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Todd Estes. *The Jay Treaty Debate, Public Opinion, and the Evolution of Early American Political Culture.*

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Review by Seth Cotlar, Willamette University

So as to avoid repeating what my fellow forum participants have said, I will not summarize Todd Estes's argument here. Rather I will identify and assess what I see as the most important arguments in the book and suggest some alternative interpretations that might be worth considering. I come to this review as a historian of popular political thought who has conducted most of my research in the newspapers and pamphlets of the 1790s. Hence, most of my comments will focus less on the diplomatic aspects of the Jay Treaty than on the arguments that Estes makes about the popular politics surrounding the debate over its ratification.

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This book's most important contribution is the way in which it complicates the standard interpretation of the Federalists as implacable elitists who were disdainful of public opinion. While Republicans certainly engaged in popular politics with far less ambivalence and with much greater success in the long run, Estes demonstrates that they did not have a monopoly on political strategies that involved cultivating public opinion and then using that popular support to legitimize their policy initiatives. This is a very useful corrective, but there are a few questions that remained unresolved for me that prevent me from consenting to this argument in its strongest form. Much of the evidence for Estes's argument about the Federalists' respect for public opinion, for example, took the form of newspaper pieces and public meetings in which Federalists flattered "the people" for their rationality and ability to see through the supposed demagoguery of the anti-treaty spokespeople. This practice of flattering "the people" on having the good sense to concur with their leaders, however, had been a feature of Anglo-American deferential politics for

decades. One of Hamilton's intellectual inspirations, David Hume, had noted before the American Revolution that public opinion constrained what political leaders could do, and in trying to shape the public's take on the Jay Treaty Hamilton was in many ways merely following this Humean dictate. Though Estes does not explore this contrast, it would be interesting to know how Hamilton's efforts during the Jay Treaty controversy differed from his politicking during the ratification debate. In both cases he and his compatriots sought to seed and shape public opinion in order to gain assent to an already-made political decision. There were certainly many people in the 1790s who were conceptualizing a more substantive role for public opinion in the political process, but they were in the Republican, not the Federalist, camp. As opposed to the experimental practices and theories of public opinion embraced by groups like the Democratic Republican Societies (which were in part inspired by similar practices embraced by the emerging democratic movements in Britain, Ireland, and France), the Federalists never viewed public opinion as something to be meaningfully consulted, rather it was always something to be suffered and, when necessary, shaped.

I don't think Estes would disagree with this assessment, but if this is the case then I wonder if 1795-6 is really a historically significant moment when the nation's Federalist ruling class developed a newfound appreciation for the political power of public opinion, or whether their actions were merely a continuation of existing practices with a few rhetorical updates? Perhaps it is simply the case that in the hiatus between the ratification of the Constitution and the emergence of a coherent and powerful opposition, Hamilton and his fellow Federalists were so assured of their control over the government that they felt no need to pay much attention to public opinion. If this is correct, then the most historically significant innovators of 1795 were the Republicans, and the Federalists come off looking more like the reactionary figures the older literature had told us they were, only we may now be willing to grant them a degree of improvisational creativity that we had not previously acknowledged.

Alongside this question of just how significantly Federalist political practices departed from what had preceded them, I also wondered whether the two parties engaged in the politics of public opinion in 1795-6 in ways that were more divergent than Estes lets on. Estes argues that Federalists engaged in the same forms of political culture as those developed by Republican organizers like John Beckley or Abraham Bishop. While this is true to some extent, I would argue that this surface similarity masks many key partisan differences that get short shrift in this book. Estes rightly points out that both parties organized public meetings and assiduously inserted their resolutions in newspapers across the country, yet he does not explore the significant differences in how Republican as opposed to Federalist meetings were conducted, who attended, or what political ideals were espoused. In Chapter 4, for example, Estes points out that both Federalists and Republicans used humor as an effective communicative tool, yet he draws no distinctions between the mocking elitism (and occasional sneering xenophobia) of Federalist humor and the righteous populism of Republican humor. Behind the shared use of humor as a cultural form, in other words, lay significant differences in political content.

