

# The BEACON OF LIBERTY

Volume I: Issue 1

A Structured Curriculum of Constitutional Study

## Clauses Discussed:

- Preamble

## Concepts Discussed:

- We the People of the United States
- Form a more perfect Union
- Establish this Constitution

The **Constitution for the United States of America** begins without title with the opening paragraph referred to as the **Preamble**, which declares:

*“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 Preamble answers the general questions who (We the People of the United States) does what (ordain and establish this Constitution) for whom (ourselves and our Posterity) and for what reasons (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).

Because the Preamble discusses the People **of** the United States, one must understand the meaning of the United States before covering their People.

## THE UNITED STATES

In literal form, one should realize that United States ends with an “s”, signifying multiple entities. It is a plural term representing many States united together, as in these united States. The Constitution confirms this literal connotation, showing a plural form in many of its clauses.

**Article I, Section 9, Clause 8** (abbreviated Art. I:9:8) declares, in part;

*“No Title of Nobility shall be granted by the United States: And no Person holding any Office of Profit or Trust under them.”*

The substitution of the plural pronoun them in the clause above not only makes it unnecessary to restate the United States in the sentence, but it shows the collective meaning of that term. In contrast, if the United States were a singular entity, the singular pronoun it would have been used.

The pronoun them in the clause does not refer to the States in their separate capacities, as they are likewise prohibited from granting Titles of Nobility in **Article I, Section 10, Clause 1**, which declares:

*“No State shall...grant any Title of Nobility.”*

The Constitution uses the singular pronoun it as the pronoun relating to an individual entity.

For example, **Article V** establishes:

*\*“that no State, without its Consent, shall be deprived of it's equal Suffrage in the Senate.”*

Its was also used, again in reference to a State, in **Article I, Section 10, Clause 2**. The said clause reads:

*\*“No State shall...lay any Imposts or Duties on Imports or Exports, except what may be absolutely necessary for executing it's inspection Laws.”*

\*(Please note that it's was incorrectly used in both instances with a apostrophe meant to signify possession. An apostrophe is only correctly used in this instance showing contraction, i.e., as an abbreviated form of it is or it has).



With regards to the Houses of Congress, its was also used in **Article I, Section 5**, Clauses 1, 2, & 3.

**Clause 1** declares: “Each House shall be the Judge...of its own Members.”

**Clause 2** states: “Each House may determine the Rules of its Proceedings, punish its members.”

**Clause 3** affirms that: “Each House shall keep a Journal of its Proceedings.”

Every instance in the main body of the Constitution referring to the United States which shows any indication of word form shows the United States as a plural term. **Article III, Section 2, Clause 1** similarly declares, in part:

*“The judicial Power shall extend to...the Laws of the United States, and Treaties made, or which shall be made, under their Authority.”*

The power to enact treaties is specifically denied the several States (again in Art. I:10:1), so the possessive plural pronoun their could not here possibly reference the several States.

The **13th Article in Amendment** references the group meaning of the United States in **Section 1**, stating:

*“Neither slavery nor involuntary servitude...shall exist within the United States, or any place subject to their jurisdiction.”*

**Article III, Section 3, Clause 1** provides the simplest, most direct example of the United States as a collection of States:

*“Treason against the United States, shall consist only in levying War against them, or in adhering to their Enemies.”*

**Article II, Section 1, Clause 7** states that the President:

*“shall not receive within that Period any other Emolument from the United States, or any of them.”*

The pronoun them references the separate States in this last instance (as evidenced by the use of the disjunctive or marking an alternative to the States in their united capacity), but the only noun capable of being modified was the United States.

This shows that the United States can mean the States in their united capacity, or in their separate capacities as one of the States which are united.

