

LEVI LINCOLN, SR.:  
JEFFERSONIAN REPUBLICAN  
OF MASSACHUSETTS

Thesis for the Degree of Ph. D.  
MICHIGAN STATE UNIVERSITY  
Marvin Junior Petroelje  
1969

**This is to certify that the**

**thesis entitled**

LEVI LINCOLN, SR.:  
JEFFERSONIAN REPUBLICAN  
OF MASSACHUSETTS

**presented by**

Marvin Junion Petroelje

**has been accepted towards fulfillment  
of the requirements for**

Ph.D. degree in History

*Douglas T. Miller*  
Major professor

Date 5/7/69

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## ABSTRACT

LEVI LINCOLN, SR.:  
JEFFERSONIAN REPUBLICAN  
OF MASSACHUSETTS

By

Marvin Junior Petroelje

This study attempts to show the importance of lower echelon leadership in the formation and operation of the Jeffersonian Republican Party from 1790 to 1810. A case study of one man, Levi Lincoln, Sr., it shows his work, political philosophy, and accomplishments as a lawyer, politician, Congressman, United States Attorney General, Lieutenant-Governor, and Acting Governor of Massachusetts.

A detailed study was made of the private life of Lincoln, his political writings, and his public service. This was accomplished by using the Levi Lincoln, Sr. Papers of the American Antiquarian Society, Worcester, Massachusetts, the Thomas Jefferson Papers, the Elbridge Gerry Papers, the Theodore Sedgwick Papers, the Henry Dearborn Papers, and many other collections. Contemporary newspapers were found to be an invaluable source of information, especially the Worcester Massachusetts Spy, Worcester National Aegis, the Boston Columbian Centinel and other Massachusetts papers. Published studies of political parties and party development were also used



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extensively, as were other major studies of national politics, social structure, and economics.

This study of Lincoln has shown the importance of such loyal party men in the success of the Republicans. Working at the grassroots level, confronting the electorate day after day, these were the men who bore the burden of party work. They were the ones responsible for the defense of Republican measures, and, also for the attack against opposition policies. Men such as Lincoln were vital to the President because he had to depend on them for recommendations to office, for reports from their areas on reaction to administrative programs, and for the establishment of a popular base for the party which would guarantee success at the polls. The "second echelon" bore the brunt of interparty criticism and factionalism. It was these men's responsibility to iron out the problems within the ranks and to remove from the President's shoulders the task of carrying all the burdens that developed within a complex structure such as the Republican Party.

Although Lincoln is relatively unimportant in the development of American history a study of his life has shown something of the workings of men within the political process who never gain high historical recognition but who must be understood before the picture of American historical development is complete.

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Lincoln was an ardent Republican, a champion of liberty and freedom, a strict constructionist of the Constitution, an advisor to the President, a dedicated supporter of the interests of New England, a promoter of agriculture, and a complex personality. As the Attorney General of the United States, Lincoln made no lasting contribution to the development of constitutional law. Appointed to the office for payment for the work he did in establishing the Republican Party in Massachusetts, Lincoln's main impact came outside his official duties.

LEVI LINCOLN, SR.:  
JEFFERSONIAN REPUBLICAN  
OF MASSACHUSETTS

By  
Marvin Junior Petroelje

A THESIS

Submitted to  
Michigan State University  
in partial fulfillment of the requirements  
for the degree of

DOCTOR OF PHILOSOPHY

Department of History

1969

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#### ACKNOWLEDGMENTS .

I am deeply grateful to many people in the preparation of this work. Special thanks goes to the staff of the American Antiquarian Society who patiently gave me service far beyond what was expected of them. I am also grateful to the staffs of the Massachusetts Archives, Massachusetts Historical Society, New York Public Library, Essex Institute, and the Morgan Library, New York. I would be remiss if I did not gratefully acknowledge the financial assistance and time off from teaching duties given me by the Board of Trustees of Northwestern College, Orange City, Iowa. I am deeply indebted to my wife for all her help and patience. Finally, I must express my gratitude to Dr. Douglas T. Miller for his patience and assistance.

INTRODUCTION

Chapter

I. YOUNG

II. LIND

III. RICH

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VI. ACT

VII. DEE

CONCLUSION

HELIOGRAPH



## TABLE OF CONTENT

	Page
INTRODUCTION . . . . .	1
Chapter	
I. YOUTH TO MATURITY . . . . .	4
II. LINCOLN BECOMES A POLITICIAN . . . . .	36
III. ATTORNEY GENERAL . . . . .	64
IV. A POLITICAL AGENT . . . . .	103
V. THE RETURN TO STATE POLITICS . . . . .	133
VI. ACTING GOVERNOR OF MASSACHUSETTS . . . . .	158
VII. DEFEAT AND RETIREMENT . . . . .	185
CONCLUSION . . . . .	206
BIBLIOGRAPHY . . . . .	213

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## INTRODUCTION

In American history one period that has greatly interested historians is the time following the American Revolution - the period when our national government was established. Coming out of chaos and trial and error the final solution was such that it remains to this day the basic instrument of government for the country. It brought political stability, economic growth and prosperity.

It also brought with it political disunity. One of the most accepted facets of our system is the existence of political parties. They are not unique to the United States, for parties will be found wherever freedom of discussion and dissent are allowed to exist. Political parties developed in the United States in the years from 1790-1810. Parties began to form according to men's acceptance or rejection of the Hamiltonian-Federalist program. Within a short time these parties were to be found at every level of American society. As parties continued to grow and develop they found it necessary to establish broad support among the American electorate. To accomplish this, the national organizations had to depend upon different levels of leadership in the states, counties, and towns. This leadership, in many ways, created and sustained the major parties. Some of these men

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served on both the state and federal levels. They were the ones who bore the burden of maintaining contact between the national leaders and the state hierarchy.

Millions of words and hundreds of volumes have been produced covering this period. Great works have been published on the national leaders such as Jefferson, Hamilton, Madison, Monroe, Washington, and Adams. Equally good works have been produced on the lives of lesser lights like Gallatin, Ames and others. The presses continually pour forth new volumes of analysis and interpretation of the different aspects of the period. Foreign relations, political party structure, economics, domestic policy, and social structure are all constantly under the scrutiny of historians. In recent years excellent studies of state politics have been done, Paul Goodman's The Democratic-Republicans of Massachusetts. Politics In a Young Republic being one of the best.

Such analysis and reanalysis is excellent. Historians must constantly reevaluate in order to make more precise and exact the actual happenings of history. Historians, however, can become too involved with major events and personages so that they neglect other figures that served and served well.

Such a person was Levi Lincoln, Senior. A prominent and wealthy Worcester, Massachusetts attorney, Congressional representative from the Fourth Western District of the state, Attorney General for Thomas Jefferson, Lieutenant Governor and Acting Governor of Massachusetts, and an ardent Republican,

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he was, however, overshadowed by many contemporary national figures. Yet here is a man who did play a prominent role within the party organization as a state leader and as a contact for New England with the national administration.

The present study attempts to trace the life of Lincoln in order to show that a person on his level served an important political function and that such individuals constituted the backbone of the Republican Party. Aspects of the general history of Massachusetts are treated to allow an historical perspective in which to look at Lincoln's duties, accomplishments, and failure. Men such as Lincoln were also the focal point of opposition attack, along with the president.

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## CHAPTER ONE

### YOUTH TO MATURITY

In the summer of 1775 a young man loaded his personal belongings behind him on his horse and started east from the small city of Northampton. Levi Lincoln was going to Worcester, Massachusetts, to settle. Tucked away among his possessions was a document showing that he was a graduate attorney. The area was an excellent choice for a young lawyer, as most attorneys had fled with the outbreak of war. Lincoln would discover that this absence of lawyers would accelerate his rise, and provide a gateway to business opportunities. Once he won the confidence of his neighbors, Lincoln would find himself, like most young lawyers, with widening business potential and eventual political preferment. At first, this would be welcomed merely as a supplement to a meager income, but it would also become in time of prosperity a mark of power and prestige.<sup>1</sup>

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<sup>1</sup>John Allen Krout and Dixon Ryan Fox, The Completion of Independence, 1790-1830, Vol. V of A History of American Life, ed. Arthur M. Schlesinger and Dixon Ryan Fox (12 Vols. New York: Macmillan Company, 1944), pp. 291-92; For an account of Loyalist lawyers see Claude Van Tyne, The Loyalists in the American Revolution (New York: Macmillan Company, 1902).

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As Lincoln travelled towards his new home he could look back with a degree of satisfaction to his early life. He had been born into a moderately successful farming family in the town of Hingham, a small village south of Boston.

Born on May 5, 1749, Levi was the third of the eleven children of Rachael and Enoch Lincoln. While not of upper-class origins his family could trace a respectable lineage back to 1637, when the founder of the family came to America from Hingham, England.<sup>2</sup>

Although Levi's ancestors were farmers, all of them had served in some capacity in the business of the colony. Lincoln's father had served several terms as a representative to the colonial General Court, as well as holding other lesser offices. He was described as a "decided and ardent Whig and one of the most influential men of his party."<sup>3</sup>

All of the Lincoln children, with the exception of Levi, who was the only child to receive a formal education, remained members of the craftsmen class. Only one of his

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<sup>2</sup>Waldo Lincoln, compiler, History of the Lincoln Family: An Account of the Descendents of the Lincolns of Hingham, Massachusetts, 1637-1920 (Worcester: Commonweal Press, 1923), pp. 72-78; William Lincoln, History of Worcester, Massachusetts, from Its Earliest Settlement to September, 1826: with Various Notices Relating to the History of Worcester County (Worcester: Printed at the Office of the Massachusetts Spy, 1827), pp. 228-29.

<sup>3</sup>Lincoln, History of the Lincoln Family, pp. 72-78. Levi's father died in 1802.

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brothers showed any interest in politics, serving as a state representative.<sup>4</sup>

Enoch Lincoln gave his children the best education he could afford. All of the children attended the local schools in Hingham. Lincoln worked on his own to further his education, and read everything he could borrow from friends and neighbors. Although Lincoln early showed signs of an excellent intellectual capacity and ability his father was unwilling to grant him a college education because he was financially unable to give it to all of his children. Preparations were therefore made for him to learn a trade, and he was subsequently bound as an apprentice blacksmith to his uncle, Jeremiah Lincoln. This occupation was not to Lincoln's liking but he endured it, continuing to spend his spare time studying. He would utilize every evening reading, making sure that a portion of the time was given to the study of Latin and Greek. This interest in the classics became a hobby, and throughout his life he continued to study them. His preoccupation with learning, his continuous questioning, and a "sedate and thoughtful manner, and diligence and capacity in the acquisition of knowledge" brought him to the attention of others who became interested in his welfare.<sup>5</sup> Two men in particular began to direct his education: Mr. Nehemiah Lewis,

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<sup>4</sup>Ibid., pp. 169-73.

<sup>5</sup>Lincoln, History of Worcester, p. 229.

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master of the local school, and the Reverend Doctor Benjamin Gay.

Lincoln's father finally permitted him to enroll in Harvard College. The father's mind had been changed by his son's distaste for blacksmithing, his constant requests to go to college, and the encouragement and pressure from townspeople interested in the boy's welfare. Before entering Harvard, however, Lincoln spent six months studying with the local teacher reviewing and perfecting what he had learned mostly on his own.<sup>6</sup>

Lincoln first arrived at Harvard shortly after the annual Spring commencement exercises in 1768, when he was examined along with other young men who hoped to be admitted to the college. Knowledge of the classics made up the major part of the test, and the student was required to translate both Greek and Latin authors.<sup>7</sup> Passing the examination was only the first step. Every new student had to fulfill a long

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<sup>6</sup>Lincoln, History of the Lincoln Family, p. 151; Biographical Directory of the American Congress, 1774-1961 (Washington: U. S. Government Printing Office, 1961), p. 1219; The Boston Columbian Detector, March 17, 1809.

<sup>7</sup>Samuel Eliot Morison, Three Centuries of Harvard, 1636-1936 (Cambridge: Harvard University Press, 1937), pp. 103-4; "The Laws of Harvard College," Chap. I: "Of Admission into the College," Harvard College Records, Pt. III, Colonial Society of Massachusetts Collections, 31 (1935), pp. 347-48. Hereafter cited "The Laws of Harvard College," Collections, 31. This examination was both oral and written, with the oral section consisting of logic and grammar, while the written part demanded an essay to be written in Latin, and the translation of a passage of a Greek writer.

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list of additional requirements to qualify for admission. When all the requirements were completed, Lincoln was admitted as a fulltime student.<sup>8</sup> This was spring preparation, and he had to wait out the summer before he could return in August, 1768 to begin his studies.

Lincoln received a traditional education at Harvard. It was based on training in logic, the classics, and metaphysics. The traditional curriculum was very slowly changing, with science gaining in importance.<sup>9</sup>

When he first entered Harvard, Lincoln fully intended to study theology. However, his growing disenchantment with

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<sup>8</sup>"The Laws of Harvard College," Collections, 31, pp. 348-50. Levi could not be admitted officially until he became familiar with the college rules. Since no printed copies of the rules were available for distribution to the new students, long tedious hours were required copying them in long-hand. This procedure, of course, acquainted the new student with the regulations governing college life. In addition, the fees, 30 shillings for the first quarter, had to be paid and a bond of £40 had to be posted by Lincoln's father to insure the payment of all bills.

<sup>9</sup>Ibid., pp. 83-92; Leonard W. Labaree, Conservatism in Early American History (New York: New York University Press, 1948), pp. 91-101; Clinton L. Rossiter, Seedtime of the Republic: the Origin of the American Tradition of Political Liberty (New York: Harcourt, Brace and Company, 1953), p. 120. The core of Lincoln's freshman curriculum was the classics. Classical writers such as Virgil, Cicero, Homer and Xenophon were common assignments when the new student was started on an intensive program of Latin and Greek. In addition each new student was instructed in the Hebrew language. Although the classics were emphasized, English was far from neglected, with grammar, rhetoric and elocution required of each freshman. The rest of the freshman year was filled with mathematics, logic and geography. The concentration on the classical languages as a freshman was offset in the remainder of the college program with ethics, natural philosophy, metaphysics, and astronomy. Morison, p. 88ff; "The Laws of Harvard College," Collections, 31, 351;

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established religion and the financial appeal of the legal profession changed his mind.<sup>10</sup> Early accounts of his life state that he had decided upon law after attending court in Boston where he heard John Adams argue a case so forcefully that he became enraptured with the legal profession.<sup>11</sup> Evidence in his own handwriting, however, points toward a more materialistic motive for becoming a lawyer, although, it cannot be denied that the eloquence of Adams could have swayed his judgment.

When Lincoln graduated from Harvard in 1775, he began, therefore, the study of law. Candidates for the legal profession were expected to serve an apprenticeship in the office of a practicing attorney. Lincoln studied for a year with Daniel Farnham of Newburyport before he completed his training under Joseph Hawley of Northampton. A distinguished jurist, statesman, and rabid patriot, Hawley greatly influenced Lincoln's thinking. Lincoln had left Farnham to study with Hawley because of the latter's stand on colonial matters. This influence, along with the impact of his father's

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Winfred E. A. Bernhard, Fisher Ames, Federalist and Statesman: 1758-1808 (Chapel Hill: The University of North Carolina Press, 1965), p. 26.

<sup>10</sup>Political Notes, Mostly Miscellaneous, Levi Lincoln, Sr. Papers, American Antiquarian Society, Worcester, Massachusetts. (Hereafter cited Lincoln Sr. Papers, AAS.)

<sup>11</sup>Lincoln, History of Worcester, p. 229.

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philosophy, shaped Lincoln's position on the rightness of the colonists' cause.<sup>12</sup>

The legal training of Lincoln was interrupted by the call to arms of the colonials in April, 1775. The possibility of a British invasion of the Cambridge area had initiated the call for the Minutemen. Since the threatened military action never materialized and it became apparent that the army would be idle for a considerable time, Lincoln left the service and returned to the study of law. After being admitted to the bar, he moved to Worcester.<sup>13</sup> Official records

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<sup>12</sup>Ibid.; Political Notes, Lincoln Sr. Papers, AAS. The training for law was disorganized. The value of the training depended upon the time the young law student was able to spend with his teacher, a practicing attorney who instructed his pupil only when the business of law was not pressing. The prospective lawyer, therefore, generally found himself reading law on his own. In addition, most students spent considerable time copying papers, looking up cases, preparing abstracts and briefs for their tutors, and learning legal procedure by visiting the local courts. If the student turned to his instructor's library for help in preparing for the law he was generally disappointed, for law books were scarce. Only the most successful and prosperous lawyers owned a library of merit. Bacon's Pleas and Pleadings and Blackstone's Commentaries were especially recommended, but were difficult and forbidding. Besides being recommended, Blackstone's work was the most available legal treatise in the colonies. Vattel's Law of Nations, Ward's Law of Nations, Bacon's Institutes, Hawkin's Pleas of the Crown, Pufendorf's Of the Law of Nature and Nations, Coke's Commentary Upon Littleton, and Rutherford's Institutes of Natural Law were also part of the young law student's reading material, provided they were available. No comprehensive commentary on American law was available until the years 1826-30 when the four volume work of James Kent appeared. Krout and Fox, pp. 281-83; Daniel J. Boorstin, The Americans: The Colonial Experience (Vintage Edition; New York: Random House, 1958), p. 202; Bernhard, p. 39; Daniel J. Boorstin, The Americans: The National Experience (New York: Random House, 1965), p. 37; for an account of Hawley's life see E. Francis Brown, Joseph Hawley: Colonial Radical (New York: AMS Press Inc. Reprint, 1968).

<sup>13</sup>Lincoln, History of Worcester, p. 229.

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show that he had served only nine days as a private in the company of Captain James Lincoln in the regiment of Colonel Benjamin Lincoln.<sup>14</sup> Lincoln later was to suffer political anguish because of the brevity of his army career.<sup>15</sup>

The Worcester to which Lincoln moved was beset by many of the same problems that could be found in all of the thirteen colonies. Revolutionary America was basically an agricultural society in which the farmer was exalted, although persons looked to the professional classes and the wealthy landowner for leadership. With the exception of the common laborer, mobility was possible in every occupation. Two particulars accelerated a person's rise in social standing--acquisition of wealth and the ownership of land. To the American class status depended on the possession of property. "Since anyone could acquire property," states a recent scholar, "anyone could rise, and the poor man could and occasionally did become a wealthy esquire."<sup>16</sup>

Upon arriving at Worcester, Lincoln quickly found a room just off main street, and within walking distance of the building which soon would bear the sign "Levi Lincoln,

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<sup>14</sup>Massachusetts Soldiers and Sailors of the Revolutionary War (Boston: Commonwealth Press, 1902), pp. 9, 812. Both of the officers were related to Levi.

<sup>15</sup>Boston New England Palladium, March 14, and 31, 1809.

<sup>16</sup>Jackson Turner Main, The Social Structure of Revolutionary America (Princeton: Princeton University Press, 1965), pp. 219-20. See pages 66-67 for a good analysis of areas like western Massachusetts.

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Attorney at Law." His arrival in town probably generated the curiosity and gossip that always followed a new arrival, particularly a young, single lawyer. The legal profession in Worcester, as elsewhere in the Commonwealth, was not without opposition. This resistance had not come because of the Revolution, but had existed throughout most of the colonial period. The clergy, supported by Puritan prejudice against lawyers, from the first had impeded the development of a trained bar.<sup>17</sup>

The judicial structure of the state added to the opposition. The system of justice demanded that all legal transactions had to be recorded in a court. This meant fees to hire a lawyer and added fees to record the legal papers they prepared. Although the combined fees were not excessively high, the citizens felt that they gave lawyers a better standard of living than their neighbors. Naturally the fees also hit hardest those who lacked the ready capital to pay them.<sup>18</sup> These were the same people who were hardest hit by taxes--the isolated, frontier farmers in areas like Worcester,

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<sup>17</sup>Boorstin, The Colonial Experience, pp. 196-97; Bernhard, p. 46; Krout and Fox, pp. 288-89; Daniel H. Calhoun, Professional Lives in America. Structure and Aspirations 1750-1850 (Cambridge: Harvard University Press, 1965), p. 62. The earliest known colonial law concerning lawyers prohibited a man from paying another to represent him in court.

<sup>18</sup>Boston Massachusetts Centinel, May 14 and 21, June 22, July 20, August 3 and 24, 1785. The cost of justice had risen considerably. In 1779, legal costs were eight times higher than their usual level. Acts and Resolves, 1775-76, Chap. 23; 1778-79, Chap. 21; 1779-80, Chaps. 1, 28.

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Hampshire, and Berkshire counties.<sup>19</sup> Fear of the power of the professional, however, went further than simple fee taking. There was a fear of the direct impact of professional techniques. A lawyer, with his knowledge of the law, could take legal action to gain property which the people did not believe was morally his.<sup>20</sup>

Although disliked, lawyers were necessary. This was especially true of western Massachusetts when Lincoln arrived. The void created by the loss of much of the established legal profession with the Revolution created the need, and gave impetus to the rise of young men like Lincoln. The establishment of his position in the community was enhanced by his leadership ability, and by his talent as a writer. He was capable of arousing patriotism to a feverish pitch.<sup>21</sup>

When Lincoln settled in Worcester he was an inexperienced lawyer. He had never handled a legal case, much less argued one in court. Although trained as well as most lawyers of the period, he found that the practice of law was a frustrating experience. Many times his preparation of a case proved to be a common sense proposition, and legal arguments were based on the law laboriously copied from the books

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<sup>19</sup>Forrest McDonald, E Pluribus Unum, The Formation of the American Republic 1776-1790 (Boston: Houghton, Mifflin Company, 1967), p. 143; Robert J. Taylor, Western Massachusetts in the Revolution (Providence, R. I.: Brown University Press, 1954), p. 129; Bernhard, p. 47.

<sup>20</sup>Taylor, pp. 5-6.

<sup>21</sup>Lincoln, History of Worcester, p. 229.

of his lawyer-teacher.<sup>22</sup> Later, he would be able to purchase a law library.

Lincoln found court ceremonies few and simple. Court time was a period of festivity, as taverns at the county seat filled rapidly with litigants, witnesses, lawyers, and swarms of spectators who had come simply to enjoy the free show and to renew acquaintances.<sup>23</sup>

The essential feature of court life was personalism.<sup>24</sup> It meant that in most areas, including Massachusetts, the judges and lawyers rode the circuit together. This was good for the novice lawyer like Lincoln, for he was able to learn much from the conversation as they travelled from town to town. There were, however, drawbacks to this. Little opportunity existed for conferences with clients, and any legal reference was limited to whatever Lincoln carried in his saddle bags.<sup>25</sup> It also meant that judges did not deal with the lawyers as mere officers of the law who appeared to argue cases, but rather they faced men who were in literal attendance upon the court.<sup>26</sup>

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<sup>22</sup>Lincoln, History of Worcester, p. 229; The first national law digest was Nathan Dane's 8 volume General Abridgment and Digest of American Law. Printed court reports first appeared in 1789-90, when Ephraim Kirby published his first volume of American Law Reports, containing the decisions of the Connecticut courts. Krout and Fox list the publication date as 1789, p. 287 and Boorstin in The Colonial Experience gives 1790, p. 220.

<sup>23</sup>Krout and Fox, pp. 285-86. <sup>24</sup>Calhoun, p. 62.

<sup>25</sup>Krout and Fox, pp. 286-87. <sup>26</sup>Calhoun, p. 62.

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Lincoln arrived in Worcester at the right time. The local courts had just reopened after being closed for a year due to the war. This situation, combined with the shortage of lawyers, pushed Lincoln into positions for which he was not prepared. Within a few weeks after his establishment in Worcester he was appointed court clerk.<sup>27</sup> Promotion came almost as quickly as appointment and Lincoln resigned from the clerkship a year later, when he was appointed judge of the probate court by the Executive Council of the state, a position he was to hold until 1781. Lincoln quickly found that the new office required a considerable amount of time because of the backlog of probate matters that had resulted from the closing of the court. His inexperience also necessitated a longer time in settling cases.<sup>28</sup> Because of the work required to clear up the backlog and to keep abreast of new cases, Lincoln found that his private practice began to suffer. By 1781 he had decided that financial expediency compelled him to resign. The decision to give up the judgeship because it interfered with making a respectable living was given additional impetus by the need for more money following his marriage in 1781 to Martha Waldo of Lancaster, and by his first purchase

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<sup>27</sup>Worcester Massachusetts Spy, July 26, 1775; Lincoln, History of Worcester, p. 230.

<sup>28</sup>He was not above seeking professional advice as attested to by his letter to Robert T. Paine, September 20, 1777. Robert T. Paine Papers, Massachusetts Historical Society. (Hereafter cited MHS.)

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of land--152 acres located on both sides of the Boston Road, now Lincoln Street, in Worcester.<sup>29</sup> While serving as probate judge, Lincoln was elected to the state constitutional convention.

### III

As early as 1776 it had become apparent that Massachusetts needed a new government. Although independence had just been declared the problems of the state did not lessen, but rather multiplied by the exigency of the war. The void created by the resignation of the royal governor and his council in 1775, had been quickly filled by an interim government established under the royal charter of 1691. The form of government, therefore, remained the same, although now it was administered wholly by colonials. An enlarged house of representatives was elected under the terms of the charter, and this body in turn selected a council of twenty-eight.<sup>30</sup>

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<sup>29</sup>Lincoln, History of Worcester, pp. 122, 230; Lincoln, History of Lincoln Family, p. 162; Worcester Massachusetts Spy, August 23, 1779; Register of Deeds, Worcester County Courthouse, Worcester, Massachusetts, Register of Deeds, Lands Bought, Book 83, p. 118. (Hereafter cited Register of Deeds, Book and page.)

<sup>30</sup>Boston Gazette, February 12, 1776; General Court Proclamation, January 23, 1776, Acts and Resolves, IV, 947ff; Allan Nevins, The American States During and After the Revolution, 1775-1789 (New York: Macmillan Company, 1954), p. 89; Merrill Jensen, The Articles of Confederation (Madison: University of Wisconsin Press, 1959), p. 79; Oscar Handlin and Mary Flug Handlin, Commonwealth: A Study of the Role of Government in the American Economy: Massachusetts, 1774-1861 (New York: New York University Press, 1947), p. 6.



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A series of administrations attempted to rule under the 1691 charter, but economic and military problems made the task extremely complex and difficult. In addition, there was a constant and growing pressure to modify or change the government.<sup>31</sup> The mood of the people changed as the administrations failed to find solutions to the problems, and a resentment developed towards the officers of government.<sup>32</sup> Although interested persons in the Commonwealth agreed that a change had to be made, there was disagreement on the nature of the change. One attitude was common because of the recent experiences with Great Britain; there was a distrust of centralized government.<sup>33</sup>

The pressure for change finally compelled the General Court to act. On September 17, 1776, the House asked the towns to give approval for the legislature to draft a new frame of government.<sup>34</sup> Reaction was confused and contradictory,

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<sup>31</sup>Boston Gazette, February 13, 27, 1775; Worcester Massachusetts Spy, May 18, 1776; Massachusetts Archives, CLXXX, 13, 14, 15, 21, 39, 287, 315; CLXXXI, 14, 16, 551; CLXXXIII, 4, 93, 106, 125, 131; CXLII, 46; Handlin and Handlin, p. 1.

<sup>32</sup>James Sullivan to Benjamin Lincoln, February 7, 1776, James Sullivan Papers, MHS; Massachusetts Archives, CLXXX, 275, 373; CLXXXI, 14, 16, 32, 42; CLXXXIII, 292, 298; CLXXXIV, 216; CLXXV, 27, 84, 118, 301, 414; CLXXXVI, 26, 43.

<sup>33</sup>Boston Centinel, May 12, 1776, June 18, 1777; Worcester Massachusetts Spy, July 21, 1777; John C. Miller, Triumph of Federalism, 1775-1783 (Boston: Little, Brown & Company, 1948), p. 425. This distrust was such that many towns set up local governmental power units and some even established their own courts.

<sup>34</sup>Nevins, p. 176; Handlin and Handlin, p. 20; Massachusetts Archives, CXLII, 64; Acts & Resolves, 1776-77, Chap. 1169; 1778-78, Chap. 842.

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therefore, a House committee recommended asking the towns to elect delegates to a special convention.<sup>35</sup>

The General Court, however, was determined to do the job itself. On May 5, 1777, the voters were asked to elect delegates to the legislature who would draw up a constitution. Although this action was disliked by the people, it generated a special interest in the election.<sup>36</sup>

Lincoln was against this plan. He spoke forcefully in opposition at the Worcester town meeting, insisting that such action by the General Court was no better than the British system of colonial rule. If the government was to be republican it had to include a plan whereby delegates would be chosen especially to draft an instrument of government. Men elected as political representatives could not do the work effectively, because they could never free themselves from the influences and pressures arising from their main occupation.<sup>37</sup>

Despite the opposition, the General Court carried out its program. However, their short-cut method failed. The work went forward slowly and not until February 28, 1778 was

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<sup>35</sup>Journal of the House of Representatives, Vol. 13, 1776-77, p. 361, Massachusetts Archives; Nevins, p. 177.

<sup>36</sup>Journal of the House, Vol. 13, p. 423; Worcester Massachusetts Spy, May 12, 1777; Nevins, p. 177; Handlin and Handlin, p. 20; Petition of the Citizens of Pittsfield, Pittsfield Sun, May 29, 1777.

<sup>37</sup>An account of Lincoln's arguments may be found in his Political Notes, in the Lincoln Papers, AAS.

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the finished product ready to be presented to the voters.<sup>38</sup>

It was a very poor constitution. There was no bill of rights or explicit safeguards for property. Opposition also developed over the absence of a program for the direct election of militia officers. The document, despite a growing antislavery sentiment in the state, recognized slavery and denied the right to vote to Negroes. When the document was submitted to the voters for ratification it was, not unexpectedly, defeated 9,972 to 2,083.<sup>39</sup>

Lincoln opposed the document. He was against it because it did not protect the basic rights of the individual;

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<sup>38</sup>Journal of the House, Vol. 14, 1777-1778, p. 304; John Stetson Barry, The History of Massachusetts, 1764-1789 (3 Vols: Boston: Phillips Sampson & Company, 1855-57), III, 175; Nevins, p. 178.

<sup>39</sup>Worcester Massachusetts Spy, April 15, 1778; Nevins, p. 177; Barry, III, 175; Alden Bradford, The History of Massachusetts, 1764-1789 (2 Vols. Boston: Phillips, Sampson & Company, 1822-25), II, 158-9. Beside the established opposition to the method of drafting the instrument, it was defeated for other reasons. There were those who were hostile to it because they did not want a permanent government or were critical of other matters of detail. Finally, and probably most important of all, the merchants and their supporters saw in the extensive power given to the small rural towns, a threat not only to their immediate interests, but also to their whole position in government. Boston Gazette, May 11, 1778; Handlin and Handlin, pp. 20-21; Nevins, p. 177; Theophilus Parson, Memoirs of Theophilus Parson: Chief Justice of the Supreme Judicial Court of Massachusetts, with Notices of Some of His Contemporaries (Boston: Tuckner & Fields, 1859), p. 359; Henry Cabot Lodge, The Life and Letters of George Cabot (Boston: Little, Brown & Company, 1877), p. 14ff; Charles R. Brown, The Northern Confederacy According to the Plans of the Essex Junto 1796-1814 (Princeton: Princeton University Press, 1915), pp 7-8; David H. Fischer, "The Myth of the Essex Junto," William and Mary Quarterly, Third Series, XXI, No. 2, (April, 1964), 213.

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nor did it give assurance of the proper collection of debts or the protection of credit and property from the machinations of those who were agitating for debt relief and an easier acquisition and maintenance of property. It was apparent also that the framers of the constitution did not really consider the people competent to judge the merits and demerits of their public servants, a charge Lincoln later leveled against the Federalists.<sup>40</sup>

The defeat of the proposed constitution created a docile legislature. It applied quickly to the towns for approval to establish a special constitutional convention. Having received permission, the legislature in June, 1779, ordered the election of delegates to draft a constitution which would go into effect when approved by two-thirds of the people.<sup>41</sup>

It was to this convention that Lincoln travelled as a delegate. Although he did not agree with the area citizenry on issues of debtor relief and easy credit, he was considered a good delegate because of his record of opposition to the

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<sup>40</sup>Levi Lincoln to Theodore Sedgwick, March 8, 1778, Miscellaneous Collection, William L. Clements Library, University of Michigan: Political Notes, Lincoln Sr. Papers, AAS; For his attacks on the Federalists on this see his Farmer's Letters printed in the Worcester Massachusetts Spy in 1802 and in various other papers of the same year. The letters are also available in pamphlet form in the AAS.

<sup>41</sup>Nevins, pp. 178-9; Boorstin, The National Experience, pp. 409-10; Page Smith, John Adams (2 Vols.; New York: Doubleday & Company, 1962), I, 439; Handlin and Handlin, p. 24; Samuel Eliot Morison, The History of the Constitution (Boston: Wright & Potter, 1917), p. 5.



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previous attempt to establish a state constitution. His election was typical of the trend throughout the Commonwealth, as apathy was the major characteristic of the populace. In towns that elected delegates less than one-half of the people qualified actually voted.<sup>42</sup>

The apathy apparent in the election was manifested also in the attendance of delegates at the convention. Absence rather than attendance appeared to be the rule of conduct and Lincoln was no exception. Convention records show that he attended the opening session on September 1, 1779; after that he was in irregular attendance until February 2, 1780, when his name no longer appeared in the records. He was present for the first and third roll calls (November 8, 1779 and February 4, 1780), but not for the second (January 26, 1780). No substantial proof can be found that he attended after February 4, 1780. The assumption that he did not attend is based on the evidence that after that date his name does not appear on any of the thirty-nine committees appointed, while earlier Lincoln served on six of the thirteen committees of the convention.<sup>43</sup>

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<sup>42</sup>Nevins, p. 178; Smith, I, 439.

<sup>43</sup>Journal of the Convention For Framing A Constitution of Government For the State of Massachusetts Bay, From the Commencement of Their First Session, September 1, 1779 to the Close of Their Last Session, June 16, 1780. Including A List of Members (Boston: Dutton and Wentworth by Order of the Legislature, 1832), pp. 7, 42, 55, 58, 60, 62, 65, 67, 71, 80. The problem of computing attendance is compounded by the absence of roll calls. Representation by counties is given but not attendance records.

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One can only speculate on the reasons for Lincoln's non-attendance. He still held the position of judge of probate and the abundance of cases compelled him to spend considerable time in Worcester disposing of this backlog.<sup>44</sup> In addition, his private practice compelled him to be in frequent attendance at the area courts to represent his growing list of clients.<sup>45</sup> These reasons do not, however, explain attendance at the beginning, and non-attendance toward the end of the convention. This pattern of later absences perhaps can be explained as a growing disenchantment with the convention and increased duties at home. One of the new duties was his appointment as special prosecutor to dispose of vacant Tory lands in Worcester County.

The war had caused many Loyalists to flee the country. Some had left behind large estates of considerable value, and at a time when the state was short of finances these lands were too appealing to resist. The state, therefore, passed the Absentee Acts of April 30 and May 1, 1779, to confiscate the abandoned lands. The action by the state mirrored the attitude of the populace toward the Loyalist.<sup>46</sup>

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<sup>44</sup>Records at the Probate Court in Worcester show that many cases were disposed of over his signature during the period of the Convention.

<sup>45</sup>Levi Lincoln to General William Heath, March 20, 1780, Lincoln Sr. Papers, MHS. Fragmentary evidence in Lincoln's papers show that the majority of the cases he handled at this time were for the collection of debts, along with a considerable practice of handling the western business affairs of prominent Massachusetts residents.

<sup>46</sup>Boston Independent Chronicle, July 11, 1779; Manuscript copy, James Sullivan Papers, MHS. This is best summed

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The Absentee Acts authorized the state Attorney General to appoint special county prosecutors to execute the particulars of the legislation. Under this directive, Lincoln was appointed for the County of Worcester by the Attorney General Robert Treat Paine.<sup>47</sup> By the acts, Lincoln was authorized to seize all the property of persons who had left Worcester County after April 19, 1775, provided they were convicted of being pro-British.<sup>48</sup> Lincoln held this position for several years, and it gave him a respectable income.<sup>49</sup>

Lincoln's absence from the convention can then, in part, be attributed to the pressure of his other responsibilities, and in part to his lack of interest in convention

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up by James Sullivan writing as "Plain Truth" in the Boston Independent Chronicle.

However, we are led by the first law of nature, the innate principle of self-preservation, to prevent their having it in their power to do us mischief, when we know how ready they are to give in to the basest methods, that they may carry their point, and to think the end will sanctify the means. Are any so weak as to imagine, that their words are to be taken, and they will be peaceable and inoffensive, and will not intermeddle more in the present dispute, seeing that they have been so tenderly dealt with by the public in general and so cordially received again into favour by particular individuals?

<sup>47</sup>Robert T. Paine to Levi Lincoln, 1779, Robert Treat Paine Papers, MHS.

<sup>48</sup>The Acts and Resolves Public and Private of the Province of the Massachusetts Bay (Boston: Wright and Potter, 1886), II, Chap. 48, pp. 966-7, Chap. 49, pp. 968-71; Van Tyne, p. 30; William H. Nelson, The American Tory (Boston: Beacon Press, 1964), pp. 86, 94-96.

