

# The Articles of Confederation (1777)

*The Articles of Confederation and Perpetual Union was the first governing document of the United States of America. The Articles combined the colonies of the Revolutionary War into a loose confederation. The Second Continental Congress adopted the Articles on November 15, 1777, after 16 months of debate. The Articles then languished for another three years before ratification was completed on March 1, 1781. The Articles remained the governing document of the United States until the Constitution was ratified in 1788.*

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**To all to whom these Presents shall come, we the undersigned Delegates of the States affixed to our Names, send greeting**

WHEREAS the Delegates of the United States of America, in Congress assembled, did, on the 15th day of November, in the year [1777]. . . . agree to certain Articles of Confederation and perpetual Union between the States of. . . . in the words following, viz.:

*Articles of Confederation and perpetual Union between the states of New Hampshire, Massachusetts-Bay, Rhode Island and Providence Plantations, Connecticut, New-York, New-Jersey, Pennsylvania, Delaware, Maryland, Virginia, North-Carolina, South-Carolina, and Georgia.*

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I. The stile of this Confederacy shall be 'The United States of America'.

II. Each state retains its sovereignty, freedom, and independence, and every power, jurisdiction, and right, which is not by this Confederation expressly delegated to the United States, in Congress assembled.

III. The said states hereby severally enter into a firm league of friendship with each other, for their common defence, the security of their liberties, and their mutual and general welfare, binding themselves to assist each other, against all force offered to, or attacks made upon them, or any of them, on account of religion, sovereignty, trade, or any other pretence whatever.

IV. The better to secure and perpetuate mutual friendship and intercourse among the people of the different states in this union, the free inhabitants of each of these states, paupers, vagabonds, and fugitives from justice excepted, shall be entitled to all privileges and immunities of free citizens in the several states; and the people of each state shall have free ingress and regress to and from any other state, and shall enjoy therein all the privileges of trade and commerce, subject to the same duties, impositions and restrictions as the inhabitants thereof respectively, provided that such restriction shall not extend so far as to prevent the removal of property imported into any state, to any other state, of which the owner is an inhabitant; provided also that no imposition, duties or restriction shall be laid by any state, on the property of the United States, or either of them.

If any person guilty of, or charged with treason, felony, or other high misdemeanor in any state, shall flee from justice, and be found in any of the United States, he shall, upon demand of the Governor or executive power of the state from which he fled, be delivered up and removed to the state having jurisdiction of his offence.

Full faith and credit shall be given in each of these states to the records, acts and judicial proceedings of the courts and magistrates of every other state.

V. For the more convenient management of the general interests of the United States, delegates shall be annually appointed in such manner as the legislature of each state shall direct, to meet in Congress on the first Monday in November, in every year, with a power reserved to each state to recall its delegates, or any of them, at any time within the year, and to send others in their stead for the remainder of the year. No state shall be represented in Congress by less than two, nor by more than seven members; and no person shall be capable of being a delegate for more than three years in any term of six years; nor shall any person, being a delegate, be capable of holding any office under the United States, for which he, or another for his benefit receives any salary, fees or emolument of any kind.

Each state shall maintain its own delegates in a meeting of the states, and while they act as members of the committee of the states.

In determining questions in the United States in Congress assembled, each state shall have one vote.

Freedom of speech and debate in Congress shall not be impeached or questioned in any court or place out of Congress, and the members of Congress shall be protected in their persons from arrests and imprisonments, during the time of their going to and from, and attendance on Congress, except for treason, felony, or breach of the peace.

VI. No state, without the consent of the United States in Congress assembled, shall send any embassy to, or receive any embassy from, or enter into any conference, agreement, alliance or treaty with any king, prince or state; nor shall any person holding any office of profit or trust under the United States, or any of them, accept of any present, emolument, office or title of any kind whatever from any king, prince or foreign state; nor shall the United States in Congress assembled, or any of them, grant any title of nobility.

No two or more states shall enter into any treaty, confederation or alliance whatever between them, without the consent of the United States in Congress assembled, specifying accurately the purposes for which the same is to be entered into, and how long it shall continue.

No state shall lay any imposts or duties, which may interfere with any stipulations in treaties, entered into by the United States in Congress assembled, with any king, prince or state, in pursuance of any treaties, already proposed by Congress, to the courts of France and Spain. . . .

The United States in Congress assembled shall also be the last resort on appeal in all disputes and differences now subsisting or that hereafter may arise between two or more states concerning boundary, jurisdiction or any other cause whatever. . . .

The United States in Congress assembled shall also have the sole and exclusive right and power of regulating the alloy and value of coin struck by their own authority, or by that of the respective states-fixing the standard of weights and measures throughout the United States-regulating the trade and managing all affairs with the Indians, not members of any of the states, provided that the legislative right of any state within its own limits be not infringed or violated-establishing or regulating post-offices from one state to another, throughout all the United States, and exacting such postage on the papers passing thro' the same as may be requisite to defray the expences of the said office-appointing all officers of the land forces, in the service of the United States, excepting regimental officers-appointing all the officers of the naval forces, and commissioning all officers whatever in the service of the United States-making rules for the government and regulation of the said land and naval forces, and directing their operations.

The United States in Congress assembled shall have authority to appoint a committee, to sit in the recess of Congress, to be denominated 'A Committee of the States', and to consist of one delegate from each state; and to appoint such other committees and civil officers as may be necessary for managing the general affairs of the United States under their direction-to appoint one of their number to preside, provided that no person be allowed to serve in the office of president more than one year in any term of three years; to ascertain the necessary sums of money to be raised for the service of the United States, and to appropriate and apply the same for defraying the public expences-to borrow money, or emit bills on the credit of the United States, transmitting every half-year to the respective states an account of their sums of money so borrowed or emitted-to build and equip a navy-to agree upon the number of land forces, and to make requisitions from each state for its quota, in proportion to the number of white inhabitants in such state. . . .

The United States in Congress assembled shall never engage in a war, nor grant letters of marque and reprisal in time of peace, nor enter into any treaties or alliances, nor coin money, nor regulate the value thereof, nor ascertain the sums and expences necessary for the defence and welfare of the United States, or any of them, nor emit bills, nor borrow money on the credit of the United States, nor appropriate money, nor agree upon the number of vessels of war, to be built or purchased, or the number of land or sea forces to be raised, nor appoint a commander in chief of the army or navy, unless nine states assent to the same: nor shall a question on any other point, except for adjourning from day to day be determined, unless by the votes of a majority of the United States in Congress assembled. . . .

X. The Committee of the States, or any nine of them, shall be authorized to execute, in the recess of Congress, such of the powers of Congress as the United States in Congress assembled, by the consent of nine states, shall from time to time think expedient to vest them with; provided that no power be delegated to the said Committee, for the exercise of which, by the Articles of Confederation, the voice of nine states in the Congress of the United States assembled is requisite. . . .

XIII. Every state shall abide by the determinations of the United States in Congress assembled, on all questions which by this confederation are submitted to them. And the Articles of this Confederation shall be inviolably observed by every state, and the union shall be perpetual; nor shall any alteration at any time hereafter be made in any of them; unless such alteration be agreed to in a Congress of the United States, and be afterwards confirmed by the legislatures of every state.

And Whereas it hath pleased the Great Governor of the World to incline the hearts of the legislatures we respectively represent in Congress, to approve of, and to authorize us to ratify the said articles of confederation and perpetual union. Know ye that we the undersigned delegates, by virtue of the power and authority to us given for that purpose, do by these presents, in the name and in behalf of our respective constituents, fully and entirely ratify and confirm each and every of the said articles of confederation and perpetual union, and all and singular the matters and things therein contained; And we do further solemnly plight and engage the faith of our respective constituents, that they shall abide by the determinations of the United States in Congress assembled, on all questions, which by the said confederation are submitted to them. And that the articles thereof shall be inviolably observed by the states we respectively represent, and that the union shall be perpetual. In Witness whereof we have hereunto set our hands in Congress. Done at Philadelphia in the state of Pennsylvania the ninth day of July, in the year of our Lord one Thousand seven Hundred and Seventy-eight, and in the third year of the independence of America.

## **Benjamin Banneker—Letter to Thomas Jefferson, 1791**

*Benjamin Banneker's almanacs and letters illustrate African Americans' quest to eradicate slavery and racial discrimination. Banneker was a native of Baltimore County, Maryland. He attended grammar school only briefly, but Banneker's keen innate intelligence enabled him to teach himself astronomy and mathematics. He became so accomplished in math and science that by 1791, he traveled with his neighbor Major Andrew Ellicott to Washington, D.C., on a surveying expedition of the area where the U.S. capital would be established. In addition, Banneker compiled data on astronomical matters. Later, he composed and had printed Benjamin Banneker's Pennsylvania, Delaware, Maryland and Virginia Almanac and Ephemeris, for the Year of Our Lord, 1792. He mailed the publication to Thomas Jefferson and included his famous antislavery "Letter to Thomas Jefferson." Jefferson replied in writing, and his response and Banneker's letter were printed in pamphlet form. Banneker died in 1806 in Baltimore, Maryland, known as an abolitionist, astronomer, and successful almanac writer.*

SOURCE: University of Virginia Library.

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### **Maryland, Baltimore County Near Ellicotts' Lower Mills, August 19th, 1791**

*Thomas Jefferson, Secretary of State.*

Sir:—I am fully sensible of the greatness of that freedom, which I take with you on the present occasion, a liberty which seemed to me scarcely allowable, when I reflected on that distinguished and dignified station in which you stand, and the almost general prejudice and prepossession which is so prevalent in the world against those of my complexion. I suppose it is a truth too well attested to you, to need a proof here, that we are a race of beings who have long labored under the Abuse and censure of the world, that we have long been considered rather as brutish than human, and scarcely capable of mental endowments.

Sir, I hope I may safely admit, in consequence of that report which hath reached me, that you are a man far less inflexible in sentiments of this nature than many others, that you are measurably friendly and well disposed towards us, and that you are willing and ready to lend your aid and assistance to our relief, from those many distresses and numerous calamities, to which we are reduced.

Now, sir, if this is founded in truth, I apprehend you will readily embrace every opportunity to eradicate that train of absurd and false ideas and opinions, which so generally prevails with respect to us, and that your sentiments are concurrent with mine, which are that one universal Father hath given Being to us all, and that he hath not only made us all of one flesh, but that he hath also without partiality afforded us all the same sensations, and endued us all with the same faculties, and that however variable we may be in society or religion, however diversified in situation or color, we are all of the same family, and stand in the same relation to him.

