

Legal aspects of the American Civil War

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ABSTRAKT

Tato bakalářská práce se zabývá legálními aspekty americké občanské války, popisuje a rozebírá jednotlivé dokumenty, které byly v jejím průběhu vydány a schváleny. Přední osobností celého dění byl prezident Abraham Lincoln, tudíž klíčovým faktem celé studie je zjištění, zdali se choval v souladu s předpisy a ústavou. Práce dochází k závěru, že prezident Lincoln vládl né vždy podle předpisů a ústavy, přesto však je jeho vláda vyhodnocena převážně pozitivně.

Klíčová slova:

Občanská válka, Ústava, Abraham Lincoln, otroctví, Habeas Corpus, Konfiskační akt, Emancipační akt

ABSTRACT

This bachelor thesis applies of the legal aspects of the American Civil War, it describes and analyzes particular documents that were issued and enacted in its duration. The leading figure of the whole event was the President Abraham Lincoln, thus the key fact of all this study is finding out if he was acting in accordance with the rules and the Constitution. The study concludes that President Lincoln did not always rule according to regulation and the Constitution; for all that his administration is appraised predominantly in a positive way.

Keywords:

Civil war, Constitution, Abraham Lincoln, slavery, Habeas Corpus, Confiscation Act, Emancipation Proclamation

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INTRODUCTION

This bachelor thesis has its main focus on the legal aspects of the American Civil War, the most bloody conflict in the history of America that claimed 650 000 victims. It was the war between the North and the South over the economical and demographical superiority of the North and their effort to abolish the slavery and to preserve the unity of the state.

The main personality of this period was certainly the president Abraham Lincoln therefore I will follow his steps during the civil war and I will try to find out whether his movements were right or not in every aspect regarding its legality.

There were two crucial documents that were necessary to observe. It was the constitution, the written document, that include the set of rules for government and the writ habeas corpus, that ensure the important rights to citizens. This leads me to the one of the main questions I am going to deal with. Did Lincoln uphold the constitution and whether he had the right to suspend the writ of habeas corpus? That means that I will try to find out if Lincoln did not abuse his presidential power with regard to the events that happened during the civil war skirting these legal documents.

One of the most important events which led to the war was the secession crisis. Thirteen states of the South decided to secede from the North and created their own state of Confederation. This fact brings me to the important points of my work, which are the arguments if they had the right to secede and furthermore the questions that are associated with this. Why did Lincoln not ask the US Supreme Court for a decision regarding secession? Why did the US Supreme Court not review the issue of secession?

There were two more very important affairs I will be going through. Those were Confiscation acts and Emancipation of Proclamation. Both occurrences concerned slaves, their lives and first and foremost the future of their lives. How was the impact of these laws and acts passed by the United States government or U.S.President on the society you can reveal by continuing reading my bachelor thesis.

I assume that many actions that Lincoln and Congress took weren't utterly in accordance with the constitution and laws and the aim of my bachelor thesis is to prove it.

1 BASIC FACTS ABOUT AMERICAN CIVIL WAR

It is well known that people's view of the civil war is usually based on the assertion that it was led especially because of abolition of slavery. However the truth is different, because apart of abolition of slavery there were other main reasons as restoration of the Union and consolidation of the power of federal government.¹

American Civil War is still after one and half century very famous and interesting theme, not just for many historians but also for general public from many reasons. First of all it was one of the most important events in the American history because American Civil War was the biggest war conflict on the North American continent that has ever happened and moreover it was also the last one. Due to this fact it was the most tragedy affair that claimed 600 000 victims either from the after-effect of injuries or illnesses. Surprisingly on a percentage basis it claimed even more victims than in the Second World War or Vietnam's war.²

As a result the North achieved all their claims so that The United States was finally united in one powerful Union. But in addition it is necessary to mention that it had also the bright side which is the fact that it did not cause deepening of the dispute. It can be said that the South was defeated with the honor and went to history in a dignified manner. Thus the people from the North and the South can remember on the war with nostalgia. As the fact it can be seen for example on many uniformed gathering where are all the bottles reminded again and again.³

1.1 The beginning of the Civil war and its reasons

Original USA formed thirteen states that were the former colonies of Britain. After the American War of Independence (1775- 1783), that was held because the states did not agree for instance with the taxation that was imposed on them and there were many others reasons, the power of individual states was stronger than the authority of the federal government itself. Nonetheless in 1789 was enacted a new constitution that changed this rate to the benefit of the federation.⁴

As it was already mentioned the big issue was the question of the slavery. Although when the Union was founded, the slavery was criticized that time, the South was

¹ See Leonid Křížek a kol. American Civil War (X-EGEM,1994), 11.

² See Křížek.American Civil War, 11.

³ Ibid.

⁴ Ibid.

defending, because their economy was based on the agriculture and the slaves were indispensably part of it as the cheapest labor force. The problem was that the founders of the constitution were afraid that if they included some laws against slavery into constitution the Union could be threatened. On the other hand they presumed that this peculiar institution would disappear itself.⁵

However this problem with slavery wasn't sorted out and furthermore it got even worse. When the machine for processing the cotton was invented, the demand for labor force grew even more. So the dispute was made even tenser with every new accepted state. At that time the question if the federal government had the law to abolish the slavery in the new countries or if it was their own right arose. One solution was the Missouri compromise that in the end didn't solves anything because the South still insisted on the rights of individual states to decide whether they would be free or slave.⁶

Apart of this, there was other problem regarding to the tariff. The southern states had the dispute with The Great Britain that impeded them the buying in the North and moreover the Britain was the purchaser of the cotton in the South.⁷

All these led to creation of two opposing sides. One of them claimed the sovereignty of the federal government, the other of the individual states. The conflict were slowly growing because of many others disputes regarding the issue of various laws that dealt with the question of slavery and the rights of the individual states to decide about it.⁸

In 1830s it started to get stronger so called Abolitionist movement that was requiring the cancellation of slavery. They often used very militant way and they also organized hiding place for escaped slaves. There was this fact that the import of the slaves was according the constitution abolished from 1808 but the slaves were smuggled into the countries, which caused that lots of them were escaping into the North.⁹

It was quite clear to the South states that the representative of the Republican Party, Abraham Lincoln, who won the election in the North, would assert for the antislavery system in the South. That caused that South Carolina, Mississippi, Florida, Texas,

⁵ Ibid, 12.

⁶ Ibid.

⁷ Ibid.

⁸ Ibid.

⁹ Ibid.

Louisiana, Georgia and Alabama seceded from the North and proclaimed themselves as the Confederated American states.¹⁰

The last event that led to outbreak of the war was the attack of southern army on the troops of the northern army that had the order from Lincoln to maintain Fort Sumner in South Carolina. It was on 12 April, 1861 when the war begun.¹¹

¹⁰ Ibid.

¹¹ Ibid.

2 THE SECESSION CRISIS

Let me start this topic with two main questions. What actually was the secession crisis? And what were the reasons which gave the impetus to its creation?

First of all we have to realize the main aspect of this entire subject which is the different economical situation between the South and the North. As was previously mentioned in the North there was developed the industry system unlike the South where the plantation was the essential resource of people's livelihood. With this fact is connected one of the most serious problem which was certainly the question of slavery. Although it was quite natural as for people in the North so for people in the South to own the slaves in the course of the time the Abolitionist movement was created. The Abolitionists were people who did not agree with the slavery system and were proclaiming its cancellation. However slavery was not the only reason that caused the secession crisis. There were other serious reasons that led the thirteen southern states to secession from the North and to creation of Confederacy. From my point of view one of the most important facts was the winner of the election of Abraham Lincoln and his attitude that the Union must be preserved and that the Southern states didn't have any rights to their acting.

2.1 The rights of southern states to secede

So as at every dispute there are always two sides driving a hard bargain. On the one side there is the opinion of the Northern states led by the President Abraham Lincoln. And on the other side the view of Confederacy headed up by the president Douglas. So what was their justification?

Abraham Lincoln asserted the perpetuity of the Union and the fact that the Southern states did not have any rights to the secession also in the connection with the Constitution. On the other hand The South defended with the facts like for example that they could secede from the Union on the same principal as the Union were created. In the sense that once the Union was formed, the states were deciding freely to approach so thus they could freely dissolve the Union. Nonetheless this dispute climaxed in the disastrous civil war that last for long four years. When secession started in 1861, lots of Americans were very dubious. In the North people thought that the aim of the South was mainly dissolve the Union and that their separation was definitely unconstitutional and impossible. The

Southerners however claimed that the secession was the only possible way how to sort out all the disputes between the states and they thought that the secession was irreversible.¹²

2.2 Contrasting constitutional vision of North and South

Firstly let's focus on the Northern vision of the Union itself. "Abraham Lincoln – The Union is much older than the Constitution. It was formed in fact, by the Articles of Association in 1774. It was matured and continued by the Declaration of Independence in 1776. It was further matured and the faith of the then thirteen States expressly plighted and engaged that it should be perpetual, by the Articles of Confederation in 1778. And finally, in 1787, one of the declared objects for ordaining and establishing the Constitution, was 'to form a more perfect union.'"¹³ What should be concluded from this paragraph? Perhaps that although the secession was according to Northerners unconstitutional, there existed even more former and important documents that proved the rightness of the Northern states and their disagreement with the Southern acting. There is also another term expressing this idea, which is: "The Union is older than the states."¹⁴

So when the important question is considered whether Northern or Southern opinions regarding to the constitution law were correct, it was clear from the constitution point of view that there was some incongruity. If we go through the document of constitution itself we can find out that it is not mentioned there anything about whether the state could or could not to secede. Moreover the South was insisting on the real fact that when the Constitution was approved, in a few southern states were made public declaration by their representatives which pointed out that it was possible for the states to secede.¹⁵

"Let's move to the view of the Constitution itself. The main issue was with the contrasting vision of so called Compact adherents – follower of Compact theory and also adherents of Thomas Jefferson and James Madison – who believed in the fact that the Constitution of the United States of America is an agreement between the states that comprise the Union and that the United States of America is not a consolidated nation-state, but rather, more of a confederate republic. Accordingly, they see the states as sovereign, independent entities voluntarily united for certain purposes by a federal

¹² See Robert F. Hawes Jr. *One Nation, Indivisible?: A Study of Secession and the Constitution*. (Milton Keynes: Fultus Corporation, 2010), 76.

¹³ Ibid., 23

¹⁴ Ibid.

