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The Triumphs and Travails of the Jeffersonian Republic, 1800–1812

We have a perfect horror at everything like connecting ourselves with the politics of Europe.

Thomas Jefferson, 1801

Prologue: Following Jefferson's controversial election to the presidency in 1800, Jeffersonians and Federalists alike contributed to the process of nation building. Jefferson's Federalist cousin, Supreme Court Justice John Marshall, handed down a series of Court decisions that significantly strengthened the powers of the federal government at the expense of the individual states. Jefferson himself swallowed some of his constitutional scruples to accomplish the boldest achievement of his presidency—the Louisiana Purchase—which at a stroke doubled the size of the United States and guaranteed American control of the Mississippi River and its crucial ocean port at New Orleans. Jefferson proved less successful in his increasingly desperate efforts to keep the United States out of the war then raging in Europe. Though sorely provoked by British impressment of American sailors, Jefferson consistently tried to avoid fighting. He resorted finally to a self-denying trade embargo as the price he was willing to pay for peace.

A. The Three-fifths Clause Gives Jefferson a Dubious Victory

In a compromise to save the Union, the drafters of the U.S. Constitution made the infamous decision to count each slave as three-fifths of a person for the purposes of apportioning both representation and direct taxes among the states (Art. I, Sec. II, para. 3). The compromise meant that when determining how many representatives a state could send to the U.S. House of Representatives or how many votes a state would have in the Electoral College, three-fifths of the state's slave population would be counted—even though those slaves had none of the privileges of citizenship, including the right to vote. This arrangement gave states with large numbers of slaves considerably more representation in the federal government than their population of voting citizens would warrant. The inequities of such a system became painfully apparent to supporters of John Adams in the hotly contested election of 1800, when

Thomas Jefferson won the White House only by carrying states whose large numbers of slaves had given them additional electors. In the excerpts from Federalist newspapers below, how much concern do those protesting the election show to the disfranchised slave in whose name the slaveholding Jefferson was ironically elected?

1. A Federalist Cries Foul (1800)

There are above 500,000 negro slaves in the *United States* who have no more *voice* in the Election of President and Vice President of the *United States,* than 500,000 New England horses, hogs and oxen. Yet those 500,000 slaves (at least their masters for them) chose 15 Electors of President of the *United States*! Whereas the owners of the 500,000 New England horses, hogs, and oxen, have not a single vote more in consequence of having this property.

2. The Centinel Declares Adams the Victor (1800)

It is an important and consoling FACT, that it is already ascertained from the returns of electoral votes, that JOHN ADAMS has been reelected President of the United States, by a MAJORITY OF ALL THE FREE PEOPLE THEREOF. This fact ought to be proclaimed to the world, that the reputation of our country may not sink in the estimation of the wise and good of other countries;—who will regret that any policy shall impose on the United States a Chief Magistrate elected by the *influence of Negro slaves*—If any one doubts the facts, let him have recourse to the census of the United States—the details of which we will lay before the public.

3. The Connecticut Courant Rejects Jefferson as a Man "of the People" (1801)

The democrats of our country, are constantly proclaiming Mr. JEFFERSON AND Col. BURR, as *the men of the people.* It is said, that they have been elected to the supreme magistracy, by the *voice of the people,* and that they must, of course, become the *guardians of the* CONSTITUTION. We do not hesitate to say that Mr. ADAMS and Gen. PINCKNEY, *have been elected* to the two highest offices under the Constitution by a fair majority of the people of the *United States.* Who are the people? Clearly, a majority of all the freemen, for surely, *republicans* will not comprehend *slaves,* under the appellation of the *sovereign people.*

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[1]*Columbian Centinel* (Boston), December 24, 1800.

[2]*Columbian Centinel* (Boston), December 27, 1800.

[3]*Connecticut Courant* (Hartford), January 26, 1801.

B. John Marshall and the Supreme Court

1. Marshall Sanctions the Bank (1819)

Jefferson and Hamilton had clashed over the constitutionality of the monopolistic Bank of the United States in 1791 (see p. 198). Nearly three decades later, Chief Justice John Marshall, a diehard Hamiltonian Federalist, settled the issue judicially when he led a unanimous Supreme Court in a sweeping decision in the case of McCulloch *v.* Maryland. *Certain branches of the Second bank of the United States, guilty of reckless speculation and even fraud, had incurred popular hatred. Consequently, Maryland undertook to stamp out a branch of the bank by a prohibitory tax. In upholding the constitutionality of the bank and its branches, Marshall invoked the "necessary and proper" clause of the Constitution to the advantage of the national government. In fact, he used almost the exact words of Hamilton in 1791. In denying the right of a state to destroy by taxation an arm of the federal government, Marshall ringingly reasserted the supremacy of the central regime over the states. What might have happened to the federal authority if the Court had upheld Maryland?*

We admit, as all must admit, that the powers of the government are limited, and that its limits are not to be transcended. But we think the sound construction of the Constitution must allow to the national legislature that discretion, with respect to the means by which the powers it confers are to be carried into execution, which will enable that body to perform the high duties assigned to it, in the manner most beneficial to the people. Let the end be legitimate, let it be within the scope of the constitution, and all means which are appropriate, which are plainly adapted to that end, which are not prohibited, but consist with the letter and spirit of the constitution, are constitutional. . . .

That the power of taxation is one of vital importance; that it is retained by the states; that it is not abridged by the grant of a similar power to the government of the Union; that it is to be concurrently exercised by the two governments—are truths which have never been denied. But such is the paramount character of the Constitution that its capacity to withdraw any subject from the action of even this power is admitted. The states are expressly forbidden to lay any duties on imports or exports, except what may be absolutely necessary for executing their inspection laws. . . . The same paramount character would seem to restrain . . . a state from such other exercise of this power as is in its nature incompatible with, and repugnant to, the constitutional laws of the Union. A law absolutely repugnant to another, as entirely repeals that other as if express terms of repeal were used.

On this ground the counsel for the Bank place its claim to be exempted from the power of a state to tax its operations. There is no express provision for the case, but the claim has been sustained on a principle which so entirely pervades the Constitution, is so intermixed with the materials which compose it, so interwoven with

[1]Henry Wheaton, *Reports of Cases Argued and Adjudged in the Supreme Court of the United States, 1816–1827* (Newark, N.Y.: The Lawyers' Co-operative Publishing Company, 1819), vol. 4, pp. 432–433, 436, 437.

its web, so blended with its texture, as to be incapable of being separated from it without rending it into shreds.