Sir, if these are sentiments of which you are fully persuaded, I hope you cannot but acknowledge, that it is the indispensable duty of those who maintain for themselves the rights of human nature, and who profess the obligations of Christianity, to extend their power and influence to the relief of every part of the human race, from whatever

burden or oppression they may unjustly labor under, and this I apprehend a full conviction of the truth and obligation of these principles should lead all to.

Sir; I have long been convinced that if your love for yourselves and for those inestimable laws, which preserve to you the rights of human nature, was found on sincerity, you could not but be solicitous that every individual of whatever rank or distinction, might with you equally enjoy the blessings thereof, neither could you rest satisfied, short of the most active diffusion of your exertions in order to their promotions from any state of degradation to which the unjustifiable cruelty and barbarism of men have reduced them.

Sir, I freely and cheerfully acknowledge that I am of the African race, and in that color which is natural to them of the deepest dye, and it is under a sense of the most profound gratitude to the Supreme Being of the universe that I now confess to you that I am not under that state of tyrannical thralldom and inhuman captivity to which too many of my brethren are doomed; but that I have abundantly tasted of the fruition of those blessings which proceed from that free and unequalled liberty with which you are favored and which, I hope you will willingly allow you have received from the immediate hand of that Being, from whom proceedeth every good and perfect gift.

Sir; suffer me to recall to your mind that time in which the arms and tyranny of the British Crown were exerted with every powerful effort in order to reduce you to a State of Servitude, look back I entreat you on the variety of dangers to which you were exposed; reflect on that rime in which every human aid appeared unavailable, and in which even hope and fortitude wore the aspect of inability to the conflict and you cannot but be led to a serious and grateful sense of your miraculous and providential preservation; you cannot but acknowledge that the present freedom and tranquility which you enjoy you have mercifully received and that it is the peculiar blessing of Heaven.

This sir, was a time in which you clearly saw into the injustice of a state of slavery and in which you had just apprehensions of the horrors of its condition, it was now, sir that your abhorrence thereof was so excited, that you publicly held forth this true and valuable doctrine, which is worthy to be recorded and remembered in all succeeding ages. "We hold these truths to be self-evident, that all men are created equal, and that they are endowed by their creator with certain unalienable rights, that among these are life, liberty and the pursuit of happiness."

Here, sir, was a time in which your tender feelings for yourselves had engaged you thus to declare, you were then impressed with proper ideas of the great valuation of liberty and the free possession of those blessings to which you were entitled by nature; but, sir, how pitiable is it to reflect that although you were so fully convinced of the benevolence of the Father of mankind and of his equal and impartial distribution of those rights and privileges which he had conferred upon them, that you should at the same tune counteract his mercies in detaining by fraud and violence so numerous a part of my brethren under groaning captivity and cruel oppression, that you should at the same time be found guilty of that most criminal act which you professedly detested in others with respect to yourselves.

Sir, I suppose that your knowledge of the situation of my brethren is too extensive to need a recital here; neither shall I presume to prescribe methods by which they may have been relieved, otherwise than by recommending to you and all others to wean yourselves from those narrow prejudices which you have imbibed with respect to them and as Job proposed to his friends, put your souls in their souls stead, thus shall your hearts be enlarged with kindness and benevolence toward them, and thus shall you need neither the direction of myself or others, in what manner to proceed herein.

And now, sir, although my sympathy and affection for my brethren hath caused my enlargement thus far, I ardently hope that your candor and generosity will plead with you in my behalf when I make known to you that it was not originally my design; but that having taken up my pen in order to direct to you as a present, a copy of an almanac, which I have calculated for the succeeding year, I was unexpectedly and unavoidably led thereto.

This calculation, sir, is the production of my arduous study in this my advanced stage of life; for having long had unbounded desires to become acquainted with the secrets of nature, I have had to gratify my curiosity herein through my own assiduous application to astronomical study, in which I need not to recount to you the many difficulties and disadvantages which I have had to encounter.

And although I had almost declined to make my calculation for the ensuing year, in consequence of that time which I had allotted therefor being taken up at the Federal Territory by the request of Mr. Andrew Ellicott, yet finding myself under several engagements to printers of this state, to whom I had communicated my design, on my return to my place of residence I industriously applied myself thereto which I hope I have accomplished with correctness and accuracy, a copy of which I have taken the liberty to direct to you and which I humbly request you will favorably receive. Although you may have the opportunity of perusing it after its publication yet I chose to send it to you in

manuscript previous thereto that you might not only have an earlier inspection but that you might also view it in my own handwriting.

And now, sir, I shall conclude and subscribe myself, with the most profound respect, your most obedient humble servant,

B. Banneker

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### Document Analysis

1. Describe Banneker's feelings about the view of the world toward African Americans.
2. Detail how Banneker compares the African-American struggle for freedom with the Revolutionary War.

## George Washington, The Newburgh Address (1783)

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*While waiting for the formal negotiated peace settlement, several officers in the colonial army wrote a notice threatening to withhold their services for the duration and also to perhaps stay together after the war to gain their demands. Brought on by frustration with the Continental Congress' and its inability to pay the officers and settle on their pensions, this discontent threatened to become a military coup. Washington gave this address in an effort to quell the potential uprising. The address carried the day and the officers revolt never materialized.*

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### To the Officers of the Army

Gentlemen-A fellow soldier, whose interest and affections bind him strongly to you, whose past sufferings have been as great, and whose future fortune may be as desperate as yours-would beg leave to address you.

Age has its claims, and rank is not without its pretensions to advise: but, though unsupported by both, he flatters himself, that the plain language of sincerity and experience will neither be unheard nor unregarded.

Like many of you, he loved private life, and left it with regret. He left it, determined to retire from the field, with the necessity that called him to it, and not till then-not till the enemies of his country, the slaves of power, and the hirelings of injustice, were compelled to abandon their schemes, and acknowledge America as terrible in arms as she had been humble in remonstrance. With this object in view, he has long shared in your toils and mingled in your dangers. He has felt the cold hand of poverty without a murmur, and has seen the insolence of wealth without a sigh. But, too much under the direction of his wishes, and sometimes weak enough to mistake desire for opinion, he has till lately-very lately-believed in the justice of his country. He hoped that, as the clouds of adversity scattered, and as the sunshine of peace and better fortune broke in upon us, the coldness and severity of government would relax, and that, more than justice, that gratitude would blaze forth upon those hands, which had upheld her, in the darkest stages of her passage, from impending servitude to acknowledged independence. But faith has its limits as well as temper, and there are points beyond which neither can be stretched, without sinking into cowardice or plunging into credulity. - This, my friends, I conceive to be your situation.-Hurried to the very verge of both, another step would ruin you forever. - To be tame and unprovoked when injuries press hard upon you, is more than weakness; but to look up for kinder usage, without one manly effort of your own, would fix your character, and shew the world how richly you deserve those chains you broke. To guard against this evil, let us take a review of the ground upon which we now stand, and from thence carry our thoughts forward for a moment, into the unexplored field of expedient.

After a pursuit of seven long years, the object for which we set out is at length brought within our reach. Yes, my friends, that suffering courage of yours was active once - it has conducted the United States of America through a doubtful and a bloody war. It has placed her in the chair of independency, and peace returns again to bless - whom? A country willing to redress your wrongs, cherish your worth and reward your services, a country courting your return to private life, with tears of gratitude and smiles of admiration, longing to divide with you that independency which your gallantry has given, and those riches which your wounds have preserved? Is this the case? Or is it rather a country that tramples upon your rights, disdains your cries and insults your distresses? Have you not, more than once, suggested your wishes, and made known your wants to Congress? Wants and wishes which gratitude and policy should have anticipated, rather than evaded. And have you not lately, in the meek language of entreating memorials, begged from their justice, what you would no longer expect from their favour? How have you been answered? Let the letter which you are called to consider to-morrow make reply.

If this, then, be your treatment, while the swords you wear are necessary for the defence of America, what have you to expect from peace, when your voice shall sink, and your strength dissipate by division? When those very swords, the instruments and companions of your glory, shall be taken from your sides, and no remaining mark of military distinction left but your wants, infirmities and scars? Can you then consent to be the only sufferers by this revolution, and retiring from the field, grow old in poverty, wretchedness and contempt? Can you consent to wade through the vile mire of dependency, and owe the miserable remnant of that life to charity, which has hitherto been spent in honor? If you can-GO-and carry with you the jest of Tories and scorn of Whigs - the ridicule, and what is worse, the pity of the world. Go, starve, and be forgotten! But, if your spirit should revolt at this; if you have sense enough to discover, and spirit enough to oppose tyranny under whatever garb it may assume; whether it be the plain coat of republicanism, or the splendid robe of royalty; if you have yet learned to discriminate between a people and a cause, between men and principles - awake; attend to your situation and redress yourselves. If the present moment be lost, every future effort is in vain; and your threats then, will be as empty as your entreaties now.

I would advise you, therefore, to come to some final opinion upon what you can bear, and what you will suffer. If your determination be in any proportion to your wrongs, carry your appeal from the justice to the fears of government.

Change the milk-and-water style of your last memorial; assume a bolder tone - decent, but lively, spirited and determined, and suspect the man who would advise to more moderation and longer forbearance. Let two or three men, who can feel as well as write, be appointed to draw up your last remonstrance; for, I would no longer give it the suing, soft, unsuccessful epithet of memorial. Let it be represented in language that will neither dishonor you by its rudeness, nor betray you by its fears, what has been promised by Congress, and what has been performed, how long and how patiently you have suffered, how little you have asked, and how much of that little has been denied. Tell them that, though you were the first, and would wish to be the last to encounter danger: though despair itself can never drive you into dishonor, it may drive you from the field: that the wound often irritated, and never healed, may at length become incurable; and that the slightest mark of indignity from Congress now, must operate like the grave, and part you forever: that in any political event, the army has its alternative. If peace, that nothing shall separate them from your arms but death: if war, that courting the auspices, and inviting the direction of your illustrious leader, you will retire to some unsettled country, smile in your turn, and "mock when their fear cometh on." But let it represent also, that should they comply with the request of your late memorial, it would make you more happy and them more respectable. That while war should continue, you would follow their standard into the field, and when it came to an end, you would withdraw into the shade of private life, and give the world another subject of wonder and applause; an army victorious over its enemies - victorious over itself.