¹⁵ See Godfrey Benson. *Abraham Lincoln*. (New York, Pocket BOOKS, 1917), 183.

government that acts as the agent of their Union along strictly limited, constitutional lines.”¹⁶

On the other side there were according to Hawes so called “nationalist” – the political adherents of Abraham Lincoln. “They believed that the United States of America is a true nation-state, operating under a supreme, consolidated central government.”¹⁷

It is not surprising at all that this group did not agree with the attitude of the adherents of the Compact Theory, because they accentuated the role of the states unlike the nationalists who highlights the role of the United States as a democracy than a republic. Here is the whole point of the secession debate which is the question whether the Union is rather consolidated nation-state or confederation of states?¹⁸

I assume that to answer this question it is important to consider both views and attitudes of these two opposite sides and still it would be very difficult to find out the answer, because it depends on each opinion according to what they prefer and what they expect from the institution as a state is.

2.3. The role of the US Supreme Court towards to secession

It was discussed many times why the Supreme Court weren't sorting out the question of secession, when this is the institution that would deal with this problematic in rightful way and moreover in accordance with the law.

There are two important aspects which need to be considered when people engage in the theme of the Supreme Court and its attitude towards secession during the civil war. Firstly it is necessary to point out that the Supreme Court had no military power and another thing is that as it is not even mentioned in the Constitution what to do if the states would like to secede from the Union. It was just impossible for Court to sort out this insurrection. In the power of the Supreme Court were powers as for example argument about borders, financial issues and many others. However according to the Constitution and its third Article it is obvious that the United States Supreme court don't have absolute

¹⁶ See Hawes, 20.

¹⁷ Ibid.

¹⁸ Ibid.

sanction over any substance. Nonetheless it is even not required in the Constitution or by its creators for Supreme Court to have absolute authority.¹⁹

Dealing with this question of power's range of Court, the general opinion is that the founders of the American Constitution greatly miscarried, especially in that area regarding to problem with conflicts, rebellion or insurrection.²⁰

That is why the attitude of the Supreme Court cannot be judged as definitely wrong or insufficient when in respect to the Constitution, the members of the Supreme Court just weren't authorized to make decision.

¹⁹ Ibid., 251

²⁰ Ibid., 252

3 ABRAHAM LINCOLN AND CONSTITUTION

At the beginning of this chapter which is going to deal with the President Lincoln himself and his position with regard to the Constitution I allowed to cite two paragraphs from which is obvious two contrasting opinions by two different author who were concerning with this theme.

“Since secession is not addressed by the Constitution, it is reasonable to say that the Constitution had effectively been suspended at the time of the war, and thus, whatever steps Lincoln took cannot be regarded as unconstitutional or illegal. Secession was a unprecedented situation and the Constitution did not provide any guidelines for handling it.”

²¹

"Among the unconstitutional and dictatorial acts performed by Lincoln were initiating and conducting a war by decree for months without the consent or advice of Congress; declaring martial law; confiscating private property; suspending habeas corpus; conscripting the railroads and censoring telegraph lines; imprisoning as many as 30,000 Northern citizens without trial; deporting a member of Congress, Clement L. Vallandigham of Ohio, after Vallandigham - a fierce opponent of the Morrill tariff -- protested imposition of an income tax at a Democratic Party meeting in Ohio; and shutting down hundreds of Northern newspapers."²²

3.1 Lincoln's administration generally

It is necessary to realize that Abraham Lincoln was from the utter beginning of his presidency a War President. The first document that he beheld as President was the letter written by Major Robert Anderson and sent from Fort Summer, where was informing him about the situation there. It was actually shortly before the civil war begun.²³

For Lincoln it was just natural during his presidency to be occupied predominately with the question of the war, which was noticeable from the fact that he spent most of his time War department telegraph office. He stayed there very often dealing with the dispatches from the front himself. What is quite interesting and worthy to mention that he wrote in that office even the Preliminary of Emancipation Proclamation.²⁴

²¹ Ibid., 167

²² James G. Randall .*Constitutional Problems under Lincoln.*(Urbana: University of Illinois Press, 1951),

²³ See Gabor S. Boritt.*Lincoln the War President:The Gettysburg Lectures.*(Oxford:Oxford University Press, 1992), 31

²⁴ Ibid., 32

The Cabinet had really little impact on Lincoln's resolving regarding to any aspect of his presidency power either of war issues or any others. His behaving towards the members of Cabinet differed according to his inner intuition. Sometimes he ceded the rights to them when he was aware that it would have been really essential, on the other hand as it has been already mentioned he took grave step without any advice either of Cabinet's memembr or anyone else.²⁵

3.2 Presidential power in the war time

Let's examine first of all the military power of President Lincoln. According to the Constitution, President can be the Commander in Chief during the war time. But what does it actually mean? Does it give him the rights for example make use of the military or call out of the militia just like he wants? The answer is written again in the Constitution (Clause 11-16). From these clauses, it is obvious that Congress is supposed to call for militia or execute the laws etc. However in 1792 Congress passed the Militia Act that enabled to the President these acts. Three years later was the Militia Act changed and it cancels the claim about necessity of the President to wait for official sanction from a judge to be able to act against insurrection.

On March 3, 1807, Congress passed the law that enabled to the President to use the regular United States army and navy if it is necessary in the case of suppression of insurrections.

Nevertheless, despite all these laws that gave freedom to the President, his power was still determined by the letter of the law.²⁶

3.3 Did Lincoln uphold the Constitution?

In 1861, when Abraham Lincoln was elected as the President of USA he had to take the oath, in which he obliged to serve to his country and to abide the Constitution. Although Lincoln is considered as one of the most amazing and greatest President nowadays, it hasn't always been like that. In the time when he was ruling, people very often speak about him as about person who abused his authority and debased the Constitution. Moreover he was being criticized for suspending the writ Habeas Corpus, emancipation of slaves or on

²⁵ See Benson, 291

²⁶ See Hawes, 168

the other hand for not abolition of slavery immediately in the beginning of the war, abusing of his position as Commander in Chief etc.

Although Lincoln's administration was highly impeached during and definitely also after the Civil War, it is not easy to say just one statement like yes, Abraham Lincoln did not uphold the Constitution or no it is not true that he wouldn't uphold it. In the process of the resolution of such a complicated question as this is, it is necessary to weigh up all the pros and cons, to realize what the Constitution itself means as for the President and the states or for the people. It is important to look into Lincoln's procedure during the war and all the documents, amendments or acts he enacted or issued and think individually of each of them. Then it might be possible to find out some resolution but it still depends on each of us and our opinions towards this matter.

Although the point of this bachelor thesis is to answer this basic question as this is, in my opinion if the person who deals with it is open-minded he can never say the one-side or biased answer.

3.4 Articles of Confederation and perpetuity of the Union

After the Revolution war in 1776, in the time when the USA started to be form, the Articles of Confederations was drafted and it was the document that is considered to be the first Constitution of this state. The process of ratification had taken five years than the Articles were formally declared and it also gave the birth to the Union of the thirteen states of the USA.²⁷

The contents of the Articles were following: "provisions for military cooperation between the states, freedom of travel, Extradition of criminal suspects, and equal Privileges and Immunities for citizens. They also created a national legislature called the Congress. Each state had one vote in this body that vote to be determined by a delegation of from two to seven representatives. The Articles called for Congress to conduct foreign relations, maintain a national army and navy, establish and maintain a postal service, and perform a number of other duties. The Articles did not create, as the Constitution later did, executive and judicial branches of government."²⁸

²⁷ "Articles of Confederation," *The Free Dictionary* <http://legal-dictionary.thefreedictionary.com/Articles+of+Confederation+and+Perpetual+Union>

²⁸ Ibid.

Nonetheless during the time it begun to be obvious that the Articles couldn't have satisfied the needs of the country as it did not establish a strong central government. By way of illustration of weak power of government were the cases of rebellions, as e.g. Shay's Rebellion. This was insurrection of farmers who required relief of their debt and closing of courts of law in Massachusetts. Nevertheless the government was able to react in a proper way and stop this unrest. As a result of Articles' vagueness, nine states created the new U.S. Constitution by 1788 that actually still served as the fundament of U.S. government.²⁹

To answer the question of perpetuity of the Union, it is necessary to investigate the Article thirteen and all the historical events that happened after the Articles of Confederation were ratified. It is written in Article thirteen: "...*the Union shall be perpetual.*"³⁰ It lasted just six years than this Article was concluded and surprisingly the new Constitution did not incorporate resembling statement. The creators of the Constitution probably had realized that any government or institution could persist forever or they also might have relied on the indivisibility of the Union. If it were so it must be pointed out that it was big challenge from their sides which caused subsequently many problems to the states especially during the civil war.

3.5 Homestead Act

It was an act enacted by Congress on May 20, 1862. The purpose of it was to secure Homesteads to actual settlers in USA. The first part of the Homestead was written in the words.

„Any person who is the head of a family, or who has arrived at the age of twenty-one years, and is a citizen of the United States, or who shall have filed his declaration of intention to become such, as required by the naturalization laws of the United States, and who has never borne arms against the United States Government or given aid and comfort to its enemies, shall, from and after the first of January, eighteen hundred and sixty-three, be entitled to enter one quarter section or a less quantity of unappropriated public lands, upon which said person may have filed a preemption claim, or which may, at the time the application is made, be subject to preemption at one dollar and twenty-five cents, or less,

²⁹ Ibid.

³⁰ Article 13

per acre; or eighty acres or less of such unappropriated lands, at two dollars and fifty cents per acre, to be located in a body, in conformity to the legal subdivisions of the public lands, and after the same shall have been surveyed: Provided, That any person owning and residing on land may, under the provisions of this act, enter other land lying contiguous to his or her said land, which shall not, with the land so already owned and occupied, exceed in the aggregate, one hundred and sixty acres.“³¹

3.4.1. Background

The question of Government land had been discussed since the time of Revolutionary War. Former ways of allocating of the land that was unsettled were very disorderly. These of course resulted in many arguments and disputes about borders. In 1785 was carried out the Land Ordinance – system that eased the conflict about the borders. At the very beginning people were supposed to pay \$1 per acre for 640 acres. From 1800 the possible minimum for purchase was 320 acres and settlers could pay in four times. The fact is that the price \$1.25 an acre hadn't changed until 1854.³²

In the following decades the economy was developing and changing, which was caused by rising prices of agriculture crop. Consequently the economic prosperity led to increasing immigration especially in the westward part of the USA. It started to be necessary to refine the laws of homesteading act. There were three times between 1852 and 1859 when the House of Representative tried to pass the homestead legislation however it was always beaten by Senate. In 1860 Congress passed a homestead law that granted land to western settlers, but it was vetoed by President Buchanan. Eventually, in 1862, in the time of secession, the Homestead Act was enacted. It was considered as one of the main part of Legislation.³³

3.4.2. Lincoln and his support of the Homestead Act

Lincoln furthered the idea that every individual who is hardworking should be able to participate on the improving on economic situation of the country. The Homestead act was closely connected with his economic opinions and policy. The concept of this law was that

³¹ See “Homestead Act 1862,” *About.com: US Government Info*, usgovinfo.about.com/blhomesteadact.htm

