

Northwest Ordinance (1787)

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Historical Background

The 1783 Treaty of Paris ceded land previously claimed by Great Britain to the new American government. This land included all the previous British possessions east of the Mississippi River. This land cession relieved tensions caused by the prohibition of western migration previously imposed by the British, but it created new problems. Many states claimed that portions of the western territories belonged to them, as specified by original colonial charters. How could the states be convinced to give up these claims? The new territory was not empty – many Native Americans lived there – but it was not formally organized into counties and towns or any such permanent designations. How then, was the new territory to be organized? When it was settled by Americans, how would those citizens protect their legal rights? Would the area be annexed into existing states or would new states be created?

Historical Significance

The Northwest Ordinance, passed by Congress under the Articles of Confederation, and re-ratified by the Congress under the new Constitution in 1789, resolved many of these questions, setting in motion a path of westward expansion that would have a profound impact on both Native Americans and American settlers moving west. In order to assure passage in Congress, the Northwest Ordinance was limited to the area northwest of the Ohio River. But in that limited domain it required all land claims by the Eastern seaboard states to be relinquished to the national government, thereby establishing the Northwest Territory. This territory would be eligible to become between three and five states, based on a three-step process. In the first, the territory would be divided. In the second, each territory would be governed by a territorial assembly and a governor appointed by Congress. Finally, once the territory was inhabited by 60,000 individuals, it would be eligible for statehood as soon as it adopted a state constitution. Besides defining this process, the Northwest Ordinance settled several other thorny issues, such as how the land would be organized (gridded townships – a grid that is still quite visible when flying above these states even today) and whether or not slaveholding would be allowed in the territory. The Ordinance prohibited slavery in the new territory but at the price of a compromise: a fugitive slave clause was inserted into the agreement to require the return of enslaved individuals escaping from south of the Ohio. Finally, the Ordinance guaranteed certain rights of citizens living in the territory, such as trial by jury and freedom of religious worship.

Key Concepts and Learning Objectives

Concepts: territory; statehood; fugitive slave clause; westward expansion; republicanism

Learning objectives: On completion of this unit, students will be able to:

- Describe the process by which a territory became a state;
- describe the fundamental rights held by citizens of the territories;
- examine and evaluate the republican character of the institutions created by the Northwest Ordinance;
- explain how the Northwest Ordinance became a template for future territorial expansion;
- describe and explain the origin of the conflict between the admittance of “free” and “slave” states to the Union.

Questions to Explore

The Northwest Ordinance required those who wished to vote or run for elected office to hold a certain minimum amount of property. Why do you think that restriction was included? Why are such restrictions usually seen as illegitimate today? Are such requirements always unjust or can they be justified in some circumstances? Why or why not?

According to the Northwest Ordinance the governor of the territory and its chief judges were all appointed by Congress. To what extent does this feature of territorial government jeopardize the fundamental democratic legitimacy of those governments? How much rule “of the people, by the people, for the people” is necessary before a government can be called republican—or democratic? Is there a difference?

The Northwest Ordinance flatly declared slavery to be illegitimate, at least north of the Ohio River. In order to get this declaration passed, however, antislavery advocates had to agree to include a fugitive slave provision in the document. To what extent are compromises, and even potentially immoral compromises, necessary to promote justice? How should a principled antislavery advocate have voted on the Northwest Ordinance?

The Northwest Ordinance declared that Indians in the territory were to be given title to the land that they occupied and were to be respected by the new settlers that came to the territory. How are we to evaluate such language in the context of continuous strife and outright violence between settlers and Indians before, during, and after the passage of the Ordinance? What is the value of words that seem to be mere “parchment protections” for the rights of the minority?

Neither the Articles of Confederation nor the Constitution describes the process of creating new states. How should the “gaps” in a Constitution be construed? Should the Congress only be prohibited from doing things specifically forbidden in the Constitution or should it only be empowered to exercise its enumerated powers? Defend your view with regards to the Northwest Ordinance and a contemporary issue of your choice.