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Author(s): John Garry Clifford

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A MUDDY MIDDLE OF THE ROAD

The Politics of Edmund Randolph, 1790-1795

by JOHN GARRY CLIFFORD *

IN late spring of 1790 the president of the United States could view the prospects of the new federal experiment with considerable optimism. The fierce partisanship which had characterized each state's ratification of the Constitution had largely dissipated. Men of talent were flocking to national service under George Washington's leadership. And the chief executive placed greatest hopes in that small circle of advisers soon to be labeled the cabinet. To a friend in France, Washington wrote enthusiastically, "I feel myself supported by able co-adjutors, who harmonize extremely well together."¹

Five years later Edmund Randolph, the last of Washington's original quartet of "able co-adjutors," with bitterness resigned his post as secretary of state. Just two days earlier, on August 18, 1795, the president had formally ratified Jay's Treaty with Great Britain—an act which, in the consensus of modern scholars, crystallized the development of national political parties in the young republic.² Clashes over fiscal and foreign policies had disrupted the harmony which Washington expected. Nowhere had this dissonance been so shrill as in the president's cabinet.

It was not insignificant that Randolph's departure from the government signaled open warfare between Federalists and Republicans over the Jay Treaty. Whether as attorney general seeking to bridge the widening gap between Alexander Hamilton and Thomas Jefferson, or as secretary of state attempting to moderate the views of Hamilton, Timothy Pickering, and Oliver Wolcott, Randolph had striven to rise above faction. With a certain

* Dr. Clifford is assistant professor of political science at the University of Connecticut, Storrs, Connecticut.

¹ Washington to LaFayette, June 3, 1790, J. C. Fitzpatrick, ed., *The Writings of George Washington*, (Washington, 1931-1941), XXXI, 47.

² See Joseph Charles, *The Origins of the American Party System* (Williamsburg, 1956), pp. 91-140; Noble E. Cunningham, Jr., *The Jeffersonian Republicans: The Formation of Party Organization* (Chapel Hill, 1957), pp. 77-85; William Nisbet Chambers, *Political Parties in a New Nation: The American Experiment, 1776-1809* (New York, 1963), pp. 78-93; Harry Ammon, "The Formation of the Republican Party in Virginia, 1789-1796," *Journal of Southern History*, XIX (1953), 310; Ammon, "The Genet Mission and the Development of American Political Parties," *Journal of American History*, LII (1966), 725-741; and Thomas J. Farnham, "The Virginia Amendments of 1795: An Episode in Opposition to Jay's Treaty," *Virginia Magazine of History and Biography*, LXXV (1967), 75-88.

proud obstinacy he had justified to the president this “long-settled determination never to attach myself to party,” arguing that “my opinions . . . arise solely from my views of right” and “fall sometimes on one side and sometimes on the other.”³

But compromise had proven barren. The young Virginian’s middle-of-the-road course eventually was so muddled by partisanship that the charges of treason which precipitated his resignation blackened his reputation for more than a century.⁴ Why did nonpartisanship fail? Was Randolph an inconsequential “trimmer,” as some individuals charged, or was he the tragic victim of factional poison? Why did his policies become untenable? Did the rise of political parties make Randolph’s pattern of compromise completely impossible?

The thirty-six-year-old Williamsburg lawyer, who became America’s first attorney general in May 1790, was described by a contemporary at the Virginia bar as

a figure large and portly; his features uncommonly fine; his dark eyes and his whole countenance lighted up with an expression of the most conciliating sensibility; his attitude dignified and commanding; his gesture easy and graceful; his voice perfect harmony; and his whole manner that of an accomplished and engaging gentleman.⁵

For one so young, Randolph carried impressive credentials into federal service. A revolutionary patriot, he had broken with his Loyalist father on the independence issue. Such distinguished Virginians as Thomas Jefferson, Patrick Henry, and Benjamin Harrison had recommended him as aide to General Washington; and at twenty-three Randolph had been elected to the convention of 1776 which drew up the state’s first constitution. That same year he became attorney general of Virginia, following in a distinguished family tradition which had seen both his father and uncle occupy the same post under the Crown. After the war Randolph won the governorship, served as delegate to the Annapolis convention, and in the more important conclave at Philadelphia in 1787 he presented the famous Virginia Plan of union.⁶

Randolph’s stance in regard to the proposed federal constitution was

³ Randolph to Washington, April 19, 1794, in Peter V. Daniel, ed., *A Vindication of Edmund Randolph, Written by Himself and Published in 1795* (Richmond, 1855), p. 43, hereinafter cited as Randolph, *Vindication*.

⁴ See Irving Brant, “Edmund Randolph: Not Guilty!” *William and Mary Quarterly*, 3rd ser., VII (1950), 180-183.

⁵ William Wirt, *Letters of a British Spy* (New York, 1832), p. 207.

⁶ For Randolph’s early years, see Moncure Daniel Conway, *Omitted Chapters of History Disclosed in the Life and Papers of Edmund Randolph* (New York, 1888) pp. 1-135.

somewhat equivocal, foreshadowing subsequent cabinet behavior. Because he feared that a strong executive might endanger republican principles, he had refused to sign the final instrument at Philadelphia. But at the Richmond ratifying convention Randolph reversed himself as the eloquent ally of James Madison against Patrick Henry and the strong antifederalist faction. However statesmanlike this dramatic espousal of federalism, it forfeited for Randolph his widespread popularity in Virginia.⁷ Thereafter his expanding reputation and the special confidence placed in him by President Washington made the federal capital the logical place to continue his public career. Thus, when Washington offered the post of attorney general late in 1789, Randolph, after some hesitation, accepted and moved his growing family to New York.⁸

Experience in codifying the laws of Virginia and an extensive background in French and English law made Randolph an ideal choice to head the department of justice—an official whose constitutional duties were sufficiently amorphous to allow him to mold administrative precedent.⁹ The attorney general busied himself with such divergent tasks as rendering opinions on the constitutionality of pending legislation, determining the legality of the disputed 1792 gubernatorial election in New York, and jousting with the Supreme Court over judicial jurisdiction.¹⁰

Sometimes these administrative functions assumed political implications. Randolph's concurrence with Jefferson's stand against the constitutionality of Hamilton's bank proposal merely reflected the split which the secretary of the treasury's fiscal measures had precipitated in Congress.¹¹ Randolph's argument as attorney for the plaintiff in the famous case of *Chisholm v. Georgia*—that states were amenable to private suits in federal courts—demonstrated that Randolph's republicanism was something more subtle and independent than a slavish devotion to state sovereignty.¹² Nor was he any less

⁷ Randolph had favored a second Constitutional Convention and a bill of rights, but accepted the results of Philadelphia in lieu of continued frustration under the Articles of Confederation. See *ibid.*, pp. 102-112; David J. Mays, *Edmund Pendleton: A Biography, 1721-1803* (Cambridge, 1952), II, 231; Irving Brant, *James Madison* (Indianapolis, 1941-1959), III, 142-157; Kate Rowland Mason, *The Life of George Mason* (New York, 1892), II, 308.

⁸ The abnormally low salaries offered federal appointees provided the main obstacle to Randolph's entering federal service; see Randolph to Madison, October 8, 1789, Conway, *Omitted Chapters*, pp. 129-30. For further discussion of this problem of federal salaries, see Stephen G. Kurtz, *The Presidency of John Adams* (New York, 1961), pp. 239-260.

⁹ Leonard D. White, *The Federalists: A Study in Administrative History* (New York, 1948), pp. 164-172.

¹⁰ Conway, *Omitted Chapters*, pp. 137-155.

¹¹ Cunningham, *The Jeffersonian Republicans*, pp. 50-51; Dumas Malone, *Jefferson and His Times* (Boston, 1948-1970), II, 341-342.

