

Teaching American History Online Seminar

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## Jefferson: The Reformer

**Date:** September 13, 2025

**Panelists:** Michael Zuckert, David Alvis, and Jason Stevens

### Reading List

- A Bill Concerning Slaves
- A Bill for the More General Diffusion of Knowledge
- The Ordinance of 1784
- An Act for Establishing Religious Freedom
- Letter from Thomas Jefferson to James Madison (September 6, 1789)
- Opinion on the Constitutionality of the Bill Establishing a National Bank

**Link to Event:** <https://crowdcast.io/c/rbpw9t1f3yey>



### READING 1: "A Bill Concerning Slaves," Thomas Jefferson | 1779

SOURCE: <https://founders.archives.gov/documents/Jefferson/01-02-02-0132-0004-0051>

Be it enacted by the General Assembly, that no persons shall, henceforth, be slaves within this commonwealth, except such as were so on the first day of this present session of Assembly, and the descendants of the females of them.

Negroes and mulattoes which shall hereafter be brought into this commonwealth and kept therein one whole year, together, or so long at different times as shall amount to one year, shall be free. [But if they shall not depart the commonwealth within one year thereafter they shall be out of the protection of the laws.

Those which shall come into this commonwealth of their own accord shall be out of the protection of the laws; save only such as being seafaring persons and navigating vessels hither, shall not leave the same while here more than twenty four hours together.

It shall not be lawful for any person to emancipate a slave but by deed executed, proved and recorded as is required by law in the case of a conveyance of goods and chattels, on consideration not deemed valuable in law, or by last will and testament, and with the free consent of such slave, expressed in presence of the court of the county wherein he resides: And if such slave, so emancipated, shall not within one year thereafter, depart the commonwealth, he shall be out of the protection of the laws. All conditions, restrictions and limitations annexed to any act of emancipation shall be void from the time such emancipation is to take place.

If any white woman shall have a child by a negro or mulatto, she and her child shall depart the commonwealth within one year thereafter. If they fail so to do, the woman shall be out of the protection of the laws, and the child shall be bound out by the Aldermen of the county, in like manner as poor orphans are by law directed to be, and within one year after its term of service expired shall depart the commonwealth, or on failure so to do, shall be out of the protection of the laws.

Where any of the persons before described shall be disabled from departing the commonwealth by grievous sickness, the protection of the law shall be continued to him until such disability be removed: And if the county shall in the mean time, incur any expence in taking care of him, as of other county poor, the Aldermen shall be intitled to recover the same from his former master, if he had one, his heirs, executors and administrators.]

No negro or mulatto shall be a witness except in pleas of the commonwealth against negroes or mulattoes, or in civil pleas wherein negroes or mulattoes alone shall be parties.

No slave shall go from the tenements of his master, or other person with whom he lives, without a pass, or some letter or token whereby it may appear that he is proceeding by authority from his master, employer, or overseer: If he does, it shall be lawful for any person to apprehend and carry him before a Justice of the Peace, to be by his order punished with stripes, or not, in his discretion.

No slave shall keep any arms whatever, nor pass, unless with written orders from his master or employer, or in his company, with arms from one place to another. Arms in possession of a slave contrary to this prohibition shall be forfeited to him who will seize them.

Riots, routs, unlawful assemblies, trespasses and seditious speeches by a negro or mulatto shall be punished with stripes at the discretion of a Justice of the Peace; and he who will may apprehend and carry him before such Justice.

**READING 2: "A Bill for the More General Diffusion of Knowledge," Thomas Jefferson | 1779****SOURCE:** <https://founders.archives.gov/documents/Jefferson/01-02-02-0132-0004-0079>

Whereas it appeareth that however certain forms of government are better calculated than others to protect individuals in the free exercise of their natural rights, and are at the same time themselves better guarded against degeneracy, yet experience hath shewn, that even under the best forms, those entrusted with power have, in time, and by slow operations, perverted it into tyranny; and it is believed that the most effectual means of preventing this would be, to illuminate, as far as practicable, the minds of the people at large, and more especially to give them knowledge of those facts, which history exhibiteth, that, possessed thereby of the experience of other ages and countries, they may be enabled to know ambition under all its shapes, and prompt to exert their natural powers to defeat its purposes; And whereas it is generally true that that people will be happiest whose laws are best, and are best administered, and that laws will be wisely formed, and honestly administered, in proportion as those who form and administer them are wise and honest; whence it becomes expedient for promoting the public happiness that those persons, whom nature hath endowed with genius and virtue, should be rendered by liberal education worthy to receive, and able to guard the sacred deposit of the rights and liberties of their fellow citizens, and that they should be called to that charge without regard to wealth, birth or other accidental condition or circumstance; but the indigence of the greater number disabling them from so educating, at their own expense, those of their children whom nature hath fitly formed and disposed to become useful instruments for the public, it is better that such should be sought for and educated at the common expense of all, than that the happiness of all should be confided to the weak or wicked:

Be it therefore enacted by the General Assembly, that in every county within this commonwealth, there shall be chosen annually, by the electors qualified to vote for Delegates, three of the most honest and able men of their county, to be called the Aldermen of the county; and that the election of the said Aldermen shall be held at the same time and place, before the same persons, and notified and conducted in the same manner as by law is directed for the annual election of Delegates for the county.

The person before whom such election is holden shall certify to the court of the said county the names of the Aldermen chosen, in order that the same may be entered of record, and shall give notice of their election to the said Aldermen within a fortnight after such election.

The said Aldermen on the first Monday in October, if it be fair, and if not, then on the next fair day, excluding Sunday, shall meet at the court-house of their county, and proceed to divide their said county into hundreds, bounding the same by water courses, mountains, or limits, to be run and marked, if they think necessary, by the county surveyor, and at the county expense, regulating the size of the said hundreds, according to the best of their discretion, so as that they may contain a convenient number of children to make up a school, and be of such convenient size that all the children within each hundred may daily attend the school to be established therein, distinguishing each hundred by a particular name; which division, with the names of the several hundreds, shall be returned to the court of the county and be entered of record, and shall remain unaltered until the increase or decrease of inhabitants shall render an alteration necessary, in the opinion of any succeeding Aldermen, and also in the opinion of the court of the county.

