

Chapter 36 -- The Federalist, John Adams, Becomes America's Second President

	<p>Dates: 1797</p>	<p>Sections:</p> <ul style="list-style-type: none"> • The Presidential Election Of 1796 • President John Adams: Personal Profile • Overview Of Adam's Term • Tensions Rise Between The United States And France • The "XYZ Affair" Provokes Open Conflict With France • Adams Unleashes Federal Power To Prevent A Feared Breakdown In Law And Order • The "Virginia Kentucky Resolutions" Assert Limits On Federal Powers • Adams Tries Again To Settle The Quasi-War With France • The Treaty of Mortefontaine Ends The Conflict For Now • Adams Packs The Courts & Picks John Marshall to Be Chief Justice
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Time: 1796

The Presidential Election Of 1796



With Washington retiring, the United States experiences its first genuine "race" for the presidency, in 1796.

The contest pits the Federalist Party against the Democratic-Republican Party, each promoting its own distinct philosophies about how the government should operate.

John Marshall (1755-1835)

Both parties hold caucuses to select the two candidates they hope to elect for President and Vice-President, even though the actual "electoral process" as yet fails to distinguish votes for one position versus the other.

When Washington endorses the sitting Vice-President, John Adams of Massachusetts, he becomes the Federalist nominee for the top job. The party then settles on Thomas Pinckney of South Carolina for the second slot.

Pinckney is educated abroad, a veteran of many Revolutionary War battles, member of his state legislature, and the successor to Adams as Minister to Great Britain. He is also favored over Adams by Alexander Hamilton, whose power among the Federalists is undiminished since his departure from the Treasury slot.

The opposition candidates are Thomas Jefferson of Virginia and Aaron Burr of New York. With Washington gone, they see the 1796 election as an opportunity to turn the country away from the Federalist vision for America. And they almost succeed.

The tone of the election becomes quite contentious. Foreign policy plays a large role during the campaign period, with Adams arguing that Jefferson's philosophy will lead to the kind of "mob rule" chaos being

played out in France. In response, Jefferson accuses Adams of favoring an English-style monarchy for America, citing his proposal in 1787 to refer to the President as “His Highness.”

Voting takes place between November 4 and December 7, 1796. While the popular turn-out more than doubles to 66,841, this is still only 1.5% of the total population of 4.6 million. When it comes to choosing “electors,” a total of 9 of the 16 states now rely, at least in part, on the public results.

Role Of Popular Voting In Choosing Presidential Electors

How Electors are Chosen	States
Exclusively by state legislators	Connecticut, Delaware, New Jersey, New York, Rhode Island, South Carolina, Vermont
Exclusively by popular voting	Georgia, Kentucky, Maryland, North Carolina, Pennsylvania, Virginia
Mix of popular and legislator voting	Massachusetts, New Hampshire, Tennessee

As president of the Senate, Adams himself has the duty of tallying the “elector’s” ballots and announcing the winner. Much to his relief, he finds that he has won – by a 71-68 margin in the College and by a slim margin in the popular voting.

Results Of The 1796 Presidential Election

Candidates	State	Party	Pop Vote	Tot EV	South	Border	North
John Adams	Mass	Federalist	35,726	71	2	10	59
Thomas Jefferson	Virginia	Dem-Republican	31,115	68	46	8	15
Thomas Pinckney	SC	Federalist		59			
Aaron Burr	NY	Dem-Republican		30			
Samuel Adams	Mass	Dem-Republican		15			
Oliver Ellsworth	Conn	Federalist		11			
Other Federalists				13			
Other Dem-Repub				9			
Total			66,841	276*			
Needed To Win				70			

Note: South (Virginia, N Carolina, S Carolina, Georgia), Border (Delaware, Maryland, Ky), North (NH, Mass, NY, NJ, Penn, RI, Conn, Vt)

Note: Total # electors = 138, each casting 2 votes = 276 total votes; must get more than half of 138 voters = 70.

The results reveal a sectional pattern that will persist over time – with large electoral majorities for the Federalists in the North and for the Democratic-Republicans in the South. Ironically Adams victory rides on support from two southern electors, one in Virginia and the other in North Carolina.

Jefferson congratulates his adversary and friend in a gracious letter:

May your administration be filled with glory and happiness to yourself and advantages to us... (I say this) as one who though, in the course of our voyage through life, various little incidents have happened or been contrived to separate us, retains for you the solid esteem of the moments when we were working for our independence, and sentiments of respect and affectionate attachment.

The Federalists also make strong gains in the people’s House, adding twelve new seats and stopping the long-run gains by their opponents -- and they win back control of the Senate.

Congressional Election Trends

House	1789	1791	1793	1795	1797
Democratic-Republicans	28	30	55	61	49
Federalist	37	39	50	45	57
Senate					
Democratic-Republicans	7	12	14	16	12
Federalist	19	17	16	14	20
	Wash	Wash	Wash	Wash	Adam
Congress #	1 st	2 nd	3 rd	4 th	5 th

The “pick-ups” by the Federalists extend across all sections, including the southern and border states.

