



HONORABLE DISOBEDIENCE

THE SEDITION ACT AND AMERICA'S PARTISAN MARTYRS

Crippled by the 1798 Sedition Act, it appeared as if the Republican press faced extinction. Yet a mere two years later, Thomas Jefferson captured the presidency, ushering in a thirty-year long period of Republican rule. In seeking to explain this reversal, Thomas Hopson '16 argues that Republican newspaper editors engaged in political combat, sacrificing themselves as political martyrs for their party's cause. Refusing to be restrained by the Sedition Act, these editors went as far as provoking their own prosecutions in order to both expose the Federalists' abuses of power and elicit the public's sympathy for the Republican Party.

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The first victim of the Sedition Act was a United States Congressman. Matthew Lyon, a Representative from Vermont, served four months in jail for criticizing President Adams in his semi-monthly newspaper, *The Scourge of Aristocracy*.¹ Due to this charge of “scurrilous, feigned, false, scandalous, seditious, and malicious” conduct, Lyon faced another burden: running his reelection campaign from a jail cell.² Through it all, Lyon remained confident. “[T]he friends of Liberty, sensibly feel the injustice and indignity done to me and themselves; they will be neither idle nor bashful at the next election.”³

The claim proved prescient. When the votes were counted, Lyon could proudly declare, “Whenever gaols and fines shall become the common reward of patriotism and virtue, they will cease to be a terror, [only] a sham [of] thieves and robbers.” He had won 65 percent of the vote, and as he left his “dismal prison,” a crowd of supporters followed him from Vermont to Philadelphia.⁴

Lyon’s experience mirrors larger patterns in the history of the Sedition Act. When a Federalist Congress first passed the law in July 1798, it drew broad public support and was virtually unopposed within the Adams administration.⁵ The Republican press also faced an internal crisis, a state of disarray in which the *Philadelphia Aurora*, stood “almost alone [as] a standard bearer for the political opposition.”⁶ Thomas Jefferson, a leading member of the Republican party, understood the paper’s weak position and feared that “if these papers fall, republicanism will be entirely browbeaten.”⁷ As Federalists continued to secure indictments under the Sedition Act—they secured fourteen in total, especially targeting all the most prominent Republican editors—it looked as if his worry might come to pass.⁸

The election of 1800 marked a turning point. It was a decisive victory for the Republicans, inaugurating a thirty-year period of Republican Party rule. As part of this turnaround, the Sedition Act, once a source of Federalist strength, had become a target of popular anger.⁹ Moreover, the Republican press, having struggled to survive, had emerged as the principal cause of the Republican revival. John Adams himself would later lament that “the Republican press generally was largely responsible for the ‘revolution’ wrought in 1800.”¹⁰

In studying this swift political reversal, historians have approached these questions from a variety of angles. A good deal of scholarship has focused on the national political disputes surrounding the Sedition Act and the Republican response. This literature, taken together, gives a thorough survey of the constitutional arguments at work in this period.¹¹ Another collection of scholarship has focused on the role of the press in early national America and yields considerable insight into the structure, coordination, and rhetoric of the Republican newspapers.¹² Historians have also analyzed the role of Republican printers through the lens of biography. Although these texts bring out the nuances of the individual sedition trials, their narrow scopes restrict their ability to describe a broader Republican strategy.¹³

The existing literature centers on a common narrative: between 1798-1800, a loosely coordinated Republican press emerged to challenge Federalist policy with a variety of constitutional arguments, allegations of administrative corruption, and hyperbolic satire. This standard view, how-

ever, insufficiently accounts for the ways in which the Sedition Act presented Republicans with a unique challenge. It also fails to illustrate the sophisticated political tactics employed by Republican journalists to reshape public opinion at this time.

Through their coverage of the Act, printers not only reported on public affairs, but also participated in politics themselves. Between the passage of the Sedition Act and the election of Thomas Jefferson, Republican printers deliberately provoked their own prosecutions, using their trials as platforms to expose Federalist abuses. They framed these experiences with a common rhetorical language, portraying and labeling themselves as martyrs to the cause of liberty. Moreover, printers took pride in inciting Federalist condemnation, interpreting such attention as evidence of their pure republican commitments. As such, by pairing this strategy of martyrdom with constitutional and satirical argument, they created a press strategy that proved successful and swayed popular opinion across the fledgling republic.

The foundations of this rhetoric were laid in 1798, when printers Benjamin Franklin Bache, John Daly Burk, and Matthew Lyon publicized their trials to defy Federalist prosecutors and elicit popular sympathy. The idea reached its fullest form during the Presidential campaign of 1800, when James Thomson Callender, William Duane, and Thomas Cooper deliberately provoked their own sedition proceedings to aid the Jeffersonian cause. By tracing a history of their public engagement, this paper hopes to further elucidate the period's political culture and methods of "political combat."¹⁴ It also suggests that Jefferson owed his presidency, at least in part, to America's partisan martyrs.¹⁵

To understand the political strategy of Republican printers, it is important to understand the role of the press in early national America. Pennsylvania Judge Alexander Addison once observed, "Give to any set of men the command of the press, and you give them the command of the country, for you give them the command of public opinion, which commands every thing."¹⁶ For a party to win elections, it first needed to influence the press.¹⁷

This explains the vitriolic nature of early inter-newspaper disputes. The Federal Gazette was not exaggerating when it declared a "Newspaper War!!" against a host of Republican papers, including the Aurora, the Recorder, the Bee, and the Oracle. Regarding the editor of the Aurora, the Gazette declared, "No sooner had this Chief of Anarchy given the signal for attack... than to work went all his Understrappers in the different parts of the United States."¹⁸ Partisan printers assumed the worst about their rivals, tending to accuse them of collusion or conspiracy.

