

The Summer of 1787: Getting a Constitution

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It is not at all certain that complex historical events really have beginnings, but it is absolutely certain that all essays must. And so we begin with my favorite living Frenchman, Jean-Francois Revel, commenting on the revolution in eighteenth-century America: “That revolution was, in any case, the only revolution ever to keep more promises than it broke.”¹ What made that possible in America was the Constitution of the United States, written eleven years after the Declaration of Independence and six years after our defeat of the British at Yorktown. On 17 September 1987, that document was two hundred years old; and it is to that birthday—and to all of us—that this essay is fondly dedicated.

My intent here is threefold: to recall how one American government (the Articles of Confederation) was overthrown; to tell the story of the Philadelphia Convention in the summer of 1787; and to assess the truly critical features of the Constitutional Convention and the Constitution.

A GOVERNMENT THAT WOULD NOT LAST

Three years into the Revolutionary War, the Continental Congress realized that the disunited states could never defeat the British without a regular government. Thus on 8 August 1778, they drafted the Articles of Confederation, which neatly illustrated Newton’s law that every action has an equal and opposite reaction. We were then fighting a centralized British system and were not about to recreate it here. Under the Articles, the thirteen states were to hold the sovereignty, with a weak central government being delegated “express powers” only. The Articles created a simple structure: a unicameral Congress in which the thirteen states had an equal voice, and no executive or judicial branches. Those who dislike the federal government today would have loved the system then. Congress could not act directly on citizens at all and was absolutely dependent on the good will of the states in meeting congressional requests for money and soldiers to fight the war.

The gloomy fiscal history of the Articles tells the story (especially when one remembers George Washington’s constant need for supplies and munitions). In the six-year period from 1781 to 1786, Congress asked the states for \$15,670,000 and raised just one-sixth of the amount, \$2,419,000. Economically, the country began to fall apart during the 1780s. States erected tariffs against each other, printed paper money, and refused to recognize

their neighbors' currency as legal tender. The stagflation of that decade may have exceeded the 1970s. And even though the government of the Articles accomplished some major things, such as winning the war with England in 1781, passing the Northwest Ordinance in 1787, and preserving the idea of union, keen observers saw early on that states' wrongs exceeded states' rights, and that *something had to be done*.

One of the first to sound the alarm was an extraordinary twenty-three-year-old named Alexander Hamilton, an aide to General Washington, who may have learned about "Confederate pain" from watching the general's face when supplies didn't show up in time. In September 1780, this adopted son of the United States wrote a friend of his "a short note" (seventeen pages long, as a matter of fact), analyzing the weaknesses of the Articles of Confederation. This Congress cannot govern the nation, Hamilton wrote, because thirteen sovereign states will not give it adequate power. There is but one remedy: call a convention of all the states to change the form of government. But first, he said, with political wisdom far beyond his years, the people should be prepared "by sensible and popular writings."²

Three years later, General Washington would plead for the states to give Congress enough power to govern. And two years after that, in 1785, commissioners from Maryland and Virginia would assemble in Washington's living room in the Alexandria Conference to discuss commercial and navigation tension between the two states (such as poaching on each other's oyster beds). The hidden agenda, however, may well have been to cast a spell over them, *by George*, on the need for changing the confederacy,

The commissioners who met there issued a call for a broader gathering of the states for September 1786, at Annapolis, Maryland, and five states showed up. They failed to come to any agreement about their commercial problems, but Alexander Hamilton then taught the delegates—and all would-be reformers—a valuable lesson: how to use a defeat on small matters as a springboard for victory on large ones. Hamilton wrote the report the five states unanimously agreed to on 14 September 1786: that Congress should assemble a convention in Philadelphia on the second Monday of May, 1787, to devise a plan that would "render the constitution of the Federal Government adequate to the exigencies of the Union."³ (Marxists especially should learn a lesson from the diagnosis: politics was more fundamental than economics in the country's malaise.) The tasks ahead of the "Reform Caucus"⁴ were formidable: to build a base in state capitols for a new national government; get the states' delegates in Congress to support the call for a convention; and send delegates to the Philadelphia convention who would be favorable to the nationalist proposals of the Caucus.

In the fall of 1786, an event occurred in western Massachusetts that was a bane to the state government and a boon to the Reform Caucus. Riding on a wave of deep agrarian and debtor discontent, one Daniel Shays mounted

a rebellion against the courts that were putting impoverished farmers in jail (a tough place to pay off your creditors). When the Shaysites marched on Springfield in December, the governor marshaled the state militia and broke the rebellion.

These were shots heard all the way to New York, where Congress sat, and beyond. Additional reports of disturbances came from Georgia, where martial law had been imposed, and from Rhode Island, where paper money miscreants had taken control. A rumor came from New York that a seditious party had opened communications with the Viceroy of Canada. Congress had to act. And they did, one month after the end of Shays's rebellion. They passed a resolution calling for a convention of delegates from the several states to meet at Philadelphia on 14 May 1787, "for the purpose of revising the Articles of Confederation" with such "alterations and amendments . . . [as to] render them adequate to the preservation and support of the Union" (Hamilton's exact phrase from the Annapolis Convention).⁵ The Reform Caucus had won a beachhead in Philadelphia.

AN ASSEMBLY OF DEMIGODS?

When the Convention had finished its work, Jefferson would call it "an assembly of demigods."⁶ But we should see them at the outset on a lower plane, one best described by Walton Hamilton: "The time has come to raise the Framers from immortality to mortality, to give them credit for their magnificent demonstration of the art of democratic politics. They made history and did it within the limits of consensus."⁷

James Madison, fully prepared, came from New York where he sat in Congress on 3 May. He had already written Washington in April, outlining the issues that needed to be addressed by the Convention. Washington, without any question the country's first citizen, arrived on 13 May. Some old lines describe the scene: "And there was Captain Washington, upon a slapping stallion, a-giving orders to his men, I guess there was a million."⁸ Philadelphia was in awe.

But the State House (better known to us as Independence Hall) was more in a posture of waiting. Only the Virginia and Pennsylvania delegations were present for the scheduled start on 14 May, but they wasted no time dawdling while the others drifted in. Caucusing daily, the Virginians polished their "fifteen Resolves" (termed the "Randolph Plan," for their leader, Governor Edmund Randolph) and began to woo the Pennsylvanians to the nationalist cause. A quorum of seven states would finally be present on 25 May, and the convention opened, electing George Washington to be its president.