## J. Hector St. John Crèvecoeur, "What is an American?" (1782)

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*Born in France, Crèvecoeur traveled in the new world before settling on a farm in Orange County New York in 1769. From there he wrote the influential "Letters from an American Farmer" (1782) and "Sketches of Eighteenth Century America" both of which present an important vision of agricultural life in America in the 18th century. His vision of the new "American" has continued to be of great literary and social significance.*

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I wish I could be acquainted with the feelings and thoughts which must agitate the heart and present themselves to the mind of an enlightened Englishman, when he first lands on this continent. He must greatly rejoice that he lived at a time to see this fair country discovered and settled; he must necessarily feel a share of national pride, when he views the chain of settlements which embellishes these extended shores. When he says to himself, this is the work of my countrymen, who, when convulsed by factions, afflicted by a variety of miseries and wants, restless and impatient, took refuge here. They brought along with them their national genius, to which they principally owe what liberty they enjoy, and what substance they possess. Here he sees the industry of his native country displayed in a new manner, and traces in their works the embryos of all the arts, sciences, and ingenuity which flourish in Europe. Here he beholds fair cities, substantial villages, extensive fields, an immense country filled with decent houses, good roads, orchards, meadows, and bridges, where an hundred years ago all was wild, woody, and uncultivated! What a train of pleasing ideas this fair spectacle must suggest; it is a prospect which must inspire a good citizen with the most heartfelt pleasure. The difficulty consists in the manner of viewing so extensive a scene. He is arrived on a new continent; a modern society offers itself to his contemplation, different from what he had hitherto seen. It is not composed, as in Europe, of great lords who possess everything, and of a herd of people who have nothing. Here are no aristocratical families, no courts, no kings, no bishops, no ecclesiastical dominion, no invisible power giving to a few a very visible one, no great manufacturers employing thousands, no great refinements of luxury. The rich and the poor are not so far removed from each other as they are in Europe. Some few towns excepted, we are all tillers of the earth, from Nova Scotia to West Florida. We are a people of cultivators, scattered over an immense territory, communicating with each other by means of good roads and navigable rivers, united by the silken bands of mild government, all respecting the laws, without dreading their power, because they are equitable. We are all animated with the spirit of an industry which is unfettered and unrestrained, because each person works for himself. If he travels through our rural districts he views not the hostile castle, and the haughty mansion, contrasted with the clay-built hut and miserable cabin, where cattle and men help to keep each other warm, and dwell in meanness, smoke, and indigence. A pleasing uniformity of decent competence appears throughout our habitations. The meanest of our log-houses is a dry and comfortable habitation. Lawyer or merchant are the fairest titles our towns afford; that of a farmer is the only appellation of the rural inhabitants of our country. It must take some time ere he can reconcile himself to our dictionary, which is but short in words of dignity, and names of honour. There, on a Sunday, he sees a congregation of respectable farmers and their wives, all clad in neat homespun, well mounted, or riding in their own humble waggons. There is not among them an esquire, saving the unlettered magistrate. There he sees a parson as simple as his flock, a farmer who does not riot on the labour of others. We have no princes, for whom we toil, starve, and bleed: we are the most perfect society now existing in the world. Here man is free as he ought to be; nor is this pleasing equality so transitory as many others are. Many ages will not see the shores of our great lakes replenished with inland nations, nor the unknown bounds of North America entirely peopled. Who can tell how far it extends? Who can tell the millions of men whom it will feed and contain? For no European foot has as yet travelled half the extent of this mighty continent!

The next wish of this traveller will be to know whence came all these people? They are a mixture of English, Scotch, Irish, French, Dutch, Germans, and Swedes. From this promiscuous breed, that race now called Americans have arisen. The eastern provinces must indeed be excepted, as being the unmixed descendants of Englishmen. I have heard many wish that they had been more intermixed also: for my part, I am no wisher, and think it much better as it has happened. They exhibit a most conspicuous figure in this great and variegated

picture; they too enter for a great share in the pleasing perspective displayed in these thirteen provinces. I know it is fashionable to reflect on them, but I respect them for what they have done, for the accuracy and wisdom with which they have settled their territory; for the decency of their manners; for their early love of letters; their ancient college, the first in this hemisphere; for their industry; which to me who am but a farmer, is the criterion of everything. There never was a people, situated as they are, who with so ungrateful a soil have done more in so short a time. Do you think that the monarchical ingredients which are more prevalent in other governments, have purged them from all foul stains? Their histories assert the contrary.

In this great American asylum, the poor of Europe have by some means met together, and in consequence of various causes; to what purpose should they ask one another what countrymen they are? Alas, two thirds of them had no country. Can a wretch who wanders about, who works and starves, whose life is a continual scene of sore affliction or pinching penury; can that man call England or any other kingdom his country? A country that had no bread for him, whose fields procured him no harvest, who met with nothing but the frowns of the rich, the severity of the laws, with jails and punishments; who owned not a single foot of the extensive surface of this planet? No! urged by a variety of motives, here they came. Every thing has tended to regenerate them; new laws, a new mode of living, a new social system; here they are become men: in Europe they were as so many useless plants, wanting vegetative mould, and refreshing showers; they withered, and were mowed down by want, hunger, and war; but now by the power of transplantation, like all other plants they have taken root and flourished! Formerly they were not numbered in any civil lists of their country, except in those of the poor; here they rank as citizens. By what invisible power has this surprising metamorphosis been performed? By that of the laws and that of their industry. The laws, the indulgent laws, protect them as they arrive, stamping on them the symbol of adoption; they receive ample rewards for their labours; these accumulated rewards procure them lands; those lands confer on them the title of freemen, and to that title every benefit is affixed which men can possibly require. This is the great operation daily performed by our laws. From whence proceed these laws? From our government. Whence the government? It is derived from the original genius and strong desire of the people ratified and confirmed by the Crown. This is the great chain which links us all, this is the picture which every province exhibits, Nova Scotia excepted. . . .

What attachment can a poor European emigrant have for a country where he had nothing? The knowledge of the language, the love a few kindred as poor as himself, were the only cords that tied him: his country is now that which gives him land, bread, protection, and consequence: *Ubi panis ibi patria*, is the motto of all emigrants. What then is the American, this new man? He is either an European, or the descendant of an European, hence that strange mixture of blood, which you will find in no other country. I could point out to you a family whose grandfather was an Englishman, whose wife was Dutch, whose son married a French woman, and whose present four sons have now four wives of different nations. He is an American, who, leaving behind him all his ancient prejudices and manners, receives new ones from the new mode of life he has embraced, the new government he obeys, and the new rank he holds. He becomes an American by being received in the broad lap of our great *Alma Mater*. Here individuals of all nations are melted into a new race of men, whose labours and posterity will one day cause great changes in the world. Americans are the western pilgrims, who are carrying along with them that great mass of arts, sciences, vigour, and industry which began long since in the east; they will finish the great circle. The Americans were once scattered all over Europe; here they are incorporated into one of the finest systems of population which has ever appeared, and which will hereafter become distinct by the power of the different climates they inhabit. The American ought therefore to love this country much better than that wherein either he or his forefathers were born. Here the rewards of his industry follow with equal steps the progress of his labour; his labour is founded on the basis of nature, self-interest; can it want a stronger allurements? Wives and children, who before in vain demanded of him a morsel of bread, now, fat and frolicsome, gladly help their father to clear those fields whence exuberant crops are to arise to feed and to clothe them all; without any part being claimed, either by a despotic prince, a rich abbot, or a mighty lord. Here religion demands but little of him; a small voluntary salary to the minister and gratitude to God; can he refuse these? The American is a new man, who acts upon new principles; he must therefore entertain new ideas, and form new opinions. From involuntary idleness, service dependence, penury, and



useless labour, he has passed to toils of a very different nature, reward by ample subsistence. This is an American. . .

## James Madison, Federalist No. 51

### **The Structure of the Government Must Furnish the Proper Checks and Balances Between the Different Departments (Friday, February 8, 1788)**

*This essay examines Madison's thoughts on the division of governmental power among multiple departments. Madison assumed in most of his writings that conflicts of interests are natural to humans, and he recognized that, as a consequence, people fall into various groups. He therefore wanted to avoid a situation in which any one group completely controlled the decision-making process. Free elections and the majority principle protected the country from dictatorship. However, Madison was equally concerned about the danger that he thought was more likely in a democracy: the tyranny of the majority. A central philosophical issue for him was how to minimize this risk. Madison's solution relied not only on formal institutions but on a system of checks and balances within the government. Such an arrangement would provide different groups with multiple access points to the government while preventing any one branch of the government from exercising power over the other branches.*

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To the People of the State of New York:

To what expedient, then, shall we finally resort, for maintaining in practice the necessary partition of power among the several departments, as laid down in the Constitution? The only answer that can be given is, that as all these exterior provisions are found to be inadequate, the defect must be supplied, by so contriving the interior structure of the government as that its several constituent parts may, by their mutual relations, be the means of keeping each other in their proper places. Without presuming to undertake a full development of this important idea, I will hazard a few general observations, which may perhaps place it in a clearer light, and enable us to form a more correct judgment of the principles and structure of the government planned by the convention.

In order to lay a due foundation for that separate and distinct exercise of the different powers of government, which to a certain extent is admitted on all hands to be essential to the preservation of liberty, it is evident that each department should have a will of its own; and consequently should be so constituted that the members of each should have as little agency as possible in the appointment of the members of the others. Were this principle rigorously adhered to, it would require that all the appointments for the supreme executive, legislative, and judiciary magistracies should be drawn from the same fountain of authority, the people, through channels having no communication whatever with one another. Perhaps such a plan of constructing the several departments would be less difficult in practice than it may in contemplation appear. Some difficulties, however, and some additional expense would attend the execution of it. Some deviations, therefore, from the principle must be admitted. In the constitution of the judiciary department in particular, it might be inexpedient to insist rigorously on the principle: first, because peculiar qualifications being essential in the members, the primary consideration ought to be to select that mode of choice which best secures these qualifications; secondly, because the permanent tenure by which the appointments are held in that department, must soon destroy all sense of dependence on the authority conferring them.

It is equally evident, that the members of each department should be as little dependent as possible on those of the others, for the emoluments annexed to their offices. Were the executive magistrate, or the judges, not independent of the legislature in this particular, their independence in every other would be merely nominal.

But the great security against a gradual concentration of the several powers in the same department, consists in giving to those who administer each department the necessary constitutional means and personal motives to resist encroachments of the others. The provision for defense must in this, as in all other cases, be made commensurate to the danger of attack. Ambition must be made to counteract ambition. The interest of the man must be connected with the constitutional rights of the place. It may be a reflection on human nature, that such devices should be necessary to control the abuses of government. But what is government itself, but the greatest of all reflections on human nature? If men were angels, no government would be necessary. If angels were to govern men, neither external nor internal controls on government would be necessary. In framing a government which is to be administered by men over men, the great difficulty lies in this: you must first enable the government to control the governed; and in the

next place oblige it to control itself. A dependence on the people is, no doubt, the primary control on the government; but experience has taught mankind the necessity of auxiliary precautions.

