Setting Bounds to Passions

Federalist Communication Policy and the Making of the Sedition Act of 1798

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THESIS
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DEDICATION

This dissertation is dedicated to my grandfather, from whom I learned everything, especially to be honest and decent.
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I would like to thank my family for a decade of support and understanding as I completed a rather unorthodox, circuitous route to get to this point.

Special thanks to my wife, Fern, who endured over two years of perpetual crankiness and grief that would rival that of even the most crotchety Federalist.

And no thank you would be complete without acknowledging John Adams, my ally in this “well-fought and fortunate battle.”
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SUMMARY

Most historiography on the Sedition Act of 1798 has tended to adopt a similar lens to that which first came to characterize the act at its inception, the view of the Jeffersonian Republicans that it was a repudiation of freedom of speech and civil liberties. As part of this interpretation, through the centuries the Federalists have been maligned as political opportunists and conservative reactionaries. However, when considering this view, a critical question emerges: how can a political party or coalition support a policy as transcendent and transforming as the Post Office Act of 1792 while passing such a complete repudiation of the values of widespread and accessible communication as the Sedition Act six years later?

In order to better understand the intent of the Sedition Act of 1798, it needs to be examined on the Federalists’ own terms, view it as they viewed it, and assess it based on what they hoped it would accomplish. Through examining the letters, writings, and publications of dozens of leading Federalists and hundreds of articles, editorials, and reports from Federalist-leaning newspapers over the entire decade of the 1790’s, the full context of the Sedition Act emerges, a context in which the Federalists are seen to be a group of men who saw very real dangers threatening themselves, their country, and their way of life. They understood the core of the American political experiment, and in some cases the salvation of their new country, to depend on a political process that functioned a certain way. Through this evidentiary base, the Sedition Act of 1798 is more accurately seen as part of a larger Federalist project to establish a system of political communication within the young United States that would promote and bolster the political system so recently established. The Sedition Act specifically was intended
SUMMARY (continued)

by the Federalists to help establish standards of political discourse in a climate where attacks on political leaders and national policy were increasingly disruptive to the very functioning of the national government.
I. INTRODUCTION

“Government is intended to set bounds to passions.... And to assist reason, conscience, justice, and truth, in controlling interests, which without it, would be as unjust as uncontrollable.”

- John Adams, 1791

In 1814, John Adams looked back wistfully on the successes and failures of his administration. He had taken the oath of office in 1797, 17 years earlier, hoping to continue along the path set by George Washington, establishing a sound foundation for the young nation’s institutions and foreign policy. Four years later, he left the capital city a bitter man, exposed to years of criticism, second-guessing, and scorn from a rabid opposition to his administration. And, as Adams would find, the invective did not abate with the end of his term in office. Among the abuses heaped upon him was a recently published account of the Adams Administration by John Taylor of Caroline, Virginia. A copy of this work delivered to Adams’ home served to bring about this retrospective by the former president. As Adams picked his way through Taylor’s many charges and condemnations, he undoubtedly would have noticed chief among them the Sedition Act of 1798.

“I fear not the propagation and dissemination of knowledge,” Adams fired off in a letter to Taylor on April 15, 1814. “But,” he continued after this lofty expression of Enlightenment thought, “after all, did you ever see a rose without a briar, a convenience without an inconvenience, a good without an evil, in this mingled world?”

While the spread of knowledge

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is most certainly a boon to all mankind, information, Adams believed, could have equally
harmful effects:

  Knowledge is applied to bad purposes as well as to good ones. Knaves and
hypocrites can acquire it, as well as honest, candid, and sincere men. It is
employed as an engine and a vehicle to propagate error and falsehood, trea-
son and vice, as well as truth, honor, virtue, and patriotism. It composes and
pronounces... to confound all distinctions in society between right and wrong.²

And just how did Adams believe these harmful effects of information could be mediated? Did
he have hope that the negative consequences of knowledge could be redirected and lessened
to promote its beneficial effects?

  If I admit, as I do, that truth generally prevails, and virtue is, or will be triumph-
ant in the end, you must allow that honesty has a hard struggle, and must pre-
vail by many a well-fought and fortunate battle, and, after all, must often look to
another world for justice, if not for pardon.³

  There is reticence in Adams’ words, a sense of resignation that he and his
administration’s supporters had lost that “well-fought and fortunate battle” for truth, that the
Sedition Act of 1798 failed as an attempt to prevent the harmful aspects of information from
poisoning the political process. Perhaps it was with this defeat in mind that Adams made his
clearest and most well-developed statement explaining his understanding of the role of
information and communication in public affairs. “My humble opinion is,” the former president
wrote to Taylor,

² Ibid.

³ Ibid.
That knowledge, on the whole, promotes virtue and happiness. I therefore hope that you and all other gentlemen...will exert your utmost influence in establishing schools, colleges, academies, and universities, and employ every means and opportunity to spread information, even to the lowest dregs of the people....I fear not the propagation and dissemination of knowledge.  

Adams clearly believed that information could have positive benefits, that its diffusion throughout society was critical in a republic like the United States. But it was a long-held tenet of Federalist thought and ideology that information could have extremely harmful and damaging effects as well. There could be no rose without a briar, or good without an evil. Throughout their twelve years in control of the federal government from 1789-1801, the Federalist Administrations of Washington and Adams and their allies in Congress attempted to implement this understanding of communication as part of their larger project of creating strong, sound political institutions in the young United States. They painstakingly sought a critical balance between fostering the free flow of information necessary in a large republic like the United States and preventing the dissemination of information they believed could ultimately destroy the fragile new federal government. The Federalists would ultimately come to understand that the establishment of standards for political discourse would be critical in the maintenance of this balance.

As a key figure in both administrations, Adams was well-placed to play important roles in the many attempts to institutionalize this understanding of communication and information in the operation and functioning of the federal government. As Vice President during the eight years of Washington’s Presidency, Adams presided over the Senate and witnessed many

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4 Ibid.
debates over the passage and defeat of legislation that profoundly shaped the flow of information throughout the government and American society. Even in bills and propositions not immediately or explicitly tied to communication, this overarching understanding of the Federalists’ views on communication was omnipresent. While President, Adams drew on this understanding of communication as he confronted the many political struggles of his tumultuous one-term presidency. As the rise in partisanship and party politics came to dominate the American political arena during Adams’ four years in office, he and the Federalists would eventually understand that political communication in the United States had become toxic and that many of the communication policies and structures they had put in place had produced unintended consequences. The rose the Federalists had nurtured for years had developed the inevitable briar, so to speak. Out of their efforts to rein in these harmful forces emerged the Sedition Act.

From the early debates in the House of Representatives over amendments to the Constitution and tax policy, to the Post Office Act of 1792, to the much-maligned Sedition Act of 1798, there is a seamless consistency to the communication policies of the Federalists throughout the 1790’s. This might seem surprising to most students of history who have long viewed the Sedition Act of 1798 as a direct assault on free speech and the free flow of information and communication, but in reality the Sedition Act was simply yet another expression of the long-standing communication policy of the Federalists that extended back to the launch of the federal government in 1789, and drew on revolutionary and even colonial ideas and values from much earlier.
But how, one might ask, could there have been a consistency between the Post Office Act of 1792, which legally established and fostered a largely free means of disseminating news and newspapers across the country and ushered in a new media and communications revolution throughout the United States, and the Sedition Act of 1798, which, among other prohibitions, made it a crime to publish newspaper accounts critical of the President of the United States, members of Congress, and other elements of the federal government? How could the same men, men such as Adams, George Washington, and Alexander Hamilton, have staunchly supported both acts without betraying their earlier principles?

That is the central question this study will attempt to answer. If the Washington and Adams Administrations helped to create the new communications environment of the 1790’s, did they believe the Sedition Act to be a break with their previous policies on communication, or to be wholly consistent with them? The problem is that, too often, the Sedition Act of 1798 has been viewed outside its historical context. Therefore, the challenge will be to place the Sedition Act of 1798 within the broader context of the Federalists’ understanding of information and communication and the new media environment created at the beginning of the decade. By viewing the act within this context, we can gain insights into what the Federalist Administrations understood it to mean and hoped it would accomplish. This study then, seeks to comprehend why John Adams believed the Sedition Act was necessary, to know what James Lloyd, chief sponsor of the Sedition Act in the Senate, understood the language of the act to

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mean, and to learn what James Allen, staunch supporter of the Sedition Act in the House of Representatives, hoped the act would accomplish.

The traditional view of the Sedition Act of 1798 has understood it as one of the more notorious pieces of legislation in American history. Often paired rhetorically with the Alien Acts, the Sedition Act is seen in the American historical imagination alongside the Salem Witch Trials, Japanese Internment during World War II, the McCarthy Hearings, and the Patriot Act to form a “ring of infamy” in American history. As one scholar has described the traditional view of the Sedition Act, “Repressive, tyrannical, a seeming violation of the core principles of republican governance, the Sedition Act seems impossible to justify according to any logic other than screaming partisanship and an urgent desire to retain political power. And so scholars have tended to explain it, condemning it as the desperate act of a beleaguered faction making opportunistic use of a foreign crisis.”

Just how accurate is this “morality play” version of history with its heroes and villains? Far too often the popular and scholarly historical study of the Sedition Act has taken this approach, viewing the act as a curb on civil liberties or a partisan attack intended to punish political enemies. The problem with these views is that they either place the Sedition Act in the wrong context, or unfortunately, little historical context at all. Far too often, most of these interpretations have left the Federalists and their aims, values, ideology, and intentions out of the equation. Before the Sedition Act even became law, the Republican opposition was busy

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framing the issue as an attack on the rights of free speech and freedom of the press.

Republican press organs routinely published diatribes casting the Federalists as tyrannical despots trolling for political gain. This is the version of the Sedition Act, and by extension the Federalists, that carried the day and has been passed down over the centuries.

The Republican version of the Sedition Act of 1798 has largely remained the dominant version in the public consciousness, certainly in the popular historical imagination, but through historical scholarship as well. Studies on the Sedition Act through the mid-20th century had long seen the act as an attack on American civil liberties with the object of entrenching the Administration and its allies further in power at the expense of the rights of their political opposition. In more recent years, scholars relying on this view have tended to present an extreme bias in favor of the Republican opposition. Even those who have taken a more

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7 For earlier treatments of the Sedition Act of 1798 using a political or “civil liberties” lens, see John C. Miller, Crisis in Freedom: the Alien and Sedition Acts (Boston: Little Brown and Co., 1951); James Morton Smith, Freedom’s Fetters: The Alien and Sedition Laws and American Civil Liberties (Ithaca, NY: Cornell University Press, 1956); and Levy’s two seminal works discussing the centrality of the Sedition Act of 1798 in American legal, constitutional, and political history are Emergence of a Free Press (New York: Oxford University Press, 1986) and Jefferson: the Darker Side of Civil Liberties (Cambridge, MA: Harvard University Press, 1963). While Miller and Smith provide mostly straight-forward accounts of the immediate events leading up to passage of the Alien and Sedition Acts and descriptions of many of the arrests and trials, Levy argues that the Sedition Act of 1798 was a turning point in American history. The political battle surrounding its passage and its subsequent expiration helped to define and establish more modern understandings of civil liberties such as freedom of the press and freedom of speech in American constitutional thinking and jurisprudence. Levy argued that multiple understandings of these two civil liberties came into conflict in the middle to latter part of the 1790’s, particularly in the form of the Sedition Act, with the core of a developed concept of civil liberties emerging.

8 Perhaps nothing epitomizes the inflammatory political interpretation of the Sedition Act of 1798 better than Richard N. Rosenfeld’s study American Aurora: A Democratic-Republican Returns (New York: St. Martin’s Griffin, 1997). Rosenfeld’s narrator dons the persona of William Duane, editor of the leading opposition Republican newspaper the Aurora, in order to advance his thesis that the Alien and Sedition Acts were weapons wielded by the Federalists as a means to punish their Republican enemies. By immersing himself and his readers in the Republican mindset and experience during the tumultuous 1790’s, Rosenfeld seeks to recreate the partisan atmosphere of the decade and expose his readers to the “noble” efforts of the Republican press to both expose and check the reckless designs of the Federalists.
measured political approach to the Sedition Act present a case for Republican victimization by the Federalist Administration.\(^9\) In the last decade and a half, some studies have cast a wider net in terms of the context surrounding the act’s reach and intent. This social approach generally attributes the Sedition Act to the Federalist Administration’s desire to maintain the established social hierarchy of late-18\(^{th}\) century American society.\(^{10}\)

There are a handful of more recent works, however, that attempt to divorce the Sedition Act from the Alien Acts and give more primacy to Federalist sources and Federalist motives. Working through what one might call a cultural lens, they generally argue that the impetus of the Sedition Act can be found in a belief system of widely shared cultural mores and

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\(^{10}\) For a social approach to the Sedition Act, see Jeffery Pasley, *The Tyranny of Printers: Newspaper Politics in the Early American Republic* (Charlottesville, VA: University of Virginia Press, 2001). Pasley believes that the Adams Administration intended the Sedition Act to solidify control over public opinion and restrict the dissemination of most information to the elite. He champions the “hard-working,” upwardly-mobile middle class printers who were besieged by the elite Federalists attempting to stall and exert control over the forces of democracy and market capitalism rapidly changing the American society of the 1790’s.
strictures. The Sedition Act became a natural extension of this shared belief system as Federalists attempted to influence and shape public and political discourse.\textsuperscript{11} Perhaps no consideration of the Sedition Act of 1798 comes closer to mine than an essay by Joanne Freeman, “Explaining the Unexplainable: the Cultural Context of the Sedition Act.” Fleshing out implications from her earlier work, Freeman sees the Sedition Act as an attempt by the Federalists to institutionalize the culture of Honor she believes so pervasive throughout American politics and society during the late-18\textsuperscript{th} century.\textsuperscript{12} “The fragile new republic,” Freeman explains, “was a government of character striving to become a government of rules within its constitutional framework.”\textsuperscript{13} The character of its leaders was so important to the then-foundation of the federal government, that attacks on character and reputation were seen as attacks on the government itself, and therefore too dangerous to allow to pass uncontested.

In so routinely and consistently connecting the Sedition Act to the culture of Honor, however, Freeman misses an opportunity to explore the way those values shaped not only

\textsuperscript{11} For a cultural approach to the Sedition Act, see Seth Cotlar, “The Federalists’ Transatlantic Cultural Offensive of 1798 and the Moderation of Democratic Discourse,” found in Beyond the Founders: New Approaches to the Political History of the Early American Republic, Jeffery Pasley, ed. (Chapel Hill, NC: University of North Carolina Press, 2004). Cotlar argues that the Sedition Act was an attempt by the Federalists to moderate “the tone and content of public political discourse in the new nation,” (Cotlar, 275). Alarmed by the radical utopian democratic rhetoric that streamed across the Atlantic and found a ready audience of acolytes in the Republican opposition and its allies, Federalists sought to shut off radical discourse and force opposition down more conservative channels. Arguing that the unique political circumstances of 1798 allowed the Federalists to shape the national political discourse, Cotlar sees the Sedition Act as a profoundly important tool in the Federalists’ efforts to “through sheer repetition of a mantra of national unity,” bring about “a very different conception of the American character,” (Cotlar, 295).

\textsuperscript{12} For Freeman’s culture of Honor and the Sedition Act’s role within it, see Joanne Freeman, Affairs of Honor: National Politics in the New Republic (New Haven, CT: Yale University Press, 2001); For Freeman’s cultural approach to the Sedition Act, see her essay “Explaining the Unexplainable: the Cultural Context of the Sedition Act” in which she connects the Sedition Act to the culture of Honor detailed in her Affairs of Honor.

\textsuperscript{13} Freeman, “Explaining the Unexplainable,” 23.
political process but political outcome during the 1790’s. While recognizing the Sedition Act’s intent to set boundaries for political discourse in the United States in order to uphold the legitimacy of the federal government and its leaders, my study more firmly roots the impulses and values that found voice in the Sedition Act in an examination of policy-formation and institution-building throughout the 1790’s. This approach, part cultural, part policy, and part institutional, shows the Sedition Act of 1798 to be part of a much more dynamic Federalist program of communication and information, and the issue of character and respect to be far more intimately linked to the institutional framework of the republic itself.

Much of the research and scholarship over the past twenty years in communications and institutionalization within the Early Republic provides a firm backdrop to this study. Numerous scholars have identified a Communications Revolution, characterized by a surge in the institutions, policies, and technologies that allowed people, goods, and ideas to move much more rapidly from one location to another than ever before. The communication and transportation networks that made these advances possible also served to knit the young republic together in what some scholars have observed as a national marketplace or national public sphere.¹⁴ In related scholarship, other recent, important work has considered the issue

of public opinion as a central feature of politics during the Early Republic.\textsuperscript{15} Also seminal to this project have been advances in our knowledge of the development and institutionalization of Congress, and their subsequent effect on the political process during the 1790’s.\textsuperscript{16}

This study operates within a framework that identifies the Federalists and their opposition, which would ultimately refer to itself as “Republican,” as relatively organized, self-identified political interests, if not fully-defined political parties by later standards. These interests, or coalitions, existed almost from the inception of the federal government, even though no formal party system then existed.\textsuperscript{17} Without getting too caught up in the modern definitions of “party,” the term can be understood as a stand in for “interest” or “coalition”


\textsuperscript{17} For the existence of political “parties” in the 1790’s and the First Party System, see Ronald Formisano, “Federalists and Republicans: Parties, Yes—System, No,” in \textit{The Evolution of American Electoral Systems}, eds. Paul Kleppner et al (Westport, CT: Greenwood Press, 1981), 33-76; and James Roger Sharp, \textit{American Politics in the Early Republic: A New Nation in Crisis} (New Haven, CT: Yale University Press, 1993), 8-13. In “Federalists and Republicans,” Formisano argues that the early 1790’s saw clearly distinguished “interests” or coalitions that functioned as political parties in many ways. However, there was no institutionalized party system in place in American politics until decades later. In \textit{American Politics}, Sharp describes the existence of “proto-parties” from a very early stage in American political development under the federal constitution. Beginning at least as early as 1792, Sharp argues that, even if the designations “Federalist” and “Republican” did not signify organized political institutions, they did distinguish key political and policy differences among actors in the political arena and serve as public labels for adherents to those positions. Whether or not there were formalized “parties,” both scholars believed there were very clearly self-identified divisions within the American political arena from a very early point in the 1790’s.
throughout this study since the distinction is relatively unimportant for the purposes of self-
identification and of shared viewpoints of the Federalists that are discussed throughout. For
determination of party identification, I rely on Kenneth Martis’ illuminating compilation of
breaks down party affiliation for all members elected to Congress, although for the first three
election cycles in American history, he labels the candidates as either “Pro-Administration” or
“Anti-Administration” rather than Federalist or Republican. These divisions are, for the
purposes of this study, largely the same, and are often used interchangeably throughout.

Throughout this study, the terms “Administration” and “opposition” are often used
interchangeably with the terms “Federalist” and “Republican,” respectively. “Administration,”
refers to the group of men who generally self-identified with the Federalists and their agenda
or who consistently allied themselves with the Federalists or supported their positions. They
were essentially the majority coalition responsible for running the federal government, either
as part of the Executive or Legislative Branches. The term “opposition” is the companion to
“Administration.” Opposition refers to those within the federal government in a legislative
capacity or who opposed the policies of the Federalist Administration from a position outside
the federal government, generally as state officeholders or members of the press.

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York: Prentiss Hall College Div., 1989). On pages 27-8, Martis provides descriptions of the methodology used to
determine voting blocs in the First through Third Congresses that provide his “Pro-“ and “Anti-administration”
labels, as well as the methodology for determining party identity of Federalist and Republican in the Fourth and
Fifth Congresses. Pages 70-4 provide Martis’ identification of the party affiliation of each member of Congress
from the First through the Fifth Congress.

19 For ease of understanding and to avoid confusion throughout, they are referred to more often as
Federalist and Republican with some caveats, even during the first several election cycles. However, the terms
“Federalist,” “Administration,” and “Pro-administration,” are used relatively interchangeably, as are the terms
“opposition,” “Anti-administration,” and “Republican.”
The objective of this project then, is to know why the Federalist Administration passed the Sedition Act, to understand their motives and what they believed or hoped the Sedition Act of 1798 would accomplish. To accomplish this requires us to search for the same values, ideas, and language that found voice in the Sedition Act throughout the Federalists’ stewardship of the federal government beginning in 1789, looking through speeches, policy pronouncements, bills, and laws enacted by Congress. What we find is that the Federalists had been discussing, considering, and acting upon these same values for at least a decade prior to 1798, and that they were considered part of a larger communication program or policy that played a key role in Federalist ideology throughout the decade. However, one should not expect to uncover evidence of a uniform, comprehensive law enacted by Congress in the beginning of the decade. There is no long-lost “policy paper” or even private letter from 1789 outlining all the elements of the Federalist communication program to be enacted over the course of the 1790’s. Rather, this project delineates a particular understanding, even cosmology if you will, of the way those aligned with the Federalist Administration believed communication and information were to function in the new political environment of the 1790’s. This view of communication manifested itself not only in the policies and organizational structures established during the First Congress, but in actions undertaken by the House of Representatives and the Senate throughout the 1790’s.

We can consider the Federalists’ actions and policies as part of a series of stages. First, during ratification of the Constitution and the dawn of the federal government, there emerged a collective sense of what the political system of the United States should look like, the ends it should accomplish, and of the ways in which communication would serve those objectives.
Envisioning the project, so to speak, drew on the many influences and ideas swirling in the post-Revolutionary ether to recognize how information should function in order to best support the system of republican government. Second, the Federalists needed to establish the role of the elected representative and determine how communication would support the deliberative form of representation they envisioned for the young republic. This included the institutionalization of policies, methods, procedures, and protocol intended to foster the support of the people in their government and leaders—the basis for the entire republican experiment.

Next, the Federalists needed to actually “build” the system of communication. It is taken for granted in the 21st century United States that there is a forum and institutions through which people can share ideas, but the Federalists of the late-18th century needed to create a space in which politics and political communication would take place. Often thought of as a public sphere, political sphere, or national marketplace for ideas and goods, a system for the transmission and dissemination of political information and debate, where constituent and representative could communicate, needed to actually be established. As Adams and the Federalists well knew, however, for such a system to be effective and respond to the needs of both the government and the public, they needed to shape its boundaries. The need for standards of discourse was a product of the long-standing Federalist need for measured balance. After all, in keeping with that wonderful Adams metaphor, what good is the garden if the briars have obscured all of the roses.
This need for balance in communication would dominate national politics in the latter half of the 1790’s. Increasingly, opposition attacks over Federalist policies such as Washington’s Neutrality Proclamation and Jay’s Treaty were so out of bounds and out of touch with reality that they threatened to damage the cornerstone of the republic: the public’s faith and esteem in the government and their leaders— in essence, the very legitimacy of government. This steady barrage of attacks in the press, coupled with other political events at home and abroad, caused the Federalists to recognize these dangers and reaffirmed the need for standards in political discourse and how best to structure the communication system to meet the needs of representative government.

To combat these attacks on the very nature of their republican form of government, at least as the Federalists saw it, required both proactive measures of putting the correct information into the hands of the people, and the ostensibly “negative” approach of restricting information deemed illegitimate, information that did not fit the standards previously established and accepted. Ultimately, the Federalists would recognize that their previous efforts still did not go far enough, and that defending the republic required strong measures to more forcefully and fully institutionalize the vision of political communication they had long held. The Sedition Act of 1798 would, in many ways, be a culmination of Federalist communication policy in the 1790’s as a final attempt to bring about the type of government and political system the Federalists believed necessary to the success of the United States itself.

Throughout the 1790’s, both the Washington and Adams Administrations and their allies in Congress and the press attempted to stake out what they understood as the proper
place and role of public information in American politics and society, not simply to control information for their own benefit and the maintenance of their social status as some have argued, but as guardians charged with preserving what they viewed as the American system of government. From this standpoint, the Sedition Act of 1798 was the last, and perhaps most forceful, attempt at reigning in what the Administration believed were the negative, even subversive, effects of the media expansion and information explosion since the beginning of the decade, an expansion which, through their policies, they helped to foster. When examined in this context, Adams, with all his faults still intact, appears less a tyrant and more a beleaguered statesman, one who “fear[ed] not the propagation and dissemination of knowledge.”
II. ENVISIONING THE PROJECT

Federalist Thought and Communication Policy Prior to the Constitution

“Wisdom and knowledge, as well as virtue, diffused generally among the body of the people, being necessary for the preservation of their rights and liberties,” were a cornerstone of the Massachusetts Constitution of 1779. This lofty expression of Enlightenment thought formed the opening statement of the document’s Chapter VI, Section II. Composed almost in its entirety by John Adams, Massachusetts’ Constitution charged that “It shall be the duty of legislators and magistrates, in all future periods of this commonwealth,” to foster and support institutions with the diffusion of knowledge as their goal. Over ten years earlier, at the outset of the revolutionary crisis with Great Britain, Adams had written that “none of the means of information are more sacred, or have been cherished with more tenderness and care by the settlers of America, than the press. Care has been taken that the art of printing should be encouraged, and that it should be easy and cheap and safe for any person to communicate his thoughts to the public.” Information would continue to loom large in Adams’ conception of American society and politics for the remainder of his life, but even as early as 1774 his understanding of its complexities showed a depth and maturity that would drive the policies of the party Adams would one day lead. “The freedom of the press,” Adams warned in one of his Novanglus essays, “instead of promoting the cause of liberty, will but hasten its destruction, as the best cordials taken by patients in some distempers become the rancid and corrosive


21 Adams, A Dissertation on the Canon and Feudal Law, from Ibid., 28.
poisons.” He recognized that, while information would be the very lifeblood of a republican government, it was not an unbridled force for good, but like so many things in life could have both positive and negative effects. Rather, Adams saw in the dissemination of information a need to balance the good and the bad, to limit the negative while channeling the good, for “boasting of the unbounded freedom of the press, and assuring the people that all is safe while that continues” would cause the people “to be cheated with libels, in exchange for their liberties.”

John Adams, the Federalist President who would suffer in infamy for signing the Sedition Act of 1798 into law, did not come to support the act in a low moment during the political turmoil of the late-1790’s. Prior to the ratification of the Constitution over a decade earlier, he and his fellow Federalists had believed firmly in many of the principles that would one day be embodied in the Sedition Act. Adams and his Federalist brethren drew on a number of threads of republican ideology that grew out of the United States’ colonial and revolutionary roots and were honed through decades of hard political battles both internal and external. In 1788 and 1789, by the time the Constitution was ratified and George Washington was preparing to take office as the nation’s first president, Federalist political thought had coalesced around several key ideas regarding communication and the dissemination of information and the way they touched upon the foundation of republican government. The Federalist “party” itself would go through several transitions over the next ten years. Its adherents would change somewhat as new political issues were raised and addressed, old heroes faded from the national scene, and new faces emerged to take their places. These principles, however, would

22 Adams, Novanglus, from Ibid., 166
form the core of a coherent communications policy that would guide much of the practical legislation and ideological vision of the Federalist agenda during the 1790’s.

There were three main ideas that would comprise what might be called the Federalists’ communications policy. The first was that, a republican government functioned best when a carefully developed relationship between representatives and their constituents was established and cultivated. The people were sovereign, and ultimate political authority flowed through them. Their responsibility was to choose their political leaders and monitor their activities so that they could make informed decisions on keeping them in office or voting for others when the time for reelection came. Elected representatives meanwhile, were the stewards of government, selected by the people to use their wisdom and knowledge to make decisions and guide the country, always with the best interests of the people in mind. The second idea was that the lifeblood of this carefully created relationship was communication. The people needed information about what their representatives were doing so that they could either show support and confidence in their government, or vote them out of office when the time came. The representatives needed information to form an understanding of what the people needed and what was in their best interests in order to make optimal decisions in guiding the country. The third idea was that it was the government’s responsibility to foster this communication, to develop and maintain a well-balanced system of communication that would meet these ends, channeling information to serve the needs of the polity while at the same time minimizing its harmful side effects.
While the Federalists never delineated these principles in an explicit policy paper, or enshrined them as a plank in the party platform, when examining closely any number of laws, policies, debates, or decisions over the course of the 1790’s, they were never far from the surface, guiding governmental action and shaping the culture and politics of the young United States. Significantly, they were present at the very beginning of the federal government. As the Federalists worked to create and steer the Constitution through ratification, the foundations of their communications policies can be seen in their speeches, essays, and letters. The same ideas that would find expression in the Sedition Act of 1798 were present and influential in 1788, helping to create the federal government itself, and serving to inform the political cosmology of the Federalists. Many colonial and state laws and statutes touched upon sedition and libel, and on the dissemination of information in specific circumstances. The Federalists drew on these and other ideas as they argued forcefully for ratification of the Constitution and described the government they hoped to establish in persuasive newspaper essays such as the *Federalist* essays and others. The Federalists used these principles as justification in debates during the actual state ratifying conventions, and they continued to inform policy in an intimate way after the federal government came into existence.

Many of the ideas that would come to play a central role in Federalist ideology and communication policy for the next decade were present in state and even colonial constitutions dating to before the Revolution. For instance, highlighting the idea that the public not only had a right to know about the proceedings of their legislative assemblies but a need, several state and colonial constitutions and charters declared that legislative proceedings were to be recorded and even published, and many even mandated that the doors of their chambers
remain open to the public except under very specific, narrow circumstances.\footnote{Willi Paul Adams, \textit{The First American Constitutions}, (New York: Madison House Books, 2001 trans. [1973]), pg. 247.} “In Massachusetts,” writes Willi Paul Adams in his authoritative study of state constitutions prior to the federal Constitution, “the records of meetings of the General Court had been published since 1685. In Pennsylvania, debates in the assembly had been considered confidential as late as 1764... Then in July 1776, Pennsylvania’s constitutional convention resolved that its records should be published weekly in English and German.... New York’s constitution prescribed daily publication of the legislative records, provided the pressure of business permitted it.”\footnote{Ibid., 247-8} The belief that knowledge of legislative proceedings was a right of the public extended to southern states as well. Adams notes that “In North Carolina, too, the request of only two representatives could force the house to record how each member voted on an issue. Also, the records, including the roll calls, had to be published immediately after the close of the legislative session.”\footnote{Ibid., 248.} Even in Virginia, its 1776 constitution required the legislature to publish its votes and proceedings twice every week while in session. Further, at the request of two members of the legislature, the votes of all members needed to be recorded for any given vote. Interestingly, all members of the Virginia House of Burgesses were given the option of officially listing the reason for their votes when they were recorded.\footnote{Ibid.}

Not all states, however, were as liberal in their consideration of exactly what knowledge and information belonged in the public consciousness. At a time when a growing number of
states valued openness and a ready dissemination of information, there was clearly a sense that not all information was for public consumption. Even though New York lawmakers prescribed a near-daily publication of their proceedings, tradition and accepted practice allowed for members of the assembly to strike out entire passages of the official record before publication. While in Pennsylvania voters were allowed admission to the legislature’s proceedings from 1770 onward, in neighboring New Jersey the provincial congress voted in June of 1776 to exclude the public from entry to its proceedings. In Virginia, visitors were generally allowed to enter the gallery to observe the proceedings of the House of Burgesses with the permission of a member of the House. At certain times however, the public was excluded from the chamber, such as in May of 1776 when Virginia’s bill of rights was debated.

Secrecy and a need to limit certain information were still very important. As we can see, there was a clear sense in many states that there was information the public should not and did not need to know. In New York in particular, legislators evidently found it necessary to edit and redact the information which they believed should daily be made available to the public. The people, it would seem, needed to know what was being done in their name, but they did not need to know everything. A need for at least some information to remain secret or hidden from the public eye was a value held as close as the need for the public to be informed in the first place.

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27 Ibid., 248-9.
28 Ibid., 247-8.
29 Ibid., 249.
These ideas were “in the air” so to speak, and undergoing something of a negotiation within the political culture of the young United States in the 1770’s and 1780’s. In the case of New Jersey for instance, when the state assembly closed its doors to the public, there was intense outrage and resistance. A public petition was immediately circulated asking that the legislature’s doors be open to the public in all cases except “where secrecy is necessary.” In Virginia, as well, even though the assembly was closed to the public for a time, its 1776 constitution mandated that “the doors of the house in which the representatives of the freemen of this state shall sit in general assembly, shall be and remain open for the admission of all persons who behave decently, except only when the welfare of this state may require the doors to be shut.” While the potential need for secrecy and for information to remain hidden from the people held obvious importance, it was becoming more of a caveat under special circumstances than the norm.

These values were front and center for a time at the federal constitutional convention in Philadelphia during the summer of 1787. Even though a motion to open the convention’s proceedings to the public was defeated by a large majority, the federal Constitution itself required Congress to publish its proceedings, “excepting such Parts as in their judgment require secrecy,” and to include the votes on any question if one-fifth of the members present requested it. Even within the federal convention, the emerging values of public knowledge and communication found themselves in a process of negotiation with the traditional need for

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30 Ibid., 248.
31 Ibid.
32 Ibid., 249.
secrecy in specific circumstances. And while the Senate journal and proceedings of the House of Representatives would both be published regularly, the Senate would not open its doors to the public until 1793, and it would be decades before congressional proceedings would be published word-for-word.

Although the federal constitution was debated in secret, “its ratification, however, was an orgy of public debate,” writes Willi Paul Adams. The ratifying conventions of all thirteen states were open to the public and covered extensively in the local and national press. There was keen interest across the United States in the proceedings of the various state ratifying conventions, and Pauline Maier describes “the popular excitement, which reminded me at times of Americans’ obsession with the final games of the World Series, but with greater intensity.” In her recent study of the state ratifying conventions, Maier remarks that “One Massachusetts observer commented in November 1787 that newspapers, which were filled with news and commentary on the Constitution, were ‘read more than the Bible at this time,’ which is saying something in New England.”

By 1787, the public essentially believed it had a right to know what its government and elected representatives were up to. In this respect, there was no turning back; there was no putting the proverbial lid back on the pot. The Federalists, writes Maier, very clearly took notice of this trend and attempted to capitalize on it. In addition to the daily reports published in contemporary newspapers, and the gathering of these reports for publication into book form, “In some states,” Maier wrote,

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33 Ibid.

Federalists hired individuals to record the debates for subsequent publication as books without the intervening newspaper stage. The printed “debates” were never exact. They gave summaries of speeches rather than complete texts and often favored the Constitution’s supporters over its critics. The debates of the Pennsylvania convention are the most extreme example: They included only the speeches of two leading Federalists, as if nobody else were there.\textsuperscript{35}

In many respects, the accuracy of what the Federalists wrote and published is less important than the message their writings and publications conveyed. They recognized that American political culture was beginning to accept as an axiom that the people should know about their government, and so they took measures to ensure that within the structure of the press and communications of the age their message would find an audience. Within the basic outline of events and news of the day, the Federalists took steps to make sure the people heard what the Federalists believed was important for them to know. In a very real sense, many of the newspaper articles and stories presented as “news” of the federal convention and ratification debates were equally expressions of Federalist political thought and ideology.

In December of 1787, the state of Pennsylvania held its convention to determine whether the federal Constitution would be ratified by that state. During the three-week convention, both Federalist supporters of the constitution and the Antifederalist opposition touched upon and previewed many of the themes that would comprise the Sedition Act nearly eleven years later in 1798. In late 1787, only a few years removed from a war that tore communities and loyalties apart, Federalist supporters of the Constitution were wholly preoccupied with the notion of public support and building and maintaining a strong government. There was an acute fear of sedition, treason, and division that overshadowed

\textsuperscript{35} Ibid., xiii.
nearly all aspects of political and public life. As the Pennsylvania ratifying convention prepared to open, on October 25 a Federalist editorial in the *Independent Gazetteer* of Philadelphia railed over “how immensely base must the wretch be, who strains every nerve to disunite his fellow-citizens, and by a long train of sophistical arguments strives to establish antifederal sentiments in this state.”

Earlier in the piece, the author attributed the cause of this discord directly to a lack of support, a feeling that would be echoed by Federalists for the next decade: “Our distresses were immediately discovered to be inevitable effects of a weak, a disunited, and a despicable federal government.” These statements are representative of hundreds of others made by Federalist supporters of the Constitution during the ratification debates in 1787 and 1788. They describe a situation of anarchy and disunion, and felt the only remedy was to more strongly bind the country and states together. In Federalist eyes, the Antifederalists were literally trying to pull the country apart, and spreading lies about the Federalists and their motives in order to do it.

The convention’s journal records a speech by Federalist James Wilson emblematic of the Federalist position in 1787. “But the evil has stolen in from a quarter little suspected,” Wilson proclaimed, “and the rock of freedom, which stood firm against the attacks of a foreign foe, has been sapped and undermined by the licentiousness of our own citizens… The commencement of peace was likewise the commencement of our distress and disgrace.”

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37 Ibid.

38 Ibid., 228.
government, was supplemented by what the Federalists felt were lies and misinformation about themselves and their motives. The Federalists, in their own minds, were doing what they could to save the country, to rescue it from the directionless ruin toward which it headed following the Revolution. But sabotaging their noble efforts were the falsehoods heaped upon them by the Antifederalist opposition. In a convention speech days later, Wilson lamented “When I consider the attempts that have been made on this floor, and the many misrepresentations of what has been said among us that have appeared in the public papers, printed in this city, I confess that I am induced to suspect that opportunity may be taken to pervert and abuse the principles on which the friends of this constitution act.” Wilson continued,

If attempts are made here, will they not be repeated when the distance is greater, and the means of information fewer? Will they not, at length produce an uneasiness, for which there is, in fact, no cause?... We do not wish to preclude debate... the members in opposition have not been prevented a repetition of all their objections... but it is one thing to claim, and it is another thing, very different indeed, to support that claim. The minority, sir, are contending for the rights of mankind; what then are the majority contending for?... the majority must be contending for the doctrines of slavery and tyranny. Who are the majority in this assembly? Are they not the people? Are they not the representatives of the people?39

The Federalist supporters of the Constitution were the “good guys.” They were the heroes standing up for stability and security. They were put in a position of decision-making, selected for it through proper legal and electoral channels, by the people themselves, and were therefore their rightful representatives. This is how they understood themselves, and information to the contrary spread by the opposition was nothing more than lies. It was not

39 Speech by James Wilson before the Pennsylvania state ratifying convention, Dec. 11, 1787. From Ibid., 381.
open debate or the need to delineate their positions to the public, but what they understood to be completely false and unsubstantiated charges and innuendo that only served to muddy the debate and obfuscate the real issues.

Sedition and treason however, were not the only themes that would follow the Federalists throughout the 1790’s. Prior to and during the Pennsylvania ratifying convention, there were numerous allegations by the Antifederalist opposition that the Federalists had suppressed information both via the press and through the mail. Federalists were accused of using their control and influence over the postal department of Pennsylvania to prevent the dissemination of Antifederalist newspapers and writings through the post. A letter in the Antifederalist “Centinel” editorial series published in the Independent Gazetteer on January 8, 1788 alleged that “during almost the whole of the time that the later convention of this state was assembled, the newspapers published in New York by Mr. Greenleaf, which contains the essays written there against the new government… miscarried in their conveyance… and since that period, great irregularity prevails… whilst on the contrary we find the devoted vehicles of despotism pass uninterrupted.”\(^{40}\) The Antifederalists alleged that the Federalists prevented opposition newspapers from being sent through the mails, but moreover, they alleged it was part of a larger effort to subvert the liberty of the press and prevent all information critical of their positions from being communicated.\(^{41}\) The Federalists, for their part, denied preventing the dissemination of Antifederalist newspapers. However, the intricate interplay of what types


of information constituted falsehood, sedition, and libel, what information was harmful to the faith of the people in their government, and what should or could be done to prevent its communication, would be a theme that played out again and again in policy debates and the proposed actions of the federal government, beginning with some of the very first expressions of policy proposed and extolled by the Federalists as they transitioned to power and the administration of the federal government.

Ten and a half years before the passage of the Sedition Act of 1798, nearly a year and a half before the First Congress would initially convene, and two months before Delaware would become the first state to ratify the Constitution, the first Federalist essay appeared in the New York Independent Journal. Written in late-1787 to mid-1788, the majority of the 85 Federalist essays appeared in the New York Packet and were reprinted in newspapers and newsletters across the country. They were intended to influence the vote in the New York state ratifying convention in favor of ratification of the federal Constitution, and more broadly to grow national support for the Constitution. Attributed to “Publius,” authorship of the essays is generally attributed to Alexander Hamilton and James Madison, with five pieces understood to be written by John Jay. While Hamilton and Jay would go on to become prominent members of the Federalist Administrations of the 1790’s, Madison would later become a leader of the Opposition. However, in the late-1780’s and even through the period of the First Congress, Madison was a leading Federalist politician and policymaker. He not only continued in the

42 Federalist No. 1 was published in the Independent Journal of New York on October 27, 1787 under the pseudonym “Publius.” The series ran through August 1788, and was published in both the Independent Journal and the New York Packet, both of New York City.
tradition of many of the state and colonial policies governing communication, but helped give voice to ideas that would play significant roles in Administration policies during the 1790’s.

As hundreds of New Yorkers opened to page two of their newspaper and read the opening salvo of what would become a classic of American political thought, some of the ideas they encountered were already prevalent throughout the newly-independent thirteen American states. The authors of *The Federalist* drew on these earlier legal traditions and brought them together, combining them into a new American political philosophy about the nature and process of representative government. But it was also a harbinger of things to come, a preview of many of the issues and policies that would come up for debate over the next decade, and that would indelibly shape the political landscape. Among the many strands of political philosophy explored in these essays, the role of information and communication in a representative government was intimately discussed and presented to the American public as a foundational piece of the political experiment. The nature of the relationship between constituent and representative, the role of communication in that relationship, and the need for balance in political communication systems were each explored fully and carefully by the three *Federalist* authors. Hamilton, Jay, and Madison all recognized that these were among the most important questions facing a young republic with few historical models or examples to follow, and they devoted significant effort to addressing them. Madison recognized that members of Congress needed to acquire the information necessary for them to properly do their duty. “No man can be a competent legislator,” Madison wrote, “who does not add an upright intention and a sound judgment [to] a certain degree of knowledge of the subjects on
which he is to legislate.” But what knowledge did federal legislators need to acquire? And equally as important, how were they to acquire it?

Madison addressed the first of these queries through a series of his own rhetorical questions. Admitting that “some knowledge of the affairs, and even the laws, of all the States, ought to be possessed by the members from each of the States,” he asked “How can foreign trade be properly regulated by uniform laws, without some acquaintance with the commerce, the ports, the usages, and the regulations of the different States?.... How can taxes be judiciously imposed and effectually collected, if they be not accommodated to the different laws and local circumstances relating to these objects in the different States?.... These are the principal objects of federal legislation, and suggest most forcibly the extensive information which the representatives ought to acquire.”

In the second Federalist essay, John Jay described the type of men who would become leaders in the new government. Congress would be “composed of many wise and experienced men. That being convened from different parts of the country, they brought with them and communicated to each other a variety of useful information. That, in the course of the time they passed together in inquiring into and discussing the true interests of their country they must have acquired very accurate information on that head.” In the course of their duties, representatives were to carefully sift through and consider the information they had acquired.

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44 Ibid., 329.

45 John Jay, Federalist 2, in Ibid., 93.
in order to determine how to vote. They shared their information with each other. They traded intelligence and the peculiar knowledge of their own localities and states. Upon considering all the information before them, Jay continued, “they were individually interested in the public liberty and prosperity, and therefore that it was not less their inclination than their duty to recommend only such measures as, after the most mature deliberation, they really thought prudent and advisable.”

In *Federalist 35*, Alexander Hamilton also considered the relationship between representatives and their constituents. Like Jay, he discussed the idea that prior and experiential knowledge were fundamental to the way representatives would acquire information and make decisions about policy and direction in the new republic. Some people believe, Hamilton wrote,

That all classes of citizens should have some of their own number in the representative body, in order that their feelings and interests may be the better understood and attended to. But.... where this is the case, the representative body with too few exceptions to have any influence on the spirit of the government, will be composed of landholders, merchants, and men of the learned professions.

According to Hamilton, representative government under the new Constitution would follow a deliberative model, where representatives would be selected by their constituents and then use their knowledge and information to determine wise policies in the interests of the general good. Hamilton rejected the notion that representatives should be instructed or dictated to by

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46 Ibid.

their constituents on precisely how to vote in every instance. To Hamilton, this deliberative model was a much more effective means of governance and of representation, and projected the values he saw as essential for the new federal government.

James Madison concurred. The way information traveled to members of Congress was largely through the personal knowledge and experiences of the members themselves. As Madison wrote in *Federalist 56*, one of the clearest statements of how the early Federalists believed information would regularly flow to the members of Congress,

> Is it not evident that a degree of local information and preparatory labor would be found in the several volumes of their proceedings.... The representatives of each State will not only bring with them a considerable knowledge of its laws, and a local knowledge of their respective districts, but will probably in all cases have been members, and may even at the very time be members, of the State legislature, where all the local information and interests of the State are assembled, and from whence they may easily be conveyed by a very few hands into the legislature of the United States.  

Information about what was taking place in far-flung areas of the country was of paramount importance when dealing in politics at the national level, especially at a time when one of the most frequent ways to disseminate information was still word of mouth. The astute member of Congress needed friends and reliable information, not simply to build and maintain power.

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48 Jack Rakove, *Original Meanings: Politics and Ideas in the Making of the Constitution* (New York: Vintage Books, 1996), 204; Among the most oft-quoted statements regarding the nature of representation comes from John Adams, who wrote in his pamphlet *Thoughts on Government* “The representative assembly should be in miniature an exact portrait of the people at large. It should think, feel, reason, and act like them.” In his Pulitzer Prize-winning study of the influences on the Constitution, *Original Meanings*, Jack Rakove includes a chapter titled “The Mirror of Representation” in which he characterizes the “Mirror Model” as “the idea that a representative body should be a miniature of society rested on the divergent assumption that only a concurrence or identity of interests could guarantee that legislators would act with the degree of accountability required to protect their constituents. Sympathy was most likely to exist, in other words, when electors and the elected shared underlying traits.”

centers and political alliances, but as the most reliable means of obtaining information that one did not have.

In his much-celebrated *Federalist 10*, Madison essentially agreed with Hamilton’s assessment of deliberation as the ideal model of representation for the United States. However, while deliberation was one of the key components of applied knowledge and information, several questions still remained: why was a deliberative model optimal, and exactly how would constituents influence their representatives within such a model? To Madison, the answers were revealed in several important moments throughout the democratic process. “The effect of the first difference is,” he wrote, “on the one hand, to refine and enlarge the public views, by passing them through the medium of a chosen body of citizens, whose wisdom may best discern the true interest of their country, and whose patriotism and love of justice will be least likely to sacrifice it to temporary or partial considerations.”

Channeling knowledge, passion, and desire through filters of representation was, to Madison and many leading Federalists, something of an axiom of representative theory. “Under such a regulation,” Madison continued, “it may well happen that the public voice, pronounced by the representatives of the people, will be more consonant to the public good than if pronounced by the people themselves, convened for the purpose.”

There were, however, potential pitfalls to the deliberative understanding of representation. Madison suggested that a balance must be struck between the representative and his constituents in order to achieve the optimal level of representation. He acknowledged

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50 Madison, *Federalist 10*, from Ibid., 126.

51 Ibid.
that the greater agency and independence afforded representatives could lead to abuses of power and corruption, but greater control over the representative by the public would damage the perspective and ability to govern with the public good as the primary focus. Therefore, stated Madison as he posited the seminal theory of this classic text, “the question resulting is, whether small or extensive republics are more favorable to the election of proper guardians of the public weal; and it is clearly decided in favor of the latter.” The larger the pool of potential candidates one draws from, the more honest, wise, and intelligent the candidate is likely to be, and the broader and more moderate the appeal the candidate is likely to need.52

In Federalist 37, Madison continued to explore the relationship between representatives and their constituents. He argued that, rather than issuing direct instructions to their representatives, the primary way for constituents to communicate with their elected leaders was through voting for them. Constituents exert their influence and impart their wishes and information on their representatives during the actual election. Communication and the flow of information was ultimately vested in the electorate, but there was a careful balance in how Madison and the Federalists understood each side would exert influence over the other, in certain prescribed moments. This was the deliberative model of representation in practice, and it exerted great power over the way communication and the dissemination of knowledge and information functioned in the minds of these early Federalists.53

Through their deliberation and through their more national, as opposed to local, outlook, Hamilton believed the duty of representatives elected to the federal government was

52 Ibid., 126-7.

53 Ibid.
to stand as sentries over the whole of the United States and its people, using their wisdom and knowledge to safeguard American interests while on constant watch for the omnipresent dangers to the republic the Federalists believed were always lurking. In Federalist 26, he wrote “Can it be supposed that there would not be found one man discerning enough to detect so atrocious a conspiracy, or bold or honest enough to apprise his constituents of their danger?”

It was this outlook, some might say paternalistic, role as discerning protectors that Hamilton supposed would foster the all-important confidence and trust of the people in their leaders and government. As Hamilton suggested in Federalist 27, the government was to have as much influence on public opinion as public opinion had on it. This dynamic, he wrote, “will give the federal government the same advantage for securing a due obedience to its authority which is enjoyed by the government of each State, in addition to the influence on public opinion which will result from the important consideration of its having power to call to its assistance and support the resources of the whole Union.”

The maintenance of balance and the perpetuation of trust were two of the most important duties of those administering the federal government. In Federalist 23, Hamilton wrote:

That government ought to be clothed with all the powers requisite to complete execution of its trust.... it must be admitted, as a necessary consequence, that there can be no limitation of that authority which is to provide for the defense and protection of the community, in any matter essential to its efficacy that is, in any matter essential to the FORMATION, DIRECTION, OR SUPPORT of the NATIONAL FORCES.

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54 Hamilton, Federalist 26, from Ibid., 200.

55 Ibid., 203.

56 Hamilton, Federalist 23, from Ibid., 185.
He would continue along this thread in *Federalist 36*. During a discussion of poll taxes, Hamilton further explained his understanding of the scope of the administrators’ stewardship of the government. As the people’s trustees, it was the duty of elected political leaders to continue to act in the best interests of the nation as a whole and to consider what was in the scope of the public good. “There are certain emergencies of nations, in which expedients, that in the ordinary state of things ought to be forborne, become essential to the public weal. And the government, from the possibility of such emergencies, ought ever to have the option of making use of them,” he wrote, continuing “I acknowledge my aversion to every project that is calculated to disarm the government of a single weapon, which in any possible contingency might be usefully employed for the general defense and security.”

According to Hamilton, situations or emergencies might arise where the government needed to take certain actions in order to provide for the general welfare or security. Not knowing what these might be, or what must be done to appropriately address them, Hamilton was adamant that the government must retain any and all potential powers that it might need to take action during a perceived emergency. While he does not elaborate here on what might constitute an emergency, or the extent to which he felt the government could act, this too would remain a persistent theme in Federalist ideology throughout the 1790’s.

As the series progressed, the authors of the *Federalist* essays continued to explore the relationship between the people and their government. As the hallmark of this connection, it would become very clear that communication was the conduit through which these two groups

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57 Hamilton, *Federalist 36*, from Ibid., 240-1.
interacted, and thus held a seminal place in the framework being presented. The most significant point for Hamilton was the need for a distribution system for information communicated between the public and the government. In *Federalist 84*, he reasoned that this system would be best served through preexisting institutions: the press and state governments. The state governments, Hamilton believed, would develop systems of procuring information about the federal government and relay it to the people, while the newspapers would operate in their optimal capacity, as “expeditious messengers” of information to “the most remote inhabitants of the Union.”  

These ideas were also explored by Hamilton in *Federalist 28*. The notion that the state governments would serve as mediums through which news and information from the federal government would be communicated to the people at large was one that Hamilton saw as a lynchpin for how communication of political information was to function in a broader role throughout the United States. Perhaps most importantly though, they were engines for carrying out one of the most important undertakings in the American political system: fostering the confidence and support of the people in their government. Being “closer” to the people both geographically and personally, the state governments would serve as clearinghouses for security, confidence, and trust. “It may safely be received as an axiom in our political system, that the State governments will in all possible contingencies, afford complete security against invasions of the public liberty by the national authority,” he wrote, a barrier against the insidious infiltration of American society and politics.  

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59 Hamilton, *Federalist 28*, from Ibid., 207.
the communication system, or any political system, was a truism for Hamilton and the Federalists.

Among the many aspects of communication explored in *The Federalist*, the idea of the carefully constructed system of communication designed to meet the needs of the public and the government and reinforce the central values of the political system itself, was one of the most profound and frequently discussed. Echoing Madison’s theory from *Federalist 10*, Hamilton stated in *Federalist 84* that the sheer size and scope of the United States was no impediment to this key necessity of a republican form of government. “There is in most of the arguments which relate to distance a palpable illusion of the imagination. What are the sources of information by which the people in Montgomery County must regulate their judgment of the conduct of their representatives in the State legislature?” Hamilton asked, rhetorically. “Of personal observation,” he responded, “they can have no benefit…. This is confined to the citizens on the spot. They must therefore depend on the information of intelligent men, in whom they confide; and how must these men obtain their information? Evidently from the complexion of public measures, from the public prints, from correspondences with their representatives, and with other persons who reside at the place of their deliberations.” Hamilton believed it was important for people far from the seat of government to know what their representatives were doing. It was really only a matter of determining how this communication would best be accomplished.