They assembled in a building and a hall already precious in American history. Here the Continental Congress had sat during the war. The Congress

of the Articles had met in an adjoining building. But what is most important is that in the historic Assembly Room in July 1776, the Declaration of Independence had been adopted. When one comes now into that chamber with its quiet gray walls and its green baize covering the desks, it is so easy in the mind's eye to see Thomas Jefferson there, John Adams, John Hancock, and Benjamin Franklin, who had resolved "to stand together or hang separately."⁹ Now as one returns, the guide points out where Ben Franklin's sedan chair was put down in the summer of 1787, the aisle chair for Gouverneur Morris with peg leg, and the "front row-center" seat of James Madison that enabled him to capture essentially every word that was uttered. Just beyond on the dais was President George Washington, in the chair with the sun painted on its crest. With only a little imagination, the viewer feels the room come alive to the tempestuous debates of that extraordinary gathering between May and September.

Who were these fifty-five who had come here to make a constitution? Three-fourths had served in the Continental Congress and knew intimately the problems of the Confederation; eight in that very hall had signed the Declaration of Independence eleven years before; seven were governors (through what prism would they view the work of this body?). There were the scholars: William Samuel Johnson of Connecticut, the president of Columbia College; James Wilson of Pennsylvania, bringing to the debates his fierce intellect and the fruits of the Scottish Enlightenment; George Wythe of Williamsburg, Virginia, Jefferson's law professor at William and Mary; and that extraordinary student of governments ancient and modern, James Madison of Virginia. Madison had written to his dear friend Jefferson, our ambassador in Paris, asking for treatises in political science and history. How our Leonardo in the City of Lights ever obtained over a hundred volumes to send to Madison is unknown, but I surmise he was on "the most wanted list" of the National Library of France after the shipments were made.

There were the filibusterers and cranks such as Luther Martin of Maryland; the angry small state men such as Gunning Bedford of Delaware; the voluble ones such as Gouverneur Morris of Pennsylvania, the Rufus King of Massachusetts, and the handsome Randolph of Virginia. To compensate, there were also the "silent Cals" of the Convention, principally Jared Ingersoll of Pennsylvania. This lawyer who normally was paid by the word did not utter a single one in the debate during the whole summer (at least none within Madison's earshot). There were the shakers and movers such as Madison and Hamilton and Morris; the shrewd compromisers—Franklin, Sherman of Connecticut, and Madison; the incredibly bad sports such as Elbridge Gerry of Massachusetts and Randolph of Virginia; and the great sports, living with a document far from their own plans, Madison

and Hamilton. Their ages were extraordinary, from the youngest delegates, Jonathan Dayton of New Jersey, at twenty-six, to the junior Pinckney of South Carolina at twenty-nine, Hamilton at thirty, Madison at thirty-six. George Washington was fifty-five, and “der Alte” was, of course, Benjamin Franklin, at eighty-one, going on forty-five. The average age was forty-three.

We should note who was not there. John Adams was our ambassador at the Court of St. James, and Jefferson, as noted, was our ambassador to France. Patrick Henry had been elected to the Virginia delegation but declined to serve. Why? Because, he said, “I smelt a Rat.”¹⁰ A sad omission was the Rhode Island delegation. Rhode Island was under the control of an agrarian party that wanted a cheap currency and feared that a strong central government would move to hard money. (They remained holdouts under the new government until 1790, a year after Washington took office.)

The delegates brought considerable baggage with them in the form of briefs for slavery and the slave trade, protection of property, some democratic sentiments, attachments to states’ rights, and blueprints for a strong nationalist government. The property interest, in particular, needs to be addressed. Since the publication of Charles A. Beard’s *An Economic Interpretation of the Constitution of the United States*, in 1913, the question has disturbed students as to how laden the delegates were with concerns for their own pocketbooks. Specifically, those among them holding bonds in the Confederacy stood to gain substantially if the new government were given the power to tax and pay off its debts. The Beard thesis boils down closely to what we might call today “insider trading.”

Property interests have a powerful effect in blinding legislators to the public interest, especially when the property is their own. John Jay, not a delegate but one who fought for the ratification of the Constitution later in New York, put the matter baldly: “The people who own the country ought to govern it.”¹¹ Cold turkey . . . just like that. No thought about who may have to defend it; no thought of the Jeffersonian view that the country exists to protect all people’s rights. But then it has always been true that if you hold a dime close enough to your eye, you can block out the whole world.

Beard said something enormously important in that book: that men with self-interests wrote the Constitution, not angels in eighteenth-century garb. But he went too far in advancing his self-interest doctrine. Although half the delegates probably owned some stocks and bonds that would benefit from a more efficient government, the preponderance of stocks and bonds was held by just six delegates, two of whom were inconspicuous in the deliberations and one of whom, Elbridge Gerry, refused to sign the finished document (it was Gerry who was so badly frightened by Shays’s rebellion in his own state). Madison and Hamilton, by the way, owned virtually no stocks or bonds.

In one of his many wise moments, Benjamin Franklin addressed himself to the terrible dangers in a government of the wealthy, by the PACs, and for the special interests:

[I must express my dislike] of everything that tended to debase the spirit of the common people. If honesty was often the companion of wealth, and if poverty was exposed to peculiar temptation, it was not less true that the possession of property increased the desire of more property—Some of the greatest rogues [I have ever been] acquainted with, were the richest rogues. . . . This Constitution will be much read and attended to in Europe, and if it should betray a great partiality to the rich—[it] will not only hurt us in the esteem of the most liberal and enlightened men there, but discourage the common people from removing to this Country.¹²

It was predictable that an eighteenth-century constitution, produced by an assembly of upper-class representatives, would make ample provision for the protection of property. U.S. senators would be chosen by the state legislatures, which in many states would represent propertied interests. Gerry put it plainly: The country is divided into the “landed interest and the commercial. . . . [And those interests will] be more secure in the hands of [a Senate chosen in this way] than [in the hands] of the people at large. . . . The people are for paper money when the Legislatures are against it.”¹³ Furthermore, the state legislatures could specify how presidential electors were to be chosen, extending the property interest to possible control of the presidency. In addition, contracts were protected against state impairment.

But perhaps more important than their property interests were the ideas in delegate heads as they arrived in Philadelphia. Those ideas would define the battlegrounds that lay directly ahead as the Convention began its work.

THE IDEOLOGICAL BATTLEFIELDS

Democrat vs. Aristocrat

Should the new government be elected by the people or chosen in large part by state legislatures? Should the draft Constitution be submitted to popularly-elected conventions or be referred to state legislatures? How should we perceive the common people of America?

