CHAPTER SEVEN

Politics and Society in the New Republic 1787–1820

The Political Crisis of the 1790s

With the adoption of the Constitution and the addition of the Bill of Rights, America's political problems changed but did not disappear. The financial difficulties that had bedeviled the confederation government still existed. Alexander Hamilton—talented, ambitious, and aristocratically inclined—was determined to confront these problems boldly. First, Hamilton successfully worked to restore the public credit in a way that would ally the interests of the states and "monied men" with those of the federal government—but at the expense of small taxpayers (Document 7-1). Having gotten his way on public credit, Hamilton next strove to create a national financial institution, the Bank of the United States. In so doing, he argued for a loose interpretation of the Constitution that would greatly increase the federal government's power. Thomas Jefferson and James Madison, however, fought the bank proposal, presenting as a counterargument a strict interpretation of the Constitution that forbade the Congress to do anything not explicitly authorized by the charter. These positions reflected fundamentally different visions of what America was and should become.

As the fight over the course the government should follow became more heated, it extended into foreign policy and deepened political divisions. The eruption of the French Revolution in 1789 was enthusiastically received by Jefferson's supporters, who increasingly took the name Republican; but the revolution's excesses and radical assaults on religion horrified Hamilton's faction; these men, who retained the name Federalist, saw the new nation's economic future as dependent on good relations with Great Britain, France's enemy. While George Washington (Document 7-2) counseled a policy of aloofness from the contentions of Europe, British and especially French interests increasingly sought influence, adding hysteria over foreign "subversion" to domestic strife. The Federalists, in control of the government, went to great lengths to stifle their opponents, passing the Alien and Sedition Acts in 1798 (Document 7-4). In response, Madison and Jefferson briefly sought, in the Kentucky and Virginia Resolutions, to reassert state sovereignty against what they saw as a tyrannical federal government (Document 7-5).

In the end, though, the contest between Federalists and Jeffersonian Republicans was decided in the electoral arena; in the presidential contest of 1800, Jefferson emerged triumphant. His victory was notable in that it proved that power in the new nation could be

transferred peacefully and without serious reprisals against the losers; indeed, in his 1801 inaugural address (Document 7-6), Jefferson stressed the common interest of all parties in preserving and advancing the American experiment in republican government.

7-1 Report on Public Credit (1790)

Alexander Hamilton

As early as 1781, Alexander Hamilton, demonstrating his admiration for British institutions and economic policies, said that "a national debt if it is not excessive will be to us a national blessing, it will be [a] powerfull cement of our union." When he became the nation's first secretary of the treasury in 1789, he tried to implement his ideals by devising innovative financial policies to overcome the fiscal problems that had helped undermine the confederation government. The intricacies of those policies are clearly analyzed in the textbook (pp. 204–207). The sections of Hamilton's "Report on Public Credit" (1790) presented here explain his view on public credit, including his position concerning a national debt.

Source: From Harold C. Syrett, ed., *The Papers of Alexander Hamilton* (New York: Columbia University Press, 1962), 6:65–71, 106.

Treasury Department, January 9, 1790.
[Communicated on January 14, 1790]

[To the Speaker of the House of Representatives]

The Secretary of the Treasury, in obedience to the resolution of the House of Representatives . . . has . . . applied himself to the consideration of a proper plan for the support of the Public Credit, with all the attention which was due to the authority of the House, and to the magnitude of the object.

In the discharge of this duty, he has felt . . . a deep and solemn conviction of the momentous nature of the truth contained in the resolution under which his investigations have been conducted, "That an *adequate* provision for the support of the Public Credit, is a matter of high importance to the honor and prosperity of the United States."

With an ardent desire that his well-meant endeavors may be conducive to the real advantage of the nation, and with the utmost deference to the superior judgment of the House, he now respectfully submits the result of his enquiries and reflections, to their indulgent construction.

In the opinion of the Secretary, the wisdom of the House, in giving their explicit sanction to the proposition which has been stated, cannot but be applauded by all, who will seriously consider, and trace through their obvious consequences, these plain and undeniable truths.

That exigencies are to be expected to occur, in the affairs of nations, in which there will be a necessity for borrowing.

That loans in times of public danger, especially from foreign war, are found an indispensable resource, even to the wealthiest of them.

And that in a country, which, like this, is possessed of little active wealth, or in other words, little monied capital, the necessity for that resource, must, in such emergencies, be proportionably urgent.

And as on the one hand, the necessity for borrowing in particular emergencies cannot be doubted, so on the other, it is equally evident, that to be able to borrow upon *good terms*, it is essential that the credit of a nation should be well established.

For when the credit of a country is in any degree questionable, it never fails to give an extravagant premium, in one shape or another, upon all the loans it has occasion to make. Nor does the evil end here; the same disadvantage must be sustained upon whatever is to be bought on terms of future payment.

From this constant necessity of *borrowing* and *buying dear*, it is easy to conceive how immensely the expences of a nation, in a course of time, will be augmented by an unsound state of the public credit.

To attempt to enumerate the complicated variety of mischiefs in the whole system of the social œconomy, which proceed from a neglect of the maxims that uphold public credit, and justify the solicitude manifested by the House on this point, would be an improper intrusion on their time and patience.

In so strong a light nevertheless do they appear to the Secretary, that on their due observance at the present critical juncture, materially depends, in his judgment, the individual and aggregate prosperity of the citizens of the United States; their relief from the embarrassments they now experience; their character as a People; the cause of good government.

If the maintenance of public credit, then, be truly so important, the next enquiry which suggests itself is, by what

means it is to be effected? The ready answer to which question is, by good faith, by a punctual performance of contracts. States, like individuals, who observe their engagements, are respected and trusted: while the reverse is the fate of those, who pursue an opposite conduct. . . .

While the observance of that good faith, which is the basis of public credit, is recommended by the strongest inducements of political expediency, it is enforced by considerations of still greater authority. There are arguments for it, which rest on the immutable principles of moral obligation. And in proportion as the mind is disposed to contemplate, in the order of Providence, an intimate connection between public virtue and public happiness, will be its repugnancy to a violation of those principles.

This reflection derives additional strength from the nature of the debt of the United States. It was the price of liberty. The faith of America has been repeatedly pledged for it, and with solemnities, that give peculiar force to the obligation. There is indeed reason to regret that it has not hitherto been kept; that the necessities of the war, conspiring with inexperience in the subjects of finance, produced direct infractions; and that the subsequent period has been a continued scene of negative violation, or non-compliance. But a diminution of this regret arises from the reflection, that the last seven years have exhibited an earnest and uniform effort, on the part of the government of the union, to retrieve the national credit, by doing justice to the creditors of the nation; and that the embarrassments of a defective constitution, which defeated this laudable effort, have ceased.

From this evidence of a favorable disposition, given by the former government, the institution of a new one, cloathed with powers competent to calling forth the resources of the community, has excited correspondent expectations. A general belief, accordingly, prevails, that the credit of the United States will quickly be established on the firm foundation of an effectual provision for the existing debt. . . .

It cannot but merit particular attention, that among ourselves the most enlightened friends of good government are those, whose expectations are the highest.

To justify and preserve their confidence; to promote the encreasing respectability of the American name; to answer the calls of justice; to restore landed property to its due value; to furnish new resources both to agriculture and commerce; to cement more closely the union of the states; to add to their security against foreign attack; to establish public order on the basis of an upright and liberal policy. These are the great and invaluable ends to be secured, by a proper and adequate provision, at the present period, for the support of public credit.

To this provision we are invited, not only by the general considerations, which have been noticed, but by others of a more particular nature. It will procure to every class of the community some important advantages, and remove some no less important disadvantages. . . .

