CONSTITUTIONAL CONVENTION OF 1787

Over the last two centuries, the work of the Constitutional Convention and the motives of the Founding Fathers have been analyzed under a number of different ideological auspices. To one generation of historians, the hand of God was moving in the assembly; under a later dispensation, the dialectic replaced the Deity: "relationships of production" moved into the niche previously reserved for Love of Country. Thus, in counterpoint to the Zeitgeist, the Framers have undergone miraculous metamorphoses: at one time acclaimed as liberals and bold social engineers, today they appear in the guise of sound Burkean conservatives.

The "Fathers" have thus been admitted to our best circles; the revolutionary generation that confiscated all Tory property in reach and populated New Brunswick with outlaws has been converted into devotees of "consensus" and "prescriptive rights." Indeed, there is one fundamental truth about the Founding Fathers that every generation of Zeitgeisters has done its best to obscure: they were first and foremost superb democratic politicians. They were political men—not metaphysicians, disembodied conservatives, or agents of history—and, as recent research into the nature of American politics in the 1780s confirms, they were required to work within a democratic framework. The Philadelphia Convention was not a council of Platonic guardians working within a manipulative, predemocratic framework; it was a nationalist reform caucus which had to operate with great delicacy and skill in a political cosmos full of enemies to achieve the one definitive goal—popular approbation.

Perhaps the time has come, to borrow WALTON HAMILTON's fine phrase, to promote the Framers from immortality to mortality, to give them credit for their magnificent demonstration of the art of democratic politics: they made history and they did it within the limits of consensus. What they did was hammer out a pragmatic compromise that would both bolster the "national interest" and be acceptable to the people. What inspiration they got came from collective experience as politicians in a democratic society. As JOHN DICKINSON put it to his fellow delegates on August 13, "Experience must be our guide. Reason may mislead us."

When the Constitutionalists went forth to subvert the ARTICLES OF CONFEDERATION, they employed the mechanisms of political legitimacy. Although the roadblocks confronting them were formidable, they were also endowed with certain political talents. From 1786 to 1790 the Constitutionalists used those talents against bumbling, erratic behavior by the opponents of reform. Effectively, the Constitutionalists had to induce the states, by democratic techniques, to cripple themselves. To be specific, if New York should refuse to join the new Union, the project was doomed; yet before New York was safely in, the reluctant state legislature had to take the following steps: agree to send delegates to the Convention and maintain them there; set up the special ratifying convention; and ac-

cept that convention's decision that New York should ratify the Constitution. The same legal hurdles existed in every state.

The group that undertook this struggle was an interesting amalgam of a few dedicated nationalists and self-interested spokesmen of various parochial bailiwicks. Georgians, for example, wanted a strong central authority to provide military protection against the Creek Confederacy; Jerseymen and Connecticuters wanted to escape from economic bondage to New York; Virginians sought a system recognizing that great state's "rightful" place in the councils of the Republic. These states' dominant political figures therefore cooperated in the call for the Convention. In other states, the cause of national reform was taken up by the "outs" who added the "national interest" to their weapons systems; in Pennsylvania, for instance, JAMES WILSON's group fighting to revise the state Constitution of 1776 came out four-square behind the Constitutionalists.

To say this is not to suggest that the Constitution was founded on base motives but to recognize that in politics there are no immaculate conceptions. It is not surprising that a number of diversified private interests promoted the nationalist public interest. However motivated, these men did demonstrate a willingness to compromise in behalf of an ideal that took shape before their eyes and under their ministrations.

What distinguished the leaders of the Constitutionalist caucus from their enemies was a "continental" approach to political, economic, and military issues. Their institutional base of operations was the Continental Congress (thirty-nine of the fifty-five designated delegates to the Convention had served in Congress), hardly a locale that inspired respect for the state governments. One can surmise that membership in the Congress had helped establish a continental frame of reference, particularly with respect to external affairs. The average state legislator was probably about as concerned with foreign policy then as he is today, but congressmen were constantly forced to take the broad view of American prestige, and to listen to the reports of Secretary JOHN JAY and their envoys in Europe. A "continental" ideology thus developed, demanding invigoration of our domestic institutions to assure our rightful place in the international arena. Indeed, an argument with the force of GEORGE WASHINGTON as its incarnation urged that our very survival in the Hobbesian jungle of world politics depended upon a reordering and strengthening of our national SOVEREIGNTY.