Gouverneur Morris, like many others at Philadelphia, had little faith in the people. Elbridge Gerry was blunt on the issue: “The evils we experience flow from the excess of democracy. The people do not want virtue; but are the dupes of pretended patriots.”¹⁴ Alexander Hamilton admitted, “I am not much attached to the majesty of the multitude. . . . I consider them in general as very ill-qualified to judge for themselves what government will best suit their peculiar situations.”¹⁵ But on some key issues he danced to

another drummer, voting for popular election of representatives and presidential electors.

The intellectual leaders of the small band of democrats were clearly the scholars, James Wilson and James Madison. Power, Wilson said, ought “to flow immediately from the legitimate source of all authority [the people]. . . . The Govt. ought to possess not only 1st. the force but 2ndly. the *mind* or *sense* of the people at large. The legislature ought to be the most exact transcript of the whole society.”¹⁶ Wilson proposed direct popular election of both the Senate and the president, losing on both counts. Madison exhibited his faith in the people in his proposals for direct popular election of representatives; and nowhere was his commitment to popular sovereignty more clear than in his insistence on ratification of the Constitution by elected ratifying conventions rather than by state legislatures.

Perhaps both aristocrats and democrats could agree with one of the noblest sentiments expressed at Philadelphia by that wise man, Benjamin Franklin: “God grant that not only the love of liberty but a thorough knowledge of the rights of man may pervade all the nations of the Earth, so that a *philosopher* may set his foot anywhere on its surface and say, ‘This is my country.’”¹⁷

Small States vs. Large

In 1787 the three most populous states were Massachusetts, Pennsylvania, and Virginia. That meant that on a straight head count, the small states could outvote the large by nine to three at the Convention (with Rhode Island absent). The Randolph Plan from the Virginia delegation unabashedly advanced the large-state interest, basing representation in the House and Senate on either population or “tax” contributions. The small states responded on 15 June with the Paterson Plan, which urged retention of the existing unicameral Congress, with equal representation of the states, thus favoring the small states. The contestants on this issue would be Paterson of New Jersey, Bedford of Delaware, and Martin of Maryland vs. Randolph and Madison of Virginia, King of Massachusetts, and Morris of Pennsylvania.

States Rights vs. a National Government

The Reform Caucus knew why they were in Philadelphia: to get rid of the state-dominated Confederacy and replace it with a vigorous national government, fully equipped to pass laws reaching individual citizens. Most extreme on this score was Alexander Hamilton, and close behind, James Madison. The states’ righters included George Mason (on Madison’s Virginia delegation) and Luther Martin of Maryland, both of whom in the end

refused to sign, so offended were they by the powers given to the national government in the Constitution and by other grievances. The debates on this issue of new powers for the national government would nearly derail the Convention.

As if these three major issues were not enough, the Convention would also have to wrestle with issues surrounding slavery. Not abolition yet, although George Mason personally wanted the institution abolished, but rather the questions of abolishing the slave trade (that “execrable commerce” in human lives, Jefferson had called it¹⁸) and how to count the slaves for purposes of allocating seats in the House of Representatives. Southern delegates such as Pierce Butler of South Carolina wanted to count the slaves at full value for representation purposes, but the Convention would not buy that—the “Three M’s” (Mason, Madison, and Morris) would see to that.

Then there was the debate over the necessity of a Bill of Rights. Madison said that Congress wouldn’t have the power to trample on people’s rights, but his colleague Mason disagreed (the man who had written the elegant Virginia Declaration of Rights in 1776). The issue remained unresolved all through the ratification period and on down to the First Congress, which added a Bill of Rights (largely written, interestingly enough, by James Madison).

Given the intensity of the arguments over that array of issues, is it any wonder that getting a constitution at all was something miraculous? What clearly helped was the realization on the part of almost all the delegates that, as Robert Yates of New York put it during the first week of the Convention, they were there “to take into consideration the state of the Union.”¹⁹ Most of them were convinced that the country was not in good shape and desperately needed healing. That realization was for many the mother of compromise.

The Rival Plans of Virginia and New Jersey

The large state proposals were drafted in advance by Madison and perhaps six others and were presented to the Convention by the thirty-three-year-old Governor of Virginia, Edmund Randolph. Demonstrating the old rule of “getting there firstest with the mostest” the Virginians introduced their “fifteen Resolves” on the third day of business (29 May). All would-be politicians should take a lesson from this stroke to dominate the agenda from the very start. The proposals represented the blueprint of the Reform Caucus for reconstituting the government along nationalist lines (although the states would still be retained). The small states responded with the New Jersey Plan, presented by William Paterson on 15 June. For comparative purposes, I will outline them here side by side:

The Virginia Plan (29 May)

1. Provides for a national government, dominant over the states. Congress could veto state laws that violated the Constitution and could use force to compel states to do their duty (think about Eisenhower vs. Faubus and Kennedy vs. Barnette!)
2. Greatly enlarges powers for the national government, including taxation and interstate commerce
3. Provides for a bicameral Congress, with proportional representation in both houses, the Senate to be chosen by the House from nominees submitted by the states
4. A single executive, to be chosen by the Congress for a single term (the amended Virginia Plan, 13 June 1787)
5. A national judiciary, to be chosen by Congress for good behavior

The New Jersey Plan (15 June)

1. Changes the confederacy into a federation, enabling the central government to act directly on individuals
2. Provides for the same national government, including taxation and interstate commerce
3. Retains the unicameral Congress, with equal representation of the states; Senators to be chosen by the state legislatures
4. A plural executive to be chosen by Congress for a single term
5. A national judiciary, to be appointed by the executive
6. Civilian control of the military
7. Supremacy of federal laws over the laws of the states

Randolph made the intentions of the nationalists clear on 30 May, declaring, “An union of the States merely federal [we would use ‘confederate’ today], will not accomplish the objects proposed by the articles of confederation, namely ‘common defence, security of liberty and the general welfare.’” He therefore proposed “That a national government ought to be established consisting of [a] supreme Legislative, Executive and Judiciary.”²⁰

