that a new law should be passed. Ackerman in chapter 2 notes that Horatius' argument, and any new law passed in conformance with his recommendations, would probably have cleared the way for John Marshall, who was then secretary of state under Adams, to assume the presidency. He further speculates that Marshall himself was the author of the Horatius essay.

Obviously, this proposed “solution” to the crisis would almost surely have resulted in the loss of the presidency by republicans, because the lame duck House had a federalist voting majority, as did the Senate. Republicans needed a response to this argument, and it had to be written by someone whose level of constitutional understanding was a match for the sophisticated ways of Horatius.

The first response, it appears, came in the January 12, 1801 *Intelligencer*, in an essay addressed “To the House of Representatives of the United States of America” and signed “An American.” This essay argued forcefully and directly that, under the Constitution, there was no other option available other than the House choosing either Thomas Jefferson or Aaron Burr president. Under Article II, Section 1, argued “American:”

. . . the injunction to chuse [sic] is explicit, positive unqualified and absolute. It is a mandatory sentence. . . . As you are directed to chuse out of the two, you cannot in conscience or in duty, take any step *with a secret design to defeat the election of both*. Two persons are put upon the return, one of whom you are authorized and ordered to chuse. All other persons are excluded from the return. Such excluded persons are not constitutionally in your contemplation; they are not conscientiously in your contemplation. You may not give action to an opinion in favor of other persons, or against the two highest candidates, by taking measures to place the presidency in the hands of the Speaker, or of the temporary President of the Senate, or of a person to be chosen by the legislature, or by new sets of electors.

As to Horatius’ argument that Congress could act to provide for a successor to the presidency under its power to legislate in the case of vacancy due to “removal” or “inability” to perform the functions of the office, “American” was similarly direct:

. . . the constitution has made no provision for filling the office of President, in the event of a failure of an election. It prefers to hold the representatives bound to chuse immediately, one of the equal and highest. The only vacancies for which a provision of law is permitted are, first, of removal—secondly, of death—thirdly, of resignation—fourth, of incapacity, *occurring within the four years for which a President and Vice-President were chosen, and during part of which they have*

*served*. It is expressly for *those cases* of vacancy that provision by law can be made.

Indeed, “American” pointed out, when Congress had in 1792 passed the first, and current, presidential succession law, it had only provided for these four situations, and had not addressed the problem of a “vacancy made by *non-election*.” This implicit interpretation of the extent of Congress’ power under Article II, Section 1, “American” argued, was even more credible as a “contemporary construction of the constitution, made wisely before a vacancy occurred to bias the mind, or excite the passions.” The essayist pointed out that Burr and John Adams, “both learned in our laws,” had voted for the law in the Senate.

Having asserted that the House had no other option except to choose either Burr or Jefferson president, “American” went on to consider the consequences if it chose neither. In that case, he argued, there were two possibilities. Either the Union of the states would be dissolved completely, returning the states to the status of independent sovereignties, or the states would again be under the Articles of Confederation, which had “never been expressly repealed.” Clearly, he argued, either situation would be “deeply injurious to tranquility, order, and property.” Rather than run the risk, he said, members of the House needed to make a choice between Burr and Jefferson. Between those two, he argued, Jefferson ought to be preferred because he was clearly the choice of the people, “whose authority the President exercises.” The “spirit of the constitution,” he concluded, “requires the will of the people to be executed.”

Just two days later, in another article in the *Intelligencer* again addressed to the House of Representatives, “American” took on another proposal that had been made for dealing with the crisis. Under this proposal, which had apparently been published in a

Philadelphia newspaper, current Vice President Jefferson should resign his position as President Pro Tempore of the Senate immediately to allow the Senate to elect a new presiding officer.<sup>39</sup> That person could then become the new president under the existing presidential succession statute if the House had not made a choice between Jefferson and Burr by March 4.

Labeling the proposal “an ingenious attempt,” “American” said that this supposed solution was invalid under the Constitution as well. Congress, he argued, could only legislate regarding matters of succession relating to “a President and Vice-President, *who have been respectively elected to the two offices—sworn into the two offices—and who have thus been, for an instant at least, respectively, the actual and legal President and Vice-President.*” In the case of a “failure of an attempt to elect,” he argued, “no law could be made under the constitution to reach this case of no choice.” The “vacancy is of a nature omitted in the constitution. . . . It must remain therefore (until an amendment of the constitution) a *casus improvisus* [case not provided for].”

