

The Origins of the Constitution

by James M O'Fallon

EDITOR'S NOTE: This is the first in a series of weekly articles about the Constitution of the United States. Written by faculty members of the University of Oregon, the articles are presented in recognition of the celebration this year of the Bicentennial of the Constitution. The series is a joint effort of the University of Oregon and the Oregon Newspaper Publishers Association.

The gathering in Philadelphia that we know as the Constitutional Convention began inauspiciously. On the day appointed for convening, May 14, only a few delegates were assembled. Not until May 25 were enough states represented to allow business to begin.

The timely delegates were not idle while waiting. Led by James Madison and other members of the Virginia delegation, they developed a set of resolutions that would control the agenda during the convention's early weeks.

The Virginians had led the effort to obtain the call for the convention from the Continental Congress, the governing body under the Articles of Confederation. They were convinced that prospects for the country were gloomy. On their view, the Confederation government was inadequate to provide security against foreign invasion, and incapable of checking quarrels between the states, particularly with regard to commercial matters.

To cure these defects, Virginia proposed a strong national government. In fifteen resolutions, the Virginia Plan set out a general design for a new political system. It should have a legislature of two branches, an executive and a judiciary: The Confederation government consisted of a single branch legislature, without executive or judiciary. Representation in the new government should be proportional to population or taxation: Under the Articles, each state had an equal vote, and unanimity was required for action. The new government should be able to use force against states to ensure compliance with its laws: The Confederation depended on voluntary compliance.

From May 30 to June 13 the convention met as a committee of the whole to discuss the Virginia plan thoroughly without the inconvenience of strict parliamentary rules. They adopted a rule of secrecy, to encourage candor.

A most significant development during this period was a shift away from the idea of a national government that would act on the states, towards one that would act directly on individuals. Rather than requisitions of funds from the states that might have to be collected by armed force, the national government would be empowered to levy and collect taxes from the citizens.

Many delegates became unhappy with the general tendency of the convention. While agreeing that the national government needed more power, they wanted to maintain state independence and autonomy. The Virginia Plan, in their view, concentrated far more power than was safe in the national government. On June 15 they presented an alternative, the Patterson Plan, calling for modest additions to the powers of Congress but maintaining the preeminence of the states in the governing structure. After a few days discussion, heavily laden with political theory and featuring proponents of a strong national government including Madison, Alexander Hamilton and James Wilson, the Convention laid aside the Patterson Plan, and turned to refining the Virginia Plan.

For the next several weeks, as Philadelphia simmered in the summer heat, the convention stalled on the question of representation in the new government. Large state delegations—Virginia, Pennsylvania and Massachusetts—insisted that proportional representation in both legislative houses was necessary in a government that was to act on individuals rather than on states. Delegates from smaller states held out for representation by states, arguing that otherwise their concerns

would have no effective vote. Tempers grew short. As the Fourth of July approached, Benjamin Franklin suggested that they begin each day with prayer for divine guidance.

Franklin's suggestion was not taken up, perhaps owing to lack of money to pay a chaplain, but soon thereafter the convention achieved a saving compromise. In the Senate, each state would be equally represented. Representation in the House of Representatives would be by population, counting slaves as 3/5 of a person. The inclusion of slaves in the count was an indirect way of representing property in the determination of representation, not a means of representing the slaves themselves.

Other hotly debated issues included the method of selecting the executive, and a proposal to give the national legislature a veto over state laws. The decision to employ the electoral system to select the President resolved a dispute between those who wanted popular election in order to reinforce the independence of the executive, and those who wanted election by the Senate in order to enhance the power of the States in the new government. The veto dispute reflected a similar split between strong nationalists and supporters of state authority. It was resolved by adoption of the Supremacy Clause, which establishes the Constitution and laws of the United States as "supreme law of the land . . . any thing in the constitution or laws of any state to the contrary notwithstanding."

