

THE FRAMERS AND THE FRAMING OF THE CONSTITUTION.



ON the 11th of June, 1776, the Continental Congress, then sitting at Philadelphia, chose two committees to perform two pieces of important work. One was to draw a declaration of independence; the other was to frame articles of perpetual union. The Committee on the Declaration finished their work and gave it to the world on July 4th, 1776; the Committee on Articles of Confederation reported a plan four days later; but it was not till March 1st, 1781, that the articles were finally adopted.

The government that went into effect on that day was bad from beginning to end. There was no executive, no judiciary, and only the likeness of a legislature. Congress consisted of one house presided over by a president chosen each year by the delegates from among their number. The delegates could not be more than seven nor less than two from any State, were elected yearly, and could serve but three years in any term of six. On the floor of Congress all voting was done by States, and the assent of nine was necessary to declare war, to make peace, to coin money, to pass any ordinance of the least importance. To such trivial questions as came up from day to day,—when should the house rise; who should be geographer for the next year?—the assent of the majority of the States was enough, and it was a white day whereon six did not make a majority.

To this body the States had given a few powers, and had given them grudgingly as of necessity. Congress had power to declare war, make peace, issue bills of credit, keep up a navy and army, contract debts, enter into treaties of commerce and alliance, and settle disputes between the members of the confederation. But it could not enforce a treaty nor a law when made, nor impose any restriction on commerce, nor lay a tax of any kind for the purpose of raising a revenue. Bad as the articles were, they were made worse yet by the provision that to amend them required the consent of each one of the thirteen members of the Union.

The evils of this system were not slow to appear. Acting on States, and not on individuals, Congress never secured a hold on the people, was always looked on as a revolutionary body, and was treated, first with indifference, and then with contempt.

The large vote needed to pass a weighty measure often made it impossible to legislate at all. Two States, Georgia and Rhode Island, were seldom represented. Of the eleven others more than eight were rarely present, and Congress was thus forced to adjourn again and again for want of a quorum. Repeatedly these adjournments covered a space of thirteen consecutive days. As nine of the eleven States had but two delegates each, the powers of Congress passed into the hands of three men, who, by their negative votes, could defeat any measure requiring the assent of nine.

Lacking power to enforce its acts, Congress made treaties which the States set at naught, called for money which the States never paid, and saw article after article of the confederation broken in the most defiant way. The States were forbidden to wage war and make treaties. Yet Georgia waged war and made a treaty with the Creeks. The States were forbidden to keep troops in time of peace. Yet Pennsylvania sent troops that drove the Connecticut settlers from the valley of Wyoming; Massachusetts raised an army and put down Shay's rebellion. The States were forbidden to enter into compacts. Yet Maryland and Virginia made a compact; Pennsylvania and New Jersey set bounds to Delaware. Indeed, Congress itself was more than once driven to exercise powers to which, by the articles, it had no right whatever.

Having no power to manage trade, Congress could not, by commercial restrictions, force Great Britain to enter into a trade treaty. British goods came over in immense quantities, the balance of trade turned against us, and, to settle the balance, the coin of the country went over to England in boxes and barrels. The States, deprived of a circulating medium, put out paper money; with paper money came tender laws and force acts, and in Massachusetts open rebellion against the commonwealth.

Many of these evils had long been felt. Indeed, the Articles of Confederation were not in force before it was proposed to amend them. The Hartford Convention of 1780 urged the States to suffer Congress to tax them according to population and spend the revenue so raised in paying the interest on the public debt. Congress accordingly asked for such an amendment, and twelve States consented. But Rhode Island would not, and it failed. Again a little while and Congress asked for specific duties and a permanent revenue, and again

twelve States consented. But this time New York stood out, and the second proposed amendment was a failure. At last, made desperate, Congress asked for power to regulate trade for twenty-five years. Once more twelve States consented. Once more New York refused. Once more the attempt to amend the articles was a failure. Then, every other means having been tried, Congress approved the call already sent out for a convention of the States at Philadelphia.

Such a convention had twice been asked for. New York wanted one in 1782; Massachusetts was equally eager in 1785. But the origin of the Constitutional Convention of 1787 goes back to the action of a joint commission which sat at Mount Vernon in March, 1785. There were then no concerted regulations between Maryland and Virginia touching the jurisdiction and navigation of the Chesapeake Bay and the Potomac River. Trouble had arisen in consequence, and the commission had been chosen to frame a compact that would serve as a remedy. But they had not been very long at work when they saw that common duties and common principles for explaining the meaning of commercial laws and settling disputes about the currency were just as necessary as well-defined rights on the river and bay. With these things, however, the commissioners had no right to meddle. Yet they ventured to draw up a supplementary report setting forth the need of legislation on the currency, the duties, and commerce in general, and urging the appointment each year of two commissioners to arrange such matters for the next year.

Maryland readily accepted the report, and asked Delaware and Pennsylvania to come into the scheme. But Virginia went further, and asked all the States to a trade convention at Annapolis in September, 1786. New York and New Jersey, Pennsylvania, Delaware, and Virginia alone attended, spent two days in discussing the low state of trade and commerce, in lamenting their want of powers, and then called a new convention, to meet at Philadelphia in May, 1787. This was the call that Congress approved in February, 1787; and it was high time, for seven States had already chosen delegates.

Virginia was first to act, and sent up her seven most noted citizens. Jefferson was then minister to France; Patrick Henry and Richard Henry Lee would not serve; but in their places came George Washington and James Madison, Edmund Randolph, the governor, George Mason, George Wythe, John Blair, and James McClurg, a professor in William and Mary College.

New Jersey came next, and on November 23d

chose William Livingston, eleven times her governor; William Paterson, ten times her attorney-general; David Brearley, her chief-justice, and William Houston, her delegate to Congress. Houston fell sick, and Jonathan Dayton took his place. Scarce a month went by but the name of some State was added to the list. In December came Pennsylvania; in January came North Carolina; in February came Delaware, Massachusetts, and New York. South Carolina and Georgia came in April, and Connecticut in May. New Hampshire would gladly have acted promptly, but her treasury was empty, her delegates could not bear the cost of the journey themselves, and the convention was half through its work when John Langdon and Nicholas Gilman appeared in her behalf. Rhode Island alone refused to attend.

The day chosen for the meeting of the convention was the second Monday in May, which, in that year, fell on the 14th of the month. But so tardy were the delegates in setting out, and so great were the hindrances met on the way, that the 25th of May came before seven States were present in the State-house. This made a quorum. The convention at once called Washington to the chair, chose William Jackson secretary, appointed a committee to prepare rules, and adjourned, to meet again on the 28th. Nine States then answered to their names. The doors were then closed, a solemn pledge of secrecy was laid on the members, and thenceforth for many years what took place in the convention was never fully known.