But these good effects of a public debt are only to be looked for, when, by being well funded, it has acquired an *adequate* and *stable* value. Till then, it has rather a contrary tendency. The fluctuation and insecurity incident to it in an unfunded state, render it a mere commodity, and a precarious one. As such, being only an object of occasional and particular speculation, all the money applied to it is so much diverted from the more useful channels of circulation, for which the thing itself affords no substitute: So that, in fact, one serious inconvenience of an unfunded debt is, that it contributes to the scarcity of money.

This distinction which has been little if at all attended to, is of the greatest moment. It involves a question immediately interesting to every part of the community; which is no other than this—Whether the public debt, by a provision for it on true principles, shall be rendered a *substitute* for money; or whether, by being left as it is, or by being provided for in such a manner as will wound those principles, and destroy confidence, it shall be suffered to continue, as it is, a pernicious drain of our cash from the channels of productive industry. . . .

Persuaded as the Secretary is, that the proper funding of the present debt, will render it a national blessing: Yet he is so far from acceding to the position, in the latitude in which it is sometimes laid down, that "public debts are public benefits," a position inviting to prodigality, and liable to dangerous abuse,—that he ardently wishes to see it incorporated, as a fundamental maxim, in the system of public credit of the United States, that the creation of debt should always be accompanied with the means of extinguishment. This he regards as the true secret for rendering public credit immortal. And he presumes, that it is difficult to conceive a situation, in which there may not be an adherence to the maxim. At least he feels an unfeigned solicitude, that this may be attempted by the United States, and that they may commence their measures for the establishment of credit, with the observance of it.

Questions

1. According to Hamilton, why is it essential for a nation to have good public credit?
2. According to Hamilton, what has to be done to ensure that the United States will have sound public credit?
3. Hamilton makes an open appeal to patriotism. Do you find it effective? Why or why not?

7-2 Farewell Address (1796)

George Washington

Foreign aid, especially the direct military aid that resulted from the French Alliance, proved essential to winning American independence. That alliance, however, was made when France was still a monarchy. When the French Revolution transformed France into a republic and then plunged that nation into war, the U.S. government faced a dilemma. Should the United States, a weak nation, honor its alliance with a France that was fundamentally different from the country that had entered into the Alliance of 1778? As the textbook authors indicate (pp. 208–209), the country split over the issue, and President Washington and the Federalist-dominated Congress chose to embrace neutrality. In taking that position, President Washington revealed his Federalist party leanings. Still, his emphasis on keeping America out of harm's way also reflected his view on the foreign policy guidelines that the young, still militarily weak nation should follow. In his 1796 farewell address, which also included extensive comments on "the baneful effects of the spirit of [political] parties," President Washington clearly spelled out his views on foreign policy.

Source: From James D. Richardson, ed., *A Compilation of the Messages and Papers of the Presidents* (Washington, DC: U.S. Government Printing Office, 1896–1899), 1:205–216 passim.

Observe good faith and justice toward all nations. Cultivate peace and harmony with all. Religion and morality enjoin this conduct. And can it be that good policy does not equally enjoin it? It will be worthy of a free, enlightened, and at no distant period a great nation to give to mankind the magnanimous and too novel example of a people always guided by an exalted justice and benevolence. Who can doubt that in the course of time and things the fruits of such a plan would richly repay any temporary advantages which might be lost by a steady adherence to it? . . .

In the execution of such a plan nothing is more essential than that permanent, inveterate antipathies against particular nations and passionate attachments for others should be excluded, and that in place of them just and amicable feelings toward all should be cultivated. The nation which indulges toward another an habitual hatred or an habitual fondness is in some degree a slave. It is a slave to its animosity or to its affection, either of which is sufficient to lead it astray from its duty and its interest. . . .

As avenues to foreign influence in innumerable ways, such attachments are particularly alarming to the truly enlightened and independent patriot. How many opportunities do they afford to tamper with domestic factions, to practice the arts of seduction, to mislead public opinion, to influence or awe the public councils! Such an attachment of a small or weak toward a great and powerful nation dooms the former to be the satellite of the latter. Against the insidious wiles of foreign influence (I conjure you to believe me, fellow-citizens) the jealousy of a free people ought to be *constantly* awake, since history and experience prove that foreign influence is one of the most baneful foes of republican government. But that jealousy, to be useful, must be impartial, else it becomes the instrument of the very influence to be avoided, instead of a defense against it. Excessive partiality for one foreign nation and excessive dislike of another cause those whom they actuate to see danger only on one side, and serve to veil and even second the arts of influence on the other. Real patriots who may resist the intrigues of the favorite are liable to become suspected and odious, while its tools and dupes usurp the applause and confidence of the people to surrender their interests.

The great rule of conduct for us in regard to foreign nations is, in extending our commercial relations to have with them as little *political* connection as possible. So far as we have already formed engagements let them be fulfilled with perfect good faith. Here let us stop.

Europe has a set of primary interests which to us have none or a very remote relation. Hence she must be engaged in frequent controversies, the causes of which are essentially foreign to our concerns. Hence, therefore, it must be unwise in us to implicate ourselves by artificial ties in the ordinary vicissitudes of her politics or the ordinary combinations and collisions of her friendships or enmities.

Our detached and distant situation invites and enables us to pursue a different course. If we remain one people, under an efficient government, the period is not far off when we may defy material injury from external annoyance; when we may take such an attitude as will cause the neutrality we may at any time resolve upon to be scrupulously respected; when belligerent nations, under the impossibility of making acquisitions upon us, will not lightly hazard the giving us provocation; when we may choose peace or war, as our interest, guided by justice, shall counsel.

Why forego the advantages of so peculiar a situation? Why quit our own to stand upon foreign ground? Why, by interweaving our destiny with that of any part of Europe, entangle our peace and prosperity in the toils of European ambition, rivalship, interest, humor, or caprice?

It is our true policy to steer clear of permanent alliances with any portion of the foreign world, so far, I mean, as we

are now at liberty to do it; for let me not be understood as capable of patronizing infidelity to existing engagements. I hold the maxim no less applicable to public than to private affairs that honesty is always the best policy. I repeat, therefore, let those engagements be observed in their genuine sense. But in my opinion it is unnecessary and would be unwise to extend them.

Taking care always to keep ourselves by suitable establishments on a respectable defensive posture, we may safely trust to temporary alliances for extraordinary emergencies.

Harmony, liberal intercourse with all nations are recommended by policy, humanity, and interest. But even our commercial policy should hold an equal and impartial hand, neither seeking nor granting exclusive favors or preferences; consulting the natural course of things; diffusing and diversifying by gentle means the streams of commerce, but forcing nothing; establishing with powers so disposed, in order to give trade a stable course, to define the rights of our merchants, and to enable the Government to support them, conventional rules of intercourse, the best that present circumstances and mutual opinion will permit, but temporary and liable to be from time to time abandoned or varied as experience and circumstances shall dictate; constantly keeping in view that it is folly in one nation to look for disinterested favors from another; that it must pay with a portion of its independence for whatever it may accept under that character; that by such acceptance it may place itself in the condition of having given equivalents for nominal favors, and yet of being reproached with ingratitude for not giving more. There can be no greater error than to expect or calculate upon real favors from nation to nation. It is an illusion which experience must cure, which a just pride ought to discard.

In offering to you, my countrymen, these counsels of an old and affectionate friend I dare not hope they will make the strong and lasting impression I could wish—that they will control the usual current of the passions or prevent our nation from running the course which has hitherto marked the destiny of nations. But if I may even flatter myself that they may be productive of some partial benefit, some occasional good—that they may now and then recur to moderate the fury of party spirit, to warn against the mischiefs of foreign intrigue, to guard against the impostures of pretended patriotism—this hope will be a full recompense for the solicitude for your welfare by which they have been dictated.