The [local] electors aforesaid residing within every hundred shall meet on the third Monday in October after the first election of Aldermen, at such place, within their hundred, as the said Aldermen shall direct, notice thereof being previously given to them by such person residing within the hundred as the said Aldermen shall require who is hereby enjoined to obey such requisition, on pain of being punished by amercement and imprisonment. The electors being so assembled shall choose the most convenient place within their hundred for building a school-house. If two or more places, having a greater number of votes than any others, shall yet be equal between themselves, the Aldermen, or such of them as are not of the same hundred, on information thereof, shall decide

between them. The said Aldermen shall forthwith proceed to have a school-house built at the said place, and shall see that the same be kept in repair, and, when necessary, that it be rebuilt; but whenever they shall think necessary that it be rebuilt, they shall give notice as before directed, to the electors of the hundred to meet at the said school-house, on such day as they shall appoint, to determine by vote, in the manner before directed, whether it shall be rebuilt at the same, or what other place in the hundred.

At every of these schools shall be taught reading, writing, and common arithmetic, and the books which shall be used therein for instructing the children to read shall be such as will at the same time make them acquainted with Græcian, Roman, English, and American history. At these schools all the free children, male and female, resident within the respective hundred, shall be entitled to receive tuition *gratis*, for the term of three years, and as much longer, at their private expense, as their parents, guardians or friends, shall think proper.

Over every ten of these schools (or such other number nearest thereto, as the number of hundreds in the county will admit, without fractional divisions) an overseer shall be appointed annually by the Aldermen at their first meeting, eminent for his learning, integrity, and fidelity to the commonwealth, whose business and duty it shall be, from time to time, to appoint a teacher to each school, who shall give assurance of fidelity to the commonwealth, and to remove him as he shall see cause; to visit every school once in every half year at the least; to examine the scholars; see that any general plan of reading and instruction recommended by the visitors of William and Mary College shall be observed; and to superintend the conduct of the teacher in every thing relative to his school.

Every teacher shall receive a salary of by the year, which, with the expenses of building and repairing the schoolhouses, shall be provided in such manner as other county expenses are by law directed to be provided and shall also have his diet, lodging, and washing found him, to be levied in like manner, save only that such levy shall be on the inhabitants of each hundred for the board of their own teacher only.

And in order that grammar schools may be rendered convenient to the youth in every part of the commonwealth, Be it farther enacted, that on the first Monday in November, after the first appointment of overseers for the hundred schools, if fair, and if not, then on the next fair day, excluding Sunday, after the hour of one in the afternoon, the said overseers appointed for the schools in the counties of Princess Ann, Norfolk, Nansemond and Isle-of-Wight, shall meet at Nansemond court house; those for the counties of Southampton, Sussex, Surry and Prince George, shall meet at Sussex court-house; those for the counties of Brunswick, Mecklenburg and Lunenburg, shall meet at Lunenburg court-house; those for the counties of Dinwiddie, Amelia and Chesterfield, shall meet at Chesterfield court-house; those for the counties of Powhatan, Cumberland, Goochland, Henrico and Hanover, shall meet at Henrico court-house; those for the counties of Prince Edward, Charlotte and Halifax, shall meet at Charlotte court-house; those for the counties of Henry, Pittsylvania and Bedford, shall meet at Pittsylvania court-house; those for the counties of Buckingham, Amherst, Albemarle and Fluvanna, shall meet at Albemarle courthouse; those for the counties of Botetourt, Rockbridge, Montgomery, Washington and Kentucky, shall meet at Botetourt courthouse; those for the counties of Augusta, Rockingham and Greenbrier, shall meet at Augusta court-house; those for the counties of Accomack and Northampton, shall meet at Accomack court-house; those for the counties of Elizabeth City, Warwick, York, Gloucester, James City, Charles City and New-Kent, shall meet at James City court-house; those for the counties of Middlesex, Essex, King and Queen, King William and Caroline, shall meet at King and Queen court-house; those for the counties of Lancaster, Northumberland, Richmond and Westmoreland, shall meet at Richmond court-house; those for the counties of King George, Stafford, Spotsylvania, Prince William and Fairfax, shall meet at Spotsylvania court-house; those for the counties of Loudoun and Fauquier, shall meet at Loudoun court-house; those for the counties of Culpeper, Orange and Louisa, shall meet at Orange court-house; those for the counties of Shenandoah and Frederick, shall meet at Frederick court-house; those for the counties of Hampshire and Berkeley, shall meet at Berkeley court-house; and those for the counties of Yohogania, Monongalia and Ohio, shall meet at Monongalia courthouse; and shall fix on such place in some one of the counties in their district as shall be most proper for situating a grammar school-house,

endeavouring that the situation be as central as may be to the inhabitants of the said counties, that it be furnished with good water, convenient to plentiful supplies of provision and fuel, and more than all things that it be healthy. And if a majority of the overseers present should not concur in their choice of any one place proposed, the method of determining shall be as follows: If two places only were proposed, and the votes be divided, they shall decide between them by fair and equal lot; if more than two places were proposed, the question shall be put on those two which on the first division had the greater number of votes; or if no two places had a greater number of votes than the others, as where the votes shall have been equal between one or both of them and some other or others, then it shall be decided by fair and equal lot (unless it can be agreed by a majority of votes) which of the places having equal numbers shall be thrown out of the competition, so that the question shall be put on the remaining two, and if on this ultimate question the votes shall be equally divided, it shall then be decided finally by lot.

