

Chapter 4: 1686-1803: The American Revolution, Great Law of Peace, & The U.S. Constitution

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Chapter 4: **1686-1803:** **The American Revolution,** **The Great Law of Peace,** **&** **The Constitution of The United States**



**A Desperate Attempt To Establish A Civil Government,
How The Founding Fathers Attempted to Reform the System They Inherited,
& A Look At Their Views on Native Americans, & The First Treaties Signed Into Law**

Deciphering The Constitution

Part 1: The First U.S. Flag:
The Pine Tree Flag

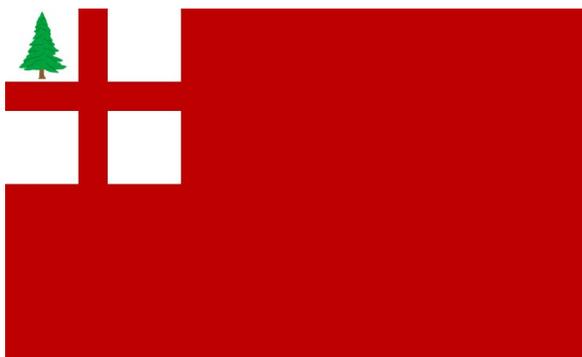


Creation7, "An Appeal to Heaven Flag":
<http://www.creation7.com/product/an-appeal-to-heaven-flag/>

**Rebellion Against the Demands of
The King's Deputies
& The County Corporations
On Behalf of
Their Merchant Slave Ship Empire**

1686: New England's Merchant Ships Lead to Unrest in The Colonies:

The pine tree had long been a New England symbol being depicted on the Flag of New England flown by colonial merchant ships dating back to 1686. Leading up to the Revolutionary War it became a symbol of Colonial ire & resistance.



New England Pine Tree flag which started as a British Red Ensign, which had "St. George's Cross" in the upper left.

The white pine found in New England, specifically the eastern white pine *{Pinus strobus}*, with heights exceeding 150 feet, was highly desirable for constructing masts in shipbuilding. Twenty years after arrival in the new world, the Pilgrims harvested & exported these pines as far as Madagascar. Due to lack of supply of suitable lumber on the island, England reserved 24 inch (61 cm) diameter trees under the Mast Preservation Clause in the Massachusetts Charter in 1691. The trees were identified by a Surveyor of the King's Woods, who would in turn appoint (Sheriff's) deputies to survey & place the broad arrow symbol on the tree from three hatchet slashings denoting property of the Crown. The broad arrow statutes were not immediately enforced, due to England having access to other sources of timber in the Baltic. However, when this source diminished, additional broad arrow policies acts were passed and enforcement increased in North America.



The statutes required colonists, prior to harvesting trees from their property, to have a King's Surveyor mark the larger diameter trees with the broad arrow & then purchase a royal license to harvest the trees not marked with the broad arrow. The colonists resented the strictures on the timber used for their needs and livelihoods. Prohibitions were disregarded as they practiced "Swamp Law", where the pines were harvested according to their needs regardless of statutes.¹

¹King's Mark Resource Conservation & Development Project, Inc. , Why The Name King's Mark? “: <http://ccrpa.org/km/King's%20Mark%20Why%20The%20Name%20King's%20Mark.htm>

1689-1690: John Locke Publishes *Two Treatises of Government*, Attacks Slavery, Invokes Legal Theory on *Labor & Property*, Refutes The Divine Rite of Kings, Sparks a Revolution:

British philosopher John Locke's doctrines are at the heart of American constitutionalism. Born in the County of Somerset, England, after attending schools in London & Oxford, he earned his Masters of Arts at Christ College. In 1668 he was elected into the Royal Society, where he studied medicine & graduated as a physician in 1684. While studying medicine, he met Anthony Ashley Cooper, who persuaded him to become his personal physician & to move to London.

Lord Cooper became the First Earl of Shaftesbury during the reign of King Charles II. Shaftesbury became a leader of the opposition to the policies pursued by Thomas Osborne, Earl of Danby. Danby favoured strict interpretation of the penal laws & mandatory membership of the Church of England. Shaftesbury, who sympathized with Protestant nonconformists, briefly agreed to work with the Duke of York, who opposed enforcing the penal laws against Roman Catholic recusants. By 1675, however, Shaftesbury was convinced that Danby, assisted by the bishops of the Church of England, was determined to transform England into an absolute monarchy, & he soon came to see the Duke of York's religion as linked to this issue. Opposed to the growth of "popery & arbitrary government", throughout the latter half of the 1670s Shaftesbury argued in favour of frequent parliaments & argued that the nation needed protection from a potential Roman Catholic successor to King Charles II.

The *Exclusion Bill (1679-1681)* sought to exclude the King's brother & heir presumptive, James, Duke of York, from succeeding to the thrones of England, Scotland & Ireland because he was Roman Catholic. The *Tories* opposed the "exclusion", as they were political advocates of traditionalism & conservatism, & the upholding of the supremacy of social order – "top-down authoritarianism". The Tories were known to be strong political advocates of monarchism, & are usually of a high church of Anglican religious heritage.² The "Country Party", who soon became known as the Whigs, supported the exclusion.³

Shaftesbury was an outspoken supporter of the Exclusion Bill, & the Whig party was born during this debate of this "Exclusion Crisis".⁴ Shaftesbury, one of the founders of the Whig party, which pushed for constitutional monarchy & stood in opposition to the dominant Tories, imparted an outlook on rule & government that never left Locke. During this time, Locke had a great deal of governmental duties, including collecting data on the colonies.

Shaftesbury, one of the Whig party's most prominent leaders, was arrested on the charge of high treason in 1681 following the failure of the Exclusion Bill. Although the prosecution was dropped several months later, in 1682, after the Tories had gained the ability to pack

2 John Charmley (2008). *A history of conservative politics since 1830*. Palgrave Macmillan. p. 103

3 John Kenyon, *The Popish Plot* (Phoenix Press, 2000), pp. 2–3.

4 Tim Harris. "Cooper, Anthony Ashley," in the *Oxford Dictionary of National Biography*. Oxford University Press, 2004–2007.

London juries with their supporters, Shaftesbury, fearing a second prosecution, fled the country. Upon arriving in Amsterdam, he fell ill, & soon died, in January 1683.⁵ As England fell under a cloud of possible revolution, Locke also became a target of the government, & was forced to leave in England in 1683 due to a failed assassination attempt of King Charles II & his brother, or what later came to known as the Rye House Plot.

Exiled in Holland, Locke would eventually compose "An Essay Concerning Human Understanding", a ground breaking work of intellectual might that spanned four books & took on the task of examining the nature of human knowledge. Like his *Two Treatises on Government*, the *Essay* was published after Locke's return to England in 1688 following the dramatic departure of King James II, who'd fled the country, allowing the Whigs to rise to power. Later called the Glorious Revolution of 1688, the event forever changed English government, moving the balance of power from the throne to Parliament. It also set Locke up to be a hero to many in his native country, & within the colonies.

Two Treatises of Government put forth revolutionary ideas concerning the natural rights of man & the social contract. Both concepts not only stirred waves in England, but also impacted the intellectual underpinnings that formed the later American & French revolutions.

In summary, within the First Treatise, Locke attacks the practice of slavery, & further goes on to refute Robert Filmer's widely circulated "*Patriarcha*" which had backed the absolute authority of the crown & The Divine Rite of Kings (*see pages 94-95*). Locke establishes that all of humankind – *not just royalty* – are *heirs* of God, as they are all children who were granted access to *soil*.

In addition to his Essay and Two Treatises, Locke's return to England also saw him publish additional work, including *A Letter Concerning Toleration*, *The Reasonableness of Christianity*, & *Some Thoughts Concerning Education*.

A hero to the Whig party, Locke remained connected to governmental affairs in his advanced years. He helped steer the resurrection of the Board of Trade, which oversaw England's new territories in North America. Locke served as one of the body's key members. Long afflicted with delicate health, Locke died on October 28, 1704, in Essex, where he'd resided over the last decade of his life.

Years after his death, his theories concerning the separation of Church & State, religious freedom, & on *liberty*, not only influenced European thinkers such as the French Enlightenment writer, Voltaire, but of America's later revolutionaries & founders, from Alexander Hamilton to Thomas Jefferson.⁶

⁵ Tim Harris. "Cooper, Anthony Ashley," in the *Oxford Dictionary of National Biography*. Oxford University Press, 2004–2007.

⁶ Biography.com, "John Locke Philosopher(1632–1704)": www.biography.com/people/john-locke-9384544

Excerpts from *First Treatise*:

CHAPTER I.

§ 1.

Slavery is so vile & miserable an estate of man, & so directly opposite to the generous temper & courage of our nation, that it is hardly to be conceived, that an Englishman, much less a gentleman, should plead for it. And truly, I should have taken sir Robert Filmer's Patriarcha, as any other treatise, which would persuade all men that they are slaves, & ought to be so, for such another exercise of wit as was his who *writ the encomium* of Nero; rather than for a serious discourse, meant in earnest: had not the gravity of the title & epistle, the picture in the front of the book, & the applause that followed it, required me to believe that the author & publisher were both in earnest.

I therefore... cannot but confess myself mightily surprised, that in a book, which was to provide chains for all mankind, I should find nothing but a rope of sand; useful perhaps to such, whose skill & business it is to raise a dust, & would blind the people, the better to mislead them...

§ 2.

... this treatise, which has lain dormant so long, was, when it appeared in the world, to carry, by strength of its arguments, all liberty out of it; & that, from thenceforth, our author's short model was to be the pattern... the perfect standard of politics for the future. His system lies in a little compass, it is no more but this...

"That all government is absolute monarchy." And... "That no man is born free."

§ 3.

In this last age a generation of men has sprung up amongst us, that would flatter princes with an opinion, that they have a divine right to absolute power, let the laws by which they are constituted & are to govern, & the conditions under which they enter upon their authority, be what they will; & their engagements to observe them never so well ratified, by solemn oaths & promises. To make way for this doctrine, will; & their engagements to observe them never so well ratified, by solemn oaths & promises. To make way for this doctrine, they have denied mankind a right to natural freedom; whereby they have not only... exposed all subjects to the utmost misery of tyranny & oppression, but have also unsettled the titles, & shaken the thrones of princes... as if they had designed to make war upon all government, & subvert the very foundations of human society, to serve their present turn.

§ 4.

However we must believe them upon their own bare words, when they tell us, “We are all born slaves, and we must continue so;” there is no remedy for it; life & thralldom (*slavery*) we entered into together...

§ 5.

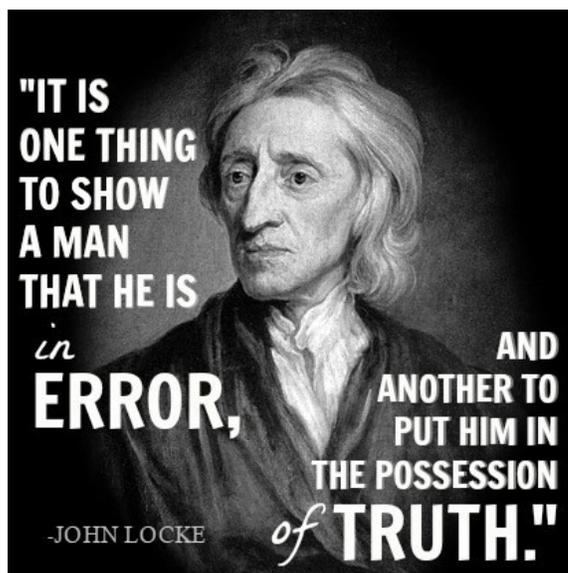
By whom this doctrine came at first to be broached, & brought in fashion amongst us, & what sad effects it gave rise to, I leave to historians to relate...”

Second Treatise:

In his “*Second Treatise on Civil Government*”, published in 1690, he outlines ideas for a more civilized society based on the protection of natural rights, & how *contracts*, or “*compacts*” (*agreements*) are necessary to the aversion of the “vile” condition that is slavery. The phrase “right of revolution” is used, becoming *commonly quoted* throughout the colonies. Locke's works became very well-known & frequently quoted by colonial leaders, being *the most quoted authority on government in the 1760-1776 period prior to American independence*. Thomas Jefferson was accused of *plagiarizing (copying)* Locke in certain sections of the Declaration of Independence by fellow Virginian delegate Richard Henry Lee.⁷

Locke also asks *by what right an individual can claim to own one part of the world, when, according to the Bible, God gave the world to all humanity in common*. He in turn explains how people came to *own private property*: that persons own *themselves* and *therefore* their own labor. When a person enters labor into an object or a piece of unused land, the object becomes the property of that person (& is not thereby owned by the crown). He argues that it is the responsibility of the government to protect one's personal freedom & their property.