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60 Hamilton, *Federalist 84*, from Ibid., 478.
“The public papers,” Hamilton explained, would be the conveyors of information in this system, the “expeditious messengers of intelligence to the most remote inhabitants of the Union.”\textsuperscript{61} While Hamilton suggested that methods of communication such as the press and institutions such as the state governments would form the core of his system of communication, the great object of this communication system was less opaque. Hamilton believed firmly that the people should “never be at a loss to know the behavior of those who represent their constituents in the national councils.” For Hamilton, it really did come down to trust-- the trust of the people in their government. Fostering and supporting this value was of critical importance, such that it formed one of the core organizing principles of the American government. In an expansive country like the United States, this system of intelligence was critical in providing the same access to government to all citizens, no matter where they lived within the boundaries of the country.

Again, the precise functioning of the much-desired system of political communication came down to a matter of finding an appropriate balance between the parties whom that system connected. Jay, like Hamilton before him, believed intimately in establishing the communication system with built-in checks and balances. For him, there were clear instances where the public did not need to know certain information. In fact, public knowledge would be harmful to national security and the political system itself. In Federalist 64, Jay discusses the secrecy necessary for the Executive to negotiate treaties with foreign powers. “It seldom happens in the negotiation of treaties...,” he wrote, “but that perfect SECRECY and immediate

\textsuperscript{61} Hamilton, \textit{Federalist} 84, from Ibid., 478-9.
DESPATCH are sometimes requisite.” There were instances, Jay mused, where sometimes information must be kept within a close-knit circle and kept from the public. It was a matter of common sense when one could “rely on the secrecy of the President, but who would not confide in that of the Senate, and still less in that of a large popular Assembly.” Sometimes safeguards needed to be put in place within a national system of political communication in order to keep information from being disseminated. For instance, while the public did need to know the provisions of treaties, the actual negotiations of those treaties were different matters entirely. Jay understood that some information did not need to become public knowledge. Moreover, the nature of larger, representative legislative bodies meant that not even all members of the federal government needed to know certain information. So, argued Jay, the power to withhold certain sensitive information by necessity lay within the scope and powers of the federal government.

In Federalist 28, Hamilton continued along this thread. He explored additional powers of the federal government necessary to ensure security and prosperity throughout the republic. While Jay described the limitation of certain types of information needed to be maintained by the federal government, Hamilton also saw a need to limit the dissemination of certain types of information within American society. Seditious information was particularly damaging to the trust of the people in their government, and needed special note. This would prove to be one of the more persistent preoccupations of the Federalists throughout the 1790’s, and we see it expressed here by Hamilton a decade prior to the passage of the Sedition Act of 1798. The

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62 Jay, Federalist 64, from Ibid., 377.
concern over the spread of information designed to destroy the public’s faith in those responsible for the administration of the government would become a pervasive one in Federalist policy, and the notion that the federal government needed to remain vigilant and maintain the ability to both prevent and punish those engaging in seditious communication would also remain a constant. Hamilton foreshadowed this in Federalist 28 when he wrote, “THAT there may happen cases in which the national government may be necessitated to resort to force, cannot be denied.” He continued,

...that emergencies of this sort will sometimes arise in all societies, however constituted that seditions and insurrections are, unhappily, maladies as inseparable from the body politic as tumors and eruptions from the natural body;.... Should such emergencies at any time happen under the national government, there could be no remedy but force. The means to be employed must be proportioned to the extent of the mischief. If it should be a slight commotion in a small part of a State, the militia of the residue would be adequate to its suppression; and the national presumption is that they would be ready to do their duty. An insurrection, whatever may be its immediate cause, eventually endangers all government. 63

The linkage between sedition and insurrection is a key connection in Federalist thought. That we see it here in 1787 only serves to show how foundational it was to the way they understood their world and political communication specifically. The driving force behind this was the firm belief that the success of the government relied upon the support of the public. Without that public support, there was no authority, no power, and no consent of the governed. Faith and credibility in the government and those charged with administering it were absolutely critical, and this theme would appear again and again throughout the 1790’s in

63 Hamilton, Federalist 28, from Ibid., 204.
Federalist writings and statements. Leading Federalist after leading Federalist would all come
to echo Hamilton’s belief that “if the general government should be found in practice conducive
to the prosperity and felicity of the people, it were irrational to believe that they [the people] would be disinclined to its support.”

If the opposite were followed, however, it could spell doom and disaster. Jay offered a cautionary tale about the dangers of completely unfettered communication. Especially, he wrote, when it allowed severely damaging, false information to be spread about those in charge of the government. “It is not yet forgotten that well-grounded apprehensions of imminent danger induced the people of America to form the memorable Congress of 1774,” he wrote in Federalist 2. “Yet it is fresh in our memories how soon the press began to teem with pamphlets and weekly papers against those very measures,” Jay continued. “Not only many of the officers of government... but others, from a mistaken estimate of consequences,” preconceived notions, the damaging influence of false men, “or whose ambition aimed at objects which did not correspond with the public good, were indefatigable in their efforts to persuade the people to reject the advice of that patriotic Congress. Many, indeed, were deceived and deluded, but the great majority of the people reasoned and decided judiciously; and happy they are in reflecting that they did so.” The moral was clear: false, incorrect information spread by those with ulterior, even sinister motives, was potentially disastrous to the cause of good government and the safety and security of the people of the United States. Those in charge of the government needed to be vigilant against such a subversive assault.

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64 Ibid., 204-5.

65 Jay, Federalist 2, from Ibid., 92-3.
With these dangers in mind, the early Federalists espoused very definite opinions and policy positions regarding sedition, libel, and the liberty of the press. While they saw newspapers as necessary to spreading the information essential to a well-informed citizenry, one required to exercise the sacred trust and lynchpin of the republic—voting, they were equally as concerned with preventing the acceptance of false information spread through the press. The November 16, 1787 edition of the *Massachusetts Gazette* is a typical example of the way newspapers sympathetic to the Federalist position referred to its Antifederalist opposition. “Citizens of Massachusetts,” the *Gazette* entreated, “look well about you; you are beset by harpies, knaves, and blockheads, who are employing every artifice and falsehood to effect your ruin…. If you reject it [the federal Constitution], posterity will execrate your memories, and ceaselessly insult your ashes; if you adopt it, they will revere your departed shades, and offer up libations of gratitude on your tombs.”

The extent to which the author of this article truly believed the Antifederalist opposition was motivated by dishonor and knowingly spreading lies and incorrect information is not known. However, that was certainly the way he characterized the opposition’s position publicly. The next day, on November 17, an editorial was printed in the *Massachusetts Centinel* purporting to respond to a recent letter by a prominent Antifederalist attacking the Constitution. Before even refuting a single point, the editorial began, “it is not a little surprising that no one should have stepped forth to counteract the unfavorable, and dangerous impressions this letter is calculated to make upon the minds of the

people in general on this all-important subject.” 67 Again, the issue was framed by the Federalists not as a discussion between two opposing political viewpoints, but rather that the opposing side was spreading harmful and dangerous information.

A November 1, 1787 editorial in the Newport Herald penned under the name “One of the People” addressed the “Freemen of Pennsylvania,” and expressed a similar assessment of the political debate then raging over ratification of the Constitution. “It is the privilege of every citizen to deliver with freedom his sentiments,” the editorial preached,

and the duty of every lover of truth to detect falsehood. These are the motives which have induced me to endeavor to undeceive you, to state the truth, and guard you against designing ambition: And should my feeble voice be heard amidst the noise of party, and incline my countrymen to judge with coolness and impartiality- should it prevail against the loud brawls of dissimulation and untruth- it will afford the most pleasing sensations the human mind is capable of, as it will preserve this country from the dreadful consequences of rejecting a constitution, which alone can free them from confusion, anarchy, distress, and ruin. 68

Again, for the Federalists it was not simply a matter of refuting the other side’s arguments against the Constitution point by point. They did not merely characterize their opposition as wrongheaded or misguided, or even as holding an alternative point of view or vision for the political future of the thirteen American states. No, when the information being disseminated was “different” than that of the Federalists, it was the product of intrigue, lies, and calumny. An article in the New York Packet from October 30, 1787 made this point when quelling a rumor that Federalist supporters of the Constitution attacked the credibility and reputation of George Mason when they learned he had refused to endorse the new federal government. The

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Packet’s editorial charged that, “the fabricators of this falsehood are evidently” among those attempting to sabotage ratification of the federal Constitution.\textsuperscript{69}

We see similar if not identical language printed in newspapers from across the thirteen states during the Fall and Winter of 1787, just after the close of the Constitutional Convention in Philadelphia and during the state ratification debates. Newspapers from every region of the United States, from New Hampshire to South Carolina with Pennsylvania and New York in between, all proclaimed that Antifederalist attacks on the proposed Constitution were gross untruths and lies that had the potential to inculcate mistrust and disfavor in the people toward their government.\textsuperscript{70} One cannot simply ignore the hyperbole. Similar language appears in dozens of different newspapers across multiple states, the single most significant thread between them being their similar responses to Antifederalist rhetoric opposed to constitutional ratification. The use of comparable language and sentiments from Federalists throughout the 1790’s continued right up to the passage of the Sedition Act in the summer of 1798.

Back in 1787, though, the Federalists were busy laying the theoretical foundations of the federal government to come. Through what Washington termed the necessary “literary


\textsuperscript{70} Words and phrases such as dishonesty, sedition, libel, dangerous, untruth, calumny, and falsehood are constantly used to describe the Antifederalist positions and arguments commonly seen in newspapers or made in public. The sampling of newspaper editorials that follows all appear to be original to the paper itself and not reprinted from other sources, except for the article from the Columbian Herald from South Carolina: New Haven Gazette, pg. 348; New Hampshire Recorder, vol. 1, iss. 17, pg. 4, Nov. 27, 1787; Columbian Herald, pg. 2, Nov. 26, 1787; Pennsylvania Mercury reprinted in the City Gazette, Charleston, SC, pg. 2, Nov. 26, 1787; New York Journal, New York, NY, pg. 2, Nov. 8, 1787; from Readex Early American Newspapers Series.

http://infoweb.newsbank.com.proxy.cc.uic.edu/iw-search/we/HistArchive?p_nbid=L4FX4BLBMTQxMDY2NDk2MS41MTcyMzI6MToxNToxMjguMjQ4LjE1NS4yMjU4p_product=EANX&p_action=timeframes&p_theme=ahnp (accessed September 26, 2014).
endeavors” required to win support of the Constitution, “endeavors” such as the Federalist essays and other letters and newspaper articles and editorials, they promoted a specific, reciprocal relationship between the people and their representatives. The people bestowed on their leaders a sacred trust through the electoral process. As a means of demonstrating faith and confidence in their government, it was their responsibility to choose their leaders and then make sure that they were working toward the public good. The maintenance of this public confidence, as Hamilton frequently noted, was of the utmost importance, and the administrators of government needed to perpetually evaluate it. Writing on public credit in 1782, Hamilton cautioned that “there must be a good opinion of public faith, before there can be a confidence in public securities; and this opinion can only be created by unequivocal demonstrations of a disposition to justice.... A purity of faith has ever been the more peculiar attribute of Republics, the very being of which, depends on virtue in all, and a sacred regard to justice in those to whom the administration of affairs is entrusted.”

As the stewards of government, the authors of the Federalist had charged America’s political representatives to seek out the public good, and they believed in crafting a political system that supported this aim. Even George Washington himself believed that the representatives of the people were bestowed with the public trust, and charged with the wise deliberation of national issues and policies. In March of 1787, he wrote to Madison of the

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duties of the delegates to the upcoming convention in Philadelphia. “It gives me pleasure,”
Washington stated, “to hear that there is a probability of a full Representation of the States in
Convention; but if the delegates come to it under fetters, the salutary ends proposed will in my
opinion be greatly embarrassed & retarded, if not altogether defeated.” He went on to express
hope that the delegates would come together and give the matter a full consideration, and
consider any and all remedies that might be necessary, even “radical cures, whether they are
agreed to or not.” To Washington, Madison, Hamilton, Jay, and their Federalist brethren, it was
a necessary feature of a legislative body to fully consider and debate all options in order to
fulfill the trust and confidence of the people and affect the public good. “A conduct like this,”
Washington counseled Madison, “will stamp wisdom and dignity on the proceedings, and be
looked to as a luminary, which sooner or later will shed its influence.”

The nascent Federalists of the late-1780’s set much of the agenda their caucus would
follow over the next decade. The ideological framework they constructed in the Federalist
essays and elsewhere would form the Federalist program as it related to communication and
information, and it would shape the course of the political institutions that grew out of it.
While Madison, Hamilton, Jay and others waged the political battles to ratify the Constitution at
home during 1787 and 1788, John Adams keenly observed and considered their theoretical
underpinnings from abroad as United States Minister to Great Britain. Recognizing the careful
interplay between the administrators of government and the people they represented, earlier
in his time as minister Adams also recognized the critical need for a method of disseminating

72 George Washington to James Madison, March 31, 1787, from The Papers of George Washington,
Confederation Series vol. 5, February-December, 1787, ed. W. W. Abbot (Charlottesville, VA: University Press of
Virginia, 1997), 115-116.
the information that formed the crux of this relationship, a system through which the necessary communication could take place. As a government official, he said “I confess I have no other means of obtaining information, or making Discoveries, which are much better than the Newspapers.”

Adams and the Federalists recognized during the 1780’s that their understanding of the very functioning of government, of the roles played the public and the government, and the very relationship between those stakeholders, depended on the development of a space, a system, for them to communicate with each other. This system of communication was critical because it would be the medium through which these stakeholders interacted and within which their relationship to each other would exist. They also recognized that a careful balance to mitigate the extreme positions likely to emerge in such a system was crucial to the success of the political journey they were about to embark upon. The issues raised during the heady debates over ratification—deliberative representation, the way constituents were to communicate with and influence their representatives, and the ways in which representatives in the federal Congress were to receive and gather intelligence and information—would all be confronted head-on in the First Congress as Representatives and Senators converged on New York City in April of 1789 to launch the federal government, just as they would again and again over the course of the tumultuous 1790’s.

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III. ESTABLISHING ROLES

Deliberation, Instruction, and the Relationship between Representative and Constituent in the First House of Representatives

On August 17, 1789, an open letter addressed to “James Madison, Esquire” appeared in the New York Daily Advertiser. Its author chastised Madison for introducing the subject of constitutional amendments into the House of Representatives three days earlier. Dispensing with the specifics of the proposed amendments, the author, who signed himself as “Pacificus,” touched upon a subject far more fundamental to the very role of the House and its members. It began by addressing Madison as follows:

Sir, In a debate upon the Impost Bill, you declared yourself an enemy to local attachments, and said you considered yourself not merely the representative of Virginia, but of the United States....You now hold out in justification of the part you take in forwarding amendments, that you have pledged yourself in some measure to your constituents. But, sir, who are your constituents?\

This question, as “Pacificus” understood perfectly well, was not merely central to the electoral system and process of a representative legislative body, but to the very relationship between representative and constituent. The answer to this question determines what a representative is actually supposed to do, how he is supposed to think, and what substantive legislation will be produced. Who one represents was a fundamental question to the Pro-administration politicians and supporters who would ultimately coalesce into the Federalist

party. Not only did it affect the all-important relationship between constituent and representative, but it shaped the way day-to-day business was to be accomplished in the legislature, in essence, how they were to communicate with each other. The role of the individual representative, and by proxy that of the legislative body as a whole, hinged upon who was in his constituency and how he was to serve their interests. Essentially, his duties and actions were determined by whom he represented. This special relationship provides a window into how the two communicated, the influence each had over the other, and the kind of information each believed was necessary for the other side to carry out its role. According to Gordon Wood, “The sacrifice of individual interests to the greater good of the whole formed the essence of republicanism and comprehended for Americans the idealistic goal of their Revolution….This republican ideology both presumed and helped shape the Americans’ conception of how their society and politics should be structured and operated.”

One of the first great challenges in New York in 1789 was to negotiate what this republican ideology would look like and how it would function once put in practice.

The members of the First House of Representatives certainly had these issues in mind as they converged on the federal capital of New York City for the opening of the initial session of

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75 The Federalist Party as recognized by most historians did not yet exist as a more formalized political group or institution in 1789, yet the men who comprised the Pro-administration block in the first years of the federal government would almost uniformly come to call themselves “Federalists.” The use of the term “Pro-administration” from the years 1789 to approximately 1792 should be understood as more or less a proxy for “Federalist.” For information and descriptions of party identity between 1789 and 1792, see Kenneth Martis, The Historical Atlas of Political Parties in the United States Congress, 1789-1989 (New York: Prentiss Hall College Div., 1989). For a treatment of the organization of formalized political parties during the same period, see Ronald Formisano, “Federalists and Republicans: Parties, Yes—System, No,” in The Evolution of American Electoral Systems, eds. Paul Kleppner et al (Westport, CT: Greenwood Press, 1981), 33-76; and James Roger Sharp, American Politics in the Early Republic: A New Nation in Crisis (New Haven, CT: Yale University Press, 1993), 8-13.

Congress in April, 1789. The House was intended to be the most popular branch of the new American government, more closely connected to the people through direct election than the Executive and Senate, which were to be elected through a system of filters. 77 As a legislative body however, the House of Representatives had no direct precedent in Anglo-American history. There were a number of models to emulate with respect to representation and how its members should mediate the interests of their constituents, but it should suffice to say that the original Representatives were on their own in determining whom they represented and how they were to accomplish that task. The Constitution itself was of little help in this respect. While it spelled out how many representatives each state should have, what kinds of laws they were to pass, and that they should be popularly elected, it was silent on this issue.

David P. Currie has written that “The Constitution, as Chief Justice Marshall would later remind us, laid down only the ‘great outlines’ of the governmental structure; translating the generalities of this noble instrument into concrete and functioning institutions was deliberately left to Congress....Thus in a very real sense it can be said that the First Congress was a sort of continuing constitutional convention.” Aside from interpreting and setting precedents on numerous constitutional issues, “each House was also authorized to ‘determine the rules of its proceedings’ ....The rules were simple, but they established a number of important precedents.” 78 One of the most important of these was institutional, for, as will be shown, the men who sat in the First House of Representatives brought with them a fundamentally shared


view regarding their constituencies and roles. This view would come to shape the way business was conducted in the House and with their constituents, and mold the very structure of the House into a decidedly more deliberative body than was constitutionally preordained. For the Pro-administration federalists who dominated the First House of Representatives, the establishment of this deliberative character and roles for the representatives in Congress was an important step toward institutionalizing their vision of the very nature and process of government and politics in the young United States, and implementing a system of communication that furthered this aim. To be sure though, the establishment of deliberation in the House went beyond party-line politics-- it was supported by most representatives, be they Federalist- or Antifederalist-aligned.

We have already seen how, during the debates over ratification, the authors of the *Federalist* advocated a more deliberative structure for federal politics in the national legislature, in contrast to the prevailing doctrine of the times that saw elected representatives as little more than the agents of the people, sent to the legislature to “report” the wishes of their constituents and vote on them. American understandings of the nature of politics and representation had developed along these two different paths, what Jack Rakove describes as
the Deliberative Model and the “Mirror Model.”  Most leading Federalists in 1789 believed clearly that the Deliberative Model was much more conducive to achieving their goals. These will be the terms and definitions used throughout this study to describe the various types of legislative and representative models under consideration during the 1790’s.

R.B. Bernstein has similarly framed the issue. Like Rakove, he denotes two distinct understandings of representation: “deliberative and representational.” In a deliberative legislature, the representatives of the people were imagined to come together to debate and discuss the great issues affecting the country as a whole: “The deliberative model required a special kind of legislator to make it work,” describes Bernstein, “one who considered only the general interest of the polity. Not his own interests, nor those of his friends, nor even the particular interests of those who elected him should deflect him from the pursuit of that goal.” The deliberative legislator was assumed to be virtuous, independent, and wise. The ideal deliberative assembly was therefore supposed to be relatively small in size: first, because if it grew too large, the country would run out of wise, honorable men to fill it; and second, debate was more easily facilitated in small numbers. Americans in 1789 had several different

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79 Jack Rakove, *Original Meanings: Politics and Ideas in the Making of the Constitution* (New York: Vintage Books, 1996), pg. 204. For a discussion on American political theories and models of representation in the 1780’s and 1790’s, see Jack Rakove, *Original Meanings* chapter 8, “The Mirror of Representation.” Rakove characterizes the “Mirror Model” as “the idea that a representative body should be a miniature of society rested on the divergent assumption that only a concurrence or identity of interests could guarantee that legislators would act with the degree of accountability required to protect their constituents. Sympathy was most likely to exist, in other words, when electors and the elected shared underlying traits.”


81 For discussion on deliberative and representational models of legislatures, see Bernstein, “Parliamentary Principles,” 86-105.
historical examples of deliberative legislatures to emulate. The British Parliament was the most prominent example for the Americans. With its emphasis on “virtual representation,” Members of Parliament were thought to be representatives of the entire kingdom, including those who were not their immediate elective constituents. While Parliament was closer to the extreme deliberative end of the spectrum, some American legislatures embodied elements of the deliberative model to varying degrees.  

By contrast, the representational model (or “Mirror Model”) envisioned a “legislature whose members would serve as faithful agents of the people, following their instructions and articulating their interests....The representational model gave the people control over the government by ensuring that their representatives in the legislature spoke for their constituents’ interests.” This model bound representatives to their local constituents by suspending as much of their own judgment as possible in favor of the “will of the people.” This was generally accomplished through three mechanisms: annual elections, rotation in office, and instructions “to enable the electorate to inform their representatives of their wishes and to require representatives to carry out those wishes.” As Bernstein stated, 

Those who rejected the representational model lampooned the legislature it envisioned as a rowdy gathering of proxies of special interests, seeking only to gain advantages for their supporters-- usually at the expense of other interests, almost always at the expense of the general good. They also derided representational legislators as crude, ignorant and incapable of forming disinterested views-- and thus of identifying and giving effect to the general good.

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83 Bernstein, “Parliamentary Principles,” 84.

84 Ibid., 85.
According to Jack Rakove, the American Revolution ignited a backlash against the deliberative model as too removed from the people. The idea that an assembly should be a “mirror” of the electorate became connected to and even synonymous with the objectives of the Revolution.\(^{85}\) The trend in many state legislatures was away from the ideal legislator of the deliberative model, and toward a more representative structure, with the legislator acting as agent of his constituents.\(^{86}\)

Operating closer to the representational model as described by Bernstein, members of the Confederation Congress served as something akin to delegates charged by their state legislatures with advocating certain positions. But the gridlock and inability to work for national goals during and after the Revolution exposed the weaknesses of such a system to many of its members.\(^{87}\) This produced a backlash that manifested itself in the Federal Convention in the summer of 1787 where, Bernstein argues, the Framers “sought to foster one kind of national politics, deliberative politics—reasoned and reasonable deliberation about the general good,” while at the same time, “they sought to foreclose... representational politics—the... self-conscious advocacy of local or special interests.”\(^{88}\)

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\(^{85}\) Adams quoted in Rakove, *Original Meanings*, 203.


According to Bernstein, however, the Federal Convention only managed to achieve the deliberative ideal in the framework of Congress as a half-measure.\(^8^9\) He argued that the Congress as created by the Constitution was a compromise between the two models. The Senate embodied many of the principles of deliberation, while the House of Representatives was designed to be the “mirror” of the people. Charlene Bangs Bickford agrees. “The House of Representatives,” she said, “was conceived as... a national body representative of the people. Individual members of that body held a personal responsibility to the people of their district.”\(^9^0\) Rakove similarly describes the representational model as the dominant view that shaped the Constitution and the period following its ratification. “In many ways,” he argued, “the Anti-federalist notion of responsiveness continued to command more adherents than the Madisonian ideal of deliberation.”\(^9^1\) If these assessments are correct, and a deliberative legislature had been the Framers’ object, “they failed.”\(^9^2\)

The elections for the First House were a realization of that failure, since Bernstein describes them providing “ominous evidence that representational politics-- the kind that Madison and his allies had sought to bar from the national level-- had penetrated the Constitution’s electoral system and was poised to taint the work of the First Congress.”\(^9^3\) Gordon Wood, however, disagrees. He acknowledges the dominance of the representational model in the period directly after the Revolution, and describes the limits of the deliberative

\(^8^9\) Bernstein, “Parliamentary Politics,” see section on “Models in Conflict,” 86-105.  
\(^9^1\) Rakove, *Original Meanings*, 243.  
\(^9^3\) Ibid., 135-36.
model in what was palatable to American sensibilities about representation. His interpretation diverges from the others, however, with his claim that the government created by the Constitution was indelibly shaped by the framers’ distaste for a representational theory of government and representation. 94

Which was correct? Did the First House of Representatives come to embody the concept of the “representative as local delegate?” And if not, to what extent was the ideal of deliberation ensconced within the framework of the House of Representatives? The records of what transpired in its opening session present a very different picture than that presented by Bernstein, Bickford, and Rakove. To judge by their statements and actions on the floor of the House, representatives in 1789 envisioned a far more national scope and constituency for themselves, and a more deliberative manner of achieving and promoting the general welfare.

The men who took their seats in the first House of Representatives in 1789 enjoyed a surprising uniformity of opinion and sentiment. While there were certainly no formalized political parties, nearly every member had been on the same side of the major political division of the time: whether or not to support the Constitution. At least forty-nine of fifty-nine representatives present in the first session, or approximately 83%, identified as Federalist supporters of the Constitution. 95 Of these, twenty-eight had served in either the Continental or Confederation Congresses and would have been familiar with the defects and shortcomings of the previous attempts at national governance. Many more had served in the Continental Army,

94 Wood, 383, 600, 615.

one of the most powerful national symbols in the young United States, and a major experience in the formation of a *national* identity. These men carried with them a predominantly *national*, or *nation-wide* outlook that would shape their understanding of how they were to serve and who they were to represent. Of the members who did not support the Constitution, no more than five had ever served beyond the state level. Possibly due to this common political background, most members of the First House of Representatives shared similar assumptions about their constituencies and roles. In her study of political culture in the Early Republic, Joanne Freeman argues that political discourse took place within a framework based on shared assumptions and values that dictated the way politics was done. Similarly, the dominant assumptions held by the original members of the House regarding their constituencies shaped the way that body functioned. Most assumed a more national posture and positive notion of government’s ability to promote the overall good of the country.

This national outlook is crucial to understanding much of the agenda and communications policies of the Federalists in the First House of Representatives. On one level, shaping the House into a deliberative legislative body was something they saw as a necessary part of the process of promoting the public good. They believed it necessary to deliberate with each other in order to share opinions and knowledge and reach a consensus to promote that common benefit for all Americans, to represent the entire country and not merely their

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97 See Martis, *Historical Atlas*. For biographies and estimation of the party affiliation of members of the First Congress see <bioguide.congress.gov/biosearch/biosearch.asp>.

immediate constituents who elected them. In trying to promote and institutionalize a more national outlook and perspective in the House of Representatives, Federalists needed to shape the contours of the debate into ones more conducive to deliberation. At the same time, the actual act of deliberation, of discussing and conferring, was really an institutionalization of the Federalists’ own understanding of the way political communication should take place, of the way both representatives and constituents should communicate with each other and receive and disseminate information.

The common culture posited by Freeman can be seen in the vocabulary, the debates, the nature of the proposals made, and the outcomes of votes taken by this Federalist-dominated Congress. Most importantly, though, it shaped the very body in which they sat, establishing precedents and procedures that molded the House into a more deliberative body to discuss and contemplate national issues, determine the avenues through which political information would be disseminated, and the type and character that this information would be allowed to take. In short, during its opening session, the House of Representatives could have developed into a very different kind of body with different concerns and methods of communication, following any number of other models or notions of representation then existing in the American legislative tradition. Instead, it developed down a very specific path due in large part to the particular understanding of representation and the accompanying political vocabulary and communication structure that came to characterize it. It was this framework that provided the answer to the question of “whom did the members of the First House represent?”
“Pacificus” was not shy with his answer to that question. Later in his letter to Madison, he wrote:

Are they [your constituents] the electors of a small district? These indeed gave you a place in the federal legislature; but the moment you were declared to be elected, you became the representative of three millions of people, and you are bound, by the principles of representation and by your own declaration, to promote the general good of the United States. You had no right to declare that you would act upon the sentiments and wishes of your immediate constituents, unless you should be convinced that the measures you advocate coincide with the wishes of the whole Union. If I have any just idea of legislation, this doctrine is incontrovertible.\(^99\)

We have seen how Madison and Hamilton in the *Federalist* believed the size of the legislative district from which members of Congress were elected affected the relationship with their constituents. Again, Pacificus reminds us that these questions were very much still in the air. Questions of whom they represented and how best to meet the needs of those constituents were rarely far from the thoughts of the first members of the House of Representatives. In the long, protracted debate over the very first bill to come before the House, the outcome of the legislation frequently hinged on this idea, and the debate turned to a discussion on theories of representation.

On April 9, 1789, James Madison rose to propose that the House consider its first substantive legislation: how to raise revenue for the new federal government. In his estimate, this would best be achieved by the levying of customs duties on goods brought into the country. As the House considered the subject, Madison proposed using the formula suggested by the Confederation Congress in 1783, touching off a debate on what was to be taxed and by

\(^{99}\) *Madison Papers*, vol. 12, 334-35. “Pacificus” is believed to have been prominent Federalist Noah Webster.
The debate over specifics quickly turned to a discussion on how to best meet the needs of the country in general. Almost immediately, Thomas Tudor Tucker of South Carolina objected to any continuing discussion of the matter until there were more members present from southern states, he being the only Representative from a state south of Virginia, and the House at that point dominated by northerners. Part of the country, according to Tucker, was not represented in this debate and in his estimate, the measures proposed were particularly harmful to his region. Being detrimental to the interests of southern states, it was not prudent to proceed without their input, which was necessary to determine the larger interests of the country as a whole. “In order to preserve the peace and tranquility of the Union,” said Tucker, it will become necessary that mutual deference and accommodation should take place.... When different interests prevail, it is to be supposed adverse sentiments will rise, and the gentlemen from those states which are interested ...will naturally be more favorably inclined to a corresponding measure, than those from other states whose interests it would be to have little or no duty at all. Hence, all that can be expected, is such a degree of accommodation as to ensure the greatest degree of general good, with the least possible evil to the individuals of the political community.101

Many of the other representatives disagreed with Tucker’s plea, and his suggestion to put off debate on duties until a later date went unheeded. This was not, we shall see, an attempt by Northerners to dominate the political debate, but rather evidence of a different understanding of their roles as representatives. Madison, a fellow southerner, stated,


It will be necessary, on the one hand, to weigh and regard the sentiments of the gentlemen from the different parts of the United States; but on the other hand, we must limit our consideration on this head, and, not withstanding all the deference and respect we pay to those sentiments, we must consider the general interest of the Union; for this is as much every gentleman’s duty to consider as is the local or state interest -- and any system of impost that this committee may adopt must be founded on the principles of mutual concession.  

Madison continued with a soliloquy on why it was in the interest of the entire country to adopt his measure.

In Madison’s statement on the floor of the House, there are two competing threads of the communication paradigm slowly taking shape. On the one hand, he explicitly recognized the need to “weigh and regard the sentiments of the gentlemen” from the southern states. As Madison had described in Federalist 56, representatives brought with them to Congress a wealth of local knowledge about their respective districts, and the best way for congressmen to learn specific information about other areas of the country was to share their knowledge and learn from other congressmen.  

Madison acknowledged that it was important to gain the knowledge of the southern representatives who had yet to arrive at the federal capital. However, he was also very clear in his opinion that the House must be careful to steer clear of making decisions based solely on local interests that did not take the needs of the entire country into account, needs that could best be determined through discussion and deliberation, not simply the wishes or sentiments of a few. Madison, in this instance, certainly agreed with the understanding of “Pacificus” as to what his duties were. He proceeded to paint a picture of society as an organic whole, proclaiming that, “Although the freedom of commerce would be

102 Ibid., 116-19.

advantageous to the world, yet, in some particulars, one nation might suffer to benefit others, and this ought to be for the general good of society.”

What Madison and Tucker present in this debate are two opposing definitions of their constituencies. However, they seem to concur about their primary role as Representatives, which Federalist-leaning Elias Boudinot of Connecticut made explicit after listening to the two men and others discuss the issue. “I trust we all have the same object in view,” said Boudinot, “namely the public good [italics mine] of the United States, so I hope that a willing ear be lent to every proposition likely to promote this end.” What Boudinot recognized was that both Tucker and Madison believed they were charged with promoting the “public good:” Tucker’s “general good,” or Madison’s “general interest of the Union.” They merely had different methods in mind for achieving it.

To Boudinot, the prime ingredient for achieving this goal was information. While he was inclined to agree with Madison’s suggestions and vote for the bill, he felt more information was necessary for him to fully know and understand the matter at hand, and he wanted to listen to what others with a closer connection and more intimate knowledge of the issue had to say on the topic. “I confess,” Boudinot explained, that this “is a subject on which I stand greatly in need of information. I should therefore, most cordially comply with the request of the gentleman from South Carolina (Mr. Tucker) in order to obtain time for consideration, and to wait the arrival of the absent gentlemen in order that we may have the assistance which is to

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105 Ibid., 119.
be derived from them.  " Boudinot felt it important to gain information on a topic, to listen to the information of others with different perspectives or more intimate knowledge. Debate, discussion, and the sharing of information, though, were of paramount importance. "I presume it is intended by the mover only to lay his motion on the table, with the original propositions open for debate and consideration, till the committee are possessed of sufficient information to proceed.... I confess, Sir, that I do not consider myself master of the subject, and shall therefore wait for information from those gentlemen who are best able to give it," Boudinot concluded.  

Boudinot believed his role was to deliberate and discuss the larger issues facing the country as a whole, for "the better any measure is digested and understood, the more likely we are to avoid partial ideas and attend to what is most beneficial to the general good." Like Madison in *Federalist 56*, he proposed seeking advice and information from merchants, the citizens ostensibly best informed and most affected by imposts and customs, to learn their thoughts on the matter, rather than decide purely on the opinions and information of his immediate constituents. Of course, the best interests of the whole, rather than the few must take precedence: "it is the duty of the members of this body to see that the principles upon which we act, are those calculated to promote the general good, and not confined to the local interests of a few individuals, or even individual states." While it was important to consult with those most knowledgeable about a specific subject in order to obtain information beyond

106 Ibid.
107 Ibid.
one’s own constituents, even that knowledge must be placed within a proper context and weighed against the greater good.

Attacks on pretensions to serve local interests at the expense of the “general good” were common-place and widespread throughout the first session of the House. Statements like Boudinot’s turn on its head the argument advanced by Tucker, that the public good could best be determined through the aggregate accumulated interests of individuals and localities. Tucker and Fisher Ames of Massachusetts argued throughout the two-month debate over customs and tonnage duties that many of the specific items and amounts levied bore a greater burden on their respective region than the rest of the country. On May 5, for example, Tucker railed against the proposed duty on tonnage, saying that “the Southern states are willing to submit to the inconvenience of a general regulation of commerce; but let them not bear an undue proportion of the burthen…. These we are willing to lay…will certainly give displeasure to the Southern States.”

Ames made similar pronouncements regarding New England on an almost daily basis, such as his statement on May 5 that high protective tariffs be levied to protect goods manufactured in New England as “It is not [in the] interest of my state [that] manufactures should be stopped.”

During the debate over tonnage duties, Samuel Livermore of New Hampshire expressed concern over arguments such as those given by Tucker and Ames. He was “sorry” that this “subject has been considered in the light of an opposition between the two extremes of the continent, because I apprehend every individual in the United States is alike interested; it is the

109 “Proceedings May 5, 1789.” From Ibid., 275-76.

mark of an honorable system necessary to the good of the whole.”\textsuperscript{111} Perhaps with these sentiments in mind, a few minutes later Theodorick Bland of Virginia remarked that “I should therefore be in favor of adopting some temporary system, in order to give time to the House to get information relative to the state of agriculture and commerce; for without a more perfect knowledge of those two interests, than we at present have, I believe our regulations will be imperfect, if not inexpedient.”\textsuperscript{112} A desire for more information and the opportunity to discuss it had moved beyond the occasional isolated remark.

On April 28, avowed Federalist Peter Silvester of New York made a similar call for compromise, discussion, sharing of information, and regional detachment when considering such issues.\textsuperscript{113} His ideological brother, Thomas Fitzsimmons of Pennsylvania, explicitly denounced an adherence to one part of the body politic, or society, at the expense of the rest of the country. He responded to those claims by Tucker and Ames that, “whenever a particular duty was supposed to bear hard on any one member of the Union, it ought to be regarded as part only of a system bearing equally upon all.” A merchant by occupation, Fitzsimmons participated in the deliberations over tonnage and impost duties as a person who possessed specific information on the matter at hand and shared it with his fellow congressmen. He “imagined he was unwilling to fetter” commerce and trade “with restraints; but as a member of this body, he considered it proper to forego a pertinacious adhesion to that system, when its

\textsuperscript{111} “Proceedings May 5, 1789.” \textit{Annals of Congress}. House of Representatives, 1\textsuperscript{st} Congress, 1\textsuperscript{st} Session, 282 (accessed September 27, 2014).

\textsuperscript{112} Ibid., 286.

\textsuperscript{113} “Proceedings April 28, 1789.” From Ibid., 236.
interest came in competition with the general welfare.” To Fitzsimmons the Federalist, a representative’s duty was not to support local and “special” interests, but to promote the 

*general* welfare of all.

Both Federalist and Antifederalist congressmen alike made statements and pronouncements favoring the ideal of deliberation and a specific dissemination of knowledge and information that supported a political system based on this principle. But while there appeared to have been widespread support in the House of Representatives for these values, to what extent were they actually institutionalized within the American political framework? The national, deliberative understanding of the representative’s role espoused by Fitzsimmons, Silvester, and Livermore, among others, was so pervasive that it came to dominate the proceedings in the House. All discourse took place using the vocabulary of this outlook. Even those who tended to argue from a more localist perspective, who believed that the greater good was best determined by the aggregate sum of individual and local interests, still spoke of looking out for the “whole,” and the “union.” They used phrases like “general welfare,” “general good,” and “public good” in speaking about their objectives and roles. They had to couch their ideas and arguments in terms acceptable to the dominant political culture of the House.

Even Ames and Tucker, who advocated more local interests, spoke of their regional concerns in terms of the “union” as a system of equal parts, in which conditions in each part affected the whole. Ames, for example, argued that a heavy duty on molasses and rum hit

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114 Ibid., 140-42.
harder on New England than any other region. Accepting such a duty, he argued, damaged New England’s maritime capabilities, and therefore adversely affected the economies of every other region in the United States.\textsuperscript{115} On April 28, the Massachusetts Centinel reported Ames saying that “he should feel assured that the impost on Molasses would be reduced, if he could prove that it was hostile....If it would injure an important manufacture—if it would deeply affect the fishery, gentlemen would not suppose that he was guided by local prejudices and interests. Here he entered into some details to evince the importance of the fishery and the distilleries to the Union.”\textsuperscript{116} Tucker invoked the notion of the United States as an aggregate system of interrelated parts as well. He objected to the proposed duty on imported candles for just this reason, namely that bearing harder upon the Southern economy, the duty would harm the rest of the union.\textsuperscript{117}

Within this atmosphere in the House, it was not acceptable to speak of local interests as a stand-alone concern, as the primary object of a representative’s responsibility. These matters still had to be framed as part of a national outlook. When they were not, when the advocate of a local or regional interest became explicit or strayed too far from the accepted vocabulary, the offending Representative was immediately corrected and reminded of his proper role or duty. After Fisher Ames denounced yet another proposed duty on rum as harmful to Massachusetts by launching into a list of the many harms such a proposition would visit upon his state, he was promptly pounced on by James Madison. The Virginian tersely asked whether

\textsuperscript{115} Ibid., 138-140.

\textsuperscript{116} “Proceedings April 28, 1789.” From DHFFC vol. X, 364, as reported in the Massachusetts Centinel.

\textsuperscript{117} “Proceedings April 28, 1789.” Annals of Congress. House of Representatives, 1\textsuperscript{st} Congress, 1\textsuperscript{st} Session, 152-53 (accessed September 27, 2014).
the state of Massachusetts did not contribute in proportion to other states.... Southern states import many articles which the Northern states do not...and why may we not, with equal justice, color our reasoning with a description of our sufferings?...But let me ask gentlemen, why these apprehensions for one part of the Union more than the other?...No, I trust the General Government will equally affect all; it was instituted for the protection of all, and it is expected it will accomplish the end for which it was established. But this can only be done by acts of justice and impartiality.118

Even more telling than Madison’s chastisement, however, is Ames’ reaction. Madison attempted to characterize Ames as ignoring the good of the whole country to advocate the interests of a small minority. Recall Madison’s famous position in Federalist 10 in which he posited that the larger the legislative district, the more effectually could the general knowledge, wisdom, and information of the public be channeled through the filters of their representatives. The representatives would use that assembled wisdom to best promote the public good of the nation.119 Having strayed too far outside the dominant framework, Ames had to temporarily abandon his positions and retreat. He apologized for any appearance of standing for local, rather than national, interests. “He should be sorry,” Ames responded,

if he had made use of any language to injure any gentleman’s feelings. He did not mean to infer that the people of Massachusetts possessed any excellence over their southern brethren; far from it.... He therefore hoped nothing local would be attributed to him on the occasion.120

As Thomas Tudor Tucker discovered, even the repetition of this argument could be perceived as self-interested. After Tucker’s attack on the candle duty, Fitzsimmons frustratingly

118 Ibid., 236.
119 Madison, Federalist 10, from The Federalist Papers, 126.
remarked that “Every article imported into the state that gentleman [Tucker] represents, from which revenue is to be raised, he moves to have struck out.” Those Representatives primarily concerned with the interests of their local constituencies had to walk a fine line to at least appear to have the interests of the whole union, or general good, at heart.

This dominant, national outlook was not merely reflected in the accepted discourse and vocabulary used on the floor of the House, but actually came to shape the workings and basic structure of the institution itself. The notion that the country should be governed by a body of men, each looking out for the interests of the whole, created the need for a deliberative structure to that body. If wise men were to come together from different corners of the country to promote the general welfare of the union, the need for rules and a legislative structure that would foster debate and an open exchange of ideas within the legislative chamber was essential. Apart from the raising of revenue, one of the first orders of business for the House of Representatives was to establish the rules of procedure and discourse in the new body. Before a quorum was even reached, the first Representatives to gather in New York felt it necessary to establish the oath of office they must take before discharging any of their duties. The oath itself reveals the scope of the roles they envisioned for themselves:

I, A-B, a Representative of the United States in the Congress thereof, do solemnly swear (or affirm as the case may be) in the presence of Almighty GOD, that I will support the Constitution of the United States. So help me God [italics mine].

Note the phrase “a Representative of the United States in the Congress thereof.” Why not “a Representative of Virginia (or whichever state) in the Congress of the United States?” It is

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121 “Proceedings April 15, 1789.” From Ibid., 152-53.

122 “Proceedings April 2, 1789.” From Ibid., 101.
commonly believed that most Americans at this time thought in local terms, referring to their home state as their “country.” It is striking, then, that they would use the phrase “representative of the United States” since it suggests how they perceived their roles as they arrived in New York to embark on this new undertaking.

Other rules, as well, forced the House down a more deliberative course. Amongst the rules and procedures initially established by the House of Representatives was a strict attendance policy requiring members to be present every day unless they received a leave of absence from the House.\textsuperscript{123} That each member was also required to cast an up or down vote on every motion suggests the majority of the House wanted its members to take an active role in its proceedings. One of the foremost weaknesses of the Confederation Congress was that it often could not muster enough members to form a quorum. The attendance and voting policies were not in and of themselves evidence that a deliberative structure was being created in the House of Representatives. However, knowing the type of legislature its members envisioned, the rules forcing Representatives to be present and to vote can clearly be inferred as encouragement to foster debate and deliberation. These were necessary ingredients for any deliberative assembly.

Among the other rules adopted, two of the most important provide the matrix through which all business was to be done: parliamentary procedure, and a peculiar legislative device known as the Committee of the Whole. Parliamentary Procedure had a long tradition in Anglo-American legislative history. It was the standard set of rules for debate in the British Parliament

\textsuperscript{123} Ibid., 103-04.
and had been used in American legislatures from the Confederation Congress to the Federal Convention. Most importantly, though, by incorporating Parliamentary Procedure, the first representatives set up a system for organized debate. It laid out specified rules for who could speak, when and how debate was moderated, and how the local knowledge and information of individual congressmen would be shared with the body as a whole. Further, the adoption of Parliamentary Procedure legitimized the Congress as a part of the English political tradition and may have inspired its members to the “high standards” of debate set by the deliberative British Parliament.

The Committee of the Whole was similarly crucial in shaping the House into a deliberative body. This legislative procedure provided a forum for communication of ideas and debate amongst congressmen within the House chamber itself. The full House of Representatives could vote on actual bills, read minutes, receive petitions or outside addresses, and appoint committees to take care of detailed business. It could not, however, debate or even alter bills. Borrowed from that traditional example of a deliberative legislature, the British Parliament, the Committee of the Whole would become standard operating procedure in the United States Congress. In the House of Representatives, it would be used much more proactively as a device to promote debate, and could be considered the first standing, or permanent, committee of the House. While bills could only be introduced and/or voted on in the full House, they could only be discussed or changed in a select committee. The Committee of the Whole existed for the express purpose of providing the members of the House the

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124 Olson, 33.

opportunity to debate and deliberate over the myriad pressing matters concerning the entire union itself. The Committee of the Whole consisted of every member of the House and met during the hours it was in session in the full House chamber. It not only became the forum for discussion, but the standard mode of operation for the House to conduct its business. Further, as arguably the first forum, or sphere, for national political debate in the United States, the Committee of the Whole was an initial foray into setting aside a quasi-public space for national political discourse.

While we can infer from the very existence of the Committee of the Whole that national deliberation was to play a role in the House of Representatives, the degree and extent of that role were not immediately apparent. In fact, the use of the Committee of the Whole to deliberate over matters became a point of contention almost from the beginning. On April 14, a few days after debate first began over customs duties, several important questions arose that spoke to the very function and purpose of debate in the Committee of the Whole. When should issues be discussed in the Committee of the Whole, or submitted to a smaller committee? Could the Committee of the Whole alter bills submitted by other committees? Was it more expedient to debate proposals in the Committee of the Whole, or have a separate committee develop a proposal and the House merely vote on it?

These questions and the debate that sparked them arose from a motion by Josiah Parker of Virginia. During a discussion in the Committee of the Whole over which imported items should be assessed duties, he moved that a separate committee be appointed to devise the mode and method for the collection of those duties. Parker’s motion led some
representatives to wonder whether the business of the House could be better accomplished by some other means than systematically debating a bill line by line, provision by provision, in the Committee of the Whole for hours on end. The debate was finally brought to a close when Madison proposed that, “while the Committee of the Whole are selecting articles and taxing them, another committee can be employed in devising the mode of collection.” He cited the inconveniences to which the committee were exposed: it was impossible from the peculiar situation of Congress, that the subject of revenue could be entered upon methodically...but...he trusted in future that it would, and in the interim he recommended gentlemen to exert themselves in giving and procuring information in order to get some system formed as speedily as possible.  

Madison’s proposal suggested that, in the interests of time, the least contentious business of the House be put before ad hoc select committees, while those subjects most contentious were best aired and deliberated in the Committee of the Whole. As Madison put it, “A great advantage of their expedient is that [a] special committee goes on with [the] laborious part of [the] work while we are discussing what some gentlemen think can only be discussed in public.” His motion was adopted.

In settling the immediate issue at hand, Madison’s plan seems to have gone a long way toward establishing the role of the Committee of the Whole, at least for the remainder of the first session of the House of Representatives. It became standard practice for the House, after hearing the previous day’s minutes and receiving petitions and updates from other committees, to resolve into the Committee of the Whole and discuss business. What was initially a mostly haphazard, unorganized debate over customs duties, in which the role of the Committee of the Whole

\[126\] For Parker’s motion and the ensuing debate, see DHFFC, vol. X, 41-66.

\[127\] Ibid., 50.
Whole as a tool and medium for national deliberation was not established, became a
standardized process characterized by an accepted understanding of the Committee of the
Whole as a forum where the most weighty issues of the union could be contested. All new
major subjects to come before the House in the first session were introduced and debated
there, while lesser issues, such as how to respond to a Presidential address or whether to grant
an exclusive copyright to a history of the Revolutionary War, were generally submitted to select
committees. The much anticipated subject of constitutional amendments, for example, was
first introduced into the Committee of the Whole.

The discussion over constitutional amendments tested the newly accepted role and
optimal use of the Committee of the Whole. And yet again, the professed expediency and
benefits of large-scale deliberation would reinforce the institutional structure of the House.
When constitutional amendments were first discussed in the House on August 14, Elbridge
Gerry of Massachusetts objected to their being discussed and debated in the Committee of the
Whole. John Page of Virginia, however, believed discussion of amendments in the Committee
of the Whole would expedite the subject since the Committee of the Whole provided the best
forum for all the members of the House of Representatives to come together, exchange ideas,
and hash out solutions. It was most conducive to problem solving. While a committee had
earlier been appointed to pare down the hundreds of amendments proposed by the states, the
actual discussion in the Committee of the Whole involved different amendments proposed and
discarded during debates over the select committee’s proposals. To Page, this was how
subjects should be treated in the House: placed out in the open where all members could have
their say. Clearly, the majority of the House agreed.
Gerry’s motion was defeated, and the practice of proposing changes to the select committee’s proposals and adding new amendments during debates was allowed. Both results went beyond simply whether or not the proposals should be adopted, and instead contributed to institutionalizing the deliberative character of the House of Representatives. In fact, Gerry’s motion itself can be interpreted as further evidence of the success of the Committee of the Whole as a medium for deliberation. There was speculation among several representatives that Gerry, an Antifederalist, was trying to sabotage the confidence and trust of the people in the Constitution itself by preventing amendments to it from coming to fruition. Gerry’s actions seem to demonstrate his recognition that the purpose of the deliberations in the Committee of the Whole was to produce results.

On August 14, the House engaged in a debate over the future reapportionment of its numbers. Fisher Ames moved to keep legislative districts large, over 40,000 people, in an effort to keep the number of representatives in the House small. Ames wanted the House to grow slowly and proportionally, and envisioned that eventually there would be a cap placed on its size. According to the deliberative theory, this would better promote debate and discussion over issues and ensure that membership in the House would be confined to the wisest and

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That Ames’ motion lost appears on its face to be a rejection of the deliberative model. However, a closer examination demonstrates otherwise. First, the vote over Ames’ motion was extremely close, 27-22. Second, the vote on the motion previous to Ames’, a proposal by John Vining of Delaware that the number of representatives be greatly increased and their selection tied more closely to the state legislatures, was overwhelmingly defeated. Vining’s motion was much more aligned with the representational model of government. That it was defeated as well as Ames’ suggests that most Representatives’ visions for future representation in the House lay somewhere between the two. The near-unanimity of the vote against Vining, coupled with the close vote against Ames, implies that the dominant sentiment of the House lay closer to the latter’s view, and therefore to the deliberative model.

In fact, the sentiments of most representatives did not differ all that much from Ames’ proposal. Most wanted the House to grow slowly and proportionally, and most believed the number of representatives should be capped at some point in the future to keep it manageable and maintain a high level of debate and broad scope of action. The staunch Federalist, Roger Sherman, spoke for many when he said, “The objects of the Federal Government were fewer than those of the State Government; they did not require an equal degree of local knowledge.....
He always considered a small body deliberated to a better purpose than a greater one.”

They simply did not like the 40,000 figure suggested by Ames, preferring to maintain the size of congressional districts at their current level of 30,000 people for the time being.

Perhaps the single most profound episode in the institutionalization of a national, deliberative outlook in the House of Representatives took place on August 15, during the debates over constitutional amendments. Ironically, one of the amendments proposed in the Committee of the Whole itself sought to close off nearly all future debate in the House and substitute a representational system in place of the deliberative one then taking shape. On that date, Thomas Tudor Tucker proposed inserting the words “to instruct their representatives” into the language of what would eventually become the First Amendment.

Tucker’s Amendment was quite striking in both the alternate understanding of representation it put forth and the corresponding legislative structure required to make it work. Tucker proposed that all members of Congress, in the House and Senate, should be constitutionally obliged to adhere to binding instructions by their constituents. These instructions would direct them how to vote and specify what issues they could raise and introduce. Tucker, one of the earliest and most vocal critics of the Federalists and the Washington Administration, clearly and explicitly was on the side of those in favor of the representational model and its accompanying understanding of the ways representatives and their constituents were to communicate with each other. This was especially true in light of his

133 Ibid., 753.
134 Ibid., 747-55.
135 Creating Bill of Rights, 151.
earlier statements and motions advocating special attention to his local constituents and their interests. In the “desultory” debate that followed, as it was characterized by the *New York Daily Advertiser*, the question of what constituents the individual House members represented, and therefore whether the House should be a deliberative or representational body, became explicitly linked.\(^{136}\) How to determine what was the public good and how the House should best function in order to determine it, emerged as the crucial issues that shaped all other business before the House.