The convention gave surprisingly little attention to the particular powers granted the new government. The Virginia plan proposed that the national legislature should enjoy the legislative rights vested in Congress by the Articles of Confederation, and power to legislate "in all cases to which the separate States are incompetent, or in which the harmony of the United States may be interrupted by the exercise of individual legislation." In response to a claim that the breadth and vagueness of this specification of power would allow the national government to run roughshod over the states, James Madison acknowledged the potential but despaired of finding a more precise statement of power that would still be adequate to the task.

In the end, the convention produced a list of powers, capped by the power to make all laws "necessary and proper" to give effect to the enumerated powers. Madison's notes on the debate on this provision cover one-half page. After adoption of the Constitution, the question so easily resolved in the convention became the focus of debate between states' rights advocates arguing for narrow construction of national powers, and strong nationalists supporting broad construction. Thus many of the issues apparently settled in the convention were reopened as questions of constitutional interpretation.

The convention closed on a hopeful note. Benjamin Franklin commented that during the proceedings he had often gazed at a painting of the sun on the back of the President's chair, without being able to tell whether it was rising or setting. "But now at length I have the happiness to know that it is rising and not a setting Sun."

On September 17, 1787, all but three members of the convention signed the Constitution. In one of those ironies that lend poignancy to history, Edmund Randolph, who had presented the Virginia Plan to the convention, declined to sign. He believed that the Constitution should be sent out to the states for their consideration, then referred to another convention for further refinement. His fellow delegates, having endured one summer in Philadelphia, would not hear of it.

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The Prognosis Is Bloody and Chilling


Calvinism first came to Amerika during the early part of the 17th Century by way of the Pilgrim and Puritan migrations from England. These two groups introduced the Calvinistic version of Protestant Christianity into Amerika. Blacks were not a part of early Amerikan culture. Ramifications of some of these beliefs still exist. The key idea of the new theology was that an individual's relationship to God needed to be screened by some intermediate level of authority: a government. This intermediate level of authority between God and the Black man came to be the caucasoid man himself. The Puritans thus set the foundation for so-called Christian caucasoid Amerika's Rassenwissenschaft, or "race science", which refused even to see the Black man capable of becoming the equal in status to the so-called Christian caucasoid man. This is the historical and philosophical background of "racism" which lies behind the guise of a thousand and one contumacious ideas that the collective caucasoids have about Blacks. And the ideas give rise to the actions—ranging from murder in Mississippi to moving out of the neighborhood in Northeast Portland—designed to maintain the so-called Christian caucasoid man's superior status and to keep the Black "in his place."

The Black man's presence in Amerika was dictated from the beginning by his utility value as an unpaid worker. Although he did not matter in any other tangible way, his very existence as a deviant character in caucasian civilization also served the caucasoid man's interest. According to the sociology of deviance, human groups have a need to view some persons or classes or groups of other humans as misfits, as beyond the pale. I'm inclined to believe the so-called Negro . . . is victimized by the psychological and social conflicts now inherent in a so-called Christian caucasoid civilization. . . caucasoid society is purely and simply incapable of really accepting their creation, the so-called Negro, and assimilating him. I'm inclined to believe in order to minimize the sense of hazard and disaster always latent in themselves, the collective caucasians have to project their fears on to some object outside themselves. . . caught in this inescapable syndrome is the so-called Negro, who has had the misfortune to make his presence, his wretchedness, his own conflicts, his own disruption, clearly visible now, when caucasoid society is least prepared to cope with an extra load of

hazard. What is the result? . . . a viciously pathological hardening of the insecure, a tightening of resistance, a confirmation in fear and hate on the part of those (conservatives and otherwise) who are determined to blame someone else for their own inner inadequacies. The incredible inhumanity of this refusal to listen for a moment to the so-called Negro in any way whatever, and of this determination to keep him down at all costs, is, it seems to me, almost certain to provide a hopelessly chaotic and violent revolutionary situation. More and more, the animosity, suspicion and fear which these caucasoids feel . . . develops into a self-fulfilling prophecy: Blaming to so-called Negro. This is not just a matter of rationalizing and verbalizing. It has become a strong emotional need for the caucasoid man, especially in Oregon. Blaming the so-called Negro (and by extension the Communist, the outside agitator, etc.) gives the caucasoid a stronger sense of identity—or, rather, it protects an identity which is seriously threatened with pathological dissolution. It is, by blaming the so-called Negro, that the caucasoid man tried to hold himself together. The so-called Negro is in the unenviable position of being used for everything, even for the caucasoid man's psychological security.