“American” then went on to reiterate the consequences of a failure of the House to select a president. He said bluntly: “If the representatives neglect or refuse to elect one of the two, a national penalty results—*the disorganization of the government.*” It would be a “heavy penalty,” he argued:

Struggles for a new federal constitution will be commenced--The weakness of our government will invite foreign intrigue, its forms will render us the sport of factions, commerce will sicken, real estates will fall, . . . In short, the evils of 1784, 1785, and 1786, which impelled us to reform our government in 1787 will be all renewed.<sup>40</sup>

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<sup>39</sup> The idea was referred to as “an unsound suggestion” that had been made by a “Philadelphia writer,” writing under the pseudonym “Curtius.”

<sup>40</sup> This prediction of struggles over a “new federal constitution” could well have been understood to refer to the threat of a new constitutional convention. If so, it would be the first known public reference to that possibility, which Jefferson is known to have discussed privately. See James E. Lewis, Jr., “What Is to

“American” concluded his argument on a strident note. Thomas Jefferson, he said, should not be expected to engage in a “criminal surrender of the chair of the Senate, in order to make room for *an unlawful usurping President.*” Instead, the House of Representatives should be looked to “for the prompt and faithful execution of the unqualified mandate of the people.”

On January 23, 1801, the *Intelligencer* carried “An American’s” third address to the House of Representatives. “American” says in this essay that he is responding to a “recent publication in Alexandria, under the signature of *Civilis.*” It appears that the *Civilis* essay was either the Horatius essay published under a different pseudonym, or else a very similar argument, because “American” focuses again on the claim that the non-election of a president amounts to a “removal” of the President under Article II, Section 1. He argues simply that “the expiration of office has never been considered as a removal.” He again notes that Congress did not consider this eventuality as a removal when it passed the 1792 succession act, and asserts that such a claim leads to some logical absurdities. He concludes this essay as he had his second essay, arguing that there was only one option available under the Constitution: the House of Representatives choosing a president from either of the two choices before it: Jefferson or Burr. Should they fail to do so, he says, the powers of the Presidency would “pass from the late incumbent *into the hands of his principals*—the People of the United States.” In such a situation, he reiterates, “*it is plain* that the government of the United States will become dissolved on the fourth of March, 1801.”

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Become of Our Government?” in James Horn, Jan Ellen Lewis, and Peter S. Onuf, eds., *The Revolution of 1800* (Charlottesville: University of Virginia Press, 2002), 20-21.

A fascinating essay in the January 21, 1801 *Intelligencer* provides an answer to the question of what could be done constitutionally to prevent the country from being left without a president on March 4. The answer provided is simple: nothing. The essay is entitled “Letter from a respectable citizen to Members of Congress, on the ELECTION of a PRESIDENT.” This writer echoes the argument made by the other essayists in the *Intelligencer* over the past few weeks that Congress had only one option, to pick a president from the top two vote getters in the Electoral College. The writer points out that, if it were possible for Congress to legislate some other solution to the problem, then the House of Representatives “might often create this pretended necessity, as a pretext for appointing a President in a mode more pleasing to themselves, than that presented in the Constitution.”

The writer then asserts that, although this “is a defect in the constitution, yet it cannot be amended by [statutory] law” because the constitution provides for a “different mode of curing its own defects” through the amendment process. He then goes further, however, to say that, fundamentally, not even a constitutional amendment could solve the problem. He asserts that the only remedy lies outside even the Constitution itself: “But I am inclined to think that this is not a defect capable of a remedy; and that in this instance, as in many others, it was necessary to confide in the force of public opinion, for the execution of the constitution.”

The writer explains that there are some potential problems in government, such as the refusal of a group of states to elect senators, which by their nature can be deterred by nothing, except the “disgrace and danger of dissolving all the ligaments of society.” The impasse in the House over the election of the president was another fundamentally

intractable political problem, a “dilemma” that is not capable of a constitutional solution. Rather, such an occurrence “would be a case proper for the tribunal of public opinion,” which would either declare the action right, or “reject the attempt.” In the latter case, there would then “be in fact most clearly a case of revolution . . . followed by a degree of execration and punishment which constitute the only possible provision against vicious experiments.” This is a brutally simple rebuttal to the practical argument of Horatius that, because the non-election of a President and Vice President is a far more likely possibility than the other possibilities (both officers dying, resigning, being impeached, or becoming unable to serve) that are mentioned in Article II, section 1 of the Constitution, the term “removal” should of necessity be interpreted to cover the non-election of the two officers as well.<sup>41</sup>

Continuing the apocalyptic theme, the essay invokes another vivid depiction of what could happen in America once the “constitutional land marks between right and wrong are thrown down.”

