



THE MAKING OF AMERICAN CONSTITUTION: AN APPRAISAL

Dr Archana Verma

Associate Professor

Department of History, Hindu College

University of Delhi, Delhi, India

Email: arbverma@yahoo.co.in

ABSTRACT

Although the constitution of the United States of America came into being in 18th century, it is viewed as a dynamic and evolving document in the lives of the American people. By and large the original Constitution has continued to serve the Americans the way it was essentially designed by the Founding Fathers, albeit with amendments. Many influences went into the making of the American Constitution often pulling the Founding Fathers in different directions, the differences continuing to persist even in the ratification process. It is argued by some scholars that economic interests of the Framers served as the necessary fuel, igniting the formation of the American Constitution. However, such interests may have been a consideration for the Framers dealing with the problem of how to evolve a structure for the nascent country, but, economic motives reflect very little on how the document turned out to be. The paper argues that Founding Fathers' belief in the supremacy of the constitution as the ultimate discipline on American government's power, was the most sacrosanct assurance that kept the Framers in agreement while devising the constitution. This made constitution making the most momentous occurrence in the history of the United States of America.

KEYWORDS: Articles of Confederation, American Constitution, Philadelphia Constitutional Convention, Ratification, Charles A. Beard, Economic Document, Separation of Powers.

According to the historian Paul Boyer the conception of American Constitution was a fundamental moment in the history of America's enduring vision. It's a legal document, but in itself, it is considered an institution on which the American nation was built and continues to be built. As the cornerstone of American democracy, the Constitution has guided the entire nation for more than two hundred years, contributing to legitimise the Country's socio-political changes from time to time. Scholars have subjected the document to intense scrutiny and it remains part of passionate debate. Many scholars treat the period of Constitution making as "critical" for America's growth as a nation, however, there are also some who treat the genesis of the Constitution as controversial. Early explanations for the Constitution were advanced by historians like George Bancroft who described the framing of the Constitution as an exercise of the nationalists inspired by divine guidance, and, believed the document to be a product of the whole people of the United States. He thus generated the idea that the Constitution was a document that belonged to the "majority". Bancroft established the tradition to view the Framers as having acted with unity in a moment of crisis that saw the very nascent nation laying down its foundations after the Revolution.

American historians writing after the Civil War found substitutes for the idea of divine intervention but they continued to suggest that the country had been anything but unanimous in ratifying the Constitution. Historian John Fiske established that democracy was on the verge of collapse under the Articles of Confederation and that making of the Constitution actually salvaged the situation. Fiske perceived the Founding Fathers as great men motivated by the principles of justice when they drafted the Constitution as they were concerned for the welfare of the nation. The Constitution therefore remained the product of the “whole” of America and it belonged to the American people.

In 1913, however, the publication of Charles A. Beard’s *An Economic Interpretation of the Constitution* set the tone for a kind of narrative that viewed the Constitution as a successful attempt to “restrain” excessive democracy in America. Beard suggested that a small dominating section of the Founding Fathers, the select few, manoeuvred the Constitutional and Ratification Conventions in such a manner that any opposition to the Constitution was defeated. The American Constitution therefore was a “minority document”, nay a “reactionary document”, mapped out by the wealthy and powerful men who protected their economic interests that varied from personalty, to creditors, to financiers, to manufacturers, as also the mercantile, commercial and speculative classes. Its’ result was the creation of a highly centralised union government that was given political, economic and judicial control under the Constitution, just like monarchical Great Britain before the Revolution. Specifically, this meant that the Founding fathers were the “new economic royalists”, a kind of classification with which Beard attempted to demolish the image of the Framers held in reverence by the Americans as demi – gods. To prove his point Beard pinned such Founding Fathers as Alexander Hamilton being involved in speculative scandals of the time and also James Madison, considered “Father” of the Constitution, as having “end to end” relationship between his class and personal interests. This was both, a frontal and a formidable attack on the makers of the Constitution of America.

