

Constitution Class Handout
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Lesson 01

We the People of the United States

An Introduction to the Preamble

We the People

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.

History

The formal version of the **Magna Carta** in England was issued on June 19, 1215. There was a minor change in the new document, when the final provision was drafted, replacing the term "any baron" with "any **freeman**" in stipulating to whom the provisions applied. The term would eventually include all Englishmen. The final version's applicability to all members of the English Society served as a starting point for the Constitution's Preamble, where "any freeman" was changed once again, but this time to the first three words of the American document: "We the People."

The English Colonists developed legal codes largely incorporating liberties guaranteed by the Magna Carta and the 1689 **English Bill of Rights**. Though the education levels of the colonists varied, and few could afford legal training in England, they were familiar with English **common law**. During one parliamentary debate in the late 18th century, Edmund Burke observed, "In no country, perhaps in the world, is law so general a study."

James Madison and Thomas Jefferson drew inspiration from the doctrines of the British constitution, or in what were called English liberties.

Unlike the Spanish Colonies, which were conquered land ruled over by the Spanish Conquistadors, and authoritarian governors, the English Colonies were granted by **charter**. Rather than bear the burden of empire, which, as Spain discovered, could be expensive, and taxing on a nation's armed forces, the English Crown offered the lands along the Atlantic Coast to investors, entrepreneurs, and families seeking a new start. In the northern colonies, the colonists sought religious freedom. The Pilgrims did not want to keep their membership in the Church of England. As **separatists**, the Pilgrims organized their worship independently, colonizing north of the Puritans at Plymouth Rock.

The English Colonies enjoyed autonomy that the Spanish Colonies did not. To survive in the Spanish Colonies, the colonist exhibited a warrior spirit, conquering the lands and the people who stood in the way, forcing the captured natives into slave labor and marriage for the purpose of accomplishing the tasks necessary for survival, while also being heavily dependent upon supplies from the homeland. The English Colonies were expected to survive by living off the land. They were families, **indentured servants**, and seekers of fortune. They were forced to be self-reliant, personally responsible, and hard working, in order to survive. The English Colonists did not attempt to conquer the natives as the Spanish did, but worked with them, making treaties with the Native Americans, because they needed the native population's help in order to survive. In the English Colonies, freedom was a necessary component of survival, and after failing under **communitarianism**, the colonists found that a **free market** system, where colonists kept more of what they worked for, and had the option to trade goods in an open market, worked best for the burgeoning society.

In English America, **freemen** adopted the best of the English system, while adapting it as necessary to the new circumstances in the colonies. The English Colonies was a place where a person could rise by merit, not by birth. The thirteen colonies was a place where men could voice their opinions and actively share in self-government. When the British Crown challenged these beliefs, turning to the colonies as a source of revenue to help alleviate the Crown's substantial debts, and the growing expense of keeping troops on American soil, the colonists questioned the government in Britain, challenging the actions of **Parliament**, arguing that without consent or direct representation in Parliament, the acts by the motherland were "taxation without representation," and an act of tyranny against the free Englishmen of the colonies.

The influence of the Magna Carta, and the demand for liberty, existed along the Atlantic Coast long before the War of Independence. As John Adams later wrote to Thomas Jefferson, "The Revolution was in the minds of the people, and this was effected, from 1760 to 1775, in the course of 15 years before a drop of blood was shed at Lexington."

The Americans knew their rights, and they were willing to fight for them. The seal adopted by Massachusetts on the eve of the Revolution summed up the mood. The image was of a militiaman with sword in one hand, and the Magna Carta in the other.

When it was time to form a new government, embodied in a written **social contract** we now know as the Constitution of the United States, the founders determined that like England under the Magna Carta, the government must be limited by subjecting it to the rule of law. The Constitution, once ratified by the States, became the law of the land. The document serves as a written standard where the authority emanates from the people, not from any governmental body. Pursuant to the Constitution, no man, not even the country's leader, was considered to be above the law. The rule of law based on the philosophy of the Laws of Nature and of Nature's God was the basis of constitutional thought in the United States in 1787.