This great principle is that the Constitution, and the laws made in pursuance thereof, are supreme; that they control the constitutions and laws of the respective states, and cannot be controlled by them. From this, which may be almost termed an axiom, other propositions are deduced as corollaries. . . . These are: 1. That a power to create implies a power to preserve. 2. That a power to destroy, if wielded by a different hand, is hostile to, and incompatible with, these powers to create and preserve. 3. That where this repugnancy exists, that authority which is supreme must control, not yield to that over which it is supreme. . . .

That the power to tax involves the power to destroy; that the power to destroy may defeat and render useless the power to create; that there is a plain repugnance in conferring on one government a power to control the constitutional measures of another . . . are propositions not to be denied. . . .

If we apply the principle for which the state of Maryland contends, to the Constitution generally, we shall find it capable of changing totally the character of that instrument. We shall find it capable of arresting all the measures of the government, and of prostrating it at the foot of the states. The American people have declared their Constitution, and the laws made in pursuance thereof, to be supreme; and this principle would transfer the supremacy, in fact, to the states.

If the states may tax one instrument employed by the government in the execution of its powers, they may tax any and every other instrument. They may tax the mail; they may tax the mint; they may tax patent rights; they may tax the papers of the custom-house; they may tax judicial process; they may tax all the means employed by the government, to an excess which would defeat all the ends of government. This was not intended by the American people. They did not design to make their government dependent on the states. . . .

The question is, in truth, a question of supremacy. And if the right of the states to tax the means employed by the general government be conceded, the declaration that the Constitution, and the laws made in pursuance thereof, shall be the supreme law of the land, is empty and unmeaning declamation.

2. A Maryland Editor Dissents (1819)

Maryland hotheads reacted vehemently against their setback in the famous bank case. Outspoken Hezekiah Niles of Baltimore, editor from 1811 to 1836 of the most influential weekly in the country, expressed grave concern. He did not believe that Congress, in 1791, had been empowered to charter the first Bank of the United States. What was the validity of his states' rights argument? Was he more concerned about the monopolistic power of the bank or about the encroachment on states' rights?

. . . A deadly blow has been struck at the sovereignty of the states, and from a quarter so far removed from the people as to be hardly accessible to public opinion. It is needless to say that we allude to the decision of the Supreme Court in the case

[2]*Niles' Weekly Register* 16 (1819): 41, 43.

of McCulloch *versus* the State of Maryland, by which it is established that the states cannot tax the Bank of the United States.

We are yet unacquainted with the grounds of this alarming decision, but of this are resolved—that nothing but the tongue of an angel can convince us of its compatibility with the Constitution of the United States, in which a power to grant acts of incorporation is not delegated [to the federal government], and all powers not delegated are retained.

Far be it from us to be thought as speaking disrespectfully of the Supreme Court, or to subject ourselves to the suspicion of a "contempt" of it. We do not impute corruption to the judges, nor intimate that they have been influenced by improper feelings. They are great and learned men; but still, only men. And, feeling as we do—as if the very stones would cry out if we did not speak on this subject—we will exercise our right to do it, and declare that, if the Supreme Court is not mistaken in its construction of the Constitution of the United States, or that [if] another definition cannot be given to it by some act of the states, their sovereignty is at the mercy of their creature—Congress. It is not on account of the Bank of the United States that we speak thus . . . it is but a drop in the bucket compared with the principles established by the decision, which appear to us to be these:

1. That Congress has an unlimited right to grant acts of incorporation!
2. That a company incorporated by Congress is exempted from the common operation of the laws of the state in which it may be located!! . . .

We repeat it: it is not on account of the Bank of the United States that we are thus moved. Our sentiments are on record that we did not wish the destruction of that institution but, fearing the enormous power of the corporation, we were zealous that an authority to arrest its deleterious influence might be vested in responsible hands, for it has not got any soul. Yet this solitary institution may *not* subvert the liberties of our country, and command every one to bow down to it as Baal. It is the principle of it that alarms us, as operating against the unresigned rights of the states.

3. Marshall Asserts the Supremacy of the Constitution (1803)

No principle is more important to the system of constitutional democracy than the notion that the Constitution represents a higher level of law than that routinely enacted by legislatures. And no American jurist has been more instrumental in asserting that principle than the great Federalist justice John Marshall. Marshall also helped mightily to resolve the question—unclear in the early days of the republic—of where final authority to interpret the Constitution lay. In the following excerpt from his famous decision in the case of Marbury *v.* Madison, *how does he trace the linkages between the Constitution and the concept of limited government?*

The question, whether an act, repugnant to the constitution, can become the law of the land, is a question deeply interesting to the United States; but, happily,

[3]William Cranch, *Reports of Cases Argued and Adjudged in the Supreme Court of the United States, 1801–1815* (Newark, N.Y.: The Lawyers' Co-operative Publishing Company, 1804), vol. 1, p. 137.

not of an intricacy proportioned to its interest. It seems only necessary to recognize certain principles, supposed to have been long and well established, to decide it.

That the people have an original right to establish, for their future government, such principles, as, in their opinion, shall most conduce to their own happiness is the basis on which the whole American fabric has been erected. The exercise of this original right is a very great exertion; nor can it, nor ought it, to be frequently repeated. The principles, therefore, so established, are deemed fundamental. And as the authority from which they proceed is supreme, and can seldom act, they are designed to be permanent.

This original and supreme will organizes the government, and assigns to different departments their respective powers. It may either stop here, or establish certain limits not to be transcended by those departments.

The government of the United States is of the latter description. The powers of the legislature are defined and limited; and that those limits may not be mistaken, or forgotten, the constitution is written. To what purpose are powers limited, and to what purpose is that limitation committed to writing, if these limits may, at any time, be passed by those intended to be restrained? The distinction between a government with limited and unlimited powers is abolished, if those limits do not confine the persons on whom they are imposed, and if acts prohibited and acts allowed, are of equal obligation. It is a proposition too plain to be contested, that the constitution controls any legislative act repugnant to it; or, that the legislature may alter the constitution by an ordinary act.

Between these alternatives there is no middle ground. The constitution is either a superior paramount law, unchangeable by ordinary means, or it is on a level with ordinary legislative acts, and, like other acts, is alterable when the legislature shall please to alter it.

If the former part of the alternative be true, then a legislative act contrary to the constitution is not law: if the latter part be true, then written constitutions are absurd attempts, on the part of the people, to limit a power in its own nature illimitable.