Faction after faction will rise up. None can long retain the support of the people, because the power of all will be illegitimate. The despot of today may kneel tomorrow to a wretch whom he had consigned to a loathsome jail. Property will change as rapidly as power, and some warrior will finally become master of everything.

The specter of such an outcome, the writer suggests, “will finally rally up all virtuous men from the ensigns of party, under the standard of the constitution.” In his next sentence, however, the writer suddenly shifts to a very pessimistic tone. If an “enraged minority should successfully oppose for the president the voice of the people,” it “must then be a question of revolution.” Among the lesser results of such a revolution, the writer says, would be the “destroying [of] all property resting on credit, and of depriving

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<sup>41</sup> See Ackerman, *Failure of the Founding Fathers*, 272-3 [text of Horatius essay, “The Presidential Knot”].

Virginia and Maryland of the Seat of Government.” The writer concludes by stating his sincere belief that “all good men of both parties are inimical to a revolution,” and expressing the hope that they will come together in support of Jefferson.

These words also suggest the possibility of having been written by Jefferson himself. Of all the Founders, Jefferson seems to have been the least hesitant to use the word “revolution,” which is used here several times. Jefferson also manifested a strong reliance on “the people,” through the force of public opinion or stronger measures, to determine what was right for themselves. It was Jefferson who proposed that governments return to the people every twenty years or so to get their renewed approval,<sup>42</sup> and it was Jefferson who famously referred to the need to “refresh the tree of liberty with the blood of tyrants.”<sup>43</sup> Furthermore, as has become the subject of renewed scholarly attention, Jefferson was personally making blatant threats of armed reaction to any attempt by federalists to “steal” the presidential election in the House.<sup>44</sup>

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<sup>42</sup> He wrote Samuel Kercheval on July 12, 1816 saying a new constitutional convention should meet “every nineteen or twenty years” to allow each new generation to choose the form and specifics of its government. XV Jefferson Papers 32-44. See also Ackerman, *Failure of the Founding Fathers*, chapter 4.

<sup>43</sup> Quoted in Ackerman, *Failure of the Founding Fathers*, 91.

<sup>44</sup> See Ackerman, 90; Michael A. Bellesiles, “The Soil Will be Soaked with Blood” Taking the Revolution of 1800 Seriously,” in James Horn, Jan Ellen Lewis, and Peter S. Onuf (eds.), *The Revolution of 1800: Democracy, Race, and the New Republic* (Charlottesville: University of Virginia Press, 2002) ; and Cunningham, *Pursuit of Reason*, 235-237.

Additional language and arguments in the essay also suggest the hand of Jefferson, or at least the influence. The writer asserts that, if this impasse persists, “the justness of party epithets” will be illustrated. “Those who have assumed the title of ‘federalists’ will be seen engaged in a stratagem to break the constitution and the “pretended enemies of French revolutions will be exhibited in an attempt to substitute the will of faction for the will of the people.” The writer sees possible salvation for the country in a political crisis engineered by the federalists: “The names of ‘federalists’ and ‘friends of order,’ have deluded many men of property, but this project teeming with the most awful consequences to them in particular, will dissolve the charm.”

The reference to dissolving the “charm” evokes Jefferson in 1798 calling for “A little patience, and we shall see the reign of witches pass over, their spells dissolved, and the people recovering their true sight, restoring their government to its true beliefs.” Letter to John Taylor, June 1, 1798, in Paul L. Ford (ed.), *Works of Thomas Jefferson* (New York: Federal Edition: 1904), VIII, 432, quoted in Cunningham, *Pursuit of Reason*, 215.

There are of course several others who could have written the pieces. Two obvious possibilities are Samuel Smith, the editor of the *Intelligencer*, and Margaret Bayard Smith, Smith’s wife and a lively

On February 11, the Electoral College votes were counted in the Senate and the House began voting for president. The February 13 *Intelligencer*, under the bold type heading, “ELECTION OF A PRESIDENT,” carried an account of what had transpired that day, first in the counting of the votes in the Senate, and then as the voting began in the House. The article noted that the ill Representative Nicholson from Maryland had been given a bed in a chamber just off the floor to enable him to vote. Noting that with the Nicholson vote the Maryland delegation was now divided 4-4, the article pointed out that “with the “accession to Mr. Jefferson of one federal vote from that state,” Jefferson would become president.