"A government of laws, and not of men." - John Adams

Elder statesman Benjamin Franklin strolled across a grassy lawn from Independence Hall in Philadelphia, after the conclusion of the Federal Convention of 1787, when a woman in a bonnet approached him, asking, "Sir, what have you given us?"

“A republic,” Dr. Franklin replied. “If you can keep it.”

The new government in the fledgling United States was considered to be one that was doomed to fail. Europeans scoffed at the American experiment in self-government. The Old World argued that without the hand of a divinely appointed, wise, ruling **monarch** in place to guide society, a culture could not succeed. The Grand Experiment was a waste of time, and it would not be long before the rebellious, starving, treasonous, and petulant, English colonists came crawling back to the British Crown, begging to be readmitted to the empire.

In a society with no government, people have no freedom. In a society with too much government, people have no freedom.

Without government there is no law, and without law there are no enforcers of the law. This kind of system is called an anarchy, which is a transitional form of government. In an **anarchy**, there is no freedom because the citizens must constantly protect their property, and their lives.

With government in place, there are laws in place. When there are laws in place, it is necessary to hire enforcers of the law, such as a police force. A society with a government in place can create an environment of freedom that allows citizens the ability to leave their property and engage in activities away from their homes.

Tyranny through a **unitary state** dominates the pages of history. Tyrannical governments obtain their power through violence, and bloodshed in a complete disregard for authorities granted, justice, or the **rule of law**. To maintain their power, tyrants use violence and bloodshed. When tyrannies are finally toppled, the path to dislodging tyrannies normally includes violence and bloodshed.

Violence and death are the common results of powerful central governments with dominant rulers.

Dictators do not normally reveal their plans of tyranny during their rise to power, for the people would never have allowed them to become their leaders if they knew this kind of violence was in their future. Tyrannical leaders render legislative bodies irrelevant, demoting them to nothing more than a **consultative assembly**.

In history, tyranny is the rule, and liberty is the exception. Governments that protect the freedoms of the people, and respect the rights of their citizens, are a rare occurrence. Freedom requires the citizens to be informed and involved. With freedom comes responsibility.

An educated society begins by teaching the younger generations the principles of liberty, and to encourage them to be involved in **civic activities**, and local government. The founders understood we need government, but a **limited government** was required to protect the rights and property of the citizens. However, because of human nature, the founders realized that without making sure the people remained educated about the system they had established, a downward spiral into despotism and tyranny was inevitable.

The **Declaration of Independence** was approved by the Continental Congress on July 4, 1776, and outlined the reasons why the colonies were seeking independence from Great Britain. The founding document declares that it is the right of the people to alter or abolish their government should it become destructive. It also states these truths are self-evident, and 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.”

The document penned by Thomas Jefferson includes a list of grievances, most of which are also iterated in the U.S. Constitution. The Declaration calls for fair representation, encourages immigration, calls for a judiciary that is separated from the will of the central leadership, calls for a stop to the presence of a

standing army, demands that Great Britain stop the quartering of troops in the houses of the citizens, demands fair trials, and calls for due process, free trade, fair taxation, a protection of rights, and for the Crown to hear the redress of grievances by the colonists.

A key aspect of the Declaration of Independence reveals itself in the final sentence of the document. The call for independence ends with the incredible statement, *“And for the support of this Declaration, with a firm reliance on the protection of divine Providence, we mutually pledge to each other our Lives, our Fortunes and our sacred Honor.”*

Political Spectrum

In the battle of Left versus Right, it is important to understand what it all means in the first place. Like-minded individuals naturally tend to gather together when a theater of opinion erupts. Congregating in such a manner, creating political parties, is a part of our human nature. Houses, or chambers, of government are no different. Members of the political assembly who support similar agendas sit together, much in the way social allies tend to hang out together at a dinner party. The classification of "left" and "right" grew out of the tendency of people to group together on one side, or the other.