The said overseers having determined the place at which the grammar school for their district shall be built, shall forthwith (unless they can otherwise agree with the proprietors of the circumjacent lands as to location and price) make application to the clerk of the county in which the said house is to be situated, who shall thereupon issue a writ, like a writ of *ad quod damnum*, directed to the sheriff of the said county commanding him to summon and impanel twelve fit persons to meet at the place, so destined for the grammar school house, on a certain day, to be named in the said writ, not less than five, nor more than ten, days from the date thereof; and also to give notice of the same to the proprietors and tenants of the lands to be viewed, if they be to be found within the county, and if not, then to their agents therein if any they have. Which freeholders shall be charged by the said sheriff impartially, and to the best of their skill and judgment to view the lands round about the said place, and to locate and circumscribe, by certain metes and bounds, one hundred acres thereof, having regard therein principally to the benefit and convenience of the said school, but respecting in some measure also the convenience of the said proprietors, and to value and appraise the same in so many several and distinct parcels as shall be owned or held by several and distinct owners or tenants, and according to their respective interests and estates therein. And after such location and appraisement so made, the said sheriff shall forthwith return the same under the hands and seals of the said jurors, together with the writ, to the clerk's office of the said county and the right and property of the said proprietors and tenants in the said lands so circumscribed shall be immediately divested and be transferred to the commonwealth for the use of the said grammar school, in full and absolute dominion, any want of consent or disability to consent in the said owners or tenants notwithstanding. But it shall not be lawful for the said overseers so to situate the said grammar schoolhouse, nor to the said jurors so to locate the said lands, as to include the mansion-house of the proprietor of the lands, nor the offices, curtilage, or garden, thereunto immediately belonging.

The said overseers shall forthwith proceed to have a house of brick or stone, for the said grammar school, with necessary offices, built on the said lands, which grammar school-house shall contain a room for the school, a hall to dine in, four rooms for a master and usher, and ten or twelve lodging rooms for the scholars.

To each of the said grammar schools shall be allowed out of the public treasury, the sum of pounds, out of which shall be paid by the Treasurer, on warrant from the Auditors, to the proprietors or tenants of the lands located, the value of their several interests as fixed by the jury, and the balance thereof shall be delivered to the said overseers to defray the expense of the said buildings.

In these grammar schools shall be taught the Latin and Greek languages, English grammar, geography, and the higher part of numerical arithmetic, to wit, vulgar and decimal fractions, and the extraction of the square and cube roots.

A visitor from each county constituting the district shall be appointed, by the overseers, for the county, in the month of October annually, either from their own body or from their county at large, which visitors or the greater part of them, meeting together at the said grammar school on the first Monday in November, if fair, and if not, then on the next fair day, excluding Sunday, shall have power to choose their own Rector, who shall call and

preside at future meetings, to employ from time to time a master, and if necessary, an usher, for the said school, to remove them at their will, and to settle the price of tuition to be paid by the scholars. They shall also visit the school twice in every year at the least, either together or separately at their discretion, examine the scholars, and see that any general plan of instruction recommended by the visitors of William and Mary College shall be observed. The said masters and ushers, before they enter on the execution of their office, shall give assurance of fidelity to the commonwealth.

A steward shall be employed, and removed at will by the master, on such wages as the visitors shall direct; which steward shall see to the procuring provisions, fuel, servants for cooking, waiting, house cleaning, washing, mending, and gardening on the most reasonable terms; the expense of which, together with the steward's wages, shall be divided equally among all the scholars boarding either on the public or private expense. And the part of those who are on private expense, and also the price of their tuitions due to the master or usher, shall be paid quarterly by the respective scholars, their parents, or guardians, and shall be recoverable, if withheld, together with costs, on motion in any Court of Record, ten days notice thereof being previously given to the party, and a jury impaneled to try the issue joined, or enquire of the damages. The said steward shall also, under the direction of the visitors, see that the houses be kept in repair, and necessary enclosures be made and repaired, the accounts for which, shall, from time to time, be submitted to the Auditors, and on their warrant paid by the Treasurer.

Every overseer of the hundred schools shall, in the month of September annually, after the most diligent and impartial examination and enquiry, appoint from among the boys who shall have been two years at the least at some one of the schools under his superintendence, and whose parents are too poor to give them farther education, some one of the best and most promising genius and disposition, to proceed to the grammar school of his district; which appointment shall be made in the court-house of the county, on the court day for that month if fair, and if not, then on the next fair day, excluding Sunday, in the presence of the Aldermen, or two of them at the least, assembled on the bench for that purpose, the said overseer being previously sworn by them to make such appointment, without favor or affection, according to the best of his skill and judgment, and being interrogated by the said Aldermen, either on their own motion, or on suggestions from the parents, guardians, friends, or teachers of the children, competitors for such appointment; which teachers shall attend for the information of the Aldermen. On which interrogatories the said Aldermen, if they be not satisfied with the appointment proposed, shall have right to negative it; whereupon the said visitor may proceed to make a new appointment, and the said Aldermen again to interrogate and negative, and so *toties quoties* until an appointment be approved.

Every boy so appointed shall be authorized to proceed to the grammar school of his district, there to be educated and boarded during such time as is hereafter limited; and his quota of the expenses of the house together with a compensation to the master or usher for his tuition, at the rate of twenty dollars by the year, shall be paid by the Treasurer quarterly on warrant from the Auditors.

A visitation shall be held, for the purpose of probation, annually at the said grammar school on the last Monday in September, if fair, and if not, then on the next fair day, excluding Sunday, at which one third of the boys sent thither by appointment of the said overseers, and who shall have been there one year only, shall be discontinued as public foundationers, being those who, on the most diligent examination and enquiry, shall be thought to be of the least promising genius and disposition; and of those who shall have been there two years, all shall be discontinued, save one only the best in genius and disposition, who shall be at liberty to continue there four years longer on the public foundation, and shall thence forward be deemed a senior.

The visitors for the districts which, or any part of which, be southward and westward of James river, as known by that name, or by the names of Fluvanna and Jackson's river, in every other year, to wit, at the probation meetings held in the years, distinguished in the Christian computation by odd numbers, and the visitors for all the other districts at their said meetings to be held in those years, distinguished by even numbers, after diligent examination

and enquiry as before directed, shall choose one among the said seniors, of the best learning and most hopeful genius and disposition, who shall be authorized by them to proceed to William and Mary College, there to be educated, boarded, and clothed, three years; the expense of which annually shall be paid by the Treasurer on warrant from the Auditors.