This policy of supplying, by opposite and rival interests, the defect of better motives, might be traced through the whole system of human affairs, private as well as public. We see it particularly displayed in all the subordinate distributions of power, where the constant aim is to divide and arrange the several offices in such a manner as that each may be a check on the other — that the private interest of every individual may be a sentinel over the public rights. These inventions of prudence cannot be less requisite in the distribution of the supreme powers of the State.

But it is not possible to give to each department an equal power of self-defense. In republican government, the legislative authority necessarily predominates. The remedy for this inconveniency is to divide the legislature into different branches; and to render them, by different modes of election and different principles of action, as little connected with each other as the nature of their common functions and their common dependence on the society will admit. It may even be necessary to guard against dangerous encroachments by still further precautions. As the weight of the legislative authority requires that it should be thus divided, the weakness of the executive may require, on the other hand, that it should be fortified. An absolute negative on the legislature appears, at first view, to be the natural defense with which the executive magistrate should be armed. But perhaps it would be neither altogether safe nor alone sufficient. On ordinary occasions it might not be exerted with the requisite firmness, and on extraordinary occasions it might be perfidiously abused. May not this defect of an absolute negative be supplied by some qualified connection between this weaker department and the weaker branch of the stronger department, by which the latter may be led to support the constitutional rights of the former, without being too much detached from the rights of its own department?

If the principles on which these observations are founded be just, as I persuade myself they are, and they be applied as a criterion to the several State constitutions, and to the federal Constitution it will be found that if the latter does not perfectly correspond with them, the former are infinitely less able to bear such a test.

There are, moreover, two considerations particularly applicable to the federal system of America, which place that system in a very interesting point of view.

First. In a single republic, all the power surrendered by the people is submitted to the administration of a single government; and the usurpations are guarded against by a division of the government into distinct and separate departments. In the compound republic of America, the power surrendered by the people is first divided between two distinct governments, and then the portion allotted to each subdivided among distinct and separate departments. Hence a double security arises to the rights of the people. The different governments will control each other, at the same time that each will be controlled by itself.

Second. It is of great importance in a republic not only to guard the society against the oppression of its rulers, but to guard one part of the society against the injustice of the other part. Different interests necessarily exist in different classes of citizens. If a majority be united by a common interest, the rights of the minority will be insecure. There are but two methods of providing against this evil: the one by creating a will in the community independent of the majority — that is, of the society itself; the other, by comprehending in the society so many separate descriptions of citizens as will render an unjust combination of a majority of the whole very improbable, if not impracticable. The first method prevails in all governments possessing an hereditary or self-appointed authority. This, at best, is but a precarious security; because a power independent of the society may as well espouse the unjust views of the major, as the rightful interests of the minor party, and may possibly be turned against both parties. The second method will be exemplified in the federal republic of the United States. Whilst all authority in it will be derived from and dependent on the society, the society itself will be broken into so many parts, interests, and classes of citizens, that the rights of individuals, or of the minority, will be in little danger from interested combinations of the majority. In a free government the security for civil rights must be the same as that for religious rights. It consists in the one case in the multiplicity of interests, and in the other in the multiplicity of sects. The degree of security in both cases will depend on the number of interests and sects; and this may be presumed to depend on the extent of country and number of people comprehended under the same government. This view of the subject must particularly recommend a proper federal system to all the sincere and considerate friends of republican government, since it shows that in exact proportion as the territory of the Union may be formed into more circumscribed Confederacies, or States oppressive combinations of a majority will be facilitated: the best security, under the republican forms, for the rights of every class of citizens, will be diminished: and consequently the stability and independence of some member of the government, the only other security, must be proportionately increased. Justice is the end of government. It is the end of civil society. It ever has been and ever will be pursued until it be obtained, or until liberty be lost in the pursuit. In a society under the forms of which the stronger faction can readily unite and oppress the weaker, anarchy may as truly be said to reign as in a state of nature, where the weaker individual is not secured against the violence of the stronger; and as, in the latter state, even the stronger individuals are prompted, by the uncertainty of their condition, to submit to a government which may protect the weak as well as themselves; so, in the former state, will the more powerful factions or parties be gradually induced, by a like motive, to wish for a government which will protect all

parties, the weaker as well as the more powerful. It can be little doubted that if the State of Rhode Island was separated from the Confederacy and left to itself, the insecurity of rights under the popular form of government within such narrow limits would be displayed by such reiterated oppressions of factious majorities that some power altogether independent of the people would soon be called for by the voice of the very factions whose misrule had proved the necessity of it. In the extended republic of the United States, and among the great variety of interests, parties, and sects which it embraces, a coalition of a majority of the whole society could seldom take place on any other principles than those of justice and the general good; whilst there being thus less danger to a minor from the will of a major party, there must be less pretext, also, to provide for the security of the former, by introducing into the government a will not dependent on the latter, or, in other words, a will independent of the society itself. It is no less certain than it is important, notwithstanding the contrary opinions which have been entertained, that the larger the society, provided it lie within a practical sphere, the more duly capable it will be of self-government. And happily for the republican cause, the practicable sphere may be carried to a very great extent, by a judicious modification and mixture of the federal principle.

PUBLIUS[James Madison]

## James Madison, The Virginia (or Randolph) Plan (1787)

*The Virginia Plan, written by James Madison, was inspired by Madison's readings of European writers on natural law and republican government. Presented by the Virginia Governor Edmund Randolph, it provided the basis for the new constitution. Supported by many large states, it provided for a stronger national government than that established under the Articles of Confederation.*

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1. Resolved that the Articles of Confederation ought to be so corrected and enlarged as to accomplish the objects proposed by their institution; namely "common defence, security of liberty and general welfare.
2. Resolved therefore that the rights of suffrage in the National Legislature ought to be proportioned to the Quotas of contribution, or to the number of free inhabitants, as the one or the other rule may seem best in different cases.
3. Resolved that the National Legislature ought to consist of two branches.
4. Resolved that the members of the first branch of the National Legislature ought to be elected by the people of the several States. . . . to receive liberal stipends by which they may be compensated for the devotion of their time to public service, to be ineligible to any office established by a particular State, or under the authority of the United States, except those peculiarly belonging to the functions of the first branch, during the term of service, and for the space of after its expiration; to be incapable of reelection for the space of after the expiration of their term of service, and to be subject to recall.
5. Resolved that the members of the second branch of the National Legislature ought to be elected by those of the first, out of a proper number of persons nominated by the individual Legislatures, to be of the age of years at least; to hold their offices for a term sufficient to ensure their independency; to receive liberal stipends, by which they may be compensated for the devotion of their time to public service; and to be ineligible to any office established by a particular State, or under the authority of the United States, except those peculiarly belonging to the functions of the second branch, during the term of service, and for the space of after the expiration thereof.
6. Resolved that each branch ought to possess the right of originating Acts; that the National Legislature ought to be empowered to enjoy the Legislative Rights vested in Congress by the Confederation and moreover to legislate in all cases to which the separate States are incompetent, or in which the harmony of the United States may be interrupted by the exercise of individual Legislation; to negative all laws passed by the several States, contravening in the opinion of the national Legislature the articles of Union; and to call forth the force of the Union against any member of the Union failing in its duty under the articles thereof.
7. Resolved that a National Executive be instituted; [to be chosen by the National Legislature for the terms of years; to be chosen by the National Legislature for the terms of years;] to receive punctually, at stated times, a fixed compensation for the services rendered, in which no increase or diminution shall be made so as to affect the Magistracy, existing at the time of the increase or diminution, and to be ineligible a second time; and that besides a general authority to execute the National laws, it ought to enjoy the Executive rights vested in Congress by the Confederation.

8. Resolved that the Executive and a convenient number of the national Judiciary, ought to compose a Council of revision with authority to examine every act of the National Legislature before it shall operate, and every act of a particular Legislature before a Negative thereon shall be final; and that the dissent of the said Council shall amount to a rejection, unless the Act of the National Legislature be passed again, or what of a particular Legislature be again negatived by the members of each branch.

9. Resolved that National Judiciary be established to consist of one or more supreme tribunals, and of inferior tribunals to be chosen by the National Legislature, to hold their offices during good behaviour; and to receive punctually at stated times fixed compensation for their services, in which no increase or diminution shall be made so as to affect the persons actually in office at the time of such increase or diminution. That the jurisdiction of the inferior tribunals shall be to hear and determine in the dernier resort, all piracies and felonies on the high seas, captures from an enemy; cases in which foreigners or citizens of other States applying to such jurisdictions may be interested, or which respect the collection of the National revenue; impeachments of any National officers, and questions which may involve the national peace and harmony.

10. Resolved that provision ought to be made for the admission of States Lawfully arising within the limits of the United States, whether from a voluntary junction of Government and Territory or otherwise, with the consent of a number of voices in the National legislature less than the whole.

11. Resolved that a Republican Government and the territory of each State, except in the instance of a voluntary junction of Government and territory, ought to be guaranteed by the United States to each State.

12. Resolved that provision ought to be made for the continuance of Congress and their authorities and privileges, until a given day after the reform of the articles of Union shall be adopted, and for the completion of all their engagements.

13. Resolved that provision ought to be made for the amendment of the Articles of Union whensoever it shall seem necessary, and that the assent of the National Legislature ought not to be required thereto.

14. Resolved that the Legislative Executive and Judiciary powers within the several States ought to be bound by oath to support the articles of Union.

15. Resolved that the amendments which shall be offered to the Confederation, by the Convention ought at a proper time, or times, after the approbation of Congress to be submitted to an assembly or assemblies of Representatives, recommended by the several Legislatures to be expressly chosen by the people, to consider and decide thereon.

## Northwest Ordinance (July 13, 1787)

*Considered to be one of the most significant achievements of the Congress overseeing the Articles of the Confederation, the Northwest Ordinance of 1787 alerted the world not only that the land north of the Ohio River and east of the Mississippi River would be quickly settled but that it would eventually be partitioned into states. Huge numbers of settlers and land speculators were attracted to what are now the states of Ohio, Indiana, Illinois, Michigan and Wisconsin. The area opened up by the Ordinance was based on lines originally laid out in 1784 by Thomas Jefferson. The Ordinance provided for the eventual creation of new states, and it contained provisions for the advancement of education, the maintenance of civil liberties, and the exclusion of slavery.*

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An Ordinance for the government of the Territory of the United States northwest of the River Ohio.

Section 1. Be it ordained by the United States in Congress assembled, That the said territory, for the purposes of temporary government, be one district, subject, however, to be divided into two districts, as future circumstances may, in the opinion of Congress, make it expedient.

