

# Northwest Ordinance

[http://en.wikipedia.org/wiki/Northwest\\_Ordinance](http://en.wikipedia.org/wiki/Northwest_Ordinance)

The Northwest Ordinance (formally An Ordinance for the Government of the Territory of the United States, North-West of the River Ohio, and also known as the Freedom Ordinance or The Ordinance of 1787) was an act of the [Congress of the Confederation](#) of the [United States](#) (the Confederation Congress), passed July 13, 1787. The ordinance created the [Northwest Territory](#), the first [organized territory](#) of the United States, from lands beyond the [Appalachian Mountains](#), between [British Canada](#) and the [Great Lakes](#) to the north and the [Ohio River](#) to the south. The upper [Mississippi River](#) formed the Territory's western boundary.

On August 7, 1789, first President [George Washington](#) signed a replacement, the Northwest Ordinance of 1789, in which the new [U.S. Congress](#) reaffirmed the Ordinance with slight modifications under the newly effective [Constitution of the United States](#). The Ordinance purported to be not merely legislation that could later be amended by the Congress, but rather "the following articles shall be considered as Articles of compact between the original States and the people and states in the said territory, and forever remain unalterable, unless by common consent...."<sup>[1]</sup>

**Arguably the single most important piece of legislation passed by members of the earlier Continental Congresses and the Confederation Congress,**

other than the [Declaration of Independence](#) itself and the seminal, precedent-setting "[Articles of Confederation and Perpetual Union](#)", it established the precedent by which the Federal government would be sovereign and expand westward across [North America](#) with the admission of new [states](#), rather than with the expansion of existing [states](#) and their established sovereignty under the old [Articles of Confederation](#).

**It is the most important legislation that Congress has passed with regard to American public domain lands.**<sup>[2]</sup>

The [U.S. Supreme Court](#) recognized the authority of the Northwest Ordinance of 1789 within the applicable [Northwest Territory](#) as constitutional in [Strader v. Graham](#), [51 U.S. 82, 96, 97](#) (1851), but did not extend the Ordinance to cover the respective states once they were admitted to the Union.<sup>[3]</sup>

The prohibition of [slavery](#) in the territory had the practical effect of establishing the [Ohio River](#) as the boundary between free and slave territory in the region between the [Appalachian Mountains](#) and the [Mississippi River](#). This division helped set the stage for national competition over admitting [free](#) and [slave states](#), the basis of a critical question in American politics in the 19th century until the [Civil War](#).



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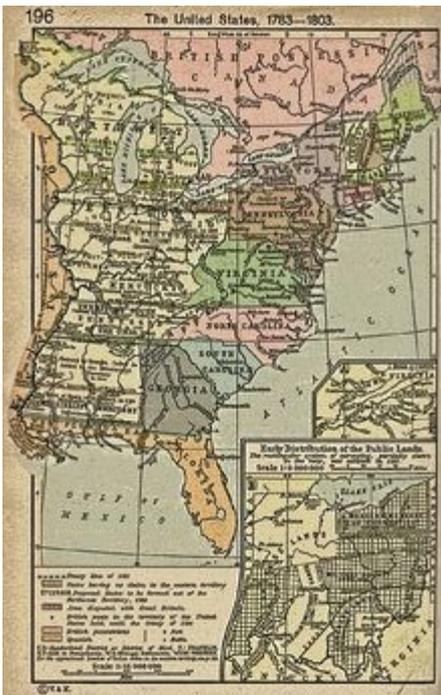
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## Context and history

Main article: [Northwest Territory](#)

North America, ca. 1685. ([Hugo Allard](#))

Since earliest times, rivers have been the arteries of inland travel, and the history of exploration in North America has been based in its waterways. Having been excluded from known sea routes to the orient, which were based in European trade, the early French and British explorers in the area searched for the mythic water route known as the [Northwest Passage](#) through North America to the Pacific Ocean. English settlement was concentrated along the Atlantic coast; the French established dominance over the inland areas around the Great



The territories northwest and southwest of the [Ohio River](#) are depicted on this map of the early United States (1783–1803).