In fact, Federalist printers had accused their rivals of "sedition" as early as 1792, equating opposition to the policies of the federal government with opposition to the government itself.¹⁹ Republicans, in turn, made light of these accusations. Between May and July 1798, the Aurora ran a series of advertisements by Daniel Isaac Eaton, a bookseller in London who boasted that he was "Six Times Tried for Sedition" in Europe. This advertisement, placed prominently in the premier Republican journal, reveals how its Republican audience understood the word "sedition."

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The writers and audience of the “papers of sedition” were not intimidated by Federalist accusations but instead took pride in them. To be accused of sedition was to draw the ire of tyrants, and only a true Republican could accomplish such a task.²⁰ This attitude underlay the appeal of what would eventually become the strategy of political martyrdom.

This conviction was tested when sedition became a federal crime. Amid fears of a war with France, Congress and the Adams administration passed the Alien and Sedition Acts in the summer of 1798.²¹ The text of the Sedition Act provided that if “any persons shall unlawfully combine or conspire together, with intent to oppose any measure or measures of the United States... they shall be deemed guilty of a high misdemeanor.” Another section of the law added clarity to this pronouncement, forbidding citizens to “write, print, utter, or publish... any false, scandalous, and malicious writing or writings against the government of the United States... with attempt to defame the said government” or bring it into “contempt or disrepute.”²²

When the *Aurora* first got wind of the Sedition Act, its response foreshadowed the general outline of the Republican strategy. By publishing the text of the law alongside the First Amendment, the paper implied that the Act violated not only the Constitution but also central republican values.²³ In response to the apparent hostility of the Sedition Act to the nation’s growing Irish population, the *Aurora* went so far as to suggest that Irish immigrants might need to look abroad for “a place where [their] love of liberty [would] not be deemed a crime.” Perhaps, one correspondent mused, they ought to “start a colony in Africa.”²⁴

Writers’ criticisms of the Sedition Act varied significantly in tone. Some, like in a 1798 issue of the *Time Piece*, were aggressive: “Tar and Feathers, to all those who attack the freedom of the press. May the man who first suggested the proposed sedition bill, be the only sufferer under it.”²⁵ Others assumed a lighter, more humorous style. One issue of the *Aurora* reported: “[T]here was a long and warm debate whether thinking could be called Sedition... Republicans you can think a little longer!!!”²⁶ This ability to poke fun at the Sedition Act is consistent with the Republican conviction that “sedition,” as the Federalist press used the term, was a badge of honor.

The first victim and Republican martyr of the sedition trials was Benjamin Bache, the editor of the *Aurora*. On June 16, 1798, the *Aurora* printed a classified state paper—a letter from the French Foreign Minister to an American diplomat—two days before Congress received a copy. The document was used to suggest that, contrary to the assertions of the Federalist press, France did not seek war with the United States.²⁷ Immediately after its publication, the *Gazette of the United States* accused Bache of conspiring with the French government. How else, it argued, could the editor have received such an important document?²⁸ Moreover, even after Bache was found innocent on this count, authorities soon charged him with the more abstract offense of “libeling the President & the Executive Government, in a manner tending to excite sedition, and opposition to the laws.” Because the Sedition Act was still making its way through Congress, this charge was brought under English common law.²⁹

Upon news of the upcoming trial, the *Aurora* was steadfast in its defense of Bache. The June

27 issue declared, “The Editor... pledges himself that prosecution, no more than persecution, shall cause him to abandon what he considers the cause of truth and republicanism, which he will support... while life remains.”³⁰ Subsequent issues of the newspaper would publish constitutional critiques of the sedition proceedings, with fellow Republican papers contributing to this effort.³¹

Bache added his distinctive voice to the fray with a popular pamphlet, *Truth will out!* In it, he wrote that “he [had] be honoured with a greater portion of persecution from the [Federalist] faction, than had before fallen to his share for all his labour.”³² This language illustrates how Bache, like Daniel Eaton, associated Federalist ire with effective opposition to tyranny. The paper’s rhetoric suggested that accusations of sedition should be viewed as marks of pride by Republican readers. The pamphlet also took a more direct swing at Bache’s opponents. Regarding two Federalist Congressmen, it declared, “If they have a sense of honor left, they will feel... their silence, while it deprives the Editor of plenary justice can only disgrace themselves.”³³

This language of honor tapped into the “politics of character” that shaped contemporary political discourse. In this regard, Freeman observes, “Dishonor a man, and you could destroy his political career; dishonor enough of your opponents, and you could topple their cause.”³⁴ By putting himself on the ‘high ground’ of honor, Bache implied that both the Federalists and their much-vaunted Sedition Act could not be trusted. Other Republican editors would emulate this tactic in the coming months, and this language of honor would soon be embedded in the rhetoric of political martyrdom.

The principal effect of the government’s prosecution of Bache was an increase in the influence of the *Aurora*.³⁵ Although Bache passed away before his trial, his image lived on as a symbol of resistance to Federalist rule. A column in the *Boston Chronicle*, published two months after Bache’s death, recounted an imaginary debate between the late editor and a prominent Federalist journalist, *Gazette of the United States* editor John Fenno. There, even beyond the grave, Bache could proudly declare, “[D]o you think that persecution was likely to stop the thoughts and pen of a free American?”³⁶

Memorial tributes to Bache portrayed him as a martyr. A November issue of the *Aurora*, now under the leadership of William Duane, included the following: “I mourn with you for the death of our good friend Bache—he was too good a man to be tortured with the Sedition Law—God saw it in that light, and took him to himself.”³⁷ Even though Bache’s death had nothing to do with his sedition trial—its true cause was yellow fever—it was nonetheless remembered as a sacrifice for republican ideas; in the view of the general public, Bache had died for the sake of political principle, consecrating the cause of Republican printers in the process.³⁸

John Daly Burk, the editor of the *New York Time Piece*, had a similar story. Accused of publishing “seditious and libelous” utterances against the President, Burk was formally tried for defamatory libel under the common law.³⁹ This time again, Republican papers took care of their own; just as the *Time Piece* wrote in favor of Bache, so too did the *Aurora* write in support of Burk. On July 10, 1798, the latter declared that the indictment was proof of how “Mr. Burk, ha[d] not lived in

