
Treaty, Congressional Resolution, Government-to-Government Relationship Lesson

By: Lena Jones, HCC Education Curator

This project correlates to the exhibits of Consistent Leadership, Treaty Sections, Sovereignty, and the temporary exhibit, The Power of Words.

9th Grade



On June 11 1776, an Onondaga sachem gave John Hancock an Iroquois name at Independence Hall. Copyright 1991 by John Kishorha Fudala

Student's Section:

difəx^w łushuyləp (This is what you folks will do.):

- 1) At the 100th Congress, 2nd session, the House of Representatives, with the Senate concurring, passed Concurrent Resolution 331, reaffirming the United States trust responsibility to Native American tribes, and its duty to uphold its legal and moral obligations with regards to treaties. The resolution gives an overview of the history for the United States' government-to-government relationship with Native American tribes. Read the Concurrent Resolution and the added images.

100TH CONGRESS

2D SESSION

H, CON, RES, 331.

THE SENATE OF THE UNITED STATES

OCTOBER 5 (legislative day, SEPTEMBER 26), 1988

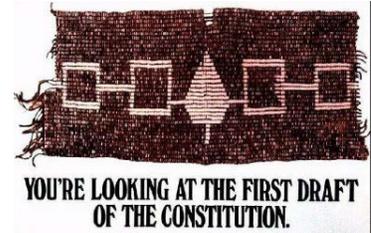
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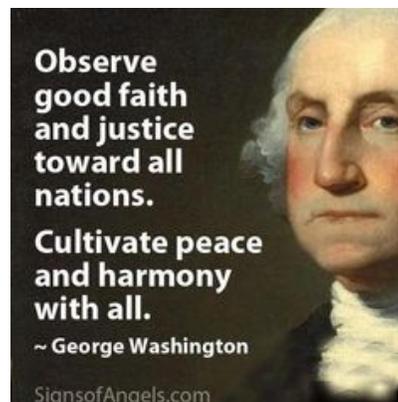
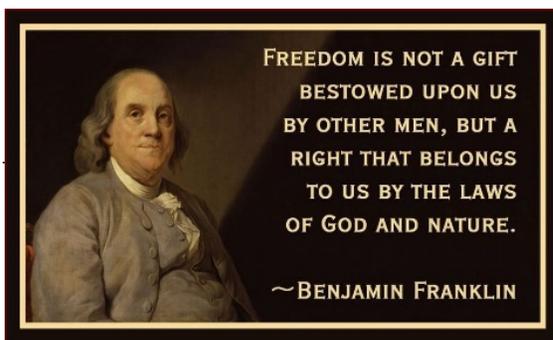
Committee discharged

CONCURRENT RESOLUTION

To acknowledge the contribution of the Iroquois Confederacy of Nations to the development of the United States Constitution and to reaffirm the continuing government-to-government relationship between Indian tribes and the United States established in the Constitution.



Whereas the original framers of the Constitution, including, most notably, George Washington and Benjamin Franklin, are known to have greatly admired the concepts of the Six Nations of the Iroquois Confederacy;



"Never disagree, but preserve a strict Friendship for one another, and thereby you, as well as we, will become the stronger. Our wise Forefathers established Union and Amity between the Five Nations; this has made us formidable; this has given us great Weight and Authority with our neighboring Nations. We are a powerful Confederacy; and, by your observing the same Methods our wise Forefathers have taken, you will acquire fresh Strength and Power; therefore whatever befalls you, never fall out one with another. . . . Many arrows cannot be broken as easily as one."
Canassatego, Onondaga leader, 1744

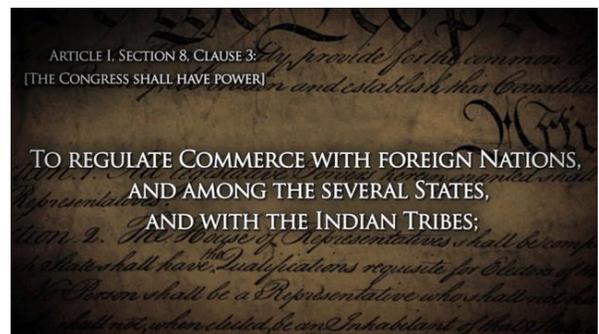


Whereas the confederation of the original Thirteen Colonies into one republic was influenced by the political system developed by the Iroquois Confederacy as were many of the democratic principles which were incorporated into the Constitution itself; and

2

Whereas, since the formation of the United States, the Congress has recognized the sovereign status of Indian tribes and has, through the exercise of powers reserved to the Federal Government in the Commerce Clause of the Constitution (art. I, s.2, cl. 3), dealt with Indian tribes on a government-to-government basis and has, through the treaty clause (art. II, s.2, cl. 2) entered into three hundred and seventy treaties with

Indian tribal Nations;



Treaty Clause

- ◆ Article II, Section 2, clause 2 states that the president *"shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the senators present concur."*
- ◆ The president is the agent of the United States in dealing with foreign countries.

