

UNITED STATES CODE ANNOTATED
CONSTITUTION OF THE UNITED STATES

Current through P.L. 104-3, approved 3-7-95

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.

ANNOTATIONS

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1. Nature and function of Preamble

The Preamble can never be resorted to, to enlarge the powers confided to the general government and can never be the legitimate source of any implied power, when otherwise drawn from the Constitution; its true office is to expound the nature, extent, and application of the powers actually conferred by the Constitution and not substantively to create them. *U.S. v. Boyer*, D.C.Mo.1898, 85 F. 425.

2. We the People

In our system, while sovereign powers are delegated to the agencies of government, sovereignty itself remains with the people, by whom and for whom all government exists and acts. *Yick Wo v. Hopkins*, Cal.1886, 6 S.Ct. 1064, 118 U.S. 369, 30 L.Ed. 220.

The Constitution of the United States was made by, and for the protection of, the people of the United States. *Leggue v. De Young*, Tex.1850, 52 U.S. 203,

11 How. 203, 13 L.Ed. 657.

The Constitution was ordained and established by the people of the United States for themselves, for their own government and not for the government of the individual states; the people of the United States framed such a government for the United States as they supposed best adapted to their situation and best calculated to promote their interests. *Barron v. Baltimore*, Md.1833, 32 U.S. 247, 7 Pet. 247, 8 L.Ed. 672.

*22 The Constitution emanated from the people, and was not the act of sovereign and independent states. *M'Culloch v. State*, Md.1819, 17 U.S. 403, 4 Wheat. 403, 4 L.Ed. 579.

The Constitution of the United States was ordained and established not by the states in their sovereign capacities, but emphatically, as the preamble of the Constitution declares, by "the people of the United States; there can be no doubt that it was competent to the people to invest the general government with all the powers which they might deem proper and necessary, to extend or restrain these powers according to their own good pleasure, and to give them a paramount and supreme authority. *Martin v. Hunter's Lessee*, Va.1816, 14 U.S. 324, 1 Wheat. 324, 4 L.Ed. 97.

Under the Constitution we see the people acting as sovereigns of the whole country; and in the language of sovereignty, establishing a constitution by which it was their will that the state governments should be bound, and to which the state constitutions should be made to conform. *Chisholm v. Georgia*, Ga.1793, 2 U.S. 471, 2 Dall. 471, 1 L.Ed. 440, 462.

3. Formation of more perfect Union

The separate governments of the separate states, bound together by the Articles of Confederation alone, were not sufficient for the promotion of the general welfare of the people in respect to foreign nations, or for their complete protection as citizens of the confederated states; for this reason, the people of the United States, "in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty" to themselves and their posterity, ordained and established the government of the United States, and defined its

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powers by a Constitution, which they adopted as its fundamental law and made its rule of action. *U.S. v. Cruikshank*, La.1876, 92 U.S. 542, 2 Otto. 542, 23 L.Ed. 588.

The Federal Constitution created not a confederacy of states, but a government of individuals assumed that the government and the Union which it created, and the states which were incorporated into the Union, would be indestructible and perpetual; as far as human means could accomplish such a work, it intended to make them so. *White v. Hart*, Ga.1872, 80 U.S. 650, 13 Wall. 650, 20 L.Ed. 685.

*23 The Constitution of the United States established a government, and not a league, compact, or partnership, and it was constituted by the people. *Legal Tender Cases*, Tex.1871, 79 U.S. 447, 12 Wall. 447, 20 L.Ed. 287. See, also, *U.S. v. Cathcart*, C.C.Ohio 1864, 1 Bond 556, 25 Fed.Cas. No. 14,756.

The union of the states began among the colonies, and grew out of common origin, mutual sympathies, kindred principles, similar interests, geographical relations, and received definite form, and character, and sanction from the Articles of Confederation; when these articles were found to be inadequate to the exigencies of the country, the Constitution was ordained "to form a more perfect union", and it is difficult to convey the idea of indissoluble unity more clearly than by these words. *Texas v. White*, Tex.1869, 74 U.S. 724, 7 Wall. 724, 19 L.Ed. 227.

The Constitution was an act of the people of the United States to supersede the confederation, and not to be engrafted on it as a stock through which it was to receive life and nourishment. *Martin v. Hunter's Lessee*, Va.1816, 14 U.S. 332, 1 Wheat. 332, 4 L.Ed. 97.