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vain; he [was] dangerous to a few wicked partizans, who wish[ed] him put out of the way; but [wanted] the courage to meet him as a gentleman.”⁴⁰

Burk too issued a confident defense of his conduct. On July 17, he apologized that the liberty of the press “betray[ed] some vexation... but sincerely hope[d] that the prosecution of printers for libels will never put a stop to it.”⁴¹ The *Time Piece*, more so than its fellow Republican papers, also published thorough constitutional arguments on the sedition proceedings. Some of these arguments took up an entire broadsheet, an unusually large space among contemporary newspapers.⁴²

Whereas the *Aurora* benefited, at least rhetorically, from Bache’s prosecution, the sedition proceedings against Burk caused a major setback for the *Time Piece*. On July 16, the *Commercial Advertiser* reported that “[t]he two Editors of the *Time Piece*, it seems have had a squabble.” After Burk wrote a “most violent invective against the President,” his co-editor Dr. James Smith argued that it went “too far and would even work a forfeiture of their recognizance.” He did not want to publish such an aggressive piece, lest he face prosecution under the Sedition Law.⁴³ As such, on July 20, Smith published an advertisement in the *Time Piece* resigning his post and stating, “The subscribers to the *Time Piece* are desired not to pay... any sums of Money due for that paper beyond the 13th of June.”⁴⁴ Prompted largely by Smith’s departure, the *Time Piece* soon folded for financial reasons.⁴⁵

This intra-editor dispute reveals the presence of very real debate within Republican circles about how to best respond to the Sedition Act. The public relations strategy of Burke and Bache – not to mention those of Callender, Duane, and Cooper in 1800 – was controversial, and their messaging was much debated and carefully crafted in response to a sensitive political problem.

This debate had high stakes, as the odds for Republican papers were increasingly grim. By August 1798, an impartial observer might have argued that the Federalist strategy of sedition trials was succeeding. Bache was dead. Burk had fled arrest and was hiding in Virginia.⁴⁶ It appeared that the Federalist-leaning *New York Daily Advertiser* finally had grounds to “rejoice in the prospect of unanimity.”⁴⁷

The case of Congressman Matthew Lyon – the first printer to describe himself as a “martyr” – served to reverse Republican fortunes entirely, becoming an important moment in the formation of Republicans’ public relations strategy. Lyon was an Irish-born Republican who based his 1798 re-election campaign on attacking Adams’ use of executive power. After his conviction under the Sedition Act on October 9, the presiding judge endeavored to make an example of Lyon and sentenced him to four months in jail with a \$1000 fine. Because the Congressman failed to win a majority in the general election, he had to compete in a runoff from behind bars.⁴⁸

Lyon’s principal campaign organ was his self-run newspaper, *The Scourge of Aristocracy and the Repository of Political Truths*. Although the paper published its fair share of constitutional arguments against the Sedition Act, it also devoted considerable attention to characterizing Lyon as a martyr to the Republican cause. In one issue, Lyon describes how his jailer initially denied

him access to a pen and paper, threatening the Congressman with a “chain on the floor” should he protest. This lent additional weight to Lyon’s confession, “I never thought myself fit for a martyr, but I bear what they put upon me with a degree of cheerfulness, in hopes the people of the U. States will profit by the lesson.”⁴⁹ Two months later, he published a letter he received from Senator Steven Mason, which read, “every considerate man shudders at the danger with which civil liberty is threatened, and considers you as a martyr in its cause.”⁵⁰ These appear to be the first time that a Republican printer was explicitly labeled a martyr. The idea, however, would catch on quickly.⁵¹

Beyond the Scourge, other Republican papers leaped to Lyon’s defense. The Aurora declared that Lyon “had the honour of being the first victim” of the Sedition Law and added, “the ancients were wont to bestow particular honour on the first citizen who suffered in resisting tyranny.”⁵² The Aurora and the Virginia Argus also republished the details of Lyon’s trial, demonstrating how a Federalist judge manipulated the jury selection process to remove all Republican votes.⁵³

As a result of these efforts, Lyon won his reelection by a landslide, winning 4,476 votes over his opponent’s 2,444.⁵⁴ This was 994 votes more than Lyon had won in the general election, and most of them probably came from former Federalists.⁵⁵ It appeared, then, that Lyon’s rhetorical association with martyrdom was a grand success.

Nonetheless, Federalists persisted with the sedition trials. Some of these were local in scope. Whereas Bache and Lyon attracted Federalist attention for their influence on national politics, itinerant Republican organizer David Brown’s only offense was raising a liberty pole against the sedition law.⁵⁶ Many trials bordered on the frivolous. In November 1798, the Virginia Argus published the following tale:

President Adams was passing through this town, on his way to the eastward: Luther Baldwin happened to be coming towards John Burnet’s dram-shop: a person that was there said to Luther, there goes the President, and they are firing at his a--: Luther, a little merry, replies, that he did not care if they fired through his a--:.. For this he has fallen sacrifice thro’ the means of three of four tyrants of this town.⁵⁷

Although Baldwin can hardly be called an intellectual champion of Republicanism, the Argus still depicted him as a “sacrifice” to “tyrants.” Other Republican papers also took up the cause, warning “Beware of the Sedition Law!”, accusing Baldwin’s prosecutors of tyranny, and sarcastically concluding, “Here’s Liberty for you!” In this way, Baldwin’s story was told through the lens of rhetorical martyrdom.⁵⁸

The trial of Abijah Adams, the editor of the Independent Chronicle, is useful as a measure of the public mood. After his indictment for seditious libel, Adams followed in Burk’s footsteps by publishing four extensive defenses of his conduct.⁵⁹ Quite strikingly, Adams noted in his own work, “Few people... hesitate to admit that [my] prosecution may already have contributed to weaken the very cause it was expected to assist.”⁶⁰ Contemporary printers understood that the Sedition Act

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was failing at its mission; rather than promoting unanimity, it was providing ammunition against Federalist rule.