Sec 2. Be it ordained by the authority aforesaid, That the estates, both of resident and nonresident proprietors in the said territory, dying intestate, shall descent to, and be distributed among their children, and the descendants of a

deceased child, in equal parts; the descendants of a deceased child or grandchild to take the share of their deceased parent in equal parts among them: And where there shall be no children or descendants, then in equal parts to the next of kin in equal degree; and among collaterals, the children of a deceased brother or sister of the intestate shall have, in equal parts among them, their deceased parents' share; and there shall in no case be a distinction between kindred of the whole and half blood; saving, in all cases, to the widow of the intestate her third part of the real estate for life, and one third part of the personal estate; and this law relative to descents and dower, shall remain in full force until altered by the legislature of the district. And until the governor and judges shall adopt laws as hereinafter mentioned, estates in the said territory may be devised or bequeathed by wills in writing, signed and sealed by him or her in whom the estate may be (being of full age), and attested by three witnesses; and real estates may be conveyed by lease and release, or bargain and sale, signed, sealed and delivered by the person being of full age, in whom the estate may be, and attested by two witnesses, provided such wills be duly proved, and such conveyances be acknowledged, or the execution thereof duly proved, and be recorded within one year after proper magistrates, courts, and registers shall be appointed for that purpose; and personal property may be transferred by delivery; saving, however to the French and Canadian inhabitants, and other settlers of the Kaskaskies, St. Vincents and the neighboring villages who have heretofore professed themselves citizens of Virginia, their laws and customs now in force among them, relative to the descent and conveyance, of property.

Sec. 3. Be it ordained by the authority aforesaid, That there shall be appointed from time to time by Congress, a governor, whose commission shall continue in force for the term of three years, unless sooner revoked by Congress; he shall reside in the district, and have a freehold estate therein in 1,000 acres of land, while in the exercise of his office.

Sec. 4. There shall be appointed from time to time by Congress, a secretary, whose commission shall continue in force for four years unless sooner revoked; he shall reside in the district, and have a freehold estate therein in 500 acres of land, while in the exercise of his office. It shall be his duty to keep and preserve the acts and laws passed by the legislature, and the public records of the district, and the proceedings of the governor in his executive department, and transmit authentic copies of such acts and proceedings, every six months, to the Secretary of Congress: There shall also be appointed a court to consist of three judges, any two of whom to form a court, who shall have a common law jurisdiction, and reside in the district, and have each therein a freehold estate in 500 acres of land while in the exercise of their offices; and their commissions shall continue in force during good behavior.

Sec. 5. The governor and judges, or a majority of them, shall adopt and publish in the district such laws of the original States, criminal and civil, as may be necessary and best suited to the circumstances of the district, and report them to Congress from time to time: which laws shall be in force in the district until the organization of the General Assembly therein, unless disapproved of by Congress; but afterwards the Legislature shall have authority to alter them as they shall think fit.

Sec. 6. The governor, for the time being, shall be commander in chief of the militia, appoint and commission all officers in the same below the rank of general officers; all general officers shall be appointed and commissioned by Congress.

Sec. 7. Previous to the organization of the general assembly, the governor shall appoint such magistrates and other civil officers in each county or township, as he shall find necessary for the preservation of the peace and good order in the same: After the general assembly shall be organized, the powers and duties of the magistrates and other civil officers shall be regulated and defined by the said assembly; but all magistrates and other civil officers not herein otherwise directed, shall during the continuance of this temporary government, be appointed by the governor.

Sec. 8. For the prevention of crimes and injuries, the laws to be adopted or made shall have force in all parts of the district, and for the execution of process, criminal and civil, the governor shall make proper divisions thereof; and he shall proceed from time to time as circumstances may require, to lay out the parts of the district in which the Indian titles shall have been extinguished, into counties and townships, subject, however, to such alterations as may thereafter be made by the legislature.

Sec. 9. So soon as there shall be five thousand free male inhabitants of full age in the district, upon giving proof thereof to the governor, they shall receive authority, with time and place, to elect a representative from their counties or townships to represent them in the general assembly: Provided, That, for every five hundred free male inhabitants, there shall be one representative, and so on progressively with the number of free male inhabitants shall the right of representation increase, until the number of representatives shall amount to twenty five; after which, the number and proportion of representatives shall be regulated by the legislature: Provided, That no person be eligible or qualified to act as a representative unless he shall have been a citizen of one of the United States three years, and be a resident in the district, or unless he shall have resided in the district three years; and, in either case, shall likewise hold in his own right, in fee simple, two hundred acres of land within the same; Provided, also, That a freehold in fifty acres of

land in the district, having been a citizen of one of the states, and being resident in the district, or the like freehold and two years residence in the district, shall be necessary to qualify a man as an elector of a representative.

Sec. 10. The representatives thus elected, shall serve for the term of two years; and, in case of the death of a representative, or removal from office, the governor shall issue a writ to the county or township for which he was a member, to elect another in his stead, to serve for the residue of the term.

Sec. 11. The general assembly or legislature shall consist of the governor, legislative council, and a house of representatives. The Legislative Council shall consist of five members, to continue in office five years, unless sooner removed by Congress; any three of whom to be a quorum: and the members of the Council shall be nominated and appointed in the following manner, to wit: As soon as representatives shall be elected, the Governor shall appoint a time and place for them to meet together; and, when met, they shall nominate ten persons, residents in the district, and each possessed of a freehold in five hundred acres of land, and return their names to Congress; five of whom Congress shall appoint and commission to serve as aforesaid; and, whenever a vacancy shall happen in the council, by death or removal from office, the house of representatives shall nominate two persons, qualified as aforesaid, for each vacancy, and return their names to Congress; one of whom congress shall appoint and commission for the residue of the term. And every five years, four months at least before the expiration of the time of service of the members of council, the said house shall nominate ten persons, qualified as aforesaid, and return their names to Congress; five of whom Congress shall appoint and commission to serve as members of the council five years, unless sooner removed. And the governor, legislative council, and house of representatives, shall have authority to make laws in all cases, for the good government of the district, not repugnant to the principles and articles in this ordinance established and declared. And all bills, having passed by a majority in the house, and by a majority in the council, shall be referred to the governor for his assent; but no bill, or legislative act whatever, shall be of any force without his assent. The governor shall have power to convene, prorogue, and dissolve the general assembly, when, in his opinion, it shall be expedient.

Sec. 12. The governor, judges, legislative council, secretary, and such other officers as Congress shall appoint in the district, shall take an oath or affirmation of fidelity and of office; the governor before the president of congress, and all other officers before the Governor. As soon as a legislature shall be formed in the district, the council and house assembled in one room, shall have authority, by joint ballot, to elect a delegate to Congress, who shall have a seat in Congress, with a right of debating but not voting during this temporary government.

Sec. 13. And, for extending the fundamental principles of civil and religious liberty, which form the basis whereon these republics, their laws and constitutions are erected; to fix and establish those principles as the basis of all laws, constitutions, and governments, which forever hereafter shall be formed in the said territory: to provide also for the establishment of States, and permanent government therein, and for their admission to a share in the federal councils on an equal footing with the original States, at as early periods as may be consistent with the general interest:

Sec. 14. It is hereby ordained and declared by the authority aforesaid, That the following articles shall be considered as articles of compact between the original States and the people and States in the said territory and forever remain unalterable, unless by common consent, to wit:

Art. 1. No person, demeaning himself in a peaceable and orderly manner, shall ever be molested on account of his mode of worship or religious sentiments, in the said territory.

Art. 2. The inhabitants of the said territory shall always be entitled to the benefits of the writ of habeas corpus, and of the trial by jury; of a proportionate representation of the people in the legislature; and of judicial proceedings according to the course of the common law. All persons shall be bailable, unless for capital offenses, where the proof shall be evident or the presumption great. All fines shall be moderate; and no cruel or unusual punishments shall be inflicted. No man shall be deprived of his liberty or property, but by the judgment of his peers or the law of the land; and, should the public exigencies make it necessary, for the common preservation, to take any person's property, or to demand his particular services, full compensation shall be made for the same. And, in the just preservation of rights and property, it is understood and declared, that no law ought ever to be made, or have force in the said territory, that shall, in any manner whatever, interfere with or affect private contracts or engagements, bona fide, and without fraud, previously formed.

Art. 3. Religion, morality, and knowledge, being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged. The utmost good faith shall always be observed towards the Indians; their lands and property shall never be taken from them without their consent; and, in their property, rights, and liberty, they shall never be invaded or disturbed, unless in just and lawful wars authorized by Congress; but laws founded in justice and humanity, shall from time to time be made for preventing wrongs being done to them, and for preserving peace and friendship with them.

Art. 4. The said territory, and the States which may be formed therein, shall forever remain a part of this Confederacy of the United States of America, subject to the Articles of Confederation, and to such alterations therein as shall be constitutionally made; and to all the acts and ordinances of the United States in Congress assembled, conformable thereto. The inhabitants and settlers in the said territory shall be subject to pay a part of the federal debts contracted or to be contracted, and a proportional part of the expenses of government, 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; and the taxes for paying their proportion shall be laid and levied by the authority and direction of the legislatures of the district or districts, or new States, as in the original States, within the time agreed upon by the United States in Congress assembled. The legislatures of those districts or new States, shall never interfere with the primary disposal of the soil by the United States in Congress assembled, nor with any regulations Congress may find necessary for securing the title in such soil to the bona fide purchasers. No tax shall be imposed on lands the property of the United States; and, in no case, shall nonresident proprietors be taxed higher than residents. The navigable waters leading into the Mississippi and St. Lawrence, and the carrying places between the same, shall be common highways and forever free, as well to the inhabitants of the said territory as to the citizens of the United States, and those of any other States that may be admitted into the confederacy, without any tax, impost, or duty therefor.

Art. 5. There shall be formed in the said territory, not less than three nor more than five States; and the boundaries of the States, as soon as Virginia shall alter her act of cession, and consent to the same, shall become fixed and established as follows, to wit: The western State in the said territory, shall be bounded by the Mississippi, the Ohio, and Wabash Rivers; a direct line drawn from the Wabash and Post Vincents, due North, to the territorial line between the United States and Canada; and, by the said territorial line, to the Lake of the Woods and Mississippi. The middle State shall be bounded by the said direct line, the Wabash from Post Vincents to the Ohio, by the Ohio, by a direct line, drawn due north from the mouth of the Great Miami, to the said territorial line, and by the said territorial line. The eastern State shall be bounded by the last mentioned direct line, the Ohio, Pennsylvania, and the said territorial line: Provided, however, and it is further understood and declared, that the boundaries of these three States shall be subject so far to be altered, that, if Congress shall hereafter find it expedient, they shall have authority to form one or two States in that part of the said territory which lies north of an east and west line drawn through the southerly bend or extreme of Lake Michigan. And, whenever any of the said States shall have sixty thousand free inhabitants therein, such State shall be admitted, by its delegates, into the Congress of the United States, on an equal footing with the original States in all respects whatever, and shall be at liberty to form a permanent constitution and State government: Provided, the constitution and government so to be formed, shall be republican, and in conformity to the principles contained in these articles; and, so far as it can be consistent with the general interest of the confederacy, such admission shall be allowed at an earlier period, and when there may be a less number of free inhabitants in the State than sixty thousand.

