

THE ORIGIN OF THE UNITED STATES CONSTITUTION

BY JAMES BALDWIN

Edited and revised by Jim Erskine

Copyright 2009, Homeway Press, all rights reserved

This document is a part of HomeschoolRadioShows.com's "Living History For The Ears" Audio Unit Study on the US Constitution, and is not to be distributed through any other means.

With the surrender of the British army at Yorktown in 1781, the war between the American colonies and England came to an end. The English people had long been heartily sick of it, and only the stubbornness of George III and his favorites had made its continuance possible.

"I have sacrificed all my desires to the wishes and opinions of my people," said the king, very graciously.

A treaty of peace was signed at Paris, whereby the British government acknowledged the independence of the thirteen United States; and to this treaty George gave his reluctant assent.

"I was the last man in England," he afterwards said, "to agree to the independence of the American colonies; and I will be the last to permit that independence to be violated."

The treaty marked the end of the autocratic rule of the English monarchy and another great triumph of Liberty on both sides of the Atlantic. In Great Britain, the control of affairs became vested in the Cabinet, representing the people; and the power of the king to become an autocratic ruler was forever ended.

Although eight years had then passed since the Declaration of Independence, no great nation had been established in America. Up to that time the general affairs of the states had been managed by the Continental Congress. This congress was not much like the great law-making body which now meets at Washington. It was simply an assemblage of men acting for the various states — men delegated, each by his own state, to speak the will of the people whom they represented. A state might send from two to seven delegates to the congress, but it could have only one vote.

In the very last year of the war, the states adopted an agreement to stand united in all matters affecting the general welfare. This agreement was called: "Articles of Confederation and Perpetual Union between the States of New Hampshire, Massachusetts Bay, Rhode Island and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia."

These Articles did not provide for the establishment of a strong government. They did not look to the formation of a single mighty nation, but only to the perpetual union of several little states — "a league of friendship for their common defense and the security of their liberties."

Under these Articles of Confederation, the government of the United States was to be entirely conducted by a congress of delegates from the states, very similar to the old Continental Congress. There was to be no president of the United States; there was no senate; there was no supreme court.

The congress itself had but little power. It could make laws, but could not enforce them. It could borrow money ("on the faith of the Union"), but it could not pay a dollar. It could declare war, but could not raise an army. "In short, it might recommend almost anything, but it

could enforce nothing."

Thinking men in all the colonies began very soon to see the weakness of this league of the states. They were convinced that a closer union and a stronger government were needed to preserve the liberties of the people. George Washington was one of the first to speak out boldly: "Let us have a government by which our lives, liberties, and properties will be secured, or let us know the worst at once."

At length, a convention was called to meet in Philadelphia in May, 1787, and determine what should be done. All the states except Rhode Island sent delegates to that convention. George Washington of Virginia was chosen to preside over its meetings. Benjamin Franklin, Alexander Hamilton, Robert Morris, James Madison, and many other distinguished patriots were there.

The work to be performed by the members of this convention was such as no other men had ever before undertaken. They were to frame a constitution for a new nation. They were to plan a system of republican government unlike anything else at that time existing upon the earth. They did not at first fully realize this fact. Some thought that nothing would be necessary except to revise and improve the old Articles of Confederation; but, as they proceeded to discuss the matter, this was soon found to be impossible, and all the delegates joined in preparing and proposing new and original schemes for the establishment of a supreme general government.

Several plans, differing but slightly in detail, were offered for consideration. The discussions continued, day after day, for several weeks. Every section of the proposed Constitution was read and re-read, and carefully criticized and amended. Finally, on the fifteenth of September in the year 1787, it passed its final reading and was formally approved and adopted by the convention. Two days later, it was signed by all the delegates and was in a form to be submitted to the states for their ratification.

But the states were not all equally ready to commit themselves to this new form of government. Some delayed as a matter of precaution; others hesitated because of doubt or disagreement. By the middle of July, 1788, however, nine of them had accepted and ratified the Constitution, and plans were made to put the new government into operation. Elections of the

two houses of Congress were held, and George Washington was unanimously chosen to be the first president of the republic. It was not till nearly two years later, however, that the last of the states came into the fold, and the Union of the thirteen original commonwealths was complete. The launching of the Ship of State had been accomplished.

THE CONSTITUTIONS OF TWO NATIONS

To give a sense of the nature and scope of the United States Constitution, let us compare and contrast it with that of our mother country England.

THE word *Constitution*, in its political sense, may be defined as a system of law established by the sovereign power of a nation for its own guidance and protection.

In all democratic nations the sovereign power is recognized as the people themselves. Herein consists the difference between a democracy, or government by the people, and an autocracy in which the sovereignty is vested in a monarch with unlimited powers.