The **11th Article in Amendment** best references the United States as a collection of individual States, here stating:

*“The judicial Power of the United States shall not be construed to extend to any suit in Law or Equity, commenced or prosecuted against one of the United States by Citizens of another State.”*

The manner of reference in the 11th Amendment to “one of the United States” throws off many Americans who are used to the concept of “many States — one United States”. That there are many United States (and not just one) doesn't bode well with most American's understanding. The concept of many United States fits well with the actual title of the **Declaration of Independence**; “The unanimous Declaration of the thirteen united States of America.”



In the Declaration of Independence, the colonies solemnly published and declared themselves to be “Free and Independents States.” They did not declare that the United States was a Free and Independent country, or a Free and Independent nation (or any other singular entity). “These United Colonies” declared that they were “Free and Independent States” and that as such “they have full Power to levy War, conclude Peace...”

The September 3, 1783 **Paris Peace Treaty** was signed to end the Revolutionary War. **Article I** of the Treaty reads as follows:

*“His Britannic Majesty acknowledges the said United States, viz. New-Hampshire, Massachusetts-Bay, Rhode-Island and Providence Plantations, Connecticut, New-York, New-Jersey, Pennsylvania, Delaware, Maryland, Virginia, North-Carolina, South-Carolina, and Georgia, to be free, sovereign and independent States; that he treats with them as such; and for himself, his heirs and successors, relinquishes all claims to the government, propriety and territorial rights of the same, and every part thereof.”*

“Viz.” is the abbreviated form of the Latin word Videlicet, meaning that is to say. Black's Law Dictionary states that viz. is used to “render more specific that which has been previously stated in general language only.” It allows more accurate elucidation of a previously-stated general term.

In the **Peace Treaty**, the separate States were individually named to more accurately define the term the United States. The King of Great Britain specifically acknowledged “them” as “free, sovereign and independent States,” just as the States declared themselves seven years prior. **Article V** of the Treaty allowed British subjects who had not borne arms against the said United States free liberty to go to any parts of the “thirteen United States” to obtain restitution of their properties.

When the Constitution referred to a State in their individual capacities, it referenced them as the several States, particular States, every State, each State, respective States, that State, same State, different States, any State, one State, a State, another State, other States, more States, new States, no State, State, the State and even, as above, one of the United States.

The United States, as the term is used in the Constitution, denotes the separate States united together (although it can reference one of the individual States that are united together). There is no United States without consideration of the separate States. This concept is similar to a family; there being no single, distinct family entity; actually only a collection of individual persons.

This concept, that the States still assemble together in a Congress of their representatives and pass laws according to their powers, will be discussed throughout the various issues of The Beacon of Liberty. The literal meaning of Congress is nothing more than the separate States, through their envoy of Senators and Representatives, congregating together to pass laws of common benefit according to the powers ceded by each State individually. There is no federal entity passing legislation which is not a direct voice of the various States. There is no federal legislative entity apart from the congregation of States. The States have been assembling together in a Congress and passing resolutions and legislation for common benefit since the First Continental Congress assembled together in 1774, when they were still colonies.

It is vital to have a firm foundation upon which to build a proper understanding of the relationship between the States in their separate capacities with that of their united capacity. The United States is a group term signifying the States united together for collective action of common benefit. To correctly understand the term, realize that word united is, in

the most proper sense, an adjective modifying the noun States, as in the united States; rather than as proper noun, the United States.

## THE UNION

The first of the stated reasons of the Preamble for establishing the Constitution was to form a more perfect Union. The concept of a Union is directly tied to the concept of the United States and is therefore proper to examine at this time.

Literally speaking, one cannot form a more perfect Union, as the word union signifies a complete unity in itself. The framers of the Constitution were writing here in a figurative sense (writing figuratively is allowed in the Preamble, since the Preamble discusses concepts rather than authorizing any direct grant of power). The important principle to understand by this phrase is that the Union of States was not a new Union, it was merely changing its form, in attempt to make it more perfect.

