

## Intentions of the Preamble to the Constitution

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.”

The current Constitution of the United States was designed to replace America’s first written instrument of government, The Articles of Confederation. The Articles were proposed by Congress in 1777, were finally ratified in 1781 and they were an abject failure. Realizing that the Articles could not rightly be salvaged through mere modification, a group of delegates met in the summer of 1787 to fashion a completely new Constitution and therefore, a completely new government.

The Constitution was not written by purple robed scholars, sitting in their ivory towers attempting to put abstract theories into play, but by men who had come to realize that their system of government was broken and who desired desperately to repair it.

The preamble states what the Constitution was designed to accomplish. By briefly looking at each clause of the preamble individually we can glean insight into the minds of the authors, what they hoped to accomplish and what they hoped to avoid.

“We the People...” It is a basic premise of the American system that the people derive their rights from God and that the government derives its powers from the governed. Americans have traditionally rejected the concept that any person or any combination of persons has any special claim to power. Americans have also traditionally rejected the notion that rights can emanate from the government. The French Revolution failed because the French systematically separated its people into factions. The three “Estates” of France (the clergy, nobility and the commoners) were doomed to forever to be at cross-purposes with each other and, therefore, doomed to failure.

“...of the United States,...” It was not the intention of the convention to abandon the premise that our government consists of a union of states. Neither was it the intention of the convention to reduce the states to mere administrative districts of the central authority. The authors of the Constitution recognized the sovereignty of the states and fully intended to protect that

sovereignty. One will notice that the phrase is “We the people of the United States...” not “We the people of America...”

“...in Order to form a more perfect Union,...” The delegates in Philadelphia were frank in their assessment that the union of states had to be improved and that is what they set out to do. The convention sought to strengthen the central government, but there was never any serious thought given to extending to the federal government anything more than as Alexander Hamilton put it, “few and limited powers.”

“...establish Justice,...” Under the Articles of Confederation there was no national court system.

This made it extremely difficult for persons or states to obtain remedies in law outside local jurisdictions. The Articles of Confederation did attempt to institute a clumsy system of settling disputes between states. Below is from Article VI of the Articles of Confederation:

“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 causes 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 judgement 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 judgement, which shall in like manner be final and decisive, the judgement 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 judgement, 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 judgement, without favor, affection or hope of reward': provided also, that no State shall be deprived of territory for the benefit of the United States.”

This court by committee was obviously unworkable. Congress was not above petty political consideration and Congress had no mechanism to enforce its decisions in any event. The Constitution established a Supreme Court and provided for inferior federal courts throughout the United States. These courts were not only charged with providing remedies in law, but were also charged with interpreting laws. In 1803 the Supreme Court ruled that a federal law was unconstitutional and thereby established itself as the sole arbiter as to what federal legislation may or not rightly be enforced.

“...insure domestic Tranquility,...” The national government under the Articles of Confederation was not potent enough to prevent what can best be described as general disorder within its borders. A few examples of America's domestic distress follow: The states of New York and New Hampshire engaged in a de facto war over Vermont. Pennsylvania hired bands of Indians (and whites dressed as Indians) to scalp persons from other states who were

attempting the Wyoming valley region. States engaged in disastrous tariff wars and issued large sums of worthless currency.

“...provide for the common defense...” Nations must be able to defend their citizens from attack or the threat of attack. Likewise, nations must be able to secure their own borders and protect their citizens at sea. Under the Articles of Confederation the central government was unable to provide any meaningful protection for its citizens. For instance, even though England had agreed to give up its fur trading >operations in the Northwest (midwest) in 1783, she stubbornly maintained them throughout the term of the Articles. The Barbary States of Northern Africa levied heavy duties on American >vessels in international waters. The best example of America’s military >weakness, however, can be found in Shays’ rebellion (1786-1787). Daniel Shay, who had served as a Captain in the Revolutionary Army, led a group of about 1,500 men in a war against what they considered unfairly high rents and interest in Massachusetts. Shays’ band was active for several months. Among other things it closed the debtor courts at Worcester and laid siege to the United States arsenal at Springfield before the Massachusetts militia was finally able to bring an end to the disturbance. During the entire affair, Congress could not find the wherewithal to raise even a token force to counter Captain Shay.

“...promote the general Welfare...” The founders of the new government had no inclination to use federal revenues to provide for the welfare of any specific individual. It was their belief that if conditions were favorable, nearly everyone would prosper through their own ingenuity without any aid from anyone and those few that were in a temporary state of “hard times” could best be cared for by family, church or charitable organization. Under the Articles of Confederation the conditions were seldom favorable for prosperous ingenuity, however. As noted earlier, the states engaged in tariff wars and issued large sums of unsecured currency, which led them to the brink of bankruptcy. The central authority was forever on the verge of defaulting on its obligations as well. Under the Articles of Confederation there was no system of taxation. The central government would request that the states provide funds for its operation. These requisitions were often ignored to a degree that Congress was reduced to begging for funds from the states. Gouverneur Morris referred to it as “a

government by supplication.” The 1781-1782 national budget was set at \$9,000,000. \$4,000,000 was secured in a European loan. The other \$5,000,000 was requested from the states. A year later Congress reported that only \$450,000 of the \$5,000,000 had been received. Economic conditions in America were so bad that many western frontiersmen agreed to the offer of the Spanish Governor of New Orleans to renounce their allegiance to the United States in exchange for the use of the Mississippi River. With the national government and the state governments in bankruptcy and with a self-induced depression prevailing throughout America, is it any wonder that Daniel Shay would lead a rebellion?

“...and secure the Blessings of Liberty to ourselves and our Posterity...” The delegates fully understood that liberty was both a blessing and an obligation. Liberty is a blessing that must be secured and if one generation fails to properly secure liberty, other generations will neither reap liberty’s blessings, nor have the opportunity to secure it for themselves or their posterity. The delegates attempted to secure the blessings of liberty by limiting the federal government to a few, well-defined powers. They created a republic in which the people and the states shared responsibility, but which an intemperate majority could not throw off kilter.

“... do ordain and establish ...” The convention gave the Constitution the force of law. In fact, they made the Constitution the supreme law of the land. The Constitution is not a “living” document that can be interpreted to fit any given political or social bias, but a concrete law that means exactly what it says.

“...this Constitution for the United States of America...” Again, the delegates wanted to place emphasis on the fact that they were creating a government that existed FOR the benefit of the states. The delegates endeavored to form a central government strong enough to handle those functions that were clearly national in nature and no stronger. They had no intention of supplanting state authority or of making the states subordinate to federal authority.