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Native Sovereignty: The Iroquois Great Law and the Creation of the U.S. Constitution

In May of 1787, 55 delegates of the English Colonies in America began to travel to Philadelphia to attend the Constitutional Convention. Some of the delegates thought the Articles of Confederation only needed to be amended to improve the government that was in place. Others attended with the intentions of creating a whole new Government. As a result, delegates from 12 of the colonies (Rhode Island did not send anyone) discussed a variety of issues ranging from commerce to slavery. It was not until September that a proposal was agreed upon and on September 17th, The Constitutional Convention approved the Constitution of the United States of America. Thirty nine of the delegates signed the new document and after ratification by a majority of the states, the Constitution became law on June 21, 1788.

Just as the delegates from the several colonies, the history and content of the Constitution is diverse. The creation of a three branch government composed of the executive, legislative, and judicial, was unique to the Euro-American culture at that time. Exceptionally unique was the Legislative Branch which was composed of a bicameral legislative body: The House of Representatives and the Senate.

How did the Continental Congress come to agree on such a concept? Where did the ideas contained within the Constitution come from? Was the Constitution the perfection of older European models, thoughts and philosophies, or did it come from somewhere else all together? Many of these questions have been asked over the years by various historians. It is clear, however, that there is a strong connecting between the content of the United States Constitution and the Iroquois Great Law. The reasons for the connection between these two seemingly unrelated governments is complex and hard to trace due to the shadows cast by the last two hundred years. However, there are several indications left behind by various

sources that suggest there was a strong connection between the founding fathers and the Iroquois chiefs.

The strongest connection can be traced to Benjamin Franklin, who, by the 1740s was living a moderately comfortable life as a business man and community leader in Philadelphia. He opened his own print shop and became the province's official printer. "Franklin ran off his press all of Pennsylvania's paper money, state documents and laws, as well as job printing." After a few years of operation, he took an interest in printing treaties made with several Indian nations due to a "seemingly insatiable appetite for information about the Indians."²

It was under these conditions that Benjamin Franklin closely monitored laws of diplomacy practiced between England and the Iroquois, and he gained an understanding of the Iroquois governmental roles and organization. Franklin was sent to the Constitutional Convention, not as an official delegate, but as a highly respected advisor. It is not surprising then that many of the provisions found within the constitution were concepts that Franklin had advocated for during the years prior to its writing. Franklin's extensive experience publishing the proceedings of the many treaty parties had exposed him to many of the philosophies and practices of the Iroquois Great Law.

In the introduction of *The Great Law of Peace and the Constitution of the United States of America*, Gregory Schaaf outlines several similarities between the U.S. Constitution and the Iroquois Great Law. By highlighting the organization of the Confederacy's Grand Council, the roles of various people, and nations, Schaaf illustrates just how similar the U.S. government is to the Iroquois system.

Schaaf begins with the Onondaga Nation, and Chief Thatatálho?, who presides over the Grand Council meetings. His role is described as parallel to the role of the U.S. President, and the role of the Onondaga Nation, who are known as the Firekeepers, as representative of the Executive Branch. After the other nations debated the issue and came to a consensus, the issue was returned to the Onondaga with anticipation of approval. However, if

It would be a very strange thing if Six Nations of Ignorant Savages should be capable of forming a scheme for such an Union and be able to execute it in such a manner, as that it has subsisted Ages, and appears indissoluble, and yet a like Union should be impracticable for ten or a dozen English Colonies.

Benjamin Franklin to
James Parker, 1751

the Onondaga felt that there was anything lacking or not considered, then they could pass the issue back to the other nations and the discussion on the matter would have been revisited or continued. This is very similar to the procedure described in the U.S. Constitution and how the Executive Branch (specifically the President) could veto a bill, in which case it could return to the floor in congress for revision.

In the organization of the Confederacy, the Mohawk and Seneca Nations were considered the Elder Brothers and the Cayuga and Oneida Nations were considered the Younger Brothers. These two designations are reflected in the Upper and Lower houses of Congress, or the Senate and the House of Representatives. In the Confederacy, discussions begin with the Elder Brothers, who make recommendations and then pass the issue *over the fire* to the Younger Brothers. The Younger Brothers then debate the issue, and make recommendations back to the Elder Brothers or send the issue on for approval. This procedure is directly mimicked by the legislative procedure used by congress and outlined in the U.S. Constitution.