How far in the discharge of my official duties I have been guided by the principles which have been delineated the public records and other evidences of my conduct must witness to you and to the world. To myself, the assurance of my own conscience is that I have at least believed myself to be guided by them.

In relation to the still subsisting war in Europe my proclamation of the 22d of April, 1793, is the index to my plan. Sanctioned by your approving voice and by that of your representatives in both Houses of Congress, the spirit of that measure has continually governed me, uninfluenced by any attempts to deter or divert me from it.

After deliberate examination, with the aid of the best lights I could obtain, I was well satisfied that our country, under all the circumstances of the case, had a right to take, and was bound in duty and interest to take, a neutral position. Having taken it, I determined as far as should depend upon me to maintain it with moderation, perseverance, and firmness. . . .

The inducements of interest for observing that conduct will best be referred to your own reflections and experience. With me a predominant motive has been to endeavor to gain time to our country to settle and mature its yet recent institutions, and to progress without interruption to that degree of strength and consistency which is necessary to give it, humanly speaking, the command of its own fortunes.

Questions

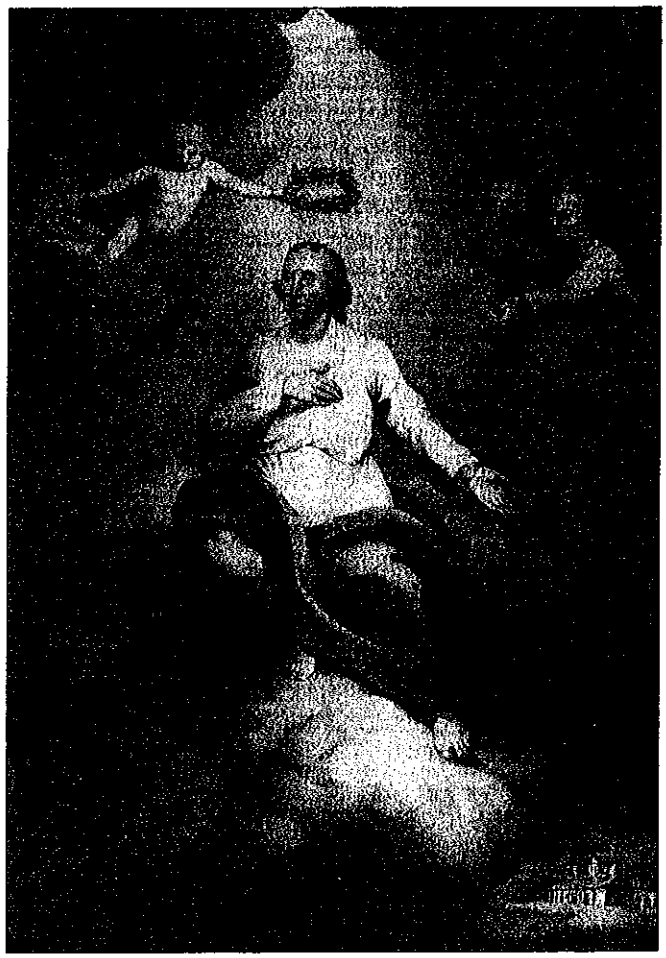
1. What foreign policy guidelines did President Washington recommend for the United States?
2. Were Washington's reasons for following those guidelines convincing? Why or why not?
3. What did Washington mean when he said that "a free people ought to be *constantly* awake"? Do you agree or disagree with his assertion? If your answer is yes, is his advice on this point as applicable today as it was in 1796? Why or why not?

7-3 George Washington as a Symbol for America (1799, 1800)

Alexander Lawson, David Edwin

George Washington was larger than life while he was still alive. In that constellation of leaders who came of age in Revolutionary America, no one outshined Washington; indeed, with the possible exception of Benjamin Franklin no one even came close. And the

(A) *Alexander Lawson, "General Washington's Resignation"*



(B) *David Edwin, "Apotheosis of Washington"*

single most important event in establishing Washington's fame occurred in 1783, at the end of the War of Independence, when he resigned as commander in chief of the Continental Army and returned to private life. At the peak of his power, the victorious general surrendered that power. When the prospect of Washington's voluntary resignation caught the attention of George III, the incredulous monarch reportedly blurted out, "If he does that, he will be the greatest man in the world." Washington's gesture was celebrated to such an extent that in 1799, sixteen years after the event, John James Barralet chose to commemorate it, rather than the more recent decision by Washington to step down from the presidency.

Washington died barely four months after the first publication of Barralet's etching. Along with the hundreds of sermons and quasi-biographical tributes that flooded the presses, including that of Mason Locke Weems, who famously invented the cherry tree story, dozens of memorial prints began to appear. The "Apotheosis of Washington" by David Edwin was advertised in New York as elegantly capturing "all that can be said of the

Soldier, the Statesman, the Husband and the Friend." Washington is shown rising from Mount Vernon and being greeted by his Revolutionary War comrades Joseph Warren, who died at the Battle of Bunker Hill, and Richard Montgomery, who was killed during the assault on Quebec.

Sources: Alexander Lawson after John Barralet, "General Washington's Resignation (1799)," originally from *Philadelphia Magazine and Review*, January 1799, Library of Congress. David Edwin after Rembrandt Peale, "The Apotheosis of Washington," 1800. Courtesy of the National Portrait Gallery, Smithsonian Institution.

Questions

1. In "General Washington's Resignation," Washington gestures toward an idyllic countryside in the background and an eagle guarding a cornucopia in the foreground. What do these symbolize?
2. Why would Americans find Washington's resignation so extraordinary? According to the documents in this chapter, why did they distrust men in power?
3. In "Apotheosis of Washington," Washington is dressed plainly in his ascent toward heaven. Why? How is this supposed to be a reflection of the situation of the United States?
4. How are Washington's achievements commemorated by Edwin? Why are Warren and Montgomery greeting him?

7-4 The Sedition Act (1798)

As the analysis in the textbook makes clear (pp. 209–212), President Washington was in some measure undoubtedly correct when he spoke of "the baneful effects of the spirit of [political] parties." One baneful effect was the way in which the Federalist Party responded to its declining popularity in the late 1790s, when it was faced with the prospect of becoming a minority party. In an effort to retain power, leading Federalists trampled on the rights of their political opponents and precipitated a major political crisis. This crisis was evidenced and symbolized by the passage of the Alien and Sedition Acts of 1798. The Sedition Act, which is reprinted here, was seen as a direct assault on the Bill of Rights and thus provoked a sharp response.

Source: United States, *Statutes at Large*, 1:596–597.

An Act in addition to the act, entitled "An act for the punishment of certain crimes against the United States."

SEC. 1. *Be it enacted* . . . , That if any persons shall unlawfully combine or conspire together, with intent to oppose any measure or measures of the government of the United States, which are or shall be directed by proper authority, or to impede the operation of any law of the United States, or to intimidate or prevent any person holding a place or office in or under the government of the United States, from undertaking, performing or executing his trust or duty; and if any person or persons, with intent as aforesaid, shall counsel, advise or attempt to procure any insurrection, riot, unlawful assembly, or combination, whether such conspiracy, threatening, counsel, advice, or attempt shall have the proposed effect or not, he or they shall be deemed guilty of a high misdemeanor, and on conviction, before any court of the United States having jurisdiction thereof, shall be punished by a fine not exceeding five thousand dollars, and by imprisonment during a term not less than six months nor exceeding five years; and further, at the discretion of the court may be holden to find sureties for his good behaviour in such sum, and for such time, as the said court may direct.

a confidence in the men of our choice, to silence our fears for the safety of our rights: that confidence is everywhere the parent of despotism; free government is founded in jealousy, and not in confidence; it is jealousy and not confidence which prescribes limited constitutions to bind down those whom we are obliged to trust with power: that our Constitution has accordingly fixed the limits to which and no further our confidence may go; and let the honest advocate of confidence read the alien and sedition acts, and say if the Constitution has not been wise in fixing limits to the government it created, and whether we should be wise in destroying those limits?

