

Alexander Hamilton, "An Opinion on the Constitutionality of an Act to Establish a Bank"

In 1791, Congress passed a bill pushed by Secretary of the Treasury Alexander Hamilton to establish a national bank of the United States. President Washington considered vetoing the bill on the grounds that it was unconstitutional. Before making a decision, Washington asked members of his cabinet to write out their views on the issue. Hamilton took only three days to craft his response. His argument carried the day over opponents of the bank, especially Secretary of State Thomas Jefferson and James Madison, then a member of the House of Representatives.

The Secretary of the Treasury having perused with attention the papers containing the opinions of the Secretary of State and Attorney General [Edmund Randolph and Thomas Jefferson] concerning the constitutionality of the bill for establishing a National Bank proceeds according to the order of the President [George Washington] to submit the reasons which have induced him to entertain a different opinion.

It will naturally have been anticipated that, in performing this task he would feel uncommon solicitude. Personal considerations alone arising from the reflection that the measure originated with him would be sufficient to produce it: The sense which he has manifested of the great importance of such an institution to the successful administration of the department under his particular care; and an expectation of serious ill consequences to result from a failure of the measure, do not permit him to be without anxiety on public accounts. But the chief solicitude arises from a firm persuasion, that principles of construction like those espoused by the Secretary of State and the Attorney General would be fatal to the just & indispensable authority of the United States.

In entering upon the argument it ought to be premised, that the objections of the Secretary of State and Attorney General are founded on a general denial of the authority of the United States to erect corporations. The latter indeed expressly admits, that if there be any thing in the bill which is not warranted by the constitution, it is the clause of incorporation.

Now it appears to the Secretary of the Treasury, that this general principle is inherent in the very definition of Government and essential to every step of the progress to be made by that of the United States; namely-that every power vested in a Government is in its nature sovereign, and includes by force of the term, a right to employ all the means requisite, and fairly applicable to the attainment of the ends of such power; and which are not precluded by restrictions & exceptions specified in the constitution; or not immoral, or not contrary to the essential ends of political society.

This principle in its application to Government in general would be admitted as an axiom. And it will be incumbent upon those, who may incline to deny it, to prove a distinction; and to shew that a rule which in the general system of things is essential to the preservation of the social order is inapplicable to the United States.

The circumstances that the powers of sovereignty are in this country divided between the National and State Governments, does not afford the distinction required. It does not follow from this, that each of the portions of powers delegated to the one or to the other is not sovereign with regard to its proper objects. It will only follow from it, that each has sovereign power as to certain things, and not as to other things. To deny that the Government of the United States has sovereign power as to its declared purposes & trusts, because its power does not extend to all cases, would be equally to deny, that the State Governments have sovereign power in any case; because their power does not extend to every case. The tenth section of the first article of the constitution exhibits a long list of very important things which they may not do. And thus the United States would furnish the singular spectacle of a political society without sovereignty, or of a people governed without government.

If it would be necessary to bring proof to a proposition so clear as that which affirms that the powers of the federal government, as to its objects, are sovereign, there is a clause of its constitution which would be decisive. It is that which declares, that the constitution and the laws of the United States made in pursuance of it, and all treaties made or which shall be made under their authority shall be the supreme law of the land. The power which can create the Supreme law of the land, in any case, is doubtless sovereign as to such case.

This general & indisputable principle puts at once an end to the abstract question-Whether the United States have power to erect a corporation? that is to say, to give a legal or artificial capacity to one or more persons, distinct from the natural. For it is unquestionably incident to sovereign power to erect corporations, and consequently to that of the United States, in relation to the objects intrusted to the management of the government. The difference is this-where

the authority of the government is general, it can create corporations in all cases; where it is confined to certain branches of legislation, it can create corporations only in those cases.

Here then as far as concerns the reasonings of the Secretary of State & the Attorney General, the affirmative of the constitutionality of the bill might be permitted to rest. It will occur to the President that the principle here advanced has been untouched by either of them. . . .

It is not denied, that there are implied, as well as express powers, and that the former are as effectually delegated as the latter. And for the sake of accuracy it shall be mentioned, that there is another class of powers, which may be properly denominated resulting powers. It will not be doubted that if the United States should make a conquest of any of the territories of its neighbours, they would possess sovereign jurisdiction over the conquered territory. This would rather be a result from the whole mass of the powers of the government & from the nature of political society, than a consequence of either of the powers specially enumerated.

But be this as it may, it furnishes a striking illustration of the general doctrine contended for it. It shews an extensive case, in which a power of erecting corporations is either implied in, or would result from some or all of the powers, vested in the National Government. The jurisdiction acquired over such conquered territory would certainly be competent to every species of legislation.

To return-It is conceded, that implied powers are to be considered as delegated equally with express ones.

Then it follows, that as a power of erecting a corporation may as well be implied as any other thing; it may as well be employed as an instrument or mean of carrying into execution any of the specified powers, as any other instrument or mean whatever. The only question must be, in this as in every other case, whether the mean to be employed, or in this instance the corporation to be erected, has a natural relation to any of the acknowledged objects or lawful ends of the government. Thus a corporation may not be erected by congress, for superintending the police of the city of Philadelphia because they are not authorised to regulate the police of that city; but one may be erected in relation to the collection of the taxes, or to the trade with foreign countries, or to the trade between the States, or with the Indian Tribes, because it is the province of the federal government to regulate those objects & because it is incident to a general sovereign or legislative power to regulate a thing, to employ all the means which relate to its regulation to the best & greatest advantage.

A strange fallacy seems to have crept into the manner of thinking & reasoning upon the subject. Imagination appears to have been unusually busy concerning it. An incorporation seems to have been regarded as some great, independent, substantive thing-as a political end of peculiar magnitude & moment; whereas it is truly to be considered as a quality, capacity, or mean to an end. Thus a mercantile company is formed with a certain capital for the purpose of carrying on a particular branch of business. Here the business to be prosecuted is the end; the association in order to form the requisite capital is the primary mean. Suppose that an incorporation were added to this; it would only be to add a new quality to that association; to give it an artificial capacity by which it would be enabled to prosecute the business with more safety & convenience.

That the importance of the power of incorporation has been exaggerated, leading to erroneous conclusions, will further appear from tracing it to its origin. The roman law is the source of it, according to which a voluntary association of individuals at any time or for any purpose was capable of producing it. In England, whence our notions of it are immediately borrowed, it forms a part of the executive authority, & the exercise of it has been often delegated by that authority. Whence therefore the ground of the supposition, that it lies beyond the reach of all those very important portions of sovereign power, legislative as well as executive, which belong to the government of the United States?

To this mode of reasoning respecting the right of employing all the means requisite to the execution of the specified powers of the Government, it is objected that none but necessary & proper means are to be employed, & the Secretary of State [Jefferson] maintains, that no means are to be considered as necessary, but those without which the grant of the power would be nugatory. Nay so far does he go in his restrictive interpretation of the word, as even to make the case of necessity which shall warrant the constitutional exercise of the power to depend on casual & temporary circumstances, an idea which alone refutes the construction. The expediency of exercising a particular power, at a particular time, must indeed depend on circumstance but the constitutional right of exercising it must be uniform & invariable-the same to day, as to morrow.

All the arguments therefore against the constitutionality of the bill derived from the accidental existence of certain State-banks: institutions which happen to exist to day, & for ought that concerns the government of the United States, may disappear to morrow, must not only be rejected as fallacious, but must be viewed as demonstrative, that there is a radical source of error in the reasoning.

It is essential to the being of the National government, that so erroneous a conception of the meaning of the word necessary, should be exploded.

It is certain, that neither the grammatical, or popular sense of the term requires that construction. According to both, necessary often means no more than needful, requisite, incidental, useful, or conducive to. It is a common mode of expression to say, that it is necessary for a government or a person to do this or that thing, when nothing more is intended or understood, than that the interests of the government or person require, or will be promoted, by the doing of this or that thing. The imagination can be at no loss for exemplifications of the use of the word in this sense.

And it is the true one in which it is to be understood as used in the constitution. The whole turn of the clause containing it, indicates that it was the intent of the convention, by that clause to give a liberal latitude to the exercise of the specified powers. The expressions have peculiar comprehensiveness. They are-"to make all laws, necessary & proper for carrying into execution the foregoing powers & all other powers vested by the constitution in the government of the United States, or in any department or officer thereof." To understand the word as the Secretary of State does, would be to depart from its obvious & popular sense, and to give it a restrictive operation; an idea never before entertained. It would be to give it the same force as if the word absolutely or indispensably had been prefixed to it.

Such a construction would beget endless uncertainty & embarrassment. The cases must be palpable & extreme in which it could be pronounced with certainty, that a measure was absolutely necessary, or one without which the exercise of a given power would be nugatory. There are few measures of any government, which would stand so severe a test. To insist upon it, would be to make the criterion of the exercise of any implied power a case of extreme necessity; which is rather a rule to justify the overleaping of the bounds of constitutional authority, than to govern the ordinary exercise of it.

It may be truly said of every government, as well as of that of the United States, that it has only a right, to pass such laws as are necessary & proper to accomplish the objects intrusted to it. For no government has a right to do merely what it pleases. Hence by a process of reasoning similar to that of the Secretary of State, it might be proved, that neither of the State governments has a right to incorporate a bank. It might be shewn, that all the public business of the State, could be performed without a bank, and inferring thence that it was unnecessary it might be argued that it could not be done, because it is against the rule which has been just mentioned. A like mode of reasoning would prove, that there was no power to incorporate the Inhabitants of a town, with a few to a more perfect police: For it is certain, that an incorporation may be dispensed with, though it is better to have one. It is to be remembered, that there is no express power in any State constitution to erect corporations.

The degree in which a measure is necessary, can never be a test of the legal right to adopt it. That must ever be a matter of opinion; and can only be a test of expediency. The relation between the measure and the end, between the nature of the mean employed towards the execution of a power and the object of that power, must be the criterion of constitutionality not the more or less of necessity or utility. . . .

This restrictive interpretation of the word necessary is also contrary to this sound maxim of construction namely, that the powers contained in a constitution of government, especially those which concern the general administration of the affairs of a country, its finances, trade, defence & ought to be construed liberally, in advancement of the public good. This rule does not depend on the particular form of a government or on the particular demarkation of the boundaries of its powers, but on the nature and objects of government itself. The means by which national exigencies are to be provided for, national inconveniences obviated, national prosperity promoted, are of such infinite variety, extent and complexity, that there must, of necessity, be great latitude of discretion in the selection & application of those means. Hence consequently, the necessity & propriety of exercising the authorities intrusted to a government on principles of liberal construction. . . .