In describing the content of this ammunition, Charles Holt, the editor of the *New London Bee*, proved especially articulate. On April 12, 1800, Holt was sentenced to three-months in jail for violating the Sedition Act.⁶¹ Upon his release, he wrote the following column under the pseudonym Nathan Sleek: “Oh no good comes from those trials for sedition!; punishment only hardens printers, and pleases the fellows, for they come out of jail holding their heads higher than if they had never been persecuted. Finally, they assume the appearance of innocent men who have suffered wrongly.”⁶² Here, Holt speaks firsthand from his own experience participating in rhetorical martyrdom. Imprisonment changed the social status of Republican printers; it not only increased their reputations – as shown in the trials of Bache and Lyon – but also put them on a moral high ground. Their innocence awarded them additional credibility in critiquing Federalist policy.

Federalist writers and politicians were oblivious to this phenomenon. On March 12, 1800, the *Philadelphia Gazette* declared, “three Foreign Emissaries... under the Chief Juggler [Thomas Jefferson] have at length obtained the entire management of the Jacobin puppets [the Republican press].” They have divided the nation into three segments, with “Callender tak[ing] the southern, Duane the eastern, and the Cooper... the whole of the Jacobin interest in the western country.”⁶³ Implied in this report was a blueprint for a new Federalist strategy; as the election of 1800 drew closer, it became increasingly clear that Federalist leaders needed to silence these printers in order to maintain popular support and secure victory.

Callender, a contributor to the *Aurora* and an independent pamphleteer, posed the greatest threat by the writers to Federalist interests. Having made a name for himself with his *History of 1796* – which focused on Alexander Hamilton’s extramarital affair with Maria Reynolds in 1792 – he approached the Sedition Act with a confidence that bordered on arrogance.⁶⁴ In a letter to Duane, he suggested that the two deliberately prompt their own prosecutions:

Let us, by one grand effort, snatch our country from that bottomless vortex of corruption and perdition which yawn[s] before us. The more violence, the more prosecutions from the treasury, so much the better. Those of yourself and Cooper will be of service. You know the old ecclesiastical observation, that the blood of the martyrs was the seed of the church.⁶⁵

Here, the rhetoric of martyrdom is made explicit: The best way to combat Federalist “corruption” was to show people, through “more violence” and “more prosecutions,” the “blood of the martyrs.” Only then would one have the “seed of the church” – in other words, the foundations for Republican government and the electoral victory of Thomas Jefferson.

Michael Durey, a biographer of Callender, takes this argument a step further. He argues that Jefferson and Madison were the true masterminds of the plan, as shown by their correspondence on their need to fan “the flame of public opinion.”⁶⁶ Regardless of whether this is correct, it is clear

that either Callender or Jefferson drew inspiration from the experiences of earlier partisan martyrs. Bache and Lyon paved the way for the more deliberate rhetoric of Callender.

Ultimately, Callender was put on trial in June 1800 and sentenced to nine months in jail.⁶⁷ Behind bars, he maintained his criticisms of the Federalist establishment, charging that if his critics were to “print a volume per day against [him], they sh[ould] not hinder the publication of a single syllable, which [he thought] fit for the perusal of [his] fellow citizens.”⁶⁸ Like Lyon, he placed particular emphasis on the fact that he was imprisoned, dating most of his pieces from “Richmond Jail.”⁶⁹ He also took pride in being the focus of Federalist ire, “feared as [he was] hated by the robbers of the nation.”⁷⁰

While behind bars Callendar wrote a number of works and articles, including a sequel to his popular pamphlet, *The Prospect Before Us*. In addition to a brief constitutional argument against the Sedition Act, the *Prospect II* accused the Adams administration of fraud and “official blunder.”⁷¹ It also connected these debates to the “approaching election” with the hope that “public indignation shall overtake and overwhelm the [Federalists] in their race of infamy.”⁷² Hence Callendar’s writings in jail reveal how both he and other printers used the rhetoric of martyrdom, not only to attack the Sedition Act as a piece of legislation, but also to actively campaign for Thomas Jefferson.

William Duane, the new editor of the *Aurora*, followed closely in Bache’s footsteps. Arrested for seditious libel on July 30, 1799, he cleared his name, only to find himself indicted again in early 1800 for contempt of the Senate.⁷³ His specific offense was a criticism of the Senate’s Ross Bill, which proposed an overhaul of the Electoral College system and which the *Aurora* called a precursor to a Federalist coup d’état.⁷⁴

Unlike his fellow editors, Duane was tried not in a court but instead in front of a Senate panel. Moreover, although the Senate allowed him to have counsel, the body restricted the types of arguments the counsel could make. For example, Duane could not dispute the Senate’s jurisdiction, only the facts at hand.⁷⁵ In other words, there were only two arguments that could exonerate him: he had to either convince the Senate that the Act was corrupt or deny that he had control of the *Aurora*. Both tasks proved practically impossible to achieve and thereby rigged the trial against Duane from the outset.

As a result, when Duane invited Thomas Cooper and Alexander Dallas to serve as his counsel, they declined to participate.⁷⁶ Cooper, in fact, published his refusal to do so in the *Aurora*, causing a stir that was soon reprinted in other Republican newspapers. Writing, “I will not degrade myself by submitting to appear before the Senate with their gag in my mouth,” he disputed the very legitimacy and honor of the Federalist Congress.⁷⁷

To Duane’s contemporaries, it appeared that Cooper’s comment was not spontaneous. As the *Columbian Centinel*, a Federalist paper, reported, “It is very evident from the phraseology and sentiment of these epistles, [that] they were the effect of a preconcerted arrangement.”⁷⁸ Duane and Cooper staged the dispute over counsel in a conscious effect to draw attention to the sedition trial and the injustice of Federalist prosecution.

