CHAPTER 5

Law and Foreign Policy in the Federalist Era
(1789–1801)

5.1 Towards the Neutrality Proclamation: Hamilton vs. Jefferson

Many historians have framed early American foreign relations by way of contrasting the philosophies of Alexander Hamilton and Thomas Jefferson. While there were a number of other important characters in this respect including John Adams, John Jay, James Madison and even Benjamin Franklin, none of them developed a coherent doctrine that would develop into a mainstream intellectual tradition in foreign relations. While Hamilton and Jefferson served together in the first Washington administration—as secretaries of the Treasury and of State, respectively—they were at the origins of party divisions in the United States, each of them espousing very different visions on how the new nation could best secure its future. Historians have therefore largely subscribed to the idea of distinguishing between Hamiltonian and Jeffersonian traditions, and have contributed to sharpening the differences between them.

The previous chapter showed that most of the early American statesmen and jurists believed that the law of nations had in one way or another been

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701 See e.g. Lawrence Kaplan, Colonies into Nation: American Diplomacy 1763–1801 (New York: The Macmillan Company, 1972) and Walter Russell Mead, Special Providence: American Foreign Policy and How It Changed the World (New York: Alfred A. Knopf, 2001), chs. 4, 6; After a brief review, Kaplan concludes that “[b]ut despite impressive disclaimers, the other statesmen of the period, even when the stamp of their personality is felt, are placed on a Jeffersonian or a Hamiltonian field rather than accorded separate ground of their own.” See Kaplan, Colonies into Nation, pp. 182–184.
incorporated into American law. Given the significant differences in political outlooks between Hamilton and Jefferson, one might expect that these differences would also reflect in their views on international law. The purpose here is to investigate whether this is the case and if so, to what extent. Studying Hamilton's and Jefferson's statements and policy advice will help to illustrate the importance which they attached to conducting foreign policy in terms of the law of nations, and how the law held up in the arena of policy-making. Making this subject particularly interesting is not only the fact that foreign policy, in the words of DeConde, “became the outstanding issue between the two national political parties which sprang into existence in [the late 1780s],” but also because by taking a neutral stance, the United States adopted a policy which eminently lend itself to being formulated and defended in terms of the law of nations. The question is then to what extent a policy that was predicated on the basic notion of survival could allow for differentiated interpretations of rights and obligations.

By drawing a general distinction between Hamiltonians and Jeffersonians, one can escape the simple dichotomy between realists and idealists. To begin with, these labels do not do justice to the complexities of the thinking of each of the standard-bearers of these groups, Hamilton and Jefferson. What is more, by drawing such absolute distinctions between them, no room is allowed for the parties to agree on issues. For instance, while both Hamilton and Jefferson dramatically differed over whether the best policy would be to balance against Britain or France, they agreed on the need to use balance-of-power principles to provide for the safety of the country. This chapter will therefore first sketch the main features of Hamilton's and Jefferson's political and legal thinking before studying the diplomatic issues that occupied the first two administrations.

One reason why Alexander Hamilton's political views differed so markedly from those of Thomas Jefferson relates to their personal origins. Unlike Jefferson, Hamilton was neither born in wealth nor into a southern plantation family. Having built up his career in New York City, his sympathies lay with the urban classes, manufacturing industries and the promotion of foreign trade. Philosophically, Hamilton shared the view espoused by Vattel, Pufendorf, Hobbes and others that “[s]elf-preservation is the first duty of a nation.”

According to Hamilton, securing the country's existence could best be achieved

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