## READING 3 The Ordinance of 1784

SOURCE: <https://founders.archives.gov/documents/Jefferson/01-06-02-0420-0006>

CONGRESS resumed the consideration of the report of a committee on a plan for a temporary government of the western territory, which being amended, was agreed to as follows:

Resolved, That so much of the territory ceded or to be ceded by individual states to the United States, as is already purchased or shall be purchased of the Indian inhabitants, and offered for sale by Congress, shall be divided into distinct states in the following manner, as nearly as such cessions will admit; that is to say, by parallels of latitude, so that each state shall comprehend from north to south two degrees of latitude, beginning to count from the completion of forty five degrees north of the equator; and by meridians of longitude, one of which shall pass through the lowest point of the rapids of Ohio, and the other through the western cape of the mouth of the great Kanhaway; but the territory eastward of this last meridian, between the Ohio, Lake Erie, and Pennsylvania, shall be one state, whatsoever may be its comprehension of latitude. That which may lie beyond the completion of the 45th degree between the said meridians shall make part of the state adjoining it on the south; and that part of the Ohio, which is between the same meridians coinciding nearly with the parallel of 39° shall be substituted so far in lieu of that parallel as a boundary line.

That the settlers on any territory so purchased and offered for sale shall, either on their own petition or on the order of Congress, receive authority from them, with appointments of time and place, for their free males of full age within the limits of their state to meet together, for the purpose of establishing a temporary government, to adopt the constitution and laws of any one of the original states; so that such laws nevertheless shall be subject to alteration by their ordinary legislature; and to erect, subject to a like alteration, counties, townships, or other divisions, for the election of members for their legislature.

That when any such state shall have acquired twenty thousand free inhabitants, on giving due proof thereof to Congress, they shall receive from them authority with appointments of time and place, to call a Convention of representatives to establish a permanent constitution and government for themselves. Provided that both the temporary and permanent governments be established on these principles as their basis.

First. That they shall for ever remain a part of this confederacy of the United States of America.

Second. That they shall be subject to the articles of confederation in all those cases in which the original states shall be so subject, and to all the acts and ordinances of the United States in Congress assembled, conformable thereto.

Third. That they in no case shall interfere with the primary disposal of the soil by the United States in Congress assembled, nor with the ordinances and regulations which Congress may find necessary for securing the title in such soil to the bona fide purchasers.

Fourth. That they shall be subject to pay a part of the federal debts contracted or to be contracted, to be apportioned on them by Congress, according to the same common rule and measure by which apportionments thereof shall be made on the other states.

Fifth. That no tax shall be imposed on lands the property of the United States.

Sixth. That their respective governments shall be republican.

Seventh. That the lands of non resident proprietors shall in no case be taxed higher than those of residents within any new state, before the admission thereof to a vote by its delegates in Congress.

That whensoever any of the said states shall have of free inhabitants, as many as shall then be in any one the least numerous of the thirteen original states, such state<sup>1</sup> shall be admitted by its delegates into the Congress of the United States, on an equal footing with the said original states; provided the consent of so many states in



Congress is first obtained as may at the time be competent to such admission. And in order to adapt<sup>1</sup> the said articles of confederation to the state of Congress when its numbers shall be thus increased, it shall be proposed to the legislatures of the states, originally parties thereto, to require the assent of two thirds of the United States in Congress assembled, in all those cases wherein by the said articles, the assent of nine states is now required, which being agreed to by them shall be binding on the new states. Until such admission by their Delegates into Congress, any of the said states after the establishment of their temporary government shall have authority to keep a member in Congress, with a right of debating, but not of voting.

That measures not inconsistent with the principles of the confederation, and necessary for the preservation of peace and good order among the settlers in any of the said new states, until they shall assume a temporary government as aforesaid, may from time to time be taken by the United States in Congress assembled.

That the preceding articles shall be formed into a charter of compact; shall be duly executed by the President of the United States in Congress assembled, under his hand, and the seal of the United States; shall be promulgated; and shall stand as fundamental constitutions between the thirteen original states, and each of the several states now newly described, unalterable from and after the sale of any part of the territory of such state, pursuant to this resolve, but by the joint consent of the United States in Congress assembled, and of the particular state within which such alteration is proposed to be made.

**READING 4: “An Act for Establishing Religious Freedom,” Thomas Jefferson | 1786****SOURCE:** <https://teachingamericanhistory.org/96jb>

**Section I.** Well aware that the opinions and belief of men depend not on their own will, but follow involuntarily the evidence proposed to their minds; that Almighty God hath created the mind free, and manifested his supreme will that free it shall remain by making it altogether insusceptible of restraint; that all attempts to influence it by temporal punishments, or burthen, or by civil incapacitations, tend only to beget habits of hypocrisy and meanness, and are a departure from the plan of the holy author of our religion, who being lord both of body and mind, yet chose not to propagate it by coercions on either, as was in his Almighty power to do, but to extend it by its influence on reason alone; that the impious presumption of legislators and rulers, civil as well as ecclesiastical, who, being themselves but fallible and uninspired men, have assumed dominion over the faith of others, setting up their own opinions and modes of thinking as the only true and infallible, and as such endeavoring to impose them on others, hath established and maintained false religions over the greatest part of the world and through all time: That to compel a man to furnish contributions of money for the propagation of opinions which he disbelieves and abhors, is sinful and tyrannical; that even he forcing him to support this or that teachers of his own religious persuasion, is depriving him of the comfortable liberty of giving his contributions to the particular pastor whose morals he would make his pattern, and whose powers he feels most persuasive to righteousness; and is withdrawing from the ministry those temporary rewards, which proceeding from an approbation of their personal conduct, are an additional incitement to earnest and unremitting labors for the instruction of mankind; that our civil rights have no dependence on our religious opinions, any more than our opinions in physics or geometry; that therefore the proscribing any citizen as unworthy the public confidence by laying upon him an incapacity of being called to offices of trust and emolument, unless he profess or renounce this or that religious opinion, is depriving him injuriously of those privileges and advantages to which, in common with his fellow citizens, he has a natural right; that it tends also to corrupt the principles of that very religion it is meant to encourage, by bribing, with a monopoly of worldly honors and emoluments, those who will externally profess and conform to it; that though indeed these are criminal who do not withstand such temptation, yet neither are those innocent who lay the bait in their way; that the opinions of men are not the object of civil government, nor under its jurisdiction; that to suffer the civil magistrate to intrude his powers into the field of opinion and to restrain the profession or propagation of principles on supposition of their ill tendency is a dangerous fallacy, which at once destroys all religious liberty, because he being of course judge of that tendency will make his opinions the rule of judgment, and approve or condemn the sentiments of others only as they shall square with or differ from his own; that it is time enough for the rightful purposes of civil government for its officers to interfere when principles break out into overt acts against peace and good order; and finally, that truth is great and will prevail if left to herself; that she is the proper and sufficient antagonist to error, and has nothing to fear from the conflict unless by human interposition disarmed of her natural weapons, free argument and debate; errors ceasing to be dangerous when it is permitted freely to contradict them.

