

# Popular Nullification, Fries' Rebellion, and the Waning of Radical Republicanism, 1798-1801

Robert H. Churchill  
*Rutgers University*

In May, 1798, a Republican writing under the pseudonym "Nestor" accused President John Adams of renouncing the principles for which Americans had fought the Revolution. Seizing on Adams' comment that Americans had fought for independence only out of necessity, Nestor accused Adams of misinterpreting the meaning of the Revolution: "Did America resist because she wished only to be *independent*? No! Mr. Adams' assertion to the contrary, she contended for *freedom* as well as independence." Nestor insisted that in belittling America's struggle for freedom, Adams had revealed his hitherto veiled hostility to liberty. "The real enemy," Nestor warned his readers, "is assaulting the citadel of your dearest privileges—*Fleets, standing armies, debts and taxes* are preparing for you."<sup>1</sup>

Though Nestor clearly twisted Adams' words to the President's discredit, his prediction was borne out over the summer months of 1798. Adams and the Federalist majority did indeed pass a program of legislation intended to prepare the country for an impending war with France. These measures included new internal taxes, a larger navy and a standing army, and the borrowing of large sums at eight-percent interest. Republicans denounced this program as unnecessary, burdensome, and despotic. The passage of the war program of 1798, which also included the Alien and Sedition Acts, initiated a political crisis that lasted for the next two years. The crisis brought into full focus the question that was central to debates over the meaning of the Revolution: whether the people might resist oppressive acts undertaken by a government of their own creation.

In 1799, the German-Americans of Bucks and Northampton Counties, Pennsylvania fashioned their own answer to that question. The 1798 direct tax on houses, land, and slaves was the particular object of their anger. They invoked their own memory of the American Revolution in opposition to this law, and declared that "they had fought such laws before, and would do so again." When tax assessors arrived in these countries to measure houses, the inhabitants resisted the assessment and threatened the lives of the assessors. On March 6, 1799, United States Marshal William Nichols arrested twenty of the leaders of the resistance. The next day, one hundred and fifty armed men, assembled in three militia companies, marched into the town of Bethlehem and secured the prisoners' release. These insurgents took up arms to nullify a federal law because they perceived the law as an assault on their liberty. Their campaign of resistance to the direct tax of 1798 is today consid-

ered the second insurrection against federal authority in United States history. Historians refer to it as Fries' Rebellion, after John Fries, an insurgent leader from Bucks County.

John Fries and his neighbors have not hitherto figured prominently in the history of the Alien and Sedition Act Crisis of 1798-1800. Historians of the crisis have largely focused on a different solution to the problem of resistance, embodied by the Virginia and Kentucky Resolutions of 1798-99. In contemplating these resolutions as a mode of resistance and as a constitutional precedent, historians have tended to adopt one of two readings. Some historians have interpreted the resolutions as Democratic-Republican propaganda, designed to advance the constitutional principles and the political platform on which the Republican Party would fight the election of 1800. They argue that the Resolutions were intended to educate the voters in the language of moderate, constitutional resistance, and were merely declarative of principle. Under the second reading, the resolutions marked an attempt by southern Republicans, including Thomas Jefferson and John Taylor, to preserve liberty in the South even if they should lose control of the national government. With the Federal executive and judiciary firmly under the control of the Federalists, these historians argue, southern Republicans feared that the Constitution's limits on federal power could not be preserved if the party in power was determined to breach them. They therefore contemplated using the machinery of state government to nullify the unconstitutional exercise of federal authority. According to this interpretation, these same leaders contemplated withdrawing from the union should nullification prove ineffectual.<sup>2</sup>

From either of these historiographical perspectives, it is difficult to regard the resort to armed resistance in Pennsylvania as anything but an odd anomaly. If Republicans were committed to peaceful, constitutional resistance in 1798-1799, then Fries and his neighbors were simply misguided in taking up arms to defend liberty. If radical Republicans were bent on using the state governments to carve out a refuge for liberty in Virginia, Kentucky, and the Lower South, then the events in Northampton County were a sideshow, a distraction from the main arena in which a contest between the federal government and the states would be waged. Indeed, historical accounts of Fries' Rebellion tend to conform to one of these two dismissals. Prior to 1980, historians uniformly described the rebellion as the unfortunate proceeding of "sincere but misguided men." In more recent accounts, historians have presented the rebellion as an episode in the evolution of German-American political identity. This ethno-cultural interpretation suggests that language and ethnicity separated the insurgents from the national conversation concerning the meaning of the revolution and the propriety of resistance.<sup>3</sup>

Fries and his neighbors, however, were just as much part of that conversation as Nestor, Thomas Jefferson, and John Taylor. Historians have over-

looked their role because they have not appreciated the full dimensions of the Alien and Sedition Act Crisis. The period of 1798-1800 was one of ideological as well as political struggle. A fierce debate raged in the nation and within the Democratic Republican Party. Moderate Republicans insisted that the party should resist the Alien and Sedition Acts and other war measures in a constitutional manner. They defined constitutional resistance as encompassing only popular petitioning and electoral organization. A more radical group of Republicans believed that the war measures were an intolerable infringement of liberty and the Constitution. Some articulated the doctrine of state nullification as a constitutional middle ground between politics and revolution. Jefferson, John Breckenridge, and John Taylor belong in this more radical camp. Nevertheless, theirs were not the only radical voices in 1798. Other radicals in 1798 emphasized the sovereignty of the people over the sovereignty of the states. Radical Republicans in New York, New Jersey, and Pennsylvania as well as Virginia and Kentucky openly discussed the propriety of popular nullification, armed resistance, and revolution in response to the Federalist program of 1798.

John Fries and his fellow insurgents combined the themes of popular nullification, armed association, and resistance to tyranny articulated within national political discourse into the ideological foundation of a revolutionary libertarian resistance movement.<sup>4</sup> Their rebellion marked the culmination of the debate over the propriety of resistance, rather than an isolated or misguided departure. The rebellion also played a crucial role in shaping the conclusion of this debate. The resort to overt armed resistance forced radical Republicans to recognize that the language of nullification would inevitably encourage spontaneous and uncontrollable popular rebellion. This stark reality strengthened the hand of moderates and contributed to the formation of a consensus within the party that armed resistance to the acts of Congress was impermissible. The new consensus emphasized obedience to the laws and the reliance on petitioning and elections as the proper means of resisting oppressive laws. Only interference in the electoral process, Republicans concluded, could justify the resort to armed resistance. This evolution in Republican ideology redefined the meaning of popular sovereignty in America and marked a repudiation of the most radical legacy of the American Revolution.

### **“Not Entitled to the Obedience of the People”: The Alien and Sedition Act Crisis and the Contours of Democratic Republican Opposition**

The Alien and Sedition Act Crisis had its origins in a three-way diplomatic contest between the United States, Great Britain, and France and smoldered throughout the 1790s. French resentment over the favorable terms accorded Great Britain in Jay's Treaty of 1796 culminated in a state of “quasi-

war" between France and the United States by the beginning of 1797. When President John Adams sent a delegation to Paris in 1797 to negotiate a new commercial treaty, agents of the French government met them with provocative demands. These agents, identified in diplomatic dispatches as "X, Y and Z" demanded a huge loan to the Directory, bribes for French officials, and the repudiation of President Adams' public complaints of French aggression. They insisted these demands be met before the French government would even receive the American delegation.<sup>5</sup>

In response to these aggressive demands, Adams asked Congress to take a series of measures to prepare the country for war. In 1797 Congress authorized an increase in the size of the navy and the construction of additional harbor fortifications. It paid for these measures by levying a new federal stamp excise. After dispatches documenting the "XYZ Affair" were published in April, 1798, Congress passed an additional increase in the size of the navy, quadrupled the size of the regular army to 13,000, and began the organization necessary to raise a provisional army of 50,000 troops. In addition, Congress abrogated the Franco-American treaties dating from the Revolutionary alliance. This program placed the country on a footing just short of declared war. To finance the new military establishment, Congress passed another internal tax, the direct tax on houses, land, and slaves. Congress also authorized the President to borrow unlimited sums at eight percent interest in anticipation of tax revenues.<sup>6</sup>

Having taken measures to secure the country from invasion, the Federalists enacted a final set of laws in the summer of 1798 to guard the country against internal subversion. The Alien Enemies Act authorized the President to restrain or deport any alien from a country at war with the United States. The Alien Friends Act gave the President the authority to deport any alien that he judged "dangerous to the peace and safety of the United States." The Sedition Act, on the other hand, was designed to guard against the subversive efforts of citizens. The first section made it a crime to enter into a combination or conspiracy to "oppose any measure" of the United States Government. The balance of the act prohibited the "writing, printing, uttering or publishing" of any "false, scandalous, and malicious writing" tending to bring the government, Congress, or the President into "contempt or disrepute."<sup>7</sup>

Many Republicans and even some Federalists perceived this program as an all-out assault on organized political opposition. Internal taxes and the Sedition Act were obviously prone to trigger public resentment, and standing armies had long been anathema within Anglo-American political culture. In retrospect, these measures seem at odds with any rational calculation of the political interest of the Federalist Party. When viewed through the lens of a shared masculine identity based on honor, however, Federalist behavior in this period becomes more comprehensible. For Federalists, the war with France,

the battle against the Republican press, and opposition to the democratization of American politics were all matters of honor. The military establishment of 1798 was designed not only to defend against invasion, but also to vindicate the nation's honor. Around the nation, troops of volunteer militia raised under the Federalist program committed themselves to "maintain the honor and dignity of our country, or die in its defense." While a well-armed and trained militia might suffice to defend against invasion, Federalists believed that the projection of national strength and determination required a large national army and an international naval presence capable of defending the country at a distance from its shores.<sup>8</sup>

Similarly, personal honor demanded not just a defense of the person, but an aggressive defense of stature and reputation. Federalist justifications of the Sedition Act rested on the argument that reputation was an essential privilege owed protection by the Constitution and the rule of law. In his charge to the grand jury of the fifth judicial circuit of Pennsylvania, Alexander Addison argued that the Sedition Act was essential to protect the reputation of the officers of government. George K. Taylor, a Virginia Federalist, agreed, arguing that "the natural right to reputation is as dear and invaluable to its possession as any other whatsoever."<sup>9</sup> When Republicans launched a campaign of public criticism of measures taken by the government, Federalists complained that public opposition displayed a lack of trust that touched the honor of the officers of government, and suggested that such complaints breached the bounds of legitimate political expression. On a number of occasions, prominent Federalists even objected to public petitions that slighted the honor of members of the party.<sup>10</sup>

As "black cockade fever" swept the nation in the summer of 1798, Federalist conceptions of honor lent themselves to remarkably aggressive behavior. In September, 1798, a troop of Federalist militia confronted Republican Congressman Albert Gallatin in Harrisburg. They "burst" his effigy in front of him and warned him that such a fate awaited any man "who would quietly lie by and suffer a foreign power to rob and insult us." Young men wearing the black cockade, a symbol of Federalist affiliation, also harassed New York Congressman Edward Livingston and Philadelphia news editor Benjamin Bache.<sup>11</sup>

The vision of politics as a field of honor, however, brought with it a deep insecurity. In a society in which elite conceptions of honor rested on the ability to command public deference, even hidden, furtive criticism was cause for anxiety. This preoccupation with covert slander and hidden slights made Federalist political ideology a fertile ground for themes of domestic subversion and conspiracy. Federalists warned of an "army of spies and incendiaries scattered through the continent." When Republican James Logan undertook a private diplomatic mission to France to try to prevent open warfare, William

Cobbett suggested that he had gone to coordinate plans for an invasion. "Watch, Philadelphians, or the fire is in your houses and the *couteau at your throats*," Cobbett warned hysterically. These fears reached their most apocalyptic form in the rapid dissemination of the grandest conspiracy theory of the age, John Robinson's description of the sinister Order of the Illuminati. Popularized in the United States through the sermons of Federalist clergy in the summer and fall of 1798, Robinson's theory described an international conspiracy to overthrow civil government and organized religion. In a sermon delivered on May 9, 1798, Federalist clergyman Jedediah Morse warned that the order had extended its tentacles across the Atlantic and aimed to overthrow the American government. He also suggested the order was recruiting from among the ranks of the Republican Party.<sup>12</sup>