Questions

1. According to Jefferson, who or what agency of government was authorized to rule on the constitutionality of federal actions? How were federal laws to be declared "void and of no force"?
2. What did Jefferson mean by the declaration, "free government is founded in jealousy, and not in confidence"?
3. What remedy did Jefferson propose? What did he propose be done with the voided laws? Why is this important?

7-6 First Inaugural Address (1801)

Thomas Jefferson

The 1800 presidential election was the first one marked by especially vicious mudslinging (see text p. 211). However, by that time it was clear that the vision associated with the Republican Party headed by Thomas Jefferson had gained ascendancy. The Federalist Party was in fact disintegrating. Ironically, when a mix-up among the Republicans unexpectedly threw the election into the House of Representatives, Alexander Hamilton championed Thomas Jefferson, his longtime rival, rather than let Aaron Burr become president. Hamilton opposed Burr in part because he considered Burr a scoundrel. However, Hamilton also supported Jefferson because he believed that Jefferson as president would follow a more moderate course than would Jefferson as Republican Party leader. The first proof of how perceptive Hamilton was became clear on March 4, 1801, when Jefferson delivered his stunning first inaugural address, which is reprinted here in full. In 1801, as in the Declaration of Independence of 1776, Jefferson defined the American republic as a government based on both majority rule and minority rights, with laws that treated citizens equally and respected their liberty.

Source: From James D. Richardson, ed., *A Compilation of the Messages and Papers of the Presidents* (Washington, DC: U.S. Government Printing Office, 1913), 1:309–312.

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, announced 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 law must protect, and to violate 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 can not 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 can not be trusted with the government of himself. Can he, then, be trusted with the government of others? Or have we found angels in the forms 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 inculcating 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 antirepublican 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 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 burthened; 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 reason; freedom of religion; freedom of the press, and freedom of 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 learnt 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 greatest revolutionary character, whose preeminent 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 go wrong through defect of judgment. When right, 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.

Questions

1. According to Jefferson, why might some observers have misread the presidential election of 1800? Do you agree with his observations? Why or why not?
2. According to Jefferson, what is the "sacred principle" of American constitutional government?
3. Did the members of the Federalist Party have good reason to applaud Jefferson for his proclamation of that sacred principle? Why or why not?
4. According to Jefferson, what are "the essential principles of our Government"? Would Alexander Hamilton (Document 7-1) generally agree or disagree with Jefferson's assertions? Why or why not?

Questions for Further Thought

1. Do these documents support or challenge the analysis offered by James Madison in *The Federalist* No. 10 (Document 6-20)? Why or why not?
2. On the basis of the documents produced by Hamilton (7-1), Jefferson (7-5 and 7-6), and Washington (7-2), what term—*political ideologue* or *political pragmatist*—would you apply to each of these men? Why did you assign those terms?
3. On the basis of the documents produced by Hamilton (7-1), Jefferson (7-5 and 7-6), and Washington (7-2), would you call any of those men a political idealist? Why or why not?

The Westward Movement and the Jeffersonian Revolution

From its inception, the United States controlled vast territories stretching westward to the Mississippi River. By 1790 farming settlements extended into the western parts of New York, Pennsylvania, and Georgia, crossing or skirting the Appalachian Mountains into parts of Tennessee and Kentucky. The lure of the West was strong among land speculators and farmer-settlers (Document 7-7), but Indian nations west of the Appalachians—the Miami, Shawnee, Creek, Cherokee, Chickasaw, and Choctaw, among others—remained strong and resisted American encroachment. Under Presidents George Washington and Thomas Jefferson, a more orderly, sophisticated policy to promote Indian removal was

developed (Documents 7-8 and 7-9); but warfare east of the Mississippi, notably with the Creek and the Shawnee leader Tecumseh, continued through the War of 1812.

The character of western settlement varied considerably by latitude. The earliest western lands to be settled were in Kentucky and Tennessee, where yeomen farmers from the Chesapeake and the southern backcountry began extending settlements even before the Revolution (Document 7-10). To the south, in the future states of Alabama, Mississippi, and Louisiana, a very different sort of westward expansion took hold as southern planters, eager to profit from a lucrative new crop, cotton, snapped up the most suitable lands and settled them with slaves, many of whom were imported directly from Africa before Congress closed American ports to the transatlantic slave trade in 1808. To the north, New Englanders pressed westward from their overcrowded towns and stony farms into western New York and northern Ohio, carrying their distinctive culture along with them.

Life in the West was rude and isolated (Document 7-10). The barrier formed by the Appalachians made trade and communication with the settled East difficult and costly. The Mississippi River and its tributaries, notably the Ohio, afforded the best outlets, and the major early western trading towns—Cincinnati, Louisville, Pittsburgh, Saint Louis, and New Orleans—hugged their banks. However, downstream river traffic flowed away from major markets, and upstream traffic was difficult before the advent of the river steamboat in 1817. Accordingly, early western settlers were forced to live largely from their own produce and local exchange. The expansion of commerce in the West would await the "transportation revolution" of the years following 1820 (see Chapter 9).

7-7 Congressional Resolution on Western Lands (1800)

Wealthy speculators and poor farmer-settlers competed for control of western lands. Because speculators tended to be comfortable with the political processes through which land sales took place, they held the upper hand in this competition (see text pp. 220–221). But the demands of yeomen farmers for access to western lands created political pressure that could not be ignored by eastern politicians. As a groundswell of popular support built for Thomas Jefferson and his Democratic Republican Party, Congress passed the Land Act of 1800, which sharply reduced the minimum acreage offered for sale and provided liberal credit terms for the purchase of land (see text p. 220). In a series of resolutions Congress authorized the drafting of a new land act.

Source: From *Annals of the Congress of the United States, 1789–1824* (Washington, DC: U.S. Government Printing Office, 1799–1800), 6th Cong., 1st sess., 537–538.

The House resolved itself into a Committee of the Whole . . . to inquire whether any, and, if any, what, alterations are necessary in the laws providing for the sale of the lands of the United States Northwest of the Ohio; and, after some time spent therein, the Committee rose and reported several resolutions . . . as follows:

Resolved, That all the townships directed to be sold, either in quarter townships or in tracts of one mile square, by the act "providing for the sale of the lands of the United States, in the Territory Northwest of the river Ohio, and above the mouth of Kentucky river," shall be subdivided into half sections, containing, as nearly as may be, three hundred and twenty acres each: the additional expense of surveying to be paid by the purchasers, at the rate of three dollars per tract.

Resolved, That all the said lands shall be offered for sale at public sale, in tracts of three hun[d]red and twenty acres as above directed: *Provided,* That the same shall not be sold under the price of two dollars per acre, and that the sale shall be at the following places, to wit:

All the lands contained in the seven first ranges of townships, and north of the same, shall be offered for sale at Pittsburg[h].

All the lands contained in the eight next ranges of townships, shall be offered for sale at Marietta.

All the lands lying west of the fifteen first ranges of townships, and east of the Sciota river, shall be offered for sale at Chilicothe.

All the lands lying below the Great Miami shall be offered for sale at Cincinnati.

may be made for small considerations. This has been, and probably will be, the inevitable consequence of cultivation.

It is, however, painful to consider, that all the Indian tribes, once existing in those States now the best cultivated and most populous, have become extinct. If the same causes continue, the same effects will happen; and, in a short period, the idea of an Indian on this side of the Mississippi will only be found in the page of the historian.

