

# What Is the ‘General Welfare’?

*From Benjamin Franklin to Franklin D. Roosevelt: Edward Spannaus traces the history of the U.S. Constitution’s General Welfare clause.*

“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 commitment to promote the general welfare of all persons, as opposed to protecting the interests of a narrow section or class of the population, encapsulates what is most unique about the United States of America — that it is the only modern nation-state republic founded on this principle.

Lyndon LaRouche has identified the principle of the general welfare as the only legitimate basis for the authority of government. A useful summary may be found, for example, in LaRouche’s article, “Will the U.S.A. Keep Its Sovereignty?” published in the Nov. 19, 1999 issue of *EIR*.

LaRouche emphasizes that our United States republic “came into existence as a direct heir of those anti-oligarchical, anti-Roman, Platonic principles of natural law” which were first affirmed in the founding of the first nation-state republics during the late 15th Century: France under Louis XI, and England under Henry VII. LaRouche describes the source of this law as “a combination of the Classical Greek, republican heritage, with those doctrines, respecting the universal notion of human individuality, which were promulgated by Jesus Christ and his Apostles, notably the Epistles of the Apostle Paul.”

Out of this, came the central principle upon which “the authority, powers, and responsibilities of the sovereign nation-state republic were premised . . . the notion of ‘general welfare,’ or ‘commonwealth.’

“The authority of the sovereign state lies solely in its indispensable role in promoting the general welfare of all persons, as Genesis I, and the Christian apostolic mission define all persons, as made equally in the image of the Creator of the Universe, and thus equally subjects of the obligation to promote the welfare of both the living and their posterity,” LaRouche wrote, adding that, “Only sovereign government has the means to promote the conditions of the general welfare respecting all of the people and all of the land-area, both for the living and future generations,” and that thus, the existence of such sovereign nation-state republics is shown to be “the morally required condition of mankind.”

This stands in opposition to those forms of oligarchical rule, in which the government is the private property of a ruling oligarchy, either a feudalistic, landed oligarchy, or a financier oligarchy of the sort that the British monarchy represents today. In such cases, governments exist to preserve the power and wealth of such oligarchies, and not to promote the general welfare of all citizens.

From the original colonizations of the Americas, those two outlooks have been in conflict; they are perhaps best expressed in the contrast between the Massachusetts Bay Colony of the Winthrops and Mathers, versus the Carolina colonies, whose constitution, written by John Locke, created a hereditary nobility, and ensured the primacy of property, including slave property.

What we shall do here, is to trace how the General Welfare clause became such a crucial element of the Constitution, looking back, both to the early colonial period, and then examining what the concept meant to the Founding Fathers (notably Alexander Hamilton), and others who shaped the political and economic life of the republic in the early 18th Century. Finally, we shall see the triumph of the Hamiltonian notion of the general welfare during the fight over President Franklin Delano Roosevelt’s New Deal in the 1930s.

Today, that commitment has been largely abandoned, both among “New Democrats” of the Al Gore type, and among the dominant grouping among Republicans, whose radical free-market policies stand in the utmost contrast to the Lincoln-esque principles on which the Republican Party was once based.

## The Federal Constitution

The importance given to the General Welfare clause by the Framers is demonstrated by the fact that it appears, not once, but twice, in the United States Constitution — first in the Preamble, as a statement of the purpose of the Constitution, and then again in Article I, Section 8, which sets forth the substantive powers of Congress.

The clause was taken over from the Articles of Confederation, the preliminary Constitution of the new United States, during the period of the Revolution, until the adoption and ratification of the Constitution of 1787. The Articles of Confederation declared in Article III (the equivalent of a Preamble) that:

“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. . . .”

The Framers of the United States Constitution repeated the General Welfare clause in Article I, Section 8, for the purpose of giving it some teeth, by ensuring that Congress could raise and expend funds for the general welfare. This corrected a near-fatal defect in the Articles of Confederation: The Articles incorporated the concept of the general welfare, but failed to provide for its implementation.

How did this provision for the general welfare get into the Articles of Confederation? It was proposed by Benjamin Franklin to the Second Continental Congress in 1775. But to see why Franklin considered it to be so important, we have to go back almost a century and a half earlier, to John Winthrop and the Massachusetts Bay Colony.

The battle for a continental republic, based upon the notion of the general welfare, is properly dated from the founding of the Massachusetts Bay Colony in 1630. Winthrop sought a republic, where human beings would be more highly valued than land, and in which the earth would be improved for the benefit of its citizens.

In a 1629 treatise, Winthrop decried the degeneration of England, and called for the establishment of a republic in the New World:

“This land [England] grows weary of her inhabitants, so as man who is the most precious of all creatures is here more vile & base than the earth we tread upon, and of less price among us, than a horse or a sheep. . . . [W]e use the authority of the law to hinder the increase of people . . . , servants & neighbors (especially if they be poor) are counted the greatest burden which if things were right it would be the chiefest earthly blessing. . . .

“The whole earth is the Lord’s garden & he hath given it to the sons of men, with a general condition, Gen: 1.28. Increase and multiply, replenish the earth and subdue it, which was again renewed to Noah. The end is double, moral and natural, that man might enjoy the fruits of the earth and God might have his due glory from the creature. Why then should we stand here striving for places of habitation . . . and in the meantime suffer a whole Continent, as fruitful and convenient for the use of man, to lie waste without any improvement?”<sup>1</sup>

In 1637, Winthrop wrote that “the essential forme<sup>2</sup> of a common weale or body politic such as this is,” should be: “The consent of a certain company of people, to cohabit together, under one government for their mutual safety and welfare.”

Foreshadowed here is the commitment to the “common

1. All spelling, capitalization, and punctuation within quotes, is preserved from the original texts.

2. H. Graham Lowry, “‘The Eyes of All People Are Upon Us,’” *EIR*, Jan. 28, 2000.



*John Winthrop, governor of the Massachusetts Bay Colony. The battle for a continental republic, based upon the notion of the general welfare, is properly dated from the founding of the colony in 1630.*

defense and the general welfare,” enshrined in the Preamble to the new Constitution of the United States, drafted exactly 150 years later.

Winthrop explained: “The welfare of the whole is not to be put to apparent hazard for the advantage of any particular members”—a very precise repudiation of an oligarchical form of society.<sup>3</sup>

The first effort to unite the colonies was the formation of the New England Confederation in 1643. Its constitution, the “Articles of Confederation of the United Colonies of New England,” were later cited by Franklin when he drafted the proposed “Articles of Confederation and perpetual Union” in 1775.