Locke held that individuals have a natural right to homestead & thus caretake a piece of land, but that they can do so only “**...at least where there is enough, and as good, left in common for others**”. Further, he maintains that appropriation of unused resources is a diminution of the rights of others to it, & would be acceptable only so long as the use does not make anyone worse off than they would have been before by doing so.



Quote from Book IV, Ch. 7, sec. 11 - Essay Concerning Human Understanding (1689).

*Graphic from FORBES 2013–2016:
forbes.tumblr.com/post/97668790033/more-quotes-from-john-locke*

⁷ From “John Locke – A Philosophical Founder of America”, the *Wallbuilders* website:
<http://www.wallbuilders.com/libissuesarticles.asp?id=99156#FN33>

Excerpts From *Second Treatise of Government*:

CHAPTER. III. OF THE STATE OF WAR.

§ 20.

... where an appeal to the law, & constituted judges, lies open, but the remedy is denied by a manifest perverting of justice, & a barefaced wresting of the laws to protect or indemnify the violence or injuries of some men, or party of men, there it is hard to imagine any thing but a state of war: for wherever violence is used, & injury done, though by hands appointed to administer justice, it is still violence & injury, however coloured with the name, pretences, or forms of law... war is made upon the sufferers, who having no appeal on earth to right them, they are left to the only remedy in such cases, an *appeal to heaven* (see page 182).

CHAPTER. IV. OF SLAVERY.

§ 22.

THE natural liberty of man is to be free from any superior power on earth, & not to be under the will or legislative authority of man, but to have only the law of nature for his rule. The liberty of man, in society, is to be under no other legislative power, but that established, by consent, in the commonwealth; nor under the dominion of any will, or restraint of any law, but what that legislative shall enact, *according to* the trust put in it. Freedom then is not what Sir Robert Filmer tells us, Observations, A. 55. a liberty for every one to do what he lists, to live as he pleases, & not to be tied by any laws: but freedom of men under government is, to have a standing rule to live by, common to every one of that society, & made by the legislative power erected in it; a liberty to follow my own will in all things... & not to be subject to the inconstant, uncertain, unknown, arbitrary will of another man...

§ 23.

This freedom from absolute, arbitrary power, is so necessary to, & closely joined with a man's preservation, that he cannot part with it... for a man, not having the power of his own life, cannot, by compact, or his own consent, enslave himself to any one, nor put himself under the absolute, arbitrary power of another, to take away his life, when he pleases... for, whenever he finds the hardship of his slavery outweigh the value of his life, it is in his power, by resisting the will of his master, to draw on himself the death he desires.

§ 24.

This is the perfect condition of slavery, which is nothing else, but the state of war... between a lawful conqueror & a captive... Once compact enter between them, & make an agreement for a limited power on the one side, & obedience on the other, the state of war & slavery ceases, as long as the compact endures: for, as has been said, no man can, by agreement, pass over to another that which he hath not in himself, a power over his own life.

... we find among the Jews, as well as other nations, that men did sell themselves; but, it is plain, this was only to drudgery, not to slavery: for, it is evident, the person sold was not under an absolute, arbitrary, despotical power: for the master could not have power to kill him, at any time, whom, at a certain time, he was obliged to let go free out of his service; & the master of such a servant was so far from having an arbitrary power over his life, that he could not, at pleasure, so much as maim him, but the loss of an eye, or tooth, set him free, Exod. Xxi.

CHAPTER. V.
OF PROPERTY.

§ 25.

Whether we consider natural reason, which tells us, that men, being once born, have a right to their preservation, & consequently to meat & drink, & such other things as nature affords for their subsistence... it is very clear, that God... has given the earth to the children of men; given it to mankind in common. But this being supposed, it seems to some a very great difficulty, how any one should ever come to have a property in any thing... But I shall endeavour to shew, how men might come to have a property in several parts of that which God gave to mankind in common, & that without any express compact of all the commoners.

§ 26.

God, who hath given the world to men in common, hath also given them reason to make use of it to the best advantage of life, & convenience. The earth... is given to men for the support & comfort of their being. And tho' all the fruits it naturally produces, & beasts it feeds, belong to mankind in common, as they are produced by the spontaneous hand of nature; & nobody has originally a private dominion, exclusive of the rest of mankind, in any of them, as they are thus in their natural state: yet being given for the use of men, there must of necessity be a means to appropriate them some way or other, before they can be of any use, or at all beneficial to any particular man. The fruit, or venison, which nourishes the wild Indian, who knows no enclosure, & is still a tenant in common, must be his... that another can no longer have any right to it...

§ 27.

Though the earth, & all inferior creatures, be common to all men, yet every man has a property in his own person... The labour of his body, & the work of his hands, we may say, are properly his. Whatsoever then he removes out of the state that nature hath provided, & left it in, he hath mixed his labour with, & joined to it something that is his own, & thereby makes it his property. It being by him removed from the common state nature hath placed it in, it hath by this labour something annexed to it, that excludes the common right of other men: for this labour being the unquestionable property of the labourer, no man but he can have a right to what that is once joined to, at least where there is enough, & as good, left in common for others.

§ 28.

He that is nourished by the acorns he picked up under an oak, or the apples he gathered from the trees in the wood, has certainly appropriated them to himself. Nobody can deny but the nourishment is his. I ask then, when did they begin to be his? when he digested? or when he eat? or when he boiled? or when he brought them home? or when he picked them up? and it is plain, if the first gathering made them not his, nothing else could. That labour put a distinction between them, and *common*: that *added* something to them *more* than nature, *the common mother of all*, had done; & so they became his private right. And will any one say, he had no right to those acorns or apples, he thus appropriated, because he had not the consent of all mankind to make them his? Was it a robbery thus to assume to himself what belonged to all in common? If such a consent as that was necessary, man had starved, notwithstanding the plenty God had given him... we see... it is the taking any part of what is common, & removing it out of the state nature leaves it in, which begins the property... And the taking of this or that part, does not depend on the express consent of all the commoners. Thus the grass my horse has bit; the turfs my servant has cut; & the ore I have digged in any place, where I have a right to them in common with others, become my property, without the assignation or consent of any body. The labour that was mine, removing them out of that common state they were in, hath fixed my property in them.

§ 29.

By making an explicit consent of every commoner, necessary to any one's appropriating to himself any part of what is given in common, children or servants could not cut the meat, which their father or master had provided for them in common, without assigning to every one his peculiar part. Though the water running in the fountain be everyone's, yet who can doubt, but that in the pitcher is his only who drew it out? His labour hath taken it out of the hands of nature, where it was common, & belonged equally to all her children, & hath thereby appropriated it to himself.

§ 30.

Thus this law of reason makes the deer that Indian's who hath killed it; it is allowed to be his goods, who hath bestowed his labour upon it, though before it was the common right of every one. And amongst those who are counted the civilized part of mankind, who have made & multiplied positive laws to determine property, this original law of nature, for the beginning of property, in what was before common, still takes place...

§ 31.

It will perhaps be objected to this, that if gathering the acorns, or other fruits of the earth, & makes a right to them, then any one may in gross as much as he will. To which I answer, *Not so*. The same law of nature, that does by this means give us property, does also bound that property too... As much as any one can make use of to any advantage of life before it spoils, so much he may by his labour fix a property in: whatever is beyond this, is more than his share, & belongs to others. Nothing was made by God for man to spoil or destroy. And thus... especially keeping within the bounds, set by reason, of what might serve for his use; there could be then little room for quarrels or contentions about property so established.

§ 32.

... As much land as a man tills, plants, improves, cultivates, & can use the product of... He by his labour does, as it were, inclose it from the common... God, when he gave the world in common to all mankind, commanded man also to labour, & the penury of his condition required it of him. God & his reason commanded him to subdue the earth, i.e. improve it for the benefit of life, & therein lay out something upon it that was his own, *his labour*. He that in obedience to this command of God, subdued, tilled & sowed any part of it, thereby annexed to it something that was his property, which another had no title to, nor could without injury take from him.

§ 33.

Nor was this appropriation of any parcel of land, by improving it, any prejudice to any other man, since there was still enough, & as good left; & more than the yet unprovided could use. So that, in effect, there was never the less left for others because of his enclosure for himself: for he that leaves as much as another can make use of, does as good as take nothing at all. Nobody could think himself injured by the drinking of another man... who had a whole river of the same water left him to quench his thirst: & the case of land & water, where there is enough of both, is perfectly the same.

§ 34.

God gave the world to men in common; but since he gave it them for their benefit, & the greatest conveniencies of life they were capable to draw from it, it cannot be supposed he meant it should always remain common & uncultivated. He gave it to the use of the industrious & rational, (and labour was to be his title to it;) not to the fancy or covetousness of the quarrelsome & contentious. He that had as good left for his improvement, as was already taken up, needed not complain, ought not to meddle with what was already improved by another's labour: if he did, it is plain he desired the benefit of another's pains, which he had no right to, & not the ground which God had given him in common with others to labour on, & whereof there was as good left, as that already possessed, & more than he knew what to do with, or his industry could reach to.

§ 35.

...hence subduing or cultivating the earth, & having dominion, we see are joined together. The one gave title to the other. ... the condition of human life, which requires labour & materials to work on, necessarily introduces private possessions.

§ 45.

Thus labour, in the beginning, gave a right of property, wherever any one was pleased to employ it upon what was common, which remained a long while the far greater part, & is yet more than mankind makes use of. Men, at first, for the most part, contented themselves with what unassisted nature offered to their necessities: & though afterwards, in some parts of the world, (*where the increase of people & stock, with the use of money, had made land scarce, & so of some value*) the several communities settled the bounds of their distinct territories, & by laws within themselves regulated the properties of the private men of their society, & so, by compact & agreement, settled the property which labour & industry began; & the leagues that have been made between several states & kingdoms, either expressly or tacitly disowning all claim & right to the land in the others possession, have, by common consent, given up their pretences to their natural common right, which originally they had to those countries, & so have, by positive agreement, settled a property amongst themselves, in distinct parts & parcels of the earth; yet there are still great tracts of ground to be found, which (*the inhabitants thereof not having joined with the rest of mankind, in the consent of the use of their common money*) lie waste, & are more than the people who dwell on it do, or can make use of, & so still lie in common; tho' this can scarce happen amongst that part of mankind that have consented to the use of money.

§ 46.

... And indeed it was a foolish thing, as well as dishonest, to hoard up more than he could make use of. If he gave away a part to any body else, so that it perished not uselessly in his possession, these he also made use of. And if he also bartered away plums, that would have rotted in a week, for nuts that would last good for his eating a whole year, he did no injury; he wasted not the common stock; destroyed no part of the portion of goods that belonged to others, so long as nothing perished uselessly in his hands...

§ 50.

But since gold & silver, being little useful to the life of man in proportion to food, raiment, & carriage, has its value only from the consent of men... it is plain, that men have... found out, a way how a man may fairly possess more land than he himself can use the product of, by receiving in exchange for the overplus gold & silver, which may be hoarded up without injury to any one; these metals not spoiling or decaying in the hands of the possessor. This partage of things in an inequality of private possessions, men have made practicable out of the bounds of society, & without compact, only by putting a value on gold & silver, & tacitly agreeing in the use of money: for in governments, the laws regulate the right of property, & the possession of land is determined by positive constitutions.

§ 51.

And thus, I think, it is very easy to conceive, without any difficulty, how labour could at first begin a title of property in the common things of nature, & how the spending it upon our uses bounded it. So that there could then be no reason of quarrelling about title, nor any doubt about the largeness of possession it gave. Right & conveniency went together; for as a man had a right to all he could employ his labour upon, so he had no temptation to labour for more than he could make use of. This left no room for controversy about the title, nor for encroachment on the right of others; what portion a man carved to himself, was easily seen; & it was useless, as well as dishonest, to carve himself too much, or take more than he needed.”

CHAPTER. VIII.
OF THE BEGINNING OF POLITICAL SOCIETIES.

§ 95.

MEN being, as has been said, by nature, all free, equal, & independent, no one can be put out of this estate, & subjected to the political power of another, without his own consent. The only way whereby any one divests himself of his natural liberty, & puts on the bonds of civil society, is by agreeing with other men to join & unite into a community for their comfortable, safe, & peaceable living one amongst another, in a secure enjoyment of their properties, & a greater security against any, that are not of it. This any number of men may do, because it injures not the freedom of the rest; they are left as they were in the liberty of the state of nature. When any number of men have so consented to make one community or government, they are thereby presently incorporated, & make one body politic, wherein the majority have a right to act & conclude the rest.