³² See “Teaching with documents: The Homestead Act of 1862,” *The National Archives, Archives.gov* <http://www.archives.gov/education/lessons/homestead-act/>

³³ *Ibid.*

it would be more beneficial for nation to give people their own land, on which they can grow crops then gaining the money from the sales of the land. He was really proud of enacting this legislation and saw a historical prospect in it. Nonetheless it was highly criticized because of its impact on indigenous people and their land. It was taken as utter abusment of the system.³⁴

However Lincoln had many reasons why to consider the Homestead Act as one of the most important act of his administration, mainly the idea of the USA as a country that enable to its inhabitants the opportunity of so called „open field“ – the place where everyone has the possibility due to their talents and hardworking to rise up the standard of living.³⁵

3.6 The formation of West Virginia

The formation of West Virginia is another case of Lincoln's administration that could be considered as one of his acting that weren't in accordance with the constitution laws. And it is from the reason that in the Constitution is written this, let me quote: "... but no new State shall be formed or erected within the jurisdiction of any other State; nor any State be formed by the juncture of two or more States or parts of States, without the consent of the legislatures of the States concerned as well as Congress."³⁶

3.5.1. Sectionalism between eastern and western Virginia

In 1776 was accepted the Constitution of Virginia, that allowed to vote just to white males who possessed 25 acres of cleared or 50 acres of uncleared land. This law was obvious discrimination of small farmers in western Virginia, because men who didn't own the land couldn't have voted.³⁷

³⁴ See "The Right to Rise" and Lincoln's Support of the Homestead Act," *President Lincoln's Cottage Blog*, <http://lincolncottage.wordpress.com/2010/03/02/the-right-to-rise-and-lincolns-support-of-the-homestead-act/>

³⁵ Ibid.

³⁶ The Constitution, Article VI, Section 3, Clause 1

³⁷ "West Virginia Statehood," *WestVirginia Archives and History*,

<http://www.wvculture.org/hiStory/statehoo.html>

In 1816 and 1825 there were gatherings in Staunton on which the delegates from the Shenandoah Valley were trying to find the possible solutions for the persisting problem of Virginia state and their inhabitants' rights. Nevertheless these sessions weren't successful. Later there were enacted some acts by the Virginia General Assembly, beneficial for the people in West Virginia.³⁸

Another convention was gathered on October 5, 1829, where such important people from Virginia took part as for instance John Tyler, James Madison or John Marshall. At this gathering they agreed on creating of a new constitution. Men of eastern Virginia totally disagreed with any kind of legislative steps, especially with those that would enable to people who didn't own any land some voting rights. However the new constitution was finally enacted.³⁹

After 21 years delegates from Virginia assembled in order to deal with the problems between East and West. They agreed on the very important question of righting votes that stayed unsolved from the year 1829. As a result white males gained their righting votes although they didn't have any land and moreover there were also decided about the election of governor by public. Thanks to the new Constitution in 1850 the relation between both parts of Virginia seemed much better than it had ever been.

Nonetheless with the beginning of the Civil war, the situation in the Virginia state changed, especially after Lincoln's election as President.⁴⁰

3.5.2. Lincoln's and Cabinet's attitude towards formation of West Virginia

Once Lincoln received the proposal of bill dealing with formation of West Virginia he started to feel actually much stressed in deciding of this question. He gathered the Cabinet to discuss the legality and expediency of this bill.⁴¹

There were both opinions among the senators. Some of them as for the creating this new state, others thought it was unconstitutional, because it wasn't in power of Cabinet or the President to form the states, but it was supposed to be people's warrant. Extraordinary attention was given to Edward Bates, because he was Attorney General, and his opinion was supposed to be more elaborate from the point of view of legal sight in comparison with other ministers. He didn't agree with the formation of West Virginia from the same

³⁸ Ibid.

³⁹ Ibid.

⁴⁰ Ibid.

⁴¹ See Randall, *Constitutional problem under Lincoln*, 466.

reason as the other ministers who were against. He had the same opinion regarding the creation of the state by the people and he thought that Virginia should have been restored into the same state as it was before the rebellion had started.⁴²

As for Lincoln's attitude, in a way he did not agree with breaking of Virginia either, however his opinion was that with admitting West Virginia "more would be gain than lost". So that on April 20, 1863 President Lincoln enacted a proclamation that declared West Virginia as one of the state formally belonging to Union.⁴³

3.7 Clement Vallandigham and Copperheads

Clement Laird Vallandigham belonged to the politicians in Ohio. He was the main figure of the so called Copperheads.

Even though in 1860 the Democratic Party had disunified in the North, in the duration of the secession crisis the North Democrats were reconciliatory toward the South than the Republicans. They declared themselves as Peace Democrats; and they were also named Copperheads by their opponents because it was typical for them that some wore copper pennies as identifying badges.⁴⁴

Most of the members who belonged to the Peace Democrats supported North in the war in order to preserve the Union, but there was also an powerful minority that proclaimed that the Republicans caused that the South secede; that the Republicans wanted the Civil War in order they could set up their own supremacy in order to "suppress civil and states rights, and impose "racial equality"; and that military means had failed and would never restore the Union".⁴⁵

The most of Peace Democrats were located in the Midwest, a region typical for the distrusting to the Northeast, where the Republican Party was the most powerful, and that was connected by their economic and cultural link with the South. "The Lincoln administration's arbitrary treatment of dissenters caused great bitterness there". Moreover,

⁴² Ibid.

⁴³ Ibid.

⁴⁴ See "Copperheads (Peace Democrats)," *Historical Times Encyclopedia of the Civil War*, <http://www.civilwarhome.com/copperheads.htm>

⁴⁵ Ibid.

anti-abolitionist Midwesterners were afraid of the consequences as a great migration of black inhabitants into their region.⁴⁶

The affection of Peace Democrats differed with the fate in successes or failure of the war. When the Union was losing at the battlefield, lot of people wanted to conclude peace with the Confederacy. When the situation was opposite, Peace Democrats were regarded as defeatists. But with no respect to the war progress, Peace Democrats steadfastly needed to protect themselves against accusation of not being loyalty. The revelations that several of them was connected with secret organizations such as the Knights of the Golden Circle “helped smear the rest”.⁴⁷

Let’s focus on to the most famous Copperhead leader who was already mentioned Clement L. Vallandigham of Ohio, who was leading the secret antiwar organization that was known as the Sons of Liberty. In 1864 Vallandigham convinced the Peace Democrats to attribute a platform branding the war a failure, and some extreme Copperheads caballed the armed uprisings. However, the Democratic presidential candidate, George B. McClellan, alleged the Vallandigham platform and the conspiracy came to nothing.⁴⁸

At the end of the war the Peace Democrats were damaged. Most of the people in the North thought, that Peace Democrats had tro to make the war longer by assuring the South in continuing of fighting in the blind hope that the North would give up the struggle.⁴⁹

⁴⁶ Ibid

⁴⁷ Ibid

⁴⁸ Ibid

⁴⁹ Ibid

4 CONSCRIPTION IN THE CIVIL WAR

The North and so as the South had the intention in leading the Civil War as volunteer armies. Finally both sides inclined to passing the conscriptions.⁵⁰

On 16 April 1862 the confederate states issued their first conscription act and year later were followed in passing these acts by the Union as well. It is important to point out that nothing like this had happened until the American Civil War.⁵¹

Nonetheless the people were very annoyed by the compulsory service and they were persecuted that it should be everyone's free decision to go to the army or not and thus they thought about it that it would have had bad impact on the morality in the army. Lots of men were trying to escape from going to service. From the point of view of occupation it was possible just for the son and medics not to go to military service.⁵²

Several states were trying to prove the illegality of those military drafts, but unfortunately they were not successful. The Union passed their military draft in July 1863. From the amount of 249,259 men from the age of 18 to 35, there were serving finally just 6 per cent. The rest was paying commutation.⁵³

The individual numerical superiority were differing and changing very quickly. From the very beginning of the war, it looked like that the Southern army were about to win, but finally it was the North who proved the stronger military power. Nonetheless it is necessary to think of the legal aspects of this government's acting so let's ask the question did the government actually had the right for passing the conscriptions? According to the fact that the uttermost intention of the war was to be voluntary and that the Constitution should ensure the civil liberties, it could be assumed that all the steps that both sides took were illegal. Although they could defend themselves that there was acting like this in favour of states themselves, it made an impression of military vying. Once the South found out that their army is weak in the comparison to North they immediately passed the conscription act and so did in the following year the North to be able to resist to the new reinforcement of the South.

⁵⁰ See "Conscription" *The American Civil War*, <http://www.etymonline.com/cw/conscript.htm>

⁵¹ See „Conscription (Military Draft) In The Civil War,“ *Historical Times Encyclopedia of the Civil War*, <http://www.civilwarhome.com/conscription.htm>

⁵² Ibid.

⁵³ Ibid.

5 THE WRIT OF HABEAS CORPUS

5.1 The basic definition of writ habeas corpus

First of all it is necessary to define what the writ of habeas corpus means and expresses. The definition is following: “the Latin phrase habeas corpus means “you have the body.” The privilege of the writ of habeas corpus refers to a common-law tradition that establishes a person's right to appear before a judge before being imprisoned. When a judge issues the writ, he commands a government official to bring a prisoner before the court so he can assess the legality of the prisoner's detention. When the privilege of the writ is suspended, the prisoner is denied the right to secure such a writ and therefore can be held without trial indefinitely. Habeas corpus is the only common-law tradition enshrined in the Constitution, which also explicitly defines when it can be overridden. Article says, "The privilege of the writ of habeas corpus shall not be suspended, unless when in cases of rebellion or invasion the public safety may require it."⁵⁴

5.2 Suspending of the writ of habeas corpus by President

In the duration of the civil war President Abraham Lincoln and Congress suspended the writ of habeas corpus. First time when it happened was as the troops from Confederacy attacked the Union army at Fort Sumner in April 1861 so actually in the total beginning of the civil war. It was just month of Lincoln's presidency. He had the biggest worry that they wouldn't be able to keep the route between Washington, D.C. and the North, that was unobstructed. On April 19, there were 20 000 confederate followers who wanted to stop Union troops from travelling en route to Washington. During their acting they were making a lot of brawls, which caused that Lincoln suspended the habeas corpus in the way that he gave permission to police to arrest anyone without trial in that area who would threaten the public safety.⁵⁵

Among the arrested men was a guy from seceded state Maryland named John Merryman who was arrested for rebellion. The same day, when he was detained, his lawyer wrote a petition that was checked by Chief Justice Roger B. Taney who granted the writ of habeas corpus. Nonetheless Merryman stayed in the prison for another seven weeks and then he

⁵⁴ „Lincoln's Crackdown,“ *Slate*, <http://www.slate.com/id/2059132>

⁵⁵ Ibid.

was released. This case was highly criticized by the Democrats who appealed that Lincoln's acting wasn't constitutional. However in the following debates over this problem, Lincoln was supported by Congress that he was acting in the right way.⁵⁶

There was another suspension of writ the next summer, when in June 1862 the wave of arresting started because Congress instituted military draft, indeed it happened for the first time. It showed as very unpopular thus Secretary of War – Edwin Stanton issued suspension of writ habeas corpus nationwide. It enabled to sheriffs to have made decisions about the loyalty and disloyalty of people without any administration. Following month was being arrested at about 300 people. It is worthy to remark that some of the men who were arrested didn't commit any crime or rebellion; they just said something against the president. Fortunately the government realized that many of the arresting weren't rightful and it subsided a bit.⁵⁷

Nevertheless, in September Lincoln repeated his suspension and arresting went on. Almost 15 000 people were imprisoned without proper trial. Although Lincoln wasn't judged by the Supreme Court for unconstitutional acting in my opinion it is obvious that it was utterly unconstitutional. Moreover it didn't help to the Union defeat the Confederacy or made the end of the war faster.⁵⁸

In 1866, one year after the civil war was finished, habeas corpus was restored throughout the nation and Supreme Court declared the illegality of some military trials. In addition it was impelled that the President had the rights to suspend the writ because the rebellions were prevailing at that time and for the safety of the states and their inhabitants it was the only possible solution that could have protected them. However all the debates which were made about this problem showed the typical example of the collision between the judiciary and military supremacies.⁵⁹

⁵⁶ See "Habeas Corpus," *The American Civil War*, <http://www.etymonline.com/cw/habeas.htm>

⁵⁷ Ibid.