Art. 6. There shall be neither slavery nor involuntary servitude in the said territory, otherwise than in the punishment of crimes whereof the party shall have been duly convicted: Provided, always, That any person escaping into the same, from whom labor or service is lawfully claimed in any one of the original States, such fugitive may be lawfully reclaimed and conveyed to the person claiming his or her labor or service as aforesaid.

Be it ordained by the authority aforesaid, That the resolutions of the 23rd of April, 1784, relative to the subject of this ordinance, be, and the same are hereby repealed and declared null and void.

Done by the United States, in Congress assembled, the 13th day of July, in the year of our Lord 1787, and of their sovereignty and independence the twelfth.

## **Seneca Chiefs Petition Washington for Return of Their Land, 1790**

*The Seneca, one of the six nations of the Iroquois Confederacy, allied with the British during the American Revolution. As part of westward expansion, much of their land was taken after the war. The following letter, by three Seneca chiefs; Big Tree, Corn-Planter, and Half-Town, implores the great father, George Washington, to return their land to them.*

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**SOURCE:** Samuel Gardner Drake, *Biography and History of the Indians of North America*(Boston: O.L. Perkins, 1834).

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## Letter to President Washington, 1790

### Big Tree, Corn-Planter, and Half-Town (Seneca)

*Father:* The voice of the Seneca nations speaks to you; the great counsellor, in whose heart the wise men of all the *thirteen fires* [13 U.S.] have placed their wisdom. It may be very small in your ears, and we, therefore, entreat you to hearken with attention; for we are able to speak of things which are to us very great.

When your army entered the country of the Six Nations, we called you the *town destroyer*; to this day, when your name is heard, our women look behind them and turn pale, and our children cling close to the necks of their mothers.

When our chiefs returned from Fort Stanwix, and laid before our council what had been done there, our nation was surprised to hear how great a country you had compelled them to give up to you, without your paying to us any thing for it. Every one said, that your hearts were yet swelled with resentment against us for what had happened during the war, but that one day you would consider it with more kindness. We asked each other, *What have we done to deserve such severe chastisement?*

*Father:* when you kindled your 13 fires separately, the wise men assembled at them told us that you were all brothers; the children of one great father, who regarded the red people as his children. They called us brothers, and invited us to his protection. They told us that he resided beyond the great water where the sun first rises; and that he was a king whose power no people could resist, and that his goodness was as bright as the sun. What they said went to our hearts. We accepted the invitation, and promised to obey him. What the Seneca nation promises, they faithfully perform. When you refused obedience to that king, he commanded us to assist his beloved men in making you sober. In obeying him, we did no more than yourselves had led us to promise. We were deceived; but your people teaching us to confide in that king, had helped to deceive us; and we now appeal to your breast. *Is all the blame ours?*

*Father:* when we saw that we had been deceived, and heard the invitation which you gave us to draw near to the fire you had kindled, and talk with you concerning peace, we made haste towards it. You told us you could crush us to nothing; and you demanded from us a great country, as the price of that peace which you had offered to us: *as if our want of strength had destroyed our rights*. Our chiefs had felt your power, and were unable to contend against you, and they therefore gave up that country. What they agreed to has bound our nation, but your anger against us must by this time be cooled, and although our strength is not increased, nor your power become less, we ask you to consider calmly—*Were the terms dictated to us by your commissioners reasonable and just?...*

*Father:* you have said that we were in your hand, and that by closing it you could crush us to nothing. Are you determined to crush us? If you are, tell us so; that those of our nation who have become your children, and have determined to die so, may know what to do. In this case, one chief has said, he would ask you to put him out of his pain. Another, who will not think of dying by the hand of his father, or his brother, has said he will retire to the Chataughque, eat of the fatal root, and sleep with his fathers in peace.

All the land we have been speaking of belonged to the Six Nations. No part of it ever belonged to the king of England, and he could not give it to you.

Hear us once more. At Fort Stanwix we agreed to deliver up those of our people who should do you any wrong, and that you might try them and punish them according to your law. We delivered up two men accordingly. But instead of trying them according to your law, the lowest of your people took them from your magistrate, and put them immediately to death. It is just to punish the murder with death; but the Senecas will not deliver up their people to men who disregard the treaties of their own nation.

1. *What does this letter tell us about the condition of the Seneca after the Revolution?*



2. *How effective is this letter in arguing the case for the Seneca? Cite specific examples.*

## The New Jersey Plan (1787)

*The New Jersey Plan is the so-called "small states plan" that was presented at the Constitutional Convention on June 15, 1787, in opposition to the "Virginia Plan" presented earlier. The two plans were resolved in the "Great Compromise," which created a bicameral Congress in which states were represented equally in the Senate and by population in the House.*

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1. Resolved that the articles of Confederation ought to be so revised, corrected, and enlarged, as to render the federal Constitution adequate to the exigencies of Government, and the preservation of the Union.

2. Resolved that in addition to powers vested in the United States in Congress, by the present existing articles of Confederation, they be authorized to pass acts for raising a revenue, by levying a duty or duties on all goods or merchandise or foreign growth or manufacture, imported into any part of the United States, by stamps on paper, vellum or parchment, and by a postage on all letters or packages passing through the general post-office, to be applied to such federal purposes as they shall deem proper and expedient; to make rules and regulations for the collection thereof; and the same from time to time, to alter and amend in such manner as they shall think proper; to pass Acts for the regulation of trade and commerce as well as with foreign nations as with each other: provided that all punishments, fines, forfeitures and penalties to be incurred for contravening such acts rules and regulations shall be adjudged by the Common law Judiciaries of the State in which any offense contrary to the true intent and meaning of such Acts rules and regulations shall have been committed or perpetrated with liberty of commencing in the first instance all suits and prosecutions for that purpose in the superior Common law Judiciary in each State, subject nevertheless, for the correction of all errors, both in law and fact in rendering judgment, to an appeal to the judiciary of the United States.

3. Resolved that whenever requisitions shall be necessary, instead of the rule for making requisitions mentioned in the articles of Confederation, the United States in Congress be authorized to make such requisitions in proportion to the whole number of white and other free citizens and inhabitants of every age, sex, and condition including those bound to servitude for a term of years and three fifths of all other persons not comprehended in the foregoing description, except Indians not paying taxes; that if such requisitions be not complied with, in the time specified therein, to direct the collection thereof in the non-complying States and for that purpose to devise and pass acts directing and authorizing the same; provided that none of the powers hereby vested in the United States in Congress shall be exercised without the consent of at least \_\_\_\_\_ States, and in that proportion if the number of Confederated States should hereafter be increased or diminished.

### Federal Executive

4. Resolved that the United States in Congress be authorized to elect a federal Executive to consist of \_\_\_\_\_ persons, to continue in office for the term of \_\_\_\_\_ years, to receive punctually at stated times a fixed compensation for their services, in which no increase or diminution shall be made so as to affect the persons composing the Executive at the time of such increase or diminution, to be paid out of the federal treasury; to be incapable of holding any other office or appointment during their time of service and for \_\_\_\_\_ years thereafter; to be ineligible a second time, and removable by Congress on application by a majority of Executives of the several States; that the Executives besides their general authority to execute the federal acts ought to appoint all federal officers not otherwise provided for, and to direct all military operations; provided that none of the persons composing the federal Executive shall on any occasion take command of any troops, so as personally to conduct any enterprise as General, or in other capacity.

5. Resolved that a federal Judiciary be established to consist of a supreme Tribunal the Judges of which to be appointed by the Executive, and to hold their offices during good behavior, to receive punctually at stated times a fixed compensation for their services in which no increase or diminution shall be made, so as to affect the persons actually in office at the time of such increase or diminution; that the Judiciary so established shall have the authority to hear and determine in the first instance on all impeachments of federal officers, and by the way of appeal in the dernier resort in all cases touching the right of Ambassadors, in all cases of captures from an enemy, in all cases of piracies and felonies on the high seas, in which foreigners may be interested, in the construction of any treaty or treaties, or which may arise on any of the Acts for regulation of trade, or the collection of the federal Revenue: that

none of the Judiciary shall during the time they remain in Office be capable of receiving or holding any other office or appointment during their time of service, or for \_\_\_\_\_ thereafter.

6. Resolved that all acts of the United States in Congress made by virtue and in pursuance of the powers hereby and by the articles of confederation vested in them, and all Treaties made and ratified under the authority of the United States shall be the supreme law of the respective States so far forth as those Acts or Treaties shall relate to the said States or their Citizens, and that the Judiciary of the several States shall be bound thereby in their decisions, an thing in the respective laws of the individual States to the contrary notwithstanding; and that if any State, or any body of men in any State shall oppose or prevent the carrying into execution such acts or treaties, the federal Executive shall be authorized to call forth the power of the Confederated States, or so much thereof as may be necessary to enforce and compel an obedience to such Acts, or an Observance of such Treaties.

7. Resolved that provision be made for the admission of new States into the Union.

8. Resolved the rule for naturalization ought to be the same in every state.

9. Resolved that a Citizen of one State committing an offense in another State of the Union, shall be deemed guilty of the same offense as if it had been committed by a Citizen of the State in which the offense was committed.

## **The United States Constitution (1789)**

*The Constitution is the fundamental guideline for national government in the United States. More traditional than some state constitutions but more daring than the British model, the Constitution balances three functions of government and limits the potentially oppressive power of a national authority. The delegates at the Constitutional Convention intensely debated each of its provisions. After its submission to the states, the proposed Constitution was widely published in newspapers and journals. The ratification process also carefully considered the implications of a federal republic. As a result, the new federal Congress quickly proposed, and states ratified, the addition of 10 articles identifying the basic rights and liberties of U.S. citizens. These 10 amendments became known as the Bill of Rights.*

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We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defense, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.

### **Article. I.**

#### **Section. 1.**

All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

#### **Section. 2.**

The House of Representatives shall be composed of Members chosen every second Year by the People of the several States, and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature.

No Person shall be a Representative who shall not have attained to the Age of twenty five Years, and been seven Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State in which he shall be chosen. Representatives and direct Taxes shall be apportioned among the several States which may be included within this Union, according to their respective Numbers, which shall be determined by adding to the whole Number of free Persons, including those bound to Service for a Term of Years, and excluding Indians not taxed, three fifths of all other Persons.