With this note, and the insistence in the pages of the *Intelligencer* that a House vote between Jefferson and Burr was the only constitutionally permissible way of resolving the crisis, the strategy chosen by the Jeffersonians—and promoted in the pages of the *Intelligencer*—seems quite clear. They intended to “hang tough,” never break ranks, appeal to public opinion, put pressure on individual delegation members in closely divided states, and dare the federalists to risk creating a national constitutional crisis that might lead to war or revolution.<sup>45</sup> This strategy explains the repetitive, redundant nature

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writer and chronicler of early events in the nation’s capital [see Gaillard Hunt’s edited collection of her letters entitled *The First Forty Years of Washington Society* (New York: Charles Scribner’s Sons, 1906)]. Others are James Madison, John Taylor, John Beckley, Dewitt Clinton, and Tunis Wortman. Cunningham in *Pursuit of Reason*, 221-222, writes that in 1799, Jefferson was urging Madison “to set aside a portion of every post day to write something for the newspapers and to send it to him in Philadelphia.” He quotes Jefferson as telling Madison that, “When I go away I will let you know to whom you may send, so that your name shall be sacredly secret.” (From Ford, *Works of Jefferson*, IX, 34.) Regarding John Taylor (of Carolene), see Mel Laracey, “Promoting Jeffersonian Democracy: Principles of Government from the First Presidential Newspaper, the *National Intelligencer*,” paper presented at the 2005 Annual Meeting of the American Political Science Association. According to Cunningham, Beckley and Clinton wrote on behalf of Jefferson, as did Wortman, who wrote a pro-Jefferson pamphlet in 1800 under the pseudonym “Timoleon.” *Jeffersonian Republicans*, 225-226 and accompanying footnotes.

<sup>45</sup> Jefferson said as much in letters to James Monroe on February 15, 1801 and James Madison on February 18, 1801. The federalists, he wrote, had been deterred by “the certainty that a legislative usurpation would be resisted by arms, and a recourse to a convention to re-organize and amend the government.” That prospect was unpalatable to them, he wrote: “The very word convention gives them the horrors, as in the

of much of the commentary in the *Intelligencer* on the crisis. Both sides were probing the other for signs of weakness or potential willingness to compromise, and the constant drumbeat from the pages of the *Intelligencer* would have provided a useful backdrop for republican leaders as they played out their hand in perhaps the greatest poker game ever played in American politics. Of course, with its known ties to Jefferson, the *Intelligencer* would also have provided public guidance to friend and foe alike as to what the current official position was of Jefferson and his supporters. In the extraordinarily small, close-knit political community that existed in the new capital in 1800, each issue of the *Intelligencer* must have been the subject of much discussion.<sup>46</sup>

The next issue of the *Intelligencer*, on February 16, employed at least four tactics: pressure on individual members, invocations of national disaster if the crisis is not resolved, public political posturing, and arguments that the only option constitutionally available to the House was to choose as president either Jefferson or Burr.

The front page of the paper carried a letter to the editor of the paper, signed “An Old Inhabitant of Columbia.” The writer argued that “the representatives of Maryland, who persist in voting for Mr. Burr, instead of being the organs, are the betrayers of the will of the constituents.” As the previous issue of the *Intelligencer* had noted, the 4-4 deadlock in the Maryland delegation could be broken by just one member changing his vote. “Old Inhabitant of Columbia” singled out Maryland Congressman John Chew Thomas, who he said represented his district. In that district, “Columbia” said, “I know not a man of respectability, derived either from wealth, talents, or virtue, that does not

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present democratical spirit of America, they fear they should lose some of the favorite morsels of the constitution.” Quoted in Cunningham, *Pursuit of Reason*, 236. See also 237.

<sup>46</sup> See James Sterling Young, *The Washington Community 1800-1828* (New York: Columbia University Press, 1966).

decidedly prefer Mr. Jefferson to Mr. Burr.” The writer asserted that, in continuing to vote with the federalists, Thomas was risking the destruction of the “union” and the “city of Washington.” He concluded with the hope that Thomas, “when convinced of the will of his constituents,” would obey it.

Next to this letter on the front page was another commentary by Aristides reminding readers how the potential for war between the “disunited” states had been described in the Federalist Papers. Also in this issue was an analysis of the voting in the House after four days of balloting. During those days, the commentary began, “the republican and federal parties have remained immovable in their original vote for President.” After asserting that federalists had now given up any hope of “gaining over some republican votes,” the commentary asked, “What then will be the result?”

