JAMES BRYCE

THE AMERICAN COMMONWEALTH

VOL. 1: THE NATIONAL GOVERNMENT

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The American Commonwealth 1, J. Bryce
Jazzybee Verlag Jürgen Beck
86450 Altenmünster, Loschberg 9
Deutschland

ISBN: 9783849649944

www.jazzybee-verlag.de
admin@jazzybee-verlag.de

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CHAPTER I INTRODUCTORY

" What do you think of our institutions? " is the question addressed to the European traveler in the United States by every chance acquaintance. The traveler finds the question natural, for if he be an observant man his own mind is full of these institutions. But he asks himself why it should be in America only that he is so interrogated. In England one does not inquire from foreigners, nor even from Americans, their views on the English laws and government; nor does the Englishman on the Continent find Frenchmen or Germans or Italians anxious to have his judgment on their politics. Presently the reason of the difference appears. The institutions of the United States are deemed by inhabitants and admitted by strangers to be a matter of more general interest than those of the not less famous nations of the Old World. They are, or are supposed to be, institutions of a new type. They form, or are supposed to form, a symmetrical whole, capable of being studied and judged all together more profitably than the less perfectly harmonized institutions of older countries. They represent an experiment in the rule of the multitude, tried on a scale unprecedentedly vast, and the results of which everyone is concerned to watch. And yet they are something more than an experiment, for they are believed to disclose and display the type of institutions towards which, as by a law of fate, the rest of civilized mankind are forced to move, some with swifter, others with slower, but all with unresting feet.

When our traveler returns home he is again interrogated by the more intelligently curious of his friends. But what now strikes him is the inaptness of their questions. Thoughtful Europeans have begun to realize, whether with satisfaction or regret, the enormous and daily-increasing influence of the United States, and the splendor of the part

reserved for them in the development of civilization. But such men, unless they have themselves crossed the Atlantic, have seldom either exact or correct ideas regarding the phenomena of the New World. The social and political experiments of America constantly cited in Europe both as patterns and as warnings are hardly ever cited with due knowledge of the facts, much less with comprehension of what they teach; and where premises are misunderstood inferences must be unsound.

It is such a feeling as this, a sense of the immense curiosity of Europe regarding the social and political life of America, and of the incomparable significance of American experience, that has led and will lead so many travelers to record their impressions of the Land of the Future. Yet the very abundance of descriptions in existence seems to require the author of another to justify himself for adding it to the list.

I might plead that America changes so fast that every few years a new crop of books is needed to describe the new face which things have put on, the new problems that have appeared, the new ideas germinating among her people, the new and unexpected developments for evil as well as for good of which her established institutions have been found capable. I might observe that a new generation grows up every few years in Europe, which does not read the older books, because they are old, but may desire to read a new one. And if a further reason is asked for, let it be found in this, that during the last fifty years no author has proposed to himself the aim of portraying the whole political system of the country in its practice as well as its theory, of explaining not only the National Government but the State Governments, not only the Constitution but the party system, not only the party system but the ideas, temper, habits of the sovereign people. Much that is valuable has been written on particular parts or aspects of the subject, but no one seems to have tried to deal with it

as a whole; not to add that some of the ablest writers have been either advocates, often professed advocates, or detractors of democracy.

To present such a general view of the United States both as a Government and as a Nation is the aim of the present book. But in seeking to be comprehensive it does not attempt to be exhaustive. The effort to cover the whole ground with equal minuteness, which a penetrating critic — the late Karl Hillebrand — remarked upon as a characteristic fault of English writers, is to be avoided not merely because it wearies a reader, but because it leads the writer to descant as fully upon matters he knows imperfectly as upon those which his own tastes and knowledge qualify him to deal with. I shall endeavor to omit nothing which seems needed to make the political life and the national character and tendencies of the Americans intelligible to Europeans, and with this view shall touch upon some topics only distantly connected with government or politics. But there are also many topics, perhaps no more remote from the main subject, which I shall pass lightly over, either because they have been sufficiently handled by previous writers, or because I have no such minute acquaintance with them as would make my observations profitable. For instance, the common-school system of the United States has been so frequently and fully described in many easily accessible books that an account of it will not be expected from me. But American universities have been generally neglected by European observers, and may therefore properly claim some pages. The statistics of manufactures, agriculture, and commerce, the systems of railway finance and railway management, are full of interest, but they would need so much space to be properly set forth and commented on that it would be impossible to bring them within the present volumes, even had I the special skill and knowledge needed to distil from rows of figures the refined spirit of instruction. Moreover,

although an account of these facts might be made to illustrate the features of American civilization, it is not necessary to a comprehension of American character. Observations on the state of literature and religion are necessary, and I have therefore endeavored to convey some idea of the literary tastes and the religious habits of the people, and of the part which these play in forming and coloring the whole life of the country.