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As it happens, Duane and Cooper went so far as to coordinate their plans with the “Chief Jugler” himself, Thomas Jefferson. In a letter to Jefferson, Cooper recounts how he met with Duane and Dallas to discuss “the most expedient method of proceeding on [their] side,” including blunt discussion of the likely abusive Federalist response. Noting the possibility that “the request to be heard by Counsel should be refused,” Cooper added that this would be an ideal outcome.⁷⁹ Abuses would only lend more fodder to the rhetoric of martyrdom.

By the trial’s end, Duane had drastically elevated his notoriety and social status, marrying the widow of Benjamin Bache in June 1800, “an enormous step up socially for a man who had married his childhood sweetheart” back in Ireland.⁸⁰ This outcome further illustrates how opposing the federal government and participating in rhetorical martyrdom could improve one’s reputation within Republican circles. Rhetorical martyrdom not only benefited the Republican cause, but also individual Republicans.

Cooper, despite a similar boost to his reputation, did not fare quite as well. Arrested for seditious libel on April 9, he was sentenced to six months in prison on April 24.⁸¹ There, however, he had the opportunity to write *Cooper’s Trial*, an account of his proceedings explicitly designed to malign his Federalist prosecutors and the Sedition Act itself.

Reading *Cooper’s Trial*, it is clear that Cooper transformed his own experience into a show trial; with the full acknowledgement that he was bound to lose, he undertook measures designed to publicize his case. The best example of this was his attempt to subpoena President Adams. When this – predictably – failed, Cooper gained the opportunity to paint Adams as a tyrant in print, writing that he had “examined... the Constitution of the United States, to discover if any privilege of exemption from this [subpoena] process was given to the President by that Constitution [and] could find none.”⁸² Cooper’s work also adapted some elements of Callender’s rhetoric. Throughout *Cooper’s Trial*, he reminded readers of his imprisonment, dating his work from the “Prison of Philadelphia.”⁸³

During his sentence, rumors began to circulate that Adams might pardon Cooper. In turn, the editor rejected such a possibility in the *Aurora*, writing that he refused to serve as “the voluntary cats-paw of electioneering clemency.”⁸⁴ One year later and in a similar vein, Cooper would write that he had “the honour of being sentenced for exposing some few among the errors of a weak, a wicked, and a vindictive administration.”⁸⁵ These comments not only questioned the honor of the Adams administration, but also revealed Cooper’s attitude towards his imprisonment. The printer accepted his nine months in jail as a consequence of his principles and a weapon against Federalist tyranny. This willingness to stay in jail rather than aid the Federalist cause constituted one of the period’s most striking examples of rhetorical martyrdom.

By September of 1800, the national mood had shifted in favor of the Republicans, and it was clear that a newfound distrust of the Sedition Act was partly to blame. Justice Jeremiah Chase, a Federalist supporter of President Adams, attributed the surge in Republican popularity to three factors: the Alien and Sedition Acts, Adams’ support for a provisional army, and Adams’ alleged

monarchism.⁸⁶ After the election, both Adams and Jefferson attributed the outcome to the role of press.⁸⁷ Modern historians tend to agree with this diagnosis.⁸⁸ In this sense, it appears that the Republican press strategy – shaped in part by the rhetorical creation of martyrdom – was a grand success.

Looking back, it is worth asking why this language of martyrdom was effective – why did it appeal to a contemporary audience? The traditional idea of a martyr was one who chose death over renouncing their Christian faith, and a list of toasts in the *Hartford American Mercury* highlights the religious connotations of the term.⁸⁹ On July 4, 1800, one man toasted to “Thomas Cooper, the Northumberland martyr of liberty.” The next raised a glass to “Holt, Haswel, Callender... and all the republican printers throughout the Union – May they never become proselytes to that political heresy which makes it sinful to speak the truth.”⁹⁰ This use of the term ‘martyr’ analogized Christian faith to a republican concern for liberty, compared the Christians’ deaths to the printers’ imprisonment, and connected the Federalists’ illiberalism to “heresy,” the sin of turning against God. It is easy to imagine how a predominately Christian audience would have found that metaphor compelling.

The rhetoric of martyrdom also complemented the printers’ constitutional arguments. As Daniels observes, Republicans in this period had an odd relationship with the U.S. Constitution; although they were staunch critics of the federal system in the early 1790s, they embraced the First Amendment after the passage of the Sedition Act. This move towards “constitutional orthodoxy” was part of a broader appeal to “a more conservative public mood.” Faced with charges of Jacobinism, Republicans wanted to turn the tables on their Federalist accusers, charging them with holding dangerous, innovative ideas, such as supporting political repression.⁹¹

This explains, in part, the pairing of constitutional argument with rhetorical martyrdom.⁹² By labeling each other as martyrs, the Republicans cast themselves as defenders of an established institution. The rhetoric implied that whereas the printers had the practical ends of furthering republicanism and protecting the Constitution, the Federalists were merely confrontational. In this rhetorical framework, the Federalists were the party of opposition and therefore saddled with the burden of proof in justifying their cause.

That being said, the most important aspect of rhetorical martyrdom operated on a simpler, almost visceral level. By describing their tangible suffering under Federalist rule, the Republicans gave life to their more abstract constitutional arguments.⁹³ It was one thing to accuse Federalists of supporting tyrannical laws but another entirely to show the execution of those laws and how they were, in fact, tyrannical. As such, Republicans had an incentive, not only to document existing Federalist abuses, but also to prompt additional persecution, as Callender, Duane and Cooper did in 1800.

The rhetoric of martyrdom, like most elements of the Republican press strategy, lay at the intersection of philosophical-constitutional debate and more purely emotional appeals. It was not

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a stand-alone theory, capable of clear demarcation, but rather a more fluid language, interwoven with a variety of arguments and employed in a variety of contexts. Nonetheless, the rhetoric played an inextricable role in Republicans' broader strategy, shaping not only how the printers covered the trials, but also how they evaluated their own political roles. In this way, it appears that Jefferson owed his presidential victory, at least in part, to America's partisan martyrs.

