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War, Peace, and Trade Management in Jefferson's Second Administration, 1805–9

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intensified and evolved into an economic struggle between continental power France and naval power Great Britain. The United States was caught in between these two powers, with severe consequences for American political policy and economy. Jefferson's responses to these new circumstances exacerbated these complications. The embargo of 1807 attempted to compel changes in British and French trade laws by reviving the successful boycott strategy of the 1760s and early 1770s against British colonial policy. In theory, denying access to American exports would pressure domestic interests in those countries to advocate for the changes in trade laws that the U.S. government could not find through negotiation. Thus, the embargo was designed to be a moderate measure, balancing the desire to preserve peace while advancing the national interest in a time of conflict. However, a combination of American financial distress and domestic opposition to the embargo made Jefferson's position in between war and peace unsustainable. The cost of this effort was not only monetary. Efforts to enforce the embargo extracted a terrible cost in domestic discord and, perhaps most importantly, limited the ability of the U.S. government to use trade restrictions as a viable tool of diplomacy.

In his second inaugural address in March 1805, Jefferson noted with satisfaction that the United States "endeavored to cultivate the friendship of all nations . . . and cherished mutual interests and intercourse on fair and equal terms."[1] Peace and trade abroad supported Jefferson's domestic agenda as well. The scourge of internal taxes could be avoided through a combination of frugality and revenues derived from taxes placed on imports, which were "paid cheerfully by those who can afford to add foreign luxuries to domestic comforts."[2] The address encapsulated the Jeffersonian ideal, which rested on two basic premises. First, that the true strength of the new American republic laid in the yeoman farmer; those who tilled the soil to provide a self-sufficient livelihood for them and their family. The second, but less remembered premise, was that the surplus agricultural production of the United States could be exchanged with the rest of the Atlantic world, both as a benefit to agriculture but also to provide customs revenue to the federal coffers. The result was the reduction or elimination of internal taxation—as well as the bureaucratic structure required to support internal taxation.

Studies of Jeffersonian political economy, such as Drew R. McCoy's *The Elusive Republic* and Doron S. Ben-Atar's *The Origins of Jeffersonian Commercial Policy and Diplomacy* draw attention to the philosophical debate among Jeffersonians over the appropriate relationship between the economy, foreign trade, and the republic.[3] Superficially, this appeared to be a stable system that benefited everyone: American farmers and merchants profited from access to foreign markets, the American treasury benefited from the expanding customs revenues, and even British merchants benefited from access to American consumintensified and evolved into an economic struggle between continental power France and naval power Great Britain. The United States was caught in between these two powers, with severe consequences for American political policy and economy. Jefferson's responses to these new circumstances exacerbated these complications. The embargo of 1807 attempted to compel changes in British and French trade laws by reviving the successful boycott strategy of the 1760s and early 1770s against British colonial policy. In theory, denying access to American exports would pressure domestic interests in those countries to advocate for the changes in trade laws that the U.S. government could not find through negotiation. Thus, the embargo was designed to be a moderate measure, balancing the desire to preserve peace while advancing the national interest in a time of conflict. However, a combination of American financial distress and domestic opposition to the embargo made Jefferson's position in between war and peace unsustainable. The cost of this effort was not only monetary. Efforts to enforce the embargo extracted a terrible cost in domestic discord and, perhaps most importantly, limited the ability of the U.S. government to use trade restrictions as a viable tool of diplomacy.

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The primary point of conflict between the United States and Great Britain in 1805 was not about American exports, but rather the carrying trade. The carrying trade, which denoted the produce of a belligerent power being transported under the flag of a neutral nation, allowed American traders to ship commodities from the French West Indies to Europe. If the goods were first landed in the United States, they would be "naturalized" as American goods. This is known as the "broken voyage" rule. As French power expanded in continental Europe and British naval power destroyed the capacity of France to maintain a presence at sea, economic warfare between the two powers was inevitable. In July 1805, a British court ruled in the Essex decision that the broken voyage rule that allowed for the American carrying trade between France and the rest of the world was illegal.[4]