House Trends By Region

Democratic-Republican	Total	South	Border	North
1795	61	33	7	21
1797	49	30	4	15
Change	(12)	(3)	(3)	(6)
Federalists				
1795	45	5	4	36
1797	57	8	7	42
	+12	+3	+3	+6

So Adams will go into office with apparently solid backing from the Fifth Congress.

Time: 1735-1836

President John Adams: Personal Profile



John Adams (1735-1826)

As Jefferson points out, John Adams has come to the presidency after many years of struggle and personal sacrifices on behalf of the United States.

His roots are humble, the first born son of a modest farmer and shoemaker in Braintree, Massachusetts.

He is a good student and earns a scholarship to attend Harvard College. His father wishes him to become a minister, but he is uncomfortable with the “pretended sanctity” of the clergy, and eventually switches from being a traditional New England Congregationalist to a much less conventional Unitarian.

After a short stint in teaching, Adams settles on a legal career, earning a master’s degree at Harvard and reading law as an apprentice. In 1758, aged 23, he opens an office in Boston. Three years pass before he

wins his first case but from there his practice flourishes

His distinct personal traits are evident from early on. His logic is pristine and he retains remarkable objectivity about issues that come his way. Once his mind is made up, he is unshakeable in getting others to follow suit. He is intensely loyal, ambitious, hardworking, and frugal. His spirits vary from upbeat and humorous to melancholy and bitter. While capable of great warmth, his tendency to speak bluntly and honestly limits close friendships.

But he is blessed with one unwavering friendship in his wife, Abigail, whom he marries in 1764 and remains by his side for the next 54 years. She is a remarkable figure in her own right, intelligent, witty, an astute judge of political matters, and the one who holds farm and family together when duty calls her husband away.

Adams is first drawn into politics by the British Stamp Act of 1765. He sees the act as a violation of his rights as an Englishman, a principle captured best by another Boston lawyer, James Otis, Jr. --“taxation without representation is tyranny.”

As the conflict grows around Boston, Adams the lawyer is compelled to stand up for another principle, this time involving “due process.” His clients are eight British soldiers, charged with killing five civilians and wounding seven others on March 5, 1770, during the “Boston Massacre.” He puts forth a compelling defense, arguing that the soldiers were forced to defend themselves against a mob action threatening their lives. He wins the case and is widely vilified. But for Adams, the law is the law.

Facts are stubborn things, and whatever may be our wishes, our inclinations, or the dictums of our passions, they cannot alter the state of facts and evidence.

After the trial, he is soon back into the political struggle with Britain.

He is elected to the Massachusetts Assembly in 1770, and subsequently serves as a delegate to both the First and Second Continental Congresses. When the 1775 fighting breaks out, he nominates George Washington to act as Commander-in-Chief of the army. He is selected by the Convention to serve on the Committee of Five and draft a Declaration of Independence. He calls upon Jefferson to lead the group, who asks “why.” In characteristically direct fashion, Adams responds:

*Reason first: you are a Virginian and a Virginian ought to appear at the head of this business.
Reason second: I am obnoxious, suspected and unpopular. You are very much otherwise. Reason third: You can write ten times better than I can.*

During the Revolutionary War, Adams serves on some 70 different committees, most notably as head of the Board of War and Ordnance, charged with trying to provide the troops with adequate supplies. His younger brother, Elihu, dies of dysentery while serving.

In 1778 he begins a ten year tour of duty as roving ambassador in Europe, which will include five straight years without seeing Abigail. He suffers greatly during this period, racked by frequent loneliness, despair and even illness. But on February 6, 1778 his efforts are rewarded when he joins Franklin in signing the Amity Treaty with France that brings them into the war on the American side, and leads to the 1781 victory at Yorktown.

In 1782 he negotiates a critical loan from the Netherlands to avoid American bankruptcy, and in 1783, along with Franklin and John Jay he meets with a British delegation from King George III to sign the Treaty of Paris, officially ending the Revolutionary War.

Ben Franklin captures two sides of his long-term colleague:

He means well for his country, is always an honest man, often a wise one, but sometimes, and in some things, absolutely out of his senses.

His experiences abroad have left him with firm convictions about government and the presidency.

The greatest dangers to any polity comes from unbridled democracy and an unrestrained aristocracy capable of becoming an oligarchy. The antidote to these dangers is a strong executive.

He regards the Executive as the “father and protector” of the nation and of all its citizens, the one man able to act in an independent and disinterested manner on all issues.

His views are those of the Federalists writ large, and Washington selects him to run on the 1788 ticket. He is chosen by 34 of the 69 electors, far ahead of all other contenders for the second slot.

While the President largely relies on Alexander Hamilton rather than Adams for advice, he serves faithfully as Vice-President from 1789-97 and, over that period, casts 31 tie-breaking votes as head of the Senate in favor of Washington’s policies.