How different would be the sensation of a philosophic mind to reflect, that, instead of exterminating a part of the human race by our modes of population, we had persevered, through all difficulties, and at last had imparted our knowledge of cultivation and the arts of the aboriginals of the country, by which the source of future life and happiness had been preserved and extended. But it has been conceived to be impracticable to civilize the Indians of North America. This opinion is probably more convenient than just.

That the civilization of the Indians would be an operation of complicated difficulty; that it would require the highest knowledge of the human character, and a steady perseverance in a wise system for a series of years; cannot be doubted. But to deny that, under a course of favorable circumstances, it could not be accomplished, is to suppose the human character under the influence of such stubborn habits as to be incapable of melioration or change—a supposition entirely contradicted by the progress of society, from the barbarous ages to its present degree of perfection.

While it is contended that the object is practicable, under a proper system, it is admitted, in the fullest force, to be impracticable, according to the ordinary course of things, and that it could be effected in a short period.

Were it possible to introduce among the Indian tribes a love for exclusive property, it would be a happy commencement of the business.

This might be brought about by making presents, from time to time, to the chiefs or their wives, of sheep and other domestic animals; and if, in the first instance, persons were appointed to take charge, and teach the use of them, a considerable part of the difficulty would be surmounted.

In the administration of the Indians, every proper expedient that can be devised to gain their affections, and attach them to the interest of the Union, should be adopted. The British Government had the practice of making the Indians presents of silver medals and gorgets, uniform clothing, and a sort of military commission. The possessors retained an exclusive property to these articles; and the Southern Indians are exceedingly desirous of receiving similar gifts from the United States, for which they would willingly resign those received from the British officers. The policy of gratifying them cannot be doubted.

Missionaries, of excellent moral character, should be appointed to reside in their nation, who should be well supplied with all the implements of husbandry, and the necessary stock for a farm.

These men should be made the instruments to work on the Indians; presents should commonly pass through their hands, or by their recommendations. They should, in no degree, be concerned in trade, or the purchase of lands, to rouse the jealousy of the Indians. They should be their friends and fathers.

Such a plan, although it might not fully effect the civilization of the Indians, would most probably be attended with the salutary effect of attaching them to the interest of the United States.

It is particularly important that something of this nature should be attempted with the Southern nations of Indians, whose confined situation might render them proper subjects for the experiment.

The expense of such a conciliatory system may be considered as a sufficient reason for rejecting it; . . .

All which is humbly submitted to the President of the United States.

H. KNOX

WAR OFFICE, *July 7*, 1789.

Questions

1. Whom did Secretary of War Knox blame for the conflicts on the frontier—settlers or natives?
2. What was Knox's plan to reduce the Creek and other eastern tribes to "the will of the United States"? Would you classify his proposals as "humane"?
3. What, according to Knox, was the major stumbling block to the Indians' peaceful incorporation into U.S. society?

7-9 Message to Congress (January 18, 1803)

Thomas Jefferson

Thomas Jefferson (1743–1826), the third president of the United States, was one of the leading intellectual figures in the early republic. Jefferson's republican belief in the United States as a nation of independent yeomen farmers called for new lands for settlement. He shared

the prevailing view that the barrier represented by Native Americans had to be removed one way or another. In the following message to Congress, Jefferson described the peaceful means by which he hoped to induce the Indians to sell their lands to the United States.

Source: From James D. Richardson, ed., *A Compilation of the Messages and Papers of the Presidents* (Washington, DC: U.S. Government Printing Office, 1908), 1:352–353.

The Indian tribes residing within the limits of the United States have for a considerable time been growing more and more uneasy at the constant diminution of the territory they occupy . . . and the policy has long been gaining strength with them of refusing absolutely all further sale on any condition. . . . In order peaceably to counteract this policy of theirs and to provide an extension of territory which the rapid increase of our numbers will call for, two measures are deemed expedient. First. To encourage them to abandon hunting, to apply [themselves] to the raising [of] stock, to agriculture, and domestic manufacture, and thereby prove to themselves that less land and labor will maintain them . . . better than in their former mode of living. The extensive forests necessary in the hunting life will then become useless, and they will see advantage in exchanging them for the means of improving their farms and of increasing their domestic comforts. Secondly. To multiply trading houses among them, and place within their reach those things which will contribute more to their domestic comfort than the possession of extensive but uncultivated wilds. . . . In leading them thus to agriculture, to manufactures, and civilization; in bringing together their and our sentiments, and in preparing them ultimately to participate in the benefits of our Government, I trust and believe we are acting for their greatest good. . . . In one quarter this is particularly interesting . . . on the Mississippi . . . it is [desirable] to possess a respectable breadth of country . . . so that we may present as firm a front on that as on our eastern border. We possess what is below the Yazoo, and can probably acquire a certain breadth from the Illinois and Wabash to the Ohio; but between the Ohio and Yazoo the country all belongs to the Chickasaws, the most friendly tribe within our limits, but the most decided against the alienation of lands. The portion of their country most important for us is exactly that which they do not inhabit. Their settlements are not on the Mississippi, but in the interior country. They have lately shown a desire to become agricultural, and this leads to the desire of buying implements and comforts. In the strengthening and gratifying of these wants I see the only prospect of planting on the Mississippi itself the means of its own safety. Duty has required me to submit these views to the judgment of the Legislature, but as their disclosure might embarrass and defeat their effect, they are committed to the special confidence of the two Houses.

Questions

1. The United States claimed sovereignty over the Native American nations but recognized the Indians' ownership of the lands they traditionally occupied. How did Jefferson propose to overcome this difficulty?
2. Why did Jefferson believe that Native Americans would be better off with less land?
3. Why did Jefferson want his plans for the Indians—plans he said were "for their greatest good"—kept secret?

7-10 A Pioneer Woman in Post-Revolutionary Kentucky (1840s)

Jane Stevenson

In the 1840s and 1850s, a young Presbyterian minister, John D. Shane (1812–1864), began conducting interviews with the by-then-elderly generation of pioneer European settlers in the Ohio Valley. Among the oldest of his interviewees was a woman, Jane Stevenson, who had been born in 1750; she was past ninety when he recorded her story sometime in the early 1840s. After Shane died in 1864 his notebooks were acquired by Lyman Draper (1815–1891), a major collector and disseminator of lore about the early American West. The following interview, with editorial additions by Shane and Draper (in brackets), follows Stevenson's travels from her birthplace in the Shenandoah Valley, first to the Greenbriar Valley of what is now West Virginia and then over the Wilderness Road into

Robert or Charles Knox, started to go on foot up to Lexington, and was killed before he got there. He lived at the upper, we at the lower end of the station, so I didn't see him when he started. He was shot in the thigh. The Indians took him off a piece, but found he could not travel, and shot him. We had moved down to McConnell's station but about a week.

Alexander McConnell had been out to kill a deer, and had skinned and swung it up. He then came in and borrowed a chestnut dun horse, having a white main and tail, of William McConnell, and went out to bring it in. Five Indians were on the look out. This horse was shot from under him, but fell on his leg, the one indian wanted to kill him but the other indian showed that only the horse was on his leg.—This was Thursday to Tuesday he was gone.—McConnell couldn't kill the indian that had saved his life twice. He was the other side of the log.—He got the indians cappo, blue, (in the night, & he wanted to be dark) and set his gun, and pipe, and tomahawk down.—I heard him tell the story many times, and he never varied a word of it.—Tuesday evening, about sundown, he came in. His wife ran out to meet him, but they had to carry her in, she fainted away, overjoyed.

They had killed the horse, and cut off the main and tail to dye for moccasin purposes, &c. They could make it any color, almost, they pleased.—He shot the two guns first. Then shot the others alternately, and both indians fell into the fire, and flared up the ashes and light.—It is said the place where this happened, was never improved, till some 4 or 5 years ago, and that then they discovered the guns. This somewhere a little below Limestone.