Now the debate became truly fierce: states’ righters vs. nationalists, small states vs. large. States’ righter John Lansing (New York) called the proposed Constitution “a triple-headed monster, as deep and wicked a conspiracy as ever was invented in the darkest ages against the liberties of a free people.”²¹ A chorus of delegates was ready to join him in the denunciation of the Virginia Plan: Yates of New York, Elbridge Gerry of Massachusetts, Paterson and Brearly of New Jersey, and Luther Martin of Maryland, among others. The nationalists were equally vociferous, with George Read of Delaware as a case in point: “The state Govts. must be swept away—We had better speak out—the idea that the people will not

approve perhaps is a mistake.”²² He had powerful friends in Madison and Hamilton, the latter of whom would have allowed the president to remove recalcitrant state governors. James Wilson of Pennsylvania would ask the Convention, “Why should a Natl. Govt. be unpopular? Has it less dignity? Will each citizen enjoy under it less liberty or protection? Will a Citizen of *Delaware* be degraded by becoming a Citizen of the *United States*?”²³

Some delegates were concerned about relinquishing powers over taxation, commerce, and the military to a new national government. In today’s parlance, it seemed like a zero-sum game, and the Reads, Masons, and Martins were sure the states would end up with zeros. (It was not a zero-sum game, but one in which a redistribution of power transformed thirteen brawling states into something magnificent: The United States of America.) Nevertheless, the first tentative vote, late in June, on the nationalist proposals was a convincing victory of seven to three for the Virginia Plan.

THE FIGHT OVER REPRESENTATION

Concurrently with the intense struggle over national powers vs. state powers, another issue quickly surfaced that could easily have derailed the Convention by itself: how to apportion representatives in a new Congress? Until about the second week of July, the issue was seen strictly through the glasses of large state vs. small state domination of the new government. As noted earlier, the Virginia Plan took superb care of Virginia, with a bicameral Congress based either on population or contributions. Paterson’s New Jersey Plan replied with a one-house legislature with equal representation for the states. (With ten small states and only three large ones, a three-to-one margin in Congress would probably be adequate insurance for the interests of the smaller states. Let it never be forgotten that the first lesson in politics is how to count!)

On 9 June, before the Paterson Plan had been introduced, debate raged over Virginia’s suggestion of proportional representation. Paterson called the idea “tyranny or despotism.”²⁴ On 27–28 June, Luther Martin came close to ruining the whole enterprise. Those who have lived in the East know well what those miserably hot, humid days can do, both to the linens and the disposition. Martin of Maryland either forgot or did not care. In a two-day harangue, he simultaneously invented the filibuster and drove his colleagues wild. There were motions to adjourn the whole affair, at which point Dr. Franklin suggested a different course—start the sessions each day with prayer. He reminded the Convention that prayers were uttered “in this room” by the Continental Congress during the Revolutionary War. “Our prayers . . . were heard, and they were graciously answered. . . . I have lived, Sir, a long time, and the longer I live, the more convincing proofs I see of this truth—that *God governs in the affairs of men.*”²⁵

This was ticklish business, made especially so by the reverence in which Franklin was held. A delegate indicated that the strapped Convention had no money to hire a minister. And some wag later suggested that Hamilton had observed the Convention stood in no need of “foreign aid.”²⁶ The delegates took the parliamentary way out of their jam and voted for adjournment instead of prayer. Somehow they would have to carry on themselves.

Now it was the turn of Gunning Bedford of Delaware. On 30 June he rebuked them all, telling them they were acting out of self-interest: “Numbers, wealth and local views, have actuated [your] determinations; and . . . the larger states proceed as if our eyes were already perfectly blinded.” He grumbled about three Southern states with smaller populations having joined with the three large states:

They endeavor to amuse us with the purity of their principles and the rectitude of their intentions. . . . Their cry is, where is the danger? and they insist that altho’ the powers of the general government will be increased, yet it will be for the good of the whole; and although the three great states form nearly a majority of the people of America, they never will hurt or injure the lesser states. I do not, gentlemen, trust you.²⁷

How badly they were divided on the representation issue was dramatized on 2 July when a tie vote was cast on the proposal for an equal representation of the states in the Senate. At that juncture, Gouverneur Morris resorted to another old rule in politics: when in doubt, appoint a committee. So eleven men, one from each state minus New Hampshire, which hadn’t even appeared at the parley yet, got down to the task of resolving once and for all this month-long battle between large and small states over representation. Franklin counseled them: “When a broad table is to be made, and the edges (of planks do not fit) the artist takes a little from both, and makes a good joint. In like manner here both sides must part with some of their demands, in order that they may join in some accommodating proposition.”²⁸ Another new maxim was thus shaped for future politicians: “When a carpenter wants to join two boards together, he sometimes saws a little off of both ends.” The question was where to do the cutting?

Since 11 June, Roger Sherman of Connecticut had been promoting, without success, the idea of *proportional* representation in the new House of Representatives and *equal* representation of the states in the new Senate. Now it was an idea whose time had come: take the bicameral principle and proportional representation from the Virginia Plan, and equality of representation from the Paterson Plan, and put them together tongue-and-groove. Give the Senate to the small states and the House to the large. In committee, that old compromiser, Franklin, moved adoption of the “Connecticut Compromise.” It was adopted there, but five more days of wrangling would ensue before the Convention would agree. Gouverneur Morris

and Bedford criticized the proposal. Madison had never liked the idea of representing the states equally. Lansing and Yates, two-thirds of the New York delegation, were now so fed up that they left the Convention for good on 10 July, leaving New York's vote in the hands of Hamilton, who derived no joy from perfect attendance. A discouraged Washington wrote Hamilton in New York to come back to Philadelphia: "I *almost* despair of seeing a favorable issue to the proceedings of the Convention, and do therefore repent having had any agency in the business."²⁹

But the healing process (or was it the *heating* process of midsummer?) now did its work. On 16 July, the Great Compromise of the Convention was accepted by a five to four vote, with the small states in the majority—probably the most important one-vote victory in our entire history. It saved the Convention, and the Constitution.

WILL THE BUCK STOP HERE? CREATING THE EXECUTIVE

In creating Congress, the delegates had a model they could relate to. Not so a chief executive or federal judiciary. Now new bottles had to be shaped for critically important new wine.

The issues surrounding the presidency were as complex as the men who would ultimately fill it. Should we have a monarch? A plural or single executive? A president with only one term or re-eligible? An officer chosen by Congress, the people, or state governors? A chief executive subject to impeachment? As a measure of the tensions on these questions, it required sixty ballots before they settled the mode of election.

Should we have a king? Washington indicated out of Convention that it was an idea he viewed with opprobrium and horror. And yet there was a strange interplay between George III, whom Americans had recently defeated, and Washington, whom they revered. The ultimate design of article 2 providing for the presidency created the powerful office that it did because intuitively every delegate knew that George Washington would be its first occupant—and George I did not resemble George III.