For James Stephens, a British writer with extensive connections to the British government and Admiralty, the neutral trade with France was a violation of Britain's rights as a belligerent power. The exact rules governing neutral trade during the early nineteenth century were unclear and were often interpreted and reinterpreted depending on the changing circumstances. Stephens argued that American trade between France and French colonies in the Caribbean was an illegal breach of Britain's blockade because it was illegal for American ships to conduct that trade in peacetime. Known as "the rule of '56," this unilateral policy attempted to manage neutral trade based on a broad application of policy rather than the actual content of each ship's cargo. In Stephens's analysis, American trade with France was really French trade hidden behind the neutral flag of the United States. Earlier wars between France and Great Britain saw British sea power transfer French colonial holdings from an asset to an expensive liability. American interference allowed France to enjoy the benefits of a colonial empire without paying to sustain a navy or merchant marine. Therefore, according to Stephens, Britain was justified in interdicting neutral trade with France as a means of prosecuting the war by starving the French treasury of funds.[5]

An analysis of the actual content of trade goods lends support to Stephens's accusations. A majority of exports from the United States to Great Britain were agricultural products and other produce of the United States. However, the vast majority of U.S. exports to France and the rest of continental Europe consisted of foreign products transported by American shipping.[6] The conflation of American produce and the carrying trade provoked criticism in the United States as well as in Great Britain. The carrying trade, according to the American pamphleteer known by the pseudonym Columella, was positively dangerous to Americans. In 1806, Columella wrote that "there are foul vices growing and flourishing among us, and they deserve to be vigorously struck at. Those who, by their unlawful procedures . . . have implicated their country in a dispute with which the community in general has not immediate concern, except the dread that its consequences may be generally ruinous."[7] In essence, tying together domestic- and foreign-sourced commerce threatened to embroil the entire United States in a conflict for the benefit of a small handful of merchants.

The U.S. government provided an entirely different analysis of the question. In a response to *War in Disguise*, Secretary of State James Madison wrote that neutral trade should not be interfered with because neutrals form "a trade auxiliary to his prosperity and his revenue" by "liberating his naval facilities for war." Not only was American trade beneficial for Great Britain, Madison's interpretation of the ill-defined international laws governing neutral trade did not allow for a belligerent power to interdict that trade unless the vessel was carrying instruments of war or was entering into a besieged port. Any further control of trade between a neutral and a belligerent power was illegal, and British efforts to redefine belligerent and neutral rights to constrain American carrying trade to serve British interests were illegitimate.[8] In Madison's interpretation, international law protected international trade except in cases of a strict blockade of individual enemy ports and a narrow definition of contraband. Trade interdiction should be a case by case system of management rather than a broad statement of general policy as advocated by Stephens. The broad statement of principle was underlain by a vested interest in liberal trade laws. Congressman Timothy Pitkin of Connecticut drew on treasury records for his 1817 book, *A Statistical View of the Commerce of the United States*. In his calculations, the average value of exports for American-produced goods from 1805 to 1807 amounted to $44.8 million while the reexport of foreign-produced goods averaged $57.7 million during the same time period.[9]

The *Essex* decision in 1805 and the theoretical arguments between James Stephens and James Madison signaled a fundamental intellectual shift in the treatment of neutral trade in wartime. Jefferson's hostility toward British trade policies and desire to promote American economic interests resulted in the first of several laws that attempted to use economic policy to influence British treatment of the United States in 1806. In that year, Congress passed a limited nonimportation act against British trade. However, this act only controlled the importation of a few goods of little consequence and did not take effect until November 1807. In addition, British colonial imports were excluded from the act.[10] These half measures were overtaken by changes in Europe as Napoleonic expansion in Europe and the growing superiority of the Royal Navy combined to dramatically change the nature of the Napoleonic Wars.

Napoleon Bonaparte's Berlin Decree in November 1806 marked the beginning of systemic economic warfare between France and Great Britain. From 1793 to 1806, the relative balance of naval power between Britain and France, as well as the existence of other neutral trading partners, limited interference with U.S. trade; however, the intensifying war left the United States and its trade interests vulnerable to the larger powers even as the federal government attempted to assert American commercial rights. The declaration of economic warfare officially inaugurated a regime of reciprocal measures by Britain and France designed to bankrupt their enemy and thus destroy their fiscal capacity to conduct war. Under the terms of the decree, Great Britain was declared blockaded, all ships and goods from Britain or its colonies were subject to seizure, and any trading vessel that called on a port within the British Empire was refused access to any continental market under French control.[11] In reprisal, the British government issued the Orders in Council of January 1807, under which the whole of Europe was declared blockaded unless trade was undertaken by British merchant ships. Under Napoleon's decrees, any neutral merchant vessel obeying British regulations could be seized under French law. Under British law, any merchant vessel obeying French regulations could be seized by the Royal Navy. The competing trade restrictions created a precarious position for the United States and increased tensions with both Britain and Napoleonic Europe.