Beard’s interpretation aroused suspicions about the motives of the Founding Fathers and most Americans treat this as “dangerous” thoughts. Still in 1913 and even later, Beard’s argument and the methods of his inquiry had quite a few takers as Merrill Jensen for example. In fact, the acceptance of new and different interpretation seemed dangerously effective when the publication first came out. It was the time when America was experiencing the phase of populist and progressive movements and it suited many to accept that Beard’s Framers represented a division of American society into classes, interests and parties. Beard in his *Economic Interpretation* had furthered the argument by exposing what he called political “factions” existing among the Framers of the constitution. This meant that Framers of the constitution were either Federalists like Alexander Hamilton and James Madison or Anti – Federalists like George Mason and John Lansing, among others. Ironically Beard felt indebted to James Madison, and his work the “Tenth Federalist”, for helping understand the exposition of the factions that disagreed on the scope of the powers that the Constitution granted to the central government. In his view Federalists helped create a form of government that would run America as a monarchy.

Beard was favourably disposed towards Anti Federalists that he believed represented much more than simple opposition to the economic ambitions of the powerful Federalists. But Beard deplored that as opposing classes they never “got off the ground”. Even though Anti – Federalists remained suspicious of the central authority, they couldn’t stop the making or ratification of the Constitution. They could not, being non – slave holding yeomen farmers or debtors, presumably poor or presumably less mobile than the wealthier and resourceful Federalists. Hence an effective alternative to the Federalist Constitution could not be formed because opposition to the Constitution could not be carried on with “characteristic thoroughness” like that of the powerful Federalists.

Counter impulses, however, emerged and many contemporary and, later critics, thinkers, scholars, historians worked to gain deeper insights into the meaning and context of the Constitution. This brought to light studies done by Andrew McLaughlin, John Fiske, Arthur M. Schlesinger Sr, Wesley Craven, E. S. Corwin, Robert E. Brown, Forrest McDonald, Benjamin F. Wright, Cecelia Kenyon, John Patrick Diggins, Gordon S. Wood and Bernard Bailyn. These studies projected that Beard’s interpretation suffered from a rudimentary form of classification. It was emphatically argued that Beard’s data was ‘low grade’, extracted mainly from secondary sources, hence was incompatible with the facts. It was also argued, and shown, that Beard’s attempt highlighted his naivety because his method was simplistic. Beard had divided a section of Founding Fathers into two

groupings of agrarian or commercial minded individuals, and divided them on the basis of personal interests which made him ignore certain other crucial tendencies. For example, there were some agrarian minded Federalists who actually opposed the Constitution and there were some Anti Federalists who could be categorised as propertied classes.

Though some scholars like Robert McGuire and Robert Osfeldt used statistical techniques to demonstrate that patterns related to economic interests could be found in the voting behaviour of the Framers, yet they contended that economic interests were not the sole factor in the personal values or in political beliefs of the Founding Fathers. Subsequent studies also showed that Founding Fathers whom Beard found to be concerned solely with economic gain such as James Madison or Alexander Hamilton or John Dickinson or Gouverneur Morris, did not hold any public securities. In fact, properties of eighteen such Federalist Framers had actually depreciated after the new federal government became operative. Many studies subsequent to Beard's have emphatically shown that the American Constitution which Beard saw as not the product of unanimous consensus, was actually the product of vigorous and rigorous debating and deliberations among the Framers from different ideological backgrounds brainstorming the sessions and then coming together to write the Constitution.

In order to understand the motivations of the Framers as voters of the Constitution it is important to integrate economic factors with alternate ones. This is possible when one tries to understand how Constitution making process progressed by placing it within the political and socio – economic context of the 1780s in America. After the Revolution, most states in the United States of America had produced their own independent constitutions once the thirteen colonies assumed statehood. Generally, American states distrusted having a centralised form government, believing it to be akin to British monarchy. This was the widely held perception after the Revolution when America was beset with manifold problems and was passing through a period of political flux. Many Americans were clamouring for an extension of the franchise to all property owners and not limiting it to just big landowning aristocrats. There were the ever - increasing demands to give adequate representation to western lands where squatters were found in large numbers. The states also wanted to extend more powers to the legislatures rather than to the executive. Moreover, no clear - cut political parties existed with their programs. In the 1780s the main question that confronted Americans was how to guide and direct America's destiny?