In the 1643 Articles, the equivalent of a preamble, or statement of purpose, read:

“The said United Colonies for themselves and their posterities do jointly and severally enter into a firm and perpetual

3. John Winthrop, “A Declaration in Defense of an Order of Court Made in May 1637.”



*The Saugus Iron Works, established by John Winthrop, Jr. in 1647. It was the first automated, integrated industrial complex in the New World.*

league of friendship and amity for offense and defense, mutual advice and succor upon all just occasions both for preserving and propagating the truth and liberties of the Gospel and for their own mutual safety and welfare.”

Presaging Alexander Hamilton’s proposals of 150 years later, in 1640 the General Court of the Massachusetts Bay Colony voted for subsidies for textile manufacturing, and other subsidies designed to promote manufactures. The General Court also provided for the construction of an iron mill with blast furnaces, and rolling and slitting mills. (It could only export goods after the colony’s needs were met—a measure we will come across again in Hamilton’s proposals.) In 1647, the Saugus Iron Works was established, the first automated, integrated industrial complex in the New World.

### **Benjamin Franklin’s ‘Junto’**

Benjamin Franklin personifies the continuity from the Puritan Commonwealth in Massachusetts to the American Revolution, through his work in the Pennsylvania colony.

And Franklin, arguably more than anyone else in our history, embodies the promotion of the general welfare: Witness his creation of the Junto, his founding of the American Philosophical Society, his promotion of public works, etc., in Philadelphia.

Franklin was born into a Puritan family in Boston in 1706. Early on, he became a protégé of Cotton Mather, and he declared Mather’s 1710 *An Essay Upon the Good* as the book which had influenced him more than any other. In 1714, Mather had proposed the creation of a bank to promote eco-

nomie recovery and to create a solid system of credit.

In 1727, Franklin issued his proposal for the “Junto” in Philadelphia, as a “club for mutual improvement.” The idea was expanded with the 1744 creation of the American Philosophical Society, which grew out of Franklin’s “Proposal for Promoting Useful Knowledge Among the British Plantations in North America.”

*Useful* knowledge is the key to Franklin’s proposal, for its purpose was to promote the general welfare through the development of what we would today call science and technology. Thus, there were always to be, among the members of the Society in Philadelphia, “a physician, a botanist, a mathematician, a chemist, a mechanician, a geographer, and a general natural philosopher.”

The members were to meet at least once a month, and correspond among themselves as well as with members in other colonies, concerning horticulture, mines and minerals, useful improvements in mathematics and chemistry, labor-saving mechanical inventions, all new arts and manufactures, surveys, maps and charts, animal husbandry, and “all philosophical experiments that let light into the nature of things, tend to increase the power of man over matter, and multiply the conveniences or pleasures of life.”

Similar notions were included in his proposal for the creation of an Academy in Philadelphia, which grew into the University of Pennsylvania—modelled on Göttingen University in Germany. As Franklin said in his proposal, a good education for youth is “the surest foundation of the happiness both of private families and of commonwealths.” The object



*Benjamin Franklin, arguably more than anyone else in American history, embodies the promotion of the general welfare.*

was to produce men “qualified to serve the public with honor to themselves and their country.”

Franklin’s proposal readily calls to mind an earlier proposal by Gottfried Wilhelm Leibniz, “On the Establishment of a Society in Germany for the Promotion of Arts and Sciences,” written in 1671.<sup>4</sup> In this wonderful essay, Leibniz argues that “charity . . . is nothing other than that love of the public good and universal harmony,” and that men should let themselves be used “as instruments for the glory of God and, what is the same thing, for the common good, and for the nourishment, ease of labor, comfort, instruction, and enlightenment of their fellow man, for discovery, research, and improvement of creatures. . . .”

Those to whom God has given reason and power together, he demonstrates, can use these in three ways for the glory of God, with good words (i.e., orators and priests), with good thoughts (i.e., those who make new discoveries of nature), or with good works (through public affairs or politics). The latter, Leibniz contends, is the most perfect way to seek the

4. Nancy Spannaus and Christopher White, eds., *The Political Economy of the American Revolution* (Washington, D.C.: Executive Intelligence Review, 2nd edition, 1996), p. 214.

glory of God, and to honor Him, by offering themselves as an instrument to do good for society. “These are the ones who apply the discovered wonders of nature and art to medicine, to mechanics, to the comfort of life, to materials for work and sustenance for the poor, to keeping people from idleness and vice, to the operation of justice, and to reward and punishment, to the preservation of the common peace, to the increase and welfare of the fatherland, to the elimination of times of shortage, disease, and war . . . and to the happiness of the human race. . . .”

Leibniz then suggests that among the most efficient means of carrying out such activities directed for the common good, is the creation of a society or an academy through which useful knowledge can be shared and promoted.

One cannot but notice the coincidence of the objectives sought by this great philosopher, with those outlined in the Preamble of the Constitution of the United States.

### **Leibniz versus Mandeville**

It is worth our while, at this point, to explore a bit further, the links between the Massachusetts and Pennsylvania colonies, and the Leibniz networks in Europe, and to also touch upon an hitherto unexplored facet of the combat between these networks and one of the foremost adversaries of the general welfare—the progenitor of the radical free-marketters, Bernard de Mandeville.

As Graham Lowry’s book, *How the Nation was Won*,<sup>5</sup> demonstrates, William Penn’s agent James Logan was a correspondent of Leibniz, and Logan recruited Germans to emigrate to Pennsylvania through the Leibniz networks in Germany, particularly through Dr. Hermann August Francke of Halle. Francke, himself a correspondent of Cotton Mather and a collaborator of Leibniz, organized the German emigration to New York and Pennsylvania starting in 1709; that Pennsylvania migration spilled into Western Maryland and the Shenandoah Valley of Virginia as well.

Francke was a professor of Greek and Oriental languages at Halle, and was also a theologian and a pastor, and he built up the famed Halle Stiftung—the Halle Institutions—consisting of schools, the Orphan House, eventually an Oriental Institute, and so on. Francke also was key in organizing the faculty at Göttingen University—Germany’s leading scientific center—which Franklin later visited, in 1766, and used as a model for the University of Pennsylvania.

Francke carried on an extensive correspondence with Cotton Mather in New England, which Francke’s son Gotthilf later continued with Cotton’s uncle, Samuel Mather. The principal subjects of Francke’s correspondence with Mather, and of his correspondence generally, were missions and charity-schools—the latter serving to educate and uplift the children of the poor.