§ 96.

For when any number of men have, by the consent of every individual, made a community, they have thereby made that community one body, with a power to act as one body, & so every one is bound by that consent to be concluded (*bound or limited*) by the majority...

§ 97.

And thus every man, by consenting with others to make one body politic under one government, puts himself under an obligation, to every one of that society, to submit to the determination of the majority, & to be concluded by it; or else this original compact, whereby he with others incorporates into one society, would signify nothing, & be no compact, if he be left free, & under no other ties than he was in before in the state of nature...

§ 99.

Whosoever therefore out of a state of nature unite into a community, must be understood to give up all the power, necessary to the ends for which they unite into society, to the majority of the community... And thus that, which begins & actually constitutes any political society, is nothing but the consent of any number of freemen capable of a majority to unite & incorporate into such a society. And this is that... *beginning* to any lawful government in the world.

§ 101.

... history gives us but a very little account of men, that lived together in the state of nature... And if we may not suppose men ever to have been in the state of nature, because we hear not much of them in such a state, we may as well suppose the armies of Salmanasser or Xerxes were never children, because we hear little of them, till they were men, & imbodyed in armies... letters seldom come in amongst a people till a long continuation of civil society has, by other more necessary arts, provided for their safety, ease, & plenty: & then they begin to look after the history of their founders, & search into their original, when they have outlived the memory of it: for it is with commonwealths as with particular persons, they are commonly ignorant of their own births & infancies: & if they know any thing of their original, they are beholden for it, to the accidental records that others have kept of it. And those that we have, of the beginning of any polities in the world... are all either plain instances of such a beginning as I have mentioned, or at least have manifest footsteps of it.

§ 103.

And I hope those who went away from Sparta with Palantus, mentioned by Justin, 1. iii. c. 4. will be allowed to have been freemen independent one of another, & to have set up a government over themselves, by their own consent. Thus I have given several examples, out of history, of people free & in the state of nature, that being met together incorporated & began a commonwealth.

§ 104.

But to conclude, reason being plain on our side, that men are naturally free, & the examples of history shewing, that the governments of the world, that were begun in peace, had their beginning laid on that foundation, & were made by the consent of the people; there can be little room for doubt, either where the right is, or what has been the opinion, or practice of mankind, about the first erecting of governments.

§ 105.

I will not deny, that if we look back as far as history will direct us, towards the original of commonwealths, we shall generally find them under the government & administration of one man. And I am also apt to believe, that where a family was numerous enough to subsist by itself, & continued entire together, without mixing with others, as it often happens, where there is much land, & few people, the government commonly began in the father: for the father having, by the law of nature, the same power with every man else to punish, as he thought fit, any offences against that law, might thereby punish his transgressing children, even when they were men, & out of their pupilage; & they were very likely to submit to his punishment, & all join with him against the offender, in their turns, giving him thereby power to execute his sentence against any transgression, & so in effect make him the law-maker, & governor over all that

remained in conjunction with his family. He was fittest to be trusted; paternal affection secured their property & interest under his care; & the custom of obeying him, in their childhood, made it easier to submit to him, rather than to any other. If therefore they must have one to rule them, as government is hardly to be avoided amongst men that live together; who so likely to be the man as he that was their common father; unless negligence, cruelty, or any other defect of mind or body made him unfit for it? But when either the father died, & left his next heir, for want of age, wisdom, courage, or any other qualities, less fit for rule; or where several families met, & consented to continue together; there, it is not to be doubted, but they used their natural freedom, to set up him, whom they judged the ablest, & most likely, to rule well over them...

§ 106.

Thus, though looking back as far as records give us any account of peopling the world, & the history of nations, we commonly find the government to be in one hand; yet it destroys not that which I affirm, viz. that the beginning of politic society depends upon the consent of the individuals, to join into, & make one society; who, when they are thus incorporated, might set up what form of government they thought fit... all petty monarchies... almost all monarchies, near their original, have been commonly... *elective*.

§ 107.

First then, in the beginning of things, the father's government of the childhood of those sprung from him, having accustomed them to the rule of one man, & taught them that where it was exercised with care & skill, with affection & love to those under it, it was sufficient to procure & preserve to men all the political happiness they sought for in society... To which, if we add... the inconveniences of absolute power, which monarchy in succession was apt to lay claim to, & bring upon them, it was not at all strange, that they should not much trouble themselves to think of methods of restraining any exorbitances of those to whom they had given the authority over them, & of balancing the power of government, by placing several parts of it in different hands...

§ 108.

Thus we see, that the kings of the Indians in America, which is still a pattern of the first ages in Asia & Europe, whilst the inhabitants were too few for the country, & want of people & money gave men no temptation to enlarge their possessions of land, or contest for wider extent of ground, are little more than generals of their armies; & though they command absolutely in war, yet at home & in time of peace they exercise very little dominion, & have but a very moderate sovereignty, the resolutions of peace & war being ordinarily either in the people, or in a council...

§ 109.

And thus in Israel itself, the chief business of their judges, & first kings, seems to have been to be captains in war, & leaders of their armies...

§ 110.

Thus, whether a family by degrees grew up into a commonwealth, & the fatherly authority being continued on to the elder son, every one in his turn growing up under it, tacitly submitted to it, & the easiness & equality of it not offending any one, every one acquiesced, till time seemed to have confirmed it, & settled a right of succession by prescription... & the great confidence the innocence & sincerity of that poor but virtuous age... gave men one of another, made the first beginners of commonwealths generally put the rule into one man's hand, without any other express limitation or restraint...

§ 120.

To understand this the better, it is fit to consider, that every man, when he at first incorporates himself into any commonwealth, he, by his uniting himself thereunto, annexed also, & submits to the community, those possessions, which he has, or shall acquire, that do not already belong to any other government: for it would be a direct contradiction, for any one to enter into society with others for the securing & regulating of property; & yet... his land, whose property is to be regulated by the laws of the society, should be exempt from the jurisdiction of that government, to which he himself, the proprietor of the land, is a subject... Whoever therefore, from thenceforth, by inheritance, purchase, permission, or otherways, enjoys any part of the land, so annexed to, & under the government of that commonwealth, must take it with the condition it is under; that is, of submitting to the government of the commonwealth, under whose jurisdiction it is, as far forth as any subject of it.

§ 121.

But since the government has a direct jurisdiction only over the land, & reaches the possessor of it... the obligation any one is under, by virtue of such enjoyment, to submit to the government, begins & ends with the enjoyment; so that whenever the owner... will, by donation, sale, or otherwise, quit the said possession, he is at liberty to go & incorporate himself into any other commonwealth; or to agree with others to begin a new one, in *vacuis locis* (a Latin phrase, meaning "in empty places"), in any part of the world, they can find free & unpossessed: whereas he, that has once, by actual agreement, and any express declaration, given his consent to be of any commonwealth, is perpetually & indispensably obliged to be, & remain unalterably a subject to it, & can never be again in the liberty of the state of nature; unless, by any calamity, the government he was under comes to be dissolved; or else by some public act cuts him off from being any longer a member of it.

§ 122.

But submitting to the laws of any country, living quietly, & enjoying privileges & protection under them, makes not a man a member of that society: this is only a local protection & homage due to & from all those, who, not being in a state of war, come within the territories belonging to any government, to all parts whereof the force of its laws extends. But this no more makes a man a member of that society, a perpetual subject of that commonwealth, than it would make a man a subject to another, in whose family he found it convenient to abide for some time; though, whilst he continued in it, he were obliged to comply with the laws, & submit to the government he found there. And thus we see, that foreigners, by living all their lives under another government, & enjoying the privileges & protection of it, though they are bound, even in conscience, to submit to its administration, as far forth as any denison; yet do not thereby come to be subjects or members of that commonwealth. Nothing can make any man so, but his actually entering into it by positive engagement, & express promise & compact. This is that, which I think, concerning the beginning of political societies, & that consent which makes any one a member of any commonwealth.

CHAPTER. XIV.
OF PREROGATIVE.

§ 168.

The people have no other remedy in this, as in all other cases where they have no judge on earth, but to appeal to heaven: for the rulers, in such attempts, exercising a power the people never put into their hands, (who can never be supposed to consent that any body should rule over them for their harm) do that which they have not a right to do. And where the body of the people, or any single man, is deprived of their right, or is under the exercise of a power without right, & have no appeal on earth, then they have a liberty to appeal to heaven, whenever they judge the cause of sufficient moment. And therefore, though the people cannot be judge... where there lies no appeal on earth... to judge, whether they have just cause to make their appeal to heaven...

CHAPTER. XVI.
OF CONQUEST.

§ 176.

...What is my remedy against a robber, that so broke into my house? Appeal to the law for justice. But perhaps justice is denied, or I am crippled and cannot stir, robbed and have not the means to do it. If God has taken away all means of seeking remedy, there is nothing left but patience. But my son, when able, may seek the relief of the law, which I am denied: he or his son may renew his appeal, till he recover his right. But the conquered, or their children, have no court, no arbitrator on earth to

appeal to. Then they may appeal, as Jephtha did, to heaven, & repeat their appeal till they have recovered the native right of their ancestors, which was, to have such a legislative over them, as the majority should approve, & freely acquiesce in.

CHAPTER. XIX.
OF THE DISSOLUTION OF GOVERNMENT.

§ 225.

... revolutions happen not upon every little mismanagement in public affairs. Great mistakes in the ruling part, many wrong & inconvenient laws... But if a long train of abuses, prevarications & artifices, all tending the same way, make the design visible to the people, & they cannot but feel what they lie under, & see whither they are going; it is not to be wondered, that they should then rouse themselves, & endeavour to put the rule into such hands which may secure to them the ends for which government was at first erected...

§ 226.

... this 'doctrine of a power in the people'... when their legislators have acted contrary to their trust, by invading their property... [A]uthority, which is founded only in the constitutions & laws of the government... who by force break through, & by force justify their violation of them, are truly & properly rebels...

§ 227.

In... cases... when either the legislative is changed, or the legislators act contrary to the end for which they were constituted; those who are guilty are guilty of rebellion: for if any one by force takes away the established legislative of any society, & the laws by them made, pursuant to their trust, he thereby takes away the umpirage (*accountability*), which every one had consented to, for a peaceable decision of all their controversies, and a bar to the state of war amongst them. They, who remove, or change the legislative, take away this decisive power, which no body can have, but by the appointment & consent of the people; & so destroying the authority which the people did, & nobody else can set up, & introducing a power which the people hath not authorized, they actually introduce a state of war, which is that of force without authority... putting themselves into a state of war with those who made them the protectors & guardians of their peace...

§ 229.

The end of government is the good of mankind; & which is best for mankind, that the people should be always exposed to the boundless will of tyranny, or that the rulers should be sometimes liable to be opposed, when they grow exorbitant in the use of their power, & employ it for the destruction, & not the preservation of the properties of their people?

§ 231.

That subjects or foreigners, attempting by force on the properties of any people, may be resisted with force, is agreed on all hands. But that magistrates (*judges of lesser tribunals*), doing the same thing, may be resisted, hath of late been denied: as if those who had the greatest privileges & advantages by the law, had thereby a power to break those laws, by which alone they were set in a better place than their brethren: whereas their offence is thereby the greater, both as being ungrateful for the greater share they have by the law, & breaking also that trust, which is put into their hands by their brethren.

§ 232.

Whosoever uses force without right, as every one does in society, who does it without law, puts himself into a state of war with those against whom he so uses it; and in that state all former ties are cancelled, all other rights cease, & every one has a right to defend himself, & to resist the aggressor. This is so evident, that Barclay himself, that great assertor of the power & sacredness of kings, is forced to confess, That it is lawful for the people, in some cases, to resist their king... wherein he pretends to shew, that the divine law shuts up the people from all manner of rebellion. Whereby it is evident... all resisting of princes is not rebellion...

§ 233.

But if any one should ask, Must the people then always lay themselves open to the cruelty & rage of tyranny? Must they see their cities pillaged, & laid in ashes, their wives and children exposed to the tyrant's lust & fury, & themselves and families reduced by their king to ruin, & all the miseries of want & oppression, & yet sit still? Must men alone be debarred the common privilege of opposing force with force, which nature allows so freely to all other creatures for their preservation from injury? I answer: Self-defence is a part of the law of nature; nor can it be denied the community, even against the king himself: but to revenge themselves upon him, must by no means be allowed them; it being not agreeable to that law. Wherefore if the king shall shew an hatred, not only to some particular persons, but sets himself against the body of the commonwealth, whereof he is the head, & shall, with intolerable ill usage, cruelly tyrannize over the whole, or a considerable part of the people, in this case the people have a right to resist & defend themselves from injury: but it must be with this caution, that they only defend themselves, but do not attack their prince: they may repair the damages received, but must not for any provocation exceed the bounds of due reverence & respect. They may repulse the present attempt, but must not revenge past violences...