The early definition of "left" and "right" was different than in today's American Society. Among the most commonly known split between the left and the right in a political assembly occurred in France before the French Revolution. Members of the National Assembly sat on the right or the left of the hall depending on their level of political support in regards to the ruling monarchy. Those in support of the monarchy, and the religious elements that came with the reigning government, would sit on the right. The people on the right were defined as being those holding traditional interests in line with the Church and the monarchy, believing the king ruled by divine right, and that Catholicism must continue to be the state religion, and therefore continue to be a strong influence on governance. The people who sat on the right side of the assembly believed that the Church had a vested interest in the political system, and sought to preserve that system.

Those who sat on the left side of the hall in France during the period preceding the French Revolution did so in support of "enlightenment," which was considered to be in the interests of rationalism and secularism. The left used secular elements to challenge the Church's long-held influence over government, fostering nationalism among its allies, and promoting hope in constructing and shaping the political community. The left desired to change government by overthrowing the Church and the aristocracy by promoting secularism and nationalism. The planners of this glorious new "Enlightened" government became the leaders of France after the French Revolution, orchestrating a Reign of Terror, which was a period of chaos during which thousands were guillotined for being politically incorrect.

The radicals within this new government saw the Catholic Church as the enemy while promoting its Cult of Reason. Like with the monarchy before them, however, it became clear that to control the political and social upheaval, the government in place must also become tyrannical in their own right. Under the rule of **statism**, France remained a nation unable to cultivate liberty, and one that remained under the iron fist of a dictatorial government. For many, this was no surprise. Some of the planners of the change of the form of government in France knew that in order to keep order they would need to "treat the people as cattle."

The French National Assembly established a constitutional monarchy and adopted a new constitution in 1791 that created a Legislative Assembly. The political assembly, as with any other political body, rapidly divided into factions opposing each other. The three factions that formed in the new French Legislative Assembly were the radicals (liberals), moderates (centrists) and conservatives. The radicals (liberals) sat in the left section of the assembly hall, the conservatives sat on the right, and the moderates sat in the center section. Their political identities have some similarities to political movements today in the United States, and had little in common with the pre-revolution arrangement that emphasized itself more on monarchy and religion.

America is much younger than the European nations, and never had a landlord class of titled nobles. In fact, the Constitution specifically prohibits such a system. The Founding Fathers desired to break away from European traditions as much as possible, even abandoning much of British Common Law when defining citizenship. To be a British Subject the rules were weak, and divided loyalties ran rampant throughout the British Empire. The United States as a nation could not tolerate divided loyalties, and placed a stronger standard of natural born citizenship upon the President in order to eliminate the opportunity for the executor of the American Form of Government to harbor divided loyalties between the United States of America, and any other nation. That way, the new American government could break completely free of any European influence, and forge itself into a Republic independent from British influence, and in fact, the authoritarian nature of Europe as a whole.

The political landscape of the United States of America, since there never was a class of nobles, was simple in the young nation. Either you were a Federalist, an anti-Federalist, or somewhere in between. In other words, you believed in a stronger centralized federal government, you believed that the federal role in government should be limited greatly, or you found yourself somewhere between the two political beliefs.

Unlike the Europeans, royalty and religion played no role in determining the nature of American political philosophies. Nearly all of the early American Politicians were deeply religious men, but the political spectrum did not separate factions along religious lines. God played a major role in the principle foundation of the nation, but the founding fathers also determined that no religion could ever take an official role in government. In other words, the establishment of any religion as the official religion of the United States was forbidden. However, the freedom to practice one's religion was not to be infringed upon. Almost all of the signers of the Declaration of Independence were either clergy, or highly involved in their church. 27 of the 56 signers had Christian seminary degrees. The founding fathers fervently prayed in Congress.

Benjamin Franklin is widely regarded to be among the least religious of the founding fathers. However, his speech given to Congress on June 28, 1787 asking that Congress have a prayer every morning before conducting business was overtly religious in nature. Despite modern assumptions, there was not a political battle between The Church and the secularists during the founding of the United States of America.