¹² Conway, *Omitted Chapters*, pp. 167-181.

steadfast in defense of prerogative when Jefferson, in search of weapons in the struggle against Hamilton, proposed in 1793 to circumvent the attorney general by erecting a special Board of Advice to give opinions on constitutional questions.¹³ Randolph, by thwarting this and other attempts to diminish his influence, strengthened his well-deserved reputation as a strong administrator.¹⁴

The office of attorney general took on even greater political importance in light of the special use made by George Washington of his cabinet chiefs. In his experience as military commander and plantation manager Washington had systematically sought the best advice available before acting on the question at hand. As president, in the absence of any statutory executive council, he relied increasingly on the opinions of his department heads, generally abiding by the opinion of the majority.¹⁵ And with Washington possessing "a deliberative, rather than an argumentative" mind, cabinet procedure became something of an essay contest with each secretary's written arguments competing for executive endorsement.¹⁶ The result was a consistent split. Hamilton's incisive briefs were generally echoed by easygoing Henry Knox, the corpulent secretary of war. Jefferson stood in adamant opposition. In such a situation the attorney general's opinion was often decisive. However exaggerated, Jefferson's complaint that "everything . . . now hangs on the opinion of a single person [Randolph]" and "the Government is now solely directed by him" was not without its grain of truth.¹⁷

As a rule Randolph sided against the Federalists. Though hardly violent, his opposition to Treasury programs was steady. In addition to declaring against the National Bank, the attorney general took exception to funding the debt at par and objected to Hamilton's manipulation of funds designated for payment of the Revolutionary debt to France.¹⁸ He did not oppose federal assumption of state debts, but neither did Jefferson.¹⁹ Although Ran-

¹³ Conway, *Omitted Chapters*, p. 186; White, *The Federalists*, pp. 168-169.

¹⁴ Leonard D. White writes: "Since its incumbent early won a place in the Cabinet, the Attorney General played a role of substantial importance in the general policy of the Federalist era" (*The Federalists*, p. 172).

¹⁵ Douglas Southall Freeman, *George Washington: A Biography* (New York, 1948-1957), VI, 335.

¹⁶ Leonard D. White, "George Washington: Administrator," in Edward D. Saveth, ed., *Understanding the American Past* (Boston, 1954), pp. 153-154.

¹⁷ Jefferson to Madison, May 12 and August 11, 1793, as quoted in Dice Robins Anderson, "Edmund Randolph," Samuel Flagg Bemis, ed., *The American Secretaries of State and Their Diplomacy* (New York, 1927), II, 99-100.

¹⁸ Edmund Randolph, *Political Truth: Or . . . an Inquiry into the Truth of the Charges Preferred Against Mr. Randolph* (Philadelphia, 1796), pp. 12-13.

¹⁹ Randolph to Hamilton, November 9, 1791, in Harold C. Syrett, ed., *The Papers of Alexander Hamilton* (New York, 1961-), IX, 486.

dolph remained personally friendly with Alexander Hamilton, his political disposition was such that while attorney general his opinion coincided with Jefferson's on sixteen of the nineteen party questions raised in the cabinet.²⁰

Randolph had much in common with the secretary of state. Both were intimate friends of James Madison. Both were professed deists. The attorney general shared his colleague's interest in France—if not his enthusiasm. When Jefferson abandoned the profession of law in 1774, he turned over his Virginia practice to Randolph.²¹ The two men were even related by blood, and there was no question that Randolph espoused the substance of his cousin's celebrated republicanism.

As early as the summer of 1791 Randolph was willing to defend the cause. Earlier that year Jefferson had penned a private endorsement of Thomas Paine's *The Rights of Man* which was appended, without permission, to the American edition of that work. Because it seemed to be a direct refutation of John Adams's conservative *Discourses on Davila*, the "preface" whipped up such a public storm that Jefferson was moved to direct an earnest apology to the vice-president.²² Less timid, Randolph deemed it "a fair opportunity for a declaration of certain sentiments."²³ With the secretary of state's lukewarm support, he attempted to secure for Thomas Paine the recently vacated office of postmaster general. But President Washington's choice of the Hamiltonian candidate, Timothy Pickering, quickly put an end to the republican gesture.²⁴

The following summer presented another chance to "declare certain sentiments." The smoldering antagonism between Hamilton and Jefferson had finally erupted in the public press. Accusing the secretary of state of subsidizing editor Philip Freneau's partisan assaults on administration policy, Hamilton wrote a series of anonymous letters in the *Gazette of the United States* which soon degenerated into outright slander. Appalled, Randolph hastened to assure James Madison (also under attack) that "no consideration upon earth shall prevent me from being useful to you, where you concede

²⁰In the spring of 1793 Hamilton even extended to Randolph a timely personal loan to cover financial distress (Philip M. Marsh, "Randolph and Hamilton," *Pennsylvania Magazine of History and Biography*, LXXII [1948], 252; see also Randolph to Hamilton, April 3, 1793, Syrett, *Papers of Alexander Hamilton*, XIV, 278-279). The list of cabinet votes appears in Conway, *Omitted Chapters*, pp. 198-199. Although Conway ignores some subtle differences between Jefferson and Randolph, his numbers are substantially accurate.

²¹John M. Hamphill II, ed., "Edmund Randolph Assumes Thomas Jefferson's Practice," *Virginia Magazine of History and Biography*, LXVII (1959), 170-171.

²²Malone, *Jefferson*, II, 354-370.

²³Randolph to Madison, July 21, 1791, in Conway, *Omitted Chapters*, p. 188.

²⁴Malone, *Jefferson*, II, 364.

that I can be so.”²⁵ Shortly thereafter, Hamilton encountered in that same *Gazette* a challenger. Calling himself “Aristides,” Randolph took up the cudgel by describing Jefferson’s “calumniator” as “a cowardly assassin” whose assorted pseudonyms were mere masks for a “certain head of department.”²⁶ “Aristides’” barbs goaded Hamilton to even greater virulence, but by then Madison and James Monroe were also rallying to Jefferson’s defense. By the end of the year these republican stalwarts had blunted Hamilton’s attacks. It was Edmund Randolph who had spoken first.

Within a year, however, Jefferson could write of this man whose republican loyalties seemed beyond dispute:

R[andolph] is the poorest cameleon [sic] I ever saw, having no color of his own, and reflecting that nearest him. When he is with me he is a whig, when with H[amilton] he is a tory, when with the P[resident] he is what he thinks will please him. . . . I have kept on strict terms of friendship hitherto, that I might have some good out of him, and because he has some really good private qualities; but he is in a station infinitely too important for his understanding, his firmness, or his circumstances.²⁷

The intervening months had seen the United States undergo the first strains of neutrality toward the Wars of the French Revolution. The party struggle, which had begun over domestic matters, spilled over into foreign policy. With the Federalists identifying themselves with England, and the Republicans with France, statesmanship and party loyalties often conflicted. Both Randolph and Jefferson were affected.

As early as February 1793, before news reached America of Louis XVI’s execution, international problems pushed the attorney general into political decision. Facing possible famine, France had instructed its minister in Philadelphia to request that the United States make an immediate advance on the French debt of 3,000,000 livres—a sum to be paid in provisions. Since the government was already behind in its payments and because a new installment fell due presently, Jefferson heartily recommended approval of the French request.²⁸ Randolph was more cautious. He feared that nations at war with France might take exception to “a *voluntary* payment of what is not yet due”; yet he saw also that refusal might stir up “the zealous partizans of French politics in America.”²⁹ The attorney general’s compromise sugges-

²⁵ Randolph to Madison, August 12, 1792, in Conway, *Omitted Chapters*, II, 189.

²⁶ Marsh, “Randolph and Hamilton,” *Pennsylvania Magazine*, LXXII, 248-250.

²⁷ Jefferson to Madison, August 11, 1793, quoted in Conway, *Omitted Chapters*, pp. 190-191.

²⁸ Jefferson to Washington, February 12, 1793, in Paul Leicester Ford, ed., *The Works of Thomas Jefferson* (New York, 1904), VII, 226-234.

²⁹ Randolph to Washington, February 14, 1793, Reel 103, Washington MSS, Library of Congress.

tion that the United States pay immediately what was in arrears with "the residue of the requisition" to follow later did not, however, secure presidential support. More impressed by Randolph's warnings of public censure, Washington decided against delay and, rejecting Hamilton's negative opinion, agreed in full to the French request.³⁰

A week later Randolph's views were instrumental in maintaining Gouverneur Morris as minister to France. Reports, some of them through official channels, had reached President Washington implying that Morris's outspoken aristocratic sympathies were making enemies among Parisian republicans. Jefferson seized on these complaints to propose that Washington effect an exchange of ministers: Thomas Pinckney would replace Morris in Paris, with Morris occupying Pinckney's London post.³¹ Randolph, however, doubted "whether any determination ought yet to be made," at least not until France formally requested Morris's removal. An exchange of envoys was especially out of the question. According to Randolph, such a maneuver would not silence Morris's American critics, and his transfer to a country soon to be at war with France could serve only as a direct affront to the Girondin Ministry.³² The president accepted this logic and left Morris in Paris, where he remained for another year.³³

Decisions and disputes of even greater import were yet to come. On April 12, 1793, having learned officially of war between England and the French Republic, Washington instructed his secretary of state to prepare "immediate precautionary measures" for maintaining "a strict neutrality."³⁴ Here indeed was a delicate problem.