“To prejudge other men's notions before we have looked into them is not to show their darkness but to put out our own eyes.” – Locke

1715: Parliament Passes *The Riot Act of 1715*:

The Riot Act of 1714 was introduced during a time of civil disturbance in Great Britain, such as the Sacheverell riots of 1710, the Coronation riots of 1714 and the 1715 riots in England. The preamble makes reference to "many rebellious riots and tumults [that] have been [taking place of late] in diverse parts of this kingdom", adding that those involved "presum[e] so to do, for that the punishments provided by the laws now in being are not adequate to such heinous offences".⁸

The **Riot Act**[1] (1714) (*1 Geo.1 St.2 c.5*) was an Act of the Parliament of Great Britain that authorized local authorities to declare any group of twelve or more people to be unlawfully assembled, and thus have to disperse or face punitive action. The act, whose long title was "An Act for preventing tumults and riotous assemblies, and for the more speedy and effectual punishing the rioters", came into force on 1 August 1715

The act created a mechanism for certain local officials to make a proclamation ordering the dispersal of any group of more than twelve people who were "unlawfully, riotously, and tumultuously assembled together". If the group failed to disperse within one hour, then anyone remaining gathered was guilty of a felony without benefit of clergy, punishable by death.

The proclamation could be made in an incorporated town or city by the mayor, bailiff or "other head officer", or a justice of the peace. Elsewhere it could be made by a justice of the peace or the sheriff or under-sheriff. It had to be read out to the gathering concerned, and had to follow precise wording detailed in the act; several convictions were overturned because parts of the proclamation had been omitted, in particular "God save the King".

The wording that had to be read out to the assembled gathering was as follows:

Our sovereign lord the King chargeth and commandeth all persons, being assembled, immediately to disperse themselves, and peaceably to depart to their habitations, or to their lawful business, upon the pains contained in the act made in the first year of King George, for preventing tumults and riotous assemblies. God save the King.

In a number of jurisdictions, such as Britain, Canada and New Zealand, wording such as this was enshrined and codified in the law itself. While the expression "reading the riot act" is cemented in common idiom with its figurative usage, it originated fairly and squarely in statute itself. In New Zealand's Crimes Act 1961, section 88, repealed since 1987, was specifically given the heading of "Reading the Riot Act".

⁸ *The Legal observer, or, Journal of jurisprudence*. 2. J. Richards. 1831. p. 32. Retrieved 2009-12-30.

1719: North & South Carolina Are Converted to Royal Colonies:

In 1719, the South Carolina assembly sent a petition to England requesting that the proprietors be replaced with Crown administration. King George I appointed royal governors for North & South Carolina, converting the colony's status to that of a royal colony (*England ruled the colony but allowed the people self-government*). In 1729, the Crown bought out seven of the eight of the Lords Proprietor for £22,500, approximately the amount they had spent on the colony. The eighth proprietor, John Carteret, Lord Granville, refused to sell & retained title to the lands & quitrents in the northern third of North Carolina.

When the Crown purchased the proprietors' interests in 1729, their successors proved to be:

- Albemarle: in trust for Henry Somerset, 3rd Duke of Beaufort and his brother, then Lord Charles Somerset
- Clarendon: James Bertie (1674–1735)
- Berkeley: Joseph Blake of the province of South Carolina
- Craven: William Craven, 3rd Baron Craven (1700–1739)
- Carteret: John Carteret, Baron Carteret (1690–1763), governor of the kingdom of Ireland, who retained his interest*
- William Berkeley: Henry Bertie (1675–1735) and Mary Danson, widow, of St Andrews Holborn, and Elizabeth Moor, widow, of London
- Colleton: Sir John Colleton of Exmouth, Devon
- Shaftesbury: † in trust for John Cotton of East Barnet, Middlesex
- † Some of these 1729 interests had been acquired not by inheritance but by purchase.
- * The Carteret interest continued until Independence when the Crown paid compensation for the Carteret loss.⁹

⁹ **The Oldest Land Company: How The East Jersey Board of Proprietors Was Founded". The New York Times. January 17, 1882. Retrieved May 25, 201**

Chapter 4: 1686-1803: The American Revolution, Great Law of Peace, & The U.S. Constitution

1753: George Washington is given the name Conotocarious (“Town Destroyer”) by the Seneca Chief Tanacharison, better known as “Half-King”:

In the late seventeenth century, George Washington's great-grandfather, John Washington, participated in an effort to suppress a Native American uprising in Virginia & Maryland which involved members of two Algonquian tribes including the Susquehannah & the Piscataway, who both lived across the Potomac River from Mount Vernon: following a massacre when five chiefs who had come out to negotiate under a flag of truce were murdered by colonists, the Susquehannahs gave John Washington an Algonquian name that translated to "town taker" or "devourer of villages." The elder Washington's reputation was remembered, & when the Native Americans met his great-grandson in 1753, they called George by the same name, Conotocarious.¹⁰

Though there is no mention of the name by George in his October 31st, 1753 to January 16th, 1754 journal,¹¹ which was written during his first expedition to the Ohio Country, years later, in an undated memorandum to his biographer, Revolutionary War Colonel David Humphreys states that *this* is the journey where he first heard Washington being referred to by the name, *while en route to Fort Le Boeuf*. Humphreys wrote:

“It was on this occasion he was named by the half-King (as he was called) and the tribes of Nations with whom he treated— Conotocarious (in English) the Town taker; which name being registered in their Manner & communicated to other Nations of Indians, has been remembered by them ever since in all their transactions with him during the late war.”¹²

British Colonel Gist made no mention of name in his Nov. 14th, 1753 to Jan. 6th, 1754 journal of that same expedition,¹³ however Washington himself again mentions the name in his *second* expedition journal, written between 31 March 31st, 1754 to 27 June 27th, 1754, where he signed this name *Conotocarious* in his “Answer to the Speech of the Half-King”.

10 **George Washington's Mount Vernon, “Conotocarious”:** <http://www.mountvernon.org/digital-encyclopedia/article/conotocarious/>

11 **“The Journal of Major George Washington, sent by the Honorable Robert Dinwiddie, Esq., His Majesty's Lieutenant-Governor, & Commander in Chief of Virginia, to the Commandant of the French Forces on Ohio. To which are added, the Governor's Letter: and a Translation of the French Officer's Answer, with A new Map fo the Country as far as the Mississippi”** Published 1754 by Williamsburgh printed ; London : Reprinted for T. Jefferys & digitized by Lyrasis Members and Sloan Foundation: <https://archive.org/stream/journalofmajorge00wash#page/n9/mode/2up>

12 **National Archives, *Founders Online*: “Comments on David Humphreys’ Biography of George Washington”** Washington Papers | Confederation Series | Volume 5 | 1787–88, in *Papers, Confederation Series*, 5:514–26; Zagarri, *David Humphreys’ “Life of General Washington,”* 10: <https://founders.archives.gov/ancestor/GEWN-04-05-02-0463>

13 **University of Toronto: “Christopher Gist's journals : with historical, geographical and ethnological notes and biographies of his contemporaries”** by Gist, Christopher, d. 1759; Darlington, William McCullough, 1815-1889. Published in 1893 by Pittsburgh : J. R. Weldin: <https://archive.org/stream/christophergists00gistuoft#page/84/mode/2up>

The following transcription was delivered to George on April 18th, 1754 by Edward Wort (aka "Ward"), Ensign of Captain Trent, along with a gifted *Belt of Wampum*:

"A SPEECH from the Half-King, for the Governors of Virginia and Pennsylvania.

MY Brethren the *English*. The Bearer will let you understand in what Manner the *French* have treated us. We waited a long Time, thinking they would come and attack us; we now see how they have a Mind to use us.

We are now ready to fall upon them, waiting only for your Succour. Have good Courage, and come as soon as possible; you will find us as *ready to encounter with them as you are yourselves*.

We have sent those two young Men to see if you are ready to come, and if so, they are to return to us, to let us know where you are, that we may come and join you. We should be glad, if the Troops belonging to the two Provinces could meet together at the Fort which is in the Way. If you do not come to our Assistance now, we are intirely undone, and imagine we shall never meet together again. I speak it with a Heart full of Grief."

Response letter from Washington to the Half-King, April 23rd: 1754:

"The following is my Answer to the Speech of the Half-King;

To the *Half-King*, and to the Chiefs and Warriors of the *Shawanese* and *Loups* our Friends and Brethren. I received your Speech by Brother *Bucks*, 36 who came to us with the two young Men six Days after their Departure from you. We return you our greatest Thanks, and our Hearts are fired with Love and Affection towards you, in Gratitude for your constant Attachment to us, as also your gracious Speech, and your wise Counsels.

This young Man will inform you, where he found a small Part of our Army, making towards you, clearing the Roads for a great Number of our Warriors, who are ready to follow us, with our great Guns, our Ammunition and Provisions. As I delight in letting you know with speed the Thoughts of our Heart, I send you back this young Man, with this Speech, to acquaint you therewith, and the other young Man I have sent to the Governor of *Virginia*, to deliver him your Speech and your Wampum, and to be an Eye-witness of those Preparations we are making, to come in all Haste to the Assistance of those whose Interest is as dear to us as our Lives. We know the Character of the treacherous *French*, and our Conduct shall plainly shew you, how much we have it at Heart. I shall not be satisfied if I do not see you before all our Forces are met together at the Fort which is in the Way; wherefore, I desire, with the greatest Earnestness, that you, or at least one of you, would come as soon as possible to meet us on the Road, and to assist us in Council. I present you with these Bunches of Wampum, to assure you of the Sincerity of my Speech, and that you may remember how much I am your Friend and Brother.

**Signed, WASHINGTON
OR CONOTOCARIOUS"**

April 25th, 1754: Washington sent a letter to Lieutenant Governor of Virginia, Robert Dinwiddie, which contained a response to the Half-King's speech:

Excerpts from letter: "... Mr Ward has the Summons with him, and a speech from the Half King which I also inclose with the Wampum: He is accompanied by one of the Indians... mentioned therein... return to the Half King with the following Speech:

“Sachems Warriours of the Six united Nations; Shanoahs and Delawares, our Friends and Brethren:

I received by the Bucks Brother your speech, who came to us with the two young men five sleeps after leaveing you; We return you thanks from Hearts glowing with Affection for your steadfast adherence to us, for your kind speech, and for your wise Councils, and directions to the Bucks Brother.

The Young man will inform you where he met a small part or our army advancing towards you, Clearing the Roads for a great Number of our Warriours that are immediately to follow with our Great Guns, our Ammunition, and our Provisions.

I could not delay to let you know our Hearts and therefore have sent back one of the Young Men with this speech to acquaint you with them; while I have sent the other according to your desire to the Governour of Virginea with the Bucks Brother to deliver your speech and Wampum, And to be an Eye witness of the preparations we are makeing, to come in haste to support you, whose Interest is as dear to us as our Lives. We resent the usage of the treacherous French, and our Conduct henceforth will plainly shew to you how much we have it at Heart.

I cannot be easy without seeing you, before our Forces meet at the Fork of the Roads, and therefore have the greatest inclination that you and Esscruniata or one of you meet me on the Road as soon as possible to assist us in Council. To Assure you of the good will we bare you; and to confirm the truth of what has been said, I herewith present you this string of Wampum that you may thereby remember how much I am Your Brother and Friend.

Go: Washington als. Connotaucarius”

May 27th, 1754: Letter written for the Half-King by his interpreter, John Davison, & given to Washington, which he copied verbatim in his letter to Lieutenant Governor Dinwiddie:

“To any of his Majesty’s Officers whom these may concern.

AS ’tis reported that the *French* Army is set out to meet M. *George Washington*, I exhort you, my Brethren, to guard against them; for they intend to fall on the first *English* they meet; they have been on their March these two Days; the *Half King*, and the other Chiefs, will join you within five Days, to hold a Council, though we know not the Number we shall be. I shall say no more; but remember me to my Brethren the *English*.

Signed, The HALF-KING”

Washington again refers to himself as "Conotocaurious" in a letter he wrote to native of the Métis tribal & interpreter Andrew Montour, dated October 10, 1755, in which he entreated the Oneida to resettle on the Potomac.