No uniformity guided the original thirteen states when they adopted their own constitutions in the eighteenth century. Almost eight states simply renamed their existing elected legislatures of colonial times as "Provincial Congresses", whereas three other states opted to elect delegates to specific constitutional conventions of their individual states, while Rhode Island and Connecticut chose to not write their new constitutions and simply revised their colonial charters to form governments. Also, in the eighteenth century the states were accustomed to changing their constitutions often. In the north states like New Hampshire set up a basic structure of the government in its first constitution but without any provision for Bill of Rights or amendment process or even a governor. It was in 1784 when the second constitution was adopted in New Hampshire that such issues were sorted out. In the south the state of Georgia put most of the government authority in a unicameral legislature without ratifying the constitution by a popular vote. It is a known fact that Georgia convention that drafted the first constitution of the state declared, by itself, the adoption of the Constitution. It is also to be noted that states like North Delaware and North Carolina had made changes in their first constitutions.

There were exceptions though. Massachusetts the last of the thirteen states had drafted and adopted its first constitution, written by John Adams, through an "elected convention". This constitution had the provision for the Bill of Rights. More importantly the state had followed the method of "ratification" by a "popular vote" and the state constitution was considered approved because an estimated 2/3^{rds} of the voters voted for it. The method, however, remained confined to Massachusetts only. Nevertheless, the 1780 constitution of the "Commonwealth of Massachusetts" presented a model to be considered. However, it is important to note that in Massachusetts as in New York, Virginia and South Carolina the franchise remained restricted to upper classes which successfully managed to retain much of their authority, reflecting that in these states progress towards reforms after the Revolution was mild.

Before the Constitution, America was governed by the Articles of Confederation. From 1781 to 1787 the Articles safeguarded the rule of the land under which the thirteen states retained their individual sovereignty, functioning as a loose confederation being part of a compact existing much like a “League of Friendship” between the states. Under this system no structure of a national government was organised, no central courts were created, no executive was provided. All the Articles did was to create a Congress in the form of an advisory body for the thirteen states but with no authority to enforce laws as it was granted limited powers. It is argued that such a basis of rule came up because Americans did not trust a strong centre believing it to be equivalent of a monarchical form of rule. Under the Articles, the powers given to the union government were restricted to the declaration of war, making peace or handling foreign affairs primarily. More importantly, the union government was not granted any revenue generating powers. This meant that it couldn’t levy taxes or conduct trade and commerce or enforce laws pertaining to these issues. Though technically, the union could issue money but the states were not compelled to use it as they held their own currencies. When the central government required revenue, it had to ask individual states to contribute finances to the national fund but the states could refuse to contribute. To have the revenue sanctioned required consent of at least 9 out of 13 states. And although the centre could declare war but since it couldn’t levy taxes there was no way to pay for it. Moreover, no state could be forced to meet its assigned quota for troops or for new arms and equipment needed to support them. Without revenue generating powers, the Confederation Congress couldn’t pay off its Revolutionary War time debts to either France or Spain. This drastically increased the union government’s financial liabilities. Eventually the national debt mounted and it seemed that the country was on the verge of bankruptcy. But Articles could not be amended easily as unanimous consent of the thirteen states was required to make any amendment, and also for its ratification, which was very difficult to achieve.

The Articles had no provision for a national court system either. The courts couldn’t act independently, had no power to declare any law unconstitutional. Most importantly, absence of executive meant that the laws couldn’t be enforced. Similarly, the Articles did not empower the union to regulate inter - state commerce. Moreover, absence of a common currency was a hindrance disrupting inter - state commerce and making trade difficult with other countries. This effectively left the states to compete against each other. By 1786, America was experiencing serious economic strains with the depression setting in and farmers and merchants finding their debts growing, being unable to meet their debt or mortgage payments. The shipping and trading activities remained disrupted as states quarrelled against each other over tariff and boundary issues. Such constraints practically immobilised the union government. Failing to proceed in many matters, its functioning remained hampered while the real power lay with individual states continuing to dominate the Confederation Congress as independent entities.