Jefferson advocated restraint, insisting that "it would be better to hold back the declaration of neutrality as a thing worth something to the powers at war."³⁵ He hoped that such bargaining tactics would entice concessions from the British—both in recognition of neutral rights and in observance of the 1783 peace treaty.³⁶ But the dangers of war seemed more urgent to the attorney general, who ranged alongside Knox and Hamilton in voting down

³⁰ See John A. Carroll and Mary W. Ashworth, *George Washington: First in Peace* (New York, 1957), pp. 27-29. This volume concludes Douglas Southall Freeman's biography of Washington.

³¹ "Anas," February 20, 1793, Ford, *Works of Jefferson*, I, 253-256.

³² Randolph to Washington, February 22, 1793, Reel 103, Washington MSS.

³³ Carroll and Ashworth, *George Washington*, pp. 30-32.

³⁴ Washington to Jefferson, April 12, 1793, Fitzpatrick, *Writings of Washington*, XXXII, 415-416.

³⁵ Jefferson to Madison, June 23, 1793, Ford, *Works of Jefferson*, VII, 408.

³⁶ Samuel Flagg Bemis, *Jay's Treaty: A Study in Commerce and Diplomacy* (Rev. ed., New Haven, 1962), pp. 191-192.

Jefferson's project.³⁷ The result was an immediate executive proclamation of "a conduct friendly and impartial toward the belligerent Powers."³⁸ And it was appropriate that the secretary of state relinquished to Randolph the task of drafting this crucial state paper.³⁹

On two closely related questions Randolph returned to the Jeffersonian fold. Together, the two Virginians battered down Hamilton's arguments against full diplomatic recognition of the new French minister, Citizen Edmond Charles Genet; they also refuted Hamilton's contention that the French Alliance of 1778 had lapsed with the death of Louis XVI.⁴⁰ The decision to reaffirm all French treaties did not, however, reconcile privileges granted in these treaties with the president's announced determination to preserve a strict and "impartial" neutrality. Over the question of privateers and prizes, there appeared new rifts in the cabinet.

Who would enforce America's neutrality? Who would patrol seaports, guarding against illegal outfitting of privateers and reporting all infringements to federal authorities? Hamilton suggested that such duties be assigned to customs agents, who would inform the collector of revenue of all violations. That official could then refer appropriate cases to the secretary of the treasury, with indictment and prosecution to follow under the attorney general. Washington liked the plan, but on Randolph's advice, he directed that port collectors instead be responsible to federal attorneys in their districts, thus relieving the treasury department of almost exclusive supervision of American neutrality.⁴¹

When Jefferson learned of these decisions on May 7, he could scarcely conceal his irritation. To Randolph he declared:

I cannot possibly conceive how the superintendance of the laws of neutrality or the preservation of peace with foreign nations can be ascribed to the Department of the Treasury. . . . The collectors are to be made an established corps of spies . . . against their fellow citizens.⁴²

In reply, the attorney general defended the choice of customs agents as the best one possible because they would be closest to the scene of probable vio-

³⁷ Carroll and Ashworth, *George Washington*, pp. 48-52. Randolph's biographer does not mention the neutrality proclamation as an instance where he and Jefferson divided (Conway, *Omitted Chapters*, p. 202).

³⁸ *American State Papers, Foreign Relations* (Washington, 1832), I, 140.

³⁹ Malone, *Jefferson*, III, 71.

⁴⁰ Charles M. Thomas, *American Neutrality in 1793: A Study in Cabinet Government* (New York, 1931), pp. 60-65; Carroll and Ashworth, *George Washington*, pp. 60-61.

⁴¹ Washington to Hamilton, May 5, 1793, Fitzpatrick, *Writings of Washington*, XXXII, 447-451; Carroll and Ashworth, *George Washington*, p. 64.

⁴² Jefferson to Randolph, May 8, 1793, Ford, *Works of Jefferson*, VII, 315-319.

lation. He further argued that the subordination of these officials to federal attorneys instead of the Treasury "goes very far into your main objection."⁴³ But Jefferson would not be mollified. To Madison he wrote sarcastically that Randolph had "found out a hair to split, which, as always, became the decision." The attorney general had become a fence-straddler who "always contrives to agree in principle with one, but in conclusion with the other."⁴⁴ Jefferson's extreme reaction is difficult to explain. Certainly he was more suspicious than Randolph of Hamilton's motives, and he could not understand his colleague's willingness to temporize. He may also have been jealous of Randolph's growing influence with the president, particularly in matters pertaining to foreign affairs. Whatever the reason, Jefferson's bitterness was not easily erased.⁴⁵

For the remainder of the year Randolph's independence continued to irritate the secretary of state. In mid-May controversy arose over the English brigantine *Little Sarah*. A privateer outfitted under French commission at Charleston had captured this vessel on the high seas and taken it into Philadelphia as prize. The British minister, George Hammond, demanded full restitution, and was seconded by Hamilton and Knox.⁴⁶ Jefferson and Randolph disagreed. Because the privateer had embarked from its southern port before the United States had sufficient time to enforce the declaration of neutrality, they argued that the British had no legitimate claim and that forfeiture of the *Little Sarah* would be unjust and vindictive to France.⁴⁷ But the attorney general again moved toward the middle of the road. He proposed that "to vindicate the sincerity of our neutrality" the government ought at least to prosecute those Americans who had enlisted as crew to the Charleston privateer.⁴⁸ Impressed by this reasoning, Washington issued orders accordingly.⁴⁹

⁴³ Randolph to Jefferson, May 9, 1793, quoted in Carroll and Ashworth, *George Washington*, p. 65 n.

⁴⁴ Jefferson to Madison, May 12, 1793, Ford, *Works of Jefferson*, VII, 323-225; see also, Jefferson to Monroe, May 5, 1793, *ibid.*, VII, 308-311.

⁴⁵ Randolph's biographer ignores Randolph's dispute with Jefferson over the port collectors (Conway, *Omitted Chapters*, p. 199). Jefferson's latest and most scholarly biographer is rather critical of the secretary of state's extreme reaction to Randolph's independence (Malone, *Jefferson*, III, 85).

⁴⁶ Hamilton to Washington, May 15, 1793, Syrett, *Papers of Alexander Hamilton*, XIV, 451-460.

⁴⁷ Jefferson to Washington, May 16, 1793, Ford, *Works of Jefferson*, VII, 332-35; Randolph to Washington, May 17, 1793, J. C. Hamilton, ed., *The Works of Alexander Hamilton* (New York, 1850-51), IV, 403-406.

⁴⁸ *Ibid.*

⁴⁹ Jefferson's "Anas," May 20, 1793, Ford, *Works of Jefferson*, I, 269-271; Carroll and Ashworth, *George Washington*, pp. 77-78.