<sup>49</sup>In 1782 he was paid £100/12s, Acts and Resolves, 1782-83, Chap. 94, January Session, p. 413; in 1784 he was paid £286, Acts and Resolves, 1784-85, Chap. 47, May Session, pp. 853-4.

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routine. He was not alone in this. The whole state manifested apathy towards the proceedings and the state newspapers gave only cursory accounts of the happenings in the convention.<sup>50</sup>

The task of drafting the document was given to a committee of thirty, although the actual work fell to one member, John Adams. He was the chief architect of the constitution, the committee and convention making few changes in his draft.<sup>51</sup>

Formal debate on the document was begun in October, 1779. The debate finally ended with convention approval of the last article on March 2, 1780. The completed document was then prepared for formal presentation to the voters for approval or rejection.<sup>52</sup>

Most towns discussed the new Constitution in local meetings. In Worcester, Lincoln was one of the most unreserved

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<sup>50</sup>Even coverage of the completed document, the vote, and the results is extremely scarce in the newspapers.

<sup>51</sup>Nevins, p. 179; Smith, I, 439-40; Boorstin, The National Experience, p. 410; Fischer, William and Mary Quarterly, XXI, No. 2, 213-14. Fischer shows that the group called "The Essex Junto" did not help Adams draft the document, but instead were working at cross purposes to him. A draft of Adams' constitution may be found in the John Adams Papers, MHS; Charles Francis Adams, The Works of John Adams (10 Vols; Boston: Little, Brown & Company, 1850-56), IV, 219-259; George A. Peck, Jr., The Political Writings of John Adams, Representative Selections, No. 8 of The American Heritage Series, Oskar Piest, general editor (Indianapolis: The Bobbs-Merrill Company, 1954), pp. 93-103.

<sup>52</sup>Journal, 1780, p. 171; Handlin and Handlin, p. 27; There was complaint about the slowness of the convention. See James Sullivan to Elbridge Gerry, February 17, 22, 1780, the Russell W. Knight Collection, MHS.



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spokesmen for the document. His vigorous defense of the charter helped win local approval of all the articles with the exception of two--Article Twenty of the Constitution, and Article Three of the Bill of Rights.<sup>53</sup> Lincoln was opposed to these articles and argued persuasively for changing them. Article Three was concerned with religious freedom. Although freedom of worship was allowed, Lincoln was opposed to the legalization of the continuation of support for the established church through taxation.<sup>54</sup> Religion, Lincoln argued, was personal. Each person had to decide for himself what he wanted to believe, but the state was forcing conformity by the use of taxation. Even though the constitution allowed for the distribution of these tax funds to dissenting churches, Lincoln argued that this would not take place voluntarily and that the courts would have to force the towns to share the money.<sup>55</sup>

Article Twenty provided that the power of suspending the execution of laws rested in the legislature. This, in part, represented the mistrust of the people of strong central

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<sup>53</sup>Lincoln, History of Worcester, p. 123.

<sup>54</sup>The entire article was contradictory and confused. Every man had a right to worship according to the dictates of his conscience but all men had to worship publicly at stated times. Towns should tax for the support of ministers, and were left with the obligation of granting taxes to dissenting groups if they so desired, something which very few did.

<sup>55</sup>Political Notes, Lincoln Sr. Papers, AAS. This article received the most discussion and opposition in the state. See pamphlet, Policy As Well as Honesty, Forbids the Use of Secular Force in Religious Affairs, AAS; Boston Independent Chronicle, March 2, 16 and 23, April 6 and 13, 1780; Boston Gazette, May 22 and June 12, 1780.

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government. Arbitrary executive suspension could lead to a similar situation as that which they were waging war against. On the other hand, the provision would not allow for executive suspension in times of extreme emergency. So Lincoln reasoned. He strongly believed in a powerful executive with authority to establish policy for the legislature to follow.<sup>56</sup>

The decision of the people was returned to the convention for consideration. Though several towns recommended modifications, these were ignored, and the Constitution was adopted in its original form. By this method the new frame of government became law with the stamp of democratic approval.<sup>57</sup> There was no serious opposition to this apparent manipulation of the returns to insure acceptance and

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<sup>56</sup>Political Notes, Lincoln Sr. Papers, AAS; "Letter to the People by a Farmer," No. 2, Worcester Massachusetts Spy, August 19, 1801.

<sup>57</sup>Journal, 1780, pp. 175, 180, 186, 187; Handlin and Handlin, pp. 17-18; Nevins, p. 181; Boorstin, The National Experience, p. 412. The new constitution can be termed a consensus, a reasonable framework to control government and a channel through which social groups could work to promote their goals. Property qualifications were inserted to exclude the poor who generally were under the control of the wealthy. The towns remained the basic unit, but a formula was inserted to try to prevent small towns from dominating the large cities. The executive was given a veto. Plural officeholding was limited and the bill of rights guaranteed the citizens their liberties against government encroachment. For a good discussion of the Constitution, its ratification, and its effects see Journal, 1780; J. R. Pole, "Suffrage and Representation in Massachusetts: A Statistical Note," William and Mary Quarterly, ser. 3, XIV (October, 1957), pp. 565-9; Parsons, pp. 360, 376, 384-5, 392; Ellen E. Brennan, Plural Officeholding in Massachusetts, 1760-1780 (Chapel Hill: University of North Carolina Press, 1945).

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## IV

With the convention dissolved, Lincoln returned to his private business. The state continued to request his services, but he had decided to devote most of his time to his personal affairs.

Lincoln gained considerable fame as a lawyer in a case involving slavery in 1781. Joining forces with Caleb Strong, a later political opponent, Lincoln was called upon to defend the equal rights of all men under the laws of Massachusetts. Lincoln was hired to represent a Negro, Quok Walker, in a case when the supposed master of the slave, Nathaniel Jennison, accused Quok's employers of

enticing away the same Quok, a negro man and servant of the plaintiff, from his services; and rescuing him out of the plaintiff's hands, and preventing his reclaiming and reducing his said servant to his business and services, they knowing said negro to be the plaintiff's servant.<sup>59</sup>

The technical question was whether a slave had a right to freedom when his previous master promised him

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<sup>58</sup>Paul Goodman, The Democratic-Republicans of Massachusetts, Politics in a Young Republic (Cambridge: Harvard University Press, 1964), p. 5; Samuel E. Morison, "Struggle Over the Adoption of the Constitution in Massachusetts 1780," Proceedings of the Massachusetts Historical Society, Ser. 3, L (May, 1917), p. 354ff.

<sup>59</sup>Massachusetts Historical Society Proceedings, Second Series (Boston: 1898), III, 192.

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manumission.<sup>60</sup> Lincoln did not argue on the merits of the case, but argued that slavery was contrary to natural law. He further insisted that slavery was illegal because there was no absolute law allowing it. Lincoln also built his case on the argument that slavery was contrary to the Bible and the Massachusetts bill of rights.<sup>61</sup> The Constitution of 1780 did not mention slavery, but did declare, in the bill of rights, that all men were free and equal by birth.<sup>62</sup> Lincoln won this case when the Supreme Court of Judicature ruled that Walker was a free man.

In 1783 Lincoln found himself again representing Walker. Jennison was brought to trial for assaulting his freed servant in an attempt to return Walker. The court again ruled against Jennison and this time cited Lincoln's previous arguments as the basis for the decision.<sup>63</sup>

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<sup>60</sup>Arthur Zilversmit, The First Emancipation. The Abolition of Slavery in the North (Chicago: The University of Chicago Press, 1967), p. 113.

<sup>61</sup>Massachusetts Historical Society Proceedings, XV, 233.

<sup>62</sup>Zilversmit, p. 113.

<sup>63</sup>Massachusetts Historical Society Proceedings, XV, 233; Judge William Cushing used Lincoln's arguments in his decision and stated

As to the doctrine of slavery and the right of Christians to hold Africans in perpetual servitude, and sell and treat them as we do our horses and cattle, that (it is true) has been heretofore countenanced by the Province Laws formerly, but nowhere is it expressly enacted or established. It has been a usage--a usage which took its origin from the practice of some of the European nations, and the regulations of British government respecting the then Colonies, for the benefit of trade and wealth. But whatever sentiments have formerly



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The immediate effect of these cases is difficult to establish, but they did not lead to abolition. As a recent authority has stated:

Far from being hailed as revolutionary decisions, affecting the property rights of thousands of slaveowners, they went unnoticed in contemporary newspapers. The reason for the ambiguous results of the Walker-Jennison cases is that they were, in all probability, only several of a series of cases testing the constitutionality of slavery.<sup>64</sup>

In the same year as the first Walker case, the first General Court under the new constitution elected Lincoln as a representative to the Continental Congress. He declined the position, because it would mean leaving Worcester, and would interfere with his private affairs. He also turned it down because he doubted the competence of Congress to act efficiently on matters of national importance. It was too disorganized and factionalized to permit constructive cooperation,

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prevailed in this particular or slid in upon us by the example of others, a different idea has taken place with the people of America, more favorable to natural rights of mankind, and to that natural, innate desire of Liberty, with which Heaven (without regard to color, complexion, or shape of noses) has inspired all the human race. And upon this ground our Constitution of Government, by which the people of this Commonwealth have solemnly bound themselves, sets out with declaring that all men are born free and equal--and that every subject is entitled to liberty, and to have it guarded by the laws, as well as life and property--and in short is totally repugnant to the idea of being born slaves. This being the case, I think the idea of slavery is inconsistent with our own conduct and Constitution; and there can be no such thing as perpetual servitude of a rational creature, unless his liberty is forfeited by some criminal conduct or given up by personal consent or contract... .Verdict: Guilty.

<sup>64</sup>Zilversmit, p. 115.

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and Congress did not possess sufficient powers to carry out any progressive program.<sup>65</sup> Lincoln saw the need for reorganizing and strengthening the national government. Although he valued the concept of states' rights he was aware that the national government had to have sufficient power to legislate on matters of national concern.<sup>66</sup>

None of the business, however, was such that it could not have waited until he returned from Congress. Having acquired the homestead property shortly after his marriage, Lincoln went on to become one of the largest landowners in the western district.<sup>67</sup> In the next twenty years he invested heavily in real estate, and by the time he was elected to Congress in 1800, he owned approximately 3,000 acres of farm land, and much commercial property in Worcester. He purchased this at a cost of £2,843 legal money. Included in these purchases were a few vacated Tory lands, which he was able to buy at a low cost because of his position of special prosecutor.<sup>68</sup>

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<sup>65</sup>Political Notes, Lincoln Sr. Papers, AAS.

<sup>66</sup>Political Notes, Lincoln Sr. Papers, AAS; Lincoln, History of the Lincoln Family, pp. 162-63, 287-89.

<sup>67</sup>Lincoln, History of Worcester, p. 161.

<sup>68</sup>Register of Deeds, Lands Bought, 83:118; 84:319, 412; 85:494; 86:124; 93:428; 94:298, 428; 99:238; 101:255; 103:455; 105:39, 415, 416; 106:336; 107:246, 247, 301, 575, 609; 108:138, 140; 110:524; 111:95, 400, 401, 402; 112:3, 4; 115:631; 116:282, 283, 511; 117:564; 123:381, 609; 120:522; 134:564; 137:218; 144:202; 163:52; 190:315; 191:596; 198:65; 221:428.

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Almost all the land that he purchased was cleared and tillable. Whenever possible Lincoln arranged for a family in the area to work the farmland on a sharecrop basis. Generally the contractual conditions were spelled out in detail, and the farmer had to agree to certain basic stipulations. These included continual maintenance of the farm with the sharecropper bearing the expense of such upkeep, a division of the produce and profits between Lincoln and the farmer, and small details such as the hauling of

twenty-five loads of mud or other matter suitable to make manure of for the cattle to dung on, to plough in & mix with the manure to increase its quantity. . . .<sup>69</sup>

Lincoln was a very meticulous businessman and farmer. He kept careful records of every transaction that occurred, especially the income from the farms being sharecropped. These records of production were as detailed as the contractual arrangements. Cheese made to the quarter pound, eggs produced to the exact egg, wheat harvested to the quarter

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<sup>69</sup>Legal Land Contract between Levi Lincoln Sr. and Alpheus Brown, April, 1803, Lincoln Sr. Papers, AAS. Like arrangements can be found in the Memorandum between Lincoln and Stephen Gould of 1807. It is impossible to imagine the exacting details that Lincoln inserted in the agreements as the following from the Contract with Brown attests.

There is to be kept on the farm annually eight Cows, one Horse; at least four Choats [sic] to be fattened in the fall & four pigs to be kept thro [sic] the winter, one yoke of oxen with such Turkies [sic] Geese Hens & other Poultry as may be found convenient & consistent with the profitable improvements of sd [said] farm. The Cows to be improved & kept in the best manner that the circumstances of the farm will admit for the advantage of a Dairy. No more Calves to be raised than shall be agreed on mutually by the parties & those which are killed to be made as fat as may be by suitable tendencies & attention & to be killed at such times as will best accommodate the parties.

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bushel and the like were recorded. Farm production was excellent during the period, so that by 1800 he had a well-established, profitable agricultural establishment.<sup>70</sup>

Lincoln also bought and sold land for profit, although there is no evidence that he speculated in western lands. During the time that he purchased most of his land, he also sold large sections of property. By 1800, he had sold 700 acres of land for a total of £2,065. This was approximately one-fourth of the land purchased at a price only £800 less than what he had paid for 3,000 acres.<sup>71</sup> A study shows that the land generally was sold at a substantial profit.<sup>72</sup> Throughout his life, Lincoln remained a heavy buyer and seller of real estate.

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<sup>70</sup>Farm Record Book, 1795-1800, Lincoln Sr. Papers, AAS. Although production was good, operating such a complex agricultural establishment was costly. In nine months (February to October) of 1799, Lincoln paid out \$571.09 for extra labor and equipment for work on his many farms. The exact cash income from his farms, law practice, and governmental work is impossible to calculate because of the absence of complete records. Fragmentary evidence shows that he collected \$96.03 legal fees for one week in 1791. That he became a wealthy man is shown by the value of his estate probated after his death. Record of Payments for Work, 1799-1800, 1809, Lincoln Sr. Papers, AAS. The largest share of the cost went to laborers with a team and wagon to help in the harvest and other tasks; Miscellaneous Notes, Lincoln Sr. Papers, AAS.

<sup>71</sup>Register of Deeds, Lands Sold, 83:133; 88:392; 91:255; 93:15; 94:409; 95:515; 109:560; 110:526; 111:403; 115:394; 123:465; 130:440; 131:146; 139:23.

<sup>72</sup>This study was done by making random comparisons at the Register of Deeds office of lands bought and sold by using official property descriptions. One of the problems was that times Lincoln would sell only a small parcel of a larger tract he had previously purchased. An example of this is Lands Bought Book 86, p. 124 lists two tracts of land plus buildings for £53 while Lands Sold Book 88, p. 124 shows the sale of one store and small piece of land for £100 in the same property area. Other transactions were more clear-cut



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Lincoln was a dedicated farmer. He was always experimenting with new crop growing procedures and method of husbandry. He experimented in various manure mixtures, different seeds, which he tried to develop himself, and was always interested in improving his herds by cross breeding in the hopes that he would develop a strong healthy line of sheep and cattle.<sup>73</sup> This personal interest in agriculture led him to become a strong proponent of government aid to manufacturing. Like Hamilton, Lincoln felt that increased manufacturing would aid agriculture, by establishing a larger domestic market for farm products, and would result in improved farming methods. He believed that an objective and a duty of government was to promote commerce, manufacturing, and agriculture, for if this was accomplished "the safety, prosperity, and happiness of the Country" would be assured.<sup>74</sup> This position was contrary to Jefferson's on manufacturing, for the Virginian believed that

Carpenters, masons, smiths, are wanting in husbandry: but, for the general operations of manufacture, let our work-shops remain in Europe. It is better to carry provisions and materials to workmen there, than bring them to the provision and materials, and with them their manners and principles.<sup>75</sup>

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and show that Lincoln realized anywhere from £5 to £150 profit, depending on the sale. He realized some of his best profits on small tracts in Worcester.

<sup>73</sup>See the many volumes in the Lincoln Sr. Papers, AAS for the notes and suggestions that he picked up in his travels.

<sup>74</sup>"Farmer's Letters" No. 1, Worcester Massachusetts Spy, August 19, 1809.

<sup>75</sup>Adrienne Koch, ed., The American Enlightenment (New York: George Braziller, 1965), p. 393.

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After 1781, Lincoln found it necessary to devote more time and money to his growing family. By 1800, the Lincoln household had grown rather large with the arrival of nine children. The first child, Levi Jr., born in 1782, would gain the highest recognition for the family. Given the best education available, as were all the children,<sup>76</sup> Levi Jr. spent his life in public service as state senator, state representative, governor, lieutenant-governor, associate justice of the state supreme court, and congressional representative. Although Levi Jr. held more offices than his brother, others of Lincoln's sons served the public during their lifetimes. John Waldo, born in 1787, although primarily a farmer, served as a representative in the General Court, and held various offices at the local and county levels. Enoch, born in 1788, became a lawyer, served as Governor of Maine and as a member of Congress. William, born in 1801, was the last of Levi's children. He became an amateur historian and is the author of the reputable History of Worcester frequently cited in this study.<sup>77</sup>

Other Lincoln children included Daniel Waldo (1784-1815); Martha, (1785-1822) who married a law student of her father and lived in Charleston, Massachusetts; Rebecca, (1792-1855), married Rejoice Newton, a lawyer in Worcester, and

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<sup>76</sup>Lincoln to Enoch Lincoln, November 20, 1800, Miscellaneous Collection, William L. Clements Library, University of Michigan.

<sup>77</sup>Lincoln, History of the Lincoln Family, pp. 162-3, 278-9.

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Public service and political participation were not neglected by Lincoln during this period from 1781 to 1800. Much of Lincoln's subsequent career was shaped by the rise of political parties as they became an established institution in American society. Lincoln's involvement in party politics was gradual, as was the development of his political philosophy.

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<sup>78</sup>These boys were born in 1790, 1799, and 1800. Ibid., pp. 162-3; Death and Birth Records, Office Vital Records, Worcester County Courthouse, Worcester, Massachusetts.

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## CHAPTER TWO

### LINCOLN BECOMES A POLITICIAN

#### I

Although the new Constitution was in force in 1781, it did not prove to be the salvation that the state looked for. To many, the Constitution was the fulfillment of the Revolution, and nothing more was needed. An honest attempt had been made to prevent any group from dominating the government; but, in practice, a system was established which gave the merchants and larger towns a measure of control. The spirit of cooperation which existed did not last long. The debtor-farmer had accepted the new frame of government, but as it went into operation he became apprehensive and mistrusted those elected to office.<sup>1</sup>

State officials were blind to the urgency of the problems discussed by perplexed and angry men in the Commonwealth. These leaders accepted the adequacy of the Constitution to guide the Commonwealth through any and all crises, and believed in the perfect responsiveness of republican government

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<sup>1</sup>Oscar Handlin and Mary Flug Handlin, Commonwealth; A Study of the Role of Government in the American Economy: Massachusetts, 1774-1861 (New York: New York University Press, 1947), p. 33; Harry A. Cushing, History of the Transition From Provincial to Commonwealth Government in



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to the demands of the people.<sup>2</sup> Among those who adopted this philosophy was Lincoln, although he could see reason for complaint among the lower classes. Problems existed, but time, he believed, and an opportunity to find a solution would rectify them, if the people would be patient. Besides, the United States was "Paradise."

Compared with any foreign kingdom your [the people] lot has truly fallen in a pleasant place, and it rests with you to make it the heritage of happiness.<sup>3</sup>

Agitation increased, especially in the Western District - Worcester, Hampshire, and Berkshire counties becoming the areas of the most serious opposition. County conventions met to demand financial reform, suspension of debt collection, revision of public salaries and fees, and a tender law. Occasional riots challenged the newly organized courts, as a feeling developed that there was no justice for the common man. Insistent creditors, clever lawyers, and unsympathetic judges, it was believed, were arrayed against the lower classes. Everything seemed designed for the defense of all property rights, except those of the debtor. He found his

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Massachusetts (New York: Columbia University Press, 1896), p. 41.

<sup>2</sup>Robert J. Taylor, Western Massachusetts in the Revolution (Providence: University of Rhode Island Press, 1954), p. 103.

<sup>3</sup>"Letter to the People By A Farmer," No. 1, Worcester Massachusetts Spy, August 19, 1801; Letter to the People By A Farmer (Philadelphia: At the Office of the Aurora, 1801), Letters No. 4 and 5. In the pamphlet collection, American Antiquarian Society, Worcester, Massachusetts; Political Notes, Mostly Miscellaneous, Levi Lincoln Sr. Papers, AAS.

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property subject to seizure, and debtor's prison was a serious threat. Added to this internal dissension was the war debt hanging as a storm cloud over the Commonwealth.<sup>4</sup>

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<sup>4</sup>Boston Independent Chronicle, July 29, 1784, April 8, 28, May 12, June 16, August 20, October 6, 20, 1785; Boston Massachusetts Centinel, April 16, 19, 1785; Boston Gazette, February 19, 1781, May 6, 13, 27, 1782, March 31, April 28, May 5, 1783, April 17, 1786; Boston Independent Ledger, April 28, 1783; Boston Continental Journal, October 14, 1784. By 1780, Massachusetts had a paper debt of £11,000,000. Most of this was due to be paid in 1785. Although postponed until 1788, this was only temporary for the new government repealed the postponement as an injustice to creditors. The law passed to replace the old statute provided a gift to speculators by establishing the liquidation of the debt by a scale of depreciation favorable to them. This new scheme of liquidating the debt called for redeeming old notes at issue value rather than exchanging them for the new notes at current value. Known as Consolidated Notes, the new notes were exchanged by 1784. The balance of state debt was made up of army notes given to former soldiers to equalize the depreciated currency given them earlier. The total funded debt was £1,600,000. For a detailed treatment see Charles J. Bullock, "Historical Sketch of the Finances and Financial Policy of Massachusetts," Publications of the American Economic Association, Series 3, VIII. To pay off this debt presented a heavy tax burden. Direct taxes amounting to nearly £1,700,000 were levied between 1780 and 1786. Taxes thus averaged more than £3 per year for the 90,000 adult males in the state, a burden that was driving many farmers towards bankruptcy. For accounts of conditions see: Elbridge Gerry to Unknown, May 20, 1781, Russell W. Knight Collection, MHS; General Warren to Major Shaw to Henry Knox, March 21, 1782, Knox Papers, MHS; Otis to Theodore Sedgwick, July 8, 1782, Sedgwick Papers, MHS. The people were not to blame:

I can assure you, Sir, that I believe that there were never a better people than we have; but all their exertions are marred and crossed by having bad measures often adopted and carried into execution with vigour and attention, while good ones are rarely planned, and but badly managed.

James Sullivan to Benjamin Lincoln, August 4, 1781, James Sullivan Papers, MHS; Handlin and Handlin, pp. 33-34; Winfred E. A. Bernhard, Fisher Ames, Federalist and Statesman 1758-1808 (Chapel Hill: University of North Carolina Press, 1965), p. 47; Anson E. Morse, The Federalist Party in Massachusetts to the Year 1800 (Princeton: Princeton University Press, 1909), p. 37; Lee Nathaniel Newcomer, The Embattled Farmers. A Massachusetts Countryside in the American Revolution (New York: Columbia University Press, 1953), p. 135; Bullock,

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During these early years, Lincoln played no major role in government. He remained contented with his private affairs, which were considerable as economic conditions greatly increased the number of creditor suits which he handled, against debtor farmers. Although the financial situation brought him additional business, he was not satisfied with state policy. At heart a farmer, he had a certain sympathy for this group, and believed that they were entitled to relief, although not easy money. Lincoln felt that they had suffered as much as anyone, and that it was unfair to place a heavier burden on them.<sup>5</sup> The debtor-farmers' plight became acute for Lincoln when he was appointed in 1782 to a county committee to find ways to expedite the payment of taxes. The Committee reported that there simply was no money to collect; farmers were practically penniless, and did not know where funds were to be found.<sup>6</sup>

Western agitation and resistance to the government finally broke into armed revolt with Shay's Rebellion in 1786. Before this happened, however, the debtor-farmer had tried to obtain relief through constitutional channels, but any success in the lower house had been negated by the upper

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Publications of the American Economic Association, Series 3, VIII, (1907), pp. 273-74.

<sup>5</sup>Political Notes, Lincoln Sr. Papers, AAS.

<sup>6</sup>The Acts and Resolves Public and Private of the Province of the Massachusetts Bay, 1782-83 (Boston: Wright and Potter, 1886), May Session, Chap. 124, p. 253; Political Notes, Lincoln Sr. Papers, AAS; Elbridge Gerry to de la Luzen, January 9, 1781, Russell W. Knight Collection, MHS.

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<sup>9</sup> This  
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chamber.<sup>7</sup> The farmer then had turned to the towns for support, and town meetings and county conventions had flooded the General Court with petitions calling for measures that had been rejected earlier.<sup>8</sup>

Shay's Rebellion, designed to close the courts and defy the government until the demands were met, was short lived. The Bowdoin Administration forcefully met the challenge, and the rebellious farmers melted away. Before this happened, however, the rebels had been able to create considerable trouble in some areas. Much of their fury was vented against lawyers, many of whom held responsible positions in state and local government, and with whom the farmer directly associated his harassment in court. When the unorganized mob arrived in Worcester one of its first targets was the home of Lincoln, since as the leading lawyer in the area he handled more credit cases than any other attorney.<sup>9</sup> Warned

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<sup>7</sup>Handlin and Handlin, p. 44. This lower house success consisted of measures to regulate the legal profession and a new tender act designed to give temporary economic relief. The problem developed in part because the farmer had failed to participate directly in government. Few citizens bothered to vote and some towns even neglected to send representatives. For years the farmer seemed content to let others do the governing.

<sup>8</sup>Massachusetts Archives, CLXXXVII, pp. 280, 318, 327-28, 368-69, CLXXXVIII, pp. 40-41, 191, 239, 259, 393; Worcester Massachusetts Spy, October 16, 1787; Boston Gazette, June 14, 1786; Boston Massachusetts Centinel, March 25, April 15, 19, 26, May 10, June 24, and September 9, 1786; Boston Independent Chronicle, March 9, May 11, 1786; Handlin and Handlin, p. 44; Taylor, pp. 80, 126-27, 134-36; See also Northampton Hampshire Gazette, Boston American Herald, May - September, 1786.

<sup>9</sup>This would be many cases for Lincoln, because in 1784 there were over 2,000 debt suits in Worcester County,



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that they were coming, Lincoln managed to escape through the back of the house and across the fields on horseback.<sup>10</sup>

When the rebellion was quelled, the problem of punishing the leaders remained. The punishment of the insurgents was surprisingly lenient; the trials were conducted impartially, and eventually all sentences were repealed and pardons granted.<sup>11</sup> All arrested persons were given competent legal assistance by attorneys appointed by the state. Lincoln was assigned with James Sullivan as counsel for some of the leaders. Lincoln's strong defense of the rebels partially restored him to the farmer's good graces. Sullivan did not need this for he was one lawyer who had not been attacked by the insurgents.<sup>12</sup>

## II

Locally, Lincoln participated in the affairs of the town. Interested in upgrading the area, he took part in projects that enhanced the image of Worcester. He was a member

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and in 1785 out of 104 people jailed, 94 were for debts. Walter A. Dyer, "Embattled Farmers," The New England Quarterly, IV, (1931), p. 463.

<sup>10</sup>Taylor, pp. 128, 136; Goodman, p. 14; Lincoln History of Worcester, p. 151; See Peter Thacher to Thomas Cushing, September 15, 1786, James Sullivan Papers, MHS, for a negative account of lawyer response to Shay's Rebellion.

<sup>11</sup>Governor's Message, June 2, 1787, Acts and Resolves, 1786-87, pp. 985-87; and Chaps. 6, 20, 29, 53, 63.

<sup>12</sup>Taylor, p. 136; Lincoln, History of Worcester, p. 151; Peter Thacher to Thomas Cushing, September 15, 1786, James Sullivan Papers, MHS.

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of a group which purchased land that was turned over to the local school association for a building site.<sup>13</sup> He became involved in constructing a turnpike from Boston to Worcester to accelerate settlement, increase economic productivity, and establish quicker communications with the eastern seaboard. The charter for the First Massachusetts Turnpike Corporation of 1796 was obtained easily, as the General Court was quick to approve a project that improved the state without using public money. Because of his interest in farming, industry, and general knowledge, Lincoln also became a charter member of the statewide Society for the Cultivation and Promotion of the Arts and Sciences.<sup>14</sup>

Along with these activities, Lincoln became embroiled in a local religious dispute in 1785; a situation that pointed towards his growing disenchantment with the established church. The controversy developed when the local Congregational Church refused to accept as minister the Reverend Aaron Bancroft, who had been recommended by several citizens, including Lincoln.<sup>15</sup> He was rejected because of his liberal religious doctrines. Lincoln had reached the point of his religious development where he rejected the doctrines of the Congregational Church.

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<sup>13</sup>Lincoln, History of Worcester, p. 124.

<sup>14</sup>Acts and Resolves, 1796-97, Chap. 5, pp. 8-9, Chap. 46, pp. 1194-96; Lincoln, History of Worcester, p. 124. Included in the charter group of the academy were John Adams, Samuel Adams, James Bowdoin, and James Sullivan. The Society is better known as the Academy of Arts and Sciences.

<sup>15</sup>The Constitution of 1780 had taken away the right of the congregation to elect a minister, and gave it to the citizens of the town. This subjected the choice of pastor to the will of all the people.

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In particular he, and those who also supported Bancroft, denied the doctrine of predestination, asserting that a God of love would not automatically condemn a majority of mankind to eternal perdition but rather was giving the chance of salvation to all men. In addition, Lincoln was struggling with the question of the Trinity and the divinity of Christ. He had accepted the theory that Jesus was nothing more than a great moral teacher, whose teachings were to be studied as a plan of conduct. Although Lincoln later would publicly support Christian principles, he did this for political reasons and never accepted them as part of his religious beliefs. Much of his later rejection of the established church was centered around what he considered to be undue influence of the clergy in politics and the society of the period. From available evidence it appears that Reverend Bancroft adhered to the same beliefs as Lincoln.<sup>16</sup> As a consequence sixty-seven members under Lincoln's leadership withdrew from the church. Adopting their own covenant, the group formed a separate organization. Calling itself the Second Parish of Worcester, it became known as the Second Congregational Church upon incorporation November 13, 1787. Later, it became the Unitarian Church of Worcester.<sup>17</sup> A voluntary association for religious

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<sup>16</sup>Political Notes, Lincoln Sr. Papers, AAS; Lincoln, History of Worcester, p. 181. Lincoln's religious beliefs have to be culled from various papers in his collection especially the Political Notes and his Farmer's Letters.

<sup>17</sup>Charles Nutt, History of Worcester and Its People (2 Vols; New York: Lewis Historical Publishing Company, 1919), II, 883-84; Jacob C. Meyer, Church and State in Massachusetts 1740-1833 (Cleveland: Western Reserve University Press, 1930), p. 134; Lincoln, History of Worcester, p. 181;

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worship, it was unsanctioned by government. This erection of a parish which brought together those of similar opinion without regard to residency, was an innovation. The group claimed rights which after the passage of time have been accorded as common privilege.

### III

All this, of course, did not take place in a vacuum. During this same period Lincoln gradually became more involved in state politics. State politics at the time were factional politics. Much of the political activity and organization was influenced by colonial experience. With the end of the Revolution the patriot forces split into personal-factional groups. Lacking permanent organization with a shifting membership and without a broad base of support from the electorate, factions generally were narrow self-serving groups. This system was complicated by politically active economic, occupational, social, and religious groups which worked to influence government to promote their welfare. To call these factions political parties would be a misnomer.<sup>18</sup>

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Acts and Resolves, 1787, Chap. 18, pp. 573-75; In answer to a question of the legislative committee investigating the case, Lincoln argued for separation and incorporation because "The majority of our inhabitants are rigid Calvinists, the petitioners are rank Arminians."

<sup>18</sup>Paul Goodman, The Democratic-Republicans of Massachusetts. Politics in a Young Republic (Cambridge: Harvard University Press, 1964), p. 5ff; Richard E. Welch, Jr., Theodore Sedgwick, Federalist: A Political Portrait (Middletown, Connecticut: Wesleyan University Press, 1965), p. 28; Herbert S. Allan, John Hancock, Patriot in Purple (New York: Beechurst Press, 1953), p. 195ff; John C. Miller, Sam Adams,



There were three distinct factions in Massachusetts. One formed behind John Hancock, another gathered close to Sam Adams, but was controlled by James Warren and Elbridge Gerry. The third collection of politicians clustered around James Bowdoin and those incorrectly labeled the Essex Junto.<sup>19</sup> Hancock was the master of personal politics. His greatness was his ability to isolate the opposition, cultivate friends, avoid difficult decisions, and build his popularity. He became a rather consistent winner, elected in 1781 through 1784, and again in 1787 through 1792. The interim for Hancock was a period of self-imposed retirement from active politics.<sup>20</sup>

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Pioneer in Propaganda (Boston: Little, Brown and Company, 1936), p. 336; Allan Nevins, The American States During and After the Revolution, 1775-1789 (New York: Macmillan Company, 1924), p. 220ff; Bernhard, p. 47.

<sup>19</sup>The Essex Junto myth has been effectively refuted by David H. Fischer, "The Myth of the Essex Junto," William and Mary Quarterly, Third Series, Vol. XXXI, No. 2, (April, 1964), pp. 191-235.

<sup>20</sup>Boston Gazette, April 2, 1781, April 5, 1782. April 4, 1783; Boston Columbian Centinel, April 7, 1784, April 2, 6, 16, May 11, 1785, March 25, April 1, 5, June 3, 1786, March 21, 24, 28, 31, April 4, May 24, 1787; Goodman, p. 8; Nevins, pp. 212-217; Morse, pp. 19, 41; Albert Bushnell Hart, Commonwealth History of Massachusetts Colony, Province and State (3 Vols.; New York: State History Company, 1927-30), III, 441; Allan, p. 273ff. Allan, sees the factions, especially Adams-Hancock, as the basis of the Federalists-Anti-Federalists of a later period. This has been nullified by Oscar Handlin and Mary Flug Handlin, "Radicals and Conservatives in Massachusetts After Independence," The New England Quarterly, Vol. XVII, No. 3, (September, 1944), pp. 343-55.

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Lincoln's participation during this period was fragmentary. In the election of 1787, he was a strong supporter of Hancock in his bid to unseat Governor James Bowdoin after Shay's Rebellion. However, he did not support Hancock because of Bowdoin's resistance to the uprising. Lincoln was disappointed with Bowdoin for other reasons, and considered Hancock to be a better man for Governor. For Lincoln it was a matter of the lesser of two evils.<sup>21</sup> In 1785, Lincoln had been opposed to Hancock's choice of successor, Thomas Cushing. Not wanting to support Bowdoin, Lincoln found himself faced with the prospect of choosing between two candidates who were not to his liking. He, therefore, tried in cooperation with others, to persuade James Warren to be a candidate.<sup>22</sup> Hancock had not run in 1785 resigning from the Governorship before the election was held. He resigned ostensibly for health reasons, but it has been suggested that he actually withdrew from public service because of the growing dissatisfaction in the state, and planned to return on the "wave of reaction."<sup>23</sup> The dissatisfaction, which Hancock sensed, erupted, as already noted, in Shay's Rebellion in 1786.

Politically, Shay's Rebellion brought a change in government. Towns which had not bothered to send delegates

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<sup>21</sup>Lincoln to Gerry, February 14, 1787, Lincoln Sr. Papers, AAS; Boston Massachusetts Centinel, May 24, 1787, asserts that leadership in the western region had backed Hancock because of the force used against the rebellion.

<sup>22</sup>James Warren to Elbridge Gerry, March 12, 1785, Russell W. Knight Collection, MHS.

<sup>23</sup>Allan, pp. 315-16.

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before, now saw to it that they were represented, and many incumbents were defeated. One who fell from power was Bowdoin, as Hancock re-emerged as one not identified with unpopular measures. The result was a landslide victory for the ex-Governor as he carried every county, receiving seventy-five percent of the vote.<sup>24</sup>

## IV

The shock wave of Shay's Rebellion barely had abated when the state was confronted with another issue that tested its internal strength. It had become apparent that new energy had to be infused into the national government, and, as is well known, a bold new plan of government was presented to the states for ratification in 1787. The Federal Constitution reached Massachusetts in the Fall, where ratification was essential for national approval; defeat would be an almost unsurmountable obstacle. The document created intense interest

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<sup>24</sup>Boston Independent Chronicle, March 29, April 19, 1787; Boston Massachusetts Centinel, March 24, 31, 1787; J. R. Pole, "Suffrage and Representation in Massachusetts: A Statistical Note," William and Mary Quarterly, Ser. 3, XIV, (October, 1957), 576-78; Robert A. East, "The Massachusetts Conservatives in the Critical Period," in Era of the American Revolution, ed., Richard B. Morris (New York: Columbia University Press, 1939), p. 363. Hancock's actions during the rebellion came under praise by his friends who predicted that his aloofness from the problem was deliberate to allow him to run for governor without being pictured as taking sides during the rebellion. See Peter Thacher to Thomas Cushing, September 15, 1786, James Sullivan Papers, MHS.