The book which it might seem natural for me to take as a model is the Democracy in America of Alexis de Tocqueville. It would indeed, apart from the danger of provoking a comparison with such an admirable master of style, have been an interesting and useful task to tread in his steps, and seek to do for the United States of 1888, with their sixty millions of people, what he did for the fifteen millions of 1832. But what I have actually tried to accomplish is something different, for I have conceived the subject upon quite other lines. To Tocqueville America was primarily a democracy, the ideal democracy, fraught with lessons for Europe, and above all for his own France. What he has given us is not so much a description of the country and people as a treatise, full of fine observation and elevated thinking, upon democracy, a treatise whose conclusions are illustrated from America, but are founded, not so much on an analysis of American phenomena, as on general and somewhat speculative views of democracy which the circumstances of France had suggested. Democratic government seems to me, with all deference to his high authority, a cause not so potent in the moral and social sphere as he deemed it; and my object has been less to discuss its merits than to paint the institutions and people of America as they are, tracing what is peculiar in them not merely to the sovereignty of the masses, but also to the history and traditions of the race, to its fundamental ideas, to its material environment. I have striven to avoid the temptations of the deductive method, and to present

simply the facts of the case, arranging and connecting them as best I can, but letting them speak for themselves rather than pressing upon the reader my own conclusions. The longer any one studies a vast subject, the more cautious in inference does he become. When I first visited America eighteen years ago, I brought home a swarm of bold generalizations. Half of them were thrown overboard after a second visit in 1881. Of the half that remained, some were dropped into the Atlantic when I returned across it after a third visit in 1883-84: and although the two later journeys gave birth to some new views, these views are fewer and more discreetly cautious than their departed sisters of 1870. I can honestly say that I shall be better pleased if readers of a philosophic turn find in this book matter on which they feel they can safely build theories for themselves, than if they take from it theories ready made.

To have dealt with the subject historically would have been profitable as well as pleasant, for the nature of institutions is best understood when their growth has been traced and illustrations adduced of their actual working. If I have made only a sparing use of this method, it has been from no want of love for it, but because a historical treatment would have seldom been compatible with my chief aim, that of presenting, within reasonable compass, a full and clear view of the facts of today. American history, of which Europeans know scarcely anything, may be wanting in color and romance when compared with the annals of the great states of the Old World; but it is eminently rich in political instruction. I hope that my American readers, who, if I am not mistaken, know the history of their country better than the English know that of England, will not suppose that I have ignored this instruction, but will allow for the omissions rendered necessary by the magnitude of the subject which I am trying to compress into two volumes. Similar reasons compel me to deal succinctly with

the legal aspects of the Constitution; but the lay reader may possibly deem this brevity a merit.

Even when limited by the exclusion of history and law, the subject remains so vast and complex as to make needful some explanation of the conception I have formed of it, and of the plan upon which the book has been constructed.

There are three main things that one wishes to know about a national commonwealth, viz. its framework and constitutional machinery, the methods by which it is worked, the forces which move it and direct its course. It is natural to begin with the first of these. Accordingly, I begin with the government; and as the powers of government are two-fold, being vested partly in the National or Federal authorities and partly in the States, I begin with the National government, whose structure presents less difficulty to European minds, because it resembles the national government in each of their own countries. Part I. therefore contains an account of the several Federal authorities, the President, Congress, the Courts of Law. It describes the relations of the National or central power to the several States. It discusses the nature of the Constitution as a fundamental supreme law, and shows how this stable and rigid instrument has been in a few points expressly, in many others tacitly and half-unconsciously modified.