The Republicans were only too willing to return the favor by casting Federalists in the leading role of their own worst nightmare, the specter of a monarchical conspiracy to enslave America. Like Nestor, Republicans understood the American Revolution as struggle to preserve liberty against the usurpations of a tyrannical government. They believed that the memory of that struggle enjoined them to resist similar assaults on liberty, even those by a government of their own creation. Republicans responded to the war program with the same themes used by the Whig opponents of British imperial policy in the 1760s and 1770s. This Whig vision lent itself easily to the argument that the military buildup and the taxes necessary to finance it were dangerous symptoms of corruption. Americans had regarded internal taxes with suspicion in 1765, and the fact that their own republican government had laid the Stamp and Direct taxes of 1797-98 did little to mollify Republican fears. Whigs had traditionally objected to such taxes because of the significant costs of collecting them and the enormous patronage powers associated with the appointment of thousands of tax collectors. They argued that such taxes were a prime source of corruption and posed a threat to divided government. Finally, Whigs had argued in 1765 that such inherently burdensome taxes should be enacted only at the most local level, by representatives intimately familiar with how best to levy them. These objections had been raised against excise taxes in England, and had also formed the basis of resistance to the federal Whiskey Excise of 1791.<sup>13</sup>

In 1798, Republicans were quick to raise these objections against the Stamp and House taxes, and to invoke the memory of British oppression. A correspondent to the New London, Connecticut, *Bee* asked its readers if they would "Swallow every imp of Britain, stamp acts, gag laws, direct taxes, with double herds of collectors smelling into farm houses as well as grog shops?" In New Jersey, an "Essex Dutchman" warned that "if Congress, in their wisdom at their next session, should see fit to tax our day light, and our fire and candle light, it might also be necessary to appoint more such officers, and that would

take more money." Republicans also denounced the creation of a standing army in peacetime, not only as the source of burdensome taxes but as dangerous in its own right. The army represented a locus of government power far greater than that represented by tax patronage. The *Vermont Gazette* suggested that the army would free the government from popular control: "When the President has got his army well established, will he not be able to rain down stamp acts, salt tax, and any other tax, whether we will or not?" Freeholders in Dinwiddie County, Virginia warned that standing armies "have always been subservient to the views of the executive department, from which they derive their honors and emoluments."<sup>14</sup>

Republicans believed that the tax laws and the standing army created dangerous concentrations of power and threatened to undermine balanced government. They therefore represented a potential, but as yet indirect, threat to liberty. The Alien and Sedition Acts, on the other hand, represented a direct assault on liberty. Republicans concluded that these measures were an attack on the whole Constitutional order. Edward Livingston, a Republican Congressman from New York and an early opponent of these measures, denounced the Alien Friends Act as a deprivation of the basic rights of due process under the fifth and sixth amendments. Livingston denied that these rights were restricted to citizens, and predicted that if the act was enforced against aliens, no argument could withstand its application to citizens: "What minute article in these several provisions of the constitution is there, that is not violated by this bill? All the bulwarks which it opposed to encroachments on personal liberty, fall before this engine of oppression."<sup>15</sup>

The Sedition Act alarmed Republicans to an even greater extent. They perceived it as an attempt to shield the government from all criticism, and to drive a wedge between Republican legislators and their constituents. Republicans argued that the freedom of speech and the liberty of the press were inviolable, and Congress' attempt to regulate these freedoms was "contrary to the Constitution and an infringement of the liberties of the people." The citizens of Mifflin County, Pennsylvania, declared that the "free communication of thoughts and opinions is one of the most valuable rights of man, and cannot be abridged or restrained without an infraction of the liberties of the people and the law of nature." The Republicans insisted that no government, no matter how representative, could invade the people's liberties in such a manner as the Adams administration had. This was the heart of Nestor's argument with John Adams over the meaning of the Revolution, and the citizens of Washington County, Pennsylvania, took it up in their petition against the Alien and Sedition Acts. "It matters but little to us," they declared, "whether our government be nominally democratical, monarchical, or despotic, if the powers of each be the same."<sup>16</sup>

Just as the Federalists searched for hidden Illuminati conclaves, the Republicans searched for hidden causes to explain Federalist behavior. For those

well versed in the Whig ideology of the Revolutionary period, a pattern of repeated assaults on liberty could have but one cause: conspiracy.<sup>17</sup> As they viewed the Federalist program as a whole, Republicans insisted that it was the product of malicious human design. For example, Republicans in Amelia County, Virginia, and Orange County, New York, denounced the raising of a standing army as “dangerous to the rights and liberties of a free people, and calculated to introduce tyranny and oppression.” For other Republicans, the Alien and Sedition Acts were the final pieces in the puzzle. In Orange County, Virginia, Republicans argued that the raising of internal taxes and a standing army under the pretext of danger from abroad was “sufficient to excite a suspicion of covert designs. But . . . attacking the principles of liberty at home has drawn aside the curtain.”<sup>18</sup>

Though Republicans of all stripes adhered to the Whig diagnosis of the political ills facing the nation in 1798 and 1799, they found themselves divided when searching for an appropriate cure. The moderate wing of the party insisted that the redress of grievances must come through “Constitutional measures.” Moderates defined constitutional opposition as encompassing petitioning and the use of the ballot to remove the authors of offending legislation. The Newark *Sentinel of Freedom* urged its readers to “pursue the constitutional mode of protesting . . . which is by convening together in township or county meetings, as convenience may dictate, and there request of your public agents, by way of remonstrance, to repeal the Alien and Sedition Laws.” In the address for which he was prosecuted under the Sedition Act, Thomas Cooper wrote of his hope that Federalist measures “will be steadily opposed, but opposed in the only justifiable way of opposition under a free government, by discussion in the first instance, and a change of persons by constitutional election if no other method will succeed.”<sup>19</sup>

Republicans in the radical wing of the party, however, were unwilling to abide by the judgments of a Congress dominated by Federalists. They argued that the threat to liberty represented by the Alien and Sedition Acts required active resistance. Radicals based their opposition on the premise, articulated by Alexander Hamilton in *Federalist, No. 78*, that “no legislative act . . . contrary to the Constitution, can be valid.” This doctrine of nullity was widely accepted across the political spectrum in 1798. In 1788, however, Hamilton had argued that only the judiciary had the authority to declare acts of Congress void.<sup>20</sup> Under the doctrine of judicial nullification, the nullity of an act was a quality separate from the act itself, attached thereto by judicial pronouncement. Federalists and many moderate Republicans thus emphasized nullification, a procedure carried out by judicial authority, as the source of the nullity of a law.

Radical Republicans understood nullity differently. They argued that the nullity of a law flowed from the law’s substantive unconstitutionality, and

thus nullity was an intrinsic quality of any unconstitutional law. Republicans in Essex County, Virginia explained their understanding of nullity as follows: "when laws are made contrary, both to the spirit and letter of the constitution, your memorialists are of the opinion, that such laws encroach upon the sovereignty of the people, and are in their nature void." This vision became more distinct when linked to a second tenet of radical Republican faith: the belief that the people had the capacity to judge the constitutionality of laws for themselves. The *Albany Register* denounced the doctrine "that a decision as to the constitutionality of all legislative acts, lies solely with the judiciary department; it is removing the cornerstone on which our federal compact rests; it is taking from the people the ultimate sovereignty."<sup>21</sup>

The combination of these two strands of Republican ideology led to an expansive vision of popular sovereignty that granted the people the right to nullify laws by recognizing and publicly declaring their nullity and by withholding their obedience. In a speech to Congress on the Alien Friends Bill, Edward Livingston delivered one of the earliest pronouncements of the doctrine of popular nullification: "If we are ready to violate the constitution we have sworn to defend—will the people submit to our unauthorized acts? Will the states sanction our usurped powers? Sir, they ought not to submit. They would deserve the chains which these measures are for them if they did not resist."<sup>22</sup>

Radical Republicans responded to Livingston's speech by calling public meetings across Kentucky, Virginia, and the Middle Atlantic states. At these meetings Republicans gathered and publicly recognized the nullity of the Sedition Act.<sup>23</sup> Though some Republicans who considered the Sedition Act a nullity shied away from open calls for resistance, others did not hesitate. At a dinner for Congressman John Clopton of Virginia, Republicans from the counties surrounding Richmond listened to an address that concluded that "acts that violate our chartered rights have no binding force, and are not entitled to the respect or obedience of the people." The militia of Amelia County, Virginia, declared that they would not lend any assistance in enforcing the Alien and Sedition Acts, while a militia regiment in Madison County, Kentucky, resolved that "the Alien and Sedition Bills are infringements of the Constitution and of natural rights, and that we cannot approve or submit to them."<sup>24</sup>

The refusal to submit was just as essential a part of the masculine identity of Republicans in 1798 as honor was to the masculine identity of Federalists. Around the nation, Republicans celebrated the masculine quality of "firmness" that they believed was essential to the preservation of liberty. The toasts of officers of the Philadelphia brigade of the Pennsylvania militia reflected this belief. They first toasted "The people—may they have the discernment to know their rights and the firmness to maintain them." They then went on to express another sentiment held by many Republicans: that the militia must

meet domestic usurpation with the same firmness as foreign invasion. They toasted "the militia of the United States—May they ever be ready to resist tyranny either foreign or domestic." The militia of Morris County, New Jersey, celebrated the same spirit when assuring President Adams no one would muster against an invasion with more "firmness and alacrity" than they would. They then warned Adams that they "would as soon crush a domestic tyrant, or any man who would propose a hereditary President, as we would repel the French or any other foreign foe."<sup>25</sup>

Statements such as these in the summer and fall of 1798 made the possibility of popular resistance to the Federalist war program seem quite real. The Virginia and Kentucky Resolutions of 1798 must be understood within the context of a debate over whether such resistance would be legitimate. On close examination, these documents appear to be a curious mix of radical and moderate ideas that had been in circulation throughout the summer and fall of 1798. Those most intimately involved in the framing of the resolutions distrusted popular protest. John Taylor, for example, described the Virginia Resolutions as a rejection of the false choice between timidity and civil war, and presented state nullification as an attractive alternative to popular nullification. In the legislative debates on the Virginia Resolutions, he argued that "the will of the people was better expressed through organized bodies dependent on that will, than by tumultuous meetings; that thus the preservation of peace and good order would be more secure."<sup>26</sup> Discomfort at the prospect of popular resistance may also have played a role in prompting James Madison's remarkable assertion that the states alone were parties to the Constitutional compact. The main thrust of his argument was designed to undercut Federalist assertions that the federal judiciary alone had the power to nullify the Alien and Sedition Acts. Nevertheless, many Republicans in the Virginia legislature objected to this phrasing as a repudiation of popular sovereignty.<sup>27</sup>

The discussion of nullification in Madison's original draft of the Virginia Resolution was quite veiled. Madison simply asserted that the states, as parties to the compact, had "the right, and are in duty bound, to interpose for arresting the progress of the evil, and for maintaining within their respective limits, the authorities, rights, and liberties appertaining to them." The Resolutions were silent about what form that interposition might take, a silence that allowed Madison to argue in the Report of 1800 that the Resolutions had never contemplated any remedy beyond petitioning for repeal.<sup>28</sup>

Jefferson's draft of the Kentucky Resolutions, on the other hand, explicitly articulated a doctrine of state nullification:

In cases of an abuse of the delegated powers the members of the general government being chosen by the people, a change by the people would

be the constitutional remedy; but where powers are assumed which have not been delegated, a nullification of the act is the rightful remedy: that every state has a natural right, in cases not within the compact . . . to nullify of their own authority all assumptions of power by others within their limits.<sup>29</sup>

Even this passage clearly described nullity in procedural terms, as the consequence of the authoritative act of a state government. It was thus closer to the moderate understanding of the theory of judicial nullification than it was to radical understandings of the doctrine of nullity. Nevertheless, Jefferson's draft included radical language as well. Jefferson's declaration that the Alien and Sedition Acts were "altogether void and of no force" evoked the definition of nullity as substantive unconstitutionality.<sup>30</sup>

John Breckinridge, who sponsored the Kentucky Resolutions in the state legislature, also tried to moderate their tone. Breckinridge dropped Jefferson's call for other states to declare they would not permit the exercise of unconstitutional laws within their borders. He substituted a more moderate call for Congressional repeal in its place. He also deleted the above quoted passage describing nullification as a legitimate exercise of state authority. Ironically, in the context of the overall debate of 1798, that last deletion rendered the resolutions, as passed by the Kentucky legislature, more radical, rather than less. Without the language describing nullity as the product of an authoritative procedure, what was left was the assertion that the Alien and Sedition Acts were substantively "void and of no force." This assertion was entirely consistent with radical Republican calls for popular nullification.<sup>31</sup>

In the full context of the debate over the propriety of resistance to the Alien and Sedition acts, then, Madison's draft of the Virginia Resolutions was a remarkably moderate document. Its moderation reflects a deep unease over the possibility of popular resistance, an unease that prompted Madison to avoid any mention of nullification or popular sovereignty. Jefferson's Kentucky Resolutions were more open in their call for state nullification. They also evoked the language of popular nullification in a manner that, perhaps inadvertently, vindicated the stance of the most radical expressions of Republican opposition.