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and, it was believed that public opinion was hostile to the constitution.<sup>25</sup>

Lincoln was greatly concerned and expressed his reservations. He feared that the people would be shunted aside. The two year term for representatives was a good feature but the six years for senators would place them, he believed, outside the influence of the people. In addition, he questioned the value of having senators elected by the state senates and not by the voters in a popular election. The absence of constitutional safeguards for individuals rights was greatly protested by Lincoln as well as the proposed judicial structure. Throughout his life Lincoln spent considerable time in thought and study on the judicial system and law. He became convinced that the safest protection of individual rights was through the use of juries in all court systems. Because of this and the apparent absence of juries in the proposed national courts, Lincoln questioned this part of the constitution. He was also worried that the federal courts would undermine the power and stature of the state courts. Along with these objections, Lincoln added his concern over what he

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<sup>25</sup>Detailed studies of the ratification problem have been made. See Samuel B. Harding, Contest over the Ratification of the Federal Constitution in the State of Massachusetts (New York: Longman, Greene & Co., 1896); Orin G. Libby, "Geographical Distribution of the Vote of the Thirteen States on the Federal Constitution, 1787-1788," Bulletin of the University of Wisconsin, (Madison: University of Wisconsin Press, 1894), pp. 12, 75-78; Charles A. Beard, An Economic Interpretation of the Constitution (New York: Macmillan Co., 1913); Robert E. Brown, Charles Beard and the Constitution (Princeton: Princeton University Press, 1956); Forrest McDonald, We the People: the Economic Origins of the Constitution (Chicago: University of Chicago Press, 1958).

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considered to be an unclear separation of state and federal powers created by the necessary and proper clause.<sup>26</sup> Despite these misgivings, Lincoln felt that the document represented the best that could be obtained and should be approved, if a bill of rights was attached. Along with other citizens, he felt it should be accepted to end a growing listlessness and lack of concern in many circles.<sup>27</sup>

Politics in Massachusetts again changed with the implementation of the constitution. Factions merged and solidified, and two groups gradually developed to become political parties. As they grew they replaced the old system of personalism. These parties became inexorably intertwined with national developments, and to understand state politics, national affairs must be discussed.

# V

The government of the new Constitution began under friends. Divergent opinions existed, but these were tempered by the desire to give the new government a chance to succeed. The Constitution itself had created opposition during the ratification process; its supporters became known as Federalists, while those who opposed it were called Anti-Federalist.

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<sup>26</sup>Political Notes, Lincoln Sr. Papers, AAS.

<sup>27</sup>Political Notes, Lincoln Sr. Papers, AAS; Lincoln to \_\_\_\_\_, September 18, 1787, Lincoln Sr. Papers, MHS; See also Warren to Gerry, August 27, 1787, Russell W. Knight Collection, MHS; See Edward Bangs to George Thacher, January 1, 1788 as noted in Harding, p. 74, for an opposite viewpoint.

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There is no proof that later political parties had any direct connection with these groupings.<sup>28</sup> Political party unity came after the early calm of the Washington Administration, and began at the national level and then filtered down to the states.<sup>29</sup> In Massachusetts, as early as 1790, there were distinctive groups which were divided on the issue of granting power to the federal government, and the method of paying the state debt, but even these were not forerunners of later parties and, generally consisted of politicians who came to power with the new Constitution.<sup>30</sup>

A major step toward the development of political parties came in 1790, when Alexander Hamilton presented his

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<sup>28</sup>Noble E. Cunningham Jr., The Jeffersonian Republicans, The Formation of Party Organization, 1789-1801 (Chapel Hill: The University of North Carolina Press, 1957), p. 23; Charles A. Beard, Economic Origins of Jeffersonian Democracy (New York: Macmillan Company, 1915), pp. 73-74, argued that there was a direct relationship between the opposing forces over the Constitution and the parties formed later; Handlin and Handlin, The New England Quarterly, VOL. XVII, No. 3, (September, 1944), pp. 343-55, show that this was not true in Massachusetts,

The mossy conception of two-party continuity, smooth seeming and attractive at first sight, has preempted the most fertile areas of our thinking and prevented the growth of more fruitful interpretations;

William Nesbit Chamber, Political Parties in a New Nation, The American Experience, 1776-1809 (New York: Oxford University Press, 1968), p. 29 supports Cunningham's argument; see also Goodman, pp. 51-52.

<sup>29</sup>John C. Miller, The Federalist Era, 1789-1801 (New York: Harper and Brothers, 1960), p. 100; Cunningham, pp. 33, 35, 45 shows that even at the beginning of 1792 there were very few signs of party organization within the states, although organizational development could be seen at the national level.

<sup>30</sup>James Sullivan to Elbridge Gerry, March 7, 1790, Russell W. Knight Collection, Elbridge Gerry Papers, MHS.

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fiscal and economic program. He admitted later that this policy, and the subsequent disagreement with Madison, "laid the foundation of the great schism which has since prevailed."<sup>31</sup> To Hamilton, a primary concern was the establishment of credit, and this could be done only by paying off the national debt. His plan of action was presented to Congress in his First Report on the Public Credit.<sup>32</sup>

Massachusetts' reaction to the Report was mixed. Madison's alternate proposal of paying only the original holders of securities was met with some skepticism.<sup>33</sup> Lincoln's reaction to Madison's plan cannot be stated positively. Existing records give no clue to his position but one can assume, from other statements, what his feelings were. Lincoln was satisfied with Hamilton's program because something had to be done to correct the financial situation. General

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<sup>31</sup>Chambers, p. 1; Miller, pp. 100-101; Goodman, p. 48; Bernhard, pp. 127, 144-45; Cunningham, pp. 4ff; Joseph Charles, The Origins of the American Political System (Williamsburg: The Institute of Early American History and Culture, 1956), p. 91; Adrienne Koch, Jefferson & Madison, The Great Collaboration (New York: Oxford University Press, 1964), p. 103; Henry Cabot Lodge, ed., The Works of Alexander Hamilton (New York: Houghton, Mifflin Company, 1904), VIII, 466.

<sup>32</sup>Lodge, II, 224-91; Nathan Schachner, Alexander Hamilton (New York: D. Appleton-Century Co., 1946), pp. 243-46; Claude B. Bowers, Jefferson and Hamilton; The Struggle for Democracy in America (Boston: Houghton, Mifflin Company, 1925), pp. 43-44; Miller, pp. 39-41. The national debt was a major obstacle. In 1789 it totaled \$50 million, of which \$11,700,000 was owed to France, Spain, and bankers in the Netherlands. \$40 million was in securities held by United States citizens. It was this latter share that caused the most trouble.

<sup>33</sup>James Sullivan to Elbridge Gerry, March 7, 1790, Russell W. Knight Collection, MHS.

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financial responsibility was a vital first step in uniting the country.<sup>34</sup> Because of this stand of Lincoln's, it is safe to assume that he would have opposed Madison's plan of paying the original holders of the securities. He probably looked upon Madison's program as being disruptive and weakening the confidence of the people in the financial stability of the new government. Later he was more positive about the effects of Hamilton's program on the government:

The general government is establishing itself in the affections of the opposition. Complacency has succeeded to complaints. Produce is high in the market, & money plenty in the Country. These circumstances, which are probably, effects from a combination of causes, are considered as the products of the new Government. In policy, too much credit can not be given to it.<sup>35</sup>

The two parties, as they developed, were not unified, organized units. This came gradually. Opposition at the national capital did not necessarily mean a similar division among the people. In Massachusetts competition for public office and votes at elections declined at the time opposition to Hamilton's program was growing in New York.<sup>36</sup> Federalists

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<sup>34</sup>Lincoln to Caleb Davis, July 12, 1790, Caleb Davis Papers, MHS. For general state feeling on the financial situation see Boston Independent Chronicle, March 6, 1788, May 23, June 11, August 20, December 3, 17, 24, 31, 1789; January 4, February 11, 1790; Boston Massachusetts Centinel, May 30, November 11, December 29, 1789; Boston Herald of Freedom, July 31, 1789; Theodore Sedgwick to Caleb Davis, August 9, 1789, Caleb Davis Papers, MHS; Welch, pp. 92-93.

<sup>35</sup>Lincoln to Theodore Sedgwick, January 12, 1791, Theodore Sedgwick Papers, MHS. Underlining is mine.

<sup>36</sup>Goodman, p. 49.

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and Republicans eventually became truly political parties in that they represented clearly formulated ideas with able and intelligent leadership.<sup>37</sup>

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<sup>37</sup>Manning Dauer, The Adams Federalists (Baltimore: The John Hopkins Press, 1953), p. 6; Miller, p. 101; Chambers, pp. 143-47. The Republican Party was formed by people who favored France and the French Revolution and who felt that there were overt threats to the republican order at home. Federalists attracted those who feared the Revolution, were pro-British and were afraid of the spread of Jacobinism throughout the country. The Republicans promoted a grass-roots philosophy. Ultimate power, control and decisions rested in the hands of the people. The protection of individual rights was basic to Republicanism. Differences did exist, however, as has been shown by Adrienne Koch in Jefferson & Madison, the Great Collaboration. The two leaders disagreed mostly over centralized government and local government. Jefferson steadfastly maintained an affection for the idea that democracy would work only if the masses of the people were constantly involved. He had a great distrust for large centralized government which would be outside the control of the people. Madison saw a greater danger in localized power which would be fragmentary and obstruct a unified policy. Basic Federalist philosophy was quite different. Federalism was city-born and bred. The Federalists felt that there was a natural connection between the ownership of wealth and the ability to rule. The wealthy alone possessed the wisdom, sobriety, ability, public spirit, and respect for order upon which good government depended. Mankind was far from virtuous, temperate and kind; rather it was malicious, subject to cupidity and jealousy. Therefore, it must not be a government of the people, but a government strong enough to resist the passions of the people. Koch, pp. 43-44. Chambers, p. 44; Wilfred E. Binkley, American Political Parties, Their Natural History (New York: Alfred A. Knopf, 1962), p. 50; James Albert Woodburn, Political Parties and Party Problems in the United States (New York: G. P. Putnam's Sons, 1914), p. 25; Miller, pp. 104, 108-11; Samuel Eliot Morison, Life and Letters of Harrison Gray Otis, Federalist, 1765-1848 (2 Vols; Boston: Houghton, Mifflin Co., 1913), I, 280; Seth Ames, The Works of Fisher Ames (Boston: Houghton, Mifflin Co., 1954), II, 79-80, 304-95; Lodge, pp. 119-20; Bernhard, p. 256. An excellent study of Federalist leadership is David Hackett Fisher, The Revolution of American Conservatism (New York: Harper & Row, 1965). See especially Appendix I, p. 200.

Political divisions were first discernable in the election of 1791, although only on the national level. For the next few years, state political growth and national affairs were inseparable; local parties were formed on the basis of national and international events, and they became tools for generating support or opposition.<sup>38</sup>

Massachusetts political parties developed with the realization that it was necessary to have public support for party policies. Internal differences of opinion had a solidifying effect on politics as the social, economic, and political problems within the state were important in the modification and expansion of political interests. As the

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<sup>38</sup>Cunningham, pp. 29, 31, 33-35, 45, 49; Goodman, pp. 51-52; Miller, p. 102; Charles, pp. 91-92; Chambers, p. 40; Leonard D. White, The Jeffersonians: A Study in Administrative History 1801-1829 (New York: Macmillan Company, 1950), p. 46. Foreign relations helped to further solidify the parties. The continual rivalry between Great Britain and France, which blossomed into open warfare, inexorably involved the United States as American shipping became an important factor in the struggle for power. Washington had proclaimed neutrality for the country, and the chief duty then became its preservation, but British attacks on American shipping compounded the problem. Under heavy pressure at home, Washington dispatched John Jay to negotiate with Great Britain. The resulting Jay's Treaty was a decisive issue that helped split the nation into opposing parties, and shaped foreign and domestic politics in the United States. "The treaty" in the words of a recent historian, "became symbolic: either it was the fountain of peace and prosperity or the manifestation of antirepublican, pro-British sympathies." Goodman, p. 57; Welch, p. 141; Boston Independent Chronicle, July 13, 15, 23, 1795; Boston Columbian Centinel, July 15, 1795; Morse, pp. 151-54. For a good analysis of Jay's Treaty see Samuel F. Bemis, Jay's Treaty: A Study in Commerce and Diplomacy (New York: Macmillan Company, 1923) or Bradford Perkins, The First Rapprochement: England and the United States, 1795-1805 (Philadelphia: University of Pennsylvania Press, 1955).

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different groups hoped to gain power they found it necessary to form broad coalitions with other intrastate groups. The continuing crisis in foreign affairs modified traditional alignments and forced the factions to adjust to meet these, and to expand to admit new groups with new demands.<sup>39</sup>

## VI

During this formative period, Lincoln's philosophy underwent a transformation. At first a supporter of Hamilton's program he became disenchanted with the policies of the Washington Administration and became a supporter of the opposition to the Federalists. He grew disturbed over what he considered an increasing assertion of power by the Federal government at the expense of the states. A strict constructionist, Lincoln became alarmed over what, he believed to be a liberal interpretation by the Federalists.<sup>40</sup> By 1794 Lincoln was working hard at the state and local level in establishing a party in opposition to the Federalists in Massachusetts. From this date on Lincoln was recognized as one of the leaders of the opposition.

As a local leader in Worcester, Lincoln found the going difficult. Worcester was one of the largest counties, and one of the strongest Federalist areas, although

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<sup>39</sup>Chambers, p. 26ff; Goodman, pp. 65-66; Binkley, pp. 62-64; Herbert Agar, The Price of Union (Boston: Houghton Mifflin Company, 1950), p. 83; Bernhard, p. 186; Miller, p. 101.

<sup>40</sup>Political Notes, Lincoln Sr. Papers, AAS; Worcester Massachusetts Spy, June 7, 1794.

throughout the state both parties found it difficult to organize. The Federalists, however, had an advantage. Coming to power with the constitution, they were able to establish themselves in local offices from which the Republicans, for years, were unable to completely drive them out. In addition, a Democratic-Republican disadvantage became a Federalist advantage. There was a distinctive absence of strong Republican leadership in the western counties to challenge Federalist authority. Forceful local leadership was necessary for growth; its absence caused the local population to follow the direction of the established leadership, most of which was Federalist.<sup>41</sup>

Lincoln was an exception to this void in local leadership. Although Worcester remained Federalist, the Republicans gradually strengthened their position because of his direction. He approached the task of political organization the same way he did everything else--methodically and precisely. As a local leader, Lincoln was fortunate to have the assistance of men in every town.<sup>42</sup> Forming these into a county committee as early as 1794, Lincoln, through this group, controlled the political affairs of the party in the county.<sup>43</sup> This was an informal gathering that acquiesced in Lincoln's

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<sup>41</sup>Worcester Massachusetts Spy, June 7, 1794; Goodman, p. 82.

<sup>42</sup>These allies to Lincoln included David Henshaw of Leicester, Jonathan Grout of Petersham, Samuel Jones of Milford, General White and John Whiting of Rutland, General Timothy Newell of Sturbridge, and Samuel Brazer Jr. and Edward Bangs of Worcester, Lincoln, History of Worcester, p. 193ff.

<sup>43</sup>Worcester Massachusetts Spy, May 26, 1797.

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leadership, which was natural because of his established reputation. The committee unofficially endorsed candidates which it felt adhered closest to the Jeffersonian line. These then would receive support by announcements in the local papers. When the group made an announcement for a candidate it took pains to remove any link with a party. Supporting articles were written, however, in such a manner that it was not difficult to identify party affiliation. At times, a member would be delegated to write a political article refuting a Federalist charge, or to launch an attack.<sup>44</sup> At first, the absence of a party label was politically expedient. Party affiliation was not looked upon favorably, and a disavowal of any party connection was a high recommendation.<sup>45</sup> Therefore, Lincoln's committee was very cautious in its political pronouncements, and even his campaign in 1796 for the General Court was conducted on a program of detachment from party influence. It was a victory for Lincoln's personality and influence. It also reflected the instability of area politics, and showed that party affiliation was not extensive in 1796. By 1800, this had changed, and those who became the party leaders in 1800 were the same who had decried party development in 1796.

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<sup>44</sup>Political Notes, Lincoln Sr. Papers, AAS: Boston Independent Chronicle, October 27, 31, November 5, 7, 1796; Boston Mercury, November 1, 4, 1796; Cunningham, pp. 96-97, 109-10, 133.

<sup>45</sup>Cunningham, p. 254.

Lincoln was elected to the General Court as one of two representatives from the town of Worcester.<sup>46</sup> With one exception he played no major role in legislation. Continuing his interest in justice he co-sponsored a bill which divided Massachusetts into judicial districts to permit a faster legal system.<sup>47</sup> Outside of this, Levi served on various minor temporary committees to consider petitions from towns and individuals.<sup>48</sup>

While a representative, Lincoln continued his leadership of local politics, and began his attack upon Federalism by following the general theme of the party. Democratic-Republicans attacked Federalist leadership because it threatened "the future of the newcomer, the ambitious man, the outsider." This attack on traditional leadership coupled with a demand for enlarged opportunities of participation for the politically excluded made the Democratic-Republican organization appealing.<sup>49</sup>

This attack also included the established church. In this area, Lincoln became the spokesman in Massachusetts. Much of his opposition to the clergy went back to his earlier

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<sup>46</sup>The other representative was Samuel Flagg.

<sup>47</sup>Journal of the House of Representatives, Vol. 17a, March 1796-March 1797, p. 46, Massachusetts Archives.

<sup>48</sup>Journal of the House, Vol. 17a, March 1796-March 1797, pp. 7, 65; Vol. 17b, May 1797-March 1798, pp. 85, 173, 231-32, 296, 331, Massachusetts Archives.

<sup>49</sup>Political Notes, Lincoln Sr. Papers, AAS; Goodman, pp. 76-77.



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confrontation with established religion.<sup>50</sup> Clerical participation in politics was not new, for the church always had been deeply concerned. Colonial tradition in the state favored the church in a political role, a role it was now trying to maintain; but when state and national politics developed along party lines, the clergy could not understand these moves or keep the place they had held. Generally the clergy of the established church supported the Federalist party.<sup>51</sup>

The clergy supported the Federalists for various reasons. The church had found the postwar period a time of adjustment. Prolonged wars have a tendency to lower the moral and religious standards of society; the Revolution was no exception. Those states in which the church and state were closely allied had the more difficult problem of adjustment. In Massachusetts, the clergy thought that there was a particular need for a strong establishment to combat the evils created by the lengthy war. In addition, they had performed good service supporting the government during the Revolution; in return for this they felt that they were entitled to the support and protection of the civil government. They also had used their influence in helping to win ratification of the state and federal constitutions. Because of these factors,

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<sup>50</sup>See above p. 42.

<sup>51</sup>Meyer, pp. 132, 137; Binkley, p. 77; Fisher, pp. 13-14, 22-24, 33, 35; Dauer, p. 8.

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a strong relationship between church and state developed in Massachusetts.<sup>52</sup>

The French Revolution also drove the conservative ministers to the Federalist camp. At first they had supported the Revolution, happy to see the destruction of a Catholic stronghold. In time, however, they began to change. All religion, they felt, was in danger of being destroyed, and the spread of French influence in the United States appeared to the clergy to threaten the secular authority to which they were tied. They looked to Federalism to stop the Republicans whom they considered to be the apostles of everything evil in the French Revolution.<sup>53</sup>

At first the Republicans tried to keep religion and politics separated. When they found that this was impossible they used all the prejudices against this combination to win support for their own cause. The basic problem was the

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<sup>52</sup>Meyer, p. 133; Goodman, pp. 86-88; Alice M. Baldwin, The New England Clergy and the American Revolution (New York: Fredrick Ungar Publishing Co., 1958), p. 134ff.

<sup>53</sup>David Osgood, Some Facts Evincive of the Atheistical, Anarchical, and in Other Respects, Immoral Principles of the French Republicans, Stated in a Sermon Delivered on the 9th of March, 1798, the Day Recommended by the President of the United States for Solemn Humiliation, Fasting, and Prayer (Boston; 1798), p. 12; David Osgood, The Wonderful Works of God Are to Be Remembered, A Sermon Delivered on the Day of Thanksgiving November 20, 1794 (Boston; 1795), p. 23; David Osgood, A Discourse, Delivered February 19, 1795 (Boston; 1795), p. 17; David Osgood, The Devil Let Loose, or The Wo Occasioned to the Inhabitants of the Earth by His Wrathful Appearance Among Them, Illustrated in a Discourse Delivered on the Day of the National Fast, April 25, 1799 (Boston; 1799), p. 14; James K. Morse, Jedidiah Morse, A Champion of New England Orthodoxy (New York: Columbia University Press, 1939), p. 55.

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established church. The popular issue for the Republicans, therefore, was the total separation of church and state. This appealed to large groups who were unhappy with the existing situation, and thus opened up for the party opportunities of bringing together dissenting religious groups.<sup>54</sup>

The clerical profession was divided in its political support. Most clergy of the established church were Federalists. Regardless of their political leanings the clergy did become greatly involved in politics.<sup>55</sup>

The religious beliefs of the Republican leaders differed only slightly from that of the Federalist hierarchy. Men such as Lincoln, James Sullivan, and the Salem Crowninshields were liberal Congregationalists with definite Unitarian leanings, similar to those of the mercantile and professional leaders of the larger eastern cities. The difference lies in the fact that the Republicans severely attacked religion because they found themselves under constant attack by the multitude of pro-Federalist clergymen. Also they saw the great political potential in exploiting the religious situation.<sup>56</sup>

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<sup>54</sup>Goodman, p. 86.

<sup>55</sup>Goodman, p. 86; Meyer, pp. 158-59; William Bentley, Diary of William Bentley, D.D., Pastor of the East Church Salem, Massachusetts (Salem: Essex Institute, 1905-1914), III, 364-65.

<sup>56</sup>Boston Independent Chronicle, January 10, 1799, September 8, 10, 15, 22, 1800, April 2, 1807; Eastern Argus, March 29, 1805; Worcester National Aegis, March 17, 1802, August 29, November 14, 1804; Pittsfield Sun, October 11, 1802; Lincoln to Jefferson, July 5, 1801, Jefferson Papers, LC; Anson Ely

Lincoln's attacks on the clergy centered on the cohesion of religion and politics. Extremely vitriolic, he spent considerable time and energy throughout his political career attacking the Federalist clergy. It was completely inconceivable to him how men and institutions "consecrated" to the Christian religion, could resort to the "vilest, vicious, and vindictive" tactics of unprincipled politicians, i.e. Federalists. It was not in the manner of Christ to "foment a spirit of hatred, division, & animosity - make a duty & a virtue of the most odious of all vices, public & private, street & pulpit slanders." It would be better for the development of the state and the country if the clergy would concentrate on offering "religious instruction & religious comfort & consultation, to the young & erring." Instead the Federalist churchmen were breaking "down the boundaries of modesty & charity, for the purpose of adding fuel to the fire of dissent."<sup>57</sup>

As politicians, Republicans became better organizers than Federalists. Although most of the organization of the party was established after 1800 the preliminary groundwork was laid prior to that date. Federalist domination of the area limited the growth of formal party organization, although

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Morse, The Federalist Party in Massachusetts to the Year 1800 (Princeton: The University Library, 1909), p. 104; Miller, p. 124; Goodman, pp. 51-52; Chamber, p. 73.

<sup>57</sup>Political Notes, Lincoln Sr. Papers, AAS. Additional attacks by Lincoln will be studied in Chapter Four.

Jefferson's election to the presidency in 1800 stimulated party development in even the strongest Federalist areas. Because of this, New England became a primary region where the Republicans concentrated their organizational efforts.<sup>58</sup>

Lincoln's personal political fortunes brightened considerably in 1800 when he was elected to Congress from the Fourth Western District of Massachusetts. It was a personal capstone to several years of inner party organizing and participation. Elected from a moderately strong Federalist area, it was a personal triumph of his persuasiveness and character.

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<sup>58</sup> Charles Warren, Jacobin and Junto or Early American Politics as Viewed in the Diary of Dr. Nathaniel Ames (Cambridge: Oxford University Press, 1931), p. 50; William A. Robinson, Jeffersonian Democracy in New England (New Haven: Yale University Press, 1916), p. 23; Miller, p. 116ff; Bernhard, pp. 2-5, 207; Goodman, pp. 72-73; Fisher, pp. 48, 75, 109, 333, 334, 405-6, 610 and more; Ebenezer Sage to Henry P. Dering, April 13, 1798, February 12, July 27, 1800, Dering Papers, William L. Clements Library, University of Michigan.



## CHAPTER THREE

### ATTORNEY GENERAL

#### I

When Lincoln departed for Washington as a representative to the Sixth Congress, he moved from local and state politics to national affairs. In the short history of the Democratic-Republicans he had served faithfully, and was recognized as one of the party's most devoted supporters.<sup>1</sup> His election in 1800 was, in part, a result of the growth of Republicanism in Massachusetts. By that year, the state party machinery had been streamlined and made more effective, much to the discontent of the Federalists. Although Jefferson failed to carry the state, there was a remarkable pattern of success for the party at the polls, and Lincoln's victory was part of that story. He had campaigned openly as a Democratic-Republican, and had used his local committee and supporters to promote his candidacy.<sup>2</sup>

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<sup>1</sup>Elbridge Gerry to James Madison, September 26, 1800, Elbridge Gerry Papers, MHS; Boston Independent Chronicle, August 16, 1800.

<sup>2</sup>George Cabot to Oliver Wolcott, May 2, 1799, Oliver Wolcott Papers, Connecticut Historical Society; Theodore Sedgwick to Rufus King, June 12, 1799, Charles R. King, ed., The Life and Correspondence of Rufus King (6 Vols; New York:

Lincoln's campaign was not smooth; nor was victory assured. There was no sign of a majority of votes for him prior to election day, and three elections were required before Lincoln was declared the winner. This resulted from the fact that, although the machinery was being perfected, party discipline was weak, and there was little control over who or how many would run for office. Party endorsement was becoming a valuable political asset, however, and success was marginal without it. In the campaign for representative in the district, five men ran for the office, although only two, Lincoln and Peter Upham, had party endorsement. Lincoln led in all three elections, but the scattering of votes among the candidates prevented his receiving a majority until the third ballot. In the first election Lincoln received 653 votes, Upham 463, and the other three candidates 350. On the second ballot Lincoln received 1,036 votes or 45 short of the 1,081 needed for a majority. In the third election he needed 1,388 for a majority and received 1,470 or a plurality of 82. The closeness of the vote and increased campaigning helped

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Putnam and Sons, 1894-1900), III, 71; Boston Gazette, April, 1799; Boston Columbian Centinel, March 22, 1800; Peter Van Schaack to Theodore Sedgwick, March 24, 1800, Sedgwick Papers, MHS; William Bentley, Diary of William Bentley, D.D., Pastor of the East Church Salem, Massachusetts (4 Vols.; Salem: The Essex Institute, 1905-1914), II, 346-47, 354-55; Worcester Massachusetts Spy, June 7, August 17, 24, September 21, 1800; Noble E. Cunningham, Jr., The Jeffersonian Republicans in Power, Party Operations, 1801-1809 (Chapel Hill: The University of North Carolina Press, 1963), p. 201.



create an interested electorate, and the citizens went to the polls each time in greater numbers.<sup>3</sup>

## II

Lincoln entered the House of Representatives at one of the crucial times in early American history. The Presidential election had resulted in a deadlock between Jefferson and Aaron Burr;<sup>4</sup> the winner, therefore, had to be decided by the House of Representatives as required by the Constitution.<sup>5</sup> The Federalists controlled this body, so they had the power to decide who would be president. In caucus it was decided to back Burr. But Hamilton, regarding Jefferson as the lesser evil, used his influence among the Federalists to break the deadlock, and on the thirty-sixth ballot Jefferson was elected President and Burr became Vice-President.<sup>6</sup>

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<sup>3</sup>Worcester Massachusetts Spy, August 27, September 3, 10, 24, October 22, 29, November 12, 1800.

<sup>4</sup>Both received 73 electoral votes while Adams received 65, Charles Cotesworth Pinckney 64 and John Jay 1.

<sup>5</sup>The Constitution of the United States, Article II, Sec. 1.

<sup>6</sup>There are numerous accounts of this episode, some biased for Jefferson or Burr. For a general account see John C. Miller, The Federalist Era 1789-1801 (New York: Harper and Brothers, 1960), pp. 264ff; for Republican leadership in the House see Raymond Walters, Jr., Albert Gallatin, Jeffersonian Financier and Diplomat (New York: Macmillan Company, 1957), pp. 119ff; for Federalist reaction see Richard E. Welch, Jr., Theodore Sedgwick, Federalist: A Political Portrait (Middletown, Connecticut: Wesleyan University Press, 1965), pp. 205ff; Winfred E. A. Bernhard, Fisher Ames, Federalist and Statesman, 1758-1808 (Chapel Hill: University of North Carolina Press, 1965), p. 328ff.

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Lincoln had taken his seat on February 6, 1801. Five days later the Presidential election was made official, and the House began the selection of a Chief Executive. As a new member, Lincoln probably followed the Republican leadership in the House; especially that of Albert Gallatin. He attended all caucuses and strategy meetings, and probably adhered to party direction, although, on rules of House procedure, Lincoln did not always agree. He was particularly opposed to the party's position on the question of closing the sessions while voting for President, believing that the people had a right to know what was going on. He voted in favor of open sessions in opposition to several of the other Republican members of the House.<sup>7</sup>

Balloting was by states, each having one vote. Each delegation voted separately, and a majority in that election decided which candidate would receive that state's vote. Lincoln steadfastly voted for Jefferson and opposed Burr. On the last ballot, he was one of only three representatives from the state to back Jefferson, as the Massachusetts vote continually went to Burr.<sup>8</sup>

The House was forced to temporarily set aside the election of a President to consider a nonintercourse bill

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<sup>7</sup>Debates and Proceedings in the Congress of the United States, Sixth Congress, House of Representatives, December 2, 1799 to March 3, 1801 (Washington: Gales and Seaton, 1851), pp. 1005, 1008-09; Washington National Intelligencier, February 6, 1801.

<sup>8</sup>Debates and Proceedings. . . Sixth Congress, pp. 1022-30; Washington National Intelligencier, February 13, 16, and 18, 1801.

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with France. In 1798, Congress had passed a law suspending trade with the French until March 3, 1801, and the Federalists wanted to continue the suspension for one more year. Although the original bill had received some Republican support, the party now opposed any extension, arguing that the experiment had not produced the expected results so there was no reason to continue the act. Although Lincoln did not speak on the bill in the House, he discussed it with his son, Levi Jr. To attempt to coerce a treaty from France by nonintercourse was illogical; the French were sincere and could be trusted, and would agree to a treaty once American produce arrived on their shore.<sup>9</sup> Within a few years he would argue the opposite as a supporter of Jefferson's Embargo.<sup>10</sup> His stand was similar to that of Gallatin, and may have been influenced by the Pennsylvanian. The House rejected the extension, with Lincoln voting with the party against the act.<sup>11</sup> Once this business was finished the Representatives finally completed the selection of a President.

Following the selection of Jefferson, the House moved to other business. One item of importance was the disposition of the Sedition Act. A motion to consider its repeal was passed by only one vote--fifty to forty-nine. But

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<sup>9</sup>Lincoln Sr. to Levi Lincoln Jr., February 10, 1801, Levi Lincoln Jr. Papers, AAS; Miller, p. 213; Debates and Proceedings. . .Sixth Congress, p. 1011.

<sup>10</sup>Lincoln to Jefferson, October 10, 1803, Lincoln Sr. Papers, AAS.

<sup>11</sup>Debates and Proceedings. . .Sixth Congress, pp. 1018-19; Washington National Intelligencier, February 13, 1801.



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later, the Republicans gained a major victory with the repeal of the act.<sup>12</sup> With rare exception, Lincoln's vote on issues before the House continued to parallel that of the Republican leadership. His adherence to the party line shows his dedication to the Jeffersonian philosophy, and his conviction that a program of action based on this philosophy was the only solution for the country.

### III

House adjournment ended Lincoln's career as a Representative. For several days he had been in touch with Jefferson, and had accepted the Attorney Generalship of the United States. The appointment was approved by the Senate, and Lincoln was sworn in on March 5, 1801.<sup>13</sup> For twenty-one working days, he had been a member of the House, too short a time to make an impression, or influence legislation.

Why Jefferson appointed Lincoln Attorney General is open to conjecture. It has been argued that he was chosen to emphasize the national character of the party.<sup>14</sup> Yet this was not essential since Jefferson already had selected two other New Englanders; Henry Dearborn of Massachusetts had been appointed as Secretary of War, and Gideon Granger of Connecticut was given the non-cabinet position of Postmaster

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<sup>12</sup>Debates and Proceedings. . .Sixth Congress, pp. 1038, 1050.

<sup>13</sup>Worcester Massachusetts Spy, March 18, 1801.

<sup>14</sup>Cunningham, p. 4.

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General. With the addition of Lincoln, this New England trio outweighed the southern appointments of James Madison as Secretary of State, and Robert Smith of Maryland as Secretary of Navy. The Secretary of Treasury went to the party's financial wizard, Albert Gallatin of Pennsylvania. Nor did Jefferson appoint Lincoln because he was the best lawyer in the country, or because he wanted a New England lawyer. Jefferson believed that attorneys from that region were wedded too strongly to common law, and also, that the New England legal mind was too rigid. For Jefferson, no good law could come from such an environment.<sup>15</sup> In addition, if he wanted a New Englander, someone such James Sullivan was superior to Lincoln in legal ability. When he appointed him, Jefferson had called Lincoln "the ablest Republican in New England."<sup>16</sup> This, it would seem, is the key to the appointment. Combined with a reputation as a competent lawyer, which he was, Lincoln was a recognized party leader in Massachusetts, and he surpassed almost everyone from New England in his partisanship. Adding these to the traits of a man that Gallatin described as "a good lawyer, a fine scholar, a man of great distinction and sound judgment, and of the mildest and most amiable manners," made him a good

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<sup>15</sup>Jefferson to Gallatin, September 27, 1810, Gallatin Papers, New York Public Library.

<sup>16</sup>Irving Brant, James Madison, Secretary of State, 1800-1809 (Indianapolis: Bobbs-Merrill, 1953), p. 39.

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choice.<sup>17</sup> Lincoln's ardent Republicanism gave him the Attorney Generalship; it was payment, in part, for a job well done.

New England Federalist reaction to the appointment was severe. To them it appeared that the national legal machinery had been placed in the hands of an extremely dangerous and ardent Republican. The evils that were to come from a Republican Administration would be compounded and magnified with Lincoln as Attorney General. His appointment would unleash all the anti-clerical forces in an office where they would do the greatest damage.<sup>18</sup>

New England Republicans were happy with the choice. It was proof that Jefferson had selected his advisors on the basis of "talent and integrity." Lincoln was praised as an individual who was able to rise "superior to the pressure of calumny," and, therefore, nothing the Federalists could do would sway him from his course.<sup>19</sup> Like most partisan political statements this one also was an exaggeration.

Lincoln accepted in part for personal reasons. When Jefferson had offered him the appointment, he had assured Lincoln that the position would be beneficial to him. Always interested in furthering his legal career, Lincoln accepted.

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<sup>17</sup>Albert Gallatin to Maria Nicholson, March 12, 1801, Gallatin Papers, New York Historical Society.

<sup>18</sup>Worcester Massachusetts Spy, September 11, 1801; Bernhard, p. 329; Claude G. Bowers, Jefferson in Power (Sentry Edition. Boston: Houghton, Mifflin Company, 1963), p. 60.

<sup>19</sup>Worcester National Aegis, December 23, 1801.

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Because the appointment was made as a payment for political activity, and accepted for opportunistic reasons, it did not promise to produce great service from Levi Lincoln as Attorney General. He became Attorney General apparently with some misgivings.

The office was neither an object of my pursuit or choice; and however honorable, I fear in my acceptance of it, a great dereliction of the means of domestic happiness, an [sic] loss in advancing the education of my children.<sup>20</sup>

He claimed that he had agreed to the appointment because of his friends, especially Jefferson. Lincoln felt that it would not be too difficult; the burden would be lightened by being able to work with Jefferson.<sup>21</sup>

When Lincoln was sworn in as Attorney General he became the fifth man in history to hold an office that had been created by the Judiciary Act of 1789.<sup>22</sup> Duties imposed upon the Attorney General by the act were brief and specific. He was to give his legal opinion when requested by the President or the heads of departments. He was required to appear only before the Supreme Court; cases in the lower courts were left for the Federal District Attorneys over whom the Attorney General had no control. When established, the office

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<sup>20</sup>Lincoln to Elbridge Gerry, April 26, 1801. From the private collection of Bart Cox, Washington, D. C.

<sup>21</sup>Ibid.

<sup>22</sup>Edmund Randolph, William Bradford (died soon after taking office), and Charles Lee served under Washington. Lee served under John Adams for two years and then was followed by Theophilus Parsons.



was not considered of Cabinet rank, although by 1792, the first appointee regularly attended the meetings.<sup>23</sup>

The Attorney General was a legal advisor, and because the government was only one of his clients, the office holder was expected to continue his private law practice. It was a part-time occupation, and the salary was only half that of the other department heads, or \$1,500 per year. As the Judiciary Act of 1789 specified his counsel only before the Supreme Court, this clause was interpreted to allow the Attorney General to be paid extra to represent the government in a lower court. The office holder was permitted, in addition, to appear before the Supreme Court in cases that did not involve the Federal Government.<sup>24</sup>

When Lincoln took office he found that the department had been neglected.<sup>25</sup> The Attorney Generalship had been left as "an officer without an office, a legal advisor without a clerk, a prosecutor with no control over the district attorney. . . ."<sup>26</sup> This was due to the absence of provision in the Judiciary Act establishing a seat of control. While

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<sup>23</sup>1 Statute 73, sec. 36 (September 24, 1789); Leonard D. White, The Federalists. A Study in Administrative History 1789-1801 (Free Press edition. New York: Macmillan Company, 1965), p. 166; David R. Deener, The United States Attorneys General and International Law (The Hague: The Committee on International Justice, 1957), p. 14.

