

intriguing to oust Jefferson from the Presidency, even as he himself had been feverishly engaged against Adams. But it happened that the shoe was on the other foot.

When the final results were announced, it was found that John Adams had been elected President with 71 electoral votes, Jefferson Vice-President with 68. The rest trailed — Pinckney had 59, Burr had 30, with a scattering for various favorite sons. The election had been perilously close — a slight shift would have placed Jefferson in the President's chair. But Burr had excellent reasons, aside from non-election, for being extremely disturbed at the result. His votes were scattered as follows: Tennessee, 3; Kentucky, 4; North Carolina, 6; Pennsylvania, 13; Maryland, 3; and Virginia, 1.

It was the Virginia vote that could not be explained away to his satisfaction, or to the satisfaction of any one else. Virginia was closely held by Jefferson and his friends; its electoral vote had gone solidly for Jefferson, yet but a lone vote had been cast for Burr, his running mate. Hamilton had commented gleefully on the situation, Beckley early in the campaign had expressed fears about the issue. There were other States to the South also where, strangely, Burr had been overlooked by Republican electors under the domination of Jefferson.

But he was too good a politician to show outward resentment at what he considered treachery. He had lived up to his part of the bargain with meticulous faith, and had campaigned mightily for the success of the party ticket. He realized now that the leaders of the Southern Republicans were determined that their Northern ally should not wax too powerful. Yet he said nothing, except privately and among friends. He had it in his power to wreck the party irrevocably between 1796 and the next election, but he never permitted emotion or resentment or passion to sway his decisions. He had staked his political fortunes on the eventual success of Republicanism; he must continue on the chosen path.

CHAPTER XII BURR STOOPS TO CONQUER

I. THE LOWLY ASSEMBLYMAN

BURR'S term as Senator was approaching its end. The close of the Congressional session in 1797 marked the finish of his Senatorial career. The New York Legislature, now strongly Federalist in its complexion, with John Jay in the gubernatorial chair, returned Philip Schuyler in his stead. The proud General and patroon of an ancient family had nursed his spleen long enough. Now he had his revenge, and both he and his son-in-law, Hamilton, were content. They had crushed their enemy.

But Burr had not been taken by surprise. He had expected nothing else and had laid his plans accordingly. From national politics he returned to the local scene. He had neglected it too long, and a herculean task awaited him. It was nothing more nor less than to oust the triumphant and seemingly impregnable entrenched Federalists from their control of the State, and to assume definite and unquestioned leadership for himself. Burr, however, never despaired. His was an unbounded energy, controlled and channelized by a first-rate brain.

The first step in his carefully prepared campaign was to inject himself into a strategic position in State politics. The spring election of 1797 for the Assembly gave him his opportunity. He ran on the ticket from New York City and was promptly elected. So also was young De Witt Clinton, nephew to the old ex-Governor — as yet an unknown quantity in State politics. All over the State there were Republican gains, but not enough to damage substantially the Federalist majority.

It was seemingly a considerable comedown from United States Senator, national figure, aspirant for the Vice-Presidency, to the lowly condition of a local Assemblyman. Burr did not mind. He had but stooped to conquer. Nor were his opponents entirely deceived. Schuyler, recently exultant at his own triumph, wrote with considerable apprehension to Hamilton: "Mr. Burr, we are informed, will be a candidate for a seat in the Assembly; his views it is not difficult to appreciate. They alarm me, and if he prevails I apprehend a total change of politics in the next Assembly — at

tended with other disagreeable consequences."¹ Neither of these gentlemen made the mistake of underestimating Aaron Burr.

Meanwhile Hamilton was running into substantial difficulties of his own. The odorous Mrs. Reynolds affair had burst upon him like a bombshell. Callender, a Republican hack writer of the particularly vicious breed that seemed to spawn with remarkable fecundity in those days, had just published documents that seemed to involve Hamilton in the grossest of fraudulent financial transactions, dating back to 1792 and his incumbency in the office of the Treasury. An investigation then by Senator Monroe and two Republican members of Congress had elicited from Hamilton the astonishing confession that the entire affair was an attempt at blackmail on the part of one James Reynolds because of certain illicit relations that he, Hamilton, had maintained with Mrs. Reynolds, his wife. Monroe and the others had professed themselves satisfied at the time and the matter had seemingly been dropped. Now that the scandal had broken into public print, however, Hamilton was compelled, in order to maintain his political honor, to reveal in a pamphlet the stain upon his private honor. The whole unsavory amour with all its sordid details was exposed to the eyes of a gloating world. It was a very courageous act; only Grover Cleveland in all the annals of American politics was to possess a similar courage.

But there were repercussions. An acrimonious correspondence took place between Hamilton and Monroe, whom, rightly or wrongly, Hamilton considered responsible for the exposure of his shame. On July 18, 1797, he wrote Monroe a demand for an explanation of certain inferences, which was couched in such language that Monroe could only consider it as a challenge. Monroe retorted that if "you meant your last letter as a challenge to me I have then to request that you say so, and in which case have to inform you, that my friend Col. Burr — who will present you this . . . is authorized to give you my answer to it, and to make such other arrangements as may be suitable in such an event."

Monroe then forwarded the correspondence to Burr and requested him to act as his second in the event Hamilton had challenged. Hamilton, on the other hand, had assumed that Monroe had challenged *him*. The affair was ultimately settled by mutual disavowals, and Burr, as intermediary, drafted a memorandum of agreement satisfactory to both parties.² By an ironic twist of fate Burr was thus early interposing his good offices between Hamilton and a possible death on the dueling field.