The actual Enumeration shall be made within three Years after the first Meeting of the Congress of the United States, and within every subsequent Term of ten Years, in such Manner as they shall by Law direct. The Number of Representatives shall not exceed one for every thirty Thousand, but each State shall have at Least one Representative; and until such enumeration shall be made, the State of New Hampshire shall be entitled to chuse three, Massachusetts eight, Rhode-Island and Providence Plantations one, Connecticut five, New-York six, New Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina five, and Georgia three.

When vacancies happen in the Representation from any State, the Executive Authority thereof shall issue Writs of Election to fill such Vacancies.

The House of Representatives shall chuse their Speaker and other Officers; and shall have the sole Power of Impeachment.

### **Section. 3.**

The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof for six Years; and each Senator shall have one Vote.

Immediately after they shall be assembled in Consequence of the first Election, they shall be divided as equally as may be into three Classes. The Seats of the Senators of the first Class shall be vacated at the Expiration of the second Year, of the second Class at the Expiration of the fourth Year, and of the third Class at the Expiration of the sixth Year, so that one third may be chosen every second Year; and if Vacancies happen by Resignation, or otherwise, during the Recess of the Legislature of any State, the Executive thereof may make temporary Appointments until the next Meeting of the Legislature, which shall then fill such Vacancies.

No Person shall be a Senator who shall not have attained to the Age of thirty Years, and been nine Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State for which he shall be chosen.

The Vice President of the United States shall be President of the Senate, but shall have no Vote, unless they be equally divided.

The Senate shall chuse their other Officers, and also a President pro tempore, in the Absence of the Vice President, or when he shall exercise the Office of President of the United States.

The Senate shall have the sole Power to try all Impeachments. When sitting for that Purpose, they shall be on Oath or Affirmation. When the President of the United States is tried, the Chief Justice

shall preside: And no Person shall be convicted without the Concurrence of two thirds of the Members present.

Judgment in Cases of Impeachment shall not extend further than to removal from Office, and disqualification to hold and enjoy any Office of honor, Trust or Profit under the United States: but the Party convicted shall nevertheless be liable and subject to Indictment, Trial, Judgment and Punishment, according to Law.

**Section. 4.**

The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of chusing Senators.

The Congress shall assemble at least once in every Year, and such Meeting shall be on the first Monday in December, unless they shall by Law appoint a different Day.

**Section. 5.**

Each House shall be the Judge of the Elections, Returns and Qualifications of its own Members, and a Majority of each shall constitute a Quorum to do Business; but a smaller Number may adjourn from day to day, and may be authorized to compel the Attendance of absent Members, in such Manner, and under such Penalties as each House may provide.

Each House may determine the Rules of its Proceedings, punish its Members for disorderly Behaviour, and, with the Concurrence of two thirds, expel a Member.

Each House shall keep a Journal of its Proceedings, and from time to time publish the same, excepting such Parts as may in their Judgment require Secrecy; and the Yeas and Nays of the Members of either House on any question shall, at the Desire of one fifth of those Present, be entered on the Journal.

Neither House, during the Session of Congress, shall, without the Consent of the other, adjourn for more than three days, nor to any other Place than that in which the two Houses shall be sitting.

**Section. 6.**

The Senators and Representatives shall receive a Compensation for their Services, to be ascertained by Law, and paid out of the Treasury of the United States. They shall in all Cases, except Treason, Felony and Breach of the Peace, be privileged from Arrest during their Attendance at the Session of their respective Houses, and in going to and returning from the same; and for any Speech or Debate in either House, they shall not be questioned in any other Place.

No Senator or Representative shall, during the Time for which he was elected, be appointed to any civil Office under the Authority of the United States, which shall have been created, or the Emoluments whereof shall have been increased during such time; and no Person holding any Office under the United States, shall be a Member of either House during his Continuance in Office.

**Section. 7.**

All Bills for raising Revenue shall originate in the House of Representatives; but the Senate may propose or concur with Amendments as on other Bills.

Every Bill which shall have passed the House of Representatives and the Senate, shall, before it become a Law, be presented to the President of the United States: If he approve he shall sign it, but if not he shall return it, with his Objections to that House in which it shall have originated, who shall enter the Objections at large on their Journal, and proceed to reconsider it. If after such Reconsideration two thirds of that House shall agree to pass the Bill, it shall be sent, together with the Objections, to the other House, by which it shall likewise be reconsidered, and if approved by two thirds of that House, it shall become a Law. But in all such Cases the Votes of both Houses shall be determined by yeas and Nays, and the Names of the Persons voting for and against the Bill shall be entered on the Journal of each House respectively. If any Bill shall not be returned by the President within ten Days (Sundays excepted) after it shall have been presented to him, the Same shall be a Law, in like Manner as if he had signed it, unless the Congress by their Adjournment prevent its Return, in which Case it shall not be a Law.

Every Order, Resolution, or Vote to which the Concurrence of the Senate and House of Representatives may be necessary (except on a question of Adjournment) shall be presented to the President of the United States; and before the Same shall take Effect, shall be approved by him, or being disapproved by him, shall be repassed by two thirds of the Senate and House of Representatives, according to the Rules and Limitations prescribed in the Case of a Bill.

**Section. 8.**

The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States;

To borrow Money on the credit of the United States;

To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes;

To establish an uniform Rule of Naturalization, and uniform Laws on the subject of Bankruptcies throughout the United States;

To coin Money, regulate the Value thereof, and of foreign Coin, and fix the Standard of Weights and Measures;

To provide for the Punishment of counterfeiting the Securities and current Coin of the United States;

To establish Post Offices and post Roads;

To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries;

To constitute Tribunals inferior to the supreme Court;

To define and punish Piracies and Felonies committed on the high Seas, and Offences against the Law of Nations;

To declare War, grant Letters of Marque and Reprisal, and make Rules concerning Captures on Land and Water;

To raise and support Armies, but no Appropriation of Money to that Use shall be for a longer Term than two Years;

To provide and maintain a Navy;

To make Rules for the Government and Regulation of the land and naval Forces;

To provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repel Invasions;

To provide for organizing, arming, and disciplining, the Militia, and for governing such Part of them as may be employed in the Service of the United States, reserving to the States respectively, the Appointment of the Officers, and the Authority of training the Militia according to the discipline prescribed by Congress;

To exercise exclusive Legislation in all Cases whatsoever, over such District (not exceeding ten Miles square) as may, by Cession of particular States, and the Acceptance of Congress, become the Seat of the Government of the United States, and to exercise like Authority over all Places purchased by the Consent of the Legislature of the State in which the Same shall be, for the Erection of Forts, Magazines, Arsenals, dock-Yards, and other needful Buildings;--And

To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.

### **Section. 9.**

The Migration or Importation of such Persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the Year one thousand eight hundred and eight, but a Tax or duty may be imposed on such Importation, not exceeding ten dollars for each Person.

The Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it.

No Bill of Attainder or ex post facto Law shall be passed.

No Capitation, or other direct, Tax shall be laid, unless in Proportion to the Census or enumeration herein before directed to be taken.

No Tax or Duty shall be laid on Articles exported from any State.

No Preference shall be given by any Regulation of Commerce or Revenue to the Ports of one State over those of another; nor shall Vessels bound to, or from, one State, be obliged to enter, clear, or pay Duties in another.

No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law; and a regular Statement and Account of the Receipts and Expenditures of all public Money shall be published from time to time.

No Title of Nobility shall be granted by the United States: And no Person holding any Office of Profit or Trust under them, shall, without the Consent of the Congress, accept of any present, Emolument, Office, or Title, of any kind whatever, from any King, Prince, or foreign State.

### **Section. 10.**

No State shall enter into any Treaty, Alliance, or Confederation; grant Letters of Marque and Reprisal; coin Money; emit Bills of Credit; make any Thing but gold and silver Coin a Tender in Payment of Debts; pass any Bill of Attainder, ex post facto Law, or Law impairing the Obligation of Contracts, or grant any Title of Nobility.

No State shall, without the Consent of the Congress, lay any Imposts or Duties on Imports or Exports, except what may be absolutely necessary for executing it's inspection Laws: and the net Produce of all Duties and Imposts, laid by any State on Imports or Exports, shall be for the Use of the Treasury of the United States; and all such Laws shall be subject to the Revision and Controul of the Congress.

No State shall, without the Consent of Congress, lay any Duty of Tonnage, keep Troops, or Ships of War in time of Peace, enter into any Agreement or Compact with another State, or with a foreign Power, or engage in War, unless actually invaded, or in such imminent Danger as will not admit of delay.

## **Article. II.**

### **Section. 1.**

The executive Power shall be vested in a President of the United States of America. He shall hold his Office during the Term of four Years, and, together with the Vice President, chosen for the same Term, be elected, as follows:

Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors, equal to the whole Number of Senators and Representatives to which the State may be entitled in the Congress: but no Senator or Representative, or Person holding an Office of Trust or Profit under the United States, shall be appointed an Elector.

The Electors shall meet in their respective States, and vote by Ballot for two Persons, of whom one at least shall not be an Inhabitant of the same State with themselves. And they shall make a List of all the Persons voted for, and of the Number of Votes for each; which List they shall sign and certify, and transmit sealed to the Seat of the Government of the United States, directed to the

President of the Senate. The President of the Senate shall, in the Presence of the Senate and House of Representatives, open all the Certificates, and the Votes shall then be counted. The Person having the greatest Number of Votes shall be the President, if such Number be a Majority of the whole Number of Electors appointed; and if there be more than one who have such Majority, and have an equal Number of Votes, then the House of Representatives shall immediately chuse by Ballot one of them for President; and if no Person have a Majority, then from the five highest on the List the said House shall in like Manner chuse the President. But in chusing the President, the Votes shall be taken by States, the Representation from each State having one Vote; A quorum for this purpose shall consist of a Member or Members from two thirds of the States, and a Majority of all the States shall be necessary to a Choice. In every Case, after the Choice of the President, the Person having the greatest Number of Votes of the Electors shall be the Vice President. But if there should remain two or more who have equal Votes, the Senate shall chuse from them by Ballot the Vice President.

The Congress may determine the Time of chusing the Electors, and the Day on which they shall give their Votes; which Day shall be the same throughout the United States.

No Person except a natural born Citizen, or a Citizen of the United States, at the time of the Adoption of this Constitution, shall be eligible to the Office of President; neither shall any Person be eligible to that Office who shall not have attained to the Age of thirty five Years, and been fourteen Years a Resident within the United States.