Devoting more time to the significant political differences between Republicans and Federalists may have complicated some of Estes's arguments about the Federalists' role in constructing a more democratic politics of public opinion. At several moments, for example, Estes includes examples of Federalist rhetoric that distinguished their gatherings of "respectable" supporters from the "contemptible" rabble who comprised the Republican rank and file. Estes did not pause to unpack this class-coded language, giving the impression that the Federalists were addressing a public that really was more rational and deliberative than the public to which the Republicans spoke. The implication this reader drew was that the Federalists deserve closer attention because of their emphasis on the role of deliberative reason in the process of opinion formation—thus placing the Federalists' political practices in a genealogy that connects them to Habermas's conception of the ideal public sphere. I'm not convinced, however, that the Federalists endorsed anything like rational-critical citizenship. They used the term "rational" in a rhetorical, not a philosophical manner. Those that agreed with them were rational, and those supposedly less rational people who disagreed with them were dismissed as Jacobins, atheists, or anarchists. But as we see in the practices of the Democratic Republican Societies and in the writings of William Manning (who Estes mentions but does not discuss at great length), opponents of the Jay Treaty and the Washington Administration more broadly embraced a vision of popular politics that was not anarchistic, but simply more radically participatory than the Federalists could stomach.¹ This is not to say that the Republican opposition was comprised of Habermas's ideal rational-critical subjects or engaged in less name-calling than the Federalists, but if a vision of a significantly democratized and inclusive public sphere emerged in the 1790s, the Federalists were generally not its champions but its critics. And they resisted it in a language that every anti-democratic movement since the 1790s has also adopted—a language that framed critics of the established authorities as cynically ambitious, proto-totalitarian, foreign, anarchistic, and generally disreputable. As far as most Federalists were concerned, the Republicans were illegitimate members of the public. If we take this Federalist rhetoric to be a true depiction of the 1790s political reality, then we could perhaps grant that they were speaking to and for something we could identify without scare quotes as American public opinion. It may just be a matter of personal (or political) preference, but I'm less willing to grant more objectivity to the Federalist view than to the Republicans.

This question of "which side are you on" has long dogged studies of the 1790s. With varying degrees of intensity and self-awareness, historians of that decade have tended to line up on one side or the other of the partisan divide. There were numerous moments in this book where this reader felt like the story was being told too uncritically through the eyes of the Federalists. There is nothing inherently wrong with this, but it did lead to some mischaracterizations of the Federalists' opponents. Sometimes this was just a matter of language—Republicans wrote "harangues" (120) and "rants" (105) while Federalists

¹ For a fuller development of this claim, see Seth Cotlar, "Reading the Foreign News, Imagining an American Public Sphere: The Democratic-Republican Societies in Trans-Atlantic Context, 1793-1798," in Sharon Harris and Mark Kamrath, eds., *Periodical Literature in Eighteenth Century America* (Knoxville, Tn.: University of Tennessee Press, 2004), 307-338.

achieved a “high standard” of argumentation. At other moments this Federalist orientation shaped the book’s substantive interpretations. Estes seems to endorse, for example, the Federalist claim that the Republicans rushed to judgment about the Jay Treaty and hence failed to consider it rationally. When Federalists claimed that they waited three weeks to venture into print to defend the treaty they said this was because they were taking time to consider it soberly, and Estes does not contest this self-characterization. Yet in the next paragraph we find that the Federalists in their private correspondence admitting that they supported it from the beginning. So why are the Republicans the only ones we see characterized as acting rashly and without rational deliberation? Likewise, after several pages of excellent examples showing democratic critics sarcastically skewering the elitism of the Federalists and their anti-democratic approach to public opinion, Estes interprets these texts as “expressions of Republican frustration at the success [treaty] supporters were enjoying.” (122) Such pieces, however, were nothing new in 1796, they were a well-established feature of trans-Atlantic, Painite political discourse. They could just as easily be interpreted as forceful pieces that spoke to a large community of confident democrats who used humor and sarcasm to criticize the way in which a small group of elite leaders were professing to speak for an entire nation while branding as dangerous Jacobins a significant group of citizens who dared to disagree with them.