2. ALMOST A BRIGADIER

While waiting for the Assembly to meet, Burr kept in touch with national affairs. Jefferson was writing him from Philadelphia, where he was filling acceptably the none too arduous duties of a Vice-President under the American Constitution, that "some general view of our situation and prospects, since you left us, may not be unacceptable. At any rate, it will give me an opportunity of recalling myself to your memory, and of evidencing my esteem for you." After a résumé of the situation in Congress he proceeds to inquire as to the trend of affairs in New York, from which, he presumes, "little is to be hoped." If, however, Burr could give him "a comfortable solution" of "certain painful and doubtful questions" it would "relieve a mind devoted to the preservation of our republican government in the true form and spirit in which it was established."³

To which Burr replied in similar vein that "the moment requires free communication among those who adhere to the principles of our revolution. The conduct of some individuals of the [Jay] Treaty Majority has disappointed me a good deal. That of the executive something also, but much less." He had been "led to hope that a more temperate system would have been adopted. All such expectations are now abandoned. The gauntlet I see is thrown and the fruit of our War with Britain is again in jeopardy . . . It would not be easy neither would it be discreet, to answer your inquiries or to communicate to you my ideas with satisfaction to either of us, in the compass of a Letter. I will endeavor to do it in person."⁴

Burr's maneuvers in New York were known to Jefferson, and in accordance with a prearranged plan. And Burr was watching like a hawk the national situation. The Federalists, as he had noted, were interpreting the Jay Treaty in a way to antagonize France. France responded by raids on American shipping. For two years John Adams negotiated, trying desperately to stave off a threatened war. The Federalists were gleeful. The country was forgetting England as the arch-enemy and turning all its resentment and wrath upon their old ally, France. The Federalists artfully fanned the flames, and tried to force the stubborn old President into a situation from which he could not possibly extricate himself without a declaration of war. Adams resisted the pressure, Federalist though he was. But even the Republicans were becoming disgusted with French arrogance and utter disregard for

American rights, though they insisted that the situation had been brought about by Federalist tactics.

The famous X Y Z affair intervened. The stupid and incomprehensible reception of the American envoys by the French government, the outrageous cynicism with which Talleyrand, through his agents, Mr. X, Mr. Y and Mr. Z, demanded open bribes, raised a veritable frenzy of excitement. A state of undeclared war existed between the two countries, with pitched naval battles, and privateers raiding each other's commerce with relish and impunity.

The American army and navy were rapidly strengthened. Washington was called out of retirement to head the forces as commander-in-chief. Subordinate generals were promptly appointed. At Washington's suggestion, and much to Hamilton's delight, the latter was appointed second in command. President Adams, hampered by his Cabinet, which he had inherited from his predecessor in office and which assumed to dictate policies to him as it had to Washington, nevertheless considered Colonel Burr for a post in the newly formed army. He had always had a high opinion of Burr's abilities. As he narrates the story, "I proposed to General Washington, in a conference between him and me, and through him to the triumvirate [Hamilton, Pickering and Pinckney], to nominate Colonel Burr for a brigadier-general. Washington's answer to me was, 'By all that I have known and heard, Colonel Burr is a brave and able officer; but the question is, whether he has not equal talents at intrigue.' How shall I describe my sensations and reflections at that moment?" continues Adams. "He had compelled me to promote, over the heads of Lincoln, Gates, Clinton, Knox, and others, and even over Pinckney, one of his own triumvirate, the most restless, impatient, artful, indefatigable and unprincipled intriguer in the United States, if not in the world [Hamilton], to be second in command under himself, and now dreaded an intriguer in a poor brigadier! He did, however, propose it to the triumvirate, at least to Hamilton. But I was not permitted to nominate Burr. If I had been, what would have been the consequence? Shall I say, that Hamilton would have been now alive, and Hamilton and Burr now at the head of our affairs? What then? If I had nominated Burr without the consent of the triumvirate, a negative in Senate was certain. Burr to this day knows nothing of this."⁵

Poor John Adams! He was not even master in his own house! The record speaks for itself. He was also to declare in retrospect that it was Hamilton's intention in 1799 to make an offensive and

WATER OFFICE.

THE Directors of the Manhattan Company, desirous to render the object of their institution as generally useful to the inhabitants of the city as it was capable of, determined to attempt to furnish families with a plentiful supply of water for every domestic purpose at all times, and not, as is the case in most cities of Europe, to give it at intervals of from 24 to 48 hours; but it is feared the abuse that is made of their intentions will probably oblige them to alter the mode of distribution; previous to any alteration, however, they have resolved first to try to correct the evil. I am therefore directed to inform those who take the water from the Company, that where a wilful or negligent waste of it is permitted, the lateral pipe leading to such house will be cut off as soon as detected; and also to notify, that in case it can be discovered and proved that the water is given or sold to any person or persons, who do not pay the Company for it, that the pipe from whence such be taken shall not only be cut off, but the persons so defrauding the Company shall be prosecuted in a court of law for the damages resulting, and for which purpose I will give a reward of ten dollars to any person who will give the requisite information. It is hoped that those who are well wishers to the institution will use their influence to prevent the malpractices alluded to.

JOSEPH BROWNE, Superintendent of Water Works
New-York, May 22d, 1802.

Courtesy of The New York Historical Society

A CIRCULAR ISSUED BY THE MANHATTAN COMPANY, 1802



COLLECT POND, 1802, NOW CROSSED BY CENTER STREET, NEW YORK CITY

From an old print.

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defensive alliance with Great Britain and provoke war with France. In which case it was Adams's opinion then, "and has been ever since, that the two parties in the United States would have broken out into a civil war; a majority of all the States to the southward of Hudson River, united with nearly half New England, would have raised an army under Aaron Burr; a majority of New England might have raised another under Hamilton. Burr would have beaten Hamilton to pieces, and what would have followed next, let the prophets foretell."⁶

While John Adams's retrospective prophesying need not necessarily be swallowed whole, it is an interesting indication of the profound respect which he, and others, entertained for Aaron Burr's talents, and his recognition of the fact that the two great antagonists in the country were Burr and Hamilton; two giants, one of whom must eventually give way.

