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THE CONSTITUTION

In the hundred and fifty years that separate us from the time when the Constitution was adopted, changes have occurred that make it hard for us to imagine what life at that time was like. It was a life without railways, automobiles, steamships, motor-boats, telegraph, telephone, radio, moving pictures, airplanes, machine tools, electric light and power. It was a life without great cities, without public schools and public libraries, without great newspapers, magazines, and advertising, without large scale factory production. There were few theatres, little means of recreation and sport, and practically no music. The occupation of the people were different. Nearly every one worked for himself, either on his own farm or in his own shop or at his trade of carpenter, mason, or ship wright. There were few mines and no factories. In the cities there were a few merchants or others who had more than a dozen employees. Great corporations with thousands of employees were completely unknown. New York, the largest city in the country, had 33,000 inhabitants. Toledo now has nearly ten times as many. The site of Toledo was then forest and prairie in possession of the Indians. The settled area of the United States was then a strip about two to three hundred miles wide along the Atlantic coast; it now reaches the Pacific. The population of the country was then about 4,000,000; it is now about 130,000,000. The people were then almost wholly of English stock; now other races and nationalities are counted by the million and each helps to make America what it is.

The primary purpose of the Constitution, as is stated in its first few words, was "to form a more perfect union".

So far, the union of the thirteen states had been extremely loose. They had worked together during the Revolution under an informal arrangement, which, as historians have said, was little more than a gentlemen's agreement. The Articles of Confederation drew them closer together into what they called "a firm league of friendship", but it stipulated that each state was to retain "its sovereignty, freedom, and independence". Under these circumstances, Congress might adopt wise measures but it lay with the separate states to make them effective. In too many cases, the individual states ignored or nullified these measures.

The reason for the looseness of organization was that the states had been established as separate colonies and in process of time had developed strong local interests. They could not readily and immediately abandon their separate ways, nor subordinate their laws, their institutions, and their powers to a new and more general authority. They had many interests in common but they also had many interests in conflict. On the one hand there were large states like Massachusetts, Pennsylvania, and Virginia, and on the other small states like Rhode Island, New Jersey and Maryland. Some of the states owned enormous tracts of western lands stretching indefinitely toward the Pacific Ocean. Others held no lands outside their own borders. Some laid claim to the same lands. Some states had a relatively large population, relatively large cities, and

great commercial activities. Others had smaller populations and were mainly agricultural.

Moreover the natural differences between the states began to be exaggerated by tariff laws. One state, in order to raise revenue, would levy an import tax on the products of its neighbors. Its neighbors, irritated by this obstacle raised against the sale of their products, would retaliate. New York taxed Connecticut products, and Connecticut taxed New York products. Intense friction between the states developed and trade as a whole was interfered with more and more.

In spite of friendship, these differences could not be forgotten or concealed. They had to be faced and reconciled. Washington wrote to Lafayette in 1783 that experience would "convince us that the honor, power and true interest of this country must be measured by a Continental scale, and that every departure therefrom weakens the Union, and may ultimately break the band which holds us together". In every state there were interests which believed in the imperative importance of a firmer central organization.

Yet the men who held this conviction were by no means a majority. The first effort to effect a closer organization, made at a meeting in Annapolis called for the purpose of considering a uniform system of commercial relations between the States, was unsuccessful because representatives of only five States attended the meeting. The second effort was successful. Acting on a suggestion made at the Annapolis meeting, Congress recommended to the states that a new convention be called, "for the sole and express purpose", as Congress said, "of revising the Articles of Confederation and reporting to Congress and the several legislatures such alterations and provisions therein as shall.....render the federal constitution adequate to the exigencies of government and the preservation of the Union".

The Constitutional Convention was the result of this recommendation. It met in May 1787 in Independence Hall, Philadelphia, where eleven years earlier the Declaration of Independence had been signed. Eight of the members of the Convention had signed the Declaration.

All of the states except Rhode Island had complied with the recommendation of Congress and chosen delegates to the convention. Not all the delegates attended however and a number withdrew before the Constitution was fully composed. One of the delegates was George Washington, who was chosen to preside. Other delegates included Madison, Franklin, and Hamilton. No one delegate or group of delegates wrote the text of the Constitution, but Madison, who was an authority on political science, contributed more to it in substance than any other one person. Gouverneur Morris was largely responsible for its literary form.