From the newer models of government in France, and America, the definition of the **Political Spectrum** changed, becoming more about the level of control of government over a society, rather than the presence of a monarchy, or established church. Zero percent of government intrusion on the lives of the people inhabits the far right of the current political spectrum, which is a condition known as **anarchy**. 100% governmental control inhabits the far left extremity of the Political Spectrum, or a **totalitarian government**. The American form of government, or a Constitutional Republic that operates under the rule of law, is at the center of the political spectrum.

Most of the current forms of government present in today's international political arena reside on the left side of the Political Spectrum, drawing their foundations from **socialist** principles. Socialism is authoritarian. Socialism claims to seek to overthrow the Church and aristocracy by promoting atheism and nationalism, much like the enlightened planners of the French Revolution, only replacing the government they thought to be a tyranny with a tyranny of their own. In Russia, the rise of socialism held the basic tenet of replacing the individual's commitment to God with a commitment to love and serve a collective society ruled by an elite few.

When one examines the communist society, which resides on the left side of the Political Spectrum, one finds that if society was ruled over by an equally powerful religious **theocracy**, the basic governmental elements of the ruling doctrine are the same, and just as tyrannical. Therefore, a controlling government based on religion is no different than an atheistic system of communism. Either way, the form of

governance is based on a centralized control over the people, and limits on personal individualism, and freedoms.

Economically, **leftism** encourages increased government involvement with the instruments that regulate the economy. Under a leftist economic system, such as in the communist model, the government seizes control of the industries, eliminating private ownership. In the fascist model, however, the authoritarian political entity engages in corporatism, allowing the private enterprises to remain private, yet bundled together in a uniting strength under authoritarian government rule. Because **fascism** (from Italian fascismo, Benito Mussolini's authoritarian political movement in Italy 1922 to 1943) was created to be an adverse reaction to the apparent economic failure of Marxism, and labeled itself as the opposite of communism, fascism is often referred to as being right-wing, and ultra-conservative. If you break down the political structure of fascism, however, it becomes apparent that defining fascism as being on the right side of the political spectrum is problematic. Like socialism, fascism exalts the group above the individual (in fascist states often the nation or race is exalted above the identity of the individual). Like other leftist systems, fascism also calls for a separation of church and state, a national civilian army, and **progressive taxation**. One element of fascism some may argue as being right-wing is the fact that fascism seeks to eliminate labor unions for co-ops. But the co-operatives, in a fascist state, are controlled by the government, and therefore become more leftist than the system before. Though fascism, during the early twentieth century, claimed to be anti-communist, the National Socialism aspect of the ideology places fascism on the left side of the Political Spectrum.

Ultimately, the true definition of the Political Spectrum is dependent upon how government interacts with society. Increased government intrusion moves needle on the spectrum to the left. Increasing limitations on government intrusion moves the needle to the right. In both cases, the extreme of totalitarianism, or anarchy, are equally dangerous. Ultimately, most forms of government, despite the promise of fairness, are often only precursors to another form of government. The Founding Fathers realized this, recognizing that the only form of government that both limits the powers of the federal government, while still giving it adequate authority to protect and preserve **State Sovereignty**, is a Constitutional Republic. They knew that if you pursue leftism too far, an authoritarian government would rise from the movement. If government was limited too much, and the government did not have enough power to enforce law, an authoritarian government would also rise to fill the void.

The Preamble

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** is the introduction of the U.S. Constitution. The opening paragraph of the founding document holds no legal authority. The Preamble serves to establish who is granting the authority to create a new federal government, and the reasons for the decision. We The People of the United States are the grantors. In other words, the States, which were the embodiment of the people, were creating the **federal government**, and granting authorities to it so that it may function in a manner necessary to protect, promote, and preserve the union of States. The concept became known as **federalism**.

The Preamble is designed much like a permission form the doctor's office may present to you to sign, giving the doctor the authority to perform necessary procedures on your body in order to make you well. The form begins with your name (I, patient's name), and then limits the doctor to only the procedures necessary to make you well. The doctor, if he or she believes additional procedures may be necessary, must ask for your permission before performing the additional procedures that are not granted by your original agreement with them.

