

Ch. 11 History Guide

Write a thesis statement to support an essay you would write for the following questions.

1. What economic and political problems did the United States face as a new nation in a world by war between Britain and France? How successful were the efforts by the Jefferson, Madison, and Monroe administrations to solve these problems?
2. Some Federalists opposed the Louisiana Purchase, warning of the dangers of westward expansion. What are arguments for and against expansion?
3. What contradictions in American Indian policy did the confrontations between Tecumseh's alliance and soldiers and settlers in the Old Northwest reveal? Can you suggest solutions to them?

Respond to the questions after the primary source documents using complete sentences.

Thomas Jefferson, "First Inaugural Address" (1801)

Friends and Fellow Citizens:

Called upon to undertake the duties of the first executive office of our country, I avail myself of the presence of that portion of my fellow citizens which is here assembled to express my grateful thanks for the favor with which they have been pleased to look toward me, to declare a sincere consciousness that the task is above my talents, and that I approach it with those anxious and awful presentiments which the greatness of the charge and the weakness of my powers so justly inspire. A rising nation, spread over a wide and fruitful land, traversing all the seas with the rich productions of their industry, engaged in commerce with nations who feel power and forget right, advancing rapidly to destinies beyond the reach of mortal eye—when I contemplate these transcendent objects and see the honor, the happiness, and the hopes of this beloved country committed to the issue and the auspices of this day, I shrink from the contemplation and humble myself before the magnitude of the undertaking. Utterly indeed should I despair did not the presence of many whom I here see remind me that in the other high authorities provided by our Constitution I shall find resources of wisdom, of virtue, and of zeal on which to rely under all difficulties. To you then, gentlemen, who are charged with the sovereign functions of legislation, and to those associated with you, I look with encouragement for that guidance and support which may enable us to steer with safety the vessel in which we are all embarked amidst the conflicting elements of a troubled world.

During the contest of opinion through which we have passed, the animation of discussions and of exertions has sometimes worn an aspect which might impose on strangers unused to think freely and to speak and to write what they think. But this being now decided by the voice of the nation, enounced according to the rules of the Constitution, all will of course arrange themselves under the will of the law and unite in common efforts for the common good. All, too, will bear in mind this sacred principle that, though the will of the majority is in all cases to prevail, that will, to be rightful, must be reasonable; that the minority possess their equal rights, which equal laws must protect and to violate which would be oppression. Let us then, fellow citizens, unite with one heart and one mind; let us restore to social intercourse that harmony and affection without which liberty, and even life itself, are but dreary things. And let us reflect that, having banished from our land that religious intolerance under which mankind so long bled and suffered, we have yet gained little if we countenance a political intolerance as despotic, as wicked, and capable of as bitter and bloody persecutions. During the throes and convulsions of the ancient world, during the agonizing spasms of infuriated man, seeking through blood and slaughter his long-lost liberty, it was not wonderful that the agitation of the billows should reach even this distant and peaceful shore, that this should be more felt and feared by some and less by others, and should divide opinions as to measures of safety.

But every difference of opinion is not a difference of principle. We have called by different names brethren of the same principle. We are all republicans; we are all federalists. If there be any among us who would wish to dissolve this Union or to change its republican form, let them stand undisturbed as monuments of the safety with which error of opinion may be tolerated, where reason is left free to combat it. I know, indeed, that some honest men fear that a republican government cannot be strong; that this government is not strong enough. But would the honest patriot, in the full tide of successful experiment, abandon a government which has so far kept us free and firm, on the theoretic and visionary fear that this government, the world's best hope, may by possibility want energy to preserve itself? I trust not. I believe this, on the contrary, the strongest government on earth. I believe it the only one where every man, at the call of the law, would fly to the standard of the law and would meet invasions of the public order as his own personal concern. Sometimes it is said that man cannot be trusted with the government of himself. Can he then be trusted with the government of others? Or have we found angels, in the form of kings, to govern him? Let history answer this question.