NOTES

1. Lyon was indicted on October 5, 1798, four days after publishing his first issue of the *Scourge*. James Morton Smith argues that Lyon would have faced prosecution even if he had never published the newspaper, as some of his earlier comments were sufficient to justify his sentencing under the Sedition Act. James Morton Smith, *Freedom's Fetters: The Alien and Sedition Laws and American Civil Liberties* (Ithaca: Cornell University Press, 1956), 229.

2. "U.S. v. Lyon, certified copy of the official court record, compiled... by Jesse Gove," *Annals*, 16C, 2S (December 4, 1820), 478-485, quoted in Smith, *Freedom's Fetters*, 230; *Fairhaven Scourge of Aristocracy*, October 15, 1798.

3. Ibid.

4. *Pennsylvania Aurora General Advertiser*, February 8, 1799. For a description of this crowd, see Smith, *Freedom's Fetters*, 244.

5. Smith observes that John Marshall was the only prominent Federalist to oppose the Act. Smith, *Freedom's Fetters*, 155.

6. Marcus Daniel, *Scandal and Civility: Journalism and the Birth of American Democracy* (Oxford: Oxford University Press, 2009), 258. For more on disorder within the early Republican press, see Miller, *Crisis in Freedom*, 26-29; Pasley, *The Tyranny of Printers*, 106-109.

7. John C. Miller notes in *Crisis in Freedom* that "[b]esides Bache's *Aurora*, Greenleaf's *Argus*, and Adams's *Independent Chronicle*, there were few Republican newspapers with more than local influence" in 1798. Thomas Jefferson to James Madison, April 26, 1798; John C. Miller, *Crisis in Freedom: The Alien and Sedition Acts* (Boston: Little, Brown and Company, 1951), 29.

8. Smith, *Freedom's Fetters*, 185.

9. As Miller remarks, "[i]f the purpose of the Sedition Act had been to multiply Republican newspapers and to increase vastly their circulation, it could be accounted an unqualified success. In 1798, there were less than a score of Republican newspapers out of a total of two hundred; by 1800, there were at least fifty newspapers supporting Jefferson." Miller, *Crisis in Freedom*, 221-222.

10. John Adams to Benjamin Stoddert, March 31, 1801, quoted in Donald H. Stewart, *The Opposition Press of the Federalist Period* (Albany: State University of New York Press, 1969), 632.

11. The premier work on the Sedition Act is James Morton Smith's *Freedom's Fetters*. James Morton Smith, *Freedom's Fetters: The Alien and Sedition Laws and American Civil Liberties* (Ithaca: Cornell University Press, 1963). See also, John C. Miller, *Crisis in Freedom: The Alien and Sedition Acts* (Boston: Little, Brown and Company, 1951); Carol Sue Humphrey, *The Press of the Young Republic: 1783-1833* (Connecticut: Greenwood Press, 1996), 57-71; Phillip I. Blumberg, *Repressive Jurisprudence in the Early American Republic: The First Amendment and the Legacy of English Law* (New York: Cambridge University Press, 2010), 72-145; Joanne B. Freeman, "Explaining the Unexplainable: The Cultural Context of the Sedition Act," in *The Democratic Experiment: New Directions in American Political History*, ed. Meg Jacobs, William J. Novak, and Julian E. Zelizer (Princeton: Princeton University Press, 2009): 20-49. For general histories of this period, see Susan Dunn, *Jefferson's Second Revolution: The Election Crisis of 1800 and the Triumph of Republicanism* (Bos-

ton: Houghton Mifflin Company, 2004); John C. Miller, *The Federalist Era, 1789-1801* (New York: Harper, 1960).

12. The premier work in this category is Pasley, *Tyranny of Printers*. See also, Donald H. Stewart, *The Opposition Press of the Federalist Period* (Albany: State University of New York Press, 1969); Marcus Daniel, *Scandal and Civility: Journalism and the Birth of American Democracy* (Oxford: Oxford University Press, 2009), 3-18, 109-147, 231-286; Leonard W. Levy, *Freedom of Speech and the Press in Early American History: Legacy of Suppression* (New York: Harper and Row, Publishers: 1963): 258-309; David A. Wilson, *United Irishmen: Immigrant Radicals in the Early Republic* (Ithaca: Cornell University Press, 1998), 46-57; James P. Martin, "When Repression Is Democratic and Constitutional: The Federalist Theory of Representation and the Sedition Act of 1798," *University of Chicago Law Review* 66 (winter 1999): 117-182.

13. Michael Durey, "*With the Hammer of Truth*": *James Thomas Callender and America's Early National Heroes* (Charlottesville: University Press of Virginia, 1990); Kim Tousley Phillips, "William Duane, Revolutionary Editor" (doctoral dissertation, University of California, Berkeley, 1968); Dumas Malone, *The Public Life of Thomas Cooper, 1783-1839* (Columbia: University of South Carolina Press, 1961); Aleine Austin, *Matthew Lyon: "New Man" of the Democratic Revolution, 1749-1822* (Pennsylvania: Pennsylvania State University Press, 1981). For more on Cooper and other Philadelphia printers, see Michael Durey, *Transatlantic Radicals and the Early American Republic* (Lawrence: University Press of Kansas, 1997).

14. This phrase comes from Joanne Freeman's work on the "politics of character" and importance of honor in early national America. Freeman, "Explaining the Unexplainable," 23. For more on the politics of character, see Joanne B. Freeman, *Affairs of Honor: National Politics in the New Republic* (New Haven: Yale University Press, 2001); Marcus Daniel, *Scandal and Civility: Journalism and the Birth of American Democracy* (Oxford: Oxford University Press, 2009), 13. Contemporary views of honor played an important role in the strategy of rhetorical martyrdom; see fn. 42.