Elbridge Gerry wanted the president to be a pawn of the governors, chosen by them. Hamilton proposed a lifetime president. Both the Randolph and Paterson plans proposed a plural executive, chosen by the Congress (approximating the parliamentary system that we had so recently resented while under British rule). But two forces began to alter all those designs. As the delegates steadily moved toward Montesquieu's prescription of separated powers, election of the president by Congress had to go. And Hamilton and James Wilson pressed continuously for the concept of "energy in the Executive,"³⁰ and that ruled out a presidency of three. This structural question was on its way to resolution when the Committee of the Whole adopted Wilson's motion for a single executive by a vote of seven

to three (with Madison's journal quietly noting that "G. Washington" voted "aye"³¹).

With election by Congress rejected, the delegates now had to address alternative sources of election. Once again, aristocrats confronted democrats, who were badly outnumbered. James Wilson boldly supported direct popular election. George Mason of Virginia replied:

It would be as unnatural to refer the choice of a proper character for chief Magistrate to the people, as it would, to refer a trial of colours to a blind man. The extent of the Country renders it impossible that the people can have the requisite capacity to judge of the respective pretensions of the Candidates.³²

The sharp differences again demanded compromise, and this one might well have been designed by delegate Rube Goldberg. We would have a college of cardinals called the Electoral College to choose the president, a kind of "selection of the best by the wisest." The state legislatures would determine how their electors were to be chosen, and the electors, ostensibly in a moment of great rationality, would ballot every fourth December for the president of the United States. The states, in fact, began immediately turning the choice over to the voters (with South Carolina the last to capitulate in 1860). The system is an anachronism, with the electors having been "captured" by political parties by 1800 and thus no longer "free agents" as the Founding Fathers intended; and on occasion it produces unacceptable results, as in the three instances (1824, 1876, and 1888) where the winners of the popular vote *lost* in the Electoral College.

But the method of election aside, the Framers created a perfectly extraordinary office, amply equipped with constitutional power for men of ability to lead the nation in very troubled times, and still be subject to a host of checks ranging from rejection by the voters to vetoes overridden, to the threat of impeachment and judicial review. (So much is revealed by the title of that extraordinary case in 1974, *United States vs. Nixon*.)

A FEDERAL JUDICIARY TO PROTECT THE CONSTITUTION

The Confederation had no court system, but the Framers knew, as Locke and Thomas Paine had pointed out before, that government consists of a three-fold process: law-making, executing, and adjudicating. What, then, should be the nature of a federal court system? On this point, both the Virginia and New Jersey plans were in agreement: there was to be a national Judiciary, including (in the New Jersey Plan) "a supreme Tribunal" whose judges would be appointed by the president for life terms (or "good behaviour"). That made it into the Constitution—a Supreme Court, appointed by the president for life, when confirmed by the Senate.

Should the Court have the power of judicial review—that is, the power to hold acts of Congress, the president, and the states unconstitutional?

Happily, we have “original intent” of unmistakable clarity on this question: Alexander Hamilton’s papers in *The Federalist*, numbers 78 and 81 of 1788. Having mentioned the prohibitions laid down in the Constitution, such as no bills of attainder or ex post facto laws, Hamilton then said:

The complete independence of the courts of justice is peculiarly essential in a limited constitution. . . . Limitations of this kind can be preserved in practice no other way than through the medium of the courts of justice, whose duty it must be to *declare all acts contrary to the manifest tenor of the constitution void*. Without this, all the reservations of particular rights or privileges would amount to nothing. . . . The interpretation of the laws is the proper and peculiar province of the courts.³³

While grievous to some in our present day, it thus becomes understandable why Chief Justice Charles Evans Hughes would say that “we are under a Constitution, but the Constitution is what the judges say it is.”³⁴

SHOULD THREE-FIFTHS EQUAL ONE?

Just eleven years earlier, Thomas Jefferson and the Second Continental Congress had proclaimed to the world a dream of the new republic: that in the things that count most in life, one should equal one. Now the matter of counting would confront the delegates once again in Philadelphia in 1787: how to count slaves for apportioning representatives in Congress. Apparently without embarrassment, one South Carolinian, Pierce Butler, asked that slaves be counted at full value. A delegate from a northern state asked if slaves were not property, and if so, then shouldn’t northern cows and horses be included in the population count as well. Butler’s proposal was rejected, three to seven.

South Carolina was not together on this issue, for the matter was ultimately resolved on the lines proposed by Rutledge of that state early in the Convention on 11 June. Rutledge suggested in Committee of the Whole that the old “federal rule of 1783” be followed, counting three-fifths of the blacks and adding that number to the white population to determine how many congressmen a state was entitled to. (That vote was nine to two in favor.)

The debate over the slave trade was as ugly here as it had been in 1776 when that Congress deleted Jefferson’s “Philippic” against this heinous importation of human beings from Africa. Southern delegates said they would be ruined if the slave trade were shut off, and that it would hurt northern merchants in whose ships they were carded. The slave trade and its related issues dogged the delegates all summer, and then a deal was apparently struck. The “ $\frac{3}{5}$ Compromise” was adopted, along with General Charles Pinckney’s proposal that the slave trade be allowed until 1808. Political necessity had forced an ugly bargain. But it is to the credit of the

Congress of 1808, when that “twenty-year graceless period” was up, that the slave trade was abolished.

GETTING THE DOCUMENT ON PAPER

All summer long, debate had revolved around Virginia’s fifteen resolves. By late July, many of them were thoroughly bent out of shape. A five-man committee was appointed on 26 July to pull together everything the Convention had agreed to in order to focus debate during their final month. That gave the delegates a much-needed eleven-day adjournment. It is revealing to note what the president of the Convention did during this break. He rode over to see Valley Forge, and the memories of that winter just ten years earlier flooded in on him like a torrent. Then he went fishing. Clearly the general’s heart was in place and his head was screwed on.