Part II. deals similarly with the State Governments, examining the constitutions that have established them, the authorities which administer them, the practical working of their legislative bodies. And as local government is a matter of State regulation, there is also given some account of the systems of rural and city government which have been created in the various States, and which have, rural government for its merits and city government for its faults, become the theme of copious discussion among students of American institutions.

(Part III.) The whole machinery, both of national and of State governments, is worked by the political parties. Parties have been organized far more elaborately in the United States than anywhere else in the world, and have passed more completely under the control of a professional class. The party organizations in fact form a second body of political machinery, existing side by side with that of the legally constituted government, and scarcely less complicated. Politics, considered not as the science of government, but as the art of winning elections and securing office, has reached in the United States a development surpassing in elaborateness that of Britain or France as much as the methods of those countries surpass the methods of Servia or Romania. Part III. contains a sketch of this party system, and of the men who "run" it, topics which deserve and would repay a fuller examination than they have yet received even in America, or than my limits permit me to bestow.

(Part IV.) The parties, however, are not the ultimate force in the conduct of affairs. Behind and above them stands the people. Public opinion, that is the mind and conscience of the whole nation, is the opinion of persons who are included in the parties, for the parties taken together are the nation; and the parties, each claiming to be its true exponent, seek to use it for their purposes. Yet it stands above the parties, being cooler and larger minded than they are; it awes party leaders and holds in check party organizations. No one openly ventures to resist it. It determines the direction and the character of national policy. It is the product of a greater number of minds than in any other country, and it is more indisputably sovereign. It is the central point of the whole American polity. To describe it, that is, to sketch the leading political ideas, habits, and tendencies of the American people, and show how they express themselves in action, is the most difficult

and also the most vital part of my task; and to this task the twelve chapters of Part IV. are devoted.

(Part V.) As the descriptions given and propositions advanced in treating of the party system and of public opinion are necessarily general, they seem to need illustration by instances drawn from recent American history. I collect some such instances in Part V., and place there a discussion of several political questions which lie outside party politics, together with some chapters in which the attempt is made to estimate the strength and weakness of democratic government as it exists in the United States, and to compare the phenomena which it actually shows with those which European speculation has attributed to democracy in general.

(Part VI.) At this point the properly political sections of the book end. But there are certain non-political institutions, certain aspects of society, certain intellectual or spiritual forces, which count for so much in the total life of the country, in the total impression which it makes and the hopes for the future which it raises, that they cannot be left unnoticed. These, or rather such of them as are of most general interest, and have been least understood in Europe, will be found briefly treated in Part VI. In the view which I take of them, they are all germane, though not all equally germane, to the main subject of the book, which is the character, temper, and tendencies of the American nation as they are expressed, primarily in political and social institutions, secondarily in literature and manners.

This plan involves some repetition. But an author who finds himself obliged to choose between repetition and obscurity ought not to doubt as to his choice. Whenever it has been necessary to trace a phenomenon to its source, or to explain the connection between several phenomena, I have not hesitated, knowing that one must not expect a reader to carry in his mind all that has been told already, to

re-state a material fact, or reinforce a view which gives to the facts what I conceive to be their true significance.

It may be thought that a subject of this great compass ought, if undertaken at all, to be undertaken by a native American. No native American has, however, undertaken it. Such a writer would doubtless have many advantages over a stranger. Yet there are two advantages which a stranger, or at least a stranger who is also an Englishman, with some practical knowledge of English politics and English law, may hope to secure.

He is struck by certain things which, a native does not think of explaining, because they are too obvious; and whose influence on politics or society, one to whom they seem part of the order of nature forgets to estimate. And the stranger finds it easier to maintain a position of detachment, detachment not only from party prejudice, but from those prepossessions in favor of persons, groups, constitutional dogmas, national pretensions, which a citizen can scarcely escape except by falling into that attitude of impartial cynicism which sours and perverts the historical mind as much as prejudice itself. He who regards a wide landscape from a distant height sees its details imperfectly, and must unfold his map in order to make out where each village lies, and how the roads run from point to point. But he catches the true perspective of things better than if he were standing among them. The great features of the landscape, the valleys, slopes, and mountains, appear in their relative proportion: he can estimate the height of the peaks and the breadth of the plains. So one who writes of a country not his own may turn his want of familiarity with details to good account if he fixes his mind strenuously on the main characteristics of the people and their institutions, while not forgetting to fill up gaps in his knowledge by frequent reference to native authorities. My own plan has been first to write down what struck me as the salient and dominant facts, and then to test, by