5. H. Graham Lowry, *How the Nation Was Won* (Washington, D.C.: Executive Intelligence Review, 1988).



Cotton Mather, whose “*An Essay Upon the Good*” influenced Benjamin Franklin more than any other book.

Francke’s correspondence with Cotton Mather continued from 1709 to 1724. The longest letter which is translated is Francke’s letter of Dec. 19, 1714, which was reprinted in the third edition of his *Pietas Hallensis*, which became the basis of Mather’s “*Nuncia bona e terra longinqua*” (“Good News from a Distant Land”) of 1715. It contains a detailed description of the institutions at Halle and their growth, including the Oriental Institute.

Francke became a powerful influence upon Mather, as reflected in many of Mather’s writings. Mather’s *Bonifacius*, *An Essay Upon the Good*—which had a great influence on Franklin—was in large part based upon Francke’s descriptions of the Halle Institutions.

Looking at this correspondence, it is clear what Bernard de Mandeville—the evil godfather of today’s free-market fanatics—was attacking in his 1723 “*Essay on Charity and Charity-Schools*.” Francke, in fact, had set up the Halle Institutions, including the charity school, in direct opposition to the English model of the poor houses—which were work houses, poor houses, and penal institutions, all combined in one.

Graham Lowry has shown that Mandeville was a key figure in the satanic Hell-Fire Club which was deployed against the Mathers and republicanism; and in 1724, young

Ben Franklin was deployed to London on an intelligence-gathering mission, as part of which he met Mandeville.

The two overriding themes of Mandeville’s writings are: 1) that selfishness and licentiousness are not evil but are a social good (“private vice equals public virtue”), and 2) that it is not only wasteful, but it is counterproductive and harmful, to attempt to educate or improve the lower classes.

Whereas later writers of the anti-general welfare school tried to present the same views in somewhat more respectable trappings, Mandeville openly put forward his bestial, satanic views in the most explicit fashion. His best-known work is *The Fable of the Bees*, which was first published as a poem in 1705, with the title, “The Grumbling Hive, or Knave turn’d Honest.” In 1714 it was published as *The Fable of the Bees: or Private Vices, Publick Benefits*, followed by a commentary, “An Inquiry in the Origin of Moral Virtue.” Another edition was published in 1723, along with the evil “*Essay on Charity and Charity Schools*.” Still another edition came in 1728-29.

Mandeville attacked the charity schools as a waste of time and worse, for as he said, the longer boys continue in this easy sort of life of learning, “the more unfit they’ll be when grown up for downwright Labour.”

“Going to school is idleness as compared to working,” Mandeville wrote; and he insisted that the wealth of a nation depended on the maintenance of a large class of miserable and impoverished laborers to do society’s drudge work. Any effort to educate them or improve their situation, would only make them less willing to work for a pittance, or to enlist in the military.

The contrast to the idea of the general welfare could not be more stark:

“It is impossible that a Society can long subsist, and suffer many of its members to live in idleness, and enjoy all the ease and pleasure they can invent, without having at the same time great multitudes of people that to make good this defect will condescend to be quite the reverse, and by use and patience inure their bodies to work for others and themselves besides.”

Mandeville’s writings were instrumental in the workhouse “reforms” of 1722, which set up the “privatization” of the previously public workhouses, under which entire families were forced to leave their homes and live—separately—in the workhouses in order to obtain relief.

Mandeville’s fundamental contention, which endeared him to the likes of Adam Smith, and “Austrian School” (now “Chicago School”) founders Friedrich von Hayek and Ludwig von Mises, was that any attempt at a “grand design” or an effort to plan men’s actions for the common good, is folly.

As he argued in *The Fable of the Bees*, man, like the industrious bee, performs selfish actions “in the small”—which lead to the greatest good in the “large”:

Thus every part was full of vice,  
yet the whole mass a paradise.

. . . their crimes conspired to make them great.  
. . . the worst of all the multitude,  
did something for the common good.

Von Mises, in his book *Theory and History*, adopts Mandeville's bestial view, stating that during the Enlightenment, eminent philosophers stopped "brooding about the hidden purpose of Providence in directing the course of events," and began to look at things from the standpoint of acting men, rather than from the standpoint of plans ascribed to God or nature. This is best illustrated by Adam Smith, says von Mises, but to understand Smith, "we must first refer to Mandeville."

"The older ethical systems were almost unanimous in the condemnation of self-interest," von Mises wrote. "Referring to the Sermon on the Mount, they exalted self-denial and indifference with regard to treasures which moth and rust corrupt, and branded self-interest as a reprehensible vice. Bernard de Mandeville in his *Fable of the Bees*, tried to discredit this doctrine. He pointed out that self-interest and the desire for material well-being, commonly stigmatized as vices, are in fact the incentives whose operation makes for welfare, prosperity, and civilization."

"Adam Smith adopted this idea," von Mises declares.

Indeed, some 60 years later, the writings of Alexander Hamilton would explicitly repudiate Adam Smith's defense of free trade and the "invisible hand," just as the Francke-Mather correspondence represented the Christian counterposition to the radical egoism of Mandeville's equation of "private vices" with "public virtues."

## Articles of Confederation

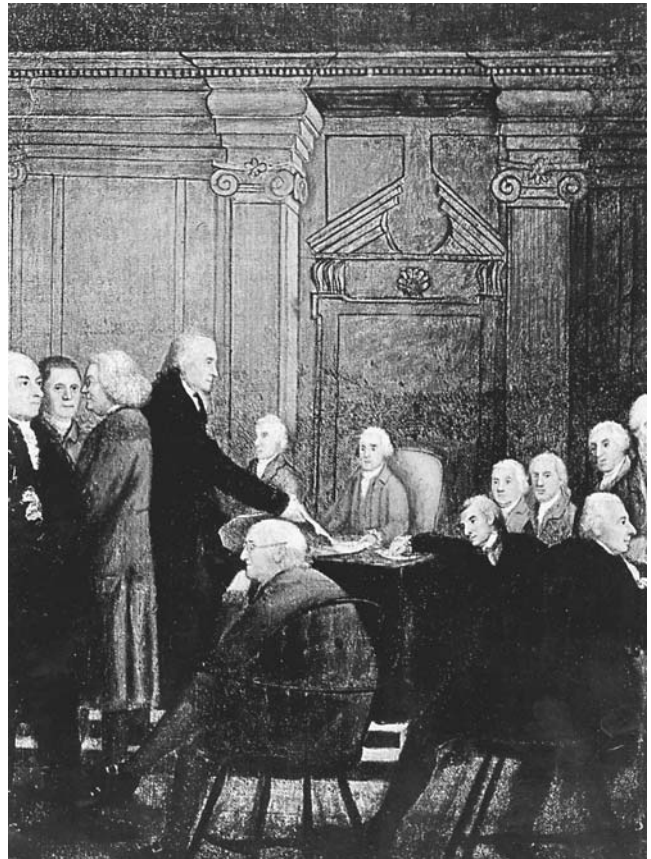
On June 21, 1775, Franklin submitted to the Continental Congress a draft of "Articles of Confederation and perpetual Union."<sup>6</sup> The first draft stated in Article II:

"The said United Colonies hereby severally enter into a firm League of Friendship with each other, binding on themselves and their Posterity, for their common Defense [and Offense], against their Enemies for the Security of their Liberties and Propertys, the Safety of their Persons and Families, and their [common and] mutual and general Welfare." [Brackets indicate words crossed out in the hand-written original—ed.]