The commentary predicted with the “most unlimited confidence” that the eight republican-voting states would “remain immutable in their adherence to the public will.” As for the six states currently voting for Burr, the commentary predicted that “they will yield,” because “the unanimous and firm decision of the people throughout the U.S. in favor of Mr. Jefferson will be irresistible.” As evidence for its confidence, the commentary noted that in Maryland, there “is scarcely a dissenting voice” to the public support for Jefferson over Burr.

Then the commentary shifted to a tone of raw, pressure politics. “Let the representatives of the people know the will of the people, and *they will obey*,” the commentary argued. To facilitate the pressuring of representatives, the commentary included a state-by-state breakdown of how each representative had voted, so that “the

people may know how the votes of their Representatives have been given.”<sup>47</sup>

Interestingly, these vote totals were supposed to have been kept secret during the voting.<sup>48</sup>

The commentary also addressed again and dismissed forcefully the idea being floated to “make by law a *President pro tempore*” if neither Burr nor Jefferson were chosen president in the House voting. The commentary rejected the idea in ominous language: “So hostile would the voice of America appear to be to this measure, that it is doubtful whether any man would propose it, and more doubtful whether any man would accept the station, if offered to him.”

Historians continue to debate what exactly prompted federalists to finally capitulate and allow Jefferson to be elected president, but in all accounts the pressure tactics of the Jeffersonians play a major role.<sup>49</sup> On February 17, 1801, all the brinkmanship ended and the federalists in four state delegations--Maryland, Delaware, Vermont, and South Carolina--capitulated to allow the election of Jefferson to the presidency.<sup>50</sup> In the decisive thirty-sixth ballot in the House, the four Maryland representatives—one of whom was John Chew Thomas—who had previously voted for Aaron Burr switched and cast blank ballots thereby awarding Maryland’s vote in the House proceedings to Thomas Jefferson.<sup>51</sup>

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<sup>47</sup> For Maryland, “J.C. Thomas” was listed as having voted for Burr.

<sup>48</sup> Ackerman, *Failure of the Founding Fathers*, 80, n. 7.

<sup>49</sup> For excellent surveys of the various motivations in play, see Ferling, *Adams vs. Jefferson: The Tumultuous Election of 1800*, chapter 12. See also Ackerman, *Failure of the Founding Fathers*, chapters 4 and 5; Cunningham, *Pursuit of Reason*, chapter XVI.

<sup>50</sup> Lewis, “What Is to Become of Our Government?” in Horn, Lewis, and Onuf, *The Revolution of 1800*, 21; Elkins and McKittrick, *The Age of Federalism*, 750.

<sup>51</sup> *National Intelligencer*, February 18, 1801; Cunningham, *Jeffersonian Republicans*, 245.

### *III. Celebrating Victory, Conciliation, and Republicanism*

#### *Victory*

The following day, the pages of the *National Intelligencer* were used to announce and frame the news. The announcement began, “The voice of the People has prevailed, and THOMAS JEFFERSON is declared by the Representatives of the People to be duly elected President of the United States.” The commentary extolled the manner in which Jefferson had been selected as having been a model to the world, pointing to “the proud example of a people of five millions, scattered over a wide extent of country, peaceably electing a chief magistrate, and the representatives of that people, constitutionally confirming the national will.” Ignoring the fact that the House process had been bitter, contentious, and threatening, the *Intelligencer* characterized it as an “honorable regard to the public will, expressed with calmness and intrepidity.”<sup>52</sup> The lesson to be drawn, then, was that “from this era all doubt of the fitness of a republican system to answer every correct purpose of government [must] be dismissed!”

#### *Conciliation*

The main long term goal of Jefferson and other republican leaders was to show the American people, through education, the errors of their ways and remind them of the “correct principles” behind the republican form of government in America. As Stephen Skowronek has described it, Jefferson planned a massive reconstruction of “the terms and conditions of legitimate national government.”<sup>53</sup> Once Americans understood these

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<sup>52</sup> On the contentious behind-the-scenes maneuvering, see Lewis, “What Is to Become of Our Government?” and Michael A. Bellesiles, “The Soil Will Be Soaked with Blood,” in Horn, Lewis, and Onuf, *The Revolution of 1800*; Ackerman, *Failure of the Founding Fathers*; Bernard A. Weisberger, *America Afire: Jefferson, Adams, and the Revolutionary Election of 1800* (New York: William Morrow), 258-277.