Lakes and major rivers, with the help of native Indian knowledge. From 1660 to 1670, French Jesuit missionaries extended into the new territory, with establishments at Sault Ste. Marie and Green Bay. In 1673, Father [Marquette](#) and explorer [Joliet](#) traveled south on Lake Michigan to Green Bay, crossed the divide of the [Fox](#) into the Wisconsin and reached the Mississippi River, from where they continued southward passing the confluence of the [Pekistanoui](#) from the west, the Ohio from the east, and until noting signs of Spanish influence from the south. This exploration largely defined the known limits of the Northwest Territories. Between 1673 and 1684 [La Salle](#) opened another water route from the St. Lawrence River, through the Niagara and the Great Lakes and across the [Chicago portage](#) to the Mississippi. In what became known as [Illinois Country](#), he founded forts on the St. Joseph River in Michigan, and on the Illinois River and farther south. LaSalle understood the meaning of the crossing paths of French and Spanish exploration from opposite directions, and outlined the main lines of future French strategy in North America; he recognized the Mississippi as the key to control of the vast continental heartland, and the Ohio River became the line beyond which they would attempt to bar British expansion from the east. This lasted for nearly a hundred years under French colonial rule and another twenty under the British. During this time, the waterways were the transportation and trading routes which yielded the inland's vast riches; they were both a source of European rivalry and the object of future American developmental desire.<sup>[4]</sup>

The territory was acquired by [Great Britain](#) from [France](#) following victory in the [Seven Years' War](#) and the [1763 Treaty of Paris](#). Great Britain took over the [Ohio Country](#), as its eastern portion was known, but a few months later closed it to new European settlement by the [Royal Proclamation of 1763](#). The Crown tried to restrict settlement of the thirteen colonies between the Appalachians and the Atlantic, which raised colonial tensions among those who wanted to move west. With the colonials' victory in the [American Revolutionary War](#) and signing of the

[1783 Treaty of Paris](#), the United States claimed the territory, as well as the areas south of the Ohio. The territories were subject to overlapping and conflicting [claims of the states](#) of [Massachusetts](#), [Connecticut](#), [New York](#), and [Virginia](#) dating from their colonial past. The British were active in some of the border area until after the [Louisiana Purchase](#) and the [War of 1812](#).

The region had long been desired for expansion by colonists. The states were encouraged to settle their claims by the US government's *de facto* opening of the area to settlement following the defeat of Great Britain. In 1784, [Thomas Jefferson](#), a delegate from Virginia, proposed that the states should relinquish their particular claims to all the territory west of the Appalachians, and the area should be divided into new states of the Union. Jefferson's proposal to create a federal domain through state cessions of western lands was derived from earlier proposals dating back to 1776 and debates about the [Articles of Confederation](#).<sup>[5]</sup> Jefferson proposed creating seventeen roughly rectangular states from the territory, and suggested names for the new states, including *Chersonesus*, *Sylvania*, *Assenisipia*, *Metropotamia*, *Polypotamia*, *Pelispia*, *Saratoga*, *Washington*, *Michigania* and *Illinoia*.<sup>[6]</sup> The Congress of the Confederation modified the proposal, passing it as the [Land Ordinance of 1784](#). This ordinance established the example that would become the basis for the Northwest Ordinance three years later. [Michigan](#), [Illinois](#), and [Washington](#) were eventually adopted as new state names.

The 1784 ordinance was criticized by [George Washington](#) in 1785 and [James Monroe](#) in 1786. Monroe convinced Congress to reconsider the proposed state boundaries; a review committee recommended repealing that part of the ordinance. Other politicians questioned the 1784 ordinance's plan for organizing governments in new states, and worried that the new states' relatively small sizes would undermine the original states' power in Congress. Other events such as the reluctance of states south of the Ohio River to cede their western claims resulted in a narrowed geographic focus.<sup>[5]</sup>

When passed in New York in 1787, the Northwest Ordinance showed the influence of Jefferson. It called for dividing the territory into gridded townships, so that once the lands were surveyed, they could be sold to individuals and speculative land companies. This would provide both a new source of federal government revenue and an orderly pattern for future settlement.<sup>[7]</sup>

## Effects of the legislation

### Established legal basis of land ownership

The Northwest Ordinance of 1787 established the concept of [fee simple](#) ownership, by which ownership was in perpetuity with unlimited power to sell or give it away. This was called the "first guarantee of freedom of contract in the United States."<sup>[8]</sup>

### Abolition and transfer of state claims

Main article: [State cessions](#)



Plaque commemorating the Northwest Ordinance outside [Federal Hall National Memorial](#) in New York (site of the U.S. Capital in 1787)