3. STRANGE BEDFELLOWS

Burr busied himself during the first session in quietly consolidating his position. He was still advocating more liberal bankruptcy laws and the speedy and immediate abolition of slavery, as well as a tax on woodland and unproductive property in the hands of speculators for the rise that seems a remarkable forerunner of the modern theories of Henry George. The Republicans nationally had been compelled, because of the storm over France, to lie low and say nothing. Burr was conspicuous for his strong advocacy of fortifications for New York Harbor. In this matter he worked amicably with the Federalists. His stand puzzled Robert Troup, now bitterly his opponent. Troup was not very bright politically. He wrote Rufus King, marooned in London, that "Burr has been re-elected a member of the State Legislature for this City. He was a member the last year — and his conduct very different from what you would imagine. Some conjecture that he is changing his ground. He concurs with us decidedly in measures for defence of our port."⁷

In fact, Burr went farther. At the 1798 elections, as Troup had remarked, he had been returned to the Assembly in spite of another Federalist sweep in the State. John Jay had been reelected over Livingston, now safely and completely a Republican. But in New York City Burr and his friends held the reins. John Swartwout, his most loyal lieutenant, entered the Assembly with him, while De Witt Clinton, still outwardly meek and subservient, went to the State Senate.

All through the summer of 1798, while the fever of preparations against France was at its height, Burr was the most ardent advocate of State preparedness. He even cooperated with Hamilton, much to that worthy's astonishment. It must be remembered that Colonel Burr had always been enamored of the military life, and, while he still preferred French republican doctrine to the British monarchical system, French provocations had been extreme. In the event of a war forced on the United States by French aggression there would be no question as to his stand.

All through the summer of 1798, he was in active correspondence with Colonel Ebenezer Stevens, in command of the New York City area. He requested detailed information of his fortifications, arms, and special needs, together with an estimate "of the probable cost of an *impregnable castle* to contain from 75 to 200 Cannon, Howitzers & Mortars." He had assumed practically the entire responsibility of obtaining the necessary funds for the work from the Legislature. "The business of the appropriations goes on slowly," he wrote Stevens, "but it in fact advances. It has been infinitely fatiguing & laborious to me, yet I do not despair of accomplishing something which shall gratify my fellow citizens."⁸

And on another occasion he wrote the Colonel that the legislators from the northern counties of the State, whose constituents, though Federalist, would not be exposed to the attacks of a foreign sea power, "seem to be in very *ungiving* humor. We apprehend much *secret* opposition from Mr. Jones. A letter from Genl Hamilton to him might be useful."⁹

The threatening war had made strange bedfellows. Aside from Burr's undoubted patriotism at this time, he was stealing his opponents' thunder. In New York, at least, the Federalists could not accuse the Republicans of truckling to a foreign foe, of a lack of patriotic fervor.

In fact, when the Assembly met on August 9th, it was Burr who was made chairman of the committee to study and act on Governor Jay's message relating to the defense of New York City. On August 10th he reported promptly that the harbor defenses were wholly inadequate, based on the confidential information he had received from Stevens, and brought in a bill calling for an appropriation of \$1,200,000. On his motion the bill passed the Assembly, but soberer thought prevailed, and on a recommission, the decision was reversed. Thereafter Burr fought valiantly for bills calling for progressively less amounts, until the northern members were placated, and the sum of \$300,000 was appropriated.¹⁰

Troup was more and more puzzled at these tactics of the friend of his youth. He wrote at considerable length to King.

"Our Legislature met on the 9th of August last and . . . granted 300,000 dollars for fortifications & *unanimously* agreed upon an address to the President on the conduct of France. The address upon the whole considering that Burr was in the Assembly & much superior in talents to any of the opposite party is better than I expected." Nor does he understand why Burr continues in the Assembly, an office so obviously beneath his talents. "His object cannot be precisely developed. Some suppose it to be a state bankrupt law in which he is said to be deeply interested. Others conceive that he has the government in view. It is certain that he has not discovered a desire to resume his stand in the *Senate*. No doubt is entertained that after the publication of the despatches from our envoys to France his conduct showed strong symptoms of a wish to change his ground. He was active & apparently zealous in our measures for defending our harbour. He was particularly courteous to Hamilton, and some of the most intelligent of his party have gone so far as to say he certainly expected an appointment in the army."¹¹

Certainly Burr kept his own counsels and pursued his own path. Neither party associates nor political opponents realized that he was adopting the only course possible to keep the Republicans afloat during a period of angry passions and Federalist reaction. Yet when Republican principles were directly attacked, he acted with decision and despatch. For Troup continues, in a still greater fog of misapprehension: "Yet before the appointment of General officers took place and in the midst of conciliating appearances he became bail for the appearance of one Bourk who was apprehended upon a warrant . . . for a most infamous libel upon the President."¹²

Here, indeed, the Republicans were on sure ground. In the midst of the agitation against France, the Federalists had jammed through Congress the infamous Alien and Sedition Acts. They were as vicious in their tendencies as — at least those relating to sedition — they were unconstitutional. Here was a direct assault on the freedom of speech and of the press guaranteed in the Bill of Rights. Under the provisions of the Acts, all criticism of public officials by the opposition might be construed as criminal libel, as sedition itself. Here, indeed, as Burr was quick to see, was an issue on which the Republicans could regain all the ground they had lost by the arrogant aggressions of their ally, France. The issue was to become notably alive and burning throughout the

nation the following year, and in New York Burr did his utmost to fan the flames of popular indignation.

In the Session of January 2, 1799, Burr continued his steady drive for a bankruptcy law, and his efforts were finally rewarded in the Assembly on January 16th. And also that other measure which he had advocated in season and out — the abolition of slavery in New York — met now with success, though it did not go quite as far as he would have wished. The act provided that every child of slave parents thereafter born was to be free, on condition however that until the age of 28 it was to remain the servant of the mother's owner. Furthermore, Burr was chairman of the Committee on Taxation and worked diligently to provide a scientific, equitable and efficient system that would reorganize the State's finances.¹³

On February 7, 1799, John Swartwout, Burr's lieutenant, under his direction introduced an important measure for the consideration of the Assembly. He proposed that the State be divided into districts, and that Presidential electors be voted for directly by the people of the several districts. Hitherto Presidential electors were elected by the Legislature in joint session, and hence they were not responsive to the popular will, except by indirection — that is, such popular will as could be determined within the narrow limits of the property qualifications for voters. Burr, through Swartwout, now proposed to make the elections more immediately direct.

