

BOOK VI.

CONSTITUTIONAL HISTORY, AND THE EARLY PRESIDENTS.

CHAPTER I.

CONDITION AND HISTORY OF THE STATES UNTIL THE ADOPTION OF THE FEDERAL CONSTITUTION.

THE Revolutionary war, glorious as it was in its principles, and grand in its results, still left the finances of the United States embarrassed, and the government unsettled. There were also other evils. The foreign relations were not established upon a satisfactory basis. There were difficulties with the various Indian tribes, many of whom were hostile, and more were discontented. The western territories gave rise to perplexing claims. The great slavery question was undecided. There was no provision for a regular revenue — no mint, no uniform customs. There were troubles rising with various European states about navigation and boundaries. Commerce was disordered. The imports far exceeded the exports in value. Great and unequal fortunes had been made by speculators. A spirit of luxury had been introduced into

Bk. VI.
Ch. I.

A. D.
1783

Unsettled
state of
the
country.

maritime towns, unknown to former generations. The fisheries were broken up. The country was drained of specie. Measures were taken in various sections to organize new and independent States. Riots were not uncommon, and rebellion disgraced the most respectable communities. The disbanded troops of the Continental army, scattered through the country, and disinclined for regular pursuits, fomented discontent.

Bk. VI.
Ch. 1.
A. D.
1783
to
1787

This unsettled state of the country led to the necessity of a new organization. Accordingly, delegates from the several States met in the city of Philadelphia, toward the end of May, 1787, to revise the Articles of Confederation. As in the Continental Congress, it was agreed that each State should have one vote, irrespective of the number of delegates it should send, and that seven States should constitute a quorum. The deliberations were held with closed doors and injunctions of secrecy.

Convention to reorganize the government

The Convention was composed of the most illustrious citizens of whom the States could boast — men eminent for talents, experience, character, and public services. Among these was Franklin, who, thirty-three years before, had sat in the Albany Convention, when the first attempt had been made at Colonial union. Next in age and experience were Dickinson, of Delaware, Johnson and Sherman, of Connecticut, Rutledge, of South Carolina, Livingston, of New Jersey, Morris, of Pennsylvania, Wythe, of Virginia, and Gerry, of Massachusetts. Added to these were men who had lately arisen, and who were destined to equal fame — Hamilton, Madison, Randolph, Ellsworth, King, Pickering. Over all was Washington, nominated president of the Convention by Morris, of Pennsylvania. The business of the assembly was opened by Governor Randolph, of Virginia, who offered fifteen resolutions as amendments to the existing federal system,

Of whom composed.

Resolutions of fered.

BK. VI.
Ch. 1. and which served as an outline for the subsequent constitution. The first difficulty which arose, and this furnished subject of most earnest debate, was in reference to the powers of the central government in connection with the sovereignty of the individual States. The delegates from the large States naturally desired a representation in the future Congress proportioned to their population and strength. Those from the smaller States feared that such a preponderating influence would be fatal to their independence. The election of members of Congress by the people was opposed by some as too democratic. Sherman and Gerry, especially, thought that the less the people had to do directly with government the better. The delegates also differed as to the time which the members of the different branches of Congress should serve, and still more as to the ratio of representation — some maintaining that the property, others that the number of citizens, should be the basis. Here the free States were at issue with those in which slavery existed. Debates were also held respecting the manner in which the executive should be chosen — whether by the people directly, by the several state legislatures, or by the governors of the States; also, as to the powers he should exercise, the duration of his office, and the salary he should be allowed. The judiciary department called forth considerable discussion, as well as the legislative and executive, as to the mode of appointment, powers, emoluments, &c.

Principals to-
pics.

It took considerable time to discuss these questions, besides many others of minor importance; but the great debates were in reference to the ratio of representation, the regulation of commerce, of revenue, and of slavery. Those which most excited the passions of the members related to the subject of slavery, a topic appealing to the interests of the North and South respectively.

Long and earnest were the discussions on all these points, and had not the delegates felt their great responsibilities, and the necessity of compromise and conciliation to harmonize jarring interests and prejudices, the constitution would never have been formed or adopted. It was impossible that men from different sections of the country should see in the same light any question which was proposed for discussion, still less such questions as directly affected their peculiar interests and institutions, or were likely to touch the balance of power between the North and South. The great principles of conciliation, which were finally adopted, were, that Congress should have unrestricted power to enact navigation laws — that the smaller States should have an equal representation with the larger in the Senate, and that five slaves should be deemed equal to three freemen in the representation of the country. The first was a concession to the delegates of the commercial and Northern States; the second, to those of the smaller States; the third, to those who represented the slaveholding and Southern portions of the country.