The truth is that difficulties on this point are inherent in the nature of the federal constitution. They result inevitably from a division of the legislative power. The consequence of this division is, that there will be cases clearly within the power of the National Government; others clearly without its power; and a third class, which will leave room for controversy & difference of opinion, & concerning which a reasonable latitude of judgment must be allowed.

But the doctrine which is contended for is not chargeable with the consequence imputed to it. It does not affirm that the National government is sovereign in all respects, but that it is sovereign to a certain extent: that is, to the extent of the objects of its specified powers.

It leaves therefore a criterion of what is constitutional, and of what is not so. This criterion is the end to which the measure relates as a mean. If the end be clearly comprehended within any of the specified powers, & if the measure have an obvious relation to that end, and is not forbidden by any particular provision of the constitution-it may safely be deemed to come within the compass of the national authority. There is also this further criterion which may

materially assist the decision. Does the proposed measure abridge a preexisting right of any State, or of any individual? If it does not, there is a strong presumption in favour of its constitutionality; & slighter relations to any declared object of the constitution may be permitted to turn the scale. . . .

A hope is entertained, that it has by this time been made to appear, to the satisfaction of the President, that a bank has a natural relation to the power of collecting taxes; to that of borrowing money; to that of regulating trade; to that of providing for the common defence: and that as the bill under consideration contemplates the government in the light of a joint proprietor of the stock of the bank, it brings the case within the provision of the clause of the constitution which immediately respects the property of the United States.

Farmers Protest the New Whiskey Tax (1790)

The powers of the central federal government were put to the test in 1790 when a new tax was placed on whiskey. The farmers of western Pennsylvania made whiskey out of their excess corn as it was easier to transport than corn, readily traded, and used as currency in many areas. The tax brought a refusal from the farmers and talk of seceding from the United States. At the behest of Alexander Hamilton, President Washington sent 13,000 troops to the area in 1794, at which point the rebellion dissipated. The rebellion was an important step in the ascendancy of the federal government as the supreme power in America. The following is the farmer's petition to the Pennsylvania General Assembly. SOURCE: Pennsylvania Archives, First Series, II (1855).

To the Honorable the Representatives of the Freemen of Pennsylvania, in General Assembly met.

The Petition of the Inhabitants of Westmoreland County - Humbly Sheweth.

That your petitioners are greatly aggrieved by the present operation of an Excise Law, passed on the 19th day of March, 1783, by which we are made subject to a duty of four pence per gallon on all spirituous liquors distilled and consumed amongst us from the productions of our farms, even for private and domestic uses. It is generally believed that excise laws, in all nations and at all periods, have given greater disgust, and created greater tumults amongst the people, than any other species of taxation ever adopted for the raising of revenue; we do not hesitate to declare, that this law has already been productive of all those and many other evils, and that it is the only one passed since our revolution that has been treated with general disapprobation, and reflected upon with universal abhorrence and detestation: and such has been the resentment of many of our fellow citizens, which we are sorry to have occasion to confess, that they have, upon several occasions, proceeded to unwarrantable lengths in opposing its operations.

We do not deny that we are as strongly rooted in the habits, and as much addicted to the use of spirituous liquors as our brethren in the eastern part of the state: having emigrated from among them, we cannot be condemned for carrying their customs along with us. But independent of habit, we find that the moderate use of spirits is essentially necessary in several branches of our agriculture.

In this new country, labourers are exceedingly scarce, and their hire excessively high, and we find that liquor proves a necessary means of engaging their service and securing their continuance through the several important seasons of the year, when the pressing calls of labour must be attended to, let the conditions be what they may. For these reasons we have found it absolutely necessary to introduce a number of small distilleries into our settlements, and in every circle of twenty or thirty neighbours, one of these are generally erected, merely for the accommodation of such neighbourhood and without any commercial views whatever. The proprietor thereof receives the grain (rye only) from the people, and returns the stipulated quantity of liquor, after retaining the toll agreed upon. In this manner we are supplied with this necessary article, much upon the same conditions that our mills furnish us with flour; and why we should be made subject to a duty for drinking our grain more than eating it, seems a matter of astonishment to every reflecting mind.

These distilleries, small and insignificant as they are, have always been classed among the first objects of taxation, and have been highly estimated in the valuation of property. This, we conceive, might fully suffice, without extending revenue to the mean and humble manufacture produced by them.

With as much propriety a duty might be laid on the rye we feed to our horses; the bread we eat ourselves, or any other article manufactured from the products of our own farms.

Our remote situation from the channels of commerce, has long ago prohibited the use of all imported liquors amongst us, and as we are aiming at independence in our manner of living, we have neither the abilities or inclination to aspire to their use. We freely resign them to our eastern neighbours, whom Providence has placed under the meridian rays of commercial affluence, and whose local situation confer on them many enjoyments which nature has denied to us; and whilst they are revelling in the luxuries of the most bountiful foreign climes, we are perfectly content with the humble produce of our own farms, and it is our only wish to be permitted to enjoy them in freedom.

We beg that we may not be considered as unfriendly to the supporting of a government, which we so highly approve, as that of Pennsylvania. We have too exalted ideas of the blessings deriving from it, to ever suffer such thoughts to harbour in our breasts. The payment of the state tax has always been submitted to with cheerfulness, and paid to the utmost of our abilities. And here we cannot forbear expressing our astonishment at the suspension of a tax so just and equitable in its nature, whilst the excise complained of is continued to be exacted with rigor. We have reason to believe that the produce of this excise will amount to the same, or perhaps exceed that of our state tax, and if we had any security for the net produce thereof getting into the treasury, it would afford some consolation; but from the flagrant delinquency which we have experienced from many of our revenue officers in this county, as well as from a want of confidence in the present excise officer and his security, our fears are greatly awakened upon the present occasion.

We find that the security required by law from this county, is fixed at the low rate of one hundred and fifty pounds only, when it is probable that the sum to be collected, may amount to one thousand. On this circumstance we shall only remark, that there are few men in the present day, who would not readily forfeit and pay a penalty of one hundred and fifty pounds, provided they could put a thousand in their pockets by so doing.

It is with pleasure that we reflect upon the many instances of liberality and general encouragement which the legislature, as well as many respectable societies, have given through the course of some years past, for rendering ourselves still more independent of foreign nations, by promoting and improving every branch of our own manufacture; we therefore flatter ourselves that the present assembly will no longer suffer a law to remain in existence which is so evidently calculated to counteract the virtuous designs of those respectable bodies, and which proves so universally obnoxious to the people of this western world....

George Washington, Whiskey Rebellion Address (Annual Address, 1794)

The Whisky Rebellion of 1794 took place in western Pennsylvania. The reason for the rebellion was a federal tax on distilled spirits that had been levied in 1791. Producers resisted the tax, claiming that only the state had the right to impose such taxes. In a show of federal strength, President George Washington called up a militia to suppress the insurrection. The event was significant because it was the first challenge to federal authority in the United States and the first time a U.S. president called up state militias to enforce federal law. The excerpt below is from Washington's address to Congress in which he describes the rebellion and his decision to suppress it.

Sixth Annual Address to Congress

United States, November 19, 1794

Fellow Citizens of the Senate and of the House of Representatives: When we call to mind the gracious indulgence of Heaven, by which the American People became a nation; when we survey the general prosperity of our country, and look forward to the riches, power, and happiness, to which it seems destined; with the deepest regret do I announce to you, that during your recess, some of the citizens of the United States have been found capable of an insurrection. It is due, however, to the character of our government, and to its stability, which cannot be shaken by the enemies of order, freely to unfold the course of this event.

During the session of the year one thousand seven hundred and ninety, it was expedient to exercise the legislative power, granted by the constitution of the United States, "to lay and collect excises." In a majority of the States, scarcely an objection was heard to this mode of taxation. In some, indeed, alarms were at first conceived, until they were banished by reason and patriotism. In the four western counties of Pennsylvania, a prejudice, fostered and embittered by the artifice of men, who labored for an ascendancy over the will of others, by the guidance of their passions, produced symptoms of riot and violence. It is well known, that Congress did not hesitate to examine the complaints which were presented, and to relieve them, as far as justice dictated, or general convenience would permit, but the impression, which this moderation made on the discontented, did not correspond, with what it deserved. The arts of delusion were no longer confined to the efforts of designing individuals.

The very forbearance to press prosecutions was misinterpreted into a fear of urging the execution of the laws; and associations of men began to denounce threats against the officers employed. From a belief, that by a more formal concert, their operation might be defeated, certain self-created societies assumed the tone of condemnation. Hence, while the greater part of Pennsylvania itself were conforming themselves to the acts of excise, a few counties were resolved to frustrate them. It was now perceived, that every expectation from the tenderness which had been hitherto pursued, was unavailing, and that further delay could only create an opinion of impotency or irresolution in the government. Legal process was, therefore, delivered to the marshal, against the rioters and delinquent distillers.

No sooner was he understood to be engaged in this duty, than the vengeance of armed men was aimed at his person, and the person and property of the inspector of the revenue. They fired upon the marshal, arrested him, and detained him for some time, as a prisoner. He was obliged, by the jeopardy of his life, to renounce the service of other process, on the west side of the Allegheny mountain; and a deputation was afterwards sent to him to demand a surrender of that which he had served. A numerous body repeatedly attacked the house of the inspector, seized his papers of office, and finally destroyed by fire, his buildings, and whatsoever they contained. Both of these officers, from a just regard to their safety, fled to the seat of government; it being avowed, that the motives to such outrages were to compel the resignation of the inspector, to withstand by force of arms the authority of the United States, and thereby to extort a repeal of the laws of excise, and an alteration in the conduct of government.

Upon the testimony of these facts, an associate Justice of the Supreme Court of the United States notified to me, that "in the counties of Washington and Allegheny, in Pennsylvania, laws of the United States were opposed, and the execution thereof obstructed by combinations, too powerful to be suppressed by the ordinary course of judicial proceedings, or by the powers vested in the marshal of that district." On this call, momentous in the extreme, I sought and weighed, what might best subdue the crisis. On the one hand, the judiciary was pronounced to be stripped of its capacity to enforce the laws; crimes, which reached the very existence of social order, were perpetrated without controul, the friends of government were insulted, abused, and overawed into silence, or an apparent acquiescence; and the yield to the treasonable fury of so small a portion of the United States, would be to violate the fundamental principle of our constitution, which enjoins that the will of the majority shall prevail. On the other, to array citizen against citizen, to publish the dishonor of such excesses, to encounter the expense, and other embarrassments of so distant an expedition, were steps too delicate, too closely interwoven with many affecting considerations, to be lightly adopted. I postponed, therefore, the summoning of the militia immediately into the field. But I required them to be held in readiness, that if my anxious endeavours to reclaim the deluded, and to convince the malignant of their danger, should be fruitless, military force might be prepared to act, before the season should be too far advanced.