The delegates thus bound to secrecy were assuredly a most remarkable body of men. Hardly one among them but had sat in some famous assembly, had signed some famous document, had filled some high place, or had made himself conspicuous for learning, for scholarship, or for signal services rendered in the cause of liberty. One had framed the Albany plan of union; some had been members of the Stamp Act Congress of 1765; some had signed the Declaration of Rights in 1774; the names of others appear at the foot of the Declaration of Independence, and at the foot of the Articles of Confederation; two had been presidents of Congress; seven had been, or were then, governors of States; twenty-eight had been members of Congress; one had commanded the armies of the United States; another had been Superintendent of Finance; a third had repeatedly been sent on important missions to England and had long been minister to France.

Nor were the future careers of many of them to be less interesting than their past. Washington and Madison became Presidents of the

United States; Elbridge Gerry became Vice-President; Charles Cotesworth Pinckney and Rufus King became candidates for the presidency, and Jared Ingersoll, Rufus King, and John Langdon candidates for the vice-presidency; Hamilton became Secretary of the Treasury; Madison, Secretary of State; Randolph, Attorney-General and Secretary of State, and James McHenry, a Secretary of War; Ellsworth and Rutledge became Chief-Justices; Wilson and John Blair rose to the supreme bench; Gouverneur Morris, and Ellsworth, and Charles C. Pinckney, and Gerry, and William Davie became ministers abroad. Others less fortunate closed their careers in misery or in shame. Hamilton went down before the pistol of Aaron Burr; Robert Morris, after languishing in a debtor's prison, died in poverty; James Wilson died a broken-hearted fugitive from justice; Edmund Randolph left the cabinet of Washington in disgrace; William Blount was driven from the Senate of the United States.

Blount sat for North Carolina, and with him were Alexander Martin, a soldier of the Revolution, Richard Dobbs Spaight, a native of Ireland, Hugh Williamson, and William Davie. South Carolina sent Pierce Butler, John Rutledge, and the two cousins, Charles and Charles Cotesworth Pinckney. Butler was an Irishman, was descended from the Dukes of Ormond, and, when the Revolution opened, was a major in the 29th Regiment of Foot. The 29th was one of the regiments stationed at Boston and furnished the soldiers who did the shooting in the famous Boston massacre. Disgusted at the treatment of the colonists, and convinced that justice was on their side, he threw up his commission when the war opened, joined the continental army, fought through the war, and then settled in South Carolina. Another man of Scotch-Irish ancestry was John Rutledge. He too had been educated abroad, had studied law at the Temple, and had been sent at the age of twenty-six to the Stamp Act Congress of 1765. Nine years later he sat in the first Continental Congress, and was pronounced by Patrick Henry the most eloquent speaker in that body. Fearless, resolute, a man of fine parts, he was unquestionably the foremost man South Carolina produced till she produced Calhoun.

Georgia sent up William Houston, William Pierce, a Virginian, William Few, and Abraham Baldwin, a Connecticut man. The Connecticut delegation was, as a whole, the ablest on the floor. Save Benjamin Franklin, no man who came to the convention had made for himself so instructive and so useful a career as Roger Sherman. He was a man of the people. Born near Boston, he got his education

at the common school, and was early apprenticed to a shoemaker. His apprenticeship over, he set out on foot, with his tools on his back, for New Milford in Connecticut. There he kept store and read law till he was admitted to the bar, when he moved to New Haven. At New Haven he rose rapidly in the estimation of his townsmen, was made treasurer of Yale College, represented the town in the legislature, and when New Haven became a city, was chosen first mayor, and remained mayor for the rest of his life. He was fourteen times sent to the legislature. He was twenty-three years a judge. Connecticut elected him to the Congress of 1774, and reelected him repeatedly till he died. He signed the Declaration of Rights in 1774; the Declaration of Independence, which he was one of the committee to write; and the Articles of Confederation, which he helped to frame.

With him came William Samuel Johnson and Oliver Ellsworth. Johnson had been a judge and a member of Congress; but he enjoyed a distinction rarer still, for he was a scholar of high rank. Indeed, the fame of his learning reached England, where Oxford made him a Doctor of Laws, and the Royal Society a member.

Massachusetts sent up Caleb Strong, Nathaniel Gorham, a rich Boston merchant, Elbridge Gerry, a signer and a member of Congress, and Rufus King, a congressman and a fierce hater of slavery. Alexander Hamilton, John Lansing, and Robert Yates represented New York. Yates and Lansing were men of ability; but they held the narrow and selfish views then so prevalent in New York State, became mere obstructionists in the convention, and when they could not succeed in setting up State-rights government, left the convention and went home. The departure of Yates is much to be lamented, for, while he staid, he was busy taking notes of the debates and proceedings. Five men came from Delaware,—Gunning Bedford, Jr., Richard Bassett, Jacob Broome, George Read, who signed the Declaration, and John Dickinson, who would not. The largest delegation was that from Pennsylvania. On her list are the names of Jared Ingersoll, who led the bar, and whose father had been driven from New England for trying to serve as Stamp agent in 1765, George Clymer, another signer, Thomas Fitz Simons, a great merchant, Robert and Gouverneur Morris, Thomas Mifflin, a general of the Revolution, a member of Congress, and once a member of the infamous Conway Cabal, James Wilson, a Scotchman and the best-read lawyer in the convention, and Benjamin Franklin. Maryland sent up Daniel of St. Thomas Jenifer, Daniel Carroll of Carrollton, John Mercer, Luther Martin, and James McHenry.

It is a sure sign of the high respect in which this famous body of men was held, that not one word was uttered by the people against their secret sessions. Profound secrecy, it was said, could not be kept by men who quarreled. Secrecy was kept, and this meant that the delegates were of one mind on all Federal measures. Had the world, it was asked, ever beheld such a sight? When before had a people without strife and without bloodshed deputed a band of patriots, that would have adorned the best days of Greece and Rome, to cure the evils of its government? That evils existed was lamentable; but they were unavoidable. The Confederacy was like a hut or a tent put up in time of war and fit for the needs of war. But peace was come, and it was now time to build a suitable and durable dwelling, with tight roof, substantial bolts, and strong bars, to shield the States from every kind of harm.

The simile of a house and a roof was a favorite, and was used again and again. The United States was like an old man and his wife who with thirteen sons landed in America. There they built a spacious dwelling and lived happily for several years. But the sons grew weary of the company of their parents, and each put up a cabin for himself near their old home. At once trouble began. One had implements of husbandry stolen; another lost a crop; a third had his sheep eaten by the wolves; a fourth nearly died of cold from the roof of his cabin being blown away; a fifth saw his flock swept off by floods. At last twelve of the brothers met on a plain and resolved to ask their father to take them back. He did so gladly, and the old house, mended and enlarged, was made more beautiful than ever. The thirteenth son stood out, and, after three years, hanged himself by his garters in the woods.