"Interposition" is an amorphous concept based on proposition that United States is a compact of states, any one of which may interpose its sovereignty against enforcement within its borders of any decision of Supreme Court or Act of Congress, and, in essence, doctrine denies constitutional obligation of states to respect those decisions of Supreme Court with which they do not agree; and the keystone of the interposition thesis, that the United States is a compact of states, was disavowed in preamble to Constitution. *Bush v.*

Orleans Parish School Bd., D.C.La.1960, 188 F.Supp. 916, affirmed 81 S.Ct. 754, 365 U.S. 569, 5 L.Ed.2d 806.

4. Provision for common defense

Major objective of Constitution is protection of public against internal and external enemies. *Wilson v. State*, 1966, 217 N.E.2d 147, 247 Ind. 454.

5. Promotion of general welfare

Concerted effort for renewal and expansion of hospital and medical care centers through urban renewal projects is a public service and is in accord with government's objective to promote general welfare as stated in preamble. *Ellis v. City of Grand Rapids*, D.C.Mich.1966, 257 F.Supp. 564.

Preamble of Constitution enumerating promotion of general welfare as one of purposes of adoption of Constitution confers no substantive powers. *U.S. v. Kinnebrew Motor Co.*, D.C.Okla.1934, 8 F.Supp. 535, certiorari dismissed 57 S.Ct. 757, 296 U.S. 669, 89 L.Ed. 2009.

*24 6. Securing of liberty

Although one of the declared objects of the Constitution was to secure the blessings of liberty to all under the sovereign jurisdiction and authority of the United States, no power can be exerted to that end by the United States unless, apart from the preamble, it be found in some express delegation of power or in some power to be properly implied therefrom. *Jacobson v. Massachusetts*, Mass.1905, 25 S.Ct. 358, 197 U.S. 22, 49 L.Ed. 643, 3 Ann.Cas. 765.

7. Ordainment and establishment of Constitution

The Federal Constitution was, as its preamble recites, ordained and established by the people of the United States. *White v. Hart*, Ga.1872, 80 U.S. 650, 13 Wall. 650, 20 L.Ed. 685.

The government proceeds directly from the people; is "ordained and established" in the name of the people; and is declared to be ordained, "in order to form a more perfect union, establish justice, insure domestic tranquillity, and secure the blessings of liberty to

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themselves and to their posterity. *McCulloch v. Maryland*, Md.1819, 17 U.S. 316, 4 *Wheat* 316, 4 L.Ed. 579. See, also, *U.S. v. Cathcart*, C.C.Ohio 1864, 1 Bond 556, 25 Fed.Cas. No. 14,756.

8. United States of America

The Island of Porto Rico, after the treaty with Spain and its cession to the United States, became a territory appurtenant and belonging to the United States, but not a part of the United States within the revenue clauses of the Constitution. *Ponce v. Roman Catholic Apostolic Church*, Porto Rico 1908, 28 S.Ct. 737, 210 U.S. 296, 52 L.Ed. 1068. See, also, *Geofroy v. Riggs*, Dist.Col.1890, 10 S.Ct. 295, 133 U.S. 258, 33 L.Ed. 642; *De Pass v. Bidwell*, C.C.N.Y.1903, 124 F. 615.

The Constitution deals with states, their people, and their representatives; there may be places within the jurisdiction of the United States that are no part of the Union. *Downes v. Bidwell*, N.Y.1901, 21 S.Ct. 770,

182 U.S. 270, 45 L.Ed. 1088.

After the ratification of the treaty with Spain and the cession of the Island of Porto Rico to the United States, Porto Rico ceased to be a foreign country and the right of the military authorities to exact duties upon importations from New York to Porto Rico ceased. *Dooley v. U.S.*, N.Y.1901, 21 S.Ct. 762, 182 U.S. 236, 45 L.Ed. 1074. See, also, *Ochoa v. Morales*, Porto Rico 1913, 33 S.Ct. 1033, 230 U.S. 139, 57 L.Ed. 1427; *De Lima v. Bidwell*, N.Y.1901, 21 S.Ct. 743, 182 U.S. 1, 45 L.Ed. 1041; *Goetze v. U.S.*, N.Y.1901, 21 S.Ct. 742, 182 U.S. 221, 45 L.Ed. 1065.

*25 By the Constitution a government is ordained and established "for the United States of America", and not for countries outside of their limits; the Constitution can have no operation in another country. *In re Ross*, N.Y.1891, 11 S.Ct. 897, 140 U.S. 464, 25 L.Ed. 581. See, also, *Casement v. Squier*, D.C.Wash.1912, 46 F.Supp. 296, affirmed 138 F.2d 909.