Like the form in the doctor's office, the Preamble begins with who is granting the authorities. "We the People of the United States" are the grantors of the authorities given to the new federal government. The people, through their States, allow the federal government to exist, and to perform the procedures expressly **granted** in the **United States Constitution**.

If a homeowner hires a contractor to add a room to their house, a contract is created between the homeowner, and the company hired to do the work. The contract establishes the granted authorities to the construction company regarding the room addition, listing the materials and labor necessary and proper to carry out that task. If, later, after the work begins, the homeowner observes the workers tending to the garden, and mowing the lawn, the homeowner would be angry because lawn maintenance was not among the authorities granted to the contractor hired to provide the service of adding a room to the house. In the same way, through the Constitution, the federal government has been granted a list of authorities that are necessary and proper for it to carry out the tasks vested in it. The tasks directly relate to protecting and preserving the union, while also respecting and promoting **State Sovereignty**. The federal government's authorities encompass only the external issues necessary to protect the union, and the sovereignty of the States. Internal issues are not granted to the federal government. Local issues are reserved to the local governments, such as the States, counties, and cities.

The first three words of the Preamble, "We the People," often lead people to believe that we are a **democracy**. Taken in context, the first part of the Preamble is not only "We the People," but "We the People of the United States." In the context of **original intent**, "the people of these States that are united have come together to establish this contract for the following reasons."

The words "United States" appear often in the U.S. Constitution. When those words appear in the text of the Constitution, they mean one of two things. Either, "United States" is a reference to the new federal government, or United States means "these states that are united." In the case of the Preamble, both definitions are used. As we notice the first time united States appears in the Declaration of Independence, "united" is not capitalized. Failing to capitalize "united" in the Declaration of Independence was a reflection of the common opinion of the people of that era. America was not a nationalistic country dominated by a powerful government, but a union of States that are sovereign, autonomous, and individual - like the people. We the People are the individual parts of their States, and the States are individual parts of the union.

Early Americans saw the United States in the plural, rather than as a singular nationalistic entity. The people were citizens of their States first, but realized that the States must be united to survive. The individual States would only be safe if they all worked together as a united country. To ensure the union was protected they proposed forming a central government through a social contract called the United States Constitution. This contract to grant limited authorities to a federal government was designed to ensure that the federal government remained limited so as to not infringe on the individual rights of the sovereign States, and the people who resided in those States.

A limited government is the essence of liberty.

The reasons listed in the Preamble for forming a new government were "*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.*" In line with classical writing standards, these reasons were listed in order of importance.

The most important reason for the formation of the federal government, the main purpose for the creation of the U.S. Constitution, was "in Order to form a more perfect Union." A union already existed under the **Articles of Confederation**. A **confederation**, however, is a weak form of government where nearly all of the power remains with the individual members. A confederation is an association of sovereign member states that, by treaty, or other agreement, have delegated some of their powers to a common institution in order to coordinate policies, without constituting a new state on top of the member states. The

government under the Articles of Confederation was formed hastily during the Revolutionary War, and as revealed by **Shays' Rebellion**, proved to be too weak to protect the union not only from threats beyond our shores, but insurrection from within the country. The founders realized that they needed to form a more perfect union, one with more authorities, while still remaining fairly limited in its power and scope. The realization that the Articles of Confederation were too weak, and either needed to be fixed, or replaced, was first discussed in delegation during the **Annapolis Convention** in 1786. During that meeting, the attending State delegates decided to meet again in May of 1787 in a convention of all States, which became the Federal Convention of 1787.

Under the Articles of Confederation, the central government was as weak as a lamb. What America needed was a central government with the strength of a lion. The problem with lions, however, is that they can kill you if not restrained. So, the Founding Fathers had to figure out a way to create a lion strong enough to deal with the external issues, and conflict between the States, while restraining that lion in such a way that the people living under it were safe from its potential tyranny. The lion is the federal government, and the chains and restraints of a set standard that protects We the People from that lion is the United States Constitution.