This son was Rhode Island. His flocks, in the language of the simile, were indeed being eaten by wolves. Wholly given over to the party of Shays, the party of legal-tender acts, of force acts, of paper money, the State had sent no delegates to Philadelphia and was not at any time represented in the convention. This contempt for the wishes of the country was warmly resented. She was denounced as the cause of the failure of the impost. To her charge was laid the suffering of the soldiers in the Revolutionary War, the heavy taxes, the bankrupt treasury, the poverty of the whole nation. Let her, it was said, never again be suffered to defeat a Federal measure. Drop her from the Union. Turn her out from the company of States. Or, better still, apportion her to Massachusetts and Connecticut. Vermont would more than take her place. As the 4th of July drew near, the governor of New Jersey was said to have expressly ordered that no

more than twelve cannon be fired, and no more than twelve toasts drunk. At Trenton and a few places elsewhere this was done. The convention, it was asserted, was determined that Rhode Island should be considered out of the Union. The government about to be set up would hold her responsible for a fair share of the Federal debt, and would first seek by gentle means to collect it. But, if these failed, the sum would be taken from her by force.

As to what this new and vigorous government would be, the people made all manner of guesses. Many plans, it was thought, had been talked of. One was said to keep the form but not the spirit of democracy; another parted the States into three republics; another gave a strong executive power without even the semblance of a popular constitution. The convention was accused by some of having a plan to set up a king. A constitution, the knowing ones asserted, had been made, titles, orders, and social distinctions established, and a commission would soon be sent to offer the crown to the Bishop of Osnaburgh, the second son of King George. This idle tale was more than half believed, and each post brought letters to the delegates begging to know if it were true. The answer invariably was, "While we cannot affirmatively tell you what we are doing, we can negatively tell you what we are not doing; we never once thought of a king."

For our knowledge of what they did think of doing we are indebted to the journals of the convention, to the notes taken down by Yates and Madison, and to the "Genuine Information" of Luther Martin. From these sources it appears that the serious work of the convention was opened by Randolph on the morning of Tuesday, the 29th of May. In a speech of great force he summed up the weak points of the Articles of Confederation, showed how unsuited they were to the needs of the country, and urged all present to join in setting up a strong national government. As a plan of such a government, he read fifteen resolutions which the Virginia delegate had framed while waiting for the convention to assemble.

This, which came in time to be known as the Virginia plan, provided that there should be a national executive, a national legislature, a national judiciary and council of revision; that the executive should be chosen by the legislature and be ineligible a second time; that the legislature should consist of two branches, with power to coerce refractory States and veto all State laws contrary to the Articles of Union; that the people should choose the members of the first branch; that the first branch should choose the members of the second from men nominated by the legisla-

tures of the States; that the representation of each State should be proportioned to the inhabitants on its soil or to the share it bore of the national expenses; that the judiciary should be elected by the national legislature; that the executive and the judges should form a council to revise all laws before they went into force; that provisions should be made for admitting new States, for amending the Articles of Union, for assuring to each State a republican form of government and a right to its soil.

The resolutions read and explained, Randolph moved a committee of the whole on the state of the Union, and to the committee the Virginia plan was sent. No sooner was this done than Charles Pinckney of South Carolina presented a second plan for a constitutional government. This too went to the committee, was never heard of again, and is now hopelessly lost.

Next day the Virginia plan came formally before the committee, and during two weeks was carefully debated. Each resolution was taken up. Some were amended, some were dropped, and others put in their stead. But the feeling of the delegates seemed to be that there should be an executive, legislative, and judicial branch of government; that the legislature should consist of two houses; and that the members of one should be elected by the people. When the number of the executive and the way of choosing came up, there were almost as many opinions as States on the floor. Some wanted an executive of three, one from each part of the country; some were for a single executive with a council of revision; some for a single executive without a council of revision. He was to be elected directly by the people. He was to be chosen by electors, or by State legislatures; by the State governors; by one branch of the national legislature; by both branches on a joint ballot; by both branches on a concurrent vote; he was to be chosen by lot. For three days no other business was done. It was then determined that the executive should be chosen as the national legislature decided, should hold office seven years, and should not be reelected.

This decision was reached on Monday, the 4th of June. The debates up to this time had been most amicable. But, before the week ended, the delegates began to wrangle, sectional spirit began to appear, and those lines which again and again divided the convention before it rose became plainly visible. There were parties made up of individuals and parties made up of States. There were men who wished for a Federal government not much unlike that they were trying to better, and there were men who did not want a confederacy at all. There were men eager to see a

centralized government set up, and men insisting that State sovereignty should be carefully maintained. There were the Southern States against the Northern States, the commercial States against the agricultural States; and what proved far more serious still, there were the great States against the small.

Out of these party divisions came in time the three compromises of the Constitution. The fear in which the little States stood of the great secured the compromise giving representation to States. The hatred felt by the slave States for the free caused the second compromise, giving representation to slaves. The jealousy between States agricultural and States commercial brought about the third compromise, on the slave-trade and commerce.

The great States were Massachusetts, Pennsylvania, and Virginia; New York, New Jersey, and Delaware were the small. The great States were for a strong national government on the Virginia plan; the little States were for the old confederation mended and improved, and made their first firm stand on Saturday, the 9th of June. The second resolution of the Virginia plan, that suffrage in the national legislature ought to be in proportion to wealth or free inhabitants, had been postponed, and this, on motion of Paterson, of New Jersey, was now taken up.

The convention, he said, had no power to make a national government. Congress had assembled them to amend the Articles of Confederation. The articles were, therefore, the proper basis for all proceeding. Bad as they might be in some ways, they were excellent in others. They acknowledged the sovereignty of the States, treated them all alike, and gave to each the same vote and the same weight when assembled in Congress. On no other plan could a confederacy of States be maintained. Representation as proposed, representation in proportion to wealth or numbers, looked fair in the face; but it was unfair and unjust at heart. Suppose it adopted, suppose the States to send delegates to the first branch according to the sums of money they paid to the Board of Treasury, and see what would happen. Virginia would have sixteen votes and Georgia one. Was this just? Was it safe? Did any one think New Jersey would risk her independence, her sovereignty, her well-being in a Congress in which she had but five votes while Virginia had sixteen? There was no more reason for giving a State paying a large quota more votes than a State paying a small quota, than there was for giving a rich man more votes at the polls than a poor man. New Jersey would never confederate on such a plan. She would be swallowed up. She would rather submit to a despot than to such a fate.