⁵⁸ Ibid.

⁵⁹ Ibid.

6 CONFISCATION ACTS

Between the years 1861 and 1863 there were passed several laws in the USA by the government in order to solve the question of property and also to liberate slaves in the seceded states. Both acts quite differed and in a way of degree and its kind.

6.1 First Confiscation Act

In the first year of the Civil War, precisely on July 4, 1861, Abraham Lincoln convened a Congress. It was actually after the defeat at the Bull Run when Congress realized that the war would not have the fleet duration so that it might have been reasonable treats the disunionists by passing some laws. The true was that many slaves in the South were working very hardly for the whites and enabled them to fight. This advantage was so serious that the bill about freeing slaves who were belonging to rebels was introduced at the spur of the moment. The Southern states did not agree with this because they felt some kind of liability. But there was this fact that the Southern slaves were escaping from their owners so that they were determined as the “contraband” of the war.⁶⁰

As Congress enacted this concept about confiscation act, first of all it’s necessary to remark how big step forward it was, the reaction of the parties varied. Almost all Republicans were for passing the bill on the contrary of the Democrats. On the timeline it can be said that it was point where the differences between both parties got to the highest position.⁶¹

It was August 6, 1861 when President Lincoln signed the document regarding the emancipation of slaves. Indeed what is interesting, the reality that it did not concern the word slave. Due to this concept of Constipation Act it was set that all slaves are free.⁶²

6.2 Second Confiscation Act

The true is that not all slaves who escaped were treated as contraband of Union. In March 1862 the legislation was issued that disallowed to navy officers returning captured fugitive slaves to the owners. There was also another legislation issued that was dealing with officers and their hearing evidence of slaves who escaped. It was for instance the case of

⁶⁰ See “Bush and Lincoln both suspend Habeas Corpus,” *About.com:US Government Info*, <http://usgovinfo.about.com/od/rightsandfreedom/a/habeuscorpus.htm>

⁶¹ Ibid.

⁶² Ibid.

General Alexander McCook who was almost obsessed with the question of returning escaped slaves and he was even praised for it by the Confederate press.

Acting of the South and their ignoring of Northern rules led the leaders of the North to drafting the Second Confiscation Act in December, 1861. Senator Trumbull was even sending petition to senators in order to assure that it would be approved by them. It was quite obvious from the Second Confiscation Act that its intention was utterly to rebuild the South. President Lincoln was decided about the third movement if the Confiscation Acts were up to fail. It was of course nothing other than a preliminary Emancipation Proclamation.⁶³

In the following period the legislation were being discussed a lot. Various senators expressed their opinion as for example Senator of Ohio Benjamin Wade who proclaimed that it was impossible to end the war unless they would have emancipated the black people. Senator Charles Sumner had proposed an amendment in which was written that any person who took part in the activity of rebellion would suppose to lose all the rights in regard to their slaves. It was finally accepted into the law. President Lincoln was also trying to force the representatives of Border States to sign the plan of compensated emancipation but unfortunately most of them reject. Some senators were even trying to veto the confiscation act.⁶⁴

Finally President Lincoln and Congress signed the Second Confiscation Act; it was on July 17, 1862. However there was serious afraid that the vote could be real, because some senators thought that it was unconstitutional step from the sight of congress. According to them Congress did not have the right to act like this. But President Lincoln didn't take it seriously and his reaction on the veto was a message that he wrote to them: "Considering the bill for "An act to suppress insurrection, to punish treason, and rebellion, to seize and confiscate the property of rebels, and for other purposes" and the Joint Resolution [explanatory of said act,] as being substantially one, I have approved and signed both. Before I was informed of the passage of the Resolution, I had prepared the draft of a Message, stating objections to the bill becoming a law, a copy of which draft is herewith transmitted."⁶⁵

⁶³ See "Confiscation Act," *Civil war*, <http://www.mrlincolnandfreedom.org/inside.asp?ID=38&subjectID=3>

⁶⁴ Ibid.

⁶⁵ Ibid.

Some historians claim that the Second Confiscation Act wasn't revolutionary. However, the Confiscation Act authorized the government to recruit "persons of African descent" for the work in "constructing intrenchments, or performing camp duty, or any other labor, or any military or naval service..."⁶⁶

⁶⁶ Edward A. Miller, Jr., *The Biography of David Hunter: Lincoln's Abolitionist General*, 111. .

7 EMANCIPATIOAN PROCLAMATION

7.1 The background of Emancipation Proclamation

Preliminary Emancipation Proclamation declared, ". . . on the first day of January . . . all persons held as slaves within any State, or designated part of a State, the people whereof shall then be in rebellion against the United States shall be then, thenceforward, and forever free."

The preliminary Emancipation Proclamation was announced on September 22 in 1862 and its purpose was to express to the South that if they did not finish the fighting and rejoin the Union by January 1, 1863, all slaves would be free there.⁶⁷

The Emancipation Proclamation was issued on New Year's Day in 1863 by President Abraham Lincoln. It was written by him in this document, "*I do order and declare that all persons held as slaves...are, and henceforward shall be, free.*"⁶⁸

There were 4 million slaves in the South who were just waiting for this day. For the day when they would be freed. Although the fact was that this document unfortunately did not free all the slaves, for them it was still the big hope that the time of changes was coming. Historian John Hope Franklin wrote, "If it was a humanitarian document, it gave hope to millions of Negroes that a better day lay ahead, and it renewed the faith of thousands of crusaders who had fought long to win freedom in America."⁶⁹ Despite the reality that slaves could not be freed in areas where the United States could not demand the order of Proclamation; it was important standpoint as for the slaves so for the Confederacy that Northern states would no longer permit the enslavement of black people. Another significant thing was that slaves were invited to fight in Northern army, so 185 000 of them joined the army in the purpose of fight for their freedom and defend their rights⁷⁰.

It should not be forgotten, that he called emancipation as "an act of justice," and later on he tried to do his best to verify his opinion that it was *An Act of Justice*. Although the Proclamation did not abolish the slavery and definitely it wasn't that effectual as the

⁶⁷ See "Preliminary Proclamation 1862," *American Originals*,
http://www.archives.gov/exhibits/american_originals_iv/sections/preliminary_emancipation_proclamation.html#

⁶⁸ See Ann Heinrichs,4.

⁶⁹ See "Emancipation Proclamation," *Civil War*,
<http://www.mrlincolnanfreedom.org/inside.asp?ID=39&subjectID=3>

⁷⁰ Ibid.

Thirteenth Amendment, nowadays it is the Proclamation and not the Thirteenth Amendment that has been celebrating over the past for long 130 years.⁷¹

7.2 Lincoln and his approach to Emancipation Proclamation

Let's focus the attention on Abraham Lincoln's anti-slavery development and attitudes before the issuing of the Emancipation Proclamation. There were three important aspects that are necessary to be mentioned. First of all his main aim was to preserve the Union and he was aware of the fact that he could not cancel slavery unless he firstly saved the Union. On the other hand he knew that he wouldn't be able to preserve the union if he didn't abolish the slavery. Secondly all his acting was closely connected with his believe in God's view of this problematic. And last is the actuality that Abraham Lincoln himself weren't an abolitionist and was actually very conservative in the question of slavery and its solving.⁷²

If it is examined into more details, the fact about saving the Union and abolishing the slavery that is closely connected, point out on the matter of the document of Emancipation Proclamation that it was issued with the clear aim that was to help to the Union to win the war and thus preserve the Union. Regarding the question of Lincoln's approach to God it should be mention his "strong predestinarian conviction about God's will. " In truth Lincoln trusted that he was not able to end slavery from the reason that it was evil but simply because he wanted to preserve the Union. As to the aspect that Lincoln was one the most conservative person, it was quite obvious from his campaign where he indicated just the expulsion of slavery from the territories. He suggested the gradual going of the emancipation so his view and also recommendation to Congress in 1862 was such that is was supposed to take at about 30 years. He also emphasized three things that it should have been compensated, voluntary and last but not least gradual.⁷³

7.3 The impact of Emancipation Proclamation

This document that was supposed to free the black inhabitants in the United States had definitely greatly controversial impact not just in the United States but also abroad. It has been recognizing since its issuing until now as the symbol of freedom.⁷⁴

⁷¹ See "The Emancipation Proclamation, An Act of Justice," *The National Archives, Archives.org*, <http://www.archives.gov/publications/prologue/1993/summer/emancipation-proclamation.html>

⁷² Ibid.

⁷³ Ibid.

⁷⁴ Ibid.

Many historians expressed themselves about this theme, and their opinions are so different. Let's itemize few of them. For instance, it was written by historian Allan Nevins that all students of history agreed on the same thing that was the fact that Abraham Lincoln issued the Emancipation Proclamation at the right moment and in the right way. Lincoln's biographer Isaac N. Arnold wrote: "This edict was the pivotal act of his administration, and may be justly regarded as the great event of the century."⁷⁵.