The scheme was the opening gun in his grand strategy for the oncoming Presidential election of 1800. If, as seemed probable from the then complexion of New York politics, it would prove impossible to elect a majority of the Legislature, at least a part of the electoral College might be secured through the votes of New York City and other Republican strongholds. Otherwise, a bare Federalist majority in the Legislature could insure a unanimous Federalist delegation.

The bill was argued on a strictly partisan basis, each faction realizing to the full its implications. With a Federalist majority in control of the Assembly, Burr's talents for negotiation were extended to the utmost. There was a group of some eight to ten Federalists whose party affiliations were not of the strongest. In addition, most of them were personally well disposed to Burr. He proceeded to work on them with unequalled arts. Especially did he labor with Judge Peck and General German of the western counties. He flattered them, selected the former to bring in the electoral resolutions, and did everything in his power to identify

them with the Republicans. The Federalists aided him unwittingly by their ill-judged resentment against the two men. By the time he was through, the bill had passed the Assembly. In the Senate, however, where his influence was not so great, it went down to defeat.¹⁴

This disposition, though seemingly a blow at the time, in the final outcome proved to be the salvation of the Republican hopes. But then Burr, for all his political acumen, could not have foreseen exactly what was to happen. The campaign, however, bore its own peculiarly fruitful results. He had definitely succeeded in alienating Peck and German from the Federalist ranks, and their support in 1800 was to prove particularly valuable in the western portions of the State.

Meanwhile the agitation against the Alien and Sedition Acts was sweeping the country. Editors, publicists, political opponents of the Administration, were being daily clapped into jail on charges of libel and sedition. Matthew Lyon, Republican Congressman from Vermont, had been arrested and fined; Judge Peck, in New York, was involved in the circulation of a petition against the laws by Burr's clever maneuvers, and was promptly arrested by the indignant Federalists. All this was grist for the Republican mills.

Virginia and Kentucky rose in arms against the suppression of their local liberties and proclaimed in a series of Resolutions that Congress had transcended its constitutional powers, and that they, as sovereign States, took it upon themselves to declare the offending Acts nul and void. There was even talk of secession. The Federalists frothed at the mouth. Resolutions were offered in the New York Legislature in sharp rebuke of the two recalcitrant States, declaring in no uncertain terms "that the right of deciding on the constitutionality of all laws passed by the Congress of the United States appertains to the judiciary department; and . . . an assumption of that right by the legislatures of individual states is unwarrantable, and has a direct tendency to destroy the independence of the general government."¹⁵

This was quite true. Burr and Swartwout, however, staged an intricate and lengthy parliamentary fight to avoid the record of a hostile vote. They almost succeeded, going down to defeat only by the cracking of the Federalist party whip.

4. THE HOLLAND LAND COMPANY

Scandal meanwhile was gathering in a cloud of whispers around Burr. It related to his activities during the preceding session in connection with the Holland Land Company. A duel was to be the outcome, though it did nothing to clear the atmosphere. Even to this day the cloud has persisted. Accordingly the affair is well worth careful and impartial examination.¹⁶

Burr's finances through these years had been in a desperate way. His combined income from the practice of law and the salaries accruing from public office had been woefully insufficient to meet the mounting pyramid of notes, endorsements, mortgages, and unsecured debts. To recoup his fortunes Burr embarked on a series of land speculations. Fabulous sums were in the air; men of the highest rank, from George Washington to William Duer and Robert Morris, engaged eagerly in the boom. Robert Morris, Duer, John Nicholson and a host of others, had dealt in millions of acres, and had made millions.

Nor was the speculation in virgin American lands confined to the natives. Europe became infected with the frenzy, and invested huge sums for the rise. Of alien investors the Dutch were perhaps the most active. They started as early as 1791, when one Theophile Cazenove, a Dutchman himself, became the American agent for a group of Dutch firms interested in the speculation.

In 1792 six of these firms united as the Holland Land Company for the purpose of making extensive purchases of land, and for the purpose of resale to the Dutch public at a profit.

Cazenove purchased on behalf of the Company huge tracts in western New York, comprising 1,500,000 acres, from Robert Morris; and another great area in Pennsylvania. In 1796 the Company incorporated solely as a stock-selling proposition, and induced their gullible compatriots, bitten by the delirium of fabulous profits in far-off America, to subscribe heavily.

Meanwhile a native venture, the Pennsylvania Population Company, sponsored by John Nicholson, had already entered the field, and controlled 450,000 acres north and west of the Allegheny. Burr held 100 shares out of a total of 2500 of the stock of this company, which he had purchased in 1793.¹⁷ But the continued pressure for cash compelled him to offer it for sale in 1795.¹⁸ He could find no purchaser, however.

Cazenove was buying heavily for his principals into this Company, at about the time that Burr was trying to step out. Encouraged by this manifestation of renewed interest, Burr decided to

plunge again, this time with Cazenove. In 1796 he borrowed heavily from all available sources and contracted to purchase from the Holland Company 100,000 acres of land in the Presque Isle area, at 12 shillings an acre, payable in instalments. The covenant held a penalty of \$20,000 in case of a default in performance on his part. As security for this penalty, Burr assigned to Cazenove the bond of Thomas L. Witbeck, payable to Burr, in the penal sum of \$20,000, and, as additional security, a mortgage on his holdings in the Pennsylvania Population Company.¹⁹

Manifestly this immense purchase of land was purely speculative in its origin. Burr hoped to dispose of the same at a handsome profit before he would be compelled to make good on the terms of his contract. But the market for lands had become completely glutted, and the bottom dropped out of the boom by the end of 1796. Burr was left holding the bag, with a contract which came due in 1797. He was unable to pay on his commitment, and was threatened with the heavy penalties contained in the agreement.

Meanwhile trouble was also brewing for the Holland Company. Pennsylvania, in which they held vast tracts, was the only State in the country that permitted aliens to hold land without limitation. In New York, where their holdings were even larger, this was not the case. Accordingly, when the tentative purchase was made in 1792 of the Genesee tract from Robert Morris, Cazenove instigated the introduction of a bill into the New York Legislature to grant his principals full rights in the land. The bill was defeated heavily, due, it was thought, to the opposition of the Clintons, who seized this opportunity to strike indirectly at their enemy, Morris.