**Article VI, Clause 1** of the Constitution acknowledges that the Union only changed forms with the adoption of the Constitution when it states:

*“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.”*

Within this Article, one sees a reference to the United States being the same under two alternative forms of government, each document outlining a source of power varied from the other. If the United States were a single entity as many propose, surely it could not exist before its supposed creation under the Constitution. The United States as a singular entity could not be the same under the Constitution as it was under the Articles of Confederation. This is no different a concept than a owner closing a proprietorship and creating a corporation — while the two companies may possibly share a common list of owners and incorporators, the corporation not only operates under different authority, it is a separate entity.

The Articles of Confederation and Perpetual Union were a grouping of Articles outlining an earlier form of confederated government of the Union of States. They were first proposed in a

Congress of the States in 1777, and finally ratified by the last State (Maryland) and became operational in 1781. The similarities and differences between the Articles of Confederation and the Constitution will be evaluated from time to time in this newsletter.

The concept of the Union of States is repeated throughout the Constitution.

**Article I, Section 2, Clause 3** mandates that:

*“Representatives and direct Taxes shall be apportioned among the several States which may be included within this Union.”*

**Article I, Section 8, Clause 15** confers upon Congress the power:

*“To provide for calling forth the Militia to execute the Laws of the Union.”*

**Article II, Section 3** provides that the President shall:

*“give to the Congress Information of the State of the Union.”*

**Article IV, Section 3, Clause 1** declares:

*“New States may be admitted by the Congress into this Union.”*

Finally, **Article IV, Section 4** affirms that:

*“The United States shall guarantee to every State in this Union a Republican Form of Government.”*

The Union is a singular concept shown in the clauses above by the words the Union and especially this Union (rather than these unions). The States uniting together to form a strong Union was a fundamental theme in Revolutionary America. The motto E Pluribus Unum, meaning “Out of Many, One”, is the motto on the obverse (front) of the Great Seal of the United States (see also the reverse of the one dollar Federal Reserve Note) that dates back to Revolutionary America.

The Union of States is an important concept, not only under the Constitution, but also under the Confederation, where it was referenced numerous (eight) times. The concept of a Union of States is completely synonymous with the meaning of the United States — a Union of

individual States united together for common concerns and mutual benefit.

**Article VII, Clause 2** of the Constitution touches upon to the origin of the United States, proclaiming:

*“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.”*

The twelfth year of Independence of the United States, with September 17, 1787 as the reference point, dates between September 18, 1775 and September 16, 1776 (11 years had passed, going on the 12th). The founding of the United States—the Union—wasn't actually with any FORM of government, it was with an ACTION—the declaration of their Independence. One will find that all documents relate back to July 4, 1776 — the Independence of America — as the beginning of these United States of America.

The form of government for the Union was and is a matter of policy, the Union and the principles under which they were established remain unvaried. The Declaration of Independence acknowledges our unchanging principles of government in these United States.

It is a fundamental error to look at these United States as a single entity capable of independent legislative action. Knowing the United States to signify the States united together, a more correct version of the **Preamble** would be understood (in 1787) as;

*“We the People of the States of New Hampshire, Massachusetts, Rhode Island and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia, 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 (for the States of New Hampshire, Massachusetts...)”*



Having all the States specifically named in the **Preamble** was exactly how the **rough draft** of the Constitution was proposed on August 6th, 1787 by the Committee of Detail during the Constitutional Convention.

*“We the people of the States of New Hampshire, Massachusetts, Rhode-Island and Providence Plantations, Connecticut, New-York, New-Jersey, Pennsylvania, Delaware, Maryland, Virginia, North-Carolina, South-Carolina, and Georgia...”*

The wording of the Preamble, with having all the States named, was addressed in the general convention and approved by all the delegates (without any man contravening) the following day.