My Proclamation of the 7th of August last was accordingly issued, and accompanied by the appointment of Commissioners, who were charged to repair to the scene of insurrection. They were authorized to confer with any bodies of men, or individuals. They were instructed to be candid and explicit, in stating the sensations, which had been excited in the Executive, and his earnest wish to avoid a resort to coercion. To represent, however, that without submission, coercion must be the resort; but to invite them, at the same time, to return to the demeanor of faithful citizens, by such accommodations as lay within the sphere of the executive power. Pardon, too, was tendered to them by the government of the United States, and that of Pennsylvania, upon no other condition, than a satisfactory assurance of obedience to the laws.

Although the report of the commissioners marks their firmness and abilities, and must unite all virtuous men, by shewing, that the means of conciliation have been exhausted, all of those who had committed or abetted the tumults, did not subscribe the mild form, which was proposed, as the atonement; and the indications of a peaceable temper were neither sufficiently general, nor conclusive, to recommend or warrant, a further suspension of the march of the militia.

Thus, the painful alternative could not be discarded. I ordered the militia to march, after once more admonishing the insurgents, in my proclamation of the 25th of September last. It was a task too difficult to ascertain with precision, the lowest degree of force, competent to the quelling of the insurrection. From a respect, indeed, to economy, and the ease of my fellow citizens belonging to the militia, it would have gratified me to accomplish such an estimate. My very reluctance to ascribe too much importance to the opposition, had its extent been accurately seen, would have been a decided inducement to the smallest efficient numbers.

In this uncertainty, therefore, I put in motion fifteen thousand men, as being an army, which according to all human calculation, would be prompt, and adequate in every view; and might perhaps, by rendering resistance desperate, prevent the effusion of blood. Quotas had been assigned to the states of New-Jersey, Pennsylvania, Maryland, and Virginia; the governor of Pennsylvania having declared on this occasion, an opinion which justified a requisition to the other states.

As commander in chief of the militia, when called into the actual service of the United States, I have visited the places of general rendezvous, to obtain more exact information, and to direct a plan for ulterior movements. Had there been room for a persuasion, that the laws were secure from obstruction; that the civil magistrate was able to bring to justice such of the most culpable, as have not embraced the proffered terms of amnesty, and may be deemed fit objects of example; that the friends to peace and good government were not in need of that aid and countenance, which they ought always to receive, and I trust, ever will receive, against the vicious and turbulent; I should have caught with avidity the opportunity of restoring the militia to their families and home. But succeeding intelligence has tended to manifest the necessity of what has been done; it being now confessed by those who were not inclined to exaggerate the ill-conduct of the insurgents, that their malevolence was not pointed merely to a particular law; but that a spirit, inimical to all order, has actuated many of the offenders. If the state of things had afforded reason for the continuance of my presence with the army, it would not have been withholden.

But every appearance assuring such an issue, as will redound to the reputation and strength of the United States, I have judged it most proper, to resume my duties at the seat of government, leaving the chief command with the governor of Virginia. Still, however, as it is probable, that in a commotion like the present, whatsoever may be the pretence, the purposes of mischief and revenge may not be laid aside; the stationing of a small force for a certain period in the four western counties of Pennsylvania will be indispensable; whether we contemplate the situation of those, who are connected with the execution of the laws; or of others who may have exposed themselves by an honorable attachment to them. . . .

While there is cause to lament, that occurrences of this nature should have disgraced the name, or interrupted the tranquility of any part of our community, or should have diverted to a new application, any portion of the public resources, there are not wanting real and substantial consolations for the misfortune. It has demonstrated, that our prosperity rests on solid foundations; by furnishing an additional proof, that my fellow citizens understand the true principles of government and liberty: that they feel their inseparable union: that notwithstanding all the devices which have been used to sway them from their interest and duty, they are now as ready to maintain the authority of the laws against licentious invasions, as they were to defend their rights against usurpation. It has been a spectacle, displaying to the highest advantage, the value of Republican Government, to behold the most and least wealthy of our citizens standing in the same ranks as private soldiers; pre-eminently distinguished by being the army of the constitution; undeterred by a march of three hundred miles over rugged mountains, by the approach of an inclement season, or by any other discouragement. Nor ought I to omit to acknowledge the efficacious and patriotic co-operation, which I have experienced from the chief magistrates of the states, to which my requisitions have been addressed.

To every description, indeed, of citizens let praise be given. But let them persevere in their affectionate vigilance over that precious depository of American happiness, the constitution of the United States. Let them cherish it too, for the sake of those, who from every clime are daily seeking a dwelling in our land. And when in the calm moments of reflection, they shall have retraced the origin and progress of the insurrection, let them determine whether it has not been fomented by combinations of men, who, careless of consequences, and disregarding the unerring truth, that those who rouse, cannot always appease a civil convulsion, have disseminated, from an ignorance of perversion of facts, suspicions, jealousies, and accusations of the whole government.

Having thus fulfilled the engagement, which I took, when I entered this office, "to the best of my ability to preserve, protect, and defend the constitution of the United States," on you, Gentlemen, and the people by whom you are

deputed, I rely for support. In the arrangements, to which the possibility of a similar contingency will naturally draw your attention, it ought not to be forgotten, that the militia laws have exhibited such striking defects, as could not have been supplied but by the zeal of our citizens. Besides the extraordinary expense and waste, which are not the least of the defects, every appeal to those laws is attended with a doubt of its success. The devising and establishing of a well regulated militia, would be a genuine source of legislative honor, and a perfect title to public gratitude. I, therefore, entertain a hope, that the present session will not pass, without carrying to its full energy the power of organizing, arming, and disciplining the militia; and thus providing, in the language of the constitution, for calling them forth to execute the laws of the union, suppress insurrections, and repel invasions. As auxiliary to the state of our defence, to which Congress can never too frequently recur, they will not omit to enquire whether the fortifications, which have been already licensed by law, be commensurate with our exigencies. . . .

An estimate of the necessary appropriations, including the expenditures into which we have been driven by the insurrection, will be submitted to Congress. Gentlemen of the Senate, and of the House of Representatives: The mint of the United States has entered upon the coinage of the precious metals; and considerable sums of defective coins and bullion have been lodged with the director by individuals. There is a pleasing prospect that the institution will, at no remote day, realize the expectation which was originally formed of its utility.

In subsequent communications, certain circumstances of our intercourse with foreign nations, will be transmitted to Congress. However, it may not be unseasonable to announce that my policy in our foreign transactions has been, to cultivate peace with all the world; to observe treaties with pure and absolute faith; to check every deviation from the line of impartiality; to explain what may have been misapprehended; and having thus acquired the right, to lose no time in acquiring the ability, to insist upon justice being done to ourselves.

Let us unite, therefore, in imploring the Supreme Ruler of nations, to spread his holy protection over these United States: to turn the machinations of the wicked to the confirming of our constitution: to enable us at all times to root out internal sedition, and put invasion to flight: to perpetuate to our country that prosperity, which his goodness has already conferred, and to verify the anticipations of this government being a safe guard to human rights.

James Madison, Congressional Speech in Defense of the Bill of Rights (June 8, 1789)

At the Constitutional Convention, James Madison had not believed that a bill of rights should be required for the new government. However, during the ratification process, several states had called for such a bill, and Madison felt it was his obligation to propose one. At the same time, Madison sought to control the amendment process by assuming leadership of the effort. New York, when it ratified the Constitution, had called for another constitutional convention, which was now clearly provided for in the Constitution. By drafting a bill of rights to be added to the Constitution, Madison headed off that possibility.

I will state my reasons why I think it proper to propose amendments, and state the amendments themselves, so far as I think they ought to be proposed. If I thought I could fulfill the duty which I owe to myself and my constituents, to let the subject pass over in silence, I most certainly should not trespass upon the indulgence of this House. But I cannot do this, and am therefore compelled to beg a patient hearing to what I have to lay before you. And I do most sincerely believe, that if Congress will devote but one day to this subject, so far as to satisfy the public that we do not disregard their wishes, it will have a salutary influence on the public councils, and prepare the way for a favorable reception of our future measures. It appears to me that this House is bound by every motive of prudence, not to let the first session pass over without proposing to the State Legislatures some things to be incorporated into the Constitution, that will render it as acceptable to the whole people of the United States, as it has been found acceptable to a majority of them. I wish, among other reasons why something should be done, that those who have been friendly to the adoption of this Constitution may have the opportunity of proving to those who were opposed to it that they were as sincerely devoted to liberty and a Republican Government, as those who charged them with wishing the adoption of this Constitution in order to lay the foundation of an aristocracy or despotism. It will be a desirable thing to extinguish from the bosom of every member of the community, any apprehensions that there are those among his countrymen who wish to deprive them of the liberty for which they valiantly fought and honorably bled. And if there are amendments desired of such a nature as will not injure the Constitution, and they can be ingrafted so as to give satisfaction to the doubting part of our fellow-citizens, the friends of the Federal Government will evince that spirit of deference and concession for which they have hitherto been distinguished.

It cannot be a secret to the gentlemen in this House, that, notwithstanding the ratification of this system of Government by eleven of the thirteen United States, in some cases unanimously, in others by large majorities; yet still there is a great number of our constituents who are dissatisfied with it; among whom are many respectable for their talents and patriotism, and respectable for the jealousy they have for their liberty, which, though mistaken in

its object, is laudable in its motive. There is a great body of the people falling under this description, who at present feel much inclined to join their support to the cause of Federalism, if they were satisfied on this one point. We ought not to disregard their inclination, but, on principles of amity and moderation, conform to their wishes, and expressly declare the great rights of mankind secured under this constitution. The acquiescence which our fellow-citizens show under the Government, calls upon us for a like return of moderation. But perhaps there is a stronger motive than this for our going into a consideration of the subject. It is to provide those securities for liberty which are required by a part of the community; I allude in a particular manner to those two States that have not thought fit to throw themselves into the bosom of the Confederacy. It is a desirable thing, on our part as well as theirs, that a reunion should take place as soon as possible. I have no doubt, if we proceed to take those steps which would be prudent and requisite at this juncture, that in a short time we should see that disposition prevailing in those States which have not come in, that we have seen prevailing in those States which have embraced the Constitution.