At the next session the bill was introduced again, this time to pass the Senate, but to meet with defeat in the House, where the Clintons were strong. In a desperate attempt to force the measure through, Cazenove retained Hamilton, who worked with Samuel Jones to obtain the passage of a general alien holding act. His influence achieved a measure of success. A bill was passed permitting the holding of lands by aliens for a period of seven years.²⁰

This, however, was not sufficient for the purposes of the Holland Company and they tried again, still employing Hamilton. This time Philip Schuyler, Hamilton's father-in-law, became interested. He was now the President of the Western Inland Lock Navigation Company, which required additional capital for its enterprises. He negotiated with the Holland Company. In return for the use of their funds in *his* Company, he succeeded in push-

ing a measure through a subservient Legislature which raised the period of alien tenure to twenty years, and incorporated the astounding condition that the Holland Company pay over to Schuyler's Canal Company the sum of \$250,000 as a loan, or in purchase of shares of stock.²¹ It was a particularly unblushing example of political and financial logrolling.

But the boom was already collapsing, and Cazenove refused to go through with the bargain unless unrestricted tenure in land was granted his Company. A respectable lobby was thereupon built up. There were many other foreigners in the same boat — Colonel Charles Williamson, later to become deeply involved in the Burr "Conspiracy," was then agent for a group of English investors in American lands — and the large native landowners were also in favor. The best customers for their holdings were the glib European.

To Cazenove it seemed that now was the time for the supreme effort. He enlisted Burr's services, as he had done before with Hamilton. Burr, too, was personally interested in the successful termination of the matter. With unrestricted alien tenure, it might be possible for him to market his contract lands abroad.

Burr went to work at once. He was a much better negotiator and persuasive agent than Hamilton. The Act of April 2, 1798, crowned his efforts with complete success. There had been little opposition in the Senate, where Thomas Morris was in charge of operations. But the Assembly was a different proposition. Besides the usual opponents to all forms of alien privilege, there was the Schuyler and Hamiltonian faction, now definitely in the opposition. With the passage of a new and unrestricted bill, their hopes for the subsidy of \$250,000 for their canal projects went glimmering. So they rallied righteously to the defense of the American citizen against the foreign capitalist.

Burr looked the situation over and realized it was a case of meeting fire with fire. Besides deft political management, unscrupulous bribery of venal legislators was indicated. This Cazenove unblushingly proceeded to do, and the bill was passed.

Cazenove justified the use of bribe money to his Directors in Holland as small in amount compared with the sums that the Canal Company had been attempting to extract.²² This money was charged on the books as counsel fees. The total paid was \$10,500 — \$3,000 went to Josiah Ogden Hoffman, the State Attorney General, \$1,000 to Thomas Morris, State Senator, \$1,000 to Mr. L— (even in the private records the name was kept religiously secret), and \$5,500 to Aaron Burr!²³

But as against Burr this evidence is not as damning as it might seem on the face. There is still in the Company archives an engagement on the part of Burr to repay this sum of \$5,500 within two years, and a penal bond for double that amount.²⁴ Evidently, as far as Burr was concerned, the transaction was a loan, a favor no doubt resulting from his services to the Company, but nevertheless not in the category of a direct bribe. Of this sum, \$2,050 was paid on his order direct to Buckley and Dayton for his account — another strong bit of evidence that in the eyes of all parties concerned, the loan was not considered in any wise reprehensible. The loan was never repaid, and the bond was eventually canceled in the general settlement of accounts between Burr and the Holland Company.

Judge Benson, of the Council of Revision, wrote to Cazenove in naive surprise over the final passage of the bill that "there has been such a combination of views, objects & interests not only wholly dissimilar but even directly opposed to each other in promoting or at least in acquiescing in this law as infinitely surpasses anything I have hitherto seen in the notable business of Legislation, as conducted with us. I believe that I may venture to assure you there is reason to suppose that the prevailing motive of some in agreeing to it was merely to disappoint others by depriving the Canal Company of a loan."²⁵

Meanwhile Burr was still bound on his unfortunate contract. He joined with Cazenove and other speculators in the same predicament to give James Wadsworth a power of attorney to seek possible purchasers in England or on the Continent for the undigested lands. Communications were poor, and the reports that filtered through seemed to indicate in 1798 that Wadsworth was on the verge of successfully negotiating the deal. But the Holland Company, in the person of Cazenove, was not disposed to wait. He pressed Burr for payment in accordance with the terms of his contract. This in spite of the fact that Burr had been chiefly instrumental in the passage of the Alien Tenure Bill.

Witbeck, who had given his bond for \$20,000 on Burr's behalf, became uneasy. His own credit was being affected by the outstanding obligation. He therefore insisted that Burr take up his bond, and on Burr's refusal, or inability to do so, applied directly to Cazenove. He finally became so importunate that Burr, with Cazenove's consent, took it up and offered Frederick Prevost's bond in its stead. Prevost, it must be remembered, was Burr's step-son, and by now had achieved a substantial position in the community. His bond was as good as, or better than, Witbeck's. Cazenove

accepted — there was also the mortgage on Burr's 20,000 acres in the Pennsylvania Population Company — and the switch was arranged; all other terms and conditions, it being agreed, to remain the same. Yet Cazenove was to claim to his Holland principals, and to others, that the change of bonds was a big favor to Burr and "large compensation for his efforts in behalf of the alien bill."²⁶ At least the claim was another indication that the loan of \$5,500 was not in the nature of a bribe.

Evidently by this time Cazenove and Burr were not on the friendliest of terms. Cazenove began to press for performance of the contract. Burr was unable to raise the necessary cash, and the supposed deal in Europe had fallen through. In December, 1798, Burr offered to return the lands and cancel the contract. Cazenove insisted on the penalty in addition. They parted without decision, to renew negotiations in May, 1799. It was finally agreed that the Holland Company would accept the return of the contract land; but that, in addition, Burr was to convey to it absolutely as and for damages the 20,000 acres of Presque Isle property. In exchange, the covenants of the contract were to be canceled, Prevost's bond given up, and certain advances made by Cazenove to Burr, described by the latter as "several thousand dollars," were to be included in the general settlement. These advances were without doubt the loan that had borne the suspicious earmarks of a bribe. The transaction was now closed.