Article IV proposed the annual election by each Colony of Delegates to a "General Congress."

Article V laid out the powers and duties of the General Congress, including that: "The Congress shall also make [and propose] such general [Regulations] Ordnances as tho' necessary to the General Welfare, particular Assemblies [from their local Circumstances] cannot be competent to"; and it mentions "our general Commerce, the general Currency, Posts, the armed Forces, and officers, civil and military, of the gen-

6. *Journal of the Continental Congress, 1744-1789*, Vol. 2.



*The Continental Congress adopted the Articles of Confederation in 1777. Although the Confederation could legislate and spend for the general welfare, it did not have the power to directly raise money for the general welfare, instead being reliant upon the states.*

eral Confederation."

Article VI said that "All charges of Wars, and all other general Expenses, to be incur'd for the common Welfare, shall be defray'd out of a common Treasury," but to be supplied by each Colony.

Herein lay one of the greatest weaknesses of the Confederation—that it could legislate and spend for the general welfare, but it did not have the power to directly raise money for the general welfare, instead being reliant upon the good will of the states.

Action on Franklin's draft was among the items of unfinished business when the Second Continental Congress adjourned in December 1775.

On June 7, 1776, the third session of the Continental Congress adopted a resolution containing an early and brief version of the Declaration of Independence, and at the same time, resolved that a plan of Confederation should be prepared and transmitted to the respective colonies. On June 11, a committee was appointed to prepare the Articles. On July 12, the committee brought in a draft, which retained the clause per-

taining to the “mutual and general Welfare.”

But Franklin’s Article V, the broad grant of power to the Congress to provide for the General Welfare, was no longer in the draft. The new draft provided that the Confederation could raise naval forces and make requisitions for land forces, but that it could not impose taxes or duties unless nine colonies assented.

Further changes were made during the next two years. The final Articles of Confederation were submitted to the various states for ratification in November 1777. A committee drafted a circular letter to accompany the draft Articles, which said that although it would be difficult to accommodate the opinions and wishes of so many different states, that “this is proposed, as the best, which could be adopted to the circumstances of all.”

Many objections were raised, and many amendments proposed. They were all rejected, for fear that the Articles would never be ratified. In June 1778, a copy, engrossed for ratification, was prepared; it was ratified by every state but Delaware and Maryland. Delaware ratified in 1779, and Maryland on March 1, 1781—at which point the instrument finally took effect—only seven months before Cornwallis surrendered at Yorktown.

The Articles were the best that could be done under the revolutionary circumstances of 1775-77, but their weakness had become so apparent during the Revolution—the ragged, freezing, and starving Army at Valley Forge in the winter of 1777-78 was the most painful expression of this—that moves were soon under way to amend them, or create a new instrument, which led to the convening of the Constitutional Convention of 1787.

That was, without question, one of the most remarkable assemblages ever known to mankind; unfortunately for us today, its deliberations were conducted in secret, and we have only fragmentary notes of what took place.

## The Constitutional Convention

At the beginning of the deliberations in Philadelphia at the end of May 1787, the Virginia Plan was presented by Gov. Edmund Randolph, which provided for a national government, but under the guise of amending the Articles of Confederation. The first resolution submitted by Randolph, was that the Articles “ought to be so corrected & enlarged as to accomplish the objects proposed by their institution; namely, ‘common defence, security of liberty, and general welfare.’”<sup>7</sup>

Much of the early debate in the Convention revolved around the legislative branches and representation. Speaker after speaker argued that the British system could not be our example. James Wilson of Pennsylvania, for example, is re-

ported to have argued: “The British Government cannot be our model. We have no materials for a similar one. Our manners, our laws, the abolition of entails and of primogeniture, the whole genius of the people, are opposed to it.”

And George Mason of Virginia, for example, in arguing for the election of the larger branch of the legislature by the people, said that the new system had to provide for the rights of every class of the people, that the Framers should “provide no less carefully for the rights and happiness of the lowest than of the highest order of citizens.”

One of the more lengthy reported speeches in this vein was delivered by Charles Pinckney of South Carolina, who noted that there were in the United States “fewer distinctions of fortune & less of rank, than among the inhabitants of any other nation.” While there was much talk about the British Constitution, Pinckney contended that the “most distinguishing feature” of the British Government is “the balance between the Crown & the people,” which cannot be part of the new Constitution of the United States. In fact, he argued, “the people of the United States are more equal in their circumstances than the people of any other Country.”

Pinckney pointed out that the people of the United States were very different from those of any state in either the modern world, or the ancient world. “Our true situation,” Pinckney declared, “appears to me to be this—a new extensive Country containing within itself the materials for forming a Government capable of extending to its citizens all the blessings of civil & religious liberty—capable of making them happy at home. That is the great end of Republican Establishments.”

From time to time, the Convention came close to breaking down in petty squabbles over narrow interests, and the more far-sighted leaders had to remind the participants of their historic responsibility to create a system to serve the *general* interests.

In sentiments later to be echoed by Chief Justice John Marshall, James Madison had to remind the members of the Convention that they were engaged in “framing a system which we wish to last for ages.” Hamilton “concurred with Mr. Madison in thinking we were now to decide for ever the fate of Republican Government; and that if we did not give to that form due stability and wisdom, it would be disgraced & lost among ourselves, disgraced & lost to mankind for ever.”

Franklin at one point urged the assembly to pray and seek divine guidance, lest they succeed no better than did “the Builders of Babel . . . divided by our little partial local interests.” If we fail, Franklin urged, “mankind may hereafter from this unfortunate instance, despair of establishing Governments by Human wisdom and leave it to chance, war and conquest.”