The people who opposed the treaty had, over the previous five years, developed a broad-based critique of the Washington Administration’s anti-populist economic policies and elitist approach to politics, but by focusing so intently on 1795-6 Estes gives the impression that opponents of the treaty had few substantive reasons for taking that position other than the uncharitable ones that the Federalists imputed to them. As the recent work of Terry Bouton and Woody Holton suggests, however, there was a long history behind the instinctive mistrust that many ordinary Americans felt for Alexander Hamilton, John Jay, and their fellow Federalists.² Thus, when Federalists tried to disrupt public meetings held by anti-treaty activists and were shouted down or threatened with violence, there was more to these Republican actions than a Jacobinical desire to foment anarchy or a close-minded unwillingness to engage in rational debate about public matters. From the perspective of many Republicans, it was the Federalists who were part of an international anti-democratic conspiracy to squelch an open and rational discussion of political matters. In 1795 democratic printers rushed into press several British pamphlets (most of them in multiple editions suggesting a considerable readership) detailing the persecution of British democrats who had been subjected to the same criticisms as the Federalists were hurling at their Republican opponents. These stories gave some credence to the democrats’ fears that Federalists were part of a building, international counter-revolution. Considering that only two years later the Federalists implemented the Alien and Sedition Acts (modeled in part on the British acts that had led to the persecution discussed in those pamphlets), it is perhaps understandable why Republicans felt this way.

² Terry Bouton, *Taming Democracy: “The People,” the Founders, and the Troubled Ending of the American Revolution* (New York: Oxford University Press, 2007) and Woody Holton, *Unruly Americans and the Origins of the Constitution* (New York: Hill and Wang, 2007).

Bringing the Alien and Sedition Acts into the picture also raises questions about just how far we can take Estes's argument about the Federalists' contribution to the democratization of American politics. For the most part, democratization operates in this book like a disembodied and inevitable force to which the Federalists were responding and, to some small extent, unwittingly contributing through their actions. Had the democrats themselves received the same sympathetic treatment as the Federalists, then the story here about democratization might look different. We could say that in 1795-6 the Federalists did not try very seriously to stop the process of democratization. They complained about it and often mocked it publicly, but at least they did not try to physically silence or imprison democratic activists. Well, at least they waited until 1798 to try that. In sum, I'm not sure that I'm convinced that the Federalists' political culture of 1795-6 was such a departure from the deferential practices of the previous decades, and if that's the case then their role in the story of democratization still seems fairly minimal.

The final argument of Estes's that I would like to raise some questions about is that the Republicans failed to block appropriations for the Jay Treaty in 1796 because the Federalists had won the battle for public opinion in the preceding months. This claim rests upon two assumptions--that the Federalists' perception of public opinion was essentially correct and that it was public support for the treaty that determined the Congressional vote in 1796. Estes's evidence for the shift in public opinion is comprised mostly of letters in which Federalists congratulate each other on the change in the public's mood and the significant number of pro-treaty meetings that Federalists organized in the run up to the Congressional vote in 1796. I wonder, however, just how many actual minds were changed in 1795-6. As Estes notes, at the height of pro-treaty mania there were 64 pro-treaty petitions (with 10,200 signatures) and 40 anti-treaty petitions (with 7,200 signatures) submitted to Congress. This shows that Federalists were able to mobilize a sizable number of supporters, though if we conservatively estimate the population of voting age white males to be one million that means that 1% of them went on record to support the treaty and 0.7% went on record to oppose it while the opinion of the other 98.3% is a matter of speculation. Meanwhile, between 1795 and 1797 the number of Republican (and hence anti-treaty) newspapers doubled and, if we can trust the word of their editors, the subscription lists of the three leading democratic newspapers grew by the hundreds. In those same years a French traveler (and critic of the French Revolution) lamented that everywhere he went he encountered "Good wishes for the success of the French...and decided hatred against the English." The only exception was "in the immediate vicinity of great towns and places absorbed in mercantile speculations."³ In light of such apparent popular support for a pro-French (and hence, anti-treaty) stance, couldn't we conclude that the Federalists succeeded in "bringing out their base" (especially the most socially and economically powerful portion of it) in 1796 in order to create the impression of a popular groundswell? Was a change in public opinion, in other words, responsible for the political fate of the Jay Treaty, or was that merely a self-affirming story that the Federalists told