**Section II.** We the General Assembly of Virginia do enact that no man shall be compelled to frequent or support any religious worship, place, or ministry whatsoever, nor shall be enforced, restrained, molested, or burthened in his body or goods, nor shall otherwise suffer, on account of his religious opinions or belief; but that all men shall be free to profess, and by argument to maintain, their opinions in matters of religion, and that the same shall in no wise diminish, enlarge, or affect their civil capacities.

**Section III.** And though we well know that this Assembly, elected by the people for the ordinary purposes of legislation only, have no power to restrain the acts of succeeding Assemblies, constituted with powers equal to our own, and that therefore to declare this act irrevocable would be of no effect in law; yet we are free to declare, and do declare, that the rights hereby asserted are of the natural rights of mankind, and that if any

act shall be hereafter passed to repeal the present or to narrow its operation, such act will be an infringement of natural

## READING 5: Letter from Thomas Jefferson to James Madison | September 6, 1789

Source: <https://teachingamericanhistory.org/document/letter-to-james-madison-17/>

DEAR SIR,

-- I sit down to write to you without knowing by what occasion I shall send my letter. I do it because a subject comes into my head which I would wish to develop a little more than is practicable in the hurry of the moment of making up general despatches.

The question Whether one generation of men has a right to bind another, seems never to have been started either on this or our side of the water. Yet it is a question of such consequences as not only to merit decision, but place also, among the fundamental principles of every government. The course of reflection in which we are immersed here on the elementary principles of society has presented this question to my mind; and that no such obligation can be transmitted I think very capable of proof. I set out on this ground which I suppose to be self evident, "*that the earth belongs in usufruct to the living*;" that the dead have neither powers nor rights over it. The portion occupied by an individual ceases to be his when himself ceases to be, and reverts to the society. If the society has formed no rules for the appropriation of its lands in severalty, it will be taken by the first occupants. These will generally be the wife and children of the decedent. If they have formed rules of appropriation, those rules may give it to the wife and children, or to some one of them, or to the legatee of the deceased. So they may give it to his creditor. But the child, the legatee or creditor takes it, not by any natural right, but by a law of the society of which they are members, and to which they are subject. Then no man can by *natural right* oblige the lands he occupied, or the persons who succeed him in that occupation, to the payment of debts contracted by him. For if he could, he might during his own life, eat up the usufruct of the lands for several generations to come, and then the lands would belong to the dead, and not to the living, which would be reverse of our principle. What is true of every member of the society individually, is true of them all collectively, since the rights of the whole can be no more than the sum of the rights of individuals. To keep our ideas clear when applying them to a multitude, let us suppose a whole generation of men to be born on the same day, to attain mature age on the same day, and to die on the same day, leaving a succeeding generation in the moment of attaining their mature age all together. Let the ripe age be supposed of 21. years, and their period of life 34. years more, that being the average term given by the bills of mortality to persons who have already attained 21. years of age. Each successive generation would, in this way, come on and go off the stage at a fixed moment, as individuals do now. Then I say the earth belongs to each of these generations during it's course, fully, and in their own right. The 2d. generation receives it clear of the debts and incumbrances of the 1<sup>st</sup>., the 3d. of the 2d. and so on. For if the 1<sup>st</sup>. could charge it with a debt, then the earth would belong to the dead and not the living generation. Then no generation can contract debts greater than may be paid during the course of it's own existence. At 21. years of age they may bind themselves and their lands for 34. years to come: at 22. for 33: at 23 for 32. and at 54 for one year only; because these are the terms of life which remain to them at those respective epochs. But a material difference must be noted between the succession of an individual and that of a whole generation. Individuals are parts only of a society, subject to the laws of a whole. These laws may appropriate the portion of land occupied by a decedent to his creditor rather than to any other, or to his child, on condition he satisfies his creditor. But when a whole generation, that is, the whole society dies, as in the case we have supposed, and another generation or society succeeds, this forms a whole, and there is no superior who can give their territory to a third society, who may have lent money to their predecessors beyond their faculty of paying.