MERRILL JENSEN seems quite sound in his view that to most Americans, engaged as they were in self-sustaining agriculture, the "Critical Period" was not particularly critical. The great achievement of the Constitutionalists was their ultimate success in convincing the elected representatives of a majority of the white male population that change was imperative. A small group of political leaders with a continental vision and essentially a consciousness of the United States' international impotence, was the core of the movement. To their standard rallied other leaders' parallel ambitions. Their great assets were active support from George Washington, whose prestige was enormous; the energy and talent of their leadership; a communications "network" far superior to the opposition's; the preemptive skill which made "their" issue The Issue and kept the locally oriented opposition on the defensive; and the new and compelling credo of American nationalism.

Despite great institutional handicaps, the Constitutionalists in the mid-1780s got the jump on the local oppositions with the demand for a Convention. Their opponents were caught in an old political trap: they were not being asked to approve any specific reform but only to endorse a meeting to discuss and recommend needed reforms. If they took a hard line, they were put in the position of denying the need for any changes. Moreover, because the states would have the final say on any proposals that might emerge from the Convention, the Constitutionalists could go to the people with a persuasive argument for "fair play."

Perhaps because of their poor intelligence system, perhaps because of overconfidence generated by the failure of all previous efforts to alter the Articles, the opposition awoke too late. Not only did the Constitutionalists manage to get every state but Rhode Island to appoint delegates to Philadelphia but they also dominated the delegations. The fact that the delegates to Philadelphia were appointed by state governments, not elected by the people, has been advanced as evidence of the "undemocratic" character of the gathering, but this argument is specious. The existing central government under the Articles was considered a creature of the states—not as a consequence of elitism or fear of the mob but as a logical extension of STATES' RIGHTS doctrine. The national government was not supposed to end-run the state legislatures and make direct contact with the people.

With delegations named, the focus shifted to Philadelphia. While waiting for a quorum to assemble, JAMES MADISON drafted the so-called VIRGINIA PLAN. This was a political masterstroke: once business got

underway, this plan provided the framework of discussion. Instead of arguing interminably over the agenda, the delegates took the Virginia Plan as their point of departure, including its major premise: a new start on a Constitution rather than piecemeal amendment. This proposal was not necessarily revolutionary—a new Constitution might have been formulated as "amendments" to the Articles of Confederation—but the provision that amendments take effect after approval by nine states was thoroughly subversive. The Articles required unanimous state approval for any amendment.

Standard treatments of the Convention divide the delegates into "nationalists" and "states' righters" with various shadings, but these latter-day characterizations obfuscate more than they clarify. The Convention was remarkably homogeneous in ideology. ROBERT YATES and JOHN LANSING, Clinton's two chaperones for ALEXANDER HAMILTON, left in disgust on July 10. LUTHER MARTIN left in a huff on September 4; others went home for personal reasons. But the hard core of delegates accepted a grinding regimen throughout a Philadelphia summer precisely because they shared the Constitutionalist goal.

Basic differences of opinion emerged, of course, but these were not ideological; they were structural. If the so-called states' rights group had not accepted the fundamental purposes of the Convention, they could simply have pulled out and aborted the whole enterprise. Instead of bolting, they returned day after day to argue and to compromise. An index of this basic homogeneity was the initial agreement on secrecy: these professional politicians wanted to retain the freedom of maneuver that would be possible only if they were not forced to take public stands during preliminary negotiations. There was no legal means of binding the tongues of the delegates: at any stage a delegate with basic objections to the emerging project could have denounced the convention. Yet the delegates generally observed the injunction; Madison did not even inform THOMAS JEFFERSON in Paris of the course of the deliberations. Secrecy is uncharacteristic of any assembly marked by ideological polarization. During the Convention the *New York Daily Advertiser* called the secrecy "a happy omen, as it demonstrates that the spirit of party on any great and essential point cannot have arisen to any height."

Some key Framers must have been disappointed. Commentators on the Constitution who have read THE FEDERALIST but not Madison's record of the actual debates (secret until after his death in 1836), have credited the Fathers with a sublime invention called "Federalism." Yet the Constitution's final balance between the states and the nation must have dissatisfied Madison, whose Virginia Plan envisioned a unitary national government effectively freed from and dominant over the states. Hamilton's unitary views are too well known to need elucidation.

Under the Virginia Plan the general government was freed from state control in a truly radical fashion, and the scope of its authority was breathtaking. The national legislature was to be empowered to disallow the acts of state legislatures, and the central government would be vested, in addition to the powers of the nation under the Articles of Confederation, with plenary authority "wherever . . . the separate States are incompetent or in which the harmony of the United States may be interrupted by the exercise of individual legislation." Finally, the national Congress was to be given the power to use military force on recalcitrant states.