In the Constitution, the authorities granted to the federal government are limited to protecting, preserving, or promoting the union. The federal government, through the **express powers** granted in the Constitution, was granted authorities including, but not limited to, maintaining an army and navy in order to protect the union, to collect taxes in order to pay for that military and the other necessary functions created for the purpose of preserving the union, to regulate commerce by acting as a mediator between the States so that the flow of commerce flows regularly and in good order so as to encourage a growing economy for the union, establish a uniform rule of naturalization for the purpose of ensuring the union grows through legal immigration, and to establish post offices so that the many parts of the union may remain in contact with each other. The federal government was created for the sake of the issues related to the union. The federal government was not created to manage local issues that have nothing to do with the union, and everything to do with the unique cultures and societal needs of the local communities.

The second reason listed in The Preamble for the creation of the federal government through the ratification of the U.S. Constitution were to “establish Justice.” Note that the word “establish” is normally used in situations where whatever is being established never previously existed. The word “establish” being used in the Preamble, then, leads us to believe that there was no justice prior to the writing of the founding document. However, justice systems already existed in each of the States, through State court systems. Therefore, the U.S. Constitution was not written to establish justice in the States, but to establish justice at the federal level where a judicial system had not previously existed. The language used in the Constitution, in this case, provides us with a clue that the original intent of the Founding Fathers was for the Constitution to apply only to the federal government, unless it specifically states otherwise.

Though “establish Justice” is listed second in the list of reasons for creating the federal government, we must not confuse “importance” with “power.” To establish justice was a very important reason for creating a federal government, but the federal court system, for fear of it becoming a powerful judicial oligarchy, was also greatly limited. During the debates of the Constitutional Convention in 1787, there was actually a consideration to not establish a federal court system. The delegates realized that tyranny easily flows through an activist judiciary. The rule of law could be easily compromised by a judicial branch not willing to abide by the original intent of the U.S. Constitution, or poisoned by political ideology. For this reason, the powers of the judicial branch are greatly limited by the Constitution. We will go into more detail regarding those limitations when we get to Article III, and the 11th Amendment.

The first two reasons for the writing of the U.S. Constitution, according to the Preamble, were to form a more perfect union through the formation of a federal government, and to establish justice by creating a federal judicial system. Those primary goals reveal to us that the Constitution was not written to grant powers to the States, but for the purpose of creating, yet limiting, a newly formed federal government,

which was designed to serve the States by protecting them, and preserving the union they enjoyed. Before the States delegated some of their own powers to the federal government through the Constitution, all of those powers belonged to the States - a political condition known as **Original Authority**. The States, however, only granted “some” of their powers to the federal government, retaining most of the powers for themselves.

The U.S. Constitution, and all language within the document, is directed to the federal government, not to the States, unless specifically indicated otherwise. This is because the States essentially “hired” the federal government to protect and preserve the union. The contract that authorizes the federal government to exist and receive the authorities from the States is the U.S. Constitution. Therefore, it would not be reasonable to assume that the provisions of the Constitution are to be applied to the States as much as it would not be logical to believe that an agreement between you and your doctor tells you what you can and can’t do regarding the procedures that are about to be performed on you. The agreement with the doctor is specifically designed to tell the doctor what procedures are allowed, just as the Constitution is specifically designed to tell the federal government what authorities it is allowed to have in order to protect, preserve, and promote the union. In that contract with the doctor there may be instructions that tell you what not to do so as to not undermine healing, such as submersing oneself in water before a wound is fully healed. The same is true in the Constitution. There is a section, Article I, Section 10, that tells the States what they are prohibited from doing. These prohibitions were necessary to ensure the States did not interfere with federal functions.

Since it is We The People of the United States who granted the federal government its powers, that means it is the people’s responsibility, through the States, responsibility to ensure the federal government acts in a constitutional manner. The Constitution is nothing more than ink and paper if we don’t fight for it.