But I will candidly acknowledge, that, over and above all these considerations, I do conceive that the Constitution may be amended; that is to say, if all power is subject to abuse, that then it is possible the abuse of the powers of the General Government may be guarded against in a more secure manner than is now done, while no one advantage arising from the exercise of that power shall be damaged or endangered by it. We have in this way something to gain, and, if we proceed with caution, nothing to lose. And in this case it is necessary to proceed with caution; for while we feel all these inducements to go into a revisal of the Constitution, we must feel for the Constitution itself, and make that revisal a moderate one. I should be unwilling to see a door opened for a reconsideration of the whole structure of the Government — for a re-consideration of the principles and the substance of the powers given; because I doubt, if such a door were opened, we should be very likely to stop at that point which would be safe to the Government itself. But I do wish to see a door opened to consider, so far as to incorporate those provisions for the security of rights, against which I believe no serious objection has been made by any class of our constituents: such as would be likely to meet with the concurrence of two-thirds of both Houses, and the approbation of three-fourths of the State Legislatures. I will not propose a single alteration which I do not wish to see take place, as intrinsically proper in itself, or proper because it is wished for by a respectable number of my fellow-citizens; and therefore I shall not propose a single alteration but is likely to meet the concurrence required by the Constitution. There have been objections of various kinds made against the Constitution. Some were levelled against its structure because the President was without a council; because the Senate, which is a legislative body, had judicial powers in trials on impeachments; and because the powers of that body were compounded in other respects, in a manner that did not correspond with a particular theory; because it grants more power than is supposed to be necessary for every good purpose, and controls the ordinary powers of the State Governments. I know some respectable characters who opposed this Government on these grounds; but I believe that the great mass of the people who opposed it, disliked it because it did not contain effectual provisions against encroachments on particular rights, and those safeguards which they have been long accustomed to have interposed between them and the magistrate who exercises the sovereign power; nor ought we to consider them safe, while a great number of our fellow-citizens think these securities necessary.

It is a fortunate thing that the objection to the Government has been made on the ground I stated; because it will be practicable, on that ground, to obviate the objection, so far as to satisfy the public mind that their liberties will be perpetual, and this without endangering any part of the Constitution, which is considered as essential to the existence of the Government by those who promoted its adoption.

The amendments which have occurred to me, proper to be recommended by Congress to the State Legislatures, are these:

First, That there be prefixed to the Constitution a declaration, that all power is originally vested in, and consequently derived from, the people.

That Government is instituted and ought to be exercised for the benefit of the people; which consists in the enjoyment of life and liberty, with the right of acquiring and using property, and generally of pursuing and obtaining happiness and safety.

That the people have an indubitable, unalienable, and indefeasible right to reform or change their Government, whenever it be found adverse or inadequate to the purposes of its institution.

...Fourthly. That in article 1st, section 9, between clauses 3 and 4, be inserted these clauses, to wit: The civil rights of none shall be abridged on account of religious belief or worship, nor shall any national religion be established, nor shall the full and equal rights of conscience be in any manner, or on any pretext, infringed.

The people shall not be deprived or abridged of their right to speak, to write, or to publish their sentiments; and the freedom of the press, as one of the great bulwarks of liberty, shall be inviolable.

The people shall not be restrained from peaceably assembling and consulting for their common good; nor from applying to the Legislature by petitions, or remonstrances, for redress of their grievances.

The right of the people to keep and bear arms shall not be infringed; a well armed and well regulated militia being the best security of a free country: but no person religiously scrupulous of bearing arms shall be compelled to render military service in person.

No soldier shall in time of peace be quartered in any house without the consent of the owner; nor at any time, but in a manner warranted by law.

No person shall be subject, except in cases of impeachment, to more than one punishment or one trial for the same offence; nor shall be compelled to be a witness against himself; nor be deprived of life, liberty, or property, without due process of law; nor be obliged to relinquish his property, where it may be necessary for public use, without a just compensation.

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

The rights of the people to be secured in their persons; their houses, their papers, and their other property, from all unreasonable searches and seizures, shall not be violated by warrants issued without probable cause, supported by oath or affirmation, or not particularly describing the places to be searched, or the persons or things to be seized.

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, to be informed of the cause and nature of the accusation, to be confronted with his accusers, and the witnesses against him; to have a compulsory process for obtaining witnesses in his favor; and to have the assistance of counsel for his defence.

The exceptions here or elsewhere in the Constitution, made in favor of particular rights, shall not be so construed as to diminish the just importance of other rights retained by the people, or as to enlarge the powers delegated by the Constitution; but either as actual limitations of such powers, or as inserted merely for greater caution.

...The first of these amendments relates to what may be called a bill of rights. I will own that I never considered this provision so essential to the Federal Constitution, as to make it improper to ratify it, until such an amendment was added; at the same time, I always conceived, that in a certain form, and to a certain extent, such a provision was neither improper nor altogether useless. I am aware, that a great number of the most respectable friends to the Government, and champions for republican liberty, have thought such a provision, not only unnecessary, but even improper; nay, I believe some have gone so far as to think it even dangerous. Some policy has been made use of, perhaps, by gentlemen on both sides of the question: I acknowledge the ingenuity of those arguments which were drawn against the Constitution, by a comparison with the policy of Great Britain, in establishing a declaration of rights; but there is too great a difference in the case to warrant the comparison: therefore, the arguments drawn from that source were in a great measure inapplicable. In the declaration of rights which that country has established, the truth is, they have gone no farther than to raise a barrier against the power of the Crown; the power of the Legislature is left altogether indefinite. Although I know whenever the great rights, the trial by jury, freedom of the press, or liberty of conscience, come in question in that body, the invasion of them is resisted by able advocates, yet their Magna Charta does not contain any one provision for the security of those rights, respecting which the people of America are most alarmed. The freedom of the press and rights of conscience, those choicest privileges of the people, are unguarded in the British Constitution.

But although the case may be widely different, and it may not be thought necessary to provide limits for the legislative power in that country, yet a different opinion prevails in the United States. The people of many States have thought it necessary to raise barriers against power in all forms and departments of Government, and I am inclined to believe, if once bills of rights are established in all the States as well as the Federal Constitution, we shall find that although some of them are rather unimportant, yet, upon the whole, they will have a salutary tendency.

It may be said, in some instances, they do no more than state the perfect equality of mankind. This, to be sure, is an absolute truth, yet it is not absolutely necessary to be inserted at the head of a Constitution.

In some instances they assert those rights which are exercised by the people in forming and establishing a plan of Government. In other instances, they specify those rights which are retained when particular powers are given up to be exercised by the Legislature. In other instances, they specify positive rights, which may seem to result from the nature of the compact. Trial by jury cannot be considered as a natural right, but a right resulting from a social

compact which regulates the action of the community, but is as essential to secure the liberty of the people as any one of the pre-existent rights of nature. In other instances, they lay down dogmatic maxims with respect to the construction of the Government; declaring that the Legislative, Executive, and Judicial branches shall be kept separate and distinct. Perhaps the best way of securing this in practice is, to provide such checks as will prevent the encroachment of the one upon the other.

But whatever may be the form which the several States have adopted in making declarations in favor of particular rights, the great object in view is to limit and qualify the powers of Government, by excepting out of the grant of power those cases in which the Government ought not to act, or to act only in a particular mode. They point these exceptions sometimes against the abuse of the Executive power, sometimes against the Legislative, and, in some cases, against the community itself; or, in other words, against the majority in favor of the minority.

In our Government it is, perhaps, less necessary to guard against the abuse in the Executive Department than any other; because it is not the stronger branch of the system, but the weaker: It therefore must be levelled against the Legislative, for it is the most powerful, and most likely to be abused, because it is under the least control. Hence, so far as a declaration of rights can tend to prevent the exercise of undue power, it cannot be doubted but such declaration is proper. But I confess that I do conceive, that in a Government modified like this of the United States, the great danger lies rather in the abuse of the community than in the Legislative body. The prescriptions in favor of liberty ought to be levelled against that quarter where the greatest danger lies, namely, that which possesses the highest prerogative of power. But this is not found in either the Executive or Legislative departments of Government, but in the body of the people, operating by the majority against the minority.

It may be thought that all paper barriers against the power of the community are too weak to be worthy of attention. I am sensible they are not so strong as to satisfy gentlemen of every description who have seen and examined thoroughly the texture of such a defence; yet, as they have a tendency to impress some degree of respect for them, to establish the public opinion in their favor, and rouse the attention of the whole community, it may be one means to control the majority from those acts to which they might be otherwise inclined.

It has been said, by way of objection to a bill of rights, by many respectable gentlemen out of doors, and I find opposition on the same principles likely to be made by gentlemen on this floor, that they are unnecessary articles of a Republican Government, upon the presumption that the people have those rights in their own hands, and that is the proper place for them to rest. It would be a sufficient answer to say, that this objection lies against such provisions under the State Governments, as well as under the General Government; and there are, I believe, but few gentlemen who are inclined to push their theory so far as to say that a declaration of rights in those cases is either ineffectual or improper. It has been said, that in the Federal Government they are unnecessary, because the powers are enumerated, and it follows, that all that are not granted by the Constitution are retained; that the Constitution is a bill of powers, the great residuum being the rights of the people; and, therefore, a bill of rights cannot be so necessary as if the residuum was thrown into the hands of the Government. I admit that these arguments are not entirely without foundation; but they are not conclusive to the extent which has been supposed. It is true, the powers of the General Government are circumscribed, they are directed to particular objects; but even if Government keeps within those limits, it has certain discretionary powers with respect to the means, which may admit of abuse to a certain extent, in the same manner as the powers of the State Governments under their constitutions may to an indefinite extent; because in the Constitution of the United States, there is a clause granting to Congress the power to make all laws which shall be necessary and proper for carrying into execution all the powers vested in the Government of the United States, or in any department or officer thereof; this enables them to fulfil every purpose for which the Government was established. Now, may not laws be considered necessary and proper by Congress, for it is for them to judge of the necessity and propriety to accomplish those special purposes which they may have in contemplation, which laws in themselves are neither necessary nor proper; as well as improper laws could be enacted by the State Legislatures, for fulfilling the more extended objects of those Governments. I will state an instance, which I think in point, and proves that this might be the case. The General Government has a right to pass all laws which shall be necessary to collect its revenue; the means for enforcing the collection are within the direction of the Legislature: may not general warrants be considered necessary for this purpose, as well as for some purposes which it was supposed at the framing of their constitutions the State Governments had in view? If there was reason for restraining the State Governments from exercising this power, there is like reason for restraining the Federal Government.