"I wrote some Time ago a Letter of Invitation from Fort Cumberland, desiring yourself your Family and Friendly Indians to come & reside among Us, but that Letter not coming to Hand, I am induced to send a second Express with the same Invitation; being pleased that I have it in my Power to do something for You on a better Footing than ever it has been done— I was greatly enraptur'd when I heard you were at the Head of 300 Indians on a March towards Venango, being satisfied that your hearty Attachment to our glorious Cause, your Courage of which I have had very great Proofs, & your Presence among the Indians would animate their just Indignation to do something Noble, something worthy themselves, & honourable to You— I hope you will use your Interest (as I know you have much) in bringing our Brothers once more to our Service, assure them as you truly may, that nothing which I can do shall be wanting to make them happy— assure them also that as I have the chief Command I am invested with Power to treat them as Brethren & Allies, which I am sorry to say they have not been of late— Recommend Me kindly to our good Friend Monocatootha & others, tell them how happy it would make Conotocaurious to have an Opportunity of taking them by the Hand at Fort Cumberland, & how glad he would be to treat them as Brothers of our great King beyond the Waters—Flattering myself that you will come, I doubt not but you'll bring as many of them with you as possible, as that will afford Me what alone I want, that is, an Opportunity of doing something equal to your Wishes— I am Dear Montour Your real Friend & Assured Humble Servant.

Go: Washington

NB I doubt not but you have heard of the Ravages committed on our Frontiers by the French Indians, & I suppose French themselves. I am now on my March agt them, & hope to give them Cause of repenting their Rashness."

A letter from George Washington to John Armstrong dated August 24th, 1769 describes the killing of three Mingo Indians by white settlers as "villainy" & "mischief". Excerpts:

"The report of three Indians being killd on the South Branch of Potomack is strictly true, but the manner in which it happen'd is variously related, and none of them favourable to the authors of the Mischief— It seems this Murder (for it deserves no other name) was committed on slight provocation, upon three Indians of the Mingo Tribe; who had been to War, & as it is imagind, had also been defeated (that is the party to which they belonged) and being dispersed, took their rout through the Inhabitants for greater security when they met with the Fate I have just now mentioned... Endeavours will be used to bring the perpetrators of this Act of Villainy to justice... practices of this kind ought to be suppressd by every possible means to prevent the evils that otherwise must follow..."

1768: Vice-Admiralty Courts in The English North American Colonies

The **Vice-Admiralty Court Act** was passed July 6, 1768, giving *Royal naval courts jurisdiction over all matters concerning customs violations & smuggling* (rather than colonial courts). Before the Act, customs violators could be tried in an admiralty court in Halifax, Nova Scotia if royal prosecutors believed they would not get a favorable outcome using a local judge & jury. The Vice-Admiralty Court Act added three new *royal admiralty courts* in *Boston, Philadelphia, & Charleston* to aid in more effective prosecutions. These courts were run by judges who were appointed by the Crown *and* who received a 5% award when they found someone guilty. The decisions were made solely by the judge without the use of trials by jury, which was considered to be a fundamental right of British citizens. Among *Common Law Courts (as opposed to Vice-Admiralty Courts)* a *colonial jury* was unlikely to convict a colonist of an unfair law being imposed by the Crown, however because the vice-admiralty courts did not grant *trial by jury*, a colonist could more easily be convicted by the Crown. In addition, the accused person had to travel to the location of the court of jurisdiction at his own expense, & if he didn't show up he was automatically considered guilty. This system made it hard for an accused person to get a fair trial.¹⁴

Admiralty Courts were a prominent feature which led up to the American Revolution. For example, the phrase in the Declaration of Independence wherein Thomas Jefferson is explaining *why* the colonized Europeans were switching their government from “colonies owned by the crown” into “States *banded together* in common defense of one another”, he wrote: **“For depriving us in many cases, of the benefits of Trial by Jury. For transporting us beyond Seas to be tried for pretended (made up, fabricated) offenses. For abolishing the free System of English Laws in a neighboring Province, establishing therein an Arbitrary government.”**¹⁵

“VICE”, *Black's Law Dictionary*

“A fault, defect, or imperfection. In the civil law, *redhibitory (the nullification of a sale because of a defect in the article sold of such nature as to make it totally or virtually unusable)* vices are such faults or imperfections in the subject-matter of a sale as will give the purchaser the right to return the article and demand back the price.”¹⁶

The first known representation of Lady Justice *wearing a blindfold* is by Hans Gieng 1543 statue on the *Gerechtigkeitsbrunnen* (Fountain of Justice) in Berne, Germany. Another variation depicts the blindfolded Lady Justice weighing *competing claims* in each hand; this is because “the scales of justice” weigh *evidence & testimonies*, however *hearsay & verbal testimonies* generally mean *very little to nothing* in court, *unless* there is *nothing* placed within the competing scale, in which case “whoever puts something in the scales, *wins*”. The court bases decisions on *law & evidence*, because “when the judge or magistrate walks into their back office, they're *liable* to their ruling, & they *cannot rule on hearsay*. They must be able to *prove to their* higher-ups that they

14 **The Vice-Admiralty Court Act, The Revolutionary War & Beyond:** <http://www.revolutionary-war-and-beyond.com/vice-admiralty-court-act-of-1768-text.html>

15 **The Declaration of Independence transcript, National Archives:** <https://www.ourdocuments.gov/doc.php?flash=true&doc=2&page=transcript>

16 <http://thelawdictionary.org/vice/>

indeed made their ruling according to facts, evidence, & law. In addition, the scales represent gross domestic product (GDP), or the surplus that a nation, state, or tribe produces, as it is only with surplus that a political body can afford to trade with other political bodies. The ancient law merchant, or “law of negotiable instruments” as it is also known, is a strict system of measurement, that is separate from the civil law, & the system is designed to ensure laborers are rewarded for their part in production, & that those who aren't producing, aren't given power except through submission to service.

“Vice-Admiralty Courts” are the subject of one of the most famous writings of author, philosopher, & early American revolutionary John Locke. Locke’s works were well-known & frequently quoted by revolutionary leaders, being the most quoted authority on government in the 1760-1776 period prior to American independence.¹⁷ He stated the following on Vice-Admiralty Courts in Chapter 3, *Of The State of War*, Section 20 & Section 21:

“.. where an appeal to the law, & constituted judges, lies open, but the remedy is denied by a manifest perverting of justice, & a barefaced wresting of the laws to protect or indemnify the violence or injuries of some men, or party of men, there it is hard to imagine any thing but a state of war: for wherever violence is used, & injury done, though by hands appointed to administer justice, it is still violence & injury, however coloured with the name, pretences, or forms of law, the end whereof being to protect & redress the innocent, by an unbiased application of it, to all who are under it; wherever that is not bona fide done, war is made upon the sufferers, who having no appeal on earth to right them, they are left to the only remedy in such cases, an appeal to heaven.”

Chapter 15, *Of Prerogative*, Section 168:

“The people have no other remedy in this, as in all other cases where they have no judge on earth, but to appeal to heaven: for the rulers, in such attempts, exercising a power the people never put into their hands, do that which they have not a right to do.”



Statue of Lady Justice depicted as Themis above the Old Supreme Court building in Hong Kong. Photo Source: <http://legalinsurrection.com/2014/11/justice-for-whom/>

¹⁷ <http://www.wallbuilders.com/libissuesarticles.asp?id=99156#FN33>

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The injustices embedded within the Vice Admiralty Courts” were also referenced in Patrick Henry’s Give me liberty, or give me death! speech to the Second Virginia Convention on March 23, 1775:

“... we have done everything that could be done to avert the storm which is now coming on. We have petitioned; we have remonstrated; we have supplicated; we have prostrated ourselves before the throne, & have implored its interposition to arrest the tyrannical hands of the ministry & Parliament. Our petitions have been slighted; our remonstrances have produced additional violence and insult; our supplications have been disregarded; & we have been spurned, with contempt, from the foot of the throne...”

When the American Revolutionary War began, British officials as well as the colonial Continental Congress sought the allegiance (or at least the neutrality) of the influential Haudausaunee Confederacy (the Haudausaunee were then referred to as their French name—“Iroquois”). The Six Nations were divided over what course to pursue: most Mohawks, Cayugas, Onondagas, & Senecas chose to ally themselves with the British, however the Oneidas & Tuscaroras, thanks in part to the influence of Presbyterian missionary Samuel Kirkland, joined the American revolutionaries. For the Iroquois, the American Revolution became a civil war.

After a British army surrendered after the Battles of Saratoga in upstate New York in 1777, Loyalists & their Iroquois allies raided American Patriot settlements in the region, as well as the villages of American-allied Iroquois. Working out of Fort Niagara, men such as Loyalist commander Colonel John Butler, Sayenqueraghta, Mohawk military leader Joseph Brant, & Seneca chief Corn Planter led the British-Indian raids. Commander-in-chief General George Washington never allocated more than minimal Continental Army troops for the defense of the frontier & he told the frontier settlements to use local militia for their own defense.

On June 10, 1778, the Board of War of the Continental Congress concluded that a major Indian war was in the offing. Since a defensive war would prove to be inadequate the board called for a major expedition of 3,000 men against Fort Detroit and a similar thrust into Seneca country to punish the Iroquois. Congress designated Major General Horatio Gates to lead the campaign and appropriated funds for the campaign

Washington in 1779 ordered the Sullivan Expedition in the American Revolutionary War, which destroyed at least 40 Iroquois villages in New York, from which the tribe had attacked American settlements.

Expedition to the Ohio, 1754: Narrative: <https://founders.archives.gov/documents/Washington/01-01-02-0004-0002#GEWN-01-01-02-0004-0002-fn-0037-ptr>

From George Washington to Robert Dinwiddie, 25 April 1754:

<https://founders.archives.gov/documents/Washington/02-01-02-0045#GEWN-02-01-02-0045-fn-0008>

From George Washington to Andrew Montour, 10 October 1755:

<https://founders.archives.gov/documents/Washington/02-02-02-0095>

From George Washington to John Armstrong, 24 August 1769:

<https://founders.archives.gov/documents/Washington/02-08-02-0165>

**Story of Christopher Gadsden & the “Don't Tread
On Me” flag coming here.**

1776: The Declaration of Independence: IN CONGRESS, JULY 4, 1776

The unanimous Declaration of the thirteen united States of America

When in the Course of human events it becomes necessary for one people to dissolve the political bands which have connected them with another and to assume among the powers of the earth, the separate and equal station to which the Laws of Nature and of Nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation.

We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness. — That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed, — That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new Government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their Safety and Happiness. Prudence, indeed, will dictate that Governments long established should not be changed for light and transient causes; and accordingly all experience hath shewn that mankind are more disposed to suffer, while evils are sufferable than to right themselves by abolishing the forms to which they are accustomed. But when a long train of abuses and usurpations, pursuing invariably the same Object evinces a design to reduce them under absolute Despotism, it is their right, it is their duty, to throw off such Government, and to provide new Guards for their future security. — Such has been the patient sufferance of these Colonies; and such is now the necessity which constrains them to alter their former Systems of Government. The history of the present King of Great Britain is a history of repeated injuries and usurpations, all having in direct object the establishment of an absolute Tyranny over these States. To prove this, let Facts be submitted to a candid world.

He has refused his Assent to Laws, the most wholesome and necessary for the public good.

He has forbidden his Governors to pass Laws of immediate and pressing importance, unless suspended in their operation till his Assent should be obtained; and when so suspended, he has utterly neglected to attend to them.

He has refused to pass other Laws for the accommodation of large districts of people, unless those people would relinquish the right of Representation in the Legislature, a right inestimable to them and formidable to tyrants only.

He has called together legislative bodies at places unusual, uncomfortable, and distant from the depository of their Public Records, for the sole purpose of fatiguing them into compliance with his measures.

He has dissolved Representative Houses repeatedly, for opposing with manly firmness his invasions on the rights of the people.

He has refused for a long time, after such dissolutions, to cause others to be elected, whereby the Legislative Powers, incapable of Annihilation, have returned to the People at large for their exercise; the State remaining in the mean time exposed to all the dangers of invasion from without, and

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convulsions within.

He has endeavoured to prevent the population of these States; for that purpose obstructing the Laws for Naturalization of Foreigners; refusing to pass others to encourage their migrations hither, and raising the conditions of new Appropriations of Lands.

He has obstructed the Administration of Justice by refusing his Assent to Laws for establishing Judiciary Powers.

He has made Judges dependent on his Will alone for the tenure of their offices, and the amount and payment of their salaries.

He has erected a multitude of New Offices, and sent hither swarms of Officers to harass our people and eat out their substance.