The Convention was not scandalized by this militant program for a strong autonomous central government. Some delegates were startled, some leery of so comprehensive a reform, but nobody set off any fireworks and nobody walked out. Moreover, within two weeks the general principles of the Virginia Plan had received substantial endorsement. The temper of the gathering can be deduced from its unanimous approval, on May 31, of a resolution giving Congress authority to disallow state legislation "contravening in its opinion the Articles of Union."

Perhaps the Virginia Plan was the delegates' ideological Utopia, but as discussions became more specific many of them had second thoughts. They were practical politicians in a democratic society, and they would have to take home an acceptable package and defend it—and their own political futures—against predictable attack. June 14 saw the breaking point between dream and reality. Apparently realizing that under the Virginia Plan, Massachusetts, Virginia, and Pennsylvania could virtually dominate the national government, the delegates from the small states demanded time for a consideration of alternatives. John Dickinson reproached Madison: "You see the consequences of pushing things too far. Some of the members from the small States wish for two branches in the General Legislature and are friends to a good National Government; but we would sooner submit to a foreign power than . . . be deprived of an equality of suffrage in both branches of the Legislature, and thereby be thrown under the domination of the large States."

Now the process of accommodation was put into action smoothly—and wisely, given the character and strength of the doubters. Madison had the votes, but mechanical majoritarianism could easily have de-

stroyed the objectives of the majority: the Constitutionalists sought a qualitative as well as a quantitative consensus, a political imperative to attain ratification.

According to the standard script, the "states' rights" group now united behind the NEW JERSEY PLAN, which has been characteristically portrayed as no more than a minor modification of the Articles of Confederation. The New Jersey Plan did put the states back into the institutional picture, but to do so was a recognition of political reality rather than an affirmation of states' rights.

Paterson, the leading spokesman for the project, said as much: "I came here not to speak my own sentiments, but the sentiments of those who sent me. Our object is not such a Government as may be best in itself, but such a one as our Constituents have authorized us to prepare, and as they will approve." This is Madison's version; in Yates's transcription, a crucial sentence follows: "I believe that a little practical virtue is to be preferred to the finest theoretical principles, which cannot be carried into effect."

The advocates of the New Jersey Plan concentrated their fire on what they held to be the political liabilities of the Virginia Plan—which were matters of institutional structure—rather than on the proposed scope of national authority. Indeed, the SUPREMACY CLAUSE of the Constitution first saw the light of day in Paterson's Sixth Resolution; for Paterson, under either the Virginia or the New Jersey system the general government would "act on individuals and not on states." From the states' rights viewpoint, this was heresy.

Paterson thus reopened the agenda of the Convention, but within a distinctly nationalist framework. Paterson favored a strong central government but opposed putting the big states in the saddle. As evidence for this there is an intriguing proposal among Paterson's preliminary drafts of the New Jersey Plan:

> Whereas it is necessary in Order to form the People of the U.S. of America in to a Nation, that the States should be consolidated, . . . it is therefore resolved, that all the Lands contained within the Limits of each state individually, and of the U.S. generally be considered as constituting one Body or Mass, and be divided into thirteen or more integral parts.
>
> Resolved, That such Divisions or integral Parts shall be styled Districts.

He may have gotten the idea from his New Jersey colleague Judge DAVID BREARLEY, who on June 9 had commented that the only remedy to the dilemma over representation was "that a map of the U.S. be spread out, that all the existing boundaries be erased, and that a new partition of the whole be made into 13 equal parts." According to Yates, Brearley added at this point, "then a government on the present [Virginia Plan] system will be just."

Thus, the delegates from the small states announced that they were unprepared to be offered up as sacrificial victims to a "national interest" that reflected Virginia's parochial ambition. Caustic CHARLES PINCKNEY was not far off when he remarked sardonically that "the whole conflict comes to this: Give New Jersey an equal vote, and she will dismiss her scruples, and concur in the National system." What he rather unfairly did not add was that the Jersey delegates were not free agents who could adhere to their private convictions; they had to stake their reputations and political careers on the reforms approved by the Convention—in New Jersey, not Virginia.