During one of the many contentious debates between representative of the smaller and larger states, Gouverneur Morris of Pennsylvania beseeched the assemblage to consider the general or higher interest. Madison’s notes describe Mor-

7. All quotations are from Madison’s notes, as reported in Winton Solberg, ed., *The Federal Convention and the Formation of the Union of the American States* (1958).

ris's speech:

"He [Morris] came here as a Representative of America; he flattered himself that he came here in some degree as a Representative of the whole human race; for the whole human race will be affected by the proceedings of this Convention. He wished gentlemen to extend their views beyond the present moment of time; beyond the narrow limits of place from which they derive their political origin. If he were to believe some things which he had heard, he should suppose that we were assembled to truck and bargain for our particular States. . . . He wished our ideas to be enlarged to the true interests of man, instead of being circumscribed within the narrow compass of a particular Spot."

It wasn't until July 17, after the contentious issues of the legislature and representation were either resolved or set aside, that the Convention came back to the question of the powers of Congress. Roger Sherman, a Puritan from Connecticut, wanted the legislature to have the power to make laws binding on the people of the United States in all areas concerning the general interests or general welfare of the Union.

On July 26, the various resolutions adopted by the Convention were referred to the Committee on Detail, which was charged with developing a comprehensive draft. However, the draft which was reported out of the Committee on Aug.

6 did not contain the General Welfare clause, either in the Preamble, or under the powers of Congress.

Because of disagreements over whether to give a general grant of powers to Congress, the Committee on Detail instead had produced a listing of enumerated powers. Sherman offered a resolution providing for a general grant of power, which was one of the provisions which went again to the Committee on Detail; on Aug. 22, that Committee recommended that Congress be given the power "to provide, as may become necessary, from time to time, for the well managing and securing the common property and general interests and welfare of the United States in such manner as shall not interfere with the governments of individual states. . . ."

Drawing on the Virginia Plan and also Sherman's motion, this "general welfare" clause then went to the Committee on Unfinished Parts, on Aug. 31. That Committee moved the "general welfare" clause to the first clause, thus providing that the legislature could lay taxes, duties, and impost "to pay the debts and provide for the common defence & general welfare, of the U.S."

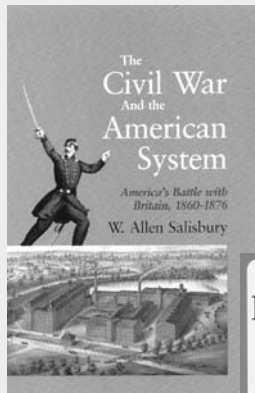
An illuminating anecdote provides a window into the discussion: Charles McHenry of Maryland suggested the inclusion of a power to enable the legislature to erect piers for the protection of shipping and as an aid to navigation. Gouverneur

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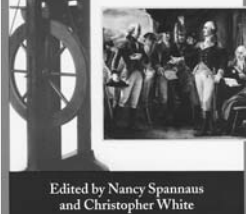


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Morris advised McHenry that this could be done under the General Welfare clause.

The almost-final draft, probably written by Gouverneur Morris, restored the General Welfare clause to the Preamble (following the style of the Articles of Confederation), and repeated it in Article I, Section 8 — where it remained.

### The ‘General Welfare’ Clause

From the time of the drafting of the Constitution up to the present day, the General Welfare clause has been the subject of fierce disputes, with the side of the Founders taken by the “nationalist” faction which supported a strong government with adequate powers to promote economic expansion and industrial growth.

We see these battles raging over the “American System” measures of internal improvements, tariffs, etc. during the early 19th Century and the Civil War; we see the same issue in the elimination of the General Welfare clause in the 1861 Confederate Constitution (see box), and we see it prominently in the 20th Century in the fight over the New Deal. The conflict over the general welfare—absolutely fundamental as to the nature of our Republic—is still raging today.

To examine how the concept of the general welfare was understood by the dominant tendency among the Founding Fathers, the Framers of the Constitution, and leading jurists such as John Marshall and Joseph Story, shows the foolish-

ness of those self-styled modern-day “conservatives” who babble about the “original intent” of the Constitution, as if it had been written by Adam Smith or Friedrich von Hayek.

The definitive exposition of the General Welfare clause was in Hamilton’s “Report on Manufactures,” issued in December 1791.

However, as early as February 1791, Hamilton had treated the subject of the general welfare in his “Opinion on the Constitutionality of the National Bank” — written after Washington’s Secretary of State Thomas Jefferson, and his Attorney General Edmund Randolph, had both declared the creation of a national bank unconstitutional.

In his “Opinion on the Bank,” Hamilton argued that the powers of the national government “ought to be construed liberally, in advancement of the public good,” and that they must be defined by “the nature and objects of government itself.”

Hamilton noted that Jefferson had argued, in opposing the bank, that Congress can only levy taxes to pay the debts, or to provide for the welfare of the Union. But this is no argument against a national bank, Hamilton said. “It is true that they [Congress] cannot without breach of trust, lay taxes for any other purpose than the general welfare, but so neither can any other government. The welfare of the community is the only legitimate end for which money can be raised on the community.”

## The Constitution Of the Confederacy

The rejection of the American System by the British-backed free trade faction, led directly into the treasonous rebellion known as the Civil War. Let us look at what happened to the General Welfare clause and other elements of the American System, when a new Constitution was written for the Confederate States of America in 1861.

First, compare the two versions of the Preamble:

*U.S. Constitution:* “We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defense, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.”

*C.S.A. Constitution:* “We the people of the Confederate States, each state acting in its sovereign and independent character, in order to form a permanent federal government, establish justice, insure domestic tranquillity, and secure the blessings of liberty to ourselves and our

posterity — invoking the favor and guidance of Almighty God — do ordain and establish this Constitution for the Confederate States of America.”

Naturally, they didn’t stop there. They also took out the second element of the General Welfare clause, in Article I, Section 8. With respect to the powers of Congress, the C.S.A. Constitution:

- removed the power of taxation to provide for the general welfare;
- prohibited any measures (bounties, duties or taxes on importations) which would be used “to promote or foster any branch of industry”;
- prohibited appropriation of funds “for any internal improvement intended to facilitate commerce” (except for lights, beacons, and buoys on waterways);

With respect to the Post Office, the C.S.A. Constitution went so far as to restrict the power of Congress so that it could only establish postal routes rather than post roads, and it required that the post office’s expenses be paid out of its own revenues.

The C.S.A. Constitution is still touted by today’s neo-Confederates — who never fail to boast that it eliminated the General Welfare clause, which they claim is the charter for big government and the Leviathan state.