Where the vast majority of the House stood on this issue was immediately apparent. Aside from the clear logistical problems involved in binding instructions, such as determining who had the authority to give them, most representatives found the very idea antithetical to their perceived roles. For example, Federalist George Clymer of Pennsylvania based his opposition on “the principle of the motion [being] a dangerous one. It would take away all the freedom and independence of the representatives, it would destroy the very spirit of representation itself, by rendering Congress a passive machine instead of a deliberative body.”\(^{137}\) His Federalist colleague, Roger Sherman concurred, saying,

\begin{quote}
Instructions were not a proper rule for the representative, since they were not adequate to the purposes for which he was delegated. He was to consult the common good of the whole, and was the servant of the people at large. If they [instructions] should coincide with his ideas of the common good, they would be unnecessary; if they contradicted them, he would be bound by every principle of justice to disregard them.\(^{138}\)
\end{quote}

\(^{136}\) Ibid., 153.

\(^{137}\) Ibid., 151.

\(^{138}\) Ibid.
Sherman and Clymer believed that the ability to deliberate and debate was essential in order for representatives to act with a national perspective and promote the good of the whole country. Binding instructions from a more narrow constituency would prevent them from achieving not only the purpose to which they believed they were sent to Congress, but the purpose for which Congress existed: the promotion of the public good of the United States. Nearly the entire House agreed with these assumptions, as shown by the fact that almost every member who rose to speak echoed the sentiments of Sherman and Clymer. Binding instructions were deemed a hindrance to their perceived duties as representatives, and the measure was soundly defeated 41-10.\textsuperscript{139}

Despite the overwhelming sentiment in opposition to Tucker’s Amendment, his proposal and the theory of representation it rested on did not come “out of left field,” so to speak. It may seem quite striking and odd to contemporary Americans, but for the members of the First House of Representatives, the vote over instructions was one of those moments in history when events could have moved in a completely different direction. As stated earlier, the representational model had an established place in American legislative history. It dominated the period during and immediately after the Revolutionary War, particularly the predecessor to the current incarnation of Congress, the Confederation Congress, and continued to inform the opinions of a sizeable number of Americans. At the very moment the Tucker Amendment was being debated, no less than three states, Massachusetts, Pennsylvania, and

\textsuperscript{139} Ibid., 151-55.
North Carolina, explicitly stated the right of their citizens to instruct their representatives.\(^{140}\) Elbridge Gerry, one of the few who supported the Tucker Amendment, stated that “several of the states [in their ratifying conventions one year earlier], had proposed this amendment” to the Constitution.\(^{141}\) As late as 1790, Rhode Island would submit a list of amendments to Congress as prerequisites to its ratification of the Constitution. Among them was the “right” of the people to “instruct their representatives.”\(^{142}\)

The Senate, as well, took up the issue of instructions in its first session and, in a similarly lopsided manner, voted 14-2 against them.\(^{143}\) While the matter died in the House however, it periodically arose in the upper chamber with increasing frequency as it became a part of the southern “State Rights Doctrine.” It would remain an issue in the Senate even in the First Congress.\(^{144}\) The vote in the House of Representatives over Tucker’s Amendment may have been lopsided, but the result was not preordained. The relationship between representative and constituent could have taken a very different turn, and the way information was shared and communicated within the political sphere of the United States would have taken a very different shape.


\(^{141}\) *Creating the Bill of Rights*, 156.


\(^{143}\) Ibid., 70.

With the defeat of the Tucker Amendment, the matter was closed to the members of the First House of Representatives. The first representatives did not, as Bernstein and Rakove believed, “fail” in establishing a deliberative character to the House. Rather, as various topics arose, many of the representatives who had supported ratification of the Constitution and allied themselves with the burgeoning Federalist ideology, drew on their beliefs about the proper relationship between constituents and their representatives, on their understanding of how political information should be disseminated, and on which members of the political process should receive what type of information as they confronted these larger theories. The deliberative framework directing the conduct of business took shape piecemeal, in a step-by-step manner during the discussion of substantive legislation, but during the summer of 1789, representatives found themselves institutionalized within the day-to-day operations of the House. They had shaped the basic framework of the institution into a deliberative structure and had therefore begun to stamp their understanding of communication on the American political process.

Through the establishment of procedures such as the Committee of the Whole and the attendance and voting requirements, the House was to function as a deliberative body, and business was to be accomplished through discussion and debate. These were not the only procedural elements instituted within the First Congress to rest on Federalist assumptions about communication. But the ideal of deliberation--that the knowledge and interests of the people would be mediated through the filter of wise representatives who would use that collected, local knowledge to craft legislation and policies conducive to the public good of the entire United States--would continue to become an institutional, driving force behind the
politics of the 1790’s. The Federalist-dominated House of Representatives had established the role of the representative and his relationship to the people. Creating a political and communication system that supported those ends would be a much more difficult road to travel.
IV. FOSTERING SUPPORT

The Role of Information and the Recording of Congressional Proceedings in the First Congress

On the morning of May 28, 1789, Senator William Maclay of Pennsylvania arrived several hours early at the Senate chamber in Federal Hall, New York City. Shortly after arriving to begin his preparation for the day’s session, Maclay was joined by three of his colleagues—Senators John Langdon and Charles Carroll, and Vice President John Adams. The four men struck up an amiable conversation about the prospects of the new government and Constitution, recorded by Maclay in his diary: “I was here near an hour before any person came,” he recounted,

Langdon, Carroll, and the President [of the Senate, John Adams] came. The discourse was general on the Subject of Government, if our New Government does well (said our President) I shall be more surprized than ever I was in my life. Mr Caroll said he hoped well of it, it would be sufficiently powerful. If it is said he, I know not from whence, it is to arise It cannot have energy, it has neither rewards nor punishments, Mr. Caroll reply’d the People of America were enlight-ened, information and knowledge would be the support of it. Mr Adams reply’d information and Knowledge were not the sources of Obedience, That ignorance was a much better source.  

While the prospects of the new federal government were far from certain in the Spring of 1789, it was clear to America’s leading political figures that success was intrinsically linked to the support and confidence of the American people in this new government. Readily acknowledged on all sides was the belief that, as Carroll professed, effective dissemination of knowledge and information would be the lifeblood of the republic and foster widespread

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support from the public. Among many Federalists like Adams, however, there was also a fear that too much information could be harmful and produce the opposite effect—“obedience,” as Adams cautioned, was rarely the product of unfettered access to knowledge.

Though Adams was not particularly egalitarian in his framing of the issue, a fact that often won him the disdain of Maclay and other Administration critics, he was not alone in the tenor of his sentiments. As the First Congress got underway and the work of creating lasting political institutions and systems began, the people’s faith in and respect for the new institutions were often the foremost priorities of officers of the new government. The reputation of the federal government under the Constitution was often at the heart of many seemingly disconnected issues. The Federalists and their allies and supporters sought to establish rules and procedures in both the House of Representatives and the Senate that would best achieve this goal. Balancing the positive need for a wide dissemination of knowledge with Adams’ caution that sometimes support—“obedience”—depended on what the people did not know became a continual concern for men of all political persuasions during the First Congress.

This was not the only conversation Maclay had with Adams on the topic of public confidence in the government. Only a few days earlier, on May 26th, he recounted a private conversation with the Vice President about the need for titles for officers of the new government. Adams reiterated a position held by many of the Federalist persuasion. He attempted to impress upon Maclay the importance of titles to produce respect amongst the people for the officers of their government.\(^{146}\) The issue had already spilled over onto the

\(^{146}\) Ibid., 53.
Senate floor and debate continued off and on for many weeks that May. On May 14, for example, Maclay reported an intense debate in which the crux of the argument in favor of titles rested largely on the importance of deference and respect toward men who held the highest offices in the country.\textsuperscript{147} This was similar to the view expressed by Adams. While the side opposed to titles believed in the necessity of the utmost respect and deference of the public for officers of the federal government, they simply believed that titles were not necessary to provide it. Though those opposed to titles ultimately carried the day, Maclay reported that the vote was very close.\textsuperscript{148} While he certainly disagreed with Adams on the subject of titles, Maclay and other members of the burgeoning opposition were equally concerned that certain measures passed by the federal government might diminish the respect and confidence of the people. For instance, during a debate over imposts and tariffs toward the end of May, Maclay expressed concern that merchants raising their prices in the face of higher duties might significantly harm the confidence that the public had in their representatives in Congress.\textsuperscript{149} Both sides of the aisle felt this issue was of critical importance; they simply had differing ideas of how to best achieve the desired level of confidence in government and its officers.

There was a surprising amount of shared sentiment on many issues in the First Congress, particularly amongst Senators. Like the House, the United States Senate took up the

\textsuperscript{147} See Joanne Freeman, \textit{Affairs of Honor: National Politics in the New Republic}, (New Haven, CT: Yale University Press, 2001), 42. Freeman recounts an amusing, yet telling exchange over the use of titles in Congress where the House and Senate engaged in a back and forth over several days. As Freeman describes the event, “When a Senate bill styled some senators ‘the Honorable,’ the House voted to strike out the word—even before consideration of the bill itself. The Senate responded, Madison later recalled, with ‘an amendment to the amendt. by which the naming of the Senators was left out.’ The senators refused to have their names printed without the proper display of respect, charging the House, in turn, with the ‘Affectation of simplicity.’”

\textsuperscript{148} Maclay, 35-40.

\textsuperscript{149} Ibid., 48-49.
issue of instruction during the first session of Congress in 1789. And as in the House, there was a similarly lopsided vote against the idea, 14-2.\textsuperscript{150} During the course of the First Congress, both houses set about institutionalizing their visions of the new political system, and crafting procedures and roles that fostered the support of the people in their government was chief among their aims. We have examined some of these efforts in the House, but the Senate was equally interested in establishing the avenues of communication and the dissemination of information both to and from the Senate in a way that supported its broader aims. Some aspects of the Senate’s communications program may appear different from those undertaken in the House. However, the ultimate object for both houses was to craft a system of communication that supported the role of the deliberative legislator working toward the common good, as well as the role of the public in maintaining oversight by selecting men who met this challenge. There was very clearly an underlying uniformity and theme in the basic elements of communication that shaped both houses of Congress between 1789 and 1791.

William Maclay was a Senator from Pennsylvania during the First Congress, from 1789-91. A member of Congress from western Pennsylvania, he had largely Antifederalist, anti-administration leanings, and would become famous for the insights he recorded on Senate proceedings in his diary. Unlike the lower house, Senate proceedings were not open to the public during the First Congress. There are, therefore, no official records of debates and discussions. The Senate did keep a journal which was published regularly, but this only recorded votes, acts, motions, and a few other pieces of information relating to the day-to-day

happenings in the Senate. To learn more about the actual debates, discussions, and ideas expressed within the Senate during the first several years of its existence, one must look to unofficial records, such as the diaries and notes produced by Senators themselves. Among the most comprehensive of these records is the diary of Maclay. On February 24, 1791, he reported in his diary that Virginia’s two Senators were instructed by their constituents to make a motion for the Senate to open its doors to the public and construct a press gallery. The resolutions suggested by the Virginians asked that “it be a standing rule, that the doors of the Senate Chamber remain open whilst the Senate shall be sitting in a Legislative capacity, except in such occasions as, in their judgment, may require secrecy.” It would be the crux of this last sentiment- that communication should be open between the government and the people except when that information required secrecy or was deemed too dangerous for public knowledge- that would come to characterize the communication policies of the Federalists who administered the national government during the 1790’s.

151 “Proceedings April 9, 1789.” Annals of Congress. House of Representatives, 1st Congress, 1st Session. (Washington: Gales and Seaton, 1836), 1. From Library of Congress, A Century of Law-Making for a New Nation: U.S. Congressional Documents and Debates, 1774-1875. http://memory.loc.gov/ammem/amlaw/lawhome.html (accessed October 4, 2014). A note on the first page of the Annals of Congress for session 1 of the First Congress reads: “[It] is necessary to account for the meagerness of the report of the Senate proceedings in the earlier days of the Government, viz: that the Legislative as well as the Executive sittings of the Senate were held with closed doors until the second session of the third Congress with the single exception of the discussion of the contested election of A. Gallatin, as Senator from Pennsylvania, during which discussion the galleries were opened by special order of the Senate. On the 20th February, 1794, the Senate came to a resolution that, after the end of that session of Congress, the galleries of the Senate should be permitted to be open whilst the Senate should be engaged in its Legislative capacity, unless specially ordered otherwise. This it will be perceived, was an important change in the constitution of the Senate.”

152 Maclay, 296-97.

Maclay reported that the seemingly fleeting issue of instruction was inextricably linked to the omnipresent concern over the reporting of Senate proceedings.\(^\text{154}\) While the Senate overwhelmingly voted down a constitutional amendment in 1789 that would have bound members of Congress to carrying out their constituents’ instructions, the issue would resurface in the upper house from time to time.\(^\text{155}\) Federalist supporters of the Washington Administration were intensely concerned with the proper role of information and communication in the public sphere. And this becomes ever more apparent when their antipathy toward instruction and the opening of the Senate to the public are viewed in the same light. The objections to making Senate proceedings public, as they were reported by Maclay, sound very similar to those voiced during the debates over the Tucker Amendment: “The objections against [opening the Senate’s doors],” wrote Maclay, were “that the Members would make speeches for the Gallery and for the public Papers.”\(^\text{156}\) In his own diary, Senator Pierce Butler of Georgia, part of the early opposition in the Senate, recorded a similarly pro-Administration argument he heard from Federalist Senator Robert Morris. Butler recalled Morris as saying during a debate over opening the Senate to the public, “shoud the doors be opend there will not be the same Decorum [sic].”\(^\text{157}\)

The message was clear: opening the doors would change the dynamic of the Senate.

The ways in which Senators interacted with each other and with the public would be

\(^{154}\) Maclay, 296.

\(^{155}\) Clement Eaton, “Southern Senators and the Right of Instruction, 1789-1860,” Journal of Southern History vol. 18, no. 3 (Aug. 1952), 303-19. The issue of instructions would become entwined with that of “States Rights” and continue to periodically insert itself into political debates until the onset of the Civil War.

\(^{156}\) Maclay, 297.

\(^{157}\) Ibid., 463.
fundamentally altered, augmenting the possibilities for harmful information to become public and thereby changing the political process. It was up to the Administration and its allies to ensure that only information deemed necessary and legitimate enter the public sphere. This sentiment would become ensconced in Federalist communication policy throughout the 1790’s, and heavily influence the Sedition Act of 1798.

When the Senate eventually did open its proceedings to the public in 1794, it was not so much a reversal on the part of pro-Administration senators, but rather the result of external pressure to do so from a variety of sources, pressure which Federalist Senators were unable to ignore. Historians Terri Halperin and Elizabeth McPherson argue that southern state legislatures pressured the Senate to open its doors to allow state legislatures greater access to information of its proceedings and make the legislative body more accountable to the states.\(^{158}\)

Pressure from the press, particularly the growing opposition press, certainly affected the Senate’s decision to open its doors as well. According to Gerald Grotta, Phillip Freneau, the editor of the opposition *National Gazette*, led the charge against the perceived secrecy of the United States Senate. Allegedly encouraged and financially supported by Thomas Jefferson himself, Freneau’s *National Gazette* seized upon the issue of closed Senate proceedings as a means of criticizing the Washington Administration.\(^{159}\) A typical editorial from Freneau’s paper sounded like this one published on February 13, 1793: “So it [a motion to open the Senate] was

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again lost—and the PEOPLE are to remain ignorant of the proceedings of their Senators, for a season longer!” Frank L. Mott’s history of the opposition press describes a similar story. Mott posits that it was the growing public interest in, and commodification of, news that led the Senate to open its doors. He suggests that newspaper editors pressured the Senate through editorials like Freneau’s and other public denunciations of secrecy in order to improve their own economic standing. For both Mott and Grotta, the journalists of the 1790’s trumpeting the relatively new and highly amorphous values of a “free press” and accountability ultimately pressured the Senate to open its sessions to the public. Whichever the case may be, the Pro-administration precursors to the Federalists continued to promote policies that rested on the belief that sometimes the public good dictated that there were things the public does not need to know.

During his two years in the Senate, Maclay was both a chronicler of the Senate’s proceedings and the intrigue surrounding them and a dedicated opponent of the Pro-administration agenda. During the First Congress, he documented numerous events, votes, and debates. He also provided valuable commentary on them. While his recording of the debates over the opening of the Senate and constituent instructions reveals important features of the way communication was understood in the Senate, there were other votes and debates he recounted in his diary that related more subtle aspects of the process through which this


understanding was becoming institutionalized. In the first few months of 1789, several different issues were discussed and voted on that were not particularly controversial, but which provide a clear window into the values and assumptions that guided the Senators as they crafted policies that touched upon communication. It is especially significant to note the surprising amount of concurrence between the Federalists and their opponents about how they viewed the collecting, recording, and reporting of political information.

Of particular note are the Senate rules, established by the Senate and printed in its official journal on April 16, 1789. Just ten days after first reaching a quorum in the Senate, the body approved nineteen rules governing its proceedings and the basic conduct of its members while in session. Most of the rules dealt with how votes would be called and recorded, how committees would be appointed, and how bills were to be proposed and passed. Special attention should be paid to rules 16 and 17. Rule 16 stated in part that “When a member shall be called to order, he shall sit down until the President shall have determined whether he is in order or not.” 162 Rule 17 provided clarification on what it meant to be out of order, and how such an occurrence might be dealt with. “If a member be called to order for words spoken,” rule 17 began, “the exceptionable words shall be immediately taken down in writing, that the President may be better enabled to judge of the matter.” 163 These rules make it clear that certain types of communication were prohibited on the Senate floor. While they do not specify what exactly that communication was, what words were “exceptionable,” or what the ultimate punishment for saying them would be, the clear sense of the Senate in 1789 was that there

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162 Senate Journal, 13.
163 Ibid.
were certain things that should not be said or spoken about on the floor of the Senate. Within
days of opening its first session, the Senate began to establish standards of appropriate
communication.

The manner in which Senators would be informed and receive information about the
United States and its different regions was an early and important consideration, as well. On
June 8, 1789, the Senate journal reported that the Senate concurred with a House resolution
requiring that “every member of the present Congress, who is not yet furnished with a copy of
the journals of the late Congress, be entitled to receive a complete set of journals.”¹⁶⁴ Both
houses of Congress evidently felt that a familiarity with the legislative record and proceedings
of the United States under the Articles of Confederation was essential information for all of its
members. Maclay reported that one of the first orders of business for the Senate was to
establish “a committee appointed to confer on the subject of News Papers” and how they
would be provided to members of Congress.¹⁶⁵ Maclay recorded on May 16th that “A message
from the H of R. it was on the affair of a joint Committee on News Papers and employing
printers.... I moved that... all petitions of a similar nature should be referred for information to
the committee on the News Papers and the employing of printers, it was seconded.”¹⁶⁶ The
matter was still evidently a hotly debated one, as Maclay notes on June 3¹⁶⁵ that “Now a long
debate took place about the News Papers.” He continued,

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¹⁶⁴ Ibid., 46.
¹⁶⁵ Maclay, 35.
¹⁶⁶ Ibid., 42.
all the printers of the city crowd [sic] their papers into the hands of the Members-
the bulk of the Papers consist of advertisements- useful information ought not be
excluded, but this is overdone- the real mean appeared to me to be the taking of
one or two papers- by each Member- But one part of the House struggled for tak-
ing all the other for taking none.- No vote could be carried for either, and of course
the Printers will continue their old practice of sending and expect payment.  

Regardless of the outcome, it is important to note that both houses of Congress thought deeply
about the issue of how they would receive information in their official capacity as legislators.
Moreover, even those Senators, who did not believe they should be provided with newspapers
at the public expense, still believed newspapers and the information they conveyed were an
absolute necessity. They were simply to be furnished at their own expense, not paid for by the
government.

The ultimate resolution of the newspaper issue was that each member of Congress
could select one newspaper of his choosing to be supplied and paid for by the federal
government. Being informed was of such importance that Congress elected to guarantee that
each member would receive a regular supply of public information rather than trust that each
member of Congress would supply his own. Of particular note is that each member of Congress
got to choose the paper he was furnished, suggesting that, while receiving public information
was a necessity, what information one received should be a matter of choice.

Maintaining firm control and establishing standards for the information and knowledge
being disseminated was a practice with a firm grip on both houses of Congress, its roots

\[167\] Ibid., 65.
extending back to the ratification debates over the Constitution. In the United States Senate, however, this concern about standards even extended to editing the official record to convey a specific understanding, or sentiment to the public. On May 1, 1789, Maclay and other members of the Senate expressed embarrassment over some of the terminology used in the Senate’s official response to George Washington’s first inaugural address. Maclay made a motion to remove the words “his most gracious speech” from the Senate’s official response to Washington’s address, and the motion passed “without division.” Maclay’s motion, however, not only sought to remove a phrase that was already uttered, but it requested that this phrase also be struck from the minutes of the Senate’s proceedings. The federal government had been in operation for less than two months, and already there was unanimous approval in the Senate to edit a part of the official record and remove all evidence that a phrase thought unfortunate by the Senators should not be made public and recorded for perpetuity. Making sure the public would not get impressions of the federal government that might undermine its confidence would become a priority. There would be many more instances of similar revision in the months ahead.

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168 See Pennsylvania and the Federal Constitution, 1787-1788, McMaster, John B. and Frederick D. Stone eds., (Indianapolis, IN: Liberty Fund, 2011), 165. Prior to and during the Pennsylvania ratifying convention, Antifederalists accused the Federalists of using their influence within the state’s postal department to suppress and prevent Antifederalist newspapers from being delivered through the mail. For a description of these accusations,.. The accusations continued in a series of essays called “The Centinel” carried by several Antifederalist-leaning newspapers in Philadelphia (found on pgs. 628 and 637 of McMaster, respectively). In Centinel IX, published in the Independent Gazetteer of Philadelphia, January 8, 1788, the author alleged that “during almost the whole of the time that the later convention of this state was assembled, the newspapers published in New York by Mr. Greenleaf, which contains the essays written there against the new government… miscarried in their conveyance… and since that period, great irregularity prevails… whilst on the contrary we find the devoted vehicles of despotism pass uninterrupted.” A few days later, in Centinel XI, also published in the Independent Gazetteer on January 16, 1788, it was argued that this suppression was part of a larger effort to subvert the liberty of the press and prevent all information critical of their positions from being communicated. The Federalists, for their part, denied preventing the dissemination of Antifederalist newspapers.

169 Maclay, 16-17.
On May 8th, Maclay related what would become a common lament on his part, that “the Secretary [of the Senate, James Otis] as usual had made some mistakes [in the Senate’s official record] which were rectified.” A few weeks earlier, he similarly complained about the process of keeping the official record of the Senate, writing that “Otis, our Secretary makes a most miserable hand of it, the grossest mistakes made on our minutes and it cost Us an hour or Two to rectify them.” Maclay was mortified over the gross errors and failure to note what had actually occurred during Senate proceedings. But retroactively fixing the minutes was only a fraction of the changes made to the official record of the Senate during the First Congress. There are numerous instances of requests and motions made to alter statements or occurrences that had been recorded accurately. It became almost commonplace to change the minutes or recorded votes from what actually happened to better reflect the reality or sentiment that individuals or groups of Senators desired to project. For instance, during a debate over the conferring of titles on federal officers, Maclay recorded several instances of Senators’ desire to revise the minutes, make additions to the Senate’s files, or remove files that did not portray the desired outcome. “Mr. Carrol,” recorded Maclay, 

rose and opposed the imperfect resolution being put on the files by Order of the [Senate]. I seconded him in opposing this, as putting such a thing on the files by special order of the [Senate] was giving it an authority, which no postponed paper should have, and carried the air of an adoption. [P]apers were never specially ordered on the files, but with a view of perpetuating information.

Apparently, a group of Senators led by Richard Henry Lee had moved that a defeated motion be included in the official record of the acts of the Senate because the vote had been very close.

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170 Ibid., 27.
171 Ibid., 3-4.
172 Ibid., 38.
Maclay noted that this practice, ostensibly something already in place one month into the Senate’s proceedings, was generally intended to keep the idea or issue in the public eye even though it was not an official act passed by the Senate.

From Maclay’s remarks, it seems that the addition of information to the Senate record after-the-fact was not at all uncommon. Indeed, it was often advocated by Senators on both sides of an issue. As Maclay recounted the vote on titles, he mentioned that Senator Few moved to have the actual roll call of recorded votes on this particular motion removed from the minutes because he did not want the official record to show just how close the vote was in favor of titles. Few, according to Maclay, wanted the public to regard the Senate’s disapproval of titles as unanimous.\textsuperscript{173} Such revisions of the minutes continued into the second session of Congress. At one point, just days after the second session opened in early January 1790, Maclay complained that the Secretary, Otis, once again mangled the minutes and the journal.\textsuperscript{174} On January 20, 1790, he recorded in his diary that the day’s minutes omitted an entire debate over whether or not to proceed de novo at the beginning of the new session rather than continue where the body left off at the close of the previous one.\textsuperscript{175} Such careless and arbitrary recording could have disastrous effects on the proceedings of the Senate.

Sometimes, motions to alter Senate records were even made to save individuals from the embarrassment of a defeated motion or ill-advised remark. On April 4, 1789 for instance, Richard Henry Lee and Ralph Izard requested that a motion made by Izard the previous day be

\textsuperscript{173} Ibid., 40.

\textsuperscript{174} Ibid., 181.

\textsuperscript{175} Ibid., 187.
struck from the Senate records. Regarding a system of communication between the House and Senate be struck from the Senate records. Izard was apparently mortified that members of the House of Representatives had laughed at a motion he made to propose a more efficient system of communication between the two houses. Interestingly enough, on July 17th the Senate voted down a motion allowing that “on the final question upon a bill or resolve, any member shall have a right to enter his protest or dissent upon the journal, with reasons in support of such dissent, provided the same be offered within two days after the determination on such final question.”

While unofficial revisions were common practice in the Senate, such a procedure was evidently thought to be cumbersome. Clearly, there were limits to the Senate’s taste for revision.

Despite the disapproval of the above motion, the Senate did make attempts to institutionalize its revising fervor. It even established a committee with the sole purpose of revising and editing Senate records. On May 19th, the report of the committee appointed “to consider the keeping and publishing of the journals” was read and considered. The report provided that “the journals, previous to each publication, be revised by a committee to be appointed from time to time for that purpose.” Moreover, part of the original charge given to the committee was “to consider whether the minutes be amended, so as to record only the acts of the Senate on the journal.” Yet the committee recommended, and the Senate ultimately approved, “that every vote of the Senate shall be entered on the journals, and that a brief statement of the contents of each petition, memorial, or paper, presented to the Senate, be

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176 Ibid., 4.

177 Senate Journal, 51.
also inserted on the journals.” Provisions were made for hundreds of copies of the journal to be printed monthly.\textsuperscript{178} Again, we find that while information was to be made public frequently, it could be heavily edited.

Editing and altering the minutes appears to have been so regularly carried out and widely accepted that very few complained or objected publicly. Maclay did not regularly record discussions or objections, and his own comments appear to have been made mostly in the privacy of his diary, highlighted by those few instances when he considered whether he should raise an objection, such as this exasperated remark where Maclay was likely forced to suffer in silence:

\begin{quote}
The minutes are totally under the direction of our President [of the Senate, John Adams] or rather Otis [who] is his creature- I told Patterson that I would not get up[,] let them be as they could[.] but now a discourse was raised again whether the members should be stiled Honorable on the Minutes.\textsuperscript{179}
\end{quote}

Despite his habitual distaste for altering the minutes, Maclay seems generally to have kept this to himself because of the support this practice had among the rest of the Senate, or at least its leaders. Only in extreme cases did Maclay consider speaking out about changes to the Senate's records.\textsuperscript{180} But even Maclay, who was rapidly becoming a thorn in the side of the supporters of Washington’s Federalist Administration, felt that there were situations in which information on the proceedings of the Senate \textit{should} be altered, especially whenever secrecy was the desired

\textsuperscript{178} Ibid., 27.

\textsuperscript{179} Maclay, 66.

\textsuperscript{180} Ibid. In his June 4\textsuperscript{th}, 1789 diary entry, Maclay noted a comment to Senator Pierce Butler of Georgia that, even though he disagreed with proposed alterations to the Senate minutes in the previous debate over titles for federal officers, he was not going to publicly object until the alterations became unbearable distortions of reality.
course of action. On June 17th, he wrote in his diary of his desire that the Senate confirm presidential appointments by secret ballot in order to keep private the information of who voted for or against which appointments and not allow it to become public knowledge. This was a sentiment that the majority of Senators apparently agreed with, since Maclay records that his request carried the day and became standard practice.\textsuperscript{181}

It is important to note that the drive toward secrecy did not always reign. The overwhelming sentiment of the Senate in 1789 was that keeping the public apprised of the body’s proceedings was critically important. It seems the Senate sought to balance its belief in the need for a wide dissemination of information with the desire to carefully control what information would be shared. On the same day that the committee on keeping the journals read its report, Maclay also recorded in his diary that “A report was taken up regulating the mode of keeping the Journals, and directing them to be published Monthly. Agreed to, and the Committee appointed, to prepare them for the press.”\textsuperscript{182} It is an open question, however, of just what the Senate understood when it directed the committee to “prepare” the journals for the press and establish the “mode” of keeping them. In the absence of recording devices that could document word-for-word debate, the information disseminated about the proceedings of both houses of Congress was filtered through a variety of hands, not the least of which were the reporters in the House galleries who often reported more on the sentiment and intent of the speakers than their exact speeches. Moreover, members of Congress were known to influence newspaper printers who edited and prepared versions of their actual speeches on the

\textsuperscript{181} Ibid., 80-81.

\textsuperscript{182} Ibid., 46.
floor of the legislative chambers for publication during the first several Congresses. Published records of debates and speeches on the floor of the Senate and House during the First Congress were particularly spotty and not a faithful record of the actual words that were spoken on the floor.\(^\text{183}\) On some occasions, as Maclay noted, newspapers omitted important information altogether. On February 2, 1790, for instance, Maclay noted that a well-known Federalist printer did not publish opposition attacks on Alexander Hamilton’s Treasury report because he wanted to curry favor with the Washington Administration.\(^\text{184}\)

Nearly all members of Congress believed that the people had a right to know what was done in their name, or at the very least understood that the people would ultimately know. But the practice of carefully editing communication that would become public also extended to preparing that information in advance, with an eye toward coloring what the public would learn. On May 18\(^\text{th}\), 1789 Maclay reported that “[Senator] Ellsworth rose. He had a Paper in his Hat, which he looked constantly at, he repeated almost all that Mr Lee had said, but got on the subject of kings.”\(^\text{185}\) On May 29, he wrote that during the course of a debate over impost revenue, “it came out that Mr. Fitzsimmons [Senator from Pennsylvania] had furnished Mr. Carrol [Senator from Maryland] with all his remarks and the documents, which he had collected on the subject of revenue, as well as respectfully Pennsylvania, as the Union in general.”\(^\text{186}\) Just like their 21\(^\text{st}\) century counterparts, in the quest to prepare statements on the floor of the


\(^{184}\) Maclay, 195-96.

\(^{185}\) Ibid., 27.

\(^{186}\) Ibid., 59.
Senate for the public record, Senators gathered the information that best presented what they wished their constituents to know. Senators were clearly very concerned with how they were perceived by the public, evidently taking great pains to engender their trust, confidence, and support.

This preoccupation with gaining and maintaining public support also highlights the process by which Senators often received their information. As Maclay noted on May 28th, “I determined, to go this Morning among all my Pennsylvania Friends and call on them, for any information, which they could give me in the way of their private letters or otherwise.” He continued on to cite the specifics of the episode:

I got an accounting of all the Sugar Houses in Philadelphia from the Speaker. Called on Mr. Morris told him the war of Mollasses was to be waged again [in the Senate]. Called on Mr. Clymer and Fitzsimmons. Got from Mr Fitzsimmons a list of the Pennsylvania protecting duties. Then went to the Hall.

As Madison and Hamilton posited in several of The Federalist essays, members of Congress learned information about localities with which they were unacquainted through other members from those areas. Accordingly, a few days later, Maclay presented the information on Philadelphia sugarhouses that he had received from Speaker of the House Frederick Muhlenberg in a speech to the Senate during the debate over impost taxes and revenues. Maclay, who was from western Pennsylvania, later considered the ways in which he was able to acquire information about Philadelphia and aspects of his home state with which he was unfamiliar. “I do think,” Maclay wrote reflectively in his diary, “that as an individual, I have taken as much pains to collect information as any of them.” “But,” he continued,

187 Ibid., 56.

188 Ibid., 58.
I am much less known. and of Course information by letter, from individuals has general fallen to the Share of Mr. Fitzsimmons, Mr. Morris, and Mr. Clymer. The information from the Collectors Office I never could get. tho’ Mr. Fitzsimmons told me in Philadelphia that Delaney had furnished him (but reluctantly) with. Mr. Morris has a state of the Custom House of Philadelphia or some such paper. He used it this day as he sat beside me. I asked him to let me see the Article of Salt in it. he said it was not there.189

In late-March of 1790, Maclay recounted another instance in which he sought information on particular topics through the channels used by other members of Congress. He was frustrated in his efforts once again. Maclay wrote that he received a few lines from Dr. Rush in which he tells me I am complained of for corresponding with the Comptroller General [of Pennsylvania]. This I well know comes from Fitzsimons he would wish that no man but himself should know any-thing of the finances of Pennsylvania. I have made advances to the Philadelphians repeatedly, but they shake us off. and when meetings have been settled for the communication of knowledge they have broop [broke] them up. but I am found to possess knowledge of the finances of Pennsylvania. The presumption is that I cor-respond with Nicholson [the comptroller]. [I] am become independent of them, and therefore criminal.190

One can see very clearly that Fitzsimmons, a friend to the Washington Administration, sought to keep information about Pennsylvania’s finances close to his vest. This evidently included keeping it from one of his state’s Senators. There was a very definite protocol to acquiring, sharing, and receiving information. Fitzsimmons, like many other Federalists, wanted certain knowledge to pass through him, or the filter of the Administration and its friends, before being made public knowledge. Information was a powerful ally, and it was not to be trusted completely for public consumption without passing through appropriate channels or filters first. One of the most frequent of Maclay’s laments throughout his two years in the Senate was that

189 Ibid., 59-60.
190 Ibid., 229.
he was unable to get much information from his fellow Pennsylvanians in Congress, thus limiting his effectiveness. Unable to use the channels of communication open to him, Maclay’s term was quite possibly doomed from the outset.

There were similar concerns in the House of Representatives. On June 25, 1789, the House was busily determining the official duties of the Treasury Secretary. An objection was raised regarding a clause in the proposed bill that required the Secretary to regularly provide reports of the finances of the United States to Congress. Specifically at issue was how and when information should be provided to Congress by the Secretary. John Page of Virginia initially “objected to the words making it the duty of the Secretary to ‘digest and report plans for the improvement and management of the revenue, and the support of the public credit.’” He posited that it might be well enough to enjoin upon him the duty of making out and preparing estimates; but to go any further would be a dangerous innovation upon the constitutional privilege of this House; it would create an undue influence within these walls, because members might be led... to support the minister’s plan, even against their own judgment.... it would establish a precedent which might be extended, until we admitted all the ministers of the government on the floor, to explain and support the plans they have digested and reported.  

Page’s concern went beyond the Treasury Secretary’s reports and extended to the manner in which all information entered the House. He and other representatives were troubled over the potential consequences of how such an unfettered flow of information would affect the proceedings and legislation to come out of the chamber. The current language regarding

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Treasury reports was precedent-setting. Whatever the House decided, it would set a precedent that would shape the way business in the House functioned.

Many in the House of Representatives clamored to establish an accepted process for how information from the outside would generally be received. For a time, it appeared many were in favor of restricting the heads of executive departments from providing reports to Congress at all. Once again leading the opposition, Thomas Tudor Tucker fell staunchly, and predictably, into this camp. Federalist Fisher Ames disagreed. He felt the Treasury Secretary was the best informed person on the finances of the United States, and therefore would be able to furnish the best information possible for Congress to make decisions. He said that “the best way of doing this will be publicly from the officer himself, by making it his duty to furnish us with it [information].” Other representatives chimed in with their support of either Tucker or Ames. Fellow Federalist Theodore Sedgwick agreed with Ames, saying “It appears, therefore... to be our duty, as wise legislators, to form such a reservoir for information as will supply us with what is necessary and useful at all times.” Sedgwick and Ames strongly supported access to reliable caches of information, a necessity for the good, deliberative legislator.

In the Federalists’ paradigm of political communication, ready access to reports from cabinet officers fit seamlessly with an opposition to binding instructions. “If honorable gentlemen will for a moment consider the peculiar circumstances of this country,” Sedgwick

192 Ibid., 615.

193 Ibid., 619.

194 Ibid., 622.
lectured his fellow congressmen, “the means of information attainable by the individual members of this House, and compare them with the object they have to pursue, they will plainly perceive the necessity of calling to their aid the advantages resulting from an establishment like the one contemplated in the bill.”

It was left to Federalist Thomas Hartley of western Pennsylvania to forge a compromise. Hartley bristled at the notion that “the House of Representatives was, in fact, unnecessary and useless; that one person could be a better judge of the means to improve and manage the revenue, and support the national credit, than the whole body of Congress.” He had a suggestion, one that would allow members of the House to receive necessary information, but still remain the judges and decision-makers on how to use that information to do the people’s business. “If it [the language of the bill] was modified so as to oblige him to have his plans ready for this House when they are asked for,” Hartley proposed,

I shall be satisfied; but to establish a legal right in an officer to obtrude his sentiments perpetually on this body, is disagreeable, and it is dangerous, inasmuch as the right is conveyed in words of doubtful import, and conveying powers exclusively vested by the constitution in this House.

Hartley saw the proposition that an executive department head would be legally obliged to give information to Congress as a usurpation of the independence of Congress and an obstacle to the ability of the wise, deliberative legislator to set and determine policy. He felt this mandated Congress to receive information it may neither want nor have need for, giving outsiders special access to communicate with members of Congress. However, Hartley also implied that

195 Ibid.
196 Ibid., 624.
197 Ibid.
additional information will sometimes be necessary for members of Congress in the course of their duties, and so he suggested that department heads can provide reports and information to Congress if it is sought by its members, “when they are asked for,” as Hartley suggested.

Hartley’s compromise found wide favor. Opposition leader Elbridge Gerry said that if “we only give him [cabinet secretary] power to give information; that is what I wish.” However, Gerry believed the current language went much further. It allowed department heads to communicate and potentially influence Congress: “Is digesting and reporting plans merely giving information? These plans will have to undergo the consideration of the House, I grant; but they must have some influence coming from such a high authority, and if they have this in any degree whatever, it is subversive of the principles laid down in the constitution.”

Gerry and others evidently thought the bill as currently worded gave department heads the right to communicate with Congress on their own initiative and assert their own opinions and ideas. Even Tucker seemed to agree with the new compromise, stating “I admit, information may at all times be acceptable, but I think advice should never come but when required.”

The majority of the House of Representatives evidently agreed as well. The Annals of Congress state that an amendment to replace “report” information to Congress with “prepare” information was passed, “carried by a great majority.” With this vote, the House of Representatives made it clear that information was to be communicated to the House, and by extension Congress as a whole, through channels determined by its members and at their

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198 Ibid., 627.
199 Ibid., 630.
200 Ibid., 631.
discretion. Regardless of whether one’s loyalties were with the Administration or the opposition, members of the House wanted to maintain control over the information that would enter their purview and keep the influence of other officials to a minimum during the term between elections. The object of deliberation was not far from the minds of representatives both pro- and anti-Administration, both Federalist and opposition. Here, as in previous debates, the House set precedents that congressmen were to remain independent from influence and in control of the information given to them while holding their seats in the House of Representatives. Aside from the information that they brought with them from their districts and learned from their fellow congressmen, members of the House received information when they requested it.

Numerous bills, procedures, and motions would be passed during the summer months of 1789, further institutionalizing this understanding of communication. On July 15th, for instance, the House was forced to explore allegations of election fraud by several of its own members from New Jersey. The investigation, however, became sidetracked as it turned into a discussion over how the House should collect the information it needed in order to rule on this issue specifically, and conduct its business generally. The *Annals of Congress* report that

> Mr. Ames, from the Committee of Elections, to whom was referred the petition of a number of the citizens of New Jersey, complaining of the ineligibility of the election of the members holding seats in this House, as elected within that State, made a report, which was read, and ordered to lie on the table.201

When the report was revisited for discussion in the Committee of the Whole the following day, Elias Boudinot, one of the embattled New Jersey representatives, attempted to defend himself

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and his state’s delegation. Among his many protests, Boudinot argued that the committee’s proposal to collect evidence in the matter was improper. Not only had the House used a different means to gather information in previous instances, but the method being proposed now was simply too cumbersome and would not produce a fair result.

Months earlier, David Ramsay of South Carolina had petitioned the House disputing the election of William Smith from that state. Ramsay alleged that Smith was ineligible because he had not been a resident of the United States for seven years at the time of his election. At the time, the House had referred the matter to a Committee on Elections which examined the petitions themselves as well as letters sent to the House certifying the election by South Carolina’s governor and from other interested South Carolina citizens supporting Smith’s election, and finally testimony from Smith himself. In the case of the New Jersey elections, the Committee on Elections proposed sending emissaries to New Jersey to take depositions from the interested parties and collect evidence. Boudinot questioned whether “the nature of this case requires, and whether it will be necessary to send through that state a commission to examine every person, who chooses to offer evidence on the subject. I think such a measure will produce great evils, as a precedent, and many others in its operation.”

Boudinot’s solution was for the House to use the information it currently had before it in the form of petitions and letters from the governor and other interested parties, thereby continuing the precedent set in the South Carolina investigation. If the Committee on Elections or the whole House required more information, he believed it would best be collected through testimony vivavoce, or through live testimony in the House chamber. “The question before the

202 Ibid., 663.
House appears to be,” Boudinot stated, “whether it is necessary to obtain a few additional witnesses, at great uncertainty and expense; or whether the evidence already before them, and what may further be advanced by the petitioners, viva voce, is not sufficient to decide upon.”

The matter, in essence, did not require the House to send a commission to seek out evidence from other states; it could be decided based on the evidence already submitted to the House. If more evidence was needed, the House could subpoena those witnesses and they would give testimony on the floor of the chamber. When legislators needed information, information came to them, and was received and evaluated through the proper filters.

Boudinot, a Federalist, was clearly an interested party in this matter since his own congressional seat hung in the balance. He was not alone in his sentiments, however. Federalist John Vining from Delaware stated that “he was in favor of receiving the testimony viva voce before the House... and if it should be found necessary to form commissions for this purpose in distant States, provision might be made accordingly.”

James Jackson, the former Antifederalist and current opponent of the Washington Administration, agreed saying that “One election has been determined without the aid of counsel or ex parte evidence, and he saw no reason in the present case why a different mode should be substituted.”

Jackson’s fellow opposition member, Maryland’s Joshua Seney, went so far as to suggest that testimony be sought on the floor of the House in a week’s time. Their New Hampshire compatriot Robert

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203 Ibid.

204 Ibid., 665.

205 Ibid.

206 Ibid., 666.
Livermore objected to the need for any more information than the House already possessed, including live testimony on the House floor. “After an investigation of facts,” he proclaimed, “we have determined in one instance, and why we cannot do the same now I cannot conceive.” Livermore thought the need for gathering more information, especially soliciting it from outside the House, was entirely unnecessary. What had already been communicated was more than sufficient to inform the representatives well enough to judge the matter with their own wisdom. 207

This is yet another instance where the House of Representatives asserted its prerogative to control information entering the legislative body. Members of the House should not have to seek out information from afar, sending emissaries to other states to take depositions. Information should come to them. If they needed to interview witnesses, they would come to the capital and testify in the House chambers—at the request of the House itself. As Boudinot complained, the notion that “every person who chooses to offer evidence on the subject,” or “every judge, spectator, and elector” is entitled to be heard before Congress was ridiculous. The majority of the House evidently agreed, as no evidence exists that commissioners were ever sent to New Jersey to seek depositions. In fact, it appears that no witnesses ever gave testimony before the House in this matter. After putting off a final vote for nearly two months, the House finally ruled that the election had been legal. 208 Boudinot and his fellow New Jersey representatives kept their seats. Again, an institutional precedent had been set: the House of Representatives would not solicit depositions from anyone who had a complaint about the

207 Ibid.

process of federal elections. Instead, the House would use as it saw fit what information it had been furnished, requiring that further information, if needed, should come at its request and desire alone, even in the form of testimony in the House chambers.

Among the most visible communication policies established by the First House of Representatives was the periodic need for the secrecy of the closed-door session. On August 7, 1789, the House received a message from President Washington. The president asked Congress to fund the implementation of recently ratified treaties with various Indian tribes. According to the *Annals of Congress*,

> a desultory conversation arose respecting the propriety of shutting the gallery doors, inasmuch as it was probably the statements and papers referred to in the message [that] might contain matters requiring to be kept secret. After the question had been agitated some time, the gallery doors were shut.²⁰⁹

This is the entirety of what the *Annals* record of the discussion. Whether the conversation was “desultory” or heated, the sentiment of the majority of the House was that the information contained in the letter and accompanying papers was not something that should become public knowledge. The members of the House were not fully aware of exactly what the communication from Washington contained, yet knowledge of the subject of the information evidently led a majority of the House to decide that it was better to err on the side of secrecy in the event that it directly pertained to the safety and security of the United States.

Washington’s letter to the House began,

> The business which has been under the consideration of Congress has been of so much importance, that I was unwilling to draw their attention from it to any other subject; but the disputes which exist between some of the United States,

and several powerful tribes of Indians within the limits of the Union, and the
hostilities which have in several instances been committed on the frontiers,
seem to require the immediate interposition of the General Government.\textsuperscript{210}

Washington told the representatives that he had been loath to bring issues such as this to
Congress as he recognized they were preoccupied with setting up the government. This was
the first time the president had sent a communication which required debate and action
pertaining to national security. And subsequently, it was the first time the House vacated the
gallery for a closed-door session, believing that the safety and security of the United States was
a matter that required secrecy from public knowledge. So nothing required that the First
Congress opt for a closed-door session except for a shared understanding that there were
things the public should not know.

The Senate had a similar threshold for keeping information from the public. While the
majority of Senators believed the regularly-published Senate journals should include topics of
debate, a roll call of votes, and records of petitions and papers, there were exceptions to those
rules. The Senate kept two separate journals: the regular Senate journal which was published
monthly and the “Senate Executive Journal,” which recorded debates, discussion, motions,
votes, and official acts of the Senate regarding “executive” business relating to the national
security of the United States. According to the Senate committee charged with the upkeep and
publication of its journal, “the proceedings of the Senate, when they shall get in their executive
capacity, shall be entered and kept in separate and distinct books.”\textsuperscript{211} The Executive Journal
was not made public in any way; it was to remain within the Senate for the use of Senators

\textsuperscript{210} Ibid., 710-11.

\textsuperscript{211} Senate Journal, 39.
only. In the House, proceedings were open to the public, and therefore special attention was drawn to the few closed-door sessions that occurred. In the Senate, which met in secret to begin with, the means of withholding certain information from the public was simply not to publish it.

On May 25, 1789, the Senate went into its first executive session. Not coincidentally, the purpose was to consider ratification of the same treaties Washington would later present to the House for funding consideration. “The Senate to-day for the first time, entered upon executive business,” remarked the regular Senate journal in its only mention of the entire episode. It also marks an important precedent in the Senate: similar to the House of Representatives, there were very clearly instances where the withholding of information from the public was necessary. National security and special executive business charged by the President of the United States was confidential and out of the public’s purview. The majority of Senators in the First Congress believed it important and essential for them to exert significant, even total, control over certain forms of information that might become available to the

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212 Maclay, 52. Maclay did, however, mention in his diary entry from May 25, 1789 that “the Entry on the Minutes for Friday did not appear to me to correspond with the facts, there was something that imported the Bill being reported by the Committee that compared it, and the minute read that the Vice President signed it. I determined I would not imbroil [sic] myself with him, if possible. and nobody made any Observation.” On the one hand, it is likely that Maclay is referring to the Executive Session when he mentioned earlier that the “Senate sat in committee.” That this was followed immediately by his discussion of a problem with the minutes from the previous day might imply that Maclay believed the absence of the delivery of Washington’s message from the Senate journal was problematic. However, that he did not mention this explicitly also means that he may not have taken issue with the premise of an Executive Session, or of keeping records of such proceedings in a separate, unpublished journal.


214 Senate Journal, 40.
people, the press, and even presumably the state legislatures that sent them to Congress in the first place.

Many of the efforts of Senate and House members to institutionalize their understanding of communication in the new federal government showed that Senators and representatives were very concerned with how information would flow to Congress, how its members would communicate within the government, and how that information would be disseminated from Congress to the public. Congressional action therefore took one of two routes: either the establishment of tight control and close oversight over information and communication within the political arena, or the institutionalization of a deliberative character and role for Congress and its members. In any consideration before Congress, the ultimate object of political communication was to support the primary duties of all stakeholders in government, namely to foster support and confidence through working toward the public good.

As the First Congress drew to a close, the work to establish a communication framework that could meet these ends was far from over. In the years that followed, Federalists would show a keen understanding of how the new political environment of the United States could work in concert with newspapers, the dominant communication media of the era. The relationship between the federal government and the public would be seen through the medium of the press and would come to dominate proceedings in both houses of Congress during the first half of the 1790’s. Political leaders sought to create a larger, more comprehensive system of communication to further achieve their goals and establish their values as preeminent in American politics and governance. While there was an almost
surprising uniformity of sentiment between the Federalist Administration and its opposition
during the First Congress, as different issues rose to the fore and politics and political discourse
became more heated during the years to come, those sentiments would diverge and the
Federalists would be forced to defend their values in the face of fierce opposition.
V. CREATING THE SYSTEM

The Post Office Act of 1792 and Development of a National Public Sphere for Political Communication

From 1790 to 1835, the population of the United States quintupled, an incredible rate of growth. During that same time frame, however, the number of newspapers increased eleven-fold. While reading newspapers would become an American pastime in the early 19th century, when the federal government came into existence in 1789, they were not allowed as part of the regular mail, and their transmission and receipt was subject to myriad difficulties and variables. Even when Americans in the hinterlands received newspapers, the reporting itself was irregular, haphazard, and incorrect. In order to learn about happenings at the seat of government, most Americans relied on letters, circulars, and other information sent by members of Congress. However, even those transmissions were inconsistent and difficult to receive in an expansive country where the further one resided from the coast, the more infrequently information from beyond the immediate vicinity was received. Both the House of Representatives and the Senate had already considered policies and legislation that touched upon the importance of political communication, but anything resembling a systematic way to improve the circulation of information on a national level had yet to be considered.

As both houses of Congress completed the initial business of bringing the federal government into existence, they turned their attention to the development of institutions and systems that furthered their nation-building project. Armed with their specific visions of how

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government should function and the role it should play in American life, both the Federalists and anti-administration factions sought to pass laws and enact policies that would institutionalize their values and beliefs. From the establishment of a permanent, national post office, to laws facilitating a more comprehensive and extensive transmission of newspapers and other sources of political information through the mail, communication would have a central place in the debates that echoed throughout American cultural and political life. Over the next two years, the Federalists and their opponents would surprisingly find much common ground as they began to put their respective visions of the communication of political information into practice.

In the new political environment of the 1790’s, most national leaders in the United States believed in the axiom that the people needed information about their government and its actions. “Popular sovereignty implied a change in the cognitive relationship between the state and the people,” Paul Starr has explained.\textsuperscript{216} Citizens not only needed this information in order to make informed decisions when they voted for their representatives, but through the voting process and the primacy of their place as the sovereign “heart” of the nation, they were entitled to participate in public affairs in a way that was brand new to modern civilization. “If the people were to be sovereign,” continued Starr, “they had to have the means of understanding their government, keeping up to date about distant events, and communicating with each other.”\textsuperscript{217} No matter that there was little agreement on what that entitlement consisted of, figures as diametrically opposed as Elbridge Gerry, a leading Administration critic

\textsuperscript{216} Ibid., 83.

\textsuperscript{217} Ibid.
in the House of Representatives, and Federalist President George Washington both actively promoted a wide and comprehensive diffusion of knowledge throughout the United States with the object of educating the public on the proceedings of its government.

It was readily apparent that the new political system in the United States needed a process, a mechanism, through which to better disseminate information far and wide. Most American political leaders saw clearly that a national system of communication was needed in order to successfully carry out this new experiment. While each side may not have had the same ends in sight, or the same ideological vision to motivate them, this experiment in republicanism needed a laboratory. There needed to be some forum, some metaphysical space where voter and public could meet and interact with representative and government, an environment where information could be passed and disseminated, and discourse could take place. They had to create the very medium through which that republican government was to function. In short, they needed to create a national public sphere for political discourse.