15. It should be said that both Smith and Stewart have referred to these printers as "martyrs." However, neither argues that their martyrdom was deliberate, suggests that it might have been coordinated, or explains why it might have been effective. Smith, *Freedom's Fetters*, 212; Stewart, *The Opposition Press*, 476.

16. *Columbian Centinel*, January 1, 1799.

17. On the importance of the press in this period, see Pasley, *Tyranny of Printers*, 7-13, 105; Miller, *Crisis in Freedom*, 56; Stewart, *The Opposition Press*, 13. For a history of partisanship in this period, see Richard Hofstadter, *The Idea of a Party System: The Rise of Legitimate Opposition in the United States* (Berkeley: University of California Press, 1969).

18. *Federal Gazette*, March 1, 1798.

19. On October 13, 1792, the *Federal Gazette* criticized those "who willfully or ignorantly misrepresent the design of a law and of those who framed it are busily at work to kindle sedition – when they deny facts that all the world may see with their eyes, and tell [people]... that are the laws of Congress are oppressive and ruinous... for their doctrines cannot be admitted without justifying the resistance of the laws." *Federal Gazette*, October 13, 1792. For another early example, see *Federal Gazette*, October 20, 1792.

20. *Aurora General Advertiser*, March 29, 1798; June 6, 1798; July 3, 1798; July 18, 1798; July 20, 1798.

21. On French-American relations, see Alexander DeConde, *The Quasi War: The Politics and Diplomacy of the Undeclared War with France, 1797-1801* (New York: Charles Scribner's Sons, 1966). On the relationship between foreign affairs and the Sedition Act, see Smith, *Freedom's Fetters*, 63,93.

22. For the full text of the acts, see Smith, *Freedom's Fetters*, 441-442.

23. *Aurora General Advertiser*, June 6, 1798.

24. *Ibid.*, June 8, 1798. In brief, Republican printers employed several kinds of constitutional arguments against the Sedition Act: They addressed the meanings of "speech" and "speaking" in the First

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Amendment; explained that “by the words ‘freedom of the press’ is meant a total exemption of the press from legislative control”; argued that a free press was “an attribute essential” to representative government; suggested parallels between the Sedition Act and British tyranny; and compared the Act to the French *Arrete*. *Ibid.*, December 7, 1798; *ibid.*, February 8, 1799; *Independent Chronicle*, January 7, 1799; *Time Piece*, August 8, 1798; *Aurora*, June 20, 1798. For more on Republican constitutional arguments, see fn. 13.

25. *Time Piece*, July 12, 1798. For other early emblematic pieces of satire on the Sedition Act, see *Aurora*, June 8, 1798; *Time Piece*, June 18, 1798; *Independent Chronicle*, June 18, 1798; *Time Piece*, June 20, 1798; *Time Piece*, July 11, 1798.

26. *Aurora General Advertiser*, June 18, 1798.

27. Smith, *Freedom's Fetters*, 193; *Aurora General Advertiser*, June 16, 1798.

28. *Gazette of the United States*, June 18, 1798 (quoted in Smith, *Freedom's Fetters*, 194).

29. Not surprisingly, Republican papers noted this distinctly English prosecution. *Aurora*, June 27, 1798.

30. *Aurora General Advertiser*, June 27, 1798.

31. *Aurora*, June 28, 1798; *Aurora*, July 3, 1798; *New York Argus*, July 6, 1798; *New York Gazette and General Advertiser*, July 6, 1798.

32. Benjamin Franklin Bache, *Truth will out: the foul charges of the Tories against the editor of the Aurora, repelled by positive proof and plain truth, and his base calumniators put to shame* (Unknown, 1798), 3.

33. *Ibid.*, 12.

34. Freeman, “Explaining the Unexplainable,” 23.

35. Miller observes that the spotlight benefited the finances of the *Aurora*. The paper had been losing money for a while, but the prosecution of Bache prompted some to pay back subscriptions to the newspaper. Miller, *Crisis in Freedom*, 96.

36. *Centinel of Liberty*, October 23, 1798 (republishing from the *Boston Chronicle*.) See also *Aurora*, November 1, 1798.

37. *Aurora*, November 9, 1798.

38. This memorial was reprinted in *The Farmer's Register*, November 21, 1798; *Herald of Liberty*, November 26, 1798; *Scourge of Aristocracy*, October 15, 1798. For more on the circumstances of Bache's death, see Smith, *Freedom's Fetters*, 203.

39. Burk was arrested on July 7, 1798. *Ibid.*, 211.

40. *Aurora*, July 10, 1798.

41. *Time Piece*, July 17, 1798.

42. *Time Piece*, July 13, 1798; July 23, 1798.

43. The *Commercial Advertiser*, a Federalist newspaper, elaborated on the squabble between Burk and Smith with some likely fanciful details. It wrote, “Burk on this called Smith a paltry old woman... [and] gnashed his teeth with rage.” In response, “Smith laid hold of a handful of types all covered with ink and threw them dab into Burk's face – Burk returned the compliment with the same ammunition.” *New York Commercial Advertiser*, July 16, 1798.

44. *Time Piece*, July 20, 1798.

45. Smith, *Freedom's Fetters*, 216.

46. *Ibid.*, 176.

47. *Scourge of Aristocracy*, October 15, 1798.

48. *Independent Chronicle*, October 17, 1798; *Aurora*, November 9, 1798; Smith, *Freedom's Fetters*, 226, 235.

49. *The Scourge of Aristocracy and the Repository of Political Truths*, October 15, 1798.

50. *Scourge of Aristocracy*, December 15, 1798.

51. A search in the *America's Historical Newspapers* database cross-listed the word “martyr” with the names of the major Republican printers, e.g. search text “Bache AND martyr.” Another search cross-listed the word “martyr” with the names of the major Republican newspapers, e.g. search text “*Aurora* AND martyr.” Neither produced any ‘matches’ before the above citations, fn. 55 and fn. 56.

52. *Aurora*, November 1, 1798.

53. *Aurora*, November 9, 1798; *Virginia Argus*, November 10, 1798.