It may be said, indeed it has been said, that a bill of rights is not necessary, because the establishment of this Government has not repealed those declarations of rights which are added to the several State constitutions; that those rights of the people, which had been established by the most solemn act, could not be annihilated by a subsequent act of that people, who meant, and declared at the head of the instrument, that they ordained and established a new system, for the express purpose of securing to themselves and posterity the liberties they had gained by an arduous conflict.

I admit the force of this observation, but I do not look upon it to be conclusive. In the first place, it is too uncertain ground to leave this provision upon, if a provision is at all necessary to secure rights so important as many of those I have mentioned are conceived to be, by the public in general, as well as those in particular who opposed the adoption of this Constitution. Besides, some States have no bills of rights, there are others provided with very defective ones, and there are others whose bills of rights are not only defective, but absolutely improper; instead of securing some in the full extent which republican principles would require, they limit them too much to agree with the common ideas of liberty.

It has been objected also against a bill of rights, that, by enumerating particular exceptions to the grant of power, it would disparage those rights which were not placed in that enumeration; and it might follow, by implication, that those rights which were not singled out, were intended to be assigned into the hands of the General Government, and were consequently insecure. This is one of the most plausible arguments I have ever heard urged against the admission of a bill of rights into this system; but, I conceive, that it may be guarded against. I have attempted it, as gentlemen may see by turning to the last clause of the fourth resolution.

It has been said, that it is unnecessary to load the Constitution with this provision, because it was not found effectual in the constitution of the particular States. It is true, there are a few particular States in which some of the most valuable articles have not, at one time or other, been violated; but it does not follow but they may have, to a certain degree, a salutary effect against the abuse of power. If they are incorporated into the Constitution, independent tribunals of justice will consider themselves in a peculiar manner the guardians of those rights; they will be an impenetrable bulwark against every assumption of power in the Legislative or Executive; they will be naturally led to resist every encroachment upon rights expressly stipulated for in the Constitution by the declaration of rights. Besides this security, there is a great probability that such a declaration in the federal system would be enforced; because the State Legislatures will jealously and closely watch the operations of this Government, and be able to resist with more effect every assumption of power, than any other power on earth can do; and the greatest opponents to a Federal Government admit the State Legislatures to be sure guardians of the people's liberty. I conclude, from this view of the subject, that it will be proper in itself, and highly politic, for the tranquillity of the public mind, and the stability of the Government, that we should offer something, in the form I have proposed, to be incorporated in the system of Government, as a declaration of the rights of the people.

Document Analysis

1. Why do you think it a wise ideal to have a Constitution with not only a Bill of Rights, but also a clear amendment process?
2. Why would Madison conjecture that enumerated rights might be unnecessary for a republican government?
3. What is the danger of choosing particular rights to list?

The Treaty of San Lorenzo (Pinckney's Treaty) (1796)

The Treaty of San Lorenzo, also known as "Pinckney's Treaty" after the head U.S. representative, Thomas Pinckney, established new boundaries for the country in the South. It also guaranteed access to various waterways and ports to the young nation. This treaty greatly increased the ability of the United States—particularly the southern states—to trade and ship goods.

Treaty of Friendship, Limits, and Navigation, signed at San Lorenzo el Real October 27, 1795. Original in English and Spanish Submitted to the Senate February 26, 1796. Resolution of advice and consent March 5, 1796. Ratified by the United States March 7, 1796. Ratified by Spain April 25, 1796. Ratifications exchanged at Aranjuez April 25, 1796. Proclaimed August 2, 1796.

His Catholic Majesty and the United States of America desiring to consolidate on a permanent basis the Friendship and good correspondence which happily prevails between the two Parties, have determined to establish by a convention several points, the settlement whereof will be productive of general advantage and reciprocal utility to both Nations. With this intention his Catholic Majesty has appointed the most Excellent Lord Don Manuel de Godoy and Alvarez de Faria, Rios, Sanchez Zarzosa, Prince de la Paz Duke de la Alcuia Lord of the Soto de Roma and of the State of Albala: Grandee of Spain of the first class: perpetual Regidor of the City of Santiago: Knight of the illustrious Order of the Golden Fleece, and Great Cross of the Royal and distinguished Spanish order of Charles the III. Commander of Valencia del Ventoso, Rivera, and Aceuchal in that of Santiago: Knight and Great Cross of the religious order of St John: Counsellor of State: First Secretary of State and Despacho: Secretary to the Queen:

Superintendent General of the Posts and High Ways: Protector of the Royal Academy of the Noble Arts, and of the Royal Societies of natural history, Botany, Chemistry, and Astronomy: Gentleman of the King's Chamber in employment: Captain General of his Armies: Inspector and Major of the Royal Corps of Body Guards & & & and the President of the United States with the advice and consent of their Senate, has appointed Thomas Pinckney a Citizen of the United States, and their Envoy Extraordinary to his Catholic Majesty. And the said Plenipotentiaries have agreed upon and concluded the following Articles.

ART. I.

There shall be a firm and inviolable Peace and sincere Friendship between His Catholic Majesty his successors and subjects, and the United Estates and their Citizens without exception of persons or places.

ART. II.

To prevent all disputes on the subject of the boundaries which separate the territories of the two High contracting Parties, it is hereby declared and agreed as follows: to wit: The Southern boundary of the United States which divides their territory from the Spanish Colonies of East and West Florida, shall be designated by a line beginning on the River Mississippi at the Northernmost part of the thirty first degree of latitude North of the Equator, which from thence shall be drawn due East to the middle of the River Apalachicola or Catahouche, thence along the middle thereof to its junction with the Flint, thence straight to the head of St Mary's River, and thence down the middle there of to the Atlantic Ocean. And it is agreed that if there should be any troops, Garrisons or settlements of either Party in the territory of the other according to the above mentioned boundaries, they shall be withdrawn from the said territory within the term of six months after the ratification of this treaty or sooner if it be possible and that they shall be permitted to take with them all the goods and effects which they possess.

ART. III.

In order to carry the preceding Article into effect one Commissioner and one Surveyor shall be appointed by each of the contracting Parties who shall meet at the Natchez on the left side of The River Mississippi before the expiration of six months from the ratification of this convention, and they shall proceed to run and mark this boundary according to the stipulations of the said Article. They shall make Plats and keep journals of their proceedings which shall be considered as part of this convention, and shall have the same force as if they were inserted therein. And if on any account it should be found necessary that the said Commissioners and Surveyors should be accompanied by Guards, they shall be furnished in equal proportions by the Commanding Officer of his Majesty's troops in the two Floridas, and the Commanding Officer of the troops of the United States in their Southwestern territory, who shall act by common consent and amicably, as well with respect to this point as to the furnishing of provisions and instruments and making every other arrangement which may be necessary or useful for the execution of this article.

ART. IV.

It is likewise agreed that the Western boundary of the United States which separates them from the Spanish Colony of Louisiana, is in the middle of the channel or bed of the River Mississippi from the Northern boundary of the said States to the completion of the thirty first degree of latitude North of the Equator; and his Catholic Majesty has likewise agreed that the navigation of the said River in its whole breadth from its source to the Ocean shall be free only to his Subjects, and the Citizens of the United States, unless he should extend this privilege to the Subjects of other Powers by special convention.

ART. V.

The two High contracting Parties shall by all the means in their power maintain peace and harmony among the several Indian Nations who inhabit the country adjacent to the lines and Rivers which by the proceeding Articles form the boundaries of the two Floridas; and the teeter to obtain this effect both Parties oblige themselves expressly to restrain by force all hostilities on the part of the Indian Nations living within their boundaries: so that Spain will notsuder her Indians to attack the Citizens of the United States, nor the Indians inhabiting their territory; nor will the United States permit these last mentioned Indians to commence hostilities against the Subjects of his Catholic Majesty, or his Indians in any manner whatever.

And whereas several treaties of Friendship exist between the two contracting Parties and the said Nations of Indians, it is hereby agreed that in future no treaty of alliance or other whatever (except treaties of Peace) shall be made by either Party with the Indians living within the boundary of the other; but both Parties will endeavour to make the advantages of the Indian trade common and mutually beneficial to their respective Subjects and Citizens observing in

all things the most complete reciprocity: so that both Parties may obtain the advantages arising from a good understanding with the said Nations, without being subject to the expence which they have hitherto occasioned.

ART. VI.

Each Party shall endeavour by all means in their power to protect and defend all Vessels and other effects belonging to the Citizens or Subjects of the other, which shall be within the extent of their jurisdiction by sea or by land, and shall use all their efforts to recover and cause to be restored to the right owners their Vessels and effects which may have been taken from them within the extent of their said jurisdiction whether they are at war or not with the Power whose Subjects have taken possession of the said effects.

ART. VII.

And it is agreed that the Subjects or Citizens of each of the contracting Parties, their Vessels, or effects shall not be liable to any embargo or detention on the part of the other for any military expedition or other public or private purpose whatever; and in all cases of seizure, detention, or arrest for debts contracted or offences committed by any Citizen or Subject of the one Party within the jurisdiction of the other, the same shall be made and prosecuted by order and authority of law only, and according to the regular course of proceedings usual in such cases. The Citizens and Subjects of both Parties shall be allowed to employ such Advocates, Sollicitors, Notaries, Agents, and Factors, as they may judge proper in all their affairs and in all their trials at law in which they may be concerned before the tribunals of the other Party, and such Agents shall have free access to be present at the proceedings in such causes, and at the taking of all examinations and evidence which may be exhibited in the said trials.

ART. VIII.

In case the Subjects and inhabitants of either Party with their shipping whether public and of war or private and of merchants be forced through stress of weather, pursuit of Pirates, or Enemies, or any other urgent necessity for seeking of shelter and harbor to retreat and enter into any of the Rivers, Bays, Roads, or Ports belonging to the other Party, they shall be received and treated with all humanity, and enjoy all favor, protection and help, and they shall be permitted to refresh and provide themselves at reasonable rates with victuals and all things needful for the sustenance of their persons or reparation of their Ships, and prosecution of their voyage; and they shall no ways be hindered from returning out of the said Ports, or Roads, but may remove and depart when and whither they please without any let or hindrance.

ART. IX.

All Ships and merchandise of what nature soever which shall be rescued out of the hands of any Pirates or Robbers on the high seas shall be brought into some Port of either State and shall be delivered to the custody of the Officers of that Port in order to be taken care of and restored entire to the true proprietor as soon as due and sufficient proof shall be made concerning the property there of.