A decade ago, John L. Brooke wrote of the potential boon to political history through use of the framework of the public sphere. Brooke suggested that “If historical thinking about the public sphere in early America has been almost entirely restricted to the domain of language and cultural history, it stands available as the ground upon which to rebuild a relationship between the old political history of law and the new cultural history of
language." Taking the idea of the public sphere from Jurgen Habermas and adapting it to the field of history, Brooke modified the conception of the public sphere to conform to the realities that he saw present in 18th and 19th century America. He developed a framework that allowed for persuasion, deliberation, debate, and dissent between the state and the public within what he termed the public sphere— and for withdrawal, slavery, insurgency, lawlessness, and the use of force which were experienced outside it. While Brooke did not make claims to the degree to which any one party controlled or dominated communication within the public sphere, his framework provides a very useful arena in which these forces engage one another, and in which policy and discourse can interact.

Other scholars have used the concept of the public sphere to explain both cultural and political transformations in early-American society and politics, either providing material with which Brooke could better define his framework, or working within his general framework once established. David Waldstreicher has described transformational growth in popular political participation from the end of the 18th through the early decades of the 19th centuries. Waldstreicher looked largely at non-literary participation in politics within the public sphere of debate and dissent, specifying how this popular participation actually succeeded in enlarging the public sphere during the 19th century.219 For Jeffrey Pasley, the Republican printers of the

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mid- to late-1790’s struggled to create a space within the public sphere for dissent.\textsuperscript{220} Paul Starr saw the development of the public sphere of national discourse as a conscious political decision by actors within the federal government during the 1790’s.\textsuperscript{221} Most relevant, Richard John explored the actual development and creation of a national public sphere as a product of the Post Office Act of 1792. For John, the development of the American Postal System helped to create a national market for ideas and goods that was essential in the early state-building process. This national market, and the advances in communication that accompanied it, formed the conduit for public discourse.\textsuperscript{222} The creation of a national public sphere and the degree to which all parties, the state and the people, could participate within it were issues fundamental to the politics of the 1790’s. Not only whether a national public sphere would be developed, but the many ways in which discourse would take place and function within it would occupy the Federalists for the remainder of their political ascendance. The Federalists would spend the years 1790 to 1793 creating and developing a public sphere where political communication would take place, and considering how to shape that public sphere so that it would best serve the political system taking shape simultaneously.

Prior to the ratification of the Constitution and the existence of a viable, central government, there had been no fully-formed, national public sphere in which political discourse could regularly take place. Once the federal government came into existence, leading


\textsuperscript{221} See Starr, \textit{Creation of the Media}.

Federalists and other statesmen recognized that the modern communication needs of republicanism could not be met by the undeveloped infrastructure of the United States at the time. In his first State of the Union Address, Washington himself declared that being educated about the government was absolutely essential in a republic like the United States. “Knowledge is in every country the surest basis of publick [sic] happiness,” he asserted, “and by teaching the people themselves to know, and to value their own rights; to discern and provide against invasions of them; to distinguish between oppression and the necessary exercise of lawful authority; to discriminate the spirit of liberty from that of licentiousness, cherishing the first, avoiding the last.”

Even Washington’s growing opposition agreed that there was an acute need for an expanded national public sphere. As a member of Congress who found himself in opposition to the Federalist Washington Administration with increasing regularity, Elbridge Gerry felt that a better circulation of information throughout the country was a critical need in nurturing the democratic institutions and political culture of the young republic. He once proclaimed “That wherever information is freely circulated, there slavery cannot exist; or if it does, it will vanish as soon as information has been generally diffused.” But while Gerry might have warmed to the idea that there should be an expanded role in the political process for many Americans, for most political leaders the extent and manner in which people should be involved was a point of

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serious and perpetual debate throughout the early 1790’s. What exactly should the public know? How much information did it need? What was the federal government’s obligation in this? What did dissent and persuasion look like? The Federalist Administration’s answers to these questions would take center stage a number of times over the period from 1790-1793.

In his January 8, 1790 State of the Union Address, George Washington laid out an agenda that he hoped Congress would carry out. In addition to the political education of the people, Washington saw other benefits to a wide dissemination of knowledge. In his message, he proclaimed that while “in one [country], in which the measures of government receive their impression so immediately from the sense of the community, as in our’s, it is proportionately essential. To the security of a free Constitution it contributes in various ways: By convincing those who are entrusted with the publick [sic] administration, that every valuable end of government is best answered by the enlightened confidence of the people.”225 For Washington and his Federalist allies, the confidence of the people in their government was as necessary a condition to the success of the American experiment as anything. The electorate needed to be educated to understand what their government was doing in their name, and their representatives in Congress needed knowledge both of their constituents’ opinions of their work and of the confidence with which they were entrusted.

Among the ways Washington hoped the need for a regular transmission of political knowledge would be addressed, he suggested that “whether this desirable object will be best promoted by affording aids to seminaries of learning already established, by the institution of a

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national university, or by any other expedients, will be well worth a place in the deliberations of the Legislature.”226 While he seemed content to leave the details to Congress, Washington’s desire that the national legislature take the lead in “facilitating the intercourse between the distant parts of our country by a due attention to the Post Office and Post Roads” would prove to be one of the most significant developments to come out of the first two Congresses, and one of the key actions taken by the federal government to foster communication nationally. The Federalist Washington saw a clear need for a national public sphere where the dissemination of vital information would take place, and the Postal System was his framework.

The Post Office Act of 1792 established a comprehensive system of post roads and a system of subsidies for newspapers sent through the mail. Both developments greatly promoted the press and dissemination of political information throughout the United States, especially into less densely settled areas. It would prove to be perhaps the most significant act dealing with communication passed by the Federalists until the Sedition Act of 1798, and its consequences would stretch through the decades well into the 19th century. As Richard John described it, “By underwriting the low-cost transmission of newspapers throughout the United States, the central government established a national market for information sixty years before a comparable national market would emerge for goods.”227

Many of the ideas and values that would find enshrinement within the Post Office Act of 1792 and other aspects of the national communication program had been espoused by Federalist leaders for years, sometimes even decades. As early as 1765, John Adams wrote that

226 Ibid.

227 John, 37.
Liberty cannot be preserved without a general knowledge among the people, who have a right, from the frame of their nature, to knowledge, as their great Creator, who does nothing in vain, has given them understandings, and a desire to know; but besides this, they have a right, and indisputable, unalienable, indefeasible, divine right to that most dreaded and envied kind of knowledge, I mean, of the characters and the conduct of their rulers.  

The need for the public to be aware of the proceedings of its government and have some role in political affairs was of paramount importance to the Federalists in the abstract. And the purpose of this communication was to foster trust and confidence in the government. That a participatory republic could not function without this important dynamic was in some fashion undeniable. But there was a difference between acknowledging this principle in lofty prose such as Adams’ statement above and beginning to craft laws and policies designed to actually bring this condition about.

One of the great questions, as Adams recognized in his 1765 pronouncement about the importance of political communication in a republic, was precisely what would be the responsibility of the government and the responsibility of the individual in this new environment. Adams alluded to his answer when he wrote “And the preservation of the means of knowledge among the lowest ranks, is of more importance to the public than all the property of all the rich men in the country.” He continued with this thought, declaring that “The only question is whether it is a public emolument; and if it is, the rich ought undoubtedly to contribute, in the same proportion as to all other public burdens.” To Adams, the answer was

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228 John Adams, A Dissertation on the Canon and Feudal Law, 1765, in The Revolutionary Writings of John Adams, ed. C. Bradley Thompson (Indianapolis, IN: The Liberty Fund, 2000), 28. Adams wrote this work as a critique of the legal and constitutional underpinnings that justified the Stamp Act of 1765.

229 Ibid.
simple: it was the responsibility of the government to promote and foster the diffusion of political information to the people, and to establish easy means by which the public could both receive and disseminate information. Adams believed that this was best accomplished through the encouragement of the press and the dissemination of information through newspapers: “Care has been taken that the art of printing should be encouraged, and that it should be easy and cheap and safe for any person to communicate his thoughts to the public.”

As the excitement and optimism of the First Congress gave way to the tedium and hard labor of the Second, it would become clear that the supporters of Washington’s Administration took seriously the communication agenda he had charged them with passing, and the Federalists, at least, agreed with Adams’ directions on how to accomplish it.

During the First Congress in 1789, the building of a national communication network was not an immediate priority given the need to set up the basic infrastructure of the federal government for it to simply function. The *Annals of Congress* record that the House received a petition from Postmaster General Ebenezer Hazard on July 17, 1789 asking that some provision be made immediately for the Post Office under the new government. The petition was referred to a committee for study and the vote on the topic took place in the Senate and the House in mid-September. However, virtually no debate is recorded, and most of the newspapers of the period make little mention of it. The Post Office was evidently of a high enough priority that Congress did take up the matter before it ended its first session at the end of the year.

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230 Ibid.

of September that fall. That month saw the first mention of the Post Office as an element of substantive legislation when both houses of Congress passed a bill to temporarily subsume the Post Office previously established under the Articles of Confederation as part of the new federal government. Washington appointed Samuel Osgood of Maryland Postmaster General to succeed Hazard toward the end of September. Osgood remained in office only into the following summer, but the reforms he suggested during this tenure would form a foundation for national communications policy.

Osgood’s tenure as Postmaster General highlights an important sea change in the broader understanding of the role and importance of the Post Office in American political culture. In a letter to Washington dated December 9, 1789, he laid out two distinct and separate courses of action that bore directly upon the overall objectives of the Post Office. Osgood essentially asked the president which he was to pursue:

If the views of the Legislature should be to raise Revenue from the Post Office, in order to aid and support the General Government, the Defects of the present regulations of the Post Office are many, and may easily be pointed out. If their should be no view of raising a permanant [sic] and sure Revenue, yet for the purpose of establishing more confidence, and security in the Post Office Department, in the minds of those that may be interested in it, many alterations will be found essentially necessary.

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234 Osgood to Washington Dec. 9, 1789, in Ibid., 384.
In other words, was the Post Office to operate under the understanding that its primary purpose was to raise revenue for the federal government, or should it be overhauled with an eye toward improving the confidence of the public in its ability to transmit information quickly, safely, and securely, regardless of whether or not it made a profit?

Richard John identifies these two threads in thinking about postal communication as the “fiscal” and “educational” rationales. John relates the history of the postal service in Europe and colonial America as driven by an understanding that it was an engine for creating revenue, one that “constituted a payment for a service that the taxpayer could conveniently secure in no other way.”

This fiscal rationale had been the driving force behind European postal policy since the 17th century, and indelibly shaped the thinking of the American colonists as they established and ran their own postal service before and through the Revolution. With the spread of republican ideals during and after the war, some well-placed figures in American politics envisioned a new potential in the post office, one that would help shape the “value and beliefs of the public at large.”

This directly coincides with the “change in the cognitive relationship between the state and the people” described by Starr. According to John, during the 1780’s a growing number of public figures began to advocate and spread the gospel of an educated public that was aware of the proceedings of their government and the actions of their...
leaders, one that understood the issues of the day in a way that allowed them to make informed decisions when choosing those leaders.\textsuperscript{237}

The importance to the public of receiving political information cannot be overstated. Especially for Americans in the western or southern United States, the desire, need, and even sense of, entitlement to political information was a well-known sentiment to national politicians at the seat of the federal government. In March of 1790, George Washington received a letter from dozens of merchants and other gentlemen from Richmond, Virginia complaining of the irregularity of receiving mail sent from the northern states. After tasking Samuel Osgood with inquiring into the veracity of this claim and its causes, he assured the President that on only a few occasions had the mail been detained for more than an hour or so after its intended arrival. Osgood speculated as to the cause of the Richmond group’s dissatisfaction, surmising that “The mail that ought to have arrived at Richmond on the 28\textsuperscript{th} probably conveyed Intelligence that the Senate were about striking the Indents out of the funding bill-- Perhaps the uneasiness may have arisen from some source of this kind at that particular moment.”\textsuperscript{238} As it turned out, the mail intended for Richmond that day had accidentally been included in a packet sent by post to Fredericksburg, not Richmond, and the

\textsuperscript{237} See Ibid., pages 26-30 for a discussion on the origins of the two postal rationales. John identifies the English legal scholar William Blackstone as developing one of the most comprehensive understandings of the fiscal rationale. According to Blackstone, the post office was the most well-devised method of raising money for a government, and should be treated as a tax. Conversely, John describes Benjamin Rush, signer of the Declaration of Independence, as one of the initial prominent advocates of the educational rationale for the post office. John describes a published address of Rush’s from 1787 that spelled out this new purpose for the post office, declaring that Rush “supplanted Blackstone’s fiscal rationale for postal policy with an educational rationale that was far more ambitious than anything that any other public figure had contemplated prior to that time.”

\textsuperscript{238} Osgood to Augustine Davis, July 30 1790, Papers of George Washington, ed. W.W. Abbot et al. (Charlottesville, VA: University of Virginia Press, 1987- ), Presidential Series, vol. 6, 266. For the entire exchange over the complaint of the Richmond group, see the same vol., 145-46, 263-68.
mistake was not discovered until the next day. But even this delay of just one day was important enough for the merchants of Richmond to complain directly to the President of the United States.

Political information was necessary as it had a profound effect on Americans both financially and socially. While information from their particular state governments could be had more quickly and easily, information about the national government was not so easy to procure and evidently elicited much more apprehension. The value of political information about the proceedings of the federal Congress, especially from Congressmen themselves, was acknowledged by John Adams many years later. Writing to Thomas Jefferson in 1813, Adams referred to the importance of the circular letters routinely sent from members of Congress to their constituents at the close of sessions of Congress. These circular letters contained information about that session’s events and were eagerly anticipated. “But above all,” Adams asked of Jefferson, “shall I request you, to collect the circular Letters from Members of Congress in the middle and southern States to their Constituents? I would give all that I am worth for a compleat [sic] Collection of all those circular Letters.”

In those states where communication was less regular and information traveled more slowly, knowledge of events was most precious of all. In his retirement, Adams marveled at the treasure trove of information about the federal government to be found from regions with a less-developed system of communication. Doling out advice to a young acquaintance five years later, Adams directed him, “You inquire for ‘Sources.’ I know of none better than American Journals

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Newspapers and Pamphlets.... but the best of all, are the circular Letters from Members of Congress to their Constituents in the Southern and Western States with Some Reinforcements from the middle States."240

Consider this Federalist agenda from 1790 and 1791 alongside the vitriol and accusations heaped upon John Adams and the Federalists for their support of the Sedition Act seven years later. After 1798, the Federalists were regularly accused by their contemporaries of seeking to limit speech and stifle the dissent of their opponents. And their historical reputation has suffered at least as greatly over the centuries. How do these charges appear, however, when considering that in 1790 and 1791, the Federalists were preoccupied with *increasing* access to information? Moreover, they were calling for a system whose great object was to disseminate information to regions heavily controlled by men who had already established themselves as an opposition movement. Many of the same Federalists featured prominently in the passage of the Post Office Act of 1792 and the Sedition Act of 1798. Aside from luminaries such as Washington, Adams, and Hamilton, men such as Fisher Ames, Oliver Ellsworth, Theodore Sedgwick, and Rufus King were all more than willing to support the establishment of a communication system that fostered greater dissemination of information, particularly in the form of newspapers, to and from regions hostile to their political interests and views. The Federalist position in 1798 is far more nuanced than often recognized, and can only be understood in the context of their understanding of communication throughout the decade.

In 1791, however, there were few better options than circular letters if one wanted to
give or receive information about the federal government. If the circular letters were, as
Adams celebrated, a marvelous source of information, what did they look like, and what type of
information did they contain? Very few circular letters from the first two Congresses remain,
and none exist from 1789-1790. However, January 1791 circulars from two North Carolina
Congressmen, John Sevier and John Steele, provide some insights into the type and character of
information that members of Congress thought their constituents most interested in. In his
circular letter from January 10, Sevier did not discuss all bills passed and considered by
Congress, but rather the proceedings he felt most directly pertained to his constituents. He
informed them of proposed excise taxes on distilled spirits and stills, on military engagements
with the Miami Indians in the Southern United States, proposed federal land prices and land
policy, and the admission of Kentucky as a state. On January 27, Steele included in his
circular similar information on nearly identical topics. Steele mentioned proposed excise taxes
and federal land policy, as well as military expeditions against the Miamis, Kentucky statehood,
and the assumption of state debts by the federal government. For states with more rural
populations and less infrastructure in the way of roads and transportation, information that
affected North Carolinians financially and touched upon their very safety was of paramount
importance. The challenge before Congress was to figure out the best way to deliver that
information.


242 John Steele, Circular Letter to his constituents, Jan. 27, 1791, ibid., 4-5.
In January of 1790, Treasury Secretary Alexander Hamilton submitted to the House of Representatives a plan drawn up by Samuel Osgood for increasing postal revenues, streamlining the running of the Post Office, and providing better security for the mail. Among the changes suggested by Osgood, three pertained directly to the dissemination of political information. Osgood suggested that newspapers, which were previously sent through the mail at the discretion, and private fee, of the post rider, be charged an official rate and carried as part of the authorized mail in order to increase revenues. He also requested that more direction be given to precisely what types of letters and communications could be franked by politicians, as he feared the franking privilege was being grossly abused, resulting in a further loss of revenue. Third, Osgood stated unequivocally that new post roads “must be established, and of very considerable extent.” While Osgood still spoke the language of revenue and couched his reforms as a product of the “fiscal rationale,” many members of Congress saw them as a means to a different end.

Meanwhile, the “educational rationale” for the existence of the Postal System had begun to gain primacy. Increasing numbers of politicians at the national level recognized the crucial need for better communication so the political system itself could function as intended. After Washington’s call for postal reform and the establishment of new post roads and channels of communication in his State of the Union Address of January 1790, the issue was

243 Franking was a privilege traditionally granted to members of a legislature that allowed them to send letters and other materials through the government mail without charge. There was a long tradition of franking in Britain and the American colonies, and it had been continued under the federal government.

taken up that summer in the House of Representatives. Only days after the House opened its session, it engaged in a debate over the official response to Washington’s address. The discussion that ensued ascribed to the majority of the Federalist-dominated House an unwavering belief in the importance of a national system of communication.

In the same vein as Washington’s address, the House agreed that “the promotion of science and literature will contribute to the security of a free Government.” The House’s response made no mention of the Post Office or post roads specifically, but it is worth drawing attention to the language used by both the House of Representatives and Washington. Washington prescribed a vast diffusion of knowledge in order for the people to “know their rights,” “protect against invasions of them [their rights],” “identify unlawful governments,” and “distinguish licentiousness” in their leaders. The House, similarly, stressed the importance of knowledge as contributing to “the security of a free government.” That the object of the communication of political knowledge was to educate the public on the proceedings of its government in order to promote and secure the success and proper functioning of the political system was a belief that was nurtured by the Federalist Administrations of Washington and Adams during the 1790’s and played a critical role in their policies touching upon communication and the dissemination of knowledge.

As the House of Representatives began to consider postal reform, Osgood’s proposals provided the basic framework of the debate. In April, the House began discussion on its first comprehensive postal bill, with the rationale for the Post Office’s mission front and center. On

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April 13, several members of the House pointed out that the current proposal meant the Post Office would not only fail to make a profit, but would actually operate at a loss. The lower postal rates recommended in the bill, coupled with the increased number of post offices, were the primary concern. A motion to immediately send the bill back to committee to consider either raising the rates or decreasing the number of post offices however, was defeated. This meant that, in the eyes of a majority of House members, the plain fact that the Post Office would not be an engine for raising revenue was not enough to kill the bill outright. The majority was evidently considering a different justification for the Postal System, and it wanted to hear more. The wait would not be long, for it was Elias Boudinot, frequent supporter of the Federalist Administration, who first began to make the case for an educational and informational purpose for the Post Office on the floor of the House. The Federalist-leaning Boudinot observed that, even though the Post Office might operate at a loss due to the number and extent of post offices and postal roads in sparsely populated areas, the establishment and expense of those post roads and offices were justified if they promoted communication, industry, and general benefit to the inhabitants of those areas.247

But would the rest of the House of Representatives agree? Over the next two months, discussion in the House over the bill ranged from the establishment of post roads to the ability of private passengers to transport mail on stage coaches charged with its official delivery. Time and again, though, the crux of the issue came down to whether or not the dissemination of information outweighed the desire for revenue. And time and again, motions to restrict the


247 Ibid., 1580.
mail under the auspices of raising revenue were defeated. Finally, on June 21, the House passed a bill that allowed Congress to establish post roads beyond the primary North-South artery that previously had been the extent of its purview, and to build them well into the hinterlands of the United States. The bill also made it easier for private citizens to transmit mail either via the official stage coaches or use of the post roads. Federalists and their allies were not alone in pushing for and voting in favor of a wide dissemination of information. Many congressmen frequently opposed to the majority and the Washington Administration supported motion after motion that set the stage for the development of an expanded public sphere.

But while the desire for a rapid, widespread dissemination of information throughout the United States was gaining traction beyond that of raising revenue, it is important to note that in placing the establishment of post roads under the auspices of Congress, the Federalist-dominated House of Representatives essentially reserved for itself the ability to shape and control the avenues of communication. To be certain, it was a clear priority that information be disseminated as widely and quickly as possible in order to make the public aware of all the information it needed in order to make informed decisions and become educated about the actions of its leaders. But the House did not confer all aspects of communication on the public or on private citizens or entities. No, the Administration of the federal government would determine which communities would be linked by roads and which would receive post offices, and the Administration would determine who could carry the news, and how much it would

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cost to do so. While they promoted a wide berth for communication in the United States, the members of the House took pains to make sure that those decisions remained theirs to make. They believed it important to shape the contours of the avenues of communication themselves.

These priorities were on display in the spring of 1790 during debate over a seemingly unrelated issue. The question of whether or not newspapers should be provided to members of Congress at public expense had remained unresolved for nearly a year. On April 15, 1790, a House committee finally presented a draft bill on the issue. After a litany of statements about the importance of an educated public and wide dissemination of information, two significant motions were voted on. Both sought to determine whether or not the federal government would provide members of Congress with newspapers at public expense, and, most significantly, the discussion surrounding them touched upon the importance of the press as an engine of communication, and the necessity of government patronage in supporting it.

Many of the fears that surfaced over public sanctioning and support of newspapers centered on anger over press coverage of the proceedings of Congress. On Jan. 15, 1790, the anti-Administration John Page of Virginia asked whether or not “short-hand writers” from newspapers should be granted official seats on the floor of the House. Page felt the public interest was better served if reporters were able to hear debates more clearly, “for he had no
fears that a vote of the House to authorize the admission of such writers, would make the House answerable for their publications.”

Federalist-leaning Representative Alexander White, however, disagreed. While White admitted that it was important for information to be reported as accurately as possible, he favored the status quo, where reporters were unofficially allowed to stand or sit behind or near the Speaker’s desk while taking their notes, but not given official sanction with a special space created for them. White’s stated reasons were that the reporters took great pains for accuracy, and corrected mistakes when they were made. “Although these publications had not given an exact and accurate detail of all that passed in Congress, yet their information had been pretty full and he believed the errors not very many,” White argued. When mistakes were made, they were from “haste or inadvertence,” rather “than from design.” White “was convinced of this, from the disposition the publishers had manifested to correct any errors that were pointed out, and the pains they sometimes took to ask gentlemen what were their particular expressions when they either did not hear distinctly, or did not comprehend the speaker’s meaning.”

Federalist Roger Sherman agreed, saying “they [the printers] had always aimed to be impartial;

249 “Proceedings January 15, 1790.” Annals of Congress, House of Representatives, 1st Congress, 2nd Session, 1098 (accessed September 13, 2014). Page relates an amusing anecdote about the lack of accuracy and the mistakes made by reporters, and that he wanted to take steps to remediate the potential for such mistakes in the future. In support of greater accuracy, he mused that “In another place [newspaper], I found a greater blunder still: it was said, that the House had appointed a committee for the regulation of the barbers of the United States; this struck me as a very gross misrepresentation, for I could hardly believe, that the Legislature of the Union, would, at so early a day, attempt to usurp an authority not vested in them by the Constitution, and that, too, over a body of men, who could at any time put an end to the tyranny with the edge of the razor; but on searching the minutes in this case, I found that a bill was brought in for the regulation of the harbors of the United States. Upon the whole, I believe, inaccurate as this work is, it has given to our constituents great satisfaction, and I should be glad to see our Argus restored to his former situation behind the Speaker’s chair, from whence he could both see and hear distinctly everything that passed in the House.”

250 Ibid., 1095-96.
he conceived it was for their interest to be so. It is true they are liable to commit errors, and some have been printed in the debates: but when they have been pointed out, they were willing to publish corrections, and in many cases have done it.”

All sides made it very clear that the accuracy of information was important and reporting on Congress’ proceedings a necessity, but Federalists White and Sherman wanted to maintain control over the process of determining accuracy. Providing official seating for reporters allowed them and the information they provided to be outside the purview of the legislature. Unofficial seating behind the Speaker’s desk forced them to constantly work with representatives on the clarity and meaning of their speeches and debates, and preserved for the members of the House more control over precisely what information the public learned. White and Sherman carried the day, and with it quelled many Federalist fears about impartial and partisan reporting. Later that same day, the House majority voted that newspapers should in fact be furnished to members of Congress at public expense. The Federalist majority once again recognized the key role that government played in fostering a comprehensive communication infrastructure, while at the same time the Administration was once again able to keep its hands firmly on the conduits of communication.

In early July, the Federalist-dominated Senate again added several amendments to the Post Office bill, requiring the House to reconsider the bill with those additions. Among the most significant inclusions were clauses allowing the Postmaster General to regulate the conveyance of newspapers in the official mail and to determine appropriate postage for this

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Ibid., 1082.

Ibid.
service. Opposition leader Elbridge Gerry was outraged. “It carried with it the plainest outlines of a system to establish a Court Press and a Court Gazette. To give this paper [or another paper] a currency and circulation through all parts of the Union, in total discouragement and exclusion, through the post-office, of every other paper, if the Administration thought proper to do so,” Gerry vehemently argued. In spite of Gerry’s insistence that such a power would imperil a free press and allow the Administration to favor one paper over another and exert control over the information sent through the mail, the amendment was ultimately agreed to by the House.

Over the next six weeks, the Senate and House of Representatives took turns debating amendments passed by the other house. There was some give-and-take, with ultimate agreement from each body on most of the proposals, except for a disagreement on who should be responsible for establishing post roads: Congress or the Executive branch. All bills that passed the House called for Congress to hold the power to establish post roads. The Senate, however, felt this power should rest with the Postmaster General and ultimately the President of the United States. It was on this one point that both houses failed to come to an agreement, and the legislative session ended in mid-August without passage of the bill. It is important to note, though, that while neither house of Congress could agree on which branch of the government should be responsible for the establishment of post roads, both the Federalist-dominated House and the Federalist-dominated Senate had little question that the federal government should be responsible for establishing and maintaining them.

While most members of Congress firmly believed this should be the case, it was not the only possibility before them for consideration. Under the Articles of Confederation, the Confederation Congresses were responsible for maintaining one primary north-south post road stretching from Maine to Georgia, while the individual states or local municipalities had authority over all other roads. Opposition Senator William Maclay was an advocate of the system as it had been under the Articles, and introduced a motion to keep it that way on June 26th, saying “one great Post road should be described by law. From Portland in [Maine] to Augusta in Georgia.” The rest of the Senate was having none of it, and rejected Maclay’s proposal. The Federalist-dominated legislature firmly believed in the establishment of a national system of communication, not a so-called “system” controlled by the local-minded states.

Objections to Maclay’s proposal and those similar to it were summed up nicely by Representative John Steele, who, in the waning weeks of the Congressional session, objected to the ramifications of Maclay’s vision. Displaying a concert of opinion between the Federalist allies of the Washington Administration and its opponents, the usually anti-Administration Steele reasoned that “upon the present establishment of the principal post-road, a considerable and populous part of North Carolina derived no advantage from the establishment, and the sea-coast exclusively enjoyed the benefit of a regular and speedy conveyance for their correspondences, and thus the agricultural interest was sacrificed to the

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254 Maclay, 305.

commercial. Representative Williamson, while disagreeing on the specifics of Steele’s motion, agreed with him in principle on the rationale behind the establishment of the Post Office, and the object of the bill before them: “The object of an established post was not to afford the most speedy conveyance, by the straightest line between two distant places; but to accommodate on the route as many persons desirous of writing as possible…. The post, to be as beneficial as possible to the community, and as profitable to Government, should pass through as many towns as practicable.” The problem was clear. Leaving the establishment and maintenance of post roads out of the hands of those administering the national government would allow for unequal access to communication and information.

In order for the public to get the information it needed, the federal government must have domain over the post roads in a way that allowed it to create an infrastructure to transmit the most information possible to the greatest number of people. The federal government was the only institution that could make those determinations. This would not be the last time during the 1790’s in which this particular sentiment formed the rationale for decision-making about communication policy. The same men, who had so consistently proclaimed the necessity of a wide dissemination of information and who had carefully crafted policies designed to provide exactly that, saw no conflict in their aims. It was clear to the Federalists and many members of the opposition that, in the development of a national public sphere for political discourse, those in charge of the federal government should control the routes and contours of communication.


257 Ibid.
The First Congress came to a close on March 4, 1791 without passage of a permanent, comprehensive Post Office Bill. It had not been for lack of trying, however. A consensus of sorts had emerged that, not only recognized the critical need for a public sphere, a forum in which political communication could rapidly take place, but that also agreed it was best for the administrators of the federal government to control that communication and steer it benevolently. How the specifics of that project would take shape still needed to be sorted out by Congress, but the process would begin anew in December of 1791 shortly after the Second Congress began.

On December 6, the previous bill was reintroduced into the House and examined de novo. This time, more members of the House seemed to agree with the Senate, that the Executive branch should determine the location and routes of post roads. This brought rebukes and renewed efforts from the holdouts for Congress to retain control. These holdouts were largely Southerners, and predominantly members of the burgeoning opposition to Washington and his Federalist associates in Congress. Despite his usual Federalist leanings, Alexander White remained with the holdouts, his Southern brethren, on this issue. In fact, White may have described the concerns of the opposition best when he argued that the fewer hands in which the avenues of communication were placed, the more likely it was that the power would be abused, and the Post Office used to further political agendas. “At the time of a general election,” he cautioned, “how easy would it be for this man to dictate to particular towns and villages, ‘If you do not send such a man to Congress, you shall have no post office; but if you
That winter, another key aspect of the proposed Post Office bill came under discussion in the House as well. The year before, Congress had debated whether or not it should allow all newspapers to be disseminated through the mail or choose one or a few papers, essentially as the unofficial mouthpieces of the federal government. In the winter of 1791-92, the question of whether or not papers should require postage or be transmitted for free came before the House. One of the proposals which was very hotly debated was that newspapers should be carried completely free of charge by official post riders. The idea behind this was that, if the mission of the Post Office was to disseminate information to as many Americans as possible, the free transmission of newspapers was the best means of achieving that goal. It was ultimately voted upon and agreed to that newspapers would be subject to only a very small postage fee, but that publishers themselves could send copies of their editions to each other for free. This would still allow for the much-desired wide dissemination of information, while at the same time the concept of the fee would allow Congress to exert control over this dissemination at any point in the future if it felt necessary. The policies themselves had the immediate effect of creating a sphere of communication in which both the public and government could more easily and quickly than ever transmit information throughout the

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259 See “Proceedings December 26, 1791.” *Annals of Congress*, House of Representatives, 2\(^{nd}\) Congress, 1\(^{st}\) Session, 284-286 for the discussion in the House of Representatives over minimal postage rate versus no postage rate for newspapers transmitted through the official post. Congress retained for itself the ability to raise and lower the fees as it saw necessary, a practice that could aid or hinder the ability of many publishers and individuals to send newspapers through the mail.
country. The long-term effects allowed the Federalists and their congressional allies to retain for themselves the ability to shape and control the avenues and boundaries of this communication sphere.

While House members ruminated about this issue, the franking privilege came into question as more aspects of the Post Office Bill were brought before the House for debate. Echoing many of the critiques first raised by Osgood in his 1790 report, those in favor of revoking the franking privilege argued that, first, franking was being abused by members of Congress who had more than enough money to pay postage themselves for their own letters, yet filled the post with their own communiques and those of associates sent under their own names and privileges. Second, opponents argued that, because of these abuses, the post office was losing significant revenue. It seems some members of the House were not willing to let go of the notion that the Post Office should raise revenue for the general government.

An attempt to revoke a time-honored privilege such as franking, one that carried with it more than a century of English legal and political tradition, was bound to encounter serious opposition. Arguments in favor of retaining franking did not simply rely on tradition as their rationale, however. The crux of the arguments in favor of continuing the privilege relied on the supreme importance, almost above all other considerations, of spreading reliable, vital information and knowledge to people throughout the expanse of the country. Extolling the values of the educational rationale for the post office, it was argued that “a greater portion of [information] had been conveyed into many of the interior parts of the country, by the
newspapers sent by the members of the House, than could be conveyed by other means.”

This information was critical to the very continuance of the government, and the House members opposed to franking were courting disaster by attempting to bring about its demise.

The proponents of franking acknowledged the potential for abuse and laid out a series of suggestions for addressing it. Limiting the extent and scope of the franking privilege while still retaining the basic entitlement, the key concessions offered up included limiting franked letters to those sent and received at the seat of government, confining members of Congress to franking only during active sessions of Congress, and limiting letters to only those from members of Congress and only to and from their home states. All of these changes were intended to “convince the people, that the privilege was intended for the benefit, not of the members, but of their constituents.”

Incredibly, the motion to withdraw the franking privilege was defeated without the inclusion of any of the suggested reforms. Franking would continue unabated as it had been, meaning that members of Congress would continue to have the ability to influence their constituents’ understandings and impressions of the proceedings of the federal government through one of the few channels of information available to the public. In the absence of a permanent, comprehensive Post Office bill, this information, however, was vitally important. The nation-wide communication system as currently constituted still made it difficult for Americans to receive information about the federal government the further they resided from

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261 Ibid.
the seat of power. Newspapers, a still somewhat unreliable source of information, were not yet part of the regular mail, and the cost to transmit them was still often prohibitive. In light of these shortcomings, the importance of continuing the franking privilege was readily apparent to the members of the House. The very success of the government, they believed, rested on getting the best information to the public in order to foster its support and confidence.

“Wherever the newspapers had extended,” it was declared matter-of-factly on the floor of the House, “or even the correspondence of the members [had reached], no opposition has been made to the laws [of the United States; whereas, the contrary was experienced in those parts to which the information had not penetrated; and even there, the opposition ceased, as soon as the principles on which the laws had been passed, were made known to the people.”262 The public sphere needed to be expanded so that more Americans could readily receive information from their government. Upon this, the very success of the American experiment rested.

Getting information to the people was essential to the young republic. But as the statement above shows, it was not simply information about the government’s proceedings that was key, but the correct information. As the *Annals of Congress* record, and the vote to continue franking supports, the public needed the correct information to draw sound conclusions. Receiving rumor and innuendo piecemeal as it trickled into the hinterlands of the American frontier did a great disservice to both the public and the government. When the people regularly received reliable information direct from the seat of government, they received a fair, honest reporting of the proceedings of the federal government and showed an appropriate level of support. At least this is what the Federalist-dominated House of

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262 Ibid., 254.
Representatives believed. With a clear understanding of the intent and purpose of the federal government and the laws it passed, members of the House believed the public’s faith in and support of the government increased. While precisely what comprised “correct” information would not be made clear in this particular debate, the ideal of “correct” information was believed to exist and was not disputed in late-1791 and early-1792. The understanding of the House though, was being made clear: the more quickly, regularly, and directly political leaders could deliver to the American people “accurate” information about their proceedings, the more connected they would be to their government, and the stronger their faith and loyalty to that government would be.

With these principles in mind, the need for passage of the Post Office bill became clearer than ever. On January 15, 1792, John Steele fired off a celebratory letter to his constituents lauding the passage of the Post Office bill through the House. The bill, Steele proclaimed, was “as favorable to No. Carolina as cou’d have been wish’d [sic].” After describing many of the local post roads it established in his home state, he saved the bill’s most satisfactory achievement for last: newspapers could now be carried via the mail “from this place to any postoffice [sic] in the United States for ¾ Dollar pr. Annum.” Steele continued in his elation by noting that “in this particular government has acted liberally.” He concluded his circular by echoing many of the same sentiments brought to the fore in the debate over franking a few weeks earlier. In fact, these sentiments had been in the air since Congress’ opening session in 1789. “Hitherto, the people of that state [North Carolina] have been much in the dark in regard to the affairs of the general government,” Steele reminded his constituents. “That time I hope is at an end,” he continued:
Indeed I know it is if the Senate passes the bill as we sent it up.... if the people hereafter remain uninformed it must be their own fault.... That the diffusion of knowledge is productive of virtue, and the best security for our civil rights are incontrovertible truths which cannot be too frequently, or too forcibly inculcated.\textsuperscript{263}

Steele’s understanding of the potential benefits of the Post Office bill mirror the ideas expressed again and again in both the House and the Senate. In both public and private letters penned by national politicians over the preceding five years, a similar understanding of the purpose behind political communication shone through. In fact, in many respects, Steele’s letter differs little from the expositions of Hamilton and Madison in the \textit{Federalist Essays} from 1787. The need was clear to most leading national politicians both Federalist and Opposition, and had been for some time, but would the Senate approve the House bill this time?

On January 27, the Post Office bill passed by the House faced its final obstacle to being approved by the Senate. On that day, it was read before the chamber a second time and opened up for debate. A motion was made to allow the Postmaster General to stop delivering mail on new routes if the yearly income fell below two-thirds of the cost to maintain and carry the mail over that route. In essence, the question before the Senate was nothing less than whether or not the communication policies of the United States would follow the fiscal rationale, or the educational rationale. The motion was defeated, and the educational rationale carried the day. The Senate Journal does not even record the final vote total on the motion, which suggests that it was not even close. The understanding that the purpose of the Post Office was to disseminate knowledge and information about the proceedings of

government to the public became ensconced in Federalist and American policy. The bill passed by the House persisted in keeping the power over post roads with Congress. Even though several days later the Senate disagreed with the routes set for certain post roads, it ultimately acquiesced on this point.

The final bill was sent to President Washington on February 3rd, 1792, and signed into law on February 20th. The Federalists had succeeded in institutionalizing many of the values they had espoused since the inception of the federal government. The final Post Office Act of 1792 provided for Congress to establish post roads and cross roads through all parts of the country, a clear statement that no regional or local Post Office branch or post road needed to be financially self-sustaining in order to remain active and in use. Rather than a revenue-generating department of the federal government, the purpose of the Post Office was to spread information, and this understanding was now embedded within federal law and policy. Furthermore, with this understanding in mind, the Post Office Act allowed for the transmission of newspapers through the official mail for the first time, albeit at a very minimal postage rate. Most significantly of all, however, the Federalist-dominated government of the United States had established a national communication system with the potential to connect every person in the country and allow for a much wider diffusion of knowledge and information than ever before. The political leadership had succeeded in establishing a forum within which national


265 “Proceedings January 30, 1792.” Annals of Congress, Senate, 2nd Congress, 1st Session, 79 (accessed September 20, 2014). On January 30, during its supposed final reading of the bill, various Senators made amendments to some of the routes determined by the House. None, however, disagreed this time with the premise that Congress would retain control over the establishment of post roads and postal routes.
politics and debate, persuasion and deliberation, could take place. It had expanded the public sphere in a way that supported the American political experiment.

Two months to the day after Washington signed the Post Office Act of 1792 into law, Elbridge Gerry introduced a motion in the House to establish a new committee to consider better ways to more regularly publish the debates, records, and journals of Congress. Gerry quoted a recent newspaper description of a debate in the House that, according to him, was completely inaccurate. His concern was that inaccurate reporting and recording of Congressional debates would counteract any positive benefits that a wider dissemination of those debates would have on the public. If newspaper coverage was irregular and inaccurate, it did not matter how widely information was spread, the public was still not receiving the accurate information that national leaders considered essential. \(^{266}\) Gerry hoped that an improved publication of records would remedy the situation by providing newspapers and publishers with more accurate sources of information. He was not the first national leader to make this claim, nor would he be the last.

While the Post Office Act of 1792 helped to institutionalize the values of a wide diffusion of knowledge, at the same time it gave Congress ultimate control over those avenues of communication. The Federalists had succeeded in institutionalizing another key facet of their broader conception of the American political system. In the Post Office Act of 1792, they had created a national public sphere in which political communication could take place. And this was a necessary element of their understanding of the nature of the American political system,

\(^{266}\) “Proceedings April 8, 1792.” *Annals of Congress*, House of Representatives, 2\(^{nd}\) Congress, 1\(^{st}\) Session, 563 (accessed September 20, 2014).
one that would support the way representative government should function. If the officers of
government were to deliberate and determine the proper course for the United States through
their collective wisdom, the public sphere established through the Post Office Act provided the
arena in which that could take place. While Gerry’s plea for “correct” information went
unheeded for the moment, the Federalist communication project was far from complete. The
Federalists, or the stewards of government as they saw themselves, had retained the ability to
shape the boundaries of the public sphere and control the avenues of public debate, but what
those boundaries might look like and whether or not they would act to form them remained an
open question.
VI. SHAPING THE BOUNDARIES

Public Opinion and the Federalist Drive for Standards in Political Discourse

In the spring of 1791, John Adams’ year-long series on the nature of American politics, *Discourses on Davila*, came to a close. While he did not intend the *Discourses* to be a dissertation on political communication, Adams did more than simply touch upon the necessity of dissemination of information to the public. Rather, he gave it central importance in the very underpinnings of a republican form of government. Adams professed a view that the public’s faith and trust in its leaders were essential to the success of the government. With this in mind, political communication with the public was to be undertaken by the government and its leaders with the object of fostering and furthering public support. The people, according to this line of thought, needed to know what their government was doing in their name, and to understand why their leaders were carrying out the specific measures being undertaken. We have seen these ideas present in policies enacted by the federal government and its leaders since 1789. With John Adams as one of their champions, these axioms would continue to hold sway in Federalist policy as the 1790’s progressed.267

John Adams’ *Discourses on Davila* was intended as the fourth volume of his treatise on the political system of the United States. It was a wide-ranging discussion on numerous aspects of American politics and character, and often delved into Adams’ perspective on the basis of human nature. It was here that some of his more important insights were on display. Adams

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readily acknowledged that a greater diffusion of knowledge was an important political
development in the late-18th century, not just in the United States, but throughout Europe.
The more enlightened the general populace, asserted Adams, the more aristocracy, hereditary
privilege, and power abated. The potential for myriad improvements and advancements in
human society and politics was intimately tied to the availability and spread of more
information to the public. Adams, however, was writing in the shadow of the French
Revolution. While he recognized the myriad benefits of greater access to information, he also
saw in it the seeds of discord. Alluding to the problems inherent in a greater circulation of
knowledge, Adams offered a solution that, “if the opportunity were temperately improved, to
the reformation of abuses, the rectification of errors, and the dissipation of pernicious
prejudices, a great advantage it might be.” To Adams, there were negatives as well as
positives to greater communication that needed to be addressed before its greatest benefits
could be felt.

A few months later, in an essay entitled “Public Opinion” published in the National
Gazette in December 1791, James Madison articulated an alternate notion of the relationship
between the public and government, one that made a break with most of the foundations and
policies that had shaped American politics and communication over the preceding four years.
While this particular understanding of public opinion had been percolating within the growing
opposition to the Federalist Administration, in Madison it now found a coherent, articulate
voice. Public opinion, Madison exclaimed, should inform the government and its leaders as to
the course of action they should follow. It was a fount of information and authority that flowed

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268 Ibid., 355.
only in one direction, a surprising conclusion given Madison’s views on the Tucker Amendment and Doctrine of Instruction only a few years earlier.

Taken together, these expositions from Adams and Madison serve as exemplars of the two poles of American political thought that would do battle during the remainder of the decade, and that would inform national communication policy for at least as long. The Federalists, for their part, continued to follow the same pronouncements and values that had given shape to national communication policies since the ratification of the Constitution. These ideals stemmed directly from their defense of the Constitution in the *Federalist Essays* and the press and they played a very direct role in crafting the way communication had come to function to, from, and around the federal government. As they touched upon the dissemination and use of political information, the Post Office Act of 1792 and other actions taken by Congress highlighted in previous chapters defined what would come to be known as a distinctly Federalist understanding of how communication should function within the political environment of the young American republic.

The Republican opposition, on the other hand, began to lay out positions distinct and antithetical to those held by the Federalists on a number of important issues. Not the least of these was communication. As this shift took place, the Opposition became more distinct and organized, and the once-common ground between them became distinguished by a line in the sand. To be sure, there were still points of agreement where the goals and ideals of each side overlapped in a way that allowed enough common ground to create law. The Post Office Act of 1792 is an example of this, where the policies and values enacted in the bill were seen as
necessary to bringing about the visions of both political factions. With increasing frequency, however, Republicans’ and Federalists’ different understanding of precisely how information was to be disseminated and the larger role it was to play in the political process could not be bridged, and contributed to the tenor and rancor of public discourse.

The Political Scientist, Colleen Shaheen, has written extensively on the views of public opinion held by Madison and the prominent Federalist, Alexander Hamilton. Sheehan considers these differences a primary factor in the development of parties in general, and a motivating force in Madison’s gravitation toward the Republicans specifically. She takes a very one-dimensional, possibly even dismissive, stance toward the understanding espoused by the Federalists. Sheehan refers to Hamilton’s understanding of public opinion as “thin,” and describes it as simply “confidence in the government.” The Federalists, she argues, saw public opinion as fully equated to the degree to which the public supported them, nothing more, nothing less. By contrast, Madison and the Republicans adopted a much more multifaceted view of public opinion, one much more in line with the modern American view, according to Sheehan.

Other more recent studies on the Federalists’ understanding of public opinion have painted a more nuanced picture, however. Todd Estes’ work on Jay’s Treaty argues that the Federalists adeptly shaped public opinion in order to win support for the controversial pact, while Chris Young makes a similar argument with respect to Washington’s Neutrality Proclamation and his Administration’s dealings with the infamous Citizen Genet. For Young,

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when the Washington Administration was unable to carry out certain policies due to a lack of public support, Hamilton and others actively pursued the public’s support through the press. Mark Schmeller, meanwhile, has located the origins of the Federalists’ interest in public opinion in the debt-funding issue that arose in the late 1780’s. The Federalists certainly saw public opinion as more than simply equivalent to “confidence.” While Sheehan might have had a particular reading of Hamilton, a much different picture than hers emerges if we take a closer look at several of the other Federalist figures and tracts during these transitional years of party development and federal institution-building. The Federalist understanding of public opinion becomes more dynamic and provides significant insight into their understanding of political communication and its function.

For the Federalists, the relationship between the people and their government was a carefully constructed one, in which both sides had prescribed roles and reciprocal duties. Communication of political information was the necessary conduit between the two, with the public needing correct information about the government and its proceedings in order to establish its trust and confidence in those administering the government, and the administrators of government needing to feel the benefit of that trust and confidence as the ultimate source of their authority. While the desires of the people were largely to be determined through the electoral mechanism of choosing their leaders, it was necessary for the good, elected representative of the people to understand both what was going on throughout

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the country, as well as what the people thought about any number of topics and issues. The Post Office Act of 1792 had created a national public sphere where this communication interplay occurred, where information moved back and forth from one party to the other. This was the central forum of the American political experiment, and therefore the proper shaping of this forum and its maintenance were undeniably critical. One side could not become too powerful or have its proper role disrupted; both poles needed to be kept in balance with each other. The Federalists needed the American people to understand what they were doing and why, and they needed to receive the support of that public to legitimize their actions as administrators. This was part of the carefully crafted equilibrium the Federalists envisioned within the American political system as it took shape, and a properly constituted flow of communication was key.

John Adams serves as a notable case in point. One of the consistent themes of Adams’ *Discourses on Davila* was the need for balance in all aspects of society and government. Taking to heart the notion that all things should be done in moderation, Adams felt that one of the duties of government was to be aware of and prevent the excesses that could accompany an uninhibited flow of communication. Adams was keenly aware that simply spreading information and knowledge did not solve all problems. “On the contrary,” he wrote,

> The more knowledge is diffused, the more the passions are extended, and the more furious they grow. Had Cicero less vanity, or Caesar less ambition, for their vast erudition?... Go to the Royal Society of London. Is there less emulation for the chair of Sir Isaac Newton than there was, and commonly will be for all elective presidencies?²⁷¹

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²⁷¹ Adams, *Discourses*, 356.
More knowledge and information did not automatically improve the state of mankind and society. Instead, posited Adams, there was a grave danger that incorrect and false information could be spread, with equally grave consequences. When political factions and parties became involved, “sophistry” and “party spirit” had the tendency to produce lies, calumny, and “criminal intrigue.” In such an undisciplined communication environment the fear arose that criminal intrigue could produce severe problems. Furthermore, he continued,

As unbalanced parties of every description can never tolerate a free inquiry of any kind, when employed against themselves, the license, and even the most temperate freedom of the press, soon excite resentment and revenge. A writer, unpopular with an opposite party, because he is too formidable in wit or argument, may first be burnt in effigy; or a printer may have his office assaulted. Cuffs and kicks, boxes and cudgels, are heard of among plebeian statesmen; challenges and single combats among the aristocratic legislators. Riots and seditions at length break men’s bones, or flay off their skins. Lives are lost.

To Adams, knowledge and the dissemination of a vast amount of information had the potential to provide great benefits to society, particularly in a republican form of government. However, Adams also believed that an unchecked and unmonitored diffusion of information broke apart the bonds of civil government and brought with it chaos.

This sentiment was echoed by other leading Federalists writing in vastly different contexts during the tumultuous years of early party formation. While Colleen Sheehan may have viewed Alexander Hamilton as a one-dimensional figure in terms of his views on public opinion, when we examine his beliefs from the perspective of communication, he gains a depth more in line with that of Adams. Writing just a few years after Adams’ Discourses, Hamilton, like many Federalists, never passed on an opportunity to remind the public of the dangers of

272 Ibid., 353.

273 Ibid.
factional disagreement and opposition to measures undertaken with the government’s intent to safeguard the people’s interests. In a May, 1793 essay, Hamilton attempted to defend Washington’s proclamation of neutrality in the ongoing imbroglio between France and Great Britain. While writing explicitly on foreign policy and executive power, Hamilton delved into what would become a frequent Federalist warning:

At this moment, a most dangerous combination exists. Those who for some time past have been busy in undermining the constitution and government of the U-States, by indirect attacks, by labouring to render its measures odious, by striving to destroy the confidence of the people in its administration—are now meditating a more direct and destructive war against it—embodying and arranging their forces and systematising their efforts.274

This is largely what Sheehan perceived when she considered Hamilton’s understanding of public opinion as “thin” and consisting solely of a vote of confidence in the country’s political leadership.

Yes, Hamilton greatly lamented the spread of harmful ideas calculated to bring about that loss of confidence. He despaired at the formation of “secret clubs” and “private consultations” intended, in his opinion, to discredit the Washington Administration and its Federalist allies in order to bring about their insidious plan to destroy the confidence of the people in the administration of government. But when we consider Hamilton’s remedy for this problem as a facet of a larger system of communication, public opinion becomes something much more mutable. It is something political actors needed to actively shape and affect, something that needed to be continuously attended to in order to maintain public support, and which the Administration was at that moment attempting to address. “Emissaries are

dispatched to distant parts of the United States,” Hamilton continued satisfactorily, “to effect a concert of views and measures, among the members and partisans of the disorganising [sic] corps, in the several states.” Hamilton felt as Adams did, that the American public had agency to determine its opinion of political events and policies, and that this agency required constant care and attention. In this respect, a wide diffusion of knowledge was necessary, but fraught with danger if not properly influenced.

There is no question that to Hamilton, Adams, and the Federalist Party they came to represent, the ultimate object of a wide dissemination of knowledge, of an increased flow of information throughout the body of the people, was to promote trust in and support of the government. However, in an unchecked atmosphere of party intrigue, that free-flow of information and knowledge had the potential for harmful consequences. Could such an outcome be avoided simply by crafting a system through which more and “better” information was spread? Balance was Adams’ key. “In a well-balanced government,” he wrote, “reason, conscience, truth, and virtue, must be respected by all parties, and exerted for the public good.” However, when this balance was thrown off, “the increase and dissemination of knowledge, instead of rendering unnecessary the checks of emulation and the balances of rivalry in the orders of society and constitution of government, augment the necessity of both.”

\[\text{Ibid.}\]

\[\text{Adams, Discourses, 356.}\]

\[\text{Ibid.}\]
In order to prevent the chaos of sedition and discord, Adams promoted a balanced approach to the dissemination of information and to the process of government in general, as “government is intended to set bounds to passions…. And to assist reason, conscience, justice, and truth, in controlling interests, which without it, would be as unjust as uncontrollable.” 278 The lies and distortion of the truth that came with sedition and libel were rooted in an unchecked sanction of party rivalry. Adams therefore advocated creating checks and balances that would prevent one faction from becoming too powerful, and from spreading improper information about the other. He wanted to create a set of standards for the discourse that took place within this new communication environment. To the Federalists, it was a system of communication that they needed to develop, and like the system of government many of them had so recently helped to establish, checks and balances were an absolutely necessary remedy to the evils that accompanied it.