The weaknesses of rule under the Articles of Confederation became most evident in periods of economic crisis or political conflict as happened during the Shays Rebellion. The situation worsened in 1786 when Shays Rebellion broke out in Massachusetts where agriculture was least profitable. Angry farmers rose in rebellion that took the form of a series of armed protests becoming widespread in western Massachusetts. The farmers had rebelled against the state’s debt and property tax policies under which they were liable to be imprisoned or their lands confiscated. As the rebels succeeded in forcibly shutting down the courts to prevent their lands from getting seized, the union government faced difficulties in maintaining law and order or putting down Shays Rebellion. Even though in due course the local militia succeeded in quelling the revolt, and the rebel farmers were also pardoned, but sympathisers of Shays in the Massachusetts legislature took eventual control and announced reduction in the tax burden, placing a moratorium on farmers’ debt collections. To many Americans the scope and impact of the farmers’ rebellion was so large that it symbolised chaos in the country, highlighting the limitations of rule under the Articles. The rebellion led by Daniel Shay stirred Americans to such an extent that a call was made for change in America. This resulted in the holding of the Annapolis convention.

During the phase of political ferment and economic strain some concerned individuals took the initiative to organise a convention at Annapolis, Maryland, and discuss the parameters of fostering a uniform system of commercial trade in the United States. The Annapolis convention of September 11 – 14, 1786, however, was not much of a meeting because representatives from just five states attended it. Four other states had chosen their representatives but they did not come, while the remaining four states did not make any effort to even choose representatives for the Annapolis convention. Nonetheless, Annapolis proved to be a beginning with

attendees unanimously agreeing to approve and pass a written resolution that asked for holding a broader constitutional convention at Philadelphia. The Annapolis decision was conveyed to the legislature of each state in the hope that the Philadelphia Constitutional Convention would have representation from more states, and that the members would be authorised to examine areas of broader concern than just the issues of commerce and trade. The Annapolis recommendation was accepted.

Eight months later on 25th May, 1787 a Constitutional Convention was convened at Philadelphia State House in Pennsylvania, with fifty - five delegates from twelve states as Rhode Island abstained. Some of the delegates were leading American figures of the time, being victors in the Revolutionary War or being creators of their own states' first constitutions. Some of the well-known figures among the delegates included such names as George Washington, elected to preside the convention, James Madison, Charles Pinckney, Benjamin Franklin, Gouverneur Morris, James Wilson, Oliver Ellsworth, John Rutledge, Jonathan Dayton, George Mason, John Lansing, Robert Yates among a host of other delegates. They had assembled with the purpose to suggest amendments to the Articles of Confederation but soon they chose to throw the Articles out of the window and, succeeded in framing a new constitution for the United States of America that has remained very much in force till today.

The Constitution of America was written between 25th May to 17th September 1787 but the making of the Constitution was not a linear process. The blueprint that the Framers drafted was a document rooted in intense discussions, furious debates and rancorous deliberations based on a clause - by - clause study. Many influences went into the making of the Constitution which can be described as the product of, or an interplay of, opposing forces. These could be termed as the pull of conservative versus the democratic tendencies or mercantile, manufacturing and aristocratic interests versus agrarian interests of small farmers or landowners and shopkeepers or promoters of strong central government versus proponents of decentralised power base for the government. Religion and slavery were other issue that divided the Framers. So did the Bill of Rights. Broadly speaking such opposing influences remain classified as differences between the Federalists and Anti - Federalists. In the end, however, the Framers succeeded in achieving a balance between power and liberty because the delegates chose to make many "compromises" which were imputed in 1787 to formulate the government. Delaware became the first state to ratify the document on 7th December, 1787 and on June 21, 1788 New Hampshire became the ninth state to ratify, subsequent to which the Constitution became the official framework of the American government. The Constitution was enforced on March 4, 1789 but it was only on May 29, 1790 that Rhode Island, the last state, ratified it. On December 15, 1791, 10 amendments as single unit were added to the Constitution as Bill of Rights that guaranteed to the citizens individual rights and freedoms.

During the course of debating and deliberations in the framing of the Constitution, the Federalists and Anti - Federalists often clashed based on their concerns, beliefs and ideologies. Many Anti - Federalists held doubts that the new government would increase taxes, retain dictatorial powers and end liberty. These were counter arguments to the ideas and thrusts put forward by Federalists generally belonging to aristocratic, mercantile and conservative backgrounds. Outstanding Federalist delegates like Alexander Hamilton, James Madison, and their supporters, energetically debated the need for having a strong union government with a bicameral form of legislature and mercantile form of economy. They believed that only a strong national government, with strong fiscal roots, could make and enforce laws for the protection of American interests in shipping, provide for a common currency and protective tariffs for the economy so that it could take off. In other words, Federalists did not want a government that was in the hands of independent states pursuing different policies, unable to guide, direct or secure "national" development.