Certainly all those who have framed written constitutions contemplate them as forming the fundamental and paramount law of the nation, and, consequently, the theory of every such government must be, that an act of the legislature, repugnant to the constitution, is void.

This theory is essentially attached to a written constitution, and, is consequently, to be considered, by this court, as one of the fundamental principles of our society. It is not therefore to be lost sight of in the further consideration of this subject. . . .

So if a law be in opposition to the constitution; if both the law and the constitution apply to a particular case, so that the court must either decide that case conformably to the law, disregarding the constitution; or conformably to the constitution, disregarding the law; the court must determine which of these conflicting rules governs the case. This is of the very essence of judicial duty.

If, then, the courts are to regard the constitution, and the constitution is superior to any ordinary act of the legislature, the constitution, and not such ordinary act, must govern the case to which they both apply.

Those, then, who controvert the principle that the constitution is to be considered, in court, as a paramount law, are reduced to the necessity of maintaining that courts must close their eyes on the constitution, and see only the law.

This doctrine would subvert the very foundation of all written constitutions. It would declare that an act which, according to the principles and theory of our government, is entirely void, is yet, in practice, completely obligatory. It would declare that if the legislature shall do what is expressly forbidden, such act, notwithstanding the express prohibition, is in reality effectual. It would be giving to the legislature a practical and real omnipotence, with the same breath which professes to restrict their powers within narrow limits. It is prescribing limits, and declaring that those limits may be passed at pleasure.

That it thus reduces to nothing what we have deemed the greatest improvements on political institutions, a written constitution, would of itself be sufficient, in America, where written constitutions have been viewed with so much reverence, for rejecting the construction. . . .

Thus, the particular phraseology of the constitution of the United States confirms and strengthens the principle, supposed to be essential to all written constitutions, that a law repugnant to the constitution is void; and that courts, as well as other departments, are bound by that instrument. . . .

C. The Louisiana Purchase

1. Napoleon Decides to Dispose of Louisiana (1803)

Much of early American history was shaped by the endless rivalry between Britain and France, and the Louisiana Purchase was no exception. Having failed in his bid to establish a French empire in the Western Hemisphere, Napoleon Bonaparte resolved to use France's American holdings as a means to fund his ongoing battle with the British. In these statements, recorded by one of Napoleon's closest advisers, the strong-willed emperor detailed his reasons for selling Louisiana—a region France had only recently reacquired from Spain. How did Napoleon feel about the probability that the acquisition of such a vast tract of territory would greatly strengthen the young United States?

I know the full value of Louisiana, and I have been desirous of repairing the fault of the French negotiator who abandoned it in 1763. A few lines of a treaty have restored it to me, and I have scarcely recovered it when I must expect to lose it. But if it escapes from me, it shall one day cost dearer to those who oblige me to strip myself of it than to those to whom I wish to deliver it. The English have successively taken from France, Canada, Cape Breton, Newfoundland, Nova Scotia, and the richest portions of Asia. They are engaged in exciting troubles in St. Domingo [Haiti]. They shall not have the Mississippi which they covet. Louisiana is nothing in comparison with their conquests in all parts of the globe, and yet the jealousy they feel at the restoration of this colony to the sovereignty of France, acquaints me with their wish to take possession of it, and it is thus that they will begin the war. They have

[1]Reprinted by permission of Louisiana State University Press from *The History of Louisiana, 1830,* by François Barbé-Marbois. Copyright © 1977 by Louisiana State University Press.

twenty ships of war in the gulf of Mexico, they sail over those seas as sovereigns, whilst our affairs in St. Domingo have been growing worse every day since the death of Leclerc. [Charles Leclerc, Napoleon's brother-in-law, violently suppressed a Haitian rebellion led by Toussaint L'Ouverture, then died of yellow fever in 1802.] The conquest of Louisiana would be easy, if they only took the trouble to make a descent there. I have not a moment to lose in putting it out of their reach. I know not whether they are not already there. It is their usual course, and if I had been in their place, I would not have waited. I wish, if there is still time, to take from them any idea that they may have of ever possessing that colony. I think of ceding it to the United States. I can scarcely say that I cede it to them, for it is not yet in our possession. If, however, I leave the least time to our enemies, I shall only transmit an empty title to those republicans whose friendship I seek. They only ask of me one town in Louisiana, but I already consider the colony as entirely lost, and it appears to me that in the hands of this growing power, it will be more useful to the policy and even to the commerce of France, than if I should attempt to keep it. . . .

Perhaps it will also be objected to me, that the Americans may be found too powerful for Europe in two or three centuries: but my foresight does not embrace such remote fears. Besides, we may hereafter expect rivalries among the members of the Union. The confederations, that are called perpetual, only last till one of the contracting parties finds it to its interest to break them, and it is to prevent the danger, to which the colossal power of England exposes us, that I would provide a remedy. . . .

This accession of territory . . . strengthens for ever the power of the United States; and I have just given to England a maritime rival, that will sooner or later humble her pride.

2. Thomas Jefferson Alerts Robert Livingston (1802)

Rumors of the secret treaty of 1800, under which Spain agreed to cede Louisiana to France, filled President Jefferson with apprehension. The extent of his concern is betrayed in this remarkable letter, addressed to the American minister in Paris, Robert R. Livingston. A distinguished lawyer and diplomat, Livingston was also famous as the financial backer of Robert Fulton's successful steamboat in 1807. Why did Jefferson feel that French occupancy of Louisiana would force the United States to reverse its "political relations"?

The cession of Louisiana . . . by Spain to France works most sorely on the United States. On the subject the Secretary of State has written to you fully. Yet I cannot forbear recurring to it personally, so deep is the impression it makes in my mind. It completely reverses all the political relations of the United States and will form a new epoch in our political course.

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[2]P. L. Ford, *The Writings of Thomas Jefferson* (New York: G. P. Putnam's Sons, 1897), vol. 8, pp. 144–146 (April 18, 1802).

Of all nations of any consideration, France is the one which hitherto has offered the fewest points on which we could have any conflict of right, and the most points of a communion of interests. From these causes we have ever looked at her as our natural friend, as one with which we never could have an occasion of difference.* Her growth therefore we viewed as our own, her misfortunes ours.

There is on the globe one single spot, the possessor of which is our natural and habitual enemy. It is New Orleans, through which the produce of three-eighths of our territory must pass to market, and from its fertility it will ere long yield more than half of our whole produce and contain more than half our inhabitants. France, placing herself in that door, assumes to us the attitude of defiance.