### **"We Will Have Liberty": Fries' Rebellion as the Culmination of Radical Republican Opposition**

The outbreak of armed resistance to the Federalist program of 1798 did not come in either Virginia or Kentucky. It came in Northampton County, Pennsylvania, and in several adjoining townships in Berks, Bucks, and Montgomery Counties. Resistance began building in these townships during the

federal election campaign in October, 1798. The campaign focused on the merits of the legislation passed the previous summer. Republican speakers travelling through these townships laid heavy emphasis on the dangers posed by the direct tax on houses, land, and slaves. When tax assessors held meetings in late November to explain the law and present their commissions to the local populace, they found their neighbors aroused against the law. Those assessors appointed to assess their own communities came under heavy pressure from neighbors to resign their commissions. At least six did so. Those who persisted began visiting local homesteads to measure houses in early December. Within days, their neighbors confronted them with threats of violence sufficiently credible that most of the assessors desisted from further attempts to execute the law. In several townships, women doused the assessors who approached their homes with hot water. In a dozen townships, male residents joined voluntary associations and committed themselves to resist the law and defend against any attempt to arrest those organizing the resistance.

In January, 1799, tax commissioners escalated the conflict by bringing officials from outside the affected townships to help them enforce the law. In Northampton, Tax Commissioner Jacob Eyerly attempted to convince the people of Upper Milford Township to appoint their own assessor. The residents physically abused him for his troubles. He then persuaded Northampton County Justice William Henry to begin taking evidence against the insurgents. The insurgents responded by mustering a militia company outside of Henry's courtroom during these proceedings and threatening the witnesses as they arrived. In Lower Milford Township, Bucks County, Commissioner Seth Chapman appointed three new assessors from outside the township to replace the local resident who had resigned. When these new assessors attempted to assess the township on March 5 and 6, the local inhabitants, led by John Fries, confronted them. Fries and his neighbors used force to detain assessors Cephas Childs and Everard Foulke and fired at John Rodrock.

The arrival of Federal Marshal William Nichols to arrest the leaders of the resistance in Northampton County marked a further escalation. Nichols attempted to make arrests in Macungie Township on March 6, but encountered strong resistance. When word spread that those insurgents whom Nichols did manage to arrest would be transported from the Sun Tavern in Bethlehem to Philadelphia for trial, three insurgent militia companies responded by marching on Bethlehem to release the prisoners. In doing so, they used armed force against an officer of the United States to prevent the execution of an act of Congress. In only six months, opposition to the house tax had built from angry speeches to open insurrection.<sup>32</sup>

John Fries and his neighbors did not misunderstand the principles of the American Revolution, as most observers would later claim. They did not act in ignorance of some broadly shared consensus concerning the boundaries

of constitutional opposition. No such consensus existed in 1798. They were not significantly more radical than Republicans in Virginia, and Kentucky. The emergence of a revolutionary libertarian resistance movement in Northampton County, Pennsylvania, was caused by a combination of ideology, political culture, and provocation. Insurgent ideology contained many of the central elements of the radical Republican response to the Alien and Sedition Acts, including a distrust of internal taxation, a suspicion of a malicious conspiracy within the Federalist Party, and a commitment to the right of popular nullification. Insurgent political culture was ethnically homogenous, but it was not ethnically isolated: it shared the commitment to local autonomy, egalitarian participation, and the celebration of masculine "firmness" exhibited by Republicans throughout the Middle Atlantic States. It was the combination of a radical Republican ideology most commonly found in the Upper South, an egalitarian and anti-deferential political culture particularly characteristic of Pennsylvania and New York, and the provocative acts of local Federalists in the affected counties that produced Fries' Rebellion.

Though many Federalists and moderate Republicans had feared an outbreak of resistance to the Sedition Act, Fries and his neighbors took up arms to resist the execution of the house tax, as they referred to the direct tax on houses, land, and slaves. The commissioners responsible for measuring houses under the direct tax law were charged with the task of visiting every homestead and business in the nation. By contrast, only six individuals were prosecuted under the Sedition Act prior to Fries' Rebellion, and all but one of these prosecutions took place in New England.<sup>33</sup> Given the Republican arguments that the tax laws, the standing army, and the Alien and Sedition Acts were all part of a concerted program to deprive the people of liberty, it is not surprising that Fries and his neighbors chose to resist the part of this program that brought Federalist commissioners to their doors.<sup>34</sup>

The house tax aroused particularly intense suspicion among the Germans of Northampton and Bucks Counties due to the particular currents of ethnic politics in Southeast Pennsylvania. The region most affected by the house tax resistance was largely populated by Germans of the Reformed and Lutheran churches. These "Kirchenlute" or church people, as opposed to German pacifists including many Moravians and Mennonites, allied themselves increasingly with the Republican Party in the late 1790s. Pennsylvania Republicans had skillfully played on ethnic themes and made the most of their very public efforts to help Kirchenlute candidates obtain their proper share of local offices. Consequently, Montgomery, Berks, and Northampton Counties produced Republican majorities for the first time in the elections of 1798. Two of the Federalist candidates defeated in this election were Jacob Eyerly and Stephen Balliett. When the Federalist administration appointed commissioners to carry out the house tax assessment, these appointments fell almost

exclusively on the local Quakers and pacifists whose leadership the Kirchenlute had just repudiated, including Eyerly and Balliett. The result was immediate resentment and suspicion.<sup>35</sup>

Many of these Kirchenlute were also Revolutionary War veterans. During the war, patriots had called the loyalty of Quakers and other pacifists into question because of their refusal to join the fight for independence. The notion that Quakers and pacifists who had refused service in the war should collect the house and stamp taxes struck the Kirchenlute as a repudiation of everything for which they had fought. Insurgents began to refer to local Federalists, Quakers, and other pacifists as "Tories" and "Stamplers." John Fries complained that "All these people who were tories in the last war mean to be leaders—they mean to get us quite under—they mean to make us slaves." Insurgents in Macungie Township resolved that the assessment "should not be made by any man who had not done duty in the last war, or by any tory." Two insurgents in that town threatened that if they were forced to pay the house tax "they would go from house to house and cut the heads off those stamplers, as there is not many of them."<sup>36</sup>

The insurgents had doubts about how fairly their political opponents would administer the direct tax. These suspicions had some basis in their experience of tax administration in Pennsylvania. There were widespread complaints in the 1790s that tax officials were either collecting more tax than was owed and embezzling the balance or withholding the sums unaccounted for by the Treasury and using the money for speculative purposes. Henry Engle, Henry Barnet, and Nicholas Fox had been brought before a Northampton County grand jury in 1790 for over-collecting taxes but were not indicted. In 1798 one Berks County observer noted that the state's taxes for the 1780s were in arrears to the sum of \$420,000, of which most "long has been in the hands of the collectors and county treasurers." In Berks County, Jacob Greenawalt threatened to tie the excise officer to a liberty tree until he accounted for the money he had collected from stills, which Greenawalt believed had been spent on "drink and idle women."<sup>37</sup>

The resistance to the house tax, however, was about more than just ethnic competition and frustrations over corrupt tax collectors. The broad outlines of Republican opposition thought are clearly present in the statements of the insurgents of Northampton and Bucks Counties. Their opposition to the house tax was imbued with an understanding of the Whig critique of internal taxes levied by the federal government. Several insurgents who resisted the assessment of their houses made it clear that they would allow their property to be assessed for normal county property taxes. When John Butz, tax assessor for Macungie Township, Northampton County, came to take the county rates for insurgents Daniel Haverly and Adam Stephan, both made it clear that he was welcome to do so, but that they would not permit him to assess their

property under the house tax. John Fogel, Jr., noted that most people in that neighborhood had no objection to paying a tax if it were "laid as they were used to," i.e., by the state government to pay for local services. Insurgents in Heidelberg similarly pledged that "they were ready to pay a tax, but not in the manner required by the tax law of Congress." Such complaints were widely voiced in the Pennsylvania German community. Petitions from York and Lancaster Counties requested that Congress repeal the house tax and allow the states to raise the funds necessary as they saw fit. These petitions echoed the published *Dissent* of the minority of Pennsylvania's ratifying convention, which had objected to granting the power of internal direct taxation to Congress in 1787.<sup>38</sup>

Insurgents also expressed their objections to internal taxation by the federal government by linking the house tax with the stamp tax of 1797. The insurgents repeatedly described these two laws as a repetition of the measures against which the Revolution had been fought. John Fries, a resident of Lower Milford Township in Bucks County and himself a Revolutionary War veteran, declared "that he had fought for liberty before, and now the government was introducing again the same laws he had fought against, and he would not submit to them." Fries was referring to the British Stamp Act of 1765, an internal tax that he remembered as the cause of the Revolution. Insurgents in Plainfield, Williams, Macungie, and Weissenberg Townships in Northampton County used almost the same language. Christian Marbinger, on being informed that a petition he was asked to sign raised no objection to the whiskey excise, urged his neighbors to "throw the petition in the fire and erect liberty poles and let us fight." He thereby declared his opposition to yet another internal tax.<sup>39</sup>

The insurgents also accepted the Republican argument that the internal taxes and other Federalist measures amounted to a deliberate attempt to enslave them. Ethnic tensions in the region contributed a particular gloss to insurgent fears of conspiracy. In Northampton County, suspicion focused on Moravian Jacob Eyerly and on former Congressman Samuel Sitgreaves. According to one widely shared story, insurgent Jacob Lerch had traveled to Philadelphia to see President Adams. Adams had been astonished to hear of the impending collection of house and stamp taxes, and had told Lerch "that they need not pay any tax, it was only Eyerly's proceedings, and the Stamp Act was only Sitgreaves' proceedings." Insurgents in Plainfield also expressed the suspicion that the house tax was "a fabrication of Eyerly's." In several other townships, insurgents expressed the desire to wait until other counties, such as the Quaker dominated counties nearer Philadelphia, had paid the tax, just to be certain they were not being duped.<sup>40</sup>

Local Republican politicians also suggested that a hidden, malicious design lay behind the house tax. Several Republican legislators visited

Northampton County in the fall of 1798 to campaign for the Republican candidates for Congress. Jonas Hartzell, a state legislator, warned the residents of Upper Milford and Forks Townships that "the laws of Congress lately made were very dangerous to the liberties of the people, particularly the stamp act and the other late laws as the direct tax." He warned that the Federalists would next tax daylight (by levying a tax on window glass), and urged his listeners "to endeavor to put other people in the legislature." In Heidelberg Township, Blair McClenachen, a Philadelphia Congressman, warned that new internal taxes on milling grain and killing livestock were on the way, and that "if things were to go on the way they had begun, we should have a number of great lords and the people would be slaves, and also that the President would make himself to be a king of the country." In Plainfield, Abraham Horn, another state legislator, warned that "the President has sold the states and that the people should oppose the laws."<sup>41</sup>

These warnings of a conspiracy to enslave the people, consistent with the Whig themes that resonated so broadly in 1798, clearly had an impact on the insurgents. Cephas Childs, the assessor for Lower Milford Township, reported that John Fries and his neighbors "damned the house tax and the Stamp Act, and called me a stamplere repeatedly. They damned the alien law and sedition law, and finally . . . the government and all the laws the present Congress had made." When Childs asked them why they were determined to resist, they replied, "We are determined to oppose the laws, and we have met to do it; the government is laying one thing after another, and if we do not oppose it, they will bring us into bondage and slavery, or make slaves of us. We will have liberty."<sup>42</sup>