He has kept among us, in times of peace, Standing Armies without the Consent of our legislatures.

He has affected to render the Military independent of and superior to the Civil Power.

He has combined with others to subject us to a jurisdiction foreign to our constitution, and unacknowledged by our laws; giving his Assent to their Acts of pretended Legislation:

For quartering large bodies of armed troops among us:

For protecting them, by a mock Trial from punishment for any Murders which they should commit on the Inhabitants of these States:

For cutting off our Trade with all parts of the world:

For imposing Taxes on us without our Consent:

For depriving us in many cases, of the benefit of Trial by Jury:

For transporting us beyond Seas to be tried for pretended offences:

For abolishing the free System of English Laws in a neighbouring Province, establishing therein an Arbitrary government, and enlarging its Boundaries so as to render it at once an example and fit instrument for introducing the same absolute rule into these Colonies

For taking away our Charters, abolishing our most valuable Laws and altering fundamentally the Forms of our Governments:

For suspending our own Legislatures, and declaring themselves invested with power to legislate for us in all cases whatsoever.

He has abdicated Government here, by declaring us out of his Protection and waging War against us.

He has plundered our seas, ravaged our coasts, burnt our towns, and destroyed the lives of our people.

He is at this time transporting large Armies of foreign Mercenaries to compleat the works of death, desolation, and tyranny, already begun with circumstances of Cruelty & Perfidy scarcely paralleled in the most barbarous ages, and totally unworthy the Head of a civilized nation.

He has constrained our fellow Citizens taken Captive on the high Seas to bear Arms against their Country, to become the executioners of their friends and Brethren, or to fall themselves by their Hands.

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He has excited domestic insurrections amongst us, and has endeavoured to bring on the inhabitants of our frontiers, the merciless Indian Savages whose known rule of warfare, is an undistinguished destruction of all ages, sexes and conditions.

In every stage of these Oppressions We have Petitioned for Redress in the most humble terms: Our repeated Petitions have been answered only by repeated injury. A Prince, whose character is thus marked by every act which may define a Tyrant, is unfit to be the ruler of a free people.

Nor have We been wanting in attentions to our British brethren. We have warned them from time to time of attempts by their legislature to extend an unwarrantable jurisdiction over us. We have reminded them of the circumstances of our emigration and settlement here. We have appealed to their native justice and magnanimity, and we have conjured them by the ties of our common kindred to disavow these usurpations, which would inevitably interrupt our connections and correspondence. They too have been deaf to the voice of justice and of consanguinity. We must, therefore, acquiesce in the necessity, which denounces our Separation, and hold them, as we hold the rest of mankind, Enemies in War, in Peace Friends.

We, therefore, the Representatives of the united States of America, in General Congress, Assembled, appealing to the Supreme Judge of the world for the rectitude of our intentions, do, in the Name, and by Authority of the good People of these Colonies, solemnly publish and declare, That these united Colonies are, and of Right ought to be Free and Independent States, that they are Absolved from all Allegiance to the British Crown, and that all political connection between them and the State of Great Britain, is and ought to be totally dissolved; and that as Free and Independent States, they have full Power to levy War, conclude Peace, contract Alliances, establish Commerce, and to do all other Acts and Things which Independent States may of right do. — And for the support of this Declaration, with a firm reliance on the protection of Divine Providence, we mutually pledge to each other our Lives, our Fortunes, and our sacred Honor.

New Hampshire:

Josiah Bartlett, William Whipple, Matthew Thornton

Massachusetts:

John Hancock, Samuel Adams, John Adams, Robert Treat Paine, Elbridge Gerry

Rhode Island:

Stephen Hopkins, William Ellery

Connecticut:

Roger Sherman, Samuel Huntington, William Williams, Oliver Wolcott

New York:

William Floyd, Philip Livingston, Francis Lewis, Lewis Morris

New Jersey:

Richard Stockton, John Witherspoon, Francis Hopkinson, John Hart, Abraham Clark

Pennsylvania:

Robert Morris, Benjamin Rush, Benjamin Franklin, John Morton, George Clymer, James Smith, George Taylor, James Wilson, George Ross

Delaware:

Caesar Rodney, George Read, Thomas McKean

Maryland:

Samuel Chase, William Paca, Thomas Stone, Charles Carroll of Carrollton

Virginia:

George Wythe, Richard Henry Lee, Thomas Jefferson, Benjamin Harrison, Thomas Nelson, Jr., Francis Lightfoot Lee, Carter Braxton

North Carolina:

William Hooper, Joseph Hewes, John Penn

South Carolina:

Edward Rutledge, Thomas Heyward, Jr., Thomas Lynch, Jr., Arthur Middleton

Georgia:

Button Gwinnett, Lyman Hall, George Walton¹⁸

The Original Version of The Declaration Attacked Slavery:

When Thomas Jefferson included a passage attacking slavery in his draft of the Declaration of Independence, it initiated the most intense debate among the delegates gathered at Philadelphia in the spring & early summer of 1776. Jefferson's passage on slavery was the most important section removed from the final document, & was replaced with a more ambiguous passage about King George's incitement of "domestic insurrections among us." Decades later Jefferson blamed the removal of the passage on delegates from South Carolina, Georgia, & Northern delegates who represented merchants who were at the time actively involved in the Trans-Atlantic slave trade. Jefferson's original passage on slavery:

“He has waged cruel war against human nature itself, violating its most sacred rights of life and liberty in the persons of a distant people who never offended him, captivating & carrying them into slavery in another hemisphere or to incur miserable death in their transportation thither. This piratical warfare, the opprobrium of infidel powers, is the warfare of the Christian King of Great Britain. Determined to keep open a market where Men should be bought & sold, he has prostituted his negative for suppressing every legislative attempt to prohibit or restrain this execrable commerce. And that this assemblage of horrors might want no fact of distinguished die, he is now exciting those very people to rise in arms among us, and to purchase that liberty of which he has deprived them, by murdering the people on whom he has obtruded them: thus paying off former crimes committed against the Liberties of one people, with crimes which he urges them to commit against the lives of another.”¹⁹

18 USHistory.org, “The Declaration of Independence”: www.ushistory.org/declaration/document/

19 Thomas Jefferson, *The Writings of Thomas Jefferson: Being His Autobiography, Correspondence, Reports,*

1781: Buckongahelas Leads His Displaced Leni Lenape Tribe *Westward*:

Lenape warrior Buckongahelas (c. 1720 – May 1805) became regionally & nationally renown, having first fought against the French during the French & Indian War (aka Seven Years' War, 1755-1763) & then alongside Britain during the U.S. Revolutionary War (1775-1783). In 1781, to escape the influx of settlers, he led his band of *Algonquian-speaking* Leni Lenape band *out* of Delaware to near present-day Muncie, Indiana *along the White River*. His band would then come to break away from a larger *pro-American* band of Lenape people led by White Eyes, in order to move closer to the village of Shawnee leader *Blue Jacket*. The two became close friends, & then allies in war.

Animosities & distrust between settlers & native people remained high; encampment raids by native resistance fighters led to retaliation attacks by the British *or* settlers, with peaceful bands of tribes often being mistakenly retaliated against amongst the confusing & tense circumstances (i.e.: the “Gnadenhutzen Massacre”²⁰).

Delaware River:



Left: British colonists called the *Lenape* people who lived throughout Delaware, New Jersey, New York, & Pennsylvania the *Delaware Tribe*, after the Delaware River which flows through each of these states, the river being the *heart* of their homelands.

Created in Adobe Illustrator CS5 by user "Shannon1", data from U.S. Geological Survey:
[https://commons.wikimedia.org/wiki/File:Delaware RiverBasin-01.png](https://commons.wikimedia.org/wiki/File:Delaware_RiverBasin-01.png)

Private (Washington, D.C.: Taylor & Maury, 1853-1854): www.blackpast.org/primary/declaration-independence-and-debate-over-slavery#sthash.ZzgSAbNZ.dpuf
20 **“The Gnadenhutzen Massacre”:** <http://www.history.com/topics/gnadenhutzen-massacre>

After the U.S. achieved independence & settlers began then encroaching on territory beyond the Appalachian Mountains & Ohio River, Buckongahelas became involved in a Western Confederacy *mostly* comprised of Algonquian-speaking peoples including *the Shawnee*; the tribes sought to repel the oncoming settlers who had claimed Ohio following Britain's defeat, citing the "right to conquest" (against the British).^{21 22}

The *right of conquest* was traditionally accepted under international law because the conquering force, being *by definition* stronger than any lawfully entitled governance which it may have replaced, was therefore more likely to secure peace & stability for the people. The *right to conquest* would later be abolished in formal international law following the devastation of WWI & WWII.²³

Buckongahelas:



(artist uncited):

<http://greatwarriorpath.blogspot.com/2016/05/great-warrior-giver-of-gifts.html>



(artist uncited): <https://sites.google.com/a/kenilworth38.org/new-jersey-colony-website/home/relationship-with-native-americans>

The *several* raids & tactical attacks aimed at repelling American settlement into the Ohio River Valley led to the Northwest Indian War aka *Little Turtle's War*, wherein Britain fought against America alongside the tribes.

21 McWhorter, Lucullus Virgil. *Border Settlers of Northwestern Virginia*, Parsons, West Virginia: McClain Printing, 1915

22 "Buckongahelas", *The West Virginia Encyclopedia*, ed. Ken Sullivan, West Virginia Humanities Council, 2006

23 Korman, Sharon (1996). *The Right of Conquest: The Acquisition of Territory by Force in International Law and Practice*. Oxford University Press.

1785-1795: The Northwest Indian War aka *Little Turtle's War*:

To former colonists, the threat of Britain *continuing* to fight & now *alongside tribes* would be as a *continuation* of the Revolutionary war; Americans wanted the threat of Britain *removed* from the Northwest Territory from where still they held forts & could still strategically arm for further conflict, & to *the tribes*, they were concerned about their *survival* after having been pushed back now for *centuries* by Europeans crowding out their lands & resources.

Under the Treaty of Paris (1783), which ended the American Revolutionary War, Great Britain ceded to the U.S. control of the Northwest Territory, which was occupied by numerous Native American tribes. Despite the treaty, the British kept forts & policies there that supported the Natives in the Northwest Territories. President George Washington directed the Army to halt the hostilities between the Natives & settlers, but to *also* enforce U.S. sovereignty over the territory.

Then, in 1787, the Confederation Congress enacted *the Northwest Ordinance*, opening the Ohio Valley to new American settlement. Members of the *Western Great Lakes Indian Confederacy*, which consisted of many bands of tribes including *Council of Three Fires, Iroquois Confederacy, Seven Nations of Canada, Wabash Confederacy, Illini Confederacy, Wyandot, Mississaugas, Menominee, Shawnee, Lenape, Miami, Kickapoo, Kaskaskia, Chickamauga (lower) Cherokee*, reacted by utilizing armed resistance to protect their land.

As a result, President George Washington ordered General "Mad" Anthony Wayne to train & prepare an army to "put an end to the situation". As the Native American confederacy & U.S. commissioners debated at the Grand Council on the Sandusky River in 1793, the Legion moved from Pennsylvania downriver to Fort Washington. On September 11th, William Wells arrived at Fort Jefferson with news of the Grand Council's failure, & *with a warning* that a force of over 1500 warriors was ready to attack Fort Jefferson *and* the Legion.²⁴

Buckonghelas was said to have been a great & noble warrior, who took no delight in shedding blood. The conduct of the English at the battle of Presque Isle, Ohio (by Lake Erie), in 1794, so disgusted him that his sympathies then became diverted to the United States.²⁵ Soon after, "Mad" Wayne led his men to a decisive victory at the Battle of Fallen Timbers in 1794, thus forcing the British to leave the Ohio Valley.

The defeated Native tribes were forced to cede extensive territory, including much of present-day Ohio, in the Treaty of Greenville in 1795, of which Buckonghelas was signatory to.²⁶ In 1804 Buckonghelas would come to *also* sign the Treaty of Vincennes, seeking to preserve his people's Ohio Valley homeland against further encroachment by whites, whose culture was vastly different than native culture.²⁷

24 Gaff, Alan D. (2004). *Bayonets in the Wilderness. Anthony Waynes Legion in the Old Northwest*. Norman: University of Oklahoma Press. ISBN 0-8061-3585-9, p. 109-110 & 149-150

25 Drake, Biog. and Hist. Inds., 63, 1837, preserved on "Delaware Indian Chiefs and Leaders": <https://www.accessgenealogy.com/native/delaware-indian-chiefs-and-leaders.htm>

26 Northwest Indian War: <http://americanhistory1776-now.weebly.com/northwest-indian-war.html>

27 Great Warriors Path, "Great Warrior, the Giver of Gifts": <http://greatwarriorspath.blogspot.com/2016/05/great-warrior-giver-of-gifts.html>

Treaty of Greenville (1795) — Transcript:

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

To put an end to a destructive war, to settle all controversies, & to restore harmony & friendly intercourse (commerce) 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.