When the 1796 election rolls around, Adams feels like he is “next in line,” but also under-appreciated within the political arena. The spotlight in Paris has fallen on Franklin, not on him. Washington seems to favor Hamilton, although the Treasury Secretary has now resigned due to his marital scandal. Adams also knows that his basic temperament is not well suited for politics. He is forever outspoken and often prickly. Those who basically like him, such as Jefferson, often do so grudgingly.

In light of all this, he is delighted when the President endorses him to lead the country and also openly praises his son, John Quincy, who has served as minister to Holland, Portugal and Prussia since 1793.

In 1797 John Adams begins his time in office. It will be a challenging time, and he will forever rank it as less valuable to America than his efforts to win independence.

Time: March 4, 1797- March 4, 1801

Overview Of Adam’s Term

John Adams arrives at his inauguration as the short, somewhat portly, modestly dressed man walking between two tall and elegantly attired Virginian planters, Washington and Jefferson. But his opening address is forceful and it lays out the central issue that will occupy his entire time in office – navigating toward neutrality and peaceful relations with both France and Britain as they again battle for worldwide supremacy.

This task involves political intrigue not only abroad, but also at home, because his Federalist Party, especially Alexander Hamilton, is strongly aligned with the British cause, while the Democratic-Republicans, and notably his Vice-President, Jefferson, favor France.

Adams' first decision in office is fateful and will come back to haunt him. He chooses to retain Washington's entire cabinet, most of whom will prove more loyal to Hamilton than to him. His rationale goes as follows:

Washington had appointed them, and I knew it would turn the world upside down if I removed any of them.

Secretary of State Pickering is a military man, who fought alongside Washington and has previously served as Postmaster General and Secretary of War. He is a particularly strong personality, and thoroughly on the side of England – “the world's last hope: Britain's fast anchored isle” – against the French. His views on this are shared by both Treasury Secretary Wolcott and the Secretary of War, ex-surgeon James McHenry, a signer of the 1787 Constitution.

Adams finds only one true supporter for his policy of strict neutrality, and that is Benjamin Stoddert, who joins the cabinet in 1798, after Adams acts to create a formidable U.S. Navy. Unlike the others, Stoddert will actually try to convert the President's policies into their intended outcomes.

John Adams Cabinet

Position	Name	Home State
Vice-President	Thomas Jefferson	Virginia
Secretary of State	Timothy Pickering	Massachusetts
Secretary of Treasury	Oliver Wolcott, Jr.	Connecticut
Secretary of War	James McHenry	Maryland
Secretary of the Navy	Benjamin Stoddert	Maryland
Attorney General	Charles Lee	Virginia

John Adams entire presidency will be dominated by U.S. relations with France, and the effort to avoid war with America's former ally. To do so, he must deal internationally with the likes of the devious and corrupt foreign minister, Prince de Talleyrand, and his master, Napoleon Bonaparte, positioning himself to conquer the world.

As punishment for the 1794 Amity Treaty with Britain, the French begin to intercept American merchant ships on the high seas, seize their cargo and “impress” captured sailors. Over time some 300 vessels fall victim to this form of piracy.

Adams responds by sending peace commissioners to Paris, where they are rebuffed, and by materially upgrading his military strength at home, which is viewed as needlessly provocative to his Democratic-Republican critics.

When homeland criticism mounts, the President responds with a series of highly divisive “law and order” measures (The Alien And Sedition Acts) that clearly bend, if not break, several guarantees in the five year old Bill of Rights.

The drums of war intensify into 1798, with Adams actually luring George Washington out of retirement to create a standing army capable of combatting a French invasion.

By 1799, however, Napoleon suddenly turns his focus away from the American conflict for the time being, and toward an invasion of Britain. This shift leads to the Treaty of Mortefontaine which ends the “Quasi-War” with France.

In response, the American economy, which has dipped in 1797-98, begins a slow rebound as greater safety is restored to international trade.

Economic Growth During Adams' Term

	1796	1797	1798	1799	1800
Total GDP (\$MM)	417	409	413	442	480
Per Capita GDP	89	84	83	86	91
% Change	6%	(6%)	(1%)	4%	6%

Adams has achieved the neutrality sought, albeit paying a high price in domestic politics along the way.