<sup>53</sup> Stephen Skowronek, *The Politics Presidents Make* (Cambridge: Harvard University Press, 1997), 63.

reclaimed ideals, Jefferson believed, almost all the people would find themselves in basic agreement on fundamental governmental issues, no matter what their personal and regional interests.<sup>54</sup> This coalescence of public opinion, in turn, would, he hoped, ease the rumblings of disunion that, while always present even at this time in American history, had been heightened by the enmity that had arisen between the north-leaning federalist party and the south-leaning republican party.<sup>55</sup>

Occasionally during the four months that are the focus of this paper, the *National Intelligencer* was utilized to promote such broad themes as national unity or the principles of republicanism. It is surprising to not see more of such material, since a Washington newspaper that could circulate nationally via the mails would seem to be an ideal vehicle for such educational efforts. Had the paper not been diverted by first the unsure election results and then the need to carry out the partisan public communications war to get Jefferson elected in the House of Representatives, it seems likely that more of this material would have appeared in the paper prior to Jefferson's inauguration.

The most notable example of these efforts during the pre-inauguration period that is the focus of this article is a set of three essays signed "Timoleon" that ran in the *National Intelligencer* in November of 1800. The main theme of these essays was to show that the American people were not really so divided politically after all.

The first essay, published on November 10, began by posing this question: "Are the PEOPLE of the United States so divided in opinion, as would appear from the

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<sup>54</sup> See Joyce Appleby, "Thomas Jefferson and the Psychology of Democracy," in Horn, Lewis, and Onuf, *The Revolution of 1800*, 155-172; Appleby, *Thomas Jefferson*, ch. 2; Larry D. Kramer, *The People Themselves: Popular Constitutionalism and Judicial Review* (London: Oxford University Press, 2004), 110-113.

<sup>55</sup> Sean Wilentz, *The Rise of American Democracy, Jefferson to Lincoln* (New York: W.W. Norton, 2005), 82-85, 90, 96, 107.

reiterated language of party?” “Timoleon” endeavors to show that Americans are not fundamentally divided, even by what he terms the most likely source of divisiveness, religion. Religious divisions are not a problem in America, he argues, because Americans are “in one point . . . universally agreed: and that is that religion ought to be kept distinct from politics.” An “absolute silence,” he says, has been imposed by “public opinion” on the few who might desire such an establishment. This is a happy state of affairs for America, Timoleon asserts, because “all the persecution, malevolence and wars, which bigotry has produced, have flown from an association between the church and the state.” In America, he concludes, “no such association does exist, no such association can exist in this country.”

Timoleon’s second essay, published on November 17, 1800, asks “Does any material difference exist among the PEOPLE from dissimilar or opposing interests?” He begins his answer by noting that the “great divisions of society are into “agriculturalists, mechanics and merchants.” He says that, because these interests exist in all the states, there is no overriding difference that will “convulse the union” and lead to “civil war” as some in the country are arguing the presidential election might produce. Rather, Timoleon asserts, “It is all a *chimera*. . . the cry of separation, convulsion and civil war is raised to repress a free expression of opinions. Let then this great truth be proclaimed -- THE PEOPLE ARE AGREED.”

Timoleon’s final essay, published in the *Intelligencer* on November 19, then poses this question, “If the PEOPLE of the United States are not divided, whence flows that spirit of hostility that rages through the union?” It is due, he argues, not from “any extensive, deep rooted division among the people,” but from those who are trying to

undermine the spirit of the constitution by “pursuing schemes promotive of monarchic results.” These attempts are being “conducted with vigor and art, to change the nature of their political institutions, to divest them of many of their dearest rights, and in the end to enslave them.”