Article 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.

Article 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.



The Signing of the Treaty of Greene Ville, 1795, as depicted by Howard Chandler Christy (painted in 1945). Anthony Wayne dictates terms to the Indians. This painting is currently hanging in the east stairway of the Rotunda of the Ohio Statehouse: <http://touringohio.com/history/greenville-treaty.html>

Article 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.

And the said Indian tribes will allow to the people of the United States a free passage by land and by water, as one and the other shall be found convenient, through their country, along the chain of posts hereinbefore mentioned; that is to say, from the commencement of the portage aforesaid, at or near Loromie's store, thence along said portage to the St. Mary's, and down the same to fort Wayne, and then down the Miami, to lake Erie; again, from the commencement of the portage at or near Loromie's store along the portage from thence to the river Auglaize, and down the same to its junction with the Miami at fort Defiance; again, from the commencement of the portage aforesaid, to Sandusky river, and down the same to Sandusky bay and lake Erie, and from Sandusky to the post which shall be taken at or near the foot of the Rapids of the Miami of the lake; and from thence to Detroit. Again, from the mouth of Chikago, to the commencement of the portage, between that river and the Illinois, and down the Illinois river to the Mississippi; also, from fort Wayne, along the portage aforesaid, which leads to the Wabash, and then down the Wabash to the Ohio. And the said Indian tribes will also allow to the people of the United States, the free use of the harbors and mouths of rivers along the lakes adjoining the Indian lands, for sheltering vessels and boats, and liberty to land their cargoes where necessary for their safety.

Article 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:

1. 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.
2. The post of St. Vincennes, on the River Wabash, and the lands adjacent, of which the Indian title has been extinguished.
3. 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
4. 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:

1. To the Wyandots, the amount of one thousand dollars.
2. To the Delawares, the amount of one thousand dollars.
3. To the Shawanees, the amount of one thousand dollars.
4. To the Miamis, the amount of one thousand dollars.
5. To the Ottawas, the amount of one thousand dollars.
6. To the Chippewas, the amount of one thousand dollars.
7. To the Pattawatimas, the amount of one thousand dollars, and
8. 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.

Article 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.

Article 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.

Article 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.

Article 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.

Chapter 4: 1686-1803: The American Revolution, Great Law of Peace, & The U.S. Constitution

Article 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.

Article 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.

WYANDOTS. Tarhe, or Crane, his x mark L.S. J. Williams, jun. his x mark, L.S. Teyyaghtaw, his x mark, L.S. Haroenyou, or half king's son, his x mark, L.S. Tehaawtores, his x mark, L.S. Awmeyeray, his x mark, L.S. Stayetah, his x mark L.S. Shateyyaronyah, or Leather Lips, his x mark, L.S. Daughshuttayah, his x mark L.S. Shaawrunthe, his x mark L.S.

DELAWARES. Tetabokshke, or Grand Glaize King, his x mark, L.S. Lemantanquis, or Black King, his x mark, L.S. Wabatthoe, his x mark, L.S. Maghpiway, or Red Feather, his x mark, L.S. Kikthawenund, or Anderson, his x mark, L.S. Bukongehelas, his x mark, L.S. Peekeelund, his x mark, L.S. Wellebawkeelund, his x mark, L.S. Peekeetelemund, or Thomas Adams, his x mark, L.S. Kishkopekund, or Captain Buffalo, his x mark, L.S. Amenahehan, or Captain Crow, his x mark, L.S. Queshawksey, or George Washington, his x mark, L.S. Weywinquis, or Billy Siscoomb, his x mark, L.S. Moses, his x mark, L.S.

SHAWNEES. Misquaconacaw, or Red Pole, his x mark, L.S. Cutthewekasaw, or Black Hoof, his x mark, L.S. Kaysewaesekah, his x mark, L.S. Weythapamattha, his x mark, L.S. Nianysmekah, his x mark, L.S. Waytheah, or Long Shanks, his x mark, L.S. Weyapiersenwaw, or Blue Jacket, his x mark, L.S. Nequetaughaw, his x mark, L.S. Hahgoosekaw, or Captain Reed, his x mark, L.S.

OTTAWAS. Augooshaway, his x mark, L.S. Keenoshameek, his x mark, L.S. La Malice, his x mark, L.S. Machiwetah, his x mark, L.S. Thowonawa, his x mark, L.S. Secaw, his x mark, L.S.

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CHIPPEWAS. Mashipinashiwish, or Bad Bird, his x mark, L.S. Nahshogashe, (from Lake Superior), his x mark, L.S. Kathawasung, his x mark, L.S. Masass, his x mark, L.S. Nemekass, or Little Thunder, his x mark, L.S. Peshawkay, or Young Ox, his x mark, L.S. Nanguey, his x mark, L.S. Meenedohgeesogh, his x mark, L.S. Peewanshemenogh, his x mark, L.S. Weymegwas, his x mark, L.S. Gobmaatick, his x mark, L.S.

OTTAWA. Chegonickska, an Ottawa from Sandusky, his x mark, L.S.

PATAWATIMAS OF THE RIVER ST. JOSEPH. Thupenebu, his x mark, L.S. Nawac, for himself and brother Etsimethe, his x mark, L.S. Nenansaka, his x mark, L.S. Keesass, or Run, his x mark, L.S. Kabamasaw, for himself and brother Chisaugan, his x mark, L.S. Sugganunk, his x mark, L.S. Wapmeme, or White Pigeon, his x mark, L.S. Wacheness, for himself and brother Pedagoshok, his x mark, L.S. Wabshicawnaw, his x mark, L.S. La Chasse, his x mark, L.S. Meshegethenogh, for himself and brother, Wawasek, his x mark, L.S. Hingoswash, his x mark, L.S. Anewasaw, his x mark, L.S. Nawbudgh, his x mark, L.S. Missenogomaw, his x mark, L.S. Waweegshe, his x mark, L.S. Thawme, or Le Blanc, his x mark, L.S. Geeque, for himself and brother Shewinse, his x mark, L.S.

PATAWATIMAS OF HURON. Okia, his x mark, L.S. Chamung, his x mark, L.S. Segagewan, his x mark, L.S. Nanawme, for himself and brother A. Gin, his x mark, L.S. Marchand, his x mark, L.S. Wenameac, his x mark, L.S.

MIAMIS. Nagohquangogh, or Le Gris, his x mark, L.S. Meshekunnoghquoh, or Little Turtle, his x mark, L.S.

MIAMIS AND EEL RIVERS. Peejeewa, or Richard Ville, his x mark, L.S. Cochkepoghtogh, his x mark, L.S.

EEL RIVER TRIBE. Shamekunnesa, or Soldier, his x mark, L.S.

MIAMIS. Wapamangwa, or the White Loon, his x mark, L.S.

WEAS, FOR THEMSELVES AND THE PIANKESHAW. Amacunsa, or Little Beaver, his x mark, L.S. Acoolatha, or Little Fox, his x mark, L.S. Francis, his x mark, L.S.

KICKAPOOS AND KASKASKIAS. Keeawhah, his x mark, L.S. Nemighka, or Josey Renard, his x mark, L.S. Paikeekanogh, his x mark, L.S.

DELAWARES OF SANDUSKY. Hawkinpumiska, his x mark, L.S. Peyamawksey, his x mark, L.S. Reyntueco, (of the Six Nations, living at Sandusky), his x mark, L.S. H. De Butts, first A.D.C. and Sec'ry to Major Gen. Wayne, Wm. H. Harrison, Aid de Camp to Major Gen. Wayne, T. Lewis, Aid de Camp to Major Gen. Wayne, James O'Hara, Quartermaster Gen'l. John Mills, Major of Infantry, and Adj. Gen'l. Caleb Swan, P.M.T.U.S. Gen. Demter, Lieut. Artillery, Vigo, P. Frs. La Fontaine, Ast. Lasselle, Sworn interpreters. H. Lasselle, Wm. Wells, Js. Beau Bien, Jacques Lasselle, David Jones, Chaplain U.S.S. M. Morins, Lewis Beaufait, Bt. Sans Crainte, R. Lachambre, Christopher Miller, Jas. Pepen, Robert Wilson, Baties Coutien, Abraham Williams, his x mark P. Navarre. Isaac Zane, his x mark^{28 29 30}

[END TRANSCRIPT]

28 Boyd, Thomas. *Mad Anthony Wayne*. New York: C. Scribner's Sons, 1929.

29 Hurt, R. Douglas. *The Ohio Frontier: Crucible of the Old Northwest, 1720-1830*. Bloomington, IN: Indiana University Press, 1996.

30 Preston, John Hyde. *A Gentleman Rebel: Mad Anthony Wayne*. Garden City, NY: Garden City Publishing Co., Inc., 1930.

1794: One Year Earlier— *The Pickering Treaty* is Signed between the U.S. & The Haudenosaunee Confederacy:



Haudenosaunee (“Iroquois” to the French) representatives gather in Washington, DC on 2-22-2016 to renew a 222-year-old treaty between the U.S. Government & the Six Nations of “the Iroquois Confederacy”. The Haudenosaunee Confederacy includes the *Cayuga, Mohawk, Oneida, Onondaga, Seneca, & Tuscarora*.

Haudenosaunee representatives have been coming to Washington, DC annually for the past 222 years in honor of the Treaty of Canandaigua, which was signed on November 11th, 1794 by honored members of the Haudenosaunee Nations, President George Washington, Colonel Timothy Pickering, & others. The treaty is sometimes referred to as the ‘Pickering Treaty’, & the Haudenosaunee Confederacy is often mistranslated *The Iroquois Confederacy*.

“With the treaty cloth that was presented, this is really polishing the chain,” said Chief Oren Lyons, Onondaga Faithkeeper. **“It is renewing the covenant that was made between leaders & the first president of the United States of America. This is obviously a lesson to the American public, in that they were making treaty belts at the time. People do not realize how important the protocol of the Haudenosaunee was. I think at these times, we need a voice of peace.”**

Rebecca Bowen, Director of the Seneca Nation archives, stated, **“This original treaty from 1794 is a promise that our lands are protected. A treaty is a supreme law of the land, the presentation of the annuity cloth is a symbol of renewing that treaty.”**³¹

31 **Iroquois Nation Reps, Clan Mothers, Gather for 222nd Annual Canandaigua Treaty Ceremony**”, by Vincent Schilling, *Indian Country Today Media Network*:
<http://indiancountrytodaymedianetwork.com/2016/02/25/iroquois-nation-reps-clan-mothers-gather-222nd-annual-canandaigua-treaty-ceremony-163541>

The Canandaigua Treaty aka “The Pickering Treaty” — Transcript:

A Treaty between the United States of America, & the Tribes of Indians called the Six Nations.

The President of the United States having determined to hold a conference with the Six Nations of Indians, for the purpose of removing from their minds all causes of complaint, & establishing a firm & permanent friendship with them; & Timothy Pickering being appointed sole agent for that purpose; & the agent having met & conferred with the Sachems, Chiefs & Warriors of the Six Nations, in a general council: Now, in order to accomplish the good design of this conference, the parties have agreed on the following articles; which, when ratified by the President, with the advice & consent of the Senate of the United States, shall be binding on them & the Six Nations.

ARTICLE 1. Peace & friendship are hereby firmly established, & shall be perpetual, between the United States & the Six Nations.

ARTICLE 2. The United States acknowledge the lands reserved to the Oneida, Onondaga & Cayuga Nations, in their respective treaties with the state of New-York, & called their reservations, to be their property; & the United States will never claim the same, nor disturb them or either of the Six Nations, nor their Indian friends residing thereon & united with them, in the free use & enjoyment thereof: but the said reservations shall remain theirs, until they choose to sell the same to the people of the United States, who have the right to purchase.