<sup>24</sup>Deener, pp. 17-18; White, Federalists, p. 165. The most obvious example of this is Randolph's arguing in *Chisholm v. Georgia*, 2 Dallas 419 (1793).

<sup>25</sup>Leonard D. White, The Jeffersonians. A Study in Administrative History, 1801-1829 (Chapel Hill: University of North Carolina Press, 1951), p. 336.

<sup>26</sup>Ibid.

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Attorney General, Lincoln did not have a government clerk, and his private law office in Washington was considered his official headquarters. It was not until 1814 that the Attorney General was required to live in Washington, and until that date, the office was where the Attorney General happened to be. When Lincoln went to Worcester the office went with him; any legal matter waited until he returned, or was conducted by mail.<sup>27</sup>

## IV

As a federal officer Lincoln's first duties were connected with a temporary appointment. When Lincoln took his oath, Jefferson made him Acting Secretary of State in the absence of Madison who was ill at home and was not able to come to Washington for some time. In addition, shortly after his inauguration Jefferson returned home, and only Lincoln remained in Washington for a time as the representative of the Executive.<sup>28</sup> He had to wait until the President and Madison arrived before he could leave for Worcester, and he was not able to do this until early June.<sup>29</sup>

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<sup>27</sup>Deener, pp. 15-16; White, Jeffersonians, p. 336, Federalists, p. 166; Homer Cummings and Carl McFarland, Federal Justice: Chapters in the History of Justice and the Federal Executive (New York: Macmillan Company, 1937), p. 78.

<sup>28</sup>Thomas Jefferson to Levi Lincoln, April 25, 1801, Jefferson Papers, LC. Gallatin had not been appointed to the Secretary of Treasury because of feared opposition in the Federalist-dominated Senate. He was not sworn in until May 14, 1801. Washington National Intelligencier, May 15, 1801.

<sup>29</sup>Worcester Massachusetts Spy, June 10, 1801. He had hoped to return to Massachusetts in late April or early May, Lincoln to Elbridge Gerry, April 26, 1801, Bart Cox Collection, Washington.



As Acting Secretary of State, Lincoln became involved in the controversy of Adam's "midnight" appointments. In the second session of the Sixth Congress the Judiciary Act of 1801 was passed, expanding the federal judicial system. As this law went into effect toward the end of his administration, Adams reportedly spent his last hours in office appointing Federalists to the new judgeships. It then became the duty of his Secretary of State, John Marshall, to issue the official letters of commission. The story is told that Lincoln, by order of Jefferson, drove Marshall from office at midnight March 3, 1801 before he could complete the task, and that the unissued commissions fell into the hands of Lincoln.<sup>30</sup> The whole problem will appear later for Lincoln in the case of *Marbury vs. Madison*.

Lincoln also became involved in a foreign problem, the Barbary Coast pirates. Since independence, the United States had joined several European nations in paying annual tribute to the four pirate states of North Africa,<sup>31</sup> to prevent interference with commerce in the Mediterranean Sea.

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<sup>30</sup>Henry Adams, The Life of Albert Gallatin (Philadelphia: J. P. Lippincott & Company, 1879), p. 277; James Parton, Life of Thomas Jefferson (New York: Houghton, Mifflin Company, 1874), pp. 385-86; Page Smith, John Adams (2 Vols; Garden City: Doubleday & Company, 1962), II, 1065; Max Farrand, "The Judiciary Act of 1801," The American Historical Review, Vol. V, (October 1899 to July 1900), pp. 682-86 have refuted the charge of Adams sitting up late at night to sign commissions that evening. There is no evidence in the Lincoln papers that Jefferson commanded him to do this, nor is there any mention of the commissions.

<sup>31</sup>Morocco, Algiers, Tunis and Tripoli.

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Almost \$10,000,000 had been paid during the Administrations of Washington and Adams; Jefferson intended to continue the practice. A change occurred in 1801, however, when Tripoli demanded more tribute and when this did not come, declared war on the United States. Jefferson asked his Cabinet, therefore, if the fleet should sail for the Mediterranean, and, if so, for what purpose. In his answer, Lincoln argued that the cruise should be made for defensive purposes, to protect American ships. He opposed any offensive plans for the navy as this would have constituted an act of war which only Congress had the power to authorize. Thus, early we can see the strict constructionism which would be Lincoln's general position on all matters.<sup>32</sup> His plan of action was supported by Gallatin, although for financial reasons. Because of the urgency of the situation, the navy was ordered to secretly and rapidly sail for the Mediterranean to protect American commerce in the area. Lincoln became alarmed when the fleet's destination was published in several newspapers. He was worried that the reports would precede the ships, something he felt would be disastrous. He, therefore, had a statement giving a false destination inserted in the Washington National Intelligencier in an attempt to counteract the influence of the true reports.<sup>33</sup>

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<sup>32</sup>Lincoln to Jefferson, April 16, 1801, Jefferson Papers, LC.

<sup>33</sup>Washington National Intelligencier, April 15, 1801; Nathan Schachner, Thomas Jefferson, A Biography (New York: Thomas Yoseloff, 1957), p. 669; Walters, p. 150; Jefferson to Nicholas, June 11, 1801, Jefferson Papers, LC.

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This was Lincoln's last "significant" act as Acting Secretary of State. After this he would work only as Attorney General.

As the nation's chief lawyer, Lincoln spent much of his time on opinions relating to international law. Almost all of these dealt with the question of prizes, cargoes, ownership, and disposition of captured ships. Because the United States was neutral, problems came out of the British-French struggle, and the use of both of United States' ports to which they brought their prizes. This was legal action under international law.<sup>34</sup> In his opinions regarding these incidents, Lincoln generally favored the United States; in some instances taking a position contrary to established international practice. The first request for an opinion concerned such an incident.<sup>35</sup>

The Betsy Cathcart was a British merchant ship that had been captured by a French privateer. The schooner was found to be unfit for travel so the captors brought it to an American port, where repeated applications were made to the Federal Government for approval to sell the cargo. These requests were denied, although permission was granted to unload the ship for the purpose of repairs. After being emptied it was found that the vessel could not be fixed, and, therefore,

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<sup>34</sup>Talbot v. Jansen, (S.C.) 3 Dallas 133; William Mark and Donald Kiser, eds. Corpus Juris Secundum. A Complete Restatement of the Entire American Law (101 Vols; Brooklyn: The American Law Book Co., 1936 -), II, 108-109.

<sup>35</sup>Jefferson to Lincoln, June 18, 1801, Jefferson Papers, LC.

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under international law, the captors had the right to transport the cargo to France in neutral vessels, with the permission of the American government. This was granted, and the goods were removed to France.<sup>36</sup>

It was at this point that Jefferson requested Lincoln's opinion. Great Britain had filed a protest based on several articles of the Jay Treaty, which stated that both parties to the agreement could give shelter to captor and captured when distressed, but that they should be forced to depart as soon as possible. The British charged that the United States had violated these articles by allowing the Betsy to be condemned, and the cargo exported in neutral vessels. They probably would not have protested if the goods had been shipped in a French bottom.

Admiralty law, actually, was not violated by the United States. Lincoln told Jefferson that a neutral nation confronted with a captor and the captured could assume control of the situation, and had the power to dispose of the ship and cargo in whatever way it felt justifiable.<sup>37</sup> There was, however, one qualifying clause to this; contradictory treaty stipulation took precedence over the law.<sup>38</sup>

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<sup>36</sup>Opinion of the Prizeship Betsy Cathcart, 1801, Jefferson Papers, LC; Mack and Kiser, II, 108-109.

<sup>37</sup>Glass v. The Betsy, (Md) 3 Dallas (US) 6; Talbot v. Jansen, (SC), 3 Dallas (US) 133.

<sup>38</sup>Mack and Kiser, II, 110-11.

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Under international regulations, therefore, Great Britain's interpretation was in part correct.

Lincoln personally saw it differently. To him the British protest was absurd; there was no legal obstacle in allowing a ship and its cargo to be sold as had been done prior to the Jay Treaty.<sup>39</sup> Within international law there were rulings to support Lincoln's position. There existed a law to the effect that the nation of the captor possessed original jurisdiction, and did not lose this when one of its ships brought a captured vessel into a neutral port;<sup>40</sup> unless the legislature of the neutral power, or a treaty directed otherwise.<sup>41</sup> In the case of the Betsy Cathcart there was neither legislative action, nor a treaty to cover this situation. The result was that Jefferson accepted Lincoln's opinion, and informed the English government that United States' action was proper and legal under international law. The British withdrew the protest and nothing more was heard of the case. This interpretation became the basis for the disposition of similar situations.

Lincoln issued one of his boldest opinions in the case of the Schooner Peggy. This was an armed French vessel that had been captured by an American sloop of war and taken

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<sup>39</sup>Opinion on Prizeship Betsy Cathcart, 1801, Jefferson Papers, LC.

<sup>40</sup>Mack and Kiser, II, 110-11.

<sup>41</sup>Ibid.

to port where it was condemned and sold by a District court as "good prize." The Second Federal Circuit Court, hearing the case on appeal by the owners, ruled that the condemnation was valid and legal under national and international law. Later, the United States Supreme Court, upon a petition of a writ of certiorari, reversed the ruling and ordered the return of the prize money. It was because of this that Madison asked for a ruling.<sup>42</sup>

Lincoln opposed the decision of the Supreme Court. The higher tribunal had ruled on the basic questions in the case; the decision was invalid, and the government was not responsible for the return of the prize money.<sup>43</sup> A supplementary statement made this opinion important when Lincoln outlined a concept of executive independence from the Supreme Court. When the Court decided a case, the ruling was binding on that case alone. Although the Court could establish a principle, Lincoln ruled that its power extended no further. In any similar case, the original decision was

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<sup>42</sup>Case of Schooner Peggy, Gallatin to Madison, January 9, 1802, Pichon to Madison, July 16, 1802, Letters From and Opinions of Attorneys-General, 1792-1810. Records of the Department of State, Record Group 59, National Archives. Refunding the money was almost impossible. The prize money had been shared, by law, between the crew of the capturing vessel and the Federal Government. The government's share was still in a bank but the crew's share had been spent, and, therefore, the request was asking for the Administration to repay the full sum of money belonging to the owners.

<sup>43</sup>Lincoln to Madison, June 27, 1802, Letters From and Opinions of Attorneys General, 1772-1810. Records of the Department of State, Record Group 59, National Archives.

not binding on the Executive; he had to decide the issue himself. He went so far as to suggest that the President, perhaps, even had power to review Supreme Court decisions. If contrary to what he thought the law to be, the Chief Executive had the power to set aside a decision, or at least he had the right to ignore the ruling if he deemed it advisable.<sup>44</sup> Fortunately this was never accepted as an Executive prerogative by Jefferson despite his opposition to the Court. The Supreme Court decision stood and was carried out years later when Congress appropriated the necessary funds to pay the owners.

Aside from these two relatively minor cases, the rest of Lincoln's opinions on international problems generally were inconsequential. In one case of some importance, however, he established the rule that the government was not required to answer for the unlawful acts of United States' citizens; nor was it bound by a subject's insolvency or attempt to avoid payment of an international debt.<sup>45</sup> Incidents of disgracing a foreign country's flag, diplomatic immunity for servants of foreign dignataries, territorial waters and the violation of them, and the case of a United

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<sup>44</sup>Ibid.

<sup>45</sup>Lincoln to Madison, March 11, 1802. Letters From and Opinions of Attorneys General, 1792-1810. Records of the Department of State, Record Group 59, National Archives. This is known as the Case of the Mercator.

States citizen asking British naval protection for his ships covered the remaining opinions of Lincoln in this area of law.<sup>46</sup>

In domestic affairs, Lincoln's opinions were of little significance in the general development of constitutional law. Most of them dealt with legal technicalities that were important only for the period. Two, however, are worth looking at because they reflect Lincoln's strict constructionist philosophy.

Early in 1802, Jefferson requested an interpretation of certain articles of the Northwest Ordinance concerning the power of the President in the establishment of territorial government. Lincoln ruled that, although there was nothing in the Ordinance for establishing government, the general tone of the act excluded executive direction. The only power which Jefferson had, and the only one Lincoln wanted him to have under the Ordinance, was the appointment of judges to the territorial court. Anything not specified by the Ordinance remained the providence of Congress, or the Territorial Governor who had been created by that body.<sup>47</sup> The opinion was a strict construction of the law - a definite

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<sup>46</sup>Lincoln to Madison, May 12, 1802 and August 12, 1804, Letters From and Opinions of Attorneys General, 1792-1810, Record Group 59, National Archives; Jefferson to Lincoln, September 16, 1804; Lincoln to Jefferson, November 13, 1804; Jefferson to Lincoln, June 24, 1804; Lincoln to Jefferson, June 26, 1804, Jefferson Papers, LC & MHS.

<sup>47</sup>Lincoln to Jefferson, February 2, 1802, Letters From and Opinions of Attorneys General, 1792-1810, Record Group 59, National Archives.



and deliberate curtailment of executive power. The ruling was important because Jefferson adhered to it, and did not attempt to extend executive authority under the Ordinance.<sup>48</sup>

Territorial government was the subject of another problem that Jefferson submitted to Lincoln. This one, however, was compounded by politics. Arthur St. Clair, Governor of the Northwest Territory, had been charged with malfeasance in office, and, therefore, Jefferson contemplated his removal. Before doing this, he asked Lincoln to study the charges under the Ordinance of 1787. St. Clair had been appointed in 1788, shortly after the first American settlement at Marietta, Ohio. The territory had been divided in 1800, and two years later (1802), Jefferson approved the Enabling Act to officially establish the state of Ohio on March 1, 1803. During this interim period St. Clair had remained as governor, and thus under the administration of Jefferson.<sup>49</sup>

At this point, the charges were brought against the Governor. In examining the evidence, Lincoln found that a major cause for the accusations was "an improper exercise of a confidence, or of a discretion." No legislation existed to regulate the conduct of an officer in carrying out what he considered to be the "spirit" of a law.<sup>50</sup> Because of the

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<sup>48</sup>Jefferson to Lincoln, March 7, 1802, Lincoln Sr. Papers, AAS.

<sup>49</sup>Jefferson to Lincoln, May 2, 1802, Jefferson Papers, LC.

<sup>50</sup>The execution of laws was what Lincoln referred to as "exercise of a confidence."

absence of such control, Lincoln ruled that St. Clair was limited in his behavior by a "general principle" - the law he was expected to enforce. A public officer's personal judgment was restricted to the goal to be established by the act he was executing. People placed confidence in their officials, but the use of this was restricted to the action demanded by a specific law. If there was no limit on the use of this confidence, then moral government could not exist. Undue or "improper exercise of a confidence" was political impropriety.<sup>51</sup>

This is a rather confusing opinion of Lincoln. The significance of it was that a government official's actions were decided by each individual law he was called upon to enforce. Even then, however, it was not the particulars of the law that guided him, but what the official considered to be the spirit of the law. This was not an arbitrary thing to be decided by the official. His decision was tempered and controlled by a respect for the trust that the people had exhibited by choosing him for office. To disregard this trust was immoral and improper.<sup>52</sup>

As this was the basis for the charges against St. Clair, the entire problem became one of morality. The solution would have been much easier if the accusations had been of a criminal nature; instead they reflected the imperfections

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<sup>51</sup>Lincoln to Jefferson, May 25, 1802, Jefferson Papers, LC.

<sup>52</sup>Ibid.

in St. Clair's character, and were designed to have him removed. The question, therefore, was on the qualifications of the governor. Rapidly disposing of the separate charges against him, Lincoln ruled that St. Clair could be removed from office because of "a departure from duty, and a [sic] abuse of power." Dismissal was permissible also for other reasons.<sup>53</sup>

The removal of St. Clair was necessary as a matter of justice and right. Lincoln felt that the Governor and his friends would not have grounds for complaint if this occurred, but, as a question of political propriety there was some doubt. Public reaction could not be predicted accurately, but Lincoln was positive that the Federalists would use the removal to create new, and to strengthen old, prejudices. He would rather risk this, however, than lose the support of Republicans in the area, and, as he saw it, this was the alternative.<sup>54</sup> Based on this ruling, Jefferson removed St. Clair from the Governorship.

These were the only cases of any consequence for Lincoln as Attorney General. He did nothing to contribute to the development of United States constitutional law, and, in the history of United States Attorneys General, Lincoln's term of office was inconsequential. While a member of the Cabinet, however, he served in other areas for Jefferson that were more interesting, and more important for the Administration.

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<sup>53</sup>Ibid.      <sup>54</sup>Ibid.

## V

In 1802, Lincoln, Gallatin, and Madison were appointed as a commission to investigate and settle the Yazoo land dispute. The problem was not new. In 1795, the Georgia legislature, every member of which, with one possible exception, had accepted a bribe, passed the Yazoo Act. This bill turned over to four companies the state's questionable claims to vast western lands. In 1796, a new legislature repealed the act and the companies violently protested. Eventually claims and counterclaims arose, and the entire affair became one of confusion, graft and bitterness. In 1802, Georgia rid itself of the problem by ceding the land to the United States. It fell, therefore, to the commission to arrive at a solution agreeable to all sides.<sup>55</sup>

The commission quickly drew up an agreement designed to win general acceptance. Among the many articles of the document were several intended to pacify the state of Georgia.<sup>56</sup> The arrangements were almost completed when Jefferson balked against an article compelling the government to pay for Indian titles to all lands in Georgia. The President

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<sup>55</sup>Charles Homes Haskins, The Yazoo Land Companies (New York: Reprint from American Historical Review, 1891), pp. 1-31; Goodman, p. 184; Walters, Jr., pp. 177-78; Alfred Steinberg, The First Ten. The Founding Presidents and Their Administrations (New York: Doubleday & Company, 1967), p. 122.

<sup>56</sup>5,000,000 acres were to be set aside for the federal government to sell. The first \$1,250,000 of receipts would go to the state, the next \$5,000,000 to the land companies.

finally was persuaded, however, to consent to the terms, and they, in turn, were approved by the Georgia legislature.<sup>57</sup> The agreement, however, did not solve the Yazoo problem. The commission had arrived at a financial solution, but failed to recognize the constitutional issue involved. The argument was presented by the land companies that the rescinding act violated the contract clause of the Constitution of the United States. The United States Supreme Court in the famous case of Fletcher vs. Peck in 1810 ruled against Georgia and the Federal Government by declaring the rescinding act unconstitutional. As part of its decision the Court ordered the government to pay compensation of \$4,000,000 to the land companies. This sum was in addition to that paid under the terms of the arrangement set up by the commission.<sup>58</sup>

Most of the work of the original commission was done by Gallatin. Lincoln and Madison generally signed what the Secretary of the Treasury put in front of them.<sup>59</sup> To the members of the commission the Yazoo question was of secondary importance because of the problem of Louisiana. The purchase of the Louisiana Territory in 1803 was one of the most

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<sup>57</sup>James Jackson to Albert Gallatin, April 23, 1802, Gallatin Papers, New York Historical Society; American State Papers, Public Lands, I, 125.

<sup>58</sup>Annals of Congress, 8th Congress, 2nd Session, p. 1172; 9th Congress, 1st Session, pp. 920-21; 6 Cranch 87 (1810).

<sup>59</sup>Walters, p. 178; Brant, IV, p. 237; Cunningham, pp. 78-79.

important events of the Jefferson Administration. The acquisition of the area ended once and for all France's dream of controlling the Mississippi Valley, and began a program of expansion destined to carry the American flag to the Pacific. Lincoln became involved in the entire transaction as a member of the Cabinet.

## VI

For a generation, Louisiana had been a pawn in European diplomacy. France had ceded it to Spain in 1792. Citizen Genêt, the fiery French minister to the United States, had planned to attack it in 1793. Between 1795 and 1799 France had turned to diplomacy to recover it. By the Treaty of San Ildefonso, October 1, 1800, and the Convention of Aranjuez, March 21, 1801, Napoleon had acquired Louisiana in return for placing the Prince of Parma, son-in-law of the Spanish king, on the newly erected throne of Etruria. This acquisition was part of an ambitious plan to build a French colonial empire in the West Indies and the heart of North America.<sup>60</sup>

By the Treaty of San Lorenzo, Spain in 1795, had granted American citizens the right to deposit goods at New Orleans for reshipment on ocean-going vessels. A crisis

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<sup>60</sup>George Dangerfield, Chancellor Robert R. Livingston of New York, 1746-1813 (New York: Harcourt, Brace and Company, 1960), pp. 307-394; Paul Varg, Foreign Policies of the Founding Fathers (East Lansing: Michigan State University Press, 1963), p. 152; Walters, Jr., p. 153; Bowers, pp. 155-58.

arose when the Spanish commandant revoked this right of deposit in 1802, (July 14, 1802), and failed to provide an alternate site, as required by the treaty. Under pressure from the Federalists to declare war, Jefferson sent James Monroe as a special envoy to France in an attempt to purchase the Isle of Orleans, on which New Orleans stood, and the Floridas, which the Administration mistakenly thought belonged to France.

Napoleon's plans for his empire, meanwhile, had gone awry. This setback, coupled with rumors of an English-American alliance, and an impending war between France and Great Britain, forced his hand and he decided to sell Louisiana. In doing this he reaped a nice profit, calmed the Americans, and prevented the threatened alliance. By a treaty and two conventions, all dated April 30, 1803, the United States agreed to pay \$11,250,000 for Louisiana and to set aside an additional \$3,750,000 to settle the claims of its citizens against France. The treaty also placed France and Spain on an equal commercial basis with the United States at New Orleans for a period of twelve years.<sup>61</sup>

Monroe's dispatch containing Napoleon's offer placed Jefferson in a quandry. Because a quick reply was imperative

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<sup>61</sup>Dangerfield, pp. 352-71; Varg, p. 154; Bowers, pp. 184-202; Steinberg, pp. 114-15; Gilbert Chinard, Thomas Jefferson, The Apostle of Americanism (Ann Arbor: University of Michigan Press, 1957), p. 414; Everett Brown, The Constitutional History of the Louisiana Purchase (Berkeley: University of California Press, 1920), pp. 2-34.

he could not call Congress into session to approve the transaction, an action he thought constitutionally necessary. His Cabinet favored the purchase, although some, including Lincoln, questioned its legality. Before he had sent Monroe to France, Jefferson had requested opinions on the constitutionality of a possible purchase. In response to this, Lincoln had outlined an elaborate plan to insure the legality of any acquisition.<sup>62</sup>

Lincoln's opinion, dated January 10, 1803, contained many suggestions. He admitted that the acquisition of New Orleans and the Floridas was necessary, and any means to that end would be justified. To achieve this he proposed an amendment to Monroe's instructions which he believed would free the project from any constitutional difficulties.<sup>63</sup>

The Lincoln plan was designed to establish solid, well-defined, natural boundaries between the territory of France and the United States. It was further intended to secure the unrestricted navigation of those rivers which emptied into a neighboring sea. To do this

France agrees to extend the boundaries of the Mississippi territory, and of the State of Georgia, respectively, so that the former shall be bounded on the middle of the channel or bed of the river Mississippi from the 31<sup>o</sup> of H Sct. to its mouth, on Gulf of Mexico, on the South, and on the middle of river Pappolochicola [Apalachicola] on the East, including the island of New Orlean, and all the island bays and harbors on its southern boundary,

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<sup>62</sup>Lincoln to Jefferson, January 10, 1803, Jefferson Papers, LC.

<sup>63</sup>Ibid.



and the latter shall be bounded by the middle of the Pappalochicola on the west, by the Mexican Gulf on the South, and by the Atlantic on the East, including all the islands, bays, and harbors on and belonging to the coast.<sup>64</sup>

Interpreted by modern day geographic terms, Lincoln would have taken only land south of a line from a point approximately twenty-five miles south of Natchez, Mississippi, east to the Chattahoochee River before it flows into the Apalachicola River. This would have included part of present day Alabama and Georgia. He would have then followed the Apalachicola River to its mouth, and straight east to the Atlantic. This would have meant that the southern border of Georgia would have run west from St. Augustine, Florida.<sup>65</sup>

Lincoln felt that his proposal was logical because it was an indirect way of securing navigation rights on the Mississippi River along with the port of New Orleans. He argued that it could be accomplished without the political and constitutional embarrassment that would be created by the direct acquisition of new territory.<sup>66</sup>

He insisted that his plan was constitutional because the area would not be "an independent territory", but would be land that simply enlarged existing states. The new area automatically would be regulated by the laws of the expanded

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<sup>64</sup>Ibid.

<sup>65</sup>Any good Atlas of the United States will give the approximate areas which Lincoln discussed.

<sup>66</sup>Lincoln to Jefferson, January 10, 1803, Jefferson Papers, LC.

states, and under the authority of the United States. The plan would eliminate amending the Constitution, and would prevent opposition to adding territory. Persons residing in the new territory automatically would be citizens of the enlarged states and the United States.<sup>67</sup>

In addition, Lincoln persisted in the belief that the Federal Government was established only on the existing Union, and any states that grew out of it; executive authority, he therefore argued was limited to the people inhabiting this area. An independent purchase of new territory, consequently, would be an extension of federal power beyond its constitutional limits, and would thus create opposition, especially in the northeastern section of the country. His indirect acquisition plan, Lincoln argued, would prevent extreme hostility because the purchase would be accomplished within the limits of existing public opinion.<sup>68</sup>

In the remainder of his report Lincoln clearly became the spokesman in the Administration for northeastern feelings regarding the direct acquisition of new territory. Although he masked it under the disguise of support for his plan, he forcefully set forth the opposition point of view. New England was afraid that the balance of power in the Senate would be upset; therefore, Lincoln maintained that this region, including New York and the area just south of New England, would oppose any arrangement directly

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<sup>67</sup>Ibid.      <sup>68</sup>Ibid.

introducing new states that would add to the already powerful position of the South. The northeastern area would not protest an increase in the House, which would be the result of enlarging the boundaries of a state.<sup>69</sup>

Lincoln was quick to make a distinction between securing the free navigation of the Mississippi River and a port for the deposit of goods, with a measure that would add one or more states to the Union, and, thereby, alter the balance of power within the nation. They were not of equal merit or importance. "No plea of necessity of commercial utility, or national security, will have any right with a violent party or be any security against their hostile efforts and opposition clamor."<sup>70</sup> He reminded Jefferson that even sending the navy to protect commerce had been opposed by some as an executive usurpation of power that called for an investigation and possible impeachment. The acquisition of additional territory would happen only once in the history of America because no more land would be needed; except perhaps some small parcels along the St. Lawrence River to correct boundary discrepancies.<sup>71</sup>

To acquire land by adding it to existing geographic political units would require the consent of the participating states. In this particular incident, Lincoln could see no objection from those involved. Georgia would be satisfied by getting land in exchange for the territory she had ceded

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<sup>69</sup>Ibid.      <sup>70</sup>Ibid.      <sup>71</sup>Ibid.

to the Federal Government, and for which she had not yet been paid. New Orleans and the Florida area could be attached to the Mississippi Territory, and later, states could come from this area within the limits of the Constitution.<sup>72</sup>

Upon receipt of Lincoln's proposal, Jefferson circulated it among the other Cabinet members. To a man all of them rejected it--Gallatin rather contemptuously. If the Constitution did not allow for the acquisition of additional territory then it was no more legal to add to one state rather than to the entire United States. Gallatin also was opposed to Lincoln's strict construction of the Constitution.

The existence of the United States as a nation presupposes the power of every nation of extending their territory by treaties, and the general power given to the President and Senate of making treaties designates the organs through which the acquisition may be made.<sup>73</sup>

Lincoln's proposal was not accepted by Jefferson; Monroe sailed for France with the original plan. Lincoln, however, constantly expressed doubts as to the constitutionality of other plans, and especially the acquisition that finally came.<sup>74</sup>

Lincoln did not rest in his search for a plan, and prior to the actual purchase, he was still drafting alternate

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<sup>72</sup>Ibid.

<sup>73</sup>Albert Gallatin to Jefferson, January 13, 1803, Jefferson Papers, LC.

<sup>74</sup>Schachner, p. 726.

proposals, in particular amendments to the Constitution.<sup>75</sup> Jefferson seriously contemplated such an action to settle the constitutionality question. Lincoln's proposed amendments, however, would have complicated the whole matter, for instead of giving the Federal Government the power to acquire new territory, he suggested a modification of existing regulations. Under Lincoln's plan the law giving Congress jurisdiction over new territory would have been changed. The regulations then would be similar to those which had established Federal authority within the existing Union. He would have enumerated the exceptions to these powers to permit the coverage of particular circumstances in the new territory. He submitted to Jefferson a draft of an amendment which would have put his plan in force.

Louisiana as ceded by France to the United States is made a part of the United States, its white inhabitants shall be citizens, and stand, as to their rights & obligations, on the same footing with other citizens of the United States in analogous situations. Save only that as to the portion thereof lying North of an East West line drawn through the mouth of the Arkansas River, no new state shall be established, nor any grants of land made, other than to indians in exchange for equivalent portions of land occupied by them, until an amendment of the Constitution shall be made for these purposes.

Florida also, whenever it may be rightfully obtained, shall become a part of the U.S., its white inhabitants shall thereupon be citizens, &

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<sup>75</sup>Walters in his biography of Gallatin asserts that all Cabinet members agreed with Gallatin that an amendment to the Constitution was unnecessary. This is erroneous as shown by Lincoln's actions.

shall stand as to their rights & obligations, on the same footing with other citizens of the United States in analogous situations.<sup>76</sup>

By this proposal, Lincoln would have prohibited forming any state out of what was to constitute the largest part of the purchase, unless another amendment permitting this was attached to the Constitution. Only the area south of the line, or approximately present day Louisiana, would qualify for statehood. It is also interesting to note that he would have denied the rights of citizenship to Negroes, slave or free, in the area. Lincoln apparently never pronounced against slavery in general, but only against it in his state. Because of the southern attitude he probably avoided the issue in the hopes that he would obtain Jefferson's acceptance of his program. He closed his letter to Jefferson with the admonition that if an amendment was not adopted, then nothing should be said about constitutional difficulties. Because of this he felt that it would be more desirable for Congress to discuss and ratify the agreement in secret. For some time to come it would be best to "shut up the country," regarding the Louisiana Purchase.<sup>77</sup>

National reaction to the transaction was rapid and vocal. It was either violently for or violently against the purchase, depending generally on party affiliation. Lincoln

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<sup>76</sup>Lincoln to Jefferson, January 10, 1803, Jefferson Papers, LC.

<sup>77</sup>Lincoln to Jefferson, August 30, 1803, Jefferson Papers, LC.

played a major role keeping Jefferson informed of the reaction in New England. Writing from Worcester in September 1803, Lincoln found that it was the subject of considerable attention for both parties. Republicans, he noted, invariably were pleased with the purchase; indeed, many were "more than pleased with it."<sup>78</sup> The Federalist mood, however, was the opposite. "Federalists are vexed, disappointed, mortified, enraged." Some, however, considered the purchase of great importance, and an act which gave brilliance and credit to the administration; these Federalists had enough candor to acknowledge it as such. Lincoln also had been told that at least one-half of the opposition approved the purchase, but he felt that this was an exaggeration, for he had heard of a meeting in Boston of Federalist lawyers to discuss the transaction, and from it Lincoln received what he believed to be the true feelings of the party. From reports coming from the gathering, the lawyers had not argued about the importance of navigation on the Mississippi River. They insisted that this had been a right before the treaty with France, and, therefore, to use it to justify the purchase was deceitful.<sup>79</sup> Lincoln also had learned that the attorneys agreed that the additional territory would be injurious to the existing states because the new area was too extensive, and the country already contained more land than

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<sup>78</sup>Ibid.

<sup>79</sup>Lincoln to Jefferson, September 10, 1803, Jefferson Papers, LC.

it would ever know what to do with. The third argument of the lawyers was the strongest position the Federalists could take in opposition to the purchase. It was opposition based on land values and the danger of losing population as

no country, is principally a sunken swamp of value, that the residue will draw from the existing states various inhabitants, subject us to expense and trouble and finally will become independent of the United States.<sup>80</sup>

Because of these sentiments, which were generally expressed among the Federalists, Lincoln was convinced that ratification of the treaty, and provisions for putting it in force would be met with determined opposition.<sup>81</sup> This would be based on the constitutionality of the measure, although nothing had been said or written about this. The Federalists had agreed that they would be more successful if the issue was held in reserve until the moment of ratification. To deprive the opposition of this last minute deterrent, Lincoln suggested that Jefferson mention it in his communique to Congress to show that he had viewed the subject from every possible advantage. This would upset the Federalists' plans, forcing them to find another reason for opposition.<sup>82</sup>

Once the purchase had been completed, Lincoln found himself involved in a multiplicity of legal problems dealing with land grants, government of the area, and boundaries. Although the treaty gave to the inhabitants of the territory

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<sup>80</sup>Ibid.      <sup>81</sup>Ibid.

<sup>82</sup>Lincoln to Jefferson, September 10, 1803, Jefferson Papers, LC.



"the free enjoyment of their liberty, property and religion" Lincoln ruled that this was not so.<sup>83</sup> Federal power in the area was unlimited except for the guarantee of the rights of the individuals to their property and religion. Liberty was not a right because the people never had any, nor could they claim any under the Constitution at that time. This was because the act establishing possession was not in force until October, 1804. Until that time, however, when a permanent government would be established, the President had power to appoint rulers over the area with authority "to maintain and protect citizens of La. & the free enjoyment of their liberty, property, and religion."<sup>84</sup>

The greatest problem Lincoln faced was the land grants. Ownership of property was unbelievably mixed-up, and the question of French and Spanish grants had to be decided. Lincoln ruled that these were legal and had to be recognized by the United States, but the government could not be held liable for any law suit arising out of grants before the territory was purchased.<sup>85</sup> This is an important ruling because it established the pattern in all subsequent land acquisitions.

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<sup>83</sup>Lincoln to Jefferson, April 10, 1804, Letter of Application and Recommendation During the Administration of Thomas Jefferson, 1801-1809. Microfilm No. 418, Roll No. 7, National Archives.

<sup>84</sup>Ibid.

<sup>85</sup>Lincoln to Madison, March 26, 1804, Record Group 59.

Once the United States had purchased Louisiana, Jefferson was anxious to gain as much information about it as possible. Earlier he had planned to send a group into the area but had been stymied by Spanish opposition. The way was now clear, and the famous Lewis and Clark expedition was launched.<sup>86</sup>

When Jefferson informed Lincoln of the project, the Attorney General was quick to offer suggestions and words of advice. Because the project was so worthwhile, the opposition would attack it with every weapon at its command. He, therefore, thought it best to prepare for this in advance. The easiest way to stop an attack was to make sure that the expedition would have the greatest success. In case the project failed it was politically expedient to justify it in advance as necessary for the scientific and cultural advancement of knowledge. This would be accomplished by giving Lewis and Clark explicit instructions to study the religious activities of the Indians, because

religion and morality making a very important article in the history of all countries as an object of attention, if the enterprise appears to be, an attempt to advance them, it will to many people, on that account, be justified, however, calamitous the issue.<sup>87</sup>

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<sup>86</sup>Bowers, pp. 200, 426; Chinard, pp. 421-22.

<sup>87</sup>Lincoln to Jefferson, April 17, 1803, Lincoln Sr. Papers, AAS; Original in Jefferson Papers, LC.

Once again using religion, Lincoln felt he had found the weapon to defeat the opposition by taking from them the one issue they had used so effectively in the past against the Republicans.<sup>88</sup>

## VII

By the end of 1804, Lincoln felt compelled to resign his job as Attorney General because of family and private affairs. Lincoln was suffering from severe eye damage and the period had been one of sadness because of family illness and the death of a young daughter. The past four years also had been a period of excitement and abuse, but worth it all because of the goodness of Jefferson. Lincoln expressed his feelings in borrowed terms, "Now, let thy servant depart, having seen the salvation for which he had been waiting."<sup>89</sup>

Jefferson accepted Lincoln's resignation with apparent reluctance, insisting that he had hoped to have been able to keep intact the team that had served so well through his first term.

Yet I am a father, and have been a husband. I know the sacred duties which these relations impose, the feelings they inspire, and that they are not to be resisted by a warm heart. I yield therefore to your will.<sup>90</sup>

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<sup>88</sup>Ibid.

<sup>89</sup>Lincoln to Jefferson, December 26, 1804, Jefferson Papers, LC.

<sup>90</sup>Jefferson to Lincoln, December 28, 1804, Jefferson Papers, MHS.

The President was now faced with the problem of finding a successor. "I see not who is to fill the chasm. But this labour is my lot. Be yours that of domestic felicity, of health and long life."<sup>91</sup>

With this Lincoln's role on the national scene closed. For four years he had served as an advisor to Jefferson as a member of the Cabinet. Although he apparently was consulted along with the rest of the Cabinet on matters of policy, Lincoln never was accepted as a major advisor to Jefferson. The reasons for his resignation are open to speculation. Lincoln's strict construction philosophy was no longer similar to the President's, and his opposition to the Louisiana Purchase probably met with Jefferson's displeasure. However, Lincoln could not have been too greatly out of line with Jefferson or he would never have been recommended later for the Supreme Court.