But not from the political point of view. Cazenove talked — possibly to Hamilton, the legal counsel for the Company. Hamilton talked to others — including John B. Church, his brother-in-law. An election was in the offing. Church whispered and made derogatory remarks concerning Burr's probity, including something about bribes. Burr heard of the whispering campaign and promptly called Church out.

Troup wrote to King about it. "Mr. Church fought a duel yesterday with Col. Burr. A day or two ago Mr. Church in some company intimated that Burr had been bribed for his influence, whilst in the Legislature, to procure the passing of an act, permitting the Holland company to hold their lands. One of the company mentioned it to Burr. A challenge ensued. A duel was fought. Burr had a ball through his coat. Church escaped. After the first fire, and whilst the seconds were preparg to load a second time, Church declared he had been indiscreet and was sorry for it, and thus the affair ended. Church wanted proof of the charge — but it has long been believed."²⁷

And continued to be believed. Burr never explained in public.

It was not his custom. But later he wrote an unnamed friend a private account of the transaction, ending proudly: "This, sir, is the first time in my life that I have condescended . . . to refute a calumny. I leave it to my actions to speak for themselves, and to my character to confound the fictions of slander."²⁸ A very dangerous position indeed, for a professional politician!

A careful consideration of the facts discloses unquestionably that Burr had received no bribes or favors of any kind from the Holland Company. The final settlement of his affairs with Cazenove, in spite of Cazenove's own animadversions on the matter, contain all the essentials of a strict business deal. The Holland Company could have done no better in a court of law. Even had they foreclosed on their lien and called for a forfeiture of the bond, they would only have been entitled to the actual damage sustained. It is doubtful whether the return of their lands intact, in addition to absolute title to 20,000 acres belonging to Burr, was not a settlement entirely to their advantage. Burr's own account, when compared to the records of the Holland Company recently unearthed, seems fundamentally honest. Only in one particular does it err, and that is on a matter of dates. He claimed that the offer to switch bonds was made long after the passage of the Alien Act, when actually it occurred within a month.

But on another count Burr cannot escape unscathed. It was not exactly the best ethics for a member of the Legislature who was involved financially with an interested group seeking favors from that Legislature, to undertake the management of their cause on the floor of the House. Nor was the fact that he advised, or was only aware of, the consequent bribery and corruption, conducive to the highest political standards.

It must be confessed that others were tarred with the same brush, and in a far worse predicament. It was a remarkably venal Legislature. What of Thomas Morris, the manager of the bill on the floor of the Senate, of the State Attorney General, of other legislators who received direct and incontrovertible bribes? What of Alexander Hamilton himself, and Philip Schuyler, United States Senator, who openly bartered legislative enactments for the benefit of a monstrous bribe to their Canal Company? Burr was perhaps the least blameworthy of all in the whole shady transaction.

5. WATERING A BANK

New York City had long been suffering from a lack of water. It depended chiefly for its supply on a single pump in Chatham

Street, fed from a pond known as the "Collect," on the site where the Tombs, that gray, grim prison, now stands. In 1789 Edmund Randolph described the situation to his wife. "Good water is difficult to be found in this place, and the inhabitants are obliged to receive water for tea, and other purposes which do not admit brackish water, from hogshead brought about every day in drays."²⁹

This deficiency of water, coupled with the wretched sanitary arrangements then in vogue, lent itself readily to the rapid spread of epidemics. In 1795 yellow fever invaded New York City and caused 525 deaths; in 1798 it raged again with frightful virulence. Before the epidemic burnt itself out, 1,524 had died. Something quite evidently had to be done about the situation.

In the Legislative Session of 1799 Burr introduced a bill quietly into the Assembly entitled "An Act for Supplying the City of New-York with Pure and Wholesome Water." The Board of Directors of the prospective Corporation were Daniel Ludlow, John Watts, John B. Church, Brockholst Livingston, William Edgar, William Laight, Paschal N. Smith, Samuel Osgood, John Stevens, John Broome, John B. Coles, and — modestly last — Aaron Burr.

The purposes of this new incorporation, entitled the Manhattan Company, and capitalized at \$2,000,000, were obviously to fill a pressing need. It was to supply the City of New York with an adequate supply of water, and, in pursuance of this laudable endeavor, it was empowered to condemn land, erect dams, turn streams and rivers, dig canals and trenches, dykes and reservoirs, and lay pipes and conduits, "provided, That the said company shall, within ten years from the passing of this act, furnish and continue a supply of pure and wholesome water, sufficient for the use of all such citizens dwelling in the said city, as shall agree to take it on the terms to be demanded by the said company; in default whereof, the said corporation shall be dissolved."³⁰

Fair enough, highly laudable, and seemingly innocuous. But there was another innocent-seeming provision. And it was in connection with this appendage that Burr rose to the heights of political agility and finesse. It read: "And be it further enacted, That it shall and may be lawful for the said company to employ all such surplus capital as may belong or accrue to the said company in the purchase of public or other stock, or in any other monied transactions or operations not inconsistent with the constitution and laws of this state or of the United States, for the sole benefit of the said company."³¹

To understand the dynamite concealed in this rider, it is necessary to view the financial situation of New York at the time. There were two banks in the entire State — the Bank of New York, and a branch of the Bank of the United States. Both were wholly under Hamilton's domination, and exclusively Federalist in politics. They were powerful weapons in the Hamiltonian arsenal of tactics. Through them Federalist merchants were favored with loans and substantial accommodations in the necessary pursuits of their business, while merchants of Republican tendencies were politely informed that the banks were unable to extend them any credit. It may readily be seen that such a weapon, used with ruthlessness, might convert certain wavering merchants to the Federalist cause. And it *was* used with the necessary ruthlessness.