John Adams' Presidency: Key Events

1797	French attack US ships; congress funds 10,000 militia in case of war
March 4	Adams and Jefferson are sworn in
May 10	The first ship in the new US Navy, the <i>United States</i> , is launched
May 31	With relations eroding, Adams names three emissaries to visit France
June 1	Sec of State Pickering reports that 300 US ships have been seized by France
June 24	Congress approves an 80,000 man militia in case of war with France
September 7	The <i>USS Constellation</i> joins the Navy fleet
October 18	In the XYZ Affair, Talleyrand demands a bribe to negotiate with the US envoys
October 21	The <i>USS Constitution</i> ("Old Ironsides") is launched
1798	
January 8	The 11 th Amendment becomes law
January 17	John Marshall formally rejects the proposed French bribes in the XYZ Affair
April 3	Adams releases the XYZ correspondence to Congress for its scrutiny
April 7	The Mississippi Territory is created by Congress (Alabama + Mississippi area)
May 3	The Department of the Navy is officially begun; Stoddert to head it.
May 28	Congress authorizes naval action against French ships interfering with commerce
June 18	Congress passes the first Alien and Sedition Act, silencing criticism of government
June 25	The Alien Act authorizes deportation of any non-citizen deemed dangerous
July 2	Adams appoints George Washington to head an army vs. a French invasion
July 11	A fourth Sedition Act prohibits "any false and malicious writing" about government
July 11	The US Marine Corps is founded
September 12	Ben Franklin's grandson, Ben Bache, is imprisoned for Anti-Federalist editorials
November 16	Jefferson's "Kentucky Resolutions" oppose violations of Bill of Rights guarantees
November 20	The French seize the American schooner <i>Retaliation</i> in the Caribbean
December 24	Madison's "Virginia Resolution" also oppose the Alien and Sedition crackdown
1799	
February 9	The <i>USS Constellation</i> captures the French frigate <i>l'Insurgente</i> in the Caribbean
February 18	To the dismay of Hamilton and the hardliners, Adams signals wish to talk with France
March 29	New York passes a "gradual emancipation" statute
November 10	In a coup against The Director, Napoleon rules France as First Counsel
December 14	George Washington dies suddenly at Mt. Vernon
1800	
January 2	Free blacks in Philadelphia petition Congress to rescind the Fugitive Slave Act
February 1	The <i>USS Constellation</i> battles <i>LaVengeance</i> in the Caribbean
March 8	Napoleon officially receives the US envoys seeking negotiations to restore peace
April 24	The Library of Congress is begun
May 10	Congress passes the Harrison Land Act, allowing smaller 320 acre parcels for sale
May 12	Adams sacks Sec of State, Thomas Pickering, for colluding against him with Hamilton

June	The Government officially transfers from Philadelphia to Washington, DC
June 14	Napoleon scores a major victory over Austria at the Battle of Marengo
August 31	A slave rebellion plot, planned by Gabriel Prosser, is foiled near Richmond, Va.
September 30	The Treaty of Mortefontaine ends the “Quasi-War” with France
October 1	Napoleon signs the secret Treaty of Ildefonso whereby Spain returns Louisiana to France
December 3	Voting takes place in the presidential election of 1800
1801	
January 27	Adams’ choice for Chief Justice, John Marshall, is approved by the lame-duck Senate
February 11	Electoral College votes show that Jefferson and Aaron Burr are tied for the Presidency
February 17	Hamilton breaks the deadlock in favor of Jefferson, whom he calls “the lesser evil”
February 27	The Judiciary Act defines the structure of the Supreme Court and other federal courts
March 3	Adams attempts to pack the court with Federalist judges, leading to the <i>Marbury</i> case

Summer 1797

Tensions Rise Between The United States And France

France is very upset by John Jay’s 1794 Amity Treaty with Britain. They regard it as a direct betrayal of the 1778 Treaty that Adams himself, along with Franklin, signed in Paris – which led to the crucial French role in the Battle of Yorktown and America’s independence. Adams had promised that America would provide military support to France in case of a future war with Britain, and now it is backing out.

To signal displeasure, France threatens the United States militarily and economically by seizing its merchant ships on their way to and from Europe.

As these violations of international trade accelerate, President Adams responds with “a carrot and a stick.”

He announces these in a carefully worded speech to Congress on May 16, 1797. The “carrot” to France will be a ministerial commission seeking peace; the “stick” will lie in a build-up of America’s military might.

While we are endeavoring to adjust all our differences with France by amicable negotiation, with the progress of the war in Europe, the depredations on our commerce, the personal injuries to our citizens, and the general complexion of our affairs, render it my duty to recommend your consideration of effectual measures of defense.

The pro-British Federalists, including Washington and Hamilton, are delighted by Adams’ response. Both men are alarmed by the chaotic Reign of Terror and intent on suppressing any similar breakdown at home.

On the other hand, Jefferson and the Democratic-Republicans, roundly criticize Adams, claiming that the buildup of America’s military will only boost the odds of French belligerence

Adams is undeterred by the opposition, and turns his attention to naming the negotiators he will send to Paris.

His first choice is James Madison, and he asks his Vice-President, Jefferson, to convince Madison to accept his request. When Madison refuses, Adams holds it against Jefferson for what he regards as

allowing party politics to get in the way of the national interest. Adams distances himself from Jefferson, who reacts with a bitter letter to a political friend in France.

Mr. Adams is vain, irritable, stubborn, endowed with excessive self-love, and still suffers pique at the preference accorded Franklin over him in Paris.

With Madison out of the picture, Adams selects a three man delegation to meet with the French. One is the current Minister To France, Charles Cotesworth Pinckney, named to his post by Washington in 1796. He will be joined by Elbridge Gerry, like Pinckney a former delegate to the 1787 Constitutional Convention, and John Marshall, a Revolutionary War veteran and lawyer, and a lifelong antagonist of Jefferson, who is his cousin.