Although Lincoln's role as Attorney General was minor, he did serve well as an advisor, and he filled a major position as the political agent for Jefferson in New England. Lincoln was more useful in this latter capacity, and later would be extremely helpful as Acting Governor of Massachusetts.

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<sup>91</sup>Ibid.

## CHAPTER FOUR

### A POLITICAL AGENT

Politically New England was of concern to Jefferson, and his goal was to carry the state in the election of 1804. Talented and loyal leaders were needed to accomplish this--men who would work within the framework of the party. Such a person was Lincoln. As Attorney General he was used extensively by Jefferson as a contact with the party in New England. Because the position of Attorney General did not require lengthy residence in Washington, Lincoln was able to spend much time at home and in the New England area. When he was in Worcester he kept Jefferson informed on all matters of importance, especially the progress of party development which was stepped up after 1800.<sup>1</sup> Although Lincoln devoted

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<sup>1</sup>Levi Lincoln to Jefferson, March 21, April 8, 10, 16, June 15, 1801, Jefferson Papers, LC and Lincoln Sr. Papers, AAS. For accounts of party development see Worcester Massachusetts Spy, May 7, 15, June 12, 1805; Boston New England Palladium, May 10, 1803, May 7, 1805; Boston Columbian Centinel, May 29, 1805, February 27, 1808; Pierpont Edwards and others to Lincoln, June 4, 1801, Jefferson Papers, LC; Hartford Connecticut Courant, August 1, 22, 1804; Hartford American Mercury, March 7, August 22, 1805; Portland Eastern Argus, March 9, 1804; Boston Independent Chronicle, March 1, 1804, February 11, 1805; Boston Democrat, February 13, 1805; Circular, Boston, February 20, 1806, broadside, AAS; Circular, Worcester, March 12, 1806, broadside, AAS; Circular, Worcester, October 15, 1808, broadside, AAS; Charles Warren, Jacobin and Junto; or Early American

considerable space reporting the political situation to Jefferson, he spent as much time and energy assisting the President with patronage.<sup>2</sup>

## I

As President, Jefferson was determined to promote the good of the nation by using the best minds available to run the country. This did not mean that he intended to turn the control of the government over to the people, but rather he insisted on selecting those people who were capable, not because of wealth and family connections, but because of talent. As a recent student of patronage has stated: "At all times and in all positions Jefferson wanted experts."<sup>3</sup> Because he placed so much emphasis on education, Jefferson was

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Politics as Viewed in the Diary of Dr. Nathaniel Ames, 1758-1822 (Cambridge: Harvard University Press, 1931), p. 266; Noble E. Cunningham, Jr., The Jeffersonian Republicans in Power, Party Operations, 1801-1809 (Chapel Hill: The University of North Carolina Press, 1963), pp. 125, 133; Paul Goodman, The Democratic-Republicans of Massachusetts. Politics in A Young Republic (Cambridge: Harvard University Press, 1964), pp. 40, 128, 132-3, 154; William Nisbett Chambers, Political Parties in A New Nation. The American Experience, 1776-1809 (New York: Oxford University Press, 1963), p. 165; William A. Robinson, Jeffersonian Democracy in New England (New Haven: Yale University Press, 1916), pp. 59, 63, 108.

<sup>2</sup>Lincoln to Jefferson, March 21, April 8, 10, 16, June 15, July 28, 1801, June 2, 1805, June 17, 1806, Jefferson Papers, LC and Lincoln Sr. Papers, AAS.

<sup>3</sup>Sidney H. Aronson, Status and Kinship in the Higher Civil Service. Standards of Selection in the Administrations of John Adams, Thomas Jefferson, and Andrew Jackson (Cambridge: Harvard University Press, 1964), pp. 7-14.

forced to pick his officials from the upper classes and, therefore, "his appointment ideology did not do what it set out to do, namely, break the monopoly of men of wealth on government office."<sup>4</sup>

Patronage was one of the most vexing problems Jefferson faced as President. A policy had to be established that would satisfy a majority of Republicans. Almost all the federal positions were held by men appointed by the Federalists, and were followers of that party's philosophy and were ready to work at cross purposes to the Jeffersonians. In addition, many Republican faithfuls who had worked hard during the campaign of 1800 expected a reward for their services, and a political appointment was the most obvious answer.

The tone of Republican patronage policy was suggested in Jefferson's inaugural address. Moderation and reconciliation were the major characteristics of the message, and were to become the basis of the patronage program, although only Republicans received appointments. Shortly after taking office, Jefferson outlined his policy to James Monroe.

I have firmly refused to follow the counsels of those who have advised the giving offices to some of their leaders, in order to reconcile. I have given, and will give only to republicans, under existing circumstances. But I believe with others, that deprivations of office, if made on the ground of political principle alone, would revolt our new converts, and give a body to leaders who now stand alone. Some, I know, must be made. They must be as few as possible, done gradually, and bottomed on

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<sup>4</sup>Ibid.

some malversation or inherent disqualification. Where we shall draw the line between retaining all or none, is not yet settled, and will not be till we get our administration together; and perhaps even then, we shall proceed a talons, balancing our measures according to the impression we perceive them to make.<sup>5</sup>

The moderate policy which Jefferson announced was not well received by all Republicans. Many feared that it would lead to a feeble and inefficient program, and instead wanted a general purge of all Federalists, especially the most obnoxious. It would not be wrong to replace a "vicious" man with a "virtuous" one. No matter how nice Jefferson would treat the Federalists they still would be spiteful and condemning.<sup>6</sup>

This Republican reaction prompted Jefferson to outline more completely his patronage-removal policy. All persons holding office in 1801 would be removed if they fit one of the following criteria:

1. Anyone appointed by John Adams after the results of the presidential election were known.
2. Any officer guilty of misconduct.
3. Attorneys and marshalls, would be removed if they were known Federalists. This was necessary to counter-balance the predominant federalism of the courts.<sup>7</sup>

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<sup>5</sup>Jefferson to James Monroe, March 7, 1801, Jefferson Papers, LC. See also Jefferson to Benjamin Rush, March 24, 1801, Jefferson Papers, LC. In this letter Jefferson believed that only "a very few individuals, probably not twenty. . ." had to be removed.

<sup>6</sup>William B. Giles to Jefferson, March 16, 1801, Lincoln to Jefferson, March 21, June 13, 1801, Jefferson Papers, LC; John A. Hanna to Gallatin, March 22, 1801, Albert Gallatin Papers, New York Historical Society.

<sup>7</sup>Jefferson to Giles, March 23, 1801, Jefferson Papers, LC.



Lincoln agreed with the President's patronage policy. For him moderation was the only basis for a removal program, and constantly he urged caution. Gradual removals would be the safest because large scale immediate removals "would appear more like the effect of resentment and a persecution for a past political difference of opinion than a provision for the benefit of government." Office-holders and their friends would become united and stimulated by the common cause of general and rapid removals. Gradual and isolated removals would cause independent and separate areas of agitation. This would have much less effect on the public mind than that caused by rapid mass removals.<sup>8</sup>

Removals for political opposition could be carried out within a year. Federalist officeholders who at the present could not justifiably be removed could later be dismissed, but everyone had to be given the opportunity to prove that they were prepared to support the Administration. Absence of a willingness to cooperate, or even an indication that it might be lacking, would be a satisfactory reason for dismissal because of the political climate. Removals of this kind were justifiable; it was not natural for an officer of the government to hear the Administration condemned or slandered without endeavoring to defend it. Furthermore, the President was not expected to administer the government alone. He had to depend on subordinates, and

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<sup>8</sup>Lincoln to Jefferson, March 21, April 8, 10, 16, June 15, 1801, Jefferson Papers, LC, and Lincoln Sr. Papers, AAS.

they would be doing only half their job if they withheld their influence and assistance. It was "sinful" to make use of an official position to oppose and endanger the Administration under which the office was held. The Constitution had placed certain positions under the control of the President so that the personnel could be changed when it was necessary for the public good. Change became imperative when the government suffered or was endangered by the opposition of a large portion of its officers.<sup>9</sup>

Lincoln also believed that the effects of removals would vary from place to place. Generally, however, all of them would be opposed because the Federalists wanted to place the Administration in public disfavor. A majority of the most important Republicans, of course, were in full agreement with Jefferson's policy. Lincoln divided the party in New England into three categories on the question of removals. The first group supported rapid mass removals because they expected to fill the vacated positions. The members of the second category did not favor removals. But they were to be ignored since they were not of the leading ranks of society and were lacking in character. The members of the third group, and the one that Lincoln felt had the most influence were of high standing, and of "good character and reputation." They were deeply concerned with the success

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<sup>9</sup>Ibid., April 10, 16, June 15, 1801.

of the Administration, and thought "it best for the present [1805], that there should be no more removals with us."<sup>10</sup>

Lincoln continually opposed mass removals. The great and desired objective of Jefferson, a coalition of parties, would not be promoted by such a course of action. He hoped and believed that the "glorious and difficult work of rendering it a united safe and happy country is a reserved function for yourself." Although he realized that faithful Republicans merited every attention because of what they had suffered in the past, Lincoln adhered to moderation. Furthermore, the number of jobs available were not enough to satisfy all those demanding reward, and regardless of the patronage policy adopted many would have to be disappointed. He was aware, however, that this could have disastrous effects on party unity.<sup>11</sup>

Lincoln's consistent nagging for moderation finally brought a rather sharp response from Jefferson. Before becoming President, he told Lincoln that he had been aware of the dreaded operation that would have to be performed by the

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<sup>10</sup>Ibid., June 15, July 28, 1801, June 2, 1805, June 17, 1806; McKean to Jefferson, August 10, 1801, Rodney to Jefferson, August 11, 1801, Gallatin to Jefferson, July 25, 1801, Jefferson Papers, LC; For opposition to this moderate policy see Gerry to Jefferson, May 4, 1801, Edward Upham to Lincoln, May 13, 1805, Jefferson Papers, LC; Boston Independent Chronicle, July 27, 1801; Lincoln to Gallatin, July 1, 25, 1802, Gallatin to Jefferson, August 10, 1801, Albert Gallatin Papers, New York Historical Society (Hereafter cited NYHS); Jacob Eustis to William Eustis, October 31, 1802, Eustis Papers, LC.

<sup>11</sup>Lincoln to Jefferson, July 28, 1801, June 2, 1805, June 17, 1806, Jefferson Papers, LC; Lincoln to Gallatin, July 25, 1802, Gallatin Papers, NYHS.

first Republican Chief Executive. He would have to be an executioner with the task of "lopping off." Jefferson rebuked Lincoln by reminding him that he should have known that moderation was the policy of the Administration because as a Cabinet member he was part of the deliberations, and removals were being made only after serious consideration. Party faithfuls could pressure the President all they wanted, but, Jefferson would make only those dismissals which he felt were justifiable. Lincoln was paying too much attention to the Federalists. It was to be expected that they would try to force the Administration into making a general sweep of officeholders. The clamor which had been raised would not provoke Jefferson into removing one more, nor stop from removing one less, than if not a word had been said on the subject.<sup>12</sup>

Patronage policy continued to be buffeted by numerous pressures. Jefferson realized that he had to reward some of the party while at the same time he had to be careful not to alienate moderate Federalists who might be brought over to the Republican side. To help him the President depended heavily upon Lincoln for New England because of his contact with the area leaders.<sup>13</sup>

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<sup>12</sup>Jefferson to Lincoln, August 26, 1801, Jefferson Papers, LC, and Jefferson Papers, MHS.

<sup>13</sup>Jefferson to Lincoln, October 25, 1802, Jefferson Papers, LC, and Jefferson Papers, MHS; Goodman, p. 148.

Your present situation will enable you to judge of prominent offenders in your state in the case of the present election. I pray you to seek

## II

Lincoln served Jefferson well in this area of the government. As the leading Republican from New England in the Administration, the Attorney General was besieged with requests for positions which he was expected to pass on to Jefferson with commendation. In addition, the President kept in constant touch with Lincoln on who was being appointed, and for his opinions about possible candidates for certain positions. In almost all cases, Jefferson adhered to what Lincoln suggested; the Attorney General's disapproval of a person generally meant that no office would go to that candidate. New England Republicans generally were not appointed if the Attorney General presented a valid argument against them.<sup>14</sup> An example of this would be the case of a Mr. Whittermore. Pressure was brought on Jefferson to remove him from the position of Surveyor of Gloucester on grounds of "neglect of duty and industrious opposition."

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them to mark them, to be quite sure of your ground that we may commit no error or wrong, and leave the rest to me.

<sup>14</sup>Lincoln to Jefferson, March 21, April 8, 10, 16, June 15, July 28, 1801, October 25, 1802, March 9, June 2, 1805, June 25, 1806, March 25, 1807, February 26, March 23, 1808, Jefferson Papers, LC; Lincoln to Jefferson, March 21, 1801, Lincoln Sr. Papers, AAS; Lincoln to \_\_\_\_\_, June 28, 1802, Huntington Library; James Sullivan to Jefferson, February 7, 1808, Letters of Application and Recommendation During the Administration of Thomas Jefferson, 1801-1809. Microfilm, National Archives; Jefferson to Lincoln, August 26, 1801, May 4, October 25, 1802, June 25, 1806, March 25, 1807, Jefferson Papers, LC and MHS; Lincoln to Gallatin, July 29, 1801, Gallatin Papers, NYHS.

However, Jefferson was not sure of what he should do. He, therefore, asked Lincoln to "take the trouble to satisfy yourself on this point."<sup>15</sup> Lincoln investigated the matter and suggested that Mr. Whittermore be retained as no evidence existed to support the charges.<sup>16</sup> Because of this Jefferson told Lincoln in person that he was accepting his advice and Mr. Whittermore would not be removed.<sup>17</sup>

In addition, in March 1801 Lincoln wrote Jefferson that he was forwarding two letters to the President requesting appointment as the marshall of the District of Columbia. Lincoln believed that a Major Dyson would be the best choice because of his experience and adherence to Republican principles.<sup>18</sup> In the same letter he reported that Mr. Sitgreave had declined the appointment as judge of Circuit Court of the 5th Circuit of the United States, and that he was having trouble with a commission of appointment as Commissioner of the Peace because there were two men by the same name. Lincoln asked Jefferson what should be done because they both

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<sup>15</sup>Jefferson to Lincoln, October 29, 1802, Jefferson Papers, MHS.

<sup>16</sup>Lincoln to Jefferson, November 14, 1802, Letters of Application and Recommendation During the Administration of Thomas Jefferson, 1801-1809. Microfilm, National Archives.

<sup>17</sup>Political Notes, Mostly Miscellaneous, Lincoln Sr. Papers, AAS.

<sup>18</sup>Lincoln to Jefferson, March 21, 1801, Jefferson Papers, LC; Jefferson to Lincoln, June 23, 1801, MHS.

were deserving of the position.<sup>19</sup> Mistakes in issuing the wrong commissions to the wrong offices, declinations of offers and new recommendations along with answers to requests from Jefferson filled most of Lincoln's letters to the President on the subject of patronage.<sup>20</sup>

Lincoln also served as the recipient of criticism from Republicans on Jefferson's removals, or rather the lack of them. Edward Upham, for example, wrote Lincoln complaining that the best offices remained in the hands of Federalists. Encouragement and aid was needed. If he and his friends received it then Federalism could be wiped out. If the aid, appointment to an office, did not come then they would have to try and obtain the best terms possible from the enemy.<sup>21</sup> In forwarding the letter to Jefferson, Lincoln tried to temper its tone by attaching a note testifying to the attachment of the writer to the government.<sup>22</sup>

### III

One of Lincoln's most lasting contributions to Republican politics was a series of essays known as the "Farmer's Letters." Written in 1801, they were designed to

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<sup>19</sup>Ibid.

<sup>20</sup>Lincoln to Jefferson, April 8, 16, June 15, July 28, 1801, March 9, 1805, Jefferson Papers, LC.

<sup>21</sup>Edward Upham to Lincoln, May 13, 1805, Jefferson Papers, LC.

<sup>22</sup>Lincoln to Jefferson, June 2, 1805, Jefferson Papers, LC.

defend the Administration and to promote the Republican candidate for Congress from the Fourth District of Massachusetts. The more Lincoln wrote, however, the more apparent became his political philosophy.

The clergy in particular came under severe attack in the essays. Americans were blessed with a great gift, the government, but it was their responsibility to make it the "heritage of happiness." This would best be accomplished by adhering to "the precepts of the purest religion, knowledge and virtue." Lincoln warned the citizens to be alert or they would be misguided by the lowest members of the ministry who were trying to undermine public confidence in the government by charging that the members of the Administration were atheists.<sup>23</sup>

Jefferson's religious beliefs had become a major area of attack for the Federalists. Jefferson had expected this and took it in stride, believing that New England would never come over to his side as long as there existed the union of church and state and clerical domination. Although it is true that Jefferson's religious beliefs were anathema to many New England clerics, the issue also was politically a convenient one; it would appeal to the masses of churchgoers in the area, or at least this was what the Federalists

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<sup>23</sup>Farmer's Letter No. 1, Worcester Massachusetts Spy, August 19, 1801; Farmer's Letter No. 4, A Farmers Letter to the People (Philadelphia: Aurora Printing Office, 1806), Pamphlet Collection, AAS.



hoped.<sup>24</sup> As pointed out in Chapter Two not all of the clergy attacked Jefferson. Many backed the Republican Party.

But while Jefferson had expected the attacks, Lincoln refused to remain silent in the face of them. The President's record of public service commanded respect, and attacking his religious beliefs was not the proper criterion to decide his ability. Lincoln argued that the only way to judge Jefferson was by his character and honesty. The President had been slandered "on the altars consecrated to the acts of piety and devotion," by ministers who "ought to know and to practice the doctrines of Jesus Christ and him crucified." The opposition clergy had set themselves up as judges to decide the fate of their fellowmen. By what right were they able to do this?

Is Fidelis acquainted with the man he condemns? Has he ever seen him, ever conversed with him on religious subjects, and learned from him his creed and divinity? Has he any authority for the wanton and indecent attack on their religion? Or is it

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<sup>24</sup>Jefferson to Moses Robinson, March 23, 1801, Jefferson Papers, LC; Theodore Dwight, "Oration at New Haven," July 7, 1801, Printed in 1801, Pamphlet Collection, AAS; Robert Troup to Rufus King, August 8, 1801, Charles R. King, ed., The Life and Correspondence of Rufus King (6 Vols.; New York: G. P. Putnam's Sons, 1894-1900), III, 496; George Cabot to Rufus King, March 20, 1801, King, III, 407; Theodore Sedgwick to Rufus King, December 14, 1801, King IV, 34; Fisher Ames to Christopher Gore, December 29, 1800, Seth Ames, ed., The Works of Fisher Ames (2 Vols; Boston: 1854), I, 286; Goodman, p. 88; Jacob C. Meyer, Church and State in Massachusetts from 1740 to 1833 (Cleveland: Western Reserve University Press, 1930), p. III; Nathan Schachner, Thomas Jefferson. A Biography (New York: Thomas Yoseloff, 1957), p. 666.

the special privilege of Federal Christianity to trample on its strongest precepts and its purest doctrines?<sup>25</sup>

Questioning religious beliefs and doctrines was legitimate, Lincoln agreed, if based on a pure and sincere desire for truth. If it was malicious and false, and designed only to excite the people and to destroy a character which was upstanding and correct, then the questioner was to be pitied for he had to answer for his actions and settle his account, fortunately, "with a merciful and forgiving God."<sup>26</sup>

In line with his attack on the clergy, Lincoln also criticized the Federalists for their veneration of Washington. He accused them of worshipping him as if he were a god. It was inconceivable to Lincoln how the Federalists could idolize Washington while at the same time condemn Jefferson for his religion, when both men held similar beliefs. Lincoln pleaded with the Federalists to let this "ornament of man rest in quiet."<sup>27</sup>

It is time to separate our religion from the tomb at Mount Vernon. The Lord of the Christians, is Jesus Christ: Republican Christians have no other master--and they believe in no other name.<sup>28</sup>

The Federalists could build their religion on the greatness of Washington, but the Republicans would establish theirs on

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<sup>25</sup>Letters No. 2 and 4, Worcester Massachusetts Spy, August 19, 1801, and Pamphlet, AAS.

<sup>26</sup>Ibid., No. 4, Pamphlet, AAS.

<sup>27</sup>Ibid., Nos. 4 and 6, Pamphlet, AAS.

<sup>28</sup>Ibid., No. 4, Pamphlet, AAS.

the Bible, while respecting Washington for what he was--a great American.<sup>29</sup>

Intermixed with his attacks on the clergy was Lincoln's political philosophy. The key to good government was the people--citizens unswayed by the false and impassioned diatribes of the opposition. The people were the principal asset of the republic, for it was upon their actions that the government would succeed or fail, and, therefore, they had to "reason, examine, and consult" for themselves, and had to abide by their convictions.<sup>30</sup> The business of government was the business of the people. Original power was placed in their hands. As the holders of this original power they elected those whom they wanted as leaders, who then were responsible to the electorate. If the officials were not cooperative, it was the right, rather the duty, of the citizens to force them to respond or remove them from office.<sup>31</sup>

Lincoln had a great faith in the ability and sense of the people. If they were left alone and not hampered by false accusations, they would make the right decisions. Although concerned about Federalist attackers, whom he called "minions, despots, these creeping things," Lincoln was

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<sup>29</sup>Ibid., No. 4, Pamphlet, AAS.

<sup>30</sup>Ibid., No. 1, Pamphlet, AAS; Political Notes, Mostly Miscellaneous, Lincoln Sr. Papers, AAS.

<sup>31</sup>Ibid., Nos. 1, 6, and 8, Pamphlet, AAS; Political Notes, Lincoln Sr. Papers, AAS.

convinced that reason, as established in the people, would overcome the "spoils of darkness and delusion."<sup>32</sup>

A republic like that of the United States was the best form of government. It was the most stable because it was founded on the "interests and nature of man." The feelings, opinions, and affections of men, Lincoln believed, would survive any ruptures or convulsive actions which these emotions might produce. Mutual confidence was absolutely essential to make republicanism prosper, because government operated as the choice of the people. An administration, therefore, had a just and reasonable claim to the confidence and support of those who choose it.

Respect for its authority, compliance with its law, acquiescence in its measures, are duties enjoined by the fundamental maxims of truth and liberty. The basis of our political system is the right of the people to make and to alter their constitutions of government. - But the constitution which at any time exists until changed by an explicit and authentic act of the whole people is sacredly obligatory upon all.<sup>33</sup>

As is so much of Lincoln's philosophy, this above statement is extensively influenced by the teachings of John Locke. The writings of the great English political philosopher became the Bible for Lincoln as it did for many Republicans.

Although he helped create the Republican Party in Massachusetts, Lincoln, like so many others, saw a danger in political parties. Republicans, however, were not to blame

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<sup>32</sup>Ibid., Nos. 1 and 3, Pamphlet, AAS.

<sup>33</sup>Ibid., Nos. 4, 6, and 8, Pamphlet, AAS; Political Notes, Lincoln Sr. Papers, AAS.

for their formation; the dangerous program of the Federalists, which would have destroyed the freedom of the country, necessitated some form of opposition. This was regrettable because now the country was witnessing the deadly results of party spirit. Bitterness existed because the lowest class of Federalists used invectives. Because the "creeping things" of parties searched for the lowest denominator of attack, they upset the emotions, thinking, and clearsightedness of the voting public. This clouding of the rationalism of the people caused them to vote wrong unless they were brought back to their senses by the rightness of reason, which could be done only by people such as the Farmer.<sup>34</sup>

Lincoln also was quick to hand down some basic Republican axioms. Public credit was to be cherished as a vital source of national strength and security. To preserve it was to use it sparingly. Sparse use of credit meant avoiding large expenditures, which generally came with war so "cultivate peace." Lincoln also reminded his readers that it was wise to prepare for danger, because in the long run military readiness would cost less than the amount needed to rid the country of a war after it had begun. Another axiom was--avoid the accumulation of debt. This was to be done not only by parsimonious living in times of peace, but by the deliberate and systematic payment of debts accumulated by war during peacetime. Taking a page from Jefferson,

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<sup>34</sup>Ibid., Nos. 3, 5, 6, 7, and 9, Pamphlet, AAS.

Lincoln insisted that it was not fair to burden succeeding generations with the debts accumulated by the present one.<sup>35</sup>

In the essays, and in private letters, Lincoln spent considerable time praising Jefferson. The abuse of the opposition, Lincoln claimed, better than anything else, attested to Jefferson's ability to be President. His talent for leadership and his worldwide reputation made him the best man for the position. As President, Jefferson relied completely on the intelligence of the public, and, therefore, he would discuss his foreign and domestic programs with the people. Despite the bitterness of the opposition, Jefferson would follow a firm, steady, and independent course based on what the people said they wanted when they elected him President. He was completely dedicated to serving the country.

His endeavors are to economise, lessen the expenses of government, the burdens of the people, and to preserve their rights and privileges unencumbered and unimpaired, to render the constitution strong and pure as it came out of the hands of its makers, the states, unitedly and severally, wealthy and prosperous, respectable and exalted, at home and abroad. He can have no interest separate from this; with it, is connected his reputation, his prospects, his pride and highest and best feelings of the human heart.<sup>36</sup>

At all times Lincoln had nothing but the highest praise for the President.

The President is uniform in action, his mind disciplined, informed, always the same, no sallies of passion, no indulgence of prejudice, full of

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<sup>35</sup>Ibid., No. 8, Pamphlet, AAS.

<sup>36</sup>Ibid., Nos. 1, 2, and 4, Pamphlet, AAS.

investigation, devoted to business, personally superintending, and giving into the minutia of public arrangements.<sup>37</sup>

Public approval of Jefferson's policies would increase because of his character, personality, and devotion to duty.

If the public attention, is called to watch, and to investigate, the principles and the conduct of the executive, so much the better. I am sure that it will proceed with steadiness, economy, and an attention to the constitutional rights of the Government & the privileges of the people, and that furnishing abundant proof of its solicitude, for their happiness & prosperity it will not suffer in a comparison with its predecessor.<sup>38</sup>

Lincoln was certain of the increase in the popularity of Jefferson, because it was already taking place in the Capital. There were signs also that this was taking place in the nation. If some sections of the country did not come out in support, they should be scolded in the local papers.<sup>39</sup>

Because of later developments it is important to notice that Lincoln had been suggesting that the citizens should investigate, discuss, and weigh the conduct of the General Government, especially the Executive Branch. Later under the pressure of the Embargo Lincoln modified this position.

#### IV

As already noted, one of Lincoln's chief functions was to keep Jefferson informed about the political conditions

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<sup>37</sup>Lincoln to Elbridge Gerry, April 26, 1801, from the Private Collection of Bart Cox, Washington, D. C.

<sup>38</sup>Ibid.      <sup>39</sup>Ibid.

in New England. In all of his letters to Jefferson, Lincoln presented a rosy picture of the political conditions in the area. Now that the Republicans had gained power there was no reason why the Federalists should ever again defeat them nationally. Truth had triumphed, and, therefore, it never would be overthrown because "great is the power of truth, it must prevail."<sup>40</sup>

The election of 1800 in Massachusetts had come under Lincoln's critical scrutiny. He was disappointed in the results. The failure of the party at the polls could be traced directly to the eastern part of the state where the people had not accepted the principles of Republicanism. The Federalists remained in power because of influence, management, misrepresentations, and lack of principles. Federalism could only be driven from its stronghold by a combination of time and the multiplication of the Republican press.<sup>41</sup>

By 1802 Lincoln reported that the political situation looked brighter in Massachusetts. Problems within the party, however, were affecting some of the marginal gains. Intra-party disputes were creating disorders as some members

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<sup>40</sup>Lincoln to Jefferson, April 9, 1801, Jefferson Papers, LC; Copy in Lincoln Sr. Papers, AAS.

<sup>41</sup>Lincoln to Gerry, April 26, 1801, from the Private Collection of Bart Cox; Lincoln to Jefferson, February 13, April 1, 1801, Jefferson Papers, LC, Lincoln Sr. Papers, AAS; Cunningham, p. 238; William Lincoln, History of Worcester, Massachusetts, From its Earliest Settlement to September, 1836: with Various Notes Relating to the History of Worcester County (Worcester: Moses D. Phillip and Company, 1837), p. 333.



began to demand new leadership. They felt that the party had been too hesitant, too timid, and too accommodating to the Federalists. This had occurred, they argued, when the Republicans ran Elbridge Gerry for governor in 1800 and 1801 hoping that this would draw some of the opposition to their camp. Gerry was well suited for the role; he was a friend of John Adams, a former merchant, and had served on the commission that had made peace with France. The hopes of reaching a compromise with the Federalists, however, had failed, and instead had caused a split in the Republican ranks. Lincoln had supported Gerry but had realized that there could be no reconciliation with the opposition consistent with the existing measures of the Administration. The split created had to be healed, and in the future the party had to "look to its friends, & not its enemies for support."<sup>42</sup> In hopes of healing the wounds and strengthening the ticket, Republicans from the western part of the state proposed dropping Gerry in favor of Lincoln. Party members from the east opposed this, however, as did Lincoln who rejected it for personal and family reasons. The Eastern group opposed any change and questioned the wisdom of challenging Caleb Strong, the Federalist Governor, who they considered to be unbeatable. The result was that the two factions in the party were unable to agree, and the outstate group supported Gerry while the Boston faction backed Caleb Strong, and ran

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<sup>42</sup>Lincoln to Jefferson, March 15, October 16, 1802, Lincoln Sr. Papers, AAS.

his name at the top of the ticket. Although the party made some gains in the legislature it lost control of the Boston delegation. This failure destroyed the influence of the eastern faction. The demands for new leadership, however, were fulfilled with the selection of James Sullivan in 1804 as the new gubernatorial candidate. Throughout much of this dispute, Lincoln sided with the outstate faction although he never broke with the Boston group despite his anger with it.<sup>43</sup>

Republicans, including Lincoln, refused to acknowledge that defeat had come because of the split in the party. It was the result of other causes; the most powerful and prominent one, for Lincoln, being the clergy. This group wielded an influence that permeated every level of society, and had a great effect in bringing about the Federalist victory. By a campaign of fear and falsehood, Lincoln charged that the clergy had succeeded in drawing the masses to the opposition camp. It could no longer be denied

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<sup>43</sup>Lincoln to Jefferson, March 15, October 16, 1802, Lincoln Sr. Papers, AAS; Henry Dearborn to James Bowdoin, April 10, 20, 1803, Bowdoin and Temple Papers, Massachusetts Historical Society Collections (Boston: Massachusetts Historical Society, 1907), Ser. 7, VI, 227-28; Lincoln to Gerry, October 16, 1802, Lincoln Sr. Papers, AAS; Jacob to William Eustis, February 20, 1803, Eustis Papers, LC; Boston Independent Chronicle, May 14, 18, June 11, 1801; Boston Gazette, May 21, 1803; Boston Columbian Centinel, May 19, 23, 30, June 2, 1803.

that "open warfare" existed between the Federalist clergy and the Jeffersonian Republicans.<sup>44</sup>

Lincoln also found an additional cause for the defeat. This was the influence of those capitalists who were in opposition to taxation designed to touch a cherished species of property which had long been exempt--units of exchange. This cause, however, was much more difficult to pinpoint. Because of the diversity of the power of Federalist capitalists, the group's influence pervaded the entire community. The class was hostile to the Jefferson Administration, and, therefore, naturally supported any political group in opposition. For these reasons, Lincoln claimed the Republicans lost the election.<sup>45</sup>

It was too bad that Lincoln and the party searched for external causes for the relatively poor Republican showing in the election. Disharmony within the organization was just as important an element as was the taxation issue. The party leadership knew the split existed, but were apparently powerless to correct it, and, therefore, seemed to want to ignore it altogether. The clerical problem was a much hounded theme that was magnified by Lincoln and other

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<sup>44</sup>Lincoln to Jefferson, May 16, 1802, Jefferson Papers, LC; Worcester National Aegis, April 14, 1802; Draft of article in Political Notes, Lincoln Sr. Papers, AAS; Lincoln to Gerry, April 13, 1802, Elbridge Gerry Papers, MHS.

<sup>45</sup>Worcester National Aegis, April 14, 1802; Lincoln to Jefferson, May 16, 1802, Jefferson Papers, LC; Political Notes, Lincoln Sr. Papers, AAS; Lincoln to Reverend William Bentley, November 8, 1802, New England Historical and Genealogical Register, Vol. 27, 354.

Republicans. Oversimplification of external causes blinded the party to the internal problems and prevented the immediate application of remedial policies.

Lincoln can be termed a political optimist. Despite the problems in Massachusetts in 1802-03 he found much to be happy about. The progressive character of the Administration was undermining Federalist strength, and he was confident that the state would become completely Republican. The people were republican

in their sentiments, and habits--they reason right on their principles: were they corrected they would act right. The misfortune is they have had impressed on them errors of fact. Delete these, and all will be well.<sup>46</sup>

Again Lincoln held that the error in the people's thinking was to be blamed on the clergy. It was a strange religion that made a pious act to God dependent upon how a man voted in an election. It was even more unusual that "political priests" suppressed the "religious supplications and social expressions of gratitude to heaven to which all are supposed to join."<sup>47</sup>

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<sup>46</sup>Lincoln to Jefferson, July 25, 1802, Jefferson Papers, LC.

<sup>47</sup>Lincoln to Jefferson, June 28, July 25, October 16, 1802, February 25, March 15, September 10, October 10, 1803, Jefferson Papers, LC; Lincoln to \_\_\_\_\_, June 28, 1802, Huntington Library; Lincoln to Gallatin, June 26, 1802, Letters Received From the Secretary of the Treasury, 1801-1824, 1st Comptrollers Office. Record Group 217, National Archives; Boston New England Palladium, May 1, 1802; Worcester National Aegis, June 16, 1802.

Lincoln's criticism of the party in Massachusetts was supported by other leading Republicans. Hopeful, expectant waiting seemed to be the main existing attitude; right was on the Republican side and it would prevail. The most crucial need was unity; a united party would overcome all opposition.<sup>48</sup>

Lincoln's continued attacks on the Federalists finally forced a response. He was charged with collecting fees over and above his salary for opinions submitted as Attorney General when he was at his home in Worcester. The actual charge was the dereliction of duty, and, in addition, forcing the government to pay for opinions from someone else because Lincoln was not available.<sup>49</sup>

This allegation caused him much anguish. Lincoln worked hard to correct a false impression in the public mind, because he believed it was designed to injure the Administration more than himself. He requested of Gallatin all documents concerning the affair, and assured the Secretary of the Treasury that he would repay every cent that had been

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<sup>48</sup>James Sullivan to \_\_\_\_\_, May 11, 1804, James Sullivan to John Q. Adams, April 5, 1804, James Sullivan Papers, MHS; George Cabot to J. D. Condit, February 16, 1803, Letterpress Book, George Cabot Papers, MHS; John Langdon to William Eustis, January 11, 1803, Eustis Papers, MHS; Henry Dearborn to Elbridge Gerry, April 13, 1803. Elbridge Gerry Papers, MHS; Albert Gallatin to Lincoln, (n.d.), 1803, Political Notes, Lincoln Sr. Papers, AAS.

<sup>49</sup>Boston New England Palladium, May 1, 1802; The specific charge was that one thousand dollars was paid for advice because Lincoln was not in Washington, Worcester National Aegis, June 16, 1802.

paid during any of his absences if such had been the case. Republican newspapers quickly came to his defense. The charge was a "scandalous fabrication, intended to excite hostility against the officers of government, and more particularly against the Attorney-General of the United States."<sup>50</sup>

No evidence exists in the records of the Treasury office to verify the Federalist charges. There is proof, however, that the Federal Government, once in 1802, had obtained outside counsel to argue a case before the Supreme Court because Lincoln was ill and could not carry on. The case occurred shortly after a trip to Worcester during which Lincoln's eyes were severely damaged by dust and sunlight. "It has been with difficulty," he wrote to Jefferson, "that I have endured the rays of the sun, or the blaze of a candle flame."<sup>51</sup>

## V

Although busy as Attorney General and as a political contact in New England for Jefferson, Lincoln found himself

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<sup>50</sup>Lincoln to Gallatin, June 26, 1802. Letters Received From the Secretary of the Treasury, 1801-1824, 1st Comptroller Office. Record Group 217, National Archives; Worcester National Aegis, June 16, 1802; Washington National Intelligencier, June 4, 1802; Boston Independent Chronicle, May 14, 1802; Pittsfield Sun, June 6, 1802.

<sup>51</sup>Lincoln to Jefferson, September 10, 1802, April 5, 1803, Jefferson Papers, LC and Lincoln Sr. Papers, AAS; Frederick Town Herald, April 29, 1802 also quoted in Boston New England Palladium, March 14, 31, 1809; Auditors Report No. 15567, Auditor of the Treasury, Records of the United States General Accounting Office, Record Group 217, National Archives.

more and more involved with his private affairs. He made additional trips to Worcester to manage his many farms, to take care of problems of his growing family, and to supervise the education of his children.<sup>52</sup> It was also during this period that he gave up the practice of law in Worcester because of the pressure of other affairs. The damage to his eyes further impaired his ability to do close work and he required frequent and lengthy rest periods.<sup>53</sup>

Additional recognition for his service to the party came in 1804. At the national party caucus to choose candidates for President and Vice-President, Lincoln was nominated for the second office of the land. But in the balloting he ran a poor third receiving the nine votes of Massachusetts, to sixty-seven for George Clinton of New York, and twenty for John Breckenridge of Kentucky.<sup>54</sup> He had no chance

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<sup>52</sup>Property Lease with Alpheus Brown of Paxton, April, 1803, Educational Instructions, 1803, Lincoln Sr. Papers, AAS.