This belief that the manifest tendency of the Federalist program of 1798 was to deprive them of liberty instilled in the insurgents a determination to resist. The ideology of popular nullification was particularly strong in Pennsylvania in 1799. It had informed the resistance of the Whiskey Rebels earlier in the decade and that of the Wild Yankees of the Upper Susquehanna Valley, a resistance movement that was alive and flourishing in 1798-99.<sup>43</sup> The insurgents were also aware, through the columns of the *Aurora* and the *Readinger Adler*, of radical Republican calls for popular nullification resonating in other parts of the Union.<sup>44</sup> Finally, there is evidence that local Republicans gave the insurgents an encouraging nod. John Fogel, Jr., claimed to have consulted with General Robert Brown, newly elected to Congress from the district, in February, 1799. Brown advised him of the petition campaign against the alien and Sedition Acts, and told him that the Federalist program of 1798, including the house tax, would almost certainly be repealed by the new Congress meeting in March. Fogel told his neighbors that Brown advised them "to keep the assessors back so that the rates should not be taken before the new Congress met." Insurgent leader Henry Ohl also claimed that Blair McClenachen

had urged the residents of Heidelberg "that if the laws were put in force, the people should meet and arm themselves and make way with government officers." It is possible that radical Republicans in Pennsylvania were willing to go a step further than their brethren in Virginia and Kentucky and advocate armed resistance. On the other hand, it may be that Fogel and Ohl were merely attempting to displace the blame for their own acts of resistance. It seems unlikely that Republican Congressmen would court prosecution under the Sedition Act in this manner, particularly given that McClenachen, at least, would have been speaking to strangers.<sup>45</sup>

Whether or not they received direct encouragement from these Republican representatives, the insurgents did indeed commit themselves to render the house tax void and of no force. In Chestnut Hill township, the Reverend Jacob Eyerman declared that "Congress . . . had no right to make those laws, and that the people were under no obligation to obey the laws of Congress." Assessor Jacob Oswald reported that the people of Lynn Township "thought congress had no right to tax them." When he tried to explain to the insurgents that Congress did indeed have that power, they still insisted that he should stop assessing houses. Attempts to explain the law failed to persuade the insurgents of other towns as well. In Plainfield Township Valentine Metz expressed his neighbors' decision that "the law was too bad for many people to put up with." When Jacob Eyerly attempted to persuade the insurgents of Upper Milford to submit, the following exchange ensued:

George Shaeffer jumped up before me, and said, Mr. Eyerly, it is no law. I told them that if they did not believe me, they might enquire of squire Schymer whether it was or not. Mr. Schymer then told them it was a law; upon which Shaeffer replied, "admitting it is a law, we will not obey it."

When Eyerly offered to let the insurgents of Upper Milford and Hamilton townships choose their own assessors, they refused, saying "if we do this, we at once acknowledge that we will submit to the laws, and that is what we wont do."<sup>46</sup>

The insurgents departed from the national conversation about resistance only in the grounds they articulated for nullifying the house tax. Even radical Republicans were careful to couple declarations of the nullity of the Alien and Sedition Acts with a clear constitutional analysis. The house tax, however, clearly lay within the power of direct taxation granted to the federal government under the Constitution. John Fries did make a constitutional objection to the progressivity of the tax, arguing that this violated constitutional provisions for the equal apportionment of taxes. Jacob Eyerman also claimed the tax was unconstitutional, but his argument on this point consisted of waving a book which he claimed was the Constitution. Nevertheless, the vast major-

ity of the insurgents were more influenced by a higher constitutionalist argument. Many insurgents avoided detailed discussions of constitutionality and simply declared that the house tax was a bad and substantively oppressive law that infringed their liberty. They traced the nullity of the house tax to its oppressiveness, rather than to its lack of conformity with the text of the Constitution. George Seider and Henry Jarrett, leaders of the insurgents in Upper Milford and Macungie Townships, both argued that the house tax was a "bad law" that should not be executed. Reverend Eyerman, when not waving his constitution, told his neighbors that "they ought not to suffer the Direct Tax law to be put in execution, that it was too hard and if the people did suffer it to be done they would be as bad off as they were in Europe." Insurgents in Lower Milford Township described the tax as a threat to liberty and declared that therefore their resistance was legitimate.<sup>47</sup>

How then did the insurgents judge which laws they would submit to, if not according to the Constitution? Insurgents from across the affected area answered this question in precisely the same manner: they said "they had fought against such laws once already, and were ready to do it again." For the insurgents, the experience of fighting for liberty in the 1770s was the yardstick of their liberty. The bulwark between law and usurpation lay not in the Constitution of 1787, or even in the Bill of Rights, but rather in their own willingness to resist laws they perceived as oppressive. As an insurgent in Lower Milford declared in one meeting, "they had made a law of their own, that this [brandishing his gun] was their law."<sup>48</sup>

The essential components of revolutionary libertarian ideology, the Whig suspicion of government consolidation, warnings of hidden conspiracy, the appeal to a higher constitutionalism, and a commitment to popular nullification, were present in insurgent thought. This ideology supported a recourse to armed resistance. Nevertheless, many Republicans adhered to these beliefs in 1798 and still submitted to the house tax. In Northampton County, however, the political culture of the insurgents reinforced the ideological legitimation of resistance. The political norms that guided the insurgents were established in the Revolutionary period, and these norms made the state a more likely site of armed resistance to tyranny than Virginia. The Revolution came late to Pennsylvania, but it came with a radicalism and a breadth of popular participation that went unmatched. In the two years preceding independence, the defining political act of most Pennsylvanians was spontaneous association in extra-legal militias committed to defend local communities against the arbitrary powers asserted by the King. Furthermore, these associations enforced new norms of political behavior that emphasized direct public participation, democratic election of officers, consensual decision making, and equality among citizens.<sup>49</sup> While the deferential rituals of Virginia politics allowed moderate party leaders to restrain radical Republicans from acting on the full logic of

their public statements, in Northampton and Bucks Counties, Republican leading men received little deference and played no restraining role. The relatively recent and hence shallow roots of the Republican party in these counties circumscribed their influence. Consequently, the radical strains of insurgent ideology played out within a local political culture dominated by yeomen and artisans.

The insurgents acted out the norms of that culture in public meetings at which the male citizens of the neighborhood or township gathered. These meetings were often raucous and well-lubricated affairs held in taverns. When tax commissioners convened meetings to explain the law, they often found that the assembled populace dismissed their legal and administrative expertise. James Chapman attempted to explain the law at a meeting in Lower Milford, but "the people would pay no attention to them, and huzzaed and shouted for liberty. . . . Conrad Marks said he knew the law as well as they did." When Jacob Eyerly attempted to explain the law in Upper Milford, he was almost beaten for his troubles.<sup>50</sup>

Nor did Republican leading men in these communities have any better luck than their Federalists counterparts. Eyerly attempted to enlist the assistance of eight or nine of the leading citizens of Upper Milford before his meeting, speaking with them separately in a private room. His success with these gentlemen, however, did not change the outcome of the larger public meeting. A moderate Republican petition similar to those of other Pennsylvania counties was circulating about Northampton as well. As an effort to channel dissent into constitutional forms of protest, it failed miserably. The petition protested the Alien and Sedition Acts but was absolutely silent on the subject of the house tax. It employed the most elaborate rhetoric of any petition circulating in 1798-99. The petition spoke of a profound disconnection between the English-speaking Republican elite of Northampton County and their German-speaking constituents. Most of the insurgents probably signed the petition, but it did not dissuade them in the least from using force to nullify the house tax.<sup>51</sup>

Insurgent political culture placed heavy emphasis upon establishing the decision to resist the laws as the consensus of the local community. Insurgents demonstrated this consensus through the use of ritual performance in public meetings. At an early meeting in Upper Milford, John Shimer called upon those who would stand against the house tax to follow him outside. When all but a few of the 60 or so townspeople present did so, he asked that "all those that are for liberty shall waive their hats and huzza for liberty, upon which they huzzaed." Shimer then led the party back inside and informed the local assessor that "the township are all agreed." The crowd at a town meeting in Plainfield told James Williamson to stop taking assessments. He later reported that "the whole body seemed to rise and give their assent to this." He inter-

preted this gesture as "declaring the sense of the township that I should not make the assessment."<sup>52</sup>

Once the insurgents established the "sense of the town," they expected all members of the community to abide by it. They promised to support those who were willing to act accordingly. Six hundred men from Williams, Lower Saucon, Upper Saucon, and Upper Milford Townships signed an association binding themselves to resist the tax. Other associations formed in Weissenberg, Heidelberg, Albany, Lehigh, Macungie, and Lower Milford Townships. Militia companies in Lower Milford, Upper Milford, Macungie, and Lower Saucon supported the resistance, and the insurgents attempted to enlist the commanders of several other companies in the area.<sup>53</sup> The insurgents also offered to support those of their neighbors who had taken commissions as tax assessors. Insurgents in Plainfield Township, Northampton County, and Albany Township, Berks County, promised local tax assessors that they would be "indemnified of all costs and fines" if they would cooperate by ceasing to take rates. In Lower Milford Township, tavern keeper Conrad Marks went even farther, promising to provide room and board for assessor Edward Foulke to compensate him for his lost wages.<sup>54</sup>

This support included the promise to interfere with the arrest of any of their neighbors. The associators of Williams, Upper and Lower Saucon, and Upper Milford Townships committed themselves to resist the law and to "break the gaol" if any of their number were arrested. Insurgent George Shaeffer taunted Jacob Eyerly publicly, promising that if he was arrested, "you shall see how far you will bring me." Insurgents insisted that if any of their number were to be tried for acts of resistance, they should be tried "in their own courts, and by their own people." It was the attempt to transport insurgents to Philadelphia for trial, a violation of this insistence on local justice, that brought about the march on Bethlehem.<sup>55</sup>

The flip side of these offers of assistance was an intolerance of dissent. Within the communities that resolved upon resistance, dissent was met with threats of violence, threats credible enough to make many local Federalists and quite a few tax assessors fear for their lives. Penn Township assessor Peter Zeiner resigned after being threatened by a party of fifteen to twenty men. He declared that he could not proceed "for fear of injury to his person or property." John Rodrock decided it was time to stop assessing Lower Milford when two insurgents mimed firing off a volley at him. In Upper Milford, assessor Christian Heckwelder's guide abandoned him, saying he dared not accompany Heckwelder any further, "that his neighbors would not permit it, and that he would be a dead man if he did it."<sup>56</sup>

In fact, no serious acts of violence took place during the course of the insurrection. Republicans, attempting to dismiss the episode with ridicule, noted that the only acts of violence had been committed by several women

who dumped hot water on assessors who crossed their thresholds uninvited. Though women did make such assaults in the first weeks of the resistance, the Republican attempt to feminize the insurgents was dishonest. Organized in a masculine sphere of public meetings, associations, and militia musters, the resistance was animated by the same spirit of "firmness" that Republican leaders had been lauding all summer and fall.<sup>57</sup>

The behavior John Fries and federal marshal William Nichols at Bethlehem is an example of the elaborate dance between firmness and honor. When Fries demanded the release of the prisoners, Nichols insisted that he could not simply yield. "I cannot give them up willingly," Nichols told Fries, "but if you take them by force, I cannot help it." Fries, correctly thinking he heard a deal offered, collected his men. He told them they must force their way up the stairs of the tavern to the room where the prisoners were being held. He warned that they must not hurt anyone unless the marshal's men fired upon them. If the Federalists should fire, Fries told his men, they should shoot back until the smoke blinded them. As they forced their way upstairs, Fries told the marshal that he could not guarantee the safety of Stephen Balliett, Jacob Eyerly, and William Henry, who were also at the tavern. The militia companies outside the tavern had pointed their guns every time these men appeared at the windows. This last threat gave the marshal a legitimate reason to let the prisoners go without the appearance of dishonorable capitulation.<sup>58</sup>

As this example illustrates, at every point in the resistance, the insurgents demonstrated their resolve to prevent the enforcement of the house tax, and they made it clear that the resort to violence was very much within their conception of manly resistance. The authorities charged with enforcing the law were almost exclusively composed of individuals of pacifist faith. These officials were particularly disinclined to test the insurgents' willingness to use violence. The insurgents fully understood this reluctance, and they closely calculated the minimum of force necessary to accomplish their purposes. Fries' dance with Nichols over the release of the prisoners was an example of that close calculation. Nichols was not a pacifist, but he was outnumbered and outgunned, a fact that Fries used to his advantage.