ART. X.

When any Vessel of either Party shall be wrecked, foundered, or otherwise damaged on the coasts or within the dominion of the other, their respective Subjects or Citizens shall receive as well for themselves as for their Vessels and effects the same assistance which would be due to the inhabitants of the Country where the damage happens, and shall pay the same charges and dues only as the said inhabitants.

...

[Article XI relates to legal possession and heritability of personal goods within the territories under discussion.]

ART. XII.

The merchant Ships of either of the Parties which shall be making into a Port belonging to the enemy of the other Party and concerning whose voyage and the species of goods on board her there shall be just grounds of suspicion shall be obliged to exhibit as well upon the high seas as in the Ports and havens not only her passports but likewise certificates expressly strewing that her goods are not of the number of those which have been prohibited as contraband.

ART. XIII.

For the better promoting of commerce on both sides, it is agreed that if a war shall break out between the said two Nations one year after the proclamation of war shall be allowed to the merchants in the Cities and Towns where they shall live for collecting and transporting their goods and merchandises, and if any thing be taken from them, or any injury be done them within that term by either Party, or the People or Subjects of either, full satisfaction shall be made for the same by the Government.

ART. XIV.

No subject of his Catholic Majesty shall apply for or take any commission or letters of marque for arming any Ship or Ships to act as Privateers against the said United States or against the Citizens, People, or inhabitants of the said United States, or against the property of any of the inhabitants of any of them, from any Prince or State with which the said United States shall be at war.

Nor shall any Citizen, Subject, or Inhabitant of the said United States apply for or take any commission or letters of marque for arming any Ship or Ships to act as Privateers against the subjects of his Catholic Majesty or the property of any of them from any Prince or State with which the said King shall be at war. And if any person of either Nation shall take such commissions or letters of marque he shall be punished as a Pirate.

. . .

[Articles XVI - XVII discuss safe passage for both parties both in peacetime or in the event the either side engages in war with other countries.]

ART. XVIII.

If the Ships of the said subjects, People or inhabitants of either of the Parties shall be met with either sailing along the coasts on the high Seas by any Ship of war of the other or by any Privateer, the said Ship of war or Privateer for the avoiding of any disorder shall remain out of cannon shot, and may send their boats aboard the merchant Ship which they shall so meet with, and may enter her to number of two or three men only to whom the master or Commander of such ship or vessel shall exhibit his passports concerning the property of the ship made out according to the form inserted in this present Treaty: and the ship when she shall have showed such passports shall be free and at liberty to pursue her voyage, so as it shall not be lawful to molest or give her chace in any manner or force her to quit her intended course.

ART. XIX.

Consuls shall be reciprocally established with the privileges and powers which those of the most favoured Nations enjoy in the Ports where their consuls reside, or are permitted to be.

ART. XX.

It is also agreed that the inhabitants of the territories of each Party shall respectively have free access to the Courts of Justice of the other, and they shall be permitted to prosecute suits for the recovery of their properties, the payment of their debts, and for obtaining satisfaction for the damages which they may have sustained, whether the persons whom they may sue be subjects or Citizens of the Country in which they may be found, or any other persons whatsoever who may have taken refuge therein; and the proceedings and sentences of the said Court shall be the same as if the contending parties had been subjects or Citizens of the said Country.

. . .

[Article XXI relates to arbitration of cases in which Americans have lost goods due to previous hostilities.]

ART. XXII.

The two high contracting Parties hoping that the good correspondence and friendship which happily reigns between them will be further increased by this Treaty, and that it will contribute to augment their prosperity and opulence, will in future give to their mutual commerce all the extension and favor which the advantage of both Countries may require; and in consequence of the stipulations contained in the IV. article his Catholic Majesty will permit the Citizens of the United States for the space of three years from this time to deposit their merchandise and effects in

the Port of New Orleans, and to export them from thence without paying any other duty than a fair price for the hire of the stores, and his Majesty promises either to continue this permission if he finds during that time that it is not prejudicial to the interests of Spain, or if he should not agree to continue it there, he will assign to them on another part of the banks of the Mississippi an equivalent establishment.

ART. XXIII.

The present Treaty shall not be in force untill ratified by the Contracting Parties, and the ratifications shall be exchanged in six months from this time, or sooner if possible.

In Witness whereof We the underwritten Plenipotentiaries of His Catholic Majesty and of the United States of America have signed this present Treaty of Friendship, Limits and Navigation and have "hereunto affixed our seals respectively.

Done at San Lorenzo el Real this seven and twenty day of October one thousand seven hundred and ninety five.

THOMAS PINCKNEY

[Seal]

EL PRINCIPE DE LA PAZ

[Seal]

Document Analysis

1. What new borders did this treaty establish between the United States and the Spanish territories?
2. According to Article V, how are Indian tribes to be dealt with in the newly divided territory?

The Alien and Sedition Acts (1798)

Congress passed the Alien and Sedition Acts of 1798 during a time when the potential for civil unrest ran high. A large number of residents were of foreign birth, and the nation faced a possible war with not just one, but up to three different European powers, all of which held territory on the U.S. border.

The Alien Enemies Act severely limited the rights of aliens and immigrants in the United States. In case of a war between the United States and another country, any person in the United States from that nation was open to arrest, interrogation, or even deportation by the government. This law was designed to negate the threat from foreign nationals in the United States during wartime. The Sedition Act limited the rights of citizens to speak out against the federal government or to incite unrest in any way.

An Act respecting alien enemies.

SECTION 1.

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That whenever there shall be a declared war between the United States and any foreign nation or government, or any invasion or predatory incursion shall be perpetrated, attempted, or threatened against the territory of the United States, by any foreign nation or government, and the President of the United States shall make public proclamation of the event, all natives, citizens, denizens, or subjects of the hostile nation or government, being males of the age of fourteen years and upwards, who shall be within the United States, and not actually naturalized, shall be liable to be apprehended, restrained, secured and removed, as alien enemies. And the President of the United States shall be, and he is hereby authorized, in any event, as aforesaid, by his proclamation thereof, or other public act, to direct the conduct to be observed, on the part of the United States, towards the aliens who shall become liable, as aforesaid;

the manner and degree of the restraint to which they shall be subject, and in what cases, and upon what security their residence shall be permitted, and to provide for the removal of those, who, not being permitted to reside within the United States, shall refuse or neglect to depart therefrom; and to establish any other regulations which shall be found necessary in the premises and for the public safety: Provided, that aliens resident within the United States, who shall become liable as enemies, in the manner aforesaid, and who shall not be chargeable with actual hostility, or other crime against the public safety, shall be allowed, for the recovery, disposal, and removal of their goods and effects, and for their departure, the full time which is, or shall be stipulated by any treaty, where any shall have been between the United States, and the hostile nation or government, of which they shall be natives, citizens, denizens or subjects: and where no such treaty shall have existed, the President of the United States may ascertain and declare such reasonable time as may be consistent with the public safety, and according to the dictates of humanity and national hospitality.

SEC. 2.

And be it further enacted, That after any proclamation shall be made as aforesaid, it shall be the duty of the several courts of the United States, and of each state, having criminal jurisdiction, and of the several judges and justices of the courts of the United States, and they shall be, and are hereby respectively, authorized upon complaint, against any alien or alien enemies, as aforesaid, who shall be resident and at large within such jurisdiction or district, to the danger of the public peace or safety, and contrary to the tenor or intent of such proclamation, or other regulations which the President of the United States shall and may establish in the premises, to cause such alien or aliens to be duly apprehended and convened before such court, judge or justice; and after a full examination and hearing on such complaint, and sufficient cause therefor appearing, shall and may order such alien or aliens to be removed out of the territory of the United States, or to give sureties of their good behaviour, or to be otherwise restrained, conformably to the proclamation or regulations which shall and may be established as aforesaid, and may imprison, or otherwise secure such alien or aliens, until the order which shall and may be made, as aforesaid, shall be performed.

SEC. 3.

And be it further enacted, That it shall be the duty of the marshal of the district in which any alien enemy shall be apprehended, who by the President of the United States, or by order of any court, judge or justice, as aforesaid, shall be required to depart, and to be removed, as aforesaid, to provide therefor, and to execute such order, by himself or his deputy, or other discreet person or persons to be employed by him, by causing a removal of such alien out of the territory of the United States; and for such removal the marshal shall have the warrant of the President of the United States, or of the court, judge or justice ordering the same, as the case may be.

JONATHAN DAYTON, Speaker of the House of Representatives.

THEODORE SEDGWICK, President of the Senate, pro tempore.

APPROVED, July 6, 1798:

JOHN ADAMS, President of the United States.

Sedition Act (1798)

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

SEC. I

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

SEC. 2.

And be it further enacted, That if any person shall write, print, utter or publish, or shall cause or procure to be written, printed, uttered or publishing, or shall knowingly and willingly assist or aid in writing, printing, uttering or publishing any false, scandalous and malicious writing or writings against the government of the United States, or either house of the Congress of the United States, or the President of the United States, with intent to defame the said government, or either house of the said Congress, or the said President, or to bring them, or either of them, into contempt or disrepute; or to excite against them, or either or any of them, the hatred of the good people of the United States, or to excite any unlawful combinations therein, for opposing or resisting any law of the United States, or any act of the President of the United States, done in pursuance of any such law, or of the powers in him vested by the constitution of the United States, or to resist, oppose, or defeat any such law or act, or to aid, encourage or abet any hostile designs of any foreign nation against the United States, their people or government, then such person, being thereof convicted before any court of the United States having jurisdiction thereof, shall be punished by a fine not exceeding two thousand dollars, and by imprisonment not exceeding two years.

SEC. 3.

And be it further enacted, and declared, That if any person shall be prosecuted under this act, for the writing or publishing any libel aforesaid, it shall be lawful for the defendant, upon the trial of the cause, to give in evidence in his defence, the truth of the matter contained in the publication charged as a libel. And the jury who shall try the cause, shall have a right to determine the law and the fact, under the direction of the court, as in other cases.

SEC. 4.

And be it further enacted, That this act shall continue and be in force until the third day of March, one thousand eight hundred and one, and no longer: Provided. That the expiration of the act shall not prevent or defeat a prosecution and punishment of any offence against the law, during the time it shall be in force.

JONATHAN DAYTON, Speaker of the House of Representatives.

THEODORE SEDGWICK, President of the Senate, pro tempore.

APPROVED, July 14, 1798:

JOHN ADAMS, President of the United States.

