

The Preamble to the Constitution of the United States

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The Preamble to the United States Constitution not only introduces the document; it encapsulates and reflects the various sources of, and influences upon, our constitutional tradition. The covenants and compacts written by colonists during the early seventeenth century first established the form and general elements of American constitutions. Early in the eighteenth century the ideas and values of Harrington and the Commonwealth thinkers, Florentine republicanism as exemplified by Machiavelli, and the contract theorists, especially Hobbes and Locke, provided additional philosophical underpinnings. These three strands of thought were woven into the fabric of the covenant/compact tradition, and the synthesis achieved fullest expression in the state constitutions written between 1776 and 1787. Beginning in the 1770's, the ideas of the Scottish Enlightenment writers, particularly Hume, and of the European Enlightenment more generally, especially Montesquieu, were injected into American political thought. The Federalists who assembled in Philadelphia in the summer of 1787 brought Enlightenment ideas into American constitutionalism, but the founders had additional models for government in the early state constitutions. Our constitutional tradition also responded to critical political situations. Constitutions are never written in a political vacuum, but tend to present a "snapshot" of the balance of political forces at the time of their writing. Our analysis of the Preamble's form and content, then, must necessarily focus upon the early colonial foundation documents, the early state constitutions, the proceedings of the Constitutional Convention, and the historical events surrounding the writing of the Constitution, including the matter of the Articles of Confederation. **Form of The Documents** By 1787 Americans had been writing documents of political foundation for over a century and a half. Although technically governed by a charter from the English Crown, colonists to America were invariably granted the right by these charters to erect and conduct local government as long as the laws passed were not in contradiction with English law. Thus, from the very beginning Americans had considerable control over their local political affairs; the Mayflower Compact is a good example of the foundation documents they wrote for themselves to formalize local government. These brief documents were direct descendants of religious covenants developed by Calvinist-oriented Protestants and influenced by the Old Testament, especially the book of Deuteronomy.

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In the name of God, amen. We whose names are underwritten. . . do, by these presents, covenant and combine ourselves together into a civil body politic for our better ordering and preservation and furtherance of the ends aforesaid; and by virtue hereof do enact, constitute, and frame such just and equal laws, ordinances, acts, constitutions, and officers, from time to time, as shall be thought most meet and convenient for the general good of the colony, to which we promise all due submission and obedience

Mayflower Compact, in part, adopted November 11, 1620. Text taken from F. N. Thorpe, ed., *The Federal and State Constitutions, Colonial Charters, and Other Organic Laws of the United States*, Vol. 111, p. 1841.

Dozens of similar local documents of foundation would be written in the next twenty years throughout the colonies. Typically these documents would embody the principles of popular sovereignty, majority rule, and political equality among citizens, though there was some qualification of these principles in practice. Ideally, government was to be based upon the

consent of the people, either directly or indirectly through representatives elected for that purpose, and decisions were to be derived from an open and deliberate discussion of what best served the common good. The colonists drew up longer and longer codes of law, altered and expanded their political systems, and brought the basics of their government into single documents which laid out fundamental principles and institutions. At this point, the earlier documents of foundation tended to become introductory statements of the grounds and intention of these longer proto-constitutions. In 1636 the citizens of Plymouth, Massachusetts wrote the first true constitution in American history, and used as a preface the Plymouth agreement which they had adopted the same day.

We the associates of New-Plymouth coming hither as freeborn subjects of the State of England endowed with all and singular the privileges belonging to such being assembled; doe ordain Constitute and enact that noe act imposition law or ordinance be made or imposed upon us at present, or to come but such as shall be imposed by Consent of the body of associates or their representatives legally assembled; which is according to the free liberties of the State of England.

Plymouth Agreement, from the preface to the Pilgrim Code of Law, adopted November 15, 1636. Text is taken from Harry M. Ward, Statism in Plymouth Colony, p. 17.

Between 1620 and 1776, simple foundation documents written by the colonists, and derived from religious covenants both in form and content, became secularized preambles to modern constitutions. During this evolution of a constitutional tradition, Americans usually included five foundation elements in their documents of political foundation. First, there was an explanation of why the document was necessary. Second, the document created, defined or redefined a people, a community of individuals. Third, it laid out the fundamental values or goals which described the kind of people this community was or hoped to become. Fourth, the document formally established a civil society by creating a government. Fifth and finally, the document laid out the specific design for the governmental institutions through which the community would make collective decisions.