The degree to which Randolph's stature had risen in Washington's estimate was evidenced by the attorney general's journey to Virginia the following month. At the president's behest he attempted to ascertain to what extent Citizen Genet's recent trip through that state had swayed political sentiment. Jefferson and his intimates were anxious that Randolph receive the proper information. The secretary of state inquired of James Madison: "Have you the time and the means of impressing Wilson Nicholas [Randolph's brother-in-law], (who will be much with ER) with the necessity of giving a strong and perfect understanding of the public mind?"⁵⁰ Randolph's reports confirmed rumors of serious dissent in Virginia toward government policy, particularly the treasury department's forced collection of British debts. But the attorney general remained hopeful that the president "by candid and frequent publications" could retain popular support for his neutral foreign policy.⁵¹ Back in Philadelphia, even Jefferson grudgingly admitted that "ER . . . on the whole . . . has quieted uneasiness here."⁵²

The furor over Genet, which reached its peak later in the summer, found Randolph again steering toward mid-channel. Siding with Hamilton and Knox, the attorney general favored the use of peremptory, rather than delicate language in requesting Genet's recall. But he swung back in support of Jefferson by opposing Hamilton's appeal for a public remonstrance against the French envoy. In both instances Washington upheld Randolph's views.⁵³

Then in early November 1793, with the United States still awaiting a formal successor to Genet, Randolph, not Jefferson, ironically became the Frenchman's sole defender within the cabinet. Reliable reports of French-organized freebooting expeditions against Spanish Louisiana had, by this time, turned even the secretary of state against Genet. His patience exhausted, Washington was about to cancel all prerogatives and order the obnoxious envoy from the country. But the attorney general, with Jefferson remaining silent, persuaded the president that it would be more diplomatic to allow France to recall its representative in due time.⁵⁴ Genet remained.

Such studied objectivity from the young department head was especially

⁵⁰ Jefferson to Madison, June 2, 1793, Ford, *Works of Jefferson*, VII, 357-358.

⁵¹ Randolph to Washington, June 24, 1793, Conway, *Omitted Chapters*, pp. 151-153.

⁵² Jefferson to Madison, July 21, 1793, Ford, *Works of Jefferson*, VII, 455-56. Actually, Jefferson believed that Randolph's reports, however reassuring, misled Washington as to the growing republican opposition in Virginia to administration foreign policy (Ammon, "The Genet Mission and the Rise of Political Parties," *Journal of American History*, LII [1966], 727).

⁵³ Carroll and Ashworth, *George Washington*, pp. 111-113; "Anas," August 1, 1793, Ford, *Works of Jefferson*, I, 305.

⁵⁴ "Anas," November 8, 1793, Ford, *Works of Jefferson*, I, 324-328; Carroll and Ashworth, *George Washington*, p. 140.

pleasing to the president. Thomas Jefferson's retirement loomed ahead. Randolph, whose views in recent months had coincided with Washington's own, seemed a logical replacement.⁵⁵ When, several months earlier, Washington had requested his opinion of Randolph's qualifications, Jefferson had been noticeably reticent, mentioning only that the attorney general's financial problems might hamper effective performance at the state department.⁵⁶ But the president knew his man and, in late December, offered the post to his long-time associate.⁵⁷ Randolph accepted gratefully, affirming that "nothing shall relax my attention or warp my probity . . . [in] this new and important business."⁵⁸

Immediately on taking office, the new secretary of state entered a plea for administrative harmony. Addressing his colleagues at the war and treasury departments, Randolph suggested that each official be more candid with his fellows in criticizing and explaining departmental policy:

I will check any opinion, until I can obtain an explanation, which I will ask without reserve. By these means I shall avoid the uneasiness of suspicion; and I take the liberty of requesting, that the same line of conduct be pursued with respect to myself.⁵⁹

But Randolph could not stifle partisan discord with a single conciliatory gesture.

For one thing, the new department head was an exceedingly unpopular figure in early 1794. If the president had come to appreciate the merits of compromise, Randolph's determination "to be of no party" had earned only enmity elsewhere.⁶⁰ Equivocal or not, his general opposition to Hamiltonian measures won no friends in Federalist ranks. And in one of his last official acts as attorney general, Randolph had incurred the wrath of Republican partisans by rejecting the legality of a libel suit by Citizen Genet against Chief Justice John Jay and Senator Rufus King.⁶¹ From the sanctum of Monticello Jefferson wrote of his successor: "The choice of Randolph . . .

⁵⁵ Carroll and Ashworth, *George Washington*, pp. 147-147.

⁵⁶ "Anas," August 6, 1793, Ford, *Works of Jefferson*, I, 314.

⁵⁷ Washington to Randolph, December 24, 1793, Fitzpatrick, *Writings of Washington*, XXXIII, 216.

⁵⁸ Randolph to Washington, January 2, 1794, Reel 10, Washington MSS.

⁵⁹ Randolph to Hamilton and Knox, January 2, 1794, Syrett, *Papers of Alexander Hamilton*, XV, 604.

⁶⁰ Randolph, *Political Truth*, p. 20.

⁶¹ Genet had attempted to sue Jay and King for their public censure of his appeals to the American populace over the head of President Washington. Because there was no evidence of libel, Randolph's dismissal of the case was inevitable (Robert Ernst, *Rufus King: American Federalist* [Chapel Hill, 1968], pp. 192-93; Carroll and Ashworth, *George Washington*, p. 147 n).

is the most unpopular one the President could have made. It is hard to conceive how much he is despised."⁶²

Diplomatic developments became a further barrier to successful nonpartisanship. A growing crisis in Anglo-American relations stirred party loyalties to an even greater degree. American neutrality became more difficult to maintain. In the tangle of foreign and domestic politics which followed, the success or failure of Randolph's diplomacy was to determine, to a large extent, the fate of nonpartisan principles.

Seizure of American commerce on the high seas and threats of Indian attacks from Canada were the two sparks which touched off a war scare between England and the United States in the spring of 1794. When word reached Philadelphia in late February that British cruisers, under a secret order in council, had seized more than 250 American merchantmen trading with the French West Indies, indignation raged in Congress.⁶³ These acts on the high seas, when coupled with an inflammatory speech to the western tribes by Lord Dorchester, Governor General of Canada, seemed a direct military challenge to the young republic. Randolph's report to Congress on March 5 that French men-of-war, as well as British, were despoiling American ships in the Caribbean did little to cool the rising war fever.⁶⁴ Violations of the 1783 treaty still rankled. For many Republicans and some Federalists, the time had come to settle old scores.⁶⁵

Cooler heads sought to prevent rupture with Britain. Fearful that the Republican majority in the House of Representatives would revive and extend old threats of commercial discrimination against England, a small group of Federalist senators hit on the scheme of sending a special envoy to the Court of St. James.⁶⁶ On March 12 Oliver Ellsworth of Connecticut suggested to the president that Alexander Hamilton would be the perfect agent to ward off conflict between the two countries.⁶⁷ Washington seemed skeptical, but before long Federalist designs gained support from an unexpected quarter.

Because of the real danger of war, Edmund Randolph looked favorably upon an extraordinary mission to London. But he opposed the choice of Hamilton. Some other "distinguished character, sent fresh from the feelings

⁶² Jefferson to Monroe, March 22, 1794, Reel 1, James Monroe MSS, Library of Congress.

⁶³ Bemis, *Jay's Treaty*, pp. 216, 264.

⁶⁴ *American State Papers, Foreign Relations*, I, 423-424.

⁶⁵ For a convenient survey of war sentiment in March 1794, see Carroll and Ashworth, *George Washington*, p. 159.

⁶⁶ Charles, *Origins of the Party System*, pp. 101-104.

⁶⁷ Ernst, *Rufus King*, pp. 198-199.

of the U. S., would with more confidence assert, & with more certainty impress.”⁶⁸ The Federalists knew of such a man. Cleverly foiling the opposition to himself, Hamilton proposed the nomination of John Jay—“the only man in whose qualifications for success there would be thorough confidence, and him whom alone it would be advisable to send.”⁶⁹ Randolph pointed out the impropriety of sending “a Chief Justice . . . [on] *executive* honors . . . while he retained his judicial seat,” but Washington was convinced.⁷⁰ By a vote of 18 to 8, the Senate, on April 18, confirmed this crucial diplomatic appointment.

Such were the origins of the Jay mission, the ultimate fruits of which the historian Samuel Flagg Bemis has aptly entitled “Hamilton’s Treaty.”⁷¹ From the outset, party considerations made it difficult for the secretary of state to guide diplomacy. It was Hamilton’s pen which drafted the bulk of John Jay’s instructions. Randolph objected to the wide powers granted, particularly those permitting Jay to negotiate a commercial treaty. Only at the secretary’s most strenuous insistence was a reference inserted to “the possibility of sounding Russia, Sweden, or Denmark as to an alliance on the principles of the Armed Neutrality.”⁷² But, as Bemis has shown, Hamilton eventually blocked even this meager channel of maneuver when he informed the British minister that Washington’s cabinet had decided not to join such a neutral alliance.⁷³

Randolph found himself in an anomalous position as Jay set sail for England on May 12, 1794. Whatever his diplomatic experience and abilities, the envoy extraordinary was of a different political persuasion from the secretary of state. Jay’s instructions, which Randolph had played such a small part in formulating, afforded virtually a free hand in conducting negotiations.⁷⁴ Months could pass before Randolph’s letters reached London; in fact, Jay signed a treaty before the secretary of state’s criticisms of the tentative drafts arrived.⁷⁵ Randolph was compelled to mark time while this

⁶⁸ Randolph to Washington, April 6, 1794, Reel 10, Washington MSS.