The suggestion that the Federalists believed in the necessity of standards for political discourse within the public sphere is not a novel one. Previous scholars have argued that the Sedition Act of 1798 was an attempt to introduce guidelines into public discourse or control the way in which people engaged in it. Seth Cotlar has written that the Sedition Act, coupled with the Alien Acts, “moderated the tone and content of public political discourse in the new nation.” 279 Joanne Freeman has similarly described the Sedition Act as a manifestation of the

278 Ibid., 357.

Code of Honor that governed much of late-18th century political discourse. For Cotlar, however, the desire to change and control political discourse was an immediate response to the political crises of 1797 and 1798, while Freeman simply does not see the law as very significant, or its effects wide-reaching. Neither position acknowledges the importance of the Federalist impulse to set standards of political discourse a decade prior to 1798, or their promotion of this concern as a key facet of their communication policy. In reality, the Federalists would come to see standards of political discourse as a necessary piece of the political system and project they spent the 1790’s attempting to institutionalize.

While Adams was a notable example of Federalist thought, he was certainly not alone in these beliefs. The Gazette of the United States, an unofficial Federalist Party organ, frequently printed essays, opinion pieces, and editorials elaborating Federalist ideology. These pieces regularly lamented the spread of lies and untruths by enemies of the United States government, while holding close to the hope that better information and the trust and respect of “real” Americans would keep public confidence from eroding. Some of these were tacit acknowledgments made in other contexts, such as Hamilton’s famous Pacificus series, while others were explicit in their testimonials. What is clear though, is that these ideas extended to men of Federalist sympathies beyond luminaries such as Adams and Hamilton, and that the Federalists’ conception of the proper forms and practice of political information and

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communication were an inextricable part of their core ideology—and a central feature of the Federalist project.

Not long after passage of the Post Office Act, the *Gazette of the United States* published an essay in October 1792 taking up Adams’ charge. The piece argued that the foundation of good government rested upon the esteem and respect that men had in their government and its officers. Echoing almost precisely the sentiments of Adams and Hamilton, it continued to note that there are many people throughout the United States whose goals were to poison the minds of the people against the government, thus hampering its ability to do good. In their denunciations, these insidious men attacked the very heart and spirit of their country. The author of the piece did not expound these ideas in a vacuum, but explored them in the context of funding the federal debt. It linked the support of the public on this issue to being a necessary ingredient of the success of the federal government. A few months earlier, in August 1792, a similar sentiment was expressed in the course of an essay on manufacturing. “It is an old artifice of the enemies of the real happiness and freedom of our country,” the author wrote, “to sow divisions and create jealousies... but we trust the people are too wise to be duped by these selfish, partial politicians, or to be thus cheated out of these substantial

blessings which depend on unanimity alone.”

The Federalists would return to these sentiments again and again in order to undergird and support other, more specific policies.

In his classic work, *The Idea of a Party System*, Richard Hofstadter describes the development of both party ideology and a “party system” in the thought of the Federalists and Republicans during the 1790’s. He begins with an exposition on the dominant view of parties rising out of colonial and revolutionary politics as one that simply did not recognize the legitimacy of lasting, institutionalized political parties. Hofstadter explains that the Founders “stood at a moment of fecund inconsistency, suspended between their acceptance on one side of political differences and opposition criticism, and on the other their rejection of parties as agencies to organize social conflict and political debate.” These leaders recognized that there were bound to be differences of opinion in the course of policy and other political debates, “but they wanted to minimize such conflicts and hoped to achieve a comprehensive unity or harmony.”

The Federalists, posits Hofstadter, were particularly influenced by this view of the illegitimacy of institutionalized political parties that dated back centuries in Anglo-American political traditions. He describes the Federalists’ understanding of opposition to the young government as rooted in these traditions, in the belief that organized factions were not simply expressing disagreement with policy direction, but rather were subversive of the government itself. Most particularly, wrote Hofstadter, “Those who are in power are disposed to think of...

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themselves not as a party that has taken the reins of government but as the government itself. Hence, the opposition is identified as a wholly unconstructive faction, an anti-government. Its criticism of a particular government is taken to be criticism of all government....It is therefore identified with anarchy, subversion, and disloyalty.”

Hofstadter proceeds to specify examples of prominent Federalists expressing just such views. According to him, the Federalists did not view the Republicans’ critiques as a natural byproduct or facet of democracy, but rather an attempt to sabotage their standing with the public, sabotage that would ultimately harm the government itself.

The Republicans, argued Hofstadter, emerged politically holding similar views on the dangers of parties. Neither side saw an organized opposition as legitimate at the outset of the 1790’s, and both railed against the dangers of factions, particularly the dangers posed by the faction that each saw the other side becoming. Organized party politics were not only illegitimate, but anathema to the general system of government all politicians were attempting to put in place. As the 1790’s progressed, however, and the respective political parties coalesced, Hofstadter identifies a sea change in the way those becoming aligned with the Republicans, in particular Madison, had begun to embrace organized party politics and the legitimacy of political opposition. Hofstadter himself locates Madison’s change in perspective during early 1792, when he published a series of essays that appeared in the National Gazette shortly after his editorial “On Public Opinion.” Madison, Hofstadter argues, was convinced that the Republican ideology was shared by a majority of Americans, and that it was his duty to rally them to the cause. As part of this effort, Madison began writing about a new, positive role for

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284 Ibid., 87.
organized political parties: if parties are regrettable yet inevitable, they can stand watch over one another to mitigate the evils they spawn. This is actually, in many respects, a continuation of his thinking in *Federalist 10*.

While Hofstadter saw the Federalists as busy vilifying the legitimacy of their opposition and undertaking efforts to prevent it from introducing anarchy and the ultimate destruction of government itself, he saw the Republicans as crafting a counter-ideology that, while no doubt aiding their own prospects of political success, laid out a blueprint for the legitimate institutionalization of a party system. The framework presented by Hofstadter is a useful one through which to understand the Federalists’ motives and their views of the Republicans and of opposition in general. They were predisposed to see opposition as destructive of government, and driven by sinister intent. It was not a natural feature of a representative republic, but rather an artificial construct and a manifestation of imbalance within the political system. In short, large-scale, organized dissent was simply not viewed as legitimate. The Federalists saw it as essential to set bounds and establish limits to the discourse that flowed through the public sphere. Their communication policies and other actions taken by the Federalists to facilitate the flow of information within the young republic were not intended as malicious partisan attacks, but rather attempts to safeguard the government, and ultimately the country itself, from subversion.

In his piece on “Public Opinion,” Madison, like Adams, readily recognized the importance of a wide diffusion of information to the success of a republic like the United States. In order for the government to function properly, he wrote that it was an absolute necessity
that there exist “a circulation of newspapers through the entire body of the people, and Representatives going from, and returning among every part of them.”\(^{285}\) For Madison, however, the importance of information being circulated throughout the country had a very different purpose. Madison, too, saw checks as necessary in this new system of government, but rather than checks within the government intended to create a set of standards for the content of information being communicated to the people, Madison saw the public opinion generated by the people as a check on government, or means of directing the Administration on how to act. When this process did not function as intended, there were pernicious consequences. “As there are cases where the public opinion must be obeyed by the government;” wrote Madison, “so there are cases, where not being fixed, it may be influenced by the government. This distinction, if kept in view, would prevent or decide many debates on the respect due from the government to the sentiments of the people.”\(^ {286}\)

Madison’s essay helps draw important distinctions between the Federalists’ views and the emerging understanding of communication espoused by the Republicans. These distinctions would come to shape much of the debate about the role of government over the remainder of the decade. Rather than see the Administration as responsible for protecting the people unnecessary, by regulating information entering the public sphere, Madison had come to view the flow of information as quite the opposite. The object of open and increased communication was to better facilitate public opinion in reaching and influencing the direction and actions of the administrators of the federal government. “In proportion as government is


\(^{286}\) Ibid., 500-501.
influenced by opinion,” Madison wrote, “it must be so, by whatever influences opinion,” namely, the public itself.\textsuperscript{287}

Writing two years later under the pseudonym “Helvidius,” Madison continued to push this notion as a foundation of Republican ideology, even as he tackled the subject of Executive authority in response to Hamilton during the \emph{Pacificus- Helvidius Debates} that followed. Attacking Hamilton’s notion of near-supreme Executive authority over foreign policy, Madison discussed the notion of “public rights.” By contrast, Madison argued that, “as public rights are the rights of the nation, not of the government, it is clear that wherever they can be made good to the nation, without the office of government, they are not suspended by the want of an acknowledged government, or even by a suspension of the government.”\textsuperscript{288} In essence, Madison believed that sovereignty and the retention of many basic rights lay with the people as the ultimate source of authority, not with the government or those administering the government. This is an important distinction from the idea put forth by Federalists such as Hamilton and Adams which implies that once elected by the people, representatives were the stewards of government, expected to use their knowledge and wisdom to guide policy and action. This distinction would have important implications, some of which have been discussed in earlier chapters, for the ways each party understood the rationale and process of political information and communication.

Thus far, the emergent Democratic-Republicans have been the focus of far greater scholarship and research in this unfolding drama. But shifting the focus away from the

\textsuperscript{287} Ibid., 501.

\textsuperscript{288} James Madison, \textit{Helvidius Number II}, September 7, 1793, in \textit{The Pacificus- Helvidius Debates}, 80.
Republicans as the central actors and emphasizing instead what the Federalists thought and believed provides an antidote to the tendency to consider them, as Sheehan has, to be monolithic and without depth. This is a persistent problem in the literature of the Sedition Act of 1798 and in Federalist understandings of discourse and communication in general. Even when attempting a more nuanced approach to the growing partisan strife between Federalists and Republicans during the mid-1790’s, Jeffery Pasley’s *The Tyranny of Printers* characterizes the Federalists as carrying out a “reign of terror” on Republican newspaper editors who serve as representatives of the upwardly mobile working-class and harbingers of a more democratic United States. While he recognizes a clear give-and-take between Federalists and Republicans in which both sides attacked the other with intense vitriol, Pasley’s Republicans are seen as attacking the Federalists from a largely ideological perspective, while the Federalists impugned the very standing of the Republicans to level those charges in the first place. Their very right to voice an opposition was called into question. Despite glimmers of nuance in the Federalist position as described by Pasley, he, like Sheehan, sees the Federalists as largely one-dimensional autocrats scheming to eliminate their competition and consolidate their own power.

But what if the Federalist position to doubt the standing of the Republicans to conduct an organized opposition and to question Federalist legitimacy was also an ideological position, as Hofstadter suggests it is? Considering what the Federalists themselves thought they were accomplishing, an examination of their motives serves as a counter to interpretations of the

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Republicans as “champions of modern democracy,” and questions belief in the Federalists’
autocratic intent. When composing his Discourses, John Adams did not consider himself a
monarchist whose aim was to stifle free thought and dissent. Rather, he believed himself the
champion of good government and the benefits it brought to the populace.

In 1793, the conduct of Alexander Hamilton with regard to repayment of loans on behalf
of the United States government three years earlier came into question, and hearings on his
actions as Treasury Secretary were convened in the House of Representatives. The Federalist-
leaning Gazette of the United States came to Hamilton’s defense in the course of its reporting
on the situation, and fell back on a familiar strain to warn against what might lie ahead if the
matter were pursued further. “Inquiries into the conduct of public officers,” the Gazette
cautioned, “are in general attended with very salutary effects.... [But] charges of a high nature
against a public officer, vested with the execution of an important and delicate trust, charges
which excite alarm and distrust, and threaten the national tranquility, ought to be preferred
with caution and temperance.”

The necessity of public confidence in the government was a persistent theme in
Federalist thought. In the Gazette editorial, it is implied that the levying of charges with the
potential to impugn the character and reputation of an officer of the Administration should not
be taken lightly. Such information had the ultimate potential to severely damage the very
tranquility of the nation, and therefore to simply toss about these charges for public
consumption before properly investigating and digesting them was a dangerous business. It is

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the same notion we have seen expressed by Adams, Hamilton, and others, that the success of the government depended on the trust and esteem felt toward those responsible for its administration.

On August 18, 1792, the *Gazette of the United States* published a short piece lamenting the continued attacks on the motives of the Federalist Administration, writing that

> There is a class of men with whom the insinuations against the purity of government, and the pretences [sic] of corrupt speculations by men in public trust, will have influence. They, however, were never friendly to it. Knaves take the suspicion of foul play for the proof of it.-- Each finds in his own heart that the tale of slander might be true. We are as often duped by too little confidence in men, as by too much.  

Perhaps most significant here is the notion that the public can be easily misled by dishonest men of influence. This idea was made explicit in the *Gazette* six months later in February of 1793 when it floated the idea that men who were opposed to the government and its measures should not even be elected. “A writer in the National Gazette is of opinion, that the people should not elect men to office who maintain principles inconsistent with the nature of the government,” read the essay. “The sentiment is certainly just,” it concluded. Not only was it dangerous for the public to be inundated with information that attacked the authority of the government itself, but men who promoted such calumny could do as much damage, if not more, once given the reins of government.

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A satirical piece from December, 1793 attempted to drive home the above point through a lampoon of a so-called “Jacobin Club” in Boston that displayed heavily Republican sentiments. The piece accused its members of attempting to gain control of the government through less than admirable means such as flooding the countryside with election tickets and defaming anyone with an alternative point of view. The author implied that “the good people of this Commonwealth if left to themselves, would add mortification to mortification, by still giving preference to fair and virtuous characters, for places of great public trust,” while the intrigues of the “Jacobin Club” were necessary to subvert good government by filling elected offices with despicable men whose aim was ultimately to tear down the government.\textsuperscript{293} In order to combat many of these schemes and conspiracies, The Gazette of the United States offered this advice in March 1794: “It was a custom among the Romans, to trust the care of the Republic to the Most Tried and Experienced men. It might perhaps be wise for America to pursue a similar policy.”\textsuperscript{294}

The parallels of these selections of Federalist thought to Adams’ Discourses are readily apparent. The government of the United States must be kept out of the hands of those who sow discord and attempt to subvert it. Those administering the government have been entrusted with its guidance. Criticism of their motives and legitimacy can have no object but to topple the government, and therefore these must be ameliorated. While the public must receive information about the government and its proceedings, standards of discourse must be

\textsuperscript{293} Editorial: Gazette of the United States, December 17, 1793, 1. From Readex Early American Newspaper Series (accessed September 13, 2014).

generated within this system of national communication to balance out the potentially harmful results with the good. The communication of information to each side, the public and the administrators of government, had a specific purpose, and the standards put in place needed to function with these purposes as their end. With balance always central, the Federalists were keen to recognize both the potential for good and bad in the political and social systems they sought to establish. Communication would be no different.

The Federalists brought this particular understanding of political communication to the halls of Congress as well. During its February 1793 hearings on Hamilton’s alleged misappropriation of funds, the House of Representatives took up debate over a series of resolutions that laid the groundwork for an official censure. While the resolutions stopped short of demanding Hamilton’s dismissal, they very clearly spelled out nine separate charges against him relating to the earlier allegations of improper loan repayment and misappropriation of funds. During the course of the debates over these resolutions, discussion turned to the use of information and who had a right to demand it. Early in the debate, Federalist William Smith of South Carolina excused Hamilton for his failure to notify Congress of his activities because of the institutional procedures already in place that dictated the very manner in which he was allowed to communicate with the legislature. Williams explained:

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Through the imperfect medium of written reports he was compelled, when called upon for information, to answer, as it were by anticipation, charges which were not specific, without knowing precisely against what part of his administration subsequent specific charges would be brought to bear. If in his reports he was concise, he was censured for suppressing information; if he entered into a vindication of the motives which influenced his conduct, he was then [in]criminated for stuffing his reports with metaphysical reasonings.296

As we saw during the First Congress, the established tradition in the House of Representatives was that information provided in the House must come at its request. Unsolicited communication was fraught with problems, an idea the Federalist Williams used in Hamilton’s defense. As Smith later argued during the same debate, “To impute blame to [Hamilton] for not communicating the amount of moneys drawn from time to time, there must have been some law or order of the House requiring the communication, or it must have been necessary to some object depending before the House.”297 In essence, if the House had not asked for the information, there was no way for it to have been given. At least so believed the Federalists. Once elected as stewards of the federal government, they governed through their knowledge and understanding of events and issues. Information was to flow to them, but only as they sought it out. They were not automatons who received information from outside their halls and required to act as that information dictated, and the system of communication being established needed to continue to support this notion.

During the course of the House inquiry into Hamilton’s conduct, many Federalists bristled when it was alleged that they were not the holders of the public trust and that it was not their responsibility to distill the information before them and determine what is best for the

296 Ibid., 912.

country and the public. Indeed, some of the most impassioned defenses of Hamilton rested upon the belief that, even if he had acted outside the legal bounds of his authority as Treasury Secretary, he had done so with the best interests of the public good in mind, and for that reason, he should not only be exonerated, but celebrated. Moreover, the very charges against Hamilton, and by extension the Washington Administration, were intended to “beget serious alarm.” “When misapplications of the public money are sounded in the public ear,” reasoned New Hampshire Federalist Samuel Livermore, “all feel interested, knowing, that what affects the public purse, must in a degree affect the purses of each private individual.”298 Livermore continued with his full-throated defense of the Treasury Secretary’s conduct, arguing that

In the present stage of the subject, he was happy in being able to felicitate himself and his fellow-citizens, that even should the whole of the charges contained in the resolutions be proved, it would not appear that they had lost a farthing by the conduct so loudly complained of. What is the charge? That the Secretary has paid an interest that was justly due.299

Whether or not Hamilton had actually broken any laws or disobeyed any orders from the President, he had acted in the best interests of the country. Therefore, the charges being levied against him and rumors spread throughout the states were intended as attempts to discredit Hamilton and the Federalist Administration.

Livermore was not the only Representative to express these beliefs. Federalist John Laurance of New York starkly laid the matter before the House as he saw it:

when the resolutions calling for information from the Treasury Department were first brought forward, the public mind was impressed with an idea that there were moneys unaccounted for. This charge is now dropped, and it is honorable to the office concerned that, after much probing, nothing is found to support it. The in-

298 Ibid., 929.
299 Ibid., 929- 30.
quiry now is, whether a debt was paid out of this or that fund….But if the fact is proved, what is implied? No injury to the interests of the community;….If the Secretary had acted differently, he would have been guilty of an absurdity, and to blame for sacrificing the public interest and neglecting the spirit of a law for a strict and unprofitable observance of its letter.\(^{300}\)

According to Laurance, even if Hamilton had broken the law, it was a poorly written law that was not in the best interests of the United States. Hamilton was actually doing the right thing in seeking to discern the “spirit” of the law and the optimal course of action for his country and following it. He was, after all, the person charged with stewardship over the finances of the United States. In this capacity his judgment was to be trusted. The great majority of the members of the Federalist-dominated House evidently felt the same because the House of Representatives voted 34-7 to exonerate Hamilton of any wrongdoing.

Other Federalists of national prominence outside of the House of Representatives also felt similarly. They held the firm belief that, once chosen as trustees of the government, one of their primary objects was to foster the respect and support of the people, so that criticism of their stewardship was one and the same as criticism of the government, an act that had the potential to destroy the trust the people had in their leaders. This was precisely why a broad and effective national system of communication was absolutely necessary, and why that system needed to be bound by standards to ensure it met its purpose. Shared by many of the most important leaders in the country, this belief carried the Federalists through some of the most arduous political events of 1793 and 1794.

The fear that foreign citizens and foreign interests were regularly seeking to subvert the government of the United States through inflaming the public was widespread throughout

\(^{300}\) Ibid., 925-26.
Federalist circles. As a case in point, in December 1793 newspaper editorial, Senator Rufus King addressed the public with a warning that subversive attempts were being made under the guise of patriotic motives to divide the body politic into parties and factions, and that such parties were the instigators of public discord. King saw in the indisputable intrigues of French sympathizers and partisans such as the French Minister to the United States Citizen Genet the desire to destroy the American government by publicly impugning the Administration so as to “impeach [its] wisdom and virtue.”

In April 1793, the Washington Administration considered whether or not a declaration of neutrality between France and Britain was a prudent course. John Jay wrote Hamilton to express the key role that printers and newspapers had in shaping public opinion and maintaining public accord during such perilous times. “And I cannot forbear,” he wrote, “expressing a wish that our printers may study to be impartial in the representation of facts, and observe much prudence relative to such strictures and animadversions as may render the disposition of foreign governments and rulers unfriendly to the people of the United States.” Like so many other Federalists at the time, Jay was intensely concerned that the correct information and facts be printed and circulated for the public so as not to damage the standing of the United States government.

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It was not merely printers and writers who, Jay felt, had a duty to refrain from spreading information harmful to the government of the United States, however. On May 22, 1793, Jay issued instructions to the Grand Jury of a case he was presiding over, in which he expressed fear that foreigners within the boundaries of the United States would actively work to destroy the trust the public had in its government. If any such persons, he wrote, were found to be undertaking “seditious practices, endeavouring [sic] to seduce our citizens into acts of hostility, or attempting to withdraw them from the allegiance of the United States, present them. Such men are guilty of high misdemeanour [sic].”\(^{303}\) This was not a private letter between political partners, but a public statement made as an Officer of the Court drawing attention to perceived dangers that would, years later, find voice in the Sedition Act. It is significant that here, Jay expressed these concerns several years before the party acrimony between Federalists and Republicans would reach a fever pitch, a fever pitch that in later years would allow contemporary Republican partisans and historians alike to ascribe harmful motives to the Federalists’ support of the Sedition Act in 1798. In 1793 however, the Federalists were firmly in control of all three branches of government, and the opposition press had not yet found its voice. It was not the presence of an organized opposition Jay was fighting, but the idea of one that he was warning against.

Jay’s May 1793 Grand Jury instructions are highly illuminating for a variety of reasons. In addition to his foreshadowing of the sentiments that would five years later find their place in the Sedition Act, Jay let the keen observer in on a key facet of Federalist thinking over the relationship between the governed and those governing. Similar to those notions expressed by

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\(^{303}\) John Jay’s instructions to a Grand Jury, May 22, 1793, in ibid., 483.
Adams and other Federalists, Jay described in a more metaphysical sense the idea that in a republic such as the United States, the people had delegated much of the functions of government to their chosen leaders, in a sense abdicating any authority they had to perform or address those functions. “There must be order in society or the bonds of it will soon be dissolved,” Jay wrote. He continued:

This order consists in every man moving in his own sphere, doing the duties incumbent upon him], and not going out of the circle of his own rights and powers to meddle with or officiously supervise those of others.\(^{304}\)

The powers of determining war and peace had been delegated to Congress and those administering the government. It was the duty of all Americans to let them determine the course, Jay wrote, because “The nation must either move together or lose its force.”\(^{305}\) Of course free citizens had the right to think and express their personal sentiments, he continued, but only through a fair acknowledgment of the proper facts and the use of “plain, and decorous” language that was not out of bounds. Again, following standards of discourse in the public sphere was an essential feature of the Federalists’ approach. It was these standards and the established avenues of communication that allowed government to function properly.

These sentiments were surely in the air during the spring and summer of 1793, and Federalists and supporters of the Washington Administration from around the country rushed to proclaim their allegiance and acquiescence to these principles. An August 1793 letter “from the Citizens of Burlington County, New Jersey” delivered to George Washington conveys these sentiments perfectly. As if stepping all over themselves to profess their support of the

\(^{304}\) Ibid., 483- 4.

\(^{305}\) Ibid., 485.
Administration and the Neutrality Proclamation, the authors used language reflective of the period to wax patriotic: “That the Republican Citizens of the County of Burlington are highly impressed with the policy and justice of the measures recommended by the said Proclamations,” the letter began. They pledged to “detect and punish offenders against the rights of neutrality, and by all means in their power discountenance designs or proceedings calculated to interrupt that tranquillity [sic] and happiness which the Citizens of the United States enjoy under a pure and pacific administration of Government.”

What makes this letter noteworthy is its accordance with the theory of representation and the relationship between the people and their government described by John Jay. After declaring the people “the legitimate source” of government, the authors continued on to explain that the people’s role is to then “appoint and elect those who are to carry [the government] into operation.” Therefore, any “interference in the internal administration of the Government” by foreign or domestic foes “tends to destroy public confidence, leads to anarchy and merits the severest reprehensions and discountenance of all independent Americans.” This was the way most Federalists understood the relationship between the public and themselves, the administrators of government, and why they needed to be so mindful of the type of information that was communicated to the people. “Correct” facts and

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306 It should be noted that “Republican” in this sense was not referring to the emerging political party opposed to Washington’s Federalist Administration, but rather the label of good citizens and supporters of a republican government.


308 Ibid., 433.

309 Ibid.
proper information was a necessary ingredient to maintaining the all-important support necessary for the government to function properly and optimally.

The juxtaposition of Adams with Madison brings to the fore these many seemingly disparate facets of politics, communication, and public opinion within the new communications environment of the public sphere in the early- and mid-1790’s. It suggests that the Federalists understood that the primary role of a system of communication was to nurture the relationship between government and the public. The public had to understand what its government was doing and why. To this end, information had to foster loyalty, trust, and support in order to further the ends and benefits that only good government could bring about. The Republicans by contrast, understood the government to have a more passive role, where the purpose of political communication was essentially geared toward information flowing from the people to the government in order to direct government action.

Madison and the Republicans saw the importance of political communication from a local level, one where communication served the purpose of the people’s ability to maintain vigilance and oversight over the central government. The Federalists, meanwhile, believed that checks and balances within a national communication system were needed for the express purpose of fostering balance between the government and the public that prevented either side from exercising too much control, and maintained the proper roles of each side that allowed the government to function effectively. The period of government under the Articles of Confederation had shown that the chaos that could result from a lack of a centralized authority to make decisions. Debate over the Tucker Amendment in 1789 only served to
reinforce this belief. The government, however, still needed the people not only to choose those who would make decisions and lead, but to show support and pledge trust.

None of this should minimize the importance of the public’s confidence in the government and its leaders within Federalist ideology, but it must be seen as part of the larger Federalist vision. All parties had responsibilities within the public sphere. The Federalists had come together several years earlier to create and support the federal Constitution because of a dearth of leadership in government. To them, there was a clear imbalance in the political system as it pertained to the way each side, elected officials and the public, related to and informed the other. While the Republican vision may correspond with a more “modern” understanding of the rationale of political communication, it does not, however, mean that this was the only appropriate way to view political information in a republic, or even that any break with such a view must have had ulterior or sinister motives.

It was just this type of “balance” and “well-ordered government” that Adams had promoted in his *Discourses on Davila* as absolutely necessary to promote the general good. Without this, Adams foresaw the United States “degenerating into dangerous ambition, irregular rivalries, destructive factions, wasting seditions, and bloody, civil wars.”310 Whereas Madison saw attacks and critiques of the Federalist Administration of government as the voice of the people instructing their agents in the federal government to take a new course of action, Adams and the Federalists saw it as a cabal set upon dismantling the very sinews of government, and a recipe for anarchy. By the summer of 1794, it seemed that Adams’ worst fears might be realized as a wave of discontent swept through the United States, and even the

310 Adams, *Discourses*, 360.
specter of an armed resistance rose in the West. The discord and anarchy that he and other Federalists had feared, now threatened to tear the country apart. The “Whiskey Rebellion” had broken out in Western Pennsylvania with its leaders threatening explicitly to resist the federal government over the “tyrannical” imposition of taxes.

The divergence of Adams and Madison and their differing understandings of the communication and informational paradigm each imagined in 1791 would come to represent the responses of both the Federalists and the Republicans to the Whiskey Rebellion crisis, and shape the way each party conducted itself in the political arena. Adams’ and the Federalists’ understanding of the political process and the role of communication within it would shape the Federalist Party’s actions and policies for the remainder of the decade. Meanwhile, the crises the Federalists faced at home and abroad served to reinforce the belief that fixed standards of discourse were of critical importance in order to safeguard the emerging political system of the United States.
VII. RECOGNIZING THE DANGER

The Very Real Threats Posed by Citizen Genet, The Whiskey Rebellion, and the Newspaper Wars over Jay’s Treaty, 1794-1797

During the summer of 1794, any American who opened a newspaper was sure to be bombarded with frightful news from Europe. As the French Revolution gained momentum, the social, cultural, and political forces it unleashed spread throughout the continent. The threat of war and chaos loomed over cities and villages from Krakow to London, and in some parts of Europe, those threats became reality. News of bloody uprisings and the dissolution of law, order, and stability began to make its way across the Atlantic. American newspapers with both Federalist and Republican leanings reprinted any and all news of the growing crisis, disseminating it throughout the states.

The years from 1794-97 have often been characterized in the historiographical literature as one of paranoia and unreasonable, partisan frenzy on the part of the Federalists. However, given the disturbing news from Europe circulating through towns and villages throughout the United States, the Federalists had actual reason to fear that sinister forces sought to undo the government of the United States. Furthermore, the pro-French rhetoric coming from the Republican camp, and the disturbing impropriety of the French Minister to the United States, the fabled Citizen Genet, gave Federal politicians and supporters reason to believe in the existence of an actual cabal between the Republicans and the French nation. In Federalist eyes, there was every reason to believe the fate of the federal government hung in the balance.
While word of the spreading revolution in Europe hit American presses, news also poured in from the frontier that bands of disaffected farmers were growing restless with high taxes on distilled whiskey. In Western Pennsylvania in particular, hundreds to thousands of farmers armed themselves to march east, with aims the Federalists could only assume sinister. The Whiskey Rebellion set off a panic among Federalist leaders that, as with the French threat, ominous forces from outside the United States were combining with those inside the country to destroy the emotional ties that bound the American people to their government. With dangers moving in on the United States from the East and from the West, there should be no doubt that Federalist leaders truly thought they had serious reasons to fear a destructive attack—even if hindsight shows they did not.

The mid-1790’s were also the period of debate over Jay’s Treaty and the so-called “Newspaper Wars” between Federalists and Republicans. The Federalists developed a “siege mentality” during this time that focused on the dangers posed by publicly opposing the government and speaking out against its measures and policies. As we have seen, this was not a new development, but rose to a new level during this period. Saying negative things about the government was truly dangerous, the Federalists believed. Especially with the absence of standards of discourse in the press and in the political arena, harmful, negative, and false information was being spread that threatened to damage and even destroy the cause of good government. Now, their long-standing fear appeared to be coming true, and the efforts previously made to prevent it were failing. Article after article in the newspapers hammered home this point, and the Federalists surely took notice. This had been their great concern since
at least 1789. It would come to shape their reactions to the French crisis and the Whiskey Rebellion, and influence Federalist communication policy over the next several years.

But in July 1794, Americans were presented with significant news. Word from Poland had made its way to New York, where on July 1 the *Diary* of New York City published reports from a Polish source describing a rebellion in villages throughout the Polish countryside supposedly led by French-allied Jacobins. The fears of the Polish were palpable as they believed the French Revolution was spreading throughout Europe, its aim nothing less than the overturning of existing old-world governments.\(^{311}\) “Disclaiming all other authority but that assumed by that horde of French rebels,” the *Diary* report claimed, “they talk the language of sovereignty, assume the authority of prescribing laws and of subverting a form of government.”\(^{312}\)

The following day, the citizens of Philadelphia opened the pages of *Dunlap’s American Daily Advertiser* to read more details of Jacobin insurrection in Poland, this time in Krakow. *Dunlap’s Advertiser* attributed the origins of this insurrection to the circulation of “seditious” writings impugning the lawful sovereignty of the Polish government and promoting the principles of the French Revolution. These writings, the report said, sought “to introduce the principles of rapine & murder, & to dissolve all civil and social order.” The authors, it stated,\(^{311}\)

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311 In reality, these assaults were likely part of the Russian incursion into Polish territory that took place during the middle years of the 1790’s and resulted in the abdication of the Polish King Stanislaw August Poniatowski in 1795.

wrapped their missives in the language of false patriotism and promoted the abolition of private property.\(^\text{313}\)

These reports were not limited to readers in New York or Philadelphia. The Federalist-backed Post Office Act of 1792, it should be recalled, created conditions favorable to disseminating newspapers at extremely low cost and sharing them with other editors and publishers throughout the country in order to foster a wider diffusion of knowledge and information. And it worked. The Polish reports were actually shared and reprinted in dozens of papers throughout the United States over the next several months. Tens of thousands or more Americans likely read about the growing crisis in Poland and the continuing spread of the revolutionary terror throughout Europe.\(^\text{314}\)

A few weeks before the news in Poland broke in the United States, the *Massachusetts Mercury* published a report about preparations in England for a potential French invasion. The fears in England, as they were in Poland, were that the violence would be fostered from within the country, by treasonous writings and traitorous assemblies and meetings that preached insurrection. In these dangerous times, dissent and sedition that might previously have been


\(^{314}\) See Paul Starr, *Creation of the Media: Political Origins of Modern Communications* (New York: Basic Books, 2004), 86-7. Starr writes that “Between 1790 and 1835, while the population grew from 3.9 million to 15 million, the number of newspapers in the United States climbed eleven-fold, from 106 to 1258. For every 100 households, there were 18-19 newspaper subscriptions in the 1780’s.” While certainly expressive of the rapid growth in newspaper readership beginning in the 1790’s, if we extrapolate Starr’s figures, it would indicate that thousands of Americans had subscriptions to newspapers, without taking into account the likelihood that many of these papers were shared and passed around public gathering places such as taverns and pubs.
tolerated were too consequential to allow. “When we are attacked at home by French armies
and French principles,” the article read, “Riot becomes Rebellion, and Sedition Treason.”

Concerns in Britain over the spread of violence across the English Channel continued to
grow, and American newspapers on the Atlantic coast began to regularly publish reports they
received from Britain on its declining sense of security. Subsequently, newspapers further
inland reprinted the reports as news spread over the postal roads of the United States. The
reports all said essentially the same thing: what had occurred in Poland and France was not lost
on the British. “Recollect, what a trifling circumstance gave rise to the Revolution of France,
when government was confident of its power,” Dunlap’s Advertiser quoted a member of the
British government as saying. “He called upon them to reflect, that in a single night the
revolution of Poland was accomplished: these, he said, were not idle words.” Even seemingly
small and insignificant statements could have profound effects in the wrong context-- this was
the message American newspaper readers received loud and clear from the British. The
British government, according to the American newspaper reports, understood this and was
terrified that revolution would ignite in its own country. British politicians particularly feared
the prospect of well-placed men of influence within British politics and society that might help
to spread the discord and discontent throughout Britain. They proposed plans to help prevent
this from happening.

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315 News report/opinion: Massachusetts Mercury, June 20, 1794, 50. From Readex Early American

316 News report: Dunlap’s American Daily Advertiser (Philadelphia, Pennsylvania), July 19, 1794. From
In late July, the *Connecticut Courant* reprinted a description of the political situation in London, quoting Edmund Burke as he argued before Parliament the necessity of a new bill intended to ameliorate the threat. Burke feared a cabal of well-placed men within the British government would ally themselves with the instigators. His measure essentially suspended Habeas Corpus and stiffened the potential penalties for writing and disseminating seditious information. What Burke and his associates most feared was a

Plot of the most atrocious and alarming nature against the State.... This plan, it appeared from the report, was, to form a convention; which convention was to assume to sell all the characters and offices of Government, usurp the whole delegated authority of the Nation, and to arrogate to itself the whole legal Jurisdiction of the Country.

Burke’s declaration was in response to a report from the Chancellor of the Exchequer on this alleged Jacobin plot, the object of which “was the total subversion of the Constitution, the annihilation of Parliament, and the destruction of the King himself.” This called for action, action to change the legal conditions within Britain that would allow good and lawful government to eliminate this threat to its very existence. This was a response that Burke and his compatriots in Parliament were eager to oblige.317

More speeches from Burke and other British politicians appeared in American newspapers throughout the summer of 1794. More reports of insurrections throughout Europe were published in paper after paper from Massachusetts to Georgia, and Philadelphia to Pittsburgh. On July 30 for instance, the *Litchfield Monitor* reported another Edmund Burke speech lamenting the extreme violence of the French Revolution. The report attempted to turn on its head the notion that the Revolution was actually a liberating mission of freedom. “It was

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no such thing,” Burke said, not a “war of a freedom against despotism.” Rather, he called the
supposed Jacobin conspiracy in Britain “a perfidious rebellion against honourable loyalty, of
infidelity against religion, of robbery against property, of murder against humanity, of barbarity
against social order.” On August 27th, readers of Greenleaf’s New York Journal read an
official statement by Parliament reprinted from a British paper. The report described how the
French Revolution was tearing apart British society and leading to a subversion of good
government. “We have seen, with the utmost concern and indignation, that there has existed
within this realm a seditious and traiterous [sic] conspiracy, directed to the subversion of the
authority of your majesty and your parliament, and to the utter destruction of the established
constitution and government of these your majesty’s kingdoms; and that for the execution of
those wicked and detestable designs, of open violence we are preparing, and acts mediated,
leading to all the horrors of insurrection, anarchy, and rebellion.” Once again, this report
was reprinted in dozens of newspapers throughout the United States, and was undoubtedly
read by thousands of Americans. The American people were now becoming accustomed to
reading about the depredations and subversions of the French Revolution waged against well-
ordered society and government.

News reports continued to pour in from Europe. In Prussia and Poland, reported the
Columbian Centinel of Boston, the discord of the French Revolution was spilling over into
villages and towns throughout the countryside. Skirmishes between rebels and Prussian troops

318 News report: Litchfield Monitor (Litchfield, CT), July 30, 1794, p. 9. From Readex Early American
Newspaper Series. (accessed October 8, 2014).

Newspaper Series. (accessed October 8, 2014).
had even broken out near major population centers. The Gazette of the United States reported that a detachment of soldiers was dispatched to a province in Prussia to quell a rebellion which they were unable to disperse. Only the arrival of an even larger force was able to defeat the rebels. Whether in Britain, Prussia, or anywhere in between, Americans were presented with reports of the cruelty and savagery of the Jacobins, or as Greenleaf’s Journal characterized them, “the base Sans Culottes,” who caused the “vapours that arise from the numerous mangled carcasses of your late subjects in arms....so cruelly murdered” by them.

At the same time Americans received news of the growing threat from across the Atlantic, a new threat emerged, this time from the frontier. As the summer of 1794 progressed, news reports of armed rebellion began to trickle in from the West. Western Pennsylvania was a particular hotbed of insurrection. For months, reports out of Europe had raised the specter of mobs rising up against the duly elected government of the United States. The same disease currently spreading throughout Europe was now infecting swaths of the American republic, and now it appeared the deeply-rooted fears of a fifth column within the United States were coming to pass. Directing their anger against a federal excise law that reduced the potential profit from distilling excess grain into whiskey, thousands of farmers in Western Pennsylvania and along the American frontier began armed demonstrations that quickly turned into attacks on federal tax collectors. During the summer of 1794, these demonstrations and attacks

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increased in size and scope to the point that the militias of several states were ultimately called into service by President Washington himself in order to quell a rebellion with the potential to quickly spiral out of control.

In late August, the *Columbian Centinel* published a terrifying report describing the uprising in and around Pittsburgh. Hundreds of armed farmers had attacked tax collectors and stormed other buildings and attacked individuals connected with the federal government. Talk amongst the rebels was that they intended to march several hundred miles to the then-federal capital of Philadelphia, causing a panic throughout much of the country. Washington and his administration were so concerned with this threat that they raised 13,000 militia and the President personally led them to Western Pennsylvania. The show of force led most rebels to disband, while the remaining leaders were arrested and faced trial. The Philadelphia *General Advertiser* speculated on what punishment should await the perpetrators of the rebellion while also acknowledging the terrifying prospects to which such an uprising could lead. “Their [the rebels’] conduct ought not be passed over with indifference all men will agree,” said the editorial, “because it is too conspicuous for oblivion to conceal, and too heinous for lenity to forgive. It would break down all distinction between virtuous and vicious actions and make the effect of right and wrong convertible in the view of society.”

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Not only did Americans receive weekly reports from Europe about the spread of violence, anarchy, and the destruction of established government and society, but suddenly those same situations were occurring on their own frontier. One can only imagine how terrifying and frightening this turn of events would have seemed to many Americans. Federalists had been warning Americans for several years of the dangers of allowing the kinds of information to be communicated that could damage the credibility and authority of the federal government. Now, there was real evidence that not only was just this type of information being spread, but it was responsible for the western rebellion. The same so-called "constitutional societies" that were such cause for concern in London were springing up across the United States, holding regular meetings and publishing editorials in dozens of newspapers criticizing the federal government and praising the principles of the French Revolution, the same French Revolution reportedly causing such death and destruction throughout Europe. The Herald of New York City published an editorial in early August making the claim that the constitutional societies, also known as Republican Clubs, Democratic-Republican clubs, and, derisively, Jacobin Clubs, were the direct cause of the recent rebellion in Pennsylvania. The editorial argued that it was extremely dangerous to allow these clubs to criticize the federal government and to espouse their revolutionary principles because they bred mistrust in the government and damaged the people’s trust in and respect for its officers. The article claimed that most of the leaders of the insurrection were members of these clubs and had used them to spread their seditious plans and infect their neighbors and associates.²²⁵

Most historiography has tended to characterize the Federalists as paranoid at best, and at worst that they exaggerated the threats they perceived in order to enact many of their pet projects and increase their own political power and authority. Stanley Elkins and Eric McKitrick describe the Federalists’ reactions to the French Revolution and the political events that surrounded it as “one not of foreign policy but of domestic partisanship.” And those familiar with Richard Rosenfeld’s *American Aurora* know how he has portrayed this situation from the Republicans’ point of view. David Waldstreicher writes that the major Republican newspaper editors and leaders of the Democratic-Republican societies went to great lengths to attempt to distance themselves from the Whiskey rebels. While there is some overlap between society membership and participants in the Whiskey Rebellion, it is difficult to draw a direct line. Was it possible, as these and other historians have suggested, that the threats the Federalists perceived and acted against were not nearly as dangerous as they presumed?

Perhaps we have been asking the wrong question, though. Perhaps the question that should be asked is not whether the threat posed by the Democratic-Republican Clubs was grave, but whether the Federalists *perceived* it to be and had good reason to do so. Recall the reports from Britain earlier in the summer of 1794 that discussed the danger of similar republican societies and the extreme dangers they posed. Federalists, simply from reading the papers, would have been familiar with the very real plots that emanated from these societies.

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327 Richard Rosenfeld, *American Aurora: A Democratic-Republican Returns* (New York: St. Martin’s Griffin, 1997). The Federalists, claims Rosenfeld, exploited the French Revolution and foreign events in order to enact legislation that enabled them to destroy their political enemies, the Republicans.

and had been foiled by British authorities. Then, there was the sudden eruption of a potentially serious rebellion on the Western frontier whose leaders espoused the same rhetoric as the rebels throughout Europe--the same rhetoric heard from the growing number of Democratic-Republican Clubs in the United States. There should be no doubt that most Federalists considered it accepted fact that both the clubs and rebellion were rotten fruit from the same tree. Consider this editorial from the *Columbian Centinel* from late August: “It is perhaps fortunate for the United States, that the intemperate violence engendered by the democratic societies in Pennsylvania, has broken out into open rebellion, before the projects which are conceived by the founders of these institutions for a general insurrection have been matured.”

Not only did the editorial presume the rebellion was a direct result of the influence of the Democratic-Republican Clubs, but that it was fortunate the rebellion occurred when it did because, if the radical ideas had had more time to fester and ferment, they may have been even more powerful and fostered an even greater, more dangerous insurrection.

This was not simply paranoia on the part of Federalists; they had very real evidence to suggest that there was a serious danger posed to the safety and security of the United States of America and its elected government. One year earlier, American politics had been scandalized by the arrival of a new member of the foreign diplomatic corps, and the rift between the two major factions in American politics widened tremendously as a result. In early 1793, Edmond-Charles Genet, “Citizen Genet,” arrived in Charleston, South Carolina, as the

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newly-appointed minister to the United States from the Republic of France. Genet almost instantly became a lightning rod for scandal and mistrust, and within three months of being heralded and feted upon his arrival in the United States, Washington’s cabinet voted unanimously for his recall to France. From almost the first moment of his arrival, Genet made no secret that his official mission in the United States was to rally American political and financial support in favor of bringing the principles of the French Revolution to British and Spanish territories in Canada, Louisiana, and Florida, and to help those regions break their colonial ties with Britain and Spain. Genet also openly avowed his desire to influence the American government to allow France to outfit privateers in American ports and use American soil to stage attacks on British shipping. Genet espoused a school of diplomacy which he called “the New Diplomacy,” or “Republican Diplomacy,” in which he openly and fully laid his cards on the table and described exactly what he set out to accomplish. The Washington Administration, as it turned out, was quickly horrified by Genet’s goals and the manner in which he attempted to achieve them.

Genet was decidedly incautious in describing his aims. He made public declarations in favor of the growing Democratic-Republican Clubs, encouraging their spread despite the apprehension of local leaders and those in the Federal government upon whom his success depended. Despite repeated admonitions by Secretary of State Thomas Jefferson and the Governor of Pennsylvania that he could not outfit French ships as privateers and distribute their spoils in Philadelphia and other American ports, Genet continued to flout American authority. Even after explicit instructions from Jefferson in early July of 1793 not to allow a particular French privateer out to sea, Genet persisted. In fact, he was so outraged by what he viewed as
the slights and usurpations of those in charge of the American government that, as Alexander Hamilton later wrote, Genet determined to “appeal from the President of the United States to the People.” Here was an official of the French government on American soil, openly speaking of raising rebellions in neighboring territories, courting the sympathies of the American people and rallying them to his cause, encouraging the establishment of clubs and societies that were held in great circumspection by large swaths of the American public and political leadership, actively defying orders from the President of the United States, and questioning the very legitimacy of its government and administration. In many respects, this was the Federalists’ worst nightmare. How were they to take this as anything but a grave and very real threat to the government of the United States?

American newspapers certainly saw it as such. By late July 1793, the chinks in Genet’s armor of confidence began to show. Newspapers from the British West Indies were widely reprinted in the American press, with one editorial remark appearing in dozens of US papers. “That the late United States,” the article said, “has become a French Department; that Citizen Genet, has virtually assumed the reins of government, and that the will of the National Convention is the supreme law in America.” Many American newspapers in which this editorial was reprinted vehemently disagreed with the take of the British colonial press. The Eastern Herald is such an example, qualifying the report by essentially labeling it as patently false and unworthy of comment. Nonetheless, these were the reports the American public read every

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day in the nation’s newspapers, and Genet’s standing within the American press continued to tumble throughout the summer of 1793. First, his motives toward the United States and its government were questioned.\textsuperscript{333} Then, he was outright accused of “threatening the subversion of your government” through his disavowal of George Washington as a governmental authority, instead focusing on his desire to appeal directly to the people.\textsuperscript{334} By mid-August, Genet was being called an enemy to the government of the United States of America and his recall as minister was publicly demanded.\textsuperscript{335} Genet, like a fire that burns brightest and hottest, also burned quickest.

With the Citizen Genet Affair fresh in the minds of Federalists, it would have colored their perceptions of events during the summer of 1794, just one year later. With tales of battles, rebellions, death and seditious intrigue pouring in from Europe to the east, reports of armed rebellion on the frontier in the west, and the memory of an actual agent from a foreign government openly preaching revolution and actively attempting to inspire others to his cause, it would be a wonder if Americans did not fear that war might be upon them. Everything that the Federalists had long since feared had seemingly come to pass. And most presciently, the vehicle so important to the spread of liberty, the press, was being twisted and bent into a weapon of dissent and insurrection.


\textsuperscript{334} Editorial: \textit{The Diary} (New York, NY), August 2, 1793, p. 3. From Readex \textit{Early American Newspaper Series}. (accessed October 8, 2014).

\textsuperscript{335} Editorial: \textit{The Connecticut Courant} (Hartford, CT), August 12, 1793, p. 3. From Readex \textit{Early American Newspaper Series}. (accessed October 8, 2014).
When news broke in late 1794 and early 1795 that John Jay was in London negotiating a treaty with the British, the Republican press erupted. The Federalists were still reeling from the Citizen Genet Affair, the ongoing pressures from the Democratic-Republican Clubs, and other assaults on the federal government and its administrators over the preceding years. As the insults and attacks were daily directed toward the Administration, the Federalists would have certainly seen them within this larger context. A February 1795 article from the *Gazette of the United States* makes their connection of these events clear. “The advocates of clubs, that is to say the members of the clubs, for they have no other advocates,” the editorial began, “pretend to be engaged to collect and spread truth and information.” However, these self-appointed false-patriots in reality “deal in falsehood, and labor to spread mis-information. They shrink from fair discussion, because they cannot bear the light.” The duplicity of the advocates of these clubs was a given to the Federalists, but what should be done about them? What should guide the public in their stead? “Experience alone” was the answer of this editorial. In placing their trust in experience, the people would see in the recent history of France, for example, “what clubs have done there, and what the people in self-defence have been forced to do with them.”

And what was the insidious vehicle that would mount the threat to the government of the United States and its people, “the instrument for plotters to work with?” The answer was “faction.” “In a word, the attack on liberty must from the nature of things be made thro’ the help of some popular and artful faction.” According to this editorial in the *Gazette of the United States*

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United States, all of these evils were spread by unlawful factions operating outside the bounds of the proper political process and the established procedures of proper communication. All of these fears and events served to reinforce one another. They were not seen as separate, or caused by different elements within the larger American or Anglo-European political backdrop. No, the Federalists saw each as connected to the same, larger conspiracy to destroy their administration and the United States government itself.

The historiographical consensus is that the Republican Party coalesced around the arch-controversy over Jay’s Treaty, which, in the words of historian William N. Chambers, “transformed the Republican movement into the Republican Party.” While the extent to which Jay’s Treaty inaugurated the division of parties in the United States or “created” the Republican Party in an official sense is unclear, there is no question that it galvanized the Republican opposition like nothing else before it. Jay’s Treaty was a complete repudiation of Republican foreign policy, and in effect, the opening salvo of a political war. In the same edition of the Gazette of the United States that contained the editorial implicating the Democratic-Republican clubs as the foot soldiers of seditious faction, there appeared a satirical letter from “A True Jacobin.” A fake letter dripping with sarcasm and likely penned by a Federalist supporter, its “Republican” author allowed that “it has been a predetermination, of longstanding, to abuse every thing [sic] done by Mr. Jay” to the members of his party. It was

337 Ibid.


a “straw man” argument, showing precisely how the Federalists understood their Republican foils to think and behave. If the Pacificus and Helvidius Debates were acrimonious, the cascade of venomous invectives released by Jay’s Treaty, as “A True Jacobin” suggested, caused Hamilton’s and Madison’s earlier missives to pale in comparison. While the Senate debated the official ratification of Jay’s Treaty in the summer and fall of 1795, newspapers across the country heaped abuse on the treaty and its champions-- the Federalist Administration of George Washington and its supporters.

In fact, even before Jay’s Treaty was delivered to the Senate for its consent, and before the terms of the treaty were publicly known, the very process of treaty-making undertaken by the Federalists was heaped with scorn by their Republican opposition. In an editorial reprinted from the irascible Aurora in the New Hampshire Gazette, it was the ruling Federalist party that was criticized for keeping the terms of the treaty secret. The Federalists were accused of adhering to secrecy in order to disabuse the people of their right to make their opinions known, “hence the propriety of keeping everything under the cloak of secrecy till the whole business is accomplished, for then the murmur of the discontented will be Vox et preterca nihil.”

The Republicans’ attacks on the diplomatic process and the Federalists’ conduct continued throughout the Spring of 1795 as word slowly travelled across the Atlantic that Jay may have

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reached an agreement with the British. At the center of these attacks were often the motives of the Federalists and the ends they hoped to accomplish.\textsuperscript{341}

In response to critiques impugning the Federalists’ motives, the Federalist-leaning \textit{Columbian Centinel} attempted to set the record straight. Rather than engage in its own attack on the motives or character of the Republican accusers, however, the \textit{Centinel} refuted the \textit{Aurora}'s charges by offering more information that set the treaty and the process by which it was negotiated in a more appropriate context. The article cited sources close to the negotiations as saying that John Jay and Lord Grenville, the British lead negotiator, worked together in a very “dignified and open” manner and that the process was carefully undertaken and very much above-board.\textsuperscript{342} This strategy was very much in line with the philosophy of the Federalists-- that the best way to influence public opinion was to make sure that the people had the \textit{correct} information in order to make informed decisions on any given topic or issue.

Once the process of negotiations had been maligned, it became necessary to communicate information showing that the treaty had been created with all due propriety and diligence. If the American people were being influenced by bad information, it was important to get them the correct facts.