What is true of a generation all arriving to self-government on the same day, and dying all on the same day, is true of those on a constant course of decay and renewal, with this only difference. A generation coming in and going out entire, as in the first case, would have a right in the 1st year of their self dominion to contract a debt for 33. years, in the 10<sup>th</sup>. for 24. in the 20<sup>th</sup>. for 14. in the 30<sup>th</sup>. for 4. whereas generations changing daily, by daily deaths and births, have one constant term beginning at the date of their contract, and ending when a majority

of those of full age at that date shall be dead. The length of that term may be estimated from the tables of mortality, corrected by the circumstances of climate, occupation &c. peculiar to the country of the contractors. Take, for instance, the table of M. de Buffon wherein he states that 23,994 deaths, and the ages at which they happened. Suppose a society in which 23,994 persons are born every year and live to the ages stated in this table. The conditions of that society will be as follows. 1st. it will consist constantly of 617,703 persons of all ages. 2dly. of those living at any one instant of time, one half will be dead in 24. years 8. months. 3dly. 10,675 will arrive every year at the age of 21. years complete. 4thly. it will constantly have 348,417 persons of all ages above 21. years. 5ly. and the half of those of 21. years and upwards living at any one instant of time will be dead in 18. years 8. months, or say 19. years as the nearest integral number. Then 19. years is the term beyond which neither the representatives of a nation, nor even the whole nation itself assembled, can validly extend a debt.

To render this conclusion palpable by example, suppose that Louis XIV. and XV. had contracted debts in the name of the French nation to the amount of 10.000 millions of livres and that the whole had been contracted in Genoa. The interest of this sum would be 500 millions, which is said to be the whole rent-roll, or net proceeds of the territory of France. Must the present generation of men have retired from the territory in which nature produced them, and ceded it to the Genoese creditors? No. They have the same rights over the soil on which they were produced, as the preceding generations had. They derive these rights not from their predecessors, but from nature. They then and their soil are by nature clear of the debts of their predecessors. Again suppose Louis XV. and his contemporary generation had said to the money lenders of Genoa, give us money that we may eat, drink, and be merry in our day; and on condition you will demand no interest till the end of 19. years, you shall then forever after receive an annual interest of 12.5 per cent. The money is lent on these conditions, is divided among the living, eaten, drank, and squandered. Would the present generation be obliged to apply the produce of the earth and of their labour to replace their dissipations? Not at all.

I suppose that the received opinion, that the public debts of one generation devolve on the next, has been suggested by our seeing habitually in private life that he who succeeds to lands is required to pay the debts of his ancestor or testator, without considering that this requisition is municipal only, not moral, flowing from the will of the society which has found it convenient to appropriate the lands become vacant by the death of their occupant on the condition of a payment of his debts; but that between society and society, or generation and generation there is no municipal obligation, no umpire but the law of nature. We seem not to have perceived that, by the law of nature, one generation is to another as one independent nation to another.

The interest of the national debt of France being in fact but a two thousandth part of it's rent-roll, the payment of it is practicable enough; and so becomes a question merely of honor or expediency. But with respect to future debts; would it not be wise and just for that nation to declare in the constitution they are forming that neither the legislature, nor the nation itself can validly contract more debt, than they may pay within their own age, or within the term of 19. years? And that all future contracts shall be deemed void as to what shall remain unpaid at the end of 19. years from their date? This would put the lenders, and the borrowers also, on their guard. By reducing too the faculty of borrowing within its natural limits, it would bridle the spirit of war, to which too free a course has been procured by the inattention of money lenders to this law of nature, that succeeding generations are not responsible for the preceding.

On similar ground it may be proved that no society can make a perpetual constitution, or even a perpetual law. The earth belongs always to the living generation. They may manage it then, and what proceeds from it, as they please, during their usufruct. They are masters too of their own persons, and consequently may govern them as they please. But persons and property make the sum of the objects of government. The constitution and the laws of their predecessors extinguished them, in their natural course, with those whose will gave them being. This could preserve that being till it ceased to be itself, and no longer. Every constitution, then, and every law, naturally expires at the end of 19. years. If it be enforced longer, it is an act of force and not of right.

It may be said that the succeeding generation exercising in fact the power of repeal, this leaves them as free as if the constitution or law had been expressly limited to 19. years only. In the first place, this objection admits the right, in proposing an equivalent. But the power of repeal is not an equivalent. It might be indeed if every form of government were so perfectly contrived that the will of the majority could always be obtained fairly and without impediment. But this is true of no form. The people cannot assemble themselves; their representation is unequal and vicious. Various checks are opposed to every legislative proposition. Factions get possession of the public councils. Bribery corrupts them. Personal interests lead them astray from the general interests of their constituents; and other impediments arise so as to prove to every practical man that a law of limited duration is much more manageable than one which needs a repeal.

This principle that the earth belongs to the living and not to the dead is of very extensive application and consequences in every country, and most especially in France. It enters into the resolution of the questions Whether the nation may change the descent of lands holden in tail? Whether they may change the appropriation of lands given antiently to the church, to hospitals, colleges, orders of chivalry, and otherwise in perpetuity? whether they may abolish the charges and privileges attached on lands, including the whole catalogue ecclesiastical and feudal? it goes to hereditary offices, authorities and jurisdictions; to hereditary orders, distinctions and appellations; to perpetual monopolies in commerce, the arts or sciences; with a long train of *et ceteras*: and it renders the question of reimbursement a question of generosity and not of right. In all these cases the legislature of the day could authorize such appropriations and establishments for their own time, but no longer; and the present holders, even where they or their ancestors have purchased, are in the case of *bona fide* purchasers of what the seller had no right to convey.

Turn this subject in your mind, my Dear Sir, and particularly as to the power of contracting debts, and develop it with that perspicuity and cogent logic which is so peculiarly yours. Your station in the councils of our country gives you an opportunity of producing it to public consideration, of forcing it into discussion. At first blush it may be rallied as a theoretical speculation; but examination will prove it to be solid and salutary. It would furnish matter for a fine preamble to our first law for appropriating the public revenue; and it will exclude, at the threshold of our new government the contagious and ruinous errors of this quarter of the globe, which have armed despots with means not sanctioned by nature for binding in chains their fellow-men. We have already given, in example one effectual check to the Dog of war, by transferring the power of letting him loose from the executive to the Legislative body, from those who are to spend to those who are to pay. I should be pleased to see this second obstacle held out by us also in the first instance. No nation can make a declaration against the validity of long-contracted debts so disinterestedly as we, since we do not owe a shilling which may not be paid with ease principal and interest, within the time of our own lives. Establish the principle also in the new law to be passed for protecting copy rights and new inventions, by securing the exclusive right for 19. instead of 14. years. Besides familiarising us to this term, it will be an instance the more of our taking reason for our guide instead of English precedents, the habit of which fetters us, with all the political heresies of a nation, equally remarkable for it's excitement from some errors, as long slumbering under others. I write you no news, because when an occasion occurs I shall write a separate letter for that. I am always, with great and sincere esteem, dear Sir, your affectionate friend and servant.