The passage of the ordinance, which ceded all unsettled lands to the federal government and established the [public domain](#), followed the relinquishing of all such claims over the territory by the states. These territories were to be administered directly by Congress, with the intent of their eventual admission as newly created states. The legislation was revolutionary in that it established the precedent for new lands to be administered by the central government, albeit temporarily, rather than under the jurisdiction of the individually sovereign original states, as it was with the [Articles of Confederation](#). The legislation also broke colonial precedent by defining future use of the natural navigation, transportation and communication routes; it did so in a way that anticipated future acquisitions beyond the Northwest Territories, and established federal policy.<sup>[4]</sup> Article 4 states: "The navigable waters leading into the Mississippi and St. Lawrence, and the carrying places between the same, shall be common highways and forever free, as well to the inhabitants of the said territory as to the citizens of the United States, and those of any other States that may be admitted into the confederacy, without any tax, impost, or duty therefor."

## Admission of new states

The most significant intended purpose of this legislation was its mandate for the creation of new states from the region, once a population of 60,000 had been achieved within a particular territory. The actual legal mechanism of the admission of new states was established in the [Enabling Act of 1802](#). The first state created from the Northwest Territory was [Ohio](#), in 1803, at which time the remainder was renamed Indiana Territory. The other four states were Indiana, Illinois, Michigan, and Wisconsin. A significant portion (about 1/3) of Minnesota was also part of the territory.

## Education, [Ohio University](#)

The ordinance of Congress called for a public university as part of the settlement and eventual statehood of the [Ohio Territory](#), further stipulating "Religion, morality and knowledge being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged." In 1786, [Manasseh Cutler](#) became interested in the settlement of western lands by [American pioneers to the Northwest Territory](#). The following year, as agent of the [Ohio Company of Associates](#) that he had been involved in creating, he organized a contract with Congress whereby his associates (former soldiers of the Revolutionary War) might purchase one and a half million acres (6,000 km<sup>2</sup>) of land at the mouth of the [Muskingum River](#) with their Certificate of Indebtedness. Cutler also took a leading part in drafting the famous [Ordinance of 1787](#) for the government of the Northwest Territory, which was finally presented to Congress by Massachusetts delegate [Nathan Dane](#). In order to smooth passage of the Northwest Ordinance, Cutler bribed key congressmen by making them partners in his land company. By changing the office of provisional governor from an elected to an appointed position, Cutler was able to offer the position to the president of Congress, Arthur St. Clair.<sup>[9]</sup> In 1797, settlers from [Marietta](#) traveled upstream via the [Hocking River](#) to establish a location for the school, choosing [Athens](#) due to its location directly between [Chillicothe](#) (the original capital of [Ohio](#)) and [Marietta](#). Originally named in 1802 as the American Western University, Ohio University was formally established on February 18, 1804, when its charter was approved by the Ohio General Assembly.<sup>[9]</sup> Its establishment came 11 months after [Ohio](#) was admitted to the Union. The first three students enrolled in 1808. Ohio University graduated two students with bachelor's degrees in 1815. The university grew rapidly throughout the 1800s, attracting students and faculty from across the nation and world.

## Establishment of territorial government

Before the population of a territory reached 5000, there would be a limited form of government. There would be a governor, a secretary, and three judges, all Congress appointed. The governor will have a "freehold estate therein, in one thousand acres of land,". The secretary and the judges will have a, "freehold estate therein, in five hundred acres of land". The governor would be commander-in-chief of the militia, appoint magistrates and other civil officers, and help create and publish laws as they see fit for their territory. They would have a three year term. The secretary would be in charge of keeping and preserving the acts and laws passed by the territorial legislatures, the public records of the district and to transmit authentic copies of such acts and proceedings every six months to the secretary of the Continental Congress. They would have a four year term. The judges would be in charge will help the governor create and pass acts and laws and in making official court rulings. Their terms did not have a set time period. As soon as the population of a territory reached 5000 free, male inhabitants, then they would receive authority to elect representatives from their counties or townships for the general assembly. For every 500 free, males there would be one representative, until there were 25 representatives. Then the Congress will control the number and proportion of the representatives from that legislature. No male can be a representative unless they have been a citizen of the United States for at least three years or lived in the district for three years. In both cases the male in question would have to own at least 200 acres of land within the same district. These representatives shall serve for a term of two years. If a representative died or was removed from office, a new one would be elected to serve out the remainder time.