The commission completes the 10 week voyage across the Atlantic and arrives in Paris in October 1797.

October 1797 to July 1798

The “XYZ Affair” Provokes Open Conflict With France



Between October 1797 and July 1798 the American delegation is subjected to a series of humiliations at the hands of the French Foreign Minister, Charles Maurice de Talleyrand-Perigord.

Talleyrand is the very definition of the scheming political survivor, having served the guillotined King Louis XVI, shifting allegiances to the Robespierre led rebels, then ingratiating himself to Napoleon Bonaparte, before finally backing and serving the restored monarchies of Louis XVIII and Louis Philippe. He will consistently use his power to extract personal bribes during diplomatic negotiations, achieve great wealth, and die peacefully on his estate at age 84, in 1838.

He commences his manipulations of the American ministers as soon as talks begin. Nothing “official” can occur, he tells them, unless and until President Adams makes a public apology for his threatening policies and France receives a \$12 million “loan” from America. For good measure he demands a payment of \$250,000 to his personal account to continue the negotiations.

French Minister de Talleyrand (1754-1838)

When Charles Pinckney responds with “no, not a sixpence,” Talleyrand goes into a prolonged stalling phase that drags on into 1798. As the Americans announce their intention to depart, he threatens that France will declare war on the United States if they do so.

President Adams is informed of all this via dispatches that filter home over time. In March 1798 he learns of the treatment of his ministers and the bullying demands from Talleyrand. He shares the news with his Cabinet, but decides to withhold public disclosure of the dispatches in which the exploits of Talleyrand’s three go-betweens – code named X and Y and Z – are detailed. He fears that these revelations will fan the American flames of war, at a time when he still hopes to prevent it.

Secretary of State Pickering and Attorney General Lee insist that Adams should in fact declare war. Washington and Hamilton also signal their support for aggressive action.

In Congress, the Democratic-Republicans demand that all the dispatches related to the negotiations be released to the public and their bill to this effect wins by a 65-27 margin in the House. On April 3, 1798, Adams complies.

The documents expose what becomes known as the “XYZ Affair,” including the French arrogance toward the American delegation and Talleyrand’s bribe. The pro-France Republicans are shocked by the disclosures, which blunt much of their criticism of Adams.

Later in April of 1798, Pinckney and Marshall abandon the talks and sail home. Elbridge Gerry stays in Paris, still hoping to break through with Talleyrand on his own, to secure peace.

The growing fear of war prompts Congress to finally authorize the funds needed to convert the objectives of the 1794 Naval Act into an actual United States Navy, capable of contending with European adversaries.

Adams is delighted by the congressional support, and on May 3, 1798, he names Benjamin Stoddert to the new Cabinet post of Secretary of the Navy, and considers this move one of the high points of his presidency. The heavy frigates, *USS Constitution* (“Old Ironsides”), *United States* and *Constellation*, are about to be joined by the *USS Chesapeake*, *Congress* and *President* on the high seas.

Two months later, on July 7, 1798, Congress annuls the landmark 1778 Treaty of Alliance binding America militarily to France in case of war involving Britain, and authorizes attacks on French ships at sea. Thus begins what will become known as the “Quasi-War” with America’s former ally.

July 1798

Adams Unleashes Federal Power To Prevent A Feared Breakdown In Law And Order

The collapse of the peace negotiations, together with Napoleon’s stunning victories in Austria and Italy, amplify Federalist concerns about national security. With war on the horizon, America’s survival may hinge on its ability to prevent the collapse of law and order they associate with the French version of democracy.

They settle on two tactics, often employed in the future course of American history, to quell internal dissent.

The first is directed against “foreign immigrants,” especially those from France and Ireland, whose heritage or religion places them outside the dominant American class – white, Anglo-Saxon, and Protestant.

On June 18 Congress passes a Naturalization Act which sounds this “nativist theme.” It boosts the “waiting period” for immigrants to become citizens from four to fourteen years.

This is followed one week later by the Alien Enemies Act – allowing citizens of an enemy nation to be arrested and deported should war break out -- and the Alien Friends Act, enabling deportation of any non-U.S. citizen deemed a threat to national safety.

It is, however, the Sedition Act of July 14 that immediately draws criticism. This Act, in four sections, is aimed at stifling political opposition until March 3, 1801, which encompasses the remainder of Adam's term.

Section 1. That if any persons shall unlawfully combine or conspire together, with intent to oppose any measure or measures of the government of the United States... or attempt to procure any insurrection, riot, unlawful assembly... he or they shall be deemed guilty of a high misdemeanor, and on conviction... shall be punished by a fine not exceeding five thousand dollars, and by imprisonment during a term not less than six months nor exceeding five years...