However not everyone agreed with his acting and it can be said that even lots of republican states were against this solution. It could have been seen also among the soldiers or specifically officers of the army whose reactions were very often hostile. There was depicted a story about the regiment in New Jersey. The army denied fighting in the antislavery war and their states elected the Democrats to Senate. Even Lincoln's home state Illinois were against this document.⁷⁶

As it was already mentioned in the paragraph above, it did not provoke the reaction just in the United States but also abroad. Lincoln received the reaction of Manchester's citizens that was very positive. Shortly they took the view that all the people were created free and equal, so that the Lincoln's decision about freeing the slaves were just right without any doubts. On the contrary there were the elite of Britain that weren't so certain about his approach. They even regarded it more as his weakness than the symbol of his power and they also claimed that his acting was unconstitutional and against individual states laws of the United states. They just regarded it as utterly illegal.⁷⁷

In conclusion it is necessary to realize that the impact of Emancipation Proclamation was really huge. First of all it gave the hope to all black people living in the United States, the hope of the better future, better tomorrows and secondly it totally changed the character of the war.⁷⁸

Nonetheless it is important to ask the question wheter the Congress had the right to restrict slavery? From the point of view of Northern states the answer would be definitely positive. First of all Lincoln's statement was that all people were created to be equal and there were also some former official papers that documented the wrongness of this slavery system. Looking at it from the angle of the southern states they regarded abolition of

⁷⁵ Issac N. Arnold, *the Life of Abraham Lincoln*, 266.

⁷⁶ See "Impact of Proclamation," Civil war,

<http://www.mrlincolnanfreedom.org/inside.asp?ID=48&subjectID=3>

⁷⁷ Ibid.

⁷⁸ Ibid.

slavery as unconstitutional because simply it wasn't convenient for the economic situation of their country.

CONCLUSION

The aim of my bachelor thesis was first of all to examine the Lincoln's precudere during the American Civil War and also all the documents and acts which were issued and enacted either by himself or by Congress and Supreme Court. Secondly, I would like to focus on the main purpose of the whole study which is the resolution of the question wheter Lincoln was acting in the respect to the Constitution or not. Last but not least I would like to evaluate the impact on the USA of the secession crisis and the civil war itself.

During the civil war were formed three groups of people that differed in their opinions on the war power under the Constitution. The first one was the Lincoln's opponents, that proclaimed that the Constitution as the highest power, so that in their opinions the Governemnt's acting should be restricted in every respect to this official state document. Into the second movement belonged the greatest supporter of the war power in a sense that the Constitution shouldn't be that much efficient in the duration of the war. The third group considered the Constituion as legally binding hovewer they also agreed with the extraordinary powers of the Governement.

Other aspects which are necessary to be considered are the individual documents which I was going through in my bachelor thesis and their impact on the civil liberties and slave's rights. These were the Articles of Confederation, the Constitution, and the writ of habeas corpus, the First and Second Confiscation Acts and Emancipation Proclamation.

The most important one is certainly the Constitution because the governement and the President should act in accordance with the laws that are written in it. However this was the most disputable theme during all the war time, because many times happened that the President didn't follow the rules of the Constitution and used the extraordinary powers. "Lincoln himself frankly admitted that he had overstepped his authority."

With regard to suspension of the writ of habas corpus, it was written many opinions by many authors or historians and in my opinion there were lots of them who understand the reason for Lincoln's acting and in a way they agreed. I assume that it was mainly because American nation require the high protection of themselves and they simply trusted to Lincoln and believed that he was doing everything for the state, for preserving the Union and the people who were living there. On the other hand there are still many critics of his acting who who have many substantiation that Lincoln didn't have the rights to suspend the writ of habeas corpus and to allowed to police arrestig people just because they just

mentioned or said something against the President. I would say that this is in contrary with all the American ideals about democracy which are so emphasized by them.

On the other hand enacting the documents as Confiscation Acts or Emancipation Proclamation in my opinion indicates the Lincoln's doings with good intention, that liberated the slaves and help them in a way to free from this peculiar institution as slavery system was. If I weight all the pros and cons of his administration and procedure during the way I would categorize myself among the pupil who agree and admire his policy, although I am aware of the reality that there were some challenges to it.

Last of all I would like to concentrate my attention to the secession crisis and the civil war itself and its impact on the USA. Although officialy it was the North who won the civil war from the military point of view, as was stated in the Hawes' book – One nation, Indivisible?, both sides lost the war in author's opinion and so do I think, because the dispute was mainly about the liberty, which in the end was affected the most.

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APPENDICES

- P I The Articles of Confederation.
- P II The Constitution of United States
- P III The Homstad Act

APPENDIX P I: THE ARTICLES OF CONFEDERATION

To all to whom these Presents shall come, we, the undersigned, Delegates of the States affixed to our Names, send greeting: Whereas the Delegates of the United States of America in Congress assembled, did on the fifteenth day of November, in the year of our Lord one thousand seven hundred and seventy seven, and in the second year of the Independence of America, agree to certain articles of Confederation and perpetual Union between the states of New Hampshire, Massachusetts-bay, Rhode Island and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia, in the words following, viz. Articles of Confederation and perpetual Union between the States of New Hampshire, Massachusetts-bay, Rhode Island and Providence Plantations, Connecticut, New York, New Jersey, Pennsylv-ania, Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia.

Article I. The stile of this confederacy shall be, “The United States of America.”

Article II. Each State retains its sovereignty, freedom, and independence, and every power, jurisdiction, and right, which is not by this confederation, expressly delegated to the United States, in Congress assembled.

Article III. The said States hereby severally enter into a firm league of friendship with each other, for their common defence, the security of their liberties, and their mutual and general welfare, binding them-selves to assist each other against all force offered to, or attacks made upon them, or any of them, on account of religion, sovereignty, trade, or any other pretence whatever.

Article IV. The better to secure and perpetuate mutual friendship and intercourse among the people of the different States in this union, the free inhabitants of each of these States, paupers, vagabonds, and fugitives from justice excepted, shall be entitled to all privileges and immunities of free citizens in the several States; and the people of each State shall have free ingress and regress to and from any other State, and shall enjoy therein all the privileges of trade and commerce, subject to the same duties, impositions, and restrictions, as the inhabitants thereof respectively; provided that such restrictions shall not extend so far as to prevent the removal of property imported into any State, to any other State, of which the owner is an inhabitant; provided also, that no imposition, duties, or restriction, shall be laid by any State on the property of the United States, or either of them.

If any person guilty of, or charged with, treason, felony, or other high misdemeanor in any State, shall flee from justice, and be found in any of the united States, he shall, upon demand of the governor or executive power of the State from which he fled, be delivered up, and re-moved to the State having jurisdiction of his offence.

Full faith and credit shall be given, in each of these States, to the records, acts, and judicial proceedings of the courts and magistrates of every other State.

Article V. For the more convenient management of the general interests of the united States, delegates shall be annually appointed in such manner as the legislature of each State shall direct, to meet in Congress on the first Monday in November, in every year, with a power reserved to each State to recall its delegates, or any of them, at any time within the year, and to send others in their stead, for the remainder of the year.

No State shall be represented in Congress by less than two, nor by more than Seven Members; and no person shall be capable of being delegate for more than three years, in any term of Six years; nor shall any person, being a delegate, be capable of holding any office under the united States, for which he, or another for his benefit, receives any salary, fees, or emolument of any kind.

Each State shall maintain its own delegates in a meeting of the States, and while they act as members of the committee of the States.

In determining questions in the united States in Congress assembled, each State shall have one vote.

Freedom of speech and debate in Congress shall not be impeached or questioned in any Court or place out of Congress; and the members of Congress shall be protected in their persons from arrests and imprisonments during the time of their going to and from, and attendance on, Congress, except for treason, felony or breach of the peace.

Article VI. No State, without the consent of the united States, in congress assembled, shall send any embassy to, or receive any embassy from, or enter into any conference, agreement, alliance, or treaty, with any King, prince or State; nor shall any person holding any office of profit or trust under the united States, or any of them, accept of any present, emolument, office, or title of any kind whatever, from any king, prince, or foreign State; nor shall the united States, in congress assembled, or any of them, grant any title of nobility.

No two or more States shall enter into any treaty, confederation, or alliance whatever, between them, without the consent of the united States, in Congress assembled, specifying

accurately the purposes for which the same is to be entered into, and how long it shall continue.

No State shall lay any imposts or duties, which may interfere with any stipulations in treaties, entered into by the united States, in congress assembled, with any king, prince, or State, in pursuance of any treaties already proposed by congress to the courts of France and Spain.

No vessels of war shall be kept up in time of peace, by any State, except such number only as shall be deemed necessary by the united States, in congress assembled, for the defence of such State, or its trade; nor shall any body of forces be kept up, by any State, in time of peace, except such number only as, in the judgment of the united States, in congress assembled, shall be deemed requisite to garrison the forts necessary for the defence of such State; but every State shall always keep up a well-regulated and disciplined militia, sufficiently armed and accounted, and shall provide and constantly have ready for use, in public stores, a due number of field-pieces and tents, and a proper quantity of arms, ammunition, and camp equipage.

No State shall engage in any war without the consent of the united States, in congress assembled, unless such State be actually invaded by enemies, or shall have received certain advice of a resolution being formed by some nation of Indians to invade such State, and the danger is so imminent as not to admit of a delay till the united States, in congress assembled, can be consulted; nor shall any State grant commissions to any ships or vessels of war, nor letters of marque or reprisal, except it be after a declaration of war by the united States, in congress assembled, and then only against the kingdom or State, and the subjects thereof, against which war has been so declared, and under such regulations as shall be established by the united States, in congress assembled, unless such State be infested by pirates, in which case vessels of war may be fitted out for that occasion, and kept so long as the danger shall continue, or until the united States, in congress assembled, shall determine otherwise.

Article VII. When land forces are raised by any State, for the common defence, all officers of or under the rank of colonel, shall be appointed by the legislature of each State respectively by whom such forces shall be raised, or in such manner as such State shall direct, and all vacancies shall be filled up by the State which first made appointment.

Article VIII. All charges of war, and all other expenses that shall be incurred for the common defence or general welfare, and allowed by the united States, in congress assembled, shall be defrayed out of a common treasury, which shall be supplied by the

several States, in proportion to the value of all land within each State, granted to, or surveyed for, any person, as such land and the buildings and improvements thereon shall be estimated, according to such mode as the united States, in congress assembled, shall, from time to time, direct and appoint. The taxes for paying that proportion shall be laid and levied by the authority and direction of the legislatures of the several States, within the time agreed upon by the united States, in congress assembled.

Article IX. The united States, in congress assembled, shall have the sole and exclusive right and power of determining on peace and war, except in the cases mentioned in the sixth Article, of sending and receiving ambassadors; entering into treaties and alliances, provided that no treaty of commerce shall be made, whereby the legislative power of the respective States shall be restrained from imposing such imposts and duties on foreigners, as their own people are subjected to, or from prohibiting the exportation or importation of any species of goods or commodities whatsoever; of establishing rules for deciding, in all cases, what captures on land or water shall be legal, and in what manner prizes taken by land or naval forces in the service of the united States, shall be divided or appropriated; of granting letters of marque and reprisal in times of peace; appointing courts for the trial of piracies and felonies committed on the high seas; and establishing courts; for receiving and determining finally appeals in all cases of captures; provided that no member of congress shall be appointed a judge of any of the said courts.