After a four months' session, when all the provisions of the Constitution had been earnestly discussed, it was finally signed by a large majority of the members. Of all these members, there was probably not one to whom all its articles were satisfactory, and it was finally accepted, not as a perfect one, but as the best of which circumstances would admit. It was clearly and generally seen that discord and anarchy would be the result, if some improvement on the old Confederation were not adopted; and it was deemed better to have an imperfect constitution than none at all — some sort of a central and efficient government, rather than a number of weak ones perpetually in conflict, and ending, finally, in the ascendancy of the more powerful, to the prostration of general interests

BK. VI.
Ch. 1.
A. D.
1787.

Compromises on
the leading sub-
jects.

Adoption of
the constitu-
tion.

Bk. VI. and the rights of those who were weak and defenceless.
Ch. I. There is nothing in the whole history of the country
A. D. which is more worthy of praise than the conduct of the
1787. delegates to this great national convention. There surely
 never was any assembly collected together who settled, in
 so short a time, such great and conflicting interests.

Provi-
sion for
amend-
ments.

Before separating, the delegates made provision for any
 future amendment of the Constitution, on the proposition
 of two-thirds of both houses of Congress and with the
 consent of three-fourths of the States. The new system
 was to go into operation whenever nine States should con-
 federate together. Happily, all the States which were
 represented in the Convention agreed to the Constitution
 (September 17th, 1787), which was then laid before
 Congress, and by Congress transmitted to the state legis-
 latures.

The following are the articles of that famous document,
 which it is deemed expedient to print in the body of the
 history, rather than in an appendix, on account of its
 great importance:—

CONSTITUTION OF THE UNITED STATES.

PREAMBLE.

Objects. We, the people of the United States, in order to form a more per-
 fect union, establish justice, ensure domestic tranquillity, provide
 for the common defence, 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.

ARTICLE I.

SECTION I.

**Legis-
lative
powers.** 1. All legislative powers herein granted shall be vested in a con-
 gress of the United States, which shall consist of a senate and house
 of representatives.

SECTION II.

**House
of Rep.** 1. The house of representatives shall be composed of members
 chosen every second year by the people of the several states; and

the electors in each state shall have the qualifications requisite for **Bk. VI.**
 electors of the most numerous branch of the state legislature. **Ch. I.**

2. No person shall be a representative who shall not have attained **Qualifi-
cations
of Rep.**
 to the age of twenty-five years, and been seven years a citizen of the
 United States, and who shall not, when elected, be an inhabitant of
 that state in which he shall be chosen.

3. Representatives and direct taxes shall be apportioned among **Appor-
tion-
ment of
Rep.**
 the several states which may be included within this union, accord-
 ing to their respective numbers, which shall be determined by add-
 ing to the whole number of free persons, including those bound to
 service for a term of years, and excluding Indians not taxed, three-
 fifths of all other persons. The actual enumeration shall be made
 within three years after the first meeting of the congress of the
 United States, and within every subsequent term of ten years, in
 such manner as they shall by law direct. The number of represen-
 tatives shall not exceed one for every thirty thousand, but each
 state shall have at least one representative; and until such enumera-
 tion shall be made, the state of *New Hampshire* shall be entitled to
 choose three; *Massachusetts* eight; *Rhode Island* and *Providence*
Plantations one; *Connecticut* five; *New York* six; *New Jersey* four;
Pennsylvania eight; *Delaware* one; *Maryland* six; *Virginia* ten;
North Carolina five; *South Carolina* five; and *Georgia* three.

4. When vacancies happen in the representation from any state, **Vacancies, how
filled.**
 the executive authority thereof shall issue writs of election to fill up
 such vacancies.

5. The house of representatives shall choose their speaker and **Speaker,
how ap-
pointed.**
 other officers, and shall have the sole power of impeachment.

SECTION III.

1. The senate of the United States shall be composed of two sena- **No. of
Senators
for each
state.**
 tors from each state, chosen by the legislature thereof, for six years;
 and each senator shall have one vote.

2. Immediately after they shall be assembled in consequence of **Classifi-
cation
of Sena-
tors.**
 the first election, they shall be divided, as equally as may be, into
 three classes. The seats of the senators of the first class shall be
 vacated at the expiration of the second year, of the second class at
 the expiration of the fourth year, and of the third class at the expi-
 ration of the sixth year, so that one-third may be chosen every
 second year; and if vacancies happen, by resignation or otherwise,
 during the recess of the legislature of any state, the executive there-
 of may make temporary appointments until the next meeting of the
 legislature, which shall then fill such vacancies.