Section 2. That if any person shall write, print, utter or publish, or... willingly assist or aid in writing, printing, uttering or publishing any false, scandalous and malicious writing or writings against the government of the United States, or the Congress or the President, with intent to defame (them) or bring them... into contempt or disrepute... or to stir up sedition within the United States... or to resist, oppose, or defeat any... law or act, or to aid, encourage or abet any hostile designs of any foreign nation... then such person... shall be punished by a fine not exceeding two thousand dollars, and by imprisonment not exceeding two years.

Section 3. That if any person shall be prosecuted under this act... it shall be lawful for the defendant, upon the trial of the cause, to give in evidence in his defence, the truth of the matter... charged as a libel. And the jury who shall try the cause, shall have a right to determine the law and the fact, under the direction of the court, as in other cases.

Section 4. That this act shall continue and be in force until the third day of March, one thousand eight hundred and one, and no longer:

The Democratic-Republican opposes the Act, on grounds that it violates the First Amendment right to free speech.

First Amendment. Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

Federalists respond in line with British law, arguing that "free speech" is indeed protected "in advance" of its commission, but are fair game for prosecution if it proves to be factually wrong and damaging to those attacked.

In October 1798, a Republican congressman from Vermont, Matthew Lyon, becomes the first citizen convicted under the Sedition Act, for asserting that Adams is power hungry and belongs in a madhouse. Lyon serves a four month jail sentence, pays a \$1,000 fine, and emerges as a hero in his state for speaking out freely against the President.

Other indictments under the Sedition Act, some thirteen in total, will mainly target Republican newspaper editors – such as Benjamin Bache of Philadelphia, Franklin's grandson -- who criticize the Federalist administration.

Opponents of the law regard it as one more attempt by the federal government to trample on the rights of the people, and search for a "legal basis" to overturn it.

November 10, 1798

The “Kentucky Resolutions” Assert Limits On Federal Powers

Jefferson ponders a call to the states to “nullify” the law, but instead joins with Madison to criticize it for violating the Tenth Amendment to the Constitution:

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.¹

According to the Virginians, the federal government lacks the power to impose the Alien and Sedition Acts on its citizens. To be legal, any such laws must originate with the people acting through their state legislatures.

Jefferson is the first to act in opposition to the Alien and Sedition Acts by authoring what becomes known as the “Kentucky Resolutions.”

He writes these secretly and conveys them to his friend, John Breckinridge, who is serving in the Kentucky House of Representatives, to propose their adoption. Jefferson deflects all public inquiries as to his role all the way up to 1821, when one of Breckinridge’s sons probes him about the history of the document.

Jefferson’s document reaffirms the State’s sovereign authority over the kinds of issues raised in the Sedition Act.

Kentucky Resolution 1: Be it resolved that the States...are NOT united on the principle of unlimited submission to their general government...but that, under a Constitution, they delegated to that government certain definite powers reserving...to each State the residuary mass of rights to their own self-government

It then goes on – in its original form – to propose that state “nullification” is the proper remedy for cases of overreach by the central government.

The several states who formed [the Constitution], being sovereign and independent, have the unquestionable right to judge of its infraction; and, that a nullification, by those sovereignties, of all unauthorized acts done under color of that instrument, is the rightful remedy.

The idea of “state nullification” is, however, softened before the bill passes on November 16, 1798.

And that, whenever the general government assumes undelegated powers, its acts are unauthoritative, void, and of no force and that each party has an equal right to judge for itself the extent of the powers delegated to itself.

It is not until one year later, in a further attempt to rally support, that the “nullification” remedy is restored in a second Kentucky Resolution of 1799.

After Jefferson, it is Madison’s turn to attack Adams and the Sedition Act. He does so in a “Virginia Resolution” passed by the state legislature on December 24, 1798.

RESOLVED, That the General Assembly of Virginia, doth unequivocally express a firm resolution to maintain and defend the Constitution...declares a warm attachment to the Union of the States..views the powers of the federal government...to which the states are parties as limited.. and that in case of a deliberate, palpable, and dangerous exercise of other powers...is duty bound, to maintain...their respective limits...

That the General Assembly doth also express its deep regret, that a spirit has in sundry instances, been manifested the federal government, to enlarge its powers by forced constructions of the constitutional charter which defines them...so as to consolidate the states by degrees, into one sovereignty, the obvious tendency and inevitable consequence of which would be, to transform the present republican system of the United States, into an absolute, or at best a mixed monarchy.

That the General Assembly doth particularly protest against the palpable and alarming infractions of the Constitution, in the two late cases of the "Alien and Sedition Acts"... which exercises... a power not delegated by the constitution, but on the contrary, expressly and positively forbidden by one of the amendments that this state having by its Convention...expressly declared, that among other essential rights, "the Liberty of Conscience and of the Press cannot be cancelled, abridged, restrained, or modified by any authority of the United States," ...it would mark a reproachable inconsistency. If...indifference were now shewn, to the most palpable violation of... the Rights, thus declared...

The two Republican resolutions are eventually voted on more broadly, but to no effect. Ten states reject the proposals and another four decide to take no action.

With a possible war looming and the Federalists enjoying political control, debates over state sovereignty win only limited support in 1798. Over the decades ahead, however, this issue will return with a vengeance, first over taxes and then over slavery.