The impressment crisis provided the foundation for a new course in American diplomacy. Britain asserted the right to stop and search U.S. merchant ships for deserters from the Royal Navy. This practice caused consternation in the United States, even among those who otherwise supported trade with Britain and opposed Jefferson politically. A memorial from the New Haven Chamber of Commerce was typical for most New England port cities and merchant interests. The chamber expressed outrage at British interference with American trade and "the unwarrantable impressment of seamen" and expressed the willingness of the chamber to support "every measure of government calculated to accomplish this important object."[12] In June 1807, the HMS *Leopard* (1790) caused an international scandal by firing on the USS *Chesapeake* (1799) in an effort to recover four British deserters. Three men were killed and 16 wounded and all four alleged deserters were taken aboard the *Leopard*.[13] The outrage on both sides caused Britain to disavow the action and return the three surviving sailors, but the incident soured Anglo-American relations at a critical time. President Jefferson had concluded that the limited nonimportation law was an ineffective tool to influence British or French policies on trade restrictions, neutral rights, or impressments, and the *Leopard* incident gave him the political capital to call for a new approach.

Firing on the *Chesapeake* could have been considered an act of war. Despite public outrage, Jefferson decided on a more moderate course of action. The Embargo Act of 1807 reflected Jefferson's belief that the importance of American trade to the European belligerents would cause a change in trade policy if that trade was threatened. Under the terms of the embargo, the United States would not engage in foreign trade until its rights as a neutral power were respected by Britain and France. An embargo was a moderate step that avoided —at least temporarily—the possibility of open war.[14] In theory, depriving the British Royal Navy of American naval stores, the British West Indies of American provisions, and the French the products of the carrying trade would change the policies that restricted American trade opportunities.[15]

Potentially, the embargo could have been a pragmatic response to a volatile situation. Although the American public may have supported a declaration of war, the means to pursue war were lacking. The possibility of war in 1807 drew attention to the inability of the U.S. government to pay for a potential war with Britain. In the fall of 1807, Treasury Secretary Albert Gallatin informed Congress that the only way a war could be funded was through loans and investment in government securities by capitalists whose money would be idle under the embargo law.[16] The United States lacked an adequate system of internal taxation to support conflict in the absence of substantial private investments into the war effort. Therefore, the embargo was a safer policy than war.

Jefferson's policy was a combination of the memories of the successful boycotts against British colonial trade management in the 1760s and 1770s. Popular action against colonial taxation policies, such as the Stamp Act in 1765, caused changes in British policy based on the negative effect on the British economy due to the lack of American markets. Jefferson's viewpoints on the political power of economic policies were influenced by this background. As the historian Doron Ben-Atar notes, the embargo was the "culmination of Jefferson's long-held commercial views" that "American commerce could be used as an instrument for forcing the belligerent nations to do America justice and to respect the republic's honor." In this assessment, the Embargo Act was the product of a genuine ideological stance that saw little value in merchants in general and of British merchants in particular.[17]

In his 1807 *Report on the State of Finances*, Treasury Secretary Gallatin clarified the basic principles of Jeffersonian Republican fiscal policy. In all circumstances, sufficient revenue must be collected to fund the peacetime establishment, pay interest on existing debt, and the interest on any debt sustained as a result of war expenses. Further, loans were preferable to increased taxation in the case of extraordinary expenses, as loans were the product of accumulated capital rather than a burden on citizens. Under this theory, the need for revenue to cover interest payments would grow as a potential war progressed. Gallatin expressed hope that "loans to a reasonable amount may be obtained on eligible terms."[18] Gallatin's report reflects a hope based on a hypothetical course of action rather than an existing system of finance.