⁶⁹ Hamilton to Washington, April 14, 1794, Henry Cabot Lodge, ed., *The Works of Alexander Hamilton* (New York, 1885-1886), V, 114-115.

⁷⁰ Randolph to Washington, April 19, 1794, Conway, *Omitted Chapters*, pp. 218-219.

⁷¹ Bemis, *Jay’s Treaty*, p. 373.

⁷² As quoted in Anderson, “Edmund Randolph,” *American Secretaries of State*, II, 137.

⁷³ Bemis, *Jay’s Treaty*, pp. 337-340.

⁷⁴ Samuel Flagg Bemis writes: “Perhaps never in the history of the United States has a plenipotentiary been vested with more unfettered discretion than was Jay in the critical negotiations of 1794” (*ibid.*, p. 291).

⁷⁵ Anderson, “Edmund Randolph,” *American Secretaries of State*, II, 130-131.

Federalist representative, alone, set out to rescue peace and commerce with Great Britain.

Duties in Philadelphia kept the secretary occupied. Cabinet discord had not ceased, as Hamilton continued to interfere with the daily conduct of diplomacy. Constant criticism of his dealings with the British minister not only irritated Randolph, but served also to illustrate how vulnerable his position had become during the period of the Jay mission. As the official spokesman for American policy, Randolph, while ignorant of events in England, had to sustain a proper diplomatic posture toward all foreign representatives, especially those of England and France. The secretary continued to protest against Britain's frontier violations and seizures of American ships. Such protests probably helped to relieve certain personal frustrations. Then, at the same time, Randolph had to reassure the new French minister, Joseph Fauchet, that Jay's instructions precluded any alteration of America's obligations to her sister republic. With political tension increasing throughout 1794, Randolph's narrow course quite naturally became the target of partisan suspicions.

With Fauchet, the secretary started out successfully. The arrival in February of this successor to Citizen Genet had dispelled much of the bitterness aroused by the latter envoy. Moreover, the simultaneous replacement of Gouverneur Morris in Paris with James Monroe was, in Randolph's words, "a fresh proof of our sincere desire to maintain peace with your nation."⁷⁶ By the summer of 1794 Randolph's relations with the French minister had grown so cordial that Fauchet reported enthusiastically to Paris that "this Mr. Randolph is without doubt an excellent man, very much a partisan of our Revolution. But I believe him to be of weak character; it is easy to penetrate his secret when one stirs him."⁷⁷ Randolph, it seems, had been momentarily indiscreet. Embittered by Federalist maneuvers which had resulted in the Jay mission, he made exaggerated claims concerning President Washington's hostility toward England and declared that no machinations by the "monocratic" faction could sway American friendship for France.⁷⁸ Because such statements did not fit Randolph's usual determination to be of "no party," his initial rapport with Fauchet could lead to eventual disillusionment.

⁷⁶ Randolph to Fauchet, April 21, 1794, as quoted in Conway, *Omitted Chapters*, p. 339.

⁷⁷ Fauchet, Dispatch No. 3, June 4, 1794, "Correspondence of the French Ministers to the United States, 1791-1797," Frederick Jackson Turner, ed., *American Historical Association Annual Report for 1903* (Washington, 1904), II, 376-377.

⁷⁸ *Ibid.* For Randolph's explanation, see Randolph, *Vindication*, pp. 62-64.

The Whiskey Rebellion later in the summer became a test of the secretary's political sympathies, and once more his middle-of-the-road inclinations pleased neither French nor British partisans. When the growing antagonism of Allegheny farmers to Hamilton's excise measures finally burst into armed insurrection in July 1794, Randolph remained the most restrained of Washington's cabinet advisers. Unlike Knox, Hamilton, and Attorney General William Bradford, he argued against immediate use of military force. Fearing that precipitate action would unite critics of the administration and perhaps drive westerners into the arms of Britain, the secretary urged caution and delay. In particular, he wanted recruitment of the militia to be postponed until peace commissioners had ample opportunity to investigate the situation in Western Pennsylvania.⁷⁹ According to Fauchet, Randolph became so disturbed at the danger of British partisans stirring up civil war that he solicited French support in financing Republican pacification measures.⁸⁰ Randolph later denied that he had asked money for himself and Fauchet eventually confirmed the secretary's denials; nevertheless, it was clear that Randolph's nonpartisan position was becoming increasingly difficult to maintain.⁸¹

In a cabinet meeting on August 6, Washington decided to call up militia forces at once, but also tacitly heeded Randolph's counsels of delay by awaiting the return of the commissioners from Pittsburgh before embarking on any campaign.⁸² Shortly thereafter, in an apparent reversal of opinion, Randolph proposed that recruitment be increased from 12,500 to 15,000 troops. The secretary later justified this move on humanitarian grounds, saying that "the unhappy people would be intimidated by so large a force," but his retreat from earlier arguments was unmistakable.⁸³

Later that autumn, as the western insurrection dragged to its conclusion, further statements by Randolph aroused even greater indignation among Republicans. The secretary of state became Washington's chief supporter in his condemnation of the Democratic Societies. Disavowing his previous belief that the British had instigated the Whiskey Rebellion, he declared to the president:

⁷⁹ Randolph to Washington, August 5, 1794, Randolph, *Vindication*, pp. 79-82.

⁸⁰ Fauchet, Dispatch No. 6, September 6, 1794, Turner, "Correspondence of the French Ministers," *American Historical Association Annual Report, for 1903*, II, 411-418. Randolph thought that Fauchet could lend money to several republican leaders who were in debt to the British, thus allowing them to act more openly. Randolph was not asking for a bribe.

⁸¹ Randolph, *Vindication*, pp. 7-10, 13-16.

⁸² Carroll and Ashworth, *George Washington*, pp. 191-192.

⁸³ Conway, *Omitted Chapters*, p. 197.

I never did see an opportunity of destroying these self-constituted bodies [the Democratic Societies] until the fruit of their operations was declared in the insurrection at Pittsburg[h]. Indeed I was, and still am, persuaded that the language which was understood to be held by the officers of government in opposition to them contributed to foster them. They may now I believe be crushed. The prospect ought not to be lost.⁸⁴

Nor was the "prospect lost." In his annual message to Congress on November 18, Washington explicitly condemned "certain self-created societies" for their defiance of federal authority in Pennsylvania. Randolph may have hoped that the president's prestige would stifle American Jacobinism and "establish perfect tranquility to the government," but partisan response was immediate.⁸⁵ The Republican-dominated House of Representatives omitted any reference to the democratic clubs in their formal reply to Washington. James Madison called the act of censure "perhaps the greatest error of his [Washington's] political life."⁸⁶ For Jefferson it was "one of the extraordinary acts of boldness . . . from the faction of monocrats."⁸⁷ Randolph answered the president's critics with a series of powerful letters signed "Germanicus," which afterwards circulated in pamphlet form.⁸⁸ His biting distinctions between American liberty and Jacobin anarchy were not calculated to win approval from friends of France.⁸⁹

By this time Randolph's relations with Fauchet had grown noticeably cool. News of Robespierre's downfall in July placed the young Jacobin envoy in a delicate position. He now had to justify his less than successful diplomacy to new masters in the Directory. Moreover, the likelihood that Jay's mission to England would be detrimental to French interests increased Fauchet's apprehensions. To the state department, he railed against America's continued "servile submission" to British maritime violations.⁹⁰ And to his superiors in Paris, Fauchet made Randolph his scapegoat. That the secretary of state had "played sincere and made me false confidences" became the theme of French diplomatic correspondence.⁹¹

⁸⁴ Randolph to Washington, October 11, 1794, in Conway, *Omitted Chapters*, p. 195.

⁸⁵ Randolph to Washington, November 6, 1794, *ibid.*, p. 231.