Taken as a whole, these essays clearly reflect Jefferson’s belief that, outside of the dedicated federalists, the “great body of our fellow citizens” shared the same basic principles.<sup>56</sup> He perceived one of his great tasks as essentially bringing these people back to their senses after having been deceived by the federalists into supporting a party and agenda ultimately inimical to their interests. These essays, which again might well have been written by Jefferson himself, are journalistic attempts to spread this message across America as far as the *National Intelligencer* and other friendly newspapers might spread it. One intriguing hint that Jefferson himself might have produced these essays is that he is known to have produced another essay that, when it was published in the *Richmond Examiner* in 1803, was also published under the pseudonym “Timoleon.”<sup>57</sup> Certainly, the choice of this name would have suited Jefferson perfectly. Memorialized by Plutarch, Timoleon was known as the “scourge of tyrants.” He achieved this fame by leading a small army in 344 B.C. to free Corinth, the capital of Syracuse, from a dictator, and replacing the country’s government with a democracy.<sup>58</sup>

Significantly, on February 18, 1801, in the issue that announced the selection of Jefferson as president by the House, the *Intelligencer’s* commentary included an appeal to all Americans to support their national government. The commentary proclaimed that any doubts as to the vitality of the “republican system” should now “yield to the

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<sup>56</sup> Quoted in Cunningham, *Pursuit of Reason*, 223.

<sup>57</sup> Cunningham, *Jeffersonian Republicans in Power*, 256-57.

<sup>58</sup> <http://www.encyclopedia.com/html/T/Timoleon.asp>

magnanimous policy of giving to that system all the support of undivided zeal and united talent,” and urged that the government become “the object of our invariable respect and regard.” In this regard, the paper presaged Jefferson’s appeal in his inaugural address for national unity and reconciliation.<sup>59</sup>

### *Republicanism*

The end of the story that is the subject of this paper begins with the inauguration of Thomas Jefferson on March 4, 1801. That day’s issue of the *National Intelligencer* carried the text of Jefferson’s speech which, as noted previously, Jefferson had provided to the newspaper in advance so that it would be available to the public on the day of his inauguration.

The following issue of the paper on March 6 marked a shift in subject matter, demonstrating two of the ways that the paper would come to be used regularly now that republicans had officially captured the office of the presidency. Those ways were the promotion of Jefferson as president, and of Jeffersonian republicanism. The *Intelligencer* that day carried an effusive commentary on Jefferson’s inaugural speech. The speech was described as a statement of the “essential principles of our government, as received by the President.” Jefferson’s words were momentous, the paper said, because they amounted to a “political creed, in which all may unite in theory; and in which if all shall unite in practice, we shall truly be a free and united people.”

The *Intelligencer* then followed up its commentary on the inauguration speech with the text of a dramatic depiction of the elements of republicanism and of Thomas

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<sup>59</sup> Stephen John Hartnett and Jennifer Rose Mercieca, “‘Has Your Courage Rusted?’: National Security and the Contested Rhetorical Norms of Republicanism in Post-Revolutionary America, 1798-1801,” *Rhetoric & Public Affairs* 9 (2006): 79-112, at 104-105; Cunningham, *Pursuit of Reason*, 239-240; Stephen H. Browne, *Jefferson’s Call for Nationhood: The First Inaugural Address* (College Station: Texas A&M Press, 2003).

Jefferson's role as the liberator of the country from the snares of federalism. The text was described as a "Pageant, exhibited in Virginia, on the election of Mr. Jefferson."

The play begins with an arresting image: "A beautiful virgin is seen in plain attire--her countenance benevolent and melancholy--tears are streaming from her eyes--label--"Behold Liberty at the point of Death." Liberty is surrounded by a cast of federalist villains: a "fool magnificently dressed with a scepter," a "fat and ruddy" person with a "mitre on his head," labeled "tythes;" an armed soldier "with his bayonet at the breast of Liberty;" and a "statesman," with the label "Energetic government," holding a "bundle of papers" on topics such as "banking, army, navy, sedition act, loaning, war, monarchy, hierarchy."

Against this backdrop, another figure rises, an "orator," who attempts to encourage a "multitude of spectators" to turn against Liberty. Pointing to Liberty, the orator calls her "a Jacobin--a disorganizer--a friend of France--an atheist." He promises that if the spectators "suffer the group to destroy her [Liberty]," the spectators will "establish good order—and recommend yourselves to God," and "will exchange your absurd equality of rights, for the beautiful equality of balances." Circulating among the spectators in the play are "busy figures" trying to bribe them with "commissions, grants, contracts, warrants or accounts" relating to a vast array of governmental privileges that "had been or would be invented, for raising and extending public treasure to an incredible amount."

At the darkest hour, just as "the multitude are almost infatuated," a "trumpet is heard, a courier arrives, [and] he proclaims 'Jefferson is President.'" At this news, Liberty is energized and "assumes her wonted intrepidity." Her enemies first throw down

their labels and papers, and then run to her for protection against the “multitude,” which are now chanting, “We are the votaries of liberty and will destroy her enemies.” Liberty “contents herself” with “breaking the scepter, trampling the crown and mitre to dust and ashes, disarming the soldier, tearing the papers of the statesman, and looking contemptuously upon the orator.” The play ends with “sixteen beautiful women” appearing, each representing a state. They join hands in a circle and look adoringly up at the “guardian angel of America” hovering above them, who paints the word “Union” in “golden and capital letters.”