Paterson spoke on Saturday, and the weekend must have seen a good deal of consultation, argument, and caucusing. One delegate prepared a full-length address: on Monday Alexander Hamilton, previously mute, rose and delivered a six-hour oration. It was a remarkably apolitical speech; the gist of his position was that both the Virginia and New Jersey Plans were inadequately centralist, and he detailed a reform program reminiscent of the Protectorate under the Cromwellian *Instrument of Government* of 1653. He wanted, to take a striking phrase from a letter to George Washington, a "strong well mounted government."

From all accounts this was a compelling speech, but it had little practical effect; the Convention adjourned, admired Hamilton's rhetoric, and returned to business. Hamilton, never a patient man, stayed another ten days and then left in disgust for New York. Although he returned to Philadelphia sporadically and attended the last two weeks of the Convention, Hamilton played no part in the laborious task of hammering out the Constitution. His day came later when he led the New York Constitutionalists into the savage imbroglio over ratification—an arena in which his unmatched talent for political infighting surely won the day.

On June 19 James Madison led off with a long, carefully reasoned speech analyzing the New Jersey Plan; although intellectually vigorous in his criticisms, Madison was quite conciliatory in mood: "The great difficulty lies in the affair of REPRESENTATION; and if this could be adjusted, all others would be surmountable." When he finished, a vote was taken on whether to continue with the Virginia Plan as the nucleus for a new constitution: seven states voted yes; New York, New Jersey, and Delaware voted No; and Maryland was divided.

Paterson, it seems, lost decisively; yet in a fundamental sense he and his allies had achieved their purpose: from that day onward, it could never be forgotten that the state governments loomed ominously in the background. Moreover, nobody bolted the convention. Paterson and his colleagues set to work to modify the Virginia Plan, particularly with respect to representation in the national legislature. They won an immediate rhetorical bonus; when OLIVER ELLSWORTH of Connecticut moved that the word "national" be expunged from the Third Virginia Resolution ("Resolved that a *national* Government ought to be established consisting of a *supreme* Legislative, Executive and Judiciary"), Randolph agreed and the motion passed unanimously. The process of compromise had begun.

For two weeks the delegates circled around the problem of legislative representation. The Connecticut delegation appears to have evolved a possible compromise early in the debates, but the Virginians, particularly Madison, fought obdurately against providing for equal representation of states in the second chamber. There was enough acrimony for BENJAMIN FRANKLIN to propose institution of a daily prayer, but on July 2, the ice began to break when the majority against equality of representation was converted into a dead tie. The Convention was ripe for a solution and the South Carolinians proposed a committee. Madison and James Wilson wanted none of it, but with only Pennsylvania dissenting, a working party was established to cope with the problem of representation.

The members of this committee, one from each state, were elected by the delegates. Although the Virginia Plan had held majority support up to that date, neither Madison nor Randolph was selected. This was not to be a "fighting" committee; the members could be described as "second-level political entrepreneurs."

There is a common rumor that the Framers divided their time between philosophical discussions of government and reading the classics in political theory. In fact, concerns were highly practical; they spent little time canvassing abstractions. A number of them had some acquaintance with the history of political theory, and it was a poor rhetorician indeed who could not cite JOHN LOCKE, MONTESQUIEU, or James Harrington in support of a desired goal. Yet up to this point no one had expounded a defense of states' rights or the SEPARATION OF POWERS on anything resembling a theoretical basis. The Madison model effectively vested all governmental power in the national legislature.

Because the critical fight was over representation of the states, once the GREAT COMPROMISE was adopted on July 17 the Convention was over the hump. Madison, James Wilson, and GOUVERNEUR MORRIS fought the compromise all the way in a last-ditch effort to get a unitary state with parliamentary supremacy. But their allies deserted them and after their defeat they demonstrated a willingness to swallow their objections and get on with the business. Moreover, once the compromise had carried (by five states to four, with one state divided), its advocates threw themselves into the job of strengthening the general government's substantive powers. Madison demonstrated his devotion to the art of politics when he later prepared essays for *The Federalist* in contradiction to the basic convictions he expressed in the Convention.

Two ticklish issues illustrate the later process of accommodation. The first was the institutional position of the executive. Madison argued for a chief magistrate chosen by the national legislature, and on May 29 this proposal had been adopted with a provision for a seven-year nonrenewable term. In late July this was reopened; groups now opposed election by the legislature. One felt that the states should have a hand in the process; another small but influential circle urged direct election by the people. There were a number of proposals: election by the people, by state governors, by electors chosen by state legislatures, by the national legislature. There was some resemblance to three-dimensional chess in the dispute because of the presence of two other variables: length of tenure and eligibility for reelection. Finally the thorny problem was consigned to a committee for resolution.