The Constitution of Great Britain is not contained in any single document as is that of the United States, but it comprises the whole body of public law that has come into existence at various times for the defense and upbuilding of the people's rights and liberties. It is not the conscious work of a convention of statesmen and patriots, but the slow growth, through many centuries, of the spirit of human liberty and the rights of man. It had its beginning in the ancient democratic usages of our common forefathers between the seas, and its first definite expression was the Magna Charta, or Great Charter, wrested from King John more than seven centuries ago.

Slowly through the ages, it has been amended and enlarged by successive agreements between king and people and by the enactment of various laws denning the powers and privileges of the several divisions of government.

The American Constitution, on the other hand, being formally contained in a single written document, is very different in form; and yet it is based upon the same principles of

justice and liberty that are, and always shall be, the inherent possessions of free people.

In its brief introductory clause, the sovereignty of the people is distinctly recognized and the purpose of its enactment is definitely stated:

"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."

In America, as in England, the government of the nation is entrusted to three separate authorities or departments, each in a measure dependent upon the others. These are known as the legislative, the executive, and the judicial departments.

In England, the supreme legislative or law-making power is given to Parliament. This consists of the House of Lords and the House of Commons, with the king as a nominal and insignificant factor. The present form of Parliament has been in existence nearly seven hundred years.

The House of Lords is composed of the peers of the realm (English, Scottish, and Irish) and of English bishops, who are members as representatives of the Established Church. Some of the peers hold their seats by right of heritage, some by the king's appointment, and others by election.

The House of Commons consists of members elected by the people to represent the counties, boroughs, and universities of the kingdom.

The United States Constitution, on the other hand, invests all legislative power in a Congress "which shall consist of a Senate and a House of Representatives." The Senate, which corresponds somewhat to the House of Lords, is composed of two senators from each state. These are elected by the people of their respective states, and hold their office for a term of six years.

The House of Representatives is composed of members chosen every second year by the people of the several states. Representatives and direct taxes are apportioned among the several states according to the population, but each state, however small, is entitled to at least one

representative.

As in the English Parliament, each house of Congress determines the rules of its proceedings, decides with regard to disputed elections, and punishes members guilty of misconduct.

A Congress is said to be in existence two years, the length of time for which the members of the House of Representatives are elected. The duration of a Parliament is limited to five years, and may be made shorter by being formally dissolved or dismissed by the king.

In the United States, the executive power is vested in a president who is elected by a body of electors chosen by the people. The president's term of office is four years; but he may be reelected.

In England, the executive power is said to be vested in the crown, by which is meant the hereditary king or queen. The people have no voice in the selection of a monarch, and his reign continues to the end of his life. His or her real power, however, is very limited; for, in truth, the executive duties of the government are performed by a committee of statesmen and politicians, commonly known as the British Cabinet. These continue in office as long as they are supported by a majority of the House of Commons. The chief place in the Cabinet is commonly held by the First Lord of the Treasury. He is nominally chosen by the king and is called the prime minister or premier. He must, however, belong to the leading party in the House of Commons and be acceptable to them. The other members of the Cabinet are, as a rule, appointed by the prime minister.

It is the prime minister, therefore, and not the king, who wields the principal executive power in the English government. His power may be compared to that of the president of the United States, although it is more limited and his tenure of office is less secure.

The president of the United States has also a Cabinet, but its existence is not so much as mentioned in the Constitution. It is composed of the heads of the executive departments of the government, and its duties, aside from the management of each department, are chiefly advisory.

The judicial powers of both nations are vested in a supreme court and such other courts

as may from time to time be established.

The methods of taxation and the means for raising revenue receive due consideration in the constitutions of both nations.

In the American Constitution, provisions are also made by which Congress is empowered to regulate commerce between the states and foreign nations and between the states themselves; to coin money and regulate the value of currency; to establish post- offices and post roads; to declare war and maintain armies; to equip and support a navy; in short, "to make all laws which shall be necessary and proper for carrying into execution all the powers vested by the Constitution in the government of the United States or in any department or officer therein."

There are certain things also which Congress is forbidden to do, and others which are forbidden to the states, because they would trespass on the liberties of the people or hinder the full exercise of equality, justice, and freedom.

Finally, to the original Constitution, a number of supplementary articles, known as amendments, have been added from time to tune, as necessity or changed conditions of national life have seemed to demand. The first ten of these amendments are known as the Bill of Rights. Some of these bear a striking resemblance to certain provisions found in the Great Charter of King John, in the Petition of Right granted by Charles I, or in later changes and concessions forced by English freemen from their would-be autocratic rulers. We cannot fail to observe their similarity of spirit and purpose.

The Great Charter, the Petition of Right, the Mayflower Compact, the various royal charters granted to American colonies, the Declaration of Independence, the Constitution of the United States — these and others are the milestones which mark the progress of our country towards the final realization of the highest ideals of right and justice and human brotherhood.

THE PRINCIPAL OBJECT OF THE CONSTITUTION

THE principal object which the framers of the United States Constitution had in view is briefly but explicitly stated in the first sentence of the introductory clause — "to form a more perfect union." Under the Articles of Confederation the thirteen states were united simply in a league of friendship, each being in a large measure independent of all the others. Under the Constitution, they were welded into a more perfect union wherein justice was established, domestic tranquility insured, the means for common defense provided, and the blessings of liberty secured to countless generations.