3. No person shall be a senator who shall not have attained to the **Qualifi-
cation**

Bk. VI. age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that state for which he shall be chosen.

Ch. 1. **Presiding officer of Senate.** 4. The vice-president of the United States shall be president of the senate, but shall have no vote, unless they be equally divided.
5. The senate shall choose their other officers, and also a president pro tempore, in the absence of the vice-president, or when he shall exercise the office of president of the United States.

Senate a court for the trial of impeachments. 6. The senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath or affirmation. When the president of the United States is tried, the chief justice shall preside; and no person shall be convicted without the concurrence of two-thirds of the members present.

Judgment in case of conviction. 7. Judgment in case of impeachment shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honour, trust, or profit, under the United States; but the party convicted shall nevertheless be liable and subject to indictment, trial, judgment, and punishment, according to law.

SECTION IV.

Elections of Sen. and Rep. 1. The times, places, and manner of holding elections for senators and representatives shall be prescribed in each state by the legislature thereof; but the congress may, at any time, by law, make or alter such regulations, except as to the places of choosing senators.

Meeting of congress. 2. The congress shall assemble at least once in every year, and such meeting shall be on the first Monday in December, unless they shall by law appoint a different day.

SECTION V.

Organization of congress. 1. Each house shall be the judge of the elections, returns, and qualifications of its own members; and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner and under such penalties as each house may provide.

Rules of proceeding. 2. Each house may determine the rules of its proceedings, punish its members for disorderly behaviour, and, with the concurrence of two-thirds, expel a member.

Journal of congress. 3. Each house shall keep a journal of its proceedings, and from time to time publish the same, excepting such parts as may in their judgment require secrecy; and the yeas and nays of the members of either house, on any question, shall, at the desire of one-fifth of those present, be entered on the journal.

Adjournment. 4. Neither house, during the session of congress, shall, without

the consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting.

SECTION VI.

1. The senators and representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the treasury of the United States. They shall, in all cases, except treason, felony, and breach of the peace, be privileged from arrest during their attendance at the session of their respective houses, and in going to or returning from the same; and for any speech or debate in either house, they shall not be questioned in any other place.

2. No senator or representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States which shall have been created, or the emoluments whereof shall have been increased, during such time; and no person holding any office under the United States shall be a member of either house during his continuance in office.

SECTION VII.

1. All bills for raising revenue shall originate in the house of representatives; but the senate may propose or concur with amendments, as on other bills.

2. Every bill which shall have passed the house of representatives and the senate, shall, before it becomes a law, be presented to the president of the United States; if he approve, he shall sign it; but if not, he shall return it, with his objections, to that house in which it shall have originated, who shall enter the objection at large on their journal, and proceed to reconsider it. If, after such reconsideration, two-thirds of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and if approved by two-thirds of that house, it shall become a law. But in all such cases, the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the journal of each house respectively. If any bill shall not be returned by the president within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law in like manner as if he had signed it, unless the congress by their adjournment prevent its return, in which case it shall not be a law.

3. Every order, resolution, or vote, to which the concurrence of the senate and house of representatives may be necessary, (except on a question of adjournment,) shall be presented to the president of the United States; and before the same shall take effect, shall be approved by him, or being disapproved by him, shall be repassed by

Bk. VI. two-thirds of the senate and house of representatives, according to
Ch. 1. the rules and limitations prescribed in the case of a bill.

SECTION VIII.

Powers
vested
in con-
gress.

The congress shall have power —

1. To lay and collect taxes, duties, imposts, and excise, to pay the debts and provide for the common defence and general welfare of the United States; but all duties, imposts, and excises, shall be uniform throughout the United States:
2. To borrow money on the credit of the United States:
3. To regulate commerce with foreign nations, and among the several states, and with the Indian tribes:
4. To establish a uniform rule of naturalization, and uniform laws on the subject of bankruptcies, throughout the United States:
5. To coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures:
6. To provide for the punishment of counterfeiting the securities and current coin of the United States:
7. To establish post-offices and post-roads:
8. To promote the progress of science and useful arts, by securing, for limited times, to authors and inventors, the exclusive right to their respective writings and discoveries:
9. To constitute tribunals inferior to the supreme court: To define and punish piracies and felonies committed on the high seas, and offences against the law of nations:
10. To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water:
11. To raise and support armies; but no appropriation of money to that use shall be for a longer term than two years:
12. To provide and maintain a navy:
13. To make rules for the government and regulation of the land and naval forces:
14. To provide for calling forth the militia to execute the laws of the union, suppress insurrections, and repel invasions:
15. To provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the states respectively the appointment of the officers, and the authority of training the militia according to the discipline prescribed by congress:
16. To exercise exclusive legislation in all cases whatsoever, over such district (not exceeding ten miles square) as may, by cession of particular states, and the acceptance of congress, become the seat of government of the United States, and to exercise like authority over

all places purchased, by the consent of the legislature of the state in which the same shall be, for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings: — and,

17. To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this constitution in the government of the United States, or in any department or officer thereof.