It became standard practice to combine the first four foundation elements with a bill of rights as a long introduction to the body of the document. In the early state constitutions, the section after the preamble would often begin with, "Part II: The Constitution or Form of Government," and only then launch into an institutional description of the sort we usually associate with constitutions. This structure made the bills of rights part of the preamble, by implication prior to, and thus not part of, the constitution proper. The Preamble to the United States Constitution did not have a bill of rights to help it carry the load of the four foundation elements, but it is easy to see the long documentary tradition of which it is a part.

The Preamble to the federal Constitution begins "We the people," another structural device taken from early state constitutions. Most of the colonial documents written between 1620 and 1650 began with the phrase "We the undersigned," and the signatures invariably represented all the free, property-owning adult males in the community. Using only fifty-two words, the Preamble to the Constitution efficiently contains the requisite foundation elements. It creates a people, the citizens of the United States, where the Articles of Confederation had recognized only a league of states, (each of which was constituted a people by their respective constitutions). We are given the reasons the document is needed at the same time that we have a list of fundamental values or goals-union, justice, domestic tranquility, the common defense, the general welfare, and liberty. The words "do ordain and establish this Constitution" create a government. Thus, we have the first four foundation elements at hand, ready to be joined by the fifth, the institutional description, in the body of the document. **Content** We have been implying a direct connection in form between the preambles of the early state constitutions and our national Preamble, but it must be remembered that the framers of our national Constitution met in Philadelphia in the summer of 1787 in order to overcome the

weaknesses in the Articles of Confederation which failed to create an adequate national government. State constitutions did not have as their purpose the design of a national government. Thus, the founders could not extract such ideas from them. In fact, the framers in many instances were reacting against what they found in the more parochial state constitutions, including their preambles. Nevertheless, just as bicameralism, representation, and a host of other ideas flowed into the national document from the state constitutions as a result of the familiar and persistent patterns carried in the heads of the framers from living under the state constitutions, so too did the Preamble. The national Preamble derived partly through the apposition of the state preambles, and partly in opposition to them. Furthermore, the state constitutions had an impact on the national Constitution by the simple fact of the existence of the states prior to the birth of the nation. The proposed national Constitution had to incorporate a federal system to acknowledge the autonomous purview of the states. Thus, the states are mentioned in the national document, either directly or by clear implication, over fifty times in forty-two separate sections. Our political system is defined by an interlocking system of constitutions, and the state documents are an essential part of a proper, complete United States Constitution. The preambles to the state constitutions set the pattern for preambles to constitutions, introduced other portions of the interlocking system, and served as positive and negative examples of content for the framers.

Since the preambles and bills of rights of the early state constitutions reflected the colonial tradition, they contained many English Whig, republican, and contractarian elements. But they also contained elements derived from the more recent Enlightenment tradition, elements which first showed up in force in the Declaration of Independence. To the earlier values were added life, liberty, and happiness.

We hold these truths to be self evident that all men, are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the pursuit of Happiness. That to secure these rights, Governments are instituted among Men deriving their, just powers from the consent of the governed; That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter, or abolish it, and to institute new Government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their Safety and Happiness.

Beginning of the second paragraph of the Declaration of Independence, adopted July 4, 1776.

The Declaration had a tremendous impact upon the early state constitutions. Eight of them borrowed language directly from the Declaration, and the 1777 New York Constitution reprinted the entire Declaration of Independence as part of its preamble.

In 1776 the state of Virginia adopted a constitution, and its preamble and the Virginia Bill of Rights resemble the Declaration at least in part because Thomas Jefferson was centrally involved with both.

We therefore, the delegates and representatives of the good people of Virginia, having maturely considered the premises, and viewing with great concern the deplorable conditions to which this once happy country must be reduced, unless some regular adequate mode of civil polity is speedily adapted.do ordain and declare the future form of government of Virginia to be as followed.

The last paragraph of a 1,500 word introductory statement to the 1776 Virginia Constitution. Text taken from F.N. Thorpe, ed., The Federal and State Constitutions, Vol. VII, P. 3815.

That all men are by nature equally free and independent, and have certain inherent rights, Of which, when they enter into a state of society, they cannot by any compact, deprive or divest their posterity; namely, the enjoyment of life and liberty, with the means of acquiring and possessing property, and pursuing and obtaining happiness and safety.