Each of the states comprising the Union has also its own constitution, while at the same time it is subject to the general government established by the Constitution of the United States. Within its own boundaries and with regard to matters of purely local concern, it is an independent commonwealth. All the states have equal rights and equal powers under the Constitution. No state, as a matter of course, can do anything which contradicts or is in violation of the laws of the nation.

For many years after the adoption of the Constitution the people of some of the states were slow to understand the full meaning of the word Union. Each individual was loyal to his own state first, and after that to the United States. This gave rise to the doctrine of "States' Rights" which held that any state might disregard the laws of the nation and even withdraw from the Union whenever its citizens became dissatisfied with the general government. In certain localities, this idea grew and led finally to the secession of eleven states and the attempt to form another government to be called the Confederate States of America. The result was the Civil War of 1861 to 1865, which ended in the establishment of the fact that the states are permanently combined to form a federal republic — a union which never can and never will be dissolved.

Here is what Benjamin Franklin said about the American Constitution, in a speech delivered before the Constitutional Convention just before its adjournment, 1787:



I agree to this Constitution, with all its faults — if there are such — because I think a general government necessary for us, and there is no form of government but what may be a blessing to the people if well administered; and I believe, further, that this is likely to be well administered for a course of years, and can only end in despotism, as other forms have done before it, when the people shall become so corrupted as to need despotic government, being incapable of any other.

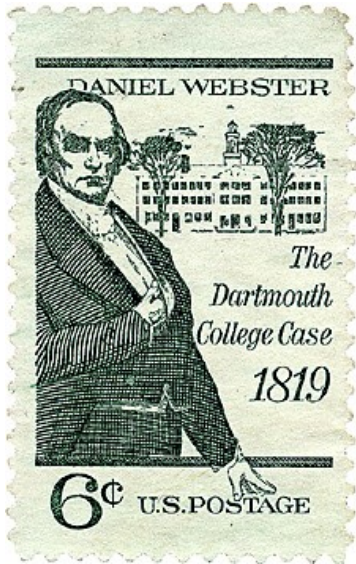
I doubt, too, whether any other convention we can obtain may be able to make a better Constitution; for, when you assemble a number of men, to have the advantage of their joint wisdom, you inevitably assemble with those men all their prejudices, their passions, their errors of opinion, their local interests, and their selfish views. From such an assembly can a perfect production be expected?

It therefore astonished me to find this system approaching so near to perfection as it does; and I think it will astonish our enemies, who are waiting with confidence to hear that our counsels are confounded like those of the builders of Babel, and that our States are on the point of separation only to meet hereafter for the purpose of cutting one another's throats.

Thus I consent to this Constitution, because I expect no better. ... I hope, therefore, for our own 'sakes, as a part of the people, and for the sake of our posterity, that we shall act heartily and unanimously in recommending this Constitution wherever our influence may extend, and turn our future thoughts and endeavors to the means of having it well administered.

- *Benjamin Franklin*

Here is what Daniel Webster said about the American Constitution:



THE Constitution of the United States, the nearest approach of mortal to perfect political wisdom, was the work of men who purchased liberty with their blood, but who found that, without organization, freedom was not a blessing. They formed it, and the people, in their intelligence, adopted it. And what has been its history? Has it trodden down any man's rights? Has it circumscribed the liberty of the press? Has it stopped the mouth of any honest man? Has it held us up as objects of disgrace abroad? How much the reverse! It has given us character abroad; and when, with Washington at its head, it went forth to the world, this young country at once

became the most interesting and imposing in the circle of civilized nations.

- Daniel Webster

Here are some review & assignment questions to encourage further discussion & learning:

What is a Constitution?

Why is a Constitution necessary?

What is a democracy? an autocracy ?

What is meant by "sovereign power"?

What is the chief difference between the British Constitution and the American?

How long has the British Constitution been in the making?

How long did it require to frame the American Constitution?

What are the three separate departments of government?

What is meant by "legislative department"? "executive"? "judicial"?

In what way does the English Parliament resemble the American Congress? In what way does it differ from it?

What is the chief executive officer in the United States government called? in the British government?

How is the British Cabinet formed?

Of how many members is the American Cabinet composed? By whom are they appointed?

Who is the prime minister? Which has the greater power, the king, or the prime minister ?

Tell what you have learned about the origin of circuit courts.

Read the Constitution carefully and notice the contents of each article and section.

Make a list of the powers granted to Congress.

Make another list of the powers granted to the president.

What are the states forbidden to do?

What powers are granted to them by the Constitution?

Make a list of the things which Congress is forbidden to do.

How many articles does the original Constitution contain?

What is the subject of each?

Copyright 2009, Homeway Press, all rights reserved

www.HomeschoolRadioShows.com