SECTION IX.

1. The migration or importation of such persons as any of the states now existing shall think proper to admit shall not be prohibited by the congress prior to the year one thousand eight hundred and eight, but a tax or duty may be imposed on such importations, not exceeding ten dollars for each person.

2. The privilege of the writ of habeas corpus shall not be suspended, unless when, in cases of rebellion and invasion, the public safety may require it.

3. No bill of attainder, or ex post facto law, shall be passed.

4. No capitation or other direct tax shall be laid, unless in proportion to the census or enumeration herein before directed to be taken.

5. No tax or duty shall be laid on articles exported from any state. No preference shall be given by any regulation of commerce or revenue to the ports of one state over those of another: nor shall vessels bound to or from one state be obliged to enter, clear, or pay duties in another.

6. No money shall be drawn from the treasury but in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time.

7. No title of nobility shall be granted by the United States, and no person holding any office of profit or trust under them shall, without the consent of the congress, accept of any present, emolument, office, or title of any kind whatever, from any king, prince, or foreign state.

SECTION X.

1. No state shall enter into any treaty, alliance, or confederation; grant letters of marque and reprisal; coin money; emit bills of credit; make anything but gold and silver coin a tender in payment of debts; pass any bill of attainder, ex post facto law, or law impairing the obligation of contracts; or grant any title of nobility.

2. No state shall, without the consent of the congress, lay any imposts or duties on imports or exports, except what may be abso-

Bk. VI.
Ch. 1.

Provi-
sions in
respect
to emi-
gration.

Habeas
corpus.

Attain-
der.
Capita-
tion tax.

Regula-
tions re-
garding
duties.

Moneys,
how
drawn.

Titles of
nobility
prohi-
bited.

Powers
of states
restrict-
ed.

Further
restric-
tions.

Bk. VI.
Ch. I. lutely necessary for executing its inspection laws; and the neat produce of all duties and imposts, laid by any state on imports or exports, shall be for the use of the treasury of the United States, and all such laws shall be subject to the revision and control of the congress. No state shall, without the consent of congress, lay any duty of tonnage, keep troops or ships of war in time of peace, enter into any agreement or compact with another state, or with a foreign power, or engage in war, unless actually invaded, or in such imminent danger as will not admit of delay.

ARTICLE II.

SECTION I.

Execu- 1. The executive power shall be vested in a president of the United States of America. He shall hold his office during the term of four years, and, together with the vice-president, chosen for the same term, be elected as follows:

How 2. Each state shall appoint, in such manner as the legislature elected. thereof may direct, a number of electors, equal to the whole number of senators and representatives to which the state may be entitled in the congress; but no senator, or representative, or person holding an office of trust or profit under the United States, shall be appointed an elector.

Proceed- 3. The electors shall meet in their respective states, and vote by ings of electors and of House of Rep. ballot for two persons, of whom one at least shall not be an inhabitant of the same state with themselves. And they shall make a list of all the persons voted for, and of the number of votes for each; which list they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the president of the senate. The president of the senate shall, in the presence of the senate and house of representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes shall be the president, if such number be a majority of the whole number of electors appointed; and if there be more than one who have such majority, and have an equal number of votes, then the house of representatives shall immediately choose, by ballot, one of them for president; and if no person have a majority, then, from the five highest on the list, the said house shall, in like manner, choose the president. But, in choosing the president, the votes shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. In every case, after the choice of the president, the person having the greatest number of votes of the

the electors shall be the vice-president. But if there should remain two or more who have equal votes, the senate shall choose from them, by ballot, the vice-president. Bk. VI.
Ch. I.

4. The congress may determine the time of choosing the electors, and the day on which they shall give their votes; which day shall be the same throughout the United States. Time of choosing electors.

5. No person except a natural-born citizen, or a citizen of the United States at the time of the adoption of this constitution, shall be eligible to the office of president: neither shall any person be eligible to that office who shall not have attained to the age of thirty-five years, and been fourteen years a resident within the United States. Qualifications of the president.