Once the treaty was ratified in July 1795, it was fully and unconditionally excoriated in the Republican press. \textit{The Boston Gazette, and Weekly Republican Journal}, for instance, declared that “the Consequence of Jay’s Treaty, is the almost immediate Fall of the Stock of the

\textsuperscript{341} Editorial: \textit{Aurora General Advertiser} (Philadelphia, PA), March 27, 1795, p. 3. From Readex \textit{Early American Newspaper Series}. (accessed October 9, 2014).

\textsuperscript{342} Editorial: \textit{Columbian Centinel} (Boston, MA), June 24, 1795, p. 2. From Readex \textit{Early American Newspaper Series}. (accessed October 9, 2014).
United States [sic].”

Other newspapers going to press during July called it “disgraceful” and “humiliating.” *The Argus* of New York alleged that Britain was conspiring with the Washington Administration to overturn the United States Constitution through the controversial articles in the treaty, and challenged all Americans to openly oppose the treaty and its tenets. In the wake of these disparaging reports and editorials, town meetings were held across the United States with the purpose of creating an organized dissent against Jay’s Treaty. These meetings publicly expressed disapproval with the treaty and the Federalist Administration responsible for it. Some, like *The Argus*, commanded all patriotic Americans to openly defy the federal government and refuse to abide by any articles of Jay’s Treaty. *The Oracle of the Day* of Portsmouth, New Hampshire reported that a group of citizens in Philadelphia gathered one day soon after ratification and burned both John Jay and a copy of the treaty in effigy as a symbol of its complete disgust with the treaty’s terms. How could the Federalists not feel that the numerous publications maligning their authority and intentions were the causes of these public displays of violence? They were extremely dismayed by the

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346 Multiple papers reported various meetings in their own vicinities or those in other locations. *Greenleaf’s Journal*, for instance, mentioned not only the prevalence of meetings intended to drum up support against the treaty, but accused the Federalists of being anti-democratic in their vehement opposition to what the journal believed was a lawful exercise of popular liberties. References to various town meetings found in *Greenleaf’s New York Journal* (New York City), July 29, 1795, p. 1; *The Eastern Herald* (Portland, ME), July 20, 1795, p. 3. All citations from Readex Early American Newspaper Series. (accessed October 9, 2014).

intensity of the opposition to Jay’s Treaty and the lengths to which that opposition was willing
to go. These so-called “protests” were beyond the pale, not simply disagreeing with the terms
of the treaty but denouncing it without qualification.

One can almost feel the palpable sense of anger and outrage in this editorial from the
Federalist--leaning *Courier of New Hampshire* from August 1795:

> The people of the United States of America have outraged the very authority
> which their own free Government empowered them to constitute!— Since Mr.
> Jay’s return, and the publication of the Treaty, the most shameful and riotous
> practices have been committed in several places, not only against the Envoy who
> negociated it, but against those persons who were constitutionally appointed by
> “We the People” to accept or reject it, merely because they recommended the
> ratification of a Treaty which they supposed more beneficial to the country in
> general than a state of War!  

Just as in Poland, Britain, and elsewhere in Europe, the government of the United States itself
was under attack. This was about far more than a disagreement with the terms of a treaty. The
Federalists saw the Republicans as attacking the very process of government, as challenging the
nature and source of their elected government. Disagreeing with the outcome was one thing,
challenging the legitimacy of the government which made that decision was quite another.

The editorial from the *Courier* went on to express grave concerns about the effects of
the constant stream of attacks, as well as the motives of those behind them, concluding that

> He who would assist in erecting an effigy, would also, but for the want of courage,
> stab a man in the dark— Must we suppose, that these excesses have been commit-
> ted by good citizens— or by an ignorant, unthinking rabble, excited by ill-designing
> men?  

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348 Editorial: *Courier of New Hampshire* (Concord, NH), August 1, 1795, p. 3. From Readex *Early American Newspaper Series*. (accessed October 9, 2014).

349 Ibid.
“Good citizens” could not possibly be responsible for these attacks on republican government in the United States. The “ignorant” and “unthinking” public believed the information it was being given, and when editorial after editorial told the people that Jay’s Treaty was a disastrous plan perpetrated by monarchists intent on once again tying the United States to George III, what else were they to believe? No, argued the Courier’s editorial, the growing public sentiment against Jay’s Treaty was the product of “designing” men spreading false rumors and information. And this invective would lead directly to a loss in confidence in the federal government itself. “If such outrages are to be connived at,” asked the editorial, “who, that has any principle or abilities, will hazard his reputation as a Patriot by accepting a commission in the service of his country?”350 That the very success of the government itself lay in its reputation and the reputations of the men who administered it was, as we have seen, central to the Federalists’ understanding of government.

However, all was not lost, concluded the Courier editorial. With proper management of the dangers introduced by this improper spread of harmful information, order and reality itself could be restored and the government enabled to function as intended. “It is sincerely hoped,” the article concluded, “that the PEOPLE of the United States will order these things better in future.”351 As the barrage of attacks on Jay’s Treaty and the Federalist Washington Administration continued throughout 1795, these sentiments would gain a voice in the press,

350 Ibid.
351 Ibid.
for the Federalists truly thought themselves the righteous defenders of American liberty.\textsuperscript{352} If there was an increased call for the attacks to cease and for the people to receive proper information about the terms and intent of the treaty, it was very much because of the ferocity with which the attacks themselves continued.

In one August editorial, Jay was blamed not only for an anticipated downturn in American commercial prospects because of his treaty, but even held responsible for any famines that might occur in France.\textsuperscript{353} Later, more reports emerged of Jay and his treaty being burnt in effigy by angry crowds, this time in the town of Troy, New York.\textsuperscript{354} In fact, according to the \textit{Aurora}, “every newspaper on the continent has been overburdened with remonstrances and resolutions from cities, counties, and townships.”\textsuperscript{355} There was perhaps no better example of the belief that Jay’s Treaty would bring about the destruction of the United States itself than rumors that Virginia and other states intended to secede from the Union if the treaty was ratified.\textsuperscript{356} This startling bit of “news” was of course picked up by other papers nationwide and

\textsuperscript{352} “The cause of Federalism is bottomed on the rock of public honor and happiness; and neither the winds of Jacobinism, nor the waves of antifederalism shall prevail against it.” Reprinted from the \textit{Columbian Centinel} in the \textit{Oracle of the Day} (Portsmouth, NH), August 8, 1795, p. 5. Found in Readex \textit{Early American Newspaper Series}. (accessed October 9, 2014).

\textsuperscript{353} “By a single stroke of the diplomatic quill of the immaculate John Jay, are all our fair Commercial prospects obscured. Not only this evil results, but if a famine was to take place in France, he would be answerable for it.” From the \textit{Oracle of the Day} (Portsmouth, NH), August 4, 1795, p. 3. Found in Readex \textit{Early American Newspaper Series}. (accessed October 9, 2014).

\textsuperscript{354} News Report: \textit{The Courier} (Boston, MA), August 8, 1795, p. 47. From Readex \textit{Early American Newspaper Series}. (accessed October 9, 2014).


was potentially read by thousands. Would the spread of this dangerous information diminish
the respect and trust of the people in their government and leaders? Would it induce rebellion
and usher in a reign of terror like the recent one in France, an outcome seemingly desired by
the closet Jacobins and their secret clubs across the United States? One cannot entirely blame
the Federalists for seeing these as real possibilities.

The controversy over Jay’s Treaty was not limited to the press, however. The same
debates that raged throughout newspaper editorials had emanated to a large degree from the
halls of Congress. During the winter of 1795-96, these same battles over the legitimacy of
government and communication play out in full force in the House and the Senate. Shortly
after opening their new session in December 1795, the House of Representatives received a
number of petitions from citizens of various states reviling the treaty. Laid open and read
before the House, the petitions expressed not only scorn for the treaty and several of its
articles specifically, but utter contempt for the Federalist Washington Administration and the
Senate responsible for the treaty and its ratification. A petition from Bennington, Vermont, for
example, stated that only the House of Representatives worked on behalf of the true interests
of the people of the United States, presumably because the House had nothing to do with
negotiating or ratifying the treaty. More petitions denouncing the treaty and chastising the

session. (Washington: Gales and Seaton, 1849), 170-71. December 29th, 1795, p. 170-71. From Library of
Federalist Administration arrived, were laid before the full House, and referred to the Committee of the Whole for discussion and debate.  

Then, on March 7, 1796, all hell broke loose. When previously discussing matters related to Jay’s Treaty, the House of Representatives had maintained its decorum and not descended into the vitriol that had reigned supreme in the press during most of 1795 and early 1796. But in March, the need for the House to make provisions for the enactment and enforcement of the treaty brought the matter to a head. In the *Annals of Congress*, directly under the heading for March 7, 1796, there is an unusual note saying that the debate over Jay’s Treaty “occupied the time of the House nearly every day for a month, (commencing the 7th of March and ending on the 7th of April).” The *Annals* listed all mention of Jay’s Treaty during this month in an unbroken, uninterrupted report, rather than intermixed with other subjects as daily proceedings were routinely recorded. The compilers of the *Annals of Congress* clearly wanted their readers to recognize the importance and intensity of these debates. That the topic occupied most of the House’s business for an entire month demonstrates that most representatives recognized this importance, as well.

The debate opened when Republican John Livingston made a motion requiring the President of the United States to provide the House of Representatives with his instructions to John Jay at the outset of the diplomatic mission as well as all other documents related to the

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358 Two petitions from the State of Virginia were received on December 29, and five additional petitions from Virginia were delivered to the Speaker of the House and referred to the Committee of the Whole on January 6, 1796. Found in “Proceedings December 29, 1795.” *Annals of Congress*, House of Representatives, 4th Congress, 2nd session, p. 195. (accessed October 9, 2014).

treaty negotiations. Part of the intent of his request was to determine whether an impeachment for any Executive officers was called for in relation to their conduct in the treaty negotiations and ratification.\(^{360}\) Impeachment! When called to list the charges or specific officers of the government whom he had in mind, Livingston had no specifics, only saying that he simply wanted to see if there had been any impropriety. Once again, the Republicans had attacked the very motives of the Federalists and the legitimacy of their Administration. And once again, the role of information lay at the heart of the matter. When asked what he hoped to accomplish by asking for this documentation from the Washington Administration, Livingston said he “did it for the sake of information,” information that would allow him and others to determine if Jay negotiated the best terms he could have obtained from Britain and if incompetence or ulterior motives had driven the Administration and its negotiations.\(^{361}\) It was a fishing expedition to be sure, but it called for making privileged information public, information with the potential to damage the reputation and legitimacy of the federal government itself.

The allegation of potential impropriety outraged the Federalists. William Vans Murray, for instance, declared himself opposed to Livingston’s request for information for “want of a declared object” or any specifics whatsoever. Furthermore, the request for the privileged documents was wholly illegitimate as it “affected the secrets which ought to be kept from foreign Powers [sic].” Opening up confidential information in this fashion would not be a

\(^{360}\) Ibid., 427.

\(^{361}\) Ibid.
benefit to the public.\textsuperscript{362} Federalist Daniel Buck of Vermont ridiculed the idea that the Republicans wanted to attempt to recreate the conditions of the negotiations so as to determine whether Jay could have received better terms, and he was particularly enraged over the prospect that they felt they could drum up impeachment charges based on this.\textsuperscript{363}

The debate over publicizing the confidential executive documents laid bare the respective understandings of the Federalists and the Republicans as they related to the very important issue over political information and its communication. Republican Abraham Baldwin of Georgia responded to the Federalists’ outrage by expressing surprise that anyone could be opposed to releasing such information. Petitions had asked for this information, he said, and the House must act on them. “The doctrine of publicity,” Baldwin reasoned, “had been daily gaining ground in public transactions in general, and he confessed his opinions had every day more and more a greater tendency that way.”\textsuperscript{364} Republican Albert Gallatin, however, made one of the more telling observations of Federalist ideology. Gallatin, like Baldwin, was shocked at the opposition to releasing the documents, but he was particularly surprised by the level and tenor of the response. Gallatin reasoned that no one could have imagined that the motion before the House was merely a call for papers, but would have supposed that it was in contemplation to disorganize the Government, and to erect the House into a National Convention. It was too much to be feared that on a discussion of the Treaty the alarm would be sounded. We are scarcely on the threshold, and the cry of confusion and anarchy is already raised.\textsuperscript{365}

\textsuperscript{362} Ibid., 429-30.

\textsuperscript{363} Ibid., 432.

\textsuperscript{364} Ibid., 435.

\textsuperscript{365} Ibid., 436.
This was the same allegation the *Aurora* would make two years later during the prosecutions under the Sedition Act, alleging that the Federalists saw any attempt at open communication of political information with the public as an attack on the government itself. And from the perspective of Gallatin and other House Republicans, this might well have appeared true. However, this was a context the Federalists and the people of the United States as a whole had experienced a lot of threats and commotion over the past two years. War clouds looming in Europe; revolutions arising in numerous ostensibly peaceful countries across the Atlantic; Citizen Genet’s attempts to control the government of the United States; the spread of “Jacobin” clubs seeking to incubate the principles of the French Revolution in America; and actual rebellions forming on the frontier of Western Pennsylvania. Faced by all of these dangers, the Federalists would certainly have felt justified in sounding the alarm bells at a motion they saw as destined to disorganize the federal government. That Gallatin did not see this highlights a key ideological difference between the two parties.

Over the course of the next several weeks, Federalists and Republicans traded barbs and acrimony over every aspect of Jay’s Treaty. The Republicans continued to impugn the motives of the Washington Administration through requesting information about the negotiation process. The Federalists in turn expressed grave concern that these claims were calculated to damage the respect and standing of the federal government and its officers. On March 23, William Vans Murray announced that the publication of documents requested by Livingston’s motion was “a question of great magnitude. Its consequences affected not only the Constitution of his country, but were closely interwoven with its character in the eyes of foreign
nations…. It affected the character of the country.” Murray felt the very proposition itself so alien to the process of government that it was something “he had never heard or thought, except since the late discussion of the Treaty, through the newspapers and pamphlets of the day.” It was an idea that challenged the procedures of the Constitution and the integrity of the federal government, for

the novelty of the doctrine contended for was of itself sufficient to excite an anxious investigation, considering that we act under a Government and Constitution so extremely definite and precise, both in the quantum and modification of its powers, that any doctrine highly constructive, upon any important part of the Constitution, will forever be a hazardous experiment.  

To Murray and the Federalists, the publication of information that could prove so damaging to the system of government they had so recently created, was a serious risk to be avoided at all costs.

At the same time as representatives were receiving petitions and debating the propriety of Jay’s Treaty, the House discussed a report from its recently established “Committee on Stenography.” The report essentially raised the question as to whether the House should rely on one official stenographer to record its debates and proceedings, or continue to rely on a number of reporters employed by various newspapers at the Capitol. In the midst of intense Federalist fears over the extent and amount of the information being disseminated to the public over Jay’s Treaty, Federalist soul-searching on this seemingly unrelated issue led directly to an overwhelmingly uniform sentiment on the accuracy of information.  

366 Ibid., 685.

367 Ibid., 274-82.
As Federalist Theodore Sedgwick believed, “if gentlemen were misrepresented, in one of the newspapers, where debates were reported, the editor of that paper had advertised that he was ready to publish any corrections which might be offered. This notice had been long and frequently given, and gentlemen had it in their power to do themselves justice.” It was this accuracy, reported his fellow Federalist Robert Goodloe Harper, that “was of the highest consequence that the speeches of members should be correctly published and disseminated among the people.” Unfortunately, at the moment there were only “atrocious mistakes” made in the accuracy of the reports as they were currently prepared. The accuracy of the information disseminated to the public was of the highest importance. For Harper, as for other Federalists, accuracy was so important that, if it could not be achieved, it was better that no information whatsoever be made public. Harper “would rather have the doors shut up altogether.”

William Smith, a South Carolina Federalist, summed up the sentiment of the House, saying that it was admitted on all sides, that it was highly important for the people to receive the most accurate information of the proceedings of the House, and that the debates were, in general, extremely misrepresented. Was it not, then, the duty of the House to remedy this evil, and to adopt such measures as would transmit to the people in every part of the United States the most accurate information of the conduct of their Representatives?... The only question, then, was, whether the stenographer ought to be an officer of the House.

Nearly all members of the House acknowledged that the communication of accurate information to the public was an absolute necessity. The remaining question before the House then, was whether or not the person charged with recording and ensuring the future accuracy

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368 Ibid., 277.
369 Ibid.
370 Ibid., 280.
of this information should be an officer of the House of Representatives and therefore under its
direct supervision and answerable to its members. It should come as no surprise that this was
the proposition favored by the Federalists: a free flow of information was of absolute necessity
to the public, and it should be vetted by and under the supervision of the government. If
complete accuracy was not possible, however, it would be better that no information be
disseminated than incorrect and potentially harmful information.

For the Federalists then, one of the primary considerations in all issues facing the
central government was making sure that the information was correct and communicated to
the public in its proper context, and that harmful, incorrect information was prevented at all
costs. They would have remembered well the lessons learned from the examples of Britain
and the rebellions that erupted in Poland and Prussia during the summer of 1794, lessons that
taught them the potentially devastating consequences of an unfettered flow of information
attacking the government and its officers. Given the terrifying news that regularly confronted
Americans in the press, the Federalists had every reason to believe that their worst fears were
being realized: the country was actually in grave danger, yet the medium for reporting that
danger was improper, illegitimate information. They had plenty of evidence that linked the
Whiskey Rebellion with the growing number of Democratic-Republican clubs, and many reports
that pointed toward a foreign cabal within the United States bent on subverting its recently
created system of government. These destructive, seditious ideas were daily disseminated
through the press, with almost no standards in place to protect the interests of good
government.
As the barrage of false and dangerous information continued almost unabated in the American press during this time of growing international crisis, the Federalists continued to hold firm to these principles, even becoming more explicit in their articulation of them. Through the withering criticism levelled at the Federalists and the Washington Administration in the press and on the floor of the House of Representatives during 1795 and 1796, they came to recognize that further actions needed to be initiated in order to protect the communication process they understood as essential to safeguard the respect and standing of the federal government and its officers. It was a difficult gauntlet the Federalists were navigating, full of challenges and very real threats. If, as they had long believed, the success of the government required a careful balance of competing information and viewpoints, the Federalists were beginning to understand that maintaining that delicate balance required constant vigilance.
By the summer of 1797, American relations with France had deteriorated badly. The new president, John Adams, believed a diplomatic mission to treat with the French was necessary. Adams felt it his duty to continue with the policies set in place by the Washington Administration, even retaining all of Washington’s cabinet officers. Sworn into office in March 1797, Adams desperately wanted to keep the United States out of a disastrous war with France, as Washington had succeeded in only a few years earlier with Britain. In an effort to maintain an official neutrality, Adams received approval from the Senate to send three commissioners, Charles Cotesworth Pinckney, John Marshall, and Elbridge Gerry, to France, instructing them to forge a pact with terms similar to those in Jay’s Treaty. The mission, known to posterity as the XYZ Affair, proved wildly unsuccessful. Upon arriving in France, the Americans were met by back-channel agents of the French Foreign Minister and instructed to pay a bribe before negotiations could even begin. Insulted and sensing their instructions could not be carried out, the Americans soon broke off negotiations and returned home. Meanwhile, the Republican press continued its assault on Adams and the Federalists, insisting that they were anglophiles and closet monarchists bent on allying the United States with Britain and rejecting the republican principles of France.

The daily Republican barrage of editorials and other attacks in the press were as venomous as ever. The Federalists were well-aware of the effects a large-scale turn in public
opinion could have on the discontented elements within American society. They remembered
the reports of rebellions and plots to overthrow governments from Prussia and Britain only a few
years earlier. They did well to keep their finger on the pulse of public opinion throughout the
individual states lest the persistent Republican attacks on the legitimacy of the federal
government stir up and incite discontented individuals to attempt another Whiskey Rebellion.
The XYZ Affair opened a new battleground for the Republicans to wage their verbal war against
the Federalists, but the Federalists were ready. From the newspaper wars that had erupted
over Jay’s Treaty in 1795 and 1796, they had learned important lessons about the need to
establish and maintain standards of political communication necessary to safeguard the
interests of the federal government.

The smooth and successful administration of the government required a careful balance
of information received by the public, a balance that needed the public to understand the
proper context of the decisions made by the government, and for the public to receive the
“right” kind of information to allow them to see this perspective. If the people could only
receive the “correct” information, Federalist thinking followed, they would support the
measures taken by those administering the government. While they had long believed in this
principle, the Federalists now understood the actions necessary to ensure that this balance
existed and persisted, and from the summer of 1797, when news of the XYZ Affair broke, to the
summer of 1798, when the Sedition Act was passed, Federalist leaders attempted to develop,
maintain, and institutionalize this informational balance into the political communication
system they had been building for nearly a decade.
During this period, the Federalists began to articulate this understanding more precisely and take action. They released classified documents and information to the public so Americans could understand the full context of the situation with France. Through letters to each other and to well-placed friends distributed throughout the country, they monitored the success of this information in restoring public opinion that had been poisoned by Republican lies and falsehoods. In addition to disseminating information that placed events and decisions in their proper context, the Federalists ultimately came to recognize the need to limit the spread of information that was “false” or “dangerous,” information that only served to damage the standing and reputation of the government and its officers. It was through this two-pronged assault that the Federalists attempted to fully institutionalize their vision of a national system of political communication and information.

In April 1797, Alexander Hamilton expressed a sentiment that would guide the Federalists in their attempts to steer public opinion. Writing in the midst of the growing crisis with France and the continued fallout in the American press over Jay’s Treaty, he wrote “In such a state of things large and dispassionate views are indispensable…. There ought to be much cool calculation united with much calm fortitude. The Government ought to be all intellect while the people ought to be all feeling.”\(^\text{371}\) What Hamilton implied is a principle that would appear again and again in Federalist writings and letters in the ensuing years, that it is the duty of the duly elected officers of the government to determine policy, and the role of the people to follow and support those policies. The people were not fully capable of forming

“dispassionate” views, certainly without the guidance of the government to explain situations and events to them. The public was easily misled, and it was incumbent on the government administration to foster their support by explaining the proper context and rationale of its decisions.

For most of the summer of 1797, the Republican press continued its relentless attacks on the Federalists, impugning their policies on France and continuing to hammer them on the unpopular terms of Jay’s Treaty. No dispatches from the recently appointed ministers to France would arrive in Philadelphia until March of the following year, so as the Federalists sought news of developments in Europe and events at home, their keen interest in public opinion was on display. In August, Hamilton wrote Washington to update him on the current state of affairs at home and abroad. “We have nothing new here more than our papers contain;” he wrote, “but are anxiously looking forward to a further development of the negotiations in Europe with an ardent desire for general accommodations. It is at the same time agreeable to observe that the public mood is adopting more and more sentiments truly American and free from foreign tincture.”

From Hamilton’s perspective, the general mood of the American public was at last beginning to move away from a fascination with and championing of France, and more toward an “American,” or rather Federalist, sentiment.

Only two days after Hamilton’s letter, Federalist Congressman Benjamin Goodhue also wrote Washington to express similar sentiments. Among other thoughts, Goodhue noted with some satisfaction that “an increasing knowledge of our true interest and an attachment to our Government is visible throughout our Country.” The people of the United States were slowly

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372 Hamilton to George Washington, August 28, 1797. From Ibid., 322-23.
turning from a Republican to a Federalist view of the foreign crisis. Despite the omnipresent Republican attacks, the Federalist press must have had some positive effect, thought Federalists. Goodhue was so optimistic that he began to think they might be witnessing the end to formal partisanship—“that you may be happy enough to live to see faction and foreign influence extinct among us,” he wrote Washington.373

On September 8, Washington received an interesting letter from Timothy Pickering, Adams’ Secretary of State, in which Pickering referred to a recent dust-up with the Spanish Minister to the United States. The Spanish Minister had attacked the United States over its reluctance to ally itself with France in an open letter that Pickering characterized as “rude & insolent.” Citing his own official letter in response to the Minister’s rebuke, Pickering told Washington “I take the liberty to inclose [sic] one copy for your perusal, & the perusal of any of your friends.”374 A standard practice for sharing information and disseminating it more widely, Pickering hoped his views would be shared throughout various political circles and ultimately make it into the newspapers.

In a break with established protocol, Pickering went even further. Though noted only in passing, he mentioned to Washington a second potential action he supported in the Federalists’ approach to dissemination of privileged political information. “A number of copies wanted,” he wrote, “I concluded to print it, tho’ [sic] it is not to be published, unless it should be laid before

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374 Timothy Pickering to George Washington, September 8, 1797. From Ibid., 344.
Pickering supported the official printing and publication of his letter, clearly with an eye toward placing his and the Federalists’ position in the proper context and building public opinion and support through sharing this correct information in the face of the false information made public by the Spanish Minister. While working toward the same ends that Federalists had envisioned for communication over the last decade, this new approach was a sea-change in Federalist communications policy.

Recall that during the congressional debates over Jay’s Treaty in the spring of 1796, Washington’s Federalist Administration had refused to deliver to the House of Representatives and make public the instructions given to John Jay at the outset of his diplomatic mission to Great Britain. Defying a resolution passed by the House of Representatives at that time requesting that he submit to them the instructions and other correspondence and documents related to the treaty, Washington’s stance in 1796 was the opposite of where the Federalists stood just one year later. In his March 30, 1796 response to the House’s request for documents related to Jay’s mission, the president made it clear that he faithfully followed all constitutional requirements to share information with Congress and the public. However, in this instance, he refused to comply, informing the representatives that “a just regard to the Constitution and to the duty of my office, under all the circumstances of this case, forbid a compliance with your request.” Washington’s major concern at the time was that the House Representatives was on a fishing expedition, attempting to manufacture evidence for an impeachment, something he

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375 Ibid.
knew was utterly unwarranted. He would have no part in publicizing information under these circumstances. The consequences of keeping these documents private, however, were that the only information the public had was the conjecture and insinuations spreading wildly through the Republican press. Given the beating taken by the Federalists in 1796, it seems that by 1797 at least some of them had decided official publication was indeed an optimal method of combating the spread of false information that damaged their public standing, or at least the standing of their policies. Even Washington himself had come to adopt this view. Federalists would no longer stay on the sidelines and watch as false information was spread through the press and damaged the reputation of their policies and character.

Just before retiring from office in March 1797, a series of letters purported to be written by Washington found their way into the hands of Benjamin Franklin Bache, editor of the Republican-leaning Aurora. These letters were supposedly penned by Washington in the 1770’s and showed him to be a monarchist and supportive of British colonial policies. They were however, complete forgeries. Privately, Washington vehemently denied writing them, and eventually the potential public perception caused by the publication of these lies so horrified him that he decided to take direct action to restore any damage to his character. On October 17, 1797, the former president fired off a letter explaining how he had come to the realization that these charges and falsehoods needed to be fully and publicly addressed, rather than to hope that reasonable people would see through them and recognize the truth. “I suffered

every attack that was made upon my Executive conduct (the one just mentioned among the
rest) to pass unnoticed while I remained in public office,” the former president wrote,
well knowing that if the general tenor of it would not stand the test of investiga-
tion, a News paper vindication would be of little avail. But as immense pains has
been taken by this said Mr Bache who is no more than the agent or tool of those
who are endeavouring to destroy the confidence of the people in the officers of
Government (chosen by themselves) to disseminate these counterfeit letters, I
conceived it a piece of justice due to my own character, and to Posterity to dis-
avow them in explicit terms.\footnote{George Washington to William Gordon, October 15, 1797. From The Papers of George Washington: Retirement Series, Jan.- Sept. 1798, 407-8.}

Washington delivered his response to Timothy Pickering, who saw to its publication. The
Federalists, it seems, had seen the folly of not directly and fully refuting lies and calumny
spread by the Republicans. Washington, Pickering, and others had come to recognize the
importance of disseminating correct information to combat the false information that had done
so much damage to their own case.

For the Federalists, reminders of the debilitating divisions created within American
society by Republican attacks arrived in the form of the first dispatches received from the
American envoys in France. The first letters from Pinckney, Marshall, and Gerry began to trickle
across the Atlantic during the Fall of 1797, bringing with them unsettling affirmation that the
Federalists’ long-standing fears were correct. On September 19, Charles Cotesworth Pinckney
wrote that “A great many in France are persuaded that we are a divided people, & think that at
least one half of the People of America with the Vice President at the head would join them in
case of a rupture.”\footnote{Charles Cotesworth Pinckney to Washington, September 19, 1797. From Ibid., 367.} This confirmed a similar sentiment expressed by William Vans Murray,
with the French only a few days earlier. Murray was resigned to report the sentiment of the French that, “at the bottom of all their opinions respecting us, that America, Government & People are divided into two parties only, British & French, is the point of the hypothesis to which all their other opinions of America relate.” These political divisions, particularly the sense that the Vice President of the United States would eagerly join the French revolutionary cause, if given the opportunity, was more than a hindrance to American foreign policy and the attempts to negotiate a neutral treaty. They posed an imminent danger to the United States itself. This rift, no doubt calcified by the persistent Republican attacks in the press, would continue to haunt the Federalists and damage their attempts to maintain neutrality in the face of the growing international crisis. Based on false claims and outright lies, so the Federalists believed, the constant presence of harmful and damaging information in the public sphere was more than merely an interference-- it had become an obstacle to securing the safety of the country itself.

So when news of French duplicity in the XYZ Affair made its way back to Philadelphia and the federal government in the Spring of 1798, the Federalists already knew how they needed to proceed. On March 30, Alexander Hamilton opened a series of newspaper essays intended to sway public opinion away from the Republicans and their French illusions. Writing under the pseudonym “Titus Manlius,” Hamilton’s essay series, titled “The Stand,” attempted to lay bare the threat posed by the continued opposition of the Republicans to the necessary and “correct” policies pursued by the Federalists. Hamilton especially highlighted what he and the Federalists took as the true aims of the opposition and the dangers of placing faith in their

379 William Vans Murray to Washington, September 17, 1797. From Ibid., 364.
false information. “Among those who divide our legislative councils,” the influential Federalist wrote in “The Stand No. 1,”

we perceive hitherto, on the one side unremitting efforts to justify or excuse the despots of France, to vilify and discredit our own government, of course to destroy its necessary vigor, and to distract the opinions and to damp the zeal of our citizens, what is worse, to divert their affections from their own to a foreign country.  

The danger was evident, and had been for some time, Hamilton argued. The Federalists, however, had not been energetic in their response. The information necessary to combat the falsehoods spread by Republicans had been too often absent from the public discourse. Hamilton continued his assessment of the current state of political discourse in the United States:

on the other side, we have yet seen neither expanded views of our situation, nor measures at all proportioned to the seriousness and extent of the danger. While our independence is menaced, little more is heard than of guarding our trade, and this too in very feeble and tremulous accents.

The implication was clear. While the Federalists had long lamented the spread of false information to the public and all of the accompanying dangers this information posed, they had not done enough to ensure that the people of the United States properly understood the context of their political policies and measures. The public needed to receive the true accounts of affairs and be sufficiently and fully informed in order to come to the correct understanding of what their elected leaders undertook on their behalf. As Pickering wrote in a letter to Hamilton on March 25, “it is really desirable that not Congress only but the people at large should know

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381 Ibid.
the conduct of the French Government towards our Envoys.”\textsuperscript{382} The dispatches from the American envoys must be made public because the American people needed to know exactly what had happened. With this information, they would surely support the Federalists in the administration of the government and the policies they chose to pursue.

Unlike President Washington one year earlier, when Congress requested that President Adams submit to Congress both his instructions to and dispatches from the American envoys, Adams fully complied, and even tacitly suggested their publication.\textsuperscript{383} Then on April 6, after some debate as to the number of copies, the Federalist-controlled House voted to print the dispatches and Adams’ instructions to the envoys. Federalist Representative Robert Goodloe Harper, who would soon shepherd the Sedition Act through the House of Representatives, even said he wanted enough copies printed so he could send “a good number to his constituents.”\textsuperscript{384} While the final number of printed copies was relatively small at 1,200, the copies were intended for the use of the members of the House to disseminate to their constituents or the press as they saw fit.\textsuperscript{385} The Federalist-dominated Senate evidently had the same intentions as it approved 500 copies to be printed for a similar purpose.\textsuperscript{386}

\textsuperscript{382} Timothy Pickering to Hamilton, March 25, 1798. From Ibid., 371.
\textsuperscript{383} “Proceedings April 3, 1798.” \textit{Annals of Congress}, House of Representatives, 5\textsuperscript{th} Congress 2\textsuperscript{nd} Session, 1374-75 (accessed October 11, 2014).
\textsuperscript{384} “Proceedings April 6, 1798.” \textit{Annals of Congress}, House of Representatives, 5\textsuperscript{th} Congress 2\textsuperscript{nd} Session, 1378 (accessed October 11, 2014).
\textsuperscript{385} Ibid., 1380.
\textsuperscript{386} Ibid., 1378.
On April 9, Federalist Senator James Lloyd of Maryland took it upon himself to keep former President Washington informed of events in the capitol and in Paris during the ongoing XYZ Affair. He personally sent Washington one of the 500 copies of the diplomatic dispatches printed by the Senate. The packet Washington received exposed the French commissioners’ intent to extort bribes from the government of the United States, as Lloyd evidently wanted Washington’s support in the political battle raging throughout the country. “I do myself the honor,” Lloyd wrote “to enclose you the dispatches from our Envoys to France, and I congratulate you on the prospect we have of speedily seeing our fellow Citizens united in a firm determination to support our Government and preserve our independence.”

Lloyd, who in a matter of months would sponsor the Sedition Act in the Senate, wrote privately to the retired president, essentially corroborating the rationale of the Federalists in the House who supported publication of the dispatches. Lloyd was congratulatory at the prospect of “speedily seeing fellow Citizens united in a firm determination to support our Government” now that all citizens could view for themselves the information made public. In his response to Lloyd on April 15th, Washington was equally hopeful at the prospect of the American public gaining a “full” understanding of the situation with France that would lead to increased support of the Administration’s foreign policy. “If they should be attended,” Washington responded,

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With the effect of ‘speedily uniting our fellow-citizens in a firm determination to support our Government and preserve our Independence,’ as you seem to expect, it wd [sic] indeed be cause for much congratulation and no one would rejoice more at such an event than I should; But-- I wish it may be so. \(^{388}\)

Lloyd was not the only prominent Federalist interested in publicizing the dispatches for the American public so the people could form a “correct” opinion of the matter. However, while most Federalists seemed to recognize the necessity of making public information of this nature in order to combat the false information being spread by the Republicans, not all of them applauded it as anything other than an unfortunate necessity. Writing on April 5 in anticipation of the publication, Treasury Secretary Oliver Wolcott lamented that “the disclosure was I suppose necessary, though I regret the necessity. The dose will kill or cure, and I wish I was not somewhat uncertain which; not that I doubt the expediency of what the Government had done, or attempted, but I believe Faction & Jacobinism to be natural and immortal Enemies of our system.”\(^{389}\) Wolcott had clear reservations about the imminent publication of the dispatches. However, he was also well-acquainted with the deep divisions the Republicans had cleaved in American society over the past several years, and the necessity of making sure the public had access to the correct information.

Secretary of State Timothy Pickering, who had held the same post in the second Washington Administration, had no such reservations. He also sent the former president a copy of the published dispatches on April, 11. Pickering, too, parroted the arguments heard on the floor of the House of Representatives days earlier, as well as those expressed by both

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\(^{388}\) Washington to Lloyd, April 15, 1798. From Ibid., 241.

\(^{389}\) Oliver Wolcott to Hamilton, April 5, 1798. From *The Papers of Alexander Hamilton*, vol. XXI, 397.
Washington and Lloyd. He wrote that, while the dispatches could never convey the full force of the message from the insidious French agents, they would still do wonders to affect the public understanding of the situation. Let the facts speak for themselves, argued Pickering. Putting the facts into the hands of the people will “carry irresistible evidence to every fair and unprejudiced mind” that what the Administration has been saying is true, and that its measures are appropriate.  

Three days later, Pickering fired off another letter to Washington, updating the former president on the desired effect of the published dispatches:

The publication of the instructions to our Envoys to the French Republic and their dispatches is operating admirably. The Democrats in neither House of Congress make much opposition: and out of doors, the French devotees are rapidly quitting the worship of their idol[.] [T]he long-enduring patience of the people of the U. States under insults and injuries that are unexampled, will be followed, I trust, with corresponding ardour of [sic] resentment and persevering resistance to the ambitious and rapacious projects of the most corrupt government upon earth.

Of particular note is the distinction between Democrats in Congress and the “French Devotees” out of doors. Publication of the dispatches, to Pickering, was not simply a means of gaining a political advantage over an opponent, but of presenting what Pickering understood to be undeniable facts in order to change “incorrect” and unsubstantiated opinions. Pickering’s omission of any mention of a Federalist political advantage in the upcoming Federal elections for one-third of the Senate and the entire House of Representatives is particularly telling, especially between Washington and one of his most trusted former aides and political operatives.

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391 Pickering to Washington, April 14, 1798. From Ibid., 237-38.
Washington’s response to Pickering’s letters was one of general agreement with his friend over the importance of making the dispatches public. The spread of legitimate information setting the record straight and laying the facts bare before the public was the best, even the only, way of proceeding. After reiterating to Pickering that he hoped the publication of the dispatches would be enough to “open the eyes of the blindest,” Washington expressed his regret that it may not have gone far enough. “I am persuaded that those communications will produce no change in the leaders of the opposition; unless there should appear, an [sic] manifest desertion of their followers,” Washington wrote. To make his point clear, Washington referred to a recent editorial in the Aurora arguing that the Administration should pursue a policy of buying off the French, saying simply “There is sufficient evidence already in the Aurora, of the turn they intend to give the business, and of the ground they mean to occupy.”392 While Washington was still skeptical of the actual effect the publication of the dispatches would have on silencing the leaders of the Republican opposition, word began to trickle in to Mt. Vernon through letters from friends and acquaintances that provided hope that they were indeed achieving their desired outcome. For instance, a personal friend of Washington’s, former Pro-Administration Congressman Alexander White, wrote from the District of Columbia of his recent trip to Philadelphia, where he saw that “French cockades disappeared in the streets… and every man seemed desirous of clearing himself of the suspicion of connections with France or Frenchmen.”393

392 Ibid., 243.

393 Alexander White to Washington, May 1798. From Ibid., 244.
On May 19th, Washington received a letter from Alexander Hamilton stating that he “make[s] no apology for troubling you with a political letter” during the current crisis in public affairs. In the letter, Hamilton expressed his understanding of the situation as one largely brought about because entire regions of the country had been poisoned against the actions being taken by the Administration and the government of the United States due to the spread of dangerous and harmful information. People in large swaths of the United States were receiving incorrect information on which to base their support of the Administration. “It is painful and alarming,” he wrote, “to remark that the Opposition-Faction assumes so much a geographical complexion.” In large portions of Maryland, for instance, “nothing has been heared [sic] but accounts of disapprobation of our Government and approbation of an apology for France.”

Hamilton however, was prepared with a course of action: “I have asked myself whether it might not be expedient for you to make a circuit through Virginia and North Carolina under some pretense of health, etc.” Hamilton continued by explaining the ulterior motives behind his plan. Some public appearances “would call forth addresses public dinners etc. which would give you an opportunity of expressing sentiments in Answers Toasts etc.” of your support for the Administration. Hamilton concluded his request with his belief that the current situation

394 Hamilton to Washington, May 19, 1798. From Ibid., 279.
395 Ibid., 280.
396 Ibid.
397 Ibid.
“is extraordinary and now or very soon will demand extraordinary measures.”\footnote{Ibid.} Was Hamilton more alarmed by the worsening situation with France or by his understanding that large geographic portions of the country were so insulated from proper, correct information about the situation that many from those regions openly denounced the authority of the United States government? His suggested remedy certainly attempted to address the latter through the use of the highly-respected Washington to personally communicate the “correct” information to the people of those regions.

Washington however, would have none of it. He rejected Hamilton’s suggestion to tour parts of the South to promote the Administration’s position and spread legitimate information:

The expedient however, which has been suggested by you, would not, in my opinion, answer the end which is proposed... the enemies to it... would endeavor, as much as in them lay, to turn it to their own advantage, by malicious insinuations; unless they should discover that the current against themselves was setting too strong, and of too serious a nature for them to stem.\footnote{Washington to Hamilton, May 1798. From Ibid., 297.}

Washington, who had supported publication of the diplomatic dispatches, believed that a public speaking tour could potentially be seen as too heavy-handed a political maneuver and could be used against both him and the Federalists. It would be unseemly for someone of his standing to engage in such open partisan jockeying. Besides, he continued, he still had hope that the public view of the situation with respect to the actual facts of the case would ultimately support the Administration. He mentioned several pieces of information he had lately heard through contacts within the Southern states mentioning a growing support of the
Administration in South Carolina, North Carolina, and Georgia specifically.\textsuperscript{400} Desirous of making his loyalties clear to Hamilton though, Washington launched one last parting salvo. He supported the notion that the spread of proper and legitimate information was the key to winning public support in the face of French subversion, for he hoped that the growing public support would “serve to abash the partizans of it [French support] for their wicked, and presumptive information.”\textsuperscript{401}

It is noteworthy that Washington described the spread of “wicked and presumptive information” as the major transgression of the Republican opposition. His idea that communicating the correct information necessary for the public to determine its support of the government as a key to successful governance in general and the ongoing political crisis in particular, is one Washington would return to in private correspondence time and again during the spring and early summer of 1798. As information regarding the hoped-for change in public sentiment, and therefore public support, continued to make its way to Mt. Vernon over the next several months, a clearer picture of the extent to which the public was being misled became more evident to Washington and other friends of the Administration. On May 28\textsuperscript{th}, Washington wrote to his friend Edward Carrington that many newspapers were reporting the results of local meetings in which communities were either pledging their support to the Administration or denouncing it. Among them, he wrote that “Meetings have taken place in a

\textsuperscript{400} Washington was referencing a recent resolution to come out of a community group in Charleston, SC “supporting the US Constitution and the Government” on May 5\textsuperscript{th}, and printed in the \textit{Gazette of the United States} on May 24\textsuperscript{th}. The Governor of Georgia had also recently professed support of the United States government.

\textsuperscript{401} Ibid., 299.
few of the Middle Counties, with unpromising results.” The ongoing situation was becoming more tenuous and, Washington wrote, “it makes one anxious to know the sentiments of our citizens in different parts of this Commonwealth,” before asking Carrington for his assessment of public opinion in the Middle States.

In light of the increase in disappointing news regarding the calcification of public sentiment against the Administration, Washington wrote a few weeks later that “much good may, and I am persuaded will result, from the investigation of political heresies, when the propagation of them is intended, evidently, to mislead the multitude; Who, it is to be hoped, and as I verily believe, only require correct information to enable them to decide justly upon all national matters which are brought fairly, and properly before them.” These are two significant thoughts, as we see Washington’s articulation of the proper role of communication and information in politics more fully congeal. First, the latter half of the above statement argued more forcefully and explicitly than before that the public simply needed the correct information laid before it, fairly and properly, to make sound judgments on public affairs. Second, the beginning of the statement makes perfectly clear how Washington believed incorrect information and those that spread it should be treated. These are certainly not new or novel thoughts in Federalist circles, as many previous examples have shown. However, we see these sentiments expressed both more frequently and with greater clarity during the late spring and early summer of 1798 as it became more apparent to key Federalists that previous

403 Ibid.
404 Ibid., 311.
methods hoped for and relied upon to channel legitimate communication and information were not sufficient. Instead, the day was being carried in many parts of the United States by, as Washington characterized them,

Demagogues that attempt to impose upon their understandings, and are afraid to open their eyes, lest something should accost them, which might flash conviction, and embarrass them more in the prosecution of their system of opposition to the Wheels of Government which they have adopted, and at all events, it would seem, are determined to adhere to.\footnote{Ibid.}

Washington’s fears were confirmed by Edward Carrington’s response to his letter of May 28\textsuperscript{th}, when Carrington wrote that “astonishing as it may seem, the leaders of Opposition, as they have heretofore stiled [sic] themselves... have acquired additional zeal.”\footnote{Carrington to Washington, May 28, 1798. From Ibid., 313.} He went on to describe the circumstances of a meeting he attended in Richmond, at which “every effort was made without regard to propriety or even decency, to procure a majority to Resolutions amounting to little short of a declaration to resist Government.”\footnote{Ibid.} The resolutions did not pass, but not without considerable debate late into the night. Carrington went on to tell Washington that the leaders of the opposition in Richmond would likely continue to hold great authority as many of them were high-placed government officials or law professors.\footnote{Ibid., 314.}
“Virginia is unfortunate in a want of exertion amongst the Friends of Government, while the disorganizing possess unremitting activity,” he wrote.  

With the realization that in some quarters of the country they were being out-organized, President Adams and congressional Federalists began to make a habit of publicizing diplomatic dispatches from the American ministers in France. On June 5th, Adams submitted a recently received cache of dispatches to both houses of Congress along with an official address. The following day, James Lloyd sent copies of the dispatches and the president’s address to Washington. In his response to Lloyd, Washington commented on how pleasing it was for him to hear that even on the frontier in many states the public backed the Administration. He lamented however, that most of the Republican leaders were still extremely vocal. He closed his letter asking “What are the sentiments of the People of Kentucky? Or has there been any reverberation yet?”

Washington was clearly looking for any perceived or actual effect of the newly published information on the areas of the country most gripped by opposition lies.

In Lloyd’s letter to Washington on June 18th, we see the renewed efforts of the Administration and its allies to communicate the correct information to the public. With the return of several of the envoys from France, the Federalists now attempted to make public the latest information. The Adams Administration almost immediately sent their letters, dispatches, and reports to the Senate, along with the president’s address putting this information in its proper context. The Senate then directed the report and dispatches to be

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409 Ibid.

410 Lloyd to Washington, June 6, 1798. From Ibid., 316.

The spread of information and political communication, however, was still largely working against the Federalists and their allies. The French explanation of what had occurred during the recent negotiations was penned by Talleyrand, the French Foreign Minister himself. It was not sent via the returning American envoys, or to the Adams Administration or even Congress. Instead, it was delivered through back-channels to the Republican newspaper editor of the *Aurora*, Benjamin Franklin Bache, a leading voice of the Republican opposition! This information was, of course, published immediately. As Lloyd described the situation to Washington,

>Bache was in possession of Talleyrand’s vote before the dispatches were received by our Government but it was not known how he came by them ‘till Saturday when a Mr. Reeder told a number of Gentlemen at the City Tavern that we had received a packet for Bache sealed with the seal of the Minister of exterior relations from a Mr. Lee who was a passenger in the vessel in which he came to America, and that he had delivered the packet to Bache.  

The opposition was using modes of communication outside the proper channels established by the Federalists, and the false information being communicated was undermining the Administration’s ability to govern.

Talleyrand’s communiqué and the actions of the Republicans were a direct challenge to the legitimacy of the American government, and it did not stop with the letter to Bache and the *Aurora*. Lloyd related to Washington another recent improper use of information by Elbridge Gerry, the lone Republican envoy to France. Gerry was not trusted by the Administration because of his actions in France and suspected close ties to the French government while there. Lloyd informed Washington that, within Federalist circles in the nation’s capital, Gerry was

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412 Lloyd to Washington, June 18, 1798. From Ibid., 342.

413 Ibid.
widely maligned “for having received a communication from Talleyrand which he did not disclose to Messrs. Pinckney and Marshall [the other envoys, both Federalists]. His excuse was that he was bound to secrecy before it was made to him.” Even when entrusted with diplomatic missions abroad, Republicans could not be trusted with information.

The Federalists were presented with a situation in which Gerry, a Republican, did not inform the United States government of potentially important information from the French government because, as presumably noted by Gerry, “he was bound to secrecy before it was told to him.” Whatever the Republican opposition’s motives, from the Federalists’ perspective there was little reason for trust, and much more to believe he was actively attempting to undermine the government of the United States through a manipulation of information. Possibly even more damning, there was strong evidence that shortly before the writing of Lloyd’s letter, Thomas Jefferson, Vice President and leader of the Republican opposition, sent his friend Dr. George Logan to France with a personal letter of introduction to Talleyrand in an attempt to secretly and unofficially treat with the French government outside sanctioned diplomatic channels. This was unbeknownst to the Administration and Congress and, while supposedly an effort to stave off war, it was a potentially traitorous act. Logan thumbed his nose at the legitimacy of the federal government and engaging in a usurpation of federal authority, to which Lloyd wrote of the incident, “however mischievous his [Logan’s]

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414 Ibid.
415 Ibid.
416 Ibid., 342-43.
going may prove to be, we have no law by which he could be laid hold of.”\textsuperscript{417} There was no codified standard defining precisely what and how people could communicate political information in the public sphere, no standard of discourse guiding Americans in their interactions with each other and even foreign powers. In a new media and political environment where communication was king, the Federalists found themselves in a free-for-all where facts did not seem to matter.

The Federalists were now faced with the manipulation of information by the Republicans and the slow pace of change in public opinion despite the publication of information that should have clearly illuminated their noble efforts. At this point, the consideration of additional options to institutionalize rules and standards of political communication had to be on the table. In his letter of June 18\textsuperscript{th}, Lloyd answered Washington’s question about the desired effect of the recently published dispatches on public opinion in Kentucky, responding, “I fear it [the effect of the dispatches] has been inconsiderable, for we observe no alteration in the conduct of the representatives of that state in either house.”\textsuperscript{418} As to what might be done to further the Federalists’ goals, there was a short postscript to Lloyd’s letter that offers a clue. The note simply said, “We shall soon declare the Treaty with France void and pass a strong act to punish Sedition.”\textsuperscript{419} Disseminating legitimate information was not

\textsuperscript{417} Ibid., 343.

\textsuperscript{418} Ibid., 342.

\textsuperscript{419} Ibid., 343. It is also telling that Lloyd does not mention the Alien Enemies Acts recently passed by Congress, but only the Sedition Act. Lloyd did not necessarily consider them linked, as many historians generally have.
enough; the plethora of dangerous and harmful information being proffered by the Republicans also had to be dealt with.

In the meantime, Washington’s response to Lloyd on June 28th expressed dismay at the continued spread of false information, as well as events discussed in the previous letter, lamenting “but it is still more to be wondered at, that these changes, which have been refuted over and over again, should find men.”\textsuperscript{420} The former president expressed his understanding of the crux of the public opinion crisis rapidly building by saying that

When the \textit{Whole} correspondence between our Envoys and the French Minister of Foreign Relations and his agents is brought into one view, and laid before the Public, it will be extremely interesting; and must, I conceive, carry conviction to every mind that is open to it, of what the French now are, and have been aiming at, from the beginning of their Revolution... And will, at the same time shew [sic] them, in what manner they been imposed upon by those whose objects were not to be promoted by truth, or a clear understanding of matters.\textsuperscript{421}

This, quite simply, is the heart of the Federalists’ understanding of communication and the necessity of institutionalizing a system with standards of communication, of delineating accurate versus inaccurate information.

On July 4\textsuperscript{th}, Lloyd sent a letter to Washington finally informing him of recent news about the desired effect of the published dispatches in Kentucky. “A great change had been wrought in that State,” he wrote, “by the publication of the dispatches. Not so he [Lloyd’s source] says, in Tennessee, where you see nothing like federalism except in the venders of goods, people

\textsuperscript{420} Washington to Lloyd, June 28, 1798. From Ibid., 357.

\textsuperscript{421} Ibid., 362.
who are scarcely to be considered as residents of that State.”\textsuperscript{422} The renewed effort to ensure the spread of factual information was working, but only to a certain extent. As long as incorrect information was still flowing from the Republicans, the facts were obscured and lost in a muddle of misinformation. Lloyd continued to inform Washington that “If the French Government should, on hearing the state of things in this Country, temporize, I am afraid Mr. Gerry will be wrong-headed enough to believe them in earnest.”\textsuperscript{423} For Lloyd, Washington, and other Federalists, the fear that more needed to be done was very real. Perhaps it was with this in mind that Lloyd updated Washington on the status of the bill that would become the Sedition Act, writing that

This bill, after having been amended, as some of my friends think, by striking out that part which relates to Treason, and having afforded much ground for declamation to the lovers of Liberty, or in other words, to the Jacobins, passed the Senate, yesterday... and will certainly pass the Ho: of Representatives.\textsuperscript{424} Lloyd then summed up the hopes for all Federalists, and their understanding of what constituted the true crisis before them: “thus are truth and reason gradually making their way against error.”\textsuperscript{425}

Despite Federalist expectations that the published dispatches would have the desired effect, there had been signs dating back to the spring that Republicans would not simply roll over in their literary assault. For instance, in April, Timothy Pickering wrote Alexander Hamilton about recent developments in the press attributed to one high-ranking Republican in particular:

\textsuperscript{422} Lloyd to Washington, July 4, 1798. From Ibid., 375.

\textsuperscript{423} Ibid.

\textsuperscript{424} Ibid.