The collective caucasoid racist's hate of the so-called Negro (I repeat, Hate; for this is only a mild word to represent the reality in the hearts of these disturbed people) is made acceptable to him when he represents it as a so-called Negro hatred of the caucasoids, fermented and stimulated by Communism. Cold war and racist fears nearly click together in one unity! Everything is so simple. . . (And) all this in the name of Religion, Christ, Christian heroism, etc., etc., . . . which is, in reality, a falsification and a perversion of natural perspectives, which separates him (the Amerikan caucasoid man) from the reality of creation and enables him to act out his fantasies as a little autonomous god, seeing and judging everything in relation to himself. The primeval wellspring in the caucasoid man's past—his pattern of thinking based on his conception of himself as a man and his cultural inclination to perceive himself as the unsullied "good guy", and his opponent as the Devil reincarnate—will determine the caucasoid reaction to the Black assertion. The Prognosis is Bloody and Chilling.

Dr. Jamil Cherovee



Along the Color Line

by Dr. Manning Marable

Dr. Manning Marable is professor of sociology and political science at Purdue University. "Along the Color Line" appears in over 140 newspapers internationally.

Jesse Bashing

A sophisticated type of "political Uncle Tomism" has emerged in 1986-1987: "Jesse Bashing." There has been a deep strain of opportunism among some middle class, Black leaders, who curry favor among white political bosses. The technique is simple. Trash the most prominent Black spokesperson on the national scene; counsel political pragmatism and a retreat from demonstrations and political activism; and advocate go-slow economic policies designed to perpetuate Blacks' oppression. The leading Republican practitioners of this style of stoogery are the "Black Reaganites", led by political administrator Thaddeus Garret, executive Wendell Wilkie Gunn, ideologue J. Parker, civil rights director Clarence Pendleton, and economist Thomas Sowell, Walter Williams and Glen Loury.

But now a Democratic version of this accommodationist trend has developed, which is designed to destroy the progressive dynamic of the Rainbow Coalition, and especially to derail any presidential candidacy of Jesse Jackson in 1988. A number of Black politicians are already scurrying behind Cuomo, Hart, Nunn, Robb, Babbitt, Biden, and other nameless lesser lights, hoping to gain some crumbs and favors for themselves. For them, the technique is to "bash" Jesse, to deplore his emotional rhetoric, to attack his economic and social ideas, to criticize his confrontations with business and political leaders. This is essentially a form of negative criticism without providing any real alternative agenda.

At last month's Virginia meeting of the Democratic Leadership Council, a group of conservative Democrats, the rhetoric of "Jesse-Bashing" was combined with a lukewarm version of Reaganism, or "Reagan With A Human Face." Several Black politicians showed up, prepared to follow the script. Michael Lomax, the chairman of the Fulton County Commission in Georgia, urged his white colleagues to pursue a "moderate approach" as the winning strategy for the 1988 elections. "It doesn't do any good to be knocking on the door from the outside," Lomax argued. Former Congresswoman Barbara Jordan was given the special task to "bash" the Rainbow Coalition at a panel on social welfare policy. Warning darkly about the dangers of the "Jesse Jackson factor," Jordan received an ovation when she rhetorically challenged Jackson: "Why don't you join us? Don't frighten everybody off. Don't be so volatile that people become afraid to associate with us." What Jordan actually means is: "don't be so politically progressive or uncompromising on liberal issues that the conservative, white middle class won't support the Democratic party in presidential elections."

