

## Winter History & Heritage -- #3 (December 19)

The last post before Christmas vacation, our study of America and the West continues with the following entries in either summary or Q&A form:

### **Columba -- (Almanac, Dec. 13)**

Born of royal blood in Ireland about two centuries after St. Patrick ministered there, **this 6th-century monk and missionary** made Iona his home base in the 560s AD? On that rugged isle west of Scotland, he set up a monastery so characterized by piety and scholarship that it got the attention of kings (who wanted to be buried on Iona) and became the envy of Christendom. His labors spearheaded the evangelization of the pagans not only in old Britain but throughout Western Europe.

### **Bill of Rights -- (Almanac, Dec. 15)**

Ratified by the states on December 15, 1791, **this founding document** set forth the first ten amendments to the U.S. Constitution? It resulted from Antifederalist agitation for greater safeguards against federal encroachment on the liberties of citizens and their localities. The 10th Amendment summed up the original concern for decentralization, stating, "The powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people."

### **First Amendment -- (Almanac, Dec. 15)**

**This Bill of Rights provision**, probably the most cited of the ten, clearly stipulates that its religious and other restrictions apply only to "Congress" or the federal lawmaking power (and not to other political jurisdictions)? It states: *Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.*

### **From Bill of Rights to Bill of Wrongs -- (teacher's commentary)**

Students should be advised that the U.S. Supreme Court, since the middle of the 1900s, has held that the governmental limitations (and individual rights) of the Bill of Rights apply to all the states as well as the federal government. The Court cited the post-Civil War amendments (13th, 14th, and 15th, especially the 14th) in support of its position, but its legal and historical reasoning is doubtful at best. Even if the Court has judged the intention of Congress in the latter (Civil War) amendments correctly, its insistence on incorporating the Bill of Rights into the laws of the states spelled the definitive end of the American federal system. The original and extensive limitations on the powers of the general government (given an exclamation point by the first ten amendments to the Constitution) were not intended to hamstring the various state governments. Otherwise, there might be too little government to go around, while the states stood to lose much of their distinctive character (including their religious character), being reduced to mere instruments (the arms and legs) of U.S. policy.

In the old republic (the one bequeathed by the Founders), the states existed less to do the bidding of the Feds than to counterbalance it with policies and practices all their own. The basic idea was national unity in a few well-defined things (made explicit by the Constitution and energetically superintended by the general government), and regional diversity in many other kinds of things (attended to by the states and localities).

Unity in diversity and diversity in unity. What a novel idea the Fathers concocted!

### **Articles of Confederation -- (*America, Vol.1, p. 108*)**

**This constitution**, America's first as an independent republic, was drafted in 1777 but not formally ratified until 1781? The document enshrined "perpetual Union" as the aspiration of the Atlantic seaboard states, but its chief concern was clearly the preservation of the "sovereignty, freedom and independence" of each state in particular. Although superseded by the U.S. Constitution (1789), its spirit of regional and local patriotism colored the new arrangements and proved potent for generations.

### **Weaknesses (or supposed weaknesses) of Articles -- (*America, Vol.1, p. 109*)**

The most obvious weakness of the Articles of Confederation, crying out for some correction, was the inability of the general government under the document to tax the states for necessary funds. All the Confederation could do was make formal requests or demands for money or manpower. It was up to the states whether they would honor such requests and to what degree (and often they didn't honor them at all).

Another weakness limited the Confederation government to one institution, the Congress. This one body then, by necessity, would have to perform all the governmental functions itself: the lawmaking (legislative), the law-enforcing or implementing (executive), and the law-interpreting in the context of settling disputes (judicial). The difficulty for Congress of fulfilling all these functions is one thing, but the danger of doing so is another. Such a concentration of political responsibilities in one body tends toward an excess of power, not weakness. You will recall that the U.S. Constitution, which replaced the Articles, gave us a separation of powers in three branches of government for precisely this reason. In light of how most texts today view the Articles of Confederation (gave us a central government that's too weak), this observation is a little ironic to say the least.

With regard to the status of states in the Confederation Congress and how they voted, many (it seems Bill Bennett included) see weaknesses. However, the opposite could be argued. Each state, regardless of size, got one vote in the body. On most matters a majority was sufficient (7 of the 13 states), greater matters required 9 states to agree, and changes in the Articles themselves required unanimity. One is tempted to ask, what's so bad about that? Perhaps it's only a weakness, if you regard the essential equality and independent authority of the states weakness.