The resistance collapsed within weeks after the rescue of the prisoners on March 7. At a March 18 meeting, a committee of the inhabitants of the affected area advised the people to submit to the tax. The quick collapse of resistance allowed Republicans to claim later than the insurgents had never intended to rise in arms against their government. The insurgents' decision to submit, however, was based not on a surrender of principle, but on another close calculation. For months, the insurgents had contemplated the possibility that they would have to take up arms against a military force sent to enforce the house tax. The insurgents knew that they could not hold out against such a force for long, but they believed that they were part of a larger resis-

tance movement, one that included the radical Republicans of Virginia and Kentucky. Insurgents from Upper Milford and Macungie Townships discussed rumors that an army “would come from the backcountry to support them.” In Lower Milford Township, a mysterious letter encouraged the insurgents by promising them that George Washington would march to their aid with an army of 10,000 Virginians. Rumors of support from Virginia also reached Weissenberg and Macungie. The insurgents took these rumors seriously, and they began to collect money to send two of their leaders, Henry Jarrett and John Fogel, Jr., down to Virginia to investigate. This trip was postponed in late February because the insurgents believed that Congress would repeal the house tax, making further resistance unnecessary. Word that Congress had upheld the law reached them as they were marching on Bethlehem to release the prisoners. After the rescue, Jarrett and other insurgent leaders continued to urge resistance. In the week after the rescue, however, rumors of assistance evaporated and word arrived that President Adams had issued a proclamation that declared their communities in a state of insurrection and branded them as traitors. Faced with a choice between permitting the assessment and facing a national army on their own, the insurgents agreed to submit to the tax. Firmness was one thing. Collective martyrdom on the scaffold was another matter.<sup>59</sup>

### **“The Preservation of Order and Tranquility”: The Suppression of Fries’ Rebellion and the Redefinition of Popular Sovereignty**

When word of the rescue in Bethlehem reached Philadelphia, the *Gazette of the United States* immediately declared that the insurrection was connected with the French threat.<sup>60</sup> Federalists worked themselves into a renewed counter-subversive fever, declaring that the French plot about which they had been warning for a year was coming to a head. Within weeks, the *Gazette* was pushing the argument to the hilt:

We are driven from outrage, from insurrection to insurrection. . . . It is effecting but a partial purpose to put down the insurrection of a few counties, whilst a band of French mercenaries dispersed over the commonwealth are preparing an insurrection of the whole state, under the auspices of a thorough going French Revolution, who would soon league poor Pennsylvania with the land of slaves in her holy work of dismembering the union, and soon deliver us, bound hand and foot, to the dominion of the Directory.<sup>61</sup>

In New England, Jedediah Morse renewed his warnings that the Illuminati were spreading their influence throughout the nation. Federalist editor William Cobbett agreed that the unrest in Northampton was part of a larger scheme,

and warned darkly that the entire spirit of opposition confronting the Federalists must cease: "Merely to quell such an insurrection as this will answer but little purpose. It is a weed that has poisoned the soil; to crop off the stalk will only enable it to spring up again and send out a hundred shoots instead of one. It must be torn up by the root, the *principles of insurrection must be eradicated*, or anarchy must ensue."<sup>62</sup>

On April 4, over two weeks after the insurgents had agreed to submit to the tax, an army of 2000 men began its march through Bucks, Northampton, and Berks Counties. Many of the insurgents had already surrendered themselves and posted bail for their appearance in the United States District Court in Philadelphia. Nevertheless, over the course of two and a half weeks, the troops succeeded in capturing John Fries and dozens of other insurgents. The Federalists, however, intended to use the army to restore the honor of the government, as well as its authority. That second purpose lent an aggressiveness to the army's behavior. Soldiers turned the countryside upside down, searched dozens of homes in the middle of the night, and took it upon themselves to find and destroy every liberty pole in the affected area. When Jacob Schneider, printer of the Republican *Readinger Adler*, published a satire on the "Herculean adventures" of the soldiers of the Lancaster troop of light horse who cut down several liberty poles, members of the troop abducted him from his printing office and publicly whipped him. When William Duane complained of this assault in the Philadelphia *Aurora* on May 13, he too received a public beating from members of several troops of the light horse that had taken part in the Northampton campaign.<sup>63</sup>

The trials of the insurgents in April and May also provided the Federalists with an opportunity to elaborate on the connection between Fries and a broader conspiracy. John Fries was indicted for treason, and Federalist prosecutors Samuel Sitgreaves (the recently defeated Federalist Congressman from Northampton County) and William Rawle played up spurious evidence of a French connection. Depositions taken immediately after the release of the prisoners in Bethlehem describe three or four different bands of insurgents arriving in Bethlehem at different times. When the same witnesses testified six weeks later, their testimony was sufficiently altered that William Rawle was able to describe a parade into Bethlehem by a unified military force, adorned with "French" tricolor cockades and under the unified command of John Fries. Fries did indeed play a central role in Lower Milford Township and in the release of the prisoners at Bethlehem. However, this may have had less to do with his selection by the authorities as the "leader" of the insurrection than a passing comment he had made to one of the assessors. Fries' often warned of the threat of the house tax in the following terms: "If we let them go on, things would be as in France—we would be as poor as snakes." At the trial this expression was twisted into the declaration, "It shall be as it is in France!" Feder-

alists began referring to the insurrection in Northampton and Bucks Counties as Fries' Rebellion because Fries could be most easily portrayed as the pro-French subversive so central in the Federalist imagination.<sup>64</sup>

The trial also served as a forum in which another aspect of the Federalist ideology could play before a national audience. As previously noted, Federalists complained that the campaign of public opposition and criticism launched by Republicans in 1798 was an illegitimate usage of political speech. They argued that the only proper activity of the people in between elections was quiet obedience to the laws. At Fries' trial, Federalist Justice James Iredell attempted to write these tenets of Federalist political culture into law by arguing that treason began with public criticism. Treason in a republic, he argued, would never involve a direct assault on the Constitution. Rather, those bent on treason

go about their design by more insidious means; art will be used, and pains taken to promote a dislike to a certain law, this evil prejudice is encouraged until it becomes general among the people, and they become ripe for insurrection as in the present case. Nor would the evil cease with the destruction of one law: they may declare they mean to stop at one act, but having destroyed it, and finding their power above that of the government, is it not to be apprehended that they would destroy another, and another, and so on to any number they disapprove of.<sup>65</sup>

Iredell used this domino theory of opposition to argue that opposition to a single law, the house tax, was treason even in the absence of any intent to overthrow the federal government. Yet his charge described a slippery slope beginning with criticism and implied that even the constitutional opposition of Republican moderates was a species of treason.

John Fries and two other insurgents were convicted of treason and sentenced to be hanged. In May, 1800, President Adams granted them all full pardons. The ease with which Federalists portrayed John Fries as a pro-French subversive allied with the Republican Party proved embarrassing for Republicans in Pennsylvania and the nation, and they responded by backing away from the radicalism of 1798. Thomas Jefferson was one of the first Republicans to advise a retreat from radical principles and he did so in explicit response to events in Northampton County. Word of the resistance in Northampton County reached him in Philadelphia in mid-February. In a letter to Edmund Pendleton, Jefferson stepped back from his assertion the previous November that nullification was the "rightful remedy" to the Federalist assault on liberty: "In this state we fear the ill-designing may produce insurrection. Nothing could be so fatal. Anything like force would check the progress of public opinion and rally them around the government. This is not the kind

of opposition the American people will permit. But keep away from all show of force, and they will bear down the evil propensities of the government, by the constitutional means of election and petition."<sup>66</sup>

That statement marked the beginning of the end of the radical Republican discourse that had flourished in 1798.<sup>67</sup> Republicans sent no further petitions or remonstrances to Congress or to the state legislatures. They raised no more liberty poles. When Congress refused to repeal the Alien and Sedition Acts, Republicans made no formal or coordinated response. While falling silent on the issue of nullification, Republicans clearly repudiated the insurgents of Northampton and Bucks Counties and extolled the virtues of electoral opposition. William Duane had initially attempted to ridicule the entire episode as nothing more than a "hot water war" waged by the women of Northampton County. Once it became clear that ridicule would not suffice, Duane denounced the insurgents, arguing that "no Republican can justify the conduct of those people who resisted the Marshal. . . . It was highly reprehensible and ought to be punished." The editors of the Newark *Sentinel of Freedom* likewise exhorted their readers "in the name of all that can be estimable to freemen, never to suffer the hideous monster insurrection to rear its baneful head amongst you." The *New York Argus* noted that citizens had the right "not to resist the executive—but to complain, and to use every constitutional measure for redress."<sup>68</sup>

At a more popular level, Republicans continued to celebrate the anniversary of independence by toasting the militia as a bulwark against despotism and the abuses of a standing army, but these toasts sounded a new note. In Philadelphia, members of the city's militia legion drank to their company: "The Militia Legion of Philadelphia, may it be conspicuous for discipline and respect for the laws." The militia of Queen Anne's County, Maryland, drank to "Wholesome, Constitutional Laws, and strict obedience to them." In Bloomsfield, New Jersey, celebrants also lauded the militia: "We can rely on their patriotism, in protecting our constitution and laws, in preserving order and tranquillity among our citizens."<sup>69</sup>

When Federalists accelerated prosecutions under the Sedition Act in the spring of 1799, Republicans made no attempt to interfere. Despite the previous autumn's call for nullification and interposition, the Republican authorities of Virginia permitted James Callender's prosecution under the Sedition Act. Furthermore, Republicans in Pennsylvania actually advocated the use of the Sedition Act against John Fries and his fellow insurgents. Though prominent Republican attorney Alexander James Dallas defended Fries at his trial, that defense did not extend to the radical beliefs of the insurgents. At the trials, Dallas defended Fries by arguing that he should be prosecuted under the first section of the Sedition Act rather than under the law of treason. Though this defense was designed to save Fries' life, it flew in the face of earlier Repub-

lican protests in Virginia and Kentucky that the first section of the Sedition Act was just as profound a threat to liberty as the second. Dallas left no doubt that Fries should be punished. He described the march on Bethlehem as “a great unjustifiable riot—seditious in its origins, daring in its progress, and iniquitous in its effects.” All of the insurgents tried for treason received legal counsel from leading Republicans, but of the thirty insurgents prosecuted for conspiracy, obstruction, and rescue under the Sedition Act, only six received counsel. The others were left to throw themselves upon the mercy of the court, as were the four insurgents acquitted of treason but re-indicted on charges of sedition. In fact, the insurgents comprised the vast majority of those prosecuted under the Sedition Act before it expired in 1801.<sup>70</sup>

There were a few lingering traces of radicalism in the Republican discourse of 1799. The *Albany Register* continued in a radical vein through the spring, publishing Republican “creed” which asserted that a constitution “openly outraged” by the government was “no longer binding” on the people. The *Aurora* printed an “Address to the Germans of Cumberland County” which asserted that “If Congress should pass an unconstitutional law, the people are not bound to attend it at all, for in truth it is no law.” Nevertheless, a new moderation is evident in Republican discourse, even in the face of stepped up sedition prosecutions. Republicans replaced denunciations of the Alien and Sedition Acts and other Federalists usurpations with complaints about the disorderliness and abuses committed by the standing army. The *Baltimore American*, the *Richmond Examiner*, the *New London Bee*, and the *Albany Register* joined Duane’s *Aurora* in describing a series of depredations committed by members of the standing army and the naval forces throughout the summer of 1799. For example, a witness describing himself as “A Real Lover of Order” described acts of thuggery committed by crewmen of the naval vessels anchored in New York Harbor.<sup>71</sup>

Republicans also began to write an alternative narrative of the insurrection in Northampton County, a narrative that described the insurrection as yet another example of Federalist disorderliness. In April, a “Back County Farmer” wrote to the *Aurora* and charged that Jacob Eberly had stirred up the resistance in order to take revenge upon the constituents who had spurned his bid to win a seat in Congress. Three months later Duane responded to a public dispatch from Robert Liston, the British Minister to the United States, by denying that the incident had anything to do with nullifying any laws and declaring that those involved were, in any case, all Federalists. Duane’s narrative was reprinted in Republican papers around the country.<sup>72</sup>