Spain might have retained it quietly for years. Her pacific dispositions, her feeble state, would induce her to increase our facilities there, so that her possession of the place would be hardly felt by us. And it would not perhaps be very long before some circumstances might arise which might make the cession of it to us the price of something of more worth to her.

Not so can it ever be in the hands of France. The impetuosity of her temper, the energy and restlessness of her character . . . render it impossible that France and the United States can continue long friends when they meet in so irritable a position. They, as well as we, must be blind if they do not see this; and we must be very improvident if we do not begin to make arrangements on that hypothesis.

The day that France takes possession of New Orleans fixes the sentence which is to restrain her forever within her low-water mark. It seals the union of two nations who in conjunction can maintain exclusive possession of the ocean. From that moment we must marry ourselves to the British fleet and nation. We must turn all our attentions to a maritime force, for which our resources place us on very high grounds; and having formed and cemented together a power which may render reinforcement of her settlements here impossible to France, make the first cannon which shall be fired in Europe the signal for tearing up any settlement she may have made, and for holding the two continents of America in sequestration for the common purposes of the united British and American nations.

This is not a state of things we seek or desire. It is one which this measure, if adopted by France, forces on us, as necessarily as any other cause, by the laws of nature, brings on its necessary effect. It is not from a fear of France that we deprecate this measure proposed by her. For however greater her force is than ours compared in the abstract, it is nothing in comparison of ours when to be exerted on our soil. But it is from a sincere love of peace, and a firm persuasion that, bound to France by the interests and the strong sympathies still existing in the minds of our citizens, and holding relative positions which ensure their continuance, we are secure of a long course of peace. Whereas the change of friends, which will be rendered necessary if France changes that position, embarks us necessarily as a belligerent power in the first war of Europe. In that case, France will have held possession of New Orleans during the interval of a peace, long or short, at the end of which it will be wrested from her. . . .

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*Jefferson conveniently overlooked the undeclared naval war of 1798–1800.

She may say she needs Louisiana for the supply of her West Indies. She does not need it in time of peace. And in war she could not depend on them because they would be so easily intercepted [by the British navy]. . . .

If France considers Louisiana, however, as indispensable for her views, she might perhaps be willing to look about for arrangements which might reconcile it to our interests. If anything could do this, it would be the ceding to us the Island of New Orleans and the Floridas. This would certainly in a great degree remove the causes of jarring and irritation between us, and perhaps for such a length of time as might produce other means of making the measure permanently conciliatory to our interests and friendships.

3. Jefferson Stretches the Constitution to Buy Louisiana (1803)

In early 1803, Jefferson dispatched James Monroe to Paris to consummate the purchase of Louisiana for the United States. Monroe was instructed to pay up to $10 million for New Orleans and as much land to the east as he could obtain. To the surprise of Americans, Napoleon offered to sell all of Louisiana, including the vast territory to the west and north of New Orleans. The Americans readily agreed, though Jefferson worried that he was exceeding his constitutional mandate. When he had earlier opposed Hamilton's bank (see p. 198), Jefferson had argued that powers not conferred on the central government were reserved to the states. The Constitution did not specifically empower the president—or the Congress, for that matter—to annex foreign territory, especially territory as large as the nation itself. But the bargain acquisition of Louisiana seemed too breathtaking an opportunity to pass up. In the following letter to Senate leader John Breckinridge, Jefferson defends his action. Is his "guardian" analogy sound?

This treaty must, of course, be laid before both Houses, because both have important functions to exercise respecting it. They, I presume, will see their duty to their country in ratifying and paying for it, so as to secure a good which would otherwise probably be never again in their power. But I suppose they must then appeal to the nation for an additional article [amendment] to the Constitution, approving and confirming an act which the nation had not previously authorized.

The Constitution has made no provision for our holding foreign territory, still less for incorporating foreign nations into our Union. The Executive, in seizing the fugitive occurrence which so much advances the good of their country, have done an act beyond the Constitution. The Legislature, in casting behind them metaphysical subtleties, and risking themselves like faithful servants, must ratify and pay for it, and throw themselves on their country for doing for them, unauthorized, what we know they would have done for themselves had they been in a situation to do it.

It is the case of a guardian, investing the money of his ward in purchasing an important adjacent territory; and saying to him when of age, "I did this for your

[3]A. A. Lipscomb, ed., *Writings of Thomas Jefferson* (Washington, D.C.: Thomas Jefferson Memorial Association, 1904), vol. 10, pp. 410–411 (August 12, 1803).

good. I pretend to no right to bind you: you may disavow me, and I must get out of the scrape as I can. I thought it my duty to risk myself for you."

But we shall not be disavowed by the nation, and their act of indemnity will confirm and not weaken the Constitution, by more strongly marking out its lines.

4. Representative Roger Griswold Is Unhappy (1803)

Jefferson summoned Congress into special session because the Senate had to approve the Louisiana Purchase treaties, and the House and Senate had to vote the money. The New England Federalists fought the acquisition, largely because "the mixed race of Anglo-Hispano-Gallo-Americans" would ultimately outvote the charter-member states of the Union and, they feared, cause its dismemberment. Representative Griswold of Connecticut, perhaps the ablest Federalist spokesman in the House, had already attained notoriety in 1798 by caning Representative Matthew Lyon of Kentucky after the latter had spat in his face. On what terms would Griswold, in the following speech, have accepted Louisiana?

It is, in my opinion, scarcely possible for any gentleman on this floor to advance an opinion that the President and Senate may add to the members of the Union by treaty whenever they please, or, in the words of this treaty, may "incorporate in the union of the United States" a foreign nation who, from interest or ambition, may wish to become a member of our government. Such a power would be directly repugnant to the original compact between the states, and a violation of the principles on which that compact was formed.

It has been already well observed that the union of the states was formed on the principle of a co-partnership, and it would be absurd to suppose that the agents of the parties who have been appointed to execute the business of the compact, in behalf of the principals, could admit of a new partner without the consent of the parties themselves. . . .

The incorporation of a foreign nation into the Union, so far from tending to preserve the Union, is a direct inroad upon it. It destroys the perfect union contemplated between the original parties, by interposing an alien and a stranger to share the powers of government with them. . . .

A gentleman from Pennsylvania, however (Mr. Smilie), has said that it is competent for this government to obtain a new territory by conquest, and if a new territory can be obtained by conquest, he infers that it can be procured in the manner provided for by the treaty.