Let us then, with courage and confidence, pursue our own federal and republican principles, our attachment to Union and representative government. Kindly separated by nature and a wide ocean from the exterminating havoc of one quarter of the globe; too high-minded to endure the degradations of the others; possessing a chosen country, with room enough for our descendants to the thousandth and thousandth generation; entertaining a due sense of our equal right to the use of our own faculties, to the acquisitions of our own industry, to honor and confidence from our fellow citizens, resulting not from birth but from our actions and their sense of them; enlightened by a benign religion, professed indeed and practiced in various forms, yet all of them including honesty, truth, temperance, gratitude, and the love of man; acknowledging and adoring an overruling Providence which, by all its dispensations, proves that It delights in the happiness of man here and his greater happiness hereafter; with all these blessings, what more is necessary to make us a happy and a prosperous people? Still one thing more, fellow citizens—a wise and frugal government which shall restrain men from injuring one another, shall leave them otherwise free to regulate their own pursuits of industry and improvement, and shall not take from the mouth of labor the bread it has earned. This is the sum of good government, and this is necessary to close the circle of our felicities.

About to enter, fellow citizens, on the exercise of duties which comprehend everything dear and valuable to you, it is proper you should understand what I deem the essential principles of our government and, consequently, those which ought to shape its administration. I will compress them within the narrowest compass they will bear, stating the general principle but not all its limitations: Equal and exact justice to all men, of whatever state or persuasion, religious or political; peace, commerce, and honest friendship with all nations, entangling alliances with none; the support of the State governments in all their rights, as the most competent administrations for our domestic concerns and the surest bulwarks against anti-republican tendencies; the preservation of the general government in its whole constitutional vigor, as the sheet anchor of our peace at home and safety abroad; a jealous care of the right of election by the people, a mild and safe corrective of abuses which are lopped by the sword of revolution where peaceable remedies are unprovided; absolute acquiescence in the decisions of the majority, the vital principle of republics from which there is no appeal but to force, the vital principle and immediate parent of despotism; a well-disciplined militia, our best reliance in peace and for the first moments of war till regulars may relieve them; the supremacy of the civil over the military authority; economy in the public expense, that labor may be lightly burdened; the honest payment of our debts and sacred preservation of the public faith; encouragement of agriculture, and of commerce as its handmaid; the diffusion of information, and arraignment of all abuses at the bar of the public person, under the protection of the habeas corpus; and trial by juries, impartially selected. These principles form the bright constellation which has gone before us and guided our steps through an age of revolution and reformation. The wisdom of our sages and blood of our heroes have been devoted to their attainment; they should be the creed of our political faith, the text of civic instruction, the touchstone by which to try the services of those we trust; and should we wander from them in moments of error or of alarm, let us hasten to retrace our steps and to regain the road which alone leads to peace, liberty, and safety.

I repair then, fellow citizens, to the post you have assigned me. With experience enough in subordinate offices to have seen the difficulties of this, the greatest of all, I have learned to expect that it will rarely fall to the lot of imperfect man to retire from this station with the reputation and the favor which bring him into it. Without pretensions to that high confidence you reposed in our first and great revolutionary character, whose pre-eminent services had entitled him to the first place in his country's love and destined for him the fairest page in the volume of faithful history, I ask so much confidence only as may give firmness and effect to the legal administration of your

affairs. I shall often be thought wrong by those whose positions will not command a view of the whole ground. I ask your indulgence for my own errors, which will never be intentional, and your support against the errors of others who may condemn what they would not if seen in all its parts. The approbation implied by your suffrage is a great consolation to me for the past, and my future solicitude will be to retain the good opinion of those who have bestowed it in advance, to conciliate that of others by doing them all the good in my power, and to be instrumental to the happiness and freedom of all.

Relying then on the patronage of your good will, I advance with obedience to the work, ready to retire from it whenever you become sensible how much better choice it is in your power to make. And may that Infinite Power which rules the destinies of the universe lead our councils to what is best and give them a favorable issue for your peace and prosperity.