Jackson remains the most popular leader of Black Americans, and one of the few politicians who has the potential to unite millions of minorities, feminists, working people and the poor under an umbrella of progressive social policies. However, Jackson has not been able to transfer his personal popularity to several local candidates who agree with his basic program of social justice. Last year in North Carolina, for example, Jackson endorsed Black candidate Theodore Kinney in the Democratic primary for the U.S. Senate. Despite Jackson's 25 percent total in the 1984 North Carolina Democratic primary vote, Kinney got less than 5 percent. In Savannah, Georgia's mayoral election, Jackson's candidate was former city alderman Roy Jackson. Although Blacks comprise almost half of the city's voting age population, incumbent mayor John Rousakis defeated Roy Jackson by a two-to-one margin.

One of the most highly publicized political defeats for the Rainbow last year occurred in New Jersey's Tenth Congressional district. Jackson had received 70 percent of the district's vote in the 1984 presidential primary. Although the district was represented in Congress by veteran liberal Peter Rodino, many constituents felt that the time had arrived for a Black liberal to

replace him. Announcing his candidacy just before the 1986 primary, Donald Payne, a two term Newark City Council member and a former president of the national YMCA, represented a Black, liberal alternative.

The local and national media deliberately distorted this campaign as a Black vs. white contest, and used Jackson's endorsement of Payne as evidence in its "Jesse Bashing" campaign. The New York Times editorialized: "Mr. Jackson felt compelled to take out after (Rodino), using Mr. Payne as a racial prop . . . Jackson seems incapable of looking at anything except race." Other newspapers jumped on the "Jesse Bashing Bandwagon."

Although Payne was defeated by Rodino, this cannot be blamed on Jackson's participation in this campaign. Payne entered the primary late, less than one month before the election. He spent only \$25,000 vs. \$175,000 for the incumbent. Moreover, Rodino also had the support of many members of the Congressional Black Caucus. But the net outcome was the perception that Jackson was a "racist", and that the Rainbow had lost its influence.

On the positive side, the Rainbow Coalition continues to grow at the grassroots level, and Jackson has remained at the forefront of progressive struggles. As of last November, the National Rainbow Coalition had over 20,000 paid up members, and chapters now exist in 40 states. Jackson has travelled to South Carolina, to help promote the struggle against racist harassment and discrimination at the Citadel. Last fall, when Japanese Prime Minister Yasuhiro Nakasone publicly criticized the "low level" of intelligence by Blacks and Hispanics, most politicians tried to skirt the issue. Instead, Jackson flew to Japan, and challenged the Japanese companies for their "total insensitivity to the legitimate business quests" of minorities and women. Unlike many Black politicians, who have said little about the Iran-Contra arms scandal, Jackson has repeatedly attacked Reagan and his administration's actions as "illegal" and "immoral."

Jackson's Operation PUSH has also continued to make headway on the economic front. In mid-December, PUSH signed a \$1 billion extended agreement with Burger King Corporation, that will create thousands of Black and working class jobs. By 1992, Burger King is to increase its Black franchise owners from 70 to 550. The deal provides for money to Black-owned food distributors, advertising agencies, and landscapers. It even calls for the company to send many of its employees to Black physicians for their regular physicals. Despite the obvious limitations of these types of "corporate covenants", they illustrate that the economic and political pressure tactics espoused and implemented by Jackson can yield real benefits. Conversely, the Jesse Bashing rhetoric of Barbara Jordan and Company leads the Black community to a political dead end.

Jackson correctly senses that political cowardice, in this era of conservatism, will never provide the way forward. But so far the Rainbow Coalition has tried to push the Democratic Party back to liberalism, and away from its dangerous flirtation with Reaganism. Sooner or later, it must begin to address the question, "Is it too late to move the Democratic Party back to the left?" The Democratic Leadership Council makes it perfectly clear that it sees no future for the type of progressivism Jackson personifies. If a Sam Nunn, or Chuck Robb, or Gary Hart won the Democratic nomination, what kind of policy concessions would we receive for our electoral support, if any? If there is no real difference between the Democratic and Republican presidential candidates on policy issues, would our energies be better used in local electoral and social protest activities? These are the hard issues which Jackson and his supporters must address in the coming months.

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