Satisfaction on questions of interference with American trade in Europe was not forthcoming from Great Britain or France. Subsequent British Orders in Council in November and December 1807 prohibited all neutral trade with Europe unless the vessel first entered a British port.[19] Napoleon's first Milan Decree of November 1807 further stipulated that British goods on any vessel, or the cargo of any vessel that stopped at a British port trading with Europe, should be confiscated as contraband.[20] The second Milan Decree the next month stipulated that any trading vessel that submitted to British inspection on the high seas, visited Britain, or paid any British duties were declared British property for purposes of French law.[21] In essence, by the end of 1807, the combined actions of the two major European powers effectively made neutral trade illegal. Whether American pressure would be adequate to compel a change in these circumstances was unproven.

Many British merchants noted the public benefits of accommodating American demands. Alexander Baring, a prominent merchant and banker with close ties to Philadelphia's banking community, noted that the true beneficiary of increased American trade with Europe was actually Great Britain. The trade surplus Britain had with the United States covered the trade deficit with other trading partners. Even more importantly, the trade surplus enabled Great Britain to sustain the war effort against Napoleon:

> I [Baring] have shewn, that, even supposing the cordial co-operation of America in the execution of the Orders in council, there would be a diminution of our receipts from the continent of four or five millions sterling. The moderate state of our foreign exchanges for some time past, shews how much we want this large aid, which our American connection indirectly afforded. . . . In this manner we have paid to a considerable extent, for the support of our fleets and armies in the Mediterranean and the Baltic, and by sending our manufactures to America; a circumstance which must be easily understood by those who know the effect of the general circulation of exchanges, and that bills are frequently drawn in Paris, or Madrid, whilst the real transaction in merchandize, which gave rise to them may have taken place in Russia or in India.[22]

Baring's argument echoes that of Jefferson. The value of American trade to the British economy—and therefore the British war effort—was of such importance that concessions on the Orders in Council would ultimately benefit Great Britain. In addition, the actual source of the trade surplus was resources drawn out of Europe via neutral American trade. Thus, every exchange not only contributed to the British economy but also diminished Napoleon's resources at the same time.

While British merchants criticized British policies, Americans reacted with outrage toward Jefferson. The Boston Chamber of Commerce supported protests against impressment by the Royal Navy and also warned that "the habits of the country so long and firmly established, could not be suddenly changed, without producing consequences the most distressing and destructive."[23] Boston's opposition to trade restrictions was typical for New England port cities that relied on foreign trade for economic survival. The goal was the protection for trade, not an embargo of undefined duration.

The total embargo transformed an international political dispute on neutral trade regulations into a de facto referendum on Jefferson's scheme of political economy and on the strength of the federal government. The cost of the embargo was not just monetary. The American authorities' efforts to enforce the embargo failed. Even the introduction of extraordinary measures, including the use of military force, had little effect.[24] In a perverse twist of fate, the Jeffersonians found themselves in a similar position as the British government during the boycotts of the 1760s and 1770s. Coercing an unwilling population to participate in economically self-destructive behaviors did not work. Efforts to compel obedience to the law only made the situation worse as open defiance became the norm.

From the first debates in Congress, there was a healthy skepticism that the law could or should actually be enforced. Enforcement of the Embargo Act was almost impossible due to the lack of an internal road network and the reliance on sea communications to transport goods for domestic markets. The original incarnation of the law did not function as designed, so the Jefferson administration continuously modified the law as gaps in the embargo policy manifested themselves. In one modification, Jefferson attempted to enforce the embargo by inserting a provision into the law requiring the masters of all vessels clearing American ports to post a bond equal to double the value of the vessel and cargo.[25] A new provision added to the law in January 1808 stipulated that all fishing vessels leaving port were required to post a bond amounting to four times the value of the vessel and cargo to ensure that the ship would not enter a foreign harbor. These measures proved to be inadequate.