The united States, in congress assembled, shall also be the last resort on appeal, in all disputes and differences now subsisting, or that hereafter may arise between two or more States concerning boundary, jurisdiction, or any other cause whatever; which authority shall always be exercised in the manner following. Whenever the legislative or executive authority, or lawful agent of any State in controversy with another, shall present a petition to congress, stating the matter in question, and praying for a hearing, notice thereof shall be given, by order of congress, to the legislative or executive authority of the other State in controversy, and a day assigned for the appearance of the parties by their lawful agents, who shall then be directed to appoint, by joint consent, commissioners or judges to constitute a court for hearing and determining the matter in question: but if they cannot agree, congress shall name three persons out of each of the united States, and from the list of such persons each party shall alternately strike out one, the petitioners beginning, until the number shall be reduced to thirteen; and from that number not less than seven, nor more than nine names, as congress shall direct, shall, in the presence of congress, be drawn out by lot, and the persons whose names shall be so drawn, or any five of them, shall be

commissioners or judges, to hear and finally determine the controversy, so always as a major part of the judges, who shall hear the cause, shall agree in the determination: and if either party shall neglect to attend at the day appointed, without showing reasons which congress shall judge sufficient, or being present, shall refuse to strike, the congress shall proceed to nominate three persons out of each State, and the secretary of congress shall strike in behalf of such party absent or refusing; and the judgment and sentence of the court, to be appointed in the manner before prescribed, shall be final and conclusive; and if any of the parties shall refuse to submit to the authority of such court, or to appear or defend their claim or cause, the court shall nevertheless proceed to pronounce sentence, or judgment, which shall in like manner be final and decisive; the judgment or sentence and other proceedings being in either case transmitted to congress, and lodged among the acts of congress, for the security of the parties concerned: provided that every commissioner, before he sits in judgment, shall take an oath to be administered by one of the judges of the Supreme or Superior court of the State where the cause shall be tried, "well and truly to hear and determine the matter in question, according to the best of his judgment, without favour, affection, or hope of reward: "Provided, also, that no State shall be deprived of territory for the benefit of the united States.

All controversies concerning the private right of soil claimed under different grants of two or more States, whose jurisdictions as they may respect such lands, and the States which passed such grants are adjusted, the said grants or either of them being at the same time claimed to have originated antecedent to such settlement of jurisdiction, shall, on the petition of either party to the congress of the united States, be finally determined, as near as may be, in the same manner as is before prescribed for deciding disputes respecting territorial jurisdiction between different States.

The united States, in congress assembled, shall also have the sole and exclusive right and power of regulating the alloy and value of coin struck by their own authority, or by that of the respective States fixing the standard of weights and measures throughout the united States; regulating the trade and managing all affairs with the Indians, not members of any of the States; provided that the legislative right of any State, within its own limits, be not infringed or violated; establishing and regulating post-offices from one State to another, throughout all the United States, and exacting such postage on the papers passing through the same, as may be requisite to defray the expenses of the said office; appointing all officers of the land forces in the service of the united States, excepting regimental officers; appointing all the officers of the naval forces, and commissioning all officers whatever in

the service of the united States; making rules for the government and regulation of the said land and naval forces, and directing their operations.

The united States, in congress assembled, shall have authority to appoint a committee, to sit in the recess of congress, to be denominated, "A Committee of the States," and to consist of one delegate from each State; and to appoint such other committees and civil officers as may be necessary for managing the general affairs of the united States under their direction; to appoint one of their number to preside; provided that no person be allowed to serve in the office of president more than one year in any term of three years; to ascertain the necessary sums of money to be raised for the service of the united States, and to appropriate and apply the same for defraying the public expenses; to borrow money or emit bills on the credit of the united States, transmitting every half year to the respective States an account of the sums of money so borrowed or emitted; to build and equip a navy; to agree upon the number of land forces, and to make requisitions from each State for its quota, in proportion to the number of white inhabitants in such State, which requisition shall be binding; and thereupon the Legislature of each State shall appoint the regimental officers, raise the men, and clothe, arm, and equip them, in a soldier-like manner, at the expense of the united States; and the officers and men so clothed, armed, and equipped, shall march to the place appointed, and within the time agreed on by the united States, in congress assembled; but if the united States, in congress assembled, shall, on consideration of circumstances, judge proper that any State should not raise men, or should raise a smaller number than its quota, and that any other State should raise a greater number of men than the quota thereof, such extra number shall be raised, officered, clothed, armed, and equipped in the same manner as the quota of such State, unless the Legislature of such State shall judge that such extra number cannot be safely spared out of the same, in which case they shall raise, officer, clothe, arm, and equip, as many of such extra number as they judge can be safely spared. And the officers and men so clothed, armed, and equipped, shall march to the place appointed, and within the time agreed on by the united States in congress assembled.

The united States, in congress assembled, shall never engage in a war, nor grant letters of marque and reprisal in time of peace, nor enter into any treaties or alliances, nor coin money, nor regulate the value thereof nor ascertain the sums and expenses necessary for the defence and welfare of the united States, or any of them, nor emit bills, nor borrow money on the credit of the united States, nor appropriate money, nor agree upon the number of vessels of war to be built or purchased, or the number of land or sea forces to be

raised, nor appoint a commander in chief of the army or navy, unless nine States assent to the same, nor shall a question on any other point, except for adjourning from day to day, be determined, unless by the votes of a majority of the united States in congress assembled.

The congress of the united States shall have power to adjourn to any time within the year, and to any place within the united States, so that no period of adjournment be for a longer duration than the space of six months, and shall publish the journal of their proceedings monthly, except such parts thereof relating to treaties, alliances, or military operations, as in their judgment require secrecy; and the yeas and nays of the delegates of each State, on any question, shall be entered on the journal, when it is desired by any delegate; and the delegates of a State, or any of them, at his or their request, shall be furnished with a transcript of the said journal, except such parts as are above excepted, to lay before the legislatures of the several States.

Article X. The committee of the States, or any nine of them, shall be authorized to execute, in the recess of congress, such of the powers of congress as the united States, in congress assembled, by the consent of nine States, shall, from time to time, think expedient to vest them with; provided that no power be delegated to the said committee, for the exercise of which, by the articles of con-federation, the voice of nine States, in the congress of the united States assembled, is requisite.

Article XI. Canada acceding to this confederation, and joining in the measures of the united States, shall be admitted into, and entitled to all the advantages of this union: but no other colony shall be admitted into the same, unless such admission be agreed to by nine States.

Article XII. All bills of credit emitted, monies borrowed, and debts contracted by or under the authority of congress, before the assembling of the united States, in pursuance of the present confederation, shall be deemed and considered as a charge against the united States, for payment and satisfaction whereof the said United States and the public faith are hereby solemnly pledged.

Article XIII. Every State shall abide by the determinations of the united States, in congress assembled, on all questions which by this confederation are submitted to them. And the articles of this confederation shall be inviol-ably observed by every State, and the Union shall be perpetual; nor shall any alteration at any time hereafter be made in any of them, unless such alteration be agreed to in a congress of the united States, and be afterwards con-firmed by the legislatures of every State.

And Whereas it hath pleased the Great Governor of the World to incline the hearts of the legislatures we respectively represent in congress, to approve of, and to authorize us to ratify the said articles of confederation and perpetual union, Know Ye, that we, the undersigned delegates, by virtue of the power and authority to us given for that purpose, do, by these presents, in the name and in behalf of our respective constituents, fully and entirely ratify and confirm each and every of the said articles of confederation and perpetual union, and all and singular the matters and things therein contained. And we do further solemnly plight and engage the faith of our respective constituents, that they shall abide by the determinations of the united States, in congress assembled, on all questions which by the said confederation are submitted to them; and that the articles thereof shall be inviolably observed by the States we respectively represent, and that the Union shall be perpetual. In witness whereof, we have hereunto set our hands, in Congress. Done at Philadelphia, in the State of Pennsylvania, the ninth day of July, in the year of our Lord one thousand seven hundred and seventy eight, and in the third year of the Independence of America.⁷⁹

⁷⁹“Articles of Confederation.” *100 milestone document*.

APPENDIX P II: THE CONSTITUTION OF UNITED STATES

We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defense, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.

Article. I.

Section. 1.

All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

Section. 2.

The House of Representatives shall be composed of Members chosen every second Year by the People of the several States, and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature.

No Person shall be a Representative who shall not have attained to the Age of twenty five Years, and been seven Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State in which he shall be chosen.

Representatives and direct Taxes shall be apportioned among the several States which may be included within this Union, according to their respective Numbers, which shall be determined by adding to the whole Number of free Persons, including those bound to Service for a Term of Years, and excluding Indians not taxed, three fifths of all other Persons. The actual Enumeration shall be made within three Years after the first Meeting of the Congress of the United States, and within every subsequent Term of ten Years, in such Manner as they shall by Law direct. The Number of Representatives shall not exceed one for every thirty Thousand, but each State shall have at Least one Representative; and until such enumeration shall be made, the State of New Hampshire shall be entitled to chuse three, Massachusetts eight, Rhode-Island and Providence Plantations one,

Connecticut five, New-York six, New Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina five, and Georgia three.

When vacancies happen in the Representation from any State, the Executive Authority thereof shall issue Writs of Election to fill such Vacancies.

The House of Representatives shall chuse their Speaker and other Officers; and shall have the sole Power of Impeachment.

Section. 3.

The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof for six Years; and each Senator shall have one Vote.

Immediately after they shall be assembled in Consequence of the first Election, they shall be divided as equally as may be into three Classes. The Seats of the Senators of the first Class shall be vacated at the Expiration of the second Year, of the second Class at the Expiration of the fourth Year, and of the third Class at the Expiration of the sixth Year, so that one third may be chosen every second Year; and if Vacancies happen by Resignation, or otherwise, during the Recess of the Legislature of any State, the Executive thereof may make temporary Appointments until the next Meeting of the Legislature, which shall then fill such Vacancies.

No Person shall be a Senator who shall not have attained to the Age of thirty Years, and been nine Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State for which he shall be chosen.

The Vice President of the United States shall be President of the Senate, but shall have no Vote, unless they be equally divided.

The Senate shall chuse their other Officers, and also a President pro tempore, in the Absence of the Vice President, or when he shall exercise the Office of President of the United States.

The Senate shall have the sole Power to try all Impeachments. When sitting for that Purpose, they shall be on Oath or Affirmation. When the President of the United States is tried, the Chief Justice shall preside: And no Person shall be convicted without the Concurrence of two thirds of the Members present.