consulting American friends and by a further study of American books, the views which I had reached. To be non-partisan, as I trust to have been, in describing the politics of the United States, is not difficult for a European, especially if he has the good fortune to have intimate friends in both the great American parties. To feel and show no bias in those graver and more sharply accentuated issues which divide men in Europe, the issues between absolutism, oligarchy, and democracy; between strongly unified governments and the policy of decentralization, this is a harder task, yet a not less imperative duty. This much I can say, that no fact has been either stated or suppressed, and no opinion put forward, with the purpose of serving any English party -doctrine or party-policy, or in any way furnishing arguments for use in any English controversy. The admirers and the censors of popular government are equally likely to find in the present treatise materials suited to their wishes; and in many cases, if I may judge from what has befallen some of my predecessors, they will draw from these materials conclusions never intended by the author.

Few things are more difficult than to use aright arguments founded on the political experience of other countries. As the chief practical use of history is to deliver us from plausible historical analogies, so a comprehension of the institutions of other nations enables us to expose sometimes the ill-grounded hopes, sometimes the empty fears, which loose reports about those nations generate. Direct inferences from the success or failure of a particular constitutional arrangement or political usage in another country are rarely sound, because the conditions differ in so many respects that there can be no certainty that what flourishes or languishes under other skies and in another soil will likewise flourish or languish in our own. Many an American institution would bear different fruit if transplanted to England, as there is hardly an English

institution which has not undergone, like the plants and animals of the Old World, some change in America. The examination and appraisement of the institutions of the United States is no doubt full of instruction for Europe, full of encouragement, full of warning; but its chief value lies in what may be called the laws of political biology which it reveals, in the new illustrations and enforcements it supplies of general truths in social and political science, truths some of which were perceived long ago by Plato and Aristotle, but might have been forgotten had not America poured a stream of new light upon them. Now and then we may directly claim transatlantic experience as accrediting or discrediting some specific constitutional device or the policy of some enactment. But even in these cases he who desires to rely on the results shown in America must first satisfy himself that there is such a parity of conditions and surroundings in respect to the particular matter as justifies him in reasoning directly from ascertained results there to probable results in his own country.

It is possible that these pages, or at least those of them which describe the party system, may produce on European readers an impression which I neither intend nor desire. They may set before him a picture with fewer lights and deeper shadows than I have wished it to contain. Twenty years ago I travelled in Iceland with two friends. We crossed the great Desert by a seldom trodden track, encountering, during two months of late autumn, rains, tempests, snow-storms, and other hardships too numerous to recount. But the scenery was so grand and solemn, the life so novel, the character of the people so attractive, the historic and poetic traditions so inspiring, that we returned full of delight with the marvelous isle. When we expressed this enchantment to our English friends, we were questioned about the conditions of travel, and forced to admit that we had been frozen and starved, that we had sought sleep in swamps or on rocks, that the Icelanders

lived in huts scattered through a wilderness, with none of the luxuries and few even of the comforts of life. Our friends passed over the record of impressions to dwell on the record of physical experiences, and conceived a notion of the island totally different from that which we had meant to convey. We perceived too late how much easier it is to state tangible facts than to communicate impressions. If I may attempt to apply the analogy to the United States and their people, I will say that they make on the visitor an impression so strong, so deep, so fascinating, so inwoven with a hundred threads of imagination and emotion, that he cannot hope to reproduce it in words, and to pass it on undiluted to other minds. With the broad facts of politics it is otherwise. These a traveler can easily set forth, and is bound in honesty to set forth, knowing that in doing so he must state much that is sordid, much that will provoke unfavorable comment. The European reader grasps these tangible facts, and, judging them as though they existed under European conditions, draws from them conclusions disparaging to the country and the people. What he probably fails to do, because this is what the writer is most likely to fail in enabling him to do, is to realize the existence in the American people of a reserve of force and patriotism more than sufficient to sweep away all the evils which are now tolerated, and to make the politics of the country worthy of its material grandeur and of the private virtues of its inhabitants. America excites an admiration which must be felt upon the spot to be understood. The hopefulness of her people communicates itself to one who moves among them, and makes him perceive that the graver faults of politics may be far less dangerous there than they would be in Europe. A hundred times in writing this book have I been disheartened by the facts I was stating: a hundred times has the recollection of the abounding strength and vitality of the nation chased away these tremors.