The practical problems of enforcement did not hinder Congress from enacting even more stringent regulations. An April 1808 addition to the law mandated that any vessel leaving an American harbor must load all cargo under the supervision of revenue officers. A further requirement was imposed on all masters and mates of trading ships to provide proof to the customs service at their port of embarkation that the cargo had been landed in an American port within four months.[26] The period was later reduced to two months, and provisions were added in January 1809 to allow the president to employ military force to uphold the embargo and to suppress any riots against the trade laws, to seize any ships, carts, and goods if there was "the intent to export . . . or with the intent in any other manner to evade the acts [the Embargo Acts] to which this is a supplement" and empowering customs officials to refuse to allow any goods to be loaded on a trading vessel if in their judgment "there is an intention to violate the embargo."[27]

The statutes reinforcing the Embargo Act represented another transfer of virtually unchallenged power to the federal bureaucracy. Prosecution for violating the embargo and the confiscation of private property was now possible based on the opinion of customs officials about what a citizen might do rather than proof of any crime. Realistically, there were difficulties for this scheme. As Gautham Rao's book *National Duties* persuasively argues, seaborne commerce was aided by a malleable customs enforcement structure that favored merchant interests rather than national policies restricting trade. The customs houses functioned as a negotiated space between merchants and federal officials, rendering customs collections a cooperative rather than adversarial relationship.[28] Even if the appropriate enabling legislation existed, a reliable enforcement mechanism for the unpopular law through the customary civilian legal structure did not exist.

Ineffectual enforcement, domestic opposition, and the lack of apparent effect on British or French policies created three challenges for Jefferson's embargo. Even more serious was the effect of the law on the nation's fiscal condition. Income from customs duties provided approximately 96 percent of government revenues in fiscal year (FY) 1807.[29] Treasury Secretary Gallatin's December 1808 report to Congress noted that "if the embargo and suspension of commerce shall be continued, the revenue arising from commerce will, in a short time, entirely disappear."[30] From FY 1808 to FY 1809, federal tax revenues fell by more than 50 percent, and a budget surplus of $7 million became a deficit of $2.5 million.[31] This loss would be unsustainable unless a radically new and politically unsustainable program of internal taxation was created to fund government operations.

President Jefferson's eighth annual address to Congress in November 1808 signaled the end of the embargo. Although neither Great Britain nor France rescinded the trade regulations that led to the embargo, Jefferson attempted to claim that the benefits of the law outweighed the costs. The experiment failed to extract concessions from foreign powers, but the protection offered to American seamen from impressment and property from seizure was an adequate repayment for the privations caused by the law.[32] In essence, this protection was bought at the price of idling a lucrative sector of the American economy, capital resources, and widespread unemployment for laborers in a multitude of trade-related occupations. Historians have been far less kind in their assessment of Jefferson. The embargo's actual impact on France and Great Britain was negligible. As a practical matter, the Royal Navy already succeeded in interdicting direct trade between France and its colonies; according to historian Bradford Perkins, Napoleon saw little value in the produce of the few remaining colonies. In Britain, the embargo caused a rise in the price of grain and caused disruption in a few minor elements of the economy, such as linen production, but the ultimate victim of the American embargo was the United States.[33] According to Douglass C. North, the embargo caused a "collapse in domestic prices and wide spread unemployment."[34] According to Reginald Horsman, the Embargo Act "shattered American trade and finances, created bitter internal opposition, and left no possibility of stepping up the pressure on Great Britain by further escalation of the economic measures."[35] The subsequent failure of more incremental trade restrictions from 1809 through the start of the War of 1812 outline the post-embargo difficulties of using economic pressure as a tool of international diplomacy without causing even greater harm to the United States.

Jefferson's second administration managed foreign policy, domestic interests, and trade between multiple competing pressures with few obvious answers and no easy solutions. The United States was trapped as a neutral trading power between France and Great Britain as the Napoleonic Wars transitioned from a classical eighteenth-century conception of limited war to a long-reaching system of economic warfare between two contending world powers. The legislation succeeded in preserving the peace at a time when war was a possible outcome of the *Chesapeake-Leopard* incident. The potential costs of that conflict are unknowable. The policy attempted to create an ideal solution for multiple problems; however, the law's effectiveness was hamstrung by popular resistance and the need for customs revenues required to sustain Jefferson's conception of domestic political economy. The moderate policy extracted its own costs, not only in treasure but also in internal dissent and the lesson that American trade legislation was not an effective tool for international diplomacy.