The convention continued in session four months, during which its members carried forward day by day the labor of composition. Two outstanding issues had to be settled. One of these was the problem of equitable representation for states of different sizes. This was met by giving each state representation on the basis of its population in the lower house of Congress, and equal representation, state for state,

in the Senate. The second question was how to adjust the authority of the new national government to the authority of the states. This was accomplished by making the Constitution and national legislation enacted in accordance with its provisions the supreme law of the land. In the next to the last article of the Constitution these words appear:

"This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the contrary notwithstanding."

This same problem was also met by the principle that the national government was a government of the people - not a government of the individual states. The words of the preamble are: "We the people.....do ordain and establish this Constitution for the United States."

On September 17, 1787 the details had all been settled and the work was completed. The proposed Constitution was signed by all but a few of the delegates - some of whom were absent - and transmitted to Congress, which was then in session in New York City. The recommendation was that in each state delegates be selected by the people to meet in convention and ratify it.

The following is the letter with which the proposed Constitution was transmitted to Congress. It was addressed to the President of Congress and signed by George Washington, as presiding officer of the convention:

"Sir,

"We have now the honor to submit to the consideration of the United States in Congress assembled, that Constitution which has appeared to us the most adviseable.

"The friends of our country have long seen and desired, that the power of making war, peace, and treaties, that of levying money and regulating commerce, and the correspondent executive and judicial authorities should be fully and effectually vested in the general government of the Union. But the impropriety of delegating such extensive trust to one body of men is evident - hence results the necessity of a different organization.

"It is obviously impracticable in the federal government of these states, to secure all rights of independent sovereignty to each, and yet provide for the interest and safety of all. Individuals entering into society, must give up a share of liberty to preserve the rest. The magnitude of the sacrifice must depend as well on situation and circumstance, as on the object to be obtained. It is at all times difficult to draw with precision the

line between those rights which must be surrendered, and those which may be reserved; and on the present occasion this difficulty was increased by a difference among the several states as to their situation, extent, habits, and particular interests.

"In all our deliberations on this subject we kept steadily in our view, that which appears to us the greatest interest of every true American, the consolidation of our Union, in which is involved our prosperity, felicity, safety, perhaps our national existence. This important consideration, seriously and deeply impressed on our minds, led each state in the Convention to be less rigid on points of inferior magnitude, than might have been otherwise expected; and thus the Constitution, which we now present, is the result of a spirit of amity, and of that mutual deference and concession which the peculiarity of our political situation rendered indispensable.

"That it will meet the full and entire approbation of every state is not perhaps to be expected, but each will doubtless consider, that had her interest been alone consulted, the consequences might have been particularly disagreeable or injurious to others; that it is liable to as few exceptions as could reasonably have been expected, we hope and believe; that it may promote the lasting welfare of that country so dear to us all, and secure her freedom and happiness, is our most ardent wish.

"With great respect, We have the honor to be, Sir,
Your Excellency's

most obedient and humble servants,

George Washington, President.

By unanimous Order of the Convention."

The Congress immediately forwarded the new Constitution to the various states to be submitted to the people for ratification. During the succeeding months the question of adopting the Constitution became a sharp issue. On the one hand were those who energetically advocated it. They believed that the benefits won by the people in the Revolution would be lost unless state interests were subordinated and a central government were established in which the strength of the people as a whole was united. On the other hand there were those who energetically opposed the Constitution. They believed that the liberties won in the Revolution would be destroyed by a central government paramount over the individual states.

In three states, Delaware, New Jersey, and Georgia, the Constitution was ratified by unanimous vote. In most of the other states the issue was close. In Massachusetts there were 187 yeas and 168 nays; in New Hampshire 57 yeas and 47 nays; in Virginia 89 yeas and 79 nays; in New York 30 yeas and 27 nays; in Rhode Island 34 yeas and 32 nays. Moreover, North Carolina and Rhode Island did not ratify until after the new government was in operation and they found themselves classed as foreign countries.

I mention these things because I think it is important for us to remember that the Constitution was not simply a statement of what everybody agreed about. If it were, there would have been no reason for composing it. On the contrary it was composed because there was a pressing need for people to forget their differences, to yield their selfish interests, and to unite for the common good. It is natural that sacrifices would have to be made, and that many people would believe that the sacrifices were unjustified. As the letter prepared by the members of the Convention declared, "It is at all times difficult to draw with precision the line between those rights which must be surrendered and those which may be reserved", and the Constitution itself was a product of "mutual deference and concession". As the letter further said, it was not perhaps to be expected that the proposed Constitution would meet the full and entire approbation of every state. That it nevertheless was accepted indicates the realization of common interest that governed the people despite their differences.