There are other risks to which such a book as this is necessarily exposed. There is the risk of supposing that to be generally true which the writer has himself seen or been told, and the risk of assuming that what is now generally true is likely to continue so. Against the former of these dangers he who is forewarned is forearmed: as to the latter I can but say that whenever I have sought to trace a phenomenon to its causes I have also sought to inquire whether these causes are likely to be permanent, a question which it is well to ask even when no answer can be given. I have attributed less to the influence of democracy than most of my predecessors have done, believing that explanations drawn from a form of government, being easy and obvious, ought to be cautiously employed. Someone has said that the end of philosophy is to diminish the number of causes, as the aim of chemistry is to reduce that of the elemental substances. But it is an end not to be hastily pursued. A close analysis of social and political phenomena often shows that causes are more complex than had at first appeared, and that that which had been deemed the main cause is active only because some inconspicuous, but not less important, condition is also present. The inquisition of the forces which move society is a high matter; and even where certainty is unattainable it is some service to science to have determined the facts and correctly stated the problems, as Aristotle remarked long ago that the first step in investigation is to ask the right questions.

I have, however, dwelt long enough upon the perils of the voyage: it is now time to put to sea. Let us begin with a survey of the national government, examining its nature and describing the authorities which compose it.

CHAPTER II. THE NATION AND THE STATES

A FEW years ago the American Protestant Episcopal Church was occupied at its triennial Convention in revising its liturgy. It was thought desirable to introduce among the short sentence prayers a prayer for the whole people; and an eminent New England divine proposed the words '' Lord, bless our nation." Accepted one afternoon on the spur of the moment, the sentence was brought up next day for reconsideration, when so many objections were raised by the laity to the word "nation," as importing too definite a recognition of national unity, that it was dropped, and instead there were adopted the words " O Lord, bless these United States."

To Europeans who are struck by the patriotism and demonstrative national pride of their transatlantic visitors, this fear of admitting that the American people constitute a nation seems extraordinary. But it is only the expression on its sentimental side of the most striking and pervading characteristic of the political system of the country, the existence of a double government, a double allegiance, a double patriotism. America — I call it America (leaving out of sight South and Central America, Canada, and Mexico), in order to avoid using at this stage the term United States — America is a Commonwealth of commonwealths, a Republic of republics, a State which, while one, is nevertheless composed of other States even more essential to its existence than it is to theirs.

This is a point of so much consequence, and so apt to be misapprehended by Europeans, that a few sentences may be given to it.

When within a large political community smaller communities are found existing, the relation of the smaller to the larger usually appears in one or other of the two following forms.

One form is that of a League, in which, a number of political bodies, be they monarchies or republics, are bound together so as to constitute for certain purposes, and especially for the purpose of common defense, a single body. The members of such a composite body or league are not individual men but communities. It exists only as an aggregate of communities, and will therefore vanish so soon as the communities which compose it separate themselves from one another. Moreover it deals with and acts upon these communities only. With the individual citizen it has nothing to do, no right of taxing him, or judging him, or making laws for him, for in all these matters it is to his own community that the allegiance of the citizen is due. A familiar instance of this form is to be found in the Germanic Confederation as it existed from 1815 till 1866. The Hanseatic League in mediaeval Germany, the Swiss Confederation down till the present century, are other examples.

In the second form, the smaller communities are mere subdivisions of that greater one which we call the Nation. They have been created, or at any rate they exist, for administrative purposes only. Such powers as they possess are powers delegated by the nation, and can be overridden by its will. The nation acts directly by its own officers, not merely on the communities, but upon every single citizen; and the nation, because it is independent of these communities, would continue to exist were they all to disappear. Examples of such minor communities may be found in the departments of modern France and the counties of modern England. Some of the English counties were at one time, like Kent or Dorset, independent kingdoms or tribal districts; some, like Bedfordshire, were

artificial divisions from the first. All are now merely local administrative areas, the powers of whose local authorities have been delegated from the national government of England. The national government does not stand by virtue of them, does not need them. They might all be abolished or turned into wholly different communities without seriously affecting its structure.