Judgment in Cases of Impeachment shall not extend further than to removal from Office, and disqualification to hold and enjoy any Office of honor, Trust or Profit under the United States: but the Party convicted shall nevertheless be liable and subject to Indictment, Trial, Judgment and Punishment, according to Law.

Section. 4.

The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of chusing Senators.

The Congress shall assemble at least once in every Year, and such Meeting shall be on the first Monday in December, unless they shall by Law appoint a different Day.

Section. 5.

Each House shall be the Judge of the Elections, Returns and Qualifications of its own Members, and a Majority of each shall constitute a Quorum to do Business; but a smaller Number may adjourn from day to day, and may be authorized to compel the Attendance of absent Members, in such Manner, and under such Penalties as each House may provide.

Each House may determine the Rules of its Proceedings, punish its Members for disorderly Behaviour, and, with the Concurrence of two thirds, expel a Member.

Each House shall keep a Journal of its Proceedings, and from time to time publish the same, excepting such Parts as may in their Judgment require Secrecy; and the Yeas and Nays of the Members of either House on any question shall, at the Desire of one fifth of those Present, be entered on the Journal.

Neither House, during the Session of Congress, shall, without the Consent of the other, adjourn for more than three days, nor to any other Place than that in which the two Houses shall be sitting.

Section. 6.

The Senators and Representatives shall receive a Compensation for their Services, to be ascertained by Law, and paid out of the Treasury of the United States. They shall in all Cases, except Treason, Felony and Breach of the Peace, be privileged from Arrest during their Attendance at the Session of their respective Houses, and in going to and returning from the same; and for any Speech or Debate in either House, they shall not be questioned in any other Place.

No Senator or Representative shall, during the Time for which he was elected, be appointed to any civil Office under the Authority of the United States, which shall have been created, or the Emoluments whereof shall have been increased during such time; and no Person holding any Office under the United States, shall be a Member of either House during his Continuance in Office.

Section. 7.

All Bills for raising Revenue shall originate in the House of Representatives; but the Senate may propose or concur with Amendments as on other Bills.

Every Bill which shall have passed the House of Representatives and the Senate, shall, before it become a Law, be presented to the President of the United States: If he approve he shall sign it, but if not he shall return it, with his Objections to that House in which it shall have originated, who shall enter the Objections at large on their Journal, and proceed to reconsider it. If after such Reconsideration two thirds of that House shall agree to pass the Bill, it shall be sent, together with the Objections, to the other House, by which it shall likewise be reconsidered, and if approved by two thirds of that House, it shall become a Law. But in all such Cases the Votes of both Houses shall be determined by yeas and Nays, and the Names of the Persons voting for and against the Bill shall be entered on the Journal of each House respectively. If any Bill shall not be returned by the President within

ten Days (Sundays excepted) after it shall have been presented to him, the Same shall be a Law, in like Manner as if he had signed it, unless the Congress by their Adjournment prevent its Return, in which Case it shall not be a Law.

Every Order, Resolution, or Vote to which the Concurrence of the Senate and House of Representatives may be necessary (except on a question of Adjournment) shall be presented to the President of the United States; and before the Same shall take Effect, shall be approved by him, or being disapproved by him, shall be repassed by two thirds of the Senate and House of Representatives, according to the Rules and Limitations prescribed in the Case of a Bill.

Section. 8.

The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States;

To borrow Money on the credit of the United States;

To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes;

To establish an uniform Rule of Naturalization, and uniform Laws on the subject of Bankruptcies throughout the United States;

To coin Money, regulate the Value thereof, and of foreign Coin, and fix the Standard of Weights and Measures;

To provide for the Punishment of counterfeiting the Securities and current Coin of the United States;

To establish Post Offices and post Roads;

To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries;

To constitute Tribunals inferior to the supreme Court;

To define and punish Piracies and Felonies committed on the high Seas, and Offences against the Law of Nations;

To declare War, grant Letters of Marque and Reprisal, and make Rules concerning Captures on Land and Water;

To raise and support Armies, but no Appropriation of Money to that Use shall be for a longer Term than two Years;

To provide and maintain a Navy;

To make Rules for the Government and Regulation of the land and naval Forces;

To provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repel Invasions;

To provide for organizing, arming, and disciplining, the Militia, and for governing such Part of them as may be employed in the Service of the United States, reserving to the States respectively, the Appointment of the Officers, and the Authority of training the Militia according to the discipline prescribed by Congress;

To exercise exclusive Legislation in all Cases whatsoever, over such District (not exceeding ten Miles square) as may, by Cession of particular States, and the Acceptance of Congress, become the Seat of the Government of the United States, and to exercise like Authority over all Places purchased by the Consent of the Legislature of the State in which the Same shall be, for the Erection of Forts, Magazines, Arsenals, dock-Yards, and other needful Buildings;--And

To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.

Section. 9.

The Migration or Importation of such Persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the Year one thousand eight hundred and eight, but a Tax or duty may be imposed on such Importation, not exceeding ten dollars for each Person.

The Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it.

No Bill of Attainder or ex post facto Law shall be passed.

No Capitation, or other direct, Tax shall be laid, unless in Proportion to the Census or enumeration herein before directed to be taken.

No Tax or Duty shall be laid on Articles exported from any State.

No Preference shall be given by any Regulation of Commerce or Revenue to the Ports of one State over those of another; nor shall Vessels bound to, or from, one State, be obliged to enter, clear, or pay Duties in another.

No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law; and a regular Statement and Account of the Receipts and Expenditures of all public Money shall be published from time to time.

No Title of Nobility shall be granted by the United States: And no Person holding any Office of Profit or Trust under them, shall, without the Consent of the Congress, accept of any present, Emolument, Office, or Title, of any kind whatever, from any King, Prince, or foreign State.

Section. 10.

No State shall enter into any Treaty, Alliance, or Confederation; grant Letters of Marque and Reprisal; coin Money; emit Bills of Credit; make any Thing but gold and silver Coin a Tender in Payment of Debts; pass any Bill of Attainder, ex post facto Law, or Law impairing the Obligation of Contracts, or grant any Title of Nobility.

No State shall, without the Consent of the Congress, lay any Imposts or Duties on Imports or Exports, except what may be absolutely necessary for executing it's inspection Laws: and the net Produce of all Duties and Imposts, laid by any State on Imports or Exports, shall be for the Use of the Treasury of the United States; and all such Laws shall be subject to the Revision and Controul of the Congress.

No State shall, without the Consent of Congress, lay any Duty of Tonnage, keep Troops, or Ships of War in time of Peace, enter into any Agreement or Compact with another State, or with a foreign Power, or engage in War, unless actually invaded, or in such imminent Danger as will not admit of delay.

Article. II.

Section. 1.

The executive Power shall be vested in a President of the United States of America. He shall hold his Office during the Term of four Years, and, together with the Vice President, chosen for the same Term, be elected, as follows:

Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors, equal to the whole Number of Senators and Representatives to which the State may be entitled in the Congress: but no Senator or Representative, or Person holding an Office of Trust or Profit under the United States, shall be appointed an Elector.

The Electors shall meet in their respective States, and vote by Ballot for two Persons, of whom one at least shall not be an Inhabitant of the same State with themselves. And they shall make a List of all the Persons voted for, and of the Number of Votes for each; which

List they shall sign and certify, and transmit sealed to the Seat of the Government of the United States, directed to the President of the Senate. The President of the Senate shall, in the Presence of the Senate and House of Representatives, open all the Certificates, and the Votes shall then be counted. The Person having the greatest Number of Votes shall be the President, if such Number be a Majority of the whole Number of Electors appointed; and if there be more than one who have such Majority, and have an equal Number of Votes, then the House of Representatives shall immediately chuse by Ballot one of them for President; and if no Person have a Majority, then from the five highest on the List the said House shall in like Manner chuse the President. But in chusing the President, the Votes shall be taken by States, the Representation from each State having one Vote; A quorum for this purpose shall consist of a Member or Members from two thirds of the States, and a Majority of all the States shall be necessary to a Choice. In every Case, after the Choice of the President, the Person having the greatest Number of Votes of the Electors shall be the Vice President. But if there should remain two or more who have equal Votes, the Senate shall chuse from them by Ballot the Vice President.

The Congress may determine the Time of chusing the Electors, and the Day on which they shall give their Votes; which Day shall be the same throughout the United States.

No Person except a natural born Citizen, or a Citizen of the United States, at the time of the Adoption of this Constitution, shall be eligible to the Office of President; neither shall any Person be eligible to that Office who shall not have attained to the Age of thirty five Years, and been fourteen Years a Resident within the United States.

In Case of the Removal of the President from Office, or of his Death, Resignation, or Inability to discharge the Powers and Duties of the said Office, the Same shall devolve on the Vice President, and the Congress may by Law provide for the Case of Removal, Death, Resignation or Inability, both of the President and Vice President, declaring what Officer shall then act as President, and such Officer shall act accordingly, until the Disability be removed, or a President shall be elected.

The President shall, at stated Times, receive for his Services, a Compensation, which shall neither be increased nor diminished during the Period for which he shall have been elected,

and he shall not receive within that Period any other Emolument from the United States, or any of them.

Before he enter on the Execution of his Office, he shall take the following Oath or Affirmation:--"I do solemnly swear (or affirm) that I will faithfully execute the Office of President of the United States, and will to the best of my Ability, preserve, protect and defend the Constitution of the United States."

Section. 2.

The President shall be Commander in Chief of the Army and Navy of the United States, and of the Militia of the several States, when called into the actual Service of the United States; he may require the Opinion, in writing, of the principal Officer in each of the executive Departments, upon any Subject relating to the Duties of their respective Offices, and he shall have Power to grant Reprieves and Pardons for Offences against the United States, except in Cases of Impeachment.

He shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two thirds of the Senators present concur; and he shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the supreme Court, and all other Officers of the United States, whose Appointments are not herein otherwise provided for, and which shall be established by Law: but the Congress may by Law vest the Appointment of such inferior Officers, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments.

The President shall have Power to fill up all Vacancies that may happen during the Recess of the Senate, by granting Commissions which shall expire at the End of their next Session.

Section. 3.

He shall from time to time give to the Congress Information of the State of the Union, and recommend to their Consideration such Measures as he shall judge necessary and expedient; he may, on extraordinary Occasions, convene both Houses, or either of them,

and in Case of Disagreement between them, with Respect to the Time of Adjournment, he may adjourn them to such Time as he shall think proper; he shall receive Ambassadors and other public Ministers; he shall take Care that the Laws be faithfully executed, and shall Commission all the Officers of the United States.

Section. 4.

The President, Vice President and all civil Officers of the United States, shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors.

Article III.

Section. 1.

The judicial Power of the United States shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish. The Judges, both of the supreme and inferior Courts, shall hold their Offices during good Behaviour, and shall, at stated Times, receive for their Services a Compensation, which shall not be diminished during their Continuance in Office.

