

## Editor's report

# Politics and Impeachment-I

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NEW YORK — The Constitution of the United States, now the classic formula for truly democratic government, was the creation of 55 patriots who assembled in Philadelphia in 1787 and took only a little over four months to agree on its provisions. George Washington was presiding officer at the historic convention.



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What has been astonishing students of government ever since is the visionary genius of the 55 delegates. William Gladstone, Great Britain's great prime minister and statesman, was typical when he said exactly 100 years later that he considered the Constitution to be the most remarkable political advance ever accomplished at one time by the human intellect.

The patriots who assembled in Philadelphia after the War of Independence obviously were inspired by the freedom ideals of their hard-won war.

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Those ideals still thunder in the grandly eloquent — almost Biblical — preamble to their finished work, as follows:

**"We, the people of the United States, in order to form a more perfect Union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America."**

Underlying the seven remarkable articles which follow, in which all the basic powers and duties of our federal government are spelled out, was something more than inspiration. There also was a very real fear. It was a fear which has to be understood if the greatness of what was accomplished in Philadelphia in 1787 is to be comprehended fully — and if the impeachment process dominating today's news is to be seen in proper perspective.

That fear was the possibility that some day, somehow, this country might again become subject to another all-powerful king. The spectre of George III and the royal injustices which had caused the English colonies of America to revolt haunted the men at Philadelphia. They were determined to prevent any future dictatorship here.

Out of this fear was conceived the notion of a system which automatically would work against the concentration of too much power, especially in a leader. The notion was translated into our present government apparatus of three fundamental divisions — the executive, the legislative and the judiciary — each with specific powers to restrain excesses by the others.

Thus the President can both propose new laws for enactment by Congress and veto others enacted against his wishes. Congress can override his veto if enough voting strength can be mustered. And the courts rule on the validity of all legislation, always subject to correction by constitutional amendments approved by the people themselves.

This system of checks and balances has served its purpose well for almost 200 years. It has done so, to a considerable degree, because of the punitive measures agreed upon by the far-seeing authors of our national Constitution. And the most remarkable of these was the wholly-innovative device of impeachment, seldom used but always available as a final resort.

Article II, Section IV of the Constitution sets forth the device in deceptively simple language. It declares:

The President, Vice President, and all civil officers of the United States, shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors."

The procedures to be followed are as specific as the grounds for them were left vague. The House of Representatives, first, must decide by majority vote to adopt a bill of charges against an accused official. By adopting such a bill, or indictment, the House impeaches the defendant — meaning it considers that person suspect enough to merit a trial on fitness to hold office.

When an official is impeached in this fashion by the House — and impeachment is synonymous with indictment, not conviction or ouster — the case goes to the Senate. SITTING AS BOTH JUDGE AND JURY, the Senate then must rule whether to find the defendant guilty or innocent of the charges. A two-thirds vote is required to convict.

All this may be elemental to legalists familiar with details of the Constitution, but my mail indicates that many Americans still do not fully understand it. And what they seem to understand least is the quite extraordinary nature of the impeachment process itself, and the reasons for it.

The key is politics. Those astute men at Philadelphia who had just gone through a bitterly divisive war realized that future differences of political opinion could endanger the country when its leadership became challenged unreasonably. So they did everything possible in an almost-impossible quandary to minimize that danger.

Widely-read articles on impeachment have overstressed the similarities between the impeachment process and the normal judicial system. The similarities are there, but impeachment is NOT by any means the same as a court proceeding. It is something quite unique.

Impeachments, first of all, are exempted from the Constitutional requirement of trial by jury. Jury trials require a unanimity which politics makes impossible, in either house of Congress. In the case of a Senate finding of guilt following a House impeachment, or indictment, the defendant is simply and automatically removed from office. He has no appeal from the dismissal but subsequent civil court action is required to exact further penalties.

Delegates to the Philadelphia convention gave the whole matter deep thought. They considered for example, turning impeachment charges over to the Supreme Court for resolution. This was rejected, primarily on the grounds that the judges were so few in number the court could be corrupted.

Also voted down on similar grounds was a proposal by Alexander Hamilton to leave impeachment decisions to a special court made up of the chief justices of the 13 original states. An entirely extra-judicial procedure ultimately was seen as vital. Yet one where politics would be minimal.

The solution already has been described, but not explained. Recognizing that political interests were bound to be involved in charges against the nation's highest officials, the authors of the Constitution left it to a purely political body to make them — namely the lower house of Congress directly elected by and responsible to the people.

As an intended decisive safeguard that politics would not triumph over justice, however, it was agreed that the non-elected members of our original Senate should be the body for deciding if the charges were valid. It was successfully argued that the Senate would be large and diverse enough to wash out prejudice one way or another — especially with the two-thirds vote provision.

The main point was something else. As envisioned and created by the men in Philadelphia, the U.S. Senate was to be something far different than it is now. Its — two from each of the 13 states — members were selected not by public vote but were designated by the various state legislatures. They were supposed to be the worthiest, most responsible and distinguished citizens available — essentially above the turmoil and combat of the political arena.

Recapturing the Philadelphia vision is vital to understanding. The ultimate tribunal in impeachment cases was to be 26 of the nation's most notable men, responsible only to their proven high conscience and unconcerned with public pressures. Men like Washington, Adams, Jefferson, Hamilton, Benjamin Franklin and the others who drew up the Constitution itself.

It was one noble vision of 1787 which hasn't worked out as intended. Even before the 17th Amendment providing for election of senators by direct popular vote was ratified in 1913, Senators had long since proven that playing politics is all but irresistible to anybody engaged in the operations of government.

How this happened, and is happening right now, will be discussed in a second column on impeachment here next Sunday. Watch for it.