Section I of the Bill of Rights of the 1776 Virginia Constitution. Text from Thorpe, p. 3813.

It thereafter became typical to use the first article or two of the respective state constitution's bill of rights to complete the laying out of fundamental values begun in the state preamble proper. These long introductions to state constitutions, combining a preamble with a bill of rights to lay out the first four foundation elements, were usually several thousand words long. The preambles themselves averaged about 425 words, ranging in length from the 42 words in the 1784 New Hampshire document to over 1,300 words in the 1776 South Carolina and 1777 Vermont documents. The New Hampshire Constitution is instructive for comparing a short, northern document with the long Virginia document written eight years earlier.

The people inhabiting the territory formerly called the Province of New Hampshire, do hereby solemnly and mutually agree with each other, to form themselves into a free, sovereign, and independent Body-politic, or State, by the name of the State of New Hampshire.

Entire preamble to Part II-The Form of Government, of the 1784 New Hampshire Constitution. Text taken from Thorpe, p. 2458.

All men are born equally free and independent; therefore, all government of right originates from the people, is founded in consent, and instituted for the general good.

All men have certain natural, essential, and inherent rights; among which are- the enjoying and defending life and liberty-acquiring, possessing and protecting property-and in a word, of seeking and obtaining happiness.

Articles I and II of the Bill of Rights to the 1784 New Hampshire Constitution. Text from Thorpe, p. 2453.

The essential contents are the same as found in the 1776 Virginia document, but the format differs a bit. Here we have the first two articles of the bill of rights containing more explicitly what has been, and in most instances still will be, contained in the preamble. The preamble has been moved to Part II, the beginning of the Constitution proper. Together, the preamble and first two articles of the bill of rights contain the values first enunciated during the colonial era-popular consent, the general good, etc.-as well as the more recently appropriated Enlightenment values of life, liberty, and happiness. Two more brief extracts from state preambles will show how the formulas can vary.

Wherefore, in our present state, in order to prevent anarchy and confusion, it becomes necessary, that government should be established in this State; therefore we, the Representatives of the freemen of North Carolina, chosen and assembled in Congress, for the express purpose of framing a Constitution under the authority of the people, most conducive to their happiness and prosperity, do declare, that a government for this State shall be established, in manner and form following

Last paragraph of the preamble to the 1776 North Carolina Constitution. Text from Thorpe, pp. 2789-90.

We, therefore, the representatives of the people, from, whom all power originates, and for whose benefit all government is intended, by virtue of the power delegated to us, do ordain and declare, and it is hereby ordained and declared, that the following rules and regulations be adopted for the entire government of this state

Last paragraph of the preamble to the 1777 Georgia Constitution. Text taken from Thorpe, 778.

It is too easy to view the national Preamble as simply a more efficient, more abstract rendering of the equivalent in the state constitutions. The state preambles and associated portions of their respective bills of rights lay out not only a richer set of goals than does the national Preamble, but also a somewhat different set of values and goals that reflect radical Whig and Biblical sources. The state documents speak of the consent of the people, the common good, deliberative processes, God's dissension, equality, the ability of people to form and change government, as well as the common defense, liberty, domestic tranquility, and the passage of these things to posterity. Whereas the national Preamble speaks of justice, the state preambles describe in some detail the nature of fair and equal treatment of all citizens. The national Preamble speaks of the general welfare, but the state preambles use the alternative language of "happiness and prosperity" in the 1776 North Carolina Constitution, and the "common good" of the 1780 Massachusetts Constitution. The state formulations tend to be richer in that they imply a community of interests rather than simply material sufficiency. The Federalists who wrote the Constitution hoped to create an effective national government with an emphasis upon effectiveness. Not wishing to impinge on American freedoms, they nonetheless saw a serious need to overcome the instability at the state level that appeared to arise from excessive state autonomy. They had no need to emphasize liberty, consent, majority rule and legislative supremacy because these values were protected by state constitutions, and the federal government had a different role to play. To dramatize the point, we reproduce here two state preambles which best summarize the political theory operative at the state level, with its ringing language derived from contractarian, radical Whig and covenantal sources. They are full and explicit. The first, the 1776 Pennsylvania Preamble, introduced the most radically egalitarian constitution of the era. The second, the Preamble to the 1780 Massachusetts Constitution, introduced a traditional, mainstream document that was to become the model for later state constitutions. As we will see, the Federalists were having neither.