Time: 1798-1799

Adams Tries Again To Settle The Quasi-War With France



U.S.S. Constitution, Commissioned in 1797.

As 1798 closes, Adams' efforts to hold out for peace are being off-set by Hamilton and even Washington, both apparently eager to fight the French. Secretary of War McHenry conspires in the effort, sharing secret documents with Hamilton while cautioning him to act surreptitiously.

Do not, I pray you, in writing or otherwise, betray the confidence which has induced me to deal thus with you.

Plans are under way now to raise a standing army. Adams names Washington Commander-in-Chief, and the old General demands that Hamilton, the President's nemesis, be appointed second in command. Jefferson imagines an upcoming Federalist coup, with a crackdown on individual and state's rights, enforced by Hamilton at the head of a federal army.

Then suddenly, on October 4, 1798, the tide turns in favor of John Adams.

The lone surviving member of his Paris delegation, Elbridge Gerry, tells him that the French now want peace!

Adams holds this news close to his vest, needing to make sure of its veracity. He continues to publicly back all military preparations under way, while staunchly refusing to ask Congress to declare war. As a result, he is whipsawed between the pro-French Republican doves and his own pro-British Federalist hawks.

But Adams is undeterred. In January 1799, his ambassador son in Europe, John Quincy, reassures him that France wants to negotiate, and on February 9, 1799, his naval build-up begins to pay out. The *USS Constellation* defeats the frigate, *La Insurgente*, with its 36 guns and reputation as the fastest boat in the French navy, off the coast of Nevis Island in the Caribbean Sea.

The President plunges forward on February 16 with a message to Congress announcing the choice of his Dutch ambassador, William Vans Murray, to lead a second negotiating party to France. This stuns Adams's critics in both political parties. His sanity is questioned by some, including Secretary of State,

Pickering; others push for older and more experienced replacements for Murray. Adams responds by adding the Republican, Patrick Henry, and Oliver Ellsworth, sitting Chief Justice of the Supreme Court.

Despite word in August that Talleyrand will officially receive the ministers, departure is delayed. On October 15, 1799, Adams asks his Cabinet for support to send the mission. Pickering, McHenry and Wolcott refuse, leaving only Lee and the ever loyal Stoddert on Adams' side. After also hearing opposition from Washington and Hamilton, Adams decides to send the delegation anyway. They depart on November 15, 1799.

While they are enroute, America suffers an emotional shock: George Washington dies suddenly on December 14, at age sixty-seven. Two full days of supervising Mt. Vernon farm work on horseback in snow, hail and rain lead on to a sore throat and a streptococcus infection which kills him within 48 hours.

The burden of leading the nation now falls even more heavily on John Adams, as the new century dawns.

Naval battles with the French persist, cleverly countered by Secretary Benjamin Stoddert across the Caribbean. On the night of February 1, 1800, the *USS Constellation*, exchanges roughly 1500 rounds with *La Vengeance*, while scoring another victory, off the island of St. Kitts, 600+ miles due west of Haiti.

By mid-May, Adams finally concedes that retaining Washington's Cabinet was a mistake. On May 5, he asks his scheming War Secretary, McHenry, to step aside. On the 15th he sacks Secretary of State Pickering, who refuses to submit his resignation when asked. He then names John Marshall to succeed Pickering – before later insuring that Marshall is installed as Chief Justice of the Supreme, in a host of last second efforts to shape the judicial system along Federalist lines.

Still, peace negotiations with France drag on without resolution into the presidential election season – with Adams attacked by Hamilton and the “hard Federalists,” and by the Democratic-Republicans, who decide to run Vice-President Jefferson against him in the 1800 election.

The fate of Adams' bid for a second term is sealed by the time the French talks reach resolution.

Time: September 30, 1800

The Treaty Of Morfontaine Ends The Conflict For Now

By June of 1800, Napoleon Bonaparte is essentially dictator of France. He has overthrown the Directory and replaced it with the Consulate, naming himself First Consul. He has also won another landmark victory, at the Battle of Marengo in June, driving the Austrians out of Italy. Talleyrand is now “his” foreign minister, and they are plotting a campaign to invade Britain -- the one country that stands in his way of reasserting the global dominance France enjoyed in the 17th century.

To do so, he wants to ease all secondary military pressures, first from Spain and then from America.

On October 1, 1800, he concludes the secret Treaty of San Ildefonso with Spain, trading land won in the Tuscan region of Italy for a return of the vast Louisiana Territory that France had ceded to Spain in 1762, after losing The Seven Years War.

Napoleon turns next to freeing up his naval forces from the Caribbean engagements with the United States.

With ownership of the middle third of North America, along the Mississippi, in his hands, he can assuage the Americans now and return to possible battles there at a later date, after Britain is defeated.

So he tells Talleyrand to conclude a treaty with the U.S.

The fact that France again owns Louisiana would prove very alarming to the American negotiators, but this fact is kept secret for another year, until November 1801.