In the same vein, the Republican establishment of Pennsylvania opened the 1799 gubernatorial campaign with repeated accusations that Federalist candidate James Ross had helped to foment the Whiskey Rebellion. Tench Coxe, a Republican State Committeeman, wrote a letter detailing the accusa-

tion, and William Duane printed the letter in the *Aurora* five times in the final weeks of the campaign. The language employed in this effort was striking for its wholesale adoption of the Federalist counter-subversive rhetoric of 1798: "Does any man love *peace*? Let him not vote then for a promoter of bloodshed. Does any man love *good government*? Let him not then vote for a promoter of opposition to the laws." On election day, Duane's summary of the campaign themes extolled Republican candidate Thomas McKean as an "Asserter of the Laws" while damning Ross as "A Fomenter of Western Insurrection."<sup>73</sup>

By the summer of 1799, Republicans around the nation were busy representing themselves as "lovers of order" and "asserters of the laws." The party that had presented itself since the mid-1790s as the "Friends of Liberty" now aspired at least in part to the mantle of the "Friends of Order," a mantle hitherto worn by their Federalist opponents.<sup>74</sup> Though many nineteenth-century historians considered the Kentucky Resolutions of 1799 and Madison's Report of 1800 to be a full vindication of the radical principles of 1798, these documents were in fact part of the overall trend toward moderation. The original Virginia Resolutions had been innovative only in their articulation of the state compact theory of the Constitution and in their mention of the duty of "interposition." The Report of 1800 gave both of these passages the most moderate interpretation possible. Madison suggested that the states were sovereign parties to the Constitution only as an expression of the "highest sovereign capacity" of their citizens. As for the proper means of interposition, Madison suggested that the state legislatures might petition Congress directly or through their representatives in the Senate. All of these remedies, Madison insisted, fell "strictly within the limits of the Constitution."<sup>75</sup>

The Kentucky Resolutions of 1799 also represented a partial repudiation of the resolutions of 1798. The legislature described the Alien and Sedition Acts as "palpable violations" of the Constitution, but refrained from declaring them "void and of no force." Furthermore, the resolutions of 1799 restored the sense of the language struck out by Breckinridge in 1798. They declared that "a nullification by those sovereignties [the states who formed the Constitution] of all unauthorized acts done under color of that instrument, is the rightful remedy." Thus the legislature in 1799 clearly described nullification as an exercise of the authority of the state government. Finally, the legislature announced that "this commonwealth . . . will bow to the laws of the Union." Though this statement of submission was rhetorically coupled with the protest that Kentucky would oppose "in the constitutional manner" all violations of the Constitution, the resolutions of 1799 marked Kentucky's abandonment of any pretense of resistance to the Alien and Sedition Acts.<sup>76</sup>

The political contest between Federalists and Republicans came to a head in February of 1801. The electoral deadlock between Jefferson and his

running mate Aaron Burr threw the Republican victory in the Presidential election into doubt. It fell to the House of Representatives, where Federalists would hold a majority until December of 1801, to choose the next president. With President Adams due to leave office in March, Republicans feared that Federalists would invoke a 1792 statute to swear the President pro-Tempore of the Senate into office as President during the interval. As ballot after ballot deadlocked in the House during the first weeks of February, Republicans confronted the possibility that Federalists would suspend Constitutional government so as to keep the executive branch in their own hands. Members of both parties began warning darkly that they would mobilize the state militias and decide the contest by force of arms.<sup>77</sup>

In the midst of this constitutional crisis, leading Republicans decided that they would in fact use force to ensure the election of a Republican president, and they took steps to prepare for that eventuality. In a letter drafted during the crisis, but sent only after it had passed, Governor Thomas McKean of Pennsylvania advised Thomas Jefferson that he had prepared to use the state militia, a force of 20,000 fully armed men, to arrest all Federalist members of Congress in Pennsylvania. James Monroe, Governor of Virginia, made preparations to use that state's militia to seize a federal arsenal in New London, Virginia. Jefferson himself indicated that the national leadership of the party had decided to resist any attempt to place a Federalist in office: "We thought it best to declare openly and firmly, one & all, that the day such an act passed, the middle states would arm, and that no such usurpation, even for a single day, should be submitted to."<sup>78</sup>

In the end, Federalists in the House relented and permitted Jefferson to take office peacefully. Jefferson allowed the Sedition Act to lapse into oblivion, and Republicans in Congress repealed the internal taxes of the 1790s, including the direct tax of 1798. Jefferson's decision to repudiate the radicalism of 1798 and pursue electoral victory proved to be based on an accurate assessment of the public mood. Nevertheless, the victory of the Republicans, who often styled themselves the "Friends of the People," marked the end of the Revolutionary vision of a sovereign people with the power to overrule their representatives. The stand taken by Republicans in March, 1801, together with their response to Fries' Rebellion, constituted their answer to the question of whether the people might resist the acts of a government of their own creation. In the end, the party answered in the negative. They determined that the people might resist only when their right to create the government through lawful elections had been abridged. In cases of usurpation by officials who had been lawfully elected by the people, the Republicans came to a moderate consensus that the people might defend their liberties and vindicate their sovereignty only by petitioning for redress and turning out the offenders in the next election. Though Democratic Republicans continued to insist that vigor-

ous public criticism was an essential part of republican political culture, their understanding of popular sovereignty no longer recognized the authority of the people to judge the acts of the government and to defend themselves directly against usurpation. By the beginning of the nineteenth century, the Republican understanding of popular sovereignty was much closer to that held by Federalists in 1798 than it was to that held by the revolutionary libertarians of Northampton County and the radical Republicans who had inspired them.

## Notes

1. "The Catastrophe, #9," *Aurora*, May 17, 1798.
2. Accounts of the crisis that portray the resolutions as rhetorical constructions designed for political ends include Lance Banning, *The Jeffersonian Persuasion: Evolution of a Party Ideology* (Ithaca: Cornell University Press, 1978); Richard Buel, Jr., *Securing the Revolution: Ideology in American Politics, 1789-1815* (Ithaca: Cornell University Press, 1972); Stanley Elkins and Eric McKittrick, *The Age of Federalism* (New York: Oxford University Press, 1993); Dumas Malone, *Jefferson and the Ordeal of Liberty* (Boston: Little, Brown, and Company, 1962); and James Morton Smith, "The Grass Roots Origins of the Kentucky Resolutions," *William and Mary Quarterly*, 3rd Ser., 27 (1970), 221-45. Accounts that portray the resolutions as radical expressions of a sectional defense of liberty include Richard R. Beeman, *The Old Dominion and the New Nation, 1788-1801* (Lexington: University Press of Kentucky, 1972); Adrienne Koch and Henry Ammon, "The Virginia and Kentucky Resolutions: An episode in Jefferson's and Madison's Defense of Civil Liberties," *William and Mary Quarterly*, 3rd Ser., 5 (1948), 145-76; and James Rodgers Sharp, *American Politics in the Early Republic: The New Nation in Crisis* (New Haven: Yale University Press, 1993).
3. Accounts that portray the insurgents as misguided include William Warts Hart Davis, *Fries Rebellion* (Doylestown, PA, 1899); Jane Shaffer Elsmere, "The Trials of John Fries," *Pennsylvania Magazine of History and Biography*, 103 (1979), 432-445; Dwight F. Henderson, "Treason, Sedition, and Fries' Rebellion," *American Journal of Legal History*, 14 (1970), 308-318; Peter Levine, "Fries Rebellion: Social Violence and the Politics of the New Nation," *Pennsylvania History*, 40 (1973), 240-258; and Russel B. Nye, *A Baker's Dozen: Thirteen Unusual Americans* (East Lansing, 1956). Accounts that focus on the particular ethnic variables involved in the conflict include Kenneth Keller, "Rural Politics and the Collapse of Pennsylvania Federalism," *Transactions of the American Philosophical Society*, LXXII, No. 6 (1982); Paul D. Newman, "The Fries Rebellion of 1799: Pennsylvania Germans, the Federalist Party, and American Political Culture" (Ph.D. Dissertation, University of Kentucky, 1996; revised version to be published by Penn State Press in 2000); and A. G. Roeber, "Citizens of Subjects? German Lutherans and the Federal Constitution in Pennsylvania, 1789-1800," *Amerikastudien/American Studies*, 34 (1989), 49-68.
4. Revolutionary libertarianism is an ideological legacy of the American Revolution that has animated a series of American insurrectionary movements. Revolutionary libertarian thought stresses an eternal battle between liberty and government usurpation, a conspiratorial view of unprecedented assertions of central government power, and a constitutional fundamentalist insistence on strict construction of the Constitution. Within revolutionary libertarian thought, however, even delegated powers may be regarded as illegitimate if they transgress the "higher constitutional" realm of the fundamental liberty of the individual. Revolutionary libertarianism combines this constitutional fundamentalism with a doctrine of popular nullification that authorizes the people to judge the constitutionality of laws and to resist all unconstitutional legislation. Finally, revolutionary libertarianism celebrates the formation of local armed associations patterned after eighteenth-century militias as legitimate institutions charged with the duty of resisting illegitimate laws and invasions of the community by agents of the state. See Robert H. Churchill, "The Highest and Holiest Duty of Freeman: Revolutionary Libertarianism in American History" (Ph.D. Dissertation, Rutgers University, forthcoming).
5. Elkins and McKittrick, *Age of Federalism*, 571-75.
6. Sharp, *American Politics in the Early Republic*, 167, 180-81.
7. The text of the acts is reprinted in *The Virginia Report of 1799-1800* (New York: Da Capo Press, 1970), 18-21.
8. "To the Patriotic Ladies of Lancaster, Pennsylvania, by Capt. Thomas Boude of the Lancaster Troop of Horse," *Porcupine's Gazette*, July 10, 1798. See also the Officers of the Militia of Sussex County, Delaware, to John Adams, and Adams' Reply, *ibid.*, June 25, 1798; "Americanus" to P. Johnson of Prince Edward County of Virginia, *ibid.*, December 13, 1798; "Congress", *ibid.*, December 4, 1798; and the Speech of George K. Taylor to the Virginia House of Delegates, December 21, 1798, *The Virginia Report of 1799-1800*, 131.
9. Alexander Addison's Charge to the Grand