³ La Rochefoucauld-Liancourt, *Travels through the United States of North America, the country of the Iroquois, and Upper Canada, in the years 1795, 1796, and 1797; with an authentic account of Lower Canada*, 4 vols., Henry Neuman, trans., (London, 1799) quoted in Charles Downer Hazen, *Contemporary Opinion of the French Revolution* (Baltimore: The Johns Hopkins University Press, 1899), 251-2.

themselves? As evidenced by their gross miscalculation with the Alien and Sedition Acts of 1798, the Federalists did not always have the clearest understanding of what the American people were thinking.

If the Federalists didn't change that many minds with their public opinion offensive of 1795-6, then how else could we explain their political triumph in 1796 when the Republicans' last-ditch attempt to nullify the treaty was defeated? Estes shows that it essentially boiled down to the votes of a handful of representatives from four states—Maryland, Pennsylvania, New Jersey, and New York. Southerners almost universally rejected the treaty, many of them because Jay had failed to push hard enough to secure compensation for slaves who had fled with the British during the Revolution (an issue that is unfortunately not discussed in this book). In large measure it was the representatives from the commercial areas of the middle states who changed their minds on the treaty, undoubtedly influenced by the pressure put on them by the “leading men” from their districts. The vote that broke the 49-49 tie was cast by Frederick Muhlenberg, a Republican who had been blackmailed by a Federalist who threatened to call off the wedding between his daughter and Muhlenberg's son if Muhlenberg did not vote to authorize appropriations for the Jay Treaty. Many Republicans chalked their political defeat up to Federalist “corruption” and pressure tactics employed by the nation's economic elite. They found unconvincing the Federalists' claim to have won over the public to their side of the treaty debate. Based on the points I've raised in this paragraph and the previous one, my sense is that this interpretation (shorn of the partisan animus) may not be entirely off base.

In closing, though I've raised many questions here about Estes's central arguments in this book, there is no doubt that he has written an important and lasting study of the domestic politics surrounding the Jay Treaty. His fine-grained analysis of Federalist political culture contributes to an important, ongoing re-examination of the much-maligned Federalists that reminds us that it is not sufficient to take Thomas Jefferson, James Madison, or Benjamin Franklin Bache's word on the political struggles of the 1790s. Thanks to the work of Estes, Catherine Kaplan, Joseph Ellis, David McCullough, Ron Chernow, Bryan Waterman, and others, the Federalists can no longer be dismissed as one-dimensional reactionaries.⁴ The relationship between Federalism and democratization, however, still remains a matter of debate, at least for this reader.

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⁴ Catherine O'Donnell Kaplan, *Men of Letters in the Early Republic: Cultivating Forms of Citizenship* (Chapel Hill, N.C.: University of North Carolina Press, 2007); Joseph Ellis, *Founding Brothers: The Revolutionary Generation* (New York: Vintage, 2005); David McCullough, *John Adams*, (New York: Simon & Schuster, 2002); Ron Chernow, *Alexander Hamilton* (New York: Penguin Press, 2004); Bryan Waterman, *Republic of Intellect: The Friendly Club of New York City and the Making of American Literature* (Baltimore: Johns Hopkins University Press, 2007). One of the first statements in what we might call the Federalist revival was Doron Ben-Atar and Barbara B. Oberg, *Federalists Reconsidered* (Charlottesville, Va.: University Press of Virginia, 1998).