The Iroquois Confederacy also had a built-in judicial system and checks and balances that were meant to foster personal freedoms such as freedom of speech, assembly, and religion. Although, perhaps more important than the similarities to the Iroquois and U.S. judicial branches, Schaaf pointed out that it was probably their differences between the two that silenced the Founding Fathers from revealing where their inspiration came.

Schaaf wrote that “the Iroquoian ‘supreme court’ was entrusted to the women.” In the Iroquois culture, Clan Mothers were the ones who were responsible for nominating chiefs and in the event that a chief neglected to represent his clan or follow the will of the people, the clan mother could warn him. If he continued in an errant path after his third warning, the Chief could be removed from his office. Titles to the lands where the Iroquois lived were also preserved through the women and their

family lines. In addition, women also held the power to prevent war or allow it.

With so many rights inherent in the roles of women in the communities, Schaaf pointed out that “white women could have argued they deserved, at least, equal rights with American Indian women,” and that “if women across the land had known the truth about the power of Indian women, the call for equal rights could have been heard earlier, and American history might have changed...” If Schaaf is correct and the Founding Fathers of the United States intentionally hid the origins of the U.S. Constitution, it might have been one of the single most detrimental events to equal rights in American History.

Although the U.S. constitution refers to the “Indian Tribes,” it contains no list of provisions for citizenship or rights to be reserved to the members of the tribes. This is due to the inherit sovereignty and independence of the many Indian Nations. As far as the constitution is concerned, the only entity that has the right to regulate commerce and establish treaties with the Indian Nations is the U.S. Federal Government. Those rights were specifically denied to the states or any other individual or entity under Article 1, Sections 8 and 10.

In the years following the establishment of the U.S. constitution, Native American sovereignty has been challenged time and again. Despite the fact that Native Americans were not citizens of the United States until 1924, and are independent sovereign nations, Congress, which derives its authority from the U.S. Constitution, targeted and violated Native Sovereignty with policies such as Removal Act, Allotment Act, Boarding Schools, and many others.

SOURCES:

- Johansen, Bruce. *Forgotten Founders: Benjamin Franklin, the Iroquois and the Rationale for the American Revolution*. (Gambit: MA, 1982).
- Schaaf, Gregory. *The Great Law of Peace and the Constitution of the United State of America*, pamphlet published by the Tree of Peace Society

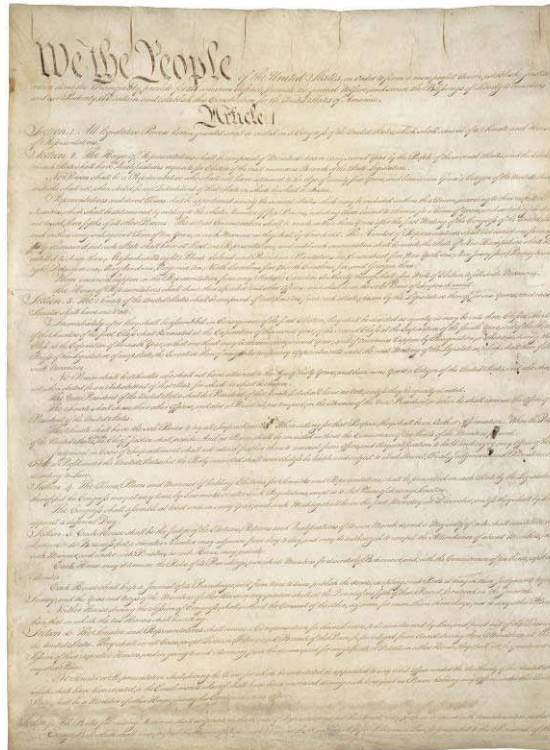


Image 1: The first page of the United States Constitution. The U.S. Constitution outlines the powers of the three branches of the Federal Government and, together with subsequent amendments, outlines the rights of the Citizens of the United States. The only other people referred to in the document are the Native Nations who occupied North America before European arrival.