The union, at the time of the writing of the Constitution, was fragile. The States, as colonies, or as individual states shortly after the American Revolution, did not always coexist in a mutually beneficial manner. The States enjoyed their own unique cultures, religions, and laws. The States clashed over territory, commerce, and a variety of other issues that often included disputed legal issues and definitions. The States were much like siblings, fighting over everything under the sun; but when it came down to brass tacks, they were united when it came to defending each other.

The bickering between the States created an atmosphere that placed the cohesion of the union at risk. Therefore, when it came to creating a more perfect union, it was understood by the framers that the federal government would have to “insure domestic Tranquility” and to “promote the general Welfare.”

The federal government was expected to ensure there was tranquility between the States by acting as a mediator in disputes. Part of that task by the federal government was to also promote the general welfare of the republic. In other words, the federal government was tasked with making sure the squabbles were properly resolved, while also protecting the union, so that the welfare of the union would not be in jeopardy.

The term **general Welfare**, as it is presented in the Preamble, is capitalized in a curious manner. Welfare is capitalized, but the word “general” is not. Capitalization in the Constitution was often used for the purpose of emphasis. With that tendency as our guide, we recognize that “Welfare” was the key component when these two words were presented in the Preamble. The Founding Fathers were seeking “Welfare” with a capital “W.” The founders tasked the federal government with the duty of ensuring there was Welfare in the nation in a general manner. Or, you could say that they wanted the atmosphere in general to be one of “Welfare,” or “all’s well,” hence, the reason general is not capitalized, and Welfare is, in the Preamble.

Tucked between “insure domestic Tranquility” and “promote the general Welfare” is the phrase: “provide for the common defence.” The placement of this phrase in The Preamble reveals that providing for the common defense was almost as important as ensuring peaceful cooperation between the States, and

slightly more important than promoting the general Welfare of the republic (and a necessary part of ensuring the general Welfare).

The need to provide for the common defense, one may note, was not listed first in The Preamble as one of the reasons for the creation of the federal government. The Founding Fathers, though they recognized the importance of the federal government to field a military force, as realized from the failure of the government to put down insurrection during Shays' Rebellion under the Articles of Confederation, did not list the need to provide for the common defense at the beginning of the Preamble because a country that places too much importance on a military is doomed to become a police state. Defending this nation was not placed at the bottom of the list of reasons for the writing of the Constitution, either, because a nation that refuses to defend itself ultimately becomes a conquered entity that is subject to the authority of a foreign government. Despite the fear of a powerful military that could be used against the people and the States, providing for the common defense was still indeed one of the primary reasons for creating the federal government in the first place. That is why "provide for the common defence" is listed in the Preamble within the central depths of the body of the paragraph.

The final reason for the writing of the Constitution was to "secure the Blessings of Liberty to ourselves and our Posterity." The presence of the word "Blessings" reminds us that the Founding Father's grateful spirit recognized that the result of the American Revolution, and the inspiration for the new federal government, could have only come from the favors of **Divine Providence**. Liberty, remember, is one of the unalienable rights listed in the Declaration of Independence that has been given to us by The Creator. In fact, that is one of the foundational beliefs of the original intent behind the creation of the federal government. Our rights are granted to us by God, not by government, for if our rights are granted to us by government, government would then be able to take those rights away. This idea of God-granted rights is based on a concept called **Natural Law** penned by John Locke during the 1600s. In the Declaration of Independence, it is referred to as, "Laws of Nature and of Nature's God." Natural Law is the unchanging moral principles regarded as a basis for all human conduct, which is observable law we participate in as related to our natural existence.

The U.S. Constitution was not solely written only to protect our **natural rights**, liberty, and property. Protecting our rights, liberty, and property are among the chief reasons the Constitution was written in the manner that it was, and protecting those natural rights are predictable byproducts when the Constitution is being followed by the government, but those are not the only reasons for the perceived need to compose the founding document, or for the creation of the federal government.