Even agrarian minded Anti Federalists were for the protection of property rights but they were at variance with Federalist propositions. Anti-Federalists like George Mason, Edmond Randolph, and their supporters, strongly pushed for wide distribution of property among Americans, including small-scale yeoman farmers. They were also for the opening of western lands and providing easy accessibility to these. The Anti Federalists wanted a government that could provide flexible financial policies so that small farmers, majority debtors, could meet their obligations. In the economic arena they were for promoting free - enterprise in America. To strengthen their stand, Anti - Federalists opposed many features of the Constitution that were meant to strengthen the centre's powers, and reducing independence of the states granted under the Articles of Confederation. The differing economic orientations in the constitutional debates between those Framers who

were backing financial policy from the viewpoint of manufacturers and financiers and those who favoured laissez faire economy to benefit agrarian interests, pulled the Constitution making process in different directions. Eventually, however, the Federalist view prevailed in the Constitution. It is in this context that Beard projected the Constitution as a counter Revolutionary conspiracy being marked prominently by economic considerations of a minority among the delegates, conspiring against other interests.

The differences in economic outlook in the Constitutional debates were reflected in political expositions as well. The Anti Federalists promoted democratic views and the Federalists valued conservative thrusts. The democrats wanted government functions to be limited strictly by law as they were concerned that a strong central government would assume excessive powers and hence was bound to be oppressive like colonial Britain before the Revolution. The Anti Federalists wanted strong state governments, more local oriented and accountable to popular majorities i.e. people to have more control over the government. This could be done only if independent powers of the states were preserved in the constitution as the means to strengthen individual liberties. However, the concerns of mob rule taking over America made the Federalists oppose Anti – Federalist arguments. The proponents of a strong union believed that ignorant mass of the people, generally lacking in discipline, would actually destroy individual rights in America. Instead, the Federalists argued for separation of powers between the three branches of government – legislative, executive and judiciary as guarantees against an authoritarian government, and as checks and balance for protecting the rights of the people. Through this the Federalists reflected on retaining the spirit of democracy. Unlike the Anti – Federalists, they wanted the government to be controlled by “enlightened statesmen” or the gentlemen classes.

It is notable that each of these thrusts contributed to the making of the American Constitution. For example, while democrats helped shape ideals of the American people, the opposing conservative tendency helped in the formation of an effective central government destined to promote national strength and economic growth. From a blend of these ideas emanated the building blocks, as unique features, of the American Constitution which may be summarised thus – principles of popular sovereignty, republican form of democracy, separation of powers, bicameral legislature, chief executive in the form of presidency, judiciary, checks and balances, amendment process and the Bill of Rights. Why these features are considered unique for the 18th century Constitution is because they espoused ideas of constitutional supremacy and popular participation, which the Founding Fathers decided upon in the Constitution through the process of “compromises” involving both, Federalists and Anti – Federalists.

The Constitution was based on a balance between the concerns, demands and tendencies of Federalists and Anti – Federalists. This development was initiated when the Framers reached a compromise over which constitutional plan to adopt -- the Virginia Plan or the New Jersey Plan. James Madison, the Federalist, proposed an entirely new system of government under the Virginia Plan. This provided for a strong, consolidated “union” headed by three separate branches, the executive, the legislative and the judiciary. The legislative branch was to be bicameral, having two houses, the lower house as the House of Representatives and the upper house, the Senate. Both houses were to be determined proportionately in matters of representation, meaning that each state would be represented in proportion to the population i.e. “number of free inhabitants”. Larger states were in favour of this plan, as they expected substantial tax contributions to the government to be rewarded with more votes. The alternate plan known as the New Jersey plan put forth by William Paterson, was a kind of rebuttal to Madison’s plan and it proposed a unicameral legislature with one vote per state, assumed to be independent entities. This plan gave the Congress the power to tax and regulate commerce, the right to compel states to honour their tax assessments. The New Jersey Plan made all treaties and acts of Congress the laws of the land, enforceable through courts of law in each state. This scheme was favoured by smaller states.