The great States took a different view. It was true, they admitted, that each State was sovereign, and that all were therefore equal. It was also true that each man is naturally a sovereign over himself, and that therefore all men are naturally equal. But could he keep this sovereignty when he became a member of a civil government? He could not. Neither could a State keep her sovereignty when she became a member of a Federal government. All government came from the people. Equal numbers of people ought therefore to have an equal number of representatives, and different numbers of people a different number of representatives. The people, not the States, were to be represented. And did any one think that 150 Pennsylvanians should have no more representation than 50 Jersey men? Six States thought not, and voted that in the first branch representation should be according to some equitable ratio. An equitable ratio was next decided to be the rule by which, in April, 1783, Congress fixed the quotas of the States. This rule was that quotas should be laid according to the whole number of free white inhabitants of both sexes, of every age, occupation, and condition, and three-fifths of all other persons save Indians not taxed.

The small States had lost the day. But they were not discouraged, and, led on by Connecticut, made a stout fight for an equal vote in the Senate. Again they were defeated, again population was made the basis of representation, and, this done, the committee hurried on to the consideration of the remaining resolutions of the Virginia plan. By the 13th of June they had all been passed; the committee had reported them to the House, and the House was about to name a day for considering the report, when Paterson rose and asked leave to bring in a totally different plan. Alarmed at the strong display of national feeling, the delegates from Connecticut and New Jersey, Delaware and New York, with Luther Martin of Maryland, had framed a plan and chosen Paterson to lay it before the convention; a plan which Hamilton well described as "pork still, with a little change of the sauce." Congress was to consist of a single House, with power to regulate trade and commerce, and raise a revenue by duties on imports, postage on letter and newspaper, and stamps on paper and vellum. There was to be an executive of several persons not eligible to a second term and removable by Congress at the request of a majority of the governors of the States. There was to be a supreme court, uniform laws of naturalization, and, when necessary, requisitions on the States for money, according to the rule of April, 1783; officers were to be sworn to support the constitution, and the constitution

and its laws and treaties were to be "the supreme law of the land."

This plan, it was said, had two great merits,—it fully agreed with the powers of the convention; it would be gladly accepted by the people. These were important; for the duty of the convention was not to frame such a government as might be best in theory, but such as the people expected and would approve. If the Confederation was really so bad, let the convention say so, go home, and get power to make such a government as they wished. But to assume such power was not to be justified on any ground. If, as some held, the Confederation had fallen to pieces, if no general government really existed, then the States were once more independent sovereignties, and should stand on the footing of equal sovereignties. All then must agree or none could be bound. If the Confederation did exist, then by the terms of the articles no change could be made without the consent of all. This was the nature of all treaties. What had been unanimously done must be unanimously undone. It was said that the great States consented to this equality, not because it was just, but because, at the time, it was expedient. Be it so. Could they, therefore, take back that assent? Could a donor resume his gift without the leave of the donee?

It was now the turn of the great States to make an attack, and they did so vigorously. Wilson drew a long comparison between the Virginia plan and the Jersey plan. By the Virginia plan there were to be three branches of government; by the Jersey plan but one. By the Virginia plan the people were to be represented; by the Jersey plan the States. By the one a majority of the people would rule; by the other a minority. The Virginia plan provided for a single executive; the Jersey plan for an executive of many. The Virginia plan provided for a negative on the laws of the States; the Jersey plan for the coercion of the States.

Madison demanded to know in what respect the Jersey plan was better than the old articles. It could not prevent violations of the laws of nations, nor of treaties, nor prevent encroachments on the Federal authority, nor trespasses of the States on each other, nor secure internal tranquillity, nor give good governments to the States, nor guard the Union from the influence of foreign powers. It could cure none of the evils that had long grown intolerable.

Hamilton, who liked neither of the plans, now read to the committee his own thoughts on the best form of republican government. The supreme legislature, as he called it, was to consist of two branches,—the Assembly and the Senate. Members of the Assembly were to be chosen by the people for three years.

Members of the Senate were to be elected by electors chosen by the people and serve as long as they behaved well. The executive was to be one man chosen by electors for good behavior. He was to have a veto on all laws about to be passed, was to conduct war when once begun, make treaties with the leave of the Senate, and appoint the heads of the departments of war, finance, and foreign affairs without consulting any one. There was to be a supreme judiciary, and in each State there were to be courts to try all matters of general concern. State laws contrary to the laws and Constitution of the United States were to be void. To prevent, if possible, such being passed, the general government was to appoint the governors of the States.

The committee had now before them the Virginia plan, the South Carolina plan, the New Jersey plan, and the thoughts of Hamilton on government, which he distinctly declared were thoughts, and nothing more. But they gave no heed to any schemes save those sent in by Virginia and New Jersey. The question, therefore, at once became which of the two should be reported. We must, said the State-rights party, report the Jersey plan. Our powers are limited, and this is the only plan that comes within them. Our powers, said the Virginia party, extend to everything or to nothing. We are free to support any plan and to reject any plan. The people are bowed down under intolerable burdens. They look up to this convention with fond hopes, and expect from it a government that will cure the ills of which they complain. A strong national government alone can do so, and such a government the Virginia plan will give them. The committee heartily agreed to this, voted the Jersey plan inadmissible, rose, and reported the Virginia plan to the convention.

This much settled, the debating went smoothly on for a week. Put in good humor by the adoption of their plan, the great States now began to make some idle concessions to the small. The word "national" occurred twenty-six times in the resolutions, was hateful to the little States, and was therefore graciously dropped. But the questions that took up the time of the convention till the last of June were: Should the legislature consist of one branch or two? Should there be one executive or three? Should the members of the first branch be twenty-five years old or thirty? Should the members of the second branch serve for nine years, for seven years, for five years, during good behavior? Then was reached that question which never once came up for discussion without provoking a violent display of sectional feeling and a long and rancorous debate. The question was,

Should suffrage in the legislature be according to the rule established by the Articles of Confederation, or according to some other?

Defenders of the State-rights theory asserted that the general government ought to act on States, and not on individuals. The States were sovereign. Being sovereign, they were equal, and being equal, they ought to have equal votes. If the large States did indeed have the same interests as the small, there could be no harm in giving equal suffrage to all. If the great States did not have the same interests as the small, then unequal suffrage would be dangerous to the last degree. Once given votes in proportion to population or to wealth, it would be all the same whether the delegates were chosen by the people or by the legislatures. The great States would combine; the little States would be enslaved.

The defenders of the Virginia plan pronounced these fears and reasons absurd. It was the great States that fell out and the small ones that combined. This had always been the case in the Old World, and it would be so in the New. Massachusetts and Pennsylvania and Virginia could never combine. They were far apart. Their manners, customs, religions, were unlike. They had nothing common even in trade. They were, however, rich, populous, and would surely be called on to bear the largest part of the cost and burdens of the government about to be set up. If, therefore, they consented to equality of suffrage, they would be outvoted, and their money and their property would be completely at the mercy of the little States.