The American Federal Republic corresponds to neither of these two forms, but may be said to stand between them. Its central or national government is not a mere league, for it does not wholly depend on the component communities which we call the States. It is itself a commonwealth, as well as a union of commonwealths, because it claims directly the obedience of every citizen, and acts immediately upon him through its courts and executive officers. Still less are its minor communities the States, mere subdivisions of the Union, mere creatures of the national government, like the counties of England or the departments of France. They have over their citizens an authority which is their own, and not delegated by the central government. They have not been called into being by that government. They — that is, the older ones among them — existed before it. They could exist without it.

The central or national government and the State governments may be compared to a large building and a set of smaller buildings standing on the same ground, yet distinct from each other. It is a combination sometimes seen where a great church has been erected over more ancient homes of worship. First the soil is covered by a number of small shrines and chapels, built at different times and in different styles of architecture, each complete in itself. Then over them and including them all in its spacious fabric there is reared a new pile with its own loftier roof, its own walls, which may perhaps rest on and incorporate the walls of the older shrines, its own internal plan. The identity of the earlier buildings has however not

been obliterated; and if the later and larger structure were to disappear, a little repair would enable them to keep out wind and weather, and be again what they once were, distinct and separate edifices. So the American States are now all inside the Union, and have all become subordinate to it. Yet the Union is more than an aggregate of States, and the States are more than parts of the Union. It might be destroyed, and they, adding some further attributes of power to those they now possess, might survive as independent self-governing communities.

This is the cause of that immense complexity which startles and at first bewilders the student of American institutions, a complexity which makes American history and current American politics difficult to the European, who finds in them phenomena to which his own experience supplies no parallel. There are two loyalties, two patriotisms; and the lesser patriotism, as the incident in the Episcopal Convention shows, is jealous of the greater. There are two governments, covering the same ground, commanding, with equally direct authority, the obedience of the same citizen.

The casual reader of American political intelligence in European newspapers is not struck by this phenomenon, because State politics and State affairs generally are seldom noticed in Europe. Even the traveler who visits America does not realize its importance, because the things that meet his eye are superficially similar all over the continent, and that which Europeans call the machinery of government is in America conspicuous chiefly by its absence. But a due comprehension of this double organization is the first and indispensable step to the comprehension of American institutions: as the elaborate devices whereby the two systems of government are kept from clashing are the most curious subject of study which those institutions present.

How did so complex a system arise, and what influences have molded it into its present form? This is a question which cannot be answered without a few words of historical retrospect. I am anxious not to stray far into history, because the task of describing American institutions as they now exist is more than sufficiently heavy for one writer and one book. But a brief and plain outline of the events which gave birth to the Federal system in America, and which have nurtured national feeling without extinguishing State feeling, seems the most natural introduction to an account of the present Constitution, and may dispense with the need for subsequent explanations and digressions.

CHAPTER III. THE ORIGIN OF THE CONSTITUTION

When in the reign of George III. troubles arose between England and her North American colonists, there existed along the eastern coast of the Atlantic thirteen little communities, the largest of which (Virginia) had not more than half a million of free people, and the total population of which did not reach three millions. All owned allegiance to the British Crown, all, except Connecticut and Rhode Island, received their governors from the Crown; in all, causes were carried by appeal from the colonial courts to the English Privy Council. Acts of the British Parliament ran there, as they now run in the British colonies, whenever expressed to have that effect, and could over-rule such laws as the colonies might make. But practically each colony was a self-governing commonwealth, left to manage its own affairs with scarcely any interference from home. Each had its legislature, its own statutes adding to or modifying the English common law, its local corporate life and traditions, with no small local pride in its own history and institutions, superadded to the pride of forming part of the English race and the great free British realm. Between the various colonies there was no other political connection than that which arose from their all belonging to this race and realm, so that the inhabitants of each enjoyed in everyone of the others the rights and privileges of British subjects.