While I admit the premises of the gentleman from Pennsylvania, I deny his conclusion. A new territory and new subjects may undoubtedly be obtained by conquest and by purchase; but neither the conquest nor the purchase can incorporate them into the Union. They must remain in the condition of colonies, and be governed accordingly. The objection to the third article is not that the province of Louisiana could not have been purchased, but that neither this nor any other foreign nation can be incorporated into the Union by treaty or by a law. And as this country

[4]*Annals of Congress*, 8th Congress, 1st Sess., 461–462, 463, 465.

has been ceded to the United States only under the condition of an incorporation, it results that, if the condition is unconstitutional or impossible, the cession itself falls to the ground. . . .

This subject was much considered during the last session of Congress, but it will not be found . . . that any individual entertained the least wish to obtain the province of Louisiana. Our views were then confined to New Orleans and the Floridas, and, in my judgment, it would have been happy for the country if they were still confined within those limits. The vast and unmanageable extent which the accession of Louisiana will give to the United States; the consequent dispersion of our population; and the destruction of that balance which it is so important to maintain between the Eastern and the Western states, threatens, at no very distant day, the subversion of our Union.

5. Senator John Breckinridge Supports the Purchase (1803)

Virginia-born senator John Breckinridge of Kentucky, then the ablest spokesman for the West, had sponsored Jefferson's secretly prepared Kentucky resolutions of 1798–1799 in his state legislature. Alert both to western interests and partisan politics, he urged the Louisiana Purchase in this noteworthy speech. He took sharp issue with the Federalist senators, including Senator Samuel White of Delaware, who held that Louisiana would "be the greatest curse that could at present befall us." Breckinridge noted particularly the disagreement of the Federalists among themselves concerning the extravagance of the price, the validity of the title, and the unconstitutionality of acquiring foreign territory. He then launched into his argument, as follows. How effectively did he meet the Federalist objections, especially with reference to the problem of the westerners?

As to the enormity of price, I would ask that gentleman [Senator White], would his mode of acquiring it [by war] through 50,000 men have cost nothing? Is he so confident of this as to be able to pronounce positively that the price is enormous? Does he make no calculation on the hazard attending this conflict? Is he sure the God of battles was enlisted on his side? Were France and Spain, under the auspices of Bonaparte, contemptible adversaries? Good as the cause was, and great as my confidence is in the courage of my countrymen, sure I am that I shall never regret, as the gentleman seems to do, that the experiment was not made. . . .

To acquire an empire of perhaps half [once again] the extent of the one we possessed, from the most powerful and warlike nation on earth, without bloodshed, without the oppression of a single individual, without in the least embarrassing the ordinary operations of your finances, and all this through the peaceful forms of negotiation, and in despite too of the opposition of a considerable portion of the community, is an achievement of which the archives of the predecessors, at least, of those now in office cannot furnish a parallel.

The same gentleman has told us, that this acquisition will, from its extent, soon prove destructive to the confederacy [Union]. . . .

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[5]*Annals of Congress*, 8th Congress, 1st Sess., 60–62, 65.

So far from believing in the doctrine that a republic ought to be confined within narrow limits, I believe, on the contrary, that the more extensive its dominion the more safe and more durable it will be. In proportion to the number of hands you entrust the precious blessings of a free government to, in the same proportion do you multiply the chances for their preservation. I entertain, therefore, no fears for the confederacy on account of its extent. . . .

The gentlemen from Delaware [White] and Massachusetts [Pickering] both contend that the third article of the treaty is unconstitutional, and our consent to its ratification a nullity, because the United States cannot acquire foreign territory. . . . Cannot the Constitution be so amended (if it should be necessary) as to embrace this territory? If the authority to acquire foreign territory be not included in the treatymaking power, it remains with the people; and in that way all the doubts and difficulties of gentlemen may be completely removed; and that, too, without affording France the smallest ground of exception to the literal execution on our part of that article of the treaty. . . .

What palliation can we offer to our Western citizens for a conduct like this? Will they be content with the redefined and metaphysical reasonings and constructions upon which gentlemen have bottomed their opposition today? Will it be satisfactory to them to be told that the title is good, the price low, the finances competent, and the authority, at least to purchase, constitutional; but that the country is too extensive, and that the admission of these people to all the privileges we ourselves enjoy is not permitted by the Constitution? It will not, sir.

6. Lewis and Clark Meet a Grizzly (1805)

Diplomacy done, the vast and uncharted wilderness that was the Louisiana territory remained to be explored. President Jefferson commissioned Meriwether Lewis and William Clark for the job, which took two years. The Lewis and Clark party of thirty-four soldiers and ten civilians moved up the Missouri River from St. Louis in the autumn of 1804, wintered with the Mandan Indians in present-day North Dakota, and struck out for the Pacific Ocean again in the spring of 1805. They sighted the Pacific in November 1805 and eventually returned to St. Louis nearly a year later. Along the way they collected botanical and geological specimens and made preliminary maps of the country. They also had numerous adventures, such as this one, recounted in Lewis's diary, which took place in present-day eastern Montana. What does it suggest about the task of taming the nearly trackless territory Jefferson had acquired?

Tuesday May 14th 1805.

Some fog on the river this morning, which is a very rare occurrence; the country much as it was yesterday with this difference that the bottoms are somewhat wider; passed some high black bluffs. Saw immence herds of buffaloe today also

[6]Reuben Gold Thwaites, ed., *Original Journals of the Lewis and Clark Expedition, 1804–1806* (Washington, D.C.: Government Printing Office, 1904), vol. 2, pp. 33–34.

Elk deer wolves and Antelopes. Passed three large creeks one on the Starboard and two others on the Larboard side, neither of which had any runing water. Capt Clark walked on shore and killed a very fine buffaloe cow. I felt an inclination to eat some veal and walked on shore and killed a very fine buffaloe calf and a large woolf, much the whitest I had seen, it was quite as white as the wool of the common sheep. One of the party wounded a brown bear very badly, but being alone did not think proper to pursue him. In the evening the men in two of the rear canoes discovered a large brown bear lying in the open grounds about 300 paces from the river, and six of them went out to attack him, all good hunters; they took the advantage of a small eminence which concealed them and got within 40 paces of him unperceived. Two of them reserved their fires as had been previously conscerted, the four others fired nearly at the same time and put each his bullet through him. Two of the balls passed through the bulk of both lobes of his lungs. In an instant this monster ran at them with open mouth. The two who had reserved their

fir[e]s discharged their pieces at him as he came towards them. Boath of them struck him, one only slightly and the other fortunately broke his shoulder, this however only retarded his motion for a moment only. The men unable to reload their guns took to flight, the bear pursued and had very nearly overtaken them before they reached the river; two of the party betook themselves to a canoe and the others seperated an[d] concealed themselves among the willows, reloaded their pieces, each discharged his piece at him as they had an opportunity. They struck him several times again but the guns served only to direct the bear to them. In this manner he pursued two of them seperately so close that they were obliged to throw aside their guns and pouches and throw themselves into the river altho' the bank was nearly twenty feet perpendicular; so enraged was this anamal that he plunged into the river only a few feet behind the second man he had compelled [to] take refuge in the water, when one of those who still remained on shore shot him through the head and finally killed him; they then took him on shore and butch[er]ed him when they found eight balls had passed through him in different directions; the bear being old the flesh was indifferent, they therefore only took the skin and fleece, the latter made us several gallons of oil; . . .