Between these two contending parties now appeared for the first time a party of compromisers, made up chiefly of Connecticut men. Both the State-rights and the Virginia party went, they held, too far. One looked on the States as so many separate political societies; the other looked on the people as one great political society of which the States were merely districts of people. The truth was the States did exist as political beings, and a government to be good and lasting must be formed for them in their political capacity as well as for the individuals composing them. The well-being of each was to be considered. The true plan was, therefore, to give the people representation in the one branch and the States representation in the other. New York, New Jersey, and Delaware were in no mood for a compromise and would hear nothing of such a plan. But the great States had their way, and voted that in the first branch representation ought to bear some proportion to the population of the States. This was final. Thenceforth no attempt was ever made to set it aside.

Greatly elated, the compromisers now redoubled their efforts, and insisted that, in the

second branch, the voting should be by States. But the defenders of the Virginia plan again flew into a passion, another rancorous debate took up two days, and when the vote was finally reached, the ballot stood five to five. Never before had the members been so angry, nor the speeches so personal and bitter. Reflections, recrimination, taunts, threats of secession, were heard on every side. In this pass, at the suggestion of Cotesworth Pinckney, the whole matter of representation was sent to a grand committee, and the convention adjourned for three days.

But the debates in the committee of eleven were as stormy as the debates in the committee of the whole. Again a compromise was offered and again it was refused. You propose, said the State-rights party to the Virginia party, to consent to an equal representation in the second branch of the legislature, if we will consent to an unequal representation in the first. We will not. This is merely offering, after a bitter struggle to put both your feet on our necks, to take one off if we will quietly suffer the other foot to remain. But we know well that you cannot keep even one foot on unless we are willing, and we know well that, having one firmly planted, you will be able to put on the second when you please. Riches will come to you; population will come to you, and with them power. Will you not then force from us that equality of representation in the second branch which you now deny to be our right, and yield only from necessity? You tell us that you will enter into a solemn compact with us not to do so. But did you not years ago enter into a solemn compact with us, and are you not now treating it with the utmost contempt? Do you think that while we see you wantonly violate one, we will meekly enter into another?

Franklin most happily was a member of the committee, and brought his colleagues in time to a better mind and persuaded them to agree to a report. This recommended that each State should be given one representative in the first branch of the legislature for every forty thousand inhabitants, and that in the second branch each State should have an equal vote. As the price of the concession by the great States, it was insisted that all money bills should originate in the first branch and not be amended in the second, and that no money should be drawn from the treasury except by bills originating in the first branch.

Thus was the first compromise ended. The report, indeed, did not pass the convention for two weeks, and then by a close vote. But it was not again disputed that in the second branch the States should have an equal vote.

Meanwhile, the committee of the whole took up the report in detail. The clause fixing

representation at one to forty thousand was recommitted, and reported back with the provision that in the first House of Representatives there should be fifty-six members, and that for the future representation should be based on wealth and population. The provision of one representative for forty thousand inhabitants was dropped as too unsafe. It would enable the West in time to outvote the East. By making a general and not a specific rule, the East would keep the government in its own hands, take care of its own interests, and deal out representation in safe proportion to the West.

But wealth and population were ever changing, and to find this change Randolph proposed an estimate and a census. The idea seemed a good one. There were, however, below the Mason and Dixon line thousands of human beings who might with equal justice be considered as population or as wealth. They could be bought and sold, leased and mortgaged, given away, or bequeathed by will. They held no property, acquired no estates, and to the delegates from the North and East seemed to be of no more account in the South than a black horse or a black ox in New England. They insisted, therefore, that slaves should be looked on as property. By the delegates from the South, however, a slave was held to be a man, for by doing so they hoped to increase their representation. No sooner, then, was it moved to take a census, than Williamson moved that the census should be of all free whites and three-fifths of all others.

Instantly the old division of great States and little States disappeared, and the convention was parted on the new basis of North and South. On the one hand were Delaware, South Carolina, and Georgia, demanding that slaves should have an equal representation with the whites; on the other hand were Massachusetts, Pennsylvania, and New Jersey, demanding that slaves should not be represented at all. Between the two, but leaning more towards the North, were Virginia, Maryland, and North Carolina. New York was no longer represented. Yates and Lansing, enraged at the passage of the Connecticut compromise, had gone home in a huff. Hamilton could no longer vote, and New York ceased to be considered a member of the convention.

The labor of slaves, such was the argument of delegates from the South, is as productive and as valuable in South Carolina as the labor of freemen in Massachusetts. They put up the value of land; they increase the amount of imports and exports; they may, in emergency, be turned into soldiers and used for defense; they ought, therefore, in a government set up chiefly for the protection of property and to be

supported by property, to have equal representation with the whites.

What, said their opponents, is the principle of representation? It is an expedient by which an assembly of certain men chosen by the people is put in place of the inconvenient meeting of all the people. Suppose such a meeting to take place in the South, would slaves have a vote? They would not. Why, then, should they be represented? Had a master in Virginia a number of votes in proportion to the number of his slaves? He had not. Why, then, if there is no slave representation in the States legislature, should there be slave representation in the national legislature? What, in plain language, did it mean? It meant that the man from South Carolina who went to the coast of Africa and in defiance of the most sacred laws of humanity dragged away his fellow-creatures from their dearest connections and damned them to the most cruel bondage, should have more votes, in a government formed for the protection of the rights of man, than a citizen of Pennsylvania or New Jersey who viewed such a nefarious practice with horror.

Between the two was a third party, made up of men holding a variety of views. One could not consider the negro equal to the white; yet the negro was a man, was a part of the whole population, and ought to have some representation. Another thought the Continental rule of three-fifths about right. A third was for giving slaves representation in the second branch but not in the first. They could do nothing, however, in the way of compromise, and, when a vote on the resolution for a census was taken, every State present answered *No*.

Matters were now just where they were when the report of the committee was presented. But they did not long remain so. Gouverneur Morris, in an evil hour, moved that taxation should be in proportion to representation. In the form of direct taxation the motion passed. Upon this a Southern member cried out that an attempt was being made to deprive the South of all representation of her blacks, and warned the convention that North Carolina would never confederate unless she had at least a three-fifths representation for her slaves.

The threat was indeed formidable. Whatever form of government the convention might frame would, it was well known, have to be submitted to the States for approval. It had long seemed doubtful whether enough would approve to enable any plan to go into operation. Rhode Island had refused to join the convention. The delegates from New York had gone home disgruntled. Massachusetts

was not to be counted on. Were North Carolina added to the number, the convention might as well break up, for their labors could accomplish nothing.