⁸⁶ Madison to Monroe, December 4, 1794, Gaillard Hunt, ed., *The Writings of James Madison* (New York, 1900-1910), VI, 221-222.

⁸⁷ Jefferson to Madison, December 28, 1794, quoted in Carroll and Ashworth, *George Washington*, p. 223 n.

⁸⁸ Conway, *Omitted Chapters*, p. 231.

⁸⁹ Even Federalists resented Randolph's efforts; see Carroll and Ashworth, *George Washington*, p. 224 n.

⁹⁰ Fauchet to Randolph, September 8, 1794, *American State Papers, Foreign Relations*, I, 601-603.

⁹¹ Fauchet to Minister of Foreign Relations (Dispatch No. 16), February 4, 1795, Turner, "Correspondence," p. 562. "*Il joua . . . le sincère et me fit de fausses confidences.*"

Randolph's reputation was no higher in British circles. In the eyes of Minister Hammond, the secretary of state openly pursued a pro-French course and was given to talking in "terms of arrogance and menace" toward Great Britain.⁹² Randolph found an even more formidable adversary in Foreign Minister Lord William Grenville, who thought the secretary of state manifested "a Spirit of Hostility towards Great Britain."⁹³ He was particularly incensed at a rather effusive letter of friendship which Randolph had written to the French Convention. The fact that Randolph published his notes of protest against British maritime seizures was also annoying. Shortly after putting his signature on Jay's Treaty, Grenville voiced his sentiments to Hammond in Philadelphia:

you should converse confidentially on this Subject with those persons in America who are Friends to a System of amicable Intercourse between the two Countries, in the view that Some step may be taken in respect to the Affair so as either to convince Mr. Randolph of the necessity of his adopting a different Language and Conduct, or at least, to place him in a Situation where his personal Sentiments may not endanger the Peace of Two Countries.⁹⁴

With such ominous words the Treaty of Amity, Commerce, and Navigation began its journey across the Atlantic.

An official copy of Jay's Treaty did not reach Randolph in Philadelphia until March 7, 1795. The Senate had dispersed just three days before. Anticipating the treaty's arrival, Washington had informed the legislators that "certain matters touching upon the public good" required their return on June 8.⁹⁵

As the president and secretary of state examined the results of Jay's diplomacy, they could not have been pleased. Of twenty-eight articles in the treaty, only Article II, England's promise to withdraw from the western posts, seemed a major accomplishment. Nearly all the commercial clauses were unfavorable. Grenville's only real concession was to open British East Indian ports to American trade. The stipulations regarding the more important West Indian trade were especially outrageous. Under Article XII no American vessel of over seventy tons could enter British ports in the Caribbean; nor were any size ships allowed to carry certain staple cargoes

⁹² Hammond to Grenville, April 28, 1795, Bernard Mayo, ed., "Instructions to the British Ministers to the United States, 1791-1812," *American Historical Association, Annual Report for 1936* (Washington, 1941), III, 83 n.

⁹³ Grenville to Hammond, November 20, 1794, *ibid.*, p. 73.

⁹⁴ *Ibid.*, p. 75.

⁹⁵ Washington to Vice-President of the United States, March 3, 1795, Fitzpatrick, *Writings of Washington*, XXXIV, 131.

(cotton, cocoa, coffee, molasses, and sugar) to French or neutral harbors. The lucrative transshipment trade was thus denied to American merchants. Jay fared no better in protecting American principles of neutrality. The treaty failed to mention the obnoxious British practice of search and impressment. Moreover, under Article XVIII, England reserved the right to declare and seize, as contraband of war, provisions and foodstuffs. Free ships no longer meant free goods.⁹⁶

From the standpoint of party struggle, Great Britain's friends had gained a powerful weapon. Because the commercial clauses of the treaty were to remain in effect for twelve years, Anglo-American trade was safe from Republican interference. Madison and Jefferson could no longer frighten Federalists with threats of non-intercourse and discrimination against the British.⁹⁷ According to Jefferson, "a bolder party stroke was never struck."⁹⁸

But Washington and Randolph were of neither party and, as such, could view Jay's Treaty with more objectivity. Though neither man was overjoyed at what he read, each saw that, if it did nothing else, the treaty would at least preserve peace between the United States and the world's foremost naval power.⁹⁹ War with England would throw everything out of kilter, intensify party feelings, and make the country too dependent on France. Both men wanted to maintain neutrality. As the secretary explained in a letter to James Monroe:

the *invariable* policy of the President is to be as independent as possible, of every nation upon earth; and this policy is not assumed now for the first time . . . but it is wise at all times, and if steadily pursued, will protect our country from the effects of commotion in Europe. . . . [W]ithout a steady adherence to *principles* no Government can defend itself against the animadversions of the world, nor procure a permanent benefit to its own citizens.¹⁰⁰

Whether the Jay Treaty was in accord with these principles, Randolph and Washington did not undertake to judge. Together, holding the terms of the treaty in strictest secrecy, they decided to await a verdict from the Senate.¹⁰¹

⁹⁶ For an able analysis of the treaty, article by article, see Bemis, *Jay's Treaty*, pp. 346-373.

⁹⁷ Charles, *Origins of the American Party System*, pp. 101-103.

⁹⁸ Jefferson continued: "For it certainly is an attempt of a party, which finds they have lost their majority in one branch of the legislature, to make a law by the other branch of the executive, under color of a treaty, which shall bind up the hands of the adverse branch from ever restraining the commerce of their patron nation" (Jefferson to Madison, September 21, 1795, Ford, *Works of Jefferson*, VIII, 193).

⁹⁹ Carroll and Ashworth, *George Washington*, p. 239.

¹⁰⁰ Randolph to Monroe, April 7, 1795, as quoted in Louis M. Sears, *George Washington and the French Revolution* (Detroit, 1960), p. 234.

¹⁰¹ Randolph, *Vindication*, p. 18.

For the next five months, Edmund Randolph became Washington's most intimate adviser. Knox and Hamilton had retired from the cabinet at the beginning of the year and were no longer on hand to contend with Randolph's ideas. Their respective successors, Timothy Pickering and Oliver Wolcott, Jr., did not yet possess the president's full confidence. Thus, to the disappointment of Federalist partisans, Washington kept his eyes focused on the middle of the road.

By the end of May, however, Randolph reluctantly had made his judgment "as to the propriety of ratifying" the treaty.¹⁰² And such was the decision of the Senate. Aably led by Senator Rufus King of New York, Federalist supporters of the instrument on June 24 secured a bare two-thirds endorsement.¹⁰³ Responsibility then passed to the president.

Complications prevented immediate ratification. In order to gain the necessary majority, King and the other Federalist senators had found it expedient to omit Article XII (dealing with the West Indian trade restrictions) from the approved treaty. This produced a constitutional dilemma. Was the Senate resolution "intended to be the final act," inquired Washington of his cabinet, or did the legislators expect that the article, when renegotiated, would "be resubmitted to them before the treaty takes effect?"¹⁰⁴ The department heads unanimously asserted that the president could and should ratify the treaty in its present, amended form.¹⁰⁵

Then, while Washington still hesitated, the terms of the treaty made their first appearance in the public press. Ignoring strictures on secrecy, a Republican senator leaked a copy of the treaty to the Philadelphia *Aurora*, whereupon that newspaper's editor, Benjamin Franklin Bache, printed and circulated copies throughout the entire northeast. Almost immediately the cry rose up in opposition. Anti-treaty manifestos and protest parades materialized in many towns and cities. In New York Hamilton was jeered and stoned as he spoke out in defense of the treaty, while in Philadelphia a mob hung John Jay in effigy and stoned the residence of minister Hammond. Federalist leaders quailed at the initial onslaught. From Boston the pessimistic "high priest" of Federalism, Fisher Ames, exclaimed: "Our Federal

¹⁰² Randolph to John Jay, May 30, 1795, quoted in Anderson, "Edmund Randolph," *American Secretaries of State*, II, 140.

¹⁰³ Ralston Hayden, *The Senate and Treaties, 1789-1917* (New York, 1920), p. 76; Ernst, *Rufus King*, p. 206.

¹⁰⁴ Washington to Department Heads, June 29, 1795, Fitzpatrick, *Writings of Washington*, XXXIV, 224-225.