- Jury, *Courier of New Hampshire*, February 2 and 9, 1799; and the Speech of George K. Taylor to the Virginia House of Delegates, December 21, 1798, *The Virginia Report of 1799-1800*, 132.
10. See, for example, the Charge to the Grand Jury delivered by Justice Iredell, April 11, 1799, in Thomas Carpenter, *The Two Trials of John Fries* (Philadelphia, 1800), 1 and 4; Debate on the Franklin County Petition, *Chambersburg Farmers' Register*, March 6, 1799; and the Address of the Freeholders of Prince Edward County and Timothy Pickering's reply of September 29, 1798, *Aurora*, November 6, 1798.
11. *Porcupine's Gazette*, September 13, 1798; and *Aurora*, May 9 and August 3, 1798. On "Black Cockade fever," see Simon P. Newman, *Parades and the Politics of the Street: Festive Culture in the Early American Republic* (Philadelphia: University of Pennsylvania Press, 1997), 161-63.
12. Buel, *Securing the Revolution*, 180. Cobbett is quoted in James Morton Smith, *Freedom's Fetters: The Alien and Sedition Laws and American Civil Liberties* (Ithaca, Cornell University Press, 1956), 101. On the diffusion of the Illuminati conspiracy theory, see Buel, 166-183. For an analysis of that compares Federalist counter-subversive ideology to Cold War pre-occupations with national security, see Paul D. Newman, "The Fries Rebellion of 1799," chapter 4.
13. My discussion of Whig ideology is based on Bernard Bailyn, *The Ideological Origins of the American Revolution* (Cambridge: Harvard University Press, 1967). On the American critique of internal taxation, see Thomas P. Slaughter, *The Whiskey Rebellion: Frontier Epilogue to the American Revolution* (New York: Oxford University Press, 1986), chapter 1. For an analysis of politics in the 1790s that stresses the continuing influence of Revolutionary ideology, see Banning, *The Jeffersonian Persuasion*.
14. *New London Bee*, July 18, 1798; "Queries from an Essex Dutchman" reprinted from the *Newark Sentinel of Freedom* in the *Aurora*, November 9, 1798; "From the *Vermont Gazette*," *Aurora*, July 31, 1798; and Resolutions of the Freeholders of Dinwiddie County, Virginia, *Aurora*, December 6, 1798.
15. Speech of Edward Livingston to the House of Representatives, delivered July 2, 1798, as quoted in the *Washington Herald of Liberty*, August 6, 1998.
16. Resolutions of the Citizens of Louisa County, Virginia, *Boston Independence Chronicle*, November 5, 1798; Resolutions of the Citizens of Mifflin County, Pennsylvania living north of Tussey's Mountain, *Aurora*, January 23, 1799; "The Catstrophe #9," *Aurora*, May 17, 1798; and Petition and Remonstrance of the Citizens and Inhabitants of Washington County, Pennsylvania, *Aurora*, December 11, 1798.
17. The most complete account of conspiratorial themes within Whig thought is in Bailyn, *Ideological Origins of the American Revolution*, 94-159.
18. Resolutions of the Citizens of the Second Battalion District of Amelia County, Virginia, *Newark Sentinel of Freedom*, October 2, 1798; Resolutions of the Citizens of Orange County, New York, *Boston Independent Chronicle*, December 10, 1798; and Address of the People of Orange County, Virginia, *Virginia Argus*, December 1, 1798.
19. *Newark Sentinel of Freedom*, December 18, 1798; and "Mr. Cooper's Address" reprinted in the *Aurora*, July 12, 1799. Major statements reflecting moderate Constitutional opposition include the Resolutions of the Citizens of Clark County, Kentucky, *Aurora*, September 2, 1798; Resolutions of the Inhabitants of Woodford County, Kentucky, *Boston Independent Chronicle*, October 4, 1798; Resolutions of the Citizens of Mason and the adjoining Counties, Kentucky, *ibid.*, October 22, 1798; Resolutions of a Town Meeting of Dracutt, Massachusetts, *ibid.*, March 14, 1799; Resolutions of the Inhabitants of Woodbridge Township, New Jersey, *New York Journal and Patriotic Register*, February 16, 1799; Address and Remonstrance of the Inhabitants of Essex County, New Jersey, *Newark Sentinel of Freedom*, January 29, 1799; Memorial of the Inhabitants of Queens County, New York, *Porcupine's Gazette*, February 9, 1799; Address and Petition of the Inhabitants of Fayette County, Pennsylvania, *Washington Herald of Liberty*, February 25, 1799; Petition and Remonstrance of the Inhabitants of Franklin County, Pennsylvania, *Chambersburg Farmers' Register*, January 9, 1799; Petition of the Inhabitants of Lancaster County, Pennsylvania, *Aurora*, March 6, 1799; Petition of the Inhabitants of Northampton County, Pennsylvania, *ibid.*, February 12, 1799; Petition and Remonstrance of the Citizens and Inhabitants of Washington County, Pennsylvania, *ibid.*, De-

ember 11, 1798; Petition of the Inhabitants of York County, Pennsylvania, *ibid.*, Jan. 22, 1799; Remonstrance of the Citizens of Albemarle County, Virginia, *Washington Herald of Liberty*, November 19, 1799; Resolutions of the Citizens of the Second Battalion District of Amelia County, Virginia, *Newark Sentinel of Freedom*, October 2, 1799; Resolutions of the Freeholders of Dinwiddie County, Virginia, *Aurora*, December 6, 1798; Resolutions of the Citizens of Goochland County, Virginia, *ibid.*, September 3, 1799; Resolutions of the Citizens of Louisa County, Virginia, *Boston Independent Chronicle*, November 5, 1799; Address of the People of Orange County, Virginia, *Virginia Argus*, October 12, 1798; and Address of the Freeholders of Prince Edward County, Virginia, *Aurora*, November 6, 1798.

20. Alexander Hamilton, *Federalist No. 78*, in Henry Cabot Lodge, *The Federalist: A Commentary of the Constitution* (New York: G. P. Putnam's sons, 1888), 484-486.

21. Memorial of the People of Essex County, Virginia, *Aurora*, December 7, 1798; and the editorial from the *Albany Register* reprinted in the *Boston Independent Chronicle*, February 25, 1798. See also the Resolutions of the Citizens of Buckingham County, Virginia, *Virginia Argus*, November 10, 1798; and the Address of the Citizens of Richmond, Virginia to John Clopton, esq., *Aurora*, August 20, 1798.

22. Speech of Edward Livingston to the House of Representatives, July 2, 1798, as quoted in the *Washington Herald of Liberty*, August 16, 1798.

23. Statements of radical Republican opposition include the Resolutions of the Citizens of Bourbon County, Kentucky, *Boston Independent Chronicle*, October 25, 1798; Resolutions of the Citizens of Fayette and the adjacent Counties, Kentucky, *ibid.*, October 4, 1798; Resolutions of the Seventh Regiment and Citizens of Madison County, Kentucky, *Aurora*, January 4, 1799; Resolutions of the Citizens of Orange County, New York, *Boston Independent Chronicle*, December 10, 1798; Resolutions of the Citizens of Mifflin County, Pennsylvania living North of Tussey's Mountain, *Aurora*, January 23, 1798; Resolutions of a Company of the Militia of Amelia County, Virginia, *Alexandria Times*, September 12, 1798; Resolutions of the Citizens of Buckingham County, Virginia, *Virginia Argus*, November 10, 1798; Memorial of the Free-

holders and other Inhabitants of Caroline County, Virginia, *Aurora*, November 27, 1798; Memorial of the People of Essex County, Virginia, *ibid.*, December 7, 1798; Resolutions of the People of Hanover County, Virginia, *Boston Independent Chronicle*, November 12, 1798; Resolutions of the Inhabitants of Powhatten County, Virginia, *ibid.*, October 29, 1798; Resolutions of the Inhabitants of Spotsylvania County, Virginia, *Aurora*, November 20, 1798; and the Address of the Citizens of Richmond, Virginia to John Clopton, esq., *ibid.*, August 20, 1798.

24. Address of the Citizens of Richmond, Virginia to John Clopton, esq., *Aurora*, August 20, 1798; Resolutions of a Company of the Militia of Amelia County, Virginia, *Alexandria Times*, September 12, 1798; and Resolutions of the Seventh Regiment and Citizens of Madison County, *Aurora*, January 4, 1799. See also "From the *Albany Register*," *ibid.*, November 27, 1798.

25. *Aurora*, July 6, 1798; and *Washington Herald of Liberty*, August 13, 1798. On the role of Independence Day festivity in national political culture in the 1790s, see Simon P. Newman, *Parades and the Politics of the Street*, chapter 3.

26. Speech of John Taylor to the Virginia House of Delegates, December 20, 1798, *The Virginia Report of 1799-1800*, 114.

27. Madison's Draft of the Virginia Resolutions, David B. Mattern, et al., eds., *The Papers of James Madison* (Charlottesville: University Press of Virginia, 1991) Volume 17:185-91.

28. The Virginia Resolutions of 1798, *The Virginia Report of 1799-1800*, 22; and The Report of 1800, *ibid.*, 231-232.

29. Jefferson's fair copy of the Kentucky Resolutions of 1798, *Papers of James Madison*, 17:179.

30. *Ibid.*, 177 and 181.

31. Smith, "Grass Roots Origins of the Kentucky," 328-40.

32. This narrative is based on the testimony contained in Thomas Carpenter, stenographer, *The Two Trials of John Fries* (Philadelphia, 1800), which published a transcript of the trials of the insurgents, and in MSC-536. The William Rawle Family Papers, Volume II, "Insurrections in Northampton County, Pennsylvania, 1798-1800," Historical Society of Pennsylvania, Philadelphia (hereafter Rawle Papers). This collection contains the depositions used

- by federal prosecutors to bring the insurgents to trial. See also Davis, *Fries Rebellion*; and Newman, "The Fries Rebellion of 1799."
33. James Morton Smith, *Freedom's Fetters*, chapters 11, 12, and 17.
34. The execution of the house tax was significantly delayed in Kentucky, and had not taken place when Fries and his neighbors marched on Bethlehem. See the *Kentucky Gazette*, March 7, 1799.
35. This discussion is based on more detailed descriptions of ethnocultural conflict in the affected counties found in the work of Kenneth Keller and Paul D. Newman. See especially Kenneth W. Keller, "Rural Politics and the Collapse of Pennsylvania Federalism," *Transactions of the American Philosophical Society*, Vol. 72, Part 6 (1982); and Paul D. Newman, "The Fries Rebellion of 1799."
36. Deposition of Philip Schlough, Rawle Papers, 79. See also the Deposition of Andrew Sleichter, *ibid.*, 41; Deposition of Duvalt Albrecht, *ibid.*, 64; and Deposition of John Wetzell, Jr., *ibid.*, 8. Paul D. Newman estimates that over a quarter of the insurgents were veterans of the Revolution. See Newman, "The Fries Rebellion of 1799," 183.
37. Indictment of Henry Engle, Henry Barnet, and Nicholas Fox, Northampton County, Court of Oyer and Terminer, October, 1790, MSC 2049, Tench Coxe Papers, Historical Society of Pennsylvania, Philadelphia PA. See also the "Letter to a legislator in Montgomery County from a Gentleman in Reading," *Aurora*, July 27, 1798; and the Deposition of Philip Kremer, Rawle Papers, 13. I am indebted to Owen S. Ireland for pointing out the longstanding complaints about tax collection in Pennsylvania.
38. Deposition of John Butz, Rawle Papers, 9; Deposition of John Fogel, Jr., *ibid.*, 10; Deposition of Samuel Miffler, *ibid.*, 6; Petition of the Inhabitants of York County, Pennsylvania, *Aurora*, January 22, 1799; and Petition of the Inhabitants of Lancaster County, Pennsylvania, *ibid.*, March 6, 1799. On Antifederalist objections to vesting the power of internal taxation in the federal government, see "The Address and Reasons for Dissent of the Minority of the Convention of Pennsylvania to their Constituents," Herbert J. Storing, ed., *The Complete Anti-Federalist* (Chicago: University of Chicago Press, 1981), 145-167; and Thomas P. Slaughter, "The Tax Man Cometh: Ideological Opposition to Internal Taxes, 1760-1790," *William and Mary Quarterly*, 3rd Ser., 41 (1984), 566-591.
39. Deposition of David Penrose, Rawle Papers, 39; Deposition of James Williamson, Assessor for Plainfield, *ibid.*, 78; Deposition of Philip Arndt, *ibid.*, 1; Trial Testimony of Marshal William Nichols, Carpenter, *Two Trials*, 38; and Deposition of Frederick Seiberling, Rawle Papers, 6.
40. Deposition of Michael Bobst, Rawle Papers, 58; Deposition of George Miller, *ibid.*, 4; Deposition of James Williamson, *ibid.*, 78; Deposition of Jacob Huber, *ibid.*, 88; and Testimony of Jacob Oswald, Carpenter, *Two Trials*, 186.
41. For Jonas Hartzell's influence, see the Depositions of John Jarrett and Peter Ripple, Rawle Papers, 62 and 80. On Blair McClenachan, see the Depositions of Henry Hunsicher and Henry Ohl, *ibid.*, 72 and 91. Abraham Horn's warnings are described third hand in the Deposition of Jacob Arndt, Jr., *ibid.*, 75, and in the *Gazette of the United States*, March 28, 1799.
42. Testimony of Cephas Childs, Carpenter, *Two Trials*, 76-77. See also the Deposition of James Williamson, Rawle Papers, 78.
43. Slaughter, *The Whiskey Rebellion*; and Alan Taylor, "Agrarian Independence: Northern Land Rioters After the Revolution," Alfred F. Young, ed., *Beyond the American Revolution: Explorations in the History of American Radicalism* (DeKalb: Northern Illinois University Press, 1993), 221-245.
44. According to local Federalists, the *Aurora* circulated widely in the area, and this newspaper reprinted almost all of the most radical Republican petitions and resolutions of 1798 and early 1799. In addition, the *Readinger Adler* translated Edward Livingston's speech on the Alien Friends Act and the declaration of the militia of Morris County, New Jersey. For a brief analysis of the *Adler's* editorial comment, see Paul D. Newman, "The Fries Rebellion of 1799," 162-63.
45. There is no evidence that the authorities credited Ohl and Fogel sufficiently to pursue charges against Brown or McClenachan. Ohl's claim is particularly suspect in that he seems not to have relayed McClenachan's advice to take up arms to those he told about the conversation. See the Depositions of Henry Ohl and Henry Hunsicher, Rawle Papers, 91 and 72. Fogel, on the other hand, did repeat his account, and it helped to shape the insurgents'

tactics. See the depositions of John Fogel, Jr. and Jacob Gorr, *ibid.*, 69 and 125.