When the oppressive measures of the home government roused the colonies, they naturally sought to organize their resistance in common. Singly they would have been an easy prey, for it was long doubtful whether even in combination they could make head against regular armies. A congress of

delegates from nine colonies held at New York in 1765 was followed by another at Philadelphia in 1774, at which twelve were represented, which called itself Continental (for the name American had not yet become established), and spoke in the name of " the good people of these colonies," the first assertion of a sort of national unity among the English of America. This congress, in which from 1775 onwards all the colonies were represented, was a merely revolutionary body, called into existence by the war with the mother country. But in 1776 it declared the independence of the colonies, and in 1777 it gave itself a new legal character by framing the " Articles of Confederation and Perpetual Union," whereby the thirteen States (as they then called themselves) entered into a " firm league of friendship " with each other, offensive and defensive, while declaring that " each State retains its sovereignty, freedom, and independence, and every power, 'jurisdiction, and right which is not by this Confederation expressly delegated to the United States in Congress assembled."

This Confederation, which was not ratified by all the States till 1781, was rather a league than a national government, for it possessed no central authority except an assembly in which every State, the largest and the smallest alike, had one vote, and this assembly had no jurisdiction over the individual citizens. There was no Federal executive, no Federal judiciary, no means of raising money except by the contributions of the States, contributions which they were slow to render, no power of compelling the obedience either of States or individuals to the commands of Congress. The plan corresponded to the wishes off the colonists, who did not yet deem themselves a nation, and who in their struggle against the power of the British Crown were resolved to set over themselves no other power, not even one of their own choosing. But it worked badly even while the struggle lasted, and after the

immediate danger from England had been removed by the peace of 1783, it worked still worse, and was in fact, as Washington said, no better than anarchy. The States were indifferent to Congress and their common concerns, so indifferent that it was found difficult to procure a quorum of States for weeks or even months after the day fixed for meeting. Congress was impotent, and commanded respect as little as obedience. Much distress prevailed in the trading States, and the crude attempts which some legislatures made to remedy the depression by emitting inconvertible paper, by constituting other articles than the precious metals legal tender, and by impeding the recovery of debts, aggravated the evil, and in several instances led to seditious outbreaks. The fortunes of the country seemed at a lower ebb than even during the war with England.

Sad experience of their internal difficulties, and of the contempt with which foreign governments treated them, at last produced a feeling that some firmer and closer union was needed. A convention of delegates from five States met at Annapolis in Maryland in 1786 to discuss methods of enabling Congress to regulate commerce, which suffered grievously from the varying and often burdensome regulations imposed by the several States. It drew up a report which condemned the existing state of things, declared that reforms were necessary, and suggested a further general convention in the following year to consider the condition of the Union and the needed amendments in its Constitution. Congress, to which the report had been presented, approved it, and recommended the States to send delegates to a convention, which should "revise the Articles of Confederation, and report to Congress and the several legislatures such alterations and provisions therein as shall, when agreed to in Congress and confirmed by the States, render the Federal Constitution adequate to the exigencies of government and the preservation of the Union."

The Convention thus summoned met at Philadelphia on the 14th May 1787, became competent to proceed to business on May 25th, when seven States were represented, and chose George Washington to preside. Delegates attended from every State but Rhode Island, and among these delegates was to be found nearly all the best intellect and the ripest political experience the United States then contained. The instructions they had received limited their authority to the revision of the Articles of Confederation and the proposing to Congress and the State legislatures such improvements as were required therein. But with admirable boldness, boldness doubly admirable in Englishmen and lawyers, the majority ultimately resolved to disregard these restrictions, and to prepare a wholly new Constitution, to be considered and ratified neither by Congress nor by the State legislatures, but by the peoples of the several States.

This famous assembly, which consisted of fifty-five delegates, thirty-nine of whom signed the Constitution which it drafted, sat nearly five months, and expended upon its work an amount of labor and thought commensurate with the magnitude of the task and the splendor of the result. The debates were secret, a proof of the confidence reposed in the members; and it was well that they were secret, for criticism from without might have imperiled a work which seemed repeatedly on the point of breaking down, so great were the difficulties encountered from the divergent sentiments and interests of different parts of the country, as well as of the larger and smaller States.

The records of the Convention were left in the hands of Washington, who in 1796 deposited them in the State Department. In 1819 they were published along with the notes of the discussions kept by James Madison (afterwards twice President), who had proved himself one of the most

useful members of the body. From these official records and notes the history of the Convention has been written.