Treaty Law, Article VI

"This Constitution, . . . and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land"

Whereas, from the first treaty entered into with an Indian Nation, the treaty with the Delaware Indians of September 17, 1778, the Congress has assumed a trust responsibility and obligation to Indian tribes and their members;

1778: Treaty with the Delawares *(Lenape Indians)*



- 1st treaty between the US gov't & any N.A.
- Americans allowed to go through Lenape territory
- Lenapes will help US against Britain
- Recognized the Lenape as independent nation & guaranteed territorial rights

Whereas this trust responsibility calls for Congress to "exercise the utmost good faith in dealings with Indians" as provided for in the Northwest Ordinance of 1787, (1 Stat. 50);

Northwest Ordinance

- **Importance of Northwest Ordinance:**
 - ▣ Set foundation in how to organize a state
 - ▣ Restricted slavery in that land
 - ▣ Made provisions for public education
 - ▣ Included "Utmost good faith" clause for dealing with the Native Americans in the Northwest Territory

The North West Ordinance of 1787 Max Porter

This ordinance put into place laws for settlers in this new territory.



Northwest Territory

The ordinance also describes how territories become states

- When there are only a few settlers, their government is:
 - A **governor** appointed by congress
 - A **secretary** appointed by congress
 - Three judges** appointed by congress
- When the population is more than **5,000 FREE MEN** those men may elect a **TWO PART LEGISLATURE**
- ONCE THE AREA HAS 60,000 FREE MEN** THE LEGISLATION CAN WRITE A **STATE CONSTITUTION FOR CONGRESS TO APPROVE**

 FREEDOM OF RELIGIOUS WORSHIP
 NO CRUEL OR UNUSUAL PUNISHMENTS FOR A CRIME
 RIGHT TO A JURY TRIAL FOR ANYONE ACCUSED OF A CRIME
 NO SLAVERY IN THIS TERRITORY

Whereas the judicial system of the United States has consistently recognized and reaffirmed this special relationship:

THE SUPREMACY CLAUSE Article VI

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



WORCESTER VS. GEORGIA

Specifically, the Cherokee Nation refused to leave their land in the state of Georgia.

- Georgia denied the presence of the Cherokee people, so as a result, the Cherokee sued the state government and took their case to the Supreme Court.
- In the 1832 *Worcester v. Georgia*, Chief Justice John Marshall ruled that Georgia had no right to remove the Cherokee. He said that they were protected by the federal government and Constitution.
- Andrew Jackson, a supporter of Georgia's actions, ignored the Supreme Court ruling and continued with the Cherokee's removal.

- 1974 – Judge George Hugo Boldt rules in favor of the tribes in *US v Washington*, “The Boldt Decision”

- Boldt ruled treaty fishing of Northwest tribes a right, not a privilege
- Using dictionaries from the 1800s, interpreted “in common with” to mean the tribes were eligible to 50% of the harvestable run, after ceremonial and subsistence needs were met
- Tribes were made co-managers of the fishery

**SUPREME COURT RE-STATED THE
“...DISTINCTIVE OBLIGATION OF TRUST
INCUMBENT UPON THE GOVERNMENT IN ITS
DEALINGS WITH DEPENDENT AND SOMETIMES
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**ACCORDINGLY, THE U.S. GOVERNMENT
ACCEPTED MANY OBLIGATION TO NATIVE
AMERICAN TRIBES INCLUDING EDUCATION,
CONSTRUCTION, LAW ENFORCEMENT AND
HEALTH CARE**

United States Supreme Court
Cherokee Nations, 30 U.S. (5Per.)at 17

Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That—

(1) the Congress, on the occasion of the two hundredth anniversary of the signing of the United States Constitution, acknowledges the contribution made by the Iroquois Confederacy and other Indian Nations to the formation and development of the United States;

(2) the Congress also hereby reaffirms the constitutionally recognized **government-to-government relationship** with Indian tribes which has been the cornerstone of this Nation's official Indian policy;