As is apparent, a conflict arose and it came to rest on the issue of “representation” with opponents, particularly representatives from smaller states, expressing their concerns in rancorous debating in such a manner that apprehensions were created about a deadlock that may prevent the new Constitution from coming into being. It was at this stage that the spirit of compromise prevailed. A stalemate like situation was solved as the Framers both from large and smaller states accepted an agreement that was offered by Connecticut delegates, Roger Sherman and Oliver Ellsworth. The Connecticut compromise, more popularly known as the “Great Compromise”, adopted by a vote of five as against four with two abstentions, defined a dual form of representation for states in the new government. The compromise retained bicameral legislature with

proportional representation. It was agreed that the upper house, the Senate, be weighed equally between different states, meaning each state was to have equal representation, with two members from each state. For the lower house, the House of Representatives, it was decided to have proportional representation based on population of the respective states. A census was to be conducted every ten years in the states to determine the distribution of seats in the House.

Another major compromise known as the three – fifths compromise was reached at the Constitutional Convention. This brought the issue of slavery to the top in the form of acrimonious debating when few delegates from the north sought to abolish slavery but faced furore and fierce reaction from delegates of the southern states. The dispute brought to light ingrained racial prejudices of the south whose delegates threatened to abandon the Convention altogether. The Framers after much lengthier and rancorous discussions and debating agreed to grant the slave holding states the right to count three – fifths of a slave vis – a – vis one free person for the purpose of determining allotment of seats in the House of Representatives i.e. their share of representation was increased. Another clause of the agreement was that the United States Congress could not place moratorium on slave imports till the year 1808. In return, the slave states were obligated to face federal tax burden, the three – fifths slaves were to be counted for direct taxation. The slave states were also required to pay tariff up to ten dollars per slave. Thus, wealth acquisition became a priority when delegates attempted to reach an agreement on 3/5ths compromise. Evidently, the Founders were unable to take strong and bold steps to abolish slavery. The whole conflict over slavery did focus on the morality of the phenomenon, with many delegates even acknowledging that existence of slavery was violation of the ideals of liberty, yet the Founders subordinated the larger goal of humanity to secure unity of the new independent United States. The 3/5th compromise was thus a resolve in the form of a political compromise.

Another major deadlock ensued that also saw some delegates leaving the convention before a compromise was arrived at. This was the famous compromise regarding the formation of Electoral College to elect the chief executive or the President of America. Though delegates were in agreement on the decision to elect the President, but they differed on the method of election. Various systems were proposed, discussed and even rejected before a compromise was reached. The Founding Fathers had debated on three different approaches on how to choose the President – a) through election by the Congress b) selection by the state legislatures or c) through a popular election. There was a common understanding that the franchise or right to vote would remain restricted to white, landowning classes. The Convention's debates exposed two primary trajectories on the issue, a) with Federalist proponents remaining fearful as the new government appeared to be moving in the direction of "excessive democracy" which they believed was prone to be influenced by popular uprisings or to demands of the majority in the society. They thus opposed the system of popular elections for choosing the President. An ingenious solution remained difficult to achieve as b) Anti – Federalist proponents feared that any direct election by the Congress would elevate a tyrant who could manipulate public opinion to come to power. Within this background, the delegates remained involved in fierce and acrimonious debating that was often categorised as disdainful. The New York delegates remained severely divided between the Federalist Alexander Hamilton and Anti Federalists Robert Yates and John Lansing. States like South Carolina, North Carolina including Georgia continued to dither on the issue, although Georgia later defected from the opponents. In fact, the Convention was so evenly split that many rejected any decision, like Gouverneur Morris. The fierceness of debating delegates was so high that it is said it replicated the acrimony that the Convention saw over the representation issue before the Great Compromise was worked out. Such was the quandary.

