

THIS COUNTRY OF OURS

CHAPTER I

THE CONSTITUTION

Manner of its Adoption — Deals with Large and Permanent Things — Three Great Departments — A Government of Specified Powers, but Supreme in Those — Not a Confederation — Division of Powers between the Nation and the States.

The Constitution of the United States was framed by a convention that assembled in Philadelphia on May 14, 1787, and finished its work September 17th of the same year. The Seventh Article is as follows: "The ratification of the conventions of nine States shall be sufficient for the establishment of this Constitution between the States so ratifying the same." On and prior to June 21, 1788, the conventions of the following States, and in the order named, ratified the Constitution: Delaware, Pennsylvania, New Jersey, Georgia, Connecticut, Massachusetts, Maryland, South Carolina, and New Hampshire. The other States ratified as follows: Virginia, June 26, 1788; New York, July 26, 1788; North Carolina, November 21, 1789; Rhode Island, May 29, 1790. Government under the Constitution was instituted by the inauguration of George "Washington as President, at New York, April 30, 1789. Congress had assembled on March "4th, but a quorum of both Houses was not present until April 6th.

The word "Constitution," as used among us, implies a written instrument; but in England it is used to describe a governmental system or organization made up of charters — as the Magna Charta — the general Acts of Parliament, and a body of long-established legal usages or customs. These are not compiled in any single instrument, as with us, but are to be sought in many places.

The common American usage, in making a State Constitution, is to elect, by a popular vote, delegates to a convention, whose duty it is to prepare a plan of government. When the delegates have agreed, and have properly certified the instrument, it is submitted to a direct vote of the people, and each voter casts a ballot "For the Constitution" or "Against the Constitution." If a majority vote for the Constitution it then becomes the paramount law of the State. The "Legislature does

not make the Constitution; the Constitution makes the Legislature; though the convention is assembled under an act of the Legislature. The American idea is that constitutions proceed from the people, in the exercise of their natural right of self-government, and can only be amended or superseded by the people. Whatever one Legislature or Congress enacts the next one may repeal, but neither can repeal or infringe a Constitutional provision.

The delegates to the convention that framed the Constitution of the United States were not, however, chosen by a popular vote in the States, but by the Legislatures. Nor was the question of the adoption of the Constitution submitted in the States to a direct popular vote. The Seventh Article, already quoted, provided for a ratification by "conventions" of the States, but in the choice of the delegates to these conventions there was an opportunity for an indirect expression of the will of the people as to adoption or rejection. Article Five makes this provision for amendments: "The Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose amendments to this Constitution, or, on the application of the Legislatures of two-thirds of the several States, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this Constitution, when ratified by the Legislatures of three-fourths of the several States, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the Congress." So that amendments are to be submitted to the Legislatures of the States or to conventions, as Congress may decide. The power of amendment cannot be used to deprive any State of its equal suffrage in the Senate, without its consent.

Fifteen amendments to the Constitution have been adopted. Ten of these were proposed to the Legislatures of the States by the First Congress, and ratified. The other five amendments have, in like manner, been submitted by Congress to the State Legislatures for ratification — conventions in the States not having been used in any case. It will be noticed, also, that the vote upon the adoption of the Constitution, and upon amendments thereto, is by States — each State, without regard to its population, having one vote. But while these provisions make the popular control less direct than is usual in the States, and

necessarily recognize the States in the process of making and amending the Constitution, the idea that Constitutions proceed from the people is not lost.

A Constitution should, and usually does, deal only with large and permanent matters. It leaves details and transitory matters to the Legislature. It is an outline or frame. It establishes and defines the powers of the Legislative, Executive, and Judicial Departments, reserves certain great natural rights of the citizen; declares what principal officers shall be elected; prescribes their duties; provides for a succession in case of a vacancy, and for the removal from office of officers guilty of crime or the abuse of their powers. It is the supreme law of the land. The powers given by the Constitution to the National Government are, fortunately, couched in general and comprehensive terms. For if there had been an attempt to particularize, the instrument would not have adapted itself to the expansion of the country, and to the new phases which invention has given to commerce. If the framers of the instrument had been required to express themselves upon the question whether the National Government should be given the power to regulate the method of coupling the wagons that were then the vehicles of the limited inland commerce between the States, or to arrest and punish any citizen who obstructed their passage, the vote would probably have been in the negative. But the railroads have demonstrated the reasonableness, and even necessity, of such national regulations.

The general plan of our Constitutions, National and State, is a division of Government into three branches: the Legislative, the Executive, and the Judicial. The lines of this division of powers are not strictly observed in the National Constitution, for the President has something to do with legislation, and the Senate with executive appointments. But in a broad way it may be said that there are three co-ordinate and independent departments in our Government — the powers of each being classified and defined, and neither having the power to invade or subordinate the functions of the others. It is important here to note a difference between the powers of the National and of the State Governments. The original thirteen States were organized as States, and had each adopted a State Constitution before the Constitution of the United States was framed or adopted, save