As indicated in the Preamble, the primary reason for the Constitution was "in Order to form a more perfect Union." However, the very formation of that union, and devising a governmental system to protect, preserve and promote that union, was not exclusively for the sake of the union, either. The ultimately desire was to protect the sovereignty of each component of that union - The States. The framers understood that by creating a federal government, the potential for the governmental system to become a tyranny was unleashed. Therefore, in order to protect the rights, liberty and property of the people (more specifically to "secure the Blessings of Liberty to ourselves and our Posterity"), the federal government needed to be limited in its authorities by the rule of law. The law of the land in which the governmental system is limited to, in the case of the United States, is the U.S. Constitution, for the sake of protecting the individuality of the States, and We the People.

Terms:

Confederation: A confederation is an association of sovereign member states that, by treaty or other agreement, have delegated some of their powers to a common institution in order to coordinate policies, without constituting a new state on top of the member states.

English Bill of Rights: The Declaration of Rights in 1689, following the relatively bloodless “Glorious Revolution” of 1688, reasserting Protestant influence in England, and establishing a written declaration based on the belief that rights are granted by God, limiting the power of the king, and guaranteeing individual rights in writing. At its core, the system of government based on the English Bill of Rights, and the Magna Carta, holds as its philosophy that government is to serve the people, not the other way around.

Federalism: Government in which the central government’s power and authority is limited by local government units, and where each unit is delegated a sphere of power and authority only it can exercise, while other powers must be shared. The term federalism comes from the Latin root *foedus*, which means "formal agreement or covenant." It includes the interrelationships between the states as well as between the states and the federal government.

Magna Carta: The “Great Charter” of English Liberties, forced from King John by the English barons at Runnymede, June 15, 1215. A fundamental constitution, or law guaranteeing rights.

Unalienable Rights: Incapable of being alienated, that is, sold and transferred. You can not surrender, sell or transfer unalienable rights, they are a gift from the Creator to the individual and can not under any circumstances be surrendered or taken. All individual's have unalienable rights.

Questions for Discussion:

1. How might the United States be different if the Magna Carta, or the Glorious Revolution, had never taken place?
2. Many of us were taught to memorize the Preamble in school, others remember it because of the School House Rock cartoon on Saturday mornings, but growing up how many times were we taught what it means?
3. Federalism, or the belief in a central government limited by the authorities granted to it in the Constitution, began as a wonderful idea. The members of the “Federalist Party,” however, were not satisfied, and desired the federal government to have more authorities than it was granted. Why do you think this is true?
4. Why did the Founding Fathers only desire the federal government to be granted powers that regarded the union, and not authorities in regards to other issues?
4. The judicial branch was supposed to be the weakest of the three branches. Why do you think the Founding Fathers wanted to limit the judiciary to such an extent?

5. One of the founding principles is that our unalienable rights are given to us by the Creator. Is it a coincidence that historically most authoritarian governments that sought to take away the rights of the individual did it either by taking control of the church, or by rejecting religion/the existence of God?

6. At what point does a government take “provide for the common defense” too far?

Resources:

James L. Roark, Michael P. Johnson, Patricia Cline Cohen, Sarah Stage, Alan Lawson, and Susan M. Hartmann, *The American Promise: A History of the United States*; Boston: Bedford/St. Martin's (2009).

James Madison, *Federalist No. 41: General View of the Powers Conferred by The Constitution*, <http://www.constitution.org/fed/federa41.htm>

John L. Hancock, *Liberty Inherited: The Untold Story of America's Exceptionalism*; Charleston: Liberty Lane Media (2011)

Joseph Andrews, *A Guide for Learning and Teaching The Declaration of Independence and The U.S. Constitution - Learning from the Original Texts Using Classical Learning Methods of the Founders*; San Marcos: The Center for Teaching the Constitution (2010).

Larry Schweikart and Michael Allen, *A Patriot's History of the United States*; New York: Sentinel (2004).

Madison's Notes on the Constitutional Convention, Avalon Project, Yale University: http://avalon.law.yale.edu/subject_menus/debcont.asp

Philip B. Kurland and Ralph Lerner, *The Founder's Constitution - Volume Two - Preamble through Article I, Section 8, Clause 4*; Indianapolis: Liberty Fund (1987).