The Preamble was later shortened to the version of “We the People of the United States” as it is now known, by the Committee of Stile & Arrangement near the end of the convention. This committee arranged wording in proper fashion; they had no authority to change any power of any clause, including the Preamble. The meaning of the Preamble with each State named is identical to the meaning as ratified (We the People of the United States); it is only now more succinct. To the delegates having the correct understanding of the United States, they likely saw nothing inherently wrong with shortening this phrase.

Specifically naming all the States was how the **Articles of Confederation** were actually titled, the full title there being:

*“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.”*

Having covered the topic of the United States satisfactorily for our current purposes (the significance of the plural meaning of the United States will be examined in later issues), it is now possible to delve into the concept of We the People of the United States. Exactly who were these people, as well as the ourselves and our Posterity referred to in the Preamble, will also be discussed in later issues. The present discourse will be limited to the relevance of these words in this location.

## WE THE PEOPLE

We the People of the United States has the equivalent meaning of We the People of the States of New Hampshire, Massachusetts, Rhode Island and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia.

The phrase We the People of the United States does not therefore discuss a people of a single nation without internal borders, but the collection of the people of the States which have formed a common Union. The principle that the people are primarily Citizens of the States, and through the association of States a people united together, will become evident throughout the study of the structure of the government operating under the Constitution.

Due to the specific wording used in the Preamble — We the People...do ordain and establish this Constitution — it would seem logical to expect that the people in each State would have voted for or against the ratification of the Constitution.

The **First Clause of Article VII** provides that the Constitution would be established by actions of the State conventions rather than a direct vote of the people in each State. The said clause declares:

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

It is difficult to guess the exact reasons for the delegates to choose to use the term People in the Preamble when it is evident that these People had no direct action in establishing the Constitution. That the delegates wished to convey that their ultimate authority to ratify the Constitution rested with the People is assumed.

The Constitution, in other words, had nothing directly to do with the People of the United States; action only occurred through the people's delegated authority to the State. On this delegated authority rests the concept of representative government; a Republic of Citizens delegating a governing authority to an agent for a better administration of their affairs (as with any specialization-better efficiency, better service, and better quality than that capable of doing everything oneself).

The general wording of the Preamble must be over-ruled by the actual ratification process. The convention was convened by States; the votes during the convention were taken by States; and the Constitution was ratified by States in their separate conventions. By way of popular analogy; what looks like a duck, walks like a duck, and quacks like a duck, is most likely a duck.

## WE THE STATES

The **Preamble**, for a fully consistent and accurate meaning, should have actually been worded:

*“We the States of New Hampshire, Massachusetts, Rhode Island and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia...do ordain and establish the Constitution for the United States of America.”*

That the Preamble wasn't worded in this fashion, similar to the Articles, raised the dander of orator Patrick Henry (of “Give me Liberty or Give me Death” fame), who asked rhetorically at the Virginia ratifying convention, by what right and on whose authority did the convention delegates say We the People rather than We the States? He answered his own question stating of the delegates;

*“The people gave them no power to use their name. That they exceeded their power is perfectly clear.”*

Certain readers unfamiliar with this concept may misunderstand the direction this concept leads. Some people believe that this concept limits their influence on the government and cry “foul” — the United States were to be a democracy, in the words of Lincoln of the People, by the People, for the People.

It is these same people who complain today of the Electoral College, preferring a direct election of the President by the people in each State, or even by the majority of the people of one nation. These same people hailed the 17th Amendment, which made the election of Senators a direct vote of the people in each State, rather than through the State legislatures as originally specified.

These people miss the point and speaking through analogy, rather than ask not to be executed, ask only to choose their executioner. It is relatively unimportant on who happens to

be President or how that person was elected when the powers of that office are limited to the constitutional powers and principles of that office. This same principle likewise extends to the Legislative and Judicial branches. It is only when one ignores the limitations on any branch that the President, Congressmen, or Justices have so much influence over the country, the economy, and interact to such a great degree with individual people.