6. In case of the removal of the president from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the vice-president, and the congress may by law provide for the case of removal, death, resignation, or inability, both of the president and vice-president, declaring what officer shall then act as president, and such officer shall act accordingly, until the disability be removed, or a president shall be elected. Resort in case of his removal, &c.

7. The president shall, at stated times, receive for his services a compensation which shall neither be increased nor diminished during the period for which he shall have been elected, and he shall not receive within that period any other emolument from the United States, or any of them. His salary.

8. Before he enter on the execution of his office, he shall take the following oath or affirmation: Oath required.

9. "I do solemnly swear (or affirm) that I will faithfully execute the office of president of the United States, and will, to the best of my ability, preserve, protect, and defend, the constitution of the United States."

SECTION II.

1. The president shall be commander-in-chief of the army and navy of the United States, and of the militia of the several states when called into the actual service of the United States; he may require the opinion in writing of the principal officer in each of the executive departments upon any subject relating to the duties of their respective offices; and he shall have power to grant reprieves and pardons for offences against the United States, except in cases of impeachment. Powers of the president.

2. He shall have power, by and with the advice and consent of the senate, to make treaties, provided two-thirds of the senators present concur: and he shall nominate, and by and with the advice

Bk. VI. and consent of the senate, shall appoint ambassadors, other public
Ch. 1. ministers and consuls, judges of the supreme court, and all other
 Powers of the president. officers of the United States whose appointments are not herein otherwise provided for, and which shall be established by law. But the congress may by law vest the appointment of such inferior officers as they may think proper in the president alone, in the courts of law, or in the heads of departments.

3. The president shall have power to fill up all vacancies that may happen during the recess of the senate, by granting commissions which shall expire at the end of their next session.

SECTION III.

He may convene congress. 1. He shall, from time to time, give to the congress information of the state of the union, and recommend to their consideration such measures as he shall judge necessary and expedient; he may, on extraordinary occasions, convene both houses, or either of them; and, in case of disagreement between them with respect to the time of adjournment, he may adjourn them to such time as he shall think proper; he shall receive ambassadors and other public ministers; he shall take care that the laws be faithfully executed; and shall commission all the officers of the United States.

SECTION IV.

How officers may be removed. 1. The president, vice-president, and all civil officers of the United States, shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors.

ARTICLE III.

SECTION I.

Judicial power, how vested. 1. The judicial power of the United States shall be vested in one supreme court, and in such inferior courts as the congress may from time to time ordain and establish. The judges, both of the supreme and inferior courts, shall hold their offices during good behaviour, and shall at stated times receive for their services a compensation which shall not be diminished during their continuance in office.

SECTION II.

To what cases it extends. 1. The judicial power shall extend to all cases in law and equity arising under this constitution, the laws of the United States, and treaties made, or which shall be made, under their authority; to all cases affecting ambassadors, other public ministers and consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party; to controversies between two or more states; between a state and citizens of another state; between citizens of different states; between citizens of the same state claiming lands under grants of different states; and

between a state, or the citizens thereof, and foreign states, citizens, or subjects. **Bk. VI.**

2. In all cases affecting ambassadors, other public ministers and consuls, and those in which a state shall be a party, the supreme court shall have original jurisdiction. In all the other cases before mentioned the supreme court shall have appellate jurisdiction, both as to law and fact, with such exceptions and under such regulations as the congress shall make. **Ch. 1.**
Jurisdiction of the supreme court.

3. The trial of all crimes, except in cases of impeachment, shall be by jury, and such trial shall be held in the state where the said crimes shall have been committed; but when not committed within any state, the trial shall be at such place or places as the congress may by law have directed. **Rules respecting trials.**

SECTION III.

1. Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court. **Treason defined.**

2. The congress shall have power to declare the punishment of treason; but no attainder of treason shall work corruption of blood, or forfeiture, except during the life of the person attainted. **How punished.**

ARTICLE IV.

SECTION I.

1. Full faith and credit shall be given in each state to the public acts, records, and judicial proceedings of every other state. And the congress may by general laws prescribe the manner in which such acts, records, and proceedings shall be proved, and the effect thereof. **Validity of public acts, &c. of states.**

SECTION II.

1. The citizens of each state shall be entitled to all privileges and immunities of citizens in the several states. **Privileges of citizens.**

2. A person charged in any state with treason, felony, or other crime, who shall flee from justice, and be found in another state, shall, on demand of the executive authority of the state from which he fled, be delivered up, to be removed to the state having jurisdiction of the crime. **Delivery of fugitives from justice.**

3. No person held to service or labour in one state, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labour, but shall be delivered up on claim of the party to whom such service or labour may be due. **Rendition of persons escaped from service.**