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CONSTITUTIONAL CHANGES FRAUGHT WITH DANGER

Senator Lodge Tells of the Great Instrument and the Necessity for Preserving Its Integrity.

Mr. Gladstone said once of the Constitution of the United States that "It is the greatest work ever struck off at any one time by the mind and purpose of man."

THE FATE OF IMITATIONS.

When the Constitution was framed, it was the first written Constitution in the modern sense establishing popular representative government, and to-day it is not only the oldest, but it has seen countless imitations arise, only to suffer change and sometimes extinction.

But our Constitution has remained a monument of constructive statesmanship. It has been interpreted by the courts and by Congress, and in this way has displayed a flexibility which it was believed no written constitution could possess; and although formed to be the organic law for less than three millions of people, occupying a comparatively small territory, it has shown itself capable of serving the needs of a great nation of eighty millions, who have spread across the entire continent.

As I have said, one of the greatest doubts in regard to the Constitution at the outset was whether a written instrument of government would not prove too rigid for any nation, and especially for one obviously destined to a great growth. The men who framed it had been familiar with and were brought up under the British constitution, which was unwritten, and which consisted of principles, traditions and certain great legislative acts; but they had also been familiar in the colonies with government under charters, and therefore did not have the fear of a written instrument which they might have had if they had known in practice nothing but what is commonly called the British constitution.

JOHN MARSHALL'S INFLUENCE.

The makers of our Constitution established the fundamental law in written clauses, but they gave it the possibility of expansion and movement, of growth and development, in three ways. They intended that Congress and the President should interpret the Constitution in making laws and in extending them, and this intention has been carried out in practice.

To the courts they gave the direct power, not only of guarding and maintaining, but also of interpreting the Constitution and of saying what its provisions might or did mean. Beneath the mighty influence of John Marshall, the power thus lodged in the Supreme Court was used to convert the Constitution from an experiment in uniting the states into a great national charter.

Not content, however, with these two methods of constitutional growth, the men who made the Constitution at Philadelphia in 1787 also provided in the Constitution itself a definite system for amending and changing its provisions.

It will be seen from this that two methods of amendment are provided. One is by the passage of single amendments through both houses of Congress, and the submission of such amendments, after they have passed Congress by a two-thirds vote in each house, to the states for ratification, the assent of three-fourths of the states being necessary to make them part of the Constitution. The other method is to call a general convention of the states, like the original convention which framed it, for the revision and amendment of the Constitution.

AMENDMENT BY CONVENTION.

Let us consider the latter method of amendment first. Although it has been suggested at various times, there has never been, until very lately, any serious proposition to call a general convention to revise the Constitution. Within the last year or two, however, persons interested in amending the Constitution in such a way that Senators may be elected by direct vote of the people instead of being chosen by the state legislatures have sought to induce the states to ask Congress in sufficient numbers to call a national constitutional convention.

The resolutions which have been offered in different states and which have been adopted by seven, ask for this general convention with the object of making this single amendment in regard to Senators. This proposition illustrates very well the provision of the Constitution which we are now considering.

When the persons who favor the election of Senators by direct vote of the people ask for a general convention to add that single amendment to the Constitution they accompany their request with an important and impossible limitation upon the convention they desire to call. No matter for what reason a national convention to revise the Constitution may be summoned, when it once meets it cannot be confined to one proposition.

The moment that convention assembles, its power, like that of the famous convention which formed the Constitution in 1787, is unlimited; and although called for a single purpose, a general revision of the Constitution might be the certain result, because everybody in the country who thinks that he can improve our organic law would want to have it changed to suit his especial beliefs. There is always a strong temptation to put into a constitution what belongs to statutes, and a general convenion to revise the national Constitution would offer a temptation of this kind which might not be resisted.

It must also be remembered that in this national convention the voting would be by states, as in the convention of 1787, and the organic law of the country could be changed at the will of a body where the vote of a small state would equal that of a large one, and the votes of two small states would overcome the vote of the largest. Great misfortune might result to the well-being of the country and to the business prosperity from having the Constitution suddenly opened to a general revision of this kind.

The usage of more than a century, the decisions of courts, the action of Congress and the education of the people have made the present Constitution familiar in every word and line. To undertake to change and modify it from beginning to end would be an unparalleled disaster; and even to have a convention to attempt such changes and modifications would have its perils.

IF THIRTY STATES REQUEST IT.

Yet we see that when two-thirds of the states make a demand upon Congress to call a national convention for this purpose, Congress is obliged to do it. That is, if thirty states request Congress to call a national convention, this great disaster would be precipitated upon the country, and therefore it is of the utmost importance that the people in every state should see to it that their particular state makes no such demand upon the Congress of the United States.

Moreover, there is a peculiar and perilous omission in this provision which we are now considering.

Thirty states, two-thirds of the present number, can, as we have seen, oblige Congress to call a convention to consider the entire Constitution, and that convention, voting by states,—that is, with one vote for each state,—can change the Constitution from beginning to end. Then they must submit it to the states, and in order to make it law three-fourths of the states must ratify it.

All this is very clear, but it is nowhere said within what time the demand of the states upon Congress for calling the convention must be made. That is, can one state ask Congress this year and another next and another next, and so on until the necessary thirty have made the request, and then at the end of thirty years must Congress comply with that request when the circumstances which led the first state to ask for the general convention have completely changed?

It seems impossible to suppose that such wise men as the framers of the Constitution ever contemplated anything of this sort, and yet on the face of the instrument there appears to be nothing to prevent it.