Section. 2.

The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority;--to all Cases affecting Ambassadors, other public Ministers and Consuls;--to all Cases of admiralty and maritime Jurisdiction;--to Controversies to which the United States shall be a Party;--to Controversies between two or more States;--between a State and Citizens of another State,--between Citizens of different States,--between Citizens of the same State claiming Lands under Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects.

In all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be Party, the supreme Court shall have original Jurisdiction. In all the

other Cases before mentioned, the supreme Court shall have appellate Jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make.

The Trial of all Crimes, except in Cases of Impeachment, shall be by Jury; and such Trial shall be held in the State where the said Crimes shall have been committed; but when not committed within any State, the Trial shall be at such Place or Places as the Congress may by Law have directed.

Section. 3.

Treason against the United States, shall consist only in levying War against them, or in adhering to their Enemies, giving them Aid and Comfort. No Person shall be convicted of Treason unless on the Testimony of two Witnesses to the same overt Act, or on Confession in open Court.

The Congress shall have Power to declare the Punishment of Treason, but no Attainder of Treason shall work Corruption of Blood, or Forfeiture except during the Life of the Person attainted.

Article. IV.

Section. 1.

Full Faith and Credit shall be given in each State to the public Acts, Records, and judicial Proceedings of every other State. And the Congress may by general Laws prescribe the Manner in which such Acts, Records and Proceedings shall be proved, and the Effect thereof.

Section. 2.

The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States.

A Person charged in any State with Treason, Felony, or other Crime, who shall flee from Justice, and be found in another State, shall on Demand of the executive Authority of the State from which he fled, be delivered up, to be removed to the State having Jurisdiction of the Crime.

No Person held to Service or Labour in one State, under the Laws thereof, escaping into another, shall, in Consequence of any Law or Regulation therein, be discharged from such Service or Labour, but shall be delivered up on Claim of the Party to whom such Service or Labour may be due.

Section. 3.

New States may be admitted by the Congress into this Union; but no new State shall be formed or erected within the Jurisdiction of any other State; nor any State be formed by the Junction of two or more States, or Parts of States, without the Consent of the Legislatures of the States concerned as well as of the Congress.

The Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States; and nothing in this Constitution shall be so construed as to Prejudice any Claims of the United States, or of any particular State.

Section. 4.

The United States shall guarantee to every State in this Union a Republican Form of Government, and shall protect each of them against Invasion; and on Application of the Legislature, or of the Executive (when the Legislature cannot be convened), against domestic Violence.

Article. V.

The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution, or, on the Application of the Legislatures of two thirds of the several States, shall call a Convention for proposing Amendments, which, in either

Case, shall be valid to all Intents and Purposes, as Part of this Constitution, when ratified by the Legislatures of three fourths of the several States, or by Conventions in three fourths thereof, as the one or the other Mode of Ratification may be proposed by the Congress; Provided that no Amendment which may be made prior to the Year One thousand eight hundred and eight shall in any Manner affect the first and fourth Clauses in the Ninth Section of the first Article; and that no State, without its Consent, shall be deprived of its equal Suffrage in the Senate.

Article. VI.

All Debts contracted and Engagements entered into, before the Adoption of this Constitution, shall be as valid against the United States under this Constitution, as under the Confederation.

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.

The Senators and Representatives before mentioned, and the Members of the several State Legislatures, and all executive and judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution; but no religious Test shall ever be required as a Qualification to any Office or public Trust under the United States.

Article. VII.

The Ratification of the Conventions of nine States, shall be sufficient for the Establishment of this Constitution between the States so ratifying the Same.

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first Page and the Word "the" being interlined between the forty third and forty fourth Lines of the second Page.

Attest William Jackson Secretary

Done in Convention by the Unanimous Consent of the States present the Seventeenth Day of September in the Year of our Lord one thousand seven hundred and Eighty seven and of the Independence of the United States of America the Twelfth In witness whereof We have hereunto subscribed our Names,

G^o. Washington
Presidt and deputy from Virginia

Delaware
Geo: Read
Gunning Bedford jun
John Dickinson
Richard Bassett
Jaco: Broom

Maryland
James McHenry
Dan of St Thos. Jenifer
Danl. Carroll

Virginia
John Blair
James Madison Jr.

North Carolina
Wm. Blount
Richd. Dobbs Spaight
Hu Williamson

South Carolina

J. Rutledge

Charles Cotesworth Pinckney

Charles Pinckney

Pierce Butler

Georgia

William Few

Abr Baldwin

New Hampshire

John Langdon

Nicholas Gilman

Massachusetts

Nathaniel Gorham

Rufus King

Connecticut

Wm. Saml. Johnson

Roger Sherman

New York

Alexander Hamilton

New Jersey

Wil: Livingston

David Brearley

Wm. Paterson

Jona: Dayton

Pennsylvania

B Franklin

Thomas Mifflin

Robt. Morris

Geo. Clymer

Thos. FitzSimons

Jared Ingersoll

James Wilson

Gouv Morris

80

⁸⁰ „Transcript of Consitution of the United States.“ *100milestone document*.
<http://www.ourdocuments.gov/doc.php?flash=true&doc=9&page=transcript>

APPENDIX P II: THE HOMESTEAD ACT

CHAP. LXXV. *An Act to secure Homesteads to actual Settlers on the Public Domain.*

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That any person who is the head of a family, or who has arrived at the age of twenty-one years, and is a citizen of the United States, or who shall have filed his declaration of intention to become such, as required by the naturalization laws of the United States, and who has never borne arms against the United States Government or given aid and comfort to its enemies, shall, from and after the first January, eighteen hundred and sixty-three, be entitled to enter one quarter section or a less quantity of unappropriated public lands, upon which said person may have filed a preemption claim, or which may, at the time the application is made, be subject to preemption at one dollar and twenty-five cents, or less, per acre; or eighty acres or less of such unappropriated lands, at two dollars and fifty cents per acre, to be located in a body, in conformity to the legal subdivisions of the public lands, and after the same shall have been surveyed: Provided, That any person owning and residing on land may, under the provisions of this act, enter other land lying contiguous to his or her said land, which shall not, with the land so already owned and occupied, exceed in the aggregate one hundred and sixty acres.

SEC. 2. And be it further enacted, That the person applying for the benefit of this act shall, upon application to the register of the land office in which he or she is about to make such entry, make affidavit before the said register or receiver that he or she is the head of a family, or is twenty-one years or more of age, or shall have performed service in the army or navy of the United States, and that he has never borne arms against the Government of the United States or given aid and comfort to its enemies, and that such application is made for his or her exclusive use and benefit, and that said entry is made for the purpose of actual settlement and cultivation, and not either directly or indirectly for the use or benefit of any other person or persons whomsoever; and upon filing the said affidavit with the register or receiver, and on payment of ten dollars, he or she shall thereupon be permitted to enter the quantity of land specified: Provided, however, That no certificate shall be given or patent issued therefor until the expiration of five years from the date of such entry ; and if, at the expiration of such time, or at any time within two years thereafter, the person making such entry ; or, if he be dead, his widow; or in case of her death, his heirs or devisee; or in case of a widow making such entry, her heirs or devisee, in case of her death ; shall. prove by two credible witnesses that he, she, or they have resided upon or

cultivated the same for the term of five years immediately succeeding the time of filing the affidavit aforesaid, and shall make affidavit that no part of said land has been alienated, and that he has borne true allegiance to the Government of the United States ; then, in such case, he, she, or they, if at that time a citizen of the United States, shall be entitled to a patent, as in other cases provided for by law: And provided, further, That in case of the death of both father and mother, leaving an Infant child, or children, under twenty-one years of age, the right and fee shall ensure to the benefit of said infant child or children ; and the executor, administrator, or guardian may, at any time within two years after the death of the surviving parent, and in accordance with the laws of the State in which such children for the time being have their domicil, sell said land for the benefit of said infants, but for no other purpose; and the purchaser shall acquire the absolute title by the purchase, and be entitled to a patent from the United States, on payment of the office fees and sum of money herein specified.

SEC. 3. And be it further enacted, That the register of the land office shall note all such applications on the tract books and plats of, his office, and keep a register of all such entries, and make return thereof to the General Land Office, together with the proof upon which they have been founded.

SEC. 4. And be it further enacted, That no lands acquired under the provisions of this act shall in any event become liable to the satisfaction of any debt or debts contracted prior to the issuing of the patent therefor.

SEC. 5. And be it further enacted, That if, at any time after the filing of the affidavit, as required in the second section of this act, and before the expiration of the five years aforesaid, it shall be proven, after due notice to the settler, to the satisfaction of the register of the land office, that the person having filed such affidavit shall have actually changed his or her residence, or abandoned the said land for more than six months at any time, then and in that event the land so entered shall revert to the government.

SEC. 6. And be it further enacted, That no individual shall be permitted to acquire title to more than one quarter section under the provisions of this act; and that the Commissioner of the General Land Office is hereby required to prepare and issue such rules and regulations, consistent with this act, as shall be necessary and proper to carry its provisions into effect; and that the registers and receivers of the several land offices shall be entitled to receive the same compensation for any lands entered under the provisions of this act that they are now entitled to receive when the same quantity of land is entered with money, one half to be paid by the person making the application at the time of so doing,

and the other half on the issue of the certificate by the person to whom it may be issued; but this shall not be construed to enlarge the maximum of compensation now prescribed by law for any register or receiver: Pro- vided, That nothing contained in this act shall be so construed as to im- pair or interfere in any manner whatever with existing preemption rights : And provided, further, That all persons who may have filed their applications for a preemption right prior to the passage of this act, shall be entitled to all privileges of this act: Provided, further, That no person who has served, or may hereafter serve, for a period of not less than fourteen days in the army or navy of the United States, either regular or volun- teer, under the laws thereof, during the existence of an actual war, do- mestic or foreign, shall be deprived of the benefits of this act on account of not having attained the age of twenty-one years.

SEC. 7. And be it further enacted, That the fifth section of the act en- titled" An act in addition to an act more effectually to provide for the punishment of certain crimes against the United States, and for other purposes," approved the third of March, in the year eighteen hundred and fifty-seven, shall extend to all oaths, affirmations, and affidavits, re- quired or authorized by this act.

SEC. 8. And be it further enacted, That nothing in this act shall be 80 construed as to prevent any person who has availed him or herself of the benefits of the fir8t section of this act, from paying the minimum price, or the price to which the same may have graduated, for the quantity of land so entered at any time before the expiration of the five years, and obtain- ing a patent therefor from the government, as in other cases provided by law, on making proof of settlement and cultivation as provided by exist- ing laws granting preemption rights.

APPROVED, May 20, 1862.⁸¹

⁸¹“ The Homestead Act.”100 milestone document.
<http://www.ourdocuments.gov/doc.php?flash=true&doc=9&page=transcript>