It is hard to-day, even for Americans, to realize how enormous those difficulties were. The Convention had not only to create de novo, on the most slender basis of pre-existing national institutions, a national government for a widely scattered people, but they had in doing so to respect the fears and jealousies and apparently irreconcilable interests of thirteen separate commonwealths, to all of whose governments it was necessary to leave a sphere of action wide enough to satisfy a deep-rooted local sentiment, yet not so wide as to imperil national unity. Well might Hamilton say: " The establishment of a Constitution, in time of profound peace, by the voluntary consent of a whole people, is a prodigy to the completion of which I look forward with trembling anxiety." And well might he quote the words of David Hume (Essays; "The Rise of Arts and Sciences"): " To balance a large State or society, whether monarchical or republican, on general laws, is a work of so great difficulty that no human genius, however comprehensive, is able by the mere dint of reason and reflection to effect it. The judgments of many must unite in the work: experience must guide their labor; time must bring it to perfection; and the feeling of inconveniences must correct the mistakes which they inevitably fall into in their first trials and experiments." It was even a disputable point whether the colonists were already a nation or only the raw material out of which a nation might be formed. There were elements of unity, there were also elements of diversity. All spoke the same language. All, except a few descendants of Dutchmen and Swedes in New York and Delaware, some Germans in Pennsylvania, some children of French Huguenots in New England and the middle States, belonged to the same race. All, except some Roman Catholics in Maryland, professed the Protestant religion. All were governed by the same English Common Law, and

prized it not only as the bulwark which had sheltered their forefathers from the oppression of the Stuart kings, but as the basis of their more recent claims of right against the encroachments of George III. and his colonial officers. In ideas and habits of life there was less similarity, but all were republicans, managing their affairs by elective legislatures, attached to local self-government, and animated by a common pride in their successful resistance to England, which they then hated with a true family hatred, a hatred to which her contemptuous treatment of them added a sting.

On the other hand their geographical position made communication very difficult. The sea was stormy in winter; the roads were bad; it took as long to travel by land from Charleston to Boston as to cross the ocean to Europe, nor was the journey less dangerous. The wealth of some States consisted in slaves, of others in shipping; while in others there was a population of small farmers, characteristically attached to old habits. Manufactures had hardly begun to exist. The sentiment of local independence showed itself in intense suspicion of any external authority; and most parts of the country were so thinly peopled that the inhabitants had lived practically without any government, and thought that in creating one they would be forging fetters for themselves. But while these diversities and jealousies made union difficult, two dangers were absent which have beset the framers of constitutions for other nations. There were no reactionary conspirators to be feared, for everyone prized liberty and equality. There were no questions between classes, no animosities against rank and wealth, for rank and wealth did not exist.

It was inevitable under such circumstances that the Constitution, while aiming at the establishment of a durable central power, should pay great regard to the existing centrifugal forces. It was and remains what its authors styled it, eminently an instrument of compromises;

it is perhaps the most successful instance in history of what a judicious spirit of compromise may effect. Yet out of the points which it was for this reason obliged to leave unsettled there arose fierce controversies, which after two generations, when accumulated irritation and incurable misunderstanding had been added to the force of material interests, burst into flame in the War of Secession.

The draft Constitution was submitted, as its last article provided, to conventions of the several States (i.e. bodies specially chosen by the people for the purpose) for ratification. It was to come into effect as soon as nine States had ratified, the effect of which would have been, in case the remaining States, or any of them, had rejected it, to leave such States standing alone in the world, since the old Confederation was of course superseded and annihilated. Fortunately all the States did eventually ratify the new Constitution, but two of the most important, Virginia and New York, did not do so till the middle of 1788, after nine others had already accepted it; and two. North Carolina and Rhode Island, at first refused, and only consented to enter the new Union more than a year later, when the government it had created had already come into operation.

There was a struggle everywhere over the adoption of the Constitution, a struggle presaging the birth of the two great parties that for many years divided the American people. The chief source of hostility was the belief that a strong central government endangered both the rights of the States and the liberties of the individual citizen. Freedom, it was declared, would perish, freedom rescued from George III. would perish at the hands of her own children. Consolidation (for the word centralization had not yet been invented) would extinguish the State governments and the local institutions they protected. The feeling was very bitter, and in some States, notably in Massachusetts and New York, the majorities were dangerously narrow.