After the Committee of Detail finished its summary, the delegates turned to a number of critical questions: does the document need a Bill of Rights, and how should it be ratified? On 12 September, George Mason, who knew so much about telling governments what they *could not do* to their people, urged that a Bill of Rights be added to the new Constitution. With sound British logic, he argued that if you are going to increase governmental powers, then you must fortify individual rights. Roger Sherman claimed that the states had their own bills of rights, but Mason saw through that: what was needed was protection against the *new* level of government they were creating. Madison, Wilson, and Hamilton argued that the new government was not being given any powers to trample on citizen rights, and that the checks and balances they had devised would prevent encroachment. While we now know that they were far too sanguine on the issue, nevertheless the Convention agreed with them and against Mason, rejecting the plea for a Bill of Rights, ten states to none. That led Mason five days later to refuse to sign the Constitution. Jefferson, in Paris, was deeply disappointed when he heard. And the Massachusetts ratifying convention was angered. They ratified the document on the condition that a Bill of Rights would be submitted by the first Congress for ratification by the states. That was done, with the giant oversight of the Framers being corrected on a memorable date, 15 December 1791, when the first ten amendments to the Constitution were ratified.

Now only one major question still remained: who should ratify the Constitution? The Articles of Confederation under which we then lived specified *unanimous* approval by the state legislatures. But Rhode Island’s obduracy would seal the fate of the new document. Furthermore, other states might easily oppose the document, since it transferred substantial powers over commerce, taxes, and the draft from their legislatures to the new Congress. To surmount both of those obstacles, very savvy heads at

the Convention proposed ratification by *popularly elected conventions* in nine of the thirteen states.

On 31 August, Madison made one of his most important speeches to the Convention in behalf of that mode of ratification. He pointed out that the difference between a league and a federation such as that being created here is that a federation draws its power from the people. Both levels of government must then defer to their common master, the citizenry. "The people [are] in fact, the fountain of all power, and by resorting to them, all difficulties [are] got over."³⁵ George Mason agreed: "Legislators . . . are the mere creatures of the State constitutions, and cannot be greater than their creators. . . . Whither then must we resort [for ratification]? To the people. . . . It [is] of great moment . . . that this doctrine should be cherished as the basis of free Government,"³⁶ On requiring nine out of thirteen states for ratification, the vote was eight to three. On popular conventions rather than state legislatures, the vote was nine to one (with Maryland alone dissenting).

On 8 September, the Committee of Style was appointed for the final drafting of the Constitution. All five members of this important group were nationalists: William Johnson of Connecticut, Alexander Hamilton of New York, Gouverneur Morris of Pennsylvania, Rufus King of Massachusetts, and James Madison of Virginia. Except for the absence of Franklin and Wilson of Pennsylvania, this was certainly the "first team."

Morris was the craftsman of the final draft, reducing the twenty-three resolutions that had passed into just seven articles of the finished Constitution. Although there is some irony in this aristocrat's having penned the opening words of the Preamble, "We, the people . . . do ordain," there was clever strategy here: proclaim the document in the name of the people (rather than the states) as a hedge against any states that might refuse to ratify. The committee also approved a thoughtful letter to Congress, whose approval was needed before the ratification process could begin. What is at stake now, the letter suggested, is the "consolidation of our Union, in which is involved our prosperity, felicity, safety, perhaps our national existence."³⁷

The fifteenth of September was to be their last working day, and it was full of sadness. Governor Randolph, whose name was on the plan that had dominated the agenda of the Convention, expressed his differences with the draft and moved that a second convention be called to improve the reforms. His fellow Virginian, George Mason, seconded Randolph, predicting that the new government would end either in monarchy or tyrannical aristocracy. (Imagine the extraordinary pain that must have engulfed the third Virginian, Madison, as he recorded these doubts.) Elbridge Gerry moaned through eleven disagreements that he still had with the document. This unmemorable speech convinced one delegate, however—Elbridge

Gerry—that he should not sign the Constitution, and he did not. Then the Randolph motion for a second convention was unanimously defeated (Madison must have smiled as he recorded “All the states answered no.”)

With the darkness broken, the sunlight of a new day appeared. Madison recorded it this way: “On the question to agree to the Constitution, as amended, All the states Ay. The Constitution was then ordered to be engrossed. And the House adjourned” (15 September 1787).³⁸

17 SEPTEMBER 1787: THE SIGNING

Forty-two of the fifty-five delegates who had attended the Convention stayed with it to the end. They were to be well repaid, not only by their signal accomplishment, of course, but also by the drama of the final day, 17 September 1787. After the Constitution was read aloud so that delegates could actually hear what they had fought so strenuously about all summer, they got to hear something else: a final testament of wisdom from Benjamin Franklin. Franklin said that there were some parts of the draft with which he did not agree, but added, “but I am not sure I shall never approve of them.” (How that must have pierced those who were about to express their “undying” opposition.) Then a classic Franklin touch, as he declared that he was not going to be like the French lady who said, “I don’t know what happens, Sister, but I meet with nobody but myself that’s always in the right”:

In these sentiments, Sir, I agree to this Constitution with all its faults, if they are such; because I think a general Government necessary for us. . . . I doubt too whether any other Convention . . . may be able to make a better Constitution. For when you assemble a number of men to have the advantage of their joint wisdom, you inevitably assemble with those men, all their prejudices, their passions, their errors of opinion, their local interests and their selfish views. From such an Assembly can a perfect production be expected? It therefore astonishes me, Sir, to find this system approaching so near to perfection as it does; and I think it will astonish our enemies, who are waiting with confidence to hear that our councils are confounded like those of the Builders of Babel; and that our States are on the point of separation, only to meet hereafter for the purpose of cutting one another’s throats.

Thus I consent, Sir, to this Constitution because I expect no better, and because I am not sure, that it is not the best.

Franklin then made two requests of the delegates—to doubt a little of their own infallibility and put their names to the document, and then to go home and fight for its ratification. On that point, he shared some fundamental political science: “Much of the strength and efficiency of any government in procuring and securing happiness to the people depends on *opinion*, on the general opinion of the goodness of the government, as well as of the wisdom and integrity of its governors.”³⁹

Desiring a unanimous vote, and realizing that there were some delegates who had tuned him out, Franklin, on Morris's suggestion, moved that the adoption of the Constitution be expressed by states. On the vote on this historic day, the count was ten ayes, no noes, with South Carolina divided. Three who had stayed to the end would not sign: Gerry of Massachusetts, and Randolph and Mason of Virginia. The Constitution was too centralized and democratic for Gerry, lacked a Bill of Rights for Mason, and departed too far from Randolph's original plan to suit him. (He did not achieve proportional representation in the Senate or election of the president by a Congress that the large states like his would control.) Those were the "good reasons" why he didn't sign; the real reason may have been the need to trim his sails for the encounter with old "I smelled a rat" Patrick Henry in the Virginia ratifying convention. (There Randolph would startle everyone with a decision to vote for ratification on the fundamental ground that he did not want the Union to go forward without Virginia.)