ARTICLE 3. The land of the Seneka nation is bounded as follows: Beginning on Lake Ontario, at the north-west corner of the land they sold to Oliver Phelps, the line runs westerly along the lake, as far as O-yōng-wong-yeh Creek, at Johnson's Landing-place, about four miles eastward from the fort of Niagara; then southerly up that creek to its main fork, then straight to the main fork of Stedman's creek, which empties into the river Niagara, above fort Schlosser, & then onward, from that fork, continuing the same straight course, to that river; (this line, from the mouth of O-yōng-wong-yeh Creek to the river Niagara, above fort Schlosser, being the eastern boundary of a strip of land, extending from the same line to Niagara river, which the Seneka nation ceded to the King of Great-Britain, at a treaty held about thirty years ago, with Sir William Johnson;) then the line runs along the river Niagara to Lake Erie; then along Lake Erie to the north-east corner of a triangular piece of land which the United States conveyed to the state of Pennsylvania, as by the President's patent, dated the third day of March, 1792; then due south to the northern boundary of that state; then due east to the south-west corner of the land sold by the Seneka nation to Oliver Phelps; & then north & northerly, along Phelps's line, to the place of beginning on Lake Ontario. Now, the United States acknowledge all the land within the aforementioned boundaries, to be the property of the Seneka nation; & the United States will never claim the same, nor disturb the Seneka nation, nor any of the Six Nations, or of their Indian friends residing thereon & united with them, in the free use & enjoyment thereof: but it shall remain theirs, until they choose to sell the same to the people of the United States, who have the right to purchase.

ARTICLE 4. The United States having thus described & acknowledged what lands belong to the Oneidas, Onondagas, Cayugas & Senekas, & engaged never to claim the same, nor to disturb them, or any of the Six Nations, or their Indian friends residing thereon & united with them, in the free use & enjoyment thereof: Now, the Six Nations, & each of them, hereby engage that they will never claim any other lands within the boundaries of the United States; nor ever disturb the people of the United States in the free use & enjoyment thereof.

ARTICLE 5. The Seneka nation, all others of the Six Nations concurring, cede to the United States the right of making a wagon road from Fort Schlosser to Lake Erie, as far south as Buffalo Creek; & the people of the United States shall have the free & undisturbed use of this road, for the purposes of travelling & transportation. And the Six Nations, & each of them, will forever allow to the people of the United States, a free passage through their lands, & the free use of the harbors & rivers adjoining & within their respective tracts of land, for the passing & securing of vessels & boats, & liberty to land their cargoes where necessary for their safety.

ARTICLE 6. In consideration of the peace & friendship hereby established, & of the engagements entered into by the Six Nations; & because the United States desire, with humanity & kindness, to contribute to their comfortable support; & to render the peace & friendship hereby established, strong & perpetual; the United States now deliver to the Six Nations, & the Indians of the other nations residing among & united with them, a quantity of goods of the value of ten thousand dollars. And for the same considerations, & with a view to promote the future welfare of the Six Nations, & of their Indian friends aforesaid, the United States will add the sum of three thousand dollars to the one thousand five hundred dollars, heretofore allowed them by an article ratified by the President, on the twenty-third day of April, 1792; a making in the whole, four thousand five hundred dollars; which shall be expended yearly forever, in purchasing clothing, domestic animals, implements of husbandry, & other utensils suited to their circumstances, & in compensating useful artificers, who shall reside with or near them, & be employed for their benefit. The immediate application of the whole annual allowance now stipulated, to be made by the superintendent appointed by the President for the affairs of the Six Nations, & their Indian friends aforesaid.

ARTICLE 7. Lest the firm peace & friendship now established should be interrupted by the misconduct of individuals, the United States and Six Nations 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 Six Nations or any of them, to the President of the United States, or the Superintendent by him appointed: & by the Superintendent, or other person appointed by the President, to the principal chiefs of the Six Nations, or of the nation to which the offender belongs: & such prudent measures shall then be pursued as shall be necessary to preserve our peace & friendship unbroken; until the legislature (or great council) of the United States shall make other equitable provision for the purpose.

NOTE. It is clearly understood by the parties to this treaty, that the annuity stipulated in the sixth article, is to be applied to the benefit of such of the Six Nations & of their Indian friends united with them as aforesaid, as do or shall reside within the boundaries of the United States: For the United States do not interfere with nations, tribes or families, of Indians elsewhere resident.

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In witness whereof, the said Timothy Pickering, & the sachems & war chiefs of the said Six Nations, have hereto set their hands & seals. Done at Konondaigua, in the State of New York, the eleventh day of November, in the year one thousand seven hundred and ninety-four.

Timothy Pickering, [L. S.]	Kiyauhaonh, his x mark, [L. S.]
Onoyeahnee, his x mark, [L. S.]	Ootaujeaugenh, his x mark, or Broken Axe, [L. S.]
Konneatorteeooh, his x mark, or Handsome Lake, [L. S.]	Tauhoondos, his x mark, or Open the Way, [L. S.]
Tokenhyouhau, his x mark, alias Captain Key, [L. S.]	Twaukewasha, his x mark, [L. S.]
Oneshauuee, his x mark, [L. S.]	Sequidongquee, his x mark, alias Little Beard, [L. S.]
Hendrick Aupaumut, [L. S.]	Kodjeote, his x mark, or Half Town, [L. S.]
David Neesoonhuk, his x mark, [L. S.]	Kenjauaugus, his x mark, or Stinking Fish, [L. S.]
Kanatsoyh, alias Nicholas Kusik, [L. S.]	Soonohquaukau, his x mark, [L. S.]
Sohhonteoquent, his x mark, [L. S.]	Twennyana, his x mark, [L. S.]
Ooduhtsait, his x mark, [L. S.]	Jishkaaga, his x mark, or Green Grasshopper, alias Little Billy, [L. S.]
Konoohqung, his x mark, [L. S.]	Tuggehshotta, his x mark, [L. S.]
Tossonggaolulus, his x mark, [L. S.]	Tehongyagauna, his x mark, [L. S.]
John Skenendoa, his x mark, [L. S.]	Tehongyoowush, his x mark, [L. S.]
Oneatorleeooh, his x mark, [L. S.]	Konneyoowesot, his x mark, [L. S.]
Kussauwatau, his x mark, [L. S.]	Tioohquottakauna, his x mark, or Woods on Fire, [L. S.]
Eyootenyootauook, his x mark, [L. S.]	Taoundaudeesh, his x mark, [L. S.]
Kohnyeaugong, his x mark, alias Jake Stroud, [L. S.]	Honayawus, his x mark, alias Farmer's Brother, [L. S.]
Shaguiesa, his x mark, [L. S.]	Soggooyawauthau, his x mark, alias Red Jacket, [L. S.]
Teeroos, his x mark, alias Captain Prantup, [L. S.]	Konyootiayoo, his x mark, [L. S.]
Sooshaowau, his x mark, [L. S.]	Sauhtakaongyees, his x mark, or Two Skies of a length, [L. S.]
Henry Young Brant, his x mark, [L. S.]	Ounnashattakau, his x mark, [L. S.]
Sonhyoowauna, his x mark, or Big Sky, [L. S.]	Kaungyanehquee, his x mark, [L. S.]
Onaahhah, his x mark, [L. S.]	Sooayoowau, his x mark, [L. S.]
Hotoshahenh, his x mark, [L. S.]	Kaujeagaonh, his x mark, or Heap of Dogs, [L. S.]
Kaukondanaiya, his x mark, [L. S.]	Soonooohshoowau, his x mark, [L. S.]
Nondiyauka, his x mark, [L. S.]	Thaoowaunias, his x mark, [L. S.]
Kossishtowau, his x mark, [L. S.]	Soonongjoowau, his x mark, [L. S.]
Oojaugenta, his x mark, or Fish Carrier, [L. S.]	Witnesses:
Toheonggo, his x mark, [L. S.]	. Israel Chapin. James K. Garnsey. Jasper Parish,
Kiantwhauka, his x mark, alias Cornplanter, [L. S.]	. William Shepard, jr. William Ewing.
Kaunehshonggoo, his x mark, [L. S.]	. James Smedley. Israel Chapin, jr. Interpreters.
Ootaguasso, his x mark, [L. S.]	. John Wickham. Horatio Jones, . Henry Abeele. ³²
Joonondauwaonch, his x mark, [L. S.]	. Augustus Porter. Joseph Smith, [END TRANSCRIPT]

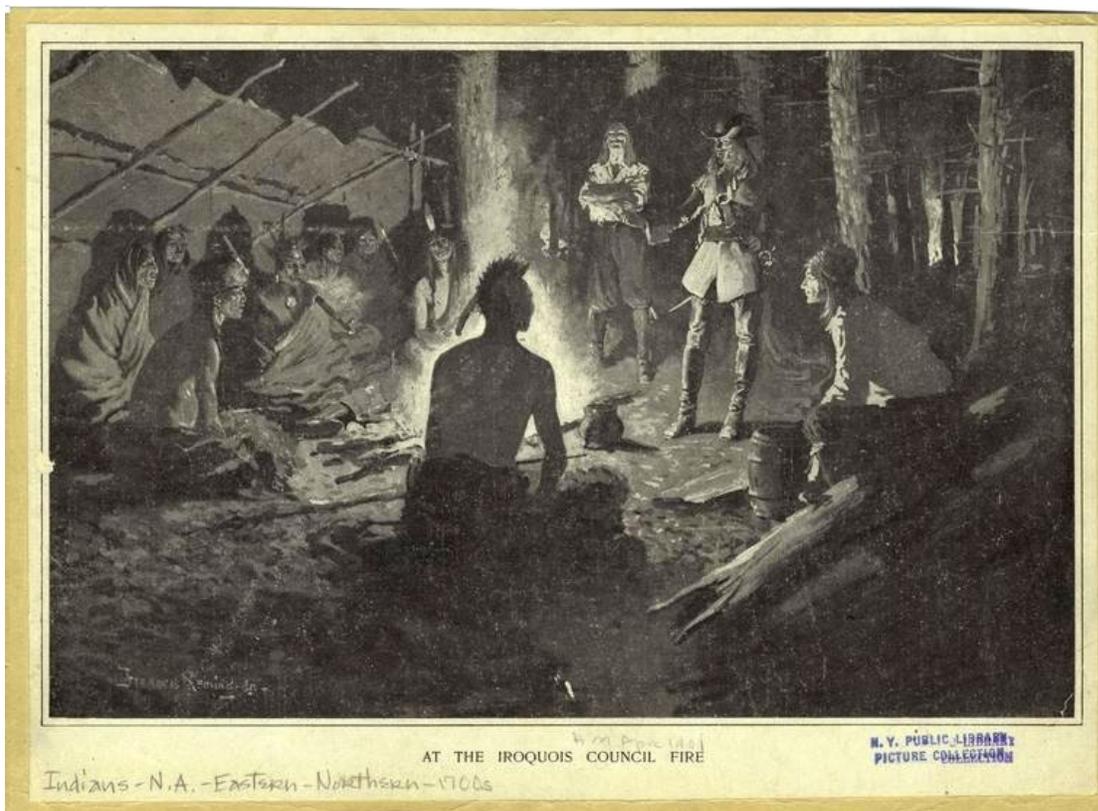
32 **INDIAN AFFAIRS: LAWS AND TREATIES, Vol. II, Treaties; Compiled & edited by Charles J. Kappler. Washington : Government Printing Office, 1904. TREATY WITH THE SIX NATIONS, 1794. Nov. 11, 1794. | 7 Stat., 44. | Proclamation, Jan. 21, 1795. Produced by the Oklahoma State University Library: <http://digital.library.okstate.edu/kappler/>**

The Pickering Treaty Holds A Special Place in Culture & History:

The “Great Binding Law”, or “The Great Law of Peace” of The Haudenosaunee Confederacy is considered the first known constitution in North America. Unlike the U.S. Constitution, The Great Law of Peace was transmitted orally during Haudausaunee council meetings from one generation to the next. It was first uttered by the Haudenosaunee leader *Dekanawidah* who led the formation of the confederacy in the 15th century, before French, Spanish, or English colonists arrived to the northeast region the continent— back when there were still *five* nations rather than six.

There is a distinct hereditary element to the structure of The Iroquois Confederacy that is not present in the U.S. Constitution, & women have a great deal more political power in Iroquois society than was granted to women in the U.S. Constitution.

Benjamin Franklin, along with other British colonists, was privy to “Iroquois council meetings”, as colonial economic & political life was intricately connected with their indigenous neighbors. As a result of such interactions, Franklin became well acquainted with the ways of the Iroquois & others in the regions neighboring the colonies.³³



Art and Picture Collection, The New York Public Library. "At the Iroquois council fire." New York Public Library Digital Collections. Accessed May 16, 2017: <http://digitalcollections.nypl.org/items/510d47e1-1a46-a3d9-e040-e00a18064a99>

33 University of Texas at Austin, “American Roots: An Example of Syncretism” by Meredith Moore & Ashley Mora: http://www.edb.utexas.edu/faculty/salinas/students/student_sites/Spring2008/Ashley_Meredith/parallels.html