



**TESTIMONY BEFORE THE OHIO HOUSE OF REPRESENTATIVES
PRIMARY AND SECONDARY EDUCATION COMMITTEE
HOUSE BILL 73, REGARDS EDUCATIONAL TESTING, ASSESSMENT, AND
RETENTION
MAY 18, 2021**

**OPPONENT TESTIMONY OF MICHAEL GOLDSTEIN, ESQ.
STATE OF OHIO DIRECTOR AND GENERAL COUNSEL
PROCLAIMING JUSTICE TO THE NATIONS**

Chairman Manning, Vice Chair Bird, Ranking Member Robinson, and honorable members of the House Primary and Secondary Education Committee. My name is Michael Goldstein, and I am the State of Ohio Director and the General Counsel of Proclaiming Justice to the Nations, a Christian organization dedicated to educating Christians on their Biblical duty to support and defend the State of Israel and the Jewish people, particularly during this time of rising anti-Semitism. PJTN is on the web at www.pjtn.org.

I appreciate the opportunity to speak with you on behalf of PJTN and its members as a strong opponent of House Bill 73, the Testing Reduction Act, regarding altering the statutory requirement for the teaching of the American and State of Ohio Foundational Documents in American History and American Government courses by combining the statutorily mandated two high school end-of-course exams in these subject areas.

I will leave to others to relate the 12-year history of the struggle to pass and implement the underlying legislation requiring the teaching of these foundational documents to our children and grandchildren, and the Department of Education's failure to provide even one of the statutorily-mandated every six-month progress reports in the eight-year period following implementation by the General Assembly of the requirement that it do so.

Rather, I will focus on the absolute necessity for our children and grandchildren to be taught and to internalize the nature of these documents, what they mean to America and to Ohio, and who created the documents and why and how they did so. This is our history, and without this knowledge our children and our country will be lost. PJTN's interest in this matter is to try to ensure that all Americans continue to understand the treasure of our founding documents and how they continue to maintain America as a strong and moral nation.

I will speak specifically about the least widely known and understood of these foundational documents, the Northwest Ordinance.

As part of the negotiated settlement between the new United States and Great Britain at the end of the Revolutionary War, our American delegates insisted that Britain cede to the U.S. the Northwest Territories, the land north and west of the Ohio River. They were so insistent on this provision that they stated that the U.S. would resume armed hostilities should the British refuse. The acquisition of this vast land doubled the area of the United States.

During the Revolutionary War Continental Army soldiers received little to no pay from the Continental Congress for their brave, uncomfortable, dangerous, and often mortal services. It was projected that these men would be offered land grants in the west in compensation. A group of these former officers and men created a stock company to negotiate a contract between their shareholders and the Continental Congress. In 1787 The Ohio Company, as it was known, sent Manasseh Cutler, a Boston Pastor and veteran Continental Army Chaplain, to negotiate with the Congress the terms of what became the Northwest Ordinance. Cutler met with the Continental Congress in New York City where it was sitting at the same time the Constitutional Convention was meeting in Philadelphia.

The Ohio Company refused to accept a contract with the government concerning the Northwest Territory if the ordinance did not contain three remarkable, unprecedented conditions: freedom of religion, free universal education, and most importantly, the prohibition of slavery. The Northwest Ordinance as passed contained all three of these requirements. In the whole of the territory there would be absolute freedom of religion and particular emphasis on education, matters New Englanders considered fundamental to a just and admirable society.

As would be observed by historians long afterword, the Northwest Ordinance was designed to guarantee what would one day be known as the American way of life.

The first Ohio Company settlement in the Northwest Territory was Marietta at the confluence of the Ohio and Muskingum Rivers in what became Washington County, Ohio. Noted Author David McCullough, with whom I spoke in Marietta about these issues, is the author of biographies of Presidents John Adams and Harry Truman. Two years ago he released his latest book, *The Pioneers*, the history of the Ohio Company, the Northwest Ordinance, and “the settlers who brought the American Ideal West.”

In its Article III, the Ordinance was quite clear on the matter. “Religion, morality, and knowledge, being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged.”

That such emphasis be put on education in the vast new territory before even one permanent settlement had been established was extraordinary. But of even greater importance was the fact that outside of New England there was then no such thing in the United States as a system of state supported schools of any kind. Before the year was out, in the contract between the Ohio Company and the Board of Treasury it would be specified that a section in each township was to be reserved for common schools and be “given perpetually to the use of an University.”

Importantly, the same Article III of the ordinance stated that the “Utmost good faith shall always be observed toward the Indians; their lands and property shall never be taken from them without their consent . . . they shall never be invaded or disturbed, unless in just and lawful wars authorized by Congress.”

But it was Article VI that set forth a tenet such as never before stated in any American constitution. “There shall be neither slavery nor involuntary servitude in the said territory.” This was agreed to at a time when slavery existed in every one of the 13 states, and in every other nation on the planet. It was almost unimaginable that throughout a new territory as large as all of the 13 states, there was to be no slavery.

The Ordinance recognized religion, morality, and knowledge as foundations of civil government, and Manasseh Cutler was “acting for associates, friends, and neighbors, [who] would not embark in the enterprise, unless these principles were unalterably fixed.” The Northwest Ordinance of 1787 would prove to be one of the most far-reaching acts of Congress in the history of the country.

As one widely respected, later-day historian, Albert Bushnell Hart of Harvard university would write, “never was there a more ingenious, systematic and successful piece of lobbying than that of the Reverend Manasseh Cutler,” and that the great Northwest Ordinance of 1787 stands alongside the Magna Carta and the Declaration of Independence as a bold assertion of the rights of the individual.

Ohio Constitutional Convention: It was in Chillicothe, during the Ohio State constitutional convention convened in November 1802, that Washington County delegates Rufus Putnam and Ephraim Cutler (son of Manasseh Cutler), stood firm on an issue of utmost importance that they, like others, had thought long since settled -- the question of slavery in Ohio. In derogation of the Northwest Ordinance, the predecessors of this, our Ohio House of Representatives, almost voted to bring Ohio into the Union as a slave state.

The immediate issue at Chillicothe centered around what was to be Article VIII of the new Ohio constitution. The first preliminary discussion of the matter took place at the home of Dr. Edward Tiffin, a resident of Chillicothe and a Jeffersonian, who was speaker of the Ohio House of Representatives.

The subject was the question of whether Ohio would permit or exclude slavery. The chairman of the committee, John W. Browne, proposed a section that would define the issue quite simply: “No person shall be held in slavery, if a male, after he is 35 years of age; or a female, after 25 years of age.” In other words, the tenet of the Northwest Ordinance of 1787 stating in no uncertain terms that there would be no slavery was to be eliminated. Slaves would be permitted in Ohio up to certain ages, which meant Ohio was to enter the Union as a slave state.

Due to the hard work of the two representatives to the convention from Washington County, slavery was successfully eliminated from Ohio. As Ephraim Cutler wrote, “It cost me every effort I was capable of making, and [my anti-slavery position] passed by a majority of one vote only.” It was a landmark moment.

It is extremely important that our children, our high school graduates, the future leaders of Ohio and of the United States, fully internalize their history, and understand that the Northwest Ordinance was designed by exceptionally good and dedicated people to guarantee what would one day be known as the American way of life. Any action which would dilute the conveyance of this message to our students, such as the bill under consideration by this committee today, should not be voted favorably out of committee. On behalf of Proclaiming Justice to the Nations I urge each of you to vote “No” on this bill.