If Gerry, Mason, and Randolph were the "bad sports" of the Convention, do not overlook the really good sports, such as Madison and Hamilton. After the others had explained why they could not vote for the document, Hamilton explained why he could, reminding them all that "no man's ideas were more remote from the plan than [mine]."⁴⁰ Hamilton, Madison, and Jay would subsequently write *The Federalist* to persuade New York voters to elect nationalist delegates to their ratifying convention. It was not just sportsmanship—it was great sportsmanship.

Thirty-eight delegates then stepped up to Washington's desk to sign the Constitution of the United States, representing all twelve states in attendance (with New York represented alone by Alexander Hamilton). With Washington's letter attached, this "roll of parchment" was speeded to the Congress sitting in New York. Just eleven days later, Congress unanimously (minus Rhode Island) referred the document to the states to be ratified by popularly-elected conventions. (All one can say about Rhode Island's absence is thank goodness an abstention was not a veto!)

Delaware ratified first, in December 1787; New Hampshire became the required ninth state on 21 June 1788. But New York and Virginia were still missing, and the federalist train could not pull out of the station without those two cars. The battles were furious and nip-and-tuck in both conventions. In Virginia, Madison and the young John Marshall took on and defeated the voice—once of the Revolution and now of reaction—of Patrick Henry, along with George Mason. On 26 June, Virginia gave its assent with only ten votes to spare. In New York, with Alexander Hamilton almost single-handedly beating down the opposition, the convention ratified on 26 July with a margin of only three votes.

The electors met in their several states, and on 4 February 1789 George Washington was elected as the first president. Muddy roads from Mt. Vernon delayed the inauguration for a month, with the new republic finally launched with Washington's swearing in on 30 April 1789 in New York City. We were on our way.

KEY FEATURES OF THE NEW GOVERNMENT

First, it was *constitutional*. Congress had approved unanimously, and more than the required nine states had ratified. (On this, see *The Federalist*, number 40). Government would operate under law.

Second, it was *federal* rather than confederate, with two levels of government both deriving their power from the people and able to act directly on the people.

Third, it was a *republic*, with elected representatives drawn from the people.

Fourth, it was *democratic* in at least three features: direct election of the House of Representatives; the sentiment of the Preamble, "We the people . . . do ordain and establish"; and the critically important mode of ratification by popularly elected conventions.

Fifth, it was *conservative* in its protection of property rights, election of senators by state legislatures rather than by voters, and the indirect election system for president. (One day, through the change processes permitted by the Constitution, senators would be directly elected [the Seventeenth Amendment] and presidents would be elected by the people after the electors had been "taken captive" by political parties beginning in 1800.)

ANY MIRACLES IN PHILADELPHIA?

Washington and Madison did not shy away from the word *miracle* in describing what had happened. Nor did that able modern historian, Catherine Drinker Bowen. What, if anything, was miraculous about the Constitutional Convention?⁴¹

It was miraculous that they got a constitution at all! When we review the agendas and self-interests the delegates brought with them and the intensity of the conflicts through that long, hot summer, survival was a triumph, and the adoption of the Constitution was miraculous. We need to understand what made it possible: the talents of truly able politicians in the best sense of the word, who brought with them what Alistair Cooke has suggested were the three key implements to form the Constitution: first, compromise; second, compromise; and third, compromise.⁴² In addition, the best of them also brought the good sportsmanship to approve plans far removed from their own original designs. Let us praise politicians who can live comfortably with half a loaf!

A second miracle was the device they invented at Philadelphia to break the logjam between states' righters and centralists: federalism. The world had known many leagues, but nothing quite like what was fashioned here: significant states, a newly-empowered federal government, and the saving principle of federal supremacy in article 6 of the Constitution. A two-layered sovereignty was unique in the history of the world. That James Wilson could say, "I am both a citizen of Pennsylvania and of the United States," was a miracle.⁴³

A third miracle was the creative answer to the question of how governmental power should be controlled so as not to destroy the liberties of the people: let power check power; or, as Madison would put it in *The Federalist*, "Ambition must be made to counteract ambition."⁴⁴ The checks and balances made it possible for a president to stop an offensive Congress with a veto, a court to restrain a president who had forgotten he was under the law, and a Congress to "veto" a terrible Supreme Court decision such as *Dred Scott* in 1857 by adding the Fourteenth Amendment in 1868. Power as the antidote to power? That was miraculous.

A fourth miracle was the design of a constitution that would serve us for ages to come. Imagine what our development would have been like if left to the Luther Martins of that day or the Edwin Meeses of ours. Said Martin: "I wished to have been present at the conclusion [of the Convention], to have then given it my solemn negative. . . . It is my highest ambition that my name may also be recorded as one who considered the system injurious to my country, and as such opposed it."⁴⁵ Thank goodness, men of vision were in the driver's seat at Philadelphia, and the "aints and complaints" such as Martin and Gerry were relegated to the back seat. The Madisons did not approach their task looking through the rearview mirror. Hear him: "In framing a system which we wish to last for ages, we should not lose sight of the changes which ages will produce."⁴⁶

And so they wrote the Constitution as a *constitution* should be written. Catherine Bowen summarizes an important memorandum of Edmund Randolph on the matter:

First of all . . . only essential principles should be inserted, lest the government be clogged by permanent, unalterable, provisions, which ought to be shaped to later times and events. Simple, precise language should be used and none but general propositions stated, "for the construction of a Constitution of necessity differs from that of [statutory] law."⁴⁷

Hamilton instructed the New York ratifying convention in the same way: "Constitutions should consist only of general provisions; the reason is that they must necessarily be permanent, and that they cannot calculate for the possible change of things."⁴⁸

These Framers have something to say to those modern advocates of “original intent” who contend that if you cannot find words in the document authorizing federal aid to highways or education then such programs must be unconstitutional. The intent of the Founding Fathers is to be sensed in their phrasing, which addresses broad constitutional principles, not the minutia of a codex: “provide for the general welfare”; “regulate interstate commerce”; “make all laws which shall be necessary and proper.” They fully expected future generations to adapt the principles to changing circumstances. How the Founding Fathers would have endorsed the life-giving quality of the opinion of Chief Justice John Marshall (who sat in the Virginia ratifying convention), in *McCulloch vs. Maryland* (1819): “Let us never forget it is a *Constitution* we are expounding.”