<sup>53</sup>My house [is] a perfect hospital. For near [ly] two months I have been the constant companion of sick chambers. The attentions to a sickness requiring the attendance of three physicians repeatedly in the course of the day & four watches in the night to some degree impaired my own health. We are getting better, & I hope in the forepart of the next month be able to leave Worcester for Washington.  
Lincoln to Jefferson, October 16, 1802, Jefferson Papers, LC; Lincoln to Madison, August 25, 1803, Letters From and Opinions of Attorneys General, 1792-1810, Record Group 59, National Archives; Lincoln to Jefferson, February 25, March 19, 1803, Lincoln Sr. Papers, AAS.

<sup>54</sup>Cunningham, Jr., p. 104.

of winning the nomination no matter how popular he might have been because political necessity dictated Clinton as the choice to insure the continued unity of New York and Virginia, and to bolster the party's chances of carrying the state of New York. The honor for Lincoln lay in the fact that his fellow state party members respected him enough to nominate him as the party's possible choice for Vice-President. This nomination at the caucus came at about the same time that Lincoln left the office of Attorney General. He was content not to be selected by the party because he was looking forward to spending his time with the family and attending to his business affairs.

Retirement from public service did not mean divorce-ment from politics. It did mean, however, an absence of the Federalists' abuse and attacks. Once Lincoln had resigned the opposition forgot him as an enemy. This he bemoaned: "What have I done to be thus deserted?" he asked. He was worried because he believed that anyone who suddenly was forgotten by his enemies would be suspected by his friends. Lincoln assured Jefferson and others that this neglect was not due to anything he had done. He could not figure out why he had been deserted by the opposition, although, he did speculate on some causes. Reports had reached him that he had resigned because he was unhappy with Jefferson and the President with him, and because of this the Federalists felt that perhaps they could cultivate this disenchantment and win Lincoln over to their side. If the opposition



actually believed this they were erroneous in their suppositions.<sup>55</sup> There is no concrete evidence to show any overt disenchantment in Jefferson with Lincoln, although, as already pointed out, Jefferson might have become a little disgusted with Lincoln's ultra-strict construction of the Constitution. Lincoln failed to see the obvious that a man out of power is less likely to be attacked than a man in power.

Although Lincoln could find no cause for the desertion, he assured Jefferson what had not caused it.

Without knowing the cause of this desertion, I know what has not produced it. Feeling equally solicitous & interested for the reputation of the present Administration & the success of its measures as when immediately connected with it, I have not for a moment withdrawn my hands from the horns of the altar or ceased to vow and to act in hostility to our common enemy and in support of my late appointed friends. On all occasions have I acted & spoken with more freedom than was deemed proper while I was honored as one of your Administration.<sup>56</sup>

He admitted to Jefferson that he was trying everything possible to excite a response but nothing worked. Lincoln, therefore, concluded that the abuse he had received while he was Attorney General was because he was a member of Jefferson's Administration. If this was the reason then Lincoln felt that he was indebted to the President for the honor of being placed in a position to have received political abuse.<sup>57</sup>

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<sup>55</sup>Lincoln to Jefferson, June 2, July 30, 1805, Jefferson Papers, LC.

<sup>56</sup>Ibid., July 30, 1805.      <sup>57</sup>Ibid.

Lincoln's resignation did not go completely unnoticed by the Federalists. Although they ceased publicly to attack him, in private there was much speculation as to why Lincoln resigned. Perhaps he would become a candidate for Lieutenant Governor in Massachusetts, or a state judge, or Jefferson would appoint him to a federal judgeship when one became vacant. Regardless of what might happen, Federalists expressed great respect for Lincoln's ability. Also, they were convinced that he had mistaken his talents and had led the people to underrate him. Lincoln would become richer in private life, but he would be unhappy that he had changed. His personality demanded active participation in politics and public affairs.<sup>58</sup>

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<sup>58</sup>Fisher Ames to Nathaniel Dwight, January 10, 1805, University of Virginia Library; Boston New England Palladium, January 5, 1805; Worcester Massachusetts Spy, January 15, 1805.

## CHAPTER FIVE

### THE RETURN TO STATE POLITICS

#### I

By the time Lincoln returned to Massachusetts in 1805, the Republican Party had arrived at a stage where it could look hopefully to the future. Through the effective development of their party organization, the Republicans would be able to control one or both branches of the General Court from 1806 to 1812, losing a majority only in 1809 because of the Embargo. In addition, the party was to capture the governorship four times from 1807 to 1812.

Part of the party's success was due to the continuing influence of the dissenting religious groups in the state. Entitled by the Constitution of 1780 to public support for their own ministers, many dissenters found that the towns were unwilling to share publicly collected church funds unless compelled to do so by the courts.<sup>1</sup> The exclusive position that Congregationalism long had enjoyed,

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<sup>1</sup>Jacob C. Meyer, Church and State in Massachusetts, 1740-1833 (Cleveland: Western Reserve University Press, 1930), pp. 135-36; Paul Goodman, The Democratic-Republicans of Massachusetts: Politics in A Young Republic (Cambridge: Harvard University Press, 1964), p. 162; John Leland, Politics Sermonized, Exhibited in Ashfield on July 4th, 1806 (Springfield, Massachusetts: 1806).

however, was doomed. Dissent was growing fast, and it was to become the most powerful and dynamic spiritual force in the state. Dissenters, however, received legal setbacks as the state courts ruled against them in several cases.<sup>2</sup> This dissent and opposition was cultivated and nurtured by the Republican party to gain support at election time.

This was the situation when Lincoln again entered into the mainstream of state politics. Although retiring from national affairs he could not retire from public and political life, and became involved in state party business.

Although Jefferson had been victorious in capturing Massachusetts in his bid for reelection in 1804, the party ticket of state officers had not fared as well. By the middle of 1805, Lincoln felt that he had analyzed the past election carefully enough to report to Jefferson. Lincoln found that the struggle in Massachusetts had been extremely spirited and severe, and that the Federalists had won the Governorship along with a majority in the Senate and the House only by force, falsehood, and fear. He accused them of "oppressive" violence toward the workers and other members of the lower class who had been threatened with the loss of employment and imprisonment for debt, if they failed to vote the Federalist ticket. In addition, financial gifts to this class, Lincoln charged, had allowed its members to

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<sup>2</sup>Washburn vs. West Springfield (1804), Kendall vs. Kingston (1809), Barnes vs. Falmouth (1810), 1, 5, 6 Massachusetts Reports, pp. 32-34, 524, 540.

meet the property qualifications to vote. There is no definite evidence to substantiate the charges of Lincoln. It is not to be denied that the Federalists used trickery on election day, but so did the Republicans. Many of the devices were cheap and petty and generally occurred at local polling places. Although proof of deliberate fraudulent practices by the Federalists cannot be found, this does not mean that they were above using anything to guarantee victory as they had in other elections. Knowing the Federalists as he did, Lincoln probably had good grounds for his accusations.<sup>3</sup>

But notwithstanding the agency of this business, & the return of more votes, from some towns than there were voters, federalism counts but a pitiful majority in favor of its accomodating & insidious votary.<sup>4</sup>

Republicans, however, had to share the blame for the success of Federalism. Lincoln wrote Jefferson that he had found that the cause of the party had been injured more by its "difficult or pretended friends" than by its most active and violent enemies. Those who had professed to be the supporters of the party but who opposed every measure caused a great deal of harm during the campaign. These "third party

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<sup>3</sup>Lincoln to Jefferson, June 2, 1805, Jefferson Papers, LC; Pittsfield Sun, February 20, 1801; Luther Cushing, et. al., Reports, of Controverted Elections in the House of Representatives of the Commonwealth of Massachusetts, from 1780 to 1852 (Boston: 1853), pp. 32-33, 52-54, 67-70, 82, 103; Goodman, p. 140.

<sup>4</sup>Lincoln to Jefferson, June 2, 1805, Jefferson Papers, LC.

men" were prepared to run someone besides Sullivan for Governor in 1806. To this Lincoln was opposed; he did not want the party seriously divided as it had been a couple of years earlier. Besides, victory would not come by a constant shifting of candidates and leadership.

I am of an opposite opinion & am convinced that the republican success depends on a sturdy & faithful adherence to their old men, principles & Measures. Firmness, independence, spirit & perseverance can and certainly will revolutionize Mass.<sup>5</sup>

Lincoln's "third party men" apparently were the Boston Republicans. They were disenchanted with Sullivan because of his opposition to speculative banking and his support of municipal reform. This group even asked Jefferson to appoint Sullivan to a federal position. By doing this the President would help them get rid of a source of irritation. Sullivan had done well, however, in his first campaign, and even Jefferson was confident that soon all of Massachusetts and New England would be in the Republican camp.<sup>6</sup>

Opposition within the party also grew out of the Boston group's interest in the Yazoo land question, and its disapproval of the government's attempted solution. Many of the eastern Republicans were stockholders in the land

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<sup>5</sup>Lincoln to Jefferson, June 2, July 30, 1805, Lincoln Sr. Papers, AAS; Jefferson Papers, LC.

<sup>6</sup>William Eustis to Jefferson, June 10, August 17, 1805, Jefferson Papers, LC; Jefferson to Jacob Crowninshield, July 21, 1804, Jacob Crowninshield Papers, Peabody Museum; Jefferson to William Eustis, June 25, 1805, Jefferson Papers, LC; Boston Gazette, May 21, 1804; Boston Columbian Centinel, May 19, 23, 30, June 2, 1804.

companies involved in the controversy, and they felt that they should have received a more favorable settlement from a Republican Administration. The stand which the Boston group had taken brought its members some favors from the Federalists. Lincoln assured Jefferson, however, that this was not to be taken seriously because "with the foibles of our friends we must bear, manage them, not quarrel with them." Republicanism in Boston was in "retrograde" also because of the attitude that everything was going well. Nothing was being done, therefore, to improve conditions, nor was there evidence of any concerted party effort. The members had become "languid" in their approach to the party. The principal topic of conversation among Republicans was making money, while the objectives and principles of the party were being ignored. Those holding office were happy with their lot and were doing nothing more, while others spent all of their time wishing they had a government position.<sup>7</sup>

Lincoln's accusation charging party members with acquisitiveness is remarkably accurate as events were to show. It is also interesting to note that the charge of interest in personal gain was made against the Republicans by one who had shown similar characteristics for several years. Political victory to many party members meant that they should be permitted to participate in the financial and

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<sup>7</sup>Lincoln to Jefferson, July 30, November 6, 1805, Jefferson Papers, LC, Lincoln Sr. Papers, AAS.

social institutions from which they had been excluded. The solution, when they gained control, "was to liberalize and multiply institution, broaden their composition, and promote competition."<sup>8</sup> College boards, professional societies, and banks were part of this planned drive of participation.<sup>9</sup>

Lincoln's concern over Republicanism was matched by the prevelant gloom of the Federalists. Jefferson's victory in the state had left the opposition rather despondent. The ranks of the party were overcome with lethargy, indifference, and apostasy as the objectives of the party became more and more "negative and unpersuasive." Some Federalists even hinted at the possibility of forming a new nation out of New England and New York. The leader of this movement, Timothy Pickering, however, could find no overt aggressive support among his friends. This condition was to continue through Jefferson's Second Administration as the opposition struggled to stave off total defeat and dissolution. The basic problem of the Federalist party, and one it failed to realize, or refused to admit existed, was that the party "eventually perverted a righteous cause. Extremism was continually their weakness."<sup>10</sup>

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<sup>8</sup>Goodman, p. 166.

<sup>9</sup>Samuel E. Morison, Three Centuries of Harvard, 1636-1936 (Cambridge: Harvard University Press, 1936), pp. 211, 216, 223, 239; Boston Independent Chronicle, December 27, 1810, February 14, December 11, 1811; on banking see Goodman, pp. 170-181.

<sup>10</sup>Goodman, p. 184; Timothy Pickering to George Cabot, January 29, 1804; Henry C. Lodge, Life and Letters of George Cabot (Boston: Little, Brown & Co., 1877), pp. 337-40;



## II

Within the framework of this political atmosphere Lincoln, in 1806, returned to public life. In that year the Republican controlled General Court elected him to the Governor's Council of the Federalist Governor, Caleb Strong. It was not a position that Lincoln considered an object of his desire, but rather one of political expediency. He told Jefferson that his motive for accepting the seat was that a party leader, if he wished to retain his authority, could not isolate himself from political conflict. A refusal to become actively involved could create bad feelings, especially among the lower echelons of the party. A leader could not expect the rank and file to be subjected to abuse and hard work if he refused to participate.<sup>11</sup>

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William Nisbet Chambers, Political Parties In A New Nation. The National Experience, 1776-1809 (New York: Oxford University Press, 1963), pp. 18-31; Richard E. Welch, Jr., Theodore Sedgwick, Federalist: A Political Portrait (Middletown, Connecticut: Wesleyan University Press, 1965), pp. 176, 242; Winfred E. A. Bernhard, Fisher Ames, Federalist and Statesman 1758-1808 (Chapel Hill: University of North Carolina Press, 1965), pp. 340-41; For later charges against Federalists plans of secession see James Sullivan to John Sullivan, January 6, October 13, 1806, James Sullivan to Timothy Pickering, January 24, 1808, James Sullivan Papers, MHS. In the last two letters Sullivan charged the opposition with giving financial support to Aaron Burr in his expedition into the Southwest.

<sup>11</sup>Lincoln to Jefferson, June 17, 1806, Jefferson Papers, LC; Executive Records of the Council, Vol. 34, 35, Massachusetts Archives, State House, Boston; William Lincoln, History of Worcester, Massachusetts, From its Earliest Settlement to September, 1836: with Various Notices Relating to the History of Worcester County (Worcester: Moses D. Phillips and Company, 1837), p. 231.

Jefferson was delighted to hear that Lincoln had returned to public service. The President agreed that it was essential for those of the caliber of Lincoln to serve because of a lack of interest among party members in general. Jefferson greatly regretted this apathy, and sounding like a commanding general stated: "We should say that a good soldier does not retire on carrying the town merely, while the citadel is still in the enemy's hands."<sup>12</sup>

Lincoln took his seat on the Council on June 19, 1806. He remained as a member until he was elected Lieutenant Governor in 1807. At the beginning of his term as Councillor, Lincoln was a faithful member attending all of the meetings in 1806. He was absent for the first two meetings in 1807, and after that his record became very spotty as he missed as many meetings as he attended. The work of the Council during this period consisted of routine administrative matters; nothing to stimulate or excite the members.<sup>13</sup>

### III

Lincoln's membership on the Council was only one of many victories for the party in 1806. The election was a proud moment for the Republicans in Massachusetts for they won a majority in the House and Senate, as well as the

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<sup>12</sup>Jefferson to Lincoln, June 25, 1806, MHS and Jefferson Papers, LC.

<sup>13</sup>Executive Records of the Council, Vol. 34, p. 375ff, Massachusetts Archives, State House, Boston, Massachusetts.

Lieutenant Governorship. In terms of numbers this meant that the party controlled eleven of the seventeen seats in the Senate. The Governorship itself barely escaped the Republicans after the outcome of the race remained in doubt for weeks. The votes necessary for victory for either candidate were disputed as many citizens were unable to correctly spell the candidates' names. The General Court, now controlled by the Republicans, faced the task of electing a new governor by deciding which contested votes to count and which to discard. The Legislature, by the rules it adopted, favored Sullivan. But the Republicans came to fear that any questionable tactics would bring charges of stealing the election, and, perhaps, would create distrust within the party itself. Therefore, they manipulated the votes to reelect Caleb Strong as Governor while the Lieutenant Governorship went to the Republican candidate. Sullivan was not disheartened by the decision, and felt that he had won a moral victory. The Republicans felt they could permit a Federalist to become Chief Executive because they would be able to hold him in check by their majority in the Legislature and the Governor's Council. Being able to do this, the leadership approved the plan to wait another year to capture the State House.<sup>14</sup>

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<sup>14</sup>William Bentley, Diary of William Bentley, D.D., Pastor of the East Church, Salem, Massachusetts (4 Vols.; Salem: The Essex Institute, 1905-1914), III, 229; Worcester Massachusetts Spy, June 18, 1806; Lincoln to Jefferson, June 17, 1806, James Sullivan to Jefferson, April 21, June 21, 1806, Jefferson Papers, LC; Edward Stanwood, "The Massachusetts Election in 1806," Proceedings of the Massachusetts

The victory was the climax of party organization which had developed especially since 1801. The state machinery was headed by the caucus which consisted of Republicans in the Legislature and others, such as Lincoln when he served on the Executive Council and as Lieutenant Governor and Acting Governor. The permanent head of the party was the central committee located in Boston. This group kept in contact with the various lower committees throughout the state. The central board was the executive secretary of the party and served as coordinator and unifier, with the responsibility for fund-raising and the direction of the campaigns. Local level organizations nominated all candidates with the exception of Governor and Lieutenant Governor who were nominated by the caucus. This machinery helped the Republicans overcome the power of the Federalists and gain control of the state.<sup>15</sup>

Lincoln was happy with the results of the 1806 election. Although more could have been wished for, he was

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Historical Society, Series 2, XX (January, 1906), pp. 12-17; William A. Robinson, Jeffersonian Democracy in New England (New Haven: Yale University Press, 1916), p. 48; Goodman, p. 131.

<sup>15</sup>Boston Independent Chronicle, February 11, 1805, March 31, 1806; Boston Columbian Centinel, February 27, 1808; Boston New England Palladium, May 7, 1805; Worcester Massachusetts Spy, May 15, 1805, March 25, 1806; Boston Gazette, March 27, 1806; Boston Patriot, March 21, 28, 31, 1809, March 7, 1810; Cunningham, pp. 133, 137-38; Robinson, p. 59; Goodman, p. 133-34; Bentley, II, 354. The efficiency of the Republican machinery was well known and grudgingly admired by the Federalists.

satisfied because the party had done all that had been possible. More time would have given the Republicans a total victory, but more important was the spirit shown by the party members. There had been a remarkable improvement in the attitude and zeal over what Lincoln had found when he had returned to the state in 1805. The members had "acted steadily, they acted zealously, they acted openly, & what is more they acted in concert." The Republicans would not be able to undo in one day what had taken the Federalists years to accomplish: the establishment of themselves in every office from the highest to the lowest in the state. The party also had done remarkably well in the face of the violent opposition of the clergy. Prayers had been said publicly before the election asking for the defeat of the worst of all sins - Republicanism.

Thank God, such prayers have not been heard.  
 Thank God, that the insults of federalism is [sic] bridled, & its forward councils tumbling headlong.  
 In the parochialism of it--there is bitterness & in an extreme bitterness is seen lingering torture but inevitable death.<sup>16</sup>

Now that the Republicans controlled the Legislature, Lincoln was concerned about how they would conduct themselves. Cities, and the pressures arising from them, were not to be trusted, and the General Court, in particular, constantly was under pressure from urban groups. Lincoln was worried that Republican legislators might succumb to these pressures.

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<sup>16</sup>Lincoln to Jefferson, June 17, 1806, Jefferson Papers, LC; Political Notes, Mostly Miscellaneous, Lincoln Sr. Papers, AAS.

To reduce this danger, he felt that the Legislature should be moved to a small country town.<sup>17</sup>

## IV

Determined to add the governorship to their list of victories, the Republicans made a full and determined effort in the campaign of 1807. The party had every reason to be optimistic; it controlled a majority of state offices and had just missed capturing the State House in 1806. For the state ticket the Republicans put together what they considered to be the strongest combination--James Sullivan and Levi Lincoln.<sup>18</sup>

The campaign to get Lincoln elected centered around his term as Attorney General, the confidence he enjoyed with Jefferson, and his general record of public service. His zealous patriotism and devotion to Republicanism were also emphasized, while the Federalists based their attack upon his private and public character. In the campaign the multiplication of pro-Republican newspapers proved to be of great value.<sup>19</sup>

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<sup>17</sup>Lincoln to Jefferson, June 17, 1806, Jefferson Papers, LC; Lincoln to Sullivan, November 6, 1806, Sullivan Papers, MHS.

<sup>18</sup>Pittsfield Sun, February 14, March 14, 1807; Worcester Massachusetts Spy, April 8, 1807; Worcester National Aegis, March 14, 1807.

<sup>19</sup>Pittsfield Sun, March 21, 28, 1807; Worcester National Aegis, March 21, April 7, 1807; An Address to the Electors of Massachusetts (Boston: 1807), Pamphlet, AAS. Lincoln had played a major role in the development of a Republican press. See Lincoln to Jefferson, July 5, 28, 1801,

The 1807 election placed the Republicans in control of all branches of the state government. The results of the voting, however, showed the victory to be much narrower than it at first seemed. Sullivan and Lincoln won by a plurality of only 2,000 votes out of approximately 80,000 cast. The victory was complete enough, however, to make it seem to some that Federalism was dead.<sup>20</sup>

## V

Once firmly established in power, the Republicans vigorously undertook the task of patronage. The Governor and Lincoln wanted a program of gradual and careful removals. The more aggressive members of the party, however, insisted on indiscriminate dismissals to allow all offices to be filled with Republicans. The Administration was very effective in resisting this, although several county sheriffs were removed for incompetence and unfaithfulness, which generally meant that they were too pro-Federalist.<sup>21</sup> The

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April 1, 1808, Jefferson Papers, LC; Jefferson to Lincoln, March 4, 1802, Lincoln Sr. Papers, MHS. After 1800 the party was quite successful in establishing new papers. These included the Pittsfield Sun, Worcester National Aegis, Salem Independent Register, Boston Independent Chronicle, and the Portland Eastern Argus.

<sup>20</sup>Pittsfield Sun, April 25, 1807; Albert Bushnell Hart, Commonwealth History of Massachusetts; Colony, Province, and State (3 Vols.; New York: The States History Company, 1927-30), III, 430; Goodman, 131; Lincoln, p. 231.

<sup>21</sup>Boston Gazette, March 24, 1808; James Sullivan to Jefferson, August 2, 1807, Jefferson Papers, LC; Thomas C. Amory, Life of James Sullivan; with Selections from His Writings (2 Vols.; Boston: 1859), II, 307; James T. Austin,

removal of the sheriff of Kennebec County, Maine caused considerable problems which will be discussed later. Patronage problems paled, however, for the Sullivan-Lincoln Administration before the impact of national policy--the Embargo.

The period of the European wars had been one of extraordinary prosperity for America. Europe needed food and materials of all kinds to carry on the struggle; the result was a steady rise in prices paid for American goods. French ships had been virtually driven from the sea by the British, and so France had to depend upon neutral vessels to carry its goods. As a result, United States exports increased greatly and the trade carried in American bottoms climbed from 23.6 per cent in 1789 to 92 per cent in 1807.<sup>22</sup> This prosperity, however, also reaped a multitude of problems.

The question of neutral rights became the major foreign problem for Jefferson in his Second Administration.

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The Life of Elbridge Gerry (2 Vols.; Boston: 1828-39), II, 325-36; Goodman, pp. 150-51.

<sup>22</sup>Harold V. Faulkner, American Political and Social History (New York: F. S. Crofts & Co., 1937), p. 157; Alexander Balinký, Albert Gallatin, Fiscal Theories and Policies (New Brunswick, New Jersey: Rutgers University Press, 1958), pp. 129-30; Claude G. Bowers, Jefferson In Power (Sentry Edition, Boston: Houghton Mifflin Company, 1967), p. 458; Raymond Walters, Jr., Albert Gallatin, Jeffersonian Financier and Diplomat (New York: Macmillan Company, 1957), pp. 197-98; Alfred Steinberg, The First Ten. The Founding Presidents and Their Administrations (Garden City: Doubleday & Company, 1967), p. 130. American exports increased greatly during the period from 1792 to 1807. In 1792 they totaled \$19,000,000 and in 1807 they amounted to over \$108,000,000. Imports increased also from \$29,000,000 to over \$247,000,000 showing a continued unfavorable balance of trade. Registered tonnage engaged in foreign trade mounted from 123,893 tons in 1798 to 810,163 in 1807, Faulkner, p. 157.



As the great war between England and Napoleon's France moved toward a climax, neutral rights more and more were ignored by both sides. The main source of friction, however, was with the British since much of the French navy and commerce had been destroyed by the English fleet. The basis for the American-British quarrel was impressment and neutral trade. For two centuries, England had resorted to impressment to keep her navy manned and at fighting strength. Although Great Britain never had claimed the right to impress United States citizens this was being done despite American opposition, which finally burst out with the Chesapeake-Leopold affair of 1807.<sup>23</sup>

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<sup>23</sup>The United States warship, the Chesapeake, had left port for a Mediterranean cruise when she was ordered to stop to be searched for deserters by a British man-of-war, the Leopold. When the commander of the Chesapeake refused to stop the English ship fired upon her killing three crewmen and injuring eighteen others. In addition, the Chesapeake was boarded by the British and four crewmen were taken from the ship as deserters: three of which were native Americans. Samuel Flagg Bemis, A Diplomatic History of the United States (5th Edition; New York: Holt, Rinehart, and Winston, 1965), pp. 145-46; Irving Brant, James Madison, Secretary of State, 1800-1809, Volume 3 of his 5 volume biography of Madison (Indianapolis: The Bobbs-Merrill Company, 1953), pp. 380-81; E. B. Potter, ed., The United States and World Sea Power (Englewood Cliffs, New Jersey: Prentice-Hall, Inc., 1955), p. 273; Page Smith, John Adams (2 Vols.; Garden City, New York: Doubleday & Company, 1962-63), II, 1091-92; Goodman, p. 187; Nathan Schachner, Thomas Jefferson A Biography (New York: Thomas Yoseloff, 1951), pp. 839-40; Henry Adams, The Formative Years, A History of the United States During the Administrations of Jefferson and Madison (2 Vols.; Boston: Houghton, Mifflin Company, 1947), I, 431-39; Alexander De Conde, A History of American Foreign Policy (New York: Charles Scribner's Sons, 1963), pp. 91-93.

Upon hearing of the incident Jefferson consulted with his Cabinet. With its approval he ordered all British war-ships in American waters to get out, an action from which he felt he could go no further without Congress. Along with this Jefferson ordered Monroe in London to demand an apology and reparations.<sup>24</sup> In late October, 1807, when Congress met, the President was granted appropriations to build 188 ships, but there was no suggestion of war or war preparations beyond this. For the future Jefferson had three choices: he could go to war, he could try economic intimidation, or he could go along with the British argument that the struggle with Napoleon was a war for mankind and the United States should be willing to sacrifice some of its rights to help the cause. Jefferson refused war on the basis that peace was the desire of America. The third reason was completely unacceptable so he had only one alternative left.<sup>25</sup>

Jefferson decided to use economic intimidation. This was not a snap decision on the President's part; for years he had thought about the substitution of economic exclusion

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<sup>24</sup>"Chesapeake Proclamation", July 2, 1807, Jefferson to William H. Cobell, June 29, 1807, Jefferson to George Clinton, July 6, 1807, Jefferson Papers, LC; Stuart Gerry Brown, ed., The Autobiography of James Monroe (Syracuse: Syracuse University Press, 1959), pp. 197-200.

<sup>25</sup>Samuel Eliot Morison, The Oxford History of the American People (New York: Oxford University Press, 1965), p. 373; Schachner, p. 859; Goodman, p. 187; Adams, I, 461; Herbert Agar, The Price of Union (Boston: Houghton Mifflin Company, 1950), p. 150.

for war and had discussed it at length with Lincoln. Non-intercourse and non-consumption were, and always had been, Lincoln's favorite system of defense against maritime aggression, especially British. Because there was a decidedly divided opinion among the public, Lincoln had suggested restraint in using it unless continued British aggression necessitated a response. He did leave the door open for the use of economic sanctions by recommending an announcement that certain commercial measures would be put in force if British action against American ships did not cease. This was in 1803, and Lincoln never wavered from that position, even in the face of severe opposition.<sup>26</sup>

The Embargo became law on December 22, 1807 and went into effect immediately. Designed to bring England to terms the sanction appeared only to ruin United States commerce.

Shipping was diminished and American sailors, unable to find work, were forced to sail for the British. Depression hit the seaports and elsewhere. The following

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<sup>26</sup>Lincoln to Jefferson, October 10, 1803, Lincoln Sr. Papers, AAS. It must be remembered that both Jefferson and Lincoln had historical fact on which they could base their support of economic sanctions. The American experience in applying these measures prior to the Revolution was fresh in the minds of many Americans. They had proved to be successful at that time and everything appeared to be favorable to an attempt to use sanctions again. Lincoln's concern about public reaction came from what he had experienced in 1794 when an embargo was enforced against France. This created a stir although Federalists favored the act at that time because it was designed to prevent a war and removal of it would have pleased the "Jacobins." See Eustis to Cobb, April 4, 6, May 11, 13, 18, 1794, Samuel Bayley to Cobb, April 29, 1794, David Cobb Papers, MHS.

description of conditions in New York was representative of the entire Atlantic seacoast:

The port indeed was full of shipping, but they were dismantled and laid up; their docks were cleared, their hatches fastened down, and scarcely a sailor was to be found on board. The coffee-houses were almost empty; the streets, near the waterside, were almost deserted; the grass had begun to grow upon the wharves.<sup>27</sup>

The Embargo fell with special force on Massachusetts and New England. Merchants who were dependent on imports from Europe were the first to suffer depression because of the Act. Agricultural production fell and farmers could not find money to pay mortgages. Property was sacrificed to pay debts, although some were fortunate to find sympathetic creditors. Shipping was stagnant as nothing moved out of the ports except the intercoastal trade. Conscientious

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<sup>27</sup>Quoted in De Conde, p. 94; For Embargo legislation and effects see Agar, p. 151, 153; Morison, p. 373; De Conde, pp. 93-4; Goodman, p. 187; William Nisbett Chambers, Political Parties In A New Nation: The American Experience, 1776-1809 (New York: Oxford University Press, 1963), p. 187; Brant, p. 395; Adams, I, 458-66; Bemis, p. 151; Schachner, p. 866. The terms of the Embargo Act virtually halted all land and sea commerce with foreign countries. All United States vessels were forbidden to sail for foreign ports, and ships in the coastwise trade were required to post bond double the value of the ship and cargo to insure that the goods would be landed at another American port. Although imports in foreign ships were not prohibited, they were literally brought to a standstill by the provision that these vessels could not carry goods from American ports. The original act was supplemented by the Embargo Acts of January 9 and March 12, 1808 and the Enforcement Act of January 9, 1809 and was replaced by the Non-Intercourse Act of March 1, 1809. For brief description of the acts see Richard B. Morris, ed., Encyclopedia of American History (New York: Harper & Brothers, 1953), pp. 136-37 or Thomas C. Cochran and Wayne Andrews, editors, Concise Dictionary of American History (New York: Charles Scribner's Sons, 1962), p. 326.

people were disturbed about what to do. Obedience was necessary but conscience dictated resistance. The feeling was summed up best by William North to William Eustis. "I wish to obey the laws and through my endeavors to think well of those who make them--but I can't--I can't and will say so like an honest man."<sup>28</sup>

Massachusetts was soon in violent opposition to the act. The Embargo deeply strained the bindings of the Republican party, and brightened the future of the Federalists. It became the principal issue in the election of 1808 as the Republicans backed the measure, although many grew weary of defending it and went into opposition. The Federalists regained control of both houses of the General Court, isolating Sullivan and Lincoln who barely won reelection.<sup>29</sup>

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<sup>28</sup>William North to William Eustis, 1809, William Eustis Papers, MHS. See also Caleb Davis to Noah Stoddard, January 21, 1809, Caleb Davis Papers, MHS; Henry Dearborn to Henry Alexander Dearborn, March 20, 1808, Henry Dearborn Papers, MHS; Boston Independent Chronicle, February 29, March 28, June 27, August 15, 1808; Salem Register, January 27, 1808; Boston Democrat, February 27, March 26, 1808.

<sup>29</sup>There are innumerable sources for Republican support and growing opposition to the Embargo. For support see Boston Independent Chronicle, February 29, March 28, 1808; Boston Democrat, February 27, March 26, 1808; Henry Dearborn to Henry Alexander Dearborn, October 20, 1808, War of 1812 Papers, William L. Clements Library, University of Michigan; An Address to the Republican Citizens of Massachusetts on the Approaching Election (Boston: 1808), pamphlet, AAS; Henry Adams, ed., Documents Relating to New England Federalism 1800-1815 (Boston: Little, Brown and Company, 1877), p. 243; Thorp L. Walford, "Democratic-Republican Reaction in Massachusetts to the Embargo of 1807," New England Quarterly, XV (March, 1942). For growing opposition in the party see James Sullivan to John Quincy Adams, November 7, 1807, January 4, 25, 1808, James Sullivan to Henry Dearborn, January 5, 1808, James Sullivan Papers, MHS; Henry Dearborn to

As Lieutenant-Governor, Lincoln officially was not responsible for the enforcement of the Embargo. As the party and the Governor turned against the act, however, he became involved as one of very few Republicans in the state government whom Jefferson felt he could trust. The longer the prohibition was in force the less the enthusiasm of Bay State Republicans for it, especially as it failed to produce the desired results.<sup>30</sup>

The opposition in New England made the Embargo almost unenforceable. Jefferson realized that the program was not as effective as he had hoped, but the modification and strengthening of it was the power of Congress, which was not scheduled to meet until the end of 1808. Until then some form of enforcement was needed.<sup>31</sup>

Jefferson was forced to depend on Lincoln in Massachusetts, as Governor Sullivan, never too pro-Embargo, clearly manifested hesitancy about its enforcement. Aware

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Jefferson, August 15, 1810, Jefferson Papers, LC; Ezekiel Bacon to Joseph Story, January 22, 1809, Joseph Story Papers, LC; James Sullivan to Jefferson, January 4, 7, April 2, 5, July 21, 23, 1808, Jefferson Papers, LC; Sullivan defended the action although not the act. See James Sullivan to Timothy Pickering, March 18, 1808, Sullivan Papers, LC.

<sup>30</sup>Henry Dearborn to Jefferson, August 15, 1810, Jefferson Papers, LC; Ezekiel Bacon to Joseph Story, January 22, February 5, 1809, Joseph Story Papers, LC; William Eustis to Richard Cutts, November 13, 1808, Ezekiel Bacon to A. Bishop, December 20, 1808, War of 1812 Papers, William L. Clements Library, University of Michigan; Chamber, p. 187; Goodman, p. 194; Stuart Gerry Brown, Thomas Jefferson (New York: Washington Square Press, 1963), p. 152.

<sup>31</sup>Jefferson to Lincoln, March 23, June 22, 1808, Jefferson Papers, MHS; Brown, pp. 152-53.

of the political dangers in the act by barely winning re-election, Sullivan warned Jefferson that serious consequences would result from a continuation of the experiment. Confronted with a Federalist dominated General Court and mounting opposition in the state and in his own party, the Governor hoped to reduce this pressure by the wholesale issuance of licenses to import flour for Massachusetts from other American ports. The effectiveness of the Embargo depended upon the enforcement of the licensing section of the act. The state's Chief Executive was to issue licenses to cover the importation of enough flour to feed that part of the populace not supplied by locally grown grain. By the wholesale issuance policy, ships were able to clear port and then sail wherever they wished to engage in illegal trade. This was made much easier when Massachusetts failed to collect the required bonds double to the value of the cargo and vessel. Jefferson realized that this was a weak link in the Embargo, and became disgusted with the antics of Sullivan. When he requested an explanation from the Governor, he was rather tartly told that the city dwellers of the state easily consumed all the flour imported.<sup>32</sup>

This explanation did not satisfy Jefferson. The foodstuffs importation section of the Embargo Act had been

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<sup>32</sup>Sullivan to Jefferson, January 4, 7, April 2, 5, July 21, 23, 1808, Jefferson to Henry Dearborn, August 9, 1808, Jefferson to Lincoln, August 29, 1808, Albert Gallatin to Jefferson, May 23, August 6, September 14, 16, 1808, Jefferson Papers, LC; Louis M. Sears, Jefferson and the Embargo (Durham: Duke University Press, 1927), pp. 58-62.

inserted to guarantee ample supplies for those states which were not able to supply daily requirements from local farms and industries. The special licensing to carry this out was going well in all states except for Massachusetts. The permits issued in the state in two months amounted to 60,000 barrels, a great deal more than what the President thought the citizens could consume. Because of this Jefferson suspected that the licenses that had been issued were fraudulent to cover exportation. Governor Sullivan had estimated that approximately 90,000 inhabitants of Massachusetts lived on imported flour, consuming a pound a day or thirteen to fourteen thousand barrels a month, far below the amount licensed to be imported.<sup>33</sup>

Because of these discrepancies Jefferson asked for Lincoln's assistance. First the President requested him to study a plan which would allow all coasting vessels to carry one-eighth of their total volume in provisions to supply the state. Secondly, Jefferson asked Lincoln to assume control of issuing the importing permits; Sullivan was leaving the capital for his home, and he did not want to be responsible for the job. Thirdly, he wanted the Lieutenant-Governor to investigate the situation and report all the facts to Washington.<sup>33</sup>

Lincoln's findings verified the suspicions of Jefferson. Having been in Boston when he received the

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<sup>33</sup>Jefferson to Lincoln, August 22, 1808, Lincoln Sr. Papers, MHS.