## Establishment of Natural Rights

The [Natural Rights](#) provisions of the ordinance foreshadowed the [Bill of Rights](#), the first ten amendments to the [U.S. Constitution](#).<sup>[10]</sup> Many of the concepts and guarantees of the Ordinance of 1787 were incorporated in the [U.S. Constitution](#) and the [Bill of Rights](#). In the Northwest Territory, various legal and property rights were enshrined, [religious tolerance](#) was proclaimed, and it was enunciated that since "Religion, morality, and knowledge, being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged." The right of [habeas corpus](#) was written into the charter, as was freedom of religious worship and bans on excessive fines and [cruel and unusual punishment](#). Trial by jury and a ban on ex post facto laws were also rights recognized.

## Prohibition of slavery

Art. 6. There shall be neither slavery nor involuntary servitude in the said territory, otherwise than in the punishment of crimes whereof the party shall have been duly convicted: Provided, always, That any person escaping into the same, from whom labor or service is lawfully claimed in any one of the original States, such fugitive may be lawfully reclaimed and conveyed to the person claiming his or her labor or service as aforesaid.<sup>[11]</sup>

The language of the ordinance prohibits slavery, but also contained a clear fugitive slave clause as well.<sup>[12]</sup> Efforts in the 1820s by pro-slavery forces to legalize slavery in two of the states created from the Northwest Territory failed, but an "indentured servant" law allowed some slaveholders to bring slaves under that status; they could not be bought or sold.<sup>[13][14]</sup> Southern states voted for the law because they did not want to compete with the territory over tobacco as a commodity crop; it was so labor-intensive that it was grown profitably only with slave labor. Additionally, slave-states' political power would merely be equalized, as there were three more slave-states than there were free-states in 1790.<sup>[17]</sup>

The balance of the number of free versus slave states was not affected, as most slave states in 1790 were south of the Ohio River.<sup>[15]</sup>

## Effects on Native Americans

In two parts, the Northwest Ordinance mentions the [Native Americans](#) within this region. The first pertains to the demarcation of counties and townships out of lands that the Indians were regarded as having lost or relinquished title:

Section 8. For the prevention of crimes and injuries, the laws to be adopted or made shall have force in all parts of the district, and for the execution of process, criminal and civil, the governor shall make proper divisions thereof; and he shall proceed from time to time as circumstances may require, to lay out the parts of the district in which the Indian titles shall have been extinguished, into counties and townships, subject, however, to such alterations as may thereafter be made by the legislature.<sup>[18]</sup>

The second describes the preferred relationship with the Indians:

Article III. Religion, morality, and knowledge, being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged. The utmost good faith shall always be observed towards the Indians; their lands and property shall never be taken from them without their consent; and, in their property, rights, and liberty, they shall never be invaded or disturbed, unless in just and lawful wars authorized by Congress; but laws founded in justice and humanity, shall from time to time be made for preventing wrongs being done to them, and for preserving peace and friendship with them.<sup>[19]</sup>

Many Native Americans in Ohio, who were not parties, refused to acknowledge treaties signed after the Revolutionary War that ceded lands north of the [Ohio River](#) inhabited by them to the United States. In a conflict sometimes known as the [Northwest Indian War](#), [Blue Jacket](#) of the [Shawnees](#) and [Little Turtle](#) of the [Miamis](#) formed a confederation to stop white expropriation of the territory. After the Indian confederation had killed more than 800 soldiers in two battles — the worst defeats ever suffered by the U.S. at the hands of the Indians — [President Washington](#) assigned [General Anthony Wayne](#) command of a [new army](#), which eventually defeated the confederation and thus allowed European-Americans to continue settling the territory.

## Commemoration

On July 13, 1937, the U.S. Post Office issued a [commemorative stamp](#) that commemorated the 150th anniversary of the North West Ordinance of 1787. The engraving on the stamp depicts a map of the United States at the time with the North West Territory between the figures of [Manasseh Cutler](#) (left) and [Rufus Putnam](#).<sup>[20]</sup>



Ordinance of 1787 Commemorative stamp  
Issue of 1937

## Definition of the Midwest as a region

The Northwest Ordinance, along with the [Land Ordinance of 1785](#), laid the legal and cultural groundwork for [midwestern](#) (and subsequently, western) development. Significantly, the [free state](#) legal philosophies of both [Abraham Lincoln](#) and [Salmon P. Chase](#) (Chief Justice, Senator, and early Ohio law author) were derived from the Northwest Ordinance.<sup>[citation needed]</sup>

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