The Bill of Rights (1789)

One of the initial actions taken by the first Congress was to draft a bill of rights. Most states already had some form of a bill of rights in their own constitutions, but many people felt the U.S. Constitution should contain an explicit bill of rights as well. More than 20 amendments were proposed, but only 12 passed Congress. Of those 12, only the 10 that became known as the Bill of Rights were ratified at that time.

Amendment I

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

Amendment II

A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.

Amendment III

No Soldier shall, in time of peace be quartered in any house, without the consent of the Owner, nor in time of war, but in a manner to be prescribed by law.

Amendment IV

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Amendment V

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

Amendment VI

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.

Amendment VII

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise reexamined in any Court of the United States, than according to the rules of the common law.

Amendment VIII

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

Amendment IX

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

Amendment X

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

The Jay Treaty (1794)

In May 1794, George Washington sent Chief Justice John Jay to London to negotiate a formidable list of grievances. The effort resulted in a political humiliation known simply as Jay's Treaty. Jay's main objectives were removal of the British forts on U.S. territory, payment for ships taken in the West Indies, improved commercial relations, and acceptance of the American definition of neutral rights. Even before Jay departed, however, his mission stood little chance of success. After an extremely bitter debate, the upper house, controlled by Federalists, accepted a revised version of the treaty (June 1795). The vote was 20 to 10, a bare two-thirds majority.

The Jay Treaty. Treaty of Amity, Commerce, and Navigation, signed at London November 19, 1794, with additional article Original in English. Submitted to the Senate June 8, Resolution of advice and consent, on condition, June 24, 1795. Ratified by the United States August 14, 1795. Ratified by Great Britain October 28, 1795. Ratifications exchanged at London October 28, 1795. Proclaimed February 29, 1796.

Treaty of Amity Commerce and Navigation, between His Britannick Majesty; and The United States of America, by Their President, with the advice and consent of Their Senate.

His Britannick Majesty and the United States of America, being desirous by a Treaty of Amity, Commerce and Navigation to terminate their Differences in such a manner, as without reference to the Merits of Their respective Complaints and Pretensions, may be the best calculated to produce mutual satisfaction and good understanding: And also to regulate the Commerce and Navigation between Their respective Countries, Territories and People, in such a manner as to render the same reciprocally beneficial and satisfactory; They have respectively named their Plenipotentiaries, and given them Full powers to treat of, and conclude, the said Treaty, that is to say; His Brittanick Majesty has named for His Plenipotentiary, The Right Honourable William Wyndham Baron Grenville of Wotton, One of His Majesty's Privy Council, and His Majesty's Principal Secretary of State for Foreign Affairs; and The President of the said United States, by and with the advice and Consent of the Senate thereof, hath appointed for Their Plenipotentiary The Honourable John Jay, Chief Justice of the said United States and Their Envoy Extraordinary to His Majesty, who have agreed on, and concluded the following Articles

ARTICLE 1.

There shall be a firm inviolable and universal Peace, and a true and sincere Friendship between His Britannick Majesty, His Heirs and Successors, and the United States of America; and between their respective Countries, Territories, Cities, Towns and People of every Degree, without Exception of Persons or Places.

ARTICLE 2.

His Majesty will withdraw all His Troops and Garrisons from all Posts and Places within the Boundary Lines assigned by the Treaty of Peace to the United States. This Evacuation shall take place on or before the first Day of June One thousand seven hundred and ninety six, and all the proper Measures shall in the interval be taken by concert between the Government of the United States, and His Majesty's Governor General in America, for settling the previous arrangements which may be necessary respecting the delivery of the said Posts: The United States in the mean Time at Their discretion extending their settlements to any part within the said boundary line, except within the precincts or Jurisdiction of any of the said Posts. All Settlers and Traders, within the Precincts or Jurisdiction of the said Posts, shall continue to enjoy, unmolested, all their property of every kind, and shall be protected therein. They shall be at full liberty to remain there, or to remove with all or any part of their Effects; and it shall also be free to them to sell their Lands, Houses, or Effects, or to retain the property thereof, at their discretion; such of them as shall continue to reside within the said Boundary Lines shall not be compelled to become Citizens of the United States, or to take any Oath of allegiance to the Government thereof, but they shall be at full liberty so to do, if they think proper, and they shall make and declare their Election within one year after the Evacuation aforesaid. And all persons who shall continue there after the expiration of the said year, without having declared their intention of remaining Subjects of His Britannick Majesty, shall be considered as having elected to become Citizens of the United States.

[...]

ARTICLE 11.

It is agreed between His Majesty and the United States of America, that there shall be a reciprocal and entirely perfect Liberty of Navigation and Commerce, between their respective People, in the manner, under the Limitations, and on the Conditions specified in the following Articles.

[...]

Lastly. This Treaty when the same shall have been ratified by His Majesty, and by The President of the United States, by and with the advice and Consent of Their Senate, and the respective Ratifications mutually exchanged, shall be binding and obligatory on His Majesty and on the said States, and shall be by Them respectively executed and observed with punctuality, and the most sincere regard to good Faith. And Whereas it will be expedient in order the better to facilitate Intercourse and obviate Difficulties that other Articles be proposed and added to this Treaty, which Articles from want of time and other circumstances cannot now be perfected; It is agreed that the said Parties will from Time to Time readily treat of and concerning such Articles, and will sincerely endeavour so to form them, as that they may conduce to mutual convenience, and tend to promote mutual Satisfaction and Friendship; and that the said Articles after having been duly ratified, shall be added to, and make a part of this Treaty.

In Faith whereof We the Undersigned, Ministers Plenipotentiary of His Majesty The King of Great Britain; and the United States of America, have signed this present Treaty, and have caused to be affixed thereto, the Seal of Our Arms.

Done at London, this Nineteenth Day of November, One thousand seven hundred and ninety Four.

GRENVILLE [Seal] JOHN JAY [Seal]

Source:

Treaties and Other International Acts of the United States of America.

Edited by Hunter Miller

Volume 2

Documents 1-40 : 1776-1818

Washington : Government Printing Office, 1931.

The Treaty of Greenville

The Treaty of Greenville was signed on August 20, 1794, by General Anthony Wayne of the U.S. Army and representatives of the Indian tribes in the Northwest Territory. The treaty put an end to the fighting that had culminated in a U.S. victory at the Battle of Fallen Timbers. It also established a new western boundary for the United States and guaranteed mutual friendship between the United States and the tribes in the territory. Unfortunately, none of the conditions was lasting.

A treaty of peace between the United States of America, and the tribes of Indians called the Wyandots, Delawares, Shawanees, Ottawas, Chippewas, Pattawatimas, Miamis, Eel Rivers, Weas, Kickapoos, Piankeshaws, and Kaskaskias.

To put an end to a destructive war, to settle all controversies, and to restore harmony and friendly intercourse between the said United States and Indian tribes, Anthony Wayne, major general commanding the army of the United States, and sole commissioner for the good purposes above mentioned, and the said tribes of Indians, by their sachems, chiefs, and warriors, met together at Greenville, the head quarters of the said army, have agreed on the following articles, which, when ratified by the President, with the advice and consent of the Senate of the United States, shall be binding on them and the said Indian tribes.

Art. 1:

Henceforth all hostilities shall cease; peace is hereby established, and shall be perpetual; and a friendly intercourse shall take place between the said United States and Indian tribes.

Art. 2:

All prisoners shall, on both sides, be restored. The Indians, prisoners to the United States, shall be immediately set at liberty. The people of the United States, still remaining prisoners among the Indians, shall be delivered up in ninety days from the date hereof, to the general or commanding officer at Greenville, fort Wayne, or fort Defiance; and ten chiefs of the said tribes shall remain at Greenville as hostages, until the delivery of the prisoners shall be effected.

Art. 3:

The general boundary line between the lands of the United States and the lands of the said Indian tribes, shall begin at the mouth of Cayahoga river, and run thence up the same to the portage, between that and the Tuscarawas branch of the Muskingum, thence down that branch to the crossing place above fort Lawrence, thence westerly to a fork of that branch of the Great Miami river, running into the Ohio, at or near which fork stood Loromie's store, and where commences the portage between the Miami of the Ohio, and St. Mary's river, which is a branch of the Miami which runs into lake Erie; thence a westerly course to fort Recovery, which stands on a branch of the Wabash; thence southwesterly in a direct line to the Ohio, so as to intersect that river opposite the mouth of Kentucke or Cuttawa river. And in consideration of the peace now established; of the goods formerly received from the United States; of those now to be delivered; and of the yearly delivery of goods now stipulated to be made hereafter; and to indemnify the United States for the injuries and expenses they have sustained during the war, the said Indian tribes

do hereby cede and relinquish forever, all their claims to the lands lying eastwardly and southwardly of the general boundary line now described: and these lands, or any part of them, shall never hereafter be made a cause or pretence, on the part of the said tribes, or any of them, of war or injury to the United States, or any of the people thereof.

And for the same considerations, and as an evidence of the returning friendship of the said Indian tribes, of their confidence in the United States, and desire to provide for their accommodations, and for that convenient intercourse which will be beneficial to both parties, the said Indian tribes do also cede to the United States the following pieces of land, to wit:

- 1) One piece of land six miles square, at or near Loromie's store, before mentioned.
- 2) One piece two miles square, at the head of the navigable water or landing, on the St. Mary's river, near Girty's town.
- 3) One piece six miles square, at the head of the navigable water of the Auglaize river.
- 4) One piece six miles square, at the confluence of the Auglaize and Miami rivers, where fort Defiance now stands.
- 5) One piece six miles square, at or near the confluence of the rivers St. Mary's and St. Joseph's, where fort Wayne now stands, or near it.
- 6) One piece two miles square, on the Wabash river, at the end of the portage from the Miami of the lake, and about eight miles westward from fort Wayne.
- 7) One piece six miles square, at the Ouatanon, or Old Wea towns, on the Wabash river.
- 8) One piece twelve miles square, at the British fort on the Miami of the lake, at the foot of the rapids.
- 9) One piece six miles square, at the mouth of the said river, where it empties into the lake.
- 10) One piece six miles square, upon Sandusky lake, where a fort formerly stood.
- 11) One piece two miles square, at the lower rapids of Sandusky river.
- 12) The post of Detroit, and all the land to the north, the west and the south of it, of which the Indian title has been extinguished by gifts or grants to the French or English governments: and so much more land to be annexed to the district of Detroit, as shall be comprehended between the river Rosine, on the south, lake St. Clair on the north, and a line, the general course whereof shall be six miles distant from the west end of lake Erie and Detroit river.
- 13) The post of Michilimackinac, and all the land on the island on which that post stands, and the main land adjacent, of which the Indian title has been extinguished by gifts or grants to the French or English governments; and a piece of land on the main to the north of the island, to measure six miles, on lake Huron, or the strait between lakes Huron and Michigan, and to extend three miles back from the water of the lake or strait; and also, the Island De Bois Blane, being an extra and voluntary gift of the Chippewa nation.
- 14) One piece of land six miles square, at the mouth of Chikago river, emptying into the southwest end of lake Michigan, where a fort formerly stood.
- 15) One piece twelve miles square, at or near the mouth of the Illinois river, emptying into the Mississippi.
- 16) One piece six miles square, at the old Piorias fort and village near the south end of the Illinois lake, on said Illinois river. And whenever the United States shall think proper to survey and mark the boundaries of the lands hereby ceded to them, they shall give timely notice thereof to the said tribes of Indians, that they may appoint some of their wise chiefs to attend and see that the lines are run according to the terms of this treaty.