President's request, he had investigated the matter at that time. What the Lieutenant-Governor found proved far less satisfactory than he had expected. Lincoln reported that he was unable to discuss the situation with the Governor, who was seriously ill, but he had talked to Sullivan's son who had admitted that there had been cases of evasion, but that it was impossible to stop them. The responsible people whom Lincoln talked to supported Sullivan's estimate of 90,000 living on imported flour, and by his own calculation Lincoln concluded that this was an accurate figure. Much of the flour that was consumed, however, did not come by sea. The areas of Massachusetts bordering on neighboring states received large supplies from them, while the western part of the state supplied substantial amounts of flour to the eastern section. In addition, the great quantities of rye grown supplemented the wheat consumed as flour.<sup>34</sup>

Lincoln suggested establishing a monthly quota and issuing licenses for that amount. The best way to decide this figure would be to assume the accuracy of 90,000, add 10 per cent and allow one pound per day per person or 100,000 pounds per day consumption. Using this formula it would be no problem to arrive at the barrels needed each month to supplement locally grown grain and that coming from neighboring states. A surplus would be created if all coastal ships would be allowed to carry one-eighth of their

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<sup>34</sup>Lincoln to Jefferson, September 10, 23, 1808, Jefferson Papers, LC; Sears, p. 83.

cargo in foodstuffs. The one-eighth alone, however, would not be enough to supply the needs of the state.<sup>35</sup>

Although he favored the Embargo, Lincoln wanted nothing to do with issuing licenses. He turned down Jefferson's request on the argument that he did not spend enough time in Boston. He told Jefferson that his duties as Lieutenant-Governor compelled him to be in the city only when the Council met, which generally was once every three months for a week to ten days at a time. In addition, he felt that the pressure of private affairs and business activities required him to be in Worcester as much as possible, and, therefore, he could not spend the needed time in Boston where he would have to especially open an office to issue the licenses.<sup>36</sup> Jefferson was not happy with this rejection and with the situation as it remained in Massachusetts. He continued to warn Lincoln to be careful of the wheat licenses, and to make absolutely sure that flour was not brought in illegally.<sup>37</sup>

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<sup>35</sup>Lincoln to Jefferson, September 23, 1808, Jefferson Papers, MHS. By rough mathematical calculations, Lincoln's plan would have permitted the importation of approximately 14,000 barrels a month, far below the sum Sullivan had permitted. Jefferson liked Lincoln's plan and requested that he assume the responsibility of inaugurating it, something Lincoln refused to do.

<sup>36</sup>Lincoln to Jefferson, September 10, 23, 1808, Jefferson Papers, LC.

<sup>37</sup>Jefferson to Lincoln, November 13, 1808, Jefferson Papers, LC; Sears, pp. 83-84; Bower, p. 460.

Jefferson's search for a staunch Republican to control Embargo regulations in Massachusetts was ended in December of 1808. Governor James Sullivan died on December 10 after a lingering illness.<sup>38</sup> With his death the powers and duties of the Executive Office devolved upon Lincoln. The Lieutenant-Governor, thereby lost the tranquility of his home in Worcester and set out for Boston to enter the most turbulent period of his career.

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<sup>38</sup>Bentley, III, 401; Worcester Massachusetts Spy, December 14, 1808; Boston Independent Chronicle, December 17, 1808; Boston Democrat, December 14, 1808; Boston New England Palladium, December 17, 1808.

## CHAPTER SIX

### ACTING GOVERNOR OF MASSACHUSETTS

#### I

The people of Massachusetts were quick to notice the change created by the death of James Sullivan. The deceased Governor had been a political moderate, who had exercised extreme caution in his policy to insure, if not acceptance, at least tempered opposition from the Federalists. Lincoln, however, as Acting Governor soon showed that he was the opposite. A confirmed Republican, he refused to compromise his beliefs and policies, even in the face of severe opposition from the Federalist controlled General Court. Lincoln could not be politically tolerant because of his strong opinion about the rightness of the Republican cause, and his firm conviction that Federalism was synonymous with evil.

#### II

Lincoln became the Chief Executive at a time when opposition to the Embargo was at its peak. This resistance was intensified in January, 1809, when Jefferson received from Congress the Enforcement Act (9 January, 1809) which provided for the strict enforcement of the economic ban and

severe penalties for anyone evading the law. This, of course, was what the President had impatiently waited for-- passage by Congress of legislation giving him additional power to strengthen the Embargo.<sup>1</sup>

The passage of the enforcing legislation brought immediate action from the Administration. Working through the War Department, as required by the act, orders were circulated to the governors of the coastal states authorizing the appointment of officers of the state militias "of known respect for the laws" to gather military forces large enough to assist the port officials in carrying out the terms of the Embargo.<sup>2</sup> The necessity of warning what type of officers to select illustrates the level of opposition that had been created by the Embargo. Apparently even some of the high ranking militia commanders were not to be trusted.

Lincoln quickly put into operation the War Department orders. Carefully choosing officers whom he considered reliable, he communicated directly with them. This was contrary to normal procedure which called for the transmission of militia orders through the office of the state Adjutant

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<sup>1</sup>Claude G. Bowers, Jefferson in Power, The Death Struggle of the Federalists (Sentry edition; Boston: Houghton, Mifflin Company, 1967), p. 441; Nathan Schachner, Thomas Jefferson. A Biography (New York: Thomas Yoseloff, 1957), pp. 873-75.

<sup>2</sup>Thomas Jefferson, The Works of Thomas Jefferson (20 Vols. Federal Edition; Washington: 1879), XI, 88-9.

General. Lincoln's disregard of this step caused a great stir in the Federalist dominated General Court.<sup>3</sup>

The House of Representatives, dominated by Federalists, quickly passed a resolution of condemnation.

Resolved: That these orders [the ones to the militia officers] were irregular, illegal, and inconsistent with the principles of the constitution; tending to the destruction of military discipline; an infringement of the rights and derogatory to the honor of both officer and soldiers; subversive of the military system, and highly dangerous to the liberties of the people.<sup>4</sup>

In addition, the lower house appointed a three man committee, all Federalists, to investigate the matter to see if a serious breach of constitutional regulations had occurred. The group made a perfunctory investigation and laid its findings before the House on February 29, 1809. The report was a complete indictment of Lincoln, who was charged with having

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<sup>3</sup>William Sullivan, Public Men of the Revolution (Philadelphia: Carey and Hart, 1847), pp. 294-95; Leonard D. White, The Jeffersonians: A Study in Administrative History, 1801-1829 (New York: Macmillan Company, 1951), pp. 466-67. The call of Lincoln did not go unanswered by the militia units in the state. Before the Enforcing Act had been passed he had received offers of service from a few units in Massachusetts. These were, however, isolated cases as most of the militia waited for specific orders and after the passage of the Act only one other unit had the courage to volunteer for service. See Boston Independent Chronicle, December 29, 1808; Pittsfield Sun, January 28, 1809; Newburyport Herald, February 3, 1809.

<sup>4</sup>Newburyport Herald, February 3, 1809; White, pp. 466-67; For a somewhat similar resolution see Report of a Committee of the House of Representatives Respecting Certain Military Orders Issued by His Honor Levi Lincoln, Lieutenant-Governor and Commander-in-chief of the Commonwealth of Massachusetts, 1809 (Boston: Printed by Authority of the House of Representatives, 1809), Pamphlet Collection, AAS.

acted contrary to military custom and procedure when he bypassed the commanding officers, and even failed to notify them of his actions. He also was criticized for failing to discuss, or even show, the orders of the War Department with the state Adjutant General.<sup>5</sup> Nothing was said about the constitutional issue.

Lincoln answered the charges immediately upon publication of the Report. He had cooperated very little during the investigation, giving the committee only the official records and reports of the Adjutant and Quartermaster Generals. The Report, however, had questioned his integrity, and he felt compelled to defend his action. Lincoln claimed that he waited until the investigation had been completed before communicating with the House because he believed that it would have been improper for the Chief Executive to express himself while the inquiry had been going on. Although Lincoln admitted that he had not cooperated for personal reasons, he felt slighted and angry after the Report was published because the Chief Executive had not been granted the opportunity to defend his actions. Lincoln insisted that

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<sup>5</sup>Pittsfield Sun, February 13, 1809; Boston New England Palladium, February 24, 1809; Newburyport Herald, February 3, 1809; Report of a Committee. . . . Before getting to Lincoln the committee quickly took a shot at the Embargo, calling it "unjust, oppressive and unconstitutional and not legally binding on the citizens of this Massachusetts state." The committee based its decision regarding Lincoln on the above statement and on Section 32 of the Militia Law of the Commonwealth of Massachusetts and which stated that officers and soldiers had to be detailed from the roster rolls which were to be kept for that purpose.

his personal reasons for not cooperating were constitutional. He did not believe that the Governor's Office was obligated to give information to a legislative investigating body.<sup>6</sup> In all probability, however, Lincoln did not cooperate because he realized that there was no solid legal justification for the procedure he had followed. His action in communicating directly with the militia officers was politically motivated. Lincoln wanted to be sure that the officers contacted were pro-Republican, and felt he could not risk allowing an apparently pro-Federalist Adjutant General to carry out the War Department order. In addition, Lincoln wanted to keep the military orders as secret as possible to prevent the creation of more opposition, and thus he became enraged when the House intercepted and published some of the communications.<sup>7</sup> In studying the incident there is only one conclusion to reach, Lincoln's method might not

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<sup>6</sup>Pittsfield Sun, March 18, 1809; Political Notes, Mostly Miscellaneous, Lincoln Sr. Papers, AAS.

<sup>7</sup>This motive becomes quite apparent in Lincoln's circular that he sent to select militia officers and units.

The President of the United States had directed the Secretary of War to request me to appoint some officer of the militia, of known respect for the laws, in, or near each port of entry in this state, with orders, when applied to by the Collector of the District, to assemble a sufficient force of his militia, and to employ them efficaciously, to maintain the authority of the laws respecting the embargo. The President is peculiarly anxious, that the officers selected should be such, who can be best confided in to exercise so serious a power.

In other words only those who were pro-Republican and somewhat sympathetic to the Embargo. Circular quoted in Sullivan, pp. 294-95 and requoted in White, pp. 464-65.



have been illegal, but it was highhanded, and it was not an act of political propriety. It must be remembered, however, that anything he did would have been attacked by the Federalists.

Lincoln correctly accused the House of issuing a biased and incriminating report. He insisted that he had not erred; the House had committed an illegal act by compelling a militia officer to reveal his orders. This, the Chief Executive charged, was an infringement of the constitutional rights of the Governor. Lincoln received no satisfaction from the House as the Federalists allowed the message to be read, refused to answer it or explain the actions of the investigating committee, and tabled the issue.<sup>8</sup> There were enough issues on which to attack Lincoln that the opposition could afford to drop this controversy.

Lincoln, however, was too stubborn and incensed to give up. Another opportunity to publicly defend his actions came in answer to a letter of support from the officers of the Third Regiment of the State militia. This time Lincoln justified the procedure he had followed as being ordered by Jefferson. This reasoning went against the position that had been taken by the Republicans when they had been confronted with the Alien and Sedition Acts. At that time Lincoln had spoken against Federal authority, and had backed

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<sup>8</sup>Pittsfield Sun, March 18, 1809; Worcester Massachusetts Spy, March 17, 1809; Political Notes, Lincoln Gr. Papers, AAS; Massachusetts House Journal, January Session, 1809, p. 216-17.

the concept of state nullification promoted by Jefferson and Madison in the Kentucky and Virginia Resolutions. Then, of course, Lincoln had been opposed to specific legislation, now he was in favor of a federal law which he was convinced had to be enforced for the good of the country.<sup>9</sup> He had moved from a states rights position to a stand supporting centralized power. By his action, Lincoln had sacrificed the position of the state for the sake of compliance to a Presidential directive. Even here, however, Lincoln failed to specifically state why he had bypassed the normal chain of command when he had sent the orders to select officers in Massachusetts.

Lincoln's response to the Third Regiment officers was dated long after receipt of the letter of support. His reason for the delay was again politically inspired. The investigation that had been conducted by the legislative committee had compelled him to refrain from sending an immediate answer; if he had said anything during the inquiry it would have been construed by the Federalists as an unbecoming and undignified appeal to the people.<sup>10</sup>

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<sup>9</sup>See Lincoln's Farmer's Letters for a survey of his earlier position and see Political Notes, Lincoln Sr. Papers, AAS for a change in this stand. It might be well to point out that even as Attorney General, Lincoln adhered to a reduction and tight control of Federal Authority.

<sup>10</sup>Boston Columbian Detector, March 21, 1809; Worcester Massachusetts Spy, March 21, 1809; Pittsfield Sun, March 25, 1809; Political Notes, Lincoln Sr. Papers, AAS contains the original draft of his response which shows that he had planned to appeal during the investigation because he was convinced that the people would support him and the Embargo if they were again shown the correct path to follow.

Lincoln also took the opportunity to attack the House resolution and committee report. They were "inconsiderate and dangerous," and the militia should pay no attention to them because the House intended "to prejudice the thinking of the state" and to get the military establishment to ignore the orders of the Chief Executive. As soldiers their first duty was to defend the state and nation by carrying out the orders of the Commander-in-chief. The actions of the Legislature were instigated by political and not patriotic reasons. They were designed "to create prejudices and corrupt political feelings." This was not new, Lincoln charged, for the opposition had been consistent in its attacks on the national and state administrations. Faithful Americans must be prepared to oppose all seeds of discontent, and,

government and its rights, attacks, injured, expressed, aspersed and insulted, in the house of its friends, must be supported; its wounds be healed, its credit be repaired, its authority be respected, or we are undone.<sup>11</sup>

Lincoln here shows the extent of opposition to the Embargo. Even the militia had become affected and apparently was wavering in its compliance to the Chief Executive's directives to enforce the act. With the branches of the state government at cross-purposes it affected the loyalty and emotions of the residents, of which the militia was a cross-segment. Lincoln's charges of political motivation

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<sup>11</sup>Boston Columbian Detector, March 21, 1809; Political Notes, Lincoln Sr. Papers, AAS.

for legislative action were true, but so would be similar accusations leveled against the Acting Governor. Not being too critical of Lincoln, it must be pointed out that he was the aggressor in this first phase of the battle between the two branches of the government. He refused to consider a compromise, and continued the attack by preaching the doctrine of pure Republicanism in his state of the State Address. Before considering this, however, it is necessary to complete the picture of the political conditions in Massachusetts in February, 1809.

### III

Legislative opposition to the Embargo was both severe and vocal. The representatives, through the adoption of the Report of the Committee to investigate the military orders and by a special resolution, took a position of determined and unswerving resistance to the act as being unconstitutional. The Senate accepted the argument of the House regarding the constitutionality of the Embargo. It, however, went one step further and offered a positive approach to resistance. Forceful opposition was wrong; to secure permanent relief the best way was to do it peacefully through legal channels.<sup>12</sup>

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<sup>12</sup>Pittsfield Sun, February 11, 1809; Boston Independent Chronicle, February 13, 1809; Worcester Massachusetts Spy, February 17, 1809; Resolves of the General Court of the Commonwealth of Massachusetts, 1808, January Session, p. 201. The Senate established a three point program. First, a petition was to be prepared and sent to Congress setting forth the views and opinions of the state. Secondly, the

Lincoln's position throughout all of this is difficult to understand. Reading his letters to Jefferson one gets the impression that opposition was diminishing and that the situation appeared much better. If enforcement was not pushed too hard existing difficulties would disappear and the Embargo would be respected. There were signs of this taking place; the merchants were obeying the law by having their cargoes bonded. "The spirit of opposition is yielding to principles of safety, order, and Government."<sup>13</sup>

This optimistic report was a falsification of the true situation. The Federalist leaders continued to work to bring an end to the law and to the Jefferson Administration.<sup>14</sup>

#### IV

It was in this political atmosphere that Lincoln presented to a joint session of the General Court his state of the State Address. He opened his message with a request for

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Massachusetts legislature was to cooperate with any of the other states in all legal and constitutional means to obtain amendments to the United States Constitution to protect commerce and to give the "commercial states" a fair and just consideration in the Federal government. Third, copies of the resolutions were to be sent to other state legislatures as a means of assisting them in their deliberations.

<sup>13</sup>Lincoln to Jefferson, January 31, 1809, Pierpont Morgan Library, New York.

<sup>14</sup>Samuel Eliot Morison, The Life and Letters of Harrison Gray Otis (2 Vols; Boston: Houghton Mifflin Company, 1913), I, 324; William Bentley, Diary of William Bentley, D.D., Pastor of the East Church Salem, Massachusetts (4 Vols.; Salem: The Essex Institute, 1910-14), III, 377.

divine guidance, but did this in a perfunctory manner to fulfill an obligation traditionally required of the Chief Executive. An affirmation of devotion to constitutional principles likewise received brief mention as the Acting Governor was in a hurry to get to the main topic of his message--the Embargo and the violent opposition that existed.

Talk of secession by certain people in the New England area was his first major item. Hoping that such suggestions were unfounded, Lincoln considered them injurious to the reputation of the New England area and to the United States. It was a prime task of the General Court to act quickly to quiet the state. "Would not such an achievement be worthy an united effort, and reward the labors of a whole session? The times call for union, confidence, and mutual forbearance and accommodation."<sup>15</sup> The gratification of private desires must not be the guideline for deciding the correctness of an issue. The real danger lay in the determination to gratify personal desires for this could mean the dissolution of the union, and "union means everything it is our strength, our numbers, our resources."<sup>16</sup>

Union of purpose and of the nation was the key to survival. Because of this, the Chief Executive set forth in

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<sup>15</sup>Governor's Message, January 26, 1809, Resolves, 1808, January Session, p. 223; Pittsfield Sun, February 11, 1809; Boston Independent Chronicle, January 30, 1809; See any leading Massachusetts newspaper for a copy of the address.

<sup>16</sup>Governor's Message, January 26, 1809, Resolves, 1808, January Session, pp. 223-24; Boston Independent Chronicle, January 30, 1809; Pittsfield Sun, February 11, 1809.

his address a remarkable theory. In 1801, the Acting Governor had argued that it was not only the right but the duty of every citizen to question, discuss, and oppose if necessary, actions of the government. Now, however, Lincoln was in power and under severe attack. He, therefore, took an opposite point of view. It was not disgraceful for any citizen to agree with national policy, nor was it wrong to question a program while it was being adopted. Opposition had to cease at the next stage, enactment, for it would no longer be useful to expose approved policy to "controversy and opposition." Decisions reached must be respected and obeyed. This point existed on the question of the Embargo. Furthermore, the Federal Government, "balanced," directed by "fixed principles," established by the people, was safe and reasonable, and its overthrow or any violent opposition to it should be resented by the public.<sup>17</sup>

This part of Lincoln's address came under the severest attack by the Federalists. What the Governor wanted was impossible. No person submitted willingly to enslavement, nor would a society stand idly by while a government

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<sup>17</sup>Governor's Message, January 26, 1809, Resolves, 1808, January Session, p. 224; Pittsfield Sun, February 11, 1809; Boston Independent Chronicle, January 30, 1809. This theory of Lincoln was expressed earlier in different terms by James Sullivan. Writing to Timothy Pickering he argued

No government is always right. You may take it for granted if you please, that the Embargo Act was an error, yet it was a constitutional act. It was the exercise of a power, which must, from the nature of things, exist in the national government.

James Sullivan to Timothy Pickering, March 18, 1808, James Sullivan Papers, MHS.

became more and more oppressive. Silence was a misguided concept of obedience, "discussions should begin with the commencement of oppression." To adopt Lincoln's theory would result in the establishment of despotism. "At such a point, government undertaking to extend its power beyond the limits of the Constitution, degenerates into tyranny."<sup>18</sup>

The problem that developed was based on the meaning of opposition. Lincoln's refusal to allow public investigation is understandable if what he was talking about was seditious discussion. He unquestionably would have been strongly opposed to stopping all public discussion.

Lincoln, continuing on the theme of Union, admitted that total acceptance by all the people was not to be expected. Neither were the "pacific" policies of the government a guarantee of protection from attack by foreign enemies. Violations and oppressive measures by foreign powers had multiplied at such a rate that the United States was pressed "to the very wall." Beyond what was being done by the Jefferson Administration, however, lay only war, destruction, and death:

Such considerations ought with confidence, as they may with safety, remain where the Constitution,

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<sup>18</sup>Newburyport Herald, February 3, 1809; Boston Columbian Sentinel, February 4, 11, 15, 25, 1809; Boston New England Palladium, February 10, 27, 1809; Morison, II, 12. The specific answers of the General Court will be discussed later in the chapter.



has placed them--Congress with an united people. . . .  
Pacific wisdom may yet be better than weapons of  
war.<sup>19</sup>

All national measures would be opposed by certain elements in society. "This is unavoidable," but, because it happened this did not remove the possibility of the rightness of the policy. At the time something had to be done; other methods would have injured a different segment of the population. What difference, Lincoln then asked, would there be between policies? Past measures of the government were known and had been unsatisfactory, but new ones, such as the Embargo, could be judged only by trial.<sup>20</sup>

Government action, Lincoln argued, had been predicated on the collection and evaluation of public opinion as manifested through the votes and actions of the people's representatives. "By what other principles; by what better will can society act?" Again the Lockean influence is seen in Lincoln's thought.

By the voice of the majority alone can society exist for a moment. To oppose it, is to oppose a vital movement of the body politic. To try to impoverish it is to conquer ourselves and render us a prey to any and every invader. A government of the minority is a government of anarchy and confusion, a dissolution of all principles and all authority.<sup>21</sup>

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<sup>19</sup>Governor's Message, January 26, 1809, Resolves, 1808, January Session; Boston Independent Chronicle, January 30, 1809; Pittsfield Sun, February 11, 1809.

<sup>20</sup>Governor's Message, January 26, 1809, Resolves, 1808, January Session; Boston Independent Chronicle, January 30, 1809; Pittsfield Sun, February 11, 1809.

<sup>21</sup>Governor's Message, January 26, 1809, Resolves, 1808, January Session, p. 227; Pittsfield Sun, February 11, 1809.

Reports that the Jefferson Administration and the southern states were hostile to commerce were totally untrue. To Lincoln the rumors were designed specifically to produce dissension and disunion. Here Lincoln contradicts himself for the first time. The conduct and policies of the government were the proper objects for public discussion by an enlightened people who were the best safeguard for democracy. However, "misrepresentations, groundless and suspicious, violent and indiscriminate abuse," directing this public discussion would lead to opposition to the general law of the land. It would become worse if the people condoned vicious attacks on government. Lincoln then raised an interesting point: if attacks were condoned then should not loyal and patriotic support be applauded? Having no more than finished approving public discussion, Lincoln rebutted his argument by questioning the ability of the public to understand. Town meetings, gatherings on street corners, and other assemblies of people were not capable of deciding governmental questions because they were influenced by personal concerns and the erroneous talk of the opposition. "Are such citizens more worthy of confidence than their rulers?" "Are they better instructed or do they possess higher means of information?" Only leaders were instructed by their possession of information. "What then is to be done?" Lincoln asked. The solution, as he saw it, was for each group to attend to their own affairs: the towns, states, and

citizens to theirs; the union to its business.<sup>22</sup> The main question that one can find in this argument is how are the affairs of the citizens and those of the union separated? If an enlightened public is the best safeguard for democracy how does this occur if the people are not to attend to the affairs of the nation? What Lincoln apparently was saying is that local prejudice, demands, and emotions must be sacrificed if these conflict with the affairs of the union. The good of the nation must be superior to the feelings of a specific area.

Lincoln's long discourse on union and the dangers of dissolution was not without reason. Senator Timothy Pickering of Massachusetts again had been attempting to rally public opinion in opposition to the Embargo. Pickering announced his total lack of confidence in the leaders of the government and in their measures. The Embargo had been placed in force by the command of Napoleon, Pickering argued, and had been adopted by Jefferson believing that it would strengthen his position, and reduce New England to a state of poverty. The only way to save the area would be to withdraw from the Union.<sup>23</sup>

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<sup>22</sup>Governor's Message, January 26, 1809, Resolves, 1808, January Session, p. 229; Pittsfield Sun, February 11, 1809; Boston Independent Chronicle, January 30, 1809.

<sup>23</sup>Henry Adams, A History of the United States During the Administration of Jefferson and Madison (2 Vols; New York: Charles Scribner's Sons, 1947), I, 484; Morison, I, 262-67, II, 74; Bowers, pp. 445-51; C. K. Upham, Life of Timothy Pickering (4 Vols.; Boston: Houghton Mifflin Company, 1872), IV, 129, 133; John Quincy Adams to H. G. Otis, Israel

Once finished with the Embargo, Lincoln completed his address by outlining his program for Massachusetts. Having high praise for the militia, the Chief Executive called on the Legislature not to harm its work by "impoverishment." Lincoln appealed for liberal financial aid for the state military establishment, basing his request on the old traditional support of the militia--its economy and safety during times of peace, and the use of it as the nucleus for an army in case of war. An underlying motive for continued support to the militia was the use of it to enforce the Embargo. Although not mentioned in the address, this probably was the main reason for Lincoln's request to the Legislature.<sup>24</sup>

A major evil of American society, Lincoln told the General Court, was counterfeit bank bills. These were being passed with as much frequency as legal tender. Because of the tremendous number of legal currencies in circulation it was impossible for people to recognize the legal from the illegal. Lincoln, therefore, presented a plan to protect

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Thorndike, T. H. Perkins, December 30, 1828, Henry Adams, ed., Documents Relating to New England Federalism, 1800-1815 (Boston: Little Brown & Company, 1877), 47, 52-53, 56-68; Lynn W. Turner, William Plumer of New Hampshire, 1759-1850 (Chapel Hill: University of North Carolina Press, 1962), pp. 133-39; Winfred E. A. Bernhard, Fisher Ames, Federalist and Statesman, 1758-1808 (Chapel Hill: University of North Carolina Press, 1965), pp. 340-41; Richard E. Welch, Jr., Theodore Sedgwick, Federalist: A Political Portrait (Middletown, Connecticut: Wesleyan University Press, 1965), pp. 242-244; Goodman, pp. 196-97.

<sup>24</sup>Governor's Message, January 26, 1809, Resolves, 1808, January Session, p. 230; Boston Independent Chronicle, January 30, 1809; Pittsfield Sun, February 11, 1809.

the state from counterfeit bills. All banks would issue money of the same design, and gradually all of the old bills would be replaced.<sup>25</sup>

Probably Lincoln's most constructive proposal dealt with manufacturing. Massachusetts had to do something, and neighboring states had done enough already to serve as examples. Lincoln felt that exemption from taxes and liberal land laws would be two ways to encourage "mechanical improvements and fabrications." The proceeds from the sale of land in a few western townships could be used to establish a society for the promotion of manufactures. The result of this would produce, "to the present and succeeding generations an harvest of a hundredfold." To further assist manufacturing, commerce, and agriculture Lincoln called for good roads. He did not ask for more roads; he felt the existing ones were sufficient to handle the traffic for generations to come. Lincoln simply requested a program of road improvement and beautification by bordering the roads with trees, for this would "give rudiment to the country, comfort and refreshment to the traveller, fuel to the planters, and gratification to all."<sup>26</sup>

This interest in manufacturing that Lincoln expressed was sincere and not superficial to gain Federalist support. He long had been a backer of aid to manufacturing for he was

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<sup>25</sup>Boston Independent Chronicle, January 30, 1809.

<sup>26</sup>Ibid.

convinced that it in turn would benefit agriculture and all other economic areas of the state. It was a political move to request this, for rural towns were strongly supporting any kind of program for industry that might keep a restless population at home.<sup>27</sup>

In closing his message, Lincoln spent some time discussing education. The Legislature should investigate the school system in the state, and should do everything possible to encourage those studies which would particularly aid agriculture, arts, sciences, and manufactures.<sup>28</sup>

Total praise or total condemnation followed the publication of the address. There was no middle ground. Federalist reaction already has been partially considered.<sup>29</sup>

Republican newspapers followed the same basic line of praise. The speech was "patriotic and republican," as Lincoln "the inflexible Republican" (an accurate term), spoke in a "firm and decided language" to point out the dangers facing the nation and the necessary course to avoid more

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<sup>27</sup>Lincoln to Theodore Sedgwick, January 12, 1791, Sedgwick Papers, MHS; Oscar Handlin and Mary Flug Handlin, Commonwealth: A Study of the Role of Government in the American Economy: Massachusetts, 1774-1861 (New York: New York University Press, 1947), p. 132.

<sup>28</sup>Governor's Message, January 26, 1809, Resolves, 1809, January Session, p. 231; Boston Independent Chronicle, January 30, 1809; Pittsfield Sun, February 11, 1809.

<sup>29</sup>See above p. 169. For opposition attacks see Newburyport Herald, February 3, 1809; Boston Columbian Centinel, February 4, 11, 15, 29, 1809.

serious trouble. Referring to Lincoln as the "political Moses," the papers called for the people to rally to the support of a man who had delivered a speech considered to be

an assessment of pure, unadulterated Republicanism--pulling from a source which the intrigues and factions can never corrupt. A source, uncontaminated by the noxious waters of foreign influence, or the still more deliterious streams of domestic treason.<sup>30</sup>

The most important response to the message came from the General Court. The Lower House responded first and most severely. It quickly attacked the argument that a division of sentiment and threats of disunion existed. The concept of disunion existed only in the mind of the Chief Executive because he was too partisan, and believed a man a traitor when he opposed an act which infringed upon his constitutional rights. Besides,

if ever such suspicions existed, they can have arisen only in the minds of those who must be sensible that they have adopted, and were persisting in, measures which had driven the people to desperation, by infringing on rights which the citizens of Massachusetts conceive to be unalienable. . . .<sup>31</sup>

By this argument the Federalists placed the responsibility of the talk of disunion on the Republicans. It was

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<sup>30</sup>Boston Independent Chronicle, January 30, 1809; Worcester National Aegis, January 29, 1809; Pittsfield Sun, February 11, 1809.

<sup>31</sup>Answer of the Honorable House of Representatives to the Speech of His Honor the Lieutenatn-Governor, February 7, 1809, Boston New England Palladium, February 10, 1809. See also Resolves, 1808, January session or any of the leading Federalist newspapers in Massachusetts of that date for a copy of the reply. Hereafter the answer will be Answer of the House. . . , February 7, 1809, Ibid.

impossible, the House argued, for the citizens of Massachusetts to consider secession for they were the most patriotic and devoted of all peoples. This devotion was constantly being displayed by their "forbearance" at a time when the Federal Government was doing everything in its power to destroy all that had been created by "the glorious administration of Washington and Adams."<sup>32</sup>

The Senate response was much more moderate, and, more influential. Its effectiveness came from the use of Lincoln's own words to refute his arguments. The response covered the same ground as the earlier House reply; a refusal to admit the existence of talk of disunion, and a reassertion of unswerving devotion to the Federal Constitution. Because the people had no intention of abandoning the Union, the Chief Executive's charges of secession were a "liable" [sic] upon them and their "patriotism."<sup>33</sup>

The Legislature attacked Lincoln's concept of sectional sacrifice also. The rights and privileges of New England, they claimed, were being sacrificed for the advancement of the rest of the country. It was preposterous to declare that unequal laws were at times essential. "The government. . . has no right to sacrifice the interest of

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<sup>32</sup>Answer of the House. . . , February 7, 1809, Ibid.

<sup>33</sup>Answer of the Honorable Senate to the Speech of His Honor the Lieutenant-Governor, February 10, 1809, Boston New England Palladium, February 27, 1809. See also Resolves, 1808, January Session and leading papers for the reply. Hereafter cited Answer of the Senate. . . , February 10, 1809, Ibid.



one section of the Union to the prejudices, partialities, or convenience of another."<sup>34</sup>

In this argument the General Court of Massachusetts fell back on the old New England fear that the rights, powers, and position of the area were being destroyed for the benefit of the South specifically, and the country generally. Developed in opposition to the Louisiana Purchase, New England used this defense whenever it felt that its position was threatened. That the Embargo was most harmful to New England was unavoidable because of the very nature of the section's economy and the theory of the act. Other sections of the nation suffered economic hardship also, but nothing could have convinced New England of this as long as a Southern Republican was President.

The General Court was so opposed to Lincoln's address that it refused to accept his program without modification or reference to the economic conditions in New England. Therefore, it did not surprise the legislators that counterfeiting had increased, and, although, to be regretted, it was due to the Embargo. A person's "ingenuity which is driven from the pursuits of honest industry and labor, frequently seeks a refuge from poverty in the paths of life."<sup>35</sup>

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<sup>34</sup>Answer of the House. . ., February 7, 1809, Answer of the Senate. . ., February 10, 1809, Ibid., February 10, 27, 1809.

<sup>35</sup>Answer of the House. . ., February 7, 1809, Ibid., February 10, 1809.

Lincoln's requests concerning manufacturing, literature, education, roads, and agriculture likewise were set aside because of the economic crisis; the Legislature felt that it could do nothing at the time. The House of Representatives signalled out Lincoln's road beautification request for a bit of ridicule. Again, it would have been happy to consider the issue under normal times but "when our very existence as a nation is almost in question" the people might look upon attention to this issue as "trifling with the public expectations."<sup>36</sup>

This refusal of the Legislature to consider the more positive aspects of Lincoln's program was politically motivated. The yearly election for governor was approaching; the Federalists were very confident of capturing the State House, and, therefore, refused to do anything that might enhance the chances of the Republicans. For campaign purposes the Embargo had to be used to oppose any constructive suggestion from the Chief Executive. Lincoln's recommendations were commendable and the Legislature, if it had wanted to, could have developed a program to help relieve some of the economic burdens of the state. This was not to be as it was worth too much politically for the Federalists to stand as the party of opposition to any Republican measure that might lessen resistance to the Embargo. Lincoln was politically astute and realized this when he outlined his program, but

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<sup>36</sup>Answer of the House. . . , February 7, 1809, Answer of the Senate, February 10, 1809, Ibid., February 10, 27, 1809.

he had to present constructive measures in the hopes of easing opposition, and give the Republicans something positive to campaign on in the upcoming election.<sup>37</sup>

In the exchange of messages the Federalists came out ahead. From the beginning Lincoln was in the unenviable position of having to defend a measure which was very unpopular with a majority of the people in Massachusetts. He compounded the problem by his insistence that a law had to be totally accepted once it had been enacted. Lincoln also was alienated from the people because, as an advocate of the Embargo, he did nothing to alleviate the suffering in the state, and instead adhered to a strict enforcement of the measure.

The Federalists, on the other hand, were in an excellent position politically. For one of the very few times in its existence the party found itself on the popular side of all issues and the champion of the people's rights. Its opposition to the Embargo, especially its argument that Jefferson was systematically sacrificing the interests of New England for the benefit of the rest of the nation, found a sympathetic ear among the citizens of the Bay State. The Federalists, likewise, found themselves the champions of free speech and popular rights when they opposed Lincoln's demands of unquestioning obedience to the dictates of the national

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<sup>37</sup>The Legislative record for this period is very bleak. The only laws passed were those on non-controversial subjects. Absolutely nothing was passed that would have come close to enhancing Lincoln's program.

administration. Because of the conditions existing, everything Lincoln did helped create in the minds of the people the idea that their salvation lay with Federalism. Lincoln, of course, aided this by his unbending Republicanism, but especially by his actions over the controversy of a day of fasting and prayer.

## IV

The General Court, to gain popular support, and, probably to place Lincoln in an embarrassing position, passed a resolution setting aside February 16, 1809 as a day of prayer. The resolution specifically stated that the day was to be a time of "humiliation and prayer to unite in devout supplication to God for deliverance and favour."<sup>38</sup> Included in the announcement was an invitation to Lincoln and the members of the Governor's Council. All attended except Lincoln. As the day approached he sent a message to the General Court asking to be excused. He had learned that his wife was quite ill and he was planning to use that day, when the business of the Legislature was suspended, to visit her in Worcester. That he did so is verified by a notice of his arrival in the Worcester Massachusetts Spy. In all probability, Lincoln would have been criticized for not attending whatever the reason. However, he did not help his cause by

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<sup>38</sup>Resolves, 1808, January Session, p. 220; Boston New England Palladium, January 16, 1809.

taking this opportunity to attack the concept of a day of fasting and prayer.<sup>39</sup>

The spirit of the times, Lincoln felt, would mistake his refusal to attend as proof of his infidelity. Because of this he felt that it was necessary to declare publicly his belief in the Christian faith.

That religion is truth and sincerity, a holy transaction of the heart, between the creature and the creator--seldom exalting exercise of the affection, creating love, peace and unity among mankind--invoking with the best charities of the heart, the most benevolent wisdom of the soul, quiet and peaceable lives for those in authority, and those under it.<sup>40</sup>

In other words, if the people of Massachusetts were indeed Christians then they should prove it by accepting authority.

Lincoln insisted that he did not object to a day of fasting and prayer. Such an occasion was excellent because it had a tendency to quiet the population and this one would ease the dominant "spirit of opposition." If all days of prayer were designed to do this then Lincoln would attend them all, but, this was not the case. Designated days of prayer became meetings for political purposes, and to further arouse the spirit of opposition in the people, and this is what would happen this time.<sup>41</sup>

This type of announcement was just what the Federalists were looking for. In a rebuttal article, Lincoln was

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<sup>39</sup>Pittsfield Sun, January 16, March 4, 1809; Worcester Massachusetts Spy, February 18, 1809.