54. Smith, *Freedom's Fetters*, 241.

55. The *Scourge* reports that Lyon won 3482 votes in the general election and “aristocratic” candidates shared another 3503. If the designation “aristocratic” candidates refers to Federalists – which is the best explanation for the use of the term – it means that Lyon won over a significant number of Federalist votes between the general election and the runoff. *Scourge of Aristocracy*, October 15, 1798.

56. Not surprisingly, it appears that Brown’s story drew less media attention than those of Bache and Lyon. *Columbia Centinel*, November 7, 1798; November 10, 1798 (quoted in Smith, *Freedom's Fetters*, 259-261).

57. *Virginia Argus*, November 1, 1798.

58. This account was reprinted verbatim in the following papers. In this way, it provides a clear example of the coordination between the Republican presses. The *Newark Centinel of Freedom*, November 6, 1798; *Aurora General Advertiser*, November 8, 1798; *Independent Chronicle*, November 12, 1798; *Stewart's Kentucky Herald*, December 11, 1798. The *Centinel of Freedom* ran another piece in support of Baldwin on December, 18, 1798.

59. *Independent Chronicle*, April 11, 1799; April 15, 1799; April 18, 1799; April 29, 1799.

60. *Independent Chronicle*, April 29, 1799.

61. Smith, *Freedom's Fetters*, 379-383. For more on Holt, see Pasley, *Tyranny of Printers*, 132-152.

62. *New London Bee*, September 3, 1800.

63. *Philadelphia Gazette*, March 12, 1800.

64. Durey, *With the Hammer of Truth*, 102.

65. James Thomson Callender to William Duane, April 27, 1800 (quoted in Durey, *With the Hammer of Truth*, 126.)

66. The two communicated these sentiments both to Callender and between each other. Durey, *With the Hammer of Truth*, 130.

67. Smith, *Freedom's Fetters*, 348, 358.

68. *Virginia Argus*, October 3, 1800.

69. *Ibid.*; James Thomson Callender, *The Prospect Before Us II* (Richmond: M. Jones; S. Pleasants; and T. Field, 1800).

70. *Virginia Argus*, October 3, 1800.

71. Callender, *The Prospect Before Us II*, 143-145, vi.

72. *Ibid.*, iv.

73. For an account of this arrest, see Phillips, *William Duane*, 81-83. For more on Duane’s trial, see Pasley, *Tyranny of Printers*, 176-195; Smith, *Freedom's Fetters*, 277-305.

74. Phillips describes this bill as follows: “The Constitution provided that the votes [for President] be counted by the Speaker of the House, but Senator James Ross of Pennsylvania proposed the substitution of a special committee [instead]... Its secret decision would be final... The committee would have six members, each from the Senate and the House, plus the Chief Justice of the Supreme Court.” The Federalists would have had a clear majority and the thought was that they could use to rig the election. *Ibid.*, 84-85. For more on the Ross Bill, see Dunn, *Jefferson's Second Revolution*, 171-174.

75. Duane’s strongest defense would have been that the Senate is not a judicial body and therefore

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was acting beyond its jurisdiction. Phillips, *William Duane*, 87.

76. William Duane to Thomas Jefferson, March 24, 1800; William Duane to Thomas Jefferson, March 27, 1800.

77. *Columbian Centinel*, April 5, 1800 (publishing from the *Aurora*); *Steward Kentucky Herald*, March 3, 1800.

78. *Columbian Centinel*, April 5, 1800.

79. Thomas Cooper to Thomas Jefferson, March 23, 1800.

80. Phillips, *William Duane*, 84.

81. Smith argues that Cooper's refusal to serve as Duane's counsel and comment regarding the "gag in [his] mouth" were the prime bases of this indictment. Smith, *Freedom's Fetters*, 316.

82. Malone argues that, "The effort to have the president subpoenaed the Federalists also regarded as a device to delay procedure." But this explanation is implausible. Cooper did not want to delay his trial, but to make it as public as possible for the sake of promoting the Jeffersonian cause. Thomas Cooper, *Account of the Trial of Thomas Cooper, of Northumberland: on a Charge of Libel Against the President of the United States* (Philadelphia: J. Bioren, 1800), 9. Malone, *Thomas Cooper*, 122.

83. *Ibid.*, Preface. He did the same in letters to the *Aurora*. See *Aurora*, May, 17, 1800.

84. Cooper added that he was also awaiting a "satisfactory acknowledgement from Mr. Adams of the impropriety of his conduct" towards Cooper and his friend, Dr. Joseph Priestly. *Aurora*, May, 17, 1800.

85. Thomas Cooper, *The Bankrupt Law of America, compared with the Bankrupt Law of England* (Philadelphia: John Thomson, 1801), v.

86. *Centinel of Liberty*, September 16, 1800.

87. See fn. 11. In a letter to James Monroe, Jefferson remarked that Duane's *Aurora* had "unquestionable effect in the revolution produced in the public mind, which arrested the rapid march of our government towards monarchy." Thomas Jefferson to James Monroe, October 19, 1823.

88. Stewart, *The Opposition Press*, 632; Miller, *Crisis in Freedom*, 221-222; Joyce Appleby, *Capitalism and a New Social Order: The Republican Vision of the 1790s* (New York: New York University Press, 1984, 78; Pasley, *Tyranny of Printers*, 105-106.

89. On the political significance of toasts in early national America, see Simon P. Newman, *Parades and the Politics of the Street: Festive Culture in the Early American Republic* (Pennsylvania: University of Pennsylvania Press, 1997), 29-33

90. *Hartford American Mercury*, July 17, 1800.

91. Daniel, *Scandal and Civility*, 255-257.

92. For pairings of constitutional argument with elements of rhetorical martyrdom, see fn. 33, 55, 56, 64, 78, 88.

93. For Republicans' sympathetic appeals within the rhetoric of martyrdom, see fn. 43, 55, 56, 63, 75, 82, 83, 88, 89.

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