We raised 4 crops, and then moved out. That was in 1784. 80–81–82–83.

The first meeting house was built in 1785. Mr. Rankin gave us time about with Lexington. He preached at first out here in private houses. At Capt. William McConnell's. (No kin to the McConnell's at McConnell's station. This William McConnell moved to St. Louis a great while ago.) Here. McElvain's, & Samuel Kelly's. He came in the fall, and the next spring we raised the house. Elders—This Capt. McConnell, Samuel Kelly, Hugh Campbell, (moved afterwards to Missouri) and another.

Was 17 days in the harvest, and every day in the river. When a young woman. Swam the Cowpasture, 300 yards wide, many a time on my back.

[Shane:] Mr. Trabue of Scott Co., Ky., obtained of "Aunt Jane," information, such as was necessary in order to obtain a pension.

Questions

1. Jane Stevenson's childhood and young womanhood coincided with the French and Indian War and the American Revolution. How did those wars shape her experience on the frontier?
2. What characteristics of her fellow settlers did Stevenson typically find worthy of remark?
3. In reading this interview, what do you think Stevenson took the most pride in having achieved in her life?

Questions for Further Thought

1. What assumptions were shared by Congress (Document 7-7), Henry Knox (Document 7-8), and Thomas Jefferson (Document 7-9) with regard to the development of the western territories and the treatment of Native Americans?
2. How might Knox and Jefferson have responded to Jane Stevenson's story of frontier confrontations? What would they have found most commendable about the Stevensons and the other settlers?
3. Henry Knox proposed a policy aimed at "civilizing" the Indians. What was his definition of "civilization"? Did Jefferson employ the same definition?

The War of 1812 and the Transformation of Politics

During the presidential campaign of 1800, Federalists and Republicans alike argued that the very survival of the republic itself was at issue. Federalists charged that the Jeffersonians were "demagogues" intent on transporting the excesses of the French Revolution to

America, while Republicans countered that their opponents were "monarchists" and avowed enemies of popular sovereignty. Given the ideological context of the times, the political crises of the 1790s (see text pp. 208–212), the newness of the American experiment in republicanism, and the absence of the idea of a "loyal opposition," protagonists on each side were not simply mouthing political propaganda; they earnestly believed what they said. Hence, Jefferson insisted that his electoral victory was "as real a revolution in the principles of our government as that of 1776 was in its form." Federalists, however, were alarmed, and John Adams tried to salvage the situation through a series of lame-duck judicial appointments. Jefferson, stung by these "midnight" appointments and determined to undo the "harm" caused by Adams, ordered a halt to the delivery of the commissions to these judges. The result was a landmark Supreme Court case (Document 7-11).

In his inaugural address, Jefferson spoke of an American empire "with room enough for our descendants to the thousandth and thousandth generation" (see Document 7-6). Clearly, he was not alluding to the United States as it stood in 1801; the "chosen country" he envisioned encompassed "all America, North and South." The Louisiana Purchase in 1803 fell squarely in line with this expansive vision of an "empire of liberty," and Jefferson, eager to assert American control over the territory, commissioned Meriwether Lewis and William Clark to explore the new domain, collect ethnographic information, and establish commercial and political relations with its Indian populations (Document 7-12).

While the Louisiana Purchase removed an immediate threat to Jeffersonian policy, the resumption of hostilities between Great Britain and France in 1803 posed even greater problems. Both belligerents refused to honor the neutrality of the United States and began to seize American vessels entering "hostile" waters. Jefferson, who believed in the power of commercial diplomacy, that is, in using American commerce as a weapon in settling international affairs, imposed a trade embargo in 1807. Rather than gaining the ends Jefferson sought, however, the embargo resulted only in economic dislocation and the rejuvenation of the moribund Federalist party (Document 7-13). In addition to coping with the effects of the failed embargo, James Madison, Jefferson's successor, had to deal with the increasingly hostile Creeks in the Southeast and the Western Confederacy led by the Shawnee Tecumseh and his brother Tenskwatawa (Document 7-14). These tensions—with the British on the high seas and with the Indians in the West—culminated in the War of 1812.

In general, the war went poorly for the United States, and New England Federalists, who had opposed the war from the outset, were determined to be heard. Meeting in Hartford, Connecticut, twenty-six delegates from Massachusetts, Connecticut, Rhode Island, and four counties in New Hampshire and Vermont drafted a set of resolutions to present in Washington (Document 7-15). Unfortunately for the Hartford delegation, the timing of their arrival in the nation's capital could not have been worse. News of the Treaty of Ghent ending the war and reports of a stunning American victory in the Battle of New Orleans preceded them. Although the treaty addressed none of the substantive issues that had led to war in the first place, and although the action at New Orleans came two weeks after the Ghent treaty and therefore played no role whatsoever in ending the war, the Federalists never recovered from charges of sedition and treason that came to be associated with the Hartford Convention. In the 1816 elections, the Federalist Party was in disarray; by 1820, it had disappeared.

7-11 Decision in *Marbury v. Madison* (1803)

John Marshall

In February 1801, the outgoing Federalist-controlled Congress passed the Judiciary Act, which increased the number of circuit judges and justices of the peace in the federal judiciary. President John Adams named staunch Federalists to the host of newly created positions just before leaving office. These so-called midnight appointments stung the

incoming president, Thomas Jefferson. John Marshall, Adams's secretary of state but also himself a midnight appointment to the Supreme Court, failed to deliver all of the judicial commissions before he left office, and Jefferson promptly ordered James Madison, the new secretary of state, to halt any further deliveries. One of those affected by the president's order was William Marbury, whose signed and sealed appointment as justice of the peace for the District of Columbia was effectively tabled. Marbury petitioned the Supreme Court, claiming that he had been deprived of his rightful property (his job) and asking the Court to issue a writ of mandamus to compel Madison to deliver the commission in question. Marbury's suit placed Marshall, now the chief justice, in a bind. If the Supreme Court issued a writ of mandamus and the executive branch ignored it, Marshall would have no way of enforcing the writ. On the other hand, if the Court rejected Marbury's petition, it would in effect be vindicating Jefferson's position. In February 1803, Marshall issued the unanimous decision, excerpted here, which established the precedent of the Court's judicial review.

Source: *Marbury v. Madison*, 5 U.S. 137 (1803).

. . . Marshall, C. J. . . . The peculiar delicacy of this case, the novelty of some of its circumstances, and the real difficulty attending the points which occur in it, require a complete exposition of the principles on which the opinion to be given by the court is founded. . . .

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?

2dly. If he has a right, and that right has been violated, do the laws of his country afford him a remedy?

3rdly. If they do afford him a remedy, is it a mandamus issuing from this court?

. . . The first object of enquiry is,

Has the applicant a right to the commission he demands? . . .

It is therefore decidedly the opinion of the court, that when a commission has been signed by the President, the appointment is made; and that the commission is complete, when the seal of the United States has been affixed to it by the secretary of state. . . .

Mr. Marbury, then, since his commission was signed by the President, and sealed by the secretary of state, was appointed; and as the law creating the office, gave the officer a right to hold for five years, independent of the executive, the appointment was not revocable; but vested in the officer legal rights, which are protected by the laws of his country.

To withhold his commission, therefore, is an act deemed by the court not warranted by law, but violative of a vested legal right.

This brings us to the second enquiry: which is,

If he has a right, and that right has been violated, do the laws of his country afford him a remedy? . . .

The government of the United States has been emphatically termed a government of laws, and not of men. It will certainly cease to deserve this high appellation, if the laws furnish no remedy for the violation of a vested legal right.