7. Louisiana Keeps Its Civil Law (1808)

Matters of law were among the challenges in the effort to stitch the Louisiana territory into the existing political fabric of the United States. Until the acquisition of Louisiana, the legal system of every American state and territory functioned according to the common-law tradition, a decidedly British approach to jurisprudence that places heavy emphasis on the precedents created by judges' decisions. Prior to its purchase by the United States, Louisiana—like most non-British areas of the Western world—relied on a civil code, an index of laws and legal principles that traced their heritage back to the Roman Empire. Most Americans believed that when Louisiana became part of the United States, it would convert to the common law. Louisianians, however, refused to abandon the legal system they had known, and in 1808 they officially adopted a civil code patterned on a French model, which serves as the basis of Louisiana's unique legal system to this day. In this passage, the territorial governor, W. C. C. Claiborne, explains why he acceded to the code. What does this legal controversy suggest about the complicated processes of cultural integration and about Louisiana's continuing distinctiveness?

The Code will probably be greatly censured by many native Citizens of the United States who reside in the Territory. From principle and habit, they are attached to that system of Jurisprudence, prevailing in the several States under which themselves and their Fathers were reared: For myself I am free to declare the pleasure it would give me to see the Laws of Orleans assimilated to those of the States generally, not only from a conviction, that such Laws are for the most part wise and just, but the opinion I entertain, that in a Country, where a unity of Government and Interests exists, it is highly desirable to introduce thro'out the same Laws and Customs.

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[7]Elizabeth Gaspar Brown, "Legal Systems in Conflict: Orleans Territory 1804–1812," *American Journal of Legal History* 1 (1957): 57.

We ought to recollect however, the peculiar circumstances in which Louisiana is placed, nor ought we to be unmindful of the respect due the sentiments and wishes of the Ancient Louisianians who compose so great a proportion of the population. Educated in a belief of the excellencies of the Civil Law, the Louisianians have hitherto been unwilling to part with them, and while we feel ourselves the force of habit and prejudice, we should not be surprised, at the attachment, which the old Inhabitants manifest for many of their former Customs and Local Institutions. The general introduction therefore into this Territory of the American Laws must be as effect of time . . . otherwise much inconvenience will insue, & serious discontents will arise among a people who have the strongest claims upon the Justice and the liberality of the American Government. . . .

D. The Issue of Sailors' Rights

1. A Briton (James Stephen) Recommends Firmness (1805)

The titanic struggle between France and Britain flared up anew in 1803. American shipping boomed, especially in carrying coffee and sugar from the French and Spanish West Indies to blockaded France and Spain. Yankee shipowners, shorthanded, used high wages to lure hundreds of sailors from the British merchant fleet and the Royal Navy, where pay was poor and flogging frequent. Some deserters became naturalized; others purchased faked naturalization papers for as little as one dollar. With firsthand knowledge of these tricks, James Stephen published a popular and potent pamphlet in Britain that stiffened the London government in its determination to stifle Yankee-carried traffic between Britain's enemies and the West Indies. Of the grievances mentioned by Stephen, which one did he regard as most serious? Why?

The worst consequences, perhaps, of the independence and growing commerce of America is the seduction of our seamen. We hear continually of clamors in that country on the score of its sailors being [im]pressed at sea by our frigates. But how have these sailors become subjects of the United States? By engaging in their merchant service during the last or the present war; or at most by obtaining that formal naturalization which they are entitled to receive by law after they have sailed two years from an American port, but the fictitious testimonials of which are to be bought the moment they land in the country, and for a price contemptible even in the estimate of a common sailor.

If those who by birth, and by residence and employment, prior to 1793, were confessedly British, ought still to be regarded as His Majesty's subjects, a very considerable part of the navigators [sailors] of American ships are such at this moment; though, unfortunately, they are not easily distinguishable from genuine American seamen. . . .

The unity of language and the close affinity of manners between English and American seamen are the strong inducements with our sailors for preferring the ser-

[1]James Stephen, *War in Disguise*, 2nd ed. (London: C. Whittingham, 1805), pp. 120–124.

vice of that country to any other foreign employment. Or, to speak more correctly, these circumstances remove from the American service, in the minds of our sailors, those subjects of aversion which they find in other foreign ships; and which formerly counteracted, effectually, the general motives to desert from, or avoid, the naval service of their country.

What these motives are, I need not explain. They are strong, and not easy to be removed; though they might perhaps be palliated by alterations in our naval system. . . . If we cannot remove the general causes of predilection for the American service, or the difficulty of detecting and reclaiming British seamen when engaged in it, it is, therefore, the more unwise to allow the merchants of that country, and other neutrals, to encroach on our maritime rights in time of war; because we thereby greatly, and suddenly, increase their demand for mariners in general; and enlarge their means, as well as their motives, for seducing the sailors of Great Britain. . . .

It is truly vexatious to reflect that, by this abdication of our belligerent rights, we not only give up the best means of annoying the enemy, but raise up, at the same time, a crowd of dangerous rivals for the seduction of our sailors, and put bribes into their hands for the purpose. We not only allow the trade of the hostile [French] colonies to pass safely, in derision of our impotent warfare, but to be carried on by the mariners of Great Britain. This illegitimate and noxious navigation, therefore, is nourished with the lifeblood of our navy.

2. A Briton (Basil Hall) Urges Discretion (1804)

British cruisers, hovering off New York harbor, blockaded French ships that had sought refuge there. They also visited and searched incoming and outgoing American merchantmen, and impressed British seamen (and sometimes Americans by mistake). Basil Hall, later both a captain and a distinguished author, entered the British navy as a midshipman in 1802, when he was only thirteen. Many years later he published these recollections of his early service on the fifty-gun frigate Leander *in American waters. Which was the most infuriating of the practices he describes?*

. . . It seems quite clear that, while we can hold it, we will never give up the right of search, or the right of impressment. We may and ought, certainly, to exercise so disagreeable a power with such temper and discretion as not to provoke the enmity of any friendly nation.