There was a strong popular feeling however that the new Constitution should be more explicit on the subject of civil liberties. Accordingly, the new Congress proposed a number of amendments comprising what are generally known as the Bill of Rights. This addition was largely due to the efforts of Thomas Jefferson, who was in Europe at the time as American Minister to France. These first ten amendments include the following important points. They insure freedom of religion, freedom of speech, freedom of the press, and the right of the people peaceably to assemble and to petition the government for a redress of grievances. They insure that the right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures shall not be violated. They forbid trial for crime except upon indictment, and more than one trial for the same offence. They insure that no person shall be compelled in a criminal case to be a witness against himself, nor be deprived of life, liberty or property without due process of law, nor have his private property taken for public use without just compensation. They insure that in all criminal prosecutions, the accused shall have a speedy and public trial by an impartial jury, that he shall be informed of the charges against him, be confronted by the witness against him, have the power to summon his own witnesses, and have the assistance of counsel. They protect the accused from requirement of excessive bail, and forbid excessive fines and infliction of cruel and unusual punishments.

Some of these provisions may seem odd to us, but if so it is because we have forgotten how much tyranny and arbitrary injustice there has been in human history. These rights protected by the first ten amendments are rights that mankind has repeatedly had to fight and die for. Americans knew this. In large part America had been settled by people who had left Europe in order to get away from tyranny and repression. These people and their descendants wanted specific guaranties against persecution for religious beliefs and political ideas, against sudden and arbitrary imprisonment, against punishment on false charges without opportunity for defence. In these first ten amendments they used language which for the same purpose had already been incorporated in the bills of rights adopted by state legislatures during the Revolution.

These first ten amendments were all ratified by 1791. In the long period since then - a hundred-and-forty-six years - eleven additional amendments have been ratified.

Since 1791 therefore the Constitution has been amended on the average once in more than 13 years. In fact however most of the amendments have occurred since 1865. In the sixty-one years from 1804 to 1865 there was no amendment; and in the forty-three years from 1870 to 1913 there was no amendment. In the twenty-four years since then there have been six amendments or an average of one every four years.

I think it will be interesting to name the nine amendments since 1865.

The 13th amendment, ratified in 1865, abolished slavery.

The 14th, ratified in 1868, defined the status of citizens and added to the Constitution the often invoked clause which forbids any State to deprive any person of life, liberty, or property without 'due process of law.'

The 15th, ratified in 1870, declared that the right of citizens to vote should not be denied or abridged on account of race, color, or previous condition of servitude.

The 16th, ratified in 1913, authorized the Federal income tax.

The 17th, ratified also in 1913, authorized direct election of United States Senators; previously they had been elected by their state legislatures.

The 18th, ratified in 1919 and repealed fourteen years later, established prohibition of alcoholic beverages.

The 19th, ratified in 1920, authorized voting by women.

The 20th, ratified in 1933, had the effect of changing the date on which the terms of the President and the Vice President begin and end from March 4 to January 20 and also changed the dates of the sessions of Congress."

The 21st, also ratified in 1933, repealed prohibition.

The original copy of the Constitution, written in longhand on four sheets of parchment and bearing the signatures of its thirty-nine signers, is in the Library of Congress in Washington. It is mounted in a bronze shrine and protected from damaging light rays by tinted glass. There it is viewed daily by the public, as many as a thousand visitors a day coming to see it. Printed copies of the Constitution can be procured for a few cents almost anywhere that books or magazines are sold. A special historical edition has been prepared by the United States Constitution Sesquicentennial Commission under authority of Congress.

The Constitution of the United States, including its twenty-one amendments, is a brief document. A person can read it through in half an hour. Some of its expressions are old-fashioned, but it is written in simple and direct style and offers its readers no difficulties. Its terms are general and in that fact lies much of its strength. Exact language covering complicated details might apply in 1787 but in the course of the changes that have occurred in the 150 years since then it would no longer apply. Such a Constitution would not have served for any length of time without numerous and elaborate amendments. The wisdom of its authors is shown in the fact that the Constitution is clear and definite and yet at the same time adaptable to change. On the one hand it did what its authors intended - namely, formed a more perfect union and gave it a strong and practicable government. On the other hand it left room for adjustment and change as year follows year and new discoveries, inventions, habits, institutions, and interests change the lives of men and the governmental problems that face them.