The Brearley Committee on Postponed Matters was a superb aggregation of talent and its compromise on the Executive was a masterpiece of creativity. Everybody present knew that under any system devised, George Washington would be the first President; thus they were dealing in the future tense. To a body of working politicians the merits of the Brearley proposal were obvious: everyone could argue to his constituents that he had really won the day. First, the state legislatures had the right to determine the mode of selection of the electors; second, the small states were guaranteed a minimum of three votes in the ELECTORAL COLLEGE while the big states got acceptance of the principle of proportional power; third, if the state legislatures agreed (as six did in the first presidential election), the people could be involved directly in the choice of electors; and finally, if no candidate received a majority in the College, the decision passed to the House of Representatives with each state having one vote.

This compromise was almost too good to be true, and the Framers snapped it up with little debate or controversy. Thus the Electoral College was neither an exercise in applied Platonism nor an experiment in indirect government based on elitist distrust of the masses. It was merely an improvisation which was subsequently, in *The Federalist* #68, endowed with high theoretical content.

The second issue on which some substantial bargaining took place was SLAVERY. The morality of slavery was, by design, not an issue; but in its other concrete aspects, slavery influenced the arguments over taxation, commerce, and representation. The THREE-FIFTHS RULE—that three-fifths of the slaves would be counted both for representation and for purposes of DIRECT TAXATION—had allayed some northern fears about southern overrepresentation, but doubts remained. Southerners, on the other hand, were afraid that congressional control over commerce would lead to the exclusion of slaves or to their prohibitive taxation as imports. Moreover, the Southerners were disturbed over "navigation acts" (tariffs), or special legislation providing, for example, that exports be carried only in American ships. They depended upon exports, and so urged inclusion of a proviso that navigation and commercial laws require a two-thirds vote in Congress.

These problems came to a head in late August and, as usual, were handed to a committee in the hope that, in Gouverneur Morris's words, "these things may form a bargain among the Northern and Southern states." The Committee reported its measures of reconciliation on August 25, and on August 29 the package was wrapped up and delivered. What occurred can best be described in George Mason's dour version. Mason anticipated JOHN C. CALHOUN in his conviction that permitting navigation acts to pass by majority vote would put the South in economic bondage to the North. Mainly on this ground, he refused to sign the Constitution. Mason said:

> The Constitution as agreed to till a fortnight before the Convention rose was such a one as he would have set his hand and heart to. . . . Until that time the 3 New England States were constantly with us in all questions . . . so that it was these three States with the 5 Southern ones against Pennsylvania, Jersey and Delaware. With respect to the importation of slaves, [decision making] was left to Congress. This disturbed the two Southernmost States who knew that Congress would immediately suppress the importation of slaves. Those two States therefore struck up a bargain with the three New England States. If they would join to admit slaves for some years, the two Southernmost States would join in changing the clause which required the ⅔ of the Legislature in any vote [on navigation acts]. It was done.

On the floor of the Convention there was a love-feast. When Charles Pinckney of South Carolina attempted to overturn the committee's decision, by insisting that the South needed protection from the imperialism of the northern states, General CHARLES COTEWORTH PINCKNEY arose to spread oil on the waters:

> It was in the true interest of the S[outhern] States to have no regulation of commerce; but considering the loss brought on the commerce of the Eastern States by the Revolution, their liberal conduct towards the views of South Carolina [on the regulation of the slave trade] and the interests the weak South. States had in being united with the strong Eastern states, he thought it proper that no fetters should be imposed on the power of making commercial regulations; and that his constituents, though prejudiced against Eastern States, would be reconciled to this liberality. He had himself prejudices against the Eastern States before he came here, but would acknowledge that he had found them as liberal and candid as any men whatever.

Drawing on their vast collective political experience, employing every weapon in the politician's arsenal, looking constantly over their shoulders at their constituents, the delegates put together a Constitution. It was a makeshift affair; some sticky issues they ducked entirely; others they mastered with that ancient instrument of political sagacity, studied ambiguity, and some they just overlooked. In this last category probably fell the matter of the power of the federal courts to determine the constitutionality of acts of Congress. When the judicial article was formulated, deliberations were still at the stage where the legislature was endowed with broad authority which by its own terms was scarcely amenable to JUDICIAL REVIEW. In essence, courts could hardly determine when "the separate States are incompetent or . . . the harmony of the United States may be interrupted"; the national legislature, as critics pointed out, was free to define its own jurisdiction. Later the definition of legislative authority was changed into the form we know, a series of stipulated powers, but the delegates never seriously reexamined the jurisdiction of the judiciary under this new limited formulation. All arguments on the intention of the Framers in this matter are thus deductive and *a posteriori*.