The Republicans tried in vain to break this strangling grip of the banks. The Legislature, under the control of a Federalist majority, refused point-blank to issue any new bank charters, especially to Republican incorporators. It was necessary, therefore, to employ guile. Burr was the master mind at this sort of thing. The idea of the Water Company was born. It was a public-spirited enterprise, and non-political. There would be no difficulty in ensuring its passage. The rider seemed mere surplusage. The fact that most of the incorporators and directors were Republicans did not penetrate the legislative mind. Was not John B. Church — he who was soon to meet Burr on the dueling field — Hamilton's own brother-in-law?

On March 28, 1799, the bill passed the Assembly quietly, without even the record of a vote.³² In the Senate Burr maneuvered the bill with such skill that, with the aid and assistance of unsuspecting Federalist Senators, it was referred to a select committee for consideration, instead of, as was usual, being placed before the entire Senate functioning as a committee of the whole. Davis contends that to this select committee of three Burr disclosed his intention to run a bank in connection with the chief business of the proposed corporation, or even possibly to form an East India Company for foreign trade.³³ This may or may not be so; there is no corroborating evidence.

But it is quite obvious that the generalty of the legislators, either in the Assembly or in the Senate, knew nothing of these intentions. The committee reported the bill favorably, and it passed the Senate. But in the Council of Revision, to which all bills must be sent for approval, the Chief Justice smelled a rat. He objected to the charter on the ground of that added novel and unusual clause, justly foreseeing the uses to which it might be put.

Nevertheless he was overruled in the Council, and the bill became a law on April 2, 1799.

The Chief Justice was right. There was a rush to subscribe to the stock of the Manhattan Company, mainly by Republicans, and almost immediately the Bank of the Manhattan Company blossomed into existence. Burr's tactics had been eminently successful, and now, equally with the Federalists, the Republicans had their bank where accommodations might be obtained by Republican merchants and well-wishers. No longer could Federalist control of credit act as a political force in New York elections. The bank flourished and waxed mightily, like the proverbial green bay tree, and to this day it is a great and respected institution in the City of New York.

The Federalists rubbed their eyes and shouted treachery from the housetops. The members of the Legislature, that is, those of the Federalist persuasion, proclaimed that they had been tricked and deceived by the slippery Colonel Burr. An inflammatory pamphlet circulated, crying the deception, and maintaining with considerable vehemence that the bank was to be a party machine, ministering solely to the personal ambition of Mr. Burr. Nothing of course was said about the similar management of the existing Bank of New York and of the branch of the Bank of the United States, a supposedly governmental institution.

The Federalists lashed themselves into a veritable frenzy. Their best weapon had been taken away from them. Troup, that irrepressible purveyor of news to the distant envoy to England, hastened to inform him that "the most respectable mercantile & monied interests in the City are decidedly opposed to the measure . . . I have no doubt that if the company carry their schemes into effect they will contribute powerfully to increase that bloated state of credit which has of late essentially injured us by repeated & heavy bankruptcies."³⁴ He, too, forgot to mention that the "bloated state of credit" he decried was the sole doing of the Federalist banks, or that the Republican merchants were lean enough in all conscience.

But an election to the Assembly was impending, and the incorporation of the Manhattan Company was a splendid political weapon in the hands of the Federalists. As a result, many Republican artisans, uneasy in the presence of any bank, which they had been taught by Jefferson to consider as the invention of the devil himself, and standing to gain nothing from the new reservoir of credit, hearkened to the stream of propaganda, and voted the Federalist ticket. Darker tactics also were employed. Burr, a can-

didate for reelection to the Assembly, and the whole Republican slate in New York City, went down to defeat by an overwhelming majority of 900 votes. The Bank had proved a boomerang. Burr had miscalculated. There was political dynamite implicit in the charter, and he should have waited until *after* the election for the incorporation.

Like most of the acts of Burr's life, this episode has remained clouded in suspicion and misunderstanding. The Federalist thesis of double-dealing, chicanery and slippery morality on the part of Burr has been accepted in the main by his biographers. Especially do they feel that it was a shabby trick to promise the pest-ridden City of New York a pure water supply, and then cynically to foist a bank on the community instead.³⁵

The first part of the thesis must fall of its own weight. The trick in the establishment of the bank — and trick no doubt it was — was well within the realm of the permissible in practical politics. The Federalists had their banks; they had used them as political weapons to favor their own followers; they had refused to permit the granting of any further charters. The Republican bank *per se* was not tainted with wrongdoing — it was and continued to be a legitimate business enterprise — and Burr was well within his rights to achieve it by the means he did. There had been no bribery, no corruption, such as had tainted the Holland Company affair. The Chief Justice had recognized the implications of the offending clause, yet the bill had passed. Burr had simply outmaneuvered and outsmarted his duller opponents.

The second part of the thesis — that the health of the people of New York had been used as a political football — is of graver import and must be examined. Evidently no one has done so before. It has always been considered that the Manhattan Company either did nothing at all about the expressed purposes of the charter, or did only sufficient to keep within the mandatory provisions — and no more. The records, however, are emphatically to the contrary.

When the Bank of the Manhattan Company commenced operations, the main business of the company was not thereupon side-tracked. It was attended to in earnest and serious fashion, and with all possible speed. As soon as the Charter went into effect, a Committee was appointed by the Board of Directors to study the situation. The Committee consisted of John B. Coles, Samuel Osgood and John Stevens. They reported to the Company before the end of the year (though the charter permitted a ten-year grace period) that "we must depend altogether on the supply which a

well, or wells, sunk in the vicinity of the city, are capable of furnishing. On this head there is, however, every reason to believe the Springs which supply Water to the Tea-Water Pump and to the Collect are very copious, and may probably be adequate to the supply of Water for culinary purposes, at least. But in order to distribute the Water, thus procured, into the several quarters of the city, it will be necessary to raise it by some sort of Machinery." A "Steam Engine," in fact, was essential, and inquiries as to terms had already been made of a "Mr. Nicholas Roosevelt, of Second River." His terms, it seemed, were satisfactory, and the Committee advised their acceptance. They felt able, by the next winter, to supply 2,000 houses with an abundant supply of water at the rate of \$8 per house. The Committee then proceeded to delve thoroughly into the question of piping, and after much deliberation and consideration of technical data, decided in favor of wooden pipes over those made of iron. There would be a considerable delay in the manufacture of iron piping (though the charter permitted them ten years), and the additional expense would have to be charged against the householders in the water rates. Furthermore, iron, in the existing state of its metallurgy, was generally an unsatisfactory metal for the purpose. The mains were to be laid "Down the Broad-way to the Government House, down Beekman-street, and down Wall Street," a distance of 2,970 yards. A reservoir was to be dug from wells near the "Collect," and estimates for all of these jobs were appended to the report.³⁶