¹⁰⁵ See Randolph to Washington, undated, in Worthington C. Ford, ed., "Edmund Randolph on the British Treaty, 1795," *American Historical Review*, XII (1906-1907), 590.

ship is near foundering in a millpond.”¹⁰⁶ In time, the public clamor would penetrate even President Washington’s calm reserve.

More distressing was the arrival of news in Philadelphia early in July that British warships were once again seizing neutral vessels carrying foodstuffs bound for France. Had Great Britain reinstated the hated order in council of June 8, 1793—the infamous “provision order” which had been one of the main causes of the Anglo-American crisis in the first place?¹⁰⁷ Sharing none of the Federalists’ unshakeable confidence in the British Crown, Washington sought the counsel of his secretary of state.

Randolph had a plan. “The order for capturing provisions,” he wrote in a long, eighteen-page memorandum dated July 12, “is too irreconcilable with a state of harmony of the treaty to put in motion during its existence.”¹⁰⁸ He proposed that Hammond be informed of Washington’s decision to ratify the treaty without resubmitting it to the Senate, but so long as the “provision order” remained in application he would refrain from so doing. Here was a solution to both the constitutional and diplomatic problems facing Washington. He instructed Randolph to proceed accordingly.

The secretary of state informed Hammond of Washington’s decision on July 13. The response was far from gratifying, as the British envoy suggested that his government might temporarily rescind the order in council, then renew it a suitable period after the exchange of ratifications. When Hammond further inquired if the president were “irrevocably determined” to withhold ratification as long as Britain failed to withdraw the order, Randolph, at the moment, could give no definite reply. On hearing of Hammond’s sentiments, however, Washington exploded, vowing that “he would never ratify if the provision order was not removed out of the way.”¹⁰⁹ Randolph was then directed to draft an official statement to Lord Grenville, advising him of the reasons for American reluctance to exchange ratifications. With the secretary of state thus occupied, Washington on July 15 departed for his usual summer sojourn at Mount Vernon.¹¹⁰

¹⁰⁶ Ames to Oliver Wolcott, Jr., July 9, 1795, quoted in George Gibbs, ed., *Memoirs of the Administrations of Washington and John Adams* (New York, 1846), I, 210.

¹⁰⁷ Actually the new order in council (April 25, 1795) was not a restatement of the earlier “provision order” which had merely authorized the seizure of foodstuffs as contraband with adequate compensation. The latest British action was couched in terms of seizing *enemy goods* in *neutral* bottoms, a practice sanctioned by Article XVII of the Jay Treaty. British captains were to assume that the foodstuffs seized had already been purchased by French agents (as, indeed, was often the case). Thus, though the practice was the same, the principle was different (Josiah T. Newcomb, “New Light on Jay’s Treaty,” *American Journal of International Law*, XXVIII [1934], 685-693).

¹⁰⁸ Randolph to Washington, July 12, 1795, Reel 11, George Washington MSS.

¹⁰⁹ Randolph, *Vindication*, p. 21.

¹¹⁰ Carroll and Ashworth, *George Washington*, pp. 261-265.

Three crucial, anxious weeks followed. Republicans continued to storm against the Jay Treaty. Even the president felt the blasts, as he wrote to Hamilton of "French machinations" and "poisonous foes of order."¹¹¹ But with Randolph laboring diligently in Philadelphia and Washington deliberating at his Virginia retreat, Federalist leaders were becoming desperate. Oliver Ellsworth wrote forebodingly: "if the President decides wrong, or does not decide *soon*, his good fortune will foresake him."¹¹² Another Federalist warned Rufus King that only Washington's voice could save the country, for "without it you may despair."¹¹³ And Stephen Higginson of Massachusetts predicted that the whole nation would split in two if Washington failed to ratify, and "our race will be finished."¹¹⁴ While the fate of the treaty hung in the balance, it seemed, in the words of one historian, that the frustrated "inner circle of the Federalist Party fairly held its breath."¹¹⁵

Such frustration sprang from a lack of information and consequent inability to influence policy. In essence, only one man had the ear of the distant chief who would pronounce the final verdict. This was Randolph, a suspicious, if not hated, figure in Federalist eyes. While at Mount Vernon the president did write frequently to Alexander Hamilton, but these letters pale in comparison with the policy-determining missives which Washington exchanged with his secretary of state. To his other cabinet advisers, the president wrote practically nothing.¹¹⁶

Not until July 22 did Washington instruct Randolph to inform the other department heads of his plans. "Conditional ratification," he wrote, "(if the later order which we have heard of respecting provision vessels is not in operation) may, on all fit occasions, be spoken of as my determination."¹¹⁷

Chafing at their impotence and aroused by the anti-treaty agitation, Pickering and Wolcott grew increasingly suspicious. "We have been amused by

¹¹¹ Washington to Hamilton, July 29, 1795, Fitzpatrick, *Writings of Washington*, XXXIV, 262-264.

¹¹² Ellsworth to Oliver Wolcott, Jr., August 15, 1795, Gibbs, *Memoirs of Washington and Adams*, I, 225.

¹¹³ Christopher Gore to King, August 14, 1795, in Charles R. King, ed., *The Life and Correspondence of Rufus King* (New York, 1894), II, 24.

¹¹⁴ Higginson to Timothy Pickering, August 16, 1795, in J. Franklin Jameson, ed., "Letters of Stephen Higginson, 1783-1804," *American Historical Association, Annual Report for 1896* (Washington, 1897), I, 793.

¹¹⁵ Charles, *Origins of the American Party System*, p. 106.

¹¹⁶ For Washington's correspondence while at Mount Vernon, see Fitzpatrick, *Writings of Washington*, XXXIV, 247-270.

¹¹⁷ Washington to Randolph, July 22, 1795, *ibid.*, XXXIV, 244.

Randolph," Wolcott wrote, "who has said the President was determined to ratify. The *precise* state of business has never been communicated till within a few days. The affairs of his department are solely conducted by himself."¹¹⁸ These two men, viewing the situation through partisan blinders, could not appreciate the subtleties of Washington's diplomacy. They did not recognize that hasty ratification with the "provision order" still in effect might lead to war with France. Whether or not Britain had violated the treaty did not seem to matter. To Pickering and Wolcott, decisive action by the president alone could stem the "Jacobin" uproar. With Washington absent, the uninformed cabinet officers focused their frustration on Randolph, the one who was seducing their leader from his proper duties. The British Foreign Office was happy to encourage these anti-Randolph sentiments.

Shortly after the president had departed for Virginia, Minister Hammond received a packet from London containing certain letters sent by Joseph Fauchet to his superiors in Paris, which had been intercepted. Dispatch Number Ten (October 31, 1794) had several ambiguous, but highly important passages. At first glance, Fauchet's report seemed to imply that Randolph had asked him for money so as to influence American policy in a pro-French direction. Because his instructions from Grenville stated that "the communication of some of [the information in Fauchet's dispatches] to well disposed persons in America may possibly be useful to the King's service," Hammond invited the "well disposed" Wolcott to his home on July 26.¹¹⁹

Hammond's oral translation of pertinent passages of Number Ten readily convinced Wolcott that Randolph was a traitor. Securing the original document along with a certified copy, Wolcott alerted Pickering to the unexpected windfall. Then, armed with a hasty translation, Pickering, on July 31, posted a special letter to Mount Vernon. "On the subject of the treaty," the secretary of war wrote, "I confess that I feel extreme solicitude; and for a *special reason* which can be communicated to you only in person, I entreat that you return with all possible speed."¹²⁰

Washington arrived in Philadelphia on August 11 and was enjoying dinner with Randolph when the bombshell burst. Pickering interrupted the meal and, drawing the president aside, told him the shocking news. Washington remained outwardly unruffled and resumed the evening routine as if

¹¹⁸ Wolcott to Hamilton, July 30, 1795, Hamilton, *Works of Hamilton*, VI, 28.

¹¹⁹ Grenville to Hammond, May 9, 1795, Mayo, "Instructions to the British Ministers," *American Historical Association Annual Report for 1936*, III, 83. Fauchet's diplomatic packet had been captured by an English frigate on March 28 and sent directly to London.