**READING 6: "Opinion on the Constitutionality of the Bill for Establishing a National Bank," Thomas Jefferson | 1791**

**SOURCE:** <https://teachingamericanhistory.org/document/opinion-on-the-constitutionality-of-a-national-bank/>

The Bill for establishing a National Bank undertakes among other things:

1. To form the subscribers into a corporation.
2. To enable them in their corporate capacities to receive grants of land; and so far is against the laws of *Mortmain*.
3. To make alien subscribers capable of holding lands, and so far is against the laws of *Alienage*.
4. To transmit these lands, on the death of a proprietor, to a certain line of successors; and so far changes the course of *Descents*.
5. To put the lands out of the reach of forfeiture or escheat; and so far is against the laws of *Forfeiture and Escheat*.
6. To transmit personal chattels to successors in a certain line; and so far is against the laws of *Distribution*.
7. To give them the sole and exclusive right of banking under the national authority; and so far is against the laws of Monopoly.
8. To communicate to them a power to make laws paramount to the laws of the States: for so they must be construed, to protect the institution from the control of the State legislatures; and so, probably, they will be construed.

I consider the foundation of the Constitution as laid on this ground: That "all powers not delegated to the United States, by the Constitution, nor prohibited by it to the States, are reserved to the States or to the people." [XIIth amendment.] To take a single step beyond the boundaries thus specially drawn around the powers of Congress, is to take possession of a boundless field of power, no longer susceptible of any definition.

The incorporation of a bank, and the powers assumed by this bill, have not, in my opinion, been delegated to the United States, by the Constitution.

- I. They are not among the powers specially enumerated: for these are: 1st. A power to lay taxes for the purpose of paying the debts of the United States; but no debt is paid by this bill, nor any tax laid. Were it a bill to raise money, its origination in the Senate would condemn it by the Constitution.
2. "To borrow money." But this bill neither borrows money nor ensures the borrowing it. The proprietors of the bank will be just as free as any other money holders, to lend or not to lend their money to the public. The operation proposed in the bill, first, to lend them two millions, and then to borrow them back again, cannot change the nature of the latter act, which will still be a payment, and not a loan, call it by what name you please.
3. To "regulate commerce with foreign nations, and among the States, and with the Indian tribes." To erect a bank, and to regulate commerce, are very different acts. He who erects a bank, creates a subject of commerce in its bills; so does he who makes a bushel of wheat, or digs a dollar out of the mines; yet neither of these persons regulates commerce thereby. To make a thing which may be bought and sold, is not to prescribe regulations for buying and selling. Besides, if this was an exercise of the power of regulating commerce, it would be void, as extending as much to the internal commerce of every State, as to its external. For the power given to Congress by the Constitution does not extend to the internal regulation of the commerce of a State, (that is to say of the commerce between citizen and citizen,) which remain exclusively with its own legislature; but to



its external commerce only, that is to say, its commerce with another State, or with foreign nations, or with the Indian tribes. Accordingly the bill does not propose the measure as a regulation of trade, but as "productive of considerable advantages to trade." Still less are these powers covered by any other of the special enumerations.

II. Nor are they within either of the general phrases, which are the two following:

1. To lay taxes to provide for the general welfare of the United States, that is to say, "to lay taxes for *the purpose* of providing for the general welfare." For the laying of taxes is the *power*, and the general welfare the *purpose* for which the power is to be exercised. They are not to lay taxes *ad libitum for any purpose they please*; but only to *pay the debts or provide for the welfare of the Union*. In like manner, they are not to *do anything they please* to provide for the general welfare, but only to *lay taxes* for that purpose. To consider the latter phrase, not as describing the purpose of the first, but as giving a distinct and independent power to do any act they please, which might be for the good of the Union, would render all the preceding and subsequent enumerations of power completely useless.

It would reduce the whole instrument to a single phrase, that of instituting a Congress with power to do whatever would be for the good of the United States; and, as they would be the sole judges of the good or evil, it would be also a power to do whatever evil they please.

It is an established rule of construction where a phrase will bear either of two meanings, to give it that which will allow some meaning to the other parts of the instrument, and not that which would render all the others useless. Certainly no such universal power was meant to be given them. It was intended to lace them up straitly within the enumerated powers, and those without which, as means, these powers could not be carried into effect. It is known that the very power now proposed *as a means* was rejected as *an end* by the Convention which formed the Constitution. A proposition was made to them to authorize Congress to open canals, and an amendatory one to empower them to incorporate. But the whole was rejected, and one of the reasons for rejection urged in debate was, that then they would have a power to erect a bank, which would render the great cities, where there were prejudices and jealousies on the subject, adverse to the reception of the Constitution.

2. The second general phrase is, "to make all laws *necessary* and proper for carrying into execution the enumerated powers." But they can all be carried into execution without a bank. A bank therefore is not *necessary*, and consequently not authorized by this phrase.

It has been urged that a bank will give great facility or convenience in the collection of taxes, Suppose this were true: yet the Constitution allows only the means which are "*necessary*," not those which are merely "convenient" for effecting the enumerated powers. If such a latitude of construction be allowed to this phrase as to give any non-enumerated power, it will go to everyone, for there is not one which ingenuity may not torture into a *convenience* in some instance *or other*, to *some one* of so long a list of enumerated powers. It would swallow up all the delegated powers, and reduce the whole to one power, as before observed. Therefore it was that the Constitution restrained them to the *necessary* means, that is to say, to those means without which the grant of power would be nugatory.