Here, then, is a form of live, animated political advertising, done long before the supposed dawning of such advertising in the twentieth century. From the vivid descriptions of the characters in the play and their actions, the reader gets a dramatized version of the essentials of republicanism and of its critiques of federalism and even American society. One also sees Jefferson depicted as a classical, god-like hero whose mere election to the presidency is enough to send the agents of evil in American society into disgrace at the hands of an invigorated Liberty. Significantly, the focus is solely on Jefferson as the nation’s savior, even though republicans had also captured both houses of Congress. Even at this early stage in American political development, presidents were already firmly established as the embodiment of the national government and the protectors of its citizens.

Liberty herself is portrayed as a “proud, militant, and strong woman,” reflecting the more assertive depictions of the female figure of liberty that Democratic-Republicans began employing at the turn of the century.<sup>60</sup> The special place of America in the scheme

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<sup>60</sup> Simon P. Newman, *Parades and the Politics of the Street: Festive Culture in the Early American Republic* (Philadelphia: University of Pennsylvania Press, 1997), 167.

of Divine Providence is manifested by the appearance of the country's "guardian angel." And the Divine Will that America remain united was illustrated by the angel painting the golden word "Union" above all. The audience, of course, would think of itself as being part of the "multitude" in the play, "seeing" for themselves all of these messages and thereby becoming, in Benedict Anderson's term, part of the "imagined community" of Americans who could look to Jefferson and republicanism for the protection of their fundamental interests and the continued unity and greatness of America.<sup>61</sup>

Like all good advertising, the characters and staging in the play are so dramatic that they must have left a strong impression on the audience, either those watching the play or just reading it in the *National Intelligencer*. As Jeffrey Pasley has noted, republican newspapers in the early nineteenth century were providing their readers with "a common rhetoric, a common set of political ideas, and a common interpretation of current affairs."<sup>62</sup> The play thus can be seen as the opening, dramatic salvo from the pages of the *National Intelligencer* in the long term Jeffersonian project of the republican re-education—and reimagination—of America.

### **Conclusion**

"For God's sake, my dear Sir, take up your pen, select the most striking heresies and cut him to pieces in the face of the public." These were the words that Thomas Jefferson used in 1793 to implore James Madison for help in a fierce newspaper battle that Jefferson was then managing against Alexander Hamilton.<sup>63</sup> Seven years later,

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<sup>61</sup> Benedict Anderson, *Imagined Communities: Reflections on the Origin and Spread of Nationalism*, 2d ed., (London: Verso, 2006).

<sup>62</sup> Jeffrey Pasley, "1800 as a Revolution in Political Culture" in Horn, Lewis, and Onuf, *The Revolution of 1800*, 121-152, at 135; see also Newman, *Parades and Politics*.

<sup>63</sup> Quoted in Laracey, *Presidents and the People*, 51.

Jefferson had another paper in Washington, D.C., doing the same thing for him and his republican cause.

The pages of the *National Intelligencer* convey a vivid sense of the raw, populist brand of politics played by the Jeffersonian republicans as they fought to wrest control of the national government from John Adams and the federalists. In the *Intelligencer*, republicans argued unabashedly against the anti-democratic aspects of the Electoral College, and threatened revolt and the dissolution of the Union if the House of Representatives did not confirm the results (in their view) of the national popular vote by selecting Jefferson president. This was pure revolutionary rhetoric.

The extraordinarily direct view of the political messages and strategies employed by the Jeffersonians in their fight for power helps us understand better today why Jefferson himself characterized the 1800 election as a “revolution in the principles of our government.”<sup>64</sup> The Jeffersonians grounded their fight on principles of popular democracy, and promoted these principles across the nation through the first presidential newspaper, the *National Intelligencer*. Like the pages of the paper itself, these principles endured long after the battle over the presidential election of 1800 had ended.

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<sup>64</sup> Jefferson to Spencer Roane, September 6, 1819, Andrew A. Lipscomb and Albert Ellery Bergh, eds., *The Writings of Thomas Jefferson*, 20 vols. (Washington: 1903-4), 15:212.