The United States of America are not democracies where everything is up for a 51% majority vote, where the 49% minority have no right to protest since they had their vote (and if they had a more legitimate issue, surely they could have convinced a few more people — better luck next time; as the theory goes). The United States are constituted republics where the vote is limited to specific items to secure the rights of person and property; where the rights of the only true minority, the individual, are protected from transgression by the rest of society.

The concept of the States uniting together and establishing a Constitution granting the collective government of these united States limited powers does not directly limit the influence of people acting on the government, **it limits the influence of the collective government acting on the people!**

On September 15<sup>th</sup>, 1787, the convention delegates voted on whether or not to approve the finalized form of the Constitution and to have this proposed Constitution sent to the States for ratification. This vote was taken, as were all other votes during the convention, by States, with each State having one vote.

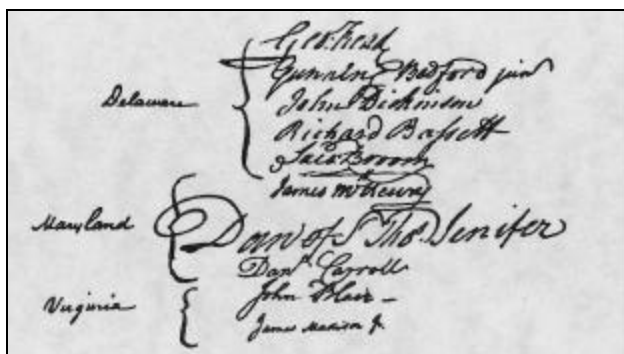
All the States present through their delegates (Rhode Island did not send delegates to the convention) voted ay on this critical vote on September 15<sup>th</sup>, 1787. The Constitution referenced this action in the **Second Clause of Article VII** with the words done in Convention by the Unanimous consent of the States present.

The purpose of this reference gives only slight evidence that it was the States of the United States which authorized the Constitution, rather than the People of the United States, however. The wording was proposed at the convention much as a means to show unanimity of thought, even when there

wasn't complete unanimity among the delegates attending the convention. It was hoped that such wording would lure delegates to sign the document, not necessarily as individual delegates endorsing such a plan, but as a member of the State delegation whose majority endorsed it. William Blount of North Carolina signed the Constitution under such a precept, though not personally agreeing to it.

Edmund Randolph and George Mason from Virginia, along with Elbridge Gerry of Massachusetts, are the delegates who refused to sign their names, even only as delegates of the States which had agreed to it.

The delegates signing the Constitution on September 17<sup>th</sup>, 1787 grouped their signatures with the other delegates from the State they represented, better evidencing the State authority of their actions.



The **Establishment Clause** in **Article VII** shows us the first great departure in the type of government which was to be provided for under the Constitution as opposed to the government under the Articles of Confederation. The clause declares that the Constitution would be established between the States so ratifying the same upon the ninth ratification.

This wording acknowledges that no State would come under the Constitution except by its own volition, but it also provided for the establishment of the Constitution (only between the States so ratifying the same) with less than complete agreement between all the States.

It should be noted that the Articles of Confederation required complete agreement of the legislature of every State to change any power. **Article XIII** of the **Articles of Confederation and Perpetual Union** mandates, in reference to the specific Articles:

*“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 confirmed by the legislatures of every State.”*

**Article XIII** also commands:

*“Articles of this Confederation shall be inviolably observed by every State.”*

The Articles allowed for normal congressional action with only nine State's consent, but that was only on activities where the general authority to act was already approved by every State within the powers as authorized under the Articles.

Many citizens were understandably stunned that only partial agreement was necessary to change not only the powers of the government, but its very structure.