The only restriction, Hamilton continued, is that money thus raised, cannot be applied for any merely local purpose. “The constitutional *test* of a right application must always be, whether it be for a purpose of *general* or *local* nature. If the former, there can be no want of constitutional power. . . . Whatever relates to the general order of the finances, to the general interests of trade etc., being general objects are constitutional ones for *the application of money*” (emphasis in original).

This is further elaborated in the “Report on Manufactures,” in which Hamilton declared that the general interests of Learning, of Agriculture, of Manufactures, and of Commerce, are all within the purview of the General Welfare.

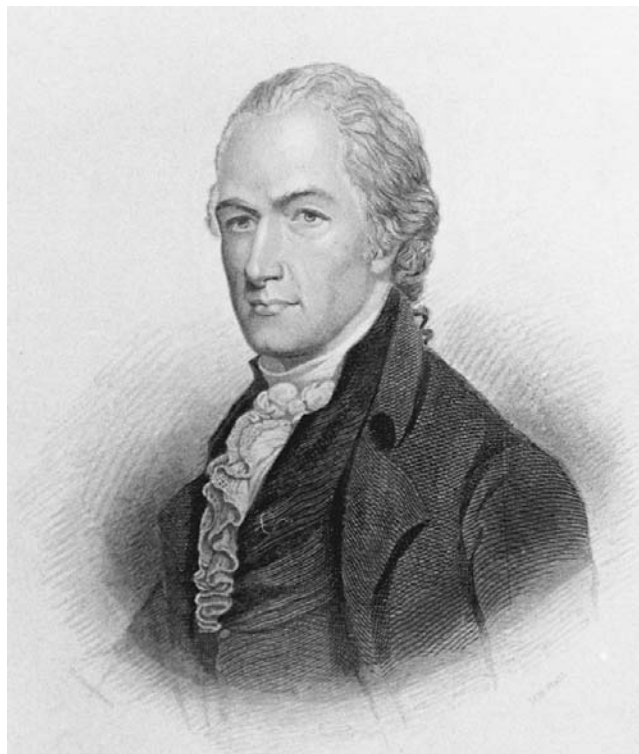
Hamilton argued that the wealth, the independence, and the security of the nation are all connected to the prosperity of manufactures. As opposed to the free traders of the time—or what we would call the “globalizers” today—Hamilton contended that: “Every nation . . . ought to possess within itself all the essentials of national supply. These comprise the means of *Subsistence, habitation, clothing, and defence.*”

“The possession of these is necessary to the perfection of the body politic; to the safety as well as to the welfare of the society. . . . The extreme embarrassments of the United States during the late War, from an incapacity of supplying themselves, are still matters of keen recollection,” Hamilton wrote, urging that this was the next great work to be accomplished, lest the United States again face the same situation in a future war.

Hamilton also strenuously disputed the false but popular notion that “though the promoting of manufactures may be the interest of a part of the Union, it is contrary to that of another part,” particularly as that argument was made with respect to the northern and southern regions of the Union. In fact, Hamilton argued, manufacturing is in the *general* interest of the entire nation, and “the *aggregate* prosperity of manufactures, and the *aggregate* prosperity of Agriculture are intimately connected” (emphasis in original).

Hamilton also addressed the issue of cognition and its relation to the national wealth: “To cherish and stimulate the activity of the human mind, by multiplying the objects of enterprise, is not among the least considerable of the expedients, by which the wealth of a nation may be promoted. . . . Every new scene which is opened to the busy nature of man to rouse and exert itself, is the addition of a new energy to the general stock of effort.”

Hamilton proposed aggressive measures to promote domestic manufacturing, including tariffs, the maintenance of monopolies, the prohibition of some imports, the prohibition of exports of certain raw materials necessary for domestic manufacturing, pecuniary bounties and premiums, a system of regulation of standards and inspections; development of a payments system; and promotion of a system of transportation of goods. As to using public funds, he argued that there is no better purpose “to which public money can be more



Alexander Hamilton’s “Report on Manufactures” laid the foundation for the American System of Economics.

beneficially applied than to the acquisition of a new and useful branch of industry; no Consideration more valuable than a permanent addition to the general stock of productive labor.”

Hamilton declared unequivocally that the Federal government had the right to promote manufactures under the General Welfare Clause of Article I, Section 8. The objects for which Congress can raise money, Hamilton explained, “are no less comprehensive than the payment of the Public debts, and providing for the common defense and the general Welfare.”

He continued: “The terms ‘general Welfare’ were doubtless intended to signify more than was expressed or imported in those which Preceded; otherwise, numerous exigencies incident to the affairs of a nation would have been left without a provision. The phrase is as comprehensive as any that could have been used; because it was not fit that the constitutional authority of the Union to appropriate its revenues should have been restricted within narrower limit than the ‘General Welfare’ and because this necessarily embraces a vast variety of particulars, which are susceptible neither of specification or of definition.”

Hamilton then says that it is left to the discretion of the legislature to determine what matters concern the general welfare, adding: “And there seems to be no room for a doubt that whatever concerns the general interests of *Learning, of Agriculture, of Manufactures, and of Commerce*, are within

the sphere of the national Councils, *as far as regards an application of money*” (emphasis in original).

In his Final Address to the Congress in 1796, George Washington endorsed Hamilton’s view.

Washington noted that “Congress have repeatedly, and not without success, directed their attention to the encouragement of Manufactures,” and he argued that much more needed to be done, especially invoking the idea of the dangers of the country remaining dependent on foreign supply.

Washington also argued that, “with reference to individual, or National Welfare, Agriculture is of primary importance,” and he proposed the creation of institutions for promoting agriculture through “premiums, and small pecuniary aids, to encourage and assist a spirit of discovery and improvement.”