To appease her, therefore, the lost resolution for a census of whites and three-fifths of the blacks was again moved, and the whole matter of slavery was once more before the convention. How it should be settled was for the South to say, for of the ten States present the North could command but four. The South decided on a compromise, and the compromise offered was, to proportion representation according to direct taxation, and both representation and direct taxes according to population, counting as population all free whites and three-fifths of the negroes. When the ballot was taken North Carolina and Georgia voted yea; South Carolina was divided, and the second compromise was accepted.

On the 16th of July the report of the committee containing the two compromises came before the convention. The day was a great one, for on the vote then taken hung the fate of the Constitution. On one part of the report the States had been divided into the great against the small. On another part they had taken sides as the slaves against the free. But the vote was now on the whole report, and the States were forced to take their stand accordingly. The four little States supported it because of the compromise giving equal representation in Senate. Two of the large States opposed it for the same reason, and were joined by South Carolina and Georgia, who still insisted on a full representation of slaves. Massachusetts was divided, for King and Gorham stoutly refused to support any plan of government that gave recognition and encouragement to slavery. Everything therefore turned on the vote of North Carolina, who, to save the Constitution, deserted the great States, joined with the small, and the report passed by five votes to four.

Now each party grew very angry. Randolph was for an adjournment, that the great States might have time to decide what steps to take next, and that the small States might arrange some plan of conciliation. He was sharply answered by Paterson that it was high time to adjourn, and to adjourn *sine die*. The rule of secrecy ought to be taken off and the people consulted. As for conciliation, the small States would never conciliate except on the basis of equality of representation.

The indignation of the members from the great States at this was extreme, and early the next morning a number of them met to consider what to do. It was clear that the little States were fixed in their opposition. They had again and again asserted that they would

never give way, and they were still showing a front as determined as ever. Since, then, this partition of the convention into two fixed and opposite opinions seemed inevitable, the duty of the great States was, some said, quite plain. They represented the majority of the people of the United States. Let them, then, make ready a plan of government of their own. If the small States agreed to it, well and good. If not, so much the worse for them. Others were for yielding, though, by so doing, they did give way to a minority rule. But the conference came to nothing, and when the hour for the meeting of the convention arrived the members went to their seats in no amiable frame of mind.

The next ten days were spent in distributing power between the States and the general government; in determining how the judges should be appointed; where impeachments should be tried; what jurisdiction the Supreme Court should have; how many senators should be given to each State; whether a man must own land before he could be eligible to Congress, to the Supreme Bench, to the executive office; in what manner the Constitution should be ratified. This done, the Jersey plan, the South Carolina plan, and the twenty-three resolutions of the convention on a national government, were sent on July 26th to a committee with instructions to report a constitution. The convention then adjourned for two weeks.

On the committee were Gorham, Ellsworth, James Wilson, Randolph, and John Rutledge. Of their doings nothing is known save that, when the convention assembled on the morning of Monday, August 6th, each member was given a copy of a draft of the Constitution, neatly printed on a broadside. The type was large. The spaces between the lines were wide, that interlineations might be made, and the margin broad for noting amendments. A few of these broadsides have been preserved and, when compared with the Constitution, show that the amendments were many and important. The draft provided that the President should be chosen by Congress, should hold office during seven years, and should never, in the whole course of his life, have more than one term; the Constitution intends the President shall be chosen by a body of electors, and puts no limit to the number of his terms. By the draft he was given a title and was to be called "His Excellency"; the Constitution provides for nothing of this kind. By the draft he could be impeached by the House of Representatives, but must be tried before the Supreme Court; by the Constitution he must, when impeached, be tried before the Senate. By the one he need not be

a native of the United States; by the other he must. The one made no provision for a Vice-President; the other does. The one provided that members of Congress should be paid by the States that sent them; the other provides that they shall be paid out of the national treasury. In the draft, senators were forbidden to hold office under the authority of the United States till they had been one year out of the Senate; the Constitution makes no such requirement. By the draft, Congress was to have power to emit bills of credit, to elect a treasurer of the United States by ballot, to fix the property qualifications of its members, to pass navigation acts, and to admit new States if two-thirds of the members present in each House were willing; none of these powers are known to the Constitution. The draft provided but one way of making amendments; the Constitution provides two. Nothing was said in the draft about the passage of *ex post facto* laws, about the suspension of the habeas corpus, about granting patents to inventors and copyrights to authors, about presidential electors, or about exclusive jurisdiction over an area ten miles square. Provision was made for a clumsy way of settling quarrels between States concerning jurisdiction and domain.

As soon as the delegates had read their broadsides the work of the revision began. To the government was now given the name, "United States of America." The legislature was called "The Congress,"—the first branch the "House of Representatives," and the second branch the "Senate." The executive was named the "President." Power to emit bills of credit was stricken out. An attempt to limit representation to free inhabitants failed. An attempt to secure the return of fugitive slaves succeeded. A long series of resolutions giving Congress power to regulate affairs with the Indians; set up temporary governments for new States; grant charters of incorporation; establish a university; give a copyright to authors; encourage discoveries; advance the useful arts; have exclusive jurisdiction over the seat of government; provide for departments of war, marine, finance, commerce, domestic affairs, foreign affairs, and State; assure the payment of the public debts; guarantee the right of habeas corpus and the liberty of the press; prevent the quartering of troops on the people in time of peace; and give a privy council to the President, were readily agreed to. Indeed, but little debate was provoked till the fourth and sixth sections of the seventh article were reached.

These sections forbade Congress to lay a tax on articles exported from any State, or to tax slaves imported, or to hinder the importa-

tion of slaves in any way whatever, or pass a navigation act, unless two-thirds of the members present in each house were willing. So much as related to a tax on exports was quickly disposed of. Southern members, indeed, protested. They declared that if the power to tax exports was not given to the general government it would remain with the States; that if it remained with the States, those agricultural would be at the mercy of those commercial; that the whole South would be made tributary to the North. But their fears were pronounced unreasonable, the power was not given to Congress, and another relic of the political economy of the ancients was swept away forever. So much as related to taxing and hindering the importation of slaves had been put in to please South Carolina and Georgia. Except these two, every State was willing and eager to stop the importation of slaves. But the convention was reminded that the staples of South Carolina and Georgia were indigo and rice; that these could not be raised without slave labor; that the toil in the rice swamp and the indigo field was more than even the browniest negro could long endure; that, if they could not bring in negroes from abroad, their industry and their property were gone; and that, sooner than submit to this, they would quit the Union.

The moment, therefore, that Luther Martin moved that the fourth section be so changed that the importation of slaves could be taxed, South Carolina declared that she would never agree to it. If the men from other States thought she would, they were greatly mistaken; they were, indeed, simply standing in their own light. Let the South have more slaves, and more rice, more indigo, more pitch and tar would be produced, and the more produced, the more for the ships of the New England men to carry. In this demand for the free importation of slaves, South Carolina was joined by Connecticut. Ellsworth and Sherman both declared that the clause ought to be left as it was. The old Confederation had not meddled with slavery, and they did not see any reason why the new one should. What enriched a part of the Union, enriched the whole, and as to what enriched them, the States were the best judges.