A deal ending the “Quasi-War” is finally concluded on November 30, 1800, the Treaty of Morfontaine. Article One captures the overall spirit:

There shall be a firm, inviolable, and universal peace, and a true and sincere Friendship between the French Republic and the United States of America, and between their respective countries territories, cities, towns, and people without exception of persons, or places.

The other details are straight-forward and standard: captured vessels will be returned; claims dropped; cargo ships shall not be attacked; and favorable commercial terms will be granted to both sides.

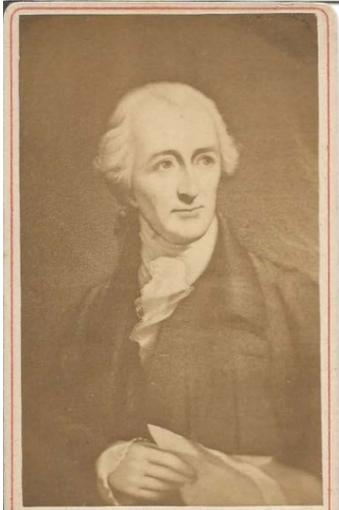
After all his years devoted to winning America’s freedom as a patriot, John Adams can finally say that he further kept it secure as a President.

As he says later in life:

I desire no other inscription over my gravestone than: ‘Here lies John Adams, who took upon himself the responsibility of peace with France in the year 1800.’

Time: February 20 to March 3, 1801

Adams “Packs The Courts” And Picks John Marshall as Chief Justice



In the final days of his presidency John Adams attempts to preserve the legal principles he believes in by “packing the judiciary” with newly named federal judges.

Prior to the 1787 Constitution, legal statutes and courtroom disputes are in the hands of the state judiciaries – and this form of “local control” is favored by Jefferson and his Democratic-Republican supporters.

However, once the new Constitution is ratified, it creates a body of Federal laws that apply to all states, and the need for a judicial structure to insure local compliance. The Judiciary Act of 1789 lays out the basic frameworks.

Legal disputes will continue to be adjudicated in the 13 state courts, by “State/District Judges.”

Justice George Read of Delaware (1733-1798)

- Any cases or decisions that may call Constitutional laws into question are to be reviewed by the Federal Supreme Court, consisting of 6 Justices.
- To conduct these reviews, the Supreme Court Justices will travel to each of the states twice a year, in order to hear appeals and either support or overturn the local decisions.
- This travel is referred to as “riding the circuit” – and, in the beginning, there are six “circuits” in Total, to cover all 13 states/districts.

This system remains in place for 12 years, until the lame duck Federalist-dominated Congress changes it, in a move referred to by opponents as the “Midnight Judges Act.” This Act is passed on February 13, 1801, within two weeks of the end of John Adams’ term as President. It makes three significant changes:

- After increasing the number of “districts” from 13 to 16 (recognizing the new states of Vermont, Kentucky and Tennessee), it assigns a new “judicial layer” to each, in the form of 16 “Federal Circuit Court Judges.”
- The burdensome task of “riding the 6 circuits” is handed to these 16 new Federal Circuit Court Judges – and removed from the six Supreme Court Justices, who would now operate solely from Washington, DC.
- It reduces the number of Supreme Court Justices, from an even number of 6 to an odd number of 5, in case of split decisions.

The Shape Of The Court Systems AFTER The 1801 Judiciary Act

Federal Level	Details
Focus	Cases involving federal crimes, cases brought against the federal government, and cases involving citizens living across state lines.
Supreme Court Judges	1 Chief Justice and 4 Associates, freed from riding the circuit
Circuit Court Judges	16 Judge in total, one for each of the 16 states, riding the circuit, reviewing controversial cases/appeals
District Court Judges	Original jurisdiction/trial court judges on federal cases
State Level	
Focus	Cases involving State laws, both criminal and civil
General Court Judges	3 judges per state, court of last resort, meet 2x per year
Appeals Court Judges	In some states, 3 judges, meet in each county in October
District Court Judges	Original jurisdiction/trial court, Quarter Sessions (criminal case), Common Pleas (civil cases).
Justice of the Peace	Tends to handle misdemeanors or small claims (<\$5) disputes.

Between February 20 and March 3, 1801, Adams takes advantage of the new law to name Federalists to all sixteen of the new Circuit Court slots, along with four State District Courts positions and forty-two local Justices of the Peace.

In response Jefferson's supporters mock the new law as the "Midnight Judges Act" and commit to repealing it once the new Congress is sworn in.

Still Adams has one more trick up his sleeve. On December 15, 1800, Oliver Ellsworth resigns as Chief Justice of the Supreme Court, leaving Adams to nominate his successor. After a momentary hesitation, Adams selects his sitting Secretary of State, John Marshall of Virginia – and from there Marshall goes on to become the longest serving (34.5 years) and most influential Chief in the history of the high court. During his early tenure, he will also prove to be a fairly consistent thorn in the side of his second cousin by marriage, Thomas Jefferson.