### **Fight over the American System**

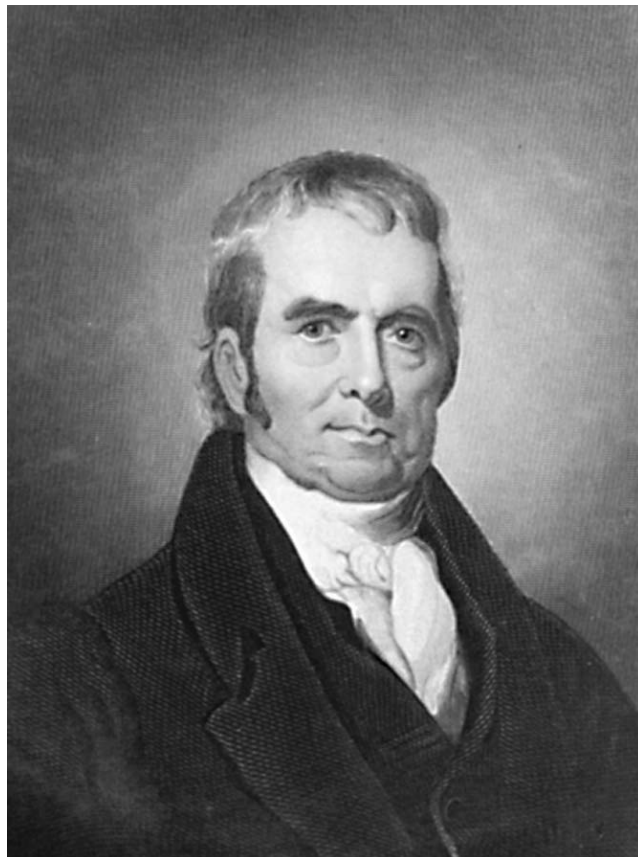
As Hamilton emphasized over and over again, the national government cannot promote the general welfare unless it has the power to do so. This was not a settled issue in the early years of the Republic — indeed, to some, it is still yet not a settled issue today.

It fell to John Marshall, Chief Justice of the United States from 1801 to 1835, to ensure that the Hamiltonian view was established as our fundamental law. Marshall’s 1819 opinion in the case involving the National Bank, *McCulloch v. Maryland*, is a milestone for the confirmation of the national government’s exercise of its power to promote the general welfare — and, it is also clear, to carry out its Manifest Destiny as a Continental Republic, “from sea to shining sea.”

The background of the case was as follows. The second Bank of the United States was created in 1816, after the refusal of Congress to recharter the Bank on the eve of the War of 1812. But the bank was horribly mismanaged, and the Monroe Administration pursued free trade and a veto of internal improvements. By the beginning of 1819, the Bank of the United States had collapsed, insolvencies and bankruptcy fraud were rampant, and the credit system and the economy as a whole were in utter chaos.

The case before the Supreme Court grew out of the attempts by the State of Maryland (among others) to tax the operations of the Bank. In his ruling reaffirming the power of Congress to establish a national bank — and repudiating the attempt of Maryland to destroy it — Marshall drew directly on Hamilton’s arguments in the “Opinion on the Constitutionality of the Bank.”

Marshall began in the logical place — the Preamble to the Constitution. Remarking on the conditions under the Confederation, Marshall wrote, the states themselves were competent to form the Confederation. “But when, ‘In order to form a more perfect union,’ it was deemed necessary to change this alliance in to an effective government, possessing great and sovereign powers, and acting directly upon the people; the necessity of referring it to the people, and of deriving its power



*John Marshall, fourth Chief Justice of the Supreme Court, ensured that the Hamiltonian view was established as our fundamental law.*

directly from them, was felt and acknowledged by all.

“The government of the Union, then . . . is emphatically and truly a government of the people. In form and in substance it emanates from them, its powers are granted by them, and are to be exercised directly on them, and for their benefit.”

(If this has a familiar echo, it should. By some accounts, Abraham Lincoln’s “of the people, by the people, for the people” is derived directly from Marshall’s opinion in the bank case.)

Against the so-called “strict constructionists” (or nominalists, we could call them), Marshall argued that the nature of a Constitution is such “that only its great outlines should be marked, its important objects designated,” and that everything else flows from that. Otherwise, a constitution would contain such an immense amount of detail, that it would be nothing but a legal code, “and could scarcely be embraced by the human mind.”

Thus, although we don’t find the word “bank” or “incorporation” among the enumerated powers of government, he writes, we do “find the great powers to lay and collect taxes; to borrow money; to regulate commerce; to declare and conduct war; and to raise and support armies and navies.”

The happiness and prosperity of the nation require not only that the general government have ample powers, but that it have ample means for their execution. “Throughout this vast republic, from the St. Croix, to the Gulf of Mexico, from the Atlantic to the Pacific, revenue is to be collected and expended, armies are to be marched, and supported.” Are we to adopt a construction of the Constitution, he asks, that would make it impossible to transfer revenues from one part of the county to another?

(Interestingly, this expansive statement is delivered just at the time of the Onis Treaty, concluded by John Quincy Adams with Spain, which was part of Adams’s “Manifest Destiny” plan for a U.S. continental republic.)

From there, Marshall develops the critical point: that the Constitution confers upon Congress all the powers “necessary and proper” to carry out its purposes.

The subject at issue, Marshall writes, “is the execution of those great powers upon which the welfare of a nation essentially depends.” Those who granted those powers, certainly intended to ensure their beneficial execution. “This provision is made in a constitution intended to endure for ages to come, and, consequently, to be adapted to the various crises of human affairs.”

Finally, Marshall comes to his conclusion—which is so crucial for the exercise of the General Welfare clause:

“Let the end be legitimate, let it be within the scope of the Constitution, and all means which are appropriate, which are plainly adapted to that end, which are not prohibited, but consist with the letter and spirit of the Constitution, are constitutional. . . .”<sup>8</sup>

Another authoritative source, for an understanding of how the general welfare was understood in the first part of the 19th Century, is Joseph Story’s *Commentaries on the Constitution*, first published in 1833. Story was from Massachusetts, and originally opposed the Federalists, but he came to be John Marshall’s strongest ally on the Supreme Court, and attempted as best he could to carry on Marshall’s work after

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8. The “necessary and proper” clause (sometimes called the “elastic” clause), and the General Welfare clause have always gone hand-in-hand. This was acknowledged, in modern times, in the landmark *Buckley v. Valeo* case in 1976, in which the Supreme Court upheld the public financing of Presidential elections on grounds of the General Welfare clause.

Harkening back to the key 1936-37 Supreme Court decisions which upheld New Deal legislation based on the General Welfare clause, the Supreme Court said in the 1976 case that in passing the matching funds provision for Presidential primaries, “Congress was legislating for the ‘general welfare’ — to reduce the deleterious influence of large contributions on our political process, to facilitate communication by the candidates with the electorate, and to free candidates from the rigors of fundraising.”

In rebutting the arguments by the opponents of the campaign financing law, the Supreme Court said that the General Welfare clause is not a limitation on Congressional power, but: “It is rather a grant of power, the scope of which is quite expansive, particularly in view of the enlargement of power by the Necessary and Proper Clause”—and here the Court cited Marshall’s opinion in the bank case.

Marshall’s death.