\textsuperscript{425} Ibid., 376.
“Jefferson says that the Directory are not implicated in the villainy and corruption displayed in these dispatches-- or at least that these offer no proof against them.”426 These rumors were intended to keep public opinion on the side of the Republicans and prevent it from turning completely against the French. Pickering went on to relate more rumors currently circulating in the Republican press: “Bache’s paper of last Saturday says ‘That M. Talleyrand is notoriously anti republican; that he was the intimate friend of Mr. Hamilton, Mr. King and other great federalists, and that it is probably owing to the determined hostility which he discovered in them towards France, that the Government of that country consider us only as objects of plunder.’”427 Complete lies such as these were what the Federalists were fighting against, and why it was so important that they not only continue trying to work to disseminate the proper information, but also devise a system to prevent lies such as these from doing harm.

Just one month later, Oliver Wolcott continued to play the role of pessimist, providing his observations that the published dispatches were not having the desired effect on Congress: “Congress appears to be but little better than before the publication of the dispatches. All their measures are feeble and qualified with some proviso, or limitation, which shows that they are not in earnest.”428 Publication of the dispatches had been intended to inform the American people, but the notion that simply disseminating the correct information would ensure the Federalists’ actions were fully understood and supported was being disabused in many different venues. Even in Europe, simply giving people the correct information in the face of so

427 Ibid.
428 Wolcott to Hamilton, May 18, 1798. From Ibid., 465.
many other lies and falsehoods was not doing enough to change public opinion. It was critical that the United States maintain strong allies in Europe, particularly in Britain, during the growing international crisis. With this in mind, the Federalists were concerned with public opinion on the other side of the Atlantic and in making sure that the British and French people received the correct information so they would support American policy at this critical juncture. Rufus King, then American Minister to Great Britain, described the situation from his perspective in London: “for upon the continent French principles and French Influence seem still to extend themselves in every Direction. Tho [sic] it is more than a fortnight since the Publication of the Instructions & Dispatches of our Envoys must have been received at Paris neither their Papers, nor Letters from France take any notice of them.”

Even in London and Paris, where public support for Federalist policies was key, it was not increasing as quickly as desired.

On May 16th, Washington received a letter from his friend Federalist Thomas Pinckney describing a similar atmosphere in Philadelphia. “I sincerely, Sir, congratulate you and every friend to our Country in the change of sentiment effected by recent events on the public mind relating to our foreign connections,” Pinckney wrote. Yet, he continued,

I believe this alteration to have been nowhere so inconsiderable as in Congress; yet even there they have nearly produced unanimity in proceedings which ought not to have been so long procrastinated, and have obtained a Majority for measures of provisional defence which without the late disclosures [the published dispatches] could not have been attempted without a prospect of success.

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429 Rufus King to Hamilton, June 6, 1798. From Ibid., 488-89.

While taking note of some of the positive effects of the published dispatches, there is an ominous tone, an apprehension that mirrored those expressed by others, that neither the people nor the Republican rank-and-file were wholly won over and turned by the facts laid out in the published dispatches. Pinckney continued that, “While we deprecate their [the opposition leaders’] conduct, the measure of regret will be more full than that of reproach for a people who have been thus misled: and I have no doubt that this people possessed of the compleat [sic] evidence of their situation will act with propriety.”

Pinckney believed the remedy to the public’s parroting of the Republican position was the publication of legitimate information that would place the relevant facts in their proper context. Without it, the consequences could be dire.

In June, Hamilton cautioned his fellow Federalists that “We do far less than we ought towards organizing and maturing for the worst the resources of the Country. But I count that there is a progress of opinion which will shortly overcome this obstacle.” It had now become apparent to most prominent Federalists that they needed to do more to stop the flow of false information. Washington seemed to agree. In August, he took a moment to comment upon the strength of those opposing the Adams Administration’s measures toward France. When the country first learned of the duplicity of the French in the XYZ Affair, he wrote, the Republicans were initially quiet. In the months since, Washington described the boldness with which their newspapers attacked the Federalists. Toward the end of his letter though, he described the steps his party needed to take in the future. “Unless a good deal of exertion

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431 Ibid., 276-77.

432 Hamilton to King, June 6, 1798. From The Papers of Alexander Hamilton, vol. XXI, 490.
previous thereto is made by those who are friends to the Constitution and the government,”
the first president wrote,

for certain it is that the Agents and Partizans of France leave nothing unessayd
to bring all the Acts, and Actors of government into disrepute; to promote
divisions among us, and to enfeeble all opposition to the views of the Directory
of that Country on the Rights, freedom, and independence of the U. States. 433

While Washington was clear that his compatriots needed to do more to halt the
onslaught of the Republicans, he also laid out his understanding of the Republican opposition,
its motivation, and its aims. For the former president, formulating a response was not about
silencing political opposition for political gain, but literally saving the government of the United
States from destruction. What is perhaps most interesting and most telling in nearly all of the
private letters circulated by prominent Federalists during 1797 and 1798 is that there was no
talk of punishing Republicans or winning elections, even in the run-up to the mid-term election
that fall. Rather, the ongoing discussion was over the legitimate use of communication and
methods of disseminating the information necessary for the American people to fully
understand the scope of political events, and to prevent the spread of information harmful to
the Administration’s ability to carry out its policies and successfully administer the national
government.

Institutionalizing a legitimate communication system that responded to the needs of the
public and the administrators of the government had long been a priority of the Federalists, but
their efforts up to the summer of 1798 had clearly been deficient, certainly in the eyes of key
Federalists such as Timothy Pickering, James Lloyd, and Alexander Hamilton. In light of recent

433 Washington to William Heth, August 5, 1798. From The Papers of George Washington: Retirement
Series, Jan.- Sept. 1798, 491-92.
events and the trend in public opinion, it had become clear that a more explicit attempt to institutionalize the flow and content of information and establish appropriate standards of political communication was necessary. More was needed to be done to prevent the spread of dangerous information. Providing access to the correct information could only go so far if there was still a wealth of false information poisoning the minds of the people. As one New Jersey Federalist wrote,

> the greatest evil that pervades our Country is the Country Presses, these have been many of them set up & supported by the Democratic party in different places... To retail scandal against the Gouvernment, so that 9 tenths of the Presses out of the great towns in America to the South of the Hudson are Democratic... While the opposers of the Gouvernment [sic] are doing all this & ten times as much by misrepresentation-- The Wealth of Information & Abilities of our Country, are not Exalted at all, or very little indeed.\(^{434}\)

If making a regular practice of publishing sensitive political information in order to show the American people the “truth” was not enough, then something needed to be done to institutionalize the Federalists’ desire to keep lies and false information from poisoning the political atmosphere. Something needed to be done to institutionalize the idea that these lies and falsehoods were more than just incorrect, but that they were *illegitimate* information. Something needed to be done to set firm standards for political discourse in the United States. Out of these necessities, on July 14, 1798 the Sedition Act was born.

IX. RESTRICTING THE CONSEQUENCES
Illegitimate Communication, the Intent of the Sedition Act, and the Battle over Subjective Truth

In March 1798, Federalist Congressman James Bayard of Delaware sarcastically considered the path he would take if he were trying to overthrow the government of the United States. “Were I an enemy to the free Government of my country,” he mused, “I should not seek to subvert it by supporting, or in attempting, by artful constructions of the Constitution, to increase, the Executive power.” For Bayard, if a cabal wished to subvert the federal government of the United States, commandeering the presidency was far too impractical and could take too long to accomplish. “No, sir,” Bayard continued,

I would adopt the means which have produced the effect before. The people would be the instrument I should make sure of. I would address myself to their prejudices, their follies, and their passions. I would tell them that the Government was corrupt; that it was a faction under the influence, or in the pay of a foreign Power. I would tell them that their interests were neglected and despised, that hence they were burdened with grievous excise laws and odious stamp acts. I would call upon them to erect liberty poles and refuse obedience to a Government which was administered by an aristocratic juncto.435

Congressman Bayard was responding to Republican attacks on the Federalist Administration by cutting to the heart of their opposition. Facetiously, he laid out a suggested plan of attack for overthrowing the American government that mirrored the attacks being generated by Republicans. Bayard and other Federalists saw the sheer power and importance of public opinion in American politics. They recognized that the key to governance in the United States

was to obtain the respect and support of the people. If one were looking to usurp the authority of the government, damaging that respect was the most effective course.

Bayard and other Federalists had seen this strategy at work over the previous several years both at home and abroad. Not only had Europe provided myriad examples of the dangers inherent in inciting people against their governments, but the opposition Republican press in the United States made a daily practice of levelling these exact charges against the governing Federalist Administrations of Washington and Adams. In Europe, lectured Bayard, “Those shadows of representation were destroyed because the people, deriving no benefit from them, had no motive to support them.” In the United States, the Federalists believed they were witnessing this same situation play out before their very eyes.436

This was not mere hyperbole from Bayard. What he feared, and what the Federalists as a group fully anticipated, was that following the above blueprints would, quite simply, serve to destroy the government of the United States. Through spreading such lies and false information, reasoned Bayard, “could I be successful in these artful calumnies, and, deluding a well-meaning people, excite them to insurrection and rebellion against laws, I might hope to see one of the best Governments in the world torn to pieces, and a wretched people burying their liberties in its ruins.”437 The Federalists remembered how Republican lies sabotaged public support for Jay’s Treaty and were at that moment witnessing the same attacks on Administration policy toward France during the XYZ Affair. The solution had long been to craft a system of communication in which information about the actions and motives of the federal

436 Ibid.
437 Ibid.
government was disseminated to the people so they would fully understand what their government was doing in their name. However, as the Federalists had come to understand, this meant ensuring that lies and false information about those motives and actions did not poison the minds of the people.

During the summer of 1798, there was a recognition on the part of the Federalists that spreading the correct information was not nearly enough. As Alexander Hamilton cautioned just a few months after Bayard’s proclamations on the floor of the House, “Many of the leaders of Faction will persist and take ultimately a station in the public estimation like that of the Tories of our Revolution. Our Chief embarrassment now is the want of energy among some of our friends, and our Councils containing too strong an infusion of these characters who cannot reform, and who though a minority are numerous enough and artful enough to perplex and relax.” The Federalists needed to do something more to enact their policies, something additional to ensure that even those whose minds they could not change with an honest communication of the facts were not able to “perplex and relax” the necessary and official laws and policies enacted by the duly elected administrators of the federal government.

President John Adams understood this as well. In May 1798, he received an address from a group of citizens from Easton, Pennsylvania professing their full support of Adams and his Administration’s policies toward France. “The instructions given to our Envoys Extraordinary,” they informed the president, “are to us satisfactory proofs that you have been influenced by motives of the purest patriotism.” The citizens of Easton claimed to have been

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swayed by the Federalists’ publication of the instructions and dispatches of the American delegation to France during the XYZ Affair. Just as Adams and the Federalists hoped, with a full knowledge and understanding of what the Administration had set out to accomplish and what actually transpired, the people of Easton were informed and able to pledge their full support to Federalist measures and policies.

Adams however, was not convinced that this was enough to make a significant change in national public opinion. On May 11, the president responded to the Easton address, implying that while he agreed there had been improvement in the level of opposition his administration had recently faced, these recent publications would not be sufficient to change public support across the country. “Unless the spirit of libelling [sic] and sedition shall be controled [sic] by an execution of the laws,” Adams countered, “that spirit will again increase.” A more comprehensive system of communication than previously established needed to be codified and put in place in order to effectively counteract the harmful and dangerous information still being disseminated throughout the country. Legitimate communication, and by extension the support of the people for their government, was of the utmost necessity, and Adams and the Federalists set about making it a part of the established political system.

Creating a system of legitimate communication meant keeping illegitimate information, such as lies and misinformation, from being disseminated as much as it meant

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440 Ibid.
getting the correct information to the people. In theory, communicating facts while prohibiting
the spread of lies sounds perfectly logical. As the Federalists were to discover during debates
over passage of the Sedition Act, the problem was in instituting a system capable of
determining what was fact and what was a lie. Through revisiting the congressional debates
surrounding passage of the Sedition Act of 1798, the public arguments made both for and
against it provide clarification of precisely what kinds of information it prohibited and how the
communication system it was a part of was intended to function. It is noteworthy to see the
many arguments that had circulated by means of Federalist statements, letters, and other
expressions of ideology and policy throughout much of the 1790’s were present in the debates
over the passage and meaning of the act. At so many different junctures and in vastly different
contexts over the course of the past decade, the Federalists had discussed, implemented, and
at times lamented the absence of, virtually all of the strictures that ultimately came to comprise
the Sedition Act of 1798. In many respects, the Sedition Act represented the culmination of
Federalist attempts to institutionalize their specific understanding of political communication
and reinforce the political system they felt necessary to the survival of the United States. To
this end, statements from supporters during the Sedition Act’s passage present a more
penetrating exploration into the intentions and understandings of those who felt the law was
necessary.

After the Sedition Act was passed in July of 1798 and had been in operation for several
months, the United States House of Representatives responded to its critics with a report
describing the act’s intent. It is important to understand Republican critiques of the Sedition Act
because they help to clarify and sharpen our understanding of the Federalists’ own ideology,
shaping the way the Federalists responded and shedding light on their rationales. “The
‘sedition act,’ the report began, “contains provisions of a two-fold nature: first against
seditious acts; and, second, against libelous and seditious writings.” It proceeded to describe
criticisms of the Sedition Act and the Federalist majority’s evaluations of those criticisms: “The
first [prohibition of seditious acts] have never been complained of, nor has any objection been
made to its validity. The objection applies solely to the second [libelous and seditious writings];
and on the ground, in the first place, that Congress have no power by the Constitution to pass
any act for punishing libels, no such power being expressly given; and all powers not given to
Congress being reserved to the states, respectively, or the people thereof.”441 To the
Federalists in the House who authored this committee report, criticism of the act was as much
about authority to pass it as it was anything else.

From the outset, congressional debate over the Sedition Act of 1798 touched upon the
legislative process of passing such a bill, deeply considering the ability of the federal
government to pass such an act and control communication. While different understandings of
“freedom of the press” and “freedom of speech” were brought up in the congressional debates
during passage of the act, Federalists certainly had no hesitation about not only the necessity of
passing such an act, but of the inherent power of the government to do so. “It is perfectly
within the Constitution to say, that a man shall not do this, or the other, which shall be injurious
to the well-being of society,” remarked Federalist Robert Goodloe Harper during debates over

the Sedition Act in the House of Representatives. The Federalists had operated under this
mindset for at least a decade, and most critics of the bill before Congress believed limiting
criticism, libel, and seditious speech was wholly within the purview of government. It was
merely a matter of which level of government possessed that power. To many opposition
critics, the issue was one of states’ rights: the states were to enforce anti-sedition and libel
laws. The Federalists however, clearly felt it was the duty of the federal government to
establish a national system through which political communication was to take place and
function, and setting the rules for this system was a necessary corollary.

The Sedition Act was signed into law by President John Adams on July 14, 1798. Among
other aspects of the law are included the specific actions and publications that were to become
illegal. It provided for the punishment of “any person [who] shall, by any libellous [sic] or
scandalous writing, printing, publishing, or speaking, traduce or defame the Legislature of the
United States...with intent to create a belief in the citizens thereof, that the said legislature in
enacting any law, was induced thereto by motives hostile to the Constitution, or liberties and
happiness of the people thereof.” The law gave the president with the same protections as
Congress, making it unlawful for anyone to publish or speak ill of any officer of the United
States government. This follows much the same logic that guided the Federalists in their
publication of Adams’ instructions to the envoys and their dispatches during the XYZ Affair. The

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443 Ibid., 2093. Interestingly, the Vice Presidency was noticeably left out of the text of the Sedition Act of 1798. Historians have long seized on this omission as evidence that the Sedition Act was intended to punish the Republicans, and Vice President Thomas Jefferson was their perceived leader. However, as President of the Senate, it is possible the Vice President was understood to have been covered by the provision protecting the “Legislature of the United States.”
published instructions were needed to show that Adams and the Federalists were guided by patriotic motives, not duplicitous intent, in their dealings with the French. Charging the men who had pledged themselves to upholding the Constitution of the United States with duplicity had the likely result of damaging the respect and esteem the people held for their elected leaders, a respect and esteem necessary to the successful prospects of the government.

The specific language used in the act is very important, first for understanding the actions prohibited by it, but also because it is largely the same language that Federalists had been using since at least 1789 when speaking about the role of legitimate political information. In addition to “libellous” speech and publications, the Sedition Act also banned statements and writings deemed “scandalous.” The definition of libel to the supporters of the act is easy enough to ascertain. There are numerous examples during the debates over passage of the act involving “name-calling” and harmful information spread about public officials that Administration supporters hoped to prohibit. For instance, on July 5, Federalist Representative James Allen of South Carolina complained of newspaper reports in which “The President of the United States is here called ‘a person without patriotism, without philosophy, and a mock monarch,’ and the free election of the people is pronounced ‘a jostling him into the chief magistracy.’” As one of the leading Federalist supporters of the Sedition Act, Allen was horrified that a government official’s character could be impugned by the circulation of such information. “Because the Constitution guaranties [sic] the right of expressing our opinions, and the freedom of the press,” Allen argued, “am I at liberty to falsely call you a thief, a murderer, an atheist?...The freedom of the press was never understood to give the right of
publishing falsehoods and slanders....A man was always answerable for the malicious publication of falsehood; and what more does this bill require?"444

What of the prohibition of information leading to scandal? Statements during the debates over passage of the act and letters sent by leading politicians do not often mention “scandal,” but they do frequently refer to the potential for “calamity.” For instance, Allen spoke of the terrible results of spreading dangerous information: “If this country is brought into a civil war, of which there is too much danger, let gentlemen lay it well to heart; I beseech them now to inquire with themselves, what they have done by such letters to contribute to that calamitous event?”445 We have seen this sentiment expressed by Federalists countless times during the 1790’s. Spreading false information about the government and its actions can lead to the formation of incorrect opinions and understandings amongst the general public, and the confidence of the people in their leaders was an absolutely essential feature of Federalist thought.

One need only look at the aftermath of Jay’s Treaty for an example of calamity, argued James Bayard. To Bayard, the rightness of supporting the Administration was born out by the fact that “when the Senate ratified the British Treaty [Jay’s Treaty], they were not, in consequence, less popular as a body.” Some Senators may have been burnt in effigy to be sure, but as the need for the treaty and a better understanding of the intentions of the French were known to the American people, history now showed its supporters to be correct-- and its enemies suffered the dreaded loss of public confidence: “Men perpetually opposed to the

444 Ibid., 2097-98.
445 Ibid., 2101-02.
Administration, who indiscriminately condemn every measure adopted, who insidiously labor to alienate the affections of the people from the Government, who, absorbed in a fanatical attachment to a foreign country, have lost all regard for their own, I conceive are properly avoided as objects of public trust and confidence.”

In a republic like the United States, the government itself was only as strong as the support of the people, and a loss of public confidence was politically fatal. When the people were misled to oppose the government, rebellion and other “deplorable calamities” could ensue. As the omnipresent example of the French Revolution showed the Federalists, this could be fatal in more ways than merely political.

But how could the circulation of certain types of public information lead to these “deplorable calamities” that the Sedition Act intended to avoid? Recall that there were two primary categories of information banned by the Sedition Act: 1) libel, or information harmful to the character or reputation of a public figure, and 2) information with the potential to bring about scandal, or disastrous circumstances or events. While dealing with different methods of spreading falsehoods, these two types of information were linked in the minds of those supporting the Sedition Act, and it is that intersection which helps us understand more precisely the deplorable calamities as envisioned by the Federalists.

The Sedition Act banned information that “traduces or defames” the legislature or the president (libel) “with the intent to create a belief in the citizens thereof, that the said [government officer] in enacting any law, was induced thereto by motives hostile to the

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Constitution, or liberties and happiness of the people thereof [italics mine].” While government-sanctioned publication of information intended to illuminate the motives of those elected to public office was important, when those motives were impugned, there needed to be systems in place for addressing them. “Let gentlemen look at certain papers in this city and elsewhere,” answered Allen, “and ask themselves whether an unwarrantable and dangerous combination does not exist to overturn and ruin the Government by publishing the most shameless falsehoods against the Representatives of the people of all denominations.”

Allen was specifically alarmed at the brazenness with which he and his fellow Federalists were attacked, and how they, the rightfully elected representatives of the people, were accused of being traitors when they were simply doing their duty to safeguard the interests of their country. These attacks were designed for one purpose: to bring about a loss of confidence in the appropriately determined policies of the government. In such an instance, Allen thundered, “the public agents are charged with crimes, for which, if true, they ought to be hung. The intention here is to persuade the people that peace with France is within our powers... but that we [Federalists] reject her offers, and proceed to plunge our country into a destructive war.”

To Allen and other supporters of the Administration, the connection was clear: to speak or publish information that negatively portrayed officers of the United States government or the government itself was harmful to the trust and faith the public put in the government and those same officials, leading to calamitous or “scandalous” events. Speaking of scandal, or

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448 Ibid.
causing one through scuttlebutt, innuendo, or denunciation, was a dangerous business.

Information of this sort had no place within the public sphere.

With this in mind, the Sedition Act made sure to state that it was designed to punish those who “oppose any measure of the Government of the United States,” and that one of its ultimate objects was to criminalize attempts to “intimidate or prevent any person holding an office under the government from exercising his trust,” as well as punish anyone who “shall, by writing, printing, or speaking, threaten such officer with any damage to his character, person, or estate, or shall counsel, advise, or attempt to procure any insurrection.”

It would seem that destroying the public confidence in a lawfully elected representative constituted an action of intimidation or prevention of the fulfillment of his duty. Arguments during the passage of the act help us understanding more fully what it meant to “oppose” or “threaten” any measure of the United States or its officers, but where was the line to be drawn between what might be called the “loyal opposition” and an enemy of the state?

Again, statements by Allen and others clarify the language of the act. A “threat” could be to a person’s reputation as well as to his person or property. What was so damaging about a verbal assault was that it prevented public officials from exercising the public trust of their offices. Freedom of speech and of the press, Federalist Samuel Dana of Connecticut reminded his fellow congressmen on the House floor, did not include lying about the Government. One could say whatever he wanted as long as it did not injure others. The Government was included

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449 Ibid.
in this respect, and one could not “injure” it or its officers. Many measures within the Sedition Act, according to Harrison Gray Otis, Federalist from Massachusetts, met this burden:

Unlawful combinations to oppose the measures of Government, to intimidate its officers, and to incite insurrections, are acts which tend directly to the destruction of the Constitution....And if gentlemen would agree that these were acts of a criminal nature it follows that all means calculated to produce these effects, whether by speaking, writing, or printing, were also criminal.

Otis continued along this line of reasoning, arguing that provisions in the bill should be illegal because they were “crimes against the United States.” “For example,” he argued that “Stealing public records, perjury, obstructing the officers of justice, bribery in a judge, and even a contract to give a bribe, (which last was a restraint upon the liberty of writing and speaking) were all punishable.” “And why?” Otis rhetorically asked. Because they were all crimes against the United States of America itself, was his response. Otis argued that these crimes ultimately led to the subversion of the Constitution, and therefore all needed to be made illegal out of necessity. Otis’ implication was clear: harming the public’s confidence in its elected leaders was an attack on the United States and a subversion of the Constitution in the same way that bribing a federal officer subverted the Constitution.

Circulating false and malicious information that denigrated the reputation of an officer of the federal government, if harmful to the public support relied upon by the government, was therefore seen by the Federalists as an attack upon the United States itself. Robert Goodloe

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450 Ibid., 2111-12.


452 Ibid., 2147-48.
Harper and James Allen argued this point forcefully as they led the charge in favor of the Sedition Act in the House of Representatives. Harper drew a straight line from the publication of “malicious” and “scandalous” polemics that would “defame” the government and its officers and bring them into “disrepute,” to the likelihood that such ideas would induce the “hatred of the good people of the United States” against the government and incite rebellion. Allen similarly described the net effects of harmful information on the minds of the American people. These are almost identical to the arguments that the Federalists had made against the Democratic-Republican Clubs, the leaders of the Whiskey Rebellion, and the critics of Jay’s Treaty. Only now, they were being codified into federal law.

It should be clear then, that the supporters of the Federalist Administration and the Sedition Act wanted to prohibit the circulation of information that had the potential to corrupt the mind of the public against the lawfully elected government, information that would destroy the faith and trust the people had in their representatives and the very ability of the federal government to carry out the wishes of the people and conduct its business with their interests at heart. Prohibition of such information went beyond protection of the character and reputation of officers of the government. An editorial reprinted in the Gazette of the United States in December of 1798 attempted to make just this point by asking its readers “to consider by what means, and for what ends, so many erroneous statements, and so many disquieting assertions are to be found in a remonstrance coming from a county in which, at least, correct


information might be obtained.” It was unbelievable that illegitimate information could have such a deleterious effect, let alone be readily disseminated while legitimate information was right there to be had, available to all. This was a situation that needed badly to be addressed, and so the communication of falsehoods about the government itself and even reputed “falsehoods” about government policies or actions fell under the scope of the Sedition Act out of necessity.

These sentiments ring hollow, however, when one considers the insults and calumnies publicly hurled at members of the Republican opposition by the Federalists during the preceding months and years. Did the Federalists forget that many of these members of the opposition also held elective office under the Constitution? The answer was most decidedly no. James Allen charged Republican Representative Edward Livingston of New York with cavorting with enemies of the United States and flirting with treason. During Allen’s attack on Livingston, he accused the congressman of deliberately spreading lies to advance his own agenda at the expense of the country. Responding to Livingston’s criticism of the Alien Act passed days earlier, Allen retorted “This, sir, was a foul calumny on the good people of the United States, or the gentleman has a more intimate acquaintance with treason and traitors than I had ever been in the habit of ascribing to him.” Allen charged on, arguing that it was patently obvious that Livingston was concocting lies about the new law’s reach:

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The gentleman assumes the fact, and though it is expressly admitted on all hands, that a *citizen* cannot be sent away in that summary manner, he declares, ‘he has no doubt we shall attempt it,’ and then goes on to alarm the people with a portrait of that dreadful state of things that his fancy has conjured up; Although I will boldly say, in truth, he has no such apprehension.”\(^{456}\)

What could Livingston possibly intend with such a blatantly false attack, other than to poison the minds of the people against the laws, of course?

Later, Allen again turned his wrath toward Livingston, this time attacking statements made days earlier in the House over whether or not to allow American diplomat Elbridge Gerry, a renowned Administration critic, to continue to negotiate with the French government after its foreign minister had refused to deal with the other members of the American delegation.

“Recollect,” Allen reminded his audience, “what a few days ago fell from the very gentleman (Mr. Livingston) who now so boldly and violently calls on us to reject this bill.” Allen went on to characterize Livingston’s motion to allow Gerry to continue treating with the French as a mischievous attempt to defy the president of the United States and his policies.\(^{457}\)

Notice much of the language that permeates these sentiments: “calumny,” “false,” “truth.” According to Allen, Livingston was little better than an enemy of the United States, and at the very least guilty of spreading “malicious” lies about government policy to carry out his object of ruining the government of the United States. In fact, Livingston had actually called for the people of the United States to turn against the federal government because of his dislike of laws that were passed legally. The people, Livingston had threatened, “will resist this tyrannic

\(^{456}\) “Proceedings March 5, 1798.” *Annals of Congress*, House of Representatives, 5\(^{th}\) Congress, 2\(^{nd}\) Session, (Washington: Gales and Seaton, 1836), 2095-96.

\(^{457}\) Ibid, 2093-94.
He decried settled policy with hyperbolic, dangerous statements capable of damaging the federal government. These issues had been ruminated over, debated, and already determined and set in place. Moreover, Livingston had not simply disagreed with the policies, but attacked the motives, of those who passed them with accusations of tyranny and schemes to ally with the British. *That* was the threshold for what the Federalists believed to be sedition. The Administration had already determined its course of action, and for anyone, including a United States congressman, to continue to argue that this course was wrong, unconstitutional, and should be disobeyed could only produce that dreaded loss of confidence in the government, could only damage the government’s standing in the eyes of the American people in a way sure to bring about the ruin of the union and the constitution. Establishing the legitimacy of government was an object of supreme importance, and undermining that legitimacy was a potentially fatal blow.

Central to this notion is the very definition of “fact,” a development not lost upon Republican Representative Albert Gallatin of Pennsylvania. As a Republican critic of the Federalists and keen observer of the raging political torrents of the times, he responded to sentiments such as those expressed by Allen. Gallatin pointed out that, “in order to prove the existence of a combination against the Constitution and Government, [Allen] had communicated to the House—what? A number of newspaper paragraphs....His idea was to punish men for stating facts which he happened to disbelieve, or for enacting and avowing opinions, not criminal, but perhaps erroneous....and thus he wished to punish such men as, according to his caprice, he may suppose guilty of expressing opinions not consonant with their

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458 Ibid., 2095.
own sentiments.” Republican Joseph McDowell of North Carolina concurred, wondering out loud how Allen could label one printer who criticized acts of the government as spreading falsehoods calculated to bring about the government’s subversion, while Allen himself subscribed to a paper whose editor publicly referred to himself as a “subject of King George’...whose constant daily business it is to abuse, and render ridiculous, every member of our government who does not in everything fall in with British views.”

This dichotomy between fact and falsehood existed outside the bounds of the House of Representatives as well. George Washington himself wrote to James Lloyd, author of the Senate version of the Sedition Act, that “I am persuaded the great mass of citizens require only to understand matters rightly, to form right decisions; whilst the business of some among us seems to be, to pervert, and lead their judgments astray by false alarms, and a misrepresentation of facts.” Lloyd later recounted to Washington an event that occurred at a meeting of the Pennsylvania Society of the Cincinnati where a critic of the Federalists was removed from a position of power and replaced with a friend to the Administration. “Two draughts [sic] of an address to the President US were under consideration,” Lloyd wrote. “The federal one was adopted and Chief Justice McKean was [re]moved from the Vice Presidency and Genl Maylan elected, and thus are truth and reason gradually making their way against

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459 Ibid., 2107-08.
460 Ibid.
error.\textsuperscript{462} Washington and Lloyd must have viewed this occurrence as evidence of changing political winds and a precursor to the success of the Sedition Act. As with Allen’s diatribe against Livingston, even allies of the Federalist Administration outside the halls of power were roused to indignation by the political fervor that resulted from errors in truth and fact, to the point that the removal of an officer of an organization disposed to such “falsehoods” was roundly cheered.

In fact, the Federalists considered the problem of “truth” very seriously in the drafting of the Sedition Act of 1798. One of the novel features of the act was that truth could, for possibly the first time in American jurisprudence, be considered as a defense against libel charges. If potentially harmful information once disseminated turned out to be true, then it was not libel, or at the very least was excused one from the legal consequences of being charged with libel. The House committee report from 1799 on repeal of the Sedition Act declared that “it [the Sedition Act] also allows the party accused to give the truth in evidence for his justification, which, by the common law, was expressly forbidden.”\textsuperscript{463} In that same report, it was revealed that none of the states’ constitutions allowed for truth as a defense against libel, and furthermore that no state considered the right of free speech or of the press to extend to spreading malicious and false rumors against another person. The Federalists believed the Sedition Act was, in many respects, an extension of the common law to federal statutes, as well as an extension of liberty of the press and of speech. The report went on to

\textsuperscript{462} Lloyd to Washington, July 4, 1798. From The Papers of George Washington: Retirement Series, Jan.-Sept. 1798, 375-76.

\textsuperscript{463} “Repeal of the Alien and Sedition Laws,” American State Papers Series, 1789-1838, Miscellaneous vol. 1, no. 110, p. 183.
state that, since the liberty of the press could not possibly be construed to allow people to falsely malign others, “a law to restrain its licentiousness, in publishing false, scandalous, and malicious libels against the Government, cannot be considered an ‘abridgment’ of its ‘liberty.’” The Federalists simply did not understand free speech and free press rights in the same way that 21st-century Americans do, or possibly even 18th-century Republicans. They did not believe they were limiting speech and legitimate information in any way. They were simply codifying a system that did not permit this kind of harmful, damaging communication to begin with. The Sedition Act was, the report stated, “useful for rendering that [common law system of speech and press] more generally known and more easily understood.”

With traditional interpretations of the Sedition Act viewing it as an attack on civil liberties and free speech, it has been easy to see Gallatin and McDowell as heroes and champions of liberty by comparison with the jarring nature of sentiments from Federalists like those above. While it may be true on some level that the Republicans were among the first to put forth a “modern” understanding of civil liberties and freedom of speech during this debate, most likely neither they, nor certainly any other observers at the time recognized that. What was clear to participants in the debate was that the real issue was the battle over subjective “truth.” Republican Representative John Nicholas of Virginia showed a keen understanding of this disagreement when, after participating in days of debate over the necessity and merit of the Sedition Act, he rose just prior to its passage to ask for clarification of the principles on

\footnote{464 Ibid.}
\footnote{465 Ibid.}
which the Act was based. “He would be glad,” he stated, “if gentlemen would define wherein the freedom of speech and of the press consists.” Nicholas continued,

Gentlemen have said that this bill is not to restrict the liberty of the press, but its licentiousness. He wished gentlemen to inform him where they drew the line between this liberty and licentiousness of which they speak; he wished to know where one commenced and the other ended? Will they say the one is truth and the other falsehood?466

Nicholas went on to question whether or not the federal government should determine what was true and what was false, to which the *Annals of Congress* recorded an anonymous cry in the chamber of “What! Can anyone be found to advocate the publication of lies and calumny?” followed by murmurs of agreement.467

Whether a limitation of the Federalists’ creativity or a product of the context of their times, the Federalists could not, in this instance, conceive of the idea that the “truth” in politics is relative, and that the Republicans saw other, different “truths.” Perhaps we should consider once again the guidance of Richard Hofstadter’s insights, that both Federalists and Republicans in the late 18th century did not recognize the legitimacy of organized political opposition. Hofstadter confronted this seeming paradox by observing that “They [the Founders] did not believe, as modern democrats do, that partisan competition is an asset to the political order under what they called free government; nor had they yet even conceived of a party system.”468 Central to a hatred of parties was a fundamental lack of understanding of

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467 Ibid.

legitimate political opposition. “In America,” wrote Hofstadter, politics “had been carried on in the face of a firm conviction by each side in the party battle that the other was not legitimate, and in a healthy state of affairs would be put out of business. Neither party had thought of the other either as a legitimate opposition or as an alternative government; neither side thought of the two parties as engaged in a sustained competition that would result in rotations of power.” “Each party,” said Hofstadter, “hoped to bring about the other’s destruction.” Both Federalists and Republicans believed themselves to be correct, to be the seekers of the public good, and the purveyors of truth.

Back on the floor of the House, Nicholas responded to the anonymous interjection saying “it is not lying that will be suppressed, but the truth….If this bill is passed into a law, the people will be deprived of that information on public measures, which they have a right to receive, and which is the life and support of a free Government.” Both sides, Republicans and Federalists, believed that the public needed the “correct” information, and that the very security and success of the United States depended on it. Both sides believed the dissemination of this information was of the utmost importance. The disagreement was over who would determine what information should be communicated, and precisely what that information would be.

The Republican Nicholas understood what was at stake with the passage of the Sedition Act, concisely framing the issue. Perhaps recognizing the relativity of truth, his impassioned

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469 Ibid.

reasoning wondered “as to what gentlemen called the licentiousness of the press, it was so indefinite a thing, that what was deemed licentiousness today by one set of men, might, by another set, tomorrow, be enlarged, and thus the propriety of the information given to the public would be arbitrarily controlled.”

James Allen, days before this speech by Nicholas, seemed to anticipate such a response by the opposition. In his own speech, Allen also addressed the notion of arbitrary truth and the legal establishment of universal fact from the Federalist perspective. Referring to his earlier indictment of Livingston’s statements in the press, he said “In the same speech the people are instructed that opposition to the laws, that insurrection is a duty, whenever they think we exceed our constitutional powers; but, I ask the gentleman, who shall determine that point?”

This may be the logical crux of the debate, where the heart of the Administration position lay. What is acceptable information that could be circulated publicly, Allen asked, and who should determine it?

The assertion made by Livingston, that the people had a duty to oppose unconstitutional laws, was to the Federalists both impractical and dangerous, for “Who shall determine that point?” It could not be left to any individual to determine what laws were constitutional or what acts of Congress were lawful and in the people’s best interest. That would be a recipe for anarchy and the overthrow of the government. However, something, someone, had to hold it all together, had to establish what was right, what was wrong, and what was constitutional. Someone had to codify and institutionalize this understanding so that the political system of the United States could operate fully and effectively. In the minds of

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471 Ibid, 2142-43.

Federalists, the harmful and dangerous effects of information had to be prevented, and therefore the information itself had no place within the public sphere. Someone had to determine “truth,” or the “point” as Allen referred to it.

Months earlier, in House debate over a proposed course of action regarding the French, James Bayard had suggested an answer to Allen’s question. When the people elected a candidate, he deduced, did they not place their trust in him to make the correct decisions? “Does not every election bear witness,” Bayard asked rhetorically, “that the principle is ever adhered to by the people?” To Bayard, elected officials were entrusted with the power to make decisions, to enact policy, and therefore their actions and policies were imbued with the imprimatur of being true, of being the notions that would become facts and administer the operation of the government. During that same House debate, Federalist John Williams of New York agreed, saying “the acts of the majority, which he supposed the good sense of the people of this country would always dictate as the first principles of their Government.” To Williams, Bayard, Allen and other Federalists, the Administration had to reign supreme. As the majority administering the federal government, the Federalist Administration had to “determine that point.”

This brings us back to a question still left unanswered, yet utterly central to understanding the Sedition Act: what did the Administration mean by “opposition?” The language of the Sedition Act punished those who “oppose any measure of the Government of


474 Ibid., 1217-18.
the United States.” But while the meaning of scandal and libel have been considered at length, as well as the kinds of information one could and could not print or say, what exactly did opposition mean to the Federalists? What constituted opposition to the government and what was its role in politics? One of the most important points in grasping the Federalists’ understanding of the concept of opposition is their conflation of “Government” with the stewardship of that government. As we have seen, Hofstadter argued that the Administration believed itself synonymous with Government, not merely a party or group, or even particular administration charged with governing. Attacks upon members of the Administration were attacks upon the government itself, and vice versa. Since, to the Federalists, opposition could only be harmful to the country, once a policy had been set or a law passed, information that contested the legitimacy of those policies or laws was simply not legitimate. It had the great potential, in the Federalists’ minds, to cause harm and danger.

The Republicans recognized this penchant in the Federalists during the debate over the Sedition Act. Albert Gallatin forcefully argued that

This bill and its supporters suppose, in fact, that whoever dislikes the measures of Administration and of a temporary majority in Congress, and shall either by speaking or writing express his disapprobation and his want of confidence in the men now in power, is seditious, is an enemy, not of Administration, but of the Constitution, and is liable to punishment.475

Gallatin accused Robert Goodloe Harper of criticizing members of the opposition for writing circular letters to their constituents and of writing private correspondence about ongoing business in the House of Representatives, as well as attempting to criminalize members’

speeches on the actual floor of the House. Nicholas made a similar connection between the Sedition Act and the Federalists’ understanding of opposition. “If the declarations from the Gentlemen from Connecticut and South Carolina were attended to,” he stated, “it would be found they are most afraid of the speeches and letters of gentlemen in this House. They acknowledge, however, they cannot prevent members from speaking what they please here. What, then, is their aim? Do they mean to prevent the publication of their sentiments to their constituents and to the world?” Concerned Republicans would not quietly acquiesce.

Instead, Republicans attempted to caricature the Federalist position as a belief that opinions contrary to their own should not be uttered anywhere, that they were wholly illegitimate. The Federalist position, as we have seen, was more nuanced than this. Harper responded to Nicholas’ query by saying that it was not his intention to restrict the freedom of speech of congressmen on the floor of the House, “but the consequence of it out of doors.” To Harper, it was not so much the information itself, but the harm it caused that made it illegitimate. While duly elected representatives to Congress had a right and a duty to deliberate over issues of national import, Federalists were most concerned with preventing illegitimate information from becoming public and coloring public opinion against government policies once they were determined. Once a law passed, or a policy set, what other purpose

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476 Ibid.  
477 Ibid., 2103-04.  
478 Ibid.
could such information have than to “inflame his constituents against the Government at the expense of all truth?”  

For the Federalists, the issue was not about keeping people from expressing their opinions, but removing the dangerous effects of that speech. Remember, speech that was illegitimate, that was dangerous and therefore fell under the auspices of the Sedition Act, was speech that caused scandal, rebellion, or calamity. Again, it was not about the words themselves, but how those words were calculated to bring about a certain effect in the American people, namely a loss of confidence in the government and its officers. Under this view, the intent of the Sedition Act was not to allow “this” information while prohibiting “that.” It was about removing the illegitimate effects of information in general.

Information that spoke ill of the government was a lie. The Federalist Administration and its supporters knew it to be so because, in their own view, they were The Government. Federalists obviously knew they were not opposed to the Constitution, or opposed to the will of the people. They were chosen by the people, entrusted with the administration of government. Disagreement with government policies or measures was tantamount to disagreement with the government, and such division could only lead to anarchy, or worse, rebellion. Furthermore, there were simply some things that “the people,” their constituents, did not need to know. Information about government proceedings or debates in Congress was under the purview of officers of the government themselves, and, like slander and “lies,” such information could have a harmful effect on the country. If made public, such communications

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479 Ibid., 2101-02.
could be used to intimidate elected officials or sway them one way or another, adversely affecting the intended political system itself. The Federalists sought to prevent illegitimate and harmful information such as this from seeping into the public sphere.

If the government was held together by the faith and trust of the people, anything that could be construed to destroy that trust was not legitimate information or action within the political sphere. It worked outside the officially constituted system to undermine authority. Expressing alternate opinions through hyperbole that attacked the legitimacy or credibility of the federal government was considered illegitimate opposition in the minds of Federalists, especially once policies and laws had been voted on and established. With this understanding, Allen’s attacks on the character of Republican congressmen while lamenting similar attacks in the press on his own political allies was not hypocritical. Harper’s acknowledgement that criticism of government policy by members of Congress in communications to their constituents must be legally prohibited is wholly consistent. And while striking to modern sensibilities, Allen’s actual pronouncement on the floor of the House of Representatives that “he that is not with us is against us,” is not surprising at all.480

The Sedition Act of 1798 must be understood on these terms, not merely as a tool for the elite to maintain its hold on power through the control of information or as an attempt to codify into law the Honor Code that dictated public discourse, but as a natural corrective to growing threats to the constituted political system as understood by the Federalists. In fact, it was an attempt to further codify and institutionalize that system. The types of information the

480 Ibid., 2097-98.
Sedition Act restricted were simply not legitimate public knowledge. They had no place, nor served any beneficial purpose, within the system of government of the United States envisioned by the Federalists. The Sedition Act was an attempt to legislate “truth” itself, to establish firm standards for appropriate discourse in politics, standards that defined what was “false” and what was “true” in order to limit disagreement and division. Of course, this meant that the Federalists were the ones to determine those standards.

Nothing makes this more clear than the official report of the House of Representatives’ committee created to defend the Sedition Act from its growing list of detractors. In February 1799, seven months after passage of the Sedition Act, this report was issued as a response to critics of the controversial Alien and Sedition Acts. The report was entered into the official House record as that body’s official defense of the act. And a stunningly informative defense it was. The report began with a detailed list of the towns and cities from across the United States that had sent petitions to Congress calling for repeal of the Sedition Act. The complaints, as described by the report, fell into three general categories: “unconstitutional, oppressive, and impolitic.” However, the authors of the report offered a biting commentary on the nature of those complaints: “The committee cannot, however, forbear to notice that the principal measures hitherto adopted for repelling the aggressions and insults of France have not escaped animadversion.” The petitioners did not merely complain about the Sedition Act or even the Alien Acts, but instead, the report alleged that they complained of every action the federal government had taken regarding the quasi-war with France. Complaints ranged from laws providing the establishment of a navy, additions to the army, the militia, and any number of loans, assessments, excises, and taxes. In fact, charged the authors of the report, “With these
topics of complaint, in some of the petitions, are intermingled invectives against the policy of the Government from an early period, and insinuations derogatory to the character of the Legislature and of the administration." 481

It was not the Sedition Act or the Alien Acts specifically that had raised the ire of most critics, it was the Federalist Administration’s foreign policy, and Federalist policies in general. Petitioners even complained of legislative acts from as much as a decade earlier. These detractors were the purportedly “principled” critics of the Sedition Act, petitioning for its repeal due to what they saw as well-reasoned, moral evils brought on by the act itself. They complained about everything; no matter what the Federalists did, these opponents were bound to criticize it. Of course the organized opposition press was going to attack the Sedition Act, but if supposedly ordinary citizens were also random or blatantly partisan in their opposition to the law, one had to question the seriousness of this “official” opposition to the Sedition Act.

In attempting to address what legitimate concerns could be deduced from the petitions received by the House, the committee report again described the actual actions prohibited by the Sedition Act as “first, against seditious acts; and, second, against libellous [sic] and seditious writings.” The report stated that no complaints had been made against the first prohibition, that of seditious acts. The second prohibition, however, against “libelous [sic] and seditious writings,” was the aspect in contention. The rationale for its necessary inclusion in the Sedition Act relied largely on most of the same arguments that have been explored in detail already, that false and illegitimate information led to subversion and rebellion, and that “it would be

manifestly absurd to suppose that a Government might punish sedition, and yet be void of power to prevent it by punishing those acts which plainly and necessarily lead to it.”

Consider, however, what it meant to punish the actions that led to sedition and libelous and seditious writing. One would need to determine what kinds of writing were capable of inciting rebellion or subversion, and define precisely what those were. The debates in the House of Representatives over passage of the Sedition Act reflect this recognition, and show the deep concern with determining what constituted truth, fact, and lie.

When examined carefully, one can discern the presence of the closely-held values of the Federalists from the past decade in the committee report’s defense of the Sedition Act. The committee report even referred to the prospects laid out in the act as a “system.”

Laying out the Federalist-controlled House’s sense of its role in the administration of the federal government, the rationale and support for the Sedition Act contained in the report echoed and reiterated all previous views and expositions of the role of legitimate information in politics. “Our safety consists in the wisdom of our public councils, a co-operation on the part of the people with the Government, by supporting the measures provided for repelling aggressions, and an obedience to the social laws.” Having summed up the administration’s position, the report proceeded to state its conclusions about the petitions for the act’s repeal.

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482 Ibid.
483 Ibid., 184.
484 Ibid.
The petitions themselves were seen by the report as products of the exact problem the Sedition Act sought to remedy. “In such of the petitions as are conceived in a style of vehement and acrimonious remonstrance, the committee perceive too plain indications of the principles of that exotic system which convulses the civilized world.”485 “Innocent” misunderstandings of the people can be forgiven and understood as products of a diverse country with diverse opinions.486 But, when opposition to the Sedition Act “assumes the guise of patriotism to mislead the affections of the people…. Or shall appear in the more generous form of open hostility, it ought to be regarded as the bane of public as well as private tranquillity [sic] and order.” With that predictable yet explicit rationale, the House of Representatives rejected out-of-hand all petitions calling for the Sedition Act’s repeal.487

One should not simply gloss over the key rationale for the Sedition Act stated in the report. “Our safety consists in the wisdom of our public councils.” Trust us, the authors of the report essentially said, because we know best. We have been chosen by the people to make decisions and lead, and therefore we must be allowed to do so. In a political system in which opposition had no formal role, those to whom the reins of government were entrusted believed themselves the only ones who understood the stakes. If opposition was illegitimate, the Federalist Administration alone could determine policy, and since it was entrusted with this power, its supporters and itself were naturally the only ones with the “correct” ideas. The Federalists clearly believed they were the only authority that could steer the country through

485 Ibid.

486 “from them no danger is to be apprehended,” stated the report. From Ibid.

487 Ibid.
the turmoil of the 1790’s, that they were the only group of men who could successfully govern
the young country. As evidence, they were continually reelected to majorities in Congress and
to the Presidency. In fact, these elections were the legitimization of their authority. This was
the way the political system of the United States was intended to function, and the Federalists
were simply trying to bolster the institutions that would make it effective.

Before ending the report with a series of resolutions reaffirming the necessity of the
Sedition Act, the committee closed with the following statement. It should leave little doubt as
to the centrality of the above understanding of government, as well as the Sedition Act’s role in
its perpetuation:

Those to whom the management of public affairs is now confided, cannot be
justified in yielding any established principles of law or government to the
suggestions of modern theory, their duty requires them to respect the lessons
of experience, and transmit to posterity the civil and religious privileges which
are the birthright of our country, and which it was the great object of our happy
constitution to secure and perpetuate. 488

The report makes it clear that, to the supporters of the Sedition Act, the principles espoused
within it were not merely whims dreamed up in the heat of the contentious political
atmosphere of 1798. The Act was, rather, part of what the Federalists believed were well-
established tenets of the American political system and society. It was, therefore, their duty to
uphold those principles, to “transmit to posterity” the “privileges” it was their charge to
perpetuate. The House committee report on the Sedition Act of 1798 was very much a product
of Federalist thinking and values. Like the House debates during passage of the act, this
defense of the Sedition Act was written by men intimately connected with its enactment.

488 Ibid.
While no record can be found of the membership of the committee, the Federalist majority in the House makes it likely that a majority of the committee was comprised of Federalists, and the ideas expressed in the report are consistent with Federalist ideology. The Federalists were wholly preoccupied with maintaining the authority of the government—which incidentally, was also their authority.

It might be said that the Sedition Act of 1798 was in many respects the last, great attempt by the Federalists to codify their understanding of how communication needed to function in the new republic. It attempted to ensure that only legitimate, factual information would be communicated in order to foster public support of government policies. At the same time, it necessarily attempted to define what that truth was, cutting to the very heart of all notions of information, communication, and especially opposition. It was neither a last grasping at straws, nor a new attempt to deal their political enemies a blow, but rather the culmination of the Federalists’ efforts to save the country from divisive ruin. Through the Sedition Act, the Federalists articulated their overarching belief that they were trustees of the government, and as such they were uniquely situated to determine factual information, to determine the point, so to speak.
X. DEFENDING THE REPUBLIC

Arrests and Trials Under the Sedition Act of 1798

“The Printers of the United States, with here and there a wretched exception are decided federalists,” triumphantly proclaimed the Gazette of the United States on August 16, 1798. Editors in New Hampshire, the Gazette announced, had recently declared that they would not publish “incendiary, factious and anti governmental [sic] speculations.” Rather, “the Printers of the United States” making this pledge dedicated themselves to being good “patriots” who devoted “their labors and presses to the cause of their country and its independence.” Just one month after passage of the Sedition Act, could Federalists look to this and other similar pronouncements and developments and ask whether they were signs that the more robust system of political communication established by the act was taking hold? Had the Federalists succeeded? Only time would tell if illegitimate information and communication were truly being sifted out of American political discourse. But while hindsight gives today’s reader the perspective on success the Federalists did not have, what the years following the Sedition Act provide for the present is further evidence of the Federalists’ intentions and key glimpses into their ideology as they pertained to communication in the Early Republic.

The irony of the Sedition Act of 1798 is that the same media and communication environment that the Federalist Administration helped to encourage and establish in the early part of the 1790’s was, by 1798, moving in directions Federalist politicians never intended. The

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Republican press was growing during the 1790’s. In 1798 for instance, there were fifty-one Republican opposition newspapers. By 1800, there were eighty-five, with this growth taking place during the life of the Sedition Act when most studies tell us the opposition was stifled and terrified of retribution.\(^{490}\) The forces unleashed by this new communications environment transcended even the oversight of the Sedition Act of 1798, and allowed what the Federalists saw as the harmful effects of unbalanced communication and information to run wild. Information was not working the way it was supposed to. It was operating outside the bounds the Administration and its allies envisioned and intended. These circumstances contributed to the development of a system of government in which opposition had a role antithetical to the Federalist vision of government.

In the middle years of the 1790’s, Republican opposition critics of the Federalist Administrations of Washington and Adams were able to use the press to attack the legitimacy of the federal government and the officers who administered it. They spread information the Federalists saw as anathema to the role they intended information to play in public affairs. Attacks on the Neutrality Proclamation of 1794, Jay’s Treaty in 1795, and Administration policy during the XYZ Affair in 1797 were illegitimate uses of the press and of information in the public sphere in that they damaged the ability of the Federalist Administrations to do what the people had elected them to accomplish: govern. Put in this context, the Sedition Act of 1798 was an attempt through legislation, first, to reaffirm the proper role of information and types of information in the public sphere through setting clear, immutable standards of discourse, and second, to maintain a political process that allowed those charged with administering the

federal government to safeguard the security and interests of the American people through deliberative representation and consideration of issues.

Beginning in the fall of 1798, events surrounding the implementation and enforcement of the Sedition Act during the remaining years of the Adams Administration show that the act was not intended to punish the nascent Republican Party, but was intended by the Federalists as a redoubling of their efforts to more explicitly delineate the precise parameters of political communication and codify them into law. It was an attempt to define exactly what constituted legitimate and, most importantly, illegitimate information in a way that had not previously been done, but was now a painfully obvious necessity. Setting precise standards for political discourse was particularly important to the Federalists because it was the absence of these fixed standards and guidelines that had allowed recent events to so profoundly spin out of control and threaten to undermine the federal government. The Sedition Act was therefore intended to rein in the unintended consequences of the 1790's communication environment, and continue to codify and institutionalize the communications policies of the Federalists.