46. Depositions of John Serfas, Rawle Papers, 11; Testimony of Jacob Oswald, Carpenter, *Two Trials*, 186; Deposition of John Williamson, Rawle Papers, 78; and Testimony of Jacob Eyerly, Carpenter, *Two Trials*, 49-50.

47. For constitutional arguments see the Examination of John Fries, Rawle Papers, 43 and the Deposition of John Serfas, *ibid.*, 11. For substantive discussions of the law, see the Deposition of John Fogel, Jr., *ibid.*, 69; the Deposition of Christian Heckwelder, *ibid.*, 68; and the Deposition of John Snyder, *ibid.*, 125. For statements arguing the legitimacy of resistance in defense of liberty, see the Deposition of John Klein, Sr., *ibid.*, 48; the Testimony of Cephas Childs, Carpenter, *Two Trials*, 76-77; and "Extract from a letter from Northampton," *Gazette of the United States*, March 28, 1799.

48. Deposition of James Williamson, Rawle Papers, 78; Deposition of David Penrose, *ibid.*, 39; Testimony of William Nichols, Carpenter, *Two Trials*, 37-38; and Deposition of Israel Roberts, Rawle Papers, 104. On this point I disagree with Paul D. Newman, who argues that "to assure the repeal of the odious legislation," the insurgents "designed to oppose an 'unconstitutional tax' by acting in accordance with, rather than in defiance of, the Constitution." See Newman, "The Fries Rebellion of 1799," 189.

49. Richard Alan Ryerson, *The Revolution is Now Begun: The Radical Committees of Philadelphia, 1765-1776* (Philadelphia: University of Pennsylvania Press, 1978), Chapter 6. In his recent work on Virginian political culture during the Revolution, Michael A. McDonald describes the establishment of similarly radical political norms among the militia companies established in Virginia in 1775. In Virginia, however, this revolution is political culture met with defeat at the hands of Virginia's plantation gentry. By the 1790s, Virginia political culture had returned to the deferential norms of the pre-Revolutionary period. See Michael A. McDonald, "Political Mobilization and Political Culture in Revolutionary Virginia: The Failure of the Minutemen and the Revolution from Below" *Journal of American History*, 85 (December, 1998), 946-981. On Virginia political culture in the 1790s, see Richard R. Beeman, *The Old Dominion and the New Nation, 1788-1801*, especially chapters

2 and 9.

50. Deposition of Daniel Weidner, Rawle papers, 39; and Deposition of John Moritz, *ibid.*, 56.

51. Testimony of Jacob Eyerly, Carpenter, *Two Trials*, 49-50. Contrast the Northampton petition with those from Lancaster and York Counties, which were written in much simpler language and laid heavy emphasis on the tax laws as grievances: Petition of the Inhabitants of Northampton County, Pennsylvania, *Aurora*, February 12, 1799; Petition of the Inhabitants of Lancaster County, Pennsylvania, *ibid.*, March 6, 1799.

52. Deposition of John Moritz, Rawle Papers, 56; Deposition of James Williamson, *ibid.*, 78; and Williamson's trial testimony in Carpenter, *Two Trials*, 187.

53. On the formation of associations, see the Deposition of Michael Bobst, Rawle Papers, 4; Deposition of Philip Stetler, *ibid.*, 6; Deposition of Samuel Miffler, *ibid.*, 6; Deposition of John Heninger, *ibid.*, 85; Deposition of Henry Strauss, *ibid.*, 15; Deposition of Duvalt Albrecht, *ibid.*, 64; and the Deposition of George Mitchell, *ibid.*, 102. I am indebted to Paul D. Newman for pointing out the distinction between these associations and the various petitions circulating the region. On militia companies, see the Deposition of James Chapman, *ibid.*, 27; Deposition of John Fogel, Jr., *ibid.*, 10; Deposition of Isaac Hartzell, *ibid.*, 32; Deposition of Frederick King, *ibid.*, 89; Deposition of Michael Bobst, *ibid.*, 58; Deposition of Alexander Benjamin, *ibid.*, 36; Deposition of George Ringer, *ibid.*, 5.

54. Deposition of James Williamson, Rawle Papers, 78; Examination of Valentine Brobst, *ibid.*, 84; and Testimony of John Jamison, Carpenter, *Two Trials*, 111.

55. Deposition of Michael Bobst, Rawle papers, 58; Testimony of Jacob Eberly, Carpenter, *Two Trials*, 50; Testimony of William Nichols, *ibid.*, 40.

56. Deposition of Peter Zeiner, Rawle Papers, 82; Deposition of John Rodrock, *ibid.*, 26; Deposition of George Lutz, *ibid.*, 7; and Deposition of Christian Heckwelder, *ibid.*, 68.

57. On women participating in the resistance, see the Testimony of John Romick and Isaac Schymer, Carpenter, *Two Trials*, 185-86. On Republican dismissals of the "Hot Water War," see the *Aurora*, March 12, 1799; and the *Washington Herald of Liberty*, April 15, 1799.

58. On the dance of Nichols and Fries, see the

Deposition of Philip Schlough, Rawle Papers, 79; and the Testimony of William Nichols, Philip Schlough, and Joseph Horsfield, Carpenter, *Two Trials*, 37-44.

59. On rumors of support, see the Depositions of Adam Wetzell, Rawle Papers, 64, and the Testimony of John Jamison and Israel Roberts, Carpenter, *Two Trials*, 111-113. On the planned trip to Virginia, see the Deposition of Michael Bobst, Rawle Papers, 58; and the Deposition of Jacob Gorr, *ibid.*, 125. For evidence of continuing resistance after the march on Bethlehem, see the Deposition of Frederick King, *ibid.*, 89; Deposition of David Okley, *ibid.*, Deposition of Michael Bobst, *ibid.*, 58; Deposition of Philip Steller, *ibid.*, 61; Memorandum of Christian Heckwelder, *ibid.*, 37; and Testimony of Richard Peters, Carpenter, *Two Trials*, 85; President Adams' proclamation was first printed in the *Gazette of the United States* on March 13, 1799.

60. *Gazette of the United States*, March 11, 1799.

61. *Ibid.*, April 26, 1799.

62. *Porcupine's Gazette*, March 30, 1798.

63. For an account of the army's behavior, see the *Aurora*, May 13, 16, and 24, 1799.

64. The depositions taken immediately after the rescue in Bethlehem document the very confused situation in Bethlehem on March 7, and indicate that the insurgents arrived in three or four distinct groups. See especially the Deposition of John Mulhaddon, Rawle Papers, 28; Deposition of Joseph Horsfield, *ibid.*, 18; Deposition of Isaac Hartzell, *ibid.*, 32; and the Deposition of Jacob Eyerly and Stephen Balliett, *American State Papers*, Class 10 (Miscellaneous), Vol. 1, 187. For the description of the insurgents as a unified force, see, the Testimony of William Henry, Carpenter, *Two Trials*, 25; and the Testimony of William Nichols, *ibid.*, 39. Jacob Eyerly testified that every man in Anthony Stahler's infantry company, wore French cockades, *ibid.*, 46. For John Fries' comment on France, compare the notes of the Testimony of Israel Roberts in the trial of Henry Shiffert, *et al.*, on charges of conspiracy, Rawle Papers, 105-09, with the Testimony of James Chapman in Fries' first trial, Carpenter, *Two Trials*, 70. For Rawle's summation of these points, see, *ibid.*, 152-56. Simon P. Newman argues that the insurgents' choice of tricolor cockades is evidence of strong pro-French leanings. I think it more likely these cockades were an assertion of the mas-

culine identity of firmness celebrated by Republicans in opposition to the cult of honor symbolized by the black cockade. See Newman, *Parades and the Politics of the Street*, 161.

65. Carpenter, *Two Trials*, 169.

66. TJ to Edmund Pendleton, February 14, 1799 in Paul Leicester Ford, ed., *The Writings of Thomas Jefferson* (New York: G. P. Putnam's Sons, 1896), Vol. 7:356.

67. Saul Cornell's discussion of the Alien and Sedition Act crisis is somewhat narrower in scope. He emphasizes the theories of state nullification embodied in the Virginia and Kentucky Resolutions and in the thought of John Taylor. He also notes the emergence of a more moderate Madisonian consensus after 1798. He argues, however, that this consensus unraveled in the 1820s, and that John Calhoun's vision of state nullification represents a revival of the more radical principles of 1798. See Saul Cornell, *The Other Founders: Anti-federalism and the Dissenting Tradition in America, 1783-1828* (Chapel Hill: University of North Carolina, 1999). I would argue that Cornell's description of plebeian anti-federalism conforms nicely to the model of revolutionary libertarianism offered here. However, Cornell understates the continuing influence of this more radical discourse after the suppression of the Whiskey Rebellion. I also disagree with the description of Calhoun's theory of states rights as resurrection of the principles of 1798. The radicalism of 1798 was informed by the idea that unconstitutional laws were void by their very nature, and that the people were thus free to disobey. Edward Livingston articulated this principle explicitly and it was at least implicit in Jefferson's Kentucky Resolutions of 1798. Calhoun's mechanism of state nullification relied on the authoritative pronouncement of a state convention to render a law void. It was thus more easily reconcilable with the theory of judicial nullification than it was with the theory of popular nullification that gave 1798 its radical edge. The discourse of popular nullification was briefly resurrected in 1863 by northern Democrats opposed to federal conscription.

68. The last liberty pole that I can find reference to was erected near Slaughterdam, NY on February 23, 1799. The petitioning campaign ended in February as well. For repudiations of the insurgents, see the *Aurora*, March 12 and 22, 1799; Newark *Sentinel of Freedom*,

May 7, 1799; "From N.Y. Argus," *ibid.*, July 9, 1799; and *Aurora*, May 17, 1799.

69. The Philadelphia and Queen Anne's toasts are reported in the *Aurora*, July 9, 1799. For the Bloomfield toasts, see the Newark *Sentinel of Freedom*, July 9, 1799.

70. On the acceleration of sedition prosecutions in 1799, see Smith, *Freedom's Fetters*, Part III. For Dallas's argument that the insurgents were guilty of Sedition, see Carpenter, *Two Trials*, 97. On the trials of other insurgents for conspiracy under the Sedition Act and their resolution, see Dwight Henderson, "Treason, Sedition, and Fries' Rebellion," and the Minute Books for 1796-99 and 1799-1800, Records of the United States District Court for Eastern Pennsylvania, RG 21, Microfilm Publication M987, National Archives and Record Administration, Philadelphia, Pennsylvania. For a Republican argument that the first section of the Sedition Act was just as dangerous as the second, see the Speech of William Daniel to the Virginia House of Delegates, December 19, 1798, *The Virginia Report of 1799-1800*, 93.

71. *Aurora*, April 18, 1799, *ibid.*, July 30, 1799. On depredations committed by members of the standing army, see *ibid.*, August 3, 1799 and April 29, 1800; and the New London *Bee*, June 19, July 10, and August 14, 1799, and April 2, 1800. The letter of "A Real

Lover of Order" was published in the *Bee* on August 14, 1799.

72. *Aurora*, March 25, April 5, and July 15, 1799. For other Republican papers that accepted Duane's narrative, see the New London *Bee*, January 8, 1800; and the Newark *Sentinel of Freedom*, September 23, 1800.

73. *Aurora*, September 2, 26, and 30, and October 8, 1799.

74. For an explanation of the 1790s as an ideological conflict between Friends of Liberty and Friends of Order, see Thomas P. Slaughter, "The Friends of Liberty, The Friends of Order, and the Whiskey Rebellion: A Historiographic Essay" in Steven R. Boyd, ed., *The Whiskey Rebellion: Past and Present Perspective* (Westport, CT: Greenwood Press, 1985), 9-30.

75. *The Virginia Report of 1799-1800*, 191 and 231-32.

76. The Kentucky Resolutions of 1799 were reprinted in the Washington *Herald of Liberty*, January 20, 1799.

77. My description of the episode is based on Sharp, *American Politics in the Early Republic*, 250-275.

78. *Ibid.*, 268-71. For Jefferson's account of Republican determination, see TJ to James Monroe, February 15, 1801, in Ford, ed., *Writings of Thomas Jefferson*, 7:490-91.