In his discussion of the Preamble, Story notes that the Preamble does not confer any substantive powers to the central government, but rather, it is a statement of intent and purpose, which can certainly be called upon in interpreting other elements of the Constitution. He then reviews the six objects spelled out in the Preamble.

In his discussion of promoting the general welfare, Story gives as examples: tariffs (which the states cannot do effectively); the collection, distribution, and expenditure of revenue; internal improvements, such as roads and canals which are much better undertaken by the general government and the post office.

Story observes that the separate states cannot bring into being any great or comprehensive plan for the general welfare; agriculture, commerce, and manufactures may each have to give up something, but each will benefit from a general system, as they have already. An unlimited commerce among states, he asserts, is a blessing of almost inconceivable value; each then looks after the interests of all, rather than its own narrow territory.

### FDR’s ‘New Deal’

Strange as it may seem, it was not until 1936, that the Supreme Court based a ruling explicitly on the General Welfare clause. In the first such case, *U.S. v. Butler*, the Court invalidated the Agricultural Adjustment Act (AAA), in a case challenging crop-reduction payments financed by a processing tax.

In May 1935, the Supreme Court had struck down the National Industrial Recovery Act, and now it took aim at the AAA. Arguing before the high court, Solicitor General Stanley Reed urged that the General Welfare clause of Article I, Section 8 should be broadly construed to encompass whatever was conducive to the national welfare. And Reed argued what seems obvious, that the agriculture crisis was a *national* crisis. But that was not so obvious to the Court, which held that agriculture was “a purely local activity.”

The majority on the Court said that, yes, the General Welfare clause is a broad grant of power, but that the crop-reduction scheme was particular, not general, and that regulation of agriculture was outside the powers of Congress, as a power reserved to the states.

In a succession of rulings, the Supreme Court determined that agriculture, manufacturing, construction, coal mining, and almost any form of economic activity, were *local* and beyond the realm of Federal regulation, as were the wages and working conditions of those employed in those activities. It seemed for a short time that the Court was saying that the states *could* regulate such activities, but then the Supreme Court struck down a New York State minimum-wage law as also being unconstitutional.

This was the situation Roosevelt faced as he began his second term, and what led him to propose his scheme to “pack



*President Roosevelt's moves to change the composition of the Supreme Court, cleared the way for the May 1937 Court rulings affirming the New Deal, on the basis of the General Welfare clause.*

the Court,” to change its composition. He proposed this shortly after his Second Inaugural Address, delivered on Jan. 20, 1937 — the address best known for his exclamation that “I see one-third of a nation ill-housed, ill-clad, ill-nourished.”

FDR described the situation at the time of his first inauguration, four years earlier, and then recalled why the Constitution had been written and a strong Federal government established:

“We of the Republic sensed the truth that democratic government has innate capacity to protect its people against disasters once considered inevitable, to solve problems once considered unsolvable. . . . We refused to leave the problems of our common welfare to be solved by the winds of chance and the hurricanes of disaster. . . .

“This year marks the one hundred and fiftieth anniversary of the Constitutional Convention which made us a nation. At that Convention our forefathers found the way out of the chaos which followed the Revolutionary War; they created a strong government with powers of united action sufficient then and now to solve problems utterly beyond individual or local solution. A century and a half ago they established the Federal Government in order to promote the general welfare and secure the blessings of liberty to the American people.

“Today we invoke those same powers of government to achieve the same objectives.”

Two weeks later, determined to find a way to overcome the obstructions placed in his path by the reactionary Justices who were blocking every effort of the Federal government

to address the crisis, FDR proposed his plan to reform the Supreme Court.

Roosevelt took his case against the Supreme Court directly to the people, in a Fireside Chat on March 9. He warned that there was a danger of another 1929 crash, and said that national measures were necessary prevent this and to complete the recovery program, and that these were measures that only the national government could undertake.

FDR urged the people to re-read the Constitution, saying that, “Like the Bible, it ought to be read again and again.”

“It is an easy document to understand when you remember that it was called into being because the Articles of Confederation under which the original thirteen states tried to operate after the Revolution, showed the need of a national government with power enough to handle national problems,” the President told the nation.

“In its Preamble, the Constitution states that it was intended to form a more perfect Union and promote the general welfare,” Roosevelt said, adding that the powers given to Congress could be best described as being “all the powers needed to meet each and every problem which then had a national character and could not be met by merely local action.”

“But the framers went further,” FDR continued. “Having in mind that in succeeding generations many other problems then undreamed of would become national problems, they gave to Congress the ample broad powers ‘to levy taxes . . . and provide for the common defense and general welfare

of the United States.’ ”

That was the underlying purpose of the patriots who wrote the Constitution, Roosevelt went on, “to create a national government with national power, intended, as they said, ‘to form a more perfect union . . . for ourselves and our posterity.’ ”

But, said Roosevelt, this is now being thwarted by the courts, so to “save our national Constitution from hardening of the judicial arteries,” he presented his bold plan.

### Hamilton Vindicated

As it turned out, Roosevelt’s call to arms was sufficient to reverse the nation’s course. In May 1937, the Court issued two rulings on the same day, affirming New Deal programs on the basis of the General Welfare clause. (“The switch in time that saved nine,” it has been called.)

First, the Court upheld the unemployment tax and compensation provisions of the Social Security Act, in deciding the case *Steward Machine Co. v. Davis*. Associate Justice Benjamin Cardozo cited the magnitude of unemployment, noting that the states had been unable to give the requisite relief, and that the unemployment problem “had become national in area and dimension.”

“There was need of help from the nation if the people were not to starve,” Cardozo wrote. “It is too late today for

the argument to be heard with tolerance that, in a crisis so extreme, the use of the moneys of the nation to relieve the unemployed and their dependents is a use for any purpose narrower than the promotion of the general welfare.”

At the same time, again citing the General Welfare clause, the Court upheld the old-age benefits provisions of the Social Security Act. In this case, *Helvering v. Davis*, Justice Cardozo expressly adopted the Hamiltonian view of the general welfare power, as opposed to that of Madison.

“The conception of the spending power advocated by Hamilton and strongly reinforced by Story has prevailed over that of Madison,” Cardozo wrote. He said that in response to the nationwide calamity that began in 1929, Congress had enacted various measures conducive to the general welfare, including old-age benefits and unemployment compensation. Only a national, not a state, power can serve the interests of all, Cardozo declared.

Thus was proclaimed, a long-overdue vindication of the determination of the dominant group of the Founding Fathers and the Framers of the Constitution, and of all those who had gone before, in the American colonies and in Europe, to create a republic based on the concept of the general welfare.

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