Whereas all government ought to be instituted and supported for the security and protection of the community as such, and to enable the individuals who compose it to enjoy their natural rights, and the other blessings which the Author of existence has bestowed upon man; and whenever these great ends of government are not obtained, the people have a right, by common consent to change it, and take such measures as to them may appear necessary to promote their safety and happiness We, the representatives of the freemen of Pennsylvania, in general convention met, for the express purpose of framing such a government, confessing the goodness of the great Governor of the universe . in permitting the people of this State, by common consent, and without violence, deliberately to form for themselves such just rules as they shall think best, for governing their future society . as will best promote the general happiness of the people of this State, and their posterity, and provide for future improvements, without partiality for, or prejudice against any particular class, sect, or denomination of men whatever, do by virtue of the authority vested in us by our constituents, ordain, declare, and establish, the following Declaration of Rights and Frame of Government, to be the CONSTITUTION of the commonwealth

About 40% of the preamble to the 1776 Pennsylvania Constitution. Text taken from Thorpe, pp. 3081-82.

That all men are born equally free and independent, and have certain natural, inherent and unalienable rights, amongst which are, the enjoying and defending life and liberty, acquiring, possessing and protecting property, and pursuing and obtaining happiness and safety.

Article I of the Declaration of Rights of the 1776 Pennsylvania Constitution. Taken from Thorpe, p. 3082.

The end of the institution, maintenance, and administration of government, is to secure the existence of the body politic, to protect it, and to furnish the individuals who compose it with the power of enjoying in safety and tranquility their natural rights, and the blessings of life: and Whenever these great objects are not obtained, the people have a right to alter the government, and to take measures necessary for their safety, prosperity and happiness.

The body politic is formed by a voluntary association of individuals: it is a social compact, by which the whole people covenants with each citizen, and each citizen with the whole people, that all shall be governed by certain laws for the common good. It is the duty of the people, therefore, in framing a constitution of government, to provide for an equitable mode of making laws, as well as for an impartial interpretation and a faithful execution of them; that every man may, at all times, find his security in them.

We, therefore, the people of Massachusetts, acknowledging with grateful hearts, the goodness of the great Legislator of the universe, in affording us, in the course of His providence, an opportunity, deliberately and peaceably, without fraud, violence or surprise, of entering into an original, explicit, and solemn compact with each other; and of forming a new constitution of civil government, for ourselves and posterity; and devoutly imploring His direction in so interesting a design, do agree upon, ordain, and establish, the following Declaration of Rights, and Frame of Government, as the CONSTITUTION OF THE COMMONWEALTH OF MASSACHUSETTS.

Entire Preamble to the 1780 Massachusetts Constitution. Text taken from Thorpe, pp. 1888-89.

Neither of these preambles could have introduced the United States Constitution. Whether mainstream or radical, large state or small state, northern or southern, the consistent pattern and content of American foundation documents from 1620 to 1784 is clear. The Federalists framing the national Preamble found themselves needing a preamble, unable to use much of what was to be had at the state level, yet seeking some basis for continuity that would echo the basic symbols of the American political tradition.

Edmund Randolph introduced a statement, apparently edited in part by John Rutledge, which urged the Convention in Philadelphia to stick to "simple and precise language, and general propositions." He also argued that a preamble should not designate the ends of government, nor contain the language of covenants or compacts; they were, he believed, working with a people and government already in being, not creating a new people or polity. Leaving aside the question of how language can be precise and general at the same time, or what they thought they were doing in Philadelphia if not creating a new people or polity, it is clear that Randolph was among those not wishing to repeat the form or content of state preambles in the national preamble. At several points in the discussion it was suggested that any preamble should indicate only that the Articles of Confederation were inadequate for achieving the general happiness, and thus a new constitution was being written. The framers, and especially those on the Committee of Style and Arrangement, chose instead to write a Preamble that looked superficially similar to those in the state documents. The result was briefer and contained language that was less precise and more general. It thereby appeared to include many traditional values and goals, yet it removed references to those things which the Federalists found most objectionable for a national government—the emphasis upon relatively direct popular consent and equality, the dominance of the legislative branch, a moralistic