3

(3) the Congress specifically acknowledges and reaffirms the trust responsibility and obligation of the United States Government to Indian tribes, including Alaska Natives, for their preservation, protection, and enhancement, including the provision of health, education, social, and economic assistance programs as necessary, and including the duty to assist tribes in their performance of governmental responsibility to provide for the social and economic well-being of their members and to preserve tribal cultural identity and heritage; and

(4) the Congress also acknowledges the need to exercise the utmost good faith in upholding its treaties with the various tribes, as the tribes understood them to be, and the duty of a great Nation to uphold its legal and moral obligations for the benefit of all of its citizens so that they and their posterity may also continue to enjoy the rights they have enshrined in the United States Constitution for time immemorial.

Passed the House of Representative October 4, 1988.

Attest:

DONNALD K. ANDERSON,

Clerk.HCON 381 CDS

- 2) Look up the following terms on Dictionary.com, and write the definition that may best fit in the context of this resolution.

Resolution:

Concurrent Resolution:

Congress:

Constitution:

Constitution of the United States:

Confederacy:

Government:

Supreme Court:

2) Reflect (Optional)

- a. On the Great Seal of the United States (eagle holding a scroll, olive branch, and arrows), what is the translation for the Latin term "E Pluribus Unum"?
<http://greatseal.com/symbols/olives.html>
- b. On the Great Seal of the United States, what do the olive on the left hand and arrows on the right hand signify? And what is the significance of the arrows being wound tightly?
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- c. How might these have been inspired by Onandaga leader Canassatego's advice in 1744, Canassatego sometimes being referred to as the "forgotten founding father"?
- d. Aside from deciding how territories could become states and giving an initial bill of rights, what did the Northwest Ordinance of 1787 give as a responsibility to Congress regarding Native Americans?
- e. List two Supreme Court decisions which reaffirmed that treaties made with tribes are the supreme law of the land and recognized the special relationship of the U.S. government with tribes.
- f. What did Congress reaffirm that is the cornerstone of this nation's official Indian policy?
- g. Name two things Congress reaffirmed and recognized in this Concurrent Resolution 381 in 1988.

- 3) If you were a journalist and were assigned to write an article about this particular legislation, list the areas and main points you would write about? Would there be anything of interest you would add for your audience? Would you be interested in interviewing anyone for the article? Who and why?

(Full text of Resolution: <https://www.senate.gov/reference/resources/pdf/hconres331.pdf>, [https://www.congress.gov/bill/100th-congress/house-concurrent-resolution/331.](https://www.congress.gov/bill/100th-congress/house-concurrent-resolution/331))

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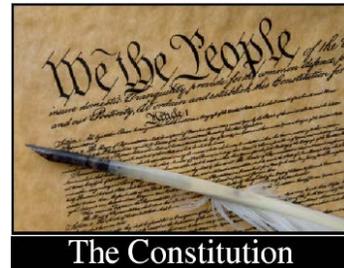
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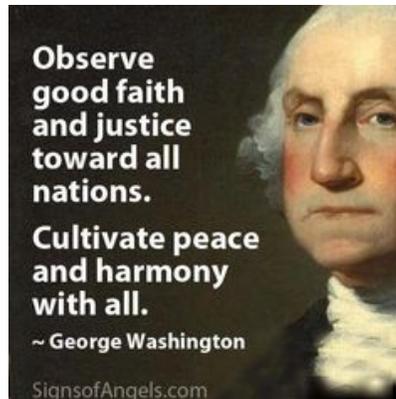
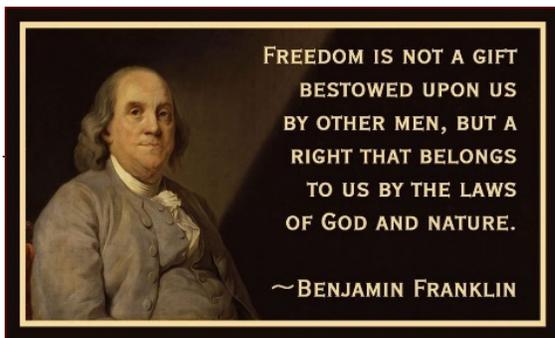
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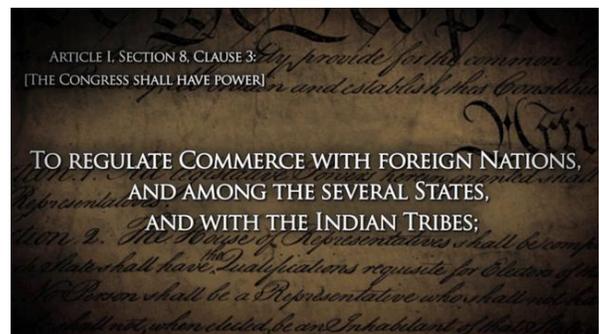
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Attest:

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- 2) Look up the following terms on Dictionary.com, and write the definition that may best fit in the context of this resolution.