Notes

1. Thomas Jefferson, "Second Inaugural Address" (speech, Washington, DC, 4 March 1805).
2. Jefferson, "Second Inaugural Address."
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4. Reginald Horsman, *The Diplomacy of the New Republic, 1776–1815* (Arlington Heights, IL: Harlan Davidson, 1985), 97.
5. James Stephen, *War in Disguise; or, The Frauds of the Neutral Flags* (New York: Hopkins and Seymour, 1806), 8–13.
6. "Speech of President Washington," 25 October 1791, American State Papers: Foreign Affairs 1:16–18; American State Papers: Commerce and Navigation: 1:543; American State Papers: Commerce and Navigation 1:590–91; and American State Papers: Commerce and Navigation 1:671. Commerce between the United States and Great Britain transported on American ships from 1803–5 averaged approximately 86 percent of U.S.-sourced products. France for 1803–5 averaged 36 percent of U.S.-sourced products, and in the most extreme case, the Netherlands (then under Napoleonic control)

averaged 28 percent of U.S.-sourced products. Volume of trade to continental Europe also increased steadily during the three-year period.

7. Columella, *An Inquiry into the Effects of Our Foreign Carrying Trade upon the Agriculture, Population, and Morals of the Country* (New York: D. and G. Bruce, 1806), 30.
8. James Madison, *A Memoir, Containing an Examination of British Doctrine, which Subjects to Capture a Neutral Trade, Not Open in Time of Peace* (Washington, DC: Smith, 1806), 6–7.
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11. Eli F. Heckscher, *The Continental System: An Economic Interpretation* (Oxford: Clarendon Press, 1922), 91.
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13. Donald R. Hickey, *The War of 1812*: *A Forgotten Conflict*, Bicentennial ed. (Champaign: University of Illinois Press, 2012), 16.
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15. Bradford Perkins, *Prologue to War: England and the United States, 1805–1812* (Berkeley: University of California Press, 1961), 152.
16. Alexander S. Balinksy, "Gallatin's Theory of War Finance," *William and Mary Quarterly* 16, no. 1 (January 1959): 73–82.
17. Ben-Atar, *The Origins of Jeffersonian Commercial Policy and Diplomacy*, 165–67.
18. Albert Gallatin, "State of the Finances," 7 November 1807, American State Papers: Finance 2, 248–49.
19. Heckscher, *The Continental System*, 117.
20. Heckscher, *The Continental System*, 91.
21. Heckscher, *The Continental System*, 124.
22. Alexander Baring, *An Inquiry into the Consequences of the Orders in Council; and an Examination of the Conduct of Great Britain towards the Neutral Commerce of America*, 2d ed. (London: J. M. Richardson, 1808), 155–56. See also "A Merchant of the Old School," in *War with America. The Crisis of the Dispute with the United States: Being an Exposition of the Points, Political and Commercial, Now at Issue between the Two Governments; In a Series of Three Letters. Addressed to His Royal Highness the Prince Regent; by a Celebrated Public Writer; with an Explanatory Preface, by a Merchant of the Old School* (London: Richard Taylor, 1811).
23. "Remonstrance of Massachusetts against the Embargo Laws," 27 February 1809, American State Papers: Commerce and Navigation 1:776.
24. *An Act to Enforce and Make More Effectual an Act, Entitled, An Act Laying an Embargo on All Ships and Vessels in the Ports and Harbors of the United States* (Washington, DC: John W. Scott, 1809); Thomas Jefferson, *Message from the President of the United States Communicating a Copy of His Proclamation Issued in Consequence of the Opposition in the Neighborhood of Lake Champlain to the Laws Laying an Embargo* (Washington, DC: A. & G. Way, 1808); Harvey Strum, "Smuggling in the War of 1812," *History Today* 29, no. 8 (August 1979); and Robert W. Coakley, *The Role of Federal Military Forces in Domestic Disorders, 1789–1878* (Washington, DC: Center of Military History, U.S. Army, 1988).
25. Thomas Jefferson, *The Embargo Laws* (Boston: Cushing, 1807), 3–4.
26. Jefferson, *The Embargo Laws*, 9–14.
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29. "A General Statement of the Annual Receipts of the United States, from the Commencement of the Present Government, to the 31st December, 1807," American State Papers: Finance 2:319. Receipts from customs duties: $15,845,521.61. Amount from all other sources (liquor taxes, direct taxes, postage, land sales, and other fees): $523,205.58.
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34. Douglass C. North, *The Economic Growth of the United States, 1790–1860* (New York: W. W. Norton, 1966), 55.
35. Horsman, *The Diplomacy of the New Republic*, 109.