But at the time I speak of, and on board our good old ship the *Leander,* whose name, I was grieved, but not surprised, to find, was still held in detestation three or four and twenty years afterwards at New York, I am sorry to own that we had not much of this discretion in our proceedings; or, rather, we had not enough consideration for the feelings of the people we were dealing with. . . .

To place the full annoyance of these matters in a light to be viewed fairly by English people, let us suppose that the Americans and French were to go to war, and that England for once remained neutral—an odd case, I admit, but one which might happen. Next, suppose that a couple of French frigates were chased into Liverpool, and that an American squadron stationed itself off that harbor to watch the

[2]Basil Hall, *Fragments of Voyages and Travels, First Series* (London: E. Moxon, 1840), pp. 47–49.

motions of these French ships, which had claimed the protection of our neutrality, and were accordingly received into "our waters." I ask, "Would this blockade of Liverpool be agreeable to us or not?"

Even if the blockading American frigates did nothing but sail backwards and forwards across the harbor's mouth, or occasionally run up and anchor abreast of the town, it would not, "I guess," be very pleasant to be thus superintended. If, however, the American ships, in addition to this legitimate surveillance of their enemy, were to detain off the port, with equal legitimacy of usage, and within a league or so of the lighthouse, every British vessel coming from France, or from a French colony; and if, besides looking over the papers of these vessels to see whether all was regular, they were to open every private letter, in the hope of detecting some trace of French ownership in the cargo, what should we say? And if, out of some twenty ships arrested daily in this manner, one or two of our own were to be completely diverted from their course, from time to time, and sent off under a prize-master to New York for adjudication, I wonder how the Liverpool folks would like it? But if, in addition to this perfectly regular and usual exercise of a belligerent right on the part of the Americans, under such circumstances, we bring in that most awkward and ticklish of questions, the impressment of seamen, let us consider how much the feeling of annoyance on the part of the English neutral would be augmented.

Conceive, for instance, that the American squadron employed to blockade the French ships in Liverpool were shorthanded, but, from being in daily expectation of bringing their enemy to action, it had become an object of great consequence with them to get their ships manned. And suppose, likewise, that it were perfectly notorious to all parties that, on board every English ship arriving or sailing from the port in question, there were several American citizens, but calling themselves English, and having in their possession "protections," or certificates to that effect, sworn to in regular form, but well known to be false, and such as might be bought for 4s. 6d. any day. Things being in this situation, if the American men-of-war off the English port were then to fire at and stop every ship, and, besides overhauling her papers and cargo, were to take out any seamen, to work their own guns withal, whom they had reason, or supposed or said they had reason, to consider American citizens, or whose country they guessed, from dialect or appearance; I wish to know with what degree of patience this would be submitted to on the Exchange at Liverpool, or elsewhere in England. . . .

Suppose the blockading American ships off Liverpool, in firing a shot ahead of a vessel they wished to examine, had accidentally hit, not that vessel, but a small coaster, so far beyond her that she was not even noticed by the blockading ships. And suppose, further, this unlucky chance-shot to have killed one of the crew on board the said English ship. The vessel would, of course, proceed immediately to Liverpool with the body of their slaughtered countryman; and in fairness it may be asked, what would have been the effect of such a spectacle on the population of England . . . ?

This is not an imaginary case; for it actually occurred . . . when we were blockading the French frigates in New York. A consul-shot from the *Leander* hit an unfortunate sloop's mainboom; and the broken spar striking the mate, John Pierce by name, killed him instantly. The sloop sailed on to New York, where the mangled

body, raised on a platform, was paraded through the streets, in order to augment the vehement indignation, already at a high pitch, against the English.

Now, let us be candid to our rivals; and ask ourselves whether the Americans would have been worthy of our friendship, or even of our hostility, had they tamely submitted to indignities which, if passed upon ourselves, would have roused not only one seaport, but the whole country, into a towering passion of nationality.

E. The Resort to Economic Coercion

1. A Federalist (Philip Barton Key) Attacks the Embargo (1808)

With the nation militarily weak, Jefferson decided to force respect for the nation's rights by an economic boycott. In 1807 Congress passed his embargo, which prohibited shipments from leaving American shores for foreign ports, including the West Indies. Paralysis gradually gripped American shipping and agriculture, except for illicit trade. Representative Philip Barton Key, uncle of Francis Scott Key and a former Maryland Loyalist who had fought under George III, here assails the embargo. Why, in his view, did it play into Britain's hands? Why did he regard his proposed alternative as more effective?

But, Mr. Chairman, let us review this [embargo] law and its effects. In a commercial point of view, it has annihilated our trade. In an agricultural point of view, it has paralyzed industry. . . . Our most fertile lands are reduced to sterility, so far as it respects our surplus product. As a measure of political economics, it will drive (if continued) our seamen into foreign employ, and our fishermen to foreign sandbanks. In a financial point of view, it has dried up our revenue, and if continued will close the sales of Western lands, and the payment of installments of past sales. For unless produce can be sold, payments cannot be made. As a war measure, the embargo has not been advocated.

It remains then to consider its effects as a peace measure—a measure inducing peace. I grant, sir, that if the friends of the embargo had rightly calculated its effects—if it had brought the belligerents of Europe to a sense of justice and respect for our rights, through the weakness and dependence of their West India possessions—it would have been infinitely wise and desirable. . . . But, sir, the experience of near four months has not produced that effect. . . .

If that be the case, if such should be the result, then will the embargo, of all measures, be the most acceptable to Britain. By occluding [closing] our ports, you give to her ships the exclusive use of the ocean; and you give to her despairing West India planter the monopoly of sugar and rum and coffee to the European world. . . .

But, sir, who are we? What are we? A peaceable agricultural people, of simple and, I trust, virtuous habits, of stout hearts and willing minds, and a brave, powerful,

[1] *Annals of Congress*, 10th Congress, 1st Sess., 2122–2123.

and badly disciplined militia, unarmed, and without troops. And whom are we to come in conflict with? The master of continental Europe [Napoleon] in the full career of universal domination, and the mistress of the ocean [Britain] contending for self-preservation; nations who feel power and forget right.