These achievements seem miraculous to me. Or, if you prefer a different view, I commend Archibald MacLeish’s: “Man turned into men in Philadelphia.”⁴⁹

I have saved for the end the Convention’s most elegant moment, a moment far beyond any Hollywood scriptwriter’s fondest prose. It was on the day of the signing, 17 September 1787. While other members were affixing their signatures to the Constitution, Ben Franklin took note of the sun painted on the crest of Washington’s chair:

Often and often in the course of the Session, and the vicissitudes of my hopes and fears as to its issue, [I have] looked at that [sun] behind the President without being able to tell whether it was rising or setting. But now at length I have the happiness to know that it is a rising and not a setting sun.⁵⁰

Happy birthday, America!

J. D. Williams is a professor of political science at the University of Utah. This essay was originally presented as the forty-eighth annual Frederick William Reynolds Lecture at the University of Utah, 13 November 1986. Used by permission of the Division of Continuing Education, University of Utah. The author writes: “Washington and Madison both spoke of the achievements at Philadelphia as a miracle. They inspired Catherine Drinker Bowen’s elegant 1966 book, *The Miracle at Philadelphia*, which in turn inspired this essay.”

1. Jean-Francois Revel, *Without Marx or Jesus: The American Revolution Has Begun*, trans. J. F. Bernard (Garden City, N.Y.: Doubleday, 1971), 79.

2. Alexander Hamilton to James Duane, 3 September 1780, in *The Basic Ideas of Alexander Hamilton*, ed. Richard B. Morris (New York: Pocket Books, 1956), 65–68.

3. Winton U. Solberg, ed., *The Federal Convention and the Formation of the Union of the American States* (Indianapolis: Bobbs-Merrill Co., 1958), 58–59.

4. John P. Roche, “The Founding Fathers: A Reform Caucus in Action,” *American Political Science Review* 55 (December 1961): 800–803.

5. Solberg, *Formation of the Union*, 63.

6. Quoted in Catherine Drinker Bowen, *The Miracle at Philadelphia* (Boston: Little, Brown, 1966), 73.
7. Walton Hamilton, as quoted in Roche, *Reform Caucus*, 801.
8. "Yankee Doodle," as quoted in Aurand Harris, *Yankee Doodle*, in *Six Plays for Children* (Austin: University of Texas Press, 1977), 317.
9. Dumas Malone et al., *The Story of the Declaration of Independence* (New York: Oxford University Press, 1975), 91.
10. In Max Ferrand, *The Records of the Federal Convention of 1787*, rev. ed., 4 vols. (New Haven: Yale University Press, 1987), 3:558 n. 2 (hereafter cited as *Records*).
11. Bowen, *Miracle at Philadelphia*, 72.
12. Benjamin Franklin to the Convention, 10 August 1787, in *Records* 2:249.
13. Elbridge Gerry to the Convention, 7 June 1787, in *Records* 1:152, 154–55.
14. Elbridge Gerry to the Convention, 31 May 1787, in *Records* 1:48.
15. Morris, *Alexander Hamilton*, 105.
16. James Wilson to the Convention, 6 June 1787, in *Records* 1:132.
17. Benjamin Franklin to an English friend, cited in Bowen, *Miracle at Philadelphia*, 17 (emphasis added).
18. The phrase appeared in Jefferson's philippic against the slave trade which was deleted from the final draft of the Declaration of Independence (see Carl L. Becker, *The Declaration of Independence: A Study in the History of Political Ideas* [New York: Random House, 1958], 212).
19. Robert Yates's minutes of the Convention, 29 May 1787, in *Records* 1:24.
20. Edmund Randolph's Resolution to the Convention, 30 May 1787, in *Records* 1:30.
21. Bowen, *Miracle at Philadelphia*, 106.
22. George Read to the Convention, 6 June 1787, in *Records* 1:143.
23. James Wilson to the Convention, 16 June 1787, in *Records* 1:253.
24. William Patterson to the Convention, 9 June 1787, in *Records* 1:183.
25. Benjamin Franklin to the Convention, 28 June 1787, in *Records* 1:451–52 (emphasis in original).
26. See *Records* 3:472; and Bowen, *Miracle at Philadelphia*, 127.
27. Gunning Bedford to the Convention, 30 June 1787, in *Records* 1:500.
28. Benjamin Franklin to the Convention, 30 June 1787, in *Records* 1:488.
29. Washington to Hamilton, 10 July 1787, in *Records* 3:56.
30. Alexander Hamilton, no. 70 of *The Federalist*, ed. Jacob E. Cooke (Middletown, Conn.: Wesleyan University Press, 1961), 471 (hereafter cited as *The Federalist*).
31. James Madison, Journal, 4 June 1787, cited in *Records* 1:97.
32. George Mason to the Convention, 17 July 1787, in *Records* 2:31.
33. Alexander Hamilton, no. 78 of *The Federalist*, 524 (emphasis added).
34. Charles Evans Hughes, address delivered at Elmira, New York, 3 May 1907 (cited in Bergen Evans, *Dictionary of Quotations* [New York: Delacorte Press, 1968], 378).
35. James Madison to the Convention, 31 August 1787, in *Records* 2:476.
36. George Mason to the Convention, 23 July 1787, in *Records* 2:88.
37. Letter from the Constitutional Convention (George Washington, Presiding) to the Congress of the United States (Sitting in New York), 17 September 1787, in *Records* 2:667.
38. Madison, Journal, 15 September 1787, cited in *Records* 2:633.
39. Benjamin Franklin to the Convention, 17 September 1787, in *Records* 2:642–43.

40. Alexander Hamilton to the Convention, 17 September 1787, in *Records* 2:645–46.
41. Bowen, *Miracle at Philadelphia*, 213.
42. Alistair Cook, *America* (New York: Alfred A. Knopf, 1973), 144.
43. Bowen, *Miracle at Philadelphia*, 33.
44. James Madison, no. 51 of *The Federalist*, 349.
45. Luther Martin to the Landholder, 19 March 1788, in *Records* 3:295.
46. James Madison to the Convention, 26 June 1787, in *Records* 1:422.
47. Bowen, *Miracle at Philadelphia*, 197.
48. Alexander Hamilton to the New York ratifying convention, 28 June 1788, in Jonathan Elliot, *Debates in the Several State Conventions on the Adoption of the Federal Constitution*, 2d ed., 5 vols. (Philadelphia: J. B. Lippincott, 1901), 2:364.
49. Archibald MacLeish, *America Was Promises* (New York: Duell, Sloan and Pearce, 1939), 12.
50. Benjamin Franklin's peroration at the Convention, 17 September 1787, in *Records* 2:648.