That slavery could enrich any land was flatly denied. Wherever it existed, Gouverneur Morris asserted, the arts languished and industry fell into decay. Compare New England, it was said, with Georgia; compare the rich farms and prosperous villages of Pennsylvania with the barren and desolate wastes of Maryland and Virginia, and see what a difference it made whether a land was cultivated by freemen or by slaves. The wealth, the

strength, the prosperity of the country depended on the labor of whites, and there could be no white labor where slavery existed.

Convinced of this truth, Maryland and Virginia had forbidden slaves to be carried to their ports. North Carolina had done almost as much. But all this would be useless if South Carolina and Georgia were free to bring in as many as they chose. Already the settlers in the growing West were clamorous for slaves to till their new lands, and would fill that country with negroes if they could be had through South Carolina. But did any one suppose they would stop when every farmer had a full supply? Were not slaves to be represented? Were not five negroes to be counted as three whites? Would not the political power of the South increase with the increase of her slaves? Here, then, was a new incentive for a free importation, a new encouragement to the traffic. More than, this, slavery corrupted manners, turned masters into petty tyrants, and was utterly inconsistent with the principles of the American Revolution and dishonorable to the American character.

All this, it was admitted, might be so. But honor, religion, humanity, had nothing to do with the question. The question was, Shall or shall not the Southern States be parties to the Union? With the slave-trade prohibited, South Carolina, for one, never would. To this it was answered, If two States will not take the Constitution, if the importation of slaves is taxed, there are other States that will not take the Constitution if the importation of slaves is not taxed. The exemption of slaves from duty when every other import is taxed, is an inequality to which the commercial States of the North and East will not submit.

At this point Gouverneur Morris proposed that the taxation of exports, of slaves imported, and the question of a navigation act, should be sent to a committee. They were, he said, fit subjects for "a bargain among the Northern and Southern States." Sherman, and Randolph, and Pinckney, and Ellsworth, and a dozen more thought so too, and the fourth and fifth sections went to a committee of five.

The sixth section soon followed them. This provided that no navigation act should be passed without the assent of two-thirds of the members present in each house, and was as hateful to the East as a restriction on the importation of slaves was to the South. The committee, therefore, had not been long in session before it was apparent that the New England States, despite the sentiments they held on slavery, were ready to make just such a bargain as Morris proposed. If the South would consent to strike out the sixth section and give Congress power to pass navigation

acts, the East would consent to the importation of slaves for a limited time. The South did consent. The bargain was struck, and the committee advised that the sixth section should be stricken out; that the fifth should be left as it was, and that the fourth should be so changed that the importation of slaves should not be forbidden before 1800.

Having obtained so much, the South wanted more, and insisted that the time should be extended till 1808. The East readily agreed, and so made good their parts of the bargain. It now remained for the South to do likewise; but the South began to object. Much was said about being in the minority, about being bound hand and foot, about having Southern trade at the mercy of the ship-owning States. If a majority of Congress could pass a navigation act, the New Englanders would shut out foreign ships, get all the carrying-trade of the country for themselves, and then demand ruinous prices for carrying tobacco, rice, and indigo to Europe. Congress ought not to have any power over trade. The most, therefore, that the South would yield was that a two-thirds vote should be necessary for the exercise of this power.

The Eastern States protested that the restriction must be taken off; that it would ruin them not to be able to defend themselves against foreign regulations. If the new government were to be so fettered as to be unable to relieve the commerce of the Eastern States, what motive could there be for them to join it? Disunion was to be lamented; but, if it came, the South would be the chief sufferer.

The majority of the Southern members had been put in good humor by the two concessions of the East, that exports should not be taxed and that slaves should be imported till 1808, and by their influence the third compromise was carried.

The convention then went on for a week striking out words here, putting in resolutions there, and bringing the draught nearer and nearer the Constitution as we now have it. On the last day of August the postponed sections and the parts of committee reports not acted on were sent to a committee of eleven. This committee reported from time to time till September 8th, when all that had been done was sent to a committee on arrangement and style. Saturday, the 15th, their work was accepted and ordered to be engrossed. On that day, as the question was about to be put for the last time, the delegates who disliked the Constitution began to make excuses for withholding their support. Mason lamented that a bare majority of Congress could pass a navigation act, and moved that no such act should be passed prior to 1808. But nothing came of it.

Randolph asked that the State conventions to which the Constitution was to be submitted might submit amendments to a second Federal convention. Mason approved this. The Constitution, he said, had been formed without the knowledge of the people. It was not right to say to them, Take this or nothing. A second convention would know their wishes. Gerry named nine features which he especially disliked.

Alarmed at this opposition, Franklin spent Sunday in preparing a little speech to be read to the dissenters. But, when Monday came, when the members were in their seats, and the Constitution, ready for signature, lay upon the table, he found himself too weak, and James Wilson read the paper for him. He was, he said, an old man, and had often, in the course of a long life, been forced to change opinions he was once sure were right. As he grew older, therefore, he had learned to doubt his own judgment and to pay more respect to the judgments of others. Steele in one of his dedications told Pope that the only difference between the Church of England and the Church of Rome in their opinion on the certainty of their doctrine was this: The Church of Rome was infallible; the Church of England was never in the wrong. He had heard of a certain French lady who, in a quarrel with her sister, said: "I do not know how it is, sister, but I meet with nobody but myself that is always in the right." Doubting his own opinion, he agreed to the Constitution with all its faults, if it had any. He had expected no better, and he was not sure that it was not the best. He hoped that each member who still had objections would do likewise, doubt a little of his own infallibility and sign the document. As a good form he would propose, "Done in convention by the unanimous consent of the States present, etc." Gouverneur Morris drew up this form, in hopes that men who would not sign as individuals would sign as State delegates. He gave it to Franklin to bring before the convention, thinking that, supported by him, it would have great weight.

As soon as Wilson had finished reading, Gorham rose and moved that the ratio of representation be changed from one for every forty thousand to one for every thirty thousand. No debate followed, and as Washington was about to put the question, he expressed a hope that the change would be made. The smallness of the proportion of representatives had always seemed to him an objectionable part of the plan.

The change was made, the form of ratification proposed by Morris was carried, the journals and papers deposited in the hands of the President, and towards evening the members

began to sign. Sixteen refused. Luther Martin had followed the examples of Yates and Lansing, had quit the convention and gone home to Maryland in disgust. Gerry feared a civil war; Randolph was convinced the consent of nine States could never be obtained; Mason was sure they were about to set up a monarchy or a tyranny, he did not know which, and none of them would sign. The rest of the sixteen carefully kept out of the room.