In Case of the Removal of the President from Office, or of his Death, Resignation, or Inability to discharge the Powers and Duties of the said Office, the Same shall devolve on the Vice President, and the Congress may by Law provide for the Case of Removal, Death, Resignation or Inability, both of the President and Vice President, declaring what Officer shall then act as President, and such Officer shall act accordingly, until the Disability be removed, or a President shall be elected.

The President shall, at stated Times, receive for his Services, a Compensation, which shall neither be increased nor diminished during the Period for which he shall have been elected, and he shall not receive within that Period any other Emolument from the United States, or any of them.

Before he enter on the Execution of his Office, he shall take the following Oath or Affirmation:--"I do solemnly swear (or affirm) that I will faithfully execute the Office of President of the United States, and will to the best of my Ability, preserve, protect and defend the Constitution of the United States."

## **Section. 2.**

The President shall be Commander in Chief of the Army and Navy of the United States, and of the Militia of the several States, when called into the actual Service of the United States; he may require the Opinion, in writing, of the principal Officer in each of the executive Departments, upon any Subject relating to the Duties of their respective Offices, and he shall have Power to grant Reprieves and Pardons for Offences against the United States, except in Cases of Impeachment.

He shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two thirds of the Senators present concur; and he shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of



the supreme Court, and all other Officers of the United States, whose Appointments are not herein otherwise provided for, and which shall be established by Law: but the Congress may by Law vest the Appointment of such inferior Officers, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments.

The President shall have Power to fill up all Vacancies that may happen during the Recess of the Senate, by granting Commissions which shall expire at the End of their next Session.

### **Section. 3.**

He shall from time to time give to the Congress Information of the State of the Union, and recommend to their Consideration such Measures as he shall judge necessary and expedient; he may, on extraordinary Occasions, convene both Houses, or either of them, and in Case of Disagreement between them, with Respect to the Time of Adjournment, he may adjourn them to such Time as he shall think proper; he shall receive Ambassadors and other public Ministers; he shall take Care that the Laws be faithfully executed, and shall Commission all the Officers of the United States.

### **Section. 4.**

The President, Vice President and all civil Officers of the United States, shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors.

## **Article III.**

### **Section. 1.**

The judicial Power of the United States shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish. The Judges, both of the supreme and inferior Courts, shall hold their Offices during good Behaviour, and shall, at stated Times, receive for their Services a Compensation, which shall not be diminished during their Continuance in Office.

### **Section. 2.**

The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority;--to all Cases affecting Ambassadors, other public Ministers and Consuls;--to all Cases of admiralty and maritime Jurisdiction;--to Controversies to which the United States shall be a Party;--to Controversies between two or more States;-- between a State and Citizens of another State;-- between Citizens of different States;--between Citizens of the same State claiming Lands under Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects.

In all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be Party, the supreme Court shall have original Jurisdiction. In all the other Cases before mentioned, the supreme Court shall have appellate Jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make.

The Trial of all Crimes, except in Cases of Impeachment, shall be by Jury; and such Trial shall be held in the State where the said Crimes shall have been committed; but when not committed within any State, the Trial shall be at such Place or Places as the Congress may by Law have directed.

**Section. 3.**

Treason against the United States, shall consist only in levying War against them, or in adhering to their Enemies, giving them Aid and Comfort. No Person shall be convicted of

Treason unless on the Testimony of two Witnesses to the same overt Act, or on Confession in open Court.

The Congress shall have Power to declare the Punishment of Treason, but no Attainder of Treason shall work Corruption of Blood, or Forfeiture except during the Life of the Person attainted.

**Article. IV.**

**Section. 1.**

Full Faith and Credit shall be given in each State to the public Acts, Records, and judicial Proceedings of every other State. And the Congress may by general Laws prescribe the Manner in which such Acts, Records and Proceedings shall be proved, and the Effect thereof.

**Section. 2.**

The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States.

A Person charged in any State with Treason, Felony, or other Crime, who shall flee from Justice, and be found in another State, shall on Demand of the executive Authority of the State from which he fled, be delivered up, to be removed to the State having Jurisdiction of the Crime.

No Person held to Service or Labour in one State, under the Laws thereof, escaping into another, shall, in Consequence of any Law or Regulation therein, be discharged from such Service or Labour, but shall be delivered up on Claim of the Party to whom such Service or Labour may be due.

**Section. 3.**

New States may be admitted by the Congress into this Union; but no new State shall be formed or erected within the Jurisdiction of any other State; nor any State be formed by the Junction of two or more States, or Parts of States, without the Consent of the Legislatures of the States concerned as well as of the Congress.

The Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States; and nothing in this Constitution shall be so construed as to Prejudice any Claims of the United States, or of any particular State.

**Section. 4.**

The United States shall guarantee to every State in this Union a Republican Form of Government,

and shall protect each of them against Invasion; and on Application of the Legislature, or of the Executive (when the Legislature cannot be convened), against domestic Violence.

#### **Article. V.**

The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution, or, on the Application of the Legislatures of two thirds of the several States, shall call a Convention for proposing Amendments, which, in either Case, shall be valid to all Intents and Purposes, as Part of this Constitution, when ratified by the Legislatures of three fourths of the several States, or by Conventions in three fourths thereof, as the one or the other Mode of Ratification may be proposed by the Congress; Provided that no Amendment which may be made prior to the Year One thousand eight hundred and eight shall in any Manner affect the first and fourth Clauses in the Ninth Section of the first Article; and that no State, without its Consent, shall be deprived of its equal Suffrage in the Senate.

#### **Article. VI.**

All Debts contracted and Engagements entered into, before the Adoption of this Constitution, shall be as valid against the United States under this Constitution, as under the Confederation.

This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

The Senators and Representatives before mentioned, and the Members of the several State Legislatures, and all executive and judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution; but no religious Test shall ever be required as a Qualification to any Office or public Trust under the United States.

#### **Article. VII.**

The Ratification of the Conventions of nine States, shall be sufficient for the Establishment of this Constitution between the States so ratifying the Same.

The Word, "the," being interlined between the seventh and eighth Lines of the first Page, the Word "Thirty" being partly written on an Erasure in the fifteenth Line of the first Page, The Words "is tried" being interlined between the thirty second and thirty third Lines of the first Page and the Word "the" being interlined between the forty third and forty fourth Lines of the second Page.

Attest William Jackson Secretary

Done in Convention by the Unanimous Consent of the States present the Seventeenth Day of September in the Year of our Lord one thousand seven hundred and Eighty seven and of the Independence of the United States of America the Twelfth In witness whereof We have hereunto subscribed our Names,  
G. Washington

# When Historians Disagree

## Whose Interests Did the Constitution Benefit?

The sharp debate between supporters of the new Constitution like James Madison and Alexander Hamilton and opponents of whom Patrick Henry was among the best known and most eloquent was tense. No one was quite sure if the Constitution would finally be adopted. But once the Constitution became the law of the land and the Bill of Rights was added to it, opposition quickly faded. For over a hundred years after the Constitution came into force, most historians and critics praised the document—some seeing a kind of “divine origin” others more modestly seeing it as the best frame of government humans had invented. Even in the debates that led to the Civil War, most Americans argued about how to interpret the Constitution not about the document itself. After 1900, a new generation of historians began to ask new questions. And none was more critical of the Constitution than Charles A. Beard a professor at New York’s Columbia University. Beard looked at the economic interests—the wealth, investments, speculation in western lands—of every member of the Constitutional convention whom he could track. His conclusion was that the authors of the document had done a masterful job of enhancing their own economic interests as opposed to the economic needs of other Americans, especially poor white farmers, debtors, and though he paid them less attention, enslaved African Americans. Ever since Beard’s economic challenge to the Constitution other historians like Robert E. Brown have challenged Beard and sought what they consider a more balanced view of the Constitution’s origin and the benefits that have flowed from the document. Nevertheless for the last hundred years, the question of just whose interests are served by the United States Constitution have been debated even as the protection of liberty found especially in the Bill of Rights has been appreciated by nearly all.

Charles A. Beard, *An Economic Interpretation of the Constitution of the United States*. New York: Macmillan, 1913, pp.16-17, 324.

Suppose it could be shown from the classification of the men who supported and opposed the Constitution that there was no line of property division at all; that is, that men owning substantially the same amounts of the same kinds of property were equally divided on the matter of adoption or rejection ... Suppose, on the other hand, that substantially all of the merchants, money lenders, security holders, manufacturers, shippers, capitalists, and financiers and their professional associates are to be found on one side in support of the Constitution and that substantially all or the major portion of the opposition came from the non-slaveholding farmers and the debtors – would it not be pretty conclusively demonstrated that our fundamental law was not the product of an abstraction known as “the whole people,” but of a group of economic interests which must have expected beneficial results from its adoption? ...

Robert Brown, *Charles Beard and the Constitution: A Critical Analysis of "An Economic Interpretation of the Constitution"*. New York: W. W. Norton, 1956/1979, pp. 194-200.

Our task has been to examine Beard’s evidence to see whether it justified the interpretation which Beard gave it... If we accepted his evidence strictly at face value, it would still not add up to the fact that the Constitution was put over undemocratically in an undemocratic society ... The citing of property qualifications does not prove that a mass of men were disenfranchised. And ... simply showing that a man held public securities is not sufficient to prove that he acted only in terms of his public securities ... Perhaps we can never be completely objective in history, but certainly we can be more objective than Beard was in his book... So instead of the Beard interpretation that the Constitution was put over undemocratically in an undemocratic society by personal property, the following ... are offered as a possible interpretation of the Constitution ...

Present evidence seems to indicate that there were no “propertyless masses” who were

The movement for the Constitution of the United States was originated and carried through principally by four groups of personal interests which had been adversely affected under the Articles of Confederation: money, public securities, manufactures, and trade and shipping...

A large propertyless mass was under the prevailing suffrage qualifications, excluded at the outset from participation (through representatives) in the work of framing the Constitution.

The members of the Philadelphia Convention which drafted the Constitution were, with a few exceptions, immediately, directly, and personally interested in, and derived economic advantages from, the establishment of a new system.

The Constitution was essentially an economic document based on the concept that the fundamental private rights of property are anterior to government and morally beyond the reach of popular majorities.

excluded from the suffrage at the time. Most men were middle-class farmers ...

The Constitution was not just an economic document, although economic factors were undoubtedly important. Since most of the people were middle-class and had private property, practically everybody was interested in the protection of property. A Constitution which did not protect property would have been rejected without any question, for the American people had fought the Revolution for the preservation of life, liberty, and property...

Men are motivated by what they believe as well as by what they have... Did the workers and small farmers believe that they were lower-class? Were the common people trying to eliminate the Washingtons, Adamses, Hamiltons, and Pinckneys, or were they trying to join them?