The Philadelphia Convention compromised yet again, voting in favour of inventing an entirely new form of government. It is informed that Connecticut delegates manoeuvred the alternatives between two proposals i.e. election of the President by popular vote or the election of the President by the Congress, and offered a compromise. This resulted in the creation of the Electoral College, and electors, on the lines decided by the Convention. The Connecticut proposal contained the familiar system of apportioning the electors by state. Accordingly, every state was allocated a number of votes in proportion to the number of senators and also representatives in the House i.e. the states could have one to three electors. Although the topic of Electoral College ebbed and flowed in the Constitutional Convention with states like South Carolina and Massachusetts strongly opposing it, political expediency led to its adoption. It is argued that if no agreement had been reached on the election of the chief executive it is possible that the Constitution would not have been approved. Finally,

the provision of Electoral College was included in the Constitution and thus was solved the problem of executive. The plan of instituting Electoral College for the election of the President was the foundational compromise at the Convention that united majority delegates, particularly from smaller states.

There were some other features of the American Constitution that made it unique in the 18th century context. For example, the separation of powers between the legislative, executive and judiciary created the balance of power between the three branches of government besides ensuring that one branch could not have supremacy or seize power over the other. This was also meant to prevent any branch from infringing on individual liberties. Closely linked to this provision were checks and balances that placed limits on the powers of the government as the constitution forbade any person to simultaneously hold executive or judiciary office or a seat in the Congress. The government did not elect anyone in the judiciary or the executive branch and shorter tenures were incorporated to prevent law makers to become unduly authoritative or powerful. At the same time government was insulated from popular control. All states accepted “popular sovereignty” i.e. all powers of the government originally came from the people. The tenor of the Constitution remained anti – aristocratic and anti – monarchical, with Article I stating “no title of nobility shall be granted to the United States”.

The Constitution granted powers to the state governments like control over local municipal governments and local courts. The states could charter corporations, could conduct judicial administration or civil and criminal laws. The states were also granted control over religion and education. Besides, the federal government guaranteed territorial integrity to every state and protection against invasion. Under Article IV provision for inter – state co -operation was provided to respect each other’s laws and court actions. In addition, the states had to aid each other by returning fugitive slaves or criminals. But the states were forbidden to interfere in aspects of national unity, national security and they could not levy import export duties. Further, the states were specifically forbidden to engage independently in foreign affairs, to maintain army or to issue paper currency. The union as the federal government was thus made strong.

39 delegates signed the new Constitution on 17th September 1781 after they believed that all disagreements had been bridged. The Constitution was then submitted to the states for ratification on 28th September 1787. However, quick acceptance of the new federal Constitution was too optimistic an expectation and it proved to be pre – mature. Stiff opposition to the Constitution appeared from the Anti Federalists of the key states – Massachusetts, New York, Virginia and also the state of North Carolina which had majority small – scale, self - reliant and independent farmers. The split between Federalists and Anti Federalists remained forceful even after North Carolina decided to join the Union by accepting the Constitution by ratifying it.

Generally, however, getting the Constitution ratified by all the thirteen states was tough. The opponents were strong in expressing their fears that wealthy Federalists would dominate the strong central government and they also contended that states were giving too much power to the national government. Their other major plank was that the Constitution gave no guarantees to the rights of individuals. The Anti – Federalists were very vocal in wanting the inclusion of a Bill of Rights in the Constitution and they were ready to wait for ratification until the document had incorporated individual rights as protection for the people. Such a stand proved to be correct because during the ratification drive, the Anti Federalists highlighted the absence of the Bill of Rights in the Constitution explaining this as denial of guarantees to prevent federal abuses of individual liberties. They also argued that since the Congress had no authority to change the Constitution, inclusion of the Bill of Rights was must in the original Constitution. The Anti Federalists vociferously campaigned for their cause. They published series of articles in newspapers and delivered speeches in their states against ratification to highlight what they called excessive powers of the union government. Most of their writings advocated anti – ratification position under pseudonyms and came to be called Anti – Federalist Papers meant to counter the campaign of the Federalists.