Washington was first to sign. When he had done so, the other delegates went up one after another in the geographical order of their States, beginning with the East. Hamilton alone signed for New York. As the Southern members were affixing their names, Franklin, looking towards the President's chair, on the back of which was cut a sun, said to those about him that painters had found it difficult to distinguish a rising from a setting sun. "I have," said he, "often and often in the course of the session, and the solicitude of my hopes and fears as to its issue, looked at that behind the President without being able to tell whether it was rising or setting. But now at length I know that it is a rising and not a setting sun."

When the convention rose that evening, it rose never to sit again.

As early as possible on the 18th of September, Major Jackson, the Secretary, set out for New York to lay the Constitution, the accompanying resolutions of the convention, and the letter of Washington before Congress. But that body was not to be the first to receive it. The legislature of Pennsylvania was in session, and to it the Constitution was read on the morning of the 18th. Copies were at once given to the printers in the city, and on the 19th, long before Major Jackson reached New York, the people of Philadelphia were reading it in the "Packet," the "Journal," and the "Gazetteer." September 20th, the documents were laid before Congress and the next day were published in the newspapers at New York.

Meanwhile such delegates to the convention as were members of Congress were hurrying back to New York; and well they might, for in Congress the enemies of the Constitution were many and strong. The delegation from New York opposed it to a man; and with them were joined Nathan Dane, William Grayson of Virginia, and R. H. Lee. Congress, they held, could give no countenance to the Constitution. That document was a plan for a new government. A new government could not be set up till the old Confederation had been pulled down, and to pull down the Confederation was not in the power of Congress, for that body could not destroy the government by whose authority it owed

existence. The answer was that Congress had sanctioned the convention, and that, if it could sanction the call for the convention it could sanction the work the convention did. But Lee and his followers would not listen to argument, and on September 26th he moved that a bill of rights and a long list of amendments should be added to the Constitution. He would have no Vice-President, more congressmen, more than a majority to pass an act regulating commerce, and a council of state to be joined with the President in making all appointments. Congress, however, would not seriously consider his amendments, and the next day it was moved that the Constitution be sent to the executives of the States, to be by them submitted to their respective legislatures. Instantly it was moved to add the words, "in order to be by them submitted to a convention of delegates to be chosen agreeably to the said resolution of the convention," and the motion was carried. It was now quite clear that neither party could have all that it wanted. The Federalists wished to send the Constitution to the States by the unanimous vote of Congress; but this they could not do so long as the delegates from New York held out. The anti-Federalists wished to send it to the States without one word of approval; but this they could not do unless the Federalists consented. When, therefore, Congress met on the 28th, each party gave up something. The anti-Federalists agreed to unanimity; the Federalists agreed to withhold all marks of approval. The amendments offered by Lee on the 26th, and the vote on the 27th, were then expunged from the journal, and the Constitution, the letter of Washington, and the resolution of the convention, were sent to the States. Twenty hours later the legislature of Pennsylvania called a State convention to consider the Constitution.

By the provisions of that instrument the ratification by nine States was to put it in force. Before the year closed Delaware and Pennsylvania and New Jersey had done so. Georgia and Connecticut followed in January, 1788. In February came Massachusetts with nine amendments. In April came Maryland, and in May South Carolina with four amendments. In June New Hampshire ratified with twelve amendments, and the list of nine States was complete. "The Good Ship Constitution," as the Federalists delighted to call that instrument, was now fairly launched. "The New Roof" was up, finished, and firmly supported by nine stout pillars, and, while the rejoicings over its completion were still going on, news came that it was to be upheld by two pillars more. Virginia and New York had ratified. Virginia offered twenty amendments

and a bill of rights; the amendments offered by New York numbered thirty-two.

Nowhere else had the contest been so long and so bitter. In some States the people disliked the Constitution because the liberty of the press was not secured, because there was to be no trial by jury in civil cases, because the name of God was not to be found in it, because there was to be no more rotation in office, because there was no bill of rights, because there was no religious qualification for office, because there were to be slave representation and the importation of slaves for one-and-twenty years. But in New York the Constitution was hated from beginning to end. Nor would the convention ratify it till the Federal members solemnly agreed that the States should be invited to a new Federal convention, to which it should be submitted for amendment. Clinton accordingly issued the call. But the States most happily did not favorably respond. Some malcontents of Pennsylvania did, indeed, hold a convention at Harrisburg in September, 1788, and there drew up some amendments which they referred to the convention called by New York. But of this action, also, nothing came. September 13th, 1788, Congress fixed upon the first Wednesday in January, 1789, as the day for choosing presidential electors, the first Wednesday in February for the meeting of the electors, and the first Wednesday in March as the day the Constitution was to become law. Five weeks later the Congress of the Confederation expired ignominiously for want of a quorum.

As yet the Constitution was without amendments. But the first session had not closed when Virginia sent in a petition begging Congress not to rise till action had been taken on those offered by the States. Madison accordingly drew up and presented to the House nine amendments, which are almost identically the nine suggested by the minority of the Pennsylvania convention in an address to their constituents. Of these in time the House made seventeen. Of the seventeen the Senate made twelve, and of the twelve, the States adopted ten, which were declared in force December 15th, 1791. Another was added in 1798, and still another in 1804; after which, though many were offered, none were accepted till the close of the Civil War.

The amendments proposed by the first Congress removed, in great part, the objections of the anti-Federalists, and the two States that were still refractory began to show signs of giving way. In November, 1789, North Carolina consented to join the Union. But six months passed, and Rhode Island held out. Then, when the United States was about to treat her as a foreign power, when the revenue laws were about to be enforced against her, when it seemed likely that a great exodus of her most worthy citizens would take place, the Federalists carried the ratification of the Constitution by a vote of 34 to 32. But the victory was not with them alone, for their opponents added a long bill of rights and twenty amendments, which, it was jeeringly said elsewhere, was more than one for each town in the State.

John Bach McMaster.

SUB PONDERE CRESCIT.

CAN this be he whose morning footstep trod
 O'er the green earth as in a regal home?
 Whose voice rang out beneath the sky's blue dome
 Like the high utterance of a youthful god?
 Now with wan looks and glance that seeks the sod
 Across the twilight fields I see him roam
 With sad face, lusterless as ocean-foam,
 And shoulders bowed, as shrinking from the rod.
 O, lift the old-time light within thine eyes!
 Let loose the pristine passion from thy tongue!
 Strength grows with burdens; make an end of sighs;
 Let thy thoughts soar again, their mates among;
 And as yon oriole's eager matins rise
 Abroad once more be thy strong anthem flung!

Thomas Wentworth Higginson.