Study Questions

1. What encouragement does Jefferson offer regarding unification between people and politicians of divided opinions in his speech?
2. Identify and explain what Jefferson defines as the “sum of good government” and “the essential principles of our government.”

Marbury v. Madison (1803)

[Chief Justice Marshall delivered the opinion of the Court.]

In the order in which the Court has viewed this subject, the following questions have been considered and decided: 1st. Has the applicant a right to the commission he demands? 2d. If he has a right, and that right has been violated, do the laws of this country afford him a remedy? 3d. If they do afford him a remedy, is it a mandamus issuing from this court? . . .

It is . . . the opinion of the Court: 1st. That by signing the commission of Mr. Marbury, the President of the United States appointed him a justice of the peace for the county of Washington, in the District of Columbia; and that the seal of the United States, affixed thereto by the secretary of state, is conclusive testimony of the verity of the signature, and of the completion of the appointment; and that the appointment conferred on him a legal right to the office for the space of five years. 2d. That, having this legal title to the office, he has a consequent right to the commission; a refusal to deliver which is a plain violation of that right, for which the laws of his country afford him a remedy. 3d. It remains to be inquired whether he is entitled to the remedy for which he applies? . . .

This . . . is a plain case for a mandamus, either to deliver the commission, or a copy of it from the record; and it only remains to be inquired, whether it can issue from this court?

The act to establish the judicial courts of the United States authorizes the Supreme Court, "to issue writs of mandamus, in cases warranted by the principles and usages of law, to any courts appointed or persons holding office, under the authority of the United States." The secretary of state, being a person holding an office under the authority of the United States, is precisely within the letter of this description; and if this court is not authorized to issue a writ of mandamus to such an officer, it must be because the law is unconstitutional . . .

The Constitution vests the whole judicial power of the United States in one Supreme Court, and such inferior courts as Congress shall, from time to time, ordain and establish....

In the distribution of this power, it is declared that "the Supreme Court shall have original jurisdiction in all cases affecting ambassadors, other public ministers and consuls, and those in which a state shall be a party. In all other cases, the Supreme Court shall have appellate jurisdiction." . . .

If it had been intended to leave it in the discretion of the legislature to apportion the judicial power between the supreme and inferior courts according to the will of that body, it would certainly have been useless to have proceeded further than to have defined the judicial power, and the tribunals in which it should be vested. The subsequent part of the section is mere surplusage, is entirely without meaning, . . .

It cannot be presumed that any clause in the Constitution is intended to be without effect . . .

To enable this court, then, to issue a mandamus, it must be shown to be an exercise of appellate jurisdiction . . .

The authority, therefore, given to the Supreme Court, by the Act establishing the judicial courts of the United States, to issue writs of mandamus to public officers, appears not to be warranted by the Constitution . . .

Study Questions

1. Summarize the opinion of the court in this case regarding whether or not the Supreme Court has the authority to issue writs of mandamus to public officers.

Constitutionality of the Louisiana Purchase (1803)

Thomas Jefferson to John C. Breckinridge

Monticello, Aug. 12, 1803 DEAR SIR,-The enclosed letter, tho' directed to you, was intended to me also, and was left open with a request, that when perused, I would forward it to you. It gives me occasion to write a word to you on the subject of Louisiana, which being a new one, an interchange of sentiments may produce correct ideas before we are to act on them.

Our information as to the country is very incomplete; we have taken measures to obtain it in full as to the settled part, which I hope to receive in time for Congress. The boundaries, which I deem not admitting question, are the high lands on the western side of the Mississippi enclosing all its waters, the Missouri of course, and terminating in the line drawn from the northwestern point of the Lake of the Woods to the nearest source of the Missipi, as lately settled between Gr Britain and the U S. We have some claims to extend on the sea coast Westwardly to the Rio Norte or Bravo, and better, to go Eastwardly to the Rio Perdido, between Mobile & Pensacola, the antient boundary of Louisiana. These claims will be a subject of negociation with Spain, and if, as soon as she is at war, we push them strongly with one hand, holding out a price in the other, we shall certainly obtain the Floridas, and all in good time. In the meanwhile, without waiting for permission, we shall enter into the exercise of the natural right we have always insisted on with Spain, to wit, that of a nation holding the upper part of streams, having a right of innocent passage thro' them to the ocean. We shall prepare her to see us practise on this, & she will not oppose it by force.