Resolution: A formal expression of opinion or intention made, usually after voting, by a formal organization, a legislature.

Concurrent Resolution: A resolution adopted by both branches of a legislative assembly that, unlike a joint resolution, does not require the signature of the chief executive.

Congress: The national legislative body of a nation, especially of a republic.

Constitution: The system of fundamental principles according to which a nation, state, corporation, or the like, is governed.

Constitution of the United States: The fundamental or organic law of the U.S., framed in 1787 by the Constitutional Convention. It went into effect March 4, 1789.

Confederacy: An alliance between persons, parties, states, etc., for some purpose.

Government: The form or system of rule by which a state, community, etc., is governed.

Supreme Court: The highest court of the U.S.

3) Reflect (Optional)

- a. On the Great Seal of the United States (eagle holding a scroll, olive branch, and arrows), what is the translation for the Latin term 'E Pluribus Unum'?
<http://greatseal.com/mottoes/unum.html>
"Out of many, one." Or "Many uniting into one."
- b. On the Great Seal of the United States, what do the olive on the left hand and arrows on the right hand signify? And what is the significance of the arrows being wound tightly?
<http://greatseal.com/symbols/olives.html>, <http://greatseal.com/symbols/arrows.html>
They denote the power of peace and war. The arrows wound tightly signifies strength in unity.
- c. How might these have been inspired by Onandaga leader Canassatego's advice in 1744, Canassatego sometimes being referred to as the "forgotten founding father"?
Canassatego said there is strength and power in a strong unity, and that many arrows together could not be broken as easily as one.
- d. Aside from deciding how territories could become states and giving an initial bill of rights, what did the Northwest Ordinance of 1787 give as a responsibility to Congress regarding Native Americans?
It included an "utmost good faith" clause when dealing with Native Americans.

- e. List two Supreme Court decisions which reaffirmed that treaties made with tribes are the supreme law of the land and recognized the special relationship of the U.S. government with tribes.

Worcester vs. Georgia, 1832 (affirmed trust obligation by government to tribes through treaties)

U.S. vs. Washington, 1974 (affirmed fishing as a treaty right for Northwest tribes)

McGirt vs. Oklahoma, 2020 (affirmed tribal sovereignty and treaty rights)

- f. What did Congress reaffirm that is the cornerstone of this nation's official Indian policy?
The constitutionally recognized government-to-government relationship with tribes

- g. Name at least two things Congress reaffirmed and recognized in this Concurrent Resolution 381 in 1988.

- Acknowledged the contribution made by the Iroquois Confederacy and other Indian Nations to the formation and development of the United States
- Reaffirmed the constitutionally recognized **government-to-government relationship** with Indian tribes
- Acknowledged and reaffirmed the trust responsibility and obligation of the United States Government to Indian tribes
- Reaffirmed the duty to assist tribes in their performance of governmental responsibility to provide for the social and economic well-being of their members and to preserve tribal cultural identity and heritage
- Acknowledged the need to exercise the utmost good faith in upholding its treaties with the various tribes, as the tribes understood them to be
- Acknowledged the duty of a great Nation to uphold its legal and moral obligations for the benefit of all of its citizens

- 4) If you were a journalist and were assigned to write an article about this particular legislation, list the areas and main points you would write about? Would there be anything of interest you would add for your audience? Would you be interested in interviewing anyone for the article? Who and why?

This is subjective on the last two questions. The first, as long as at least three of the following items are listed:

- Acknowledges the contributions made by the Iroquois Confederacy and other Indian nations to the formation and development of the United States.
- Reaffirms the government-to-government relationship between the United States and Indian tribes.
- Reaffirms the trust responsibility and obligation of the Government to Indian tribes, including Alaska Natives.
- Acknowledges the need to exercise good faith in upholding treaties with the various tribes.

(Full text of Resolution: <https://www.senate.gov/reference/resources/pdf/hconres331.pdf>, <https://www.congress.gov/bill/100th-congress/house-concurrent-resolution/331>)