The work went on, with all the resources available at the time. Burr took an active part; so active that much later, while in exile, he was able to give advice to Swedish engineers on the feasibility of draining a lake, and to remark that "they bore logs (for conduit pipes) by hand with an auger, having no such machine as we used at New York for the Manhattan works."³⁷

On March 25, 1808, long after Burr had been dissociated from the Company, a supplementary Act passed the New York Legislature giving the Manhattan Company the right to sell to the City of New York "all their . . . water works, pipes, conduits, canals, and all matters and things appertaining to the same, and the real estate appurtenant to the said works, and also all their right to supply the said City with water," and permitting the Company to continue in existence as a purely banking corporation.³⁸

It was not until 1835 that the supply of water through the facilities of the old Manhattan Company was finally deemed inadequate. The Commissioners then reported that their water was still being furnished at an average rate of \$9.63 per household. It

must be remembered that the City had far outgrown its original limits, and that by 1835, the science of engineering hydraulics had made appreciable advances. It is a tribute to the founders of the Manhattan Company that their system had taken so long to become antiquated.

6. THE POT AND THE KETTLE

In 1799, however, the uproar continued unabated, cleverly fed by the Federalist politicians. Robert Troup's letters are illuminating as to the tactics employed. "Burr has for two years past been a member of the assembly & by his arts & intrigues he has done a great deal towards revolutionizing the state. It became an object of primary & essential importance to put him & his party to flight. The Manhattan company bill . . . gave not a little strength to our opposition against him. The election was the most animated I have ever experienced. All men of property & respectability stood forth, and appeared to act as if they were persuaded that every thing valuable in society depended on the success of their efforts. The merchants in particular were zealous & active. The consequence was that we have obtained a glorious triumph."³⁹

On June 5, 1799, he was forwarding additional information to the effect that the news of the new bank "has seriously alarmed the two existg banks — and induced them to curtail their discounts very considerably." It was a political method of bringing pressure to bear upon the New York merchants, as the sequel seems to show. For, Troup continues, "the opposition given to this company by the great body of our monied & mercantile interests is astonishing . . . The odium it has caused against Burr had a powerful tendency durg the election to oust him & his partisans . . . We have at last prevailed upon the merchants to exert themselves. In the last election they were essentially useful. *They told the cartmen that such of them as supported the democratic ticket would be dismissed from their employ. The consequence was we had a strong support from the cartmen . . . Mr. John Murray spent one whole day at the poll of the Sevth Ward sometimes called the cartmen's ward or the Livingston's stronghold — and his presence operated like a charm . . .*

"We have received congratulations upon [the election] from various parts of the state and of the continent. It is considered as forming a new era in the annals of federal politics. If Burr had continued two or three sessions more in our Legislature it is a pretty

prevalent opinion that he would have disorganized the whole state." 40

These astounding revelations of the inner workings of the Federalist campaign are made by Troup with the most obvious approval of the tactics employed. No angry howl went up from the respectable and the great in the party councils. They were eminently right and proper. Yet these were the men who called Aaron Burr unprincipled, without virtue, ambitious, immoral, unscrupulous — indeed, every epithet within the resources of political and personal invective! Which proves merely that politics is an ancient institution, and has changed but little in the course of centuries.

Aaron Burr was defeated, and his Republican cohorts with him. It was a clean sweep, and Federalist hopes rose throughout the country. The most dangerous exponent of Republicanism in the nation had been crushed, seemingly for all time. New York was solidly in the Federalist column; only an earthquake could alter the political situation within the short course of a year. In 1800 there would be a Presidential election. John Adams — or Pinckney — was already as good as elected. No wonder they showered congratulations upon victorious Hamilton, Schuyler, Troup *et al.*

Nevertheless Aaron Burr was to furnish just that earthquake. For the last time they had underestimated his resources, his essential resilience of mind and body, his subtle brain and imperturbable aplomb, his inability to confess defeat. They were never to make that mistake again.

CHAPTER XIII

THE SECOND AMERICAN REVOLUTION

1. BURR DRAFTS A TICKET

THE Republicans — in the person of Jefferson — had fallen just short of ousting Adams from the Presidency in the election of 1796. During the four year interim they had been busy strengthening their organization by constant correspondence, agitation, and pamphleteering. The economic discontent had deepened and widened among those classes to whom the Republican appeal was especially directed — the farmer and the "proletariat" of the towns. Some of the shippers and merchants, even, had become amenable to their gospel — notably those whose ships and cargoes had been seized by the British on the high seas.

But these advantages were to a large extent offset by the unacknowledged war with France, to which Revolutionary country the Republicans had somewhat too enthusiastically hitched their wagon. From the offensive they were compelled to pass to the defensive; only Burr had been clever enough to avoid the issue by his stand on armaments.

The Federalists, however, had lost this tactical advantage by their advocacy and passage of the unpopular Alien and Sedition Acts. The Republicans quickly seized upon the issue that had been thus thrust into their hands. They raised lusty cries about the freedom of the press, the rights of personal liberty. They inveighed against the aristocrats and the moneyed classes who held the poor farmer in subjection. For the moment, the issue of France versus England was considerably soft-pedaled.

The Federalists, on the other hand, rallied *their* stalwarts — the holders of public securities, the investors in bank and industrial stocks, the large shipowners and manufacturers, the New England clergy. A campaign of unprecedented bitterness and hate was in the making. A war between alien nations could not have been attended with more vicious propaganda, with greater outbursts of passion. Federalist and Republican avoided each other in the street or at private gatherings; to the Republican, the Federalist was a monarchist, a swollen creature of money-bags not unlike the caricatured Wall Street banker of later years; to