. . . It is, then, 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 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.

2ndly. 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.

It remains to be enquired whether,

3rdly. He is entitled to the remedy for which he applies. This depends on

1st. The nature of the writ applied for, and

2dly. The power of this court. . . .

This, then, 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 enquired,

Whether it can issue from this court.

The act to establish the judicial courts of the United States [Judiciary Act of 1789] 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 the 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, and therefore absolutely incapable of conferring the authority and assigning the duties which its words purport to confer and assign.

The authority . . . 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; and it becomes necessary to inquire whether a jurisdiction so conferred can be exercised.

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

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. . . .

It is emphatically the province and duty of the judicial department to say what the law is. Those who apply the rule to particular cases must of necessity expound and interpret that rule. If two laws conflict with each other, the courts must decide on the operation of each. . . .

The judicial power of the United States is extended to all cases arising under the constitution.

Questions

1. How did the Supreme Court decide on the facts of the case? According to Marshall, did Marbury have a right to the commission?
2. The Court did not issue a writ of mandamus, but it also rejected Jefferson's position. How could it do both? How was Marshall able to enhance the power of the Supreme Court while refusing to issue a writ in this case?
3. Given the fact that Marshall was himself a midnight appointment and that his failure to deliver all of the judicial commissions was the basis of Marbury's suit in the first place, was he caught in a conflict of interest? Explain.

7-12 The Journals of the Lewis and Clark Expedition (1804–1806)

Meriwether Lewis

Shortly after completing the Louisiana Purchase, President Jefferson commissioned two army captains, William Clark (the younger brother of the Revolutionary War hero George Rogers Clark) and Meriwether Lewis (Jefferson's personal secretary), to explore the new American territory. In the spring of 1804, Lewis and Clark led an expedition of twenty-five men up the Missouri River to present-day central North Dakota; in the spring of 1805, they followed the Missouri and Columbia Rivers west to the Pacific. The following spring they returned to their point of departure at St. Louis. In their journals the two men recorded a journey of discoveries as they encountered new flora and fauna as well as a rich variety of Native American cultures. In the following passages Lewis relates his encounter with the Shoshone in what is now Idaho, all the while recording careful observations on the strategic situation of the United States in the region.

Source: From Gary E. Moulton and Thomas W. Dunlay, eds., *The Journals of the Lewis and Clark Expedition*, 5:87–89, 91–92, 102–103.

Wednesday, August 14th

. . . [T]he game which they principally hunt is the Antelope which they pursue on horseback and shoot with their arrows. this animal is so extreemly fleet and dureable that a single horse has no possible chance to overtake them or run them down. the Indians are therefore obliged to have recorce to stratagem when they discover a herd of the Antelope they seperate and scatter themselves to the distance of five or six miles in different directions around them generally selecting some commanding eminence for a stand; some one or two now pursue the herd at full speed over the hills valleys gullies and the sides of precipices that are tremendious to view. thus after runing them from five to six or seven miles the fresh horses that were in the waiting head them and drive them back persuing them as far or perhaps further quite to the other extreem of the hunters who now in turn pursue on their fresh horses thus (finally) worrying the poor animal down and finally killing them with their arrows. forty or fifty hunters will be engaged for half a day in this manner and perhaps not kill more than two or three Antelopes. they have

but few Elk or black tailed deer, and the common red deer they cannot take as they secrete themselves in the brush when pursued, and they have only the bow and arrow wich is a very slender dependence for killing any game except such as they can run down with their horses. I was very much entertained with a view of this indian chase; it was after a herd of about 10 Antelope and about 20 hunters. it lasted about 2 hours and considerable part of the chase in view from my tent. about 1 A.M. the hunters returned had not killed a single Antelope, and their horses foaming with sweat. my hunters returned soon after and had been equally unsuccessfull. I now directed McNeal to make me a little paist with the flour and added some berries to it which I found very pallateable.

The means I had of communicating with these people was by way of Drewyer who understood perfectly the common language of jesticulation or signs which seems to be universally understood by all the Nations we have yet seen. it is true that this language is imperfect and liable to error but is much less so than would be expected. the strong parts of the ideas are seldom mistaken.

I now prevailed on the Chief to instruct me with rispect to the geography of his country. this he undertook very cheerfully, by delienating the rivers on the ground. but I soon found that his information fell far short of my expectation or wishes. he drew the river on which we now are to which he placed two branches just above us, which he shewed me from the openings of the mountains were in view; he next made it discharge itself into a large river which flowed from the S. W. about ten miles below us, then continued this joint stream in the same direction of this valley or N. W. for one days march and then enclined it to the West for 2 more days march, here he placed a number of heeps of sand on each side which he informed me represented the vast mountains of rock eternally covered by snow through which the river passed. that the perpendicular and even juting rocks so closely hemned in the river that there was no possibilyte of passing along the shore; that the bed of the river was obstructed by sharp pointed rocks and the rapidity of the stream such that the whole surface of the river was beat into perfect foam as far as the eye could reach. that the mountains were also inaccessible to man or horse. he said that this being the state of the country in that direction that himself nor none of his nation had ever been further down the river than these mountains. I then enquired the state of the country on either side of the river but he could not inform me. he said there was an old man of his nation a days march below who could probably give me some information of the country to the N. W. and refered me to an old man then present for that to the S. W.— the Chief further informed me that he had understood from the persed nosed Indians who inhabit this river below the rocky mountains that it ran a great way toward the seting sun and finally lost itself in a great lake of water which was illy taisted, and where the white men lived. . . . I can discover that these people are by no means friendly to the Spaniard their complaint is, that the Spaniards will not let them have fire arms and amunition, that they put them off by telling them that if they suffer them to have guns they will kill each other, thus leaving them defenceless and an easy prey to their bloodthirsty neighbours to the East of them, who being in possession of fire arms hunt them up and murder them without rispect to sex or age and plunder them of their horses on all occasions. they told me that to avoid their enemies who were eternally harrassing them that they were obliged to remain in the interior of these mountains at least two thirds of the year where the[y] suffered as we then saw great heardships for the want of food sometimes living for weeks without meat and only a little fish roots and berries. but this added Cameahwait, with his ferce eyes and lank jaws grown meager for the want of food, would not be the case if we had guns, we could then live in the country of buffaloe and eat as our enimies do and not be compelled to hide ourselves in these mountains and live on roots and berries as the bear do. we do not fear our enimies when placed on an equal footing with them. I told them that the Minnetares Mandans & Recares of the Missouri had promised us to desist from making war on them & that we would indeavou to find the means of making the Minnetares of fort d Prarie or as they call them Pahkees desist from waging war against them also. that after our finally returning to our homes towards the rising sun whitemen would come to them with an abundance of guns and every other article necessary to their defence and comfort, and that they would be enabled to supply themselves with these articles on reasonable terms in exchange for the skins of the beaver Otter and Ermin so abundant in their country. they expressed great pleasure at this information and said they had been long anxious to see the whitemen that traded guns; and that we might rest assured of their friendship and that they would do whatever we wished them. . . .

. . . Drewyer who had had a good view of their horses estimated them at 400. most of them are fine horses. indeed many of them would make a figure of the South side of James River or the land of fine horses.— I saw several with spanish brands on them, and some mules which they informed me that they had also obtained from the Spaniards. I also saw a bridle bit of spanish manufactary, and sundry other articles which I have no doubt were obtained from the same source. notwithstanding the extreem poverty of those poor people they are very merry they danced again this evening untill midnight. each warrior keep one ore more horses tyed by a cord to a stake near his lodge both day and night and are always prepared for action at a moments warning. they fight on horseback altogether. I observe that the large flies are extreemly troublesome to the horses as well as ourselves. . . .

Friday, August 16th 1805.