Objections are raising to the Eastward against the vast extent of our boundaries, and propositions are made to exchange Louisiana, or a part of it, for the Floridas. But, as I have said, we shall get the Floridas without, and I would not give one inch of the waters of the Mississippi to any nation, because I see in a light very important to our peace the exclusive right to its navigation, & the admission of no nation into it, but as into the Potomak or Delaware, with our consent & under our police. These federalists see in this acquisition the formation of a new confederacy, embracing all the waters of the Missipi, on both sides of it, and a separation of its Eastern waters from us. These combinations depend on so many circumstances which we cannot foresee, that I place little reliance on them. We have seldom seen neighborhood produce affection among nations. The reverse is almost the universal

truth. Besides, if it should become the great interest of those nations to separate from this, if their happiness should depend on it so strongly as to induce them to go through that convulsion, why should the Atlantic States dread it? But especially why should we, their present inhabitants, take side in such a question? When I view the Atlantic States, procuring for those on the Eastern waters of the Mississippi friendly instead of hostile neighbors of it's Western waters, I do not view it as an Englishman would the procuring future blessing for the French nation, with whom he has no relations of blood or affection. The future inhabitants of the Atlantic & Mississippi States will be our sons. We leave them in distinct but bordering establishments. We think we see their happiness in their union, & we wish it. Events may prove it otherwise; and if they see their interest in separation, why should we take side with our Atlantic rather than our Mississippi descendants? It is the elder and the younger son differing. God bless them both, & keep them in union, if it be for their good, but separate them, if it be better. The inhabited part of Louisiana, from Point Coupée to the sea, will of course be immediately a territorial government, and soon a State. But above that, the best use we can make of the country for some time, will be to give establishments in it to the Indians on the East side of the Mississippi, in exchange for their present country, and open land offices in the last, & thus make this acquisition the means of filling up the Eastern side, instead of drawing off it's population. When we shall be full on this side, we may lay off a range of States on the Western bank from the head to the mouth, & so, range after range, advancing compactly as we multiply.

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 & 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 to the Constitution, approving & 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 & 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; & saying to him when of age, I did this for your 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 & not weaken the Constitution, by more strongly marking out its lines.

We have nothing later from Europe than the public papers give. I hope yourself and all the Western members will make a sacred point of being at the first day of the meeting of Congress; for *vestra res agitur*.

Accept my affectionate salutations & assurances of esteem & respect.

Thomas Jefferson to Wilson Cary Nicholas

Monticello, Sep. 7, 1803 DEAR SIR,-Your favor of the 3d was delivered me at court; but we were much disappointed at not seeing you here, Mr. Madison & the Gov. being here at the time. I enclose you a letter from Monroe on the subject of the late treaty. You will observe a hint in it, to do without delay what we are bound to do. There is reason, in the opinion of our ministers, to believe, that if the thing were to do over again, it could not be obtained, & that if we give the least opening, they will declare the treaty void. A warning amounting to that has been given to them, & an unusual kind of letter written by their minister to our Secretary of State, direct. Whatever Congress shall think it necessary to do, should be done with as little debate as possible, & particularly so far as respects the constitutional difficulty. I am aware of the force of the observations you make on the power given by the Constn to Congress, to admit new States into the Union, without restraining the subject to the territory then constituting the U S. But when I consider that the limits of the U S are precisely fixed by the treaty of 1783, that the Constitution expressly declares itself to be made for the U S, I cannot help believing the intention was to permit Congress to admit into the Union new States, which should be formed out of the territory for which, & under whose authority alone, they were then acting. I do not believe it was meant that they might receive England, Ireland, Holland, &c. into it, which would be the case on your construction. When an instrument admits two constructions, the one safe, the other dangerous, the one precise, the other indefinite, I prefer that which is safe & precise. I had rather ask an enlargement of power from the nation, where it is found necessary, than to assume it by a construction which would make our powers boundless. Our peculiar security is in possession of a written Constitution. Let us not

