

Wisconsin and Its Constitution

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WISCONSIN AND ITS CONSTITUTION

The constitution of Wisconsin is historically developed from the federal constitution, and the basis therefor, that is, the constitution of the United States, furnished the model upon which ours is built, especially the Bill of Rights. Besides having the federal constitution for a model and framework to follow, the builders of our state constitution were guided by the display of experience and ideas embodied in the Magna Charta, colonial charters, the Declaration of Independence, the great Ordinance of 1787, and various state constitutions already adopted.

When our constitution was made, we were favored with a great advantage in not being the first to engage in such a work and thereby profited at the expense of others.

I believe it a true fact that the vast majority of the people of our state know the object and purpose of the Magna Charta, the Declaration of Independence and what it contains; a detailed effect of its influence, in a discussion, is unnecessary. The recognized independence of the United States caused a great study and familiarity of the Declaration with every American.

Still another great determining factor in the moulding of our constitutional ideas, whose influence is much less known because it has become obsolete only in name, is the Ordinance of 1787. These two forfeited great ideas to our present written state constitution. It was said by Mr. Hoar, speaking at a centennial celebration: "That he who knows his country's history, and considers wisely the sources of her glory, there is nothing in all these which will so stir his heart as two faded and time-soiled papers, whose characters were traced by the hand of the fathers a hundred years ago. They are the original records of the Acts which devoted this nation forever to equality, to religion and to liberty. One is the Declaration of Independence, the other the Ordinance of 1787."

At the time of the organization of the Northwest Territory there had prevailed for many years a wave of true democracy and it reached a great climax in the Revolutionary War, and an acknowledgment of this fact may be found in the introduction of the Ordinance: "That the following Articles shall be considered as Articles of compact between the original states, and the people and states in said territory, and forever remain unalterable, unless by common consent".

The first article granted the freedom of religious worship, the first time such a clause had been inserted in any written governmental document after we gained our independence. This fact alone would distinguish it as an important piece of legislation.

But other clauses of importance are to be found. Article Two provided for the benefits of the writ of Habeas Corpus, trial by jury, proportionate representation, and of judicial proceedings according to the course of the Common Law, bail for all offenses, excepting capital crimes; no cruel or unusual punishments; no deprivation of liberty or property, but by the judgment of proper authority; compensation for services rendered or property taken for public purposes; no interference with bona fide contracts. Article Three gave birth to a free public school system—education in religion, morals, and knowledge, and Article Six provided that slavery shall be forever prohibited in the Northwest.

The spirit which made the framers of the Ordinance of 1787 declare "that these provisions shall forever remain unalterable except by common consent," was the same spirit which predominated in the Wisconsin pioneers when they applied for admission into the Union, and after granting of the same, called a state constitutional convention, December 15, 1847, and the present constitution, with a few alterations through the years passed, was the result of their labors.

All through our constitution may be found traces of the great Ordinance. Even in the very Second Section of the Declaration of Rights we find, "there shall be neither slavery nor involuntary servitude, otherwise than for the punishment of crime whereof the party shall have been duly convicted"; Section Six, "Excessive bail shall not be required, nor shall excessive fines be imposed, nor cruel and unusual punishment inflicted"; Section Thirteen, "the property of no person shall be taken for public use, without just compensation therefor"; Section Eighteen, "the right of every man to worship Almighty God according to the dictates of his own conscience, shall never be infringed". By comparison then we can readily see the effect.

One hundred and thirty years have passed since the Ordinance was written and the phrase passes from lip to lip: What changes? We have since that time adopted a permanent written constitution which has divided our state government into three

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branches, legislative, executive, and judicial — modeled after our national plan. In Wisconsin we have approximately five thousand pages of statutes; hundreds of courts to grind out laws for us, and thousands of lawyers to defend and offend us therein; all these collateral factors working in apparent harmony, trying at least, to carry out the provisions of our state constitution.

Wisconsin, as a part of the historic Northwest, is now recognized as one of the chief seats of political interest in the American Union. It is here that political power is fast centering; here that the largest measure of constitutional progress and prosperity is found; here that a proportionate strength of our nation has already generated; here that the most intricate problems of statesmanship have been solved. In this ascendancy of the Northwest, Wisconsin has been relied upon to play an important part and she has fulfilled her duty; and at present imbued with the spirit of twentieth-century progress, she is destined to become one of America's greatest states.

H. A. DOYLE, '18.