The Framers were busy and distinguished men, anxious to get back to their families, their positions, and their constituents, not members of the French Academy devoting a lifetime to a dictionary. They were trying to do an important job, and do it in such a fashion that their handiwork would be acceptable

to diverse constituencies. No one was rhapsodic about the final document, but it was a beginning, a move in the right direction, and one they had reason to believe the people would endorse. In addition, because they had modified the impossible amendment provisions of the Articles of Confederation to one demanding approval by only three-quarters of the states, they seemed confident that gaps in the fabric which experience would reveal could be rewoven without undue difficulty.

So, with a neat phrase introduced by Benjamin Franklin that made their decision sound unanimous and an inspired benediction by the Old Doctor urging doubters to question their own infallibility, the delegates accepted the Constitution. Curiously, Edmund Randolph, who had played so vital a role throughout, refused to sign as did his fellow Virginian George Mason and ELBRIDGE GERRY of Massachusetts. Presumably, Randolph wanted to check the temper of the Virginia populace before he risked his reputation, and perhaps his job, in a fight with PATRICK HENRY. Events lend some justification to this speculation: after much temporizing and use of the conditional tense, Randolph endorsed ratification in Virginia and ended up getting the best of both worlds.

Madison, despite his reservations about the Constitution, was the campaign manager for ratification. His first task was to get the Congress in New York to light its own funeral pyre by approving the "amendments" to the Articles and sending them on to the state legislatures. Above all, momentum had to be maintained. The anti-Constitutionalists, now thoroughly alarmed and no novices in politics, realized that their best tactic was attrition rather than direct opposition. Thus they settled on a position expressing qualified approval but calling for a second Convention to remedy various defects (the one with the most demagogic appeal was the lack of a BILL OF RIGHTS). Madison knew that to accede to this demand would be equivalent to losing the battle, nor would he agree to conditional approval (despite wavering even by Hamilton). This was an all-or-nothing proposition: national salvation or national impotence, with no intermediate position possible. Unable to get congressional approval, he settled for second best: a unanimous resolution of Congress transmitting the Constitution to the states for whatever action they saw fit to take. The opponents then moved from New York and the Congress, where they had attempted to attach amendments and conditions, to the states for the final battle.

At first, the campaign for RATIFICATION went beautifully: within eight months after the delegates set their names to the document, eight states had ratified. Theoretically, a ratification by one more state convention would set the new government in motion, but in fact until Virginia and New York acceded to the new Union, the latter was a fiction. New Hampshire was the next to ratify; "Rogues' Island" was involved in its characteristic political convulsions; North Carolina's convention did not meet until July and then postponed a final decision. Finally in New York and Virginia, the Constitutionalists outmaneuvered their opponents, forced them into impossible political positions, and won both states narrowly.

Victory for the Constitution meant simultaneous victory for the Constitutionalists; the anti-Constitutionalists either capitulated or vanished into limbo—soon Patrick Henry would be offered a seat on the Supreme Court and Luther Martin would be known as the Federalist "bull-dog." And, irony of ironies, Alexander Hamilton and James Madison would shortly accumulate a reputation as the formulators of what is often alleged to be our political theory, the concept of "federalism." Arguments would soon appear over what the Framers "really meant"; although these disputes have assumed the proportions of a big scholarly business in the last century, they began almost before the ink on the Constitution was dry. One of the best early ones featured Hamilton versus Madison on the scope of presidential power.

The Constitution, then, was not an apotheosis of "constitutionalism," a triumph of architectonic genius; it was a patchwork sewn together under the pressure of time and events by a group of extremely talented democratic politicians. They refused to attempt the establishment of a strong, centralized sovereign on the principle of legislative supremacy for the excellent reason that the people would not accept it. They risked their political fortunes by opposing the established doctrines of state sovereignty because they were convinced that the existing system was leading to national impotence and, probably, to foreign domination. For two years, they worked to get a convention established. For over three months, in what must have seemed to the faithful participants an endless process of give-and-take, they reasoned, cajoled, threatened, and bargained amongst themselves. The results were a Constitution which the voters, by democratic processes, did accept, and a new and far better national government.

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