make it a blank paper by construction. I say the same as to the opinion of those who consider the grant of the treaty making power as boundless. If it is, then we have no Constitution. If it has bounds, they can be no others than the definitions of the power which that instrument gives. It specifies & delineates the operations permitted to the federal government, and gives all the powers necessary to carry these into execution. Whatever of these enumerated objects is proper for a law, Congress may make the law; whatever is proper to be executed by way of a treaty, the President & Senate may enter into the treaty; whatever is to be done by a judicial sentence, the judges may pass the sentence. Nothing is more likely than that their enumeration of powers is defective. This is the ordinary case of all human works. Let us go on then perfecting it, by adding, by way of amendment to the Constitution, those powers which time & trial show are still wanting. But it has been taken too much for granted, that by this rigorous construction the treaty power would be reduced to nothing. I had occasion once to examine its effect on the French treaty, made by the old Congress, & found that out of thirty odd articles which that contained, there were one, two, or three only which could not now be stipulated under our present Constitution. I confess, then, I think it important, in the present case, to set an example against broad construction, by appealing for new power to the people. If, however, our friends shall think differently, certainly I shall acquiesce with satisfaction; confiding, that the good sense of our country will correct the evil of construction when it shall produce ill effects.

No apologies for writing or speaking to me freely are necessary. On the contrary, nothing my friends can do is so dear to me, & proves to me their friendship so clearly, as the information they give me of their sentiments & those of others on interesting points where I am to act, and where information & warning is so essential to excite in me that due reflection which ought to precede action. I leave this about the 21st, and shall hope the District Court will give me an opportunity of seeing you.

Accept my affectionate salutations, & assurances of cordial esteem & respect.

Thomas Paine to John C. Breckinridge

I know little and can learn but little of the extent and present population of Louisiana. After the cession be completed and the territory annexed to the United States it will, I suppose, be formed into states, one, at least, to begin with. The people, as I have said, are new to us and we to them and a great deal will depend on a right beginning. As they have been transferred backward and forward several times from one European Government to another it is natural to conclude they have no fixed prejudices with respect to foreign attachments, and this puts them in a fit disposition for their new condition. The established religion is roman; but in what state it is as to exterior ceremonies (such as processions and celebrations), I know not. Had the cession to France continued with her, religion I suppose would have been put on the same footing as it is in that country, and there no ceremonial of religion can appear on the streets or highways; and the same regulation is particularly necessary now or there will soon be quarrells and tumults between the old settlers and the new. The Yankees will not move out of the road for a little wooden Jesus stuck on a stick and carried in procession nor kneel in the dirt to a wooden Virgin Mary. As we do not govern the territory as provinces but incorporated as states, religion there must be on the same footing it is here, and Catholics have the same rights as Catholics have with us and no others. As to political condition the Idea proper to be held out is, that we have neither conquered them, nor bought them, but formed a Union with them and they become in consequence of that union a part of the national sovereignty.

The present Inhabitants and their descendants will be a majority for some time, but new emigrations from the old states and from Europe, and intermarriages, will soon change the first face of things, and it is necessary to have this in mind when the first measures shall be taken. Everything done as an expedient grows worse every day, for in proportion as the mind grows up to the full standard of sight it disclaims the expedient. America had nearly been ruined by expedients in the first stages of the revolution, and perhaps would have been so, had not *Common Sense* broken the charm and the Declaration of Independence sent it into banishment.

Study Questions

1. In Jefferson's opinion, of what importance is the Mississippi River to the safety, security, and unity of the American states?
2. What concerns are noted by Thomas Paine in terms of religious differences between the population of the existing Union and the inhabitants of the new territories?