. . .

[This section specifies land and water routes over which Americans may pass and trade freely.]

Art. 4:

In consideration of the peace now established, and of the cessions and relinquishments of lands made in the preceding article by the said tribes of Indians, and to manifest the liberality of the United States, as the great means of rendering this peace strong and perpetual, the United States relinquish their claims to all other Indian lands northward of the river Ohio, eastward of the Mississippi, and westward and southward of the Great Lakes and the waters, uniting them, according to the boundary line agreed on by the United States and the King of Great Britain, in the treaty of peace made between them in the year 1783. But from this relinquishment by the United States, the following tracts of land are explicitly excepted:

1st. The tract on one hundred and fifty thousand acres near the rapids of the river Ohio, which has been assigned to General Clark, for the use of himself and his warriors.

2nd. The post of St. Vincennes, on the River Wabash, and the lands adjacent, of which the Indian title has been extinguished.

3rd. The lands at all other places in possession of the French people and other white settlers among them, of which the Indian title has been extinguished as mentioned in the 3d article; and

4th. The post of fort Massac towards the mouth of the Ohio. To which several parcels of land so excepted, the said tribes relinquish all the title and claim which they or any of them may have.

And for the same considerations and with the same views as above mentioned, the United States now deliver to the said Indian tribes a quantity of goods to the value of twenty thousand dollars, the receipt whereof they do hereby acknowledge; and henceforward every year, forever, the United States will deliver, at some convenient place northward of the river Ohio, like useful goods, suited to the circumstances of the Indians, of the value of nine thousand five hundred dollars; reckoning that value at the first cost of the goods in the city or place in the United States where they shall be procured. The tribes to which those goods are to be annually delivered, and the proportions in which they are to be delivered, are the following:

1st. To the Wyandots, the amount of one thousand dollars.

2nd. To the Delawares, the amount of one thousand dollars.

3rd. To the Shawanees, the amount of one thousand dollars.

4th. To the Miamis, the amount of one thousand dollars.

5th. To the Ottawas, the amount of one thousand dollars.

6th. To the Chippewas, the amount of one thousand dollars.

7th. To the Pattawatimas, the amount of one thousand dollars, and

8th. To the Kickapoo, Wea, Eel River, Piankeshaw, and Kaskaskia tribes, the amount of five hundred dollars each.

Provided, that if either of the said tribes shall hereafter, at an annual delivery of their share of the goods aforesaid, desire that a part of their annuity should be furnished in domestic animals, implements of husbandry, and other utensils convenient for them, and in compensation to useful artificers who may reside with or near them, and be employed for their benefit, the same shall, at the subsequent annual deliveries, be furnished accordingly.

Art. 5:

To prevent any misunderstanding about the Indian lands relinquished by the United States in the fourth article, it is now explicitly declared, that the meaning of that relinquishment is this: the Indian tribes who have a right to those lands, are quietly to enjoy them, hunting, planting, and dwelling thereon, so long as they please, without any molestation from the United States; but when those tribes, or any of them, shall be disposed to sell their lands, or any part of them, they are to be sold only to the United States; and until such sale, the United States will protect all

the said Indian tribes in the quiet enjoyment of their lands against all citizens of the United States, and against all other white persons who intrude upon the same. And the said Indian tribes again acknowledge themselves to be under the protection of the said United States, and no other power whatever.

Art. 6:

If any citizen of the United States, or any other white person or persons, shall presume to settle upon the lands now relinquished by the United States, such citizen or other person shall be out of the protection of the United States; and the Indian tribe, on whose land the settlement shall be made, may drive off the settler, or punish him in such manner as they shall think fit; and because such settlements, made without the consent of the United States, will be injurious to them as well as to the Indians, the United States shall be at liberty to break them up, and remove and punish the settlers as they shall think proper, and so effect that protection of the Indian lands herein before stipulated.

Art. 7:

The said tribes of Indians, parties to this treaty, shall be at liberty to hunt within the territory and lands which they have now ceded to the United States, without hindrance or molestation, so long as they demean themselves peaceably, and offer no injury to the people of the United States.

Art. 8:

Trade shall be opened with the said Indian tribes; and they do hereby respectively engage to afford protection to such persons, with their property, as shall be duly licensed to reside among them for the purpose of trade; and to their agents and servants; but no person shall be permitted to reside among them for the purpose of trade; and to their agents and servants; but no person shall be permitted to reside at any of their towns or hunting camps, as a trader, who is not furnished with a license for that purpose, under the hand and seal of the superintendent of the department northwest of the Ohio, or such other person as the President of the United States shall authorize to grant such licenses; to the end, that the said Indians may not be imposed on in their trade. And if any licensed trader shall abuse his privilege by unfair dealing, upon complaint and proof thereof, his license shall be taken from him, and he shall be further punished according to the laws of the United States. And if any person shall intrude himself as a trader, without such license, the said Indians shall take and bring him before the superintendent, or his deputy, to be dealt with according to law. And to prevent impositions by forged licenses, the said Indians shall, at least once a year, give information to the superintendent, or his deputies, on the names of the traders residing among them.

Art. 9:

Lest the firm peace and friendship now established, should be interrupted by the misconduct of individuals, the United States, and the said Indian tribes agree, that for injuries done by individuals on either side, no private revenge or retaliation shall take place; but instead thereof, complaint shall be made by the party injured, to the other: by the said Indian tribes or any of them, to the President of the United States, or the superintendent by him appointed; and by the superintendent or other person appointed by the President, to the principal chiefs of the said Indian tribes, or of the tribe to which the offender belongs; and such prudent measures shall then be taken as shall be necessary to preserve the said peace and friendship unbroken, until the legislature (or great council) of the United States, shall make other equitable provision in the case, to the satisfaction of both parties. Should any Indian tribes meditate a war against the United States, or either of them, and the same shall come to the knowledge of the before mentioned tribes, or either of them, they do hereby engage to give immediate notice thereof to the general, or officer commanding the troops of the United States, at the nearest post.

And should any tribe, with hostile intentions against the United States, or either of them, attempt to pass through their country, they will endeavor to prevent the same, and in like manner give information of such attempt, to the general, or officer commanding, as soon as possible, that all causes of mistrust and suspicion may be avoided between them and the United States. In like manner, the United States shall give notice to the said Indian tribes of any harm that may be meditated against them, or either of them, that shall come to their knowledge; and do all in their power to hinder and prevent the same, that the friendship between them may be uninterrupted.

Art. 10:

All other treaties heretofore made between the United States, and the said Indian tribes, or any of them, since the treaty of 1783, between the United States and Great Britain, that come within the purview of this treaty, shall henceforth cease and become void.

In testimony whereof, the said Anthony Wayne, and the sachems and war chiefs of the before mentioned nations and tribes of Indians, have hereunto set their hands and affixed their seals.

Done at Greenville, in the territory of the United States northwest of the river Ohio, on the third day of August, one thousand seven hundred and ninety five.

. . .

[The remainder of the treaty gives the signatures or marks of the parties to the agreement and of the translators.]

Document Analysis

1. What form of compensation was guaranteed to the tribes for the land they gave up in the treaty?
2. In what way do the conditions of Article 5 nullify the sovereignty of the Indian tribes in the territory?

When Historians Disagree

The Differences Between John Adams and Thomas Jefferson

Two recently popular books by widely read historians David McCullough and Edward J. Larson explore basic differences between the political supporters of John Adams and Thomas Jefferson. Both books have helped many Americans understand the Adams and Jefferson much better, but the two authors have radically different views of these two men who played such a critical role in the nation's early history.

From *John Adams*, by David McCullough (New York: Simon and Schuster, 2001), pp. 544-545.

Jefferson in his four year as Vice President had so effectively separated himself from Adams and the administration that he could be held accountable for nothing that had disappointed, displeased, or infuriated anyone, whereas Adams was held forever accountable for the new taxes, the Alien and Sedition Acts, the standing army, and a host of other "menaces," as said Philadelphia's *Aurora*.

There were, as well, striking ironies. Jefferson, the Virginia aristocrat and slave master who lived in a style fit for a prince, as removed from his fellow citizens and their lives as it was possible to be, was hailed as the apostle of liberty, the "Man of the People." Adams, the farmer's son who despised slavery and practiced the kind of personal economy and plain living commonly upheld as the American way, was scorned as an aristocrat who, if he could, would enslave the common people. "My countrymen!" exclaimed William Duane in the *Aurora* in his crusade for

From *A Magnificent Catastrophe: The Tumultuous Election of 1800, America's First Presidential Campaign* by Edward J. Larson (New York: Free Press, 2007), pp. 18-19

The differences dividing Adams and Jefferson reflected a deepening ideological rift that divided mainstream Americans into factions... Adams and those calling themselves Federalists saw a strong central government led by a powerful president as vital for a prosperous, secure nation... Jefferson and his emerging Republican faction viewed such thinking as inimical to freedom. A devotee of enlightenment science, which emphasized reason and natural law over revelation and authoritarian regimes, Jefferson trusted popular rule and distrusted elite institutions. Indeed, like the French philosopher Jean Jacques Rousseau, Jefferson instinctively revered man in nature. "Those who labor in the earth," such as farmers and frontiersmen, possess "substantial and genuine virtue," he

Jefferson, "If you have not virtue enough to stem the current, determine to be slaves at once."

wrote in his 1787 book, *Notes on the State of Virginia*...

In contrast, Adams and the Federalists tended to distrust the common people and instead to place their faith in the empowerment of what they saw as a natural aristocracy, though one that should be restrained by civil institutions such as those provided by a written constitution with checks and balances.