<sup>40</sup>Pittsfield Sun, March 4, 1809.      <sup>41</sup>Ibid.

told that he would have been excused for his wife's illness but the rest of his message required an answer.<sup>42</sup> Lincoln's attack on the resolution calling for a day of prayer was centered around a statement of his religious beliefs which were never questioned. His insistence on setting these forth seemed to have been motivated by a feeling that his beliefs were not acceptable to the public and that he had to explain them to make them understood. However, as a critic at the time wrote, "protestations, my lord, are no better proof of a man's religion, than burned plowshares are of female innocence."<sup>43</sup>

Relative tranquillity settled over the state after the agitation created by the order to the militia, the address to the General Court, and the issue of the day of prayer. This period of quiet was very shortlived as the campaign for the governorship opened in March of 1809. Nominated for the office by the Republicans, Lincoln found himself under the most severe political attack of his life as he waged an uphill battle to try to capture the State House on his own.

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<sup>42</sup>Boston Independent Chronicle, February 28, 1809.

<sup>43</sup>Ibid.

## CHAPTER SEVEN

### DEFEAT AND RETIREMENT

#### I

The gubernatorial campaign of 1809 centered around the furor created by Jefferson's Embargo. In Massachusetts the Federalists, confident of victory, used the act and Lincoln's conduct as targets for their attack. The Republican Party found itself on the defensive because of the Embargo which was not supported by all members of the party, but, openly was opposed by many. Although Congress had repealed part of the measure on February 21, 1809, the political damage had been done in Massachusetts.<sup>1</sup> Because the state convention concept had not yet caught on, Lincoln was nominated for Governor by the Republican caucus and conventions of the county organizations throughout the state, with Joseph B. Varnum as his running mate.<sup>2</sup>

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<sup>1</sup>Stuart Gerry Brown, Thomas Jefferson (New York: Washington Square Press, 1966), p. 153. Congress repealed the Embargo Act by passage of the Non-Intercourse Act which Jefferson signed on March 1, 1809. This act opened trade with all nations except France and Great Britain and allowed the President to resume trade with either country in the event France or Great Britain ceased violating neutral rights.

<sup>2</sup>Pittsfield Sun, March 4, 1809; Boston Independent Chronicle, March 6, 1809; William Lincoln, History of Worcester, Massachusetts, From its Earliest Settlement to

## II

The Federalists found many areas of attack during the campaign. One main item outside of the Embargo, was a report on removals drafted by Lincoln when he had served as Lieutenant-Governor for Sullivan. The report was a result of an investigation of the removal of one Sheriff Lithgow of Kennebec County, Maine. This had been a very controversial issue, but by the time the investigation had been completed the public had lost interest and the report was not considered until the campaign in 1809. Because the document was basically the work of Lincoln and outlined his views on state removals it is important to consider it.

Under the 1780 Constitution, Sheriffs, Register of Deeds, and County Attorneys were appointed by the Governor. Lithgow had been appointed by the Federalists and had been removed by Sullivan for activities as a member of the opposition, specifically the use of his office to harass members of the Republican Party. The Federalists quickly came to his defense and the committee report was written to justify the action of Sullivan. The Lithgows had long been a politically powerful family in the area, and, with the Bowman

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September, 1836: with Various Notices Relating to the History of Worcester County (Worcester: Moses D. Phillips and Company, 1837), p. 231. The Federalists nominated Christopher Gore for Governor to oppose Lincoln.



family, had maintained a solid hold of local offices since prior to the Revolution.<sup>3</sup>

The report opened lamenting the total lack of confidence in Republicans by the Federalists. The Sullivan Administration faithfully had followed the wishes of the voters: to do this it had been necessary to carry out certain removals. Their desire for change meant total change, not only of elected officials, but also those who had been appointed by the previously elected administrators. The bitterness of the Federalists compelled the government to demand the support of all officers who had been placed in the control of the Chief Executive. "The public sentiment and the public safety require a change."<sup>4</sup>

Of all the officers under control of the Governor, Sheriffs were among the most important. They executed the

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<sup>3</sup>For a complete background to the Lithgow controversy see, Executive Records of the Council, Massachusetts Archives, State House, Vol. XXXV, 64, 68, 98, 120, 139, 155, 305, 340, 405, 420-22; Deputy Henry Johnson's Disposition, December 14, 1807, Lithgow to Sullivan, January 7, 23, 25, 27, February 5, March 4, 9, 1808, Sullivan's Declaration on trouble in Kennebec County, February 1, 1808, George Bender's Disposition, February 13, 1808, Sullivan to Dearborn, February 7, 1808, Order of Removal of Lithgow, March 2, 1808, April 2, 1808, Sullivan Papers, MHS; Sullivan to Dearborn, February 21, 1808, Dearborn Papers, MHS; Paul Goodman, The Democratic-Republicans of Massachusetts: Politics in a Young Republic (Cambridge: Harvard University Press, 1964), p. 120.

<sup>4</sup>Report of the Council to the Governor in the Case of Lithgow, Sheriff of the County of Kennebec; Boston Independent Chronicle, February 6, 1809; Resolves of the General Court of the Commonwealth of Massachusetts, 1807, January Session, pp. 429-436. The report hereafter cited as Lithgow Report.

executive measures, were entrusted with the Governor's secrets, and, therefore, must be the same with the Chief Executive in political principle. Because of this it was absolutely essential that the power of appointment and removal of Sheriffs rested exclusively with the Governor.<sup>5</sup>

The existence of parties, the report charged, made it necessary to give the Chief Executive removal powers. Parties were dangerous to society, and were preserved, strengthened or weakened more by the influence of the men in government than by any other pressure in society. Majorities ruled and opposition forces carried on their resistance through parties. If offices were filled by men of the opposition then majority rule was not operative. Removals created excitement and tension, but so would a lack of them. The report then asked a meaningful question, "but who, and for what can anyone complain?"<sup>6</sup>

### III

The gubernatorial campaign was bitterly fought. Lincoln came under vicious attack by the Federalists, which was no surprise to the Republicans. Party newspapers had predicted a bitter assault long before the beginning of the campaign. Lincoln was attacked especially by the Federalist clergy because of his treatment of them. This caused the

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<sup>5</sup>Lithgow Report; Boston Independent Chronicle, February 6, 1809.

<sup>6</sup>Lithgow Report, Ibid.

clergy, in the words of one minister, "to make their utmost exertions against him. . . ." <sup>7</sup> Lincoln was a "profane infidel" who had made only an "ostentatious profession of religion" and the clergy had to do everything in their power to turn him out of office. <sup>8</sup>

Lincoln's public record was another theme for the opposition. Calling him a "Saul of Tarsus," the Federalists accused him of hypocritical actions and pictured him as a man who had "all the rancorous malignity at heart." Lincoln was "a most violent, unconciliating politician; - a thorough going, inveterate 'Democrat.'" In attacking his record, the Federalists could not forget Lincoln's actions in mobilizing the militia to enforce the hated Embargo. <sup>9</sup> The continuing

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<sup>7</sup>William Bentley, Diary of William Bentley, D.D., Pastor of the East Church Salem, Massachusetts (4 Vols.; Salem: The Essex Institute, 1905-1914), III, 427; Pittsfield Sun, February 18, April 1, 1809.

<sup>8</sup>Salem Gazette, March 31, 1809; See also Who Shall Be Governor?; Boston New England Palladium, March 14, 31, 1809.

<sup>9</sup>Boston New England Palladium, March 14, 31, 1809. Lincoln's record as Attorney General of the United States was closely analyzed and the Federalists came up with the episode mentioned above about Lincoln's inability to argue the "Sugar Case" before the Supreme Court. The Federalists charged that Lincoln had made a fool of himself by his "incoherent, rambling, and unargumentative arguments" Salem Gazette, March 31, 1809. One ingenious Federalist used poetic license to poke fun at Lincoln over this supposed episode. Part of the "poem" went thusly.

The next great man I can think of,  
No less man than lawyer Lincoln  
With whom compared er'd your Mansfield bolts  
Are but a set of saddled asses colts.  
Lord, how my muse and I should glory  
To paint his matchless oratory,  
For benefit of future times,  
Aevi monumentum rhymes,

connection of the method of calling the militia and the use of it to enforce the Embargo shows that the real motive for the Federalists' attacks on Lincoln's actions was hatred for the Embargo and not really the question of improper procedure.

The most vicious and slanderous attack against Lincoln came in a pamphlet. Entitled "Who Shall Be Governor?" the article attacked the Chief Executive's wealth. The charge was made that his money had been gained by dishonest means as Attorney General from 1801-1804. Lincoln was falsely accused of having been given twenty thousand dollars to run the office of Attorney General, and that when he resigned he took fourteen thousand with him. During his term in office he did nothing constructive with the other six thousand dollars, but spent his time attacking religion and making a fool of himself in court. The fourteen thousand dollars that Lincoln took when he left federal office in 1804, the pamphlet charged, had been greatly increased by his personal habits and characteristics.

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But poets, critics, each a million;  
 And each an omer or quintilian,  
 With each a pen, can set forthfully,  
 The merits of our modern Tully:  
 That e'en the fecund Mr. Bangs  
 Can equal in his sublime harangues,  
 But all his eloquence unmuzzling,  
 He had twist juries cause so puzzling.  
 When Sugar cause he had in handy  
 Had almost made it sugar candy.  
 With common and uncommon law,  
 In which no man could prik a flaw,  
 He did soon learnedly begin,  
 To absolve his head with Lincoln's end!

Complete poem in Salem Gazette, March 31, 1809.

By a system of rigid parsimony, in the management of his concerns, by total seclusion from society, which he effects to call republican simplicity, but which is, in reality, mixture of avarice and pride, and by making his private interests, on all occasions, paramount to every other consideration, has amassed an immense [sic] fortune. Mr. Lincoln is haughty, reserved, vindictive, and overbearing. Mr. Lincoln is noted for his blind partiality to France.<sup>10</sup>

The pamphlet cut deeply and the Acting Governor pleaded with his son to have someone answer the charges of embezzlement.<sup>11</sup> No evidence remains that any Republican attempted to defend Lincoln on this account.

Republican responses to these attacks on their gubernatorial candidate were inadequate. Although a few writers attempted to defend Lincoln, all fell far short of what was needed: a constructive program of support. Any defense of Lincoln generally centered around the Federalists attacks on his religious beliefs. However, it was not a defense as much as a counter-attack of Federalist religious concepts. Lincoln, it was stated, had declared publicly his beliefs and his conduct always had been such to exhibit Christian principles. "Can it be that his accusers are so pure and immaculate that they would be allowed to bring such charges with impunity?"<sup>12</sup>

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<sup>10</sup>Who Shall Be Governor? The Contrast, Containing Sketches of the Characters and Public Service of the Two Candidates for the Office of Chief Magistrate For the Commonwealth of Massachusetts (Worcester, Massachusetts: Printed at the Spy Office, 1809.)

<sup>11</sup>Lincoln to Levi Lincoln, Jr., March 23, 1809, Levi Lincoln Jr. Papers, AAS.

<sup>12</sup>Pittsfield Sun, April 1, 1809.

Publication of toasts and the glorification of Lincoln made up the Republican political campaign. The Acting Governor was a true American "in heart and soul," and the Federalists could not attack him openly with anything. "His only happiness is in the happiness of his country."<sup>13</sup> This constituted the bulk of the Republican campaign literature when what really was needed were positive statements outlining Lincoln's program as set forth in his address to the Legislature, and concepts and ideas which would take the voters mind off the past by the promise of a better future under Republican direction with Lincoln as Governor. This never came.

## IV

Election day was April 3, 1809. The agitation caused by the Embargo, depressed economic conditions, and the spirited campaign conducted by both parties brought out the voters in larger numbers than in any previous gubernatorial election. Although the total number of votes cast did not exceed those balloting in the Presidential election, the number was the highest in a Massachusetts state election.<sup>14</sup>

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<sup>13</sup>Pittsfield Sun, March 4, 18, 25, 1809; Boston Courier, March 23, 30, 1809. Toasts to Lincoln extolled his virtues. "Levi Lincoln a rack on which the storms of calumny beat harmlessly." Pittsfield Sun, March 18, 1809. "Remember one day spent in three with Lincoln and liberty may save much and is better than a thousand spent in servitude or in slavery." Boston Courier, March 30, 1809. Similar toasts can be found in all pro-Republican papers of that period.

<sup>14</sup>Pittsfield Sun, April 14, 1809. Almost 94,000 people voted in the election.

Republican successes in some areas of the state went beyond their own expectations. Salem, long a Federalist stronghold, was one of the few towns in the east that Lincoln carried.<sup>15</sup> Election returns were slow coming in, but by April 8, 1809 enough had been reported to show the Federalist candidate, Christopher Gore, leading by almost 3,000 votes.<sup>16</sup> Within a week this margin was increased to 3,366 votes out of about 80,000 counted.<sup>17</sup> This total included the vote from approximately 338 towns leaving about 150 towns from the extreme western part of the state still to report. By comparing how these 150 voted the previous year in the contest between Sullivan and Gore the Pittsfield Sun on April 15, 1809 predicted the victory of Gore by a margin of 1,218 votes.<sup>18</sup> Although the paper correctly predicted the winner it erred in the vote margin as the Federalist candidate defeated Lincoln by a little over 2,500 votes.<sup>19</sup>

Lincoln was defeated by state reaction to the Embargo and not by a Federalist program of action. The State House was captured by the Federalists by a very narrow

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<sup>15</sup>Bentley, III, 426.

<sup>16</sup>Abstract of Votes for Governor and Lieutenant-Governor, 1809, Massachusetts Archives, State House; Pittsfield Sun, April 8, 1809; April 15, 1809.

<sup>17</sup>Abstract of Votes, 1809; Boston New England Palladium, April 14, 1809; Pittsfield Sun, April 15, 1809.

<sup>18</sup>Pittsfield Sun, April 15, 1809. In 1808 Sullivan received 6,651 to Gore's 4,403 votes from these 150 towns. For 1808 vote see Abstract, 1808, Massachusetts Archives, State House.

<sup>19</sup>Boston New England Palladium, April 21, 1809.

margin; a victory due to Republican difficulties over the Embargo. State support for Federalism was momentary as the party was unable to permanently break up the firm basis of Republican support.<sup>20</sup> Although the party was able to bounce back, the defeat was a personal blow to Lincoln who saw it as a failure on his part. He was determined to retire from public service forever. Actually Lincoln's failure at that time may have been inevitable; it is doubtful if any Republican candidate could have won. An analysis of the voting shows that Lincoln received almost equally strong support throughout the state, although he was weakest in the east and strongest in the central and western areas.<sup>21</sup> There

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<sup>20</sup>Goodman, p. 197. For Federalist reaction to the lack of continual support for the party see Goodman's discussion pp. 196-97. Republican loss of the State House was only for a year for in 1810 Elbridge Gerry was elected Governor. The Gerry Administration became famous for the passage of important measures. A Religious Freedom Act all but nullified the established patterns of religious worship in Massachusetts. In addition, the Republicans finally were able to fulfill their demands for change in the state banking system. The charters of all the banks were to expire in 1812 and a change had to take place to satisfy the growing demands for participation. The result was a multiplication of bank charters. The quest for charters became highly competitive, with the best organized and most influential winning the prizes. Republicans had been systematically excluded from participation. All this changed in 1810-11 when only two new charters were issued and the old charters were discarded. Both Republican institutions, the two new banks were for a Merchants Bank at Salem and a state bank. When the Federalists returned to power in 1812 they renewed the old charters. Finally, a stalemate was reached although Republicans at last had won a more equal access to the corporate privilege in the state. See Jacob C. Meyer, Church and State in Massachusetts, 1740-1833 (Cleveland: Western Reserve University Press, 1930), p. 155; Goodman, p. 180; William A. Robinson, Jeffersonian Democracy in New England (New Haven: Yale University Press, 1916), p. 87.

<sup>21</sup>Abstract of Votes, 1809.



were no strong pockets of Republican support nor were there any really powerful areas of opposition.

The party was quick again to find the cause for defeat outside of the actual facts. Dirty and crooked politics was the answer. The opposition had won because Federalists in town offices had allowed the members of their party to vote while they had denied this right to "hundreds" of qualified Republicans. Without these illegal tactics the opposition would never have won.<sup>22</sup> What the party faithfuls failed to admit was that the same or similar tactics had been employed by Republican selectmen who controlled the balloting in their area.<sup>23</sup>

# V

Lincoln's departure from the State House took place without ceremony. Prior to his departure the Republican members of the General Court had sent a farewell message thanking him especially for his services as Acting Governor. The opportunity was taken to attack the Federalists for their refusal to cooperate in the Legislature but instead doing

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<sup>22</sup>Pittsfield Sun, April 22, 1809.

<sup>23</sup>Goodman on p. 150 lists some of the different methods of trickery used by both parties during election time, but also makes the point that these were usually carried out at the local level and that the upper echelons of the parties resorted to more sophisticated political maneuvering. See also Luther Cushing, et. al., Reports of Controverted Elections in the House of Representatives of the Commonwealth of Massachusetts, from 1780 to 1852 (Boston: 1853).

everything possible to disrupt Lincoln's Administration.<sup>24</sup> The charge of obstruction is accurate, but in defense of the Federalists the point must again be made that there was no reason why they should have adopted Lincoln's program. He was only an interim Chief Executive serving approximately three months and the opposition was confident of victory in the upcoming election after which they would have the opportunity to implement their own program. It was simply a question of politics.

Lincoln's defeat sent him into political retirement for a short time. After leaving office he returned to Worcester to look after his personal affairs, especially the management of his farms. Until he died Lincoln continued to be active in Worcester as a promoter of agriculture and improved farming methods such as the establishment of irrigation systems. After the Republicans received a more equal share of the control of state banking he invested in shares in the local bank in Worcester. He continued to argue for improved transportation to facilitate and cheapen the movement of goods from central Massachusetts to the coast. During these last years Lincoln purchased additional land but not on the scale that he had before 1800; he also sold some of his holdings at a profit.<sup>25</sup>

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<sup>24</sup>Bentley, III, 439; To Levi Lincoln Late Lieutenant-Governor and Commander-in-Chief of the Commonwealth of Massachusetts, 1809, Lincoln Sr. Papers, AAS.

<sup>25</sup>Register of Deeds, Land Bought, 158: 345; 159:532; 160:179, 180, 181; 180:292; 198:64; 218:534; Register of Deeds, Lands Sold, 149:607; 176:60; 180:340; 181:619; 194:545;

It was not long, however, before the party called upon Lincoln again for public service. In its search for a candidate to run against the incumbent Federalist, Gore, the state organization asked him to run in 1810. He immediately declined stating that failing eyesight would not permit him to carry out the duties of the office. Because he would not be able to do justice to the position, the results would injure the cause of the party and his friends. Lincoln did not reject the idea of holding a public office for he assured the party that he would be willing to run if his eyes became stronger, but that would not take place if he served at that time. Elbridge Gerry ran for Governor on the Republican ticket and won.<sup>26</sup> Perhaps as plausible a reason for Lincoln's declining was that he was still a little gun-shy after his defeat in 1809. The feeling that there was another motive for his declination is supported by the fact that he agreed to serve as a member of Gerry's Governor's Council the same year as he had refused to run for the office of Chief Executive. He not only served in 1810, but continued to sit on the Council during Gerry's second term. Council records show that he was a rather faithful member, attending a majority of the meetings. Several times when he did not attend

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198:63; 225:247, 647; Office of Register of Deeds, Worcester County Court House, Worcester, Massachusetts; Lincoln, p. 231.

<sup>26</sup>Lincoln to Dearborn, King, and Ward, February 5, 1810, Lincoln Sr. Papers, AAS. Lincoln had damaged his eyes on a trip home from Washington while Attorney General and they had progressively gotten worse.

were noted in the records as being excused due to physical impairment, probably his eyes.<sup>27</sup>

As a member of Gerry's Council, Lincoln played a role in many of the measures passed during these two years.<sup>28</sup> This also meant that he was involved in an action that made the same Gerry famous--the redrawing of senatorial districts. Districts boundary lines were so drawn to insure party success in pre-dominant Republican areas by seeing to it that all of the strong pro-party sections were placed in the same district. This has become known as "Gerrymandering."<sup>29</sup> While serving on the Council, Lincoln received an opportunity for an appointment that would have been a fitting climax to his legal career.

## VI

On the national scene, Jefferson had been followed in the Presidency by his co-worker and friend James Madison. As the Chief Executive, the new President found himself faced with the task of making an appointment to the United States Supreme Court. A vacancy had occurred with the death of Justice William Cushing of Massachusetts on September 13, 1810.<sup>30</sup>

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<sup>27</sup>Executive Records of the Council, Massachusetts Archives, State House, Vol. XXXVIII, XXXIX; Lincoln, p. 231.

<sup>28</sup>For a brief discussion of these see footnote 20, p. 194.

<sup>29</sup>Executive Records of the Council, Massachusetts Archives, State House, Vol. XXXVIII; Robinson, p. 231.

<sup>30</sup>Massachusetts Historical Society Proceedings, 1901-02 (Boston: Massachusetts Historical Society, 1902), Second Series, XV, 231.

It was a crucial decision for Madison to make. This would be the fourth justice appointed by a Republican President and would allow the Administration "to bring the Court more closely in line with party thinking."<sup>31</sup> A man of Republican tendencies had to be appointed and he had to come from New England to maintain a semblance of geographic balance, because with the death of Cushing the area no longer was represented.<sup>32</sup> This was exactly what Lincoln told Madison when he heard of the death of Cushing. He had written immediately to the President setting forth this one basic requirement which he felt was paramount.<sup>33</sup> The apparent haste with which Lincoln wrote Madison (only about three weeks after Cushing's death) can be judged as currying public favor for the party. A Supreme Court appointment from New England possibly could have strengthened the party's position with the public.

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<sup>31</sup>Jefferson to Gallatin, September 27, 1810, Gallatin Papers, New York Public Library. Quoted also in Charles Warren, The Supreme Court in United States History (2 Vols.; Boston: Little, Brown and Company, 1937), I, 403-04. Jefferson had made three appointments to the Court: William Johnson of South Carolina, 1804; Henry B. Livingston of New York, 1806; Thomas Todd of Kentucky, 1807. The Supreme Court at the time was a seven man body.

<sup>32</sup>The South had an overwhelming majority of four on the Court: Samuel Chase of Maryland, Bushrod Washington of Virginia, John Marshall of Virginia, and William Johnson of South Carolina. The west was represented by one: Thomas Todd of Kentucky and the east had one representative after the death of Cushing: Henry B. Livingston of New York.

<sup>33</sup>Lincoln to Madison, October 4, 1810, Madison Papers, LC.

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Madison quickly answered the letter. Determined to appoint somebody particularly acceptable to the New England area, the President could think of only one man with the "learning, principles, and weight" to add to the strength of the Supreme Court, and that person was Lincoln. His appointment would be advantageous to the nation, and, although Lincoln had bad eyes "these are not the organs most employed in the functions of a Judge."<sup>34</sup>

Madison's choice of Lincoln met with the approval of the hierarchy of the party. Jefferson, in a letter to Gallatin, considered his ex-Attorney General to be the best choice. A northern Republican was desperately needed, even though Jefferson was dubious of New England legal talent.

But who will it be? Can any other bring equal qualifications to those of Levi Lincoln? I know he was not deemed a profound common lawyer, but was there ever a profound common lawyer known in one of the Eastern states? There never was, nor never can be, one from these states. . . . Therefore, I say Mr. Lincoln is, I believe considered as learned in their laws as any one they have. Federalists say that Theophilus Parsons is better; but the criticalness of the prenomination puts him out of the question.<sup>35</sup>

Jefferson recommended Lincoln to Madison. His "pure integrity, unimpeachable conduct, talents, and republican principles" made him the ex-President's first choice. Lincoln's appointment would strengthen the confidence of the

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<sup>34</sup>Madison to Lincoln, October 20, 1810, Madison Papers, LC.

<sup>35</sup>Jefferson to Gallatin, September 27, 1810, Gallatin Papers, New York Public Library.

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people of New England in the Administration, and would be one of the first major steps necessary in the reform of the Judiciary.<sup>36</sup>

Lincoln likewise received the support of other leading Republicans. Attorney General Caesar A. Rodney strongly urged Madison to appoint Lincoln, as he was "a sound lawyer, and what is more, an upright honest man." Rodney doubted if he would accept because of his eyes, but the President should tender the appointment anyway. Even though Lincoln would decline, the appointment would strengthen the position of the Administration among some wavering Republicans in Massachusetts. Besides, the Attorney General agreed with Gallatin that it would be a blessing to finally have a majority of Republicans on the Supreme Court. Gallatin never expressed a strong urge to have Lincoln appointed, although no records remain to show that he did anything to prevent Madison from offering the appointment.<sup>37</sup>

On October 18, 1810 Madison notified Jefferson that Lincoln was his first choice for the position, but the President was afraid that he would reject the appointment. The

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<sup>36</sup>Jefferson to Madison, October 15, 1810, Madison Papers, LC; Warren, I, 403.

<sup>37</sup>Rodney to Madison, September 27, 1810, Madison Papers, LC; Rodney to Jefferson, October 6, 1810, Jefferson Papers, LC; Gallatin to Rodney, September 29, 1810, Gallatin Papers, New York Public Library; Massachusetts Historical Society Proceedings, 1901-02, Second Series, XV, 231-32; Warren, I, 403-04.

letter offering the justiceship to Lincoln was sent on October 20, 1810.<sup>38</sup>

Lincoln took several months to consider the offer. After great soul searching he felt obligated to decline because of his advanced age (61 years old) and poor eyesight. In his letter rejecting the appointment, Lincoln outlined the type of personality needed for the position, and hoped that Madison would not have a difficult time finding such a man.

Would to Heaven there was some character, whose preeminent talents, virtues and tried services excluding all competition, left to you only the formal but pleasing duty of a nomination--some character with the requisite intelligence, both blind and deaf--blind to the approaches of cabals, factions and party--deaf, deaf as an adder, to the suggestions of friends, ambition or prejudice, and to every other voice, however attuned except to the voice of reason, patriotism, law, truth, and justice.<sup>39</sup>

By the time Lincoln sent his letter of declination he had already been nominated to the Senate and confirmed by that body on January 3, 1811. Madison wrote Lincoln justifying his actions stating that he had sent Lincoln's name to the Senate not only for personal reasons, but also because of the wishes of others who felt that Lincoln's patriotism would compel him to accept regardless of his personal desire not to. Lincoln had come under heavy pressure

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<sup>38</sup>Madison to Jefferson, October 18, 1810; Madison to Lincoln, October 20, 1810, Madison Papers, LC; Massachusetts Historical Society Proceedings, 1901-02, Second Series, XV, 231-32; Warren, I, 403-04.

<sup>39</sup>Lincoln to Madison, quoted in Warren, I, 409.

from leading Republicans to accept and they were disappointed when he turned down the offer.<sup>40</sup>

## VII

After his second term as a member of the Governor's Council, Lincoln retired from active participation in politics. This was at a time when he and the party could look back over the past several years with satisfaction. The Republicans had been very successful after the turn of the century. This, however, did not guarantee continuous life, even though they had become the dominant political force in Massachusetts and the nation. The usefulness of the party was coming to an end. It had been the party of opportunity for those who had been excluded from participation under Federalist control. Once this opportunity had been provided and the excluded became the included the Republican Party lost a prime reason for existence. In addition, new forces which felt excluded were beginning to rise to challenge the position of the party which, once established, was failing to answer the demands of the newly dissatisfied.

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<sup>40</sup>Madison to Lincoln, January 10, 1811, Madison Papers, LC; Robert Smith to Lincoln, January 10, 1811, Massachusetts Historical Society Proceedings, 1901-02, Second Series, XV, 231; Rodney to Lincoln, January 7, 1811, Lincoln Sr. Papers, AAS; Lincoln to Robert Smith, January 25, 1811, Letters From and Opinions of Attorney Generals, 1792-1810, Record Group 59, National Archives; Jefferson to Lincoln, January 22, 1811, Lincoln Sr. Papers, AAS; Warren, I, 409-10.

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Very little is known of Lincoln throughout the period from 1810-20. His last existing political letter set forth the optimism that he had preached during previous years. He remained confident of the rightness of the Republican cause, and of the support of the people for the government because they would see in it "their security, their interest and their happiness."<sup>41</sup>

Privately, Lincoln spent his remaining years caring for his farms in Worcester County. The only office which he agreed to hold during this period was the Presidency of the Worcester County Agricultural Society. Having gone almost blind he experienced a partial restoration of his eyesight after 1815; this permitted him to spend his leisure time in his hobby, the study of classical literature and the Latin language.<sup>42</sup> On April 14, 1820, Lincoln passed away at home at the age of 71. Laid to rest in the Worcester cemetery, he left behind his widow and five children.

Newspaper accounts of his death eulogized his person and career. Reviewing his life the Worcester National Aegis summed it up by stating:

In his profession and practice, he manifested a sacred regard to the great duties of morality. He has left to his family and friends

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<sup>41</sup>Lincoln to Paul Hamilton, June 20, 1812, Lincoln Sr. Papers, AAS.

<sup>42</sup>Lincoln, pp. 232-32.

a legacy which they will prize more than the inheritance of his wealth--the lasting treasure of a good name.<sup>43</sup>

Lincoln died financially well-off. The inventory of his estate showed that he possessed real estate valued at \$47,297.00, personal property worth \$6,378.44 or a total estate of \$53,675.44. This does not include the bank account, amount unknown, mentioned in the inventory and the will, nor does it include the books and personal belongings which were given to Lincoln's widow.<sup>44</sup>

Lincoln's will, dated March 22, 1820, divided his property among his widow, children, and other relatives. To his wife Martha, he gave one-half of the Homestead farm, one-half of the Patch farm, north of Worcester, along with one-half of the tools, all the furniture and the stock he owned in the local bank. The remainder of his property was very carefully parceled out to his surviving children and a niece.<sup>45</sup>

Levi Lincoln, Sr. of Worcester, Massachusetts was gone. Behind him he left a successful record of a legal career, a life of public service, and a reputation as an incorrigible Jeffersonian Republican. He was a dedicated party man who filled a vital role in the formation and operation of a political organization.

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<sup>43</sup>Worcester National Aegis, April 20, 1820. See also Worcester Massachusetts Spy, April 26, 1820; Lincoln, p. 232 for eulogy delivered at Lincoln's funeral.

<sup>44</sup>Will of Levi Lincoln Sr., Probate Court Records, Vol. 236, p. 146, Case #37345, Series A, Probate County, County Court of Worcester, Worcester, Massachusetts.

<sup>45</sup>Ibid.

## CONCLUSION

As the stated purpose of this study was to show by a particular example the importance of the lower echelon party members in the success of the Republicans, it is now necessary to gather together the facts and observations of this study to show the essential parts such persons played. The most obvious area where local political leaders were vitally important to Jefferson and the national party was in making effective use of patronage. Scores of jobs were available for dispensing by the President. Humanly unable to know every good party man worthy of a position, Jefferson, of necessity, had to depend on the advice and recommendations from men such as Lincoln. Jefferson relied a great deal on Lincoln, and followed his recommendations in making political appointments in the New England area. As Attorney General Lincoln was able to travel extensively and, therefore, was able to meet with local party leaders and to consult with them on who was worthy of an appointment. Generally, it was found that Jefferson respected Lincoln's judgment, based on these consultations, and appointed or rejected persons on the basis of what Lincoln advised.

Lincoln was an ardent Republican. Completely partisan in all things political, he was unable to agree to a

compromise. This complete partisanship was one of the main motives for Lincoln's continuous attacks upon the clergy in Massachusetts. A Unitarian and deist like Jefferson and Washington, Lincoln's attacks on the clergy must not be construed as anti-Christian. Time and time again, Lincoln made it clear that he personally adhered to the basic tenets of Christianity. He was opposed to what he believed to be undue and oppressive clerical influence in politics, especially influence that was anti-Jeffersonian. He failed to recognize, at least publicly, that a large part of the clergy in Massachusetts were Republicans and supporters of Jefferson. Lincoln's ground for attack, an overemphasis on politics from the pulpit and clerical pens, had merit. The clergy in a society like Massachusetts had considerable influence, and many clerics used this sway to gain support for the Federalist Party. However, his desire to place the blame for all of the failures of the Republican Party on this influence was naive. Because of this he failed to recognize some obvious causes, both internally and externally, for the party's troubles.

Lincoln was a champion of liberty and freedom. He was convinced of the goodness of the American system of government and, at times, of the ability of the people to reason. He, however, could see nothing good in the Federalist philosophy, and was convinced that it was designed to destroy the system to which he was devoted. Such an attitude was widespread among both Republicans and Federalists. The



idea of political parties was considered to be negative, because people refused to believe in the necessity of a "loyal opposition." As a spokesman for liberty, Lincoln turned from the established church because he saw in it an inherent danger to liberty and the freedom of worship and belief. He also became a champion for the freeing of the slave in his state.

His reasoning in the slavery case in Massachusetts in the 1780's is one of the most cogent statements against slavery to be recorded in the early period of American history. His position as an anti-slavery spokesman is weakened, however, by his later stand relative to slavery in the Louisiana Territory when he sidestepped the issue in the plan he presented to Jefferson for the structuring of the area. Although he probably did this in the hopes that his plan would be accepted by Jefferson, Lincoln damaged his reputation as an anti-slavery spokesman.

Lincoln was an advisor to the President. As a member of the Cabinet during Jefferson's First Administration, he apparently was consulted on every issue. However, his advice generally went unheeded as Jefferson adhered to the direction and policies set forth by Gallatin and Madison. Lincoln's sectional approach to the Louisiana Purchase, his ultra-strict construction of the Constitution, and the apparent lack of confidence Jefferson had in lawyers from New England negated Lincoln's influence in Cabinet discussions. Lincoln's opposition to the method of purchasing Louisiana,

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his opinions narrowly limiting the powers of the Executive, and all other issues, with the exception of the Embargo, placed Lincoln at times in opposition to Jefferson. Even the Embargo became a divisive issue because of the apparent laxity of enforcement in Massachusetts while Lincoln served as Lieutenant-Governor and as Acting Chief Executive of the state.

Lincoln was a dedicated supporter of the interests of New England. As the Acting Governor of Massachusetts during the critical period of the Embargo, he manifested a national attitude but only in defense of a program that had been put into force by his party. In addition, it was a program which Lincoln believed to be the only reasonable answer to the problem that foreign relations had created. Lincoln's sectionalism is most apparent in his statements on the Louisiana Purchase.

As an Attorney General of the United States, Lincoln made no lasting contribution to the development of constitutional law. The cases referred to him generally dealt with technicalities of the wording of laws and not with the interpretation of basic legal concepts. Lincoln's strict construction of the Constitution is very apparent while he was Attorney General as he issued opinions that would have severely strictured the work of the Executive. An average Attorney General he filled a position in the Federal Government which was not then recognized as a major Cabinet position. Appointed to the office for payment for the work he

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did in establishing the Republican Party in Massachusetts. Lincoln's main impact came outside his official duties.

Lincoln was a promoter of agriculture. Although he was one of the outstanding and most successful lawyers in Massachusetts, he found solace in the soil. Retiring from the active practice of law in the early 1800's he devoted his remaining years to improving agriculture. Hamiltonian in his program of government support of commerce and manufacturing, his underlying motive was to advance the cause of agriculture. Throughout his life he was sympathetic to the plight of the farmer although he believed that remedies had to come through the legal processes of government and had no patience with men who spoke of change by violent means.

In studying Lincoln, one finds an extremely complex personality. His motives for the things he did, and the reasons for holding the offices he held are multiple and difficult to sort out and identify. In much of his life we can see the influence of Enlightenment thought. We can see the compulsion to hold office because it was the necessary and proper thing to do for the educated upper class. Enlightenment influence promoted the concept that the educated upper class was perforce the leadership class. Lincoln agreed to serve time and time again for this reason--it was his duty because he was a member of this class. Added to this, however, can be found a personal reason for holding office. Public office was considered to be a position of prestige. As a lawyer, Lincoln found that public office gave him opportunities to become acquainted with men who perhaps would

be able to advance him professionally and financially by hiring him as their legal counsel.

Apparently, however, Lincoln found that public office also was detrimental professionally and especially financially. He always withdrew from public service giving his reason that it interfered with his personal and business affairs. But, time and time again, he returned to public service as if compelled to serve by some ulterior motive--perhaps personal prestige.

This study of Lincoln has shown the importance of such loyal party men in the success of the Republicans. Working at the grassroots level, confronting the electorate day after day, these were the men who bore the burden of party work. They were the ones responsible for the defense of Republican measures, and, also for the attack against opposition policies. Men such as Lincoln were vital to the President because he had to depend on them for recommendations to office, for reports from their areas on reaction to Administrative programs, and for the establishment of a popular base for the party which would guarantee success at the polls. This "second echelon" bore the brunt of inter-party criticism and factionalism. It was these men's responsibility to iron out the problems within the ranks and to remove from the President's shoulders the task of carrying all the burdens that developed within a complex structure such as the Republican Party.

Although Lincoln is relatively unimportant in the development of American history a study of his life has shown something of the workings of men within the political process who never gain high historical recognition but who must be understood before the picture of American historical development is complete.

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