What man can be weak enough to suppose that a sense of justice can repress or regulate the conduct of Bonaparte? We need not resort to other nations for examples. Has he not in a manner as flagrant as flagitious, directly, openly, publicly violated and broken a solemn treaty [of 1800] entered into with us? Did he not stipulate that our property should pass free even to enemy ports, and has he not burnt our ships at sea under the most causeless pretexts?

Look to England; see her conduct to us. Do we want any further evidence of what she will do in the hour of impending peril than the attack on Copenhagen?* That she prostrates all rights that come in collision with her self-preservation?

No, sir; let us pursue the steady line of rigid impartiality. Let us hold the scales of impartial neutrality with a high and steady hand, and export our products to, and bring back supplies from, all who will trade with us. Much of the world is yet open to us, and let us profit of the occasion.

At present we exercise no neutral rights. We have quit the ocean; we have abandoned our rights; we have retired to our shell. Sooner than thus continue, our merchantmen should arm to protect legitimate trade. Sir, I believe war itself, as we could carry it on, would produce more benefit and less cost than the millions lost by the continuance of the embargo.

2. A Jeffersonian (W. B. Giles) Upholds the Embargo (1808)

Stung by Federalist criticisms of the embargo, Senator W. B. Giles of Virginia sprang to its defense. A prickly personage but a brilliant debater, he had assailed or was to assail virtually every figure prominent in public life. Bitterly anti-Hamilton and anti-British, he was more Jeffersonian than Jefferson himself. Is his argument for the coercive role of the embargo as convincing as that for the precautionary role?

Sir, I have always understood that there were two subjects contemplated by the embargo laws. The first, precautionary, operating upon ourselves. The second, coercive, operating upon the aggressing belligerents. Precautionary, in saving our seamen, our ships, and our merchandise from the plunder of our enemies, and avoiding the calamities of war. Coercive, by addressing strong appeals to the interests of both the belligerents.

The first object has been answered beyond my most sanguine expectations. To make a fair and just estimate of this measure, reference should be had to our situation at the time of its adoption. At that time, the aggressions of both the belligerents

*The British, seeking to forestall Napoleon, had bombarded and captured the neutral Danish capital in 1807.

[2]*Annals of Congress,* 10th Congress, 2d Sess., 96–106, passim.

were such as to leave the United States but a painful alternative in the choice of one of three measures, to wit, the embargo, war, or submission. . . .

It was found that merchandise to the value of one hundred millions of dollars was actually afloat, in vessels amounting in value to twenty millions more; that an amount of merchandise and vessels equal to fifty millions of dollars more was expected to be shortly put afloat; and that it would require fifty thousand seamen to be employed in the navigation of this enormous amount of property. The administration was informed of the hostile edicts of France previously issued, and then in a state of execution; and of an intention on the part of Great Britain to issue her orders [in Council], the character and object of which were also known. The object was to sweep this valuable commerce from the ocean. The situation of this commerce was as well known to Great Britain as to ourselves, and her inordinate cupidity could not withstand the temptation of the rich booty she vainly thought within her power. This was the state of information at the time this measure was recommended.

The President of the United States, ever watchful and anxious for the preservation of the persons and property of all our fellow citizens, but particularly of the merchants, whose property is most exposed to danger, and of the seamen, whose persons are also most exposed, recommended the embargo for the protection of both. And it has saved and protected both. . . . It is admitted by all that the embargo laws have saved this enormous amount of property and this number of seamen, which, without them, would have forcibly gone into the hands of our enemies, to pamper their arrogance, stimulate their injustice, and increase their means of annoyance.

I should suppose, Mr. President, this saving worth some notice. But, sir, we are told that, instead of protecting our seamen, it has driven them out of the country, and into foreign service. I believe, sir, that this fact is greatly exaggerated. But, sir, suppose for a moment that it is so, the government has done all, in this respect, it was bound to do. It placed these seamen in the bosoms of their friends and families, in a state of perfect security. And if they have since thought proper to abandon these blessings and emigrate from their country, it was an act of choice, not of necessity. . . .

. . . But, sir, these are not the only good effects of the embargo. It has preserved our peace—it has saved our honor—it has saved our national independence. Are these savings not worth notice? Are these blessings not worth preserving . . . ?

The gentleman next triumphantly tells us that the embargo laws have not had their expected effects upon the aggressing belligerents. That they have not had their complete effects; that they have not caused a revocation of the British orders and French decrees, will readily be admitted. But they certainly have not been without some beneficial effects upon those nations. . . .

The first effect of the embargo upon the aggressing belligerents was to lessen their inducements to war, by keeping out of their way the rich spoils of our commerce, which had invited their cupidity, and which was saved by those laws. . . .

The second effect which the embargo laws have had on the aggressing belligerents is to enhance the prices of all American produce, especially articles of the first necessity to them, to a considerable degree; and, if it be a little longer persisted in, will either banish our produce (which I believe indispensable to them) from their

markets altogether, or increase the prices to an enormous amount; and, of course, we may hope will furnish irresistible inducements for a relaxation of their hostile orders and edicts.

[The effects of the embargo ultimately proved disastrous. Confronted with anarchy and bankruptcy, Jefferson engineered its repeal in 1809 and the substitution of a more limited Non-Intercourse Act.]

Thought Provokers

1. Is the notorious "three-fifths" clause better understood as the product of racism or as the product of the struggle for political power?
2. Why was John Marshall's famous Bank decision so unpopular in many parts of the country? Did it strengthen or weaken nationalism? Is a highly centralized government necessarily antidemocratic? Since Marshall was a Federalist and the Federalist party had died out, was it consonant with democracy for him to be handing down Federalist decisions? Should he have been impeached?
3. To what extent did the Louisiana Purchase strengthen or weaken the no-alliance tradition? Did good diplomacy or good luck bring about the purchase?
4. Did it take more courage on Jefferson's part to accept Louisiana than to reject it? What becomes of the Constitution if the executive may resort to what he believes to be unconstitutional acts for the common good? What probably would have happened if, as the Federalists argued, the thirteen original states had kept all the new territory in a permanently colonial status?
5. In the matter of impressment, were the Americans more sinned against than sinning? Why were the British so unwilling to give up the practice of impressment?
6. Was it inconsistent for the Americans, dedicated to the principle of freedom of the seas, to abandon their right to sail the high seas as a way of keeping out of war? Under what conditions should principle yield to expediency in foreign policy?
7. President Woodrow Wilson said in 1916: "The immortality of Jefferson does not lie in any one of his achievements, but in his attitude toward mankind." Comment.