When one considers that the charge given to the convention delegates by the **Congressional Resolution** (under the Articles) of Wednesday, **February 21, 1787**, one can understand the astonishment of many people. The Resolution read:

*“Resolved, That in the opinion of Congress, it is expedient, that on the second Monday in May next, a convention of delegates, who shall have been appointed by the several States, be held at Philadelphia, for the sole and express purpose of revising the Articles of Confederation, and reporting to Congress and the several legislatures, such alterations and provisions therein, as shall, when agreed to in Congress, and confirmed by the States, render the federal constitution adequate to the exigencies of*

**“Resolved, That...a convention... be held...for the sole and express purpose of revising the Articles of Confederation.”**

*government, and the preservation of the union.”*

One must also realize that the convention delegates passed an agreement at the beginning of the convention that:

*“nothing spoken in the House be printed, or otherwise published or communicated without leave.”*

The first anyone outside the convention heard of any of the proposed changes to the Articles was the finalized version of the Constitution printed in many of the newspapers throughout the States as it was being sent to the States for ratification. The expectation of citizens was for a mere revision of the Articles; instead a document with fundamental differences was being proposed.

In other words, politics then was not so very different from politics now, with expediency overruling strict adherence to principle. That the Constitution so highly regarded today got its start in such a circuitous, if not deceptive, manner is a surprise to most people, as well as a potential black spot on it and America.

Due to the shock of a new form of government being proposed on an unsuspecting populace, there were a great number of newspaper articles and pamphlets printed attempting to sway general opinion one way or the other. These articles give us today a wealth of information about the Constitution we might not otherwise have had. These articles, along with James Madison's Notes of Debates in the Federal Convention of 1787, give readers interested in the Constitution a great deal of historical context to better understand the words of the Constitution.

The greatest proponent of the Constitution were the series of 85 articles entitled The Federalist. These papers, for those not familiar with them, were authored by Alexander Hamilton, James Madison, and John Jay, all writing under the pseudonym Publius. The Federalist promoted the Constitution and urged ratification.

The anti-Federalist Papers were the papers which urged defeat of the Constitution due to its central government tendencies and a lack of an individual's Bill of Rights, and pushed for State's rights with extremely limited federal government powers along the lines of the Articles of Confederation. Samuel Bryan, and probably Melancton Smith, Robert Yates, George Clinton, James Winthrop, and possibly Richard Henry Lee were among the authors of these papers writing under the pseudonyms such as Brutus, Agrippa and Cato (fighters for freedom against the Roman tyrant, Caesar).

That the Constitution was ultimately proposed rather than the Articles merely revised is what led Patrick Henry to declare that he "smelled a rat in Philadelphia."

**Patrick Henry declared that he "smelled a rat in Philadelphia."**

During the convention, William Patterson, a delegate from New Jersey, regarding this subject, announced:

*"We ought to keep within its (Articles) limits, or we should be charged by our Constituents with usurpation...If the confederacy was radically wrong, let us return to our States, and obtain larger powers, not assume them of ourselves...Our object is not such a Government as may be best in itself, but such a one as our Constituents have authorized us to prepare."*

**"We ought to keep within its limits, or we should be charged by our Constituents with usurpation."**

**William Patterson**

James Wilson, of Pennsylvania, responded:

*"With regard to the power of the Convention, he conceived himself authorized to conclude nothing, but to be at liberty to propose any thing."*

Alexander Hamilton, of New York, likewise countered:

*"The States sent us here to provide for the exigencies of the Union. To rely on and propose any plan not adequate to these exigencies, merely because it was not clearly within our powers, would be to sacrifice the means to the end."*

The responses of Wilson and Hamilton have a certain amount of reason within their arguments. These arguments of political expediency fail, however, when one considers a proper delegation of authority given a delegate. The concept of a principal delegating authority to an agent will be a fundamental theme throughout The Beacon of Liberty.

An agent only has powers as authorized; and any actions of the agent not authorized initially, or sanctioned retrospectively, are actions of the agent in his individual capacity only. The bottom line is the convention delegates acted in a fashion greater than allowed, but their activities were sanctioned after-the-fact by the States (Rhode Island was the final State of the 13 original States to ratify the Constitution on May 29, 1790).