But let us examine this convenience and see what it is. The report on this subject, page 3, states the only *general* convenience to be, the preventing the transportation and re-transportation of money between the States and the treasury, (for I pass over the increase of circulating medium, ascribed to it as a want, and which, according to my ideas of paper money, is clearly a demerit.) Every State will have to pay a sum of tax money into the treasury; and the treasury will have to pay, in every State, a part of the interest on the public debt, and salaries to the officers of government resident in that State. In most of the States there will still be a surplus of tax money to come up to the seat of government for the officers residing there. The payments of interest and salary in each State may be made by treasury orders on the State collector. This will take up the

greater part of the money he has collected in his State, and consequently prevent the great mass of it from being drawn out of the State. If there be a balance of commerce in favor of that State against the one in which the government resides, the surplus of taxes will be remitted by the bills of exchange drawn for that commercial balance. And so it must be if there was a bank. But if there be no balance of commerce, either direct or circuitous, all the banks in the world could not bring up the surplus of taxes but in the form of money. Treasury orders then, and bills of exchange may prevent the displacement of the main mass of the money collected, without the aid of any bank; and where these fail, it cannot be prevented even with that aid.

Perhaps, indeed, bank bills may be a more *convenient* vehicle than treasury orders. But a little *difference* in the degree of *convenience* cannot constitute the necessity which the constitution makes the ground for assuming any non-enumerated power.

Besides; the existing banks will, without a doubt, enter into arrangements for lending their agency, and the more favorable, as there will be a competition among them for it; whereas the bill delivers us up bound to the national bank, who are free to refuse all arrangement, but on their own terms, and the public not free, on such refusal, to employ any other bank. That of Philadelphia, I believe, now does this business, by their post-notes, which, by an arrangement with the treasury, are paid by any State collector to whom they are presented. This expedient alone suffices to prevent the existence of that *necessity* which may justify the assumption of a non-enumerated power as a means for carrying into effect an enumerated one. The thing may be done, and has been done, and well done, without this assumption, therefore it does not stand on that degree of *necessity* which can honestly justify it.

It may be said that a bank whose bills would have a currency all over the States, would be more convenient than one whose currency is limited to a single State. So it would be still more convenient that there should be a bank, whose bills should have a currency all over the world. But it does not follow from this superior convenience, that there exists anywhere a power to establish such a bank; or that the world may not go on very well without it.

Can it be thought that the Constitution intended that for a shade or two of *convenience*, more or less, Congress should be authorized to break down the most ancient and fundamental laws of the several States; such as those against Mortmain, the laws of Alienage, the rules of descent, the acts of distribution, the laws of escheat and forfeiture, the laws of monopoly? Nothing but a necessity invincible by any other means, can justify such a prostitution of laws, which constitute the pillars of our whole system of jurisprudence. Will Congress be too strait-laced to carry the constitution into honest effect, unless they may pass over the foundation-laws of the State government for the slightest convenience of theirs?

The negative of the President is the shield provided by the constitution to protect against the invasions of the legislature: 1. The right of the Executive. 2. Of the Judiciary. 3. Of the States and State legislatures. The present is the case of a right remaining exclusively with the States, and consequently one of those intended by the Constitution to be placed under its protection.

It must be added, however, that unless the President's mind on a view of everything which is urged for and against this bill, is tolerably clear that it is unauthorized by the Constitution; if the pro and the con hang so even as to balance his judgment, a just respect for the wisdom of the legislature would naturally decide the balance in favor of their opinion. It is chiefly for cases where they are clearly misled by error, ambition, or interest, that the Constitution has placed a check in the negative of the President.

## READING 7: Letter from Thomas Jefferson to John Breckinridge | 1803

SOURCE: <https://teachingamericanhistory.org/document/letter-to-john-breckinridge/>

In the Treaties of Paris (1783), which concluded the war of the American Revolution, and San Lorenzo (1795) with Spain, the United States had laid claim to all the lands east of the Mississippi and south of British Canada, except for the Spanish provinces of Florida. The security of those lands was jeopardized when in 1800 Emperor Napoleon of France reacquired from Spain the vast territory west of the river and east of the Continental Divide known as Louisiana. Napoleon had dreams of establishing a French empire in the New World, which would put him in a position to deny America access to the Mississippi River and the vital port of New Orleans. Alarmed, President Thomas Jefferson ordered American diplomats Robert Livingston and James Monroe to seek to purchase New Orleans and all or part of the Floridas (if the latter had also been ceded by Spain) from France. To the American diplomats' astonishment, Napoleon—about to resume war with Britain and facing a military disaster in the Caribbean—offered to sell Louisiana as a whole. They almost instantly accepted, without any authority to do so, signing the agreement April 30, 1803. The total cost was \$15 million, larger than the entire annual federal budget, but the purchase roughly doubled the size of the nation. Jefferson announced the purchase in Washington on July 4, 1803.

The announcement precipitated a constitutional controversy. The Constitution did not explicitly authorize the federal government to acquire new territories. Nor did it provide for the incorporation of peoples residing in those territories—roughly 50,000 whites, mostly French and Spanish, and free and slave blacks—and perhaps as many Indians. (The population in the Union at that time was 5.3 million.) Nonetheless Jefferson and most of the country embraced the expansionist thrust despite opposition from the Northeast and the Federalist Party. Jefferson contemplated seeking a constitutional amendment but was uncertain it would be adopted. Time was of the essence. He rationalized the legality of his actions by invoking “the laws of necessity, of self-preservation, of saving our country when in danger”—which, coming from a strict constitutional constructionist, opened wide the scope for future expansion. The president envisioned the immense but essentially unexplored Louisiana region as “an empire for liberty” large enough to absorb the flood of Americans westward for many generations—ideally as part of a greater Union, but possibly going their own way in due time, yet remaining American.

—David Tucker

The enclosed letter, though 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 Mississippi, as lately settled between Great 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 ancient boundary of Louisiana. These claims will be a subject of negotiation 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 through them to the ocean. We shall prepare her to see us practice 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 Potomac

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 Mississippi, 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 its 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 its 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*.