The only sure way, therefore, of preserving the Constitution, which has been tried by experience and which we all understand and reverence, is for the states not to make a demand upon the national Congress for a general convention authorized to undertake a general revision of the organic law of the republic. It does not seem probable that it will ever be made.

Let us now return to the first method of amending the Constitution as provided by the framers. Here there is no omission. Congress has the power by a two-thirds vote to submit any amendment proposed, or any number of amendments, to the different states for their ratification, and if three-fourths of the states agree to an amendment thus passed and submitted by Congress, it becomes part of the Constitution.

It will be observed how carefully this great power has been guarded, and there have been only fifteen amendments to the Constitution made in this way since 1787.

THE FIFTEEN AMENDMENTS.

We ought, however, really to deduct from that number the first ten of the fifteen, because these were added immediately after the adoption of the Constitution, and were in the nature of a bill of rights which many of the states demanded when they agreed to accept the Constitution made at Philadelphia. The first Congress that met submitted these ten amendments to the states, and they were all ratified in 1791. It will be seen that they therefore form in reality a part practically of the original instrument.

The same may be said of the Eleventh Amendment, which provides that the judicial power of the United States should not extend to any suit at law or equity brought against one of the states of the Union by citizens of another state, or by citizens or subjects of any foreign state. This grew out of a case against the State of Georgia in behalf of an Indian tribe, and it was proposed to the state by Congress in 1794, and by 1798 had received the necessary ratification. This may be classed with the first ten amendments as one of the clauses added by the men who framed the Constitution for the purpose of perfecting that instrument.

The Twelfth Amendment, which was ratified in 1804, was made necessary by the discovery in the election of 1801 of a grave defect in the electoral system. The original Constitution provided that the electors chosen by the people to choose a President and Vice-President should vote for two persons, the one receiving the highest number of votes to be President, and the one receiving the next highest number to be Vice-President.

When the electoral votes were counted after the election of 1800 it was found that Thomas Jefferson and Aaron Burr, who were candidates of the same party for President and Vice-President respectively, had received an equal number of votes.

The result of this was that under the Constitution, there being no choice for the office of President, the election devolved upon the House of Representatives, which voting by states, was to choose a President from the two who had received the highest vote in the electoral college.

Now there was no doubt whatever as to the intention of the people of the United States. They had meant to elect Jefferson President and Burr Vice-President, but owing to the arrangement of the Constitution it was left to the House of Representatives to choose either of them to the highest office in the land.

The House of Representatives which was to go out of power on March 4, 1801, was controlled by the defeated Federalists. The Federalists were bitterly opposed to both Mr. Jefferson and Mr. Burr, but some of them were strongly inclined to throw the Democratic party into confusion by electing Mr. Burr to the presidency.

Fortunately this unscrupulous plan failed, enough of the Federalist statesmen having the good sense and the honor to see that they ought to carry out the wishes of the people instead of permitting them to be defeated by a mere technicality.

The situation, however, which had then arisen alarmed every one, and although bad results had been escaped, it was a very perilous one indeed. Therefore, to make any recurrence of this danger impossible, the Twelfth Amendment to the Constitution was passed so that in future the electors should vote for the President and Vice-President, naming them in their vote, and then if no candidate had the majority of the electoral college for President the three highest should be voted for, and one of these three chosen for President, as happened when John Quincy Adams was chosen by the House of Representatives in 1825.

IN LATER YEARS.

Thus we have accounted for twelve amendments. They may all be fairly considered as amendments, to perfect the original instrument adopted by the generation of men who framed it, although the last one came fifteen years after the adoption of the Constitution.

More than sixty years passed before the Constitution was amended again, and then three great amendments were added in rapid succession. These were the results of the Civil War. They provided for the abolition of slavery, and that no man should be deprived of his right to vote on account of his race or color or previous condition of servitude. They also embodied some other provisions which were made necessary by the war, but which it is not important to enumerate.

Therefore we see that after the early amendments perfecting the Constitution, it has practically only been amended once, and that was by the three great amendments which came as the result of the Civil War. People have been led in this way to believe that it is impossible to amend the Constitution except by some great revolution, but there is no reason to suppose this.

That it is difficult to amend the Constitution is beyond doubt, and it ought to be so. To change our Constitution easily would be a great misfortune, and the fact that it has been amended so little, and only under great stress, shows the wisdom and conservatism of the American people, the qualities which have been the secret of their great political success.

The difficulty of amending the Constitution, moreover, has never discouraged people who thought they could make improvements in it. Although only fifteen amendments all told have been adopted since 1787, there have been two thousand or more presented to Congress for consideration during the same period. Out of two thousand proposed amendments only fifteen, in reality only five, have been adopted.

This is proof at once of the excellence of the Constitution and of the wisdom of our people. But there is nevertheless much to be learned from a study of these two thousand proposed amendments.—The Youth's Companion.

CRUSOE'S ISLAND.

The story of Robinson Crusoe has been read and reread, and we have all followed the adventures of De Foe's hero with deep interest. But what had "Man Friday" been doing before he and Crusoe met. We are told of his wanderings over the lonely isle, of his methods of living, of his dolce far niente life. The question has often been asked whether or no Friday left any record unknown to Crusoe that might enlighten the future ages. Recently an expedition composed of De Foe enthusiasts set out for the purpose of searching for the island, and strange as it may seem their efforts were rewarded. Among other relics was found a weather beaten sign bearing the legend "The Douglas Patent Closet never leaks." On the lower corner was cut "Bath the plumber." There is no record in the story that Crusoe knew of Friday's find.

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