I sent Drewyer and Shields before this morning in order to kill some meat as neither the Indians nor ourselves had any thing to eat. . . . after the hunters had been gone about an hour we set out. we had just passed through the narrows

when we saw one of the spies comeing up the level plain under whip, the chief pawsed a little and seemed somewhat concerned. I felt a good deel so myself and began to suspect that by some unfortunate accedent that perhaps some of there enimies had straggled hither at this unlucky moment; but we were all agreeably disappointed on the arrival of the young man to learn that he had come to inform us that one of the whitemen had killed a deer. in an instant they all gave their horses the whip and I was taken nearly a mile before I could learn what were the tidings; as I was without [s]tirrups and an Indian behind me the jostling was disagreeable. I therefore reigned up my horse and forbid the indian to whip him who had given him the lash at every jum for a mile fearing he should loose a part of the feast. the fellow was so uneasy that he left me the horse dismounted and ran on foot at full speed, I am confident a mile. when they arrived where the deer was which was in view of me they dismounted and ran in tumbling over each other like a parcel of famished dogs each seizing and tearing away a part of the intestens which had been previously thrown out by Drewyer who killed it; the seen was such when I arrived that had I not have had a pretty keen appetite myself I am confident I should not have taisted any part of the venison shortly. each one had a piece of some discription and all eating most ravenously. some were eating the kidnies the melt and liver and the blood running from the corners of their mouths, others were in a similar situation with the paunch and guts but the exuding substance in this case from their lips was of a different discription. one of the last who attracted my attention particularly had been fortunate in his allotment or reather active in the division, he had provided himself with about nine feet of the small guts one end of which he was chewing on while with his hands he was squezzing the contents out at the other. I really did not untill now think that human nature ever presented itself in a shape so nearly allyed to the brute creation. I viewed these poor starved divils with pity and compassion I directed McNeal to skin the deer and reserved a quarter, the ballance I gave the Chief to be divided among his people; they devoured the whole of it nearly without cooking.

Questions

1. Is the daily life of the western Indians as depicted in Lewis's journal entries what you expected? What challenges did both the Indians and the explorers face on the Plains?
2. What were the goals of the Lewis and Clark expedition? What information from the journals do you think that Thomas Jefferson was particularly interested in?
3. What do we learn about the balance of power in the West from the journals?

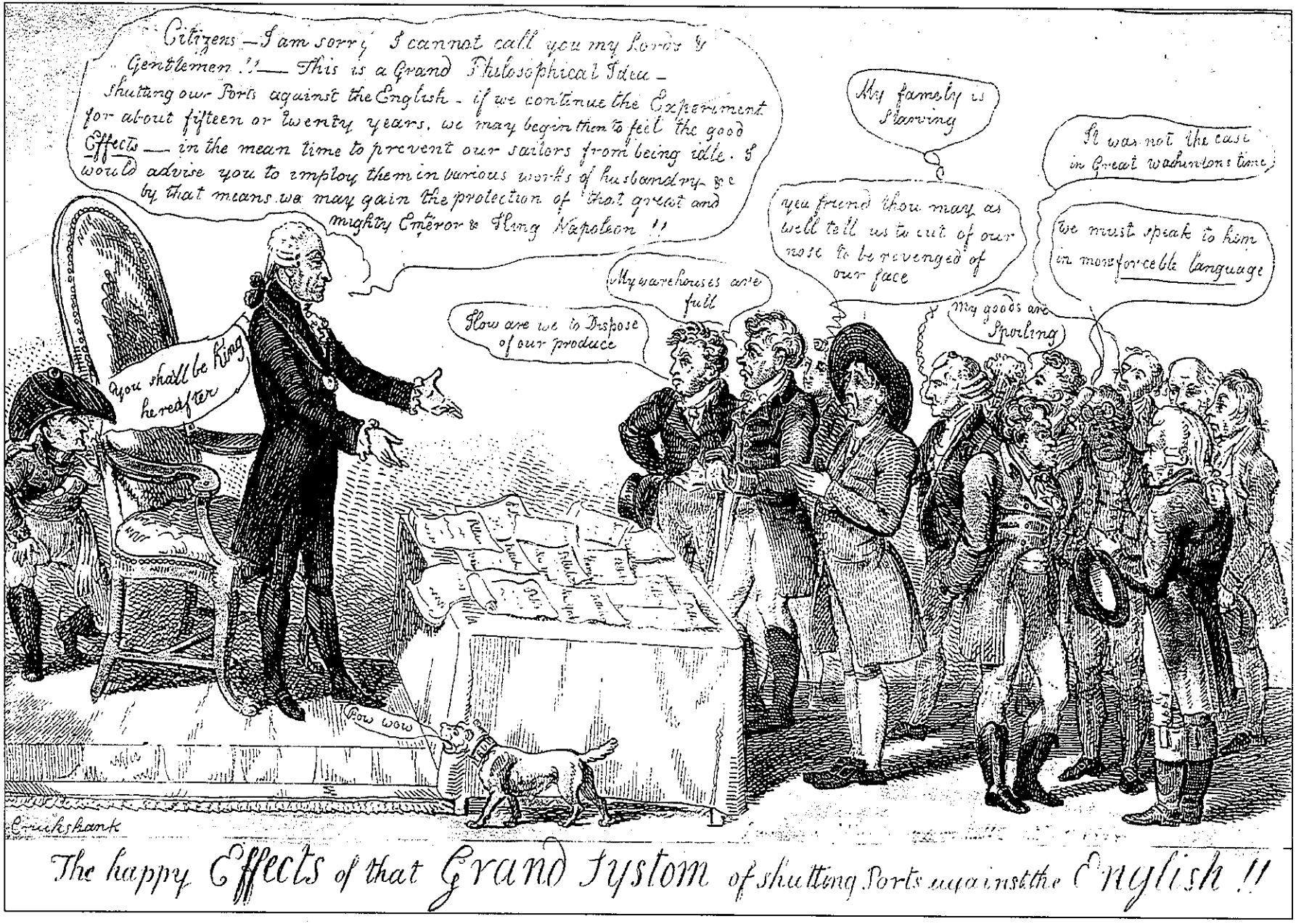
7-13 Jefferson and the Embargo (1808, 1809)

George Cruikshank, Peter Pencil

As Great Britain and France waged war in Europe, the United States found it increasingly difficult to remain neutral (see text pp. 222–224). In 1807 Thomas Jefferson devised the Embargo Act of 1807, which prohibited American ships from leaving port until both belligerents lifted their trade restrictions. While this approach provided a creative diplomatic solution, it was an economic disaster. Jefferson had overestimated France and Britain's reliance on American imports and underestimated the potential backlash from American farmers and merchants. Moreover, the issue fueled Federalist opposition as demands to repeal the embargo mounted.

The cartoons presented here satirize Jefferson's widely unpopular embargo. George Cruikshank's "The Happy Effects of that Grand System of Shutting Ports against the English!!" depicts Jefferson justifying his "Grand Philosophical Idea" to a group of disgruntled merchants, while Napoleon whispers to him, "You shall be King hereafter." Peter Pencil's "Intercourse or Impartial Dealings" shows Jefferson being taken-advantage of by George III, who is bullying him into submission, and by Napoleon, who is picking his pocket.

Sources: George Cruikshank, "The Happy Effects of that Grand System of Shutting Ports against the English!!," 1808. Courtesy of the Monticello/Thomas Jefferson Foundation, Inc. Peter Pencil (pseud.), "Intercourse or Impartial Dealings," 1809. By permission of the Houghton Library, Harvard University.



(A) *George Cruikshank, "The Happy Effects of that Grand System of Shutting Ports against the English!!"*

(B) *Peter Pencil, "Intercourse or Impartial Dealings"*