The arrests, indictments, and trials held under the auspices of the Sedition Act of 1798 are further windows into Federalist ideology and the actual framework the Federalists were attempting to put into place. They provide further evidence that the Sedition Act was intended to define the parameters of proper political communication. Meanwhile, previous prosecutions for libel of public officials under state common law and prior federal statutes also serve to clarify that the act was designed to delineate what exactly comprised “legitimate” and “illegitimate” information. In fact, the juxtaposition of trials under the Sedition Act with
previous libel trials may offer the clearest glimpse of exactly what those boundaries and
definitions were, while examination of the specific crimes alleged for each of the arrests and
prosecutions demonstrate that the act was not intended by the Federalists as a political
weapon. Despite the accusations of gross partisanship first hurled by Republicans during
passage of the act, accusations that have echoed through the centuries, the aftermath of the
Sedition Act of 1798 actually shows that it may have been the Republicans themselves who
used the act to further their own political agendas.

On July 27th, 1798, mere weeks after passage of the Sedition Act, the law was first put to
the test. Passing through Newark, New Jersey, John and Abigail Adams were feted with a
cannon salute, church bells and cheers from the adoring crowd. In the midst of the festivities,
Luther Baldwin, a shopkeeper from Newark, allegedly remarked to those standing near him that
the President “is a damned rascal and ought to have his arse kicked,” followed shortly by the
statement “I wish one of the charges would pass thro’ [sic] his arse.”491 Shortly thereafter,
Baldwin and three other compatriots were arrested and indicted under the Sedition Act. After
initially pleading not guilty, all three eventually changed their pleas to guilty and were ordered
to pay fines and court costs. We can imagine the satisfaction felt by the most ardent
supporters of the Sedition Act, that the people of New Jersey and of the United States of
America could rest easy as no negative influence or communication would subvert the legal
government of the United States during that particular event.

491 News report: The Herald of Liberty (Washington, PA), November 3, 1800, p. 3. From Readex Early
On March 26, 1799, the *Massachusetts Mercury* reported the arrest of a “transient person, who calls himself by the name of Brown.” Brown, the *Mercury* reported, was arrested and jailed in Salem, MA for what the paper referred to as “seditious practices.” Brown was discovered by authorities to possess a number of manuscripts critical of John Adams and other officers of the federal government, as well as members of the clergy and lawyers in general. These groups, the writings claimed, sought to subject the “real” American people and exert tyrannical control over the country. The authorities responsible for Brown’s arrest, as well as the editors of the *Mercury*, characterized his writings as more sinister. “The main object of the writings,” they claimed, “is to alarm the farmers, mechanics and Laborers, with an apprehension, that the preservation of their liberty and property depends on a thorough Revolution.... The manuscripts abound with calumny, virulence, and art.” Brown’s main object, the report described, was to bring about an “insurrection.”\(^{492}\) Whether or not Brown posed an actual danger as the organizer of an anarchist plot, or he was simply a disaffected transient begging for money and shaking his proverbial fist at the government, the evidence said Brown’s crimes fell under the auspices of the Sedition Act.

From the Federalists’ perspective, this was the situation they had long feared. They had described the possibility of just such an occurrence numerous times over the preceding decade, and had even encountered events during the Whiskey Rebellion that appeared to fit this profile. In fact, one might say this was the Federalists’ *worst* fear, that spreading information damaging to the respect and standing of the officers of the federal government would harm the

federal government itself. This would then lead to a rebellion or insurrection. The difference this time, however, was that the Federalists now had the Sedition Act at their disposal. Brown was arrested, and the information he peddled was deemed harmful and confiscated before it had the potential to do damage.

That same week, *The Farmers Register* of Chambersburg, Pennsylvania reported an attempted arrest under the Sedition Act. It appears that on November 30, 1798, a man named David Garvin was involved in an altercation with a Captain Randolph of the United States Navy. Randolph had attempted to arrest Garvin for “damn[ing] the President for an old fool,” but was himself arrested. Randolph claimed to be carrying out the arrest of Garvin under the authority of the government of the United States. While he may not have been successful, Randolph likely believed himself working under the authorization of the Sedition Act in his zeal to prevent Garvin from maligning the President of the United States.

To the modern reader, these arrests would be laughable were they not so antithetical to 21st-century American sensibilities and notions of freedom of speech and civil rights. There is no question that Americans would not be arrested for making these same statements today. In 1798 and 1799, however, the issues being considered by Federalists were very different. As the Federalists attempted to establish standards of discourse and journalism in public and in the press as part of their larger effort to maintain the public’s faith in the federal government, they considered the answers to questions such as what constituted false information, and how could necessary and truthful information be pruned of the thorny protrusions of lies, libel, and

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calumny? It was not a matter of the individual’s right to speak his mind and publish whatever he pleased. No, the issue for the Federalists was what constituted legitimate information that would have a positive benefit of both informing the public of the government’s proceedings and contribute to that same public’s confidence that its elected leaders were acting in good faith. These three cases offer clues as to how the Federalists framed these issues. Note that in each of the offending statements that precipitated arrest or attempted-arrest, the perpetrator made a highly hyperbolic statement that on its face was patently ridiculous or blatantly false. The men charged with sedition were either “damning the President for an old fool,” characterizing the current government of the United States and its officers as tyrannical, or calling the President “a damned rascal,” who “ought to have his arse kicked,” and wishing he would be shot by a cannon. Some of these statements were downright ludicrous, and in none of the instances where arrests were made or indictments handed down did the offenders simply offer up alternative policy proposals or different directions government action could take. In each of the cases brought forward for arrest or trial under the Sedition Act, the offending statement was one of fanciful hyperbole and, quite frankly, might actually have constituted libel since it was a controversial statement that could not be proven true.

According to James Morton Smith, there were fourteen indictments brought under the federal Sedition Act, and three more for similar alleged crimes under existing state or common law during the time the Sedition Act was in force.⁴⁹⁴ Years later, Leonard Levy recorded a total

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of twenty-five total arrests as part of the act’s legacy.⁴⁹⁵ A survey of most of the arrests and indictments brought under the auspices of the Sedition Act of 1798 shows that, far from being measured disagreements over policy or innocent alternative propositions, the actual statements or publications that elicited legal troubles were at best unsubstantiated claims about Federalist intentions, and at worst ludicrous attacks on their credibility. While modern Americans would still consider many of these assertions hardly worthy of prosecution, let alone rebuke, there is little doubt that they met the criteria established by the Federalists during the 1790’s as “illegitimate” information.

The first cases originated in New England. In October 1798, Thomas Adams, editor of the Independent Chronicle of Boston, was indicted in federal court under the Sedition Act. Numerous newspaper reports on the arrest and indictment of Adams state that he was charged with “sundry libellous [sic] and seditious publications... tending to defame the Government of the United States.”⁴⁹⁶ However, no direct quotations of the exact statements published in the Chronicle that led to Adams’ prosecution are found in existing newspapers or other documents of the period. While Adams actually died before he could stand trial, a curious statement published in the Independent Chronicle by his successor suggests that where Adams ran afoul of the Sedition Act were wild claims and accusations he published that could not be substantiated with any facts. The new editor of the Chronicle, Ebenezer Rhoades, promised his readers that


⁴⁹⁶ This news report was taken from the Daily Advertiser of New York, October 31, p. 3. Identical language was also found in the New Hampshire Gazette, the Salem Gazette, Minerva, The Oracle of the Day, Russell’s Gazette, the Mirrour, and the Impartial Herald, among other papers, throughout the month of October, suggesting that this was the official language used in the indictment. All from Readex Early American Newspaper Series.
he would only publish material that used “reasoning instead of invective.” Rhoades pledged to print material from “both sides” of the party debates of the day and not to debase his paper with the “noisy railings” of partisan attacks that had previously characterized the Chronicle under Adams’ stewardship. Rhoades promised to restructure the paper “so that “the people will be able to get at the truth and form a righteous judgment.” Neither George Washington nor James Lloyd could have stated it better themselves. Following these standards, the Independent Chronicle under the leadership of Rhoades never faced sanctions or prosecution under the Sedition Act.

In December 1798, an arrest warrant was issued by a federal judge for David Brown, an itinerant preacher. Brown is reported to have told the people of Dedham, Massachusetts that the Federalist Administration of John Adams was composed of “tyrants [trying] to enslave them.” Attempting to tap into civil unrest stirred by the policies of Adams and the Federalists, Brown promised the citizens of Dedham that, if their pleas to the federal government went unanswered, they would “break out like the burning mountain of Etna, and will have an unconditional redress of their grievances.” While Brown had made a number of other statements during his time in Dedham that bothered Federalist officials, it was this specific entreaty that hinted at insurrection if the people’s wishes were not met that caused an arrest warrant to be drawn up.


After Brown fled town, the Republicans of Dedham erected a liberty pole affixed with a sign that read “No Stamp Act, No Sedition, No Alien Bills, No Land Tax; downfall to the tyrants of America, peace and retirement to the President, Long Live the Vice-President and the Minority; May moral virtue be the basis of civil government.” The liberty pole and its guiding statement proved to be such an assault on the governing administration that local Federalist magistrates sent marshals out to tear it down. It was considered a potential rallying point for insurrection and rebellion, and a precursor to potential violence and chaos. Several local Republican leaders were rounded up and charged with sedition for their parts in erecting the liberty pole, and Brown was eventually found, arrested, tried and convicted of sedition in federal court. This sounds both ridiculous and horrifying to the modern reader, but remember the reports from 1795 and 1796 of calls to abolish established governments in Europe that had actually led to armed conflicts. These reports had made their way into many American and Federalist homes over the preceding years. In the same vein, one should not forget the purported causes of the Whiskey Rebellion in 1795: meetings of so-called “Jacobin Clubs” that had supposedly served as flashpoints for riling up disaffected citizens. It was in this context, with these reports fresh in their memories, that the Federalists sought to preserve order in Dedham.

One of the best-known trials under the Sedition Act was that of Congressman Matthew Lyon of Vermont. Lyon was first elected to Congress in 1796 and from the outset of his


congressional career, he was viewed the Federalists as a rabble-rouser who seemed to delight in offering contrarian views as often as he could. The Irish-born Lyon is often portrayed in interpretations of the Sedition Act of 1798 as a victim of the Federalists’ distaste for foreigners and zeal to silence their most vocal opponents. However, if simply punishing Lyon was the object, the Federalists did not avail themselves of a perfect opportunity to do so in January 1798 when Lyon spat on fellow Congressman Roger Griswold after Griswold made disparaging comments about him on the floor of the House. The Federalists considered expelling him from Congress, but failed to muster the necessary votes from their own ranks.

To help support his prospects for reelection, in October 1798 Lyon began publication of his own newspaper, The Scourge of Aristocracy. The very first issue of The Scourge wasted no time in firing salvos at the Federalists. “When every aristocratic hireling from the English Porcupine,” Lyon’s editorial began, “the summit of falsehood, detraction and calumny, in Philadelphia, down to the dirty Hedge-hogs and groveling animals of his race, in this and the neighboring states, are vomiting forth columns of lies, malignant abuse and deception,” Lyon and The Scourge would be there to expose the Federalists’ lies and help show the people that the Federalists were wrong.⁵⁰¹ Lyon published this on October 1st. On October 5th, a federal grand jury indicted him for sedition. As had been the case with other arrests and trials under the Sedition Act, it was not measured policy disagreements, but the hyperbole that seemed to do Lyon in.

There were several other significant newspaper publishers indicted under the Sedition Act. William Duane, the new editor of the Aurora, was actually indicted for seditious libel under

⁵⁰¹ Editorial: The Scourge of Aristocracy, October 1, 1798, found in Smith, 227.
the Sedition Act on two separate occasions.\textsuperscript{502} In July 1799, he published an article claiming that officials with the British government had bribed and influenced American policy and the appointment of officials within the federal government.\textsuperscript{503} While Duane claimed to have a letter written by John Adams himself in support of this claim, its audacity was more than enough to warrant an indictment under the terms of the Sedition Act. Duane’s second indictment does not quite fit the mold of the hyperbolic, verbal assault on the credibility of the government or its officers. It does however match the Federalists’ definition of harmful communication, that is, information that was not factually accurate and might damage the ability of the government to carry out its legal functions. In October 1800, Duane was indicted for comments he made in the \textit{Aurora} regarding a bill currently before the Senate. Duane had somehow obtained a copy of the bill and printed its full text, declaring that it had already passed the Senate.\textsuperscript{504} It was this interference in the Senate’s proceedings that ultimately led to his indictment at the behest of the Senate’s Federalist majority.

In the spring of 1799, Anthony Haswell, publisher of the Republican-leaning \textit{Vermont Gazette}, and Judah Spooner, one of his editors, were arrested and charged with seditious libel for printing some of the same charges of “British influence” Duane had made against the

\textsuperscript{502} It might actually be three occasions, since in early 1799 Duane was arrested and charged as a conspirator in a scuffle that erupted in a churchyard in Philadelphia. Several of Duane’s associates had been collecting signatures on a petition to repeal the Alien Acts when they were attacked. The Federalist press accused them of fomenting a riot, and they were ultimately charged of this crime. There was no evidence Duane was even present when the incident occurred, but his stature and frequent inflammatory statements in the \textit{Aurora} led him to be charged as well. It is unclear if the charges were brought under the Sedition Act of 1798, or some other sedition law, but the prosecution eventually dropped the case against the men for want of sufficient evidence.

\textsuperscript{503} Editorial: \textit{Aurora}, July 24, 1799. From Readex \textit{Early American Newspaper Series}. (accessed October 12, 2014).

\textsuperscript{504} News report/opinion: \textit{Aurora}, October 20, 1800. From Readex \textit{Early American Newspaper Series}. (accessed October 12, 2014).
Adams Administration in the *Aurora* months earlier. President Adams, Haswell claimed, had permitted British influence to determine which officials to keep and which to dismiss in his Administration. Among these and other allegations, Haswell additionally accused the Federalists and John Adams of an “insidious design” to transform the government of the United States into a monarchy and turn “the President’s chair into a throne for one of the sons of our beloved sovereign.”

Surely the charge that Adams and the Federalists were attempting to establish a monarchy had the potential to damage their credibility with a public that had grown used to reading similar allegations.

In May 1799, Charles Holt, the editor of the New London *Bee*, was arrested and charged with publishing a seditious article criticizing the Adams Administration and Federalists in Congress for establishing a standing army and continuing to grow its ranks in anticipation of a war with France. The report from the *Bee* that most likely caused the offense and subsequent arrest of Holt stated that, under President Adams, the army had engaged in a series of abuses against the people, and that a standing army “under the controul [sic] of a single individual” was bound to become despotic and abusive.

Jedidiah Peck, a member of the New York State Assembly, was arrested and charged with seditious libel in April 1799 for the circulation of a petition calling into question Federalist

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505 The specific charges levelled by Haswell are from an editorial in the *Vermont Gazette*, January 3, 1799, p. 1. Details of the arrests and indictments are from a news report in the *Gazette of the United States*, November 6, 1799, p. 3. From Readex *Early American Newspaper Series*. (accessed October 12, 2014).


motives in the passage of the three Alien Enemies Acts and the Sedition Act. Peck’s petition pulled no punches in its characterization of all four laws as tyrannical and despotic, and that they were clear violations of the Constitution. Aimed at converting “Free men into slaves,” the petition was “a Series of Evils equally diffusive and calamitous, equally general and destructive.” Peck called the recent laws passed by the Federalists a “System of Alarm, of Suspicion, of Tyranny, and of Expense.” The standards of political discourse and reporting were not limited to the incorrect statements of fact, as the case of Peck demonstrates, but also to the attribution of sinister intentions to those administering the federal government. How could the Federalists expect to maintain any support and allegiance to the federal government when elected officials were free to impugn the Federalists’ motives?

Perhaps the most well-known trial under the Sedition Act was that of James Callendar. Callendar was a notorious opposition writer who had been a particular foil of the Federalists for several years. He was, at various points, supposedly writing under the patronage of Thomas Jefferson himself. In January 1800, Callendar published a pamphlet supporting the election of Jefferson that got him into quite a bit of trouble with the Federalist authorities. Titled *The Prospect Before Us*, Callendar was never one to pull any punches, and in this piece he levelled a litany of invective and charges at John Adams. Among the many epithets he employed, he referred to Adams as “malignant,” “shame[ful],” “corrupt,” “venal,” and a “hoary headed incendiary.” “The rein [sic] of Mr. Adams,” Callendar wrote,

has been one continued tempest of malignant passions.... The grand object of his administration has been to exasperate the rage of contending parties to calumniate and destroy every man who differs from his opinions.... Adams and

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508 From the *Oliver Wolcott Papers*, Connecticut Historical Society. Reprinted in Smith, 393.
Washington have since been shaping a series of these paper jobbers into judges and ambassadors, as their whole courage lies in want of shame;... [they] raise an affected yelp against the corruption of the French Directory, as if any corruption would be more venal, more notorious, more execrated than their own. The object of Mr. Adams was to recommend a French war.  

Rather than a reasoned, measured presentation of policy alternatives to the Federalists, there is no question that Callendar’s incendiary pamphlet met the criteria of sedition and illegitimate information laid out in the Sedition Act. *The Prospect Before Us* was exactly the type of publication the Federalists had in mind when they determined to define and codify standards of discourse in their system of political communication.

During the seditious libel trial of publisher Thomas Cooper in April 1800, the charges brought against him alleged he had signed his name to a publication that made a series of charges against the president similar to those made by Callendar. Reports from Cooper’s trial recounted the charges: “1st. That the President did not possess sufficient capacity to fulfill the duties of his office. 2nd. That he had created a permanent navy. 3rd. That a standing army had been created under his immediate auspices [all italics mine]-- and 4th. That he had interfered in the judiciary of the United States,” causing a supposedly innocent man to be delivered to a military tribunal for execution. These were serious allegations. John Adams was incompetent, was creating what many Americans believed to be the ultimate tools of

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despotism--a permanent military establishment, and he had maliciously plotted the execution of an innocent man. It took only “a few minutes” for the jury to find Cooper guilty.\footnote{Ibid.}

We may not agree with the standards of political discourse and journalism the Federalists attempted to establish, but there should be no doubt that establishing standards was exactly what they were attempting to do with the Sedition Act, and exactly what they were trying to adhere to through their enforcement methods. Without a set of standards for political discourse, the entire political system could be thrown into chaos. With newspapers the primary method by which the public learned of government proceedings, the people needed to get the correct information about what their government was doing to protect them in these dangerous times, and to secure their life liberty and property. In the face of regular cries of tyranny and despotism, how were most Americans to know what to believe? What did the Alien Enemies Acts actually do? What were the real tenets of Jay’s Treaty? What was the Adams Administration’s actual policy toward war with the French? The majority of Americans were never going to hear the actual words from John Adams’ mouth, and so the Federalists recognized a clear need to establish what one could say in the press, how public acts and laws could be described, and the extent to which writers could distort the President’s position.

These were the real aims of the Sedition Act of 1798. If there was a political party in the United States attempting to use the Sedition Act to further its political agenda and mischaracterize its enemies, it was the Republicans who, as the examples above demonstrate, continually attempted to construe the Federalists in their enforcement of the act as monarchists, tyrants, and despots. This type of demagoguery was sure to rile the people and
foster support for a minority party attempting to gain political inroads. If all the Federalists had wanted was to silence their opposition, they did not need the Sedition Act to do so. They regularly used state sedition laws and federal common law to prosecute writers and publishers for seditious libel throughout the 1790’s and even during the period the Sedition Act was in effect.

In his 1985 work, *Emergence of a Free Press*, Leonard Levy provides a list of seditious libel cases tried in both state and federal courts during the 1790’s. While Levy, who had long characterized the Sedition Act of 1798 as a vicious attack on civil liberties, viewed these cases as part of the established precedent and body of law the Sedition Act of 1798 drew from, they provide evidence that there were other laws already on the books that the Federalists could and did use to prosecute seditious libel. For instance, in both 1795 and 1797, a federal court in New York indicted Peter Greenleaf, editor of the *New York Journal*, for the common law crime of criminal libel. Greenleaf was acquitted the first time, but convicted during the second trial. In 1798, the United States prosecuted *Aurora* editors Benjamin Franklin Bache and John Burke for seditious libel. In 1799, with the Sedition Act of 1798 still in effect and a number of prosecutions working their way through the court system, Supreme Court Justices Oliver Ellsworth and James Iredell each gave instructions to separate grand juries asserting that federal courts had common law jurisdiction over seditious libel.

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512 Bache famously died in prison awaiting trial, while Burke fled the country.

513 For a discussion of Levy’s research and conclusions on federal common law as it related to sedition and libel during the 18th century, see Leonard Levy, *Emergence of a Free Press* (New York: Ivan R. Dee, 1985), 275-77.
Perhaps the most famous case of a seditious libel trial under federal common law is that of William Durrell. Durrell was editor of the *Mount Pleasant Register* in upstate New York. In June 1798, he printed an article critical of John Adams, leading to his arrest on July 17, just days after passage of the Sedition Act.\(^{514}\) This meant that Durrell could not be tried under the Sedition Act because it was not in force at the time he published the offending article. Indeed, none of the newspaper reports of his arrest or trial mention the Sedition Act explicitly or implicitly as the authority under which he was charged. Instead, he was tried under the federal common law against libel—for an action that the Sedition Act expressly stated as illegal. What makes Durrell’s case interesting beyond the fact that he was tried for libel during the life of the Sedition Act but not under its auspices is that, after his conviction in April 1800, he petitioned President Adams for clemency—and it was granted.\(^{515}\) Perhaps Adams was swayed by the $4,000 fine levied against the reportedly poor country printer with nine children. Nevertheless, Durrell remains the only person who was convicted of seditious libel during the life of the Sedition Act and subsequently pardoned. His trial under federal common law is further evidence that there were other means of silencing political opponents than the Sedition Act, if that had been the Federalists’ aim. The Federalists did not need the Sedition Act of 1798 in order to prosecute sedition and libel, so the act itself must have served some other purpose. The evidence certainly suggests so.

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While seditious libel was a crime that could be addressed through a variety of different means available to them, the Federalists were still preoccupied with fears that the constant press attacks would wreak havoc on the American experiment. The persistent attacks on the legitimacy of countless policies, laws, and actions taken by the Federalists administering the national government, as well as upon the very legitimacy of the Federalists themselves to actually administer that government, were seen as the gravest of threats. Obnoxious statements published in country newspapers could be dealt with through laws already on the books, but the Federalists had designs on a system of communication that would strengthen political institutions and the people’s faith in their leaders, intentions that would reinforce their construction of a representative system of government. The Sedition Act of 1798 could do more than set standards of discourse and publication in the political arena.

Federalists believed the steady stream of attacks in the press had the potential to do more than undermine the public’s confidence in the actions of the federal government and the men administering it. The idea that the Federalists and their policies were forever wrong seemed to them to be a form of usurpation. The opposition was, in a sense, seen as claiming the real authority and true knowledge of governing the United States. “This principle, once admitted,” claimed Representative Robert Goodloe Harper, in a 1799 defense of the Sedition Act he had sponsored in the House, “must go to the utter subversion of government; the principle being, that whenever an individual, or by stronger reason, a number of individuals conceive themselves wiser than the government, more able to discern, or more willing to pursue, the true interests of the country, they may assume its functions, counteract its views,
and interfere in its most important operations.” The current officers of the federal government were elected by the people. They created laws and determined policies according to the legally prescribed process. Those who attacked the legitimacy of that process and those decisions were “assuming its functions,” and “interfer[ing] in its most important operations.”

Harper continued to fret that the Democratic-Republican clubs and other political societies that were rapidly increasing in number throughout the states were establishing themselves as something of a shadow government, making pronouncements on laws passed and policies levied. Their constant attacks on the Federalists and the official acts of the federal government went far beyond disagreements with those policies and the proposal of alternatives. They actually made claims to their own rights to govern and even to “negotiate on all sorts of subjects with the governments of other countries.” These private individuals and groups, often through the press, desired to “usurp the most essential functions of government in their own country.”

By January 1799 Republicans frequently targeted the Sedition Act itself as a symbol of all the Federalists’ allegedly negative designs. There were frequent calls for its repeal, and even more frequent attacks on the act and its Federalist sponsors as the basest of despots. Federalist politicians often found themselves in the position of defending the Sedition Act, either in newspapers or on the floor of the House or Senate. On one occasion, Federalist

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517 Ibid.

518 Ibid.
Representative Charles Pinckney found himself defending the Sedition Act and even asking for additional strong measures to continue to define the proper parameters of political communication. He picked up the same themes expressed by Harper, decrying the acute dangers of allowing people to publicly promote the idea that the Federalists and their legally-implemented policies were not legitimate. The entire system would fail if the legally prescribed process of government was usurped by extra-legal forces, argued Pinckney. When laws and policies were implemented “by the proper organs, [they] shall be absolute; that no one can pretend to interfere so as to counteract the proceedings of the people of this country as expressed by its legal organs. This doctrine... cannot be controverted.”

Harper, naturally, was in complete agreement. Speaking before the House, he stated that “I still think that the majority of the people, by their representatives and agents legally appointed, ought to rule, and that all interference with their functions, or usurpations, of their authority, by self-appointed individuals, or self-constituted bodies, are dangerous encroachments which ought to be restrained or punished”.

Pinckney, Harper, and the Federalists were adamant in their belief that there was an organized, concerted effort to usurp the legal authority of the lawfully elected government of the United States. This cabal, Pinckney warned, felt that “private sentiments ought to prevail over the legal government of this country,” and that this “interference... may have very bad effects.” It was abundantly clear that there was “a party in the country divided from the government, who take upon themselves a separate negociacion [sic], and set up a distinct

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520 Ibid.
power, which they wish to be paramount to the legal authority.\textsuperscript{521} That the greatest danger posed to the government of the United States came from the written and verbal attacks spread through newspapers and other mediums of communication, had been clear to the Federalists and their allies for some time. The Sedition Act of 1798 was a key piece of the defense against this danger. By early-1799, the Sedition Act had been in effect for months, yet the Federalists felt a continual need to defend and justify it in light of the continued barrage of Republican calumny. Harper argued there was a perpetual justification of the necessity of the Sedition Act as a means to limit these harmful types of communication and as a “law to prevent individuals from thus transferring to themselves, by their own authority, the powers of government, which they may afterwards use for placing the country under foreign dominion.”\textsuperscript{522} The Federalists believed these two ends were linked together in justifying the Sedition Act.

The Republicans, too, recognized precisely what the Federalists were trying to accomplish through the Sedition Act and other actions in the months after its passage. Republican Representative Robert Livingston observed that the logic behind the Federalists’ attempts to limit the communication of certain types of information was that they felt themselves the “true,” legal administrators of the government. Livingston believed the Federalists understood themselves as the only ones lawfully designated and capable of running the country. His words steeped in sarcasm, Livingston lectured that “the gentlemen who propose this measure have long been the exclusive supporters of government; we have the best authority for believing it, they tell us so themselves; they alone know the diseases of the

\textsuperscript{521} Ibid.

\textsuperscript{522} Ibid.
state; they alone can apply the remedy; and tho [sic] its clarity is not apparent to my unenlightened mind, yet in due time, the wisdom of their measures will unfold itself.” Even the Republican opposition understood the Federalists’ silencing of dissent as a product of their perceived status as the rightful administrators of the federal government.

Even outside the halls of government, the Federalists continued to justify the Sedition Act along these terms. A September 1800 editorial in the Carolina Gazette entitled “Dear Mr. Republican” attempted to answer many of the frequent Republican tropes aimed at the Sedition Act of 1798 and Federalist policies in general. Providing the legal crux for the Federalists’ sense of government stewardship, the editorial began by tracing the origins of partisanship in the United States. “Although the constitution was embraced unanimously in some of the states, and by respectable majorities in all,” the editorial recounted,

there still existed a party who having failed in their opposition to its adoption, boldly rejecting one of the first principles of true republicanism, which directs that the sense of the majority shall prevail, arranged themselves in opposition to the government acting under the constitution.... This distinction... still marks and influences the two parties. The author proceeded to list three different categories in which he placed the opposition Republicans. The first group was composed of men partial to France and who were opposed to the approach the Washington and Adams Administrations had taken with that country. These men had a blind spot for the treachery and indignities being carried out by agents of the French government. The second group consisted of men who despised the British, this hatred often

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stemming from the Revolution. This group would unwisely plunge the country into war because of their unrestrained bias against Britain and disregard for objective diplomacy. These two groups “undoubtedly act from pure motives.” Lacking “accurate information,” the editorial continued, “they have been misled, by the specious sophistry, or erroneous statements of a third class, of whose morality I cannot think so well.” While they truly believed they were doing the right thing and were working for the benefit of the country, they did not have a full understanding of the situation, either due to a lack of correct and proper information, or because they were misled by others with less pure motives.

According to the editorial, the third class of men who opposed the government of the United States acted with less altruistic intentions. These men disliked the restraints of law and order and were discontented with their lot in life, be it their reputation, property, wealth, or all of the above. They were jealous of others who had these things, and so they hoped for “either a revolution which would set all property afloat, or at least a return to that voluntary form of government…. where every man’s own sense of morality and not the sanction of the law, would become the guardian of our rights.” It was this group of men that misled the others, coloring their understanding of national politics and the actions of the Federalists and exploiting their pre-conceived biases through misinformation. It was said that they spread the message that

\[^{525}\text{Ibid.}\]
\[^{526}\text{Ibid.}\]
“every constitutional and legal restraint… [was] tyranny and oppression,” and that they fabricated the “evidence” to support these claims.\footnote{Ibid.}

It was a conspiracy to be sure, led by a feckless cabal hell-bent on usurping the lawful authority of those appropriately and mindfully steering the ship of government. At least that is how the Federalists saw it. While “it is true, every man has an uncontrouled [sic] privilege to express his mind with decency on public men and measures,” a pro-Federalist editorial in the \textit{Independent Chronicle} surmised, “when a junto assume such an ascendency as to arrest Executive decisions, controul [sic] his [the president’s] deliberations, and even venture to intrude themselves into his councils, they commit the highest crime against the government.”\footnote{Editorial: \textit{The Independent Chronicle and the Universal Advertiser} (Boston, MA), December 15, 1800, p. 2. From Readex \textit{Early American Newspaper Series}. (accessed October 12, 2014).} Limiting communication that fostered this level of usurpation, that struck so profoundly at the heart of the legitimacy of the federal government and the Federalists’ legal authority, was therefore as important a course of action as any. But even the Sedition Act did not circumscribe this type of illegitimate communication. “Such conduct does not come within the trifling consideration of the present Sedition Act,” the editorial lamented. Instead, it forms a more exaggerated criminality. ‘[U]nofficial Agents,’ trespassing on the prerogative of the President, in our own country, are equally dangerous with those who repair to foreign nations for this purpose. It is not merely sedition, but carries a deep tincture of treason: as it leads to the total subversion of the fundamental principles of the Federal compact.\footnote{Ibid.}
The Sedition Act did not go far enough, then. While it more precisely defined certain types of information as legitimate and illegitimate, there were still aspects of communication the Federalists clearly felt dangerous with the same potential to damage the standing of the government if not fully dealt with legally.

In early 1799, two events came to light that caused great consternation and anxiety in Federalist circles. Both situations involved precisely the kind of usurpation of legitimate governmental functions the Federalists had warned of, and both quickly drew the attention of Congress. Six months after passage of the Sedition Act, the United States Congress passed a lesser-known bill known as the “Logan Act.” The Logan Act was named after Dr. George Logan, who traveled to France in early 1798 after the breakdown of American negotiations with the French government in the wake of the XYZ Affair. Ostensibly sent there by Vice President Thomas Jefferson himself, Logan’s task was to pick up the negotiations that were abandoned when the American envoys were recalled by President Adams. Similar to the situation described by the 1800 Carolina Gazette editorial, Logan disagreed with the decisions of the lawfully elected Chief Executive of the United States to break off diplomatic negotiations with the French. His aim was to broker a peace deal on behalf of the American government, and then present it to Congress, outside the constitutional framework that established how diplomacy and treaty-making were legally supposed to function. Logan sought to usurp the power of the federal government for himself. He knew better than John Adams, and therefore would actively and explicitly attempt to undermine Adams’ government and authority as illegitimate.
A few months after Logan’s private mission to France, Congress was faced with the impeachment trial of Senator William Blount. In 1797, a scheme hatched by Blount to help the British government acquire Louisiana and Florida and promote Blount’s plans for land speculation came to light in Philadelphia. The House of Representatives during its impeachment hearings, and later the Senate during its trial, centered much of their animosity on Blount’s attempts at communication with a foreign power, with accusations of usurping the foreign policy prerogative of the United States government. While Blount was acquitted by the Senate in 1799 of any crimes, he was effectively expelled from the Senate.\textsuperscript{530}

For the Federalists, these were two significant developments in quick succession involving the interference of American citizens acting in a private capacity and conducting diplomacy with foreign powers. Federalists throughout the federal government and across the United States were understandably outraged. The need to prevent the type of communication Logan and Blount attempted to engage in was universally recognized by Federalists and their supporters, and calls for further laws defining communication between private citizens and foreign governments were heard from all quarters. “Shall we not pass a law to prevent individuals from thus transferring to themselves, by their own authority, the powers of government?” Harper asked.\textsuperscript{531} Another unnamed Federalist was quoted as advocating for a bill “defining what is illegal correspondence” between a private citizen and a foreign power. He

\textsuperscript{530} On July 8, 1797, the House voted to impeach Blount and the Senate voted to “sequester” his seat, which effectively removed him from the Senate. Impeachment hearings continued in the House into 1798, and Blount’s trial in the Senate began in January 1799. The odd affair ended on January 11, 1799 when the Senate dismissed the impeachment charges. Blount remained in his home state of Tennessee for the remainder of his life. He was even elected to the Tennessee State Senate, eventually becoming Senate President.

believed that “there would be no difficulty in discriminating betwixt criminal correspondences and those which are innocent.” Representative Nathaniel Smith insinuated that another congressman, Albert Gallatin, told the House of Representatives there was a difference between diplomatic negotiation and “correspondence.” Smith characterized Gallatin as allowing “that a negociacion [sic] must be criminal, but a correspondence may be perfectly proper.” “Where is the difference?” Smith was reported to have cried.

Enough members of Congress evidently agreed with Smith, because the Logan Act passed the House of Representatives by a margin of sixty-three to twenty-three, and the Senate similarly followed suit. With passage of the Logan Act in January 1799 and the Sedition Act enacted in July 1798, the Federalists were making significant progress in their efforts to explicitly delineate the forms of communication that were dangerous and therefore illegitimate. The Republicans may have shouted from the hilltops that these laws were products of political shenanigans, but every Federalist rationale for the Logan Act, as had been the case with the Sedition Act before it, made precisely the same points about the potential dangers of communication and illegitimate information that Federalists had been making for years.

It is worth considering some of the statements made by Federalist congressmen on the floor of the House during passage of the Logan Act. Francis Dana argued that Logan’s actions had significantly affected the diplomacy between the United States and France and put the

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533 Ibid.
United States in grave danger: “an unauthorized correspondence must have led to an opinion in the French Government that they had numerous friends in this country, and have encouraged them in their measures against us.”\textsuperscript{534} Charles Pinckney continued to trumpet the firm belief that once the votes had been cast and government officials elected, they were the ones in whom all political power and authority had been legally invested, so that to undermine their authority or even decisions could be seen as tantamount to treason. “The sense of the majority shall govern,” Pinckney said, “that when this sense is proclaimed by the proper organs, it shall be absolute; that no one can pretend to interfere so as to counteract the proceedings of the people of this country as expressed its legal organs.”\textsuperscript{535} Robert Goodloe Harper declared that the resolution was intended to prevent the exact actions taken by Dr. Logan in his illicit communication with the French government. Even in the \textit{Annals of Congress}, the subheading of these debates is titled “Usurpation of Executive Authority,” lending weight to the contention that usurpation was precisely what all involved understood they were debating and what was at stake by allowing communication such as that prohibited by the Logan Act.\textsuperscript{536} John Rutledge succinctly summed up the matter, saying


\textsuperscript{535} Ibid., 2501.

\textsuperscript{536} Ibid., 2502.
There may be gentlemen... who consider the Administration of the General Government as hostile to the liberties of the country; and their zeal may carry them so far as to believe it to be their duty to do all in their power to overturn the whole system, to effect which, they may think a French army and a French invasion necessary. And if the citizens of this country shall be permitted to have intercourse with foreign Governments, they may do the greatest injury to this country.\textsuperscript{537}

Claiming that progress had been made in the previous session of Congress, Routledge alluded to the passage of the Sedition Act: “He hoped the same spirit would be continued, and that measures would be taken to prevent our citizens from holding any improper intercourse with foreign Governments.”

With passage of the Sedition Act and the Logan Act just months apart, it is clear the Federalists recognized the need to clarify their definition of the types of information that could be legally communicated. However, the support and policies crafted by Federalists earlier in the 1790’s that was designed to promote the flow of information believed essential to a republican form of government were continued and not by any means abandoned. In December 1798, in the midst of the debates over the Sedition and Logan Acts, a motion was made in the House of Representatives to print 40,000 copies of the Constitution for dissemination throughout the country. While the exact number was the subject of negotiation, this initiative was supported by both Federalists and Republicans. Both sides believed a firm knowledge of the Constitution was essential to the public forming correct opinions about the proceedings of government, and congressmen from both sides believed it important for the government to be responsible for disseminating this knowledge. Federalist George Thatcher of Massachusetts made it clear that, for the motion’s Federalist supporters, this proposal was very

\textsuperscript{537} Ibid., 2496.
much understood as a means of combatting the errors in fact that they believed had been spread throughout the country by their opposition. “For six or eight years,” Thatcher reminded his colleagues, “a session of Congress has not passed, in which some law has not been enacted, which certain gentlemen have deemed unconstitutional. This they have publicly declared, and the declaration has gone forth to the people, and engaged the attention, and undergone the examination of clubs, of mobs, and of legislatures.” This was a lament heard many times before from Federalist politicians. And Thatcher believed that, if only the people had a better understanding of the Constitution and the political system of the United States, they would not be so easily misled into opposing the measures undertaken by the federal government.

Even during the weighty days of December 1798, Federalists like Thatcher had not abandoned the principle that it was indeed the duty of the federal government to disseminate information about its proceedings to the American people. For in the absence of critical information, the people “have remained in a state of mental apathy, from which they could not be roused,” explained Thatcher, even “though told that the Constitution was invaded, and their liberties about to be destroyed.” The idea that the people should remain this ignorant of affairs was so astonishing to Thatcher, that, “if they could not be roused by this stimulus, it follows of course, said Mr. T. that they are in a state of mental darkness, and ‘that a pair of spectacles might as well be put upon the nose of a dead man, as that information should be sent among these people!'” Information was the lifeblood of the republic, as Thatcher suggested, and getting the correct facts to the people of the United States so that they could properly

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539 Ibid., 2461-62.
understand and support what their lawful representatives were undertaking in their names was still a central tenet of the Federalists’ ideology.

By 1799 then, we can discern two distinct threads of Federalist thinking regarding political communication: a “positive,” noble desire to make sure the public was well-informed through the development of systematic channels and avenues of communication supported by the federal government, and a “negative,” impulse to prohibit and ban the dissemination of information through that system because it did not adhere to the standards and safeguards put in place to protect the people and the government. The former had been a focus of the Federalists since the beginning of the decade, while the latter was a more recent attempt to mitigate the darker elements of the political communication system they were in the process of establishing. The calls for printing and disseminating new copies of the Constitution in order to better inform the public on the government’s proceedings are only further evidence that the Federalists were still deeply concerned with the “positive” as well as the “negative” aspect of shaping their national system communication, as opposed to punishing their enemies and eliminating their views from the national debate.

One must remember when attempting to understand the Federalists’ preoccupation with establishing standards, in essence delineating “do’s and don’ts” in their codification of communication, that in the last decade of the 18th century, there was no “legitimate,” established journalism or journalistic institutions as there are at the dawn of the 21st century. Today, there are “gold standards” of journalism and media such as The New York Times and Washington Post, sources of news generally understood and trusted by most Americans to faithfully and objectively relay the key events of the day. Similarly, there was no self-editing in
the 1790’s, no journalistic watchdogs, no judges, or really no established standards of journalism and style whatsoever. In the absence of these practices and standards, the Federalists found a void, a critical need. While they may not have filled it in the same manner as the 21st century editor, or that hindsight suggests they should have, what is evident from their passage and use of the Sedition Act is that it was these types of standards the Federalists were attempting to establish.

Political communication at the end of the 18th century served the purpose of binding the people to their government. It kept the public informed of what the legally vested officers of the government were doing and the direction in which the country was heading. The very success of the government of the United States, logic followed, depended on the trust and confidence of the people in their elected leaders, firmly believing that they operated objectively and wisely, with the best interests of the public and the nation at heart. If they disagreed with actions or policies, there was a legally proscribed process for making these sentiments known: vote for someone else at the next election. For this process to function correctly, the public needed to be aware of government proceedings and learn all of the pertinent facts necessary to meet the above-described aims. It needed to know about recent government actions and policies, have a sense of the purpose of those actions, and believe that the actions were undertaken in the best interests of the country. The facts communicated to the public, believed the Federalists, needed to meet these objectives, but when they did not, they were not legitimate information to be disseminated through this national system of political communication.
The Sedition Act of 1798 was not intended as a vehicle for partisanship or means to punish and destroy the political enemies of the Federalists. Neither was it an overt effort to ban the Republicans and other elements of the opposition from speaking their minds and writing and expressing their disagreements with Federalist policy. It would be incorrect to interpret the Sedition Act as a rejection of the “positive” sense of disseminating information in favor of a purely “negative” impulse to prohibit what the Federalists did not like. Rather, it was a necessary piece of the Federalists’ institutionalization of communication and how it needed to function within an American form of government. The Sedition Act, along with the Logan Act and others implemented during the 1790’s, was an effort to establish standards and guidelines for the types of information deemed legitimate or illegitimate. The litmus test for legitimate information was whether or not it met the desired objectives of political communication. The “facts” as they were understood by the Federalists needed to be facts that met these criteria in order to be legitimate. If they hindered these objects, they were not facts, but instead were illegitimate information. Whether or not others, most notably the Republican opposition, agreed with these “facts” or believed there was other information that should be communicated to the public, the Federalist conception of legitimacy rested firmly on this belief.

There is no denying that, at least on some level, the Federalists reaped partisan advantages from the Sedition Act and that some Federalist officials truly did seek revenge on their political opponents. However, the rhetoric and discussion surrounding the passage of the act and its aftermath, coupled with the manner in which the act was enforced, provide strong evidence that the Sedition Act of 1798 was one piece of the Federalists’ efforts to institutionalize their specific understanding of political communication. The arrests and
prosecutions under the Sedition Act were never for the publication or verbalization of policy disagreements or alternative proposals. Instead, they were for hyperbolic slander and libel, for statements aimed at the reputation and character of officers of the federal government, things that cannot possibly be rooted in any kind of objective facts. If partisan warfare had been the intention, it was wholly unnecessary as the Federalists were able to prosecute sedition and libel of this nature under previous state and federal law. Every effort the Federalists made over the course of the 1790’s to publicize the proceedings of Congress, every bill they passed to improve post roads and to promote the increase in newspapers and facilitation of news, and every warning they made to cease the belligerent slander and willful misinformation of the American public, was calculated to strengthen the federal government of the United States, and to further root its practices, traditions, and very core in their own conception of representation and representative government.

In January 1801, the Federalists were still reeling from the election of Republican Thomas Jefferson only a few months earlier. For the first time under the Constitution, the federal government would be under the control of a group other than the Federalists. Not only would the presidency and presumably the entire Executive branch of the federal government be populated with Republicans, but the new Congress would change hands as well. The outgoing Sixth Congress of the United States had been comprised of fifty-six Federalists and forty-nine Republicans in the House, and twenty-one Federalists and eleven Republicans in the Senate. The new Congress that would be seated in December would be dominated by seventy-two Republicans in the House and eighteen in the Senate, versus thirty-three Federalists in the
House and fourteen in the Senate. The Federalists had suffered a crushing nationwide defeat, some argued due in no small part to the vast unpopularity of the Sedition Act of 1798 and similarly maligned pieces of legislation and policies from the previous two years.

It was a brave new world, one which must have driven terror into the hearts of Federalists and their supporters throughout the country. However, due to the quirks of the political calendar, there was a lame-duck session of Congress that began on November 17, 1800 and would not adjourn until March 3, 1801. This meant that fully twenty-three Federalist members of the House of Representatives knew they had already been defeated for reelection and would not be returning to Congress when the Seventh Congress convened in March. It is with much interest then, that on January 17, The Spectator of New York reported that a House committee relayed to the rest of the body its recommendation that the provisions of the Sedition Act be extended for another two years. If the Sedition Act had been intended primarily as a partisan weapon for the Administration to wield against the Republican opposition, then why would the Federalists, who knew they would no longer be in control in two months support extending the act for another two years? Why would the Federalists

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540 There was actually a Special Session of the US Senate that met from March 4- 5 1801 in order to attend to issues related to the inauguration of Thomas Jefferson as President. The Senate during this special session was comprised of Senators from the Sixth Congress, and so still maintained a Federalist majority. However, when the First Session of the Seventh Congress convened in December 1801, it consisted of a Democratic-Republican majority, reflecting changes from the electoral cycle of 1800.

541 This was actually the first session of Congress ever to convene in the new national capital of Washington D.C. The previous session of the Sixth Congress met in Philadelphia.


543 Neither The Spectator nor the Annals of Congress record the names of the committee members, but one imagines it would have been dominated by Federalists since they were in control of the House of Representatives at that time.
hand their opponents an instrument to restrict information that may come from them, with threats of hefty fines and jail time as enforcement? The answer is that this was never how the Federalists understood the Sedition Act. To them, it had never been a weapon or a means of restricting communication. To the Federalists, the Sedition Act of 1798 had always been a necessary remedy of the unfortunate side-effects of a freer flow of information required by a republican form of government, a means of balancing the good and the bad of communication. To them, it had always been a key ingredient in the system of communication they had worked so hard to institutionalize throughout the 1790’s.

544 It was not a deeply rooted, conservative bent in Adams’ political ideology that caused him to promote more traditional understandings of representation and governance. Rather it was Adams’ sense of political realism and pragmatism. For example, in his Defense of the Constitution of the United States, Adams did not promote the idea of a legislative body specifically set aside for the wealthy, to function as an outlet for the political ambitions of such men, because he favored them or felt they should have undue authority and power. No, he promoted these ideas because he felt it was better to be open and up front about the fact that men of standing in society would use their wealth and influence to dominate every layer of government throughout the political system and would come to dominate government without being allotted their own part in it. This was a way of limiting the power and authority of wealth and fame rather than promoting it. For more on Adams’ political realism as a facet of his theories of representation, see Joseph Ellis, Passionate Sage: The Character and Legacy of John Adams (New York: W.W. Norton & Co., 1993), 145-157; Jack Rakove, Original Meanings: Politics and Ideas in the Making of the Constitution (New York: Vintage Books, 1997 [1996]), 251-52; and Gordon Wood, Radicalism of the American Revolution (New York: Vintage Books, 1993 [1991]), 266-67. This dynamic is an excellent parallel to the way the Federalists as a group understood the Sedition Act, not as a means to limit communication, but as a method of controlling and directing it, and of keeping tabs on a potentially dangerous segment of society. Federalists, Adams included, often understood and referred to this dynamic as “balanced” government. For a discussion on the Federalist conception of “balanced government,” see Elkins and McKitrick, The Age of Federalism: The Early American Republic, 1788-1800 (New York: Oxford University Press, 1995 [1993]) chap. XII, 529-79.
By 1832, the House of Representatives issued hundreds of reports and pronouncements on petitions received each session. On January 30, the House Judiciary Committee, as a matter of course, responded to one such petition, made its recommendations, and sent them to the full House for a vote. Following the typical routine, the report was published and entered on the official House record. It was the kind of mundane business that occurred nearly every day in both houses of Congress. Only this was not the first time this particular petitioner had briefly appeared in the national spotlight. As his petition states, “in the month of April, 1800.... Your petitioner was indicted, and found guilty of having printed and published what was alleged to be a libel against Mr. John Adams, the then President of the United States.... Under the 2d section of the act commonly called the Sedition Law, passed 14th July, 1798.” And so it was that on January 30, 1832, the House of Representatives passed a final pronouncement on the case of Thomas Cooper, “victim” of the Sedition Act of 1798.

Cooper’s petition to Congress asked that he be refunded, “with interest,” the $400 fine levied against him for conviction of seditious libel under the Sedition Act. He based his claim on several arguments: first that the law had been unconstitutional; that it had been based on a questionable reliance on federal and English Common Law that did not exist; and finally, that what he published was neither seditious nor libelous, but rather provable as truth. Even thirty-two years later, Cooper, by then President of the College of South Carolina, was still very bitter about the entire episode, despite the tyrannical reputation the act had gained over that time.

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545 House of Representatives Report No. 244, “Thomas Cooper,” January 30th, 1832, House of Representatives, 22nd Congress, First Session.
As John Adams was reminded by John Taylor of Caroline years earlier, the Republican version of the Sedition Act of 1798 had been the one handed to posterity. Cooper’s view was now the one commonly accepted, and he was looking for some manner of official vindication. The House Judiciary Committee in 1832 was more than happy to oblige him.

The Judiciary Committee fully agreed with Cooper’s petition and recommended to the full House that he be refunded the $400. Moreover, the committee was in such complete agreement with all of Cooper’s arguments and lofty statements about the “right to freedom of the press” that they adopted his petition in its entirety as the sole basis for their recommendation. “The committee,” the reported stated,

Believing that they cannot exhibit the grounds of this claim to the House in a manner as forcible, full, and satisfactory, as is presented in the able, luminous, and constitutional argument contained in the petitioner’s memorial, and concurring entirely in the principles there assumed and sustained, beg leave to adopt and make it a part of their report.

In fact, aside from Cooper’s petition, the only statements written by the Judiciary Committee itself were the one above, and a single sentence following the insertion of the petition stating that the committee agreed with Cooper’s statement in full, found it to be true and factual, and that “the law under which the petitioner was convicted and fined... [was] unconstitutional and void.” The report was entered on the House record, and thus the Sedition Act of 1798 was officially repudiated by the United States House of Representatives nearly 34 years later.

Significantly, Cooper never denied anything he had written. The difference between 1800 and 1832 was merely in the way his statements were perceived. Cooper and the House Judiciary Committee in 1832 believed that, “as governments and governors were willing to rest
on the affections of the people, the liberty of investigating their principles and their practices has been unrestrained.” They believed it an axiom that “where the officers of Government are elected by the people; where the motives that influence election are the presumed wisdom and purity of conduct in the candidate for public favor; how can these motives be brought into effect, if the citizens be restrained from canvassing freely the public characters of the men who offer?”

The Federalists of the 1790’s however, had different concerns, and a different vision for the type government they believed necessary to address them. While Cooper and the Judiciary Committee seem to have posited a raucous, skeptical, questioning public that constantly probed and interrogated its leaders, the Federalists believed in a politics of consensus, a politics without partisanship. From the vantage point of the 21st century, where media coverage of politics and political leaders has reached an almost “tabloid” level, where the notion of objectivity is paid lip-service, and the virtuous and altruistic are often too frightened to declare their candidacy for public office out of fear of the inevitable media barrage intent on skewering their character and life’s work, perhaps there is something worth considering in the Federalists’ vision of an American political system.

The Federalists believed deeply that communication was the lifeblood of the republic, but they also understood the need to set standards and boundaries to the political discourse they did so much to foster. They spent the 1790’s building and shaping a communication program intended to support the system of government they believed critical to their survival in a dangerous world. Communication needed to be channeled and shaped to facilitate the role
of the wise, deliberative legislator, ever looking out for the public good. The dissemination of information needed to be carefully balanced in order to transmit the proceedings and actions of the federal government to the dutiful elector so he could form “right” understandings of its objectives and intentions, while at the same time the trust and support of the people could be conveyed to their representatives and to the world as a sign of the legitimacy of the central government. All of these values needed to be institutionalized within the system and process of government in order to achieve the intended outcomes, and the Sedition Act was a piece of this. It was one facet of the larger Federalist communication policy, albeit a particularly notable and controversial one. If Thomas Cooper hoped for vindication, John Adams did as well. There is no question the Sedition Act was controversial in 1798, as it was in 1832, but understanding how the Federalists themselves thought of the act and appreciating the broader context in which they conceived of and created it, helps to rescue Adams from the infamy of history and restores him to the status of statesman doing his utmost to set bounds to passions.
Cited Literature

Primary Sources


Readex Early American Newspapers Series. http://infoweb.newsbank.com.proxy.cc.uic.edu/iw-search/we/HistArchive?p_nbid=L4FX4BLBMTQxMDY2NDk2MS41MTcyMzI6MToxNToxMjguMjQ4LjE1NS4yMjU&p_product=EANX&p_action=timeframes&p_theme=ahnp


Secondary Sources


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