stance with respect to politics, and the tendency for the states to act as if each were an independent nation. The national Preamble also reflects the greatest concerns of the nationalists- union, as opposed to a league of squabbling states; justice, as opposed to legislatures responding to rapidly shifting majorities; domestic tranquility, as opposed to the kind of insurrections that had already occurred in Massachusetts, Pennsylvania, and North Carolina, insurrections that the Federalists felt stemmed from too much popular consent, too much legislative supremacy, and too much equality in state governments. As for the common defense, the general welfare, and liberty, the framers were drawing here upon the first American national constitution, the Articles of Confederation. Early in the Convention proceedings, Edmund Randolph of Virginia introduced the most nationalistic of all the proposed constitutions-the Virginia Plan. His very first resolution used the tactic of taking the language found in the Articles as the measure of what was to be done-to achieve a common defense, enhance security of liberty, and promote the general welfare. These goals implied the contents for a preamble to any new constitution the Convention might produce.

The said states hereby severally enter into a firm league of friendship with each other, for their common defense, the security of their liberties, and their mutual and general welfare.
First sentence of Article 111, the Articles of Confederation, adopted November 15, 1777.

Resolved, that the articles of confederation ought to be so corrected and enlarged, as to accomplish the objects proposed by their institution, namely, common defense, security of liberty and general welfare.

The first motion by Edmund Randolph introducing the Virginia Plan at the Constitutional Convention, May 29, 1787.

Randolph's approach had the virtue of making the proposed Constitution appear to be a fulfillment of the Articles, and thus almost a natural development. However, mid-way through the Convention, a tentative preamble was adopted that began, "We the people of the States of New-Hampshire, Massachusetts," etc. It too had the virtue of implying a connection with the Articles, perhaps too much of one, since it still connoted a loose league of sovereign states.

We the People of the States of New-Hampshire, Massachusetts, Rhode-Island, and Providence Plantations, Connecticut, New York, New-Jersey, Pennslyvania, Delaware, Maryland, Virginia, North-Carolina, South-Carolina, and Georgia, do ordain, declare and establish the following Constitution for the Government of Ourselves and our Posterity.

The Preamble to the proposed United States Constitution as it went to the Committee of Style and Arrangement from the full convention at the end of August, 1787.

The amendment of this proposed Preamble by the Committee of Style and Arrangement demonstrated an understanding of both politics and the importance of rhetoric. The Committee kept "We the people" which resonated so strongly with American foundation documents since 1620, and replaced the list of states with "of the United States of America," thus rendering the Preamble in accord with the Federalist nationalist perspective. "Common defence, security of liberty, and the general welfare" were resurrected from the early Randolph resolution, and thus from the Articles of Confederation. This addition not only lent a touch of continuity and a dollop of legitimacy, it also resonated with some of the language found in the state preambles, such as "happiness and prosperity," "the common good," "the security and protection of the community," "safety and happiness," and "safety and tranquility." A rereading of the passages from the state constitutions here provided will show the connections. "Union," "justice," and "domestic tranquility," Federalist preoccupations, were

inserted before "common defense," "security of liberty," and "general welfare." For the last sentence, the Committee on Style and Arrangement revised slightly the final clause from the original Preamble that the Convention had devised. The result looked, on a quick reading, to be similar to the preambles found in the state constitutions, but it actually differed from the state formulations in being more general, and in omitting the conventional language of earlier preambles. The Preamble did borrow directly from the long-standing American tradition of foundation documents by beginning with "We the people," and by including the traditional four foundation elements. The version that had been given to the Committee on Style and Arrangement by the Convention for polishing had contained only three elements-it did not list any goals or provide any hint of why a new Constitution was needed. The Preamble to the United States Constitution thus is linked with a long line of American documents, beginning with the Mayflower Compact, and running up through the Declaration of Independence, the Articles of Confederation, and many of the early state constitutions. Properly understood, the Preamble is not only an introduction to our national Constitution but is also emblematic of our constitutional history.

WE THE PEOPLE of the United States, in Order to form a more Perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, 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 Preamble to the Constitution of the United States, adopted September 17, 1787.

Select Bibliography The early covenants and compacts can be found reproduced in Donald S. Lutz, *Documents of Political Foundation Written by Colonial Americans* (Philadelphia: Institute for the Study of Human Issues, 1984).

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For the actual writing of the Preamble the reader will want to consult Max Farrand, ed, *The Records of the Federal Convention of 1787* (New Haven: Yale University Press 1937), 4 vols.

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