¹²⁰ Pickering to Washington, July 31, 1795, Reel 107, Washington MSS.

all were normal. Late that night he undoubtedly examined the incriminating documents.¹²¹

Pickering's erratic translation of Number Ten provided ample "evidence" to convince someone already suspicious of Randolph's guilt. By transliterating such phrases as "précieuses confessions" into "precious confessions" (the words actually meant "valuable disclosures"), the secretary of war had transformed what was an ambiguous document at worst into an incriminating one.¹²² Nevertheless, if Washington had proceeded from the premise that his long-time associate was innocent until conclusively proven otherwise, he could have discovered enough in Fauchet's dispatch to prevent heedless judgment. For example, repeated references by Fauchet to two previous letters whose examination could have thrown light on obscure passages in Number Ten made little impact on Washington. Not until just before the final confrontation with Randolph did the president consider applying to the new French Minister, Pierre Adet, for permission to look at the two documents in question. Even at the last moment he drew back, yielding to the dissuasion of Pickering and Wolcott.¹²³

Washington could also have considered more closely the position in which Fauchet found himself when he had penned his dispatch the previous autumn. Was it not possible that the young Jacobin diplomat, only recently aware of the events of Thermidor, exaggerated and embellished these lurid tales of Randolph in order to ingratiate himself with the Directory, while laying a smokescreen over his own failures in connection with the Jay mission? But such charitable thoughts did not enter Washington's mind that August night. To all intents, the president passed immediate and unfavorable judgment on his secretary of state.¹²⁴

The next day, still outwardly calm, Washington summoned a cabinet meeting. He invited the department heads to give their views about ratifying the treaty. Pickering and Wolcott championed immediate endorsement by the president to stifle the Republican clamor. Even Attorney General Bradford, then mortally ill, gravitated to this position of urgency. Randolph reiterated his thoughts with regard to the "provision order." Then, "to my

¹²¹ Fauchet's Dispatch Number Ten is printed in the French in Turner, "Correspondence," *American Historical Association, Annual Report for 1903*, II, 444-445. An extensive analysis, paragraph by paragraph, appears in Randolph, *Vindication*, pp. 46-73. The best explanation, however, is in Brant, "Edmund Randolph: Not Guilty!," *W. & M. Quart.*, 3rd ser., VII, 180-198.

¹²² Brant, "Edmund Randolph: Not Guilty!" *W. & M. Quart.*, 3rd ser., VII, 193.

¹²³ Washington to Secretaries of Treasury and War, August 18, 1795, Fitzpatrick, *Writings of Washington*, XXXIV, 275-276.

¹²⁴ Brant, "Edmund Randolph: Not Guilty!," *W. & M. Quart.*, 3rd ser., VII, 191-192.

unutterable astonishment," as Randolph later reported, "I soon discovered that you [Washington] were receding from your *determination*."¹²⁵ After hearing the arguments, Washington announced abruptly that he would ratify. The British minister was to be notified and an official memorial delivered to him—without the stipulations Randolph had advocated. Washington then adjourned the meeting.

The following week was taut. Not wanting to do anything which might hamper ratification, the president continued his pantomime with Randolph. On August 14 Washington had him countersign the ratification form. Still loyal, the secretary then presented the official memorial to Hammond. According to the British envoy, "Mr. Randolph did not attempt to conceal his chagrin . . . but voluntarily confessed that his opinion had been overruled in the President's Cabinet."¹²⁶ Finally, with preparations completed, Washington formally ratified the Jay Treaty on Tuesday, August 18, 1795.

The next day he confronted Randolph. Pickering and Wolcott were in attendance, eyeing the victim like hawks. Washington handed him Dispatch Number Ten, pronouncing coldly, "Mr. Randolph! here is a letter which I desire you to read, and make such explanations as you choose."¹²⁷ The secretary's impromptu defense was valiant, but fore-doomed. Then, suddenly perceiving the deception which had been practiced for the previous week, Randolph saw no course but abrupt resignation. Indignantly he severed his ties with the president:

Your confidence in me, Sir, has been unlimited and, I can truly affirm, unabused. My sensations then cannot be concealed, when I find that confidence so immediately withdrawn without a word or distant hint being previously dropped to me!¹²⁸

The rest was anticlimax. Randolph frantically set out to secure proof of his innocence. Fortunately he was able to overtake Fauchet at Newport before the latter's ship weighed anchor for France. With Fauchet's testimony, affidavits by Minister Adet as to Dispatches Number Three and Six, and state department documents, Randolph pieced together his famous *Vindication*, which appeared as a 103-page pamphlet in November 1795. Notwithstanding the persuasive defense of his conduct, Randolph's *Vindication* had one glaring defect—its tone. By self-righteously attacking President Washington, Randolph transformed his attempted public rehabilitation into a per-

¹²⁵ Randolph, *Vindication*, p. 41.

¹²⁶ Hammond to Grenville, August 14, 1795, as quoted in Conway, *Omitted Chapters*, p. 297.

¹²⁷ Randolph, *Vindication*, p. 1.

¹²⁸ Randolph to Washington, August 19, 1795, reproduced in Carroll and Ashworth, *George Washington*, pp. 287-288; also reel 107, Washington MSS.

sonal feud. Convinced that he was the victim of “a conspiracy . . . deeply laid and systematically pursued,” he told James Madison that he was “happy at my emancipation from an attachment to a man who has practised upon me the profound hypocrisy of Tiberius.”¹²⁹ But Randolph could not hope to win a popularity contest with the Father of His Country. Consequently, the *Vindication* convinced hardly anyone in the heated atmosphere of 1795. “As to Randolph,” Hamilton wrote, “I shall be surprised at nothing.”¹³⁰ For Jefferson, he was still a turncoat who “has generally given his practice to one party and his principles to the other, the oyster to one, the shell to the other.”¹³¹ Even Madison reacted unfavorably: “His [Randolph’s] greatest enemies will not easily persuade themselves that he was under a corrupt influence of France, and his best friends can’t save him from the self-condemnation of his political career, as explained by himself.”¹³² Randolph remained a man without a party.

Certainly it was a considerable loss that for the remaining eighteen years of his life Edmund Randolph could make no further contribution to public affairs, save, ironically, to become chief defense counsel at Aaron Burr’s treason trial. Randolph was a far abler man than the Pickerings, Wolcotts, and other second-raters who rose in his place. But if the years after 1795 were tragic, what Randolph had done earlier was not.

Even in an era where political groups regarded one another with a hostility far removed from present-day attitudes of loyal opposition, Randolph was able to maneuver successfully between both extremes. For five crucial years this unpredictable and independent cabinet officer wielded an influence almost unmatched by any party leaders. The source of Randolph’s power was, of course, George Washington. Studied nonpartisanship might provoke Federalist antagonism and destroy Republican friendships, but as long as he retained the ear of his revered chief, the middle of the road remained smooth.

Randolph’s independence did not preclude unswerving loyalty to the president’s final decisions. He could adapt, as his erratic behavior during the Whiskey Rebellion testified. And, with his position crumbling, he had faithfully countersigned the final ratification of Jay’s Treaty. When Randolph resigned, it was not over questions of policy, but on a point of honor.

Herein lay the difficulty of Randolph’s nonpartisanship. His whole posi-

¹²⁹ Randolph to Madison, November 1, 1795, Reel 1, Madison MSS, Library of Congress.

¹³⁰ Hamilton to Washington, October 3, 1795, Hamilton, *Works of Hamilton*, VI, 40.

¹³¹ Jefferson to Giles, December 31, 1795, Ford, *Works of Jefferson*, VIII, 201-204.

¹³² Madison to Monroe, January 26, 1796, quoted in Brant, *James Madison*, III, 425-426.

tion depended upon Washington, and Washington, contrary to legend, was only human. Beset by partisan pressures, the president acted hastily and withdrew his trust. Randolph, by his outraged reaction, only compounded the error and irrevocably alienated the one man who could sustain nonpartisan principles.

Alexander Hamilton once wrote that Washington "was an *Aegis* very essential to me."¹³³ If this leader of the Federalist party saw the necessity of shielding his programs behind Washington's prestige, a man of neither party needed even greater protection. Edmund Randolph and successful nonpartisanship lost this protection in August 1795.

¹³³ Hamilton to Tobias Lear, January 2, 1800, Lodge, *Works of Hamilton*, X, 537.