The unwavering Anti – Federalists like John Lansing and Robert Yates from New York rallied a great deal against ratification of the Constitution. They feared a powerful Presidency, a strong federal court system and an even stronger Congress. Anti - Federalists apprehended that these bodies may seize too much authority and they pressured for adoption of the Bill of Rights. This was their most successful argument at a time when democratic tendencies were becoming stronger and many local committees at states’ level were witnessing the

emergence of spokesmen of popular rights becoming very vocal. The omission of Bill of Rights in the Constitution thus became a rallying point in the states' organised ratification conventions holding lengthy ratification debates and garnering support of the people to refuse ratification. People began to wonder – what have we got, a monarchy or a republic?

The Bill of Rights had been part of the debates and discussions at the Philadelphia Constitutional Convention. However, most delegates in the Convention felt that since the states provided their own protections so the Bill of Rights were not needed in the Constitution. Federalists who chose to endorse the Constitution in its original form also argued that Bill of Rights was unnecessary since the Constitution granted to the people and the states many powers, not given to the federal government. The Federalist supporters also held that specifying particular rights meant restricting Constitutional protection to such rights only. By advocating their stand for a strong government to secure liberty and rights of individuals, the Federalists battled for the Constitution.

The Federalists did not see major flaws in the Constitution and they treated the process of state ratification as a decisive one. James Madison teamed up with Alexander Hamilton and John Jay and wrote what is called “masterful analysis” of the government in the American Constitution. In what came to be known as the *Federalist Papers*, these supporters of the Constitution explained about the government of three separate branches with a commitment to balance all the diverse interests by checks and balance system. The *Federalist Papers* were a series of 85 articles written anonymously in New York's newspapers, these were collected, compiled and published as two - volume work of James Madison, Alexander Hamilton and John Jay. The essays contained arguments in support of a strong national government, an even stronger chief executive to enforce laws of the government rooted in fiscal integrity with credit accountability and worthiness. The Federalists thus advocated ratification and favoured adoption of the Constitution.

In the end, however, to ensure adoption of the Constitution, the Federalists promised to add amendments to the Constitution specifically protecting individual liberties. James Madison ultimately agreed to support the Bill of Rights, if only to, as some scholars indicate, head off the possibility of a second convention, but more importantly to ensure a smooth passage of the Constitution. The Federalists promised to add the Bill of Rights as first ten amendments specifically protecting individual liberties. James Madison, at one time opponent of the Bill of Rights, introduced the first twelve amendments during the first Congress in 1789, out of which ten were accepted. The Federalists believed this would create a more perfect union and would improve relations among the states. Thus, the Federalists and Anti – Federalists compromised on the Bill of Rights. The Bill contains guarantees of freedom of religion, speech, press, peaceable assembly, and association among other rights which were missing from the original Constitution. These were part of a compromise that enabled the Federalists and Anti Federalists to accept that the Bill of Rights belonged to the Constitution, the country's supreme law.

The American Constitution that was made at the Philadelphia Constitutional Convention was a document with intricacies and not influenced by just economic motives. When Charles A. Beard wrote *An Economic Interpretation of Constitution* it was intended to denigrate reverence for the American Constitution. Beard found the most striking evidence in support of this view in the ‘Federalist Papers’ of James Madison, John Jay and Alexander Hamilton which Beard claimed were contrived to aid the ratification process in an effort to establish that the Framers were not so much motivated by the pursuit of the common good of all but by veneer. Beard's argument is not sufficient to interpret the nature of the Constitution made by the Founding Fathers who belonged to different ideological backgrounds and also came from different classes. However, the Framers were not so polarised as Beard pointed out. In fact, majority delegates had been members of one or both of the Continental Congresses during the Revolution. And most had been involved in the writing and debating of their own state's constitutions. They struggled in the Convention on matters related to the democratic governance of their country and attempted to create a document that belonged to the “whole” people not just to a minority involving only propertied classes.

Broad areas of agreement existed in the making of the American Constitution like having a written Constitution, instituting representative government, elections at fixed intervals, amendment clause, a supreme court, separation of powers, checks and balances among many other aspects of governance. Moreover, the Constitution was the outcome of Compromises in which both the Federalists and Anti Federalists were equal

participants. The document that evolved from intense debates, discussions and deliberations did have some deficiencies for example slaves, women and natives were not assured equality of treatment. That being said, however, the Constitution cannot be explained by a single set of ideals. Its important to keep the context of socio – economic, political and ideological realities of 18th century America in mind for any discussion of the making of American Constitution.

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